

COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

SALAM RAZUKI,)
)
Plaintiff/Respondent,)
) FROM SAN DIEGO COUNTY
vs.) HON. EDDIE C. STURGEON
)
NINUS MALAN, et al.,) COA NO. D075028
) SUPERIOR COURT NO.
Defendants/Appellants.) 37-2018-
-----) 00034229-CU-BC-CTL

REPORTER'S TRANSCRIPT ON APPEAL

Tuesday, August 14, 2018

(Pages 302 through 325, Inclusive)

Volume 3

330 West Broadway, Department 67
San Diego, California

Reported By:
Leyla S. Jones
CSR No. 12750

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

SALAM RAZUKI, an
individual,

Plaintiff,

vs.

NINUS MALAN, an individual;
MONARCH MANAGEMENT
CONSULTING, INC., a
California corporation;
SAN DIEGO UNITED HOLDING
GROUP, LLC, a California
limited liability company;
MIRA ESTE PROPERTIES, LLC,
a California limited
liability company; ROSELLE
PROPERTIES, LLC, a
California limited
liability company; and
DOES 1-100, inclusive,

Defendants.

Hon. Eddie C. Sturgeon

CASE NO. 37-2018-
00034229-CU-BC-CTL

Hearing

TRANSCRIPT OF PROCEEDINGS

August 14, 2018

8:28 a.m.

330 West Broadway, Dept. 67

San Diego, California

REPORTED BY:

Leyla S. Jones

CSR No. 12750

1 Appearances:

2 For the Plaintiff/Respondent:

3 LAW OFFICES OF STEVEN A. ELIA
4 STEVEN A. ELIA, ESQ.
5 MAURA GRIFFIN, ESQ.
6 JAMES JOSEPH, ESQ.
7 2221 Camino Del Rio South, Suite 207
8 San Diego, California 92108
619.444.2244
steve@elialaw.com
mg@mauragriffinlaw.com
james@elialaw.com

9 For the Defendants/Appellants:

10 AUSTIN LEGAL GROUP
11 GINA M. AUSTIN, ESQ.
12 TAMARA M. LEETHAM, ESQ.
13 3990 Old Town Avenue, Suite A-112
14 San Diego, California 92110
619.924.9600
gaustin@austinlegalgroup.com
tamara@austinlegalgroup.com

15 -AND-

16 GALUPPO & BLAKE
17 DANIEL T. WATTS, ESQ.
18 2792 Gateway Road, Suite 102
Carlsbad, California 92009
760.431.4575
dwatts@galuppolaw.com

19 For Defendants Chris Hakim, Mira Este
20 Properties, and Roselle Properties:

21 GORIA, WEBER & JARVIS
22 CHARLES F. GORIA, ESQ.
23 1011 Camino Del Rio South, Suite 210
San Diego, California 92108
619.692.3555
chasgoria@gmail.com

24 For Defendants SoCal Building Ventures, LLC,
25 and San Diego Building Ventures, LLC:

26 NELSON HARDIMAN
27 SALVATORE J. ZIMMITTI, ESQ.
28 11835 West Olympic Boulevard, Suite 900
Los Angeles, California 90064
310.203.2800
szimmitti@nelsonhardiman.com

1 APPEARANCES (CONTINUED):

2 For Receiver, Michael Essary:

3 GRISWOLD LAW
4 RICHARDSON C. GRISWOLD, ESQ.
5 444 S. Cedros Avenue, Suite 250
6 Solana Beach, California 92075
7 858.481.1300
8 rgriswold@griswoldlawsandiego.com
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX OF WITNESSES

(None.)

- 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

INDEX TO EXHIBITS

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

MARKED

DESCRIPTION

PAGE

(None marked.)

1 SAN DIEGO, CALIFORNIA;
2 TUESDAY, AUGUST 14, 2018; 8:28 A.M.

3
4 THE COURT: Everybody come down on Razuki.
5 It's probably the whole courtroom, so come on down.
6 Okay. We do have a whole courtroom. How exciting
7 is this. All right. Let's go on the record. This
8 hearing will take no more than ten minutes. You'll
9 see why. But first of all, let's get the name of
10 the case. So this is -- is it Razuki? Who
11 represents Razuki?

