

# **EXHIBIT A-1**

767810  
FINAL

**UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT**  
(NRS 108.2457)

Property Name: Las Vegas City Hall

Property Location: 495 S. Main Street, Las Vegas, NV 89101

Undersigned's Customer: Cam Consulting

Invoice/Payment Application Number: INSS 12366010, 12367010, 12389010

Payment Amount: \$755,893.89

Payment Period: 4-26-11

Amount of Disputed Claim: 0

The undersigned has been paid in full for all work, materials and equipment furnished to his Customer for the above-described Property and does hereby waive and release any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the undersigned has on the above-described Property, except for the payment of Disputed Claims, if any, noted above. The undersigned warrants that he either has already paid or will use the money he receives from this final payment promptly to pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials and equipment that are the subject of this waiver and release.

**NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.**

Dated 4/27/11

Cam Consulting  
(Company Name)  
By [Signature]  
(Signature)  
Title Credit Manager

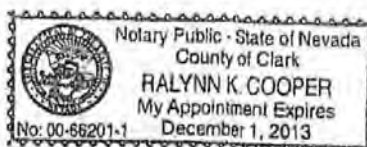
**NOTARY:**

Subscribed and sworn to before the undersigned, a Notary Public for the State of NEVADA

County of CLARK This 27th day of April, 2010.

Notary Public Signature: [Signature]

Commission Expires: December 1, 2013



# **EXHIBIT A-2**



## PEZZILLO ROBINSON

Brian J. Pezzillo <sup>of</sup>  
Jennifer R. Lloyd-Robinson <sup>\*</sup>  
George E. Robinson <sup>of</sup>  
Marisa L. Maskas <sup>o</sup>  
Lance D. Banks <sup>o</sup>

6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel: (702) 233-4225  
Fax: (702) 233-4252  
www.pezzillorobinson.com

June 20, 2011

### VIA U.S. MAIL AND FACSIMILE

Shemilly A. Briscoe, Esq.  
Santoro, Driggs, Walch, Kearney, Holley & Thompson  
400 S. Fourth St., Third Floor  
Las Vegas, Nevada 89101

*Re: CAM Consulting Equipment Purchase*

Dear Shemilly:

This firm represents Cashman Equipment Company ("Cashman"). I am in receipt of your correspondence dated June 2, 2011, concerning the generators ("Equipment") that Cam Consulting, Inc. ("Cam") purchased from Cashman and for which Cam has failed to pay Cashman. Cam subsequently sold the Equipment to Mojave Electric, Inc. ("Mojave") sometime in April, 2011. Prior to Mojave's purchase, Cam agreed to provide Cashman with a security interest in the Equipment and evidence of that interest was filed with the Nevada Secretary of State on February 16, 2011.

Mojave purchased the Equipment subject to Cashman's security interest. This renders Mojave responsible to pay Cashman for the Equipment, as Cam has failed to pay Cashman. Cashman is also willing to accept the return of the Equipment. As Mojave is aware, the total amount due for the Equipment is \$755,893.89. Should arrangements not be made to satisfy Cashman's claims, Cashman will be forced to pursue legal action, which will include enforcing its right to payment to the fullest extent allowed by law against all responsible parties including Mojave, Whiting-Turner and the owner of the City Hall Project.

It is important to note that the Equipment cannot be started without Cashman's assistance, and should it be started otherwise, the warranty will be voided. It would seem likely that Mojave represented that a warranty would be included with the Equipment it provided to the Project and should be aware of actions that will void the warranty. This issue could have been avoided had Mojave simply made payment for the Equipment payable jointly to Cam and Cashman. Cashman even requested that joint payment be made, but Frances McCombs of Mojave refused to do so.

<sup>o</sup>Licensed in Nevada  
<sup>1</sup>Licensed in New Mexico  
<sup>#</sup>Licensed in California





## PEZZILLO ROBINSON

June 8, 2011

Page 2

Given the cost of the Equipment and Cashman's perfected security interest, it is unclear why Mojave chose to issue payment to Cam only, instead of taking steps to ensure that Cashman received payment for the Equipment provided.

Nothing contained herein shall be construed as a waiver of any of Cashman's rights, all of which are expressly reserved. Please contact me within five days to arrange payment of the amount owed or to arrange for the return of the Equipment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer R. Lloyd-Robinson'. The signature is fluid and cursive, with a large loop at the end.

Jennifer R. Lloyd-Robinson, Esq.  
PEZZILLO ROBINSON

cc: Whiting Turner Contracting Company, via U.S. Mail  
FC/LW Las Vegas LLC and LWTIC Successor LLC, via U.S. Mail



# PEZZILLO ROBINSON

Brian J. Pezzillo<sup>o†</sup>  
 Jennifer R. Lloyd-Robinson<sup>o</sup>  
 George E. Robinson<sup>o</sup>  
 Marisa L. Maskas<sup>o</sup>  
 Lance D. Banks<sup>o</sup>

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 Las Vegas, Nevada 89119  
 Tel: (702) 233-4225  
 Fax: (702) 233-4252  
[www.pezzillorobinson.com](http://www.pezzillorobinson.com)

<sup>o</sup>Licensed in Nevada  
<sup>†</sup>Licensed in New Mexico  
<sup>o</sup>Licensed in California

## FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Shemilly A. Briscoe, Esq.	Jennifer R. Lloyd-Robinson, Esq.
COMPANY:	DATE:
	6.21.2011
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
702.791.1912	3
PHONE NUMBER:	CLIENT / MATTER NAME:
	Cashman v. CAM
ATTACHED:	CLIENT / MATTER NUMBER:
Correspondence	

☐ URGENT    ☐ FOR REVIEW    ☐ PLEASE COMMENT    ☐ PLEASE REPLY    ☐ PLEASE HANDLE

NOTES/COMMENTS:

### CAUTION: PRIVILEGED AND/OR CONFIDENTIAL INFORMATION

The information contained in this facsimile cover sheet and the attachments, if any, are privileged, confidential and intended solely for the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or reproduction of this communication, or any part hereof, is strictly prohibited. If you have received this communication in error, please immediately notify Pezzillo Robinson by telephone and return the original message to the above address via the United States Postal Service.

# **EXHIBIT A-3**



# Gruber Technical Inc.

dba Gruber Power Services  
21613 N. 2nd Avenue  
Phoenix, AZ 85027-2918 USA  
Telephone: 602/863-2655  
Fax: (602) 257-4313  
Email: hal@gruber.com

## Invoice 119877


Invoice Date 01/31/12

### Bill To:

Mojave Systems  
3755 West Hacienda Avenue  
Las Vegas, NV 89119

### Ship To:

Mojave Electric  
3755 West Hacienda Avenue  
Attn: Chris Meiers  
LAS VEGAS, NV 89118

Customer	Ship Via	F.O.B.	Terms		
2MOJ01	UPS Red AM	Origin	AMEX		
Purchase Order Number		Salesperson	Order Date	Our Order Number	
4024911-0006		VAN	01/20/12	117561	
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Ordered	Item Description		Discount % Tax	
4	4	20-ABB-KT5U8	EA	219.70000	878.80
	0	ACC - ABB - UVR field installable for T5N400 breaker		Y	
1	1	82-SHIPCHARGE	EA	204.68000	204.68
	0	GPS - VARIABLE - Shipping Charge		N	
1	1	82-FSCCFEE	EA	0.00000	0.00
	0	GPS - VARIABLE - Credit Card Fee		N	
<div>OK </div>					
Nontaxable Subtotal					204.68
Taxable Subtotal					878.80
Tax (8.100%)					71.18
Total Invoice					1154.66



# Gruber Technical Inc.

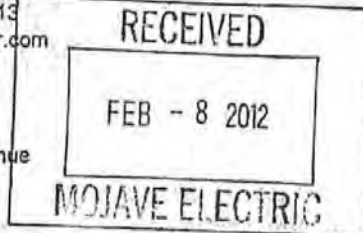
dba Gruber Power Services  
21613 N. 2nd Avenue  
Phoenix, AZ 85027-2918 USA  
Telephone: 602/863-2655  
Fax: (602) 257-4313  
Email: hal@gruber.com

## Invoice 119878-A

Invoice Date 01/31/12

### Bill To:

Mojave Systems  
3755 West Hacienda Avenue  
LAS VEGAS, NV 89119



### Ship To:

Mojave Electric  
3755 West Hacienda Avenue  
Attn: Chris Meiers  
Las Vegas, NV 89118

THIS IS A REVISED INVOICE

Customer	Ship Via	F.O.B.		Terms	
2MOJ01				AMEX	
Purchase Order Number		Salesperson	Order Date	Our Order Number	
4024911-0006		VAN	01/20/12	117561	
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Ordered	Item Description		Discount % Tax	
11.500	11.500	82-FSLBR	EA	145.00000	1667.50
	0.000	GPS - VARIABLE - Onsite/Offsite - FE Labor Rate		N	
1.000	1.000	82-FSTRVL	EA	0.00000	0.00
	0.000	GPS - VARIABLE - Travel - Field Engineer Travel Rate		N	
1	1	82-PERDIEM		0.00000	0.00
	0	GPS - VARIABLE - Offsite - Perdiem Charge		N	
<div>OK. Cann</div>					



THIS INVOICE HAS BEEN PAID BY CREDIT CARD

DO NOT PAY THIS INVOICE. DO NOT PAY INVOICE  
INVOICE IS FOR YOUR RECORDS ONLY.

Nontaxable Subtotal	1667.50
Taxable Subtotal	0.00
Tax	0.00
Total Invoice	1667.50





# Gruber Technical Inc.

dba Gruber Power Services  
21613 N. 2nd Avenue  
Phoenix, AZ 85027-2918 USA  
Telephone: 602/863-2655  
Fax: (602) 257-4313  
Email: hal@gruber.com

## Invoice 119904-A

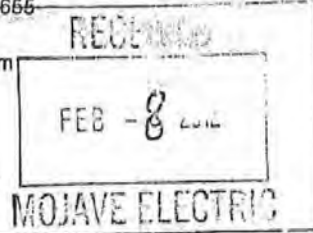
Invoice Date 01/31/12

### Bill To:

Mojave Systems  
3755 West Hacienda Avenue  
LAS VEGAS, NV 89119

### Ship To:

Mojave Electric  
3755 West Hacienda Avenue  
Las Vegas, NV 89118



THIS IS A REVISED INVOICE

Customer	Ship Via		F.O.B.		Terms		
2MOJ01					AMEX		
Purchase Order Number			Salesperson		Order Date	Our Order Number	
4024911-0040			VAN		01/05/12	117040	
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure		Unit Price		Extended Price
	Back Ordered	Item Description			Discount %	Tax	
1.000	1.000	82-FSLBR	EA		2050.32000		2050.32
	0.000	GPS - Service - Mitsubishi 9800AD 500 KVA - Startup 01/05/12 VAN : Equipment: Mitsubishi 9800AD 500 KVA Service: Startup during normal business hours Job#: B65998 (under City of Las Vegas, City Hall, Peter Fergen) Contact: Chris Meiers, Mojave Electric cmeiers@mojaveelectric.com C: 702-205-3311 O: 702-798-2970 Location of Unit: Las Vegas City Hall, 495 South Main Street, Las Vegas, NV (unit is in the basement)					N
1	1	82-FSCCFEE	EA		0.00000		0.00
	0	GPS - VARIABLE - Credit Card Fee					N
<div>THIS INVOICE HAS BEEN PAID BY CREDIT CARD ***** DO NOT PAY THIS INVOICE. DO NOT PAY INVOICE INVOICE IS FOR YOUR RECORDS ONLY. *****</div> <div><div><div>O.K. CME</div></div><div><div>Nontaxable Subtotal</div><div>Taxable Subtotal</div><div>Tax</div><div>Total Invoice</div></div><div><div>2050.32</div><div>0.00</div><div>0.00</div><div>2050.32</div></div></div>							

O.K.  
CAB

Customer Original

Page 1

JA 0000178



# Gruber Technical Inc.

dba Gruber Power Services  
21613 N. 2nd Avenue  
Phoenix, AZ 85027-2948 USA  
Telephone: 602/863-2655  
Fax: (602) 257-4313  
Email: hal@gruber.com

## Invoice 119948-A

Invoice Date 01/31/12

RECEIVED

FEB - 8 2012

MOJAVE ELECTRIC

### Bill To:

Mojave Systems  
3755 West Hacienda Avenue  
LAS VEGAS, NV 89119

### Ship To:

Mojave Electric  
3755 West Hacienda Avenue  
Attn: Chris Meiers  
Las Vegas, NV 89118

THIS IS A REVISED INVOICE

Customer	Ship Via	F.O.B.		Terms	
2MOJ01				AMEX	
Purchase Order Number		Salesperson	Order Date	Our Order Number	
		VAN	01/30/12	117878	
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Ordered	Item Description		Discount % Tax	
2.000	2.000	82-FSLBR	EA	145.00000	290.00
	0.000	GPS - Service Call Onsite for City Inspection			
		01/30/12 VAN :			
		Equipment: Mitsubishi 9800AD 500 KVA			
		Service: Tech available during city inspection			
		Job#B65998			
		Contact: Chris Meiers: cmeiers@mojaveelectric.com C: 702-205-3			
		311 O: 702-798-2970			
		Location of Equipment: Las Vegas City Hall 495 South Main Street, Las Vegas, NV (unit is in basement)			
1	1	82-FSCCFEE	EA	0.00000	0.00
	0	GPS - VARIABLE - Credit Card Fee			
<div>THIS INVOICE HAS BEEN PAID BY CREDIT CARD</div> <div>*****</div> <div>DO NOT PAY THIS INVOICE. DO NOT PAY INVOICE</div> <div>INVOICE IS FOR YOUR RECORDS ONLY.</div> <div>*****</div> <div><div>Nontaxable Subtotal</div><div>Taxable Subtotal</div><div>Tax</div><div>Total Invoice</div><div>290.00</div><div>0.00</div><div>0.00</div><div>290.00</div></div>					

Customer Original

Page 1

JA 0000179

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 77942

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

OCT 12 2011

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE October 10, 2011

TERMS **NET UPON RECEIPT**

JOB: *Las Vegas City Hall*

*495 Main Street*

*Las Vegas, NV 89101*

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
<b>PROGRESS BILLING</b>			
<u>SCOPE OF WORK</u>			
Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear.			
<u>Labor: 09/27/11 - 09/30/11</u>			
28 HRS	Journeyman Foreman S/T	\$103.00	\$2,884.00
28 HRS	Journeyman Wireman S/T	\$95.00	\$2,660.00
56 HRS	Truck & Tools	\$30.00	\$1,680.00
Subtotal Labor:			\$7,224.00
<u>Material:</u>			
6 EA	Loop Clamp	\$1.83	\$10.98
2 EA	Sleeve Wire, Pack 100	\$120.91	\$241.82
8.1% Sales Tax, Clark County			\$252.80
Subtotal Material & Tax:			\$20.48
Invoice Subtotal:			\$7,497.28
Less 10% Retention			-\$749.73
<b>TOTAL AMOUNT DUE THIS INVOICE</b>			<b>\$6,747.55</b>

Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.

*Thank You*  
*Your Business is Appreciated and*  
*We Hope to Serve You Again.*



# Hampton Tedder Technical Services, Inc. *LA*

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 77943

OCT 11 2011

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89118

Attn: Accounts Payable

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE October 10, 2011

TERMS **NET UPON RECEIPT**

JOB: Las Vegas City Hall

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	<b>RETENTION BILLING</b>		
	<u>SCOPE OF WORK</u> Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear (Retention Withheld on Invoice 77942).		
	Original Contract Amount:	\$7,497.28	
	Less Previous Billing:	-\$6,747.55	
	Total Retention Withheld:	\$749.73	
	<b>TOTAL AMOUNT DUE THIS INVOICE</b>		<b>\$749.73</b>
	<div><div>HOLD RETENTION</div><div>YES NO</div><div><i>[Handwritten signature]</i></div></div>		
	<div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div><div><i>[Handwritten signature]</i></div></div>		
	<small>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</small>		

*Thank You*  
*Your Business is Appreciated and*  
*We Hope to Serve You Again.*

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 77977

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

OCT 21 2011

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE October 20, 2011

TERMS **NET UPON RECEIPT**

JOB: **Las Vegas City Hall**

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
<b>PROGRESS BILLING</b>			
<u>SCOPE OF WORK</u>			
Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear.			
<u>Labor: 10/03/11 - 10/07/11</u>			
24 HRS	Journeyman Foreman S/T	\$103.00	\$2,472.00
72 HRS	Journeyman Wireman S/T	\$95.00	\$6,840.00
96 HRS	Truck & Tools	\$30.00	\$2,880.00
Subtotal Labor:			\$12,192.00
<u>Material:</u>			
6 EA	1-1/4" Hole Loop Clamp	\$1.83	\$10.98
1000 FT	Belden 22/2C Low Cap Cable	\$1.11	\$1,110.00
1 EA	Data Port Connector	\$4.05	\$4.05
1000 FT	THHN #10 Black 19STR CU 500S/R Wire	\$0.31	\$310.00
500 FT	THHN #10 Blue 19STR CU 500S/R Wire	\$0.31	\$155.00
500 FT	THHN #10 Red 19STR CU 500S/R Wire	\$0.31	\$155.00
3500 FT	THHN #14 Orange 19STR CU 500S/R Wire	\$0.12	\$420.00
500 FT	THHN #14 Red 19STR CU 500S/R Wire	\$0.12	\$60.00
1 EA	Wire Marker Book	\$11.28	\$11.28
8.1% Sales Tax, Clark County			\$2,236.31
Subtotal Material & Tax:			\$181.14
Invoice Subtotal:			\$2,417.45
Less 10% Retention			\$1,460.95
<b>TOTAL AMOUNT DUE THIS INVOICE</b>			<b>\$13,148.50</b>
Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.			

*Thank You*  
Your Business is Appreciated and  
We Hope to Serve You Again.

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 77978

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE October 20, 2011

TERMS **NET UPON RECEIPT**

JOB: *Las Vegas City Hall*

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338

MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	<b>RETENTION BILLING</b>		
	<u>SCOPE OF WORK</u> Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear (Retention Withheld on Invoice 77977).		
	Original Contract Amount: \$14,609.45		
	Less Previous Billing: <u>-\$13,148.50</u>		
	Total Retention Withheld: <u>\$1,460.95</u>		
	<b>TOTAL AMOUNT DUE THIS INVOICE</b>		<b>\$1,460.95</b>
	<div><div><b>HOLD RETENTION</b></div><div><b>YES</b> <b>NO</b></div></div> <div><i>O.K.</i> <i>CPK</i></div>		<i>CP</i> <i>1460.95</i>
	<small>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</small>		<div><i>Thank You</i> <i>Your Business is Appreciated</i> <i>We Hope to Serve You A</i></div>

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 78040

**COPY**

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE November 15, 2011

TERMS **NET UPON RECEIPT**

JOB: *Las Vegas City Hall*

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	<b>RETENTION BILLING</b>		
	<u>SCOPE OF WORK</u>		
	Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear (Retention Withheld on Invoice 78039).		
	Original Contract Amount:	\$10,432.00	
	Less Previous Billing:	-\$9,388.80	
	Total Retention Withheld:	\$1,043.20	
	<b>TOTAL AMOUNT DUE THIS INVOICE</b>		<b>\$1,043.20</b>
	<small>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</small>		

4  
1043.20

*Thank You*  
*Your Business is Appreciated and*  
*We Hope to Serve You Again.*

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 78037

**COPY**

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE November 15, 2011

TERMS **NET UPON RECEIPT**

JOB: *Las Vegas City Hall*

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
<b>PROGRESS BILLING</b>			
<u>SCOPE OF WORK</u>			
Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear.			
<u>Labor: 10/17/11 - 10/21/11</u>			
32 HRS	Journeyman Foreman S/T	\$103.00	\$3,296.00
27 HRS	Journeyman Wireman S/T	\$95.00	\$2,565.00
26 HRS	Truck & Tools	\$30.00	\$780.00
<i>Subtotal Labor:</i>			<i>\$6,641.00</i>
<b>Invoice Subtotal:</b>			<b>\$6,641.00</b>
Less 10% Retention			-\$664.10
<b>TOTAL AMOUNT DUE THIS INVOICE</b>			<b>\$5,976.90</b>
<small>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</small>			

*Thank You*

*Your Business is Appreciated and  
We Hope to Serve You Again*

# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 78036

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

**COPY**

NOV 17 2011

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE November 15, 2011

TERMS **NET UPON RECEIPT**

JOB: Las Vegas City Hall

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
	<b>RETENTION BILLING</b>		
	<u>SCOPE OF WORK</u> Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear (Retention Withheld on Invoice 78037).		
	Original Contract Amount:	\$6,641.00	
	Less Previous Billing:	<u>-\$5,976.90</u>	
	Total Retention Withheld:	\$664.10	
	<b>TOTAL AMOUNT DUE THIS INVOICE</b>		<b>\$664.10</b>
	<p>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</p>		

*6/6/12*

*Thank You*  
*Your Business is Appreciated and*  
*We Hope to Serve You Again.*



# Hampton Tedder Technical Services, Inc.

HIGH VOLTAGE TESTING AND MAINTENANCE

(909) 628-1256 • Fax (909) 628-6375

LICENSE NO. 288589

INVOICE NO. 28035

TO: **MOJAVE ELECTRIC**

3755 W. Hacienda Avenue

Las Vegas, NV 89119

Attn: Accounts Payable

**COPY**

CUSTOMER P.O. 4024911-0001

HTTS JOB NO. TN11469

DATE November 15, 2011

TERMS **NET UPON RECEIPT**

JOB: Las Vegas City Hall

495 Main Street

Las Vegas, NV 89101

REMIT TO: P.O. BOX 2338  
MONTCLAIR, CA 91763

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
<b>PROGRESS BILLING</b>			
<u>SCOPE OF WORK</u>			
Diagnose Complete and Startup for Caterpillar Generator and Paralleling Switchgear.			
<u>Labor: 10/10/11 - 10/14/11</u>			
44 HRS	Journeyman Foreman S/T	\$103.00	\$4,532.00
40 HRS	Journeyman Wireman S/T	\$95.00	\$3,800.00
70 HRS	Truck & Tools	\$30.00	\$2,100.00
<i>Subtotal Labor:</i>			<i>\$10,432.00</i>
<b>Invoice Subtotal:</b>			<b>\$10,432.00</b>
Less 10% Retention			<b>-\$1,043.20</b>
<b>TOTAL AMOUNT DUE THIS INVOICE</b>			<b>\$9,388.80</b>
<small>Should litigation be commenced to collect on this account, or any portion thereof, the prevailing party shall be entitled to receive reasonable attorney fees and costs of litigation. The invoiced amount is due and payable "NET UPON RECEIPT." In the event payment is not received, the invoiced amount or any unpaid part of the invoiced amount shall bear interest at the rate of ten (10%) percent per annum.</small>			

*9388.80*

*Thank You*  
*Your Business is Appreciated and*  
*We Hope to Serve You Again*



3755 W. Sunset Road Ste A  
Las Vegas, NV 89118  
Phone (702) 384-8500  
Fax (702) 384-9027

**\*\* Invoice \*\***

Remit to:

CODALE ENERGY SERVICES & SUPPLY  
PO BOX 843437  
LOS ANGELES, CA 90084-3437

Your Green Source

Invoice #: S4387942.001  
Invoice Date: 11/14/11  
P/O #: 4034911-BAT-10001  
Rel #: PROJECT7  
Page #: 1

Tel: 801-975-7300

Bill To:

MOJAVE ELECTRIC  
3755 W HACIENDA AVE  
AKA WEST EDNA ASSOCIATES  
LAS VEGAS, NV 89118

Ship To:

MOJAVE ELE/ CITY OF LV CITY HALL  
CITY OF LV - NEW CITY HALL  
3755 W HACIENDA AVE  
LAS VEGAS, NV 89118

ORDER DATE	SHIP DATE	WRITER	TERMS	SHIP VIA	TAX BR	ORDERED BY
10/31/11	11/14/11	ROWHOL	See Discount Below	DIRECT	7	PETE
ORDER QTY	SHIP QTY	DESCRIPTION			NET PRC	EXT PRC
160ea	160ea	CASHMAN FIAMM FLX500 BATTERIES LINE: 1			0.000/EA	0.00
4ea	4ea	CASHMAN BATTERY CABINET LINE: 1			0.000/EA	0.00
1ea	1ea	MISC GEAR PRICE LINE: 1			70510.000/EA	70510.00
1ea	1ea	NEVADA NONTAXABLE SHIPPING TO FOLLOW LINE: 2			3500.000/ea	3500.00
NOV 29 2011						

All sales subject to Codale ESS Terms and  
Conditions (T&C's) Available at [www.codaleess.com/terms](http://www.codaleess.com/terms)  
Sales Tax is Not included in any Bid

Net Amt 74010.00

Sales Tax 5711.31

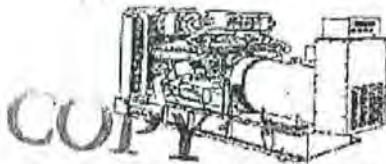
Cash Discount 1460.20 If Paid By 12/15/11 15N25 NS

Total 79721.31

Reprint . . Reprint . . Reprint . . Reprint . .

JA 0000188





Power Generation Specialist  
www.gentechusa.com

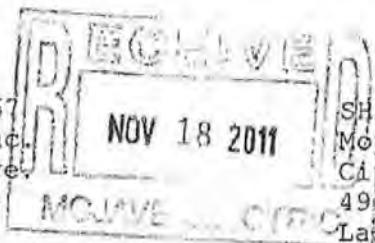
BILL TO:

Mojave Electric Inc.  
3755 W. Hacienda Ave.  
Las Vegas NV 89118

I N V O I C E

GEN-TECH OF NEVADA  
4785 Copper Sage St, Suite A  
Las Vegas NV 89115

Toll Free @ 866-633-6400



SHIP TO:

Mojave Electric Inc.  
City Hall Building  
495 S Main  
Las Vegas NV 89106

Invoice #	Order #	Customer#	Customer P.O.	Terms
32258	19408	67	4024911-0002	Net 30 Days

Invoice Dt	Order Dt	Ship Via:	SlsPerson
11/16/11	11/16/11		ZZZ

QUANTITY	U/M	ITEM/DESCRIPTION	UNIT PRICE	AMOUNT
----------	-----	------------------	------------	--------

Performed service estimate per  
PHXQ10239 \$4,000.00  
Sales Tax \$ .00  
Shipping \$ .00  
TOTAL DUE \$4,000.00

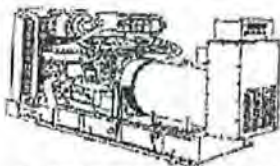
S/O:02000032979 Date:11/16/11  
Tech:450 Stumpf, John  
Equ#:GEN0900CA1013XX  
Ser#:JSJ01013  
EA SERVICE ESTIMATE PHXQ10239  
Equ#:GEN0900CA1016XX  
Ser#:JSJ01016

1.0			4,000.00	4,000.00
-----	--	--	----------	----------

		Total Due On 12/16/11		4,000.00
--	--	-----------------------	--	----------

REMIT TO: GEN-TECH OF NEVADA 7901 N. 70th Ave. Glendale AZ 85303  
Late Charge of 1.5% on Past Due Amounts

JA 0000189



Power Generation Specialist  
www.gentechusa.com

# INVOICE

GEN-TECH OF NEVADA  
4785 Copper Sage St, Suite A  
Las Vegas NV 89115

Toll Free @ 866-633-6400

BILL TO: 67  
Mojave Electric Inc.  
3755 W. Hacienda Ave.  
Las Vegas NV 89118

NOV 18 2011

SHIP TO:  
Mojave Electric Inc.  
City Hall Building  
495 S Main  
Las Vegas NV 89106

4024911-0002

Invoice #	Order #	Customer#	Customer P.O.	Terms
32259	19409	67	Peter Fergen	Net 30 Days
Invoice Dt	Order Dt	Ship Via:	SlsPerson	
11/16/11	11/16/11		ZZZ	

QUANTITY	U/M	ITEM/DESCRIPTION	UNIT PRICE	AMOUNT
----------	-----	------------------	------------	--------

Performed service estimate per  
PHXQ10338 \$9,190.00  
Sales Tax \$ .00  
Shipping \$ .00  
TOTAL DUE \$9,190.00

S/O:02000033021 Date:11/16/11  
Tech:450 Stumpf, John  
Equ#:GEN0900CA1013XX  
Ser#:JSJ01013  
1.0 EA SERVICE ESTIMATE PHXQ10338  
Equ#:GEN0900CA1016XX  
Ser#:JSJ01016

9,190.00 9,190.00

Total Due On 12/16/11

9,190.00

INCREASE PO  
FOR 4024911-0002  
LHLL

REMIT TO: GEN-TECH OF NEVADA 7901 N. 70th Ave. Glendale AZ 85303  
Late Charge of 1.5% on Past Due Amounts

JA 0000190

# **EXHIBIT A-4**

934410

51445-6047.55

51651 130,221.45

**CAM CONSULTING INC**  
 8874 CIVIC CENTER DR. PH 702-325-8032  
 NORTH LAS VEGAS, NV 89103-7524

1033

DATE 28-April-11

54-771224 25

PAY TO THE ORDER OF Morave Electric

One hundred sixty nine & 00/100 DOLLARS

\$136,221.45

NEVADA STATE BANK  
 THE DOOR TO YOUR FUTURE  
 P.O. BOX 800, LAS VEGAS, NEVADA 89102

For invoice # 51446

⑈001033⑈ ⑆122400779⑆0262031032⑈

*[Signature]*

MOJ00064

JA 0000192



CAM CONSULTING INC / CAMC3  
 3824 ORIO CENTER DR PHASE 2-05-0032  
 NORTH LAS VEGAS, NV 89131-0724

1032  
 94-77/0224  
 25

DATE 27-Apr-11

PAY TO THE ORDER OF Mayave Electric \$ 139,387.70

One hundred thirty nine thousand seven hundred and seventy DOLLARS

NEVADA STATE BANK  
 THE FIRST NATIONAL BANK OF NEVADA  
 P.O. BOX 1000 LAS VEGAS, NEVADA 89102-1000

For invoice # 51445 934410

⑈001032⑈ ⑈122400779⑈0262031032⑈

MOJ00058

JA 0000193

# **EXHIBIT A-5**



## CONSULTANT AGREEMENT

Subcontract # 769710      SYS      10005

THIS CONSULTANT AGREEMENT is entered into between the parties identified below and on the terms and conditions set forth herein.

DATE OF AGREEMENT:	August 10, 2010
CONTRACTOR'S NAME ("Contractor"):	Mojave Electric 3755 West Hacienda Street Las Vegas, NV 89118
CONSULTANT'S NAME ("Subcontractor")	CAM Consulting 3874 Civic Center Drive North Las Vegas, Nevada 89030
PROJECT NAME AND ADDRESS ("Project")	NV Energy Data Center Complex 7155 Lindell Road #5 Las Vegas Nevada 89118
PROJECT OWNER'S NAME ("Owner")	County of Clark (Dept of Aviation) NV Energy Company Lease %Majestic Realty Company %R Martin 4155 W Russell Road #C Las Vegas Nevada 89118-2348
PRIME CONTRACTOR ("Prime")	Kalb Construction 5670 Wynn Road Las Vegas Nevada 89118


### RECITALS:

- A. Contractor is under contract with Owner, or has subcontracted with the prime or a higher-tiered subcontractor;
- B. Part of the work required to be performed by Contractor on the Project is that which Subcontractor agrees to perform;
- C. Subcontractor desires to perform the work and to supply the material and equipment as set forth in this Subcontract and the Subcontract Documents using Subcontractor's best skill and judgment and to complete the Project on time and on budget.


NOW, THEREFORE, in consideration of the mutual benefits arising therefrom, and for other good and valuable consideration, it is hereby agreed as follows:

### ARTICLE 1

Scope of Work, Contract Documents and Miscellaneous Clauses

 Contractor

1

 Subcontractor

JA 0000195

1.1.1 Subcontractor shall perform the following part of the work which Contractor has assumed toward Owner, all in accordance with the prime contract for the project and any higher-tiered subcontractor hereinafter referred to as the ("Work" or "Subcontractor's Work"):

**Includes:** Supply and install a turnkey Telecommunications system as called for in the Contract Documents dated July 16, 2010 - Copy of the Contract and Schedule between Contractor and Kalb Construction is included and part of this Contract. This is a BIM three dimensional coordinated project.

**Excludes:** Bonds, Permits, Backboards, Grounding to Telephone Backboards, Conduit, Flex, Cable Tray, Standard Boxes, Access Panels, and Bringing existing installations up to Code.

1.2 **Entire Agreement:** This Subcontract and Subcontract Documents constitute the entire agreement between the parties. All negotiations, proposals, modifications and agreements prior to the date hereof are merged into this Subcontract and superseded hereby. There are no other terms, conditions, promises, understandings, statements or representations, express or implied, concerning this Subcontract unless set forth in writing and signed by both parties hereto.

1.3 **Modification of Subcontract:** This Subcontract shall not be altered, amended, assigned, encumbered or hypothecated by either party without the express written consent of both parties.

1.4 **Governing Law:** The terms and conditions of this Subcontract shall be construed in accordance with and governed by the laws of the State of Nevada.

1.5 **No Waiver:** No action or want of action on the part of Contractor at any time to execute any rights or remedies conferred upon it under this Agreement shall be, or shall be asserted to be a waiver of any of its rights or remedies hereunder.

1.6 **Assignment and Subcontracting:** Subcontractor shall not assign and/or transfer this Subcontract nor any funds due hereunder, without the prior written consent of Subcontractor's surety, if applicable, and Contractor.

2.1 Insurance: Before Subcontractor prepare any Work under this Subcontract he shall provide a Certificate of Insurance evidencing coverage acceptable to Contractor in the amounts either as required by attachment "A" or the Contract Specifications whichever is greater:

2.1.1 Workers Compensation: As required by the laws in the State of Nevada, including a Waiver of Subrogation in favor of the Owner, General Contractor and Contractor.

2.1.2 General Liability: Commercial General Liability on a occurrence basis (Claims Made coverage not acceptable) insuring bodily injury and property damage against the hazards of Premises and Operations, Products and Complete Operations, Independent Contractor's and Contractual Liability in the following minimum limits of liability:



Property Damage      \$2,000,000 aggregate

- 2.1.3 Hazardous Operations: When the Work of this Subcontractor involves any subsurface activities, the Subcontractor shall provide liability coverage for explosion, collapse, and underground hazards (XCU) with the manumit limits listed above. Other hazardous operations, as determined by Contractor, may require other coverage and/or higher limits of liability. No Subsidence exclusions accepted.
- 2.1.4 Automobile Liability: Comprehensive Automotive Liability covering owned, hired, and non-owned automobile, with the minimum limits of \$1,000,000 combined.
- 2.2 The Subcontractor's insurance afforded under 2.1.1 and 2.1.2 above shall include a Completed Operations Additional Insured Endorsement naming Contractor, General Contractor and Owner as Additional Insured's, subject to Nevada State Statues. Additionally, the following clause is to be added: "The insurance afforded to the Additional Insured's is primary insurance, if the Additional Insured's have other insurance which is applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy cannot be reduced by the existence of such other insurance."
- 2.3 The Certificate evidencing the above required coverage's shall provide that such coverage not be cancelled or materially reduced expect by written notice to Contractor and the owner at least thirty(30) days prior to the effective date of such cancellation or material reduction in coverage. New or renewal Certificates shall evidence all of the required coverage's.

### ARTICLE 3

#### Subcontractor Representations


By entering into this Subcontract, Subcontractor represents and warrants that:

- 3.1 Licensing of Subcontractor: Subcontractor is properly licensed by the applicable public agencies, to perform the services included in this Subcontract, as required by law.
- 3.2 Subcontract Price: The Subcontract price, as set forth herein, is the maximum amount to be paid for all Work required on the Project, including all price increases for labor and materials relative to the Work, additional labor and materials for all detail and refinement of the plans and specifications, all foreseen or foreseeable risk, hazards, and difficulties in connection therewith, except as approved by written Change Orders as set forth herein.
- 3.3 Contractor's and Subcontractor's Authorized Representatives: Subcontractor shall at all times during the progress of its Work have a representative at the Project who is authorized to receive orders, to make decisions regarding the work to be performed and be responsible for Subcontractor's total scope of Work. Subcontractor further understands that the only person empowered by Contractor to issue orders, make decisions and approve change orders is its authorized representative. For the purpose of this Project, Subcontractor and Contractor's authorized representatives shall be:

Consultant: Angelo Carvalho, President;

Contractor: Mark Foster, Project Manager;

- 3.4 Subcontractor Employee Safety: The Subcontractor is responsible to work within all the parameters of Federal or Nevada State OSHA and all requirements pertain to this Subcontractors

 Contractor

 Subcontractor

work. Subcontractor will indemnify the Contractor for all expenses bore by the Contractor to defend itself regarding Federal or Nevada OSHA Fines and Penalties caused by Subcontractor.

#### ARTICLE 4


##### Subcontractors Duties and Responsibilities

- 4.1 Plans and Drawings: Subcontractor shall keep at the Project, a current set of plans and drawings updated with as-built conditions.
- 4.2 Permits and Licenses: In performing its work Subcontractor shall obtain and pay for all permits and fees, and shall obtain all licenses as necessary for carrying on its Work.
- 4.3 Subcontractor Personnel: Subcontractor agrees to make available a sufficient number of trained, skilled and qualified personnel, for the production of its Work as required for the timely completion of its Work as directed by Contractor. Subcontractor acknowledges and agrees time is of the essence.
- 4.4 Safety: Subcontractor agrees to comply with the requirements of the Contractor's, Prime Contractor's, or the Owner's Safety Policy which ever is more stringent for this project. This includes the Drug testing requirements.

#### ARTICLE 5

##### Subcontractor Price and Payment

- 5.1 Subcontractor Price: The total amount to be paid by Contractor for furnishing all labor, materials, equipment and services of every kind or nature, for the proper and timely completion of all Work to be performed by Subcontractor on the Project is:  
Three hundred fifty thousand four hundred seventy dollars (\$350,470.00)
- 5.2 Progress Payments: By no later than the 20th day of each month, Subcontractor shall submit a Payment Request to Contractor for payment. Payment shall be remitted ten (10) days after receipt of payment by Contractor from Owner. Receipt of payment from Owner is a condition precedent to payment by Contractor to Subcontractor or Contractor shall pay to Subcontractor ninety percent (90%) of the payment request (ten percent (10%) to be held as retainage). No Progress Payment shall be construed to constitute acceptance of any part of Subcontractor's Work.
- 5.3 Final Completion and Final Payment:
  - 5.3.1 On receipt of Subcontractor's Request for final payment and inspection of work, Contractor will process the Payment Request. FINAL PAYMENT SHALL BE MADE TO SUBCONTRACTOR THIRTY (30) DAYS AFTER THE LAST OF THE FOLLOWING TO OCCUR: (1) THE DATE ALL WORK TO BE PERFORMED BY CONTRACTOR HAS BEEN COMPLETED; OR (2) ALL CONDITIONS PRECEDENT TO SUBCONTRACTOR'S RIGHT TO PAYMENT HAVE BEEN SATISFIED, INCLUDING BUT NOT LIMITED TO, CONTRACTORS' RECEIPT OF PAYMENT FROM OWNER.
  - 5.3.2 The acceptance of final payment by Subcontractor constitutes Subcontractor's waiver of any and all claims including, but not limited to, claims for extra work or materials, disruption, hindrance, delay, suspension, acceleration, differing site conditions, changes in scope, payment delay, termination or interruption that may exist or may hereafter accrue against

 Contractor

 Subcontractor

Contractor, Owner or the Property.

## **ARTICLE 6**

### Changes in the Work and Claims

- 6.1 Alteration to Plans or Scope of Work: Owner and Contractor may make changes in the drawings, specifications and the scope of Work. Subcontractor agrees to make all changes to the Work either as additions or deletions, and to perform all changed work that Contractor may require pursuant to this Article, and the same shall not nullify this Subcontract.
- 6.2 Changes:
- 6.2.1 To be valid, all claims for changes, including but not limited to, claims for extra work, materials and Work Schedule extensions, whether directed by Contractor or Owner, shall be evidence by a written "Change Order" in a form designated by Contractor and signed by the authorized representative of Contractor and Subcontractor. Subcontractor agrees that if Subcontractor proceeds with any change (other than those involving no increase in the Subcontract Price or Work Schedule) before receiving written authorization to do so ("Unapproved Changes"), regardless of whether the change was ordered by the Owner's and/or Contractor's authorized representative, Subcontractor shall be deemed to have waived any claim for additional compensation. Subcontractor's procurement of advance written authorization from Contractor's authorized representative is a "condition precedent" to Contractor's obligation to pay Subcontractor for any change or to extend the Work Schedule. Contractor's payment of any change without execution of a written Change Order does not constitute a continuing waiver of the requirement that all changes be approved by Contractor in writing.

## **ARTICLE 7**

### Termination of the Subcontract

- 7.1 Termination of Subcontract:
- 7.1.1 If in the opinion of Contractor, any of the following events occur, Contractor may terminate this Subcontract, if Subcontractor has not cured the default within seventy two (72) hours of Contractor's written notice to cure or correct:
- (a) Subcontractor refuses or fails to replace and/or repair defective material or Work;
  - (b) Subcontractor refuses or fails to provide sufficient properly skilled workers, adequate supervision or materials of the proper quality;
  - (c) Subcontractor causes, by any action or omission, the stoppage or delay of or interference with the work of Contractor or any of its Subcontractors;
  - (d) Subcontractor refuses or fails to prosecute the Work required by this Subcontract in a diligent, efficient, timely, workmanlike, skillful and careful manner;
  - (e) Subcontractor fails to prosecute its Work according to Contractor's Work Schedule;
  - (f) Subcontractor fails to make prompt payments to its Subcontractors, suppliers or laborers or fails to provide Lien Waivers and Releases;

 Contractor

 Subcontractor

- (g) Subcontractor violates or fails to comply with any covenant or condition contained in this Subcontract;
- (h) Subcontractor makes a general assignment : for the benefit of its creditors, or a receiver is appointed for the benefit of Subcontractor's creditors or Subcontractor files bankruptcy; and
- (i) Subcontractor fails to maintain SIRS, Public liability or Property Damage Insurance as required herein.

## ARTICLE 8

### Settlement of Disputes

- 8.1 Dispute Resolution Procedure: In the event a dispute arises relating to Subcontractor's Work, including change order Contractor shall issue a decision which shall be followed by Subcontractor, without interruption, deficiency, or delay. If Subcontractor does not agree with such decision, the matter shall be submitted to binding arbitration administered by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules.

## ARTICLE 9

### Service of Notice

- 9.1 Any and all notices, demands or request required or appropriate under this Subcontract shall be given in writing either by personal delivery, registered or certified mail (return receipt requested) or by facsimile to the address as set forth in this agreement.

IN WITNESS WHEREOF, Contractor and Subcontractor have executed this Subcontract as of the day and year first above written.

Contractor

Subcontractor

By: 

By: 

Title: Peter R. Fergen, VP Project Development

Title: 

NV State License No.: \_\_\_\_\_

 Contractor

 Subcontractor

**ATTACHMENT 'A'**

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>						DATE (MM/DD/YYYY) 9/12/2007
<b>PRODUCER</b> (702) 368-1144 FAX: (702) 368-1155 <b>Harris Insurance</b> 5105 S Durango Drive Suite 100 Las Vegas NV 89113			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
<b>INSURED</b> ABC Contractor 9999 Main Street Your City NV 99999			<b>INSURERS AFFORDING COVERAGE</b> INSURER A: ABC Insurance Co INSURER B: DEF Insurance Co INSURER C: GHI Insurance Co INSURER D: JKL Insurance Co INSURER E:		<b>NAIC #</b>	
<b>COVERAGES</b> THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
(WRITE IN)	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES FROM POLICY <input checked="" type="checkbox"/> <input type="checkbox"/> PER <input type="checkbox"/> 105	123456789	01/01/07	01/01/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED EQUIPMENT \$ 300,000 MED EXP (per person) \$ 10,000 PERSONAL & ADJ INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS & COMPOF AGG \$ 2,000,000 EMPLOYER'S BENEFITS \$ 2,000,000	
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NRED AUTO <input checked="" type="checkbox"/> NON-OWNED AUTOS	123456789	01/01/07	01/01/08	COMBINED SINGLE LIMIT (per accident) \$ 1,000,000 BODILY INJURY (per person) \$ BODILY INJURY (per accident) \$ PROPERTY DAMAGE (per accident) \$ AUTO ONLY - BI ACCIDENT \$ OTHER THAN AUTO ONLY - EACH \$ AGG \$	
C	<input checked="" type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION	123456789	01/01/07	01/01/08	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$	
D	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS LIABILITY <input type="checkbox"/> ANY PROPRIETOR/MAN/THIRD/EXECUTIVE/OFFICER/EMBER EXCLUDED If yes, describe in detail SPECIAL PROVISIONS BELOW OTHER	123456789	01/01/07	01/01/08	<input checked="" type="checkbox"/> MC STAT - 100% (100% COV) EL EACH ACCIDENT \$ 1,000,000 EL DISEASE - EA EMPLOYEE \$ 1,000,000 EL DISEASE - POLICY LIMIT \$ 1,000,000	
DESCRIPTION OF OPERATIONS/LOCATION/SUBSIDIARIES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS SUBJECT NAME CERTIFICATE HOLDER & (ALL OTHERS AS DESCRIBED IN CONTRACT) ARE INCLUDED AS ADDITIONAL INSURED WITH RESPECT TO GENERAL LIABILITY PER ATTACHED CG2010 11/88 (OR ITS EQUIVALENT) ON A PRIMARY/NON CONTRIBUTORY BASIS. WAIVER OF SUBROGATION APPLIES ON GENERAL LIABILITY AND WORKERS COMPENSATION PER ATTACHED FORM #8. *EXCEPT 10 DAYS NOTICE FOR NON PAYMENT OF PREMIUM.						
<b>CERTIFICATE HOLDER</b> MOJAVE ELECTRIC 3755 W HACIENDA AVE LAS VEGAS, NV 89118			<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE ISSUING ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE			

ACORD 26 (2001/08)  
IN3025 (01/09) Rev

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Page 1 of 2

*P* Contractor

7

*K* Subcontractor

JA 0000201

## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

 Contractor

 Subcontractor

### NON EXCLUSION CONFIRMATION FORM

IT IS ESSENTIAL THAT YOU HAVE YOUR AGENT COMPLETE THE ENCLOSED FORM. INSURANCE WILL NOT BE APPROVED UNTIL THIS FORM HAS BEEN RETURNED. ANY FUTURE PROGRESS PAYMENTS WILL BE HELD UNTIL PROPER COVERAGE IS RECEIVED.

As the insurance agent of record for the below stated policy, I certify that said policies do NOT contain any of the following exclusions:

Subcontractor/Policy Owner: \_\_\_\_\_

Insurance Carrier: \_\_\_\_\_

General Liability Policy #: \_\_\_\_\_

Umbrella Policy #: \_\_\_\_\_

#### INITIAL

\_\_\_\_\_ Timeshare Operations: the policy does not contain any exclusions or limitations for Timeshare construction.

\_\_\_\_\_ Condominium Operations: the policy does not contain any exclusions or limitations for condominium, multi-family or other attached residential construction.

\_\_\_\_\_ Subsidence Coverage: No exclusions or limitations for subsidence.

\_\_\_\_\_ Broad Form Property Damage

\_\_\_\_\_ Contractual Liability

\_\_\_\_\_ Pollution Coverage

\_\_\_\_\_ EIFS Exclusion.

