

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUPERPUMPER, INC., an Arizona corporation; EDWARD BAYUK, individually and as Trustee of the EDWARD BAYUK LIVING TRUST; SALVATORE MORABITO, an individual; and SNOWSHOE PETROLEUM, INC., a New York corporation,

Appellants,

vs.

WILLIAM A. LEONARD, Trustee for the Bankruptcy Estate of Paul Anthony Morabito,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 79355

APPELLANTS' MOTION TO STAY ISSUANCE OF REMITTITUR

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Pursuant to NRAP 41(b)(3), Appellants, Superpumper, Inc.; Edward Bayuk, individually and as Trustee of the Edward Bayuk Living Trust; Salvatore Morabito; and Snowshoe Petroleum, Inc. (collectively “Defendants”), move this Court to stay the issuance of the remittitur, pending the resolution of Defendants’ petition for a writ of certiorari to the United States Supreme Court. Based upon the Court’s order denying rehearing filed on October 11, 2021, the remittitur would normally issue on November 5, 2021. However, if the Court grants this motion, a stay of the remittitur would remain in place until the final disposition by the United States Supreme Court. *See* NRAP 41(b)(3)(B).

Applying NRAP 41(b)(3)(B), Defendants ask that an initial stay of the remittitur remain in place through February 8, 2022, which is 120 days from this Court’s order denying rehearing, for Defendants to file their petition for a writ of certiorari. According to this rule, once Defendants file their petition in the United States Supreme Court, this initial stay would then be converted into a stay to remain in place until Defendants’ petition for a writ of certiorari is finally resolved by the United States Supreme Court.

According to Supreme Court Rule 10(b) and (c), Defendants can petition the Supreme Court for a writ of certiorari for the following reasons: “(b) a state court of last resort has decided an important federal question in a way that conflicts with the

decision of another state court of last resort or of a United States court of appeals;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.” As the Court is aware, its opinion issued on September 16, 2021 addresses several issues that fall within the scope of United States Supreme Court review, including: (1) whether a state court has subject matter jurisdiction over fraudulent transfer proceedings arising out of bankruptcy proceedings; (2) whether a bankruptcy trustee has standing to pursue claims belonging to certain creditors in the bankruptcy estate; and (3) whether a state court lacks in rem jurisdiction over a trust when the trust is not separately named as a defendant.

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In summary, Defendants respectfully request that this Court grant this motion and stay the issuance of the remittitur under NRAP 41(b)(3)(B) initially until February 8, 2022 and, upon the filing of Defendants' certiorari petition, through the final disposition of their petition and the entire United States Supreme Court case.

Dated this 14th day of October 2021.

CLAGGETT & SYKES LAW FIRM

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPELLANTS' MOTION TO STAY
ISSUANCE OF REMITTITUR** was filed electronically with the Supreme Court of Nevada on the 14th day of October 2021. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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