

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

RUTH L. COHEN,

Appellant,

v.

PAUL S. PADDA and PAUL PADDA LAW, PLLC,

Respondent.

Appeal from the Eighth Judicial District Court of the State of Nevada, in and for
County of Clark

**OPPOSITION TO MOTIONS FOR EXTENSION OF TIME TO FILE
MOTION FOR LEAVE TO FILE AMICUS BRIEF OF CLAGGETT &
SYKES LAW FIRM AND SOUTH ASIAN BAR ASSOCIATION
OF LAS VEGAS, VETERANS IN POLITICS
INTERNATIONAL, INC. AND JAY BLOOM**

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**OPPOSITION TO MOTIONS FOR EXTENSION OF TIME TO FILE
MOTION FOR LEAVE TO FILE AMICUS BRIEF OF CLAGGETT &
SYKES LAW FIRM AND SOUTH ASIAN BAR ASSOCIATION
OF LAS VEGAS, VETERANS IN POLITICS
INTERNATIONAL, INC. AND JAY BLOOM**

Appellant Ruth L. Cohen (“Cohen”), by and through her attorneys of record, the law firms of Hayes Wakayama and Campbell & Williams, hereby submits her Opposition to the Motions for Extension of Time to File Motion for Leave to File Amicus Brief of Claggett & Sykes Law Firm (“C&S”) and the South Asian Bar Association of Las Vegas, Veterans in Politics International, Inc., and Jay Bloom (the “SABA Parties”) (collectively the “Amicus Parties”). This Opposition is made and based upon the Memorandum of Points and Authorities and the pleadings and papers on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Amicus Curiae briefs are designed to assist the Court with rationales and insights that are not otherwise available from the parties themselves. The Amicus Parties have no such insight to provide this Court and can only reiterate the positions already taken by the Respondents in this matter, who have every incentive to fully address the rules of professional conduct at issue here. The question presented by this appeal is whether Ms. Cohen’s suspension from the practice of law prohibited her from recovering her share of proceeds under an attorney fee-splitting contract

with her former partner, Respondent Paul Padda (“Padda”) where the parties entered into the agreement long before Ms. Cohen’s suspension and she transferred responsibility for the cases at issue in exchange for a percentage of the ultimate recovery. None of the Amicus Parties have an identifiable and unique perspective to add in this appeal simply because they represent parties on a contingency fee basis (C&S) or are concerned about the issue of attorney discipline (the SABA Parties).

II. LEGAL ARGUMENT

A. LEGAL STANDARD.

Nevada Rule of Appellate Procedure 29 governs amicus curiae briefs. Although federal and state officers, agents and political subdivisions can file an amicus brief without consent or leave, “[a]ny other amicus curiae may file a brief *only by leave of court granted on motion or at the court’s request or if accompanied by written consent of all parties.*” NRAP 29(a) (emphasis added). Amicus briefs are typically only permitted in four circumstances: (1) when a party is not represented competently; (2) when a party is not represented at all; (3) when the amicus has an interest in some other case that may be affected by the decision in the present case; or (4) when the amicus has unique information or perspective. *Soos v. Cuomo*, 470 F. Supp. 3d 268, 284 (N.D.N.Y. 2020) (quoting *Payphones, Inc. v. Dobrin*, 410 F. Supp. 3d 457, 465, n.3 (E.D.N.Y. 2019)). “Otherwise, leave to file an amicus brief should be denied.” *Id.* “The usual rationale for amicus curiae

submissions is that they are of aid to the court and offer insights not available from the parties. Thus, when those purposes are not served, typically, courts deny motions seeking leave to appear amicus curiae.” *Id.* This has been the standard for over 100 years. *N. Sec. Co. v. United States*, 191 U.S. 555, 556, 24 S. Ct. 119 (1903).

Nevada courts have held “[t]here is no inherent right to file an amicus curiae brief with the Court.” *Long v. Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999). “It is left entirely to the discretion of the Court.” *Id.* (citing *Fluor Corporation and Affiliates v. United States*, 35 Fed. Cl. 284, 285 (1996); *Waste Management of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 35 (M.D. Pa. 1995)). “This is true notwithstanding the fact that the parties may have consented, or do not object, particularly where the applicant's only concern is the manner in which this Court will interpret the law.” *Id.* (citing *American College of Obstetricians and Gynecologists, Pennsylvania Section, et al. v. Thornburgh*, 699 F.2d 644 (3d Cir. 1983)).

In *Long*, the court referred to a decision issued by Chief Judge Posner, of the Seventh Circuit, who wrote,

[t]he vast majority of amicus curiae briefs are filed by allies of litigants and duplicate the arguments made in the litigants' briefs, in effect merely extending the length of the litigant's brief. Such amicus briefs should not be allowed. They are an abuse. The term ‘amicus curiae’ means friend of the court, not friend of a party. *Id.* (quoting *Ryan v. Commodity Futures Trading Commission*, 125 F.3d 1062, 1063 (7th Cir. 1997)).

