Case No. 89347

In the Supreme Court of Nevada

THE NEW YORK TIMES CO.; CABLE NEWS NETWORK, INC.; THE ASSOCIATED PRESS; NATIONAL PUBLIC RADIO, INC.; WP CO. LLC; REUTERS NEWS & MEDIA INC.; and AMERICAN BROADCASTING COS., INC.,

Petitioners,

v.

THE SECOND JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark; THE HONORABLE DAVID HARDY, District Judge; and THE HONORABLE EDMUND GORMAN JR., Probate Commissioner,

Respondents,

and

THE DOE 1 TRUST and DOES 1 through 9,

Real Parties in Interest.

ACLU of Nevada's Amicus Brief Supporting Petitioners and the Issuance of a Writ of Mandamus or Prohibition

District Court Case No. PR23-00813

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NRAP 26.1 Disclosure

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

The American Civil Liberties Union (ACLU) of Nevada is a nonprofit organization. It has no parent corporation, and no corporation owns 10% or more of its stock.

Christopher M. Peterson and Jacob Smith of the ACLU of Nevada, along with Abraham G. Smith and Lauren D. Wigginton of Holland & Hart LLP, represent the ACLU of Nevada in this Court.

October 18, 2024.

Abraham G. Smith

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Identity and Interest

The American Civil Liberties of Nevada (ACLU of Nevada) is the state affiliate of the American Civil Liberties Union, the nation's largest civil-liberties and civil-rights organization. Among those liberties are the right of access to the courts secured by the First Amendment. ACLU of Nevada has litigated many transparency-related cases in this state, including before this Court.

Authorship and Funding

No counsel for any petitioner authored this brief in whole or in part. Undersigned counsel drafted the brief *pro bono*, without money or consideration from any party. Costs associated with the brief are paid by ACLU of Nevada itself.

Introduction

Beyond the news-consuming public's specific right to know who stands behind the publications they read is the reality that Nevadans' First Amendment right to access documents filed and hearings held in their courts does not change simply because the parties are wealthy and powerful. The Murdoch media empire has come to Nevada to take advantage of our court system not because that empire has a special

connection to our state but rather to take advantage of statutes that allow it to hide its legal proceedings from public scrutiny. Though these secrecy statutes violate the First Amendment, the district court, applying NRS 164.041 and NRS 669.256, obliged the Murdochs by sealing all documents and shutting its doors for all hearings without making any fact-based determination as to whether this closure was permissible under the First Amendment.

This Court must reject the district court's understanding of those statutes, an interpretation which directly contradicts this Court's recent decision in *Falconi v. Eighth Judicial District Court*, 140 Nev., Adv. Op. 8, 543 P.3d 92 (2024). *Falconi* aligns with the precedent of the Ninth Circuit and courts nationwide. And *Falconi*'s logic stands solid. *Cf. Whitfield v. Nev. State Pers. Comm'n*, 137 Nev. 345, 348, 492 P.3d 571 (2021) (noting that this Court follows its precedent absent compelling reasons to abandon it).

When it comes to the constitutional presumption of openness, there is no reason to differentiate between sub-classes of civil proceedings. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 & n.17 (1980) (discussing presumption). Different sub-classes may raise different privacy concerns. But different cases within a particular sub-class could do

the same. The *Richmond Newspapers* framework addresses those differences.

It demands a case-specific assessment as to whether the information requested "plays a significant positive role in the functioning of the particular process in question" and what reasonable restrictions might be warranted. *See Whiteland Woods, L.P. v. Township of W. Whiteland*, 193 F.3d 177, 181 (3d Cir. 1999). Thus, *Richmond Newspapers* can resolve any credible confidentiality concern, in *any* civil proceeding, without robbing the public and the press of information needed to hold democratic institutions accountable. *Falconi* rejected sub-categorical distinctions in civil proceedings and adopted *Richmond Newspapers* across the board, for these reasons.

Thus, this Court has already explained how to protect litigants' privacy: conduct *Richmond Newspapers*' balancing. A statute mandating *automatic* sealing of an entire civil proceeding of any sub-class contradicts that case-by-case inquiry. Nor does it appear that the Legislature intended to create such a rule. Even if it had, this Court would need to correct course in line with its recent precedent.

