**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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***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 EN BANC RECONSIDERATION

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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):

Bailey Kennedy

Willick Law Group

Brownstein Hyatt Farber Schreck

DATED this 22nd day of May, 2020.

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**APPELLANTS' PETITION FOR EN BANC RECONSIDERATION**

Pursuant to NRAP Rule 40A, Appellants Jennifer V. Abrams and The Abrams & Mayo Law Firm, by and through their attorneys, Marshal S. Willick, Esq., of Willick Law Group and Mitchell J. Langberg, Esq. of Brownstein Hyatt Farber Schreck, LLP hereby submit this Petition for En Banc Reconsideration of this Court's March 5, 2020, published decision ("Decision") and order in this above-captioned matter.

DATED this 22nd day of May, 2020.

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## I. LEFT UNCORRECTED, THE PANEL'S PUBLISHED OPINION ALLOWS EXTORTIONIST THREATS TO QUALIFY FOR ANTI-SLAPP PROTECTION AND CONTRADICTS PRECEDENT ON THE FAIR REPORT PRIVILEGE

### A. Extortion

When someone uses "speech" as the tool for carrying out an extortionate scheme, can they avoid liability by relying on the anti-SLAPP statute? Reconsideration is necessary in this case because the panel's Decision allows just such an outcome.

The critical underlying facts were never disputed:

In the course of a family law proceeding, Appellant Abrams[1] filed a sanctions motion against Respondent Schneider.[2] Schneider demanded that Abrams withdraw the motion on the threat that he would "take additional action beyond the opposition."[3] Abrams did not withdraw the motion.[4]

Schneider solicited the assistance of Sanson who began a vicious online campaign falsely accusing Abrams of misconduct by misrepresenting the events of

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[1] References to parties include their respective business entities.
[2] 1 AA 6
[3] *Id.*
[4] *Id.*

a closed family law proceeding.[5] These misrepresentations included false and defamatory statements that the family court judge made "findings" that Abrams engaged in "undue influence" and had "ethical problems."[6] Sanson knew the statements were false because he had obtained (from Schneider) the lengthy (more than one hour) video transcript of the ***closed*** hearing and posted it online.[7]

Both Schneider and Sanson ***admitted*** the attacks were part of the extortion scheme. Schneider told Abrams' associate that withdrawing the sanctions motion would "make all this go away."[8] Sanson told Abrams' paralegal that if she had withdrawn the sanctions motion, he would have not "kept digging."[9] When Abrams did not relent, the attacks continued. They included the false and defamatory allegation that Abrams routinely "violated the law" because she "sealed many of her [family law] cases."[10]

Abrams filed this lawsuit to hold Schneider and Sanson responsible for their extortion conspiracy and the tortious conduct they used to make good on Schneider's threats. That Schneider and Sanson carried out their threats through

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[5] The intensity and fervor of the attacks against Abrams would be difficult to overstate. A more extensive recitation of the facts is available for review in the briefing on appeal and below.

[6] 1 AA 43-73, 127-157.

[7] 1 AA 58, 142.

[8] 5 AA 745.

[9] 5 AA 751.

[10] 1 AA 55-62, 139-146

"speech" in their ongoing efforts to get Abrams to withdraw the sanctions motion could not possibly cure their extortion.[11] Commenting on what occurs in a court proceeding would typically be "fair game" as a matter of free speech rights. But otherwise legal activity becomes improper when used as the vehicle for extortion. Nonetheless, the anti-SLAPP motions Sanson and Schneider filed were granted and affirmed on appeal.

The anti-SLAPP statute is designed to protect First Amendment rights by ferreting out meritless lawsuits targeting the exercise of those rights. Ironically the defendants successfully used the anti-SLAPP statute to immunize ***their own efforts to quash First Amendment petitioning activity*** by way of an extortion scheme. Unless this Court intended to encourage extortion as a litigation tactic, en banc reconsideration should be granted.

The panel's Decision did not address the significance of an extortion scheme to the applicability of the anti-SLAPP statute. While the panel footnoted that "underlying motive" is not relevant to anti-SLAPP analysis, extortion is illegal ***conduct***. By not considering this critical issue, the panel inadvertently

[11] Criminal extortion includes threats to "libel" or "disgrace" in order to "induce another" to "execute" a "writing" "intended to affect any cause of action or defense." NRS 205.320

contradicted seminal California and Nevada law and effectively adopted a rule that extortionate conduct can qualify for protection under Nevada's anti-SLAPP statute.

