

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court Case No. 88065

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Elizabeth A. Brown
Clerk of Supreme Court

MEI-GSR HOLDINGS, LLC, a Nevada corporation; AM-GSR HOLDINGS, LLC, a Nevada corporation; and GAGE VILLAGE COMMERCIAL DEVELOPMENT, LLC, a Nevada corporation,

Petitioners,

v.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE, AND THE HONORABLE ELIZABETH GONZALEZ (RET.), SENIOR JUDGE, DEPARTMENT OJ41; AND RICHARD M. TEICHNER, RECEIVER,

Respondents,

and

ALBERT THOMAS, individually; JANE DUNLAP, individually; JOHN DUNLAP, individually; BARRY HAY, individually; MARIE-ANNE ALEXANDER, as Trustee of the MARIE-ANNIE ALEXANDER LIVING TRUST; MELISSA VAGUJHELYI and GEORGE VAGUJHELYI, as Trustees of the GEORGE VAGUJHELYI AND MELISSA VAGUJHELYI 2001 FAMILY TRUST AGREEMENT, U/T/A APRIL 13, 2001; D' ARCY NUNN, individually; HENRY NUNN, individually; MADELYN VAN DER BOKKE, individually; LEE VAN DER BOKKE, individually; DONALD SCHREIFELS, individually; ROBERT R. PEDERSON, individually and as Trustee of the PEDERSON 1990 TRUST; LOU ANN PEDERSON, individually and as Trustee of the PEDERSON 1990 TRUST; LORI ORDOVER, individually; WILLIAM A. HENDERSON, individually; CHRISTINE E. HENDERSON, individually; LOREN D. PARKER, individually; SUZANNE C. PARKER, individually; MICHAEL IZADY, individually; STEVEN TAKAKI, individually; FARAD TORABKHAN, individually; SAHAR TAVAKOL, individually; M&Y HOLDINGS, LLC; JL&YL HOLDINGS, LLC; SANDI RAINES, individually; R. RAGHURAM, individually; USHA RAGHURAM, individually; LORI K. TOKUTOMI, individually; GARRET TOM, individually; ANITA TOM, individually; RAMON FADRILAN, individually; FAYE FADRILAN, individually; PETER K. LEE and MONICA L. LEE, as Trustees of the LEE FAMILY 2002 REVOCABLE TRUST; DOMINIC YIN, individually; ELIAS SHAMIEH, individually; JEFFREY QUINN individually; BARBARA ROSE QUINN individually; KENNETH RICHE, individually; MAXINE RICHE, individually; NORMAN CHANDLER, individually; BENTON WAN, individually; TIMOTHY D. KAPLAN, individually; SILKSCAPE INC.; PETER CHENG, individually; ELISA CHENG, individually; GREG A. CAMERON, individually; TMI PROPERTY GROUP, LLC; RICHARD LUTZ, individually; SANDRA LUTZ,

individually; MARY A. KOSSICK, individually; MELVIN CHEAH, individually; DI SHEN, individually; NADINE'S REAL ESTATE INVESTMENTS, LLC; AJIT GUPTA, individually; SEEMA GUPTA, individually; FREDRICK FISH, individually; LISA FISH, individually; ROBERT A. WILLIAMS, individually; JACQUELIN PHAM, individually; MAY ANN HOM, as Trustee of the MAY ANN HOM TRUST; MICHAEL HURLEY, individually; DOMINIC YIN, individually; DUANE WINDHORST, individually; MARILYN WINDHORST, individually; VINOD BHAN, individually; ANNE BHAN, individually; GUY P. BROWNE, individually; GARTH A. WILLIAMS, individually; PAMELA Y. ARATANI, individually; DARLENE LINDGREN, individually; LAVERNE ROBERTS, individually; DOUG MECHAM, individually; CHRISINE MECHAM, individually; KWANGSOO SON, individually; SOO YEUN MOON, individually; JOHNSON AKINDODUNSE, individually; IRENE WEISS, as Trustee of the WEISS FAMILY TRUST; PRAVESH CHOPRA, individually; TERRY POPE, individually; NANCY POPE, individually; JAMES TAYLOR, individually; RYAN TAYLOR, individually; KI HAM, individually; YOUNG JA CHOI, individually; SANG DAE SOHN, individually; KUK HYUNG (CONNIE), individually; SANG (MIKE) YOO, individually; BRETT MENMUIR, as Trustee of the CAYENNE TRUST; WILLIAM MINER, JR., individually; CHANH TRUONG, individually; ELIZABETH ANDERS MECUA, individually; SHEPHERD MOUNTAIN, LLC; ROBERT BRUNNER, individually; AMY BRUNNER, individually; JEFF RIOPELLE, individually; PATRICIA M. MOLL, individually; DANIEL MOLL, individually;

Real Parties in Interest.

**REPLY IN SUPPORT OF COUNTERMOTION TO STRIKE PORTIONS
OF REAL PARTIES' PROPOSED ANSWER**

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I. INTRODUCTION

Real Parties double down on their belief that they are entitled to besmirch a non-party's reputation when the non-party cannot respond. But the Rules of Appellate Procedure expressly bar litigants from packing their briefs with burdensome, irrelevant, immaterial, or scandalous allegations. In fact, this Court routinely strikes such allegations against non-parties. The district court has cautioned Real Parties from launching these allegations, yet they continue to stuff their briefs with them. As such, this Court must strike the burdensome, irrelevant, immaterial, or scandalous allegations against Mr. Meruelo to prevent the forthcoming briefing from being littered with such tiresome, irrelevant smears.

