

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ALEXANDER M. FALCONI,

Appellant,

vs.

ANN

Respondent.

No. 77848

DOCKETING STATEMENT
CIVIL APPEALS

FILED

JAN 22 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

GENERAL INFORMATION

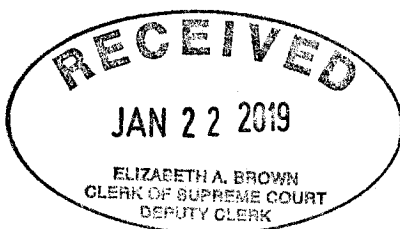
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



19-03344

1. Judicial District Second Department 13
County Washoe Judge Bridgett Robb
District Ct. Case No. FV08-03200

2. Attorney filing this docketing statement:

Attorney N/A Telephone N/A

Firm N/A

Address N/A

Client(s) N/A

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney N/A Telephone N/A

Firm N/A

Address N/A

Client(s) N/A

Attorney N/A Telephone N/A

Firm N/A

Address N/A

Client(s) N/A

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| ☐ Judgment after bench trial | ☐ Dismissal: |
| ☐ Judgment after jury verdict | ☐ Lack of jurisdiction |
| ☐ Summary judgment | ☐ Failure to state a claim |
| ☐ Default judgment | ☐ Failure to prosecute |
| ☐ Grant/Denial of NRCP 60(b) relief | ☐ Other (specify): _____ |
| ☐ Grant/Denial of injunction | ☐ Divorce Decree: |
| ☐ Grant/Denial of declaratory relief | ☐ Original ☐ Modification |
| ☐ Review of agency determination | ☒ Other disposition (specify): <u>Special Order</u> |

5. Does this appeal raise issues concerning any of the following?

- ☒ Child Custody
☐ Venue
☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None that are "related to this appeal."

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

FV08-03200, Sec. Jud. Dist. Ct. (Falconi v. [REDACTED])

8. Nature of the action. Briefly describe the nature of the action and the result below:

Appellant sought to examine the State Collection and Disbursement Unit and for a judicial determination that he was entitled to Respondent's assets held in the custody of the Unclaimed Property Division. Both requests were consistent with proceedings supplementary to execution and sought by motion. The district court summarily denied.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether a judgment creditor is entitled to examine the State Collection and Disbursement Unit if the information obtained would assist in execution.

Whether a judgment creditor must exhaust administrative remedies by filing a claim seeking a judgment debtor's property held in the custody of the Unclaimed Property Division.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None that Appellant is aware of.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This appeal raises a substantial issue of first impression regarding a judgment creditor's ability to seize a judgment debtor's assets held in the custody of the Unclaimed Property Division.

This appeal raises an issue of public policy as precedent establishing a judgment creditor's right to seize assets held in the custody of the Unclaimed Property Division would create an additional stream which could be tapped to satisfy child support and other domestic obligations.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Pursuant to NRAP 17(a)(10) and (11), this appeal should be retained by the Supreme Court. The State of Florida grappled with an issue concerning assets abandoned by a spouse who fled to a foreign country. Dept. Of Financial Services v. O'Connor, 155 So. 3d 479 - Fla. Dist. Court of Appeals, 1st Dist., (2015) ("Unclaimed property and an unpaid judgment collide in this marital dissolution case.") An expansion of Nevada case law consistent with the aforementioned case would allow the District Attorney's Child Support Enforcement Division to seize assets held in the custody of the Unclaimed Property Division to satisfy child support and other domestic obligations.

14. Trial. If this action proceeded to trial, how many days did the trial last? 0

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from December 6, 2018

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

17. Date written notice of entry of judgment or order was served December 6, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed December 30, 2018

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

N/A

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☒ Other (specify) NRAP 3A(b)(8)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

A "post-judgment order" that "affect[s] the rights of the parties growing out of final judgment" is "appealable" as a "special order made after final judgment." *Burton v. Burton*, 99 Nev. 698, ___, 669 P. 2d 703, 705 (1983). Compare *Frank McCleary Cattle Company v. Sewell*, 73 Nev. 279, 317 P. 2d 957 (1957) (recognizing direct appeal on an order allowing execution on assets after judgment.)

