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IN THE SUPREME COURT OF THE STATE OF NEVADA

2010 AUG 31 PM 2:54

LEWIS HELFSTEIN;
MADALYN HELFSTEIN;
SUMMIT LASER PRODUCTS,
INC; AND SUMMIT
TECHNOLOGIES, LLC.
Appellant,
vs.
UI SUPPLIES; UNINET
IMAGING, INC.; AND NESTOR
SAPORITI,
Respondent.

No. 56383

FILED

SEP 02 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

APPELLANT'S MOTION FOR STAY PENDING APPEAL

I. Introduction

This is an interlocutory appeal from an order denying a motion to compel arbitration. Appellants assert that the lower court erred in failing to give effect to a broadly worded agreement to arbitrate disputes that was contained in an Agreement for Purchase and Sale of Assets, dated March 20, 2007 (the "Agreement").

The agreement to arbitrate stated that "Any controversy or claim arising out of or relating to this Agreement, or its breach, shall be settled by binding arbitration in accordance with the commercial rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. The venue of any arbitration shall be Nassau County, New York."

This motion is seeking a stay pending the disposition of this appeal.

The Appellants in this case are third party defendants in the action below (although they are improperly labeled as cross-defendants in the caption). They assert that it would be proper to stay the third party claim against them, or, alternatively, to stay the entire case.

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1 This request for a stay is based upon the decision in Mikohn Gaming Corp. v. McCrea,
2 89 P.3d 36, 120 Nev. 248 (Nev. 2004), where the Court stated:

3 Generally, in determining whether to issue a stay pending
4 disposition of an appeal, this court considers the following factors:
5 (1) whether the object of the appeal will be defeated if the stay is
6 denied, (2) whether appellant will suffer irreparable or serious
7 injury if the stay is denied, (3) whether respondent will suffer
8 irreparable or serious injury if the stay is granted, and (4) whether
9 appellant is likely to prevail on the merits in the appeal. We have
not indicated that any one factor carries more weight than the
others, although Fritz Hansen A/S v. District Court recognizes that
if one or two factors are especially strong, they may
counterbalance other weak factors.

10 **Our stay analysis in an appeal from an order refusing to**
11 **compel arbitration necessarily reflects the unique policies and**
12 **purposes of arbitration and the interlocutory nature of the**
13 **appeal.** As a result, the first stay factor takes on added significance
14 and generally warrants a stay of trial court proceedings pending
15 resolution of the appeal. The other stay factors remain relevant, but
16 **absent a strong showing that the appeal lacks merit or that**
17 **irreparable harm will result if a stay is granted, a stay should**
18 **issue to avoid defeating the object of the appeal.** (Emphasis
19 added). See 120 Nev. at 251-252.

20 II. Statement of the Case

21 Plaintiffs filed their action on April 3, 2009. They named two sets of defendants,
22 consisting of the Helfstein defendants (Appellants herein) and the Saporiti defendants
23 (Respondents herein). The Helfstein defendants were Lewis Helfstein, Madelyn Helfstein,
24 Summit Laser Products, Inc., and Summit Technologies, LLC. The Saporiti defendants were
25 Nestor Saporiti, UI Supplies, and Uninet Imaging, Inc.

26 Prior to filing a responsive pleading, the Helfstein defendants settled with the Plaintiffs,
27 and Plaintiffs filed a Notice of Voluntary Dismissal on November 23, 2009, a copy of which is
28 attached as Exhibit A.

The Saporiti defendants then filed an Amended Answer, Counterclaim, and Crossclaim
on January 19, 2010, a copy of which is attached as Exhibit B. The Crossclaim (which was really

1 a third party claim) included charging allegations against the Helfstein Defendants. A summons
2 was issued, and the Helfstein defendants were served with a three day notice of intent to take
3 default on April 16, 2010.

4 The Helfstein defendants filed a Motion for Stay or Dismissal, and to Compel Arbitration
5 on April 20, 2010, a copy of which is attached as Exhibit C. The motion was supported by the
6 Affidavit of Lewis Helfstein, which authenticated the Agreement that contained the agreement to
7 arbitrate. That motion was denied by an order entered on June 15, 2010, and a copy of the Notice
8 of Entry is attached hereto as Exhibit D.

9
10 This appeal was taken from the June 15, 2010 order, as NRS 38.247(1)(a) authorizes an
11 immediate interlocutory appeal of an order denying a motion to compel arbitration.

12 The Helfstein defendants sought a stay pending appeal, by motion in the lower court
13 dated July 7, 2010. In the motion, the grounds advanced in support of this motion were
14 presented to the lower court. However, the court minutes state that the motion was denied on
15 August 20, 2010. A copy of the minute order is attached as Exhibit E.

16
17 The only relationship between the Helfstein defendants and the Saporiti defendants is the
18 relationship arising out of the Agreement. They have no other relationship.

19 The claims asserted against the Helfstein defendants by the Saporiti defendants "arise out
20 of" and are "relating to" the Agreement. Specifically, the cross claim (i) introduces the
21 Agreement in paragraph 3, (ii) alleges that the Saporiti defendants relied upon it in paragraph 6,
22 and (iii) alleges in paragraph 10, that "Cross-Defendants breached the term of the Sales
23 Agreement by exposing Cross-Claimants to alleged damages by Plaintiffs related to the
24 Consulting Agreement." There are several other claims asserted in the pleading, but all of them
25 are similarly "arising out of" or "related to" the Agreement.
26

27 **II. Legal Argument**

28 The lower court erred in disregarding the strong public policy in favor of arbitration.

1 The allegations of the crossclaim point directly to the Agreement containing the
2 arbitration provision as the basis for the relief they are seeking. Thus, there is no doubt that the
3 issues involved in this controversy, as between the Appellants (the Helfstein defendants) and the
4 Respondents (the Saporiti defendants), are subject to the arbitration provision. The lower court
5 should have given effect to the arbitration provision and granted the initial motion.

6
7 The Agreement contains a choice of law provision stating that New York law will apply
8 to any dispute. However, regardless of whether New York or Nevada law applies, both states
9 have a strong policy in favor of the enforcement of arbitration provisions. Under New York law,
10 the case of Harris vs. Shearson Hayden Stone, 82 A.D. 87, 441 N.Y.S.2d 70 (N.Y.A.D. 1981),
11 aff'd 56 N.Y.2d 627, 435 N.E.2d 1097, 450 N.Y.S.2d 482 [1982]), held that:

12 "[T]his State favors and encourages arbitration as a means of
13 conserving the time and resources of the courts and the contracting
14 parties." (Matter of Nationwide Gen. Ins. Co. v Investors Ins. Co.
15 of Amer., 37 NY2d 91, 95; see Matter of Maye [Bluestein], 40
16 NY2d 113.) Moreover, "[p]arties to a contract may agree, if they
17 will, that any and all controversies growing out of it in any way
18 shall be submitted to arbitration. If they do, the courts of New
19 York will give effect to their intention." (Matter of Marchant v
20 Mead-Morrison Mfg. Co., 252 NY 284, 298.) "It has long been this
21 State's policy that, where parties enter into an agreement and, in
22 one of its provisions, promise that any dispute arising out of or in
23 connection with it shall be settled by arbitration, any controversy
24 which arises between them and is within the compass of the
25 provision must go to arbitration."

26
27 The strong policy in favor of arbitration is similarly well known in Nevada. NRS 38.035
28 states:

A written agreement to submit any existing controversy to
arbitration or a provision in a written contract to submit to
arbitration any controversy thereafter arising between the parties is
valid, enforceable and irrevocable save upon such grounds as exist
at law or in equity for the revocation of any contract. NRS 38.015
to 38.205, inclusive, also apply to arbitration agreements between
employers and employees or between their respective
representatives unless otherwise provided in the agreement.

1
2 As described in Phillips v. Parker, 106 Nev. 415, 794 P.2d 716 (1990), the Nevada
3 Supreme Court has emphasized the desirability of enforcement of an arbitration agreement
4 between the parties. The Phillips decision contains the following pronouncements of Nevada law
5 on the subject:

6
7 “There is a strong public policy favoring contractual provisions
8 requiring arbitration of a dispute resolution mechanism.
9 Consequently, **when there is an agreement to arbitrate we have
said that there is a “presumption of arbitrability.”**

10 ...
11 “We have previously held that once an arbitrable issue has been
12 found to exist, all doubts concerning the arbitrability of the subject
13 matter should be resolved in favor of arbitration. Exber, Inc. v.
Sletten Constr. Co., 92 Nev. 721, 729, 558 P.2d 517, 522 (1976).
14 Courts are not to deprive the parties of the benefits of arbitration
15 they have bargained for, and arbitration clauses are to be construed
16 liberally in favor of arbitration.” See 106 Nev. at 417.

17 The Appellants are now asking this Court to grant a stay, so that the Appellants will not
18 be deprived of the bargained-for benefits of arbitration.

19 The Mikohn decision granted the requested stay pending appeal merely because “it is not
20 clear” if arbitration would be required. Specifically, the Mikohn decision stated as follows:

21 In this case, the merits are unclear at this stage. Without a full
22 appellate review of the record, we cannot determine if Mikohn’s
23 appeal is likely to succeed. As a result, **because it is not clear if
arbitration of McCrea’s claims is required by the employment
agreement’s arbitration clause and Mikohn will be forced to
spend money and time preparing for trial, thus potentially
losing the benefits of arbitration, we grant Mikohn’s motion
and extend the stay for the duration of this appeal.** (Emphasis
added). See 120 Nev. at 254.

24
25 Appellants submit that in this case, the arbitrability of the dispute is much more apparent
26 than was shown in Mikohn. The allegations against the Helfstein defendants (Appellants) arise
27 directly out of the Agreement containing the arbitration provision. Indeed, in the absence of that
28 Agreement, there would be no relationship between the Saporiti defendants and the Helfstein

1 defendants.

2 Thus, in order to give effect to the strong public policy in favor of arbitration, the
3 granting of a stay pending appeal is proper, and the Appellants respectfully request that a stay be
4 so ordered.

5 Respectfully Submitted,

6 FOLEY & OAKES, PC

7 

8 J. Michael Oakes, Esq.
9 850 East Bonneville Avenue
10 Las Vegas, Nevada 89101
11 Attorneys for Appellants

CERTIFICATE OF MAILING

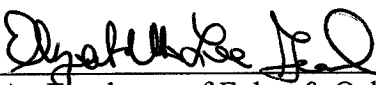
Pursuant to NRAP 25, I hereby certify that on the 31 day of August, 2010, I mailed a copy of the foregoing **APPELLANT'S MOTION FOR STAY PENDING APPEAL** addressed as follows:

Gary E. Schnitzer, Esq,
Michael B. Lee, Esq.
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FILED

NOV 23 2009

John A. Blum
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

09A587003
541016



IRA AND EDYTHE SEAVER FAMILY
TRUST; IRA SEAVER; and CIRCLE
CONSULTING CORPORATION,

Plaintiffs,

v.

LEWIS HELFSTEIN, MADALYN
HELFSTEIN, SUMMIT LASER PRODUCTS,
INC., SUMMIT TECHNOLOGIES LLC, UI
SUPPLIES, UNINET IMAGING, INC.,
NESTOR SAPORITI and DOES 1 through 20,
and ROE entities 21 through 40, inclusive,

Defendants.

Case No.: A587003
Dept. No.: XI

**NOTICE OF VOLUNTARY DISMISSAL
OF DEFENDANTS LEWIS HELFSTEIN,
MADALYN HELFSTEIN, SUMMIT
LASER PRODUCTS, INC. AND SUMMIT
TECHNOLOGIES, LLC ONLY**

AND RELATED MATTERS.

YOU, AND EACH OF YOU, will please notice that pursuant to NRCP 41(a)(1)(ii), no answer or motion for summary judgment having been filed herein by Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC (the "Summit Defendants"); Plaintiffs, Ira and Edythe Seaver Family Trust, Ira Seaver and Circle Consulting, hereby voluntarily dismiss this action as against the Summit Defendants only.

Dated this 23 day of November, 2009.

SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON

JEFFREY R. ALBREGTS, ESQ. (NBN 0066)
BRIAN G. ANDERSON, ESQ. (NBN 10500)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

CERTIFICATE OF MAILING

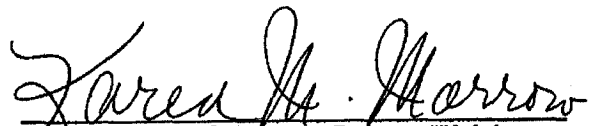
I HEREBY CERTIFY that on the 23rd day of November, 2009, and pursuant to NRCP 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANTS LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC. AND SUMMIT TECHNOLOGIES, LLC ONLY**, postage prepaid and addressed to:

Lewis Helfstein
Madalyn Helfstein
10 Meadowgate East
St. James, NY 11780
Defendants

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Michael B. Lee, Esq.
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An employee of Santoro, Driggs, Walch,
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10 *Attorneys for Defendants UI Supplies,*
11 *Uninet Imaging and Nestor Saporiti*

FILED

JAN 19 11 50 AM '10

Ann D. Lamm
CLERK OF THE COURT

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 IRA AND EDYTHE SEAVER FAMILY
11 TRUST, IRA SEAVER, CIRCLE
12 CONSULTING CORPORATION

Case No. A587003

Dept. No. XI

13 Plaintiff,

14 vs.

15 LEWIS HELFSTEIN, MADALYN
16 HELFSTEIN, SUMMIT LASER
17 PRODUCTS, INC., SUMMIT
18 TECHNOLOGIES LLC, UI SUPPLIES,
19 UNINET IMAGING, INC., NESTOR
20 SAVORITI and DOES 1 through 20, and
21 ROE entities 21 through 40, inclusive,

DEFENDANTS UI SUPPLIES,
UNINET IMAGING AND NESTOR
SAVORITI'S FIRST AMENDED
ANSWER TO COMPLAINT,
COUNTERCLAIM, AND CROSS
CLAIM

22 Defendants.

23
24 UI SUPPLIES, UNINET IMAGING, INC.,
25 NESTOR SAVORITI

26 Counter-Claimants

27 vs.

28 IRA AND EDYTHE SEAVER FAMILY
TRUST, IRA SEAVER, CIRCLE
CONSULTING CORPORATION; and ROE
CORPORATIONS 101-200.

Counter-Defendants

1 UI SUPPLIES, UNINET IMAGING AND
2 NESTOR SAPORITI

3 Cross-Claimants

4 vs.

5 LEWIS HELFSTEIN, MADALYN
6 HELFSTEIN, SUMMIT LASER
7 PRODUCTS, INC., SUMMIT
8 TECHNOLOGIES LLC,

9 Cross-Defendants

DEFENDANTS UI SUPPLIES,
UNINET IMAGING AND NESTOR
SAPORITI'S FIRST AMENDED
ANSWER TO COMPLAINT,
COUNTERCLAIM, AND CROSS
CLAIM

10 COMES NOW, DEFENDANTS UI SUPPLIES, UNINET IMAGING AND
11 NESTOR SAPORITI, ("Defendants"), by and through their attorneys, the law firm of
12 Kravitz, Schnitzer, Sloane & Johnson, Chtd., and hereby submit their Answer to Complaint
13 ("Answer") as follows:
14

15 1. Defendants state that they do not have sufficient knowledge or information
16 upon which to base a belief as to the truth of the allegations contained herein and upon
17 said ground deny each and every allegation contained in Paragraph 1.

18 2. Defendants admit that Defendant UI Supplies is a New York Corporation;
19 that Defendant UniNet Imaging Inc. is a California Corporation with its principal place of
20 business in Los Angeles County; and that Defendant Nestor Saporiti is a resident of the
21 State of California, but deny the remaining allegations contained in Paragraph 2.

