

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

Court of Appeals Case No. 79689-COA
District Court Case No. A-18-772761-C

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Elizabeth A. Brown
Clerk of Supreme Court

VENETIAN CASINO RESORT, LLC, a Nevada limited liability company,
LAS VEGAS SANDS, LLC, a Nevada limited liability company,
Petitioners,

v.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHLEEN
DELANEY in her capacity as District Judge,
Respondent,
JOYCE SEKERA, an individual,
Real Party in Interest

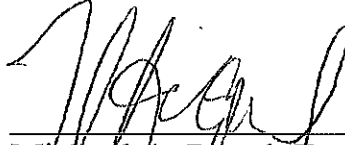
**REPLY TO JOYCE SEKERA'S OPPOSITION TO PETITIONERS'
EMERGENCY UNDER NRAP 27(e)**

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Petitioners VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel, Royal & Miles LLP, hereby submits the following Reply to Joyce Sekera's Opposition to Petitioners' Emergency Motion for Stay Under NRAP Rules 8 & 27(e). This Reply is based upon and supported by the following memorandum of points and authorities, the pleadings and papers on file, the exhibits attached hereto, and any argument that the Court may allow at the time of hearing.

DATED this 14 day of October, 2019.

ROYAL & MILES LLP



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Attorneys for Petitioners

VENETIAN CASINO RESORT, LLC,

LAS VEGAS SANDS, LLC

MEMORANDUM AND POINTS OF AUTHORITIES

COMES NOW Petitioners VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel of record, ROYAL & MILES LLP, and respectfully file this reply to Joyce Sekera's opposition to Petitioners' motion for emergency stay filed on October 8, 2019, pertaining to Eighth District Court Case A-18-772761-C ("Case A772761"), JOYCE SEKERA ("Sekera") v. VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC ("Venetian").

The basis for Petitioners' motion for emergency stay is that the privacy rights of persons involved in other incidents will be irreparably violated and damaged if the stay is not granted until this Honorable Court can review the issues presently before it. By her own admission, Sekera has made it clear that upon receiving this unredacted information she will share it with multiple attorneys wholly unaffiliated with the present litigation, thereby subjecting these uninvolved individuals to untold intrusions into their privacy.

Sekera failed to explain in the Opposition how she will be harmed by the Court granting the motion to stay the production of unredacted other incident reports until this matter can be fully briefed and adjudicated. Further, Sekera further failed to explain how her alleged need for the unredacted information outweighs the right to privacy by those persons involved in prior incidents. If this

Court were to deny the request for stay, it would irreparably damage the privacy interests of these other guests and would render the issues now before the Court moot; the damage would be done and there would be no unringing of the proverbial bell.

Sekera has not even attempted to weigh her alleged need for the information at issue (much less her right to share it freely with everyone) against the need for Petitioners and/or their guests to be protected from having this personal information released to Sekera without the slightest limitation. Sekera wrongly dismisses some of the cases cited by Petitioners as “California” cases. The case of Izzo v. Wal-Mart Stores, Inc., 2016 U.S. Dist. LEXIS 12210; 2016 WL 409694 is a Nevada case where the U.S. District Court weighed similar issues and applied Nevada law in light of FRCP 26(b)(1). Further, Schlatter v. Eighth Judicial Dist. Court In and For Clark County, 93 Nev. 189 561 P.2d 1342 (1977), is a Nevada case cited in support of Petitioners’ emergency motion to stay. There are other like cases citing to Izzo, *supra*, which will be presented in Petitioners’ Response Brief, providing that the burden of proof in this circumstance is on the party seeking the discovery to demonstrate both relevancy and proportionality based on the needs of the case, with a greater emphasis on proportionality under FRCP 26(b)(1), which is now mirrored by NRCP 26(b)(1). (*See, i.e. RKF Retail Holdings, LLC v. Tropicana Las Vegas, Inc.*, 2017 U.S. Dist. LEXIS 104850 at *19 - *22.)

Sekera has made multiple references to the private data of persons identified in Venetian's other incident reports as "only slightly more revealing or invasive than information contained in a phonebook." (*See, e.g.* Opposition at 9.) This trivializes, demeans and grossly understates the privacy rights at issue here. While a person's contact information may indeed be found in a phone book, that information does not include Social Security Numbers, dates of birth, driver's license information, narratives about a particular incident and potential injuries, information related to an EMT examination, such as blood pressure, pulse, past medical history, current/past medications, etc. The phone book also would not identify other non-employee witnesses connected to a given incident, with their contact information, thereby subjecting them to privacy intrusions by Sekera or anyone with whom she shares the information. The issue is not whether contact information can be found in a phone book, but protecting personal information connecting persons to a specific event where health information and other identifying data can be connected to the personal, private information.

It is no small thing that Sekera has freely acknowledged intent to share unredacted information with the world without the slightest regard for the privacy rights of the persons so identified. Sekera's opposition focuses primarily (if not solely) on her right to obtain and distribute the information as she so desires,

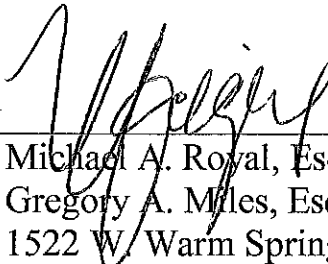
without providing any substantive discussion about how her needs and rights outweigh those of the persons wholly uninvolved with the subject lawsuit.

Sekera has made other representations in the Opposition which are without foundation, such as her assertion that Petitioners do not collect driver's license information and Social Security information, nor does she address her need for unredacted information in light of Eldorado Club, Inc. v. Graff, 78 Nev. 507, 511, 377 P.2d 174, 176 (1962).

In short, Petitioners will address the substance of issues in detail by the October 25, 2019 deadline for filing Petitioners' Answering Brief. The stay should remain in place until this matter has been fully considered; otherwise, irreparable harm will result. Sekera, on the other hand, has not demonstrated that she will suffer any harm with the stay temporarily in place.

DATED this 14 day of October, 2019.

ROYAL & MILES LLP

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CERTIFICATE OF COMPLIANCE

STATE OF NEVADA)
COUNTY OF CLARK) ss:

I, Michael A. Royal, hereby affirm, testify and declare under penalty of perjury as follows:

1. I am an attorney licensed to practice in the State of Nevada, and am a member of the law firm of Royal & Miles LLP, attorneys for Petitioners VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC.

2. 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:

[X] This reply has been prepared in a proportionally spaced typeface using Word Perfect in Times Roman 14 point font.

3. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is:

[X] Proportionately spaced, has a typeface of 14 points or more, and contains **827 words** in compliance with NRAP 32(a)(1)(A)(ii) (having a word count of less than 14,000 words).

4. Finally, I hereby certify that I have read this motion, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, 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.

Further affiant sayeth naught.



MICHAEL A. ROYAL, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the law firm of Royal & Miles LLP, attorney's for Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, and that on the 15 day of October, 2019, I served true and correct copy of the foregoing REPLY TO JOYCE SEKERA'S OPPOSITION TO PETITIONERS' EMERGENCY UNDER NRAP 27(e), by delivering the same via the Court's CM/ECF system which will send notification to the following:

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An employee of Royal & Miles LLP