The California Supreme Court has made clear that extortion prevents a defendant from relying on the anti-SLAPP statute. Prior to the panel's Decision, this Court's evolving anti-SLAPP jurisprudence suggested that the same rule would apply in Nevada. However, the published Decision makes that unclear.

Because this Court has never addressed this important issue and because it is ripe for decision in this case, the Court should do so now. It should announce a rule consistent with that of California and in line with this Court's previously announced standards for determining what constitutes an issue of "public interest" when conducting an anti-SLAPP analysis. The rule should be clear: a defendant who executes an extortion scheme is not entitled to the protections of the anti-SLAPP statute.

### B. The Fair Report Privilege

Sanson carried out the threatened attacks by making vitriolic posts on his website and in email blasts. The panel concluded that many of his statements were opinions. However, once his opinions and hyperbole are stripped away, Sanson still made several false statements of fact (noted above), including the blatant

misrepresentation that the family court judge made "findings" that Abrams engaged in undue influence and was involved in ethical issues.

When conducting its prong one anti-SLAPP analysis (determining if the statements were true or made without knowledge of falsehood), the panel acknowledged Sanson's "selective[] quotes" from the proceedings but concluded that because Sanson included a link to the full court video (which was over one hour) in his article, those statements were "also protected." For that proposition, the panel cited to the analysis of the fair report privilege in *Adelson v. Harris*, 133 Nev. 512, 517, 402 P.3d 665, 669 (2017).

But the fair report privilege is irrelevant to the truth and falsity analysis of prong one. Actually, the privilege is a defense that presupposes that a false statement has been made, applying only when someone ***accurately*** reports false allegations ***made by another*** in the course of an official proceeding.

The panel's misapplication of the privilege results in a new rule that forgives a person's knowing and intentional defamatory statements so long as they give the reader the ability to search for and find the truth. That rule is inconsistent with this Court's prior decisions in *Lubin v. Kunin* and *Adelson v. Harris* and should be reconsidered.

### C. The Unintended Consequences of the Panel's Decision

Left uncorrected, the Decision will lead to results that cannot possibly be countenanced. A hypothetical involving judges helps illustrate the point:

Judge Doe, presiding over a case against Defendant Smith, is considering a dispositive motion filed by Smith. During the hearing, Smith tells the judge, "if you don't grant the motion, I will take action against you." Judge Doe is not intimidated. She denies the dispositive motion, allowing the case to continue. Smith makes good on his threat. Under the headline "Crooked Judges," he posts an article that falsely says, "During a hearing in the case, in open court, plaintiff offered Judge Doe a bribe to deny defendant's dispositive motion and allow the case to proceed. Judge Doe accepted the bribe and denied the motion. In my opinion Judge Doe should be disciplined and removed for unethical conduct." With his article, Smith posts a link to an old campaign contribution report and the lengthy video of the proceeding which (if viewed in its entirety) proves that Smith was lying about what happened.

Judge Doe has been defamed by Smith's knowingly false accusation that he took a bribe. Judge Doe files a lawsuit raising tort claims arising from Smith's extortionate conduct. Smith responds with an anti-SLAPP motion. On prong one,

Smith must show by a preponderance of the evidence that his statement was either true or not knowingly false.

Following the published Decision issued by the panel in this case, Smith will succeed. Though Smith's entire course of conduct was in furtherance of his extortion scheme, the panel's Decision means that Smith can still avail himself of the protections of the anti-SLAPP statute, despite clear California law to the contrary. Moreover, though he made a knowingly false concocted statement about bribery in his "Crooked Judges" article, the new rule established in the Decision would render his lie "protected" because it "allow[s] average readers to evaluate the veracity of the statements based on their source." Such an outcome is in direct contravention of the express language of NRS 41.637(4) which burdens the defendant with showing that the statements were truthful or made "without knowledge of its falsehood." It is also in direct contravention of the Restatement (Second) of Torts, § 611 recognized in *Adelson.*

This result is repugnant to the very purpose of the anti-SLAPP statute. If not corrected, people motivated to use threats to manipulate outcomes in the Nevada judicial system will find safe harbor in the protections of the anti-SLAPP statute.[12]

[12] Sanson is a "repeat offender" when it comes to such tactics. As Judge Duckworth stated in an order recusing himself from a family court matter, "Because this Court called him out on the inappropriateness of his communication

For these reasons ***and*** the additional reasons addressed below, Abrams requests that the Court grant this petition and reconsider this matter en banc.

