

MCLETCHE SHELL

Date	Time Expended	Biller	Rate	Description	Total
8/22/2017	0.2	Alina Shell	\$350.00	Draft stipulation to extend deadline for filing motions pursuant to NRS 41.670. Circulate to parties.	\$70.00
8/22/2017	0.1	Margaret McLetchie	\$450.00	Confer with Ms. Shell re extension.	\$45.00
8/31/2017	0.5	Admin Admin	\$25.00	Picked up: Stipulation and [Proposed] Order that the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$12.50
8/31/2017	0.1	Margaret McLetchie	\$450.00	Review approved order on schedule for fees and costs application.	\$45.00
8/31/2017	0.3	Pharan Burchfield	\$150.00	File Stipulation and Order (third extension re attorney's fees application). Draft, file, and serve/mail Notice of Entry of Order re same. Update calendar accordingly.	\$45.00
9/1/2017	0.1	Pharan Burchfield	\$150.00	Email to client.	\$15.00
9/11/2017	0.1	Alina Shell	\$350.00	Phone call to Mr. Gilmore regarding settlement statement due on 9/15. Left voicemail.	\$35.00
9/11/2017	0.5	Alina Shell	\$350.00	Review and make revisions to motion for attorney's fees. Edit declaration in support of fees for Ms. England's signature. Email both to Ms. McLetchie for review.	\$175.00
9/11/2017	0.1	Margaret McLetchie	\$450.00	Approve notice of entry of order.	\$45.00
9/11/2017	0.1	Margaret McLetchie	\$450.00	Confer with Ms. Shell re assignment to settlement judge.	\$45.00
9/11/2017	1.5	Margaret McLetchie	\$450.00	Attention to work for attorney fee application.	\$675.00
9/12/2017	0.9	Alina Shell	\$350.00	Edit time entry spreadsheet for inclusion in fee application.	\$315.00
9/12/2017	0.3	Alina Shell	\$350.00	Edit declaration for Mr. Sanson. Meet with Mr. Sanson re same.	\$105.00

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Date	Time Expended	Biller	Rate	Description	Total
9/12/2017	0.3	Alina Shell	\$350.00	Additional edits to Ms. England's declaration in support of attorney/paralegal rates.	\$105.00
9/12/2017	4.5	Alina Shell	\$350.00	Revise motion for attorney's fees and costs. Compile exhibits. Finalize and file motion and exhibits.	\$1,575.00
9/12/2017	2.2	Margaret McLetchie	\$450.00	Attorney fee application	\$990.00
9/12/2017	2.0	Leo Wolpert	\$175.00	Edit and review costs/fees for attorney fee application.	\$350.00
				TOTAL	\$91,090.00

TOTALS BY BILLER:

Biller	Time Expended (Hours)	Total Billed
Pharan Burchfield	26.8	\$4020.00
Gabriel Czop	5.2	\$490.00
Daniela Lopez (Admin Admin)	9.9	\$242.50
Margaret McLetchie	106.5	\$47,925.00
Alina Shell	55.5	\$19,425.00
Leo Wolpert	108.5	\$18,987.50
TOTAL	312.4	\$91,090

EXHIBIT 3

MCLETCHE SHELL

Date	Price	Note
1/24/2017	\$ 0.92	Postage: mailing expense - Notice of Appearance mailed to Abrams & Mayo Law Firm and G Law.
1/24/2017	\$ 3.50	E-filing fee: Initial Appearance Fee Disclosure (NRS Chapter 19).
1/24/2017	\$ 264.09	E-filing fee: Notice of Appearance [Amount: \$3.50; Court Fee: \$253.00; Card Fee: \$7.59].
1/27/2017	\$ 3.50	E-filing fee: Motion to Extend Pursuant to Nev. Rev. Stat. 41.660(6) and EDCR 2.25(a).
1/27/2017	\$ 1.34	Postage: mailing expense - Motion to Extend Pursuant to Nev. Rev. Stat. 41.660(6) and EDCR 2.25(a) sent to Willick Law Group and G Law.
1/31/2017	\$ 30.80	Copying Costs: Through January 31, 2017: 385 pages at \$0.08 per page.
1/31/2017	\$ 27.14	Legal Research: WestLawNext - charges for 46 transactions for January 2017.
2/3/2017	\$ 7.05	Postage: mailing expense.
2/3/2017	\$ 0.92	Postage: mailing expense.
2/3/2017	\$ 0.46	Postage: mailing expense - letter to Mr. Willick in response to Ms. Abrams' preservation/freeze letter.
2/3/2017	\$ 0.92	Postage: mailing expense - preservation/freeze letter to Mr. Willick.
2/16/2017	\$ 3.50	E-filing fee: Motion for Leave to Exceed Page Limit for Their Motion to Dismiss.
2/16/2017	\$ 3.50	E-filing fee: Notice of Motion to Dismiss; Memorandum of Points and Authorities in Support Thereof.
2/16/2017	\$ 3.50	E-filing fee: Motion to Strike.
2/16/2017	\$ 14.00	Postage: mailing expense - Motion to Strike, Notice of Motion to Dismiss; Memorandum of Points and Authorities in Support Thereof, and Motion for Leave to Exceed Page Limit for Their Motion to Dismiss mailed to opposing counsel.
2/28/2017	\$ 40.88	Copying Costs: February 1, 2017 - February 28, 2017: 511 pages at \$0.08 per page.
2/28/2017	\$ 458.28	Legal Research: WestLawNext - charges for 449 transactions for February 2017.
3/28/2017	\$ 33.25	Postage: mailing expense - Under seal exhibits to Anti-SLAPP motion to dismiss (filed under seal) sent to opposing counsel (multiple law offices).

Date	Price	Note
3/31/2017	\$ 59.76	Copying Costs: March 1, 2017 - March 31, 2017: 747 pages at \$0.08 per page.
4/3/2017	\$ 120.82	Legal Research: WestLawNext - charges for 261 transactions for March 2017.
4/30/2017	\$ 12.32	Copying Costs: April 1, 2017 - April 30, 2017: 154 pages at \$0.08 per page.
4/30/2017	\$ 13.61	Legal Research: WestLawNext - charges for 33 transactions for April 2017.
5/26/2017	\$ 2.30	Postage: mailing expense - Defendants Steve W. Sanson and Veterans in Politics International, Inc.'s Request to Unseal Exhibit 13 of Their Special Motion to Dismiss Pursuant to Nev. Rev. Stat. Â§ 41.660 (anti-SLAPP) sent to opposing counsel (5 law offices).
5/26/2017	\$ 3.50	E-filing fee: Defendants Steve W. Sanson and Veterans in Politics International, Inc.'s Request to Unseal Exhibit 13 of Their Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (anti-SLAPP).
5/30/2017	\$ 3.50	E-filing fee: Defendants Steven W. Sanson and Veterans in Politics International, Inc.'s Motion for Leave to Exceed Page Limit for Their Omnibus Reply to: (1) Plaintiff's Opposition to Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP); and (2) Plaintiff's Opposition to Motion to Dismiss and Countermotion for Attorney's Fees.
5/30/2017	\$ 3.50	E-filing fee: Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiff's Countermotion for Attorney's Fees.
5/30/2017	\$ 17.50	Postage: mailing expense - Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiff's Countermotion for Attorney's Fees; Motion for Leave to Exceed Page Limit for Their Omnibus Reply; and Omnibus Reply to: (1) Plaintiff's Opposition to Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP); and (2) Plaintiff's Opposition to Motion to Dismiss and Countermotion for Attorney's Fees sent to opposing counsel (5 law offices).
5/30/2017	\$ 3.50	E-filing fee: VIPI Defendants' Omnibus Reply to: (1) Plaintiff's Opposition to Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP); and (2) Plaintiff's Opposition to Motion to Dismiss and Countermotion for Attorney's Fees.

MCLETCHE SHELL

Date	Price	Note
5/31/2017	\$ 83.04	Copying Costs: May 1, 2017 - May 31, 2017: 1,038 pages at \$0.08 per page.
5/31/2017	\$ 254.39	Legal Research: WestLawNext - charges for 372 transactions for May 2017.
6/1/2017	\$ 0.47	Dropped off three binders of Motion to Dismiss at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 12. Total miles: 0.9 at 0.54 cents per mile.
6/9/2017	\$ 3.50	E-filing fee: 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.
6/9/2017	\$ 8.05	Postage: mailing expense - 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 sent to opposing counsel (5 law offices).
6/30/2017	\$ 93.36	Copying Costs: June 1, 2017 - June 30, 2017: 1,167 pages at \$0.08 per page.
6/30/2017	\$ 84.60	Legal Research: WestLawNext - charges for 124 transactions for June 2017.
7/5/2017	\$ 402.67	Invoice # 1392: LGM Transcription Service (June 5, 2017 hearing).
7/5/2017	\$ 80.00	Invoice for hourly recording fee (June 5, 2017 hearing).
7/5/2017	\$ 0.49	Made payment for transcript (June 5, 2017 hearing) to Clark County Treasurer, and LGM Transcription Services at the Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101. Total miles 0.9 at 0.54 cents/per mile.
7/20/2017	\$ 18.52	Picked up: Stipulation and Proposed Order at Bailey Kennedy Attorneys at Law: 8984 Spanish Ridge Ave, Las Vegas, NV 89148. Total miles 34.3 at 0.54 cents/ per mile.
7/20/2017	\$ 1.19	Picked up Mr. Potter's signature at: 1125 Shadow Ln, Las Vegas, NV 89102 for Stipulation and [Proposed] Order. Total miles 2.2 at 0.54 cents/ per mile.

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Date	Price	Note
7/20/2017	\$ 0.49	Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12. Total miles: 0.9 at 0.54 cents/ per mile.
7/20/2017	\$ 18.36	Picked up: Stipulation and Proposed Order at Bailey Kennedy Attorneys at Law: 8984 Spanish Ridge Ave, Las Vegas, NV 89148. Total miles: 34.0 at 0.54/ cents per mile.
7/24/2017	\$ 3.50	E-filing fee: Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP).
7/24/2017	\$ 3.50	E-filing fee: Notice of Entry of Order.
7/24/2017	\$ 9.10	Postage: mailing expense - Notice of Entry of Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP) sent to opposing counsel (5 offices).
7/26/2017	\$ 3.50	E-filing fee: Stipulation and Order.
7/26/2017	\$ 3.50	E-filing fee: Notice of Entry of Order.
7/26/2017	\$ 3.35	Postage: mailing expense - Notice of Entry of Order (extension re motions for attorneys' fees) sent to opposing counsel (5 offices).
7/31/2017	\$ 9.92	Copying Costs: July 1, 2017 - July 31, 2017: 124 pages at \$0.08 per page.
7/31/2017	\$ 5.29	Legal Research: WestLawNext - charges for 6 transactions for July 2017.
8/8/2017	\$ 18.41	Picked up Stipulation and [Proposed] Order at Bailey Kennedy, LLP: 8984 Spanish Ridge Ave, Las Vegas, NV 89148. Total miles: 34.1 at 0.54 cents/ per mile.
8/8/2017	\$ 1.24	Picked up Stipulation and [Proposed] Order at Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102. Total miles: 2.3 at 0.54 cents/ per mile.
8/15/2017	\$ 0.22	Picked up Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12. Total Miles: 0.4 at 0.54 cents/ per mile
8/15/2017	\$ 0.97	Picked up Mr. Potter's signature for a Stipulation and [Proposed] Order at Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102. Total miles: 1.8 at 0.54/ cents per mile.
8/15/2017	\$ 1.03	Dropped off Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12. Total Miles: 1.9 at 0.54 cents/ per mile.

MCLETCHE SHELL

Date	Price	Note
8/17/2017	\$ 3.50	E-filing fee: Stipulation and Order.
8/17/2017	\$ 3.50	E-filing fee: Notice of Entry of Order.
8/17/2017	\$ 3.35	Postage: mailing expense - Notice of Entry of Order (second extension re motions for attorneys' fees) sent to opposing counsel (5 offices).
8/17/2017	\$ 1,175.00	Privacy Technician, Inc. Invoice: Invoice # 2816
8/22/2017	\$ 0.49	Dropped of Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12. Total miles: 0.9 at 0.54 cents/ per mile.
8/22/2017	\$ 18.41	Picked up: Signed Stipulation and [Proposed] at Bailey Kennedy: 8984 Spanish Ridge Ave, Las Vegas, NV 89148. Total miles 34.1 at 0.54 cents/ per mile.
8/23/2017	\$ 1.35	Picked up Mr. Potter's signature at the Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102 for the Stipulation and [Proposed] Order. Total miles: 2.5 at 0.54 cents/ per mile.
8/31/2017	\$ 3.35	Postage: mailing expense - Notice of Entry of Order (third extension re motions for attorneys' fees) sent to opposing counsel (5 offices).
8/31/2017	\$ 3.50	E-filing fee: Stipulation and Order.
8/31/2017	\$ 3.50	E-filing fee: Notice of Entry of Order.
8/31/2017	\$ 5.68	Copying Costs: August 1, 2017-August 31, 2017: 71 pages at \$0.08 per page.
8/31/2017	\$ 62.34	Legal Research: WestLawNext - charges for 50 transactions for August 2017.
	\$ 3,534.49	Total Costs and Expenses

EXHIBIT 4

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

**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.

**DECLARATION OF STEVE SANSON IN SUPPORT OF MOTION FOR
ATTORNEY'S FEES AND COSTS PURSUANT TO NRS § 41.670**

I, STEVE SANSON, hereby declare as follows:

1. I make this declaration in support of my Motion for Attorney's Fees and Costs Pursuant to NRS § 41.670. 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

1 to expose public corruption and wrongdoing.

2 3. It is my understanding that on January 27, 2017, the Abrams Plaintiffs sent
3 a letter to my attorney, Margaret A. McLetchie, demanding that I and VIPI preserve
4 electronically stored information that might be relevant to this case.

5 4. To respond to that demand, Ms. McLetchie asked to take possession of the
6 hard drive to the computer I use to conduct VIPI business.

7 5. Because I needed access to the files on the hard drive while this matter was
8 being litigated, I incurred costs in the amount of \$252.09 to have my hard drive cloned,
9 copied, and reinstalled on my computer.

10 6. A true and correct copy of the invoice for that service is attached hereto as
11 Exhibit A.

12 7. In addition, in order to respond to allegations by the Abrams Plaintiffs
13 regarding commentary I made about Ms. Abrams' courtroom demeanor in the *Saiter* matter
14 at the September 29, 2016 hearing, I and co-defendant Louis Schneider ordered a transcript
15 of that hearing.

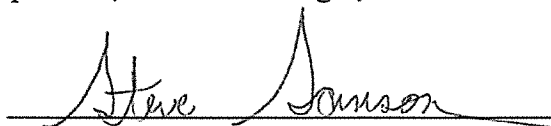
16 8. The total cost for the preparation of that transcript was \$1,461.20. A true
17 and correct copy of the invoice for the transcript is attached hereto as Exhibit B.

18 9. Of that amount, I paid \$730.60.

19 10. As a result of this litigation and related efforts to silence myself and VIPI,
20 and in light of the conduct of Plaintiffs and their initial counsel Marshal Willick, I believe
21 that VIPI and I are entitled to \$10,000.00 each.

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 12th day of September, 2017 in Las Vegas, NV.

26
27 

28 Steve Sanson

EXHIBIT A

Problem Report: take 1 TB HDD (\$99.95) and clone customers hard drive - use Macrium Reflect

Date: 02/14/2017

Time: 02:00 AM

to

02:00 AM

Tech: Rafael Santos

Major Cross

Special Instruction Durango / Farm

Problem: take 1 TB HDD (\$99.95) and clone customers hard drive

Solution: pc: check browsers, startup, installed apps, cleaner, mwb, pc is clean, install reflect, start clone, all partitions, copy finished with no errors, remove old hdd and set new one on tower, test printer.

Comments: cloned hdd set on pc, gave old hdd to customer

Status: IncompleteJob

Payment Type: Check

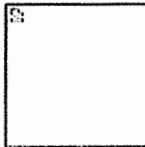
Invoice: 6514

Invoice Amount: \$ 252.0900

Cancel Notes:

Device List:

Snapshot:



[Update Image](#)

Map: [Yahoo Map](#) [Google Map](#) [MapQuest.com](#)

JVA001069

EXHIBIT B

**Veritext Corp
Western Region**

707 Wilshire Boulevard, Suite 3500
Los Angeles CA 90017
Tel. 877-955-3855 Fax. 949-955-3854
Fed. Tax ID: 20-3132569



Bill To: Anat Levy
Anat Levy & Associates, P.C.
5841 E Charleston Blvd
Suite 230-421
Las Vegas, NV, 89142

Invoice #: CA2916613
Invoice Date: 3/22/2017
Balance Due: \$1,461.20

Case: Adams, Jennifer V. v. Lewis Schneider
Job #: 2571637 | **Job Date:** 3/13/2017 | **Delivery:** Expedited
Billing Atty: Anat Levy
Location: Veritext Legal Solutions
2250 South Rancho Drive | Suite 195 | Las Vegas, NV 89102
Sched Atty: Alina M. Shell | McLatchie Shell LLC

Case No: 2:14-cv-01475-JAD-NJK

Witness	Description	Units	Quantity	Amount
Transcription	Audio - Transcription	Page	116.00	\$1,299.20
	Audio - Listening Time	Per hour	1.00	\$100.00
	Litigation Package	1	1.00	\$36.00
	Shipping & Handling	Package	1.00	\$26.00
Notes:		Invoice Total:		\$1,461.20
		Payments:		\$0.00
		Credit:		\$0.00
		Interest:		\$0.00
		Balance Due:		\$1,461.20

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

**To pay online, go to
www.veritext.com**

Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303

Invoice #: CA2916613
Job #: 2571637
Invoice Date: 3/22/2017
Balance: \$1,461.20

EXHIBIT 5

1 **DECLARATION OF ATTORNEY KATHLEEN J. ENGLAND**

2 I, Kathleen Jane England, hereby declare under the penalty of perjury that the following is
3 true and correct:

4 1. I am an attorney fully licensed to practice in all courts in Nevada. The facts stated
5 below are based on my personal knowledge and belief, are true and correct and I am competent to
6 so testify. I am making this Declaration in support of a portion of a fee petition and the hourly rates
7 being sought colleagues of mine.

8 2. After graduating from Suffolk University Law School in Boston in 1978, I moved
9 to Nevada, clerked for the Las Vegas City Attorney and became a Deputy City Attorney in 1979
10 after passing the Nevada bar. In 1982, I joined Vargas & Bartlett where I worked on many large
11 civil litigation matters in state and federal for seven years. Twice I was appointed and served as
12 co-chair of Defendants' Settlement Committee in the MGM Grand Fire Litigation, MDL #453. In
13 1989, I started the law firm of Combs & England, doing employment and complex civil litigation.
14 In 1994, I created England Law Office. In 1999, I re-joined my colleagues at Kummer Kaempfer
15 Bonner & Renshaw as a partner from 1999 to 2001. In 2001, I restarted the England Law Office
16 where I practiced as a solo practitioner or with one or two associates. In September 2016, I joined
17 The Law Offices of Gary M. Gilbert, PC, and a national law employment law firm. We created the
18 Gilbert & England Law Firm, a NV Rule 7.5A multijurisdictional law firm, where I am the
19 managing resident Nevada attorney.

20 3. In addition to Nevada, I am admitted to practice, in the US District Court (Nevada)
21 (1980), the Court of Appeals for the Ninth Circuit (1980) and the U.S. Supreme Court (1997.)

22 4. I have been asked by the McLetchie Shell law firm to provide my declaration in
23 support of a fee petition in the state court matter entitled *Jennifer Abrams, et al. v. Louis Schneider,*
24 *et al.*, Case No. A-17-749318-C.

1 5. I am familiar Ms. McLetchie and Ms. Shell, their superb reputation for handling
2 civil rights matters and cases and their expertise in matters involving constitutional law. Their
3 reputation is excellent and well-deserved. For the past few years, I have often referred them cases
4 which I am unable to handle or which are outside of my expertise or which would benefit from
5 their particular expertise in constitutional law. I call upon their expertise informally on matters of
6 case strategy and handling. Since 2012, I have enlisted Ms. McLetchie and now Ms. Shell as co-
7 counsel to assist me in representing clients with difficult and complex cases against large, well-
8 funded employer-defendants. IN the past two years, I have viewed and relied upon their research
9 and work product, and I have worked alongside them and their highly competent staff in drafting,
10 revising and finalizing pleadings. Based on those interactions, I can safely say they are entitled to
11 command the highest rates for their work.

12 6. Ms. McLetchie, who I understand was first admitted to the California bar in 2002,
13 has diverse and extensive legal experience, including in criminal matters and in complex litigation.
14 Ms. McLetchie previously served as a Staff Attorney, Legal Director, and Interim Southern
15 Program Director for the American Civil Liberties Union of Nevada, where I had occasion to work
16 with her on some cases.

17 7. I have had the opportunity to work or consult with Ms. McLetchie during both her
18 time at the ACLU of Nevada and her time in private practice. Based on my experience in working
19 with her, I know that Ms. McLetchie is a versatile, experienced, and creative litigator.

20 8. Ms. Shell, I understand who was admitted to the Nevada bar in 2009, has almost
21 eight years of legal experience. I understand that Ms. Shell was an attorney with the Federal Public
22 Defenders (FPD) for the District of Nevada from then until going into private practice in 2015.
23 While employed by the FPD, I understand that Ms. Shell represented numerous defendants in a
24 variety of criminal cases in federal courts and that she wrote and argued several complex criminal

1 appeals in the United States Court of Appeals for the Ninth Circuit. Her subsequent work since
2 moving into private practice in June 2015 shows the high level of past work she engaged in and
3 how she has transitioned those skills from criminal work to the civil side, which is quite impressive
4 in this short period of time. I am aware that Ms. Shell has represented plaintiffs in state and federal
5 court in civil matters, including civil rights and employment cases and I applaud her commitment
6 to do so because very few practitioners aspire to do this kind of work.

7 9. I have had several occasions to work with or consult with Ms. Shell during her time
8 in private practice, and have found her to be an intelligent and effective researcher, writer and
9 advocate for her client.

10 10. Pharan Burchfield is a paraprofessional (paralegal) at McLetchie Shell. I
11 understand that Ms. Burchfield has an associate's degree in paralegal studies (2014 from the
12 College of Southern Nevada) and has been a paralegal for three years, which surprises me because
13 her work product and her work ethic is equivalent to someone with 10-15 years of paralegal
14 litigation experience. Ms. Burchfield has assisted me in preparing a number of complex filings in
15 federal civil matters. Ms. Burchfield is one of the best paralegals I have had a chance to work with;
16 she has great attention for detail, and has the highest level of computer skills. She is organized, is
17 able to organize others and is calm in the face of nerve-wracking deadlines and last minute
18 obstacles. She is a problem-solver, and works very efficiently and very effectively.

19 11. I have been practicing in this field for the last 37 years and have submitted and
20 received multiple fee awards in state and federal courts and so I keep myself generally informed
21 of prevailing market rates in Las Vegas. As a result of a recent case where my client was granted
22 partial summary judgment by the U.S. District Court, I have recently re-familiarized myself with
23 the prevailing hourly rates for experienced employment law/civil rights attorneys and their staff
24 in the local Las Vegas legal community, both on the defense side (where the attorneys may accept


1 lower hourly rates in exchange for regular and non-contingent billings and immediate payments
2 by their clients who provide streams of billable work.

3 12. I understand that McLetchie Shell, LLC's billing rates are as follows:

Attorney/Biller	Year of Admission	Billing Rate
Margaret McLetchie	2002 (California)	\$450.00
	2008 (Nevada)	
Alina Shell	2009	\$350.00
Leo Wolpert	2012	\$175.00
Law clerk (law student)	n/a	\$100.00
Support staff and paralegal	n/a	\$150.00

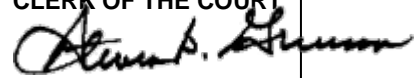
12 13. In my opinion, and based on my recent research on fees and hourly rates, and
13 because these often involve matters which are hotly disputed by opposing counsel and well-funded
14 defendants, each of the rates set forth above are reasonable for the McLetchie Shell folks in
15 question, of whom I have personal knowledge, are not just reasonable but might even be
16 understated and low for the work that they represent in this legal community, which is difficult
17 work and not as remunerative as other practice areas. Thus, I think these McLetchie Shell rates are
18 below the market rates these folks could otherwise command in southern Nevada.

19 14. Further your affiant sayeth naught.

20 
21 KATHLEEN J. ENGLAND, Attorney
22 Gilbert & England Law Firm
23 610 South Ninth Street
24 Las Vegas, Nevada 89101
(702) 529-2311

37

37



1 NOCH

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6 Jennifer Abrams, Plaintiff(s)

Case No.: A-17-749318-C

7 vs.

Department 12

8 Louis Schneider, Defendant(s)

9
10 **NOTICE OF CHANGE OF HEARING**

11 The hearing on the Schneider Defendants' Motion for Statutory Damages and Attorneys'
12 Fees, Costs, and Damages Pursuant to NRS 41.670; and Motion for Sanctions presently set
13 for the 16th day of September, 2017, at 8:30 AM, has been moved to the 16th day of
14 October, 2017, at 8:30 AM and will be heard by Judge Michelle Leavitt.

15
16 STEVEN D. GRIERSON, CEO/Clerk of the Court
/s/ Salevao Asifoa

17 By: _____
18 S.L. Asifoa, Deputy Clerk of the Court

19 **CERTIFICATE OF SERVICE**

20
21 I hereby certify that this 13th day of September, 2017

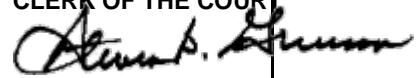
22 ☒ The foregoing Notice of Change of Hearing was electronically served to all registered
23 parties for case number A-17-749318-C.

24 _____
25 /s/ Salevao Asifoa
S.L. Asifoa, Deputy Clerk of the Court

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28 JVA001077

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JMOT
CAL J. POTTER, III, ESQ.
Nevada Bar No. 1988
C.J. POTTER, IV, ESQ.
Nevada Bar No. 13225
POTTER LAW OFFICES
1125 Shadow Lane
Las Vegas, Nevada 89102
Ph: (702) 385-1954
Fax: (702) 385-9081
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 SCHNEIDER DEFENDANTS'
JOINDER TO DEFENDANT STEVE W.
SANSON and VIPI DEFENDANTS'
MOTION FOR ATTORNEY FEES AND
COSTS PURSUANT TO NEV. REV.
STAT. § 41.670

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 Motion
for Attorney Fees and Costs Pursuant to Nev. Rev. Stat. § 41.670, filed in this matter on
September 13, 2017 and fully incorporated herein.

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JVA001078

1 The Motion is currently scheduled for hearing on October 16, 2017 at 8:30 a.m. before
2 the Honorable Judge Leavitt.

3 DATED this 15th day of September, 2017.

4 POTTER LAW OFFICES

5 By /s/ C. J. Potter, IV, Esq.
6 CAL J. POTTER, III, ESQ.
7 Nevada Bar No. 1988
8 C. J. POTTER, IV, ESQ.
9 Nevada Bar No. 13225
10 1125 Shadow Lane
11 Las Vegas, NV 89102
12 *Attorneys for Schneider Defendants*
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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 15th day of September, 2017, I did serve at Las Vegas, Nevada a true and
4 correct copy of **LOUIS SCHNEIDER DEFENDANTS' JOINDER TO DEFENDANT**
5 **STEVE W. SANSON and VIPI DEFENDANT'S MOTION FOR ATTORNEY FEES**
6 **AND COSTS PURSUANT TO NEV. REV. STAT. § 41.670** on all parties to this action by:

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

11 Addressed to:

12 Jennifer Abrams, Esq.
13 THE ABRAMS & MAYO LAW FIRM
14 6252 South Rainbow Boulevard, Suite 100
Las Vegas, Nevada 89118
JVAGroup@theabramslawfirm.com

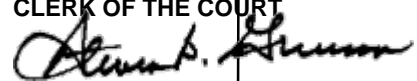
15 Marshal Willick, Esq.
16 WILLICK LAW GROUP
17 3591 E. Bonanza rd. #200
Las Vegas, NV 89110
marshal@willicklawgroup.com

18 Maggie McLetchie
19 MCLETCHIE SHELL
20 701 E. Bridger #520
Las Vegas, NV 89101
maggie@nvlitigation

21 /s/ Tanya Bain
22 An employee of POTTER LAW OFFICES
23
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1 **MAFC**

2 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

3 ALINA M. SHELL, Nevada Bar No. 11711

4 **MCLEATCHIE SHELL LLC**

5 701 East Bridger Ave., Suite 520

6 Las Vegas, Nevada 89101

7 Telephone: (702) 728-5300

8 Facsimile: (702) 425-8220

9 Email: maggie@nvlitigation.com

10 *Attorneys for Defendants Steve W. Sanson and*

11 *Veterans in Politics International, Inc.*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 JENNIFER V. ABRAMS and THE
15 ABRAMS & MAYO LAW FIRM,
16 Plaintiff,

17 vs.

Case No.: A-17-749318-C

Dept. No.: XII

CORRECTED MOTION FOR
ATTORNEY FEES AND COSTS
AND ADDITIONAL AWARDS
PURSUANT TO NEV. REV.
STAT. §41.670

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

27 Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International
28 ("VIPI") (collectively, the "VIPI Defendants" or "Defendants"), by and through their
counsel, Margaret A. McLetchie and Alina M. Shell of the law firm McLetchie Shell LLC,
hereby move this Court to award the VIPI Defendants attorney's fees and costs as the
prevailing party on their motion to dismiss Plaintiff's complaint. The VIPI Defendants also
move this Court to award them \$10,000.00 each pursuant to Nev. Rev. Stat. § 41.670(3)(a).

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1 This motion is made pursuant to Nev. Rev. Stat. § 41.670, and is based upon the
2 attached memorandum of points and authorities, the papers and pleadings on file herein, and
3 any argument this Court may permit at the hearing on this motion.

4 Dated this the 12th day of September, 2017.

5 /s/ Margaret A. McLetchie

6 Margaret A. McLetchie, Nevada State Bar No. 10931

7 MCLEATCHIE SHELL, LLC

8 701 E. Bridger Ave., Ste. 520

9 Las Vegas, NV 89101

10 *Attorney for Defendants Steve W. Sanson and*
11 *Veterans in Politics International*

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NOTICE OF HEARING

TO: ALL INTERESTED PARTIES.

YOU WILL TAKE NOTICE that the undersigned will bring on for hearing the above-noted MOTION FOR ATTORNEY FEES AND COSTS AND ADDITIONAL AWARDS PURSUANT TO NEV. REVSTAT. § 41.670 and to be heard the 16th day of October 2017, at the hour of 8:30 a.m., in the above-entitled Court or as soon thereafter as counsel may be heard.

DATED this 12th day of September, 2017.

/s/ Margaret A. McLetchie
MARGARET A. MCLETSCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLETSCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
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Facsimile: (702) 425-8220
Email: maggie@nvlitigation.com
*Attorneys for Defendants Steve W. Sanson and
Veterans in Politics International, Inc.*

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Because the VIPI Defendants prevailed on their special motion to dismiss pursuant to Nevada’s Anti-SLAPP statutes, Nev. Rev. Stat. § 41.635, *et seq.*, they are entitled to recover fees and costs pursuant to Nev. Rev. Stat. § 41.670(1)(a). The total fees requested are \$91,090.00 and the requested costs are \$3,534.49. Mr. Sanson also personally incurred fees in the amount of \$982.69 in relation to this matter.

Moreover, pursuant to Nev. Rev. Stat. § 41.670(1)(b), the VIPI Defendants respectfully request this Court award them each an additional \$10,000.00 against Plaintiffs for bringing a suit that was designed to chill Defendants’ protected speech.

II. RELEVANT FACTS AND PROCEDURAL HISTORY

On January 9, 2017, Plaintiffs Jennifer V. Abrams and the Abrams & May Law Firm (“the Abrams Parties”) filed a Verified Complaint against the VIPI Defendants, as well as several other Defendants. The Complaint included purported causes of action for defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, false light, business disparagement, harassment, concert of action, civil conspiracy, RICO, and injunctive relief. The Abrams Parties subsequently filed an amended complaint on January 27, 2017.