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Alexander M. Falconi, Petitioner; and,
[REDACTED] Ann [REDACTED] Respondent.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Alexander M. Falconi, Appellant; and,
[REDACTED] Ann [REDACTED] Respondent.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Post-judgment motion for proceedings supplementary to execution; summarily denied on December 6, 2018.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

N/A

(b) Specify the parties remaining below:

N/A

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order is independently appeal as a special order after judgment. NRAP 3A(b)(8).

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Alexander M. Falconi

Name of appellant

N/A

Name of counsel of record

January 16, 2019

Date

Alexander Falconi

Signature of counsel of record

Nevada, County of Washoe

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 16 day of January, 2019, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Ann [REDACTED]
[REDACTED]
[REDACTED]

Dated this 16 day of January, 2019

Alexander Falconi
Signature

QUESTION 27

ATTACHMENT 1

Code: 2490
Alexander M. Falconi

Appearing in Proper Person

IN THE FAMILY DIVISION
OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALEXANDER M. FALCONI,
Petitioner,

vs.

ANN
Respondent.

Case No.: FV08-03200

Dept. No.: 13

**MOTION FOR DESIGNATION OF ENTITLEMENT TO PROPERTY HELD IN THE
CUSTODY OF THE UNCLAIMED PROPERTY DIVISION AND FOR HEARING TO
EXAMINE STATE COLLECTION AND DISBURSEMENT UNIT**

COMES NOW, Petitioner, Alexander M. Falconi, appearing in proper person, and hereby files this motion for designation of entitlement to property held in the custody of the unclaimed property division and for hearing to examine the Nevada State Collection and Disbursement Unit. This motion is based upon the following memorandum of points and authorities and all pleadings on file herein.

Memorandum of Points and Authorities

I. Summary

Alexander M. Falconi ('Falconi'), Petitioner, retains sole custody over a minor child. Ann Respondent, parental rights were terminated judgment-debtor, owes Falconi, judgment-creditor, \$500 in costs. Falconi seeks to obtain a designation of entitlement to property held in custody of the Secretary of Treasury ('The Secretary') Unclaimed Property Division. Falconi also seeks to obtain the information of any and every

1 depositor to have turned funds over to the Nevada State Collection and Disbursement Unit
2 ('SCDU') for the year of 2018.

3 II. Factual Background

4 On August 9, 2018, this Court entered *Order Granting Motion for Costs on Appeal* ('The
5 Judgment') allowing \$500 in costs to Falconi and against [REDACTED]
6

7 On August 13, 2018, Falconi filed *Notice of Entry of Order*. See NRCP 62(a) ("no
8 execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until
9 the expiration of 10 days after service of written notice of its entry.")

10 To date, [REDACTED] has failed to make payment on the judgment. [REDACTED] also owes, for over
11 three years now, a modest sum of costs in CV13-01019.
12

13 III. Legal Analysis

14 *A Judgment Creditor's Rights and Entitlements, Generally*

15 "Statutes permitting execution against specified kinds of property must be liberally
16 construed for the benefit of creditors. [] The general rule is that if the interest is assignable or
17 transferable, it is subject to execution." *Sportsco Entertainment v. Morris*, 112 Nev. 625, ___,
18 917 P. 2d 934, 937 (1996) (citations omitted.) The onus is on [REDACTED] not Falconi or this Court, to
19 bring any claimed exemptions¹ before the Court through the appropriate procedure. NRS 21.112.
20 Compare *Maki v. Chong*, 119 Nev. 390, ___, 75 P. 3d 376, 378 (2003).
21

22 To the extent that this Court may deem these collection efforts included within the
23 definition of "domestic relations matters" under NRCP 16.21, same rule provides this Court with
24 discretion to control when "postjudgment discovery" can occur and to what extent. As with any
25 exercise of discretion, the discretion to grant or deny leave is not without limits. Compare
26 *Adamson v. Bowker*, 85 Nev. 115, ___, 450 P. 2d 796, 800-801 (1969) (explaining that leave to
27
28

¹ Upon cursory review, there does not appear to be any applicable exemptions that [REDACTED] could claim.

