IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Apr 06 2020 07:01 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 73838/75834

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

Appellants

v.

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

Respondents,

.

APPELLANTS' PETITION FOR REHEARING

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RULE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the foregoing are persons or entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Parties

Appellant Jennifer V. Abrams is an individual. The Abrams & Mayo Law Firm has no parent corporation and no publicly held company owns 10% of the party's stock.

Attorneys

The following law firms have appeared or are expected to appear for Appellants in this case (including in the District Court):

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DATED this 6th day of April, 2020.

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I. STATEMENT OF THE CASE

On a Motion for Rehearing, a petitioner faces the unenviable burden of persuading this Court that it has overlooked or misapprehended important facts or law such that rehearing is appropriate. Mindful that in a defamation case a court must consider the ***overall message***—not just the specific words used—to determine whether a particular statement is a provably false statement of fact,[1] this Court did misapprehend facts that were crucial to its decision.

It is critical to revisit these issues. If Sanson's tactics were enough to give this Court the wrong idea about his false accusations, one can only imagine the impact they had on Abrams' reputation, particularly in the community of judges and lawyers.

Sanson's trick was to focus attention on his vitriolic language. However, when one tears away the hyperbolic language and so-called "opinions" (like the use

[1] *See e.g. Milkovich v. Lorain Journal Co.*, 110 S. Ct. 2695, 2707 (1990) (noting no "opinion" defense where "opinion" implies false and defamatory facts); *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714, 57 P.3d 82, 88 (2002) ("expressions of opinion may suggest that the speaker knows certain facts to be true or may imply that facts exist which will be sufficient to render the message defamatory if false").

of the word "bully" to characterize Abrams), what remains are three provably false messages Sanson conveyed in his defamatory attacks:[2]

1. In the "Attack" article, Sanson claimed that Judge Elliott made a "finding" of undue influence by Abrams and implied that Judge Elliott accused Abrams of being involved in "ethical problems." These are false statements of fact. Judge Elliott made no such findings and, to the extent she even expressed concerns, they were not about Abrams. Sanson claimed that Abrams' client "lied about his finances" but that statement was retracted by Judge Elliott by the end of the hearing. Thus, Sanson's messages were provably false statements of facts. Moreover, to the extent this Court intended to apply the "fair and true report" privilege, the issue was irrelevant to the first prong of the anti-SLAPP analysis and the privilege is inapplicable on second prong because it did not pertain to a public hearing and was neither fair, complete or true.

2. Sanson claimed that Abrams "sealed many of her cases" which he stated is "specifically disallowed by law."[3] Orders to seal records are

[2] It is worth noting that Abrams still contends that many of these so-called opinions are actionable "mixed opinions." However, this Court's decision about those is not the subject of this petition.

[3] I AA 140; I AA 142.

permitted by statute, routinely used in family law matters, and this Court has recognized them as valid.[4]

3. Sanson claimed the "Acting Badly" video of proceedings depicted "Abrams' misbehavior during the . . . hearing."[5] But, Abrams was not present at *that* hearing. The "opinion" about bad behavior suggested that Abrams engaged in conduct at the hearing that could support such an "opinion." But, that is provably false.

That Sanson's assertions of these facts were hidden behind the rhetoric of opinion and hyperbole is of no moment. Each of these false accusations was objectively verifiable—the test for determining whether they are actionable as false factual assertions.[6]

The conclusion that these accusations were factual assertions changes everything. On the first prong of the anti-SLAPP analysis, Sanson had (and failed to meet) the burden to demonstrate by a preponderance of the evidence that his allegations were true or that he did not know them to be false. At the time of publication, he had all of the information he needed to know he was lying. At the

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[4] NRS 125.110(2); *Johanson v. Eighth Judicial Dist. Court of State of Nev. ex rel. County of Clark*, 124 Nev. 245, 250, 182 P.3d 94, 97 (2008).

[5] III AA 408.

