

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

**RESPONDENTS' REPLY IN SUPPORT OF
RENEWED MOTION TO DISMISS APPEAL**

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., file this Reply in support of their Renewed Motion to Dismiss Appeal ("Motion"). This Reply 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

In opposing the Motion, Appellant JAY KVAM ("Kvam") concedes that the Order is not a final judgment and is not appealable pursuant to NRAP 3A(b)(1). Instead, Kvam argues that the Order is appealable under NRAP 3A(b)(3). Kvam's

Opposition to Respondent's Renewed Motion to Dismiss Appeal offers no explanation or elaboration concerning the alleged applicability of NRAP 3A(b)(3).

In the briefing related to *Appellant's Motion to Determine Appealable Order*, Kvam has argued 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. However, 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 did not seek 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

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dismissed to allow entry of final judgment. Upon entry of final judgment, Kvam will have an adequate remedy pursuant to NRAP 3A(b)(1).

Accordingly, the Motion should be granted.

AFFIRMATION

The undersigned does hereby affirm that the preceding **RESPONDENTS' REPLY IN SUPPORT OF RENEWED MOTION TO DISMISS APPEAL**, filed in the Supreme Court of the State of Nevada, does not contain the social security number of any person.

DATED this 22 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 22 day of September, 2020, I electronically filed a true and correct copy of the **RESPONDENTS' REPLY IN SUPPORT OF RENEWED MOTION TO DISMISS APPEAL**, with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

Michael L. Matuska, Esq.
MATUSKA LAW OFFICES, LTD.
2310 South Carson Street, Suite 6
Carson City, NV 89701
Attorney for Jay Kvam

Janet L. Chubb, Esq.
50 W Liberty Suite 700
Reno, Nevada 89501
Settlement Judge



Kelly Gunderson