1 amend under NRCP 15 cannot be denied “in the absence of any apparent or declared reason” and
2 that “outright refusal to grant the leave without any justifying reason appearing for the denial is
3 not an exercise of discretion; it is merely an abuse of that discretion and inconsistent with the
4 spirit of the [] Rules.”)

5 ***Examination of the State Collection and Disbursement Unit***

6 A creature of NRS 425.363(1)², SCDU consists of a fund which accepts an obligor’s
7 child support payments and disburses same to the corresponding obligee. The fund is managed
8 by a Chief as designated by the Department of Child and Family Services (‘DCFS’). NRS
9 425.285 (defining the Chief). NRS 425.310 (designating DFS as the controlling Division.) See
10 also NRS 423.365 (authorizing Administrator to adopt regulations and carry out chapter), and
11 NRS 425.270 (defining Administrator.) DCFS is a creature of the Department of Health and
12 Human Services (‘DHHS’). NRS 232.300(2)(d). See also NRS 232.320(1)(a)(3) (the
13 administrator of DCFS is appointed by the Director of DHHS.)
14
15

16 After almost two years of not being able to locate [REDACTED] the SCDU has recently begun to
17 receive child support payments from what is likely to be her employer. Falconi, a judgment
18 creditor, is entitled to the information detailing who this depositor-employer is because he has a
19 cost judgment against [REDACTED] in the amount of \$500 and he could likewise serve a writ of
20 execution upon [REDACTED] employer to satisfy the judgment debt. Permitting the examination of the
21 DCFS would lead to information necessary for the satisfaction of this judgment. Relevant
22 evidence is generally admissible. NRS 42.025. Evidence is relevant if it has “any tendency” to
23 make the existence of a fact more or less probable. NRS 48.015.
24
25

26 Falconi intends to serve Ross Armstrong, the administrator for DCFS, with a subpoena to
27 answer the relevant questions at issue. NRS 12.015 (“service may be made upon clerk or
28

² See also 42 U.S. § 654b(a)(1): requiring “State agenc[ies to] establish and operate a unit [] for the collection and disbursement of payments under support orders.”

1 secretary of political subdivision corporation or agency.”) Additionally, Falconi intends to serve
2 subpoena *duces tecum* requesting same information, and should the response by DCFS satisfy
3 the information required by Falconi, he will move to vacate any upcoming hearing scheduled by
4 this Court in order to preserve judicial and executive resources.

5 **On Seizure of Property Held in the Custody of the Secretary of Treasury**

6 The Unclaimed Property Division is Administrated by The Secretary. NRS 120A.025.
7
8 The Secretary takes custody of unclaimed property and turns it over to a claimant where
9 appropriate. NRS 120A.530.

