

1 BRENOCH R. WIRTHLIN
2 Nevada Bar No. 10282
3 MATTHEW D. WHITTAKER, ESQ.
4 Nevada Bar No. 13281
5 **KOLESAR & LEATHAM**
6 400 S. Rampart Blvd., Ste. 400
7 Las Vegas, Nevada 89145
8 Telephone: (702) 362-7800
9 Facsimile: (702) 362-9472
10 *Attorneys for Respondents/Cross-Appellants*
11 *Sig Rogich, a/k/a Sigmund Rogich,*
12 *Individually and as Trustee of*
13 *The Rogich Family Irrevocable Trust*

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IN THE SUPREME COURT OF THE STATE OF NEVADA

NANYAH VEGAS, LLC, a Nevada Limited
Liability Company,

Appellants,

vs.

SIG ROGICH, a/k/a SIGMUND ROGICH,
Individually and as Trustee of The Rogich
Family Irrevocable Trust; ELDORADO
HILLS, LLC, a Nevada Limited Liability
Company; TELD, LLC, a Nevada Limited
Liability Company; PETER ELIADES,
Individually and as Trustee of The Eliades
Survivor Trust of 10/30/08; and IMITATIONS,
LLC, a Nevada Limited Liability Company,

Respondents.

EL DORADO HILLS, LLC, a Nevada Limited
Liability Company,

Cross-Appellant,

vs.

NANYAH VEGAS, LLC, a Nevada Limited
Liability Company,

Cross-Respondent.

Supreme Court Case No. 79917

District Court No. A686303

RESPONDENT/CROSS-
APPELLANT SIG ROGICH'S
RESPONSE TO ORDER TO
SHOW CAUSE

1 SIG ROGICH, a/k/a SIGMUND ROGICH,
2 Individually, and as Trustee of The Rogich
3 Family Irrevocable Trust; and IMITATIONS,
4 LLC, a Nevada Limited Liability Company,

5 Cross-Appellants,

6 vs.

7 NANYAH VEGAS, LLC, a Nevada Limited
8 Liability Company,

9 Cross-Respondent,

10 and

11 ELDORADO HILLS, LLC, a Nevada Limited
12 Liability Company; TELD, LLC, a Nevada
13 Limited Liability Company; and PETER
14 ELIADES, Individually and as Trustee of The
15 Eliades Survivor Trust of 10/30/08,

16 Respondents.

17 **RESPONDENT/CROSS APPELLANT ROGICH PARTIES' RESPONSE**
18 **TO ORDER TO SHOW CAUSE**

19 Sig Rogich, individually and as Trustee of The Rogich Family Irrevocable
20 Trust ("Rogich"), and Imitations, LLC (collectively the "Rogich Parties") by and
21 through counsel KOLESAR & LEATHAM, hereby responds to this Court's Order
22 to Show Cause dated January 6, 2020.

23 **I. Final Judgment was entered in District Court Case A-16-746239-C**
24 **making the March 26, 2019 Order Subject to Appeal**

25 The district court's March 26, 2019, order denying the Rogich Parties relief
26 under NRCP 60(b) is substantively appealable because final judgment was properly
27 entered in district court case A-16-746239-C.

28 The entering of a final judgment by the court disposes of all claims in the

1 case. *See Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000) On October 4,
2 2019, the district court entered its decision (“Order”), granting the Rogich
3 Defendants’ Motion for Summary Judgment dismissing all remaining claims in the
4 action. The district court’s Order, therefore, effectively disposed of the entire
5 action, provided a final adjudication of the rights and liabilities of all parties, and
6 left nothing for the future consideration of the court. The fact that Order served as a
7 final judgment in the matter was confirmed by the district court’s subsequent
8 adjudication and granting of attorneys’ fees in the matter---which the district court
9 would not have allowed had there been claims remaining in the action---as well as
10 the district court’s recent order dated January 30, 2020 (“Stipulation and Order”),
11 which further supports the fact that its October 4, 2019 decision was a “full and
12 final decision” in the matter. See **Exhibit 1**.

13
14 The Order also confirmed and clarified that Appellant/Cross-respondent
15 Nanyah Vegas, LLC (“Nanyah”) had previously abandoned two of its “claims”,
16 specific performance and declaratory relief. All of the parties, including Nanyah, as
17 well as the district court agreed that specific performance and declaratory judgment
18 were no longer being asserted by Nanyah in the action, and as a result, the district
19 court did not consider them to be “remaining claims” after entry of the Order.

