

In the Supreme Court of Nevada

MOTOR COACH INDUSTRIES, INC.,

Appellant,

vs.

KEON KHIABANI; ARIA KHIABANI,
minors, by and through their
guardian MARIE-CLAUDE RIGAUD;
SIAMAK BARIN, as executor of the
ESTATE OF KAYVAN KHIABANI, M.D.
(decedent); THE ESTATE OF KAYVAN
KHIABANI, M.D. (decedent); SIAMAK
BARIN, as executor of the ESTATE OF
KATAYOUN BARIN, DDS (decedent);
and the ESTATE OF KATAYOUN BARIN,
DDS (decedent),

Respondents.

Electronically Filed
Dec 04 2019 08:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO FILE PORTIONS
OF OPENING BRIEF AND APPENDIX UNDER SEAL**

Appellant moves this Court for an order sealing portions of its opening brief and appendix. SRCR 3(1).

The district court filed under seal to all of the documents contained in volumes 51 and 52 of appellant's appendix. Some of these documents include the confidential terms and amounts of settlement agreements. *See* SRCR 3(4)(e) and (g). The pages of the appendix with

documents sealed for this purpose are 51 App. 12490–94, 51 App. 12647–72, 52 App. 12865–916, 52 App. 12917–30, and 52 App. 12931–37; and the pages of the opening brief that redact references to those documents are iv, 1–2, 5, 23–24, 27, 83 and 89.

The second category of sealed documents include, or discuss, news reports that were published after the trial and regard the decedent. The district court made “no determination as to the ultimate truth or falsity” of the documents, but deemed them scandalous and found that “compelling privacy interests of those non-parties outweigh the presumption that court documents be open to the public” and sealed those records and portions of briefs citing to them until June 1, 2028. (*See* Ex. A, 8/20/18 Order Granting Motions to Seal and Redact.)

In candor, appellant does not see a basis for sealing the latter category of documents under SRCR 3(4), as all of that material has been published and currently is available on public webpages. Nevertheless, appellant is obliged to move for their sealing here out of deference to the district court, which ordered those public documents and press reports sealed. The pages of the appendix with documents sealed for this purpose are 51 App. 12495–602, 51 App. 12603–46, 51 App. 12673–704

51 App. 12705–52 App. 12754, and 52 App. 12755–864; and the pages of the opening brief that redact references to those documents are iv, viii, xxiv, 2, 17–20, 23, 26, 71–73, 75–79, and 81–82.

For the foregoing reasons, appellant requests that pages iv, viii, xxiv, 1–2, 5, 17–20, 23–24, 26–27, 71–73, 75–79, 81–83, and 89 of its brief and accompanying appendix volumes 51–52 be filed under seal in this Court.

Dated this 4th day of December, 2019.

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By: /s/ Joel D. Henriod

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CERTIFICATE OF SERVICE

I certify that on December 4, 2019, I submitted the foregoing
“Motion to File Portions of Opening Brief and Appendix Under Seal” for
filing *via* the Court’s eFlex electronic filing system. Electronic
notification will be sent to the following:

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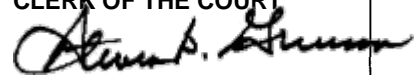
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EXHIBIT A

EXHIBIT A



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DISTRICT COURT
CLARK COUNTY, NEVADA

KEON KHIABANI and ARIA KHIABANI,
minors by and through their Guardian,
MARIE-CLAUDE RIGAUD; SIAMAK BARIN,
as Executor of the Estate of Kayvan
Khiabani, M.D. (Decedent); the ESTATE
OF KAYVAN KHIABANI, M.D. (Decedent);
SIAMAK BARIN, as Executor of the
Estate of Katayoun Barin, DDS
(Decedent); and the ESTATE OF
KATAYOUN BARIN, DDS (Decedent),

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC., a
Delaware corporation; MICHELANGELO
LEASING INC. d/b/a RYAN'S EXPRESS, an
Arizona corporation; EDWARD
HUBBARD, a Nevada resident; BELL
SPORTS INC. d/b/a GIRO SPORT DESIGN,
a Delaware corporation; SEVENPLUS
CYCLES, INC. d/b/a PRO CYCLERY, a
Nevada corporation; DOES 1 through
20; and ROE CORPORATIONS 1 through
20,

Defendants.

