

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN MARCUS, an individual,

Appellants,

v.

FULL COLOR GAMES, Inc., a Nevada
Corporation

Respondent.

) Supreme Court 79512
) District Case No. A759862
) Electronically Filed
) Mar 17 2020 12:48 p.m.
) Elizabeth A. Brown
) Clerk of Supreme Court
)
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**HUTCHISON & STEFFEN, PLLC’S MOTION TO WITHDRAW AS
COUNSEL FOR FULL COLOR GAMES, INC., AND FOR EXTENSION OF
TIME FOR FULL COLOR GAMES, INC. TO LOCATE NEW COUNSEL**

Hutchison & Steffen, PLLC (“H&S”) moves for an order allowing H&S to withdraw from its representation of Respondent Full Color Games, Inc. (“FCGI”), and further moves for additional time, up to 90 days to allow FCGI to obtain new counsel. This motion is based on NRAP 27 and NRAP 46(e).

In the underlying action, Hutchison & Steffen, PLLC (“H&S”), which represented several defendants, counter-claimants, and third-party plaintiffs, including Full Color Games, Inc. (“FCGI”), has been disqualified from continuing to represent FCGI, the respondent in this appeal. H&S continues to represent all other defendants, counter-claimants, and third-party plaintiffs, but can no longer represent FCGI. *See* Decision, filed on February 18, 2020, attached as Exhibit A.

H&S notes that no final order disqualifying it has yet been entered in district court (it is Judge Denton's general practice to issue detailed written orders but then to have the parties submit final versions of those orders), but the result that H&S is disqualified from further representing FCGI is not in doubt, and appellant has no intent to challenge that decision further.

FCGI's answering brief is due on March 19, 2020, and H&S cannot submit any further responses on behalf of FCGI because of the Decision filed on February 18, 2020.

Since the date of the Decision on February 20, 2020, H&S has been attempting to work with David Mahon, the sole director of FCGI, to arrange for retention of new counsel to substitute in on this appeal. Mahon, however, has been out of the country in India on business since the Court issued a decision disqualifying FCGI. Mahon has, and continues to have, significant business interests in India that cannot be left unattended for a long period of time. Because of the recent outbreak of the coronavirus or COVID-19, travel to and from India has become increasingly difficult, such that Mahon's ability to travel back to the United States has been significantly delayed. Further, traveling from India at this time will be next to impossible without risking not being able to return to India to attend to his ongoing business interests in a timely manner. Mahon anticipates at

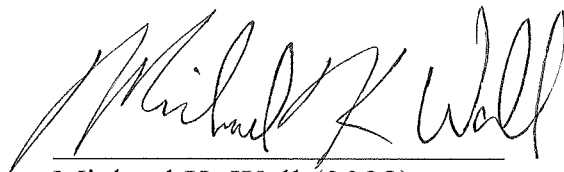
this time that he cannot safely leave India until approximately April 15, 2020.

However, because of the fluid nature of the situation, he may be required to stay in India for a longer period of time. Mahon cannot retain new counsel in the United States until he is able to travel back to the United States to meet with and retain new counsel.

Under these circumstances, H&S request that the Court grant H&S's motion to withdraw, and grant FCGI 90 days to retain new counsel.

Respectfully submitted this 17 day of March, 2020.

HUTCHISON & STEFFEN, PLLC

A handwritten signature in black ink, appearing to read "Michael K. Wall". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Michael K. Wall (2098)

Todd W. Prall (9154)

Peccole Professional Park

10080 West Alta Drive, Suite 200

Las Vegas, NV 89145

mwall@hutchlegal.com

Attorney for Respondent


CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this date the **HUTCHISON & STEFFEN, PLLC'S MOTION TO WITHDRAW AS COUNSEL FOR FULL COLOR GAMES, INC., AND FOR EXTENSION OF TIME FOR FULL COLOR GAMES, INC. TO LOCATE NEW COUNSEL** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Joseph A. Gutierrez (9046)
Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
T: (702) 629-7900
jag@mgalaw.com
sgc@mgalaw.com
djb@mgalaw.com

Attorney for Appellants

DATED this 17th day of March, 2020.

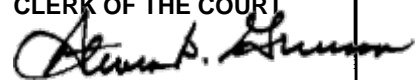


An employee of Hutchison & Steffen, PLLC

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EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC



1 DECN

DISTRICT COURT

2 CLARK COUNTY, NEVADA

3
4 In re: FULL COLOR GAMES, INC.)

5 MARK MUNGER, an individual; DAVID'S) CASE NO. A-17-759862-B
6 HARD WORK TRUST LTD. 3/26/2012, a) DEPT. NO. XIII
7 California Trust; MOORE FAMILY)
8 TRUST, a California Trust;)
9 MILLENNIUM TRUST COMPANY, LLC,)
10 CUSTODICAN FBO GARY SOLSO, IRA, a)
11 California Trust; JEFFREY CASTALDO;) Date: February 10, 2020
12 an individual; MARA H. BRAZER, as) Time: 9:00 a.m.
13 Trustee for the MARA H. BRAZER TRUST)
14 UTA 2/12/2004; a California Trust:)
15 individually and as shareholders of)
16 FULL COLOR GAMES, INC.,)

17 Plaintiff(s),)

18 vs.)

