

1 **2650**

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13 **SECOND JUDICIAL DISTRICT COURT**

14 **WASHOE COUNTY, NEVADA**

15 LAWRENCE GARVEY, an individual; and
16 ROBERT PAYTON, an individual;

17 Plaintiffs,

18 v.

19 CLUB TAHOE RESORT OWNERS
20 ASSOCIATION, INC., a Nevada nonprofit
21 corporation; KEITH WILSON, an individual;
22 GLORIA DEALBA, an individual; DONALD
23 WALL, an individual; ROBERT
24 VERMELTOORT, an individual; CHRISTINA
25 BECKER, an individual; KEITH OGDEN, an
26 individual; MARC PEARL, an individual; DOES 1
27 through 10 inclusive; and ROE CORPORATIONS
28 I through X inclusive,

Defendants.

Case No.: CV25-02319
Dept.: 9

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' EX PARTE MOTION FOR
ORDER SHORTENING TIME TO
RESPOND TO DEFENDANTS' MOTION
FOR PRELIMINARY INJUNCTION**

COMES NOW Plaintiffs, LAWRENCE GARVEY and ROBERT PAYTON (hereinafter
"Plaintiffs"), by and through their counsel, the law office of Gibbs Giden Locher Turner Senet &
Wittbrodt LLP, and hereby file their Opposition to Defendants' Ex Parte Motion for Order Shortening
Time to Respond to Defendants' Motion for Preliminary Injunction (the "Opposition").

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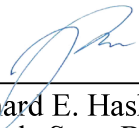
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1 This Opposition is made and based on the following Memorandum of Points and Authorities,
2 the pleadings and papers on file herein, the entire records in this case, and upon such argument as the
3 Court may entertain at the hearing on this matter. Plaintiffs will not address the merits of Defendants'
4 underlying motion herein and reserve their right to full time to respond to the Motion for Preliminary
5 Injunction.

6 DATED: January 28, 2026

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

7
8 By: 

Richard E. Haskin, Esq.
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12
13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. INTRODUCTION**

15 Defendants CLUB TAHOE RESORT OWNERS ASSOCIATION, INC. (the "Association")
16 and KEITH WILSON, GLORIA DEALBA, DONALD WALL, MARC PEARL, AND ROBERT
17 VERMELTFOORT (together, the "Former Board") have filed an *Ex Parte* Motion for an Order
18 Shortening Time on their Motion for Preliminary Injunction (the "Motion"), seeking to require
19 Plaintiffs to respond to a substantial Motion for Preliminary Injunction within five (5) days.
20 Plaintiffs will suffer injury from having to oppose the underlying Motion on shortened time, and
21 Defendants will suffer no prejudice from complying with the standard time for response under the
22 Nevada Rules of Civil Procedure ("NRCP"). Further, Defendants failed to comply with Rules of
23 Practice for the Second Judicial District Court of Nevada ("SJDR") Rule 11(3), as Defendants made
24 no good faith effort to notify Plaintiffs' counsel of the Motion or underlying Motion for Preliminary
25 Injunction. Plaintiffs respectfully request that this Court deny Defendants' Motion and allow the
26 standard time for response under the NRCP. Defendants have failed to demonstrate that good cause
27 exists for the issuance of an order shortening time, and no circumstances exist that justify the
28 shortening of time on an *ex parte* order.

1 **II. LEGAL ARGUMENT**

2 **A. Defendants Failed to Make a Good Faith Effort to Confer with Plaintiffs**

3 Pursuant to the Rules of Practice for the Second Judicial Distret Court of Nevada (“SJDR”) Rule 11, subsection 3, “For good cause shown, the judge who is to try the case . . . may make an ex parte order shortening time **upon a satisfactory showing to the judge that a good faith effort has been made to notify the opposing counsel of the motion.**” (SJDR 11(3)) (emphasis added). Here, Defendants have not demonstrated that they made any effort to confer with Plaintiffs regarding their request to shorten time before filing their *ex parte* motion or their preliminary injunction motion. This failure alone is sufficient grounds to deny the Motion.

10 Counsel for Plaintiffs, upon receiving the Motion to shorten time, notified Defendants’ counsel of the failure to meet and confer or provide any good faith effort to notify Plaintiffs’ counsel of the Motion and Motion for Preliminary Injunction. *See Exhibit “1”*. Further, Plaintiffs have offered to stipulate to “keep the status quo” pending the outcome of Defendants’ Motion for Preliminary Injunction and Plaintiffs forthcoming Motion for Preliminary Injunction. *Id.* As such, no immediate harm can be shown by Defendants as Plaintiffs have offered to stipulate to exactly what Defendants are seeking – for the “status quo” to remain until the Motion for Preliminary Injunctions can be heard.