[6] *Miller v. Jones*, 114 Nev. 1291, 1297, 970 P.2d 571, 575 (1998); *Milkovich*, 110 S. Ct. at 2707.

very least, the facts offered below were sufficient for Abrams to meet her prong two *prima facie* burden on each of the elements of her claims.

The Court's opinion also raises one critical point of law. As discussed below, this Court's apparent application of the "fair report" privilege to Sanson's articles contradicts controlling authority without citing it or expressly overruling it.

II. ARGUMENT

A. In addition to so called "opinions," the "Attack" article also asserted provably false facts including: the false fact that Judge Elliott made a "finding" of "undue influence" against Abrams and that Judge Elliott asserted that Abrams had "ethical problems."

The "Attack Article" communicated the false messages that (a) Judge Elliott made a "finding" against Abrams of "undue influence"; (b) that Abrams' had "enough ethical problems"; (c) that Abrams' client "lied about his finances"; and (d) that Abrams' misconduct resulted in an unfair deal for Wife.[7] All four are demonstrably false assertions of facts.

1. **It was false to assert there was a *finding* of undue influence *against Abrams*.**

At the beginning of the closed September 29, 2016 hearing, Judge Elliott said she "felt" there had been undue influence ***by Brandon Saiter*** (husband) during

[7] V AA 708 - 713.

a meeting[8] at which Abrams was not present. After learning the facts, Judge Elliott explained her earlier comment about "undue influence" was based on *Schneider's* opinion and made clear: "I'm not making a finding."[9]

Thus, it was false to say that Judge Elliott made a finding of undue influence against anyone—particularly Abrams. Yet, Sanson was content to include the false assertion that Judge Elliott made such a finding in his discussion of Abrams' alleged misbehavior and adjacent to Abrams' photo.[10] Therefore, these allegations could not meet the prong one good faith requirement of being "truthful or made without knowledge of its falsehood."[11]

2. **It was false to assert that there were "ethical problems" by Abrams.**

Despite what one would understand based on the way Sanson presented his postings, Judge Elliott's comment that "there's enough ethical problems" did ***not*** pertain to Abrams. What Judge Elliott actually said to Abrams (during her first appearance in the case) was:

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[8] IV AA 548.

[9] IV AA 596.

[10] "An article may become libelous by juxtaposition with other articles or photographs." *Empire Printing Co v. Roden*, 247 F.2d 8, 14 (9th Cir. 1957).

[11] This also proves that Sanson was dishonest in his declaration when he swore that "the article also contains accurate transcriptions of the words exchanged by Plaintiff Jennifer Abrams and Judge Elliott." III AA 407, page 2, ¶4.

> [I]f you want to say something regarding the case, then, honestly, file something because right [now], I'm going to deal with these people. **They have enough problems. There's enough ethical problems here**. Don't add to the problems.
>
> **You have never appeared in this case**.[12]

Nonetheless, Sanson falsely conveyed to readers that Judge Elliott's assertion of "ethical problems" was about Abrams. That was a false assertion of fact.

Lest there be any doubt that these attacks pertained to Abrams, the false assertions of fact were followed by the conclusion that the judge should "sanction" Abrams and report her to the State Bar because of an "ethical problem or the law has been broken." These "opinions" about what Sanson thought should happen to Abrams confirm that the factual assertions were ***about*** Abrams.

B. The "Seal-Happy" article, stating that Abrams "sealed many of her cases" which is "specifically disallowed by law" is a provably false statement of fact.

In the Opinion, this Court concluded that the "Seal-Happy" article stating that Abrams seals cases in contravention of law was either "truthful or opinion" and therefore not actionable."

It is a false statement of fact that sealing appropriate family court proceedings and documents constitutes "obtain[ing] an . . . order that is specifically

[12] IV AA 550-551 (emphasis added).

disallowed by law" because an Order to Seal Records Pursuant to NRS 125.110(2) is specifically ***authorized*** by law.

