

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA; NEVADA :
DEPARTMENT OF :
CORRECTIONS; JAMES :
DZURENDA, Director of the :
Nevada Department of Corrections, :
in his official capacity; IHSAN :
AZZAM, Ph.D., M.D., Chief :
Medical Officer of the State of :
Nevada, in his official capacity; and :
JOHN DOE, Attending Physician at :
Planned Execution of Scott :
Raymond Dozier in his official :
capacity, :

Petitioners, :

v. :

THE EIGHTH JUDICIAL :
DISTRICT COURT OF THE :
STATE OF NEVADA, IN AND :
FOR THE COUNT OF CLARK; :
AND THE HONORABLE :
ELIZABETH GONZALEZ, :
DISTRICT COURT JUDGE , :

Respondents. :

and :

ALVOGEN, INC.; and HIKMA :
PHARMACEUTICALS USA :
INC., :

Real Parties in Interest. :

Supreme Court Case No: 76485
Electronically Filed
Aug 29 2018 02:54 p.m.
District Court No: A-18-777312-B
Elizabeth A. Brown
Clerk of Supreme Court

**SANDOZ INC.’S MOTION TO
AMEND CAPTION AND APPEAR
AS REAL PARTY IN INTEREST**

POINTS AND AUTHORITIES

BACKGROUND

Sandoz manufactures one of the drugs to be used in the State of Nevada's (the "State") execution protocol for Scott Dozier. Sandoz filed a Motion to Intervene in the district court proceedings, which the district court granted on August 21, 2018. Later that day, per this Court's August 16 Order, Sandoz filed its *amicus curiae* brief in support of the answers to the State's writ petition filed by real parties in interest Alvogen, Inc. ("Alvogen") and Hikma Pharmaceuticals USA, Inc. ("Hikma"). The district court's written order granting Sandoz's motion to intervene was entered on August 23, 2018, and is attached hereto as Exhibit 1.

Given that Sandoz is now a party in the district court proceedings, it hereby moves to amend the caption in this writ proceeding and to participate herein as a real party in interest.

ARGUMENT

As Hikma aptly noted when it successfully moved to amend the caption and appear as a real party in interest:

it is fundamental that an action must be prosecuted by one who has a beneficial interest in the outcome. In a mandamus proceeding, it is the parties in the underlying proceeding, not the courts . . . which have a beneficial interest in the outcome of a case; the role of the respondent court is that of a neutral party.

Hikma's Emergency Motion Under NRAP 27(e) to Amend the Caption and Appear as a Real Party in Interest (filed Aug. 8, 2018) at 5 (quoting *Mun. Court v. Superior Court*, 857 P.2d 325, 326 (Cal. 1993) (internal brackets and quotation marks omitted)). As a party in the underlying proceedings, Sandoz clearly has a beneficial interest in the outcome of the State's writ petition.

Like Alvogen and Hikma, Sandoz has a long-standing, publicly-stated opposition to the misuse of its products in capital punishment. Sandoz strongly objects to the unauthorized and wrongful use of its drugs as part of the State's execution protocol. Allowing the State to proceed with its plan to use one of Sandoz's drugs to execute Scott Dozier by lethal injection will work a significant and irreparable harm to its reputation and cause substantial injury resulting from, among other things, damage to business and investor relationships and damage to goodwill. Because the outcome of the State's writ petition will directly impact Sandoz's ability to protect these interests, Sandoz seeks permission to appear as a real party in interest and to amend the caption to reflect this status. *See* NRAP 21(a)(2).

Granting Sandoz's requested relief will not cause any prejudice to the State or the other real parties in interest. Sandoz has complied with all deadlines set by the Court and will continue to do so. Sandoz, moreover, has already filed its *amicus curiae* brief in which it set forth the facts unique to it, and otherwise joined in the

legal arguments presented by Alvogen and Hikma. Sandoz, accordingly, does not seek leave to file a separate answering brief.

CONCLUSION

Based on the foregoing, Sandoz respectfully requests that it be permitted to participate in this proceeding as a real party in interest and that the caption be amended to reflect the same.

DATED this 29th day of August, 2018.

CAMPBELL & WILLIAMS

By /s/ J. Colby Williams
J. COLBY WILLIAMS, ESQ. (5549)
PHILIP R. ERWIN, ESQ. (11563)

Attorneys for Sandoz Inc.

CERTIFICATE OF COMPLIANCE

I, J. Colby Williams, hereby certify that I have read this *Amicus curiae* brief, and to the best of my knowledge and information, and belief, it is not frivolous or interposed for any improper purpose. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in size 14 font in double-spaced Times New Roman and contains 1340 words. I further certify that I have read this brief and that it complies with NRAP 21.

