

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 FOR 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; ASPHALT PRODUCTS
CORPORATION, dba APCO
CONSTRUCTION, a Nevada Corporation

Real Parties in Interest.

Case No.: 57641

Electronically Filed
Jul 21 2011 10:51 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

**PETITIONERS' MOTION FOR
LEAVE TO FILE SUPPLEMENTAL
REPLY IN SUPPORT OF PETITION
FOR WRIT OF MANDAMUS OR
PROHIBITION**

Marquis Aurbach Coffing
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
MICAH S. ECHOLS, ESQ.
Nevada Bar No. 8437
DAVID T. DUNCAN, ESQ.
Nevada Bar No. 9546
10001 Park Run Drive
Las Vegas, Nevada 89145

Lemons, Grundy & Eisenberg
ROBERT L. EISENBERG, ESQ.
Nevada Bar No. 950
6005 Plumas Street, Suite 300
Reno, Nevada 89519

Greenberg Traurig, LLP
MARK E. FERRARIO, ESQ.
Nevada Bar No. 1625
BRANDON E. ROOS, ESQ.
Nevada Bar No. 7888
TAMI D. COWDEN, ESQ.
Nevada Bar No. 8994
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, Nevada 89109

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Morrill & Aronson, P.L.C.
K. LAYNE MORRILL, ESQ.
Arizona Bar No. 4591 (Pro Hac Vice)
MARTIN A. ARONSON, ESQ.
Arizona Bar No. 9005 (Pro Hac Vice)
JOHN T. MOSHIER, ESQ.
Arizona Bar No. 7460 (Pro Hac Vice)
One E. Camelback Road, Suite 340
Phoenix, Arizona 85012

Cooksey, Toolen, Gage, Duffy & Woog
GRIFFITH H. HAYES, ESQ.
Nevada Bar No. 7374
MARTIN A. MUCKLEROY, ESQ.
Nevada Bar No. 9634
3930 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169

Attorneys for Petitioners

1 On January 31, 2011, this Court entered its Order Granting Temporary Stay and
2 Directing Answer. Within this order, the Court directed the Real Parties in Interest to
3 address the three-factor test set forth in Shelton v. American Motors Corp.,¹ as well as the
4 timing of Real Parties in Interest's attempts to depose petitioners' counsel. Notably, in
5 addition to ordering Real Parties in Interest to answer Petitioners' writ petition, the Court
6 also allowed Petitioners "15 days from service of the answer to file and serve any reply."

7 As of July 12, 2011, this Court has allowed the Scott Defendants to file a
8 supplement to their answer which essentially argues that the substitution of Petitioners'
9 counsel in the District Court (but not in this Court) somehow changes the legal analysis
10 of the issues before the Court in this original proceeding. Yet, the Scott Defendants' rely
11 purely upon the argument of counsel without citing any legal authority. As such,
12 Petitioners should now be given the opportunity to address the Scott Defendants' new
13 arguments.

14 In keeping with the leave previously granted in the Court's January 31, 2011
15 order, Petitioners request that this Court grant them leave to file a supplemental reply in
16 support of petition for writ of mandamus or prohibition. Aside from this Court's order
17 previously authorizing a reply, NRS 34.260 also provides the legal basis in mandamus
18 proceedings for the Court to "grant time for replying." Petitioners' supplemental reply in
19 support of petition for writ of mandamus or prohibition has been submitted to the Court
20 and provisionally filed based upon this Court's order granting this motion for leave.

21 ///

22 ///

23 ///

24
25 _____
26 ¹ 805 F.2d 1323 (8th Cir. 1986).

1 Therefore, the Court should grant this motion for leave to allow Petitioners to file their
2 supplemental reply in support of petition for writ of mandamus or prohibition.

3 Dated this 21st day of July, 2011.

4
5 MARQUIS AURBACH COFFING

6 By /s/ Terry A. Coffing
7 TERRY A. COFFING, ESQ.
8 Nevada Bar No. 4949
9 MICAH S. ECHOLS, ESQ.
10 Nevada Bar No. 8437
11 DAVID T. DUNCAN, ESQ.
12 Nevada Bar No. 9546
13 10001 Park Run Drive
14 Las Vegas, Nevada 89145
15 *Attorneys for Petitioners*
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITIONERS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL REPLY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS OR PROHIBITION** was filed electronically with the Nevada Supreme Court on the 21st day of July, 2011. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Tami Cowden, Esq.
Mark Ferrario, Esq.
Wade Gouchnour, Esq.
Matthew Carter, Esq.
Robert Eisenberg, Esq.
Gwen Mullins, Esq.
Matthew Carter, Esq.
J. Randall Jones, Esq.
Von Heinz, Esq.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

The Honorable Mark R. Denton
Eighth Judicial District Court, Dept. 13
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
Respondents

Griffith H. Hayes, Esq.
Martin A. Muckleroy, Esq.
Cooksey, Toolen, Gage, Duffy & Woog
3930 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
Attorneys for Petitioners

K. Layne Morrill, Esq.
Martin A. Aronson, Esq.
John T. Moshier, Esq.
Morrill & Aronson, P.L.C.
One E. Camelback Road, Suite 340
Phoenix, AZ 85012
Attorneys for Petitioners

1 Mark M. Jones, Esq.
2 Kemp, Jones & Coulthard, LLP
3 3800 Howard Hughes Parkway, Seventeenth Floor
4 Las Vegas, NV 89169
5 *Attorneys for Scott Financial Corporation and Bradley L. Scott*

6 Ann Marie McLoughlin, Esq.
7 Lewis and Roca, LLP, Suite 600
8 3993 Howard Hughes Parkway
9 Las Vegas, NV 89169
10 *Attorneys for Bank of Oklahoma*

11 John D. Clayman, Esq.
12 Piper Turner, Esq.
13 Frederick Dorwart Lawyers
14 Old City Hall
15 124 East Fourth Street
16 Tulsa, OK 74103
17 *Attorneys for Bank of Oklahoma*

18 Robert L. Rosenthal, Esq.
19 Howard & Howard
20 3800 Howard Hughes Parkway, Suite 1400
21 Las Vegas, NV 89169
22 *Attorneys for Defendant APCO*

23 P. Kyle Smith, Esq.
24 Smith Law Office
25 10161 Park Run Drive
26 Las Vegas, NV 89145
Attorneys for Gemstone Development West, Inc.

/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing