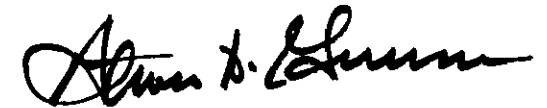


49.	Reply to Oppositions to Motion to Disqualify Eighth Judicial District Court Elected Judiciary, and for Permanent Assignment to the Senior Judge Program or, Alternatively, to a District Court Judge Outside of Clark County	2/23/2018	JVA001471 - JVA001539
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46.	Reply to Plaintiffs' Opposition to Motion for Attorney Fees and Costs Pursuant to Nev. Rev. Stat. 41.670	2/5/2018	JVA001398 - JVA001451
66.	Reply to Plaintiffs' Opposition to Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order and Opposition to Countermotion for Attorney's Fees	5/18/2018	JVA001718 - JVA001731
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CLERK OF THE COURT

OPPS

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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

**PLAINTIFFS' OMNIBUS OPPOSITION
TO:**

- 1. 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;**
- 2. SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP); AND**
- 3. DEFENDANTS' SPECIAL MOTION TO DISMISS UNDER NEVADA'S ANTI-SLAPP STATUTE, NRS 41.660**

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Plaintiffs Jennifer V. Abrams (“Ms. Abrams”) and The Abrams & Mayo Law Firm (“Abrams Law,” and together with Ms. Abrams, the “Abrams Parties”) hereby oppose (1) the 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 Motion”) filed by Defendants Louis C. Schneider (“Mr. Schneider”) and Law Offices of Louis C. Schneider, LLC (“Schneider Law,” and together with Mr. Schneider, the “Schneider Defendants”); (2) the Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP) (“VIPI Motion”) filed by Steve W. Sanson (“Mr. Sanson”) and Veterans In Politics International, Inc. (“VIPI,” and together with Mr. Sanson, the “Sanson Defendants”)); and (3) the Special Motion to Dismiss Under Nevada’s Anti-SLAPP Statute, NRS 41.660 (“Hanusa Motion”) filed by Defendants Heidi Hanusa, Christina Ortiz, Johnny Spicer, Don Woolbright, Sanson Corporation, and Karen Steelmon (the “Hanusa Defendants,” and together with the Sanson Defendants, the “VIPI Defendants”).

This Opposition is made and based on the papers and pleadings on file, the following Memorandum of Points and Authorities and exhibits attached thereto, and any argument heard by the Court.

DATED this 28th day of April, 2017.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Abrams Parties filed this lawsuit after exhausting all other means to halt the Defendants' internet campaign designed to harm the reputation of Ms. Abrams and the goodwill of Abrams Law in direct retaliation for actions that Ms. Abrams took to protect a client in a private family law matter.

Specifically, Ms. Abrams sought sanctions against the Schneider Parties in a divorce proceeding based on Mr. Schneider's ethical violations and disregard for the rules of procedure. After the threat of taking extra-judicial action against Ms. Abrams failed, the Schneider Defendants conspired with VIPI; its president, Mr. Sanson; and its agents, the Hanusa Defendants, to launch an unrelenting internet attack on the Abrams Parties (and on Ms. Abrams' fiancé, a Las Vegas attorney).¹ Since October 2016, all the Defendants have conspired to use Mr. Sanson's and VIPI's website, email list, and social media accounts to repeatedly disseminate false and misleading "information" about the Abrams Parties in an effort to coerce Ms. Abrams to withdraw the sanctions motion filed against the Schneider Defendants. After truth, diplomacy, and reason failed to stop the Defendants' unlawful acts, the Abrams Parties filed this action.

Defendants now attempt to improperly invoke Nevada's anti-SLAPP law to deprive Plaintiffs of their rightful day in court. However, this lawsuit is *not* a SLAPP. The Abrams Parties did not sue Defendants for making communications (i) that were either truthful or made without knowledge of their falsehood; (ii) in direct connection with an issue of public interest; or (iii) in a place open to the public or in a public forum. NRS 41.637(4). That ends the anti-SLAPP analysis, irrespective of the merits of the Abrams Parties' claims. Even then, the evidence is overwhelming and proves that the Abrams Parties have a probability of prevailing on their claims (hence, why the Schneider Defendants and the Hanusa Defendants did not attempt to contradict or refute the evidence through their respective Motions).

///

¹ The VIPI Defendants' actions involving Marshal Willick and the Willick Law Group are the subject of a separate action, *Willick v. Sanson*, No. A-17-750171-C, which is pending in Department XVIII.

1 The Abrams Parties have not sought to stifle free speech; the First Amendment does not
2 value repeated acts of defamation. *Dehne v. Avanino*, 219 F. Supp. 2d 1096, 1107 (D. Nev. 2001)
3 (“Unlike truthful statements, false statements of fact do not enjoy First Amendment protection,
4 since ‘there is no constitutional value in false statements of fact.’”) (quoting *Gertz v. Robert*
5 *Welch, Inc.*, 418 U.S. 323, 340 (1974)). For these reasons, as explained more fully below, the
6 Schneider Motion, the VIPI Motion, and the Hanusa Motion should be denied in its entirety.

7 II. STATEMENT OF FACTS

8 A. The Family Court Case

9 The Abrams Parties represent a husband in a divorce proceeding, which is pending in the
10 Family Division of this Court (the “Family Court Case”). (Am. Compl. ¶ 21.²) The Schneider
11 Defendants represent the wife in the Family Court Case. (*Id.* at ¶ 22). The Family Court Case is
12 assigned to Department L, before the Honorable Jennifer L. Elliott. (*Id.* at ¶ 21.)

13 On September 12, 2016, the Abrams Parties filed a Motion for Sanctions and Attorney’s
14 Fees (“Motion for Sanctions”) against Mr. Schneider under NRS 7.085, NRCP 11, and EDCR 7.60
15 for, among other things, making misrepresentations to the Court, falsifying documents submitted
16 to the Court, and failure to follow discovery rules. (*Id.* at ¶ 23; Ex. 4 at ¶¶ 4-5.) The Motion for
17 Sanctions was set for a hearing on September 29, 2016. (Am. Compl. ¶ 25.)

18 On September 15, 2016, Mr. Schneider sent an email to Brandon Leavitt, Esq. (“Mr.
19 Leavitt”), a lawyer at Abrams Law, which included the following text:

20 I’ve had about all I can take.
21 Withdraw your Motion and I’ll withdraw from the case.
22 Be advised – Tina has asked me not to leave the case.
23 I was getting ready to withdraw my motion to withdraw.
24 If your firm does not withdraw that motion, I will oppose it and take
25 additional action beyond the opposition.

(Am. Compl. ¶ 24; Ex. 2-A (emphasis added).³)

25 ² Ms. Abrams verified the Amended Complaint. In the interests of brevity, she will not restate the pertinent
allegations in her Amended Complaint in her attached Declaration. (Ex. 1.)

26 ³ Email from Louis Schneider, Esq., Schneider Firm, to Brandon Leavitt, Esq., Abrams & Mayo, Sept. 15, 2016,
27 attached as Ex. 2-A.) Although the Schneider Defendants claim that “th[is] statement is an inadmissible offer to
28 compromise pursuant to NRS 48.105” (Schneider Mot. 3:n.1), it is not being offered to “to prove liability for or
invalidity of” the Motion for Sanctions, NRS 48.105(1). Rather, it is being offered to demonstrate the Defendants’ bad
faith and malicious intent behind the smear campaign. NRS 48.105(2) (“This section does not require exclusion when
the evidence is offered for another purpose, such as proving bias or prejudice of a witness. . . .”).

1 Despite Mr. Schneider’s threat, the Abrams Parties did not withdraw the Motion for
2 Sanctions. (Am. Compl. ¶ 25.)

3 During the hearing on the Motion for Sanctions, Ms. Abrams requested that the hearing be
4 closed to the public in order to protect the parties’ privacy and financial information in accordance
5 with Rule 5.02 of the Eighth Judicial District Court Rules.⁴ (*Id.* at ¶ 27.) Judge Elliott granted Ms.
6 Abrams’ request. (*Id.* at ¶ 27.)

7 At the beginning of the 72-minute hearing, Judge Elliott was mistaken about many “facts.”
8 (Am. Compl. ¶ 28; *see* Ex. 4-A at Oct. 6, 2016, 4:00 a.m.⁵) Due to her misconceptions, she
9 initially accused the Abrams Parties and their client of misrepresenting financial information in
10 court documents and referred to Ms. Abrams as “unethical.” (Am. Compl. ¶ 28.) However,
11 following argument by Ms. Abrams, Judge Elliott retracted her statements. (*See Id.* at ¶ 28.)
12 Judge Elliott requested additional briefing before making a decision; however she later closed the
13 case without explanation while the Motion for Sanctions was still pending. (Ex. 4 at ¶ 6.)

14 **B. The Defendants’ Conspiracy—the Smear Campaign**

15 In an effort to coerce the Abrams Parties to withdraw the Motion for Sanctions and chill
16 their zealous defense of their client in the Family Law Case, the Schneider Defendants paid the
17 VIPI Defendants to launch an unlawful internet attack against the Abrams Parties (the “Smear
18 Campaign”). (Am. Compl. ¶ 44.) That attack remains ongoing to this day.

19 VIPI claims to be a non-profit, non-partisan, 501(c)(4) organization. (Ex. 4-D at ¶ 3.⁶)
20 VIPI’s mission is (supposedly) as follows:

21 To educate, organize, and awaken our veterans and their families to
22 select, support and intelligently vote for those candidates whom
23 would help create a better world, to protect ourselves from our own
government(s) in a culture of corruption, and to be the political voice
for those in other groups who do not have one.

24
25 ⁴ EDCR 5.02(a) (“In any contested action for divorce . . . the court *must*, upon demand of either party, direct
26 that the trial or hearing(s) on any issue(s) of fact joined therein be private and upon such direction, all persons shall be
excluded from the court or chambers wherein the action is heard, except officers of the court, the parties, their witnesses
while testifying, and counsel” (emphasis added).

27 ⁵ Email chain between Hon. Jennifer Elliott, Jennifer Abrams, Louis Schneider, and Steve Sanson, attached as
Ex. 4-A.

28 ⁶ Supp. Decl. of Sanson in Supp. of Anti-SLAPP Mot. to Dismiss, *Willick v. Sanson*, No. A-17-750171-C, Mar.
9, 2017 [hereinafter Sanson Decl.], attached as Ex. 4-D.

(Ex. 4-E at 6.⁷) To accomplish its mission, VIPI “interviews, selects, then endorses political candidates,” (Ex. 4-F⁸) in its effort to “root out . . . corrupt public servants.” (Ex. 4-D at ¶ 4.)

The morning after the hearing on the Motion for Sanctions, Mr. Schneider sent an email to the Court’s video service provider requesting that it upload the hearing video. (Am. Compl. ¶ 30; Ex. 4-C⁹.) The video of the *closed* hearing on the Motion for Sanctions (the “Sanctions Hearing Video”) was uploaded to the service provider’s website on or about September 30, 2016. (Ex. 4 at ¶ 7.¹⁰) The Sanctions Hearing Video was accessible only to counsel for the parties in the Family Law Case—*i.e.*, the Abrams Parties and the Schneider Defendants. (*Id.*)

Notwithstanding the restricted access to the Sanctions Hearing Video, it was distributed to VIPI’s email subscribers on the morning of October 5, 2016, within an email entitled “Nevada Attorney attacks a Clark County Family Court Judge in Open Court.” (Ex. 1 at ¶ 4; Ex. 1-A.¹¹) Defendants also posted the email content *publicly* in an article by the same title on VIPI’s website (the “Attack Article”) and re-posted it on numerous other websites and social media pages controlled by Mr. Sanson and/or VIPI. (Am. Compl. ¶ 33-34, Ex. 1.¹²) As discussed in more detail below, the Attack Article contained a number of false and misleading statements regarding the Abrams Parties. (*See infra* Sec. II.C.1.)

Immediately after the Attack Article was posted on October 5, 2016, Mr. Schneider approached Mr. Leavitt during a hearing and informed him that withdrawing the Motion for Sanctions would “make all this go away,” or words to that effect. (Am. Compl. ¶ 38; Ex. 2 at ¶

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///

⁷ Veterans in Politics, Inc., <http://veteransinpolitics.org/> (last visited Apr. 28, 2016), attached as Ex. 4-E.

⁸ Goals and Values, Veterans in Politics, Inc., <http://veteransinpolitics.org/goals-and-values/> (last visited Apr. 28, 2016), attached as Ex. 4-F.

⁹ Email from Louis Schneider to Kim Gurule, Sept. 30, 2016, attached as Ex. 4-C.

¹⁰ Abrams Decl., Apr. 28, 2017, attached as Ex. 4.

¹¹ VIPI Email Blast, Nevada Attorney attacks a Clark County Family Court Judge in Open Court, Oct. 5, 2016, attached as Ex. 1-A.

¹² A printout of the Attack Article is attached to the Amended Complaint as Exhibit 1. Veterans In Politics, Nevada Attorney Attacks a Clark County Family Court Judge in Open Court, <http://veteransinpolitics.org/2016/10/nevada-attorney-attacks-clark-county-family-court-judge-open-court/> (last visited Apr. 12, 2017).

1 5.¹³) Needless to say, he was referring to the Smear Campaign that had just launched against the
2 Abrams Parties.

3 In order to protect the client's privacy rights, Ms. Abrams contacted Judge Elliott and
4 informed her that the Sanctions Hearing Video has been on VIPI's website. (Ex. 4 at ¶ 8; Ex. 4-A
5 at Oct. 5, 2016, 1:48 p.m. ("These parties don't need a video or other information about their
6 personal divorce posted on the internet . . . Further, the information is inaccurate and intended to
7 place me in a bad light.")) On October 5, 2016, Judge Elliott sent an email to the VIPI Defendants
8 (copied to the Abrams Parties and the Schneider Defendants) that begins as follows: "I was made
9 aware of this video today and would kindly request that VIP[I] please take it down." (Am. Compl.
10 ¶ 39; Ex. 4-A at Oct. 5, 2016, 6:02 p.m.) The VIPI Defendants refused Judge Elliott's request and
11 informed her that ". . . once we start a course of action we do not raise our hands in defeat," and
12 "[i]n combat we never give up and we will not start given (sic) up." (Am. Compl. ¶ 40; Ex. 4-A at
13 Oct. 5, 2016, 11:16 p.m.) The Schneider Defendants did not repudiate the VIPI Defendants'
14 actions, but rather adopted the VIPI Defendants' stance by their silence. (Am. Compl. ¶ 40.)

15 In a further effort to try to convince the VIPI Defendants to remove the *restricted* video
16 from the public domain, Judge Elliott responded and explained:

17 I need you to know that I was wrong regarding the finances as they
18 had been disclosed at the outset of the case, from the first filing, albeit
19 late. At the further hearing we had in this matter I put on the record
20 that I believe that he did not hide anything on his financial disclosure
form; it was a misunderstanding that was explained and the record
was corrected. . . .

21 In this case, the dynamic and the record was changed for the
22 better after that hearing. I think that information would be important
to the voters as well. It is my hope that you will reconsider your
position."

23 (Am. Compl. ¶ 41; Ex. 4-A at Oct. 6, 2016, 4:00 a.m.) The Defendants (including the Schneider
24 Defendants) still refused to remove the video from the internet. (Am. Compl. ¶ 42.)

25 Curious as to how VIPI obtained the video, Ms. Abrams emailed Judge Elliott and Mr.
26 Schneider:

27 ///

28 ¹³ Leavitt Decl., Apr. 28, 2017, attached as Ex. 2.

1 I had asked for a closed hearing which was granted except that Tina's
2 parents were permitted to remain in the courtroom pursuant to EDCR
5.02. Do you know how VIP obtained a copy of the video?

3 (Ex. 4-B at Oct. 5, 2016, 6:46 p.m.) Judge Elliott responded to Ms. Abrams:

4 I presumed Louis Schneider as Steve had also recently shown up to
5 another hearing of mine where Louis was on the case and sat through
6 it where Bob Lueck had interviewed his clients child and prepared an
7 affidavit and there was a motion to disqualify Bob as the lawyer for
the client. I am not aware that a video was ever posted of that hearing
however. I hope he takes it down.

8 (Ex. 4-B at Oct. 5, 2016, 7:01 p.m.) Mr. Schneider did not respond. (Ex. 4 at ¶ 9(B).) No doubt
9 about it—Mr. Schneider sent the video to the VIPI Defendants.

10 Given the VIPI Defendants' obstinacy, Judge Elliott entered an Order Prohibiting
11 Dissemination of Case Materials (the "Prohibition Order") and an Order to Seal Records on
12 October 6, 2016. (Ex. 4 at ¶ 10.) Defendants were all served with the Prohibition Order on
13 October 8, 2016. (Am. Compl. ¶ 45; Ex. 4 at ¶ 11.)

14 Defendants reacted to the Prohibition Order on October 10, 2016, by sending another blast
15 to its email subscribers and posting another article entitled "District Court Judge Bullied by Family
16 Attorney Jennifer Abrams," which included a copy of the Prohibition Order (the "Bully Article").
17 (Am. Compl. ¶ 46; Ex. 1-B.¹⁴) Defendants also posted the email content in an article by the same
18 title on VIPI's website (the "Attack Article") and re-posted it on numerous other websites and
19 social media pages controlled by Mr. Sanson and/or VIPI. As discussed below, the Bully Article
20 was false and misleading. (*See infra* Sec. II.C.2.)

21 Defendants also emailed Judge Elliott and stated, "When we expose folks we do it under
22 the umbrella of a journalist and we use the Freedom of information Act [*sic*] We might have
23 sent out the second article prematurely.. [*sic*] We have also received numerous attorneys pointing
24 us in the direction of other cases Abram's [*sic*] have had her outburst and bullied other Judges and

25
26 ¹⁴ VIPI Email Blast, "District Court Judge Bullied by Family Attorney Jennifer Abrams," Oct. 9, 2016, attached
as Ex. 1-B.

27 Additionally, a printout of the article posted on VIPI's webpage as it existed on January 9, 2017, is attached to
28 the Amended Complaint as Exhibit 2. Veterans In Politics, District Court Judge Bullied by Family Attorney Jennifer
Abrams, <http://veteransinpolitics.org/2016/10/district-court-judge-bullied-family-attorney-jennifer-abrams/> (last visited
Apr. 12, 2017).

Attorneys.” (Compl ¶ 49; Ex. 4-A at Oct 10, 2016, 4:08 p.m.)

On October 10, 2016, the Abrams Parties sent an email to Defendants and explained:

The Freedom of Information Act is inapplicable – it applies to the Federal Government, not State divorce cases. And most importantly, I am not a public figure or an elected official. I am a private citizen with a private law practice. The umbrella of “a journalist” does not apply as I am not running for public office and there are no “voters” that have any right to know anything about my private practice or my private clients.

I am a zealous advocate and will continue to pursue my client’s interests without any hesitation whatsoever.

(Am. Compl. ¶ 50; Ex. 4-A at Oct. 10, 2016, 7:03 p.m.) Defendants responded as follows:

But what I find intriguing is that you think because you are not elected that you are somehow untouchable to the media, then tell that to Lisa Willardson, David Amesbury, Nancy Quon, David Schubert, Barry Levinson, Noel Gage and Richard Crane all Nevada Attorneys not elected and never ran for public office, just to name a few.

Don’t forget you practice law in a taxpayer’s courtroom.

(Am. Compl. ¶ 52; Ex. 4-A at Oct. 10, 2016, 1:02 p.m.)

During November and December of 2016, Defendants continued their online assault of the Abrams Parties’ reputation and goodwill by posting additional articles on VIPI’s website and/or YouTube Channel, each designed to deter current and prospective clients from retaining the Abrams Parties. These postings included (but are not limited to) the following articles:

- A November 6, 2016 email blast and article entitled “Law Frowns on Nevada Attorney Jennifer Abrams’ ‘Seal-Happy’ Practices” (the “Seal-Happy Article”), which included a screenshot of “Family Case Records Search Results” from the Court’s online search page, revealing the identity of many of the Abrams Parties’ clients (Am. Compl. ¶ 53, Ex. 1-C¹⁵);
- A November 14, 2016 email blast and article entitled “Lawyers acting badly in a Clark County Family Court” (the “Acting Badly Article”), which contained another video from

¹⁵ VIPI Email Blast, “Law Frowns on Nevada Attorney Jennifer Abrams’ ‘Seal-Happy’ Practices,” Oct. 9, 2016, attached as Ex. 1-C.

A printout of the webpage as it existed on January 9, 2017, is attached to the Amended Complaint as Exhibit 3. Veterans In Politics, “Law Frowns on Nevada Attorney Jennifer Abrams’ “Seal-Happy” Practices,” <http://veteransinpolitics.org/2016/11/law-frowns-nevada-attorney-jennifer-abrams-seal-happy-practices/> (last visited Apr. 13, 2017).

the Family Court Case (undoubtedly supplied by Mr. Schneider) (Am. Compl. ¶ 57, Ex. 1-D¹⁶); and

- A November 16, 2016 email blast and article entitled “Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record” (the “Deceives Article”) (Am. Compl. ¶ 61; Ex. 1-E¹⁷).

Each of the foregoing articles contained false and defamatory statements, which are discussed in detail below. (*See infra* Sec. II.C.3-6.)

Additionally, Defendants posted a series of videos on Mr. Sanson’s YouTube channel from a divorce action in which the Abrams Parties represent the husband (collectively, the “Inspection Videos”). (Am. Compl. ¶ 65-66.¹⁸) The Inspection Videos disclose the personal and private information of David J. Schoen, IV (“Mr. Schoen”), a Certified Paralegal employed at Abrams Law.¹⁹ (Am. Compl. ¶ 69; Ex. 1-F; Ex. 3 at ¶ 1²⁰.)

///

¹⁶ VIPI Email Blast, “Lawyers acting badly in a Clark County Family Court,” Oct. 9, 2016, attached as Ex. 1-D.

A printout of the YouTube webpage as it existed on January 9, 2017, is attached to the Amended Complaint as Exhibit 4. Previously available on VIPI’s YouTube channel, the video has now been removed for violating YouTube’s Terms of Services. The YouTube video was also available on VIPI’s website, but is likewise unavailable, although the post remains. Veterans in Politics, “Lawyers acting badly in a Clark County Family Court,” <http://veteransinpolitics.blogspot.com/2016/11/lawyers-acting-badly-in-clark-county.html> (last visited Apr. 13, 2017).

¹⁷ VIPI Email Blast, “Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record,” Nov. 14, 2016, attached as Ex. 1-E.

A printout of the webpage is attached to the Amended Complaint as Exhibit 5. Veterans in Politics, Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record, <http://veteransinpolitics.org/2016/11/clark-county-family-court-judge-willfully-deceives-young-child-bench-record/> (last visited Apr. 13, 2017).

¹⁸ At this time, the Inspection Videos have been removed, but a printout of the original postings is attached to the Amended Complaint as Exhibit 6. The video entitled “VIDEO 1 The Abrams Law Firm 10 05 15” was formerly available on Mr. Sanson’s YouTube channel at <https://www.youtube.com/watch?v=Zoux2I6OEfE> (last visited Apr. 13, 2017); the video entitled ““VIDEO 2 The Abrams Law Firm Inspection part 1” was formerly available on Mr. Sanson’s YouTube channel at <https://www.youtube.com/watch?v=9-DFZPN-wE> (last visited Apr. 13, 2017); the video entitled “VIDEO 3 The Abrams Law Firm Practices p 2” was formerly available on Mr. Sanson’s YouTube channel at <https://www.youtube.com/watch?v=DEdjsdCd1tE> (last visited Apr. 13, 2017). The Inspection Videos were also cross-posted to Mr. Sanson’s Google+ account, which is available at <https://plus.google.com/112980432722328867293> (last visited Apr. 13, 2017).

¹⁹ The Abrams Parties believe that Defendants obtained the Inspection Videos from the opposing party, with knowledge that she had previously been ordered to remove the videos from the internet and was prohibited from re-posting them either personally or through a third party. (Am. Compl. ¶¶ 67-68.)

²⁰ Schoen Decl., April 28, 2017, attached as Ex. 3.

1 On December 22, 2016, Mr. Schoen spoke with Mr. Sanson (the “Sanson Conversation”)
2 and asked if he would remove the Inspection Videos from the internet, or, at minimum, blur his
3 face and omit his personal information. (Am. Compl. ¶ 70; Ex. 3 at ¶¶ 6-7.) Mr. Sanson refused.
4 (Ex. 3 at ¶ 8.)

5 Although Mr. Schoen attempted to discuss some of the larger issues in the Family Division,
6 it was evident that Mr. Schoen had no interest in problem solving. For example, Mr. Sanson was
7 not willing to meet privately with Ms. Abrams to discuss their differences—he was only interested
8 in talking to her if she would be a guest on his radio show. (*Id.* at ¶ 10.) Mr. Sanson was also
9 focused heavily on attorney conduct but had little regard for the qualifications and/or quality of
10 time Judges put into their cases. (*Id.* at ¶ 9.)

11 After making several false statements regarding Ms. Abrams, Mr. Sanson declared that Ms.
12 Abrams had “started this war” when she “insulted [his] intelligence” by having him served with
13 the Prohibition Order “when the court had no jurisdiction over [him],” or words to that effect.
14 (Am. Compl. ¶¶ 77-78; Ex. 3 at ¶ 14(a).) He explained to Mr. Schoen that if Ms. Abrams had
15 acquiesced to Defendants’ intimidation and withdrew the Motion for Sanctions after he posted the
16 Attack Article, he (Mr. Sanson) would not have continued the Smear Campaign. (Am. Compl. ¶
17 78; Ex. 3 at ¶ 14(b).) During the conversation, in response to Mr. Schoen stating “we know Louis
18 Schneider gave you the video” or words to that effect, Mr. Sanson did not deny receiving the
19 Sanctions Hearing Video from Mr. Schneider. (Am. Compl. ¶ 74; Ex. 3 at ¶ 14(a, c).)

20 Finally, Mr. Sanson confessed that Ms. Abrams is on the VIPI Defendants’ “priority list”
21 and informed Mr. Schoen that he had “dozens of hours” of hearing videos from Ms. Abrams’
22 clients’ cases. (Am. Compl. ¶¶ 77, 79; Ex. 3 at ¶ 14(d).)

23 **C. The Defamatory Statements**

24 Defendants published each of the statements identified in the Amended Complaint for the
25 express purpose of damaging Ms. Abrams’ personal and professional reputation and damaging the
26 business interests and goodwill of Abrams Law. In addition to making false and misleading
27 statements regarding the Abrams Parties, the Smear Campaign repeatedly disclosed sensitive and
28 personal information about the Abrams Parties’ clients in an effort to influence them and deter

prospective and other existing clients from retaining (or continuing to retain) the Abrams Parties.

In addition to publishing the articles to its members via its email subscription list and on VIPI's website and YouTube channel (collectively, the "Defamatory Articles"), Defendants further disseminated the Defamatory Articles by posting excerpts and links to them on VIPI's various social media pages and the social media pages for third parties such as the Facebook groups, Nevada COURT Watchers and Family Court Support Group (Clark County, NV). (Am. Compl. ¶ 47; Ex. 4 at ¶¶ 12-13.)

1. The Attack Article

The October 5, 2016 Attack Article is both false and misleading. It indicates that Ms. Abrams "attacks" a Clark County Family Court Judge in open court, that Ms. Abrams "crosses the line with a Clark County District Court Judge," and that Ms. Abrams' actions constitute unethical and/or unlawful conduct that must be reported to the Nevada State Bar. (Am. Compl. ¶ 36; Ex. 1-A at 1-2.) It further quotes only select portions of the Sanctions Hearing Video, thus misrepresenting the true nature of the hearing. As explained above, although Judge Elliott makes statements at the beginning of the hearing that are based on her misunderstanding of the facts, she later retracts those statements—a critical fact omitted from the Attack Article. The Attack Article also includes text that directs viewers to the portion of the video that contains the incorrect and misleading information and Judge Elliott's statements, which, again, she later retracted. (Ex. 1-A at 2 ("Start 12:13:00 in the video").) Thus, it falsely represents that Judge Elliott has found Ms. Abrams to be "unethical" and that Ms. Abrams permitted her client to mislead the Court.

Furthermore, the Attack Article included a link to the Sanctions Hearing Video, which was cross-posted on VIPI's YouTube Channel. The Sanctions Hearing Video identifies the parties to the Family Law Case and discloses their personal information. The Attack Article also discloses sensitive, personal and financial information regarding the Abrams Parties' client; e.g., it states that the Family Law Case concerns "a 15 year marriage, plaintiff earns over 160,000 annually and defendant receives no alimony and no part of the business." (Ex. 1-A at 2.)

2. The Bully Article

The October 9, 2016 Bully Article falsely indicates that Ms. Abrams "bullied" Judge Elliott

1 into issuing the Prohibition Order; that Ms. Abrams engaged in “misbehavior” and was
2 “disrespectful and obstructionist”; that Ms. Abrams’ conduct is “embarrassing”; and that the
3 Prohibition Order is “an attempt by [Ms.] Abrams to hide her behavior from the rest of the legal
4 community and the public.” (Am. Compl. ¶ 49; Ex. 1-B.) The Bully Article also includes a link to
5 the Attack Article.

6 The Bully Article identifies the Family Law Case by name and case number. (Ex. 1-B.) It
7 also includes an unredacted copy of the Prohibition Order, which discloses the full names of the
8 parties to the Family Law Case. (*Id.*) While acknowledging that the case involves four children,
9 Defendants deny that posting sensitive family information could have any adverse effect on the
10 children. (*Id.* (“[T]he focus of the video is the misbehavior of Abrams, not the children. Abrams
11 is not a parent, child or a party in the case. Her embarrassing behavior before the judge has no
12 bearing on the children.”).) Three of the four children have Facebook pages and would
13 undoubtedly be traumatized if they, their peers, teachers, relatives, etc. saw their parents’ personal
14 divorce videos and court filings on the Internet. (Ex. 4 at ¶ 9.)

15 **3. The Seal-Happy Article**

16 The November 6, 2016 Seal-Happy Article contains numerous false and misleading
17 statements, including assertions that Ms. Abrams “appears to be ‘seal happy’ when it comes to
18 trying to seal her cases,” (Ex. 1-C at 2); that Ms. Abrams seals cases in contravention of “openness
19 and transparency,” (*Id.* at 2); that Ms. Abrams seals cases “to protect her own reputation, rather
20 than to serve a compelling client privacy or safety interest,” (*Id.* at 2); that Ms. Abrams engaged in
21 “judicial browbeating,” (*Id.* at 4); that Ms. Abrams obtained an order that “is specifically
22 disallowed by law,” (*Id.* at 4); that Ms. Abrams obtained the Prohibition Order against the “general
23 public” with “no opportunity for the public to be heard,” (*Id.* at 6); that “after issuing our initial
24 story about Abrams’ behavior in the *Saiter* case, [VIPI was] contacted by judges, attorneys and
25 litigants eager to share similar battle-worn experiences with Jennifer Abrams,” (*Id.* at 7); that Ms.
26 Abrams obtained an “overbroad, unsubstantiated order to seal and hide the lawyer’s actions,” (Ex.
27 1-C at 8); and that Ms. Abrams is an “over-zealous, disrespectful lawyer[] who obstruct[s] the
28 judicial process and seek[s] to stop the public from having access to otherwise public documents,”

(*Id.* at 8). Moreover, the Seal-Happy Article contains links to the Attack Article and the Bully Article (*Id.* at 3, 4), and includes the Sanctions Hearing Video (*Id.* at 4).

Furthermore, the Seal-Happy Article includes a screenshot of “Family Case Records Search Results” from the Court’s online search page, revealing the identity of many of the Abrams Parties’ clients and the nature of their cases. (Am. Compl. ¶ 53; Ex. 1-C at 3.)

4. The Acting Badly Article

The November 14, 2016 Acting Badly Article consists of a June hearing video from the Family Law Case that was cross-posted on VIPI’s website and its YouTube channel, in violation of YouTube’s Terms of Service. (*See supra* n.13.)

5. The Deceives Article

The November 16, 2016 Deceives Article discusses the allegedly “unlawful” behavior of the Honorable Rena Hughes, but it closes by directing the reader to “an unrelated story we exposed how Judges and Lawyers seal cases to cover their own bad behaviors. This is definitely an example of that” with a link to the Seal-Happy Article. (Ex. 1-E.)

6. The Sanson Statements

On December 22, 2016, Mr. Sanson spoke in person with Mr. Schoen, during which he unleashed a series of false and misleading statements about Ms. Abrams, including accusations that she was unethical and a criminal, and had engaged in unlawful behavior (the “Sanson Statements”). (Compl ¶¶ 72-73, 75; Ex. 3 at ¶ 11-14.) Each of these statements is patently false.

III. LEGAL ANALYSIS

As set forth below, Defendants do not (and cannot) meet the statutory requirements of Nevada’s anti-Strategic Lawsuits Against Public Participation (“Anti-SLAPP”) Statute, NRS Sections 41.635 *et seq.*, and do not qualify for its protection.

A. The Anti-SLAPP Motions

1. The Schneider Motion

The Schneider Motion addresses only the statements that the Amended Complaint attribute to Mr. Schneider individually. (Schneider Mot. 3:12-4:15.) However, the Abrams Parties did not allege that any of these statements is defamatory. (Am. Compl., ¶¶ 24, 26, 30-31, 43-44.) Rather,

1 these statements were included to explain Mr. Schneider’s motivation to cause and wrongfully
2 solicit Mr. Sanson to commence the Smear Campaign, (*id.* at ¶¶ 24, 26, 30, 31), and provide
3 evidence of the agreement between him and Mr. Sanson necessary to state a civil conspiracy claim,
4 thereby subjecting them to liability for the Defamatory Statements (*id.* at ¶ 43-44).

5 The Schneider Defendants’ argument that they are immune from suit based on the litigation
6 privilege fails. (Schneider Mot. 6:13-7:7.) As they admit, the litigation privilege is “an absolute
7 privilege for defamatory statements made during the course of judicial and quasi-judicial
8 proceedings.” (*Id.* at 6:14-16 (citing *Jacobs v. Adelson*, 130 Nev., Adv. Op. 44, 325 P.3d 1282,
9 1285 (2014).) However, the Schneider Defendants’ liability for defamation does *not* arise out of
10 the statements that Mr. Schneider made in direct connection with the Family Law Case—they arise
11 out of his use of VIPI’s membership and internet resources to pursue the Smear Campaign against
12 the Abrams Parties.²¹ Therefore, the litigation privilege is inapplicable.

13 As a result of their misplaced reliance on the litigation privilege—the sole basis for
14 dismissal of the Amended Complaint based on the Anti-SLAPP Statute—the Schneider
15 Defendants have offered *no evidence* to meet their burden of proof as to *any* of the Defamatory
16 Statements, not even by offering a declaration from Mr. Schneider. As explained below, this error
17 is fatal—i.e., the Schneider Defendants have failed to satisfy their burden of proof, and their
18 Motion must be denied without further review.

19 **2. The Hanusa Motion**

20 Although the Hanusa Defendants acknowledge that each of the Defamatory Statements is
21 attributed to all the Defendants, their Motion suffers from the same fundamental flaw as the

22 ²¹ Even if the Defamatory Statements fell within the scope of the litigation privilege, it would not be dispositive
23 of the Schneider Motion because, unlike the Anti-SLAPP Statute, the litigation privilege does *not* have a good faith
24 requirement. *Jacobs*, 130 Nev., Adv. Op. 44, 325 P.3d at 1285 (noting that the litigation privilege protects
25 communications made in the course of litigation that “are in some way pertinent to the subject of the controversy” even
26 “when the motives behind them are malicious and they are made with knowledge of the communications’ falsity”). In
27 contrast, Anti-SLAPP immunity is *statutorily* contingent on the communications at issue being “truthful” or “made
28 without knowledge of [their] falsehood” (NRS 41.637). *Shapiro v. Welt*, 133 Nev., Adv. Op. 6, 389 P.3d 262, 268
(2017) (stating that “the district court erred in its application of the absolute litigation privilege” as an absolute defense
to an anti-SLAPP motion); *Lefebvre v. Lefebvre*, 131 Cal. Rptr. 3d 171, 175 (Cal. Ct. App. 2011) (“The determination
whether a privilege established by statute immunizes [the defendant] from civil liability . . . is a wholly separate issue
from the determination whether her conduct in the first instance was an act in furtherance of her constitutional rights.”).
Thus, acts that may be protected by the litigation privilege are not “necessarily protected under the anti-SLAPP statute.”
Flatley v. Mauro, 139 P.3d 2, 17-19 (Cal. 2006).

Schneider Motion; to wit, the Hanusa Defendants *failed to offer any evidence* to meet their initial burden of proof. Consequently, their Motion must also be denied without further review.²²

3. The VIPI Motion

Unlike the other Defendants, the Sanson Defendants respond to each of the Defamatory Statements. Nonetheless, they still fail to meet their burden of proof. Most notably, the Sanson Defendants fail to establish that the Defamatory Statements are directly related to a matter of “public interest.” They also fail to demonstrate that each of the Defamatory Statements is truthful or made without knowledge of its falsity. In fact, the VIPI Motion relies exclusively on the argument that the Defamatory Statements are matters of opinion and, therefore, are not defamatory—an issue relevant to the second step of the Anti-SLAPP analysis. Hence, neither Mr. Sanson nor VIPI sets forth any evidence showing that any of the Defamatory Statements is “truthful or was made without knowledge of its falsehood.” NRS 41.637. Finally, even if the Defamatory Statements are “[c]ommunications made in direct connection with an issue of public interest” and were “truthful or was made without knowledge of [their] falsehood,” they were all published and/or re-published by the Sanson Defendants in non-public forums, thereby taking them outside the purview of the Anti-SLAPP Statute. Thus, their Motion must be denied.

B. Legal Standard

Nevada’s Anti-SLAPP Statute provides that “[a] person who engages in a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from any civil action for claims based upon the communication.” NRS 41.650. However, not all defamatory statements fall within its protection. Furthermore, even if a statement meets the statutory definition, an Anti-SLAPP motion still fails if the plaintiff can establish a prima facie case for its claims.

“[W]hen a party moves for a special motion to dismiss under Nevada’s anti-SLAPP statute, it bears the initial burden of production and persuasion.” *John v. Douglas Cty. Sch. Dist.*, 125

²² Notably, neither the Hanusa Defendants nor the Schneider Defendants joined in the Sanson Motion. It will be too late for them to do so (for the first time) in their respective reply briefs. *See, e.g., Weaver v. State, Dep’t of Motor Vehicles*, 121 Nev. 494, 502, 117 P.3d 193, 198-99 (2005) (stating that a court “need not consider” arguments raised for the first time in a reply brief).

1 Nev. 746, 754, 219 P.3d 1276, 1282 (2009), *superseded by statute on other grounds*. Specifically,
2 the defendant must establish, “by a ***preponderance of the evidence***, that the claim is based upon a
3 good faith communication in furtherance of the right to petition or the right to free speech in direct
4 connection with an issue of public concern.” NRS 41.660(3)(a) (emphasis added). The phrase
5 “good faith communication[s] in furtherance of the right to petition or the right to free speech in
6 direct connection with an issue of public concern” is defined to mean any:

- 7 1. Communication that is aimed at procuring any governmental
8 or electoral action, result or outcome;
- 9 2. Communication of information or a complaint to a Legislator,
10 officer or employee of the Federal Government, this state or a
11 political subdivision of this state, regarding a matter reasonably of
12 concern to the respective governmental entity;
- 13 3. Written or oral statement made in direct connection with an
14 issue under consideration by a legislative, executive or judicial body,
15 or any other official proceeding authorized by law; or
- 16 4. Communication made in direct connection with an issue of
17 public interest in a place open to the public or in a public forum,
18 ↪ which is truthful or is made without knowledge of its falsehood.

16 NRS 41.637.

17 In this action, Defendants all claim refuge under subsection 4 of NRS 41.637.²³ (VIPI Mot.
18 8:19-24; Schneider Mot. 5:18-20; Hanusa Mot. 11:1-11.) Therefore, Defendants are not entitled to
19 immunity unless they can establish *each* of the following statutory elements:

- 20 1. The communication was made in ***direct connection*** with an issue of ***public interest***;
- 21 2. The communication was made in a place open to the public or in a ***public forum***;
- 22 and
- 23 3. The communication was ***truthful*** or made without knowledge of falsity.

24 ///

25
26 ²³ Additionally, the Schneider Defendants argue that certain statements fall within subsection 3 of NRS 41.637.
27 (Schneider Mot. 5:12-15.) However, as explained above, the statements that Mr. Schneider made as counsel in the
28 Family Court Case do not form the basis of the Abrams Parties’ allegations. Rather, the information about the Family
Court Case is provided for context and to explain Mr. Schneider’s motivations. It is the actions of the VIPI Defendants,
which were taken at Mr. Schneider’s behest and on his behalf, which give rise to the claims against the Schneider
Defendants.

Moreover, Defendants must establish the existence of all elements for each of the five Defamatory Articles (including each act of re-publication thereof) and the Sanson Conversation.

