



1. Pursuant to VISCR 8(b), “[r]equests for a stay of the . . . order of the Superior Court pending appeal . . . must ordinarily be made in the first instance to the Superior Court . . . . A motion for such relief may be made to the Supreme Court, but the motion shall show that application to the Superior Court for the relief sought is not practicable or that the Superior Court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the Superior Court for its action.”

2. On January 29, 2015, Yusuf filed his Motion for Stay with supporting Brief and proposed Order in this Court. On February 4, 2015, plaintiff/counterclaim defendant/appellee Mohammad Hamed (“Hamed”) and additional counterclaim defendant/appellee Plessen Enterprises, Inc. (“Plessen”) filed their Oppositions to the Motion For Stay. On February 10, 2015, Yusuf filed his Replies to Hamed’s and Plessen’s Oppositions thereby closing the briefing cycle authorized by LRCi. 7.1, made applicable to proceedings in this Court by Super. Ct. R. 7.

3. The Order and the Plan provide the following with respect to Plaza Extra-West:

Hamed will purchase from the Partnership the following elements of the existing business operation known as Plaza Extra-West: inventory at one half of the landed cost and the equipment at its depreciated value, as mutually determined by the Partners . . . . Upon payment for the inventory, and upon payment . . . for the equipment, Hamed will assume full ownership and control and may continue to operate Plaza Extra-West without any further involvement of Yusuf, Yusuf’s sons or United, and free and clear of any claims or interests of Yusuf or United.

*See Plan at § 8(3).*

4. Pursuant to a Stipulation, which was approved and “so ordered” on January 27, 2015, Hamed and Yusuf have stipulated to the value of the equipment for Plaza Extra-West at \$350,000.

5. Hamed and Yusuf have agreed that RGIS, LLC will perform an inventory of the inventory of goods and supplies held for sale in the three Plaza Extra stores. Currently, RGIS’ inventory for the Plaza Extra-West store is scheduled to be completed on February 18, 2015. Accordingly, pursuant to the terms of the Plan, the assets associated with the Plaza Extra-West store could be transferred to Hamed as early as February 18, 2015.

6. As Yusuf argues in his Motion For Stay and supporting briefs, if the provisions of the Plan concerning Plaza Extra-West are not stayed pending appeal, the Supreme Court may not be able to effectively review the provisions of this Court’s Orders and Plan relating to Plaza Extra-West that Yusuf has appealed from or to unwind the transactions implementing such Orders and Plan including, but not limited to, the provisions of a disputed lease between Plessen Enterprises, Inc. and KAC357, Inc. covering the premises currently occupied by Plaza Extra-West.

7. Yusuf believes he has made a compelling case for issuance of a stay by this Court, and except in this extraordinary situation would simply await the Court’s ruling. Unfortunately, there is an unavoidable urgency to these kinds of motions. Given the upcoming holiday (Presidents’ Day) on Monday, February 16, 2015, unless his Motion For Stay has been resolved by this Court by noon, February 13, 2015, Yusuf feels constrained to advise this Court that he would need to file his Motion For Stay in the Supreme Court immediately thereafter in

order for the Supreme Court to have sufficient time to address the issues to be raised in that motion.

For all of the foregoing reasons, Yusuf respectfully provides this Court with notice of his intent to file a Motion For Stay Pending Appeal in the Supreme Court at 12:01 p.m. on February 13, 2015, unless his Motion For Stay filed in this Court is resolved by that time.

Respectfully Submitted,

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** February 10, 2015

By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of February, 2014, I caused the foregoing **Notice Of Intent To Seek A Determination From The Supreme Court On Motion For Stay Of Portions Of January 7, 2015 Order Pending Appeal By Date Certain If The Superior Court Does Not Resolve Such Motion** to be served upon the following via e-mail:

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