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14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 COREY GERWASKI,

17 Plaintiff,

18 vs.

19 STATE OF NEVADA, ex rel. BOARD OF  
20 REGENTS of the NEVADA SYSTEM OF  
21 HIGHER EDUCATION, on behalf of the  
22 UNIVERSITY OF NEVADA, LAS VEGAS;  
23 KEITH WHITFIELD, individually; AJP  
24 EDUCATIONAL FOUNDATION INC., a  
25 California Non-Profit Corporation; STUDENTS  
FOR JUSTICE OF PALESTINE-UNLV;  
NATIONAL STUDENTS FOR JUSTICE OF  
PALESTINE; NEVADANS FOR  
PALESTINIAN LIBERATION; DOES I-XX  
and ROE entities I-XX,

Defendants.

Case No.: 2:24-cv-00985

**DEFENDANT STUDENTS FOR JUSTICE  
IN PALESTINE – UNLV’S REPLY IN  
SUPPORT OF SPECIAL MOTION TO  
DISMISS PURSUANT TO NRS 41.660**

**[ORAL ARGUMENT REQUESTED]**

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1 Defendant Students for Justice in Palestine, University of Nevada, Las Vegas (“Students for  
2 Justice in Palestine – UNLV” or “SJP UNLV”) submits this reply in support of its Special Motion to  
3 Dismiss Pursuant to NRS 41.660 (ECF No. 96) and in response to Plaintiff’s Opposition (ECF No.  
4 103).

5  
6 Dated: August 25, 2025

7 **ACLU OF NEVADA**

8 */s/ Christopher Peterson*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Gerwaski's response to SJP UNLV's second Anti-SLAPP motion relies on essentially the  
3 same erroneous arguments as his response to SJP UNLV's special motion to dismiss his First  
4 Amended Complaint and again fails to offer *prima facie* evidence as required by Nevada law.

5 In arguing that SJP UNLV's motion is untimely, Gerwaski is apparently unaware of NRS  
6 41.660(2), which states that a special motion to dismiss under Nevada's Anti-SLAPP laws must be  
7 filed within 60 days after the service of the plaintiff's complaint. SJP UNLV complied with that  
8 deadline as calculated pursuant to FRCP 6.

9 **I. Gerwaski's state law claim of civil conspiracy is subject to Nevada's Anti-SLAPP laws.**

10 In its response to SJP UNLV's motion to dismiss pursuant to FRCP 12(b)(6), Gerwaski  
11 concedes that his civil conspiracy claim is made pursuant to Nevada law. ECF No. 101 at 3:23–24  
12 (“[T]he SAC plausibly states claims under the Anti-Terrorism Act (“ATA”), 18 U.S.C. § 2333, and  
13 *Nevada common-law civil conspiracy.*” (emphasis added)) Claims made pursuant to Nevada state  
14 law, even in federal court, are subject to Nevada's Anti-SLAPP laws. *Walker v. Intelli-Heart Servs.*,  
15 No. 3:18-cv-00132-MMD-CBC, 2020 U.S. Dist. LEXIS 37005, at \*7 (D. Nev. Mar. 4, 2020) (“Anti-  
16 SLAPP statutes are available to litigants in federal court.”). This includes state civil conspiracy  
17 claims. NRS 41.650 (“A person who engages in a good faith communication in furtherance of the  
18 right to petition or the right to free speech in direct connection with an issue of public concern is  
19 immune from *any civil action for claims based upon the communication.*”(emphasis added)); see  
20 generally *Abrams v. Sanson*, 136 Nev. 83 (2020) (applying Nevada's anti-SLAPP to a Nevada based  
21 civil conspiracy claim).

22 Gerwaski argues that because his state civil conspiracy claim is based in part on a wrong  
23 arising from an alleged violation of a federal statute, his state law claim has transformed into a federal  
24 law claim not subject to Nevada's Anti-SLAPP laws. ECF No. 103 at 11:4 –12:8. Gerwaski is wrong.