It is not true that the "law frowns" on any attorney obtaining orders sealing divorce cases. "The law" is NRS 125.110(2) through which the Nevada Legislature determined that certain parts of those cases should be sealed upon request.[13] This Court has stated it will adhere to the legislature's public policy determinations in family law statutes.[14]

C. Though the Court determined that "acting badly" is an opinion, it was still false for the "Acting Badly" article to suggest Abrams was acting in *any* way during the referenced hearing (a different hearing than the other articles) because, as a matter of ***fact***, Abrams was not present at that hearing.

The basis for this Court's conclusion that the "Acting Badly" article was non-actionable opinion is on page 4 of its Opinion:

> The fourth article, "Lawyers acting badly in a Clark County Family Court," included a link to a similarly titled video on YouTube of a court hearing involving Abrams. Sanson stated that Abrams was "acting badly."

Critically, the article linked to a video of a July 14, 2016, hearing in the *Saiter* case. Abrams was not present at the hearing; she appears nowhere in the

[13] *See Johanson v. Eighth Judicial Dist. Court of Nev.*, 124 Nev. 245, 182 P.3d 94 (2008).

[14] *See, e.g., Mosley v. Figliuzzi*, 113 Nev. 51, 930 P.2d 1110 (1997).

video. Sanson could not have had ***any*** "opinion" about Abrams' "courtroom conduct" at the July 14, 2016, *Saiter* hearing when she was not even there.[15]

Again, when each so-called "opinion" and related hyperbole are stripped away, the false facts referenced above still remain. In order to avail himself of the anti-SLAPP protections, Sanson was obligated to show by a preponderance of the evidence that these facts were true or that he did not know them to be false. He did not and cannot do so.

D. Even if Sanson had met his first prong burden, once the factual assertions made by Sanson are laid bare, it is clear that Abrams has made her prong two *prima facie* showing to support each of her claims.

Even if Sanson could meet his first prong burden, Abrams offered sufficient evidence to meet her obligations under prong two of the anti-SLAPP analysis. In *Rosen v. Tarkanian*, 135 Nev. Adv. Op. 15 (December 12, 2019), this Court held that "each challenged claim should be reviewed independently" under prong two of the anti-SLAPP analysis. This has been described as "a summary-judgment-like procedure" where "the court does not weigh evidence or resolve conflicting factual claims." Instead, its inquiry:

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[15] Each of these false facts make it impossible for Sanson to meet this Court's recently-announced standard for prong one statements requiring that they must be "true or made without knowledge of ***any*** falsehood." *Stark v. Lackey*, 136 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 4, Feb. 27, 2020), Slip Opinion at 1 (emphasis added).

> is limited to whether the plaintiff has stated a legally sufficient claim and made a *prima facie* factual showing sufficient to sustain a favorable judgment. It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine if it defeats the plaintiff's claim as a matter of law. Claims with the requisite minimal merit may proceed.[16]

1. **There is *prima facie* evidence to support the defamation claim and the Fair Report Privilege does not apply**

The false factual assertions revealed above support the conclusion that Abrams' defamation claim meets that "minimal merit" requirement for prong two. Even if this Court deemed any of those statements to be opinions, they are based on false facts and are equally actionable.[17]

Where the defamatory communications impute a "person's lack of fitness for trade, business, or profession," or tends to injure the plaintiff in his or her business, it is defamation.[18]

No matter what opinions this Court ultimately believes were asserted by Sanson, he also asserted objectively verifiable facts that can be proven false. Thus, he cannot escape liability. The false statement that John Doe burned down his

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[16] *Baral v. Schnitt*, 376 P.3d 604, 608-609 (Cal. 2016).

[17] *Lubin v. Kunin*, 117 Nev. 107, 17 P.3d 422 (2001) (explaining "mixed type" statements and holding that, if they are ambiguous, the question of whether it is a fact or evaluative opinion is left to the jury).

[18] *Held v. Pokorny*, 583 F. Supp. 1038, 1040 (S.D.N.Y. 1984); *Yoder v. Workman*, 224 F. Supp. 2d 1077, 1081 (S.D.W. Va. 2002); *Wachs v. Winter*, 569 F. Supp. 1438, 1443 (E.D.N.Y.1983).

house is actionable defamation, even if coupled with the accuser's surmise that John did it to get insurance money and his opinion that John should go to jail.

