

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA DEPARTMENT
OF TRANSPORTATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
GLORIA STRUMAN, DISTRICT
JUDGE,

Respondents.

and

FRED NASSIRI, INDIVIDUALLY AND
AS TRUSTEE OF THE NASSIRI
LIVING TRUST, A TRUST FORMED
UNDER NEVADA LAW,
Real Party in Interest.

District Court Case No. 70098
No.: 70098

Electronically Filed
Mar 07 2017 09:01 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

MOTION FOR EXPEDITED SETTING OF ORAL ARGUMENT

Real Party in Interest, Fred Nassiri, Individually and as Trustee of the Nassiri Living Trust, A Trust Formed Under Nevada Law, (collectively the “Mr. Nassiri”), by and through their counsel of record Eric R. Olsen, Esq. of the law firm of Garman Turner Gordon LLP, respectfully makes this *Motion for Expedited Setting of Oral Argument*. This motion is brought pursuant to Nevada Rules of Appellate Procedure 27(a) asking that the Court provide an expedited setting of oral argument, for good cause based upon the undue burden and hardship created by the delay in determining the writ of the Petitioner, the Nevada Department of Transportation (“NDOT”).

I. INTRODUCTION & PROCEDURAL HISTORY

The underlying District Court action commenced on November 30, 2012. After protracted discovery and repeated attempts at dispositive motions by NDOT,

Phase I of the trial was conducted before the bench in May 2015, with Judge Gloria Sturman presiding. After subsequent oral arguments, the District Court entered its Findings of Fact, Conclusions of Law and Order, on August 29, 2015. Phase II, a Jury trial on remaining issues, was set for May 31, 2016, a year after Phase I. On April 4, 2016, 11 months after Phase I of the trial and just seven weeks for before Phase II was to begin, NDOT filed its Petition for Writ of Mandamus. The District Court case was stayed pending this Court's review of the Writ.

This Honorable Court ordered Mr. Nassiri to answer the Petition, which he did on June 21, 2016. Mr. Nassiri also agreed on a brief extension of NDOT's deadline for filing a Reply, to July 20, 2016. When NDOT moved for a further extension, Mr. Nassiri opposed and this Court granted an extension to only August 10, 2016, with an admonition to NDOT against further requests. NDOT submitted its Reply by the new deadline.

On November 30, 2016, the Supreme Court entered an order stating that oral argument would be scheduled for the next available *en banc* calendar. As of March 6, 2017, the parties have not been given an oral argument date.

With respect, Mr. Nassiri asks this Court for an expedited setting.

II. AN EXPEDITED SETTING OF ORAL ARGUMENT BENEFITS ALL PARTIES

For Mr. Nassiri's part, the continued existence of this unresolved litigation leaves him in purgatory. He has a claim for damages and a claim for rescission. The pending claims obviously impede Mr. Nassiri's ability to sell the property at the center of the case. Nor has conventional financing of the debt on the property been possible, and the high carrying costs for the property have placed a tremendous burden and hardship on Mr. Nassiri.

NDOT had the right to file a motion to dismiss, then a motion for summary judgement. It later bifurcated trial. Whether NDOT acted in good faith by bringing

another motion for summary after trial Phase I could be debated. Mr. Nassiri believes, however, that waiting until essentially the eve of trial Phase II to petition for a writ was not an act of good faith.

While Mr. Nassiri believes, based on the very procedural record before this Court, that NDOT itself has not acted to move this action forward in good faith, but rather engaged in a war of attrition against one of its citizens, he also believes that the people of the State of Nevada would in fact benefit from an expedited setting of oral argument and a resolution of the Writ that either concludes this action or returns it for a determination by a jury, without further delay.

For his own part, Mr. Nassiri, also a citizen of this state, continues to endure tremendous financial hardship as this case lingers. An expedited setting for oral argument would not eliminate, but would help to mitigate this hardship. No fault lies with this Court but Mr. Nassiri urges the Court to expedite setting of oral argument for the benefit all the true parties in interest.

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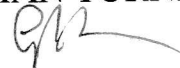
III. CONCLUSION

Based on the foregoing, and for good cause stemming from the undue burden and hardship created by the delay in determining the writ of the Petitioner, Nassiri request that this Court grant this motion and set the oral argument on an expedited basis.

Dated this 6th day of March, 2017.

Respectfully Submitted,

GARMAN TURNER GORDON LLP

By  _____

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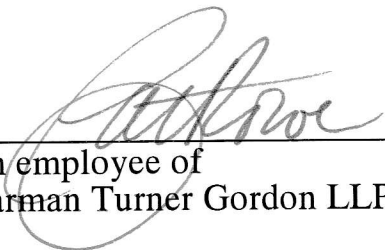
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ATTORNEYS FOR REAL PARTY IN
INTEREST

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION FOR EXPEDITED SETTING OF ORAL ARGUMENT** was filed electronically with the Nevada Supreme Court on the 6th day of March, 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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