

CLERK OF THE COURT

**NOTC**  
J. Michael Oakes, Esq.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Tel.: (702) 384-2070  
Fax: (702) 384-2128  
mike@foleyoakes.com  
*Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
Summit Technologies, LLC,  
Cross-Defendants*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Counterclaimants,

vs.

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

Counterdefendants.

CASE NO. A587003  
DEPT NO. XI

**NOTICE OF ENTRY OF ORDER**  
**COMPELLING ARBITRATION AND**  
**DISMISSING CROSSCLAIM**



1 UI SUPPLIES, UNINET IMAGING and  
2 NESTOR SAVORITI,

3 Cross-Claimants,

4 vs.

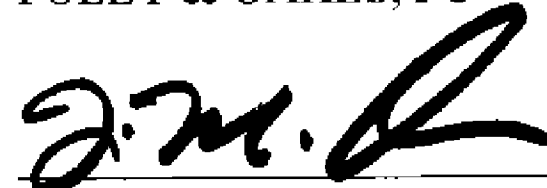
5 LEWIS HELFSTEIN, MADALYN  
6 HELFSTEIN, SUMMIT LASER PRODUCTS,  
7 INC., SUMMIT TECHNOLOGIES, LLC,

8 Cross-Defendants.

9  
10 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order Compelling  
11 Arbitration and Dismissing Crossclaim was entered in the above Court on the 9<sup>th</sup> day of May,  
12 2011, a copy of which is attached hereto as Exhibit "A".

13 DATED this 10<sup>th</sup> day of May, 2011.

14 FOLEY & OAKES, PC

15 

16 J. Michael Oakes, Esq.

17 Nevada Bar No. 1999

18 850 East Bonneville Avenue

19 Las Vegas, Nevada 89101

20 (702) 384-2070

21 *Attorneys for Lewis Helfstein, Madalyn*

22 *Helfstein, Summit Laser Products, Inc.,*

23 *Summit Technologies, LLC,*

24 *Cross-Defendants*



**CERTIFICATE OF SERVICE BY MAIL**

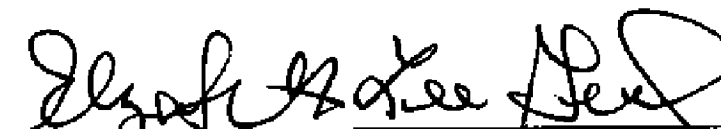
I hereby certify that a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** was served to those persons designated below on the ~~10<sup>th</sup>~~ day May, 2011.

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

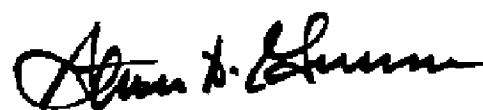
           By faxing to an operable facsimile machine of the following parties and/or their attorneys at the fax numbers designated below. A copy of the transmit confirmation report is attached hereto.

Ira Seaver  
Ira and Edythe Seaver Family Trust  
Circle Consulting Corporation  
2407 Ping Drive  
Henderson, NV 89074  
  
Gary E. Schnitzer, Esq,  
Michael B. Lee, Esq.  
Kravitz, Schnitzer, Sloane & Johnson Chtd.  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, NV 89123

*Attorneys for Defendants UI Supplies, Uninet Imaging and Nestor Saporiti*

  
An Employee of Foley & Oakes, PC





CLERK OF THE COURT

**ORDR**

J. Michael Oakes, Esq.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Tel.: (702) 384-2070  
Fax: (702) 384-2128  
mike@foleyoakes.com  
*Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
Summit Technologies, LLC,  
Cross-Defendants*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Counterclaimants,

vs.

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

Counterdefendants.

CASE NO. A587003

DEPT NO. XI

**ORDER COMPELLING  
ARBITRATION AND DISMISSING  
CROSSCLAIM**



1 UI SUPPLIES, UNINET IMAGING and  
2 NESTOR SAPORITI,

3 Cross-Claimants,

4 vs.

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

8 Cross-Defendants.

9 **ORDER COMPELLING ARBITRATION AND DISMISSING CROSSCLAIM**

10 Based upon the April 7, 2011 Order of Reversal and Remand and the May 2, 2011  
11 Remittitur from the Supreme Court of the State of Nevada,

12 **IT IS HEREBY ORDERED** that UI Supplies, Uninet Imaging, Inc., Nestor Saporiti,  
13 Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies,  
14 LLC, are compelled to litigate their disputes, if any, through arbitration in Nassau County, New  
15 York; and

16 **IT IS FURTHER ORDERED** that the crossclaim of UI Supplies, Uninet Imaging, Inc.,  
17 and Nestor Saporiti against Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc.,  
18 and Summit Technologies, LLC, is hereby dismissed, without prejudice to the rights of such  
19 parties to litigate their disputes through arbitration in Nassau County, New York.

20 DATED this 6 day of May, 2011.

21  
22   
23 DISTRICT COURT JUDGE

24 Submitted by:

25 FOLEY & OAKES, PC

26   
27 J. Michael Oakes, Esq.

28 Nevada Bar No. 1999

850 East Bonneville Avenue  
Las Vegas, Nevada 89101

**FOLEY  
&  
OAKES**



IN THE SUPREME COURT OF THE STATE OF NEVADA

LEWIS HELFSTEIN; MADALYN HELFSTEIN;  
SUMMIT LASER PRODUCTS, INC., AND  
SUMMIT TECHNOLOGIES, LLC,  
Appellants,

vs.

UI SUPPLIES; UNINET IMAGING, INC., AND  
NESTOR SAPORITI,  
Respondents.

Supreme Court No. 56383  
District Court Case No. A587003

FILED

MAY 17 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY A. Ingersoll  
DEPUTY CLERK

REMITTITUR

TO: Steven Grierson, District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: May 02, 2011

Tracie Lindeman, Clerk of Court

By: Amanda Ingersoll  
Deputy Clerk

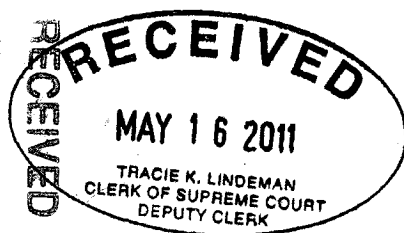
cc (without enclosures):

Hon. Elizabeth Goff Gonzalez, District Judge  
Foley & Oakes, PC  
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.

RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on MAY 11 2011

Heather Ingersoll  
Deputy District Court Clerk



CLERK OF THE COURT

MAY 06 2011



**IN THE SUPREME COURT OF THE STATE OF NEVADA**

LEWIS HELFSTEIN; MADALYN HELFSTEIN;  
SUMMIT LASER PRODUCTS, INC., AND  
SUMMIT TECHNOLOGIES, LLC,

Appellants,

vs.

UI SUPPLIES; UNINET IMAGING, INC., AND  
NESTOR SAPORITI,  
Respondents.

**Supreme Court No. 56383**

District Court Case No. A587003

**CLERK'S CERTIFICATE**

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

**JUDGMENT**

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"The district court incorrectly denied appellants motion, and we reverse. We remand this matter to the district court for it to enter an order compelling arbitration and dismissing the district court action as it pertains to respondents' or appellants' rights to litigate their disputes through arbitration in Nassau County, New York."

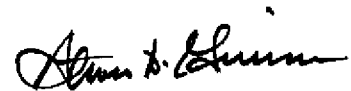
Judgment, as quoted above, entered this 7th day of April, 2011.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
May 02, 2011.

Tracie Lindeman, Supreme Court Clerk

By: Amanda Ingersoll  
Deputy Clerk





CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

Case No.: 09 A 587003

Dept. No.: XI

Plaintiff,

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

vs.

Date of Trial: March 19, 2012

Time of Trial: 1:00 p.m.

UI SUPPLIES, UI TECHNOLOGIES,  
UNINET IMAGING, INC., NESTOR  
SAPORITI and DOES 1 through 20, and ROE  
entities 21 through 40, inclusive; DOES 1  
through X, inclusive; and ROE BUSINESS  
ENTITIES 1 through X, inclusive,

Defendants.

This cause came on regularly for a bench trial beginning on March 19, 2012 and continuing day to day, based upon the availability of the Court and Counsel, until its completion on April 25, 2012; Plaintiff IRA SEAVER ("Seaver") appearing in proper person; Plaintiffs IRA AND EDYTHE SEAVER FAMILY TRUST ("Trust"), and CIRCLE CONSULTING CORPORATION ("Circle") by and through Jeffrey R. Albregts, Esq. (Trust, Seaver, and Circle are sometimes collectively referred to as "the Plaintiffs") and Defendants UI SUPPLIES, UI TECHNOLOGIES,<sup>1</sup> UNINET IMAGING, INC. ("UniNet"), NESTOR SAPORITI ("Saporiti") appearing by and through their attorneys Michael Lee, Esq. and Gary Schnitzer, Esq.; (UI Supplies, UI Technologies, UniNet and Saporiti are sometimes collectively referred to as "the UI

<sup>1</sup> The Court granted a motion to add UI Technologies as a defendant during trial.

RECEIVED

MAY 18 2012

CLERK OF THE COURT



1 Defendants").<sup>2</sup> Plaintiffs Complaint<sup>3</sup> asserts ten causes of action: (1) Breach of Circle  
2 Consulting Contract (against all Defendants); (2) Breach of Summit Technologies Formation  
3 Agreement (against Helfstein Defendants Only); (3) Breach of Summit Technologies Operating  
4 Agreement (against Helfstein Defendants and Summit Only); (4) Breach of Fiduciary Duty  
5 (against Helfstein Defendants Only)<sup>4</sup>; (5) Promissory Estoppel (against UniNet Defendants  
6 Only); (6) Unjust Enrichment (against UniNet Defendants Only); (7) Accounting (against  
7 Summit and Helfstein Defendants Only)<sup>5</sup>; (8) Declaratory Relief (against All Defendants); (9)  
8 Breach of Implied Covenant of Good Faith and Fair Dealing (against All Defendants)<sup>6</sup>; and (10)  
9 Alter Ego (against All Defendants)<sup>7</sup>. During trial the Court permitted amendment to add a claim  
10 for breach of fiduciary duty against the UI Defendants.

11 The Court having read the pleadings filed by the parties, listened to the testimony of the  
12 witnesses, reviewed the evidence introduced during the trial, considered the oral and written  
13 arguments of counsel, and with the intent of deciding all claims before the Court pursuant to  
14 NRCP 52(a) and 58. The Court makes the following findings of fact and conclusions of law:

15 **FINDINGS OF FACT**

16 1. On or about August 12, 2004, Lewis Helfstein ("Helfstein")<sup>8</sup> on behalf of Summit  
17

18 <sup>2</sup> The Court dismissed the Counterclaim at the close of the counterclaimants' case, as no  
evidence of damages was presented.

19 <sup>3</sup> No ruling in this case is intended to be determinative of any issue related to the Helfstein  
20 Defendants, as they did not participate in this trial. The Helfstein Defendants include LEWIS  
HELSTEIN, MADALYN HELFSTEIN, and SUMMIT TECHNOLOGIES LLC.

21 <sup>4</sup> The court permitted amendment of this claim during trial to include the UI Defendants.

22 <sup>5</sup> The Court granted an NRCP 52c motion on this issue as the accounting was accomplished  
23 through discovery as part of these proceedings.

24 <sup>6</sup> The Court granted dismissal of the tortious claims for breach of the covenant of good faith and  
fair dealing.

25 <sup>7</sup> The Court granted dismissal of this claim against the UI Defendants and UniNet.

26 <sup>8</sup> On November 23, 2009, Plaintiffs executed a voluntary dismissal of the Helfstein Defendants  
27 after reaching a settlement of \$60,000. While Plaintiff and the Helfstein Defendants have  
resolved their claims in this matter, but Plaintiff rescinded their Settlement Agreement with them  
28 on or about January 20, 2011, because of information Mr. Conant discovered. Based on the



1 Laser Products, Inc. and Ira and Edythe Family Trust entered into an operating agreement to  
2 form Summit Technologies ("Summit") with the Helfstein Defendants maintaining management  
3 and control of it but requiring them to also obtain Seaver's approval for decisions regarding its  
4 capital structure of Summit.

5 2. The Operating Agreement with the Plaintiffs for the operation of Summit as a  
6 New York limited liability company which provided, among other things, that it would maintain  
7 records and provide accountings to its members including providing quarterly reports; that 75%  
8 of the members' consent would be necessary to change its capital structure; for distribution of  
9 profits and net cash flow of 65% to Summit Laser Products and 35% to the Seaver Trust; and for  
10 health insurance.

11 3. In September 2004, Summit entered into a Technology License Agreement with  
12 LaserStar Distribution Corporation, another entity controlled by the Plaintiffs, for the "codes and  
13 programs for laser cartridge chips." The license period was for 10 years.

14 4. In September, 2004, a consulting, noncompetition and confidentiality agreement  
15 was entered into by Helfstein on behalf of Summit, and Seaver individually and as president of  
16 Circle. Seaver, by way of Circle, and Helfstein, by way of LBH Enterprises agreed to consulting  
17 agreements in lieu of salary. The Consulting Agreement contained obligations related to  
18 nondisclosure of confidential information and an agreement not to aid competition. It also  
19 contained a specific term as to assignment stating that "[t]his Agreement may not be assigned by  
20 any party hereto." ("Anti-Assignment Clause")<sup>9</sup>

21  
22 stipulation of the parties, this trial concerns only the monies due and owing from the UI  
23 Defendants to the Plaintiffs. The claims of the UI Defendants against the Helfstein Defendants  
are stayed by Nevada Supreme Court entered on 10/19/2010 in Case no. 56383.

24 <sup>9</sup> That agreement provides in pertinent part:

25 6. Disclosure of Information.

26 Consultant recognizes and acknowledges that trade secrets of the Company and its affiliates and  
27 their proprietary information and procedures, as they may exist from time to time, are valuable,  
28 special and unique assets of the Company's business, access to and knowledge of which are  
essential to performance of the Consultant's duties hereunder. . . . Consultant will not at any  
time during the term of this Agreement disclose in whole or in part, such secrets, information or



1           5.       Among other things, the Circle Consulting Agreement provided for payments of  
2 \$125,000 per year on a monthly basis with annual \$5,000 increases; reimbursement of expenses;  
3 and payments based on sale of laser printer chips.

4           6.       Seaver was required to exclusively perform services at the request of Summit as  
5 well as comply with the noncompete, nondisclosure and confidentiality provisions of that  
6 agreement.

7           7.       On or about August 1, 2005, Helfstein, as the managing member of Summit,  
8 notified Seaver he was suspending the consulting fee payments for the Circle Consulting  
9 Agreement based on Summit's insufficient cash flow.

10          8.       After Helfstein suspended the consulting fee payments, Seaver stopped  
11 performing consulting services.

12          9.       In late 2006, Seaver suffered an injury that required surgery which prevented him  
13 from consulting for an extended period.

14          10.      In late 2006, Helfstein and Steven Hecht, the Chief Financial Officer and  
15 President of Summit ("Hecht"), began soliciting offers to sell Summit or Summit's assets.  
16 Summit had a large bank loan and various creditors that Summit could not afford to pay.

17          11.      Sometime in October 2006, Helfstein approached Saporiti about purchasing

18  
19 processes to any person, firm corporation, association or other entity for any reason or purpose  
20 whatsoever, nor shall they make use of any such property for their own purposes of (sic) benefit  
21 of any firm person or corporation, or other entity (except the Company) under any circumstances  
22 during the term of this Agreement; provided that these restrictions shall not apply to such secrets,  
23 information, and processes which are (the) in public domain. . .

24 7. Agreement not to Aid Competition

25 7.1 Consultant acknowledges and agrees that during the term of this Agreement, it will not in any  
26 way, directly or indirectly, . . . engage in represent, furnish consulting services to, be employed  
27 by, or have any interest in . . . any business which manufactures, sells or distributes parts and  
28 supplies for the remanufacturing of business machine toner cartridges in competition with the  
Company or refills business machine toner cartridges.

\*                   \*                   \*

7.2 The Consultant is exempt with regards to this paragraph for the following activity:

Consulting with Tangerine Express, so long as their activity remains on the retail level, Raven  
Industries...



1 Summit's assets after unsuccessfully approaching approximately three or four other buyers.

2 12. After some exchange of information and discussions with key personnel, in early  
3 February 2007, Saporiti indicated that he would form UI Technologies and UI Supplies to  
4 purchase the assets of Summit

5 13. Saporiti informed Hecht and Helfstein that he did not want to assume the current  
6 Circle Consulting Agreement.

7 14. At some point in time Seaver became aware that the UI Defendants did not want  
8 to assume the current Circle Consulting Agreement.

9 15. Helfstein attempted to negotiate a new global agreement for Seaver and himself.  
10 This called for Seaver to receive approximately 35% of whatever Helfstein negotiated for  
11 himself through LBH Enterprises.

12 16. Seaver was aware of the attempt to negotiate a separate consulting and non-  
13 competition agreement, but his relationship and the trust between Seaver and Helfstein had  
14 deteriorated.

15 17. Seaver was concerned that the payments would flow through Helfstein, which  
16 could have been usurped by Helfstein's estate in the event of Helfstein's death.

17 18. As a result, Seaver asked the UI Defendants for a consulting agreement separate  
18 from Helfstein's.

19 19. Saporiti stated that he was interested in working with Seaver.

20 20. Hecht attempted to negotiate language that was acceptable to Seaver in terms of  
21 both compensation and the scope of the non-competition provision.

22 21. Eventually, Saporiti's newly created companies, UI Technologies and UI  
23 Supplies, entered into a transaction that was characterized as an Asset Purchase of Summit. As  
24 part of the transaction no specific intellectual property rights that were being transferred or being  
25 assigned were identified. Certain accounts receivable, contracts and cash were not transferred as  
26 part of the transaction.

27 22. The Helfstein Defendants also entered into an agreement with UI Technologies,  
28 Inc. for the purchase of all of the assets of LaserStar Distribution Corporation. As part of the



1 transaction no specific intellectual property rights that were being transferred or being assigned  
2 were identified.

3 23. After agreeing to the initial terms, Helfstein drafted the Asset Purchase  
4 Agreement which was reviewed by counsel for the UI Defendants.

5 24. Hecht negotiated portions of the agreement on behalf of the UI Defendants prior  
6 to the closing of the transaction.<sup>10</sup>

7 25. Ultimately, Seaver refused to enter into the offered replacement consulting  
8 agreement because it did not have a sufficient "carve out" to the non-compete that would allow  
9 him to operate pre-existing ventures (Tangerine Express<sup>11</sup> Raven Industries<sup>12</sup>, etc.<sup>13</sup>), and it had  
10 insufficient compensation with a payout over three years.

11 26. None of the pre-existing ventures as performed during the period of the Circle  
12 Consulting agreement prior to the acquisition by UI Technologies and UI Supplies are a violation  
13 of the noncompetition provisions of that agreement.

14 27. Seaver received notice regarding a meeting about the sale proceeding on March  
15 27, 2007, for a meeting that same day. The Notice of Meeting of Members specifically stated  
16 that a special meeting would be held on March 27, 2007 for the purpose of: (1) Authorizing the  
17 Company to enter into and perform the Agreement for Purchase and Sale of Assets By and  
18 Between UI Supplies, Inc. and Summit Technologies, LLC, dated as of March 30, 2007, for sale  
19 of substantially all of the assets of the company (the "Sales Agreement"); and (2) Authorizing  
20 Summit Laser Products, Inc., as member and manager of the Company, by its president,  
21 Helfstein, or any other office thereof, to execute and deliver any and all documents and to take  
22 such further action as may be desirable, from time to time, in furtherance of the Sales

23 \_\_\_\_\_  
24 <sup>10</sup> It is unclear from the testimony and the evidence admitted during trial when the transaction  
closed. The dates on documents admitted in evidence, where dated, are inconsistent.

25 <sup>11</sup> Tangerine is an office supply business operated by Seaver's wife, Edythe.

26 <sup>12</sup> Seaver sold his interest in Raven, a toner manufacturer, in 1999. He had a 5-year  
27 nondisclosure agreement and an 8-year payout from the sale.

28 <sup>13</sup> Seaver also rents space to Static Control on a month-to-month basis in Camarillo, CA.



1 Agreement.

2 28. On or about March 27, 2007, Helfstein called Seaver and informed him that  
3 Summit was lucky that UI wanted to purchase its assets because the company was  
4 haemorrhaging money, putting pressure on Seaver to agree to a replacement consulting  
5 agreement.

6 29. Seaver still refused because he did not like the terms of the new consulting  
7 agreement.

8 30. When Seaver refused to negotiate or execute a replacement consulting agreement,  
9 Helfstein decided to go forward with the sale.

10 31. Helfstein represented to Saporiti that Summit did not need Seaver's approval to  
11 execute the Asset Purchase Agreement, and he would personally indemnify the UI Defendants  
12 for any judgment Seaver might receive as it related to the sale.

13 32. Seaver was not involved with the decision or subsequent negotiations for the sale  
14 of Summit's assets.

15 33. Saporiti relied upon Helfstein to document the transaction.

16 34. In late March or early April, 2007, UI and Summit entered into the Asset  
17 Purchase Agreement. Helfstein informed UI that he was the majority owner of Summit with  
18 authority to enter into the Asset Purchase Agreement for Summit.

19 35. The UI Defendants never formally assumed the Circle Consulting Agreement.  
20 The Asset Purchase Agreement was not conditioned on the UI Defendants having consulting  
21 agreements with either Helfstein or Seaver.

22 36. At some point in time, Seaver was informed that the Circle Consulting Agreement  
23 terminated after the execution of the Asset Purchase Agreement. However, inconsistent  
24 information was provided to Seaver on issues related to his health insurance and the UI  
25 Defendants' position on his continuing obligations under the Circle Consulting Agreement.

26 37. Seaver's acquiescence to comply with the terms of the Circle Consulting  
27 Agreement based upon the representations by the UI Defendants of his continuing obligation to  
28 not compete was his consent to the assumption of that agreement.



1           38.     Prior to April 2007, Seaver received health insurance benefits through the  
2 Consulting Agreement from Summit. However, after the closing of the Asset Purchase  
3 Agreement, those benefits terminated. Prior to terminating his benefits, UI extended the term of  
4 those benefits and permitted Seaver to remain on its health insurance until Seaver obtained  
5 replacement coverage through Tangerine, with Seaver reimbursing the UI Defendants for those  
6 costs.

7           39.     After April 2007, Hecht who was the former President of Summit and became a  
8 director of UI Technologies and General Manager of Summit Technologies a division of UniNet  
9 Imaging<sup>14</sup> asked Seaver not to contact any UI and/or former Summit employees working for UI  
10 because of his lack of a non-compete/confidentiality agreement. Seaver acknowledged that he  
11 was not allowed to interfere with UI's business by communicating with its employees.

12           40.     Joseph Cachia, former VP of Operations of Summit who became a director of UI  
13 Technologies and VP of Operations of UI Supplies, informed Seaver that the former employees  
14 were forbidden to speak with him about UI business, as he did not have a non-compete  
15 agreement. Seaver acknowledged that he understood this instruction.

16           41.     Representatives of the UI Defendants made representations to Seaver that the UI  
17 Defendants held and owned the rights to the Circle Consulting Agreement and that Seaver was  
18 bound by it to the extent of the nondisclosure and noncompetition provisions.

19           42.     While UniNet characterized the transactions as an Asset Purchase, it represented  
20 the transaction to the industry as a merger in a press release, which also appeared on the UI  
21 Defendant's website for most of the trial.<sup>15</sup>

22           43.     UniNet began invoicing for Summit Technologies prior to the effective date of the  
23 transaction. The invoices on several occasions identified the invoicer as "Summit Technologies,  
24 a division of UniNet".

25           44.     Summit's business continued after the transaction as a "division of UniNet".

---

26 <sup>14</sup> Ex. 227  
27

28 <sup>15</sup> The press release was removed from the UI Defendants company website during the trial.



1           45.     The UI Defendants, as successors-in-interest to Summit, also assumed certain  
2 other contractual obligations and rights of Summit, but claim those obligations due and owing  
3 from Summit to Seaver were not included.

4           46.     Helfstein claims he drafted Exhibit "E" to address the two consulting agreements  
5 that Helfstein and Seaver had with Summit after Seaver refused to agree to a replacement  
6 consulting agreement. Exhibit "E" of the Asset Purchase Agreement specifically set forth that  
7 "CONSULTING AGREEMENTS WITH IRA SEAVER AND LEWIS HELFSTEIN NOT  
8 BEING ASSUMED." Helfstein claims to have created Exhibit "E" as a part of the original  
9 Asset Purchase Agreement to insure that the previous consulting contracts would not be enforced  
10 against UI.

11           47.     While the UI Defendants claim that an Exhibit "E" disclaiming responsibility for  
12 the consulting agreement with Seaver was included as part of the transaction the evidence  
13 supporting this contention lacks credibility.<sup>16</sup>

14           48.     The subsequent conduct and actions of the UI and Helfstein Defendants, however,  
15 do not correspond or support the assertion on their part that the Circle Consulting Agreement  
16 was not assumed because the UI Defendants made representations to Seaver that they held and  
17 owned the rights to the Circle Consulting Agreement and that he was bound by it insofar as he  
18 could not compete with them nor disclose any information they deemed confidential.

19           49.     Seaver on behalf of Circle sent invoices and statements to the UI Defendants for  
20 the monies due to them under the Circle Consulting Agreement to which the UI Defendants did  
21 not respond.

22           50.     The UI Defendants touted and publicized their purchase of Summit along with its  
23 intellectual property technology and other proprietary information which it possessed as a result  
24 of the past efforts and work of Seaver, and continued to do so until shortly before the conclusion

---

25  
26 <sup>16</sup> During the original motion to dismiss, it came to the Court's attention that there were  
27 significant issues about the existence of the proffered Exhibit "E". Trial Exhibit 207, documents  
28 an additional occasion where the agreement was not provided. The testimony and evidence  
taken together leads the Court to the conclusion that Exhibit "E" was not created and executed at  
the time of the closing of the transaction.



1 of trial.

2 51. Seaver and Circle honored their obligations under the Circle Consulting  
3 Agreement with Summit—irrespective of the UI Defendants' claims that they did not assume  
4 the same—by not competing with the UI Defendants as well as keeping all information they  
5 deemed confidential, confidential.<sup>17</sup>

6 52. Seaver and Circle detrimentally relied on the representations related to the  
7 obligations under the Circle Consulting Agreement in not competing with the UI or Helfstein  
8 Defendants although they did not receive compensation for such.

9 53. Seaver testified that counsel for the UI Defendants informed him that he could not  
10 engage in a business venture with Static Control; as a result of that position Seaver did not accept  
11 the position with Static Control and suffered a financial loss.

12 54. Plaintiff's expert, Rodney Conant testified, based upon his review of the books  
13 and records of Summit show that Seaver, as a consequence of honoring the Circle Consulting  
14 Agreement with Summit Technologies, lost income (along with his family Trust and Circle  
15 Consulting) in the total amount of \$3,792,570.00.

16 55. No expert damages testimony was presented by the UI Defendants.

17 56. There is not a special relationship between Plaintiffs, individually or collectively,  
18 and the UI Defendants, individually or collectively, requiring the UI Defendants to protect  
19 Plaintiffs.

