

Case No. 80636

IN THE SUPREME COURT OF THE STATE OF NEVADA

In re: Newport Corporation Shareholder Litigation

Hubert C. Pincon; Locals 302 and 612 of the International Union of Operating
Engineers-Employers Construction Industry Retirement Trust

Electronically Filed
Feb 16 2022 10:40 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appellants,

v.

Robert J. Phillippy; Kenneth F. Potashner; Christopher Cox; Siddhartha C. Kadia;
Oleg Khaykin; and Peter J. Simone

Respondents,

**MOTION TO WITHDRAW ANDREW WILHELM, ESQ. AS COUNSEL OF
RECORD FOR RESPONDENTS**

Pursuant to NRAP 46(e)(3), SCR 46, and NRPC 1.16, Respondents Robert J. Phillippy, Kenneth F. Potashner, Christopher Cox, Siddhartha C. Kadia, Oleg Khaykin, and Peter J. Simone (“Respondents”), by and through their undersigned counsel of record, hereby move that Andrew Wilhelm, Esq. be withdrawn as counsel of record for Respondents. Attorneys Maximilien D. Fetaz, Esq., Eric D. Walther, Esq., Joshua S. Lipshutz, Esq., Brian M. Lutz, Esq. and Colin B. Davis, Esq. will remain as counsel of record for Respondents.

NRAP 46(e)(3) provides that “[a] withdrawal of counsel may be effected only by filing a motion in the court. The withdrawing attorney shall serve a copy of the motion on the attorney’s client and any adverse party. The motion shall clearly state the reasons for the attorney’s withdrawal consistent with SCR 46 and RPC 1.16.” SCR 46(2) further provides that “[t]he attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows: Upon the order of the court or judge thereof on the application of the attorney or the client.” Finally, NRPC 1.16(b) states that an attorney may be allowed to withdraw from representing a client if “[w]ithdrawal can be accomplished without material adverse effect on the interests of the client” or if “good cause for withdrawal exists.”

Withdrawal is appropriate here. Final judgment has not yet been entered in this matter. Respondents will remain clients of Brownstein Hyatt Farber Schreck, LLP and Gibson Dunn & Crutcher LLP (collectively, the “Law Firms”) in this matter, and the Law Firms will continue to represent the Respondents in this matter, so there will be no adverse effect on the interests of the client. Moreover, good cause exists to permit Mr. Wilhelm to withdraw because he has left the law firm of Gibson Dunn & Crutcher LLP. Pursuant to NRAP 46(e)(3), a copy of this motion is being served on counsel for the Appellants.

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Accordingly, this Court should grant this motion to withdraw and remove Mr. Wilhelm as counsel of record for Respondents in this matter.

DATED this 16th day of February, 2022.

/s/ Maximilien D. Fetaz

MAXIMILIEN D. FETAZ, ESQ., NV Bar No. 12737
ERIC D. WALTHER, ESQ., NV Bar No. 13611
BROWNSTEIN HYATT FARBER SCHRECK LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

JOSHUA S. LIPSHUTZ, ESQ. (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Ave.
Washington, DC 20036-5306
Telephone: 202.955.8217
Facsimile: 202.530.9614

BRIAN M. LUTZ, ESQ. (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105-0921
Telephone: 415.393.8200
Facsimile: 415.393.8306

COLIN B. DAVIS, ESQ. (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
3161 Michelson Drive
Irvine, CA 92612-4412
Telephone: 949.451.3800
Facsimile: 949.451.4220

Attorneys for Respondents Robert J. Phillippy, Kenneth F. Potashner, Christopher Cox, Siddhartha C. Kadia, Oleg Khaykin, and Peter J. Simone

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed and served the foregoing **MOTION TO WITHDRAW ANDREW WILHELM, ESQ. AS COUNSEL OF RECORD FOR RESPONDENTS** with the Clerk of the Court of the Supreme Court of Nevada by using the Court's Electronic Filing System on February 16, 2022.

/s/ Wendy Cosby
an employee of Brownstein Hyatt Farber Schreck,
LLP