I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 29th day of August, 2018

By: /s/ J. Colby Williams
J. Colby Williams, Esq. (5549)
CAMPBELL & WILLIAMS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of CAMPBELL & WILLIAMS, and that on this 29th day of August, 2018, I caused to be served via the Court's e-filing/e-service system and by email a true and correct copy of the above and foregoing **Sandoz Inc.'s Motion to Amend Caption and Appear as Real Party in Interest** to the following:

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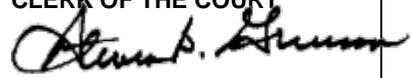
Attorneys for Hikma Pharmaceuticals USA Inc.

SERVED VIA HAND-DELIVERY

The Honorable Elizabeth Gonzalez
Eighth Judicial District Court, Dept. XI
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

/s/ J. Colby Williams
An employee of Campbell & Williams

EXHIBIT 1



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22 *Attorneys for Intervenor*

DISTRICT COURT
CLARK COUNTY, NEVADA

23 ALVOGEN, INC.,

Plaintiff,

v.

24 STATE OF NEVADA; NEVADA DEPARTMENT
25 OF CORRECTION; JAMES DZURENDA,
26 Director of the Nevada Department of Correction, in
27 his official capacity; IHSAN AZZAM, Ph.D., M.D.,
28 Chief Medical Officer of the State of Nevada, in his
official capacity; and JOHN DOE, Attending
Physician at Planned Execution of Scott Raymond
Dozier, in his official capacity;

Defendants.

AND ALL RELATED CLAIMS

Case No. A-18-777312-B

Dept. No. XI

**NOTICE OF ENTRY OF ORDER
GRANTING SANDOZ INC.'S
MOTION TO INTERVENE**

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Please take notice that on the 22nd day of August, 2018, an Order Granting Sandoz Inc.'s Motion to Intervene, was duly entered in the above entitled matter, a true and correct copy of which is attached hereto.

DATED this 23rd day of August, 2018.

Respectfully submitted,

CAMPBELL & WILLIAMS

By /s/ J. Colby Williams

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Attorneys for Intervenor

CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 23rd day of August, 2018, submit for service upon the following attorneys in this action a copy of the foregoing **Notice of Entry of Order Granting Sandoz Inc.'s Motion to Intervene** by the Court's ECF System through Wiznet:

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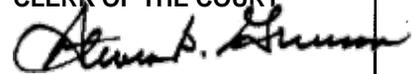
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By: /s/ John Y. Chong
An Employee of Campbell & Williams

EXHIBIT A



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DISTRICT COURT
CLARK COUNTY, NEVADA

ALVOGEN, INC.,

Plaintiff,

Case No. A-18-777312-B
Dept. No. XI

v.

**ORDER GRANTING SANDOZ
INC.'S MOTION TO INTERVENE**

STATE OF NEVADA; NEVADA DEPARTMENT
OF CORRECTION; JAMES DZURENDA,
Director of the Nevada Department of Correction, in
his official capacity; IHSAN AZZAM, Ph.D., M.D.,
Chief Medical Officer of the State of Nevada, in his
official capacity; and JOHN DOE, Attending
Physician at Planned Execution of Scott Raymond
Dozier, in his official capacity;

Date of Hearing: August 21, 2018
Time of Hearing: 9:00 a.m.

Defendants.

1 AND ALL RELATED CLAIMS

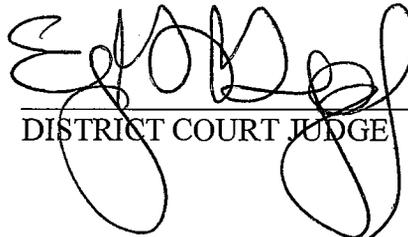
2 This matter came on for hearing on Sandoz Inc.'s Motion to Intervene on August 21, 2018.
3 J. Colby Williams, Esq. of the law firm Campbell & Williams appeared on behalf of Sandoz Inc.
4 ("Sandoz"); Jordan T. Smith of the Attorney General's office appeared on behalf of Defendants;
5 Todd L. Bice appeared on behalf of Alvogen, Inc.; and Josh M. Reid and Kristen L. Martini, Esq.,
6 appeared on behalf of Hikma Pharmaceuticals USA, Inc.

7 Having considered the papers filed by the parties and argument of counsel, and good cause
8 appearing therefore:

9 THE COURT HEREBY FINDS THAT Sandoz has met the burden for permissive
10 intervention in this matter pursuant to NRCP 24(b) as its claims and the main action have common
11 questions of law and fact, and its intervention will not unduly delay or prejudice the adjudication
12 of the rights of the original parties.

13 THEREFORE, IT IS HEREBY ORDERED THAT Sandoz's Motion to Intervene is
14 GRANTED.

15 DATED this 22 day of August, 2018.

16 
17
18 DISTRICT COURT JUDGE

19 Submitted by:

20 CAMPBELL & WILLIAMS

21 By 

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