12 MR. ELIA: I do, Your Honor.

13 THE COURT: Am I pronouncing it correctly?

14 MR. ELIA: Yes, you are.

15 THE COURT: Versus -- and is it Malan?

16 MS. LEETHAM: Malan. Malan, Your Honor.

17 THE COURT: Thank you. Let's get that.

18 So let's have -- I want to know who
19 everybody else represents. So go slow so I can put
20 faces with names. Let's go.

21 MR. JOSEPH: Good morning, Your Honor.
22 James Joseph on behalf of the plaintiff, Salam
23 Razuki.

24 THE COURT: Razuki.

25 MS. GRIFFIN: Maura Griffin on behalf of
26 Plaintiff, Salam Razuki.

27 THE COURT: Razuki.

28 MR. ZIMMITTI: Good morning, Your Honor.

1 Salvatore Zimmitti on behalf of SoCal Building
2 Ventures, LLC, and San Diego Building Ventures, LLC.

3 THE COURT: Have you intervened or is that
4 still a decision to be made by the Court?

5 MR. ZIMMITTI: Yeah, we have intervened,
6 Your Honor.

7 THE COURT: So you're in the lawsuit?

8 MR. ZIMMITTI: We're in the lawsuit.

9 THE COURT: SoCal's in?

10 MR. ZIMMITTI: Correct.

11 MR. ELIA: Steve Elia on behalf of the
12 plaintiff, Salam Razuki.

13 MR. GRISWOLD: Richardson Griswold for
14 Receiver, Michael Essary.

15 MR. WATTS: Daniel Watts for Defendant
16 Ninus Malan.

17 THE COURT: Malan.

18 MS. LEETHAM: Tamara Leetham for Ninus
19 Malan. Mr. Malan is present before the Court.

20 THE COURT: I always appreciate parties
21 here. It's very important. I like people to know
22 who, get a sense of who I am.

23 So hold on. Malan, Malan.

24 MS. AUSTIN: Gina Austin on behalf of Ninus
25 Malan.

26 THE COURT: Malan.

27 MR. GORIA: Charles Goria on behalf of
28 Chris Hakim, Mira Este Properties, and Roselle

1 Properties.

2 MS. LEETHAM: And a point of clarification,
3 Your Honor, just so the record is clear, San Diego
4 Building is not a party to this lawsuit, although
5 Mr. Zimmitti does represent them transactionally.

6 MR. ZIMMITTI: That's incorrect,
7 Your Honor. We did intervene with both of the
8 plaintiffs in the intervening case.

9 THE COURT: I'll sort that out.

10 Who represents Balboa? I see Balboa is a
11 defendant.

12 MS. LEETHAM: I do, Your Honor, but we have
13 not appeared yet, because we just have been served.
14 So we're here only for Ninus Malan. I can specially
15 appear for Balboa and San Diego United.

16 THE COURT: Thank you. We'll come back to
17 you. We'll talk about that.

18 And who represents California Cannabis
19 Group?

20 MS. LEETHAM: I do too, as well,
21 Your Honor.

22 THE COURT: Okay. Let me keep going. I
23 think I get a pattern here. Devilish Delights?

24 MS. LEETHAM: I mean, theoretically, that
25 would either be myself or Mr. Gorla. I don't think
26 we've made a determination on that entity yet,
27 although it's related.

28 THE COURT: And then is it Mira Este -- am

1 I pronouncing that correctly?

2 MR. GORIA: Yes, Your Honor.

3 THE COURT: -- Properties? Who represents
4 them?

5 MR. GORIA: I'm appearing for them,
6 Your Honor.

7 THE COURT: Who represents Roselle Prop --
8 Roselle -- am I pronouncing that -- Properties?

9 MR. GORIA: Correct. Yes, Your Honor. I'm
10 also appearing for them.

11 THE COURT: That's that lawsuit. Okay.
12 And then who represents Flip Management?

13 MS. LEETHAM: Again, that's somebody at
14 this table. I can specially appear on behalf of
15 Flip this morning.

16 THE COURT: Here's -- first of all, someone
17 said, "Judge, this is a rehearing." There will be
18 no rehearing today. It's not going to happen.
19 Here's what I want to get settled first, and I say
20 this so respectfully.