In concluding that Sanson's statements in the "Attack" and "Acting Badly" articles were "either true or opinions," this Court relied on Sanson's use of hyperlinks to videos of those hearings and cited to law that applies to the "fair report privilege," as articulated in *Harris v. Adelson*.[19] At pages 11-12 of the Court's opinion, it considered the issue of truth and falsity in the context of selective quotation of an attached or linked video. Relying only on fair report privilege law, the Court implicitly concluded that a false message resulting from selective quotation of a larger body of facts is cured merely by including a link to the lengthy video that proves the statements are false. This is akin to an author falsely writing that John Doe had been convicted of arson, but finding no liability because he linked to a video of the trial whereby readers could determine the veracity of the reporting for themselves.

This cannot be. If a headline can be defamatory despite what the body of the related article says,[20] Sanson's misquotes can be defamatory even if he links to a video that is more than an hour long.[21]

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[19] 133 Nev. 512, 515 (2017) (emphasis added).

[20] *Kaelin v. Globe Commc'ns Corp*., 162 F.3d 1036, 1041 (9th Cir. 1998)

In considering the fair report privilege, it is critical to consider both the rule and its limits:

> [T]he '***fair, accurate, and impartial***' reporting of judicial proceedings is privileged and nonactionable . . . affirming the policy that Nevada citizens have a right to know what transpires in ***public*** and official legal proceedings.

Critically, the privilege cannot possibly apply in this case because these proceedings ***were not public.***[22] Pursuant to EDCR 5.02 (now EDCR 5.210) and NRS 125.110(2), where, as here, a request to seal is made, divorce case hearing videos are not "publicly available information."

In *Lubin v. Kunin*, this Court held that "[i]nvocation of the privilege thus requires the district court to determine whether the Parents' statements were fair, accurate, and impartial," explaining:

> After reviewing the handout in question, we observe that the Parents arguably went beyond fair, accurate, and impartial reporting of the child abuse complaint ***by presenting a one-sided view of the action***. While Sahara Gaming allows a party to report preliminary judicial proceedings from a fair and neutral stance, ***a party may***

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[21] Of course, people are far more likely to read an article accompanying a headline than they are to watch a long video.

[22] The fact that this hearing was not public makes the Court's opinion in this case contrary to its prior holding on the subject: "It [the fair report privilege] should apply to all ***public***, official actions or proceedings." *Wynn v. Smith*, 117 Nev. 6, 14 (2001) (emphasis added). This is because "[t]he fair report privilege is premised on the theory that members of the public have a manifest interest in observing and being made aware of public proceedings and actions." *Id.*

> ***not don itself with the judge's mantle, crack the gavel, and publish a verdict through its "fair report."*** [23]

Lubin followed The Restatement (Second) of Torts § 611 (1977) adopted in *Sahara Gaming*[24] that "The publication of defamatory matter concerning another in a report of an official action or proceeding or of a meeting open to the public that deals with a matter of public concern is privileged if the report is accurate and complete or a fair abridgement of the occurrence reported."

Restatement § 611 comment (f) explains:

> The rule stated in this Section requires the report to be accurate. It [must] convey[] to the persons who read it a substantially correct account of the proceedings. . . . Not only must the report be accurate, but it must be fair. Even a report that is accurate so far as it goes may be so edited and deleted as to misrepresent the proceeding and thus be misleading. Thus, although it is unnecessary that the report be exhaustive and complete, it is necessary that nothing be omitted or misplaced in such a manner as to convey an erroneous impression to those who hear or read it, as for example . . . the use of a defamatory headline in a newspaper report, qualification of which is found only in the text of the article.

