

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Feb 13 2019 03:41 p.m.

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

Appellant,

STEVE W. SANSON; VETERANS
IN POLITICS INTERNATIONAL,
INC; LOUIS C. SCHNEIDER; AND
LAW OFFICES OF LOUIS C.
SCHNEIDER, LLC,

Respondent.

S.C. NO: 73838/75824 Elizabeth A. Brown
D.C. NO: A-17-70918-6 Clerk of Supreme Court

RESPONDENT'S APPENDIX

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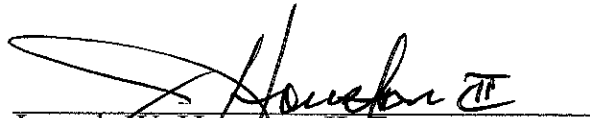
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RESPONDENT'S APPENDIX INDEX

- A. Order To Seal Records filed 10/6/16.....RA 1
- B. Order Prohibiting Dissemination Of Case Material filed 10/6/16.....RA 2-3
- C. Order Without Hearing filed 3/21/17.....RA 4-25
- D. Order Dismissing Appeal filed 5/2/18.....RA 26-28

Dated this 13 day of February, 2019.



Joseph W. Houston, II, Esq.

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(702) 982-1200

Attorney for Respondent

LOUIS C. SCHNEIDER; AND LAW OFFICES
OF LOUIS C. SCHNEIDER, LLC

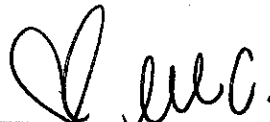
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Joseph W. Houston, II, Esq. and that on this 13 day of February, 2019, documents entitled Respondent's Appendix were filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

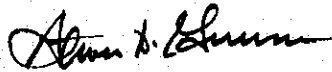
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An employee of Joseph W. Houston, II, Esq.


CLERK OF THE COURT

1 **OSFD**

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Eighth Judicial District Court
Family Division
Clark County, Nevada

8 BRANDON PAUL SAITER,

9 Plaintiff,

10 vs.

11 TINA MARIE SAITER,

12 Defendant.

) Case No.: D-15-521372-D

) Department: L

13 **ORDER TO SEAL RECORDS PURSUANT TO NRS 125.110(2)**

14 Upon written request of Plaintiff, Brandon Paul Saiter, by and through his
15 attorney of record, Brandon K. Leavitt, Esq., of The Abrams & Mayo Law Firm, and
16 pursuant to NRS 125.110(2),

17 **IT IS HEREBY ORDERED** that all documents filed with the clerk in the
18 above-entitled action except for pleadings, findings of the Court, Orders made on
19 motion as provided in the Nevada Rules of Civil Procedure and any judgments, shall
20 be and are hereby sealed.

21 DATED this 6th day of October, 2016.

22 THE ABRAMS & MAYO LAW FIRM

23 Brandon K. Leavitt, Esq. (11834);
24 6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff


DISTRICT COURT JUDGE

JENNIFER L. ELLIOTT *huc*

RA 1


CLERK OF THE COURT

**DISTRICT COURT
FAMILY COURT DIVISION
CLARK COUNTY, NEVADA**

BRANDON PAUL SAITER,

Plaintiff,

vs.

TINA MARIE SAITER,

Defendant.

CASE NO: D-15-521372-D
DEPT NO: L

HEARING DATES: 9/29/16
HEARING TIMES: 10:00 a.m.

**ORDER PROHIBITING
DISSEMINATION OF CASE MATERIAL.**

This matter having come before the Court for several pending matters on the 29th day of September at 10:00 a.m., Plaintiff Brandon Saiter represented by Jennifer Abrams, Esq. and Brandon Leavitt, Esq. and Defendant, Tina Marie Saiter represented by Louis Schneider, Esq., and the Court hearing preliminary matters, entertained and granted Ms. Abrams request for a closed hearing pursuant to EDCR 5.02, with the exception of permitting the parents of Defendant to remain pursuant to NRS 125.080 (2) (e).


Thereafter, the videotape of this hearing was posted on youtube and a link to the video was emailed to multiple third parties not involved in the case on or about the 3rd day of October, 2016.