Explain Exceptions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Job Description #: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

Agency: \_\_\_\_\_

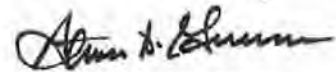
Address: \_\_\_\_\_

City, State & Zip: \_\_\_\_\_

 Contractor

 Subcontractor





CLERK OF THE COURT

1 **OPP**

2 Jennifer R. Lloyd-Robinson, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

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11 *Attorneys for Plaintiff,*

12 *Cashman Equipment Company*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **CASHMAN EQUIPMENT COMPANY, a**  
16 **Nevada corporation,**

17 **Plaintiff,**

18 **vs.**

19 **CAM CONSULTING INC., a Nevada**  
20 **corporation; ANGELO CARVALHO, an**  
21 **individual; JANEL RENNIE aka JANEL**  
22 **CARVALHO, an individual; WEST EDNA**  
23 **ASSOCIATES, LTD., dba MOJAVE**  
24 **ELECTRIC, a Nevada corporation; WESTERN**  
25 **SURETY COMPANY, a surety; THE**  
26 **WHITING TURNER CONTRACTING**  
27 **COMPANY, a Maryland corporation;**  
28 **FIDELITY AND DEPOSIT COMPANY OF**  
**MARYLAND, a surety; DOES 1 - 10,**  
**inclusive; and ROE CORPORATIONS 1 - 10,**  
**inclusive;**

**Defendants.**

**AND ALL RELATED MATTERS.**

**CASE NO.: A642583**

**DEPT.: 32**

**Consolidated with Case No.: A653029**

**CASHMAN EQUIPMENT  
COMPANY'S OPPOSITION TO  
MOTION FOR SUMMARY  
JUDGMENT**

**Date: May 7, 2012**

**Time: 9:00am**

///



1 Comes now, Plaintiff CASHMAN EQUIPMENT COMPANY ("Cashman"), by and  
2 through the undersigned counsel, and hereby submits its Opposition to Defendants WEST  
3 EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave"), WESTERN SURETY  
4 COMPANY ("Western"), THE WHITING TURNER CONTRACTING COMPANY  
5 ("Whiting Turner") and FIDELITY AND DEPOSIT COMPANY OF MARYLAND's  
6 ("Fidelity") (hereinafter collectively "Defendants") Motion for Summary Judgment. This  
7 Opposition is based upon the following Memorandum of Points and Authorities, the Affidavit  
8 of Shane Norman, attached hereto as Exhibit "1", the Declaration of Jennifer R. Lloyd-  
9 Robinson, Esq., attached hereto as Exhibit "2", the court's file, and any argument allowed at  
10 the hearing.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I.**

13 **INTRODUCTION**

14 Defendants' Motion for Summary Judgment must be denied. Not only does  
15 Defendants' Motion misstate the law and misrepresent the record, but it also fails to  
16 distinguish how the arguments presented warrant judgment in their favor against each of  
17 Cashman's claims. Defendants' legal arguments as to why they should not be held  
18 accountable for the amounts due and owing Cashman are each flawed, as outlined below.  
19 Defendants also assert that Cashman has admitted to certain facts, however fail to offer any  
20 supporting evidence. See Defendants' Motion at p. 6, ln. 22 and p.10, ln 8. In fact,  
21 Defendants often simply cite to their own self-serving statements instead of any evidence. It  
22 is impossible to understand the basis for this motion given the lack of evidence submitted in  
23 support.

24 Further, summary judgment is inappropriate at this time as to Mojave's counterclaims  
25 against Cashman, as minimal written discovery has occurred thus far, no depositions have yet  
26 taken place and Cashman did not have a contract with Mojave, calling the basis for these  
27  
28

1 claims into question and demonstrating the genuine issues of material fact that exist. This  
2 Motion is the first time any evidence of its alleged damages was submitted. Cashman is  
3 entitled to conduct discovery on its claims against Defendants, as well as on Mojave's  
4 counterclaims against Cashman.<sup>1</sup> See Exhibit "2," Declaration of Jennifer Lloyd-Robinson,  
5 Esq. In fact, Defendant Mojave has not yet produced its Responses to the discovery  
6 propounded on it by Cashman. Defendants have not met the burden of proving that there are  
7 no triable issues of fact. Therefore, Cashman respectfully requests that this Court deny  
8 Defendants' Motion for Summary Judgment.

9 II.

10 STATEMENT OF FACTS

11 Cashman and Defendant, CAM CONSULTING INC. ("Cam") entered into an  
12 agreement wherein Cashman agreed to sell equipment to Cam for incorporation into the City  
13 Hall project in the City of Las Vegas (the "Project") for the total price of \$755,893.89. A true  
14 and correct copy of the credit application is attached hereto as Exhibit "3". Pursuant to the  
15 terms of the agreement, Cam was to pay for the equipment upon delivery. *Id.* The equipment  
16 was delivered to the Project. See Exhibit "1." Cam issued payment to Cashman in the form  
17 of a check for the equipment supplied. *Id.* See also Exhibit "5." On or about May 2, 2010,  
18 Cashman deposited the check into its Wells Fargo account. See Exhibit "1." On May 4,  
19 2011, Cashman was informed that Cam had stopped payment on that check without cause and  
20 it was returned unpaid. *Id.* See also Exhibit "6." Defendant, ANGELO CARVALHO  
21 ("Carvalho"), owner of Cam, then provided another check to Cashman, which was  
22 immediately presented to the bank at which the account was located, Nevada State Bank. See  
23 Exhibit "1." Nevada State Bank refused to cash the check as there were insufficient funds in  
24  
25

26 <sup>1</sup> The Parties held a Supplemental Early Case Conference on April 10, 2012, wherein it was decided that the  
27 discovery deadline would be extended through January 2013. A Supplemental Joint Case Conference Report  
28 will be filed.

1 the account. *Id.* Cashman is currently owed the principal amount of \$755,893.89 for the  
2 equipment supplied to the Project, plus interest and attorney's fees. *See* Exhibit "1."

3 Cashman filed its Complaint on June 3, 2011,<sup>2</sup> asserting the following claims against  
4 these Defendants: Foreclosure of Security Interest against Mojave; Mechanic's Lien Release  
5 Bond against Mojave and Western, Unjust Enrichment against Mojave and Whiting Turner  
6 and Claim on Contractor's License Bond against Mojave and Western, and Whiting Turner  
7 and Fidelity. An additional claim was asserted against Mojave in Consolidated Case No.  
8 A653029 for Fraudulent Transfer. Currently, Cashman has a Motion to Amend Complaint  
9 pending, wherein Cashman seeks to include a claim against Whiting Turner's payment bond  
10 issued for the Project.

11 Defendants' Motion must also be denied as additional discovery is necessary on the  
12 following disputed facts, including but not limited to: Mojave's contract with Cam; Mojave's  
13 evidence that Cam acted as an agent of Cashman; why Mojave paid Cam directly; why  
14 Mojave was required to contract with Cam; why Mojave received money from Cam for a  
15 separate project, when that contract required Mojave to pay Cam; Mojave's basis for their  
16 requested damages and how Mojave calculated the amount of damages; the facts surrounding  
17 the exchange for the payment and release; why Mojave refused to issue a joint check despite  
18 Cashman's request; etc. Additionally, it appears the deposition of Mojave's representative,  
19 Brian Bugni, is necessary based on the testimony contained in his affidavit relating to the  
20 facts of this case. Given this list of disputed facts warranting the need for additional  
21 discovery, Cashman requests that Defendants' Motion be denied.

22 ///

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24 ///

25  
26 <sup>2</sup> Cashman filed an Amended Complaint on 7/25/11 and a Second Amended Complaint on 9/30/11. A Motion to  
27 Amend Complaint is currently pending with this Court and is scheduled to be heard the same day as this instant  
28 motion.

III.

ARGUMENTS AND AUTHORITIES

A. Defendants' Motion Must Be Denied As Genuine Issues Of Material Fact Exist That Preclude Summary Judgment From Being Entered In Defendants' Favor.

Defendants' Motion must be denied as issues of material fact exist that preclude judgment from being entered. Summary judgment is only appropriate when "the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005); *see also Margrave v. Dermody Properties, Inc.*, 110 Nev. 824, 827, 878 P.2d 291, 293 (1994); and NRCP 56. A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005). Summary judgment is appropriate when, as a matter of law, there is no genuine issue as to any material fact. NRCP 56(c); *Prostack v. Songailo*, 97 Nev. 38, 40, 623 P.2d 978 (1981); *see also Barr v. Gaines*, 103 Nev. 548, 549, 746 P.2d 634, 635-36 (1987) (summary judgment is appropriate where only question is one of law).

Defendants have failed to comply with NRCP 56(c) warranting denial of the instant motion. NRCP 56(c) requires a statement as to the facts not genuinely in issue "citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies." For example, Defendants fail to provide evidence as to their assertion that the check received by Cashman was post-dated; Defendants have not submitted any evidence to support their assertion that the check received by Cashman from Cam somehow became a promissory note; Defendants failed to provide evidence as to the alleged agency relationship between Cashman and Cam; and Defendants offered no evidence as to the basis of their claim that Cam received reasonably equivalent value or exchange for its payments to Mojave.



Cashman demonstrates herein that genuine issues of material fact exist that preclude Defendants' request for judgment to be entered in their favor. These issues are presented with supporting evidence, in contrast to Defendants' Motion. A factual dispute exists that precludes Mojave's request for judgment. Further, Cashman demonstrates that Defendants' arguments fail as a matter of law. Therefore, Defendants' request for summary judgment must be denied.

**B. Defendants' Motion For Summary Judgment Must Must Be Denied.**

**1. In Nevada, A Post-Dated Check Is Not A Promissory Note.**

A motion for summary judgment must be based upon facts that are not in dispute and those facts must be established by evidence, as discussed *supra*. See NRCP 56(c). Defendants have offered no evidence in support of their assertion that Cashman accepted a post-dated check from CAM. Instead Defendants cite their own motion as evidence of this purported fact. See Defendants' Motion, p.5 Ins. 1-4. Defendants do not include a copy of the check, or any testimony as to when it was accepted and the circumstances surrounding the payment, likely because no discovery has yet been had by Defendants in this matter. Defendants offer no evidence to show that the factual basis for this argument is undisputed. Defendants also have offered no evidence in support of their assertion that the check received by Cashman somehow became a promissory note, except the self-serving testimony of Brian Bungi, stated upon information and belief and not on personal knowledge, which is akin to offering nothing at all.<sup>3</sup> See Defendants' Motion at Exhibit A, para. 8. A request for

<sup>3</sup> It is well established that such testimony fails to comply with NRCP 56(e) which mandates that all evidence submitted in relation to a Motion for Summary Judgment must be admissible. See *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 302; 662 P.2d 610, 621 (1983); see also *Henry Prods., Inc. v. Tarmu*, 114 Nev. 1017, 1019; 967 P.2d 444, 445 (1998). An affidavit that is merely based upon information and belief is entitled to no consideration by the Court. See *Cadle v. Hayes*, 116 F.3d 957 961 (1<sup>st</sup> Cir. 1997)(Statements in affidavits made upon information and belief, as opposed to personal knowledge, are not entitled to weight in summary judgment balance; *Dietrich v. Standard Brands, Inc.*, 32 F.R.D. 325, 326 (1963, E.D. Pa)(Affidavit made on information and belief offered pursuant to motion for summary judgment violates Rule 56(e) which requires that it be made on "personal knowledge.").

1 summary judgment must be based upon undisputed facts established through admissible  
2 evidence. Defendants' failure requires that this argument be disregarded by the Court as it is  
3 not supported by evidence and their motion must be denied.

4 However, even if Defendants' assertion as to the acceptance of post-dated check was  
5 correct, a post-dated check does not somehow transform into a promissory note. NRS  
6 104.3104(1) provides that a negotiable instrument is:

7 an unconditional promise or order to pay a fixed amount of money,  
8 with or without interest or other charges described in the promise  
or order, if it:

9 (a) Is payable to bearer or to order at the time it is issued or first  
10 comes into possession of a holder;

11 (b) Is payable on demand or at a definite time; and

12 (c) Does not state any other undertaking or instruction by the  
13 person promising or ordering payment to do any act in addition to  
the payment of money, but the promise or order may contain:

14 (1) An undertaking or power to give, maintain or protect  
collateral to secure payment;

15 (2) An authorization or power to the holder to confess  
judgment or realize on or dispose of collateral; or

16 (3) A waiver of the benefit of any law intended for the  
advantage or protection of an obligor.

17 An "order that meets all of the requirements of subsection 1, except paragraph (a), and  
18 otherwise falls within the definition of "check" in subsection 6 is a negotiable instrument and  
19 a check." NRS 104.3104(3). Subsection 6 defines a check as "(a) A draft, other than a  
20 documentary draft, payable on demand and drawn on a bank; or (b) A cashier's check or  
21 teller's check." NRS 104.3104(6). A negotiable instrument "is a "note" if it is a promise and  
22 is a "draft" if it is an order. If an instrument falls within the definition of both "note" and  
23 "draft," a person entitled to enforce the instrument may treat it as either." NRS 104.3104(5).

24 In *Nguyen v. The State of Nevada*, 116 Nev. 1171, 1175 (2000), the Nevada Supreme  
25 Court defined a draft as a "written order by the first party, called the drawer, instructing a  
26 second party, called the drawee (such as a bank), to pay money to a third party, called the  
27  
28



1 payee." *citing* Black's Law Dictionary 493 (6<sup>th</sup> ed. 1990). The Court then went on to state  
2 that a draft is an order, which is a "written instruction to pay money signed by the person  
3 giving the instruction." *Id.* In *Nguyen*, the appellant was convicted under the Nevada bad  
4 check statute, NRS 205.130(1), and argued that the check at issue, a casino marker, should be  
5 characterized as a credit instrument that fell outside the scope of NRS 205.130(1) for a  
6 number of reasons including that it was post-dated or pre-dated and subject to an unwritten  
7 agreement as to repayment of the debt. The Court rejected that argument and found that  
8 where there was no evidence that the appellant and the casinos reached a contract for a loan,  
9 the character of the instrument could not be altered, as "parties to a contract must mutually  
10 assent to its terms." *Id.* at 1176, *citing* *Hillyer v. The Overman Silver Mining Co.*, 6 Nev. 52  
11 (1870).

12 Here, even if the check received by Cashman was post-dated when it was received, to  
13 which Defendants have presented no evidence, pursuant to Nevada law, it is a draft, not a  
14 note, and can be enforced as such. The check issued by Cam to Cashman is a negotiable  
15 instrument as set forth in 104.3104(1). The check given by Cam was not a mere promise to  
16 pay, but was an order to pay as it contains a written instruction to the drawee to pay money to  
17 the payee, which in this case is Cashman. The instrument is a check if it is payable on  
18 demand, or a draft if otherwise payable. *See* NRS 104.3104. Therefore, this check, if  
19 presented on the day it is dated would be a check, and if payable at some later date, then it is a  
20 draft not a promissory note.

21 Defendants reliance upon *Lowe v. St. of Nev. Dept. of Commerce*, 89 Nev. 488 (1973)  
22 to support its allegation that a post-dated check is a promissory note is in error and  
23 misrepresents the Court's holding in that matter. Defendants do not cite the Court's holding  
24 in the matter, nor even dicta, but instead quote a recitation of the factual testimony in the case  
25 in an attempt to find support for their argument. *See* Defendants' Motion, p. 6, ln. 24-25. This  
26 interpretation fails, however, since nowhere in the court's ruling is there a holding that a post-

27  
28

1 dated check is a promissory note; the only reference to a post-dated check is a summary of the  
2 appellant's testimony and the issues on appeal do not even reference that issue. Specifically,  
3 the portion of the court opinion dealing with this issue states:

4           Lowe testified that he saw nothing wrong or out of line in taking  
5           the postdated check since he knew it to be a promissory note  
6           anyway and gave no further thought to telling the seller or Sala and  
7           Ruthe.

8           *See Lowe* at 490. A narration of the testimony offered in *Lowe* cannot support Defendants'  
9 argument and is not binding on this Court.

10           Defendants also incorrectly rely upon *Alvarez v. Alvarez*, 800 So. 2d 280 (2001) in  
11 support of their argument, as a correct reading of *Alvarez* establishes that even in Florida, a  
12 post-dated check is a draft, and not a promissory note. In *Alvarez*, 800 So. 2d at 284, the  
13 court considered whether a post-dated check would relieve the maker of liability under a  
14 Florida statute that provides for treble damages in the passing of a worthless check, draft or  
15 order of payment.<sup>4</sup> There, the court cited to numerous cases for the proposition that a post-

16 <sup>4</sup> § 68.065. Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs

17 (1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the  
18 drawee because of the lack of funds, credit, or an account, or where the maker or drawer stops payment on the check, draft, or order of  
19 payment with intent to defraud, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following  
a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing  
upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than \$  
50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred by the payee in taking the action.  
Criminal sanctions, as provided in s. 832.07, may be applicable.

20 (2) The payee may also charge the maker or drawer of the check, draft, or order of payment a service charge not to exceed the service fees  
21 authorized under s. 832.08(5) or 5 percent of the face amount of the instrument, whichever is greater, when making written demand for  
payment. In the event that a judgment or decree is rendered, interest at the rate and in the manner described in s. 55.03 may be added toward  
the total amount due. Any bank fees incurred by the payee may be charged to the maker or drawer of the check, draft, or order of payment.

22 (3) Before recovery under this section may be claimed, a written demand must be delivered by certified or registered mail, evidenced by  
23 return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the check, draft, or order of  
payment to the address on the check or other instrument, to the address given by the drawer at the time the instrument was issued, or to the  
drawer's last known address. The form of such notice shall be substantially as follows:

24 "You are hereby notified that a check numbered       in the face amount of \$       issued by you on (date) , drawn upon (name of bank) , and  
25 payable to       , has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the  
full amount of the check plus a service charge of \$ 25, if the face value does not exceed \$ 50, \$ 30, if the face value exceeds \$ 50 but does  
26 not exceed \$ 300, \$ 40, if the face value exceeds \$ 300, or 5 percent of the face amount of the check, whichever is greater, the total amount  
due being \$       and       cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil  
action against you for three times the amount of the check, but in no case less than \$ 50, in addition to the payment of the check plus any  
court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

27 (4) A subsequent person receiving a check, draft, or order, from the original payee or a successor endorsee has the same rights that the  
28

1 dated check is a draft and its negotiability is not affected by the date noted on the draft, finally  
2 holding that the maker was liable for not only the amount of the worthless check but for the  
3 penalties imposed by Fla. Stat. §68.065, clearly indicating that a post-dated check is a draft,  
4 not a promissory note. *Id. See Carnival Leisure Indus., Ltd. V. Aubin*, 830 F. Supp. 371, 374-  
5 75 (S.D. Tex. 1993) (citing Tex. Bus. & Com. Code Ann § 3.114(a)) ("The negotiability of a  
6 draft is not affected by the fact that it is post-dated, ante-dated, or not dated at all."), rev'd on  
7 other grounds, 53 F.3d 716 (5<sup>th</sup> Cir. 1995); *Morrison v. Shanwick Int'l Corp.*, 167 Ariz. 39,  
8 44, 804 P.2d 768, 773 (Ct. App. 1990) (holding that a post-dated check is something more  
9 than a mere promise to pay and that post-dated checks are fully negotiable instruments upon  
10 which the demand date is fixed at some latter time); *Wright v. Bank of America N.T. & S.A.*,  
11 176 Cal. App. 2d 176, 180 (1959) (holding that a "postdated check is nonetheless a check" as  
12 it is "payable on or at any time after the date of its date...").

13 Further, Defendants reliance upon *Walton v. Clark*, 454 B.R. 537 (2011) is inapposite  
14 to this matter. In *Walton*, the bankruptcy court considered whether a post-dated check  
15 accepted by a law firm for payment of its fees before the filing of bankruptcy petition was a  
16 claim under Bankruptcy Code section 101(5), noting that in this context the post-dated check  
17 was "the functional equivalent of a promissory note", which made the post-dated check a  
18 prepetition claim. *Id.* at 542. This holding has no bearing on the claims asserted by Cashman  
19 in this matter. Whether a post-dated check is a prepetition or post-petition claim under the  
20 Bankruptcy Code is irrelevant in this matter. The issue here centers on whether the check  
21 received by Cashman was post-dated and whether, in Nevada, a post-dated check somehow

22  
23 original payee has against the maker of the instrument, provided such subsequent person gives notice in a substantially similar form to that  
24 provided above. A subsequent person providing such notice shall be immune from civil liability for the giving of such notice and for  
proceeding under the forms of such notice, so long as the maker of the instrument has the same defenses against the subsequent person as  
against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

25 (5) Subsequent to the commencement of the action but prior to the hearing, the maker or drawer may tender to the payee, as satisfaction of  
26 the claim, an amount of money equal to the sum of the check, the service charge, court costs, and incurred bank fees. Other provisions  
notwithstanding, the maker or drawer is liable to the payee for all attorney fees and collection costs incurred by payee as a result of the  
payee's claim.

27 (6) If the court or jury determines that the failure of the maker or drawer to satisfy the dishonored check was due to economic hardship, the  
28 court or jury has the discretion to waive all or part of the statutory damages.

1 transforms into a promissory note because Defendants want it to be a note. As set forth *supra*,  
2 a post-dated check in Nevada is a draft and not a promissory note, at the election of the person  
3 entitled to enforce the instrument, which, in this instance, is Cashman not Defendants.

4 Finally, Defendants look to *Freiberger v. St. of Florida*, 343 So. 2d. 57 (1977) in a  
5 desperate attempt to find some support for this baseless argument, however that holding is of  
6 no effect as it cites to a Florida criminal statute for the assertion, with no further explanation.  
7 Given the more recent holding in *Alvarez* that a post-dated check is a draft and not a  
8 promissory note that gives rise to liability under the civil worthless check statute in Florida, it  
9 is difficult to even understand why this citation was included.

10 Defendants have failed to establish the check received by Cashman became a  
11 promissory note. Nevada law does not provide for such an event to occur and Defendants  
12 have not offered any evidence to support their arguments. Therefore, Defendants' Motion  
13 must be denied based on this theory.

14  
15 2. The Unconditional Lien Release Relied Upon By Defendants Is Void As A Matter  
Of Law And Does Not Serve To Waive Any Rights Of Cashman.

16 Defendants' next argument that NRS 108.2457(5) precludes Cashman's claim is  
17 without merit as Defendants have chosen not to cite the entirety of the statute to the Court.  
18 Specifically, this statute provides that waivers of rights by parties, such as Cashman, must be  
19 in a specific form in order to be effective and must otherwise comply with Nevada law. See  
20 NRS 108.2457(5); See also *Lehrer McGovern Bovis, Inc. v. Bullock Insulation, Inc.*, 124 Nev.  
21 1102, 1115 (Nev. 2008). This statute was substantially amended in 2003 to provide additional  
22 protections for contractors and suppliers when various waivers are issued. NRS  
23 108.2457(5)(e), which pertains to Releases, including Unconditional Releases, states as  
24 follows in this regard:

25 Notwithstanding any language in any waiver and release form set  
26 forth in this section, *if the payment given in exchange for any*  
27 *waiver and release of lien is made by check, draft or other such*  
28



1 *negotiable instrument, and the same fails to clear the bank on*  
2 *which it is drawn for any reason, then the waiver and release*  
3 *shall be deemed null, void and of no legal effect whatsoever and*  
4 *all liens, lien rights, bond rights, contract rights or any other*  
5 *right to recover payment* afforded to the lien claimant in law or  
equity will not be affected by the lien claimant's execution of the  
waiver and release.

6 (Emphasis added). This language is consistent with that of NRS 108.2453 which states in its  
entirety:

- 7 1. Except as otherwise provided in NRS 108.221 to 108.246,  
8 inclusive, a person may not waive or modify a right, obligation or  
9 liability set forth in the provisions of NRS 108.221 to 108.246,  
10 inclusive.
- 11 2. *A condition, stipulation or provision in a contract or other*  
12 *agreement for the improvement of property or for the*  
13 *construction, alteration or repair of a work of improvement in this*  
14 *State that attempts to do any of the following is contrary to public*  
15 *policy and is void and unenforceable:*

16 (a) Require a lien claimant to waive rights provided by law  
17 to lien claimants or to limit the rights provided to lien  
18 claimants, other than as expressly provided in NRS  
19 108.221 to 108.246, inclusive;

20 (b) Relieve a person of an obligation or liability imposed  
21 by the provisions of NRS 108.221 to 108.246, inclusive;

22 (c) Make the contract or other agreement subject to the  
23 laws of a state other than this State;

24 (d) Require any litigation, arbitration or other process for  
25 dispute resolution on disputes arising out of the contract or  
26 other agreement to occur in a state other than this State; or

27 (e) Require a prime contractor or subcontractor to waive,  
28 release or extinguish a claim or right that the prime  
contractor or subcontractor may otherwise possess or  
acquire for delay, acceleration, disruption or impact  
damages or an extension of time for delays incurred, for  
any delay, acceleration, disruption or impact event which  
was unreasonable under the circumstances, not within the  
contemplation of the parties at the time the contract was



1 entered into, or for which the prime contractor or  
2 subcontractor is not responsible.

3 (Emphasis added). NRS 108.2457(1) states that "any term of a contract that attempts to waive  
4 or impair the lien rights of a contractor, subcontractor or supplier is void." The strong public  
5 policy of Nevada is to protect the financial interests of contractors and suppliers. See  
6 *Holtzman v. Bennett*, 48 Nev. 274, 278; 229 P. 1095, 1096 (1924) ("Lien statutes are liberally  
7 construed in this jurisdiction with a view of effectuating their object and purpose."); *Lehrer*  
8 *McGovern Bovis, Inc. v. Bullock Insulation, Inc.*, 124 Nev. Adv. Op. 92; 197 P.3d 1032, 1041  
9 (2008) ("The object of the lien statutes is to secure payment to those who perform labor or  
10 furnish material to improve the property of the owner. This court has held on numerous  
11 occasions that the mechanic's lien statutes are remedial in character and should be liberally  
12 construed"); *Skyrme v. Occidental Mill & Mining Co.*, 8 Nev. 219 (1873) (mechanic's lien  
13 statute "was intended by the legislature as a protection to material men, contractors and  
14 laborers, and lien claimants are required substantially to comply with its provisions in order to  
15 obtain the security which it affords"); *Hardy Companies v. SNMARK, LLC.*, 126 Nev. Adv.  
16 Op. 49 (December 16, 2010) (holding that mechanic's lien claimants are entitled to liberal  
17 treatment). It has also been held that substantial compliance by a lien claimant with the  
18 mechanic's lien law will be sufficient to maintain and perfect a mechanic's lien claim. See  
19 *Board of Trustees v. Durable Developers*, 102 Nev. 401, 410; 724 P.2d 736, 743 (1986);  
20 *Hardy Companies, supra*.

21 There can be no dispute that the Nevada Legislature has spoken clearly in its  
22 enactment of the above statutes, in particular, NRS 108.3457(5) which voids any release in  
23 the event that a check or draft *for any reason* fails to clear a bank. The Court and the parties  
24 are bound by this clear and unambiguous statutory provision. See *Charlie Brown Constr. Co.*  
25 *v. Boulder City*, 106 Nev. 497, 503, 797 P.2d 946, 949 (1990) ("Where the language of  
26 a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room  
27  
28

1 for construction, and the courts are not permitted to search for its meaning beyond  
2 the statute itself.”, quoting *State v. Jepsen*, 46 Nev. 193, 196, 209 P. 501, 502 (1922))).

3 Defendants attempt to evade the clear mandates in two fashions. First, as set forth  
4 herein, Defendants erroneously equate a post-dated check to a promissory note. Second,  
5 Defendants suggest that Cashman should have issued a Conditional Release in lieu of an  
6 Unconditional Release. This argument is of no legal importance as it is irrelevant under the  
7 express provisions of NRS 180.2457(5)(e), given that whether a release is “conditional” or  
8 “unconditional”, neither is enforceable when the payment fails. It is worth noting that  
9 Defendants argument in this regard is inconsistent with its prior argument that the post-dated  
10 check allegedly received by Cashman is something other than a check and/or draft.  
11 Previously, Defendants argued that the post-dated check in and of itself was payment;  
12 however, if that were in fact the case then it would not matter whether or not Cashman  
13 utilized a conditional or unconditional release form. Having admitted that it is Defendants’  
14 belief that an unconditional release would have made a difference in this matter, Defendants  
15 must necessarily be admitting that the post-dated check did not, in fact, constitute the  
16 commencement of a new, separate agreement.

17  
18 3. Cam Was Not As An Agent For Cashman When It Accepted Payment From  
19 Mojave.

20 Defendants’ next argument in support of their Motion for Summary Judgment  
21 suggests that Cam was acting as an agent of Cashman and therefore Cashman is responsible  
22 for the actions of Cam. This theory must also be denied, as Defendants have not established  
23 that an agency relationship existed between Cashman and Cam. Defendants want the Court to  
24 believe that Mojave contracted with Cashman and that Mojave believed that Cam was  
25 working as Cashman’s agent. See Defendants’ Motion at p. 10, ln 7 (“CAM’s contract with  
26 Mojave states that CAM is acting “c/o Cashman Equipment” at the top.”). This interpretation  
27 is interesting to say the least, since *Mojave contracted directly with Cam* on this Project. See  
28

1 Exhibit "7." Once again, Defendants try to misrepresent the facts of this case by failing to  
2 mention Mojave's separate contract with Cam. Defendants further misrepresent the facts by  
3 stating, "Cashman does not dispute that Cam was acting as its agent for the purposes of the  
4 contract at issue", yet fail to cite any evidence in support of this allegation. See Defendants'  
5 Motion at p. 10, Ins. 8 - 9. As Defendants have failed to provide any evidence supporting the  
6 argument that Cam was acting as an agent of Cashman, Defendants' motion must be denied.

7 In order to establish an agency relationship, a person must possess the contractual  
8 right to control another's manner of performing the duties for which he or she was  
9 hired. *Grand Hotel Gift Shop v. Granite St. Ins.*, 108 Nev. 811, 815, 839 P.2d 599, 602  
10 (1992). An agent can have either actual authority (express or implied) or apparent authority  
11 in order to bind the principal. *Myers v. Jones*, 99 Nev. 91, 93 (Nev. 1983). "Apparent  
12 authority is that authority which a principal holds his agent out as possessing or permits him  
13 to exercise or to represent himself as possessing, under such circumstances as to estop the  
14 principal from denying its existence." *Dixon v. Thatcher*, 103 Nev. 414 (Nev. 1987). A  
15 principal may be bound by an individual's representations only if the principal consents or  
16 acquiesces to the representations. *Orbit Stations v. Curtis*, 100 Nev. 205, 207 (Nev. 1984).  
17 Further, a third party who asserts apparent authority must prove that it *reasonably believed*  
18 that an agency relationship existed and that it *reasonably relied* on that belief. *Nevada Power*  
19 *Co. v. Monsanto Co.*, 1994 U.S. Dist. LEXIS 20504 (D. Nev. Nov. 9, 1994) (*emphasis*  
20 *added*). "The party asserting the agency relationship has the burden of proving the  
21 relationship by a preponderance of the evidence." *Hamm v. Arrowcreek Homeowners' Ass'n*,  
22 124 Nev. 290, 299 (Nev. 2008). "The existence of an agency relationship is generally a  
23 question of fact for the jury if the facts showing the existence of agency are disputed, or if  
24 conflicting inferences can be drawn from the facts." *Schlottfeldt v. Charter Hosp.*, 112 Nev.  
25 42, 47 (Nev. 1996), referencing *Latin American Shipping Co. Inc. v. Pan American Trading*  
26 *Corp.*, 363 So. 2d 578, 579-80 (Fla. Dist. Ct. App. 1978).

1 In order for this argument to succeed, Defendants must demonstrate that they were  
2 under a reasonable belief that Cam had a contractual right to control Cashman's duties for  
3 which it was hired. This argument is unreasonable and must fail. The only evidence  
4 submitted to support this "belief" is the agreement between Cam and Mojave which states  
5 "c/o Cashman Equipment" at the top after Cam's name. This document was not signed by  
6 Cashman, and Cashman did not authorize Cam to sign any document on its behalf. It is  
7 unclear who drafted this document, as Mojave has not offered evidence of such.

8 Additionally, this argument fails as Mojave entered into a consulting agreement with  
9 Cam directly for the project in question. See Exhibit "7." It is unclear how Mojave can now  
10 claim that it believed Cam was working as an agent for Cashman, when it was Mojave who  
11 hired Cam to perform the work. *Id.* The evidence submitted by Cashman shows that Cam  
12 purchased equipment from Cashman to be used on the Project and that Cashman invoiced  
13 Cam directly. See Exhibits "3" and "4." The evidence also shows that Mojave and Cam had a  
14 contract, wherein Cam issued invoices directly to Mojave for payment. See Exhibits "7" and  
15 "8." For Mojave to now claim that it believed an agency relationship to exist between  
16 Cashman and Cam is laughable due to the fact *Cam was hired by Mojave* to work on this  
17 Project. Defendants have presented no evidence that Cashman consented to Cam's alleged  
18 representation. Cashman cannot be bound by the improper acts of Cam, as Cam was not an  
19 agent for Cashman. It is Defendants burden to prove that they reasonably believed that an  
20 agency relationship existed between Cashman and Cam, even though *they* were the ones who  
21 contracted with Cam, and that Defendants relied on that belief. Defendants have not met this  
22 burden. Therefore, as triable issues of material fact exist as to whether Cam had any authority  
23 on behalf of Cashman, Defendants' Motion for Summary Judgment must be denied.

24 4. Cashman's Fraudulent Transfer Claim Against Mojave Is Valid Under NRS 112.

25 Mojave correctly states the law concerning fraudulent transfers, however Mojave has  
26 failed to submit evidence in support of its claim that the transfers from Cam were for  
27  
28



1 reasonable value and instead attempts to twist the law to fit its purpose. The Uniform  
2 Fraudulent Transfer Act ("UFTA"), as adopted and codified in NRS Chapter 112, is  
3 "designed to prevent a debtor from defrauding creditors by placing the subject property  
4 beyond the creditors' reach." *Herup v. First Boston Fin., LLC*, 123 Nev. 228, 233 (2007).  
5 The inquiry does not center on what Mojave believes but instead is focused on what Cam and  
6 its principal Angelo Carvalho actually did to Cashman when they transferred assets to Mojave  
7 and others while defrauding Cashman of the payment to which it was entitled.

8 Mojave again fails to comply with NRCP 56(c) and has submitted no relevant  
9 evidence concerning why Cam made two payments to Mojave totaling \$275,636.70 at the  
10 same time that it issued the payment to Cashman that failed. *See* Affidavit of Brian Bugni,  
11 attached to Defendants' Motion at Exhibit A-4. Instead, Mojave submitted a contract that  
12 states Cam will perform work for Mojave and presumably that Mojave will pay Cam for that  
13 work, not that Cam will pay Mojave. *Id.* No explanations for the payments were offered. *Id.*  
14 No documentation is submitted that would establish that the payments from Cam to Mojave  
15 were for reasonable value or even that the good faith defense touted by Mojave would apply  
16 to the transfers Cam made that gave rise to Cashman's claims for fraudulent transfer. *Id.*  
17 Judgment on this issue is premature as genuine issues of material fact exist concerning Cam's  
18 actions in this matter, and Cam's intent in making the transfers.

19 Even if Mojave had not failed to submit any relevant evidence in support of its request  
20 for judgment on this claim, if Mojave's arguments were sufficient to defeat a claim for  
21 fraudulent transfer, then the purpose of the UFTA would be vitiated.

22 NRS 112.180 provides:

- 23 1. A transfer made or obligation incurred by a debtor is fraudulent  
24 as to a creditor, whether the creditor's claim arose before or  
25 after the transfer was made or the obligation was incurred, if  
the debtor made the transfer or incurred the obligation:

- 26 (a) With actual intent to hinder, delay or defraud any  
27 creditor of the debtor; or  
28



1 (b) Without receiving a reasonably equivalent value in  
2 exchange for the transfer or obligation, and the debtor:

3 (1) Was engaged or was about to engage in a business  
4 or a transaction for which the remaining assets of the  
5 debtor were unreasonably small in relation to the  
6 business or transaction; or

7 (2) Intended to incur, or believed or reasonably should  
8 have believed that the debtor would incur, debts beyond  
9 his or her ability to pay as they became due.

10 Under NRS 112.180(a), if Cam made the transfers with actual intent to defraud Cashman, the  
11 transfers are fraudulent under the UFTA and can be avoided. Mojave has failed to establish  
12 that Cam did not make the transfers "with actual intent to hinder, delay or defraud."

13 There are two avenues to determine if the transfers made by Cam were fraudulent as to  
14 Cashman: (1) if Cam made the transfer with intent to hinder, delay or defraud Cashman, or (2)  
15 if Cam made the transfer without receiving a reasonably equivalent value in exchange and the  
16 Cam knew he would not be able to pay its debt to Cashman. It is clear from Cam and  
17 Carvalho's banking records that Cam made the transfers with the intent to defraud Cashman.  
18 See Exhibit "10," Nevada State Bank Statement dated April 29, 2011, and Exhibit "11," Wells  
19 Fargo Bank Statement dated April – May 2011. Cam received payment sufficient to pay  
20 Cashman, but instead of paying Cashman, Cam made transfers to many other parties,  
21 including Mojave. *Id.* The amount Cam paid to Mojave is not insignificant. See Exhibit "9."  
22 Mojave's production of the contract, for the first time with the instant Motion, only serves to  
23 raise more questions as to why Cam chose to make unsubstantiated payments to Mojave,  
24 while not paying Cashman for a debt that appears to have become due well before the  
25 payments to Mojave. This is not a case of a business becoming suddenly insolvent. Cam  
26 made the transfers in order to avoid paying Cashman. It had received over \$1,000,000.00 in  
27 the span of a few weeks and given that Cam actually performed no work, it has no other debts  
28 to pay. See Exhibits "10" and "11." As is evident from the banking records, Cam did not  
have a payroll to meet, and did not pay rent or other normal expenses of an operating

1 business. *Id.* Mojave has failed to show that these transfers were not made with the intent to  
2 defraud Cashman, and as genuine issues of material fact exist concerning Cam's intent, which  
3 is the central inquiry under the UFTA, judgment cannot be entered in favor of Mojave. At the  
4 very least, given the status of this matter, additional discovery on this issue is warranted.

5         Given the evidence of Cam's fraudulent intent in making the transfers at issue, it is not  
6 even necessary to consider whether the transfers were made without receiving a reasonably  
7 equivalent value. However, the evidence submitted by Mojave in support of this Motion is  
8 insufficient to establish that Cam received a reasonably equivalent value in exchange for the  
9 payments it made to Mojave. The only evidence submitted is a contract, which on its face,  
10 appears to have Mojave hiring Cam to perform work. *See* Exhibit "7." If that is the case,  
11 then it would follow that Mojave would be paying Cam for performing the work. Rather, we  
12 see that it was Cam providing payment to Mojave. *See* Exhibit "9." This contract raises more  
13 questions than it answers, as it indicates that Cam was the hired "vendor" to perform the work  
14 of a licensed contractor. *See* Exhibit "7." Cam is not licensed with the Nevada State  
15 Contractor's Board to perform work in Nevada. *See* Exhibit "12." Based on these newly  
16 raised issues, Mojave's claim of a good faith defense fails when the evidence it has submitted  
17 to this court is considered.

18         **C. Summary Judgment Cannot Be Entered In Favor Of Mojave On Its Claims**  
19         **Against Cashman, As Genuine Issues Of Material Fact Exist.**

20         Mojave's request for summary judgment on its counterclaims against Cashman must  
21 be denied as Mojave has failed to establish that there are no issues of fact left to be  
22 determined. Mojave argues that Cashman breached its contract with Mojave and is now  
23 seeking damages from Cashman. This argument is interesting, as Cashman did not have a  
24 contract with Mojave. *See* Exhibit "1." Rather, Mojave contracted directly with Cam. *See*  
25 Exhibit "7." Mojave has not produced any evidence to support otherwise. Therefore, as there  
26 are clearly issues of material fact that exist, summary judgment must be denied.

1 As outlined *supra*, summary judgment is only appropriate when "the pleadings,  
2 depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly  
3 before the court demonstrate that no genuine issue of material fact exists, and the moving  
4 party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 731,  
5 121 P.3d 1026, 1031 (2005); *see also Margrave v. Dermody Properties, Inc.*, 110 Nev. 824,  
6 827, 878 P.2d 291, 293 (1994) (*emphasis added*). Further, NRCP 56(f) states:

7 Should it appear from the affidavits of a party opposing the motion  
8 that the party cannot for reasons stated present by affidavit facts  
9 essential to justify the party's opposition, the court may refuse the  
10 application for judgment or may order a continuance to permit  
11 affidavits to be obtained or depositions to be taken or discovery to  
12 be had or may make such other order as is just.

13 Here, there are numerous triable issues of material fact yet to be decided in this case, therefore  
14 precluding Mojave's request for summary judgment on its counterclaims.

15 First, Mojave is requesting that the Court find that Cashman breached its contract with  
16 Mojave; however, Mojave has not identified that a contract existed between Mojave and  
17 Cashman. The evidence presented thus far proves that Cashman entered into a contract with  
18 Cam, not Mojave. *See Exhibit "3."* Also, related issues of fact exist to Mojave's assertion,  
19 including why, if Mojave contracted with Cashman, did Mojave pay Cam for the equipment  
20 supplied by Cashman? Further, if a contract did exist between Mojave and Cashman, why did  
21 Mojave refuse to issue a joint check to Cam and Cashman? Cashman has not been able to  
22 conduct discovery on these issues and therefore, factual issues exist that preclude summary  
23 judgment at this stage.

24 Second, Mojave is seeking a judgment against Cashman for damages exceeding  
25 \$137,000.00 for Cashman's alleged breach of contract. This request is premature and  
26 somewhat absurd, since it has not been established that Mojave even had a contract with  
27 Cashman. The documents Mojave submitted in support of its request for damages were never  
28 produced by Defendants in their disclosures. *See Defendants' Motion at Exhibit A-3.*

1 Mojave is also seeking reimbursement for warranty costs "included as part of the contract";  
2 however, yet again, there is no proof of a contract between Mojave and Cashman. Mojave  
3 cannot state with certainty what these warranty costs are ("total costs are not determinable at  
4 this time.") See Defendants' Motion at p. 9, ln. 20. Further, even if Mojave was able to  
5 establish that it had a contract with Cashman and that Cashman breached the contract, any  
6 warranty provision would be void, as Cashman was not paid for the equipment sold.

7 Finally, Mojave mentions in its Motion that "all parties had an obligation to complete  
8 the work under time of the essence clause..." See Motion, p. 9, ln 21. This statement is  
9 contained in Mojave's contract with Cam directly. Specifically, Section 14 of their contract  
10 states:

11 Time is of the essence. Should Mojave Electric, Inc. incur  
12 additional costs due to negligence on the part of the vendor, these  
13 additional costs will be recovered from vendor's accounts.

14 Cam was the vendor in this contract, not Cashman. Cashman was not a party to this contract,  
15 did not sign this contract, nor did Cashman authorize Cam to sign "c/o Cashman Equipment".  
16 Cashman has established that there are genuine issues of material fact that remain to be  
17 determined, warranting the need for discovery pursuant to NRCP 56. Mojave has failed to  
18 meet the burden for summary judgment; therefore, its request must be denied.

19 **D. Defendants' Motion For Summary Judgment Must Be Denied Pursuant To**  
20 **NRCP 56(f), As The Allegations And Defenses Raised By The Defendants**  
21 **Warrant Discovery.**

22 Cashman further requests that Defendants' Motion be denied so as to allow additional  
23 discovery to occur in this matter, pursuant to NRCP 56(f). Defendants have filed this Motion  
24 for Summary Judgment when only a small amount of discovery has taken place as to the  
25 claims against Defendants and those claims relating to Mojave's counterclaims against  
26 Cashman. NRCP 56(f) allows the Court to deny summary judgment at a time when a party  
27 has not had ample opportunity to conduct needed discovery. Therefore, Cashman requests  
28 that Defendants' Motion be denied in order to provide the parties with the opportunity to



1 conduct discovery with regard to all claims asserted.

2       Given that this case is extremely fact intensive, denial of Defendants' Motion to allow  
3 discovery on Defendants' allegations is appropriate. Prior to the filing of Defendants'  
4 Motion, Cashman propounded written discovery to Mojave; however, Mojave has not yet  
5 provided its responses to Cashman. *See* Exhibit "2." Additionally, discovery must be  
6 completed as to the disputed facts of this matter, including but not limited to: Mojave's  
7 contract with Cam; Mojave's evidence that Cam acted as an agent of Cashman; why Mojave  
8 paid Cam directly; why Mojave was required to contract with Cam; why Mojave received  
9 money from Cam on a separate project, when the contract required Mojave to pay Cam;  
10 Mojave's basis for their requested damages and how they calculated the amount of damages;  
11 the facts surrounding the exchange of payment and release; and why Mojave failed to issue a  
12 joint check despite Cashman's request. *Id.* The deposition of Mojave's Brian Bugni must be  
13 permitted prior to any ruling given the disputed testimony contained in his affidavit. *Id.* *See*  
14 also Mojave's Motion for Summary Judgment at Exhibit "A." A supplemental Early Case  
15 Conference was just held on April 10, 2012, wherein the parties agreed to extend the  
16 discovery deadline through January 2013. *See* Exhibit "2." It would be prejudicial for the  
17 Court to award judgment in favor of Defendants prior to completing this much needed  
18 additional discovery. Therefore, denial of Defendants' Motion is necessary.

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IV.

CONCLUSION

Based on the foregoing, Cashman respectfully requests that Defendants' Motion for Summary Judgment be denied in its entirety, as there are clearly issues of material fact, warranting the need for additional discovery. Additionally, Cashman requests that this Court issue an award for attorneys' fees for having to oppose this frivolous motion.

DATED: April 20, 2012

PEZZILLO ROBINSON

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

The undersigned, an employee of the law firm of PEZZILLO ROBINSON, hereby certifies that on the 23 day of April, 2012, a true and correct copy of the foregoing document, **CASHMAN EQUIPMENT COMPANY'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**, was served by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

Brian Boschee, Esq.  
COTTON, DRIGGS, ET AL.  
400 S. 4<sup>th</sup> St., 3<sup>rd</sup> Fl.  
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An employee of PEZZILLO ROBINSON

# **EXHIBIT 1**

EXHIBIT TO BE SUPPLEMENTED

## **EXHIBIT 2**



**DECLARATION OF JENNIFER R. LLOYD-ROBINSON, ESQ.**

I, Jennifer R. Lloyd-Robinson, Esq., under the penalty of perjury do hereby state:

1. I am a partner at the law firm of Pezzillo Robinson, attorneys of record for Plaintiff, CASHMAN EQUIPMENT COMPANY ("CASHMAN"), in the above-captioned lawsuit.

2. I am over the age of 18 years old and am competent and am authorized to make this Declaration.

3. I am personally knowledgeable about the facts contained herein and am competent to testify.

4. Cashman should be afforded the opportunity to conduct discovery pursuant to NRCPC 56(f), with regard to the allegations raised in Defendants' Motion for Summary Judgment, as neither party has had an opportunity to conduct needed discovery.

5. Prior to the filing of Defendants' Motion, Cashman propounded written discovery to WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave").

6. Discovery is necessary as to the disputed facts of this matter, including but not limited to:

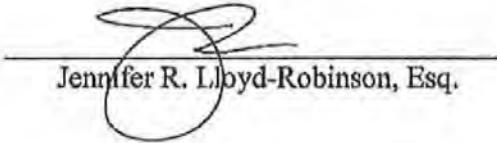
- a. Mojave's contract with CAM CONSULTING INC. ("Cam");
- b. Mojave's evidence that Cam acted as an agent of Cashman;
- c. Why Mojave paid Cam directly;
- d. Why Mojave was required to contract with Cam;
- e. Why Mojave received money from Cam for a separate project when that contract required Mojave to pay Cam;
- f. Mojave's basis for its requested damages and how Mojave calculated the amount of damages;
- g. The facts surrounding the exchange of payment and release; and
- h. Why Mojave failed to issue a joint check despite Cashman's request.

