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7 SUPREME COURT
8 STATE OF NEVADA

9 DAPHNE WILLIAMS,

No. 80350

10 Appellant,

11 vs.

12 CHARLES "RANDY" LAZER,

13 Respondent.
14

15 **RESPONDENT'S ANSWERING BRIEF**

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1 **NRAP 26.1 DISCLOSURE STATEMENT**

2 Counsel for plaintiff/respondent certifies that the following are persons and
3 entities as described in NRAP 26.1(a), and must be disclosed. These
4 representations are made in order that the judges of this court may evaluate
5 possible disqualification or recusal.
6

7 1. Respondent Charles “Randy” Lazer is an individual, and thus there is no
8 parent corporation or publicly held company that owns 10% or more of her stock.
9

10 2. Bohn & Trippiedi represented Respondent in the district court and
11 continues to represent Respondents on appeal.
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I. INTRODUCTION

Four Nevada judges - consisting of District Court Judge Joe Hardy, as well as the entire Nevada Court of Appeals - have now unanimously ruled that Appellant Daphne Williams has failed to prove she made her alleged defamatory statements in good faith - meaning the statements were truthful or made without knowledge of their falsehood - as required under NRS 41.637. Judge Hardy made this same finding twice, denying Appellant's Anti-SLAPP special motion to dismiss and then denying Appellant's renewed Anti-SLAPP motion on the same grounds. The Court of Appeals reviewed Judge Hardy's decisions de novo - from scratch - and came to the same conclusion. None of these decisions have been close calls. Appellant now takes her fourth bite at the same apple after failing at two motions to dismiss and an appeal. Respondent requests this Court make the same rulings as its judicial predecessors and deny Appellant's Petition for Review.

Appellant's Petition for Review focuses almost exclusively on the issues of racism and sexism, casting this matter as a racial struggle between Appellant and Respondent. However, Appellant misses the mark. As all of the previous rulings have concluded, Appellant cannot show she made her statements in good faith. Even without the claims of racism and sexism upon which Appellant focuses, the

1 Court of Appeals still had an ample record of Appellant's false statements upon
2 which to find Appellant failed to meet her burden to show she made her statements
3 in good faith. The first several pages of the Court of Appeals' Order of Affirmance
4 goes over the surprisingly dense thicket of facts undergirding this case and comes to
5 the conclusion that Appellant did not meet her burden.
6
7

8
9 Finally, even if Appellant did meet her burden to show her NRED statement
10 of fact was a good faith communication, Respondent has met his burden under NRS
11 41.660(3)(b) to make a prima facie showing that he has a probability of success on
12 the merits. Appellant made numerous false, defamatory statements in her NRED
13 complaint, as is clear from the record of this case. And the absolute litigation
14 privilege does not apply to the anti-SLAPP analysis.
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18 In the alternative, if the privilege does apply here, it still does not justify
19 overturning the Court of Appeals' Order of Affirmance because the privilege only
20 applies to the second prong of anti-SLAPP analysis. Appellant has failed to meet
21 her burden on the first prong, so the absolute privilege is inapplicable here.
22
23

24 **II. ARGUMENT**

25 26 **1. Legal Standard for an Anti-SLAPP Motion.**

27 Appellant's Anti-SLAPP Motion to Dismiss is a specific type of statutory
28

1 motion brought under NRS 41.635 et seq. Appellant alleges her NRED Statement
2 of Fact cannot be the source of a defamation complaint because it is protected under
3 the anti-SLAPP statute. However, Appellant cannot meet her burden to show she is
4 entitled to statutory anti-SLAPP protections.
5

6
7 NRS 41.660(3) sets out the standards the district court shall evaluate in
8 determining whether to grant an anti-SLAPP motion:
9

10 3. If a special motion to dismiss is filed pursuant to subsection 2, the
11 court shall:

12 (a) Determine whether the moving party has established, by a
13 preponderance of the evidence, that the claim is based upon
14 a good faith communication in furtherance of the right to
petition or the right to free speech in direct connection with
an issue of public concern;

15 (b) If the court determines that the moving party has met the
16 burden pursuant to paragraph (a), determine whether the
17 Respondent has demonstrated with prima facie evidence a
probability of prevailing on the claim;

18 ...

19 (d) Consider such evidence, written or oral, by witnesses or
20 affidavits, as may be material in making a determination
pursuant to paragraphs (a) and (b)....

21 Thus, an anti-SLAPP motion requires, in part, a two step analysis: First, to
22 determine whether the movant has established by a preponderance of the evidence
23 that the claim is based on a good faith communication in furtherance of the right to
24 petition or the right to free speech in direct connection with an issue of public
25 concern. Second, if the movant meets her burden, the next step is for the court to
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1 determine whether the nonmovant has demonstrated with prima facie evidence a
2 probability of prevailing on his claim.
3

4 Importantly, NRS 41.637 states that a “good faith communication” is one that
5 is “truthful” or “made without knowledge of its falsehood.” The burden is on the
6 moving party, here, Appellant, to prove “by a preponderance of the evidence that
7 her claim is based upon a good faith communication in furtherance of the right to
8 petition or the right to free speech in direct connection with an issue of public
9 concern.” NRS 41.660(3)(a). Appellant cannot meet this burden because she knew
10 her statements were false when she made them. And even if Appellant can meet
11 that burden, Respondent meets his burden under NRS 41.660(3)(b) to make a prima
12 facie showing that he has a probability of prevailing on his claim.
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18 **2. The Court of Appeals Properly Found Appellant Failed to Meet Her**
19 **Burden to Show She Made Her Statements in Good Faith.**

20 Appellant cannot meet the requirements for anti-SLAPP relief against
21 Respondent because Appellant’s submission to the Nevada Real Estate Commission
22 (“NRED”) was not made in good faith. As the district court twice ruled, and as the
23 Court of Appeals affirmed, there is insufficient proof Appellant made her NRED
24 Statement of Fact (“**complaint**”) in good faith because Appellant was aware that her
25 statements to NRED were false when she made those statements.
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1 Appellant makes various attacks against the Order of Affirmance, but all fail.
2
3 First, as to the claim regarding Respondent's contact with the appraiser: The Court
4 of Appeals cited to NRS 645C.557(3), which explicitly allows a person with an
5 interest in a real estate transaction to make certain requests of an appraisal. This is
6 not some internal ethical rule for real estate agents; it is a statute. Appellant cannot
7 claim ignorance of the law as a defense.¹ Appellant is presumed to know the law.
8
9 Additionally, the Court of Appeals ruled Appellant did not make a sufficient
10 showing of proof of her conversation with NRED. And the Court of Appeals cites
11 to NRED's closing of the case without disciplining Respondent as proof that
12 Respondent was entitled to speak with the appraiser. Finally, Appellant never
13 raised the issue of Respondent's alleged improper contact with the appraiser prior to
14 filing her NRED complaint, so this was not a vital issue for Appellant during the
15 transaction itself, and Appellant went forward with the transaction through to
16 closing. If Appellant truthfully believed Respondent's contact with the appraiser
17 was unethical, it seems likely Appellant would have raised this issue during the
18 transaction. The fact that she did not do so shows this was not a legitimate concern
19 for Appellant. Certainly, the Court of Appeals was within reason to find, on these
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28 ¹Or, in the Latin translation, "ignorantia juris non excusat."