Real parties in interest have nothing to lose by pressing ahead despite these obstacles. They have no connection to Nevada. They muscled their way into our courts on the assumption our "obscure" courts

would offer them special treatment. *See* Hadas Gold, *Why the Murdoch family is secretly battling over succession in an obscure Nevada court*, CNN (Sept. 13, 2024), https://www.cnn.com/2024/09/12/business/murdoch-succession-family-trust-court-nevada-fox/index.html. This Court cannot allow it.

Argument

I.
Falconi reflects Nevada's commitment to open court proceedings, is consistent with the weight of authority, and controls here.

A. Nevada has a special commitment to First Amendment values and judicial accountability.

1. First Amendment freedoms presuppose access to the courts.

The First Amendment protects the public's right to receive information and ideas. *See Stanley v. Georgia*, 394 U.S. 557, 564 (1969). The press's right to gather such information for dissemination is corollary to the public's. *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 491-92 (1975) ("In a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press … .").

The public and press cannot monitor courts "without access to … documents that are used in the performance of Article III [i.e., judicial] functions." *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995). Thus, the press's ability to gather information about judicial proceedings "serves to … bring to bear the beneficial effects of public scrutiny upon the administration of justice." *Cox Broad.*, 420 U.S. at 491-92. And the press's dissemination of the gathered information "serves to promote trustworthiness of the judicial process, to curb judicial abuses, and to provide the public with a more complete understanding of the judicial system, including a better perception of its fairness." *Littlejohn v. Bic Corp.*, 851 F.2d 673, 682 (3d Cir. 1988).

2. Judicial transparency is deeply rooted in Nevada history.

Judicial accountability is important in every state. But it has special importance to Nevada. This Court has noted that transparency in judicial proceedings "is especially important in a state [like Nevada] where citizens elect their judges because it ensures that the public has the necessary knowledge to serve as a check on the judicial branch on election day." *Falconi*, 543 P.3d at 98; *see also Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245 (1996) ("The operations of the courts and the judicial

conduct of judges are matters of utmost public concern.") (quoting *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 838 (1978)).

There is a weighty historical backdrop to this observation. Just prior to Nevada's statehood, the Nevada Territory experienced a depression in mining activity. David Hardy, *Nevada's Territorial Courts: An Unrecognized Political Influence Toward Statehood*, NEV. LAWYER (Oct. 2014);[1] *see also* RUSSELL R. ELLIOTT, NEVADA'S TWENTIETH-CENTURY MINING BOOM 3 (1966) (discussing the decline in Comstock mining and its impact on the state). Residents of the territory blamed that depression on "endless litigation" over mining claims. Hardy, *supra*.

Federally appointed judges had allowed litigation over such claims to languish. There were allegations that, in those claims that were permitted to proceed, "evidence was manufactured, witnesses were unreliable, juries were manipulated[,] and judges were susceptible to inappropriate influences." *Id.* The territorial newspapers published article after "sensational and inflammatory" article on the corruption. *Id.* (counting more than 70 articles on the topic).

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[1]Available at https://nvbar.org/wp-content/uploads/NevLawyer_Oct_2014_Territorial_Courts_0.pdf.

Armed with this information, territorial residents called for the territorial judges' resignations (which were tendered) and voted for statehood (which was accomplished). *Id.* They "embraced statehood, in large measure, to rid themselves of a judiciary they perceived as corrupt." *Id.*

In sum, the press's revelation of judicial corruption in the Nevada Territory "fomented an irreparable discontent that contributed as much as anything else to Nevada's statehood 150 years ago." *Id.* The press's special role in judicial accountability is a pillar of this State's culture and values. *Falconi* reflects and protects it.

B. *Falconi* reflects Nevada's values and rejects the arbitrary line-drawing real parties in interest favor.

This Court considered these principles in *Falconi*. 543 P.3d at 94. Mr. Falconi fought the sealing of filings in a divorce proceeding. Applying a court rule that required all such filings be automatically sealed upon request, the district court denied Falconi access. *Id.*

This Court declared the automatic-sealing rule unconstitutional. This Court disagreed that a private individual could "prohibit the public's access to court proceedings without a judicial determination having been made that closure is necessary and appropriate." *Id.* This Court instead adopted *Richmond Newspapers*'s balancing test.

