

No. 84221

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, a political subdivision of the State of Nevada,

Petitioner,

v.

EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the
County of Clark, and the Honorable Timothy C. Williams, District Judge,

Respondents,

and

180 LAND CO, LLC, a Nevada limited-liability company, FORE STARS LTD., a
Nevada limited-liability company,

Real Parties in Interest.

Eighth Judicial District Court, Clark County, Nevada
Case No. A-17-758528-J
Honorable Timothy C. Williams, Department 16

**ERRATA TO NOTICE OF JUSTICE PARTICIPATION IN LOWER
TRIBUNAL AND MOTION FOR DISQUALIFICATION**

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Elizabeth A. Brown
Clerk of Supreme Court

COMES NOW Plaintiffs Landowners, 180 LAND COMPANY, LLC, SEVENTY ACRES LLC and FORE STARS, Ltd and hereby files this Errata to provide Exhibit “A” to the Notice of Justice Participation in Lower Tribunal and Motion for Disqualification (“Motion”), as the Motion was inadvertently filed without Exhibit “A” attached.

Exhibit “A”, Transcript, Before The Honorable Douglas W. Herndon, December 16, 2020 (partial), p. 4:24-25, p. 5:7-13, pp. 7-9, is attached hereto.

DATED this 11th day of March, 2022.

LAW OFFICES OF KERMITT L. WATERS

/s/ James J. Leavitt

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **ERRATA TO NOTICE OF JUSTICE PARTICIPATION IN LOWER TRIBUNAL AND MOTION FOR DISQUALIFICATION** was filed electronically with the Nevada Supreme Court on the 11th day of March, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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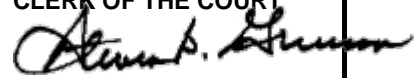
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An Employee of the Law Offices of Kermitt L. Water

Exhibit A



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

180 LAND COMPANY, LLC,

Plaintiff,

vs.

LAS VEGAS CITY OF,

Defendant.

AND RELATED PARTIES

CASE NO. A-18-780184-C
DEPT NO. III

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

WEDNESDAY, DECEMBER 16, 2020

**CITY OF LAS VEGAS'S MOTION FOR SUMMARY JUDGMENT;
MEMORANDUM OF POINTS AND AUTHORITIES**

**PLAINTIFF LANDOWNERS' OPPOSITION TO THE CITY'S MOTION
FOR SUMMARY JUDGMENT AND COUNTERMOTIONS TO
DETERMINE THE TWO INVERSE CONDEMNATION
SUB-INQUIRIES IN THE PROPER ORDER**

APPEARANCES (VIA BLUEJEANS AND TELEPHONE):

FOR THE PLAINTIFFS:

JAMES J. LEAVITT, ESQ.
ELIZABETH M. GHANEM HAM, ESQ.
AUTUMN L. WATERS, ESQ.

FOR THE DEFENDANT:

GEORGE F. OGILVIE, III, ESQ.
PHILIP R. BYRNES, ESQ.
ANDREW W. SCHWARTZ, ESQ.

ALSO PRESENT:

LISA RASMUSSEN, ESQ.

RECORDED BY: STACEY RAY, COURT RECORDER

TRANSCRIBED BY: JD REPORTING, INC.

1 **LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 16, 2020, 1:04 P.M.**

2 * * * * *

3 THE COURT: Okay. And if you guys could just put
4 your appearances on the record for the respective parties.

5 MR. LEAVITT: Your Honor, on behalf of the plaintiff
6 180 Land LLC it's James J. Leavitt and Autumn Waters is also
7 participating on behalf of the landowners. Her bar number is
8 8917, and my bar number is 6032.

9 THE COURT: Thank you.

10 MS. GHANEM HAM: Good morning, Your Honor. Elizabeth
11 Ghanem Ham, in-house counsel, also associated into this case on
12 behalf of the plaintiff landowners.

13 THE COURT: Thank you.

14 MS. GHANEM HAM: Bar Number 6987.

15 MR. OGILVIE: Good afternoon, Your Honor. George
16 Ogilvie on behalf of the City of Las Vegas.

17 THE COURT: Thank you.

18 MR. SCHWARTZ: Andrew Schwartz appearing pro hac vice
19 for the City of Las Vegas, Your Honor.

20 THE COURT: Thank you.

21 I can see all of you on the screen that just spoke.
22 Is there anybody else that's just by phone?

23 MR. BYRNES: Yes, Your Honor. My name is Phil
24 Byrnes. I'm with the City Attorney's office, also on behalf of
25 the City.

