

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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**Supreme Court Case No. 78256**

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Elizabeth A. Brown  
Clerk of Supreme Court

**TONOPAH SOLAR ENERGY, LLC,**

Petitioner,

v.

**THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF NYE; AND THE HONORABLE STEVEN  
ELLIOTT, SENIOR JUDGE,**

Respondents,

and

**BRAHMA GROUP, INC.,**

Real Party in Interest.

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Petition for Writ of Prohibition, or, Alternatively, Mandamus  
Fifth Judicial District Court  
The Honorable Steven Elliott, District Court Judge  
District Court Case No. **CV 39348**

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**REAL PARTY IN INTEREST'S RESPONSE TO PETITIONER'S  
MOTION FOR CLARIFICATION**

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RICHARD L. PEEL, ESQ.

Nevada Bar No. 4359

ERIC B. ZIMBELMAN, ESQ.

Nevada Bar No. 9407

**PEEL BRIMLEY LLP**

3333 E. Serene Avenue, Suite 200

Henderson, NV 89 1228074-6571

Telephone: (702) 990-7272

[rpeel@peelbrimley.com](mailto:rpeel@peelbrimley.com)

[ezimbelman@peelbrimley.com](mailto:ezimbelman@peelbrimley.com)

*Attorneys for Real Party in Interest, Brahma  
Group, Inc.*

Real Party in Interest, Brahma Group, Inc. (“Brahma”) hereby responds and partially joins in Petitioner Tonopah Solar Energy, Inc.’s (“TSE”) Motion for Clarification of this Court’s July 23, 2019 Order. Specifically, the July 23, 2019 Order states:

Petitioner has filed a motion for leave to file an untimely motion to "stay" briefing of this matter. Respondent opposes the motion. Given that the motion to stay briefing was filed on June 28, 2019, the extension motion is moot and this court takes no action on it. Real party in interest shall have 7 days from the date of this order to file and serve any opposition to the June 28, 2019, motion to stay briefing.

Brahma concurs with TSE that clarification of the July 23, 2019 Order is appropriate as follows:

It does appear that the Court inadvertently transposed “Petitioner” with “Real Party in Interest.” Specifically, it was the Real Party in Interest (Brahma) who filed the June 28, 2019 Motion to Stay Briefing and the Motion to Permit Late Filing of the Motion to Stay Briefing. Brahma filed the Motion to Permit Late Filing concurrently with the Motion to Stay Briefing out of an abundance of caution and respect for the Court’s rules. As the Court is aware, the Court rejected Brahma’s initial (and otherwise timely-filed) Motion to Stay Briefing because it inadvertently exceeded the allowable page limitations for a motion. Rather than seek permission to exceed the page limitation, Brahma condensed and re-filed its Motion to Stay Briefing, albeit two days later, arguably rendering it untimely and therefore requiring the Motion to Permit Late Filing.

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Real Party in Interest Brahma therefore respectfully submits that the only clarification necessary with respect to the July 23, 2019 Order is to (i) correct the transposition of “Real Party in Interest” with “Petitioner” and (ii) remove an arguably extraneous comma in the following proposed redline form:

~~Petitioner~~ Real party in interest has filed a motion for leave to file an untimely motion to "stay" briefing of this matter. ~~Respondent~~ Petitioner opposes the motion. Given that the motion to stay briefing was filed on June 28, 2019, the extension motion is moot and this court takes no action on it. ~~Real party in interest~~ Petitioner shall have 7 days from the date of this order to file and serve any opposition to the June 28, 2019, motion to stay briefing.

Brahma respectfully disagrees with TSE’s suggestion that this Court has (without considering the merits) denied Brahma’s Motion to Stay Briefing and requires Brahma to file its Answer to Petitioner’s Writ Petition within seven days. Such an interpretation is illogical. While the July 23, 2019 Order inadvertently states that the “real party in interest” is to “file the opposition to the June 28, 2019, motion to stay briefing,” Brahma (the real party in interest) would not oppose its own motion to stay briefing. Furthermore, the July 23, 2019 Order is clearly directing an opposition to “the June 28, 2019, motion to stay briefing,” not the Writ Petition. Finally, Brahma would not file an “opposition” to the Writ Petition; it would file an “Answer.” *See* NRAP 21(b).

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At the risk of unwarranted presumption, Brahma respectfully submits that the Court's July 28, 2019 Order simply intended for TSE (the Petitioner) to file its opposition to Brahma's (the Real Party in Interest) Motion to Stay Briefing. As such, Brahma joins in requesting that the Court make such a clarification. In light of the necessary clarification, Brahma has no objection to TSE being granted any reasonable extension of time to file its opposition.

Respectfully submitted this 29th day of July, 2019.

**PEEL BRIMLEY LLP**

*/s/ Eric B. Zimbelman*

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RICHARD L. PEEL, ESQ.  
Nevada Bar No. 4359  
ERIC B. ZIMBELMAN, ESQ.  
Nevada Bar No. 9407  
3333 E. Serene Avenue, Suite 200  
Henderson, NV 89 1228074-6571  
Telephone: (702) 990-7272  
Facsimile: (702) 990-7273  
[rpeel@peelbrimley.com](mailto:rpeel@peelbrimley.com)  
[ezimbelman@peelbrimley.com](mailto:ezimbelman@peelbrimley.com)  
*Attorneys for Respondent*  
*Brahma Group, Inc.*

## CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFCR 9(f), I certify that I am an employee of **PEEL BRIMLEY, LLP**, and that on this 29<sup>th</sup> day of July, 2019, I caused the above and foregoing document, **REAL PARTY IN INTEREST'S RESPONSE TO PETITIONER'S MOTION FOR CLARIFICATION**, to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☒ pursuant to NEFCR 9, upon all registered parties via the Nevada Supreme Court's electronic filing system;
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**;
- ☐ to be hand-delivered; and/or
- ☐ other \_\_\_\_\_

to the attorney(s) and/or party(ies) listed below at the address and/or facsimile number indicated below:

D. Lee Roberts, Jr., Esq.  
Colby L. Balkenbush, Esq.  
Ryan T. Gormley, Esq.  
WEINBERG, WHEELER, HUDGINS  
GUNN & DIAL, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, NV 89118  
[lroberts@wwhgd.com](mailto:lroberts@wwhgd.com)  
[cbalkenbush@wwhgd.com](mailto:cbalkenbush@wwhgd.com)  
*Attorneys for Tonopah Solar Energy, LLC*



An employee of **PEEL BRIMLEY, LLP**