On October 5, 2016, the parties resolved all issues required for a Decree of Divorce. Counsel then stipulated to seal the case and to disallow any further release of

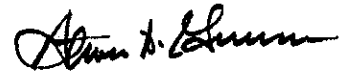
1 case information and to demand that the current post of the September 29, 2016
2 hearing video, or any other hearing video from this case be immediately removed from
3 the internet and to prohibit any portion of these proceedings from being disseminated
4 or published and that any such publication or posting by anyone be immediately
5 removed, as the September 29, 2016 hearing was a closed hearing. Additionally,
6 counsels and the parties recognize that the case has been settled and that such an Order
7 is in the best interest of the four (4) children in this case and is also authorized by NRS
8 125.080, NRS 125.110, EDCR 5.02, and Supreme Court Rules, Part VII, Rule 2(2)(a)
9 and 3(4).
10

11
12 **PURSUANT TO THE STIPULATION OF THE PARTIES, IT IS**
13 **HEREBY ORDERED** that the current post of the September 29, 2016 hearing video,
14 or any and all other hearing video(s) from this case shall be immediately removed from
15 the internet. All persons or entities shall be prohibited from publishing, displaying,
16 showing, or making public any portion of these case proceedings; nothing from the
17 case at bar shall be disseminated or published and that any such publication or posting
18 by anyone or any entity shall be immediately removed as the Court finds the stipulation
19 of the parties and this Courts' Order to be in the best interest of the four (4) children in
20 this case and to be fully supported by law (NRS 125.080, NRS 125.110, EDCR 5.02,
21 and Supreme Court Rules, Part VII, Rule 2(2)(a) and 3(4)).
22

23 DATED this 6th day of October 2016.

24
25
26 
27 Jennifer Elliott, District Court Judge,
28 Family Division, Dept. L

RA 3



CLERK OF THE COURT

1
2 **ORDR**

3 **DISTRICT COURT**
4 **FAMILY DIVISION**
5 **CLARK COUNTY, NEVADA**

6 * * * * *

7 Brandon Saiter,

8 Plaintiff,

9 vs.

10 Tina Saiter,

11 Defendant.

CASE NO.: D-15-521372-D

DEPT. NO.: L

Date of Hearing: 3-21-16

Time of Hearing: 10:00 a.m.

12 **ORDER WITHOUT HEARING**
13 **PURSUANT TO EDCR 2.23**

14 The Court in review of Plaintiff's NRCP 60(A) Motion to Correct the
15 Order After Hearing of September 29, 2016 filed February 2, 2017;
16 Defendant's Opposition and Countermotion for Attorney's Fees and Costs
17 filed February 14, 2017; Plaintiff's Reply and Opposition to Countermotion
18 filed February 27, 2017; Plaintiff's Motion for an Order to Show Cause filed
19 February 13, 2017; Steve Sanson's Opposition filed March 6, 2017; and
20 Defendant's Opposition To Motion For Order To Show Cause Re: Contempt
21 and Countermotion For Attorney's Fees filed March 7, 2017, hereby FINDS
22 and ORDERS, pursuant to EDCR 2.23, that these matters are hereby decided
23 without a hearing and vacates the hearings set for March 21, 2017 at 10:00
24 a.m. and March 30, 2017 at 9:00 a.m.

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☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred
☐ Disposed After Trial Start
☐ Judgment Reached by Trial

Non-Trial Dispositions:
☐ Settled/Withdrawn
☒ Without Judicial Conf/Htg
☐ With Judicial Conf/Htg
☐ By ADR

Trial Dispositions:
☐ Judgment Reached by Trial

1
2 **A. Relevant Factual Background**

3 1. The parties were divorced pursuant to the Decree of Divorce
4 (hereinafter "Decree") filed December 28, 2016.
5

6 2. Prior to the filing of the Decree, pursuant to emails between the
7 parties' counsel on October 5, 2016, and copied on the Court on October 6,
8 2016, the parties, through their counsel, stipulated to seal the case.
9

10 3. Additionally, Plaintiff filed a Petition to Seal Records Pursuant to
11 NRS 125.110(2), which was granted and an Order to Seal Records Pursuant
12 to NRS 125.110(2) was filed on October 6, 2016. An Order Prohibiting
13 Dissemination of Case Material was also filed on October 6, 2016.
14

15 4. Subsequently, on January 11, 2017, Plaintiff filed his Motion to
16 Enter the Order After Hearing of September 29, 2016.
17

18 5. On January 20, 2017, the Order from the September 29, 2016
19 hearing was prepared and filed by the Court because the parties' counsel
20 could not agree on the precise language of the order.
21

22 6. On February 2, 2017, Plaintiff filed his NRCP 60(a) Motion to
23 Correct the Court's Order After Hearing of September 29, 2016.
24

25 7. Defendant filed her Opposition and Countermotion for Attorney's
26 Fees and Costs on February 14, 2017.
27
28

1
2 8. Plaintiff filed his Reply to Defendant's Opposition to Plaintiff's
3 NRCP 60(a) Motion and Opposition to Defendant's Countermotion for
4 Attorney's Fees and Costs on February 27, 2017.
5

6 9. On February 13, 2017, Plaintiff filed his Motion for an Order to
7 Show Cause Against Defendant's Counsel of Record, Louis Schneider, Esq.
8 (hereinafter "Schneider"), and a third party, Steve Sanson (hereinafter
9 "Sanson").
10

11 10. The Court takes judicial notice that Plaintiff's counsel of record,
12 Jennifer Abrams, Esq. (hereinafter "Abrams") and her firm, the Abrams and
13 Mayo Law Firm, has filed a civil suit against Schneider and Sanson, among
14 others, in case A-17-749318-C alleging defamation, intentional infliction of
15 emotional distress, negligent infliction of emotional distress, false light,
16 business disparagement, harassment, concert of action, civil conspiracy,
17 RICO violation, copyright infringement and injunction for acts that arose, in
18 part, from the current case. This case is pending before Department 21.
19
20
21

22 **B. Plaintiff's NRCP 60(a) Motion**

23 Plaintiff's NRCP 60(a) Motion seeks to amend the Order from the
24 September 29, 2016 hearing, specifically requesting the following three (3)
25 changes:
26

27 (1) "Upon Plaintiff's request, the hearing is closed to the public."
28

1
2 (2) "In an email dated September 16, 2016, Tina [Defendant] made it
3 clear that she no longer wanted to be represented by Mr. Schneider."

4 (3) Delete the "clerk's note" on page 3, lines 7 through 10 of the
5 order.

6 The Court, after review of all available records, **ORDERS that**
7 **Plaintiff's NRCP 60(a) Motion be granted in part and denied in part.**
8

9 As to the first request to close the hearing, Abrams, pursuant to EDCR 5.02
10 (which was then in effect) sought to close the hearing (*see* video record at
11 12:08:02).
12

13 **Rule 5.02. Hearings may be private.**

14 (a) In any contested action for divorce, annulment,
15 separate maintenance, breach of contract or partition
16 based upon a meretricious relationship, custody of
17 children or spousal support, the court must, upon demand
18 of either party, direct that the trial or hearing(s) on any
19 issue(s) of fact joined therein be private and upon such
20 direction, all persons shall be excluded from the court or
21 chambers wherein the action is heard, except officers of
22 the court, the parties, their witnesses while testifying, and
23 counsel. . .
24

25 At 12:08:04, the Court stated, "Sure." At 12:08:05, the Court Ordered
26 "All those not a party, not representing a party would please exit the
27 courtroom." Later in the hearing, Abrams states that her request to close the
28 hearing is still pending (*see* video record at 12:13:06). However, the Court
had already ruled on Abrams' request at the outset of this hearing, and the

1 Court, for good cause, had allowed Defendant's parents to remain as support
2 for the Defendant who was struggling with whether she should continue to
3 have legal representation. Therefore, the Court GRANTS Plaintiff's
4 request to add this language to the minutes and the Order: "Upon
5 Plaintiff's request, the hearing is closed to the public."
6
7

8 With regard to Plaintiff's second request as to Defendant's September
9 16, 2016 email to Schneider, and Plaintiff's position regarding whether
10 Defendant stated that she did not want to be represented by Schneider
11 therein. The Court did comment that the September 16, 2016 email was the
12 first time where it appeared that there was any settled purpose or clear intent
13 by Defendant not to be represented by Schneider.
14
15

16 However, this did not also mean that the Court made a finding or
17 believed that it was in the best interest of Defendant to be without assistance
18 of counsel. The Court was concerned with issues such as, the difference in
19 the economic knowledge/power balance between the parties, Defendant's
20 mental and emotional competency to make the decisions on behalf of
21 herself, issues pending such as the results of the forensic income report, and
22 later in the hearing, the allegation that Plaintiff must pay for the community
23 business from his post-tax personal income rather than through the business
24 itself, leaving Plaintiff apparently unable to pay alimony to Defendant while
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1 grossing over \$20,000 a month, and the significant equity in the business
2 that had not been accurately disclosed to Defendant, etc. Therefore, the
3 Court was especially concerned that both parties continue to have the benefit
4 of counsel pending the Court's ability to canvas and ensure the fairness of all
5 of the settlement terms.
6

7
8 The Court further FINDS that Schneider had his Motion to Withdraw
9 pending before the Court at this same hearing, which he withdrew after the
10 Court asked him to remain on the case to look into the financial aspects of
11 the parties' agreement, including the need to pay \$5,000 monthly business
12 debt payment from personal post-tax income and expenses that Plaintiff
13 listed on his Financial Disclosure Form (hereinafter "FDF") filed April 4,
14 2016.
15