18 **B. Defendants Have Failed to Demonstrate Good Cause for Shortening Time**

19 *Ex parte* motions to shorten time may not be granted except upon a showing of good cause that justifies shortening of time. SJDR 11(3). Defendants’ Motion fails to demonstrate the requisite good cause to justify the extraordinary relief of shortening Plaintiffs’ time to respond to a complex motion for a preliminary injunction. The standard response times under the NRCP allow for full and fair litigation with adequate notice and opportunity to respond to pleadings and motions. Defendants have not provided a satisfactory explanation as to why the standard time for response is inadequate or why this matter requires emergency treatment. Here, the requisite exigent circumstances necessary for the Court to grant the requested relief do not exist. Defendants will not suffer any legally recognizable harm if the motion for a preliminary injunction is heard as a regularly noticed motion.

1 Moreso, Defendants' Motion for a Preliminary Injunction raises substantial and complex
2 issues regarding the validity of the recall election, the rightful composition of the Association's
3 Board of Directors, and the request to hold another election under the Association's Governing
4 Documents and Nevada law. These issues require careful analysis and a comprehensive response,
5 which cannot be adequately prepared within the abbreviated timeframe proposed by Defendants.

6 The NRCP recognizes the importance of providing adequate time for parties to response to
7 motions, particularly those involving complex issues or seeking extraordinary relief such as a
8 preliminary injunction. *See* NRCP 65. Shortening time for responding to Defendants' motion for a
9 preliminary injunction would prejudice Plaintiffs' ability to present a full and fair defense to
10 Defendants' allegations and claims.

11 **C. Defendants' Claim of Urgency Is Unfounded**

12 Defendants' Motion is predicated on unsupported allegations that Plaintiffs are "undermining
13 the Association's and Board's authority" and "causing irreparable harm." However, contrary to
14 these allegations, the Board elected in the October 25, 2025, recall election was properly and duly
15 elected in accordance with all applicable procedures and in compliance with the Association's
16 Governing Documents and Nevada law, as outlined in the pleadings in this case, as specifically set
17 forth in Plaintiffs' First Amended Complaint.

18 Further, Plaintiffs are not interfering with the Association's business operations. There has
19 been no "interference of business operations," and Defendants have failed to provide any evidence
20 of actual harm that would justify expedited treatment of their Motion. Defendants have control over
21 all of the Association's bank accounts, the financial and other records of the Association, and
22 Defendants continue to exclusively interact and direct the Association's management company.
23 There are no allegations that Plaintiffs have attempted to impact the Association's finances or day-
24 to-day operations in any way. There are no allegations or evidence that Plaintiffs have taken any
25 action that has impacted the Association in any way or even attempted to take such actions.
26 Plaintiffs have no such control over the Association and have absolutely no contact with the
27 community manager. Defendants simply do not like the fact that the Board elected during the
28 October 2025 recall election has the gumption to state as much and demand the Defendant Board

1 relinquish their seats and succumb to the will of the Association membership. At this election, 641
 2 Association members voted to recall the current Board, with **zero** votes against the recall. *See* First
 3 Amended Complaint, ¶ 151. Make no mistake, this Motion and the Motion for Preliminary
 4 Injunction are simply filed in an effort to silence the newly elected Board and its members and
 5 prevent the Defendant Board from relinquishing control as it should.

6 Without evidence of genuine harm, Defendants have failed to establish that it is so imperiled
 7 that Defendants should be allowed to circumvent the regular noticed motion procedures established
 8 in NRCP for the consideration of the motion for a preliminary injunction. Therefore, no irreparable
 9 or immediate harm can be shown to require shortening the time on the preliminary injunction
 10 motion, as any harm could be reversed if contrary to Nevada law.

11 **D. Defendants' Motion for Preliminary Injunction Seeks an Unlawful Prior Restraint on**
 12 **Free Speech and Raises Serious First Amendment Issues that Must be Thoroughly**
 13 **Briefed and Considered by this Court**

14 Defendants, in the Motion for Preliminary Injunction, essentially ask this Court to impose a
 15 “gag order” which inherently raises serious First Amendment issues that must be briefed, argued,
 16 and considered by this Court. Defendants argue that the conduct that needs to be restricted by the
 17 Court is Plaintiffs’ speech. Specifically, the only harm cited in the Motion for Preliminary
 18 Injunction is related to communications Plaintiffs have made or may make to third parties, including
 19 the Association membership and the Association’s management company. Defendants argue this
 20 speech needs to be stopped by a Court order. For example, the alleged “offensive” conduct includes
 21 the newly elected Board contacting the Association’s management company and directing it to
 22 recognize the properly and newly elected Board. Motion for Preliminary Injunction, p. 5, lns. 21-24.