Nevada has expressly adopted California's five guiding principles for distinguishing a public interest from a private one. *Shapiro*, 133 Nev., Adv. Op. 6, 389 P.3d at 268. Therefore, the Court uses the following non-exclusive list of factors to determine if a matter is of "public interest":

- (1) "public interest" does not equate with mere curiosity;
- (2) a matter of public interest should be something of concern to a substantial number of people; a matter of concern to a speaker and a relatively small specific audience is not a matter of public interest;
- (3) there should be some degree of closeness between the challenged statements and the asserted public interest—the assertion of a broad and amorphous public interest is not sufficient;
- (4) the focus of the speaker's conduct should be the public interest rather than a mere effort to gather ammunition for another round of private controversy; and
- (5) a person cannot turn otherwise private information into a matter of public interest simply by communicating it to a large number of people.

Id. (quoting *Piping Rock Partners, Inc. v. David Lerner Assocs., Inc.*, 946 F. Supp. 2d 957, 968 (N.D. Cal. 2013), *aff'd*, 609 F. App'x 497 (9th Cir. 2015)).

C. Defendants Fail to Meet Their Burden of Proof Regarding Each Allegedly Defamatory Statement

Defendants are unable to meet their burden of proof because the Defamatory Statements are not "[c]ommunications made in direct connection with an issue of public interest." NRS 41.637(4). Although Defendants claim that the Defamatory Statements fall within the purview of the Anti-SLAPP Statute because they relate to (1) the professional conduct of an attorney, (2) judicial proceedings, and/or (3) the public's right of access to court records, there is not sufficient closeness between the Defamatory Statements and the asserted public interest. Moreover, the Defamatory Statements involve matters affecting only a small number of people—the parties and their children, the parties' counsel, and the judicial officer participating in the cases at issue (principally, the Family Law Case). Most notably, the genesis of the Smear Campaign is a private

1 controversy between Messrs. Schneider and Sanson, on the one hand, and Ms. Abrams, on the
2 other hand.

3 Additionally, each of the Defamatory Articles was published and/or re-published in emails
4 to VIPI's subscription list, and the Sanson Statements were made during a private phone call
5 between Messrs. Sanson and Schoen. Neither is "a place open to the public" or a "public forum."
6 NRS 41.637(4).

7 Finally, none of the communications were made in good faith—i.e., they are untrue,
8 designed to mislead the public, and were made with knowledge of their falsity. NRS 41.637.

9 Accordingly, Defendants' Motions must be denied, and the Court need not consider the
10 merits of the Abrams Parties' claims. *See, e.g., Stenehjem v. Sareen*, 173 Cal. Rptr. 3d 173, 191
11 n.19 (Cal. Ct. App. 2014) ("Because we have concluded that Stenehjem did not meet his threshold
12 showing that the activity underlying the allegations of the Cross-Complaint was protected under
13 the anti-SLAPP statute, we need not consider the second prong, i.e., whether the record
14 demonstrates that Sareen established a probability of prevailing.").²⁴

15 **1. The Defamatory Statements Are Not Directly Related to Matters of**
16 **Public Interest.**

17 Essentially, Defendants argue that they are entitled to Anti-SLAPP immunity because the
18 conduct of private attorneys is directly related to issues of public interest. (VIPI Mot. 8:20-21
19 (arguing that the Defamatory Statements "[are] criticism of prominent attorneys and judges'
20 courtroom behavior, [which are] directly connected to an issue of public concern"); Schneider
21 Mot. 5:18-20 ("[T]he subject communications, more-likely-than-not, concern an issue of public
22 concern because historically, courts have recognized a general right to inspect and copy public
23 records and documents, including judicial records and documents."); Hanusa Mot. 15:5-8 ("[Ms.]
24 Abrams['] conduct, by virtue of the fact she is an attorney running a for-profit law firm, and the

25
26 ²⁴ When applicable, the Nevada Supreme Court looks to California law "for guidance" when deciding an Anti-
27 SLAPP motion. *Shapiro*, 133 Nev. Adv. Op. 6, 389 P.3d at 268 (2017); *see also* NRS 41.665(2) ("When a plaintiff
28 must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that
in determining whether the plaintiff "has demonstrated with prima facie evidence a probability of prevailing on the
claim" the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to
California's anti-Strategic Lawsuits Against Public Participation law as of June 8, 2015.").

statements made were critical of her actions in that capacity, are a matter of public concern.”.)
However, Defendants’ arguments are flawed—general statements regarding the professional
conduct of private attorneys are *not* an issue of public interest as that term has been defined by the
Nevada Supreme Court.²⁵ Furthermore, the statements at issue are not *directly connected* to the
operation of Nevada’s courtrooms or the public’s right of access to judicial proceedings or court
records.

a. General Statements Regarding Attorney Conduct Are Not a Matter
of Public Interest.

(i). *The Defamatory Statements Are Not Consumer Warnings.*

The VIPI Defendants’ contention “that criticism of a professional’s on-the-job performance
is a matter of public interest, whether or not said professional is an attorney” is overbroad. (VIPI
Mot. 9:18-19; *see also* Hanusa Mot. 15:5-8.) Rather, the cases cited in the VIPI Defendants’
Motion establish that communications about attorney conduct are not matters of public concern
unless they are a “warning to consumers not to do business with plaintiffs because of their
allegedly faulty business practices.” *Piping Rock Partners, Inc., Inc.*, 946 F. Supp. 2d at 969; *see
also Wilbanks v. Wolk*, 17 Cal. Rptr. 3d 497, 506 (Cal. Ct. App. 2004).²⁶

In *Wilbanks v. Wolk*, the court found that statements by a “consumer watchdog” were
matters of public interest because they “were not simply a report of one broker’s business
practices, of interest only to that broker and to those who had been affected by those practices.
Wolk’s statements were a warning not to use plaintiffs’ services.” 17 Cal. Rptr. 3d at 507–08.

²⁵ Although the Hanusa Defendants argue that “[a]n attorney can be characterized as a limited public figure
because she ‘voluntarily injects herself or is drawn into a particular public controversy,’” (Hanusa Mot., 14 n.18
(quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 342 (1974))), they make no effort to establish that Ms. Abrams
meets this standard. As discussed more fully in Section III.D.2.b.ii, the cases cited in support of this proposition are
factually distinguishable because they involve attorneys who voluntarily injected themselves into existing public
controversies.

²⁶ The Sanson Defendants cite *Gardner v. Martino* for the proposition that statements regarding a “business
owner’s refusal to give a refund to a customer who bought an allegedly defective product is a matter of public concern”
(VIPI Mot., 11:5-7), but that was not a matter in dispute. 563 F.3d 981, 986 (9th Cir. 2009) (“Appellants do not
challenge that the Appellees met their initial burden to show that Martino’s statements fall within one of the categories
of civil actions described in Or.Rev.Stat. § 31.150(2).”); *see also Manufactured Home Cmty., Inc. v. Cnty. of San
Diego*, 544 F.3d 959, 963 (9th Cir. 2008) (“MHC does not challenge [the] determination” that statements giving rise to
the lawsuit were in furtherance of rights to petition or free speech.”).

1 Similarly, in *Chaker v. Mateo*, the court held that “statements posted to the Ripoff Report Web site
2 about [Plaintiff’s] character and business practices plainly fall within the rubric of consumer
3 information about [Plaintiff’s] business and were intended to serve as a warning to consumers
4 about his trustworthiness.” 147 Cal. Rptr. 3d 496, 502 (Cal. Ct. App. 2012); *see also Davis v.*
5 *Avvo, Inc.*, No. C11-1571RSM, 2012 WL 1067640, at *3 (W.D. Wash. Mar. 28, 2012) (relating to
6 comments posted on Avvo.com, a website “providing reviews of an individual doctor or lawyer on
7 his or her profile page” which “may be helpful to them in choosing a doctor, dentist, or lawyer”).
8 Finally, in *Healthsmart Pacific, Inc. v. Kabateck*, the court found that when a physician “and
9 facilities with which he is affiliated are or have been engaged in **wrongful conduct towards**
10 **patients**, the public has an interest in being informed about such conduct.” 212 Cal. Rptr. 3d 589,
11 599 (Cal. Ct. App. 2016), *as modified* (Jan. 10, 2017) (emphasis added); *see also Choyce v. SF Bay*
12 *Area Indep. Media Ctr.*, No. 13-CV-01842-JST, 2013 WL 6234628, at *8 (N.D. Cal. Dec. 2, 2013)
13 (“[S]tatements that an attorney has **embezzled from clients**, and is being prosecuted for doing so,
14 relate to an issue of public interest”).

15 Unlike the cases cited in VIPI’s Motion, the Defamatory Articles are not intended as a
16 consumer warning. They do not even purport to be warnings to consumers of legal services. *See*
17 *Trindade v. Reach Media Grp., LLC*, No. 12-CV-4759-PSG, 2013 WL 3977034, at *12 (N.D. Cal.
18 July 31, 2013) (holding that complaints on the website “Internet Advertising – People Who Don’t
19 Pay” were not consumer protection information because there was no actual warning, and the court
20 could not ascertain that the statements involved products or services that potentially reached a
21 widespread group of potential purchasers).

22 Moreover, VIPI’s website states that it aims “[t]o educate, organize, and awaken our
23 veterans and their families to select, support and intelligently vote for those candidates whom
24 would help create a better world.” (Ex. 5-B.) VIPI “interviews, selects, then endorses political
25 candidates,” (Ex. 5-C) in its purported effort to “root out . . . corrupt public servants.” (Ex. 5-A at
26 ¶ 4.) Ms. Abrams and Abrams & Mayo are *not* elected to any office and are not public servants.

27 Similarly, Defendants re-published the Defamatory Articles via email VIPI’s subscription
28 list and on various social media pages and other internet websites—none of which are devoted to

1 consumer protection. *Compare Chaker*, 147 Cal. Rptr. 3d at 498 (noting that the Ripoff Report is
2 a website “where members of the public may comment on the reliability and honesty of various
3 providers of goods and services”).

4 Furthermore, none of the Defamatory Statements relates to the Abrams Parties’ **conduct**
5 **towards clients**. *Healthsmart Pac., Inc.*, 212 Cal. Rptr. 3d at 599. Rather, they allege that Ms.
6 Abrams’ statements and conduct are directed toward Judge Elliott, the legal community, or the
7 general public. (*E.g.*, Ex. 1-A (alleging that Ms. Abrams “crosses the line with a Clark County
8 District Court Judge”); Ex. 1-B (alleging that Ms. Abrams “bullied” Judge Elliott); Ex. 1-C
9 (alleging that the Sanctions Hearing Video “focuses on Abrams’s disrespectful exchange with the
10 judge and does not materially involve the children in the case”).)

11 (ii). *The Defamatory Statements Are Informational and Are of*
12 *Concern, if at All, to a Small Number of Individuals.*

13 “[A] publication does not become connected with an issue in the public interest simply
14 because it is widely disseminated, or because it can be used as an example of bad practices or of
15 how to combat bad practices.” *Wilbanks*, 17 Cal. Rptr. 3d at 507; *see also Rivero v. Am. Fed’n of*
16 *State, Cnty., & Mun. Emps., AFL-CIO*, 130 Cal. Rptr. 2d 81, 89 (Cal. Ct. App. 2003) (rejecting
17 defendant’s argument that documents accusing a supervisor of 8 employees of misconduct was a
18 matter of public interest because it related to the issue of unlawful workplace activity and the only
19 individuals directly involved in and affected by the situation were the plaintiff and the eight
20 employees). Thus, Defendants’ general criticism of Ms. Abrams’ conduct is *not* protected activity.

21 In addition, conclusory statements regarding misconduct do not bring a statement within
22 the scope of the Anti-SLAPP Statute. *Weiss v. Occidental Coll.*, No. B170384, 2004 WL
23 2502188, at *5 (Cal. Ct. App. Nov. 8, 2004) (“Nowhere in the record can we find any description
24 of the nature of respondent’s ‘serious misconduct.’ The adjective “serious” does not assist us in
25 guessing what happened at the ball park.”). Thus, allegations that Ms. Abrams is “unethical,”
26 without an explanation of the guiding ethical standard and how her conduct allegedly violated the
27 Nevada Rules of Professional Conduct, is not in furtherance of public interest.

28 ///

(iii). *The Defamatory Statements Are in Furtherance of Mr. Schneider and Mr. Sanson's Personal Controversy with the Abrams Parties and Not Focused on Public Interest.*

As explained in the Amended Complaint, the Smear Campaign was initiated because of Mr. Schneider's anger at the Abrams Parties for filing the Motion for Sanctions. For unknown reasons, Ms. Abrams' good faith attempt to prevent harm to her firm's clients and herself angered Mr. Sanson, who commenced the Smear Campaign at the urging and direction of Mr. Schneider.

Mr. Sanson made the Defendants' motives clear during his 78-minute conversation with Mr. Schoen on December 22, 2016. During that call, Mr. Sanson explained that the Smear Campaign was not about public corruption or obtaining reform in the Family Division, but simply and solely about retaliation against Ms. Abrams, who had "started this war." (Am. Compl. ¶ 78; Ex. 3. at ¶ 14(b).) Mr. Sanson explained that if Ms. Abrams had not reacted to the Attack Article, he would not have "kept digging." (Am. Compl. ¶ 78; Ex. 3. at ¶ 14.) However, he put Ms. Abrams on his "priority list" because she "insulted [his] intelligence" by having him served with the Prohibition Order "when the court had no jurisdiction over him." (Am. Compl. ¶ 77; Ex. 3. at ¶ 14(a).) To assuage his bruised ego, Mr. Sanson kept "digging" and stated that he was in possession of "dozens of hours" of hearing videos from multiple cases in which Ms. Abrams was counsel of record. (Am. Compl., ¶ 79; Ex. 3. at ¶ 14(c).) ***Significantly, Mr. Sanson's declaration does not deny any of these allegations.*** (Sanson Decl., Mar. 28, 2017.)

b. The Defamatory Statements Are Not Directly Connected to the Operation of Nevada's Courtrooms or the Right of Access to Court Proceedings and Court Records.

In the alternative, Defendants argue that the Defamatory Articles relate to the operation of Nevada's courtrooms and/or the public's right of access to court proceedings and court records. (VIPI Mot. 8:20-21, 11:18-12:20; Schneider Mot. 5:18-20; Hanusa Mot., 15:5-8.) However, "it is not enough that the statement refer to a subject of widespread public interest; the statement must in some manner itself contribute to the public debate." *Wilbanks*, 17 Cal. Rptr. 3d at 506; *see also Weiss*, No. B170384, 2004 WL 2502188, at *5 ("Even if we concede sports spectator misconduct is a topic of widespread public interest . . . [m]erely reporting on who engaged in spectator misconduct is not the same as discussing the general topic of spectator misconduct.").

1 In *Du Charme v. International Brotherhood of Electrical Workers*, the court held that a
2 report that an employee was removed for financial mismanagement was informational, but it was
3 not a matter of public interest because it was not connected to any discussion, debate, or public
4 controversy. 1 Cal. Rptr. 3d 501, 510 (Cal. Ct. App. 2003). In making this distinction, the court
5 noted that the employee's "termination was a fait accompli; its propriety was no longer at issue.
6 Members of the local were not being urged to take any position on the matter. In fact, no action on
7 their part was called for or contemplated." *Id.*

8 It is not enough for a statement to simply relate to a matter that occurred in a courtroom,
9 relate to a judicial proceeding, or pertain to a court rule, and none of the Defamatory Statements
10 was part of a discussion or debate of a controversy related to the judicial system. Defendants
11 readily admit that the focus of the Sanctions Hearing Video and the Attack Article "is the
12 misbehavior of Abrams, not the children. Abrams is not a parent, child, or a party to the case. Her
13 embarrassing behavior has no bearing on the children." (Ex 1-B at 2.) Thus, the communications
14 were not "in *direct connection* with an issue of public interest." NRS 41.637(4).

15 c. *The Shapiro Factors Favor the Abrams Parties, not the Defendants.*

16 Upon review of the *Shapiro* factors, it is clear that the Defamatory Statements do not
17 involve matters of "public interest." First, mere curiosity about Ms. Abrams' representation of
18 family law clients and handling of family law matters does not equate with a matter of public
19 interest. Second, Ms. Abrams' work as a family law attorney does not impact a "substantial
20 number of people," but rather, "a relatively small specific audience." Third, Defendants have tried
21 to create a public interest in Ms. Abrams when none exists. Fourth, the Smear Campaign centers
22 around a private controversy. Finally, Defendants cannot transform information about private
23 family law cases into matters of public interest by publicizing them on the internet.

24 For these reasons, the Court should find that none of the Defamatory Statements involves a
25 matter of "public interest." They do not involve conduct harmful to the Abrams Parties' clients or
26 seek to warn potential consumers not to do business with the Abrams Parties. Consequently, the
27 Motions should be denied.

28 ///

2. The Sanson Conversation and Communications to VIPI's Subscription-Only Email List Did Not Occur in a Public Place or Public Forum.

A public forum is a place open to the use of the general public “for purposes of assembly, communicating thoughts between citizens, and discussing public questions.” *Weinberg v. Feisel*, 2 Cal. Rptr. 3d 385, 391 (Cal. Ct. App. 2003) (quoting *Krishna Soc’y v. Lee* 505 U.S. 672, 679 (1992)). “Means of communication where access is selective, such as most newspapers, newsletters, and other media outlets, are not public forums.” *Id.* (citing *Ark. Educ. TV. v. Forbes*, 523 U.S. 666, 678–680 (1998)); *see also Toler v. Dostal*, No. A118793, 2009 WL 1163492, at *6 (Cal. Ct. App. Apr. 30, 2009) (“[I]f publication of statements is derived from means of communication where access is selective or restricted, the forum is not public”).

As noted above, the Sanson Statements were made during a private phone conversation between Messrs. Sanson and Schoen, which was not “a place open to the public or in a public forum.” NRS 41.637(4). Thus, by definition, they do not qualify for Anti-SLAPP protection.

Likewise, each of the Defamatory Articles was published and/or re-published in emails to VIPI's email subscribers. RESTATEMENT (SECOND) TORTS § 578 (1977) (“If the defendant reprints or circulates a libelous writing, this has the same effect as an original publication.”).²⁷ As the emails are sent only to VIPI's email subscribers and not to the general public, the Defamatory Articles were each re-published in a non-public forum. Therefore, even if the Defamatory Articles were originally posted on websites available to the general public, the acts of re-publication (each being actionable) are outside the protection of Nevada's Anti-SLAPP Statute, and the Motions must be denied.

3. The Defamatory Statements Comprise False Statements of Fact Made With Knowledge of Their Falsehood.

Even if the Defamatory Statements are found to be related to matters of public interest, Nevada's Anti-SLAPP Statute also requires that a good faith communication be “truthful or made without knowledge of its falsehood.” NRS 41.637. A defendant's failure to offer evidence on this

²⁷ The Nevada Supreme Court consults the Restatement (Second) of Torts for guidance in analyzing defamation claims. *See, e.g., Nev. Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 409, 664 P.2d 337, 341 (1983).

1 element is fatal. *See Balestra-Leigh v. Balestra*, No. 3:09-CV-551-ECR-RAM, 2010 WL
2 4280424, at *4 (D. Nev. Oct. 19, 2010) (denying an anti-SLAPP motion where the moving party
3 did not set forth any evidence showing that the statements in question were “truthful or [were]
4 made without knowledge of [their] falsehood”).

5 Notably, this element of Nevada’s Anti-SLAPP Statute is not contained in California’s
6 Anti-SLAPP statute. *Compare* NRS 41.637 (requiring a communication “which is truthful or is
7 made without knowledge of its falsehood”) *with* Cal. Code Civ. Proc. § 425.16(e)(3) (defining an
8 “act in furtherance of a person’s right of petition or free speech under the United States or
9 California Constitution in connection with a public issue” without reference to the statement’s
10 truth or the person’s knowledge). Thus, in California, the court does not address the truth or falsity
11 of a challenged statement during the first prong of the anti-SLAPP analysis. *Vivian v.*
12 *Labrucherie*, 153 Cal. Rptr. 3d 707, 713 (Cal. Ct. App. 2013).

13 Here, none of the Defendants have offered any admissible evidence that any of the
14 Defamatory Statements was true or made without knowledge of its falsehood. They bore that
15 burden of proof. Therefore, all of the Motions must be denied. *Collins v. Laborers Int’l Union of*
16 *N. Am. Local No. 872*, No. 2:11-CV-00524-LDG, 2011 WL 12710632, at *1 (D. Nev. July 21,
17 2011) (“The moving party must thus present sufficient evidence to make a threshold showing that
18 the lawsuit is based on good faith communication in furtherance of the right to petition the
19 government.”).

20 Although the Abrams Parties’ do not bear the burden of proving falsehood, none of the
21 Defamatory Statements are truthful and each was made with knowledge of its falsehood.

22 a. Ms. Abrams Seals Cases to Hide Her Conduct.

23 The Bully Article states that Judge Elliott’s order appears to be “an attempt by [Ms.]
24 Abrams to hide her behavior from the rest of the legal community and the public.” Similarly, the
25 Seal Happy Article states that Ms. Abrams seals cases “to protect her own reputation, rather than
26 to serve a compelling client privacy or safety interest” and that she obtained an “overbroad,
27 unsubstantiated order to seal and hide the lawyer’s actions.” The Acting Badly Article states that
28 Judge Elliott’s order appears to be “an attempt by Abrams to hide her behavior from the rest of the

1 legal community and the public.” Each of these statements is false and was made with knowledge
2 that Ms. Abrams was acting with proper motives in the Family Law Case.

3 In the Sanctions Hearing Video, Ms. Abrams’ request to close the hearing came
4 immediately after it was called to order. (VIPI Mot. at Ex. 13, 3:20-21; 8:24-25.) Thus, Ms.
5 Abrams’ motive could not have been to “hide her bad behavior,” because she asked to close the
6 hearing before her allegedly “bad” behavior occurred.

7 Furthermore, these statements, along with the statement in the Seal Happy Article that Ms.
8 Abrams obtained the Prohibition Order against the “general public” with “no opportunity for the
9 public to be heard,” attribute the decision to seal cases to Ms. Abrams when Defendants know that
10 the decision to seal a case lies *exclusively* with the Judge presiding over the case.²⁸ Similarly,
11 whether or not to seal a case without notice to the public is not the province of an attorney. *At*
12 *most*, Ms. Abrams can request that a case be sealed, but cases can also be sealed by the Court.
13 SRCR 3(1) (“[T]he court may, upon its own motion, initiate proceedings to seal or redact a court
14 record.”).

15 Moreover, the Prohibition Order was not unsubstantiated. The Court had the authority to
16 issue it and properly did so in order to protect the interests of the minor children.

17 Similarly, the statement that Ms. Abrams seals cases “to protect her own reputation, rather
18 than to serve a compelling client privacy or safety interest” is made without any basis in fact.
19 Notably, Mr. Sanson’s Declaration does not allege any knowledge of any sealed case in which Ms.
20 Abrams is counsel, the basis for sealing, or even if Ms. Abrams made the request to seal the cases
21 identified in the screenshot from the Court’s records system. This is all information that he could
22 have obtained but, evidently, did not. SRCE 3(4)(c)(vi-vii) (noting that in any case in which the
23 court orders records sealed, certain documents must remain publicly available, including “(vi) the
24 order to seal and written findings supporting the order; and (vii) the identity of the party or other
25 person who filed the motion to seal”). Moreover, some cases are automatically sealed by statute.
26 *See e.g.*, NRS 62H.130. These facts are further evidence that Mr. Sanson acted in bad faith.

27 ²⁸ Additionally, the Court is not *required* to hold a hearing before sealing records. Rule 3 Nevada Rules for
28 Sealing and Redacting Court Records provides that “[t]he court *may* conduct a hearing on a motion to seal or redact a
court record.” SCRC 3(3).

1 Finally, even if these statements constitute opinions, “a defamatory communication may
2 consist of a statement in the form of an opinion . . . if it implies the allegation of undisclosed
3 defamatory facts as the basis for the opinion.” RESTATEMENT (SECOND) TORTS § 566 (1977). Mr.
4 Sanson’s use of court records and the availability of records sufficient to prove or disprove his
5 statements implies the existence of undisclosed facts as the basis for the opinion and, thus, are
6 actionable. *Nev. Indep. Broad. Corp.*, 99 Nev. at 411, 664 P.2d at 342 (recognizing defamation by
7 implication).

8 Thus, the Motions must be denied as to the publication (and re-publication) of the Seal
9 Happy Article, the Bully Article, and the Acting Badly Article.

10 b. Ms. Abrams Is a Criminal.

11 The Sanson Statements include the accusation that Ms. Abrams is a “criminal,” that she
12 “doesn’t follow the law” and was “breaking the law by sealing her cases,” or words to that effect,
13 and the Seal Happy Article states that Ms. Abrams obtained an order that “is specifically
14 disallowed by law” and seals cases in contravention of “openness and transparency.” Similarly,
15 the Bully Article and the Acting Badly Article both state that Ms. Abrams’ behavior was
16 “obstructionist,” while the Seal Happy Article states that “Ms. Abrams is an “over-zealous,
17 disrespectful lawyer[] who obstruct[s] the judicial process.” Each statement is objectively false.

18 “A false statement involving the imputation of a crime has historically been designated as
19 defamatory per se.” *Pope v. Motel 6*, 121 Nev. 307, 315, 114 P.3d 277, 282 (2005). Furthermore,
20 obstruction of justice is a crime and, contrary to VIPI’s representations, there are objective
21 standards (e.g., court rules) for “obstructionist” behavior in connection with a court case. Thus,
22 these allegations are not matters of “opinion” and the Sanson Defendants have not contradicted
23 Ms. Abrams’ verified allegations that they were published with knowledge of their falsehood.
24 Moreover, the Sanson Defendants have not identified any crime Ms. Abrams has committed,²⁹
25 including an action that violates NRS Chapter 199 (which pertains to crimes against public
26

27 ²⁹ Furthermore, Mr. Sanson’s “digging” is believed to have included a background check on Ms. Abrams. As a
28 criminal background check of Ms. Abrams’ would reveal zero criminal activity, this statement was made with
knowledge of its falsehood.

justice).³⁰ Thus, the Motions must be denied as to the publication (and re-publication) of the Seal Happy Article, the Bully Article, the Acting Badly Article, and the Sanson Statements.

c. Ms. Abrams Engaged in “Bullying” and “Judicial Browbeating.”

The Seal-Happy Article states that Ms. Abrams engaged in “judicial browbeating.” The Bully Article alleges that Ms. Abrams “bullied” Judge Elliott into issuing the Prohibition Order. Additionally, the Sanson Statements include an allegation that Plaintiffs “bullied” an opposing party.

There is no evidence that Ms. Abrams “bullied” Judge Elliott into issuing the Prohibition Order. As a practical matter, it is unknown how she could bully Judge Elliott into doing anything. Indeed, there is no suggestion that Ms. Abrams threatened to take action against Judge Elliott absent issuing the Prohibition Order.

For these reasons, the Motions must be denied as to the publication (and re-publication) of the Seal Happy Article, the Bully Article, and the Sanson Statements.

d. Ms. Abrams Is “Unethical.”

The Attack Article and the Sanson Statements both include specific allegations that Ms. Abrams is unethical. Likewise, the allegations that Ms. Abrams “misbehaved,” was “disrespectful,” needed to be “held accountable,” and engaged in “bad behaviors” all implicate violations of the Nevada Rules of Professional Conduct. Furthermore, the Attack Article implies

³⁰ NRS 199.510 relates to obstruction of criminal investigations and NRS 199.230 criminalizes actions designed to prevent or dissuade a person from testifying or producing evidence:

A person who, by persuasion, force, threat, intimidation, deception or otherwise, and *with the intent to obstruct the course of justice*, prevents or attempts to prevent another person from appearing before any court, or person authorized to subpoena witnesses, as a witness in any action, investigation or other official proceeding, or causes or induces another person to be absent from such a proceeding or evade the process which requires the person to appear as a witness to testify or produce a record, document or other object, shall be punished:

1. Where physical force or the immediate threat of physical force is used, for a category D felony as provided in NRS 193.130.
2. Where no physical force or immediate threat of physical force is used, for a gross misdemeanor.

NRS 199.230 (emphasis added).

1 that there is a “problem” with Ms. Abrams’ behavior, requiring Judge Elliott to report her to the
2 Nevada State Bar.

3 Although allegations regarding a person’s ethics are not generally actionable, they may be
4 when they involve attorneys because attorneys are subject to a code of ethics that provides an
5 objective standard for “ethical” and “unethical” behavior. “*Accusations of . . . unethical activity .*
6 *. . . are expressions of fact, as are allegations relating to one's professional integrity that are*
7 *susceptible of proof.*” *Held v. Pokorny*, 583 F. Supp. 1038, 1040 (S.D.N.Y. 1984) (emphasis
8 added); *see also Yoder v. Workman*, 224 F. Supp. 2d 1077, 1081 (S.D.W. Va. 2002) (denying
9 motion to dismiss defamation action because allegation that attorney engaged in “spurious and
10 unethical legal actions and false allegations” could “be reasonably interpreted as stating actual
11 facts); *Wachs v. Winter*, 569 F. Supp. 1438, 1443 (E.D.N.Y.1983) (noting that statements accusing
12 an attorney of unprofessional conduct that would tend to injure him in that capacity are libelous
13 per se).

14 Furthermore, excerpted quotes in the Attack Article are defamatory. In *Las Vegas Sun, Inc.*
15 *v. Franklin*, the Nevada Supreme Court held that the headline and tag-line of an article were
16 defamatory and need not be read in the context of the article to which they referred. 74 Nev. 282,
17 287, 329 P.2d 867, 870 (1958). “The text of a newspaper article is not ordinarily the context of its
18 headline, since the public frequently reads only the headline.” *Id.* The same rationale is logically
19 applied to a video of more than an hour long. Most readers will not watch the video, or at least
20 will not watch the whole video. Thus, the excerpted quotes must be evaluated individually to
21 determine if they are false.

22 The Attack Article includes the following “quoted” material:

23 If that’s not an ethical problem, I don’t know what is.
24 I find that there is undue influence in this case.
25 There are enough ethical problems don’t add to the problem.
26 If that’s not an ethical problem I don’t know what is.
27 Your client lied about his finances.

28 These statements are false because, collectively, they convey that Ms. Abrams behaved
unethically, and Judge Elliott’s later statements make clear that she misunderstood the facts at

1 issue in the Family Law Case. Because the Sanson Defendants had the video and a transcript of
2 the video, it is evident that they published the Attack Article with knowledge of its falsehood.

3 For these reasons, the Motions must be denied as to the publication (and re-publication) of
4 the Attack Article and the Sanson Statements.

5 e. Ms. Abrams' Behavior Is Embarrassing.

6 Finally, Defendants stated that Ms. Abrams' behavior was "embarrassing," but the client—
7 the only person who could be charged with evaluating Ms. Abrams' conduct in the Family Law
8 Case—has not given any indication that he was embarrassed, and the Sanson Defendants have not
9 even suggested that Ms. Abrams' client was dissatisfied with her advocacy. Thus, the Motions
10 must be denied as to the publication (and re-publication) of the Bully Article.

11 * * * *

12 In sum, the Motions fail on several fronts. First, none of the Defendants established that
13 any of the Defamatory Statements were premised on communications made in direct connection
14 with an issue of public interest. Second, none of the Defendants established that re-publication of
15 the Defamatory Articles on the VIPI list-serve constitute communications made in a place open to
16 the public or public forum. Finally, none of the Defendants established that the Defamatory
17 Statements were truthful or made without knowledge of their falsehood. For any of these reasons,
18 the Motions must be denied with the need to assess the merits of the Abrams Parties' claims. *See,*
19 *e.g., Commw. Energy Corp. v. Investor Data Exchange, Inc.*, 1 Cal. Rptr. 3d 390, 393 (Cal. Ct.
20 App. 2003) ("The point is, if the moving defendant cannot meet the threshold showing, then the
21 fact that he or she might be able to otherwise prevail on the merits under the 'probability' step is
22 irrelevant.").

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D. The Abrams Parties Can Demonstrate with Prima Facie Evidence a Probability of Prevailing on Their Claims.³¹

In 2015, the Nevada Legislature amended NRS 41.660 to lessen the plaintiff's burden of proof from "clear and convincing evidence" to "prima facie evidence." *Compare* NRS 41.660(3)(b) (2013) *with* NRS 41.660(3)(b) (2017).³² Additionally, the Legislature added a section to the Anti-SLAPP Statute to clarify that:

When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff "has demonstrated with prima facie evidence a probability of prevailing on the claim" the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California's anti-Strategic Lawsuits Against Public Participation law as of June 8, 2015.

NRS 41.662(2). Notwithstanding, a defendant who advances an affirmative defense bears the burden of proof on the defense and must establish "a probability of prevailing" on that defense. *Davis v. Elec. Arts Inc.*, 775 F.3d 1172, 1177 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 1448, 194 L. Ed. 2d 549 (2016).

If the Court finds that "the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the claim," the defendant's motion must be denied. NRS 41.660(3)(b). "Since an Anti-SLAPP motion is brought at an early stage of proceedings, the plaintiff's burden of establishing a probability of success is not high." *Browne v. McCain*, 611 F. Supp. 2d 1062, 1068 (C.D. Cal. 2009). In making its determination, the Court may "[c]onsider such evidence, written or oral, by witnesses or affidavits, as may be material." NRS 41.660(3)(d). In analyzing the plaintiff's evidence, it "is not weighed by the Court, but presumed true if in favor of the plaintiff." *Piping Rock Partners, Inc.*, 946 F. Supp. 2d at 967. The court assesses the defendant's evidence

³¹ As the merits of the Abrams Parties' claims are also at issue pursuant to Defendants' various Motions to Dismiss pursuant to N.R.C.P. 12(b)(5) (the "Rule 12 Motions"); and the Rule 12 Motions are set to be heard during the same hearing as the Anti-SLAPP Motions, in the interest of brevity and judicial economy, the Abrams Parties incorporate by reference the arguments set forth in their respective Oppositions to the Rule 12 Motions.

³² *See Schmidt v. Kieckhefer*, No. 66528, 2015 WL 8187015, at *1 (Nev. Dec. 2, 2015) (unpub. op) ("Prior to 2013, this court treated special motions to dismiss as motions for summary judgment and therefore reviewed the resulting orders de novo. After 2013, however, with the plaintiffs burden increased to clear and convincing evidence, this court will provide greater deference to the lower court's findings of fact and therefore will review for an abuse of discretion.") (citations omitted).

1 “only to determine if it bars plaintiff’s submissions as a matter of law.” *Overstock.com, Inc. v.*
2 *Gradient Analytics, Inc.*, 61 Cal.Rptr.3d 29 (Cal. Ct. App. 2007).

3 **1. Accessory Liability Claims (Civil Conspiracy/Concert of Action).**

4 The Abrams Parties asserted alternative claims of relief involving accessory liability from
5 which the Defendants’ collective liability arises: Civil Conspiracy and Concert of Action.³³
6 (Amended Compl., ¶¶ 110-15.) Thus, each of the Defamatory Statements is directly attributable to
7 each Defendant—i.e., to the Schneider Defendants by virtue of the agreement with Mr. Sanson to
8 use VIPI’s membership and internet resources for the Smear Campaign, and to the remaining VIPI
9 Defendants by their actions, whether through active participation in the Smear Campaign and/or by
10 adopting and ratifying the Defamatory Statements.

11 “Actionable civil conspiracy arises where two or more persons undertake some concerted
12 action with the intent ‘to accomplish an unlawful objective for the purpose of harming another,’
13 and damage results.” *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev., Adv. Op. 78, 335
14 P.3d 190, 198 (2014) (quoting *Consol. Generator–Nevada, Inc. v. Cummins Engine Co.*, 114 Nev.
15 1304, 1311, 971 P.2d 1251, 1256 (1998)). Even if “an act done by an individual is not actionable
16 because justified by his rights, such act becomes actionable when done in pursuance of a
17 combination of persons actuated by malicious motives, and not having the same justification as the
18 individual.” *Eikelberger v. Tolotti*, 96 Nev. 525, 527-28, 611 P.2d 1086, 1088 (1980).

19 In support of the *verified* allegations in the Amended Complaint, the Abrams Parties have
20 offered prima facie evidence sufficient to establish the following acts, which meet the elements of
21 civil conspiracy:

- 22 • A pre-existing relationship between Messrs. Schneider and Sanson. (Ex. 4-B .)
- 23 • Mr. Schneider had previously (and improperly) used Mr. Sanson as a means to
24 coerce participants in his cases. (E.g., Ex. 4-B (October 5, 2016 email from Judge
25 Elliott stating that Mr. Sanson had “recently shown up to another hearing of mine
26 where Louis was on the case and sat through it where Bob Lueck had interviewed

27
28 ³³ See *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. ___, ___, 345 P.3d 1049, 1051 (2015) (noting that
conspiracy, aiding and abetting, and concert of action are “accessory liability theories”).

his clients child and prepared an affidavit and there was a motion to disqualify Bob as the lawyer for the client”).)

- Before the Sanctions Hearing, Mr. Schneider threatened to retaliate against Ms. Abrams with extra-judicial action if the Sanctions Motion was not withdrawn:

I’ve had about all I can take.
Withdraw your Motion and I’ll withdraw from the case.
Be advised – Tina has asked me not to leave the case.
I was getting ready to withdraw my motion to withdraw.
If your firm does not withdraw that motion, I will oppose it ***and take additional action beyond the opposition.***

(Ex. 2-A (emphasis added).)

- Mr. Schneider “bought” advertising from VIPI as a means to “pay” the VIPI Defendants for initiating the Smear Campaign. (Am. Compl. ¶ 43.)
- On October 5, 2016—immediately after the Attack Article was emailed to VIPI’s subscription list—Mr. Schneider approached Mr. Leavitt and informed him that withdrawing the Motion for Sanctions would “make this all go away,” or words to that effect. (*Id.* ¶ 38.)
- Mr. Schneider provided Mr. Sanson with the Sanctions Hearing Video. (Ex. 4-B; Ex 4 at ¶ 4(-B.)
- The Smear Campaign became personal for Mr. Sanson when Judge Elliott issued the Prohibition Order. (Ex. 4 at ¶ 14.)
- The Abrams Parties have suffered economic damages as a result of the Smear Campaign. (Ex. 1 at ¶ XXX.)
- Ms. Abrams has suffered emotional distress as a result of the Smear Campaign. (*Id.* at ¶ 15.)

Based on these facts, the Court can find that there is more than sufficient evidence to make a prima facie showing of an agreement between and among the Schneider Defendants and the VIPI Defendants to act in concert for the purpose of implementing the Smear Campaign in order to inflict economic and reputational harm on the Abrams Parties. Therefore, the Abrams Parties have stated valid accessory liability claims.

To the extent that the Court finds this evidence insufficient to meet the Abrams Parties' burden of proof, they respectfully request discovery on this issue as set forth below.

2. Defamation, Business Disparagement, False Light, and Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, and Harassment.

The Abrams Parties' claims for defamation, business disparagement, false light, intentional and negligent infliction of emotional distress, and harassment (collectively, the "Defamation-Related Claims") (Amended Compl., ¶¶ 83-109), involve false and defamatory statements of fact about Ms. Abrams' professional conduct, adversely implicate Ms. Abrams' law firm, and place Ms. Abrams (and her law firm) in a false light. These claims are well grounded in fact and not subject to dismissal.

a. The Abrams Parties Have Alleged and Presented Sufficient Evidence Supporting Their Defamation-Related Claims.

"Defamation is a publication of a false statement of fact." *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714, 57 P.3d 82, 87 (2002). "An action for defamation requires the plaintiff to prove four elements":

- (1) a false and defamatory statement;
- (2) an unprivileged publication to a third person;
- (3) fault, amounting to at least negligence; and
- (4) actual or presumed damages.

Clark Cnty. Sch. Dist. v. Virtual Educ. Software, Inc., 125 Nev. 374, 385, 213 P.3d 496, 503 (2009). "However, if the defamatory communication imputes a "person's lack of fitness for trade, business, or profession," or tends to injure the plaintiff in his or her business, it is deemed defamation per se and damages are presumed." *Id.* In addition, "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).

An action for business disparagement is similar to a defamation claim except as to proof. The elements are:

- (1) a false and disparaging statement,
- (2) the unprivileged publication by the defendant,

(3) malice, and
(4) special damages.

Clark Cnty. Sch. Dist., 125 Nev. at 386, 213 P.3d at 504. Malice is proven when the plaintiff shows either that the defendant published the disparaging statement with the intent to cause harm to the plaintiff's pecuniary interests, or the defendant published a disparaging remark knowing its falsity or with reckless disregard for its truth. *Pegasus*, 118 Nev. at 722, 57 P.3d at 92–93.

Liability for a claim of false light arises when a person publicizes a matter concerning the plaintiff that places the plaintiff before the public in a false light. The elements are:

(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.

RESTATEMENT (SECOND) TORTS § 652E (1977). “[W]hile a false light claim may be defamatory, it need not be.” *Machleder v. Diaz*, 801 F.2d 46, 55 (2d Cir.1986). “The false light privacy action differs from a defamation action in that the injury in privacy actions is mental distress from having been exposed to public view, while the injury in defamation actions is damage to reputation.” *Rinsley v. Brandt*, 700 F.2d 1304, 1307 (10th Cir.1983).

