

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEWS+MEDIA CAPITAL GROUP LLC,
A DELAWARE LIMITED LIABILITY
COMPANY; AND LAS VEGAS REVIEW-
JOURNAL, INC., A DELAWARE
LIMITED LIABILITY COMPANY,

Appellants/Cross-Respondents,

vs.

LAS VEGAS SUN, INC., A NEVADA
CORPORATION,

Respondent/Cross-Appellant.

No. 80511

FILED

JUN 18 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER

Respondent/cross-appellant has filed a renewed¹ motion seeking an order unsealing the arbitration award it has attached as exhibit 1 to its reply in support of its motion to expedite this appeal. Appellants/cross-respondents oppose the motion, and respondent/cross-appellant has filed a reply.

¹Respondent/cross-appellant previously filed a motion to unseal the arbitration award. On May 1, 2020, this court issued an order noting that such relief was premature, as the dispute regarding sealing the arbitration award was still pending in the district court. Accordingly, this court denied the motion without prejudice to be renewed once the issue was resolved by the district court, and the clerk of this court was directed to file the award under seal. In respondent/cross-appellant's renewed motion, it indicates that following this court's May 1, 2020, order, the district court issued a minute order granting appellants/cross-respondents' motion to seal the arbitration award. Appellants/cross-respondents have submitted copies of the district court's minute order, along with its findings of fact, conclusions of law, and order granting their motion to seal the arbitration award and several other documents from the parties' underlying arbitration.

In addition, appellants/cross-respondents have moved to file under seal portions of their opening brief and appendix containing or pertaining to records from the parties' underlying arbitration that the district court ordered to be sealed. Respondent/cross-appellant opposes the motion, and appellants/cross-respondents have filed a reply. In their reply, appellants/cross-respondents agree to refile their opening brief after further limiting the redactions therein.

SRCR 3 governs the sealing of records in most civil cases. It states that courts may only seal documents when "justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record." SRCR 3(4). "This presumption favoring public access to judicial records and documents is only overcome when the party requesting the sealing of a record or document demonstrates that 'the public right of access is outweighed by a significant competing interest.'" *Jones v. Jones v. Nev. Comm'n on Judicial Discipline*, 130 Nev. 99, 10-9, 318 Nev. 1078, 1085 (2014) (quoting *Howard v. State*, 128 Nev. 736, 744, 291 P.3d 137, 142 (2012)).

While public access is favored, it is not absolute. *See Howard*, 128 Nev. at 740, 291 P.3d at 140. As this court has observed, "there are stronger reasons to deny public access to judicial records concerning private matters when the public access 'could only serve to satiate a thirst for scandal.'" *See id.* at 744, 291 P.3d at 142 (quoting *State v. Grimes*, 29 Nev. 50, 81, 84 P. 1061, 1071 (1906)). Further, where, as here, the district court has ordered certain records to be sealed after conducting a hearing, considering extensive briefing, and weighing the competing interests, this court will not unseal the documents unless the district court abused its discretion. *See Howard*, 128 Nev. at 742, 291 P.3d at 141 ("the decision to

allow access to court records is best left to the sound discretion of the court.”); *see also* SRCR 7 (“Court records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.”).

Here, the district court found that several grounds justified sealing the records at issue, including Nevada’s public policy favoring arbitration, the parties’ agreement to resolve their dispute by way of private arbitration, and the protective orders to which both parties had stipulated. While parties’ agreements alone are not a sufficient basis to seal court records, *see* SRCR 3(4), the district court reasonably determined that sealing these records also furthers the strong public policy favoring arbitration under the circumstances of this case. *See, e.g., Tallman v. Eighth Judicial Dist. Court*, 131 Nev. 713, 720, 359 P.3d 113, 118 (2015) (recognizing “Nevada’s fundamental policy favoring the enforceability of arbitration agreements.”); *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 252, 89 P.3d 36, 39 (2004) (noting the “strong policy in favor of arbitration”).² Thus, the district court did not abuse its discretion in sealing the records at issue. Accordingly, respondent/cross-appellant’s renewed

²Although there appears to be a split of authority on this issue, several other courts have recognized this principle. *See, e.g., Barkley v. Pizza Hut of Am., Inc.*, No. 6:14-cv-376-Orl-37DAB, 2015 WL 5915817, at *2 (M.D. Fla., Oct. 8, 2015) (“Courts tend to honor parties’ decisions to enter into confidential arbitration; thus, they keep those proceedings, including awards, confidential, particularly because: (1) parties often enter into them to maintain confidentiality; and (2) it promotes the voluntary execution of private arbitration agreements—a sound public policy objective.”); *ITT Indus., Inc. v. Rayonier, Inc.*, No. 05 CIV.4322(CLB), 2005 WL 1744988, at *2 n.4 (S.D.N.Y., July 20, 2005) (ordering arbitration award to be sealed, reasoning that “[o]ne of the principal reasons people agree to arbitrate rather than litigate, is to maintain confidentiality.”).

motion to unseal the arbitration award is denied, and appellants/cross-respondents' motion, as narrowed in their reply, to refile portions of their opening brief and appendix under seal is granted. The clerk of this court shall detach the amended brief from the reply filed on June 15, 2020, and file it separately. The clerk shall strike the brief filed on June 1, 2020. The clerk shall file the opening brief and appendix received on June 4, 2020, under seal.

It is so ORDERED.

 A.C.J.

cc: Jenner & Block
Kemp, Jones & Coulthard, LLP
Lewis Roca Rothgerber Christie LLP/Reno
Pisanelli Bice, PLLC