1 bases, that Appellant failed to meet her burden to show her statements regarding
2 Respondent's contact with the appraiser were truthful or were made without
3 knowledge of their falsehood.
4

5 Appellant also claimed in her NRED complaint that Respondent failed to
6 provide Appellant with "a receipt for Appellant's earnest money." However, at
7 page 8, footnote 5 of the Order of Affirmance the Court of Appeals stated
8 Appellant, in her appeal briefs, did "not address her claim that Lazer was ethically
9 obligated to provide a receipt." Appellant argues that the Court of Appeals is
10 "wrong" because Appellant did not raise this as an issue of ethics in her NRED
11 complaint; Appellant simply stated Respondent failed to provide her with a receipt.
12 However, in the context of the NRED complaint, this statement regarding the
13 earnest money receipt was in the middle of a long string of accusations from
14 Appellant that Respondent was unethical and a liar. Thus, the Court of Appeals
15 placed this statement in context and found Appellant failed to show good faith as to
16 this allegation as well.
17

18 At page 5, Appellant cites to Stark v. Lackey for the proposition that "an
19 affidavit stating that the defendant believed the communications to be truthful or
20 made them without knowledge of their falsehood is sufficient to meet the
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1 defendant's burden absent contradictory evidence in the record." 136 Nev. 38, 43,
2 458 P.3d 342, 347 (2020). However, in the instant matter, there is ample
3
4 "contradictory evidence in the record," including the declarations of Respondent
5
6 and the nonparty seller of the real property, as well as various items of documentary
7 evidence and communications disputing Appellant's declarations.
8

9 At page 5, Appellant also cites to Abrams v. Sanson, 458 P.3d 1062, 1068-9
10 (2020) for the proposition that "statements of opinion can never be made with
11 knowledge of falsity for purposes of 'good faith' analysis...." However, the Court
12 of Appeals analyzed Appellant's statements and determined they were not
13 statements of opinion but statements of fact, so Appellant's citation to Abrams for
14 this proposition is improper. Additionally, as noted in greater detail below, the
15 Court of Appeals was well within its bailiwick to analyze whether Appellant's
16 statements were of opinion or of fact.
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21 At page 8 of her Petition, Appellant misstates a portion of the district court
22 proceedings, First, Appellant claims Respondent "never rebutted" Appellant's
23 declarations. However, this is completely false. Respondent produced not only his
24 own declaration to rebut Appellant's declaration, but Respondent also produced the
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26 declaration of the seller of the property in question, who is not a party to this case,
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28

1 and not beholden to either party, and who directly contradicted Appellant's
2 statements.² The seller's declaration is proof Appellant lied in her NRED
3 complaint, and thus that Appellant did not bring her NRED complaint in good
4 faith.³

5
6
7 In the middle of page 8, Appellant reaches her main issue with the Court of
8 Appeals's decision: the racism and sexism issue. In making these arguments,
9 Appellant conflates two separate issues: (1) Appellant's argument that perceptions
10 of racism and sexism are opinions and thus not subject to defamation laws versus
11 (2) the Court of Appeals ruling that Appellant's NRED complaint references racist
12 emails and text messages which Appellant never produced. Indeed, at page 9 of its
13 Order, the Court of Appeals states, "[t]here is no evidence in this limited record to
14 indicate that Lazer made any remarks about Williams's race or gender."⁴ The Court
15 of Appeals then continues that Appellant "does not provide adequate evidence of
16 these racist and sexist emails or texts, and there is evidence to the contrary."
17
18 Tellingly, in her declaration to her anti-SLAPP motion in the district court,

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25 ²Appellant also makes this same false claim at page 4, footnote 1 of her Petition.

26 ³Beginning at page 29 below, Respondent catalogues various other false statements in
27 Appellant's NRED complaint which show she did not bring her NRED complaint in good faith.

28 ⁴At footnote 6, the Court of Appeals clarifies that Appellant did allege one oral statement,
which does not mention Appellant's race or gender.

1 Appellant does not mention a belief that she possessed racist or sexist texts or
2 emails from Respondent, so she never rehabilitated this falsehood in the district
3 court proceedings. (I-AA 91-5; I-AA 223-5; II-AA 268-75) Thus, the Court of
4 Appeals concludes, the district court was correct in ruling it could not find
5 Appellant made her NRED complaint in good faith.
6
7

8
9 The distinction is that the Court of Appeals is not just basing its ruling on a
10 finding that Respondent was not racist or sexist. It is basing its ruling on the fact
11 that Appellant claimed Respondent sent her racists and sexist emails and text
12 messages, but Appellant has not produced any such written communication, either
13 in her NRED case or in the instant matter. Thus, her allegation that such emails and
14 texts exist was not truthful.
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18 In attempting to refute the Court of Appeals on this point, Appellant states at
19 page 9 of her Petition that Respondent sent an email to Appellant's loan officer,
20 which Appellant claims could be construed as racist. However, Appellant never
21 produced this email to NRED to support her claims that Respondent is racist and
22 sexist. Additionally, Appellant never referenced this email in any of her
23 declarations from the district court proceedings as proof of Respondent's alleged
24 racist and sexist writings. And, in fact, this email was sent only to Mr. Jolly. (II-
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1 AA 382-3) Nothing in the record indicates Appellant knew of or had ever seen this
2 email prior to submitting her NRED complaint, so any implication that Appellant
3 relied on this email is unsupported by the record of this case. Appellant had already
4 sent her text to Respondent accusing him of racism well before Respondent sent the
5 email to Mr. Jolly. (I-AA 51) Accordingly, the email Respondent sent to
6 Appellant's loan officer is completely irrelevant to the Court's inquiry in this
7 matter.
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11
12 To the extent this Court finds Respondent's email to Mr. Jolly relevant, the
13 Appellant's attorneys at page 9 of their Petition - that Respondent is a "shockingly
14 racist" white man - Respondent vehemently denies these accusations. As stated in
15 paragraph 19 of Respondent's declaration attached to both of his district court
16 oppositions, Respondent has dedicated many hours of his life to the cause of
17 equality for all races, sexes, and religions, a passion sparked by his family history
18 which includes family members who were killed in the Holocaust due to their
19 religion. Further, as Respondent stated in the email in question (AA 382),
20 Respondent spent years of his life heading a community service project to deliver
21 food and clothing to low income Black families outside of Detroit, along with
22 speaking to raise funds benefitting Black children. As he was when Appellant
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1 originally accused him of being racist and a sexist, Respondent is deeply hurt by
2 these renewed allegations contained in Appellant's Petition.
3

