

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

Case No. 83600-COA  
District Court Case No. A-18-772761-C

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Elizabeth A. Brown  
Clerk of Supreme Court

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VENETIAN CASINO RESORT, LLC, a Nevada limited liability company,  
LAS VEGAS SANDS, LLC, a Nevada limited liability company,  
Petitioners,

v.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHLEEN  
DELANEY in her capacity as District Judge,  
Respondent,  
JOYCE SEKERA, an individual,  
Real Party in Interest

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**REPLY TO OPPOSITION TO EMERGENCY MOTION UNDER NRAP 27  
AND NRAP 8 STAYING EXECUTION OF ORDER**

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COMES NOW Petitioners VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC (collectively “Venetian”), by and through their counsel of record, ROYAL & MILES LLP, hereby submit this Reply to Joyce Sekera’s Opposition to Emergency Motion Relief Under NRAP 27 and NRAP 8 Staying Execution of Order, filed on October 20, 2021, pertaining to Eighth District Court Case A-18-772761-C (“Case A772761”), JOYCE SEKERA (“Sekera”) v. VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC. This Reply is based upon and supported by the following memorandum of points and authorities, the pleadings, and papers on file here, the exhibits attached hereto, and any argument the Court may allow at the time of hearing.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

The basis for Venetian’s motion to stay proceedings below relates to privacy issues of Venetian guests which were the subject of earlier writs considered by the Nevada Court of Appeals, identified as Case No. 79689-COA, filed on September 26, 2019, and Case No. 80816-COA, filed on March 26, 2020. As in prior writ proceedings and motions for stay, this matter relates to the production of Venetian incident reports, which contain private information of non-parties. The Nevada Court of Appeals **granted** Venetian’s motion for stay in Case No. 79689-COA on October 17, 2019, and again in Case No. 80816-COA on March 27, 2020.<sup>1</sup>

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<sup>1</sup> See Appendix, Vol. 4, Tab 36; Appendix, Vol. 13, Tab 69.

The instant petition arises from a September 7, 2021, order by the District Court requiring Petitioners to produce five years of Venetian guest incident reports - from November 4, 2011, to November 4, 2016 - without sufficient protection under NRCp 26(c) – the same protections previously sought in the prior writs filed with this Honorable Court. This writ presents the same issue relating to the same evidence in the same litigation – the only variation being that the District Court now recognizes that Venetian presented good cause for protection under NRCp 26(c) and acknowledged a limited privacy interest.<sup>2</sup> Here, Venetian asserts that the District Court did not go far enough to protect the personal information of guests.

This Honorable Court has previously been presented with the privacy issues at hand and determined that Venetian met the requirements for an emergency stay.<sup>3</sup> At the June 1, 2021, hearing on this matter Venetian properly moved for a stay of the proceedings below so this writ could be presented, to which the District Judge responded: “We granted it before. I don’t have a problem granting it again.”<sup>4</sup> However, the District Court’s order only stayed the proceedings until October 14, 2021. Petitioners respectfully request this Honorable Court to grant a longer stay to permit time for the Court to consider the instant writ petition.

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<sup>2</sup> See Appendix, Vol. 16, Tab 95 at VEN 3568:19-22.

<sup>3</sup> See p. 2, note 1.

<sup>4</sup> See Appendix, Vol. 16, Tab 93 at VEN 3537:5-10; *see also* Appendix, Vol. 16, Tab 95 at VEN 3570:1-2.

Sekera makes a technical argument that the factors of NRAP 8(c) are not met by Venetian. Yet, Sekera acknowledges that “**this court’s decision to not issue a stay would defeat the object of Venetian’s petition.**”<sup>5</sup> Indeed, Venetian will suffer irreparable harm if the stay is not granted while this writ is considered as the information at issue, once produced in unredacted form without restrictions, cannot be retrieved. Sekera has already demonstrated a desire and intent to disseminate all such information that comes into her possession to attorneys and persons outside the litigation.<sup>6</sup> In fact, Sekera created one key unresolved issue related to the September 7, 2021, order which Judge Delaney did not address - the fact that Sekera already has received incident reports from November 4, 2013, to November 4, 2016, and circulated them throughout the legal community with impunity. These reports had the individual’s names and other identifying information redacted; however, they contained unredacted information which the

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<sup>5</sup> See Opposition to Motion for Stay at 4 (emphasis added).