Of prime importance here: the respondent in *Falconi* attempted to distinguish between family court proceedings, as a sub-category of civil proceedings, and civil proceedings more broadly. Indeed, that was the principal disagreement between the majority and the dissent. The majority rejected the invitation to draw distinctions by sub-categories of civil cases. *Id.* at 97 (holding "there is no reason to distinguish family law proceedings from civil proceedings in this context"). It held that *Richmond Newspapers* applied broadly.

Real parties in interest here have drawn from the same playbook as respondents in *Falconi*, arguing that probate-court proceedings should be treated differently than other civil proceedings. But there is obvious value in opening probate-court proceedings to public view, even beyond judicial accountability. For one, having open probate-court proceedings is important because many parties appear *pro se*, and "open proceedings provide such litigants with examples of what they can expect in their own case." *Id.*

Real parties here are not *pro bono*, of course. They are well-represented; the trust corpus is immense. Still the circumstances of the grantor's revocation of a theoretically *irrevocable* trust, are of public importance because of the estate's size and political influence.

The public needs to know that the issues here were adjudicated based on law, not financial or political motives. This will protect Nevadans' trust in their judicial system and assure litigants—whatever their citizenship—that the playing field is level in Nevada. To the extent that real parties face legitimate safety concerns from open proceedings, *Richmond Newspapers* allows probate courts to address those claims on a case-by-case basis.

This Court should reject the categorical distinction for the same reasons it did in *Falconi*. *Richmond Newspapers* applies to trusts and estates, just as in other civil proceedings.

C. Real parties' attempt to limit Falconi would undermine Nevada values.

"Normally a family would have some ties in Nevada to establish [a] trust [in Nevada], either living here or having real estate." Robert Frank, *Murdoch family battle highlights Nevada's secret trust boom*, NBC NEWS (Aug 13, 2024), https://www.nbcnews.com/business/personal-finance/murdoch-family-battle-highlights-nevadas-secret-trust-boom-rcna166435. Real parties in interest have none.

They have no business or personal ties to the state. They have not resided here. *Id.*; *see also* Hadas, *supra* (noting that "the Murdochs have little, if any, connection to the state of Nevada"). They do not own

homes here. Their businesses are not headquartered here. David Folkenflik, *The legal battle between Rupert Murdoch and 3 of his kids*, NPR (Sept. 9, 2024) (noting that "Nevada is not particularly a place where Murdoch has done business"), https://www.npr.org/2024/09/09/nx-s1-5106075/the-legal-battle-between-rupert-murdoch-and-3-of-his-kids#.

So why are real parties in interest in the Second Judicial District Court?

The Murdoch "family is united on one thing: keeping the family fight as secret as possible." Gold, *supra*. And Nevada's Legislature has pushed the bounds of constitutional secrecy in its efforts to attract wealthy grantors to establish trusts here. Frank, *supra* ("Nevada is now the top state in the country when it comes to so-called asset-protection trusts like the one at the center of the Murdoch dispute."); *cf. Klabacka v. Nelson*, 133 Nev. 164, 177, 394 P.3d 940, 951 (2017) (discussing Legislature's effort "to make Nevada an attractive place for wealthy individuals to invest their assets … ."). It is this Court's job to enforce those constitutional limits.

Real parties in interest's efforts to carve out a broad exception to Nevadan's right to court transparency merits particular scrutiny, especially their claims that there is a history of secrecy in probate matters.

Doe 9's own attorney lobbied for the legislative changes real parties attempt to capitalize on here. Indeed, real parties and their counsel appear to have briefly convinced members of the Legislature to favor a rule requiring automatic sealing. *See* Minutes, Senate Committee on Judiciary, 82d Sess., Apr. 14, 2023, at *18 (statement of Alan Freer) ("In the drafting process, it became an absolute trigger that the following information is confidential … .").[2]

But this success was fleeting. *See id.* (noting that the automatic trigger "was not the intent" of the drafting committee). By the Legislature's design, the adopted bill instead occupies the "middle ground between states that automatically make any case filed for a trust proceeding confidential versus those states that have no protections." *Id.*; *see also* App. 155 (statement of Alan Freer) ("These proposals were created after canvassing other states' treatments of beneficiaries' private information and would provide an adequate middle ground between states that go too far—in my opinion—in granting privacy such as South Dakota, where they have all trust proceedings automatically sealed for the entire proceeding as opposed to just the confidential information."). Indeed, the compiled history for the passed bill suggests that legislators

[2]Available at https://www.leg.state.nv.us/Session/82nd2023/Minutes/Senate/JUD/Final/837.pdf.

understood that *Richmond Newspapers* would still apply in probate court. *See* Minutes, Senate Committee on Judiciary, 82d Sess., Apr. 14, 2023, at *18 (statement of Alan Freer) ("All of it is still subject to district court that will have discretion and final say regarding the privacy of the information.").