4 **3. The Court of Appeals Properly Determined Appellant's NRED**
5 **Complaint was a Statement of Fact, not Opinion.**

6 Appellant, at pages 10 through 19 of her Petition, continues this barrage of
7 attacks against the Court of Appeals' ruling as to the "racism and sexism" issues.
8
9 This entire ten page section of Appellant's Petition is aimed at the following six
10 sentences from the Court of Appeals' decision:
11

12 Although Williams could possibly have perceived Lazer's alleged
13 comment at the condominium as racist and sexist, her accusation as it is
14 presented on appeal appears to be made as a statement of fact, not
15 opinion. Indeed, the NRED complaint is titled as a "Statement of Fact,"
16 so there is no basis for opinion when filing such a complaint with the
17 NRED. Filing a Statement of Fact with the NRED unsurprisingly
18 necessitates making a communication as a statement of fact. Although it
19 is not implausible that a person could file an invalid complaint based only
20 on speculative exaggerations, this is not the case here. In her sworn
21 declaration attached to her anti-SLAPP motion to dismiss, Williams states
22 "Never at any time have I doubted the truth of the statements I made
23 At this time, even upon review, I have no doubt as to the veracity of the
24 statements I made[.]" which implies that she believed her statements to be
25 objectively true. Also, her NRED complaint appears to have been meant
26 to have Lazer viewed in contempt by the NRED, which is a statement of
27 fact per Pegasus.

28 [Internal citations omitted.] If this small section of the Court of Appeals 11 page
Order of Affirmance is completely removed, the result would not change. This
section only discusses the claims of racism and sexism. The preceding sections of
the Order of Affirmance, as stated above, discuss Appellant's allegations in her
NRED complaint that Respondent was unethical, that he lied, and that he withheld

1 documentation from Appellant. Those claims - which are undisputed statements of
2 fact - were the focus of Respondent's arguments before the Court of Appeals. Thus,
3
4 even assessing only the pure factual claims, and ignoring the Court of Appeals's
5
6 discussion of the allegations of racism and sexism, this Court must uphold the Court
7 of Appeals's Order of Affirmance.

8
9 In addition, the issue of whether a statement is fact or opinion is a question of
10 law for the court to decide. And the Court of Appeals, in a de novo opinion,
11
12 determined that Appellant's allegations that Respondent acted in a sexist and racist
13 manner, coupled with Appellant's claims that she had emails and texts to support
14
15 those allegations, were statements of fact.

16
17 The Court of Appeals states at page 9 of its Order of Affirmance that
18 "Williams's claim that the statements in her NRED complaint were mere opinions is
19 unpersuasive." In support of this section of its opinion, the Court of Appeals cites
20
21 to Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 57 P.3d 82 (2002).

22
23 In Pegasus, the plaintiffs, owners of a restaurant, sued a newspaper because
24 the newspaper published a negative review of the plaintiffs' restaurant. The
25
26 plaintiffs alleged that there were statements of fact contained in the restaurant
27 review, while the newspaper countered that the review was a statement of opinion.
28

1 In resolving this dispute, the Court had to decide whether the restaurant review was
2 a statement of fact or a statement of opinion. The relevant portion of the Court's
3 ruling is as follows:
4

5
6 In determining whether a statement is actionable for the purposes of a
7 defamation suit, the court must ask "whether a reasonable person would
8 be likely to understand the remark as an expression of the source's opinion
or as a statement of existing fact." ... However, **this court has also stated
that comments must be considered in context.**

9 Id. at 715, 88 [Emphasis added]. Thus, in the instant matter, the Court of Appeals
10 was correct to perform an analysis of Appellant's NRED complaint and determine to
11 what extent it was a statement of fact versus a statement of opinion.
12

13 The Court of Appeals was also correct in how it performed its analysis. At
14 page 16 of her Petition, Appellant argues, "there is no explanation in the Order as to
15 why Williams's motivations are relevant to the prong one inquiry. A defendant's
16 motivations are completely unrelated to whether a statement is made in 'good faith'
17 under NRS 41.637." Further, at pages 11-12, Appellant argues the Court of Appeals
18 was wrong to consider that the NRED complaint form is entitled, "Statement of
19 Fact." However, Appellant's absolutism regarding analysis of the good faith
20 requirement is at odds with this Court's precedent. As stated in Pegasus, the Court
21 must review the statement "in context" to determine if it is a statement of fact or a
22 statement of opinion. Id. Thus, it was correct for the Court of Appeals to examine
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1 the context and surrounding circumstances in which Appellant made the statements
2 contained in her NRED complaint. As noted by the Court of Appeals at page 9,
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4 footnote 7, that context included the fact that Respondent had recently threatened to
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6 sue Appellant, which shows Appellant did not make her statements in good faith but
7
8 as a form of retaliation or a preemptive strike to intimidate Respondent into
9
10 refraining from filing suit. That context also included the fact that the NRED
11
12 complaint is entitled “STATEMENT OF FACT”.⁵

13 Pegasus was not the first Nevada case to find that context matters in
14
15 determining whether a statement is one of fact or opinion for defamation purposes.
16
17 In Nevada Indep. Broad. Corp. v. Allen, 99 Nev. 404, 412, 664 P.2d 337, 343
18
19 (1983), which Pegasus cites to, this Court found held that “[e]ven if we were to
20
21 assume that some of the foregoing remarks were not actionable, it nonetheless is
22
23 reasonable to consider all the comments in context.” Thus, this Court has been
24
25 weighing the context of potentially defamatory statements, in determining whether a
26
27 statement is fact or opinion, since at least 1983.