20 57. If any findings of fact are properly conclusions of law, they shall be treated as if  
21 appropriately identified and designated.

## 22 CONCLUSIONS OF LAW

23 1. Seaver did not breach his obligations under the Circle Consulting Agreement.  
24 Seaver did not compete with Summit although he had a relationship with Tangerine Express,  
25 received payments from a prior sale of an interest in Raven Industries, and rented space to Static  
26

27 <sup>17</sup> Seaver testified he originally was informed by Hecht that he could not compete with the UI  
28 Defendants because of his prior agreement. He was later informed he could not take a position  
with Static Controls by counsel for the UI Defendants.



1 Control.

2 2. Given the representations by representatives of UI Technologies and UI Supplies,  
3 including counsel, the UI Defendants are estopped from arguing that the Circle Consulting  
4 Agreement was not assumed as a result of the transaction.

5 3. Four elements comprise the theory of promissory estoppel: (1) the party to be  
6 estopped must be apprised of the true facts; (2) he must intend that his conduct be acted upon, or  
7 must act so that the other party asserting estoppel has the right to believe it was so intended; (3)  
8 the party asserting the estoppel must be ignorant of the true state of facts; and (4) he must have  
9 relied to his detriment on the conduct of the party to be estopped. *Pink v. Busch*, 100 Nev. 684,  
10 689, 691 P.2d 456, 459 (1984) (citation omitted). The doctrine of promissory estoppel also  
11 requires reliance that is foreseeable and reasonable. *American Sav. & Loan Ass'n v. Stanton-*  
12 *Cudahy Lumber Co.*, 85 Nev. 350, 359, 455 P.2d 39, 41 (1969).

13 4. The facts here support a claim for promissory estoppel. Here, Plaintiffs justifiably  
14 relied upon the representations of the UI Defendants of the obligations remaining under the  
15 Circle Consulting Agreement including the obligations not to compete, and not to disclose  
16 confidential information. Plaintiffs have established that the UI Defendants made false or  
17 misleading misrepresentations regarding the continuation of the Consulting Agreement.

18 5. The Court finds for Plaintiffs, and against the UI Defendants on the claim for  
19 promissory estoppel.

20 6. Seaver was not involved with the negotiations and lacks any personal knowledge  
21 to offer an opinion on these negotiations. While Helfstein, Hecht, and Saporiti are the persons  
22 qualified to provide "extrinsic evidence to determine the parties' intent, explain ambiguities, and  
23 supply omissions," *Ringle v. Bruton*, 120 Nev. 82, 93, 86 P.3d 1032, 1039 (2004), their  
24 statements when taken with the inconclusive documentary evidence are not credible. Given the  
25 lack of credibility of Helfstein and Hecht, the Court does not find the explanation related to the  
26 Exhibit "E" provided by those persons of assistance in making this determination.

27 7. A *de facto* merger occurs where the parties have essentially achieved the result of  
28 a merger although they do not meet the statutory requirements for *de jure* merger. Village



1 Builders v. US Laboratories, 121 Nev. 261 (2005). The factors to be weighed by the court in  
2 determining whether a *de facto* merger exists are: (1) whether there is a continuation of the  
3 enterprise; (2) whether there is a continuity of shareholders; (3) whether the seller corporation  
4 ceased its ordinary business operations; and (4) whether the purchasing corporation assumed the  
5 seller's obligations. Here after weighing the factors, the Court concludes that UI's acquisition of  
6 Summit is a *de facto* merger.

7 8. After Seaver refused to enter into a new consulting agreement, Helfstein  
8 unilaterally decided to proceed with the Asset Purchase Agreement without an agreement in  
9 place for Seaver. Helfstein communicated to Saporiti that he did not need Seaver's consent to  
10 the sale since Summit's operating agreement provided him with authority to sell as the managing  
11 member.

12 9. As the Court has found that the acquisition of Summit's assets was a *de facto*  
13 merger on the facts of this case, the Court finds in favor of Plaintiffs on the first cause of action  
14 for Breach of Circle Consulting Contract and finds against the UI Defendants.

15 10. The UI Defendants' representations to Seaver that he could not work for a  
16 competitor is evidence of a breach of the implied covenant of good faith and fair dealing. The  
17 Court finds for Plaintiffs on the claim for breach of the implied covenant of good faith and fair  
18 dealing against the UI Defendants.

19 11. " 'The doctrine of unjust enrichment or recovery in quasi contract applies to  
20 situations where there is no legal contract but where the person sought to be charged is in  
21 possession of money or property which in good conscience and justice he should not retain but  
22 should deliver to another [or should pay for].' " *Leasepartners Corp. v. Robert L. Brooks Trust*  
23 *Dated Nov. 12, 1975*, 113 Nev. 747, 942 P.2d 182, 187 (1997) (quoting 66 Am.Jur.2d Restitution  
24 § 11 (1973)). An unjust enrichment claim is "not available when there is an express, written  
25 contract, because no agreement can be implied when there is an express agreement." *Id.*

26 12. Here, given the Court's determinations on the other claims, Plaintiffs cannot  
27 prevail on the alternative claim for unjust enrichment.

28 13. The Court does not find that Plaintiffs have unclean hands in this matter by



1 pursuit of this lawsuit against the UI Defendants. While the UI Defendants argue that certain  
2 evidence illustrates that Plaintiffs attempted to manufacture evidence to bolster this action, the  
3 Court does not find this, taken in conjunction with the evidence presented at trial, as credible.

4 14. District courts have the discretion to determine if the alter ego doctrine applies in  
5 a case. *LFC Mktg. Group, Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 846 (2000). The  
6 requirements for finding alter ego, which must be established by a preponderance of the  
7 evidence, are: (1) The corporation must be influenced and governed by the person asserted to be  
8 its alter ego; (2) There must be such unity of interest and ownership that one is inseparable from  
9 the other; and (3) The facts must be such that adherence to the fiction of separate entity would,  
10 under the circumstances, sanction a fraud or promote injustice. *Ecklund v. Nevada Wholesale*  
11 *Lumber Co.*, 93 Nev. 196, 197, 562 P.2d 479, 479-80 (1977) (citations omitted). However, that “  
12 ‘[t]he corporate cloak is not lightly thrown aside’ and that the alter ego doctrine is an exception  
13 to the general rule recognizing corporate independence.” *Loomis*, 116 Nev. at 903-04, 8 P.3d at  
14 846 (quoting *Baer v. Amos J. Walker, Inc.*, 85 Nev. 219, 220, 452 P.2d 916, 916 (1969)).

15 15. Here, Saporiti complied with all of the corporate formalities in forming UI  
16 Supplies and UI Technologies to purchase the assets of Summit. There is no evidence that  
17 Saporiti, UniNet, UI Technologies and UI Supplies, in any combination, are inseparable.  
18 Furthermore, there is no evidence that the recognizing UI Technologies and UI Supplies as  
19 separate legal entities would have any promotion of fraud or injustice. Saporiti legally formed  
20 UI Supplies and UI Technologies to purchase the assets of Summit. He signed the Asset  
21 Purchase Agreement on behalf of UI Supplies and UI Technologies.

22 16. Despite the intertwining of the operations of the UI Defendants, Plaintiffs have  
23 not provided sufficient evidence to demonstrate that UI Supplies and UI Technologies were an  
24 alter ego of either Saporiti or UniNet.

25 17. While the UI Defendants assumed the Circle Consulting Agreement through their  
26 action and accomplished a *de facto* merger of Summit with UI Technologies and UI Supplies, the  
27 UI Defendants did not have a special duty to protect Plaintiffs from Helfstein, Hecht, or Summit.  
28 Under the common law, there is no duty to control the conduct of a third party to prevent him



1 from causing harm to another person, unless a special relationship exists.

2 18. Here, there was not a special relationship between Plaintiffs and the UI  
3 Defendants as recognized by the common law.

4 19. Two categories of damages which the Court believes are appropriate for award  
5 consistent with this decision are:

6 Lost Opportunity <sup>18</sup>	\$469,450.92
7 Loss of Health Insurance Premiums <sup>19</sup>	\$ 96,146.52
TOTAL	<u>\$565,597.44</u>

8 20. If any conclusions of law are properly findings of fact, they shall be treated as if  
9 appropriately identified and designated.

10 **JUDGMENT IS ENTERED AS FOLLOWS:** Plaintiffs take judgment in the sum of  
11 \$565,597.44 on the claims for breach of contract, breach of the covenant of good faith and fair  
12 dealing and promissory estoppel;

13 ...

14  
15  
16  
17  
18  
19 <sup>18</sup> The Court has used Mr. Conant's figures but has made an adjustment. His figures on Exhibit  
20 "BB" show Due 4/1/07 through 12/31/10 \$ 353,135.74  
Due 1/1/11 through 12/31/14 328,419.34  
\$ 681,555.08

21 The Court only awards Lost Opportunity damages in the amount of \$469,450.92 through 5/31/12  
22 (\$353,135.74 + \$116,315.18) as the remainder of the damages have not yet been incurred and  
may be sought if a continuing breach of the agreement occurs.

23 <sup>19</sup> The Court has used Mr. Conant's figures but has made an adjustment. His figures on Exhibit  
24 "L" show Due 4/1/07 through 12/31/10 \$ 74,865.00  
Due 1/1/11 through 12/31/14 60,089.00  
25 \$ 134,954.00

26 The Court only awards Loss of Health Insurance Premiums as damages in the amount of  
27 \$96,146.52 through 5/31/12 (\$74,865.00 + \$21,281.52) as the remainder of the damages have not  
28 yet been incurred and may be sought if a continuing breach of the agreement occurs.



**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:** Plaintiffs may make a motion for attorneys' fees, if appropriate, and demand costs as provided for under the Nevada Rules of Civil Procedure, the Nevada Revised Statutes, and any other application rule, statute, or contract.

Dated this 17<sup>th</sup> day of May, 2012.

~~Elizabeth Gonzalez  
District Court Judge~~

## Certificate of Service

I hereby certify that on or about the date filed, this document was copied through e-mail, or a copy of this Order was placed in the attorney's folder in the Clerk's Office or mailed to the proper party as follows:

Jeffrey R. Albregts, Esq. (Cotton, Driggs, et al)

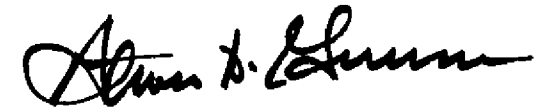
Michael B Lee, Esq.

Gary E Schnitzer, Esq. (Kravitz Schnitzer, et al)

Mr. Ira Seaver  
2407 Ping Drive  
Henderson, Nevada 89074

Dan Kutinac





CLERK OF THE COURT

**MOT**  
JEFFREY R. ALBREGTS, ESQ./NBN 0066  
COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)

*Attorneys for Plaintiffs*  
*Ira and Edythe Seaver Family Trust and*  
*Circle Consulting Corporation*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

\* \* \*

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

Plaintiffs,

v.

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

Defendants.

AND RELATED CLAIMS

Case No.: A587003

Dept. No.: XI

**PLAINTIFFS' MOTION TO SET ASIDE  
RESCINDED HELFSTEIN  
SETTLEMENT AGREEMENT AND  
PROCEED ON CLAIMS AGAINST  
THEM**

**DATE:**

**TIME:**

Plaintiffs, and each of them, hereby move this honorable Court for an Order setting aside their previously rescinded Settlement Agreement with Defendants Lewis and Madalyn Helfstein in order to allow them to proceed on their claims against them herein for the reasons set forth hereinbelow.

This motion is made and based upon the Points and Authorities, Exhibits and Declaration

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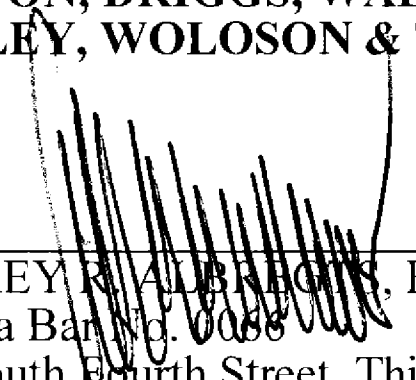
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3 attached hereto, as well as on all of the pleadings and papers on file herein.

4 Dated this 25th day of March, 2013.

5 **COTTON, DRIGGS, WALCH,**  
6 **HOLLEY, WOLOSON & THOMPSON**

7  
8   
9 JEFFREY R. ALBRECHTS, ESQ.  
10 Nevada Bar No. 0066  
11 400 South Fourth Street, Third Floor  
12 Las Vegas, Nevada 89101

13 *Attorneys for Plaintiffs Ira and Edythe Seaver*  
14 *Family Trust and Circle Consulting*  
15 *Corporation*

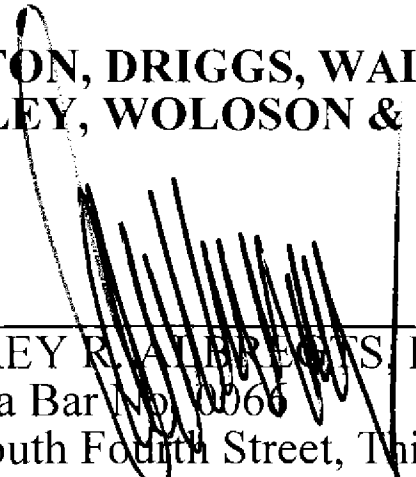
16 **NOTICE OF MOTION**

17 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN.

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will  
19 bring the foregoing **PLAINTIFFS' MOTION TO SET ASIDE RESCINDED HELFSTEIN**  
20 **SETTLEMENT AGREEMENT AND PROCEED ON CLAIMS AGAINST THEM** on for  
21 hearing before Department XI of the above-entitled Court on the 25 day of April, 2013, at  
22 the hour of 8:30 AM.m., or as soon thereafter as counsel may be heard.

23 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of March, 2013.

24 **COTTON, DRIGGS, WALCH,**  
25 **HOLLEY, WOLOSON & THOMPSON**

26   
27 JEFFREY R. ALBRECHTS, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Plaintiffs Ira and Edythe Seaver*  
*Family Trust and Circle Consulting*  
*Corporation*



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 FACTUAL STATEMENT

4 This honorable Court is well familiar with this case having already tried Plaintiffs' claims  
5 against Mr. Saporiti and the Uninet Defendants last year. As this Court may recall, among the  
6 Findings it made after that trial on the merits was that there had been (and therefore is now) a "de  
7 facto merger" of the corporate defendants herein (the Uninet and Summit companies) as a  
8 consequence of the purchase transaction between Mr. Saporiti and Mr. Helfstein. At the time of  
9 that transaction or merger, Plaintiffs were (also) owners in the Summit companies (along with  
10 the Helfsteins), but Defendants refused to pay them anything for their interest therein. Thus,  
11 Plaintiffs instituted this action to recover as much from them.

12 Plaintiffs have since settled all of their claims with the Uninet Defendants and Mr.  
13 Saporiti.<sup>1</sup> As this Court may also recall, earlier in this litigation, Plaintiffs settled their claims  
14 with the Helfstein/Summit Defendants. After receiving the report of Rodney Conant (their expert  
15 witness) in this case, however, Plaintiffs rescinded their Settlement Agreement with the Helfstein  
16 Defendants in January, 2011. (Attached hereto as Exhibit 1 is a true and correct copy of  
17 Plaintiffs' Notice of Rescission of Helfstein Settlement.) In fact, this Court never heard Plaintiffs'  
18 Motion to Approve (that) Settlement As (a) Good Faith settlement. Furthermore, nothing has  
19 occurred or transpired since then between Plaintiffs and the Helfstein/Summit Defendants  
20 because of the Stay entered earlier in this action by the Nevada Supreme Court as to any claims  
21 between the Helfstein/Summit Defendants and the Saporiti/Uninet Defendants. Now that  
22 Plaintiffs have resolved their claims with the Saporiti/Uninet Defendants, that Stay is now moot  
23 as there are no parties remaining in this action other than Plaintiffs and Defendants Lewis and  
24 Madalyn Helfstein.<sup>2</sup>

25  
26 <sup>1</sup> The Uninet Defendants' appeal of this Court's judgment against them has now been dismissed  
27 and they have three more payments in the amount of \$50,000 to make to Plaintiffs to  
28 consummate their settlement with them, at which time this case will be dismissed by Plaintiffs as  
to Mr. Saporiti and the Uninet Defendants.

<sup>2</sup> The Settlement Agreement between Plaintiffs and the Saporiti/Uninet Defendants also included



1 The purpose of this Motion is to have this Court recognize Plaintiffs' previous rescission  
2 of their Settlement Agreement with the Helfstein Defendants and allow them to proceed on their  
3 claims against them, which claims are effectively grounded in fraud. Specifically, that Plaintiffs  
4 would not have settled their claims with the Helfsteins had they known what Mr. Conant  
5 discovered afterwards from the books and records of the Summit companies, i.e. the Helfsteins  
6 had been stealing from Plaintiffs for years including unlawfully and improperly reducing their  
7 capital account therein in an amount even greater than what they had paid to Plaintiffs to settle  
8 their claims against them, to wit: \$60,000. [Attached hereto as Exhibit 2 is a true and correct  
9 copy of the Summit ledger discovered by Mr. Conant showing such fraudulent reduction of  
10 Plaintiffs' capital account therein. Also attached hereto as Exhibit 3 is the Declaration of Ira  
11 Seaver explaining why he settled with Mr. Helfstein but wouldn't have done so had he known  
12 the truth about how the Summit companies were operated by him.]

13 As set forth in the Declaration of Ira Seaver filed herewith, had he been aware of Exhibit  
14 2 at the time that he settled with Mr. Helfstein, he would have never settled with Mr. Helfstein  
15 for the sum of \$60,000. Indeed, Mr. Helfstein received an additional \$562,756.45 from Uninet  
16 over the first 33 days after the sale/merger under the "Due LH" column of Exhibit "2" attached  
17 hereto. Furthermore, and also unbeknown to Mr. Seaver, Mr. Helfstein had been fraudulently  
18 operating the Summit companies for many years prior to selling them to Mr. Saporiti. Mr.  
19 Helfstein's operation of the Summit companies in that fashion over that period of time was  
20 clearly for the purpose of stealing money he would otherwise owe the Seaver family. In short,  
21 there is little issue of liability here given the unrebutted evidence (of Mr. Conant) admitted at the  
22 trial between Plaintiffs and the Uninet Defendants. The question now is what amount of money  
23 Mr. Helfstein still owes to Mr. Seaver as and for his interest in the Summit companies above and  
24 beyond the \$60,000 he has already paid to Plaintiffs.

25 \_\_\_\_\_ (continued)  
26 the Summit companies as a result of this Court's "de facto merger" Finding, but expressly  
27 reserved Plaintiffs' right to proceed on any further claims they may have against Lewis and  
28 Madalyn Helfstein for their earlier fraudulent settlement. (As Plaintiffs' Settlement Agreement  
with the Saporiti/Uninet Defendants is also confidential, it only may be provided to this Court for  
in camera review.)



1 Plaintiffs therefore respectfully request that they be allowed to proceed now against the  
2 Helfsteins to collect these additional monies above and beyond the \$60,000 they have already  
3 received pursuant to their rescinded Settlement Agreement with them.

4 II

5 LEGAL ARGUMENT

6 The authority by which this Honorable Court may grant this relief to Plaintiffs is set forth  
7 in NRCP 60(b). “This rule does not limit the power of a court to entertain an independent action  
8 to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud  
9 upon the court.” Here, Mr. Helfstein perpetrated a fraud upon the court by entering into a  
10 fraudulent settlement for \$60,000 with the Seaver Plaintiffs. Although a Settlement Agreement  
11 was signed by Mr. Seaver and Mr. Helfstein, that Settlement Agreement was never approved by  
12 this Court or subject to any other order or judgment of this Court.<sup>3</sup>

13 Furthermore, granting such relief imposes little onus on Mr. Helfstein or the judicial  
14 system as Plaintiffs are not asking for relief from a final judgment, but rather from events which  
15 arose previously in this “proceeding,” namely relief from a settlement agreement that Plaintiffs  
16 entered into with Mr. Helfstein and rescinded immediately thereafter, and which was never the  
17 subject of any order or judgment by this Court. Given the stay imposed by the Nevada Supreme  
18 Court on any proceedings between Mr. Saporiti and Mr. Helfstein – and that Mr. Saporiti is no  
19 longer a party to this action – Plaintiffs would be merely proceeding against Mr. Helfstein on the  
20 issue of whether he owes them any additional money above and beyond the \$60,000 he has  
21 already paid to them. As Mr. Saporiti is no longer involved in this case, the Nevada Supreme  
22 Court’s Stay is no longer applicable here. Likewise, Mr. Helfstein’s liability is hardly at issue  
23 here given the evidence already admitted at the trial between Plaintiffs and the Uninet  
24 Defendants notwithstanding the “no admission of liability” language in Plaintiffs’ Settlement  
25 Agreement with Mr. Helfstein. Indeed, Mr. Conant’s evidence (documentary and testimonial)

26  
27 <sup>3</sup> Again, as this Court may recall, Plaintiffs’ Motion for Approval of Good Faith Settlement was  
28 filed but never heard by it as they rescinded their Settlement Agreement with Mr. Helfstein  
shortly after that motion was filed.



1 was completely un rebutted by the Uninet Defendants at trial and therefore clearly sets forth a  
2 prima facie case against Mr. Helfstein. Plaintiffs do not dispute that Mr. Helfstein should still  
3 have an opportunity to dispute Mr. Conant's findings but it is respectfully submitted that such  
4 efforts will have little evidentiary import or value here, if any, because Mr. Helfstein's books and  
5 records speak for themselves (albeit through Mr. Conant at this point in time). In short, any  
6 additional proceedings between Mr. Helfstein and Plaintiffs will be brief and directed to the sole  
7 issue of what amount of additional money, if any, he owes to them above and beyond the  
8 \$60,000 he has already paid to them.

9 To summarize here, little (if any) prejudice will be caused to anyone by this Court  
10 granting this relief. On the other hand, if this court were not to grant this relief to them, Mr.  
11 Helfstein will have gotten away with stealing millions of dollars from Plaintiffs while pocketing  
12 millions of dollars from the Uninet Defendants. Such a travesty of justice should not be allowed  
13 to occur here by this Court not granting this motion. "Rule 60(b), which is a remedial provision  
14 that is to be construed liberally, may operate to relieve the harshness of rigid form by applying  
15 the flexibility of discretion." *La-tex Partnership vs. Deters*, 111 Nev. 471, 475-6, 893 P.2d 361  
16 (1995).

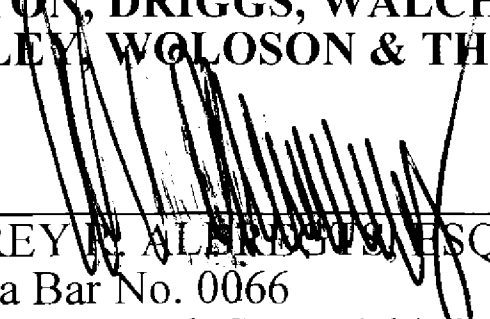
17 III

18 CONCLUSION

19 For these reasons, Plaintiffs respectfully request that this Honorable Court grant their  
20 motion to set aside their rescinded Settlement Agreement with the Helfstein Defendants and  
21 allow them to proceed on the issue of what additional monies, if any, they owe to Plaintiffs.

22 RESPECTFULLY SUBMITTED this 25th day of March, 2013.

23 **COTTON, DRIGGS, WALCH,**  
24 **HOLLEY, WOLOSON & THOMPSON**

25   
26 \_\_\_\_\_  
27 JEFFREY N. ALBRECHTS, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs Ira and Edythe Seaver  
Family Trust and Circle Consulting Corp.*



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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the \_\_\_\_<sup>th</sup> day of March, 2013 and pursuant to NRCP  
5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION TO SET ASIDE RESCINDED SETTLEMENT AGREEMENT**  
**AND PROCEED ON CLAIMS AGAINST THEM**, postage prepaid and addressed to:

Mr. Ira Seaver  
2407 Ping Drive  
Henderson, NV 89074  
*In Proper Person*

Michael Lee, Esq.  
LAW OFFICE OF MICHAEL B. LEE  
2000 South Eastern Avenue  
Las Vegas, NV 89104  
*Attorneys for Defendants*

Jeffrey A. Silvestri, Esq.  
Seth T. Floyd, Esq.  
McDONALD CARANO WILSON LLP  
2300 W. Sahara Avenue, Suite 1000  
Las Vegas, NV 89102  
*Attorneys for Defendants*

Gary E. Schnitzer, Esq.  
KRAVITZ, SCHNITZER, SLOANE  
& JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite 200  
Las Vegas, NV 89123  
*Attorneys for Defendants*

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An employee of Cotton, Driggs, Walch,  
Holley, Woloson & Thompson



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**EXHIBIT NO. 1**

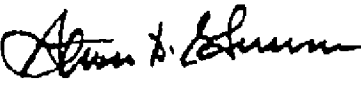
**EXHIBIT NO. 1**



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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CLERK OF THE COURT

NOTC  
JEFFREY R. ALBREGTS, ESQ. /NBN 0066  
SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
[banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)

JONATHAN D. BLUM, ESQ. /NBN 9515  
THARPE & HOWELL  
3425 Cliff Shadows Parkway, Suite 150  
Las Vegas, NV 89129  
Telephone: (702) 562-3301  
Facsimile: (702) 562-3305  
[jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

ROBERT M. FREEDMAN, ESQ.  
*Admitted Pro Hac Vice*  
THARPE & HOWELL  
15250 Ventura Boulevard, Ninth Floor  
Sherman Oaks, CA 91403  
Telephone: (818) 205-9955  
Facsimile: (818) 205-9944  
[rfreedman@tharpe-howell.com](mailto:rfreedman@tharpe-howell.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

Plaintiffs,

v.

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

Defendants.

AND RELATED ACTIONS.

Case No.: A587003  
Dept. No.: XI

**PLAINTIFFS' NOTICE OF  
RESCISSION OF HELFSTEIN  
SETTLEMENT**

07630-03/690005

PA000392



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

SDW

1 TO: LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC.  
2 and SUMMIT TECHNOLOGIES, LLC, Defendants

3 TO: J. MICHAEL OAKES, ESQ., their attorney:

4 YOU ARE HEREBY NOTIFIED that plaintiffs hereby rescind their settlement with you,  
5 defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit  
6 Technologies, LLC, a true and correct copy of which Settlement Agreement is attached hereto as  
7 exhibit "1," which was also the subject of plaintiff's Motion for Determination of Good Faith  
8 Settlement that was previously filed with this Court but taken off calendar prior to hearing.  
9 Plaintiffs' grounds include, but are not limited to, the fact that Mr. Seaver first learned that he  
10 was fraudulently induced to enter into said Settlement Agreement after plaintiffs entered into it.  
11 Specifically, Mr. Seaver learned of facts and the existence of documents which evidence that Mr.  
12 Helfstein breached his legal duty to provide Mr. Seaver relevant and material facts and  
13 documents prior to entering into the agreement. Mr. Helfstein's duty to produce the facts and  
14 documents arouse out of his fiduciary obligation to Mr. Seaver with respect to Summit  
15 technology, and Mr. Helfstein's failure to properly comply with his discovery obligations. As a  
16 stay is currently entered in this action by the Nevada Supreme Court on behalf of said  
17 defendants, plaintiffs can take no further action pursuant to this notice until that stay is lifted.

