IN THE SUPREME COURT OF THE STATE OF NEVADA

MAIDE, LLC, A NEVADA LIMITED-LIABILITY COMPANY, D/B/A GENTLE SPRING CARE HOME; SOKHENA K. HUCH, AN INDIVIDUAL; AND MIKI N. TON, AN INDIVIDUAL, Appellants,

vs.

Respondents.

CORRINE R. DILEO, AS SPECIAL ADMINISTRATOR FOR THE ESTATE OF THOMAS DILEO; THOMAS DILEO, JR., AS STATUTORY HEIR TO THOMAS DELIO; AND CINDY DILEO, AS STATUTORY HEIR TO THOMAS DILEO,

No. 81804

FILED

SEP 2 1 2021

CLERROF SUPREME COURT
BY DEPUTY CLERK

ORDER DIRECTING SUPPLEMENTAL BRIEFING AND SCHEDULING ORAL ARGUMENT

On July 8, 2021, appellants filed their reply brief. Respondents moved to strike appellants' argument regarding the applicability of the Federal Arbitration Act (FAA) as being improperly raised for the first time on appeal. This court denied the motion to strike on August 20, 2021, and stated that any new argument improperly raised in the reply brief for the first time would be disregarded at the time of disposition of this appeal.

Although appellants raised the applicability of the FAA for the first time in their reply brief, it is this court's "prerogative to consider issues a party raises in its reply brief, and we will address those issues if consideration of them is in the interests of justice." *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011). Further, we are not inclined to ignore controlling authority simply because it may be raised for the first time in a reply brief. Because the district court

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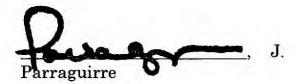
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determined that the Arbitration Agreement is void and unenforceable pursuant to NRS 597.995, whether the FAA preempts NRS 597.995 under the circumstances in this case is a threshold matter, consideration of which is in the interests of justice. Accordingly, we conclude that supplemental briefing and oral argument on the issue of whether the FAA preempts NRS 597.995 under the circumstances in this case would assist this court in resolving this appeal.

Appellants shall have 21 days from the date of this order to file and serve a supplemental brief addressing this issue. Respondents shall have 14 days from filing of the supplemental opening brief to file and serve a supplemental answering brief. Appellants shall have 7 days from filing of the supplemental answering brief to file and serve a supplemental reply brief, if deemed necessary. All briefs shall comply with the provisions of NRAP 28, 28.2, and 32. No extensions of time will be granted.

The clerk of this court shall schedule this appeal for oral argument before the Southern Nevada Panel. Oral argument will be limited to 30 minutes and the parties shall be prepared to address whether the FAA preempts NRS 597.995 under the circumstances presented in this case.

It is so ORDERED.



cc: Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas Cogburn Law Offices Sharp Law Center Claggett & Sykes Law Firm