## II. THIS COURT SHOULD GRANT EN BANC RECONSIDERATION

The Court should reconsider the published Decision because it creates precedent that is inconsistent with this Court's growing body of anti-SLAPP cases and is contrary to existing case law in both Nevada and California.

### A. A Defendant Engaged In Extortionate Conduct Should Not Enjoy The Benefits Of The Anti-SLAPP Statute

The first prong of anti-SLAPP analysis requires a defendant to demonstrate by a preponderance of the evidence that the asserted claims are based on a good faith communication in furtherance of the defendant's right to petition or the right of free speech in direct connection with an issue of public concern.

The California Supreme Court has held that extortion is not protected by the anti-SLAPP statute and a defendant who engages in extortion cannot meet its burden under the first prong of the analysis. *See Flatley v. Mauro,* 39 Cal. 4th 299, 320, 139 P.3d 2, 15 (2006). As the *Flatley* court explained, allowing someone who

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and refused to kowtow and cower to his manipulation and control, Mr. Sanson predictably let the Court know that his wrath was coming out against the Court. This type of threat to any judicial officer strikes at the very core of the integrity of the judicial process. Moreover, such threatening behavior is an attempt to manipulate and control judicial officers if they do not succumb to Mr. Sanson's desired result." 7 AA 1352.

is involved in extortion to use the anti-SLAPP statute to shift the burden of proof (on prong two) and expose the plaintiff to attorneys' fees would be "grossly unfair burdens to impose on a plaintiff who is himself the victim of the defendant's criminal activity." *Id*. at 318, 14.

That rule is consistent with the "public interest" test this Court has adopted. Under that test, for a defendant to meet the "public interest" standard, "[t]he focus of the speaker's ***conduct*** should be the public interest rather than a mere effort to gather ammunition for another round of private controversy." *Shapiro v. Welt*, 133 Nev. 35, 39, 389 P.3d 262, 268 (2017) (emphasis added). This Court applied the same principle in *Coker v. Sassone*, 135 Nev. 8, 14, 432 P.3d 746, 751 (2019). There, this Court found that because the focus of the conduct was personal and any benefit to the public interest was "merely incidental," the conduct was not related to the asserted public interest. *Id.*

The very nature of extortion is to weaponize something (the threat) to accomplish some personal gain (here, withdrawal of the sanctions motion). Because such extortion cannot possibly be focused on the public interest, the rule in Nevada should be the same as in California—a defendant who engages in extortionate conduct cannot meet its burden under the first prong of the anti-SLAPP analysis.

In this case, the evidence is uncontroverted that Schneider threatened Abrams in an effort to force her to withdraw the sanctions motion filed against him. The uncontroverted evidence also shows that both Schneider and Sanson admitted the attacks underlying this lawsuit were made in retaliation for Abrams' refusal to withdraw that sanctions motion.

Therefore, neither of them could meet their burden on prong one of the anti-SLAPP analysis to show by a preponderance of the evidence that the claim is based on a good faith communication in furtherance of the right to petition or the right of free speech in direct connect with an issue of public interest. This Court should reconsider the matter, hold that Schneider and Sanson cannot meet their first prong burden, and order their motions be denied.

### B. The Fair Report Privilege And Its Attribution Requirement Are Not Relevant To The Issue Of Truth Or Falsity And Do Not Excuse A Defendant's Own False Statements Of Fact

The Decision announces a new rule pertaining to the application of the fair report privilege which is contradicts this Court's prior authority. Reconsideration is appropriate to correct this change in course.

In considering the first prong of the anti-SLAPP analysis, this Court was required to determine whether Sanson and Schneider met their burden of showing,

by a preponderance of the evidence, that their statements were true or not knowingly false.

Part of the Decision found that many of the challenged statements were non-actionable opinions. While Abrams disagrees, in this application for reconsideration she focuses on three false factual statements: 1) that the family law judge made a "finding" of undue influence by Abrams, 2) that the family law judge accused Abrams of being involved in ethical problems, and 3) that Abrams "sealed many of her cases" which is "specifically disallowed by law."

With respect to the first two false statements of fact, the judge never made a finding of undue influence or suggested that Abrams was involved with any ethical issues. Falsely stating that a judge found an attorney to have engaged in undue influence is defamatory. And, falsely stating that a judge accused an attorney of being involved in ethical problems is also defamatory.