Real parties in interest frame the district court's approach as accepted nationally and consistent with this state's traditions. It is neither. If it were the national norm, real parties would have no reason to be here. If it were Nevada's tradition, real parties would not have had to lobby to change Nevada law.

But they are here. They lobbied our Legislature for categorical sealing rejected in *Falconi*. They failed, and now insist otherwise. Having no vested interest in the constitutional rights of Nevada citizens, real parties in interest seek to take Nevada's secrecy protections beyond the intent of the Legislature they lobbied and outside the protections established by the state and federal constitutions. This Court must rein them in.

II.
Richmond Newspapers applies in all government proceedings, including probate court.

A. *Falconi* keeps Nevada in alignment with the Ninth Circuit, which rejects arbitrary divisions among civil proceedings.

Richmond Newspapers addressed criminal proceedings. Subsequent jurisprudence apply the test in all government proceedings, whatever the subject matter or presiding body. *See Falconi*, 543 P.3d at 96 (adopting *Richmond Newspapers* and noting that "every federal circuit court that has considered the issue has concluded that the constitutional right applies in both criminal and civil proceedings"). The public's right of access to such proceedings "[is] categorical and do[es] not depend on the circumstances of any particular case." *Civ. Beat Law Ctr. for the Pub. Int., Inc. v. Maile*, No. 23-15108, ____ F.4th ____, 2024 U.S. App. LEXIS 24477, at *11 (9th Cir. Sep. 26, 2024) (quoting *United States v. Index Newspapers LLC*, 766 F.3d 1072, 1085 (9th Cir. 2014)).

Courts reject arbitrary distinctions based on the description of the government proceeding at issue. The U.S. Supreme Court has repeatedly stated that "the First Amendment question cannot be resolved solely on the label we give the event." *Press-Enter. Co. v. Superior Court*, 478 U.S. 1, 7 (1986) (rejecting the California Supreme Court's attempt to avoid the First Amendment issue by distinguishing between a

preliminary hearing and a criminal trial); *see also Rivera Vera Puig v. Garcia Rosario*, Civ. No. 92-1067 (JAF), 1992 U.S. Dist. LEXIS 2011, *33 (D.P.R. Jan. 31, 1992).

Rather than relying on "abstracted" descriptions of the underlying government proceeding, *Civ. Beat*, 2024 U.S. App. LEXIS 24477 at *13-14, presumptive access turns "on the kind of work the proceeding actually does and on the First Amendment principles at stake." *N.Y. C.L. Union v. N.Y.C. Transit Auth.*, 684 F.3d 286, 299 (2d Cir. 2012); *see also N. Jersey Media Grp. v. Ashcroft*, 308 F.3d 198, 208 (3d Cir. 2002) (accord).

Thus, courts have applied *Richmond Newspapers*, broadly, across all civil proceedings.[3]

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[3] *Courthouse News Serv. v. Planet*, 947 F.3d 581, 590 (9th Cir. 2020) (applying test to civil proceedings and recognizing it as the "nationwide consensus); *see also*, *e.g. Press-Enter. Co.*, 478 U.S. at 7 (preliminary hearing); *First Amend. Coal. v. Jud. Inquiry & Rev. Bd.*, 784 F.2d 467, 475 (3d Cir. 1986) (judicial disciplinary proceedings); *N.Y. C.L. Union v. N.Y.C. Transit Auth.*, 684 F.3d 286, 298 (2d Cir. 2012) (administrative civil infraction hearings); *United States v. Miami Univ.*, 294 F.3d 797, 824 (6th Cir. 2002) (university student disciplinary board proceedings); *Brown & Williamson Tobacco Corp. v. Fed. Trade. Comm'n*, 710 F.2d 1165, 1177-79 (6th Cir. 1983) (civil action against administrative agency); *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059 (3d Cir. 1984) (civil trial); *Whiteland Woods, L.P. v. West Whiteland*, 193 F.3d 177, 181 (3d Cir. 1999) (municipal planning meeting); *Cal-Almond, Inc. v. U.S. Dep't of Agric.*, 960 F.2d 105, 109 (9th Cir. 1992) (agriculture department's voters list); *Soc'y of*

This makes sense. An alternative approach would make "avoidance of constitutional protections all too easy." *N.Y. C.L. Union*, 684 F.3d at 299. The government could shield its proceedings from public scrutiny merely by creating a new sub-category of proceedings.

