

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY J. WILLARD, individually and as
Trustee of the Larry James Willard Trust Fund;
and OVERLAND DEVELOPMENT
CORPORATION, a California corporation,

Appellants,

vs.

BERRY-HINCKLEY INDUSTRIES, a Nevada
corporation; JERRY HERBST, an individual;
and TIMOTHY P. HERBST, as Special
Administrator of the ESTATE OF JERRY
HERBST, deceased,

Respondents.

LARRY J. WILLARD, individually and as
Trustee of the Larry James Willard Trust Fund;
and OVERLAND DEVELOPMENT
CORPORATION, a California corporation,

Appellants,

vs.

BERRY-HINCKLEY INDUSTRIES, a Nevada
corporation; JERRY HERBST, an individual;
and TIMOTHY P. HERBST, as Special
Administrator of the ESTATE OF JERRY
HERBST, deceased,

Respondents.

No. 83640

District Court Case No. CV14-01712

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Elizabeth A. Brown
Clerk of Supreme Court

No. 84848

District Court Case No. CV14-01712

STIPULATION TO CONSOLIDATE APPEALS

This is the third appeal in a commercial lawsuit between the parties. The first appeal, Docket No. 77780, was an appeal from the denial of a motion under NRCP 60(b)(1) for relief from a dismissal order. This court reversed and remanded with instructions on August 6, 2020. After further proceedings on remand, the district court denied the Rule 60(b)(1) motion again, and appellants appealed from the denial. The second appeal is Docket No. 83640, which is still pending, and in which briefing was finished on June 9, 2022.

While the case was on remand, appellants filed a new motion for relief under NRCP 60(b)(5) and (6), which the district court denied on May 10, 2022. Appellants appealed from the denial, and the appeal was docketed in this court on June 13, 2022, as Docket No. 84848.

Docket Numbers 83640 and 84848 are therefore related to each other, with the same parties and related issues. Many of the appendix documents in No. 83640 will be relevant to No. 84848. The parties have conferred and hereby stipulate to the following:

- (1) Appeal Docket Numbers 83640 and 84848 should be consolidated.
- (2) No. 84848 should be removed from the mandatory settlement conference program.¹

¹ The first appeal, No. 77780, was assigned to Settlement Judge Crowley. The settlement conference did not result in a settlement. The second appeal, No. 83640, was removed from the settlement program on the recommendation of Settlement

(3) The court should establish a somewhat expedited briefing schedule in No. 84848, with the opening brief due in 60 days, the answering brief due 30 days thereafter, and the reply brief due 30 days thereafter. The parties will be allowed one telephonic extension of 14 days for each brief, but any additional extensions will be allowed only upon a showing of extreme and unforeseeable circumstances.

(4) The appendix already on file in No. 83640 may be used in No. 84848, without being duplicated separately in No. 84848. The parties may file supplemental appendices in No. 84848, adding new documents not already contained in the appendix in No. 83640.

(5) When briefing is finished in No. 84848, both appeals may be submitted without oral argument.

Dated: June 15, 2022

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Judge Wasick. The parties believe the third appeal, No. 84848, is similarly not appropriate for the settlement conference program.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Lemons, Grundy & Eisenberg, over the age of 18, and not a party within this action.

I further certify that on the 15th day of June, 2022, I electronically filed the foregoing STIPULATION TO CONSOLIDATE APPEALS with the Clerk of the Court by using the electronic filing system, which served the following parties electronically:

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