

IN THE SUPREME COURT OF THE STATE OF NEVADA

MB AMERICA, INC., a
Nevada corporation

Appellant

vs.

ALASKA PACIFIC LEASING
COMPANY, a Alaska Business
corporation; and DOES I through X,
inclusive,

Respondent

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Dec 03 2014 04:03 p.m.
Tracie K. Lindeman
Clerk of Supreme Court


Case No.: 66860

**RESPONDENT ALASKA PACIFIC LEASING COMPANY'S RESPONSE TO
APPELLANT MB AMERICA, INC.'S DOCKETING STATEMENT**

Pursuant to NRAP 14(f), Respondent Alaska Pacific Leading Company
("Alaska Pacific") hereby provides this Response to Appellant MB America, Inc.'s
("MB") Docketing Statement filed on November 25, 2014.

DATED this 3rd day of December, 2014.

LAXALT & NOMURA, LTD.



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Attorneys for Respondent

1 This action involves a dispute between MB and Alaska Pacific arising from a
2 Dealership Agreement ("the Agreement") under which Alaska Pacific was to sell
3 crushing attachments and other products for MB in Alaska. The Agreement requires
4 disputes or questions under the Agreement be submitted to mediation prior to filing a
5 lawsuit. MB never made a demand to mediate in Reno prior to filing suit, but filed a
6 lawsuit in Nevada and requested the following relief in its Complaint: (1) the Court
7 find the Agreement valid and binding; and (2) "Defendant is not entitled to any relief
8 as claimed by Defendant" under the Agreement. *MB's Docketing Stmt., Ex. A* ¶ 12.
9 MB also requested the Court order the parties to mediation. *Id.* ¶ 16. Alaska Pacific
10 filed a motion for summary judgment on the basis the action was premature under the
11 Agreement. Alaska Pacific separately moved the Court to stay case events (e.g. early
12 case conference, trial setting) until a decision on the Motion for Summary Judgment.
13 A stipulation and order was later entered staying the case until a decision on the
14 Motion for Summary Judgment. Also after it was sued, Alaska Pacific requested
15 mediation per the Agreement by filing a request with the AAA regional case
16 management center in Fresno, California. Alaska Pacific's mediation request did not
17 "demand mediation outside of Reno, NV." MB rejected Alaska Pacific's request for
18 mediation. Ultimately, the Court granted the Motion for Summary Judgment and
19 found MB was required to submit the matter to mediation prior to bringing suit. The
20 issue on appeal is whether the district court erred in finding MB was required to
21 exhaust the mediation remedy under the Agreement prior to filing suit.

22 DATED this 3rd day of December, 2014.

23 LAXALT & NOMURA, LTD.

24 

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1 CERTIFICATE OF SERVICE

2 I certify that on this date, I served a copy of the foregoing document upon all
3 counsel of record by:

4 ☐ Mail on all parties in said action, by placing a true copy thereof enclosed in a
5 sealed envelope in a designated area for outgoing mail, addressed as set forth
6 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
7 area is given the correct amount of postage and is deposited that same date in the
8 ordinary course of business, in a United States mailbox in the City of Reno,
County of Washoe, Nevada.

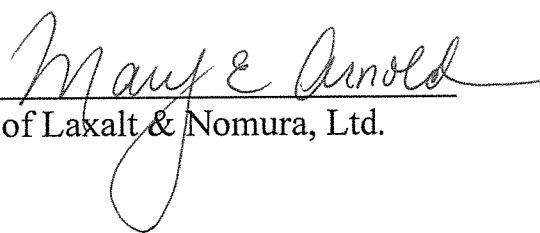
9 ☒ By electronic service by filing the foregoing with the Clerk of Court using the E-
10 Flex system, which will electronically mail the filing to the following
individuals at the email addresses set for the below.

11 ☐ By email to the email addresses below.

12
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18 Dated this 3rd day of December, 2014.

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21 An Employee of Laxalt & Nomura, Ltd.
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