Finally, a plaintiff can recover for intentional infliction of emotional distress by establishing the following:

(1) extreme and outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress,

(2) the plaintiff's having suffered severe or extreme emotional distress and

(3) actual or proximate causation.

Olivero v. Lowe, 116 Nev. 395, 398, 995 P.2d 1023, 1025 (2000).

As set forth above, each of the Defamatory Statements is false and was made with knowledge of its falsehood. Additionally, it is plain that the Defamatory Statements are outrageous in nature, would be highly offensive to a reasonable person, and have caused the Abrams Parties to suffer severe emotional distress. Thus, the Abrams Parties have met their burden of establishing the elements of their Defamation-Related Claims.

b. The Defendants' Affirmative Defenses to the Defamation-Related Claims Fall Flat.

(i). *The Litigation Privilege Does Not Apply.*

The Schneider Defendants argue that the litigation privilege bars all claims, but as explained above, the statements that fall within the litigation privilege are not the statements that give rise to the Defamation-Related Claims.

Furthermore, the Schneider Defendants have made no effort to prove that the litigation privilege applies to any of the Defamatory Statements. They just say that it does. However, the litigation privilege does not protect *extra-judicial* statements made to disinterested third parties. *Jacobs*, 130 Nev., Adv. Op. 44, 325 P.3d at 1285-88. The Defamatory Articles were published to disinterested third parties (e.g., persons who follow VIPI through social media). Therefore, even if the litigation privilege could apply, the Schneider Defendants bear the burden of proving that it immunizes them from liability for the Defamation-Related Claims. They failed to meet that burden.

(ii). *Public Figure*

The VIPI Defendants contend that “[Ms.] Abrams is, at a minimum, a limited public figure because she holds herself out as a highly-qualified attorney specializing in family law—an area of public concern. . . . [and] The Abrams & Mayo Law Firm markets itself as a firm that has advanced specialization in family law matters, and advertises throughout the Las Vegas area.” (VIP Rule 12 Mot., 15:6-8, 15-16.) However, this argument was expressly rejected as applied to physicians by the Nevada Supreme Court in *Bongiovi v. Sullivan* 122 Nev. 556, 138 P.3d 433 (2006). Nothing suggests the outcome is or should be different as applied to attorneys; in fact, the Nevada Supreme Court has previously said that the outcome would be same. *See Doe v. Brown*, No. 62752, 2015 WL 3489404, at *2-*3 (unpub. op) (Nev. May 29, 2015) (refusing to find a prosecutor to be a limited purpose public figure).³⁴

³⁴ In a related case, Senior Judge Charles Thompson relied on *Doe* in finding that Marshal Willick, Esq., a prominent family law attorney, “is not a public figure or limited purpose public figure.” (Order 5:4-6, *Willick v. Sanson*, No. A750171 (Mar. 30, 2017), attached as Ex. 4-E. Given the interrelatedness of these cases, the Court may take judicial notice of that ruling in deciding whether Ms. Abrams is a public figure or limited purpose public figure. *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009).

1 It is well accepted that designation as a public figure “may rest on either of two alternative
2 bases.” *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974).

3 In some instances an individual may achieve such pervasive fame or
4 notoriety that he becomes a public figure for all purposes and in all
5 contexts. More commonly, an individual voluntarily injects himself
6 or is drawn into a particular public controversy and thereby becomes
7 a public figure for a limited range of issues.

8 *Id.*; see also *Pegasus*, 118 Nev. at 720, 57 P.3d at 91.

9 Although a small number of states have held that professionals whose services are of “vital
10 importance” to the public are limited purpose public figures even if they have not inserted
11 themselves into a public debate, Nevada has rejected that line of cases. See *Bongiovi*, 122 Nev. at
12 573, 138 P.3d at 446.

13 In *Bongiovi v. Sullivan*, the Nevada Supreme Court held that a physician is not a limited
14 purpose public figure simply by nature of his profession. Rather, a physician must “voluntarily
15 come to the forefront of a national or local debate concerning that medical issue or have
16 ‘affirmatively step[ped] outside of their private realms of practice to attract public attention.’” *Id.*
17 at 573, 138 P.3d at 446. This requires actions such as “writing letters to politicians and hiring a
18 private lobbyist and public relations agent, authoring articles in national magazines and appearing
19 on national television shows, testifying before an FDA panel, and writing [letters] to newspapers,
20 professional journals and organizations, fellow physicians, and government officials regarding an
21 issue.” *Id.* (citations and internal quotation marks omitted).

22 In *Bongiovi*, the physician “was well-known, highly regarded, and had a national reputation
23 as a plastic surgeon.” *Id.* at 572, 138 P.3d at 445. The court rejected the defendant’s argument
24 that the physician was a limited purpose public figure for the purpose of a speech concerning his
25 role as a plastic surgeon by nature of his profession, credentials, and by “voluntarily enter[ing] the
26 public spectrum by providing public services and seeking public patrons.” *Id.* at 573, 138 P.3d at
27 446.

28 We conclude that Sullivan’s professional achievements are
insufficient to render him a limited-purpose public figure. Also, he
did not voluntarily thrust himself into a public controversy. Further,

[defendant's] statements did not concern a public controversy or issue and were made solely in the individual interest of himself and [plaintiff's patient].

Id. at 573, 138 P.3d at 446.

The VIPI Defendants' cases are factually distinguishable because they involve attorneys who voluntarily injected themselves into existing public controversies. *See, e.g., Young v. The Morning Journal*, 717 N.E.2d 356, 359 (Ohio Ct. App. 1998) (discussing a government attorney who had run a high-profile narcotics investigative unit for 15 years and had been the subject of approximately 50 newspaper articles during that time was a public figure); *Schwartz v. Worrall Publications, Inc.*, 610 A.2d 425, 427 (N.J. App. Div. 1992) (describing an attorney who "has long been involved with this State's education system, in the past as a school district attorney and Association president, and, at the time of the offending article's publication, as counsel to more than a score of individual school districts as well as the Association" who represented school board in a case that "generated widespread and justifiable media attention" was a public figure because he "voluntarily assumed a particularly visible position in the forefront of a very public issue").

Because Ms. Abrams is not a public figure or limited purpose public figure, the VIPI Defendants' argument that the Defamation-Related Claims are subject to a heightened standard of proof necessarily fails.³⁵

3. The Remaining Claims (RICO and Copyright Infringement).

"In the anti-SLAPP context, the critical consideration is whether the cause of action is based on the defendant's protected free speech or petitioning activity." *Navellier v. Sletten*, 52 P.3d 703 (Cal. 2002). "Conversely, if the allegations of protected activity are only incidental to a cause of action based essentially on nonprotected activity, the mere mention of the protected activity does not subject the cause of action to an anti-SLAPP motion." *Scott v. Metabolife Int'l, Inc.*, Cal. Rptr. 3d 242, 249 (Cal. Ct. App. 2004).

As the Defamatory Statements are only incidental to the Abrams Parties' claims for RICO and Copyright Infringement, these causes of action need not be addressed. However, to the extent

³⁵ Even then, the Sanson Conversation, together with Mr. Schneider's initial threat, is sufficient evidence of actual malice, such that the Abrams Parties could meet a heightened burden of proof to support their Defamation-Related Claims.

1 that the Court deems them sufficiently related, the Abrams Parties expressly incorporate by
2 reference the arguments made in their Opposition to the Rule 12 Motions.

3 **E. The Abrams Parties Should Be Permitted to Conduct Limited**
4 **Discovery.**

5 Nevada's Anti-SLAPP Statute provides that "[u]pon a showing by a party that information
6 necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the
7 possession of another party or a third party and is not reasonably available without discovery, the
8 court shall allow limited discovery for the purpose of ascertaining such information." NRS
9 41.660(4); *see also* N.R.C.P. 56(f) ("Should it appear from the affidavits of a party opposing the
10 motion that the party cannot for reasons stated present by affidavit facts essential to justify the
11 party's opposition, the court may refuse the application for judgment or may order a continuance
12 to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make
13 such other order as is just."). This rule applies where "the non-moving party has not had the
14 opportunity to discover information that is essential to its opposition." *Roberts v. McAfee, Inc.*,
15 660 F.3d 1156, 1169 (9th Cir. 2011) (quotation marks omitted).

16 To the extent that the Court determines that (i) the Defendants met their burden of proof
17 and (ii) the Abrams Parties have not met their burden of proof, it should grant leave to the Abrams
18 Parties to conduct discovery on the following issues necessary to the Anti-SLAPP Motions:

- 19 (1) Obtain additional information about each Party's responsibilities, role, actual
20 knowledge, and access to VIPI's online accounts;
- 21 (2) Identify any additional publication of the Defamatory Statements, and determine
22 what additional methods and forums were used;
- 23 (3) Identify the amount and timing of any payments from the Schneider Defendants to
24 the VIPI Defendants;
- 25 (4) Obtain additional facts regarding the membership, administration, and use of VIPI's
26 email subscription list; and
- 27 (5) To challenge any later-made statements regarding the Defendants' knowledge and
28 reasoning regarding the Defamatory Statements.

(Ex. 4 at ¶¶ 16-17.) Each of these categories is information uniquely within the VIPI Defendants' possession and essential to the instant Opposition to the Anti-SLAPP Motions. *See Pacquiao v. Mayweather*, No. 209-CV-2448-LRH-RJJ, 2010 WL 1439100, at *1 (D. Nev. Apr. 9, 2010) (granting plaintiff's request for limited discovery to oppose the defendants' Nevada anti-SLAPP motion in order to challenge, *inter alia*, defendants' statements about their knowledge and reasoning).

The only information that has been provided regarding the roles of the VIPI Defendants in the Smear Campaign is Mr. Sanson's statement that "[n]one of the officers or directors had anything to do with the postings I made on behalf of VIPI, nor did they know about the postings in advance." (Sanson Decl., ¶ 18.) Notably, none of the other VIPI Defendants has corroborated that statement—not even through a self-serving declaration.

The Abrams Parties have established that each of the Defamatory Articles was re-posted on numerous other websites, including social media pages believed to be operated and/or controlled by VIPI, and distributed to its email list. The VIPI Defendants have not offered any information to establish who is responsible for the re-publication of these statements. Additionally, there is no information regarding any of the other VIPI Defendant's authority to post, delete, maintain, or otherwise interact with VIPI's website and/or email list. Even assuming that Mr. Sanson was the only one of the VIPI Defendants with actual knowledge of the publication of the Defamatory Statements, the re-publication continued after this action was filed. Therefore, each of VIPI Defendants is now complicit even if they previously lacked knowledge.

Given the number of times that Defendants have re-published the Defamatory Articles, the Abrams Parties should be granted discovery regarding all instances of re-publication to determine whether there are any additional publications in non-public forums. Similarly, the Abrams Parties should be permitted to conduct discovery on the facts and details of VIPI's email list to the extent that Defendants contend that it is a public forum.

Accordingly, the Abrams Parties should be granted discovery on that topic. *Drussel v. Elko Cty. School Dist.*, No. 3:12-cv-00551-HDM-WGC, 2013 WL 3353531, at *5 (D. Nev. July 2, 2013).

IV. CONCLUSION

As demonstrated above, each of Defendants has failed to meet their threshold burden of proof and the Anti-SLAPP Motions must be denied. Nonetheless, even if the Court finds that Defendants have established that the Defamatory Statements fall within the Anti-SLAPP Statute, the Motions fail because the Abrams Parties have demonstrated by prima facie evidence a probability of prevailing on their claims.

In the alternative, if the Court determines that (i) the Defendants met their burden of proof and (ii) the Abrams Parties have not met their burden of proof, it should grant leave to the Abrams Parties to conduct discovery on the issues relevant to the Anti-SLAPP Motions.

DATED this 28th day of April, 2017.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 28th day of April, 2017, service of the foregoing PLAINTIFFS' OMNIBUS OPPOSITION TO: (1) 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; (2) SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP); AND (3) DEFENDANTS' SPECIAL MOTION TO DISMISS UNDER NEVADA'S ANTI-SLAPP STATUTE, NRS 41.660 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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EXHIBIT 1

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1. I am a resident of Clark County, Nevada, and a paralegal for The Abrams & Mayo Law Firm, which is a party in the matter entitled *Abrams v. Schneider*, No. A-17-749318-C, which is pending in Department XII of Nevada's Eighth Judicial District Court.

3. I make this Declaration in support of Plaintiffs' Omnibus Opposition to (1) 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; (2) Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP); and (3) Defendants' Special Motion to Dismiss Under Nevada's Anti-SLAPP Statute, NRS 41.660.

5. Attached here as Exhibit 1-B is a true and correct copy of the e-mail from Veterans in Politics International Inc. (devildog1285@cs.com) sent on October 9, 2016 at 5:15 p.m., with the subject line "District Court Judge Bullied by Family Attorney Jennifer Abrams."

6. Attached here as Exhibit 1-C is a true and correct copy of the e-mail from Veterans in Politics International Inc. (devildog1285@cs.com) sent on November 6, 2016 at 10:11 p.m., with the subject line "Law Frowns on Nevada Attorney Jennifer Abrams' "Seal-Happy" Practices."

111

7. Attached here as Exhibit 1-D is a true and correct copy of the screenshot of the “Lawyers acting badly in Clark County Family Court” published on October 9, 2016 from Steve Sanson’s YouTube account.

8. Attached here as Exhibit 1-E is a true and correct copy of the e-mail from Veterans in Politics International Inc. (devildog1285@cs.com) sent on November 16, 2016 at 7:50 p.m., with the subject line "Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record."

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

EXECUTED on this 28th day of April, 2017.

Julie Schoen

EXHIBIT 1-A

From: David Schoen <Dschoen@theabramslawfirm.com>
Sent: Thursday, April 27, 2017 11:29 AM
To: Joshua Gilmore;
Cc: Jennifer Abrams; Julie Schoen
Subject: FW: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

PERSONAL AND CONFIDENTIAL

The information contained in this e-mail is from The Abrams & Mayo Law Firm which may be confidential and may also be attorney-client privileged. The information is intended for the use of the individual or entity to whom it is addressed and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby instructed to return this e-mail unread and delete it from your inbox and recycle bin. You are hereby notified that any disclosure, dissemination, distribution, use or copying of the contents of this information is strictly prohibited.

From: Veterans In Politics International Inc. [mailto:devildog1285@cs.com]
Sent: Wednesday, October 05, 2016 9:59 AM
To: VM Group
Subject: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

Having trouble viewing this email? [Click here www.veteransinpolitics.org](http://www.veteransinpolitics.org)

Hi, just a reminder that you're receiving this email because you have expressed an interest in Veterans In Politics International Inc.. Don't forget to add devildog1285@cs.com to your address book so we'll be sure to land in your inbox!

You may [unsubscribe](#) if you no longer wish to receive our emails.



Nevada Attorney attacks a
Clark County Family Court
Judge in Open Court

*A behind the scenes look
inside our courtroom*

FIND OUT MORE



No boundaries in our courtrooms!

In Clark County Nevada, we have noticed Justice of the Peace handcuffing Public Defenders unjustly as well as Municipal Court Judges incarcerating citizens that are not even before their court.

The above are examples of the court room over stepping boundaries. But what happens when a Divorce Attorney crosses the line with a Clark County District Court Judge Family Division?

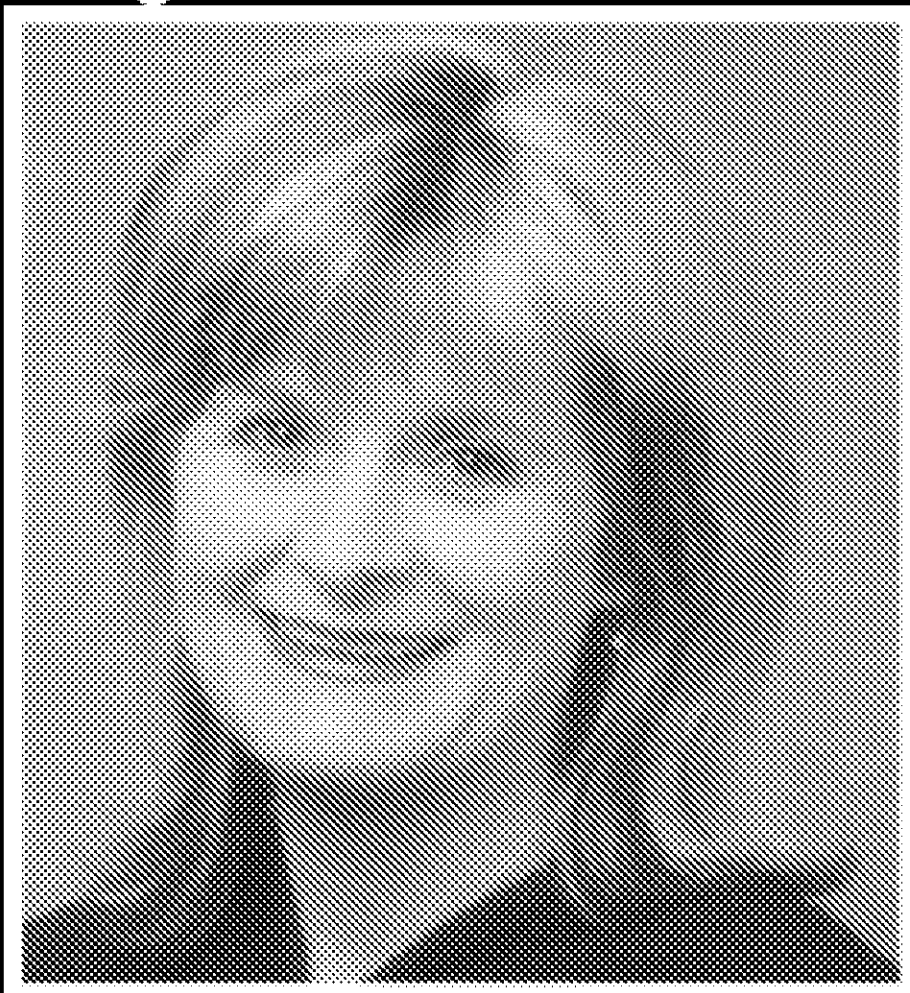
In a September 29, 2016 hearing in Clark County Family Court Department L Jennifer Abrams representing the plaintiff with co-council Brandon Leavitt and Louis Schneider representing the defendant. This case is about a 15 year marriage, plaintiff earns over 160,000 annually and defendant receives no alimony and no part of the business.

There was a war of words between Jennifer Abrams and Judge Jennifer Elliot.



Start 12:13:00 in the video the following conversation took place in open court.

Judge Jennifer Elliot:



I find that there is undue influence in the case.

There are enough ethical problems don't add to the problem.

If that's not an ethical problem I don't know what is.

Court is charged to making sure that justice is done.

Your client lied about his finances.

I am the judge and in a moment I am going to ask you to leave.

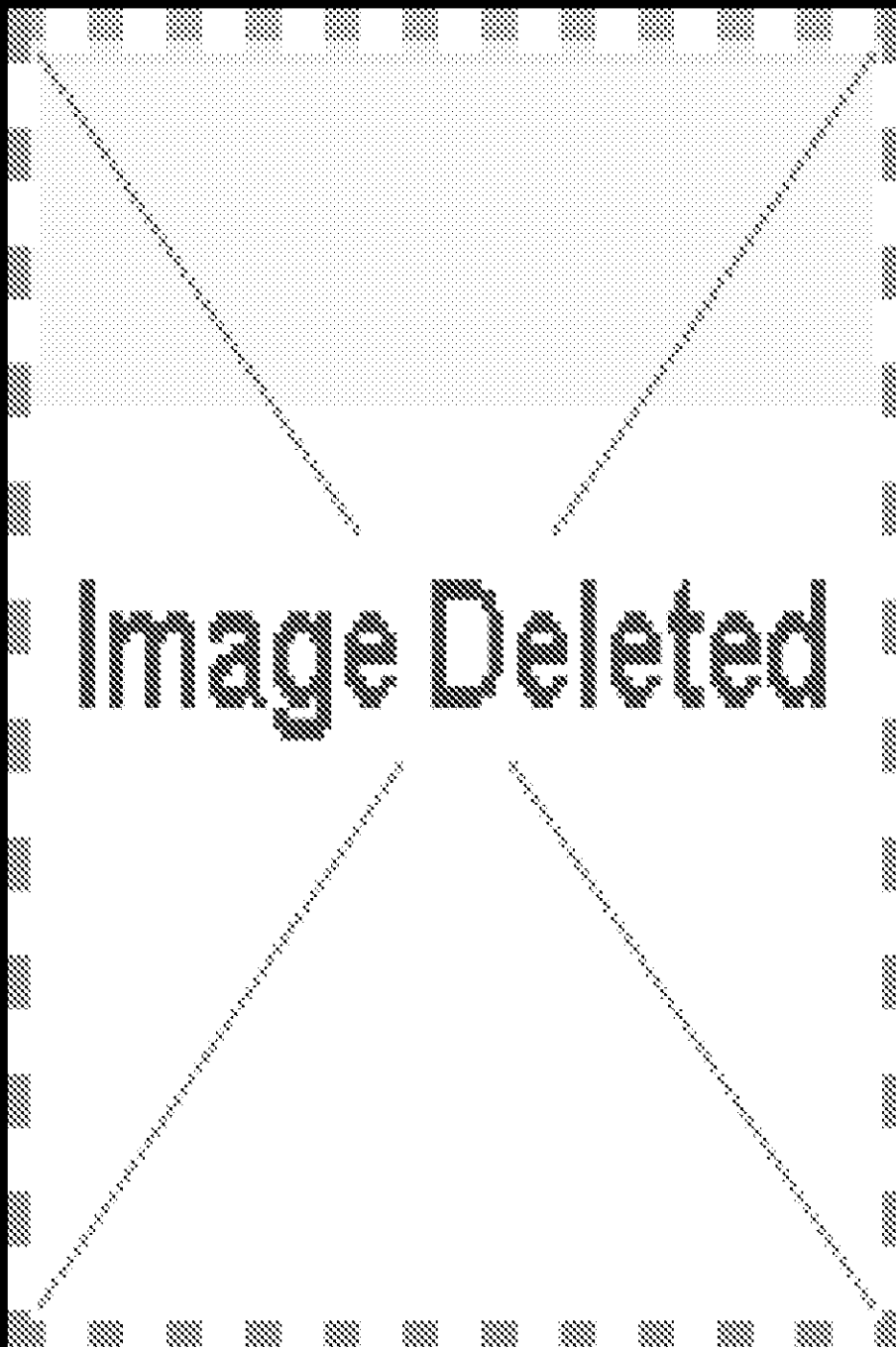
Your firm does this a lot and attack other lawyers.

I find it to be a pattern with your firm.

You are going to be taking out of here if you don't sit down.

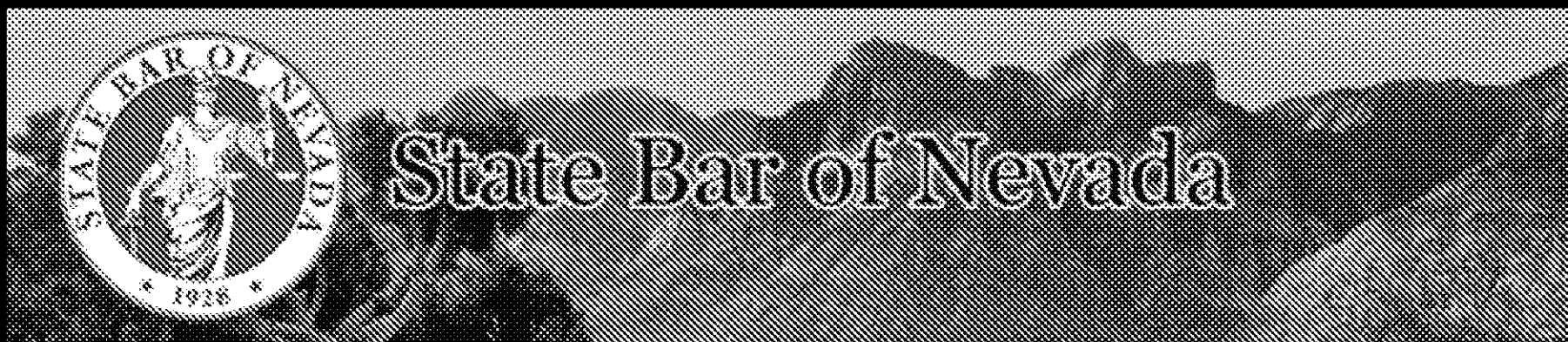
I am the Judge not you.

Jennifer Abrams:



Excuse me I was in the middle of a sentence.

Is there any relationship between you and Louis Schneider?



At what point should a judge sanction an attorney?

Is a judge too comfortable or intimidated by an attorney that they give them leeway to basically run their own courtroom?

If there is an ethical problem or the law has been broken by an

attorney the Judge is mandated by law to report it to the Nevada State Bar or a governing agency that could deal with the problem appropriately.

Learn More about Nevada State Bar Ethics & Discipline

UPCOMING EVENTS

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EXHIBIT 1-B

From: Julie Schoen <JSchoen@theabramslawfirm.com>
Sent: Thursday, April 27, 2017 12:56 PM
To: Kelly Stout; Joshua Gilmore
Subject: FW: District Court Judge Bullied by Family Attorney Jennifer Abrams

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From: "Veterans In Politics International Inc." <devildog1285@cs.com>
Date: October 9, 2016 at 5:15:28 PM PDT
To: schoeniv@mac.com
Subject: District Court Judge Bullied by Family Attorney Jennifer Abrams
Reply-To: devildog1285@cs.com

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**District Court
Judge
Bullied
by Family Attorney Jennifer Abrams**



[FIND OUT MORE](#)

District Court Judge Jennifer Elliott orders video of family court case to be removed.

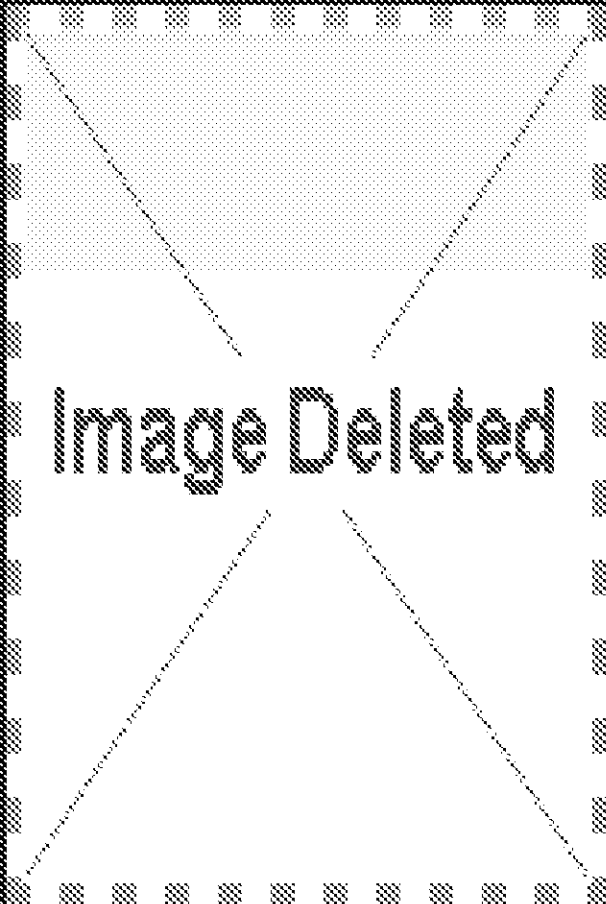


Clark County, Nevada

October 9, 2016

Yesterday, Veterans In Politics International, Inc. (VIPI) was served with a copy of a Court Order sealing case materials in a family court case on which we have been reporting, Saiter v. Saiter, case no. D-15-521372D.

We had recently posted a videotape of a hearing that took place on September 29, 2016 in the Saiter case. The video exposed the disrespectful and obstructionist behavior of the husband's lawyer, Jennifer Abrams (click onto [Nevada Attorney attacks a Clark County Family Court Judge in Open Court](#)).



After our video posted, Abrams, seeking to stop us from showing the video, obtained a Court Order which stated that "the current post of the September 29, 2016 hearing video, and any and all other hearing video(s) from this case shall be immediately removed from the internet." The Order does not name VIP1 but states that it pertains to "all persons or entities."

While we disagree that there is anything private in the video, we are abiding by it out of respect for the Court. The Order states that it is being issued "in the best interest of the four (4) children in the case," however, the focus of the video is the misbehavior of Abrams, not the children. Abrams is not a parent, child or a party in the case. Her embarrassing behavior before the judge has no bearing on the children.

This Order appears to just be an attempt by Abrams to hide her behavior from the rest of the legal community and the public.

We will, however, continue to work on behalf of our community to keep our courts and those working within them, accountable for their actions.

See order:

DISTRICT COURT
FAMILY COURT DIVISION
CLARK COUNTY, NEVADA

BRANDON PAUL SALTER,

Plaintiff,

vs.

THE SALTHERS
Defendant.

Case No. 2020-00000000
Caption: I

BRANDON PAUL SALTER
CLARK COUNTY, NEVADA

UNDER PROTESTING
REINVESTIGATION OF CASE MATERIAL

The matter having come before the Court for several previous sessions on the 17th day of September at 10:00 a.m. Plaintiff Brandon SALTER represented by Brandon Adams, Esq. and Brandon Levent, Esq. and Defendant The Salters were represented by James Schneider, Esq. and the Court hearing preliminary matters concerning and granted Mr. Adams request for a closed hearing pursuant to NRS 124.010, with the exception of presenting the parents of Defendant to receive permission to visit with their child.


Throughout the duration of this hearing was posted on youtube and a link to the video was provided to ensure that parties are informed of the case as it goes for 17th day of October 2020.

On October 1, 2020, the parties reviewed all matters presented for a hearing of Discovery. Counsel then requested to read the case and to introduce any further matters of

case information and to demand that the current part of the September 29, 2016 hearing video, or any other hearing video from this case be immediately removed from the internet and to prohibit any portion of those proceedings from being disseminated or published and that any such publication or posting by anyone be immediately removed, as the September 29, 2016 hearing was a closed hearing. Additionally, the court and the parties recognize that the case has been settled and that such an Order is in the best interest of the four (4) children in this case and is also authorized by NRS 125.080, NRS 125.110, EDCR 5.02, and Supreme Court Rules, Part VII, Rule 20(a) and 24.

IN ACCORDANCE TO THE SETTLEMENT OF THE PARTIES, IT IS HEREBY ORDERED that the current part of the September 29, 2016 hearing video, or any and all other hearing videos from this case shall be immediately removed from the internet. All persons or entities shall be prohibited from publishing, displaying, storing, or making public any portion of those case proceedings resulting from the case at bar shall be disseminated or published and that any such publication or posting by anyone or any entity shall be immediately removed as the Court finds the settlement of the parties and this Court's Order to be in the best interest of the four (4) children in this case and to be fully supported by law (NRS 125.080, NRS 125.110, EDCR 5.02, and Supreme Court Rules, Part VII, Rule 20(a) and 24).

DATED this 7th day of October, 2016



Honorable Judge [Name], District Court, Clark County, Nevada
Clark County Court 1



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EXHIBIT 1-C

From: Julie Schoen <JSchoen@theabramslawfirm.com>
Sent: Thursday, April 27, 2017 2:04 PM
To: Joshua Gilmore; Kelly Stout
Subject: FW: Law Frowns on Nevada Attorney Jennifer Abrams' "Seal-Happy" Practices

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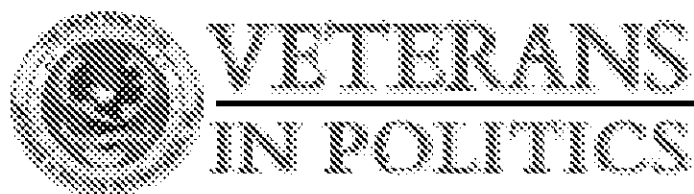
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From: Veterans In Politics International Inc. [mailto:devildog1285@cs.com]
Sent: Sunday, November 06, 2016 10:11 PM
To: BKL Group <BKLGroup@theabramslawfirm.com>
Subject: Law Frowns on Nevada Attorney Jennifer Abrams' "Seal-Happy" Practices

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You may [unsubscribe](#) if you no longer wish to receive our emails.

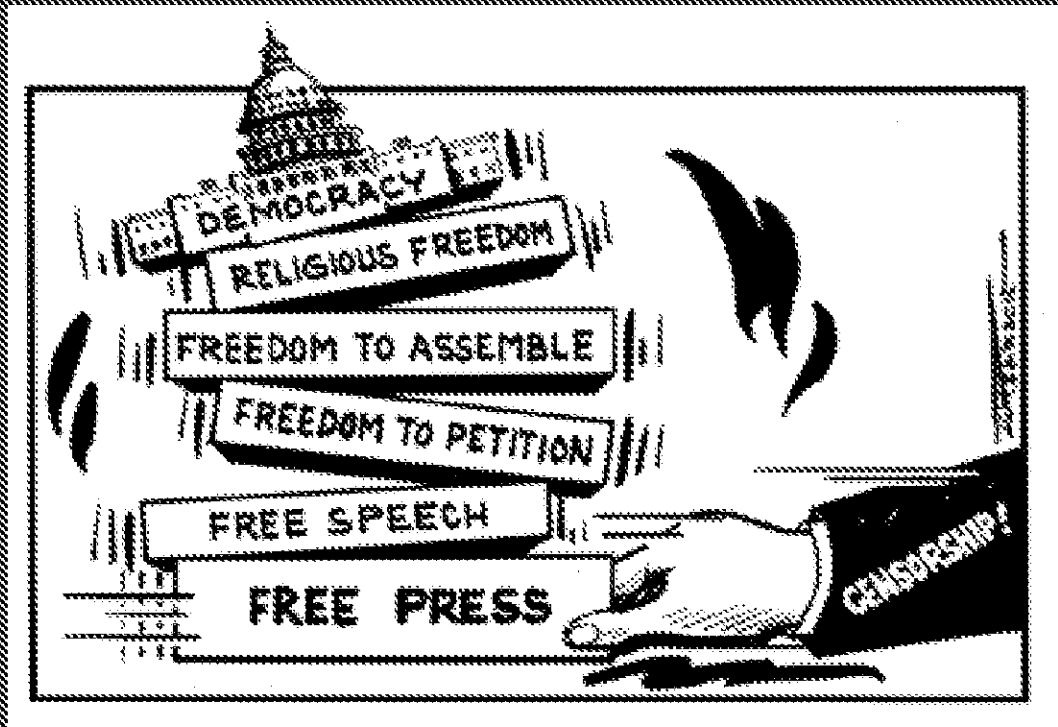


Law Frowns on Nevada Attorney Jennifer Abrams' "Seal-Happy" Practices

Clark County, Nevada
November 6, 2016

Free access to civil
court proceedings is
protected by the First
Amendment to the U.S.
Constitution.

[FIND OUT MORE](#)



Its importance cannot be overstated!

State and federal courts, including Nevada's Supreme Court, recognize that public access to court proceedings serves vital public policy interests, including, serving as a check on corruption, educating the public about the judicial process, promoting informed discussion of government affairs, and enhancing the performance of the judge, the lawyers and all involved.

As former Nevada Supreme Court Justice Nancy Saitta wrote earlier this year regarding the Supreme Court's rules on sealing civil records, *"the cornerstones of an effective, functioning judicial system are openness and transparency. Safeguarding these cornerstones requires public access not only to the judicial proceedings but also to judicial records and documents."*

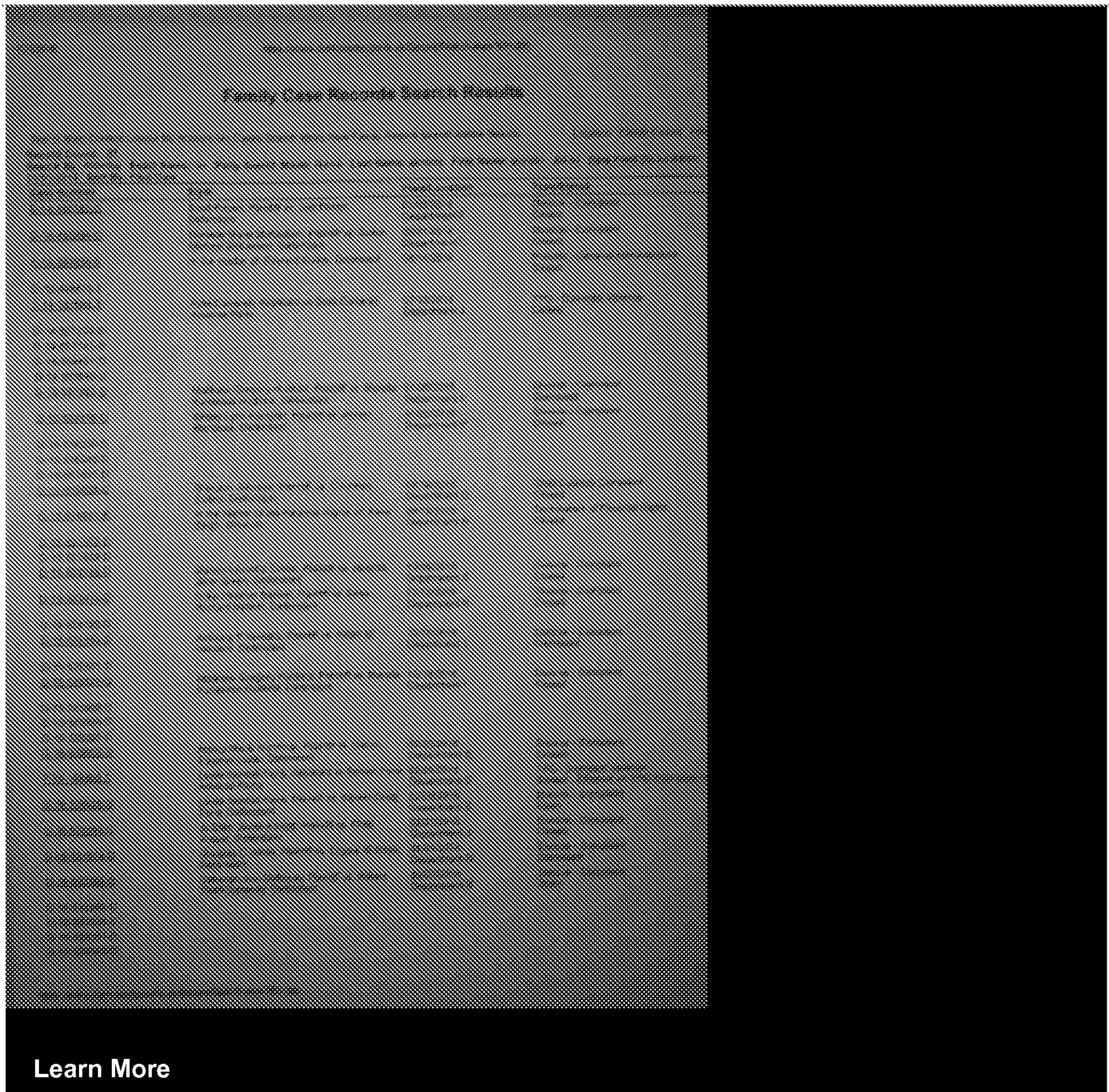


At least one lawyer in Nevada, however, Jennifer Abrams, appears to be

"seal happy" when it comes to trying to seal her cases. She appears to have sealed many of her cases in the past few years, including filing a petition to seal in at least four cases just this past week, on 11/3/2016!

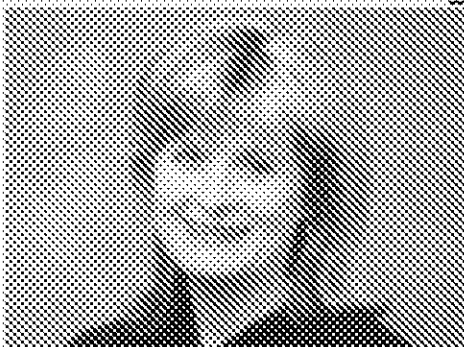


It also appears, however, that at least one of her cases, and perhaps more, may have been sealed to protect her own reputation, rather than to serve a compelling client privacy or safety interest.



[Learn More](#)

Veterans In Politics International (VIPI) recently released a video of Abrams bullying Judge Jennifer Elliot during a family court hearing in a case entitled Saiter v. Saiter, Case No. D-15-521372-D.



[Click onto Nevada Attorney attacks a Clark County Family Court Judge in Open Court](#)

In response to our article, Abrams sought and obtained a court order

from Judge Elliott which does not name VIPI, but which purports to apply to the entirety of the general population. VIPI, however, was served with the Order. The document orders all videos of Abrams' September 29, 2016 judicial browbeating to be taken off the internet.

Click onto District Court Judge Bullied by Family Attorney Jennifer Abrams

The Order further prohibits anyone from "publishing, displaying, showing or making public any portion of these case proceedings." The order goes on to state that "nothing from the case at bar shall be disseminated or published and that any such publication or posting by anyone or any entity shall be immediately removed."