16
17 With those concerns having been mentioned, the Court GRANTS
18 Plaintiff's request to add to the order: "In an email dated September 16,
19 2016, Tina [defendant] made it clear that she no longer wanted to be
20 represented by Mr. Schneider."
21

22
23 As to the "Clerk's Note", those notes were specifically included at the
24 Court's request following the hearing and constitutes a finding of the Court.
25 Plaintiff's FDF, filed April 4, 2016, did not include the royalty payments
26 which were paid through mid-2016; the royalty payment was also not
27
28

1 included in his December 14, 2015 FDF. **Plaintiff's objection to the**
2 **inclusion of the "Clerk's Note" is DENIED. Defendant's**
3 **Countermotion for Attorney's Fees and Costs is DENIED.**

4 **C. Plaintiff's Motion for an Order to Show Cause**

5 ***1. Parties' Arguments***

6 ***a. Plaintiff's Allegations***

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8
9
10 Plaintiff alleged that Sanson, even after being served with the
11 Order Prohibiting Dissemination of Case Material, continued to post the
12 video from the September 29, 2016 hearing on various websites and
13 posted commentary that specifically referred to the parties' names and
14 case number. As a result, he alleged the safety of the parties' children
15 has been compromised and the parties' privacy had been invaded because
16 neither party wanted their divorce case to be public. Plaintiff managed to
17 take the video down from YouTube and Vimeo after making privacy
18 complaints, but Sanson allegedly continued to post the video on a
19 Russian website and despite further multiple requests, refused to take
20 down the videos.
21
22
23

24 Plaintiff argued that Sanson need not be inter-pled as a party
25 because he interjected himself into the case by obtaining a copy of the
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1 hearing video and posting it online in an attempt to influence the case,
2 bringing him within the jurisdiction of the Court.

3
4 Plaintiff further argued that Sanson's actions do not constitute free
5 speech because the hearing was closed to the public and there is no
6 legitimate purpose in invading the parties' privacy and risk of harm to the
7 parties' children. Furthermore, Schneider was complicit in Sanson's
8 actions because he acted in concert with Sanson to escalate the case and
9 released the case material to him. Plaintiff argued that since the violation
10 of the Order Prohibiting Dissemination of Case Material cannot be
11 completely purged, Sanson and Schneider's conduct constitutes criminal
12 contempt.
13

14
15
16 **b. Sanson's Allegations**

17
18 It is noted that Sanson made a special appearance to oppose
19 Plaintiff's Motion for an Order to Show Cause.

20
21 Sanson stated he is accused of violating an Order in a case to
22 which he is not a party and had not been given notice or opportunity to be
23 heard. He also notes the civil cases Abrams and her counsel, Marshal
24 Willick (hereinafter "Willick") brought against Sanson and his
25 organization, Veterans in Politics International (hereinafter "VIPI"): case
26 numbers A-17-749318-C and A-17-750171-C. Sanson argued that his
27
28

1 criticisms of Abrams and Willick's Court practices led to them filing
2 suits against Sanson and VIPI. Sanson additionally noted Plaintiff's
3 Motion for an Order to Show Cause failed to attach a supporting affidavit
4 from Plaintiff and concluded the motion was filed to strengthen Abrams
5 and her civil lawsuit against Sanson and VIPI and has nothing to do with
6 Plaintiff.
7
8
9

10 Sanson noted that neither he nor VIPI were previously named as a
11 party or served with process; furthermore, the Order Prohibiting
12 Dissemination of Case Material was issued without a hearing or any due
13 process protection for Sanson or VIPI.
14

15 The gravamen of Sanson's opposition is as follows: (1) this Court
16 does not have jurisdiction over Sanson and (2) even if this Court has
17 jurisdiction, the Court's Order Prohibiting Dissemination of Case
18 Material is void as unconstitutionally overbroad, violating both federal
19 and state law. Sanson argued that this Court lacks subject matter
20 jurisdiction under *Del Papa v. Steffen*, 920 P.2d 489, 112 Nev. 369
21 (1996). However, even if this Court has subject matter jurisdiction, he
22 argues that there is a strong presumption for open courtroom
23 proceedings. Furthermore, Sanson argued that he has the right to free
24 speech to criticize Abrams' courtroom behavior and his posting of videos
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2 and making commentary regarding Abrams is a valid exercise of his right
3 to free speech. Furthermore, even if the case was sealed, under *Johanson*
4 *v. District Court*, 182 P.3d 94, 124 Nev. 245 (2008), sealing the entire
5 case file without notice or opportunity to be heard constitutes abuse of
6 discretion, especially if it fails to make findings of any clear and present
7 danger or threat of serious and imminent harm to a protected interest and
8 without examining alternative means to accomplish that purpose;
9
10 furthermore, the Order Prohibiting Dissemination of Case Material was
11 not narrowly drawn and failed to discuss whether any less restrictive
12 alternatives were available. Since the Order Prohibiting Dissemination of
13 Case Material cannot meet the *Johanson* test, Sanson argued that the
14 Court's Order Prohibiting Dissemination of Case Material is
15 impermissibly broad and thus, it should be vacated.
16
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18