The genesis of this suit was a series of online postings by Defendant Sanson—the President of VIPI—criticizing Ms. Abrams’ in-court behavior and her practices in Family Court. (*See* July 24, 2017 Order, ¶¶ 1-15.) Specifically, On October 5, 2016, acting in his capacity as President of VIPI, Mr. Sanson posted an article on the publicly-accessible website <veteransinpolitics.org> entitled “Nevada Attorney attacks a Clark County Family Court Judge in Open Court,” containing the court video transcript of a September 29, 2016 hearing in the case entitled *Saiter v. Saiter*, Eighth Judicial District Court, Family Division, Clark County, Nevada, Case No. D-15-521372 (the “*Saiter* Hearing”). The *Saiter* hearing involved a heated exchange between Ms. Abrams and Judge Jennifer L. Elliot. On November 6, 2016, Mr. Sanson posted another an article to <veteransinpolitics.org> entitled “Law Frowns on

Nevada Attorney Jennifer Abrams’ ‘Seal-Happy’ Practices.” This article was critical of Ms. Abrams’ practice of sealing the records in many of her cases. On November 14, 2016, Mr. Sanson posted an article to <veteransinpolitics.org> entitled “Lawyers acting badly in a Clark County Family Court.” That same day, Mr. Sanson posted a video of the Saiter Hearing to the video-hosting website YouTube. In the description of the video, Mr. Sanson stated his opinion that Ms. Abrams’ conduct in open court constituted “bullying.” Mr. Sanson also stated his belief in the importance of public access to court proceedings. On November 16, 2016, Mr. Sanson posted an article to <veteransinpolitics.org> criticizing Judge Rena Hughes for making a misleading statement to an unrepresented child in Family Court. Like the others, this article reflects a core VIPI mission—exposing to the public and criticizing the behavior of officials. Finally, on December 21, 2016, the VIPI Defendants posted three videos to YouTube entitled “The Abrams Law Firm 10 05 15,” “The Abrams Law Firm Inspection part 1,” and “The Abrams Law Firm Practices p 2.” All the above-listed articles were also simultaneously sent to VIPI email subscribers.

On January 27, 2017, the Abrams Parties sent a letter to undersigned counsel demanding the VIPI Defendants preserve “all documents, tangible things and electronically stored information (‘ESI’) potentially relevant to any issues” in the litigation. (Declaration of Margaret A. McLetchie (“McLetchie Decl.”), ¶ 4.) To respond to the Abrams Parties’ demand, the VIPI Defendants hired digital forensics expert Ira Victor of Privacy Technician, Inc. to assist with responding to the Abrams Parties’ letter, consult with the VIPI Defendants, and provide services consulting on forensic processes and planning. (McLetchie Decl., ¶ 5.) Counsel also took possession of Mr. Sanson’s hard drive to preserve it during this litigation. (McLetchie Dec., ¶ 6.) Because Mr. Sanson needed access to the files on his hard drive while this matter was being litigated, Mr. Sanson also incurred costs in the amount of \$252.09 to have his hard drive cloned, copied, and reinstalled on his computer. (Declaration of Steve Sanson (“Sanson Decl.”), ¶¶ 5, 6; *see also* Exh. A to Sanson Decl.) In addition to this expense, Mr. Sanson also spent \$730.60 to obtain a transcript of the September 26, 2016 hearing in the *Saiter* matter to respond to Plaintiffs’ allegations regarding statements he made

1 about Ms. Abrams' courtroom demeanor. (Sanson Decl., ¶¶ 7-9; *see also* Exh. B to Sanson
2 Decl.)

3 On January 30, 2017, the VIPI Defendants filed a Motion to Dismiss Plaintiffs'
4 First Amended Complaint Pursuant to Nev. R. Civ. P. 12(b)(5) (the "12(b)(5). On February
5 16, 2017, the VIPI Defendants filed a Motion to Strike several paragraphs from the Abrams'
6 Parties amended complaint, including statements of law masquerading as facts, improper
7 causes of action, irrelevant and immaterial statements of fact, and scandalous material not
8 properly brought in a complaint.

9 On March 28, 2017, the VIPI Defendants filed a Special Motion to Dismiss
10 pursuant to Nev. Rev. Stat. § 41.660. (*Id.*, ¶ 25.) The Court heard oral argument on the VIPI
11 Defendants' Special Motion to Dismiss on June 5, 2017. Following supplemental briefing
12 from the parties, the Court entered a minute order on June 22, 2017 granting the VIPI
13 Defendants' Special Motion to Dismiss. The Court subsequently entered a written order on
14 July 24, 2017. In its order, the Court found that the VIPI Defendants had met their burden of
15 demonstrating that the statements listed above all pertained to matters of public interest and
16 were made in a public forum, were not false statements of fact., and were protected by
17 Nevada's Anti-SLAPP statute. (July 24, 2017 Order, ¶¶ 38, 54, 55, 66.)

18 The Court also found that the Abrams Parties had failed to meet their burden of
19 demonstrating "with prima facie evidence a probability of prevailing on the claims" as
20 required by Nev. Rev. Stat. § 41.660(3)(b). (*Id.*, ¶¶ 70, 71.) Indeed, the Court noted that
21 several of the claims asserted by the Abrams Parties were either not cognizable causes of
22 action (such as the Abrams' Parties' non-existent cause of action for "harassment" or their
23 "cause of action" for injunctive relief) or were without merit and should be dismissed.

24 **III. LEGAL ARGUMENT**

25 **A. Legal Standard for Reasonable Attorney's Fees Under Nevada's Anti-SLAPP Statute.**

26 Recovery of attorney fees as a cost of litigation is permissible by agreement, statute,
27 or rule. *Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d
28 964, 969 (2001). In this case, recovery of attorneys' fees is authorized by statute. Nevada's

1 Anti-SLAPP statutes provide that if the court grants a special motion to dismiss pursuant to
2 Nev. Rev. Stat. § 41.660, the court “shall award reasonable costs and attorney’s fees to the
3 person against whom the action was brought.” Nev. Rev. Stat. § 41.670(1)(a). In addition, §
4 41.670(1)(b) provides that a court “may award, in addition to reasonable costs and attorney’s
5 fees awarded pursuant to paragraph (a), an amount of up to \$10,000 to the person against
6 whom the action was brought.”

7 Under California law, which Nevada courts look to in interpreting its Anti-SLAPP
8 statute,¹ all fees incurred in defending oneself from a SLAPP suit are recoverable when all
9 claims are dismissed under the Anti-SLAPP statute. *Graham-Suit v. Clainos*, 738 F.3d 1131,
10 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014))
11 (finding that awarding all attorney’s fees incurred in connection with a case, even if not
12 directly related to the Anti-SLAPP motion, are recoverable if all claims are dismissed). Fees
13 on fees incurred after a fee motion is filed are also recoverable under the statute. *Wanland v.*
14 *Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006) (finding
15 that fees recoverable under Anti-SLAPP statute include all post-motion fees, such as fees on
16 fees, fees in connection with defending an award of fees, and fees on appeal of an order
17 granting an Anti-SLAPP motion).

18 Here, the VIPI Defendants prevailed on their Anti-SLAPP motion, and all of
19 Plaintiffs’ claims were dismissed because of the motion. Accordingly, the VIPI Defendants
20 are entitled to an award for all fees and costs incurred in defending against the Abrams
21 Parties’ meritless suit.

22 **B. The VIPI Defendants’ Requested Fees and Costs Are Reasonable and**
23 **Fully Documented.**

24 Any fee-setting inquiry begins with the calculation of the “lodestar:” the number of
25 hours reasonably expended multiplied by a reasonable hourly rate. *See, e.g., Blum v. Stenson*,
26 465 U.S. 886, 896-97 (1984); *accord Herbst v. Humana Health Ins. of Nevada*, 105 Nev.
27 586, 590, 781 P.2d 762, 764 (1989). Relevant factors include the preclusion of other

28 ¹ *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 756 (2009) (stating “we consider California
caselaw because California’s anti-SLAPP statute is similar in purpose and language to
Nevada’s anti-SLAPP statute”)

employment by the attorney due to acceptance of the case; time limitations imposed by the client or the circumstances; the amount involved and results obtained; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69–70 (9th Cir.1975). The lodestar figure is a presumptively reasonable fee award. *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 978 (9th Cir. 2008). The lodestar method of calculation is “the guiding light of [Nevada’s] fee-shifting jurisprudence,” and there is a strong presumption that a lodestar figure is a reasonable fee. *Cuzze v. Univ. & Cmty. College Sys.*, 123 Nev. 598, 606 (2007) (quoting *City of Burlington v. Dague*, 505 U.S. 557, 559, 562 (1992)).

In addition to calculating the lodestar, a court must also consider the requested amount in light of the factors enumerated by the Nevada Supreme Court in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Pursuant to *Brunzell*, a court must consider four elements in determining the reasonable value of attorneys’ services:

(1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

1. The VIPI Defendants Seek Fees for a Reasonable Number of Hours, and Exercised Appropriate Billing Judgment.

Pursuant to Nev. R. Civ. P. 54(d)(2)(B), statements “swearing that the fees were actually and necessarily incurred and were reasonable” are set forth in the attached declaration of Margaret A. McLetchie (“McLetchie Decl.”) attached hereto as Exhibit 1, and supported by the billings for the VIPI Defendants’ attorney fees and costs attached hereto as Exhibits 2 and 3. The litigation in this matter was complex and time-consuming for several reasons. In addition to the time and costs associated with the filing of an Anti-SLAPP Motion

1 to Dismiss, much of the complexity in the case—and ultimately, the fees and costs incurred
2 in this matter—are attributable to the Abrams Parties’ efforts to silence the VIPI Defendants
3 through both legal and extralegal means.

4 First, at the same time that the Abrams Parties filed suit against the VIPI
5 Defendants, attorney Marshal Willick (who represents the Plaintiffs in this matter) filed a
6 separate suit against the VIPI Defendants in *Marshal S. Willick v. Steve Sanson, et al.*, Case
7 No. A-17-750171-C. (McLetchie Decl., ¶ 8.) To protect the VIPI Defendants’ interests in
8 this case, counsel was required to monitor the litigation in the *Willick* matter, coordinate with
9 the VIPI Defendants’ counsel in that matter, attend hearings, and monitor and review the
10 papers and pleadings filed therein. (McLetchie Decl., ¶ 9.)

11 Second, as this Court discussed in its July 24 Order, at the same time they were
12 pursuing litigation in the instant matter, Ms. Abrams also attempted to have Mr. Sanson held
13 in contempt and incarcerated in *Saiter v. Saiter*, No. D-15-521372-D, the Family Court
14 matter which inspired several of the VIPI postings the Abrams Parties alleged were
15 defamatory. (July 24, 2017 Order, ¶ 19.) Ultimately, the Family Court judge presiding over
16 the *Saiter* matter denied Ms. Abrams’ attempt to have Mr. Sanson held in contempt. (*Id.*, ¶
17 20.) As with the *Willick* matter, counsel was required to closely monitor the *Saiter* matter to
18 ensure Mr. Sanson’s interests were adequately protected, and to assess any potential impact
19 the *Saiter* matter would have on the instant case. (McLetchie Decl., ¶ 10.) Mr. Sanson was
20 also required to retain the services of Anat Levy & Associates, P.C., to defend against a
21 Motion for Order to Show Cause Ms. Abrams filed in the *Saiter* matter.

22 Third, at the same time the Abrams Parties were suing Mr. Sanson, trying to have
23 him held in contempt and incarcerated, and coordinating with Mr. Willick to silence the VIPI
24 Defendants, Ms. Abrams was also interfering with the VIPI Defendants’ ability to
25 communicate with VIPI’s members and members of the public by sending “take down”
26 notices to VIPI’s online service providers. (*See* March 28, 2017 Declaration of Steve Sanson
27 in Support of Special Anti-SLAPP Motion to Dismiss, ¶¶ 20-25 (describing the effects of
28 Ms. Abrams’ campaign to shut down VIPI’s critical statements about her practices); *see also*

Exh. 8 to Anti-SLAPP Motion to Dismiss (take down notices from YouTube, Facebook, Vimeo, and Constant Contact).)

Fourth, counsel for the VIPI Defendants were required to spend significant time researching and presenting the Defendants' Anti-SLAPP Motion to Dismiss. As this Court is aware, to prevail on a special motion to dismiss, a defendant must "establish[], by a preponderance of the evidence, that the claim is 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." Nev. Rev. Stat. § 41.660(3)(a). Nevada Anti-SLAPP law defines a "good faith communication in furtherance of the right to free speech in direct connection with an issue of public concern" as, *inter alia*, a communication: (1) "made in direct connection with an issue of public interest"; (2) "made in a place open to the public or in a public forum;" and (3) "which is truthful or is made without knowledge of its falsehood." Nev. Rev. Stat. § 41.637.

To meet their burden, counsel for the VIPI Defendants had to conduct extensive research to determine whether each of the statements cited by the Abrams Parties were good faith communications regarding issues of public concern. Counsel were required to watch every complained-of video, and read every complained-of blog posting. (McLetchie Decl., ¶ 12.) Counsel were also required to conduct extensive research regarding Nevada and California's Anti-SLAPP laws as well as federal case law interpreting both states' Anti-SLAPP statutes, and draft complex and extensive pleadings. In addition, as discussed above, counsel was required to retain and consult with a digital forensic expert to respond to Ms. Abrams' ESI preservation letter, and to comply with their obligations to preserve ESI. (McLetchie Decl., ¶ 13.)

In addition to the work performed on preparing the Anti-SLAPP motion, the VIPI Defendants also were required to expend additional time and resources filing a Motion to Dismiss pursuant to NRCP 12(b)(5) after the Abrams Plaintiffs refused to stipulate to extend the time for filing a 12(b)(5) Motion. On January 23, 2017, counsel for the VIPI Defendants contacted Ms. Abrams (who at the time was representing herself and the Abrams & Mayo

Law Firm in this matter) to notify the Plaintiffs that Defendants intended to file an Anti-SLAPP motion to dismiss, and determine whether Plaintiffs would be willing to stipulate to modify the normal briefing schedule until after the Court ruled on the Anti-SLAPP motion. (McLetchie Decl., ¶ 14.) Ms. Abrams initially indicated she was willing to stipulate to a modification of the briefing schedule, and Defendants prepared a proposed stipulation to that effect. (*Id.*, ¶ 15.) Ms. Abrams subsequently indicated she and the Abrams & Mayo Law Firm were not willing to stipulate to a modification of the briefing schedule. (McLetchie Decl. ¶ 16.) Because Plaintiffs would not agree to modify the briefing schedule, the VIPI Defendants were forced to file a Motion to Dismiss pursuant to NRCp 12(b)(5). In other words, Plaintiffs' unwillingness to modify the briefing schedule in a manner which would have streamlined the proceedings in this matter resulted in increased fees and costs for the VIPI Defendants; costs the Plaintiffs should now have to bear.

Finally, the VIPI Defendants were forced to expend significant time addressing several frivolous or non-existent causes of action the Abrams Parties raised in their First Amended Complaint, including causes of action for RICO violations, copyright infringement, injunctive relief, and harassment. Eventually, at the June 5, 2017 hearing on the VIPI Defendants' Motion to Dismiss, counsel for the Abrams Parties conceded that these claims lacked merit and should be dismissed. (*See* July 24, 2017 Order, ¶ 72.) However, by the time the Abrams Parties acknowledged these claims were not meritorious, the VIPI Defendants had already spent significant time addressing those claims in their Motion to Dismiss and Anti-SLAPP Motion to Dismiss.

Despite these obstacles created by the Abrams Parties, the VIPI Defendants' counsel appropriate billing judgment and structured work on this case to maximize efficiencies, and the hours listed in the fee request are neither duplicative, unnecessary nor excessive. (McLetchie Decl., ¶ XX.) *See also Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983) ("Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission.").

1 To keep billing as low as possible, counsel utilized a research and writing attorney,
2 a student law clerk, and a paraprofessional to perform tasks such as research and drafting
3 under Ms. McLetchie's direction to assure that attorneys with higher billing rates were not
4 billing for tasks that lower billers could perform. (McLetchie Decl. at ¶ 18.) Potentially
5 duplicative or unnecessary time has not been included. (*Id.* at ¶ 19.) In all these ways, counsel
6 for the VIPI Defendants has charged a reasonable rate for the attorneys' time. Counsel also
7 exercised appropriate billing judgment by *not* including in this application certain time, even
8 time which would likely be compensable. (*Id.* at ¶ 21.)

9 **2. An Analysis of the *Brunzell* Factors Supports the Award of the**
10 **Fees the VIPI Defendants Seek.**

11 As discussed above, the Nevada Supreme Court's opinion in *Brunzell* sets forth
12 several factors that should be used to determine whether a requested amount of attorney fees
13 is reasonable. *See Brunzell*, 85 Nev. 345, 349, 455 P.2d 31, 33. Each of these factors supports
14 the amount sought.

15 **i) The Advocates**

16 To be considered in determining the reasonable value of an attorney's services are
17 the qualities of the advocate, including ability, training, education, experience, professional
18 standing, and skill. *Id.* The VIPI Defendants' attorneys include attorneys, law clerks, and
19 paraprofessionals from McLetchie Shell LLC. Student law clerks, and paraprofessionals
20 were utilized whenever possible and appropriate to keep fees low.

21 Margaret A. McLetchie, working a total of 106.5 credited hours on this case, is a
22 Partner at McLetchie Shell with over fourteen years of experience, admitted to the bar in
23 both California and Nevada. Ms. McLetchie is a former Staff Attorney, Legal Director, and
24 Interim Southern Program Director for the American Civil Liberties Union of Nevada. While
25 with the ACLU of Nevada, Ms. McLetchie litigated several complex civil rights cases. Ms.
26 McLetchie has extensive experience handling First Amendment cases, defamation litigation,
27 and similar matters. Ms. McLetchie's time on this matter was billed at a rate of \$450.00 per
28 hour, for a total of \$47,925.00.

1 Alina M. Shell, working a total of 55.5 hours on this case, is a Partner at McLetchie
2 Shell with almost eight years of legal experience. Prior to transitioning into private practice,
3 Ms. Shell was an attorney with the Federal Public Defender (FPD) for the District of Nevada.
4 While employed by the FPD, Ms. Shell represented numerous defendants in a variety of
5 criminal cases which ran the gamut from revocations of supervised release to complex
6 mortgage fraud cases. She also wrote and argued several complex criminal appeals in before
7 the United States Court of Appeals for the Ninth Circuit. Since moving into private practice
8 in June 2015, Ms. Shell has represented plaintiffs in state and federal court in civil matters,
9 including several civil rights cases. Ms. Shell has also represented clients in both state and
10 federal court in several matters relevant to the instant case, including First Amendment and
11 defamation cases. Ms. Shell's time on this case was billed at the rate of \$350.00 per hour, for
12 a total of \$19,425.00.

13 Leo Wolpert, working a total of 108.5 hours, is a research and writing attorney for
14 McLetchie Shell. Mr. Wolpert is 2011 graduate of the University of Virginia School of Law
15 and has experience with First Amendment and defamation matters. Mr. Wolpert's time on
16 this case was billed at a rate of \$175.00 per hour, for a total billed of \$18,987.50.

17 Pharan Burchfield, working a total of 26.8 credited hours on this case, is a
18 paraprofessional at McLetchie Shell. Ms. Burchfield has an associate's degree in paralegal
19 studies, and has been a paralegal for three years. Ms. Burchfield's time on this case was billed
20 at the rate of \$150.00 per hour, for a total billed of \$4,020.00.

21 Gabriel Czop, working a total of 5.2 credited hours on this case, was a law clerk at
22 McLetchie Shell, enrolled and in good academic standing at the William S. Boyd Law School
23 at the University of Nevada Las Vegas. Mr. Czop's time on this case was billed at the rate of
24 \$100.00 per hour, for a total billed of \$490.00.

25 In sum, the attorneys and employees at McLetchie Shell billed 312.4 hours on this
26 case, for a total of \$91,090.00, at what would be a blended average of approximately \$291.00
27 per hour—well under market for the experience brought to bear on this action. Reasonable
28 costs for documents, filing fees, and the like were calculated for a total billed of \$3,534.49.

With costs, the total billed for McLetchie Shell is \$31,834.34. Further qualification and qualities, including a declaration from Kathleen J. England, Esq. in support of counsel's rates (Exh. 5), and an itemization of these bills are included in the attached declaration of Ms. McLetchie and Exhibits 2 and 3.

ii) The Work Performed, Including Skill, Time, and Attention.

The work actually performed by the lawyer is relevant to the reasonableness of attorneys' fees, including the skill, time, and attention given to the work. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As demonstrated by the billing statement attached in Exhibit 2 and the attached declaration of Ms. McLetchie, a substantial portion of the work in this case was done by attorneys and staff with lower billing rates. Even though some of the work was done by lower billing attorneys and staff, Ms. McLetchie was still required to analyze the research and apply it strategically to the various arguments and assertions posed by the Abrams Parties. As discussed above, counsel for the VIPI Defendants fully briefed this matter, including filing a motion to dismiss, a motion to strike, and the Special Motion to Dismiss. The VIPI Defendants also filed replies to those motions. And as also discussed above, counsel for the VIPI Defendants were required to dedicate significant time and resources to monitoring and addressing Ms. Abrams' Motion for Order to Show Cause in the *Saiter* matter, monitoring Mr. Willick's separate but virtually identical suit against the VIPI Defendants, and addressing a variety of issues presented by the Abrams Parties' multi-pronged efforts to silence the VIPI Defendants.

iii) The Result.

Lastly, "the result: whether the attorney was successful and what benefits were derived" is relevant to this inquiry. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As noted above, the VIPI Defendants are the prevailing parties in this matter, as this Court granted its Special Motion to Dismiss. Because each of these factors weighs in the VIPI Defendants' favor, this Court should exercise its discretion and award the VIPI Defendants reasonable attorneys' fees and costs in the sum of \$94,624.49. Mr. Sanson is also entitled to compensation in the

1 amount of \$982.69 for costs he personally incurred in this matter.

2 **B. The Court Should Award Mr. Sanson and VIPI \$10,000.00 Each to**
3 **Deter Future SLAPP Suits by the Plaintiffs.**

4 In addition to reasonable attorney's fees and costs, Nevada's Anti-SLAPP statute
5 also provides that this Court may award, in addition to reasonable costs and attorney's fees
6 awarded . . . an amount of up to \$10,000 to the person against whom the action was brought." Nev. Rev. Stat. § 41.670(1)(b). Here, this Court should award Mr. Sanson and VIPI
7 \$10,000.00 each to compensate them for the harm they have suffered because of Plaintiffs'
8 frivolous suit and abusive litigation tactics, and to deter Plaintiffs from filing future SLAPP
9 suits against Mr. Sanson, VIPI, and other judicial activists who might criticize the Plaintiffs'
10 litigation practices in the future.

11 As the Court's July 24, 2017 Order and the pleadings and exhibits submitted by the
12 VIPI Defendants in this matter illustrate, the Abrams Parties, along with her attorney and
13 fiancé Mr. Willick, have attempted to use the legal system (and extrajudicial measures) to
14 silence the VIPI Defendants simply because they did not like what the Defendants were
15 saying about their legal practices. As this Court found, all the allegedly defamatory
16 statements the Abrams Parties cited in their amended complaint were in fact precisely the
17 sort of speech Nevada's Anti-SLAPP statute is intended to protect—truthful statements of
18 fact or statements of opinion about a matter of public interest. (*See* July 24, 2017 Order, ¶¶
19 38-54.) In order to send the clearest possible message to the Plaintiffs that the abuse of the
20 legal system to silence critics cannot and will not be tolerated, an award of \$10,000.00 each
21 to Mr. Sanson and VIPI is appropriate.

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2017, I served a true and correct copy of the foregoing MOTION FOR ATTORNEY FEES AND COSTS PURSUANT TO NEV. REV. STAT. § 41.670 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
8984 Spanish Ridge Avenue
Las Vegas, NV 89148
Attorneys for Plaintiffs

Cal Potter, III, Esq.
C.J. Potter IV, Esq.
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/ Alina M. Shell
EMPLOYEE of McLetchie Shell LLC

**INDEX OF EXHIBITS IN SUPPORT OF MOTION FOR ATTORNEY FEES AND
COSTS PURSUANT TO NEV. REV. STAT. § 41.670**

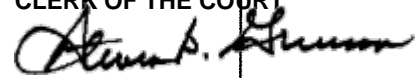
Exhibit #	Document
Exhibit 1	Declaration of Margaret A. McLetchie
Exhibit 2	McLetchie Shell Fees Total
Exhibit 3	McLetchie Shell Costs Total
Exhibit 4	Declaration of Steve Sanson (with attachments)
Exhibit 5	Declaration of Kathleen J. England

MCLETSCHIESHELL

ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
LAS VEGAS, NV 89101
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1 **MAFC**
2 MARGARET A. MCLETCHIE, Nevada Bar No. 10931
3 ALINA M. SHELL, Nevada Bar No. 11711
4 **MCLETCHIE SHELL LLC**
5 701 East Bridger Ave., Suite 520
6 Las Vegas, Nevada 89101
7 Telephone: (702) 728-5300
8 Facsimile: (702) 425-8220
9 Email: maggie@nvlitigation.com
10 *Attorneys for Defendants Steve W. Sanson and*
11 *Veterans in Politics International, Inc.*

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

10 JENNIFER V. ABRAMS and THE
11 ABRAMS & MAYO LAW FIRM,
12 Plaintiff,
13 vs.

Case No.: A-17-749318-C

Dept. No.: XII

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

MOTION FOR ATTORNEY FEES
AND COSTS PURSUANT TO NEV.
REV. STAT. § 41.670

20 Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International
21 ("VIPI") (collectively, the "VIPI Defendants" or "Defendants"), by and through their
22 counsel, Margaret A. McLetchie and Alina M. Shell of the law firm McLetchie Shell LLC,
23 hereby move this Court to award the VIPI Defendants attorney's fees and costs as the
24 prevailing party on their motion to dismiss Plaintiff's complaint. The VIPI Defendants also
25 move this Court to award them \$10,000.00 each pursuant to Nev. Rev. Stat. § 41.670(3)(a).

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1 This motion is made pursuant to Nev. Rev. Stat. § 41.670, and is based upon the
2 attached memorandum of points and authorities, the papers and pleadings on file herein, and
3 any argument this Court may permit at the hearing on this motion.

4 Dated this the 12th day of September, 2017.

5 /s/ Margaret A. McLetchie

6 Margaret A. McLetchie, Nevada State Bar No. 10931

7 MCLEATCHIE SHELL, LLC

8 701 E. Bridger Ave., Ste. 520

9 Las Vegas, NV 89101

10 *Attorney for Defendants Steve W. Sanson and*
11 *Veterans in Politics International*

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NOTICE OF HEARING

TO: ALL INTERESTED PARTIES.

YOU WILL TAKE NOTICE that the undersigned will bring on for hearing the above-noted MOTION FOR ATTORNEY FEES AND COSTS PURSUANT TO NEV. REV. STAT. § 41.670 and to be heard the **16** day of **Oct.** 2017, at the hour of **8:30 am** a.m./p.m., in the above-entitled Court or as soon thereafter as counsel may be heard.

DATED this 12th day of September, 2017.

/s/ Margaret A. McLetchie
MARGARET A. MCLEATCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLEATCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Telephone: (702) 728-5300
Facsimile: (702) 425-8220
Email: maggie@nvlitigation.com
Attorneys for Defendants Steve W. Sanson and Veterans in Politics International, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Because the VIPI Defendants prevailed on their special motion to dismiss pursuant to Nevada’s Anti-SLAPP statutes, Nev. Rev. Stat. § 41.635, *et seq.*, they are entitled to recover fees and costs pursuant to Nev. Rev. Stat. § 41.670(1)(a). The total fees requested are \$91,090.00 and the requested costs are \$3,534.49. Mr. Sanson also personally incurred fees in the amount of \$982.69 in relation to this matter.

Moreover, pursuant to Nev. Rev. Stat. § 41.670(1)(b), the VIPI Defendants respectfully request this Court award them each an additional \$10,000.00 against Plaintiffs for bringing a suit that was designed to chill Defendants’ protected speech.

II. RELEVANT FACTS AND PROCEDURAL HISTORY

On January 9, 2017, Plaintiffs Jennifer V. Abrams and the Abrams & May Law Firm (“the Abrams Parties”) filed a Verified Complaint against the VIPI Defendants, as well as several other Defendants. The Complaint included purported causes of action for defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, false light, business disparagement, harassment, concert of action, civil conspiracy, RICO, and injunctive relief. The Abrams Parties subsequently filed an amended complaint on January 27, 2017.

The genesis of this suit was a series of online postings by Defendant Sanson—the President of VIPI—criticizing Ms. Abrams’ in-court behavior and her practices in Family Court. (*See* July 24, 2017 Order, ¶¶ 1-15.) Specifically, On October 5, 2016, acting in his capacity as President of VIPI, Mr. Sanson posted an article on the publicly-accessible website <veteransinpolitics.org> entitled “Nevada Attorney attacks a Clark County Family Court Judge in Open Court,” containing the court video transcript of a September 29, 2016 hearing in the case entitled *Saiter v. Saiter*, Eighth Judicial District Court, Family Division, Clark County, Nevada, Case No. D-15-521372 (the “*Saiter* Hearing”). The *Saiter* hearing involved a heated exchange between Ms. Abrams and Judge Jennifer L. Elliot. On November 6, 2016, Mr. Sanson posted another an article to <veteransinpolitics.org> entitled “Law Frowns on

Nevada Attorney Jennifer Abrams’ ‘Seal-Happy’ Practices.” This article was critical of Ms. Abrams’ practice of sealing the records in many of her cases. On November 14, 2016, Mr. Sanson posted an article to <veteransinpolitics.org> entitled “Lawyers acting badly in a Clark County Family Court.” That same day, Mr. Sanson posted a video of the Saiter Hearing to the video-hosting website YouTube. In the description of the video, Mr. Sanson stated his opinion that Ms. Abrams’ conduct in open court constituted “bullying.” Mr. Sanson also stated his belief in the importance of public access to court proceedings. On November 16, 2016, Mr. Sanson posted an article to <veteransinpolitics.org> criticizing Judge Rena Hughes for making a misleading statement to an unrepresented child in Family Court. Like the others, this article reflects a core VIPI mission—exposing to the public and criticizing the behavior of officials. Finally, on December 21, 2016, the VIPI Defendants posted three videos to YouTube entitled “The Abrams Law Firm 10 05 15,” “The Abrams Law Firm Inspection part 1,” and “The Abrams Law Firm Practices p 2.” All the above-listed articles were also simultaneously sent to VIPI email subscribers.

On January 27, 2017, the Abrams Parties sent a letter to undersigned counsel demanding the VIPI Defendants preserve “all documents, tangible things and electronically stored information (‘ESI’) potentially relevant to any issues” in the litigation. (Declaration of Margaret A. McLetchie (“McLetchie Decl.”), ¶ 4.) To respond to the Abrams Parties’ demand, the VIPI Defendants hired digital forensics expert Ira Victor of Privacy Technician, Inc. to assist with responding to the Abrams Parties’ letter, consult with the VIPI Defendants, and provide services consulting on forensic processes and planning. (McLetchie Decl., ¶ 5.) Counsel also took possession of Mr. Sanson’s hard drive to preserve it during this litigation. (McLetchie Dec., ¶ 6.) Because Mr. Sanson needed access to the files on his hard drive while this matter was being litigated, Mr. Sanson also incurred costs in the amount of \$252.09 to have his hard drive cloned, copied, and reinstalled on his computer. (Declaration of Steve Sanson (“Sanson Decl.”), ¶¶ 5, 6; *see also* Exh. A to Sanson Decl.) In addition to this expense, Mr. Sanson also spent \$730.60 to obtain a transcript of the September 26, 2016 hearing in the *Saiter* matter to respond to Plaintiffs’ allegations regarding statements he made

1 about Ms. Abrams' courtroom demeanor. (Sanson Decl., ¶¶ 7-9; *see also* Exh. B to Sanson
2 Decl.)

3 On January 30, 2017, the VIPI Defendants filed a Motion to Dismiss Plaintiffs'
4 First Amended Complaint Pursuant to Nev. R. Civ. P. 12(b)(5) (the "12(b)(5). On February
5 16, 2017, the VIPI Defendants filed a Motion to Strike several paragraphs from the Abrams'
6 Parties amended complaint, including statements of law masquerading as facts, improper
7 causes of action, irrelevant and immaterial statements of fact, and scandalous material not
8 properly brought in a complaint.

9 On March 28, 2017, the VIPI Defendants filed a Special Motion to Dismiss
10 pursuant to Nev. Rev. Stat. § 41.660. (*Id.*, ¶ 25.) The Court heard oral argument on the VIPI
11 Defendants' Special Motion to Dismiss on June 5, 2017. Following supplemental briefing
12 from the parties, the Court entered a minute order on June 22, 2017 granting the VIPI
13 Defendants' Special Motion to Dismiss. The Court subsequently entered a written order on
14 July 24, 2017. In its order, the Court found that the VIPI Defendants had met their burden of
15 demonstrating that the statements listed above all pertained to matters of public interest and
16 were made in a public forum, were not false statements of fact., and were protected by
17 Nevada's Anti-SLAPP statute. (July 24, 2017 Order, ¶¶ 38, 54, 55, 66.)

18 The Court also found that the Abrams Parties had failed to meet their burden of
19 demonstrating "with prima facie evidence a probability of prevailing on the claims" as
20 required by Nev. Rev. Stat. § 41.660(3)(b). (*Id.*, ¶¶ 70, 71.) Indeed, the Court noted that
21 several of the claims asserted by the Abrams Parties were either not cognizable causes of
22 action (such as the Abrams' Parties' non-existent cause of action for "harassment" or their
23 "cause of action" for injunctive relief) or were without merit and should be dismissed.

