

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL TRICARICHI,

Appellant,

v.

PRICEWATERHOUSECOOPERS,  
LLP,

Respondent.

Supreme Court No: 86317

87375

87835

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Apr 08 2024 10:43 PM

Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S MOTION TO SEAL  
PORTIONS OF APPELLANT'S  
APPENDIX TO HIS OPENING  
BRIEF (BATES-RANGE  
AA 001208-001271)**

**I. INTRODUCTION**

Under Part VII of the Supreme Court Rules Governing Sealing and Redacting Records (“SRCR”), Appellant Michael Tricarichi moves this Court to seal two documents within the Appendix to his opening brief, specifically, Bates-range AA 001208-001271.

This portion of the Appendix contains court records that were sealed and/or redacted in the district court at the Respondent’s request. *See* District Court Minute Order, dated May 30, 2022, attached hereto as Exhibit A. Appellant requests to seal Bates-range AA 001208-001271 based on the sealing of the same in the district court to comply with the SRCR.

**II. ANALYSIS**

Rule 7 of Part VII of the SRCR provides that the sealed district court records shall be made available to this Court on appeal but that those records “shall be sealed from public access” subject to further order of this Court. This Court is will likewise

keep the documents under seal if there is an appropriate basis to do so under SRCR 3(4).

SRCR 3(4) permits the sealing or redaction of the record when justified by compelling privacy or safety interests that outweigh the public interest in access to the court record. The public interest in privacy outweighs the public interest in open court records when the sealing or redaction is entered under NRCP 26(c) by the Parties. Here, Bates-range AA 001208-001271 contain Respondent's documents that were sealed and/or redacted at Respondent's request in district court. The sealing of Bates-range AA 001208-001271 is therefore justified because the public interest in privacy outweighs the public interest in open court records. *See* SRCR 3(4).

### **III. CONCLUSION**

Based upon the foregoing, Appellant requests that the Court permit him to file Bates-range AA 001208-001271 of his Appendix to his opening brief under seal.

Dated: April 8, 2024.

HUTCHISON & STEFFEN, PLLC

By: /s/ Ariel C. Johnson

Ariel C. Johnson  
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SPERLING & SLATER, LLC  
Scott F. Hessell (*Pro Hac Vice*)  
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*Attorneys for Plaintiff Michael A.  
Tricarichi*

**CERTIFICATE OF SERVICE**

I hereby certify pursuant to NRAP 25(c), that on this 8<sup>th</sup> day of April, 2024, I caused service of a true and correct copy of the above APPELLANT’S MOTION TO SEAL PORTIONS OF APPELLANT’S APPENDIX TO HIS OPENING BRIEF (BATES-RANGE AA 001208-001271) pursuant to the Supreme Court Electronic Filing System to the following:

**ALL COUNSEL ON SERVICE LIST**

/s/ Kaylee Conradi  
An employee of Hutchison & Steffen PLLC

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EXHIBIT PAGE ONLY

## EXHIBIT A

HUTCHISON & STEFFEN  
A PROFESSIONAL LLC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****May 30, 2023**

A-16-735910-B

Michael Tricarichi, Plaintiff(s)  
vs.  
PricewaterhouseCoopers LLP, Defendant  
(s)

**Department 31****May 30, 2023****11:00 AM****All Pending Motions****HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Rapel, Stephanie**RECORDER:** Curameng, Aimee**REPORTER:****PARTIES PRESENT:****Ariel Clark Johnson****Attorney for Plaintiff****Bradley Austin****Attorney for Defendant****Chris Landgraff****Attorney for Defendant****Patrick G. Byrne****Attorney for Defendant****Scott F. Hessel****Attorney for Plaintiff****JOURNAL ENTRIES**

PRICEWATERHOUSECOOPERS, LLP'S MOTION TO SEAL EXHIBITS 5 AND 6 TO  
MOTION FOR ATTORNEYS' FEES AND COSTS... TRICARICHI'S MOTION TO RETAX AND  
SETTLE PWCS AMENDED VERIFIED MEMORANDUM OF COSTS...  
PRICEWATERHOUSECOOPERS LLP'S MOTION FOR ATTORNEY FEES AND COSTS

COURT ORDERED, Pricewaterhousecoopers, LLP Motion to Seal GRANTED as unopposed  
pursuant to EDCR 2.20 and pursuant to Supreme Court Rule 3.

Colloquy regarding combining Motions to hear them together, order of oral argument and issues pending in the appellate processes. Court NOTED it would move forward today considering the Nevada Supreme Court stated fees and costs were a separate appealable order. Mr. Byrne referred the Court to Defendant's brief while providing further argument on the imbalance between the fee request and the offer of judgment. Mr. Byrne argued case law did not relate costs of defense to the amount of the offer and Pricewaterhouse spent millions of dollars defending a \$50,000 case to protect its most valuable asset; its reputation. Colloquy regarding 2019 and 2021 Offers of Judgment, costs associated with meals during travel, choice of lawyer, reasonableness of fees and flat fee arrangement. Mr. Hessel cited to NRS 18.005 and Fazier vs. Drake and argued PWC's Motion sought 600 times the statutory amount and failed to satisfy the requirements and/or meet its burden of proof. Mr. Hessel argued PWC offer of \$50,000 was unreasonable and Plaintiff's rejection thereto was in good faith. Mr. Hessel stated PWC's \$50,000 offer did not include attorneys' fees and costs or pre-judgment interest. Mr. Byrne provided argument as to why Plaintiff's rejection of PWC offer was in bad faith. Court set forth its reasoning on the record as to the 2019 and 2021 Offers and FINDS PWC Plaintiff's decision to reject the 2021 offer and proceed to trial was grossly unreasonable and in bad faith. Court further NOTED there needed to be significant reductions to fees sought and DEFERRED the matter for Counsel to work together to try and reach a resolution using the Lodestar method. Court further DEFERRED the cost component for the parties to try and

reach an agreement and provide the Court with a memorandum. Court NOTED meals, hotel costs and first class plane fair would not be included, however, expert fees more than \$1,500.00 would be. Court DIRECTED Counsel to provide a joint letter by Friday, June 2, 2023 with requested deadlines.

7/14/23 CHAMBER'S CALENDAR: ATTORNEYS' FEES & COSTS