21 I want everybody, everybody -- and that
22 includes the people that haven't appeared. I'd like
23 you to make formal appearances. I'd like to do this
24 case Monday at 1:30. We'll take all afternoon with
25 it. But hold on. No. Go ahead you can write that
26 down. I said, "Hold on."

27 What I don't want to happen is for me to
28 spend all my time -- and I say this so respectfully,

1 Counsel. Most of you know me. I don't want to
2 spend all my time on this and then walk in and
3 somebody filed a motion.

4 And you know what motion I'm talking about,
5 don't you? You've gone through two judges already.
6 So if somebody wants to file it, file it now. And
7 boom, I'll send it to another judge in a heartbeat.
8 But otherwise, you're stuck, because I may make an
9 order today. So I guess -- no, I'm not going to
10 make an order today because there's parties that
11 haven't appeared. So I want everybody to appear.

12 Can we do this informally? Can we have an
13 agreement -- I'm talking to this side of the
14 table -- now that you'll work out the appearances so
15 I don't have to worry about a 176?

16 MS. LEETHAM: Your Honor, we will not
17 exercise a peremptory challenge. And yes, we will
18 work those out.

19 MR. GORIA: That's fine.

20 THE COURT: Then would you all feel
21 comfortable if I make an order today?

22 MS. LEETHAM: As long as it's in my favor.

23 THE COURT: Well said. It will be a pretty
24 broad order. I'm not going to make any order as to
25 the receivership. We're going to have a full two-
26 to three-hour hearing on that, Counsel. I will tell
27 you that. I have a few questions today.

28 So can I assume there's going to be no 176

1 by anybody in the courtroom and all of the
2 defendants and plaintiffs? Is that a fair
3 statement?

4 MR. ELIA: Yes, Your Honor. And it's our
5 position that each side has already exercised one.

6 THE COURT: Yeah, but that's each side.
7 You got -- there are other defendants, right?

8 MR. ELIA: There are, Your Honor, but
9 they're -- they have to be -- the law is that they
10 have to be substantially adverse, and we believe
11 that they're sharing attorneys. And if they're
12 not -- so --

13 THE COURT: That's one opinion.

14 MS. LEETHAM: I actually think I might
15 agree with him on that point, and we do not intend
16 on exercising --

17 THE COURT: Okay. So let's go.

18 MS. LEETHAM: -- challenge.

19 THE COURT: Here we go. Here's what we're
20 going to do: Full hearing this Monday. Just real
21 quick, I have about five or six questions that I'm
22 going to ask everybody here. And if you just say,
23 "Judge, I don't want to go there. You'll hear this
24 on -- on Monday" --

25 Real quick. Receiver, I've been -- I have
26 read a lot of this. Somebody says there was
27 \$170,000 in your account, true or false?

28 MR. GRISWOLD: Yes, true.

1 THE COURT: Did you pay the mortgage
2 payments?

3 MR. GRISWOLD: No.

4 THE COURT: With 170K and the mortgage
5 payments were about 50 grand? Did I read that
6 right?

7 MR. GRISWOLD: I think the mortgage
8 payments that were communicated by counsel for
9 Mr. Hakim were approximately 30,000.

10 THE COURT: Why weren't they paid?

11 MR. GRISWOLD: Well, in the interim report,
12 the receivers laid out the accounting of what was
13 paid.

14 THE COURT: Okay. So did that go to the
15 licensing? Is that where it went?

16 MS. LEETHAM: They paid insiders,
17 Your Honor, almost \$100,000 the day we gave ex parte
18 notice.

19 THE COURT: And here we go. Here we go.

20 MS. LEETHAM: I --

21 THE COURT: We'll get to it. I just --
22 these are broad questions. Thank you. Stop right
23 there.

24 MS. LEETHAM: Okay.

25 THE COURT: I see there's a disagreement.

26 MR. GRISWOLD: Yes.

27 THE COURT: Number 2, can I assume that
28 when Judge Strauss made his order, he made an order

1 to have a final order prepared, yes or no?