20
21 Additionally, specific performance and declaratory judgment are remedies
22 and were not properly asserted as claims by Nanyah. *See e.g., State Dep't of Health*
23 *& Human Servs. , Div. of Pub. & Behavioral Health Med. Marijuana Establishment*

1 *Program v. Samantha Inc.*, 133 Nev. 809, 812, 407 P.3d 327, 329 (2017)
2 (“Equitable remedies, such as declarative and injunctive relief, or a petition for
3 mandamus, may be available “in the discretion of the court and only when legal
4 remedies, such as statutory review, are not available or are inadequate.”); *Velazquez*
5 *v. Mortg. Elec. Registration Sys., Inc.*, No. 2:11-CV-576 JCM RJJ, 2011 WL
6 1599595, at *3 (D. Nev. Apr. 27, 2011) (recognizing that “a claim for declaratory
7 relief is not a separate substantive claim for relief”); *Cain v. Price*, 134 Nev. 193,
8 197, 415 P.3d 25, 30 (2018) (“In so reasoning, the district court conflated two
9 remedy concepts: specific performance and damages for total breach of contract.”);
10 *United Ass'n of Journeymen & Apprentices of Plumbing & Pipefitting Indus. of U.S.*
11 *& Canada, Local Union 525, Las Vegas v. Stine*, 76 Nev. 189, 211, 351 P.2d 965,
12 977 (1960) (“Specific performance and injunction are of course equitable
13 remedies.”). Thus, once the remaining underlying claims were adjudicated by the
14 order, Nanyah’s purported “claims” for specific performance and declaratory relief
15 provided no independent legal basis to maintain the action. As this Court recently
16 reiterated, “[w]e thus found labels to be inconclusive when determining finality;
17 instead, we recognized that this court has consistently determined the finality of an
18 order or judgment is what it substantively accomplished.” *See Lee, supra*, 116 Nev.

19 ///

20 ///

21 ///

1 at 427, 996 P.2d at 418.

2
3 DATED this 5th day of February, 2020.

4
5 **KOLESAR & LEATHAM**

6 

7 BRENOCH R. WIRTHLIN

8 Nevada Bar No. 10282

9 MATTHEW D. WHITTAKER, ESQ.

10 Nevada Bar No. 13281

11 400 S. Rampart Blvd., Ste. 400

12 Las Vegas, Nevada 89145

13 Telephone: (702) 362-7800

14 Facsimile: (702) 362-9472

15 Attorneys for Respondents,

16 Sig Rogich, a/k/a Sigmund Rogich,

17 individually, and as Trustee of The

18 Rogich Family Irrevocable Trust

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1)(B), I certify that I am an employee of Kolesar & Leatham and on the 5th day of February, 2020, I submitted the foregoing **RESPONDENT/CROSS-APPELLANT SIG ROGICH'S RESPONSE TO ORDER TO SHOW CAUSE** to the Supreme Court of Nevada's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known addresses:

Joseph Liebman, Esq.
Dennis Kennedy, Esq.
Bailey Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148
DKennedy@BaileyKennedy.com
JLiebman@BaileyKennedy.com

Attorneys for Eldorado Hills, LLC, Teld, LLC a Nevada limited liability company; Peter Eliades, individually and as Trustee of The Eliades Survivor Trust of 10/30/08

Mark G. Simons, Esq.
SIMONS HALL JOHNSTON
6490 S. McCarran Blvd, Suite F-46
Reno, NV 89509
msimons@shjnevada.com
Attorneys for appellant Nanyah Vegas, LLC


An Employee of KOLESAR & LEATHAM

EXHIBIT 1

EXHIBIT 1

Heather S. Simon
CLERK OF THE COURT

1 **ORDR**
2 **MARK G. SIMONS, ESQ.**
3 Nevada Bar No. 5132
4 MSimons@SHJNevada.com
5 **SIMONS HALL JOHNSTON PC**
6 **6490 S. McCarran Blvd., Ste. F-46**
7 **Reno, Nevada 89509**
8 **Telephone: (775) 785-0088**
9 **Facsimile: (775) 785-0087**