19 DAVID MAHON, an individual; GLEN)
20 HOWARD, an individual; INTELLECTUAL)
21 PROPERTY HOLDINGS, LLC, a Nevada)
22 limited liability company;)
23 INTELLECTUAL PROPERTY HOLDINGS,)
24 LTD., an Isle of Man corporation;)
25 FULL COLOR GAMES, LLC, a Nevada)
26 limited liability company; FULL)
27 COLOR GAMES LTD., an Isle of Man)
28 corporation; FULL COLOR GAMES N.A.)
INC., a Nevada corporation; FULL)
COLOR GAMES GROUP INC., a Nevada)
corporation; JACKPOT PRODUCTIONS,)
LLC, a Nevada limited liability)
company,)

Defendant(s).)

AND ALL RELATED CLAIMS.)

DECISION

THIS MATTER having come before the Court on February 10,

CLERK OF THE COURT

FEB 18 2020

RECEIVED

MARK R. DENTON
DISTRICT JUDGE

DEPARTMENT THIRTEEN
LAS VEGAS, NV 89155

1 2020 for hearing on Plaintiffs' Motion to Disqualify Hutchison &
2 Steffen, PLLC ("Hutchison & Steffen"), with appearances as noted
3 in the Minutes and to be reflected in the proposed order to be
4 submitted as directed hereinbelow;

5
6 AND, the Court having heard the argument of counsel and
7 having then taken such Motion under advisement for further
8 consideration, and being now fully advised in the premises;

9 NOW, THEREFORE, the Court decides the Motion as follows:

10 RULING

11 Although, by its language, the Motion seeks
12 disqualification of the firm of Hutchison & Steffen from
13 representation not just of Full Color Games, Inc., but of all
14 Defendants, Counterclaimants, and Third Party Plaintiffs,
15 Plaintiffs' counsel reiterated during the hearing what is stated
16 at page 16 of the Motion, lines 25-28, that, "at a minimum,"
17 disqualification should apply to Full Color Games, Inc. for the
18 benefit of which Plaintiffs' derivative claims are pleaded. That
19 being so, and because, in the derivative context, the corporation
20 must remain neutral-- see e.g. *Patrick v. Alacer Corporation*, 167
21 Cal.App. 4th, 84 Cal.Rptr.3d 642 (2008); *Sobba v. Elmen*, 462
22 F.Supp.2d 944, 946-947 (E.D.Ark. 2006)--the Court is persuaded by
23 the Motion to the extent that it seeks to disqualify Hutchison &
24 Steffen from representation of Full Color Games, Inc., and the
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1 Motion is GRANTED IN PART to that extent. See also *In re DISH*
2 *Network Derivative Litigation*, 133 Nev.Adv. Op. 61, 401 P.3d 1081
3 (2017).¹
4

5 However, to the extent, that Plaintiffs' Motion seeks to
6 disqualify the firm of Hutchison & Steffen from representing any
7 of the other Defendants/Counterclaimants/Third Party Plaintiffs,
8 the Court agrees with such parties that Plaintiffs' Motion comes
9 too late and that, from a practical standpoint, and putting
10 substance over form, Hutchison & Steffen's representation up to now
11 of what is essentially an insolvent corporation has not prejudiced
12 Plaintiffs. Accordingly, the Motion is DENIED IN PART insofar as
13 it seeks disqualification relative to parties other than Full Color
14 Games, Inc.
15

16 CONCLUSION

17 In the event counsel cannot agree upon a proposed order
18 reflecting the foregoing, each is directed to submit a proposed
19 competing order consistent with the foregoing and which sets forth
20 the underpinnings of the same in accordance herewith and with
21 briefing and argument supportive of the same.
22

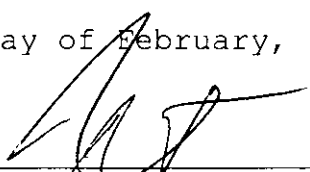
23 Each proposed competing order should be submitted to
24 opposing counsel. Instead of seeking to clarify or litigate
25

26 ¹ Without intimating any opinion at this point on the answer to the
27 question, it has occurred to the Court that the appointment of a receiver
28 for Full Color Games, Inc. may be appropriate and/or necessary.

1 meaning or any disapproval through correspondence directed to the
2 Court or to counsel with copies to the Court, any such clarification
3 or disapproval should be the subject of motion practice following
4 entry of order.

5
6 This Decision sets forth the Court's intended disposition
7 on the subject, but it anticipates further order of the Court to
8 make such disposition effective as an order or judgment.

9 DATED this 14th day of February, 2020.

10
11 
12 MARK R. DENTON
13 DISTRICT JUDGE


14 **CERTIFICATE**

15 I hereby certify that on or about the date filed, this
16 document was e-served or a copy of this document was placed in the
17 attorney's folder in the Clerk's Office or mailed to:

18 MAIER GUTIERREZ & ASSOCIATES
19 Attn: Stephen G. Clough, Esq.

20 HUTCISON & STEFFEN
21 Attn: Mark A. Hutchison, Esq./Todd Prall, Esq.

22 McDONALD CARANO
23 Attn: Rory T. Kay, Esq.

24 
25 LORRAINE TASHIRO
26 Judicial Executive Assistant
27 Dept. No. XIII
28