24 **III. LEGAL ARGUMENT**

25 **A. Legal Standard for Reasonable Attorney's Fees Under Nevada's Anti-SLAPP Statute.**

26 Recovery of attorney fees as a cost of litigation is permissible by agreement, statute,
27 or rule. *Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d
28 964, 969 (2001). In this case, recovery of attorneys' fees is authorized by statute. Nevada's

1 Anti-SLAPP statutes provide that if the court grants a special motion to dismiss pursuant to
2 Nev. Rev. Stat. § 41.660, the court “shall award reasonable costs and attorney’s fees to the
3 person against whom the action was brought.” Nev. Rev. Stat. § 41.670(1)(a). In addition, §
4 41.670(1)(b) provides that a court “may award, in addition to reasonable costs and attorney’s
5 fees awarded pursuant to paragraph (a), an amount of up to \$10,000 to the person against
6 whom the action was brought.”

7 Under California law, which Nevada courts look to in interpreting its Anti-SLAPP
8 statute,¹ all fees incurred in defending oneself from a SLAPP suit are recoverable when all
9 claims are dismissed under the Anti-SLAPP statute. *Graham-Suit v. Clainos*, 738 F.3d 1131,
10 1159 (9th Cir. 2013) (affirmed in *Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014))
11 (finding that awarding all attorney’s fees incurred in connection with a case, even if not
12 directly related to the Anti-SLAPP motion, are recoverable if all claims are dismissed). Fees
13 on fees incurred after a fee motion is filed are also recoverable under the statute. *Wanland v.*
14 *Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006) (finding
15 that fees recoverable under Anti-SLAPP statute include all post-motion fees, such as fees on
16 fees, fees in connection with defending an award of fees, and fees on appeal of an order
17 granting an Anti-SLAPP motion).

18 Here, the VIPI Defendants prevailed on their Anti-SLAPP motion, and all of
19 Plaintiffs’ claims were dismissed because of the motion. Accordingly, the VIPI Defendants
20 are entitled to an award for all fees and costs incurred in defending against the Abrams
21 Parties’ meritless suit.

22 **B. The VIPI Defendants’ Requested Fees and Costs Are Reasonable and**
23 **Fully Documented.**

24 Any fee-setting inquiry begins with the calculation of the “lodestar:” the number of
25 hours reasonably expended multiplied by a reasonable hourly rate. *See, e.g., Blum v. Stenson*,
26 465 U.S. 886, 896-97 (1984); *accord Herbst v. Humana Health Ins. of Nevada*, 105 Nev.
27 586, 590, 781 P.2d 762, 764 (1989). Relevant factors include the preclusion of other

28 ¹ *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 756 (2009) (stating “we consider California
caselaw because California’s anti-SLAPP statute is similar in purpose and language to
Nevada’s anti-SLAPP statute”)

1 employment by the attorney due to acceptance of the case; time limitations imposed by the
2 client or the circumstances; the amount involved and results obtained; the undesirability of
3 the case; the nature and length of the professional relationship with the client; and awards in
4 similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69–70 (9th Cir.1975). The
5 lodestar figure is a presumptively reasonable fee award. *Camacho v. Bridgeport Financial,*
6 *Inc.*, 523 F.3d 973, 978 (9th Cir. 2008). The lodestar method of calculation is “the guiding
7 light of [Nevada’s] fee-shifting jurisprudence,” and there is a strong presumption that a
8 lodestar figure is a reasonable fee. *Cuzze v. Univ. & Cmty. College Sys.*, 123 Nev. 598, 606
9 (2007) (quoting *City of Burlington v. Dague*, 505 U.S. 557, 559, 562 (1992)).

10 In addition to calculating the lodestar, a court must also consider the requested
11 amount in light of the factors enumerated by the Nevada Supreme Court in *Brunzell v.*
12 *Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Pursuant to *Brunzell*, a court must
13 consider four elements in determining the reasonable value of attorneys’ services:

14 (1) the qualities of the advocate: his ability, his training, education,
15 experience, professional standing and skill; (2) the character of the work to
16 be done: its difficulty, its intricacy, its importance, time and skill required,
17 the responsibility imposed and the prominence and character of the parties
18 where they affect the importance of the litigation; (3) the work actually
performed by the lawyer: the skill, time and attention given to the work; (4)
the result: whether the attorney was successful and what benefits were
derived.

19 *Brunzell*, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes*
20 *Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

21 **1. The VIPI Defendants Seek Fees for a Reasonable Number of**
22 **Hours, and Exercised Appropriate Billing Judgment.**

23 Pursuant to Nev. R. Civ. P. 54(d)(2)(B), statements “swearing that the fees were
24 actually and necessarily incurred and were reasonable” are set forth in the attached
25 declaration of Margaret A. McLetchie (“McLetchie Decl.”) attached hereto as Exhibit 1, and
26 supported by the billings for the VIPI Defendants’ attorney fees and costs attached hereto as
27 Exhibits 2 and 3. The litigation in this matter was complex and time-consuming for several
28 reasons. In addition to the time and costs associated with the filing of an Anti-SLAPP Motion

1 to Dismiss, much of the complexity in the case—and ultimately, the fees and costs incurred
2 in this matter—are attributable to the Abrams Parties’ efforts to silence the VIPI Defendants
3 through both legal and extralegal means.

4 First, at the same time that the Abrams Parties filed suit against the VIPI
5 Defendants, attorney Marshal Willick (who represents the Plaintiffs in this matter) filed a
6 separate suit against the VIPI Defendants in *Marshal S. Willick v. Steve Sanson, et al.*, Case
7 No. A-17-750171-C. (McLetchie Decl., ¶ 8.) To protect the VIPI Defendants’ interests in
8 this case, counsel was required to monitor the litigation in the *Willick* matter, coordinate with
9 the VIPI Defendants’ counsel in that matter, attend hearings, and monitor and review the
10 papers and pleadings filed therein. (McLetchie Decl., ¶ 9.)

11 Second, as this Court discussed in its July 24 Order, at the same time they were
12 pursuing litigation in the instant matter, Ms. Abrams also attempted to have Mr. Sanson held
13 in contempt and incarcerated in *Saiter v. Saiter*, No. D-15-521372-D, the Family Court
14 matter which inspired several of the VIPI postings the Abrams Parties alleged were
15 defamatory. (July 24, 2017 Order, ¶ 19.) Ultimately, the Family Court judge presiding over
16 the *Saiter* matter denied Ms. Abrams’ attempt to have Mr. Sanson held in contempt. (*Id.*, ¶
17 20.) As with the *Willick* matter, counsel was required to closely monitor the *Saiter* matter to
18 ensure Mr. Sanson’s interests were adequately protected, and to assess any potential impact
19 the *Saiter* matter would have on the instant case. (McLetchie Decl., ¶ 10.) Mr. Sanson was
20 also required to retain the services of Anat Levy & Associates, P.C., to defend against a
21 Motion for Order to Show Cause Ms. Abrams filed in the *Saiter* matter.

22 Third, at the same time the Abrams Parties were suing Mr. Sanson, trying to have
23 him held in contempt and incarcerated, and coordinating with Mr. Willick to silence the VIPI
24 Defendants, Ms. Abrams was also interfering with the VIPI Defendants’ ability to
25 communicate with VIPI’s members and members of the public by sending “take down”
26 notices to VIPI’s online service providers. (*See* March 28, 2017 Declaration of Steve Sanson
27 in Support of Special Anti-SLAPP Motion to Dismiss, ¶¶ 20-25 (describing the effects of
28 Ms. Abrams’ campaign to shut down VIPI’s critical statements about her practices); *see also*

Exh. 8 to Anti-SLAPP Motion to Dismiss (take down notices from YouTube, Facebook, Vimeo, and Constant Contact).)

Fourth, counsel for the VIPI Defendants were required to spend significant time researching and presenting the Defendants' Anti-SLAPP Motion to Dismiss. As this Court is aware, to prevail on a special motion to dismiss, a defendant must "establish[], by a preponderance of the evidence, that the claim is 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." Nev. Rev. Stat. § 41.660(3)(a). Nevada Anti-SLAPP law defines a "good faith communication in furtherance of the right to free speech in direct connection with an issue of public concern" as, *inter alia*, a communication: (1) "made in direct connection with an issue of public interest"; (2) "made in a place open to the public or in a public forum;" and (3) "which is truthful or is made without knowledge of its falsehood." Nev. Rev. Stat. § 41.637.

To meet their burden, counsel for the VIPI Defendants had to conduct extensive research to determine whether each of the statements cited by the Abrams Parties were good faith communications regarding issues of public concern. Counsel were required to watch every complained-of video, and read every complained-of blog posting. (McLetchie Decl., ¶ 12.) Counsel were also required to conduct extensive research regarding Nevada and California's Anti-SLAPP laws as well as federal case law interpreting both states' Anti-SLAPP statutes, and draft complex and extensive pleadings. In addition, as discussed above, counsel was required to retain and consult with a digital forensic expert to respond to Ms. Abrams' ESI preservation letter, and to comply with their obligations to preserve ESI. (McLetchie Decl., ¶ 13.)

In addition to the work performed on preparing the Anti-SLAPP motion, the VIPI Defendants also were required to expend additional time and resources filing a Motion to Dismiss pursuant to NRCP 12(b)(5) after the Abrams Plaintiffs refused to stipulate to extend the time for filing a 12(b)(5) Motion. On January 23, 2017, counsel for the VIPI Defendants contacted Ms. Abrams (who at the time was representing herself and the Abrams & Mayo

Law Firm in this matter) to notify the Plaintiffs that Defendants intended to file an Anti-SLAPP motion to dismiss, and determine whether Plaintiffs would be willing to stipulate to modify the normal briefing schedule until after the Court ruled on the Anti-SLAPP motion. (McLetchie Decl., ¶ 14.) Ms. Abrams initially indicated she was willing to stipulate to a modification of the briefing schedule, and Defendants prepared a proposed stipulation to that effect. (*Id.*, ¶ 15.) Ms. Abrams subsequently indicated she and the Abrams & Mayo Law Firm were not willing to stipulate to a modification of the briefing schedule. (McLetchie Decl. ¶ 16.) Because Plaintiffs would not agree to modify the briefing schedule, the VIPI Defendants were forced to file a Motion to Dismiss pursuant to NRCp 12(b)(5). In other words, Plaintiffs' unwillingness to modify the briefing schedule in a manner which would have streamlined the proceedings in this matter resulted in increased fees and costs for the VIPI Defendants; costs the Plaintiffs should now have to bear.

Finally, the VIPI Defendants were forced to expend significant time addressing several frivolous or non-existent causes of action the Abrams Parties raised in their First Amended Complaint, including causes of action for RICO violations, copyright infringement, injunctive relief, and harassment. Eventually, at the June 5, 2017 hearing on the VIPI Defendants' Motion to Dismiss, counsel for the Abrams Parties conceded that these claims lacked merit and should be dismissed. (*See* July 24, 2017 Order, ¶ 72.) However, by the time the Abrams Parties acknowledged these claims were not meritorious, the VIPI Defendants had already spent significant time addressing those claims in their Motion to Dismiss and Anti-SLAPP Motion to Dismiss.

Despite these obstacles created by the Abrams Parties, the VIPI Defendants' counsel appropriate billing judgment and structured work on this case to maximize efficiencies, and the hours listed in the fee request are neither duplicative, unnecessary nor excessive. (McLetchie Decl., ¶ XX.) *See also Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983) ("Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission.").

1 To keep billing as low as possible, counsel utilized a research and writing attorney,
2 a student law clerk, and a paraprofessional to perform tasks such as research and drafting
3 under Ms. McLetchie's direction to assure that attorneys with higher billing rates were not
4 billing for tasks that lower billers could perform. (McLetchie Decl. at ¶ 18.) Potentially
5 duplicative or unnecessary time has not been included. (*Id.* at ¶ 19.) In all these ways, counsel
6 for the VIPI Defendants has charged a reasonable rate for the attorneys' time. Counsel also
7 exercised appropriate billing judgment by *not* including in this application certain time, even
8 time which would likely be compensable. (*Id.* at ¶ 21.)

9 **2. An Analysis of the *Brunzell* Factors Supports the Award of the**
10 **Fees the VIPI Defendants Seek.**

11 As discussed above, the Nevada Supreme Court's opinion in *Brunzell* sets forth
12 several factors that should be used to determine whether a requested amount of attorney fees
13 is reasonable. *See Brunzell*, 85 Nev. 345, 349, 455 P.2d 31, 33. Each of these factors supports
14 the amount sought.

15 **i) The Advocates**

16 To be considered in determining the reasonable value of an attorney's services are
17 the qualities of the advocate, including ability, training, education, experience, professional
18 standing, and skill. *Id.* The VIPI Defendants' attorneys include attorneys, law clerks, and
19 paraprofessionals from McLetchie Shell LLC. Student law clerks, and paraprofessionals
20 were utilized whenever possible and appropriate to keep fees low.

21 Margaret A. McLetchie, working a total of 106.5 credited hours on this case, is a
22 Partner at McLetchie Shell with over fourteen years of experience, admitted to the bar in
23 both California and Nevada. Ms. McLetchie is a former Staff Attorney, Legal Director, and
24 Interim Southern Program Director for the American Civil Liberties Union of Nevada. While
25 with the ACLU of Nevada, Ms. McLetchie litigated several complex civil rights cases. Ms.
26 McLetchie has extensive experience handling First Amendment cases, defamation litigation,
27 and similar matters. Ms. McLetchie's time on this matter was billed at a rate of \$450.00 per
28 hour, for a total of \$47,925.00.

1 Alina M. Shell, working a total of 55.5 hours on this case, is a Partner at McLetchie
2 Shell with almost eight years of legal experience. Prior to transitioning into private practice,
3 Ms. Shell was an attorney with the Federal Public Defender (FPD) for the District of Nevada.
4 While employed by the FPD, Ms. Shell represented numerous defendants in a variety of
5 criminal cases which ran the gamut from revocations of supervised release to complex
6 mortgage fraud cases. She also wrote and argued several complex criminal appeals in before
7 the United States Court of Appeals for the Ninth Circuit. Since moving into private practice
8 in June 2015, Ms. Shell has represented plaintiffs in state and federal court in civil matters,
9 including several civil rights cases. Ms. Shell has also represented clients in both state and
10 federal court in several matters relevant to the instant case, including First Amendment and
11 defamation cases. Ms. Shell's time on this case was billed at the rate of \$350.00 per hour, for
12 a total of \$19,425.00.

13 Leo Wolpert, working a total of 108.5 hours, is a research and writing attorney for
14 McLetchie Shell. Mr. Wolpert is 2011 graduate of the University of Virginia School of Law
15 and has experience with First Amendment and defamation matters. Mr. Wolpert's time on
16 this case was billed at a rate of \$175.00 per hour, for a total billed of \$18,987.50.

17 Pharan Burchfield, working a total of 26.8 credited hours on this case, is a
18 paraprofessional at McLetchie Shell. Ms. Burchfield has an associate's degree in paralegal
19 studies, and has been a paralegal for three years. Ms. Burchfield's time on this case was billed
20 at the rate of \$150.00 per hour, for a total billed of \$4,020.00.

21 Gabriel Czop, working a total of 5.2 credited hours on this case, was a law clerk at
22 McLetchie Shell, enrolled and in good academic standing at the William S. Boyd Law School
23 at the University of Nevada Las Vegas. Mr. Czop's time on this case was billed at the rate of
24 \$100.00 per hour, for a total billed of \$490.00.

25 In sum, the attorneys and employees at McLetchie Shell billed 312.4 hours on this
26 case, for a total of \$91,090.00, at what would be a blended average of approximately \$291.00
27 per hour—well under market for the experience brought to bear on this action. Reasonable
28 costs for documents, filing fees, and the like were calculated for a total billed of \$3,534.49.

With costs, the total billed for McLetchie Shell is \$31,834.34. Further qualification and qualities, including a declaration from Kathleen J. England, Esq. in support of counsel's rates (Exh. 5), and an itemization of these bills are included in the attached declaration of Ms. McLetchie and Exhibits 2 and 3.

ii) The Work Performed, Including Skill, Time, and Attention.

The work actually performed by the lawyer is relevant to the reasonableness of attorneys' fees, including the skill, time, and attention given to the work. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As demonstrated by the billing statement attached in Exhibit 2 and the attached declaration of Ms. McLetchie, a substantial portion of the work in this case was done by attorneys and staff with lower billing rates. Even though some of the work was done by lower billing attorneys and staff, Ms. McLetchie was still required to analyze the research and apply it strategically to the various arguments and assertions posed by the Abrams Parties. As discussed above, counsel for the VIPI Defendants fully briefed this matter, including filing a motion to dismiss, a motion to strike, and the Special Motion to Dismiss. The VIPI Defendants also filed replies to those motions. And as also discussed above, counsel for the VIPI Defendants were required to dedicate significant time and resources to monitoring and addressing Ms. Abrams' Motion for Order to Show Cause in the *Saiter* matter, monitoring Mr. Willick's separate but virtually identical suit against the VIPI Defendants, and addressing a variety of issues presented by the Abrams Parties' multi-pronged efforts to silence the VIPI Defendants.

iii) The Result.

Lastly, "the result: whether the attorney was successful and what benefits were derived" is relevant to this inquiry. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As noted above, the VIPI Defendants are the prevailing parties in this matter, as this Court granted its Special Motion to Dismiss. Because each of these factors weighs in the VIPI Defendants' favor, this Court should exercise its discretion and award the VIPI Defendants reasonable attorneys' fees and costs in the sum of \$94,624.49. Mr. Sanson is also entitled to compensation in the

amount of \$982.69 for costs he personally incurred in this matter.

B. The Court Should Award Mr. Sanson and VIPI \$10,000.00 Each to Deter Future SLAPP Suits by the Plaintiffs.

In addition to reasonable attorney's fees and costs, Nevada's Anti-SLAPP statute also provides that this Court may award, in addition to reasonable costs and attorney's fees awarded . . . an amount of up to \$10,000 to the person against whom the action was brought." Nev. Rev. Stat. § 41.670(1)(b). Here, this Court should award Mr. Sanson and VIPI \$10,000.00 each to compensate them for the harm they have suffered because of Plaintiffs' frivolous suit and abusive litigation tactics, and to deter Plaintiffs from filing future SLAPP suits against Mr. Sanson, VIPI, and other judicial activists who might criticize the Plaintiffs' litigation practices in the future.

As the Court's July 24, 2017 Order and the pleadings and exhibits submitted by the VIPI Defendants in this matter illustrate, the Abrams Parties, along with her attorney and fiancé Mr. Willick, have attempted to use the legal system (and extrajudicial measures) to silence the VIPI Defendants simply because they did not like what the Defendants were saying about their legal practices. As this Court found, all the allegedly defamatory statements the Abrams Parties cited in their amended complaint were in fact precisely the sort of speech Nevada's Anti-SLAPP statute is intended to protect—truthful statements of fact or statements of opinion about a matter of public interest. (*See* July 24, 2017 Order, ¶¶ 38-54.) In order to send the clearest possible message to the Plaintiffs that the abuse of the legal system to silence critics cannot and will not be tolerated, an award of \$10,000.00 each to Mr. Sanson and VIPI is appropriate.

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Respectfully submitted this 12th day of September, 2017.

Margaret A. McLetchie, Nevada State Bar No. 10931
MCLECHIE SHELL, LLC
701 E. Bridger Ave., Ste. 520
Las Vegas, NV 89101
*Attorney for Defendants Steve W. Sanson and
Veterans in Politics International*

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September, 2017, I served a true and correct copy of the foregoing MOTION FOR ATTORNEY FEES AND COSTS PURSUANT TO NEV. REV. STAT. § 41.670 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
8984 Spanish Ridge Avenue
Las Vegas, NV 89148
Attorneys for Plaintiffs

Cal Potter, III, Esq.
C.J. Potter IV, Esq.
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/ Alina M. Shell
EMPLOYEE of McLetchie Shell LLC

**INDEX OF EXHIBITS IN SUPPORT OF MOTION FOR ATTORNEY FEES AND
COSTS PURSUANT TO NEV. REV. STAT. § 41.670**

Exhibit #	Document
Exhibit 1	Declaration of Margaret A. McLetchie
Exhibit 2	McLetchie Shell Fees Total
Exhibit 3	McLetchie Shell Costs Total
Exhibit 4	Declaration of Steve Sanson (with attachments)
Exhibit 5	Declaration of Kathleen J. England

MCLETSCHIESHELL

ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
LAS VEGAS, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
WWW.NVLITIGATION.COM

EXHIBIT 1

1 **DECL**

2 Margaret A. McLetchie, Nevada Bar No. 10931
3 Alina M. Shell, Nevada Bar No. 11711
4 MCLEATCHIE SHELL LLC
5 701 East Bridger Ave., Suite 520
6 Las Vegas, NV 89101
7 Telephone: (702) 728-5300
8 Facsimile: (702) 425-8220
9 Email: maggie@nvlitigation.com
10 *Attorneys for Defendants STEVE W. SANSON*
11 *and VETERANS IN POLITICS INTERNATIONAL, INC.*

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

10 JENNIFER V. ABRAMS and THE
11 ABRAMS & MAYO LAW FIRM,
12 Plaintiff,
13 vs.

Case No.: A-17-749318-C

Dept. No.: XII

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

**DECLARATION OF MARGARET
A. MCLEATCHIE IN SUPPORT OF
MOTION FOR ATTORNEY FEES
AND COSTS PURSUANT TO NEV.
REV. STAT. § 41.670**

20 **DECLARATION OF MARGARET A. MCLEATCHIE IN SUPPORT OF MOTION**
21 **FOR ATTORNEY FEES AND COSTS PURSUANT TO NEV. REV. STAT. § 41.670**

22 I, MARGARET A. MCLEATCHIE, declare, pursuant to Nev. Rev. Stat. § 53.330,
23 as follows:

24 1. I have personal knowledge of the facts set forth below, and, if called as a
25 witness, could testify to them.

26 2. I am an attorney duly licensed to practice law in Nevada.

27 3. My firm represents Defendants Steve W. Sanson and Veterans in Politics
28 International, Inc. in this matter. I make this declaration in support of their Motion for

1 Attorney Fees and Costs Pursuant to Nev. Rev. Stat. § 41.670.

2 4. On January 27, 2017, the Abrams Parties sent a letter to me demanding the
3 VIPI Defendants preserve “all documents, tangible things and electronically stored
4 information (‘ESI’) potentially relevant to any issues” in the litigation.

5 5. To respond to the Abrams Parties’ demand, I hired digital forensics expert
6 Ira Victor of Privacy Technician, Inc. to assist with responding to the Abrams Parties’ letter,
7 consult with the VIPI Defendants, and provide services consulting on forensic processes and
8 planning.

9 6. I also took possession of Mr. Sanson’s hard drive to preserve it during this
10 litigation.

11 7. Because Mr. Sanson needed access to the files on his hard drive while this
12 matter was being litigated, Mr. Sanson also incurred costs in the amount of \$252.09 to have
13 his hard drive cloned, copied, and reinstalled on his computer.

14 8. First, at the same time that the Abrams Parties filed suit against the VIPI
15 Defendants, attorney Marshal Willick (who represents the Plaintiffs in this matter) filed a
16 separate suit against the VIPI Defendants in *Marshal S. Willick v. Steve Sanson, et al.*, Case
17 No. A-17-750171-C.

18 9. To protect the VIPI Defendants’ interests in this case, I was required to
19 monitor the litigation in the *Willick* matter, coordinate with the VIPI Defendants’ counsel in
20 that matter, attend hearings, and monitor and review the papers and pleadings filed therein.

21 10. As with the *Willick* matter, counsel was required to closely monitor the
22 *Saiter* matter to ensure Mr. Sanson’s interests were adequately protected, and to assess any
23 potential impact the *Saiter* matter would have on the instant case.

24 11. As with the *Willick* matter, I was required to closely monitor the *Saiter*
25 matter to ensure Mr. Sanson’s interests were adequately protected, and to assess any potential
26 impact the *Saiter* matter would have on the instant case.

27 12. To meet their burden, I had to conduct extensive research to determine
28 whether each of the statements cited by the Abrams Parties were good faith communications

1 regarding issues of public concern. I was required to watch every complained-of video, and
2 read every complained-of blog posting.

3 13. I was also required to conduct extensive research regarding Nevada and
4 California's Anti-SLAPP laws as well as federal case law interpreting both states' Anti-
5 SLAPP statutes, and draft complex and extensive pleadings. In addition, as discussed above,
6 I was required to retain and consult with a digital forensic expert to respond to Ms. Abrams'
7 ESI preservation letter, and to comply with their obligations to preserve ESI.

8 14. On January 23, 2017, I contacted Ms. Abrams (who at the time was
9 representing herself and the Abrams & Mayo Law Firm in this matter) to notify the Plaintiffs
10 that Defendants intended to file an Anti-SLAPP motion to dismiss, and determine whether
11 Plaintiffs would be willing to stipulate to modify the normal briefing schedule until after the
12 Court ruled on the Anti-SLAPP motion.

13 15. Ms. Abrams initially indicated she was willing to stipulate to a modification
14 of the briefing schedule, and I prepared a proposed stipulation to that effect.

15 16. Ms. Abrams subsequently indicated she and the Abrams & Mayo Law Firm
16 were not willing to stipulate to a modification of the briefing schedule.

17 17. I exercised appropriate billing judgment and structured work on this case to
18 maximize efficiencies, and the hours listed in the fee request are neither duplicative,
19 unnecessary nor excessive.

20 18. To keep billing as low as possible, I utilized a research and writing attorney,
21 a student law clerk, and a paraprofessional to perform tasks such as research and organization
22 to assure that attorneys with higher billing rates were not billing for tasks that lower billers
23 could perform. My law partner, who bills at a lower rate, also worked on this matter.

24 19. Potentially duplicative or unnecessary time has not been included.

25 20. In all these ways, I charged a reasonable rate for the attorneys' time.

26 21. I also exercised appropriate billing judgment by *not* including in this
27 application certain time, even time which would likely be compensable.
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22. The description of costs and fees in this case also excludes all time spent working on this Motion, or as will be necessary to Reply to any Opposition to this Motion.

23. Exhibit 2 is a true and correct copy of the billing in this matter.

24. Exhibit 3 is a true and correct copy of the costs incurred by the VIPI Defendants in this matter.

I certify and declare under the penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, and this declaration was executed at Las Vegas, Nevada, the 12th day of September, 2017.

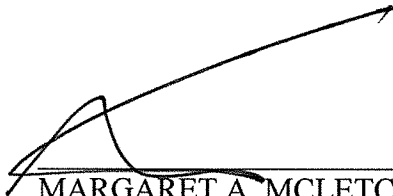

MARGARET A. MCLETSCHIE

EXHIBIT 2

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
1/23/2017	5.7	Margaret McLetchie	\$450.00	Check docket and review and analyze materials. Review compiled research re Anti-SLAPP law procedural issues and begin preparing memo. Emails to opposing counsel. Communications with client.	\$2,565.00
1/23/2017	2.4	Margaret McLetchie	\$450.00	Continue research re Anti-SLAPP statute, review sample motions, and Nevada Supreme Court case law. Research related procedural issues and recent case developments from California.	\$1,080.00
1/23/2017	0.2	Pharan Burchfield	\$150.00	Draft Notice of Appearance to be filed tomorrow after attorney's review.	\$30.00
1/23/2017	0.3	Pharan Burchfield	\$150.00	Organize electronic copy of files/ documents received from Mr. Sanson.	\$45.00
1/24/2017	1	Margaret McLetchie	\$450.00	Call with Ms. Abrams to introduce self, discuss matter, and discuss stipulation to avoid work on 12(b)(5) motion in advance of determination on Anti-SLAPP motion. Attention to drafting of stipulation and follow-up re same.	\$450.00
1/24/2017	1.6	Margaret McLetchie	\$450.00	Further review and analysis of file.	\$720.00
1/24/2017	0.2	Margaret McLetchie	\$450.00	Attention to NOA, IAFD	\$90.00
1/24/2017	0.7	Pharan Burchfield	\$150.00	Draft preservation/freeze letter. Attention to compiling information from client.	\$105.00
1/24/2017	0.3	Pharan Burchfield	\$150.00	Draft Stipulation and [Proposed] Order re extension to file Response to Complaint; email communications with Ms. Abrams re same.	\$45.00
1/24/2017	0.2	Pharan Burchfield	\$150.00	Finalize and file Notice of Appearance; serve/mail re same. Draft and file Initial Appearance Fee Disclosure. Email communications with Mr. Sanson re same.	\$30.00

MCLETCHIE SHELL

Date	Time Expended	Biller	Rate	Description	Total
1/25/2017	0.8	Margaret McLetchie	\$450.00	Edit stipulation and respond to email from Ms. Abrams. Review email refusing to stipulate (change of position); leave message for Ms. Abrams. Review her email response, continuing to refuse to reasonable stipulation and stating that she will not communicate except in email. Review NOA by Mr. Willick and direct staff to communicate with him.	\$360.00
1/25/2017	0.1	Pharan Burchfield	\$150.00	Update Stipulation (substitute Plaintiffs' new counsel information) and email re same to Mr. Willick for review/approval.	\$15.00
1/25/2017	0.2	Pharan Burchfield	\$150.00	Review emails from Mr. Sanson re texts, emails, and videos. Download and save accordingly.	\$30.00
1/26/2017	0.2	Alina Shell	\$350.00	Per Ms. McLetchie's request, review Eighth Judicial District Court Rules regarding motions for extensions of time. Confer with Ms. McLetchie re same.	\$70.00
1/26/2017	0.2	Margaret McLetchie	\$450.00	Email to Mr. Willick re directing communications since Abrams/ Abrams & Mayo now represented.	\$90.00
1/26/2017	3.1	Margaret McLetchie	\$450.00	Continued research re Anti-SLAPP issues.	\$1,395.00
1/26/2017	1.1	Pharan Burchfield	\$150.00	Draft Motion for Extension and Motion and Order for Order on Shortening Time re same.	\$165.00
1/27/2017	0.5	Alina Shell	\$350.00	Research regarding legislative history of NRS 41.650 - statute regarding immunity from civil action for statements re public matters. Edit motion for extension of time pursuant to research. Circulate edit to Ms. McLetchie.	\$175.00
1/27/2017	0.4	Gabriel Czop	\$25.00	Travel to Regional Justice Center, drop off Ex Parte Order to Judge Adair's chambers. [billed at lower rate]	\$10.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
1/27/2017	1.1	Margaret McLetchie	\$450.00	Call with Willick. Confer with Ms. Shell.	\$495.00
1/27/2017	0.1	Pharan Burchfield	\$150.00	Research dockets of similar cases for Ms. McLetchie; download docket and latest Complaint for Damages against Mr. Sanson.	\$15.00
1/27/2017	2.3	Pharan Burchfield	\$150.00	Editing and incorporating Ms. McLetchie's edits to Motion for Extension and Motion for an Order on Shortening Time re same. Prepare Declarations, exhibits, and proposed Orders re same. File and serve/mail/email/fax re same.	\$345.00
1/29/2017	0.2	Margaret McLetchie	\$450.00	Respond to email from Marshal Willick re scheduling, possible stipulation.	\$90.00
1/29/2017	0.3	Margaret McLetchie	\$450.00	Review case status.	\$135.00
1/30/2017	1.2	Margaret McLetchie	\$450.00	Review amended complaint; address issues re Order Shortening Time; call to chambers.	\$540.00
1/30/2017	0.2	Margaret McLetchie	\$450.00	Emails to client.	\$90.00
1/30/2017	1	Margaret McLetchie	\$450.00	Communications with client.	\$450.00
2/2/2017	2.3	Margaret McLetchie	\$450.00	Draft freeze letter. Research regarding preservation.	\$1,035.00
2/2/2017	0.2	Pharan Burchfield	\$150.00	Attention to preservation/freeze letters from opposing counsel.	\$30.00
2/3/2017	0.2	Alina Shell	\$350.00	Phone call with forensics expert. Sign freeze letter on behalf of Ms. McLetchie.	\$70.00
2/3/2017	0.1	Gabriel Czop	\$100.00	Research and locate a Nevada case that articulates the requirement to preserve evidence in anticipation of litigation.	\$10.00
2/3/2017	0.4	Gabriel Czop	\$100.00	Go to post office, mail certified letter, return receipt requested.	\$40.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/3/2017	2.6	Margaret McLetchie	\$450.00	Draft response to freeze letter from Abrams. Attention to retention of forensic expert. Attention to factual issues and related work.	\$1,170.00
2/3/2017	0.3	Pharan Burchfield	\$150.00	Finalize preservation/freeze letter. Send/email to Mr. Willick re same.	\$45.00
2/3/2017	0.5	Pharan Burchfield	\$150.00	Finalize Ms. McLetchie's letter to Mr. Willick in response to Ms. Abrams' preservation/freeze letter.	\$75.00
2/3/2017	0.8	Pharan Burchfield	\$150.00	Attention to preservation and document collection issues per direction from Ms. McLetchie.	\$120.00
2/3/2017	0.3	Pharan Burchfield	\$150.00	Email and phone calls re scheduling.	\$45.00
2/4/2017	0.2	Margaret McLetchie	\$450.00	Call with client.	\$90.00
2/5/2017	0.2	Margaret McLetchie	\$450.00	Review and consider email from Mr. Willick.	\$90.00
2/6/2017	3.5	Leo Wolpert	\$175.00	Meet with Ms. McLetchie and review research provided. [no charge.] Read Ms. Abrams' Complaint, read all website materials, review research re Anti-SLAPP law and precedent.	\$612.50
2/6/2017	0.6	Margaret McLetchie	\$450.00	Work with team re preservation issues.	\$270.00
2/7/2017	4.9	Leo Wolpert	\$175.00	Draft outline of argument in Anti-SLAPP motion, draft statement of relevant facts pursuant to direction from Ms. McLetchie.	\$857.50
2/7/2017	0.1	Margaret McLetchie	\$450.00	Review documents.	\$45.00
2/7/2017	0.2	Pharan Burchfield	\$150.00	Draft memo re case documentation.	\$30.00
2/8/2017	1.5	Leo Wolpert	\$175.00	Research and draft public interest Weinberg test section of Anti-SLAPP motion to dismiss.	\$262.50

