

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLUB VISTA FINANCIAL SERVICES, L.L.C.,
A NEVADA LIMITED LIABILITY COMPANY;
THARALDSON MOTELS II, INC., A NORTH
DAKOTA CORPORATION; AND GARY D.
THARALDSON,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR
THE COUNTY OF CLARK; AND THE
HONORABLE MARK R. DENTON, DISTRICT
JUDGE,

Respondents,

and

SCOTT FINANCIAL CORPORATION, A
NORTH DAKOTA CORPORATION;
BRADLEY J. SCOTT; BANK OF OKLAHOMA,
N.A., A NATIONAL BANK; GEMSTONE
DEVELOPMENT WEST, INC., A NEVADA
CORPORATION; AND ASPHALT PRODUCTS
CORP. D/B/A APCO CONSTRUCTION, A
NEVADA CORPORATION,
Real Parties in Interest.

No. 57641

FILED

JAN 31 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER GRANTING TEMPORARY STAY AND DIRECTING ANSWER

This original petition for a writ of mandamus or prohibition challenges a district court order allowing the depositions of petitioners' counsel. Petitioners seek an emergency stay of the depositions, as a district court stay expires today.

We have considered petitioners' motion for a stay, and we conclude that a temporary stay, pending receipt and consideration of any opposition, is warranted. In determining whether to grant a stay pending review of a writ petition, this court considers the following factors: (1) whether the object of the petition will be defeated if the stay is not granted, (2) whether petitioners will suffer irreparable or serious injury if the stay is denied, (3) whether real parties in interest will suffer irreparable or serious injury if the stay is granted, and (4) whether petitioners are likely to prevail on the merits. NRAP 8(c); see also Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 6 P.3d 982 (2000). At this point, petitioners have demonstrated that these factors militate in favor of a stay. Accordingly, we grant petitioners' motion and temporarily stay the depositions of petitioners' counsel, pending receipt and consideration of any opposition and further order of this court.

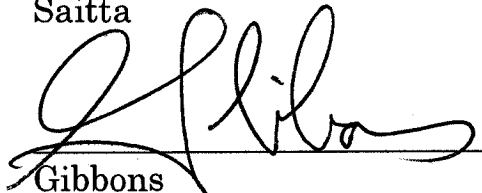
Also, having reviewed the petition, it appears that petitioners have set forth issues of arguable merit and that petitioners may have no plain, speedy, and adequate remedy in the ordinary course of the law. Therefore, the real parties in interest, on behalf of respondents, shall have 30 days from the date of this order within which to file an answer, including authorities, against issuance of the requested writ. In addition to any other points, the answer shall address whether this court should adopt the three-factor test set forth in Shelton v. American Motors Corp., 805 F.2d 1323 (8th Cir. 1986), and include an analysis applying that test to the instant case. The answer shall also explain the timing of real parties in interest's attempts to depose petitioners' counsel, in light of the October 2009 detailed answers to interrogatories, the May 2010

depositions of Gary Tharaldson and Ryan Kucker, the discovery cutoff of November 19, 2010, and the trial set for March 8, 2011. Petitioners shall have 15 days from service of the answer to file and serve any reply.

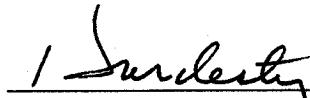
It is so ORDERED.

 _____, J.

Saitta

 _____, J.

Gibbons

 _____, J.

Hardesty

cc: Hon. Mark R. Denton, District Judge
Cooksey, Toolen, Gage, Duffy & Woog
Lemons, Grundy & Eisenberg
Morrill & Aronson, P.L.C.
Frederic Dorwart Lawyers
Howard & Howard
Kemp, Jones & Coulthard, LLP
Lewis & Roca, LLP/Las Vegas
Patrick K. Smith
Eighth District Court Clerk