22 3. Defendants state that they do not have sufficient knowledge or information
23 upon which to base a belief as to the truth of the allegations contained herein and upon
24 said ground deny each and every allegation contained in Paragraph 3.
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1 11. Defendants state that they do not have sufficient knowledge or information
2 upon which to base a belief as to the truth of the allegations contained herein and upon
3 said ground deny each and every allegation contained in Paragraph 11.
4

5 12. Defendants deny each and every allegation contained in Paragraph 12.

6 13. Defendants deny each and every allegation contained in Paragraph 13.

7 Specific Allegations:

8 14. Defendants state that they do not have sufficient knowledge or information
9 upon which to base a belief as to the truth of the allegations contained herein and upon
10 said ground deny each and every allegation contained in Paragraph 14.
11

12 15. Defendants state that they do not have sufficient knowledge or information
13 upon which to base a belief as to the truth of the allegations contained herein and upon
14 said ground deny each and every allegation contained in Paragraph 15.

15 16. Defendants deny each and every allegation contained in Paragraph 16.

16 17. Defendants deny each and every allegation contained in Paragraph 17.

17 18. Defendants deny each and every allegation contained in Paragraph 18.

18 19. Defendants deny each and every allegation contained in Paragraph 19.

19 20. Defendants state that they do not have sufficient knowledge or information
20 upon which to base a belief as to the truth of the allegations contained herein and upon
21 said ground deny each and every allegation contained in Paragraph 20.
22

23 21. Defendants state that they do not have sufficient knowledge or information
24 upon which to base a belief as to the truth of the allegations contained herein and upon
25 said ground deny each and every allegation contained in Paragraph 21.
26

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1 22. Defendants deny each and every allegation contained in Paragraph 22.

2 23. Defendants deny each and every allegation contained in Paragraph 23.

3 FIRST CAUSE OF ACTION

4 BREACH OF CIRCLE CONSULTING CONTRACT

5
6 24. Defendants reassert and reallege all of their answers contained in
7 Paragraphs 1 through 23 as though fully set forth herein.

8 25. Defendants deny each and every allegation contained in Paragraph 25.

9 26. Defendants deny each and every allegation contained in Paragraph 26.

10 27. Defendants deny each and every allegation contained in Paragraph 27.

11 SECOND CAUSE OF ACTION

12 BREACH OF SUMMIT TECHNOLOGIES FORMATION AGREEMENT

13
14 28. Defendants reassert and reallege all of their answers contained in
15 Paragraphs 1 through 27 as though fully set forth herein.

16 29. Defendants state that they do not have sufficient knowledge or information
17 upon which to base a belief as to the truth of the allegations contained herein and upon
18 said ground deny each and every allegation contained in Paragraph 29.

19
20 30. Defendants state that they do not have sufficient knowledge or information
21 upon which to base a belief as to the truth of the allegations contained herein and upon
22 said ground deny each and every allegation contained in Paragraph 30.

23 THIRD CAUSE OF ACTION

24 BREACH OF SUMMIT TECHNOLOGIES OPERATING AGREEMENT

25
26 31. Defendants reassert and reallege all of their answers contained in
27 Paragraphs 1 through 30 as though fully set forth herein.
28

1 32. Defendants state that they do not have sufficient knowledge or information
2 upon which to base a belief as to the truth of the allegations contained herein and upon
3 said ground deny each and every allegation contained in Paragraph 32.
4

5 33. Defendants state that they do not have sufficient knowledge or information
6 upon which to base a belief as to the truth of the allegations contained herein and upon
7 said ground deny each and every allegation contained in Paragraph 33.

8 FOURTH CAUSE OF ACTION

9 BREACH OF FIDUCIARY DUTY

10 34. Defendants reassert and reallege all of their answers contained in
11 Paragraphs 1 through 33 as though fully set forth herein.
12

13 35. Defendants state that they do not have sufficient knowledge or information
14 upon which to base a belief as to the truth of the allegations contained herein and upon
15 said ground deny each and every allegation contained in Paragraph 35.

16 36. Defendants state that they do not have sufficient knowledge or information
17 upon which to base a belief as to the truth of the allegations contained herein and upon
18 said ground deny each and every allegation contained in Paragraph 36.
19

20 FIFTH CAUSE OF ACTION

21 PROMISSORY ESTOPPEL

22 37. Defendants reassert and reallege all of their answers contained in
23 Paragraphs 1 through 36 as though fully set forth herein.
24

25 38. Defendants deny each and every allegation contained in Paragraph 38.

26 39. Defendants deny each and every allegation contained in Paragraph 39.

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NINTH CAUSE OF ACTION

BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

(By Plaintiffs against All Defendants)

48. Defendants reassert and reallege all of their answers contained in Paragraphs 1 through 47 as though fully set forth herein.

49. Defendants admit each and every allegation contained in Paragraph 49.

50. Defendants admit each and every allegation contained in Paragraph 50.

51. Defendants deny each and every allegation contained in Paragraph 51.

52. Defendants deny each and every allegation contained in Paragraph 52.

53. Defendants deny each and every allegation contained in Paragraph 53.

TENTH CAUSE OF ACTION

ALTER EGO

(By Plaintiffs against All Defendants)

54. Defendants reassert and reallege all of their answers contained in Paragraphs 1 through 53 as though fully set forth herein.

55. Defendants state that they do not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained herein and upon said ground deny each and every allegation contained in Paragraph 55.

56. Defendants state that they do not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained herein and upon said ground deny each and every allegation contained in Paragraph 56.

57. Defendants state that they do not have sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained herein and upon

1 said ground deny each and every allegation contained in Paragraph 57.

2 58. Defendants deny each and every allegation contained in Paragraph 58.

3 59. Defendants deny each and every allegation contained in Paragraph 59.

4 60. Defendants deny each and every allegation contained in Paragraph 60.

5 61. Defendants deny each and every allegation contained in Paragraph 61.

6
7 **AFFIRMATIVE DEFENSES**

8 **First Affirmative Defense**

9 Plaintiffs' Complaint fails to state a claim for which relief may be granted.

10
11 **Second Affirmative Defense**

12 Plaintiffs, through its acts and omissions, have waived its right to prosecute its
13 claims against Defendants.

14 **Third Affirmative Defense**

15 Plaintiffs, by and through their acts and omissions, are estopped from prosecuting
16 their claims against Defendants.

17
18 **Fourth Affirmative Defense**

19 Plaintiffs' claims are barred by the Doctrine of Novation.

20 **Fifth Affirmative Defense**

21 Plaintiffs' claims are barred by the Doctrine of Accord and Satisfaction.

22 **Sixth Affirmative Defense**

23 Defendants allege that the Complaint and each and every cause of action stated
24 therein fails to state facts sufficient to constitute a cause of action, or any cause of action,
25 as against Defendants.
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1 **Twelfth Affirmative Defense**

2 Defendants are informed and believe and thereon allege that the injuries and
3 damages of which Plaintiffs complain were proximately caused by, or contributed to, by
4 the acts of other Third-Party Defendants, Defendants, persons and/or other entities, and
5 that said acts were an intervening and superseding cause of the injuries and damages, if
6 any, of which Plaintiffs complain, thus barring Plaintiffs from any recovery against
7 Defendants.
8

9 **Thirteenth Affirmative Defense**

10 It has been necessary for Defendants to retain the services of an attorney to defend
11 this action and it is entitled to a reasonable sum as and for attorneys' fees.
12

13 **Fourteenth Affirmative Defense**

14 Defendants are informed and believe and thereon allege that the claims of
15 Plaintiffs are reduced, modified and/or barred by the Doctrine of Unclean Hands.
16

17 **Fifteenth Affirmative Defense**

18 Defendants are informed and believe that the Plaintiffs lack standing to assert one
19 or more of the claims made in its Complaint, such that it may not recover damages for
20 said claims, thereby barring or diminishing Plaintiffs' recovery herein.
21

22 **Sixteenth Affirmative Defense**

23 In further answering, Defendants state that Plaintiffs' claims are barred by the
24 doctrine of laches.
25

26 **Seventeenth Affirmative Defense**

27 In further answering, Defendants state that Plaintiffs fail to state a claim upon
28 which relief may be granted.

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Eighteenth Affirmative Defense

In further answering, Defendants state that Plaintiffs' Claims are barred because of lack of jurisdiction over the subject matter of the action.

Nineteenth Affirmative Defense

In further answering, Defendants state that Plaintiffs' Claims are barred because of lack of jurisdiction over the person.

Twentieth Affirmative Defense

In further answering, Defendants state that venue is improper.

Twenty-First Affirmative Defense

In further answering, Defendants state that Plaintiffs' Claims are barred because of insufficiency of process.

Twenty-Second Affirmative Defense

In further answering, Defendants state that Plaintiffs' complaint is wholly insubstantial, frivolous, and not advanced in good faith.

Twenty-Third Affirmative Defense

In further answering, Defendants state that the alleged agreement is contrary to the statue of frauds, and therefore unenforceable.

Twenty-Fourth Affirmative Defense

In further answering, Defendants state that Plaintiffs waived any right to payment they may have had under the alleged agreement.

Twenty-Fifth Affirmative Defense

In further answering, Defendants state that if there was an agreement between Plaintiffs and Defendants, Plaintiffs breached the agreement, therefore, Plaintiffs are not

1 entitled to prevail in this action.

2 **Twenty-Sixth Affirmative Defense**

3 Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not
4 have been alleged herein insofar as sufficient facts were not available for responding
5 party after reasonable inquiry upon the filing of the answering Defendants' Answer to
6 Plaintiffs' Complaint, and therefore Defendants reserve the right to amend their Answer
7 to allege additional affirmative defenses, if subsequent investigation so warrants.
8

9 WHEREFORE, These Answering Defendants request for relief and pray for
10 judgment against Plaintiffs, and each of them, as follows:
11

- 12 a. That Plaintiffs take nothing by way of the Complaint on file herein;
13 b. For reasonable attorneys' fees and costs of suit incurred herein; and
14 c. Such other and further relief the Court may deem just and proper.

15 **COUNTER CLAIM**

16 COMES NOW, Counter-Claimants UI SUPPLIES, UNINET IMAGING AND
17 NESTOR SAPORITI, ("Counter-Claimants"), by and through their attorneys, the law
18 firm of Kravitz, Schnitzer, Sloane & Johnson, Chtd., and hereby files this Counter-Claim
19 as follows against Counter-Defendants IRA AND EDYTHE SEAVER FAMILY TRUST,
20 IRA SEAVER, CIRCLE CONSULTING CORPORATION:
21

22 1. At all times relevant herein, IRA AND EDYTHE SEAVER FAMILY
23 TRUST ("Seaver Trust"), is organized pursuant to the laws of the State of Nevada. IRA
24 SEAVER ("Ira Seaver") is a resident of the State of Nevada. CIRCLE CONSULTING
25 CORPORATION ("Circle Consulting") is a Nevada Corporation whose principal place of
26 business is Clark County, Nevada (collectively "Counter-Defendants").
27
28

1 2. At all times relevant herein, NESTOR SAPORITI was and is a resident of
2 California, UI SUPPLIES is and was a New York Corporation, and UNINET IMAGING
3 is and was a California Corporation (collectively "Counter-Claimants").
4

5 3. Upon information and belief, Circle Consulting entered into a consulting
6 agreement on or about September 1, 2004, for the exclusive performance of services at
7 the request for Summit Technologies LLC ("Summit") (the "Consulting Agreement").
8

9 4. Upon information and belief, the Consulting Agreement contained a
10 provision stating that Ira Seaver was to exclusively perform services at the request of
11 Summit and required to honor restrictive covenants related to non-competition, non-
12 disclosure of non-public information and trade secrets, and confidentiality.

13 5. However, this Consulting Agreement contained an express provision that
14 it was unassignable. A waiver of this provision required a written writing by Circle
15 Consulting, through Ira Seaver, and Summit.
16

17 6. No written modification of the anti-assignment provision of the Consulting
18 Agreement was executed.

19 7. Thus, the Consulting Agreement is and was unassignable based on its
20 plain language.

21 8. Ira Seaver and Circle Consulting violated the Consulting Agreement
22 through the actions of Ira Seaver through Ira Seaver's engagement of activities that
23 violated the restrictive covenants of the Consulting Agreement.
24

25 9. Counter-Defendants do not have a right to assert claims against Counter-
26 Plaintiffs as a matter of law since the Consulting Agreement is unassignable. However,
27 in the alternative, assuming that the Consulting Agreement is assignable, Counter-
28

1 Defendants breached that agreement.

2
3 **FIRST CLAIM FOR RELIEF**
4 **(Breach of Contract)**

5 10. Counter-Claimants repeat and reallege their allegations in Paragraphs 1
6 through 9, inclusive, as if fully set forth at this point and incorporates them herein by
7 reference.

8 11. The Consulting Agreement provided various obligations and terms of
9 dealings between the Helfstein Defendants (defined by Counter-Defendants' Complaint)
10 and Counter-Defendants.

11 12. Counter-Defendants breached the terms of the Consulting Agreement by
12 IRA SEAVER's action and conduct.

13 13. As a direct and proximate result of the foregoing, Counter-Claimants have
14 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
15 trial.

16 14. In order to prosecute this action, Counter-Claimants have had to retain
17 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees,
18 expenses, and costs associated with enforcing the Consulting Agreement.

19
20 **SECOND CLAIM FOR RELIEF**
21 **(Breach of the Covenant of Good Faith and Fair Dealing)**

22 15. Counter-Claimants repeat and reallege their allegations in Paragraphs 1
23 through 14, inclusive, as if fully set forth at this point and incorporates them herein by
24 reference.

25 16. Each contract in Nevada carries with it the duty of good faith and fair
26 dealing.
27
28

1 17. As a result of Counter-Defendants' actions, they breached their obligations
2 of good faith and fair dealing toward Counter-Claimants with respect to the Consulting
3 Agreement.
4

5 18. As a direct and proximate result of the foregoing, Counter-Claimants have
6 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
7 trial.
8

9 19. As a result of Counter-Defendants' breach of good faith and fair dealing,
10 Counter-Claimants have had to retain attorneys to represent them, and they are entitled to
11 fair and reasonable attorneys' fees, expenses, and costs associated with enforcing the
12 Consulting Agreement.
13

14 **THIRD CLAIM FOR RELIEF**
15 **(Unjust Enrichment)**

16 20. Counter-Claimants repeat and reallege their allegations in Paragraphs 1
17 through 19, inclusive, as if fully set forth at this point and incorporates them herein by
18 reference.
19

20 21. Counter-Defendants have a contractual duty to, among other things, deal
21 honestly, fairly, confidently, and professionally with Counter-Claimants. Counter-
22 Defendants also have a duty to comply with the Consulting Agreement and their dealings
23 with Counter-Claimants.
24

25 22. Counter-Defendants refused to comply with the Consulting Agreement
26 and perform as specified.
27

28 23. Counter-Defendants breached and/or failed and refused to comply with
29 their aforementioned duties and obligations under the Consulting Agreement. As such,
30 Counter-Defendants have been unjustly enriched.

1 24. As a direct and proximate result of the foregoing, Counter-Claimants have
2 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
3 trial.

4
5 25. In order to prosecute this action, Counter-Claimants have had to retain
6 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees,
7 expenses, and costs associated with enforcing the Agreement.

8 WHEREFORE, Counter-Claimants pray for judgment against Counter-
9 Defendants as follows:

10 1. For this Court to declare the Consulting Agreement terminated based on
11 IRA SEAVER'S default of his obligations.

12 2. For this Court to declare that Counter-Defendants are in material breach
13 for their failure of the Consulting Agreement based IRA SEAVER'S violations of the
14 restrictive covenants.

