

Code: 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

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

Plaintiffs,

v.

CLUB TAHOE RESORT OWNERS'
ASSOCIATION, INC., a Nevada non-profit
corporation; KEITH WILSON, GLORIA DEALBA;
DONALD WALL; ROBERT VERMELTFOORT;
CHRISTINA BECKER ; KEITH OGDEN AND
MARK PEARL (Association Board Members Sued
In Their Individual Capacities); and DOES 1 through
10, inclusive and ROE CORPORATIONS I through
X, inclusive,

Defendants.

Case No.: CV25-02319

Dept. No.: 9

ORDER DENYING MOTION FOR MODIFICATION OF ORDER APPOINTING

SPECIAL MASTER

The Court is in receipt of Plaintiffs LAWRENCE GARVEY and ROBERT PAYTON's (hereafter the "Plaintiffs") *Motion for Modification of Order Appointing Special Master* filed May 4, 2026; Defendants CLUB TAHOE RESORT OWNERS' ASSOCIATION, INC. (hereafter "The Association") and its BOARD OF DIRECTORS, DEFENDANTS KEITH WILSON, GLORIA DEALBA, DONALD WALL, MARC PEARL, AND ROBERT VERMELTFOORT (hereafter the "Board") (collectively "the Defendants") *Opposition to Motion for Modification of Order Appointing Special Master* filed May 11, 2026; and Plaintiff's *Reply in Support of Motion for Modification of Order Appointing Special Master* filed May 18, 2026.

Upon a review of the record, and pleadings presented to it, the Court finds that that the Plaintiffs' *Motion for Modification of Order Appointing Special Master* is hereby DENIED.

PROCEDURAL HISTORY

On April 1, 2026, this Court held a hearing on several outstanding motions. During that hearing the parties agreed to appoint a Special Master for purposes of holding a fully rule compliant, fair, and transparent election as soon as possible. This Court memorialized that agreement in its Order and further ordered the parties to evenly divide the costs of the Special Master throughout the ensuing proceedings. *See Transcript of Proceeding* at 25:3.

Within its Order, this Court pointedly advised both parties that neither the Association’s Former Board nor the “recall board” were to take any further action in the name of the Association, holding that all power to manage the Association was now vested in the Special Master and neither party was to interfere with that process. *See id.* at 42:5 (“...there’ll be nothing affirmative done by the current board or the recall board. There is no board as far as I’m concerned at this time.”). This Court emphasized that the special master was necessary to preserve the status quo and ensure that there was a just and speedy resolution.

STANDARD OF REVIEW

The Legislature has repeatedly allowed Courts to exercise its authority in appointing a special master by enacting laws permitting masters to act as referees in district courts. *Matter of L.L.S.*, 137 Nev. 241, 244, 487 P.3d 791, 795 (2021) (citing *Henry v. Nev. Comm'n on Judicial Discipline*, 135 Nev. 34, 36, 435 P.3d 659, 661 (2019) (recognizing the Legislature's constitutional authorization to provide for masters)).

Under NRCP 53(a)(2), the court may appoint a master to (1) perform duties consented to by the parties; (2) address pretrial or posttrial matters that cannot be effectively and timely addressed by an available judge; or (3) in actions to be decided without a jury, hold trial proceedings and recommend findings of fact, conclusions of law, and a judgment, if appointment is warranted by (a) some exceptional condition; or (b) the need to perform an accounting or resolve a difficult computation of damages. *See* NRCP 53(a)(2). Additionally, NRCP 53(b)(2) provides that “[a]ny party may move to have a master appointed, or the court may issue an order to show cause.”

1 In actions not before a jury, NRCP 53(b) authorizes referral to a special master for “matters
2 of account and of difficult computation of damages” or “upon a showing that some exceptional
3 condition requires it.” *Venetian Casino Resort, LLC v. Eighth Jud. Dist. Ct. of State ex rel. Cnty. of*
4 *Clark*, 118 Nev. 124, 128, 41 P.3d 327, 329 (2002). Where matters of account are involved, referral
5 to a special master is only warranted if the matters are “beyond the competence of a court,” which
6 has been found to matters that are “not simple, would reach substantial proportions, or would consume
7 an inordinate amount of judicial resources.” *Id.* “In all cases, referral to a special master is only
8 warranted when it is necessary, not merely when it is desirable.” *Id.*

9 Additionally, special masters may only exercise limited authority. The Supreme Court has
10 explained that “[m]asters are appointed ‘to aid judges in the performance of specific judicial duties,
11 as they may arise in the progress of a cause,’ and not to place the trial judge into a position of a
12 reviewing court.” *Id.* The district court, not the special master, is primarily responsible for
13 determining the rights of the parties. *Id.*

14 **DISCUSSION**

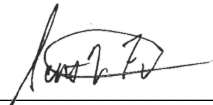
15 Upon a review of the motions, the rules cited by Plaintiffs provide for the relief requested.
16 There was no trial on the merits or final judgment. Consequently, there is no judgment or judgment
17 related award of costs and fees subject to modification pursuant to NRCP 52(b) or NRCP 59(e). Both
18 rules are wholly inapposite as are the cases applying those rules. In that regard, Plaintiffs have not
19 been adjudicated to have conducted a lawful recall election. This Court specifically avoided resolving
20 that claim on the merits in favor of what it perceived as the more efficient path to resolution and
21 mooted of this action, i.e., the conduct of a fully rule compliant election, which the Association had
22 offered last November. Moreover, the Court found that a Special Master was the most efficient and
23 fair way to conduct said election. Importantly, the Parties agreed to that finding on the record.

24 Ultimately, Plaintiffs’ present motion was characterized as an equitable request under NRCP
25 53(g). However, that rule fully supports this Court’s Order requiring the parties to evenly divide the
26 costs and fees of the Special Master. The Courts notes that it was Plaintiffs that initiated and choose
27 to persist with their claims. In conclusion, NRCP 53(g) does not provide authority for awarding or
28 allocating one party’s costs and fees as part of the Special Master’s compensation.

1 Defendants have agreed to assume the costs for the election process. However, all other costs
2 and fees associated with the use of the Special Master are to be equally divided by the parties as
3 previously and appropriately ordered by this Court. As such, this Court finds that Plaintiffs' *Motion*
4 *for Modification of Order Appointing Special Master* is hereby DENIED

5 IT IS SO ORDERED.

6 DATED this 24th day of July 2026.

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DISTRICT JUDGE

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EDWARD TIRAS, ESQ.
JORGE PADILLA, ESQ. FOR MARC PEARL, CLUB TAHOE RESORT OWNERS
ASSOCIATION, DONALD WALL, GLORIA DEALBA, KEITH WILSON, ROBERT
VERMELTOORT
RICHARD HASKIN, ESQ. FOR ROBERT PAYTON, LAWRENCE GARVEY
WHITNEY SELERT, ESQ. FOR MARC PEARL, CLUB TAHOE RESORT OWNERS
ASSOCIATION, DONALD WALL, GLORIA DEALBA, KEITH WILSON, ROBERT
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