23 As an initial matter, there is no harm from the Plaintiff Board contacting the management
 24 company as the management company stated in a letter to Plaintiffs’ counsel that it was not taking
 25 direction from the newly elected Board and was going to continue to operate the Association “as is.”
 26 *See Exhibit 2.*

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1 Second, in Nevada, and in every state in this Union, a preliminary injunction restricting
 2 speech is considered a form of prior restraint and faces a very high bar for approval, requiring a
 3 separate finding that such restriction will not violate the First Amendment. As explained by the
 4 Court in *Las Vegas Review-Journal v. Eighth Judicial Dist. Court of Nev.*, 134 Nev. 40, 43-44
 5 (2018),

6 “[P]rior restraints on speech and publication are the most serious
 7 and the least tolerable infringement on First Amendment rights and
 8 are presumptively unconstitutional.” *Id.*, (quoting *Neb. Press*
 9 *Ass’n v. Stuart*, 427 U.S. 539, 559, 96 S. Ct. 2791, 49 L. Ed. 2d 683
 10 (1976), *Org. for a Better Austin v. Keefe*, 402 U.S. 415, 419, 91 S.
 11 Ct. 1575, 29 L. Ed. 2d 1 (1971).

12 *Id.*

13 Defendants are asking this Court for a “gag order,” and such a gag order is an unreasonable
 14 prior restraint on free speech and causes irreparable harm to the First Amendment. *See Capital*
 15 *Cities Media, Inc. v. Toole*, 463 U.S. 1303, 1304, 103 S. Ct. 3524, 77 L. Ed. 2d 1284 (1983). The
 16 proponents of such orders, here the Defendants, “carries a heavy burden of showing justification for
 17 the imposition of such a restraint.” *N.Y. Times Co. v. United States*, 403 U.S. 713, 714, 91 S. Ct.
 18 2140, 29 L. Ed. 2d 822 (1971) (per curiam) (quoting *Keefe*, 402 U.S. at 419). To justify a prior
 19 restraint, the interest the prohibition protects must be of the “highest order.” *The Fla. Star v. B.J.F.*,
 20 491 U.S. 524, 541, 109 S. Ct. 2603, 105 L. Ed. 2d 443 (1989).

21 **E. Plaintiffs Should Be Afforded the Time and Ability to File a Complete Opposition**

22 Defendants’ Motion for Preliminary Injunction raises the ultimate question in this matter –
 23 was Plaintiffs’ October 2025 Special Meeting to recall the current Board and elected a new Board
 24 lawful? For the reasons set forth in the Amended Complaint, the answer is in the affirmative.
 25 Plaintiffs, in opposing Defendants’ Motion for a Preliminary Injunction must put forth the evidence
 26 to the Court to substantiate Plaintiffs’ claims that its election was lawfully performed in all respects,
 27 and Plaintiffs intend to do so and also file a competing Motion for Preliminary Injunction, seeking to
 28 remove the Defendant Board as they have been lawfully recalled as of October 2025.

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1 As Plaintiffs' Opposition to the Motion for Preliminary Injunction (and Plaintiffs own
2 competing motion) will show, the Defendant Board was improperly elected in April 2025 and
3 refuses to relinquish control and continues to exercise control over the Association despite the
4 October 2025 recall election, which satisfied Nevada state law and the Association's governing
5 documents, in all respects. All of this evidence must be presented in the form of affidavits (or
6 declarations) together with all supporting documents so that the Court can evaluate the evidence and
7 determine (1) the lawfulness of the October 2025 recall election, and (2) whether the Defendant
8 Board has refused to relinquish control to the duly elected Board. This cannot be done on shortened
9 time.

10 **III. CONCLUSION**

11 For the foregoing reasons, Plaintiffs respectfully request that this Court deny Defendants' *Ex*
12 *Parte* Motion for an Order Shortening Time and allow Plaintiffs the standard time to respond to
13 Defendants Motion for a Preliminary Injunction.