<sup>6</sup> See Appendix, Vol. 1, Tab 10, VEN 084-085, *Declaration of Peter Goldstein, Esq.* (dated February 13, 2019) at VEN 084, ln 21-25, providing that the subject prior incident reports were produced to Mr. Goldstein by Sekera counsel on February 7, 2019; Appendix, Vol. 1, Tab 12, VEN 140-85, *Sekera’s Reply to Defendant Venetian Casino Resort, LLC’s Opposition to Sekera’s Motion for Terminating Sanctions, in the matter of Smith v. Venetian, case no. A-17-753362-C* (filed March 12, 2019), at VEN 141:15-26, VEN 147:12-13, VEN 173. Appendix, Vol. 2, Tab 16, VEN 269 (the District Court finding that “**there is no legal basis to preclude Plaintiff from knowing the identity of the individuals contained in the incident reports**” and that “[t]here is also no legal basis to preclude Plaintiff from sharing the unredacted incident reports with persons not involved in this litigation”) (emphasis added).

District Judge now deems to be protected under NRCp 26(c); *to wit*: the personal health information related to Venetian security/EMT reporting. Sekera has circulated this information to attorneys in unrelated cases, who have in turn filed the prior incident reports with the court, thereby making what the District Court deems private information to be part of the public record.<sup>7</sup> Because of this unfettered dissemination, the September 7, 2021, order will now have the effect of causing wholly unredacted copies of the November 4, 2013, to November 4, 2016, incident reports (and all the private information they contain) to be produced to Sekera for her to share as she pleases with anyone. Sekera's claim that Venetian will not suffer irreparable harm by denying a stay is without merit.<sup>8</sup>

Sekera's assertion that she "will suffer serious injury if the stay issues," with reference to "the continuous delays in trial" causing her "actual and serious injuries" may appear compelling on its face.<sup>9</sup> However, Sekera fails to note that the parties were ready for trial in July, 2019 when she filed a motion to continue the trial for nine months and reopen discovery.<sup>10</sup> In that motion, Sekera claimed that she could not proceed to trial until she received lower back surgery.<sup>11</sup> Now, more than two years later, Sekera still has not received the low back surgery she

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<sup>7</sup> See, e.g., *id.*

<sup>8</sup> See p.3, note 5.

<sup>9</sup> See Opposition to Motion for Stay at 6.

<sup>10</sup> See Appendix, Vol. 2, Tab 19 at VEN 453-55.

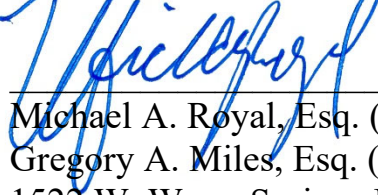
<sup>11</sup> See *id.* at VEN 454:4-5.

claimed necessitated the lengthy trial continuance.<sup>12</sup> Sekera also did not bring this issue back before the District Court until nearly a year following this Honorable Court's order of May 14, 2020.<sup>13</sup> It is therefore disingenuous for Sekera to claim that granting a stay will result in "actual and serious injuries" to her by causing further delay. Sekera not only previously received a nine-month trial continuance at her request and waited more than six months to file a motion with the District Court after the October 23, 2020, Notice in Lieu of Remittitur, but (by sharing prior incident reports to multiple law firms) has created the circumstances that make it impossible to comply with the September 7, 2021, order.<sup>14</sup>

Venetian respectfully submits that it has met the requirements for a stay of proceedings below as this important issue is considered by the appellate court.

DATED this 26<sup>th</sup> day of October 2021.

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<sup>12</sup> *See id.* at VEN 454:15-16.

<sup>13</sup> *See* Appendix, Vol 13, Tab 73; Vol. 14, Tabs 83, 84, 85, and 86.

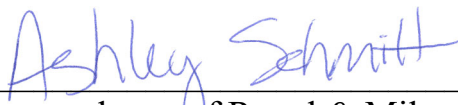
<sup>14</sup> Sekera's initial sharing of this information occurred as Venetian's motion for protection filed on February 1, 2019, was pending. *See* p. 3, note 6.

## **CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the law firm of Royal & Miles LLP, attorneys for Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, and that on the 26<sup>th</sup> day of October, 2021, I served true and correct copy of the foregoing REPLY TO OPPOSITION TO EMERGENCY MOTION UNDER NRAP 27 AND NRAP 8 STAYING EXECUTION OF ORDER, by delivering the same via the Court's CM/ECF system which will send notification to the following:

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