7. The deposition of Mojave's Brian Bugni should be permitted prior to any ruling given the disputed testimony contained in his affidavit.

1           8.       A supplemental Early Case Conference was just held on April 10, 2012, wherein the  
2 parties agreed to extend the discovery deadline through January 2013.

3           9.       It is believed that the above requested discovery will lead to relevant, admissible  
4 evidence.

5           10.      This declaration is made under the penalties of perjury.  
6  
7  
8

  
Jennifer R. Lloyd-Robinson, Esq.

## **EXHIBIT 3**



CASHMAN



## APPLICATION FOR CREDIT

9300 St Rose Pkwy, Henderson NV 89052

Phone: (800) 937-2326 ext 4603

Credit Dept Fax: (702) 633-4695

109502



SYMONE 815

Cat Access Account

ALL new applications for a line of credit at Cashman Equipment will be facilitated through Caterpillar's CAT Access dealer line of credit unless otherwise indicated here ( ). For info regarding this line of credit see caterpillaraccess.com

## GENERAL INFORMATION

Applicant Name Cam Consulting Inc Trade Name (if different) \_\_\_\_\_  
 Physical Address 3874 Civic Center Dr Las Vegas NV 89030 Clark  
 Billing Address \_\_\_\_\_  
 Business # 1702 325-9032 Cell # 1702 524-2022 Fax # 1702 895-9661 Business Start Date 2009  
 Business Contact Angela Carrvalho Title President Phone # 1702 524-2022 Email angelacarrvalho@aol.com  
 Billing Contact \_\_\_\_\_ Title \_\_\_\_\_ Phone # ( ) \_\_\_\_\_ Email \_\_\_\_\_  
 Description of Business Construction Consulting Invoice Method: Regular Mail ☒ Electronically Email angelacarrvalho@aol.com  
 Type of Business ☐ Sole Proprietorship ☒ Corporation ☐ General Partnership ☐ LLC ☐ Other \_\_\_\_\_

Prime Authorized User: Name Angela Carrvalho Name James Carrvalho Name \_\_\_\_\_  
 Has business or any principal ever declared bankruptcy? ☐ Yes ☒ No Are there any outstanding liens or judgments? ☐ Yes ☒ No  
 If yes, date filed \_\_\_\_\_

Federal ID Number 26-4320692 Sales Tax Exempt? ☐ Yes ☒ No Number of Employees 25 Requested Limit \_\_\_\_\_  
 If yes, please attach copy of exemption certificate

Bonding Company: \_\_\_\_\_ Contact Name \_\_\_\_\_ Phone # ( ) \_\_\_\_\_

Insurance Company Beaumont LTD Contact Name David H Lee Phone # 702 798-8700  
 When renting/leasing please provide us with an insurance certificate showing to Cashman's insurance requirements. If unavailable, you will be assessed an equipment surcharge.

## FINANCIAL INFORMATION

Bank / Finance Co Reference: Current balances Checking Savings Loans  
 (1) Nevada State Bank ☒ ☐ ☐  
 (2) Wells Fargo Bank ☒ ☐ ☐

Trade References Contact Address Phone # (702) 798-2272 Acct  
 (1) Mega-Electronic Peter Ferguson 3755 W. Macdonald Las Vegas 89118  
 (2) QED 5975 S. Decatur Blvd. Las Vegas 89118 Scott Macdonald 702-871-4108

## INFORMATION ON OWNER/PRINCIPALS/GUARANTORS

The undersigned provides instruction to us, our assignees, and/or assignees, authorizing review of Waffor personal credit profile and periodic review in connection with credit extended.

Name/Title (1) Angela Carrvalho President Birthdate 24-Sep-67 SSN# 1359  
 Home Address 6316 Little Elm St. Las Vegas NV 89031 Phone # 1702 524-2022 Percent of Ownership 100% Time as Owner \_\_\_\_\_  
 Net Worth \$ \_\_\_\_\_ Annual Income \$ \_\_\_\_\_ Monthly House Payments \$ \_\_\_\_\_ Signature Angela Carrvalho

Name/Title (1) \_\_\_\_\_ Birthdate \_\_\_\_\_ SSN# \_\_\_\_\_  
 Home Address \_\_\_\_\_ Phone # ( ) \_\_\_\_\_ Percent of Ownership \_\_\_\_\_ Time as Owner \_\_\_\_\_  
 Net Worth \$ \_\_\_\_\_ Annual Income \$ \_\_\_\_\_ Monthly House Payments \$ \_\_\_\_\_ Signature \_\_\_\_\_

## OPEN ACCOUNT TERMS AND CONDITIONS

Applicant, its guarantors, agents and/or assignees collectively referred to as "APPLICANT" acknowledge that in the event this Application for Business Credit is accepted and approved by CASHMAN EQUIPMENT COMPANY and all other parties collectively referred to as CECO, a credit account will be opened in the name of Applicant. APPLICANT agrees to each and every term and condition set forth below in consideration of the opening of a credit account by CECO. Applicant and each other person signing this application warrant and represent that the information given on this application is complete and accurate, and is provided for the purpose of obtaining credit in an attempt to set by our credit policies and procedures. Applicant warrants CASHMAN EQUIPMENT COMPANY (CECO), Caterpillar Inc, Caterpillar Financial Services Corporation (CFSC) and/or Caterpillar Access Account Corporation (CAA) and its assignees or designees, (these entities referred to as "us" "we" or "our") to obtain from banks, credit bureaus, trade references and other creditors and request each of the above referenced entities to release to us copies of its credit report and/or other information, and to agree on our behalf to the credit record of Applicant and/or each person as such party may deem appropriate and release any credit information, including but not limited to Applicant's balance sheet, cash flow statement, and income statement to us, which may be shared among ourselves. Further, Applicant and each other person signing below on behalf of Applicant and/or as Guarantor (as defined below), agrees that we may obtain personal and/or business credit reports with respect to Applicant and each such person, in assisting in making a credit decision. In connection with the consideration of the credit provided herein, or pursuant to a subsequent application or request, requesting Applicant's account, or assisting in making a credit decision, Applicant understands that any decision to grant or deny credit by CECO will be made by CECO, that any decision to grant or deny credit by CFSC will be made by CFSC, and that any decision to grant or deny credit by CAA will be made by CAA. The fact that this application contains references to "amount of credit extended for" that not be deemed a limitation of liability by Applicant or Guarantor, if applicable. Applicant acknowledges and agrees that the extension of credit based on this application does not obligate the share to extend credit to Applicant. Applicant also acknowledges, agrees and understands that any of us may, in its sole discretion, refuse to extend credit to Applicant in connection with any credit transaction. — continued on page 2



**CASH/IN-STORE CREDIT:** Applicant agrees to the following terms and conditions for credit is extended:

(TERMS AND CONDITIONS) The limits and conditions of Applicant's accounts may be changed by CIBC at any time, without notice, to Applicant.

The Federal agency that solicited our compliance with this form is the FTO Regional Office for the region in which we reside in the Federal Trade Commission, Bureau of Consumer Protection Act. The Federal agency that solicited our compliance with this form is the FTO Regional Office for the region in which we reside in the Federal Trade Commission, Bureau of Consumer Protection Act. The Federal agency that solicited our compliance with this form is the FTO Regional Office for the region in which we reside in the Federal Trade Commission, Bureau of Consumer Protection Act.

NO GUARANTEE OF ACCURACY OR COMPLETENESS. NO GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO GUARANTEE OF TITLE OR RIGHT TO SELL.

Signed: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_



## **EXHIBIT 4**

CASHMAN



## INVOICE

1.800.937.2326

www.cashmanequipment.com

CAM CONSULTING  
3874 CIVIC CENTER DR  
NORTH LAS VEGAS NV 89030-7524

PLEASE REMIT TO:  
Cashman Equipment Company  
File #58761  
Los Angeles, CA 90074-8761

81236701	02-01-11	109502
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THANK YOU!

\*\*\* To ensure proper credit, please detach this portion and return with remittance. \*\*\*

ITEM NO.	DATE	QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
81236701	02-01-11	109502	767810-GEN10010	00 E	815 4 .1
812367	02-01-11	10			206227
AA	C32	J8J01016		.0	10-081
CUSTOMER CONTACT: ANGELO CARVALHO					
1.0	EQUIPMENT SALE CATERPILLAR INC. MODEL C32 900 KW, 4580/277V, 4P, 4W, N3R ENCLOSED GENERATOR ID NO: 10-081 SERIAL NO: J8J01016				152849.91
1.0	EQUIPMENT SALE CATERPILLAR INC. MODEL C32 900 KW, 4580/277V, 4P, 4W, N3R ENCLOSED GENERATOR ID NO: 10-082 SERIAL NO: J8J01013				152849.91
1.0	EQUIPMENT SALE ** 8000A, 480/277V, 4P, 4W, N3R CATERPILLAR INC. MODEL TRANSWITCH ID NO: 10-037 SERIAL NO: TSG03509				7672.45
1.0	EQUIPMENT SALE **1000A, 480/277V, 4P, N3R CATERPILLAR INC. MODEL TRANSWITCH ID NO: 10-038 SERIAL NO: TSG033510				10215.66
1.0	EQUIPMENT SALE **1200A, 480/277V, 4P, 4W, N3R CATERPILLAR INC. MODEL TRANSWITCH ID NO: 10-039 SERIAL NO: TSG03511				10812.66
1.0	EQUIPMENT SALE **3000A, 480/277V, 3P, 4W, N3R CATERPILLAR INC. MODEL SWITCHGEAR PARALLELING SWITCHGEAR ID NO: 10-040 SERIAL NO: SWGR36267				244869.50

SOLD TO:

CAM CONSULTING  
3874 CIVIC CENTER DR  
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

CITY OF LAS VEGAS NEW CITY  
MOJAVE ELECTRIC INC  
3755 W HACIENDA AVE  
LAS VEGAS NV 89118

CASHMAN  
Power SolutionsComputer Protection  
Systems  
VOID IF TAMPED OR NOT AN ORIGIN

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5%  
PER MONTH LATE CHARGE WILL BE ASSESSED ON  
PAST DUE INVOICES. 6/28/01/01/01

CASH003

JA 0000237

DASHMAN



## INVOICE

 1.800.937.2828  
 www.dashmanequipment.com

 CAM CONSULTING  
 3874 CIVIC CENTER DR  
 NORTH LAS VEGAS NV 89030-7524

 PLEASE REMIT TO:  
 Cashman Equipment Company  
 File # 58761  
 Los Angeles, CA 90074-6761

81236701 02-01-11 109502

598936.26

THANK YOU!

To ensure proper credit, please detach this portion and return with remittance.

81236701	02-01-11	109502	767810-GRN10010	00	E	815	4	2
812367	02-01-11		10					206227
AA	C32	J8J01016				.0	10-081	

FUEL  
SPARE PARTS  
SHUNT TRIP STATION  
TRUCK LAY OVER  
CUST SRV AGRMT

# COD

7611.75  
2353.17  
497.50  
1741.25  
7462.50

**598936.26**

SOLD TO:

 CAM CONSULTING  
 3874 CIVIC CENTER DR  
 NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

 CITY OF LAS VEGAS NEW CITY  
 MOJAVE ELECTRIC INC  
 3755 W HACIENDA AVE  
 LAS VEGAS NV 89118

DASHMAN



Computer Protection Systems


 TERMS: DUE UPON RECEIPT OF INVOICE. A 1.5%  
 PER MONTH LATE CHARGE WILL BE ASSESSED ON  
 PAST DUE INVOICES.

CASH004

JA 0000238



CASHMAN PAT

## INVOICE

1.800.937.2328  
www.cashmanequipment.comCAM CONSULTING  
3874 CIVIC CENTER DR  
NORTH LAS VEGAS NV 89030-7524PLEASE REMIT TO:  
Cashman Equipment Company  
File # 56751  
Los Angeles, CA 90074-8751

INVOICE #	DATE	AMOUNT
81236601	02-01-11	109502
TOTAL		
156627.92		

THANK YOU!

\*\*\*\* To ensure proper credit, please detach this portion and return with remittance. \*\*\*\*

INVOICE #	DATE	AMOUNT	DESCRIPTION	QUANTITY	UNIT	PRICE	TAX	DISC
81236601	02-01-11	109502	767810-GEN10010	00	E	815	4	1
812366	02-01-11		10					206228.
XX	98AB500244	10-71M73354-01				.0	10-504	

CUSTOMER CONTACT: ANGELO CARVALHO

EQUIPMENT SALE

MISC

MODEL 98AB500244

UPS

ID NO: 10-504

SERIAL NO: 10-71M73354-01

156627.92

400 KW 277/480V 3 PHASE W/BATTERIES

MGE MONTROSE SP860

SHUMWAY STATION

COD

SOLD TO:

CAM CONSULTING  
3874 CIVIC CENTER DR  
NORTH LAS VEGAS NV 89030-7524

SHIP TO/REFERENCE:

CITY OF LAS VEGAS NEW CITY  
MOJAVE ELECTRIC INC  
3755 W HACIENDA AVE  
LAS VEGAS, NV 89118CASHMAN  
Power Solutions

PAT

Computer Protection  
Systems

CRS

TERMS: DUE UPON RECEIPT OF INVOICE. A 1.6%  
PER MONTH LATE CHARGE WILL BE ASSESSED ON  
PAST DUE INVOICES. DUE BY 15TH

CASH005

JA 0000239

## **EXHIBIT 5**



<b>CAM CONSULTING INC</b> 3874 ONYO CENTER DR PH 702-326-0032 NORTH LAS VEGAS, NV 89130-7624		1030
DATE <u>29 April 11</u>		10/20/11
PAY TO THE ORDER OF <u>Cashman Equipment</u>	\$ <u>755,893.89</u>	
<u>Seven Fifty Five Eight Nine Three</u> DOLLARS		
NEVADA STATE BANK THE DOOR TO YOUR FUTURE 121-484396 121-000245		
FOR INVOICE # <u>614451 61446</u>		
0001036 1212240077910262031032 121-484396		
		CASHMAN EQUIPMENT COMPANY 121-484396 FOR DEPOSIT ONLY WELLS FARGO BANK 121-000245

Date:05/02/11 Sequence Num:94249092 Account:262031032 Serial:1036 Amount:\$755,893.89 Dep Seq#:-

# **EXHIBIT 6**

\*091000019\*  
05/04/2011  
3351153946

This is a LEGAL COPY  
of your check. You can  
use it the same way  
you would use the  
original check.

RETURN REASON-C  
STOP PAYMENT

109502

STOP PAYMENT  
Do Not Re-deposit

1102/20/50 6620042213  
2606424446000000

**CASHMAN CONSULTING INC**  
5374 CIVIC CENTER DR PH 102-505-9012  
NORTH LAS VEGAS, NV 89103-7804

DATE 29-April-11

PAY TO THE ORDER OF Cashman Equipment \$ 755893.89

Seven Fifty Five Thousand Eight Hundred Ninety Three and 89/100 DOLLARS

NEVADA STATE BANK  
1515 LAS VEGAS BLVD  
LAS VEGAS, NV 89102

For invoice # 614451-51446

*[Signature]*

⑈001036⑈

⑈122400779⑈

262031032⑈

⑈0075589389⑈

\*091000015\*  
05/02/2011  
09494289092

CASHMAN EQUIPMENT COMPANY  
11248296  
FOR DEPOSIT ONLY  
WELLS FARGO BANK  
01100746

122400779 05/02/2011  
00009494249092 RR  
62200155 05/04/2011 RR  
5524435079 05/04/2011 RR  
091000000079 05/04/2011 RR  
6317715971 05/04/2011 RR  
\*091000019\* 05/04/2011 RR  
3351153946 RR

Do not endorse or write below this line.

CASH014

JA 0000243

WELLS FARGO BANK N.A.  
P.O. BOX 5169  
SIOUX FALLS, SD 57104

182



CASHMAN EQUIPMENT COMPANY  
3300 SAINT ROSE PKWY  
HENDERSON NV 89052-3985

ITEMS ENCLOSED: 1

PAGE 1 OF 1 ACCOUNT CHARGED 4121484596 DATE: 05-04-2011

YOUR ACCOUNT HAS BEEN CHARGED FOR THE FOLLOWING ITEM(S) RETURNED UNPAID.

	REASON FOR NON-PAYMENT	SEQUENCE #	AMOUNT
DEPOSITORY ACCOUNT NUMBER:	4121484596		
CHARGES FOR PAPER RETURNS:			
	Stop Pay	3351153946	755,893.89
TOTAL CHARGES FOR PAPER RETURNS			755,893.89

TOTAL CHARGES FOR PAPER RETURNS

755,893.89

SHOULD YOU HAVE ANY QUESTIONS OR REQUIRE ADDITIONAL INFORMATION, PLEASE CALL THE  
PHONE NUMBER THAT IS LISTED ON YOUR BANK STATEMENT.

CASH015

JA 0000244

# **EXHIBIT 7**





**"GENERATOR"  
"TRANSFER SWITCH"  
TERMS AND CONDITIONS**

PURCHASE ORDER  
787810 GEN 10010

TO: CAM Consulting c/o Cashman Equipment  
ATTN: Angelo Carvalho / Keith Lozeau  
PHONE: 702-326-9032 / 702-638-5018

April 23, 2010  
3 of 4  
SHIP VIA: DELIVER

JOB: City of Las Vegas New City Hall  
SHIP TO: SHOP ATTN# 730101  
CITY: LAS VEGAS

P.O. # AND JOB # MUST APPEAR ON ALL INVOICES, DELIVERY TICKETS AND BILLS OF LADING. SELLER'S INVOICES MUST COINCIDE WITH MOJAVE PURCHASE ORDER ITEM NUMBER, DESCRIPTION, UNIT PRICE BREAKDOWN

- 1 The bill of material as shown above is for reference only and the supplier guarantees a complete bill of material per plans, specifications and addenda.
- 2 Generator to include generator plant and all controls, batteries, battery charger, mounting base, control panel, auto required.
- 3 Retention of 10% will be held on purchase order until job is complete and we have received retention from owner.
- 4 This purchase order includes all fuel tanks, antifreeze and all other necessary items required for initial start up.
- 5 Seller agrees further to furnish personnel and necessary equipment to test and check out equipment and material as required by specifications at no extra cost to Mojave Electric, Inc.
- 6 Seller agrees to furnish warranties in duplicate.
- 7 Seller shall furnish the service of a qualified representative who shall instruct specific personnel as designated by the owner, in the operation and maintenance of the system on this purchase order.
- 8 Instructions shall be made as indicated when this system is complete and shall be the number of hours as indicated by the specifications and/or the time requested by the owner.
- 9 Manufacturer shall include certification of suitability for operation at the altitude of the jobsite.
- 10 Guarantees, warranties and maintenance manuals shall be per plans and specifications.
- 11 Testing and supervision per plans and specifications and addenda.
- 12 Testing shall be per all local requirements of the Fire Department, Building Department and Electrical Inspectors. Including load bank tests on the jobsite or factory if required.
- 13 Lifting angles with eye bolts shall be furnished if required by Project Manager. This is vendors responsibility to meet with the Project Manager.
- 14 Time is of the essence. Should Mojave Electric, Inc. incur additional costs due to negligence on the part of the vendor, these additional costs will be recovered from the vendor's accounts.
- 15 Include all automatic transfer switch per plans and specs, including all aux. contacts, verify all coil voltages with Mojave Electric's Project Manager.

MOJ00033

JA 0000246

- 16 All terminals on all breakers, switches, transformers, starters, panels, switchboards, etc., to have lugs suitable for copper or aluminum and shall be stamped AL/CU. All panel back boxes to be adequately sized to provide sufficient space for feeder and branch circuit conductors. All switchboards, transformers, motor control centers and panelboards to be supplied with size, type, quantity and location of lugs as noted in approved shop drawings. All breakers are to have adequate space provided in the lugs for the use of "pin terminals" as "Mac adapter" style cable terminators for use with aluminum wire. It is the responsibility of the vendor to set up a meeting with Mojave Electric's Project Manager to establish the correct cable size of both copper and aluminum wire.
- 17 All generators and automatic transfer switches are to be shipped on an open type of truck and rigged for as required by Project Manager at time of release. This is the vendors responsibility.
- 18 All panels to have identification plate of black Bakelite with 1/2" white letters unless noted otherwise.
- 19 Provide all additional equipment groundbars and equipment grounding lugs as required by contract specifications and plans. All neutral and ground lugs are to be factory mounted.
- 20 Provide all auxiliary contacts, relays, thermals, control devices, pilot lights, push buttons, HOA switches, etc. and interlocking for automatic transfer switches if required by approved shop drawings and plans and specifications.
- 21 Provide vibration dampers for the generator.
- 22 All automatic transfer switches and generators to be supplied with all lugs as required by approved shop drawings.
- 23 All invoices must be rendered in triplicate.
- 24 This purchase order number shall appear on all packages and all items shipped by vendor on this purchase order, plus on all invoices, shipping papers and all other correspondence.
- 25 Call 24 hours before delivery to 702-798-2970.

F.O.B. jobsite with full freight allowed, unloaded by Mojave Electric, Inc.

All material on this P.O. to ship to shop. Call 24 Hours before delivery to 702-798-2970.

☒ FREIGHT INCLUDED  
☐ FREIGHT EXCLUDED

SUB TOTAL: \$ 800,196.00

TAX 8.10%: \$ 48,815.88

SUB TOTAL: \$ 849,011.88

% CASH DISCOUNT:

TOTAL: \$ 849,011.88

ACCEPTED FOR VENDOR

BY:

Angelo Carvalho / Keith Lozano  
 CAM Consulting c/o Cashman Equipment

MOJAVE ELECTRIC, INC.

BY:

Peter Feigen, VP Project Development

Terms: SEE PAGE 2 Invoices received after 20th considered next months business.

MOJ00034

JA 0000247

# **EXHIBIT 8**



INVOICE

CAM

Mojave Electric  
Received  
FEB 1 2011

FROM: CAM CONSULTING  
3874 Civic Center Dr.  
North Las Vegas, NV 89030-7524  
Phone (702) 524-2022 Fax (702) 570-6863

INVOICE NUMBER:	61558
DATE:	11/JAN/31
PAGE NUMBER:	1 OF 1

TO: MOJAVE ELECTRIC  
3755 West Hacienda Ave.  
Las Vegas, NV 89118

FOR: JOB: CITY OF LAS VEGAS NEW CITY  
767810 GEN-10010

DESCRIPTION	TOTAL AMOUNT
GENERATOR MODEL C32 ID NO: 10-081 SERIAL JSJ01016 900 KW, 480/277V, 4P, 4W, N3R ENCLOSED GENERATOR	152849.91 ✓
GENERATOR MODEL C32 ID NO: 10-082 SERIAL JSJ01013 900 KW, 480/277V, 4P, 4P, N3R ENCLOSED GENERATOR	152849.91 ✓
AUTO TRANSWITCH ID NO: 10-037 SERIAL TSG03509 MODEL TRANSWITCH 800A, 480/277V, 4P, 4W, N3R	7672.45 ✓
AUTO TRANSWITCH 1000A, 480/277V, 4P, N3R ID NO: 10-038 SERIAL NO: TSG033510 MODEL TRANSWITCH	10215.66 ✓
AUTO TRANSWITCH 1200A, 480/277V, 4P, 4W, N3R MODEL TRANSWITCH ID NO: 10-039 SERIAL NO: TSG03511	10812.66 ✓
SWITCHGEAR ID NO: 10-040 SERIAL SWGR36267 3000A, 480/277V, 3P, 4W, N3R PARALLELING SG MODEL SWITCHGEAR CUST SRV AGREEMENT	244869.50 ✓
FUEL	7462.50 ✓
SPARE PARTS	7611.75 ✓
SHUNT TRIP STATION	2353.17 ✓
TRUCK LAY OVER	497.50 ✓
NV TAX CLARK	1741.25
HOLD RETENTION <i>pay when rec'd</i>	48150.13
YES NO <i>100% CASH</i>	
<i>02-2011 22-11</i>	
Total Amount:	647086.52
1/2% Consulting Fee:	3009.61

Total Amount Due: 650096.13 <sup>00</sup>

Pay in full within 30 days of invoice.

MOJ00048

JA 0000250



1 allegations contained therein.

2 70. Defendants are without sufficient information or knowledge to form a belief as to  
3 the truth of the allegations contained in Paragraph 70 of the Complaint and, therefore, deny the  
4 allegations contained therein.

5 71. Defendants are without sufficient information or knowledge to form a belief as to  
6 the truth of the allegations contained in Paragraph 71 of the Complaint and, therefore, deny the  
7 allegations contained therein.

8 72. The allegation contained in Paragraph 72 of the Complaint constitutes a statement  
9 of the law rather than a factual allegation against Defendants and, therefore, requires no  
10 response. To the extent Defendants are required to respond to this paragraph, Defendants are  
11 without sufficient information or knowledge to form a belief as to the truth of the allegations  
12 contained in Paragraph 72 of the Complaint and, therefore, deny the allegations contained  
13 therein.

14 73. The allegation contained in Paragraph 73 of the Complaint constitutes a statement  
15 of the law rather than a factual allegation against Defendants and, therefore, requires no  
16 response.

17 74. Defendants are without sufficient information or knowledge to form a belief as to  
18 the truth of the allegations contained in Paragraph 74 of the Complaint and, therefore, deny the  
19 allegations contained therein.

20 **NINTH CLAIM FOR RELIEF**  
21 **(ENFORCEMENT OF MECHANIC'S LIEN RELEASE BOND AGAINST MOJAVE,**  
**WESTERN, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

22 75. Defendants incorporate by reference all responses to Paragraphs 1 through 74 of  
23 the Complaint as though fully set forth herein.

24 76. Defendants are without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 76 of the Complaint and, therefore, deny the  
26 allegations contained therein.

27 77. Defendants admit the allegations contained in Paragraph 77 of the Complaint.

28 78. The allegation contained in Paragraph 78 of the Complaint constitutes a statement

1 of the law rather than a factual allegation against Defendants and, therefore, requires no  
2 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
3 the allegations contained therein.

4 79. Defendants are without sufficient information or knowledge to form a belief as to  
5 the truth of the allegations contained in Paragraph 79 of the Complaint and, therefore, deny the  
6 allegations contained therein.

7 80. Defendants admit that a mechanic's lien was recorded on the Project in the  
8 amount of \$755,893.89 as Instrument No. 201106220002156, but deny the remaining allegations  
9 and legal conclusions contained in Paragraph 80.

10 81. The allegation contained in Paragraph 81 of the Complaint constitutes a statement  
11 of the law rather than a factual allegation against Defendants and, therefore, requires no  
12 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
13 the allegations contained therein.

14 82. Defendants admit the allegations contained in Paragraph 82 of the Complaint.

15 83. Defendants deny the allegations contained in Paragraph 83 of the Complaint.

16 84. Defendants deny the allegations contained in Paragraph 84 of the Complaint.

17 **TENTH CLAIM FOR RELIEF**  
18 **(UNJUST ENRICHMENT AGAINST MOJAVE, DOES 1-10, AND ROE**  
19 **CORPORATIONS 1-10, INCLUSIVE)**

20 85. Defendants incorporate by reference all responses to Paragraphs 1 through 84 of  
21 the Complaint as though fully set forth herein.

22 86. Defendants admit the allegations contained in Paragraph 86 of the Complaint.

23 87. Defendants admit the allegations contained in Paragraph 87 of the Complaint.

24 88. Defendants admit the allegations contained in Paragraph 88 of the Complaint.

25 89. Defendants admit the allegations contained in Paragraph 89 of the Complaint.

26 90. Defendants admit the allegation contained in Paragraph 90 of the Complaint.

27 91. Defendants admit the allegation contained in Paragraph 91 of the Complaint.

28 92. Defendants admit the allegations contained in Paragraph 92 of the Complaint.

93. Defendants are without sufficient information or knowledge to form a belief as to



1 the truth of the allegations contained in Paragraph 93 of the Complaint and, therefore, deny the  
2 allegations contained therein.

3 94. Defendants deny the allegations contained in Paragraph 94 of the Complaint.

4 95. Defendants deny the allegations contained in Paragraph 95 of the Complaint.

5 96. Defendants deny the allegations contained in Paragraph 96 of the Complaint.

6 97. Defendants deny the allegations contained in Paragraph 97 of the Complaint.

7 **ELEVENTH CLAIM FOR RELIEF**  
8 **(CONTRACTOR'S LICENSE BOND AGAINST MOJAVE, WESTERN, DOES 1-10,**  
9 **AND ROE CORPORATIONS 1-10, INCLUSIVE)**

10 98. Defendants incorporate by reference all responses to Paragraphs 1 through 97 of  
11 the Complaint as though fully set forth herein.

12 99. Defendants admit that Mojave, as principal, and Defendant Western, as surety,  
13 caused to be issued two contractor's license bonds in accordance with the provisions of Chapter  
14 624 and said bonds are identified as Bond Number 929452545 in the amount of \$5,000.00 and  
15 Bond Number 929444674 in the amount of \$2,000.00. Defendants deny all remaining allegations  
16 contained in Paragraph 99 of the Complaint.

17 100. Defendants deny the allegations contained in Paragraph 100, including sections  
18 (a) and (b) of the Complaint.

19 101. Defendants deny the allegations contained in Paragraph 101 of the Complaint.

20 **TWELFTH CLAIM FOR RELIEF**  
21 **(UNJUST ENRICHMENT AGAINST WHITING TURNER, DOES 1-10, AND ROE**  
22 **CORPORATIONS 1-10, INCLUSIVE)**

23 102. Defendants incorporate by reference all responses to Paragraphs 1 through 101 of  
24 the Complaint as though fully set forth herein.

25 103. Defendants deny the allegations contained in Paragraph 103 of the Complaint.

26 104. Defendants deny the allegations contained in Paragraph 104 of the Complaint.

27 105. Defendants deny the allegations contained in Paragraph 105 of the Complaint.

28 \* \* \*

\* \* \*

\* \* \*

**THIRTIETH CLAIM FOR RELIEF**  
**(CONTRACTORS LICENSE BOND CLAIM AGAINST WHITING TURNER,**  
**FIDELITY, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

106. Defendants incorporate by reference all responses to Paragraphs 1 through 105 of the Complaint as though fully set forth herein.

107. Defendants admit that Whiting Turner, as principal, and Defendant Fidelity, as surety, caused to be issued a contractor's license bond in accordance with the provisions of Chapter 624 and said bond is identified as Bond Number 9045603 in the amount of \$50,000.00. Defendants deny all remaining allegations contained in Paragraph 107 of the Complaint.

108. Defendants deny the allegations contained in Paragraph 108, including sections (a) and (b) of the Complaint.

109. Defendants deny the allegations contained in Paragraph 109 of the Complaint.

**AFFIRMATIVE DEFENSES**

Defendants assert the following defenses to this action. These defenses have been labeled as "affirmative" defenses regardless of whether, as a matter of law, such defenses are truly affirmative defenses. Such designation should in no way be construed to constitute a concession on the part of Defendants or that it bears the burden of proof to establish such defense(s).

1. All allegations of the Complaint not specifically admitted are hereby denied.

2. Plaintiff fails to state a claim for relief against Defendants upon which relief can be granted.

3. At all material times, Defendants acted in good faith and exercised lawful rights in dealing with Plaintiff.

4. Plaintiff, by its own conduct or otherwise, is estopped from making any claim against Defendants.

5. Plaintiff has waived, by conduct or otherwise, any claim against Defendants.

6. The loss, injuries, damages, costs and attorneys' fees, if any, suffered by Plaintiff are the result of its own acts, omissions, or wrongdoing.

7. Defendants relied upon representations by the Plaintiff as to the Unconditional



1 Release for payment and would not have made payment to Plaintiff's agent absent such  
2 representations.

3 8. Plaintiff is barred from obtaining any relief from any claim by operation of the  
4 doctrine of accord and satisfaction.

5 9. Plaintiff has failed to mitigate its damages, if any exist or were incurred, the  
6 existence of which is expressly denied by Defendant.

7 10. By virtue of the acts, conduct, mismanagement and/or omissions to act of the  
8 Plaintiff under the circumstances, Defendants are released and discharged from any liability  
9 whatsoever to Plaintiff, which liability is expressly denied.

10 11. Plaintiff ratified, approved, or acquiesced in the actions of Defendants.

11 12. Defendant CAM Consulting, Inc. acted as agent for Plaintiff.

12 13. Plaintiff has failed to satisfy conditions precedent to bringing any action against  
13 Defendants.

14 14. Plaintiff's claims are barred by the Doctrines of Mutual Mistake, Impossibility or  
15 Impracticability.

16 15. Any damages which Plaintiffs may have sustained by reason of the allegations of  
17 the Complaint were proximately caused, in whole or in part, by sets of persons other than  
18 Defendants and, therefore, Plaintiffs are not entitled to any relief from Defendant.

19 16. To the extent Plaintiff's claims are based in whole or in part on alleged oral  
20 promises or statements, such claims are barred by the lack of acceptance, lack of mutuality, and  
21 failure of consideration.

22 17. Plaintiff is not entitled to the damages that it is seeking.

23 18. The claims of Plaintiff fail for want or lack of consideration.

24 19. Plaintiff's pursuit of these claims against Defendant under the circumstances  
25 presented in this case is, in and of itself, a violation of the covenant of good faith and fair dealing  
26 implied in all of their agreements, barring it from any recovery against them in this action.

27 20. Damages and injuries suffered by Plaintiff, if any, are not attributable to any act,  
28 conduct, or omission on the part of Defendants.



1           21. Plaintiff's alleged damages, if any, should be offset by monies due and owing by  
2 CAM to Plaintiff.

3           22. The conduct of Defendants alleged to be wrongful was induced by Plaintiff's own  
4 wrongful conduct.

5           23. Plaintiff's claims for relief are barred on the grounds that Defendants have a valid  
6 justification for any alleged nonperformance of the alleged agreement.

7           24. Plaintiff materially breached the agreement between the parties, thereby excusing  
8 the future performance thereof by Defendants.

9           25. Plaintiff brings its claims in bad faith, with an ulterior motive to harass  
10 Defendants, abuse the litigation process, and otherwise raise frivolous and unfounded claims  
11 against Defendants causing Defendants to incur damages.

12           26. Plaintiff is barred from recovery by virtue of its unclean hands.

13           27. Defendants have been forced to retain counsel to defend against Plaintiff's  
14 Complaint, and Defendants are entitled to an award of reasonable attorneys' fees.

15           28. Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not  
16 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry  
17 upon the filing of this Answer. Therefore, Defendants reserve the right to amend this Answer,  
18 including adding affirmative defenses, based upon discovery, review of document, and  
19 development of evidence in this case.

20           **WHEREFORE**, Defendants pray:

21           1. That Plaintiff takes nothing by way of its Complaint from Defendants Mojave,  
22 Western, Whiting Turner and Fidelity and that the Complaint be dismissed against those  
23 Defendants in its entirety with prejudice;

24           2. For an award of reasonable attorneys' fees and costs of suit incurred in the  
25 defense of Plaintiff's Complaint; and

26           3. For such other and further relief as this Court deems just and proper.

27           \* \* \*

28           \* \* \*

## COUNTERCLAIM

Counterclaimant WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada corporation ("Mojave" or "Counterclaimant") by and through its attorneys of record, the law firm of SANTORO, DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and as for a counterclaim against Counterdefendant CASHMAN EQUIPMENT COMPANY ("Cashman" or "Counterdefendant"), hereby alleges as follows:

### PARTIES, JURISDICTION AND VENUE

1. Counterclaimant Mojave is a Nevada limited liability company authorized to conduct business in Clark County, Nevada as a licensed contractor.

2. Upon information and belief, Counterdefendant is a corporation duly authorized to conduct business within the state of Nevada.

3. This Court has jurisdiction over the instant dispute, and venue is proper in this Court, because the dispute involves a construction project located in Clark County, Nevada and the wrongful conduct complained of herein occurred in Clark County, Nevada.

### INTRODUCTORY ALLEGATIONS

4. Counterclaimant hereby alleges and incorporate as though fully set forth herein all of the allegations of Plaintiff's Complaint which Counterclaimants have admitted hereinabove.

5. Counterclaimant Mojave entered into a purchase order ("Purchase Order") dated April 23, 2010 with Cam Consulting, Inc. c/o Cashman Equipment to purchase certain equipment at issue for the City Hall Project.

6. Cam Consulting, Inc. acted as agent for Counterdefendant Cashman in the transaction between the parties.

7. Counterclaimant Mojave made payment to Cam Consulting, Inc. in the amount of \$820,261.75 ("Payment") in accordance with its Purchase Order and in exchange for the equipment.

8. On or about April 27, 2010, Counterdefendant entered into Unconditional Release Upon Final Payment with respect to the sale of the equipment by Counterclaimants (the "Release").



1           9.     Counterdefendant provided the executed Release to Counterclaimant Mojave for  
2 the full amount of payment.

3           10.    Upon information and belief, Counterdefendant, failed to obtain final payment  
4 from its agent CAM Consulting, Inc. prior to issuing the Release to Counterclaimant Mojave.

5           11.    Pursuant to the Release, Counterdefendant is not entitled to payment from  
6 Counterclaimant.

7           12.    Counterclaimant Mojave requested Counterdefendant's completion of its contract  
8 and assistance with start up of the equipment at issue on the project.

9           13.    Counterdefendant refused to complete the start up and further refused to handle  
10 any warranty issues related to the equipment.

11           14.    Counterdefendant further refused to provide the battery power source in  
12 accordance with the Purchase Order.

13           15.    Counterclaimant Mojave employed a licensed contractor to complete the contract  
14 work and start the equipment at Counterclaimant's expense.

15                           **FIRST CLAIM FOR RELIEF**  
16                           **(BREACH OF CONTRACT)**

17           16.    Counterclaimant hereby restates, realleges and incorporates by reference the  
18 allegations contained in paragraphs 1 through 14 of the Counterclaim, inclusive, as if fully set  
19 forth herein.

20           17.    The Purchase Order constitutes a valid, binding and enforceable contract between  
21 Counterclaimant and Counterdefendant.

22           18.    Through its actions described above, including, without limitation,  
23 Counterdefendant's failure and/or refusal to participate in the start up of the equipment is in  
24 material default of its obligations.

25           19.    Counterclaimant has performed all conditions, covenants, obligations and  
26 promises on its part to be performed.

27           20.    Counterclaimant has also placed demand upon Counterdefendant for  
28 performance, but Counterdefendant has failed or refused to perform, and continues to fail or

1 refuse to perform, its obligations.

2 21. As a result of Counterdefendant's breach described herein, and as a direct and  
3 proximate result thereof, Counterclaimant has been damaged in an amount in excess of \$10,000.

4 22. As a result of Counterdefendant's breach described herein, and as a direct and  
5 proximate result thereof, Counterclaimant has been forced to engage the services of an attorney  
6 and is entitled to an award of reasonable attorney's fees and costs.

7 **SECOND CLAIM FOR RELIEF**  
8 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING)**

9 23. Counterclaimant hereby restates, realleges and incorporates by reference the  
10 allegations contained in paragraphs 1 through 21 of the Counterclaim, inclusive, as if fully set  
11 forth herein.

12 24. Under Nevada law, every contract imposes upon the contracting parties the duty  
13 of good faith and fair dealing.

14 25. Counterdefendant breached its duty to Counterclaimant by performing in a  
15 manner that was unfaithful to the purpose of the agreement, including, among other things,  
16 failing to use its best efforts to start up the equipment as requested by Counterclaimant.

17 26. As a result of Counterdefendant's breach of the implied covenant of good faith  
18 and fair dealing described herein, and as a direct and proximate result thereof, Counterclaimant  
19 has been damaged in an amount in excess of \$10,000.

20 27. As a result of Counterdefendant's breach of the implied covenant of good faith  
21 and fair dealing described herein, and as a direct and proximate result thereof, Counterclaimant  
22 Mojave has been forced to engage the services of an attorney and is entitled to an award of  
23 reasonable attorney's fees and costs.

24 **THIRD CLAIM FOR RELIEF**  
25 **(MISREPRESENTATION)**

26 28. Counterclaimant hereby restates, realleges and incorporates by reference the  
27 allegations contained in paragraphs 1 through 26 of the Counterclaim, inclusive, as if fully set  
28 forth herein.

29. Counterdefendant made various and numerous representations to Counterclaimant



1 with respect to its Final Unconditional Release entered for the payment amount of \$755,893.89.

2 30. The Release provides that Counterdefendant has been paid in full for all work and  
3 materials and further provides that the "document is enforceable against you if you sign it, even  
4 if you have not been paid. If you have not been paid, use a conditional release form."

5 31. Counterclaimant Mojave detrimentally relied on these promises and  
6 representations of Counterdefendant and was unaware whether Counterdefendant had obtained  
7 actual payment from its agent CAM Consulting, Inc.

8 32. As a consequence of Counterclaimants relying on the promises and  
9 representations of Counterdefendant, Counterdefendant misrepresented its position and is  
10 estopped from pursuing this action against Counterclaimants.

11 33. As a result of Counterdefendant's conduct described herein, and as a direct and  
12 proximate result thereof, Counterclaimant has been damaged in an amount in excess of \$10,000.

13 34. As a result of Counterdefendant's conduct described herein, and as a direct and  
14 proximate result thereof, Counterclaimant has been forced to engage the services of an attorney  
15 and is entitled to an award of reasonable attorneys' fees and costs.

#### 16 PRAYER

17 WHEREFORE, Counterclaimant hereby prays for judgment as follows:

18 1. That Plaintiff take nothing by reason of its Second Amended Complaint and that  
19 same be dismissed with prejudice;

20 2. For damages in excess of \$10,000.00;

21 3. For interest, cost and attorneys' fees;

22 4. For attorneys' fees plus costs for the suit incurred herein; and

23 5. For such other and further relief as the Court deems just and proper in the  
24 premises.

#### 25 CROSSCLAIM

26 Crossclaimant WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a  
27 Nevada corporation ("Mojave" or "Crossclaimant") by and through its attorneys of record, the  
28 law firm of SANTORO, DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and as for



1 a crossclaim against Crossdefendants CAM CONSULTING, INC. ("CAM") and ANGELO  
2 CARVALHO ("Carvalho")(collectively "Crossdefendants"), hereby alleges as follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. Crossclaimant Mojave is a Nevada limited liability company authorized to  
5 conduct business in Clark County, Nevada as a licensed contractor.

6 2. Upon information and belief, Crossdefendant CAM is a corporation duly  
7 authorized to conduct business within the state of Nevada.

8 3. Upon information and belief, Crossdefendant Carvalho is a resident of Clark  
9 County, Nevada, and an owner of CAM.

10 4. This Court has jurisdiction over the instant dispute, and venue is proper in this  
11 Court, because the dispute involves a construction project located in Clark County, Nevada and  
12 the wrongful conduct complained of herein occurred in Clark County, Nevada.

13 **FIRST CAUSE OF ACTION**  
14 **(CONVERSION AGAINST CAM CONSULTING INC. and ANGELO**  
15 **CARVALHO, as an INDIVIDUAL)**

16 5. Crossclaimant hereby alleges and incorporates as though fully set forth herein all  
17 of the allegations admitted in the Answer, all of the Counterclaim allegations against  
18 Counterdefendant Cashman which are hereinabove set forth.

19 6. Crossclaimant Mojave issued payment to Crossdefendants in the amount of  
20 \$820,261.75 in exchange for equipment for use in the City Hall Project.

21 7. Upon information and belief, Crossdefendants failed to issue payment to  
22 Cashman, although Crossdefendants obtained a Release for the payment.

23 8. Each of Mojave and Cashman has made demands upon Crossdefendants for the  
24 payment without response.

25 9. By failing or refusing to make payment to Cashman, Crossdefendant has  
26 wrongfully exerted dominion over Cashman's property and interfering with Cashman's right to  
27 the property.

28 10. Crossdefendants has no title or rights to the property and in keeping the property,  
deprives Cashman of its use in the property.

1 11. Cashman has refused to complete its work on the Project and start up the  
2 equipment for Mojave due to Crossdefendants' wrongful deprivation of property.

3 12. Crossdefendants' failure to pay Cashman has caused damages to Crossclaimant in  
4 an amount in excess of \$10,000, together with fees, costs, and interest thereon, until paid in full  
5 and other such damage according to proof.

6 **SECOND CAUSE OF ACTION**  
7 **(INDEMNIFICATION)**

8 13. Crossclaimant repeats, realleges, and incorporates by reference Paragraphs 1  
9 through 12 of this Crossclaim as though fully set forth herein.

10 14. It is alleged in Cashman's Second Amended Complaint that Cashman has  
11 incurred recoverable damages as a result of the alleged acts of Defendants Mojave, Western,  
12 Whiting and Fidelity.

13 15. Crossclaimant contends that they are in no way responsible for the events giving  
14 rise to Cashman's causes of actions or legally responsible in any other manner for the damages  
15 allegedly sustained by Cashman. If contrary to the foregoing allegations, Crossclaimant is held to  
16 be liable for damages as alleged in Cashman's Second Amended Complaint, such damages were  
17 proximately caused by the acts and/or omissions of Crossdefendants. Therefore, Crossclaimant  
18 is entitled to be indemnified by Crossdefendant should such liability arise.

19 16. If Crossclaimant is held liable to Cashman for damages, said liability will be the  
20 direct and proximate result of the affirmative conduct on the part of the Crossdefendants.

21 17. Crossclaimant is entitled to complete indemnification by Crossdefendants for  
22 any such sums for which they may be adjudicated to Crossclaimant, together with costs of  
23 defense, costs of suit, and reasonable attorney's fees there from.

24 **THIRD CAUSE OF ACTION**  
25 **(CONTRIBUTION)**

26 18. Crossclaimant repeats, realleges and incorporates by reference Paragraphs 1  
27 through 17 of this Crossclaim as though fully set forth herein.

28 19. It is alleged in Cashman's Second Amended Complaint that Cashman incurred



1 recoverable damages as a result of the alleged acts of Crossclaimant and Crossdefendants.

2 20. Crossclaimant contends that they are in no way responsible for the events giving  
3 rise to Cashman's causes of actions or legally responsible in any other manner for the damages  
4 allegedly sustained by Cashman. If, contrary to the foregoing allegations, Crossclaimant is held  
5 to be liable for all or any part of the claim for damages asserted, Crossdefendants, to the extent  
6 that its fault is determined by the Court, is obligated to reimburse Crossclaimant and is also  
7 liable to Crossclaimant for all or any liability so assessed by way of contribution. Therefore,  
8 Crossclaimant accordingly asserts their rights to contribution.

9 **PRAYER**

10 WHEREFORE, Crossclaimants hereby pray for judgment as follows:

11 1. That Plaintiff Cashman take nothing from Crossclaimant by reason of its Second  
12 Amended Complaint;

13 2. That Crossdefendants be required to indemnify Crossclaimant for any and all  
14 amounts that Crossclaimant is found to be due and owing to Plaintiff Cashman;

15 3. That Crossdefendants be required to contribute to the payment of any and all  
16 amounts adjudged by this Court to be due and owing to Plaintiff Cashman herein from  
17 Crossclaimant;

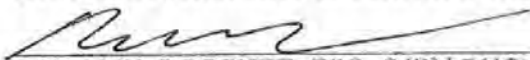
18 4. For return of the property converted from Plaintiff Cashman;

19 5. For all costs and expenses, including reasonable attorneys' fees, incurred by  
20 Crossclaimant in connection with the commencement and prosecution of this action; and

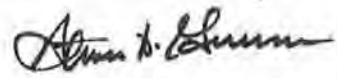
21 6. For such other and further relief as the Court deems just and proper.

