

Case No. 81459

In the Supreme Court of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

DEKKER PERISH/SABATINI LTD.; NEVADA BY
DESIGN, LLC D/B/A NEVADA BY DESIGN;
MELROY ENGINEERING, INC. D/B/A MSA
ENGINEERING CONSULTANTS; JW ZUNIO &
ASSOCIATES, LLC; NINYO & MOORE,
GEOTECHNICAL CONSULTANTS; RICHARDSON
CONSTRUCTION, INC.; THE GUARANTEE
COMPANY OF NORTH AMERICA USA; AND
JACKSON FAMILY PARTNERSHIP LLC D/B/A
STARGATE PLUMBING,

PETITIONERS,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT, STATE
OF NEVADA, CLARK COUNTY, AND THE
HONORABLE TREVOR ATKIN,

RESPONDENTS,

CITY OF NORTH LAS VEGAS,

REAL PARTY IN INTEREST.

**MOTION FOR LEAVE TO FILE AMICUS BRIEF
IN SUPPORT OF PETITIONER'S PETITION FOR REHEARING**

Putative amici LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, and M.J. DEAN CONSTRUCTION, INC., move for leave to file an amicus brief in support of “Petitioners’ Petition for Rehearing,” filed October 12, 2021. NRAP 29. They request leave to file the proposed amicus brief within 30 days, by November 18. NRAP 29(f); NRAP 26(b)(1)(A).

MOTION FOR LEAVE TO APPEAR AS AMICI

Putative amici are developers and builders of Panorama Towers, a 635-unit, high-rise condominium complex, located across the I-15 highway from CityCenter on the Las Vegas strip, which was substantially completed in 2008. As any other builders, they have an interest in the outcome of this proceeding because their work is subject to the statute of repose in NRS 11.202.

More specifically, putative amici have an interest in this proceeding because they are respondents in an ongoing appeal that entails a substantially similar issue regarding application of the 2019 amendment to the statute of repose period in NRS 11.202. In that case, *Panorama Towers Condominium Unit Owners’ Association v. Hallier*, Case No. 80615, one of the central questions is whether builders are

protected from being retroactively exposed to liability on extinguished construction-defect claims after the builders' repose has already become secure. There, even judgment was entered in the builders' favor prior to the 2019 amendment becoming effective. The opinion in this case may serve as precedent in the *Panorama Towers* case if it stands.

The envisioned amicus brief will aid this Court's determination of the central question—to wit, whether the retroactivity provision in the amendment to NRS 11.2020 may operate to revive time-barred claims that had already expired before the amendment became effective without violating due process principles. Putative amici will point the Court to authorities and considerations beyond those raised in the petition for rehearing and the previous briefing on the briefs in this case, but which are consistent with the positions taken by petitioners. This Court would benefit from considering the brief before ruling on the petition.

MOTION FOR LEAVE TO FILE THE PROPOSED BRIEF IN 30 DAYS

Putative amici request leave to file the proposed brief within 30 days. The brief presumptively is due on October 19, 2021, because the petition for rehearing was filed on October 12, 2021. NRAP 29(f) (an

amicus brief ordinarily is due seven days after the filing of the party's brief). "The court may grant leave for later filing," however. NRAP 29(f); *see also* NRCP 26(b)(1)(A) ("For good cause, the court may extend the time prescribed by these Rules").

Putative amici became aware of this petition recently and thereafter determined expeditiously to make this request for leave to appear as amici. The additional time will enable them to familiarize themselves further with particularities of this case that may distinguish it from theirs, *Panorama Towers Condominium Unit Owners' Association v. Hallier*, Case No. 80615, to ensure the proposed amicus brief raises only points and authorities relevant to this case. The time also will allow them craft a streamlined brief that highlights additional material succinctly and avoids repetition of points and authorities already set out in the petition for rehearing or the briefs on the merits.

Dated this 19th day of October, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2021, I submitted the foregoing “*Motion for Leave to File Amicus Brief in Support of Petitioner’s Petition for Rehearing*” for filing via the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

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