1 When a state law provides the cause of action, the claim is considered a state law claim; “overlapping  
2 concerns of federal law” do not transform it into a federal claim. *See Indep. Living Ctr. of S. Cal.,*  
3 *Inc. v. Kent*, 909 F.3d 272, 279–81 (9th Cir. 2018) (analyzing whether a cause of action was  
4 considered a federal or state law claim). There is no federal cause of action identical to Nevada’s civil  
5 conspiracy tort; without Nevada law, Gerwaski has no claim. Furthermore, none of the cases cited by  
6 Gerwaski suggest that any one claim could be both a state and federal claim, or that the state law tort  
7 of civil conspiracy could transform into a federal law claim if conspiracy is premised on a violation  
8 of federal law; rather they simply reaffirm the basic premise that state anti-SLAPP laws only apply  
9 to state law claims. *See Nunag-Tanedo v. E. Baton Rouge Parish Sch. Bd.*, 711 F.3d 1136, 1141 (9th  
10 Cir. 2013) (clarifying that federal claims are severable from state law claims when defendant moves  
11 to dismiss in the context of anti-SLAPP); *Hilton v. Hallmark Cards*, 599 F.3d 894, 901 (9th Cir.  
12 2010) (determining that state anti-SLAPP does not apply to a claim raised entirely under the Lanham  
13 Act, which is federal law); *Doe v. Gangland Prods., Inc.*, 730 F.3d 946, 955 n.3 (9th Cir. 2013)  
14 (observing that anti-SLAPP laws would not apply to copyright claims because copyright is federal  
15 law); *ProCare Hospice of Nev. LLC v. OneCare Hospice, LLC*, 340 F.R.D. 174, 178 (D. Nev. 2021)  
16 (finding that a party cannot stay a federal claim relying on state anti-SLAPP).

17 Gerwaski admits that his civil conspiracy claim is a Nevada state law tort. With that  
18 admission, his claim is subject to Nevada’s Anti-SLAPP laws.

19 **II. Gerwaski fails to explain how SJP UNLV’s communications are not protected under**  
20 **Nevada’s Anti-SLAPP laws.**

21 While he mischaracterizes their nature in his response, Gerwaski effectively concedes that his  
22 state conspiracy claim is based on SJP UNLV’s communications.<sup>1</sup> ECF No. 103 at 17:10 –15. He

---

23 <sup>1</sup> “The SAC alleges that SJP UNLV’s coordinated activities amplified the threat environment created  
24 by that attack, directly causing Plaintiff severe damages, physical illness (Bell’s Palsy), and  
25 educational setbacks. *Defendant’s organization of protests using NSJP’s messaging, mobilization of*  
*students, and promotion of Hamas-aligned slogans* are factual allegations of substantial assistance to

1 does not identify anything other than SJP UNLV’s protest activities as the basis for his state civil  
2 conspiracy claim.<sup>2</sup> While he asserts that SJP UNLV’s activities are not good faith communications  
3 protected under Nevada’s Anti-SLAPP laws, Gerwaski never actually applies the standard for  
4 protected communications set forth in NRS 41.637 to his alleged facts. As such, he does not  
5 meaningfully dispute that SJP UNLV’s protests satisfied the definition provided by NRS 41.637(4),  
6 and he does not explain how any communications made during those protests were untruthful let  
7 alone made with knowledge of falsity.

8         Instead of actually addressing the standard provided by NRS 41.637, Gerwaski only repeats  
9 claims that SJP UNLV worked with Hamas. These accusations are not only unsupported by adequate  
10 factual allegations, they are also irrelevant in determining whether SJP UNLV’s protests are protected  
11 under NRS 41.637(4). NRS 41.637(4) does not ask why a communication occurred, only whether it  
12 was directly connected to an issue of public importance, whether it occurred in a public forum, and  
13 whether it was truthful or made without knowledge of falsity. NRS 41.637(4). As laid out in SJP  
14 UNLV’s motion to dismiss, supported by Alexa Hayden and Matthew Mondschien’s sworn  
15 statements on the record, and undisputed in Gerwaski’s response, SJP UNLV’s protests satisfy this  
16 definition and are entitled to Anti-SLAPP protection. Def. SJP UNLV’s Special Mot. to Dismiss,  
17 ECF 61.

18 **III. Gerwaski fails to explain how he has any probability of success on his civil conspiracy**  
19 **claim.**

20         Setting aside for a moment that Gerwaski has failed yet again to offer *prima facie* evidence to

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21 \_\_\_\_\_  
22 Hamas’s objectives.” ECF No. 103 at 17:10–15 (emphasis added).

23 <sup>2</sup> At times during his response, Gerwaski shies away from referring the underlying actions as  
24 protests, preferring the vague term “material support” to suggest his claim is not premised on  
25 protected communications. ECF No. 103 at 14:23 – 15:10. This raises the obvious question, what is  
the alleged “material support” Gerwaski is referring to, and the answer is SJP UNLV’s political  
advocacy.