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/8/2017	2.8	Leo Wolpert	\$175.00	Continue drafting Anti-SLAPP motion to dismiss.	\$490.00
2/9/2017	4.1	Leo Wolpert	\$175.00	Continue drafting Anti-SLAPP motion to dismiss, specifically public interest prong and good faith communications prong.	\$717.50
2/9/2017	0.8	Margaret McLetchie	\$450.00	Direct work on briefing: Motion to dismiss.	\$360.00
2/9/2017	0.1	Pharan Burchfield	\$150.00	Email communications to Mr. Sanson.	\$15.00
2/10/2017	2.2	Leo Wolpert	\$175.00	Continue Anti-SLAPP motion to dismiss.	\$385.00
2/11/2017	5.5	Leo Wolpert	\$175.00	Draft 12(b)(5) motion to dismiss.	\$962.50
2/12/2017	4	Leo Wolpert	\$175.00	Continue drafting motion to dismiss.	\$700.00
2/13/2017	6.8	Leo Wolpert	\$175.00	Continue drafting and editing 12(b)(5) motion to dismiss.	\$1,190.00
2/13/2017	0.6	Margaret McLetchie	\$450.00	Emails re issues pertaining to Ms. Abrams' efforts to interfere with VIPI Facebook. Research re counter-claims.	\$270.00
2/13/2017	0.9	Margaret McLetchie	\$450.00	Research. Work on motion to dismiss/ confer with Mr. Wolpert re same and check progress/ structure of brief. Update client.	\$405.00
2/14/2017	1	Margaret McLetchie	\$450.00	Direct research and writing of 12(b)(5) motion to dismiss.	\$450.00
2/14/2017	1	Margaret McLetchie	\$450.00	Review info from client re information on Mr. Willick's site. Research regarding anti-SLAPP motions.	\$450.00
2/15/2017	1.8	Leo Wolpert	\$175.00	Craft motion to strike.	\$315.00
2/15/2017	5.3	Leo Wolpert	\$175.00	Craft and edit 12(b)(5) motion to dismiss.	\$927.50

MCLETCHE SHELL

Date	Time Expended	Biller	Rate	Description	Total
2/15/2017	8.5	Margaret McLetchie	\$450.00	Review related filings and drafts. Edit draft received from Mr. Wolpert and organize brief sections. Draft sections re court access and injunctive relief. Edit and expand introduction and fact section and begin editing defamation section. Research additional section re attorney's fees and sanctions and motion to strike.	\$3,825.00
2/16/2017	9.1	Alina Shell	\$350.00	Attention to Motion to Dismiss: edit / expand section re defamation per Ms. McLetchie's request. Draft separate section regarding sanctions. Edit motion to strike. Supervise finalization of tables and filing.	\$3,185.00
2/16/2017	0.8	Gabriel Czop	\$100.00	Begin legal cite checking the Motion to Dismiss.	\$80.00
2/16/2017	8.2	Leo Wolpert	\$175.00	Draft and edit RICO section of motion to dismiss, draft and edit motion to dismiss generally.	\$1,435.00
2/16/2017	2.1	Leo Wolpert	\$175.00	Draft motion to strike.	\$367.50
2/16/2017	0.3	Margaret McLetchie	\$450.00	Review correspondence.	\$135.00
2/16/2017	8.2	Margaret McLetchie	\$450.00	Revisions to response to motion to dismiss (False light, emotional distress claims, legal standard, and brief in its entirety). Draft new section re general failure to plead with specificity/ Research re lack of corp. standing to pursue emotional distress and false light claims. Meet with Mr. Sanson.	\$3,690.00
2/16/2017	0.2	Pharan Burchfield	\$150.00	Attention to documentation and files.	\$30.00

MCLETCHE SHELL

Date	Time Expended	Biller	Rate	Description	Total
2/16/2017	4.5	Pharan Burchfield	\$150.00	Draft Motion for Leave to Exceed Page Limits for attorneys' review. File and serve/mail re same. Finalize Motion to Dismiss (create table of contents and table of authorities); file and serve/mail re same. Finalize Motion to Strike; file and serve/mail re same.	\$675.00
2/17/2017	0.2	Margaret McLetchie	\$450.00	Conferences re case status.	\$90.00
2/17/2017	0.4	Pharan Burchfield	\$150.00	Check file; calendaring.	\$60.00
2/25/2017	2.3	Leo Wolpert	\$175.00	Continue drafting/editing Anti-SLAPP motion to dismiss.	\$402.50
2/27/2017	0.2	Margaret McLetchie	\$450.00	Review emails re status.	\$90.00
2/27/2017	0.5	Margaret McLetchie	\$450.00	Check file, docket, and upcoming dates.	\$225.00
3/1/2017	0.5	Margaret McLetchie	\$450.00	Research re protections for journalists.	\$225.00
3/2/2017	3.9	Leo Wolpert	\$175.00	Continue drafting anti-SLAPP motion to dismiss.	\$682.50
3/2/2017	0.4	Margaret McLetchie	\$450.00	Provide direction re work on Anti-SLAPP motion.	\$180.00
3/3/2017	0.9	Margaret McLetchie	\$450.00	Meeting with Steve; follow up with email to Steve.	\$405.00
3/6/2017	1.3	Leo Wolpert	\$175.00	Edit opposition to motion for order shortening time and, Mr. Sanson's declaration re same.	\$227.50
3/7/2017	0.5	Margaret McLetchie	\$450.00	Review response/ counter-motion. Follow up re transcription and striking Leavitt. Review email re calendaring.	\$225.00
3/7/2017	0.1	Pharan Burchfield	\$150.00	Call Veritext Legal Solutions re quote to transcribe audio re Saiter hearing to use as exhibit.	\$15.00

MCLETCHIE SHELL

Date	Time Expended	Biller	Rate	Description	Total
3/7/2017	0.2	Pharan Burchfield	\$150.00	Review Opposition to Motion to Dismiss and Opposition to Motion to Strike with Countermotions for Attorneys' Fees; update and calculate calendar re same.	\$30.00
3/8/2017	1.1	Alina Shell	\$350.00	Per Ms. McLetchie's request, research regarding time for filing opposition to Anti-SLAPP motion. Draft memorandum re same.	\$385.00
3/8/2017	0.2	Margaret McLetchie	\$450.00	Research re burden plaintiff has in responding to Anti-SLAPP motion.	\$90.00
3/8/2017	1.6	Margaret McLetchie	\$450.00	Research re attorney's fees requested in countermotions.	\$720.00
3/8/2017	0.7	Margaret McLetchie	\$450.00	Attention to checking date calculations and to case management.	\$315.00
3/9/2017	0.1	Margaret McLetchie	\$450.00	Review notice of reassignment. Forward to client.	\$45.00
3/9/2017	0.1	Margaret McLetchie	\$450.00	Attention to obtaining exhibits for use in anti-SLAPP motion.	\$45.00
3/9/2017	1	Margaret McLetchie	\$450.00	Review research re "SLAPP back" provisions of NRS 41.670 and research various procedural matters.	\$450.00
3/11/2017	0.2	Margaret McLetchie	\$450.00	Attention to obtaining Saiter transcript.	\$90.00
3/13/2017	0.7	Admin Admin	\$25.00	Dropped off flash drive to be transcribed at Veritext: 2250 S Rancho Drive Suite 195	\$17.50
3/13/2017	0.2	Margaret McLetchie	\$450.00	Rule 11/sanctions research.	\$90.00
3/13/2017	0.3	Margaret McLetchie	\$450.00	Review filings from Willick case.	\$135.00
3/13/2017	0.2	Margaret McLetchie	\$450.00	Follow up re obtaining transcript from Saiter case.	\$90.00
3/13/2017	0.1	Pharan Burchfield	\$150.00	Call to client.	\$15.00

MCLETCHE SHELL

Date	Time Expended	Biller	Rate	Description	Total
3/13/2017	0.1	Pharan Burchfield	\$150.00	Complete order form for transcription re Saiter divorce hearing with Veritext Legal Solutions.	\$15.00
3/14/2017	0.2	Margaret McLetchie	\$450.00	Research re Rule 11 sanctions.	\$90.00
3/16/2017	0.3	Alina Shell	\$350.00	Assist in preparation of Anti-SLAPP motion and supporting documents. Edit draft declaration of Steve Sanson.	\$105.00
3/16/2017	0.8	Gabriel Czop	\$100.00	Research for Ms. McLetchie re: applicable test in anti-SLAPP motions and whether public interest is the same as public concern.	\$80.00
3/17/2017	0.4	Gabriel Czop	\$100.00	Research anti-SLAPP statute and finish writing footnote comparing NV and CA statutes.	\$40.00
3/19/2017	2.3	Leo Wolpert	\$175.00	Edit anti-SLAPP motion to dismiss.	\$402.50
3/20/2017	1.9	Alina Shell	\$350.00	Edit declaration in support of Anti-SLAPP motion. Per Ms. McLetchie's request, edit Anti-SLAPP motion.	\$665.00
3/20/2017	3.0	Margaret McLetchie	\$450.00	Direct work on Anti-SLAPP motion; review and revise drafts.	\$1,350.00
3/20/2017	0.7	Alina Shell	\$350.00	Draft additional section for Anti-SLAPP regarding historical background re opening proceedings.	\$245.00
3/20/2017	3.9	Leo Wolpert	\$175.00	Continue editing anti-SLAPP motion to dismiss.	\$682.50
3/20/2017	0.8	Leo Wolpert	\$175.00	Edit Mr. Sanson's declaration for inclusion with anti-SLAPP motion to dismiss.	\$140.00
3/21/2017	1.1	Alina Shell	\$350.00	Edit most recent draft of Steve Sanson declaration. Review exhibits to declaration with Ms. Burchfield to address gaps and errors. Discuss same with Ms. McLetchie and Mr. Wolpert.	\$385.00
3/21/2017	3.2	Margaret McLetchie	\$450.00	Continued work on anti-SLAPP motion.	\$1,440.00
3/21/2017	2.8	Leo Wolpert	\$175.00	Continue editing anti-SLAPP motion to dismiss, implementing Ms. McLetchie comments.	\$490.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
3/21/2017	3	Leo Wolpert	\$175.00	Cite check and edit anti-SLAPP motion to dismiss.	\$525.00
3/21/2017	0.4	Pharan Burchfield	\$150.00	Prepare exhibits in support of Anti-SLAPP motion to dismiss.	\$60.00
3/27/2017	2	Leo Wolpert	\$175.00	Edit anti-SLAPP motion to dismiss.	\$350.00
3/28/2017	0.1	Alina Shell	\$350.00	Assist with finding full case cites for inclusion in anti-SLAPP motion.	\$35.00
3/28/2017	3.4	Margaret McLetchie	\$450.00	Revisions to Anti-SLAPP Motion.	\$1,530.00
3/28/2017	0.2	Alina Shell	\$350.00	Locate template motion to file under seal for Mr. Wolpert to use in drafting motion to dismiss. Review and respond to email from Ms. McLetchie regarding issues pertaining to anti-SLAPP motions.	\$70.00
3/28/2017	2.3	Gabriel Czop	\$100.00	Review and cite check Special Motion to Dismiss pursuant to Nev. Rev. Stat. 41.660	\$230.00
3/28/2017	2.5	Leo Wolpert	\$175.00	Edit anti-SLAPP motion to dismiss and draft motion to file under seal.	\$437.50
3/28/2017	5.1	Pharan Burchfield	\$150.00	Finalize exhibits and declarations re Anti-SLAPP motion. Prepare motion to file exhibit 13 under seal. Prepare table of contents and table of authorities re same. File and serve/mail Anti-SLAPP motion, motion to file under seal (exhibit 13) and declarations.	\$765.00
3/30/2017	2.3	Leo Wolpert	\$175.00	Begin drafting replies to oppositions to motion to dismiss and motion to strike	\$402.50
3/30/2017	0.1	Pharan Burchfield	\$150.00	Review recent pleadings in Abrams v. Schneider matter; calendar accordingly; email file-stamped copies to client.	\$15.00
3/31/2017	2.5	Leo Wolpert	\$175.00	Continue drafting reply to opposition to motion to dismiss.	\$437.50
4/4/2017	4.3	Leo Wolpert	\$175.00	Confer with Ms. McLetchie re reply to opposition to motion to dismiss, continue drafting reply.	\$752.50

MCLETCHE SHELL

Date	Time Expended	Biller	Rate	Description	Total
4/4/2017	0.1	Margaret McLetchie	\$450.00	Check status of filings.	\$45.00
4/4/2017	0.2	Margaret McLetchie	\$450.00	Respond to client inquiry.	\$90.00
4/4/2017	0.4	Margaret McLetchie	\$450.00	Direct work on reply.	\$180.00
4/5/2017	0.5	Leo Wolpert	\$175.00	Additional attention to reply to opposition to motion to dismiss.	\$87.50
4/5/2017	0.2	Margaret McLetchie	\$450.00	Check deadline for plaintiffs to respond to anti-SLAPP motion.	\$90.00
4/8/2017	0.9	Leo Wolpert	\$175.00	Continue drafting reply to opposition to motion to dismiss.	\$157.50
4/13/2017	0.8	Leo Wolpert	\$175.00	Continue drafting reply to opposition to motion to dismiss.	\$140.00
4/14/2017	0.2	Margaret McLetchie	\$450.00	Attention to SAO; review same and emails with opposing counsel; update to client.	\$90.00
5/7/2017	2.5	Leo Wolpert	\$175.00	Review opposition to anti-SLAPP motion to dismiss, research regarding counter-arguments.	\$437.50
5/7/2017	0.4	Margaret McLetchie	\$450.00	Attention to work on reply to omnibus opposition.	\$180.00
5/10/2017	3.5	Leo Wolpert	\$175.00	Research and draft motion to dismiss appeal.	\$612.50
5/24/2017	1.2	Leo Wolpert	\$175.00	Research and draft reply to non-opposition to motion to seal.	\$210.00
5/25/2017	0.7	Alina Shell	\$350.00	Edit request to unseal Exhibit 13 to anti-SLAPP motion to dismiss.	\$245.00
5/25/2017	2.7	Alina Shell	\$350.00	Read Anti-SLAPP opposition. Review cases cited in opposition and research additional cases. Begin drafting reply.	\$945.00
5/25/2017	2.3	Leo Wolpert	\$175.00	Continue working on reply to opposition to 12b5 motion to dismiss (1.5), rewrite reply to non-opposition to seal (.75)	\$402.50

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
5/25/2017	1.8	Margaret McLetchie	\$450.00	Revise reply to motion to seal re Saiter documents. Draft reply ISO Motion to Strike. Revise reply re 12(b)(5) draft.	\$810.00
5/26/2017	4.7	Alina Shell	\$350.00	Attention to reply to opposition to anti-SLAPP motion to dismiss: draft sections regarding what constitutes a public interest and address Plaintiffs' argument re "republishation."	\$1,645.00
5/26/2017	0.9	Margaret McLetchie	\$450.00	Work on reply; follow up re deadline for same.	\$405.00
5/26/2017	0.2	Pharan Burchfield	\$150.00	Finalize, file, and serve (electronic and mail) 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).	\$30.00
5/30/2017	1.4	Alina Shell	\$350.00	Research for reply to opposition to motion to dismiss re verification of facts.	\$490.00
5/30/2017	1.8	Alina Shell	\$350.00	Expand section in reply to opposition to motion to dismiss re failure to state a claim for defamation.	\$630.00
5/30/2017	1.2	Alina Shell	\$350.00	Attention to response to argument in Plaintiffs' opposition to Anti-SLAPP regarding right to limited discovery. Review section in opposition re limited discovery. Legal research re same. Draft section.	\$420.00
5/30/2017	2.8	Alina Shell	\$350.00	Resume drafting reply to opposition to Anti-SLAPP motion: re-read opposition section regarding publication. Research arguments in opposition. Re-draft section on republishation. Review drafted arguments re Anti-SLAPP elements and email to Ms. McLetchie.	\$980.00
5/30/2017	2	Leo Wolpert	\$175.00	Edit and finalize omnibus replies to motions to dismiss, motion to strike.	\$350.00
5/30/2017	3.8	Margaret McLetchie	\$450.00	Editing and revising of reply. Circulate to client. Attention to motion for excess pages.	\$1,710.00

MCLETCHIE SHELL

Date	Time Expended	Biller	Rate	Description	Total
5/30/2017	2.3	Pharan Burchfield	\$150.00	Finalize (proof, format, create tables of contents and tables of authorities), file and serve/mail VIPI Defendants' Omnibus Reply to: (1) Plaintiff's Opposition to Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP); and (2) Plaintiff's Opposition to Motion to Dismiss and Countermotion for Attorney's Fees.	\$345.00
5/30/2017	0.2	Pharan Burchfield	\$150.00	Finalize, file, and serve/mail Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiff's Countermotion for Attorney's Fees.	\$30.00
5/30/2017	0.5	Pharan Burchfield	\$150.00	Draft, incorporate Ms. McLetchie's edits, file, and serve/mail Motion for Excess Pages re Omnibus Reply.	\$75.00
5/31/2017	0.8	Pharan Burchfield	\$150.00	Create hard-copy courtesy copies of entire briefing to Honorable Judge Leavitt in preparation of upcoming motions hearing. Direct Ms. Lopez (admin) to delivery to Department 12.	\$120.00
6/1/2017	0.3	Admin Admin	\$25.00	Dropped off three binders of Motion to Dismiss at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 12.	\$7.50
6/1/2017	0.1	Pharan Burchfield	\$150.00	Email client file-stamped copies of recent pleadings in Abrams v. Schneider et al. case.	\$15.00
6/4/2017	5.3	Leo Wolpert	\$175.00	Assist Ms. McLetchie in preparing for 6/5 hearing by charting out, summarizing and gathering quotes from cases relevant to arguments, charting out how to argue that each allegedly defamatory statement is non actionable.	\$927.50
6/4/2017	8.2	Margaret McLetchie	\$450.00	Hearing preparation. Review all materials and prepare outline.	\$3,690.00
6/5/2017	4.4	Margaret McLetchie	\$450.00	Prepare for hearing; attend hearing/argue.	\$1,980.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
6/6/2017	0.8	Margaret McLetchie	\$450.00	Preliminary review of Plaintiffs' supplemental opposition. Research re same.	\$360.00
6/7/2017	1	Alina Shell	\$350.00	Read supplement to Plaintiffs' omnibus opposition. Draft initial portion of response. Email to Ms. McLetchie.	\$350.00
6/7/2017	2.1	Margaret McLetchie	\$450.00	Review and analyze supplemental opposition. Work on supplemental reply addressing: (1) supp. opp. filed by Plaintiffs; (2) issues re publication of mass emails. Client declaration.	\$945.00
6/8/2017	5.6	Margaret McLetchie	\$450.00	Research and drafting of supplemental reply; review and edit.	\$2,520.00
6/9/2017	0.3	Alina Shell	\$350.00	Proofread response to supplement to omnibus opposition.	\$105.00
6/9/2017	3.4	Margaret McLetchie	\$450.00	Further revising of supplemental reply; add discussion re /exhibits/revise declaration re assertion that Mr. Saiter requested take-down.	\$1,530.00
6/9/2017	1	Pharan Burchfield	\$150.00	Finalize, file, and serve/mail 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. Meeting with client.	\$150.00
6/12/2017	0.4	Admin Admin	\$25.00	Dropped off: VIPI Defendants' Supplement to VIPI Defendants' Omnibus Reply to: (1) Plaintiffs' Opposition to Special Motion to Dismiss Pursuant to Nev. Rev. Stat 41.600 (Anti - SLAPP); and (2) Plaintiffs' Opposition to Motion to Dismiss and Countermotion for Attorneys' Fees at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 12.	\$10.00
6/22/2017	0.2	Margaret McLetchie	\$450.00	Attention to fee application issues.	\$90.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
6/22/2017	0.6	Margaret McLetchie	\$450.00	Review minutes. Call with client. Take call from reporter.	\$270.00
6/27/2017	0.9	Alina Shell	\$350.00	Begin drafting proposed order granting anti-SLAPP motion to dismiss.	\$315.00
6/28/2017	0.6	Alina Shell	\$350.00	Resume drafting proposed order.	\$210.00
6/28/2017	0.1	Margaret McLetchie	\$450.00	Respond to opposing counsel request re review order.	\$45.00
6/28/2017	0.3	Margaret McLetchie	\$450.00	Emails with client.	\$135.00
6/29/2017	0.2	Margaret McLetchie	\$450.00	Emails with client.	\$90.00
6/29/2017	0.2	Margaret McLetchie	\$450.00	Attention to preliminary work on fees motion, and research re same.	\$90.00
7/3/2017	2.1	Alina Shell	\$350.00	Draft proposed order granting VIPI Defendants' anti-SLAPP motion to dismiss.	\$735.00
7/3/2017	1.5	Alina Shell	\$350.00	Incorporate Ms. McLetchie's and Mr. Wolpert's edits into proposed order.	\$525.00
7/3/2017	2.8	Alina Shell	\$350.00	Per Ms. McLetchie's request, expand proposed order granting anti-SLAPP motion to dismiss.	\$980.00
7/3/2017	0.5	Leo Wolpert	\$175.00	Per Ms. Shell's request, proofread order granting anti-SLAPP motion to dismiss.	\$87.50
7/3/2017	0.9	Margaret McLetchie	\$450.00	Direct Ms. Shell re expanding order. Email to counsel for Schneider. Email to opposing counsel.	\$405.00
7/5/2017	0.5	Admin Admin	\$25.00	Made payment for transcript (June 5, 2017 hearing) to Clark County Treasurer, and LGM Transcription Services at the Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101.	\$12.50
7/5/2017	0.8	Alina Shell	\$350.00	Review transcript of 6/27/17 hearing on anti-SLAPP motion. Incorporate facts from transcript into proposed order granting anti-SLAPP motion.	\$280.00
7/5/2017	0.4	Leo Wolpert	\$175.00	Edit and proofread order granting anti-SLAPP motion to dismiss.	\$70.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/5/2017	1	Margaret McLetchie	\$450.00	Revise draft proposed order and provide to C.J. Potter, and to opposing counsel.	\$450.00
7/5/2017	0.4	Pharan Burchfield	\$150.00	Finalize Proposed Order and letter from Ms. McLetchie to Mr. Gilmore; send re same.	\$60.00
7/6/2017	0.7	Admin Admin	\$25.00	Dropped off letter address to Judge Leavitt dated July, 6, 2017 at the Regional Just Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$17.50
7/6/2017	0.3	Margaret McLetchie	\$450.00	Emails and call with opposing counsel, Josh Gilmore, re extension of deadline to submit proposed order. Edit draft letter to chambers re same/ approve and sign.	\$135.00
7/6/2017	0.1	Pharan Burchfield	\$150.00	Finalize and send (via email) Ms. McLetchie's letter to Honorable Judge Leavitt re extension of time to submit proposed order.	\$15.00
7/13/2017	0.1	Pharan Burchfield	\$150.00	Provide client with copies of Mr. Gilmore's edits to Ms. McLetchie's proposed order.	\$15.00
7/14/2017	1	Alina Shell	\$350.00	Review Mr. Gilmore's redlines to draft proposed order. Edit and send to Ms. McLetchie for review.	\$350.00
7/14/2017	0.3	Margaret McLetchie	\$450.00	Attention to issues re proposed order, edits from opposing counsel. Review same.	\$135.00
7/14/2017	0.4	Pharan Burchfield	\$150.00	Draft and send (hand-deliver and email) letter to Judge Leavitt with proposed order. Prepare proposed order to be submitted to Court. Email same to opposing counsel. Email client re same.	\$60.00
7/19/2017	0.2	Pharan Burchfield	\$150.00	Draft Stipulation and Proposed Order re extension of deadline to file Motion for Attorney's Fees Application pursuant to NRS 41.670.	\$30.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/20/2017	0.5	Admin Admin	\$25.00	Dropped off: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$12.50
7/20/2017	0.5	Admin Admin	\$25.00	Picked up: Mr. Potter's signature at: 1125 Shadow Ln, Las Vegas, NV 89102 for Stipulation and [Proposed] Order.	\$12.50
7/20/2017	0.5	Admin Admin	\$25.00	Picked up: Stipulation and Proposed Order at Bailey Kennedy Attorneys at Law: 8984 Spanish Ridge Ave, Las Vegas, NV 89148.	\$12.50
7/20/2017	0.1	Alina Shell	\$350.00	Phone call to co-defendant counsel CJ Potter regarding stipulation to extend date for motion for fees.	\$35.00
7/20/2017	0.4	Alina Shell	\$350.00	Redline Mr. Gilmore's re-draft of stipulation to extend. Phone call with Mr. Gilmore re same. Review follow-up email from Mr. Gilmore.	\$140.00
7/20/2017	0.2	Margaret McLetchie	\$450.00	Attention to stipulation.	\$90.00
7/24/2017	0.1	Margaret McLetchie	\$450.00	Approve NEOJ.	\$45.00
7/24/2017	0.4	Pharan Burchfield	\$150.00	File Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-SLAPP); draft, file, and serve/mail Notice of Entry of Order re same; email client re same.	\$60.00
7/25/2017	0.1	Margaret McLetchie	\$450.00	Emails re deadline for attorney fee / other NRS award application.	\$45.00
7/26/2017	0.4	Admin Admin	\$25.00	Picked up: Stipulated and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$10.00
7/26/2017	0.3	Pharan Burchfield	\$150.00	File Stipulation and Order (extension motion for attorneys' fees); draft, file, and serve/mail Notice of Entry of Order re same. Update calendar deadlines accordingly.	\$45.00
8/4/2017	0.2	Margaret McLetchie	\$450.00	Call with client.	\$90.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
8/7/2017	0.9	Margaret McLetchie	\$450.00	Research re application for attorney's fees.	\$405.00
8/7/2017	0.3	Margaret McLetchie	\$450.00	Call with Mr. C.J. Potter; attention to editing stipulation for extension drafted by paralegal; various communications re same.	\$135.00
8/8/2017	0.2	Admin Admin	\$25.00	Picked up: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$5.00
8/8/2017	0.4	Admin Admin	\$25.00	Dropped off: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$10.00
8/8/2017	0.4	Admin Admin	\$25.00	Picked up: Mr. Potter's signature for a Stipulation and [Proposed] Order at Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102.	\$10.00
8/8/2017	0.4	Admin Admin	\$25.00	Picked up: Stipulation and [Proposed] Order at Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102.	\$10.00
8/8/2017	0.8	Admin Admin	\$25.00	Picked up: Stipulation and [Proposed] Order at Bailey Kennedy, LLP: 8984 Spanish Ridge Ave, Las Vegas, NV 89148.	\$20.00
8/8/2017	0.4	Admin Admin	\$25.00	Dropped off: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$10.00
8/8/2017	0.1	Alina Shell	\$350.00	Phone call with CJ Potter re obtaining new signature on stipulation to extend time for filing motion for attorney's fees. Email update to Ms. McLetchie re same.	\$35.00
8/8/2017	0.1	Margaret McLetchie	\$450.00	Email from opposing counsel; follow-up re extension.	\$45.00
8/16/2017	0.1	Alina Shell	\$350.00	Attention to obtaining costs documentation.	\$35.00

MCLETCHIE SHELL

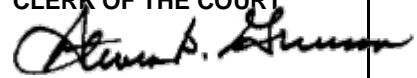
Date	Time Expended	Billor	Rate	Description	Total
8/17/2017	0.6	Admin Admin	\$25.00	Picked up: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$15.00
8/17/2017	0.1	Alina Shell	\$350.00	Phone call from Ira Victor regarding invoice for services.	\$35.00
8/17/2017	0.3	Pharan Burchfield	\$150.00	File Stipulation and Order. Draft, file, and serve/mail Notice of Entry of Order re same. Update calendar accordingly.	\$45.00
8/21/2017	6.2	Alina Shell	\$350.00	Attention to attorney's fees motion: legal research regarding appropriate work to include in request fees in Anti-SLAPP cases. Draft motion for attorney's fees and discuss same with Ms. McLetchie. Confer with CJ Potter regarding whether an additional extension of time is necessary in light of Cal Potter's health issues. Email and voicemail to Josh Gilmore re same. Review costs incurred in litigation for inclusion in Motion. Circulate to Ms. McLetchie and Mr. Wolpert for review.	\$2,170.00
8/22/2017	0.5	Admin Admin	\$15.00	Picked up: Mr. Potter's signature at the Potter Law Offices: 1125 Shadow Ln, Las Vegas, NV 89102 for the Stipulation and [Proposed] Order.	\$7.50
8/22/2017	0.6	Admin Admin	\$25.00	Picked up: Signed Stipulation and [Proposed] at Bailey Kennedy: 8984 Spanish Ridge Ave, Las Vegas, NV 89148.	\$15.00
8/22/2017	0.6	Admin Admin	\$25.00	Dropped off: Stipulation and [Proposed] Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 12.	\$15.00

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
41.	Reply to Plaintiff's Opposition to an Award of Attorney's fees, Costs, and Statutory Sanctions	1/24/2018	JVA001260 - JVA001265
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
55.	Reply to Plaintiffs' Opposition to "Motion to Reconsider March 2, 2018 Minute Order granting Plaintiffs' Motion to Disqualify" and Countermotion and Attorney's Fees	4/10/2018	JVA001633 - JVA001663
25.	Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiffs' Countermotion for Attorney's Fees	5/30/2017	JVA000809 - JVA000817
35.	Schneider Defendants' Motion for Statutory Damages ad Attorney's Fees, Costs, and Damages Pursuant to NRS 41.670; and Motion for Sanction	9/12/2017	JVA001005 - JVA001013
18.	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	3/28/2017	JVA000337 - JVA000367
19.	Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-Slapp)	3/28/2017	JVA000368 - JVA000405
81.	Stipulation and Order to Dismiss with Prejudice All Claims Against Hanusa Parties	10/13/2017	JVA001754 - JVA001756

30.	Transcript Re: All Pending Motions	7/5/2017	JVA000884 - JVA000950
26.	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	5/30/2017	JVA000818 - JVA000859
29.	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	6/9/2017	JVA000867 - JVA000883

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TRAN

EIGHTH JUDICIAL DISTRICT COURT
CIVIL/CRIMINAL DIVISION
CLARK COUNTY, NEVADA

JENNIFER ABRAMS,
ABRAMS & MAYOU LAW FIRM,

Plaintiffs,

vs.

LOUIS SCHNEIDER, et al,

Defendants.

CASE NO. A-17-749318

DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

MONDAY, JUNE 5, 2017

TRANSCRIPT RE:
ALL PENDING MOTIONS

APPEARANCES:

For the Plaintiffs:

JOSHUA P. GILMORE, ESQ.
MARSHAL S. WILICK, ESQ.
JENNIFER V. ABRAMS, ESQ.

For Defendant Louis C. Schneider:

CAL JOHNSON POTTER, ESQ.

For Defendants Steve W. Sanson and
Veterans in Politics International, Inc.:

MARGARET A. McLETCHE, ESQ.

ALSO PRESENT:

LOUIS C. SCHNEIDER, ESQ.
STEVE W. SANSON

RECORDED BY: Kristine Santi, Court Recorder

JVA000884

1 LAS VEGAS, NEVADA, MONDAY, JUNE 5, 2017, 8:53 A.M.

2 * * * * *

3 THE COURT: Jennifer Abrams versus Louis Schneider. Case A749318.

4 MR. GILMORE: Good morning, Your Honor.

5 THE COURT: Good morning.

6 COUNSEL IN UNISON: Good morning, Your Honor.

7 THE COURT: You know, they're probably going to need some chairs. I think
8 you might be there for a few minutes, so I don't want everybody standing.

9 Do the parties want to start making their appearances?

10 MS. McLETCHE: Yes, Your Honor. Maggie McLetchie for Steve Sanson,
11 who's here with me in court, and Veterans in Politics International.

