

IN THE SUPREME COURT OF THE STATE OF NEVADA

VINCO VENTURES, INC.,

Petitioner,

vs.

THE 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

THEODORE FARNSWORTH; LISA  
KING; RODERICK VANDERBILT;  
ERIK NOBLE; AND ROSS MILLER,  
Real Parties in Interest.

VINCO VENTURES, INC.,

Appellant,

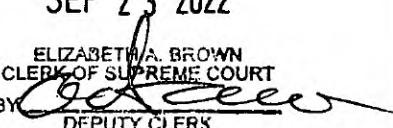
vs.

THEODORE FARNSWORTH; LISA  
KING; RODERICK VANDERBILT;  
ERIK NOBLE; AND ROSS MILLER,  
Respondents.

No. 85315

FILED

SEP 23 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

No. 85357

*ORDER CONSOLIDATING CASES AND DENYING STAY*

These are a writ petition challenging, and an appeal from, two district court orders precluding Vinco Ventures, Inc.'s board of directors from meeting absent unanimous consent and recognizing a three-member CEO panel pending a final decision on a motion for a preliminary injunction. Vinco has filed both a writ petition and an appeal because it is unclear whether the interlocutory orders are appealable as preliminary injunctions and/or orders appointing a receiver under NRAP 3A(b). Vinco has also filed an emergency motion for stay of the district court's orders pending our

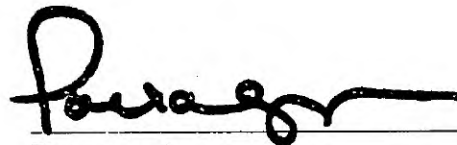
resolution of these matters, and the real parties in interest/respondents have filed oppositions.


As the two cases arise from the same district court matter, challenge the same orders, and involve the same parties, we conclude that these two cases should be consolidated. Therefore, we consolidate Docket Nos. 85315 and 85357. The consolidated cases shall proceed through the supreme court settlement program as assigned in Docket No. 85357; thus, briefing remains suspended, and we decline to order an answer to the writ petition at this time.

With respect to Vinco's stay motion, NRAP 8(a)(1) and (2) require movants to first seek a stay in the district court or to show that doing so would be impracticable. *See TRP Fund VI, LLC v. PHH Mortg. Corp.*, 138 Nev., Adv. Op. 21, 506 P.3d 1056, 1058 (2022) (citing *In re Grand Jury Proc. U.S.*, 626 F.2d 1051, 1059 (1st Cir. 1980) (recognizing that the federal rule analogous to NRAP 8 "embodies a strong policy that a request for a stay or injunction pending appeal be directed in the first instance to the district court, which is familiar with the controversy and better able to assess potential prejudice to a party from the grant or denial of interim relief"), *receded from on other grounds by In re Kave*, 760 F.2d 343, 356 (1st Cir. 1985))). Here, Vinco orally moved for a stay during an August 31, 2022, hearing, but the district court denied the oral motion without prejudice, explaining that it would not decide any stay motion absent an opportunity for full briefing and indicating that it would shorten the time but also give 14 days for an opposition. Based on this ruling, in its stay motion before this court, Vinco asserted that it was impracticable to seek further relief in the district court because "Vinco has suffered and will continue to suffer irreparable injury each day that its Board is precluded from managing its

affairs and selecting its officers” and the district court would not timely decide the matter. But the district court agreed to hear the matter on an expedited basis, and Vinco has not specified any particular harm that could be avoided by seeking relief in this court in the first instance. Vinco has not demonstrated impracticability, *id.* (“‘Impracticable’ requires the movant to show that it was “not capable” of first seeking relief in the district court or that such an act could not be done.”). Accordingly, we deny Vinco’s motion for stay, without prejudice to Vinco’s ability to seek such relief in the district court.

It is so ORDERED.

  
Parraguirre, C.J.

  
Cadish, J.

  
Pickering, J.

cc: Hon. Timothy C. Williams, District Judge  
Thomas J. Tanksley, Settlement Judge  
Ballard Spahr LLP/Las Vegas  
Amy L. Sugden  
Kemp Jones, LLP  
Parker, Nelson & Associates  
Eighth District Court Clerk