2 MR. ZIMMITTI: Yes.

3 MS. LEETHAM: No. Our position is that's
4 an order on the receivership, that the order we were
5 preparing is on how to do the accounting piece of
6 it.

7 THE COURT: Again, I haven't -- I didn't
8 see a thing. If -- did Judge Strauss order a final
9 order on the vacating of the receivership order?
10 Did he order that.

11 MS. LEETHAM: Yes, he did order it. Yes,
12 Your Honor.

13 MR. GORIA: I have a --

14 MR. ELIA: Your Honor --

15 THE COURT: Okay. Answer my question.

16 MR. ELIA: Disputed.

17 THE COURT: You'll be able to argue that.
18 Synergy. Is Synergy here? Anyone represent
19 Synergy? Nobody?

20 MS. AUSTIN: No, Your Honor.

21 THE COURT: Mr. -- who prepared Mr. -- is
22 it Hakim? Who prepared that declaration?

23 MR. GORIA: I did, Your Honor.

24 THE COURT: Counsel, you indicated that on
25 8/3 \$200,000 was collected? It was. That's in the
26 declaration.

27 MR. GORIA: Okay. Yes --

28 THE COURT: From --

1 MR. GORIA: -- from Synergy.

2 THE COURT: Yeah. Where's that money?

3 MR. GORIA: It's in Synergy's account.

4 There's a blocked account that requires the
5 signatures of both Synergy and Mira Este and it's in
6 that account.

7 THE COURT: Okay. You'll see what I'm
8 going to order. Okay?

9 Then real quick, let me just see if I can
10 figure this out. And these are just yes-or-no
11 questions.

12 Does anyone here own 100 percent of
13 Mira Este Properties, LLC? Obviously not. I know
14 the answer to my own question.

15 But is there anyone outside of the parties
16 here that has an interest in Mira Este Properties,
17 LLC? Do you understand the question?

18 MS. LEETHAM: Yes, Your Honor. RM Holdings
19 is not a party to this litigation. It would be,
20 according to Plaintiff's theory, the entity to which
21 ownership is entitled.

22 THE COURT: And I understand exactly what
23 you said, Counsel. Would that same argument apply
24 to Roselle Properties?

25 MS. LEETHAM: Yes, Your Honor.

26 THE COURT: Would that same property -- is
27 Balboa in or out?

28 MS. LEETHAM: Balboa is in. It's the

1 operator. It's the consumer cooperative.

2 THE COURT: Okay. And then Sunrise
3 Property, in or out?

4 MS. LEETHAM: They're not in the
5 litigation, and they should be.

6 THE COURT: We got work to do. Okay. Then
7 who -- who's Attorney Ford (phonetic)?

8 MR. JOSEPH: He's not here, Your Honor.
9 We're the same firm.

10 THE COURT: Let's talk about SoCal, just
11 for a moment. You put in 2.8 million in this
12 project, right?

13 MR. JOSEPH: Actually, it was 2.73.

14 MS. LEETHAM: Disputed.

15 THE COURT: Fair enough. Okay. Counsel
16 used some very strong language. When you accuse an
17 attorney of stealing, that's strong language,
18 Counsel?

19 MR. JOSEPH: It is, Your Honor.

20 THE COURT: Okay. That -- I just -- who
21 are you accusing? Okay. Don't say a word. I'm
22 just telling you, when I read this, I get real
23 serious. That's -- I'll stop right there. Strong
24 language. I read it.

25 Okay. SoCal, you say that you have
26 \$410,000 worth of equipment that's being held
27 hostage by Mira Mesa -- at the Mira Mesa facility,
28 right?