12 MR. POTTER: Cal Potter on behalf of Louis Schneider, who's also present.

13 MR. GILMORE: Good morning, Your Honor. Joshua Gilmore on behalf of
14 the plaintiffs.

15 MR. WILLICK: Marshal Willick, 2515, also on behalf of the plaintiffs. Sorry
16 for the voice.

17 THE COURT: That's okay, everybody's got something.

18 MS. ABRAMS: Jennifer Abrams, plaintiff.

19 THE COURT: Good morning.

20 MS. ABRAMS: Good morning.

21 THE COURT: Before the parties get started I just want to make sure, one of
22 the attorneys in this, and I think he's an attorney with Ms. Abrams' firm, his name is
23 Brandon Leavitt. Because his name came up so much I did an inquiry to see, he is
24 not related to me, at least within the third degree of consanguinity. I was not familiar

1 with him. I don't think I've ever met him. So I asked some other family members
2 and I can tell you he's not related to me within the third degree of consanguinity. I'm
3 happy to answer any questions if anyone has any questions about that. It appearing
4 nobody has any questions, I just wanted to make sure that that was disclosed in the
5 beginning.

6 So I want to start with the special -- I'm sorry, you look like you --

7 MR. GILMORE: Just one housekeeping matter, Your Honor.

8 THE COURT: Sure.

9 MR. GILMORE: Mr. Ghibaud you'll note is not here. We resolved the
10 claims against his clients on Friday afternoon. We apologize, we could not get a
11 stipulation in front of you in time. Those would be the Hanusa defendants, as they
12 were called. So insofar as --

13 THE COURT: Okay. So all the directors?

14 MR. GILMORE: Correct.

15 THE COURT: Okay.

16 MR. GILMORE: So at this point it's just Mr. Sanson, VIPI, Mr. Schneider
17 and his firm are the remaining defendants.

18 THE COURT: Okay, so that takes care of one motion. So I think we should
19 -- obviously procedurally we need to start with the special motion pursuant to the
20 anti-SLAPP statute.

21 MS. McLETCHIE: Thank you, Your Honor. Since there's more room, I'll
22 come up here.

23 Your Honor, Veterans in Politics International is a public government
24 watchdog, including of the courts. The statements at issue in this case were made

1 by Steve Sanson in his capacity as its president. His statements were matters of
2 opinion, which as a matter of law are not actionable as defamation and are also as
3 a matter of law protected by the First Amendment and Nevada's anti-SLAPP statute.

4 This case is a transparent attempt by an attorney to do exactly what
5 anti-SLAPP lawsuits were designed to protect against, abuse litigation to impose
6 financial burdens to silence criticism. Ironically, one of the things Ms. Abrams is
7 suing about being called a bully; yet, if whether or not she were a bully weren't
8 a matter of opinion, she has proven the characterization to be true by filing her
9 baseless kitchen sink lawsuit with 11 claims and over 40 pages. But this case,
10 despite the fact that the amended complaint is very long, essentially in my view
11 it boils down to two questions. Are proceedings and conduct in taxpayer-funded
12 courtrooms private? And second, does criticizing attorneys for being over-zealous
13 and questioning whether an attorney adheres to ethical standards subject a member
14 of the public, a member of a watchdog group to liability?

15 While plaintiffs are contending that they have a privacy interest in
16 connection with their courtroom behavior and that they can sue for criticism of how
17 they interact with judges, commentary about judicial proceedings in fact goes to the
18 heart of what the First Amendment protects against. It's well established that citizens
19 have a right to access courtroom proceedings. For example, in recognizing the fair
20 report privilege, the Nevada Supreme Court has said Nevada citizens have a right
21 to know what transpires in public and official legal proceedings. Yet, plaintiffs would
22 have you believe that they should be able to subject Mr. Sanson and the nonprofit he
23 operates to financial ruin because he dared to say that he believed that Ms. Abrams
24 keeps too many family court documents sealed from public view, for example.

1 I'll also note for the Court that cloaked by the protection of the litigation
2 privilege, rather than focusing on the legal issues at hand, in many ways plaintiffs
3 have asserted numerous falsehoods without any factual support. And while on a
4 12(b)(5) motion to dismiss they don't need to have evidence, on a special motion
5 to dismiss they absolutely do.

6 With regard to the anti-SLAPP motion, the VIP defendants have met
7 their burden, the first prong of the anti-SLAPP analysis. As I already mentioned, it's
8 well established that opinions are not actionable and can't be proven true or false.
9 Other than posting a video in its entirety, which can't possibly be defamatory, the
10 statements at issue are all opinion, all protected by both the First Amendment and
11 the anti-SLAPP law. Attorneys disagree about whether documents should be sealed,
12 whether behavior is unethical, whether someone is engaging in criminal conduct all
13 the time. Citizens are also entitled to do so, even when they disagree with attorneys.

14 To the extent that the statements pertained to how Judge Elliott should
15 have ruled in the Saiter case, the underlying family court case at issue, or how Judge
16 Elliott should have controlled Jennifer Abrams or reported her to the State Bar, the
17 statements all actually fall squarely within NRS 41.637(3), which says that -- defines
18 an example of a good faith statement communication protected from a SLAPP
19 lawsuit as a "written or oral statement made in direct connection with an issue
20 under consideration by a legislative, executive or judicial body, or any other official
21 proceeding authorized by law." Then all of the other statements, the statements
22 about Ms. Abrams, all fall within the fourth prong. They're "communications made
23 in direct connection with an issue of public interest in a place open to the public and
24 in a public forum."

1 Plaintiffs argue that because Sanson didn't assert that the statements
2 were objectively true in his declaration -- he did submit an extensive declaration
3 with his special motion to dismiss -- that he can't meet this burden because the law
4 requires you to establish that the statements are either truthful or made without
5 knowledge of their falsehood. However, the statements are matters of opinion,
6 which are of course protected by the anti-SLAPP law. Accordingly, he can't prove
7 something to be true that's a matter of opinion.

8 The Nevada Supreme Court has made this clear, for example, in the
9 Pegasus case. There's no proving or disproving an opinion. Sanson's declaration
10 in fact details that he asserted his opinions about Ms. Abrams in good faith and in the
11 connection of policy questions regarding the conduct of the judiciary. For example,
12 Nevada Supreme Court discussion of sealing records. For example, discussions of
13 whether or not in some instances judges are stepping over the line and whether or
14 not this case is an example of where an attorney stepped over the line and a judge
15 failed to control her. He has met his burden of establishing that he has engaged
16 in good faith communication protected by the First Amendment and Nevada's anti-
17 SLAPP law.

18 If you go through the four key statements at issue, and I think I have
19 copies of them, but in their omnibus opposition to the SLAPP motions it seems
20 like they're focusing on four key things and I'll go through each of those. There's
21 numerous statements at issue, but the first is Exhibit 1 to the first amended complaint.
22 Do you have that in front of you, Your Honor? Would you like a copy?

23 THE COURT: Sure. I have a lot of pleadings, so.

24 MS. McLETCHIE: May I approach, Your Honor?

1 THE COURT: Absolutely. Thank you.

2 MS. McLEITCHIE: So I'm starting with Exhibit 1 to the first amended
3 complaint. And it says -- the headline says, Nevada Attorney Attacks a Clark
4 County Family Court Judge in Open Court. And it says, No Boundaries in our
5 Courtrooms. And on the first page it talks about, as I mentioned, the conduct of
6 justices of the peace. And then it says, The above are examples of the courtroom
7 overstepping boundaries, but what happens when a divorce attorney crosses the
8 line with a Clark County District Court judge? And then it goes on to say that there
9 was a war of words between Jennifer Abrams and Judge Jennifer Elliott. And
10 there's a link to the video in its entirety. And then there are verbatim quotes, and
11 the focus of these quotes is not whether or not Ms. Abrams' client lied about his
12 finances, which is something the judge did retract at the end, the judge did not
13 retract at the end of that hearing the numerous times in which she asserted that
14 Ms. Abrams was being rude, overstepping her boundaries and that she and her
15 firm had a practice in family court of filing baseless and vexatious motions.

16 So we have on the third page of this exhibit: "I find that there is undue
17 influence in the case. There are enough ethical problems, don't add to the problem."
18 And then she later on says, "I am the judge and in a moment I'm going to ask you
19 to leave. Your firm does this a lot and attacks other lawyers. I find it to be a pattern
20 with your firm. You're going to be taken out of here if you don't sit down. I am the
21 judge, not you." And then Ms. Abrams interrupts the judge and says, "Excuse me,
22 I was in the middle of a sentence." That's on page 4. And then out of nowhere she
23 says, "Is there any relationship between you and Louis Schneider?" And there was
24 no relationship.

1 And then Mr. Sanson goes on to opine, "At what point" -- or not even
2 opine, but rather to ask, "At what point should a judge sanction an attorney? Is a
3 judge too comfortable or intimidated by an attorney that they give them leeway to
4 basically run their own courtroom? If there is an ethical problem or the law has been
5 broken by an attorney, the judge is mandated by law to report it to the Nevada State
6 Bar or a governing agency that could deal with the problem appropriately."

7 He's questioning her behavior in that courtroom. He's citing to what --
8 verbatim to what the judge said about her behavior in the courtroom. And Ms.
9 Abrams may not like it, and you know, this Court may not like it, but Mr. Sanson is
10 entitled to express his opinion about Ms. Abrams' behavior in an open courtroom.
11 There's absolutely no -- there's absolutely no interest in privacy with regard to the
12 behavior in the courtroom. And the Nevada Supreme Court recently adopted, clearly
13 adopted a test from California and that's in the Shapiro v. Welt case, Your Honor.
14 And the factors, for example, are that -- it explains that "there should be some degree
15 of closeness between the challenged statements and the asserted public interest.
16 The assertion of a broad and amorphous public interest is not sufficient."

17 There's a clear link here. Here Mr. Sanson is talking about questions
18 about conduct in courtrooms. Are judges overstepping their boundaries? Are
19 lawyers overstepping their boundaries? The connection is very, very clear. And
20 we provided to the Court, Your Honor, the transcript of that hearing and also cited
21 to examples in that transcript. The plaintiffs represent that at the end of the hearing
22 Judge Elliott retracted all her statements. She retracted her finding that the client
23 had lied about her finances, but she never retracted her comments about Ms.
24 Abrams' behavior in that courtroom, and frankly the transcript speaks for itself.

1 It does appear to reflect that Ms. Abrams repeatedly interrupted the judge and
2 acted in what a reasonable person, including a member of the public, could find
3 to be obstructionist or vexatious behavior.

4 The second statement at issue, Your Honor, is -- if you turn to Exhibit
5 2, I believe, and that's the bully article. And in this article what had happened is
6 that Judge Elliott had entered an order requiring that the video be removed. In
7 subsequent litigation they also tried to get -- place Mr. Sanson even behind bars in
8 the family court matter. The family court judge not only declined to hold Mr. Sanson
9 in bars for refusing to comply with her order, she recognized the unconstitutionality.

10 THE COURT: She lacked jurisdiction.

11 MS. McLEITCHIE: Exactly, Your Honor. And she found that to be a
12 constitutional issue. And so much like Steve Sanson had done, she said that this
13 order was over-broad and unsubstantiated. Yet, the plaintiffs somehow say that
14 calling that order over-broad and unsubstantiated is a false statement of fact subject
15 to a defamation claim. It just isn't, Your Honor.

16 And again, whether or not someone is a bully, for example, is certainly
17 a matter of opinion. Someone could find -- someone could find Ms. Abrams to be
18 a well-respected, zealous, hard-fighting attorney and that may very well be the
19 case, but other people could look at the same over-zealousness and say, no, that's
20 inappropriate behavior for a courtroom and I find her to be a bully. So that's the
21 bully article.

22 Then finally, the third main article called "Seal Happy." And the
23 argument that this is somehow defamatory really requires this Court to say that it's
24 not a matter of public interest whether or not hearings are sealed and whether or not

1 an attorney seals hearings. And the bizarre implication of plaintiffs' argument would
2 be that they can seal whatever court proceedings they want and if a member of the
3 public dares to say, you know, we think you're sealing too much stuff, we want to
4 know what goes on over there in family court, they'll sue you. So even the fact of
5 the sealing somehow has to be secret, which just isn't the case.

6 Then finally some other statements at issue appear to be -- pertain to
7 a conversation between a paralegal at I think Mr. Willick's firm and Mr. Sanson, and
8 it's hard for me to understand how those are possibly defamatory because a plaintiff
9 in this case is Ms. Abrams' law firm. To the extent that her paralegal is a member
10 of her law firm, I don't understand how --

11 THE COURT: Okay. Is the paralegal Ms. Abrams' or Mr. Willick's?

12 MS. McLETCHIE: You know --

13 THE COURT: Because I believed it was Ms. Abrams', so --

14 MS. McLETCHIE: I'm sorry, it was Ms. Abrams'. I misspoke.

15 THE COURT: Okay.

16 MS. McLETCHIE: So, again -- Thank you, Your Honor, for providing that
17 clarification. I misspoke. But there can't possibly be defamation to the plaintiff,
18 right? That doesn't make sense. It has to be to a third party. And so that's entirely
19 unactionable. And again, they're also matters of opinion and they just haven't met
20 their burden to show that any of these statements fall outside the protection of
21 Nevada's anti-SLAPP statute. They try to make some arguments that because
22 things that were on the website or Facebook were also emailed to some members --

23 THE COURT: Right. They make the argument, I believe, that when they
24 were sent through email that that took it out of the anti-SLAPP, if it was in it at all,

1 because that's a new publication.

2 MS. McLETCHE: I understand, Your Honor, but I don't see -- I don't see
3 having a specific audience for your public statements that you're also sending that
4 message to as creating some exception to the anti-SLAPP rule. For example,
5 Politico, the New York Times, they all do these newsletter alerts where you can
6 get the news from these publications directly into your inbox. To say that those
7 journalists and those publications wouldn't be -- they wouldn't be protected under
8 anti-SLAPP laws because they're also emailing those articles to specific people
9 who say, hey, I want to get a direct communication, this is also -- these aren't private
10 emails. These are emails that go to membership, to people who say, hey, I want
11 to hear what's going on. And they're the exact same -- they're the exact same
12 communications. And so they're still public -- they're still public communications.
13 In any case, Your Honor, as we get into in the motion to dismiss, they also aren't
14 defamation because, again, they're matters of opinion.

15 Their other argument is that because -- there isn't exactly a case on
16 point almost, seems to be their argument, that we can't establish that we fall within
17 the anti-SLAPP statute. They try to distinguish cases from California that we rely
18 on that show, look, an attorney is not immune from criticism. There's cases about
19 alerts to consumers about attorneys, and they say, well, those are really just about
20 protecting consumers and so there's a real public interest here; there isn't here.
21 Just because those cases dealt with consumer protection doesn't mean that that's
22 the outer bounds of what the anti-SLAPP statute protects against. It also protects
23 against talking about attorneys and their conduct in our public courtrooms.

24 These statements in these articles, they aren't statements about

1 Ms. Abrams' hair color or Ms. Abrams' personal life. They're statements about her
2 conduct in court in a public courtroom. They absolutely fall within the protection of
3 the anti-SLAPP statute, Your Honor. And because they do and because we've met
4 our burden that they do, the burden passes to the plaintiffs to establish that they
5 have a prima facie case. And they can't do that and they don't do that. In fact, in
6 their omnibus opposition to the anti-SLAPP motion, Your Honor, they incorporate
7 a lot of arguments from their 12(b)(5) motion. And while I do think they don't even
8 meet that standard, they forget that on a special motion to dismiss establishing --
9 a plaintiff establishing a prima facie case is more akin to what the burden is on
10 summary judgment. You have to come forward with actual evidence to support
11 your claims. So just saying, for example, on information and belief Sanson did this
12 for a bad purpose isn't enough.

13 And by the way, Your Honor, even if Sanson were paid to make these
14 statements, which he wasn't, that doesn't change the fact that it's protected speech.
15 And all this silliness, this imagined conspiracy with Mr. Schneider, in the end it's
16 actually irrelevant. These statements on their face aren't defamatory. A reporter
17 is paid to write a story. That doesn't make it unprotected speech, Your Honor.

18 But, Your Honor, they don't meet the standard, and I wanted to point
19 out just one snippet from a case that I cite in the briefs. That's the Hilton v. Hallmark
20 Cards, a Ninth circuit case. And it says that if a plaintiff has stated a legal claim
21 but no facts to support it, a defendant could prevail on an anti-SLAPP motion even
22 though he wouldn't have been able to win a motion to dismiss. And this just goes to
23 the fact that under NRS 41.660 and also under California law you've got to meet 665.
24 You've got to meet a higher burden. You have to come forward with prima facie

1 evidence and show a probability of prevailing on the claim. They just don't do that,
2 Your Honor.

3 Defamation -- I just walked through the main statements at issue and
4 these things -- whether she was unethical, for example, they just aren't -- they're
5 matters of opinion and they're just not actionable. The Nevada Supreme Court has
6 said, for example, it may be actionable to state an opinion that a plaintiff is a thief
7 if the statement is made in such a way to imply the existence of information which
8 would prove plaintiff to be a thief. But the test for whether a statement constitutes
9 fact or opinion is whether a reasonable person would be likely to understand the
10 remark as an expression of the source's opinion or a statement of existing fact.

11 I'm quite sure that the paralegal at Ms. Abrams' law firm didn't believe
12 Mr. Sanson, first of all, but second of all understood that he was saying Ms. Abrams
13 in my view violates laws, not that she's literally in jail or in prison. This isn't that kind
14 of case. And you really have to look at the type of statement and whether or not
15 it's susceptible to being proven true or false. He didn't say that Ms. Abrams has
16 been found guilty of ethical charges by the Nevada Supreme Court and has been
17 disbarred. That would certainly be susceptible to proof, Your Honor. But that's not
18 what he said. He said he found her behavior to be unethical, just like --

19 THE COURT: I'm not sure he said that. Where did he say that?

20 MS. McLEITCHIE: I'm sorry, you're right. He said that the judge said that her
21 behavior was unethical. And he questioned whether she should be reported to the
22 State Bar by the judge. But the general elements of a defamation claim require the
23 plaintiff to prove false and defamatory statements.

24 THE COURT: I'm not sure the judge said she was unethical, either. So I don't

1 think anyone said she was unethical. I think there were inferences.

2 MS. McLEITCHIE: There were inferences and the judge did question her
3 ethical --

4 THE COURT: I mean, I guess she said if that's not an ethical problem, I don't
5 know what is.

6 MS. McLEITCHIE: And I think --

7 THE COURT: But I don't think anyone ever said she was an unethical
8 attorney.

9 MS. McLEITCHIE: Sorry, Your Honor, one second. I just want to pull up the
10 transcript. So the judge says, "Ethical problems" --

11 THE COURT: But Judge Elliott is not a party.

12 MS. McLEITCHIE: You're right.

13 THE COURT: So let's say even if she did say that --

14 MS. McLEITCHIE: Right.

15 THE COURT: -- I don't think she did. I think there were inferences and she
16 did say things about the firm filing things, but I don't think any of the parties here
17 ever said she was an unethical lawyer.

18 MS. McLEITCHIE: There were -- Mr. Sanson raised concerns about whether
19 her behavior was unethical, and if the judge had --

20 THE COURT: And his concern was why didn't the judge do it?

21 MS. McLEITCHIE: Correct.

22 THE COURT: To me it seemed like he was criticizing the judge more than
23 the attorney.

24 MS. McLEITCHIE: I would agree with that, Your Honor. He said that a judge

1 has a duty to control her courtroom --

2 THE COURT: Sure.

3 MS. McLETCHIE: -- and that a judge has a duty to act and to report a
4 violation to the State Bar, which arguably is the other type of anti-SLAPP case, which
5 is urging governmental action. The State Bar is a quasi-governmental entity. And
6 certainly saying to the judge I think that if you said in court that you had questions
7 about her ethical behavior you should go to the State Bar, that you should do so.
8 That certainly was his opinion and he's certainly entitled to ask her to act to enforce
9 the ethical rules of the State Bar.

10 I don't know whether Your Honor wants me to get into each of the
11 eleven causes of action, but the defamation claim, I think we've covered. These are
12 not matters that are susceptible to proof. Even if they were statements of opinion by
13 Mr. Sanson, they're not susceptible to proof and he's clearly within his free speech
14 rights to ask the question of whether or not Judge Elliott should have called the
15 State Bar to report Ms. Abrams.

16 With regard to the intentional and the negligent emotional -- negligent
17 and intentional infliction of emotional distress claims, Your Honor, first of all, this
18 is not a 12(b)(5), this is anti-SLAPP. They're supposed to come forward with
19 evidence. Ms. Abrams has not provided -- she's alleged that she suffered distress
20 in conclusory element-style language, but she has never actually produced evidence
21 that she suffered emotional distress. If she suffered emotional distress because
22 somebody questioned her ethics in the courtroom, this may not be the right career
23 for her. But certainly a law firm is not a natural person and cannot pursue either of
24 these claims. This is really a kitchen sink complaint, Your Honor. They just threw

1 everything in they could think of. They didn't specify even whether or not the claims
2 are being brought by both plaintiffs. But neither one of them has evidence, neither
3 Ms. Abrams nor her law firm have evidence of emotional distress.

4 In terms of false light, it's an entirely inappropriate claim because it
5 requires -- Nevada courts require that plaintiff suffer mental distress resulting from
6 publicizing private matters, Your Honor. Certainly you can't have false light.

7 Jennifer Abrams wrote to Mr. Sanson and said early on, take down that video, it
8 puts me -- it places me in a false light. First of all, the video speaks for itself. It's
9 posted in its entirety. And it's not something private that's being disclosed to the
10 public. All it is is a video of her in court.

11 In terms of business disparagement, the difference between business
12 disparagement and a defamation claim is -- for the purposes of this hearing, Your
13 Honor, I'm assuming that Mr. Sanson isn't entitled to the fair report privilege and
14 I'm assuming that Ms. Abrams isn't a public figure. But -- so I'm just doing a straight
15 defamation analysis as if those higher burdens don't apply. They can't even meet
16 the lesser burdens because they haven't come forward with any evidence and
17 because the statements as a matter of law are not actionable. But the business
18 disparagement claim, Your Honor, does require them to come forward with evidence
19 of special damages. And they have not come forward with any actual evidence of
20 damages to their business. I don't think that there were any. Maybe they've gotten
21 some positive press out of this; who knows. Or maybe they're suffering from the
22 Barbra Streisand effect; I don't know. But they haven't come forward with any
23 evidence of actual damages, that their business has somehow been harmed. And
24 again, this all hinges on a false and disparaging statement. So does the false light

1 claim, so does the defamation claim, and we don't have any false statements.

2 Harassment. It's not a claim in Nevada. We briefed this. The
3 plaintiffs try to argue that you can bring any kind of common law claim you want.
4 The Nevada Supreme Court hasn't explicitly addressed this question, but federal
5 courts applying Nevada law have said that there is no -- there is no state tort for
6 harassment, there's only a crime for harassment, so there's no such claim.

7 On concert of action, this again -- this is a claim that's predicated on
8 another claim, so it's sort of a derivative of there being an underlying defamation
9 tort, which there isn't. Defendants are engaged in free speech and these aren't
10 anti-social or dangerous activities, which are generally the types of activities that
11 the concert of action tort is meant to deter. You don't get a concert of action tort
12 every time you have two defendants on a claim. And again, civil conspiracy requires
13 that there be some underlying unlawful act or objective, and again, there isn't here.

14 THE COURT: Well, I think the civil conspiracy is the two, because the only
15 way they get Mr. Schneider on any of these statements, because he didn't make
16 any statements, is through this claim. Correct?

17 MS. McLEITCHIE: Correct, Your Honor.

18 THE COURT: That's what it appeared to me.

19 MS. McLEITCHIE: And they seem to -- they've --

20 THE COURT: Because no statements are attributed to Mr. Schneider. His
21 only conduct is apparently getting the video from somebody, and their contention
22 is he gave it to the other defendant and he uploaded it to the Internet.

23 MS. McLEITCHIE: That's correct, Your Honor. I think they're suing both --
24 all the -- well, previously all the defendants for civil conspiracy. But they also have

1 this theory that Mr. Sanson and Mr. Schneider were sitting around concocting a
2 scheme to go after Ms. Abrams and that it was for some bad purpose and that Mr.
3 Sanson was paid to do it. But again, even -- none of those things are true, but let's
4 assume that they are true for the purposes of argument that Mr. Schneider and Mr.
5 Sanson met and said, you know, she's out of control in that courtroom, something
6 needs to be done for it. You know, I'll help you cover some of your expenses,
7 Steve, but you've got to do something to draw attention to this. That is not illegal
8 behavior because the underlying behavior, publicizing an attorney's behavior in a
9 courtroom is not possibly illegal.

10 On the RICO cause of action, I don't really think they're serious about
11 this cause of action. They haven't alleged with specificity exactly what this RICO
12 cause of action is. Perhaps they can explain in argument and I'll reserve my
13 arguments for rebuttal. But the Nevada Supreme Court has made clear that you
14 have to allege these claims. And this is not even on the anti-SLAPP motion but
15 just even on a 12(b)(5), you have to -- you have to plead these --

16 THE COURT: You have to allege them like you're charging them with a
17 criminal indictment or information. It has to be that kind of specificity.

18 MS. McLETCHIE: Exactly, Your Honor.

19 On the copyright claim, this Court, with all due respect to the Court,
20 has no jurisdiction. Federal courts have exclusive jurisdiction over copyright claims.
21 And I think, Your Honor, the fact that they included all these claims goes toward -- to
22 the idea that this is vexatious litigation designed just to bury Mr. Sanson, hope that
23 he doesn't get an attorney, just bury him; maybe get a default judgment and just
24 bury him with paper. This Court has no jurisdiction over a copyright claim. There's

1 no reason to have included that claim.

2 Their final claim is a claim for injunctive relief, which isn't actually a
3 claim and isn't improperly pled. You get injunctive relief if you win causes of action
4 that give rise to the right for injunctive relief. But courts have made very clear, and
5 we briefed this in our motion to dismiss, courts have made very clear, Your Honor,
6 that when it comes to speech injunctions are extremely inappropriate.

7 Thank you, Your Honor.

8 THE COURT: Thank you.

9 Mr. Potter, I'm assuming you want to be heard.

10 MR. POTTER: Thank you, Your Honor.

11 THE COURT: Do you agree that the allegations against your client arise out
12 of the conspiracy?

13 MR. POTTER: Yes.

14 THE COURT: Because I couldn't see anywhere where it was alleged that
15 Mr. Schneider made any statements.

16 MR. POTTER: The only --

17 THE COURT: But he is liable apparently through a civil conspiracy theory?

18 MR. POTTER: Correct. I mean, the only -- this all stems from the dispute
19 between Brandon Leavitt and Mr. Schneider --

20 THE COURT: Sure.

21 MR. POTTER: -- as to Mr. Schneider's client. His statements would only
22 have been made in the courtroom.

23 THE COURT: The email. I guess there was an email and then apparently
24 there was a conversation in court, withdraw your motion and this all goes away.

1 MR. POTTER: Right. And that dealt with the Bar complaint that Mr.
2 Schneider was dealing with with Mr. Leavitt. Mr. Leavitt met with his client, with
3 Louis' client for four hours on the eve of trial. He was still attorney of record at that
4 point in time, had not been removed and was concerned that -- by that action. As
5 to Mr. Schneider, our belief was that they were attempting -- they being Ms. Abrams
6 and her entity -- we were concerned about that unethical conduct by Brandon
7 Leavitt, and as a result of that that's why he's included in this. In addition, there
8 appears to be an evolving situation with Judge Elliott over whether it was sealed,
9 the hearing was sealed, or whether it was closed, and clearly it's been determined
10 that it -- (inaudible).

11 THE COURT: But even if she closed the hearing, that doesn't mean it's not
12 public record.

13 MR. POTTER: Correct.

14 THE COURT: Okay. That's my interpretation.

15 MR. POTTER: And that's our position.

16 THE COURT: You can close a hearing, but the only way I can seal it is with
17 a court order to seal it. I can close something, because sometimes you do that. If
18 you're going to have -- I mean, you know in criminal court sometimes we close them
19 because they're going to talk about things that we don't want everyone to know
20 about, so we close it but we don't seal it.

21 MR. POTTER: Correct.

22 THE COURT: We don't take it from the public record.

23 MR. POTTER: So in this instance Ms. McLetchie has laid out the arguments
24 which we have joined in as to Mr. Sanson because we're being challenged for being

1 a co-conspirator, a co-conspirator in a RICO action. Really, there's no --

2 THE COURT: What are the predicate crimes?

3 MR. POTTER: There aren't any alleged.

4 THE COURT: Okay.

5 MR. POTTER: So based upon those factors, we would ask that he is under
6 the ambit of the SLAPP suit and we would ask for the appropriate dismissal and
7 sanctions accordingly. We also have the 12(b)(5) motion, but this supersedes that
8 argument.

9 THE COURT: Sure.

10 MR. POTTER: Thank you.

11 THE COURT: Thank you.

12 So I want to start with Mr. Schneider.

13 MR. GILMORE: Sure.

14 THE COURT: Is Mr. Schneider brought into these statements based on the
15 civil conspiracy?

16 MR. GILMORE: Yes.

17 THE COURT: Okay.

18 MR. GILMORE: That's exactly right, Your Honor.

19 THE COURT: Okay.

20 MR. GILMORE: He's hooked on the civil conspiracy claim, and the law is
21 well settled on that. If you've got a conspiracy, all co-conspirators are jointly and
22 severally liable for the acts of one another. Even if they're not all known, so long
23 as you've entered into this agreement to advance this objective, you're on the
24 hook. So you are correct, Your Honor. The statements initially that we have in the

1 complaint about Mr. Schneider provide context, and I'm going to get into that in a
2 minute.

3 THE COURT: Sure.

4 MR. GILMORE: But, yes, to answer your question --

5 THE COURT: Thank you.

6 MR. GILMORE: -- he's hooked on the conspiracy.

7 So, Your Honor knows this but I want to emphasize it this morning.

8 Right now we're on the Anti-SLAPP motion --

9 THE COURT: Sure, we are.

10 MR. GILMORE: -- so we're not on the 12(b)(5) motion.

11 THE COURT: Right. You have a heightened standard.

12 MR. GILMORE: They do and we do if we get that far.

13 THE COURT: Uh-huh.

14 MR. GILMORE: And I'm going to submit to you today we don't get that far.

15 And we may have a productive conversation about some of this on the 12(b)(5)
16 motion, but we're not going to have a productive conversation about it on the anti-
17 SLAPP motion because it's their burden initially to come to court and to explain why
18 they have been sued for engaging in statutorily-protected speech. They have to do
19 that. And if they don't do that then we're done and I sit down and you rule on the
20 motion and we take up the 12(b)(5) motion.

21 THE COURT: How is not talking about what goes in a courtroom public
22 interest? So you might as well skip right to that.

23 MR. GILMORE: Sure.

24 THE COURT: I mean, I think it's subsection 3 of the statute.

1 MR. GILMORE: We're dealing I think with --

2 THE COURT: I think that's what the parties argued. I know you argued that
3 this was not a matter of public interest. How can not -- how can it not be a matter of
4 public interest? The public always has an interest on what goes on in the courtroom.

5 MR. GILMORE: Well, let's look at the Shapiro factors, right, because that's
6 what tells us what public interest is.

7 THE COURT: Sure. The five factors.

8 MR. GILMORE: So we hear case law and they cite tidbits of case law about
9 why this could be public interest, this could be public interest. But you look at these
10 factors --

11 THE COURT: Uh-huh.

12 MR. GILMORE: -- and you take them in context with what Mr. Sanson told
13 Mr. Schoen and it's almost indisputable that this is a private dispute.

14 THE COURT: Okay. So you contend that Mr. Sanson defamed the plaintiff.
15 I mean, I don't understand how you can -- so the conversation with the paralegal is
16 another set of defamation?

17 MR. GILMORE: Not defamation, Your Honor. That gives us context. You
18 say why am I talking about --

19 THE COURT: Okay, that's giving it context?

20 MR. GILMORE: Yes. Let's give this context. Why do I say that?

21 THE COURT: Okay, got it.

22 MR. GILMORE: He said to Mr. Schoen, she's on my hit list. She's on my
23 hit list.

24 THE COURT: Well, come on. You called it a priority list.

1 MR. GILMORE: Okay, fair. Fair enough.

2 THE COURT: You can't call it a hit list in oral argument.

3 MR. GILMORE: Priority list. Why? Why is that, Your Honor? Because he
4 decided at Mr. Schneider's behest to go online and to start defaming her and to
5 defame her through private email blasts, and I'll get to that in a moment and Your
6 Honor mentioned that.

7 VIPI, if you step back a moment and you look at what their mission is,
8 they're here to talk about political candidates and they have a talk show that talks
9 about political candidates. We vet who we like. We give out a list of people, here's
10 who you should vote for, here's who you shouldn't vote for, okay.

11 THE COURT: Sure.

12 MR. GILMORE: Mr. Sanson did not say I'm going to go vet all the family
13 court judges and I'm going to go watch proceedings in different courtrooms and
14 I'm going to see how different judges interact with counsel, with parties, and then
15 I'm going to take a sampling of lawyers.

16 THE COURT: Does he have to do that before he makes these statements?

17 MR. GILMORE: Well, what he does -- if he doesn't do that then he transforms
18 a private controversy into a public dispute by focusing on just Ms. Abrams.

19 THE COURT: What's -- where's the -- what's the private controversy? The
20 divorce action? It's not a private controversy.

