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JUL 29 1992

LOS ANGELES  
SUPERIOR COURT

6 Attorneys for C. E. BUGGY, INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

12 SWINERTON & WALBERG, etc., et al.,  
13 Plaintiff,  
14 vs.  
15 HUNTINGTON HOTEL PARTNERS, et al.,  
16 Defendants.

No. BC 029478

And Consolidated Cases

OPPOSITION OF C. E. BUGGY  
TO BANK'S MOTION TO  
EXTEND DISCOVERY CUTOFF

Hearing

DATE: August 6, 1992

TIME: 1:30 PM

DEPT. 3

17 AND CONSOLIDATED ACTIONS

Discovery Cut-off 8/15/92  
Motions Cut-off 9/30/92  
Trial Date None Set

21 I. ARGUMENT IN OPPOSITION TO DAI-ICHI-KANGYO BANK'S  
22 MOTION TO EXTEND DISCOVERY CUT-OFF DATE

24 Generations to come will hear lawyers tell  
25 of the Case of the Huntington Ritz-Carlton Hotel.  
26 It is the stuff of construction law lore—  
27 how law firms now numbering over two score  
28 slugged it out for months, and then on into years,

1 while their fee bills confirmed all their clients' worst fears.  
2 It seemed for a time that total deforestation  
3 Would come from the paper used in this litigation.  
4 But one day a ray of hope appeared—  
5 Lien claimants and counsel in one voice all cheered.  
6 That was the day that Commissioner Levin  
7 handed us one little piece of heaven  
8 by stating *ex cathedra*, as we all remember  
9 "This case will go to trial no later than December."  
10

11 I represent C. E. Buggy, a subcontractor  
12 who in this case is but one small factor.  
13 He's owed forty thousand--a decent amount,  
14 but in a pool of ten million it doesn't much count.  
15 All Buggy can do is offer his prayers  
16 that despite the gymnastics of the megabuck players,  
17 someday soon—maybe in just a little while—  
18 This titanic struggle will go to trial.  
19 In our hearts there burns one tiny ember:  
20 The case will start trial this year come December.  
21

22 Now something has happened—The bank got new lawyers.  
23 With more and more ravenous paper destroyers,  
24 these new gladiators put their staffs to new tests—  
25 One day they served seventy discovery requests!  
26 New be vies of lawyers in their lofty aeries  
27 Demanded the utmost from their secretaries.  
28 Scores of depositions were hastily set

1 and they're still not through noticing depositions yet.  
2 Because after all those, there are sure to be minions  
3 of experts, in depo, with well trained opinions.  
4 It may all be necessary, but just the same  
5 it's darn hard for Buggy to stay in this game.  
6 The battle of paper has become so extensive  
7 that just keeping the file open is very expensive.  
8 To make matters worse, the new guys want to extend  
9 the discovery that was long ago scheduled to end  
10 on August 15 (which was set back in May  
11 by Commissioner Levin as the very last day).

12  
13 One can't fault Bank's new guys for giving their all  
14 when they've only just now had to pick up the ball.  
15 But while I understand what they're trying for their clients,  
16 the claimants and their counsel have placed much reliance  
17 on Commissioner Levin's pledge from the bench  
18 into which they would now throw a big monkey wrench.

19  
20 Sure, Bank says the trial date won't be affected  
21 by extending discovery to the date they've selected.  
22 But I have to say, with all respect,  
23 that sooner or later we will have to expect  
24 a Motion to Continue the trial based upon the need  
25 of clients and counsel and experts to read,  
26 understand and give a lot of thought  
27 to all the discovery responses they've got.  
28 The discovery garnered will do them no good

1 If they don't get more time, to get it all understood.  
2 So while they say "we won't throw the trial off track,"  
3 I say "Heed this warning: In November, they'll be back."  
4 Extending discovery for even just a short while  
5 sows a potential need for delaying the trial.  
6 To encourage such a delay there is no real need  
7 because the existing cutoff was not only ordered, but agreed.

8  
9 Besides, more time means more discovery served  
10 and the claimants are already sufficiently unnerved  
11 by the voluminous, duplicative requests they've received  
12 (which really do have to be seen to be believed).  
13 As claimants, we don't find this all very funny—  
14 Our cases are all "We did the work--you owe us the money."

15  
16 (Of course there are competing claims of delays,  
17 but they don't affect most of the claimants in this case;  
18 Most subs and suppliers had their suits instituted  
19 over amounts which are essentially undisputed.  
20 The problem on this project is not the delays,  
21 or that it was not completed within so-many days.  
22 When finally stripped of all the posturing trash,  
23 the problem is simple: Owner ran out of cash!)

24  
25 Please rein-in this bloodbath as much as you can  
26 by rejecting the extension-of-discovery plan.  
27 The new lawyers all want to test their mettle,  
28 but the claimants just want this darn mess to settle.

1 Nothing settles cases like a trial date  
2 and there's no good reason to extend our wait.  
3 Extending discovery by any amount  
4 potentially delays the day of account.  
5 Keep bright the star which has been beckoning—  
6 A December 1992 Ritz-Carlton Day of Reckoning.

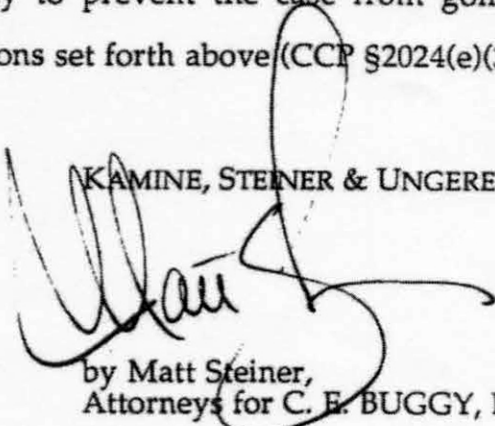
8 II. AUTHORITY

9 The moving papers do not establish good cause for the extension per  
10 CCP §2024(e).

11 BANK's moving papers do not demonstrate diligence in pursuing  
12 discovery (CCP §2024(e)(2)).

13 The extension is likely to prevent the case from going to trial as  
14 presently contemplated, for the reasons set forth above (CCP §2024(e)(3)).

15  
16 KAMINE, STEINER & UNGERER

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18   
19 by Matt Steiner,  
20 Attorneys for C. E. BUGGY, INC.  
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