15 3. For breach of contract damages as requested above;

16 4. For damages associated with breach of the covenant of good faith and fair
17 dealings as stated above;

18 5. For damages associated with unjust enrichment as stated above;

19 6. For attorneys' fees and costs incurred herein;

20 7. For exemplary damages; and

21 8. For such other and further relief as the Court may deem just and proper.

22 CROSS-CLAIM

23 COMES NOW, the Defendants, UI SUPPLIES, UNINET IMAGING, INC.,
24 NESTOR SAPORITI (collectively referred to as "Cross-Claimants"), by and through
25
26
27
28

1 their counsel of record, Gary E. Schnitzer, Esq. and Michael B. Lee, Esq. of the law firm
2 KRAVITZ, SCHNITZER, SLOANE & JOHNSON, CHTD., and hereby file their Cross-
3 Claim against Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT
4 LASER PRODUCTS, INC., SUMMIT TECHNOLOGIES LLC (collectively referred to
5 as "Cross-Defendants"), as follows:
6

7 1. At all times relevant herein, IRA AND EDYTHE SEAVER FAMILY
8 TRUST ("Seaver Trust"), is organized pursuant to the laws of the State of Nevada. IRA
9 SEAVER ("Ira Seaver") is a resident of the State of Nevada. CIRCLE CONSULTING
10 CORPORATION ("Circle Consulting") is a Nevada Corporation whose principal place of
11 business is Clark County, Nevada (collectively "Counter-Defendants").
12

13 2. At all times relevant herein, NESTOR SAPORITI was and is a resident of
14 California, UI SUPPLIES is and was a New York Corporation, and UNINET IMAGING
15 is and was a California Corporation.
16

17 3. On or about March 30, 2007, Cross-Defendants and Cross-Claimants
18 entered into the AGREEMENT FOR PURCHASE AND SALE OF ASSETS by and
19 between UI SUPPLIES, INC. and SUMMIT TECHNOLOGIES, LLC. ("Sales
20 Agreement").
21

22 4. During the negotiations of the Sales Agreement, Cross-Claimants
23 expressly stated to Cross-Defendants that they did not want to assume the Consulting &
24 Non-Competition Agreement between Summit Technologies, LLC and Circle Consulting
25 Corporation ("Consulting Agreement").
26

27 5. In turn, Cross-Claimants and Cross-Defendants executed "Exhibit E" the
Sales Agreement that expressly provided that, "CONSULTING AGREEMENTS WITH
28

1 IRA SEAVER AND LEWIS HELFSTEIN NOT BEING ASSUMED."

2 6. Cross-Claimants relied on this provision in entering the Sales Agreement.

3 7. However, Plaintiffs IRA AND EDYTHE SEAVER FAMILY TRUST,
4 IRA SEAVER, CIRCLE CONSULTING CORPORATION ("Plaintiffs") have instigated
5 litigation against Cross-Claimants attempting to enforce the Consulting Agreement
6 against them.
7

8 **FIRST CLAIM FOR RELIEF**
9 **(Breach of Contract)**

10 8. Cross-Claimants repeat and reallege their allegations in Paragraphs 1
11 through 7, inclusive, as if fully set forth at this point and incorporates them herein by
12 reference.

13 9. The Sales Agreement provided various obligations and terms of dealings
14 between Cross-Defendants and Cross-Claimants.
15

16 10. Cross-Defendants breached the terms of the Sales Agreement by exposing
17 Cross-Claimants to alleged damages claimed by Plaintiffs related to the Consulting
18 Agreement.

19 11. As a direct and proximate result of the foregoing, Cross-Claimants have
20 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
21 trial.
22

23 12. In order to prosecute this action, Cross-Claimants had to retain attorneys to
24 represent them, and they are entitled to fair and reasonable attorneys' fees, expenses, and
25 costs associated with enforcing the Consulting Agreement.
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1
2 **SECOND CLAIM FOR RELIEF**
3 **(Breach of the Covenant of Good Faith and Fair Dealing)**

4 13. Cross-Claimants repeat and reallege their allegations in Paragraphs 1
5 through 12, inclusive, as if fully set forth at this point and incorporates them herein by
6 reference.

7 14. Each contract in Nevada carries with it the duty of good faith and fair
8 dealing.

9 15. As a result of Cross-Defendants' actions, they breached their obligations
10 of good faith and fair dealing toward Cross-Claimants with respect to the Consulting
11 Agreement.

12 16. As a direct and proximate result of the foregoing, Cross-Claimants have
13 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
14 trial.

15
16 17. As a result of Cross-Defendants' breach of good faith and fair dealing,
17 Cross-Claimants have had to retain attorneys to represent them, and they are entitled to
18 fair and reasonable attorneys' fees, expenses, and costs.

19 **THIRD CLAIM FOR RELIEF**
20 **(Unjust Enrichment)**

21 18. Cross-Claimants repeat and reallege their allegations in Paragraphs 1
22 through 17, inclusive, as if fully set forth at this point and incorporates them herein by
23 reference.

24
25 19. Cross-Defendants have a contractual duty to, among other things, deal
26 honestly, fairly, confidently, and professionally with Cross-Claimants. Cross-Defendants
27 also have a duty to comply with the Sales Agreement and the representations made
28

1 surrounding those dealings with Cross-Claimants.

2 20. Cross-Defendants did not comply with their duties under the Sales
3 Agreement nor with their underlying representations made as to the Consulting
4 Agreement.
5

6 21. Cross-Defendants breached and/or failed and refused to comply with their
7 aforementioned duties and obligations under the Sales Agreement. As such, Cross-
8 Defendants have been unjustly enriched.

9 22. As a direct and proximate result of the foregoing, Cross-Claimants have
10 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
11 trial.
12

13 23. In order to prosecute this action, Cross-Claimants have had to retain
14 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees,
15 expenses, and costs associated with enforcing the Agreement.
16

17 **FOURTH CLAIM FOR RELIEF**
18 **(Fraud)**

19 24. Cross-Claimants repeat and reallege the allegations contained in
20 Paragraphs 1 through 23, above, as though fully set forth herein.

21 25. Through the Sales Agreement Cross-Defendants explicitly stated that
22 "CONSULTING AGREEMENTS WITH IRA SEAVER AND LEWIS HELFSTEIN
23 NOT BEING ASSUMED."

24 26. Cross-Claimants relied on this statement in entering the Sales Agreement.

25 27. In the alternative, if the Consulting Agreement was assigned to Cross-
26 Claimants, the representations mentioned above were false when Cross-Defendants made
27 them, in that the Consulting Agreement was allegedly assigned to Cross-Claimants.
28

1 28. In the alternative, if the Consulting Agreement was assigned to Cross-
2 Claimants, Cross-Defendants knew the representations were false when made, or made
3 the representations mentioned above with a reckless disregard for their truth or falsity, in
4 that the Consulting Agreement was assigned to Cross-Claimants although Cross-
5 Defendants explicitly represented that it would not be.
6

7 29. In the alternative, if the Consulting Agreement was assigned to Cross-
8 Claimants, Cross-Defendants made the representations mentioned above with the intent
9 and for the purpose of deceiving Cross-Claimants and to induce Cross-Claimants into
10 relying on the representations.
11

12 30. In the alternative, if the Consulting Agreement was assigned to Cross-
13 Claimants, Cross-Claimants, in reliance on the representations mentioned above, were
14 induced to enter into the Sales Agreement by Cross-Defendants.
15

16 31. In the alternative, if the Consulting Agreement was assigned to Cross-
17 Claimants, Cross-Claimants's reliance on the representations mentioned above was
18 reasonable under the circumstances in that the Sales Agreement clearly specified that the
19 Consulting Agreement would not be assigned to Cross-Claimants.
20

21 32. As a direct and proximate result of Cross-Defendants' fraud, Cross-
22 Claimants have suffered, and will continue to suffer, monetary loss and injury.
23

24 33. As a direct and proximate result of the foregoing, Cross-Claimants have
25 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
26 trial.
27

28 34. In order to prosecute this action, Cross-Claimants have had to retain
29 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees;
30

1 namely, attorneys' fees, expenses, and costs associated with defending against Cross-
2 Defendants' fraud.

3
4 **FIFTH CLAIM FOR RELIEF**
5 **(Fraudulent Misrepresentation)**

6 35. Cross-Claimants repeat and reallege the allegations contained in
7 Paragraphs 1 through 34, above, as though fully set forth herein.

8 36. In the alternative, if the Consulting Agreement was assigned to Cross-
9 Claimants, Cross-Defendants made a false representation with knowledge or belief that
10 their representation was false or that they have an insufficient basis of information for
11 making the representation. Cross-Defendants intended to induce Cross-Claimants to act
12 on the misrepresentation regarding the non-assignment of the Consulting Agreement to
13 have them enter into the Sales Agreement. Cross-Claimants have been damaged as a
14 result of relying on the misrepresentation by Cross-Defendants.

15
16 37. In the alternative, if the Consulting Agreement was assigned to Cross-
17 Claimants, during the negotiations for the Sales Agreement, Cross-Defendants submitted
18 information to Cross-Claimants that set forth false, fraudulent, incomplete and/or
19 misleading information concerning material facts about the Consulting Agreement.

20
21 38. In the alternative, if the Consulting Agreement was assigned to Cross-
22 Claimants, the representations mentioned above were false when Cross-Defendants made
23 them, in that Cross-Defendants knowingly induced Cross-Claimants' reliance in
24 executing the Sales Agreement premised on the representation that the Consulting
25 Agreement would not be assigned to Cross-Claimants.

26
27 39. In the alternative, if the Consulting Agreement was assigned to Cross-
28 Claimants, Cross-Defendants knew the representations were false when made, or made

1 the representations mentioned above with a reckless disregard for their truth or falsity, in
2 that Cross-Defendants sought to induce Cross-Claimants into entering the Sales
3 Agreement.
4

5 40. In the alternative, if the Consulting Agreement was assigned to Cross-
6 Claimants, Cross-Claimants, in reliance on the representations mentioned above, were
7 induced into executing the Sales Agreement.

8 41. In the alternative, if the Consulting Agreement was assigned to Cross-
9 Claimants, Cross-Claimants' reliance on the false representations mentioned above was
10 reasonable under the circumstances, in that the false statements were made by Cross-
11 Defendants in a manner that explicitly stated the Consulting Agreement was not being
12 assigned to Cross-Claimants.
13

14 42. Cross-Defendants induced Cross-Claimants into executing the Sales
15 Agreement.
16

17 43. As a direct and proximate result of Cross-Defendants' fraudulent
18 misrepresentation, Cross-Claimants suffered, and will continue to suffer, monetary loss
19 and injury.

20 44. As a direct and proximate result of the foregoing, Cross-Claimants have
21 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
22 trial.
23

24 45. In order to prosecute this action, Cross-Claimants have had to retain
25 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees;
26 namely, attorneys' fees, expenses, and costs associated with prosecuting an action for
27 Cross-Defendants' fraudulent misrepresentation.
28

SIXTH CLAIM FOR RELIEF
(Intentional Misrepresentation)

46. Cross-Claimants repeat and reallege the allegations contained in Paragraphs 1 through 45, above, as though fully set forth herein.

47. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, Cross-Defendants assert a false representation with the knowledge or belief that it is false or without sufficient foundation regarding the non-assignment of the Consulting Agreement.

48. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, Cross-Defendants intended to induce Cross-Claimants into executing the Sales Agreement by representing that the Consulting Agreement was not being assumed by Cross-Claimants.

49. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, the representations mentioned above were false when Cross-Defendants made them, in that Cross-Defendants knowingly induced Cross-Claimants' reliance in executing the Sales Agreement.

50. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, Cross-Defendants made the representations mentioned above with the intent and for the purpose of deceiving Cross-Claimants and to induce Cross-Claimants into relying on the representations.

51. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, Cross-Claimants, in reliance on the representations mentioned above, were induced into executing the Sales Agreement.

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1 52. In the alternative, if the Consulting Agreement was assigned to Cross-
2 Claimants, Cross-Claimants' reliance on the false representations mentioned above were
3 reasonable under the circumstances, in that the false statements were made in the Sales
4 Agreement with the express statement that "CONSULTING AGREEMENT WITH IRA
5 SEAVER AND LEWIS HELFSTEIN NOT BEING ASSUMED."

6
7 53. As a direct and proximate result of Cross-Defendants' fraud, Cross-
8 Claimants suffered, and will continue to suffer, monetary loss and injury.

9 54. As a direct and proximate result of the foregoing, Cross-Claimants have
10 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
11 trial.

12
13 55. In order to prosecute this action, Cross-Claimants have had to retain
14 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees;
15 namely, attorneys' fees, expenses, and costs associated with prosecuting an action for
16 Cross-Defendants' fraud.

17
18 **SEVENTH CLAIM FOR RELIEF**
19 **(Negligent Misrepresentation)**

20 56. Cross-Claimants repeat and reallege the allegations contained in
21 Paragraphs 1 through 55, above, as though fully set forth herein.

22 57. Cross-Defendants owed a duty of due care to Cross-Claimants to exercise
23 that degree of skill normally expected of skilled professionals particularly where they
24 knew that their representations would form the basis for Cross-Claimants' reliance.

25 58. The Sales Agreement explicitly states that "CONSULTING
26 AGREEMENT WITH IRA SEAVER AND LEWIS HELFSTEIN NOT BEING
27 ASSUMED." Cross-Claimants justifiably relied on this language and are exposed to
28

1 litigation and potential damages caused to them by their justifiable reliance upon the
2 information. Cross-Defendants failed to exercise reasonable care or competence in
3 obtaining or communicating information regarding the non-assignment of the Consulting
4 Agreement.
5

6 59. In the alternative, if the Consulting Agreement was assigned to Cross-
7 Claimants, Cross-Defendants, in promoting the Sales Agreement, recklessly disregarded
8 the potential assignment of the Consulting Agreement, and otherwise failed to exercise
9 the degree of care, skill, and competence which should be exercised by Cross-Defendants.
10

11 60. In the alternative, if the Consulting Agreement was assigned to Cross-
12 Claimants, as a result, Cross-Defendants' failure to exercise their duty of care, they
13 recklessly misrepresented the non-assignment of the Consulting Agreement.
14

15 61. Cross-Defendants were aware that their representations would be relied
16 upon by Cross-Claimants in their business dealings regarding the Sales Agreement.
17 Cross-Claimants relied upon the Cross-Defendants' representation that the Consulting
18 Agreement was not being assigned to Cross-Claimants.
19

20 62. In the alternative, if the Consulting Agreement was assigned to Cross-
21 Claimants, Cross-Defendants' representations were seriously flawed as a result of Cross-
22 Defendants' negligence.
23

24 63. Cross-Claimants relied on Cross-Defendants' representations in executing
25 the Sales Agreement.
26

27 64. Cross-Claimants suffered actual damages as a result of entering into the
28 Sales Agreement based upon their reliance upon the reckless and grossly negligent
misrepresentations of Cross-Defendants.

65. In the alternative, if the Consulting Agreement was assigned to Cross-Claimants, if Cross-Defendants reasonably and properly performed their duties and correctly, Cross-Claimants would not be exposed to potential liability to Plaintiffs for the Consulting Agreement.

66. Cross-Defendants are liable for all losses to Cross-Claimants as a result of the above-mentioned violations of their duties and gross negligence.

67. As a direct and proximate result of Cross-Defendants' actions, Cross-Claimants have suffered, and will continue to suffer, monetary loss and injury.

68. As a direct and proximate result of the foregoing, Cross-Claimants have been damaged in an amount in excess of \$10,000.00, said amount to be determined at trial.