“An amicus brief should normally be allowed when a party is not represented competently or is not represented at all....” *Id.* “We are not helped by an amicus curiae's expression of a ‘strongly held view’ about the weight of the evidence.” *Id.* (quoting *Ryan*, 125 F.3d at 1064).

The parties before the court should have their dispute resolved without any unnecessary delay. It would be unacceptable for an amici brief to cause a prolonged delay in the litigation. *Id.* (quoting *Fluor Corporation*, 35 Fed. Cl. at 286 (filing an amicus curiae brief in the midst of briefing cross motions for summary judgment would be acceptable)).

“A court may grant leave to appear as an amicus if the information offered is ‘timely and useful.’” *Id.* (quoting *Waste Management*, 162 F.R.D. at 36).

B. BOTH PARTIES TO THIS APPEAL ARE REPRESENTED BY COMPETENT COUNSEL, THE AMICUS PARTIES HAVE NO INTEREST THAT MAY BE IMPACTED BY THE DECISION IN THIS CASE AND HAVE NO UNIQUE INFORMATION OR PERSPECTIVE TO PROVIDE TO THIS COURT.

In this case, there is simply no need for an amicus curiae brief to be filed. Cohen is represented by two law firms with decades of experience in Nevada, while Padda is currently represented by three different law firms with similar levels of experience in addition to representing himself in these proceedings. The competency of Cohen and Padda’s representation is not in question. Nor is the subject of this appeal a matter in which the Amicus Parties have any vested interest.

Neither C&S¹ nor the SABA Parties have identified any other case that may be affected by the Court's resolution. Similarly, the Amicus Parties have not even attempted to explain why they offer unique positions or perspectives in this matter that will not be thoroughly addressed by the parties themselves. Thus, the Amicus Parties have failed to meet their burden of demonstrating that their participation is warranted and the mere fact that they wish to support Padda in this partnership dispute is insufficient.²

Under NRAP 29, C&S's and the SABA Parties' amicus briefs, if this Court had permitted them to be filed, were due March 17, 2021, the same day they appeared for the first time asserting an alleged interest in the case. C&S and the SABA Parties have provided no justification for their delay, and even suggest that despite their alleged interest in the case, they are not familiar with the facts, arguments, or briefing already completed before this Court. C&S and the SABA

¹ Cohen also wants to bring to this Court's attention the fact that Micah Echols, of C&S, previously worked at Marquis Aurbach Coffing at the same time Marquis Aurbach Coffing represented Cohen in this matter. Significantly, Cohen has not consented to Mr. Echols' adoption of a position that is adverse to her interests and, thus, objects to his attempt to support the Respondents.

² Cohen objects in advance to any attempt by the Amicus Parties to explain in their reply briefs why the legal standard to submit amicus briefs in this proceeding is met. *See Francis v. Wynn Las Vegas, LLC*, 127 Nev. 657, 671, 262 P.3d 705, 715 n. 7 (2011) ("We decline to consider this argument because Francis did not cogently raise the issue in his opening brief; rather, he raised it for the first time in his reply brief, thereby depriving Wynn of a fair opportunity to respond.").

Parties cannot genuinely assert that they can provide any unique information or perspective into this matter when they argue at the same time that they are not familiar with this case itself.³

With C&S and the SABA Amicus Parties having no real interest in this matter, having waited until the date their briefs would have otherwise been due to even make an appearance,⁴ and for the reasons set forth below, the Court should reject C&S's and the SABA Amicus Parties' request to appear before this Court as amicus curiae on this matter.

III. CONCLUSION

This is not a case where an amicus brief is necessary or even helpful from C&S or the SABA Parties. Cohen are each represented by several experienced attorneys who are more than capable of addressing the relevant issues in this proceeding. This is especially true where, as here, C&S and the SABA Parties have not identified a related case involving similar issues or explained why they each offer a unique perspective in these proceedings. Because the Amicus Parties have nothing

³ *See supra* note 1.

⁴ Of particular note, due to the delay of the Amicus Parties in seeking leave of this Court, Cohen is concerned that any amicus briefing may delay these proceedings. The district court did grant her request for an expedited trial date given her age. *See Exhibit 1* hereto, Order Granting Motion for Preferential Trial Setting filed in the underlying action on May 13, 2019.

to offer to this Court except duplicative support for Padda, the Court should deny C&S's and the SABA Amicus Parties' Motions and reject their request to participate as an amicus curiae in this matter.

Dated this 23rd day of March, 2021.

