

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Case No. 86976

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Elizabeth A. Brown
Clerk of Supreme Court

PIERRE A. HASCHEFF,

Appellant/Cross-Respondent,
vs.

LYNDA HASCHEFF,

Respondent/Cross-Appellant.

Appeal From Special Order Entered After Final Judgment
Second Judicial District Court Case No. DV13-00656

OPPOSITION TO MOTION TO SEAL DOCKETING STATEMENT

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Respondent/Cross-Appellant Lynda Hascheff opposes Appellant/Cross-Respondent Pierre Hascheff's Motion to Seal Docketing Statement. This opposition is based on the following points and authorities and such other matters as the Court may wish to consider.¹

POINTS AND AUTHORITIES

Pierre's Motion to Seal Docketing Statement (1) makes misrepresentations regarding Lynda's alleged position; (2) recycles a previous motion to seal that the Court already denied; (3) is far too broad and fails overcome the presumption that favors public access to court documents; and (4) requests that the Court seal documents that are already part of the public record. For the same reasons the Court already denied Pierre's motions to seal in Case No. 82626, his current Motion should be denied.

A. Factual Background

In related Case No. 82626, the parties appealed and cross-appealed from a February 1, 2021 Order Granting Motion for Clarification or Declaratory Relief; Order Denying Motion for Order to Enforce and/or for an Order to Show Cause; Order Denying Request for Attorney's Fees and Costs entered in District Court

¹ Although the Motion twice refers to Pierre's Opening Brief and Appendix, Lynda is not aware that Pierre has filed either. Therefore, this opposition only addresses Pierre's request to seal his docketing statement.

Case No. DV13-00656.² On June 29, 2022, the Court of Appeals entered an Order Affirming in Part, Reversing in Part, and Remanding. On remand, on June 12, 2023, the district court entered the Order Awarding Attorney’s Fees, which Pierre appealed and Lynda cross-appealed and which is now before this Court.

In Case No. 82626, Pierre filed a Motion to Seal Opening Brief and Appendix on September 30, 2021 (Doc. No. 21-28093). On October 18, 2021, the Court entered an Order Denying Motion to Seal Opening Brief and Appendix, stating:

Although appellant/cross-respondent asserts the opening brief and appendix contain private, confidential information, he fails to explain why redaction would not adequately protect such information. *See* SRCR 3(4)(h), 3(5)(b). To the extent appellant/cross-respondent contends that certain documents should be sealed in this court because they were sealed in the district court, *see* SRCR 3(7), it is not clear that SRCR 3(7) applies to this matter, as appellant/cross-respondent does not explain on what basis the district court sealed any documents. *See* SRCR 1(4) (stating that the rules for sealing and redacting court records “do not apply to the sealing or redacting of court records under specific statutes”). Accordingly, the motion is denied without prejudice.

Doc. No. 21-29821.

On October 25, 2021, Pierre filed another Motion to Seal Opening Brief and Appendix That Contain Quotes and References to, and Pleadings and Transcripts Previously Ordered Sealed (Doc. No. 21-30757), which Lynda opposed. On

² Case No. 82626 was transferred to the Court of Appeals on April 8, 2022 as Case No. 82626-COA.

November 15, 2021, the Court entered an Order denying the Motion, stating:

Appellant fails to explain why redaction of the opening brief would be insufficient to protect any confidential information. *Cf.* SRCR 3(5)(b). Appellant also fails to provide this court with a copy of the district court's sealing order as directed or even inform this court on what basis the district court sealed documents. Further, both appellant and respondent have already filed some of the documents appellant seeks to seal on this court's public docket, as attachments to their docketing statements. Under these circumstances, the motion is denied.

Doc. No. 21-32729.

Notwithstanding the Court's earlier denials of his motions to seal, Pierre now files **yet another** motion to seal that recycles his previous failed efforts. In fact, Pierre's motion does not even bother to change the language of his recycled motion to refer to the docketing statement. Rather, the Motion twice asks for the Opening Brief and Appendix to be sealed "pursuant to" the Court's October 18, 2021 Order in Case No. 82626.

Pierre's Motion also misrepresents Lynda's alleged position on sealing by stating, "[I]t is also Appellant's counsels [*sic*] understanding that Respondent/Cross Respondent, [*sic*] desires to keep this information sealed." It is unclear how Pierre's counsel came to this "understanding" because she and undersigned counsel for Lynda have never discussed sealing. Additionally, Lynda **opposed** Pierre's motion to seal in Case No. 82626 (Doc. No. 21-31272), noting the presumption of public access and stating, "The case is largely one of contract interpretation that should not be hidden from the public. Pierre has not

demonstrated otherwise. For that reason, Lynda respectfully opposes Pierre’s Motion.” *Id.* at 1-2. Lynda has the same position in this case, and Pierre’s counsel had no basis to assert **anything** regarding Lynda’s alleged position.

B. Argument

“[T]here exists a presumption in favor of public access to records and documents filed in this [C]ourt.” *Howard v. State*, 128 Nev. 736, 744, 291 P.3d 137, 142 (2012). “[T]his presumption may be abridged only where the public right of access is outweighed by a significant competing interest.” *Id.* “[T]he party seeking to seal a record or document carries the burden of demonstrating sufficient grounds for denying access.” *Id.* Pierre does not identify specific documents that contain “private, confidential information” nor explain why the redaction of limited documents would not adequately protect any such information. *See* SRCR 3(4)(h), 3(5)(b).

Regardless, all the documents Pierre attached to his Docketing Statement are already part of the public record either in Case Nos. 82626 and 82626-COA or the underlying District Court Case No. DV13-00656:

1. The first attachment, July 8, 2020 Motion for Order to Show Cause, or in the Alternative, to Enforce the Court’s Orders, was filed as part of Plaintiff’s Appendix Volume I in Appeal Case No. 82626, Doc. No. 21-33384 at AA000176-AA000205.

2. The second attachment, September 9, 2020 Order Setting Motion re: MSA for Hearing; Order Holding in Abeyance Motion for Order to Enforce and for an Order to Show Cause, is on the public docket in District Court Case No. DV13-00656.
3. The third attachment, June 29, 2022 Order Affirming in Part, Reversing in Part, and Remanding, is on the public docket in Case No. 82626-COA, Doc. No. 22-20567.
4. The fourth attachment, February 17, 2023 Order Regarding Indemnification of Fees and Costs Under MSA § 40; Order Regarding Prevailing Party Under MSA § 35.1, is on the public docket in District Court Case No. DV13-00656.
5. The fifth attachment, June 12, 2023 Order Awarding Attorney's Fees, is on the public docket in District Court Case No. DV13-00656.

The dispute between the parties is largely one of contract interpretation, and the order on appeal relates to who is the prevailing party for a fee award. There is no reason this appeal should be hidden from the public. Pierre has not overcome the presumption of public access. For the same reasons the Court already denied Pierre's previous motions to seal, his current Motion should be denied as well.

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AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED August 10, 2023

LEONARD LAW, PC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on August 10, 2023, a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the eFlex system. All others will be served by first-class mail.

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