69. In order to prosecute this action, Cross-Claimants have had to retain attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees; namely, attorneys' fees, expenses, and costs associated with prosecuting an action for Cross-Defendants' negligence.

EIGHTH CLAIM FOR RELIEF
(Breach of Express and Implied Warranties)

70. Cross-Claimants repeat and reallege the allegations contained in Paragraphs 1 through 69, above, as though fully set forth herein.

71. Cross-Claimants are informed and believe and thereon allege that pursuant to the Sales Agreement between Cross-Claimants and Cross-Defendants, it impliedly and expressly warranted that the "CONSULTING AGREEMENTS WITH IRA SEAVER AND LEWIS HELESTEIN NOT BEING ASSUMED."

////

1 72. Further, the Sales Agreement provides that "All representations and
2 warranties by Seller in this Agreement . . . are, to the best of Sellers [sic] knowledge, true
3 and correct in all material respects on and as of the Closing Date, as through such
4 representations and warranties were made on as of that date."

5
6 73. Similarly, the Sales Agreement provides "All necessary and consents of
7 any parties to the consummation of the transactions contemplated in this Agreement, or
8 otherwise pertaining to the matters covered by it, will have been obtained by Seller and
9 delivered to Buyer."

10
11 74. Cross-Claimants relied upon these warranties and believed that the
12 Consulting Agreement was not being assigned to them.

13 75. Cross-Claimants are informed and believe and thereon allege that Cross-
14 Defendants, and each of them, breached the Sales Agreement based on the allegations by
15 Plaintiffs in the underlying action.

16 76. As a proximate result of the breach of express and implied warranties by
17 Cross-Defendants, Cross-Claimants allege that they will suffer damages in a sum equal to
18 any sums paid by way of settlement, or in the alternative, judgment rendered against
19 Cross-Claimants in the underlying action based upon Plaintiffs' Complaint.

20
21 77. The breach(es) of the aforementioned warranties by each Cross-Defendant
22 was and is the actual and proximate cause of damages to Cross-Claimants in excess of
23 \$10,000.00.

24
25 78. In order to defend this action, Cross-Claimants have had to retain attorneys
26 to represent them, and they are entitled to fair and reasonable attorneys' fees; namely,
27 attorneys' fees, expenses, and costs associated with defending this action.

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NINTH CLAIM FOR RELIEF
(Implied Indemnity)

79. Cross-Claimants refer to and incorporate herein by reference Paragraphs 1 through 78 as though fully set forth herein.

80. Cross-Claimants are informed and believe and thereon allege that Cross-Claimants entered into written, oral and implied agreements with the Cross-Defendants.

81. By reason of the foregoing, if Plaintiffs recover against Cross-Claimants, then Cross-Claimants are entitled to implied contractual indemnity from Cross-Defendants, and each of them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in the alternative, judgment rendered against Cross-Claimants in the underlying action based upon Plaintiffs' Complaint or any claims filed.

82. In order to defend this action, Cross-Claimants have had to retain attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees; namely, attorneys' fees, expenses, and costs associated with defending this action.

TENTH CLAIM FOR RELIEF
(Equitable Indemnity)

83. Cross-Claimants refer to and incorporates herein by reference Paragraphs 1 through 82 as though fully set forth herein.

84. Cross-Claimants are informed and believe and thereon allege that the claims alleged by Plaintiffs in their Complaint involve damages, if any, caused by Cross-Defendants.

85. In equity and good conscience, if Plaintiffs recover against Cross-Claimants herein, then Cross-Claimants are entitled to equitable indemnity,

1 apportionment of liability, and contribution among and from the Cross-Defendants
2 according to their respective faults for the injuries and damages allegedly sustained by
3 Plaintiffs, if any, by way of sums paid by settlement, or in the alternative, judgment
4 rendered against Cross-Claimants based upon Plaintiffs' Complaint.
5

6 86. In order to defend this action, Cross-Claimants have had to retain attorneys
7 to represent them, and they are entitled to fair and reasonable attorneys' fees; namely,
8 attorneys' fees, expenses, and costs associated with defending this action.
9

10 **ELEVENTH CLAIM FOR RELIEF**
(Apportionment)

11 87. Cross-Claimants refer to and incorporate herein by reference Paragraphs 1
12 through 86 as though fully set forth herein.
13

14 88. Cross-Claimants are entitled to an apportionment of liability among Cross-
15 Defendants, and each of them.

16 89. In order to defend this action, Cross-Claimants have had to retain attorneys
17 to represent them, and they are entitled to fair and reasonable attorneys' fees; namely,
18 attorneys' fees, expenses, and costs associated with defending this action.
19

20 **TWELFTH CLAIM FOR RELIEF**
(Equitable Estoppel)

21 90. Cross-Claimants refer to and incorporate herein by reference Paragraphs 1
22 through 89 as though fully set forth herein.
23

24 91. Cross-Defendants were apprised of the fact that Cross-Claimants did not
25 want to assume the Consulting Agreement. Thus, during the negotiations surrounding the
26 formation of the Sales Agreement, Cross-Defendants represented to Cross-Claimants that
27 they were not assigning the Consulting Agreement to Cross-Claimants.
28

1 92. Cross-Defendants intended that these statements induce Cross-Claimants
2 into entering the Sales Agreement. Cross-Defendants entered into the Sales Agreement
3 with the belief that the Consulting Agreement was unassignable. However, Cross-
4 Claimants relied on this information to their detriment as Plaintiffs are alleging that the
5 Consulting Agreement was assigned through the Sales Agreement.
6

7 93. Cross-Defendants are liable for all losses to Cross-Claimants as a result of
8 the above-mentioned representations.
9

10 94. As a direct and proximate result of Cross-Defendants' inducement, Cross-
11 Claimants have suffered, and will continue to suffer, monetary loss and injury.
12

13 95. As a direct and proximate result of the foregoing, Cross-Claimants have
14 been damaged in an amount in excess of \$10,000.00, said amount to be determined at
15 trial.
16

17 96. In order to prosecute this action, Cross-Claimants have had to retain
18 attorneys to represent them, and they are entitled to fair and reasonable attorneys' fees;
19 namely, attorneys' fees, expenses, and costs associated with prosecuting an action for
20 Cross-Defendants' representations.

21 PRAYER FOR RELIEF

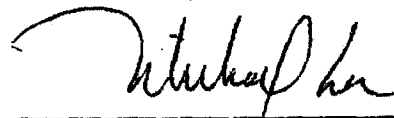
22 WHEREFORE, Defendants/Cross-Claimants, UI SUPPLIES, UNINET
23 IMAGING, INC., NESTOR SAPORITI, pray for judgment as follows:

- 24 1. For damages associated with breach of contract;
 - 25 2. For damages associated with breach of the covenant of good faith and fair
26 dealing;
 - 27 3. For damages associated with unjust enrichment;
- 92

- 1 4. For damages associated with fraud;
2 5. For damages associated with fraudulent misrepresentation;
3 6. For damages associated with intentional misrepresentation;
4 7. For damages associated with negligent misrepresentation;
5 8. For damages associated with breach of express and implied warranties;
6 9. That liability be borne directly on Cross-Defendants who should
7 indemnify and hold Cross-Claimants harmless for any of Cross-Defendants' acts and
8 Plaintiffs' alleged resulting injuries.
9
10 10. For apportionment;
11 11. For damages associated with equitable estoppel;
12 12. For reasonable attorneys' fees and costs incurred in this action; and
13 13. For such other and further relief as this Court may deem just and proper
14 under the circumstances.
15

16 DATED this 17 day of January, 2010.
17

18 KRAVITZ, SCHNITZER SLOANE,
19 & JOHNSON, CHTD.

20 
21

22 GARY E. SCHNITZER, ESQ. (NSB 395)
23 MICHAEL B. LEE, ESQ. (NSB 10122)
24 8985 S. Eastern Avenue, Suite 200
25 Las Vegas, Nevada 89123
26 Telephone: (702) 222-4142
27 Facsimile: (702) 362-2203
28 *Attorneys for Defendants/Cross-Claimants*
UI Supplies, Uninet Imaging and Nestor
Saporiti


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CERTIFICATE OF FACSIMILE AND MAILING

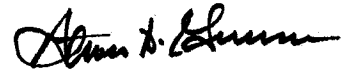
I HEREBY CERTIFY that on this 19 day of January, 2010, I faxed and placed a copy of the foregoing **DEFENDANTS UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S FIRST AMENDED ANSWER TO COMPLAINT, COUNTERCLAIM, AND CROSS CLAIM** in the United States mail, postage pre-paid, and addressed as follows:

Jeffrey R. Albregts, Esq. (NBN 0066)
SANTORO, DRIGGS, WALCH,
KEARNEY, HOLLEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Tel: (702) 791-0308
Fax: (702) 791-1912
jialbregts@nevadafirm.com
Attorneys for Plaintiffs

Byron L. Ames, Esq. (NBN 7581)
Jonathan D. Blum, Esq. (NBN 9515)
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Las Vegas, Nevada 89129
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bames@tharpe-howell.com
jblum@tharpe-howell.com
Attorneys for Plaintiffs


An employee of KRAVITZ, SCHNITZER,
SLOANE, & JOHNSON, CHTD.

C



CLERK OF THE COURT

1 J. Michael Oakes, Esq.
2 Nevada Bar No. 1999
3 FOLEY & OAKES, PC
4 850 East Bonneville Avenue
5 Las Vegas, Nevada 89101
6 Tel.: (702) 384-2070
7 Fax: (702) 384-2128
8 mike@foleyoakes.com
9 Attorneys for Lewis Helfstein, Madalyn
10 Helfstein, Summit Laser Products, Inc.,
11 Summit Technologies, LLC,
12 /Cross-Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

10 IRA AND EDYTHE SEAVER FAMILY
11 TRUST, IRA SEAVER, CIRCLE
12 CONSULTING CORPORATION,

CASE NO. A587003
DEPT. NO. XI

12 Plaintiffs,

13 vs.

CROSS-DEFENDANTS, LEWIS
HELFSSTEIN, MADALYN HELFSSTEIN,
SUMMIT LASER PRODUCTS, INC.,
AND SUMMIT TECHNOLOGIES, LLC'S
MOTION FOR STAY OR DISMISSAL,
AND TO COMPEL ARBITRATION

14 LEWIS HELFSSTEIN, MADALYN
15 HELFSSTEIN, SUMMIT LASER
16 PRODUCTS, INC., SUMMIT
17 TECHNOLOGIES LLC, UI SUPPLIES,
18 UNINET IMAGING, INC., NESTOR
19 SAPORITI and DOES 1 through 20,
20 and ROE entities 21 through 40, inclusive,

DATE: _____
TIME: _____

19 Defendants.

20 UI SUPPLIES, UNINET IMAGING, INC.,
21 NESTOR SAPORITI,

22 Counter-Claimants,

23 vs.

24 IRA AND EDYTHE SEAVER FAMILY
25 TRUST, IRA SEAVER, CIRCLE
26 CONSULTING CORPORAITON, and
27 ROE CORPORATIONS 101-200,

28 Counter-Defendants.

1 UI SUPPLIES, UNINET IMAGING AND
2 NESTOR SAVORITI,

3 Cross-Claimants,

4 vs.

5 LEWIS HELFSTEIN, MADALYN
6 HELFSTEIN, SUMMIT LASER
7 PRODUCTS, INC., SUMMIT
8 TECHNOLOGIES, LLC,

9 Cross-Defendants.

10 COMES NOW Cross - Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN,
11 SUMMIT LASER PRODUCTS, INC., and SUMMIT TECHNOLOGIES, LLC, (collectively
12 referred to herein as "the Summit Parties"), by and through their attorneys, J. Michael Oakes,
13 of the law firm of Foley & Oakes, PC, and hereby submit their Motion for Stay or Dismissal,
14 and to Compel Arbitration. This Motion is based upon the grounds that the Crossclaim against
15 them arises out of a written agreement containing a mandatory arbitration clause and a choice
16 of venue provision requiring that venue for any litigation be conducted in Nassau County, New
17 York. This Motion is based upon the pleadings and papers on file herein, the Memorandum of
18 Points Authorities which follows, and such argument as will be heard at the time of the hearing
19 of this Motion.
20

21 DATED this 20th day of April, 2010.

22 FOLEY & OAKES, PC

23 

24 J. Michael Oakes, Esq.

25 Nevada Bar No. 1999

26 850 East Bonneville Avenue

27 Las Vegas, Nevada 89101

28 Attorneys for Lewis Helfstein, Madalyn

Helfstein, Summit Laser Products, Inc.,

Summit Technologies, LLC, Cross-Defendants


1 NOTICE OF MOTION

2 TO: Michael B. Lee, Esq., attorney for Defendants, UI Supplies, Uninet Imaging and Nestor
3 Saporiti, and
4 TO: Jeffrey R. Albregts, Esq., attorney for Plaintiffs, Ira and Edythe Seaver Family Trust, Ira
5 Seaver, Circle Consulting Corporation, and
6 TO: Byron L. Ames, Esq., attorney for Plaintiffs, Ira and Edythe Seaver Family Trust, Ira
7 Seaver, Circle Consulting Corporation, and

8 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned
9 will bring the following MOTION FOR STAY OR DISMISSAL, AND TO COMPEL
10 ARBITRATION on for hearing before the above-entitled Court on the 25 day of
11 May, 2010, at the hour of 9:00 a.m. of said date, in Department No. XI, or
12 as soon thereafter as counsel can be heard.

13 DATED this 27 day of April, 2010.

14 FOLEY & OAKES, PC

15 
16 J. Michael Oakes, Esq.
17 Nevada Bar No. 1999
18 850 East Bonneville Avenue
19 Las Vegas, Nevada 89101
20 (702) 384-2070

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 The Crossclaim in this case arises out of an Agreement for Purchase and Sale of
5 Assets (the "Agreement"), dated March 30, 2007, which contained a broad form mandatory
6 arbitration provision and a venue provision designating Nassau County, New York as the sole
7 venue for any action or arbitration arising from the Agreement. The Agreement recites that it
8 was made in New York, and was between two entities domiciled in New York.
9

10 This Motion is asking the Court for a dismissal of the cross claim, without prejudice, in
11 order to give effect to the intentions of the parties concerning arbitration and venue as
12 described in the Agreement. Alternatively, this Motion is requesting that the cross claim be
13 stayed, pending conclusion of any arbitration.
14

15 This motion is supported by the Affidavit of Lewis Helfstein, which is attached as
16 Exhibit A, and the demand for arbitration in Nassau County, which is attached as exhibit B.¹
17

18 II.

19 STATEMENT OF THE CASE

20 The cross claim against the movants (which is really a third party claim) is seeking
21 indemnity for any amounts that the cross claimant is obligated to pay to the Plaintiffs. The
22 cross claim states that "Cross-Defendants breached the term of the Sales Agreement by
23 exposing Cross-Claimants to alleged damages by Plaintiffs related to the Consulting
24 Agreement." (See paragraph 10 of the cross-claim). The Sales Agreement that is referenced in
25

26
27 ¹ Exhibit A - Affidavit of Lewis Helfstein - Due to the short filing deadline, the attached Affidavit of
28 Lewis Helfstein only contains the facsimile signature. The original will be filed with the Court promptly
hereafter.

1 paragraph 10 of the cross claim contains the broad form mandatory arbitration provision and
2 the venue provision that is described above.