28 California has a robust body of law on the “context” issue. In Overhill Farms,

⁵Contrast an NRED “Statement of Fact” with Pegasus, where this Court found a review of a restaurant was a statement of opinion. The contrast between a document entitled Statement of Fact, versus an opinion article about the quality of a meal at a restaurant, demonstrates, in part, why the Court of Appeals was correct to find that Appellant’s “Statement of Fact” was not an opinion.

1 Inc. v. Lopez 190 Cal.App.4th 1248, 119 Cal.Rpt.r3d 127 (2010), an employer,
2 Overhill Farms, Inc. (“**Overhill**”) brought an action against its former employees for
3 defamation, among other claims. Overhill had recently terminated the former
4 employees based on a claim that the former employees did not have valid Social
5 Security numbers and/or failed to explain a discrepancy with their Social Security
6 numbers. Id. at 1255, 135. The former employees then protested in public places
7 and distributed literature which stated, in relevant part, that Overhill had used the
8 Social Security number issue as a pretext for terminating the employees, but that the
9 terminations were actually based on racist and ageist motives. Id. at 1255-6, 134-5.
10 In return, Overhill filed suit against the former employees, including for defamation.
11 Id. at 1256, 135. The former employees filed an anti-SLAPP motion, which the
12 district court denied as to Overhill’s defamation claim. Id. at 1256, 136.

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20 On appeal, the California Court of Appeals affirmed because the literature
21 distributed by the former employees stated that the firings were based on race. Id. at
22 1261-2, 139-40. Thus, there were factual assertions and implications accompanying
23 the claims of racism which transformed the claims of racism into statements of fact.

24
25
26 As the court therein stated:

27
28 In determining whether a statement declares or implies a provably false
assertion of fact, courts apply the totality of the circumstances test.

1 “Under the totality of the circumstances test, ‘[f]irst, the language of the
2 statement is examined. For words to be defamatory, they must be
3 understood in a defamatory sense.... Next, the context in which the
4 statement was made must be considered.’” [Court considers the totality
5 of the circumstances “[t]o ascertain whether the statements in question
6 are provably false factual assertions”].) Whether a challenged statement
7 “declares or implies a provable false assertion of fact is a question of law
8 for the court to decide, unless the statement is susceptible of both an
9 innocent and a libelous meaning, in which case the jury must decide how
10 the statement was understood.”

11 Id. at 1261, 139 [Internal citations omitted]. Accordingly, it is not simply a matter
12 of, as Appellant argues, pointing to the words racist and sexist and ending the
13 inquiry. Courts review the totality of the circumstances to determine if a statement
14 is one of fact or opinion, as the Court of Appeals did here when it found that the
15 circumstances and assertions in Appellant’s NRED complaint were such that
16 Appellant’s claims of racism and sexism were transformed into statements of fact.⁶

17 The United States Supreme Court came to this same conclusion 30 years ago
18 in Milkovich v. Lorain Journal Co., 497 U.S. 1, 18, 110 S. Ct. 2695, 2705-6, 111 L.
19 Ed. 2d 1 (1990), where it stated in pertinent part as follows:

20
21 Thus, we do not think this passage from Gertz was intended to create a
22 wholesale defamation exemption for anything that might be labeled
23 “opinion.” ... Not only would such an interpretation be contrary to the
24 tenor and context of the passage, but it would also ignore the fact that
25 **expressions of “opinion” may often imply an assertion of objective
26 fact.**

27 ⁶See also Hawran v. Hixson, 209 Cal. App. 4th 256, 289, 147 Cal. Rptr. 3d 88, 116 (2012)
28 (“We apply a ‘totality of the circumstances’ test to determine both whether (a) a statement is fact or
opinion, and (b) a statement declares or implies a provably false factual assertion; that is, courts look
to the words of the statement itself and the context in which the statement was made.”); Franklin v.
Dynamic Details, Inc., 116 Cal. App. 4th 375, 10 Cal. Rptr. 3d 429, (2004); McGarry v. Univ. of San
Diego, 154 Cal. App. 4th 97, 112, 64 Cal. Rptr. 3d 467, 479 (2007); Ruiz v. Harbor View
Community Assn., 134 Cal.App.4th 1456, 37 Cal.Rptr.3d 133 (2005).

1 If a speaker says, “In my opinion John Jones is a liar,” he implies a
2 knowledge of facts which lead to the conclusion that Jones told an
3 untruth. **Even if the speaker states the facts upon which he bases his
4 opinion, if those facts are either incorrect or incomplete, or if his
5 assessment of them is erroneous, the statement may still imply a false
6 assertion of fact.** Simply couching such statements in terms of opinion
7 does not dispel these implications; and the statement, “In my opinion
8 Jones is a liar,” can cause as much damage to reputation as the statement,
9 “Jones is a liar.” As Judge Friendly aptly stated: “[It] would be destructive
10 of the law of libel if a writer could escape liability for accusations of
11 [defamatory conduct] simply by using, explicitly or implicitly, the words
12 ‘I think.’” It is worthy of note that at common law, even the privilege of
13 fair comment did not extend to “a false statement of fact, whether it was
14 expressly stated or implied from an expression of opinion.”

15 [Emphasis added] [Internal citations omitted]. Thus, the Nevada Court of Appeals’
16 analysis of the “racist and sexist” allegations in Appellant’s NRED complaint is not
17 some new, worrisome trend in the law which will dull free speech. The idea of
18 evaluating a purported opinion statement to determine if it may imply factual
19 assertions is a long-standing concept found in the jurisprudence of the United States
20 Supreme Court (Milkovich), the Nevada Supreme Court (Pegasus), and the
21 California Supreme Court (Overhill Farms), as well as the common law.

