

1 On November 22, 2013, the Court convened for an evidentiary hearing on the writ
2 petition. Petitioner appeared in proper person. Respondent appeared through and by its counsel,
3 Kevin Benson, Esq. Real Party in Interest ('Ms. ██████ failed to appear. The Court found that
4 Respondent failed to satisfy her burden under *Falconi v. Secretary of State*, 129 Nev. Adv. Op.
5 No. 28 and issued the writ.
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7 II. Legal Analysis

8 The instant case proceeded to judgment and Petitioner prevailed. *Chowdhry v. NLVH,*
9 *INC.*, 851 P. 2d 459 - Nev. Supreme Court (1993) at page 464 (defining "prevailing party"). The
10 instant writ petition is a special proceeding¹. *Foley v. Kennedy*, 885 P. 2d 583 - Nev. Supreme
11 Court (1994) at page 585 ("It may be said generally that any proceeding in a court which was not
12 under the common-law and equity practice, either an action at law or a suit in chancery, is a
13 special proceeding.") Accordingly, Petitioner is entitled to costs as a matter of right. NRS
14 18.020(4) (mandating an award of costs when a party prevails in a special proceeding). Petitioner
15 thusly requests costs in accordance with the concurrently filed *Memorandum of Costs*.

16 Petitioner pledged to Chief Judge David Hardy that he would seek to recompense the
17 Court's \$250.00 filing fee if granted *in forma pauperis* status. *Application to Proceed in Forma*
18 *Pauperis* at page 2:16-19. NRS 12.015(4)² mandates that Ms. ██████ pay into the Court, within
19 five (5) days, the \$250.00 filing fee that was waived for Petitioner due to having been granted *in*
20 *forma pauperis* status. See also *Cromer v. Wilson*, 225 P. 3d 788 - Nev. Supreme Court (2010)
21 ("When a statute is clear and unambiguous, we give effect to the plain and ordinary meaning of
22 the words and do not resort to the rules of construction.") Petitioner has no intention of appealing
23 an order that declines to require Ms. ██████ to pay this filing fee to the Court, and merely cites
24 this authority because of his aforementioned pledge to Chief Judge David Hardy.
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26 ¹ The court might also take judicial notice of the civil cover sheet, under which this proceeding is categorized as a
27 "special proceeding". There is also persuasive authority expressly identifying a writ petition as a special proceeding.
28 *Schmidt v. County of Nevada*, 808 F. Supp. 2d 1243 - Dist. Court, ED California (2011) ("notwithstanding the fact
that a writ petition is a special proceeding...").

² NRS 12.015(4): "If the person prevails in the action, the court shall enter its order requiring the losing party to pay
into court within 5 days the costs which would have been incurred by the prevailing party, and those costs must then
be paid as provided by law."

1 In the instant case, costs should be taxed against Ms. [REDACTED] Respondent's role in this
2 proceeding was merely observational. *Petition for Writ of Mandamus* at page 5:13-27.
3 Respondent committed no wrongdoing in issuing the fictitious address to Ms. [REDACTED] *Falconi v.*
4 *Secretary of State, Id.* at page 7. Respondent was candid in all of its filings and helped to
5 facilitate the speedy resolution of this case.

6 III. Conclusion

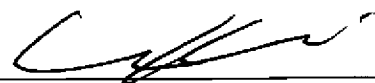
7 Petitioner made Ms. [REDACTED] several offers to settle³ this case early on, including offering
8 to stipulate to a no-contact order. Petitioner also tried, repeatedly, to resolve this dispute without
9 involving our highest court and prior to filing the writ petition. Ms. [REDACTED] deliberately dragged
10 this proceeding out, knowing she was not a victim of domestic violence and that she had no
11 intention to renew her fictitious address (see November 5, 2013 *Notice*) and in doing so, forced
12 Petitioner to incur more and more costs. More importantly, Ms. [REDACTED] wasted both judicial
13 resources and the resources of the Attorney General's office. "Filing fees also assist in offsetting
14 the operating expenses of the court system. These are legitimate state interests." *Barnes v. Eighth*
15 *Judicial Dist. Court*, 748 P. 2d 483 - Nev: Supreme Court (1987) citing *Ortwein*, 410 U.S. at
16 660, 93 S.Ct. at 1174-1175; *Piatt*, 773 F.2d 1034-1035.

17 THEREFORE, Petitioner hereby requests:

- 18 1. Judgment in favor of Petitioner and against Ms. [REDACTED] and,
19 2. An award of costs in the amount of \$47.56; and,
20 3. An order requiring Ms. [REDACTED] to pay \$250.00 to the Court within five (5) days; and,
21 4. For such further relief as the Court deems necessary and just.

22 **AFFIRMATION⁴:** This document does not contain the social security number of any person.

23 EXECUTED this 25 day of NOVEMBER, 2013.

24
25 
26 _____
Alexander M. Falconi

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28 ³ If an award of costs were discretionary, Petitioner would provide documentation to support these allegations. At this point, it seems redundant to flood the Court with redundant emails.

⁴ This affirmation is in accordance with NRS 239B.030.

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I declare⁵ under penalty of perjury that the foregoing is true and correct.

[Signature]

NRCP 5 CERTIFICATE OF SERVICE

Ann Kevin Benson, Esq.

SERVED THIS 25 day of NOVEMBER, 2013.

Cyber

Alexander M. Falconi

⁵ NRS 53.045(1): "Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated, in substantially the following form: If executed in this State: "I declare under penalty of perjury that the foregoing is true and correct.""