

SUPREME COURT OF NEVADA

Aerogrow International, Inc. v. District Court (Radoff)

Aerogrow, 2021 NV 76 (Nev. 2021) · No. 82895 · Decided December 9, 2021

OPINION

PER CURIAM.

82895: Case View Nevada Appellate Courts Appellate Case Management System C-Track, the browser based CMS for Appellate Courts Case Search Participant Search Cases Case Search Participant Search 21-35060: This document is currently unavailable. If you need a copy of this document, please contact Clerk's Office at (775)684-1600. Disclaimer: The information and documents available here should not be relied upon as an official record of action.Only filed documents can be viewed.

Some documents received in a case may not be available for viewing.Some documents originating from a lower court, including records and appendices, may not be available for viewing.For official records, please contact the Clerk of the Supreme Court of Nevada at (775) 684-1600. Case Information: 82895 Short Caption:AEROGROW INT'L, INC. VS. DIST. CT. (RADOFF)Court:Supreme Court Related Case(s):83835 Lower Court Case(s):Clark Co. - Eighth Judicial District - A827665Classification:Original Proceeding - Civil - Mandamus Disqualifications:Case Status:Notice in Lieu of Remittitur Issued/Case Closed Replacement:Panel Assigned: En Banc To SP/Judge:SP Status: Oral Argument:Oral Argument Location: Submission Date:09/15/2021How Submitted: + Party Information RoleParty NameRepresented By PetitionerAerogrow International, Inc.Travis F. Chance (Brownstein Hyatt Farber Schreck, LLP/Las Vegas) Marjorie P. Duffy (Jones Day/Columbus) Maximilien D. Fetaz (Brownstein Hyatt Farber Schreck, LLP/Las Vegas) Ashley F. Heintz (Jones Day/Atlanta) Kirk B. Lenhard (Brownstein Hyatt Farber Schreck, LLP/Las Vegas) Real Party in InterestAlan Budd ZuckermanKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAlexander PerelbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAlfredo GomezKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAlfredo Gomez FMT CO Cust IRA RolloverKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAmy PerelbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAndrew Reese Rickman TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestAnne Carol DeckerKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in

InterestBradley Louis RadoffAlexander K. Calaway (Marquis Aurbach Coffing) Terry A. Coffing (Former) (Marquis Aurbach Coffing) Tye S. Hanseen (Marquis Aurbach Coffing) Real Party in InterestBrian PeierlsKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestBryan RobsonKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestCandace KayeKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestCarole L. McLaughlinKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestCathay C. WangKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestDana PerelbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestDaniel G. HofsteinKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestDarcy J. WeissenbornKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestDiana BoydKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestFred M. AdamczykKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestGary PerelbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestGeorge C. Betke, Jr. 2019 TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestH.L.

Severance, Inc. Pension Plan & TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestH.L. Severance, Inc. Profit Sharing Plan & TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestJack WalkerKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestJames D. Rickman, Jr.Kendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestJames D. Rickman, Jr. Irrevocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestJohn C. FischerKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestJoseph E. PeterKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestKaren HardingKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestKevin JohnsonKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestLaura J. KobyKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestLawrence GreenbergKendra J. Jepsen (Simons Hall Johnston

PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestLinda PerelbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestLisa Dawn WangKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestMarlon Dean Alessandra TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestMichael S. BarishKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestPatricia D. Rickman Irrevocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestPatricia GreenbergKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestRichard Alan Rudy Revocable Living TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestScott Joseph Rickman Irrevocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestStephen KayeKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestSuraj VasanthKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Alexander Perelberg IraKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Carol W. Smith Revocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Deutsch Family TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Margaret S. Weissenborn Revocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Michael S. Barish IraKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Natalie Wolman Living TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Really Cool GroupKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Stanton F. Weissenborn IraKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Stanton F. Weissenborn Irrevocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThe Stanton F. Weissenborn Revocable TrustKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThomas C. AlbaneseKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThomas H. DeckerKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestThomas K. SmithKendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in InterestWayne Sicz IRAKendra J. Jepsen (Simons

Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in Interest Wayne Sicz Roth IRA Kendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Real Party in Interest William A. Almond, III Kendra J. Jepsen (Simons Hall Johnston PC/Reno) J. Robert Smith (Simons Hall Johnston PC/Reno) Respondent Elizabeth Goff Gonzalez Respondent The Eighth Judicial District Court of the State of Nevada, in and for the County of Clark Docket Entries Date Type Description Pending? Document
05/13/2021 Filing Fee Filing fee paid.

E-Payment \$250.00 from Maximilien D. Fetaz. (SC) 05/13/2021 Petition/Writ Filed Petition for Writ of Mandamus to Reverse District Court's Order Granting Joint Motion to Compel. (SC) 21-13771 05/13/2021 Motion Filed Aerogrow International, Inc.'s Emergency Motion Under NRAP 27(e) for Expedited Review and Stay of Order Granting Joint Motion to Compel. (SC) 21-13774 05/13/2021 Notice/Incoming Filed Notice of Appearance for Pro Hac Vice's.

(SC) 21-13776 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 1. (SC) 21-13778 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 2. (SC) 21-13779 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 3. (SC) 21-13780 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 4. (SC) 21-13781 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 5.