1 THE COURT: Thank you.

2 Anybody else?

3 MS. RASMUSSEN: Your Honor, Lisa Rasmussen, Bar
4 Number 7491. I am not speaking in part of this litigation, but
5 I represent 180 in other litigations. So I'm just here to
6 observe.

7 THE COURT: I thought maybe you got lost and thought
8 this was a homicide calendar.

9 MS. RASMUSSEN: Thanks, Your Honor.

10 THE COURT: Just kidding.

11 Anybody else?

12 (No audible response.)

13 THE COURT: Okay. That sounds like it's it.

14 Okay. So, hey, listen, before we get started, I want
15 to engage you all in a discussion of something, and now that I
16 know kind of fully what the case is about, and I'll explain
17 what I mean by that in just a moment, but it's not a
18 disclosure. It's not that I feel like I have any conflict.
19 More it's about something that I think would be prudent and
20 responsible for me to bring up to you all to let you have a
21 chat about it as well before we potentially move forward today.

22 Here's what I mean when I say now that I know what
23 the case is about, when you all, and I think it was just Jim
24 and George that were --

25 Or, Elizabeth, you may have been there as well.

1 -- when we had the Rule 16 conference. All I had at
2 that time was understanding of dates that were being proposed
3 for setting a trial. You guys will recall we had the video,
4 and I said is there any kind of issue that we need to talk
5 about. I'm going to give you your dates. There was some brief
6 discussion about preferential trial settings. We set the dates
7 for the trial.

8 The only time it was on calendar thereafter I think
9 Justice -- or Judge Becker presided over something because I
10 was up in Carson City at the time.

11 At that time I had, quite frankly, and I apologize
12 for my ignorance, I didn't really have any understanding of
13 what the case was about other than it was a land case, and we
14 were talking about preferential trial settings. I am familiar
15 with the case over the years now that I know what it's about,
16 but only in the sense that I was kind of aware there was
17 something going on, but it wasn't anything that I ever really
18 paid much attention to. I don't know if I ever even read any
19 articles about it. So it's not anything that I have any kind
20 of issue with, any type of conflict.

21 But as I kind of plowed through reading things over
22 the last day and a half, and particularly last night very late
23 when I was reading some of the Supreme Court's decisions, most
24 particularly the one reversing Judge Crockett's order, and I
25 began kind of getting the sense of this is a case that's

1 probably going back to the Supreme Court in one or more of
2 these four different cases in some fashion at some time, and
3 when I read the thing -- or the decision reversing Judge
4 Crockett's order, that's the first time I became aware that
5 five Justices recused off of this case, leaving only two of
6 them to hear that original appeal.

7 So I kind of feel like I have some sense of propriety
8 and responsibility to say should I move forward with this and
9 therefore not be available to involve myself in the case and be
10 another Justice that has to recuse if and when any of this
11 litigation goes back to the Supreme Court, or should I move it
12 now and not make any decisions on anything so that I could be
13 involved in it? And then you would at least have three
14 Justices for a panel if and when any of this goes back to the
15 Supreme Court.

16 Obviously I don't really view having given you dates
17 on your Rule 16 conference as anything that causes me any kind
18 of concern about conflict, being able to be involved in the
19 case later on, but I just kind of wanted to throw all of that
20 out there to you because I'm in kind of a unique situation here
21 that in three weeks I leave to go do this different job, and
22 you all may be asking that Court to intervene at some point on
23 any number of types of appeals in any of the litigations, and
24 right now the vast majority of the Court is recused off of the
25 case.

1 MS. GHANEM HAM: Your Honor, if I may just add
2 something to the recusals -- and we've had the same recusals in
3 our state court as well. Many, many Judges have recused. I
4 think it went through at least five Judges before it got to
5 you.

6 THE COURT: Yeah, I tracked that between peremptory
7 challenges, recusals, striking peremptory challenges, Trevor
8 getting off when he got appointed. I know it's been a tortured
9 history.