Case No. A-17-755977-C

Dept. No. 14

ORDER GRANTING
MOTIONS TO SEAL AND REDACT

Hearing Date: May 23, 2018
Hearing Time: In Chambers

1 Defendant Motor Coach Industries, Inc.'s ("MCI") 1) "Motion to Seal
2 'Motor Coach Industries, Inc.'s Objections to 'Special Master Order Staying
3 Post-Trial Discovery Including May 2, 2018 Deposition of Custodian of Records
4 of the Board of Regents NSHE,' and Alternatively, Motion for Limited Post-
5 Trial Discovery,'" 2) "Motion to Seal and Redact 'Motor Coach Industries Inc.'s
6 Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by
7 Other Defendants' and Accompanying Exhibits,'" and 3) "Motion to Seal and
8 Redact 'Motor Coach Industries, Inc.'s Motion for New Trial and Accompanying
9 Exhibits G-L and O'" came on for hearing on May 23, 2018 on the Court's in-
10 chambers calendar. Having reviewed the motions, argument of counsel, being
11 duly advised on the premises, there being no oppositions, and good cause
12 appearing therefor, this Court finds and orders as follows:

13 ***Motion to Seal Objections to Special Master Order***
14 ***and Motion for Post-Trial Discovery***

15 1. MCI's objections to the special master order and motion for post-
16 trial discovery relay allegations raised by third parties, which are of a
17 scandalous nature involving people who are not parties to this litigation, have
18 not been proven with authenticated, admissible evidence, and lack a complete
19 context. (The Court makes no determination as to the ultimate truth or falsity
20 of those allegations.)

21 2. Compelling privacy interests of those non-parties outweigh the
22 presumption that court documents be open to the public.

23 3. The Court has a duty to protect a party's interest by reasonable
24 redaction, rather than outright sealing, when possible. (SCR 3(4)(b).)

25 4. Reasonable redaction is possible here to protect plaintiffs' privacy.

26 5. MCI's motion to seal is GRANTED, in that MCI must file a redacted
27 version of the objections to the special master order and motion for post-trial
28 discovery, redacting pages 5-8, all of page 9 except lines 7-20, all of page 10

1 except lines 3–13, all of page 11 except lines 4–20, all of page 12 except lines
2 22–26, all of page 13 except lines 1–2, page 14, and lines 1–5 of page 15, and
3 omitting all attached exhibits.

4 6. It is FURTHER ORDERED that the unredacted version of the
5 objections to the special master order and motion for post-trial discovery with
6 all exhibits remain under seal until June 1, 2028.

7 ***Motion to Seal and Redact Motion to Alter or Amend Judgment***

8 7. MCI's motion to alter or amend judgment contains settlement terms
9 that are confidential by agreement of the parties.

10 8. The settling defendants have a compelling interest in maintaining
11 the confidentiality of these terms, which outweighs the presumption that court
12 documents be open to the public.

13 9. The redacted version of the motion, filed on May 7, 2018, is
14 reasonably redacted to balance both the interests of the defendants and the
15 public.

16 10. MCI's motion to seal and redact is GRANTED.

17 11. It is FURTHER ORDERED that the sealed version of the motion to
18 alter or amend judgment, filed on May 8, 2018, will remain under seal until
19 June 1, 2028.

20 ***Motion to Seal and Redact Motion for a Limited New Trial***

21 12. MCI's motion for a limited new trial relays the same allegations
22 raised by third parties, which are of a scandalous nature involving people who
23 are not parties to this litigation, have not been proven with authenticated,
24 admissible evidence, and lack a complete context, that are present in MCI's
25 objections to the special master order and motion for post-trial discovery. (The
26 Court makes no determination as to the ultimate truth or falsity of those
27 allegations.)

28 13. Compelling privacy interests of those non-parties outweigh the

1 presumption that court documents be open to the public.

2 14. Reasonable redaction is possible to protect their privacy.



3 15. The redacted version of the motion, filed on May 7, 2018, and the
4 accompanying appendix omitting exhibits G-L and O are reasonably redacted
5 to balance both the interests of the plaintiffs and the public.

6 16. MCI's motion to seal and redact is GRANTED.

7 17. It is FURTHER ORDERED that the sealed version of the motion for a
8 limited new trial and accompanying appendix, both filed on May 8, 2018, will
9 remain under seal until June 1, 2028.

10 IT IS SO ORDERED.

11 Dated this 16th day of August, 2018.

12 
13 DISTRICT JUDGE 

14 Submitted by:

Approved as to form and content by:

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