

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**

NRAP RULE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons or entities described in NRAP 26.1(a) that must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Sandoz Inc. (“Sandoz”) is a Colorado corporation with corporate offices located at 100 College Road West, Princeton, New Jersey. Sandoz is an indirect subsidiary of Novartis AG, which trades on the SIX Swiss Exchange and whose American Depositary Shares are publicly traded on the New York Stock Exchange. The following attorneys and law firms have appeared for Sandoz in the action below: J. Colby Williams and Philip R. Erwin of Campbell & Williams; and Noel B. Ix and Andrew Kantra of Pepper Hamilton LLP.

DATED this 29th day of August, 2018.

CAMPBELL & WILLIAMS

By /s/ J. Colby Williams
J. COLBY WILLIAMS, ESQ. (5549)
jcw@cwlawlv.com
PHILIP R. ERWIN, ESQ. (11563)
pre@cwlawlv.com
700 South Seventh Street
Las Vegas, Nevada 89101
Tel. 702.382.5222

Attorneys for Sandoz Inc.

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:

Jordan T. Smith
Assistant Solicitor General
JSmith@ag.nv.gov
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101

Attorneys for the State of Nevada

James J. Pisanelli, Esq., Bar No. 4027
jjp@pisanellibice.com
Todd L. Bice, Esq., Bar No. 4534
tlb@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

Kenneth G. Schuler, Esq. (pro hac vice)
kenneth.schuler@lw.com
Michael J. Faris, Esq. (pro hac vice)
michael.faris@lw.com
Alex Grabowski, Esq. (pro hac vice)
alex.grabowski@lw.com
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, IL 60611

Angela Walker, Esq. (pro hac vice)
angela.walker@lw.com
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000
Washington, DC 20004-1304

Attorneys for Alvogen, Inc.

E. Leif Reid, Esq.
Josh M. Reid, Esq.
Kristen L. Martini, Esq.
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996

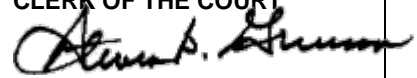
Attorneys for Hikma Pharmaceuticals USA Inc.

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



J. Colby Williams, Esq. (5549)
jcw@cwlawlv.com
Philip R. Erwin, Esq. (11563)
pre@cwlawlv.com
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101
Telephone: 702.382.5222

Noël B. Ix, Esq. (*pro hac vice to be submitted*)
ixn@pepperlaw.com
PEPPER HAMILTON LLP
301 Carnegie Center, Suite 400
Princeton, NJ 08540
Telephone: 609.452.0808

Andrew Kantra, Esq. (*pro hac vice to be submitted*)
kantraa@pepperlaw.com
PEPPER HAMILTON LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103
Telephone: 215.981.4000
Attorneys for Intervenor

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ALVOGEN, INC.,

Plaintiff,

v.

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;

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**

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

4 DATED this 23rd day of August, 2018.

5 Respectfully submitted,

6 CAMPBELL & WILLIAMS

7
8 By /s/ J. Colby Williams

9 J. Colby Williams, Esq. (5549)

10 jcw@cwlawlv.com

11 Philip R. Erwin, Esq. (11563)

12 pre@cwlawlv.com

13 CAMPBELL & WILLIAMS

14 700 South Seventh Street

15 Las Vegas, NV 89101

16 Telephone: 702.382.5222

17 Noël B. Ix, Esq. (*pro hac vice to be submitted*)

18 ixn@pepperlaw.com

19 PEPPER HAMILTON LLP

20 301 Carnegie Center, Suite 400

21 Princeton, NJ 08540

22 Telephone: 609.452.0808

23 Andrew Kantra, Esq. (*pro hac vice to be submitted*)

24 kantraa@pepperlaw.com

25 PEPPER HAMILTON LLP

26 3000 Two Logan Square

27 Eighteenth and Arch Streets

28 Philadelphia, PA 19103

Telephone: 215.981.4000

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:

James J. Pisanelli, Esq.
Todd L. Bice, Esq.
Debra L. Spinelli, Esq.
PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101
JJP@pisanellibice.com
TLB@pisanellibice.com
DLS@pisanellibice.com
Attorneys for Plaintiff

Jordan T. Smith, Esq.
Assistant Solicitor General
555 East Washington Avenue, #3900
Las Vegas, NV 89101
JSmith@ag.nv.gov
*Attorney for Defendant Nevada State of
Department of Corrections and State of
Nevada*

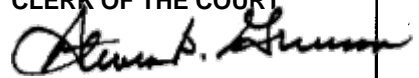
Kenneth G. Schuler, Esq.
Michael Faris, Esq.
Alex Grabowski, Esq.
LATHAM & WATKINS LLP
330 North Wabash Ave., Suite 2800
Chicago, IL 60611
kenneth.schuler@lw.com
michael.faris@lw.com
alex.grabowski@lw.com
Attorneys for Plaintiff

Angela Walker, Esq.
LATHAM & WATKINS LLP
555 Eleventh Street NW, Suite 1000
Washington, DC 20004-1304
angela.walker@lw.com
Attorneys for Plaintiff

E. Leif Reid, Esq., SBN 5750
Josh M. Reid, Esq., SBN 7497
Kristen L. Martini, Esq., SBN 11727
Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996
lreid@lrrc.com
jreid@lrrc.com
kmartini@lrrc.com
*Attorneys for Intervenor Hikma
Pharmaceuticals USA Inc.*

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

EXHIBIT A



1 J. Colby Williams, Esq. (5549)

2 jcw@cwlawlv.com

3 Philip R. Erwin, Esq. (11563)

4 pre@cwlawlv.com

5 CAMPBELL & WILLIAMS

6 700 South Seventh Street

7 Las Vegas, NV 89101

8 Telephone: 702.382.5222

9 Noël B. Ix, Esq. (*pro hac vice to be submitted*)

10 ixn@pepperlaw.com

11 PEPPER HAMILTON LLP

12 301 Carnegie Center, Suite 400

13 Princeton, NJ 08540

14 Telephone: 609.452.0808

15 Andrew Kantra, Esq. (*pro hac vice to be submitted*)

16 kantraa@pepperlaw.com

17 PEPPER HAMILTON LLP

18 3000 Two Logan Square

19 Eighteenth and Arch Streets

20 Philadelphia, PA 19103

21 Telephone: 215.981.4000

22 *Attorneys for Sandoz, Inc.*

23 **DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 ALVOGEN, INC.,

26 Plaintiff,

27 v.

28 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;

Defendants.

Case No. A-18-777312-B

Dept. No. XI

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

Date of Hearing: August 21, 2018

Time of Hearing: 9:00 a.m.

AND ALL RELATED CLAIMS

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

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

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

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

DATED this 22 day of August, 2018.


DISTRICT COURT JUDGE

Submitted by:

CAMPBELL & WILLIAMS

By 

J. Colby Williams, Esq. (5549)

jcw@cwlawlv.com

Philip R. Erwin, Esq. (11563)

pre@cwlawlv.com

700 South Seventh Street

Las Vegas, Nevada 89101

Telephone: 702.382.5222

Attorneys for *Sandoz, Inc.*