Page 11 of the Decision, discussing whether Sanson met the first prong burden of showing his statements were true or knowingly false, concluded that "Sanson's statements were either truthful or statements of opinion incapable of being false."

When discussing the factual representations Sanson made about what happened during the hearing, the Court determined the statements were "protected

because he includes the full court video in the same article, thereby allowing average readers to evaluate the veracity of the statements based on their source." Decision at 12. For this proposition, the Court cited *Adelson v. Harris*, 133 Nev. 512, 517, 402 P.3d 665, 669 (2017), specifically referencing the attribution rule.

*Adelson* related to the fair report privilege. The privilege provides protection to a person who fairly and accurately reports defamatory content asserted in an official proceeding. The attribution rule does ***not*** exist so the "reporter" can say something false and force the reader to review public documents to determine whether it was false. Attribution allows a reader to assume the proceeding is being truthfully reported but provides the reader the ability to see what they think about the credibility ***of the person who made the original statement*** in the official proceeding. In other words, the fair report privilege ***does not*** insulate the reporter from liability for false reporting. Rather, it insulates the reporter from liability as a republisher for what was originally said by someone else in an official proceeding. *See Wynn v. Smith,* 117 Nev. 6, 14, 16 P.3d 424, 429 (2001) ("If accurate reports of official actions were subject to defamation actions, reporters would be wrongly discouraged from publishing accounts of public proceedings").

The existing law from this Court is that the fair report privilege only applies if a report is fair, ***accurate*** and attributed to the official proceeding. *Adelson,* 133 Nev. at 515, 402 P.3d at 668; *Lubin v. Kunin*, 117 Nev. 107, 17 P.3d 422 (2001) ("a party may not don itself with the judge's mantle, crack the gavel, and publish a verdict through its "fair report."). The attribution requirement allows an interested reader to access the public record and consider the veracity of the original statement made in the proceeding. Attribution does not cure the inaccuracy of the so-called reporter's own defamatory statements. In relevant part, comment (f) to Restatement § 611[13] (the fair report privilege) explains:

> 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.

If a headline can be defamatory even when the body of the article that follows it corrects the false statements, the text of an online post can be defamatory even if it links to a lengthy recording that proves the post is a lie.

[13] This section has been adopted by this Court. *See generally*, *Sahara Gaming Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212 (1999).

But the Court did not apply the fair report privilege in a manner consistent with existing law. For the first time, this Court applied the fair report privilege as a mechanism to establish ***truth*** even when the "report" was false and not accurate. The change in law set by the Decision is that a person can ***falsely*** report what occurred in an official proceeding as long as he includes a hyperlink to the transcript or video of that proceeding. In other words, the report does not have to be fair and true if the reporter provides a link to the information that proves he is lying.

As explained above in the "Crooked Judges" example, the consequence of this rule is repugnant to the true purpose of the fair report privilege. But, of course, someone cannot falsely report that a judge accepted a bribe during a hearing and immunize themselves from liability by including a link to a video that actually proves they were lying. The privilege does not apply because such a "report" is neither fair nor true. And, in any event, the application of the privilege as a potential defense to liability has nothing to do with whether the statement was or was not true.

The same analysis applies here. Sanson falsely stated that the family court judge made a "finding" that Abrams engaged in undue influence. Sanson also falsely conveyed to readers that the judge determined Abrams was involved in

"ethical problems." The judge made no such findings or determinations. The statements were false and defamatory. That Sanson linked to the actual video proves he knew his statements were false. It does not change that he was lying or immunize him from the consequences of his lies.[14]

Reconsideration is appropriate to make clear that the fair report privilege and the attribution rule do not apply to the issue of truth or falsity. And, therefore, Sanson and Schneider cannot rely on the fair report privilege to meet their burden on prong one. Because they did not offer sufficient evidence that the factual statements were true, they failed to meet their burden on prong one and their motions should have been denied.

Moreover, the Court should clarify that the fair report privilege does not apply to proceedings that are not open to the public and does not apply when the report is neither fair nor true, even if it makes attribution to an official proceeding.

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[14] The hearing was closed to the public. The privilege should not apply when the information otherwise would not be available to the public. *Wynn v. Sm*ith, 117 Nev. at 15–16, 16 P.3d at 430 ("The privilege is an exception to the common law rule that attaches liability for libel to a party who publishes a defamatory statement. The purpose of this exception is to obviate any chilling effect on the reporting of statements ***already accessible to the public***.") (internal citation omitted)(emphasis added).