18 DATED this 22 day of January, 2011.

21 SANTORO, DRIGGS, WALCH,  
22 KEARNEY, HOLLEY & THOMPSON

23  
24 JEFFREY R. VALERIO, ESQ.  
25 Nevada Bar No. 0066  
26 400 South Fourth Street, Third Floor  
27 Las Vegas, Nevada 89101  
28 Attorneys for Plaintiffs



CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 2<sup>nd</sup> day of January, 2011 and pursuant to NRCF

5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing

**PLAINTIFFS' NOTICE OF RESCISSION OF HELFSTEIN SETTLEMENT**, postage

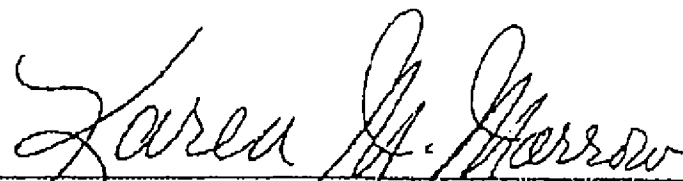
prepaid and addressed to:

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
*Attorneys for Lewis Helfstein,  
Madalyn Helfstein, Summit Laser  
Products, Inc., Summit Technologies, LLC*

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
KRAVITZ, SCHNITZER, SLOANE &  
JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite No. 200  
Las Vegas, Nevada 89123  
*Attorneys for Defendants UI Supplies,  
Uninet Imaging and Nestor Saporiti*

Robert M. Freedman, Esq.  
THARPE & HOWELL  
15250 Ventura Boulevard  
Ninth Floor  
Sherman Oaks, CA 91403  
and

Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Senior Associate  
THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite No. 150  
Las Vegas, NV 89129  
*Co-Counsel for Plaintiffs*



An employee of SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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## **EXHIBIT NO. 2**

## **EXHIBIT NO. 2**



**Confidential**



Summit owes UIS	
Cell J75	21,630.41
Cell N75	136.20
	21,766.61

UIS owes Summit	
Cell M75	8,430.56
	6,368.96
	18,018.01
	32,817.53



Represents Cash deposited into Summit ML and/or Chase that belongs to UIS  
Represents Summit Customer credits taken against UIS AR-Invoices

Represents Cash deposit into UIS bank account that relates to Summit Invoices  
UIS payroll processed thru summits account because of WC not set up  
UIS payroll processed thru summits account because of WC not set up  
as of 4/9 the WC is taken care of and PR is being issued thru UIS books



Dep ID	Dep #	Post Date	Posting Day	Type	UI Chase	AR
63	3979	4/16/2007	Monday	Checks		(23,901.34)
64	3982	4/16/2007	Monday	AMEX	3,408.30	(3,511.90)
65	3983	4/16/2007	Monday	Visa	4,659.70	(4,659.70)
66	3984	4/16/2007	Monday	UPS	2,538.26	(2,550.25)
67	3980	4/16/2007	Monday	Checks		(120.00)
68	**	**	**	**		
69	3981	4/16/2007	Monday	Checks		(495.95)
70	3994	4/17/2007	Tuesday	Visa	4,009.10	(4,009.10)
71	3989	4/17/2007	Tuesday	Checks		(665.25)
72	3949	4/17/2007	Tuesday	Visa		(7,452.95)
73	3951	4/17/2007	Tuesday	Checks		(1,378.40)
74				AMEX		(80.65)
75	3949	4/17/2007	Tuesday	Visa		(1,774.45)
76	3985	4/17/2007	Tuesday	Checks		(338.30)
77		4/17/2007		UPS Claim	129.26	(158.65)
78		4/17/2007		Checks		(252.00)
79		4/17/2007		AMEX	1,253.65	(1,291.75)
80		4/17/2007		UPS	2,541.20	(2,552.20)
81		4/18/2007	Wed	Checks		(7,359.65)
82		4/18/2007	Wed	Checks		(4.95)
83		4/18/2007	Wed	UPS		(99.45)
84		4/18/2007		UPS	683.47	(686.70)
85		4/18/2007		Visa	7,262.25	(7,261.25)
86		4/18/2007		AMEX	1,068.98	(1,100.90)
87		4/19/2007	Thursday	Checks		(1,513.00)
88		4/19/2007	Thursday	Checks		(338.50)
89		4/19/2007		Checks		(14,511.82)
90		4/19/2007		UPS	2,379.66	(2,390.90)
91		4/19/2007		AMEX	1,389.96	(1,432.20)
92		4/19/2007		Visa	3,043.81	(3,043.81)
93		4/20/2007	Friday	Visa	4,455.17	(4,454.87)
94		4/20/2007	Friday	UPS	2,440.43	(2,451.95)
95		4/20/2007	Friday	Checks		(107.00)
96		4/20/2007	Friday	Checks		(12,761.64)
97		4/23/2007	Monday	Checks		(4,594.70)
98		4/23/2007	Monday	Wire - pre		(4,975.00)
99		4/23/2007	Monday	Wire		(25,730.50)
100		4/23/2007	Monday	Visa	4,881.90	(4,881.90)
101		4/23/2007	Monday	AMEX	399.41	(411.55)
102		4/23/2007	Monday	UPS	2,412.76	(2,424.15)
103		4/23/2007	Monday	Checks		(40,094.20)
104		4/23/2007	Monday	Checks		(707.75)
105		4/24/2007	Tuesday	Visa		(2,274.90)
106		4/24/2007	Tuesday	AMEX	979.14	(1,008.90)
107		4/24/2007	Tuesday	Checks		(3,202.40)
108		4/24/2007	Tuesday	Checks		(48.75)
109		4/24/2007	Tuesday	UPS	143.91	(135.75)
110		4/24/2007	Tuesday	Checks	496.70	(496.70)



111	4/24/2007 Tuesday	UPS	1,528.18	(1,539.05)
112	4/25/2007 Wed	Checks		(272.10)
113	4/25/2007 Wed	Checks		(206.88)
114	4/25/2007 Wed	Checks		(6,588.10)
115	4/25/2007 Wed	Visa		(4,512.72)
116	4/25/2007 Wed	AMEX		(26,883.20)
117	4/25/2007 Wed	wire		(5,123.13)
118	4/25/2007 Wed	Visa	5,048.57	(5,048.57)
119	4/25/2007 Wed	Visa	3,331.25	(3,331.25)
120	4/25/2007 Wed	Ups	1,753.57	(1,762.05)
121	4/25/2007 Wed	AMEX	769.22	(792.60)
122	4/26/2007 Thursday	Visa	3,462.10	(3,462.10)
123	4/26/2007 Thursday	UPS	1,544.51	(1,551.80)
124	4/26/2007 Thursday	AMEX	939.72	(968.28)
125	4/26/2007 Thursday	Wire		(7,238.70)
126	4/26/2007 Thursday	Checks		(8,549.60)
127	4/27/2007 Friday	Wire=pre	765.89	(765.89)
128	4/27/2007 Friday	Checks	151.65	(151.65)
129	4/27/2007 Friday	UPS	2,204.79	(2,214.85)
130	4/27/2007 Friday	AMEX	491.32	(506.25)
131	4/27/2007 Friday	Checks		(125.35)
132	4/27/2007 Friday	Checks		(40,998.78)
133	4/27/2007 Friday	Visa		(6,375.00)
134	4/30/2007 Monday	Visa	6,674.15	(6,674.15)
135	4/30/2007 Monday	AMEX	1,290.24	(1,329.45)
136	4/30/2007 Monday	Visa	5,523.48	(5,523.48)
137	4/30/2007 Monday	UPS	962.46	(966.75)
138	4/30/2007 Monday	Checks		(35,122.44)
139	4/30/2007 Monday	Wire		(3,820.00)
140	5/1/2007 Tuesday	UPS	3,088.34	(3,102.92)
141	5/1/2007 Tuesday	AMEX	2,727.49	(2,810.39)
142	5/1/2007 Tuesday	Visa	5,346.29	(5,347.29)
143	5/1/2007 Tuesday	Checks	100.00	(100.00)
144	5/1/2007 Tuesday	Checks		99.45
145	5/1/2007 Tuesday	Checks		(4,703.68)
146	5/2/2007 Wed	AMEX	1,094.90	(1,128.18)
147	5/2/2007 Wed	Visa	8,781.20	(8,781.20)
148	5/2/2007 Wed	UPS	2,992.92	(3,006.05)
149	5/3/2007 Thursday	Checks		(5,931.00)
150	5/3/2007 Thursday	Checks	7,404.95	(7,404.95)
151	5/3/2007 Thursday	AMEX	1,802.95	(1,857.75)
152	5/3/2007 Thursday	UPS	1,403.57	(1,410.20)
153	5/4/2007 Friday	Wire=pre	4,615.00	(4,615.00)
154	5/4/2007 Friday	UPS	1,505.16	(1,512.27)
155	5/4/2007 Friday	AMEX	1,595.51	(1,644.00)
156	5/4/2007 Friday	Visa	7,742.25	(7,742.25)
157	5/4/2007 Friday	Checks		(71.50)
158	5/4/2007 Friday	Checks		(23,207.70)
	5/4/2007 Friday	Wire - pre		(3,250.00)

137,218.65



<i>Sales Dis</i>	<i>Due to UIS</i>	<i>UI Supplies Due to LH</i>	<i>Ck</i>
		23,901.34	-
103.60			-
			-
11.99			0.00
		120.00	-
	120.00	(120.00)	-
	495.95		-
			-
	233.25	432.00	-
		7,452.95	-
	1,041.75	336.65	-
		80.65	-
		1,774.45	-
	338.30		-
29.39			-
	252.00		-
38.10			0.00
11.00			-
		7,359.65	-
	4.95		-
		99.45	-
3.23			(0.00)
(1.00)			-
31.92			(0.00)
	480.00	1,033.00	-
	338.50		-
		14,511.82	-
11.24			(0.00)
42.24			-
			-
(0.30)			0.00
11.52			0.00
	107.00		-
		12,761.64	-
	522.25	4,072.45	-
	4,975.00		-
		25,730.50	-
			-
12.14			0.00
11.39			1.27898E-13
		40,094.20	0
	707.75		0
		2,274.90	0
29.76			-
		3,202.40	-
	48.75		-
		(8.16)	-
			-



10.87			0.00
	145.10	127.00	-
	206.88		-
		6,588.10	-
		4,512.72	-
		26,883.20	-
		5,123.13	-
			-
			-
8.48			(0.00)
23.38			-
			-
7.29			0.00
28.56			0.00
		7,238.70	-
		8,549.60	-
			-
			-
10.06			0.00
14.93			-
	125.35		-
		40,998.78	-
		6,375.00	-
			-
39.21			-
			-
4.29			0.00
	789.35	34,333.09	-
		3,820.00	-
14.58			0.00
82.90			-
1.00			-
			-
		(99.45)	-
	1,213.00	3,490.68	-
33.28			-
			-
13.13			(0.00)
	905.00	5,026.00	-
			-
54.80			-
6.63			(0.00)
			-
7.11			0.00
48.49			-
			-
	71.50		-
	3,785.00	19,422.70	-
	3,250.00		-
			-
	20,156.63	317,499.14	0.00
			-



Notes	Due to Summit	Due to UIS	Summit ML
All UIS Invoices			
All UIS Invoices			
All UIS Invoices		(120.00)	
JE done		(495.95)	
Cut check to Summit	315.00	(233.25)	
UIS Posted on 5/1		(1,041.75)	
UIS Posted on 5/1			78.31
		(338.30)	
Cut check to Summit	129.26	(252.00)	
All UIS Invoices			
All UIS Invoices		(4.95)	
All UIS Invoices			
All UIS Invoices		(480.00)	
All UIS Invoices		(338.50)	
All UIS Invoices			
All UIS Invoices		(107.00)	
All UIS Invoices		(522.25)	
All UIS Invoices		(4,975.00)	
All UIS Invoices			
All UIS Invoices			
Cut check to Summit	23.75	(707.75)	
			2,274.90
All UIS Invoices			
		(48.75)	
Cut check to Summit	143.91		
All UIS Invoices			



(145.10)  
(206.88)

4,512.72  
26,100.90

(125.35)

6,375.00

(789.35)

(1,213.00)

(905.00)

to be reversed

(71.50)  
(3,785.00)  
(3,250.00)

-	2,483.22	-	(20,156.63)
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Summit Technologies LLC				
Chase	AR	Sales discount	Notes	Check figure
23,901.34	(23,901.34)			-
				-
				-
120.00				-
				-
495.95				-
				-
665.25	(432.00)			-
7,452.95	(7,452.95)			-
1,378.40	(336.65)			-
	(80.65)	2.34		(0.00)
1,774.45	(1,774.45)			-
338.30				-
				-
252.00				-
				-
7,359.65	(7,359.65)			-
4.95				-
99.45	(99.45)			-
				-
				-
1,513.00	(1,033.00)			-
338.50				-
14,511.82	(14,511.82)			-
				-
				-
				-
				-
107.00				-
12,761.64	(12,761.64)			-
4,594.70	(4,072.45)			-
4,975.00				-
25,705.50	(25,730.50)	25.00		-
				-
				-
				-
40,094.20	(40,094.20)			-
707.75				-
	(2,288.30)	13.40		(0.00)
				-
3,202.40	(3,202.40)			-
48.75				-
				-
				-



				-
272.10	(127.00)			-
206.88				-
6,588.10	(6,588.10)			-
	(4,512.72)			-
	(26,883.20)	782.30		-
5,098.13	(5,123.13)	25.00		-
				-
				-
				-
				-
				-
				-
7,213.70	(7,238.70)	25.00		-
8,549.60	(8,549.60)			-
				-
				-
				-
125.35				-
40,998.78	(40,998.78)			-
	(6,375.00)			-
				-
				-
				-
35,122.44	(34,338.59)	5.50		0.00
3,802.00	(3,820.00)	18.00		-
				-
				-
				-
				-
(99.45)	99.45			-
4,703.68	(3,490.68)			-
				-
				-
5,931.00	(5,026.00)			-
				-
				-
				-
				-
				-
				-
71.50				-
23,207.70	(19,422.70)			-
3,250.00				-
				-
297,444.46	(317,526.20)	896.54	-	0.00
				-



Summit owes UIS

Cell J103    20,156.63   Represents Cash deposited into Summit ML and/or Chase that belongs to UIS

20,156.63

UIS owes Summit

Cell N103    2,483.22   Represents Cash deposit into UIS bank account that relates to Summit Invoices



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## **EXHIBIT NO. 3**

## **EXHIBIT NO. 3**



1 **DEC**  
JEFFREY R. ALBREGTS, ESQ.  
2 Nevada Bar No. 0066  
E-mail: jalbregts@nevadafirm.com  
3 COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
4 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
5 Telephone: 702/791-0308  
Facsimile: 702/791-1912

6 *Attorneys for Plaintiffs*  
7 *Ira and Edythe Seaver Family Trust and*  
8 *Circle Consulting Corporation*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

13 Plaintiffs,

14 v.

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

18 Defendants.

Case No.: A587003  
Dept. No.: XI

**DECLARATION OF IRA SEAVER  
IN SUPPORT OF PLAINTIFFS'  
MOTION TO SET ASIDE RESCINDED  
HELFSTEIN SETTLEMENT  
AGREEMENT AND PROCEED ON  
CLAIMS AGAINST THEM**

19  
20 Ira Seaver, under penalty of perjury, hereby declares, as follows:

21 1. I am a Plaintiff in the above-captioned action, have personal knowledge of the  
22 facts set forth herein, except as otherwise indicated, and am competent to so testify.

23 2. I make this Declaration in support of Plaintiffs' Motion to Set Aside Rescinded  
24 Helfstein Settlement Agreement and Proceed on Claims Against Them.

25 3. As I have previously testified to this Court vis-à-vis Declarations and live  
26 testimony, I was unaware of how Mr. Helfstein operated the Summit companies while we both  
27 owned them prior to their sale to, and/or merger with, the Uninet companies. Among other  
28



1 things, I was not aware that Mr. Helfstein had unilaterally reduced my capital account in the  
2 Summit companies by far more than \$60,000, the amount for which I settled with him absent  
3 such knowledge. Furthermore, Mr. Helfstein clearly structured his deal with Uninet to provide  
4 for substantial payment of monies to him during the first 33 days following their merger/sale in  
5 2007 as the total "accounts receivable" for Summit as of April 1, 2007, was \$1,180,734.52. In  
6 fact, Mr. Helfstein received for as much a total of \$562,756.45 from Uninet over those first 33  
7 days. As a consequence of as much, I am having our expert witness, Rodney Conant, prepare a  
8 supplement to his report as to the amount of monies Mr. and Mrs. Helfstein still owe my family  
9 and I.

10 4. How we discovered the "smoking gun" document evidencing this fraud by Mr.  
11 Helfstein during discovery in this case is also significant here, especially given the "Due LH"  
12 column in it by which he received an additional \$562,756.45 from Uninet over the first 33 days  
13 after their merger. I do not believe counsel for Mr. Helfstein or the Uninet Defendants ever  
14 intended for us to have this document (a true and correct copy of which is attached to the motion  
15 as Exhibit 2) because they never bates stamped or numbered it when they produced it pursuant to  
16 NRCP 16.1. Rather, this document was buried in a CD in and by which the Uninet Defendants  
17 and Mr. Helfstein produced thousands of documents in this case and, although almost all of those  
18 documents on that CD were numbered or bates stamped by them, they failed or refused to bates  
19 stamp or number this one. Perhaps they hoped Plaintiffs and this court would overlook this  
20 document and, indeed, the Uninet Defendants did not ask any questions about it at trial of either  
21 Mr. Helfstein or Mr. Conant.

22 5. The primary reason Mr. Helfstein and I settled for the sum of \$60,000 was to  
23 simply even out the alleged \$240,000 he received versus the \$120,000 that I was supposed to  
24 receive from Mr. Saporiti. In other words, Mr. Helfstein would pay me \$60,000 and I would  
25 recover an additional \$120,000 from Mr. Saporiti with Mr. Helfstein's cooperation in this  
26 litigation. Mr. Helfstein never provided that cooperation in this litigation to my side of the table,  
27 however, and ultimately we were able to recover more than \$701,000 from the Uninet  
28 Defendants. For Mr. Helfstein to get away with only paying my family and myself \$60,000



1 would be a travesty of justice here.

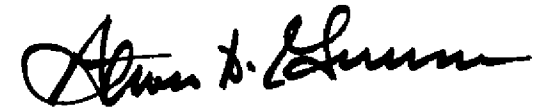
2 6. For these reasons, I respectfully request that this Honorable Court set aside my  
3 settlement agreement with Mr. Helfstein (which I rescinded more than a year ago and as soon as  
4 I discovered Mr. Helfstein's fraud), and allow us to proceed on our claims against him for the  
5 remaining monies he still owes to us above and beyond that amount. In short, but for Mr.  
6 Helfstein concealing the truth from me about how he operated the Summit companies, I would  
7 have never settled with him for \$60,000 in the first place and, upon immediately discovering that  
8 fraud from Mr. Conant's report, rescinded our settlement agreement with him.

9 Further this declarant sayeth naught.

10 Dated this 25<sup>th</sup> day of March, 2013.

11  
12   
13 IRA SEAVER





CLERK OF THE COURT

**CERT**  
JEFFREY R. ALBREGTS, ESQ./NBN 0066  
COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)

*Attorneys for Plaintiffs*  
*Ira and Edythe Seaver Family Trust and*  
*Circle Consulting Corporation*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

\* \* \*

IRA AND EDYTHE SEAVAR FAMILY  
TRUST, IRA SEAVAR, CIRCLE  
CONSULTING CORPORATION,

Plaintiffs,  
v.

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

Defendants.

Case No.: 09A587003  
Dept. No.: XI

AND RELATED CLAIMS

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the 27th day of March, 2013, and pursuant to NRCP 5(b),  
I deposited for mailing in the U.S. Mail a true and correct copy of the following:

1. Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and  
Proceed on Claims Against Them (with Exhibits 1-3);
2. Certificate of Mailing, to the individuals named hereinbelow, postage prepaid and  
addressed to:



1 Mr. Ira Seaver  
2 2407 Ping Drive  
3 Henderson, NV 89074  
4 *In Proper Person*

5 Michael Lee, Esq.  
6 LAW OFFICE OF MICHAEL B. LEE  
7 2000 South Eastern Avenue  
8 Las Vegas, NV 89104  
9 *Attorneys for Defendants*

10 Jeffrey A. Silvestri, Esq.  
11 Seth T. Floyd, Esq.  
12 McDONALD CARANO WILSON LLP  
13 2300 W. Sahara Avenue, Suite 1000  
14 Las Vegas, NV 89102  
15 *Attorneys for Defendants*

16 Gary E. Schnitzer, Esq.  
17 KRAVITZ, SCHNITZER, SLOANE  
18 & JOHNSON, CHTD.  
19 8985 South Eastern Avenue, Suite 200  
20 Las Vegas, NV 89123  
21 *Attorneys for Defendants*

22  
23  
24  
25  
26  
27  
28  
  
An employee of Cotton, Driggs, Walch,  
Holley, Woloson & Thompson



1 **MOT**

2 JEFFREY R. ALBREGTS, ESQ./NBN 0066  
3 COTTON, DRIGGS, WALCH,  
4 HOLLEY, WOLOSON & THOMPSON  
5 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
jalbregts@nevadafirm.com

6 *Attorneys for Plaintiffs*  
7 *Ira and Edythe Seaver Family Trust and*  
*Circle Consulting Corporation*

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

10 \* \* \*

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

14 Plaintiffs,

14 v.

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

19 Defendants.

20 AND RELATED CLAIMS

Case No.: A587003  
Dept. No.: XI

**PLAINTIFFS' MOTION TO SET ASIDE  
RESCINDED HELFSTEIN  
SETTLEMENT AGREEMENT AND  
PROCEED ON CLAIMS AGAINST  
THEM**

**DATE: April 25, 2013**  
**TIME: 8:30 A.M.**

21 Plaintiffs, and each of them, hereby move this honorable Court for an Order setting aside  
22 their previously rescinded Settlement Agreement with Defendants Lewis and Madalyn Helfstein  
23 in order to allow them to proceed on their claims against them herein for the reasons set forth  
24 hereinbelow.

25 This motion is made and based upon the Points and Authorities, Exhibits and Declaration

26 ///

27 ///

28 ///



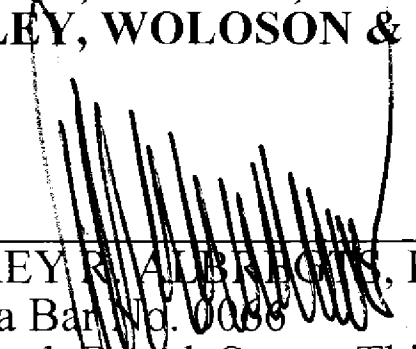
1 ////

2 ////

3 attached hereto, as well as on all of the pleadings and papers on file herein.

4 Dated this 25th day of March, 2013.

5 **COTTON, DRIGGS, WALCH,**  
6 **HOLLEY, WOLOSON & THOMPSON**

7  
8   
9 JEFFREY R. ALBRECHTS, ESQ.  
10 Nevada Bar No. 0066  
11 400 South Fourth Street, Third Floor  
12 Las Vegas, Nevada 89101

13 *Attorneys for Plaintiffs Ira and Edythe Seaver*  
14 *Family Trust and Circle Consulting*  
15 *Corporation*

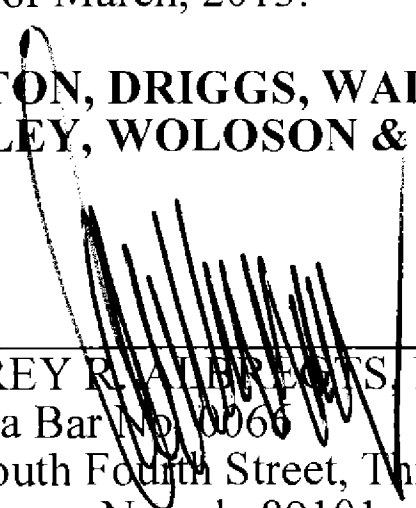
16 **NOTICE OF MOTION**

17 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN.

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will  
19 bring the foregoing **PLAINTIFFS' MOTION TO SET ASIDE RESCINDED HELFSTEIN**  
20 **SETTLEMENT AGREEMENT AND PROCEED ON CLAIMS AGAINST THEM** on for  
21 hearing before Department XI of the above-entitled Court on the 25<sup>th</sup> day of April, 2013, at  
22 the hour of 8:30 Am., or as soon thereafter as counsel may be heard.

23 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of March, 2013.

24 **COTTON, DRIGGS, WALCH,**  
25 **HOLLEY, WOLOSON & THOMPSON**

26   
27 JEFFREY R. ALBRECHTS, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Plaintiffs Ira and Edythe Seaver*  
*Family Trust and Circle Consulting*  
*Corporation*



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 FACTUAL STATEMENT

4 This honorable Court is well familiar with this case having already tried Plaintiffs' claims  
5 against Mr. Saporiti and the Uninet Defendants last year. As this Court may recall, among the  
6 Findings it made after that trial on the merits was that there had been (and therefore is now) a "de  
7 facto merger" of the corporate defendants herein (the Uninet and Summit companies) as a  
8 consequence of the purchase transaction between Mr. Saporiti and Mr. Helfstein. At the time of  
9 that transaction or merger, Plaintiffs were (also) owners in the Summit companies (along with  
10 the Helfsteins), but Defendants refused to pay them anything for their interest therein. Thus,  
11 Plaintiffs instituted this action to recover as much from them.

12 Plaintiffs have since settled all of their claims with the Uninet Defendants and Mr.  
13 Saporiti.<sup>1</sup> As this Court may also recall, earlier in this litigation, Plaintiffs settled their claims  
14 with the Helfstein/Summit Defendants. After receiving the report of Rodney Conant (their expert  
15 witness) in this case, however, Plaintiffs rescinded their Settlement Agreement with the Helfstein  
16 Defendants in January, 2011. (Attached hereto as Exhibit 1 is a true and correct copy of  
17 Plaintiffs' Notice of Rescission of Helfstein Settlement.) In fact, this Court never heard Plaintiffs'  
18 Motion to Approve (that) Settlement As (a) Good Faith settlement. Furthermore, nothing has  
19 occurred or transpired since then between Plaintiffs and the Helfstein/Summit Defendants  
20 because of the Stay entered earlier in this action by the Nevada Supreme Court as to any claims  
21 between the Helfstein/Summit Defendants and the Saporiti/Uninet Defendants. Now that  
22 Plaintiffs have resolved their claims with the Saporiti/Uninet Defendants, that Stay is now moot  
23 as there are no parties remaining in this action other than Plaintiffs and Defendants Lewis and  
24 Madalyn Helfstein.<sup>2</sup>

25  
26 <sup>1</sup> The Uninet Defendants' appeal of this Court's judgment against them has now been dismissed  
27 and they have three more payments in the amount of \$50,000 to make to Plaintiffs to  
28 consummate their settlement with them, at which time this case will be dismissed by Plaintiffs as  
to Mr. Saporiti and the Uninet Defendants.