II. ARGUMENT

Real Parties raise two primary arguments to justify their scurrilous allegations regarding non-party Alex Meruelo. Real Parties argue that the Petition somehow used “insulting[]” or “scornful[]” language when it described the district court's, receiver's, and Real Parties' actions at issue in this Petition, and that allows them to attack a non-party's character for actions irrelevant to the allegations contained within the Petition. Reply/Opp'n at 6-7. Next, Real Parties contend that the Petition “opened the door” to their smears because of a three-word reference in a footnote to

Mr. Meruelo as “a noted philanthropist.” *Id.* at 7. But Real Parties’ arguments, which lack any citation to any supporting legal authorities,¹ miss the mark.

First, contrary to Real Parties spin, the Petition is neither insulting nor scornful. Indeed, it is an accurate recitation of the narrow set of facts relevant to the limited jurisdictional arguments the Petition raises. *See generally* Pet. While Real Parties may disagree with Petitioners’ characterization of the district court’s, receiver’s, or Real Parties’ conduct, such disagreement does not render the Petition pejorative. But even crediting Real Parties’ argument, it does not support smearing a non-party who is unable to defend himself in the litigation.² The Rules of Appellate Procedure do not support tit-for-tat back-and-forth smears of a non-party.

Second, a three-word reference to a non-party as “a noted philanthropist” does not “open the door” to allegations regarding the protected political activity of non-party entities in a judicial race. Real Parties fail to explain how allegations that Mr. Meruelo is a “greedy and unethical billionaire” or references to unnamed associates as “minions” are relevant to a lawsuit that does not name them or to a Petition they

¹ Indeed, Real Parties’ filing lacks *any* citations to *any* authority supporting *any* of the arguments they present. *See generally* Reply/Opp’n.

² Notably, Real Parties did not dispute that their allegations against Mr. Meruelo are burdensome, irrelevant, immaterial or scandalous; rather, they simply asserted that they are justified in attacking a non-party here. *See generally* Reply/Opp’n; *see Bates v. Chronister*, 100 Nev. 675, 681-82, 691 P.2d 865, 870 (1984) (treating the respondent’s failure to respond to the appellant’s argument as a confession of error).

did not bring on any remotely related topic. Mr. Meruelo is not relevant to the complaint Real Parties brought (a complaint that does not name Mr. Meruelo as a party), to district court orders that did not name him or purport to exercise jurisdiction over him, or to a Petition about those orders. Simply put, smearing Mr. Meruelo and his associates as a “greedy and unethical billionaire” and his “minions” are the type of “unsavory allegations” against a non-party that this Court routinely strikes. *See Brown v. Williams*, No. 83314, 2022 WL 17367588, at *1 (Nev. Nov. 30, 2022).

Similarly, Real Parties’ allegations regarding campaign donations that entities affiliated with Mr. Meruelo may have made is utterly irrelevant to the jurisdictional questions raised by this Petition. Real Parties admit as much when they tie such allegations to alleged “judge-shopping.” Reply/Opp’n at 8. Setting aside that it was the judicial district’s chief judge who sua sponte recused all judges for all time—and committed structural error—“judge shopping” is entirely irrelevant and immaterial to whether the district court had jurisdiction to issue relief beyond the scope of the operative complaint in this default action.³ Pet. at 2, 21-31. Moreover, to the extent Real Parties suggest the protected political activity of Mr. Meruelo justifies the district court’s excessive actions, they simply highlight the impropriety of the

³ Indeed, these donations are no more relevant than the donations Real Parties and their counsel made to Judge Sattler.

evolving relief outside the complaint granted as punishment for a party engaging in protected political speech under the *Noerr-Pennington* doctrine. *Tichinin v. City of Morgan Hill*, 99 Cal. Rptr. 3d 661, 673 (Ct. App. 2009) (“In effect, the [*Noerr-Pennington*] doctrine immunizes conduct encompassed by the Petition Clause—i.e., legitimate efforts to influence a branch of government—from virtually all forms of civil liability.”).

Real Parties insistence that Judge Sattler “rul[ed] against” Mr. Meruelo betrays their wrongful and obsessive focus in this case and highlights the need for this Court to strike those burdensome, irrelevant, immaterial, or scandalous allegations. As Real Parties know, they did not file this suit against Mr. Meruelo. Nor did they add him as a party in either of their amendments. Mr. Meruelo is not a party to this case and no court has “rul[ed] against” him. Thus, as Real Parties’ errant rhetoric shows, this Court must strike these allegations now. Should this Court allow Real Parties to make these derogatory allegations in this Answer, such material will undoubtedly permeate Real Parties’ answer in Docket 88444 and answering briefs in Dockets 85915 and 86092. This Court should nip Real Parties’ conduct in the bud

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by granting this Countermotion to Strike should it allow Real Parties to file an over-large answer in the first place.⁴

III. CONCLUSION

For these reasons, should this Court grant Real Parties' Motion, it must strike the portions of Real Parties' Answer that are burdensome, irrelevant, immaterial, or scandalous.

DATED this 26th day of April 2024.

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⁴ Real Parties assert that the hearing transcript does not support the fact that the district court cautioned Mr. Miller for his hyperbolic allegations. Reply/Opp'n at 8-9. But while they filed an appendix filled with documents already in Petitioners' appendices and Real Parties' proposed appendices, they chose to not include any additional pages of the hearing transcript purporting to show that the district court actually did not caution him.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC and that, on this 26th day of April 2024, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **REPLY IN SUPPORT OF COUNTERMOTION TO STRIKE PORTIONS OF REAL PARTIES' PROPOSED ANSWER** properly addressed to the following:

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