

1 **1. Balance of Harms**

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3 Notably, although the harm that would result from failure to stay the proceedings is
4 unquestionable, and undisputed by Arnould (wasted resources by both parties and the Court
5 from an unnecessary trial), Arnould does not offer a single argument of any harms that
6 would be suffered by any party if the stay were granted¹. As the balance of equities is the
7 primary factor considered in the granting of a stay, this alone should be largely dispositive
8 of the matter.

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10 **2. Benefits of a Stay**

11 Arnould's argument that the appeal would not affect the case is based on his
12 intentional "forgetting" that the first issue on appeal seeks reversal of a denial of a motion to
13 enforce a global settlement agreement. As Arnould just filed his Answering brief in the
14 appeal, he should be able to remember this. It is simply indisputable that if the previous
15 settlement is enforced, there are no more claims in the case whatsoever, and there would be
16 zero benefit to holding a trial.

17 **3. Factors in Issuing a Stay**

18 Arnould's citation of the *Hansen* factors in granting a stay are improper, as those are
19 specific to a stay of enforcement of a judgment; review of the factors makes clear that the
20 reasoning there simply does not apply when there is no judgment to satisfy. Here, the issue
21 is avoiding the waste of significant resources by both parties and the Court.

22 The only appropriate factors are those contained in NRAP 8(c). Those factors are
23 essentially a balancing of harms to the parties, and an evaluation of the likelihood of success
24 on the merits. This Court has previously held that the likelihood of success factor requires
25 only that the party "present a substantial case on the merits when a serious legal question is
26 involved and show that the balance of equities weighs heavily in favor of granting the stay."

27 ¹ If the reference to Muney receiving value from the dissolution was meant to be a harm, it is incorrect. First,
28 there is no explanation as to how one of the owners receiving a property division that they are entitled to is
a harm resulting from a stay. Second, Suggesting that Muney somehow got a special benefit is novel
considering that he and Arnould were 50% owners of the company, and each was given 50% of the
company. This division occurred over Muney's objection, and can not be considered some sort of windfall.

1 *Fritz Hansen a/s v. Dist. Ct.*, 6 P. 3d 982 (NV Supreme Ct. 2000); *quoting: Ruiz v. Estelle*,
2 650 F.2d 555, 565 (5th Cir.1981). As the matter is clearly a serious legal question (whether
3 a motion for enforcement of settlement can be denied without notice and hearing), and the
4 balance of equities favors Muney (as Arnould has provided no harms to granting the stay),
5 Appellant Muney should be deemed to satisfy this requirement, and the granting of a stay
6 would be proper.

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8 **4. Timeliness**

9 Arnould's argument that the motion is not timely is without merit, as there is no time
10 requirement in statute or case law. The only time issue is one of prejudice, and no prejudice
11 from any delay has been shown. In fact, it was Arnould himself that argued that the
12 company was suffering every day that it was not dissolved; to now argue that the dissolution
13 harmed him is disingenuous. ("Disputes between myself and Muney have arisen and are so
14 deep that it is not reasonably practicable to carry on the business of the Company." Sworn
15 affidavit of Dominique Arnould, Dec. 9, 2019). Arnould's argument that the motion is
16 untimely for being filed prior to entry of the order denying the motion in District Court is
17 also without merit. As this is a motion, and not an appeal, there is no requirement that there
18 be an entry of order prior to filing with the appellate court, only a requirement that efforts
19 were made in the District Court, and that the District Court did not provide the relief
20 requested. As the District Court's Order has now been entered, it is attached as Exhibit 1.
21 Review of the order makes clear that the order was based upon the erroneous belief that the
22 appeal would not resolve any matters set for the trial. (*See Order*, p.2).

23 **CONCLUSION**

24 As the harms of moving forward unnecessarily are clear, and Respondent has been
25 unable to show any harms whatsoever from issuing a stay, it is appropriate to issue a stay
26 pending the outcome of the appeal, so that an entire unnecessary trial is not required.

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28 DATED this 23rd day of June, 2021.

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