

I N D E X

(No witnesses were called.)

E X H I B I T S

(No exhibits were submitted.)

P R O C E E D I N G S

1
2 THE COURT: Mr. Khamnei, can you hear me?

3 MR. KHAMNEI: I can hear you, Your Honor.

4 THE COURT: Mr. Khamnei, in this case, before we get
5 started, you filed a motion to release escrow funds to the
6 seller and a motion for partial summary judgment. It's,
7 essentially, the same things you've argued in the first
8 case, correct?

9 MR. KHAMNEI: Correct, they're the exact same exhibits.
10 In fact --

11 THE COURT: And you're sending those exhibits to me; is
12 that correct?

13 MR. KHAMNEI: I already have, Your Honor.

14 THE COURT: Good. Good. I've been doing other cases.
15 So for the new stuff, Mr. Willey, you said you had an
16 interpleader motion?

17 MR. WILLEY: No, I have a -- the first motion on the
18 docket is just a motion to stay. And this motion was just
19 to stay this case and it was based on waiting for an outcome
20 in the underlying case. We have no objection to Cobb, Dill
21 & Hammett paying the funds into the Court, but, otherwise,
22 as far as the distribution, we were just asking that it be
23 stayed pending the outcome of the other case.

24 The other case, as Your Honor knows, was settled at
25 mediation, but that's subject to a motion and all like that,

1 so --

2 THE COURT: Go ahead.

3 MR. WILLEY: If that motion were denied, then we have
4 no issue with this case moving forward, so that's where we
5 are.

6 THE COURT: Well, if that case is denied, this case,
7 essentially, goes away, doesn't it?

8 MR. WILLEY: Well, I'll let Mr. Pendarvis speak for his
9 client, but I think the only outstanding issue would be
10 they've been litigating a case for upwards of three years
11 now and holding these funds for five years because of Mr.
12 Khamnei's actions and I think they want some fees and costs
13 associated with that.

14 THE COURT: Okay. Mr. Pendarvis, try and get blood out
15 of a turnip.

16 MR. PENDARVIS: Thank you, Your Honor. I trust you've
17 had a chance to review our motion. This is Thomas
18 Pendarvis. I represent the Plaintiff in the interpleader
19 action, Cobb, Dill & Hammett.

20 The key point for responding to Mr. Willey's arguments
21 is the longer the escrow agent stays in the deal, stays in
22 the dispute, the additional fees are going on. And this is
23 beneficial to all parties per the terms of the escrow
24 agreement for Cobb, Dill & Hammett to be let out of this
25 case immediately. There's no real dispute.

1 I've looked at Mr. Khamnei's answer and the answer
2 filed on behalf of Columbus Street Holdings, all of them
3 admit there's no dispute with the escrow agent. There may
4 be a dispute over how much money needs to be allocated to
5 the escrow agent under the terms of the agreement, but
6 there's no dispute about the concept of the money being
7 deposited into the court. And concluding the escrow agent's
8 role in this transaction subject to all these other
9 disputes.

10 THE COURT: Okay.

11 MR. WILLEY: Judge, I just want to make sure I was
12 clear. I actually said this in my motion, we have no
13 objection to the money being paid into the court. The only
14 thing we were asking for an unlimited stay on was the
15 allocation of those funds.

16 THE COURT: Okay.

17 And Mr. Pendarvis, the only thing you want to do is put
18 this money into the clerk's office until everything gets
19 resolved, right?

20 MR. PENDARVIS: Well, that's the first thing, Your
21 Honor. We would like to get paid for the work we've been
22 doing. And there is a lien -- another lawyer has placed a
23 lien against the proceeds, but, otherwise --

24 THE COURT: But none of that is before me, right?

25 MR. PENDARVIS: The only thing that's before Your Honor

1 is the permission under Rule 22(b) to deposit the money into
2 the court. And second issue as part of the motion from
3 Cobb, Dill, Hammett is to be paid for the attorney's fees
4 and there's an affidavit of attorney's fees filed as Exhibit
5 5.

6 I think the fees to date are 14,631.49 and we would
7 respectfully request the court allow either the clerk to pay
8 -- you know, all the money be deposited into the clerk of
9 court's office and then the clerk writing a check back to
10 Cobb, Dill, Hammett, or the net proceeds that are in the
11 escrow account minus the attorney's fees be deposited into
12 the court. Either way, but that's what Cobb, Dill, Hammett
13 is seeking with this motion, Your Honor.

