

**No. 78092**

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

Tonopah Solar Energy, LLC,  
*Appellant,*

Electronically Filed  
Apr 29 2022 09:07 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

v.

Brahma Group, Inc.  
*Respondent*

Appeal  
Fifth Judicial District Court  
The Honorable Steven Elliott  
District Court Case No. CV 39348

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**MOTION TO REINSTATE APPEAL**

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Through this Motion, Appellant Tonopah Solar Energy, LLC (“TSE”) requests that the Court reinstate its appeal of the Fifth Judicial District Court’s order denying its motion to expunge mechanic’s lien and awarding fees and costs against TSE. On July 30, 2020, TSE filed a voluntary petition for chapter 11 bankruptcy with the Delaware Bankruptcy Court. *See In Re Tonopah Solar Energy, LLC*, Case No. 20-11884- KBO, ECF No. 1, (Bankr. D. Del. 2020). The filing of that petition imposed an immediate automatic stay on this appeal. *See* TSE’s August 24, 2020 Notice of Bankruptcy Filing and Imposition of Automatic Stay (notifying this Court of TSE’s bankruptcy). On August 31, 2020, this Court issued an order dismissing TSE’s appeal without prejudice to TSE’s right to move for reinstatement of this appeal within 90 days of either the lifting of the automatic bankruptcy stay or “final resolution of the bankruptcy proceedings.”

On December 9, 2020, the Bankruptcy Court entered an order confirming the chapter 11 plan for TSE and the plan went into effect on or about December 18, 2020. *See In Re Tonopah Solar Energy, LLC*, Case No. 20-11884- KBO, ECF No. 291, (Bankr. D. Del. 2020). However, on December 23, 2020, three creditors to the bankruptcy proceeding filed a notice of appeal challenging the bankruptcy court’s confirmation of appellant’s bankruptcy plan. On March 9, 2021, TSE filed an Unopposed Motion to Extend the Deadline to Move to Reinstate Appeal. On

March 19, 2021, the Court granted TSE's unopposed motion and ordered that TSE would have 30 days from the date of a final decision on the appeal in *In Re Tonopah Solar Energy, LLC*, Case No. 20-11884-KBO (Bankr. D. Del. 2020).

On March 31, 2022, the United States District Court for the District of Delaware affirmed appellant's bankruptcy plan in full. *In Re Tonopah Solar Energy, LLC*, Case No. 1:20-cv-01749-MN, ECF No. 29, (D. Del., Mar. 31, 2022). To date no appeal to the Third Circuit of the Delaware Federal District Court's order has been filed. Therefore, TSE moves for an order of this Court reinstating its appeal of the Fifth Judicial District Court's order denying its motion to expunge mechanic's lien and awarding fees and costs against TSE. To the extent the three creditors do appeal the Delaware Federal District Court's ruling to the Third Circuit at a later date, TSE reserves its right to request that this Court delay a ruling on this appeal until the Third Circuit has resolved the creditors' appeal.

DATED: April 29, 2022.

/s/ Colby L. Balkenbush

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## CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2022, a true and correct copy of the foregoing **MOTION TO REINSTATE APPEAL** was submitted for filing via the Court's eFlex electronic filing system to the following:

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