10 MS. GHANEM HAM: So I just want to add for the matter
11 that was in front of the Nevada Supreme Court in regard to the
12 order that you referenced, as far as we know, for the Judges
13 that would give a reason for recusal, and some of them did, had
14 to do with the -- that was a different case in that it was
15 the -- some of the homeowners had brought that petition for
16 judicial review. So a lot of those recusals were due to those
17 particular individuals.

18 And then some of those Judges that recused because of
19 the particular individuals did not recuse because of ourselves
20 or because of the City and sat on other matters that have gone
21 up before the Supreme Court, such as the City has filed a
22 motion -- on a motion to dismiss a writ.

23 So I just wanted to sort of -- I don't know that
24 we'll have the same. There's been a turnover of Judges as
25 well.

1 THE COURT: Right.

2 MS. GHANEM HAM: So some of those initially recused
3 sat on our other matters as it relates to the inverse cases
4 because it didn't involve some of those (video interference)
5 individuals. So I just wanted to add that information so you
6 are aware.

7 Thank you.

8 THE COURT: So when you say, Elizabeth, turnover,
9 meaning -- what do you mean by there's been some turnover of
10 some of those Judges? Are you going back several years now,
11 before Addie [phonetic] and Alyssa [phonetic] got elected?

12 MS. GHANEM HAM: Correct.

13 THE COURT: Okay. Got it. All right.

14 Anybody else?

15 MR. SCHWARTZ: Well, Your Honor, on the City's
16 behalf, we would prefer to proceed today with you in this
17 motion.

18 THE COURT: Okay. Jim, anything you wanted to add,
19 or George?

20 MR. LEAVITT: George, I'll let you go first.

21 THE COURT: Well, I guess -- I guess even -- you
22 know, let me jump in here before any of the rest of you speak.
23 And I apologize. Maybe I should have said this before
24 Elizabeth even got started.

25 I guess part of it would be do you all think that I

1 would be conflicted at the Supreme Court level having sat and
2 heard the Rule 16 conference when we set the dates for your
3 trial?

4 If anybody feels like that caused enough of a
5 conflict that you would seek my recusal on any issue before the
6 Supreme Court, then that probably, you know, is a game changer
7 right there, and I wouldn't try and move it in any fashion.

8 MR. OGILVIE: On behalf of the City, no, Your Honor.

9 MR. LEAVITT: Your Honor, I would agree with your
10 analysis that (video interference), but it is a (video
11 interference).

12 THE COURT: I lost you for a moment there. I'm
13 sorry.

14 MR. LEAVITT: Okay. On behalf of the landowner, we
15 would not consider the 16.1 to be a matter for recusal.

16 THE COURT: Okay. All right.

17 And then you and George were both going to speak to
18 the other issue. Go ahead. I think you deferred to George.
19 So George was about to talk.

20 I'm sorry, George. Go ahead.

21 MR. OGILVIE: Your Honor, I have nothing further to
22 add from what Mr. Schwartz said.

23 THE COURT: Okay.

24 MR. LEAVITT: And, Your Honor, on behalf of the
25 landowner, I don't have anything more to add other than what

1 Ms. Elizabeth Ghanem Ham has presented on moving forward.

2 THE COURT: Okay.

3 MS. GHANEM HAM: And so if we want to be clear, we
4 would prefer to move forward with you as well. I don't know
5 that I stated that more than just kind of giving you a
6 background on the recusals.

7 THE COURT: Okay. All right. Okay. Then let's just
8 go ahead and move forward then. We'll deal with it at the
9 appellate court level if and when we need to in whatever
10 fashion. Okay.

11 All right. So we have the motion for summary
12 judgment that's on today on behalf of the City. There was the
13 countermotion to create an order and which issues are decided.
14 I know the City filed a motion to strike the countermotion as
15 well. And my understanding was there was an opposition to the
16 motion to strike that was filed.

17 Unfortunately, I didn't get a chance to look at that
18 yet because I guess it got filed later yesterday, and we
19 didn't -- and, look, I know this is all happening really
20 quickly, and that didn't come in through the queue in time for
21 me to get a copy of it before I left there.

22 But is that correct that you all filed an opposition
23 to the motion to strike?

24 MR. LEAVITT: Yes, Your Honor. And if you'd like,
25 there's three points. I could point them out for you if you'd