19 In addition, Sanson argued that if Plaintiff's Motion for an Order to
20 Show Cause is granted, that this Court should be disqualified per Nevada
21 Code of Judicial Conduct, Rule 2.11 because he alleged that this Court's
22 impartiality may be questioned.
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RA 13

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2 **c. Defendant's Opposition**

3 Defendant's Opposition to Plaintiff's Motion for an Order to Show
4 Cause alleged simply that said motion is aimed solely at bolstering
5 Abrams' civil case against Schneider and Sanson.
6

7 **2. Relevant Law**

8 Pursuant to NRS 125.110(2), once a party requests that a domestic
9 case be sealed, the Court must seal the case. Other than pleadings,
10 findings of the Court, Orders, and Judgments, all other records shall be
11 sealed and shall not be open to inspection except to the parties or their
12 attorneys, or when required as evidence in another action or proceeding
13 (see below).
14
15

16 **NRS 125.110 What pleadings and papers open to**
17 **public inspection; written request of party for sealing.**

18 1. In any action for divorce, the following papers and
19 pleadings in the action shall be open to public inspection
20 in the clerk's office:

21 (a) In case the complaint is not answered by the
22 defendant, the summons, with the affidavit or proof
23 of service; the complaint with memorandum endorsed
24 thereon that the default of the defendant in not
25 answering was entered, and the judgment; and in case
26 where service is made by publication, the affidavit for
27 publication of summons and the order directing the
28 publication of summons.

(b) In all other cases, the pleadings, the finding of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, and the judgment.

2. All other papers, records, proceedings and evidence, including exhibits and transcript of the

1
2 testimony, shall, upon the written request of either
3 party to the action, filed with the clerk, be sealed
4 and shall not be open to inspection except to the
5 parties or their attorneys, or when required as
6 evidence in another action or proceeding.
(Emphasis added.)

7 Under *Landreth v. Malik*, 251 P.3d 163, 127 Nev. 175 (2011), even
8 if the matter at hand is outside the scope of a traditional Family Court
9 matter, Family Court Judges do have subject matter jurisdiction over
10 such matters and thus, *Landreth* overruled *Del Papa v. Steffan*.

11 The Court is mindful of the Nevada Supreme Court Rule VII, Rule
12 (3)(4), which states that sealing is justified by identified compelling
13 privacy or safety interests that outweigh the public interest in access to
14 the Court record. However, under *Johanson*, the Nevada Supreme Court
15 clarified the use of NRS 125.110 in sealing cases. In that case, the
16 District Court entered an Order sealing the entire case file and sua sponte
17 issued a gag order preventing all parties and attorneys from disclosing
18 any documents or discussing any portion of the case.
19

20 The *Johanson* Court adopted the following standard regarding gag
21 Orders, or an Order that prevents participants from making extrajudicial
22 statements about their own case: (1) a party must demonstrate a clear and
23 present danger or a serious and imminent threat to a protected competing
24 interest, (2) the order is narrowly drawn, and (3) less restrictive
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1 alternatives are not available. In *Johanson*, respondent argued that the
2 Court has inherent power to completely seal divorce cases beyond NRS
3 125.110. However, the Nevada Supreme Court declined to adopt such
4 broad standard and even assuming, in arguendo, that the Court indeed has
5 such broad power, one must show the Court that sealing the entire case
6 file is necessary to protect his, or another person's rights, or to otherwise
7 administer justice. *Johanson*, 182 P.3d at 97-98, 124 Nev. at 250.
8

9
10
11 Under NRS 22.010, disobedience or resistance to any lawful order
12 issued by the court constitutes contempt. Furthermore, under
13 *Cunningham v. District Court*, 102 Nev. 551, 559-60, 729 P.2d 1328,
14 1333-34 (1986), the order must be "clear and unambiguous."
15

16 Lastly, under new EDCR 5.301, (as with EDCR 5.03, in effect in
17 2016), the parties and their counsel are prohibited from knowingly
18 permitting others to (a) discuss the case with the minor children, (b)
19 allow minor children to review the proceedings, pleadings or any records,
20 or (c) leaving such materials in a place where it is likely or foreseeable
21 that any minor child will access those materials.
22