21 MR. GILMORE: The controversy is between Mr. Sanson and Ms. Abrams.

22 THE COURT: Okay.

23 MR. GILMORE: So it's their -- yes.

24 THE COURT: Okay, I see. I see.

1 MR. GILMORE: It's their private controversy. Mr. Sanson and Ms. Abrams
2 have a private dispute, but he's taken and he says I'm going to make that public.

3 Let's look at the fifth Shapiro factor. "A person cannot turn otherwise
4 private information into a matter of public interest simply by communicating it to a
5 large number of people." So Mr. Sanson says, hey, I've got a mike and I've got a
6 radio show and I've got Facebook and YouTube and Google, and I can take my
7 private dispute with Ms. Abrams and publicize it and turn it into a matter of public
8 interest.

9 So I mentioned earlier he's not sampling the courts and I said that
10 because of what Your Honor is thinking. Hey, this is about a case, right? It's got
11 to be a matter of public interest. He's going around talking about cases, what's
12 occurring. No, that's not what he's doing.

13 THE COURT: And it was actually more critical of the judge than anyone --

14 MR. GILMORE: Perhaps both.

15 THE COURT: So how this turned out to be about Ms. Abrams --

16 MR. GILMORE: Well, because the hook is that she somehow can threaten
17 Judge Elliott and she can cause Judge Elliott to enter orders that really no other
18 lawyer can do. And Your Honor sits there on the bench, I'm sure you'd say no
19 lawyer intimidates me, no lawyer can force me to sign an order. But that's the
20 context here. That's what they're saying is that she has this ability to scare Judge
21 Elliott; oh, yeah, I'll sign your order. We know that's not happening. We know that's
22 not happening. Judge Elliott is very capable of deciding in each case, do I sign this
23 order, don't I sign this order. So to suggest that Ms. Abrams --

24 THE COURT: Well, she signed an order saying no one in the world could --

1 MR. GILMORE: Well, let's --

2 THE COURT: -- put this video on the Internet. I mean, she corrected herself.

3 MR. GILMORE: And what she did is she said that looks like --

4 THE COURT: But I think everyone lost sight of the First Amendment for a
5 second.

6 MR. GILMORE: She said that looks like a gag order, right? That's what she
7 said. And so she went through the three factors. But we are also talking about --

8 THE COURT: But she signed the order first, telling everybody to take it
9 down. I mean, Mr. Sanson did comply with those orders. I mean, he got an order
10 that arguably he didn't have to follow. Correct?

11 MR. GILMORE: He initially says I'm going to follow it and then he writes back
12 and says I'm not going to follow it anymore.

13 THE COURT: But arguably he doesn't have to follow it, but he does. I mean,
14 I even checked. It's not on YouTube and it's -- there was something else that I had
15 never heard of before. What's the other website? What's the other website that he
16 was alleged to have put it on?

17 MR. GILMORE: Google Plus, Facebook. Those are the principal sites.

18 THE COURT: No, like a YouTube site. It's not on YouTube and it's not on
19 the other site. I can't remember because I had never heard of the site before, but
20 apparently --

21 MR. GILMORE: Vimeo, I'm told.

22 THE COURT: Yes, that one, and it's not on there, either. So he gets an
23 order, he arguably doesn't have to comply with it. He never had an opportunity to
24 be heard. He's got an order with a caption that doesn't have his name on it. He

1 somehow gets brought into this. But he complied, correct?

2 MR. GILMORE: As I understand it, he posted it back. That is my
3 understanding.

4 THE COURT: Well, apparently it's on some --

5 MR. GILMORE: Russian website --

6 THE COURT: Right.

7 MR. GILMORE: -- as I understand it, so that you couldn't go and take it
8 down.

9 THE COURT: Right. I believe it is there. I think both sides agree it is there.
10 It's on some sort of Russian website now.

11 MR. GILMORE: That's my understanding, Your Honor.

12 THE COURT: Which, I mean, I'm assuming everybody in the world can have
13 access to it that has access to the Internet.

14 MR. GILMORE: That's my understanding as well, Your Honor. You see
15 Judge Elliott's comments. She didn't want that video posted online. Why are we
16 posting this video online? Why is Mr. Sanson doing that? Okay. At its core this is
17 a divorce proceeding involving four small children. And of course what did Judge
18 Elliott say? We've got to focus on the best interest of the children. Priority number
19 one. Nobody is disputing that.

20 THE COURT: Yeah, but family court matters are public. Just because
21 there's children involved doesn't make it private.

22 MR. GILMORE: But there's a difference, right, saying I'm going to walk down
23 to family court today and I'm going to just go sit in the back and I'm going to watch
24 and I want to see what happens.

1 THE COURT: But you don't have to do that now. You can get everything
2 on video, just like in this courtroom. You can go -- after today you can even call
3 my own clerk and she'll give you a DVD of anything that happens in this courtroom.
4 She won't even ask me. She'll just give it to you because it's a public courtroom.

5 MR. GILMORE: Sure. And so people go searching for that, right? As you
6 said, I've got to call the clerk --

7 THE COURT: You don't have to search. You can just get it.

8 MR. GILMORE: I have to call down here and obtain a copy of that video and
9 pay for it, right? I've got to pay for that transcript. I can't just go get it.

10 THE COURT: Maybe.

11 MR. GILMORE: My understanding, you're typically paying for the transcript
12 because they're having to put it together.

13 THE COURT: It's not a transcript, it's just a DVD.

14 MR. GILMORE: Or the video from today.

15 THE COURT: You can get a video.

16 MR. GILMORE: And so --

17 THE COURT: I think you might have to pay twenty bucks.

18 MR. GILMORE: Okay. So that's twenty dollars, right? That's a nominal
19 sum perhaps to people here in the courtroom today, but maybe not to other people.
20 Instead what we have is I'm going to widely publicize that on Facebook, on Vimeo,
21 but I'm also going to send it through private email blasts. So let me --

22 THE COURT: Okay, because you argue, I have that in my notes. How do
23 the emails -- it appears to me as though you argued that even if the -- because the
24 Internet is a public forum. You're not going to deny the Internet --

1 MR. GILMORE: On Facebook --

2 THE COURT: -- is a public forum?

3 MR. GILMORE: No, no, no, we didn't take that position.

4 THE COURT: Okay. All right.

5 MR. GILMORE: We said that email blast.

6 THE COURT: But you did take the position that even if the Internet is a
7 public forum, that by sending it in an email it was a republication that took it out of
8 the public forum.

9 MR. GILMORE: That's correct, Your Honor.

10 THE COURT: That it was like publicizing it for the first time.

11 MR. GILMORE: That's correct. And the law is clear on this. Each act of
12 republication is actionable. Now, the response here was, well, no, because if I'm
13 speaking here today and I say something defamatory to four people, I've said it
14 once, right?

15 THE COURT: Well, you're good because you're in the courtroom.

16 MR. GILMORE: I'm good. Let's say --

17 THE COURT: You have immunity.

18 MR. GILMORE: But let's say I was outside. Fair enough. Let's say I was
19 outside --

20 THE COURT: As long as you don't start going crazy.

21 MR. GILMORE: Fair enough. But even then I think the Nevada Supreme
22 Court gives you a lot of leeway.

23 THE COURT: Probably.

24 MR. GILMORE: They do on the litigation privilege. But let's say I'm standing

1 outside and I have four people in front of me and I publicize a defamatory statement.
2 Of course that's one act of publication. It doesn't matter if there's two or a hundred
3 people standing there. But that's not what we have here. They are not contending
4 that Mr. Sanson stood in front of two computers and said I'm going to hit enter to
5 make it go public on YouTube and I'm going to hit enter to make it go through my
6 email blast at the same time.

7 THE COURT: That's exactly what they alleged in their reply. Did you read
8 their reply?

9 MR. GILMORE: Counsel said that. Unless Mr. Sanson is going to testify --

10 THE COURT: That's how I understood their reply, that the --

11 MR. GILMORE: That's argument of counsel. We have to flesh that out.

12 THE COURT: I mean, it was in their reply. I read that last night because
13 I was very concerned about your email argument, whether that -- because the
14 Internet is a public forum, whether sending it to a private email newsletter audience
15 somehow took it out of the public forum. I thought that was an interesting argument.

16 MR. GILMORE: And it's something --

17 THE COURT: Because in their reply they alleged exactly what I just said,
18 that he published it at the same time.

19 MR. GILMORE: And I would find that quite interesting if he would get up here
20 and testify that he did just that. I would find that quite interesting because argument
21 of counsel in response, that's fine. She can argue that, right? And if Your Honor
22 wants limited discovery on that issue, I'm happy to take Mr. Sanson's deposition
23 for a very limited purpose and I'll say to him, hey, were you sitting at your multiple
24 computers and did you set it up --

1 THE COURT: I don't think you have to sit at multiple computers.

2 MR. GILMORE: Well, somehow or another to be able to send everything out
3 at the same time through different channels. I don't know, right, because I'm not
4 him. But if you want us to vet that, Your Honor, I'm happy to do so. That doesn't
5 seem practical, reasonable or realistic. I imagine he first either puts it through the
6 email blast and then he goes and puts it up on Facebook, or the other way around,
7 but those are successive acts. And if that's occurring, then the successive act or
8 the initial act that's through the private email list that you have to subscribe to, right,
9 that you have to be on, you have to be a member of, if that's the case then we're
10 not in a public place or a public forum. It takes us out of the anti-SLAPP statute.

11 THE COURT: Okay. So that's exactly what you're arguing?

12 MR. GILMORE: Yes.

13 THE COURT: Okay.

14 MR. GILMORE: Correct, Your Honor. Correct. Taking a look at the other
15 public interest factors, Your Honor, the first one under Shapiro, it does not -- "public
16 interest does not equate with mere" --

17 THE COURT: So how does this come out of the public interest? Because
18 it's a courtroom case, it's happening in a public courtroom. And I know you argue
19 it's not a public interest.

20 MR. GILMORE: Correct.

21 THE COURT: Why is it not a public interest?

22 MR. GILMORE: Look at the third Shapiro factor. "The assertion of a broad
23 and amorphous public interest is not sufficient." That's what we have. It's like,
24 well, we're interested in courts. That's the very definition of a broad and amorphous

1 public interest. We just want to know what's happening. It requires more than that,
2 otherwise that factor wouldn't be here, right, and the Nevada Supreme Court wouldn't
3 have said take a look at that, because if we just have some broad, amorphous
4 interest that's not enough. And that goes --

5 THE COURT: It says you can't turn otherwise private information into a
6 matter of public interest by communicating to a large number of people.

7 MR. GILMORE: Correct. So they fail there. They fail under the third factor,
8 which is "there must be some degree of closeness between the challenged
9 statements and the asserted public interest. The assertion of a broad and
10 amorphous public interest is not sufficient." They fail there, too. They fail there.
11 And that becomes even clearer when you look at this argument --

12 THE COURT: Even though these courtrooms are run by elected judges?
13 I mean, there's nothing more -- I mean, the courtroom is a public forum --

14 MR. GILMORE: I understand why you struggle with that.

15 THE COURT: -- that public has the right -- I mean, I can't deny anyone
16 access to the courtroom unless I have a valid reason.

17 MR. GILMORE: I understand the struggle.

18 THE COURT: Sure.

19 MR. GILMORE: You say we're talking about courts, right? But it's got to be
20 more than that.

21 THE COURT: They're public. They're open.

22 MR. GILMORE: They are. I can't deny that, right? I'm not going to sit here
23 and deny the obvious. But it requires more.

24 THE COURT: But you're taking something that happened in a public

1 courtroom and you're saying it's not a public interest --

2 MR. GILMORE: I'm taking --

3 THE COURT: -- even though it's run by a public official who's elected by
4 the people.

5 MR. GILMORE: Sure. I'm looking at the facts, right. You have to look at
6 the facts that are presented to you here today. Again, this was not an individual who
7 was vetting courtrooms downtown in family court. He went out of his way to target
8 one lawyer. Shapiro says then we're not a public interest, okay. And why is that
9 significant? It doesn't mean necessarily that we're going to trial on these claims
10 now. It doesn't mean that. It means they don't get the benefit of the anti-SLAPP
11 statute. They may get relief under 12(b)(5). I don't think they do. I don't think we
12 get there. But they don't get anti-SLAPP relief. Why? The Nevada Legislature has
13 said, look, defamation, statements of opinion, some of that is a close call, some of
14 it's not. It always depends. That's the judge -- you decide, does this go forward
15 and a jury looks at these statements or not.

16 So they can come in here on a 12(b)(5) motion and they don't have to
17 worry about truth. They don't have to worry about that. But the Nevada Legislature
18 has said if you're going to come in here on a defamation claim, on an anti-SLAPP
19 motion, we're going to make it a little harder. Why are we going to do that?
20 Because you want fees and you want damages. So if that's what occurring and
21 you are not only asking --

22 THE COURT: But the fees are mandatory, are they not?

23 MR. GILMORE: Correct. If you grant the special motion, fees are mandatory,
24 right?

1 THE COURT: Uh-huh.

2 MR. GILMORE: So then that can't be easy because otherwise we're going
3 to convert every 12(b)(5) motion on a defamation claim to an anti-SLAPP motion.
4 And if the Nevada Legis--

5 THE COURT: This is only the second one I've had in over 15 years, so I don't
6 think that's what happens.

7 MR. GILMORE: Well, and I don't think that's supposed to happen.

8 THE COURT: I mean, anti-SLAPP motions are not like run of the mill.

9 MR. GILMORE: It's not supposed to happen.

10 THE COURT: Correct.

11 MR. GILMORE: We're supposed to be in here on a 12(b)(5). But they're in
12 here asking you for the benefit of the anti-SLAPP statute.

13 But let me do this, Your Honor. Let me move -- even if you're
14 struggling with public interest and I understand that --

15 THE COURT: Uh-huh.

16 MR. GILMORE: -- and then we have the public forum issue --

17 THE COURT: Sure.

18 MR. GILMORE: -- which I think they have a real problem with, they have a
19 real problem with because a lot of this, again, all of it republished through a private
20 email. But the third factor, Your Honor, and one that we hear today that actually
21 they really don't have to comply with is truth. They can't disagree with that. The
22 statute says it's got to be truthful or made without knowledge of its falsehood. We're
23 done. They don't even bother to do that. Instead, what do they say to you? Well,
24 no, these are statements of opinion so I don't have to prove truth. The Nevada

1 Legislature disagrees and so does the Nevada Supreme Court. In Shapiro it said,
2 oh, and by the way, any communication that you're trying to squeeze into the
3 anti-SLAPP statute, it better have been truthful or made without knowledge of its
4 falsehood. They don't --

5 THE COURT: How about putting a video -- I mean, because everything
6 stems from this video. That video is truthful. That's what happened.

7 MR. GILMORE: The video --

8 THE COURT: See, you can't deny that. I mean, it speaks for itself. It may --
9 I mean, I sat and watched the whole thing. It took a really long time to sit through
10 the whole thing. I know what happened at the end. But the beginning of that, that
11 all happened. I mean, it wasn't nice, you know, but it all happened. It's truthful.
12 That happened.

13 MR. GILMORE: But that's not what this article does.

14 THE COURT: So putting that on the Internet doesn't somehow turn it into
15 defamation. But everything stems from that video, correct? All the statements,
16 everything stems from that video.

17 MR. GILMORE: I think that's the genesis. Yeah, I think that's where we
18 started.

19 THE COURT: And the truth is an absolute defense. It's not defamation
20 if it's truthful.

21 MR. GILMORE: But this is not just, hey, everybody ought to go watch
22 this video. That's not what this is. This wasn't just, hey, I thought this was really
23 interesting and I'm here to make sure everybody knows what's going on; go
24 watch this video. That's not what happened here. We decided to only talk about --

1 Mr. Sanson said I'm only going to talk about the first part of the video. And
2 everybody knows everybody reads headlines, right? How long did it take? I mean,
3 it's a 78 minute video. It takes --

4 THE COURT: Oh, it's -- I thought it was like two hours, but apparently it's not.

5 MR. GILMORE: It feels a lot longer when you watch a video, right?

6 THE COURT: It felt like two hours, but it's only -- when I saw it was only
7 70 minutes, I thought -- I would have sworn it was like two hours. It was long.

8 MR. GILMORE: Yeah. And I think -- I mean, they've done studies now that
9 the average person is going to read an article for maybe up to thirty seconds if it
10 really grabs their attention, right. The idea that anybody is going to sit there, click
11 that video, sit back, get a drink and watch that video is ridiculous. And even Judge
12 Elliott said in her email to him, you know, it's really not fair how you've portrayed that
13 video. Of course, she took offense to it, too, as you alluded to earlier. It's got to be
14 a fair accounting. That's not what they did here because they know nobody is going
15 to go watch that video. Headlines are what matters. That's what sells in the news,
16 headlines. And this headline here, when read in context, if we're jumping ahead,
17 is defamatory.

18 But I want to back up because truth -- again, they have to prove truth
19 and they can't do that with how they portrayed the video. I didn't put those words in
20 that article, they did. They did that. And Mr. Sanson does not say in his declaration,
21 Mr. Sanson did not say in the article, oh, hey, you know, full disclosure here, the
22 judge was misinformed about the plaintiff's finances. Full disclosure. You don't
23 see like a footnote, a little disclaimer at the end. He doesn't want you to know that.
24 That's not his objective. So, truth, that's why they fail under the truth analysis there.

1 Some of the other things, Your Honor, that talked about the articles
2 with bullying, threatening. Again, do they say, look, here's how I would prove that?
3 Here's at least what I would do if I had to prove that. No. We have argument of
4 counsel that talks about why those are statements of opinion. That's fine. And
5 again, if we want to have that discussion under the 12(b)(5), let's have it and I think
6 that will be a productive, meaningful conversation. But not under the anti-SLAPP
7 statute because they had to prove -- they had to prove truth. Good faith. Those are
8 the words that our Nevada Legislature used. Those words were reaffirmed by the
9 Nevada Supreme Court in Shapiro.

10 THE COURT: What if it's an opinion? I mean, an opinion can never be false,
11 correct?

12 MR. GILMORE: People all the time are testifying here's my thought, here's
13 what I base that on. Here's the facts that support my opinion, right?

14 THE COURT: Uh-huh.

15 MR. GILMORE: We don't see that.

16 THE COURT: But an opinion cannot be false. So if it's an opinion, it's
17 truthful.

18 MR. GILMORE: Well, we can argue about whether these are opinions.
19 I don't think they're opinions.

20 THE COURT: Okay. All right.

21 MR. GILMORE: But the problem here is they just assume they're opinions
22 and they don't say, you know what, I'm going to be --

23 THE COURT: Well, they assert. They don't assume --

24 MR. GILMORE: Fair. They argue it.

1 THE COURT: -- they assert that they are opinions. So I'm wanting to know
2 from you why are they not opinions?

3 MR. GILMORE: Okay.

4 THE COURT: Because if they're opinions, they can't be false, right?

5 MR. GILMORE: So what --

6 THE COURT: Because I understand they have to prove truth or no
7 knowledge that they were false. I'm not -- I'm just kind of wondering how you can
8 prove truth or false if someone is a bully.

9 MR. GILMORE: You would still have predicate act.

10 THE COURT: Do you know what I mean?

11 MR. GILMORE: I do.

12 THE COURT: Bully.

13 MR. GILMORE: I understand.

14 THE COURT: I mean, isn't that someone's opinion?

15 MR. GILMORE: Well, what they've also done, Your Honor, is they're cherry-
16 picking and they're trying to cut these articles up, right? That's not what you do.
17 You've got to read them in context. And the Nevada Supreme Court has said, what
18 would a reasonable person think when they look at these articles? What would a
19 lay person think? And as I alluded to earlier, they would think that Ms. Abrams is
20 able to threaten a judge; you better sign this order or things are going to go very
21 south for you.

22 THE COURT: Where does it say she threatened a judge?

23 MR. GILMORE: The bullying article, that she's bullying Judge Elliott.

24 THE COURT: Why are you saying that they said she threatened a judge?

1 MR. GILMORE: I'm saying that's how I would maintain, Your Honor, that
2 article would be interpreted by a lay person. The Nevada Supreme Court has said
3 to you, Judge, when you're looking at this --

4 THE COURT: And they actually posted the order. He was served with an
5 order and isn't this actually the order? It looks to me like the actual order.

6 MR. GILMORE: On the --

7 THE COURT: Right.

8 MR. GILMORE: You're looking at Exhibit 3, Your Honor?

9 THE COURT: I mean, he actually posted the order for everyone to see so
10 they could form their own conclusions, right? It's Exhibit 2.

11 MR. GILMORE: Correct, Your Honor. He's got the order posted. I can't --
12 he does have the order posted. But what does that tell the reader? He must know
13 a lot about this case if he's posting pleadings, so there must be something else
14 that happened. He bullied her and he caused her to enter that order. The Nevada
15 Supreme Court has said what would a reasonable person think when they look at
16 this. And if it's subject to more than one interpretation, then what do we do? We
17 bring a jury in here. Now, they might say, come on -- come on, I think that's opinion
18 as opposed to fact, but that's a jury question. If it's a mixed type statement --

19 THE COURT: So an opinion is always a jury question?

20 MR. GILMORE: Whether. The Nevada Supreme Court has said if it's a
21 mixed type statement, which means there's some undisclosed defamatory facts.
22 If a reasonable person --

23 THE COURT: So the defamatory statement is bully?

24 MR. GILMORE: When read in this article --

1 THE COURT: Bullied?

2 MR. GILMORE: -- Your Honor, again, I don't think we can chop this article
3 up, which is what they want to do. You've got to look at the entire article. What's
4 the message being conveyed? Okay.

5 Now, you made a comment about unethical earlier, right. Where is it
6 that they call her out point blank that she's unethical, right? You read the article.
7 Isn't this unethical? Anybody who reads that is going to say, well, he's calling her
8 unethical. Again, you have to look at the article.

9 THE COURT: I read it and I said exactly the opposite.

10 MR. GILMORE: I'd say, Your Honor, when you look at --

11 THE COURT: So, I'm somebody.

12 MR. GILMORE: You are and you're the one that's most important looking
13 at this, looking at this statement, Your Honor. If there is an ethical problem or the
14 law has been broken by an attorney.

15 THE COURT: And that, the was critical of the judge. That's true. If there's
16 an ethical problem taking place in your courtroom, you do have a duty to report it
17 to the appropriate governing body. We may not like that, but that's the truth.

18 MR. GILMORE: An ethical problem with who?

19 THE COURT: With the attorneys.

20 MR. GILMORE: Ms. Abrams. Exactly.

21 THE COURT: But that's true.

22 MR. GILMORE: That she's done something unethical. She's done
23 something unethical. That's what I read from this article, Your Honor. That's what
24 I would submit, that a lay person reading this would say she has done something --

1 THE COURT: Well, the judge didn't report her, so clearly the judge didn't
2 think it.

3 MR. GILMORE: Correct.

4 THE COURT: And that's the only person that matters, right?

5 MR. GILMORE: Did he say that in this article?

6 THE COURT: Yeah. He said that a judge is supposed to --

7 MR. GILMORE: That the judge didn't report her?

8 THE COURT: He says a judge is supposed to report somebody. So if the
9 judge didn't do it, the judge is the one being criticized. I'm just -- there's nowhere
10 in here does it say Ms. Abrams is unethical.

11 MR. GILMORE: Point blank, you're right.

12 THE COURT: Right.

13 MR. GILMORE: That's correct, Your Honor. I would submit that if you read
14 that article in context that's the only logical conclusion to draw from it.

15 But let's move from that one, then, because there's other ones, too.
16 This stuff about sealing, that she's sealing stuff and it's unsupported in law. I mean,
17 do we have any citation saying here's why you couldn't seal certain elements of
18 these cases? No. And again, that goes back to this idea that she can get judges
19 to just blindly sign orders. She can't do that.

20 THE COURT: Again, I emphasize the criticism is on the court and not
21 necessarily the lawyer because the lawyer is not sealing cases --

22 MR. GILMORE: Correct.

23 THE COURT: -- the court is.

24 MR. GILMORE: But what they're saying is how dare she go in there and ask

1 the judge to sign an order that she knows the law would not allow her to do.

2 THE COURT: Then that's a problem with the judge, isn't it?

3 MR. GILMORE: It could be as well. But do they come in here as part of
4 proving truth say here's why that was a problem for the judge, because look at NRS
5 such and such, you couldn't seal that. They don't do that. They don't try to do that
6 because they can't do that. So why is that significant? I'm going to bring it back
7 again, anti-SLAPP. If you want anti-SLAPP relief, which is better than 12(b)(5)
8 relief, right, so they're not in here under --

9 THE COURT: Well, they did list the docket of all the cases that apparently
10 have been sealed.

11 MR. GILMORE: So you look at that and what they're saying is she shouldn't
12 have sealed any one of those cases, right? That's the position.

13 THE COURT: Where does it say that the court should not have sealed those?

14 MR. GILMORE: Calling her seal-happy and it's unsupported in law.

15 THE COURT: Okay.

16 MR. GILMORE: And that is the -- I believe it's the November 6th article, Your
17 Honor. And my point is this. If they're going to say you shouldn't have sealed that
18 case, then they'd have to do something.

19 THE COURT: They have to say that first.

20 MR. GILMORE: But to start calling her seal-happy, again, the only implication
21 to draw from that is that she shouldn't be sealing those cases.

22 THE COURT: I think the only inference is that she has petitioned the court
23 maybe several times and the court has granted her petition. I mean, no one thinks
24 an attorney can actually seal records, right?

1 MR. GILMORE: I don't think so.

2 THE COURT: And I don't think there's any -- any --

3 MR. GILMORE: So page 4 of this article, Your Honor --

4 THE COURT: Okay.

5 MR. GILMORE: -- it's the last paragraph here talking about such blanket
6 prohibition on public access to the entire case is specifically disallowed by law. So
7 they're going to post that what she's doing is specifically disallowed by law. I would
8 submit that some element of truth has to be behind that to get past the first step of
9 the anti-SLAPP analysis. And if we don't get there, if they don't -- we don't have
10 that, then we're done and we sit down and we have a debate about the 12(b)(5)
11 motion. But I think I've belabored that point, Your Honor, so I'll move to --

12 THE COURT: Well, and isn't it true, because didn't Judge Elliott correct that?

13 MR. GILMORE: She did not say I'm going to unseal the case. She said her
14 order saying nobody can disseminate that video everywhere, that I have a problem
15 with she said. So that was the gag order portion that I mentioned earlier.

16 THE COURT: Okay. But she didn't seal the underlying divorce case, did
17 she?

18 MR. GILMORE: As I understand it, the records from that case, which is
19 allowed under NRS 125, were sealed.

20 THE COURT: She did --

21 MR. WILLICK: Yes.

22 MS. ABRAMS: Yes. She did seal --

23 MR. GILMORE: Yes. So that -- there's a difference --

24 THE COURT: She did eventually seal the entire --

1 MR. GILMORE: There's an order --
2 THE COURT: When did she do that?
3 MR. POTTER: Three days later.
4 THE COURT: When?
5 MS. ABRAMS: She sealed the case. I believe it was October or the beginning
6 of November. It was months prior --
7 THE COURT: Okay, so after?
8 MR. POTTER: It was three days later.
9 MS. ABRAMS: It was months prior to the order, the gag order asking for the
10 video to be removed.
11 THE COURT: Okay.
12 MR. GILMORE: So we have two things, right?
13 THE COURT: But after the publication?
14 MR. WILLICK: No.
15 MR. POTTER: Yes.
16 THE COURT: Somebody tell me when she sealed this entire divorce case.
17 MR. GILMORE: Let me -- yeah, let me find that, Your Honor.
18 THE COURT: Okay.
19 MS. ABRAMS: So, it was a closed hearing and then she sealed the case
20 a few days later.
21 THE COURT: Okay.
22 MS. ABRAMS: And then --
23 THE COURT: Is it still sealed?
24 MS. ABRAMS: Yes, it is.

1 THE COURT: Okay.

2 MR. GILMORE: Let me get the date, Your Honor, so that we're all on the
3 same page.

4 THE COURT: So again, if he's contending that should have been disallowed,
5 he's criticizing the judge, not the lawyer.

6 MR. GILMORE: But it's --

7 THE COURT: The lawyer just petitions. The lawyer is supposed to zealously
8 advocate for their client. If they have -- I mean, that's what they're supposed to do.

9 MR. GILMORE: They are, but lawyers --

10 THE COURT: And then you let the chips fall where they may and the court
11 signs an order or doesn't sign an order.

12 MR. GILMORE: But lawyers don't go in there and say, Judge, I want to have
13 you do something and I know as I sit here in my head that it's specifically disallowed
14 by law, right?

15 THE COURT: Well, of course not. Yeah.

16 MR. GILMORE: Exactly. But that's what's drawn from this. They take it a
17 step further, she's asking the judge to do things that she knows she shouldn't ask
18 that judge to do. That's the rub. That's the problem, what you get from these
19 articles. It's not just Judge Elliott, it's Ms. Abrams. She's going in there asking for
20 things that she has no business asking for as a lawyer. That is the reasonable
21 implication drawn from these articles. And if we have that, Your Honor, which we
22 do, then they fall outside of a pure statement of opinion. It becomes a mixed type
23 statement that a jury has to look at. And again, I said this, the jury might look and
24 say you're reaching. But as a matter of law they come to you today and they say

1 under no set of circumstances could anybody read these articles that way. That's
2 what they have to have you find. Nobody could read any of this and find that these
3 are pure statements of opinion as a matter of law. I think that is too far of a reach
4 at this juncture.

5 Again, we might do some discovery, flesh out a little bit what's going
6 on here, and they may come back in here under 56 and say, Your Honor, there's no
7 way a jury could ever read it this way because look what we did, we went and got an
8 expert who looked at these opinions; polled, did a sampling, right. I took this article
9 to 100 people. They can come in here to you with evidence like that and say let's
10 not waste time at a trial because now I don't think there's a question of fact. I think
11 that would be hard to do. But we're here right now under anti-SLAPP and 12(b)(5)
12 and they're asking you to say as a matter of law this statement shouldn't go to the
13 jury. This statement does not create a mixed type statement. I don't think you can
14 find that at this stage, Your Honor.

15 I feel like I've gone back and forth over the anti-SLAPP first step,
16 second step. Your Honor let's say gets past the first step and says, you know what,
17 I think it's public interest.

18 THE COURT: The burden shifts to you, then what?

19 MR. GILMORE: Then the burden shifts to me, right?

20 THE COURT: Uh-huh.

21 MR. GILMORE: First of all, this idea that we have no evidence presented,
22 that's false. First of all, you look at our opposition. We've got all the articles
23 attached, right?

24 THE COURT: Okay.

1 MR. GILMORE: Ms. Abrams initially verified the complaint, but then she
2 also did a declaration attached to the opposition. There's no case saying you can't
3 verify a complaint.

4 THE COURT: What are your predicate claims on the RICO action?

5 MR. GILMORE: The RICO, I don't think you get there on anti-SLAPP
6 because it's not dealing with the communication anymore, right. You look at the
7 crimes that are alleged, those are not communications by definition.

8 THE COURT: What are the crimes?

9 MR. GILMORE: I would submit, Your Honor, we need to do more on the
10 RICO claim. I can't argue that.

11 THE COURT: So you know your RICO claim fails?

12 MR. GILMORE: I think we have to do more. I think it fails under 12(b)(5).

13 THE COURT: Okay. Well, I appreciate that.

14 MR. GILMORE: Under 12(b)(5), though, as opposed to the anti-SLAPP
15 because if the conduct --

16 THE COURT: Well, you know I get concerned when you're filing RICO
17 actions and alleging people committed crimes.

18 MR. GILMORE: No, I understand that, Your Honor.

19 THE COURT: I mean, if you're going to do that, then do it right.

20 MR. GILMORE: I understand that, Your Honor. I do. I do.

21 THE COURT: Okay. So, you admit today your RICO claim fails?

22 MR. GILMORE: I think under 12(b)(5) --

23 THE COURT: Okay.

24 MR. GILMORE: -- the RICO needs to be dismissed. And we'll take a hard

1 look at whether we want to amend to add that back or not. My recommendation
2 will probably be to not add it back.

3 THE COURT: Okay. I appreciate that.

4 MR. GILMORE: But that's under 12(b)(5).

5 THE COURT: How about your copyright claims?

6 MR. GILMORE: Same thing.

7 THE COURT: Okay.

8 MR. GILMORE: Under 12(b)(5) but not under NRS 41.660.

9 THE COURT: And you agree injunctive relief is a remedy?

10 MR. GILMORE: It is a remedy, Your Honor.

11 THE COURT: Okay.

12 MR. GILMORE: The idea here is to make it clear to Mr. Sanson what the
13 relief is they're seeking.

14 THE COURT: Do you think harassment is a claim in Nevada?

15 MR. GILMORE: You look at the District of Nevada cases, Your Honor, we
16 can't argue with that.

17 THE COURT: Okay.

18 MR. GILMORE: The point here is, look --

19 THE COURT: So you agree harassment goes, too?

20 MR. GILMORE: Under 12(b)(5).

21 THE COURT: Okay.

22 MR. GILMORE: Under 12(b)(5), Your Honor, not under NRS 41.660.

23 THE COURT: I appreciate that.

24 MR. GILMORE: What we have, Your Honor, is, look, we're pleading --

1 THE COURT: So really you think -- how about your intentional infliction
2 of emotional distress?

3 MR. GILMORE: I think whether this is extreme or outrageous --

4 THE COURT: Can be determined --

5 MR. GILMORE: -- are we deciding that as a matter of law?

6 THE COURT: Well, it gets determined as a matter of law and you have to
7 show damages and the damages can't be just I'm stressed out. I mean, the case
8 law is very clear on that.