<sup>2</sup> The Settlement Agreement between Plaintiffs and the Saporiti/Uninet Defendants also included



1 The purpose of this Motion is to have this Court recognize Plaintiffs' previous rescission  
2 of their Settlement Agreement with the Helfstein Defendants and allow them to proceed on their  
3 claims against them, which claims are effectively grounded in fraud. Specifically, that Plaintiffs  
4 would not have settled their claims with the Helfsteins had they known what Mr. Conant  
5 discovered afterwards from the books and records of the Summit companies, i.e. the Helfsteins  
6 had been stealing from Plaintiffs for years including unlawfully and improperly reducing their  
7 capital account therein in an amount even greater than what they had paid to Plaintiffs to settle  
8 their claims against them, to wit: \$60,000. [Attached hereto as Exhibit 2 is a true and correct  
9 copy of the Summit ledger discovered by Mr. Conant showing such fraudulent reduction of  
10 Plaintiffs' capital account therein. Also attached hereto as Exhibit 3 is the Declaration of Ira  
11 Seaver explaining why he settled with Mr. Helfstein but wouldn't have done so had he known  
12 the truth about how the Summit companies were operated by him.]

13 As set forth in the Declaration of Ira Seaver filed herewith, had he been aware of Exhibit  
14 2 at the time that he settled with Mr. Helfstein, he would have never settled with Mr. Helfstein  
15 for the sum of \$60,000. Indeed, Mr. Helfstein received an additional \$562,756.45 from Uninet  
16 over the first 33 days after the sale/merger under the "Due LH" column of Exhibit "2" attached  
17 hereto. Furthermore, and also unbeknown to Mr. Seaver, Mr. Helfstein had been fraudulently  
18 operating the Summit companies for many years prior to selling them to Mr. Saporiti. Mr.  
19 Helfstein's operation of the Summit companies in that fashion over that period of time was  
20 clearly for the purpose of stealing money he would otherwise owe the Seaver family. In short,  
21 there is little issue of liability here given the un rebutted evidence (of Mr. Conant) admitted at the  
22 trial between Plaintiffs and the Uninet Defendants. The question now is what amount of money  
23 Mr. Helfstein still owes to Mr. Seaver as and for his interest in the Summit companies above and  
24 beyond the \$60,000 he has already paid to Plaintiffs.

25 \_\_\_\_\_ (continued)  
26 the Summit companies as a result of this Court's "de facto merger" Finding, but expressly  
27 reserved Plaintiffs' right to proceed on any further claims they may have against Lewis and  
28 Madalyn Helfstein for their earlier fraudulent settlement. (As Plaintiffs' Settlement Agreement  
with the Saporiti/Uninet Defendants is also confidential, it only may be provided to this Court for  
in camera review.)



1 Plaintiffs therefore respectfully request that they be allowed to proceed now against the  
2 Helfsteins to collect these additional monies above and beyond the \$60,000 they have already  
3 received pursuant to their rescinded Settlement Agreement with them.

4 II

5 LEGAL ARGUMENT

6 The authority by which this Honorable Court may grant this relief to Plaintiffs is set forth  
7 in NRCP 60(b). “This rule does not limit the power of a court to entertain an independent action  
8 to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud  
9 upon the court.” Here, Mr. Helfstein perpetrated a fraud upon the court by entering into a  
10 fraudulent settlement for \$60,000 with the Seaver Plaintiffs. Although a Settlement Agreement  
11 was signed by Mr. Seaver and Mr. Helfstein, that Settlement Agreement was never approved by  
12 this Court or subject to any other order or judgment of this Court.<sup>3</sup>

13 Furthermore, granting such relief imposes little onus on Mr. Helfstein or the judicial  
14 system as Plaintiffs are not asking for relief from a final judgment, but rather from events which  
15 arose previously in this “proceeding,” namely relief from a settlement agreement that Plaintiffs  
16 entered into with Mr. Helfstein and rescinded immediately thereafter, and which was never the  
17 subject of any order or judgment by this Court. Given the stay imposed by the Nevada Supreme  
18 Court on any proceedings between Mr. Saporiti and Mr. Helfstein – and that Mr. Saporiti is no  
19 longer a party to this action – Plaintiffs would be merely proceeding against Mr. Helfstein on the  
20 issue of whether he owes them any additional money above and beyond the \$60,000 he has  
21 already paid to them. As Mr. Saporiti is no longer involved in this case, the Nevada Supreme  
22 Court’s Stay is no longer applicable here. Likewise, Mr. Helfstein’s liability is hardly at issue  
23 here given the evidence already admitted at the trial between Plaintiffs and the Uninet  
24 Defendants notwithstanding the “no admission of liability” language in Plaintiffs’ Settlement  
25 Agreement with Mr. Helfstein. Indeed, Mr. Conant’s evidence (documentary and testimonial)

26  
27 <sup>3</sup> Again, as this Court may recall, Plaintiffs’ Motion for Approval of Good Faith Settlement was  
28 filed but never heard by it as they rescinded their Settlement Agreement with Mr. Helfstein  
shortly after that motion was filed.



1 was completely un rebutted by the Uninet Defendants at trial and therefore clearly sets forth a  
2 prima facie case against Mr. Helfstein. Plaintiffs do not dispute that Mr. Helfstein should still  
3 have an opportunity to dispute Mr. Conant's findings but it is respectfully submitted that such  
4 efforts will have little evidentiary import or value here, if any, because Mr. Helfstein's books and  
5 records speak for themselves (albeit through Mr. Conant at this point in time). In short, any  
6 additional proceedings between Mr. Helfstein and Plaintiffs will be brief and directed to the sole  
7 issue of what amount of additional money, if any, he owes to them above and beyond the  
8 \$60,000 he has already paid to them.

9 To summarize here, little (if any) prejudice will be caused to anyone by this Court  
10 granting this relief. On the other hand, if this court were not to grant this relief to them, Mr.  
11 Helfstein will have gotten away with stealing millions of dollars from Plaintiffs while pocketing  
12 millions of dollars from the Uninet Defendants. Such a travesty of justice should not be allowed  
13 to occur here by this Court not granting this motion. "Rule 60(b), which is a remedial provision  
14 that is to be construed liberally, may operate to relieve the harshness of rigid form by applying  
15 the flexibility of discretion." *La-tex Partnership vs. Deters*, 111 Nev. 471, 475-6, 893 P.2d 361  
16 (1995).

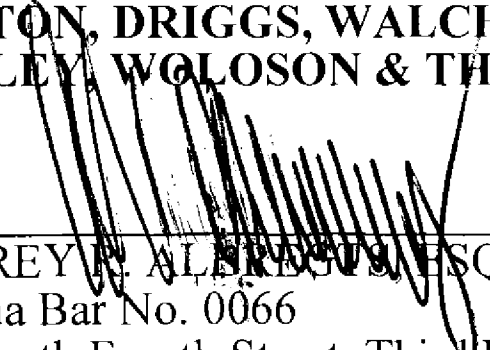
17 III

18 CONCLUSION

19 For these reasons, Plaintiffs respectfully request that this Honorable Court grant their  
20 motion to set aside their rescinded Settlement Agreement with the Helfstein Defendants and  
21 allow them to proceed on the issue of what additional monies, if any, they owe to Plaintiffs.

22 RESPECTFULLY SUBMITTED this 25th day of March, 2013.

23 **COTTON, DRIGGS, WALCH,**  
24 **HOLLEY, WOLOSON & THOMPSON**

25   
26 \_\_\_\_\_  
27 JEFFREY R. ALBERTS, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs Ira and Edythe Seaver  
Family Trust and Circle Consulting Corp.*



1  
2 **CERTIFICATE OF MAILING**

3 I HEREBY CERTIFY that, on the 27<sup>th</sup> day of March, 2013 and pursuant to NRCP  
4 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing

5 **PLAINTIFFS' MOTION TO SET ASIDE RESCINDED SETTLEMENT AGREEMENT**

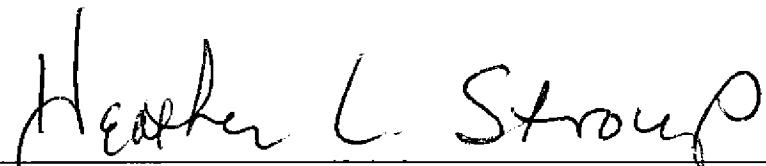
6 **AND PROCEED ON CLAIMS AGAINST THEM**, postage prepaid and addressed to:  
7

8 Mr. Ira Seaver  
9 2407 Ping Drive  
10 Henderson, NV 89074  
11 *In Proper Person*

12 Michael Lee, Esq.  
13 LAW OFFICE OF MICHAEL B. LEE  
14 2000 South Eastern Avenue  
15 Las Vegas, NV 89104  
16 *Attorneys for Defendants*

17 Jeffrey A. Silvestri, Esq.  
18 Seth T. Floyd, Esq.  
19 McDONALD CARANO WILSON LLP  
20 2300 W. Sahara Avenue, Suite 1000  
21 Las Vegas, NV 89102  
22 *Attorneys for Defendants*

23 Gary E. Schnitzer, Esq.  
24 KRAVITZ, SCHNITZER, SLOANE  
25 & JOHNSON, CHTD.  
26 8985 South Eastern Avenue, Suite 200  
27 Las Vegas, NV 89123  
28 *Attorneys for Defendants*

22   
23 An employee of Cotton, Driggs, Walch,  
24 Holley, Woloson & Thompson



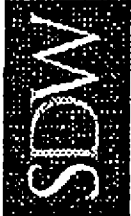
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**EXHIBIT NO. 1**

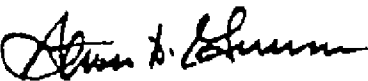
**EXHIBIT NO. 1**



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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CLERK OF THE COURT

1 **NOTC**  
2 JEFFREY R. ALBREGTS, ESQ. /NBN 0066  
3 SANTORO, DRIGGS, WALCH,  
4 KEARNEY, HOLLEY & THOMPSON  
5 400 South Fourth Street, Third Floor  
6 Las Vegas, Nevada 89101  
7 Telephone: (702) 791-0308  
8 Facsimile: (702) 791-1912  
9 [jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
10 [banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)

11 JONATHAN D. BLUM, ESQ. /NBN 9515  
12 THARPE & HOWELL  
13 3425 Cliff Shadows Parkway, Suite 150  
14 Las Vegas, NV 89129  
15 Telephone: (702) 562-3301  
16 Facsimile: (702) 562-3305  
17 [jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

18 ROBERT M. FREEDMAN, ESQ.  
19 *Admitted Pro Hac Vice*  
20 THARPE & HOWELL  
21 15250 Ventura Boulevard, Ninth Floor  
22 Sherman Oaks, CA 91403  
23 Telephone: (818) 205-9955  
24 Facsimile: (818) 205-9944  
25 [rfreedman@tharpe-howell.com](mailto:rfreedman@tharpe-howell.com)

26 *Attorneys for Plaintiffs*

27 **DISTRICT COURT**  
28 **CLARK COUNTY, NEVADA**

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

21 Plaintiffs,

22 v.

23 LEWIS HELFSTEIN; MADALYN  
24 HELFSTEIN; SUMMIT LASER PRODUCTS,  
25 INC.; SUMMIT TECHNOLOGIES, LLC; UI  
26 SUPPLIES; UNINET IMAGING, INC.;  
27 NESTOR SAPORITI; DOES 1 through 20; and  
28 ROE entities 21 through 40, inclusive,

Defendants.

AND RELATED ACTIONS.

Case No.: A587003  
Dept. No.: XI

**PLAINTIFFS' NOTICE OF  
RESCISSION OF HELFSTEIN  
SETTLEMENT**



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 TO: LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC.  
2 and SUMMIT TECHNOLOGIES, LLC, Defendants

3 TO: J. MICHAEL OAKES, ESQ., their attorney:

4 YOU ARE HEREBY NOTIFIED that plaintiffs hereby rescind their settlement with you,  
5 defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit  
6 Technologies, LLC, a true and correct copy of which Settlement Agreement is attached hereto as  
7 exhibit "1," which was also the subject of plaintiff's Motion for Determination of Good Faith  
8 Settlement that was previously filed with this Court but taken off calendar prior to hearing.  
9 Plaintiffs' grounds include, but are not limited to, the fact that Mr. Seaver first learned that he  
10 was fraudulently induced to enter into said Settlement Agreement after plaintiffs entered into it.  
11 Specifically, Mr. Seaver learned of facts and the existence of documents which evidence that Mr.  
12 Helfstein breached his legal duty to provide Mr. Seaver relevant and material facts and  
13 documents prior to entering into the agreement. Mr. Helfstein's duty to produce the facts and  
14 documents arose out of his fiduciary obligation to Mr. Seaver with respect to Summit  
15 technology, and Mr. Helfstein's failure to properly comply with his discovery obligations. As a  
16 stay is currently entered in this action by the Nevada Supreme Court on behalf of said  
17 defendants, plaintiffs can take no further action pursuant to this notice until that stay is lifted.  
18

19 DATED this 22 day of January, 2011.

20  
21 SANTORO, DRIGGS, WALCH,  
22 KEARNEY, HOLLEY & THOMPSON

23  
24 JEFFREY R. ALDERMAN, ESQ.  
25 Nevada Bar No. 0066  
26 400 South Fourth Street, Third Floor  
27 Las Vegas, Nevada 89101  
28 Attorneys for Plaintiffs



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 24<sup>th</sup> day of January, 2011 and pursuant to NRCP

5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing

**PLAINTIFFS' NOTICE OF RESCISSION OF HELFSTEIN SETTLEMENT**, postage

prepaid and addressed to:

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
*Attorneys for Lewis Helfstein,  
Madalyn Helfstein, Summit Laser  
Products, Inc., Summit Technologies, LLC*

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
KRAVITZ, SCHNITZER, SLOANE &  
JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite No. 200  
Las Vegas, Nevada 89123  
*Attorneys for Defendants UI Supplies,  
Uninet Imaging and Nestor Saporiti*

Robert M. Freedman, Esq.  
THARPE & HOWELL  
15250 Ventura Boulevard  
Ninth Floor  
Sherman Oaks, CA 91403  
and

Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Senior Associate  
THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite No. 150  
Las Vegas, NV 89129  
*Co-Counsel for Plaintiffs*

A handwritten signature in cursive script, reading "Karen G. Morrow".

An employee of SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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**EXHIBIT NO. 2**

**EXHIBIT NO. 2**



Confidential



Summit owes UIS  
Cell J75 21,630.41  
Cell N75 136.20  
21,766.61

UIS owes Summit  
Cell M75 8,430.56  
6,368.96  
18,018.01  
  
32,817.53



Represents Cash deposited into Summit ML and/or Chase that belongs to UIS  
Represents Summit Customer credits taken against UIS AR-Invoices

Represents Cash deposit into UIS bank account that relates to Summit Invoices  
UIS payroll processed thru summits account because of WC not set up  
UIS payroll processed thru summits account because of WC not set up  
as of 4/9 the WC is taken care of and PR is being issued thru UIS books



Dep ID	Dep #	Post Date	Posting Day	Type	UI Chase	AR
63	3979	4/16/2007	Monday	Checks		(23,901.34)
64	3982	4/16/2007	Monday	AMEX	3,408.30	(3,511.90)
65	3983	4/16/2007	Monday	Visa	4,659.70	(4,659.70)
66	3984	4/16/2007	Monday	UPS	2,538.26	(2,550.25)
67	3980	4/16/2007	Monday	Checks		(120.00)
68	**	**	**	**		
69	3981	4/16/2007	Monday	Checks		(495.95)
70	3994	4/17/2007	Tuesday	Visa	4,009.10	(4,009.10)
71	3989	4/17/2007	Tuesday	Checks		(665.25)
72	3949	4/17/2007	Tuesday	Visa		(7,452.95)
73	3951	4/17/2007	Tuesday	Checks		(1,378.40)
74				AMEX		(80.65)
75	3949	4/17/2007	Tuesday	Visa		(1,774.45)
76	3985	4/17/2007	Tuesday	Checks		(338.30)
77		4/17/2007		UPS Claim	129.26	(158.65)
78		4/17/2007		Checks		(252.00)
79		4/17/2007		AMEX	1,253.65	(1,291.75)
80		4/17/2007		UPS	2,541.20	(2,552.20)
81		4/18/2007	Wed	Checks		(7,359.65)
82		4/18/2007	Wed	Checks		(4.95)
83		4/18/2007	Wed	UPS		(99.45)
84		4/18/2007		UPS	683.47	(686.70)
85		4/18/2007		Visa	7,262.25	(7,261.25)
86		4/18/2007		AMEX	1,068.98	(1,100.90)
87		4/19/2007	Thursday	Checks		(1,513.00)
88		4/19/2007	Thursday	Checks		(338.50)
89		4/19/2007		Checks		(14,511.82)
90		4/19/2007		UPS	2,379.66	(2,390.90)
91		4/19/2007		AMEX	1,389.96	(1,432.20)
92		4/19/2007		Visa	3,043.81	(3,043.81)
93		4/20/2007	Friday	Visa	4,455.17	(4,454.87)
94		4/20/2007	Friday	UPS	2,440.43	(2,451.95)
95		4/20/2007	Friday	Checks		(107.00)
96		4/20/2007	Friday	Checks		(12,761.64)
97		4/23/2007	Monday	Checks		(4,594.70)
98		4/23/2007	Monday	Wire - pre		(4,975.00)
99		4/23/2007	Monday	Wire		(25,730.50)
100		4/23/2007	Monday	Visa	4,881.90	(4,881.90)
101		4/23/2007	Monday	AMEX	399.41	(411.55)
102		4/23/2007	Monday	UPS	2,412.76	(2,424.15)
103		4/23/2007	Monday	Checks		(40,094.20)
104		4/23/2007	Monday	Checks		(707.75)
105		4/24/2007	Tuesday	Visa		(2,274.90)
106		4/24/2007	Tuesday	AMEX	979.14	(1,008.90)
107		4/24/2007	Tuesday	Checks		(3,202.40)
108		4/24/2007	Tuesday	Checks		(48.75)
109		4/24/2007	Tuesday	UPS	143.91	(135.75)
110		4/24/2007	Tuesday	Checks	496.70	(496.70)



111	4/24/2007 Tuesday	UPS	1,528.18	(1,539.05)
112	4/25/2007 Wed	Checks		(272.10)
113	4/25/2007 Wed	Checks		(206.88)
114	4/25/2007 Wed	Checks		(6,588.10)
115	4/25/2007 Wed	Visa		(4,512.72)
116	4/25/2007 Wed	AMEX		(26,883.20)
117	4/25/2007 Wed	wire		(5,123.13)
118	4/25/2007 Wed	Visa	5,048.57	(5,048.57)
119	4/25/2007 Wed	Visa	3,331.25	(3,331.25)
120	4/25/2007 Wed	Ups	1,753.57	(1,762.05)
121	4/25/2007 Wed	AMEX	769.22	(792.60)
122	4/26/2007 Thursday	Visa	3,462.10	(3,462.10)
123	4/26/2007 Thursday	UPS	1,544.51	(1,551.80)
124	4/26/2007 Thursday	AMEX	939.72	(968.28)
125	4/26/2007 Thursday	Wire		(7,238.70)
126	4/26/2007 Thursday	Checks		(8,549.60)
127	4/27/2007 Friday	Wire=pre	765.89	(765.89)
128	4/27/2007 Friday	Checks	151.65	(151.65)
129	4/27/2007 Friday	UPS	2,204.79	(2,214.85)
130	4/27/2007 Friday	AMEX	491.32	(506.25)
131	4/27/2007 Friday	Checks		(125.35)
132	4/27/2007 Friday	Checks		(40,998.78)
133	4/27/2007 Friday	Visa		(6,375.00)
134	4/30/2007 Monday	Visa	6,674.15	(6,674.15)
135	4/30/2007 Monday	AMEX	1,290.24	(1,329.45)
136	4/30/2007 Monday	Visa	5,523.48	(5,523.48)
137	4/30/2007 Monday	UPS	962.46	(966.75)
138	4/30/2007 Monday	Checks		(35,122.44)
139	4/30/2007 Monday	Wire		(3,820.00)
140	5/1/2007 Tuesday	UPS	3,088.34	(3,102.92)
141	5/1/2007 Tuesday	AMEX	2,727.49	(2,810.39)
142	5/1/2007 Tuesday	Visa	5,346.29	(5,347.29)
143	5/1/2007 Tuesday	Checks	100.00	(100.00)
144	5/1/2007 Tuesday	Checks		99.45
145	5/1/2007 Tuesday	Checks		(4,703.68)
146	5/2/2007 Wed	AMEX	1,094.90	(1,128.18)
147	5/2/2007 Wed	Visa	8,781.20	(8,781.20)
148	5/2/2007 Wed	UPS	2,992.92	(3,006.05)
149	5/3/2007 Thursday	Checks		(5,931.00)
150	5/3/2007 Thursday	Checks	7,404.95	(7,404.95)
151	5/3/2007 Thursday	AMEX	1,802.95	(1,857.75)
152	5/3/2007 Thursday	UPS	1,403.57	(1,410.20)
153	5/4/2007 Friday	Wire=pre	4,615.00	(4,615.00)
154	5/4/2007 Friday	UPS	1,505.16	(1,512.27)
155	5/4/2007 Friday	AMEX	1,595.51	(1,644.00)
156	5/4/2007 Friday	Visa	7,742.25	(7,742.25)
157	5/4/2007 Friday	Checks		(71.50)
158	5/4/2007 Friday	Checks		(23,207.70)
	5/4/2007 Friday	Wire - pre		(3,250.00)

137,218.65



<i>Sales Dis</i>	<i>Due to UIS</i>	<i>UI Supplies Due to LH</i>	<i>Ck</i>
		<b>23,901.34</b>	-
<b>103.60</b>			-
			-
<b>11.99</b>			<b>0.00</b>
		<b>120.00</b>	-
	<b>120.00</b>	<b>(120.00)</b>	-
	<b>495.95</b>		-
			-
	<b>233.25</b>	<b>432.00</b>	-
		<b>7,452.95</b>	-
	<b>1,041.75</b>	<b>336.65</b>	-
		<b>80.65</b>	-
		<b>1,774.45</b>	-
	<b>338.30</b>		-
<b>29.39</b>			-
	<b>252.00</b>		-
<b>38.10</b>			<b>0.00</b>
<b>11.00</b>			-
		7,359.65	-
	4.95		-
		99.45	-
3.23			<b>(0.00)</b>
(1.00)			-
31.92			<b>(0.00)</b>
	480.00	1,033.00	-
	338.50		-
		14,511.82	-
11.24			<b>(0.00)</b>
42.24			-
			-
(0.30)			<b>0.00</b>
11.52			<b>0.00</b>
	107.00		-
		12,761.64	-
	522.25	4,072.45	-
	4,975.00		-
		25,730.50	-
			-
12.14			<b>0.00</b>
11.39			<b>1.27898E-13</b>
		40,094.20	<b>0</b>
	707.75		<b>0</b>
		2,274.90	<b>0</b>
29.76			-
		3,202.40	-
	48.75		-
		(8.16)	-
			-



10.87			0.00
	145.10	127.00	-
	206.88		-
		6,588.10	-
		4,512.72	-
		26,883.20	-
		5,123.13	-
			-
			-
8.48			(0.00)
23.38			-
			-
7.29			0.00
28.56			0.00
		7,238.70	-
		8,549.60	-
			-
			-
10.06			0.00
14.93			-
	125.35		-
		40,998.78	-
		6,375.00	-
			-
39.21			-
			-
4.29			0.00
	789.35	34,333.09	-
		3,820.00	-
14.58			0.00
82.90			-
1.00			-
			-
		(99.45)	-
	1,213.00	3,490.68	-
33.28			-
			-
13.13			(0.00)
	905.00	5,026.00	-
			-
54.80			-
6.63			(0.00)
			-
7.11			0.00
48.49			-
			-
	71.50		-
	3,785.00	19,422.70	-
	3,250.00		-
			-
	20,156.63	317,499.14	0.00
			-



Notes	Due to Summit	Due to UIS	Summit ML
All UIS Invoices			
All UIS Invoices			
All UIS Invoices		(120.00)	
JE done		(495.95)	
Cut check to Summit	315.00	(233.25)	
UIS Posted on 5/1		(1,041.75)	
UIS Posted on 5/1			78.31
Cut check to Summit	129.26	(338.30)	
		(252.00)	
All UIS Invoices			
All UIS Invoices		(4.95)	
All UIS Invoices			
All UIS Invoices		(480.00)	
All UIS Invoices		(338.50)	
All UIS Invoices			
All UIS Invoices		(107.00)	
All UIS Invoices		(522.25)	
All UIS Invoices		(4,975.00)	
All UIS Invoices			
All UIS Invoices			
Cut check to Summit	23.75	(707.75)	
			2,274.90
All UIS Invoices			
		(48.75)	
Cut check to Summit	143.91		
All UIS Invoices			







Summit Technologies LLC				
Chase	AR	Sales discount	Notes	Check figure
23,901.34	(23,901.34)			-
				-
				-
120.00				-
				-
495.95				-
				-
665.25	(432.00)			-
7,452.95	(7,452.95)			-
1,378.40	(336.65)			-
	(80.65)	2.34		(0.00)
1,774.45	(1,774.45)			-
338.30				-
				-
252.00				-
				-
7,359.65	(7,359.65)			-
4.95				-
99.45	(99.45)			-
				-
				-
1,513.00	(1,033.00)			-
338.50				-
14,511.82	(14,511.82)			-
				-
				-
				-
				-
107.00				-
12,761.64	(12,761.64)			-
4,594.70	(4,072.45)			-
4,975.00				-
25,705.50	(25,730.50)	25.00		-
				-
				-
				-
40,094.20	(40,094.20)			-
707.75				-
	(2,288.30)	13.40		(0.00)
				-
3,202.40	(3,202.40)			-
48.75				-
				-
				-



				-
272.10	(127.00)			-
206.88				-
6,588.10	(6,588.10)			-
	(4,512.72)			-
	(26,883.20)	782.30		-
5,098.13	(5,123.13)	25.00		-
				-
				-
				-
				-
				-
				-
7,213.70	(7,238.70)	25.00		-
8,549.60	(8,549.60)			-
				-
				-
				-
				-
125.35				-
40,998.78	(40,998.78)			-
	(6,375.00)			-
				-
				-
				-
35,122.44	(34,338.59)	5.50		0.00
3,802.00	(3,820.00)	18.00		-
				-
				-
				-
				-
				-
(99.45)	99.45			-
4,703.68	(3,490.68)			-
				-
				-
				-
5,931.00	(5,026.00)			-
				-
				-
				-
				-
				-
				-
				-
71.50				-
23,207.70	(19,422.70)			-
3,250.00				-
				-
297,444.46	(317,526.20)	896.54	-	0.00
				-



Summit owes UIS

Cell J103    20,156.63   Represents Cash deposited into Summit ML and/or Chase that belongs to UIS

20,156.63

UIS owes Summit

Cell N103    2,483.22   Represents Cash deposit into UIS bank account that relates to Summit Invoices



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**EXHIBIT NO. 3**

**EXHIBIT NO. 3**



1 **DEC**  
JEFFREY R. ALBREGTS, ESQ.  
2 Nevada Bar No. 0066  
E-mail: jalbregts@nevadafirm.com  
3 COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
4 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
5 Telephone: 702/791-0308  
Facsimile: 702/791-1912

6 *Attorneys for Plaintiffs*  
7 *Ira and Edythe Seaver Family Trust and*  
8 *Circle Consulting Corporation*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

13 Plaintiffs,

14 v.