22 **4. The Court of Appeals Correctly Decided the Absolute Privilege Does Not
23 Apply Here.**

24 **i. The absolute litigation privilege has no application in the anti-
25 SLAPP context.**

26 As argued in Respondent’s Answering Brief before the Court of Appeals, the
27 absolute litigation privilege does not intersect with Nevada’s statutory anti-SLAPP
28 framework. The Court of Appeals agreed, stating at page 1, footnote 9, as follows:

[T]he absolute litigation privilege is a separate doctrine from the
anti-SLAPP statute. While there is no conclusive authority on the

1 matter, the Nevada Supreme Court has traditionally treated the
2 absolute litigation privilege separately from a special motion to
3 dismiss under Nevada's anti-SLAPP statutes. See, e.g., Patin v. Ton
4 Vinh Lee, 134 Nev. 722, 726-27, 429 P.3d 1248, 1251 (2018)
5 (recognizing that the litigation privilege and anti-SLAPP statutes are
separate areas of law, even though they "serve similar policy interests");
Shapiro, 133 Nev. at 40-41, 389 P.3d at 268-69 (treating claims under
the absolute litigation privilege separate from a denial of an anti-SLAPP
motion to dismiss).

6 [Emphasis added]. Thus, Appellant's arguments concerning the litigation privilege
7
8 are a nonstarter. As this Court stated in Patin, "[a]lthough Patin argues that the
9 statement is protected by the fair report privilege, she has not cited any authority for
10
11 the proposition that an affirmative defense such as the fair report privilege can be
12 asserted within the confines of an anti-SLAPP motion to dismiss... nor is that
13 argument self-evident...." 134 Nev. 722, 727, 429 P.3d 1248, 1252 (2018). See
14 also Shapiro v. Welt, where this Court analyzed the district court's granting of an
15 anti-SLAPP motion separately from its analysis of the absolute litigation privilege.
16
17 133 Nev. 35, 40-1, 389 P.3d 262, 268-9. As with the fair report privilege, the
18
19 litigation privilege is an affirmative defense which is separate and apart from the
20
21 anti-SLAPP statute and cannot be used by a movant to succeed on an anti-SLAPP
22
23 motion.

24
25 **ii. Even if the absolute privilege applies in the anti-SLAPP context,**
26 **it only applies to the second prong, and thus Appellant, who has**
27 **not satisfied the first prong, cannot employ the privilege.**

28 Alternatively, if this Court is inclined to consider the absolute litigation

1 privilege, that privilege only applies to the second step of the NRS 41.637 analysis.

2 That is, the absolute privilege does not come into play until Appellant proves that
3
4 she made her statements to NRED in good faith, which she has not proven to date.

5
6 At page 20 of her Petition, Appellant cites to Feldman v. 1100 Park Lane Associates

7 160 Cal.App.4th 1467, 1485 (2008), for the proposition that “[t]he litigation

8
9 privilege is ‘relevant to the second step in the anti-SLAPP analysis in that it may

10 present a substantive defense a plaintiff must overcome to demonstrate a

11
12 probability of prevailing.’” (quoting Flatley v. Mauro, 38 Cal. 4th 2990). Thus, the

13
14 absolute privilege is arguably relevant to the second step, and not the first step, in

15 the anti-SLAPP analysis. Because Appellant has not made the first step good faith

16
17 communication showing, the absolute privilege does not come into play.

18 As this Court is aware, there are two steps to the anti-SLAPP analysis:

19
20 1. Appellant must make a showing that her communication was made in

21 good faith - that is, her communication was truthful or made without

22
23 knowledge of its falsehood.

24
25 2. If Appellant makes her good faith showing, the burden shifts to

26 Respondent to make a prima facie showing that he has a probability of

27
28 success on his claims.

1 NRS 41.660(3).

2 To date, Judge Hardy and the Nevada Court of Appeals have ruled that
3
4 Appellant has failed to make a showing that her communication - her NRED
5
6 complaint - was made in good faith. Assuming this Court comes to the same
7
8 conclusion, then it need not even analyze the absolute privilege because the absolute
9
10 privilege only comes into play upon Appellant's satisfaction of the first step. The
11
12 litigation privilege does not allow Appellant to bypass her burden to show she made
13
14 her NRED complaint in good faith.

15 As Appellant has not made her initial good faith showing, the absolute
16
17 privilege is a non-factor in this appeal.

18 To the extent this Court desires additional analysis of the absolute privilege,
19
20 Respondent points this Court to pages 46 through 55 of Respondent's Answering
21
22 Brief before the Court of Appeals, where Respondent argues, inter alia, that
23
24 submitting an NRED complaint which is closed without hearing is not a "quasi-
25
26 judicial proceeding"; that this case is not analogous to the facts in Lewis v. Benson
27
28 because the role of a police officer is not akin to that of a real estate salesperson;
there is no evidence a judicial proceeding was under serious consideration here; and
Nevada does not have as broad a reading of the privilege as do the California courts,

1 and Nevada does not have the same statutory privilege as does California, so the
2 privilege does not apply to an NRED complaint.
3

4 **5. Response to ACLU's Amicus Brief.**
5

6 On January 4, 2021, the American Civil Liberties Union and the American
7 Civil Liberties Union of Nevada (collectively, "ACLU") filed an amicus curiae
8 brief. This Court has requested Respondent answer ACLU's brief.
9

10 ACLU's entire brief focuses solely on the free speech issue and argues the
11 Court of Appeals erred when it ruled Appellant's statements in her NRED complaint
12 were factual. As noted above, in keeping with Pegasus and Overhill Farms, as well
13 as numerous other precedent, the Court of Appeals conducted an analysis of
14 Appellant's NRED complaint and determined that, in context, and considering the
15 totality of the circumstances, Appellant's statements in the complaint were
16 statements of fact.
17

18 Further, ACLU gives an incorrect recitation of the facts and record in this
19 case. At page 2, ACLU claims "Lazer does not dispute that he uttered the offending
20 remarks," those remarks being:
21

22 "Daphne, I think you are going to be successful. When you become
23 successful and you want to buy a bigger house and if your brother is
24 retired by then, I'd be glad to be your realtor."
25

26 However, Respondent has maintained since 2017 that he did not make this
27
28

1 statement. As Respondent stated in his response to Appellant's NRED Statement of
2 Fact back on August 31, 2017, Respondent did not tell Appellant she was "going to
3 be successful;" Respondent told Appellant that she already "was successful." (II-
4 AA 316) Respondent continued on, telling Appellant "when you want to buy a
5 bigger home and if your brother is retired by then, I'd be glad to be your realtor."
6
7 Id. Respondent disputed the statement in question in 2017, he disputed it before the
8 district court, and he disputed it at page 24 of his Answering Brief before the Court
9 of Appeals. ACLU is incorrect.⁷

13 ACLU also makes a misstatement at page 8 of its brief, where it states
14 Pegasus was "[t]he only case cited by the Court of Appeals...." This is false because
15 the Court of Appeals also cites to Stark v. Lackey, 136 Nev. 38, 458 P.3d 342
16 (2020); Coker v. Sassone, 135 Nev. 8, 432 P.3d 746 (2019); Shapiro v. Welt, 133
17 Nev. 35, 389 P.3d 262, (2017); Abrams v. Sanson, 136 Nev. 83, 89, 458 P.3d 1062,
18 1068 (2020); Rosen v. Tarkanian, 135 Nev. 436, 453 P.3d 1220, (2019); Jacobs v.
19 Adelson, 130 Nev. 408, 325 P.3d 1282 (2014); and Patin v. Ton Vinh Lee, 134 Nev.
20 722, 429 P.3d 1248 (2018).