### C. Reconsideration Should Be Granted Because, On The Merits, The Extortion Scheme And The False Factual Statements Made By Sanson Are Sufficient To Meet Abrams' Prong Two Burden

The Decision's discussion of prong two implicitly incorporates the errors discussed above regarding the scheme of extortion, the application of the fair report privilege and overlooking the three provably false factual statements.

#### 1. **The civil conspiracy claim based on the extortionate scheme is supported by *prima facie* evidence**

There is at least *prima facie* evidence supporting Abrams' civil conspiracy claim. A civil conspiracy exists where two or more people undertake concerted action with the intent "to accomplish an unlawful objective for the purpose of harming another," and damage results. *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190, 198 (2014).

Here, the evidence of Schneider's threat, the resulting attacks consistent with the threat, and admissions by both Schneider and Sanson that the attacks were tied to Abrams' refusal to withdraw the sanctions motion are sufficient to support a claim for civil conspiracy based on extortion under NRS 205.320.

The California Supreme Court's decision in *Flatley* is instructive:

> Extortion has been characterized as a paradoxical crime in that it criminalizes the making of threats that, in and of themselves, may not be illegal. In many blackmail cases the threat is to do something in itself perfectly legal, but

> that threat nevertheless becomes illegal when coupled with a demand for money.

*Flatley*, 39 Cal. 4th at 326, 139 P.3d at 19–20 (internal quotations and citations omitted). ***Even if*** none of Sanson's publications were defamatory or otherwise tortious, they take on new meaning as part of the ***ongoing*** threat to harm Abrams unless she withdrew the sanctions motion. The use of "free speech" to carry out an extortionate threat does not immunize the extortionists from liability.

### 2. **The defamation claims are supported by *prima facie* evidence**

No matter what "opinions" the Court believes were asserted by Sanson, he also asserted objectively verifiable facts that can be proven false. The false statement that John Doe burned down his 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.

Sanson falsely asserted that Judge Elliott made a "finding" that Abrams was engaged in undue influence. In truth, at the beginning of the closed hearing, Judge Elliott said she "felt" there had been undue influence ***by Brandon Saiter*** (husband) during a meeting at which Abrams was not present. IV AA 548. 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." IV AA 596.

Thus, it was false to say Judge Elliott made a finding of undue influence against anyone—particularly Abrams. Yet, Sanson made the false assertion that such a finding was made in his discussion of Abrams' alleged misbehavior and adjacent to Abrams' photo.[15]

Similarly, Sanson's suggestion that Judge Elliott accused Abrams of being involved with "ethical problems" was false. During Abrams first appearance in the case, Judge Elliott said:

> [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.***

IV AA 550-551 (emphasis added). Nonetheless, Sanson falsely conveyed to readers that Judge Elliott's assertion of "ethical problems" was about Abrams.

Finally, Sanson's allegation that Abrams seals cases "in contravention of law" was a false statement of fact because an Order to Seal Records Pursuant to

[15] "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).

NRS 125.110(2) is specifically ***authorized*** by law. *See Johanson v. Eighth Judicial Dist. Court of Nev*., 124 Nev. 245, 182 P.3d 94 (2008).

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. 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. It is even more 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. 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." *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998).

### 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 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 (I AA 16), seeking information about Abrams and her cases (I AA 140-141), closely following Abrams in the courthouse on several occasions, and making references to Abrams' family members, employees, and significant other.

## III. CONCLUSION

As discussed, the published Decision in this case raises several issues of precedential proportion which diverge from prior decisions by this Court, the California courts, and the general development of anti-SLAPP jurisprudence in Nevada.

Therefore, Abrams respectfully requests that this Court reconsider the key issues surrounding the applicability of the anti-SLAPP statute to conduct that is part of an extortion scheme and the applicability and scope of the fair report privilege in the anti-SLAPP prong one analysis.

If the Court follows and/or adopts rules that are consistent with other decisions on these subjects, reconsideration should result in a determination that Sanson and Schneider did not meet their prong one burden and, therefore, their anti-SLAPP motions should be denied. At the very least, reconsideration should result in a determination that Abrams met her prong two burden and the anti-SLAPP motions should be denied.

DATED this 22nd day of May, 2020.

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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 4640 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 22nd day of May, 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 22nd day of May, 2020, I electronically filed and served by electronic mail a true and correct copies of the above and foregoing **APPELLANTS' PETITION FOR EN BANC RECONSIDERATION** properly addressed to the following:

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