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

18 Defendants.  
19

Case No.: A587003  
Dept. No.: XI

**DECLARATION OF IRA SEAVER  
IN SUPPORT OF PLAINTIFFS'  
MOTION TO SET ASIDE RESCINDED  
HELFSTEIN SETTLEMENT  
AGREEMENT AND PROCEED ON  
CLAIMS AGAINST THEM**

20  
21 Ira Seaver, under penalty of perjury, hereby declares, as follows:

22 1. I am a Plaintiff in the above-captioned action, have personal knowledge of the  
23 facts set forth herein, except as otherwise indicated, and am competent to so testify.

24 2. I make this Declaration in support of Plaintiffs' Motion to Set Aside Rescinded  
25 Helfstein Settlement Agreement and Proceed on Claims Against Them.

26 3. As I have previously testified to this Court vis-à-vis Declarations and live  
27 testimony, I was unaware of how Mr. Helfstein operated the Summit companies while we both  
28 owned them prior to their sale to, and/or merger with, the Uninet companies. Among other



1 things, I was not aware that Mr. Helfstein had unilaterally reduced my capital account in the  
2 Summit companies by far more than \$60,000, the amount for which I settled with him absent  
3 such knowledge. Furthermore, Mr. Helfstein clearly structured his deal with Uninet to provide  
4 for substantial payment of monies to him during the first 33 days following their merger/sale in  
5 2007 as the total "accounts receivable" for Summit as of April 1, 2007, was \$1,180,734.52. In  
6 fact, Mr. Helfstein received for as much a total of \$562,756.45 from Uninet over those first 33  
7 days. As a consequence of as much, I am having our expert witness, Rodney Conant, prepare a  
8 supplement to his report as to the amount of monies Mr. and Mrs. Helfstein still owe my family  
9 and I.

10 4. How we discovered the "smoking gun" document evidencing this fraud by Mr.  
11 Helfstein during discovery in this case is also significant here, especially given the "Due LH"  
12 column in it by which he received an additional \$562,756.45 from Uninet over the first 33 days  
13 after their merger. I do not believe counsel for Mr. Helfstein or the Uninet Defendants ever  
14 intended for us to have this document (a true and correct copy of which is attached to the motion  
15 as Exhibit 2) because they never bates stamped or numbered it when they produced it pursuant to  
16 NRC 16.1. Rather, this document was buried in a CD in and by which the Uninet Defendants  
17 and Mr. Helfstein produced thousands of documents in this case and, although almost all of those  
18 documents on that CD were numbered or bates stamped by them, they failed or refused to bates  
19 stamp or number this one. Perhaps they hoped Plaintiffs and this court would overlook this  
20 document and, indeed, the Uninet Defendants did not ask any questions about it at trial of either  
21 Mr. Helfstein or Mr. Conant.

22 5. The primary reason Mr. Helfstein and I settled for the sum of \$60,000 was to  
23 simply even out the alleged \$240,000 he received versus the \$120,000 that I was supposed to  
24 receive from Mr. Saporiti. In other words, Mr. Helfstein would pay me \$60,000 and I would  
25 recover an additional \$120,000 from Mr. Saporiti with Mr. Helfstein's cooperation in this  
26 litigation. Mr. Helfstein never provided that cooperation in this litigation to my side of the table,  
27 however, and ultimately we were able to recover more than \$701,000 from the Uninet  
28 Defendants. For Mr. Helfstein to get away with only paying my family and myself \$60,000



1 would be a travesty of justice here.

2 6. For these reasons, I respectfully request that this Honorable Court set aside my  
3 settlement agreement with Mr. Helfstein (which I rescinded more than a year ago and as soon as  
4 I discovered Mr. Helfstein's fraud), and allow us to proceed on our claims against him for the  
5 remaining monies he still owes to us above and beyond that amount. In short, but for Mr.  
6 Helfstein concealing the truth from me about how he operated the Summit companies, I would  
7 have never settled with him for \$60,000 in the first place and, upon immediately discovering that  
8 fraud from Mr. Conant's report, rescinded our settlement agreement with him.

9 Further this declarant sayeth naught.

10 Dated this 25<sup>th</sup> day of March, 2013.

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14 IRA SEAVER  
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CLERK OF THE COURT

**CERT**  
JEFFREY R. ALBREGTS, ESQ./NBN 0066  
COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)

*Attorneys for Plaintiffs*  
*Ira and Edythe Seaver Family Trust and*  
*Circle Consulting Corporation*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

\* \* \*

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

Plaintiffs,

v.

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

Defendants.

Case No.: 09A587003

Dept. No.: XI

AND RELATED CLAIMS

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the 28th day of March, 2013, and pursuant to NRCP 5(b),  
I deposited for mailing in the U.S. Mail, and delivered by legal messenger, a true and correct  
copy of the following:

1. Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and  
Proceed on Claims Against Them (with Exhibits 1-3);

2. Certificate of Mailing, to the individual named hereinbelow, postage prepaid and  
addressed to:

07650-03/1050638



1 Michael J. Oaks, Esq.  
2 Foley & Oaks, P.C.  
3 850 E. Bonneville  
4 Las Vegas, NV 89101

5 *Attorney Defendants Helfstein*

6  
7 Dated this 28th day of March, 2013.  
8

9   
10 An employee of Cotton, Driggs, Walch,  
11 Holley, Woloson & Thompson  
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1 **MOT**  
JEFFREY R. ALBREGTS, ESQ./NBN 0066  
2 COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
3 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
4 Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
5 jalbregts@nevadafirm.com

6 *Attorneys for Plaintiffs*  
Ira and Edythe Seaver Family Trust and  
7 Circle Consulting Corporation

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

10 \* \* \*

11 IRA AND EDYTHE SEAVAR FAMILY  
12 TRUST, IRA SEAVAR, CIRCLE  
CONSULTING CORPORATION,  
13  
Plaintiffs,  
14 v.  
15 LEWIS HELFSTEIN, MADALYN  
HELFSTEIN, SUMMIT LASER PRODUCTS,  
16 INC., SUMMIT TECHNOLOGIES LLC, UI  
SUPPLIES, UNINET IMAGING, INC.,  
17 NESTOR SAPORITI and DOES 1 through 20,  
and ROE entities 21 through 40, inclusive,  
18  
Defendants.

Case No.: A587003  
Dept. No.: XI

**PLAINTIFFS' MOTION TO SET ASIDE  
RESCINDED HELFSTEIN  
SETTLEMENT AGREEMENT AND  
PROCEED ON CLAIMS AGAINST  
THEM**

**DATE: April 25, 2013**  
**TIME: 8:30 A.M.**

19 AND RELATED CLAIMS

20  
21 Plaintiffs, and each of them, hereby move this honorable Court for an Order setting aside  
22 their previously rescinded Settlement Agreement with Defendants Lewis and Madalyn Helfstein  
23 in order to allow them to proceed on their claims against them herein for the reasons set forth  
hereinbelow.

24  
25 This motion is made and based upon the Points and Authorities, Exhibits and Declaration

26 *////*

27 *////*

28 *////*



1 ///

2 ///

3 attached hereto, as well as on all of the pleadings and papers on file herein.

4 Dated this 25th day of March, 2013.

5 **COTTON, DRIGGS, WALCH,**  
6 **HOLLEY, WOLOSON & THOMPSON**

7  
8   
9 JEFFREY R. ALBRECHTS, ESQ.  
10 Nevada Bar No. 0066  
11 400 South Fourth Street, Third Floor  
12 Las Vegas, Nevada 89101

13 *Attorneys for Plaintiffs Ira and Edythe Seaver*  
14 *Family Trust and Circle Consulting*  
15 *Corporation*

16 **NOTICE OF MOTION**

17 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN.

18 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will  
19 bring the foregoing **PLAINTIFFS' MOTION TO SET ASIDE RESCINDED HELFSTEIN**  
20 **SETTLEMENT AGREEMENT AND PROCEED ON CLAIMS AGAINST THEM** on for  
21 hearing before Department XI of the above-entitled Court on the 25<sup>th</sup> day of April, 2013, at  
22 the hour of 8:30 Am., or as soon thereafter as counsel may be heard.

23 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of March, 2013.

24 **COTTON, DRIGGS, WALCH,**  
25 **HOLLEY, WOLOSON & THOMPSON**

26   
27 JEFFREY R. ALBRECHTS, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101

*Attorneys for Plaintiffs Ira and Edythe Seaver*  
*Family Trust and Circle Consulting*  
*Corporation*



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 FACTUAL STATEMENT

4 This honorable Court is well familiar with this case having already tried Plaintiffs' claims  
5 against Mr. Saporiti and the Uninet Defendants last year. As this Court may recall, among the  
6 Findings it made after that trial on the merits was that there had been (and therefore is now) a "de  
7 facto merger" of the corporate defendants herein (the Uninet and Summit companies) as a  
8 consequence of the purchase transaction between Mr. Saporiti and Mr. Helfstein. At the time of  
9 that transaction or merger, Plaintiffs were (also) owners in the Summit companies (along with  
10 the Helfsteins), but Defendants refused to pay them anything for their interest therein. Thus,  
11 Plaintiffs instituted this action to recover as much from them.

12 Plaintiffs have since settled all of their claims with the Uninet Defendants and Mr.  
13 Saporiti.<sup>1</sup> As this Court may also recall, earlier in this litigation, Plaintiffs settled their claims  
14 with the Helfstein/Summit Defendants. After receiving the report of Rodney Conant (their expert  
15 witness) in this case, however, Plaintiffs rescinded their Settlement Agreement with the Helfstein  
16 Defendants in January, 2011. (Attached hereto as Exhibit 1 is a true and correct copy of  
17 Plaintiffs' Notice of Rescission of Helfstein Settlement.) In fact, this Court never heard Plaintiffs'  
18 Motion to Approve (that) Settlement As (a) Good Faith settlement. Furthermore, nothing has  
19 occurred or transpired since then between Plaintiffs and the Helfstein/Summit Defendants  
20 because of the Stay entered earlier in this action by the Nevada Supreme Court as to any claims  
21 between the Helfstein/Summit Defendants and the Saporiti/Uninet Defendants. Now that  
22 Plaintiffs have resolved their claims with the Saporiti/Uninet Defendants, that Stay is now moot  
23 as there are no parties remaining in this action other than Plaintiffs and Defendants Lewis and  
24 Madalyn Helfstein.<sup>2</sup>

25  
26 <sup>1</sup> The Uninet Defendants' appeal of this Court's judgment against them has now been dismissed  
27 and they have three more payments in the amount of \$50,000 to make to Plaintiffs to  
28 consummate their settlement with them, at which time this case will be dismissed by Plaintiffs as  
to Mr. Saporiti and the Uninet Defendants.

<sup>2</sup> The Settlement Agreement between Plaintiffs and the Saporiti/Uninet Defendants also included



1           The purpose of this Motion is to have this Court recognize Plaintiffs' previous rescission  
2 of their Settlement Agreement with the Helfstein Defendants and allow them to proceed on their  
3 claims against them, which claims are effectively grounded in fraud. Specifically, that Plaintiffs  
4 would not have settled their claims with the Helfsteins had they known what Mr. Conant  
5 discovered afterwards from the books and records of the Summit companies, i.e. the Helfsteins  
6 had been stealing from Plaintiffs for years including unlawfully and improperly reducing their  
7 capital account therein in an amount even greater than what they had paid to Plaintiffs to settle  
8 their claims against them, to wit: \$60,000. [Attached hereto as Exhibit 2 is a true and correct  
9 copy of the Summit ledger discovered by Mr. Conant showing such fraudulent reduction of  
10 Plaintiffs' capital account therein. Also attached hereto as Exhibit 3 is the Declaration of Ira  
11 Seaver explaining why he settled with Mr. Helfstein but wouldn't have done so had he known  
12 the truth about how the Summit companies were operated by him.]

13           As set forth in the Declaration of Ira Seaver filed herewith, had he been aware of Exhibit  
14 2 at the time that he settled with Mr. Helfstein, he would have never settled with Mr. Helfstein  
15 for the sum of \$60,000. Indeed, Mr. Helfstein received an additional \$562,756.45 from Uninet  
16 over the first 33 days after the sale/merger under the "Due LH" column of Exhibit "2" attached  
17 hereto. Furthermore, and also unbeknown to Mr. Seaver, Mr. Helfstein had been fraudulently  
18 operating the Summit companies for many years prior to selling them to Mr. Saporiti. Mr.  
19 Helfstein's operation of the Summit companies in that fashion over that period of time was  
20 clearly for the purpose of stealing money he would otherwise owe the Seaver family. In short,  
21 there is little issue of liability here given the unrebutted evidence (of Mr. Conant) admitted at the  
22 trial between Plaintiffs and the Uninet Defendants. The question now is what amount of money  
23 Mr. Helfstein still owes to Mr. Seaver as and for his interest in the Summit companies above and  
24 beyond the \$60,000 he has already paid to Plaintiffs.

25 \_\_\_\_\_ (continued)  
26 the Summit companies as a result of this Court's "de facto merger" Finding, but expressly  
27 reserved Plaintiffs' right to proceed on any further claims they may have against Lewis and  
28 Madalyn Helfstein for their earlier fraudulent settlement. (As Plaintiffs' Settlement Agreement  
with the Saporiti/Uninet Defendants is also confidential, it only may be provided to this Court for  
in camera review.)



1 Plaintiffs therefore respectfully request that they be allowed to proceed now against the  
2 Helfsteins to collect these additional monies above and beyond the \$60,000 they have already  
3 received pursuant to their rescinded Settlement Agreement with them.

4 II

5 LEGAL ARGUMENT

6 The authority by which this Honorable Court may grant this relief to Plaintiffs is set forth  
7 in NRCP 60(b). “This rule does not limit the power of a court to entertain an independent action  
8 to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud  
9 upon the court.” Here, Mr. Helfstein perpetrated a fraud upon the court by entering into a  
10 fraudulent settlement for \$60,000 with the Seaver Plaintiffs. Although a Settlement Agreement  
11 was signed by Mr. Seaver and Mr. Helfstein, that Settlement Agreement was never approved by  
12 this Court or subject to any other order or judgment of this Court.<sup>3</sup>

13 Furthermore, granting such relief imposes little onus on Mr. Helfstein or the judicial  
14 system as Plaintiffs are not asking for relief from a final judgment, but rather from events which  
15 arose previously in this “proceeding,” namely relief from a settlement agreement that Plaintiffs  
16 entered into with Mr. Helfstein and rescinded immediately thereafter, and which was never the  
17 subject of any order or judgment by this Court. Given the stay imposed by the Nevada Supreme  
18 Court on any proceedings between Mr. Saporiti and Mr. Helfstein – and that Mr. Saporiti is no  
19 longer a party to this action – Plaintiffs would be merely proceeding against Mr. Helfstein on the  
20 issue of whether he owes them any additional money above and beyond the \$60,000 he has  
21 already paid to them. As Mr. Saporiti is no longer involved in this case, the Nevada Supreme  
22 Court’s Stay is no longer applicable here. Likewise, Mr. Helfstein’s liability is hardly at issue  
23 here given the evidence already admitted at the trial between Plaintiffs and the Uninet  
24 Defendants notwithstanding the “no admission of liability” language in Plaintiffs’ Settlement  
25 Agreement with Mr. Helfstein. Indeed, Mr. Conant’s evidence (documentary and testimonial)

26  
27 <sup>3</sup> Again, as this Court may recall, Plaintiffs’ Motion for Approval of Good Faith Settlement was  
28 filed but never heard by it as they rescinded their Settlement Agreement with Mr. Helfstein  
shortly after that motion was filed.



1 was completely un rebutted by the Uninet Defendants at trial and therefore clearly sets forth a  
2 prima facie case against Mr. Helfstein. Plaintiffs do not dispute that Mr. Helfstein should still  
3 have an opportunity to dispute Mr. Conant's findings but it is respectfully submitted that such  
4 efforts will have little evidentiary import or value here, if any, because Mr. Helfstein's books and  
5 records speak for themselves (albeit through Mr. Conant at this point in time). In short, any  
6 additional proceedings between Mr. Helfstein and Plaintiffs will be brief and directed to the sole  
7 issue of what amount of additional money, if any, he owes to them above and beyond the  
8 \$60,000 he has already paid to them.

9 To summarize here, little (if any) prejudice will be caused to anyone by this Court  
10 granting this relief. On the other hand, if this court were not to grant this relief to them, Mr.  
11 Helfstein will have gotten away with stealing millions of dollars from Plaintiffs while pocketing  
12 millions of dollars from the Uninet Defendants. Such a travesty of justice should not be allowed  
13 to occur here by this Court not granting this motion. "Rule 60(b), which is a remedial provision  
14 that is to be construed liberally, may operate to relieve the harshness of rigid form by applying  
15 the flexibility of discretion." *La-tex Partnership vs. Deters*, 111 Nev. 471, 475-6, 893 P.2d 361  
16 (1995).

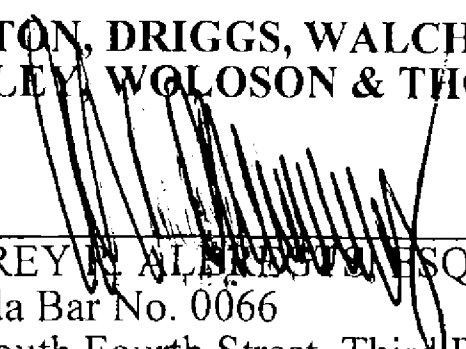
17 III

18 CONCLUSION

19 For these reasons, Plaintiffs respectfully request that this Honorable Court grant their  
20 motion to set aside their rescinded Settlement Agreement with the Helfstein Defendants and  
21 allow them to proceed on the issue of what additional monies, if any, they owe to Plaintiffs.

22 RESPECTFULLY SUBMITTED this 25th day of March, 2013.

23 **COTTON, DRIGGS, WALCH,**  
24 **HOLLEY, WOLOSON & THOMPSON**

25   
26 \_\_\_\_\_  
27 JEFFREY R. ALEXANDER, ESQ.  
28 Nevada Bar No. 0066  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs Ira and Edythe Seaver  
Family Trust and Circle Consulting Corp.*



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**CERTIFICATE OF MAILING**

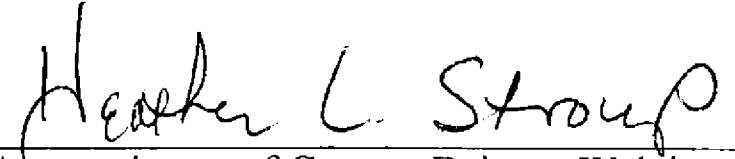
I HEREBY CERTIFY that, on the 27<sup>th</sup> day of March, 2013 and pursuant to NRCP  
5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing  
**PLAINTIFFS' MOTION TO SET ASIDE RESCINDED SETTLEMENT AGREEMENT**  
**AND PROCEED ON CLAIMS AGAINST THEM**, postage prepaid and addressed to:

Mr. Ira Seaver  
2407 Ping Drive  
Henderson, NV 89074  
*In Proper Person*

Michael Lee, Esq.  
LAW OFFICE OF MICHAEL B. LEE  
2000 South Eastern Avenue  
Las Vegas, NV 89104  
*Attorneys for Defendants*

Jeffrey A. Silvestri, Esq.  
Seth T. Floyd, Esq.  
McDONALD CARANO WILSON LLP  
2300 W. Sahara Avenue, Suite 1000  
Las Vegas, NV 89102  
*Attorneys for Defendants*

Gary E. Schnitzer, Esq.  
KRAVITZ, SCHNITZER, SLOANE  
& JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite 200  
Las Vegas, NV 89123  
*Attorneys for Defendants*

  
An employee of Cotton, Driggs, Walch,  
Holley, Woloson & Thompson



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**EXHIBIT NO. 1**

**EXHIBIT NO. 1**



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 NOTC  
2 JEFFREY R. ALBREGTS, ESQ. /NBN 0066  
3 SANTORO, DRIGGS, WALCH,  
4 KEARNEY, HOLLEY & THOMPSON  
5 400 South Fourth Street, Third Floor  
6 Las Vegas, Nevada 89101  
7 Telephone: (702) 791-0308  
8 Facsimile: (702) 791-1912  
9 [jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
10 [banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)

11 JONATHAN D. BLUM, ESQ. /NBN 9515  
12 THARPE & HOWELL  
13 3425 Cliff Shadows Parkway, Suite 150  
14 Las Vegas, NV 89129  
15 Telephone: (702) 562-3301  
16 Facsimile: (702) 562-3305  
17 [jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

18 ROBERT M. FREEDMAN, ESQ.  
19 *Admitted Pro Hac Vice*  
20 THARPE & HOWELL  
21 15250 Ventura Boulevard, Ninth Floor  
22 Sherman Oaks, CA 91403  
23 Telephone: (818) 205-9955  
24 Facsimile: (818) 205-9944  
25 [rfreedman@tharpe-howell.com](mailto:rfreedman@tharpe-howell.com)

26 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

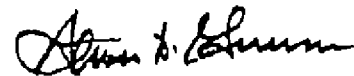
v.

29 LEWIS HELFSTEIN; MADALYN  
30 HELFSTEIN; SUMMIT LASER PRODUCTS,  
31 INC.; SUMMIT TECHNOLOGIES, LLC; UI  
32 SUPPLIES; UNINET IMAGING, INC.;  
33 NESTOR SAPORITI; DOES 1 through 20; and  
34 ROE entities 21 through 40, inclusive,

Defendants.

AND RELATED ACTIONS.

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01/20/2011 04:29:37 PM

  
CLERK OF THE COURT

Case No.: A587003  
Dept. No.: XI

PLAINTIFFS' NOTICE OF  
RESCISSION OF HELFSTEIN  
SETTLEMENT



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 TO: LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC.  
2 and SUMMIT TECHNOLOGIES, LLC, Defendants  
3 TO: J. MICHAEL OAKES, ESQ., their attorney:  
4 YOU ARE HEREBY NOTIFIED that plaintiffs hereby rescind their settlement with you,  
5 defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit  
6 Technologies, LLC, a true and correct copy of which Settlement Agreement is attached hereto as  
7 exhibit "J," which was also the subject of plaintiff's Motion for Determination of Good Faith  
8 Settlement that was previously filed with this Court but taken off calendar prior to hearing.  
9 Plaintiffs' grounds include, but are not limited to, the fact that Mr. Seaver first learned that he  
10 was fraudulently induced to enter into said Settlement Agreement after plaintiffs entered into it.  
11 Specifically, Mr. Seaver learned of facts and the existence of documents which evidence that Mr.  
12 Helfstein breached his legal duty to provide Mr. Seaver relevant and material facts and  
13 documents prior to entering into the agreement. Mr. Helfstein's duty to produce the facts and  
14 documents arouse out of his fiduciary obligation to Mr. Seaver with respect to Summit  
15 technology, and Mr. Helfstein's failure to properly comply with his discovery obligations. As a  
16 stay is currently entered in this action by the Nevada Supreme Court on behalf of said  
17 defendants, plaintiffs can take no further action pursuant to this notice until that stay is lifted.

18 DATED this 22 day of January, 2011.

19  
20  
21 SANTORO, DRIGGS, WALCH,  
22 KEARNEY, HOLLEY & THOMPSON

23  
24 JEFFREY R. ALBERTS, ESQ.  
25 Nevada Bar No. 0066  
26 400 South Fourth Street, Third Floor  
27 Las Vegas, Nevada 89101  
28 Attorneys for Plaintiffs



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 2<sup>nd</sup> day of January, 2011 and pursuant to NRC

5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing

**PLAINTIFFS' NOTICE OF RESCISSION OF HELFSTEIN SETTLEMENT**, postage

prepaid and addressed to:

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
*Attorneys for Lewis Helfstein,  
Madalyn Helfstein, Summit Laser  
Products, Inc., Summit Technologies, LLC*

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
KRAVITZ, SCHNITZER, SLOANE &  
JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite No. 200  
Las Vegas, Nevada 89123  
*Attorneys for Defendants UI Supplies,  
Uninet Imaging and Nestor Saportli*

Robert M. Freedman, Esq.  
THARPE & HOWELL  
15250 Ventura Boulevard  
Ninth Floor  
Sherman Oaks, CA 91403  
and  
Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Senior Associate  
THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite No. 150  
Las Vegas, NV 89129  
*Co-Counsel for Plaintiffs*

A handwritten signature in cursive script, reading "Karen M. Morrow".

