IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE TRUST AGREEMENT, 23 PARTNERS TRUST I, AN IRREVOCABLE TRUST. MICHAEL T. NEDDER; AND DOUGLAS DELUCA, Appellants/Cross-Respondents, v. JOANNE S. BRIGGS, AS PARENT AND GUARDIAN OF JULIA ANN DELUCA AND ALEXANDER IAN DELUCA, PRIMARY BENEFICIARIES OF THE 23 PARTNERS TRUST I, Respondents/Cross-Appellants.	Supreme Court No: 82991 District Court Case No: P-20-104279-T **APPELLANTS' MOTION TO SUBMIT CERTAIN PORTIONS OF THE COURT RECORD UNDER SEAL**

FILED
MAR 07 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

Appellants Michael Nedder and Douglas DeLuca (the "Trustees"), the Trustees of the 23 Partners Trust I (the "Trust"), Respondents below, move this Court for an order allowing Appellant to submit certain portions of the record under seal. These documents are the unredacted versions of (i) the Supplement to Petition to (1) Assume Jurisdiction Over Trust; (2) Confirm Douglas Scott Deluca as Trustee, (3) Obtain an Accounting, and (4) Obtain a copy of Trust (the "Supplement to Petition"); (ii) the Supplement to Objection to Petition to (1) Assume Jurisdiction Over Trust; (2) Confirm Douglas Scott Deluca as Trustee, (3) Obtain an Accounting, and (4) Obtain a copy of Trust (the "Supplement to Opposition"); and (iii) the trust

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documents submitted to the court *in camera* and designated as a document that could only be viewed by the attorneys.

This motion is being submitted electronically, but a hard copy of the motion is being submitted to the Nevada Supreme Court simultaneously which will include copies of the portions of the record to be submitted under seal.

POINTS AND AUTHORITIES

1. Introduction and Facts

This case involves the issue as to whether the unvested beneficiaries of a spendthrift trust, where distributions from the trust are within the sole discretion of the trustee under NRS 163.4185(1)(c) and NRS 163.419, are entitled to obtain a copy of the trust document and an accounting. Based on the initial petition and objection, which provided that the trust document was to remain confidential and not shown to the unvested beneficiaries, the Court ordered that a copy of the trust document be provided to petitioner's attorney, but limited the required disclosure to "attorney's eyes only." *See* Order, filed on December 30, 2020 (APP 105-107), at pp. 2-3 (APP 106-07). Based on this order, the trust document was submitted to the Court *in camera* and to opposing counsel. Further, both the Petitioner and Respondent below submitted supplements to their respective petition and objection under seal with redacted version available on the public record that protected the provisions of the trust documents from being placed on the public record. *See* Supplement to Petition,

(Doc. #13 in the Appendix to Plaintiff's Opening Brief, at APP 119-238); Supplement to Objection, (Doc. #15 in the Appendix to Plaintiff's Opening Brief, at APP 361-438). The actual trust document itself was made available to opposing counsel and submitted to the Court *in camera. See* Notice of *In Camera* Submission, APP 239-40.

An unredacted version of the Supplement to Petition, which is Document #13 in the Appendix to Plaintiff's Opening Brief, is attached and labeled as Document or Exhibit 13. An unredacted version of the Supplement to Objection, which is Document #15 in the Appendix to Plaintiff's Opening Brief, is attached and labeled as Document or Exhibit 15. Finally, the *in camera* submission that was submitted to the Court by the Notice of *In Camera* Submission, which is Document #14 in the Appendix to Plaintiff's Opening Brief, is attached and labeled as Document or Exhibit 15.

2. Legal Argument

Nevada Rule 3(4) of Rules Governing Sealing and Redacting Court Records provides in part that:

> The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. The parties' agreement alone does not constitute a sufficient basis for the court to seal or redact court records. The public interest in privacy or safety interests that outweigh the public interest in open court records include findings that:

(e) The sealing or redaction furthers an protective order entered under NRCP 26(c); [and]

. . . .

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

Here, both of these grounds are applicable and justify sealing. The sealing furthers the protective order of the Court restricted the disclosure of the trust documents to "attorney's eyes only." Were the document to be placed in the public record, it could not longer be "attorney's eyes only." The Supplement to Petition and Supplement to Objection contain significant language and quotations from the trust documents. Therefore these documents were redacted on the public record with the unredacted versions being sealed.

Allowing the submission of these documents to be filed under seal furthers the protective order limiting access to view the document to the attorneys. Further, allowing these unredacted supplements to the petition and objection and the trust document to be submitted on the public record would undermine the purpose of this appeal, which seeks to maintain the confidential nature of the trust documents. The Court should therefore grant this motion and allow the documents attached hereto and labeled as documents or exhibits 13, 14, and 15 to correspond with the document numbers in the Appendix to the Opening Brief.

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3. Conclusion

For the foregoing reasons, the Appellant requests that the Court that the documents attached to this mailed copy of this motion and marked as documents or exhibits 13, 14, and 15, be submitted to the Court under seal.

DATED this 4th day of March 2022.

HUTCHISON & STEFFEN, PLLC

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Attorneys for Michael T. Nedder and Douglas DeLuca, Trustees

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this date the **APPELLANTS' MOTION TO SUBMIT CERTAIN PORTIONS OF THE COURT RECORD UNDER SEAL** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Alexander G. LeVeque, Esq.
Roberto M. Campos, Esq.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

Attorney for Respondent/Cross-Appellant

APPELLANTS' MOTION TO SUBMIT CERTAIN PORTIONS OF THE COURT RECORD UNDER SEAL with the documents to be submitted under seal attached is also being mailed to the Nevada Supreme Court for filing and is served via U.S. Mail to the address below:

Alexander G. LeVeque, Esq.
Roberto M. Campos, Esq.
9060 West Cheyenne Avenue
Las Vegas, Nevada 89129

DATED this 4th day of March 2022.

Danielle Kelley
An employee of Hutchison & Steffen, PLLC