ORIGINAL

JERRY A. WIESE, II, ESQ.
Nevada Bar No. : 005546
WILLIAMS & WIESE
501 S. Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone: (702) 320-7755
Facsimile: (702) 320-7760
Attorney for Plaintiff

FILED
MAR 16 2006
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY A. Alvarado
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

--oOo--

No. 46891

HENRY CLARK,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHY HARDCASTLE, CHIEF JUDGE OF THE DISTRICT COURT,

Respondents,

and

JOEL BETANCOURT, individually; CARL A. MARSHALL, individually; and ATC/Vancom Inc., an Illinois Corporation; ATC/Vancom of Nevada Limited Partnership; DOES I through V; and ROE CORPORATIONS I through V; inclusive,

Real Parties in Interest,

CASE NO: A482653

AFFIDAVIT IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS, OR, IN THE ALTERNATIVE, PROHIBITION

AFFIDAVIT OF JERRY A. WIESE, II, ESQ. IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS, OR, IN THE ALTERNATIVE, PROHIBITION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

JERRY A. WIESE, II, ESQ., being first duly sworn, deposes and says:

RECEIVED
MAR 16 2006
CLERK OF SUPREME COURT

WILLIAMS & WIESE
Attorneys at Law
501 South Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone (702) 320-7755 Facsimile (702) 320-7760

06-05711

WILLIAMS & WIESE
Attorneys at Law
501 South Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone (702) 320-7755 Facsimile (702) 320-7760

1. That I am an attorney duly licensed to practice law in the State of Nevada, and I am counsel of record for the Petitioner, HENRY CLARK.

2. I am executing this affidavit in place and stead of Petitioner, HENRY CLARK, because Petitioner is presently out of state, is unreachable, and will not be returning to Nevada prior to the tolling of the 10 day deadline to provide an affidavit to the Court.

3. On December 27, 2005, Judge Kathy Hardcastle of the District Court granted Defendants Marshall and ATC/VAncom's Motion for Summary Judgment. On February 23, 2006, Plaintiff's Motion for Reconsideration was denied. On March 10, 2006, a Petition for Writ of Mandamus, or, in the alternative, Prohibition, was filed by the Plaintiff in the Supreme Court of Nevada.

4. That as attorney for Petitioner, I have submitted the subject Writ of Mandamus or Prohibition to the Supreme Court of Nevada, upon direction from my client, Petitioner Henry Clark, and that the writ is true of my own knowledge, except as to those matters stated on information and belief, and that as to such matters I believe it to be true.

5. This affidavit is being filed in accordance with NRS 34.170, 34.330, 34.030, 15.010(a) and (2).

Further your affiant saith naught.

JERRY A. WIESE, II, ESQ., AFFIANT

SUBSCRIBED and SWORN to before me this 14th day of March, 2006.

Notary Public, In and For Said County and State

Notary Public - State of Nevada
County of Clark
ANDREA HINTON
My Appointment Expires
No: 05-98034-1 June 9, 2009

WILLIAMS & WIESE
Attorneys at Law
501 South Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone (702) 320-7755 Facsimile (702) 320-7760

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILLIAMS & WIESE . and that on this 14th day of March, 2006, I caused the above and foregoing document entitled PETITION FOR WRIT OF MANDAMUS OR PROHIBITION to be served as follows:

[X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

[ ] pursuant to EDCR 7.26, to be sent via facsimile; and/or

[ ] to be hand-delivered;

to the attorneys listed below at the address and/or facsimile number indicated below:

KURT R. BONDS, ESQ.
ALVERSON, TAYLOR, MORTENSEN,
& SANDERS
7401 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorney for Defendants

FACSIMILE: 385-7000

MARK GENTILE, ESQ.
GENTILE & HOWARD
1640 Alta Drive, Suite 12
Las Vegas, Nevada 89106
Attorney for Betancourt

FACSIMILE: 253-7431

Eighth District Court
Hon. Kathy Hardcastle
Dept. IV
200 Lewis Avenue
Las Vegas, NV 89155

Andrea Hutton
An employee of WILLIAMS & WIESE

WILLIAMS & WIESE

ATTORNEYS AT LAW
501 South Rancho, Suite D-22
Las Vegas, Nevada 89106

Donald H. Williams
Licensed in Nevada

Telephone (702) 320-7755
Facsimile (702) 320-7760

Jerry A. Wiese II
Licensed in Nevada
and Arizona

From the Desk of Jerry A. Wiese II
JERRY A. WIESE II, CHARTERED, a Professional Corporation
Tax I.D. Number: 88-0412191
E-Mail Address: JerryWiese2@aol.com

March 17, 2006

Supreme Court of Nevada
Attn: Clerk of the Court
201 South Carson Street Suite 300
Carson City, Nevada 89701

Re: Clark v. Eighth Judicial District Court #46891

Dear Clerk:

Please find enclosed an original and three copies of our Affidavit in Support of Petition for Writ of Mandamus. I would ask that you file same and return one copy to us, via the enclosed self-addressed, stamped envelope.

Thank you for your anticipated cooperation.

