

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN DATTALA

Petitioner

v.

THE EIGHTH JUDICIAL
DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK, THE
HONORABLE ADRIANA
ESCOBAR,

Respondents,

EUSTACHIUS C. BURSEY and
PRECISION ASSETS and
ACRY DEVELOPMENT LLC and
LILLIAN MEDINA and
WFG NATIONAL TITLE
INSURANCE COMPANY

Real Parties in Interest

Supreme Court No. 83939
District Court No. 19-79435-C
Electronically Filed
Dec 20 2021 03:23 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

BRIEF AS SUPPLEMENT TO

MOTION FOR STAY

Petitioner JOHN DATTALA [Dattala], supplements his Motion for
Stay.

DISCUSSION

An analysis of the factors to be considered when considering a stay
under NRAP 8(c) is set forth below under Fritz Hansen A/S v. Dist. Ct. 116
Nev. 650, 657, 6 P.3d 982, 989 (2000).

1 In deciding whether to issue a stay, this court generally
2 considers the following factors:

3 (1) Whether the object of the appeal or writ petition will be
4 defeated if the stay is denied;

5 (2) Whether appellant/petitioner will suffer irreparable or serious
6 injury if the stay is denied;

7 (3) Whether respondent/real party in interest will suffer
8 irreparable or serious injury if the stay is granted; and

9 (4) Whether appellant/petitioner is likely to prevail on the merits
10 in the appeal or writ petition.

11
12 The factors all mitigate toward granting the stay. First, the object of
13 the appeal will likely be defeated if the stay is denied. Respondent
14 Precision already sold 59 Sacramento Drive on December 13, 2021.
15 [Exhibits 4 and 5] This complicates the title issue. Likely Precision will sell
16 50 Sacramento Drive as soon as possible.
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19 Second, if the stay is denied Dattala will suffer irreparable harm if
20 either of Subject Properties are sold. Real estate is unique "[b]ecause real
21 property and its attributes are considered unique," Dixon v. Thatcher, 103
22 Nev. 414, 416, 742 P.2d 1029, 1030 (1987). Thus Dattala will be
23 irreparably harmed if additional transfers of title to the Subject Property are
24 allowed.
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1 Third, Respondents suffer no irreparable injury because the status
2 quo regarding the Subject Property remains.

3 Fourth, Dattala is likely to prevail on his petition. The FFCL expressly
4 finds that the transfer of titles to Subject Properties were obtained by
5 Bursey from Dattala through forgery and/or fraud. So those transfers are
6 void pursuant to NRS 111.025 and NRS 111.175:
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9 NRS 111.025 Conveyances void against purchasers are void
10 against their heirs or assigns. Every conveyance, charge, instrument
11 or proceeding declared to be void by the provisions of this chapter, as
12 against purchasers, shall be equally void as against the heirs,
successors, personal representatives or assigns of such purchaser

13 NRS 111.175 Conveyances made to defraud prior or subsequent
14 purchasers are void. Every conveyance of any estate, or interest in
15 lands, or the rents and profits of lands, and every charge upon lands,
16 or upon the rents and profits thereof, made and created with the
intent to defraud prior or subsequent purchasers for a valuable
consideration of the same lands, rents or profits, as against such
purchasers, shall be void.

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18 As cited in the Motion, a void sale defeats the competing title of even
19 a bona fide purchaser for value.
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23 /s/ Benjamin B. Childs

24 BENJAMIN B. CHILDS, ESQ.
Attorney for Petitioner

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26 ///

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CERTIFICATE OF MAILING

I hereby certify that on this December 20, 2021, I served this **BRIEF AS SUPPLEMENT TO MOTION FOR STAY** upon the following parties by placing a true and correct copy thereof in the United States Mail in Las Vegas, Nevada with first class postage fully prepaid:

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/s/ Benjamin B. Childs

Benjamin B. Childs
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