23 3. Discussion

24 The Order to Seal Records filed October 6, 2016 states the
25 following: "all documents filed... in the above-entitled action exception
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1
2 for pleadings, findings of the Court, Orders made on motion... and any
3 judgments, shall be and are hereby sealed." There is no dispute as to the
4 validity of this Order. However, as Sanson alleged, there is a dispute
5 over the validity of the Court's Order Prohibiting Dissemination of Case
6 Material.
7

8 a. Does this Court have Subject Matter Jurisdiction over Sanson?
9

10 Sanson, citing *Del Papa*, argued that this Court lacks subject
11 matter jurisdiction over him. However, there is no discussion of how
12 *Landreth*, which grants family courts subject matter jurisdiction over
13 other matters, is distinguished. Accordingly, Sanson's argument facially
14 fails in this regard. The Court FINDS that it has subject matter
15 jurisdiction.
16
17

18 b. Even if this Court has Subject Matter Jurisdiction, is the Order
19 Prohibiting Dissemination of Case Material Impermissibly Broad?

20 The Order Prohibiting Dissemination of Case Material states,
21 pursuant to the stipulation of the parties, in the best interest of the
22 children, and the fact that the parties have settled their case, all hearing
23 videos shall be immediately removed from the internet and "all persons
24 or entities shall be prohibited from publishing, displaying, showing, or
25 making public any portion of these case proceedings." This Order clearly
26 constitutes a gag order as to the parties as well as non-parties as
27
28

1
2 contemplated in the *Johanson* case and hence, must be subject to the
3 *Johanson* 3-part test.

4
5 **1. Is there a Serious and Imminent Threat to a Protected
6 Competing Interest?**

7 The first amendment right to free speech and the freedom of the
8 press are obviously protected competing interests when weighed against
9 divorcing parties' privacy interests and the best interest of their children
10 in not being exposed to the case (*see* EDCR 5.301 and prior EDCR
11 5.03).
12

13 Plaintiff framed the issue as the parties and their children being
14 dragged through the mud by unwanted exposure through the actions of
15 Sanson and VIPI, allegedly acting in concert with Schneider. On the
16 other hand, Sanson framed the issue as the exercise of his right to free
17 speech in criticizing Abrams' courtroom behavior.
18
19

20 At the time the Court drafted the Order Prohibiting Dissemination
21 of Case Material, it was very cognizant that there were four (4) minor
22 children, ages 14, 12, 10 and 8 involved in the case and that their parents
23 had settled this matter after over a year of great acrimony between the
24 parties, as well as between their counsel. The Court believed it was
25 certainly not in the best interest of the parties or the children to access
26 YouTube, or hear from others who have accessed YouTube, or to see
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2 their parents in Court during their divorce proceedings. This Court would
3 not want the children, their friends or relatives to see their mother
4 struggling with the divorce issues, struggling with whether or not to be
5 represented, to see their maternal grandparents in the background, clearly
6 worried about their daughter, who was very emotional and distraught
7 during the hearing, to listen to financial and other matters being discussed
8 in escalated tones, to hear accusations flying across the room, seeing their
9 parents in conflict in the courtroom setting where children are not
10 typically allowed to be present in divorce actions *for very good reasons*,
11 to know their friends and relatives can access this same video material
12 online at any time, etc. This material would clearly be disturbing
13 emotionally and mentally to most any child who witnessed it.
14
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18 It was paramount in the Court's mind that the case simmers down
19 and that the parties get down to co-parenting and focusing on bringing
20 some peace to the restructuring they had done in two separate homes.
21 There had been little peace to date; in the Court's view, continuing the
22 case controversy based on any debate would not be in the best interest of
23 the parties or their children. Thus, the Court FINDS that the best interest
24 of the children would trump Sanson's and VIPI's free speech rights in
25 this case.
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RA 19

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2 **2. Was the Order Narrowly Drawn?**

3 The Court must find that the Order is facially overbroad as it is not
4 narrowly drawn where it forbids ALL persons or entities to disseminate
5 information obtained prior to the sealing without giving notice or
6 opportunity to be heard on the issues. However, the Court finds that the
7 Order to Seal Records filed October 6, 2016 forbids dissemination of
8 videos of the hearing, which is covered as the official transcript under
9 NRS 125.110(2):
10
11

12 "All other papers, records, proceedings and evidence,
13 including exhibits and transcript of the testimony, shall,
14 upon the written request of either party to the action,
15 filed with the clerk, be sealed and shall not be open to
16 inspection except to the parties or their attorneys, or
17 when required as evidence in another action or
18 proceeding." (Emphasis added.)