In *New York Civil Liberties Union*, for example, the state argued that an administrative adjudication was not a sub-category of "civil proceeding" that was presumptively open under *Richmond Newspapers*. 684 F.3d at 299. The Second Circuit court rejected this parsing: "Changes in the organization of government do not exempt new institutions from the purview of old rules. Rather, they lead us to ask how the new institutions fit into existing legal structures." *Id.* The court reiterated that "*Richmond Newspapers* is a test broadly applicable to issues of access to government proceedings," of all types. *Id.*

B. The Ninth Circuit is aligned with the national approach.

Civil Beat Law Center for the Public Interest, Inc. v. Maile likewise illustrates this broad focus. There, the Ninth Circuit invalidated a court rule that automatically sealed all medical and health records in judicial

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Pro. Journalists v. Sec'y of Labor, 616 F. Supp. 569, 574 (D. Utah 1985) (administrative hearing), *vacated as moot*, 832 F.2d 1180 (10th Cir. 1987); *Detroit Free Press v. Ashcroft*, 303 F.3d 681, 695 (6th Cir 2002) (deportation proceedings).

proceedings. 2024 U.S. App. LEXIS 24477. The district court had zoomed into the specific category of documents at issue—doctor's treating notes—and held they were not historically available to the public. *Id.* at *13.

Reversing, the Ninth Circuit panned the camera: "[o]ur precedent makes clear that such a narrow focus on categories of documents is not correct.'" *Id.* Instead, "to determine whether the right attaches … we must evaluate whether there is a history of public access to the *proceedings* in which such records are filed and whether public access to such records supports the functioning of those proceedings." *Id.* at *14 (emphasis added).

The district court made a similar misstep here, homing in on "probate" as the category of proceedings. But this "narrow focus" on "probate" misses the forest for the trees. *Cf. id.* at *13. Probate proceedings are but a subtype of civil judicial proceedings. The law already discussed demonstrates a well-established history of public access to such proceedings.

The Ninth Circuit joins the "national consensus" that *Richmond Newspapers* applies broadly across such proceedings.

C. Applying this broad lens, courts have determined that *Richmond Newspapers* applies to trust-and-estate proceedings.

Courts have long used these principles to extend *Richmond Newspapers* to probate-court proceedings. *See*, *e.g.*, *Estate of Campbell*, 106 P.3d 1096, 1108 (Haw. 2005) (applying *Richmond Newspapers* to probate proceedings); *Estate of Hearst*, 67 Cal. App. 3d 777, 784 (1977) (accord); *Stevens v. Boyd*, No. 1:18-cv-757, 2021 WL 5364814, 2021 U.S. Dist. LEXIS 221107, *15 (W.D. Mich. Nov. 16, 2021) (accord but excepting audio recordings where a transcript is available); *cf. NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 980 P.2d 337, 350 n.12 (Cal. Ct. App. 1999) (applying *Richmond Newspapers* and suggesting it applies in "matters of probate").

Estate of Hearst has many parallels to this case. It involved the estate of media mogul William Randolph Hearst. 67 Cal. App. 3d at 780. The district court "cut[] off public access" to this case of immense public interest. *Id.* The California Court of Appeal applied *Richmond Newspapers* to a statute presumptively sealing the records of probate proceedings. 67 Cal. App. 3d at 784. "Absent strong countervailing reasons," the court reasoned, "the public has a legitimate interest and right of general access to court records, [that was of] special importance [because

the] probate involve[d] a large estate with on-going long-term trusts which reputedly administer and control a major publishing empire." *Id.*

The court recognized the Hearst family's particular interests in confidentiality, including their being targeted by terrorists. But the court also noted the Hearsts had taken upon them the "disadvantageous circumstance that the documents and records filed in the trust will be open to public inspection" by "employ[ing] the public powers of state courts to accomplish private ends." *Id.* The court reasoned:

> [W]hen the parties perceive advantages in obtaining continuing court supervision over their affairs, thereby projecting their wishes beyond the span of their individual lives and securing court protection for the beneficiaries of their testamentary plans, in a sense they take the good with the bad, knowing that with public protection comes public knowledge of the activities, assets, and beneficiaries of the trust.

