

IN THE SUPREME COURT OF THE STATE OF NEVADA

YA-LING HUNG and WEI-HSIANG HUNG,)
each individually, as surviving heirs, and Co-)
Administrators of the Estate of Tung-Tsung)
Hung and Pi-Ling Lee Hung, Descendants,)

Appellants,)

vs.)

GENTING BERHAD; GENTING U.S.)
INTERACTIVE GAMING, INC.; GENTING)
NEVADA INTERACTIVE GAMING, LLC;)
RESORTS WORLD LAS VEGAS LLC,)

Respondents.)

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APPEAL

From the Eighth Judicial District Court,
The Honorable Nancy L. Allf, District Judge
District Court Case No. A-19-795338-C

APPELLANTS' REPLY BRIEF

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Appellants YA-LING HUNG and WEI-HSIANG HUNG, as individuals, are the surviving heirs and Co-Administrators of the Estate of Tung-Tsung Hung and Pi-Ling Lee Hung, Descendants. Appellants are individuals, therefore there are no parent corporations or publicly-held companies that own 10% or more of the party's stock.

Appellants are represented by Kevin R. Hansen and Amanda A. Harmon of Law Offices of Kevin R. Hansen.

DATED this 23rd day of February, 2022.

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SUMMARY OF THE ARGUMENTS

The Hungs stated a viable claim against Resorts World Las Vegas in their proposed Second Amended Complaint. The Hungs joined all parties necessary to litigate their claims in their proposed Second Amended Complaint. The District Court improperly alternatively dismissed Appellants' Complaint based upon *forum non conveniens*. Had the District Court properly allowed the Hungs to amend their complaint, the issues presented in Respondent's Answering Brief would have been futile.

ARGUMENT

i. The Hungs stated a viable claim against Resorts World Las Vegas in their proposed Second Amended Complaint.

a. Legal Standard

“In considering a motion to dismiss pursuant to NRCP 12(b)(5)...the court accepts a Appellant's factual allegations as true and draws all inferences in favor of the nonmoving party.” *Sanchez ex rel. Sanchez v. Wal-Mart Stores, Inc.*, 125 Nev. 818, 823, 221 P.3d 1276, 1280 (2009) (citation omitted). “To survive dismissal, a complaint must contain some ‘set of facts, which, if true, would entitle the Appellant to relief.’” *In re Amerco Derivative Litig.*, 127 Nev. 196, 211, 252 P.3d 681, 692 (2011) (citation omitted). “This [Nevada

Supreme] court considers all factual assertions in the complaint to be true and draws all reasonable inferences in favor of the Appellant.” *Id.*

b. Argument

The Hungs’ proposed Second Amended Complaint sets forth the following detailed information, sufficient to establish Resorts World Las Vegas as an alter ego of Resorts World Manila and to pierce the corporate veil. See proposed Second Amended Complaint, Joint Appendix (hereinafter, App) 352-367.

Respondents have been engaged in substantial business within Clark County, Nevada since 2013 when the Respondents, under the direction and control of Lim, purchased property located at 3000 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada and commenced developing a resort and gaming property at that location. App 353.

Since 2013 Kok Thay Lim, by and through the entity Respondents have pursued the development and opening of a gaming property in Clark County, Nevada and have thereby subjected themselves to the jurisdiction of the Courts of Nevada and specifically in Clark County. App 354.

Kok Thay Lim is the primary owner of the Genting Group entities. Lim exercises ownership and control over all other Respondents in this matter and

personally directs and controls the actions of the other Respondents in the actions set forth herein. App 354.

Lim and the other Respondents have purposefully availed themselves of the rights and privileges of the State of Nevada by applying for and receiving gaming licenses in this jurisdiction and have thereby submitted themselves to the general jurisdiction of the State of Nevada. Allowing Lim to assert corporate protections for the conduct of the other Respondents would perpetrate a fraud on this Court and against the Appellants herein. App 354.

