

1 ROGER P. CROTEAU, ESQ.  
Nevada Bar No. 4958  
2 TIMOTHY E. RHODA, ESQ.  
Nevada Bar No. 7878  
3 ROGER P. CROTEAU & ASSOCIATES, LTD.  
2810 West Charleston Blvd. #67  
4 Las Vegas, Nevada 89102  
(702) 254-7775  
5 (702) 228-7719 (facsimile)  
[croteaulaw@croteaulaw.com](mailto:croteaulaw@croteaulaw.com)  
6 *Attorney for Appellant*  
A CAB SERIES, LLC, ADMINISTRATION COMPANY  
7  
8  
9

Electronically Filed  
Nov 30 2022 11:13 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

10 IN THE SUPREME COURT OF THE STATE OF NEVADA

11 \*\*\*

12 A CAB SERIES, LLC,  
ADMINISTRATION COMPANY,

13 Appellant,

14 vs.

15 MICHAEL MURRAY; MICHAEL  
16 RENO; AND WELLS FARGO BANK,  
N.A.,

17 Respondents.

Supreme Court No. 84472

District Ct. No. A-19-792961-C

18 **APPELLANT'S MOTION TO STAY APPEAL**

19 **AND TO HOLD ALL DEADLINES IN ABEYANCE**

20 COMES NOW, Appellant, A CAB SERIES, LLC, ADMINISTRATION  
21 COMPANY, by and through its attorneys, ROGER P. CROTEAU &  
22 ASSOCIATES, LTD., and hereby presents its Motion to Stay Appeal and to Hold  
23 all Deadlines in Abeyance. This Motion is made and based upon the attached  
24

//

//

//

//

Memorandum of Points and Authorities and all papers and pleadings on file herein.

DATED this 30<sup>th</sup> day of November, 2022.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda  
ROGER P. CROTEAU, ESQ.  
Nevada Bar No. 4958  
TIMOTHY E. RHODA, ESQ.  
Nevada Bar No. 7878  
2810 West Charleston Blvd. #67  
Las Vegas, Nevada 89102  
(702) 254-7775  
*Attorney for Appellant*  
A CAB SERIES, LLC, ADMINISTRATION  
COMPANY

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **INTRODUCTION**

The State of Nevada is one of a relative few number of states that have enacted laws authorizing series limited liability companies. Further, laws governing series LLC's differ between the various states. To that end, NRS 86.296 governs Nevada limited liability company classes of members or managers and series of members. The instant appeal and underlying case involve series limited liability companies and series and the operation of Nevada law. The Opening Brief is presently due on December 2, 2022, pursuant to this Court's Order dated October 10, 2022. For the reasons set forth below, good cause exists to stay this appeal.

### **STATEMENT OF THE FACTS**

Although Appellant in the instant matter is A Cab Series, LLC, Administration Company ("*Administration Company*"), a series entity, the instant matter involves a number of separate entities, including A Cab Series LLC. At its

1 heart, in the action from whence this appeal arises, Appellant, Administration  
2 Company, alleged that its assets were wrongfully misappropriated to pay a debt  
3 that was owed by A Cab Series LLC, the so called “master LLC” under which  
4 Administration Company was formed. Administration Company was never a  
5 party to the lawsuit from which the judgment that forms the basis for the subject  
6 debt originated.

7 The interpretation of Nevada’s series LLC statute is presently the subject of  
8 a separate appeal pending before this Court, *Federal Housing Finance Agency, et*  
9 *al. v. Saticoy Bay, LLC*, Appeal No. 84370. *Saticoy Bay* involves a certified  
10 question presented to the Supreme Court of Nevada by the Ninth Circuit Court of  
11 Appeals on March 14, 2022 (“*Certified Question*”). This Court accepted the  
12 Certified Question outlined by the Ninth Circuit Court of Appeals pursuant to an  
13 Order dated April 21, 2022. The Certified Question, as framed by the Ninth  
14 Circuit Court of Appeals and accepted by this Court, is as follows:

15 Under Nevada law, must a series LLC created pursuant to Nev. Rev.  
16 Stat. § 86.296 be sued in its own name for a court to obtain  
jurisdiction over it, or may the master LLC under which the series is  
created be sued instead?