14
15 DATED: January 28, 2026

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

16
17 By: _____

18 Richard E. Haskin, Esq.
19 Nevada State Bar # 11592
20 Madison G. Wedderspoon, Esq.
21 Nevada State Bar # 16648
22 7251 W. Lake Mead Blvd., Suite 450
23 Las Vegas, Nevada 89128
24 Attorneys for Plaintiffs
25
26
27
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CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP, hereby certifies that on January 28, 2026, they served a copy of the
foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS' EX PARTE MOTION FOR
ORDER SHORTENING TIME TO RESPOND TO DEFENDANTS' MOTION FOR
PRELIMINARY INJUNCTION** by electronic service through the Regional Justice Center for
Washoe County, Nevada's ECF System:



An employee of
Gibbs Giden Locher Turner
Senet & Wittbrodt LLP

GIBBS, GIDEN, LOCHER, TURNER & SENET LLP

1
2 SECOND JUDICIAL DISTRICT COURT
3 COUNTY OF WASHOE, STATE OF NEVADA

4 AFFIRMATION
5 Pursuant to NRS 239B.030 and 603A.040

6 The undersigned does hereby affirm that the preceding document, *(title of document)*
7 Opposition to Ex Parte Motion for Order Shortening Time to Respond to Motion for Preliminary
8 file in case number: CV25-02319

9
10 (☒ *mark one*)

11 ☒ Document does not contain the personal information of any person.

12
13 ☐ Document contains the personal information of a person as required by: (☒ *mark one*)

14 ☐ A specific state or federal law, to wit: *(write the specific state or federal law)*

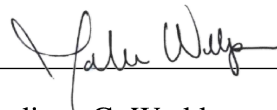
15 _____
16 ☐ For the administration of a public program

17 ☐ For the administration for a federal or state grant

18 ☐ Confidential Family Court Information Sheet (NRS 125.130, NRS 125.230, and
19 NRS 125B.055)

20
21
22 DATED this (*day*) 28th day of (*month*) January, 2026.

23
24 Submitted By: (*Your signature*)



25 (*Print your name*) Madison G. Wedderspoon, Esq.

26 (*Attorney for*) Plaintiffs
27
28

EXHIBIT “1”

Madison Wedderspoon

From: Richard Haskin
Sent: Wednesday, January 28, 2026 9:38 AM
To: Krystle Platero
Cc: Whitney Selert; Jorge "Coco" Padilla; Kevin Golden; Gayle Kern; Madison Wedderspoon
Subject: RE: SERVICE: Garvey/Payton v. Club Tahoe - Correspondence [IMAN-ACTIVE.FID911995]

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Krystle

Thank you for the letter, and I will offer a response to that letter shortly.

In the interim, we are preparing our opposition to the Motion for OST. However, Second Judicial District Rule 11(3) provides as follows: “[f]or good cause shown, the judge who is to try the case, or if the judge is not in the courthouse during regular judicial hours, the chief judge or, if the case is within the jurisdiction of the family division, the presiding judge of the family division, may make an ex parte order shortening time upon a satisfactory showing to the judge that a good faith effort has been made to notify the opposing counsel of the motion.” We did not conduct a meet and confer with respect to the Motion for Preliminary Injunction nor did your office ever notify our office of the motion. Also, we filing a Motion for Preliminary Injunction, which we will have on file this week.

Our opposition to the Motion for OST will be based on the failure to notify Plaintiffs of the motion as required and the fact that we will similarly be filing a Motion for Preliminary Injunction, and that the two motions should be heard simultaneously. We would be willing to stipulate to keep the “status quo,” as you frame it, pending the outcome of the Motion for Preliminary Injunction. I did not see a proposed Order on the injunction, so it is hard for me to decipher what interference is being sought to stop or what status quo means.

In an effort to resolve this matter, pending the hearing on our competing injunctions, we will stipulate to the following:

1. The injunctions will be heard on the same day;
2. The newly elected Board will cease and desist from calling itself the “duly elected board” and similar terms and publishing such statements to the Membership; and
3. The newly elected Board will cease and desist from holding any noticed or formal Board meetings and otherwise acting as a Board under either NRS 116, 117, or 119.

If this is acceptable, I will prepare a draft stipulation and send it to you today. Please let me know.

Richard E. Haskin, Esq., Partner



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EXHIBIT “2”

SNELL & WILMER

Mandy S. Shavinsky
O 702.784.5229
F 702.784.5252
mshavinsky@swlaw.com

December 18, 2025

Via Email and Certified Mail

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Gibbs Giben Locher Turner
7251 W. Lake Mead Blvd. Suite 450
Las Vegas, Nevada 89128

Gayle A. Kern, Esq.
5421 Kietzke Lane, Suite 200
Reno, Nevada 89511

Re: Club Tahoe Resort Association

Dear Mr. Haskin and Ms. Kern:

