

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.

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Elizabeth A. Brown
Clerk of Supreme Court

**ACLU of Nevada's Motion for Leave to File
Amicus Brief Supporting Petitioners**

The American Civil Liberties Union of Nevada (ACLU of Nevada) requests leave to file an *amicus curiae* brief in support of petitioners. NRAP 29(b). We attach a copy of the proposed brief.

ACLU of Nevada (1) has first-hand knowledge related to the case respondents attempt to wrongly limit; (2) has expertise in issues related

to the First Amendment right to access government proceedings; and (3) can address how limiting transparency would impede watchdog groups like the ACLU from carrying out their mission of government accountability.

A. The ACLU of Nevada has an interest in the outcome of this petition.

The ACLU of Nevada is a state affiliate of the national ACLU. The ACLU is a nonprofit, nonpartisan organization that works to defend and preserve the individual rights and liberties enshrined in the Constitution.

1. The ACLU of Nevada has special expertise on the judicial transparency guaranteed by the First Amendment.

As part of this mission, the ACLU of Nevada been on the forefront of litigating the First Amendment issues related to government transparency. The ACLU of Nevada served as counsel in *Nevada Press Association v. Daniels et al.*, No. 3:21-cv-00317-RFB-CLB (D. Nev.), which involved a First Amendment challenge to the lack of transparency in Nevada Department of Corrections' execution proceedings, and *Falconi v. Eighth Judicial District Court*, No. 84947 (Nev. Sup. Ct.), involving

court rules and statutes sealing family-law cases. The opinion in *Falconi*, 140 Nev., Adv. Op. 8, 543 P.3d 92 (2024), pervades the petition here.

2. *The ACLU of Nevada has expertise on judicial transparency relating to elections and public records.*

Additionally, the affiliate is a party and counsel in *ACLU of Nevada et al. v. Nye County*, No. CV24-0461 (Nev. 5th Jud. Dist. Ct.), a First Amendment challenge to limitations on election observations. Finally, the ACLU of Nevada consistently litigates transparency issues related to the Nevada Public Records Act. *See, e.g., ACLU of Nevada v. CCSD*, A-23-869216-W (Nev. 8th Jud. Dist. Ct.).

B. The brief provides necessary context to interpret and analyze the constitutionality of sealing statutes.

The ACLU of Nevada has a unique perspective on the underlying matter. The district court's decision eviscerates the access to court proceedings enshrined in *Falconi*. Indeed, the district court's order echoes *Falconi*'s dissent. As noted, the ACLU of Nevada was counsel for the individual who prevailed in that appeal. The ACLU of Nevada therefore has insight on the arguments and reasoning that underlie *Falconi*. The ACLU of Nevada writes here to protect that precedent against attack or misinterpretation.

Moreover, the ACLU of Nevada is an active observer of judicial proceedings of all stripes. The ACLU of Nevada believes transparency in such proceedings is vital to democracy. While the trust here also implicates press freedoms given the strong public interest in the Murdoch media empire, the ALCU of Nevada urges this Court to consider the wider First Amendment implications of access to the courts, regardless of the newsworthiness of the particular case.

The ACLU of Nevada also fights to preserve free and fair elections. Ensuring that issues regarding the estate of Rupert Murdoch are fairly litigated implicates both these interests. Control of the estate may impact the political causes amplified by the Murdoch machine.

C. The ACLU's arguments are dispositive.

The proposed brief proceeds in three parts. First, the brief describes how the district court's order conflicts with *Falconi*, which controls. Second, the brief surveys the growing consensus throughout the country that the First Amendment does not ebb for discrete subject matters like trusts and estates; the same analysis applies to all civil proceedings, including those in probate court. Third, the brief addresses how ceding authority over court access to the Legislature would violate the constitutional separation of powers.

Each of these points are dispositive of the news organizations' petition. *See* NRAP 29(b)(2). This Court should consider them.

October 10, 2024.

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Certificate of Service

I certify that on October 10, 2024, I submitted the foregoing “ACLU of Nevada’s Motion for Leave to File 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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