17 The answer to the Certified Question posed in *Saticoy Bay* is likely to  
18 greatly affect the instant appeal. Specifically, the answer to the Certified Question  
19 will likely provide significant direction regarding the rights and liabilities of series  
20 and the series limited liability companies under which they are formed. Moreover,  
21 the answer to the Certified Question will almost certainly answer the question of  
22 whether a series must be sued in its own name in order for a court to obtain  
23 jurisdiction over it. This question is exceedingly important in the instant matter  
24 because the question at hand is whether Administration Company – an entity that  
25 was never a party to the suit from which the judgment at issue was issued – may be  
26 legally responsible for the payment of said judgment which was entered against A  
27 Cab Series, LLC, the so-called “master LLC” under which Administration  
28

1 Company was formed. The answer to the Certified Question will not only  
2 determine whether a series must be sued and served with process but will likely  
3 also determine whether each series formed in the State of Nevada is, in fact, a  
4 separate legal entity that enjoys legal personhood.

## 5 **LEGAL ARGUMENT**

### 6 **A. STATEMENT OF THE LAW**

7 A “court may, with propriety, find it is efficient for its own docket and the  
8 fairest course for the parties to enter a stay of an action before it, pending  
9 resolution of independent proceedings which bear upon the case.” *Mediterranean*  
10 *Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983) (*Leyva v.*  
11 *Certified Grocers of California, Ltd.* 593 F.2nd 857, 863-4 (9th Cir. 1979).

12 Factors a court may consider when deciding whether to issue a stay of proceeding  
13 include the interests of the parties, the efficient use of judicial resources, and the  
14 interests of the public and persons not parties to the litigation. *See e.g. Keating v.*  
15 *Office of Thrift Supervision*, 45 F.3d 322, 324-5 (9th Cir. 1995).

### 16 **B. A PRIMARY LEGAL ISSUE OF THIS APPEAL IS CURRENTLY** 17 **THE SUBJECT OF ANOTHER APPEAL PENDING BEFORE THIS** 18 **COURT**

19 A primary issue in the instant appeal is whether the collection of a judgment  
20 that was entered against A Cab Series LLC was properly collected from  
21 Administration Company. A Cab Series LLC is the so-called “master LLC” under  
22 which Administration Company was formed. The writ of execution at issue was  
23 issued against “A Cab LLC and A Cab Taxi Service.” Administration Company  
24 asserts that it is a legal entity separate and apart from A Cab LLC; A Cab Series  
25 LLC and A Cab Taxi Service. Notwithstanding this fact, in response to a writ of  
26 execution, Wells Fargo Bank, N.A., paid over substantial amounts of money from  
27 accounts belonging to entities other than the judgment debtors, including  
28 Administration Company, thereby violating the spirit and purpose of Nevada

1 series limited liability company statute.

2 The factual scenario at hand is quite similar to that of *Saticoy Bay*. In the  
3 case from which *Saticoy Bay* arose, the Complaint identified 37 parcels of real  
4 property that were the subject of homeowners association lien foreclosure sales  
5 conducted in the State of Nevada and sought declaratory relief related to the force  
6 and effect of each of said sales. However, the plaintiff's Complaint named only a  
7 single defendant, Saticoy Bay, LLC, which owned only a single one of the 37  
8 properties. The remaining 36 properties were and are owned by individual series  
9 created under Saticoy Bay, LLC as authorized by Nevada law. Ultimately, the  
10 federal district court granted relief related to all of the real property identified in  
11 the Complaint despite the fact that the owners of 36 of the 37 unique parcels of  
12 real property were not parties to the action at any point in time. This is very similar  
13 to the matter at hand where a judgment was entered against A Cab Series LLC but  
14 then enforced against Administration Company.