3 The movants had originally been named as co-defendants in this case. However, the
4 movants never filed a responsive pleading and, instead, settled with the Plaintiffs and were
5 voluntarily dismissed from the case on November 23, 2009.
6

7 Thereafter, the Plaintiffs amended their Complaint against the non-settling defendants,
8 and, in turn, the non-settling defendants filed their answer, counterclaim, and this "cross
9 claim" against the moving parties. The cross-claimants served their cross claim and are now
10 demanding an appearance in the case by the movants, notwithstanding the clear terms of the
11 Agreement regarding venue and arbitration.
12

13 Concerning the Agreement, the Court should note that:

14 On Page 1 of the Agreement, it states that "This agreement is made as of March
15 30, 2007, at Bohemia, New York..."

16 On page 15 of the Agreement, it states that "Any controversy or claim arising
17 out of or relating to this Agreement..." shall be settled by binding arbitration and that
18 venue for the arbitration shall be Nassau County, New York.
19

20 On pages 15 and 16 of the Agreement, both Seller and Buyer gave New York
21 addresses for the giving of any notices required under the Agreement.

22 On page 17 of the Agreement, it states that the substantive laws of the State of
23 New York shall apply to any disputes, and again states that Nassau County, New York
24 shall be the sole venue for any action or arbitration.
25

26 The cross-claim (which is really a third party claim for indemnity) is brought by
27 the New York corporation, its California corporation parent company, and its
28 California resident officer and principal shareholder against a New York limited

1 liability company, a shareholder that is a New York limited liability company, and two
2 New York residents.

3
4 III.

5 LEGAL ARGUMENT

6 A. AGREEMENTS TO ARBITRATE ARE ENFORCEABLE

7 The Agreement contains a choice of law provision stating that New York law will apply
8 to any dispute. However, regardless of whether New York or Nevada law applies, both states
9 have a strong policy in favor of the enforcement of arbitration provisions.

10 Under New York law, the case of Harris vs. Shearson Hayden Stone, 82 A.D. 87, 441
11 N.Y.S.2d 70 (N.Y.A.D. 1981), aff'd 56 N.Y.2d 627, 435 N.E.2d 1097, 450 N.Y.S.2d 482
12 [1982]), held that:

14 "[T]his State favors and encourages arbitration as a means
15 of conserving the time and resources of the courts and the
16 contracting parties." (Matter of Nationwide Gen. Ins. Co.
17 v Investors Ins. Co. of Amer., 37 NY2d 91, 95; see
18 Matter of Maye [Bluestein], 40 NY2d 113.) Moreover,
19 "[p]arties to a contract may agree, if they will, that any
20 and all controversies growing out of it in any way shall be
21 submitted to arbitration. If they do, the courts of New
22 York will give effect to their intention." (Matter of
23 Marchant v Mead-Morrison Mfg. Co., 252 NY 284,
24 298.) "It has long been this State's policy that, where
25 parties enter into an agreement and, in one of its
26 provisions, promise that any dispute arising out of or in
27 connection with it shall be settled by arbitration, any
28 controversy which arises between them and is within the
compass of the provision must go to arbitration." (Matter
of Exercycle Corp. [Maratta], 9 NY2d 329, 334, citing
cases.)

The strong policy in favor of arbitration is similarly well known in Nevada.

NRS 38.035 states:

A written agreement to submit any existing controversy to
arbitration or a provision in a written contract to submit to

1 arbitration any controversy thereafter arising between the
2 parties is valid, enforceable and irrevocable save upon
3 such grounds as exist at law or in equity for the revocation
4 of any contract. NRS 38.015 to 38.205, inclusive, also
5 apply to arbitration agreements between employers and
6 employees or between their respective representatives
7 unless otherwise provided in the agreement.

8 As described in Phillips v. Parker, 106 Nev. 415, 794 P.2d 716 (1990), the
9 Nevada Supreme Court has emphasized the desirability of enforcement of an arbitration
10 agreement between the parties. The Phillips decision contains the following
11 pronouncements of Nevada law on the subject:

12 "There is a strong public policy favoring contractual provisions
13 requiring arbitration of a dispute resolution mechanism.
14 Consequently, when there is an agreement to arbitrate we have
15 said that there is a "presumption of arbitrability."

16 ...

17 "We have previously held that once an arbitrable issue has been
18 found to exist, all doubts concerning the arbitrability of the
19 subject matter should be resolved in favor of arbitration. Exber,
20 Inc. v. Sletten Constr. Co., 92 Nev. 721, 729, 558 P.2d 517, 522
21 (1976). Courts are not to deprive the parties of the benefits of
22 arbitration they have bargained for, and arbitration clauses are to
23 be construed liberally in favor of arbitration." See 106 Nev. at
24 417.

25 The cross-claimant's own allegations point directly to the Agreement containing
26 the arbitration provision as the basis for the relief they are seeking. Thus, there is no
27 doubt that the issues involved in this controversy, as between the cross-claimants and
28 the movants, are subject to the arbitration provisions. The Court should give effect to
those provisions and grant this motion.

29 B. FORUM SELECTION CLAUSES ARE ENTITLED TO ENFORCEMENT

30 The Agreement relied upon for the cross claim contains a forum selection clause,
31 designating Nassau County, New York as the forum for any litigation or arbitration.

1 "Where such forum selection provisions have been obtained through 'freely negotiated'
2 agreements and are not 'unreasonable and unjust,' their enforcement does not offend Due
3 Process." See: Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472, n.14 (1985).

4 Since the Agreement was made in New York among New York entities, there is
5 nothing "unreasonable and unjust" about enforcing the venue provision as written. As stated
6 before:
7

8 The Agreement was between a New York corporation and a New York limited
9 liability company.

10 On Page 1 of the Agreement, it states that "This agreement is made as of March
11 30, 2007, at Bohemia, New York..."

12 On page 15 of the Agreement, it states that "Any controversy or claim arising
13 out of or relating to this Agreement..." shall be settled by binding arbitration and venue
14 for the arbitration shall be Nassau County, New York.
15

16 On pages 15 and 16 of the Agreement, both Seller and Buyer give New York
17 addresses for the giving of any notices required under the Agreement.
18

19 On page 17 of the Agreement, it states that the substantive laws of the State of
20 New York shall apply to any disputes, and again states that Nassau County, New York
21 shall be the sole venue for any action or arbitration.

22 It is worth mentioning that there is no rule whatsoever that would require this
23 cross-claim/third party claim for indemnity to be heard at the same time in the same
24 place as the underlying case. There is no such thing as a "compulsory" cross claim or
25 third party claim. Thus, the granting of this motion will have no effect upon the
26 litigation of the Complaint and Counterclaim.
27
28

1 Under Nevada law, venue for this cross claim is improper, even if there was no
2 venue provision or arbitration provision in the Agreement.

3 NRS 13.010 states:

4 "Where actions are to be commenced.

5
6 1. When a person has contracted to perform an obligation
7 at a particular place, and resides in another county, the
8 action must be commenced, and, subject to the power of the
9 court to change the place of trial as provided in this chapter,
10 must be tried in the county in which such obligation is to be
11 performed or in which the person resides; and the county in
12 which the obligation is incurred shall be deemed to be the
13 county in which it is to be performed, unless there is a
14 special contract to the contrary."

15 NRS 13.040 states:

16 Venue in other cases.

17 In all other cases, the action shall be tried in the county in
18 which the defendants, or any one of them, may reside at the
19 commencement of the action; or, if none of the defendants
20 reside in the State, or if residing in the State the county in
21 which they so reside be unknown to the plaintiff, the same
22 may be tried in any county which the plaintiff may
23 designate in the complaint; and if any defendant, or
24 defendants, may be about to depart from the State, such
25 action may be tried in any county where either of the
26 parties may reside or service be had, subject, however, to
27 the power of the court to change the place of trial as
28 provided in this chapter.

NRS 13.050 states:

Cases in which venue may be changed.

1. If the county designated for that purpose in the
complaint be not the proper county, the action may,
notwithstanding, be tried therein, unless the
defendant before the time for answering expires
demand in writing that the trial be had in the proper
county, and the place of trial be thereupon changed
by consent of the parties, or by order of the court, as
provided in this section.

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2. The court may, on motion, change the place of trial in the following cases:

(a) When the county designated in the complaint is not the proper county.

(b) When there is reason to believe that an impartial trial cannot be had therein.

(c) When the convenience of the witnesses and the ends of justice would be promoted by the change.

3. When the place of trial is changed, all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, or by order of the court, and the papers shall be filed or transferred accordingly.

None of the cross- claimants and none of the cross defendants reside in Clark County, as none of them are even residents or domiciliaries of Nevada. Furthermore, the obligation was incurred is Bohemia, New York, not Clark County.

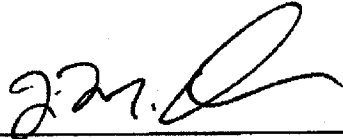
Given the improper venue, the clear forum selection clause, the New York residency and domicile of the parties, and the making of the Agreement in New York, it is clear that Nassau County, New York, is the more appropriate forum for the

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1 adjudication of these claims. Alternatively, it should also be viewed as the more
2 convenient forum. In either event, the cross- claim should be dismissed.

3 DATED this 20th day of April, 2010.

4 FOLEY & OAKES, PC

5
6 
7

8 J. Michael Oakes, Esq.
9 Nevada Bar No. 1999
10 850 East Bonneville Avenue
11 Las Vegas, Nevada 89101
12 *Attorneys for Lewis Helfstein, Madalyn*
13 *Helfstein, Summit Laser Products, Inc.,*
14 *Summit Technologies, LLC,*
15 *Cross-Defendants*
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1 **CERTIFICATE OF SERVICE BY MAIL AND BY FACSIMILE**

2 I hereby certify that a true and correct copy of the foregoing CROSS-
3 DEFENDANTS, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER
4 PRODUCTS, INC., AND SUMMIT TECHNOLOGIES, LLC'S MOTION FOR
5 STAY OR DISMISSAL AND TO COMPEL ARBITRATION was served to those
6 persons designated below on the 20th day of April, 2010:
7

8 X By placing a copy in the United States mail to the
9 following parties and/or their attorneys at
10 their last known address(es), postage thereon
 fully paid, addressed as follows below.

11 X By faxing to an operable facsimile machine of the
12 following parties and/or their attorneys at the
13 fax numbers designated below. A copy of the
 transmit confirmation report is attached
 hereto.

14 Gary E. Schnitzer, Esq.,
15 Michael B. Lee, Esq.
16 Kravitz, Schnitzer, Sloane & Johnson Chtd.
17 8985 S. Eastern Avenue, Suite 200
18 Las Vegas, NV 89123
19 Facsimile No. 702-362-2203
 Attorneys for Defendants UI Supplies, Uninet
 Imaging and Nestor Saporiti

 Jeffrey R. Albregts, Esq.
 Santoro, Driggs, Walch, Kearney,
 Holley & Thompson
 400 South Fourth Street
 Third Floor
 Las Vegas, NV 89101
 Facsimile No. 702- 791-1912
 Attorneys for Plaintiffs

20 Byron L. Ames, Esq.
21 Jonathan D. Blum, Esq.
22 Tharpe & Howell
23 3425 Cliff Shadows Parkway, Suite 150
24 Las Vegas, NV 89129
 Facsimile No. 702-562-3305
 Attorneys for Plaintiffs


25 
26 An Employee Of Foley & Oakes, PC
27
28

EXHIBIT A

1 STATE OF NEW YORK)
2 : SS
3 COUNTY OF SUFFOLK)

4 **AFFIDAVIT OF LEWIS HELFSTEIN**

5 Lewis Helfstein, after being first duly sworn, deposes and states the following:

6 1. I have personal knowledge of the facts and statements set forth herein.

7 2. On or about March 30, 2007, UI Supplies, Inc. and Summit Technologies, LLC
8 entered into an Agreement for Purchase and Sale of Assets (the "Agreement"), a copy of which
9 is attached hereto as Exhibit 1.

10 3. As described in the Agreement, UI Supplies, Inc. is a New York corporation
11 and Summit Technologies, LLC is a New York limited liability company, having its principal
12 office at Bohemia, New York. As shown on page 18 of the Agreement, the Agreement was
13 executed in Bohemia, New York, by Lewis Helfstein for Summit Technologies, LLC and by
14 Nestor Saporiti for UI Supplies, Inc.

15 4. The Crossclaim that has been filed against me and the other Cross-Defendants,
16 Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC arises out of
17 the Agreement.

18 5. The Agreement contained the following provisions:

19 "12. Arbitration

20 12.1 Any controversy or claim arising out of or relating to this Agreement, or
21 its breach, shall be settled by binding arbitration in accordance with the
22 commercial rules of the American Arbitration Association, and judgment on the
23 award rendered by the arbitrator(s) may be entered in any court having
jurisdiction. The venue of any arbitration shall be Nassau County, New York."

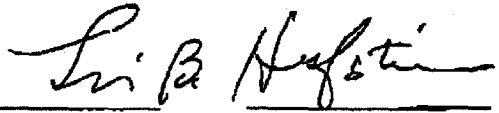
24 "14.1(e) Governing Law and Venue. This Agreement is made in, and shall be
25 construed under, the substantive laws of the State of New York, exclusive of
26 choice of law principles. Nassau County, New York shall be the sole venue for
any action or arbitration brought pursuant to this agreement."

27
28 6. The Crossclaim identifies UI Supplies, Inc., Uninet Imaging, Inc., and Nestor

1 Saporiti as the Cross-Claimants. UI Supplies is the New York corporation that was a party to the
2 Agreement. Uninet Imaging is the parent company of UI Supplies, Inc., and Nestor Saporiti is
3 the President and principal owner of UI Supplies, Inc.

4 7. Madalyn Helfstein is my wife. She and I both reside in the State of New York.
5 Summit Laser Products, Inc. is a New York corporation and Summit Technologies, LLC is a
6 New York limited liability company. Summit Laser Products, Inc. is a shareholder of Summit
7 Technologies, LLC.
8

9 DATED this 19th day of April, 2010.

10
11 
12 Lewis Helfstein

13 Subscribed and Sworn to
14 before me this ____ day of
15 _____, 2010.

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Notary Public

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AGREEMENT FOR PURCHASE AND SALE OF ASSETS

by and between

UI SUPPLIES, INC. and

SUMMIT TECHNOLOGIES, LLC

This agreement is made as of March 30, 2007, at Bohemia, New York, among UI Supplies, Inc. ("Buyer"), a New York Corporation, and Summit Technologies, LLC, a New York Limited Liability Company having its principal office at Bohemia, New York ("Seller").

1. Sale and Purchase of Assets

1.1 **The Assets:** Subject to the terms and conditions in this Agreement, Seller agrees to sell, assign, transfer, convey, and deliver to Buyer, and Buyer agrees to purchase, all of Seller's tangible and intangible property, wherever located, including all unknown and contingent rights, Seller's corporate name, goodwill, insurance and other contract benefits, intellectual property rights, phone numbers, internet domain names and registrations, software programs, such inventory as provided herein, equipment, furniture and machinery, and all other tangible assets used in Seller's business (collectively, the "**Acquired Assets**"), and a complete and accurate list of all of the Acquired Assets is contained and listed in Exhibit A attached. Expressly excluded from the Acquired Assets purchased by Buyer under this Agreement are all accounts receivable of Seller (the "**Accounts Receivable**").