26 ⁷Additionally, Respondent clarifies that the reason he mentioned Appellant's brother was
27 because Appellant mentioned that her brother was a realtor, and thus when Appellant's brother
28 retires as a realtor, Respondent would be happy to act as Appellant's realtor. This portion of the
conversation had nothing to do with the gender of Appellant or her brother, but rather Appellant's
brother's status as a licensed realtor.

1 Further, at page 9, ACLU argues that “an evaluative statement of opinion,
2 such as the statement that someone else is a bad person, [does not] become a
3 potentially defamatory statement of fact because it happens to appear in a formal
4 complaint under the heading ‘Statement of Fact.’” However, Appellant’s
5 defamatory statements did not “just happen to appear” in a Statement of Fact by
6 mere chance or happenstance. Appellant decided to submit the NRED Statement of
7 Fact and include defamatory statements therein, despite having knowledge of the
8 title of the document within which she was making those statements. Appellant is
9 responsible for that decision and its consequences. In the same passage on page 9,
10 ACLU further argues that “just as labeling a statement as ‘opinion’ does not
11 automatically make it opinion, labeling it as ‘fact’ does not make it fact.” However,
12 the title of the NRED complaint form is just one of several factorss the Court of
13 Appeals cited to in coming to its conclusion that, in the context of the entirety of the
14 facts and circumstances, the statements in Appellant’s NRED complaint were
15 statements of opinions. Indeed, ACLU even cites to Rose v. Hollinger Int’l, Inc.,
16 889 N.E.2d 644, 648 (Ill. App. Ct. 2008), and notes that courts must “consider the
17 context in which statement appears in determining whether it is fact or opinion....”
18 Indeed, in Rose, the court stated that “[a] false assertion of fact can be libelous even
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1 though couched in terms of an opinion.” Id.

2
3 **6. Response to FALA’s amicus brief.**

4 On January 4, 2021, the First Amendment Lawyers Association (“FALA”)
5
6 filed an amicus curiae brief. This Court has requested Respondent answer FALA’s
7 brief.

8
9 In a similar vein to ACLU, FALA’s brief focuses entirely on the racism and
10 sexism allegations. Thus, the common thread among all three briefs supporting
11 Appellant’s position is their laser focus on the claims of racism and sexism, at the
12 expense of Respondent’s allegations regarding Appellant’s numerous other false,
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defamatory statements. Again, even without the racism and sexism claims,
Appellant’s Petition fails on the remainder of the claims, which Appellant does not
dispute are factual allegations. However, Petitioner will address FALA’s arguments
regarding the sexism and racism issues.

21 Interestingly, FALA cites to Stevens v. Tillman, 855 F.2d 394, 409 (7th Cir.
22
23 1988), where the court stated that a claim of racism is “not actionable unless it
24 implies the existence of undisclosed, defamatory facts.” Here, that is exactly what
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happened: Appellant called Respondent a racist and a sexist, and claimed that she
could support those allegations with “emails and text messages” from Respondent.

1 As we know, those emails and text messages were never produced in this case.
2
3 Thus, the instant matter squares with Stevens v. Tillman because here, Appellant
4 “implies the existence of undisclosed, defamatory facts,” namely, the phantom
5 emails and text messages. Accordingly, even under Stevens v. Tillman, which
6 FALA cites to, Appellant’s claims of racism and sexism are actionable, defamatory
7
8 statements.
9

10 Further, in Lennon v. Cuyahoga Cty. Juvenile Court, 2006-Ohio-2587, ¶ 30,
11
12 to which FALA also cites, the court was determining whether calling another person
13 a “racist” was actionable. As in Stevens v. Tillman, the Lennon court stated that if
14 the speaker “implies that he or she has additional knowledge to support [her claim
15 of racism], it may seem more verifiable to a reader or listener.” Id. That is precisely
16
17 what happened in the instant matter when Appellant referenced nonexistent texts
18
19 and emails. (I-AA 53-57)
20

21 Based on these two cases, as well as Overhill Farms and Pegasus, FALA is
22
23 incorrect in its statement on page 13 of its brief that “claims of racism are always an
24 opinion....” To the contrary, a claim of racism can be defamatory depending on the
25
26 context surrounding that claim, and whether the person claiming racism implies that
27
28 he or she has other information, knowledge, or documentation to support that claim.

1 Thus, the Court of Appeals had ample support from precedent across the country to
2 come to its conclusion that the statements in Appellant's NRED complaint were
3 statements of opinion.
4

5 FALA also cites to Condit v. Clermont County Review, 110 Ohio App.3d 755,
6 757-8, 675 N.E.2d 475, 477, but in that case, the alleged defamatory statement was
7 contained in the political commentary column of a newspaper. As the court in
8 Condit stated, "[e]ditorials are, by definition, articles that express views and
9 opinion... and are commonly understood to be so." Id. 761, 479. The editorial in
10 Condit is a far cry from the instant matter, where Appellant made her statements in a
11 complaint to a regulatory body under the banner "Statement of Fact." Condit may
12 be akin to the restaurant review in Pegasus, but in no way do the facts in Condit
13 apply to the instant matter.
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19 FALA also claims at page 9 that "Williams has no alternative form or forum
20 to lodge a complaint against a realtor who is a member of NRED," but there is
21 nothing in the record to support this argument, Appellant never made this argument
22 in the district court or to the Court of Appeals, and FALA does not cite to a statute
23 or rule in support of this argument.
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26