22 Dated this 27 day of October, 2011.

23 **SANTORO, DRIGGS, WALCH,  
24 KEARNEY, HOLLEY & THOMPSON**

25   
26 BRIAN W. BOSCH, ESQ. (NBN 7612)  
27 SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
28 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Defendants, Counterclaimants  
and Crossclaimants*



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**ERR**

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Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
*Attorneys for Defendants, Counterclaimant  
and Crossclaimant*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD. dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; FIDELITY AND  
DEPOSIT COMPANY OF MARYLAND, a  
surety; DOES 1-10, inclusive; and ROE  
CORPORATIONS 1-10 inclusive;

Defendants.

WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation,

Counterclaimant.

v.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Counterdefendant.

WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation,

Crossclaimant,

Case No.: A642583  
Dept. No.: 32

**ERRATA TO AMENDED ANSWER TO  
SECOND AMENDED COMPLAINT,  
COUNTERCLAIM AGAINST CASHMAN  
EQUIPMENT COMPANY AND  
CROSSCLAIM AGAINST CAM  
CONSULTING, INC. AND ANGELO  
CARVALHO**

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

SDW

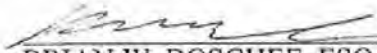


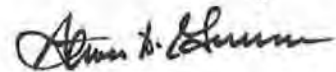
1 v.

2 CAM CONSULTING, INC., a Nevada  
3 corporation; ANGELO CARVALHO, an  
4 individual,

5 Crossdefendants.

6 Defendants WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada  
7 corporation ("Mojave"); WESTERN SURETY COMPANY, a surety ("Western"); THE  
8 WHITING TURNER CONTRACTING COMPANY, a Maryland corporation, ("Whiting"); and  
9 FIDELITY AND DEPOSIT COMPANY OF MARYLAND; a surety (collectively  
10 "Defendants"), through their attorneys of record, the law firm of SANTORO, DRIGGS,  
11 WALCH, KEARNEY, HOLLEY & THOMPSON, hereby file their Errata to Amended Answer  
12 to the Second Amended Complaint, Counterclaim against Cashman Equipment Company and  
13 Crossclaim against CAM Consulting, Inc. and Angelo Carvalo. The Errata is being filed due to  
14 Defendant FIDELITY AND DEPOSIT COMPANY OF MARYLAND not being included in the  
15 first paragraph of the Amended Answer, and because Plaintiff inadvertently did not include  
16 FIDELITY AND DEPOSTI COMPANY OF MARYLAND in the Second Amended Complaint.

17 Dated this 16 day of November, 2011,18 **SANTORO, DRIGGS, WALCH,  
19 KEARNEY, HOLLEY & THOMPSON**20   
21 BRIAN W. BOSCH, ESQ. (NBN 7612)  
22 SHELILLY A. BRISCOE, ESQ. (NBN 9985)  
23 400 South Fourth Street, Third Floor  
24 Las Vegas, Nevada 8910125 *Attorneys for Defendants, Counterclaimants  
26 and Crossclaimants*  
27  
28



CLERK OF THE COURT

1 CCAN

2 Jennifer R. Lloyd-Robinson, Esq.

3 Nevada Bar No. 9617

4 Marisa L. Maskas, Esq.

5 Nevada Bar No. 10928

6 **PEZZILLO ROBINSON**

7 6750 Via Austi Parkway, Suite 170

8 Las Vegas, Nevada 89119

9 Tel: (702) 233-4225

10 Fax: (702) 233-4252

11 *Attorneys for Plaintiff,*

12 *Cashman Equipment Company*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 CASHMAN EQUIPMENT COMPANY, a  
16 Nevada corporation,

17 Plaintiff,

18 vs,

19 CAM CONSULTING INC., a Nevada  
20 corporation; ANGELO CARVALHO, an  
21 individual; JANEL RENNIE aka JANEL  
22 CARVALHO, an individual; WEST EDNA  
23 ASSOCIATES, LTD., dba MOJAVE  
24 ELECTRIC, a Nevada corporation;  
25 WESTERN SURETY COMPANY, a  
26 surety; THE WHITING TURNER  
27 CONTRACTING COMPANY, a Maryland  
28 corporation; FIDELITY AND DEPOSIT  
COMPANY OF MARYLAND, a surety;  
DOES 1 - 10, inclusive; and ROE  
CORPORATIONS 1 - 10, inclusive;

Defendants.

Case No.: A642583

Dept. No.: 32

**CASHMAN EQUIPMENT COMPANY'S  
RESPONSE TO WEST EDNA  
ASSOCIATES, LTD., dba MOJAVE  
ELECTRIC'S COUNTERCLAIM**

///

///

**CASHMAN EQUIPMENT COMPANY'S RESPONSE TO WEST EDNA  
ASSOCIATES, LTD., dba MOJAVE ELECTRIC'S COUNTERCLAIM**

COMES NOW, CASHMAN EQUIPMENT COMPANY ("Cashman" or "Counterdefendant"), by and through its attorneys of record, PEZZILLO ROBINSON, and hereby files its Answer to WEST EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC's (hereinafter "Counterclaimant") Counterclaim, and hereby admits, denies and alleges as follows:

1. Cashman is without sufficient information to either answer or deny the allegations contained in the following paragraphs of Counterclaimant's Counterclaim: 1, 7, 8, 9, 24 and 31.

2. Cashman admits to the following allegation contained Counterclaimant's Counterclaim: 2.

3. Cashman denies the allegations contained in the following paragraphs of Counterclaimant's Counterclaim: 3, 5, 6, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 25, 26, 27, 29, 30, 32, 33, and 34.

4. Cashman repeats, realleges and incorporates its admissions, denials and/or other responses to the allegations set forth in the following paragraphs of Counterclaimant's Counterclaim: 4, 16, 23 and 28.

5. Cashman denies that Counterclaimant is entitled to any of the relief requested in their prayer for relief.

**AFFIRMATIVE DEFENSES**

1. The allegations of the Counterclaim not specifically admitted are hereby denied.

2. The Counterclaim, and each and every allegation thereof, fails to state facts sufficient to constitute a claim against this answering Counterdefendant.

1           3.     There is no contract between Counterclaimant and Counterdefendant.

2           4.     Defendant CAM CONSULTING INC. acted as agent of Counterclaimant.

3           5.     Counterclaimant's claims and damages, if any, are proximately and legally  
4 caused by parties over whom Counterdefendant had no control.

5           6.     Counterclaimants' claims are barred under the equitable theory of unclean  
6 hands.

7           7.     The Counterclaim is barred by the doctrine of waiver.

8           8.     Counterclaimant's claims are barred under the equitable theory of estoppel.

9           9.     Counterclaimant's claims are barred under the equitable theory of laches.

10          10.    Counterclaimant's claims and damages, if any, have been willfully and  
11 intentionally overstated and Counterclaimant's claims are therefore barred by  
12 Counterclaimant's own malfeasance and misfeasance.

13          11.    Counterclaimant's damages, if any, are caused by their own actions, errors or  
14 omissions, thereby releasing and discharging Counterdefendant from any liability whatsoever  
15 to Counterclaimant.

16          12.    Counterclaimant is not entitled to the damages that it is seeking.

17          13.    Counterclaimant's damages, if any, are subject to offset.

18          14.    Counterclaimant's pursuit of its claims against Counterdefendant, under the  
19 circumstances of this matter, is a violation of the covenant of good faith and fair dealing  
20 implied in all of their agreements, barring it from recovery against them in this action.

21          15.    Counterclaimant brings forth its claims in bad faith, with an ulterior motive to  
22 harass Counterdefendants, abuse the litigation process and raise frivolous and unfounded  
23 claims against Counterdefendants causing damage to Counterdefendant.

24          16.    This answering Counterdefendant has not had sufficient time to prepare and  
25 obtain sufficient facts to determine all potential affirmative defenses pursuant to NRCp 11.  
26  
27  
28




Pezzillo Robinson  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

1 Therefore, this answering Counterdefendant reserves the right to amend these affirmative  
2 defenses as additional facts are obtained and/or additional affirmative facts are discovered,

3 DATED: November 18, 2011

PEZZILLO ROBINSON

5 By:


  
Jennifer R. Lloyd-Robinson, Esq.  
Nevada State Bar # 9617  
6750 Via Austi Pkwy., Suite 170  
Las Vegas, Nevada 89119  
Tel: (702) 233-4225  
*Attorneys for Plaintiff*

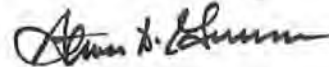
10 **CERTIFICATE OF SERVICE**

11 The undersigned, an employee of the law firm of PEZZILLO ROBINSON, hereby  
12 certifies that on November 18, 2011, a true and correct copy of the foregoing document,  
13 **CASHMAN EQUIPMENT COMPANY'S RESPONSE TO WEST EDNA**  
14 **ASSOCIATES, LTD., dba MOJAVE ELECTRIC'S COUNTERCLAIM** was served by  
15 placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas,  
16 Nevada, said envelope(s) addressed to:

19 Brian W. Boschee, Esq.  
20 SANTORO, DRIGGS, ET AL.  
21 400 S. 4<sup>th</sup> St., 3<sup>rd</sup> Fl.  
Las Vegas, NV 89101

22 Edward S. Coleman, Esq.  
23 Coleman Law Associates  
24 6615 S. Eastern Ave., Ste. 108  
Las Vegas, NV 89119

25   
26 An employee of PEZZILLO ROBINSON  
27  
28



CLERK OF THE COURT

**COMP**

Jennifer R. Lloyd-Robinson, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170

Las Vegas, Nevada 89119

Tel: (702) 233-4225

Fax: (702) 233-4252

*Attorneys for Plaintiff,*

*Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES,  
LTD., dba MOJAVE ELECTRIC, a Nevada  
corporation; ELEMENT IRON & DESIGN,  
LLC, a Nevada limited liability company;  
COMMITTEE TO ELECT RICHARD  
CHERCHIO; TONIA TRAN, an individual;  
LINDA DUGAN, an individual; MICHAEL  
CARVALHO, an individual; BERNIE  
CARVALHO, an individual; SWANG  
CARVALHO, an individual; JANEL  
CARVALHO, an individual; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.

CASE NO.: A-11-653029-C  
DEPT. NO.: IV

**COMPLAINT**

[Arbitration Exemption Requested -  
Exceeds \$50,000]

**Pezzillo Robinson**  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

1 COMES NOW, Plaintiff, CASHMAN EQUIPMENT COMPANY, (hereinafter  
2 "Cashman" or "Plaintiff") by and through its attorneys of record, Pezzillo Robinson, in  
3 support of its Complaint against the Defendants named herein and alleges as follows:

4 **PARTIES, JURISDICTION AND VENUE**

5 1. Plaintiff, Cashman, is a Nevada corporation duly authorized to conduct  
6 business and conducting business within the State of Nevada.

7 2. Plaintiff is informed and believes and based thereon alleges that Defendant  
8 CAM CONSULTING INC. ("CAM"), is or was at all times relevant to this action, a Nevada  
9 corporation authorized to conduct business in the State of Nevada.

10 3. Plaintiff is informed and believes and based thereon alleges that Defendant  
11 ANGELO CARVALHO ("A. CARVALHO") is a resident of Clark County, Nevada and an  
12 owner of Defendant CAM.

13 4. Plaintiff is informed and believes and based thereon alleges that Defendant  
14 WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("MOJAVE") is or was at  
15 all times relevant to this action, a Nevada limited liability company.

16 5. Plaintiff is informed and believes and based thereon alleges that Defendant  
17 ELEMENT IRON & DESIGN, LLC ("ELEMENT"), is or was at all times relevant to this  
18 action, a Nevada limited liability company authorized to conduct business in the State of  
19 Nevada.

20 6. Plaintiff is informed and believes and based thereon alleges that Defendant  
21 COMMITTEE TO ELECT RICHARD CHERCHIO ("COMMITTEE") is an unknown entity.

22 7. Plaintiff is informed and believes and based thereon alleges that Defendant  
23 TONIA TRAN ("TRAN") is an individual and resident of Clark County, Nevada.

24 8. Plaintiff is informed and believes and based thereon alleges that Defendant  
25 LINDA DUGAN ("DUGAN") is an individual and a resident of San Luis Obispo County,  
26

27  
28

1 California.

2 9. Plaintiff is informed and believes and based thereon alleges that Defendant  
3 MICHAEL CARVALHO ("M. CARVALHO") is an individual and a resident of San Luis  
4 Obispo County, California.

5 10. Plaintiff is informed and believes and based thereon alleges that Defendant  
6 BERNIE CARVALHO ("B. CARVALHO") is an individual and a resident of California.

7 11. Plaintiff is informed and believes and based thereon alleges that Defendant  
8 SWANG CARVALHO ("S. CARVALHO") is an individual and a resident of San Luis  
9 Obispo County, California.

10 12. Plaintiff is informed and believes and based thereon alleges that Defendant  
11 JANEL RENNIE aka JANEL CARVALHO ("J. CARVALHO") is an individual and a  
12 resident of Clark County, Nevada.

13 13. Defendants sued herein under the fictitious names of DOES 1 through 10,  
14 inclusive, are presently unknown to Plaintiff but are believed to reside in the State of Nevada  
15 and are in some respect liable for the acts and omissions, whether intentional, negligent or  
16 otherwise, alleged herein.

17 14. Defendants sued herein under the fictitious names of ROE  
18 CORPORATIONS 1 through 10, inclusive, are presently unknown to Plaintiff but are  
19 believed to be corporations authorized to conduct business in the State of Nevada and are in  
20 some respect liable for the acts and omissions, whether intentional, negligent or otherwise,  
21 alleged herein.

22 15. The Defendants identified in Paragraphs 3 through 9, above, shall be  
23 collectively referred to as "Defendants".

24 16. The transactions sued upon herein were performed in Clark County, Nevada.  
25  
26  
27  
28



1                                   **FACTS COMMON TO ALL CAUSES OF ACTION**

2           17.   Plaintiff and CAM entered into an agreement whereby Plaintiff agreed to sell  
3 equipment to CAM ("the Contract").

4           18.   The equipment Plaintiff provided CAM was incorporated into a Project  
5 commonly referred to as the New Las Vegas City Hall.

6           19.   WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("Mojave"),  
7 the electrical subcontractor on the Project, provided several payments to CAM in late April  
8 2011 for the equipment provided by Cashman used on the Project.

9           20.   On April 27, 2011, \$600,000.00 was withdrawn from CAM's bank account at  
10 Nevada State Bank, which held the funds to be paid to Cashman for the equipment Cashman  
11 sold to CAM, and was deposited into A. CARVALHO's personal checking account at Wells  
12 Fargo bank.

13           21.   On April 29, 2011, CAM and A. CARVALHO issued payment to Cashman in  
14 the form of a check from Nevada State Bank in the amount of \$755,893.89 for the equipment  
15 supplied to CAM by Cashman.

16           22.   Cashman deposited the check, but it was returned by the bank as CAM and A.  
17 CARVALHO stopped payment on the check.

18           23.   CAM and A. CARVALHO then again issued another check to Cashman in the  
19 amount of \$755,893.89.

20           24.   Plaintiff presented the second check to the bank upon which it was drawn,  
21 Nevada State Bank, and was informed that the account did not have sufficient funds to cover  
22 the check.

23           25.   Plaintiff has discovered that the monies belonging to Cashman which were  
24 wrongfully possessed by CAM and A. CARVALHO were fraudulently disbursed from A.  
25 CARVALHO's personal checking account at Wells Fargo bank as follows:  
26  
27  
28

- a) Defendant ELEMENT received \$75,000.00 of the stolen funds in two separate payments: Check No. 154 dated May 4, 2011 in the amount of \$50,000.00 and Check No. 172 dated May 23, 2011 in the amount of \$25,000.00;
- b) Defendant COMMITTEE received a payment of \$1,000.00 (Check No. 163 dated May 12, 2011);
- c) Defendant TRAN received two payments totaling \$10,000.00: Check No. 153 dated May 3, 2011 in the amount of \$5,000.00 and Check No. 170 dated May 19, 2011 in the amount of \$5,000.00;
- d) Defendant, L.DUGAN received a payment of \$7,000.00 (Check No. 168 dated May 18, 2011);
- e) Defendant, M. CARVALHO received payment of \$10,000.00 (Check No. 155 dated May 10, 2011);
- f) Defendant, B. CARVALHO received payment of \$5,000.00 (Check No. 156 dated May 11, 2011);
- g) Defendant, S. CARVALHO received payment of \$200 (Check No. 150 dated May 2, 2011);
- h) Defendant, J. CARVALHO received payment of \$2,500.00 (Check No. 151 dated May 3, 2011);

26. Plaintiff is informed and believes and based thereon alleges that Plaintiff has discovered that the monies belonging to Cashman which were wrongfully possessed by CAM and A. CARVALHO were fraudulently disbursed from CAM's bank account at Nevada State Bank as follows:

- a) Defendant MOJAVE received two payments totaling \$275,636.70; Check No. 1032 dated April 27, 2011 in the amount of \$139,367.70 and Check

No. 1033 dated April 28, 2011 in the amount of \$136,269.00;

27. The transfers identified in Paragraphs 25 and 26 shall be referred to collectively as "the Transfers."

28. Plaintiff is informed and believes and based thereon alleges that Defendants L. DUGAN, M. CARVALHO, B. CARVALHO, S. CARVALHO and J. CARVALHO are believed to be family members of A. CARVALHO and are therefore "insiders" under NRS 112.150(7).

29. Plaintiff is informed and believes and based thereon alleges that A. Carvalho is a general partner, director and/or officer of ELEMENT DESIGN and therefore ELEMENT DESIGN is an "insider" under NRS 112.150(7).

**FIRST CAUSE OF ACTION  
(FRAUDULENT TRANSFER – N.R.S. §112.180 - AGAINST ALL DEFENDANTS)**

30. Plaintiff hereby re-alleges and incorporates each and every allegation set forth in paragraphs 1 through 29 above.

31. Plaintiff is informed and believes and based thereon alleges that CAM and A. CARVALHO made the Transfers as herein alleged with actual intent to hinder, delay or defraud creditor/Plaintiff CASHMAN.

32. Plaintiff is informed and believes and based thereon alleges that the Transfers were made without receiving a reasonably equivalent value in exchange for the Transfer.

33. Plaintiff is informed and believes and based thereon alleges that most of the Transfers were made to family members and ELEMENT.

34. The transfers were not disclosed or were concealed from Cashman;

35. Plaintiff is informed and believes and based thereon alleges that the transfers were of substantially all CAM and A. CARVALHO's assets;

36. CAM and A. CARVALHO removed or concealed assets; and/or

1 37. Plaintiff is informed and believes and based thereon alleges that CAM and A.  
2 CARVALHO were insolvent or became insolvent shortly after the transfers were made.

3  
4 **SECOND CAUSE OF ACTION**  
5 **(FRAUDULENT TRANSFER – N.R.S. §112.190(1) – AGAINST ALL DEFENDANTS)**

6 38. Plaintiff hereby re-alleges and incorporates each and every allegation set forth  
7 in paragraphs 1 through 37 above.

8 39. Cashman's claim arose prior to the Transfers.

9 40. Plaintiff is informed and believes and based thereon alleges that CAM and A.  
10 CARVALHO made the Transfers without receiving a reasonably equivalent value in  
11 exchange therefore.

12 41. Plaintiff is informed and believes and based thereon alleges that CAM and A.  
13 CARVALHO were insolvent at the time of the Transfers and/or became insolvent as a result  
14 of the Transfers.

15  
16 **THIRD CAUSE OF ACTION**  
17 **(FRAUDULENT TRANSFER – N.R.S. §112.190(2) - AGAINST ELEMENT,**  
18 **L. DUGAN, M. CARVALHO, B. CARVALHO, S. CARVALHO and J. CARVALHO)**

19 42. Plaintiff hereby re-alleges and incorporates each and every allegation set forth  
20 in paragraphs 1 through 41 above.

21 43. Cashman's claim arose prior to the Transfers.

22 44. Plaintiff is informed and believes and based thereon alleges that CAM and A.  
23 CARVALHO made the Transfers to Defendants.

24 45. Plaintiff is informed and believes and based thereon alleges that Defendants  
25 are considered insiders of CAM and A. CARVALHO as defined in NRS 112.150(7), and as  
26 utilized in NRS 112.190(2).

27 46. Plaintiff is informed and believes and based thereon alleges that CAM and A.  
28



1 CARVALHO were insolvent at the time of the Transfers.

2 47. Plaintiff is informed and believes and based thereon alleges that as insiders of  
3 CAM and A. CARVALHO, Defendants had reasonable cause to believe that CAM and A.  
4 CARVALHO were insolvent.  
5

6 WHEREFORE, Plaintiff prays for relief as follows:

7 1. Statutory relief under Chapter 112 of the Nevada Revised Statutes, including  
8 avoidance of the transfers to the extent necessary to satisfy Plaintiff's claims; judgment for the  
9 amount necessary to satisfy Plaintiff's claims; or any other relief the circumstances may  
10 require.

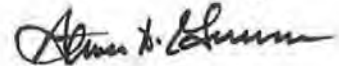
- 11 2. For punitive damages according to proof;  
12 3. For reasonable attorney's fees;  
13 4. For costs of suit incurred herein; and  
14 5. For such other relief as the Court deems just and proper.  
15

16 DATED: December 9, 2011

PEZZILLO ROBINSON

17  
18  
19 By: \_\_\_\_\_

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617  
Marisa D. Maskas, Esq.  
Nevada Bar No. 10928  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff,  
Cashman Equipment Company*



CLERK OF THE COURT

**MCSD**  
BRIAN W. BOSCHKE, ESQ. (NBN 7612)  
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SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
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400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
*Attorneys for Defendants, Counterclaimant  
and Crossclaimant*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD. dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; FIDELITY AND  
DEPOSIT COMPANY OF MARYLAND, a  
surety; DOES 1-10, inclusive; and ROE  
CORPORATIONS 1-10 inclusive;

Defendants.

WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation,

Counterclaimant.

v.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Counterdefendant.

Case No.: A-11-642583-C  
Dept. No.: XXXII

**MOTION TO CONSOLIDATE ON AN  
ORDER SHORTENING TIME**

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

**SDW**

1 WEST EDNA ASSOCIATES, LTD. dba  
2 MOJAVE ELECTRIC, a Nevada corporation,

3 Crossclaimant,

4 v.

5 CAM CONSULTING, INC., a Nevada  
6 corporation; ANGELO CARVALHO, an  
7 individual,

8 Crossdefendants.

9 **MOTION TO CONSOLIDATE ON AN ORDER SHORTENING TIME**

10 Defendants WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada  
11 corporation ("Mojave"), WESTERN SURETY COMPANY, a surety ("Western"), THE  
12 WHITING TURNER CONTRACTING COMPANY, a Maryland corporation, ("Whiting"), and  
13 FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a surety ("Fidelity") (collectively  
14 "Defendants"), through their attorneys of record, the law firm of Santoro, Driggs, Walch,  
15 Kearney, Holley and Thompson, hereby moves this Court for an order consolidating cases  
16 *Cashman Equipment Company v. CAM Consulting Inc., et al*, district court case number A-11-  
17 642583-C (the "First Cashman Case"), and *Cashman Equipment Company v. CAM Consulting,*  
18 *Inc., et al*, district case number A-11-653029-C (the "Second Cashman Case"), pursuant to  
19 NRCP 42(a) and EDCR 2.50. Defendants further request that this matter be heard on shortened  
20 time pursuant to EDCR 2.26.

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...



1 This Motion to Consolidate (the "Motion") is made and based on the papers and  
2 pleadings on file herein, the below Memorandum of Points and Authorities, the Declaration of  
3 Shemilly A. Briscoe, Esq. together with such other evidence and argument as may be presented  
4 and considered by this Court at any hearing regarding the Motion.

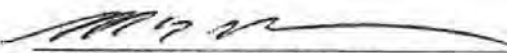
5 Dated this 4<sup>th</sup> day of January, 2012.

6 SANTORO, DRIGGS, WALCH,  
7 KEARNEY, HOLLEY & THOMPSON

8   
9 BRIAN W. BOSCH, ESQ. (NBN 7612)  
10 SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
11 400 South Fourth Street, Third Floor  
12 Las Vegas, Nevada 89101  
13 Attorneys for Defendants, Counterclaimants  
14 and Crossclaimants


15 **ORDER SHORTENING TIME**

16 Upon good cause shown, please take notice that the hearing before the above-titled Court  
17 on the **MOTION TO CONSOLIDATE** is hereby shortened to the 27<sup>th</sup> day of  
18 January, 2012, at 9:00 a.m. or as soon thereafter as counsel can be heard. any  
19 opposition shall be filed by January 20, 2012. @  
20 Dated this 11 day of January, 2012.

21   
22 DISTRICT COURT JUDGE  
23 ROB BARE  
24 JUDGE, DISTRICT COURT, DEPARTMENT 32

25 Respectfully Submitted by:

26 SANTORO, DRIGGS, WALCH,  
27 KEARNEY, HOLLEY & THOMPSON

28   
BRIAN W. BOSCH, ESQ. (NBN 7612)  
SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Attorneys for Defendants, Counterclaimants  
and Crossclaimants



**DECLARATION OF SHEMILLY A. BRISCOE, ESQ. IN SUPPORT OF ORDER  
SHORTENING TIME**

STATE OF NEVADA        }  
COUNTY OF CLARK      } ss.

I, Shemilly A. Briscoe, Esq., pursuant to NRS 53.045, declare as follows:

1. I am an attorney duly licensed to practice law in the State of Nevada and an associate of the law firm of Santoro, Driggs, Walch, Kearney, Holley & Thompson.

2. I am one of the attorneys for the Defendants in this action, case number A-11-642583-C, the First Cashman Case.

3. There exists good cause to hear the instant Motion on shortened time.

4. The complaint in the First Cashman Case was filed on June 3, 2011, and as of date, there have been multiple items filed, including, but not limited to, a complaint, two amended complaints, ex parte motions for service, an answer and counterclaim, an amended answer, a motion to dismiss, an opposition to a motion to dismiss, and a reply to a motion to dismiss.

5. The complaint in the Second Cashman Case was filed on December 9, 2011.

6. The deadline in which to answer or otherwise respond to the complaint in the Second Cashman Case could fall before any motions heard in the ordinary course. Therefore, Defendants respectfully request that this Motion be heard immediately so that the cases may be consolidated prior to any deadlines.

7. Since this request for an order shortening time is made in good faith and without dilatory motive, this Court should grant Defendants' application for an order shortening time for hearing the Motion.

  
SHEMILLY A. BRISCOE, ESQ.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. BACKGROUND/STATEMENT OF RELEVANT FACTS

3 On June 3, 2011, Plaintiff Cashman Equipment Company ("Cashman") filed suit in the  
4 First Cashman Case alleging wrongdoings and actions relating to a construction project referred  
5 to as the New Las Vegas City Hall Project (the "Project"). Approximately, four months later, on  
6 September 30, 2011, Cashman filed its Second Amended Complaint in this action, alleging  
7 claims for relief against, among others, CAM Consulting Inc. ("CAM"), Angelo Carvalho  
8 ("Carvalho"), and Mojave relating to the Project.<sup>1</sup> More specifically, in this Second Amended  
9 Complaint, in the first claim for relief, Cashman asserts that CAM and Cashman "entered into an  
10 agreement whereby [Cashman] agrees to sell equipment to [CAM] . . . for the total price of  
11 \$755,893.89."<sup>2</sup> CAM obtained payment for the equipment from Mojave in full, and Cashman  
12 provided a full release based upon that payment. However, CAM then issued a post dated check  
13 to Cashman and issued a stop payment.<sup>3</sup> CAM failed to ever provide the funds to Cashman and  
14 used the funds for other unauthorized purposes. The fraudulent transfer of those funds is the  
15 subject of the Second Cashman case.

16 Rather than adding additional defendants to the First Cashman Case, on December 9,  
17 2011, Cashman filed suit in the Second Cashman Case against multiple defendants, including,  
18 but not limited to, CAM, Carvalho, and Mojave. More specifically, in this complaint, Cashman  
19 refers to the \$755,893.89 check amount as one of the basis for bringing suit and the charges all  
20 relate to the transfer of the funds paid.<sup>4</sup>

21 This Court is familiar with the allegations of the First Cashman Case and the claims for  
22 the new case all revolve around the same operative facts and transaction. Further, discovery in  
23 the First Cashman Case is in its infancy and combining the cases would cause no prejudice to the  
24

25 <sup>1</sup> The thirteen claims for relief that Cashman asserts are: (1) breach of contract; (2) breach of the implied covenant of  
26 good faith and fair dealing; (3) foreclosure of security interest; (4) alter ego; (5) conversion; (6) fraud; (7) negligent  
27 misrepresentation; (8) quiet title; (9) enforcement of mechanic's lien release bond; (10) unjust enrichment; (11)  
28 contractor's license bond; (12) another unjust enrichment; and (13) another contractor's license bond.

<sup>2</sup> See Second Am. Compl. in the First Cashman Case at pg. 4.

<sup>3</sup> See *id.*

<sup>4</sup> See *id.*



1 parties involved. As such, through this current Motion, Defendants respectfully requests this  
2 Court to consolidate these two cases.

## 3 II. LEGAL ARGUMENT

4 EDCR 2.50 provides that “[m]otions for consolidation of two or more cases must be  
5 heard by the judge assigned to the case first commenced. If consolidation is granted, the  
6 consolidated case will be heard before the judge ordering consolidation.” To this end, since the  
7 First Cashman Case was filed before the Second Cashman Case, Defendants bring the instant  
8 Motion before this Court.

9 Further, Rule 42(a) of the Nevada Rules of Civil Procedure provides:

10 When actions involving a common question of law or fact are pending before the  
11 court, it may order a joint hearing or trial of any or all the matters in issue in the  
12 actions; it may order all the actions consolidated; and it may make such orders  
concerning proceedings therein as may tend to avoid unnecessary costs or delay.

13 Here, Defendants seek to consolidate the First Cashman Case with the Second Cashman  
14 Case. Both actions involve the same set of facts and similar legal issues, namely relating to  
15 CAM’s misappropriation of funds and fraudulent transfer of those funds to outside parties.  
16 Additionally, both actions are brought by Cashman and allege claims for relief against, amongst  
17 others, CAM, Carvalho, and Mojave.

18 Consolidation of these cases serves the interests of judicial economy, as this Court is  
19 already familiar with the First Cashman Case and has had hearings relating to this action in its  
20 courtroom. Discovery just started and the parties will not be prejudiced by consolidation. To the  
21 contrary, consolidation prevents the entry of inconsistent rulings or judgments and allows for all  
22 issues to be determined simultaneously. For these reasons, and to avoid unnecessary costs or  
23 delay in litigating similar cases in two different courts, Defendants respectfully request these  
24 matters be consolidated.

25 . . .

26 . . .

27 . . .

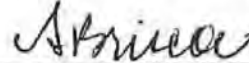
28 . . .

### III. CONCLUSION

Based on the foregoing, Defendants respectfully request that the First Cashman Case and the Second Cashman Case be consolidated.

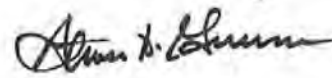
Dated this 4<sup>th</sup> day of January, 2012.

**SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON**



BRIAN W. BOSCH, ESQ. (NBN 7612)  
SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Defendants, Counterclaimants  
and Crossclaimants*





CLERK OF THE COURT

Pezzillo Robinson  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

**ACCP**

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617  
Marisa L. Maskas, Esq.  
Nevada Bar No. 10928

**PEZZILLO ROBINSON**

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Tel: (702) 233-4225  
Fax: (702) 233-4252  
*Attorneys for Plaintiff,  
Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES,  
LTD., dba MOJAVE ELECTRIC, a Nevada  
corporation; ELEMENT IRON & DESIGN,  
LLC, a Nevada limited liability company;  
COMMITTEE TO ELECT RICHARD  
CHERCHIO; TONIA TRAN, an individual;  
LINDA DUGAN, an individual; MICHAEL  
CARVALHO, an individual; BERNIE  
CARVALHO, an individual; SWANG  
CARVALHO, an individual; JANEL  
CARVALHO, an individual; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.


CASE NO.: A-11-653029-C  
DEPT. NO.: IV

**ACCEPTANCE OF SERVICE**

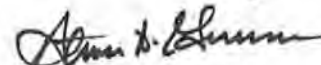
I, Shemilly Briscoe, Esq., hereby accept service of CASHMAN EQUIPMENT

Pezzillo Robinson  
6750 VIA ALISTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL. 702 233-4225

1 COMPANY's Complaint and Summons on behalf of Defendant, WEST EDNA  
2 ASSOCIATES, LTD., dba MOJAVE ELECTRIC and WESTERN SURETY COMPANY, in  
3 the above referenced matter on this 17<sup>th</sup> day of January, 2012:

4 

5 Shemilly Briscoe, Esq.  
6 SANTORO, DRIGGS, ET AL.  
7 400 S. 4<sup>th</sup> St., 3<sup>rd</sup> Fl.  
8 Las Vegas, NV 89101  
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CLERK OF THE COURT

**Pezillo Robinson**  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

**ACCP**

Jennifer R. Lloyd-Robinson, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170

Las Vegas, Nevada 89119

Tel: (702) 233-4225

Fax: (702) 233-4252

*Attorneys for Plaintiff,*

*Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES,  
LTD., dba MOJAVE ELECTRIC, a Nevada  
corporation; ELEMENT IRON & DESIGN,  
LLC, a Nevada limited liability company;  
COMMITTEE TO ELECT RICHARD  
CHERCHIO; TONIA TRAN, an individual;  
LINDA DUGAN, an individual; MICHAEL  
CARVALHO, an individual; BERNIE  
CARVALHO, an individual; SWANG  
CARVALHO, an individual; JANEL  
CARVALHO, an individual; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.

CASE NO.: A-11-653029-C  
DEPT. NO.: IV

**ACCEPTANCE OF SERVICE**

I, Edward S. Coleman, Esq., hereby accept service of CASHMAN EQUIPMENT

Pezillo Robinson  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

1 COMPANY's Complaint and Summons in the above entitled matter on behalf of Defendant,  
2 JANEL RENNIE aka JANEL CARVALHO, in the above referenced matter on this 13<sup>th</sup> day of

3 January, 2012:  
4

5 

6 Edward S. Coleman, Esq.

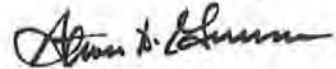
7 State Bar No. 601

8 Coleman Law Associates

9 6615 S. Eastern Avenue, Suite 108

10 Las Vegas, Nevada 89119  
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CLERK OF THE COURT

1 AOS

2 Jennifer R. Lloyd-Robinson, Esq.

3 Nevada State Bar #9617

4 Marisa L. Maskas, Esq.

5 Nevada State Bar #10928

6 PEZZILLO ROBINSON

7 6750 Via Austi Parkway, Suite 170

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 CASHMAN EQUIPMENT COMPANY, a  
14 Nevada corporation,

15 Plaintiff,

16 vs.

Case No.: A642583

Depl. No.: 32

**AFFIDAVIT OF SERVICE**

17 CAM CONSULTING INC., a Nevada  
18 corporation; ANGELO CARVALHO, an  
19 individual; JANEL RENNIE aka JANEL  
20 CARVALHO, an individual; WEST EDNA  
21 ASSOCIATES, LTD., dba MOJAVE  
22 ELECTRIC, a Nevada corporation; WESTERN  
23 SURETY COMPANY, a surety; THE  
24 WHITING TURNER CONTRACTING  
25 COMPANY, a Maryland corporation;  
26 FIDELITY AND DEPOSIT COMPANY OF  
27 MARYLAND, a surety; DOES 1 - 10, inclusive;  
28 and ROE CORPORATIONS 1 - 10, inclusive;

Defendants.

**Pezillo Robinson**  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel: 702 233-4225

LEGAL WINDS, INC.  
PROCESS LICENSE #389  
LAS VEGAS, NV  
(702)384-0805

AFFIDAVIT OF SERVICE

STATE OF NEVADA        )  
                              ) ss.  
COUNTY OF CLARK        )

Dillon Gulk and Tina J. Sanchez, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made.

That affiant, Dillon Gulk, on November 23, 2011 received:

**SUMMONS ON SECOND AMENDED COMPLAINT; SECOND AMENDED COMPLAINT; AFFIDAVIT OF DUE DILIGENCE; LETTER; \$10.00 CHECK**  
and served the same on November 23, 2011 at 12:18 p.m., to the Nevada Secretary of State at 555 E. Washington Ave, #5200, Las Vegas, Nevada 89101, on behalf of:

**CAM CONSULTING INC., a Nevada Corporation**

by leaving copies with Roxanna Sanchez, Administrative.

\* \* \*

\* \* \*

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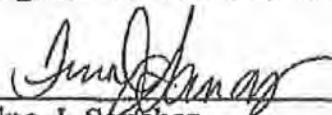
\* \* \*

LEGAL WINGS, INC.  
PROCESS LICENSE #389  
LAS VEGAS, NV  
(702)394-0005

1 That affiant, Tina J. Sanchez, posted one copy of said documents at the District  
2 Clerk's Office located at 200 Lewis Ave, 3rd floor, Las Vegas, Nevada 89101, on  
3 November 23, 2011 at 3:43 p.m.

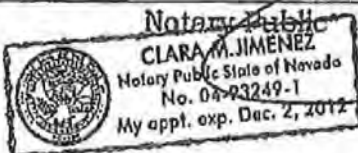
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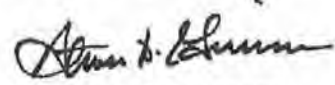
6 Dillon Gulk  
7 Registration Work Card #R-048916

8 

9 Tina J. Sanchez  
10 Registration Work Card #R-038221

11  
12 Subscribed and Sworn to Before me  
13 this 30, day of November, 2011.





CLERK OF THE COURT

DSO

DISTRICT COURT

CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CASE NO. A642583  
DEPT NO. XXXII

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka  
JANEL CARVALHO, an individual;  
WEST EDNA ASSOCIATES, LTD., dba  
MOJAVE ELECTRIC, a Nevada  
corporation; WESTERN SURETY  
COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1-10,  
inclusive; and ROE CORPORATIONS  
1-10, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

**SCHEDULING ORDER**

(Discovery/Dispositive Motions/Motions to Amend or Add Parties)

NATURE OF ACTION: Breach of contract

DATE OF FILING JOINT CASE CONFERENCE REPORT(S): 12/19/11

TIME REQUIRED FOR TRIAL: 2-3 days

Counsel for Plaintiff:

Marisa L. Maskas, Esq., Pezzillo Robinson

Counsel for Defendants WEST EDNA ASSOCIATES, LTD./WESTERN  
SURETY COMPANY/THE WHITING TURNER CONTRACTING COMPANY:

Shemilly A. Briscoe, Esq., Santoro, Driggs, Walch,  
Kearney, Holley & Thompson

Counsel for Defendant JANEL RENNIE:

Edward S. Coleman, Esq., Coleman Law Associates

RECEIVED

JAN 31 2012

CLERK OF THE COURT

DISCOVERY  
COMMISSIONER

EIGHTH JUDICIAL  
DISTRICT COURT

JA 0000126



1 Counsel representing all parties have been heard and  
2 after consideration by the Discovery Commissioner,  
3

4 IT IS HEREBY ORDERED:

5 1. all parties shall complete discovery on or before  
6 9/6/12.

7 2. all parties shall file motions to amend pleadings or  
8 add parties on or before 6/6/12.

9 3. all parties shall make initial expert disclosures  
10 pursuant to N.R.C.P. 16.1(a)(2) on or before 6/6/12.

11 4. all parties shall make rebuttal expert disclosures  
12 pursuant to N.R.C.P. 16.1(a)(2) on or before 7/6/12.

13 5. all parties shall file dispositive motions on or  
14 before 10/8/12.

15 Certain dates from your case conference report(s) may  
16 have been changed to bring them into compliance with N.R.C.P.  
17 16.1.  
18

19 Within 60 days from the date of this Scheduling Order,  
20 the Court shall notify counsel for the parties as to the date  
21 of trial, as well as any further pretrial requirements in  
22 addition to those set forth above.  
23

24 Unless otherwise directed by the court, all pretrial  
25 disclosures pursuant to N.R.C.P. 16.1(a)(3) must be made at  
26 least 30 days before trial.  
27

28 \* \* \*  
\* \* \*

DISCOVERY  
COMMISSIONER

EIGHTH JUDICIAL  
DISTRICT COURT

JA 0000127

1 Motions for extensions of discovery shall be made to the  
2 Discovery Commissioner in strict accordance with E.D.C.R.  
3 2.35. Discovery is completed on the day responses are due or  
4 the day a deposition begins.

5 Unless otherwise ordered, all discovery disputes (except  
6 disputes presented at a pre-trial conference or at trial) must  
7 first be heard by the Discovery Commissioner.

8 Dated this 31 day of January, 2012.

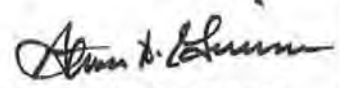
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11   
12 DISCOVERY COMMISSIONER

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on the date filed, I placed a copy  
15 of the foregoing DISCOVERY SCHEDULING ORDER in the folder(s)  
16 in the Clerk's office or mailed as follows:

17 Marisa L. Maskas, Esq.  
18 Shemilly A. Briscoe, Esq.  
19 Edward S. Coleman, Esq.

20   
21 COMMISSIONER DESIGNEE  
22  
23  
24  
25  
26  
27  
28



CLERK OF THE COURT

**NOTC**

BRIAN W. BOSCHKEE, ESQ.

Nevada Bar No. 7612

SHEMILLY A. BRISCOE, ESQ.

Nevada Bar No. 9985

SANTORO, DRIGGS, WALCH,

KEARNEY, HOLLEY & THOMPSON

400 South Fourth Street, Third Floor

Las Vegas, Nevada 89101

Telephone: 702/791-0308

Facsimile: 702/791-1912

[bboschkee@nevadafirm.com](mailto:bboschkee@nevadafirm.com)

[sbriscoe@nevadafirm.com](mailto:sbriscoe@nevadafirm.com)

*Attorneys for Defendants, Counterclaimants and Crossclaimants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD. dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; FIDELITY AND  
DEPOSIT COMPANY OF MARYLAND, a  
surety; DOES 1-10, inclusive; and ROE  
CORPORATIONS 1-10 inclusive;

Defendants.

AND RELATED MATTERS.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES, LTD.  
dba MOJAVE ELECTRIC, a Nevada

Case No: A642583  
Dept. No.: XXXII

**NOTICE OF ENTRY OF ORDER**

Case No.: A653029  
Dept No. IV



1 corporation; ELEMENT IRON & DESIGN,  
2 LLC, a Nevada limited liability company;  
3 COMMITTEE TO ELECT RICHARD  
4 CHERCHIO; TONIA TRAN, an individual;  
5 MICHAEL CARVALHO, an individual;  
6 BERNIE CARVALHO, an individual; SWANG  
7 CARVALHO, an individual; JANEL  
8 CARVALHO, in individual; DOES 1-10,  
9 inclusive; and ROE CORPORATIONS 1-10  
10 inclusive;

11 Defendants.

12 PLEASE TAKE NOTICE that an Order Granting Motion to Consolidate on an Order  
13 Shortening Time was entered by the Court on the 31<sup>st</sup> day of January, 2012, a true and correct  
14 copy of which is attached hereto.

15 DATED this 2<sup>nd</sup> day of February, 2012.

16 SANTORO, DRIGGS, WALCH,  
17 KEARNEY, HOLLEY & THOMPSON

18 *Briscoe*

19 BRIAN W. BOSCHKE, ESQ. (NBN 7612)  
20 SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
21 400 South Fourth Street, Third Floor  
22 Las Vegas, Nevada 89101

23 *Attorneys for Defendants, Counterclaimants and*  
24 *Crossclaimants West Edna Associates, Ltd.*  
25 *dba Mojave Electric; Western Surety Company;*  
26 *Whiting Turner Contracting Company;*  
27 *and Fidelity and Deposit Company of Maryland*  
28



**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the 2nd day of February, 2012 and pursuant to NRC  
5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE**  
**OF ENTRY OF ORDER**, postage prepaid and addressed to:

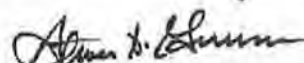
Jennifer R. Lloyd-Robinson, Esq.  
Marisa L. Maskas, Esq.  
PEZZILLO ROBINSON  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff/Counterdefendant*

Edward S. Coleman, Esq.  
COLEMAN LAW ASSOCIATES  
6615 S. Eastern Avenue, Ste. 108  
Las Vegas, Nevada 89119  
*Attorneys for Defendant Janel Rennie  
aka Janel Carvalho*

  
An employee of Santoro, Driggs, Walch,  
Kearney, Holley & Thompson

ORIGINAL

Electronically Filed  
01/31/2012 11:24:00 AM



CLERK OF THE COURT

**ORDER**

BRIAN W. BOSCHKE, ESQ.  
Nevada Bar No. 7612  
SHEMILLY A. BRISCOE, ESQ.  
Nevada Bar No. 9985  
SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
Facsimile: 702/791-1912  
[bboschke@nevadafirm.com](mailto:bboschke@nevadafirm.com)  
[sbriscoe@nevadafirm.com](mailto:sbriscoe@nevadafirm.com)

*Attorneys for Defendants, Counterclaimants and Crossclaimants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD, dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; FIDELITY AND  
DEPOSIT COMPANY OF MARYLAND, a  
surety; DOES 1-10, inclusive; and ROE  
CORPORATIONS 1-10 inclusive;

Defendants.

AND RELATED MATTERS.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES, LTD,  
dba MOJAVE ELECTRIC, a Nevada

Case No: A642583  
Dept. No.: XXXII

**ORDER GRANTING MOTION TO  
CONSOLIDATE ON AN ORDER  
SHORTENING TIME**

Case No.: A653029  
Dept No. IV

1 corporation; ELEMENT IRON & DESIGN,  
2 LLC, a Nevada limited liability company;  
3 COMMITTEE TO ELECT RICHARD  
4 CHERCHIO; TONIA TRAN, an individual;  
5 MICHAEL CARVALHO, an individual;  
6 BERNIE CARVALHO, an individual; SWANG  
7 CARVALHO, an individual; JANEL  
8 CARVALHO, in individual; DOES 1-10,  
9 inclusive; and ROE CORPORATIONS 1-10  
10 inclusive;

11 Defendants.

12 The parties came before this Court on January 27, 2012, in Department XXXII of the  
13 District Court, Clark County, Nevada, in the above-captioned matter, which includes cases  
14 A653029 and A642583. Appearing on behalf of the Plaintiffs in both cases was Marisa L.  
15 Maskas, Esq. of the law firm of Pezzillo Robinson. Appearing on behalf of Defendants, WEST  
16 EDNA ASSOCIATES, LTD. dba MOJAVE ELECTRIC, a Nevada corporation, WESTERN  
17 SURETY COMPANY, a surety, THE WHITING TURNER CONTRACTING COMPANY, a  
18 Maryland corporation, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, LLC, a  
19 surety was Shemilly Briscoe, Esq. of the law firm Santoro, Driggs, Walch, Kearney, Holley &  
20 Thompson.

21 The Court having considered the papers and pleadings of counsel; and good cause  
22 appearing:

23 IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that Case No. A653029  
24 (presently assigned to Department IV) shall be consolidated with Case No. A642583 in  
25 Department XXXII.  
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IT IS FURTHER ORDERED that Case No. A642583, *Cashman Equipment Company v. CAM Consulting, Inc., et al* shall act as the master case and that Case No. A653029 shall be reassigned to Department XXXII.

DATED this 30 day of Jan 2012.