10 “Unclaimed property and an unpaid judgment collide in this marital dissolution case.”
11 *State Dep't of Fin. Servs. v. O'Connor*, 155 So. 3d 479, 480 (Fla. Dist. Ct. App. 2015). This
12 succinct statement leads the publication that should control on this issue. Analogous with the
13 aforementioned case, Falconi seeks to seize [REDACTED] assets currently held in the Secretary of
14 Treasury’s Unclaimed Property Division. “As neither our statutory nor our case authority sheds
15 light on this question”, we should “look to extrajurisdictional authority to guide our determination
16 as to how Nevada courts should” approach it. *Falconi v. Secretary of State*, 129 Nev. ___, ___,
17 299 P. 3d 378, 385 (2013). The *Falconi* Court, looked to New Jersey’s *Sacharow* procedure for
18 guidance on how to approach issues concerning a clash between a parent’s right to know where a
19 child resides with another parent’s right to protection from domestic violence. Likewise, this
20 Court should look to Florida’s approach in *State Dep't of Fin. Servs. v. O'Connor*. Consistent
21 with the procedure articulated, Falconi has “filed a claim with the Department seeking [REDACTED]
22 unclaimed property pursuant to NRS 120A.640.” *State Dep't of Fin. Servs. v. O'Connor* at 155
23 So. 3d, at 480. Exhibit 1. This act complies both with NRS 120A.650 and the “exhaustion of
24 administrative remedies” doctrine. *State Dep't of Fin. Servs. v. O'Connor* at 155 So. 3d, *Id.* See
25 also *Yergin v. Georgopolos*, 217 So. 3d 155, 157 (Fla. 3rd Dist. Ct. App. 2017.) Falconi

1 simultaneously requests this Court designate an entitlement to Falconi of [REDACTED] property
2 consistent with NRS 21.320³. This will allow Falconi to proceed by issuing and serving a writ of
3 execution upon the Secretary or by filing an independent action, depending on their
4 administrative response to his claim. NRS 120A.650. Compare *State Dep't of Fin. Servs. v.*
5 *O'Connor* at 155 So. 3d, *Id.*
6

7 At this Court's preference, a sufficient finding consistent with NRS 21.290 could be
8 ordered in which case a preliminary examination of the Secretary would occur in open court.
9 NRS 21.300. See also NRS 21.310 ("[w]itnesses may be required to appear and testify before the
10 judge [] under his chapter in the same manner as upon the trial of an issue.")
11

12 ***Referral to the Discovery Commissioner***

13 Falconi requests this matter be referred to the discovery commissioner. On several
14 occasions⁴, Commissioner Wes Ayres ('The Commissioner') has heard discovery issues and he
15 may be more familiar with the facts concerning execution on [REDACTED] assets. The
16 Commissioner's recommendations have not been objected to in the past, and his involvement has
17 alleviated this Court of the burden on deciding these complex discovery issues. WDCR 24.
18 NRCP 16.2(j)(1). This Court should take advantage of The Commissioner's expertise in this area
19 by referring the matter.
20

21 ***Intervention***

22 To the extent that DCFS or The Secretary may want to intervene in this matter, they have
23 an opportunity to do so upon being served *subpoenas* by written objection or by formal written
24 motion to quash. NRCP 45(c)(2)(B). DCFS and The Secretary may also, at that time, be inclined
25
26

27
28 ³ NRS 21.320: "Judge may order property applied toward satisfaction of judgment. The judge or master may order any property of the judgment debtor not exempt from execution, in the hands of such debtor or any other person, or due to the judgment debtor, to be applied toward the satisfaction of the judgment."

⁴ See *Recommendation for Order* entered May 12, 2014 and August 17, 2012. See also *Recommendation for Order* entered in CV 13-01019 on January 7, 2016 and March 0, 2016.

1 to intervene. NRCP 24. NRS 12.130. The Secretary has the opportunity to respond in any
2 independent action brought. NRS 120A.650. If and when any of these events occur, Falconi can
3 further brief this Court accordingly.

