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8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF ARIZONA

10 In re:	Chapter: 15
11 ELEVATION GOLD MINING	Jointly Administered
12 CORPORATION,	Case No. 2:24-bk-06359-EPB
13 Debtor in a Foreign Proceeding.	
14 In re:	
15 Golden Vertex Corp.,	Case No. 2:24-bk-06364-DPC
16 Debtor in a Foreign Proceeding.	
17 In re:	
18 Golden Vertex (Idaho) Corp.,	Case No. 2:24-bk-06367-BKM
19 Debtor in a Foreign Proceeding.	
20 In re:	
21 Eclipse Gold Mining Corporation,	Case No. 2:24-bk-06368-MCW
22 Debtor in a Foreign Proceeding.	
23 In re:	
24 Alcmene Mining Inc.,	Case No. 2:24-bk-06370-EPB
25 Debtor in a Foreign Proceeding.	
26 In re:	
27 Hercules Gold USA LLC,	Case No. 2:24-bk-06371-DPC
28 Debtor in a Foreign Proceeding.	

1 **THE GROUP’S MOTION TO EXPEDITE MOTION FOR SUMMARY**
2 **JUDGMENT AGAINST NOMAD ROYALTY COMPANY LIMITED**

3 Elevation Gold Mining Corporation (“Elevation”) and its direct and indirect
4 subsidiaries which include Eclipse Gold Mining Corporation (“Eclipse”), and Golden
5 Vertex Corp. (“GVC”) (collectively, the “Group”), respectfully request that the Court enter
6 an order pursuant to Local Rule 9013-1(i) expediting the hearing, briefing schedule, and
7 determination on the Group’s Motion for Summary Judgment against Nomad Royalty
8 Company Limited [DE 83] (“Summary Judgment Motion”) filed contemporaneously with
9 this Motion.

10 **A. Basis for expedited hearing, briefing schedule and determination.**

11 As the Court knows, the Group obtained protection from its creditors in proceedings
12 No. S245121 (the “Canadian Proceeding”) commenced under Canada’s Companies’
13 Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”), pending
14 before the Supreme Court of British Columbia (the “Canadian Court”).

15 A hearing is set before Justice Fitzpatrick in the Canadian Court for consideration
16 of a motion to approve a sale of the Group’s assets, including the assets comprising the
17 Moss Mine, which is scheduled to be heard on November 22, 2024 at 2:00 p.m. The current
18 Purchase Sale Agreement requires that sale to close on or before December 31, 2024. As
19 part of that closing, the proposed purchaser requires a ruling by this Court as to the nature
20 of Nomad’s interest in the Group’s assets. If a determination is not made by such time,
21 under the current agreement, the purchaser will not close the transaction and may even
22 terminate the acquisition. Such a termination would have a devastating effect on the
23 Group’s prospect going forward and may require all operations at the mine to cease which
24 would seriously impair the value of Group’s assets. Accordingly, the Group requests that
25 this Court set a hearing and briefing schedule on the Summary Judgment Motion as soon
26 as practicable so that a determination regarding Nomad’s interest in the Moss Mine can be
27 made prior December 31, 2024.

1 The Group previously filed its Motion to Determine the Nature of Nomad Royalty
2 Company Limited’s Interest [DE 53] (“Motion to Determine”) and sought to expedite a
3 determination on that matter. *See* [DE 55]. Nomad disputed the Motion to Determine and
4 opposed the acceleration of any briefing on that motion because it believed an adversary
5 proceeding was necessary. *See* Nomad Royalty Company Limited’s (i) Obj. to Mot. to
6 Expedite Royalty Determination Motions and (ii) Joinder in Patriot Gold Corporation’s
7 Obj. to Mot. for Expedited Consideration of Debtors’ Motions to Avoid Royalty Interests
8 in Arizona Mine [DE 60]. While Nomad has not formally responded to the Motion to
9 Determine, it unquestionably opposes it and the relief sought.¹ This Court has yet to
10 formally grant or deny the Group’s motion to expedite the Motion to Determine.

11 However, Federal Rule of Bankruptcy Procedure 7056, which incorporates Federal
12 Rule of Civil Procedure 56, applies to contested matters and adversaries. *See* Fed. R.
13 Bankr. P. 9014(c). Accordingly, whether the Group’s dispute vis-à-vis Nomad is an
14 adversary or a contested matter, Rule 7056 allows the filing of a motion for summary
15 judgment at any time, except that any motion for summary judgment must be made at least
16 30 days before the initial date set for an evidentiary hearing on any issue for which
17 summary judgment is sought. *See also In re Decker*, 199 B.R. 684, 689–90 (B.A.P. 9th Cir.
18 1996) (concluding bankruptcy court did not commit reversible error when it resolved legal
19 issue raised via “the equivalent of a summary judgment motion” in a contested matter
20 rather than through adversary proceeding). No evidentiary hearing has currently been set
21 regarding any issue in the Summary Judgment Motion and the filing of the Summary
22 Judgment Motion is appropriate procedurally and to quickly address the issues before the
23 Court.

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¹ “[W]henever there is an actual dispute, other than an adversary proceeding, before the
bankruptcy court, the litigation to resolve that dispute is a contested matter . . . Even when
an objection is not formally required, there may be a dispute.” Fed. R. Bankr. P. 9014 Notes
of Advisory Committee on Rules—1983.

1 Accordingly, the Group respectfully requests an expedited hearing and briefing
2 schedule be set on the Summary Judgment Motion as soon as practicable so that a
3 determination of Nomad's interests can be made prior to December 31, 2024.

4 **B. Service and associated contact information**

5 Service on the following counsel will be made immediately upon filing this request
6 and the Expedited Motion through the Court's ECF system and courtesy copies will be
7 delivered promptly via email after filing.

8 The contact information for all parties in interest or their counsel is below:

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C. Conclusion

Accordingly, for the reasons stated herein, the Group requests that this Court set an expedited hearing and briefing schedule on the Summary Judgment Motion so that a

1 determination on Nomad's interest related to the real property can be decided prior
2 December 31, 2024, which is the closing date provided in the Purchase Sale Agreement.

3 DATED this 12th day of November, 2024.

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13 The foregoing was electronically filed this 12th day
14 of November, 2024 via the Court's CM/ECF filing system
15 for filing and transmittal of a Notice of Electronic Filing,
16 receipt of which constitutes service under L.R. Bankr. P.
17 9076-1(a), to the CM/ECF registrants.

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