

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAR 25 2020

Supreme Court No. 80816
District Court Case No. A-18-772761-C

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY DEPUTY CLERK

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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 MOTION FOR RELIEF UNDER NRAP 27(e)**

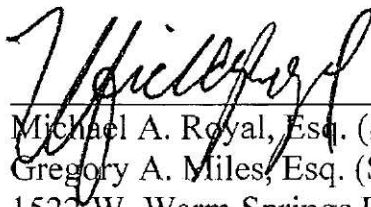
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20-11622

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

DATED this 25th day of March, 2020.

ROYAL & MILES LLP



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VENETIAN CASINO RESORT, LLC,

and LAS VEGAS SANDS, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

COMES NOW Petitioners VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC (collectively "Venetian"), by and through their counsel of record, ROYAL & MILES LLP, and respectfully file this reply to Joyce Sekera's Opposition to Petitioners' Emergency Motion for Relief Under NRAP, Rule 27(e), filed on March 17, 2020, 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.

The basis for Venetian’s motion for emergency stay relates to certain privacy issues of Venetian and its guests which are the subject of a pending writ assigned to the Nevada Court of Appeals, Case No. 79689-COA, filed on September 26, 2019, relating to the production of Venetian guest prior incident reports from November 4, 2013 to November 4, 2016. There, the Nevada Court of Appeals **granted** Petitioners’ motion for stay on October 17, 2019.

The instant petition arises from an order by the District Court that Petitioners produce an additional two years of Venetian guest prior incident reports - from November 4, 2011 to November 4, 2013 - without the same protections under NRCP 26(c) requested in the writ presently pending as Case No. 79689-COA. It is the exact same issue relating to the same evidence in the same litigation; only the timeframe is different.

This Honorable Court has already been presented with the privacy issues at hand and determined that Petitioners met the requirements for an emergency stay. It is therefore disingenuous of Sekera to argue that Petitioners “have not explained why an emergency stay is appropriate.”¹ Certainly, Venetian did so to the Court’s satisfaction in Case No. 79689-COA. It has likewise done so here.

¹ See Opposition to Motion For Stay at 1.

As presented in the Petition filed on March 17, 2020, Venetian is moving to stay the District Court order of March 13, 2020, which provides that Petitioners must produce records of prior incident reports from November 4, 2011 to November 4, 2013 without the same protections at issue in Case No. 79689-COA.² It is therefore a bit misleading for Sekera to write: “This is the third motion for emergency stay relief” requested by Venetian,³ as though the pending motion should not be considered simply because there have been prior requests – one of which was granted and remains in effect.⁴ Venetian has included the Order of March 13, 2020 with its Appendix, filed on March 17, 2020.⁵

Since there is already a stay in place with respect to the same evidence at issue in the present petition, Sekera has failed to explain in the Opposition how she will be harmed by the Court granting the motion to stay the March 13, 2020 order until this matter can be fully adjudicated together with Case No. 79689-COA. Once these two writ proceedings are consolidated, there will be a single ruling from the Court of Appeal, and it will not result in any further delay.

² See Appendix, Vol. 13, Tab 56, VEN 2661-64.

³ See Opposition to Motion For Stay at 1.

⁴ Other than Case No. 79689-COA, which also relates to the production of unredacted and unprotected prior guest incident reports, Venetian filed a writ to address a denied motion for summary judgment on the issue of statutory immunity under the Nevada Industrial Insurance Act on January 22, 2020, Case No. 80450. The Nevada Supreme Court issued an *Order Denying Petition For Writ Of Mandamus Or Prohibition* on January 2020.

⁵ See Appendix, Vol. 13, Tab 56, VEN 2661-64.

In summary, Sekera demanded production of Venetian guest prior incident reports from November 4, 2013 to November 4, 2016, which the District Court ordered to be produced in unredacted form and without protections requested by Venetian under NRCP 26(c). Venetian filed for emergency relief and received a stay of the July 31, 2019 order by the Nevada Court of Appeals on October 17, 2019 in Case No. 79689-COA. When Sekera subsequently demanded additional Venetian guest prior incident reports from November 4, 2011 to November 13, 2013, Petitioners reminded the District Court of the pending stay addressing the same exact evidence and issues in Case No. 79689-COA, and requested a stay of the March 13, 2020 order until the Court of Appeals rules on the matter. That request was denied.⁶ Venetian had no avenue but to petition this Honorable Court for relief, and then move to consolidate this with Case No. 79689-COA.

At the January 21, 2020, hearing on this matter, Judge Delaney agreed that a stay by this Honorable Court was likely under the circumstances, offering the following:

*The Court of Appeals already granted the stay related to that stuff [Venetian guest prior incident reports]. **If you're adding more to it, I'm sure they will do the same thing**, but you can put in if you want in the order the Court declined your oral request for a stay at this time, so it already shows because I think that is how Rule 8 or 9, whichever one it is that sort of says, you don't have to come back to the District*

⁶ See Appendix, Vol. 13, Tab 56, VEN 2661-64.

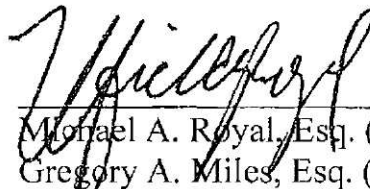
*Court and ask for the stay if there's a futile issue, and it would be basically [be] futile, you can go get it from them.*⁷

Granting the present motion for stay and consolidating this petition with the pending petition in Case No. 79689-COA will not harm Plaintiff at all. However, denying this motion for stay and requiring Venetian to produce the information at issue would instead result in irreparable harm to Venetian and its guests.⁸

Based on the foregoing, Venetian respectfully submits that its motion for emergency relief to stay the order of March 13, 2020 related to the production of unredacted and unprotected Venetian prior guest incident reports should be granted.

DATED this 25th day of March, 2020.

ROYAL & MILES LLP



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⁷ See Appendix, Vol. 13, Tab 55, VEN 2651:16-25; 2652:1 (emphasis added).

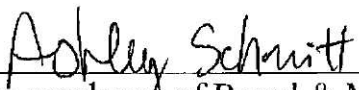
⁸ Sekera has previously taken prior incident reports and shared them freely with others wholly unaffiliated with the litigation and her counsel has expressed an absolute right to do so, which issue is set forth in detail in Case No. 79689-COA.

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 25 day of March, 2020, I served true and correct copy of the foregoing REPLY TO JOYCE SEKERA'S OPPOSITION TO PETITIONERS' EMERGENCY MOTION FOR RELIEF 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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