An employee of SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



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**EXHIBIT NO. 2**

**EXHIBIT NO. 2**



Dep ID	Dep #	Post Date	Posting Day	Type	UI Chase	AR	Sales Dis	Due to UIS	UI Supplies	Due to LH	Notes	Due to Summit	Due to UIS	Summit ML	Chase	Summit Technologies LLC	Notes	Check figure
1	3972	4/12/2007	Thursday	Wire		(3,906.37)				3,906.37					3,906.37			
2	3973	4/12/2007	Monday	Wire		(5,980.00)				5,980.00					5,980.00			
3	3974	4/12/2007	Monday	Wire		(850.00)				850.00					850.00			
4	3975	4/12/2007	Monday	Wire		(374.82)				374.82					374.82			
5	3976	4/12/2007	Monday	Wire		(24,973.40)				24,973.40					24,973.40			
6	3977	4/12/2007	Monday	Wire		(7,056.60)				7,056.60					7,056.60			
7	3978	4/12/2007	Monday	Wire		(1,173.35)				1,173.35					1,173.35			
8	3979	4/12/2007	Monday	Wire		(5,013.16)				5,013.16					5,013.16			
9	3980	4/12/2007	Monday	Wire		(8,360.68)				8,360.68					8,360.68			
10	3981	4/12/2007	Monday	Wire		(2,044.55)				2,044.55					2,044.55			
11	3982	4/12/2007	Monday	Wire		(3,949.15)				3,949.15					3,949.15			
12	3983	4/12/2007	Monday	Wire		(5,402.35)				5,402.35					5,402.35			
13	3984	4/12/2007	Monday	Wire		(854.75)				854.75					854.75			
14	3985	4/12/2007	Monday	Wire		(4,275.55)				4,275.55					4,275.55			
15	3986	4/12/2007	Monday	Wire		(2,212.55)				2,212.55					2,212.55			
16	3987	4/12/2007	Monday	Wire		(3,171.35)				3,171.35					3,171.35			
17	3988	4/12/2007	Monday	Wire		(4,594.15)				4,594.15					4,594.15			
18	3989	4/12/2007	Monday	Wire		(20.50)				20.50					20.50			
19	3990	4/12/2007	Monday	Wire		(27,631.60)				27,631.60					27,631.60			
20	3991	4/12/2007	Monday	Wire		(208.50)				208.50					208.50			
21	3992	4/12/2007	Monday	Wire		(5,210.37)				5,210.37					5,210.37			
22	3993	4/12/2007	Monday	Wire		(4,725.55)				4,725.55					4,725.55			
23	3994	4/12/2007	Monday	Wire		(3,171.35)				3,171.35					3,171.35			
24	3995	4/12/2007	Monday	Wire		(14,809.50)				14,809.50					14,809.50			
25	3996	4/12/2007	Monday	Wire		(7,550.35)				7,550.35					7,550.35			
26	3997	4/12/2007	Monday	Wire		(443.60)				443.60					443.60			
27	3998	4/12/2007	Monday	Wire		(12,426.30)				12,426.30					12,426.30			
28	3999	4/12/2007	Monday	Wire		(1,186.40)				1,186.40					1,186.40			
29	4000	4/12/2007	Monday	Wire		(316.69)				316.69					316.69			
30	4001	4/12/2007	Monday	Wire		(10,735.55)				10,735.55					10,735.55			
31	4002	4/12/2007	Monday	Wire		(2,722.60)				2,722.60					2,722.60			
32	4003	4/12/2007	Monday	Wire		(4,337.00)				4,337.00					4,337.00			
33	4004	4/12/2007	Monday	Wire		(18.00)				18.00					18.00			
34	4005	4/12/2007	Monday	Wire		(1,173.00)				1,173.00					1,173.00			
35	4006	4/12/2007	Monday	Wire		(1,173.00)				1,173.00					1,173.00			
36	4007	4/12/2007	Monday	Wire		(28,978.93)				28,978.93					28,978.93			
37	4008	4/12/2007	Monday	Wire		(3,758.65)				3,758.65					3,758.65			
38	4009	4/12/2007	Monday	Wire		(98.45)				98.45					98.45			
39	4010	4/12/2007	Monday	Wire		(5,856.75)				5,856.75					5,856.75			
40	4011	4/12/2007	Monday	Wire		(99.45)				99.45					99.45			
41	4012	4/12/2007	Monday	Wire		(5,531.22)				5,531.22					5,531.22			
42	4013	4/12/2007	Monday	Wire		(2,733.35)				2,733.35					2,733.35			
43	4014	4/12/2007	Monday	Wire		(1,115.05)				1,115.05					1,115.05			
44	4015	4/12/2007	Monday	Wire		(8,315.18)				8,315.18					8,315.18			
45	4016	4/12/2007	Monday	Wire		(952.88)				952.88					952.88			
46	4017	4/12/2007	Monday	Wire		(4,380.00)				4,380.00					4,380.00			
47	4018	4/12/2007	Monday	Wire		(2,511.25)				2,511.25					2,511.25			
48	4019	4/12/2007	Monday	Wire		(8,701.64)				8,701.64					8,701.64			
49	4020	4/12/2007	Monday	Wire		(2,326.37)				2,326.37					2,326.37			
50	4021	4/12/2007	Monday	Wire		(25.00)				25.00					25.00			
51	4022	4/12/2007	Monday	Wire		(682.50)				682.50					682.50			
52	4023	4/12/2007	Monday	Wire		(2,236.15)				2,236.15					2,236.15			
53	4024	4/12/2007	Monday	Wire		(6,010.02)				6,010.02					6,010.02			
54	4025	4/12/2007	Monday	Wire		(13,456.20)				13,456.20					13,456.20			
55	4026	4/12/2007	Monday	Wire		(902.20)				902.20					902.20			
56	4027	4/12/2007	Monday	Wire		(4,405.40)				4,405.40					4,405.40			
57	4028	4/12/2007	Monday	Wire		(1,342.15)				1,342.15					1,342.15			
58	4029	4/12/2007	Monday	Wire		(2,820.85)				2,820.85					2,820.85			
59	4030	4/12/2007	Monday	Wire		(4,669.64)				4,669.64					4,669.64			
60	4031	4/12/2007	Monday	Wire		(18,926.12)				18,926.12					18,926.12			
61	4032	4/12/2007	Monday	Wire		(16,038.92)				16,038.92					16,038.92			
62	4033	4/12/2007	Monday	Wire		(74,810.07)				74,810.07					74,810.07			
						(342,472.21)				342,472.21					342,472.21			
						774.25				774.25					774.25			
						21,630.41				21,630.41					21,630.41			
						245,257.31				245,257.31					245,257.31			
						8,430.56				8,430.56					8,430.56			
						136.30				136.30					136.30			
						(21,531.42)				(21,531.42)					(21,531.42)			
						55,035.65				55,035.65					55,035.65			
						271,104.64				271,104.64					271,104.64			
						(245,268.06)				(245,268.06)					(245,268.06)			
						659.98				659.98					659.98			



Summit owes UIS  
Cell J75 21,630.41  
Cell N75 136.20  
21,766.61

UIS owes Summit  
Cell M75 8,430.56  
6,368.96  
18,018.01  
  
32,817.53



Represents Cash deposited into Summit ML and/or Chase that belongs to UIS  
Represents Summit Customer credits taken against UIS AR-Invoices

Represents Cash deposit into UIS bank account that relates to Summit Invoices  
UIS payroll processed thru summits account because of WC not set up  
UIS payroll processed thru summits account because of WC not set up  
as of 4/9 the WC is taken care of and PR is being issued thru UIS books



Dep ID	Dep #	Post Date	Posting Day	Type	UI Chase	AR
63	3979	4/16/2007	Monday	Checks		(23,901.34)
64	3982	4/16/2007	Monday	AMEX	3,408.30	(3,511.90)
65	3983	4/16/2007	Monday	Visa	4,659.70	(4,659.70)
66	3984	4/16/2007	Monday	UPS	2,538.26	(2,550.25)
67	3980	4/16/2007	Monday	Checks		(120.00)
68	**	**	**	**		
69	3981	4/16/2007	Monday	Checks		(495.95)
70	3994	4/17/2007	Tuesday	Visa	4,009.10	(4,009.10)
71	3989	4/17/2007	Tuesday	Checks		(665.25)
72	3949	4/17/2007	Tuesday	Visa		(7,452.95)
73	3951	4/17/2007	Tuesday	Checks		(1,378.40)
74				AMEX		(80.65)
75	3949	4/17/2007	Tuesday	Visa		(1,774.45)
76	3985	4/17/2007	Tuesday	Checks		(338.30)
77		4/17/2007		UPS Claim	129.26	(158.65)
78		4/17/2007		Checks		(252.00)
79		4/17/2007		AMEX	1,253.65	(1,291.75)
80		4/17/2007		UPS	2,541.20	(2,552.20)
81		4/18/2007	Wed	Checks		(7,359.65)
82		4/18/2007	Wed	Checks		(4.95)
83		4/18/2007	Wed	UPS		(99.45)
84		4/18/2007		UPS	683.47	(686.70)
85		4/18/2007		Visa	7,262.25	(7,261.25)
86		4/18/2007		AMEX	1,068.98	(1,100.90)
87		4/19/2007	Thursday	Checks		(1,513.00)
88		4/19/2007	Thursday	Checks		(338.50)
89		4/19/2007		Checks		(14,511.82)
90		4/19/2007		UPS	2,379.66	(2,390.90)
91		4/19/2007		AMEX	1,389.96	(1,432.20)
92		4/19/2007		Visa	3,043.81	(3,043.81)
93		4/20/2007	Friday	Visa	4,455.17	(4,454.87)
94		4/20/2007	Friday	UPS	2,440.43	(2,451.95)
95		4/20/2007	Friday	Checks		(107.00)
96		4/20/2007	Friday	Checks		(12,761.64)
97		4/23/2007	Monday	Checks		(4,594.70)
98		4/23/2007	Monday	Wire - pre		(4,975.00)
99		4/23/2007	Monday	Wire		(25,730.50)
100		4/23/2007	Monday	Visa	4,881.90	(4,881.90)
101		4/23/2007	Monday	AMEX	399.41	(411.55)
102		4/23/2007	Monday	UPS	2,412.76	(2,424.15)
103		4/23/2007	Monday	Checks		(40,094.20)
104		4/23/2007	Monday	Checks		(707.75)
105		4/24/2007	Tuesday	Visa		(2,274.90)
106		4/24/2007	Tuesday	AMEX	979.14	(1,008.90)
107		4/24/2007	Tuesday	Checks		(3,202.40)
108		4/24/2007	Tuesday	Checks		(48.75)
109		4/24/2007	Tuesday	UPS	143.91	(135.75)
110		4/24/2007	Tuesday	Checks	496.70	(496.70)



111	4/24/2007 Tuesday	UPS	1,528.18	(1,539.05)
112	4/25/2007 Wed	Checks		(272.10)
113	4/25/2007 Wed	Checks		(206.88)
114	4/25/2007 Wed	Checks		(6,588.10)
115	4/25/2007 Wed	Visa		(4,512.72)
116	4/25/2007 Wed	AMEX		(26,883.20)
117	4/25/2007 Wed	wire		(5,123.13)
118	4/25/2007 Wed	Visa	5,048.57	(5,048.57)
119	4/25/2007 Wed	Visa	3,331.25	(3,331.25)
120	4/25/2007 Wed	Ups	1,753.57	(1,762.05)
121	4/25/2007 Wed	AMEX	769.22	(792.60)
122	4/26/2007 Thursday	Visa	3,462.10	(3,462.10)
123	4/26/2007 Thursday	UPS	1,544.51	(1,551.80)
124	4/26/2007 Thursday	AMEX	939.72	(968.28)
125	4/26/2007 Thursday	Wire		(7,238.70)
126	4/26/2007 Thursday	Checks		(8,549.60)
127	4/27/2007 Friday	Wire=pre	765.89	(765.89)
128	4/27/2007 Friday	Checks	151.65	(151.65)
129	4/27/2007 Friday	UPS	2,204.79	(2,214.85)
130	4/27/2007 Friday	AMEX	491.32	(506.25)
131	4/27/2007 Friday	Checks		(125.35)
132	4/27/2007 Friday	Checks		(40,998.78)
133	4/27/2007 Friday	Visa		(6,375.00)
134	4/30/2007 Monday	Visa	6,674.15	(6,674.15)
135	4/30/2007 Monday	AMEX	1,290.24	(1,329.45)
136	4/30/2007 Monday	Visa	5,523.48	(5,523.48)
137	4/30/2007 Monday	UPS	962.46	(966.75)
138	4/30/2007 Monday	Checks		(35,122.44)
139	4/30/2007 Monday	Wire		(3,820.00)
140	5/1/2007 Tuesday	UPS	3,088.34	(3,102.92)
141	5/1/2007 Tuesday	AMEX	2,727.49	(2,810.39)
142	5/1/2007 Tuesday	Visa	5,346.29	(5,347.29)
143	5/1/2007 Tuesday	Checks	100.00	(100.00)
144	5/1/2007 Tuesday	Checks		99.45
145	5/1/2007 Tuesday	Checks		(4,703.68)
146	5/2/2007 Wed	AMEX	1,094.90	(1,128.18)
147	5/2/2007 Wed	Visa	8,781.20	(8,781.20)
148	5/2/2007 Wed	UPS	2,992.92	(3,006.05)
149	5/3/2007 Thursday	Checks		(5,931.00)
150	5/3/2007 Thursday	Checks	7,404.95	(7,404.95)
151	5/3/2007 Thursday	AMEX	1,802.95	(1,857.75)
152	5/3/2007 Thursday	UPS	1,403.57	(1,410.20)
153	5/4/2007 Friday	Wire=pre	4,615.00	(4,615.00)
154	5/4/2007 Friday	UPS	1,505.16	(1,512.27)
155	5/4/2007 Friday	AMEX	1,595.51	(1,644.00)
156	5/4/2007 Friday	Visa	7,742.25	(7,742.25)
157	5/4/2007 Friday	Checks		(71.50)
158	5/4/2007 Friday	Checks		(23,207.70)
	5/4/2007 Friday	Wire - pre		(3,250.00)

137,218.65



<i>Sales Dis</i>	<i>Due to UIS</i>	<i>UI Supplies Due to LH</i>	<i>Ck</i>
		23,901.34	-
103.60			-
			-
11.99			0.00
		120.00	-
	120.00	(120.00)	-
	495.95		-
			-
	233.25	432.00	-
		7,452.95	-
	1,041.75	336.65	-
		80.65	-
		1,774.45	-
	338.30		-
29.39			-
	252.00		-
38.10			0.00
11.00			-
		7,359.65	-
	4.95		-
		99.45	-
3.23			(0.00)
(1.00)			-
31.92			(0.00)
	480.00	1,033.00	-
	338.50		-
		14,511.82	-
11.24			(0.00)
42.24			-
			-
(0.30)			0.00
11.52			0.00
	107.00		-
		12,761.64	-
	522.25	4,072.45	-
	4,975.00		-
		25,730.50	-
			-
12.14			0.00
11.39			1.27898E-13
		40,094.20	0
	707.75		0
		2,274.90	0
29.76			-
		3,202.40	-
	48.75		-
		(8.16)	-
			-



10.87			0.00
	145.10	127.00	-
	206.88		-
		6,588.10	-
		4,512.72	-
		26,883.20	-
		5,123.13	-
			-
			-
8.48			(0.00)
23.38			-
			-
7.29			0.00
28.56			0.00
		7,238.70	-
		8,549.60	-
			-
			-
10.06			0.00
14.93			-
	125.35		-
		40,998.78	-
		6,375.00	-
			-
39.21			-
			-
4.29			0.00
	789.35	34,333.09	-
		3,820.00	-
14.58			0.00
82.90			-
1.00			-
			-
		(99.45)	-
	1,213.00	3,490.68	-
33.28			-
			-
13.13			(0.00)
	905.00	5,026.00	-
			-
54.80			-
6.63			(0.00)
			-
7.11			0.00
48.49			-
			-
	71.50		-
	3,785.00	19,422.70	-
	3,250.00		-
			-
	20,156.63	317,499.14	0.00
			-



Notes	Due to Summit	Due to UIS	Summit ML
All UIS Invoices			
All UIS Invoices			
All UIS Invoices		(120.00)	
JE done		(495.95)	
Cut check to Summit	315.00	(233.25)	
UIS Posted on 5/1		(1,041.75)	
UIS Posted on 5/1			78.31
		(338.30)	
Cut check to Summit	129.26	(252.00)	
All UIS Invoices			
All UIS Invoices		(4.95)	
All UIS Invoices			
All UIS Invoices		(480.00)	
All UIS Invoices		(338.50)	
All UIS Invoices			
All UIS Invoices		(107.00)	
All UIS Invoices		(522.25)	
All UIS Invoices		(4,975.00)	
All UIS Invoices			
All UIS Invoices			
Cut check to Summit	23.75	(707.75)	
			2,274.90
All UIS Invoices			
		(48.75)	
Cut check to Summit	143.91		
All UIS Invoices			



4,512.72  
26,100.90

6,375.00

(789.35)

(1,213.00)

(905.00)

to be reversed

(71.50)  
(3,785.00)  
(3,250.00)

-	2,483.22	-	(20,156.63)
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Summit Technologies LLC				
Chase	AR	Sales discount	Notes	Check figure
23,901.34	(23,901.34)			-
				-
				-
120.00				-
				-
495.95				-
				-
665.25	(432.00)			-
7,452.95	(7,452.95)			-
1,378.40	(336.65)			-
	(80.65)	2.34		(0.00)
1,774.45	(1,774.45)			-
338.30				-
				-
252.00				-
				-
7,359.65	(7,359.65)			-
4.95				-
99.45	(99.45)			-
				-
				-
1,513.00	(1,033.00)			-
338.50				-
14,511.82	(14,511.82)			-
				-
				-
				-
107.00				-
12,761.64	(12,761.64)			-
4,594.70	(4,072.45)			-
4,975.00				-
25,705.50	(25,730.50)	25.00		-
				-
				-
40,094.20	(40,094.20)			-
707.75				-
	(2,288.30)	13.40		(0.00)
				-
3,202.40	(3,202.40)			-
48.75				-
				-



272.10	(127.00)			-
206.88				-
6,588.10	(6,588.10)			-
	(4,512.72)			-
	(26,883.20)	782.30		-
5,098.13	(5,123.13)	25.00		-
				-
				-
				-
				-
				-
				-
				-
7,213.70	(7,238.70)	25.00		-
8,549.60	(8,549.60)			-
				-
				-
				-
125.35				-
40,998.78	(40,998.78)			-
	(6,375.00)			-
				-
				-
				-
35,122.44	(34,338.59)	5.50		0.00
3,802.00	(3,820.00)	18.00		-
				-
				-
				-
				-
(99.45)	99.45			-
4,703.68	(3,490.68)			-
				-
				-
5,931.00	(5,026.00)			-
				-
				-
				-
				-
				-
				-
71.50				-
23,207.70	(19,422.70)			-
3,250.00				-
297,444.46	(317,526.20)	896.54	-	0.00



Summit owes UIS

Cell J103    20,156.63   Represents Cash deposited into Summit ML and/or Chase that belongs to UIS

20,156.63

UIS owes Summit

Cell N103    2,483.22   Represents Cash deposit into UIS bank account that relates to Summit Invoices



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**EXHIBIT NO. 3**

**EXHIBIT NO. 3**



1 **DEC**  
JEFFREY R. ALBREGTS, ESQ.  
2 Nevada Bar No. 0066  
E-mail: jalbregts@nevadafirm.com  
3 COTTON, DRIGGS, WALCH,  
HOLLEY, WOLOSON & THOMPSON  
4 400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
5 Telephone: 702/791-0308  
Facsimile: 702/791-1912

6 *Attorneys for Plaintiffs*  
7 *Ira and Edythe Seaver Family Trust and*  
8 *Circle Consulting Corporation*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

13 Plaintiffs,

14 v.

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

18 Defendants.  
19

Case No.: A587003  
Dept. No.: XI

**DECLARATION OF IRA SEAVER  
IN SUPPORT OF PLAINTIFFS'  
MOTION TO SET ASIDE RESCINDED  
HELFSTEIN SETTLEMENT  
AGREEMENT AND PROCEED ON  
CLAIMS AGAINST THEM**

20 Ira Seaver, under penalty of perjury, hereby declares, as follows:

21 1. I am a Plaintiff in the above-captioned action, have personal knowledge of the  
22 facts set forth herein, except as otherwise indicated, and am competent to so testify.

23 2. I make this Declaration in support of Plaintiffs' Motion to Set Aside Rescinded  
24 Helfstein Settlement Agreement and Proceed on Claims Against Them.

25 3. As I have previously testified to this Court vis-à-vis Declarations and live  
26 testimony, I was unaware of how Mr. Helfstein operated the Summit companies while we both  
27 owned them prior to their sale to, and/or merger with, the Uninet companies. Among other  
28



1 things, I was not aware that Mr. Helfstein had unilaterally reduced my capital account in the  
2 Summit companies by far more than \$60,000, the amount for which I settled with him absent  
3 such knowledge. Furthermore, Mr. Helfstein clearly structured his deal with Uninet to provide  
4 for substantial payment of monies to him during the first 33 days following their merger/sale in  
5 2007 as the total "accounts receivable" for Summit as of April 1, 2007, was \$1,180,734.52. In  
6 fact, Mr. Helfstein received for as much a total of \$562,756.45 from Uninet over those first 33  
7 days. As a consequence of as much, I am having our expert witness, Rodney Conant, prepare a  
8 supplement to his report as to the amount of monies Mr. and Mrs. Helfstein still owe my family  
9 and I.

10 4. How we discovered the "smoking gun" document evidencing this fraud by Mr.  
11 Helfstein during discovery in this case is also significant here, especially given the "Due LH"  
12 column in it by which he received an additional \$562,756.45 from Uninet over the first 33 days  
13 after their merger. I do not believe counsel for Mr. Helfstein or the Uninet Defendants ever  
14 intended for us to have this document (a true and correct copy of which is attached to the motion  
15 as Exhibit 2) because they never bates stamped or numbered it when they produced it pursuant to  
16 NRCP 16.1. Rather, this document was buried in a CD in and by which the Uninet Defendants  
17 and Mr. Helfstein produced thousands of documents in this case and, although almost all of those  
18 documents on that CD were numbered or bates stamped by them, they failed or refused to bates  
19 stamp or number this one. Perhaps they hoped Plaintiffs and this court would overlook this  
20 document and, indeed, the Uninet Defendants did not ask any questions about it at trial of either  
21 Mr. Helfstein or Mr. Conant.

22 5. The primary reason Mr. Helfstein and I settled for the sum of \$60,000 was to  
23 simply even out the alleged \$240,000 he received versus the \$120,000 that I was supposed to  
24 receive from Mr. Saporiti. In other words, Mr. Helfstein would pay me \$60,000 and I would  
25 recover an additional \$120,000 from Mr. Saporiti with Mr. Helfstein's cooperation in this  
26 litigation. Mr. Helfstein never provided that cooperation in this litigation to my side of the table,  
27 however, and ultimately we were able to recover more than \$701,000 from the Uninet  
28 Defendants. For Mr. Helfstein to get away with only paying my family and myself \$60,000



1 would be a travesty of justice here.

2 6. For these reasons, I respectfully request that this Honorable Court set aside my  
3 settlement agreement with Mr. Helfstein (which I rescinded more than a year ago and as soon as  
4 I discovered Mr. Helfstein's fraud), and allow us to proceed on our claims against him for the  
5 remaining monies he still owes to us above and beyond that amount. In short, but for Mr.  
6 Helfstein concealing the truth from me about how he operated the Summit companies, I would  
7 have never settled with him for \$60,000 in the first place and, upon immediately discovering that  
8 fraud from Mr. Conant's report, rescinded our settlement agreement with him.

9 Further this declarant sayeth naught.

10 Dated this 25<sup>th</sup> day of March, 2013.

11  
12   
13 IRA SEAVER

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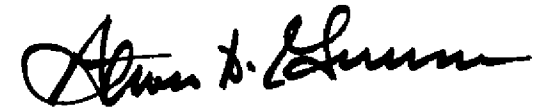
25

26

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28





CLERK OF THE COURT

**OPPS**  
J. MICHAEL OAKES, ESQ.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
(702) 384-2070 - office  
(702) 384-2128 - facsimile  
mike@foleyoakes.com  
*Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
Summit Technologies, LLC*

DISTRICT COURT  
\*\*\*  
CLARK COUNTY, NEVADA

IRA AND EDYTHE SEAVER FAMILY ) Case No. A-09-587003  
TRUST, IRA SEAVER, CIRCLE ) Dept. No. XI  
CONSULTING CORPORATION, )

Plaintiffs,

vs.

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

Defendants.

**OPPOSITION TO PLAINTIFFS'**  
**MOTION TO SET ASIDE**  
**RESCINDED HELFSTEIN**  
**SETTLEMENT AGREEMENT**  
**AND PROCEED ON CLAIMS**  
**AGAINST THEM**

**Date: April 25, 2013**

**Time: 8:30 a.m.**

**OPPOSITION TO PLAINTIFF'S MOTION TO SET ASIDE RESCINDED HELFSTEIN**  
**SETTLEMENT AGREEMENT AND PROCEED ON CLAIMS AGAINST THEM**

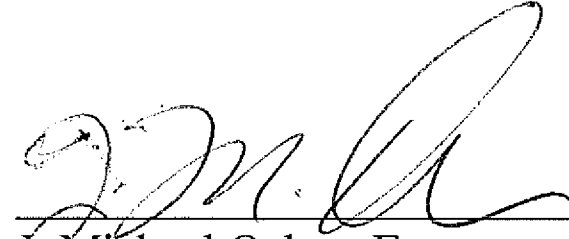
COMES NOW, Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser  
Products, Inc., and Summit Technologies, LLC, by and through their attorneys Foley & Oakes,  
PC, and hereby opposes Plaintiff's Ira and Edythe Seaver Family Trust, and Circle Consulting  
Corporation's Motion to Set Aside Rescinded Helfstein Settlement Agreement.



1 This opposition is made and based upon the pleadings and papers on file herein, the Points  
2 and Authorities attached hereto and any oral argument of counsel which may be adduced at the time  
3 of hearing.

4 DATED this 11 day of April, 2013.

6 FOLEY & OAKES, PC.

7  
8 

9 J. Michael Oakes, Esq.

Nevada Bar No. 1999

850 East Bonneville Avenue

Las Vegas, Nevada 89101

(702) 384-2070

11 Attorneys for Lewis Helfstein, Madalyn  
12 Helfstein, Summit Laser Products, Inc.,  
13 Summit Technologies, LLC



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 Plaintiffs have filed this motion under NRCP 60(b), seeking to rescind a November, 2009  
5 Settlement/Confidentiality Agreement and Mutual Release of All Claims (the “Settlement  
6 Agreement”), and, apparently, to unwind the November 23, 2009 Notice of Voluntary Dismissal of  
7 Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies LLC  
8 (the “Helfstein parties”). The Plaintiffs are asserting that they were defrauded in entering into the  
9 Settlement Agreement, giving them a right to relief under NRCP 60(b)(3).  
10

11 The Helfstein parties’ response is as follows:

12 A. The motion is time barred, as NRCP 60(b)(3) requires that a party seeking relief  
13 thereunder must file their motion within 6 months of the disposition of the matter. In this  
14 case, the motion comes over 3 years and 3 months after the Plaintiff’s dismissal of the  
15 Helfstein parties; and  
16

17 B. Alternatively, this motion lacks merit based upon several separate grounds:

18 (1) There is no merit to the fraud allegation, and Plaintiffs have not established  
19 fraud by clear and convincing evidence. In fact, their claims of justifiable  
20 reliance are precluded by the Settlement Agreement itself;

21 (2) A party seeking rescission must restore the consideration, and the Plaintiffs have  
22 failed to do so. Furthermore, throughout the litigation, and all the way through  
23 trial, Plaintiffs insisted that Lewis Helfstein provide “cooperation” as required by  
24 the Settlement Agreement, and only after receiving that “cooperation” have they  
25 filed this motion; and  
26

27 (3) The Plaintiffs’ claim for rescission is precluded by the equitable doctrine of  
28 laches.