19 **3. Less Restrictive Alternatives Not Available?**

20 The Court Ordered removal of the video from the September 29,
21 2016 hearing from the entire "internet" and there was no discussion by
22 the Court of whether there were less restrictive means available (e.g.
23 removing the parties' names or case number from the case--which would
24 be little help here where dealing with identification by
25 video...). Plaintiff's motion mentioned that the parties' minor children
26 have access to FaceBook and could have accessed the videos, and this
27
28

1
2 Court is in agreement with that view. In this era, children are frequently
3 online, especially watching videos on YouTube at age two (2) and older.
4

5 At this time, the Court FINDS that the only sure way it can
6 conceive of that would have worked to assure the restriction of the video
7 being shown only to interested adults, and not to children, would have
8 been through advertised scheduled showings in a place where children
9 are not allowed.
10

11 Again, the Court FINDS as the Order Prohibiting Dissemination of
12 Case Material failed to give notices to any of the "All persons or
13 entities," including Sanson, no one was given any means to challenge the
14 validity of the order. Thus, any non-party, without prior notice, could
15 have been dragged into court unconstitutionally, despite lack of any
16 reasonable connection with the case.
17
18

19 **Accordingly, the Court FINDS that the Order Prohibiting**
20 **Dissemination of Case Material to be unconstitutionally overbroad**
21 **and as such, the Court HEREBY ORDERS the Order Prohibiting**
22 **Dissemination of Case Material shall be struck and vacated.**
23
24

25 Although the Court must find that the Order fails and cannot be
26 enforced as written, nonetheless, this Court must always have the best
27 interests of children in mind in all decision-making, and as such is
28

1 compelled to find that, after the Court made it clear what the concerns
2 were, the Court does not find it was appropriate to continue to post the
3 hearing video on the internet where the parties' minor children would
4 have easy access to emotionally and mentally disturbing material,
5 without attempting to reach an intended audience in a more responsible
6 way. Notwithstanding, there is nothing this Court can do in this case to
7 enforce this viewpoint.
8
9
10

11 **4. Disqualification of the Court**

12 Since the Court finds that the Order Prohibiting Dissemination of
13 Case Material is overbroad and Orders that it be struck and vacated, it
14 need not rule on Sanson's request that should this court grant Plaintiff's
15 Motion for an Order to Show Cause, that the Court disqualify itself under
16 Nevada Code of Judicial Conduct, Rule 2.11 because Sanson argued that
17 he can reasonably infer that this Court is seeking to stifle criticism and
18 thus, the Court's impartiality may be questioned.
19
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21

22 The Court would note that there is a great deal of case law under
23 which his argument fails and Sanson fails to cite any rule of law in his
24 support. Following his reasoning, if Sanson criticizes any or every
25 Judge, each and every Judge who he criticized must recuse from hearing
26 any case where Sanson involves himself. What then becomes of the
27
28

1 independence of the judiciary? Independent, except for Sanson?

2
3 Independent, except for this or that reporter, or newspaper, or news
4 station?

5
6 **D. ORDER TO SHOW CAUSE**

7 **The Court FINDS and Orders that without a valid Order**
8
9 **Prohibiting Dissemination of Case Material, that Plaintiff's Order to**
10 **Show Cause cannot stand.**

11 Although the Order to Seal Records (1) excludes any pleadings,
12 findings, orders and judgments per NRS 125.110 requirements and under
13 subsection (2) this includes the video as the "official transcript" in family
14 court; this however, is not a fact that is widely known. The Court does not
15 believe anyone working outside of the area of family court (or some inside
16 for that matter) would be aware that the video is the official transcript of the
17 hearing. Thus, the statute reads as if it is limited to documents only and does
18 not give proper notice to anyone as to the prohibitory use of a hearing video
19 as a hearing transcript.
20
21
22

23 Additionally, at this juncture, the Plaintiff's Motion for an Order to
24 Show Cause is unquestionably vague as to *how the parties were or even*
25 *Plaintiff* (real party/parties in interest in this case) was harmed by the posting
26
27
28

RA 23

1 of the information on-line. Accordingly, the Court CANNOT FIND that
2 either Schneider or Sanson violated the Order to Seal Records.
3

4 The Court further FINDS that Plaintiff's Motions appear to be more
5 about bolstering Abrams' civil action against Schneider and Sanson,
6 especially since neither party has alleged specific harm. Proper venue to
7 hear this matter appears to be Abrams' civil action against Schneider and
8 Sanson, or the State Bar of Nevada, if appropriate.
9
10