1.2 **Collection of Accounts Receivable:** Upon the closing of the sale of the Acquired Assets (the "**Closing**"), Seller shall retain all Accounts Receivable. Both Buyer and Seller acknowledge that after the Closing, Buyer will be selling to customers (each, an "**Account Debtor Customer**") who, as of the day of Closing (the "**Closing Date**"), will continue to owe Seller monies against Accounts Receivable. Buyer agrees that all monies collected from an Account Debtor Customer shall go to the Seller first, until such Account Debtor Customer's liability to Seller is satisfied. In the event that any payment received by Buyer from an Account Debtor Customer exceeds the unpaid balance of the Account Receivable owed by the customer to Seller, the entire payment shall be deposited in Buyer's account, and, within three (3) business days of clearance of said funds, Buyer shall deposit the portion due to Seller to Seller's designated account. Upon payment in full of all monies due from an Account Debtor Customer to Seller, all subsequent payments by such customer shall be deposited into Buyer's account. Buyer shall have the obligation to collect and deposit into Seller's account monies received from Seller's Account Debtor Customers for the first 100 days after the Closing Date (the "**Collection Period**"). During the Collection Period, Buyer shall deliver to Seller weekly written reports to Seller accounting for all monies received by Buyer from each Account Debtor Customer of Seller and the amount deposited in Buyer's designated account. On or before the 110th day after

the Closing Date, Buyer shall give written notice to Seller of the outstanding balance due on all Accounts Receivable of Seller, as of the 100th day after the Closing Date (the "100 Day Report"). Until the later of: (i) the 110th day after the Closing Date, (ii) the date on which Seller receives notice that Buyer does not elect to purchase the Accounts Receivable, and (iii) the closing of Buyer's purchase of the Accounts Receivable, Seller shall have the right, with not less than 24 hours notice to Buyer, to inspect Buyer's books and records regarding the Accounts Receivable and payment history of Seller's Account Debtor Customers. If, after the 100th day after the Closing Date, a balance is still owed to Seller, by any customer of Seller, Buyer shall not make any further sales of product to such customer, until the later of: (i) the Accounts Receivable due to Seller from said customer have been paid in full; and (ii) the closing of the sale of such Accounts Receivable to Buyer, as provided herein. Commencing on the 111th day after the Closing Date, Seller shall have the right to pursue collection of any Account Receivable owed to Seller by any customer of Seller whose accounts are not purchased by Buyer, pursuant to this Agreement. For the three month period following the 110th day after the Closing Date, Buyer, and any of its affiliates, subsidiaries or divisions shall not sell any products to any customer of Seller from whom an Account Receivable balance is owed to Seller, unless such balance is paid in full prior to the expiration of said three month period. If Buyer deems not to extend credit to any customer of Seller, Buyer may not sell any products to such customer for a period of three years from any of Buyer's branches. **The parties may enter into separate agreements on specific accounts which will then not fall under the terms of this section.** Failure to comply with this provision shall be deemed a material default under this Agreement.

1.3 Purchase of Accounts Receivable: Within ten (10) days after the 100 Day Report is due to be delivered to Seller under Article 1.2, Buyer shall notify Seller of its intent to purchase any or all of the remaining Accounts Receivable of Seller, and shall specify the name of each account being purchased, and the outstanding balance of each such account. The purchase price for each account shall be the unpaid balance of the Account Receivable of the Seller at the time of the Purchase, unless agreed otherwise by Seller and Buyer. Payment for all Accounts Receivable being purchased by Buyer from Seller shall be made in full within ten (10) days after Buyer's statement of intent to purchase the Accounts Receivable. Upon payment in full for any Account Receivable of Seller, Seller shall no longer have the right to collect said account, and Buyer shall have the exclusive right to collect said Account Receivable. Buyer shall have no recourse against Seller for the unpaid balance of any Account Receivable sold by Seller to Buyer or for any expenses of collection. Seller makes no representation as to the collectability of any Accounts Receivable of Seller. Buyer shall hold harmless and indemnify Seller from and against all liabilities, claims, causes of action, costs and expenses, including reasonable attorneys fees, arising from the collection of any Account Receivable sold by Seller to Buyer.

1.4 Returns

2. Purchase Price and Payment for Acquired Assets

2.1 Non-Inventory Acquired Assets: In consideration for the sale and transfer of the Acquired Assets, exclusive of Seller's inventory, including work in process, if any

(collectively, the "**Inventory**"), Buyer hereby agrees to pay Seller an aggregate of \$250,000 as follows:

(a) On the Closing Date, Buyer will pay by wire transfer to Seller, the sum of \$150,000;

(b) On the Closing Date, Buyer will deliver to Seller a duly executed promissory note (in the form attached as Exhibit B), dated as of the Closing Date, in the principal amount of \$100,000 payable in two payments of \$50,000 (the "**Note**"); first payment to be made 60 days after the Closing Date; second payment to be made 90 days after the Closing Date.

2.2 **Allocation of Non-Inventory Purchase Price:** The purchase price for the non-Inventory Acquired Assets shall be allocated as follows:

(a) Good will and intangible Acquired Assets – \$150,000;

(b) Manufacturing equipment – \$80,000; and

(c) Other tangible Acquired Assets – \$20,000.

2.3 **Inventory Purchase:** Buyer shall purchase certain of Seller's Inventory on the Closing Date under the following terms and conditions:

(a) Seller has provided the Buyer with a current list of Seller's Inventory. Buyer has indicated those items that he deems are not current Inventory (the "**Excluded Inventory**"), and the Excluded Inventory shall be part of the Acquired Asset at a price of 1% of Seller's cost.

(b) The remaining Inventory (the "**Sold Inventory**") shall be valued at Seller's cost as of the Closing Date, and shall be purchased by Buyer. The purchase price of the Sold Inventory shall be 85% of said value except for chip components valued at 90%. The Buyer shall transfer this amount by wire transfer into Seller's designated account on the Closing Date, pursuant to Schedule H, attached.

2.4 **Default on Note Payments:** If any payment due under the Note is not made timely, then, upon ten (10) days written notice from Seller to Buyer of such default, and the balance due under the Note shall immediately be deemed to be due and payable in full, together with interest thereon from the date of default at the rate of nine (9%) percent per annum. Seller shall be entitled to immediately take any action against Buyer, or Guarantor without further notice.

2.5 **Event of Default:** A failure by Buyer to timely make any payment due under the Note shall be deemed an event of default under this Agreement ("**Event of Default**"). A failure

by Buyer to timely perform any obligation under this Agreement, other than timely payment of the Note, and any other agreements entered into by Buyer in connection with this Agreement, which default remains uncured after ten (10) days notice from Seller to Buyer, shall be deemed an Event of Default. Upon the occurrence of an Event of Default, the balance then due under the Note shall be due and payable in full, together with interest thereon at the rate of nine (9%) percent per annum, from the date of the Event of Default

3. Liabilities and Sales Tax

3.1 It is understood that, except as otherwise expressly provided in this Agreement, Buyer is not assuming any of Seller's liabilities or obligations. Provided Buyer performs all of its obligations under this Agreement, Seller agrees to pay any sales or use taxes arising from the sale of Acquired Assets and sold Accounts Receivable under this Agreement.

3.2 Specifically, Buyer expressly excludes (1) any taxes, including income, sales, and use taxes imposed on Seller because of the sale of its assets and business; (2) any liabilities or expenses Seller incurred in negotiating and carrying out its obligations, or its dissolution and liquidation, under this Agreement (including attorney fees or accountant fees); (3) any obligations of Seller under any employee agreement or any other agreements relating to employee benefits that Seller has with any of its employees; (4) any obligations incurred by Seller prior to the Closing Date; (5) any liabilities or obligations incurred by Seller in violation of, or as a result of Seller's violation of, this Agreement; (6) any obligations or liabilities of Seller under any environmental laws; and (7) any obligations or liabilities of Seller for, or arising out of, any proceeding pending against Seller, or any tortious, unlawful fraudulent conduct on the part of Seller (collectively, the "Excluded Obligations").

3.3 Buyer shall have the right to withhold from the purchase price any amounts necessary to provide for the payment of any sales or use taxes arising from the sale of the Acquired Assets or sold Accounts Receivable that Seller does not pay and for which Buyer has become legally obligated to make such payments. Within five (5) days after delivery to Buyer of proof of payment by Seller, for such obligations, or delivery to Buyer of a duly executed release or satisfaction of such legal obligation of Buyer, Buyer shall deliver to Seller all amounts withheld from the purchase price under this Article 3.3.

3.4 Seller will pay all sales, use, and similar taxes arising from the transfer of the Acquired Assets (other than taxes on a party's income). Buyer will not be responsible for any business, occupation, withholding, or similar tax, or any taxes of any kind incurred by Seller related to any period before the Closing Date.

3.5 Seller agrees to indemnify and hold Buyer harmless from and against the Excluded Obligations, all liabilities for any taxes for which Seller is responsible under this Agreement, and all liabilities, claims, causes of action, costs and expenses, including reasonable attorneys fees, arising from the Excluded Obligations and any taxes for which Seller is responsible under this Agreement.

3.6 **Accounts Payable:** Seller shall remain responsible for all accounts payable due to vendors from Seller as of the Closing Date. Effective on the Closing Date, Buyer shall change

the format of purchase orders coming from the Summit and Laserstar facilities to clearly indicate that the purchase is being made by an entity other than Seller or Summit Laser Products, Inc. ("Laser")

4. Lease

4.1 Buyer and Seller acknowledge that Seller's existing use and occupancy of its premises, located at 95 Orville Dr, Bohemia, NY 11716 (the "**Premises**"), is under a lease (the "**Lease**"), dated 12/12/2000, from Reckson FS Limited Partnership ("**Landlord**"), as landlord, to Laser, as tenant, an accurate and complete copy of which has been supplied to Buyer, and the Lease will be assigned by Laser, and assumed by, Buyer, effective as of, and for all liabilities and obligations arising as of and after, the Closing Date, subject to landlord's consent. Buyer and Seller shall use best efforts to obtain Landlord's written consent for said assignment and assumption, provided however, that Seller and Laser shall not be required to incur any cost in obtaining said consent. Any security deposit available shall inure to the benefit of the Buyer.

4.2 Buyer hereby agrees to hold harmless and indemnify Seller from and against all liabilities, claims, causes of action, costs and expenses, including reasonable attorneys fees, incurred after the Closing Date in connection with and/or arising from the Lease, any obligations due under the Lease, and/or use, occupancy, and/or possession of the Premises by Buyer and/or any other person or entity prior to the date of Closing Date.

5. Other Obligations

5.1 Attached as Exhibit C is a list of Seller's insurance policies, carriers, types of insurance, account numbers, coverage, and premiums. There shall be an adjustment at Closing for all insurance premiums paid by Seller for the period after the Closing Date. Buyer also agrees to assume and discharge, in due course, the following obligations as may arise and become due on and after the date of this Agreement: (1) premiums payable on Seller's insurance policies, listed in Exhibit C, for coverage on and after the date of this Agreement, and (2) the employment of, and salaries and compensation due (consistent with prior rates and practices) to, all employees of Seller. It is understood that Seller and Buyer have prorated all of the expenses attributable to said obligations and have adjusted the purchase price of the Acquired Assets purchased in this Agreement accordingly.

5.2 Buyer hereby agrees to indemnify and hold Seller harmless from and against all liabilities, claims, causes of action, costs and expenses, including reasonable attorneys fees, arising from any obligation assumed by Buyer under Article 5.1, and/or any failure of Buyer to timely pay any obligation assumed by Buyer under Article 5.1.

6. Seller's Representations, Warranties, and Covenants: Seller represents, warrants, and covenants to Buyer as follows:

6.1 **Approval, Authority, and Ownership:** All member approvals required for Seller to enter into this Agreement and sell the Acquired Assets have been duly obtained, and Seller has full power, authority, and ownership to enter into this Agreement and to effectuate all of the transactions contemplated, without any conflict with any other restrictions or limitations,

whether imposed by or contained in Seller's management agreement or by or in any law, legal requirement, agreement, or otherwise;

6.2 **Absence of Changes in Seller's Business:** Except for payroll, Since Jan 1, 2007, there has not been, to Seller's knowledge, any:

- (a) Transaction by Seller except in the ordinary course of its business as conducted on that date;
- (b) Material adverse change in the financial condition, liabilities, assets, business, or results of operations, or prospects of Seller;
- (c) Destruction, damage, or loss of any asset of Seller (insured or uninsured) that materially and adversely affects the financial condition, business, results of operations, or prospects of Seller;
- (d) Revaluation or write-down by Seller of any of its assets; except for inventory.
- (e) As of March 1, 2007 there has been no increase in the salary or other compensation payable or to become payable by Seller to any of its officers, directors, or employees or declaration, payment, or obligation of any kind for payment, by Seller, of a bonus or other additional salary or compensation to any such person;
- (f) Sale or transfer of any asset of Seller, except in the ordinary course of business;
- (g) Amendment or termination of, or any release or waiver granted with respect to any contract, agreement, or license to which Seller is a party, except in the ordinary course of business;
- (h) Loan or advance by Seller to any person other than ordinary advances to employees for travel expenses made in the ordinary course of business, or any guaranty by Seller of any loan, debt, or other obligations of another person;
- (i) Encumbrance of any asset or property of Seller;
- (j) Waiver or release of any right or claim of Seller, except in the ordinary course of business;
- (k) Commencement of, or notice or threat of commencement of, any Proceeding against Seller or the business, assets, or affairs of Seller;
- (l) Union organizing efforts, labor strike, other labor trouble, or claim of wrongful discharge, employment discrimination, sexual harassment, retaliatory termination, or other unlawful labor practice or action;
- (m) Agreement by Seller to do any of the things described in the preceding clauses (a) through (l); or

(n) Other event or condition of any character that has or might reasonably have a material adverse effect on the financial condition, business, results of operation, assets, liabilities, or prospects of Seller.

6.3 **Condition of Acquired Assets:** All of the fixed assets and equipment transferred under this Agreement are being sold "as is", "where is", subject to normal wear and tear, with no representation or warranty as to their condition or fitness for any particular purchase. All of Seller's intangible rights, to Seller's knowledge as of the date of this Agreement, are solely and exclusively owned by Seller without any infringement on any rights of others.

6.4 **Existing Relationships:** Seller does not know of any plan or intention of any of Seller's employees, material suppliers, or customers to sever relationships or existing contracts with Seller or to take any other action that would adversely affect the business of Seller.

6.5 **Distributions and Compensation Payments:** Since March 1, 2007, Seller has not increased, or agreed to any increase in, any salaries or compensations paid or payable to any of its directors, employees, or consultants.

6.6 **Claims and Litigation:** There are no lawsuits, threats of litigation, claims, or other demands affecting or involving Seller or its business, known to Seller as of the date of this Agreement, arising or accruing before the date of this Agreement, except the action entitled "ACM Technologies v. Summit Technologies LLC".

6.7 **Seller's Knowledge and Disclosure:** Seller does not know, or have reason to know, of any matters, occurrences, or other information that has not been disclosed to Buyer and that would materially and adversely affect the Acquired Assets purchased by Buyer or its conduct of the business involving such Acquired Assets. Moreover, no representation or warranty by Seller in this Agreement, or any documents furnished to Buyer by Seller, contains or will contain any untrue statement of a material fact, or omit to state a material fact necessary to make the statements contained in these sources accurate.

6.8 **Rent:** The obligations of Laser under the Lease, shall be paid in full for the period through and including the Closing Date.

6.9 **Tax Returns and Audits/Books and Records:**

(a) **Tax Filings.** As of the Closing Date, within the times and in the manner prescribed by law, Seller shall have filed all federal, state, and local tax returns required by law and have paid in full all taxes, assessments, penalties, and interest due and payable, including all sales, use, and similar taxes, and all payroll and withholding taxes or similar payments then required to be withheld and paid by Seller to any tax authority. There are no present disputes about taxes of any nature between Seller on the one hand, and any tax authority, on the other. Neither the Internal Revenue Service nor any other tax authority has audited, or is in currently auditing, any tax return of Seller. No state or other jurisdiction (including any local governmental authority) with which Seller has not filed tax returns has asserted that Seller is subject to taxation by such jurisdiction. No tax authority has

imposed or asserted any encumbrances on any of the assets or properties of Seller, other than liens on real property for taxes that are not yet due.