  
DISTRICT COURT JUDGE  
ROB BARE  
JUDGE, DISTRICT COURT, DEPARTMENT 32

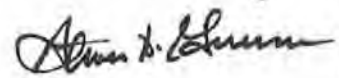
Prepared and submitted by:

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

  
BRIAN W. BOSCH, ESQ. (NBN 7612)  
SHEMILLY A. BRISCOE, ESQ. (NBN 9985)  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Defendants, Counterclaimants and  
Crossclaimants West Edna Associates, Ltd.  
dba Mojave Electric; Western Surety Company;  
Whiting Turner Contracting Company;  
and Fidelity and Deposit Company of Maryland*





CLERK OF THE COURT

ANS  
BRIAN W. BOSCHKE, ESQ.  
Nevada Bar No. 7612  
[bboschke@nevadafirm.com](mailto:bboschke@nevadafirm.com)  
SHEMILLY A. BRISCOE, ESQ.  
Nevada Bar No. 9985  
[sbriscoe@nevadafirm.com](mailto:sbriscoe@nevadafirm.com)  
SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
*Attorneys for Defendant West Edna  
Associates, Ltd. dba Mojave Electric*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES,  
LTD. dba MOJAVE ELECTRIC, a Nevada  
corporation; ELEMENT IRON & DESIGN,  
LLC, a Nevada limited liability company;  
COMMITTEE TO ELECT RICHARD  
CHERCHIO; TONIA TRAN, an individual;  
LINDA DUGAN, an individual; MICHAEL  
CARVALHO, an individual; BERNIE  
CARVALHO, an individual; SWANG  
CARVALHO, an individual; JANEL  
CARVALHO, an individual; DOES 1-10,  
inclusive; and ROE CORPORATIONS 1-10  
inclusive;

Defendants.

AND RELATED MATTERS

Case No.: A-11-653029-C

Dept. No.: IV

Consolidated with Case No. A-642583

Dept. No.: XXXII

**ANSWER TO COMPLAINT**

Defendant WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada  
corporation ("Mojave"), by and through its attorneys of record, the law firm of SANTORO,

///

1 DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and for its answer to Plaintiff  
2 CASHMAN EQUIPMENT COMPANY'S ("Cashman") Complaint (the "Complaint"), responds  
3 as follows:

4 **PARTIES, JURISDICTION AND VENUE**

- 5 1. Defendant admits the allegations contained in Paragraph 1 of the Complaint.
- 6 2. Defendant admits the allegations contained in Paragraph 2 of the Complaint.
- 7 3. Defendant admits the allegations contained in Paragraph 3 of the Complaint.
- 8 4. Defendant admits the allegations contained in Paragraph 4 of the Complaint.
- 9 5. Defendant is without sufficient information or knowledge to form a belief as to  
10 the truth of the allegations contained in Paragraph 5 of the Complaint and, therefore, denies the  
11 allegations contained therein.
- 12 6. Defendant is without sufficient information or knowledge to form a belief as to  
13 the truth of the allegations contained in Paragraph 6 of the Complaint and, therefore, denies the  
14 allegations contained therein.
- 15 7. Defendant is without sufficient information or knowledge to form a belief as to  
16 the truth of the allegations contained in Paragraph 7 of the Complaint and, therefore, denies the  
17 allegations contained therein.
- 18 8. Defendant is without sufficient information or knowledge to form a belief as to  
19 the truth of the allegations contained in Paragraph 8 of the Complaint and, therefore, denies the  
20 allegations contained therein.
- 21 9. Defendant is without sufficient information or knowledge to form a belief as to  
22 the truth of the allegations contained in Paragraph 9 of the Complaint and, therefore, denies the  
23 allegations contained therein.
- 24 10. Defendant is without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 10 of the Complaint and, therefore, denies the  
26 allegations contained therein.

27 ///



1           11. Defendant is without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 11 of the Complaint and, therefore, denies the  
3 allegations contained therein.

4           12. Defendant is without sufficient information or knowledge to form a belief as to  
5 the truth of the allegations contained in Paragraph 12 of the Complaint and, therefore, denies the  
6 allegations contained therein.

7           13. The allegation contained in Paragraph 13 of the Complaint constitutes a statement  
8 of the law rather than a factual allegation against Defendant and, therefore, requires no response.  
9 To the extent that Defendant is required to respond to this paragraph, Defendant is without  
10 sufficient information or knowledge to form a belief as to the truth of the allegations contained in  
11 Paragraph 13 of the Complaint and, therefore, denies the allegations contained therein.

12           14. The allegation contained in Paragraph 14 of the Complaint constitutes a statement  
13 of the law rather than a factual allegation against Defendant and, therefore, requires no response.  
14 To the extent that Defendant is required to respond to this paragraph, Defendant is without  
15 sufficient information or knowledge to form a belief as to the truth of the allegations contained in  
16 Paragraph 14 of the Complaint and, therefore, denies the allegations contained therein.

17           15. The information contained in Paragraph 15 requires no response. To the extent  
18 that Defendant is required to respond to this paragraph, Defendant is without sufficient  
19 information or knowledge to form a belief as to the truth of the allegations contained in  
20 Paragraph 15 of the Complaint and, therefore, denies the allegations contained therein.

21           16. Defendant is without sufficient information or knowledge to form a belief as to  
22 the truth of the allegations contained in Paragraph 16 of the Complaint and, therefore, denies the  
23 allegations contained therein.

24                   **FACTS COMMON TO ALL CAUSES OF ACTION**

25           17. Upon information and belief, Defendant admits the allegations contained in  
26 Paragraph 17 of the Complaint.

27           18. Defendant admits the allegations contained in Paragraph 18 of the Complaint.

28           19. Defendant admits the allegations contained in Paragraph 19 of the Complaint.

1           20. Upon information and belief, Defendant admits the allegations contained in  
2 Paragraph 20 of the Complaint.

3           21. Upon information and belief, Defendant admits the allegations contained in  
4 Paragraph 21 of the Complaint.

5           22. Upon information and belief, Defendant admits the allegations contained in  
6 Paragraph 22 of the Complaint.

7           23. Upon information and belief, Defendant admits the allegations contained in  
8 Paragraph 23 of the Complaint.

9           24. Upon information and belief, Defendant admits the allegations contained in  
10 Paragraph 24 of the Complaint.

11           25. Defendant is without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations and, therefore, denies the allegations contained therein.

13               a) Defendant is without sufficient information or knowledge to form a belief  
14 as to the truth of the allegations and, therefore, denies the allegations contained therein.

15               b) Defendant is without sufficient information or knowledge to form a belief  
16 as to the truth of the allegations and, therefore, denies the allegations contained therein.

17               c) Defendant is without sufficient information or knowledge to form a belief  
18 as to the truth of the allegations and, therefore, denies the allegations contained therein.

19               d) Defendant is without sufficient information or knowledge to form a belief  
20 as to the truth of the allegations and, therefore, denies the allegations contained therein.

21               e) Defendant is without sufficient information or knowledge to form a belief  
22 as to the truth of the allegations and, therefore, denies the allegations contained therein.

23               f) Defendant is without sufficient information or knowledge to form a belief  
24 as to the truth of the allegations and, therefore, denies the allegations contained therein.

25               g) Defendant is without sufficient information or knowledge to form a belief  
26 as to the truth of the allegations and, therefore, denies the allegations contained therein.

27               h) Defendant is without sufficient information or knowledge to form a belief  
28 as to the truth of the allegations and, therefore, denies the allegations contained therein.



1           26. Defendant denies the allegations contained in Paragraph 26.

2           a) Defendant admits the allegations that it received the two payments for  
3 work performed, but denies the remaining allegations.

4           27. The allegations contained in Paragraph 27 of the Complaint do not require a  
5 response.

6           28. Defendant is without sufficient information or knowledge to form a belief as to  
7 the truth of the allegations contained in Paragraph 28 of the Complaint and, therefore, denies the  
8 allegations contained therein.

9           29. Defendant is without sufficient information or knowledge to form a belief as to  
10 the truth of the allegations contained in Paragraph 29 of the Complaint and, therefore, denies the  
11 allegations contained therein.

12                                   **FIRST CAUSE OF ACTION**  
13                                   **(FRAUDULENT TRANSFER – N.R.S. §112.180 – AGAINST ALL DEFENDANTS)**

14           30. Defendant incorporates by reference all responses to Paragraphs 1 through 29 of  
15 the Complaint as though fully set forth herein.

16           31. Defendant is without sufficient information or knowledge to form a belief as to  
17 the truth of the allegations contained in Paragraph 31 of the Complaint and, therefore, denies the  
18 allegations contained therein.

19           32. Defendant denies the allegations contained in Paragraph 32 of the Complaint.

20           33. Defendant is without sufficient information or knowledge to form a belief as to  
21 the truth of the allegations contained in Paragraph 33 of the Complaint and, therefore, denies the  
22 allegations contained therein.

23           34. Defendant denies the allegations contained in Paragraph 34 of the Complaint.

24           35. Defendant denies the allegations contained in Paragraph 35 of the Complaint.

25           36. Defendant is without sufficient information or knowledge to form a belief as to  
26 the truth of the allegations contained in Paragraph 36 of the Complaint and, therefore, denies the  
27 allegations contained therein.

28       ///

1           37. Defendant is without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 37 of the Complaint and, therefore, denies the  
3 allegations contained therein.

4                           **SECOND CAUSE OF ACTION**  
5                           **(FRAUDULENT TRANSFER – N.R.S. §- AGAINST ALL DEFENDANTS)**

6           38. Defendant incorporates by reference all responses to Paragraphs 1 through 37 of  
7 the Complaint as though fully set forth herein.

8           39. Defendant denies the allegations contained in Paragraph 39 of the Complaint.

9           40. Defendant denies the allegations contained in Paragraph 40 of the Complaint.

10          41. Defendant is without sufficient information or knowledge to form a belief as to  
11 the truth of the allegations contained in Paragraph 41 of the Complaint and, therefore, denies the  
12 allegations contained therein.

13                           **THIRD CAUSE OF ACTION**  
14                           **(FRAUDULENT TRANSFER – N.R.S. §112.190(2) – AGAINST ELEMENT, L. DUGAN,**  
15                           **M. CARVALHO, B. CARVALHO, S. CARVALHO AND J. CARVALHO)**

16          42. Defendant incorporates by reference all responses to Paragraphs 1 through 41 of  
17 the Complaint as though fully set forth herein.

18          43. Defendant denies the allegations contained in Paragraph 43 of the Complaint.

19          44. Defendant denies the allegations contained in Paragraph 44 of the Complaint.

20          45. Defendant denies the allegations contained in Paragraph 45 of the Complaint.

21          46. Defendant is without sufficient information or knowledge to form a belief as to  
22 the truth of the allegations contained in Paragraph 46 of the Complaint and, therefore, denies the  
23 allegations contained therein.

24          47. Defendant is without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 47 of the Complaint and, therefore, denies the  
26 allegations contained therein.

27                           **AFFIRMATIVE DEFENSES**

28          Defendant asserts the following defenses to this action. These defenses have been

///



1 labeled as "affirmative" defenses regardless of whether, as a matter of law, such defenses are  
2 truly affirmative defenses. Such designation should in no way be construed to constitute a  
3 concession on the part of Defendant or that it bears the burden of proof to establish such  
4 defense(s).

5 1. All allegations of the Complaint not specifically admitted are hereby denied.

6 2. Plaintiff fails to state a claim for relief against Defendant upon which relief can be  
7 granted.

8 3. At all material times, Defendant acted in good faith and exercised lawful rights in  
9 dealing with Plaintiff.

10 4. Plaintiff, by its own conduct or otherwise, is estopped from making any claim  
11 against Defendant.

12 5. Plaintiff has waived, by conduct or otherwise, any claim against Defendant.

13 6. The loss, injuries, damages, costs and attorneys' fees, if any, suffered by Plaintiff  
14 are the result of its own acts, omissions, or wrongdoing.

15 7. Defendant relied upon representations by the Plaintiff as to the Unconditional  
16 Release for payment and would not have made or accepted payment to Plaintiff's agent absent  
17 such representations.

18 8. Plaintiff is barred from obtaining any relief from any claim by operation of the  
19 doctrine of accord and satisfaction.

20 9. Plaintiff has failed to mitigate its damages, if any exist or were incurred, the  
21 existence of which is expressly denied by Defendant.

22 10. By virtue of the acts, conduct, mismanagement and/or omissions to act of the  
23 Plaintiff under the circumstances, Defendant is released and discharged from any liability  
24 whatsoever to Plaintiff, which liability is expressly denied.

25 11. Plaintiff ratified, approved, or acquiesced in the actions of Defendant.

26 12. Defendant CAM Consulting, Inc. acted as agent for Plaintiff.

27 13. Plaintiff has failed to satisfy conditions precedent to bringing any action against  
28 Defendant.

1           14. Plaintiff's claims are barred by the Doctrines of Mutual Mistake, Impossibility or  
2 Impracticability.

3           15. Any damages which Plaintiffs may have sustained by reason of the allegations of  
4 the Complaint were proximately caused, in whole or in part, by sets of persons other than  
5 Defendant and, therefore, Plaintiffs are not entitled to any relief from Defendant.

6           16. To the extent Plaintiff's claims are based in whole or in part on alleged oral  
7 promises or statements, such claims are barred by the lack of acceptance, lack of mutuality, and  
8 failure of consideration.

9           17. Plaintiff is not entitled to the damages that it is seeking.

10          18. The claims of Plaintiff fail for want or lack of consideration.

11          19. Plaintiff's pursuit of these claims against Defendant under the circumstances  
12 presented in this case is, in and of itself, a violation of the covenant of good faith and fair dealing  
13 implied in all of their agreements, barring it from any recovery against them in this action.

14          20. Damages and injuries suffered by Plaintiff, if any, are not attributable to any act,  
15 conduct, or omission on the part of Defendant.

16          21. Plaintiff's alleged damages, if any, should be offset by monies due and owing by  
17 CAM to Plaintiff.

18          22. The conduct of Defendant alleged to be wrongful was induced by Plaintiff's own  
19 wrongful conduct.

20          23. Plaintiff's claims for relief are barred on the grounds that Defendant has a valid  
21 justification for any alleged nonperformance of the alleged agreement.

22          24. Plaintiff materially breached the agreement between the parties, thereby excusing  
23 the future performance thereof by Defendant.

24          25. Plaintiff brings its claims in bad faith, with an ulterior motive to harass  
25 Defendant, abuse the litigation process, and otherwise raise frivolous and unfounded claims  
26 against Defendant causing Defendant to incur damages.

27          26. Plaintiff is barred from recovery by virtue of its unclean hands.

28 ///



27. Defendant has been forced to retain counsel to defend against Plaintiff's Complaint, and Defendant is entitled to an award of reasonable attorneys' fees.

28. Defendant had no reason to know of Defendant CAM/Carvalho's fraudulent purpose.

29. Defendant received payment from CAM in exchange for the value of work performed on an unrelated project.

30. Defendant did not have notice, actual or constructive, of CAM/Carvalho's stop payment or failure of funds at the time payment was received.

31. Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this Answer. Therefore, Defendant reserves the right to amend this Answer, including adding affirmative defenses, based upon discovery, review of document, and development of evidence in this case.

**WHEREFORE**, Defendant prays:

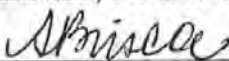
1. That Plaintiff take nothing by way of its Complaint from Defendant Mojave, and that the Complaint be dismissed against Defendant in its entirety with prejudice;

2. For an award of reasonable attorneys' fees and costs of suit incurred in the defense of Plaintiff's Complaint; and

3. For such other and further relief as this Court deems just and proper.

Dated this 2<sup>nd</sup> day of February, 2012.

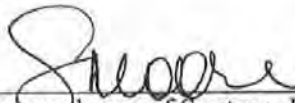
**SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON**

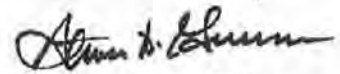
  
BRIAN W. BOSCH, ESQ.  
Nevada Bar No. 7612  
SHEMILLY A. BRISCOE, ESQ.  
Nevada Bar No. 9985  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Attorneys for Defendant West Edna Associates,  
Ltd. dba Mojave Electric

CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 2nd day of February, 2012 and pursuant to NRC  
5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **ANSWER**  
**TO COMPLAINT**, postage prepaid and addressed to:

Jennifer R. Lloyd-Robinson, Esq.  
Marisa L. Maskas, Esq.  
PEZZILLO ROBINSON  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff*

  
An employee of Santoro, Driggs, Walch,  
Kearney, Holley & Thompson



CLERK OF THE COURT

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,  
Plaintiff,

Case No. A642583  
Dept No. 32

v.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; WEST EDNA ASSOCIATES,  
LTD., dba MOJAVE ELECTRIC, a Nevada  
corporation; ELEMENT IRON & DESIGN,  
LLC, a Nevada limited liability company;  
COMMITTEE TO ELECT RICHARD  
CHERCHIO; TONIA TRAN, an individual;  
LINDA DUGAN, an individual; MICHAEL  
CARVALHO, an individual; BERNIE  
CARVALHO, an individual; SWANG  
CARVALHO, an individual; JANEL  
CARVALHO, an individual; DOES 1-10,  
inclusive; and ROE CORPORATIONS 1-10,  
inclusive;

Consolidated with  
Case No. A653029

Defendants.

**ORDER SETTING CIVIL NON-JURY TRIAL, PRE-TRIAL/CALENDAR CALL**

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set to be tried on a five week stack to begin, on **Monday, February 4, 2013, at 1:30 P.M.**

B. A Pre-Trial/Calendar Call with the designated attorney and/or parties in proper person will be held on **Friday, January 18, 2013, at 11:00 A.M.** As a courtesy to counsel and parties, please note that Calendar Call for Department 32 is scheduled to be held in **courtroom 11C**, however, please check courthouse monitors for any change in location.

C. The Pre-trial Memorandum must be filed prior to the Pre-Trial/Calendar Call, with a courtesy copy delivered to Department 32 Chambers. All parties, (Attorneys and parties in Proper Person) must comply with EDCR 2.67.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to

MC

CLERK OF THE COURT

RECEIVED  
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1 amend the pleadings or add parties are controlled by the previously issued Scheduling Order.

2 E. Pursuant to EDCR 2.35, a motion to continue trial due to any discovery issues or  
3 deadlines must be made before the Discovery Commissioner.


4 F. Pursuant to EDCR 2.47, all motions in limine to exclude or admit evidence must be  
5 in writing and filed not less than **45 days** prior to the date set for trial and must be heard not less than  
6 14 days prior to trial.

7 Orders shortening time will not be signed except in extreme emergencies and an upcoming  
8 trial date is not considered an extreme emergency in this context.

9 Failure of the designated trial attorney or any party appearing in proper person to  
10 appear for any court appearances or to comply with this Order shall result in any of  
11 the following: (1) dismissal of the action (2) default judgment; (3) monetary  
sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.

12 Counsel must advise the Court immediately when the case settles or is otherwise resolved  
13 prior to trial. A Stipulation which terminates a case by dismissal shall also indicate whether a  
14 Scheduling Order has been filed and if a trial date has been set, and the date of that trial. A copy  
15 should be given to Chambers.

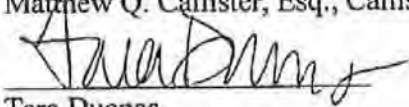
16 DATED: February <sup>15</sup>/<sub>7</sub> 2012

17   
18 Rob Bare  
19 Judge, District Court, Department 32

20 CERTIFICATE OF SERVICE

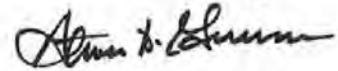
21 I hereby certify that on or about the date e-filed, this document was mailed or a copy of this  
22 Order was placed in the attorney's folder in the clerk's Office or mailed to the proper person as  
follows:

23 Marisa L. Maskas, Esq., Pezzillo Robinson  
24 Shemilly A. Briscoe, Esq., Santoro, Driggs, Walch, Kearny, Holley & Thompson  
25 Edward S. Coleman, Esq., Coleman Law Associates  
26 Keen L. Ellsworth, Esq., Ellsworth, Moody & Bennion, Chtd.  
27 Matthew Q. Callister, Esq., Callister & Associates

28   
Tara Duenas  
Judicial Executive Assistant



Electronically Filed  
03/01/2012 11:18:37 AM



CLERK OF THE COURT

1 AOS

2 Jennifer R. Lloyd-Robinson, Esq.  
3 Nevada State Bar #9617

4 Marisa L. Maskas, Esq.  
5 Nevada State Bar #10928

6 PEZZILLO ROBINSON

7 6725 Via Austi Parkway, Suite 290

8 Las Vegas, Nevada 89119

9 Tel: 702 233-4225

10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CASHMAN EQUIPMENT COMPANY, a  
14 Nevada corporation,

15 Plaintiff,

16 v.

17 CAM CONSULTING, INC., a Nevada  
18 corporation; et al.,

19 Defendants.

CASE NO.: A642583

DEPT.: XXXII

**AFFIDAVIT OF SERVICE**

**Pezzillo Robinson**  
6725 Via Austi Parkway, Suite 290  
Las Vegas, Nevada 89119  
Tel: 702 233-4225

LEGAL WINGS, INC.  
PROCESS LICENSE #389  
LAS VEGAS, NV  
(702)384-0605

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AFFIDAVIT OF SERVICE

STATE OF NEVADA )  
COUNTY OF CLARK ) ss.

Dillon Gulk and Tina J. Sanchez, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made.

That affiant, Dillon Gulk, on November 23, 2011 received:  
**SUMMONS ON SECOND AMENDED COMPLAINT; SECOND AMENDED COMPLAINT; AFFIDAVIT OF DUE DILIGENCE; LETTER; \$10.00 CHECK**  
and served the same on November 23, 2011 at 12:18 p.m., to the Nevada Secretary of State at 555 E. Washington Ave, #5200, Las Vegas, Nevada 89101, on behalf of:

**CAM CONSULTING INC., a Nevada Corporation**  
by leaving copies with Roxanna Sanchez, Administrative.

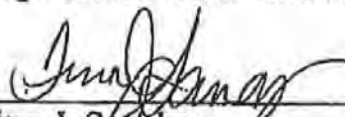
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LEGAL WINGS, INC.  
PROCESS LICENSE #889  
LAS VEGAS, NV  
(702)884-0305

1 That affiant, Tina J. Sanchez, posted one copy of said documents at the District  
2 Clerk's Office located at 200 Lewis Ave, 3rd floor, Las Vegas, Nevada 89101, on  
3 November 23, 2011 at 3:43 p.m.

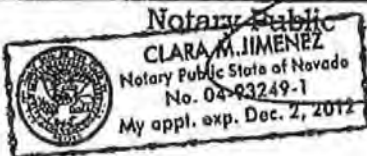
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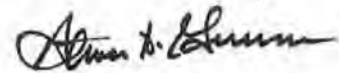
6 Dillon Gulk  
7 Registration Work Card #R-048916

8 

9 Tina J. Sanchez  
10 Registration Work Card #R-038221

11  
12 Subscribed and Sworn to Before me  
13 this 30<sup>th</sup> day of November, 2011.





CLERK OF THE COURT

**MPSJ**  
BRIAN W. BOSCHKEE, ESQ.  
Nevada Bar No. 7612  
SHEMILLY A. BRISCOE, ESQ.  
Nevada Bar No. 9985  
SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
Facsimile: 702/791-1912  
[bboschkee@nevadafirm.com](mailto:bboschkee@nevadafirm.com)  
[sbriscoe@nevadafirm.com](mailto:sbriscoe@nevadafirm.com)

*Attorneys for Defendants,  
Counterclaimants and Crossclaimants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,  
Plaintiff,

Case No.: A642583  
Dept. No.: 32

v.

**Motion for Summary Judgment**

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD. dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1-10, inclusive;  
and ROE CORPORATIONS 1-10 inclusive;

Defendants.

**AND ALL RELATED MATTERS**

Defendants, counterclaimants, and crossclaimants WEST EDNA ASSOCIATES, LTD.  
d/b/a MOJAVE ELECTRIC, a Nevada corporation ("Mojave"); WESTERN SURETY  
COMPANY, a surety ("Western"); THE WHITING TURNER CONTRACTING COMPANY, a  
Maryland corporation, ("Whiting") and FIDELTY AND DEPOSIT COMPANY OF

///



1 MARYLAND ("Fidelity")(collectively "Defendants") by and through their attorneys of record,  
2 the law firm of SANTORO, DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, move  
3 for Summary Judgment ("Motion") against Plaintiff CASHMAN EQUIPMENT COMPANY  
4 ("Cashman") pursuant to NRCP 56 on the threshold issues of acceptance of payment and release  
5 and fraudulent transfer.  
6

7 Summary Judgment is warranted because: (1) there are no genuine issues of material fact  
8 regarding Plaintiff's acceptance of payment from Cam Consulting Inc. in the form of a  
9 promissory note; and (2) Plaintiff provided an *unconditional release* to Mojave in exchange for  
10 that payment; (3) pursuant to Nevada law, Defendants are entitled to summary judgment as a  
11 matter of law as the evidence in this matter demonstrates that payment was accepted and a  
12 release issued; and (4) Plaintiff cannot support a fraudulent transfer claim against Mojave with  
13 Mojave's good faith defenses. Further, Cashman breached its contracts by failing to perform  
14 work which Mojave was forced to obtain other contractors to continue work.

15 This Motion is based upon NRCP 56, the following memorandum of points and  
16 authorities, all pleadings and papers on file in this case and oral argument allowed by the Court.

17 Dated this 9th day of March, 2012.

18 SANTORO, DRIGGS, WALCH,  
19 KEARNEY, HOLLEY & THOMPSON

20 *B. Briscoe*

21 BRIAN W. BOSCHKEE, ESQ.  
22 Nevada Bar No. 7612  
23 SHEMILLY A. BRISCOE, ESQ.  
24 Nevada Bar No. 9985  
25 400 South Fourth Street, Third Floor  
26 Las Vegas, Nevada 89101


27 *Attorneys for Defendants, Counterclaimants and*  
28 *Crossclaimants*

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

MDS

YOU, and each of you, will please take notice that the undersigned will bring the above and foregoing **MOTION FOR SUMMARY JUDGMENT** on for hearing before the above-entitled Court on the 16 day of April, 2012 at 9:00 am. in Department 32.

Dated this 9<sup>th</sup> day of March, 2012.

  
BRIAN W. BOSCHEE, ESQ.  
Nevada Bar No. 7612  
SHEMILLY A. BRISCOE, ESQ.  
Nevada Bar No. 9985  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Defendants, Counterclaimants and Crossclaimants*

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Mojave issued payment to Cam Consulting Inc. ("CAM") for equipment costs in exchange for an Unconditional Release by Plaintiff Cashman Equipment. CAM failed to issue the payment to Cashman, and instead issued a promissory note and later a stop payment on the note. Now Cashman seeks to be paid a second time by Mojave, and refuses to complete any further work under its contract. The only issues for the Court to address here is that Plaintiff's acceptance of payment from CAM in the form of a promissory note while providing an *unconditional release* to Mojave entitles Mojave to summary judgment as a matter of law. Particularly, Plaintiff has no defense to the fact that payment was accepted and a release issued. The Release is a clear and unambiguous document. Further, Plaintiff cannot support a fraudulent transfer claim against Mojave, who worked with CAM on multiple projects, and had no reason to know of CAM's fraudulent purposes. Therefore, Defendants request summary judgment, because there are no issues of material fact remaining.

### II. STATEMENT OF FACTS

This action stems from the egregious conduct of CAM and involves a construction project referred to as the New Las Vegas City Hall Project (the "Project") located in Las Vegas, Nevada. Mojave acted as an electrical subcontractor on the Project, and CAM Consulting, Inc. ("CAM") acted as an equipment supplier and agent to Cashman Equipment Company (*Motion*, at 3:12-23). The Project required a generator and related equipment to provide power for the overall construction. *Declaration of Bugni*, attached as Exhibit "A," ¶3 .

Mojave entered into a purchase order ("Purchase Order") dated April 23, 2010 with CAM c/o Cashman Equipment to purchase the necessary generator equipment. Exhibit "A" ¶ 4. Mojave made payment to CAM as agent for Cashman in the amount of \$820,261.75 in accordance with its Purchase Order and in exchange for the equipment. *Id.* ¶ 6. Cashman entered into Unconditional Release Upon Final Payment (the "Release") and provided that release to Mojave. *Release* attached to Exhibit "A" as **Exhibit A-1**. The Release to Mojave represented the full amount of payment.



Cashman refused to complete its contract with Mojave for the Project which included assistance with start up of the equipment at issue on the project, and warranty of the existing equipment. Exhibit "A" ¶ 9. **Exhibit "A-2."** Cashman further refused to provide the battery power source in accordance with the Purchase Order. Id. ¶ 10. As a result, Mojave was forced to employ outside licensed contractors to continue the contract work and start the equipment at an additional current cost of \$137,253.20. Exhibit "A" ¶ 11, and **Exhibit "A-3."** A new contract was entered with Gruber Technical, Inc. and Mojave has incurred costs of in the amount of \$5,162.16, Hampton Tedder Technical Services for the amount of \$39,179.73, Codale for the amount of \$79,721.31 and Gen-Tech of Nevada for the amount of \$13,190.00 to continue this generator work, and all paid for by Mojave. Id. There are no existing warranties provided on the equipment, and final commission of the generator can not be completed because the software and instructions from Cashman are required to complete. Exhibit "A" ¶ 17. Thus, costs are continuing and cannot be finally determined at this juncture.

Cashman now improperly seeks the entire amount owed by CAM from Mojave who has already made full payment for the equipment and obtained its unconditional release.

In order to defeat a motion for summary judgment, the nonmoving party “must by

- 5 -



1 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for  
2 trial” and “is not entitled to build a case on gossamer threads of whimsy, speculation, and  
3 conjecture.” Wood v. Safeway, Inc. 121 Nev. Adv. Rep. 73, 212 P. 3d 1026, 1031 (2005)  
4 (quoting Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P. 2d 588, 591 (1992)). The  
5 party opposing summary judgment may not rest on the pleadings, “but must set forth specific  
6 facts showing that there is a genuine issue for trial.” Anderson v. Liberty Lobby, Inc., 477 U.S.  
7 242, 256-57 (1986). “A fact is material if it is relevant to an element of a claim or defense and if  
8 its existence might effect the outcome of the suit.” T.W. Elec. Serv. V. Pacific Elec. Contractors  
9 Ass’n, 809 F. 2d 626, 630 (9<sup>th</sup> Cir. 1987) (internal quotations omitted). Here the facts are not in  
10 dispute. Plaintiff accepted payment in the form of a post dated check and issued an unconditional  
11 release which Defendants relied on. Therefore, Plaintiff’s claims do not survive under Nevada  
12 law. Further, Defendant Mojave has incurred costs in the amount of \$137,253.20 to continue  
13 Cashman’s contract work, because they refuse to fulfill their contractual obligations.

#### 14 IV. ARGUMENT

15 Defendants’ Motion should be granted because 1) payment issued on the Project in the  
16 form of a post dated check; 2) Plaintiff accepted payment for the work in the form of a  
17 promissory note; 3) Plaintiff issued an unconditional release precluding later claims against  
18 Defendants and limiting its claims to CAM Consulting, Inc; 4) CAM acted as an agent for  
19 Cashman and 5) Mojave has good faith defenses to any allegations of fraudulent transfer.

##### 20 1. *Payment in the form of a post dated check acts as a promissory note.*

21 Cashman does not dispute that Mojave made full payment to CAM for the equipment at  
22 issue. (*Motion*, 4:3-19) Further, Cashman then accepted a post dated check from CAM as  
23 payment for the same equipment. *Id.* In Nevada, and other jurisdictions, a post dated check acts  
24 as a promissory note under the law. See, Lowe v. St. of Nev., Dept. of Commerce, 89 Nev. 488,  
25 490 (1973)(a post dated check is in essence a promissory note); Freiberger v. St. of Florida, 343  
26 So. 2d. 57 (1977)(it was proved she wrote a post dated check which is a promissory note under  
27 the law); Walton v. Clark, 454 B.R. 537, 542 (2011)(a post dated check is the functional

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1 equivalent of a promissory note). A post dated check is nothing more than a promise to pay a  
2 certain sum of money at the specified time, because ordinarily a check is payable on demand.  
3 Walton, 542.

4 Cashman's argument that all Defendants are liable for payment fails, because Cashman  
5 chose to enter a separate agreement with CAM. A post dated check is akin to a separate contract  
6 for payment, because a post dated check is not immediately payable, but is a promise to pay on  
7 the date shown. See Alvarez v. Alvarez, 800 So. 2d. 280, 284 (2001). When Cashman accepted  
8 the post dated check from CAM, it agreed to payment at a later date. That promise never  
9 materialized, and unfortunately Cashman remains unpaid. However, the liability rests solely on  
10 CAM related to the stop payment or failure of final payment of the promissory note. Mojave, on  
11 the other hand, fulfilled its obligations and should not be held liable for individual business  
12 decisions made by Cashman at the time of the transaction.

13 Accordingly, summary judgment is appropriate at this time.

14 2. *The Unconditional Lien Release was not required by the circumstances and is*  
15 *enforceable against Plaintiff upon receipt.*

16 At the time of Mojave's payment, Cashman provided Mojave with an executed  
17 **Unconditional** Waiver and Release. **Exhibit "A-1."** The release was in the statutorily mandated  
18 form, which Nevada law mandates in order for a release to be effective, NRS § 108.2457.  
19 "Where a lien claimant has been paid in full or in part of the amount provided in the billing, the  
20 waiver and release of the amount paid must be in the following form..." NRS § 108.2457(4)(b).  
21 Further, the Release states in plain language on its face:

22 THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES  
23 THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS  
24 DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF  
YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A  
CONDITIONAL RELEASE FORM.

25 As written above, Nevada statute and practice provides that at the time payment is made,  
26 a conditional release is submitted until it can be shown that the payment has finally cleared. See,  
27 NRS § 108.2457. Once payment has cleared, an unconditional release should be submitted in

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1 place of the conditional document. Id. In accordance with these practices, a conditional release  
2 becomes effective only after payment is received by the claimant, whereas an unconditional  
3 release is effective immediately **even if the claimant has not been paid**. See, Janas v. Endo  
4 Steel Inc., 287 B.R. 501, 510 (9<sup>th</sup> Cir. BAP 2002)(emphasis added).

5 In this case, Cashman's decision to issue an Unconditional Release to Mojave directly  
6 correlates with its position to accept a promissory note from its own agent CAM. Cashman knew  
7 that Mojave had tendered full payment for the equipment. By signing the unambiguous and  
8 unconditional Release, Cashman irretrievably surrendered its claim for payment by Mojave. See,  
9 Hockelberg v. Farm Bureau Insurance Co. Ind. App., 407 N.E. 2d 1160 (1980)("Execution of a  
10 full and unconditional release bars recovery."). Cashman now finds itself in a disadvantageous  
11 situation because CAM has refused to honor its promissory note, but waived its right to collect  
12 from Mojave by its own actions. Cashman can not now be permitted to avoid the clear and  
13 unconditional language of the release, because its deals with CAM did not work out to its  
14 benefit. See, Houser v. Brent Towing Company, 610 So. 2d 36, 366 (1992).

15 Moreover, Defendants properly relied upon the Unconditional Release and should not be  
16 required to issue payment twice for the same services. CAM's failure to act appropriately as  
17 Cashman's authorized agent is an unclean act, but does not create liability on behalf of Mojave.  
18 Mojave fulfilled its obligations pursuant to agreement and made full payment.

19 In summary, Cashman's decision to issue an Unconditional Release, against standard  
20 practice and procedure, extinguished all right of claim against Defendants outside of CAM and  
21 bars Cashman's ability to recover from other Defendants. Therefore, summary judgment is  
22 appropriate as a matter of law.

23 3. *Cashman's refusal to start up equipment and warranty its work caused delay and*  
24 *unnecessary cost to Mojave*

25 Cashman demanded duplicate payment from Mojave arising out of Cashman's failed  
26 transaction with CAM. *Demand Letter* attached to Bugni Declaration as **Exhibit "A-2."** When  
27 Mojave responded that it would assist with tracking down CAM, but had completed its payment

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1 obligations, Cashman responded that Cashman would not complete any start up for the project  
2 under contract or stand by its warranties. Essentially, the completion of the entire Project was  
3 "held hostage" due to Cashman's failure to perform. See generally, Calloway v. City of Reno,  
4 116 Nev. 250, 993 P. 2d 1259 (2000).

5 As a result, Mojave was forced to hire several contractors to continue the generator work  
6 at an additional current cost of \$137,253.20. Exhibit "A" ¶ 11. A new contract was entered with  
7 Gruber Technical, Inc. for the amount of \$5,162.16, Hampton Tedder Technical Services for the  
8 amount of \$39,179.73, Codale for the amount of \$79,721.31 and Gen-Tech of Nevada for the  
9 amount of \$13,190.00 to complete this generator work, and all paid for by Mojave. *Invoices*  
10 attached to Bugni Declaration as **Exhibit "A-3."** Cashman breached its duty under the contract  
11 when it failed to start up the equipment, and should be held accountable for the unnecessary  
12 costs incurred for the start up. See Reid v. Royal Insurance Company, 80 Nev. 137, 390 P. 2d 45  
13 (1964)("A contractor's duty to perform job for owner in workmanlike manner is non-  
14 delegable."); see also, Cheyenne Const., Inc. v. Hozz, 102 Nev. 308, 720 P. 2d 1224  
15 (1986)("Where there has been partial performance, a contractor is entitled to recover total price  
16 promised less the cost of completing performance and other consequential damages."). These  
17 costs are currently \$137,253.20 for the diagnosis of the equipment, start up, and additional  
18 materials. *Id.* Further, the equipment warranties are included as a part of the contract and were  
19 not honored by Cashman, and the final commissioning of the generator cannot be completed. *Id.*  
20 Therefore, total costs are not determinable at this time.

21 All parties had an obligation to complete the work under time of the essence clause and  
22 Mojave had to diligently work to find contractors to complete the work in a reasonable amount  
23 of time to comply with Project deadlines. See Spinella v. B-Neva, Inc., 94 Nev. 373, 580 P. 2d  
24 945(1978)("Delay will constitute a breach where time is of the essence."); see also, Claudianos  
25 v. Friedhoff, 69 Nev. 41, 240 P. 2d 208 (1952)("The law is clear that any tender of performance  
26 is excused when performance has in fact been prevented by another party to the contract.").

27 ///

28 ///



1 Accordingly, Mojave should be awarded the amount of payment to the new contractors,  
2 the associated attorneys fees, and bond costs related to Cashman's breach of contract.<sup>1</sup>

3 4. *CAM acted as an Agent for Cashman when it Accepted Payment*

4 An agency relationship is formed when one who hires another retains a contractual right  
5 to control the other's manner of performance. Grand Hotel Gift Shop v. Granite State Ins. Co.  
6 108 Nev. 811, 815, 839 P.2d 599, 602 (Nev.,1992) citing Sharp v. W.H. Moore, Inc., 118 Idaho  
7 297, 796 P.2d 506 (1990). CAM's contract with Mojave states that CAM is acting "c/o Cashman  
8 Equipment" at the top. Further, Cashman does not dispute that CAM was acting as its agent for  
9 purposes of the contract at issue. In Nevada, a principal may be bound by the acts of its agent as  
10 to third parties "who have no reason to know of the agent's improper conduct. This is so even  
11 when the agent acts for his own motives and without benefit to his principal." Young v. Nevada  
12 Title Co. 103 Nev. 436, 439, 744 P.2d 902, 903 (Nev., 1987); Home Savings v. General  
13 Electric, 101 Nev. 595, 600, 708 P.2d 280, 283 (1985); Johnson v. Fong, 62 Nev. 249, 253, 147  
14 P.2d 884, 886 (Nev. 1944)("As a matter of law, the principal is liable for a tort which an agent  
15 commits in the course of his employment. This is so even though the principal be ignorant  
16 thereof").

17 When Mojave issued payment to CAM, the payment was for the benefit of Cashman, and  
18 Mojave had no reason to doubt that its payment to CAM was not akin to a direct payment of  
19 Cashman. Clearly Cashman was operating under the same plan or Cashman would never have  
20 issued the Unconditional Release to Mojave. As principal for CAM, Cashman incurs the burden  
21 of its agent's acts, even if the acts were unexpected or improper. Thus, pursuant to Agency law  
22 in Nevada, Mojave is not liable for CAM's decision not to issue payment to Cashman.

23 5. *Fraudulent Transfer Claims fail against Defendant Mojave pursuant to NRS Chapter 112*  
24 *and Mojave's Good Faith Defenses Preclude Recovery*

25 Nevada has adopted and codified the Uniform Fraudulent Transfer Act ("UFTA") in  
26 NRS Chapter 112. The UFTA is designed to prevent a debtor from defrauding creditors by

27 <sup>1</sup> Mojave made payment to Harris Insurance in the amount of \$11,338.41 to acquire the bond for release of the  
28 mechanic's lien on the project.

1 placing the subject property beyond the creditors' reach.<sup>2</sup> Three types of transfers may be set  
2 aside under the UFTA: (1) actual fraudulent transfers;<sup>3</sup> (2) constructive fraudulent transfers;<sup>4</sup> and  
3 (3) certain transfers by insolvent debtors.<sup>5</sup> Specifically, NRS 112.180(2) sets forth several  
4 factors that the district court may consider in determining a debtor's actual intent.<sup>6</sup>

5 Here, Plaintiffs fail to prove that a fraudulent transfer occurred under NRS 112.180(1)(a),  
6 which is a prerequisite to setting aside the transfer or imposing damages, and further fail to  
7 demonstrate why Mojave did not act in good faith. While several of the above listed factors may  
8 be relevant to other transferees, the application does not work with regard to Mojave. First, there  
9 is no evidence to demonstrate that Mojave was an "insider" with any knowledge as to CAM's  
10 transactions. CAM was working as Cashman's agent, and if a special relationship existed, it was  
11 between those two parties. Mojave was paid pursuant to legitimate contracts. NRS 112.180(1)(a)

12  
13 <sup>2</sup> See NRS 112.150; See also Herup v. First Boston Financial, 123 Nev. 228, 162 P. 3d 870, (2007).

14 <sup>3</sup>NRS § 112.180(1)(a).

15 <sup>4</sup> NRS § 112.180(1)(b). A transfer is constructively fraudulent if the debtor transfers the property without receiving a  
16 reasonably equivalent value in exchange for the transfer, and the debtor (1) was engaged in a transaction for which  
his remaining assets were unreasonably small in relation to the transaction or (2) reasonably should have believed  
that he would incur debts beyond his ability to pay. NRS 112.180(1)(b).

17 <sup>5</sup> NRS § 112.190. A fraudulent transfer by an insolvent debtor occurs in two situations: (1) when the debtor makes  
the transfer without receiving a reasonably equivalent value in exchange for the transfer and the debtor was  
18 insolvent at that time or the debtor became insolvent as a result of the transfer or obligation, NRS 112.190(1); and  
(2) when an insolvent debtor makes a transfer on an antecedent debt to an insider who had reason to believe the  
debtor was insolvent, NRS 112.190(2).

19 <sup>6</sup> (a) The transfer or obligation was to an insider;

20 (b) The debtor retained possession or control of the property transferred after the transfer;

21 (c) The transfer or obligation was disclosed or concealed;

22 (d) Before the transfer was made or obligation was incurred, the debtor had been sued or  
threatened with suit;

23 (e) The transfer was of substantially all the debtor's assets;

(f) The debtor absconded;

24 (g) The debtor removed or concealed assets;

(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the  
asset transferred or the amount of the obligation incurred;

25 (i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was  
incurred;

26 (j) The transfer occurred shortly before or shortly after a substantial debt was incurred; and

27 (k) The debtor transferred the essential assets of the business....  
28



1 plainly provides that, for the district court to enter judgment in favor of a creditor under that  
2 statute, it must first determine whether the debtor “*actual[ly] inten[ded]* to hinder, delay or  
3 defraud any creditor of the debtor.” (Emphasis added.) The facts at issue support no such  
4 determination. Angelo Carvalho was approved for use under Minority contracts and had no prior  
5 bad history with any of the parties. Further, all transactions were completed with written  
6 agreements that contained specific terms. Therefore, Mojave had no “reason to know of the  
7 transferors fraudulent purposes.”

8 Next, because actual knowledge has no evidentiary support, the Complaint seeks to  
9 undermine the value received for the work between CAM and Mojave. To the contrary, Mojave  
10 conducted legitimate business transactions with CAM on other projects including the Nevada  
11 Energy Data Center Complex located on Lindell Road.<sup>7</sup> Indeed, the payments between the  
12 parties referenced in the Complaint specifically relate to the scope and price of the contracted  
13 work and the parties cannot demonstrate that Mojave had any intent to defraud.<sup>8</sup> However, even  
14 if the Court were to assume some proof of intent to defraud was present here, the Court must  
15 properly consider Mojave’s good faith defenses. NRS 112.220(1) provides a complete defense  
16 for an action for avoidance under NRS 112.180(1)(a) and states:

17 [a] transfer or obligation is not voidable under paragraph (a) of subsection 1 of  
18 NRS 112.180 against a person who took in good faith and for a reasonably  
19 equivalent value or against any subsequent transferee or obligee.

20 NRS § 112.220(1).

21 Accordingly, the Court must determine if payment was made for reasonable value in  
22 these instances. A majority of outside jurisdictions applying the UFTA hold that a transferee  
23 must prove that he received the transfer in objective good faith.<sup>9</sup> In other words, good faith must

24 <sup>7</sup> See Contract for NV Energy project attached as Exhibit A-5.

25 <sup>8</sup> *Id.*

26 <sup>9</sup> *In re Agricultural Research and Technology Group*, 916 F.2d 528, 535–36 (9th Cir.1990) (concluding that in  
27 determining whether a transferee received an allegedly fraudulent transfer in good faith under Hawaii law, courts  
28 must look to what the transferee objectively knew or should have known, instead of examining what transferee  
actually knew from subjective standpoint, and citing early Supreme Court cases interpreting good faith defense  
provisions within previous fraudulent conveyance statutes (citing *Harrell v. Beall*, 17 Wall. 590, 84 U.S. 590, 21  
L.Ed. 692 (1873); *Shauer v. Alterton*, 151 U.S. 607, 621, 14 S.Ct. 442, 38 L.Ed. 286 (1894))); *In re Tiger Petroleum*

1 be determined on a case-by-case basis by examining whether the facts would have caused a  
2 reasonable transferee to inquire into whether the transferor's purpose in effectuating the transfer  
3 was to delay, hinder, or defraud the transferor's creditors.<sup>10</sup> Importantly, NRS 112.250 directs  
4 this court to apply and construe the UFTA in Nevada "to effectuate its general purpose to make  
5 uniform the law with respect to the subject of this chapter among states enacting it."

6 The contracts and circumstances at issue demonstrate that Mojave acted in objective good faith  
7 in its business transactions and that CAM paid reasonably equivalent value for the work.<sup>11</sup>

8 There is no evidence in this matter of any questionable tactics by CAM or anything odd  
9 occurring until the acts that gave rise to the Complaint by Cashman. In fact, by Cashman's own  
10 admission, it accepted a second payment from CAM without accompanying CAM to the  
11 financial institution or demanding another direct form of payment such as a cashier's check. No  
12 doubt Cashman was not alarmed, because there was no history of bad acts with CAM or Mr.  
13 Carvalho individually. Cashman likely assumed a misunderstanding occurred. Similarly, Mojave  
14 had no reason to suspect CAM's financial transactions were fraudulent and cannot now be held  
15 liable under NRS 112 for standard business transactions with CAM. Therefore, summary  
16 judgment should be granted.

