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IN THE SUPREME COURT OF THE STATE OF NEVADA

CLUB VISTA FINANCIAL SERVICES,
L.L.C., a Nevada Limited Liability Company;
THARALDON MOTELS II, INC., a North
Dakota corporation; and GARY D.
THARALDSON,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT, COUNTY OF CLARK, STATE OF
NEVADA, 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; ASPHALT PRODUCTS
CORPORATION D/B/A APCO
CONSTRUCTION, a Nevada corporation,

Real Parties in Interest.

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Case No.: 57641

District Court Case: A579963

**EMERGENCY MOTION FOR EXPEDITED TREATMENT
OF WRIT PROCEEDING (Under Rule 27(e)) & MODIFICATION OF DUE
DATE FOR REPLY BRIEF UNDER JANUARY 31, 2011, ORDER**
Relief Needed Before February 15, 2011

J. Randall Jones
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*Attorneys for Real Parties in Interest
SCOTT FINANCIAL CORPORATION and
BRADLEY J. SCOTT*

I.

INTRODUCTION

This is a writ proceeding that seeks to overturn the decisions of Special Master Hale and Eighth Judicial District Court Judge Denton allowing the limited depositions of Petitioners' out-of-state trial counsel, whom Petitioners listed among the witnesses "with discoverable information" on their 16.1 disclosure and have identified as the only source of knowledge of the facts supporting their 57-page complaint. Petitioners' efforts to stall these depositions began last September. Mr. Morrill and Mr. Aronson's detour to their home court in Arizona for an order quashing the subpoenas first served on them in Arizona delayed the resolution of this matter by the special master and district court judge with decisional authority over this discovery issue. As a result, the real parties in interest now find themselves in the middle of this writ proceeding less than four weeks from trial, and without the ability to proceed with this crucial, court-compelled discovery.

The Order Granting Temporary Stay and Directing Answer ("Order") ordered the Real Parties in Interest to answer the Petition by March 2nd, with the Petitioners' reply due 15 days later. To expedite the conclusion of this writ proceeding, Real Parties Scott Financial and Brad Scott ("Scott") filed their answer three weeks early on February 7th. **Scott now moves this Honorable Court to expedite this proceeding so that the parties can finish these depositions and keep their March 8th trial date.**

II.

ARGUMENT

Rule 2 of the Nevada Rules of Appellate Procedure states, "On its own or a party's motion, the Supreme Court may - **to expedite its decision** or for other good cause – suspend any provision of these Rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b)." N.R.A.P. 2 (emphasis added). There is good cause to expedite this writ proceeding. **The**

1 **bifurcated trial of this matter is scheduled to start in 27 days on March 8, 2011.**

2 Petitioners' reply brief is due under this Court's Order on February 22nd, but that
3 leaves very little time for this Court to issue a decision before trial begins. If Scott
4 was able to prepare and file its answer and supplemental appendix in a single week
5 despite being given 30 days, certainly Petitioners could complete their reply in less
6 than the 15 currently allotted days. Accordingly, Scott requests that this Court
7 expedite the resolution of this writ by shortening Petitioners' reply-brief deadline to
8 February 15th and then issuing a decision on the writ no later than March 2, 2011, so
9 that the trial date is not disturbed.

10 This writ proceeding may be the first of many efforts by Petitioners to delay
11 trial and the enforcement of their obligation to repay more than \$100 million in loans.
12 Petitioners Gary Tharaldson (a billionaire businessman from North Dakota) and
13 Tharaldson Motels II, Inc. (one of Tharaldson's many business entities) guaranteed
14 construction loans totaling approximately \$110 million to build a mixed-use
15 residential and commercial project in Clark County, Nevada. When the loans went
16 into default, triggering the guaranties, Petitioners recognized they had no real
17 defenses; to deflect the inevitable claims that were about to be initiated against them,
18 Petitioners filed a spurious, preemptive-strike complaint against Scott and other
19 lenders. So the real crux of this case – the breach of contract and guaranty claims –
20 became counterclaims instead of the initial offensive blow. Having recently lost more
21 than half a dozen motions for summary judgment and unsuccessfully opposing
22 Scott's motion to bifurcate the bench-trial and jury-trial claims, Petitioners appear to
23 be gearing up for another petition filing, this time challenging the District Court's
24 enforcement of their bold and conspicuous jury trial waiver on the guaranty-based
25 claims. Such blatant stall tactics must not be condoned, and all efforts should be
26 undertaken to ensure that the March 8th trial goes forward on schedule.

27 . . .

III.

CONCLUSION

Scott requested Messrs. Morrill and Aronson's depositions last fall, leaving ample time to fairly and reasonably resolve any discovery dispute. The gamesmanship and related dilatory tactics of these out-of-state attorneys are the only reasons these depositions were not completed before the discovery deadline ran. The March 8th trial date must not be a casualty of their delay. Accordingly, Scott respectfully requests that this Court expedite the conclusion of this writ proceeding by ordering Petitioners to file any reply brief no later than February 15th, with no extensions allowed, and issue a decision by March 2, 2011.

DATED this 9th day of February, 2011.

Respectfully submitted by:

KEMP, JONES & COULTHARD, LLP

/s/ J. Randall Jones
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NRAP 27(e) CERTIFICATE OF COUNSEL FOR MOVANT

The undersigned hereby certifies that this motion was served on the persons listed in the Certificate of Service by email (to the email addresses listed in the Certificate of Service) immediately prior to the electronic filing of this emergency motion with this Court. The phone numbers and email addresses of these attorneys are also listed below in the Certificate of Service. The facts showing the existence and nature of the claimed emergency are fully briefed above but include the following: (1) trial of this matter is scheduled to commence on March 8, 2011; (2) this Court's January 31, 2011, Order Granting Temporary Stay and Directing Answer

1 currently gives Petitioners until February 22, 2011, to file their Reply in Support of
2 the Petition for Writ of Mandamus or Prohibition, but that leaves very little time for
3 this Court to issue a decision prior to the commencement of the March 8, 2011, trial;
4 and (3) the undersigned is requesting that the time for Petitioners' reply be shortened,
5 and that they be ordered to file any reply on or before February 15, 2011.
6 Accordingly, relief is needed in less than 14 days.

7
8 /s/ J. Randall Jones
9 J. RANDALL JONES, ESQ. (1927)
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15 *Attorneys for Scott Financial Corporation*
16 *and Bradley J. Scott*

17
18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on the 9th day of February, 2011, the foregoing EMERGENCY
20 MOTION FOR EXPEDITED TREATMENT OF WRIT PROCEEDING (Under Rule 27(e)) &
21 MODIFICATION OF DUE DATE FOR REPLY BRIEF UNDER JANUARY 31, 2011, ORDER
22 (Relief Needed Before February 15, 2011) was served on the following person(s) by U.S. Mail
23 and by email to the email addresses below:

24 Honorable Mark R. Denton
25 Department 13
26 Eighth Judicial District Court
27 200 Lewis Avenue
28 Las Vegas, Nevada 89155
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