

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

IN THE MATTER OF THE PETITION
OF CLA PROPERTIES LLC.

SHAWN BIDSAL, AN INDIVIDUAL,
Appellant,

vs.

CLA PROPERTIES LLC, A
CALIFORNIA LIMITED LIABILITY
COMPANY,
Respondent

Case No. 80427

CLA PROPERTIES LLC, A
CALIFORNIA LIMITED LIABILITY
COMPANY,

Appellant,

vs.

SHAWN BIDSAL, AN INDIVIDUAL,
Respondent.

Case No. 80831

**RESPONSE TO APPELLANT'S MOTION FOR AN EXTENSION FOR
THE OPENING BRIEF AND APPENDIX**

Respondent CLA Properties, LLC (CLA) hereby responds to appellant Bidsal's motion for another 30-day extension for the opening brief and appendix. The motion states that it is the second motion for an extension. Although it is the

second motion, it actually seeks a third extension for the opening brief. The first extension was granted by stipulation.

This appeal has been pending for more than nine months, and the court established the briefing schedule more than five months ago. If the court grants the pending motion, Bidsal will have had six months to file the opening brief. CLA anticipates that Bidsal will file additional requests for extensions.

This is an appeal from an order confirming an arbitration award. The dispute involves commercial property located in Las Vegas. In 2011, Bidsal and CLA signed an Operating Agreement for Green Valley Commerce, LLC (“Green Valley”). Green Valley’s sole business is the operation of commercial properties it owns. The Operating Agreement included a buy-out provision. In July 2017, Bidsal started the buy-out process. The parties disagreed regarding the which one would be able to buy the other’s interest. As required by the Operating Agreement, the dispute was referred to arbitration in September, 2017.

The arbitration did not conclude until April 2019, when the arbitrator, Judge Haberfeld, ruled in favor of CLA. Judge Haberfeld ordered that Bidsal had ten days from the final award in which to transfer his fifty percent interest in Green Valley to

CLA for a price computed under the contract formula, with the fair market value component of the formula fixed as \$5 million. Bidsal has never complied with Judge Haberfeld's order.

Following the arbitration award, Bidsal first tried to get it vacated in federal court, but that court dismissed Bidsal's case for lack of federal jurisdiction. Bidsal then challenged the award in the Nevada district court, which confirmed the award. Bidsal appealed.

The parties are now more than three years from when the transfer should have occurred (September 2017). Not only has the dispute in the arbitration not fully resolved, but Bidsal has remained, and still remains, in control of Green Valley's commercial properties. In addition, as Judge Haberfeld's award shows, even though everyone thought the remaining elements of the formula were without dispute, Bidsal subsequently filed a second arbitration challenging formula elements.

Although CLA's principal (Ben Golshani) and Bidsal are both managers of Green Valley, the day-to-day management of the multimillion dollar properties was delegated to Bidsal. The income from each LLC was split evenly. Thus, as long as both Bidsal and Golshani (through CLA) were the owners, whoever was the manager had self-interest to guide his conduct. But that self-interest no longer remained true

with regard to Green Valley once Judge Haberfeld issued his award. If this court affirms the district court's ruling, CLA will be buying Bidsal's interest and the conclusion is inescapable that CLA will be the more likely concerned party over the well-being of Green Valley. Golshani has repeatedly asked Bidsal to step aside and let Golshani take over management during this appeal, but Bidsal has refused.

One might question why Bidsal insists on remaining in control of the property. His claim in the second arbitration has now revealed the answer. After having served as the manager for nine years without ever requesting or receiving payment for his services, Bidsal has now, for the first time, claimed that he should be paid for managing Green Valley's properties. The longer this appeal drags on, and the longer the transfer is delayed, the more compensation Bidsal will claim.

Delaying this case has real life implications for CLA. In addition, CLA contends that Bidsal, Golshani's cousin, is not managing Green Valley's properties efficiently, and has a retribution motivation to let the properties run down and fall into disrepair. Golshani has observed the properties and has seen the disrepair while this appeal has been pending. Based on Golshani's knowledge of the situation, CLA made a motion in the second arbitration to resolve the dispute as to who should continue to run the day-to-day affairs of Green Valley. The second arbitrator, Judge

Wall, denied the motion, without prejudice, finding that although it appears more likely than not that the outcome of the pending appeal will result in a transfer of Bidsal's interest in Green Valley to CLA, such a result is not guaranteed. In other words, although Judge Wall believed that Bidsal would most likely lose this appeal, Judge Wall was not willing to change that management of the properties while the appeal is pending.

Thus, CLA must continue to suffer the mismanagement by Bidsal until this appeal is decided. CLA anticipates that Bidsal's present motion is what may be a continuing series of motions for extensions for the opening brief—and later for the reply brief—delaying the appeal, all of which prejudices CLA.

The motion for extension is based on various grounds. CLA will not comment on whether these are legitimate ground for an extension. But CLA requests the court to evaluate the motion in light of the prejudice caused to CLA by delays in the appeal.¹

¹ Bidsal's motion characterizes this as a "complex appeal." Mot. at 2. It is not unusually complex. It merely involves review of an arbitration award, with the application of well-settled standards of review that required the district court—and will require this court—to give great deference to the arbitrator's decision.

Based on the foregoing, CLA requests the court to deny the motion. Alternatively, if the motion is granted, the court should order that no further motions for extensions for the opening brief will be entertained.

DATED this 28th day of October, 2020.

LEMONS, GRUNDY & EISENBERG

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of LEMONS, GRUNDY & EISENBERG, and on this date the foregoing **Response to appellant's motion for an extension for the opening brief and appendix** was electronically filed with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

James Shapiro
Daniel Polsenberg
Abraham Smith
Louis Garfinkel

I further certify that on this date I served a copy of the foregoing by depositing a true and correct copy, postage prepaid, via U.S. mail to:

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DATED this 28th day of October, 2020.

LEMONS, GRUNDY & EISENBERG

/s/ Lelia Geppert

Lelia Geppert, Assistant to
ROBERT EISENBERG, ESQ.