

In the Supreme Court of Nevada

GAVIN COX AND MINH-HAHN COX,
husband and wife,

Appellants,

vs.

MGM GRAND HOTEL, LLC; DAVID
COPPERFIELD AKA DAVID S. KOTKIN;
BACKSTAGE EMPLOYMENT AND
REFERRAL, INC.; DAVID
COPPERFIELD'S DISAPPEARING, INC.;
TEAM CONSTRUCTION MANAGEMENT,
INC.; AND BEACHERS LV, LLC,

Respondents.

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**MOTION TO AMEND CAPTION TO REMOVE
BEACHERS LV, LLC AS A RESPONDENT**

Third-party defendant-respondent Beachers LV, LLC moves under NRAP 27(a) to amend the caption of this appeal, because Beachers cannot be named as a respondent for two reasons.

First, plaintiffs-appellants Gavin Cox and Minh-Hahn Cox have no claims against Beachers; Beachers was a party in the underlying personal-injury matter only as a result of defendant-respondent MGM

Grand Hotel, LLC's third-party claims against Beachers for indemnification, contribution, and allocation.¹ (1 JA 1–11, 78–92, 128–50.) Those third-party claims are not an issue in this appeal. (See 28 JA 6577–85.) Where a third-party plaintiff does not raise its third-party claims as an issue on appeal, the third-party defendant cannot be named as a respondent to the appeal. *Trans W. Leasing Corp. v. Corrao Co.*, 98 Nev. 385, 386, 49 P.2d 1371, 1372 (1982) (dismissing a third-party defendant from an appeal where the third-party claims for indemnification were not at issue on appeal). Because plaintiffs did not assert a claim against Beachers in the underlying action and MGM Grand does not raise an appeal as to its third-party claims, the caption should be amended to remove Beachers as a respondent.

Second, plaintiffs do not argue for reversal of any decision concerning the third-party claims against Beachers. (See 28 JA 6577–85.) They instead argue only for reversal of the jury's determinations that

¹ MGM Grand's third-party claims against Beachers were stayed pending the trial as to the defendants' liability to plaintiffs. The jury issued a defense verdict, mooting MGM Grand's claims against Beachers. See *Cox et al. v. MGM Grand Hotel, LLC et al.*, Docket No. 76422 (Order to Show Cause, Aug. 29, 2019) (citing *Lee v. GNLV, Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000)).

the remaining defendants were either not negligent or not a proximate cause of Mr. Cox's trip. (*Id.*) The jury, in fact, did not make any findings on the third-party claims against Beachers. (*See* 25 JA 5920–23.) Because plaintiffs do not argue for reversal as to a decision on the claims against Beachers, the Clerk of the Court should be directed to amend the caption to remove Beachers as a respondent accordingly.

Dated this 4th day of February, 2020.

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CERTIFICATE OF SERVICE

I certify that I submitted the forgoing “MOTION TO AMEND CAPTION TO REMOVE BEACHERS LV, LLC” for filing via the Court’s eFlex electronic filing system on February 4, 2020. Electronic notification will be sent to the following:

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