(SC) 21-13782 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 6. (SC) 21-13783 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 7. (SC) 21-13784 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 8. (SC) 21-13786 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 9. (SC) 21-13787 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 10.

(SC) 21-13788 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 11. (SC) 21-13789 05/13/2021 Appendix Filed Appendix to Petition for Writ - Volume 12. (SC) 21-13790 05/14/2021 Order/Procedural Filed Order Directing Answer and Granting Temporary Stay. Answer due: 7 days.

We temporarily stay the subject district court order pending our receipt and consideration of any timely opposition to the stay motion and further order of this court. (SC) 21-14031 05/20/2021 Notice/Incoming Filed Real Party in Interest (Bradley Louis Radoff) Notice of Appearance for Alexander K. Calaway. (SC) 21-14568 05/21/2021 Notice/Incoming Filed Real Parties in Interests' Notice of Appearance for J. Robert Smith and Kendra J. Jepsen.

(SC) 21-14664 05/21/2021 Petition/Writ Filed Real Parties in Interest's Joint Answer to Petition for Writ of Mandamus to Reverse District Court's Order Granting Joint Motion to Compel. (SC) 21-14714 05/27/2021 Notice/Incoming Filed Notice of Change of Firm Address (Brownstein Hyatt Farber Schreck, LLP). (SC) 21-15185 05/28/2021 Order/Procedural Filed Order Granting Stay.

On May 14, this court ordered an answer and granted a temporary stay pending our receipt and consideration of any opposition to petitioner's emergency stay motion. Although real parties in interest timely filed their answer, they have not opposed the stay motion.

Therefore and based on the NRAP 8(c) factors, the motion is granted and the district court's order will remain stayed pending our consideration of this writ petition and further order of this court. (SC).21-15350 09/15/2021Order/ProceduralFiled Order Submitting for Decision Without Oral Argument. Cause appearing, oral argument will not be scheduled and this appeal shall stand submitted for decision to the Southern Nevada Panel as of the date of this order on the briefs filed herein.

(SC)21-26696 12/09/2021Opinion/DispositionalFiled Authored Opinion. "Petition granted." Before: Parraguirre/Stiglich/Silver. Author: Parraguirre, J. Majority: Parraguirre/Stiglich/Silver. 137 Nev. Adv. Opn. No. 76. SNP21-RP/LS/AS. (SC).21-35060 12/09/2021WritIssued Writ with letter. Original and two copies of writ and copy of opinion mailed to Maximilien D. Fetaz for service upon Chief Judge and Department 11 of the 8th Judicial District Court.

(SC)21-35078 12/13/2021Notice/IncomingFiled Proof of Service of Writ of Mandamus and Opinion. (SC)21-35373 12/20/2021WritFiled Returned Writ. Original Writ returned. Served on Judge Linda Marie Bell, Presiding Judge Eighth Dist. Ct. and Judge Mark Denton on December 13, 2021. (SC)21-36235 12/20/2021MotionFiled Real Parties in Interest's Joint Motion for Extension of Time to File Petition for Rehearing.

(SC)21-36268 01/07/2022Order/ProceduralFiled Order Granting Motion. Real parties shall have until January 26, 2022, to file and serve a petition for rehearing. If no petition for rehearing is filed within this time period, the clerk shall issue the notice in lieu of remittitur. (SC)22-00767 01/10/2022Notice/IncomingFiled Real Parties in Interest's Notice of Appearance and Change of Counsel.

(SC)22-00914 01/26/2022Post-Judgment PetitionFiled Petition for Rehearing. (SC)22-02674 01/26/2022Filing FeeFiling fee paid. E-Payment \$150.00 from J. Robert Smith. (SC) 02/07/2022Order/ProceduralFiled Order Directing Answer to Petition for Rehearing. Petitioner's Answer due: 14 days. (SC)22-04074 02/22/2022Post-Judgment PetitionFiled Petitioner's Answer to Real Parties in Interest's Petition for Rehearing.

(SC)22-05737 03/15/2022Post-Judgment OrderFiled Order Denying Rehearing. "Rehearing Denied." NRAP 40(c). (SC)22-08213 03/25/2022MotionFiled Real Parties in Interests' Joint Motion for Extension of Time to File Petition for En Banc Reconsideration. (SC)22-09427 03/30/2022Order/ProceduralFiled Order Granting Motion. Real parties shall have until April 28, 2022, to file and serve a petition for en banc reconsideration.

If no petition for en banc reconsideration is timely filed, the clerk of this court shall issue the notice in lieu of remittitur. (SC)22-09823 04/28/2022Post-Judgment PetitionFiled Real Parties in Interest Petition for En Banc Reconsideration. (SC)22-13575 05/13/2022Post-Judgment OrderFiled Order Denying En Banc Reconsideration.

Having considered the petition on file herein, we have concluded that en banc reconsideration is not warranted. NRAP 40A. Accordingly, we "ORDER the petition DENIED." EN BANC (SC)22-15241 06/07/2022RemittiturIssued Notice in Lieu of Remittitur/Reconsideration. (SC)22-18020 06/07/2022Case Status UpdateNotice in Lieu of Remittitur Issued/Case Closed. (SC) Combined Case View