(b) **Books and Records of Seller.** Buyer agrees to hold Seller's books and records (the "Records"), at the Premises, at no cost to Seller, until the earlier of: (i) seven (7) years after the Closing Date, and (ii) the date that Buyer vacates the Premises. Buyer will maintain the Records in the same order and manner as presently maintained by Seller and shall allow Seller access to said Records during regular business hours. Buyer shall give Seller 30 days written notice and an opportunity to retrieve the Records, prior to removal of any such Records from the Premises or destruction of such Records.

7. **Seller Cooperation / Non-Compete:** Seller agrees and covenants as follows:

7.1 **Name Change:** Seller warrants that it has granted to Buyer the exclusive right in perpetuity to use its name, "Summit Technologies", as part of Buyer's name for and in connection with all business of whatever kind and character conducted previously by Seller, that it has not granted and will not grant to any other person the right to use, and that it will not itself in the future use the name Summit Technologies as part of any trade name. On Buyer's request, Seller will undertake to change its corporate name to a dissimilar name, and agrees to provide Buyer, if Buyer so requests, the Certificate of Amendment to affect such name change in order to permit Buyer to substitute that name for its own by a simultaneous filing with the New York Secretary of State or by other protective actions.

7.2 **Cooperation:** Seller agrees to cooperate with Buyer, and on Buyer's reasonable request, to execute all documents and take all actions as are reasonably necessary to perfect and implement Buyer's full ownership of the Acquired Assets purchased under this Agreement, to protect the good will transferred, and to prevent any disruption of Buyer's business relating to any of Seller's employees, suppliers, customers, or other business relationships, provided that Seller shall have no obligation to commence or prosecute or defend any litigation, arbitration or proceeding, and shall not be obligated to incur expenses in excess of \$5000 in compliance with this Article 7.2. The parties expressly agree that the Seller shall have no obligation to Buyer for any claims arising out of Intellectual Property, including but not limited to Copyright, Trademark, or Patents actions made against the Buyer or Seller after the date of closing.

7.3 **Non-competition:** Seller will not, for a five (5) year period from the Closing Date, directly or indirectly, engage in or perform for, or permit its name to be used in connection with, or carry on, or own any part of any business similar to the activities, operations, and business involving the assets sold under this Agreement, as conducted by Seller as of the date hereof.

7.4 **Title to Acquired Assets:** Seller has good and marketable title in and to all of the Acquired Assets free and clear of all encumbrances, except as set forth in Exhibit F attached.

7.5 **Customers and Sales:** Exhibit D attached is a correct and current list of all customers of Seller, as of the date of Closing, together with summaries of the sales made to each customer during Seller's most recent fiscal year. Except as indicated in Exhibit G, Seller's

officers, directors, and shareholders have no information, and are not aware of any facts, indicating that any of these customers intends to cease doing business with Seller or materially alter the amount of the business such customer is presently doing with Seller.

7.6 **Employment Contracts and Benefits:** Exhibit E attached is a list of all of Seller's employment contracts, collective bargaining agreements, and pension, bonus, profit-sharing, stock option plans, or other agreements providing for employee remuneration or benefits. To the best of Seller's knowledge, as of the date of this Agreement, Seller is not in default under any of these agreements, nor has any event occurred that with notice, lapse of time, or both, would constitute a default by Seller of any of these agreements. Seller's obligations under these agreements shall cease as of the Closing Date, and Seller makes no representation as to the assignability of such agreements.

7.7 **Insurance Policies:** As of the date of this Agreement, Seller is not in default with respect to payment of premiums on any policy of insurance listed on Exhibit C attached, and there is no claim pending under any such policies, as of the date of this Agreement.

7.8 **Compliance with Laws:** To Seller's knowledge, Seller has complied in all material respects with all federal, state, and local statutes, laws, and regulations (including any applicable building, zoning, environmental laws, or other law, ordinance, or regulation) affecting the business or properties of Seller or the operation of its business. Seller has not received any notice asserting any violation of any statute, law, or regulation that has not been remedied before the date of this Agreement.

7.9 **Agreement Will Not Cause Breach or Violation:** The execution, delivery, and performance of this Agreement by Seller and the consummation of the transactions contemplated by this Agreement will not result in or constitute any of the following: (a) a default or an event that, with notice, lapse of time, or both, would be a default, breach, or violation of the management agreement of Seller or any lease, license, promissory note, conditional sales contract, commitment, indenture, or other agreement, instrument, or arrangement to which Seller is a party or by which any of them or any assets or properties of any of them is bound; (b) an event that would permit any party to terminate any agreement to which Seller is a party or is bound or to which any of Seller's assets is subject or to accelerate the maturity of any indebtedness or other obligation of Seller; or (c) the creation or imposition of any encumbrance on any of the properties of Seller.

7.10 **Authority and Consents:** Seller has the right, power, legal capacity, and authority to enter into and perform its obligations under this agreement (including the sale of the Acquired Assets to Buyer), and no approvals or consents of any persons other than Seller is necessary in connection with the sale of the Acquired Assets to Buyer and the performance by Seller of its obligations under this Agreement. The execution, delivery, and performance of this Agreement by Seller and the consummation of the transactions contemplated have been duly authorized by all necessary action on the part of Seller.

7.11 **Personnel:** Exhibit F attached is a list of the names and addresses of all employees, agents, and manufacturer's representatives of Seller, as of the date of this Agreement, stating the rates of compensation payable to each.

7.12 **Full Disclosure:** To the best of Seller's knowledge, none of the representations and warranties made by Seller in this Agreement, or in any certificate or memorandum furnished or to be furnished, contains or will contain any untrue statement of a material fact, or omits to state a material fact necessary to prevent the statements from being misleading.

8. **Buyer's Representations, Warranties, and Covenants.** Buyer represents and warrants to Seller as follows:

8.1 **Statements Correct and Complete:** All statements contained in this Article 8 are correct and complete as of the date of this Agreement, and will be correct and complete as of the Closing Date (as though made then and as though the Closing Date were substituted for the date of this Agreement throughout this Article 8).

8.2 **Organization of Buyer:** Buyer is a corporation, duly organized, validly existing, and in good standing under the laws of the State of New York.

8.3 **Authorization of Transaction:** Buyer has full power and authority to execute and deliver this Agreement and the other documents in connection with the transaction contemplated hereunder and to perform its obligations hereunder and thereunder. This Agreement and the other documents constitute valid and legally binding obligations of Buyer, enforceable in accordance with their terms and conditions.

8.4 **Future Performance:** Buyer will make all payments and perform all such actions as required of it by this Agreement and the other documents.

8.5 **Non-Contravention:** Neither the execution nor the delivery of this Agreement or any of the other documents or the consummation of the transactions contemplated hereby or thereby will (a) violate any constitution, law, statute, regulation, order or other restriction of any governmental entity to which Buyer is subject or any provision of the certificate of incorporation, bylaws or other organizational documents of Buyer or (b) (i) conflict with or result in a breach of the terms, conditions or provisions of, (ii) constitute a default under, (iii) result in the creation of any lien or encumbrance upon Buyer's assets pursuant to, (iv) given any third party the right to modify, terminate or accelerate any obligation under, (v) result in a violation of or under, or (vi) require any notice under any contract to which Buyer is a party or by which it is bound or to which any of its assets is subject (or will result in the imposition of any lien or encumbrance upon any of its assets).

8.6 **Broker:** No broker, finder or other person acting under Buyer's authority (or the authority of any affiliate of Buyer) is entitled to any broker's commission or other fee in connection with the transactions contemplated by this Agreement for which Seller could be responsible.

8.7 **Disclosure:** The representations and warranties contained in this Article 8 do not contain any untrue statement of the facts or omit to state any fact necessary in order to make the statements and information contained in this Article 8 not misleading.

8.8 **Sufficient Funds:** Buyer has available to it sufficient funds to consummate the transactions contemplated hereby, and reasonably expects to have sufficient funds available to it to make all payments due to Seller under this Agreement after the Closing Date.

8.9 **Due Diligence:** Buyer has fully investigated the existence and condition, as of the date of this Agreement, of the Acquired Assets, and has had full access to the Acquired Assets to perform all due diligence that it deems appropriate in connection with the transactions contemplated by this Agreement, and Buyer acknowledges that it is purchasing the Acquired Assets "as is" and "where is", subject to normal wear and tear, without representation or warranty as to the condition and/or fitness of the Acquired Assets for any particular purpose.

8.10 **Retirement Benefits:** Buyer and Seller both acknowledge that Madalyn Helfstein owns 100% of Summit Laser Products, Inc, which in turn owns 65% of Seller and has control of the Seller. As an inducement to conclude this transaction, the Buyer agrees to continue the Insurance benefits that Madalyn Helfstein has received from the Seller, including Medical Insurance, until such time as she becomes eligible for Medicare benefits.

9. Closing

9.1 The Closing will take place at at 9:00 a.m. local time, on April 2, 2007, or at such other time and place as Buyer and Seller may agree in writing.

9.2 At the Closing, Seller must deliver or cause to be delivered to Buyer:

- (a) Assignments of all personal property leases of Seller, as lessee, properly executed and acknowledged by Seller;
- (b) An assignment to Buyer of the Lease, duly executed by Laser;
- (c) A bill of sale for the Acquired Assets, duly executed by Seller;
- (d) Certified resolutions of Seller, in form satisfactory to counsel for Buyer, authorizing the execution and performance of this Agreement and all actions to be taken by Seller under this Agreement;
- (e) A certificate executed by the managing member of Seller, certifying that all Seller's representations and warranties under this Agreement are true as of the Closing Date, as though each of those representation and warranties had been made on that date; and
- (f) An opinion of Seller's counsel, dated as of the Closing Date, as provided for in this Agreement.

9.3 Simultaneously with the consummation of the transfer, Seller through its officers, agents, and employees, will put Buyer into full possession and enjoyment of all Acquired Assets to be conveyed and transferred under this Agreement.

9.4 At the Closing, adjustments shall be made to the purchase price for: (i) all insurance premiums paid by Seller for the period after the Closing Date, and (ii) all rent, additional rent, and utilities paid by Seller and/or Laser, in connection with the Lease of the Premises, for the period after the Closing Date.

9.5 At the Closing, Buyer must deliver or cause to be delivered to Seller the following:

- (a) A wire transfer, to such account as Seller shall designate, in the amount of \$150,000;
- (b) Buyer's duly executed promissory note, dated as of the Closing Date, in the principal amount of \$100,000, in the form of Exhibit B hereto;
- (c) A wire transfer, to such account as Seller shall designate, in an amount equal to the purchase price for the Sold Inventory;
- (d) An opinion of Buyer's counsel, dated as of the Closing Date, as provided for in this Agreement;
- (e) Certified resolutions of Buyer's board of directors and shareholders, in form satisfactory to counsel for Seller, authorizing the execution and performance of this Agreement and all actions to be taken by Buyer under this Agreement and any other documents to be delivered in connection with this Agreement (the "Transaction Documents");
- (f) A certificate duly executed by Buyer's President, certifying that all Buyer's representations and warranties under this Agreement are true as of the Closing Date, as though each of those representations and warranties had been made on that date; and
- (g) The Corporate Guranty executed by Uninet Imaging, Inc. in the form of Exhibit G attached,

10. Conditions Precedent To Buyer's Performance

10.1 The obligations of Buyer to purchase the Acquired Assets under this Agreement are subject to the satisfaction, at or before the Closing, of all the conditions set out below in this Article 10.

10.2 All representations and warranties by Seller in this Agreement, or in any written statement that will be delivered to Buyer by Seller under this Agreement are, to the best of Sellers knowledge, true and correct in all material respects on and as of the Closing Date, as though such representations and warranties were made on and as of that date.

10.3 On or before the Closing Date, Seller will have performed, satisfied, and complied in all material respects with all covenants, agreements, and conditions that it is required by this Agreement to perform, comply with, or satisfy, before or at the Closing.

10.4 During the period from the execution of this Agreement to the Closing Date, there will not have been any material adverse change in the financial condition or the results of operations of Seller, and Seller will not have sustained any material loss or damage to its insured or uninsured assets that materially affects its ability to conduct its business or the value of the Acquired Assets to be purchased by Buyer under this Agreement at the Closing.

10.5 Buyer will have received from Seller's counsel, an opinion dated as of the Closing Date, in form and substance satisfactory to Buyer and its counsel, that:

(a) Seller is a limited liability company duly formed, validly existing, and in good standing under the laws of New York, and has all requisite power to own its properties as now owned and operate its business and has the power and authority to execute, deliver, and perform its obligations under this Agreement and to consummate the transactions contemplated.

(b) The Agreement has been duly and validly authorized, executed, and delivered by Seller, and is valid and binding against it and is enforceable against Seller in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws and equitable principles affecting the rights of creditors generally.

(c) Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will constitute a default or an event that would—with notice, lapse of time, or both—constitute a default under, or violation or breach of, Seller's membership agreement or bylaws, or, to the best of counsel's knowledge, of any indenture, license, lease, franchise, encumbrance, instrument, or other agreement to which Seller is a party or by which it may be bound.

10.6 No proceeding before any governmental authority pertaining to the transactions contemplated by this Agreement or to its consummation, or that could reasonably be expected to have a material adverse effect on Seller, any of its businesses, assets, or financial conditions, or the Acquired Assets will have been instituted or threatened before the Closing Date.

10.7 The execution, delivery, and performance of this Agreement by Seller, and the consummation of the transactions contemplated will have been duly authorized, and Buyer will have received copies of all resolutions of the members of Seller, and minutes pertaining to that authorization, certified by their respective secretaries.

10.8 All necessary agreements and consents of any parties to the consummation of the transactions contemplated in this Agreement, or otherwise pertaining to the matters covered by it, will have been obtained by Seller and delivered to Buyer.

10.9 Seller shall have delivered to Buyer all Transaction Documents and taken all actions required to be delivered or taken by Seller under this Agreement, as of the Closing Date. The form and substance of all certificates, instruments, opinions, and other Transaction Documents delivered to Buyer under this Agreement must be satisfactory in all reasonable respects to Buyer and its counsel.

11. Conditions Precedent to Seller's Performance

11.1 The obligations of Seller to sell and deliver the Acquired Assets under this Agreement are subject to the satisfaction, at or before the Closing, of all the conditions set out below in this Article 11.

11.2 All representations and warranties by Buyer in this Agreement or in any written statement that will be delivered to Seller by Buyer under this Agreement must be true and correct in all material respects on and as of the Closing Date, as though such representations and warranties were made on and as of that date.

11.3 On or before the Closing Date, Buyer will have performed, satisfied, and complied in all material respects with all covenants, agreements, and conditions that it is required by this Agreement to perform, comply with or satisfy, before or at the Closing.

11.4 During the period from the execution of this Agreement to the Closing Date, there will not have been any material adverse change in the financial condition or the results of operations of Buyer, and Buyer will not have sustained any material loss or damage to its assets that materially effects its ability to fully perform its obligations under this Agreement at the Closing and thereafter.

11.5 Seller will have received from Buyer's counsel an opinion, dated as of the Closing Date, in form and substance satisfactory to Seller and its counsel, that:

(a) Buyer is a corporation duly formed, validly existing, and in good standing under the laws of the State of New York, and has all requisite corporate power and authority to execute, deliver, and perform its obligations under this Agreement, and to consummate the transactions contemplated.

(b) The Agreement has been duly and validly authorized, executed, and delivered by Buyer, and is valid and binding against it and is enforceable against Buyer in accordance with its terms, except as limited by bankruptcy and insolvency laws and by other laws and equitable principles affecting the rights of creditors generally.

