

In the Supreme Court of Nevada

UNITED HEALTHCARE INSURANCE COMPANY;
UNITED HEALTH CARE SERVICES, INC.; UMR, INC.;
SIERRA HEALTH AND LIFE INSURANCE COMPANY,
INC.; and HEALTH PLAN OF NEVADA, INC.,

Appellants,

vs.

FREMONT EMERGENCY SERVICES (MANDAVIA),
LTD.; TEAM PHYSICIANS OF NEVADA-MANDAVIA,
P.C.; and CRUM STEFANKO AND JONES, LTD.,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 85525

UNITED HEALTHCARE INSURANCE COMPANY;
UNITED HEALTH CARE SERVICES, INC.; UMR, INC.;
SIERRA HEALTH AND LIFE INSURANCE COMPANY,
INC.; and HEALTH PLAN OF NEVADA, INC.,

Appellants,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT of the State
of Nevada, in and for the County of Clark; and the
Honorable NANCY L. ALLF, District Judge,

Respondents,

vs.

FREMONT EMERGENCY SERVICES (MANDAVIA),
LTD.; TEAM PHYSICIANS OF NEVADA-MANDAVIA,
P.C.; and CRUM STEFANKO AND JONES, LTD.,

Real Parties in Interest.

Case No. 85656

MOTION TO CONSOLIDATE APPEAL 85525 WITH PETITION 85656

and

**TO HAVE THE PETITION IN 85656 SERVE
AS THE PORTION OF THE OPENING BRIEF ON ISSUES
REGARDING UNSEALING EXHIBITS AND TESTIMONY**

United defendants initiated both an appeal and a writ petition arising from the same underlying litigation. Both include an identical issue: whether the district court improperly unsealed confidential documents disclosed under a protective order. We now move to consolidate those two proceedings. *See* NRAP 3(b).

The appeal, case no. 85525, is from the judgment and related orders, focusing primarily on the merits of the case. It addresses whether plaintiffs established cognizable claims for compensatory and punitive damages, whether a new trial is required, and whether the awards of damages, fees, and interest are erroneous. The opening brief on these many issues will be substantial. United presently has until April 18, 2023 to file the opening brief.

United's petition, in case no. 85656, is already filed. It challenges district court rulings unsealing confidential information. These issues are distinct from the merits, but they are important, both to United and to clarifying sealing issues in business court cases. The petition is 66 pages, or over 12,600 words. The Nevada Association of Health Plans has appeared *amicus* in support of the petition.

The unsealing issues must be briefed and resolved, either through

the writ petition or the appeal. Presently, it is unclear to United which one the Court will deem proper. Consolidation will avoid any jurisdictional conundrum or duplication in the parties' briefing that comes from uncertainty about whether the unsealing issues will be addressed in the appeal or writ petition. Moreover, it will avoid duplication in briefing, especially as the merits briefing here will be hefty. If this Court consolidates, it could consider together the briefing in both proceedings, without repeating the unsealing issues in both. *Cf. Mallin v. Farmers Ins. Exchange*, 106 Nev. 606, 609, 797 P.2d 978, 980 (1990) (“[W]hen cases are consolidated by the district court, they become one case for all appellate purposes.”)

Because the cases arise from the same litigation and trial, and it is practical for the parties' briefing and this Court's resolution of the identical unsealing issues to consider the cases together, this Court should consolidate case nos. 85525 and 85656. United further asks the Court to deem the petition (and any later answer and reply) in case no. 85656 as incorporated into the briefing in the appeal, so that those arguments are preserved if the Court ultimately deems that the unsealing orders are appealable. *See* NRAP 28(i) (permitting adoption

by reference to another's brief in consolidated cases). To the extent such incorporation could be analogized to a prohibited incorporation of the district-court briefing under NRAP 28(e)(2), United asks the Court to suspend that rule for this limited purpose in the interest of judicial economy. NRAP 2.

Dated this 23rd day of March, 2023.

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CERTIFICATE OF SERVICE

I certify that on March 23, 2023, I submitted the foregoing motion for filing *via* the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

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