Upon information and belief, during the time frame of the incident referred to herein Lim traveled multiple times to Manila to supervise and control the actions of the other Respondents both before the incident and after the incident for the specific purpose of covering up the wrongdoing of the Respondents and to prevent the Appellants from recovering herein. App 354.

Lim, as a gaming licensee in the State of Nevada is subject to the Courts and jurisdiction of the State of Nevada and specifically Clark County. The State of Nevada has a significant and substantial interest in protecting the residents of the State of Nevada and those who travel to the State of Nevada for gaming purposes to adjudicate the conduct of its licensees, no matter where in the world that conduct takes place. App 354-355.

By becoming a gaming licensee in the State of Nevada, Lim has consented to the jurisdiction of the State of Nevada over his conduct and the conduct of the entities over which he exercises domination and control. App 355.

The actions of Lim and the other Respondents in attempting to cover up the conduct of the Respondents in the incident in question has left the Appellants unable to pursue their claims in the Courts of the Philippines leaving the Courts of the State of Nevada as the only available venue for this action. App 355.

The Genting Group entities own the Resorts World brand, including Resorts World Las Vegas and Resorts World Manila. Resorts World Las Vegas and Resorts World Manila are therefore, for all intents and purposes, one and the same, owned by the Genting entities. Genting Berhad, The Genting Group, Genting Hong Kong, Travellers International Hotel Group, Resorts World Las Vegas LLC, Resorts World Manila are each legal entities doing business in Nevada by and through Lim and each other entity. App 355.

In addition, Resorts World Manila is partnered with, and uses the brands of Hilton, Sheraton, and Marriott, all based and headquartered in the United States and doing business in Clark County, Nevada. The Genting entities, operate numerous Resorts World locations in the United States,

including Resorts World Las Vegas, Resorts World Casino New York City, Resorts World Catskills, and Resorts World Miami. App 355.

Substantial information exists and has been alleged by the Hungs to establish that Resorts World Las Vegas is an alter ego of Resorts World Manila. Therefore, a viable claim against Resorts World Las Vegas was asserted in the Appellant's proposed Second Amended Complaint, and the District Court improperly denied Appellants the right to amend their complaint.

ii. The Hungs joined all parties necessary to litigate their claims in their proposed Second Amended Complaint.

a. Legal Standard

Pursuant to NRCP 12(b)(6), the Court may dismiss a complaint for failure to join a party required under NRCP 19. To render a complete decree in any civil action, "all persons materially interested in the subject matter of the suit [must] be made parties so that there is a complete decree to bind them all." *Olsen Family Tr. v. District Court*, 110 Nev. 548, 553, 874 P.2d 778, 781 (1994). A party must be joined as a party under NRCP 19(a) if (1) complete relief cannot be accorded in its absence, (2) he claims an interest in the subject of the action, or (3) adjudication in the party's absence potentially subjects parties to double, multiple or otherwise inconsistent obligations. *Anderson v.*

Sanchez, 355 P.3d 16 (Nev. 2015); *Humphries v. Eighth Jud. Dist. Ct.*, 312 P.3d 484, 487 (Nev. 2013).

b. Argument

Appellants reiterate and re-incorporate their argument section above setting forth the facts alleged in their proposed Second Amended Complaint. Again, had the District Court properly allowed Appellants to amend their complaint, Appellants would have properly named and served all parties necessary to litigate Appellants' claims, including Resorts World Manila.