Id.

Ultimately, the court recognized that the Hearsts were entitled to make a showing "that beneficiaries of the Hearst trusts would be placed in serious danger of loss of life or property as a consequence of general public access to the Hearst probate files." *Id.* But that required an analysis of "[c]lose and difficult factual questions" that the lower court had not made. *Id.* The court remanded, reiterating that absent such a

showing "the public has a legitimate interest in access to public records, such as court documents, which establish and perpetuate long-term testamentary trusts." *Id.* "If public court business is conducted in private," the court continued, "it becomes impossible to expose corruption, incompetence, inefficiency, prejudice, and favoritism." *Id.*

Estate of Hearst offers persuasive justification for applying *Richmond Newspapers* here. Its holding coheres with the "nationwide consensus" in favor of broad transparency and presumptively open proceedings.

Falconi is likewise aligned with this weight of well-reasoned authority. This Court should not deviate.

III.
An alternative ruling would violate the separation of powers.

Separation of powers requires the "discrete treatment of the three branches of government." *I.S. v. State (In re I.S.)*, 140 Nev., Adv. Op. 18, 545 P.3d 109, 113 (2024). And "Nevada's Constitution … contains an express provision prohibiting any one branch of government from impinging on the functions of another." *State v. Second Judicial Dist. Court (Hearn)*, 134 Nev. 783, 786, 432 P.3d 154, 158 (2018).

It is squarely a judicial function to manage the judicial process to achieve the "fair, orderly, and expeditious disposition of cases." *MDB Trucking, LLC v. Versa Prods. Co.*, 136 Nev. 626, 630, 475 P.3d 397

(2020); *see also Lyft, Inc. v. Eighth Judicial Dist. Court of Nev.*, 137 Nev. 832, 835, 501 P.3d 994, 999 (2021) ("[T]his court indisputably possesses inherent power to prescribe rules necessary or desirable to handle the judicial functioning of the courts." (internal citations omitted)).

In *State v. Fuller*, a Washington state court examined the constitutionality of a statute that purported to "disallow any amendment of [a criminal] information after the pretrial hearing." 547 P.3d 939, 944 (Wash. Ct. App. 2024). In concurrence, Judge Price recognized that decisions on such amendments are ordinarily left to the court's discretion as a matter of its inherent authority to manage the cases before it. *Id.* at 945. Judge Price wrote separately to emphasize that the Washington legislature's imposition on courtroom management violated the separation of powers. *Id.*

This Court should heed that caution. It is for the probate court to assess the propriety of sealing proceedings or documents on a case-by-case basis, using the balancing test in *Richmond Newspapers*. Even assuming the Legislature intended to impose upon this judicial function, the Legislature could not.

Accordingly, the district court's understanding that the statutes here wrested judicial control over the sealing question would itself

violate the separation of powers. For that alternative reason this Court should also grant the petition.

Conclusion

Falconi is recent, well-reasoned precedent that controls here. To the extent the statutes applied below automatically seal probate proceedings, they violate the First Amendment and the constitutional separation of powers. This Court should grant the petition.

October 18, 2024.

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Certificate of Compliance

I certify that I have read this brief, that it is not frivolous or interposed for any improper purpose, and that it complies with all applicable rules of appellate procedure, including NRAP 28(e).

I certify that this brief complies with the formatting, typeface, and type-style requirements of NRAP 32(a)(4)–(6). It was prepared with Microsoft Word in 14-point Equity font.

I certify that this brief complies with the type-volume limitations of NRAP 21(d) and NRAP 29(d) because, except as exempted by NRAP 32(d), it contains 3,871 words.

October 18, 2024.

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Certificate of Service

I certify that on October 18, 2024, I submitted the foregoing "ACLU of Nevada's Amicus Brief Supporting Petitioners" for filing via the Court's electronic filing system. Electronic notification will be sent to the following:

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