1 MR. JOSEPH: That's correct, Your Honor.

2 THE COURT: Tell me who you think -- who's
3 holding it on this side of the table?

4 MR. JOSEPH: I think it's defendants. I'm
5 not sure of their associations with each other.
6 They're -- you know, as far as we're concerned,
7 they're all working in concert. Actually, they have
8 done us a favor, Your Honor, and they have actually
9 posted pictures of our equipment in their
10 declaration.

11 THE COURT: Thank you. Stop right there.
12 And I don't want mean to be rude. I just --

13 MR. JOSEPH: That's fine, Your Honor. I'm
14 happy to answer your questions.

15 THE COURT: I appreciate that.

16 Does anyone dispute that they own that
17 property?

18 MS. LEETHAM: I think we're just trying to
19 figure it out, Your Honor. What happened is the
20 police were called, and we agreed on a stand-down,
21 essentially, to figure out title.

22 THE COURT: All right. Anybody else --

23 You've answered all my questions. Thank
24 you very much. I'm prepared to make an order, and
25 I'm making an order right now on everybody. So,
26 therefore, when I make a judicial order, this is --
27 there will be no 176. It's done. Do you all want
28 to take a minute and think about it, that you're

1 going to be stuck with me? Okay. Here's my court
2 order:

3 Mr. Griswold, I want you here. I don't
4 know what I'm going to do. I'll be quite honest.
5 I'm going to look at this case fresh, and I'm going
6 to make a determination whether there were --
7 Monday, 1:30, whether there will be a receiver or
8 not. That's going to be the goal. And you're going
9 to have all afternoon. We'll flesh it out
10 thoroughly. Okay? Here's the order right now for
11 all parties:

12 I don't want any money exchanged, none.
13 All bank accounts are frozen, and I mean frozen even
14 for an electric bill for the next six, seven days.
15 No property will be sold, none.

16 Two, I read something that they're trying
17 to sell -- when I said "property," I also mean real
18 property. I don't want any real property sold.
19 That's under the -- of this Court. So that would be
20 S -- Mira Mesa, Roselle, Balboa.

21 Am I right there? Do I have -- am not
22 saying --

23 MS. AUSTIN: Mira Este.

24 (Crosstalk.)

25 THE REPORTER: I'm sorry. I didn't --

26 MS. LEETHAM: As a point of clarification,
27 are you ordering the dispensary to shut down?

28 THE COURT: No, I'm not. Absolutely not.

1 But I don't any money flowing any way for the next
2 six days. I'm sure that can happen.

3 MS. LEETHAM: And I only say that because
4 the dispensary keeps very detailed logs of its -- so
5 they can continue to run and manage --

6 THE COURT: I hope they make money.

7 MS. LEETHAM: Me too.

8 THE COURT: I think we all do.

9 MR. GORIA: Just on that point, Your Honor,
10 are you talking about no exchange of money other
11 than in the regular course of business or nothing?

12 THE COURT: I want nothing. I don't even
13 want an electric bill paid. Nothing. In six days,
14 the world won't end, until I can find out.

15 Counsel, speak. You give me that look.

16 MS. AUSTIN: I'm sorry, Your Honor.
17 Because the dispensary runs on a limited amount of
18 product in store for safety reasons, and so they
19 regularly purchase product to put it in the store to
20 sell. Over a weekend, that's a lot of -- could be
21 a lot of product.

22 THE COURT: Give me an idea.

23 MS. AUSTIN: Hundred thousand dollars.

24 THE COURT: Jeez. Seriously?

25 MS. AUSTIN: Yes, Your Honor.

26 THE COURT: I'm new to the business,
27 Counsel. They sell \$100,000 worth --

28 MS. AUSTIN: They could. It's a weekend,

1 so you never know on a weekend.

2 THE COURT: Seriously? I may change my
3 order a little bit. They need product, this side of
4 the table.

5 MS. LEETHAM: Well, and that's the problem
6 with the dispensary is keeping some cohesiveness to
7 it. It's been up. It's been down.

8 THE COURT: Okay. Where does the hundred
9 thousand dollars come from?

10 MS. LEETHAM: The dispensary. It's all
11 internal. So it's at this point, I think, starting
12 to sustain itself now that we have the new operators
13 in. So it's coming internally. It's accounted for
14 too.