15 The Certified Question of *Saticoy Bay* is important and potentially  
16 dispositive to this appeal for two separate but related reasons. First, the answer to  
17 the Certified Question will likely provide insight into the degree of separateness  
18 that exists between a series and the limited liability company under which it is  
19 formed, as well as the extent to which the assets of a series or "master LLC" are  
20 protected from claims against another. In *Saticoy Bay*, Saticoy Bay, LLC has  
21 argued that each and every series formed pursuant to Nev. Rev. Stat. §86.296 is a  
22 separate and distinct legal entity that must be separately sued in order to obtain  
23 relief against it. Indeed, NRS 86.296 provides in pertinent part that "[a] series  
24 may be created as a limited-liability company, without the filing of articles of  
25 organization with the Secretary of State." NRS 86.296 (emphasis added). Thus,  
26 the answer to the Certified Question will likely provide guidance regarding  
27 whether a series is, in fact, a limited liability company which is entitled to the full  
28 protections of NRS Chapter 86 as they relate to assets and liabilities, or whether it

1 is some sort of subdivision of the so-called “master LLC,” without the protections  
2 of NRS Chapter 86 which would normally apply to a limited liability company.

3 Second, the answer to the Certified Question is likely to answer certain  
4 jurisdictional questions that are critical to this matter. The Order appealed from  
5 herein dismissed Administration Company’s lawsuit based in large part upon a  
6 determination that it was barred by issue preclusion despite the fact that  
7 Administration Company was not a party to the original case. It is undisputed  
8 that Administration Company was never a named party to the case in which the  
9 judgment was entered against A Cab Series LLC. However, although  
10 Administration Company was not a party to the original case, the district  
11 determined in a conclusory manner that the record demonstrated a substantial  
12 identity between the parties and disregarded the series LLC statute which  
13 specifically provides for the protection from execution of a judgment against other  
14 series and/or the so-called “master LLC.”

15 Administration Company asserts that it is a legal entity separate and apart  
16 from A Cab Series LLC and that the two entities’ debts are separate and apart  
17 pursuant to N.R.S. 86296(3), which provides:

18 The debts, liabilities, obligations and expenses incurred, contracted  
19 for or otherwise existing with respect to a particular series are  
enforceable against the assets of that series only, and not against the  
assets of the company generally or any other series.

20 The answer to the Certified Question will likely explain the degree to which the  
21 debts and obligations of a series may be collected from a “master LLC,” if at all.  
22 This is an integral issue in this appeal and the answer to the *Saticoy Bay* Certified  
23 Question will likely be of great assistance in its resolution.

24 This Court’s determination of the Certified Question issued in *Saticoy Bay*  
25 could very likely be dispositive of the instant appeal, and this appeal should be  
26 stayed pending its resolution. No matter how the Certified Question is ultimately  
27 decided, it will likely significantly affect the manner in which the instant appeal is  
28

1 resolved.

2 **C. GOOD CAUSE EXISTS TO STAY THIS APPEAL**

3 Persons who create limited liability companies and series operate and  
4 manage their businesses with the understanding that the various series assets,  
5 liabilities and legal matters are isolated to the applicable entities. If NRS 86 did  
6 not provide such protections to series LLCs and their series, the creators and  
7 owners would simply create separate limited liability companies and this appeal  
8 would be moot

9 The ultimate resolution of the Certified Question presented in *Saticoy Bay*  
10 will bear heavily on the instant appeal. The answer to the Certified Question will  
11 give guidance regarding whether limited liability companies and the series that  
12 may be created under them are separate legal persons under the law. It will also  
13 likely provide significant guidance regarding whether a series may be compelled  
14 to satisfy the debts of the “master LLC” under which it was created and vice versa.  
15 Moreover, the answer to the Certified Question will likely explain whether and  
16 when – if at all – a “master LLC” may be sued in lieu of a series. At the very least,  
17 the answer to the Certified Question will significantly impact this appeal.