9 MR. GILMORE: Oh, sure.

10 THE COURT: So if the burden shifts to you, that's what I'm asking you.

11 MR. GILMORE: And we have the declaration from Ms. Abrams where she
12 addresses that and she puts more meat on those bones, so to speak, Your Honor.

13 THE COURT: Okay.

14 MR. GILMORE: Under NRCP 8 --

15 THE COURT: So, I'm stressed out. And I'm not trying to -- you know,
16 because no one likes to be -- no one likes this and I'm not trying to minimize it,
17 whether it's right or wrong. No one likes this, so I'm not trying to minimize, you
18 know, how she feels. But you understand it has to be extreme and outrageous and
19 there are certain things that we're required to take in a society. Are you contending
20 these statements are of that level, extreme and outrageous, and that she has
21 suffered severe damages?

22 MR. GILMORE: I think in conjunction with how we got here it becomes that
23 way. In conjunction with Mr. Schneider making it clear at the outset I'm going to
24 do more than just oppose your motion. And I don't think there's any dispute he

1 gave that video.

2 THE COURT: I'm sorry, what?

3 MR. GILMORE: That's the initial email from Mr. Schneider to Ms. Abrams,
4 or actually her -- Mr. Leavitt --

5 THE COURT: Okay.

6 MR. GILMORE: -- saying if you don't withdraw that motion, I'm going to do
7 more. So that's where we started. And then the conversation with Mr. Schoen in
8 December where -- priority list, right? When you look at context, this is somebody
9 going out of their way to do this, that's what I would submit makes this extreme and
10 outrageous, Your Honor, as opposed to just somebody who walked into court one
11 day, caught her arguing in that case and then decided to go on and write about it.
12 Then I don't think we would get there, but that's not these facts. I think these facts
13 get you there. But I can understand if you're struggling, Your Honor.

14 THE COURT: Okay. But again, to get Mr. Schneider here I have to make
15 that leap that he gave it to Mr. Sanson for a bad purpose.

16 MR. GILMORE: You don't need a bad purpose. No.

17 THE COURT: Okay.

18 MR. GILMORE: Conspiracy is two or more people who come to an
19 agreement.

20 THE COURT: You have to have an underlying unlawful objective. You have
21 to have an agreement to commit a tort. Right?

22 MR. GILMORE: Correct. To commit a tort. Correct. I know the mention
23 was illegal.

24 THE COURT: Okay.

1 MR. GILMORE: It doesn't have to be illegal, right? You have to have two
2 people who --

3 THE COURT: Well, it has to be bad. There has to be some sort of bad
4 element.

5 MR. GILMORE: You have two people who come together --

6 THE COURT: So again, I have to -- I have to agree that they entered into
7 this agreement, I guess to defame.

8 MR. GILMORE: Correct.

9 THE COURT: To defame them.

10 MR. GILMORE: Yeah. And remember, on this motion we're either under
11 the anti-SLAPP or we're under 12(b)(5). Either way, the inferences are drawn in
12 our favor. No, I don't have the conversation --

13 THE COURT: Well, under the anti-SLAPP you have to come forward with
14 evidence.

15 MR. GILMORE: I did. So what did we come forward with? We have --

16 THE COURT: The burden is a little bit higher.

17 MR. GILMORE: So let's look at the evidence that we have, right. The day
18 after the hearing Mr. Schneider requests a copy of the video, right? Nobody is
19 disputing that. And then a few days later it shows up on the Internet.

20 THE COURT: Well, I mean, I guess if there's no other evidence that the
21 video was distributed. I'm assuming the person that gave it to Mr. Schneider is the
22 same person that would like -- well, I don't know, maybe there's a lot of people
23 that could give that video here. I don't know. I don't know if only one person can
24 give the video to somebody or if you could call Court Administration. I don't know.

1 But the only evidence here is that Mr. Schneider was the only one who got the
2 video, right? So if Mr. Schneider was the only one who got the video, he had to
3 have given it to Sanson?

4 MR. GILMORE: Well, correct, Your Honor.

5 THE COURT: Okay.

6 MR. GILMORE: Correct. And how easy would it have been for one of them
7 to put in a declaration I didn't get the video or I didn't give the video? You don't
8 see that. Mr. Schneider is here today. You can ask him, did you give the video
9 to Mr. Sanson? But let's -- it's not just that, Your Honor. We also have emails.

10 THE COURT: Well, okay, he did.

11 MR. GILMORE: Okay.

12 THE COURT: Let's say he did.

13 MR. GILMORE: So then why is he giving him that video?

14 THE COURT: So what?

15 MR. GILMORE: That's the agreement, Your Honor.

16 THE COURT: Okay.

17 MR. GILMORE: The agreement to go after and target Ms. Abrams.

18 THE COURT: But if you post -- I'm trying to figure out how you get Mr.
19 Schneider here, because if Mr. Schneider gives him the video, it's of a public
20 proceeding in a public courtroom; it's true. Correct? And the video got played
21 in its entirety. What did Mr. Schneider do?

22 MR. GILMORE: As far as what we know and what we've pled so far,
23 Your Honor --

24 THE COURT: He gave the video.

1 MR. GILMORE: He gave the video.

2 THE COURT: Let's say I agree. He gave the video. So what?

3 MR. GILMORE: And then he said later, also undisputed, I can make all this
4 go away. What does that mean?

5 THE COURT: I don't know. I don't know what that means.

6 MR. GILMORE: Neither do I. But let's -- a reasonable inference to draw
7 from that, Your Honor, is he's behind this. He's behind this.

8 THE COURT: I mean, now you're -- I don't think that anybody tells Mr.
9 Sanson what to do, but I don't know.

10 MR. GILMORE: I don't know. I don't know. I'd have to take depositions
11 to find out. But to go back to your point, Your Honor, yes, I've got to hook Mr.
12 Schneider on the conspiracy claim. Without that he's not hooked here because,
13 no, he did not post -- as far as I know.

14 THE COURT: Okay. But what is the evidence that they entered into this
15 conspiracy to commit defamation? Because just giving the video isn't bad. It's
16 a public document.

17 MR. GILMORE: The evidence --

18 THE COURT: Correct?

19 MR. GILMORE: I think the evidence would be that he gives the video; makes
20 it clear to my client that he could stop this if she withdrew the motion.

21 THE COURT: Okay.

22 MR. GILMORE: And then from there we have to go into the substance of
23 the actual acts themselves, right, and whether or not the acts themselves you find
24 are defamatory or not.

1 THE COURT: Okay. I appreciate you answering all my questions.

2 MR. GILMORE: Sure.

3 THE COURT: I mean, the briefs were very, very good. I know they were long.

4 MR. GILMORE: They were long and, you know, we filed a motion to try to --

5 THE COURT: And you filed it in excess of the page -- but I'm okay with you

6 filing it in excess of the page limit.

7 MR. GILMORE: We filed a motion for leave to have you grant that request

8 because --

9 THE COURT: You did and I saw that.

10 MR. GILMORE: -- I don't want to give you three briefs if I can give you one,

11 right?

12 THE COURT: And I figured that, that you didn't want to oppose all three.

13 I think they were -- both sides, the issues were very well briefed and I do appreciate

14 that. And I appreciate you answering my questions.

15 MR. GILMORE: Okay. A couple other points, Your Honor --

16 THE COURT: Sure.

17 MR. GILMORE: -- and then I think I'm done. It doesn't sound anymore like

18 they are going to argue that she is a limited purpose public figure.

19 THE COURT: I don't think she is, if that helps.

20 MR. GILMORE: Okay. It doesn't sound like we're going through that.

21 THE COURT: I don't believe she's a public figure.

22 MR. GILMORE: Okay, so then I don't have to go through that. And then

23 there was a little bit of discussion in the briefs about the fair reporting privilege, but

24 we know that's got to be an accurate and complete accounting. I didn't hear much

1 about the fair report privilege today, so I don't -- unless Your Honor has questions
2 about that I don't think we need to go into that.

3 So, Your Honor, in conclusion, I would say that they don't get past
4 the first hump of the anti-SLAPP analysis. And the California cases are very clear,
5 we won't look at the merits of the claims. We may do that here in a minute on the
6 12(b)(5) motion --

7 THE COURT: Uh-huh.

8 MR. GILMORE: -- but for purposes of the anti-SLAPP, they don't get over
9 the hump. But if they do, what do the California cases say? You've got to have
10 minimal merit. It's not the summary judgment standard anymore. Our Nevada
11 Legislature changed that. These claims have minimal merit at this stage of the
12 proceeding, Your Honor.

13 Lastly, if you think there's reason to flesh some of this out, we did
14 make a request for limited discovery. Again, it's not full-fledged discovery, but if you
15 think there's just a couple of things you'd like me to flesh out, I'm happy to do that.
16 We can come back in here in 90 days, 120 days and resolve those few remaining
17 issues.

18 THE COURT: All right, thank you.

19 MR. GILMORE: Thank you, Your Honor.

20 THE COURT: I do believe I have to resolve this motion before we can go on
21 to any 12(b)(5), though. And procedurally you agree with that?

22 MR. GILMORE: That's up to Your Honor's discretion, but I would say that if
23 you require limited discovery, yes, you wouldn't rule on a 12(b)(5). Everything would
24 get continued.

1 THE COURT: Right.

2 MR. GILMORE: So if you say, you know what, I'm going to let you do
3 discovery on these things that I have questions about, then yeah, we're going to
4 continue out the 12(b)(5) motions. We'll continue out the 12(f) motion. We'll come
5 back, get a decision after additional evidence is submitted on the anti-SLAPP and
6 then decide whether you're taking up all or portions of the 12(b)(5) or 12(f) motions.

7 THE COURT: Okay, thank you.

8 MR. GILMORE: Thank you, Your Honor.

9 THE COURT: Anything in response?

10 MS. ABRAMS: Your Honor, may I just correct a few things that were stated?

11 THE COURT: Sure. No problem.

12 MS. ABRAMS: Your Honor indicated that Mr. Sanson did follow the order
13 that was issued by Jennifer Elliott that he was served with. He actually did not follow
14 that order at all.

15 MS. McLETCHIE: Your Honor, excuse me. I'm going to object. Is she
16 testifying as a witness? Is she here as counsel?

17 MS. ABRAMS: I am here making a record with regards --

18 THE COURT: Okay. Let me just tell you everything has gone so well so far.
19 Why don't you tell your lawyer and I'll hear from your lawyer, okay?

20 MR. WILLICK: I'm co-counsel and normally I would say these things, but
21 I'm having --

22 THE COURT: I thought that you were -- okay. I know that you filed the
23 complaint, but it appeared to me as though Mr. Kennedy came in in your stead. Is
24 that not true?

1 MR. WILLICK: He didn't substitute. I believe he associated. And I'm sorry --

2 THE COURT: That's okay.

3 MR. WILLICK: The reason she's talking is that I can't speak very well today,
4 so I'm sorry.

5 THE COURT: Okay. Well, I'll let her speak to her attorney and then --

6 MR. WILLICK: Okay.

7 THE COURT: -- because I know everybody's attorneys and if I let everybody
8 talk we'll never get out of here.

9 MR. WILLICK: I apologize for the voice.

10 THE COURT: Plus, I've got a bunch of attorneys in the gallery. They're
11 smiling, too. They don't want me to let everybody talk.

12 MR. WILLICK: We know some of them.

13 MR. GILMORE: Your Honor --

14 THE COURT: Sure, go ahead.

15 MR. GILMORE: -- the idea that he didn't follow the order, I will go pull the
16 actual declaration for you, but as we understand it he continued to republish it after
17 he initially got the order. But let me grab that out of the brief.

18 THE COURT: Okay. But not -- my statement was it appeared to me as
19 though he complied with it and took it down off YouTube, took it down off that other
20 thing that posts videos. I know because I tried to find it. I couldn't find it.

21 MR. GILMORE: Well, what happened, Your Honor, is --

22 THE COURT: I went on YouTube and YouTube said this video has been
23 removed. I went on the other site, it said this video has been removed. And to tell
24 you the truth, I watched the whole video. I think one of the parties attached it for me

1 because I was able to watch it on my computer in its entirety.

2 MR. GILMORE: I know requests were sent to YouTube to remove the video
3 and I believe it was done at the behest --

4 THE COURT: I guess it wouldn't be him that took it down, it would be
5 YouTube that took it down. And, you know, that's correct. If my memory serves me
6 correct, I think Ms. Abrams' firm --

7 MR. GILMORE: Sent the notices.

8 THE COURT: -- sent something to those.

9 MR. GILMORE: Correct.

10 THE COURT: You're right, you're right.

11 MR. GILMORE: Correct. So I think that was the --

12 THE COURT: She sent notices and then they were taken down.

13 MR. GILMORE: Correct.

14 THE COURT: I know they're not there.

15 MR. GILMORE: They're not there anymore. Thankfully YouTube said you're
16 right, we've got to take that down.

17 THE COURT: Well, I don't know what YouTube said, but they took it down.

18 Okay, anything in response?

19 MS. McLETCHE: Yes, Your Honor. I'll try to be brief. Your Honor, speaking
20 out about the operation of government, including the judicial branch, is what they
21 call the upper echelons of what the First Amendment protects. In addition, the other
22 key point I want to make is there's no such thing as a false idea. They would have
23 you believe that Mr. Sanson needs to --

24 THE COURT: Well, I guess they're contending those weren't opinions, that

1 it's like a mixed question.

2 MS. McLETCHE: Right. And they would have you believe that somehow
3 Mr. Sanson needs to testify or submit a declaration saying --

4 THE COURT: That this is true.

5 MS. McLETCHE: -- that each opinion was a fact. The things that are factual
6 are undisputed. It's not disputed that Ms. Abrams got an order requiring that he
7 take the video down and that that order was later rescinded, for example. And
8 certainly -- and Mr. Sanson discusses this. And certainly, Your Honor, someone can
9 express an opinion based on those things. There is no need -- this over-technical
10 read of the statute was expressly rejected by the California court in Piping Rock
11 Partners, which is quoted in the very recent Nevada Supreme Court, February 2017,
12 Shapiro v. Welt case. And in that case they said we're not going to require that kind
13 of separate proof of validity for literally each statement. They rejected exactly the
14 kind of approach that the plaintiffs are urging in this case.

15 And when you look at the statute what it requires is essentially a good
16 faith communication. It says, "which is truthful or is made without knowledge of its
17 falsehood." Mr. Sanson's declaration in detail explains the statements and the
18 context in which they were made. They explain that VIPI speaks out against what
19 it perceives as public corruption and wrongdoing. And it explains that in his opinion
20 she seals too many documents. He is entitled to that opinion. It's not disputed that
21 she seals documents. She sealed the video in this case. So the idea that he needs
22 to go through in order to get the protections of the anti-SLAPP statute and break
23 down everything and assert that things that can't be proven true or false are true
24 is just I think, with all due respect to opposing counsel, is just absurd.

1 And with regard to the Shapiro factors, I think it's a real contortion to
2 say that the Shapiro factors don't urge in favor of finding under the anti-SLAPP
3 statute. And Your Honor is correct, you do have to deal with the anti-SLAPP statute,
4 the anti-SLAPP motion to dismiss first --

5 THE COURT: Sure.

6 MS. McLETCHIE: -- and it's for an important reason. In 2013 when the
7 Nevada Legislature amended the statute, they made clear that you are immune
8 from a civil action --

9 THE COURT: Uh-huh.

10 MS. McLETCHIE: -- not just liability.

11 And they're not entitled to discovery, Your Honor, because discovery
12 wouldn't help us in this case. This case is essentially about the statements. No one
13 is disputing that the statements were made. At one time they had sued everybody
14 Steve Sanson knew, I think, actually, pretty much, that they thought he was close to.
15 Listed everybody they thought was involved with VIPI. It's not VIPI, by the way, it's
16 VIPI or Veterans in Politics. But they sued everybody and threw in their kitchen --
17 you know, threw everything into the complaint. Now it's just Sanson and VIPI and
18 Mr. Schneider. And it's clear that Mr. Sanson made these statements. We don't
19 need discovery on any issue. And I think that allowing discovery would run afoul of
20 the anti-SLAPP protections because it's clear on the face of the complaint that it's
21 an invalid complaint that Ms. Abrams brought in order to chill Mr. Sanson's speech.

22 This isn't a private dispute between Ms. Abrams and Mr. Sanson.
23 They didn't know each other. They're not friends that had a falling out. This is a
24 dispute about whether or not she seals too many documents, about whether her

1 conduct in court is appropriate. And those are certainly matters, as this Court has
2 indicated, of public interest.

3 The California court, which I think the parties all agree Nevada looks
4 to California, the California court has made very clear that public interest is to be
5 interpreted broadly within the spirit of the anti-SLAPP statutes. And it's anything
6 that the public is interested in. Mr. Sanson's members, Mr. Sanson's readership,
7 Mr. Sanson -- the people who look at his Facebook page and access other
8 information like the YouTube and Vimeo or whatever it is --

9 THE COURT: Yeah.

10 MS. McLETCHIE: -- they're interested in these issues and they can and
11 should be. They are entitled to look into issues about the administration of justice.
12 As one court has explained, we could all end up in court one day and certainly
13 family court especially.

14 THE COURT: Sure.

15 MS. McLETCHIE: And people have a right to know what goes on there,
16 how lawyers act there and how judges act there.

17 With regard to this idea that somehow because he has an email blast
18 that's sent to thousands of people where he republished the information -- where he
19 published the information that somehow this takes it out of a public forum, I really
20 think that ignores the context of these emails. It's not a private email from Steve
21 Sanson to a friend of his. These are -- it's a list of thousands of people. And I think
22 I explained earlier this is a lot like if the Review-Journal had a service where they
23 sent alerts with their articles to its members, to its subscribers, right, it's no different.
24 And frankly, an email subscription to a list is almost -- in this modern world a lot of

1 people don't get hard copy versions of anything and certainly Mr. Sanson operates
2 almost entirely in the virtual world. He knows more about video places than you
3 or I do, Your Honor. But these days instead of subscribing, for example, to a
4 newspaper, a lot of people sign up for email alerts from the New York Times or
5 Politico or other publications, and people that are interested in the issues that Mr.
6 Sanson reports on.

7 And he is a blogger and I do think that he's entitled to protection under
8 the fair report privilege. There's no need that he literally needs to transcribe the
9 entire video, but I don't think we even need to get to the fair report privilege because
10 I don't think we have -- we don't have a defamatory statement. They do have the
11 burden of establishing that the statements are unprivileged, but I don't even think
12 we need to get there, Your Honor, but I do think he's entitled to it.

13 There's no need to have -- I think Mr. Gilmore said that we need to
14 have footnotes and you need to explain everything that happened. That's not true.
15 The focus of Mr. Sanson's article was on the interchange between the judge and Ms.
16 Abrams and that was the focus. Later on, it's true, the judge did rescind her position
17 or retract her position with regard to Ms. Abrams' client. That's not the point of the
18 article. A newspaper doesn't need to, for example, report on exactly everything and
19 literally every word that's spoken in a courtroom proceeding.

20 The focus of the speaker's conduct should be the public interest, rather
21 than a mere effort to gather ammunition for another round of private controversy.
22 Again, there is no private controversy here. I don't even know that Mr. Schneider
23 and Ms. Abrams have a personal relationship. This is a controversy not even just
24 about a court proceeding and a court case, but about how courtrooms should be run

1 and how lawyers and judges should act in court.

2 And in terms of the degree in closeness between the challenged
3 statements and the asserted public interest, as I pointed out earlier he writes these
4 articles about what the Nevada Supreme Court has said about sealing, and then
5 he says, hey, you know, in my opinion she seals too much. And the idea that Mr.
6 Gilmore put forth that somehow he needs to prove that she seals too much, if you
7 could prove that a document had to be sealed or didn't have to be sealed, if the
8 world was black and white we wouldn't need lawyers.

9 THE COURT: Sure.

10 MS. McLETCHIE: People all the time argue this document merits sealing or
11 this document doesn't merit sealing. And Mr. Sanson is certainly entitled to express
12 his opinion on these issues as well.

13 Your Honor, Mr. Gilmore suggested that -- conceded that they don't
14 have valid claims, I think, for RICO, copyright and injunctive relief, and then went
15 on to say, well, they really have nothing to do with his speech so they should be
16 dismissed on a 12(b)(5). That's incorrect, Your Honor. I think that the fact that
17 they didn't allege valid claims shows that this was a scorched earth tactic, part of
18 a scorched earth campaign that included trying to haul Mr. Sanson into family court
19 and throw him in jail. This was part of a scorched earth campaign. These causes
20 of action were included because they didn't like the post --

21 THE COURT: Did they really ask for jail time?

22 MS. McLETCHIE: Yes, they did, Your Honor.

23 THE COURT: Because I reviewed that order. Okay.

24 MS. McLETCHIE: They did in their order to show cause, Your Honor. It was

1 obviously denied and thankfully Mr. Sanson is here with me today.

2 But, Your Honor, these claims, the fact that they don't have any validity
3 shows that this was a kitchen sink operation designed to just try to bury what they
4 probably hoped would be a Pro Se plaintiff -- I'm sorry, Pro Se defendant, in paper.
5 I think it is directly connected to the speech. The copyright claim, for example, has
6 to do with the video. And the RICO claim, just because they can't articulate a valid
7 claim isn't a reason that we shouldn't grant relief under the anti-SLAPP statute.
8 This idea that this case is a 12(b) --

9 THE COURT: So you believe you should be granted relief under the anti-
10 SLAPP and not 12(b)(5)?

11 MS. McLEITCHIE: Absolutely, Your Honor, because they don't have valid
12 claims. I think it's a concession -- I think it reflects -- it's not a concession on their
13 part, but it certainly reflects, Your Honor, that they're pursuing this action in order to
14 get him to take down the video, in order to get him to stop talking about Ms. Abrams'
15 behavior in court. It is their position --

16 THE COURT: Well, that is what they're trying to do. They have a claim for
17 injunctive relief.

18 MS. McLEITCHIE: Right.

19 THE COURT: I don't think that's a secret.

20 MS. McLEITCHIE: Right. And so all of those -- all of those claims are directly
21 tied to his speech, which again is protected opinion, for all the reasons I went
22 through earlier. And again, the idea that because he has an email blast that goes
23 to thousands of people, that that's not a public forum, I just -- I don't think is a valid
24 position. And even if it were, Your Honor, then it would just take those publications

1 outside of the reach of the anti-SLAPP statute. You can still grant personal relief
2 under an anti-SLAPP statute. And obviously those claims would still have to be
3 dismissed under 12(b)(5) because -- for the very reasons that we've been talking
4 about, that saying things like Ms. Abrams is slap-happy and a bully and she goes
5 on attack in court, even if she --

6 THE COURT: Slap-happy?

7 MS. McLEITCHIE: Slap-happy.

8 THE COURT: Slap-happy?

9 MS. McLEITCHIE: I'm sorry, seal-happy.

10 THE COURT: Okay.

11 MS. McLEITCHIE: I'm sorry, Your Honor.

12 THE COURT: Okay. All right. I just want the --

13 MS. McLEITCHIE: Seal-happy. It's been a long hearing.

14 THE COURT: Yeah. That's okay.

15 MS. McLEITCHIE: Seal-happy. Thank you for correcting me. But saying
16 she's seal-happy, having an article saying she's a bully, having an article saying she
17 attacked a family court judge, none of those things are defamation and this case
18 must be dismissed under the special motion to dismiss statute.

19 Your Honor, at some point Mr. Gilmore said, well, we don't have
20 evidence, we need to take discovery about this agreement, this conspiracy. On the
21 12(b)(5) they need evidence and all of this is just built on speculation that because
22 Mr. Schneider used some vague language that we can infer somehow from that
23 that Mr. Sanson's motivation in posting these was somehow improper is absurd.

24 But it also really still goes back to the heart of the First Amendment,

1 which is if Mr. Sanson, if he said she's on my priority list, this is an issue I want to
2 go after, there is nothing wrong with that. It's absolutely legal. If he had a priority
3 list of public officials that he was upset with, if he had a priority list of attorneys that
4 he thought were acting badly in court -- and Your Honor, the idea that we're just
5 private people that can sue and say that we've suffered emotional distress because
6 somebody says we seal too many court documents, that flies in the face of the fact
7 that we're officers of the court. We have a quasi-judicial agency, the State Bar,
8 that is responsible for overseeing our conduct. And the idea that we're above public
9 comment on things that we comment on about to each other and about each other
10 all the time is absurd. Mr. Sanson might not be a lawyer, but he has every right to
11 say, hey, I don't think this meets the standards for sealing.

12 Thank you, Your Honor.

13 THE COURT: Thank you. Okay, at this time I want to review a few things
14 and I'll issue a ruling by minute order. I do believe I have to deal with the anti-
15 SLAPP motion first before I can deal with any 12(b)(5).

16 MR. POTTER: Can I just make one --

17 THE COURT: Of course.

18 MR. POTTER: -- one brief statement?

19 THE COURT: Of course. No problem.

20 MR. POTTER: The email --

21 THE COURT: You've been so nice and quiet.

22 MR. POTTER: For a change.

23 THE COURT: Your co-counsel has carried the day, so.

24 MR. POTTER: Yes. The email that's in question --

1 THE COURT: Uh-huh.

2 MR. POTTER: -- is before the hearing. It's certainly before any of the
3 publications because that's what the asking to withdraw the motion, the motion
4 was part of the hearing. So to make that clear, that was set prior to all of this.

5 THE COURT: Okay. All right, thank you very much.

6 MR. POTTER: Thank you, Your Honor.

7 THE COURT: Thank you. Thank you, Mr. Potter.

8 Thank you.

9 MR. GILMORE: Thank you, Your Honor.

10 MS. McLEITCHIE: Thank you, Your Honor.

11 THE COURT: Thank you very much.

12 (PROCEEDINGS CONCLUDED AT 10:23 A.M.)

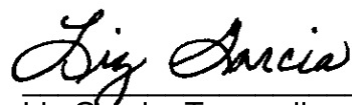
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15 ATTEST: I do hereby certify that I have truly and correctly transcribed the
16 audio/video proceedings in the above-entitled case to the best of my ability.

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Liz Garcia, Transcriber
LGM Transcription Service

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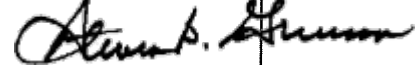
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Veterans in Politics International, Inc.*

**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. 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

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

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

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

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

8 **I.**

9 **PROCEDURAL HISTORY AND FINDINGS OF FACT**

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

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

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

17 **B. Family Court Issues**

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

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

28 ///

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Motion to Dismiss”).

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

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

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

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

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

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

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

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

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

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

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

25 **II.**

26 **CONCLUSIONS OF LAW**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 51. However, the Abrams Parties conflate the test that pertains to evaluating
25 whether a forum is a public forum for the purposes of establishing which level of First
26 Amendment scrutiny applies with the test for application of the anti-SLAPP law, which is
27

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ///

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

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

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

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

28 ///

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

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

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

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

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

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

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

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

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

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

13 **Defamation**

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

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

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

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

28 ///

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

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

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

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

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

23 **False Light**

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

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

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

11 **Business Disparagement**

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

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

26 ///

27 ///

1 **Harassment**

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

5 **Concert of Action**

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

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

16 **Civil Conspiracy**

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

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

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

28 ///

1 **RICO**

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

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

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

22 **Copyright Infringement**

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

28 ///

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

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

10 **Injunctive Relief**

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

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

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

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

28 ///

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

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

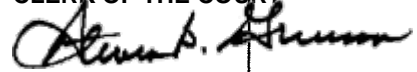
5
6 
7 _____
HONORABLE JUDGE MICHELLE LEAVITT
AL

8 Respectfully submitted by,

9
10 
11 _____
12 Margaret A. McLetchie, Nevada Bar No. 10931
13 MCLETCHIE SHELL LLC
14 701 East Bridger Ave., Suite 520
15 Las Vegas, NV 89101
16 Telephone: (702) 728-5300
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20 *Veterans in Politics International, Inc.*
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32



1 **NEOJ**

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8 Email: maggie@nvlitigation.com

9 *Attorneys for Defendants Steve W. Sanson and*
10 *Veterans in Politics International, Inc.*

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

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

15 Plaintiffs,

16 vs.

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

25 Defendants.

Case No.: A-17-749318-C

Dept. No.: XII

NOTICE OF ENTRY OF ORDER

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

///

///

///

///

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

3 DATED this 24th day of July, 2017.

4
5 /s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931

6 ALINA M. SHELL, Nevada Bar No. 11711

7 **MCLETCHIE SHELL LLC**

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Email: maggie@nvlitigation.com

11 *Attorneys for Defendants Steve W. Sanson and*

12 *Veterans in Politics International, Inc.*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 24th day of July, 2017, I served a true and correct copy of
3 the foregoing NOTICE OF ENTRY OF ORDER via electronic service using Odyssey File
4 & Serve's electronic court filing system and, pursuant to NRCP 5(b)(2)(B), by First Class
5 United States Mail, postage fully prepaid, to the following:

6 Jennifer V. Abrams, Esq.
7 THE ABRAMS & MAYO LAW FIRM
8 6252 S. Rainbow Blvd., Suite 100
9 Las Vegas, NV 89118

10 Marshal Willick, Esq.
11 WILLICK LAW GROUP
12 3591 E. Bonanza Road, Suite 200
13 Las Vegas, NV 89110

14 Dennis L. Kennedy
15 Joshua P. Gilmore
16 BAILEY KENNEDY
17 8984 Spanish Ridge Avenue
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19 *Attorneys for Plaintiffs*

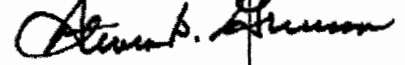
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Spicer, Steelmon, Woolbright, and Sanson
Corporation*

20
21
22
23
24
25
26
27
28

/s/ Pharan Burchfield
EMPLOYEE of McLetchie Shell LLC

EXHIBIT 1



1 **ORDR**

2 Margaret A. McLetchie, Nevada Bar No. 10931
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11 *Veterans in Politics International, Inc.*

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

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

12 Plaintiffs,

13 vs.

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

22 Defendants.

Case No.: A-17-749318-C

Dept. No.: XII

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

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

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

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

8 **I.**

9 **PROCEDURAL HISTORY AND FINDINGS OF FACT**

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

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

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

17 **B. Family Court Issues**

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

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

28 ///

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Motion to Dismiss”).

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

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

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

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

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

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

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

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

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

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

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

25 **II.**

26 **CONCLUSIONS OF LAW**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 51. However, the Abrams Parties conflate the test that pertains to evaluating
25 whether a forum is a public forum for the purposes of establishing which level of First
26 Amendment scrutiny applies with the test for application of the anti-SLAPP law, which is
27

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ///

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

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

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

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

28 ///

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

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

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

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

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

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

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

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

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

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

13 **Defamation**

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

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

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

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

28 ///

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

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

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

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

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

23 **False Light**

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

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

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

11 **Business Disparagement**

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

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

26 ///

27 ///

1 **Harassment**

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

5 **Concert of Action**

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

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

16 **Civil Conspiracy**

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

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

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

28 ///

1 **RICO**

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

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

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

22 **Copyright Infringement**

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

28 ///

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

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

10 **Injunctive Relief**

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

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

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

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

28 ///

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

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

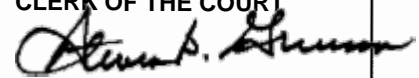
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7 _____
HONORABLE JUDGE MICHELLE LEAVITT

8 Respectfully submitted by,
9

10 
11 _____
12 Margaret A. McLetchie, Nevada Bar No. 10931
13 MCLETCHIE SHELL LLC
14 701 East Bridger Ave., Suite 520
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9 Attorneys for *Plaintiff*

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 **JENNIFER V. ABRAMS AND THE**
11 **ABRAMS AND MAYO LAW FIRM,**
12 **Plaintiff,**

13 **vs.**

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

22 **Defendant.**

CASE NO: A-17-749318-C
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

23 **NOTICE OF APPEAL**

24 **TO: STEVE W. SANSON, Defendant;**

25 **TO: LOUIS SCHNEIDER, ESQ., Defendant;**

26 **TO: MARGARET MCLECHIE, ESQ., attorney for Defendant, Steve Stanson;**

27 **TO: CAL J. POTTER, III, ESQ., attorney for Defendant, Louis Schneider; and**

28 **TO: ALEX GHIBAUDO, ESQ., attorney for Defendants, Law Offices of Louis C.**
Schneider, LLC, Sanson Corporation, Heidi Hanusa, Johnny Spicer, Don
Woolbright, and Christina Ortiz.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 21st day of August, 2017, I caused the document entitled *Notice of Appeal* to be served as follows:

- [x] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- [] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- [] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- [] pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- [] by hand delivery with signed Receipt of Copy.
- [] by First Class, Certified U.S. Mail.