11 Furthermore, it seems illogical that Plaintiff is seeking an order to
12 compel Defendant to personally appear in this matter when his Motion for
13 an Order to Show Cause is predominantly regarding allegations against
14 Sanson. Plaintiff stated that both he and Defendant were mortified that case
15 materials were being posted on-line. Plaintiff stated that he attempted to
16 resolve the matter, but Sanson refused to remove the case
17 materials. Schneider's alleged role in the matter was not made clear to the
18 Court. In his Motion for an Order to Show Cause, Plaintiff made no claims
19 against Defendant. **The Court declines to Order Defendant to personally**
20 **appear.**
21
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23

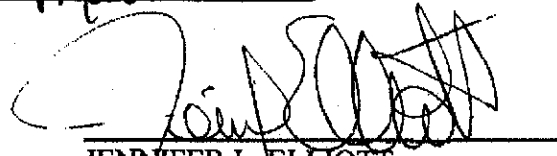
24 **E. ATTORNEY'S FEES**
25

26 Furthermore, the Court ORDERS that all parties to bear their own
27 fees and costs in this matter.
28

RA 24

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2 The Court Orders that the Clerk shall remove the hearings from the
3 Court's calendar set for March 21, 2017 at 10:00 a.m. and March 30, 2017 at
4 9:00 a.m. and the case shall be CLOSED with the Notice of Entry of this
5 Order, which shall be prepared by Department L. The Order and Notice of
6 Entry of Order may be emailed and faxed to both counsel for the parties and
7 counsel for Mr. Sanson, who shall be advised there shall be no appearances.
8 Department L shall additionally mail the Order and Notice of Entry of Order
9 to all counsel.
10
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12 Dated this 24th day of March, 2017.

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16 JENNIFER L. ELLIOTT
17 DISTRICT COURT JUDGE
18 FAMILY DIVISION, DEPT. L
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RA 25

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANDON PAUL SAITER,
Appellant,
vs.
TINA MARIE SAITER,
Respondent.

No. 72819

FILED

MAY 02 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting in part and denying in part a motion under NRCP 60(a), denying a motion for an order to show cause regarding contempt, and vacating an order prohibiting dissemination of case material. Eighth Judicial District Court, Family Court Division, Clark County; Jennifer Elliott, Judge.

When our initial review of the docketing statement and documents before this court revealed that the challenged order may not be substantively appealable, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellant has filed a response and respondent has filed a reply.¹

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. *Brown v. MHC Stagecoach*,

¹No cause appearing, appellant's motion to file a response to respondent's reply is denied. The clerk shall detach the response from the motion filed on November 6, 2017, and return it unfiled.

RA 26

18-16614

LLC, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013). No statute or court rule appears to authorize an appeal from an order vacating an order prohibiting dissemination of case material or from an order denying a motion under NRCP 60(a). Further, a contempt order that is ancillary to another proceeding is not independently appealable. *Pengilly v. Rancho Santa Fe Homeowner Ass'n*, 116 Nev. 646, 5 P.3d 569 (2000). Although appellant asserts that the order is appealable as a special order after final judgment, *see* NRAP 3A(b)(8), he does not demonstrate that the order affects his rights arising from the final judgment (the divorce decree), *see Gumm v. Mainor*, 118 Nev. 912, 914, 59 P.3d 1220, 1221 (2002) (defining an appealable special order after final judgment as an order that "affect[s] the rights of some party to the action, growing out of the judgment previously entered. It must be an order affecting rights incorporated in the judgment"). The order prohibiting dissemination of case material was entered on October 6, 2016; prior to the entry of the divorce decree on December 28, 2016. However, the order does not resolve any portion of the complaint for divorce, and the divorce decree does not incorporate the October 6, 2016, order. Thus, the order vacating the October 6, 2016, order does not affect appellant's rights incorporated in the final judgment.

Appellant also seems to assert that the order is appealable because the issues presented are of public importance and "susceptible to repetition but evading review." The nature of the issues raised in an appeal does not confer jurisdiction; rather, jurisdiction must be established by statute or court rule with reference to what the order does. *See Brown*, 129 Nev. at 345, 301 P.3d at 851. We decline appellant's request to treat the notice of appeal as a petition for an original writ. If appellant's counsel determines that pursuit of an original writ petition with this court is proper,

RA 27

appellant may file a petition in this court in compliance with NRAP 21. We conclude that we lack jurisdiction over this appeal and we

ORDER this appeal DISMISSED.²

Cherry, J.
Cherry

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Hon. Jennifer Elliott, District Judge, Family Court Division
Ara H. Shirinian, Settlement Judge
Willick Law Group
Louis C. Schneider, LLC
Eighth District Court Clerk

²We decline respondent's requests to award sanctions and attorney fees and to refer this matter to the State Bar of Nevada.

RA 28