The "Attack" article does not qualify as a "fair report." It failed to mention that Judge Elliott made no "finding" of undue influence or that she did not even suggest Abrams engaged in undue influence. Nor did it reveal that the "ethical

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[23] *Lubin v. Kunin*, 117 Nev. 107, 17 P.3d 422 (2001) (emphasis added).

[24] *Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212 (1999)..

problems" the judge noted had nothing to do with Abrams. Indeed, it even failed to disclose that whatever concerns Judge Elliott had with others (not Abrams) were quashed by the end of the hearing and that she expressly said that she was "making no findings" and that she was "withdraw[ing]" her comments about others misleading her. Where, as here, juxtaposition of disclosed and undisclosed facts alters the "gist and sting" of a report, it is not "fair and true."[25]

Sanson's selective quotes and omissions resulted in an unfair portrayal of the gist of the hearing to fabricate a sting against Abrams. There was no "fair" report.

2. **There is *prima facie* evidence to support the civil conspiracy claim**

Abrams' made a showing of "minimal merit" for her civil conspiracy claim. Actionable civil conspiracy arises where two or more persons undertake some concerted action with the intent "to accomplish an unlawful objective for the purpose of harming another," and damage results. A plaintiff must provide evidence of an explicit or tacit agreement between the alleged conspirators.[26]

By definition, the admitted extortion effort by Schneider and Sanson supports the civil conspiracy claim.

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[25] *Crane v. Arizona Republic*, 972 F.2d 1511, 1523 (9th Cir. 1992).

[26] *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190, 198 (2014).

Extortion is obtaining something of value from another induced by wrongful use of force or fear, and *fear* may be induced by the threat to accuse the person of a crime or impute a crime.[27] In Nevada, such extortion fits under the topic of "threats."[28] It is undisputed that the defendants in this case were engaged in extortion – they admitted it both before the campaign began,[29] and during it.[30] Their declarations below never denied it.

"Whether it is unlawful for a person to perform a particular action or engage in a particular activity often depends on whether the person has a good reason for doing it—or, at least, has no bad reason for doing it."[31]

Withdrawing a pending sanctions motion against Schneider was the "thing of value" he sought from the time of his initial threat. Schneider first threatened: "If your firm does not withdraw that motion, I will oppose it and take additional action beyond the opposition."[32]

There is ***at least*** *prima facie* evidence that Schneider and Sanson conspired to execute on Schneider's extortionist threat. After Sanson's defamatory "Attack Article," Schneider promised that if Abrams withdrew the sanction motion against

[27] See *Mendoza*, infra.
[28] *See* NRS 205.320.
[29] VII AA 1255
[30] V AA 745
[31] *Wilson v. Cable News*, 444 P.3d 706 (CA 2019).
[32] V AA 747.

him, he would "make this all go away."[33] Sanson confirmed this. After Sanson disseminated additional articles to add more pressure, Sanson admitted his actions were in furtherance of the extortion—telling Abrams' paralegal that had she simply acquiesced and withdrawn the Motion for Sanctions against Schneider, Sanson would not have "kept digging."[34]

The threats, the promise, ***and*** the online campaign, were all part of the extortion scheme, and for prong two, should be analyzed together.[35] In fact, this extortion is reason enough for this Court to revisit whether Sanson could ever meet his prong one burden because speech in furtherance of unlawful activity is never protected. [36]

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[33] V AA 745.

[34] V AA 750 – 752.

[35] California courts have long held that communications furthering extortion are never protected "free speech." *See*, *e.g.*, *Flatley v. Mauro*, 139 P.3d 2 (Cal. 2006) (threats to publicly accuse another of "unspecified violations of various laws" constitute extortion and are not covered by the anti-SLAPP statute); *Mendoza v. Hamzeh*, 215 Cal. App. 4th 799 (2013) ("the accusations need only be such as to put the intended victim in fear of being accused of some crime" and it is not consistent with the language or the purpose of the anti-SLAPP statute to protect such threats," regardless of whether the plaintiff actually committed a crime or whether the communications are extreme or egregious).

