

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY KVAM,

Appellant,

v.

BRIAN MINEAU; AND LEGION
INVESTMENTS, LLC,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 81422

District Case No. CV18-00764

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**OPPOSITION TO APPELLANT'S
MOTION TO DETERMINE APPEALABLE ORDER**

Respondents BRIAN MINEAU (“Mineau”) and LEGION INVESTMENTS, LLC (“Legion”), by and through their counsel of record, Austin K. Sweet, Esq. and Mark H. Gunderson, Esq., submit this Opposition to *Appellant's Motion to Determine Appealable Order* (“Motion”) filed by Appellant JAY KVAM (“Kvam”). This Motion is made and based upon NRAP 3A, the following memorandum of points and authorities, the pleadings on file in this case, and any oral argument this Court wishes to entertain.

MEMORANDUM OF POINTS AND AUTHORITIES

Kvam appeals from the district court's *Order Granting, In Part, and Denying, In Part Defendants' Motion for Summary Judgment; Order Granting Summary*

Judgment on Claim Pursuant to Court's NRCP 56 Notice ("Order"), entered by the district court on June 5, 2020. In his Motion, Kvam concedes that the Order is not a final judgment and is not appealable pursuant to NRAP 3A(b)(1). *Motion* pp. 2-3. Instead, Kvam argues that the Order is appealable under NRAP 3A(b)(3) because the effect of the Order is to deny injunctive relief to Kvam by stating that Kvam's Seventh Cause of Action for Temporary and Permanent Injunction is legally ineffectual. *Id.* p. 3. Kvam's argument misinterprets the purpose of NRAP 3A(b)(3).

In interpreting NRAP 3A(b)(3), this Court has held that NRAP 3A(b)(3) grants jurisdiction only to review orders granting or denying injunctions pursuant to NRCP 65. See Nelson v. Nelson, 136 Nev. Adv. Op. 36, 466 P.3d 1249, 1251 (2020); see also Peck v. Crouser, 129 Nev. 120, 124, 295 P.3d 586, 588 (2013). Kvam never sought injunctive relief pursuant to NRCP 65 and the Order was not entered pursuant to NRCP 65. The Order is therefore not appealable under NRAP 3A(b)(3).

An interlocutory appeal is not appropriate in this matter. This appeal must be dismissed to allow entry of final judgment. Upon entry of final judgment, Kvam

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will have an adequate remedy pursuant to NRAP 3A(b)(1). Accordingly, the Motion should be denied and *Respondents' Renewed Motion to Dismiss* should be granted.

AFFIRMATION

The undersigned does hereby affirm that the preceding **OPPOSITION TO APPELLANT'S MOTION TO DETERMINE APPEALABLE ORDER**, filed in the Supreme Court of the State of Nevada, does not contain the social security number of any person.

DATED this 11 day of September, 2020.

GUNDERSON LAW FIRM

By: 
Austin K. Sweet, Esq.
Nevada State Bar No. 11725
Mark H. Gunderson, Esq.
Nevada State Bar No. 2134
*Attorneys for Brian Mineau and
Legion Investments, LLC*

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I certify that I am an employee of the law office of Gunderson Law Firm, and that on the 11 day of September, 2020, I electronically filed a true and correct copy of the **OPPOSITION TO APPELLANT'S MOTION TO DETERMINE APPEALABLE ORDER**, with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

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Settlement Judge


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