17 ///

18 ///

(continued)

19 Co., 319 B.R. at 235-36 (stating that the good faith for value defense must be established using an objective  
20 standard under the Oklahoma Uniform Fraudulent Transfer Act); In re Jones, 184 B.R. 377, 388  
(Bankr.D.N.M.1995) (concluding that transferees could not make out a good faith defense under the New Mexico  
21 Uniform Fraudulent Transfer Act when the transferees had reason to know of pending litigation); Hall v. World Sav.  
and Loan Ass'n, 189 Ariz. 495, 943 P.2d 855, 860 (Ct.App.1997) (providing that a transferee must take the asset  
22 without notice, either actual or constructive, of any fraud under the Arizona Uniform Fraudulent Transfer Act); *see*  
also In re M & L Business Machine Co., Inc., 84 F.3d 1330, 1338 (10th Cir.1996) (addressing good faith under the  
23 Bankruptcy Code); In re Sherman, 67 F.3d 1348, 1355 (8th Cir.1995) (stating that "a transferee does not act in good  
faith when he has sufficient knowledge to place him on inquiry notice of the debtor's possible insolvency" under the  
Bankruptcy Code).

24 <sup>10</sup> See, e.g. In re Agricultural Research and Technology Group, 916 F.2d at 535-36; In re Cohen, 199 B.R. 709, 719  
25 (9th Cir.BAP 1996); U.S. v. Romano, 757 F.Supp. 1331, 1338 (M.D.Fla.1989), *aff'd*, 918 F.2d 182 (11th Cir.1990);  
In re Lake States Commodities, Inc., 253 B.R. 866, 878 (Bankr.N.D.Ill.2000).

26 <sup>11</sup> Herup v. First Boston Financial, LLC, 123 Nev. 228, 231-237, 162 P.3d 870, 872 - 876 (Nev.,2007)

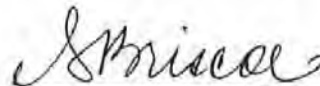


## V. CONCLUSION

Based on the foregoing, summary judgment is appropriate in this case as a matter of law. Plaintiff cannot provide any evidence to dispute the acceptance of a promissory note and issuance of an unconditional release. Therefore, Plaintiff does not have legitimate claims against Defendants in this matter, and instead have claims directly against CAM Consulting, Inc. and Angelo Carvalho based upon failure of the promissory note. Further, Plaintiff neglected to complete its obligations under contract with Mojave which necessitated hiring new contractors to continue work on the Project. Plaintiff is responsible for these costs and should not be permitted to evade their contractual obligations. Last, CAM acted as agent for Cashman and Plaintiff fails to provide evidence to support fraudulent transfer claims against Mojave. Accordingly, Defendants respectfully request the Court grant summary judgment for these reasons.

Dated this 9th day of March, 2012.

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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SHEMILLY A. BRISCOE, ESQ.  
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400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Defendants, Counterclaimants and  
Crossclaimants*

**CERTIFICATE OF MAILING**


I HEREBY CERTIFY that, on the 6th day of March, 2012, and pursuant to NRCP 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **MOTION FOR SUMMARY JUDGMENT**, postage prepaid and addressed to:

Jennifer R. Lloyd-Robinson, Esq.  
Marisa L. Maskas, Esq.  
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An employee of Santoro, Driggs, Walch,  
Kearney, Holley & Thompson

# **EXHIBIT A**

1 **DECL**  
2 BRIAN W. BOSCHKEE, ESQ.  
3 Nevada Bar No. 7612  
4 SHEMAILLY A. BRISCOE, ESQ.  
5 Nevada Bar No. 9985  
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14 *Attorneys for Defendants, Counterclaimants and Crossclaimants*

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 CASHMAN EQUIPMENT COMPANY, a  
18 Nevada corporation,

19 Plaintiff,

20 v.

21 CAM CONSULTING, INC., a Nevada  
22 corporation; ANGELO CARVALHO, an  
23 individual; JANEL RENNIE aka JANEL  
24 CARVALHO, an individual; WEST EDNA  
25 ASSOCIATES, LTD. dba MOJAVE  
26 ELECTRIC, a Nevada corporation; WESTERN  
27 SURETY COMPANY, a surety; THE WHITING  
28 TURNER CONTRACTING COMPANY, a  
Maryland corporation; FIDELITY AND  
DEPOSIT COMPANY OF MARYLAND, a  
surety; DOES 1-10, inclusive; and ROE  
CORPORATIONS 1-10 inclusive;

Defendants.

Case No.: A642583  
Dept. No.: 32

AND RELATED MATTERS.

**DECLARATION OF BRIAN BUGNI IN SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

I, BRIAN BUGNI of WEST EDNA ASSOCIATES, LTD, a Nevada corporation, d/b/a  
MOJAVE ELECTRIC, INC., ("Mojave"), and authorized representative thereof, and pursuant to  
NRS 53.045, hereby declare the following are true and correct to the best of my knowledge:



1           1.     I am the representative of Mojave most familiar with issues alleged in the  
2 Complaint in this matter and the relief that Defendant/Counterclaimants are entitled to.

3           2.     This action revolves around a construction project referred to as the New Las  
4 Vegas City Hall Project (the "Project") located in Las Vegas, Nevada.

5           3.     The Project required a generator and related equipment to provide power for the  
6 overall construction.

7           4.     Mojave entered into a purchase order ("Purchase Order") dated April 23, 2010  
8 with CAM c/o Cashman Equipment to purchase the necessary generator equipment.

9           5.     Mojave made payment to CAM in the amount of \$820,261.75 in accordance with  
10 its Purchase Order and in exchange for the equipment.

11          6.     Cashman entered into Unconditional Release Upon Final Payment (the "Release")  
12 and provided that release to Mojave. A true and correct copy of the Release attached as Exhibit  
13 A-1.

14          7.     The Release provided to Mojave represented the full amount of payment.

15          8.     Upon information and belief, CAM issued a promissory note to Cashman which  
16 failed.

17          9.     Cashman refused to complete its contract with Mojave for the Project which  
18 included assistance with start up of the equipment at issue on the project, and warranty of the  
19 existing equipment. A true and correct copy of Demand Letter from Cashman attached as Exhibit  
20 A-2.

21          10.    Cashman further refused to provide the battery power source in accordance with  
22 the Purchase Order.

23          11.    Mojave was forced to employ outside licensed contractors to continue the contract  
24 work and start the equipment at an additional current cost of \$137,253.20. A true and correct  
25 copy of Contracts with new contractors and related purchase orders and invoices attached as  
26 Exhibit A-3.

27          12.    The contract was entered with Gruber Technical, inc. and Mojave has incurred  
28 \$5,162.16 for work to complete Cashman's contract.

1 13. The contract was entered with Hampton Tedder for the amount of \$39,179.73 to  
2 complete Cashman's work.

3 14. The contract was entered with Codale for the amount of \$ 79,721.31 to complete  
4 Cashman's work.

5 15. The contract was entered with Gen-Tech of Nevada for the amount of  
6 \$ 13,190.00 to complete Cashman's work.

7 16. Mojave was forced to issue these payments to the new contractors to complete the  
8 work in Cashman's contract, because of Cashman's failure to complete, but this work is ongoing.

9 17. There are no existing warranties provided on the equipment, and the final  
10 commissioning is yet to be completed, because it requires Cashman's software, and Cashman  
11 refuses to release the software. The costs for Cashman's work cannot be finally calculated,  
12 because there are still outstanding issues with the programmable logic controller and warranty to  
13 be determined.

14 18. Unrelated to Cashman, CAM issued two separate checks to Mojave related to  
15 work performed by Mojave on another project called the Nevada Energy Data Center Complex.

16 19. These checks were in the amounts of \$139,367.70 and \$136,269.00. A true and  
17 correct copy of checks attached as Exhibit A-4.

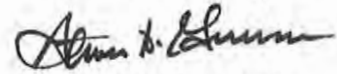
18 20. Mojave had a separate contract for the Nevada Energy work and obtained  
19 payment pursuant to the contract. A true and correct copy attached as Exhibit A-5.

20 21. Mojave did not have knowledge of any issues with Cashman's payment when it  
21 accepted these checks from CAM related to the other Nevada Energy Project.

22 22. Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is  
23 true and correct to the best of my knowledge.

24 Dated this 8<sup>th</sup> day of March, 2012.

25 Brian Bugni VP-Finance  
26 BRIAN BUGNI  
27  
28



CLERK OF THE COURT

**COMP**

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617

**PEZZILLO ROBINSON**

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*Attorneys for Plaintiff,*

*Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

**A- 11 - 642583 - C**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Case No.:

Dept. No.:

**XXXI I**

Plaintiff,

vs.

**COMPLAINT**

CAM CONSULTING INC., a Nevada  
corporation, ANGELO CARVALHO, an  
individual; DOES 1 - 10, inclusive; and  
ROE CORPORATIONS 1 - 10, inclusive;

Defendants.

COMES NOW, Plaintiff, CASHMAN EQUIPMENT COMPANY, (hereinafter  
"Cashman" or "Plaintiff") by and through its attorneys of record, Pezzillo Robinson, in  
support of its Complaint against the Defendants named herein and alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, Cashman, is a Nevada corporation duly authorized to conduct  
business and conducting business within the State of Nevada.

2. Plaintiff is informed and believes and based thereon alleges that Defendant  
CAM CONSULTING INC. ("CAM"), is or was at all times relevant to this action, a Nevada  
corporation authorized to conduct business in the State of Nevada.



1           3.     Plaintiff is informed and believes and based thereon alleges that Defendant  
2 ANGELO CARVALHO ("CARVALHO") is a resident of Clark County, Nevada and the sole  
3 owner of Defendant CAM.

4           4.     Defendants sued herein under the fictitious names of DOES 1 through 10,  
5 inclusive, are presently unknown to Plaintiff but are believed to reside in the State of Nevada  
6 and are in some respect liable for the acts and omissions, whether intentional, negligent or  
7 otherwise, alleged herein.

8           5.     Defendants sued herein under the fictitious names of ROE  
9 CORPORATIONS 1 through 10, inclusive, are presently unknown to Plaintiff but are  
10 believed to be corporations authorized to conduct business in the State of Nevada and are in  
11 some respect liable for the acts and omissions, whether intentional, negligent or otherwise,  
12 alleged herein.

13           6.     The obligations sued upon herein were performed in Clark County, Nevada.

14  
15                   **FIRST CAUSE OF ACTION**  
16                   **(BREACH OF CONTRACT AGAINST CAM,**  
17                   **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

18           7.     Plaintiff repeats with the same force and effect paragraphs 1 through 6, as if set  
19 forth in full.

20           8.     Plaintiff and Defendants entered into an agreement whereby Plaintiff agreed to  
21 sell equipment to Defendant ("the Contract") for the total price of \$755,893.89. The  
22 equipment was to be delivered to the project referred to as the City Hall, in the City of Las  
23 Vegas, Nevada (the "Project").

24           9.     Plaintiff provided the equipment to Defendant and delivered to the Project.  
25 Defendant agreed to pay Plaintiff for the equipment pursuant to the terms of the Contract.

26           10.    Defendant has breached the terms of the Contract by failing and refusing to  
27 pay for the equipment provided by Plaintiff, and now owes a sum in excess of \$10,000.00.  
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1           11. Plaintiff has performed all conditions and promises required on its part to be  
2 performed under the Contract, except as said performance has been waived, excused or  
3 prevented by Defendant's breach of the Contract.

4           12. Based upon Defendant's breach of the Contract as described above, Plaintiff  
5 has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest  
6 thereon as provided in the Contract until paid in full and other such damage according to  
7 proof.

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9                               **SECOND CAUSE OF ACTION**  
10                           **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
                              **AGAINST CAM, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

11           13. Plaintiff repeats with the same force and effect paragraphs 1 through 12, as if  
12 set forth in full.

13           14. All contracts entered into in the state of Nevada contain the implied covenant  
14 of good faith and fair dealing.

15           15. Defendant's intentional failure to pay Plaintiff for the equipment after  
16 receiving the funds to pay Plaintiff from the electrical subcontractor on the Project and  
17 according to the terms of the Contract constitutes a breach of the implied covenant of good  
18 faith and fair dealing.

19           16. Based on Defendant's breach of the Contract as described above, Plaintiff has  
20 been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon  
21 as provided in the Contract until paid in full and other such damage according to proof.

22                               **THIRD CAUSE OF ACTION**  
23                           **(ALTER EGO AGAINST CAM, CARVALHO,**  
24                           **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

25           17. Plaintiff repeats with the same force and effect paragraphs 1 through 16, as if  
26 set forth in full.

27           18. Plaintiff is informed and believes and based thereon alleges that Defendant  
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1 CAM is not and was not adequately funded.

2 19. Plaintiff is informed and believes and based thereon alleges that Defendant  
3 CAM is solely owned by Defendant CARVALHO, and that CAM is influenced and governed  
4 by CARVALHO.

5 20. Plaintiff is informed and believes and based thereon alleges that CAM received  
6 payment from the electrical subcontractor on the Project for the equipment it purchased from  
7 Plaintiff and instead of paying Plaintiff for the equipment, CARVALHO diverted the funds  
8 possibly for his own benefit.

9 21. Plaintiff is informed and believes and based thereon alleges that CARVALHO  
10 used the corporate assets as his own.

11 22. As set forth herein, a unity of interest and ownership exists between the  
12 Defendant CAM and Defendant CARVALHO such that one is inseparable from the other and  
13 the facts of this matter demonstrate that adherence to the fiction of a separate entity would,  
14 under the circumstances, sanction a fraud or promote injustice and would therefore be  
15 inequitable.  
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17 23. Therefore, as CARVALHO is the alter ego of CAM, CARVALHO is liable for  
18 the damages suffered by Plaintiff, in an amount in excess of \$10,000.00, together with fees,  
19 costs, and interest thereon pursuant to the terms of the Contract until paid in full and other  
20 such damage according to proof.

21 **FOURTH CAUSE OF ACTION**  
22 **(CONVERSION AGAINST CARVALHO,**  
23 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

24 24. Plaintiff repeats with the same force and effect paragraphs 1 through 23, as if  
25 set forth in full.

26 25. Plaintiff is informed and believes and based thereon alleges that Defendant  
27 CARVALHO received payment from the electrical subcontractor on the Project for the  
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1 equipment provided to Defendant by Plaintiff.

2 26. Defendant CARVALHO then issued payment to Plaintiff in the form of a  
3 check in the amount of \$755,893.89.

4 27. Plaintiff deposited the check, but it was returned by the bank.

5 28. Plaintiff is informed and believes and based thereon alleges that Defendant  
6 CARVALHO stopped payment on the check.

7 29. Plaintiff then contacted Defendant CARVALHO to request that payment be  
8 reissued to Plaintiff for the equipment Plaintiff sold Defendant.

9 30. Defendant CARVALHO then again issued payment to Plaintiff in the form of  
10 a check in the amount of \$755,893.89.

11 31. Plaintiff then presented this check to the bank upon which it was drawn,  
12 Nevada State Bank, and was informed that the account did not have sufficient funds to cover  
13 the check.

14 32. Plaintiff has attempted to contact Defendant CARVALHO numerous times and  
15 CARVALHO is not responding and has not issued payment.

16 33. As evidenced by Defendant CARVALHO twice purporting to make payment  
17 to Plaintiff for the equipment purchased, the money in CARVALHO's possession belongs to  
18 Plaintiff and Plaintiff has the right to possession of the money.

19 34. Defendant CARVALHO is wrongfully and intentionally exercising dominion  
20 and control over Plaintiff's property interfering with Plaintiff's right to the property.

21 35. In keeping Plaintiff's money, Defendant CARVALHO is depriving Plaintiff of  
22 its use of the property.

23 36. Defendant CARVALHO's failure to pay Plaintiff has caused damages to  
24 Plaintiff in an amount in excess of \$10,000.00, together with fees, costs, and interest thereon  
25 pursuant to the terms of the Contract until paid in full and other such damage according to  
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1 proof.

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3 **FIFTH CAUSE OF ACTION**  
4 **(FRAUD AGAINST CAM, CARVALHO**  
5 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

6 37. Plaintiff repeats with the same force and effect paragraphs 1 through 36, as if  
7 set forth in full.

8 38. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they  
9 would pay for the equipment purchased with the monies received from the electrical  
10 subcontractor on the project, knowing that the money was to be held in trust for Plaintiff and  
11 paid to Plaintiff.

12 39. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff  
13 purporting to pay Plaintiff for the equipment.

14 40. Plaintiff is informed and believes and based thereon alleges that Defendants  
15 did not intend to pay Plaintiff for the equipment.

16 41. Plaintiff is informed and believes and based there on alleges Defendants  
17 requested that the bank stop payment on the check and diverted the funds for their own use.

18 42. Plaintiff subsequently discovered that there were not sufficient funds to pay  
19 Plaintiff in Defendants' bank account.

20 43. Plaintiff relied to its detriment upon Defendants' false representations by  
21 supplying the equipment to the Project and executing a release.

22 44. Due to Defendant's Fraud as described above, Plaintiff has been damaged in a  
23 sum in excess of \$10,000.00, together with fees, costs, and interest thereon as provided in the  
24 Contract until paid in full and other such damage according to proof.

25 45. Plaintiff is also entitled to punitive damages as a result of Plaintiff's fraudulent  
26 representations.  
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**SIXTH CAUSE OF ACTION  
(NEGLIGENT MISREPRESENTATION AGAINST CAM, CARVALHO  
DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

46. Plaintiff repeats with the same force and effect paragraphs 1 through 45, as if set forth in full.

47. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they would pay for the equipment purchased with the monies received from the electrical subcontractor on the project, knowing that the money was to be held in trust for Plaintiff and paid to Plaintiff.

48. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff purporting to pay Plaintiff for the equipment.

49. Plaintiff is informed and believes and based thereon alleges that Defendants did not intend to pay Plaintiff for the equipment or did not insure that they had sufficient funds to pay Plaintiff.

50. Plaintiff is informed and believes and based there on alleges, Defendants requested that the bank stop payment on the check.

51. Plaintiff subsequently discovered that there were not sufficient funds to pay Plaintiff in Defendants' bank account.

52. Plaintiff relied to its detriment upon Defendants' false representations by supplying the equipment to the Project and executing a release and has suffered damage as a result.

53. Defendants intended for Plaintiff to act on its representations and are therefore liable to Plaintiff for the damages Plaintiff suffered in reliance thereon.

54. Due to Defendant's Negligent Misrepresentation, Plaintiff has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon as provided in the Contract until paid in full and other such damage according to proof.

**SEVENTH CAUSE OF ACTION  
(UNJUST ENRICHMENT AGAINST DEFENDANTS,  
DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

55. Plaintiff repeats with the same force and effect paragraphs 1 through 54, as if set forth in full.

56. Plaintiff is informed and believes and based thereon alleges that Defendants, and each of them, have been unjustly enriched by the wrongful act of selling the equipment that was provided to Defendants by Plaintiff, and failing to pay Plaintiff for the equipment, and instead wrongfully retaining the funds they received to pay Plaintiff.

57. As such, said Defendants have been unjustly enriched to the detriment and damage of Plaintiff in a sum in excess of \$10,000.00.

58. Plaintiff has retained the services of an attorney to prosecute this action and is entitled to an award of attorney's fees and costs incurred.

WHEREFORE, Plaintiff prays for relief as follows:

1. For compensatory damages for an amount in excess of \$10,000.00, together with interest thereon at the contractual rate until paid in full and other such damage according to proof;

2. For Punitive damages;

3. For reasonable attorneys fees and costs; and

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**Pezzillo Robinson**  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel. 702 233-4225

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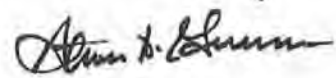
4. For such other and further relief as this Court deems just and proper.

DATED: June 3, 2011

PEZZILLO ROBINSON

By: 

Jennifer R. Lloyd-Robinson, Esq.  
Nevada State Bar No. 9617  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff,*  
*Cashman Equipment Company*



CLERK OF THE COURT

**ACOMP**

Jennifer R. Lloyd-Robinson, Esq.

Nevada Bar No. 9617

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170

Las Vegas, Nevada 89119

Tel: (702) 233-4225

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*Attorneys for Plaintiff.*

*Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

Case No.: A642583

Dept. No.: 32

**AMENDED COMPLAINT**

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; MOJAVE  
ELECTRIC LV LLC, a Nevada limited  
liability company; WESTERN SURETY  
COMPANY, a surety; FC/LW VEGAS,  
LLC, a Delaware limited liability company;  
L W T I C SUCCESSOR LLC, an unknown  
limited liability company; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.

COMES NOW, Plaintiff, CASHMAN EQUIPMENT COMPANY, (hereinafter  
"Cashman" or "Plaintiff") by and through its attorneys of record, Pezzillo Robinson, in

**Pezzillo Robinson**  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225



1 support of its Amended Complaint against the Defendants named herein and alleges as  
2 follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiff, Cashman, is a Nevada corporation duly authorized to conduct  
5 business and conducting business within the State of Nevada.

6 2. Plaintiff is informed and believes and based thereon alleges that Defendant  
7 CAM CONSULTING INC. ("CAM"), is or was at all times relevant to this action, a Nevada  
8 corporation authorized to conduct business in the State of Nevada.

9 3. Plaintiff is informed and believes and based thereon alleges that Defendant  
10 ANGELO CARVALHO ("CARVALHO") is a resident of Clark County, Nevada and an  
11 owner of Defendant CAM.

12 4. Plaintiff is informed and believes and based thereon alleges that Defendant  
13 JANEL RENNIE aka JANEL CARVALHO ("RENNIE") is a resident of Clark County,  
14 Nevada, an owner of Defendant CAM and the owner of the property located at 6321 Little  
15 Elem St., North Las Vegas, Nevada, 89031 and more particularly identified by Assessor's  
16 Parcel Number 124-29-110-099 (the "Property"), which is subject of Plaintiff's claim to quiet  
17 title contained herein.

18 5. Plaintiff is informed and believes and based thereon alleges that Defendant  
19 MOJAVE ELECTRIC LV LLC ("MOJAVE") is or was at all times relevant to this action, a  
20 Nevada limited liability company authorized to conduct business in the State of Nevada as a  
21 licensed contractor, license no. 72462.

22 6. Plaintiff is informed and believes and based thereon alleges that Defendant  
23 WESTERN SURETY COMPANY ("WESTERN") is authorized to conduct business within  
24 the State of Nevada as a contractor's bond surety, and in that capacity issued a contractor's  
25 license bond to Defendant MOJAVE, Bond Number 929458799 in the amount of \$1,000.00.  
26

1 Said bond was issued for the benefit of various public members injured by Defendant  
2 MOJAVE's actions as a contractor, including Plaintiff.

3 7. Plaintiff is informed and believes and based thereon alleges that Defendant  
4 FC/LW VEGAS, LLC is, or was at all times relevant to this action, a Delaware limited  
5 liability company and the owner of property located at 518 S. 1<sup>st</sup> St., Las Vegas, Nevada, and  
6 more particularly described as Assessor's Parcel Number 139-34-311-021 (the "Project"),  
7 which is subject of Plaintiff's lien foreclosure claim alleged herein.

8 8. Plaintiff is informed and believes and based thereon alleges that Defendant  
9 LWTIC SUCCESSOR LLC is, or was at all times relevant to this action, an unknown limited  
10 liability company not registered with the Nevada Secretary of State and the owner of the  
11 Project, which is subject of Plaintiff's lien foreclosure claim alleged herein.

12 9. Plaintiff is informed and believes and based thereon alleges that Defendant  
13 THE WHITING TURNER CONTRACTING COMPANY ("WHITING TURNER") is or was  
14 at all times relevant to this action, a Maryland limited liability company authorized to conduct  
15 business in the State of Nevada as a licensed contractor, license nos. 33400, 68086, and 68079  
16 and is the general contractor on the Project.

17 10. Plaintiff is informed and believes and based thereon alleges that Defendant  
18 FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("FIDELITY") is authorized to  
19 conduct business within the State of Nevada as a contractor's bond surety, and in that capacity  
20 issued a contractor's license bond to Defendant WHITING TURNER, Bond Number 9045603  
21 in the amount of \$50,000.00 for license number 33400. Said bond was issued for the benefit  
22 of various public members injured by Defendant WHITING TURNER's actions as a  
23 contractor, including Plaintiff.

24 11. Defendants sued herein under the fictitious names of DOES 1 through 10,  
25 inclusive, are presently unknown to Plaintiff but are believed to reside in the State of Nevada  
26 and are in some respect liable for the acts and omissions, whether intentional, negligent or  
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1 otherwise, alleged herein.

2 12. Defendants sued herein under the fictitious names of ROE  
3 CORPORATIONS 1 through 10, inclusive, are presently unknown to Plaintiff but are  
4 believed to be corporations authorized to conduct business in the State of Nevada and are in  
5 some respect liable for the acts and omissions, whether intentional, negligent or otherwise,  
6 alleged herein.

7 13. The obligations sued upon herein were performed in Clark County, Nevada.

8  
9 **FIRST CAUSE OF ACTION**  
10 **(BREACH OF CONTRACT AGAINST CAM,**  
11 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

12 14. Plaintiff repeats with the same force and effect paragraphs 1 through 13, as if  
13 set forth in full.

14 15. Plaintiff and Defendant entered into an agreement whereby Plaintiff agreed to  
15 sell equipment to Defendant ("the Contract") for the total price of \$755,893.89. The  
16 equipment was to be incorporated into the Project commonly referred to as the New Las  
17 Vegas City Hall.

18 16. Plaintiff provided the equipment to Defendant and as required by the Contract.  
19 Defendant agreed to pay Plaintiff for the equipment pursuant to the terms of the Contract.

20 17. Defendant has breached the terms of the Contract by failing and refusing to  
21 pay for the equipment provided by Plaintiff, and now owes a sum in excess of \$10,000.00.

22 18. Plaintiff has performed all conditions and promises required on its part to be  
23 performed under the Contract, except as said performance has been waived, excused or  
24 prevented by Defendant's breach of the Contract.

25 19. Based upon Defendant's breach of the Contract as described above, Plaintiff  
26 has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest  
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1 thereon as provided in the Contract until paid in full and other such damage according to  
2 proof.

3  
4 **SECOND CAUSE OF ACTION**  
5 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
6 **AGAINST CAM, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

7 20. Plaintiff repeats with the same force and effect paragraphs 1 through 19, as if  
8 set forth in full.

9 21. All contracts entered into in the state of Nevada contain the implied covenant  
10 of good faith and fair dealing.

11 22. Defendant's intentional failure to pay Plaintiff for the equipment after  
12 receiving the funds to pay Plaintiff from MOJAVE, the electrical subcontractor on the Project,  
13 and according to the terms of the Contract constitutes a breach of the implied covenant of  
14 good faith and fair dealing.

15 23. Based on Defendant's breach of the Contract as described above, Plaintiff has  
16 been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon  
17 as provided in the Contract until paid in full and other such damage according to proof.

18 **THIRD CAUSE OF ACTION**  
19 **(FORECLOSURE OF SECURITY INTEREST AGAINST CAM, MOJAVE,**  
20 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

21 24. Plaintiff repeats with the same force and effect paragraphs 1 through 23, as if  
22 set forth in full.

23 25. Plaintiff holds a valid security interest in the equipment sold to CAM as  
24 provided for in the credit agreement executed by CARVALHO on behalf of CAM, which  
25 were pledged in writing in order to secure payment for the equipment.

26 26. Plaintiff perfected its security interest in the equipment.

27 27. Plaintiff properly filed its security agreement in accordance with the pertinent  
28 provisions of the Nevada Uniform Commercial Code.



1 28. Plaintiff is entitled to execute upon its security agreement and take possession  
2 of all assets or proceeds subject of the security agreement and seeks a judgment and order  
3 from this Court allowing such execution.

4 29. Plaintiff is entitled to an award of its interest, costs and attorneys' fees incurred  
5 herein.

6  
7 **FOURTH CAUSE OF ACTION**  
8 **(ALTER EGO AGAINST CAM, CARVALHO, RENNIE**  
9 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

10 30. Plaintiff repeats with the same force and effect paragraphs 1 through 29, as if  
11 set forth in full.

12 31. Plaintiff is informed and believes and based thereon alleges that Defendant  
13 CAM is not and was not adequately funded.

14 32. Plaintiff is informed and believes and based thereon alleges that Defendant  
15 CAM is solely owned by Defendants CARVALHO and RENNIE, and that CAM is  
16 influenced and governed by CARVALHO and RENNIE.

17 33. Plaintiff is informed and believes and based thereon alleges that CAM received  
18 payment from MOJAVE, the electrical subcontractor on the Project, for the equipment it  
19 purchased from Plaintiff and instead of paying Plaintiff for the equipment, CARVALHO and  
20 RENNIE diverted the funds from CAM and used the funds for their own benefit.

21 34. Plaintiff is informed and believes and based thereon alleges that CARVALHO  
22 and RENNIE used the corporate assets as their own, withdrawing \$600,000.00 from the  
23 corporate banking account even though those funds were to be used to pay Plaintiff.

24 35. As set forth herein, a unity of interest and ownership exists between the  
25 Defendant CAM and Defendants CARVALHO and RENNIE such that one is inseparable  
26 from the other and the facts of this matter demonstrate that adherence to the fiction of a  
27 separate entity would, under the circumstances, sanction a fraud or promote injustice and  
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1 would therefore be inequitable.

2 36. Therefore, as CARVALHO and RENNIE are the alter ego of CAM,  
3 CARVALHO and RENNIE are liable for the damages suffered by Plaintiff, in an amount in  
4 excess of \$10,000.00, together with fees, costs, and interest thereon pursuant to the terms of  
5 the Contract until paid in full and other such damage according to proof.

6  
7 **FIFTH CAUSE OF ACTION**  
8 **(CONVERSION AGAINST CARVALHO,**  
9 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

10 37. Plaintiff repeats with the same force and effect paragraphs 1 through 36 as if  
11 set forth in full.

12 38. Plaintiff is informed and believes and based thereon alleges that Defendant  
13 CARVALHO received payment from MOJAVE, the electrical subcontractor on the Project,  
14 for the equipment provided to Defendant CAM by Plaintiff.

15 39. Defendant CARVALHO then issued payment to Plaintiff in the form of a  
16 check in the amount of \$755,893.89.

17 40. Plaintiff deposited the check, but it was returned by the bank.

18 41. Plaintiff is informed and believes and based thereon alleges that Defendant  
19 CARVALHO stopped payment on the check.

20 42. Plaintiff is informed and believes and based thereon alleges that Defendant  
21 CARVALHO personally withdrew \$600,000.00 from the corporate bank account even though  
22 CARVALHO knew that money was received for Plaintiff and was to be used to pay Plaintiff  
23 for the equipment Plaintiff sold to CAM.

24 43. Plaintiff subsequently contacted Defendant CARVALHO to request that  
25 payment be reissued to Plaintiff for the equipment Plaintiff sold Defendant.

26 44. Defendant CARVALHO then again issued payment to Plaintiff in the form of  
27 a check in the amount of \$755,893.89.

1 45. Plaintiff is informed and believes and based thereon alleges that Defendant  
2 CARVALHO issued the second check knowing there were no funds in the bank account to  
3 pay Plaintiff, as CARVALHO had previously withdrawn \$600,000.00 from the account and  
4 had paid other expenses with the money to be paid to Plaintiff.

5 46. Plaintiff presented the second check to the bank upon which it was drawn,  
6 Nevada State Bank, and was informed that the account did not have sufficient funds to cover  
7 the check.

8 47. Plaintiff has attempted to contact Defendant CARVALHO numerous times and  
9 CARVALHO is not responding and has not issued payment.

10 48. As evidenced by Defendant CARVALHO twice purporting to make payment  
11 to Plaintiff for the equipment purchased, the money in CARVALHO's possession belongs to  
12 Plaintiff and Plaintiff has the right to possession of the money.

13 49. Defendant CARVALHO is wrongfully and intentionally exercising dominion  
14 and control over Plaintiff's property interfering with Plaintiff's right to the property.

15 50. In keeping Plaintiff's money, Defendant CARVALHO is depriving Plaintiff of  
16 its use of the property.

17 51. Defendant CARVALHO's failure to pay Plaintiff has caused damages to  
18 Plaintiff in an amount in excess of \$10,000.00, together with fees, costs, and interest thereon  
19 pursuant to the terms of the Contract until paid in full and other such damage according to  
20 proof.

21  
22 **SIXTH CAUSE OF ACTION**  
23 **(FRAUD AGAINST CAM, CARVALHO**  
24 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

25 52. Plaintiff repeats with the same force and effect paragraphs 1 through 51, as if  
26 set forth in full.

27 53. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they  
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1 would pay for the equipment purchased with the monies received from MOJAVE, the  
2 electrical subcontractor on the Project, knowing that the money was to be held in trust for  
3 Plaintiff and paid to Plaintiff.

4 54. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff  
5 purporting to pay Plaintiff for the equipment.

6 55. Plaintiff is informed and believes and based thereon alleges that Defendants  
7 did not intend to pay Plaintiff for the equipment.

8 56. Plaintiff is informed and believes and based there on alleges Defendants  
9 requested that the bank stop payment on the check and diverted the funds for their own use.

10 57. Plaintiff subsequently discovered that there were not sufficient funds to pay  
11 Plaintiff in Defendants' bank account.

12 58. Plaintiff relied to its detriment upon Defendants' false representations by  
13 supplying the equipment to the Project and executing a release.

14 59. Due to Defendant's intentional Fraud upon Plaintiff as described above,  
15 Plaintiff has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and  
16 interest thereon until paid in full and other such damage according to proof.

17 60. Plaintiff is also entitled to punitive damages as a result of Defendant's tortious  
18 conduct.

19  
20 **SEVENTH CAUSE OF ACTION**  
21 **(NEGLIGENT MISREPRESENTATION AGAINST CAM, CARVALHO**  
22 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

23 61. Plaintiff repeats with the same force and effect paragraphs 1 through 60, as if  
24 set forth in full.

25 62. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they  
26 would pay for the equipment purchased with the monies received from MOJAVE, the  
27 electrical subcontractor on the Project, knowing that the money received was to be held in  
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1 trust for Plaintiff and paid to Plaintiff.

2 63. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff  
3 purporting to pay Plaintiff for the equipment.

4 64. Plaintiff is informed and believes and based thereon alleges that Defendants  
5 did not intend to pay Plaintiff for the equipment or did not insure that they had sufficient  
6 funds to pay Plaintiff.

7 65. Plaintiff is informed and believes and based there on alleges, Defendants  
8 requested that the bank stop payment on the check.

9 66. Plaintiff subsequently discovered that there were not sufficient funds to pay  
10 Plaintiff in Defendants' bank account.

11 67. Plaintiff relied to its detriment upon Defendants' false representations by  
12 supplying the equipment to the Project and executing a release and has suffered damage as a  
13 result.

14 68. Defendants intended for Plaintiff to act on its representations and are  
15 therefore liable to Plaintiff for the damages Plaintiff suffered in reliance thereon.

16 69. Due to Defendants' Negligent Misrepresentation, Plaintiff has been damaged  
17 in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon until paid in  
18 full and other such damage according to proof.

20 **EIGHTH CAUSE OF ACTION**  
21 **(QUIET TITLE AGAINST CARVALHO, RENNIE,**  
22 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

23 70. Plaintiff repeats with the same force and effect paragraphs 1 through 69, as if  
24 set forth in full.

25 71. Plaintiff is informed and believes and based thereon alleges that Defendants  
26 CARVALHO and RENNIE converted funds that were to be paid to Plaintiff as set forth  
27 herein.

1           72. Plaintiff is informed and believes and based thereon alleges that those funds  
2 were used by Defendants to purchase the Property on or about May 11, 2011, less than two  
3 weeks after CARVALHO withdrew \$600,000.00 from the corporate bank account.

4           73. Plaintiff is informed and believes and based thereon alleges that Defendants  
5 titled the Property to RENNIE only, using her maiden name, so as to conceal the property  
6 purchase.

7           74. Plaintiff is informed and believes and based thereon alleges that because  
8 Defendants used Plaintiff's money to purchase the Property, Plaintiff has a claim to  
9 ownership of the Property.

10           75. Plaintiff's claim to quiet title is brought pursuant to NRS 40.010.

11           76. Plaintiff is entitled to an order of this Court declaring it the owner of the  
12 Property.  
13

14                                   **NINTH CAUSE OF ACTION**  
15                                   **(LIEN FORECLOSURE AGAINST FC/LW VEGAS, LLC,**  
16                                   **L W T I C SUCCESSOR LLC, DOES 1-10, and**  
17                                   **ROE CORPORATIONS 1-10, inclusive)**

18           77. Plaintiff repeats with the same force and effect paragraphs 1 through 76, as if  
19 set forth in full.

20           78. Plaintiff supplied equipment to the Project at the request of and pursuant to the  
21 Contract with CAM.

22           79. Plaintiff is informed and believes and based thereon alleges that said  
23 equipment was used in or for the construction, alteration or repair of an improvement on the  
24 Property.

25           80. Plaintiff is entitled to hold a lien on the Property as Plaintiff is a lien claimant,  
26 as set forth in NRS 108.2214.

27           81. Plaintiff served via certified mail, return receipt requested, a certain Notice to  
28

1 Owner of Right to Lien upon Defendants or their successors in interest, as required by NRS  
2 108.245, or was exempt from the obligation to serve said Notice.

3 82. Within the time required by NRS Chapter 108, Plaintiff caused to be recorded  
4 a mechanic's lien on the Project in the amount of \$755,893.89, Instrument No.  
5 201106220002156, in compliance with the requirements of NRS 108.226 and served upon the  
6 record owner in compliance with the provisions of NRS 108.227.

7 83. Plaintiff's lien is a valid lien upon the Property.

8 84. There may be other lien claimants whose liens may be subordinate to  
9 Plaintiff's Notice and Claim of Lien.

10 85. Plaintiff was required to retain the undersigned firm of attorneys to prosecute  
11 this action, and as a result has incurred and will continue to incur costs and attorney's fees in  
12 preparing, recording and foreclosing its lien, which Plaintiff is entitled to recover from said  
13 Defendants.

14 86. By virtue of supplying equipment to the Project and not receiving payment,  
15 Plaintiff has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and  
16 interest thereon until paid in full and other such damage according to proof.  
17

18 **TENTH CAUSE OF ACTION**  
19 **(UNJUST ENRICHMENT AGAINST MOJAVE, DOES 1-10, and**  
20 **ROE CORPORATIONS 1-10, inclusive)**

21 87. Plaintiff repeats with the same force and effect paragraphs 1 through 86, as if  
22 set forth in full.

23 88. Plaintiff supplied equipment to the Project at the request of and pursuant to its  
24 Contract with CAM.

25 89. Plaintiff is informed and believes and based thereon alleges that said  
26 equipment was used in or for the construction, alteration or repair of an improvement on the  
27 Property.  
28

1           90.     Plaintiff is informed and believes and based thereon alleges that MOJAVE  
2     contracted with CAM to purchase the equipment Plaintiff sold to CAM.

3           91.     Plaintiff is informed and believes and based thereon alleges that MOJAVE  
4     knew that Plaintiff was selling the equipment to CAM that MOJAVE would later purchase.

5           92.     Plaintiff is informed and believes and based thereon alleges that MOJAVE  
6     refused to issue a joint check payable to both CAM and Plaintiff to pay for the equipment  
7     Plaintiff supplied to the Project.

8           93.     Plaintiff is informed and believes and based thereon alleges that MOJAVE  
9     issued payment for the equipment to CAM.

10          94.     Plaintiff is informed and believes and based thereon alleges that after receiving  
11     said payment CAM then issued two checks made payable to MOJAVE in the amounts of  
12     \$139,367.70 and \$136,269.00, respectively.

13          95.     Plaintiff is informed and believes and based thereon alleges that the payments  
14     MOJAVE received from CAM were funds that were to be used to pay Plaintiff for the  
15     equipment.  
16

17          96.     Plaintiff is informed and believes and based thereon alleges that MOJAVE, by  
18     virtue of those payments from CAM has retained monies that rightfully belong to Plaintiff.

19          97.     Plaintiff is informed and believes and based thereon alleges that MOJAVE  
20     may not have paid the entire amount due for the equipment.

21          98.     As MOJAVE has in its possession monies that should have been used to pay  
22     Plaintiff for the equipment, MOJAVE has been unjustly enriched to the detriment of Plaintiff,  
23     causing Plaintiff damages in a sum in excess of \$10,000.00 and other such damage according  
24     to proof.

25          99.     Plaintiff has retained the services of an attorney to prosecute this action and is  
26     entitled to an award of attorney's fees and costs incurred.  
27  
28



**ELEVENTH CAUSE OF ACTION  
(CONTRACTOR'S LICENSE BOND CLAIM AGAINST MOJAVE, WESTERN  
DOES 1-10, and ROE CORPORATIONS 1-10, inclusive)**

100. Plaintiff repeats with the same force and effect paragraphs 1 through 99, as if set forth in full.

101. Plaintiff is informed and believes and based thereon alleges that Defendant MOJAVE, as principal, and Defendant WESTERN, as surety, caused to be issued a contractor's license bond in accordance with the provisions of Chapter 624 of the Nevada Revised Statutes. Said bond is identified as Bond Number 929458799, issued in the amount of \$1,000.00, was conditioned upon full compliance by MOJAVE with all of the provisions of Chapter 624 of the Nevada Revised Statutes and inures to the benefit of all persons, including Plaintiff, damaged as a result of a violation of any requirements of said chapter by MOJAVE.

102. Plaintiff is informed and believes and based thereon alleges that the damages it has suffered are a direct and proximate result of violations of one or more of the following sections of Chapter 624 of Nevada Revised Statutes by Defendant MOJAVE:

(a) Section 624.3012(1) in that MOJAVE diverted funds which were received for a specific purpose in the prosecution of construction contracts and thereby deprived Plaintiff of payment to which it was entitled;

(b) Section 624.3012(2) in that MOJAVE willfully and deliberately failed to pay money due for labor and materials rendered in connection with its operation as a contractor, when it had the capacity to pay, or when it had received sufficient funds therefore as payment, in the prosecution of construction contracts for which the equipment was provided.

103. In light of MOJAVE's willful and deliberate failure to ensure that Plaintiff was paid for the equipment Plaintiff provided to the Project and as it has been unjustly enriched by retaining monies owed to Plaintiff for the equipment MOJAVE violated Chapter 624 of the

1 Nevada Revised Statutes and Plaintiff is entitled to recover against the license bond issued by  
2 Defendant WESTERN.

3  
4 **TWELFTH CAUSE OF ACTION**  
5 **(UNJUST ENRICHMENT AGAINST WHITING TURNER,**  
6 **FC/LW VEGAS, LLC, L W T I C SUCCESSOR LLC**  
7 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

8 104. Plaintiff repeats with the same force and effect paragraphs 1 through 103, as if  
9 set forth in full.

10 105. Plaintiff is informed and believes and based thereon alleges that Defendants  
11 WHITING TURNER, FC/LW VEGAS, LLC and L W T I C SUCCESSOR LLC, and each of  
12 them, have been unjustly enriched by the wrongful act of retaining the equipment that was  
13 provided to the Project by Plaintiff, and failing to pay for said equipment.

14 106. As such, said Defendants have been unjustly enriched to the detriment and  
15 damage of Plaintiff in a sum in excess of \$10,000.00.

16 107. Plaintiff has retained the services of an attorney to prosecute this action and is  
17 entitled to an award of attorney's fees and costs incurred.

18 **THIRTEENTH CAUSE OF ACTION**  
19 **(CONTRACTOR'S LICENSE BOND CLAIM AGAINST WHITING TURNER,**  
20 **FIDELITY, DOES 1-10, and ROE CORPORATIONS 1-10, inclusive)**

21 108. Plaintiff repeats with the same force and effect paragraphs 1 through 107, as if  
22 set forth in full.

23 109. Plaintiff is informed and believes and based thereon alleges that Defendant  
24 WHITING TURNER, as principal, and Defendant FIDELITY, as surety, caused to be issued a  
25 contractor's license bond in accordance with the provisions of Chapter 624 of the Nevada  
26 Revised Statutes. Said bond is identified as Bond Number 9045603, issued in the amount of  
27 \$50,000.00, was conditioned upon full compliance by WHITING TURNER with all of the  
28 provisions of Chapter 624 of the Nevada Revised Statutes and inures to the benefit of all

1 persons, including Plaintiff, damaged as a result of a violation of any requirements of said  
2 chapter by WHITING TURNER.

3 110. Plaintiff is informed and believes and based thereon alleges that the damages it  
4 has suffered are a direct and proximate result of violations of one or more of the following  
5 sections of Chapter 624 of Nevada Revised Statutes by Defendant WHITING TURNER;

6 (a) Section 624.3012(1) in that WHITING TURNER diverted funds which  
7 were received for a specific purpose in the prosecution of construction contracts and  
8 thereby deprived Plaintiff of payment to which it was entitled;

9 (b) Section 624.3012(2) in that WHITING TURNER willfully and  
10 deliberately failed to pay money due for labor and materials rendered in connection  
11 with its operation as a contractor, when it had the capacity to pay, or when it had  
12 received sufficient funds therefore as payment, in the prosecution of construction  
13 contracts for which the equipment was provided.

14 111. In light of WHITING TURNER's willful and deliberate failure to ensure that  
15 Plaintiff was paid for the equipment Plaintiff provided to the Project and as it has been  
16 unjustly enriched by retaining monies owed to Plaintiff for the equipment WHITING  
17 TURNER violated Chapter 624 of the Nevada Revised Statutes and Plaintiff is entitled to  
18 recover against the license bond issued by Defendant FIDELITY.  
19  
20  
21

22 WHEREFORE, Plaintiff prays for relief as follows:

23 1. For compensatory damages for an amount in excess of \$10,000.00, together  
24 with interest thereon at the contractual rate until paid in full and other such damage according  
25 to proof;

26 2. For punitive damages against Defendants CAM, CARVALHO and RENNIE;  
27  
28

1           3.       For judgment declaring that Plaintiff has a valid security interest in the  
2 property subject of the UCC filing for an amount in excess of \$10,000.00, plus interest from  
3 the date the amounts became due until paid in full, costs and fees and that Plaintiff's security  
4 interest has priority over every other lien or claim of interest in the property;

5           4.       For judgment declaring that Plaintiff is the owner of the Property subject to the  
6 Quiet Title claim alleged herein;

7           5.       For judgment declaring that Plaintiff has a valid lien on the Project for amount  
8 in excess of \$10,000.00, plus interest from the date the amounts became due until paid in full,  
9 costs and fees, that Plaintiff's lien has priority over every other lien or claim of interest on the  
10 Property, and that the Property be sold and proceeds from the sale be applied to satisfy  
11 Plaintiff's lien, together with the expenses of sale and the costs and disbursements in this  
12 action;

13           6.       For judgment declaring that Plaintiff has a claim in excess of \$10,000.00  
14 against MOJAVE's contractor's license bond, issued by WESTERN, plus interest thereon  
15 from the date the amounts became due until paid in full, and that Plaintiff's claim has priority  
16 over every other claim of interest on the bond;

17           7.       For judgment declaring that Plaintiff has a claim in excess of \$10,000.00  
18 against WHITING TURNER's contractor's license bond, issued by FIDELITY, plus interest  
19 thereon from the date the amounts became due until paid in full, and that Plaintiff's claim has  
20 priority over every other claim of interest on the bond;

21           8.       For reasonable attorneys fees and costs; and  
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Pezzillo Robinson  
6750 VIA AUSTI PARKWAY, SUITE 170  
LAS VEGAS, NEVADA 89119  
TEL 702 233-4225

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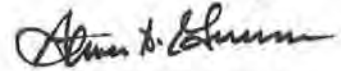
9. For such other and further relief as this Court deems just and proper.

DATED: July 25, 2011

PEZZILLO ROBINSON

By: 

Jennifer R. Lloyd-Robinson, Esq.  
Nevada State Bar No. 9617  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
*Attorneys for Plaintiff,*  
*Cashman Equipment Company*



CLERK OF THE COURT

**AFF**

Jennifer R. Lloyd-Robinson, Esq.