[36] *See*, *e.g.*, *Cohen v. Brown*, 173 Cal. App. 4th 302 (2009) (the *purpose* of the complaint by defendant to the Bar Association was to pressure the lawyer to write a settlement check and thus was non-protected as a communication in pursuit of extortion); *In re Discipline of Colin*, 135 Nev. ___, ___ P.3d ___ (Adv. Opn. No. 43, Sept. 19, 2019) (accusations virtually identical to those at issue here were assertions of fact, which when made against a judge "were false or made with a

This Court's most recent anti-SLAPP decisions make the point that for anti-SLAPP purposes, there is no valid distinction between "speech" intended to further the fraud of selling forgeries[37] and speech which is part of an extortion campaign intended to alter a pending court proceeding.[38] As this Court stated in *Coker*, "To hold otherwise in this case would risk opening the floodgates to an influx of motions disguising unlawful activity as protected speech." That is exactly what Sanson and Schneider have successfully (thus far) done here.

The threats, coercion, and extortion by Schneider and Sanson are alleged and evidenced throughout the record. Schneider and Sanson have ***never*** denied engaging in these acts. In fact, Sanson admitted having received payment from

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reckless disregard for their truth" and not protected in any way since they were "intended to manipulate the judicial process").

[37] *Coker v. Sassone*, 135 Nev. ___, 432 P.3d 746 (Adv. Opn. No. 2, Jan. 3, 2019).

[38] At argument, counsel did not entirely understand Justice Hardesty's question regarding causes of action; the extortion claim is in the heart of the underlying defamation case; the RICO claim was dropped on the day of the hearing, requiring the pleadings to be further amended to reflect the issues being tried. Abrams ***does not*** seek to hold Schneider liable "solely" for Sanson's statements. Rather, Schneider's actions in threatening and initiating the smear campaign for the purpose of extortion and for promising to halt it if the extortion was successful make him directly liable.

Schneider when the online smear campaign was launched,[39] and proudly announced that he does others' "dirty work so you can stay anonymous."[40]

3. **There is *prima facie* evidence to support the false light claim**

Abrams' false light cause of action meets the "minimal merit" standard because Sanson falsely attacked her ethics and reputation. Abrams has gone to great efforts to establish her reputation.[41] It is highly offensive for false statements of ethical misconduct to be made against an attorney who never had any disciplinary action initiated against her, never received a complaint with allegations of ethical misconduct, never had any opportunity to respond, was not afforded any due process and was never found to have engaged in any unethical behavior or misconduct or to have violated any rules or statutes.[42] It is even more

[39] II AA 277 - 278. Since then, neither Schnieder nor Sanson ever denied that this exchange of money occurred.

[40] II AA 314 Neither Schneider nor Sanson have denied that the smear campaign launched by Sanson against Abrams was other than a paid "hit" on her reputation and her business.

[41] After graduating at the top of her class in law school, she became an accomplished family law attorney, a Certified Family Law Specialist and a Fellow of the American Academy of Matrimonial Lawyers. She has volunteered thousands of hours to improve the practice of family law in Nevada, including teaching CLEs and serving on the Family Law Executive Council and on numerous committees for this Court improving rules and statutes. She created the Detailed Financial Disclosure Form and re-wrote NRCP 16.2. She has been regularly noted for her *pro bono* work and is currently the pro bono CAP attorney for six foster children.

[42] *See* SCR 99 *et. seq.*

offensive that Schneider and Sanson published the false statements attacking her ethics and her reputation in their illicit efforts to intimidate and coerce her to withdraw a lawful motion exposing Schneider's misbehavior.

4. **There is *prima facie* evidence to support the business disparagement claim**

Abrams' business disparagement claim also meets the "minimal merit" standard. In addition to the false statements referenced above, Sanson misinformed the public. Most people don't understand that the seal statute (NRS 125.110(2)) was enacted after the legislature determined, as a matter of public policy, that privacy interests outweigh the public right to access when it comes to certain portions of divorce proceedings.