27 At page 10, FALA makes an entire paragraph of argument which contradicts
28

1 the record. FALA first claims as follows: “No claim is made that [Appellant’s]
2 complaint to regulatory authorities implied any provably false factual
3 implications....” However, this argument ignores the catalogue of factual falsehoods
4 which Respondent listed in both of his district court oppositions as well as his
5 Answering Brief before the Court of Appeals. This catalogue is reiterated in
6
7 Section 7 below. FALA also claims that Respondent does not dispute the content of
8
9 the alleged oral statement he made to Appellant regarding her success, but as stated
10
11 above, Respondent has disputed Appellant’s characterization of that conversation
12
13 since 2017.
14

15 Finally, Respondent requests this Court ignore FALA’s references to the
16
17 “disturbing trend” regarding police and the Black Lives Matter movement contained
18
19 in FALA’s brief. These references are completely irrelevant to the issues in this
20
21 matter and are intended to inflame the passions of this Court. While Respondent is
22
23 extremely sympathetic to the racial struggles of Black people in this country, and
24
25 has volunteered his time and effort to help eradicate those struggles, invoking a
26
27 “disturbing trend” which is outside of the bounds of this case is wholly improper
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29 and that invocation should not factor into this Court’s analysis.

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1 **7. Additional Facts Supporting the District Court and Court of Appeals**
2 **Decisions.**

3 At pages 8 through 10 of its Order of Affirmance, the Court of Appeals
4 analyzes the facts supporting its ultimate decision. These facts include Appellant's
5 claims regarding Respondent's contact with the appraiser; the receipt for the earnest
6 money; and the lack of emails or texts supporting Appellant's allegations of racism
7 and sexism.
8
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10 In the first five pages of the opinion, the Court of Appeals recounts numerous
11 other facts, and at footnote 1 on page 1, the Court of Appeals states that it
12 "recount[s] the facts only as necessary for our disposition." Presumably, then, the
13 facts contained in the first five pages of the Order of Affirmance are necessary to
14 the Court of Appeals's decision. However, Appellant does not address any of these
15 other underlying facts.
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19 Appellant's NRED complaint was riddled with numerous falsehoods - none
20 of which mention race or sex, none of which are even arguably matters of opinion,
21 and all of which support the conclusion that Appellant did not make her NRED
22 complaint in good faith. Accordingly, the following are the remaining facts
23 showing Appellant did not act in good faith when filing her NRED complaint and
24 which show Respondent can make a prima facie showing of a probability of success
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1 on his various causes of action.

2 **i. Appellant falsely claims Respondent lied on several occasions.**

3
4 At the second paragraph on page 2 of her NRED complaint, Appellant claims
5 Respondent “lied on several occasions.” (I-AA 055) To support this claim,
6
7 Appellant first alleges Respondent lied about Appellant not allowing Ms. Krupp, the
8
9 seller, to remove all of her personal property from the condo. Id. However,
10 Respondent’s statement that Appellant did not allow Ms. Krupp to remove personal
11
12 property from the condo is in fact true. Ms. Krupp herself provided a declaration
13
14 stating Appellant “refused to allow me to remove certain items of personal property
15
16 from the unit, all of which, to my knowledge, remain in the unit to this day.” (I-AA
17
18 148, paragraph 11) Further, the record shows Respondent emailed Appellant and
19
20 her lender on July 18, 2017, stating that Appellant was preventing the seller from
21
22 removing personal property. (II-AA 396) Thus, Appellant’s statement that
23
24 Respondent lied about Appellant refusing to allow Ms. Krupp to retrieve personal
25
26 property is false, and Appellant knew it was false. Accordingly, Appellant’s claim
27
28 that Respondent “lied” about Appellant’s refusal to allow Ms. Krupp to remove
personal property is one of the knowingly false, defamatory statements which
defeats Appellant’s anti-SLAPP motion.

1 In further support of her claim that Respondent lied, Appellant claims
2 Respondent “falsely accused me of being negligent in meeting due diligence time
3 frames noted in said contract.” (I-AA 055) However, there is proof in the record
4 verifying Appellant negligently failed to meet the deadlines in the Residential
5 Purchase Agreement (“**RPA**”). On May 21, 2017, Appellant and Respondent met at
6 a supermarket and Appellant signed the RPA after making some minor edits, and as
7 instructed to do by Appellant, Respondent sent the signed contract to Appellant’s
8 loan officer, Bryan Jolly, two days later. (III-AA 465-6, paragraph 3(d); II-AA
9 350). It is clear Mr. Jolly was facilitating this transaction for Appellant, as various
10 other documents went through Mr. Jolly and Mr. Jolly was even obtaining
11 Appellant’s signature to certain documents. (See II-AA 349, where Mr. Jolly
12 requests the Seller’s Real Property Disclosure form (“**SRPD**”); II-AA 352, where
13 Mr. Jolly requests a form for Appellant’s signature; II-AA 376, where Mr. Jolly, on
14 behalf of Appellant, requests certain language be added into an addendum) When
15 Respondent sent the fully executed RPA to Mr. Jolly, that was the equivalent of
16 sending the fully executed RPA to Appellant. (III-AA 465-6, paragraph 3) Thus,
17 Respondent accurately stated that Appellant caused the delays and the delay was not
18 caused by Respondent’s alleged failure to provide Appellant with a signed RPA,
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1 and Appellant's statements to the contrary were knowingly false.

2 **ii. Appellant falsely claims the seller told Appellant that Respondent**
3 **was trying to sabotage the sale and had an ulterior motive.**

4 At the bottom paragraph on page 2 of the NRED complaint, Appellant claims
5 that on June 27, 2017, the seller told Appellant the following:
6

7 "Randy keeps telling me if the property doesn't sell and things don't
8 work out for me in Maryland, I can always come back and live with him
9 until I get on my feet." She then said, "He always like me like that, but
10 I don't like him like that. There is always an ulterior motive. I don't
11 know why he is trying to sabotage this deal."

12 (I-AA 055)

13 Appellant's allegations that Ms. Krupp made these statements are knowingly
14 false and directly contradicted by Ms. Krupp. Ms. Krupp submitted a declaration
15 stating as follows:

16 12. To the contrary of what Appellant stated in her Statement of Facts
17 lodged with NRED, I did not make any statement to Appellant to the
18 effect of me moving in with Mr. Lazer, and I also did not make any
19 statement to Appellant that Mr. Lazer "likes me like that, but I don't like
20 him like that."

21 13. I also never stated to Appellant that Mr. Lazer had an ulterior
22 motive or acted to sabotage the transaction.