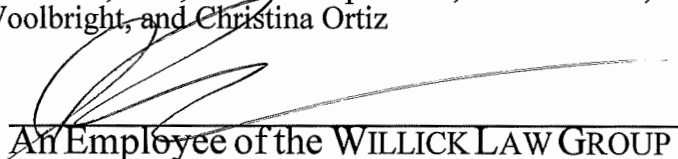
To the attorney's listed below at the address, email address, and/or facsimile number indicated below:

Maggie McLetchie, Esq.
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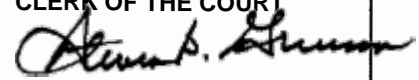


An Employee of the WILLICK LAW GROUP

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9 Attorneys for *Plaintiff*

10
11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

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

16 vs.

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

CASE NO: A-17-749318-C
DEPT. NO: I

DATE OF HEARING:
TIME OF HEARING:

26 **CASE APPEAL STATEMENT**

27 Pursuant to Nevada Rule of Appellate Procedure 3(f)(1), Plaintiffs Jennifer V.
28 Abrams and The Abrams & Mayo Law Firm file their Case Appeal Statement.

1 **Name of Appellants Filing This Case Appeal Statement:**

Jennifer V. Abrams

The Abrams & Mayo Law Firm.

2. Identify the Judge Issuing the Decision, Judgment, or Order Appealed From:

The Honorable Michelle Leavitt, District Court Judge, Eighth Judicial District Court.

3. Identify Each Appellant and the Name and Address of Counsel for Each Appellant:

Appellants ("Abrams Parties"): Jennifer V. Abrams
The Abrams & Mayo Law Firm

Counsel for Abrams Parties: Dennis L. Kennedy
Nevada Bar No. 1462
Joshua P. Gilmore
Nevada Bar No. 11576
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302

Jennifer V. Abrams
Nevada Bar No. 7575
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Ste. 100
Las Vegas, Nevada 89118

Marshal S. Willick
Nevada Bar No. 2515
WILLICK LAW GROUP
3591 E. Bonanza Road
Las Vegas, Nevada 89110

4. Identify Each Respondent and the Name and Address of Appellate Counsel, if Known, for Each Respondent (if the Name of a Respondent's Appellate Counsel Is Unknown, Indicate as Much and Provide the Name and Address of That Respondent's Trial Counsel):

Respondents ("VIPI Parties"): Steve W. Sanson
Veterans in Politics International, Inc.

Counsel for VIPI Parties: Maggie McLetchie
Nevada Bar No. 10931

MCLETCHIE SHELL LLC
701 E. Bridger Avenue, Ste. 520
Las Vegas, NV 89101

5. Indicate Whether Any Attorney Licensed Above in Response to Question 3 or 4 is Not Licensed to Practice Law in Nevada, and, if so, Whether the District Court Granted That Attorney Permission to Appear Under SCR 42 (Attach a Copy of Any District Court Order Granting Such Permission):

Appellants believe that all counsel referenced above are licensed to practice law in the State of Nevada.

6. Indicate Whether Appellant Was Represented by Appointed or Retained Counsel in the District Court:

Appellants were represented by retained counsel as indicated in Response No. 3.

7. Indicate Whether Appellant Is Represented by Appointed or Retained Counsel on Appeal:

Appellants are represented by retained counsel as indicated in Response No. 3.

8. Indicate the Date the Proceedings Commenced in the District Court (e.g., Date Complaint, Indictment, Information, or Petition Was Filed):

Appellants commenced this Case in the District Court on January 9, 2017 by filing a Complaint.

9. Provide a Brief Description of the Nature of the Action and Result in the District Court, Including the Type of Judgment or Order Being Appealed and the Relief Granted by the District Court:

1 The Abrams Parties' First Amended Complaint alleges various causes of action
2 arising out of statements relating to Appellants' professional reputation and conduct.
3 The VIPI Parties filed a Motion to Dismiss under NRCP 12(b) and a Special Motion
4 to Dismiss under NRS 41.660 (Anti-SLAPP). On July 24, 2016, the District Court
5 entered an Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant to
6 Nev. Rev. Stat. § 41.660 (Anti-SLAPP), which dismissed the Abrams Parties' First
7 Amended Complaint in its entirety.

8
9 **10. Indicate Whether the Case Has Previously Been the Subject of an Appeal**
10 **or Original Writ Proceeding in the Supreme Court, and, if so, the Caption and**
11 **Supreme Court Docket Number of the Prior Proceeding:**

12 This Case has not previously been the subject of any proceeding in the
13 Supreme Court or the Court of Appeals.

14
15 **11. Indicate Whether This Appeal Involves Child Custody or Visitation:**

16 This Case does not involve child custody or visitation.

17
18 **12. If This Is a Civil Case, Indicate Whether This Appeal Involves the**
19 **Possibility of Settlement:**

20 Appellants believe that this case is unlikely to settle.

21 **DATED** this 2/5 day of August, 2017.

22 Respectfully Submitted By:
23 **WILLICK LAW GROUP**



24 **MARSHAL S. WILLICK, ESQ.**
25 Nevada Bar No. 002515
26 3591 East Bonanza Road, Suite 200
27 Las Vegas, NV 89110-2101
28 Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 21 day of August, 2017, I caused the document entitled *Case Appeal Statement* to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- ☐ pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

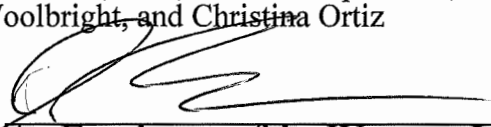
To the attorney's listed below at the address, email address, and/or facsimile number indicated below:

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Attorney for *Steve W. Sanson* and
VETERANS IN POLITICS INTERNATIONAL, INC.

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Attorneys for *Louis C. Schneider*

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Alex Ghibaudo, Esq.
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Las Vegas, Nevada 89104
Attorney for LAW OFFICES OF LOUIS C. SCHNEIDER, LLC, Sanson Corporation, Heidi Hanusa,
Johnny Spicer, Don Woolbright, and Christina Ortiz

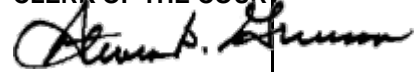


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CAL J. POTTER, III, ESQ.
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Nevada Bar No. 13225
POTTER LAW OFFICES
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Las Vegas, Nevada 89102
Ph: (702) 385-1954
Fax: (702) 385-9081
Attorneys for Schneider Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Case No.: A-17-749318-C

Dept. No.: XII

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;

**SCHNEIDER DEFENDANTS' MOTION
FOR STATUTORY DAMAGES AND
ATTORNEY'S FEES, COSTS, AND
DAMAGES PURSUANT TO NRS 41.670;
AND MOTION FOR SANCTIONS**

Defendants.

_____ /

COMES NOW, the Defendant, LOUIS SCHNEIDER, the Law Offices of Louis C.
Schneider by and through their attorneys, CAL J. POTTER, III, ESQ. and C. J. POTTER, IV,
ESQ. of POTTER LAW OFFICES, and move this court for an order granting Attorney's Fees
and Costs and an award for sanction for defending this baseless and vexatious litigation.

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JVA001005

1 This motion is made pursuant to NRS 41.660 on the grounds that the complaint arises
2 from defendant's alleged acts in furtherance of his constitutional rights of petition and speech and
3 the plaintiffs failed to establish probability that they could prevail on their claim and is further
4 based upon the papers and pleadings on file herein, the attached Memorandum of Points and
5 Authorities and such oral argument of counsel as may be heard.

6 DATED this 12th day of September, 2017.

7 POTTER LAW OFFICES

8 By /s/ Cal J. Potter, IV, Esq.
9 CAL J. POTTER, III, ESQ.
10 Nevada Bar No. 1988
11 C. J. POTTER, IV, ESQ.
12 Nevada Bar No. 13225
1125 Shadow Lane
Las Vegas, Nevada 89102
Attorneys for Plaintiff

13 **NOTICE OF MOTION**

14 TO: Jennifer V. Abrams; and The Abrams and Mayo Law Firm; and,

15 TO: Marshall Willick, Esq., their attorney;

16 YOU AND EACH OF YOU, will please take notice that the undersigned will bring the
17 foregoing Motion for hearing before the above-entitled Court on the **16** day of **Sept.**, 2017,
18 at the hour of **8:30 am**, or as soon thereafter as counsel can be heard, in Department XII of
19 the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89101.

20 DATED this 12th day of September, 2017

21 POTTER LAW OFFICES

22 By /s/ Cal J. Potter, IV, Esq.
23 CAL J. POTTER, III, ESQ.
24 Nevada Bar No. 1988
25 C. J. POTTER, IV, ESQ.
26 Nevada Bar No. 13225
1125 Shadow Lane
Las Vegas, NV 89102
Attorneys for Schneider Defendants

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **DECLARATION OF COUNSEL CAL J. POTTER, IV, ESQ.**

4 Cal J. Potter, IV, being first duly sworn, deposes and says:

5 1. That Cal J. Potter, III, Esq. is an AV-rated attorney who has practiced law for over
6 forty years in the states of Nevada, Arizona, California, and New York;

7 2. That Cal J. Potter, III, Esq. was the founding President of the Nevada Attorney's
8 for Criminal Justice and also the founding President of the Nevada Appellate and
9 Post-Conviction Project, which coordinated the representation for direct appeals and
10 post-conviction representation. Your Affiant also served on the Nevada Supreme Court's Rule
11 250 committee, which coordinated and set the standards of practice for criminal defense
12 attorneys in the representation of criminal defendants in capital murder cases;

13 3. That Cal J. Potter, III, Esq. is is also a Past-President of the Nevada Trial
14 Lawyers, now renamed the Nevada Justice Association, and a graduate of Gerry Spence's Trial
15 Lawyer's College in DuBois, Wyoming;

16 4. That Cal J. Potter, III, Esq. is probably the only attorney in Nevada, and is one of
17 the few attorneys in the United States, to have argued before the Supreme Court of the United
18 States, obtained a Not Guilty verdict in a First Degree Murder case in State Court, and obtained
19 multi-million dollar verdicts in civil personal injuries cases in State and Federal Court.

20 5. Cal J. Potter, III, Esq. is also obtained a Not Guilty verdict on a hand-to-hand sale
21 of 20 kilos of cocaine on a defense of entrapment before Judge Philip Pro;

22 6. Cal J. Potter, III, Esq. is has also won numerous other trials, civil and criminal,
23 and has won numerous post-conviction petitions for Constitutional violations at the State and
24 Federal levels, and argued a Death Penalty case in the United States Supreme Court after winning
25 the case in the Ninth Circuit Court of Appeals;

26 7. Cal J. Potter, III, Esq. is has also lectured and written articles in the areas of
27 criminal law, personal injury, ethics, and police misconduct. Your Affiant is also a frequent
28 lecturer on prisoner's rights litigation, and has qualified as an expert witness in post-conviction

1 and legal malpractice actions;

2 8. In light of Cal J. Potter, III's extensive qualifications, experience, results,
3 reputation, and expertise Cal J. Potter, III, Esq.'s hourly rate is five hundred dollars (\$500.00).

4 9. That C. J. Potter, IV, Esq. is a member in good standing of the State Bar of
5 Nevada and admitted to practice in the Nevada Supreme Court, the U.S. District Courts of
6 Nevada, and the Ninth Circuit Court of Appeals;

7 10. That C. J. Potter, IV, Esq. has been practicing law since 2013 and is a graduate of
8 UNLV's William S. Boyd School of Law;

9 11. That C. J. Potter, IV, Esq. received the CALI Excellence for the Future Award for
10 Trial Advocacy for UNLV's William S. Boyd School of Law for the class of 2012;

11 12. That C. J. Potter, IV, Esq. has devoted his limited years of practice to briefing
12 appeals and litigating matters for trial and has argued approximately a half a dozen times before
13 the Ninth Circuit Court of Appeals;

14 13. That during law school and as an undergraduate at USC, C. J. Potter, IV, Esq.
15 worked with and was mentored by your Cal J. Potter, III, Esq. and has extensive litigation
16 experience relative to attorneys of the same length of practice;

17 14. That C. J. Potter, IV, Esq.'s hourly rate is three hundred fifty dollars (\$350.00).

18 15. That your Declarant's Paralegal, Tanya Bain, received certification as a legal
19 assistant and paralegal from the University of Washington in 1997;

20 16. That Tanya Bain been employed as a legal assistant for approximately seventeen
21 (17) years and has been employed with Potter Law Offices for over two (2) years and in that
22 capacity assists on all civil, criminal, and appellate cases;

23 17. That your Declarant's Paralegal, Linda Potter, received a bachelor's degree from
24 the University of New Mexico in 1976, received paralegal certification from University of
25 Nevada, Las Vegas in 1995, and received a master's degree in English from University of
26 Nevada, Las Vegas in 2009;

27 18. That Linda Potter has been employed as a paralegal for approximately twenty-two
28 (22) years and has been employed with Potter Law Offices for approximately twenty-two (22)

1 years and in that capacity assists on all civil, criminal, and appellate cases;

2 19. That the legal assistant hour rate is a reasonable one hundred and twenty five
3 dollars (\$125.00);

4 20. That your Declarant, C. J. Potter, IV, Esq., Cal J. Potter, III, Esq. and their
5 Paralegals expended 189.4 hours and \$80,495.00 working on this matter;

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

7
8 /s/ Cal J. Potter, IV, Esq.
CAL J. POTTER, IV, ESQ.

9 **II.**

10 **ARGUMENT**

11 **A. THE SCHNEIDER DEFENDANTS ARE ENTITLED, BY STATUTE, TO AN AWARD OF**
12 **ATTORNEYS FEES, COSTS, AND \$10,000.00 IN STATUTORY DAMAGES**

13 In enacting anti-SLAPP Legislation, the Legislature has provided for an award of
14 attorney's fees and costs to those who have had their rights violated.

15 In this regard, NRS 41.670 (a) provides that if the court grants a special motion to dismiss
16 filed pursuant to NRS 41.660, "The court **shall** award reasonable costs and attorney's fees to the
17 person against whom the action was brought...". Additionally, pursuant to NRS 41.670(b), if the
18 court grants a special motion to dismiss, "The court may award, in addition to reasonable costs
19 and attorney's fees awarded pursuant to paragraph (a), an amount up to \$10,000 to the person
20 against whom the action was brought." (emphasis added). After the court grants this special
21 motion to dismiss, this court should both grant reasonable attorney fees and costs, as well as
22 award the maximum of \$10,000 pursuant to NRS 41.670(b).

23 As an initial matter, the awarding of attorney's fees in this matter is mandatory pursuant
24 to NRS 41.670(b). Consequently this Court shall award reasonable attorney's fees incurred in the
25 amount of \$80,495 as set forth in the foregoing Declaration of Counsel. Likewise the Schneider
26 Defendants should be awarded \$10,000 in statutory damages and an sanction against Plaintiff.

27 ...

28 ...

1 **B. THE SCHNEIDER DEFENDANTS ARE ENTITLED TO AN APPROPRIATE SANCTION**

2 The Court has inherent power to sanction counsel or a party who acts "in bad faith,
3 vexatiously, wantonly, or for oppressive reasons." Leon v. IDX Sys. Corp., 464 F.3d 951, 961
4 (9th Cir. 2006). A court must exercise its inherent powers "with restraint and discretion," and
5 must make a specific finding of bad faith before sanctioning under its inherent powers. Yagman
6 v. Republic Ins., 987 F.2d 622, 628 (9th Cir. 1993) (quoting Chambers v. Nasco, 501 U.S. 32,
7 44,(1991)); Fink v. Gomez, 239 F.3d 989, 992-93 (9th Cir. 2001). Bad faith "includes a broad
8 range of willful improper conduct," including "delaying or disrupting the litigation or . . .
9 hampering enforcement of a court order." Fink, 239 F.3d at 992 (quotation omitted); Leon, 464
10 F.3d at 961. "Sanctions are available for a variety of types of willful actions, including
11 recklessness when combined with an additional factor such as frivolousness, harassment, or an
12 improper purpose." Fink, 239 F.3d at 994. Indeed, the Court may exercise its inherent power to
13 sanction a party or attorney who acts for an improper purpose even if the sanctioned act "consists
14 of making a truthful statement or a non-frivolous argument or objection." Gomez v. Vernon, 255
15 F.3d 1118, 1134 (9th Cir. 2001) (quotation omitted). Whether to impose sanctions under the
16 Court's inherent power lies within the Court's discretion. Id.

17 The keystone to "an appropriate sanction" is "justice." Valley Engineers, Inc. v. Elec.
18 Eng'g Co., 158 F.3d 1051, 1056 (9th Cir.1998), cert. denied, 526 U.S. 1064 (1999). Within the
19 context sanctions, "justice" means at least three things. First, the sanction must be proportional to
20 the claimed violation. See, e.g., Rice v. City of Chicago, 333 F.3d 780 (7th Cir. 2003) (stating
21 that sanctions should be proportional to the alleged violation). Second, sanctions must be
22 specifically related to each alleged violation. See, e.g., Ins. Corp. v. Compagnie Des Bauxites,
23 456 U.S. 694, 707 (1982) (stating that sanctions should be "specifically related" to the alleged
24 violation); Klein v. Stahl, GMHB & Co. Maschinefabrik, 185 F.3d 98 (3d Cir.1999) (stating that
25 sanctions should be narrowly tailored to the alleged violation). Third, sanctions must "achieve
26 the orderly and expeditious disposition of cases." Chambers v. Nasco, Inc., 501 U.S. 32, 43, 111
27 S. Ct. 2123, 115 L. Ed. 2d 27 (1991).

28 An appropriate sanction should sufficiently penalize the offending party. National Hockey

1 League v. Metropolitan Hockey Club, Inc., 427 U.S. 639, 643(1976). Additionally, the sanction
2 should have a sufficient deterrent value to the immediate spoliating party and future litigants. Id.

3 In this case the Plaintiff named the Schneider Defendants in all eleven causes of action
4 despite the fact that there did not exist facts to support Plaintiffs' allegation. On the contrary, 3.

5 Plaintiffs' Complaint for damages was filed in retaliation of Mr.
6 Schneider's efforts to sanction Plaintiff's Associate Attorney Brandon Leavitt's unethical *ex parte*
7 communications with Mr. Schneider's client in a divorce proceeding where Mr. Schneider
8 specifically declined to give Mr. Leavitt permission to talk with his client on the eve of a divorce
9 trial. Nonetheless, Brandon Leavitt met with the represented party for approximately four hours
10 concerning the subject of representation.

11 On January 9, 2017, Plaintiffs filed suit against the Schneider Defendants, as well as
12 several other Defendants. The original complaint ("Complaint") included causes of action for
13 defamation, intentional infliction of emotional distress, negligent infliction of emotional distress,
14 false light, business disparagement, harassment, concert of action, civil conspiracy, and RICO
15 violations.

16 Besides the Schneider Defendants, Ms. Abrams sued a long list of other defendants.
17 Then, as co-counsel and with attorney Marshal Willick and his firm as plaintiffs, they filed
18 another suit on January 27, 2017, likewise pursuing, inter alia, claims for defamation. See
19 Willick v. Schneider et al., Eight Judicial District Case No. A-17-750171.

20 On June 5, 2017, the Court heard oral arguments on the Defendants' anti-SLAPP motions
21 to dismiss. At that time Plaintiffs conceded that the only claim that applied to the Schneider
22 Defendants were "conspiracy claims," that there was no underlying predicate crimes, that the
23 Schneider Defendants made no "statements" in this case, and Plaintiffs withdrew their "RICO
24 Claim" in open court. The Court then granted the Schneider Defendants Motion to Dismiss.

25 In light of the foregoing the Schneider Defendants should be awarded an appropriate
26 sanction for Plaintiffs vexatious suit. Here, Plaintiff's sued the Schneider Defendants for eleven
27 causes of action despite the existence of any factual basis to support the allegations. Plaintiffs
28 Counsel conceded as much during the oral argument of Defendants' Motions to Dismiss. As a

1 result of Plaintiffs' vexatious conduct the Schneider Defendants incurred approximately \$81,000
2 in attorneys fees. Therefore a proportional sanctions for the vexatious suit would be a duplicative
3 award of attorney's fees in addition to the award required by statute. Such an award is
4 appropriate as the sanction is specifically related to Plaintiffs violation because "but for"
5 Plaintiff's vexatious suit the Schneider Defendants would not have incurred the attorneys fees.
6 Additionally, sanctions must "achieve the orderly and expeditious disposition of cases". A
7 duplicative award of attorneys fees does so in that the sanction is likely to deter future vexatious
8 conduct of the Plaintiff. Consequently the Schneider Defendants should be awarded attorneys
9 fees in the amount of \$80,495.00, a statutory award of \$10,000.00, and a sanction in the amount
10 of \$80,495.00 for a total of \$170,990.00.

11 III.

12 CONCLUSION

13 The Schneider Defendants respectfully request that this Court grant attorney fees and
14 sanctions against the Plaintiff as set forth above.

15 DATED this 12th day of September, 2017

16 POTTER LAW OFFICES

17 By /s/ Cal J. Potter, IV, Esq.
18 CAL J. POTTER, III, ESQ.
19 Nevada Bar No. 1988
20 C. J. POTTER, IV, ESQ.
21 Nevada Bar No. 13225
22 1125 Shadow Lane
23 Las Vegas, NV 89102
24 *Attorneys for Schneider Defendants*
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that pursuant to EDCR 8.05, Administrative Order 14-2, and
3 NEFCR 9 on the 12th day of September, 2017, I did serve at Las Vegas, Nevada a true and
4 correct copy of **SCHNEIDER DEFENDANTS' MOTION FOR STATUTORY DAMAGES**
5 **AND ATTORNEY'S FEES, COSTS, AND DAMAGES PURSUANT TO NRS 41.670; AND**
6 **MOTION FOR SANCTIONS** on all parties to this action by:

7 ☐ Facsimile

8 ☐ U.S. Mail

9 ☐ Hand Delivery

10 ☒ Electronic Filing

11 Addressed to:

12 Jennifer Abrams, Esq.
13 THE ABRAMS & MAYO LAW FIRM
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15 Marshal Willick, Esq.
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20 Las Vegas, NV 89101
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21 /s/ Tanya Bain
22 An employee of POTTER LAW OFFICES
23
24
25
26
27
28

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.

SC NO: 73838-75834
DC NO: A-17-749318-C
Electronically Filed
Oct 15, 2018 09:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S
INDEX TO
APPENDIX -
DATE ORDER**

VOLUME VI

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APPENDIX INDEX

#	DOCUMENT	FILE STAMP DATE	PAGES
	Volume I		
1.	Complaint for Damages	1/9/2017	JVA00001 - JVA000080
2.	Declaration of Service	1/13/2017	JVA00081
3.	Declaration of Service	1/13/2017	JVA00082
4.	Declaration of Service	1/13/2017	JVA00083
5.	Declaration of Service	1/25/2017	JVA00084
6.	Amended Complaint for Damages	1/27/2017	JVA000085- JVA000164
7.	Defendant Louis Schneider's and Law Offices of Louis Schneider's Motion to Dismiss Plaintiffs' Complaint Pursuant to NRCP 12(b)(5)	1/30/2017	JVA000165 - JVA000177
8.	Declaration of Service	2/8/2017	JVA000178
9.	Declaration of Service	2/8/2017	JVA000179
10.	Declaration of Service	2/8/2017	JVA000180
11.	Declaration of Service	2/8/2017	JVA000181
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
	Volume II		
13.	Notice of Motion to Dismiss; Memorandum of Points and Authorities in Support Thereof	2/16/2017	JVA000205 - JVA000265
14.	Motion to Strike	2/16/2017	JVA000266 - JVA000273

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
16.	Opposition to “Motion to Strike” and Countermotion for Attorney’s Fees	3/6/2017	JVA000317 - JVA000330
17.	Errata to Opposition to “Defendants Steve W. Sanson and Veterans in Politics International, Inc’s Motion to Dismiss” and Countermotion for Attorney’s Fees	3/6/2017	JVA000331 - JVA000336
18.	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	3/28/2017	JVA000337 - JVA000367
19.	Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-Slapp)	3/28/2017	JVA000368 - JVA000405
	Volume III		
20.	Declaration of Steve Sanson in Support of Special Anti-Slapp Motion to Dismiss	3/28/2017	JVA000406 - JVA000469
21.	Declaration of Margaret A. McLetchie in Support of Special Anti-Slapp Motion to Dismiss	3/28/2017	JVA000470 - JVA000538
	Volume IV		
22.	Exhibit 13 to Declaration of Margaret A. McLetchie in Support of Special Anti-Slapp Motion to Dismiss - Sealed	3/28/2017	JVA000539 - JVA000655

	Volume V		
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
24.	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)	5/26/2017	JVA000805 - JVA000808
25.	Reply to Plaintiffs' Opposition to Motion to Strike and Opposition to Plaintiffs' Countermotion for Attorney's Fees	5/30/2017	JVA000809 - JVA000817
26.	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	5/30/2017	JVA000818 - JVA000859
27.	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' Countermotion for Attorney's Fees	6/1/2017	JVA000860 - JVA000862

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
29.	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	6/9/2017	JVA000867 - JVA000883
	Volume VI		
30.	Transcript Re: All Pending Motions	7/5/2017	JVA000884 - JVA000950
31.	[Proposed] Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant to Nev. Rev. Stat. 41.660 (Anti-Slapp)	7/24/2017	JVA000951 - JVA000970
32.	Notice of Entry of Order	7/24/2017	JVA000971 - JVA000994
33.	Notice of Appeal	8/21/2017	JVA000995 - JVA000998
34.	Case Appeal Statement	8/21/2017	JVA000999 - JVA001004
35.	Schneider Defendants' Motion for Statutory Damages ad Attorney's Fees, Costs, and Damages Pursuant to NRS 41.670; and Motion for Sanction	9/12/2017	JVA001005 - JVA001013
36.	Motion for Attorney Fees and Costs Pursuant to NEV. Rev. Stat. 41.670	9/13/2017	JVA001014 - JVA001076

37.	Notice of Change of Hearing	9/13/2017	JVA001077
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
39.	Corrected Motion for Attorney Fees ad Costs and Additional Awards Pursuant to Nev. Rev. Stat. 41.670	10/5/2017	JVA001081 - JVA001143
	Volume VII		
40.	Plaintiffs' Omnibus Opposition to Defendants' Motion for Attorney's Fees, Costs, and Sanctions	10/27/2017	JVA001144 - JVA001259
41.	Reply to Plaintiff's Opposition to an Award of Attorney's fees, Costs, and Statutory Sanctions	1/24/2018	JVA001260 - JVA001265
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
43.	Affidavit of Counsel Cal J. Potter, IV. Esq.	1/26/2018	JVA001371 - JVA001383
44.	Opposition to Motion to Disqualify	1/31/2018	JVA001384 - JVA001393
	Volume VIII		
45.	Affidavit of Judge Michelle Leavitt in Response 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	2/2/2018	JVA001394 - JVA001397
46.	Reply to Plaintiffs' Opposition to Motion for Attorney Fees and Costs Pursuant to Nev. Rev. Stat. 41.670	2/5/2018	JVA001398 - JVA001451

47.	Court Minutes	2/7/2018	JVA001452
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
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
50.	Court Minutes	3/2/2018	JVA001540
51.	Notice of Department Reassignment	3/5/2018	JVA001541
52.	Motion to Reconsider March 2, 2018 Minute Order Granting Plaintiffs' Motion to Disqualify	3/12/2018	JVA001542 - JVA001617
53.	Joinder in Motion for Reconsideration	3/13/2018	JVA001618 - JVA001620
54.	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
	Volume IX		
55.	Reply to Plaintiffs' Opposition to "Motion to Reconsider March 2, 2018 Minute Order granting Plaintiffs' Motion to Disqualify" and Countermotion and Attorney's Fees	4/10/2018	JVA001633 - JVA001663
56.	Notice of Hearing	4/18/2018	JVA001664 - JVA001665
57.	Court Minutes	4/20/2018	JVA001666 - JVA001667

58.	Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order	4/20/2018	JVA001668 - JVA001673
59.	Court Minutes	4/23/2018	JVA001674
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
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
62.	Notice of Appeal	5/7/2018	JVA001696 - JVA001698
63.	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
64.	Errata to Opposition to "Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order" and Countermotion for Attorney's Fees	5/8/2018	JVA001708 - JVA001712
65.	Case Appeal Statement	5/9/2018	JVA001713 - JVA001717
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
67.	Court Minutes	5/25/2018	JVA001732
68.	Order	7/2/2018	JVA001733 - JVA001735

69.	Notice of Entry of Order	8/1/2018	JVA001736 - JVA001741
70.	Declaration of Service	1/13/2017	JVA001742
71.	Declaration of Service	1/13/2017	JVA001743
72.	Declaration of Service	1/13/2017	JVA001744
73.	Declaration of Service	1/13/2017	JVA001745
74.	Declaration of Due Diligence	1/25/2017	JVA001746 - JVA001747
75.	Declaration of Service	2/8/2017	JVA001748
76.	Declaration of Service	2/8/2017	JVA001749
77.	Declaration of Service	2/8/2017	JVA001750
78.	Declaration of Service	2/8/2017	JVA001751
79.	Declaration of Service	2/10/2017	JVA001752
80.	Declaration of Service	3/29/2017	JVA001753
81.	Stipulation and Order to Dismiss with Prejudice All Claims Against Hanusa Parties	10/13/2017	JVA001754 - JVA001756
82.	Notice of Entry of Stipulation and Order to Dismiss with Prejudice All Claims Against Hanusa Parties	10/16/2017	JVA001757 - JVA001762

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

**APPELLANTS'
INDEX TO
APPENDIX -
ALPHABETICAL
ORDER**

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APPENDIX INDEX

EXHIBIT	DOCUMENT	FILE STAMP DATE	PAGES
43.	Affidavit of Counsel Cal J. Potter, IV. Esq.	1/26/2018	JVA001371 - JVA001383
45.	Affidavit of Judge Michelle Leavitt in Response 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	2/2/2018	JVA001394 - JVA001397
6.	Amended Complaint for Damages	1/27/2017	JVA000086- JVA000164
34.	Case Appeal Statement	8/21/2017	JVA000999 - JVA001004
65.	Case Appeal Statement	5/9/2018	JVA001713 - JVA001717
1.	Complaint for Damages	1/9/2017	JVA000001 - JVA000080
39.	Corrected Motion for Attorney Fees ad Costs and Additional Awards Pursuant to Nev. Rev. Stat. 41.670	10/5/2017	JVA001081 - JVA001143
47.	Court Minutes	2/7/2018	JVA001452
50.	Court Minutes	3/2/2018	JVA001540
57.	Court Minutes	4/20/2018	JVA001666 - JVA001667
59.	Court Minutes	4/23/2018	JVA001674
67.	Court Minutes	5/25/2018	JVA001732

74.	Declaration of Due Diligence	1/25/2017	JVA001746 - JVA001747
21.	Declaration of Margaret A. McLetchie in Support of Special Anti-Slapp Motion to Dismiss	3/28/2017	JVA000470 - JVA000538
2.	Declaration of Service	1/13/2017	JVA00082
3.	Declaration of Service	1/13/2017	JVA00083
4.	Declaration of Service	1/13/2017	JVA00084
70.	Declaration of Service	1/13/2017	JVA001742
71.	Declaration of Service	1/13/2017	JVA001743
72.	Declaration of Service	1/13/2017	JVA001744
73.	Declaration of Service	1/13/2017	JVA001745
5.	Declaration of Service	1/25/2017	JVA00085
8.	Declaration of Service	2/8/2017	JVA000178
9.	Declaration of Service	2/8/2017	JVA000179
10.	Declaration of Service	2/8/2017	JVA000180
11.	Declaration of Service	2/8/2017	JVA000181
75.	Declaration of Service	2/8/2017	JVA001748
76.	Declaration of Service	2/8/2017	JVA001749
77.	Declaration of Service	2/8/2017	JVA001750
78.	Declaration of Service	2/8/2017	JVA001751
79.	Declaration of Service	2/10/2017	JVA001752
80.	Declaration of Service	3/29/2017	JVA001753
20.	Declaration of Steve Sanson in Support of Special Anti-Slapp Motion to Dismiss	3/28/2017	JVA000406 - JVA000469

7.	Defendant Louis Schneider's and Law Offices of Louis Schneider's Motion to Dismiss Plaintiffs' Complaint Pursuant to NRCP 12(b)(5)	1/30/2017	JVA000165 - JVA000177
24.	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)	5/26/2017	JVA000805 - JVA000808
17.	Errata to Opposition to "Defendants Steve W. Sanson and Veterans in Politics International, Inc's Motion to Dismiss" and Countermotion for Attorney's Fees	3/6/2017	JVA000331 - JVA000336
64.	Errata to Opposition to "Motion to Reassign Case to Judge Michelle Leavitt and Request for Written Decision and Order" and Countermotion for Attorney's Fees	5/8/2018	JVA001708 - JVA001712
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