Sanson's misinformation to the public that cases are sealed in contravention of law, that Abrams seals cases to hide her misconduct, and that "Judges and Lawyers seal cases to cover their own bad behaviors" creates a false public perception of a corrupt legal system with Abrams' name and photo at the forefront of this misinformation. Her Declaration identified economic damage.[43] That is a *prima facie* showing of business disparagement.

[43] V AA 755.

5. **There is *prima facie* evidence supporting the emotional distress claims**

Abrams' IIED and NIED claims also meet the "minimal merit" standard because the conduct of the Defendants was extreme and outrageous: Schneider threatened to take undisclosed out-of-court "action" to intimidate and compel Abrams to withdraw a lawful motion pending before the court; Schneider, in concert with Sanson, then began publishing false statements attacking Abrams' reputation, fitness as a lawyer, and her business, to further intimidate and pressure her into withdrawing her lawful pending motion.

Threats, extortion, and damage to Abrams' reputation and business meet the "extreme and outrageous" standard as "outside all possible bounds of decency" and "utterly intolerable in a civilized community"[44] is punishable as a category B felony under NRS 205.320. Whether the conduct here meets the “extreme and outrageous” standard is a question for the jury.

6. **There is *prima facie* evidence to support the harassment claim.**

The attempts to coerce Abrams to withdraw the Motion for Sanctions against Schneider were not limited to the online defamatory campaign, which was disseminated hundreds of times, multiple times per week, for months. It also

[44] *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998).

included other conduct that is statutorily defined in NRS 33.018 as "stalking and harassment" including, but not limited to: running a background check on Abrams,[45] seeking information about Abrams and her cases,[46] closely following Abrams in the courthouse on several occasions, and making references to Abrams' family members, employees, and significant other.

III. CONCLUSION

This Court misapprehended the facts and law when it concluded that all of the statements challenged by Abrams were either truthful or opinion. When the false factual allegations are considered separately from any hyperbole or opinions, it is clear that Sanson cannot meet his anti-SLAPP prong one burden and, even if he could, Abrams does meet her prong two burden.

For those reasons, Abrams Petition for Rehearing should be granted and the Court should enter a new order, reversing and remanding the District Court's grant of the anti-SLAPP motion.

DATED this 6th day of April, 2020.

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[45] I AA 16.
[46] I AA 140-141.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), the type style requirements of NRAP 32(a)(6), and the length requirements of NRAP 32(a)(7), because this brief has been prepared in a proportionally spaced typeface using Office Word 2013 in size 14 font in double-spaced Times New Roman, and is 4665 words in length. I further certify that I have read this brief and that it complies with NRAP 21(d).

Finally, I hereby certify that to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires that every assertion in this brief regarding matters in the record to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 6h day of April, 2020

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and that on this 6th day of April, 2020, I electronically filed and served by electronic mail a true and correct copies of the above and foregoing **APPELLANTS' PETITION FOR REHEARING** properly addressed to the following:

Marshall S. Willick, Esq. Willick Law Group 3591 East Bonanza Road, Suite 200 Las Vegas, Nevada 89110 (702) 438 4100 - Telephone email@willicklawgroup.com	Attorney for Appellants, JENNIFER V. ABRAMS, and THE ABRAMS & MAYO LAW FIRM
Margaret A. McLetchie, Esq. Alina M. Shell, Esq. MCLETCHIE LAW 701 E. Bridger Avenue, #520 Las Vegas, Nevada 89101 (702) 728-5300 - Telephone maggie@nvlitigation.com	Attorney for Respondent, STEVEN W. SANSON, and VETERANS IN POLITICS INTERNATIONAL, INC.
Joseph W. Houston, II, Esq. 430 S. Seventh Street Las Vegas, Nevada 89101 (702) 982-1200 - Telephone jwh7408@yahoo.com	Attorney for Respondent, LOUIS C. SCHNEIDER, and LAW OFFICES OF LOUIS C. SCHNEIDER, LLC

/s/ DeEtra Crudup

An employee of Brownstein Hyatt Farber Schreck, LLP