Nevada Bar No. 9617

Marisa L. Maskas, Esq.

Nevada Bar No. 10928

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170

Las Vegas, Nevada 89119

Tel: (702) 233-4225

Fax: (702) 233-4252

*Attorneys for Plaintiff,*

*Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; MOJAVE  
ELECTRIC LV LLC, a Nevada limited  
liability company; WESTERN SURETY  
COMPANY, a surety; FC/LW VEGAS,  
LLC, a Delaware limited liability company;  
L W T I C SUCCESSOR LLC, an unknown  
limited liability company; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.

CASE NO. A642583

DEPT NO. 32

**AFFIDAVIT OF SERVICE ON  
ANGELO CARVALHO**

///

///

///

LEGAL WINGS, INC.  
PROCESS LICENSE #389  
LAS VEGAS, NV  
(702)384-0305

AFFIDAVIT OF SERVICE RE: ANGELO CARVALHO, an individual

STATE OF NEVADA       )  
                                  ) ss,  
COUNTY OF CLARK     )

Tina J. Sanchez, first being duly sworn, deposes and says:

1. That affiant is and was at all times mentioned herein a citizen of the United States, over the age of 18 years, not a party to nor interested in the within action, and licensed to serve civil process under Nevada license number 389.
2. That affiant received the within Summons, Amended Complaint, Lis Pendens Re: 6321 Little Elm St., Lis Pendens Re: 518 S. 1<sup>st</sup> St. on August 2, 2011, to serve the Defendant, Angelo Carvalho, an individual, with instructions to surveillance the property located at 6321 Little Elm St., North Las Vegas, Nevada 89031.
3. That affiant checked with the Clark County Assessor's Office, which revealed the property of 6321 Little Elm St., North Las Vegas, Nevada 89031, to be owned by the Co-Defendant, Janel Rennie, as of May 11, 2011.

\* \* \* \*

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\* \* \* \*

\* \* \* \*

LEGAL WINGS, INC.  
PROCESS LICENSE #389  
LAS VEGAS, NV  
(702)884-0305

1 4. That affiant on August 14, 2011 at 12:37 p.m., personally served a copy of said  
2 documents to Angelo Carvalho, an individual, by leaving copies with "Jane Doe", co-resident,  
3 white female adult, approximately 45 years of age, 5'5", 200 lbs., with light brown hair, brown  
4 eyes, who refused to state her name, and who was pulling out of the garage in a vehicle.  
5

6 Affiant does hereby affirm under penalty of perjury that the assertions of this  
7 affidavit are true.

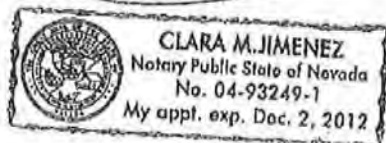
8 Further your Affiant saith naught.  
9




10 Tina J. Sanchez  
11 Registered Work Card #R-038221  
12

13 Subscribed and Sworn to Before me  
14 this 14<sup>th</sup> day of August, 2011.

15  
16 Notary Public in and for said  
17 County and State







CLERK OF THE COURT

**AFF**

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617  
Marisa L. Maskas, Esq.  
Nevada Bar No. 10928

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel: (702) 233-4225  
Fax: (702) 233-4252  
*Attorneys for Plaintiff,  
Cashman Equipment Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; MOJAVE  
ELECTRIC LV LLC, a Nevada limited  
liability company; WESTERN SURETY  
COMPANY, a surety; FC/LW VEGAS,  
LLC, a Delaware limited liability company;  
L W T I C SUCCESSOR LLC, an unknown  
limited liability company; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1 - 10,  
inclusive; and ROE CORPORATIONS 1 -  
10, inclusive;

Defendants.

CASE NO. A642583  
DEPT NO. 32

**AFFIDAVIT OF SERVICE ON JANEL  
RENNIE AKA JANEL CARVALHO**

///  
///  
///

AFFIDAVIT OF SERVICE RE: JANEL RENNIE aka JANEL CARVALHO, an  
individual

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF CLARK       )

Tina J. Sanchez, first being duly sworn, deposes and says:

1. That affiant is and was at all times mentioned herein a citizen of the United States, over the age of 18 years, not a party to nor interested in the within action, and licensed to serve civil process under Nevada license number 389.
2. That affiant received the within Summons, Amended Complaint, Lis Pendens Re: 6321 Little Elm St., Lis Pendens Re: 518 S. 1<sup>st</sup> St. on August 2, 2011, to serve the Defendant, Janel Rennie aka Janel Carvalho, an individual, with instructions to surveillance the property located at 6321 Little Elm St., North Las Vegas, Nevada 89031.
3. That affiant checked with the Clark County Assessor's Office, which revealed the property of 6321 Little Elm St., North Las Vegas, Nevada 89031, to be owned by the Defendant, Janel Rennie, as of May 11, 2011.

• \* \* \*

• \* \* \*

• \* \* \*

• \* \* \*

• \* \* \*


• \* \* \*

• \* \* \*

1 4. That affiant on August 14, 2011 at 12:37 p.m., personally served a copy of said  
2 documents to Janel Rennie aka Janel Carvalho, an individual, by leaving copies with "Jane Doe",  
3 co-resident, white female adult, approximately 45 years of age, 5'5", 200 lbs., with light brown  
4 hair, brown eyes, who refused to state her name, and who was pulling out of the garage in a  
5 vehicle.  
6

7 Affiant does hereby affirm under penalty of perjury that the assertions of this  
8 affidavit are true.

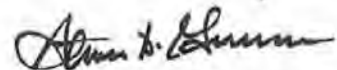
9 Further your Affiant saith naught,  
10

11   
12 Tina J. Sanchez  
13 Registered Work Card #R-038221

14  
15 Subscribed and Sworn to Before me  
16 this 14 day of August, 2011.

17 Notary Public in and for said  
18 County and State





CLERK OF THE COURT

**ACOMP**

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel: (702) 233-4225  
Fax: (702) 233-4252  
Attorneys for Plaintiff,  
Cashman Equipment Company

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

Case No.: A642583

Dept. No.: 32

**SECOND AMENDED COMPLAINT**

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD., dba MOJAVE  
ELECTRIC, a Nevada corporation;  
WESTERN SURETY COMPANY, a  
surety; THE WHITING TURNER  
CONTRACTING COMPANY, a Maryland  
corporation; DOES 1 - 10, inclusive; and  
ROE CORPORATIONS 1 - 10, inclusive;

Defendants.

COMES NOW, Plaintiff, CASHMAN EQUIPMENT COMPANY, (hereinafter  
"Cashman" or "Plaintiff") by and through its attorneys of record, Pezzillo Robinson, in  
support of its Amended Complaint against the Defendants named herein and alleges as  
follows:

///



**PARTIES, JURISDICTION AND VENUE**

1  
2 1. Plaintiff, Cashman, is a Nevada corporation duly authorized to conduct  
3 business and conducting business within the State of Nevada.

4 2. Plaintiff is informed and believes and based thereon alleges that Defendant  
5 CAM CONSULTING INC. ("CAM"), is or was at all times relevant to this action, a Nevada  
6 corporation authorized to conduct business in the State of Nevada.

7 3. Plaintiff is informed and believes and based thereon alleges that Defendant  
8 ANGELO CARVALHO ("CARVALHO") is a resident of Clark County, Nevada and an  
9 owner of Defendant CAM.

10 4. Plaintiff is informed and believes and based thereon alleges that Defendant  
11 JANEL RENNIE aka JANEL CARVALHO ("RENNIE") is a resident of Clark County,  
12 Nevada, an owner of Defendant CAM and the owner of the property located at 6321 Little  
13 Elem St., North Las Vegas, Nevada, 89031 and more particularly identified by Assessor's  
14 Parcel Number 124-29-110-099 (the "Property"), which is subject of Plaintiff's claim to quiet  
15 title contained herein.  
16

17 5. Plaintiff is informed and believes and based thereon alleges that Defendant  
18 WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC ("MOJAVE") is or was at  
19 all times relevant to this action, a Nevada limited liability company authorized to conduct  
20 business in the State of Nevada as a licensed contractor, license numbers 38571, 37380 and  
21 19512 and is the principal on the Mechanics Lien Release Bond, issued by WESTERN  
22 SURETY COMPANY (Bond Number 58685401).

23 6. Plaintiff is informed and believes and based thereon alleges that Defendant  
24 WESTERN SURETY COMPANY ("WESTERN") is authorized to conduct business within  
25 the State of Nevada as a contractor's bond surety, and in that capacity issued two contractor's  
26 license bonds to Defendant MOJAVE, Bond Number 929452545 in the amount of \$5,000.00  
27  
28

1 and Bond Number 929444674 in the amount of \$2,000.00. Said bond was issued for the  
2 benefit of various public members injured by Defendant MOJAVE's actions as a contractor,  
3 including Plaintiff. Additionally, WESTERN also issued a Mechanics Lien Release Bond to  
4 Defendant MOJAVE (Bond Number 58685401) in the amount of \$1,133,840.84, for the  
5 benefit of Plaintiff.

6 7. Plaintiff is informed and believes and based thereon alleges that Defendant  
7 THE WHITING TURNER CONTRACTING COMPANY ("WHITING TURNER") is or was  
8 at all times relevant to this action, a Maryland limited liability company authorized to conduct  
9 business in the State of Nevada as a licensed contractor, license nos. 33400, 68086, and 68079  
10 and is the general contractor on the Project.

11 8. Plaintiff is informed and believes and based thereon alleges that Defendant  
12 FIDELITY AND DEPOSIT COMPANY OF MARYLAND ("FIDELITY") is authorized to  
13 conduct business within the State of Nevada as a contractor's bond surety, and in that capacity  
14 issued a contractor's license bond to Defendant WHITING TURNER, Bond Number 9045603  
15 in the amount of \$50,000.00 for license number 33400. Said bond was issued for the benefit  
16 of various public members injured by Defendant WHITING TURNER's actions as a  
17 contractor, including Plaintiff.

18 9. Defendants sued herein under the fictitious names of DOES 1 through 10,  
19 inclusive, are presently unknown to Plaintiff but are believed to reside in the State of Nevada  
20 and are in some respect liable for the acts and omissions, whether intentional, negligent or  
21 otherwise, alleged herein.

22 10. Defendants sued herein under the fictitious names of ROE  
23 CORPORATIONS 1 through 10, inclusive, are presently unknown to Plaintiff but are  
24 believed to be corporations authorized to conduct business in the State of Nevada and are in  
25 some respect liable for the acts and omissions, whether intentional, negligent or otherwise,  
26 alleged herein.  
27  
28

1           11.    The obligations sued upon herein were performed in Clark County, Nevada.

2  
3                           **FIRST CAUSE OF ACTION**  
4                           **(BREACH OF CONTRACT AGAINST CAM,**  
5                           **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

6           12.    Plaintiff repeats with the same force and effect paragraphs 1 through 11, as if  
7 set forth in full.

8           13.    Plaintiff and Defendant entered into an agreement whereby Plaintiff agreed to  
9 sell equipment to Defendant ("the Contract") for the total price of \$755,893.89. The  
10 equipment was to be incorporated into the Project commonly referred to as the New Las  
11 Vegas City Hall.

12           14.    Plaintiff provided the equipment to Defendant and as required by the Contract.  
13 Defendant agreed to pay Plaintiff for the equipment pursuant to the terms of the Contract.

14           15.    Defendant has breached the terms of the Contract by failing and refusing to  
15 pay for the equipment provided by Plaintiff, and now owes a sum in excess of \$10,000.00.

16           16.    Plaintiff has performed all conditions and promises required on its part to be  
17 performed under the Contract, except as said performance has been waived, excused or  
18 prevented by Defendant's breach of the Contract.

19           17.    Based upon Defendant's breach of the Contract as described above, Plaintiff  
20 has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest  
21 thereon as provided in the Contract until paid in full and other such damage according to  
22 proof.

23                           **SECOND CAUSE OF ACTION**  
24                           **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
25                           **AGAINST CAM, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

26           18.    Plaintiff repeats with the same force and effect paragraphs 1 through 17, as if  
27 set forth in full.  
28

1           19. All contracts entered into in the state of Nevada contain the implied covenant  
2 of good faith and fair dealing.

3           20. Defendant's intentional failure to pay Plaintiff for the equipment after  
4 receiving the funds to pay Plaintiff from MOJAVE, the electrical subcontractor on the Project,  
5 and according to the terms of the Contract constitutes a breach of the implied covenant of  
6 good faith and fair dealing.

7           21. Based on Defendant's breach of the Contract as described above, Plaintiff has  
8 been damaged in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon  
9 as provided in the Contract until paid in full and other such damage according to proof.

10                                   **THIRD CAUSE OF ACTION**  
11                   **(FORECLOSURE OF SECURITY INTEREST AGAINST CAM, MOJAVE,**  
12                   **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

13           22. Plaintiff repeats with the same force and effect paragraphs 1 through 21, as if  
14 set forth in full.

15           23. Plaintiff holds a valid security interest in the equipment sold to CAM as  
16 provided for in the credit agreement executed by CARVALHO on behalf of CAM, which  
17 were pledged in writing in order to secure payment for the equipment.

18           24. Plaintiff perfected its security interest in the equipment.

19           25. Plaintiff properly filed its security agreement in accordance with the pertinent  
20 provisions of the Nevada Uniform Commercial Code.

21           26. Plaintiff is entitled to execute upon its security agreement and take possession  
22 of all assets or proceeds subject of the security agreement and seeks a judgment and order  
23 from this Court allowing such execution.

24           27. Plaintiff is entitled to an award of its interest, costs and attorneys' fees incurred  
25 herein.

26           ///  
27  
28



**FOURTH CAUSE OF ACTION  
(ALTER EGO AGAINST CAM, CARVALHO, RENNIE  
DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

28. Plaintiff repeats with the same force and effect paragraphs 1 through 27, as if set forth in full.

29. Plaintiff is informed and believes and based thereon alleges that Defendant CAM is not and was not adequately funded.

30. Plaintiff is informed and believes and based thereon alleges that Defendant CAM is solely owned by Defendants CARVALHO and RENNIE, and that CAM is influenced and governed by CARVALHO and RENNIE.

31. Plaintiff is informed and believes and based thereon alleges that CAM received payment from MOJAVE, the electrical subcontractor on the Project, for the equipment it purchased from Plaintiff and instead of paying Plaintiff for the equipment, CARVALHO and RENNIE diverted the funds from CAM and used the funds for their own benefit.

32. Plaintiff is informed and believes and based thereon alleges that CARVALHO and RENNIE used the corporate assets as their own, withdrawing \$600,000.00 from the corporate banking account even though those funds were to be used to pay Plaintiff.

33. As set forth herein, a unity of interest and ownership exists between the Defendant CAM and Defendants CARVALHO and RENNIE such that one is inseparable from the other and the facts of this matter demonstrate that adherence to the fiction of a separate entity would, under the circumstances, sanction a fraud or promote injustice and would therefore be inequitable.

34. Therefore, as CARVALHO and RENNIE are the alter ego of CAM, CARVALHO and RENNIE are liable for the damages suffered by Plaintiff, in an amount in excess of \$10,000.00, together with fees, costs, and interest thereon pursuant to the terms of the Contract until paid in full and other such damage according to proof.

**FIFTH CAUSE OF ACTION  
(CONVERSION AGAINST CARVALHO,  
DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

35. Plaintiff repeats with the same force and effect paragraphs 1 through 34 as if set forth in full.

36. Plaintiff is informed and believes and based thereon alleges that Defendant CARVALHO received payment from MOJAVE, the electrical subcontractor on the Project, for the equipment provided to Defendant CAM by Plaintiff.

37. Defendant CARVALHO then issued payment to Plaintiff in the form of a check in the amount of \$755,893.89.

38. Plaintiff deposited the check, but it was returned by the bank.

39. Plaintiff is informed and believes and based thereon alleges that Defendant CARVALHO stopped payment on the check.

40. Plaintiff is informed and believes and based thereon alleges that Defendant CARVALHO personally withdrew \$600,000.00 from the corporate bank account even though CARVALHO knew that money was received for Plaintiff and was to be used to pay Plaintiff for the equipment Plaintiff sold to CAM.

41. Plaintiff subsequently contacted Defendant CARVALHO to request that payment be reissued to Plaintiff for the equipment Plaintiff sold Defendant.

42. Defendant CARVALHO then again issued payment to Plaintiff in the form of a check in the amount of \$755,893.89.

43. Plaintiff is informed and believes and based thereon alleges that Defendant CARVALHO issued the second check knowing there were no funds in the bank account to pay Plaintiff, as CARVALHO had previously withdrawn \$600,000.00 from the account and had paid other expenses with the money to be paid to Plaintiff.

44. Plaintiff presented the second check to the bank upon which it was drawn,

1 Nevada State Bank, and was informed that the account did not have sufficient funds to cover  
2 the check.

3 45. Plaintiff has attempted to contact Defendant CARVALHO numerous times and  
4 CARVALHO is not responding and has not issued payment.

5 46. As evidenced by Defendant CARVALHO twice purporting to make payment  
6 to Plaintiff for the equipment purchased, the money in CARVALHO's possession belongs to  
7 Plaintiff and Plaintiff has the right to possession of the money.

8 47. Defendant CARVALHO is wrongfully and intentionally exercising dominion  
9 and control over Plaintiff's property interfering with Plaintiff's right to the property.

10 48. In keeping Plaintiff's money, Defendant CARVALHO is depriving Plaintiff of  
11 its use of the property.

12 49. Defendant CARVALHO's failure to pay Plaintiff has caused damages to  
13 Plaintiff in an amount in excess of \$10,000.00, together with fees, costs, and interest thereon  
14 pursuant to the terms of the Contract until paid in full and other such damage according to  
15 proof.

16  
17 **SIXTH CAUSE OF ACTION**  
18 **(FRAUD AGAINST CAM, CARVALHO**  
19 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

20 50. Plaintiff repeats with the same force and effect paragraphs 1 through 49, as if  
21 set forth in full.

22 51. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they  
23 would pay for the equipment purchased with the monies received from MOJAVE, the  
24 electrical subcontractor on the Project, knowing that the money was to be held in trust for  
25 Plaintiff and paid to Plaintiff.

26 52. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff  
27 purporting to pay Plaintiff for the equipment.  
28

1           53. Plaintiff is informed and believes and based thereon alleges that Defendants  
2 did not intend to pay Plaintiff for the equipment.

3           54. Plaintiff is informed and believes and based there on alleges Defendants  
4 requested that the bank stop payment on the check and diverted the funds for their own use.

5           55. Plaintiff subsequently discovered that there were not sufficient funds to pay  
6 Plaintiff in Defendants' bank account.

7           56. Plaintiff relied to its detriment upon Defendants' false representations by  
8 supplying the equipment to the Project and executing a release.

9           57. Due to Defendant's intentional Fraud upon Plaintiff as described above,  
10 Plaintiff has been damaged in a sum in excess of \$10,000.00, together with fees, costs, and  
11 interest thereon until paid in full and other such damage according to proof.

12           58. Plaintiff is also entitled to punitive damages as a result of Defendant's tortious  
13 conduct.

14  
15                           **SEVENTH CAUSE OF ACTION**  
16                           **(NEGLIGENT MISREPRESENTATION AGAINST CAM, CARVALHO**  
17                           **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

18           59. Plaintiff repeats with the same force and effect paragraphs 1 through 58, as if  
19 set forth in full.

20           60. Defendant CAM and Defendant CARVALHO represented to Plaintiff that they  
21 would pay for the equipment purchased with the monies received from MOJAVE, the  
22 electrical subcontractor on the Project, knowing that the money received was to be held in  
23 trust for Plaintiff and paid to Plaintiff.

24           61. Defendant CAM and Defendant CARVALHO presented a check to Plaintiff  
25 purporting to pay Plaintiff for the equipment.

26           62. Plaintiff is informed and believes and based thereon alleges that Defendants  
27 did not intend to pay Plaintiff for the equipment or did not insure that they had sufficient  
28



1 funds to pay Plaintiff.

2 63. Plaintiff is informed and believes and based there on alleges, Defendants  
3 requested that the bank stop payment on the check.

4 64. Plaintiff subsequently discovered that there were not sufficient funds to pay  
5 Plaintiff in Defendants' bank account.

6 65. Plaintiff relied to its detriment upon Defendants' false representations by  
7 supplying the equipment to the Project and executing a release and has suffered damage as a  
8 result.

9 66. Defendants intended for Plaintiff to act on its representations and are  
10 therefore liable to Plaintiff for the damages Plaintiff suffered in reliance thereon.

11 67. Due to Defendants' Negligent Misrepresentation, Plaintiff has been damaged  
12 in a sum in excess of \$10,000.00, together with fees, costs, and interest thereon until paid in  
13 full and other such damage according to proof.  
14

15 **EIGHTH CAUSE OF ACTION**  
16 **(QUIET TITLE AGAINST CARVALHO, RENNIE,**  
17 **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

18 68. Plaintiff repeats with the same force and effect paragraphs 1 through 67, as if  
19 set forth in full.

20 69. Plaintiff is informed and believes and based thereon alleges that Defendants  
21 CARVALHO and RENNIE converted funds that were to be paid to Plaintiff as set forth  
22 herein.

23 70. Plaintiff is informed and believes and based thereon alleges that those funds  
24 were used by Defendants to purchase the Property on or about May 11, 2011, less than two  
25 weeks after CARVALHO withdrew \$600,000.00 from the corporate bank account.

26 71. Plaintiff is informed and believes and based thereon alleges that Defendants  
27 titled the Property to RENNIE only, using her maiden name, so as to conceal the property  
28

1 purchase.

2 72. Plaintiff is informed and believes and based thereon alleges that because  
3 Defendants used Plaintiff's money to purchase the Property, Plaintiff has a claim to  
4 ownership of the Property.

5 73. Plaintiff's claim to quiet title is brought pursuant to NRS 40.010.

6 74. Plaintiff is entitled to an order of this Court declaring it the owner of the  
7 Property.

8  
9 **NINTH CAUSE OF ACTION**  
10 **(ENFORCEMENT OF MECHANIC'S LIEN RELEASE BOND AGAINST MOJAVE,**  
11 **WESTERN, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

12 75. Plaintiff repeats with the same force and effect paragraphs 1 through 74, as if  
13 set forth in full.

14 76. Plaintiff supplied equipment to the Project at the request of and pursuant to the  
15 Contract with CAM.

16 77. Plaintiff is informed and believes and based thereon alleges that said  
17 equipment was used in or for the construction, alteration or repair of an improvement on the  
18 Property.

19 78. Plaintiff is entitled to hold a lien on the Property as Plaintiff is a lien claimant,  
20 as set forth in NRS 108.2214.

21 79. Plaintiff served via certified mail, return receipt requested, a certain Notice to  
22 Owner of Right to Lien upon Defendants or their successors in interest, as required by NRS  
23 108.245, or was exempt from the obligation to serve said Notice.

24 80. Within the time required by NRS Chapter 108, Plaintiff caused to be recorded  
25 a mechanic's lien on the Project in the amount of \$755,893.89, Instrument No.  
26 201106220002156, in compliance with the requirements of NRS 108.226 and served upon the  
27  
28

1 record owner in compliance with the provisions of NRS 108.227.

2 81. Plaintiff's lien is a valid lien upon the Property.

3 82. On or about September 8, 2011, Mojave, as principal, and Western, as surety,  
4 caused a Bond for Release of Mechanic's Lien Pursuant to Section 108.221 seq. of Nevada  
5 Revised Statutes to be recorded to release Plaintiff's mechanic's lien.

6 83. Pursuant to NRS 108.2415(5), the surety bond recorded to release Plaintiff's  
7 mechanic's lien replaces the property as security for the lien and pursuant to NRS 108.2421.  
8 Plaintiff is entitled to bring an action against the principal and surety on the bond.

9 84. Plaintiff was required to retain the undersigned firm of attorneys to prosecute  
10 this action, and as a result has incurred and will continue to incur costs and attorneys fees in  
11 preparing, recording and foreclosing its lien, which Plaintiff is entitled to recover from said  
12 Defendants.

13  
14 **TENTH CAUSE OF ACTION**  
15 **(UNJUST ENRICHMENT AGAINST MOJAVE, DOES 1-10, and**  
16 **ROE CORPORATIONS 1-10, inclusive)**

17 85. Plaintiff repeats with the same force and effect paragraphs 1 through 84, as if  
18 set forth in full.

19 86. Plaintiff supplied equipment to the Project at the request of and pursuant to its  
20 Contract with CAM.

21 87. Plaintiff is informed and believes and based thereon alleges that said  
22 equipment was used in or for the construction, alteration or repair of an improvement on the  
23 Property.

24 88. Plaintiff is informed and believes and based thereon alleges that MOJAVE  
25 contracted with CAM to purchase the equipment Plaintiff sold to CAM.

26 89. Plaintiff is informed and believes and based thereon alleges that MOJAVE  
27 knew that Plaintiff was selling the equipment to CAM that MOJAVE would later purchase.  
28

1           90. Plaintiff is informed and believes and based thereon alleges that MOJAVE  
2 refused to issue a joint check payable to both CAM and Plaintiff to pay for the equipment  
3 Plaintiff supplied to the Project.

4           91. Plaintiff is informed and believes and based thereon alleges that MOJAVE  
5 issued payment for the equipment to CAM.

6           92. Plaintiff is informed and believes and based thereon alleges that after receiving  
7 said payment CAM then issued two checks made payable to MOJAVE in the amounts of  
8 \$139,367.70 and \$136,269.00, respectively.

9           93. Plaintiff is informed and believes and based thereon alleges that the payments  
10 MOJAVE received from CAM were funds that were to be used to pay Plaintiff for the  
11 equipment.

12           94. Plaintiff is informed and believes and based thereon alleges that MOJAVE, by  
13 virtue of those payments from CAM has retained monies that rightfully belong to Plaintiff.

14           95. Plaintiff is informed and believes and based thereon alleges that MOJAVE  
15 may not have paid the entire amount due for the equipment.

16           96. As MOJAVE has in its possession monies that should have been used to pay  
17 Plaintiff for the equipment, MOJAVE has been unjustly enriched to the detriment of Plaintiff,  
18 causing Plaintiff damages in a sum in excess of \$10,000.00 and other such damage according  
19 to proof.

20           97. Plaintiff has retained the services of an attorney to prosecute this action and is  
21 entitled to an award of attorney's fees and costs incurred.

22  
23  
24                   **ELEVENTH CAUSE OF ACTION**  
25                   **(CONTRACTOR'S LICENSE BOND CLAIM AGAINST MOJAVE, WESTERN**  
26                   **DOES 1-10, and ROE CORPORATIONS 1-10, inclusive)**

27           98. Plaintiff repeats with the same force and effect paragraphs 1 through 97, as if  
28



1 set forth in full.

2 99. Plaintiff is informed and believes and based thereon alleges that Defendant  
3 MOJAVE, as principal, and Defendant WESTERN, as surety, caused to be issued two  
4 contractor's license bonds in accordance with the provisions of Chapter 624 of the Nevada  
5 Revised Statutes. Said bonds are identified as Bond Number 929452545 in the amount of  
6 \$5,000.00 and Bond Number 929444674 in the amount of \$2,000.00, were conditioned upon  
7 full compliance by MOJAVE with all of the provisions of Chapter 624 of the Nevada Revised  
8 Statutes and inures to the benefit of all persons, including Plaintiff, damaged as a result of a  
9 violation of any requirements of said chapter by MOJAVE.

10 100. Plaintiff is informed and believes and based thereon alleges that the damages it  
11 has suffered are a direct and proximate result of violations of one or more of the following  
12 sections of Chapter 624 of Nevada Revised Statutes by Defendant MOJAVE:

13 (a) Section 624.3012(1) in that MOJAVE diverted funds which were  
14 received for a specific purpose in the prosecution of construction contracts and thereby  
15 deprived Plaintiff of payment to which it was entitled;

16 (b) Section 624.3012(2) in that MOJAVE willfully and deliberately failed  
17 to pay money due for labor and materials rendered in connection with its operation as  
18 a contractor, when it had the capacity to pay, or when it had received sufficient funds  
19 therefore as payment, in the prosecution of construction contracts for which the  
20 equipment was provided.

21 101. In light of MOJAVE's willful and deliberate failure to ensure that Plaintiff was  
22 paid for the equipment Plaintiff provided to the Project and as it has been unjustly enriched by  
23 retaining monies owed to Plaintiff for the equipment MOJAVE violated Chapter 624 of the  
24 Nevada Revised Statutes and Plaintiff is entitled to recover against the license bond issued by  
25 Defendant WESTERN.  
26  
27  
28

**TWELFTH CAUSE OF ACTION  
(UNJUST ENRICHMENT AGAINST WHITING TURNER,  
DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

102. Plaintiff repeats with the same force and effect paragraphs 1 through 101, as if set forth in full.

103. Plaintiff is informed and believes and based thereon alleges that Defendants WHITING TURNER, FC/LW VEGAS, LLC and L W T I C SUCCESSOR LLC, and each of them, have been unjustly enriched by the wrongful act of retaining the equipment that was provided to the Project by Plaintiff, and failing to pay for said equipment.

104. As such, said Defendants have been unjustly enriched to the detriment and damage of Plaintiff in a sum in excess of \$10,000.00.

105. Plaintiff has retained the services of an attorney to prosecute this action and is entitled to an award of attorney's fees and costs incurred.

**THIRTEENTH CAUSE OF ACTION  
(CONTRACTOR'S LICENSE BOND CLAIM AGAINST WHITING TURNER,  
FIDELITY, DOES 1-10, and ROE CORPORATIONS 1-10, inclusive)**

106. Plaintiff repeats with the same force and effect paragraphs 1 through 105, as if set forth in full.

107. Plaintiff is informed and believes and based thereon alleges that Defendant WHITING TURNER, as principal, and Defendant FIDELITY, as surety, caused to be issued a contractor's license bond in accordance with the provisions of Chapter 624 of the Nevada Revised Statutes. Said bond is identified as Bond Number 9045603, issued in the amount of \$50,000.00, was conditioned upon full compliance by WHITING TURNER with all of the provisions of Chapter 624 of the Nevada Revised Statutes and inures to the benefit of all persons, including Plaintiff, damaged as a result of a violation of any requirements of said chapter by WHITING TURNER.

108. Plaintiff is informed and believes and based thereon alleges that the damages it

1 has suffered are a direct and proximate result of violations of one or more of the following  
2 sections of Chapter 624 of Nevada Revised Statutes by Defendant WHITING TURNER:

3 (a) Section 624.3012(1) in that WHITING TURNER diverted funds which  
4 were received for a specific purpose in the prosecution of construction contracts and  
5 thereby deprived Plaintiff of payment to which it was entitled;

6 (b) Section 624.3012(2) in that WHITING TURNER willfully and  
7 deliberately failed to pay money due for labor and materials rendered in connection  
8 with its operation as a contractor, when it had the capacity to pay, or when it had  
9 received sufficient funds therefore as payment, in the prosecution of construction  
10 contracts for which the equipment was provided.

11 109. In light of WHITING TURNER's willful and deliberate failure to ensure that  
12 Plaintiff was paid for the equipment Plaintiff provided to the Project and as it has been  
13 unjustly enriched by retaining monies owed to Plaintiff for the equipment WHITING  
14 TURNER violated Chapter 624 of the Nevada Revised Statutes and Plaintiff is entitled to  
15 recover against the license bond issued by Defendant FIDELITY.  
16

17  
18 WHEREFORE, Plaintiff prays for relief as follows:

- 19 1. For compensatory damages for an amount in excess of \$10,000.00, together  
20 with interest thereon at the contractual rate until paid in full and other such damage according  
21 to proof;
- 22 2. For punitive damages against Defendants CAM, CARVALHO and RENNIE;
- 23 3. For judgment declaring that Plaintiff has a valid security interest in the  
24 property subject of the UCC filing for an amount in excess of \$10,000.00, plus interest from  
25 the date the amounts became due until paid in full, costs and fees and that Plaintiff's security  
26 interest has priority over every other lien or claim of interest in the property;  
27  
28

1           4.     For judgment declaring that Plaintiff is the owner of the Property subject to the  
2 Quiet Title claim alleged herein;

3           5.     For judgment declaring that Plaintiff has a claim in a sum in excess of  
4 \$10,000.00 against MOJAVE's lien release bond, issued by WESTERN, plus interest from  
5 the date the amounts became due until paid in full, costs and fees;

6           6.     For judgment declaring that Plaintiff has a claim in excess of \$10,000.00  
7 against MOJAVE's contractor's license bond, issued by WESTERN, plus interest thereon  
8 from the date the amounts became due until paid in full, and that Plaintiff's claim has priority  
9 over every other claim of interest on the bond;

10          7.     For judgment declaring that Plaintiff has a claim in excess of \$10,000.00  
11 against WHITING TURNER's contractor's license bond, issued by FIDELITY, plus interest  
12 thereon from the date the amounts became due until paid in full, and that Plaintiff's claim has  
13 priority over every other claim of interest on the bond;

14           8.     For reasonable attorneys fees and costs; and  
15

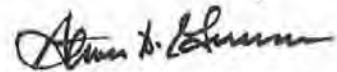
16           9.     For such other and further relief as this Court deems just and proper.

17 DATED: September 30, 2011

PEZZILLO ROBINSON

18  
19  
20 By: /s/ Jennifer R. Lloyd-Robinson  
21 Jennifer R. Lloyd-Robinson, Esq.  
22 Nevada State Bar No. 9617  
23 6750 Via Austi Parkway, Suite 170  
24 Las Vegas, Nevada 89119  
25 Attorneys for Plaintiff,  
26 Cashman Equipment Company  
27  
28





CLERK OF THE COURT

**ERR**

Jennifer R. Lloyd-Robinson, Esq.  
Nevada Bar No. 9617  
**PEZZILLO ROBINSON**  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel: (702) 233-4225  
Fax: (702) 233-4252  
Attorneys for Plaintiff,  
Cashman Equipment Company

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Case No.: A642583  
Dept. No.: 32

Plaintiff,

vs.

CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD., dba MOJAVE  
ELECTRIC, a Nevada corporation;  
WESTERN SURETY COMPANY, a  
surety; THE WHITING TURNER  
CONTRACTING COMPANY, a Maryland  
corporation; FIDELITY AND DEPOSIT  
COMPANY OF MARYLAND, a surety;  
DOES 1 - 10, inclusive; and ROE  
CORPORATIONS 1 - 10, inclusive;

**ERRATA TO SECOND AMENDED  
COMPLAINT**

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD OR RESIDENT  
AGENT:

///

**Pezzillo Robinson**  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel. 702 233-4225

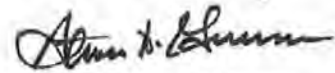
**Pezzillo Robinson**  
6750 Via Austi Parkway, Suite 170  
Las Vegas, Nevada 89119  
Tel. 702 233-4225

1 Please take notice that Plaintiff, CASHMAN EQUIPMENT COMPANY inadvertently  
2 excluded Defendant, FIDELITY AND DEPOSIT COMPANY OF MARYLAND from the  
3 caption to Plaintiff's Second Amended Complaint.

4  
5 DATED: October 10, 2011

PEZZILLO ROBINSON

6  
7 By: /s/ Jennifer R. Lloyd-Robinson  
Jennifer R. Lloyd-Robinson, Esq.  
8 Nevada State Bar No. 9617  
6750 Via Austi Parkway, Suite 170  
9 Las Vegas, Nevada 89119  
Attorneys for Plaintiff,  
10 Cashman Equipment Company  
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CLERK OF THE COURT

**ACCP**

Jennifer R. Lloyd-Robinson, Esq.

Nevada State Bar No. 9617

Marisa L. Maskas, Esq.

Nevada State Bar No. 10928

**PEZZILLO ROBINSON**

6750 Via Austi Parkway, Suite 170

Las Vegas, Nevada 89119

Tel: 702-233-4225

*Attorneys for Plaintiff,*

*Cashman Equipment Company*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Plaintiff,

vs.

CASE NO. A642583

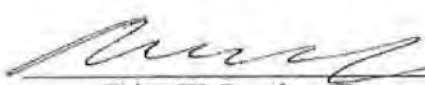
DEPT NO. 32

**ACCEPTANCE OF SERVICE**

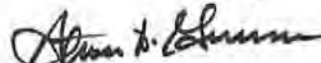
CAM CONSULTING INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD., dba MOJAVE ELECTRIC,  
a Nevada corporation; WESTERN SURETY  
COMPANY, a surety; THE WHITING TURNER  
CONTRACTING COMPANY, a Maryland  
corporation; DOES 1 - 10, inclusive; and ROE  
CORPORATIONS 1 - 10, inclusive;

Defendants.

I, Brian W. Boschee, Esq., hereby accept service of CASHMAN EQUIPMENT COMPANY's  
Second Amended Complaint and Summons on Second Amended Complaint, on behalf of Defendants,  
WEST EDNA ASSOCIATES, LTD., dba MOJAVE ELECTRIC and WESTERN SURETY  
COMPANY, in the above referenced matter on this 6 day of October, 2011:



Brian W. Boschee, Esq.  
SANTORO, DRIGGS, ET AL.  
400 S. 4<sup>th</sup> St., 3<sup>rd</sup> Fl.  
Las Vegas, NV 89101

  
CLERK OF THE COURT

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*Attorneys for Defendants, Counterclaimants  
and Crossclaimants*

DISTRICT COURT  
CLARK COUNTY, NEVADA

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,  
Plaintiff,

Case No.: A642583  
Dept. No.: 32

v.

CAM CONSULTING, INC., a Nevada  
corporation; ANGELO CARVALHO, an  
individual; JANEL RENNIE aka JANEL  
CARVALHO, an individual; WEST EDNA  
ASSOCIATES, LTD. dba MOJAVE  
ELECTRIC, a Nevada corporation; WESTERN  
SURETY COMPANY, a surety; THE WHITING  
TURNER CONTRACTING COMPANY, a  
Maryland corporation; DOES 1-10, inclusive;  
and ROE CORPORATIONS 1-10 inclusive;  
Defendants.

**ANSWER TO SECOND AMENDED  
COMPLAINT, COUNTERCLAIM  
AGAINST CASHMAN EQUIPMENT  
COMPANY AND CROSSCLAIM  
AGAINST CAM CONSULTING**

WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation;  
WESTERN SURETY COMPANY, a surety;  
THE WHITING TURNER CONTRACTING  
COMPANY, a Maryland corporation;

Counterclaimants.

v.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Counterdefendant.



1 WEST EDNA ASSOCIATES, LTD. dba  
2 MOJAVE ELECTRIC, a Nevada corporation;  
3 WESTERN SURETY COMPANY, a surety;  
4 THE WHITING TURNER CONTRACTING  
5 COMPANY, a Maryland corporation;

6 Crossclaimants,

7 v.

8 CAM CONSULTING, INC., a Nevada  
9 corporation,

10 Crossdefendant.

11 Defendants WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada  
12 corporation ("Mojave"); WESTERN SURETY COMPANY, a surety ("Western"); THE  
13 WHITING TURNER CONTRACTING COMPANY, a Maryland corporation, ("Whiting")  
14 (collectively "Defendants") by and through their attorneys of record, the law firm of SANTORO,  
15 DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and for their answer to Plaintiff  
16 CASHMAN EQUIPMENT COMPANY'S Second Amended Complaint (the "Complaint"),  
17 responds as follows:

#### 18 PARTIES, JURISDICTION AND VENUE

- 19 1. Defendants admit the allegations contained in Paragraph 1 of the Complaint.
- 20 2. Defendants admit the allegations contained in Paragraph 2 of the Complaint.
- 21 3. Defendants admit the allegations contained in Paragraph 3 of the Complaint.
- 22 4. Defendants are without sufficient information or knowledge to form a belief as to  
23 the truth of the allegations contained in Paragraph 4 of the Complaint and, therefore, deny the  
24 allegations contained therein.
- 25 5. Defendants admit the allegations contained in Paragraph 5 of the Complaint.
- 26 6. Defendants admit the allegations that Defendant Western is authorized to conduct  
27 business within the State of Nevada as a contractor's bond surety, and in that capacity issued two  
28 contractor's license bonds to Defendant Mojave, Bond Number 929452545 in the amount of  
\$5,000.00 and Bond Number 929444674 in the amount of \$2,000.00, and that Western also

1 issued a Mechanic's Lien Release Bond to Mojave (Bond Number 58685401) in the amount of  
2 \$1,133,840.84. Defendants deny the remaining allegations contained in Paragraph 6 of the  
3 Complaint.

4 7. Defendants admit the allegations contained in Paragraph 7 of the Complaint.

5 8. Defendants admit the allegations that Defendant Fidelity is authorized to conduct  
6 business within the State of Nevada as a contractor's bond surety, and in that capacity issued a  
7 contractor's bond to Defendant Whiting, Bond Number 9045603 in the amount of \$50,000.00 for  
8 license number 33400. Defendants deny the remaining allegations contained in Paragraph 8 of  
9 the Complaint.

10 9. Defendants are without sufficient information or knowledge to form a belief as to  
11 the truth of the allegations contained in Paragraph 9 of the Complaint and, therefore, deny the  
12 allegations contained therein.

13 10. Defendants are without sufficient information or knowledge to form a belief as to  
14 the truth of the allegations contained in Paragraph 4 of the Complaint and, therefore, deny the  
15 allegations contained therein.

16 11. Defendants admit the allegations contained in Paragraph 11 of the Complaint.

17 **FIRST CLAIM FOR RELIEF**  
18 **(BREACH OF CONTRACT AGAINST CAM, DOES 1-10, AND ROE**  
19 **CORPORATIONS, 1-10, INCLUSIVE)**

20 12. Defendants incorporate by reference all responses to Paragraphs 1 through 11 of  
21 the Complaint as though fully set forth herein.

22 13. Defendants admit the allegations contained in Paragraph 13 of the Complaint.

23 14. Defendants admit the allegations contained in Paragraph 14 of the Complaint.

24 15. Defendants are without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 15 of the Complaint and, therefore, deny the  
26 allegations contained therein.

27 16. Defendants are without sufficient information or knowledge to form a belief as to  
28 the truth of the allegations contained in Paragraph 16 of the Complaint and, therefore, deny the  
allegations contained therein.



1 17. Defendants are without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 17 of the Complaint and, therefore, deny the  
3 allegations contained therein.

4 **SECOND CLAIM FOR RELIEF**  
5 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
6 **AGAINST CAM, DOES 1-10 AND ROE CORPORATIONS 1-10, INCLUSIVE)**

7 18. Defendants incorporate by reference all responses to Paragraphs 1 through 17 of  
8 the Complaint as though fully set forth herein.

9 19. The allegation contained in Paragraph 19 of the Complaint constitutes a statement  
10 of the law rather than a factual allegation against Defendants and, therefore, requires no  
11 response. To the extent there is an allegation contained in Paragraph 19, Defendants deny any  
12 such allegations.

13 20. Defendants are without sufficient information or knowledge to form a belief as to  
14 the truth of the allegations contained in Paragraph 20 of the Complaint and, therefore, deny the  
15 allegations contained therein.

16 21. Defendants deny the allegations contained in Paragraph 21 of the Complaint.

17 **THIRD CLAIM FOR RELIEF**  
18 **(FORECLOSURE OF SECURITY INTEREST AGAINST CAM, MOJAVE, DOES 1-10,**  
19 **AND ROE CORPORATIONS 1-10, INCLUSIVE)**

20 22. Defendants incorporate by reference all responses to Paragraphs 1 through 21 of  
21 the Complaint as though fully set forth herein.

22 23. Defendants are without sufficient information or knowledge to form a belief as to  
23 the truth of the allegations contained in Paragraph 23 of the Complaint and, therefore, deny the  
24 allegations contained therein.

25 24. Defendants are without sufficient information or knowledge to form a belief as to  
26 the truth of the allegations contained in Paragraph 24 of the Complaint and, therefore, deny the  
27 allegations contained therein.

28 25. Defendants are without sufficient information or knowledge to form a belief as to  
the truth of the allegations contained in Paragraph 25 of the Complaint and, therefore, deny the  
allegations contained therein.

1           26.     The allegation contained in Paragraph 26 of the Complaint constitutes a statement  
2 of the law rather than a factual allegation against Defendants and, therefore, requires no  
3 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
4 the allegation set forth.

5           27.     Defendants deny the allegation contained in Paragraph 27 of the Complaint.

6                               **FOURTH CLAIM FOR RELIEF**  
7                               **(ALTER EGO AGAINST CAM, CARVALHO, RENNIE, DOES 1-10, AND ROE**  
8                               **CORPORATIONS 1-10, INCLUSIVE)**

9           28.     Defendants incorporate by reference all responses to Paragraphs 1 through 27 of  
10 the Complaint as though fully set forth herein.

11           29.     Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 29 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14           30.     Defendants are without sufficient information or knowledge to form a belief as to  
15 the truth of the allegations contained in Paragraph 30 of the Complaint and, therefore, deny the  
16 allegations contained therein.

17           31.     Defendants admit that CAM received payment from Mojave for the equipment  
18 purchased from Plaintiff. Defendants lack sufficient information or knowledge to form a belief as  
19 to the truth of the remaining allegations contained in Paragraph 31 of the Complaint and,  
20 therefore, deny the allegations contained therein.

21           32.     Defendants are without sufficient information or knowledge to form a belief as to  
22 the truth of the allegations contained in Paragraph 32 of the Complaint and, therefore, deny the  
23 allegations contained therein.

24           33.     The allegation contained in Paragraph 33 of the Complaint constitutes a statement  
25 of the law rather than a factual allegation against Defendants and, therefore, requires no  
26 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
27 the allegations set forth.

28           34.     The allegation contained in Paragraph 34 of the Complaint constitutes a statement  
of the law rather than a factual allegation against Defendants and, therefore, requires no



1 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
2 the allegations set forth.

3 **FIFTH CLAIM FOR RELIEF**  
4 **(CONVERSION AGAINST CARVALHO, DOES 1-10, AND ROE**  
5 **CORPORATIONS 1-10, INCLUSIVE)**

6 35. Defendants incorporate by reference all responses to Paragraphs 1 through 34 of  
7 the Complaint as though fully set forth herein.

8 36. Defendants admit the allegations contained in Paragraph 36 of the Complaint.

9 37. Defendants are without sufficient information or knowledge to form a belief as to  
10 the truth of the allegations contained in Paragraph 37 of the Complaint and, therefore, deny the  
11 allegations contained therein.

12 38. Defendants are without sufficient information or knowledge to form a belief as to  
13 the truth of the allegations contained in Paragraph 38 of the Complaint and, therefore, deny the  
14 allegations contained therein.

15 39. Defendants are without sufficient information or knowledge to form a belief as to  
16 the truth of the allegations contained in Paragraph 39 of the Complaint and, therefore, deny the  
17 allegations contained therein.

18 40. Defendants are without sufficient information or knowledge to form a belief as to  
19 the truth of the allegations contained in Paragraph 40 of the Complaint and, therefore, deny the  
20 allegations contained therein.

21 41. Defendants are without sufficient information or knowledge to form a belief as to  
22 the truth of the allegations contained in Paragraph 41 of the Complaint and, therefore, deny the  
23 allegations contained therein.

24 42. Defendants are without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 42 of the Complaint and, therefore, deny the  
26 allegations contained therein.

27 43. Defendants are without sufficient information or knowledge to form a belief as to  
28 the truth of the allegations contained in Paragraph 43 of the Complaint and, therefore, deny the  
allegations contained therein.

1           44. Defendants are without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 44 of the Complaint and, therefore, deny the  
3 allegations contained therein.

4           45. Defendants are without sufficient information or knowledge to form a belief as to  
5 the truth of the allegations contained in Paragraph 45 of the Complaint and, therefore, deny the  
6 allegations contained therein.