4 IV. Conclusion

5 Ultimately, it is Falconi's objective to intercept and seize assets wherever possible.
6 Falconi is cognizant of his ability to bring contempt proceedings against [REDACTED] in CV13-01019
7 for her failure to appear at a debtor's examination. NRS 21.270(3). NRS 21.340. See also
8 *Confirming Order* filed March 22, 2016 in CV13-01019. Falconi could also exercise his
9 entitlement to examine [REDACTED] as a judgment debtor in the instant case. NRS 21.270(1). See also
10 *Order Reversing and Remanding* filed April 28, 2017 ("a judgment creditor is entitled to an
11 order allowing a judgment debtor exam at any time after the judgment is entered".) See also
12 *Nevada State Engineer v. Eureka County*, 133 Nev. ___, ___, 402 P. 3d 1249, 1251 (2017)
13 ("[W]here an appellate court deciding an appeal states a principle or rule of law, necessary to the
14 decision, the principal or rule becomes the *law of the case* and must be adhered to throughout its
15 subsequent progress both in the lower court and upon subsequent appeal.") It is unlikely [REDACTED]
16 would appear at any such proceedings, based on her actions in the previous litigated termination
17 of parental right's proceedings where she was so impossible to locate and serve that the Dept. L
18 of the Eighth Judicial District Court had to order service by publication and [REDACTED] own family
19 responded by reporting her a missing persons through the San Diego Police Department. Exhibit
20 2. Falconi can foresee the issuance of a bench warrant, which will require the expenditure of far
21 more judicial and executive resources than would be required if Falconi were permitted to locate,
22 determine, and seize [REDACTED] assets. Falconi has successfully done so in the past⁵, and will be
23
24
25
26
27
28

⁵ In addition to Falconi's procedural accomplishments before this Court, Falconi worked in the professional capacity as a debt collector at Collection Services of Nevada and Summit Collection Services.

1 able to do so in the future, given the appropriate opportunity to discover necessary information.

2 *Writ of Execution* filed August 9, 2013. *Satisfaction of Judgment* filed October 29, 2019.

3 THEREFORE, Petitioner hereby requests that:

- 4 1. This Court set a hearing for Falconi to examine SCDU; and,
- 5 2. This Court designate [REDACTED] property, which is in the custody of The Secretary, to be
- 6 turned over to Falconi in satisfaction of the cost judgment of \$500; and,
- 7 3. For such further relief as this Court deems necessary and just.
- 8

9 **AFFIRMATION:** This document does not contain the social security number of any person.

10 DATED THIS 4 day of September, 2018.

11

12 /s/ Alexander Falconi

13 Alexander M. Falconi

14

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[illegible]

I declare⁶ under penalty of perjury that the forgoing is true and correct.

/s/ Alexander Falconi
Alexander M. Falconi

I, Alexander M. Falconi, do hereby declare that I am over the age of 18 and a party to this action, and that I have placed a true and correct copy of this *Motion* into a sealed envelope and mailed it, postage prepaid, *via* United States Postal Service, addressed as follows:

Ann

/s/ Alexander Falconi
Alexander M. Falconi

8

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

Alexander M. Falconi

vs.

Ann

FAMILY COURT
MOTION/OPPOSITION NOTICE
(REQUIRED)

CASE NO. FV08-03200

DEPT. NO. 13

NOTICE: THIS MOTION/OPPOSITION NOTICE **MUST BE ATTACHED AS THE LAST PAGE** to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X .	YES	NO
	1. Has a final decree or custody order been entered in this case? If yes , then continue to Question 2. If no , you do not need to answer any other questions.	X	
	2. Is this a motion or an opposition to a motion filed to change a final order? If yes , then continue to Question 3. If no , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		
	IF the answer to Question 4 is YES , write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: September 5, 2018

Signature:

/s/ Alexander M. Falconi

Print Name:

Alexander M. Falconi

Print Address:

List of Exhibits

Exhibit 1: Claim

Pages: 2

Exhibit 2: *Order for Service by Publication*

Pages: 5

QUESTION 27

ATTACHMENT 2

1 CODE

2
3
4 IN THE FAMILY DIVISION
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8 ALEXANDER FALCONI,

9 Petitioner,

Case No. FV08-03200

10 vs.

