

1 **THOMAS SCHERN RICHARDSON, PLLC**
2 1640 South Stapley Drive, Suite 132
3 Mesa, AZ 85204
4 Telephone: 480-632-1929
5 Fax: 480-632-1938

6 Richard R. Thomas – Arizona Bar No. 010484
7 rthomas@thomas-schern.com
8 *Attorneys for Appellants*

9 **IN THE UNITED STATES BANKRUPTCY COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 In re:
12 MORTGAGES LTD.,
13 Debtor.

In Proceedings Under Chapter 11
(converted from Chapter 7)

Case No. 2:08-bk-07465-PHX-RJH

**REQUEST FOR TRANSMISSION OF
RECORD ON APPEAL TO THE
UNITED STATES DISTRICT COURT,
DISTRICT OF ARIZONA**

16 JOHN C. VINSON; SOTERIA, LLC;
17 ROBERT G. FURST, trustee of The
18 Robert G. Furst & Associates
19 Defined Benefit Pension Plan;
20 LINDA MAYNE; STEPHEN
21 MAYNE, et al.

Appellants,

v.

22 ML MANAGERS, LLC

Appellee.

23 Appellants Soteria, LLC; Robert G. Furst, Trustee of The Robert G. Furst &
24 Associates Defined Benefit Pension Plan; Linda Mayne and Stephen Mayne; Linda Mayne,
25 Trustee of the Mayne and Company Defined Benefit Pension Plan dated December 31,
26
27

1 2005; Linda A. Reeves, Trustee of The Linda Ann Reeves Trust dated March 2, 2005; and
2 John C. Vinson and Taeko Vinson, Trustees of the John Charles Vinson Family Trust dated
3 December 3, 1984 (collectively “Appellants”) hereby request transmission of the record on
4 appeal to the United States District Court, District of Arizona. This Court issued its
5 “Certificate of Readiness to Transmit Record on Appeal to Clerk of the U.S. Bankruptcy
6 Appellate Panel” (Docket No. 2875), however, the record should be transmitted to the
7 United States District Court, District of Arizona where this appeal is currently pending
8 before the Honorable Murguia.
9

10
11 For the Court’s convenience and information, and to help clarify the procedural
12 issues in this appeal, Appellants give the following chronology:
13

14 May 27, 2010: Bankruptcy Judge, Randolph J. Haines issued his “Order Approving
15 to Sell Real Property Free and Clear of Liens, Claims, Encumbrances, and Interests” (BK
16 Docket 2770).
17

18 June 22, 2010: Bankruptcy Judge, Randolph J. Haines issued his “Order Denying
19 Partitioning Owners’ Motion to Amend Findings under Rule 7052 and to Alter or Amend
20 Judgment under Rule 9023” (BK Docket 2790).
21

22 July 6, 2010: Appellants herein filed their “Notice of Appeal” in the underlying
23 bankruptcy action (BK Docket 2806). With their Notice of Appeal, Appellants requested
24 the matter be heard by the District Court. The Bankruptcy Court, however, disregarded that
25 request because it was not contained in a separate statement.
26
27

1 July 12, 2010: Bankruptcy clerk issued “Notice of Filing Appeal and Notice of
2 Referral to the Bankruptcy Appellate Panel” (“BAP”). Following this, Appellants made a
3 formal request to BAP to refer the matter back to the District Court.
4

5 July 20, 2010: Appellants herein filed their “Designation of Record on Appeal and
6 Statement of Issues to be Presented on Appeal” (BK Docket No. 2843)

7 July 29, 2010: ML Manager (Appellee) filed “Election to Have Appeal Heard by
8 District Court” (BAP Docket No. 009153572).
9

10 August 2, 2010: BAP issues “Notice of Transfer of Appeal to District Court” and
11 closed BAP Case No. 10-1245 (BAP Docket No. 009155465).
12

13 August 11, 2010: Bankruptcy clerk issued “Certificate of Readiness to Transmit
14 Record on Appeal to Clerk of the U.S. Bankruptcy Appellate Panel” (BK Docket No. 2875)

15 August 13, 2010: District Court issues “Notice of Receipt of Appeal” [Received on
16 August 4, 2010] (Docket 2 in the instant action).
17

18 It appears that the Bankruptcy clerk has not yet transmitted the record on appeal to
19 this Court. Counsel for Appellants has contacted a District Court clerk in an attempt to get
20 the Bankruptcy clerk to transmit the record on appeal to this Court. When that has occurred,
21 this appeal can proceed and the briefing schedule can be established. Counsel for
22 Appellants understands that certain internal transitions within the Bankruptcy Court, have
23 temporarily delayed this process. Appellants respectfully request that the clerk of the
24 Bankruptcy Court transmit the record to the District Court.
25
26

27 ///

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

RESPECTFULLY SUBMITTED this 17th day of November, 2010.

THOMAS SCHERN RICHARDSON, PLLC

By /s/ Richard R. Thomas

Richard R. Thomas
1640 South Stapley Drive, Suite 132
Mesa, Arizona 85204

Attorneys for Appellants

ORIGINAL electronically filed
this 17th day of November, 2010 with
the Clerk of the United States Bankruptcy Court
and *electronically delivered* via ECF to all
registered users.

/s/ Kristin E. Barnhart