15 MS. AUSTIN: It would be money they
16 received from sales that would go back towards
17 product. We could cap it -- I'd have to verify with
18 our client, but I'm sure we could cap it a little
19 bit lower if we had to.

20 THE COURT: Give me a suggestion.

21 MS. LEETHAM: I'd be more than happy to
22 provide accounting for the limited number of days.

23 THE COURT: I know, but I want to set a
24 cap. See what she says. Give me a number.

25 MS. LEETHAM: 80,000.

26 THE COURT: Done. And, Counsel, so they
27 can have \$80,000 for the next eight days.

28 Obviously, the business is booming, I sense, here.

1 MS. AUSTIN: It's expensive product,
2 Your Honor.

3 THE COURT: Okay. If you say so. I'll
4 learn a lot.

5 MR. GORIA: So, Your Honor, just so I'm
6 clear on that, because it's going to apply also to
7 Mira Este, which is operational now. The 80,000,
8 that's the amount that can be spent in the regular
9 course of business?

10 THE COURT: For product.

11 MS. LEETHAM: For Balboa only. I mean, the
12 businesses have to be discretely managed. They
13 can't be meshed together the way the accounting has
14 it. They're licensed and accountable by location,
15 if that makes sense.

16 THE COURT: It does. So this 80,000 is for
17 Balboa?

18 MS. LEETHAM: For the dispensary.

19 THE COURT: Okay. Is that --

20 MS. LEETHAM: And that's Balboa.

21 THE COURT: Are there any other
22 dispensaries?

23 MS. LEETHAM: There's not. There's
24 manufacturing.

25 MR. GORIA: Mira Este, which, as we put in
26 our declaration, generated 200,000 in a week. So
27 we're going to need some kind of similar arrangement
28 for replenishment of product.

1 THE COURT: 80,000 enough?

2 MR. GORIA: I believe so.

3 THE COURT: Give me an accounting, both of
4 you. Okay?

5 MS. AUSTIN: Yes, Your Honor.

6 THE COURT: So this will be for six days
7 only, and then we'll really get into it on Monday.
8 Everybody can be here Monday at 1:30?

9 MR. ELIA: Yes, Your Honor.

10 MR. GRISWOLD: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. LEETHAM: Can --

13 THE COURT: That's a court order. I'm
14 putting it in the minute order right now. There
15 will be no final order. You're all in front of me.
16 You heard it. You're charged with it.

17 Counsel, go ahead.

18 MS. LEETHAM: Sorry.

19 THE COURT: You don't have to be sorry.

20 MS. LEETHAM: I'm just chomping at the bit
21 here.

22 THE COURT: Go.

23 MS. LEETHAM: Because we have multiple
24 entities that haven't appeared and there's volumes
25 of paper, I -- can we submit supplemental briefing,
26 and when would you want it? because I -- there's a
27 lot of information I need to respond to.

28 THE COURT: Well, that's -- here's the good

1 news: We've got plenty of time. Ready?

2 Anybody that wants to file anything, have
3 it done by Monday -- no, no, no, not by Monday -- by
4 Friday at noon. I will read it all this weekend,
5 anybody who wants to file any supplement. Though,
6 this isn't enough? Seriously? No. Happy to do it,
7 and we'll get through this. I promise you that. So
8 everybody's going to be here?

9 MR. ELIA: Yes, Your Honor.

10 MR. GRISWOLD: Yes, Your Honor.

11 MS. LEETHAM: Yes, Your Honor.

12 THE COURT: I want everybody here, and
13 we've got the whole afternoon.

14 MR. ELIA: Thank you, Your Honor.

15 THE COURT: We can sort it out.

16 MS. LEETHAM: Thank you, Your Honor.

17 THE COURT: Hold on. I've got an
18 appointment. We will start at 2 o'clock, 2:00 to
19 5:00. Okay. Now, if somebody has to make an
20 appearance, hopefully, you'll make it by being a
21 little bit late. Thank you for your patience with
22 this Court.

23 (The proceedings concluded at 8:44 a.m.)

24 * * *

25

26

27

28