14 THE COURT: And I haven't had a chance to look at your
15 affidavit on that. The basis of that charge is what, Mr.
16 Pendarvis?

17 MR. PENDARVIS: Well, there is an exhibit to the
18 affidavit that details by point one of an hour how each of
19 the -- of the time devoted to this dispute, when it
20 happened, who did it, the amount and the rates. So it's all
21 in Exhibit 5, Your Honor.

22 MR. KHAMNEI: Your Honor.

23 THE COURT: Mr. Khamnei?

24 MR. KHAMNEI: Yes, can you hear me?

25 THE COURT: Yes, sir, I can hear you. You can respond

1 to that.

2 MR. KHAMNEI: Okay. So Mr. Pendarvis has stated
3 there's no dispute. There's one big dispute. I did not
4 sign the escrow agreement. I did not authorize the escrow
5 agreement. I did not give Cobb, Dill & Hammett the
6 authority to give my money away. They signed it themselves.
7 You can't do that. It's a self-serving document.

8 THE COURT: Okay.

9 MR. KHAMNEI: It's in black and white, the documents i
10 provided to you. The escrow agreement is signed by
11 themselves. I signed the Power of Attorney to only
12 consummate the deal, consummate the sale of the property.
13 That consummation happened on June 1, 2017. I completed all
14 of the necessary requirements. As of that date, there were
15 no charges for the attorney's fees. The only charges have
16 been for holding my money.

17 I've been a ping pong ball between CDH and CSH. It's a
18 joke. I'm just being hit back and forth between two
19 attorneys working together, but they divided, so they've got
20 two separate court cases and I can't put them together.

21 THE COURT: All right.

22 MR. KHAMNEI: But I did not sign that agreement. The
23 only thing I signed was the purchase and sales agreement and
24 a Power of Attorney to consummate the sale.

25 THE COURT: Okay.

1 MR. KHAMNEI: Them holding the escrow money had
2 nothing, absolutely nothing to do with the sale of the
3 property. It should have been released on June 1, 2017.
4 Everybody agrees with that. There's no -- there's not a
5 single person who can object to the fact that it should have
6 been released on June 1, 2017. All the conditions had been
7 met.

8 THE COURT: All right. Well, I'm going to look over
9 those documents that you sent me and I will get back to
10 y'all with my decision.

11 Thank y'all.

12 MR. PENDARVIS: Thank you, Your Honor.

13 MR. KHAMNEI: I'm not done. I'm not done.

14 THE COURT: Hold on.

15 MR. WILLEY: Yeah, so that was the motion to stay and
16 Mr. Pendarvis's motion to plead the money in. And Mr.
17 Khamnei has a motion for partial summary judgement.

18 THE COURT: Okay.

19 All right. Mr. Khamnei, tell me about your partial
20 summary judgment. I thought that was just like the other
21 case. That's what I was asking.

22 MR. WILLEY: It is.

23 MR. KHAMNEI: I'm sorry, as everybody here knows, I've
24 lost my voice and having a very difficult time speaking
25 right now.

1 Does everybody see what I'm chatting right now?

2 MR. WILLEY: I can see, I guess.

3 THE COURT: Well, y'all are ahead of me.

4 MR. WILLEY: It's in the chat. Would you like me to
5 read it?

6 THE COURT: Yeah, if you don't mind.

7 MR. WILLEY: All right. It says, I gave POA to Cobb to
8 consummate -- and again, this is from Mr. Khamnei --

9 THE COURT: I see it.

10 MR. WILLEY: Oh, you can see it, okay.

11 THE COURT: Well, Mr. Willey, go ahead and read it.

12 MR. WILLEY: From Mr. Khamnei, it says, I gave POA to
13 Cobb to consummate the P&S contract. I did not give them
14 permission to take my proceeds, give themselves immunity,
15 change the terms of the contract, clear title for CSH to get
16 a loan when my contract was in breach and a lawsuit had been
17 filed nor did I give them permission to represent CSH. They
18 did all that on their own. That is the problem when Cobb
19 was my POA, attorney-in-fact, closing attorney, escrow agent
20 and simultaneously represented CSH. I asked the Court to
21 rule on whether there was a conflict of interest,
22 exclamation point.