HAYES | WAKAYAMA

By /s/ Liane K. Wakayama, Esq.
LIANE K. WAKAYAMA, ESQ.
Nevada Bar No. 11313
DALE A. HAYES, JR., ESQ.
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Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **OPPOSITION TO MOTIONS FOR EXTENSION OF TIME TO FILE MOTION FOR LEAVE TO FILE AMICUS BRIEF OF CLAGGETT & SYKES LAW FIRM AND SOUTH ASIAN BAR ASSOCIATION OF LAS VEGAS, VETERANS IN POLITICS INTERNATIONAL, INC. AND JAY BLOOM** was filed electronically with the Nevada Supreme Court on the 23rd day of March, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Paul S. Padda, Esq.
Paul Padda Law, PLLC
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Attorneys for Appellant

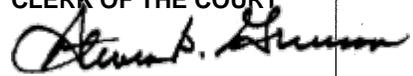
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Sean K. Claggett, Esq.
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SABA-LV, VIPI and Jay Bloom*

/s/ Julia Rodionova
An employee of Hayes Wakayama

Exhibit 1



1 **Marquis Aurbach Coffing**
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2 Nevada Bar No. 11313
Jared M. Moser, Esq.
3 Nevada Bar No. 13003
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4 Las Vegas, Nevada 89145
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7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 RUTH L. COHEN, an individual,

Case No.: A-19-792599-B

11 Plaintiff,

Dept. No.: 11

12 vs.

13
14 PAUL S. PADDA, an individual; PAUL
15 PADDA LAW, PLLC, a Nevada professional
limited liability company; DOE individuals I-X;
16 and, ROE entities I-X,

17 Defendants.

18 **ORDER GRANTING MOTION FOR PREFERENTIAL TRIAL SETTING**

19 This matter having come before the Court for the shortened time hearing on the 6th day
20 of May, 2019, on Plaintiff's Motion for Preferential Trial Setting (the "Motion"), Liane K.
21 Wakayama, Esq. and Jared M. Moser, Esq. of the law firm of Marquis Aurbach Coffing
22 appearing on behalf of the Plaintiff, Ruth Cohen ("Cohen"); Stephen J. Peek, Esq. of the law
23 firm of Holland & Hart LLP, on behalf of Defendant, Paul S. Padda, Esq.; and Josh H. Reisman,
24 Esq. of the law firm of Reisman Sorokac, on behalf of the Defendant, Paul Padda Law, PLLC
25 (collectively the "Defendants"), the Court having considered the Motion, and the underlying
26 papers and pleadings, as well as the oral arguments of counsel, and good cause appearing
27 therefore finds and orders as follows:
28

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
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MARQUIS AURBACH COFFING
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1 1. Plaintiff Ruth Cohen is 70 years of age or older, and pursuant to NRS 16.025(1),
2 she is entitled to a preferential firm trial setting.

3 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
4 that:

5 1. The Motion for a Preferential Trial Setting is GRANTED;

6 2. A jury trial shall commence beginning on February 10, 2020 and continuing for a
7 period of at least two weeks until completion; and

8 3. The request for expedited discovery is denied without prejudice and will be
9 discussed at the Rule 16 Conference.

10 4. On June 3, 2019 at 9:00 a.m., the parties shall attend a mandatory Rule 16
11 conference to discuss, among other things, a discovery schedule and related deadlines.

12 IT IS SO ORDERED.

13 Dated this 9 day of May, 2019



DISTRICT COURT JUDGE

15 Respectfully Submitted By:
16 MARQUIS AURBACH COFFING

17
18 By 
19 Liane K. Wakayama, Esq.
20 Nevada Bar No. 11313
21 Jared M. Moser, Esq.
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23 ///

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Order Granting Motion for Preferential Trial Setting
Case No. A-19-792599-B
Ruth Cohen v. Paul S. Padda, et al.

The foregoing Order is hereby approved as to form and content by the following.

APPROVED:

Dated this 7th day of May, 2019

HOLLAND & HART LLP

By: Stephen J. Peek
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*Attorneys for Defendant,
Paul S. Padda*

APPROVED:

Dated this ___ day of May, 2019

REISMAN SOROKAC

By: Josh H. Reisman
~~Josh H. Reisman, Esq.
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*Attorneys for Defendant,
Paul Padda Law, PLLC*~~

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Order Granting Motion for Preferential Trial Setting
Case No. A-19-792599-B
Ruth Cohen v. Paul S. Padda, et al.

The foregoing Order is hereby approved as to form and content by the following.

APPROVED:

Dated this ___ day of May, 2019

HOLLAND & HART LLP

By: _____

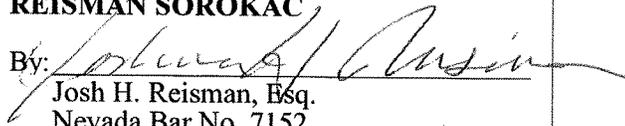
~~Stephen J. Peek, Esq.
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9555 Hillwood Drive, 2nd Floor
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Attorneys for Defendant,
Paul S. Padda~~

APPROVED:

Dated this 9 day of May, 2019

REISMAN SOROKAC

By: _____


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