While the order claims in a conclusory fashion to be "in the best interests of the children," nothing in the order explains why. Indeed, the September 29, 2016 video of the proceedings that is on the internet focuses on Abrams's disrespectful exchange with the judge, and does not materially involve the children in the case.



Start 12:13:00 in the video the following conversation took place in open court.

[Learn More](#)

Moreover, while the Court Order is broadly stated and purports to

prohibit the public viewing or dissemination of "any portion of these case proceedings," such blanket prohibition on public access to the entire case is specifically **disallowed by law.**

Entire cases cannot be sealed. Moreover, even if a judge wants to seal part of the case, the judge must specifically justify such sealing and must seal only the minimum portion necessary to protect a "compelling privacy or safety interest."

The issue of open proceedings is so important that in 2008 the Review Journal reported the Nevada Supreme Court convened a special task force to address the issue of over-sealing.

Click onto Standards for sealing civil cases tougher

The Supreme Court thereafter enacted rules requiring judges to specify in writing why sealing a record or redacting a portion of it is justified. (Supreme Court Rules, Part VII, Rule 3.) Judges must identify *"compelling privacy or safety interests that outweigh the public interest in access to the court record."*



This requirement applies even when a party in a family law case tries to seal a case under NRS 125.110, the statute on which Abrams seems to routinely rely. This statute provides that certain evidence in a divorce case, such as records, exhibits, and transcripts of particular testimony, may be deemed "private" and sealed upon request of one of the parties. However, the Court must justify why these records have to be sealed, and cannot seal the entire case - complaints, pleadings and other documents must remain public.

In the 2009 case of Johansen v. District Court, the Nevada Supreme Court specifically held that broad unsupported orders sealing documents in divorce cases are subject to reversal given the important public policies involved.

The Court stated:

"We conclude that the district court was obligated to maintain the divorce proceedings' public status under NRS 125.110 and manifestly abused any discretion it possessed when it sealed the entire case file. We further conclude that the district court abused its discretion when it issued an overly broad gag order sua sponte, without giving notice or a meaningful opportunity to be heard, without making any factual findings with respect to the need for such an order in light of any clear and present danger or threat of serious and imminent harm to a protected interest, and without examining the existence of any alternative means by which to accomplish this purpose. Gag orders must be narrowly drawn if no less restrictive means are available; they may be entered only when there exists a serious and imminent threat to the administration of justice. This was certainly not the case here."

Click onto Johanson v. Dist. Ct., 182 P. 3d 94 - Nev. Supreme Court 2008

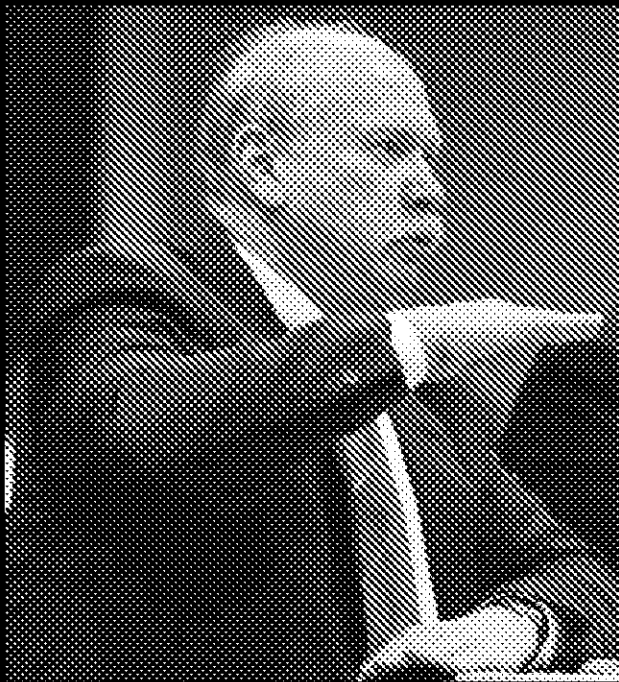
In the *Saiter* case, no notice was given to the general public for a hearing before the Order was issued, there was no opportunity for the public to be heard, no specific findings were made in the Order, and the Order was not drafted narrowly.

Indeed, it was drafted in the broadest possible terms to effectively seal the entire case! It is also questionable whether Judge Elliott had jurisdiction to issue the Order against the general public, who was not before her in court.

This all raises the question: What basis and justifications were given in the other cases which Abrams sought to seal?

Indeed, after issuing our initial story about Abrams' behavior in the *Saiter* case, we were contacted by judges, attorneys and litigants eager to share similar battle-worn experiences with Jennifer Abrams.

Sources indicate that when Abrams was asked in one case by Judge Gerald Hardcastle whether she understood his order, *she replied that she only understood that the judge intended to bend over backwards for her opposing counsel.*



In another case, Northern Nevada Judge Jack Ames reportedly stood up and walked off the bench after a disrespectful tirade from Jennifer Abrams.



So, who is to blame here?

Of course Jennifer Abrams should be responsible and accountable for her own actions.

But, what judge allows a lawyer to bully her in court and then gets her to issue an overbroad, unsubstantiated order to seal and hide the lawyer's actions?

Shouldn't we expect more from our judges in controlling their courtrooms, controlling their cases, issuing orders in compliance with the law, and protecting the people against over-zealous, disrespectful lawyers who obstruct the judicial process and seek to stop the public from having access to otherwise public documents?

Surely, we should have this minimum expectation. Even in Nevada.

[Learn More](#)

CLERK OF COURT
CLARK COUNTY, NEVADA
[Signature]
CLERK OF COURT

CLERK OF COURT
FAMILY COURT DIVISION
CLARK COUNTY, NEVADA

BRANDON PAUL SUTTER,

Plaintiff

CASE NO. 201900000000
DOPT NO. 1

TINA MARIE SUTTER

Defendant

HEARING DATE: 09/10/2019
HEARING TIME: 10:00 AM

ORDER PRELIMINARY
EXAMINATION OF CASE MATERIAL

This matter having come before the Court for several pending matters on the 20th day of September at 10:00 a.m., Plaintiff Brandon Sutter represented by himself, Sharon Fay, and Brandon Leavitt, Esq. and Defendant Tina Marie Sutter represented by Louis Schneider, Esq., and the Court hearing preliminary matters, considered and granted Mr. Sutter's request for a warrant hearing pursuant to NRS 125.010, with the purpose of permitting the return of Defendant to remain pursuant to NRS 125.020 (2)(d).

Thereafter, the outcome of the hearing was posted on pacer and a link to the video was emailed to multiple third parties not involved in the case on or about the 21st day of September 2019.

On December 2, 2019, the parties received all notices required for a hearing of summary judgment. Plaintiff then requested to set the case and to disallow any further review of



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EXHIBIT 1-D

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14:18 03:15:10

Lawyers acting badly in a Clark County Family Court

Steve Saxon

197 views

Published on Oct 3, 2016

District Court Judge killed by Family Attorney's order to remove

District Court Judge's order to remove judge's order to be removed

Comments: 1

Tip: Turn on

Richard Morris Love Film

Subscribe

Visit Author's Site

Up next

Judge Alex Finkel's Racial Mistake
Headline: Racial Mistake
10:00

What The Fuck?
to the...
10:00

The 2nd
10:00

Veterans to Fighting International President Steve Saxon will fight for us!
Steve Saxon
10:00

Judge Clerk gave child custody to pedophile
10:00

How do Attorney attacks a Clark County Family Court Judge in Open Court

EXHIBIT 1-E

From: Julie Schoen <JSchoen@theabramslawfirm.com>
Sent: Thursday, April 27, 2017 2:03 PM
To: Joshua Gilmore; Kelly Stout
Subject: FW: Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record

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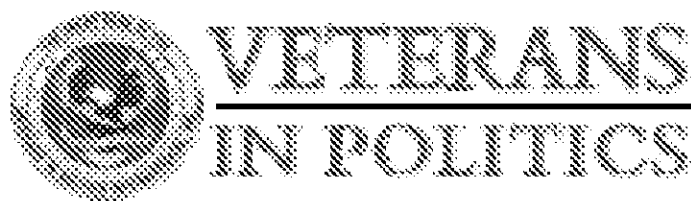
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From: Veterans In Politics International Inc. [mailto:devildog1285@cs.com]
Sent: Wednesday, November 16, 2016 7:50 PM
To: VM Group <VMGroup@theabramslawfirm.com>
Subject: Clark County Family Court Judge willfully deceives a young child from the bench and it is on the record

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Clark County Family Court
Judge willfully deceives a
young child from the bench
and it is on the record

Case sealed five days "after" we exposed the unlawful behavior of
Family Court Judge Rena Hughes



Clark County Nevada; in a recent article "Deplorable actions by Family Court Judge Rena Hughes against a minor child".

Click onto "Deplorable actions by Family Court Judge Rena Hughes against a minor child".

On October 6, 2016 the Veterans In Politics International (VIPI) highlighted the actions of Family Court Judge Hughes in three separate videos.

After doing more research we discovered that Judge Hughes actually lied to this young child in open court.

Judge Hughes made the following statement: *"it's not fun in Child Haven, they put you in a holding cell, exactly like a jail"...*

Click onto video:



After speaking to the Manager of Child Haven, we were told that this statement made by the Judge is false.

Click onto Child Haven Website:

Click onto Child Haven Facebook site:

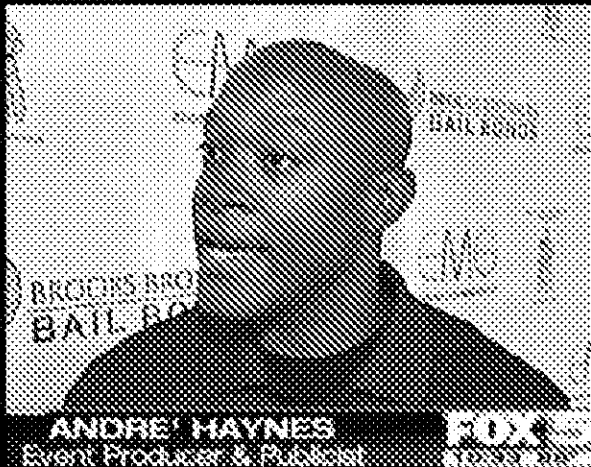




Part 2 Heart wrenching video between the Judge Hughes and a minor defenseless child.

How can a parent helplessly watch their child be chastised by anyone?

Andre Haynes, host of the EMG Radio Show and officer of Veterans In Politics said the following:



When I watched the video of the minor child having a discussion on the record with Family Court Judge Rena Hughes without a parent or child advocate being present, I was shocked and in disagreement. After I saw the manner that Judge Hughes handled the minor child and the child's fearful and distraught emotional reaction, I was angry. I was angry because I pictured my 7 year old son in the same seat as the minor girl, without me, without his mom, without a child advocate and without an attorney. Minor children are often terrified to speak to adults, especially without their parent or someone familiar present and especially if the adult is perceived to be an authority figure.

Does the law allow for Judge Hughes to interview and interrogate a minor child without their parent or an attorney or child advocate present? If the law does allow this are there exceptions to this rule? Is

there another way that Judge Hughes could have handled this manner? Those are questions that replay in my mind. My heart goes out to the minor child and especially to her mother. The worst feeling that a parent can experience is being helpless to defend their vulnerable child. If it were my 7 year old son in that video, helpless, distraught and angry is exactly how I would feel. Does the law and a Judge's behavior take precedence or hold more value than the emotions and perceived fear of a child or a parent's ability to protect their child?

We commend Channel 8 I-Team for taking a proactive approach to expose this judge:

Click onto I-Team: Judge criticized for exchange with child

It was also reported that in the I-Team news coverage that the records were sealed on October 11th five days after we made these videos public.

In an unrelated story we exposed how Judges and Lawyers seal cases to cover their own bad behaviors. This is definitely an example of that.

click onto article Law Frowns on Nevada Attorney Jennifer Abrams' "Seal-Happy" Practices

Questions and Recommendations

Is this the type of behavior we should continue to expect from our judicial system?

Should judges continue to cover-up and down-play their colleague's bad behaviors?

Does this Family Court Judge have children of her own?

Should this Judge be reprimanded for this?

If you believe that this Judge should face sanctions or/and a public apology join us and file a complaint with the Nevada Judicial Discipline Commission by clicking onto the link below:

Click onto State of Nevada Commission on Judicial Discipline:

Any Judge that willfully deceives a child and especially on the record
should be tossed off the bench!

Please watch the videos in full and come to your own conclusion.

[Learn More](#)

UPCOMING EVENTS

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EXHIBIT 2

DECLARATION OF BRANDON LEAVITT

I, Brandon Leavitt, Esq., declare as follows:

1. I am a resident of Clark County, Nevada, and an associate in The Abrams & Mayo Law Firm, which is a party in the matter entitled *Abrams v. Schneider*, No. A-17-749318-C, which is pending in Department XII of Nevada's Eighth Judicial District Court.

2. I am competent to testify to the facts stated herein, which are based on personal knowledge unless otherwise indicated, and if called upon to testify, I could and would testify competently to the following.

3. I make this Declaration in support of Plaintiffs' Omnibus Opposition to: (1) 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; (2) Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP); and (3) Defendants' Special Motion to Dismiss Under Nevada's Anti-SLAPP Statute, NRS 41.660.

4. On September 15, 2016, Louis Schneider ("Mr. Schneider") sent me an email, which included the following text:

I've had about all I can take.
Withdraw your Motion and I'll withdraw from the case.
Be advised -- Tina has asked me not to leave the case.
I was getting ready to withdraw my motion to withdraw.

If your firm does not withdraw that motion, I will oppose it *and take additional action beyond the opposition.*

A true and correct copy of the email is attached as Exhibit 2-A.

5. Immediately after the Attack Article was posted, Mr. Schneider approached me during a hearing and stated that withdrawing the Motion for Sanctions would "make all this go away" or words to that effect.

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

EXECUTED on this 28th day of April, 2017.


Brandon Leavitt, Esq.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Steve Sanson and Veterans In Politics International (the “VIPI Defendants”)
4 engaged in protected speech critical of attorney Jennifer Abrams. Reflective of the very thing
5 she was accused of—bullying and abusing the legal system—Ms. Abrams is pursuing
6 scorched-earth litigation to silence those who dare criticize her courtroom behavior and
7 tactics. To protect their free speech rights to express their views on matters such as whether
8 Ms. Abrams seals too many documents, the VIPI Defendants filed two motions to dismiss
9 Plaintiffs’ First Amended Complaint: a Motion to Dismiss pursuant to Nev. R. Civ. P.
10 12(b)(5) (the “12(b)(5) Motion”) and a Special Motion to Dismiss Pursuant to Nev. Rev.
11 Stat. § 41.660 (the “Anti-SLAPP Motion” or “Anti-SLAPP Mot.”). Plaintiffs filed an
12 opposition to the Motion to Dismiss, and a separate omnibus opposition to all the anti-SLAPP
13 motions filed by the various defendants in this case. In this Omnibus Reply, the VIPI
14 Defendants jointly address both Plaintiffs’ March 6, 2017 Opposition to the Motion to
15 Dismiss filed on March 6, 2017 (the “12(b)(5) Opposition” or “MTD Opp.”) and Plaintiffs’
16 April 28, 2017 Omnibus Opposition, which addressed, *inter alia*, the VIPI Defendants’ Anti-
17 SLAPP Motion (the “Omnibus Opposition” or “Omn. Opp.”).

18 Plaintiffs assert the VIPI Defendants have failed to establish that the statements at
19 issue in this matter are directly related to a matter of public interest or that the statements
20 were true or made without knowledge of their falsity. (Omn. Opp., p. 15:5-8.) Further,
21 Plaintiffs assert the statements were “published and/or republished . . . in non-public forums,
22 thereby taking them outside the purview of the Anti-SLAPP statute.” (*Id.*, p. 15:14-16.) In
23 reaching these conclusions, Plaintiffs first rely on an improperly constrained interpretation
24 of what constitutes an “issue of public interest.” Contrary to the Plaintiffs’ assertions, the
25 behavior of attorneys and courtroom proceedings are plainly issues of public concern—both
26 because the public has an interest in understanding the practices and behaviors of attorneys
27 they might retain, and also has an interest in the operation of courtrooms.

28 ///

1 Plaintiffs also argue that the complained-of statements did not occur in a public
2 place or public forum (Omn. Opp., p. 24:1-21) because the statements—which Plaintiffs
3 concede were published on VIPI’s website¹—were allegedly “republished” by email
4 distribution to VIPI email subscribers, and therefore fall outside the protection of Nevada’s
5 Anti-SLAPP statute. (Omn. Opp., p. 24:14-21.) This argument—which Plaintiffs make
6 without any citation to case law—does not pass muster. As outlined in the Anti-SLAPP
7 Motion, all but one of the alleged defamatory statements were posted on VIPI’s publicly
8 accessible website. (*See* Anti-SLAPP Mot., p.15:3-17.) Plaintiffs acknowledge this fact in
9 their Omnibus Opposition, and further acknowledge these articles were distributed to VIPI
10 email subscribers simultaneously with their publication on the VIPI website. (Omn. Opp.,
11 pp. 8:19-9:5 (listing same dates for both website and email distribution for articles dated
12 November 6, 2016; November 14, 2016; and November 16, 2016).) Thus, there was only
13 one publication of the allegedly defamatory statements. Plaintiffs’ arguments that the articles
14 were somehow “republished” to a private list and that this took the statements outside of
15 Anti-SLAPP protection are therefore without merit.

16 Finally, Plaintiffs argue the VIPI Defendants have failed to demonstrate that the
17 allegedly defamatory statements were “truthful or made without knowledge of its [sic]
18 falsehood.” (Omn. Opp., p. 25:13-14.) Plaintiffs’ arguments appear to willfully ignore the
19 facts and evidence set forth in the VIPI Defendants’ Anti-SLAPP motion (and appear to be
20 imposing a higher burden than required on an Anti-SLAPP motion). As set forth in the Anti-
21 SLAPP motion, the complained-of statements were either factually true (as in the publication
22 of video of actual courtroom proceedings) or statements of opinion. Statements of opinion,
23 as the Nevada Supreme Court has held, statements of opinion cannot be defamatory *because*
24 *there is no such thing as a false idea. Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714,
25 57 P.3d 82, 87 (2002) (citation omitted). In any case, the VIPI Defendants have met the
26 applicable burden of establishing that the claims are based on a “good faith communication

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28 ¹ *See* Omnibus Opp., pp. 8:165-9:12.

1 in furtherance of... the right to free speech in direct connection with an issue of public
2 concern.” Nev. Rev. Stat. § 41.660(3)(a).

3 Accordingly, the burden shifts to the Plaintiffs; this Court must “determine whether
4 the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the
5 claim.” Nev. Rev. Stat. § 41.660(3)(b). Plaintiffs cannot survive the VIPI’s 12(b)(5) Motion,
6 let alone the heightened standard that applies to this case because an Anti-SLAPP motion
7 has been filed. The First Amended Complaint fails to “set[] forth allegations sufficient to
8 make out the elements of a right to relief.” *Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d
9 110, 111 (1985). Thus, this Court should grant the Anti-SLAPP Motion, and provide the
10 VIPI Defendants with the relief to which they are entitled when a plaintiff pursues vexatious
11 litigation designed to chill speech.

12 **II. DEFENDANTS HAVE ESTABLISHED THAT THEIR STATEMENTS**
13 **ARE ENTITLED TO ANTI-SLAPP PROTECTION.**

14 **A. The Statements Are Directly Related to a Matter of Public Interest.**

15 Plaintiffs argue the VIPI Defendants’ assertion that their commentary on the
16 criticism of a professional’s on-the-job performance is a matter of public interest is
17 “overbroad.” (Omn. Opp., p. 19:11.) Plaintiffs then argue that the statements at issue here do
18 not pertain to a “matter of public interest” because the statements do not pertain to
19 “warning[s] to consumers not to do business with plaintiffs because of their allegedly faulty
20 business practices.” (*Id.* at p. 19:15-15 (citing *Piping Rock Partners, Inc. v. David Lerner*
21 *Assocs., Inc.*, 946 F. Supp. 2d (N.D. Cal. 2013))). These arguments, however, are flawed for
22 two reasons. First, Plaintiffs ignore a substantial body of case law from California and the
23 Ninth Circuit which instructs courts to interpret the phrase “issue of public interest” in the
24 California anti-SLAPP statute broadly. Thus, criticism of lawyers is not *only protected* if
25 made in the consumer protection context. Second, Plaintiffs—by focusing solely on VIPI
26 Defendants’ assertion that the statements here pertained to criticism of the Plaintiffs’ actions
27 as attorneys—ignore the argument that the statements are protected criticism regarding the
28 operation of courtrooms and the administration of justice. Properly applied, the cases

1 interpreting anti-SLAPP statutes demonstrate that criticizing attorneys and discussing the
2 administration of justice and courtroom conduct are protected activity.

3 **The Courts Have Consistently Interpreted “Issue of Public Interest”**
4 **Broadly.**

5 The parties agree that California law generally applies in the evaluation of an anti-
6 SLAPP motion; in interpreting California’s anti-SLAPP statute in *Nygaard, Inc. v. Uusi-*
7 *Kerttula*, 72 Cal. Rptr. 3d 210 (Cal. Ct. App. 2008), the California Court of Appeal for the
8 Second District noted that although the statute did not define “issue of public interest,” the
9 statute’s preamble states that its provisions “shall be construed broadly” to safeguard “the
10 valid exercise of the constitutional rights of freedom of speech and petition for the redress of
11 grievances.” *Nygaard*, 72 Cal. Rptr. 3d at 218 (quoting Cal. Civ. Proc. Code § 425.16, subd.
12 (a).) The court then surveyed the cases interpreting this phrase and held that:

13 Taken together, these cases and the legislative history that discusses them
14 suggest that “an issue of public interest” within the meaning of [California
15 anti-SLAPP statute] *is any issue in which the public is interested*. In other
16 words, the issue need not be “significant” to be protected by the anti-SLAPP
17 statute—it is enough that it is one in which the public takes an interest.

18 *Id.* at 220 (emphasis in original); *accord Doe v. Gangland Prods., Inc.*, 730 F.3d 946, 955
19 (9th Cir. 2013). The Ninth Circuit has repeatedly reached the same conclusion. *See, e.g.,*
20 *Hilton v. Hallmark Cards*, 599 F.3d 894, 906 (9th Cir. 2010) (noting that given the preamble
21 in the California anti-SLAPP statutes, “we must construe ‘public issue or issue of public
22 interest’. . . broadly in light of the statute’s stated purpose to encourage participation in
23 matters of public importance or consequence”); *accord Sarver v. Chartier*, 813 F.3d 891,
24 901 (9th Cir. 2016).

25 Certainly, both the California courts and the Ninth Circuit have held that
26 “statements warning consumers of fraudulent or deceptive business practices constitute a
27 topic of widespread public interest,” *Makaeff v. Trump University, LLC*, 715 F.3d 254, 262
28 (9th Cir. 2013), but that is not the outer limit of the courts’ holdings. For example, in *Hilton*,
the Ninth Circuit held that a greeting card company’s act of selling birthday cards featuring
Paris Hilton’s face and catch-phrase was conduct in furtherance of the exercise of the

1 constitutional right of free speech about a public issue or an issue of public interest—a
2 conclusion it reached applying both the test for “issue of public interest” set forth in *Rivero*
3 *v. Am. Fed’n of State, Cty., & Mun. Employees, AFL-CIO*, 130 Cal. Rptr. 2d 81 (Cal. Ct.
4 App. 2003) and the test outlined in *Weinberg v. Feisel*, 2 Cal.Rptr.3d 385, 392 (Cal. Ct. App.
5 2003). *Hilton*, 599 F.3d at 907-08. In *Hecimovich v. Encinal School Parent Teacher*
6 *Organization*, the court held that a volunteer basketball coach’s behavior toward student
7 players—and ultimately the safety of children in sports—was an issue of public interest. 137
8 Cal.Rptr.3d 455, 469 (Cal. App. 4th 2012) (“we conclude that safety in youth sports, not to
9 mention problem coaches/problem parents in youth sports, is another issue of public interest
10 within the SLAPP law”).

11 Moreover, despite Plaintiffs’ protestations to the contrary, the cases cited by VIPI
12 Defendants in their anti-SLAPP motion are not inapposite because the statements at issue
13 here were in fact intended as “warnings to consumers of legal services.” (Omn. Opp., p.
14 20:16.) As the VIPI Defendants explained in their Anti-SLAPP motion, there are thousands
15 of people in Clark County who may potentially find themselves involved in a case in Family
16 Court. (Anti-SLAPP Mot., p. 10:11-13.) Because most people who are involved in a Family
17 Court matter require the services of an attorney, those people are entitled to information
18 about how potential counsel comports themselves in courtroom proceedings and with regard
19 to litigation in our taxpayer-funded courts.

20 **The Fact that Plaintiffs Are Not Public Officials is Irrelevant to the Court’s**
21 **Analysis.**

22 As Plaintiffs correctly observe, the primary mission of VIPI is to educate veterans
23 and their families to assist in the selection of candidates who “would help create a better
24 world” and “root out . . . corrupt public servants.” (Omn. Opp., p. 20:22-25.) Plaintiffs appear
25 to argue that because this is the stated mission of VIPI, the statements at issue are not
26 protected speech because “Ms. Abrams and Abrams & Mayo are *not* elected to any office
27 and are not public servants.” (*Id.* at p. 20:26.) Aside from ignoring the fact that attorneys are
28 officers of the court, Plaintiffs’ argument is yet another red herring, as “cases which have
considered the public interest requirement of the Anti-SLAPP Law have emphasized that the

1 public interest may extend to statements about conduct between private individuals.” *Chaker*
2 *v. Mateo*, 209 Cal. App. 4th 1138, 1145, 147 Cal. Rptr. 3d 496, 501 (2012). Indeed, as the
3 Ninth Circuit observed in *Hilton, supra*, “the California Supreme Court has ‘declined to hold
4 that [the anti-SLAPP statute] does not apply to events that transpire between private
5 individuals’” and has “explicitly rejected the assertion that the only activities qualifying for
6 statutory protection are those which meet the lofty standard of pertaining to the heart of self-
7 government.” *Hilton v. Hallmark Cards*, 599 F.3d 894, 905 (9th Cir. 2010) (quoting
8 *Navellier v. Sletten*, 29 Cal. 4th 82, 91, 52 P.3d 703, 710 (2002)).

9 It is therefore irrelevant that Plaintiffs are not elected officials or public officers.
10 What is relevant is that the behavior of attorneys in court and in litigation are issues that the
11 public takes an interest in. *See Nygard*, 72 Cal. Rptr. 3d at 220 (the issue need not be
12 “significant” to be protected by the anti-SLAPP statute—it is enough that it is one in which
13 the public takes an interest); *accord Daniel v. Wayans*, 213 Cal. Rptr. 3d 865, 881 (Ct. App.
14 2017); *Brodeur v. Atlas Entertainment, Inc.*, 204 Cal. Rptr. 4th 665, 675 (Cal. App. 4th
15 2016); *see also Hilton*, 599 F.3d at 905 (“the activity of the defendant need not involve
16 questions of civic concern; social or even low-brow topics may suffice”).²

17 **The Statements at Issue Pertain Directly to the Operation of and the Right**
18 **of Access to Court Proceedings and Records.**

19 Plaintiffs next assert the statements at issue are not directly connected to the
20 operation of Nevada’s courts or the public’s right of access to court records and proceedings.
21 (Omn. Opp., pp. 22:19-23:14.) This assertion conveniently ignores that the statements which
22 they allege are defamatory pertain to Ms. Abrams’ overly aggressive tendency to seal the
23 records in many of her cases—a fact which is central to the Plaintiffs’ allegations in their
24 First Amended Complaint. (*See, e.g.*, FAC at ¶ 56; *see also* Exh. 5 to Anti-SLAPP Motion
25 (article regarding sealing order in the *Saiter* matter); *see also id.* at p. 8 (“Shouldn’t we expect

26 ² Relatedly, Plaintiffs assert that the VIPI Defendants’ statements are in furtherance of an
27 alleged personal controversy between Defendant Sanson and the Abrams parties. (Omn.
28 Opp., p. 22:1-18.) The cases cited above, however, demonstrate that is irrelevant to the Anti-
SLAPP analysis.

1 more from our judges in controlling their courtrooms . . . and protecting the people against
2 over-zealous, disrespectful lawyers who obstruct the judicial process and seek to stop the
3 public from having access to otherwise public documents?”))

4 Taken together, these factors demonstrate that the statements at issue in this case
5 all pertain to issues of public interest. Accordingly, the factors set forth by the Nevada
6 Supreme Court in *Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d 262 (2017), weigh in favor
7 of the VIPI Defendants.

8 **B. The Communications Were Made on a Public Place or Forum.**

9 Plaintiffs next allege that the statements at issue here do not qualify for Anti-SLAPP
10 protection because the allegedly defamatory articles were republished in emails to VIPI
11 subscribers. (Omn. Opp., p. 24:14-21.) This argument fails for several reasons. First, as
12 discussed above and in the VIPI Defendants’ 12(b)(5) Motion to Dismiss and Anti-SLAPP
13 Motion to Dismiss, the articles were not defamatory. Second, as the Plaintiffs’ Opposition
14 concedes, the articles were simultaneously published on the VIPI website and sent out to
15 VIPI email subscribers. (Omn. Opp., pp. 8:29-9:5.) Thus, there was no “re-publication.”
16 Third, Plaintiffs have presented no case law to substantiate their claim that sending out
17 notification of an article that was published on a public website to email subscribers is
18 somehow a “re-publication” to a non-public forum that takes allegedly defamatory
19 statements outside the purview of the Anti-SLAPP statute.³ Sending out email alerts to email
20 subscribers regarding information posted on a public website is a common practice for many
21 businesses and nonprofits. For example, newspapers regularly publish articles online, and
22 then email links to those articles to individuals who have chosen to subscribe to email
23 notification services. Based on Plaintiffs’ rather bald argument, it appears they believe that a
24 newspaper’s act of emailing notifications about articles available on a public website would
25 take any allegedly defamatory statements contained in those articles takes the articles out of
26

27 ³ Perhaps much like Plaintiffs, undersigned counsel searched for but was unable to locate
28 any state or federal case law that supports Plaintiffs’ rather novel argument.

1 the realm of Anti-SLAPP protection.

2 Fourth, the Restatement (Second) of Torts on single and multiple publications
3 indicates this argument is unmeritorious. Under the Restatement (Second) of Torts, “[a]
4 single communication heard at the same time by two or more third persons *is a single*
5 *publication*.” Restatement (Second) of Torts § 577A (1977) (emphasis added). Here, by
6 Plaintiffs’ own admission, VIPI simultaneously posted the allegedly defamatory statements
7 on its website and emailed the statements to email subscribers. (Omn. Opp., pp. 8:29-9:5.)
8 Thus, there was a single publication to a public forum. Moreover, by simultaneously posting
9 the article and distributing it to email subscribers, VIPI actually broadened the audience of
10 readers. The Plaintiffs’ argument that the email distribution of publicly available articles to
11 email subscribers somehow render the articles non-public therefore fails.

12 Plaintiffs next argue that the Sanson Statements fall outside the purview of
13 Nevada’s Anti-SLAPP statute because the conversation with Mr. Schoen were made during
14 a phone call. (Omn. Opp., p. 24:11-13.) As the VIPI Defendants asserted in their Anti-SLAPP
15 motion, these statements are not actionable because (1) there was no publication, and (2) the
16 statements were either factual statements, or non-actionable statements of opinion regarding
17 Abrams’ legal tactics. (*See* Anti-SLAPP Motion, pp. 23:21-24:19.) For example, Plaintiffs
18 acknowledged in the FAC that Abrams is or was in a relationship with Marshal Willick. (*See*
19 FAC at ¶ 80, n. 7.) Thus, if not true, Mr. Sanson’s alleged statement that Abrams was “in bed
20 with Marshal Willick” (FAC at ¶ 80) is a mixed statement of fact and opinion, and thus not
21 actionable.

22 **C. The Allegedly Defamatory Statements are Not False Statements of Fact.**

23 Finally, Nevada’s Anti-SLAPP statute requires that a good faith communication is
24 “truthful or made without knowledge of its falsehood.” Nev. Rev. Stat. § 41.637. Plaintiffs
25 claim that the VIPI Defendants have failed to offer this Court evidence that their statements
26 were true or made without knowledge of their falsehood. (Omn. Opp., pp. 24:3-30:22.) For
27 example, Plaintiffs allege that Defendants have failed to offer evidence demonstrating their
28 statement that Ms. Abrams’ behavior is “embarrassing” is true, or that it was made without

1 knowledge of its falsity. This line of reasoning is absurd. As the VIPI Defendants explained
2 at length in their Motion to Dismiss,⁴ many of the statements Plaintiffs complain of are non-
3 actionable truthful statements. In addition, several of the statements are statements of
4 opinion, and thus not defamatory.

5 Turning first to the statements that were truthful statements of fact, as the VIPI
6 Defendants set forth in their Anti-SLAPP motion to dismiss, several of the complained-of
7 statements are either verbatim transcriptions of in-court statements, or YouTube video of
8 actual court proceedings. (*See* Anti-SLAPP Motion, p. 16:11-20 (courtroom video is not
9 defamatory because it is a real video of an actual proceeding); *id.* at p. 21:7-13 (true statement
10 of fact that Ms. Abrams obtained an order sealing proceedings with no opportunity for
11 general public to be heard); *id.* at p. 21:14-21 (true statement of fact that the VIPI Defendants
12 were “contacted by judges, attorneys and litigants eager to share similar battle-worn
13 experiences with Jennifer Abrams”); *id.* at p. 23:17-20 (the December 21 “Inspection
14 Videos” are real videos of the Abrams Law Firm).) As the Nevada Supreme Court has
15 explained, a statement cannot be defamatory “if it is absolutely true, or substantially true.”
16 *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 715, 57 P.3d 82, 88 (2002) (citations
17 omitted).

18 As explained at length in the Anti-SLAPP motion, the statements Plaintiffs assert
19 the VIPI Defendants have not proved are true are all statements of opinion. (*See generally*
20 Anti-SLAPP Motion, pp. 18:18-21:6 and pp. 21:22-23:20.) Plaintiffs’ argument that
21 Defendants have not proved their statements of opinion are truthful presents a logical
22 conundrum: How does one prove that an opinion is truthful? What evidence can be presented
23 to demonstrate Defendants’ opinion that Ms. Abrams’ behavior is embarrassing is factually
24 true? It is simply impossible, and entirely unnecessary.

25 As courts across the country have routinely explained, statements of opinion cannot
26 be defamatory because there is no such thing as a false idea. *Pegasus*, 118 Nev. 706, 714, 57

27
28 ⁴ *See* 12(b)(5) Motion, pp. 12:8-24:6.

P.3d 82, 87 (2003) (citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339–40 (1974)).⁵ To constitute any sort of actionable statement the material publicized must actually be facts, as distinguished from opinions or conclusions. *Miller v. Jones*, 114 Nev. 1291, 1296, 970 P.2d 571, 575 (1998) (recognizing the distinction between fact and opinion in defamation claims); *Wellman v. Fox*, 108 Nev. 83, 86, 825 P.2d 208, 210 (1992) (recognizing the distinction between fact and opinion in libel claims); *Partington v. Bugliosi*, 56 F.3d 1147, 1156 (9th Cir. 1995) (distinguishing between statements of facts and personal conclusions or interpretations of those facts). Similarly, only publication of private **facts**, as distinguished from opinions, personal conclusions, and interpretations of those facts, are legally actionable under the invasion of privacy torts. *Partington*, 56 F.3d at 1156.

Thus, the Defendants have sufficiently established that their statements are entitled to Anti-SLAPP protection (*see also* Declaration of Steve Sanson submitted in support of Special Anti-Slapp Motion). The statements at issue are unquestionably “good faith communication in furtherance of... the right to free speech in direct connection with an issue of public concern.” Nev. Rev. Stat. § 41.660(3)(a). Accordingly, the burden shifts to the Plaintiffs to demonstrate with “prima facie evidence a probability of prevailing on the claim.” Nev. Rev. Stat. § 41.660(3)(b). As set forth below, Plaintiffs’ claims do not even meet the far less stringent standard required to overcome a 12(b)(5) motion, and the Anti-SLAPP Motion thus must be granted.

III. PLAINTIFFS DO NOT HAVE A LIKELIHOOD OF SUCCESS ON THE MERITS AND CANNOT EVEN SURVIVE A 12(B)(5) MOTION.

As noted above, in the interests of efficiency and judicial economy, the VIPI Defendants are herein addressing together both whether Plaintiff’s claims survive a Nev. R. Civ. P. 12(b)(5) motion and whether Plaintiffs can establish sufficient “likelihood of success

⁵ *See Gertz*, 418 U.S. at 339 (“Under the First Amendment there is no such thing as a false idea.”); *accord Dworkin v. Hustler Magazine Inc.*, 867 F.2d 1188, 1195 n. 4 (9th Cir. 1989) (same); *Flowers v. Carville*, 266 F. Supp. 2d 1245, 1251 (D. Nev. 2003) (same); *Dongguk Univ. v. Yale Univ.*, 734 F.3d 113, 128 (2d Cir. 2013) (same).

1 on the merits” sufficient to overcome an anti-SLAPP motion. While they are addressed
2 together below to promote judicial efficiency, the VIPI Defendants note that plaintiffs have
3 a higher burden of establishing “likelihood of success on the merits” on an anti-SLAPP
4 motion than they do in overcoming a motion to dismiss for failure to state a claim.

5 Contrary to Plaintiffs’ arguments, the 12(b)(5) Motion was properly brought. Much
6 of Plaintiffs’ arguments to the contrary depend on the number of claims and pages included
7 in the FAC. But adding one flawed claim after another and filling page after page with
8 baseless accusations that are not tethered to a legally-cognizable cause of action compounds
9 the problem, it does not cure it. As the Nevada Supreme Court has explained, “[t]he test for
10 determining whether the allegations of a complaint are sufficient to assert a claim for relief
11 is whether the allegations give fair notice of the nature and basis of a legally sufficient claim
12 and the relief requested.” *Vacation Village, Inc. v. Hitachi Am., Ltd.*, 110 Nev. 481, 484, 874
13 P.2d 744, 746 (1994) (citing *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407,408
14 (1984)). Even accepting the factually allegations as true and even though Nevada is a notice-
15 pleading state, the FAC fails muster because it does not articulate *legally sufficient claims*.

16 While Plaintiffs cannot even pass the relatively forgiving scrutiny applicable to a
17 12(b)(5) Motion, the scrutiny applicable to an ant-SLAPP Motion is far more exacting. As
18 one court explained:

19 The second stage of the anti-SLAPP inquiry determines whether “the
20 complaint is both legally sufficient and supported by a sufficient prima facie
21 showing of facts to sustain a favorable judgment if the evidence submitted
22 by the plaintiff is credited.” *Integrated Healthcare Holdings, Inc. v.*
23 *Fitzgibbons*, 140 Cal.App.4th 515, 44 Cal.Rptr.3d 517, 527 (2006) (internal
24 quotation marks omitted). Such test is similar to the one courts make on
summary judgment, though not identical. Thus, if a plaintiff has stated a
legal claim but has no facts to support it, a defendant could prevail on an
anti-SLAPP motion, though he would not have been able to win a motion
to dismiss.

25 *Hilton v. Hallmark Cards*, 599 F.3d 894, 902 (9th Cir. 2010) (applying California law).⁶
26

27 ⁶ While improperly cited, Plaintiffs do properly note that California law applies with regard
28 to a plaintiff’s burden of proof in demonstrating a probability of success of prevailing on a

1 Thus, when a defendant, as the Defendants do here, establish that a compliant targets
2 protected speech, a plaintiff must submit evidence and facts to support their claims; plaintiffs
3 fail to do so—and they cannot do so. Even if they were permitted discovery, as discussed
4 below, Plaintiffs could not possibly establish their claims. As detailed below, not a single
5 claim asserted by Plaintiffs survives 12(b)(5) scrutiny, let alone the higher burden of
6 establishing that there is evidence to support a prima facie case sufficient to overcome an
7 anti-SLAPP motion.

8 Thus, the VIPI Defendants are entitled to a ruling in their favor on the merits of
9 their Anti-SLAPP Motion. It is important that the Court grant the Anti-SLAPP Motion
10 specifically (not the 12(b)(5) Motion alone)—not only because the VIPI Defendants are
11 entitled to an award for damages, as well as fees and costs pursuant to Nev. Rev. Stat. §
12 41.670 but also because Nevada’s anti-SLAPP statute entirely immunizes a person engaged
13 in free speech from liability. Nev. Rev. Stat. § 41.650 (“**Limitation of liability.** A person
14 who engages in a good faith communication in furtherance of the right to petition or the right
15 to free speech in direct connection with an issue of public concern is immune from any civil
16 action for claims based upon the communication.”)