23 Sean Scapellato of CDH acted as one, my power of
24 attorney and attorney as fact. Two, my closing agent and
25 attorney for the sale. Three, the neutral escrow agent.

1 And four, the closing agent and attorney for CSH.

2 THE COURT: I got those, Mr. Khamnei.

3 MR. KHAMNEI: I just sent another one.

4 MR. WILLEY: From Mr. Khamnei, I signed only a POA with
5 CDH to consummate the sale of the property. The sale was
6 simple. It required me to evict a tenant named Travis Davis
7 and cancel the bogus lis pendens that he placed on the
8 property. That transaction was completed by June 1st, 2017,
9 as planned. There were no attorney's costs at that point in
10 time.

11 THE COURT: All right. Anything else, Mr. Khamnei?

12 MR. KHAMNEI: Yes, I just sent another one.

13 MR. WILLEY: Holding my escrow money for anything other
14 than what was in the sales contract is outside the scope of
15 consummating the sale of the property. I did not give CDH
16 permission to sign my name on any document that did not
17 consummate the sale of the property. I did not give CDH
18 carte blanc. I did not relieve CDH of liability for their
19 actions or give them immunity. I did not give CDH
20 permission to also represent CSH.

21 THE COURT: All right. Thank you, Mr. Khamnei.

22 And Mr. Pendarvis?

23 MR. PENDARVIS: Your Honor, Cobb, Dill, Hammett handled
24 the closing. Events after the closing related to the
25 eviction were not in the scope of what Cobb, Dill & Hammett

1 and Mr. Scapellato were retained to do. They did not
2 participate in anything. The escrow agreement itself
3 requires consent by all parties to release the funds. That
4 hasn't happened and that's the reason that we're here today
5 and the reason that the funds remained in the escrow
6 account. We haven't gotten consent from all the parties.
7 We're duty bound to all parties to maintain the terms of the
8 escrow account. And without the mutual consent of both
9 sides to the transaction, Mr. Khamnei and Columbus Street
10 Holdings, we aren't allowed to do anything. And there's
11 nothing in the allegations that Mr. Khamnei has made that
12 suggest that they did anything other than stand by waiting
13 for permission to disburse the funds.

14 THE COURT: Thank you, Mr. Pendarvis.

15 MR. KHAMNEI: I need to address that. I need to
16 address that.

17 THE COURT: Yes, sir.

18 MR. PENDARVIS: One last thing, Your Honor. There was
19 a conflict waiver signed by all parties prior to the
20 transaction being consummated advising them of the potential
21 conflicts that have never gotten into a conflict of interest
22 other than individuals, Mr. Khamnei being upset about what's
23 happened with regard to the eviction and the delay in
24 getting this escrow completed.

25 THE COURT: Okay.

1 MR. WILLEY: And, Your Honor, just briefly on that
2 point, as I believe Mr. Khamnei stated in the prior hearing,
3 it was his agent that recommended Cobb, Dill, Hammett. They
4 did advise us, you know, of the potential conflicts, as is
5 typical in a closing. And we signed off on having one
6 closing agent to save costs for everybody.

7 THE COURT: Thank you.

8 Mr. Khamnei, you get the final word.

9 MR. KHAMNEI: Yes, Your Honor. It's that mutual
10 permission. That is not the way the escrow should have been
11 set up. The purchase and sales agreement addendum required
12 me to evict Travis Davis and cancel the bogus lis pendens
13 and the escrow would be released. It didn't say give
14 permission from the other parties. It's that permission,
15 when they say we didn't have permission. That was the only
16 thing that was holding up the escrow being released, the
17 permission. It wasn't supposed to be granted. It wasn't
18 part of consummating the sale.

19 In the purchase and sales agreement, it didn't say give
20 the sellers the right to decide whether they're going to
21 give permission to release the escrow. When Cobb, Dill &
22 Hammett gave that to Roy Willey and Eric Poulin, they took
23 my rights away of my money. All I was supposed to do
24 according to the sales contract very clear in black and
25 white was to cancel the lis pendens "audio distortion".

1 THE COURT: Okay. Thank you, Mr. Khamnei.

2 What I'm going to do is I will read over everything and
3 I will get back to y'all with my decision. I appreciate it.

4 MR. PNDARVIS: Thank you, Your Honor.

5 MR. WILLEY: Thank you.

6 THE COURT: Thank you.

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CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

December 5, 2022

Penny M. Johnson
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Court Reporter III