1 (4) The Helfstein parties are not subject to the jurisdiction of this court. They never  
2 appeared on Plaintiff's case because the case was settled, and their appearance in  
3 the case on the third party complaint was solely to enforce an arbitration and  
4 venue provision, requiring that those claims be heard in New York through  
5 arbitration. The events complained of herein, i.e., that Lew Helfstein  
6 misappropriated money from Summit Technologies, LLC, took place in New  
7 York, involve a New York limited liability company, and involve New York  
8 law. These points are being raised now, in order to ensure that none of the  
9 jurisdictional arguments of the Helfstein parties, who have never pled in  
10 response to the complaint herein, are waived.  
11

## 12 II.

### 13 Statement of Facts

14 On April 3, 2009, Plaintiff filed the Complaint herein.

15 On or about November 20, 2009, before filing a responsive pleading, the Helfstein  
16 parties concluded the Settlement Agreement with the Plaintiffs and paid the \$60,000 settlement  
17 payment.  
18

19 A copy of the Settlement Agreement is attached as Exhibit A. It contained provisions for  
20 a broad general release of all claims, for the exclusion of any oral promises, and for negating  
21 any claim that either party was relying upon any statement or representation of the other. The  
22 release specifically related to claims that had been brought or those that could have been  
23 brought. Highlights of these provisions include the following:  
24

25 The parties "hereby expressly release each other in this matter as  
26 well as their respective attorneys, agents, employees, principals,  
27 assignees, assignors, successors, and/or heirs from any and all  
28 liability, obligations, debts, claims, demands and lawsuits of any  
kind or nature whatsoever and, to that end, hereby acknowledge,  
represent and warrant that this mutual release is accepted in full  
compromise settlement and satisfaction of, and as sole



1 consideration for the final release and discharge of all claims,  
2 actions, debts, obligations and demands whatsoever **that now**  
3 **exist or may hereafter occur which have been asserted or**  
4 **could have been asserted by the undersigned in that lawsuit**  
5 **pending between these parties...**"

6 It also stated:

7 "the execution of this Mutual Release, in conjunction or  
8 contemporaneously with the dismissal of Case A8587003 (sic)  
9 with prejudice, extinguishes any and all claims and/or defenses  
10 that have been asserted or may have been asserted in the  
11 aforescribed litigation or under aforescribed contracts by them  
12 and, accordingly, **this mutual release and the dismissal of said**  
13 **legal action with prejudice shall be and hereby are subject to**  
14 **the principles and doctrines of res judicata and/or collateral**  
15 **estoppel."**

16 It also stated:

17 "That this Agreement is the entire, complete sole and only  
18 **understanding and agreement of, by and between the**  
19 **undersigned releases**, pertaining to the subject matter expressed  
20 herein and there are no independent, collateral, different,  
21 additional, or other outstanding agreements, oral or written, or  
22 obligations to be performed, things to be done, or payments to be  
23 made; and further, no promise, inducement or consideration other  
24 than the execution of this release. This release is accepted in full  
25 compromise, settlement, and satisfaction of, and as sole  
26 consideration for, the final release and discharge of all actions,  
27 claims, debts, obligations and demands at issue in said lawsuit."

28 It also stated:

"That this Agreement was carefully read in its entirety by the  
undersigned and is understood and known to be a full and final  
compromise, settlement, release, accord, and satisfaction and  
discharge of all claims, actions and causes of action and suits, as  
state (sic) above and that **this document is signed and executed**  
**voluntarily without reliance upon any statement or**  
**representation of or by any party, or any of their**  
**representatives, agents, employees or affiliated entities."**

On November 23, 2009, Plaintiffs filed a "Notice of Voluntary Dismissal of the Summit  
Defendants." Although the Settlement Agreement said that the dismissal was to be with  
prejudice, the Notice of Voluntary Dismissal filed by counsel for the Plaintiffs did not so state.



1 On February 19, 2010, triggered by Uninet's filing of a crossclaim against the Helfstein  
2 parties on January 19, 2010, the Plaintiffs filed a motion for good faith settlement. In the  
3 motion, the Plaintiffs' counsel explained that:

4 "After protracted negotiations, a settlement in the amount of  
5 \$60,000, to be paid by the Summit Defendants to Plaintiffs, was  
6 reached. This amount represents a good faith, fair, negotiated  
7 settlement to the contested claims. First, the Summit Defendants  
8 had no insurance coverage for these claims, and their ability to  
9 finance long and protracted litigation was questionable. Further,  
10 there was the possibility that, after costly litigation, even if a much  
11 larger judgment was awarded, such a judgment would not be  
12 collectible. Thus, after months of settlement negotiations, a fair  
13 compromise in the amount of \$60,000 was reached."

14 The moving papers explained further that:

15 In this case, the proposed settlement of sixty thousand dollars  
16 (\$60,000) is substantial and represents a fair account of the  
17 Summit Defendants' potential liability, the ability of such amounts  
18 to be collected, and the risks and costs of litigation. The settlement  
19 was reached after months of extensive negotiations between the  
20 parties See Exhibit "C". Plaintiffs and the settling defendants were  
21 afforded a full and adequate opportunity to review and evaluate the  
22 nature of the allegations and the potential defenses."

23 The motion included the declaration of counsel for the Plaintiffs, Jeffrey  
24 R. Albregts, where he stated under penalty of perjury:

25 "2. In early 2009, on behalf of the Plaintiffs, settlement  
26 negotiations were initiated with Defendants Lewis Helfstein,  
27 Madalyn Helfstein, Summit Laser Products, Inc. and Summit  
28 Technologies, LLC (collectively the "Summit Defendants").

3. These settlement negotiations continued for approximately 10  
months, during which time the strengths and weaknesses of our  
case were thoroughly considered.

4. Over the course of those 10 months, before reaching a  
settlement of \$60,000.00, multiple rounds of offers and counter-  
offers were made between these parties."



1 On March 25, 2010, the motion for approval of the settlement as being in good faith was  
2 vacated, and, as a result, this court never ruled on the settlement, and the claims for contribution  
3 and indemnity by the other defendants were not precluded.

4 On May 27, 2010, Plaintiffs' lawyer wrote to Helfstein's lawyer, stating "if you are  
5 going to preserve this settlement with Mr. Seaver as well as resolve this dispute with Mr.  
6 Saporiti once and for all as well as globally, Mr. Helfstein needs to do the right thing and  
7 provide an amended declaration that states what these parties intended to do all along, which is  
8 precisely what the above sentence says." A copy of the letter is attached as Exhibit B.

9 On June 24, 2010, Plaintiffs' lawyer sent an email to Helfstein's lawyer stating "this  
10 case is going to trial over the K at issue here B/C of his shenanigans with it, and based on his  
11 last declaration. So, we may not have a settlement with him after all, and no he can't have the  
12 money back, at least not right now." A copy of the letter is attached as Exhibit C.

13 Almost seven months later, on January 20, 2011, Plaintiff filed its Notice of Rescission  
14 of Helfstein Settlement, while retaining the \$60,000 settlement payment.

15 In March and April of 2012, the trial of the matter between the Plaintiffs and the Saporiti  
16 Defendants was conducted. In connection with the trial, the Plaintiffs insisted that Lew  
17 Helfstein provide live testimony, even though he was beyond the subpoena power of the court,  
18 in order to avoid being in violation of the "cooperation" clause contained in the Settlement  
19 Agreement. See the Declaration of Lewis Helfstein, attached as Exhibit D.  
20  
21  
22

## 23 II.

### 24 LEGAL ARGUMENT

#### 25 A. The Motion is Time Barred

26 NRCP 60(b) provides as follows:  
27  
28



1           **(b) Mistakes; Inadvertence; Excusable Neglect; Newly**  
2           **Discovered Evidence; Fraud, Etc.** On motion and upon such  
3           terms as are just, the court may relieve a party or a party's legal  
4           representative from a final judgment, order, or proceeding for the  
5           following reasons: (1) mistake, inadvertence, surprise, or  
6           excusable neglect; (2) newly discovered evidence which by due  
7           diligence could not have been discovered in time to move for a  
8           new trial under Rule 59(b); (3) fraud (whether heretofore  
9           denominated intrinsic or extrinsic), misrepresentation or other  
10          misconduct of an adverse party; (4) the judgment is void; or, (5)  
11          the judgment has been satisfied, released, or discharged, or a prior  
12          judgment upon which it is based has been reversed or otherwise  
13          vacated, or it is no longer equitable that an injunction should have  
14          prospective application. The motion shall be made within a  
15          reasonable time, and for reasons (1), (2), and (3) not more than 6  
16          months after the proceeding was taken or the date that written  
17          notice of entry of the judgment or order was served. A motion  
18          under this subdivision (b) does not affect the finality of a  
19          judgment or suspend its operation. This rule does not limit the  
20          power of a court to entertain an independent action to relieve a  
21          party from a judgment, order, or proceeding, or to set aside a  
22          judgment for fraud upon the court. Writs of coram nobis, coram  
23          vobis, audita querela, and bills of review and bills in the nature of  
24          a bill of review, are abolished, and the procedure for obtaining  
25          any relief from a judgment shall be by motion as prescribed in  
26          these rules or by an independent action.

16               Concerning the Federal counterpart to this rule, Wright Miller & Kane, Federal Practice  
17               and Procedure: Civil 2d Section 2866, says:

18               “The reasonable time requirement is the only limitation on a  
19               motion under clauses (5) and (6) of Rule 60 (b). Motions under  
20               clauses (1), (2), or (3), attacking a judgment on grounds of  
21               mistake, inadvertence, surprise, excusable neglect, newly  
22               discovered evidence, or fraud or misconduct of a party, are treated  
23               differently. These motions must be made within a reasonable time  
24               but they must also be made not later than “one year after the  
25               judgment, order, or proceeding was entered or taken.” **The one-**  
26               **year period represents an extreme limit, and the motion will**  
27               **be rejected as untimely if not made within a “reasonable**  
28               **time” even though the one-year period has not expired.”<sup>1</sup>**

---

<sup>1</sup> Nevada's time limitation is more restrictive than its Federal counterpart, with the period for bringing a motion under subparts (1), (2), or (3) being six months, rather than one year.



1 In Bonnell v. Lawrence, 282 P.3d 712, 128 Nev. Adv. Op. No. 37 (Nev. 2012), the  
2 Nevada Supreme Court recently addressed this distinction. The Court explained:

3 Some background is helpful to place the issues presented by this  
4 appeal in context. Rule 60(b) of the Nevada Rules of Civil  
5 Procedure is modeled on Rule 60(b) of the Federal Rules of Civil  
6 Procedure, as written before the latter's amendment in 2007. See  
7 NC-DSH, Inc. v. Garner, 125 Nev. 647, 650-51 nn.1 & 2, 218 P.3d  
8 853, 856 nn.1 & 2 (2009). Like its federal counterpart, NRCP  
9 60(b) permits relief from judgment by motion or by independent  
10 action. Addressing motions, the rule specifies both the permissible  
11 grounds, see NRCP 60(b)(1)-(5), and the time deadlines that apply,  
12 see NRCP 60(b) (a motion under Rule 60(b) "shall be made within  
13 a reasonable time, and for reasons (1), (2), and (3) not more than 6  
14 months after . . . written notice of entry of the judgment or order  
15 was served"). The rule's reference to relief by independent action,  
16 by contrast, provides no specifics. It appears in a "savings clause,"  
17 which states only: "This rule [i.e., NRCP 60(b)] does not limit the  
18 power of a court to entertain an independent action to relieve a  
19 party from a judgment, order, or proceeding, or to set aside a  
20 judgment for fraud upon the court."

21 This motion comes:

- 22 a) 3 years and 3 months after the Plaintiffs' dismissal of the  
23 Helfstein parties;
- 24 b) 2 years and 10 months after Plaintiffs' counsel first suggested  
25 that Helfstein needed to do something more "to preserve this  
26 settlement";
- 27 c) 2 years and 6 months after Plaintiff received their expert report,  
28 which, according to them, established the wrongful taking of  
funds by Helfstein; and
- d) 2 years and 2 months after Plaintiffs filed their Notice of  
Rescission of Helfstein Settlement.

This motion comes long after the 6 months for bringing a motion under NRCP 60(b) has  
expired. Furthermore, contrary to what was asserted by the Plaintiffs, the stay of Saporiti's



1 crossclaims/third-party claim against the Helfstein parties never applied, in any manner, to the  
2 Plaintiffs.<sup>1</sup> Since the 6 month period represents the outer limit for bringing a motion such as  
3 this, this motion should, therefore, be denied.

4 **B. Defenses On the Merits**

5 The Helfstein parties contend that this motion was filed well beyond the limitation period  
6 for attacking the dismissal by way of motion under NRCP 60(b). This motion should be denied on  
7 that basis. Not only is this mandated by the rule, it is also appropriate as a practical matter. The  
8 issues involved relate to alleged wrongdoing going back all the way to 2004, followed by the ten  
9 months of investigation conducted by counsel for the Plaintiffs before settling, and then followed by  
10 over three years of activity by the parties following the Settlement Agreement. These factual issues  
11 are not the sort of issues that, as a practical matter, should be decided by motion.  
12

13 Should the Court disagree, the following additional points should be considered.

14 **(1) There Is No Merit to Plaintiffs' Fraud Claim**

15 The Plaintiff's settled with the Helfstein parties and took their \$60,000. The claim asserted  
16 here, i.e, that Helfstein misappropriated money from the limited liability company, even if true, is  
17 precisely within the express terms of the release.  
18

19 Following the settlement, Plaintiffs sent letters suggesting that Lew Helfstein was required  
20 to testify a certain way "to preserve this settlement with Mr. Seaver." They then made numerous  
21 requests for massive amount of documents from the Helfstein parties. Although these documents  
22 were requested under the guise of the "cooperation" clause contained in the Settlement Agreement,  
23 it now seems apparent that their real purpose was to present all of those documents to their expert,  
24  
25  
26

---

27 <sup>1</sup> A copy of the Order Granting Motion for Stay is attached as Exhibit E. The Order states:  
28 "...we grant the motion for a stay and hereby stay the district court proceedings in District  
Court Case No. A587003 as they pertain to the crossclaims/third-party claims."



1 in order to audit the Summit books and records, and look for claims that “could have been brought”  
2 in the litigation.

3 So, the stated rationale for the complaints against Helfstein changed from May of 2010,  
4 when the complaints were directed to his testimony, to those being made now, which relate to  
5 alleged wrongdoing that began way back in 2004, which “could have been brought” as of the date  
6 of the Settlement Agreement.  
7

8 According to Plaintiffs, these claims became “known” to Plaintiffs, at least in their eyes, in  
9 September of 2010, when they received their expert report from Rodney Conant, dated September  
10 24, 2010. Yet, they did nothing at that time.

11 The Conant report shows that he was hired to target not only the Saporiti parties, but also the  
12 Helfstein parties.

13 Of course, if counsel for the Plaintiffs had felt that it was necessary to have an expert  
14 conduct an audit prior to entering into the Settlement Agreement during the 10 months that they  
15 investigated the claims, such an audit would have, could have, and should have been conducted  
16 prior to entering in to the Settlement Agreement, which clearly released all claims that had been  
17 asserted or could be asserted among the parties.<sup>1</sup>  
18

19 The only proof that has been provided to the Court in connection with this motion  
20 concerning the alleged “fraud” is a single page sheet which they say demonstrates that “Mr.  
21 Helfstein received an additional \$562,756.45 from Uninet over the first 33 days after the  
22 sale/merger under the “DUE LH” column of Exhibit “2” attached hereto.”  
23

24 The Plaintiffs, in bringing this motion, have the burden to establish fraud by clear and  
25 convincing evidence. Their motion has not met that burden. Their contention concerning the  
26

---

27 <sup>1</sup> See the terms of the Settlement Agreement, which applied to all claims “which have been  
28 asserted or could have been asserted by the undersigned in that lawsuit pending between these  
parties...”



1 wrongful taking of funds is disputed, and wrong. Lewis Helfstein's Declaration, attached to this  
2 motion as Exhibit "D", explained that:

3 During the post-closing period (after April 4, 2007) many customer  
4 payments were sent to either UI Supplies or Summit  
5 Technologies. To the extent that these payments were designated  
6 to the wrong entity, the CFO of UI Supplies set up two ledger  
7 accounts to make the appropriate adjustments. The ledger account  
8 was labeled "Due LH" when it should have been named "Due  
9 Summit Tech". Although the ledger account was labeled that way,  
10 those funds were used to satisfy company debts. Furthermore, as  
11 shown by the 2007 tax return, excerpts of which are attached  
12 hereto as Exhibit D-1, which Ira Seaver has had since 2008, the  
13 assets of the company were used to satisfy the remaining company  
14 obligations.

15 As explained in Wright, Miller & Kane, Federal Practice and Procedure: Civil 2<sup>nd</sup> Section  
16 2860:

17 "Many other cases support the propositions that the burden of proof  
18 of fraud is on the moving party and that fraud must be established  
19 by clear and convincing evidence. Further the fraud must have  
20 prevented the moving party from fully and fairly presenting his  
21 case."

22 As cited in Wright, Miller & Kane, the opinion in the Di Vito v. Fidelity and Deposit  
23 Company of Maryland 361 F. 2<sup>nd</sup> 936 (C.A. 7<sup>th</sup>, 1966)

24 "Conclusory averments of the existence of fraud made on  
25 information and belief and unaccompanied by a statement by a clear  
26 and convincing probative facts supporting the belief did not serve to  
27 raise an issue of the existence of fraud in procuring a settlement  
28 upon which the judgment was based, much less to carry the burden  
of resolving such issue."

Based on the foregoing, there is simply no merit to this belated fraud claim. The motion  
filed by the Plaintiffs has not established fraud at all, and provides no basis for setting the fully  
negotiated Settlement Agreement.

**(2) A Party Seeking Rescission Must Restore the Consideration**

The Plaintiffs have retained the \$60,000 in consideration that was paid to them by the  
Helfstein parties. In addition, throughout the litigation, while invoking the "cooperation" clause



1 contained in the Settlement Agreement, they demanded, on several occasions, that Helfstein  
2 continue to produce documents, appear for deposition, and appear for trial.

3  
4 So, Plaintiffs have not returned the monetary consideration paid to them and it would now  
5 be impossible to return the “cooperation” that was provided to them by Helfstein.

6 In Bergstrom v. Estate of DeVoe, 109 Nev. 575, 854 P.2d 860 (Nev. 1993), the Nevada  
7 Supreme Court stated:

8  
9 “Rescission is an equitable remedy which totally abrogates a  
10 contract and which seeks to place the parties in the position they  
11 occupied prior to executing the contract. *Crowley v. LaFayette*  
12 *Life Ins. Co.*, 683 P.2d 854 (Idaho 1984); *Breuer-Harrison, Inc. v.*  
13 *Combe*, 799 P.2d 716 (Utah Ct.App. 1990); *Busch v. Nervik*, 687  
14 P.2d 872 (Wash.Ct.App. 1984). **The purpose of this is to prevent**  
15 **harm to the defendant; the defendant should not by rescission**  
16 **sacrifice the benefits of the agreement and at the same time not**  
17 **be restored the benefits he previously conferred upon the**  
18 **plaintiff.** *Thorstenson v. ARCO Alaska, Inc.*, 780 P.2d 371  
19 (Alaska 1989). “**When a contract has been partially performed,**  
20 **and one of the parties to it makes default, the other has a**  
21 **choice of remedies. He may and he must rescind or affirm the**  
22 **contract, but he cannot do both. If he would rescind it, he must**  
23 **immediately return whatever of value he has received under it,**  
24 **and then he may defend against an action for specific**  
25 **performance . . . and he may recover back whatever he has**  
26 **paid. . . . He cannot at the same time affirm the contract by**  
27 **retaining its benefits and rescind it by repudiating its burdens.**  
28 *German Sav. Inst. v. De La Vergne Refrig. Mach. Co.*, 70 F. 146  
(C.C.A. 8th, 1895). 5 Arthur Linton Corbin, *Corbin on Contracts*, §  
1114 (1964) (emphasis added). **Further, there can be no partial**  
**rescission; a contract is either valid or void in toto.”** (Emphasis  
added).

23 The Plaintiffs’ retention of the consideration paid by the Helfstein parties precludes their  
24 claim of rescission.

25 **(3) The Attempted Rescission Is Precluded by Laches**



1 As explained above, the party seeking rescission must act promptly upon learning of the  
2 basis for a rescission. See Bergstrom, 109 Nev. at 577, “If he would rescind it, he must  
3 immediately return whatever of value he has received under it.”

4 They cannot continue to enjoy the benefits of the contract, (or, as here, continue to invoke  
5 the contract in order to induce additional performance), and then declare the contract rescinded.

6 In Mackintosh v. California Federal Savings and Loan, 113 Nev. 393, 935 P.2d 1154  
7 (1997), the Nevada Supreme Court explained how laches can preclude the rescission of a contract.  
8 The Court stated:

10 Laches is an equitable doctrine which may be invoked when delay  
11 by one party works to the disadvantage of the other, causing a  
12 change of circumstances which would make the grant of relief to  
the delaying party inequitable.

13 This motion comes more than 3 years after the dismissal of the Helfstein parties, more  
14 than 2 years and 5 months after the September, 2010 expert report of Rodney Conant (which  
15 purportedly revealed the fraud complained of here), and comes after the Helfstein parties,  
16 pursuant to the “cooperation” clause, were required to produce over a thousand pages of  
17 documents and to appear live, via video, to give his trial testimony, even though he was beyond  
18 the subpoena power of the court and his testimony could have been provided by deposition.

19 Clearly, there has been significant delay on the part of the Plaintiffs which would make  
20 the granting of relief to them inequitable.

21  
22 **(4) The Helfstein Parties Are Not Subject to Jurisdiction in Nevada**

23 The Helfstein parties are not subject to the jurisdiction of this court. They never appeared on  
24 Plaintiff’s case because the case was settled, and their appearance in the case on the third party  
25 complaint was solely to enforce an arbitration and venue provision, requiring that those claims be  
26 heard in New York through arbitration.



1 The claims referenced herein, i.e., that Lew Helfstein misappropriated money from Summit  
2 Technologies, LLC, took place in New York, involve a New York limited liability company, and  
3 involve New York law. These points are being raised now, in order to ensure that none of the  
4 jurisdictional or venue arguments of the Helfstein parties, who have never pled in response to the  
5 complaint herein, are waived.

6  
7  
8 **III.**

9 **CONCLUSION**

10 As a matter of law, the relief requested by the Plaintiffs is not available by motion under  
11 NRCP 60(b), due to being untimely.

12 Alternatively, the Plaintiff has failed to establish fraud, has failed to return the consideration  
13 paid by the Helfstein parties, and the relief requested is precluded by their unreasonable delay based  
14 upon the equitable doctrine of laches.

15 The motion should be denied.

16 DATED this 11<sup>th</sup> day of April, 2013.

17 Respectfully submitted,

18 FOLEY & OAKES, PC.

19 

20 J. Michael Oakes, Esq.

21 Nevada Bar No. 1999

22 850 East Bonneville Avenue

23 Las Vegas, Nevada 89101

24 (702) 384-2070

25 *Attorneys for Lewis Helfstein, Madalyn*

26 *Helfstein, Summit Laser Products, Inc.,*

27 *Summit Technologies, LLC*



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Foley & Oakes, PC,  
3 and that on the 17<sup>th</sup> day of April, 2013, I served the following document(s):

4 **OPPOSITION TO PLAINTIFF'S MOTION TO SET ASIDE RESCINDED HELFSTEIN**  
5 **SETTLEMENT AGREEMENT AND PROCEED ON CLAIMS AGAINST THEM**

6 I served the above-named document(s) by the following means to the persons as listed  
7 below:

8  
9 ☐ **By United States Mail**, postage fully prepaid to person(s) and addresses as follows:

10 Ira Seaver  
11 Ira and Edythe Seaver Family Trust  
12 Circle Consulting Corporation  
13 2407 Ping Drive  
14 Henderson, NV 89074  
15 *In Proper Person*

Jeffrey Albregts, Esq.  
Cotton, Driggs, Walch  
Holley, Woloson & Thompson  
400 South 4<sup>th</sup> Street, Third Floor  
Las Vegas, NV 89101

16 Michael Lee, Esq.  
17 Law Office of Michael B. Lee  
18 2000 South Eastern Avenue  
19 Las Vegas, Nevada 89104  
20 *Attorneys for Defendants*

Gary E. Schnitzer, Esq.,  
Kravitz, Schnitzer, Sloane & Johnson  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, NV 89123  
*Attorneys for Defendants*

21 Michael Lee, Esq.  
22 Seth T. Floyd, Esq.  
23 McDonald Carano Wilson LLP  
24 2300 West Sahara Avenue, Suite 1000  
25 Las Vegas, NV 89102  
26 *Attorneys for Defendants*

27 I declare under the penalty of perjury that the foregoing is true and correct.

28   
An employee of FOLEY & OAKES, PC



EXHIBIT “A”

EXHIBIT “A”



**SETTLEMENT/CONFIDENTIALITY AGREEMENT  
AND MUTUAL RELEASE OF ALL CLAIMS**

The undersigned, IRA AND EDYTHE SEAVER FAMILY TRUST, IRA SEAVER and CIRCLE CONSULTING CORPORATION ("Seaver Plaintiffs") on one side; and LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC. and SUMMIT TECHNOLOGIES, LLC (hereinafter "Helfstein Defendants") on the other side; for good and valuable consideration in the amount of SIXTY THOUSAND DOLLARS (\$60,000.00), which is to be paid by the Helfstein Defendants to the Seaver Plaintiffs upon filing and receipt of a final order of dismissal, with prejudice, as against the Helfstein Defendants, which sum is now on deposit in the trust account of Santoro, Driggs, Walch, Kearney, Holley & Thompson; and which sum is to be returned to the Helfstein defendants if said order is not received by them within ninety days of the date of execution of this agreement, hereby expressly release each other in this matter as well as their respective attorneys, agents, employees, principals, assignees, assignors, successors and/or heirs from any and all liability, obligations, debts, claims, demands and lawsuits of any kind or nature whatsoever and, to that end, hereby acknowledge, represent and warrant that this mutual release is accepted in full compromise settlement and satisfaction of, and as sole consideration for the final release and discharge of all claims, actions, debts, obligations and demands whatsoever that now exist or may hereafter occur which have been asserted or could have been asserted by the undersigned in that lawsuit pending between these parties filed in District Court, Clark County, Nevada, entitled Ira and Edythe Seaver Family Trust, Ira Seaver and Circle Consulting Corporation v. Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies LLC, UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti (Case No. A587003).



The consideration and/or covenants for this Agreement are (1) the payment of \$60,000 by the Helfstein Defendants to the Seaver Plaintiffs; (2) the dismissal of said legal action (Case No. A587003) with prejudice as to the Helfstein Defendants only, each side to bear their own attorney's fees and costs of suit incurred therein; (3) that Lewis Helfstein also hereby agrees to cooperate in providing testimony and evidence in said case on behalf of the Seaver Plaintiffs and, in the event it becomes necessary for Helfstein to travel to Nevada more than once, Seaver will pay for the cost of as much (but only after Helfstein's first trip there); and (4) the provisions set forth hereinbelow.

By accepting and executing this Settlement/Confidentiality Agreement And Mutual Release ("Agreement"), no party to this agreement admits any liability whatsoever and they each accept this duly executed Mutual Release solely for the purpose of resolving the issues that were caused by the above referenced lawsuit and do not make any admission of any kind whatsoever, and that the execution of this Mutual Release, in conjunction or contemporaneously with the dismissal of Case A8587003 with prejudice, extinguishes any and all claims and/or defenses that have been asserted or may have been asserted in the aforescribed litigation or under aforescribed contracts by them and, accordingly, this mutual release and the dismissal of said legal action with prejudice shall be and are hereby subject to the principles and doctrines of res judicata and/or collateral estoppel.

That this Agreement is the entire, complete sole and only understanding and agreement of, by and between the undersigned releasees, pertaining to the subject matter expressed herein and there are no independent, collateral, different, additional or other outstanding agreements, oral or written, or obligations to be performed, things to be done, or payments to be made; and further, no promise, inducement or consideration other than the execution of this release. This release is accepted in full compromise, settlement and satisfaction of, and as sole consideration



for, the final release and discharge of all actions, claims, debts, obligations and demands at issue in said lawsuit.