18 *Saticoy Bay* is presently fully briefed before this Court. As a result, it is  
19 likely that the answer to the Certified Question will be resolved in the relatively  
20 near future. Because the question at issue will soon be addressed, it is appropriate  
21 to stay this appeal. Staying the appeal will avoid unnecessary expenditure of  
22 judicial resources as well as the resources of the parties. At the very least, the  
23 issues in this appeal will likely be significantly simplified and streamlined. To the  
24 extent that any harm might be suffered by the parties as a result of a stay, such  
25 harms are outweighed by the avoidance of expense on the part of the parties and  
26 the outlay of judicial resources by this Court. Indeed, if briefing is completed, it  
27 may be necessary to substantially amend or re-brief the matter at hand after the  
28 Certified Question is answered. Any prejudice that may result from a stay will

1 weigh approximately equally upon the parties. It is very clear that the pending  
2 matters “bear upon the case,” and the parties and the Court will be best served if  
3 the briefing of this appeal is completed based upon the most current and accurate  
4 law.

5 **D. ALTERNATIVELY, AN EXTENSION OF TIME IS WARRANTED**  
6 **BECAUSE APPELLANT HAS RECENTLY RETAINED NEW**  
7 **COUNSEL**

8 To date, the Appellant herein has been represented by attorney Jay Shafer,  
9 Esq. Administration Company has recently retained the law office of Roger P.  
10 Croteau & Associates, Ltd. to prosecute this appeal. As the Court is likely aware,  
11 counsel is also involved in the *Saticoy Bay* Certified Question appeal.

12 Counsel has had the opportunity to review much of the lengthy history  
13 surrounding this appeal. While many of the issues at hand are strikingly similar to  
14 *Saticoy Bay*, there are other aspects of this appeal with which counsel must  
15 familiarize itself. If the Court is not inclined to stay this appeal pending the  
16 resolution of *Saticoy Bay*, Appellant respectfully requests that the deadline to file  
17 the Opening Brief be extended from December 2, 2022, until January 23, 2023.  
18 This would be the third extension of the deadline for filing of the Opening Brief,  
19 but only the first by present counsel.

20 For the reasons set forth herein, Appellant believes that the stay of this  
21 appeal until *Saticoy Bay* is resolved is the most appropriate action. If the Court  
22 does not feel a stay to be appropriate, counsel requires time in which to familiarize  
23 itself with all facets of this matter before preparing the Opening Brief. The  
24 Christmas and New Years Day holidays are rapidly approaching and Appellant’s  
25 counsel will have family visiting for approximately 2 weeks surrounding these  
26 holidays. As a result, in the event that the Court feels that a stay is unnecessary or  
27 inappropriate, counsel respectfully requests a somewhat longer extension of time  
28 than normally would be requested.



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED this 30<sup>th</sup> day of November, 2022.

ROGER P. CROTEAU & ASSOCIATES, LTD.

*/s/ Timothy E. Rhoda*  
 \_\_\_\_\_  
 ROGER P. CROTEAU, ESQ.  
 Nevada Bar No. 4958  
 TIMOTHY E. RHODA, ESQ.  
 Nevada Bar No. 7878  
 2810 West Charleston Blvd. #67  
 Las Vegas, Nevada 89102  
 (702) 254-7775  
*Attorney for Appellant*  
**A CAB SERIES, LLC, ADMINISTRATION**  
**COMPANY**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

  X   VIA ELECTRONIC SERVICE: through the Nevada Supreme Court's eflex e-file and serve system.

\_\_\_\_\_ VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

\_\_\_\_\_ VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

\_\_\_\_\_ VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28