

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS SANDS CORP., A NEVADA CORPORATION; SANDS CHINA LTD., A CAYMAN ISLANDS CORPORATION; SHELDON G. ADELSON, IN HIS INDIVIDUAL AND REPRESENTATIVE CAPACITY; AND VENETIAN MACAU LTD., A MACAU CORPORATION, Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE DAVID B. BARKER, DISTRICT JUDGE, Respondents,  
and  
STEVEN C. JACOBS,  
Real Party in Interest.

No. 69802

**FILED**

MAR 02 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER DENYING MOTION*

Nonparty Patrick Dumont, who was involved with the district court motion practice relevant to this writ proceeding, has filed a motion for leave to file, as amicus curiae, a brief in support of petitioners. In his motion, Dumont admits that the parties will present “all of the transcripts, factual bases and legal argument concerning the interest of the *parties* in this case,” but argues that his brief will provide the perspective of a nonparty, thus providing this court “with the full circumstances upon which to consider” this matter.

The literal definition of an “amicus curiae” is friend of the court, not friend of one of the parties; however, it has become accepted that amicus curiae may assume an adversarial role. *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997). Nevertheless, there must remain some limitations on permitting amicus



16-06869



curiae to participate in an appeal. *See id.* Accordingly, the Seventh Circuit has explained that participation by amicus curiae would normally be appropriate:

when a party is not represented competently or is not represented at all, when the amicus has an interest in some other case that may be affected by the decision in the present case . . . , or when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.

*Id.* The Ninth Circuit's opinion in *Miller-Wohl Co. v. Comm'r of Labor & Indus.*, 694 F.2d 203 (9th Cir. 1982), is consistent. The Ninth Circuit explained that amicus curiae is not a party but that the "classic role" of amicus is to assist in cases of general public interest and to supplement the efforts of counsel by drawing the court's attention to law that might have escaped consideration. *Id.* at 204.

Consistent with this case law, the appearance of Dumont as amicus curiae is not appropriate in this matter. The petition in this matter concerns whether the district court properly denied motions to disqualify Judge Gonzalez, and the issues raised in the proposed amicus brief were raised by petitioners in the district court, *see, e.g.*, Appendix to Petition for Writ at 1990-94, and in the petition and appendix filed in this court, and thus are adequately represented by petitioners. It does not appear that the proposed amicus "add[s] something distinctive to the presentation of the issues"; rather, it appears that the amicus is "serving as a mere conduit for the views of one of the parties." 16AA Charles Alan Wright et al., *Federal Practice & Procedure* § 3975, at 313 (4th ed. 2008). Accordingly, we deny the motion for leave to file a brief of amicus curiae



and direct the clerk of this court to return the proposed amicus brief and appendix provisionally received on February 29, 2016. NRAP 29.

It is so ORDERED.

/Sardesh, A.C.J.

cc: Kemp, Jones & Coulthard, LLP  
Holland & Hart LLP/Las Vegas  
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