(c) Neither the execution nor delivery of this Agreement, nor the consummation of the transactions contemplated by this Agreement will constitute a default or an event that would—with notice, lapse of time or both—constitute a default under, or violation or breach of, buyer's articles of incorporation or bylaws, or, to the best of counsel's knowledge, of any indenture, license, lease, franchise, encumbrance, instrument or other agreement to which Buyer is a party or by which it may be bound.

11.6 No proceeding, before any governmental authority pertaining to the transactions contemplated by this Agreement or to its consummation, or that could reasonably be expected to have a material adverse effect on Buyer, any of its businesses, assets or financial conditions, will have been instituted or threatened before the Closing Date.

11.7 The executions, delivery, and performance of this Agreement by Buyer, and the consummation of the transactions contemplated will have been duly authorized, and Seller will have received copies of all resolutions of the board of directors of Buyer, and minutes pertaining to that authorization, certified by their respective secretaries.

11.8 All necessary agreements and consents of any parties to the consummation of the transactions contemplated in this Agreement, or otherwise pertaining to the matters covered by it, will have been obtained by Buyer and delivered to Seller.

11.9 Buyer shall deliver to Seller all Transaction Documents and have taken all actions required to be delivered or taken by Buyer under this Agreement, as of the Closing Date. The form and substance of all certificates, instruments, opinions, and other Transaction Documents delivered to Seller under this Agreement must be satisfactory in all reasonable respects to Seller and its counsel.

12. Arbitration

12.1 Any controversy or claim arising out of or relating to this Agreement, or its breach, shall be settled by binding arbitration in accordance with the commercial rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. The venue of any arbitration shall be Nassau County, New York.

13. Notices

13.1 All notices, demands or other communications to be given or delivered under this Agreement shall be in writing and shall be personally delivered or, if mailed, sent to the following relevant address or to such other address as the recipient party may have indicated to the sending party in notice given pursuant to this Article 13.1:

(a) IF TO SELLER:
Lewis Helfstein
10 Meadowgate East
St. James, NY 11780

with a copy to:

Pryor & Mandelup, L.L.P.
675 Old Country Road
Westbury, New York 11590
Attn: A. Scott Mandelup, Esq.
Fax: (516) 333-7333

(b) IF TO BUYER:

UI Supplies, Inc.
95 Orville Drive
Bohemia, New York 11716
Fax: _____

(c) IF TO UNINET:

Uninet Imaging, Inc.
11124 Washington Boulevard
Culver City, Cal. 90232

13.2 Any such notice shall be deemed given as of the date it is personally delivered or sent by fax or e-mail to the recipient, or one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), or four (4) business days after being mailed to the recipient by certified or registered mail, return receipt requested, and postage prepaid. If any time period for giving notice or taking action expires on a day which is a Saturday, Sunday or legal holiday in the State of New York (any other day being a "business day"), such time period shall automatically be extended to the next business day immediately following such Saturday, Sunday or legal holiday.

14. Construction

14.1 Except as otherwise provided herein:

(a) **Entire Agreement.** This Agreement covers the entire understandings of Buyer and Seller regarding its subject matter, and supersedes all prior agreements and understandings, and no modification or amendment of its terms or conditions shall be effective unless in writing and signed by Buyer and Seller;

(b) **Successors and Assigns.** This Agreement shall inure to the benefit of, and is binding on, the respective successors, assigns, distributees, heirs, and personal representatives of Buyer and Seller;

(c) **Headings.** This Agreement shall not be interpreted by reference to any of its titles or headings, which are inserted for purposes of convenience only;

(d) **Waiver and Release.** This Agreement is subject to the waiver and release of any of its requirements, as long as the waiver or release is in writing and signed by the party to be bound, but any such waiver or release shall be construed narrowly and shall not be considered a waiver or release of any further, similar, or related requirement or occurrence, unless expressly specified, and no waiver by any party of any default, misrepresentation or breach of warranty, covenant or agreement made or to be performed hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty, covenant or agreement made or to be

performed hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence;

(e) **Governing Law and Venue.** This Agreement is made in, and shall be construed under, the substantive laws of the State of New York, exclusive of choice of law principles. Nassau County, New York shall be the sole venue for any action or arbitration brought pursuant to this agreement

(f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall be deemed to constitute one and the same Agreement;

(g) **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or any other jurisdiction if such invalidity or unenforceability does not destroy the basis of the bargain between Buyer and Seller;

(h) **Expenses.** Except as provided herein, each of Buyer and Seller will bear their own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby;

(i) **Construction.** The parties have participated jointly in the negotiation and drafting of this Agreement, and in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Buyer and Seller, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement;

(j) **Exceptions.** The word "including" shall mean "including without limitation", and nothing in any schedule or exhibit attached hereto shall be deemed adequate to disclose an exception to a representation or warranty made herein, unless such schedule or exhibit identifies the exception with particularity and describes the relevant facts in detail;

(k) **Incorporation of Exhibits.** The exhibits and any other documents annexed to this Agreement are incorporated herein by reference and made a part hereof;

(l) **WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT OR OTHER DOCUMENT ANNEXED HERETO, OR ANY COURSE OF CONDUCT, COURSE OF DEALING OR STATEMENTS (WHETHER VERBAL OR WRITTEN) RELATING TO THE FOREGOING, AND THIS**

PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT;

(m) **Termination of Covenants, Representations, and Warranties.** The covenants, representations, and warranties made by Seller and/or Buyer in Articles 6 and 7, shall terminate as of the Closing, and Buyer shall have no right to seek indemnification based on a breach of a representation and/or warranty made by Seller herein or in any other document entered into by Seller in connection herewith; and

(n) **No Impediment to Liquidation.** Nothing herein shall be deemed or construed so as to limit, restrict or impose any impediment to Seller's right to liquidate, dissolve, and wind up its affairs and to cease all business activities and operations at such time as Seller may determine following the Closing.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Dated: Bohemia, New York

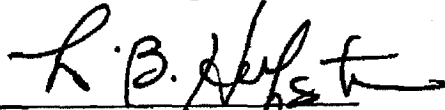
March 4, 2007

APM

SELLER:

Summit Technologies LLC

By:



Lewis B. Helfstein, Managing Member

Ira and Edythe Family Trust


By:

Ira Seaver, Trustee

BUYER:

UI Supplies, Inc.

By:



Nestor Saporiti, President

EXHIBIT E
EMPLOYMENT AGREEMENTS

NONE

CONSULTING AGREEMENTS WITH IRA SEAVER AND LEWIS HELFSTEIN
NOT BEING ASSUMED

1/12/82

initial

EXHIBIT B

FOLEY & OAKES, PC
ATTORNEYS AT LAW

DANIEL T. FOLEY
DIANA J. FOLEY
J. MICHAEL OAKES

850 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
TELEPHONE: (702) 384-2070
FACSIMILE: (702) 384-2128

JOSEPH M. FOLEY
(1924 - 2002)

April 19, 2010

Via Regular Mail and
Email Transmission
mlee@kssattorneys.com

Michael B. Lee, Esq.
Kravit, Schnitzer,
Sloane & Johnson, Chtd.
8985 S. Eastern Avenue
Suite 200
Las Vegas, Nevada 89123

Re: Case No. A 587003
Demand for Arbitration and for Change of Venue

Dear Mr. Lee:

Our firm represents Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC. This is with reference to the "Crossclaim" that has been filed against our clients, for which you have demanded a responsive pleading by April 20, 2010.

As described in Paragraph 3 of your Crossclaim, the claims you have asserted specifically arise out of the Agreement for Purchase and Sale of Assets by and between UI Supplies, Inc. and Summit Technologies, LLC.

That is an agreement between a New York corporation and a New York limited liability company, which specifically calls for mandatory arbitration of all disputes, and for venue to be located in Nassau County, New York. Specifically, the agreement states as follows:

1. "12. Arbitration
12.1 Any controversy or claim arising out of or relating to this Agreement, or its beach, shall be settled by binding arbitration in accordance with the commercial rules of the American Arbitration Association, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. The venue of any arbitration shall be Nassau County, New York."

2. "14.1(e) Governing Law and Venue. This Agreement is made in, and shall be construed under, the substantive laws of the State of New York, exclusive of choice of law principles. Nassau County, New York shall be the sole venue for any action or arbitration brought pursuant to this agreement."

Based upon the foregoing, this is to demand that you dismiss your Crossclaim against my clients, and, if you desire to proceed against them, that you comply with the express terms of the written contract between the parties, by initiating an arbitration of this matter in the proper county.

Please let me know if you are willing to comply with this demand. If we do not hear from you, we will file an appropriate motion with the District Court. For ease of communication, please feel free to respond directly to my email, which is mike@foleyoakes.com.

Sincerely,

FOLEY & OAKES, PC

A handwritten signature in black ink, appearing to read "J. Michael Oakes", written over the printed name.

J. MICHAEL OAKES

JMO:bms

D

FILED JUN 17 2010

1 **NEOJ**
2 GARY E. SCHNITZER, ESQ.
3 Nevada Bar No. 395
4 MICHAEL B. LEE, ESQ.
5 Nevada Bar No. 10122
6 KRAVITZ, SCHNITZER, SLOANE,
7 & JOHNSON, CHTD.
8 8985 S. Eastern Ave., Suite 200
9 Las Vegas, Nevada 89123
10 Telephone: (702) 222-4142
11 Facsimile: (702) 362-2203
12 Email: gschnitzer@kssattorneys.com
13 mlee@kssattorneys.com
14 Attorneys for Defendants UI Supplies,
15 Uninet Imaging and Nestor Saporiti

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 IRA AND EDYTHE SEAVER FAMILY TRUST,
12 IRA SEAVER, CIRCLE CONSULTING
13 CORPORATION

13 Plaintiff,

14 vs.

15 LEWIS HELFSTEIN, MADALYN HELFSTEIN,
16 SUMMIT LASER PRODUCTS, INC., SUMMIT
17 TECHNOLOGIES LLC, UI SUPPLIES, UNINET
18 IMAGING, INC., NESTOR SAPORITI and DOES
19 1 through 20, and ROE entities 21 through 40,
20 inclusive,

21 Defendants.

22 UI SUPPLIES, UNINET IMAGING, INC.,
23 NESTOR SAPORITI

24 Counter-Claimants

25 vs.

26 IRA AND EDYTHE SEAVER FAMILY TRUST,
27 IRA SEAVER, CIRCLE CONSULTING
28 CORPORATION; and ROE CORPORATIONS
101-200.

Counter-Defendants

Case No. A587003

Dept. No. XI

Date of Hearing: May 25, 2010

Time of Hearing: 9:00 a.m.

NOTICE OF ENTRY OF ORDER

1 UI SUPPLIES, UNINET IMAGING AND
2 NESTOR SAPORITI

3 Cross-Claimants

4 vs.

5 LEWIS HELFSTEIN, MADALYN HELFSTEIN,
6 SUMMIT LASER PRODUCTS, INC., SUMMIT
7 TECHNOLOGIES LLC,

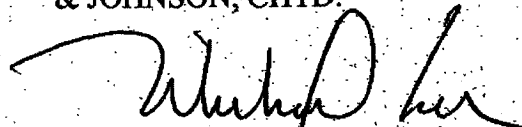
8 Cross-Defendants

9 **NOTICE OF ENTRY OF ORDER**

10 YOU, AND EACH OF YOU, will please take notice that an Order Denying Motion to Stay or
11 Dismiss was entered in this matter on June 15, 2010. A copy of said Order Denying Motion to Stay or
12 Dismiss is attached hereto and incorporated herewith by reference.

13 DATED this 16 day of June, 2010.

14 KRAVITZ, SCHNITZER SLOANE,
15 & JOHNSON, CHTD.

16 

17 GARY E. SCHNITZER, ESQ. (NSB 395)
18 MICHAEL B. LEE, ESQ. (NSB 10122)
19 8985 S. Eastern Avenue, Suite 200
20 Las Vegas, Nevada 89123
21 Telephone: (702) 222-4142
22 Facsimile: (702) 362-2203
23 *Attorneys for Defendants UI Supplies,*
24 *Uninet Imaging and Nestor Saporiti*

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16 day of June, 2010, I placed a copy of the foregoing **NOTICE OF ENTRY OF ORDER** in the United States mail, postage pre-paid, and addressed as follows:

Jeffrey R. Albrechts, Esq. (NBN 0066)
SANTORO, DRIGGS, WALCH, KEARNEY,
HOLLEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Tel: (702) 791-0308
Fax: (702) 791-1912
jralbrechts@nevadafirm.com
Attorneys for Plaintiffs

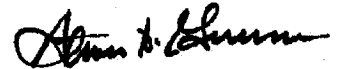
Byron L. Ames, Esq. (NBN 7581)
Jonathan D. Blum, Esq. (NBN 9515)
THARPE & HOWELL
3425 Cliff Shadows Parkway, Suite 150
Las Vegas, Nevada 89129
Tel: (702) 562-3301
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Attorneys for Plaintiffs

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850 East Bonneville Avenue
Las Vegas, NV 89101
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Fax: 702-384-2128
mike@foleyoakes.com



An employee of KRAVITZ, SCHNITZER, SLOANE, &
JOHNSON, CHTD.

LAW OFFICES
KRAVITZ, SCHNITZER, SLOANE &
JOHNSON, CHTD.



CLERK OF THE COURT

1 **ORDD**
2 GARY E. SCHNITZER, ESQ. (NSB 395)
3 MICHAEL B. LEE, ESQ. (NSB 10122)
4 KRAVITZ, SCHNITZER,
5 SLOANE & JOHNSON, CHTD.
6 8985 S. Eastern Ave., Suite 200
7 Las Vegas, Nevada 89123
8 Telephone: (702) 222-4142
9 Facsimile: (702) 362-2203
10 *Attorneys for Defendants UI Supplies,*
11 *Uninet Imaging and Nestor Saporiti*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9
10 IRA AND EDYTHE SEAVER FAMILY TRUST,
11 IRA SEAVAR, CIRCLE CONSULTING
12 CORPORATION

12 Plaintiff,

12 vs.

13 LEWIS HELFSTEIN, MADALYN HELFSTEIN,
14 SUMMIT LASER PRODUCTS, INC., SUMMIT
15 TECHNOLOGIES LLC, UI SUPPLIES, UNINET
16 IMAGING, INC., NESTOR SAPORITI and DOES
17 1 through 20, and ROE entities 21 through 40,
18 inclusive,

17 Defendants.

18 UI SUPPLIES, UNINET IMAGING, INC.,
19 NESTOR SAPORITI

20 Counter-Claimants

20 vs.

21 IRA AND EDYTHE SEAVER FAMILY TRUST,
22 IRA SEAVAR, CIRCLE CONSULTING
23 CORPORATION; and ROE CORPORATIONS
24 101-200.

24 Counter-Defendants

Case No. A587003

Dept. No. XI

**ORDER DENYING MOTION TO STAY
OR DISMISS**

Date of Hearing: May 25, 2010

Time of Hearing: 9:00 a.m.

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09A587003

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

August 20, 2010

09A587003

Ira And Edythe Seaver Family Trust, Plaintiff(s)

vs.

UI Supplies, Defendant(s)

August 20, 2010

3:00 AM

Motion

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 14C

COURT CLERK: Nicole McDevitt, Relief Clerk

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court having reviewed the Motion to Stay and the related briefing and good cause appearing DENIES the motion. There is no basis for a stay of the entire case or the interrelated cross claim at this time. Moving counsel to prepare and submit the order within 10 days.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folders of [REDACTED] and Gary E. Schnitzer, Esq. (Kravitz, Schnitzer, Sloane & Johnson Chtd.); Byron L. Ames, Esq. (Tharpe & Howell); and Jeffrey R. Albregts, Esq. (Santoro, Driggs, Waich, Kearney, Holley & Thompson).