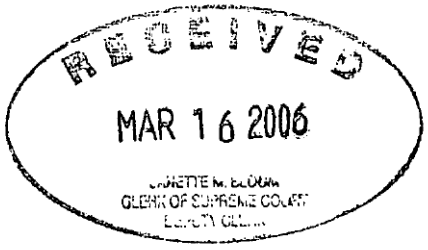
Very truly yours,

WILLIAMS & WIESE

Jerry Wiese

JERRY A. WIESE, II, ESQ.
Dictated but not reviewed

JAW/ach
Enclosures



SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

HENRY CLARK,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHY A. HARDCASTLE, DISTRICT JUDGE,
Respondents,
and
JOEL BETANCOURT, INDIVIDUALLY; CARL A. MARSHALL, INDIVIDUALLY; ATC/VANCOM, INC., AN ILLINOIS CORPORATION; AND ATC/VANCOM OF NEVADA LIMITED PARTNERSHIP,
Real Parties in Interest.

Supreme Court No. 46891
District Court Case No. A482653

NOTICE OF PROCEDURAL DEFICIENCY

TO: Williams & Wiese and Jerry A. Wiese II

The petition for extraordinary relief filed in this docket was not accompanied by the following requisite item(s):

Affidavit of the party beneficially interested or the affidavit of petitioner's attorney, NRS 34.170, 34.330, 34.030, 15.010(1) and (2)

Please submit the above items to the Clerk of the Supreme Court within 10 days of the date of this notice. An original and 2 copies of all documents are required.

DATE: March 10, 2006

Janette M. Bloom, Clerk of Court

By: _____
Deputy Clerk

cc: Gentile & Howard
Alverson Taylor Mortensen & Sanders and Kurt R. Bonds and Amanda K. Krusey

Docket Number - 46891



Document Year - 2006



Document Number - 11076



Brief

Document Type - 10179



IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY CLARK,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, THE HONORABLE KATHY A. HARDCASTLE, DISTRICT JUDGE, AND THE HONORABLE JENNIFER TOGLIATTI, DISTRICT JUDGE,
Respondents,
and
JOEL BETANCOURT, INDIVIDUALLY; CARL A. MARSHALL, INDIVIDUALLY; ATC/VANCOM, INC., AN ILLINOIS CORPORATION; AND ATC/VANCOM OF NEVADA LIMITED PARTNERSHIP,
Real Parties in Interest.

No. 46891

FILED

JUN 06 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

WRIT OF MANDAMUS

TO: The Honorable Jennifer Togliatti and the Honorable Kathy A. Hardcastle, Judges of the Eighth Judicial District Court:

WHEREAS, this Court having made and filed its written decision that a writ of mandamus issue,

NOW, THEREFORE, you are instructed to vacate the partial summary judgment, in the case entitled Clark vs. Betancourt, Case No. A482653.

WITNESS The Honorables A. William Maupin, Mark Gibbons, and James W. Hardesty, Associate Justices of the Supreme Court of the State of Nevada, and attested by my hand and seal this 25th day of May, 2006.



Bruce A. Horstmanshoff
Chief Assistant Clerk

RECEIVED
JUN 06 2006
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK
SUPREME COURT
OF
NEVADA

06-11076

JERRY A. WIESE, II, ESQ.
Nevada Bar No. : 005546
501 S. Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone: (702) 320-7755
Facsimile: (702) 320-7760
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

--oOo--

HENRY CLARK,

Plaintiff,

vs.

JOEL BETANCOURT, individually; CARL A. MARSHALL, individually; and ATC/Vancom Inc., an Illinois Corporation; ATC/Vancom of Nevada Limited Partnership; DOES I through V; and ROE CORPORATIONS I through V; inclusive,

Defendants,

CASE NO. : A482653
DEPT NO. : IV

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this the 29th day of May, 2006, a true and correct copy of the attached **WRIT OF MANDAMUS** and **ORDER GRANTING PETITION FOR A WRIT OF MANDAMUS**, were served by depositing the same with the U.S. Postal Service, via First Class U.S. Mail, with postage affixed thereto, and addressed to the following:

KURT R. BONDS, ESQ.
ALVERSON, TAYLOR, MORTENSEN,
NELSON & SANDERS
7401 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorney for Defendants

LAW OFFICES OF VALARIE I. FUJII
& ASSOCIATES
VALARIE I. FUJII, ESQ.
3216 W. Charleston Blvd., Suite A
Las Vegas, Nevada 89102
Attorney for Betancourt

RECEIVED
JUN 06 2006
JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

WILLIAMS & WIESE
Attorneys at Law
501 South Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone (702) 320-7755 Facsimile (702) 320-7760

MARK GENTILE, ESQ.
GENTILE & HOWARD
1640 Alta Drive, #12
Las Vegas, Nevada 89106
Attorney for Betancourt

Honorable Judge Jennifer Togliatti
Regional Justice Center
Dist. Ct., Department 9
200 Lewis Ave.
Las Vegas, Nevada 89101

Honorable Judge Kathy Hardcastle
Regional Justice Center
Dist. Ct., Department 4
200 Lewis Ave.
Las Vegas, Nevada 89101

DATED this 29 day of May, 2006.

WILLIAMS & WIESE

By: _____
JERRY A. WIESE II, ESQ.
Nevada Bar No. 5546
501 S. Rancho Drive, Suite D-22
Las Vegas, Nevada 89016
Attorney for Plaintiff

WILLIAMS & WIESE
Attorneys at Law
501 South Rancho Drive, Suite D-22
Las Vegas, Nevada 89106
Telephone (702) 320-7755 Facsimile (702) 320-7760