

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 IN RE: NEWPORT CORPORATION
3 SHAREHOLDER LITIGATION.

SUPREME COURT NO. 80636

District Court No. A733154

4 HUBERT C. PINCON; LOCALS 302 AND
5 612 OF THE INTERNATIONAL UNION OF
6 OPERATING ENGINEERS-EMPLOYERS
7 CONSTRUCTION INDUSTRY
8 RETIREMENT TRUST

Appellants,

9 vs.

10 ROBERT J. PHILLIPPY; KENNETH F.
11 POTASHNER; CHRISTOPHER COX;
12 SIDDHARTHA C. KADIA; OLEG
13 KHAYKIN; AND PETER J. SIMONE,

Respondents.

Electronically Filed
JUL 23 2020 09:19 a.m.
MOTION TO UNSEAL
APPELLANTS' OPENING BRIEF AND
APPENDIX VOLUMES 3-29 UNDER SEAL
Elizabeth A. Brown
Clerk of Supreme Court

13 Hubert C. Pincon and Locals 302 and 612 of the International Union of Operating Engineers-
14 Employers Construction Industry Retirement Trust (collectively, "Appellants"), hereby move this
15 Court for an order allowing Appellants to file Plaintiffs-Appellants' Opening Brief and various
16 volumes of the Joint Appendix under seal. This Motion is made and based upon the April 14, 2016,
17 District Court Order Stipulated Confidentiality Agreement and Protective Order Regarding the
18 Sealing of Court Records, ("Protective Order") which Appellants and Respondents are bound as
19 signatories and Part VII of Nevada Rules for Sealing and Redacting Court Records ("SRCR").

20 In the proceedings before the district court, the Parties filed numerous motions to seal
21 documents and exhibits with the Court that contained information properly designated as
22 "Confidential" or "Highly Confidential." None of the motions before the district court were opposed,
23 and the Court granted the motions. The Court ultimately sealed the documents, which the parties
24 have agreed to include certain of those documents in the Joint Appendix.

25 Therefore, pursuant to SRCR 3.2, SRCR 3.4(b) and (g), SRCR 7, NRAP 10(b)(2) and NRAP
26 30(c)(1), Appellants request permission to submit Plaintiffs-Appellants' Opening Brief and the
27 Volumes III through XXIX of the Joint Appendix under seal.
28

1 Appellants' Opening Brief references and describes motions and material which were
2 previously sealed in the district court action, and, thus, Plaintiffs request that this Court enter an
3 Order Sealing the Opening Brief.

4 Additionally, in order to file the documents in the Appendix under seal, Appellants seek to
5 have this Court waive the requirement of NRAP 30(c)(1) and allow the documents not filed under
6 seal to be filed in Volumes I and II. Appellants will then file the documents under seal in Volumes
7 III-XXIX. A list of all documents to be filed under seal has been attached hereto as Exhibit 1.

8 Appellants intend to place the unsealed documents in chronological order by the dates of
9 filing and those documents will be included in Volumes I and II. Appellants then intend to place the
10 sealed documents in chronological order by the dates of filing and those documents will be included
11 in Volumes III-XXIX. The Volumes containing the sealed documents will be hand delivered to the
12 Supreme Court for filing. Appellants intend to identify all of the documents, whether sealed or not,
13 within the Joint Appendix Index.

14 This motion is unopposed as counsel for Respondents have agreed to filing Plaintiffs-
15 Appellants' Opening Brief and documents in the Joint Appendix Volumes III-XXIX under seal.

16 DATED: October 22, 2020

THE O'MARA LAW FIRM, P.C.
DAVID C. O'MARA

17
18
19 /s/ David C. O'Mara
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28 Lead Counsel for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of The O'Mara Law Firm, P.C., 311 E. Liberty
3 Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing
4 document on all parties to this action by:

5 _____ Depositing in a sealed envelope placed for collection and mailing in the United States
6 _____ Mail, at Reno, Nevada, following ordinary business practices

7 _____ Via Email

8 X Electronically through the Court's Electronic Filing System

9 DATED: October 22, 2020.

/s/ Bryan Snyder
BRYAN SNYDER

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INDEX OF EXHIBITS

Exh No.	Description	Pages
1	List of Documents to be Filed Under Seal	1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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16
17
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DOCUMENTS TO BE FILED UNDER SEAL

Plaintiffs-Appellant’s Opening Brief

Joint Appendix Volume III

Joint Appendix Volume IV

Joint Appendix Volume V

Joint Appendix Volume VI

Joint Appendix Volume VII

Joint Appendix Volume VIII

Joint Appendix Volume IX

Joint Appendix Volume X

Joint Appendix Volume XI

Joint Appendix Volume XII

Joint Appendix Volume XIII

Joint Appendix Volume XIV

Joint Appendix Volume XV

Joint Appendix Volume XVI

Joint Appendix Volume XVII

Joint Appendix Volume XVIII

Joint Appendix Volume XIX

Joint Appendix Volume XX

Joint Appendix Volume XXI

Joint Appendix Volume XXII

Joint Appendix Volume XXIII

Joint Appendix Volume XXIV

Joint Appendix Volume XXV

Joint Appendix Volume XXVI

Joint Appendix Volume XXVII

Joint Appendix Volume XXVIII

Joint Appendix Volume XXIV