17 **A. The FAC Is an Illegal Attempt to Bar the VIPI Defendants From Engaging**
18 **In Free Speech.**

19 Plaintiffs arguments in their Opposition to the Motion to Dismiss and in their
20 Omnibus Opposition (addressing the VIPI Defendants’ Anti-SLAPP Motion), are predicated
21 on the false premise that attorneys are entitled to litigate their critics into silence. Contrary
22 to Plaintiffs’ arguments, what is at issue in this case is not “a defamation campaign made up
23 of knowingly false assertions made for an illicit purpose” (MTD Opp., p. 4:4-5). Ironically,

24 _____ claim in defending against an anti-SLAPP motion. *See* Nev. Rev. Stat. § 41.665(2) (“...the
25 Legislature intends that in determining whether the plaintiff ‘has demonstrated with prima
26 facie evidence a probability of prevailing on the claim’ the plaintiff must meet the same
27 burden of proof that a plaintiff has been required to meet pursuant to California’s anti-
28 Strategic Lawsuits Against Public Participation law as of June 8, 2015”) (quoted and cited at
Omnibus Mot., p. 31:5-012 as Nev. Rev. Stat. § 41.662(2).)

1 the allegations of an “illicit purpose” do not even pass Rule 11 muster—yet, unable to
2 establish the actual legal elements of any claim for defamation, false light, or any other cause
3 of action, Plaintiffs attempt to distract by making unsupported allegations about the VIPI
4 Defendants that would be defamatory if not made under the guise of a legal pleading.

5 **The “Attack” Article is Not Substantially False, and Plaintiffs’**
6 **Unsupported Accusations Do Not Establish Their Burden**

7 Without referencing case law, Plaintiffs argue that the “Attack” article’s
8 representation of what occurred at the hearing is “substantially false” (MTD Opp., p. 4:6-
9 5:3). Specifically, Plaintiffs claim that reprinting Judge Elliot’s verbatim quote, that
10 “[Plaintiffs’] client lied about his finances” constitutes a defamatory statement because Judge
11 Elliot later retracted her statement (MTD Opp., p. 4:6-12). However, it is a fact that Judge
12 Elliot made that statement and it is thus not actionable. The VIPI Defendants are entirely
13 within their rights to report on court proceedings. Further, while the VIPI Defendants do not
14 owe Plaintiffs a duty of completeness, the video of the *Saiter* hearing posted on the website
15 contains *both Judge Elliot’s statement that Plaintiffs’ client lied about his finances and her*
16 *subsequent retraction.*

17 Unable to show actual defamation, Plaintiffs point to other “facts” outside the FAC
18 in their Motion to Dismiss Opposition, and smear the VIPI Defendants. Indeed, they ask this
19 Court to look beyond the question of whether the statement are defamatory on their face—
20 which is the key question at hand—and to instead assume that the VIPI Defendants did so
21 for some improper purpose. (MTD Opp., p., 4, fn. 4.) Even if the VIPI Defendants were paid,
22 which there is absolutely no factual support for, that does not change the analysis. Indeed,
23 reporters are generally paid by the media outlets they work for; that does not change that the
24 First Amendment as well as Nevada’s anti-SLAPP statute and fair reporting privilege
25 protects their speech.

26 **Plaintiffs Are Not Immune from Criticism for Sealing Documents or Other**
27 **Courtroom Behavior.**

28 Plaintiffs also contend that Defendants defamed them by stating that “[l]aw frowns
on Nevada Attorney Jennifer Abrams’ ‘Seal-Happy’ Practices” (MTD Opp., p. 5:7-12.) First,

disagreement about what the law “frowns upon” is essentially the basis for the entire legal profession; non-lawyers are also entitled to voice their opinions of what the law does and should allow. Second, the law *did* frown upon Plaintiff Abrams obtaining an order that “is specifically disallowed by law.” On March 21, 2017, Judge Elliot issued an order striking and vacating the Court’s previous Order Prohibiting Dissemination of Case Material for being unconstitutionally overbroad. *See* Exhibit 11 to Anti-SLAPP Motion. On this point, the outcome speaks for itself – Judge Elliot admitted that her previous order was specifically disallowed by law by striking and vacating it. *Res ipsa loquitur*.

Plaintiffs similarly contend that Defendants’ opinion that Plaintiff Abrams is “obstructionist” or that she “engaged in behavior” such as “for which she should be held accountable” are actionable defamation. (MTD Opp., pp. 5:18-6:5). It is simply absurd to take the position that nobody could take a negative view of Ms. Abrams. *See, e.g., Reed v. Gallagher*, 248 Cal. App. 4th 841, 856, 204 Cal. Rptr. 3d 178, 189 (2016), reh’g denied (July 27, 2016), review denied (Sept. 14, 2016) (neither the statement “[attorney] is an unscrupulous lawyer” nor the statement “[l]egal records show that [attorney] is an unscrupulous lawyer” declares or implies a provably false statement of fact.”); *see also James v. San Jose Mercury News, Inc.* 17 Cal.App.4th 1, 12, 14, 20 Cal.Rptr.2d 890 (1993) (article describing lawyer as engaging in “sleazy, illegal, and unethical practice” fell into “protected zone of ‘ ‘imaginative expression’ ’ or ‘ ‘rhetorical hyperbole’ ’ ”).

What Ms. Abrams may believe is zealous advocacy a courtroom observer—or, indeed, opposing counsel—may certainly find objectionable. Indeed, in this case, that she “bullied” the family court is a very reasonable conclusion: again, the court subsequently found its own order unconstitutional, as discussed below.

Defendants’ Rhetorical Questions Merely Express Negative Opinions of Plaintiff’s Courtroom Conduct.

The parties agree that a rhetorical question that is not an assertion of false fact is not actionable. (*See* MTD Opp., p. 6:8-11.) In the “Seal Happy” article Plaintiffs complain of, Defendants asked the rhetorical question, “what judge allows a lawyer to bully her in court and then gets her to issue an overbroad, unsubstantiated order to seal and hide the

1 lawyer's action?" (FAC Exhibit 4.) As a preliminary matter, Plaintiffs have no standing to
2 sue on behalf of Judge Elliot. In any case, Whether Ms. Abrams "bullied" the court into
3 entering at, worst, overboard order is a matter of opinion. In fact, the rhetorical question is
4 essentially a factually true summary of what happened during the *Saiter* hearing; due to
5 Plaintiffs' advocacy, which in Defendants' opinion constituted bullying, Judge Elliot *did*
6 issue an Order Prohibiting Dissemination of Case Material that she later struck and vacated
7 for being unconstitutionally overbroad. *See* Exhibit 11 to Anti-SLAPP Motion. Such mixed
8 statement of (true) facts and opinion is cannot be defamatory.

9 Plaintiffs also claim that Defendants defamed them by saying there was "something
10 wrong" with Plaintiffs' actions in court, then (again pointing to matters outside the pleadings)
11 noting that Defendant "could only point to three specific issues" with Plaintiff's courtroom
12 actions in an interview. (*See* MTD Opp., p. 6:19-24). This quotation undermines Plaintiffs'
13 argument, as the "three specific issues" are essentially the heart of Defendants' criticism.
14 Interrupting a judge during a hearing, rudely telling other lawyers in the courtroom to sit
15 down, and all-but-accusing the judge of sleeping with opposing counsel could easily be
16 viewed as "bullying," "misconduct," and "obstrucionism."

17 **Video of Courtroom Proceedings are Presumptively Public.**

18 Plaintiffs attempt to distract the Court from the case at issue by invoking the privacy
19 of the parties in the *Saiter* divorce. (Opp., p. 7:19-24.) This has nothing to do with any of the
20 alleged causes of action in this case, to which the Saiters are a not a party. Further, while
21 privacy interests can be balanced against the presumption of open access, that does not
22 change fact that courtroom proceedings are presumptively public, despite Plaintiffs' lack of
23 respect for the rights of members of the public to observe, report on, and criticize the
24 administration of justice and the workings of taxpayer-funded courtroom proceedings.

25 **B. Plaintiffs' Defamation Claim (First Claim) Fails.**

26 Even construed liberally, and even assuming Plaintiffs are not limited public
27 figures, Plaintiffs' defamation claim is not actionable as a matter of law because the
28 statements at issue are not false assertions of fact. Thus, "who wrote what discussions were

1 held between the named Defendants, and who participated in what way” (MTD Opp., p.
2 10:14-17) is not relevant: no matter who said them, when, and why, a snowflake lawyer and
3 her firm cannot sue for merely being criticized.⁷

4 Plaintiffs cite to *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 715, 57 P.3d 82,
5 88 (2002) for the proposition that a statement is defamatory “if it would tend to lower the
6 subject in the estimation of the community, excite derogatory opinions about the subject, and
7 hold the subject up to contempt.” (Opp., 12:7-14.) However, this is not the only measure of
8 whether a statement is actionable for the purpose of a defamation suit—“the court must ask
9 ‘whether a reasonable person would be likely to understand the remark as an expression of
10 the source’s opinion or as a statement of existing fact.’” *Pegasus*, 118 Nev. at 715. 57 P.3d
11 at 88. (internal citations omitted). In short, opinions alone are not actionable. Moreover,
12 while this fact is ignored by Plaintiff, there are four elements to a claim for defamation in
13 Nevada: In addition to a (1) a false and defamatory statement by a defendant concerning the
14 plaintiff, a defamation plaintiff must also show (2) an unprivileged publication of this
15 statement to a third person; (3) fault of the defendant, amounting to at least negligence; and
16 (4) actual or presumed damages. *Pegasus*, 118 Nev. at 718, 57 P.3d at 90. Plaintiffs have not
17 pled facts sufficient to meet all elements of this claim, let alone presented facts to show that
18 they have a prima facie claim.

19 ***Plaintiffs Have Failed to Demonstrate an Unprivileged Publication***

20 In addition to failing to meet their prima facie burden of demonstrating any of the
21 statements at issue here are false statements, Plaintiffs have completely failed to meet their
22 burden of demonstrating there was an unprivileged publication of any of the statements to a
23 third person.

24 ///

25 ⁷ Moreover, as discussed further below, no matter how many times Plaintiffs, in conclusory
26 and paranoid fashion, accuse the Defendants in this case off “an extortion plot” or “a
27 conspiracy” (*see, e.g.*, MTD Opp., p.10:14-16), they do not and cannot meet the standards
28 for establish either a sufficient claim to survive 12(b)(5) scrutiny, let alone a prima facie
claim to survive anti-SLAPP scrutiny.

1 Because the complaint fails to allege that the libelous statements were unprivileged,
2 it should be dismissed for failing to allege a required element to state a claim for relief. *Cf.*
3 *Pope v. Motel 6*, 121 Nev. 307, 315, 114 P.3d 277, 282 (2005)) (affirming a district court
4 order granting summary judgment a news station and its broadcasters where the plaintiff
5 failed to demonstrate the statements at issue were unprivileged). This is because a statement
6 is not defamatory if it is privileged. *Lubin v. Kunin*, 17 P.3d 422, 427 (2001). Whether a
7 statement is privileged is a question of law for the court. *See Crockett & Myers, Ltd. v.*
8 *Napier, Fitzgerald & Kirby, LLP*, 440 F.Supp.2d 1184, 1195 (D. Nev. 2006) (citing *Fink v.*
9 *Oshins*, 49 P.3d 640, 643 (Nev.2002)).

10 The fair report privilege was first established by the Nevada Supreme Court in
11 *Thompson v. Powning*, 15 Nev. 195 (1880). In that case, the Supreme Court explained:

12 A fair and impartial account of the proceedings in a court of justice is, as a
13 general rule, a justifiable publication. . . . The reason for this rule is, that the
14 public have [sic] a right to know what takes place in a court of justice, and
15 unless the proceedings are of an immoral, blasphemous, or indecent
16 character, or accompanied with defamatory observations or comments, the
17 publication is privileged.

18 *Id.* at 203 (Citations omitted).

19 In *Sahara Gaming*, the Nevada Supreme Court reaffirmed the fair report privilege
20 is “a special privilege of absolute immunity from defamation” given to news media reporting
21 judicial proceedings. *See Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 984
22 P.2d 164, 166 (1999).⁸ The privilege “precludes liability even where the defamatory
23 statements are published with knowledge of their falsity and personal ill will toward the
24 plaintiff.” *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 62, 657 P.2d 101, 105
25 (1983). Under Nevada law, the fair reporting privilege provides absolute immunity to a party
26 who makes a “fair, accurate, and impartial report of events occurring in judicial
27 proceedings.” *Id.* In determining what constitutes a fair report, the Ninth Circuit has

28 ⁸ This Court has applied Nevada’s case law regarding to the fair reporting privilege in federal
civil actions. *See, e.g., Ferm v. McCarty*, No. 2:12–CV–00782–GMN, 2013 WL 800536 at
*7-8 (D.Nev. Jan. 28, 2013).

1 recognized that courts should account for “a certain amount of literary license” and exercise
2 “a degree of flexibility.” *Dorsey v. Nat’l Enquirer*, 973 F.2d 1431, 1434–37 (9th Cir.1992).

3 In exchange for this absolute privilege, reports of judicial proceedings must be fair,
4 accurate, and impartial. *Id.* The fair reporting privilege also extends beyond traditional news
5 media to “any person who makes a republication of a judicial proceeding from material
6 available to the general public. *Id.*; see also *Wynn v. Smith*, 16 P.3d 424, 429 (2001) (citation
7 omitted). The purpose of the privilege is to “obviate any chilling effect on the reporting of
8 statements already accessible to the public.” *Wynn*, 16 P.3d at 429. The Nevada Supreme
9 Court has held that the scope of the fair reporting privilege is “quite broad,” and it should be
10 applied “liberally, resolving any doubt in favor of its relevance or pertinency.” *Fink v.*
11 *Oshins*, 118 Nev. 428, 434, 49 P.3d 640, 644 (2002).

12 As discussed in the Motion to Dismiss, several of the statements Plaintiffs allege
13 are defamatory are republications of a judicial proceeding. For example, the YouTube video
14 featured in the “Attack Article” is a real video of a court proceeding. Thus, publication of
15 that video is protected by the fair report privilege. Likewise, the verbatim quotations from
16 Judge Elliot and Abrams in the same article are protected by the fair report privilege because
17 they are a verbatim transcript of in-court statements. Likewise, with the “Seal Happy”
18 Article, the VIPI Defendants reported on publicly available information regarding judicial
19 proceedings—specifically, that Abrams obtained a sealing order, and obtained that order
20 without allowing for any member of the public to weigh in on the order.

21 ***Plaintiffs Have Failed to Allege Fault or Actual or Presumed Damages***

22 In addition, despite having already amended their Complaint once, Plaintiffs have
23 failed to allege sufficient facts that Defendants are at fault, or that they have suffered actual
24 or presumed damages as a result of the VIPI Defendants’ alleged statements. In this instance,
25 Plaintiffs have only alleged the statements “were published or republished deliberately or
26 negligently,” (FAC at ¶ 89), but offers no facts to support this bald allegation. Likewise, with
27 regard to actual or presumed damages, Plaintiffs have baldly asserted the statements “caused
28 special harm in the form of damage,” (FAC at ¶ 91), but again offer no facts to support that

1 allegation. Thus, their defamation claim cannot survive review under Nev. R. Civ. P.
2 12(b)(5).

3 In addition, Plaintiffs' defamation claim cannot survive the more rigorous test
4 applied under Nevada's anti-SLAPP statute. As described above, because the VIPI
5 Defendants have met their burden of demonstrating Plaintiffs' claims are "based upon a good
6 faith communication in furtherance of the right to petition or the right to free speech in direct
7 connection with an issue of public concern," Nev. Rev. Stat. § 41.660(3)(a), the Court must
8 next determine whether Plaintiffs' FAC "has demonstrated with prima facie evidence a
9 probability of prevailing on the claim." Nev. Rev. Stat. § 41.660(3)(b). Plaintiffs, however,
10 have failed to meet this evidentiary burden.

11 **C. Plaintiffs' False Light Claim (Fourth Claim) Fails.**

12 Plaintiffs' False Light claim is an improper effort to target free speech protected by
13 both the First Amendment and Nevada's anti-SLAPP law. Moreover, Plaintiffs fail to
14 properly allege a claim. Thus, the VIPI Defendants' Anti-SLAPP Motion should be granted
15 with regard to the false light claim—indeed, the cause of action does not even survive
16 12(b)(5) scrutiny.

17 In their 12(b)(5) Opposition, Plaintiffs attempt to argue that, because the VIPI
18 Defendants raise questions about whether False Light is a disfavored tort, their claim should
19 proceed and Defendants should be sanctioned. (MTD Opp., p. 21:4-7.) Of course, citing out-
20 of-state law is not grounds for sanctions—"although out-of-state law is not controlling,
21 [Nevada courts] look to it as instructive and persuasive." *Rivero v. Rivero*, 125 Nev. 410,
22 420, 216 P.3d 213, 221, n.2 (2009). Particularly in light of the anti-SLAPP context this case
23 is in, the case law explaining why false light is a disfavored tort— courts should be wary of
24 subjecting free speech activity to tort liability—is highly pertinent. (12(b)(5), p. 29:17-23.)

25 In any case, the arguments Plaintiffs make to support their false light claim are
26 nothing more than an attempt to mislead this Court into ignoring two simple facts. First,
27 Plaintiffs have failed to sufficiently allege that Defendants exposed to public view any
28 information that would be highly offensive to a reasonable person; and second, Plaintiffs

1 have failed to allege any facts that would tend to demonstrate they suffered mental distress.
2 *Dobson v. Sprint Nextel Corp.*, 2014 WL 553314 at *5 (D. Nev. Feb. 10, 2017) (“the injury
3 in [false light] privacy actions is mental distress from having been exposed to public views.”).
4 These issues—which were properly raised by the VIPI Defendants⁹—are not addressed and
5 responded to by Plaintiffs in their 12(b)(5) Opposition, and therefore this court may construe
6 this as an admission and consent that Defendants’ 12(b)(5) Motion to Dismiss is meritorious
7 with regard to the false light cause of action. EDCR 2.20(e).

8 Nor do Plaintiffs address the failure to plead the necessary elements of a false light
9 claim in their Omnibus Opposition. Instead they address false light together with their other
10 “defamation-related” claims and argue in conclusory fashion that the criticism of Ms.
11 Abrams and her firm placed her in “false light” (Omn. Opp., p. 34:9 and p. 25:6-35). Mere
12 recitation of the elements of false light does not suffice: again, Plaintiffs have failed to even
13 articulate the basis for this claim, let alone provide any support for the contentions that the
14 VIPI Defendants placed Ms. Abrams in a false light that would be highly offensive to a
15 reasonable person and that Ms. Abrams suffered any emotional distress as a result.¹⁰

16 Thus, Plaintiffs’ claim for false light does not even pass 12(b)(5) scrutiny, much
17 less the higher burden of establishing a prima facie case required to overcome an anti-SLAPP
18 motion.

19 ///

20 ///

21
22 ⁹ See 12(b)(5) Mot., pp. 30:15-31:21.

23 ¹⁰ Further, while Plaintiffs brought all their claims on behalf of Ms. Abrams as well as her
24 law firm, of course only a natural human person can bring claims such as false light,
25 intentional infliction of emotional distress, and negligent infliction of emotional distress for
26 the obvious reason that a law firm cannot suffer mental distress. See, e.g., *Patel v. AT&T*,
27 No. 94-B-49, 1997 WL 39907, at *2 (Ohio Ct. App. Jan. 30, 1997) (emphasis added) (cited
28 in 12(b)(5) Mot., at pp. 24:21-25:2). As with many other arguments, Plaintiffs fail to address
this fatal aspect of the FAC, conceding that both the Anti-SLAPP Motion should be granted
at least with regard to this claim by Abrams & Mayo. See EDCR 2.20(e).

1 **D. Plaintiffs’ Business Disparagement Claim (Fifth Claim) Fails.**

2 Plaintiffs’ business disparagement claim fails because they fail to even allege, let
3 alone demonstrate, prima facie evidence of special damages. To the contrary, all Plaintiffs
4 argue is that it is “illogical and would be impossible to require a Plaintiff to ‘show the loss
5 of sales attributable to the disparaging statement’ or ‘a general decline of business’ in a
6 Complaint.” (MTD Opp., p. 22:10-12.) It is not, however, illogical or impossible to state
7 facts, any facts, which would tend to demonstrate that Defendants’ alleged actions caused a
8 loss of sales or general decline in Plaintiffs’ business. Plaintiffs have failed to do even this.

9 It is not merely enough that special damages may be proved later on in litigation.
10 Special damages must be *specifically stated*. Nev R. Civ. P. 9(g) (emphasis added). Slapping
11 the word “special” into a boilerplate statement for damages does not mean that special
12 damages have been specifically stated. *See Branda v. Sanford*, 97 Nev. 643, 647, 637 P.2d
13 1223, 1226 n. 2 (1981) (noting that trial court sustained objection to evidence of special
14 damages at trial “on the basis that special damages had not been pled”); *see also Talbot v.*
15 *Mack*, 41 Nev. 245, 169 P. 25, 34 (Nev. 1917) (affirming demurrer of libel suit in which
16 Plaintiff’s generic statement of damages did not amount to a pleading of special damages).

17 **E. Plaintiffs’ “Harassment” Claim (Sixth Claim) Fails.**

18 The law does not allow Ms. Abrams and her firm to sue the VIPI Defendants for
19 saying things they don’t like. Imagining otherwise, Plaintiffs have invented a civil tort claim
20 for “harassment.” (*See* FAC at p. 26, ¶¶ 106-109 (Sixth “Claim for Relief”).) There is no
21 such cause of action for “harassment” Nor is it, as Plaintiffs argue in an effort to salvage their
22 imagined cause of action in their 12(b)(5) Opposition, “well-grounded” in common law.

23 Although Nevada courts have not had occasion to evaluate whether “harassment”
24 is a civil cause of action, federal courts interpreting Nevada law have consistently found that
25 it is not. *See Randazza v. Cox*, No. 2:12-CV-2040-JAD, 2014 WL 2123228 at *4 (D. Nev.
26 2014) (dismissing with prejudice claim for harassment “because Nevada recognizes only the
27 *crime* of harassment, not a civil action for harassment” (emphasis in original)); *see also*
28 *Azpilcueta v. Nevada ex rel. Transp Auth.*, No. 3:09-CV-00593-LRH, 2010 WL 2681855, at

*2 n. 3 (D. Nev. July 2, 2010) (dismissing Plaintiff's attempt to state the claim of harassment under Nev. Rev. Stat. § 200.571(1) because it "is a criminal statute, and Nevada law does not provide for a claim of civil harassment."); *see also Wallace v. Las Vegas Metro. Police Dep't*, No. 2:12-CV-979-RCJ-RJJ, 2012 WL 4361315, at *2 (D. Nev. Sept. 21, 2012) (citing *Wellesley v. Chief Fin. Officer*, 2010 WL 2926162, at *1 n. 4 (D.Nev.2010)) (dismissing harassment claim because "Nevada law provides for a claim of harassment only under a criminal statute ... and as the present case is civil, Plaintiff cannot rely on this statute to state a claim for relief."). The "elements" set forth in Plaintiffs Sixth Claim for Relief are also entirely duplicative of other claims.

Thus, Plaintiffs have no actionable claim, let alone a *prima facie* claim, for harassment. Reflecting this, in their Omnibus Opposition, Plaintiffs argue in conclusory fashion that the claim is "well-grounded in fact and not subject to dismissal." (*See Omn. Opp.*, p. 34:3-10). While Plaintiffs go on to at least discuss elements of defamation, false light, and intentional infliction of emotional distress, they fail to articulate the elements of a harassment claim, let alone to mention *evidence that establishes a prima facie* claim. Nor can they. Thus, not only would this claim be subject to 12(b)(5) dismissal if the VIPI Defendants had not filed the Anti-SLAPP Motion, the VIPI Defendants are entitled to anti-SLAPP relief with regard to this claim.

F. Plaintiffs' Intentional and Negligent Infliction of Emotional Distress Claims (Second and Third Claims) Fails.

As noted above, the emotional distress claims necessarily fail as to Abrams & Mayo. Ms. Abrams also fails to establish the elements of an emotional distress claim because, contrary to her arguments otherwise, she cannot sue for being criticized. Her argument that the VIPI Defendants can be held liable for daring to say a negative word about her not only ignores the First Amendment, it also ignores the fact that she has not pled any facts showing that Ms. Abrams' claims survive the more permissive tests courts have applied to negligent emotional distress claims, which require *inter alia* that a plaintiff plead duty, breach, and actual distress damages. *See Shoen v. Amerco, Inc.*, 111 Nev. 735, 748, 896 P.2d 469, 477

(1995). While Plaintiffs depend on *Branda v. Sandford*, 97 Nev. 643, 646, 637 P. 2d 1223, 1227 (1981), other than reciting elements, Ms. Abrams has yet to argue or allege, for example, any actual distress (extreme or otherwise), let alone submitted evidence (such as a psychiatrist’s evaluation) sufficient to establish a prima facie case. Further, the only offensive thing at issue in this case is a lawyer comparing herself being called “names” such as “seal happy” to a minor plaintiff being subjected to very extreme and disturbing behavior. In *Branda, inter alia*, the sexually-harassing defendant screamed expletives at the minor employee, “verbally accosted her with sexual innuendoes[,] and became verbally abusive when she ignored his remarks.” *Id.*, 97 Nev. 643, 637 P.2d 1223, 1224 (Nev.1981). Unlike the plaintiff in that case, Ms. Abrams is not entitled to bother a jury with, or to attempt to silence the VIPI Defendants with, her baseless distress claims.

G. Plaintiffs Concert of Action Claim (Seventh Claim) Fails.

In their 12(b)(5) Opposition, Plaintiffs correctly note that Defendants are not engaged in a “real estate transaction.” (MTD Opp., p. 23:16-7.) However, neither are Defendants involved in anti-social or dangerous activities, which are the types of activities the tort of Concert of Action is meant to deter. *See Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1488, 970 P.2d 98, 111 (1998) (citing *Juhl v. Airington*, 936 S.W.2d 640, 644 (Tex. 1996)). Expressing negative opinions about Plaintiffs is not in any way inherently dangerous—indeed, it is conduct that protected by the First Amendment.

Plaintiffs attempt to distract from the First Amended Complaint’s deficiencies by pointing to Mr. Sanson’s past behavior, Post Traumatic Stress Disorder diagnosis, and an irrelevant Facebook post in which Mr. Sanson complains about others’ unwillingness to “get dirty” on behalf of others (MTD Opp., p. 24:1-5.). These are nothing but disingenuous attempts to mislead the Court about Defendant Sanson’s actions in the instant case. Mentioning “getting dirty” is in no way an admission of criminal or tortious behavior (let alone with regard to this matter); indeed, Plaintiffs make great leaps of logic to assume that such a post even has anything to do with them. Mr. Sanson’s past behavior has nothing to do with his behavior in the instant case—expressing negative opinions and valid criticism of

1 Plaintiffs.

2 The rest of Plaintiffs' arguments in their 12(b)(5) Opposition are entirely circular
3 and conclusory (*see* MTD Opp., p. 23:17-19 ("...Defendants are engaged in an on-going
4 defamatory campaign")); because Plaintiffs' other claims fail, the "concert of action" claim
5 necessarily fails too. In their Omnibus Opposition, Plaintiffs do not articulate the basis for
6 this claim; all they do is cite a case noting that this is an "accessory liability theory." (Omn.
7 Opp., p. 32, fn 33.)

8 The "verified allegations" (Omn. Opp., p. 32:22-33:23) are not facts or evidence
9 that establish anything¹¹—even if they were, that Mr. Sanson received a video or that this
10 matter was "personal" do not a cause of action make, let alone a "concert of action" or
11 "conspiracy."

12 **H. Plaintiffs' Civil Conspiracy Claim (Eighth Claim) Fails.**

13 The elements of a cause of action for civil conspiracy are: (1) Defendants, by acting
14 in concert, intended to accomplish an unlawful objective for the purpose of harming plaintiff;
15 and (2) plaintiff sustained damage resulting from defendants' act or acts. *Consol. Generator-*
16 *Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 997 P.2d 1251 (1999). Plaintiffs cannot
17 overcome the fatal deficiency detailed in the 12 (b)(5) Motion to Dismiss: their conspiracy
18 claim is predicated on disparaging Plaintiffs, placing them in a false light, inflicting
19 emotional distress upon them, and "harassing them." Because each of those causes of action
20 fails, the civil conspiracy claim likewise fails, and Plaintiffs cannot rely on the conclusory
21 assertion that the behavior they complain of is unlawful—which it is not—to satisfy their
22 pleading burden, let alone to establish a prima facie case.

23 In their 12(b)(5) Opposition, Plaintiffs argue, without further elaboration, that
24 Defendants, "by some concerted actions, intend to accomplish an unlawful objective for the
25 purpose of harming another, and damage results from the act or acts." (MTD Opp., p. 24:16-

27 ¹¹ For one thing, the verification fails to state which facts are being verified and which are
28 made on information and belief.

18.) Again, this circular argument fails. And, contrary to Plaintiffs' suggestion, that [t]here are 11 named defendants" (MTD Opp., p. 24:19) does not a conspiracy make. Further, it is impossible to see how the complained-of acts, to the extent that they are discernable for this claim, wouldn't be duplicative of other claims for relief.

I. Plaintiffs' RICO Claim (Ninth Claim) Is Not Pled With Sufficient Specificity.

Plaintiffs claim that Defendants committed four predicate RICO acts: that Defendants (1) "attempted to bribe or intimidate witnesses to influence testimony;" (2) "engaged or attempted to engage in multiple transactions involving fraud or deceit in the course of an enterprise;" (3) "took or attempted to take property from another under circumstances not amounting to robbery;" and (4) "committed or attempted to commit extortion." (MTD Opp., p. 25:10-15.) While Plaintiffs argue that "Defendants did all those things" (*id.*, p.2: 16), this does not suffice.

The specific required elements for each of Plaintiff' purported theories are set forth below, the Nevada Supreme Court has held that civil racketeering claims must be pled not merely with specificity, but with the specificity required of a criminal indictment or information. *Hale v. Burkhardt*, 104 Nev. 632, 637-38, 764 P.2d 866, 869-70 (Nev. 1988). The complaint must provide adequate information as to "when, where [and] how" the alleged criminal acts occurred. *Id.* at 637. Furthermore, the complaint must state the necessary elements of the predicate crimes. *Id.* at 641 (affirming dismissal of RICO claims for failure to state necessary elements of predicate crimes). In the instant case, Plaintiffs fail to state the elements of the predicate crimes allegedly committed by Defendants, and furthermore fail to give specific information as to when, where and how these alleged crimes occurred. Thus, their RICO claim cannot survive a 12(5)(5) Motion.

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Bribing or Intimidating Witness to Influence Testimony (Nev. Rev. Stat. § 199.240)

Nowhere in their complaint do Plaintiffs mention the elements of Bribing or Intimidating a Witness to Influence Testimony, which alone should be grounds for dismissing their RICO complaint with regard to that predicate offense. These elements are that a person:

1. Gives, offers or promises directly or indirectly any compensation, gratuity or reward to any witness or person who may be called as a witness in an official proceeding, upon an agreement or understanding that his or her testimony will be thereby influenced; or
2. Uses any force, threat, intimidation or deception with the intent to:
 - (a) Influence the testimony of any witness or person who may be called as a witness in an official proceeding;
 - (b) Cause or induce him or her to give false testimony or to withhold true testimony; or
 - (c) Cause or induce him or her to withhold a record, document or other object from the proceeding.

Nev. Rev. Stat. § 199.240. To base a RICO claim on this crime, Plaintiffs must *specifically allege* not just that money changed hands or that a threat was made, but that these actions were carried out with the intent to influence testimony, cause false testimony, or withhold a record, document or other object from a proceeding. Plaintiffs fail to do either of these things. The only “threat” mentioned in Plaintiffs’ Complaint is that Defendant Schneider stated in a September 15, 2016 email that “if [Plaintiff Firm] does not withdraw that motion, [Defendant Schneider] will oppose it and take additional action beyond the opposition.” (FAC at ¶ 24.) This, however, is not a threat and but a negotiation between attorneys as part of a litigation strategy; there are many perfectly legal actions that would constitute “additional action beyond the opposition,” such as seeking sanctions under Rule 11 of the Nevada Rules of Civil Procedure.

Furthermore, Plaintiffs also fail to allege what false testimony Defendants attempt to intimidate Plaintiffs (or anyone else) into making, what true testimony Defendants attempt to intimidate Plaintiffs (or anyone else) into withholding, or which records, documents or other objects Defendants attempt to intimidate Plaintiffs (or anyone else) into withholding.

1 Indeed, nobody involved in this suit has contemplated testifying in any relevant case. Thus,
2 Plaintiffs' RICO claim cannot be predicated on Nev. Rev. Stat. § 199.240.

3 **Multiple Fraudulent Transactions (Nev. Rev. Stat. § 205.377)**

4 Nowhere in their complaint do Plaintiffs mention the elements of Multiple
5 Transactions Involving Fraud or Deceit in Course of Enterprise or Occupation, which alone
6 should be grounds for dismissing their RICO complaint with regard to that predicate offense.

7 These elements are that a person:

8 knowingly and with the intent to defraud, engage in an act, practice or
9 course of business or employ a device, scheme or artifice which operates
or would operate as a fraud or deceit upon a person by means of a false
representation or omission of a material fact that:

- 10 (a) The person knows to be false or omitted;
11 (b) The person intends another to rely on; and
12 (c) Results in a loss to any person who relied on the false representation or
omission,

13 in at least two transactions that have the same or similar pattern, intents,
14 results, accomplices, victims or methods of commission, or are otherwise
15 interrelated by distinguishing characteristics and are not isolated incidents
16 within 4 years and in which the aggregate loss or intended loss is more than
\$650.

17 Nev. Rev. Stat. § 205.377. Nowhere in Plaintiffs' complaint do they allege that Defendants
18 made any false representations or omissions of material facts, or that Defendants intended
19 Plaintiffs (or anyone else) rely on said representations, or that any loss resulted from reliance
20 on such representations. There are zero such transactions mentioned in Plaintiffs' complaint,
21 which is short of the two required to be a crime under Nev. Rev. Stat. § 205.377. Thus,
22 Plaintiffs cannot base a RICO claim on Multiple Fraudulent Transactions.

23 **Taking of Property not Amounting to Robbery (Nev. Rev. Stat. § 205.270)**

24 Nowhere in their complaint do Plaintiffs mention the elements of Taking of
25 Property not Amounting to Robbery, which alone should be grounds for dismissing their
26 RICO complaint with regard to that predicate offense. These elements are that a person:
27 "who, under circumstances not amounting to robbery, with the intent to steal or appropriate
28 to his or her own use, takes property from the person of another, without the other person's

1 consent.” Nev. Rev. Stat. § 205.270(1). Plaintiffs fail to mention in their Complaint what
2 property was taken from them. Of course they fail to do so, because Defendants did not take
3 any property at all from Plaintiffs. Thus, Plaintiffs cannot base a RICO claim on Nev. Rev.
4 Stat. § 205.270.

5 **Extortion (Nev. Rev. Stat. § 205.320)**

6 Nowhere in their complaint do Plaintiffs mention the elements of Extortion, which
7 alone should be grounds for dismissing their RICO complaint with regard to that predicate
8 offense. These elements are that a person:

9 “who, with the intent to extort or gain any money or other property or to
10 compel or induce another to make, subscribe, execute, alter or destroy any
11 valuable security or instrument or writing affecting or intended to affect any
12 cause of action or defense, or any property, or to influence the action of any
13 public officer, or to do or abet or procure any illegal or wrongful act,
14 whether or not the purpose is accomplished, threatens directly or indirectly:

- 15 1. To accuse any person of a crime;
- 16 2. To injure a person or property;
- 17 3. To publish or connive at publishing any libel;
- 18 4. To expose or impute to any person any deformity or disgrace; or
- 19 5. To expose any secret”

20 Nev. Rev. Stat. § 205.320. Plaintiffs again fail to have a valid claim, let alone a prima facie
21 case.

22 **J. Plaintiffs’ RICO Claims Are Subject to Anti-SLAPP Dismissal.**

23 Plaintiffs do argue in their Omnibus Opposition that the “Defamatory Statements
24 are only incidental to the Abrams Parties’ claims for RICO and Copyright Infringement”¹²
25 and thus that they are not subject to an anti-SLAPP motion and need not be considered in
26 that context. (Omn. Opp., p. 38:18-26). This argument ignores not only that the RICO claims
27 have no separate merit apart from the targeted speech but also that the imagined RICO claims
28 are directly tied to statements. Further, the VIPI Defendants are entitled to be immunized

26 ¹² This is the only mention of the copyright infringement claim in either of Plaintiffs’
27 oppositions. Bizarrely, they incorporate the 12(b)(5) arguments into their Omnibus
28 Opposition—but the Motion to Dismiss does not mention the copyright claim, as noted
below.

1 from civil liability from Plaintiffs’ transparent attempt to use vexatious litigation to bully the
2 VIPI Defendants—and everyone they know—to squelch First Amendment-protected
3 criticism. *See* Nev. Rev. Stat. § 41.650 (“**Limitation of liability.** A person who engages in a
4 good faith communication in furtherance of the right to petition or the right to free speech in
5 direct connection with an issue of public concern **is immune from any civil action for**
6 **claims based upon the communication.**”) (emphasis added). With regard to the VIPI
7 Defendants, as discussed above Plaintiffs appear to be arguing that they took money for
8 criticizing them. This is necessarily “based on the communication.” In any case, drafting a
9 vexatious and baseless “kitchen sink” complaint does not change the fact that the VIPI
10 Defendants are entitled to the protections of Nevada’s anti-SLAPP law, which is designed to
11 protect against exactly what Plaintiffs have done: using the legal system to stifle First
12 Amendment activity.

13 **K. Plaintiffs’ Copyright Infringement Claim (Tenth Claim) Fails.**

14 As noted above, Plaintiffs failed to address the arguments the VIPI Defendants
15 made with regard to their frivolous, out-of-jurisdiction Copyright Infringement claim. Thus,
16 presumably, they have abandoned it. *See, e.g.*, EDCR 2.20(e) (“Failure of the opposing party
17 to serve and file written opposition may be construed as an admission that the motion ... is
18 meritorious and a consent to granting the same.”).

19 **L. Plaintiffs Are Not Entitled to Injunctive Relief (Eleventh “Claim”), Which Is**
20 **Not a Claim at All.**

21 Likewise, Plaintiffs never address the VIPI Defendants’ arguments that there is no
22 claim for injunctive relief; thus, presumably, they are conceding that this claim is improper.
23 *See, e.g.*, EDCR 2.20(e) (“Failure of the opposing party to serve and file written opposition
24 may be construed as an admission that the motion ... is meritorious and a consent to granting
25 the same.”).

26 **IV. LIMITED DISCOVERY IS NOT NEEDED TO GRANT THE SANSON**
27 **DEFENDANTS’ ANTI-SLAPP MOTION**

28 In their final argument in the Omnibus Opposition, Plaintiffs assert they are entitled

1 to limited discovery to obtain information such as who has access to VIPI's online accounts,
2 if there were additional publications of the statements at issue here via other methods,
3 payments, facts regarding membership and administration of VIPI's email list, and any other
4 statements by the Defendants regarding the allegedly defamatory statements. (Omnibus
5 Opp., p. 39:3-28.) However, Plaintiffs are not entitled to discovery because, as discussed
6 above, they have not met the standard to survive dismissal of their defamation claim under
7 NRCp 12(b)(5) and they do not establish entitlement under the anti-SLAPP statute.

8 As noted by the Plaintiffs (Omn. Opp, p. 39:5-9), Nev. Rev. Stat. § 41.660(4)
9 provides that “[u]pon a showing by a party that information *necessary to meet or oppose the*
10 *burden*” to survive an Anti-SLAPP motion is in the possession of another party and not
11 reasonably available without discovery, a court “shall allow limited discovery for the purpose
12 of ascertaining such information.” Nev. Rev. Stat. § 41.660(4) (emphasis added). Plaintiffs
13 have failed to establish that discovery is needed. For example, none of the statements
14 Plaintiffs complain of are actionable defamatory statements. Rather, they are all either
15 truthful statements of fact, nonactionable statements of opinion, or some combination of the
16 two. Thus, it is not necessary for Plaintiffs to understand the mechanics of the role of the
17 Defendants in accessing and maintaining VIPI's online accounts, or identify additional
18 publications of the statements at issue to meet their burden of demonstrating that the
19 statements are not entitled to Anti-SLAPP protection because Plaintiffs have not met their
20 burden of demonstrating that *any* of the statements are defamatory. Accordingly, the
21 Plaintiffs' request for limited discovery should be denied.

22 Further, it is of note that much of the necessary evidence needed to establish prima
23 facie claims sufficient to overcome the Anti-SLAPP Motion—evidence such as that
24 establishing special damages or Ms. Abrams' emotional distress—is in the unique custody
25 of plaintiffs yet they have failed to come forward with it.

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1 **V. PLAINTIFFS ARE NOT ENTITLED TO ATTORNEY’S FEES.**

2 While (in the Omnibus Opposition filed by new counsel) Plaintiffs do not seek fees
3 and costs, they did seek fees in their 12(b)(5) Motion, reflecting the vexatious nature of Ms.
4 Abrams and Mr. Willick. The request is improper because the 12(b)(5) Opposition is more
5 than reasonable, and because Ms. Abrams and Mr. Willick cannot properly recover fees for
6 representing themselves or each other.

