

N THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL DISTRICT,

Appellant,

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

Electronically Filed
Jul 17 2018 07:53 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

SUPREME COURT CASE NO.:
73525

DISTRICT COURT CASE NO.:
A-17-750151-W

**MOTION REQUESTING LEAVE TO FILE SUPPLEMENT TO
APPENDIX**

Respondent the Las Vegas Review-Journal (“Review-Journal”), by and through its counsel, Margaret A. McLetchie and Alina M. Shell, hereby moves to supplement the record on file with the attached proposed Supplement to the Review-Journal’s Appendix. This Motion is supported by the attached Memorandum of Points and Authorities.

DATED this 16th day of July, 2018.

/s/ Alina M. Shell

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLECHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for Respondent, Las Vegas Review-Journal

MEMORANDUM OF POINTS AND AUTHORITIES

At the heart of the instant appeal, which is scheduled for oral argument before this Court on July 18, 2018, are multiple allegations from Clark County School District (“CCSD”) employees and members of the CCSD community regarding a pattern of inappropriate behavior by CCSD Trustee Kevin Child, who is running for re-election to the CCSD Board of Trustees. (*See* attached proposed Supplement to Respondent’s Appendix at RA661-663) (Review-Journal article regarding Trustee Child’s filing for re-election). In preparation for oral argument, counsel determined that it was necessary to provide the Court with copies of documents that are relevant to the central question raised by CCSD in the instant appeal: whether information regarding CCSD employees who have complained about Trustee Child’s alleged behavior merits confidentiality protections.

At a March 22, 2018 meeting of the CCSD Board of Trustees, the Board approved a settlement related to a charge of discrimination filed with the Nevada Equal Rights Commission and United States Equal Opportunity Commission by CCSD Deputy Superintendent Kimberly Wooden (the “Wooden Settlement”). (*See* Supplement to Respondent’s Appendix, RA667-685, pp. 11-12 (minutes of Board meeting approving the Wooden Settlement); *see also id.* at RA664-687 (Review-Journal articles regarding the Wooden Settlement).)

The undersigned apologizes for not submitting the Proposed Supplement earlier.¹ However, the Review-Journal asserts that inclusion of the additional documents is appropriate because they are directly relevant to the central question in this case. While the Review-Journal recognizes that, as a general rule, this Court does not consider information not submitted to the district court, in light of the fact that its review of this matter is *de novo*², the documents in the Review-Journal's proposed supplement to its Appendix are necessary for this Court's consideration of whether CCSD's claims of confidentiality regarding the withheld records trump the presumption of public access to governmental records.

Moreover, pursuant to Nev. Rev. Stat. § 47.150(2)(b), this Court may take judicial notice of "facts generally known or capable of verification from a reliable source." *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009). Additionally, the Court may take judicial notice of facts that are "[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute." *Id.*

¹ The Wooden Settlement was approved after the Review-Journal submitted its Answering Brief on January 25, 2018.

² *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 877, 266 P.3d 623, 626 (2011) (noting that where a public records appeal entails questions of law, the Court reviews the district court's decision *de novo*).

(quoting Nev. Rev. Stat. § 47.130(2)(b)). Although this Court generally will not take notice of records in another and different case, it has discretion to do so when the matters are closely related. *Id.* at 125 Nev. 80, 92, 206 P.3d 98, 106 (citing *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981)); *see also* Nev. Rev. Stat. § 47.150(2)(b) (providing a court “shall take judicial notice if requested by a party and supplied with the necessary information”).

The facts contained in the exhibits attached to this motion are “closely related” to this case. Further, documents such as newspaper articles and minutes from official meetings are the type of records that a court can generally take judicial notice of. *See Von Saher v. Norton Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (“Courts may take judicial notice of publications introduced to “indicate what was in the public realm at the time, not whether the contents of those articles were in fact true.”) (quotation omitted). Accordingly, the Review-Journal respectfully requests the Court allow it to supplement its Respondent’s Appendix with the attached proposed Supplement.

Respectfully submitted this 16th day of July, 2018.

/s/ Alina M. Shell

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLETCHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for Respondent, Las Vegas Review-Journal

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION REQUESTING LEAVE TO FILE SUPPLEMENT TO APPENDIX was filed electronically with the Nevada Supreme Court on the 16th day of July, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
Counsel for Appellant,
Clark County School District

/s/ Pharan Burchfield
Employee of McLetchie Shell LLC