As you know, this firm represents Grand Pacific Resort Services, L.P. ("GPR") the manager of Club Tahoe Resort Association pursuant to that certain Management Agreement, dated April 1, 2025 between Club Tahoe Resort Owners' Association (the "Association") and GPR (the "Management Agreement"). GPR engaged this firm in light of the unresolved difference of opinion over the recent removal election and the current composition of the board of directors. The existence of the disagreement obviously places GPR in a very difficult position when it comes to carrying out its duties under the Management Agreement. This letter is intended to do three things: (i) convey certain information regarding GPR's approach to certain essential management functions; (ii) serve as a request for information/clarification regarding the removal petition and election; and (iii) offer what may be a productive path to resolving differences between the board of directors that was elected in April, 2025 (the "April Board") and the board that GPR has been informed was seated in connection with the October removal election (the "Removal Board"). I do understand that there are two individual directors that were/are on both the April Board and the Removal Board.

One of the functions that GPR is required to carry out under the Management Agreement is the preparation of a budget for each calendar year for the approval of the board of directors. Typically, the budget for the upcoming calendar year is prepared during the last quarter of the year. Given the disagreement, GPR is in the unenviable position of not knowing which board to which it should present a budget. In addition, given the timing of the disagreement and the fact that GPR was not formally engaged until October, it is simply not feasible from a timing and governance approve a 2026 budget, given that GPR does not know which of the April Board or the Removal Board is the "proper" board to present a budget for approval. In addition, the timeframes for approval for the board set forth in Sections 4 of the Bylaws cannot be reasonably met at this late date.

Given that the Association must have funds to continue to operate, GPR has taken the position that, absent approval of a 2026 budget by a duly seated board, the calendar year 2025 budget will continue in effect as an emergency measure. My understanding is that this specific course of action was taken in the past by the Association when a budget for the upcoming calendar year was not approved by the end of a calendar year. In addition, the governing documents do not foreclose the possibility of the previous year's budget continuing in effect when a budget for the upcoming fiscal year has not been approved. Finally, having the prior year's budget continue in effect until a new budget has been approved is a common practice taken by homeowners' associations in Nevada and is the "default" course of action under NRS 116.31151(3) when a budget has not been approved for an upcoming calendar year. I do understand that due to the timing of the formation of the Association, NRS 117 (the Nevada Condominium Act), and not NRS 116 (the Nevada Common-Interest Ownership Act) applies in this situation, however, the presence of NRS 116 provides a reference point for situations where there is no applicable guidance from either a statute (in this case NRS 117) or the governing documents. In this situation, neither the Association nor management can allow

assessments and operations to cease in their entirety. As such, GPR will be sending a notice to the membership explaining that given the exigent circumstances presented, the 2025 calendar budget will continue in effect until the disagreement concerning the board is resolved, at which time a budget for calendar year 2026 will be presented to the board for approval. That notification will also explain that it is possible that the 2026 budget may include an increase in assessments, so that the membership is not surprised if the 2026 budget, when adopted, is more than the 2025 budget. Finally, the notification will inform the membership that invoices for assessments will be sent out at the beginning of the 2026.

With respect to the disagreement at hand, I don't believe my client has been provided with information regarding the removal petition that enabled the special members' meeting at which the removal election took place, the notice of the special members' meeting for the removal election, the results of the removal election, or the results of the election that filled the vacant seats of the removed board members. Even though my client's position is that it seeks to recognize the board in place after resolution of the present disagreement (whether that is the April Board or the Removal Board) from a management and governance standpoint, my client should be provided with the above-referenced materials for the Association's records. To that end, Mr. Haskin, if you could provide those materials (to the extent they are in your possession), GPR would greatly appreciate it. I will review these materials upon receipt.

Finally, GPR is hopeful that a workable resolution can be reached as between the April Board and the Removal Board because a clear governance structure is obviously integral to continuing operations and, without question, in the best interest of the Association and its numerous members. A viable path to resolution might include a new election, using procedures that are both transparent to owners and agreeable to both the April Board and the Removal Board. This may be the best course of action given that there are allegations of possible procedural issues with the April 2025 election process, as well as allegations of procedural issues with the October 2025 removal election. Holding a new election with agreed-upon transparent procedures will allow a board to be elected (whatever the identity of the board members) that can effectively move forward and continue operations, an aim that is undeniably in the best interest of every owner.

Please let me know if you would like to discuss GPR's course of action with respect to the budget, its request for Association-related materials, or possible alternatives to resolve the disagreement between the April Board and the Successor Board.

Kind regards,

Snell & Wilmer

Mandy Shavinsky

Mandy S. Shavinsky

cc: Dominic Peterson
Jeff Brock
Jay Anderson
Whitney Selert