7 **A. Defendants’ Motion to Dismiss Was Brought with Reasonable**
8 **Grounds.**

9 EDCR 7.60(b) provides for sanctions in limited circumstances, when “an attorney
10 or party without cause: (1) Presents to the court a motion or opposition to a motion which is
11 obviously frivolous, unnecessary or unwarranted. ... (3) So multiplies the proceedings in a
12 case as to increase the costs unreasonably and vexatiously.” Of course, Plaintiffs do not
13 provide any actual basis for how the VIPI Defendants’ 12(b)(5) Motion is frivolous,
14 unnecessary, or unwarranted. Nor do Plaintiffs attempt to explain how it increased the costs
15 of this litigation unreasonably or vexatiously. Nor can they in light of the fact it is the FAC
16 that is vexatious and Plaintiffs that unreasonably pursue litigation without legal bases to
17 silence their critics. In fact, the Court’s granting Defendants’ Anti-SLAPP Motion would
18 greatly decrease the costs of litigation by cutting off Plaintiff’s ill-advised case before
19 discovery and a trial. Indeed, because they have not opposed the 12(b)(5) Motion with regard
20 to their frivolous, out-of-jurisdiction Copyright Infringement claim and the “claim” for
21 injunctive relief, it appears the 12(b)(5) Motion has already resulted in Plaintiffs voluntarily
22 winnowing out claims. Further, because this Court should grant the Anti-SLAPP Motion, it
23 is the VIPI Defendants that are entitled to their attorney’s fees and costs—and damages.

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B. Abrams and Willick Cannot Recover for Their Own Fees.

For much of the litigation in this matter, Ms. Abrams and, one of her attorneys, Mr. Willick, were representing themselves and each other (and each other's law firms) in the twin lawsuits the couple filed to silence VIPI Defendants.¹³ Even if the Plaintiffs in this case were entitled to fees, which they of course are not, they would not be entitled to recovery fees in this case for their own work or for their romantic partners. It is well-established in Nevada that attorneys representing themselves pro se are not entitled to awards for their own work in a matter such as this. *Sellers v. Fourth Judicial Dist. Court of State, in & for Cty. Of Elko*, 119 Nev. 256, 259, 71 P.3d 492, 497-98 (2003), as corrected (July 9, 2003).

Further, even if Willick performed all the work for Ms. Abrams before the hiring of additional counsel from the Bailey Kennedy firm, fees still could not be recovered. An underpinning of the *Sellers* holding is that there has to be a genuine obligation to pay fees by the attorney before the attorney can recover them. *Id.* (“[A]n attorney pro [se] litigant must be genuinely obligated to pay attorney fees before he may recover such fees.”) The Nevada Supreme Court further explained,

This interpretation gives effect to the Legislature's clear intent that the prevailing party in justice's court be reimbursed by the losing party for out-of-pocket costs incurred to prosecute the suit. To interpret the statute otherwise would require us to redefine what is meant by an attorney fee, which is commonly understood to be the sum paid or charged for legal services.

Id. at 259-60. Here, even if Mr. Willick in fact performed work for Ms. Abrams before Bailey Kennedy was retained to assist him and Ms. Abrams in this case, there is no assertion that Ms. Abrams is even actually paying him; if an attorney agreement even exists, that does not necessarily mean they are actually intending to pay each other. They are engaged to be married. And, of course, even if Ms. Abrams “owed” or paid Mr. Willick money *on paper*,

¹³ While Ms. Abrams has (hilariously) suggested that saying so is defamatory as to her, Willick and Abrams are literally and figuratively “in bed together.” They are also both witnesses in both cases.

1 that would not mean that there are actual out-of-pocket costs for fees that would allow for an
2 award, should Plaintiffs otherwise be entitled, which they are not.

3 **VI. CONCLUSION**

4 For all these reasons, this Court must grant the VIPI Defendants' Anti-SLAPP
5 Motion, and provide all the associated relief the VIPI Defendants are entitled to.

6
7 Respectfully submitted this 30th day of May, 2017.

8
9 /s/ Margaret A. McLetchie

10 MARGARET A. MCLETCHE, Nevada Bar No. 10931

11 ALINA M. SHELL, Nevada Bar No. 11711

12 **MCLETCHE SHELL LLC**

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17 Email: maggie@nvlitigation.com

18 *Attorneys for Defendants Steve W. Sanson and*

19 *Veterans in Politics International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2017, I served a true and correct copy of the foregoing VIPI DEFENDANTS' OMNIBUS REPLY TO: (1) PLAINTIFFS' OPPOSITION TO SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP); and (2) PLAINTIFFS' OPPOSITION TO MOTION TO DISMISS AND COUNTERMOTION FOR ATTORNEYS' FEES via electronic service using Odyssey File & Serve's electronic court filing system and, pursuant to NRCP 5(b)(2)(B), by First Class United States Mail, postage fully prepaid, to the following:

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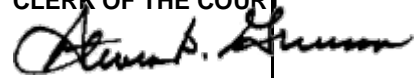
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Spicer, Steelmon, Woolbright, and Sanson
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/s/ Pharan Burchfield
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Attorneys for Schneider Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,
v.

LOUIS SCHNEIDER; LAW OFFICES
OF LOUIS 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

LOUIS SCHNEIDERS DEFENDANTS'
JOINDER TO DEFENDANT STEVE W.
SANSON and VIPI DEFENDANT'S
REPLY TO PLAINTIFFS' OPPOSITION
TO MOTION TO STRIKE AND
OPPOSITION TO PLAINTIFFS'
COUNTER MOTION FOR
ATTORNEY'S FEES

COMES NOW, LOUIS SCHNEIDER Defendants, by and through their counsel of
record CAL J. POTTER, III, ESQ. and C. J. POTTER, IV, ESQ., of POTTER LAW OFFICES,
and hereby submit their joinder to Defendant Steve W. Sanson and VIPI Defendant's Reply to
Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiffs' Counter Motion for
Attorney's Fees filed in this matter on May 30, 2017 and fully incorporated herein.

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JVA000860

1 The Motion is currently scheduled for hearing on June 5, 2017 at 8:30 a.m. before the
2 Honorable Judge Leavitt.

3 DATED this 1st day of June, 2017.

4 POTTER LAW OFFICES

5 By /s/ Cal J. Potter, III, Esq.
6 CAL J. POTTER, III, ESQ.
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that pursuant to EDCR 8.05, Administrative Order 14-2, and
3 NEFCR 9 on the 1st day of June, 2017, I did serve at Las Vegas, Nevada a true and correct
4 copy of **LOUIS SCHNEIDER DEFENDANTS' JOINDER TO DEFENDANT STEVE W.**
5 **SANSON and VIPI DEFENDANT'S REPLY TO PLAINTIFFS' OPPOSITION TO**
6 **MOTION TO STRIKE AND OPPOSITION TO PLAINTIFFS' COUNTER MOTION**
7 **FOR ATTORNEY'S FEES** on all parties to this action by:

- 8 ☐ Facsimile
9 ☐ U.S. Mail
10 ☐ Hand Delivery
11 ☒ Electronic Filing

12 Addressed to:

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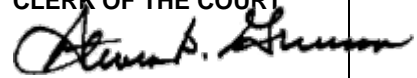
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28

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Attorneys for Plaintiffs

15 Jennifer V. Abrams and The Abrams & Mayo Law
16 Firm

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

**PLAINTIFFS' SUPPLEMENT TO
THEIR OMNIBUS OPPOSITION TO:**

1. **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;**
2. **SPECIAL MOTION TO DISMISS
PURSUANT TO NEV. REV.
STAT. § 41.660 (ANTI-SLAPP);
AND**
3. **DEFENDANTS' SPECIAL
MOTION TO DISMISS UNDER
NEVADA'S ANTI-SLAPP
STATUTE, NRS 41.660**

1 Following questions posed and comments made by the Court at the June 5, 2017 hearing, the
2 Abrams Parties¹ request leave of Court to supplement their Omnibus Opposition to the Anti-SLAPP
3 Motions filed by the Schneider Defendants² and the VIPI Defendants³ as follows.

4 The September 29, 2016 hearing was *closed* pursuant to EDCR 5.02(a),⁴ which says:

5 In any contested action for divorce, annulment, separate maintenance, breach of
6 contract or partition based upon a meretricious relationship, custody of children or
7 spousal support, the court must, upon demand of either party, direct that the trial or
8 hearing(s) on any issue(s) of fact joined therein be private and upon such direction, all
persons shall be excluded from the court or chambers wherein the action is heard,
except officers of the court, the parties, their witnesses while testifying, and counsel.

9 By closing the hearing, the District Court (the Honorable Jennifer Elliott) made “private” all
10 matters occurring at the hearing. If Mr. Sanson (or any other member of the public) wanted access
11 to the video from the closed hearing, he had to make a formal request for it so that the parties would
12 have an opportunity to be heard in response to his request.⁵ Mr. Sanson did not do so; instead, he
13 got the video from Mr. Schneider, and then promptly made *public* a hearing that was at all times
14 intended to remain *private*. According to the Nevada Supreme Court, any communications about the
15 private video cannot involve “an issue of public interest” under NRS 41.637(4). *Shapiro v. Welt*,
16 133 Nev., Adv. Op. 6, 389 P.3d 262, 268 (2017) (“[A] person cannot turn otherwise private
17 information into a matter of public interest simply by communicating it to a large number of
18 people.”).

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22 ¹ The “Abrams Parties” refers to Plaintiffs Jennifer V. Abrams (“Ms. Abrams”) and The Abrams & Mayo Law
23 Firm (“Abrams Law”).

24 ² The “Schneider Defendants” refers to Defendants Louis C. Schneider (“Mr. Schneider”) and Law Offices of
Louis C. Schneider, LLC (“Schneider Law”).

25 ³ The “VIPI Defendants” refers to Defendants Steve W. Sanson (“Mr. Sanson”) and Veterans In Politics
26 International, Inc. (“VIPI”).

27 ⁴ See Tr., Sept. 29, 2016, at 3:20-22, attached as Ex. 13 to VIPI Defs.’ Anti-SLAPP Mot.

28 ⁵ The underlying parties did *not* want Mr. Sanson to disseminate the video to others. (See Mot. for Order to
Show Cause, Aff. of Brandon Paul Saiter, ¶ 5, attached as Ex. 9 to VIPI Defs.’ Anti-SLAPP Mot.) In fact, it was the
husband (Mr. Saiter) who contacted YouTube and VIMEO seeking to have the video taken down. (*Id.*, ¶ 6.)

1 It would defy EDCR 5.02(a) if a third person (such as Mr. Sanson) could not physically
2 attend a closed hearing in family court, but could subsequently obtain a video of the closed hearing
3 without notice to all the parties and then, worse, publicize the contents of that video to others in
4 order to try to unfairly influence the outcome of the litigation (i.e., cause Ms. Abrams to withdraw
5 the Sanctions Motion). Thus, in deciding the Schneider Defendants' and VIPI Defendants' Anti-
6 SLAPP Motions, the Court should not find that any member of the public could access and obtain a
7 copy of the video from the September 29, 2016 closed hearing.

8 DATED this 6th day of June, 2017.

9 BAILEY❖KENNEDY

10 By: /s/ Dennis L. Kennedy

11 DENNIS L. KENNEDY
12 JOSHUA P. GILMORE

13 AND

14 JENNIFER V. ABRAMS
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22 *Attorneys for Plaintiffs*
23 Jennifer V. Abrams and The Abrams &
24 Mayo Law Firm
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28

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 6th day of June, 2017, service of the foregoing **PLAINTIFFS' SUPPLEMENT TO THEIR OMNIBUS OPPOSITION TO: 1. 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; 2. SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP); AND 3. DEFENDANTS' SPECIAL MOTION TO DISMISS UNDER NEVADA'S ANTI-SLAPP STATUTE, NRS 41.660** 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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SANSON CORPORATION,
JOHNNY SPICER, KAREN
STEELMON, and DON
WOOLBRIGHT

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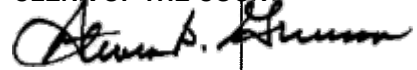
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29

29



1 **SRO**

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10 *Veterans in Politics International, Inc.*

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

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

Plaintiffs,

vs.

LOUIS C. SCHNEIDER; LAW OFFICE OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
SANSON; HEIDI J. HANSUSA;
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

VIPI DEFENDANTS'
SUPPLEMENT TO VIPI
DEFENDANTS' OMNIBUS REPLY
TO:

(1) PLAINTIFFS' OPPOSITION TO
SPECIAL MOTION TO
DISMISS PURSUANT TO NEV.
REV. STAT. § 41.660 (ANTI-
SLAPP);

and

(2) PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS AND
COUNTERMOTION FOR
ATTORNEYS' FEES

Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International ("VIPI") (collectively, the "VIPI Defendants"), by and through their counsel Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Shell LLC, hereby respectfully request leave of the Court to submit this Supplement to the VIPI Defendants' Omnibus Reply Filed on May 30, 2017. Plaintiffs submit this Supplement to address Plaintiffs' Supplement

1 to their Omnibus Opposition to Plaintiffs' Omnibus Opposition (filed with this Court on June
2 6, 2017, after the hearing in this matter) and to address issues raised at the June 5, 2017
3 hearing in this matter concerning the application of Nevada's anti-SLAPP statute to email
4 "blasts."

5 **I. COURT PROCEEDINGS ARE A MATTER OF PUBLIC INTEREST.**

6 The parties have extensively briefed (and argued) the key question in this case—
7 whether the issues Mr. Sanson spoke out about concern a matter of "public interest."¹
8 Plaintiffs take the position that attorney conduct in a taxpayer-funded courtroom is private;
9 the VIPI Defendants contend that they have a First Amendment right to opine on matters
10 such as attorney conduct in court, judges' courtroom management skills, attorney ethics, and
11 sealing practices. In short, Plaintiffs appear to take the position that only lawyers can speak
12 about such matters. The VIPI Defendants vociferously disagree. In an apparent last-ditch
13 effort to save a sinking case, Plaintiffs filed a Supplement to their Opposition arguing that
14 because Judge Elliot temporarily closed the September 26, 2016 hearing in *Saiter v. Saiter*,²
15 the hearing suddenly and permanently no longer involved "an issue of public interest" under
16 Nev. Rev. Stat. § 41.637(4). This argument fails.

17 **A. Closing a Hearing Pursuant to EDCR 5.02 Does Not Involve Any**
18 **Determination of "Public Interest."**

19 First and foremost, it is irrelevant that Judge Elliot closed the hearing pursuant to
20 EDCR 5.02. That a hearing is "closed" or sealed does not change the fact that it is conducted
21 in a publicly-funded courtroom and presided over by a taxpayer-paid and citizen-elected
22

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24 ¹ Contrary to suggestions by Plaintiffs, this Court need not make a normative assessment
25 regarding whether Mr. Sanson's publications furthered the public interest. Nev. Rev. Stat. §
26 41.635 et seq. The statute does not require the Court to evaluate whether statements
27 themselves are in furtherance of the public interest." Instead, "the good faith communication"
must be "in furtherance of ... **the right to free speech** in direct connection with an issue of
public concern." Nev. Rev. Stat. § 41.637 (emphasis added).

28 ² Case No. D-15-521372-D (the "Saiter Matter").

1 judge,³ or that members of the public have a vested interest in access to information about
2 court proceedings and access to justice.⁴ Indeed, members of the public are free to argue that
3 hearings should not be closed, and to fight for access to proceedings and sealed documents.

4 Indeed, the VIPI Defendants have First Amendment rights to discuss issues
5 pertaining to hearings that are closed, and to ask questions about matters implicated during
6 closed hearings such as:

- 7 • Whether a judge properly controls her courtroom;
- 8 • Whether a judge should file a complaint with the State Bar about an
9 attorney's behavior; and
- 10 • Whether such hearings should be closed in the first place.

11 Notably, while Ms. Abrams claims that discussion of these issues has caused her "extreme
12 emotional distress," her embarrassment does not overcome the presumption in favor of
13 public access. As the Nevada Supreme Court has explained,

14 With acute awareness of the presumption favoring public access to judicial
15 records and documents, federal and state courts have decided that a court
16 may exercise its inherent authority to seal those materials only where the
public's right to access is outweighed by competing interests.

17 *Howard v. State*, 128 Nev. Adv. Op. 67, 291 P.3d 137, 141 (2012). Moreover, the Nevada
18 Supreme Court has also made clear that "the desire to avoid unnecessary embarrassment
19 ...alone is insufficient to warrant sealing court records from public inspection." *Id.* at 144.
20 Thus, matters such as Ms. Abrams' behavior at that hearing cannot, despite Plaintiffs'
21 contortions, be characterized as "private information" that Mr. Sanson can be barred from
22 speaking about.

23 ///

24 _____
25 ³ Nor does it change the fact that the video, which Plaintiffs do not dispute is an accurate
26 recording of the hearing, is not even imaginably defamatory; defamation of course requires
27 a false statement of fact. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714, 57 P.3d 82,
87 (2002).

28 ⁴ See VIPI Defendants' Motion to Dismiss Pursuant to Nev. R. Civ. P. 12 (b)(5) at pp. 9-10.

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

8 That Judge Elliot closed the hearing pursuant to EDCR 5.02(a) does not change this
9 analysis. It does not magically take the hearing out of the well-established realm of public
10 access to court proceedings. Nor does it reflect that Judge Elliot made any determination that
11 the interest in privacy outweighed the interest in disclosure, let alone that there was no public
12 interest implicated by the hearing. Indeed, Judge Elliot made no determination of any sort
13 whatsoever—consistent with EDCR 5.02(a), she simply automatically closed the hearing
14 upon Ms. Abrams’ request:

15 MS. ABRAMS: Your Honor, can we ask to close the
16 hearing, please?

17 THE COURT: Sure. All those who are not a party and not
18 representing indiscernible) please exit the courtroom.

19 (*Saiter* 9/20/2016 Tr. (Exh. 13 to VIPI Defendants’ anti-SLAPP Motion) at p. 3:20-25). This
20 is of course consistent with the rule, which mandates that, in family law proceedings such as
21 the *Saiter* Matter, “the court **must**, upon demand of either party, direct that the trial or
22 hearing(s) on any issue(s) of fact joined therein be private and upon such direction, all
23 persons shall be excluded from the court or chambers wherein the action is heard, except
24 officers of the court, the parties, their witnesses while testifying, and counsel.” EDCR 5.02(a)
(emphasis added).

25 **B. Closing a Hearing Does Not Seal a Hearing.**

26 Without any support, Plaintiffs contend that “[i]f Mr. Sanson wanted access to the
27 video from a closed hearing, he had to make a formal request for it so that the parties would
28

1 have an opportunity to be heard in response to his request.” (Supp. Opp., p. 2:10-12.)⁵
2 However, neither sealing a transcript nor closing a hearing transforms court proceedings to
3 wholly private matters outside the protection of the anti-SLAPP statute. In any case,
4 reflecting that EDCR 5.02 provides for automatic closing of hearings upon request by a party
5 without any evaluation of the propriety of closing a matter to public access, closing a hearing
6 does not seal it.

7 This fact is also clear from Plaintiff Abrams’ own actions. Specifically, on October
8 6, 2016—seven days after the hearing—Abrams prepared a separate order sealing the court
9 records pursuant to Nev. Rev. Stat. § 125.110(2). Further, Judge Elliot’s findings in her order
10 vacating the October 6, 2016 sealing order indicate that the video transcript of the hearing
11 was never truly “private.” In that order, Judge Elliot found that the order was
12 unconstitutionally overbroad. (October 6, 2016 Order in Saiter Matter (“Order”) at p. 18:19-
13 23 (Exh. 2 to First Amended Complaint (article containing screenshot of Order)).) Moreover,
14 Judge Elliot noted that although she would not enforce the sealing of the video even though
15 it was circulated after the date of the sealing order because Nev. Rev. Stat. § 125.110(2)
16 “reads as if it is limited to *documents only* and does not give proper notice to anyone as to
17 the prohibitory use of a hearing video as a hearing transcript.” (Order at p. 20:15-22.)

18 Finally, Judge Elliot noted that it is “unquestionably vague as to *how the parties*
19 *were . . . harmed by the posting of the information online.*” (*Id.* at pp. 20:23-21:1.) Although
20 Judge Elliot did note she personally believed it was not “appropriate to . . . post the video on
21
22

23 ⁵ Plaintiffs also contend “Plaintiffs *did* not want Mr. Sanson to disseminate the video to
24 others” and that “...it was the husband (Mr. Saiter) who contacted YouTube and VIMEO
25 seeking to have the video taken down.” (Supp. Opp., p. 2, fn 5 (citing Aff. of Brandon Saiter,
26 ¶¶ 5-6).) It is of note that it was Ms. Abrams and her counsel, Mr. Willick, and Mr. Morales
27 of the Willick Law Group, who contacted Constant Contact in an ongoing effort to interfere
28 with the VIPI Defendants’ work. (See Supplemental Declaration of Steve Sanson (“Supp.
Sanson Dec.” at ¶¶ 4-5, Exh. 15) Willick Law Group sent a formal cease and desist letter and
that Ms. Abrams, Mr. Willick, and Carlos A. Morales of the Willick Law Group also
contacted the company. (*Id.*, ¶ 4, Exh. 14.)

1 the internet” where the parties’ children might have access to it, she acknowledged “there is
2 nothing this Court can do in this case to enforce this viewpoint.” (*Id.* at p. 19:3-10.)

3 In short, the Family Court did not make a determination that the hearing was
4 “private” or any findings or decisions it did make have no bearing on whether Mr. Sanson’s
5 statements at issue are protected by Nevada’s robust anti-SLAPP law. In fact, all the
6 statements at issue are squarely within its protections—and this litigation is exactly what
7 anti-SLAPP laws are designed to protect against. *See John v. Douglas Cnty. Sch. Dist.*, 125
8 Nev. 746, 758, 219 P. 3d 1276, 1284 (2009) (“the statutes create a procedural mechanism to
9 prevent wasteful and abusive litigation...”).⁶

10 **II. EMAIL “BLASTS” ARE PROTECTED BY ANTI-SLAPP STATUTE.**

11 Plaintiffs wrongly argue that anti-SLAPP statutes do not protect speech that is
12 republished via “email blasts” to thousands of members of the public. Nev. Rev. Stat. §
13 41.637 provides, in pertinent part:

14 “Good faith communication in furtherance of the right to petition or the
15 right to free speech in direct connection with an issue of public concern”
means any:

16 ...

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

19 4. Communication made in direct connection with an issue of public
interest in a place open to the public or in a public forum,

20
21 ⁶ While Plaintiffs did finally concede that numerous claims could not be pursued, they did
22 not do so until appearance by new counsel or until the June 5, 2016 hearing. In any case, all
the claims, including the claims dropped at the hearing are subject to anti-SLAPP dismissal.
23 *See Bulletin Displays, LLC v. Regency Outdoor Advert., Inc.*, 448 F. Supp. 2d 1172, 1187
(C.D. Cal. 2006) (a claim should be stricken pursuant to anti-SLAPP law if its “principal
24 thrust” or “gravamen” is tied to protected activity). *See also* Nev. Rev. Stat. § 41.650 (“A
25 person who engages in a good faith communication in furtherance of ...the right to free
speech in direct connection with an issue of public concern is immune from any civil action
26 for claims based upon the communication”). In any case, pursuing baseless claims reflects
the vexatious nature of this litigation, as does Ms. Abrams’ attempt to put Mr. Sanson behind
27 bars in the Saiter Matter. (*See* Exh. 9 to VIPI Defendants’ Anti-SLAPP Motion (p. 17, n. 27
28 (requesting 54 days imprisonment.))) Defendants are each entitled to a damages award of
\$10,000 as well as their fees and costs. Nev. Rev. Stat. § 41.670(1)(a), Nev. Rev. Stat. §
41.670(3)(a).

1 which is truthful or is made without knowledge of its falsehood.

2 As discussed at the hearing in this matter, the statements of opinion at issue in this case
3 arguably fall within Nev. Rev. Stat. § 41.637(3). They also necessarily fall within Nev. Rev.
4 Stat. § 41.637(4). In another contorted effort to take the statements at issue outside of anti-
5 SLAPP protection, Plaintiffs have argued that the statements are not protected under Nev.
6 Rev. Stat. § 41.637(4) because they were not made “in a place open to the public or a public
7 forum.” However, Plaintiffs conflate the test that pertains to evaluating whether a forum is a
8 public forum for the purposes of establishing which level of First Amendment scrutiny
9 applies with the test for application of the anti-SLAPP law,⁷ which is instead concerned with
10 whether a statement is made in public or in private.

11 The fact that the communication is made via email does not make it a private
12 communication or remove it from the public forum. Indeed, as held in *Moreau v. Daily*
13 *Indep.*, 2013 WL 85362 at *4 (E.D. Cal., 2013), “the plain language of [California’s anti-
14 SLAPP statutes applies] to statements made ‘in a place open to the public or a public forum,
15 indicat[ing] that **a public forum need not be open to the public.**” (emphasis added).
16 Nevada’s statute parallels California’s. Nev. Rev. Stat. § 41.637(4). Accordingly,
17 communications are still made in the “public forum” even though they are sent via email
18 blasts to members of the public and land in a place not open to the public—the individual
19 email boxes of the recipients.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ⁷ Plaintiffs’ argument would have the absurd result that newspapers are not entitled to anti-
27 SLAPP protection because they post their content on the Internet while also sending physical
28 newspapers to subscribers’ individual residences or sending news updates by email, which
is of course not the case.

1 The email blasts were public communications, and protected by Nevada’s anti-
2 SLAPP statute. As detailed in the attached supplemental declaration of Steve Sanson, anyone
3 can subscribe to the email list VIPI maintains. VIPI uses Constant Contact, a “mail
4 exploder”⁸ and the same material that VIPI posts on social media is sent out to VIPI’s email
5 list of over 50,000 people. (Supp. Sanson Dec., ¶ 3.) There is nothing private about these
6 communications because they are additionally communicated to the public in this way.

7 The United States Supreme Court has rejected a similar contortion of public versus
8 private that Plaintiffs espouse to try to place the email communications outside the
9 protections of the anti-SLAPP statute. In *Am. Broad. Companies, Inc. v. Aereo, Inc.*, 134 S.
10 Ct. 2498, 2503, 2507-2508, 189 L. Ed. 2d 476 (2014), it evaluated whether, Aereo, a
11 company that transmits television programming via the internet, performs the transmitted
12 works “publicly.” Specifically, the Court rejected the argument that because each individual
13 transmission was to only one subscriber, the transmissions were not “to the public.” *Id.* at
14 2508. Instead, the Supreme Court found, an entity may transmit to the public through a set
15 of actions. *Id.* For example, “an elected official [can] communicate an idea, slogan, or speech
16 to her constituents, regardless of whether she communicates that idea, slogan, or speech
17 during individual phone calls to each constituent or in a public square.” *Id.* The Court further
18 found that, much like the subscribers to VIPI’s email list, the subscribers to whom Aereo
19 transmits television programs constitute “the public.” It noted that “Aereo communicates the
20 same contemporaneously perceptible images and sounds to a large number of people who
21 are unrelated and unknown to each other.” *Id.* at 2509–10.

22 Just as it would have led to absurd results under the Copyright Act to find that
23 transmissions were not public transmissions because they were made to subscribers via the

24
25 ⁸ A “mail exploder” is “part of an electronic mail delivery system which allows a message to
26 be delivered to a list of addresses. Mail exploders are used to implement mailing lists; users
27 send messages to a single address and the mail exploder takes care of delivery to the
28 individual mailboxes on the list.”

See <http://www.webster-dictionary.org/definition/mail%20exploder> (last checked
6/8/2017).

1 Internet, Plaintiffs' argument in this case that email transmissions to over 50,000 people are
2 not public would lead to absurd results under Nevada's anti-SLAPP statute.

3 Respectfully submitted this 9th day of June, 2017.

4
5 /s/ Margaret A. McLetchie

6 MARGARET A. MCLETCHE, Nevada Bar No. 10931

7 ALINA M. SHELL, Nevada Bar No. 11711

8 **MCLETCHE SHELL LLC**

9 701 East Bridger Ave., Suite 520

10 Las Vegas, Nevada 89101

11 Telephone: (702) 728-5300

12 Facsimile: (702) 425-8220

13 Email: maggie@nvlitigation.com

14 *Attorneys for Defendants Steve W. Sanson and*

15 *Veterans in Politics International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2017, I served a true and correct copy of the foregoing VIPI DEFENDANTS' SUPPLEMENT TO VIPI DEFENDANTS' OMNIBUS REPLY TO: (1) PLAINTIFFS' OPPOSITION TO SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP); and (2) PLAINTIFFS' OPPOSITION TO MOTION TO DISMISS AND COUNTERMOTION FOR ATTORNEYS' FEES via electronic service using Odyssey File & Serve's electronic court filing system and, pursuant to NRCP 5(b)(2)(B), by First Class United States Mail, postage fully prepaid, to the following:

Jennifer V. Abrams, Esq.
THE ABRAMS & MAYO LAW FIRM
6252 S. Rainbow Blvd., Suite 100
Las Vegas, NV 89118

Marshal Willick, Esq.
WILLICK LAW GROUP
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110

Dennis L. Kennedy
Joshua P. Gilmore
BAILEY KENNEDY
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Las Vegas, NV 89148
Attorneys for Plaintiffs

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POTTER LAW OFFICES
1125 Shadow Lane
Las Vegas, NV 89102
Attorneys for Schneider Defendants

Alex Ghibaud, Esq.
G LAW
703 S. Eighth Street
Las Vegas, NV 89101
*Attorney for Defendants Ortiz, Hanusa,
Spicer, Steelmon, Woolbright, and Sanson
Corporation*

/s/ Pharan Burchfield
EMPLOYEE of McLetchie Shell LLC

1 Margaret A. McLetchie, Nevada Bar No. 10931
2 MCLEATCHIE SHELL LLC
3 701 East Bridger Ave., Suite 520
4 Las Vegas, NV 89101
5 Telephone: (702) 728-5300
6 Facsimile: (702) 425-8220
7 Email: maggie@nvlitigation.com
8 *Attorneys for Defendants STEVE W. SANSON*
9 *and VETERANS IN POLITICS INTERNATIONAL, INC.*

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Case No.: A-17-749318-C

Dept. No.: XII

DECLARATION

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.

**SUPPLEMENTAL DECLARATION OF STEVE SANSON IN SUPPORT OF
SPECIAL ANTI-SLAPP MOTION TO DISMISS**

I, STEVE SANSON, hereby declare as follows:

1. I make this declaration in support of my Special Anti-SLAPP Motion to Dismiss. This declaration based on my personal knowledge, except as to matters stated to be based on information and belief. I am competent to testify as to the truth of these statements if called upon to do so.

2. I am the President of Defendant Veterans in Politics International, Inc. ("VIPI"). VIPI is a non-profit corporation that advocates on behalf of veterans and that works to expose public corruption and wrongdoing. We routinely publish articles online on our

1 VIPI website, various Facebook pages and through group emails. We also host an online
2 weekly talk show which features public officials and others who discuss veterans, political,
3 judicial and other issues of public concern.

4 3. The emails I sent and send (via Constant Connect) go out to a list of over
5 50,000 people. VIPI adds people to Constant Contact list and people also sign up for emails
6 themselves via Constant Contact. I do not know everyone on the list and the email "blasts"
7 are public transmissions, not private email communications. The intent of the emails is to
8 actively deliver the messages we post on our website and Facebook page (and other social
9 media) to a broader, more targeted audience. Via Constant Contact, I use a template to create
10 an email blast and schedule the delivery of an email; at the same time, I schedule the same
11 message to be contemporaneously posted to social media. The emails pertaining to Family
12 Court, Judge Elliot, and Ms. Abrams were sent via this method.

13 4. Attached as Exhibit 14 is a true and correct copy of a February 6, 2017 email
14 I received from Constant Contact, informing me that the Willick Law Group sent a formal
15 cease and desist letter and that Ms. Abrams, Mr. Willick, and Carlos A. Morales of the
16 Willick Law Group also contacted the company. While, after significant efforts and the
17 expenditure of attorney time, I was able to re-open my account, the requests from the Willick
18 Law Group, Ms. Abrams, Mr. Willick, and Carlos A. Morales led to the shut-down of VIPI's
19 account, which greatly interfered with its ability to communicate with members of the public.

20 5. Attached as Exhibit 15 is a true and correct copy of a February 1, 2017 email
21 I received from Constant Contact suspending service.

22 I declare under penalty of perjury under the laws of the State of Nevada that the
23 foregoing is true and correct to the best of my knowledge and belief.

24
25 Dated this 8th day of June, 2017 in Las Vegas, NV.


26
27 
28 Steve Sanson

EXHIBIT 14

From: Megen MacKenzie <megen.mackenzie@endurance.com>
To: devildog1285 <devildog1285@cs.com>
Subject: Constant Contact follow up
Date: Mon, Feb 6, 2017 2:18 pm

Hello Steve,

Our legal department generally does not forward on any legal documents we receive from attorneys because we do not want to get involved in legal disputes. However, I can send you the attorney's contact information and you can request they send you the documents.

Additionally, we also received a formal cease and desist letter on the account this week from Willick Law Group.

The attorneys who have contacted us are:

Carlos A. Morales, Esq.

Willick Law Group

3591 E. Bonanza Road, Ste. 200

Las Vegas, NV 89110-2101

ph. 702/438-4100 x 128

fax 702/438-5311

e-mail: Carlos@willicklawgroup.com

main website: www.willicklawgroup.com

QDRO website: www.qdromasters.com

Marshal S. Willick, Esq.

3591 E. Bonanza Road, Ste. 200

Las Vegas, NV 89110-2101

Fellow, American Academy of Matrimonial Lawyers

Fellow, International Academy of Family Lawyers

Certified Specialist in Family Law, Nevada Board of Legal Specialization & NBTA

ph. 702/438-4100 x 103

fax 702/438-5311

e-mail: marshal@willicklawgroup.com

main website www.willicklawgroup.com

QDRO website: www.qdromasters.com

Jennifer V. Abrams, Esq.

JVA000880

Board Certified Family Law Specialist

Fellow of the American Academy of Matrimonial Lawyers

THE ABRAMS & MAYO LAW FIRM

6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

Tel: (702) 222-4021

Fax: (702) 248-9750

www.TheAbramsLawFirm.com

If you have any questions, please contact Patty Andrews, I believe you spoke with her this past week regarding this account. Her direct line is 781-482-7466.

Thank you,

Megen

--

Megen MacKenzie

Legal Compliance Coordinator

Constant Contact

3675 Precision Dr,

Loveland, CO 80538

Email: mmackenzie@constantcontact.com

Phone: (970) 203-7345

Fax: (781) 652-5130

Web: www.constantcontact.com

JVA000881

EXHIBIT 15

From: Megen MacKenzie <megen.mackenzie@endurance.com>
To: devildog1285 <devildog1285@cs.com>
Subject: Constant Contact Account
Date: Wed, Feb 1, 2017 11:26 am

Dear Mr. Sanson,

Due to a number of legal complaints that Constant Contact has received regarding your account, we must suspend services. We have received multiple allegations of copyright and trademark infringement which are a violation of our terms and conditions. Per our Terms and Conditions we reserve the right to terminate your services at any time, please see "section 8. Termination."

I've provided a copy of our terms and conditions here for your reference:

<https://www.constantcontact.com/legal/terms>

Please contact me with any questions.

Thank you,

--

Megen MacKenzie
Legal Compliance Coordinator
Constant Contact
3675 Precision Dr,
Loveland, CO 80538
Email: mmackenzie@constantcontact.com
Phone: (970) 203-7345
Fax: (781) 652-5130
Web: www.constantcontact.com

JVA000883

EXHIBIT 2-A

Julie Schoen

Subject: FW: Saiter v. Saiter

From: Louis Schneider [mailto:lcslawllc@yahoo.com]
Sent: Thursday, September 15, 2016 8:57 AM
To: Brandon Leavitt
Cc: Stephanie Stolz
Subject: Re: Saiter v. Saiter

I've had about all I can take.
Withdraw your Motion and I'll withdraw from the case.
Be advised - Tina has asked me not to leave the case.
I was getting ready to withdraw my motion to withdraw.
If your firm does not withdraw that motion, I will oppose it and take additional action beyond the opposition.

Law Office of Louis C. Schneider

Nevada Bar No. 9683
430 South Seventh Street
Las Vegas, Nevada 89101
Phone: 702-435-2121
Fax: 702-431-3807

CONFIDENTIALITY WARNING: This e-mail and any attachments are for the exclusive and confidential use of the intended recipient. If you are not the intended recipient, please do not read, distribute or take action in reliance upon this missive. If you have received this in error, please notify the sender immediately by reply e-mail and delete this message and its attachments from your computer system. We do not waive any attorney-client, work product or other privilege by sending this email or attachment.

From: Brandon Leavitt <BLEavitt@theabramslawfirm.com>
To: Louis Schneider <lcslawllc@yahoo.com>
Cc: Stephanie Stolz <sstolz@theabramslawfirm.com>
Sent: Thursday, September 15, 2016 8:50 AM
Subject: Saiter v. Saiter

PERSONAL AND CONFIDENTIAL

The information contained in this e-mail is from The Abrams & Mayo Law Firm which may be confidential and may also be attorney-client privileged. The information is intended for the use of the individual or entity to whom it is addressed and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby instructed to return this e-mail unread and delete it from your inbox and recycle bin. You are hereby notified that any disclosure, dissemination, distribution, use or copying of the contents of this information is strictly prohibited.

Lou,

I was CC'd on an email from your client to you requesting you to give me permission to speak with her directly. 1) Do I have your permission to do so?; and 2) Will you allow the department to Zoom your Order to Withdraw so I can attempt to button this matter up?

I'm hamstrung until you allow me to work with her directly or withdraw so I can. Please advise. Thanks.

Sincerely,
Brandon K. Leavitt, Esq.
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
www.TheAbramsLawFirm.com

[Spam](#)
[Phish/Fraud](#)
[Not spam](#)
[Forget previous vote](#)

EXHIBIT 3

DECLARATION OF DAVID J. SCHOEN, IV

I, David J. Schoen, IV, declare as follows:

1. I am a resident of Clark County, Nevada, and a paralegal for The Abrams & Mayo Law Firm, which is a party in the matter entitled *Abrams v. Schneider*, No. A-17-749318-C, which is pending in Department XII of Nevada's Eighth Judicial District Court.

2. I am competent to testify to the facts stated herein, which are based on personal knowledge unless otherwise indicated, and if called upon to testify, I could and would testify competently to the following.

3. I make this Declaration in support of Plaintiffs' Omnibus Opposition to: (1) 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; (2) Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP); and (3) Defendants' Special Motion to Dismiss Under Nevada's Anti-SLAPP Statute, NRS 41.660.

4. On or about December 21, 2016, I discovered that Defendants had posted a series of videos on Steve Sanson's ("Mr. Sanson") YouTube channel from a divorce action in which The Abrams & Mayo Law Firm represent the husband (collectively, the "Inspection Videos").

5. The Inspection Videos disclose my personal and private information.

6. After trading calls back and forth, I spoke with Mr. Sanson by phone for 78 minutes on the morning of December 22, 2016.

7. I asked Mr. Sanson if he would remove the Inspection Videos from the internet, or, at minimum, blur my face and omit my personal information.

8. Mr. Sanson refused.

9. Although I attempted to discuss some of the larger issues in the Family Division, it was evident that Mr. Schoen had no interest in problem solving.

10. Mr. Sanson was focused so heavily on attorney conduct that he had little regard for the qualifications and/or quality of the time Judges put into their cases.

1 11. I made notes following my December 22, 2016 conversation with Mr. Sanson,
2 to later refresh my recollection. My notes remind me that Mr. Sanson made the following,
3 specific allegations:

- 4 a. Ms. Abrams, The Abrams & Mayo Law Firm, and I “bullied” and “forced”
5 Yuliya in “unlawfully” entering her home, or words to that effect;
- 6 b. Jennifer Abrams is “unethical and a criminal,” or words to that effect;
- 7 c. Jennifer Abrams “doesn’t follow the law,” or words to that effect; and
- 8 d. Jennifer Abrams was “breaking the law by sealing her cases,” or words to that
9 effect.

10 12. During the December 22, 2016 conversation, I told Mr. Sanson that it was
11 obvious that Louis Schneider (“Mr. Schneider”) provided him with a copy of the September
12 29, 2016 “closed hearing” video. Mr. Sanson did not deny that he received the video from
13 Mr. Schneider and responded: “yeah, okay,” or words to that effect.

14 13. During the December 22, 2016 conversation with Mr. Sanson, he incorrectly
15 alleged that he had a right under “the Freedom of Information Act” to disseminate the
16 “Sanctions Hearing Video.”