Dept. No. 13

11 [REDACTED] ANN [REDACTED]

12 Respondent.
13 _____/

14 **ORDER DENYING SEPTEMBER 5, 2018 MOTION**

15 The Court has reviewed Petitioner Alexander Falconi's *Motion for Designation of*
16 *Entitlement to Property Held in the Custody of the Unclaimed Property Division and for Hearing*
17 *to Examine State Collections and Disbursement Unit* ("the September 5, 2018 Motion"),
18 submitted for the Court's consideration on May 23, 2018. The Court now finds and orders
19 as follows:

20 On August 9, 2018, the Court entered its *Order Granting Motion for Costs on Appeal*
21 ("the Order Granting Costs"). The Court awarded Mr. Falconi "\$250.00 in costs incurred
22 for that appeal stated in Mr. Falconi's March 15, 2017 *Memorandum of Costs* and \$250.00 in
23 costs incurred for the subsequent appeal stated in his March 28, 2018 *Memorandum of Costs*
24 for a total award in the amount of \$500.00.

25 Mr. Falconi now asks the Court to "obtain a designation of entitlement to [REDACTED]
26 property held in custody of the Secretary of Treasury ('The Secretary') Unclaimed
27 Property Division" and to allow him to "obtain the information of any and every depositor
28 to have turned funds over to the Nevada State Collection and Disbursement Unit ('SCDU')
for the year of 2018." Mr. Falconi believes that the Court should designate he is entitled to

1 Ms. [REDACTED] property held by the Unclaimed Property Division, while his administrative
2 claim is proceeding. Mr. Falconi also argues that, as a judgment creditor, he is entitled to
3 information regarding who is depositing money with SCDU so that he can serve a writ of
4 execution on Ms. [REDACTED] employer.

5 In this case, Mr. Falconi was awarded \$500.00 against Ms. [REDACTED] for costs incurred
6 in his appeals. The Court finds that Mr. Falconi has not established that the Court is
7 required to designate that he is entitled to property held by the State Treasurer or to set a
8 hearing to examine SCDU. Mr. Falconi may proceed as a creditor to enforce the judgment,
9 but the Court will not provide Mr. Falconi with additional rights.

10 First, Mr. Falconi is not entitled to examine a third-party state agency regarding
11 where deposits are originating from in a child support matter based on a cost award in this
12 case. The Court notes that Mr. Falconi is not seeking discovery regarding the judgment
13 debtor's assets because he states that he knows the alleged assets are temporarily held by
14 SCDU for child support payments. See Rock Bay, LLC v. Dist. Ct., 129 Nev. 205, 212-13,
15 298 P.3d 441, 446 (2013) (holding court improperly declined to quash subpoena where
16 "judgment creditors did not demonstrate anything about the relationship between [the
17 third party] and the judgment debtors that raises suspicion sufficient to require access to
18 [the third party's] financial records"). Mr. Falconi also does not allege that he can enforce
19 this judgment against those child support payments.

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1 Second, the Court finds that the Uniform Unclaimed Property Act, NRS 120A.010,
2 et seq., sets forth the process for obtaining unclaimed property. Mr. Falconi submits that
3 he has proceeded with filing a claim for certain property. The Court does not have the
4 authority to dictate or "designate" that Mr. Falconi is entitled to certain unclaimed
5 property held by a state agency or to otherwise streamline Mr. Falconi's administrative
6 claim. Mr. Falconi's citation to a Florida case discussing that states' unclaimed property
7 statutes and public policy is also not relevant or persuasive in this matter.

8 Good cause appearing, the Court **DENIES** Mr. Falconi's September 5, 2018 Motion.

9 **IT IS SO ORDERED.**

10 Dated: December 6, 2018.

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13 District Judge
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court and that I deposited for mailing a true and correct copy of the within documents addressed to:

Ann [REDACTED]
[REDACTED]

Attention

AS OF OCTOBER 18TH, 2018, Electronic Filing is MANDATORY for all cases, including Family Law cases.

Paper copy of orders or other documents will no longer be mailed to parties. Copies will be sent electronically.

Parties should contact the Second Judicial District Court Filing Office at [REDACTED] up for a free e-flex account. Parties who are unable to file electronically may file an Application for Electronic Filing and Service Exemption form.

Dated this 4 Day of Dec, 2018.

[Signature]
JUDICIAL ASSISTANT