7           46. The allegation contained in Paragraph 46 of the Complaint constitutes a statement  
8 of the law rather than a factual allegation against Defendants and, therefore, requires no  
9 response. To the extent Defendants are required to respond to this paragraph, Defendants are  
10 without sufficient information or knowledge to form a belief as to the truth of the allegations  
11 contained in Paragraph 46 of the Complaint and, therefore, deny the allegations contained  
12 therein.

13           47. Defendants are without sufficient information or knowledge to form a belief as to  
14 the truth of the allegations contained in Paragraph 47 of the Complaint and, therefore, deny the  
15 allegations contained therein.

16           48. Defendants are without sufficient information or knowledge to form a belief as to  
17 the truth of the allegations contained in Paragraph 48 of the Complaint and, therefore, deny the  
18 allegations contained therein.

19           49. Defendants are without sufficient information or knowledge to form a belief as to  
20 the truth of the allegations contained in Paragraph 45 of the Complaint and, therefore, deny the  
21 allegations contained therein.

22                                   **SIXTH CLAIM FOR RELIEF**  
23                                   **(FRAUD AGAINST CAM, CARVALHO, DOES 1-10, AND ROE**  
   **CORPORATIONS 1-10, INCLUSIVE)**

24           50. Defendants incorporate by reference all responses to Paragraphs 1 through 49 of  
25 the Complaint as though fully set forth herein.

26           51. Defendants are without sufficient information or knowledge to form a belief as to  
27 the truth of the allegations contained in Paragraph 51 of the Complaint and, therefore, deny the  
28 allegations contained therein.



1           52. Defendants are without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 52 of the Complaint and, therefore, deny the  
3 allegations contained therein.

4           53. Defendants are without sufficient information or knowledge to form a belief as to  
5 the truth of the allegations contained in Paragraph 53 of the Complaint and, therefore, deny the  
6 allegations contained therein.

7           54. Defendants are without sufficient information or knowledge to form a belief as to  
8 the truth of the allegations contained in Paragraph 54 of the Complaint and, therefore, deny the  
9 allegations contained therein.

10          55. Defendants are without sufficient information or knowledge to form a belief as to  
11 the truth of the allegations contained in Paragraph 55 of the Complaint and, therefore, deny the  
12 allegations contained therein.

13          56. Defendants are without sufficient information or knowledge to form a belief as to  
14 the truth of the allegations contained in Paragraph 56 of the Complaint and, therefore, deny the  
15 allegations contained therein.

16          57. Defendants are without sufficient information or knowledge to form a belief as to  
17 the truth of the allegations contained in Paragraph 57 of the Complaint and, therefore, deny the  
18 allegations contained therein.

19          58. Defendants are without sufficient information or knowledge to form a belief as to  
20 the truth of the allegations contained in Paragraph 58 of the Complaint and, therefore, deny the  
21 allegations contained therein.

22                               **SEVENTH CLAIM FOR RELIEF**  
23                               **(NEGLIGENT MISREPRESENTATION AGAINST CAM, CARVALHO,**  
24                               **DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

25          59. Defendants incorporate by reference all responses to Paragraphs 1 through 58 of  
26 the Complaint as though fully set forth herein.

27          60. Defendants are without sufficient information or knowledge to form a belief as to  
28 the truth of the allegations contained in Paragraph 60 of the Complaint and, therefore, deny the  
allegations contained therein.

1           61. Defendants are without sufficient information or knowledge to form a belief as to  
2 the truth of the allegations contained in Paragraph 61 of the Complaint and, therefore, deny the  
3 allegations contained therein.

4           62. Defendants are without sufficient information or knowledge to form a belief as to  
5 the truth of the allegations contained in Paragraph 62 of the Complaint and, therefore, deny the  
6 allegations contained therein.

7           63. Defendants are without sufficient information or knowledge to form a belief as to  
8 the truth of the allegations contained in Paragraph 63 of the Complaint and, therefore, deny the  
9 allegations contained therein.

10          64. Defendants are without sufficient information or knowledge to form a belief as to  
11 the truth of the allegations contained in Paragraph 64 of the Complaint and, therefore, deny the  
12 allegations contained therein.

13          65. Defendants are without sufficient information or knowledge to form a belief as to  
14 the truth of the allegations contained in Paragraph 65 of the Complaint and, therefore, deny the  
15 allegations contained therein.

16          66. The allegation contained in Paragraph 46 of the Complaint constitutes a statement  
17 of the law rather than a factual allegation against Defendants and, therefore, requires no  
18 response. To the extent Defendants are required to respond to this paragraph, Defendants are  
19 without sufficient information or knowledge to form a belief as to the truth of the allegations  
20 contained in Paragraph 66 of the Complaint and, therefore, deny the allegations contained  
21 therein.

22          67. Defendants are without sufficient information or knowledge to form a belief as to  
23 the truth of the allegations contained in Paragraph 67 of the Complaint and, therefore, deny the  
24 allegations contained therein.

25                           **EIGHTH CLAIM FOR RELIEF**  
26                           **(QUIET TITLE AGAINST CAM, CARVALHO, RENNIE, DOES 1-10, AND**  
                              **ROE CORPORATIONS 1-10, INCLUSIVE)**

27          68. Defendants incorporate by reference all responses to Paragraphs 1 through 67 of  
28 the Complaint as though fully set forth herein.



69. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 69 of the Complaint and, therefore, deny the allegations contained therein.

70. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 70 of the Complaint and, therefore, deny the allegations contained therein.

71. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 71 of the Complaint and, therefore, deny the allegations contained therein.

72. The allegation contained in Paragraph 72 of the Complaint constitutes a statement of the law rather than a factual allegation against Defendants and, therefore, requires no response. To the extent Defendants are required to respond to this paragraph, Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 72 of the Complaint and, therefore, deny the allegations contained therein.

73. The allegation contained in Paragraph 73 of the Complaint constitutes a statement of the law rather than a factual allegation against Defendants and, therefore, requires no response.

74. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 74 of the Complaint and, therefore, deny the allegations contained therein.

**NINTH CLAIM FOR RELIEF**  
**(ENFORCEMENT OF MECHANIC'S LIEN RELEASE BOND AGAINST MOJAVE,**  
**WESTERN, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

75. Defendants incorporate by reference all responses to Paragraphs 1 through 74 of the Complaint as though fully set forth herein.

76. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 76 of the Complaint and, therefore, deny the allegations contained therein.

1           77. Defendants admit the allegations contained in Paragraph 77 of the Complaint.

2           78. The allegation contained in Paragraph 78 of the Complaint constitutes a statement  
3 of the law rather than a factual allegation against Defendants and, therefore, requires no  
4 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
5 the allegations contained therein.

6           79. Defendants are without sufficient information or knowledge to form a belief as to  
7 the truth of the allegations contained in Paragraph 79 of the Complaint and, therefore, deny the  
8 allegations contained therein.

9           80. Defendants admit that a mechanic's lien was recorded on the Project in the  
10 amount of \$755,893.89 as Instrument No. 201106220002156, but deny the remaining allegations  
11 and legal conclusions contained in Paragraph 80.

12           81. The allegation contained in Paragraph 81 of the Complaint constitutes a statement  
13 of the law rather than a factual allegation against Defendants and, therefore, requires no  
14 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
15 the allegations contained therein.

16           82. Defendants admit the allegations contained in Paragraph 82 of the Complaint.

17           83. Defendants deny the allegations contained in Paragraph 83 of the Complaint.

18           84. Defendants deny the allegations contained in Paragraph 84 of the Complaint.

19                           **TENTH CLAIM FOR RELIEF**  
20                           **(UNJUST ENRICHMENT AGAINST MOJAVE, DOES 1-10, AND ROE**  
   **CORPORATIONS 1-10, INCLUSIVE)**

21           85. Defendants incorporate by reference all responses to Paragraphs 1 through 84 of  
22 the Complaint as though fully set forth herein.

23           86. Defendants admit the allegations contained in Paragraph 86 of the Complaint.

24           87. Defendants admit the allegations contained in Paragraph 87 of the Complaint.

25           88. Defendants admit the allegations contained in Paragraph 88 of the Complaint.

26           89. Defendants admit the allegations contained in Paragraph 89 of the Complaint.

27           90. Defendants admit the allegation contained in Paragraph 90 of the Complaint.

28           91. Defendants admit the allegation contained in Paragraph 91 of the Complaint.



1 92. Defendants admit the allegations contained in Paragraph 92 of the Complaint.

2 93. Defendants are without sufficient information or knowledge to form a belief as to  
3 the truth of the allegations contained in Paragraph 93 of the Complaint and, therefore, deny the  
4 allegations contained therein.

5 94. Defendants deny the allegations contained in Paragraph 94 of the Complaint.

6 95. Defendants deny the allegations contained in Paragraph 95 of the Complaint.

7 96. Defendants deny the allegations contained in Paragraph 96 of the Complaint.

8 97. Defendants deny the allegations contained in Paragraph 97 of the Complaint.

9 **ELEVENTH CLAIM FOR RELIEF**  
10 **(CONTRACTOR'S LICENSE BOND AGAINST MOJAVE, WESTERN, DOES 1-10,**  
11 **AND ROE CORPORATIONS 1-10, INCLUSIVE)**

12 98. Defendants incorporate by reference all responses to Paragraphs 1 through 97 of  
13 the Complaint as though fully set forth herein.

14 99. Defendants admit that Mojave, as principal, and Defendant Western, as surety,  
15 caused to be issued two contractor's license bonds in accordance with the provisions of Chapter  
16 624 and said bonds are identified as Bond Number 929452545 in the amount of \$5,000.00 and  
17 Bond Number 929444674 in the amount of \$2,000.00. Defendants deny all remaining allegations  
18 contained in Paragraph 99 of the Complaint.

19 100. Defendants deny the allegations contained in Paragraph 100, including sections  
20 (a) and (b) of the Complaint.

21 101. Defendants deny the allegations contained in Paragraph 101 of the Complaint.

22 **TWELFTH CLAIM FOR RELIEF**  
23 **(UNJUST ENRICHMENT AGAINST WHITING TURNER, DOES 1-10, AND ROE**  
24 **CORPORATIONS 1-10, INCLUSIVE)**

25 102. Defendants incorporate by reference all responses to Paragraphs 1 through 101 of  
26 the Complaint as though fully set forth herein.

27 103. Defendants deny the allegations contained in Paragraph 103 of the Complaint.

28 104. Defendants deny the allegations contained in Paragraph 104 of the Complaint.

105. Defendants deny the allegations contained in Paragraph 105 of the Complaint.

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**THIRTIETH CLAIM FOR RELIEF**  
**(CONTRACTORS LICENSE BOND CLAIM AGAINST WHITING TURNER,**  
**FIDELITY, DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

106. Defendants incorporate by reference all responses to Paragraphs 1 through 105 of the Complaint as though fully set forth herein.

107. Defendants admit that Whiting Turner, as principal, and Defendant Fidelity, as surety, caused to be issued a contractor's license bond in accordance with the provisions of Chapter 624 and said bond is identified as Bond Number 9045603 in the amount of \$50,000.00. Defendants deny all remaining allegations contained in Paragraph 107 of the Complaint.

108. Defendants deny the allegations contained in Paragraph 108, including sections (a) and (b) of the Complaint.

109. Defendants deny the allegations contained in Paragraph 109 of the Complaint.

**AFFIRMATIVE DEFENSES**

Defendants assert the following defenses to this action. These defenses have been labeled as "affirmative" defenses regardless of whether, as a matter of law, such defenses are truly affirmative defenses. Such designation should in no way be construed to constitute a concession on the part of Defendants or that it bears the burden of proof to establish such defense(s).

1. All allegations of the Complaint not specifically admitted are hereby denied.

2. Plaintiff fails to state a claim for relief against Defendants upon which relief can be granted.

3. At all material times, Defendants acted in good faith and exercised lawful rights in dealing with Plaintiff.

4. Plaintiff, by its own conduct or otherwise, is estopped from making any claim against Defendants.

5. Plaintiff has waived, by conduct or otherwise, any claim against Defendants.

6. The loss, injuries, damages, costs and attorneys' fees, if any, suffered by Plaintiff are the result of its own acts, omissions, or wrongdoing.

7. Defendants relied upon representations by the Plaintiff as to the Unconditional



1 Release for payment and would not have made payment to Plaintiff's agent absent such  
2 representations.

3 8. Plaintiff is barred from obtaining any relief from any claim by operation of the  
4 doctrine of accord and satisfaction.

5 9. Plaintiff has failed to mitigate its damages, if any exist or were incurred, the  
6 existence of which is expressly denied by Defendant.

7 10. By virtue of the acts, conduct, mismanagement and/or omissions to act of the  
8 Plaintiff under the circumstances, Defendants are released and discharged from any liability  
9 whatsoever to Plaintiff, which liability is expressly denied.

10 11. Plaintiff ratified, approved, or acquiesced in the actions of Defendants.

11 12. Defendant CAM Consulting, Inc. acted as agent for Plaintiff.

12 13. Plaintiff has failed to satisfy conditions precedent to bringing any action against  
13 Defendants.

14 14. Plaintiff's claims are barred by the Doctrines of Mutual Mistake, Impossibility or  
15 Impracticability.

16 15. Any damages which Plaintiffs may have sustained by reason of the allegations of  
17 the Complaint were proximately caused, in whole or in part, by sets of persons other than  
18 Defendants and, therefore, Plaintiffs are not entitled to any relief from Defendant.

19 16. To the extent Plaintiff's claims are based in whole or in part on alleged oral  
20 promises or statements, such claims are barred by the lack of acceptance, lack of mutuality, and  
21 failure of consideration.

22 17. Plaintiff is not entitled to the damages that it is seeking.

23 18. The claims of Plaintiff fail for want or lack of consideration.

24 19. Plaintiff's pursuit of these claims against Defendant under the circumstances  
25 presented in this case is, in and of itself, a violation of the covenant of good faith and fair dealing  
26 implied in all of their agreements, barring it from any recovery against them in this action.

27 20. Damages and injuries suffered by Plaintiff, if any, are not attributable to any act,  
28 conduct, or omission on the part of Defendants.

21. Plaintiff's alleged damages, if any, should be offset by monies due and owing by CAM to Plaintiff.

22. The conduct of Defendants alleged to be wrongful was induced by Plaintiff's own wrongful conduct.

23. Plaintiff's claims for relief are barred on the grounds that Defendants have a valid justification for any alleged nonperformance of the alleged agreement.

24. Plaintiff materially breached the agreement between the parties, thereby excusing the future performance thereof by Defendants.

25. Plaintiff brings its claims in bad faith, with an ulterior motive to harass Defendants, abuse the litigation process, and otherwise raise frivolous and unfounded claims against Defendants causing Defendants to incur damages.

26. Plaintiff is barred from recovery by virtue of its unclean hands.

27. Defendants have been forced to retain counsel to defend against Plaintiff's Complaint, and Defendants are entitled to an award of reasonable attorneys' fees.

28. Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this Answer. Therefore, Defendants reserve the right to amend this Answer, including adding affirmative defenses, based upon discovery, review of document, and development of evidence in this case.

**WHEREFORE**, Defendants pray:

1. That Plaintiff takes nothing by way of its Complaint from Defendants Mojave, Western, Whiting Turner and Fidelity and that the Complaint be dismissed against those Defendants in its entirety with prejudice;

2. For an award of reasonable attorneys' fees and costs of suit incurred in the defense of Plaintiff's Complaint; and

3. For such other and further relief as this Court deems just and proper.

#### **COUNTERCLAIM**

Counterclaimant WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a



1 Nevada corporation ("Mojave" or "Counterclaimant") by and through its attorneys of record, the  
2 law firm of SANTORO, DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and as for  
3 a counterclaim against Counterdefendant CASHMAN EQUIPMENT COMPANY ("Cashman"  
4 or "Counterdefendant"), hereby alleges as follows:

5 **PARTIES, JURISDICTION AND VENUE**

6 1. Counterclaimant Mojave is a Nevada limited liability company authorized to  
7 conduct business in Clark County, Nevada as a licensed contractor.

8 2. Upon information and belief, Counterdefendant is a corporation duly authorized  
9 to conduct business within the state of Nevada.

10 3. This Court has jurisdiction over the instant dispute, and venue is proper in this  
11 Court, because the dispute involves a construction project located in Clark County, Nevada and  
12 the wrongful conduct complained of herein occurred in Clark County, Nevada.

13 **INTRODUCTORY ALLEGATIONS**

14 4. Counterclaimant hereby alleges and incorporate as though fully set forth herein all  
15 of the allegations of Plaintiff's Complaint which Counterclaimants have admitted hereinabove.

16 5. Counterclaimant Mojave entered into a purchase order ("Purchase Order") dated  
17 April 23, 2010 with Cam Consulting, Inc. c/o Cashman Equipment to purchase certain  
18 equipment at issue for the City Hall Project.

19 6. Cam Consulting, Inc. acted as agent for Counterdefendant Cashman in the  
20 transaction between the parties.

21 7. Counterclaimant Mojave made payment to Cam Consulting, Inc. in the amount of  
22 \$820,261.75 ("Payment") in accordance with its Purchase Order and in exchange for the  
23 equipment.

24 8. On or about April 27, 2010, Counterdefendant entered into Unconditional Release  
25 Upon Final Payment with respect to the sale of the equipment by Counterclaimants (the  
26 "Release").

27 9. Counterdefendant provided the executed Release to Counterclaimant Mojave for  
28 the full amount of payment.

1           10.    Upon information and belief, Counterdefendant, failed to obtain final payment  
2 from its agent CAM Consulting, Inc. prior to issuing the Release to Counterclaimant Mojave.

3           11.    Pursuant to the Release, Counterdefendant is not entitled to payment from  
4 Counterclaimant.

5           12.    Counterclaimant Mojave requested Counterdefendant's completion of its contract  
6 and assistance with start up of the equipment at issue on the project.

7           13.    Counterdefendant refused to complete the start up and further refused to handle  
8 any warranty issues related to the equipment.

9           14.    Counterdefendant further refused to provide the battery power source in  
10 accordance with the Purchase Order.

11          15.    Counterclaimant Mojave employed a licensed contractor to complete the contract  
12 work and start the equipment at Counterclaimant's expense.

13                               **FIRST CLAIM FOR RELIEF**  
14                               **(BREACH OF CONTRACT)**

15          16.    Counterclaimant hereby restates, realleges and incorporates by reference the  
16 allegations contained in paragraphs 1 through 14 of the Counterclaim, inclusive, as if fully set  
17 forth herein.

18          17.    The Purchase Order constitutes a valid, binding and enforceable contract between  
19 Counterclaimant and Counterdefendant.

20          18.    Through its actions described above, including, without limitation,  
21 Counterdefendant's failure and/or refusal to participate in the start up of the equipment is in  
22 material default of its obligations.

23          19.    Counterclaimant has performed all conditions, covenants, obligations and  
24 promises on its part to be performed.

25          20.    Counterclaimant has also placed demand upon Counterdefendant for  
26 performance, but Counterdefendant has failed or refused to perform, and continues to fail or  
27 refuse to perform, its obligations.

28          21.    As a result of Counterdefendant's breach described herein, and as a direct and



1 proximate result thereof, Counterclaimant has been damaged in an amount in excess of \$10,000.

2 22. As a result of Counterdefendant's breach described herein, and as a direct and  
3 proximate result thereof, Counterclaimant has been forced to engage the services of an attorney  
4 and is entitled to an award of reasonable attorney's fees and costs.

5 **SECOND CLAIM FOR RELIEF**  
6 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING)**

7 23. Counterclaimant hereby restates, realleges and incorporates by reference the  
8 allegations contained in paragraphs 1 through 21 of the Counterclaim, inclusive, as if fully set  
9 forth herein.

10 24. Under Nevada law, every contract imposes upon the contracting parties the duty  
11 of good faith and fair dealing.

12 25. Counterdefendant breached its duty to Counterclaimant by performing in a  
13 manner that was unfaithful to the purpose of the agreement, including, among other things,  
14 failing to use its best efforts to start up the equipment as requested by Counterclaimant.

15 26. As a result of Counterdefendant's breach of the implied covenant of good faith  
16 and fair dealing described herein, and as a direct and proximate result thereof, Counterclaimant  
17 has been damaged in an amount in excess of \$10,000.

18 27. As a result of Counterdefendant's breach of the implied covenant of good faith  
19 and fair dealing described herein, and as a direct and proximate result thereof, Counterclaimant  
20 Mojave has been forced to engage the services of an attorney and is entitled to an award of  
21 reasonable attorney's fees and costs.

22 **THIRD CLAIM FOR RELIEF**  
23 **(MISREPRESENTATION)**

24 28. Counterclaimant hereby restates, realleges and incorporates by reference the  
25 allegations contained in paragraphs 1 through 26 of the Counterclaim, inclusive, as if fully set  
26 forth herein.

27 29. Counterdefendant made various and numerous representations to Counterclaimant  
28 with respect to its Final Unconditional Release entered for the payment amount of \$755,893.89.

30. The Release provides that Counterdefendant has been paid in full for all work and

1 materials and further provides that the "document is enforceable against you if you sign it, even  
2 if you have not been paid. If you have not been paid, use a conditional release form."

3 31. Counterclaimant Mojave detrimentally relied on these promises and  
4 representations of Counterdefendant and was unaware whether Counterdefendant had obtained  
5 actual payment from its agent CAM Consulting, Inc.

6 32. As a consequence of Counterclaimants relying on the promises and  
7 representations of Counterdefendant, Counterdefendant misrepresented its position and is  
8 estopped from pursuing this action against Counterclaimants.

9 33. As a result of Counterdefendant's conduct described herein, and as a direct and  
10 proximate result thereof, Counterclaimant has been damaged in an amount in excess of \$10,000.

11 34. As a result of Counterdefendant's conduct described herein, and as a direct and  
12 proximate result thereof, Counterclaimant has been forced to engage the services of an attorney  
13 and is entitled to an award of reasonable attorneys' fees and costs.

#### 14 PRAYER

15 WHEREFORE, Counterclaimant hereby prays for judgment as follows:

16 1. That Plaintiff take nothing by reason of its Second Amended Complaint and that  
17 same be dismissed with prejudice;

18 2. For damages in excess of \$10,000.00;

19 3. For interest, cost and attorneys' fees;

20 4. For attorneys' fees plus costs for the suit incurred herein; and

21 5. For such other and further relief as the Court deems just and proper in the  
22 premises.

#### 23 CROSSCLAIM

24 Crossclaimant WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a  
25 Nevada corporation ("Mojave" or "Crossclaimant") by and through its attorneys of record, the  
26 law firm of SANTORO, DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, and as for  
27 a crossclaim against Crossdefendants CAM CONSULTING INC. ("CAM") and ANGELO  
28 CARVALHO ("Carvalho")(collectively "Crossdefendants"), hereby alleges as follows:



**PARTIES, JURISDICTION AND VENUE**

1. Crossclaimant Mojave is a Nevada limited liability company authorized to conduct business in Clark County, Nevada as a licensed contractor.

2. Upon information and belief, Crossdefendant CAM is a corporation duly authorized to conduct business within the state of Nevada.

3. Upon information and belief, Crossdefendant Carvalho is a resident of Clark County, Nevada, and an owner of CAM.

4. This Court has jurisdiction over the instant dispute, and venue is proper in this Court, because the dispute involves a construction project located in Clark County, Nevada and the wrongful conduct complained of herein occurred in Clark County, Nevada.

**FIRST CAUSE OF ACTION**  
**(CONVERSION AGAINST CAM CONSULTING INC. and ANGELO**  
**CARVALHO, as an INDIVIDUAL)**

5. Crossclaimant hereby alleges and incorporates as though fully set forth herein all of the allegations admitted in the Answer, all of the Counterclaim allegations against Counterdefendant Cashman which are hereinabove set forth.

6. Crossclaimant Mojave issued payment to Crossdefendants in the amount of \$820,261.75 in exchange for equipment for use in the City Hall Project.

7. Upon information and belief, Crossdefendants failed to issue payment to Cashman, although Crossdefendants obtained a Release for the payment.

8. Each of Mojave and Cashman has made demands upon Crossdefendants for the payment without response.

9. By failing or refusing to make payment to Cashman, Crossdefendant has wrongfully exerted dominion over Cashman's property and interfering with Cashman's right to the property.

10. Crossdefendants has no title or rights to the property and in keeping the property, deprives Cashman of its use in the property.

11. Cashman has refused to complete its work on the Project and start up the equipment for Mojave due to Crossdefendants' wrongful deprivation of property.

12. Crossdefendants' failure to pay Cashman has caused damages to Crossclaimant in an amount in excess of \$10,000, together with fees, costs, and interest thereon, until paid in full and other such damage according to proof.

**SECOND CAUSE OF ACTION**  
**(INDEMNIFICATION)**

13. Crossclaimant repeats, realleges, and incorporates by reference Paragraphs 1 through 12 of this Crossclaim as though fully set forth herein.

14. It is alleged in Cashman's Second Amended Complaint that Cashman has incurred recoverable damages as a result of the alleged acts of Defendants Mojave, Western, Whiting and Fidelity.

15. Crossclaimant contends that they are in no way responsible for the events giving rise to Cashman's causes of actions or legally responsible in any other manner for the damages allegedly sustained by Cashman. If contrary to the foregoing allegations, Crossclaimant is held to be liable for damages as alleged in Cashman's Second Amended Complaint, such damages were proximately caused by the acts and/or omissions of Crossdefendants. Therefore, Crossclaimant is entitled to be indemnified by Crossdefendant should such liability arise.

16. If Crossclaimant is held liable to Cashman for damages, said liability will be the direct and proximate result of the affirmative conduct on the part of the Crossdefendants.

17. Crossclaimant is entitled to complete indemnification by Crossdefendants for any such sums for which they may be adjudicated to Crossclaimant, together with costs of defense, costs of suit, and reasonable attorney's fees there from.

**THIRD CAUSE OF ACTION**  
**(CONTRIBUTION)**

18. Crossclaimant repeats, realleges and incorporates by reference Paragraphs 1 through 17 of this Crossclaim as though fully set forth herein.

19. It is alleged in Cashman's Second Amended Complaint that Cashman incurred recoverable damages as a result of the alleged acts of Crossclaimant and Crossdefendants.

20. Crossclaimant contends that they are in no way responsible for the events giving



1 rise to Cashman's causes of actions or legally responsible in any other manner for the damages  
2 allegedly sustained by Cashman. If, contrary to the foregoing allegations, Crossclaimant is held  
3 to be liable for all or any part of the claim for damages asserted, Crossdefendants, to the extent  
4 that its fault is determined by the Court, is obligated to reimburse Crossclaimant and is also  
5 liable to Crossclaimant for all or any liability so assessed by way of contribution. Therefore,  
6 Crossclaimant accordingly asserts their rights to contribution.

7 **PRAYER**

8 WHEREFORE, Crossclaimants hereby pray for judgment as follows:

9 1. That Plaintiff Cashman take nothing from Crossclaimant by reason of its Second  
10 Amended Complaint;

11 2. That Crossdefendants be required to indemnify Crossclaimant for any and all  
12 amounts that Crossclaimant is found to be due and owing to Plaintiff Cashman;

13 3. That Crossdefendants be required to contribute to the payment of any and all  
14 amounts adjudged by this Court to be due and owing to Plaintiff Cashman herein from  
15 Crossclaimant;

16 4. For return of the property converted from Plaintiff Cashman;

17 5. For all costs and expenses, including reasonable attorneys' fees, incurred by  
18 Crossclaimant in connection with the commencement and prosecution of this action; and

19 6. For such other and further relief as the Court deems just and proper.

20 Dated this 24 day of October, 2011.

21 **SANTORO, DRIGGS, WALCH,  
22 KEARNEY, HOLLEY & THOMPSON**

23   
BRIAN W. BOSCH, ESQ.

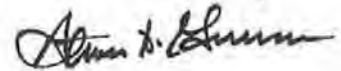
Nevada Bar No. 7612

24 SHEMILLY A. BRISCOE, ESQ.

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27 *Attorneys for Defendants, Counterclaimants  
28 and Crossclaimants*



CLERK OF THE COURT

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10 Telephone: 702/791-0308  
11 *Attorneys for Defendants, Counterclaimant*  
12 *and Crossclaimant*

DISTRICT COURT

CLARK COUNTY, NEVADA

13 CASHMAN EQUIPMENT COMPANY, a  
14 Nevada corporation,  
15 Plaintiff,

Case No.: A642583  
Dept. No.: 32

16 v.

17 CAM CONSULTING, INC., a Nevada  
18 corporation; ANGELO CARVALHO, an  
19 individual; JANEL RENNIE aka JANEL  
20 CARVALHO, an individual; WEST EDNA  
21 ASSOCIATES, LTD. dba MOJAVE  
22 ELECTRIC, a Nevada corporation; WESTERN  
23 SURETY COMPANY, a surety; THE WHITING  
24 TURNER CONTRACTING COMPANY, a  
25 Maryland corporation; DOES 1-10, inclusive;  
26 and ROE CORPORATIONS 1-10 inclusive;

27 Defendants.

28 WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation,

Counterclaimant.

v.

CASHMAN EQUIPMENT COMPANY, a  
Nevada corporation,

Counterdefendant.

WEST EDNA ASSOCIATES, LTD. dba  
MOJAVE ELECTRIC, a Nevada corporation,

Crossclaimant,

**AMENDED ANSWER TO SECOND  
AMENDED COMPLAINT,  
COUNTERCLAIM AGAINST CASHMAN  
EQUIPMENT COMPANY AND  
CROSSCLAIM AGAINST CAM  
CONSULTING, INC. AND ANGELO  
CARVALHO**



1 v.

2 CAM CONSULTING, INC., a Nevada  
3 corporation; ANGELO CARVALHO, an  
4 individual,

5 Crossdefendants.

6 Defendants WEST EDNA ASSOCIATES, LTD. d/b/a MOJAVE ELECTRIC, a Nevada  
7 corporation ("Mojave"); WESTERN SURETY COMPANY, a surety ("Western"); THE  
8 WHITING TURNER CONTRACTING COMPANY, a Maryland corporation, ("Whiting")  
9 (collectively "Defendants") by and through their attorneys of record, the law firm of SANTORO,  
10 DRIGGS, WALCH, KEARNEY, HOLLEY & THOMPSON, hereby file their Amended Answer  
11 to the Second Amended Complaint, Counterclaim against Cashman Equipment Company and  
12 Crossclaim against CAM Consulting, Inc. and Angelo Carvalo. The Amended Answer is being  
13 filed due to a clerical error made in the Counterclaim and Crossclaim portion of the caption.

14 **PARTIES, JURISDICTION AND VENUE**

- 15 1. Defendants admit the allegations contained in Paragraph 1 of the Complaint.  
16 2. Defendants admit the allegations contained in Paragraph 2 of the Complaint.  
17 3. Defendants admit the allegations contained in Paragraph 3 of the Complaint.  
18 4. Defendants are without sufficient information or knowledge to form a belief as to  
19 the truth of the allegations contained in Paragraph 4 of the Complaint and, therefore, deny the  
20 allegations contained therein.  
21 5. Defendants admit the allegations contained in Paragraph 5 of the Complaint.  
22 6. Defendants admit the allegations that Defendant Western is authorized to conduct  
23 business within the State of Nevada as a contractor's bond surety, and in that capacity issued two  
24 contractor's license bonds to Defendant Mojave, Bond Number 929452545 in the amount of  
25 \$5,000.00 and Bond Number 929444674 in the amount of \$2,000.00, and that Western also  
26 issued a Mechanic's Lien Release Bond to Mojave (Bond Number 58685401) in the amount of  
27 \$1,133,840.84. Defendants deny the remaining allegations contained in Paragraph 6 of the  
28

1 Complaint.

2 7. Defendants admit the allegations contained in Paragraph 7 of the Complaint.

3 8. Defendants admit the allegations that Defendant Fidelity is authorized to conduct  
4 business within the State of Nevada as a contractor's bond surety, and in that capacity issued a  
5 contractor's bond to Defendant Whiting, Bond Number 9045603 in the amount of \$50,000.00 for  
6 license number 33400. Defendants deny the remaining allegations contained in Paragraph 8 of  
7 the Complaint.

8 9. Defendants are without sufficient information or knowledge to form a belief as to  
9 the truth of the allegations contained in Paragraph 9 of the Complaint and, therefore, deny the  
10 allegations contained therein.

11 10. Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 4 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14 11. Defendants admit the allegations contained in Paragraph 11 of the Complaint.

15 **FIRST CLAIM FOR RELIEF**  
16 **(BREACH OF CONTRACT AGAINST CAM, DOES 1-10, AND ROE**  
17 **CORPORATIONS, 1-10, INCLUSIVE)**

18 12. Defendants incorporate by reference all responses to Paragraphs 1 through 11 of  
19 the Complaint as though fully set forth herein.

20 13. Defendants admit the allegations contained in Paragraph 13 of the Complaint.

21 14. Defendants admit the allegations contained in Paragraph 14 of the Complaint.

22 15. Defendants are without sufficient information or knowledge to form a belief as to  
23 the truth of the allegations contained in Paragraph 15 of the Complaint and, therefore, deny the  
24 allegations contained therein.

25 16. Defendants are without sufficient information or knowledge to form a belief as to  
26 the truth of the allegations contained in Paragraph 16 of the Complaint and, therefore, deny the  
27 allegations contained therein.

28 17. Defendants are without sufficient information or knowledge to form a belief as to  
the truth of the allegations contained in Paragraph 17 of the Complaint and, therefore, deny the



1 allegations contained therein.

2 **SECOND CLAIM FOR RELIEF**  
3 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
4 **AGAINST CAM, DOES 1-10 AND ROE CORPORATIONS 1-10, INCLUSIVE)**

5 18. Defendants incorporate by reference all responses to Paragraphs 1 through 17 of  
6 the Complaint as though fully set forth herein.

7 19. The allegation contained in Paragraph 19 of the Complaint constitutes a statement  
8 of the law rather than a factual allegation against Defendants and, therefore, requires no  
9 response. To the extent there is an allegation contained in Paragraph 19, Defendants deny any  
10 such allegations.

11 20. Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 20 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14 21. Defendants deny the allegations contained in Paragraph 21 of the Complaint.

15 **THIRD CLAIM FOR RELIEF**  
16 **(FORECLOSURE OF SECURITY INTEREST AGAINST CAM, MOJAVE, DOES 1-10,**  
17 **AND ROE CORPORATIONS 1-10, INCLUSIVE)**

18 22. Defendants incorporate by reference all responses to Paragraphs 1 through 21 of  
19 the Complaint as though fully set forth herein.

20 23. Defendants are without sufficient information or knowledge to form a belief as to  
21 the truth of the allegations contained in Paragraph 23 of the Complaint and, therefore, deny the  
22 allegations contained therein.

23 24. Defendants are without sufficient information or knowledge to form a belief as to  
24 the truth of the allegations contained in Paragraph 24 of the Complaint and, therefore, deny the  
25 allegations contained therein.

26 25. Defendants are without sufficient information or knowledge to form a belief as to  
27 the truth of the allegations contained in Paragraph 25 of the Complaint and, therefore, deny the  
28 allegations contained therein.

29 26. The allegation contained in Paragraph 26 of the Complaint constitutes a statement  
30 of the law rather than a factual allegation against Defendants and, therefore, requires no

1 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
2 the allegation set forth.

3 27. Defendants deny the allegation contained in Paragraph 27 of the Complaint.

4 **FOURTH CLAIM FOR RELIEF**  
5 **(ALTER EGO AGAINST CAM, CARVALHO, RENNIE, DOES 1-10, AND ROE**  
6 **CORPORATIONS 1-10, INCLUSIVE)**

7 28. Defendants incorporate by reference all responses to Paragraphs 1 through 27 of  
8 the Complaint as though fully set forth herein.

9 29. Defendants are without sufficient information or knowledge to form a belief as to  
10 the truth of the allegations contained in Paragraph 29 of the Complaint and, therefore, deny the  
11 allegations contained therein.

12 30. Defendants are without sufficient information or knowledge to form a belief as to  
13 the truth of the allegations contained in Paragraph 30 of the Complaint and, therefore, deny the  
14 allegations contained therein.

15 31. Defendants admit that CAM received payment from Mojave for the equipment  
16 purchased from Plaintiff. Defendants lack sufficient information or knowledge to form a belief as  
17 to the truth of the remaining allegations contained in Paragraph 31 of the Complaint and,  
18 therefore, deny the allegations contained therein.

19 32. Defendants are without sufficient information or knowledge to form a belief as to  
20 the truth of the allegations contained in Paragraph 32 of the Complaint and, therefore, deny the  
21 allegations contained therein.

22 33. The allegation contained in Paragraph 33 of the Complaint constitutes a statement  
23 of the law rather than a factual allegation against Defendants and, therefore, requires no  
24 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
25 the allegations set forth.

26 34. The allegation contained in Paragraph 34 of the Complaint constitutes a statement  
27 of the law rather than a factual allegation against Defendants and, therefore, requires no  
28 response. To the extent Defendants are required to respond to this paragraph, Defendants deny  
the allegations set forth.



**FIFTH CLAIM FOR RELIEF**  
**(CONVERSION AGAINST CARVALHO, DOES 1-10, AND ROE**  
**CORPORATIONS 1-10, INCLUSIVE)**

35. Defendants incorporate by reference all responses to Paragraphs 1 through 34 of the Complaint as though fully set forth herein.

36. Defendants admit the allegations contained in Paragraph 36 of the Complaint.

37. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint and, therefore, deny the allegations contained therein.

38. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 38 of the Complaint and, therefore, deny the allegations contained therein.

39. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 39 of the Complaint and, therefore, deny the allegations contained therein.

40. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint and, therefore, deny the allegations contained therein.

41. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint and, therefore, deny the allegations contained therein.

42. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 42 of the Complaint and, therefore, deny the allegations contained therein.

43. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint and, therefore, deny the allegations contained therein.

44. Defendants are without sufficient information or knowledge to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint and, therefore, deny the

1 allegations contained therein.

2 45. Defendants are without sufficient information or knowledge to form a belief as to  
3 the truth of the allegations contained in Paragraph 45 of the Complaint and, therefore, deny the  
4 allegations contained therein.

5 46. The allegation contained in Paragraph 46 of the Complaint constitutes a statement  
6 of the law rather than a factual allegation against Defendants and, therefore, requires no  
7 response. To the extent Defendants are required to respond to this paragraph, Defendants are  
8 without sufficient information or knowledge to form a belief as to the truth of the allegations  
9 contained in Paragraph 46 of the Complaint and, therefore, deny the allegations contained  
10 therein.

11 47. Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 47 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14 48. Defendants are without sufficient information or knowledge to form a belief as to  
15 the truth of the allegations contained in Paragraph 48 of the Complaint and, therefore, deny the  
16 allegations contained therein.

17 49. Defendants are without sufficient information or knowledge to form a belief as to  
18 the truth of the allegations contained in Paragraph 45 of the Complaint and, therefore, deny the  
19 allegations contained therein.

20 **SIXTH CLAIM FOR RELIEF**  
21 **(FRAUD AGAINST CAM, CARVALHO, DOES 1-10, AND ROE**  
22 **CORPORATIONS 1-10, INCLUSIVE)**

23 50. Defendants incorporate by reference all responses to Paragraphs 1 through 49 of  
24 the Complaint as though fully set forth herein.

25 51. Defendants are without sufficient information or knowledge to form a belief as to  
26 the truth of the allegations contained in Paragraph 51 of the Complaint and, therefore, deny the  
27 allegations contained therein.

28 52. Defendants are without sufficient information or knowledge to form a belief as to  
the truth of the allegations contained in Paragraph 52 of the Complaint and, therefore, deny the



1 allegations contained therein.

2 53. Defendants are without sufficient information or knowledge to form a belief as to  
3 the truth of the allegations contained in Paragraph 53 of the Complaint and, therefore, deny the  
4 allegations contained therein.

5 54. Defendants are without sufficient information or knowledge to form a belief as to  
6 the truth of the allegations contained in Paragraph 54 of the Complaint and, therefore, deny the  
7 allegations contained therein.

8 55. Defendants are without sufficient information or knowledge to form a belief as to  
9 the truth of the allegations contained in Paragraph 55 of the Complaint and, therefore, deny the  
10 allegations contained therein.

11 56. Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 56 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14 57. Defendants are without sufficient information or knowledge to form a belief as to  
15 the truth of the allegations contained in Paragraph 57 of the Complaint and, therefore, deny the  
16 allegations contained therein.

17 58. Defendants are without sufficient information or knowledge to form a belief as to  
18 the truth of the allegations contained in Paragraph 58 of the Complaint and, therefore, deny the  
19 allegations contained therein.

20 **SEVENTH CLAIM FOR RELIEF**  
21 **(NEGLIGENCE MISREPRESENTATION AGAINST CAM. CARVALHO,**  
**DOES 1-10, AND ROE CORPORATIONS 1-10, INCLUSIVE)**

22 59. Defendants incorporate by reference all responses to Paragraphs 1 through 58 of  
23 the Complaint as though fully set forth herein.

24 60. Defendants are without sufficient information or knowledge to form a belief as to  
25 the truth of the allegations contained in Paragraph 60 of the Complaint and, therefore, deny the  
26 allegations contained therein.

27 61. Defendants are without sufficient information or knowledge to form a belief as to  
28 the truth of the allegations contained in Paragraph 61 of the Complaint and, therefore, deny the

1 allegations contained therein.

2 62. Defendants are without sufficient information or knowledge to form a belief as to  
3 the truth of the allegations contained in Paragraph 62 of the Complaint and, therefore, deny the  
4 allegations contained therein.

5 63. Defendants are without sufficient information or knowledge to form a belief as to  
6 the truth of the allegations contained in Paragraph 63 of the Complaint and, therefore, deny the  
7 allegations contained therein.

8 64. Defendants are without sufficient information or knowledge to form a belief as to  
9 the truth of the allegations contained in Paragraph 64 of the Complaint and, therefore, deny the  
10 allegations contained therein.

11 65. Defendants are without sufficient information or knowledge to form a belief as to  
12 the truth of the allegations contained in Paragraph 65 of the Complaint and, therefore, deny the  
13 allegations contained therein.

14 66. The allegation contained in Paragraph 46 of the Complaint constitutes a statement  
15 of the law rather than a factual allegation against Defendants and, therefore, requires no  
16 response. To the extent Defendants are required to respond to this paragraph, Defendants are  
17 without sufficient information or knowledge to form a belief as to the truth of the allegations  
18 contained in Paragraph 66 of the Complaint and, therefore, deny the allegations contained  
19 therein.

20 67. Defendants are without sufficient information or knowledge to form a belief as to  
21 the truth of the allegations contained in Paragraph 67 of the Complaint and, therefore, deny the  
22 allegations contained therein.

23 **EIGHTH CLAIM FOR RELIEF**  
24 **(QUIET TITLE AGAINST CAM, CARVALHO, RENNIE, DOES 1-10, AND**  
**ROE CORPORATIONS 1-10, INCLUSIVE)**

25 68. Defendants incorporate by reference all responses to Paragraphs 1 through 67 of  
26 the Complaint as though fully set forth herein.

27 69. Defendants are without sufficient information or knowledge to form a belief as to  
28 the truth of the allegations contained in Paragraph 69 of the Complaint and, therefore, deny the

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3  
4   CASHMAN EQUIPMENT COMPANY,  
5   a Nevada corporation,

6                                   Appellant,

7   vs.

8  
9   WEST EDNA ASSOCIATES, LTD., dba  
10   MOJAVE ELECTRIC, a Nevada  
11   corporation; WESTERN SURETY  
12   COMPANY, a surety; THE WHITING  
13   TURNER CONTRACTING  
14   COMPANY, a Maryland corporation;  
15   FIDELITY AND DEPOSIT COMPANY  
16   OF MARYLAND, a surety;  
17   TRAVELERS CASUALTY AND  
18   SURETY COMPANY OF AMERICA, a  
19   surety; QH LAS VEGAS LLC, a foreign  
20   limited liability company; PQ LAS  
21   VEGAS, LLC, a foreign limited liability  
22   company; L W T I C SUCCESSOR LLC,  
23   an unknown limited liability company;  
24   FC/LW VEGAS, a foreign limited  
25   liability company;

26                                   Respondents.

  Electronically Filed  
Case No: 66452 Jun 17 2015 10:21 a.m.  
Case No: 61715 Tracie K. Lindeman  
Case No: 65819 Clerk of Supreme Court

District Court Case Nos.:   **A642583 &  
  A653029**

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**- CHRONOLOGICAL & ALPHABETICAL -**

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20	96	Opposition to Motion for Relief Pursuant to NRCP 60(b) and Motion for Attorneys' Fees and Costs Pursuant to NRS Ch. 108	04/15/2014	30- 31	JA0007360- 7693
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26	58	Opposition to Motion to Amend Complaint	11/19/2012	5	JA0001117-26
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1	108	Order Denying Cashman's Request for Costs Pursuant to NRS 18.020	09/02/2014	32	JA0007797-98
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5	86	Order Granting Cashman's Motion for Award of Attorneys' Fees and Costs Pursuant to NRS 108.2275	09/20/2013	10	JA0002496-97
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11	51	Order Granting Cashman's Motion to Stay or Suspend Order Granting in Part Motion for Preliminary Injunction to Procure Codes	11/02/2012	5	JA0001077-78
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17	75	Order Rescheduling Pretrial/Calendar Call	04/17/2013	10	JA0002388-89
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21	18	Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call	02/21/2012	1	JA000145-46
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24	32	Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call	08/06/2012	2	JA000405-06
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1	84	Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call	09/06/2013	10	JA0002488-90
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4	88	Order Setting Civil Non-Jury Trial, Pre-Trial/Calendar Call	10/1/2013	11	JA0002503-05
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8	90	Plaintiff's Trial Brief	01/16/2014	11	JA0002534-59
9					
10	66	QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor, LLC, and FC/LW Vegas Motion to Dismiss, or in the alternative, Motion for Summary Judgment	02/07/2013	5-6	JA0001241- 1355
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18	74	QH Las Vegas, LLC, PQ Las Vegas, LLC, LWTIC Successor, LLC, and FC/LW Vegas Reply to their Motion to Dismiss, or in the alternative, Motion for Summary Judgment	04/05/2013	9- 10	JA0002102- 2387
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26	81	QH Las Vegas, PQ Las Vegas, LWITC Successor and FC/LW Vegas'	06/11/2013	10	JA0002441-61
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	Answer to Fourth Amended Complaint			
59	Reply in Support of Motion to Amend Complaint	12/17/2012	5	JA0001127-48
31	Reply to Cashman's Opposition to Motion for Injunctive Relief or Writ of Possession	07/31/2012	2	JA000398-404
97	Reply to Cashman's Opposition to Motion for Relief Pursuant to NRCP 60(b) and Motion for Attorneys' Fees and Costs Pursuant to NRS Ch. 108	04/23/2014	31	JA0007694-7707
56	Reply to Cashman's Opposition to Motion to Expunge or Reduce Mechanic's Lien	11/02/2012	5	JA0001102-11
15	Scheduling Order	01/31/2012	1	JA000126-28
4	Second Amended Complaint	09/30/2011	1	JA00034-50
113	Stipulation and Order for	05/08/2015	32	JA0007834-36



	Dismissal of Defendants Fidelity and Deposit Company of Maryland and Travelers Casualty and Surety Company of America with Prejudice			
73	Supplement to Cashman's Supplement to its Countermotion for Summary Judgment on its Payment Bond and Mechanic's Lien Claims	04/05/2013	9	JA0002095-2101
24	Third Amended Complaint	05/24/2012	2	JA000276-94
36	Transcript of Proceedings for August 3, 2012	08/22/2012	2	JA000423-38
62	Transcript of Proceedings for November 9, 2012	01/11/2013	5	JA0001173-1203