17 14. During the December 22, 2016 conversation with Mr. Sanson, he also said
18 that:

- 19 a. Jennifer Abrams is on his “priority list” because she “insulted [his]
20 intelligence” by having him served with an order, allegedly “when the court
21 had no jurisdiction over [him],” or words to that effect;
- 22 b. Jennifer Abrams “started this war,” and had she just withdrawn the Motion
23 after the initial article and video (i.e., the “Attack” article), he never would
24 have “kept digging,” or words to that effect;
- 25 c. He is in possession of “dozens of hours” of hearing videos from multiple
26 cases where Jennifer Abrams is counsel of record, or words to that effect; and

27 ///

1 d. "Jennifer is in bed with Marshal Willick, that explains a lot about the kind of
2 person she is," or words to that effect.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 EXECUTED on this 28th day of April, 2017.

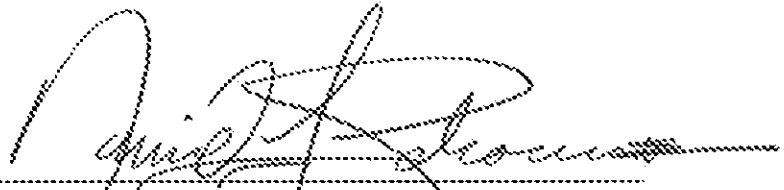
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7 David J. Schoen, IV
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EXHIBIT 4

1 **DECLARATION OF JENNIFER V. ABRAMS, ESQ.**

2 I, Jennifer V. Abrams, Esq.,

3 1. I am a resident of Clark County, Nevada, and a principal in The Abrams &
4 Mayo Law Firm, and a Plaintiff in the matter entitled *Abrams v. Schneider*, No. A-17-
5 749318-C, which is pending in Department XII of Nevada's Eighth Judicial District Court.

6 2. I am competent to testify to the facts stated herein, which are based on
7 personal knowledge unless otherwise indicated, and if called upon to testify, I could and
8 would testify competently to the following.

9 3. I make this declaration in support of Plaintiffs' Omnibus Opposition to (1)
10 Schneider Defendants' Special Motion to Dismiss Plaintiffs' SLAPP Suit Pursuant to NRS
11 41.660 and Request for Attorney's Fees, Costs, and Damages Pursuant to NRS 41.670; (2)
12 Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP); and (3)
13 Defendants' Special Motion to Dismiss Under Nevada's Anti-SLAPP Statute, NRS 41.660.

14 4. On September 12, 2016, Abrams & Mayo filed a Motion for Sanctions and
15 Attorney's Fees ("Motion for Sanctions") under NRS 7.085, NRCP 11, and EDCR 7.60
16 against Louis Schneider ("Mr. Schneider") in Case Number D-15-521372-D (the "Family
17 Law Case").

18 5. The Motion for Sanctions was based on Ms. Schneider's improper behavior,
19 which included, misrepresentations to the Court, falsifying documents submitted to the
20 Court, and failure to follow discovery rules.

21 6. At the hearing on the Motion for Sanctions, Judge Elliott requested additional
22 briefing before making a decision; however subsequently closed the case without explanation
23 while the Motion for Sanctions was still pending.

24 7. The video of the hearing on the Motion for Sanctions was made available on
25 Odyssey via "Attorney Corner" on or about September 30, 2017 and was accessible only to
26 counsel for the parties in the Family Law Case—i.e., the Abrams Parties and the Schneider
27 Defendants.

1 8. On October 5, 2016, the Sanctions Hearing Video appeared online.

2 9. In order to protect the client's privacy rights (including the four children—
3 three of whom have Facebook pages—who would undoubtedly be traumatized if they, their
4 peers, teachers, relatives, etc. saw their parents' personal divorce videos and court filings on
5 the internet), I contacted Judge Elliott and informed her that the Sanctions Hearing Video
6 was disseminated and posted to YouTube by VIPI. A true and correct copy of that email and
7 the subsequent emails in the chain are attached as Exhibit 4-A.

8 10. On October 5, 2016, at 6:46 p.m., I contacted Judge Elliott and Mr. Schneider
9 to ask if either of them knew how Mr. Sanson obtained the Sanctions Hearing Video.

10 A. Judge Elliott emailed me a response. A true and correct copy of that email is
11 attached as Exhibit 4-B.

12 B. Mr. Schneider did not respond.

13 11. Given the VIPI Defendants' obstinacy, Judge Elliott entered an Order
14 Prohibiting Dissemination of Case Materials (the "Prohibition Order") and an Order to Seal
15 Records on October 6, 2016.

16 12. Defendants were all served with the Prohibition Order on October 8, 2016.

17 13. In addition to publishing articles online on VIPI's website and YouTube
18 channel, VIPI emails its members via its subscription list.

19 14. VIPI further disseminates its articles by posting excerpts and links to them on
20 VIPI's various social media pages and the social media pages for third-parties such as the
21 Facebook groups Nevada COURT Watchers and Family Court Support Group (Clark
22 County, NV).

23 15. I believe that Abrams & Mayo (and therefore I) have suffered economic
24 damages as a result of the Smear Campaign in the form of lost time, lost business, etc.

25 16. I have suffered severe emotional distress as a result of the Smear Campaign
26 and the constant onslaught of internet posts.

1 17. In order to fully defend against this Motion, Plaintiffs need more time and
2 access to evidence that is within the Defendants' possession.

3 18. In particular, Plaintiffs need:

- 4 a. Additional information about each Party's responsibilities, role, actual
5 knowledge, and access to VIP's online accounts;
6 b. Discovery to identify any additional publication of the Defamatory statements,
7 and determine what additional methods and forums were used;
8 c. Discovery to identify the amounts and timing of payments from the Schneider
9 Defendants to the VIP Defendants;
10 d. Obtain additional facts regarding the membership, administration and use of
11 VIP's email subscription list; and
12 e. To challenge any later-made statements regarding the Defendants' knowledge
13 and reasoning regarding the Defamatory Statements.

14 19. In the Family Law Case, I served a subpoena for a copy Mr. Schneider's
15 request that the Sanctions Hearing Video to be uploaded to Odyssey. Attached as Exhibit 4-
16 C is a true and correct copy of the email I received in response to the subpoena.

17 20. Attached as Exhibit 4-D is a true and correct copy of a print-out of VIP's
18 homepage as it appeared on April 28, 2017.

19 21. Attached as Exhibit 4-E is a true and correct copy of a print-out of VIP's
20 "Goals and Values" page of its website as it appeared on April 28, 2017.

21 I declare under penalty of perjury that the foregoing is true and correct.

22 EXECUTED on this 28th day of April, 2017.

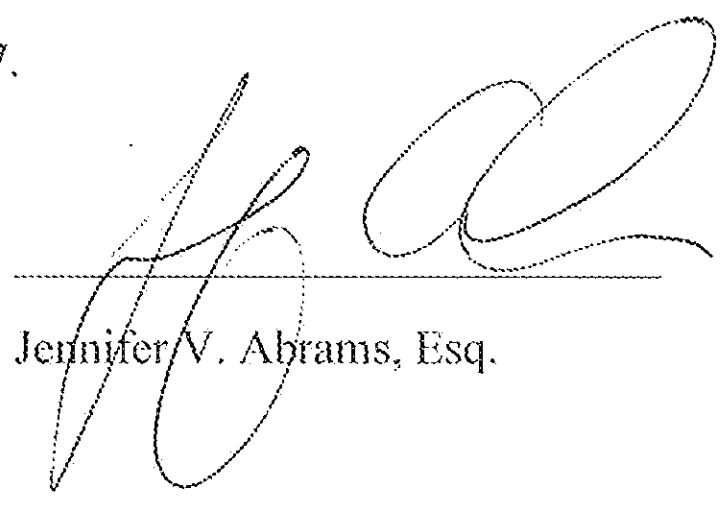
23
24
25 
26 Jennifer V. Abrams, Esq.
27

EXHIBIT 4-A

From: Julie Schoen <JSchoen@theabramslawfirm.com>
Sent: Tuesday, April 18, 2017 10:06 AM
To: Kelly Stout
Subject: FW: Nevada Attorney attacks a Clark County Family Court Judge in Open Court
Attachments: REDACTED - Attorney Client Privileged Communication

PERSONAL AND CONFIDENTIAL

The information contained in this e-mail is from The Abrams & Mayo Law Firm which may be confidential and may also be attorney-client privileged. The information is intended for the use of the individual or entity to whom it is addressed and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby instructed to return this e-mail unread and delete it from your inbox and recycle bin. You are hereby notified that any disclosure, dissemination, distribution, use or copying of the contents of this information is strictly prohibited.

REDACTED - Attorney Client Privileged Communication

Begin forwarded message:

From: <veteransinpoliti@cs.com>
Date: October 10, 2016 at 10:02:47 PM PDT
To: <jabrams@theabramslawfirm.com>, <ElliottJ@clarkcountycourts.us>
Cc: <lcslawllc@yahoo.com>, <vipipresident@cs.com>
Subject: Re: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

Jennifer Abrams, I was waiting for you to directly communicate with me. Some of the legal opinions we provided talks about family court in addition the NRS we provided does not discriminate between family, civil, criminal, probate, bankruptcy you get the picture.

But what I find intriguing is that you think because you are not elected that you are somehow untouchable to the media, then tell that to Lisa Willardson, David Amesbury, Nancy Quon, David Schubert, Barry Levinson, Noel Gage and Richard Crane all Nevada Attorneys not elected and never ran for public office, just to name a few.

Don't forget you practice law in a taxpayer's courtroom.

-----Original Message-----

From: Jennifer Abrams <jabrams@theabramslawfirm.com>

To: 'veteransinpoliti@cs.com' <veteransinpoliti@cs.com>; ElliottJ <ElliottJ@clarkcountycourts.us>

Cc: lcsllawllc <lcsllawllc@yahoo.com>; vipipresident <vipipresident@cs.com>

Sent: Mon, Oct 10, 2016 7:03 pm

Subject: RE: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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Mr. Sanson,

Whoever provided you with the legal analysis below is mistaken. I am not providing you with legal advice here but the authority you cite deals with civil, not family law cases. The hearing was closed and such was announced at the very beginning. See EDCR 5.02, NRS 125.080, and NRS 125.110. I had the case sealed at my client's request because he does not want his children, their friends, or anyone in his circle of friends, family, or business associates to see his private divorce proceedings broadcast on the internet.

The Freedom of Information Act is inapplicable — it applies to the Federal Government, not State divorce cases. And most importantly, I am not a public figure or an elected official. I am a private citizen with a private law practice. The umbrella of "a journalist" does not apply as I am not running for public office and there are no "voters" that have any right to know anything about my private practice or my private clients.

I am a zealous advocate and will continue to pursue my client's interests without any hesitation whatsoever.

Sincerely,

Jennifer V. Abrams, Esq.

Board Certified Family Law Specialist

Fellow of the American Academy of Matrimonial Lawyers

THE ABRAMS & MAYO LAW FIRM

6252 South Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

Tel: (702) 222-4021

Fax: (702) 248-9750

www.TheAbramsLawFirm.com

From: veteransinpoliti@cs.com [mailto:veteransinpoliti@cs.com]

Sent: Monday, October 10, 2016 4:08 PM

To: ElliottJ@clarkcountycourts.us

Cc: Jennifer Abrams; lcsllawllc@yahoo.com; vipipresident@cs.com

Subject: Re: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

Judge Elliot and all involved.

I have to admit this seal that was done on this case is the fastest I have ever

seen family court or any court in this state move. Now, I know they have the capability to be fast.

I have talked to many lawyers and Judges, I even spoke to a Justice in DC just to make sure I had all my facts correct.

I must say that you can not seal a case just to seal a case, especially if one of the reasons its been done is to shield the attorney and not the litigants I am referring to Abrams email to you Judge, she said the following (Further, the information is inaccurate and intended to place me in a bad light). Is she protecting herself? Absolutely.

When we expose folks we do it under the umbrella of a journalist and we use the Freedom of information Act.

The case was sealed without a hearing and the video was requested, paid for and posted prior to the sealing. The order to seal the case can not be retroactive.

I have also taking the liberty to investigate the following, general rules on sealing: http://www.leg.state.nv.us/courtrules/SCR_RGSRCR.html (see particularly 3-1 and 4). The entire case cannot be sealed. RJ article: <http://www.reviewjournal.com/news/standards-sealing-civil-cases-tougher> from when current rules went in. Policy discussion in a criminal case, first couple of pages of https://scholar.google.com/scholar_case?case=6580253056313342241&q=seal+court+record&hl=en&as_sdt=4,29 A unanimous NV opinion keeping records of a divorce open (involving a former judge) https://scholar.google.com/scholar_case?case=3787817847563480381&q=seal+court+record&hl=en&as_sdt=4,29.

It looks like the Nevada State Supreme Court has strict rules on sealing cases as well.

We might have sent out the second article prematurely.. We have also received numerous attorneys pointing us in the direction of other cases Abram's have had her outburst and bullied other Judges and Attorneys. Is she going asked for those cases to be sealed as well?

In addition, we are going to ask for an opinion from the Nevada Judicial Discipline Commission and Nevada State Bar in regards to the sealing of this case.

Steve Sanson

President Veterans In Politics International
702 283 8088

-----Original Message-----

From: Elliott, Jennifer <ElliottJ@clarkcountycourts.us>

To: veteransinpoliti <veteransinpoliti@cs.com>

Cc: jabrams <jabrams@theabramslawfirm.com>; lcslawllc <lcslawllc@yahoo.com>; vipipresident <vipipresident@cs.com>

Sent: Thu, Oct 6, 2016 4:00 am

Subject: Re: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

Hi Steve, thank you for your quick response. I need you to know that I was wrong regarding the finances as they had been disclosed at the outset of the case, from the first filing, albeit late. At the further hearing we had in this matter I put on the record that I believe that he did not hide anything on his financial disclosure form; it was a misunderstanding that was explained and the record was corrected. We thereafter worked out all the remaining financial matters in the Decree. The hearing that you have was the pinnacle of the conflict between counsel and unfortunately this was affecting the resolution of the case.

A case always goes much better when the attorneys are able to work well together and develop more trust from the beginning. The ability to build trust in this case went south from the gate and created a dynamic that was toxic to seeing and reaching the merits of the case. Thus pleadings filed were accusatory on both sides and a court only knows what comes before it through papers properly filed or reports that have been ordered.

At this juncture it is my belief that both sides felt all financial information had truly been revealed and that both adjusted their positions enough to achieve a solution that was acceptable to both parties.

I understand that VIP does try to educate and provide information to voters so they will be more informed about who they are putting into office. In this case, the dynamic and the record was changed for the better after that hearing. I think that information would be important to the voters as well. It is my hope that you will reconsider your position. Thank you Steve!

Sent from my iPhone

On Oct 5, 2016, at 11:16 PM, "veteransinpoliti@cs.com" <veteransinpoliti@cs.com> wrote:

Hi Judge;

I respect you reaching out and asking us to take the video down. We have known you for a very long time, and I know that you understand once we start a course of action we do not raise our hands in defeat. However, with that said we have no intentions on making the litigants uncomfortable, but our job is the expose folks that have lost their way.. Maybe the attorney for the plaintiff should have put her client before her own ego and be respectful of the court, be respectful of her client, advise her client not to perjure himself, treat people with respect (her own co-council she told him to sit down), the years we have been doing this we are tired of attorneys running a tax payers courtroom. They feel that they are entitled and they will walk over anybody to make a buck.

In combat we never give up and we will not start given up,

because we exposed someone.

Steve Sanson
President Veterans In Politics International
www.veteransinpolitics.org
702 283 8088

-----Original Message-----

From: Elliott, Jennifer <ElliottJ@clarkcountycourts.us>
To: veteransinpoliti <veteransinpoliti@cs.com>; jAbrams
<jAbrams@theabramslawfirm.com>
Sent: Wed, Oct 5, 2016 6:02 pm
Subject: Fwd: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

Hi Steve,

I was made aware of this video today and would kindly request that VIP please take it down. Since this hearing the court and parties worked further on resolving the issues and the case was resolved. Leaving this video up can only serve to inflame and antagonize where the parties are trying to move on with terms that will help them restructure their lives in two different homes. We all hope for the best post-divorce atmosphere; the parties will be working together to co-parent their children and I would loath to think they or their friends would encounter this and have to feel the suffering of their parents or relive their own uncomfortable feelings of loss. I know you care about children and families as much as you do about politics and justice, and I appreciate your courtesy in this regard. Thank you for your anticipated cooperation, Judge Jennifer Elliott

Begin forwarded message:

From: Jennifer Abrams <jAbrams@theabramslawfirm.com>
Date: October 5, 2016 at 1:48:20 PM PDT
To: "elliotti@clarkcountycourts.us" <elliotti@clarkcountycourts.us>
Cc: Louis Schneider <lcslawllc@yahoo.com>
Subject: Fwd: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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Judge Elliott,

The below was brought to my attention. These parties don't need a video or other information about their personal divorce posted on the internet. Further, the information is inaccurate and intended to place me in a bad light. I ask that you please demand that this post, video, etc. be immediately removed.

Mr. Schneider is copied on this email.

JVA

Begin forwarded message:

From: Marshal Willick <marshal@willicklawgroup.com>
Date: October 5, 2016 at 11:02:11 AM PDT
To: "Jennifer V. Abrams Esq."
(jabrams@theabramslawfirm.com)"
<jabrams@theabramslawfirm.com>,
"vafasedek3@gmail.com" <vafasedek3@gmail.com>
Subject: FW: [Junk released by Allowed List] Nevada
Attorney attacks a Clark County Family Court Judge
in Open Court

Marshal S. Willick

From: Veterans In Politics International Inc.
(<mailto:devildog1285@cs.com>)
Sent: Wednesday, October 05, 2016 9:59 AM
To: Marshal Willick
Subject: [Junk released by Allowed List] Nevada
Attorney attacks a Clark County Family Court Judge in
Open Court

Having trouble viewing this email? [Click here www.veteransinpolitics.org](http://www.veteransinpolitics.org)

Hi, just a reminder that you're receiving this email because you have expressed an interest in Veterans In Politics International Inc.. Don't forget to add devildog1285@cs.com to your address book so we'll be sure to land in your inbox!

You may [unsubscribe](#) if you no longer wish to receive our emails.



Nevada Attorney attacks a

Clark County Family Court Judge in Open Court

*A behind the scenes look
inside our courtroom*

[FIND OUT MORE](#)



No boundaries in our courtrooms!

In Clark County Nevada, we have noticed Justice of the Peace handcuffing Public Defenders unjustly as well as Municipal Court Judges incarcerating citizens that are not even before their court.

The above are examples of the court room over stepping boundaries. But what happens when a Divorce Attorney crosses the line with a Clark County District Court Judge Family Division?

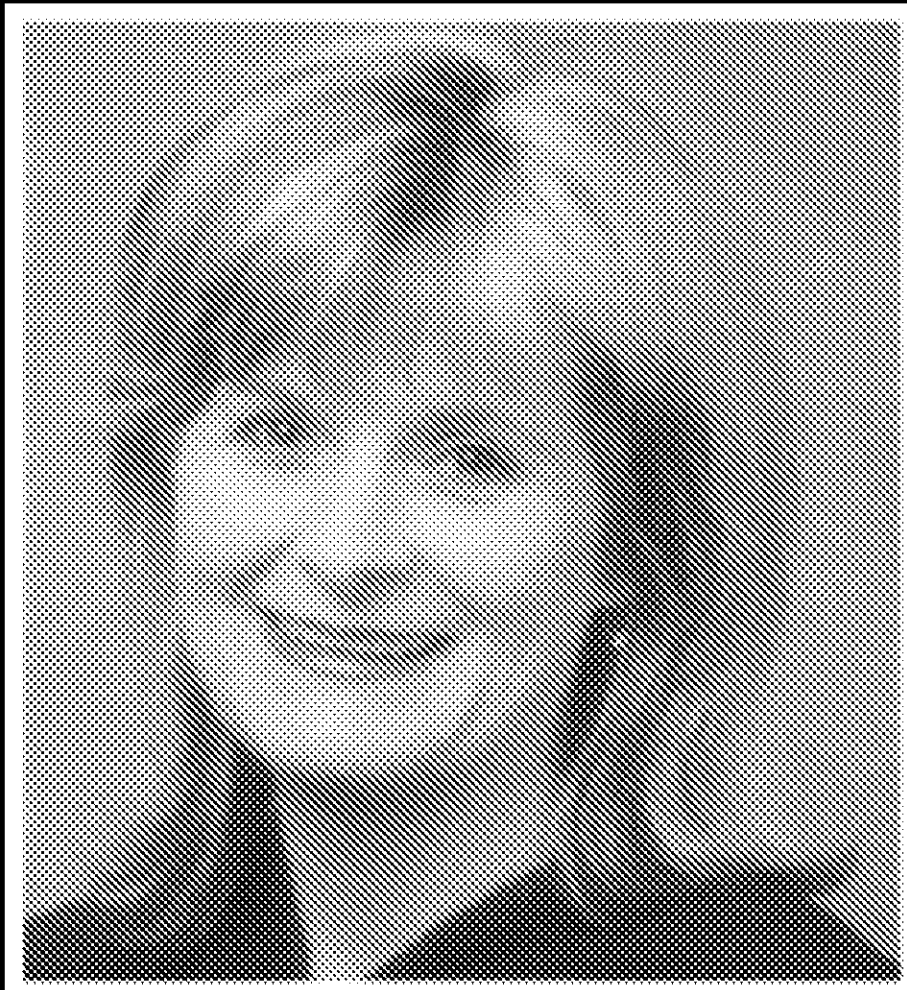
In a September 29, 2016 hearing in Clark County Family Court Department L Jennifer Abrams representing the plaintiff with co-council Brandon Leavitt and Louis Schneider representing the defendant. This case is about a 15 year marriage, plaintiff earns over 160,000 annually and defendant receives no alimony and no part of the business.

There was a war of words between Jennifer Abrams and Judge Jennifer Elliot.



Start 12:13:00 in the video the following conversation took place in open court.

Judge Jennifer Elliot:



I find that there is undue influence in the case.

There are enough ethical problems don't add to the problem.

If that's not an ethical problem I don't know what is.

Court is charged to making sure that justice is done.

Your client lied about his finances.

I am the judge and in a moment I am going to ask you to leave.

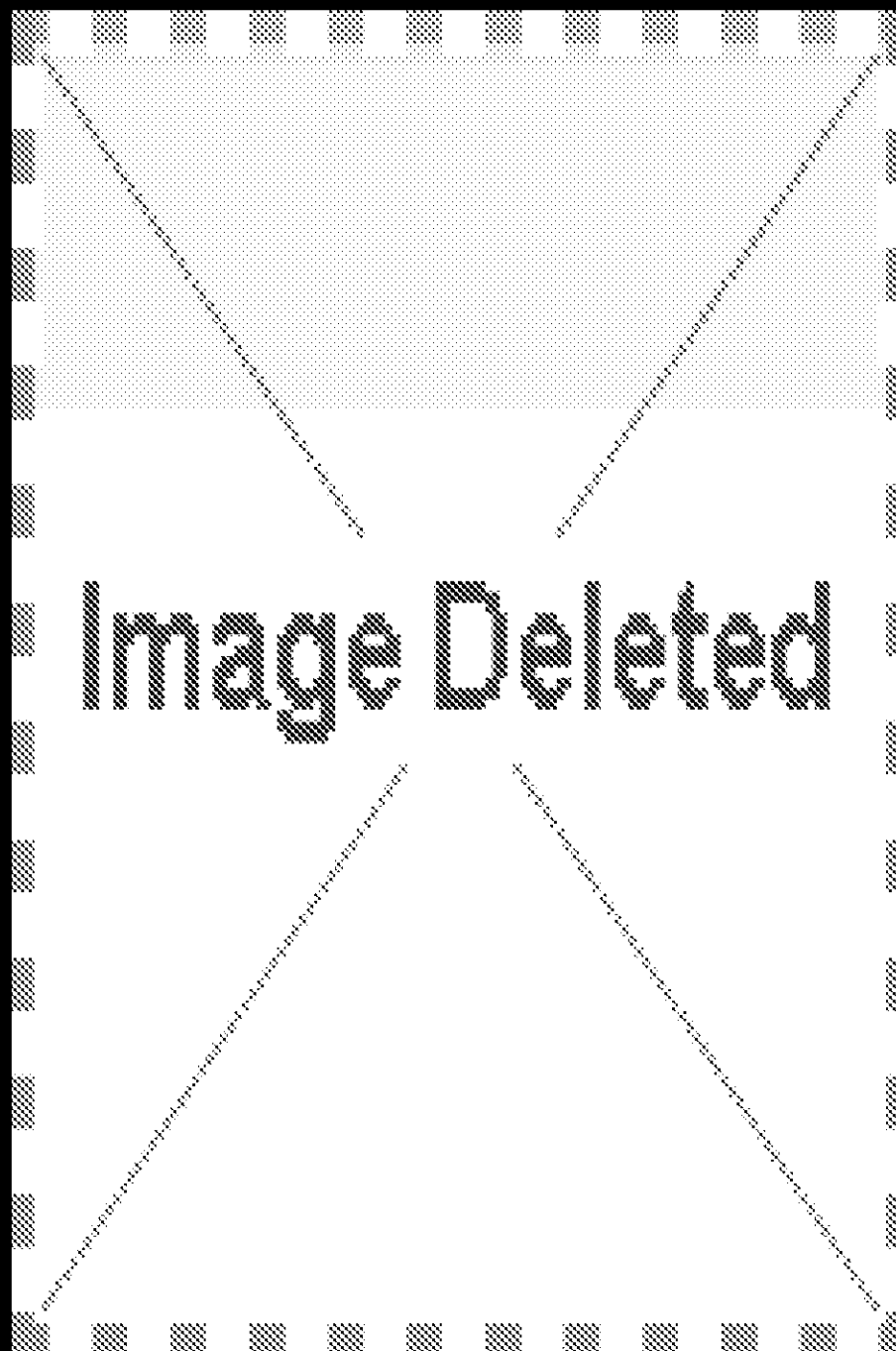
Your firm does this a lot and attack other lawyers.

I find it to be a pattern with your firm.

You are going to be taking out of here if you don't sit down.

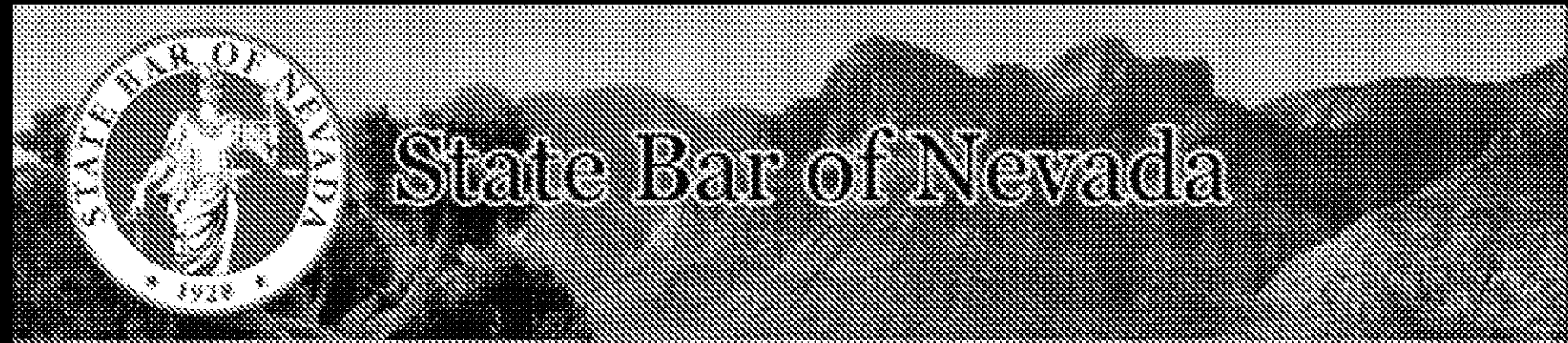
I am the Judge not you.

Jennifer Abrams:



Excuse me I was in the middle of a sentence.

Is there any relationship between you and Louis Schneider?



At what point should a judge sanction an attorney?

Is a judge too comfortable or intimidated by an attorney that they give them leeway to basically run their own courtroom?

If there is an ethical problem or the law has been broken by an attorney the Judge is mandated by law to report it to the Nevada State Bar or a governing agency that could deal with the problem appropriately.

[Learn More about Nevada State Bar Ethics & Discipline](#)

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devildog1285@cs.com

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Veterans In Politics International Inc., PO Box 28211, Las Vegas, NV 89126

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EXHIBIT 4-B

From: Jennifer Abrams <jabrams@theabramslawfirm.com>
Sent: Thursday, April 27, 2017 11:19 AM
To: Joshua Gilmore;
Subject: FW: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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Sincerely,

Jennifer V. Abrams, Esq.
Board Certified Family Law Specialist
Fellow of the American Academy of Matrimonial Lawyers
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
www.TheAbramsLawFirm.com

From: Elliott, Jennifer [mailto:ElliottJ@clarkcountycourts.us]
Sent: Wednesday, October 05, 2016 7:01 PM
To: Jennifer Abrams
Subject: Re: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

I presumed Louis Schneider as Steve had also recently shown up to another hearing of mine where Louis was on the case and sat through it where Bob Lueck had interviewed his clients child and prepared an affidavit and there was a motion to disqualify Bob as the lawyer for the client. I am not aware that a video was ever posted of that hearing however. I hope he takes it down.

Sent from my iPhone

On Oct 5, 2016, at 6:46 PM, Jennifer Abrams <jabrams@theabramslawfirm.com> wrote:

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Judge Elliott,

I had asked for a closed hearing which was granted except that Tina's parents were permitted to remain in the courtroom pursuant to EDCR 5.02. Do you know how VIP obtained a copy of the video?

Sincerely,

Jennifer V. Abrams, Esq.
Board Certified Family Law Specialist
Fellow of the American Academy of Matrimonial Lawyers
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
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To: veteransinpoliti@cs.com; Jennifer Abrams
Subject: Fwd: Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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Subject: FW: [Junk released by Allowed List] Nevada Attorney attacks a Clark County Family Court Judge in Open Court

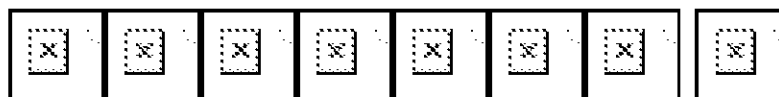
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To: Marshal Willick
Subject: [Junk released by Allowed List] Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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Nevada Attorney attacks a Clark County Family Court Judge in Open Court

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FIND OUT MORE



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x

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x

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Learn More about Nevada State Bar Ethics & Discipline

UPCOMING EVENTS

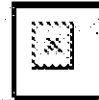
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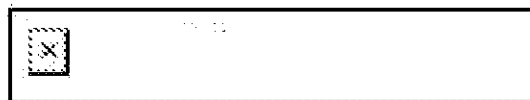
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EXHIBIT 4-C

From: Louis Schneider <lcslawllc@yahoo.com>
Sent: Friday, September 30, 2016 8:02 AM
To: Gurule, Kim; Video Requests, Attorney; Video Requests, Attorney
Subject: Upload Request

Can you please upload the video from yesterday's hearing?

Thank you.

;))

Register of Actions

Case No. D-15-521372-D

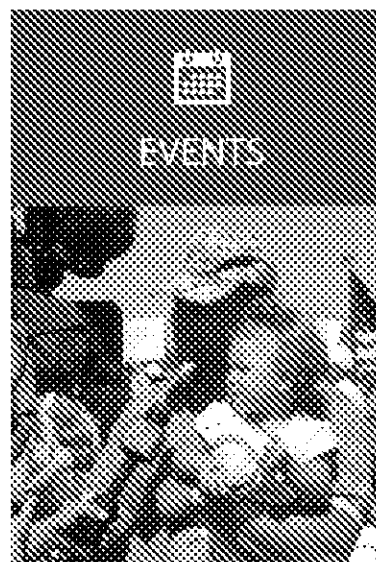
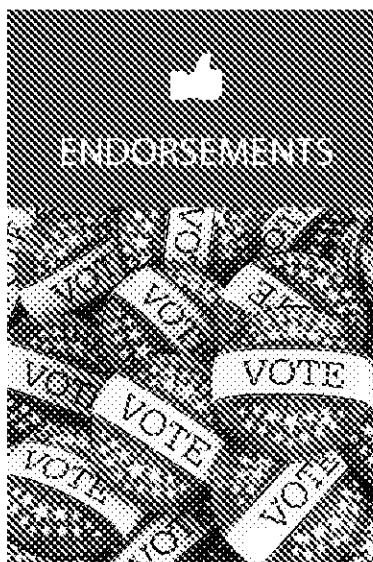
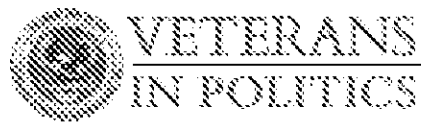
Brandon Paul Salter, Plaintiff vs. Tina Maria Salter, Defendant.	§ § § § § §	Case Type:	Divorce - Complaint
		Subtype:	Complaint Subject Minor(s)
		Date Filed:	09/19/2015
		Location:	Department L
		Cross-Reference Case Number:	D521372

Law Office of Louis C. Schneider

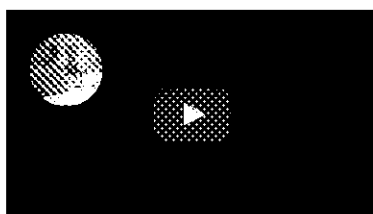
Nevada Bar No. 9683
430 South Seventh Street
Las Vegas, Nevada 89101
Phone: 702-435-2121
Fax: 702-431-3807

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EXHIBIT 4-D



Veterans In Politics **OUR MISSION**



To educate, organize, and awaken our veterans and their families to select, support and intelligently vote for those candidates whom would help create a better world, to protect ourselves from our own government(s) in a culture of corruption, and to be the political voice for those in other groups who do not have one.

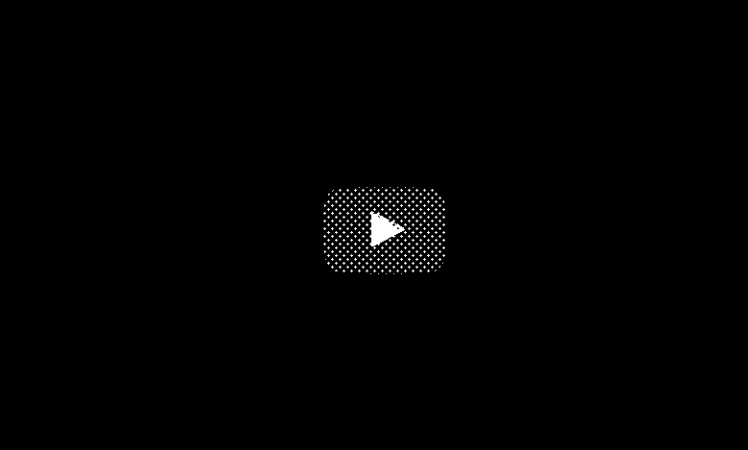
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1

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1

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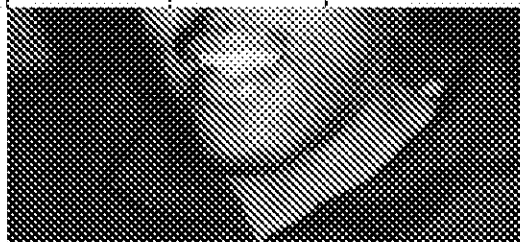
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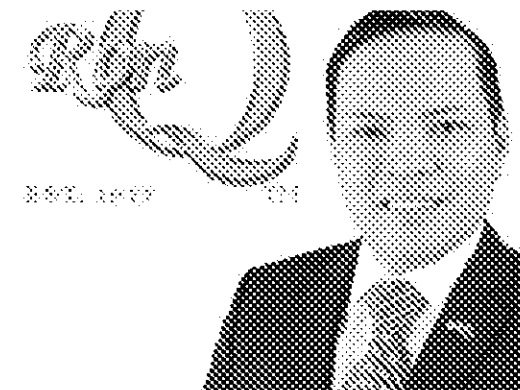
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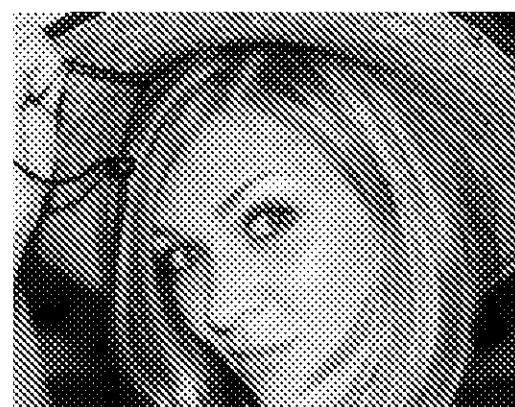
VIPI Secretary

Christina Ortiz

Nevada Chapter Director

Andre HaynesAuxiliary Director for Veterans In Politics
Southern Nevada ChapterTim PetarraVeterans In Politics Nevada Chapter
President.Ron O. QuilangAuxiliary Director for Veterans In Politics
InternationalDon WoolbrightVeterans In Politics Missouri Chapter
PresidentGia Rose Massa

Veterans In Politics Marketing Specialist

Yuliya Fohel

VIPI Chief Editor

Steve Sanson President
Veterans In Politics
International"A Judges decision impacts your life on a
very personal level, for the rest of your life"



VETERANS IN POLITICS

████████████████████

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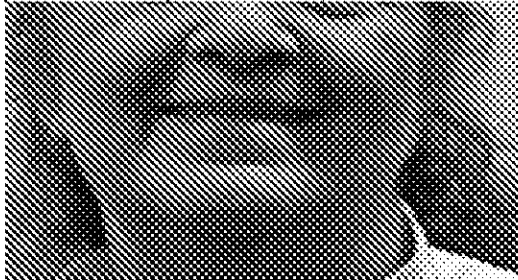
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Vicky Maltman

Auxiliary Diocese VIII Northern Nevada Chapter

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**DRUMMOND
LAW FIRM**

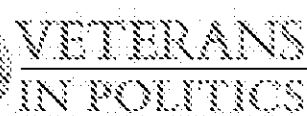
VOICE OF THE PEOPLE

Steve has proven himself to be admirable both through his service to our country, and through his service to our community. I am impressed with his commitment to the truth, and his loyalty to principles over people: he has repeatedly shown that his ethical code and views on “right and wrong” is inflexible and immune to favoritism and/or factional interest. VIPI, through Steve, has bravely exposed corruption, deceit, and scandal in promotion of giving Veterans and our community the knowledge and information needed to use the democratic process in an educated manner.

Melanie L. Thomas, Esq.
Attorney

Steve Sanson and Veterans in Politics have been true advocates of the local Veterans courts. Both Steve and his team are powerful voices for Nevada Veterans and will not shy away from a fight when they believe that an injustice is occurring with a Veterans issue.

Craig W. Drummond
Nevada Attorney, U.S. Army Iraq Veteran



John B. Goodrich, MD
Professor of Medicine, University of Michigan

Contact

Jason Stoffel
Attorney, ROBERTS STOFFEL FAMILY LAW GROUP

November 2009

Elina, a mountain girl who lives in Las Vegas, plays piano and had a very hard time
 making her first record. She is very emotional.



References

[illegible]

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EXHIBIT 4-E



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Goals and Values

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We address the future of politics as warriors and juggernauts, poised as the political ‘sword of Damocles’ in the body politic, acting in a combative rather than reactive capacity.

Through a stringent evaluation process, Veterans In Politics, International, Inc. openly interviews, selects, then endorses political candidates.

Chosen candidates are publicly presented the VIPI endorsement, then promoted by VIPI membership.

These procedures are conducted to ensure that only people of the highest quality of character occupies our elected seats, and to obtain the VIP mission statement.

We continue to fight for the freedom our country, to uphold our vow to protect and defend our Country and our United States Constitution, beyond our military service.

Veterans in Politics International Organizational Values:

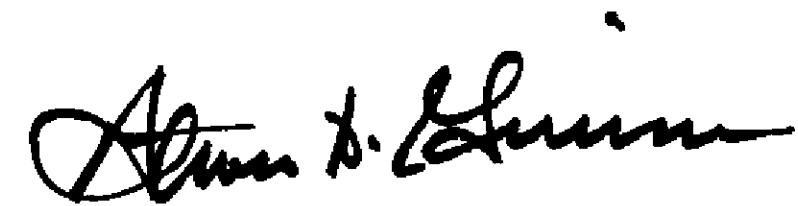
- E Pluribus Unum
- In God we Trust
- Liberty

Members and Officers Values: Discipline- Behave in accord with the rules of conduct you set out for yourself. Commitment-Follow through on the pledge you have set forth to keep. Loyalty-Bear true faith and allegiance. Duty- Fulfill obligations; professional, legal and moral. Carry out mission requirements and meet professional standards. Respect-Treat people as they should be treated. Honor-Don’t lie, cheat, steal, or tolerate those actions by others. Integrity-Be honest in word and deed. Place being right in front of being popular. Courage- Physical and moral bravery. Accept responsibility for mistakes and shortcomings. **Nick Starling 808.321.4606**

Leave a Reply

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EXHIBIT 4-F



CLERK OF THE COURT

1 SUPP

2 Anat Levy, Esq. (State Bar No. 12550)

3 ANAT LEVY & ASSOCIATES, P.C.

4 5841 E. Charleston Blvd., #230-421

5 Las Vegas, NV 89142

6 Phone: (310) 621-1199

7 E-mail: alevy96@aol.com; Fax: (310) 734-1538

8 Attorney for: DEFENDANTS VETERANS IN POLITICS INTERNATIONAL, INC. AND
9 STEVE SANSON

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 MARSHALL S. WILICK and WILICK LAW)
13 GROUP,)

14 Plaintiffs,)

15 vs.)