10 *Attorneys for Nanyah Vegas, LLC*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **CARLOS A. HUERTA, an individual; CARLOS A.**
14 **HUERTA as Trustee of THE ALEXANDER**
15 **CHRISTOPHER TRUST, a Trust established in**
16 **Nevada as assignee of interests of GO GLOBAL,**
17 **INC., a Nevada corporation; NANYAH VEGAS,**
18 **LLC, A Nevada limited liability company,**

19 **Plaintiffs,**

20 **v.**

21 **SIG ROGICH aka SIGMUND ROGICH as Trustee**
22 **of The Rogich Family Irrevocable Trust;**
23 **ELDORADO HILLS, LLC, a Nevada limited liability**
24 **company; DOES I-X; and/or ROE**
25 **CORPORATIONS I-X, inclusive,**

26 **Defendants.**

27 NANYAH VEGAS, LLC, a Nevada limited liability
28 company,

Plaintiff,

v.

TELD, LLC, a Nevada limited liability company;
PETER ELIADAS, individually and as Trustee of
The Eliades Survivor Trust of 10/30/08; SIGMUND
ROGICH, individually and as Trustee of The
Rogich Family Irrevocable Trust; IMITATIONS,
LLC, a Nevada limited liability company; DOES I-
X; and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-13-686303-C
DEPT. NO.: XXVII

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

STIPULATION AND ORDER
RE:
OCTOBER 4, 2019 DECISION

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

RECEIVED
JAN 30 2020
CLERK OF THE COURT

1 Plaintiff, Nanyah Vegas, LLC ("Nanyah") by and through its undersigned counsel,
2 Mark G. Simons of SIMONS HALL JOHNSTON PC, and Sigmund Rogich, individually,
3 and Imitations, LLC (collectively, the "Rogich Defendants") by and through their
4 undersigned counsel Brenoch Wirthlin of KOLESAR & LEATHAM, CHTD., and Eldorado
5 Hills, LLC ("Eldorado") by and through its undersigned counsel, Joseph Liebman of
6 BAILEY KENNEDY, hereby stipulate and agree to the following:

7 1. On April 16, 2019, Nanyah filed its Pretrial Memorandum indicating that it
8 was abandoning its 8th Claim for Declaratory Relief and its 9th Claim for Specific
9 Performance.

10 2. On October 4, 2019, this Court entered its Decision granting the Rogich
11 Defendants' Motion for Summary Judgment seeking judgment on "all remaining claims"
12 asserted by Nanyah, which remaining claims were for breach of contract, contractual
13 breach of the implied covenant of good faith and fair dealing, tortious breach of the
14 implied covenant of good faith and fair dealing and civil conspiracy (the "Decision").

15 3. The Court's Decision expressly resolved the remaining claims Nanyah
16 asserted against the Rogich Defendants.

17 **AFFIRMATION:** The undersigned do hereby affirm that this document does not
18 contain the Social Security Number of any person.

19 DATED this 30 day of January, 2020.

20
21 SIMONS HALL JOHNSTON PC
22 6490 S. McCarran Blvd. F-46
23 Reno, Nevada 89509

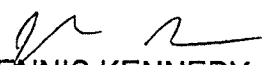
24 By: 

25 MARK G. SIMONS, ESQ.
26 Attorneys for Nanyah Vegas, LLC
27
28

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

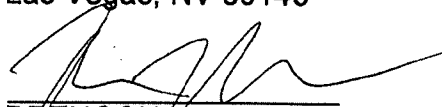
1 DATED this 30 day of January, 2020.

2 BAILEY KENNEDY
3 8984 Spanish Ridge Avenue
4 Las Vegas, NV 89148-1302

5 By: 
6 DENNIS KENNEDY, ESQ.
7 JOSEPH LIEBMAN, ESQ.
8 Attorneys for Eldorado Hills, LLC

9 DATED this 30 day of January, 2020.

10 KOLESAR & LEATHAM, CHTD.
11 400 South Rampart Blvd., Ste. 400
12 Las Vegas, NV 89145

13 By: 
14 BRENOCH WIRTHLIN
15 AMANDA K. BAKER
16 Attorneys for the Rogich Defendants

17 BASED UPON THE FOREGOING, it is hereby ordered and confirmed that the
18 Decision entered on October 4, 2019, constituted a full and final decision on all remaining
19 claims asserted by Nanyah against the Rogich Defendants, as Nanyah's 8th and 9th
20 claims for relief against these defendants were previously abandoned.

21 IT IS SO ORDERED this 30 day of January, 2020.

22 
23 DISTRICT COURT JUDGE