

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL OMERZA; DARREN BRESEE;
AND STEVE CARIA,
Appellants,

vs.

FORE STARS, LTD, A NEVADA
LIMITED LIABILITY COMPANY; 180
LAND CO., LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND SEVENTY
ACRES, LLC, A NEVADA LIMITED
LIABILITY COMPANY,
Respondents.

No. 76273

FILED

FEB 27 2020


ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

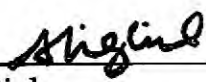
ORDER DENYING REHEARING


On January 23, 2020, we entered an order vacating the district court's order denying appellants' anti-SLAPP special motion to dismiss and remanding for the district court to consider respondents' request for discovery under NRS 41.660(4). Appellants have petitioned for rehearing, arguing that this court overlooked the connection between its conclusion that appellants met the first prong of the anti-SLAPP analysis and the applicability of the absolute litigation privilege. They assert that remanding for the district court to consider the discovery request is unnecessary because the privilege applies and bars respondents' claims. Appellants contend that by not expressly addressing their arguments regarding the litigation privilege but stating that all issues have been considered, our order suggested that we rejected the applicability of the litigation privilege.

Having considered the rehearing petition, we deny it, as appellants have failed to demonstrate that rehearing is warranted. NRAP 40(c). Specifically, as provided in our order vacating and remanding, because the challenged order did not rule on the merits of respondents' request for limited discovery, we declined to decide in the first instance whether respondents met the standard in NRS 41.660(4) for obtaining such discovery. Our order did not reject appellants' arguments regarding the litigation privilege but merely stated that additional arguments not expressly addressed did not warrant a different outcome beyond vacating the district court's order and remanding for the district court to consider respondents' request for discovery in the first instance. Thus, although we deny rehearing, we clarify that our January 23 order should not be construed as precluding appellants from challenging limited discovery on remand based on application of a litigation privilege or any other reason.

It is so ORDERED.


Gibbons J.


Stiglich J.


Cadish J.

cc: Hon. Richard Scotti, District Judge
Brownstein Hyatt Farber Schreck, LLP/Las Vegas
The Jimmerson Law Firm, P.C
Eighth District Court Clerk