16 STEVE W. SANSON; HEIDI J. HANUSA;)
17 CHRISTINA ORTIZ; JOHNNY SPICER; DON)
18 WOOLBRIGHTS; VETERNAS IN POLITICS)
INTERNATIONAL, INC.; SANSON)
CORPORATION; KAREN STEELMON; and)
DOES 1 THROUGH X)

19 Defendants.)

CASE NO. A-17-750171-C

DEPT. NO.: XVIII (18)

Hearing Date: 3/14/2017

Time: 9:00 a.m.

[Filed concurrently with Reply in
Support of Defendants' anti-SLAPP
motion.]

20 **SUPPLEMENTAL DECLARATION OF STEVE SANSON**

21 **IN SUPPORT OF ANTI-SLAPP MOTION**

22 I, STEVE SANSON, hereby declare as follows:

23 1. I am a defendant in the within action. I make this Supplemental Declaration in
24 support of VIPI's and my anti-SLAPP motion. I make this Supplemental Declaration based on
25 my personal knowledge, except as to matters stated to be based on information and belief. I am
26 competent to testify as to the truth of these statements if called upon to do so.
27
28

SUPPLEMENTAL DECLARATION OF STEVE SANSON IN SUPPORT OF
ANTI-SLAPP MOTION TO DISMISS

1 2. I am a decorated U.S. veteran who served in active battle in the U.S. Marine Corp.
2 for six years in Desert Shield and Desert Storm. I also served an additional six years as an active
3 reservist with the U.S. Army. Contrary to Plaintiffs' allegation, I have not been diagnosed with
4 PTSD; I am however, 100% combat-related disabled. I have seen the best and the worst in
5 people under extreme circumstances, including as a former chaplain for the Veterans of Foreign
6 Wars and the Marine Corps League.

7 3. In 2005, I became the President of VIPI, a non-profit, non-partisan 501(c)(4)
8 corporation. To my knowledge, VIPI is not in violation of any charitable organization laws, and
9 I do not have any idea to what Plaintiffs are referring by making such a statement.

10 4. Since becoming President of VIPI, I have made it our "mission" to ensure that
11 VIPI advocates on behalf of Veterans and roots out corruption wherever it may hide. VIPI's
12 philosophy is that veterans did not die overseas, get maimed and put their lives on the line to
13 preserve our democracy, just to have it corroded by our own corrupt public servants.

14 5. In my capacity as VIPI's President, I routinely testify on VIPI's behalf before the
15 Nevada State Legislature. I participate in Town Hall meetings, County Commission meetings,
16 Planning Commission meetings, City Council meetings, Judicial Selection Committee meetings
17 and other government meetings. I am also often called upon to give the invocation at public
18 meetings.

19 6. VIPI and I (through my work for VIPI) have received numerous commendations
20 and awards from local, state and federal officials and bodies. Among them are certificates of
21 recognition and/or appreciation from the Las Vegas City Council, the North Las Vegas City
22 Council, the Henderson City Council, former U.S. Representative for Nevada, Jon Porter, former
23 U.S. Representative for Nevada, Shelley Berkeley, and former U.S. Senator for Nevada, John
24 Ensign. I also was the third veteran named "Veteran of the Month" by Governor Brian
25 Sandoval, Governor Gibbons appointed me to the Southern Nevada Veterans Cemetery Advisory
26 Board, and I was named one of Nevada's Distinguished Men in the 2016 Distinguished Men and
27 Women Magazine.
28

1 7. VIPI's accomplishments are significant as well. Under my leadership, VIPI was
2 instrumental in, among other things, creating Veterans' Court in Nevada. It got laws passed
3 preventing veteran disability pay from being used in calculating spousal support. It got the
4 passage of DMV veteran identification stickers to be put on Nevada drivers' licenses so that
5 police who stop veterans can de-escalate potential violence. It got veteran de-escalation classes
6 to become mandatory in police academy training, and worked to get a USO lounge at McCarran
7 Airport for service personnel to use between flights.

8 8. VIPI also puts out a blog and writes articles, and hosts a weekly internet radio
9 show that my colleagues at VIPI host, in which we interview government officials and election
10 candidates to educate the public about pressing issues. Guests have included almost every public
11 official in Nevada. VIPI has also developed a candidate endorsement process where
12 distinguished guests from the community moderate and interview judicial and political
13 candidates and vote on who to endorse based on their qualifications and moral fortitude to refuse
14 corruption. To ensure the independence of the panel, I disqualify myself from voting and do not
15 provide any questions to any panel members or to candidates either directly or indirectly. VIPI
16 has developed such a strong local following that Nevada whistleblowers now seek
17 out VIPI to help them expose wrongdoing. Over the years, VIPI has exposed numerous corrupt
18 politicians, political and judicial candidates and others, including most recently, Judge Rena
19 Hughes who is, on information and belief, now being investigated by the Judicial Disciplinary
20 Commission for the actions that VIPI exposed.

21 9. Plaintiffs' claim that VIPI never exposed anyone because it purportedly didn't
22 comment on former Judge Steve Jones and present Education Trustee Kevin Childs' alleged
23 wrongdoing is simply wrong. Both Jones and Childs appeared on VIPI's radio show, both were
24 the subject of articles disseminated by VIPI, I attended parts of former Judge Jones' trial and sent
25 a letter to the federal judge in the case on behalf of VIPI regarding Jones' sentencing. And, I
26 spent over seven hours in a recent Trustee meeting to try to speak publicly regarding the Kevin
27 Childs controversy.
28

10. Also, contrary to Plaintiff's allegations, I do all this for free. I believe that "if you turn a blind eye or a deaf ear to corruption, you are just as guilty of the wrongdoing as the perpetrators." VIPI has never taken payment in exchange for writing or exposing any story and I do not draw a salary from VIPI. And, contrary to Plaintiff's allegations, VIPI has never been hired by Louis Schneider or anyone else to issue a "smear campaign" against Abrams or Plaintiff.

11. As stated in my Initial Declaration filed with the moving papers, I took down the January 12, 2017 post which inadvertently omitted the intended commas as soon as I realized, just a few days later, the ambiguity caused by the error. I then promptly issued a clarification on behalf of VIPI and circulated the clarified statement to all the same entities who received the original statement. To my knowledge, there are no more copies of the original ambiguous statement available for public view through any venues that VIPI or I control or administer. If there are, then VIPI would be willing to take them down.

12. I have never met nor do I know the defendants in the 2012 defamation case that Plaintiffs filed other veterans entitled Willick v. Jere Beery et. al., case no. A12661766-C.

Dated this 9th day of March, 2017 in Las Vegas, NV.

Steve Sanson

CERTIFICATE OF SERVICE

I am over the age of 18 and am not a party to the within action.

On this date I requested that a true and correct copy of the document entitled
SUPPLEMENTAL DECLARATION OF STEVE SANSON IN SUPPORT OF ANTI-SLAPP
MOTION TO DISMISS be E-served via the Eighth Judicial District Court's wiznet E-file and E-
serve online system to the below recipients at their below-stated Email addresses:

Jennifer Abrams, Esq.
The Abrams & Mayo Law Firm
6252 S. Rainbow Blvd., Ste. 100
Las Vegas, NV 89118
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JVAGroup@theabramslawfirm.com

Alex Ghoubado, Esq.
G Law
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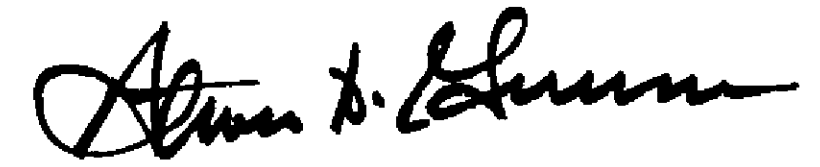
Courtesy Copy:

Maggie McLetchie, Esq.
McLetchie Shell
702 E. Bridger Ave., Ste. 520
Las Vegas, NV 89101
(702) 728-5300
Maggie@nvlitigation.com

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

Executed this 9th day of March 2017, in Las Vegas, NV

EXHIBIT 5



CLERK OF THE COURT

1 **ORDR**

2 DENNIS L. KENNEDY

3 Nevada Bar No. 1462

4 JOSHUA P. GILMORE

5 Nevada Bar No. 11576

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8 Las Vegas, Nevada 89148-1302

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12 JGilmore@BaileyKennedy.com

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18 Telephone: 702.222.4021

19 Facsimile: 702.248.9750

20 JVAGroup@theabramslawfirm.com

21 *Attorneys for Plaintiffs*

22 Marshal S. Willick and Willick Law Group

DISTRICT COURT

CLARK COUNTY, NEVADA

23 MARSHAL S. WILLICK and WILLICK LAW
24 GROUP,

25 Plaintiffs,

26 vs.

27 STEVE W. SANSON; HEIDI J. HANUSA;
28 CHRISTINA ORTIZ; JOHNNY SPICER; DON
WOOLBRIGHT; VETERANS IN POLITICS
INTERNATIONAL, INC.; SANSON
CORPORATION; KAREN STEELMON; and
DOES I through X,

Defendants.

Case No. A-17-750171-C
Dept. No. XVIII

**ORDER DENYING: (i) THE VIPI
DEFENDANTS' ANTI-SLAPP SPECIAL
MOTION TO DISMISS PURSUANT TO
NRS 41.650 ET SEQ.; (ii) THE WILICK
PARTIES' COUNTERMOTION FOR
ATTORNEY'S FEES AND COSTS; AND
(iii) THE VIPI DEFENDANTS'
MOTION TO STRIKE** (pw)

26 This matter came before the Court (the Honorable Charles Thompson presiding) for hearing
27 on the 14th day of March, 2017, at 9:00 AM, in Department 18, on (i) Defendants Steve W. Sanson
28 ("Mr. Sanson") and Veterans in Politics International, Inc.'s ("VIPI") (together, the "VIPI

1 Defendants”) Anti-SLAPP Special Motion to Dismiss Pursuant to NRS 41.650 et seq. (the “Special
2 Motion to Dismiss”); and (ii) Plaintiffs Marshal S. Willick (“Mr. Willick”) and Willick Law Group’s
3 (“Willick Law”) (together, the “Willick Parties”) Countermotion for Attorney’s Fees and Costs (the
4 “Countermotion”). Joshua P. Gilmore, Esq. of Bailey ♦ Kennedy and Jennifer V. Abrams, Esq. of
5 The Abrams & Mayo Law Firm appeared on behalf of the Willick Parties. Anat Levy, Esq. of Anat
6 Levy & Associates, P.C. appeared on behalf of the VIPI Defendants.

7 The Court, having examined the memoranda of the parties and the records and documents on
8 file, heard argument of counsel, and being fully advised of the premises, and good cause appearing,
9 hereby makes the following Findings of Fact, Conclusions of Law, and Order with regard to the
10 Special Motion to Dismiss and Countermotion (and related Motion to Strike):

11 **FINDINGS OF FACT**

12 1. On January 27, 2017, the Willick Parties filed their Complaint against the VIPI
13 Defendants (among others).

14 2. On February 17, 2017, the VIPI Defendants filed their Special Motion to Dismiss,
15 arguing that the defamatory statements at issue in the Complaint fall within the ambit of NRS
16 41.637, in part because Mr. Willick is a public figure or limited purpose public figure, and that the
17 Willick Parties lack prima facie evidence supporting their claims.

18 3. On March 7, 2017, the Willick Parties filed their Opposition to the Special Motion to
19 Dismiss, arguing that the defamatory statements at issue in the Complaint do not fall within the
20 ambit of NRS 41.637; but, even if they did, they have presented prima facie evidence supporting
21 their claims. The Willick Parties also denied that Mr. Willick is a public figure or limited purpose
22 public figure. The Willick Parties separately filed their Countermotion, requesting an award of
23 attorneys’ fees and costs pursuant to NRS 41.670(2).

24 4. On March 9, 2017, the VIPI Defendants filed their Reply in Support of their Special
25 Motion to Dismiss, together with Mr. Sanson’s Supplemental Declaration, and their Opposition to
26 the Countermotion.

6. On March 13, 2017, the VIPI Defendants filed a Motion to Strike and Response to Plaintiffs' Untimely Supplemental Brief (the "Motion to Strike").²

CONCLUSIONS OF LAW

1. Pursuant to NRS 41.660(1), a person against whom an action is brought “based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern” may file a special motion to dismiss. The motion must be filed within 60 days after service of the complaint. NRS 41.660(2).

2. A “good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern” is defined to mean, *inter alia*, a “[c]ommunication made in direct connection with an issue of public interest in a place open to the public or in a public forum, which [was] truthful or [was] made without knowledge of its falsehood.” NRS 41.637(4).³

3. In *Shapiro v. Welt*, 133 Nev. ___, 389 P.3d 262 (2017), the Nevada Supreme Court adopted “guiding principles . . . for determining whether an issue is of public interest under NRS 41.637(4)”; specifically:

- (1) “public interest” does not equate with mere curiosity;
- (2) a matter of public interest should be something of concern to a substantial number of people; a matter of concern to a speaker and a relatively small specific audience is not a matter of public interest;
- (3) there should be some degree of closeness between the challenged statements and the asserted public interest — the assertion of a broad and amorphous public interest is not sufficient;

¹ The Court did not have an opportunity to review the Affidavit prior to the March 14, 2017 hearing.

² The Court did not have an opportunity to review the Motion to Strike, and the Willick Parties did not have an opportunity to respond to the Motion to Strike, prior to the March 14, 2017 hearing.

³ Although the VIPI Defendants also relied on NRS 41.637(3) in their Special Motion to Dismiss, they abandoned that argument in their Reply. (*See id.*, 5:26 – 6:6.)

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

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

5 *Id.*, at ___, 389 P.3d at 268 (citation omitted).

6 4. If the Court determines that "the issue is of public interest, it must next determine
7 whether the communication was made 'in a place open to the public or in a public forum.'" *Id.*
8 (quoting NRS 41.673(4)). Finally, the Court must determine whether the communication was
9 "truthful or [was] made without knowledge of its falsehood." *Id.* (quoting NRS 41.637(4)).

10 5. Courts do not "simply rubber stamp" assertions by a defendant that a plaintiff's
11 claims fall within the ambit of the anti-SLAPP statute. *Flatley v. Mauro*, 139 P.3d 2, 13 (Cal. 2006).
12 Rather, the defendant must establish, by a preponderance of the evidence, that each claim is based on
13 a communication as specifically defined under NRS 41.637. NRS 41.660(3)(a); *see also Century 21*
14 *Chamberlain & Assocs. v. Haberman*, 92 Cal. Rptr. 3d 249, 256 (Cal. Ct. App. 2009) (stating that
15 the defendant bears the initial burden of establishing that each cause of action in the complaint arises
16 from "activity protected by the anti-SLAPP statute").

17 6. If the defendant is unable to meet its initial burden of proof, the burden does not shift
18 to the plaintiff to establish "with prima facie evidence a probability of prevailing on [each] claim."
19 NRS 41.660(3)(b); *see also Commonwealth Energy Corp. v. Investor Data Exchange, Inc.*, 1 Cal.
20 Rptr. 3d 390, 393 (Cal. Ct. App. 2003) ("The point is, if the moving defendant cannot meet the
21 threshold showing, then the fact that he or she might be able to otherwise prevail on the merits under
22 the 'probability' step is irrelevant.").

23 7. If the defendant meets its initial burden of proof, the burden shifts to the plaintiff to
24 put forth "prima facie evidence" of a probability of prevailing on each claim. NRS 41.660(3)(b). In
25 other words, the plaintiff must show that each claim has "minimal merit." *Soukup v. Law Offices of*
26 *Herbert Hafif*, 139 P.3d 30, 51 (Cal. 2006).

27 8. Based on these legal principles, the Court finds that the VIPI Defendants have failed
28 to meet their initial burden of proof with regard to their Special Motion to Dismiss, for the following
reasons:

1 a. First, having considered the *Shapiro* factors, the Court finds that the VIPI
2 Defendants have not established, by a preponderance of the evidence, that each claim in the
3 Complaint is based on a communication involving “an issue of public interest.”

4 b. Second, in light of the Nevada Supreme Court’s holding in *Doe v. Brown*, No.
5 62752, 2015 WL 3489404 (2015), the Court finds that Mr. Willick is not a public figure or
6 limited purpose public figure.

7 c. Third, upon review of the defamatory statements at issue in the Complaint, the
8 Court finds that the VIPI Defendants have not established, by a preponderance of the
9 evidence, that each was truthful or was made without knowledge of its falsehood.

10 9. Because the VIPI Defendants have failed to meet their initial burden of proof, the
11 Court need not address whether the Willick Parties have presented prima facie evidence supporting
12 their claims. *See, e.g., Stenehjem v. Sareen*, 173 Cal. Rptr. 3d 173, 191 n.19 (Cal. Ct. App. 2014)
13 (“Because we have concluded that Stenehjem did not meet his threshold showing that the activity
14 underlying the allegations of the Cross-Complaint was protected under the anti-SLAPP statute, we
15 need not consider the second prong, i.e., whether the record demonstrates that Sareen established a
16 probability of prevailing.”).

17 10. The Court does not find that the Special Motion to Dismiss was “frivolous or
18 vexatious,” and therefore, the Court declines to award fees and costs to the Willick Parties.

19 11. In light of the Court’s ruling, the Motion to Strike is deemed moot.

20 12. At the end of the March 14, 2017 hearing, the VIPI Defendants orally moved for a
21 stay of this proceeding pending an appeal, which the Court denied as premature.

22 13. Any conclusion of law set forth herein more appropriately designated as a finding of
23 fact shall be so designated.

24 ///

25 ///

26 **ORDER**

27 Based on the foregoing Findings of Fact and Conclusions of Law, and good cause appearing,
28

1 THE COURT HEREBY ORDERS that the Special Motion to Dismiss shall be, and hereby
2 is, DENIED.

3 THE COURT HEREBY FURTHER ORDERS that the Countermotion shall be, and hereby
4 is, DENIED.

5 ~~THE COURT HEREBY FURTHER ORDERS that the Motion to Strike shall be, and hereby~~
6 ~~is, DENIED as moot.~~


7 IT IS SO ORDERED.

8 DATED this 29th day of March, 2017.

9
10 
11 DISTRICT COURT JUDGE

12 Submitted by:

13 BAILEY ♦ KENNEDY

14 
15 By: _____
16 DENNIS L. KENNEDY
JOSHUA P. GILMORE

17 and

18 JENNIFER V. ABRAMS
Nevada Bar No. 7575
19 THE ABRAMS & MAYO LAW FIRM
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Document title: Order Denying: (i) The VIPI Defendants' Anti-Slapp Special Motion to Dismiss Pursuant to NRS 41.650 et seq.; (ii) the Willick Parties' Countermotion for Attorney's Fees and Costs
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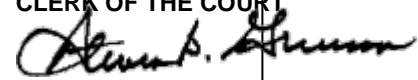
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Case No.: A-17-749318-C

Dept. No.: XII

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.

**DEFENDANTS STEVE W. SANSON
AND VETERANS IN POLITICS
INTENATIONAL, INC.'S REQUEST
TO UNSEAL EXHIBIT 13 TO
THEIR SPECIAL MOTION TO
DISMISS PURSUANT TO NEV.
REV. STAT. § 41.660 (ANTI-SLAPP)**

Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International ("VIPI") (collectively, the "VIPI Defendants"), by and through their counsel Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Shell LLC, hereby request to unseal VIPI Defendants' Exhibit 13 to their Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (anti-SLAPP).

Dated this the 26th day of May, 2017.

/s/ Alina M. Shell

Margaret A. McLetchie, Nevada State Bar No. 10931
MCLETCHIE SHELL, LLC

*Attorney for Defendants Steve W. Sanson and
Veterans in Politics International*

MEMORANDUM OF POINTS AND AUTHORITIES

On March 28, 2017, Defendants Sanson and VIPI filed a motion to file Exhibit 13 to their Anti-SLAPP Motion to Dismiss, a transcript of a hearing conducted on September 29, 2016 in the divorce matter *Saiter v. Saiter* (Case No. D-15-521372-D) under seal. As noted in the motion, VIPI Defendants do not agree with sealing the records in this case; however, out of an overabundance of caution, VIPI Defendants moved to file said Exhibit under seal to comport with Judge Elliot’s October 6, 2016 Order Prohibiting Dissemination of Case Material in the *Saiter* case. However, Judge Elliot herself held that the Order Prohibiting Dissemination of Case Material was unconstitutionally overbroad, and ordered it be stricken and vacated on March 21, 2017. *See* March 21 Order Without Hearing Pursuant to EDCR 2.23, Case No. D-15-521372, at 18.

Pursuant to EDCR 2.20(e), within ten (10) days after the service of the motion, an opposing party “must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion . . . should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.” In the instant case, Plaintiffs have failed to serve or file written opposition to VIPI Defendants’ Motion to Seal within ten (10) days of the service of said motion. This Court should construe this as an admission that the arguments set forth in the Motion to Seal are meritorious, and that no grounds exist to maintain Exhibit 13 under seal. Accordingly, this Court unseal Exhibit 13 of VIPI Defendants’ Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP).

As the Nevada Supreme Court has explained, there exists a presumption in favor of public access to records and documents filed with courts. *Howard v. State*, 128 Nev. Adv. Op. 67, 291 P.3d 137, 142 (2012). This presumption “may be abridged only where the public right of access is outweighed by a significant competing interest.” *Id.* Finally, “the party seeking to seal a record or document carries the burden of demonstrating sufficient grounds for denying access.” *Id.*

1 Here, Plaintiffs bore the burden of establishing that Exhibit 13 merited sealing. In
2 light of Judge Elliot's striking and vacating the Order Prohibiting Dissemination of Case
3 Material in the *Saiter* case, and in light of the fact that Plaintiffs failed to respond to this
4 motion despite bearing the burden of establishing the need to maintain the sealing of the
5 *Saiter* Hearing Transcript, VIPI Defendants request the Court unseal Exhibit 13 to their Anti-
6 SLAPP Motion to Dismiss.

7 Respectfully submitted this the 26th day of May, 2017.

8
9 /s/ Alina M. Shell

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18 *Attorneys for Defendants Steve W. Sanson and*

19 *Veterans in Politics International, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May, 2017, I served a true and correct copy of the foregoing DEFENDANTS STEVE W. SANSON AND VETERANS IN POLITICS INTERNATIONAL, INC.'S REQUEST TO UNSEAL EXHIBIT 13 TO THEIR SPECIAL MOTION TO DISMISS PURSUANT TO NEV. REV. STAT. § 41.660 (ANTI-SLAPP) via electronic service using Odyssey File & Serve's electronic court filing system and, pursuant to NRCP 5(b)(2)(B), by First Class United States Mail, postage fully prepaid, to the following:

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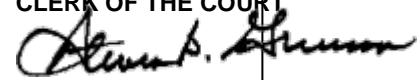
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

LOUIS C. SCHNEIDER; LAW OFFICE
OF LOUIS C. SCHNEIDER, LLC; STEVE
W. SANSON; HEIDI J. HANSUSA;
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

**REPLY TO PLAINTIFFS'
OPPOSITION TO MOTION TO
STRIKE AND OPPOSITION TO
PLAINTIFFS' COUNTERMOTION
FOR ATTORNEY'S FEES**

Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International ("VIPI") (collectively, the "VIPI Defendants"), by and through their counsel Margaret A. McLetchie of the law firm McLetchie Shell LLC, hereby file this reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiffs' Countermotion for Attorney's Fees.

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DATED this the 30th day of May, 2017.

/s/ Margaret A. McLetchie
Margaret A. McLetchie, Nevada State Bar No. 10931
Alina M. Shell, Nevada State Bar No. 11711
MCLETCHIE SHELL, LLC
*Attorneys for Defendants Steve W. Sanson and
Veterans in Politics International*

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendants Steve W. Sanson (“Sanson”) and Veterans in Politics International (“VIPI”) (collectively, the “VIPI Defendants”) filed their Motion to Strike portions of the First Amended Complaint (the “FAC”) in good faith because, should this Court not dismiss it in its entirety, Plaintiffs’ FAC is replete with exactly the type of “redundant, immaterial, impertinent, or scandalous matter” that Rule 12(f) of the Nevada Rules of Civil Procedure is designed to address. Plaintiffs’ Opposition and Countermotion for Attorney’s Fees on file does not show otherwise and simply reflects a continuing attempt to distract from the legal issues at hand.

The VIPI Defendants and Plaintiffs do agree on one point: should this Court dismiss the FAC in its entirety, it will not be necessary to rule on the Motion to Strike to remedy Plaintiffs’ transparent efforts to distract with irrelevant nonsense, such as the contention that Defendants inflicted “emotional distress upon Judge Elliot” (FAC, ¶ 32). However, as Plaintiffs note, a motion to strike by a party must be made within 20 days of service of the pleading. (*See* Nev. R. Civ. P. 12(f); Opp. at p. 1, n. 1.) Thus, the Motion to Strike was timely and properly filed to address the improper contents of the FAC.

II. LEGAL ARGUMENT: MOTION TO STRIKE

A. Legal Standard for Contents of Pleadings and Claims.

Plaintiffs of course cannot sue the VIPI Defendants for being critical of Ms. Abrams or her firm; there is no legally-cognizable claim for “being mean” to or about Plaintiffs. But that is essentially what this case is about: the VIPI Defendants have criticized Ms. Abrams and her practices in open court, and she doesn’t like it. Consistent with Steve Sanson’s observation about Ms. Abrams, she is a bully—and a thin-skinned one at that. To silence the VIPI Defendants, she has staged a multi-faceted abuse of the legal system that runs the gamut from trying to put Mr. Sanson behind bars for violating a court order (to which he isn’t a party) to filling this lawsuit without a cognizable claim.

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The Nevada Rules of Civil Procedure do not allow for such nonsense. They demand that “allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.” Nev. R. Civ. P. 11(b)(3). Lacking the required support for their claims, Plaintiffs instead try to cast aspersions on the VIPI Defendants. This abuse of the legal system should not be countenanced by the Court.

B. The Factual Allegations Are Not Relevant to Plaintiffs’ Claims for Relief

Plaintiffs argue that none of the four bases for striking an order—redundant, immaterial, impertinent or scandalous matters—are properly made out by “any portion” of Defendants’ Motion to Strike. (Opp. at p. 2.) Plaintiffs are incorrect, and in certain instances, practically admit so. For instance, Plaintiffs note that VIPI Defendants “assert that the running of a background check by a Defendant accused of acting in concert with others and violating RICO has ‘no relevance.’” However, Plaintiffs fail to explain why the perfectly legal act of running a background check on somebody is relevant to Plaintiffs’ RICO and concert of action claims.

Furthermore, Plaintiffs contend that a comment expressing hope that Vincent Mayo, Ms. Abrams’ law partner, suffers a heart attack, is material. (Opp. at p. 7.) Even though the Abrams & Mayo Law Firm is indeed a party to this suit, Vincent Mayo himself is not. Therefore, this comment, though distasteful, is immaterial to every one of Plaintiffs’ claims. It is not defamatory, it does not disparage the Abrams & Mayo law firm, it does not shine “false light” on Plaintiff’s private facts, and it cannot cause emotional distress to the Abrams & Mayo Law Firm, as law firms are not human beings and cannot suffer emotional distress. (*See* Motion to Dismiss, on file with this court, at p. 24:18-28.) Furthermore, Defendants cannot be held vicariously liable for the comments of an unknown third party. By diverting the Court’s attention to offensive comments made by a non-party about a non-party, Plaintiffs attempt a “smear campaign” of their own, one which this court should not countenance.

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C. Plaintiffs' Harassment Claim Is Not Actionable.

As noted above, the law does not allows Ms. Abrams and her firm to sue the VIPI for saying things they don't like. Imagining otherwise, Plaintiffs have invented a civil tort claim for "harassment." (*See* FAC at p. 26, ¶¶ 106-109 (Sixth "Claim for Relief").)

There is no such cause of action for "harassment." Nor is "harassment," as Plaintiffs argue in an effort to salvage their imagined cause of action, "well-grounded" in common law. Although Nevada Courts have not had occasion to evaluate whether "harassment" is a civil cause of action, federal courts interpreting Nevada law have consistently found the opposite. *See Randazza v. Cox*, No. 2:12-CV-2040-JAD, 2014 WL 2123228 at *4 (D. Nev. 2014) (dismissing with prejudice claim for harassment "because Nevada recognizes only the *crime* of harassment, not a civil action for harassment" (emphasis in original)); *see also Azpilcueta v. Nevada ex rel. Transp Auth.*, No. 3:09-CV-00593-LRH, 2010 WL 2681855, at *2 n. 3 (D. Nev. July 2, 2010) (dismissing Plaintiff's attempt to state the claim of harassment under Nev. Rev. Stat. § 200.571(1) because it "is a criminal statute, and Nevada law does not provide for a claim of civil harassment."); *see also Wallace v. Las Vegas Metro. Police Dep't*, No. 2:12-CV-979-RCJ-RJJ, 2012 WL 4361315, at *2 (D. Nev. Sept. 21, 2012) (citing *Wellesley v. Chief Fin. Officer*, 2010 WL 2926162, at *1 n. 4 (D.Nev.2010)) (dismissing harassment claim because "Nevada law provides for a claim of harassment only under a criminal statute ... and as the present case is civil, Plaintiff cannot rely on this statute to state a claim for relief."). The "elements" set forth in Plaintiffs Sixth Claim for Relief are also entirely duplicative of other claims, as set forth in the Omnibus Reply.

III. LEGAL ARGUMENT: PLAINTIFFS ARE NOT ENTITLED TO ATTORNEY'S FEES.

While, in the Omnibus Opposition filed by new counsel, Plaintiffs do not seek fees and costs, they did seek fees in their Oppositions to both VIPI Defendants' 12(b)(5) Motion to Dismiss and Defendants' Motion to Strike, reflecting the vexatious nature of Ms. Abrams and Mr. Willick. The request is improper because the Motion to Strike is more than reasonable, and because Ms. Abrams and Mr. Willick cannot properly recover attorney's fees

for practicing law on behalf of one another.

A. Defendants’ Motion to Dismiss Was Brought with Reasonable Grounds.

EDCR 7.60(b) provides for sanctions in limited circumstances, when “an attorney or party without cause: (1) Presents to the court a motion or opposition to a motion which is obviously frivolous, unnecessary or unwarranted. ... (3) So multiplies the proceedings in a case as to increase the costs unreasonably and vexatiously.” Of course, Plaintiffs do not provide any actual basis for how the VIPI Defendants Motion to Strike is frivolous, unnecessary, or unwarranted. Nor do Plaintiffs attempt to explain how it increased the costs of their litigation unreasonably or vexatiously. Nor can they, in light of the facts that the FAC itself is vexatious and that Plaintiffs are unreasonably pursuing litigation without legal bases to silence their critics. In fact, the Court’s granting Defendants’ Anti-SLAPP Motion on would greatly decrease the costs of litigation by cutting off Plaintiff’s ill-advised case before discovery and a trial. Indeed, because they have not opposed the VIPI Defendants’ Motion to Strike or 12(b)(5) Motion to Dismiss with regard to their frivolous, out-of-jurisdiction Copyright Infringement claim, it appears that these motions have already resulted in Plaintiffs voluntarily withdrawing one claim.¹ Further, because this Court should grant the Anti-SLAPP Motion, it is the VIPI Defendants that are entitled to their attorney’s fees and costs—and damages.

B. Abrams and Willick Cannot Recover for Their Own Fees

For much of the initial litigation in this matter, Ms. Abrams and, one of her attorneys, Mr. Willick, were representing themselves and each other (and each other’s law firms) in the twin lawsuits the couple filed to silence Sanson and VIPI.² Even if the Plaintiffs

¹ See EDCR 2.20(e) (“Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion ... is meritorious and a consent to granting the same.”).

² While Ms. Abrams has (hilariously) suggested that saying so is defamatory as to her, Willick and Abrams are literally and figuratively “in bed together.” They are also both witnesses in both cases.

in this case were entitled to fees, which they of course are not, they would not be entitled to recovery fees in this case for their own work or for their romantic partners. It is well-established in Nevada that attorneys representing themselves pro se are not entitled to awards for their own work in a matter such as this. *Sellers v. Fourth Judicial Dist. Court of State, in & for Cty. Of Elko*, 119 Nev. 256, 259, 71 P.3d 492, 497-98 (2003), as corrected (July 9, 2003).

Further, even if Willick performed all the work for Ms. Abrams before the hiring of additional counsel from the Bailey Kennedy firm, fees still could not be recovered. An underpinning of the *Sellers* holding is that there has to be a genuine obligation to pay fees by the attorney before the attorney can recover them. *Id.* (“[A]n attorney pro [se] litigant must be genuinely obligated to pay attorney fees before he may recover such fees.”) The Nevada Supreme Court further explained,

This interpretation gives effect to the Legislature’s clear intent that the prevailing party in justice’s court be reimbursed by the losing party for out-of-pocket costs incurred to prosecute the suit. To interpret the statute otherwise would require us to redefine what is meant by an attorney fee, which is commonly understood to be the sum paid or charged for legal services.

Id. at 259-60. Here, even if Mr. Willick was in fact performing the work for Ms. Abrams before Bailey Kennedy was retained to assist him and Ms. Abrams in this case, there is no assertion that Ms. Abrams is actually paying him; if an attorney agreement even exists, that does not necessarily mean they intend to pay each other. They are engaged to be married. And, of course, even if Ms. Abrams “owed” or paid Mr. Willick money *on paper*, that would not mean that there are actual out-of-pocket costs for fees that would allow for an award, should Plaintiffs otherwise be entitled, which they are not.

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IV. CONCLUSION

For all these reasons, the Motion to Strike should be granted and the Countermotion for Attorney's Fees should be denied.

Respectfully submitted this 30th day of May, 2017.

/s/ Margaret A. McLetchie

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of May, 2017, I served a true and correct copy of the foregoing REPLY TO PLAINTIFFS' OPPOSITION TO MOTION TO STRIKE AND OPPOSITION TO PLAINTIFFS' COUNTERMOTION FOR ATTORNEY'S FEES via electronic service using Odyssey File & Serve's electronic court filing system and, pursuant to NRCP 5(b)(2)(B), by First Class United States Mail, postage fully prepaid, to the following:

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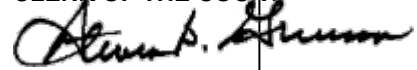
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**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

LOUIS C. SCHNEIDER; LAW OFFICE OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
SANSON; HEIDI J. HANSUSA;
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

**VIPI DEFENDANTS' OMNIBUS
REPLY TO:**

**(1) PLAINTIFFS' OPPOSITION
TO SPECIAL MOTION TO
DISMISS PURSUANT TO NEV.
REV. STAT. § 41.660 (ANTI-
SLAPP); and**
**(2) PLAINTIFFS' OPPOSITION
TO MOTION TO DISMISS AND
COUNTERMOTION FOR
ATTORNEYS' FEES**

Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International ("VIPI") (collectively, the "VIPI Defendants"), by and through their counsel Margaret A. McLetchie and Alina M. Shell, of the law firm McLetchie Shell LLC, hereby submit this omnibus reply to: (1) Plaintiffs' Opposition to Defendants' Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660; and (2) Plaintiffs' Opposition to Motion to Dismiss and Countermotion for Attorneys' Fees.

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DATED this the 30th day of May, 2017.

/s/ Margaret A. McLetchie

Margaret A. McLetchie, Nevada State Bar No. 10931

Alina M. Shell, Nevada State Bar No. 11711

MCLEATCHIE SHELL, LLC

Attorney for Defendants Steve W. Sanson and

Veterans in Politics International

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

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

Appellant,

vs.

LOUIS C. SCHNEIDER; LAW OFFICES
OF LOUIS C. SCHNEIDER, LLC; STEVE
W. SANSON; VETERANS IN
POLITICS INTERNATIONAL, INC;

Respondent.

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

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

Appellant,

vs.

STEVE W. SANSON; VETERANS IN
POLITICS INTERNATIONAL, INC; LOUIS
C. SCHNEIDER; AND LAW OFFICES
OF LOUIS C. SCHNEIDER, LLC;

Respondent.

SC NO: 73838/75834
DC NO: A-17-749318-C

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22.	Exhibit 13 to Declaration of Margaret A. McLetchie in Support of Special Anti-Slapp Motion to Dismiss - Sealed	3/28/2017	JVA000539 - JVA000655
48.	Joinder to Louis Schneider's Opposition to Plaintiff's Motion to Disqualify Eighth Judicial District Court Elected Judiciary, and for Permanent Assignment to the Senior Judge Program or, Alternatively, to a District Court Judge Outside of Clark County	2/7/2018	JVA001453 - JVA001469
53.	Joinder in Motion for Reconsideration	3/13/2018	JVA001618 - JVA001620
38.	Louis Schneider Defendants' Joinder to Defendant Steve W. Sanson and VIPI Defendants' Motion for Attorney Fees and Costs Pursuant to Nev. Rev. Stat. 41.670	9/15/2017	JVA001078 - JVA001080

27.	Louis Schneider Defendants' Joinder to Defendant Steve W. Sanson and VIPI Defendants'Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiffs' Countermotion for Attorney's Fees	6/1/2017	JVA000860 - JVA000862
36.	Motion for Attorney Fees and Costs Pursuant to NEV. Rev. Stat. 41.670	9/13/2017	JVA001014 - JVA001076
42.	Motion to Disqualify Eighth Judicial District Court Elected Judiciary, and for Permanent Assignment to the Senior Judge Program or, Alternatively, to a District Court Judge Outside of Clark County	1/24/2018	JVA001266 - JVA001370
58.	Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order	4/20/2018	JVA001668 - JVA001673
52.	Motion to Reconsider March 2, 2018 Minute Order Granting Plaintiffs' Motion to Disqualify	3/12/2018	JVA001542 - JVA001617
14.	Motion to Strike	2/16/2017	JVA000266 - JVA000273
33.	Notice of Appeal	8/21/2017	JVA000995 - JVA000998
62.	Notice of Appeal	5/7/2018	JVA001696 - JVA001698
37.	Notice of Change of Hearing	9/13/2017	JVA001077
51.	Notice of Department Reassignment	3/5/2018	JVA001541
32.	Notice of Entry of Order	7/24/2017	JVA000971 - JVA000994
69.	Notice of Entry of Order	8/1/2018	JVA001736 - JVA001741

61.	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	4/24/2018	JVA001684 - JVA001695
82.	Notice of Entry of Stipulation and Order to Dismiss with Prejudice All Claims Against Hanusa Parties	10/16/2017	JVA001757 - JVA001762
56.	Notice of Hearing	4/18/2018	JVA001664 - JVA001665
16.	Notice of Motion to Dismiss; Memorandum of Points and Authorities in Support Thereof	2/16/2017	JVA000205 - JVA000265
68.	Order	7/2/2018	JVA001733 - JVA001735
60.	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	4/24/2018	JVA001675 - JVA001683
12.	Opposition to "Defendant Louis Schneider's and Law Offices of Louis Schneider's Motion to Dismiss Plaintiffs' Complaint Pursuant to NRCP 12(b)(5)" and Countermotion for Attorney's Fees	2/14/2017	JVA000182 - JVA000204
15.	Opposition to "Defendants Steve Sanson and Veterans in Politics International, Inc's Motion to Dismiss" and Countermotion for Attorney's Fees	3/6/2017	JVA000274 - JVA000315
44.	Opposition to Motion to Disqualify	1/31/2018	JVA001384 - JVA001393
54.	Opposition to "Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order" and Countermotion for Attorney's Fees	5/7/2018	JVA001699 - JVA001707

43.	Opposition to “Motion to Reconsider March 2, 2018 Minute Order granting Plaintiffs’ Motion to Disqualify” and Countermotion and Attorney’s Fees	3/26/2018	JVA001621 - JVA001632
16.	Opposition to “Motion to Strike” and Countermotion for Attorney’s Fees	3/6/2017	JVA000317 - JVA000330
23.	Plaintiffs’ Omnibus Opposition To: 1. 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; 2. Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-Slapp); and 3. Defendants’ Special Motion to Dismiss Under Nevada’s Anti Slapp Statute, NRS 41.660	4/28/2017	JVA000656 - JVA000804
40.	Plaintiffs’ Omnibus Opposition to Defendants’ Motion for Attorney’s Fees, Costs, and Sanctions	10/27/2017	JVA001144 - JVA001259
28.	Plaintiffs’ Supplement to Their Omnibus Opposition to: 1. 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; 2. Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-Slapp); and 3. Defendants’ Special Motion to Dismiss Under Nevada’s Anti Slapp Statute, NRS 41.660	6/6/2017	JVA000863 - JVA000866
31.	[Proposed] Order Granting VIPI Defendants’ Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-Slapp)	7/24/2017	JVA000951 - JVA000970