1 support his claim, Gerwaski has not shown any probability of success for his civil conspiracy claim  
2 on its face because he has inadequately pled (1) the underlying tort, (2) the existence of agreement to  
3 harm another, and (3) that any action taken pursuant to an agreement caused him damages.

4 Gerwaski admits that his civil conspiracy claim is premised on his ATA claim, ECF No. 103  
5 at 11:17, but he has not adequately pled that claim. To sustain an ATA claim, Gerwaski must plausibly  
6 allege (1) “an injury arising from an act of international terrorism,” (2) committed by a designated  
7 foreign terrorist organization, and (3) AMP and SJP-UNLV “knowingly provide[d] substantial  
8 assistance or conspire[d] with the person who committed such an act of international terrorism.”  
9 Order Granting Defendants AJP Educational Foundation and SJP-UNLV’s Motions to Dismiss, ECF  
10 No. 71 at 9:17–21, citing 18 U.S.C. § 2333(d)(2); *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 483-84  
11 (2023). Gerwaski’s ATA claim must fail because Gerwaski (1) was not injured by an act of terrorism  
12 identified in his complaint and (2) has not shown that SJP UNLV did anything to contribute to that  
13 act of terrorism. Gerwaski says the October 7, 2023, “caused his injuries,” ECF No. 103 at 9–10, but  
14 he does not identify anything Hamas did during the attack that harmed him. Instead Gerwaski says  
15 that he was injured by SJP UNLV’s actions on UNLV’s campus, not Hamas’s actions on October 7,  
16 2023, ECF No. 103 at 17:10–12, but SJP UNLV’s alleged actions, i.e. non-violent protesting, social  
17 media posting, and petitioning, do not constitute acts of international terrorism. Furthermore,  
18 Gerwaski argues that SJP UNLV can be held liable for the October 7, 2023, attack based solely on  
19 conduct that occurred after October 7, 2023, *see* ECF No. 103 at 16:9 – 17:19 (describing SJP UNLV  
20 actions after October 7, 2023), but he does not explain how SJP UNLV could assist in an attack that  
21 already occurred. As his underlying tort fails so must his civil conspiracy claim.

22 Gerwaski must offer sufficient factual allegations to show that SJP UNLV, AMP, and NSJP  
23 had an agreement to carry out an unlawful objective and harm another. Instead, the only concrete  
24 allegations he offers are that SJP UNLV used a social media toolkit that NSJP posted publicly and  
25

1 that the SJP UNLV and NSJP communicated with each other. Mere communication between parties  
2 is insufficient to establish a civil conspiracy, *See Warren v. Dollar Tree*, No. 2:23-cv-01377-APG-  
3 EJY, 2024 U.S. Dist. LEXIS 6692, at \*7 (D. Nev. Jan. 11, 2024) (finding that an allegation that  
4 alleged conspirators communicated with each other insufficient to sustain a civil conspiracy claim),  
5 as are “conclusory statements and formulaic recitations of the elements of conspiracy.” *Whitt v.*  
6 *Richland Holdings, Inc.*, No. 2:17-cv-00014-APG-NJK, 2017 U.S. Dist. LEXIS 158415, at \*14 (D.  
7 Nev. Sept. 26, 2017). Yet this is precisely what Gerwaski offers in his complaint and reply.

8 Finally, Gerwaski must show that he suffered damages from the alleged conspiracy. In his  
9 reply, all he offers is that the conspiracy caused his Bell’s Palsy and “educational setbacks” by  
10 “amplify[ing] the threat environment created by [the October 7, 2023] attack,” whatever that may  
11 mean. ECF No. 103 at 17:10–12. Gerwaski does not allege he ever encountered any of the alleged  
12 conspirators or provides even a theoretical causal chain leading from SJP UNLV’s actions and his  
13 injuries.