Unfortunately, ineffective prior counsel for the Hungs did not effectuate service on Resorts World Manila; however, if the Hungs file their proposed Second Amended Complaint, the time to serve all named necessary parties would re-set pursuant to Nevada Rule of Civil Procedure 4 and new counsel would work diligently to effectuate such service. Therefore, the Hungs properly named all necessary parties to litigate their claims in their proposed Second Amended Complaint.

iii. The District Court improperly alternatively dismissed Appellants' Complaint based upon *forum non conveniens*.

a. Legal Standard

“When deciding a motion to dismiss for *forum non conveniens*, a court must first determine the level of deference owed to the Appellant's forum

choice.” *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 350 P.3d 392, 396 (Nev. 2015) (citing *Pollux Holding Ltd. v. Chase Manhattan Bank*, 329 F.3d 64, 70 (2d Cir. 2003)). A foreign Appellant’s choice of a United States forum is only entitled to substantial deference where the case has “bona fide connections to” the chosen forum and “convenience favors the chosen forum.” *Marinduque*, 350 P.3d at 396.

Finally, when “an adequate alternative forum does exist, the court must then weigh public and private interest factors to determine whether dismissal is warranted.” *Marinduque*, 350 P.3d at 396 (citing *Lueck*, 236 F.3d at 1142). “Relevant public interest factors include the local interest in the case, the district court’s familiarity with applicable law, the burdens on local courts and jurors, court congestion, and the costs of resolving a dispute unrelated to the Appellant’s chosen forum.” *Marinduque*, 350 P.3d at 397 (citing *Lueck*, 236 F.3d at 1147; *Piper Aircraft*, 454 U.S. at 259-61). “Relevant private interest factors may include the location of a Respondent corporation, access to proof, the availability of compulsory process for unwilling witnesses, the cost of obtaining testimony from willing witnesses, and the enforceability of a judgment.” *Id.* at 398 (citing *Lueck*, 236 F.3d at 1145; *Eaton*, 96 Nev. at 774, 616 P.2d at 401).

b. Argument

The District Court improperly alternatively dismissed Appellants' Complaint based upon *forum non conveniens*. Nevada is the only sufficient forum available for the Appellants to seek justice. The actions of Lim and the other Respondents in attempting to cover up the conduct of the Respondents in the incident in question has left the Appellants unable to pursue their claims in the Courts of the Philippines leaving the Courts of the State of Nevada as the only available venue for this action.

It is widely known that the Philippines suffer from an extremely corrupt and ineffective justice system. Litigants in that country are only likely to prevail in lawsuits if they have money and connections to the judges and other prominent figures. The Hungs have neither money nor connections in the Philippines.

The Appellants would have been prepared to present evidence and prove the corruption and injustice of the Filipino legal system in an evidentiary hearing in front of the District Court had they been so allowed. Appellants contend an evidentiary hearing should have been set, rather than flat out dismissal of Appellants' claims. The District Court had to make factual determinations and did so in favor of the defense, without giving the Appellants an actual opportunity to present evidence of proper forum, such as

extreme corruption, before the court made its factual findings necessary to grant Respondent's Motion to Dismiss.

Respondent's accusations that the Hungs are "forum shopping" are completely baseless and without merit. The Hungs simply do not have anywhere else in the world to seek justice for the wrongdoings of Appellants, other than in the State of Nevada.

CONCLUSION

For the reasons set forth above, Appellants respectfully request this Court reverse the District Court's Order Dismissing Appellants' claims and denying Appellants the opportunity to Amend the Complaint as Appellants are able to establish jurisdiction in the Eighth Judicial District Court, Clark County, Nevada.

DATED this 23rd day of February, 2022.

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CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word with 14 point, double spaced Times New Roman font.
2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7)(A)(ii) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 1792 words. Counsel has relied upon the word count application of the word processing program in this regard.
3. I further certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the

accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

4. Finally, I further certify that this reply brief complies with NRAP 28(c), which requires a reply brief to comply with NRAP 28(a)(1)-(1) and (10) and requires a reply brief be limited to answering any new matter set forth in the opposing brief.

DATED this 23rd day of February, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the LAW OFFICES OF KEVIN R. HANSEN and that on the 23rd day of February, 2022, I caused a true and correct copy of the foregoing document to be served on all parties VIA ELECTRONIC SERVICE through the Nevada Supreme Court's efile e-file and serve system, addressed as follows:

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