

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL
EDUCATION ASSOCIATION;
RUBEN MURILLO, JR.; ROBERT
BENSON; DIANE DI ARCHANGEL;
AND JASON WYCKOFF,

Appellants,

v.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN
VELLARDITA; AND VICTORIA
COURTNEY,

Respondents.

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Apr 01 2020 01:03 p.m.
Docket 79208
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. A-17-761364-C
District Court Case
No. A-17-761364-C
(Consolidated with Case
No. A-17-761884-C)

APPEAL

**From the Eighth Judicial District Court
The Honorable Kerry Earley**

RENEWED MOTION TO SEAL

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Bradley T. Austin (Nevada Bar No. 13064)
Michael Paretti (Nevada Bar No. 13926)
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Introduction

Respondents Clark County Education Association, John Vellardita, and Victoria Courtney (collectively “Respondents” or “CCEA”) file this renewed motion for leave to file a limited portion of the Appellant’s Appendix containing confidential bank statements under seal. The Court previously denied CCEA’s motion due to CCEA’s misunderstanding that the documents CCEA sought to be filed under seal had been provided to the Court. Thus, based on the Court’s instruction, CCEA renews its motion and has concurrently mailed such documents to the Court.

Argument

Under SRCR 3, “[a]ny person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion.” SRCR 3 further provides that a “court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record.” The Rule enumerates a number of categories of such documents, including any material for which sealing is justified or required by “another identified compelling circumstance.”

SRCR partially codifies the common law principle that, in light of the presumption favoring public access to judicial records and documents, courts may seal materials “only where the public’s right to access is outweighed by competing interests.” *Howard v. State*, 128 Nev. 736, 742, 291 P.3d 137, 141 (2012). “Although public access is favored, it is not unfettered.” *Id.*, 128 Nev. at 740, 291 P.3d at 140.

Here, Respondents seek to seal a very limited portion of the Appendix containing bank statements, and which include confidential financial information. These bank statements are located in Volume V of the Appendix at pages 685-90 and 764-837, and Volume VII of the Appendix at pages 1178-83. For context, this is a total of 83 pages in a nine-volume Appendix that contains a total of 1583 pages. CCEA has provided the Court a copy of these documents via mail concurrently herewith.

These bank statements contain non-public financial information, which courts commonly allow to be sealed. *See e.g., Mancheski v. Gabelli Grp. Capital Partners*, 20 Misc. 3d 1118(A), 867 N.Y.S.2d 17 (Sup. Ct. 2006); *Exxon Mobil Corp. v. Freeman Holdings of Washington, LLC*, No. CR-09-0390-EFS, 2011 WL 13228446, at *1 (E.D. Wash. Feb. 28, 2011).

Moreover, sealing the bank statements will not impede the public’s understanding of the proceeding, as only a portion of the bank records are material,

and no part of the briefing is sealed. As such, the public's right to access is outweighed by the competing interests of protecting non-public financial information, supporting the sealing of these limited records.

Conclusion

Sealing the very small portion of the Appendix containing non-public financial information in the form of bank statements comports with SRCR 3 and common law guidance. The request to seal is limited – confined only to the bank statements on the above-enumerated pages, and does not offend the general presumption in favor of public access.

Date: April 1, 2020

SNELL & WILMER L.L.P.

/s/ John S. Delikanakis

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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On April 1, 2020, I caused to be served a true and correct copy of the foregoing **MOTION TO SEAL** by the method indicated:

- ☐ **BY E-MAIL:** by transmitting via e-mail the document(s) listed above to the e-mail addresses set forth below and/or included on the Court's Service List for the above-referenced case.
- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below:

/s/ Maricris Williams
An Employee of SNELL & WILMER L.L.P.