IN THE SUPREME COURT
OF THE STATE OF NEVADA

JOHN DOE, Petitioner, v. THE SECOND JUDICIAL DISTRICT COURT, STATE OF NEVADA, WASHOE COUNTY, and THE HONROABLE DAVID A. HARDY, DISTRICT COURT JUDGE, DEPT. 15 Respondents, And HILLARY SCHIEVE, VAUGHN HARTUNG, DAVID MCNEELY, and 5 ALPHA INDUSTRIES, LLC Real Parties of Interest	Case No. 89277 District Court Case No. CV22-02015

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Elizabeth A. Brown
Clerk of Supreme Court

PETITIONER JOHN DOE'S REPLY IN SUPPORT OF EMERGENCY MOTION FOR STAY OF REMITTITUR UNDER NRAP 41(d)(3)

I. ARGUMENT

In their Opposition to Petitioner John Does's Motion for Stay of Remittitur, Real Parties in Interest Hillary Schieve ("Schieve") and Vaughn Hartung ("Hartung") do not meaningfully engage with the grounds for Doe's motion for stay of remittitur. Instead, without so much

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as one citation to caselaw, they baldly assert that Doe has not articulated good cause for a stay and that there is no federal question for review by the United States Supreme Court. Because Doe has articulated a substantial federal question and because the failure to stay remittitur will moot his petition for writ of certiorari, both assertions are meritless. Further, because Doe has voluntarily accelerated the timetable for his filing of a petition for writ of certiorari and because he has already appeared in this action anonymously, any prejudice to Schieve and Hartung from a stay of remittitur during pendency of the petition is non-existent.

A. Substantial Federal Question

Contrary to Schieve and Hartung's bald assertion that there is no federal question here, Doe articulated the federal question in his motion: Does Doe have a right to remain anonymous when he was engaged in surreptitious news gathering? Again as articulated in the motion, Federal courts, including the Ninth Circuit have recognized a core First Amendment right to both anonymous political speech and the right to engage in surreptitious news-gathering. *See, e.g. Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184, 1203 (9th Cir. 2018). The inconsistency of this

Court's summary holding that Doe's news-gathering work was non-expressive in nature and therefore not protected by the First Amendment is precisely the issue which Doe will raise in his petition for writ of certiorari. This is a substantial federal question which Doe deserves the opportunity to raise with the Supreme Court. NRAP 41 exists to preserve the ability of the Supreme Court to pass on questions of this nature.

B. Good Cause

As articulated in the motion, the "deprivation of constitutional rights unquestionably constitutes irreparable injury." *Baird v. Bonta*, 81 F.4th 1036, 1042 (9th Cir. 2023). Mr. Doe asserts a constitutional right to remain anonymous while engaging in surreptitious news-gathering. One need only look to Schieve's own statements in the media attacking Mr. Doe for engaging in "stalking" and "harassment," to understand the likely harm to Mr. Doe's reputation and the accompanying chilling effect on his exercise of First Amendment rights if his identity is revealed before the Supreme Court is given the opportunity to review his petition. *See, e.g.* Terresa Monroe-Hamilton, 'I couldn't believe it': Reno mayor sues private eye finding tracking device on her vehicle, BPR Business & Politics, Dec. 19, 2022, available at:

https://www.bizpacreview.com/2022/12/19/i-couldnt-believe-it-reno-mayor-sues-private-eye-finding-tracking-device-on-her-vehicle-1318235/. If Mr. Doe's identity is revealed in violation of his constitutional rights, he will immediately be exposed to retaliation by allies of Schieve and Hartung who will undoubtedly seek to harm his reputation and business.

If, as Mr. Doe asserts, he has a right to remain anonymous under the First Amendment, no court will be able to remedy this injury; his anonymity, once stripped, cannot be regained. This is the sine qua non of good cause under NRAP 41. Even if this Court believes Mr. Doe is wrong on the law, he deserves the opportunity to ask the Supreme Court to hear his case. If this Court denies his motion, he will almost certainly not get that opportunity. Thus, good cause exists for this Court to stay issuance of remittitur (or notice in lieu of remittitur) pending John Doe's Petition for Writ of Certiorari to the United States Supreme Court.

C. No Prejudice to Schieve and Hartung

Finally, there will be no prejudice to Schieve and Hartung from a stay of remittitur. Doe has already appeared in this action anonymously. As stated in his motion, Mr. Doe will file his petition for certiorari on or

before May 19, 2025, substantially ahead of the deadline for the petition.[1] In the event the petition is denied by the Supreme Court, the stay will expire and Doe's identity will be revealed in the litigation. In the event the petition is granted, Schieve and Hartung will benefit from the reasoning of a decision from the Supreme Court, even if it means that Mr. Doe must continue to remain an anonymous defendant. Given the lack of any articulable prejudice to Schieve and Hartung from allowing Mr. Doe to proceed expeditiously to the Supreme Court, this Court should grant the stay of remittitur pending resolution of Mr. Doe's forthcoming petition for writ of certiorari.

Dated this 9th day of May 2025.

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[1] Mr. Doe would concede to an order staying remittitur that requires him to keep his word and file on or before May 19, 2024 as suggested by Schieve and Hartung in their Response.

CERTIFICATE OF SERVICE

I certify that on this 9th day of May 2025 the *PETITIONER JOHN DOE'S REPLY IN SUPPORT OF EMERGENCY MOTION FOR STAY OF REMITTITUR UNDER NRAP 41(d)(3)* was filed electronically with the clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the Master service list as follows:

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