14 Gerwaski’s civil conspiracy claim on its face has no probability for success.

15 **IV. Gerwaski again fails to offer *prima facie* evidence in support of his opposition to SJP**  
16 **UNLV’s Anti-SLAPP motion.**

17 Once a defendant satisfies their initial burden under NRS 41.660(3)(a), the plaintiff is  
18 obligated to offer *prima facie* evidence establishing a probability of prevailing on his claim. NRS  
19 41.660(3)(b). The plaintiff must also offer evidence if he seeks to dispute a defendant’s  
20 representations that the communications at issue were made in good faith. *See Stark v. Lackey*, 136  
21 Nev. 38, 43 (2020) (“[A]n affidavit stating that the defendant believed the communications to be  
22 truthful or made them without knowledge of their falsehood is sufficient to meet the defendant’s  
23 burden *absent contradictory evidence in the record.*” (emphasis added)). “Because the plaintiff must  
24 support [his] claim with evidence, [he] cannot rely only on [his] own pleading, even if verified.”  
25 *Anderson Bus. Advisors, Ltd. Liab. Co. v. Foley*, 540 P.3d 1055 (Nev. 2023) (unpublished). “The

1 plaintiff fails [his] burden if [he] does not analyze the evidence or tie the evidence to any element of  
2 any cause of action alleged in [his] complaint.” *Id.*

3 In responding to SJP UNLV’s Anti-SLAPP motion, Gerwaski cannot rely on his complaint to  
4 claim SJP UNLV’s communications were made in bad faith or that his civil conspiracy claim will  
5 succeed; he must offer some evidence in support of his position. Where SJP UNLV previously  
6 provided sworn declarations to the Court that support this Anti-SLAPP motion, Gerwaski has never  
7 provided any declarations or other evidence to support his response to either this or SJP UNLV  
8 previous Anti-SLAPP motion as required by Nevada law. Proving wrong once again the old adage  
9 “once bit, twice shy,” Gerwaski forges ahead making the same mistakes in responding to SJP UNLV’s  
10 second Anti-SLAPP motion. As such, he is entitled to the same outcome of having his Civil  
11 Conspiracy claim dismissed.

12 **V. SJP UNLV’s special motion to dismiss is timely.**

13 Pursuant to NRS 41.660(2), “A special motion to dismiss must be filed within 60 days after  
14 service of the complaint, which period may be extended by the court for good cause shown.”  
15 Gerwaski filed his Second Amended Complaint on June 3, 2025. ECF No. 79. Under NRS 41.660(2),  
16 SJP UNLV special motion would have been due on August 2, 2025, but as August 2, 2025, was a  
17 Saturday, SJP UNLV complied with FRCP 6(a)(1)(C) and filed the next day that was not a Saturday,  
18 Sunday, or legal holiday, which was August 4, 2025.

19 The parties only stipulated to extend, not shorten, deadlines, *see* ECF No. 89 (stipulating to  
20 extend deadline to respond to Gerwaski’s Second Amended Complaint, which means that the  
21 stipulations filed had no impact on the SJP UNLV’s special motion.

22 **VI. As this is a special motion pursuant to Nevada’s Anti-SLAPP laws, Gerwaski’s civil  
23 conspiracy claim must be dismissed with prejudice.**

24 Gerwaski requests the opportunity to amend his state civil conspiracy claim. ECF No. 103 at  
25 18:1–12. Setting aside that such an amendment would be futile, claims dismissed pursuant to

1 Nevada’s Anti-SLAPP laws are treated as adjudicated on the merits. NRS 41.660(5) (“If the court  
2 dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the  
3 dismissal operates as an adjudication upon the merits.”). Gerwaski’s civil conspiracy claim must be  
4 dismissed with prejudice.

5  
6 **CONCLUSION**

7 Gerwaski has brought a civil cause of action under state law, and SJP UNLV is entitled to  
8 challenge that action under Nevada’s Anti-SLAPP laws. SJP UNLV has offered sufficient evidence  
9 to satisfy its burden under NRS 41.660(3)(a) to show Plaintiff’s IIED claim is based on SJP UNLV’s  
10 good faith communication in furtherance of the right to petition or the right to free speech in direct  
11 connection with an issue of public concern as that term is defined by NRS 41.637. Plaintiff has offered  
12 no evidence at all to satisfy his burden under NRS 41.660(3)(b). SJP UNLV requests that this Court  
13 grant its motion, dismiss Gerwaski’s civil conspiracy claim, and award reasonable costs, attorney  
14 fees, and other award deemed appropriate pursuant to NRS 41.670.

15  
16 Dated: August 25, 2025

17  
18 **ACLU OF NEVADA**

19 /s/ Christopher Peterson

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **Defendant Students for Justice in Palestine – UNLV’s Reply in Support of Its Special Motion to Dismiss Pursuant to NRS 41.660** on August 25, 2025. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished on all participants by:

- CM/ECF
- Electronic mail; or
- US Mail or Carrier Service

*/s/Suzanne Lara*  
\_\_\_\_\_  
An employee of ACLU of Nevada