23 (I-AA 149)

24 Thus, Appellant's claims as to what Ms. Krupp told Appellant are verifiably
25 false. Ms. Krupp directly contradicts these statements, proving she never made
26 them to Appellant, and thus proving Appellant made knowingly false, defamatory
27 statements to NRED. The most damaging aspect of the false allegations which
28

1 Appellant attributes to Ms. Krupp is that they are allegedly from a third party and
2 they directly impugn Respondent's personal and professional character.
3

4 There is also evidence in the record proving Respondent, contrary to
5 Appellant's claims about sabotage, actually saved this deal and the sale was
6 completed through his efforts. (II-AA 374-387)
7

8 Appellant further lied in her Statement of Facts by stating Respondent told
9 her he met the seller on a dating website, when in reality, the seller told that piece of
10 information to Appellant, as stated in paragraph 10 of the seller's declaration. (I-
11 AA 149)
12

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15 **iii. Appellant falsely claimed that Respondent "falsely" accused**
16 **Appellant of meeting her due diligence timeframes in the RPA.**

17 In the middle of page 2 of her Statement of Fact narrative, Respondent
18 incorrectly claims as follows:
19

20 [Respondent] falsely accused me of being negligent in meeting due
21 diligence timeframes noted in said contract.
22 (I-AA 055)

23 In reality, Respondent correctly stated that Appellant failed to timely obtain a
24 condo questionnaire, which, in addition to Appellant reducing her down payment
25 from 20% to 5%, was the cause of the 24-day delay in closing the sale of the
26 property. (I-AA 142, paragraphs 8-13; 143, paragraphs 20-22) Instead of
27
28

1 immediately ordering the condo questionnaire after entering into the RPA,
2 Appellant chose to wait until after the appraisal to order the questionnaire, and then,
3
4 did not place a “rush” order due to the extra cost associated with a rush. (II-AA
5
6 344, paragraphs 5-7) Appellant made these strategic decisions of her own accord,
7 but they impacted the seller because they necessitated a delay in the closing of the
8
9 transaction while the lender evaluated the condo questionnaire. Appellant’s failure
10 to obtain the condo questionnaire until June 23, 2017, made it logistically
11
12 impossible to close by the June 30, 2017, close of escrow date. As a result,
13 Respondent was accurate when he stated that Appellant caused the delay in the
14
15 closing of the sale of the property, and Appellant’s allegation in her Statement of
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17 Fact that Respondent made a “false” statement in blaming Appellant for the delay
18 was incorrect. Regardless of Appellant’s reason for delaying her order of the condo
19
20 questionnaire, Respondent was correct in stating Appellant caused the delay in this
21
22 transaction. Accordingly, Appellant’s description of Respondent’s statements
23 regarding Appellant causing the delay in closing as “false” - essentially stating that
24 Respondent lied - is yet another demonstrably untrue, defamatory statement by
25
26 Appellant as against Respondent.

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iv. Appellant baselessly claimed Respondent is unethical.

At various points in her NRED complaint, Appellant claims Respondent acted unethically. (I-AA 054-6) At the top of page 3, Appellant states that “[b]ased on statements Mr. Lazar [sic] has made during this transaction, via text, email and in person to me, my lender, and the seller, I am questioning his ethics and professionalism as a realtor.” (I-AA 056) Presumably, this last claim that Respondent is unethical is based on all of the various false, defamatory statements Appellant made throughout her Statement of Fact, and thus Appellant’s claim that Appellant is “unethical” is yet another defamatory statement. The word “unethical,” used in the context of an NRED complaint implies Respondent violated the ethical rules governing a real estate agent. Because Appellant does not cite to any such rules or show any violations, this statement is defamatory.

III. CONCLUSION

Appellant wishes for this entire case to be about her claims of racism and sexism, and then to argue that those claims are matters of opinion which are not actionable. Reading Appellant's Petition, one might believe that Appellant's NRED complaint simply said "Randy Lazer is racist and sexist." If such were the case, Appellant would be entitled to anti-SLAPP relief. However, her NRED complaint

1 is three-plus pages in length, the majority of which consists of factual recitations
2 and claims unrelated to racism or sexism, such as that Respondent shared
3 confidential information; acted unethically by communicating with an appraiser;
4 “lied on several occasions”; never provided a receipt for Appellant’s earnest money
5 deposit; never provided Appellant a signed copy of the contract; and falsely accused
6 Appellant of being negligent in meeting contractual deadlines. Try as she might,
7 Appellant cannot make this a single issue case about her right to call someone racist
8 and sexist; Appellant’s own NRED complaint belies Appellant’s efforts because
9 there are many other defamatory allegations in the complaint.
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15 Further, as in Overhill Farms, Appellant’s claims of racism and sexism are
16 not standalone accusations; they are surrounded by and contextualized by numerous
17 other allegations which are unquestionable statements of fact, as well as by the
18 circumstances which form the background of this case. The Court of Appeals did
19 not act improperly by analyzing the context of Appellant’s claims of racism and
20 sexism because that is exactly what is supposed to happen according to Pegasus,
21 Overhill Farms, and the various other authorities cited to herein.
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26 Further, this Court’s precedent shows that the absolute litigation privilege
27 does not apply to an anti-SLAPP motion. Even if it did, it would only apply to the
28

1 second prong of the analysis. Because Appellant has met the first prong of the anti-
2 SLAPP motion - a good faith communication - the absolute litigation privilege does
3 not have any relevance to this Court's analysis of the instant matter.
4

5 Lastly, Appellant should not be rewarded for attempting to destroy
6 Respondent's 26 year career and his reputation, and attempting to subject him to
7 discipline and fines, based on a "Statement of Fact" which is full of lies.
8
9

10 Based on the foregoing, Respondent requests this Court uphold the Court of
11 Appeals's Order of Affirmance and remand this matter to the district court so this
12 case may proceed in the ordinary course.
13
14

15 DATED this 8th day of March, 2021.
16

17 BOHN & TRIPPIEDI

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3. I hereby certify that I have read this appellate brief, and 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 every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be

/ / /

1 found.

2 DATED this 8th day of March, 2021.

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15 **CERTIFICATE OF SERVICE**

16 In accordance with N.R.A.P. 25, I hereby certify that I am an employee of
17 Bohn & Trippiedi and that on the 26th day of February, 2021, a copy of the
18 foregoing **RESPONDENT'S ANSWERING BRIEF** was served electronically
19 through the Court's electronic filing system to the following individuals:
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26 /s/ Maurice Mazza
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