To the fullest extent of the law possible, the terms of this Agreement shall be kept confidential by the undersigned and their agents, representative, heirs and attorneys and shall not be disclosed by them to any unauthorized third party. Further, the undersigned hereby agree not to disparage each other regarding the subject matter of this lawsuit. The term "disparage" is used herein to mean and include any defamatory comment or writing, or any comment or writing which a reasonable person would understand to be intended by the person making the comment or publishing the writing as a demeaning or deprecating comment concerning the person or entity who is the subject of the comment.

**BY SIGNING THIS SETTLEMENT/CONFIDENTIALITY AGREEMENT  
AND MUTUAL RELEASE OF ALL CLAIMS  
THE UNDERSIGNED ACKNOWLEDGE AND WARRANT:**

That this Agreement was carefully read in its entirety by the undersigned and is understood and known to be a full and final compromise, settlement, release, accord and satisfaction and discharge of all claims, actions and causes of action and suits, as state above and that this document is signed and executed voluntarily without reliance upon any statement or representation of or by any party, or any of their representatives, agents, employees or affiliated entities. All of the terms and conditions of this release are contractual and not mere recitals; the undersigned are of legal age and capacity, competent to sign this document and accepts full responsibility for the same. In the event that the undersigned violate these provisions of confidentiality, nondisparagement, and/or disclose the terms and conditions of this settlement to any unauthorized third party (excluding directors, officers, employees, attorneys, accountants and successors of any party to this agreement) without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, they hereby agree to pay the




attorneys' fees and costs incurred by the other releasee(s) in having to enforce this agreement and its confidentiality and nondisparagement provisions. The undersigned hereby acknowledge and understand that these confidentiality provisions are material to the terms and conditions of this Agreement.

**THE UNDERSIGNED HAVE READ THE FOREGOING  
SETTLEMENT/CONFIDENTIALITY AGREEMENT AND MUTUAL RELEASE  
AND FULLY UNDERSTAND SAID RELEASE AND AGREEMENT**

Read and signed on this 18  
day of Feb, 2009.

  
IRA AND EDYTHE SEAVER  
FAMILY TRUST

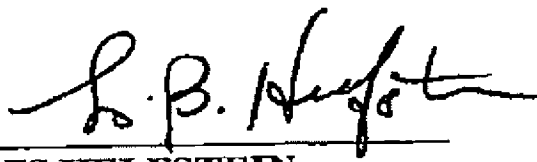
Read and signed on this 18  
day of Feb, 2009.

  
IRA SEAVER

Read and signed on this 18  
day of Feb, 2009.

  
CIRCLE CONSULTING  
CORPORATION

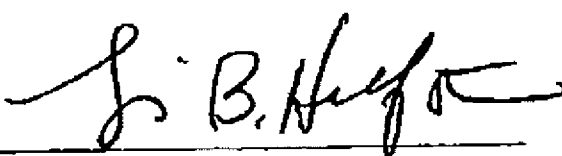
Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
LEWIS HELFSTEIN

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
MADALYN HELFSTEIN

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
SUMMIT LASER  
PRODUCTS, INC.

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

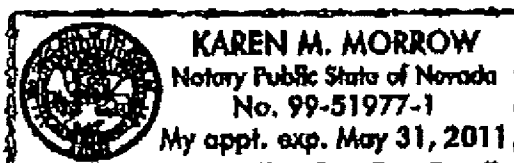
  
SUMMIT TECHNOLOGIES, LLC



STATE OF Nevada }  
COUNTY OF Clark } ss.

On this 18<sup>th</sup> day of November, 2009, before me, a notary public, personally appeared **IRA SEAVER** on behalf of **IRA AND EDYTHE SEAVER FAMILY TRUST**, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

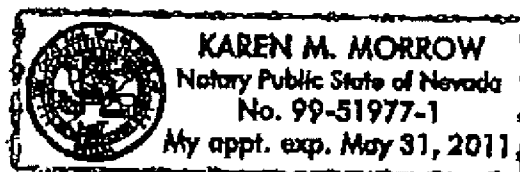
Karen M. Morrow  
NOTARY PUBLIC



STATE OF Nevada }  
COUNTY OF Clark } ss.

On this 18<sup>th</sup> day of November, 2009, before me, a notary public, personally appeared **IRA SEAVER**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Karen M. Morrow  
NOTARY PUBLIC



STATE OF NY }  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **LEWIS HELFSTEIN**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korp  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011



STATE OF NY  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **MADALYN HELFSTEIN**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korpi  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011

STATE OF NY  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **LEWIS HELFSTEIN** on behalf of **SUMMIT LASER PRODUCTS, INC. and SUMMIT TECHNOLOGIES, LLC**, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korpi  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011



EXHIBIT “B”

EXHIBIT “B”





SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

400 SOUTH FOURTH STREET, THIRD FLOOR • LAS VEGAS, NEVADA 89101 • 702.791.0308 • FAX 702.791.1912

FROM THE DESK OF: JEFFREY R. ALBREGTS  
WRITER'S EMAIL: JALBREGTS@NEVADAFIRM.COM

May 27, 2010

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101

VIA E-MAIL

RE: *Seaver v. Helfstein and Uninet and Saporiti*

Dear Michael::

It now should be abundantly clear to Mr. Helfstein that he has no choice but to resolve and/or litigate his dispute with Mr. Saporiti in this case here. Upon reflection, this is not such a bad thing after all because, one way or the other, we can finally obtain a global resolution or determination of all issues between these parties. In order to do so, however, the right pressure must be brought to bear upon Mr. Saporiti. I spent a full day in deposition with this gentleman and I can assure you that he will not agree to settle this case with either of our clients unless his back is firmly placed against the wall. To that end, this letter is sent to you.

Specifically, Mr. Saporiti continues to try to take whatever advantage he can gain from the various and supposed versions of his purchase agreement with Mr. Helfstein including with or without the infamous "exhibit E." By way of background, Mr. Saporiti's first motion to dismiss was based on the notion that Mr. Seaver could not authenticate the purchase agreement attached to his complaint as genuine. Mr. Saporiti's second motion to dismiss was then based on a purchase agreement that he purportedly authenticated as genuine and which does not contain an "exhibit E." Mr. Saporiti's current (and third position) on dismissal is based on your client's affidavit authenticating a version of that agreement with an "exhibit E" attached to it that excludes their respective Consulting Agreements. In short, our clients can expect to continue to spend money on this silly issue because of Mr. Saporiti's lack of integrity—meaning he will do anything to make this case go away short of trial—all of which can be fixed very simply by your client providing an amended declaration containing the following (and accurate) statement:

"The Consulting Agreement exclusions that are set forth in exhibit E to the Uninet Asset Sale Agreement were contingent or conditioned on Uninet and UI Supplies entering into new or "replacement" agreements with both Circle Consulting and myself."



J. Michael Oakes, Esq.  
May 27, 2010  
Page 2

The bottom line Mike is that this is indeed the truth as your client will verify. In fact, as you pointed out in the courthouse hallway after our hearing, this fact is also corroborated by the public pronouncements of Mr. Saporiti after executing the Purchase Agreement in which he stated he was going to continue with the wonderful work of Ira Seaver. As you and everyone else well knows here, that work was the subject of Mr. Seaver's Consulting Agreement. Moreover, Mr. Saporiti did in fact execute a new consulting agreement with Mr. Helfstein, but eventually refused to do so with Mr. Seaver. I believe that this sworn statement by your client is not only accurate, but will finally put to rest all of the machinations Mr. Saporiti is currently employing with respect to this agreement and "exhibit E," to not only avoid being held accountable in this case, but to ultimately avoid a trial on the merits. At a minimum, even if Mr. Saporiti were not to succeed in either respect or on this issue, he will substantially raise the cost of this litigation to our clients by continuing to screw around with it.

I, therefore, respectfully implore you to sit down with Mr. Helfstein and have him come clean as to what went on here and agree to execute an amended declaration with this statement. With all due respect, my impression of Mr. Helfstein (and he is a New York lawyer) is that he is too clever for his own good sometimes. If we are going to preserve his settlement with Mr. Seaver as well as resolve this dispute with Mr. Saporiti once and for all as well as globally, Mr. Helfstein needs to do the right thing and provide an amended declaration that states what these parties intended to do all along, which is precisely what the above sentence says. Thank you for your consideration and let me know whether we can expect an amended declaration from your client containing this sentence very shortly.

Sincerely,

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON

Jeffrey R. Santoro

JRA/kmm

cc: Ira Seaver  
Robert M. Freedman, Esq.  
Jonathan D. Blum, Esq.



EXHIBIT “C”

EXHIBIT “C”



## Michael Oakes

---

**From:** Jeff Albregts <jalbregts@nevadafirm.com>  
**Sent:** Thursday, June 24, 2010 3:23 PM  
**To:** Michael Oakes  
**Cc:** Robert Freedman; Brian Anderson; Jonathan Blum  
**Subject:** Seaver v. Helfstein

Mike:


We want to take Helfstein's depo asap so please provide to us some dates for July. If we don't receive any we will just go ahead and notice him. We also will be requesting copies of all of his docs and files and maybe even his hard drives. This case is going to trial over the k at issue here b/c of his shenanigans with it, and based on his last declaration. So, we may not have a settlement with him after all, and no he can't have the money back, at least not right now. Please let us know by next Tuesday or we'll send out the notice and subpoena for docs on 6/30. thx.

Jeff Albregts  
Santoro, Driggs, Walch,  
Kearney, Holley & Thompson  
400 South Fourth Street, Suite 300  
Las Vegas, Nevada 89101  
Tel. (702) 791-0308  
Fax. (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
[www.santorodriggs.com](http://www.santorodriggs.com)

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DISCLOSURE UNDER TREASURY DEPARTMENT CIRCULAR NO. 230. This communication (including any attachments) (a) was not intended or written to be used, and it cannot be used, by the recipient or any other taxpayer, for the purpose of avoiding penalties that may be imposed, under the Internal Revenue Code of 1986, as amended, on the taxpayer, and (b) cannot be used or referred to by anyone in promoting, marketing, or recommending a partnership or any other entity, investment plan or arrangement, to one or more taxpayers. Under Circular No. 230, practitioners are permitted to provide written tax advice for one of these purposes only if certain stringent requirements are complied with. If you would like us to provide this type of written tax advice, please contact us and we will be pleased to discuss the matter with you.

Jeffrey R. Albregts  
Attorney

 COTTON, DRIGGS, WALCH,  
HOLLEY, WOLUSON & THOMPSON

[click here for v-card](#)

[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
T: (702) 791-0308 F: (702) 791-1912  
400 South Fourth St. 3rd Floor Las Vegas Nevada 89101





No virus found in this incoming message.

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Version: 8.5.439 / Virus Database: 271.1.1/2960 - Release Date: 06/24/10 06:35:00



EXHIBIT “D”

EXHIBIT “D”



**DECLARATION UNDER PENALTY OF PERJURY OF LEWIS HELFSTEIN**

Lewis Helfstein, under penalty of perjury, states the following:

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

2. When this case came to trial, I was told that in order to preserve my settlement with Seaver, I would be required to give live testimony. That is why I agreed to do so, even though my deposition had been taken and I was beyond the subpoena power of the court.

3. I dispute the contention that I misappropriated over \$500,000 from Summit Technologies, LLC. During the post-closing period (after April 4, 2007) many customer payments were sent to either UI Supplies or Summit Technologies. To the extent that these payments were designated to the wrong entity, the CFO of UI Supplies set up two ledger accounts to make the appropriate adjustments. The ledger account was labeled "Due LH" when it should have been named "Due Summit Tech". Although the ledger account was labeled that way, those funds were used to satisfy company debts. Furthermore, as shown by the 2007 tax return, excerpts of which are attached hereto as Exhibit D-1, which Ira Seaver has had since 2008, the assets of the company were used to satisfy the remaining company obligations. The tax return shows a decrease in the following categories of major tangible assets and liabilities:

	<u>Jan 1, 2007</u>	<u>Dec 31, 2007</u>	<u>REDUCTION During 2007</u>
Accounts Receivable	1,036,261	48,637	987,624
Inventory	1,180,235	0	1,180,235
Fixed Assets	<u>212,588</u>	<u>0</u>	<u>212,588</u>
REDUCTION IN ASSETS			<b>(2,380,477)</b>
Accounts Payable	1,144,695	76,808	1,067,887
Other Liabilities (Note 5)	<u>1,360,347</u>	<u>0</u>	<u>1,360,347</u>
The note is as follows:			
Bank Line of Credit	989,476		
Note Payable	321,353		
Other	49,518		
TOTAL REDUCTION IN LIABILITIES			<b>(2,428,234)</b>



1           4.       Thus, the total reduction in <sup>tangible</sup> assets was almost identical to the total reduction in  
2 liabilities.

3           5.       Madalyn Helfstein is my wife. She and I both reside in the State of New York.  
4 Summit Laser Products, Inc. is a New York corporation and Summit Technologies, LLC is a  
5 New York limited liability company. Summit Technologies, the entity that I allegedly stole  
6 money from, conducted no business in Clark County, Nevada.  
7

8           6.       Pursuant to NRS 53.045, under penalty of perjury, I state that the foregoing is true  
9 and correct.

10           DATED this 11<sup>th</sup> day of April, 2013.

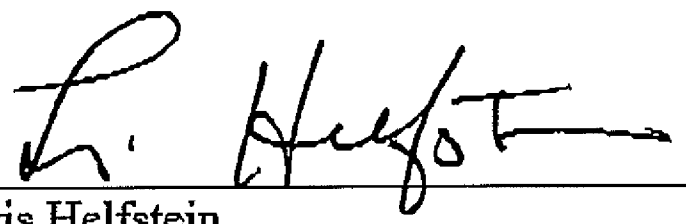
11  
12   
13 \_\_\_\_\_  
Lewis Helfstein



EXHIBIT “D-1”

EXHIBIT “D-1”



Form 1065

Department of the Treasury  
Internal Revenue Service**U.S. Return of Partnership Income**  
For calendar year 2007, or tax year beginning \_\_\_\_\_, 2007,  
ending \_\_\_\_\_, 20 \_\_\_\_\_.  
▶ See separate instructions.

OMB No. 1545-0099

**2007****A** Principal business activity

PRINTER PRODUCT

**B** Principal product or service

WHOLESALE PRODU

**C** Business code number

421400

Use the  
IRS  
label.  
Other-  
wise,  
print  
or type.SUMMIT TECHNOLOGIES, LLC  
10 MEADOWGATE EAST  
HEAD OF THE HARBOR, NY 11780**D** Employer identification  
number

20-1478121

**E** Date business started

7/16/2004

**F** Total assets (see instrs)

\$ 126,865.

**G** Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return**H** Check accounting method: (1) ☐ Cash (2) ☒ Accrual (3) ☐ Other (specify) \_\_\_\_\_ ▶ 2**I** Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year. \_\_\_\_\_ ▶ 2**J** Check if Schedule M-3 attached. \_\_\_\_\_**Caution.** Include *only* trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.I  
N  
C  
O  
M  
E

1a	3,097,051.	1c	3,097,051.
1b		2	2,138,445.
2	Cost of goods sold (Schedule A, line 8)	3	958,606.
3	Gross profit. Subtract line 2 from line 1c	4	
4	Ordinary income (loss) from other partnerships, estates, and trusts (attach statement)	5	
5	Net farm profit (loss) (attach Schedule F (Form 1040))	6	-258,716.
6	Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)	7	
7	Other income (loss) (attach statement)	8	699,890.
8	Total income (loss). Combine lines 3 through 7		

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9	Salaries and wages (other than to partners) (less employment credits)	9	354,236.
10	Guaranteed payments to partners	10	
11	Repairs and maintenance	11	4,491.
12	Bad debts	12	85,366.
13	Rent	13	80,301.
14	Taxes and licenses	14	80,418.
15	Interest	15	26,653.
16a	Depreciation (if required, attach Form 4562)	16a	
16b	Less depreciation reported on Schedule A and elsewhere on return	16b	
16c		16c	
17	Depletion (Do not deduct oil and gas depletion)	17	
18	Retirement plans, etc.	18	
19	Employee benefit programs	19	
20	Other deductions (attach statement) SEE STATEMENT 1	20	249,558.
21	Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21	881,023.
22	Ordinary business income (loss). Subtract line 21 from line 8	22	-181,133.

Sign  
Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member manager) is based on all information of which preparer has any knowledge.

Signature of general partner or limited liability company member manager

Date

3/15/08

May the IRS discuss this return  
with the preparer shown below  
(see instrs)? ☒ Yes ☐ NoPaid  
Preparer's  
Use OnlyPreparer's  
signature

ROBERT L. BELLOTTI

Date

3-14-08

Check if self-  
employed. ☐

Preparer's SSN or PTIN

P00544604

Firm's name  
(or yours if  
self-employed),  
address, and  
ZIP codeAMBROSIO & BELLOTTI, CPAS PC  
998 OLD COUNTRY ROAD, SUITE 2  
PLAINVIEW, NY 11803-4981

EIN

11-3579322

Phone no.

(516) 932-4900

PTPA0105L 12/27/07

Form 1065 (2007)

BAA For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

PA000505



Form 1065 (2007) SUMMIT TECHNOLOGIES, LLC 20-1478121

Schedule A Cost of Goods Sold (see the instructions)		1	2
1	Inventory at beginning of year		1,212,734.
2	Purchases less cost of items withdrawn for personal use		925,711.
3	Cost of labor		
4	Additional section 263A costs (attach statement)		
5	Other costs (attach statement)		
6	Total. Add lines 1 through 5		2,138,445.
7	Inventory at end of year		
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2		2,138,445.

9a Check all methods used for valuing closing inventory:

(i) ☐ Cost as described in Regulations section 1.471-3

(ii) ☐ Lower of cost or market as described in Regulations section 1.471-4

(iii) ☐ Other (specify method used and attach explanation) \_\_\_\_\_

b Check this box if there was a writedown of 'subnormal' goods as described in Regulations section 1.471-2(c) ☐ Yes ☐ No

c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ☐ Yes ☐ No

d Do the rules of section 263A (for property produced or acquired for resale) apply to the partnership? ☐ Yes ☐ No

e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? ☐ Yes ☐ No

If 'Yes', attach explanation.

Schedule B Other Information		Yes	No
1 What type of entity is filing this return? Check the applicable box:			
a <input type="checkbox"/> Domestic general partnership	b <input type="checkbox"/> Domestic limited partnership		
c <input checked="" type="checkbox"/> Domestic limited liability company	d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership	f <input type="checkbox"/> Other _____		X
2 Are any partners in this partnership also partnerships?			
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations sections 301.7701-2 and 301.7701-3? If 'Yes,' see instructions for required attachment			
4 Did the partnership file Form 8893, Election of Partnership Level Tax Treatment, or an election statement under section 6231(a)(1)(B)(ii) for partnership-level tax treatment, that is in effect for this tax year? See Form 8893 for more details			
5 Does this partnership meet all three of the following requirements?			
a The partnership's total receipts for the tax year were less than \$250,000;			
b The partnership's total assets at the end of the tax year were less than \$600,000; and			
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.			
If 'Yes,' the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item L on Schedule K-1			
6 Does this partnership have any foreign partners? If 'Yes,' the partnership may have to file Forms 8804, 8805 and 8813. See the instructions			
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?			
8 Has this partnership filed, or is it required to file, a return under section 6111 to provide information on any reportable transaction?			
9 At any time during calendar year 2007, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If 'Yes,' enter the name of the foreign country: _____			
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If 'Yes,' the partnership may have to file Form 3520. See the instructions			
11 Was there a distribution of property or a transfer (for example, by sale or death) of a partnership interest during the tax year? If 'Yes,' you may elect to adjust the basis of the partnership's assets under section 754 by attaching the statement described under Elections Made By the Partnership in the instructions			
12 Enter the number of Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return: 0			

Designation of Tax Matters Partner (see the instructions)  
Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP **SUMMIT LASER PRODUCTS INC.** Identifying number of TMP **11-3458234**

Address of designated TMP **10 MEADOWGATE EAST**  
**HEAD OF THE HARBOR, NY 11780**

Form 1065 (2007)



Schedule K Partners' Distributive Share Items		Total amount	
Income (Loss)	1 Ordinary business income (loss) (page 1, line 22)	1	-181,133.
	2 Net rental real estate income (loss) (attach Form 8825)	2	
	3a Other gross rental income (loss)	3a	
	b Expenses from other rental activities (attach stmt)	3b	
	c Other net rental income (loss). Subtract line 3b from line 3a	3c	
	4 Guaranteed payments	4	
	5 Interest income	5	
	6 Dividends: a Ordinary dividends	6a	
	b Qualified dividends	6b	
	7 Royalties	7	
	8 Net short-term capital gain (loss) (attach Schedule D (Form 1065))	8	
	9a Net long-term capital gain (loss) (attach Schedule D (Form 1065))	9a	150,000.
	b Collectibles (28%) gain (loss)	9b	
	c Unrecaptured section 1250 gain (attach statement)	9c	
	10 Net section 1231 gain (loss) (attach Form 4797)	10	-112,588.
	11 Other income (loss) (see instructions) Type ▶	11	
	Deductions	12 Section 179 deduction (attach Form 4562)	12
13a Contributions		13a	
b Investment interest expense		13b	
c Section 59(a)(2) expenditures: (1) Type ▶ (2) Amount. ▶		13c (2)	
d Other deductions (see instructions) Type ▶		13d	
Self-Employment	14a Net earnings (loss) from self-employment	14a	
	b Gross farming or fishing income	14b	
	c Gross nonfarm income	14c	
Credits	15a Low-income housing credit (section 42(j)(5))	15a	
	b Low-income housing credit (other)	15b	
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	15c	
	d Other rental real estate credits (see instructions) Type ▶	15d	
	e Other rental credits (see instructions) Type ▶	15e	
	f Other credits (see instructions) Type ▶	15f	
Foreign Transactions	16a Name of country or U.S. possession	16a	
	b Gross income from all sources	16b	
	c Gross income sourced at partner level	16c	
	Foreign gross income sourced at partnership level		
	d Passive category ▶ e General category ▶ f Other. ▶	16f	
	Deductions allocated and apportioned at partner level		
	g Interest expense ▶ h Other. ▶	16h	
	Deductions allocated and apportioned at partnership level to foreign source income		
	i Passive category ▶ j General category ▶ k Other. ▶	16k	
	l Total foreign taxes (check one): Paid <input type="checkbox"/> Accrued <input type="checkbox"/>	16l	
	m Reduction in taxes available for credit (attach statement)	16m	
n Other foreign tax information (attach statement)			
Alternative Minimum Tax (AMT) Items	17a Post-1986 depreciation adjustment	17a	
	b Adjusted gain or loss	17b	
	c Depletion (other than oil and gas)	17c	
	d Oil, gas, and geothermal properties — gross income	17d	
	e Oil, gas, and geothermal properties — deductions	17e	
	f Other AMT items (attach stmt)	17f	
	18a Tax-exempt interest income	18a	
Other Information	b Other tax-exempt income	18b	
	c Nondeductible expenses	18c	80.
	19a Distributions of cash and marketable securities	19a	
	b Distributions of other property	19b	
	20a Investment income	20a	
	b Investment expenses	20b	
	c Other items and amounts (attach stmt)		

Form 1065 (2007)

BAA



**Analysis of Net Income (Loss)**

1 Net income (loss). Combine Schedule K, lines 1 through 11. From the result, subtract the sum of Schedule K, lines 12 through 13d, and 16l. ....						1	-143,721.
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other	
a General partners ....							
b Limited partners ....	-93,418.					-50,303.	
						End of tax year	

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
	Assets	(a)	(b)	(c)	(d)
1	Cash		56,048.		78,228.
2a	Trade notes and accounts receivable	1,060,609.		72,044.	
b	Less allowance for bad debts	24,348.	1,036,261.	23,407.	48,637.
3	Inventories		1,180,235.		
4	U.S. government obligations				
5	Tax-exempt securities		8,262.		
6	Other current assets (attach stmt) SEE ST. 2.				
7	Mortgage and real estate loans				
8	Other investments (attach stmt)				
9a	Buildings and other depreciable assets	978,739.			
b	Less accumulated depreciation	766,151.	212,588.		
10a	Depletable assets				
b	Less accumulated depletion				
11	Land (net of any amortization)				
12a	Intangible assets (amortizable only)				
b	Less accumulated amortization				
13	Other assets (attach stmt) SEE ST. 3.		30,377.		
14	Total assets		2,523,771.		126,865.
	Liabilities and Capital				
15	Accounts payable		1,144,695.		76,808.
16	Mortgages, notes, bonds payable in less than 1 year		39,662.		121,352.
17	Other current liabilities (attach stmt) SEE ST. 4.				
18	All nonrecourse loans				
19	Mortgages, notes, bonds payable in 1 year or more		1,360,347.		
20	Other liabilities (attach stmt) SEE ST. 5.		-20,933.		-71,295.
21	Partners' capital accounts		2,523,771.		126,865.
22	Total liabilities and capital				

**Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return**

Note. Schedule M-3 may be required instead of Schedule M-1 (see instructions).

1	Net income (loss) per books	-50,362.	6	Income recorded on books this year not included on Schedule K, lines 1 through 11 (itemize):	
2	Income included on Schedule K, lines 1, 2, 3c, 5, 6a, 7, 8, 9a, 10, and 11, not recorded on books this year (itemize):		a	Tax-exempt interest \$	93,439.
3	Guaranteed pmts (other than health insurance)			STATEMENT 6	93,439.
4	Expenses recorded on books this year not included on Schedule K, lines 1 through 13d, and 16l (itemize):		7	Deductions included on Schedule K, lines 1 through 13d, and 16l, not charged against book income this year (itemize):	
a	Depreciation \$		a	Depreciation \$	
b	Travel and entertainment \$ 80.	80.	8	Add lines 6 and 7	93,439.
5	Add lines 1 through 4	-50,282.	9	Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	-143,721.

**Schedule M-2 Analysis of Partners' Capital Accounts**

1	Balance at beginning of year	-20,933.	6	Distributions: a Cash	
2	Capital contributed: a Cash		b	Property	
	b Property	-50,362.	7	Other decreases (itemize)	
3	Net income (loss) per books		8	Add lines 6 and 7	-71,295.
4	Other increases (itemize)		9	Balance at end of year. Subtract line 8 from line 5	
5	Add lines 1 through 4	-71,295.			



Schedule D  
(Form 1065)

Department of the Treasury  
Internal Revenue Service

Capital Gains and Losses

▶ Attach to Form 1065.

OMB No. 1545-0099

2007

Name of partnership

SUMMIT TECHNOLOGIES, LLC

Employer identification number

20-1478121

**Part I Short-Term Capital Gains and Losses — Assets Held One Year or Less**

1	(a) Description of property (Example: 100 shares of 'Z' Co)	(b) Date acquired (month, day, year)	(c) Date sold (month, day, year)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
2	Short-term capital gain from installment sales from Form 6252, line 26 or 37.....					2
3	Short-term capital gain (loss) from like-kind exchanges from Form 8824.....					3
4	Partnership's share of net short-term capital gain (loss), including specially allocated short-term capital gains (losses), from other partnerships, estates, and trusts.....					4
5	Net short-term capital gain or (loss). Combine lines 1 through 4 in column (f). Enter here and on Form 1065, Schedule K, line 8 or 11.....					5

**Part II Long-Term Capital Gains and Losses — Assets Held More Than One Year**

6	(a) Description of property (Example: 100 shares of 'Z' Co)	(b) Date acquired (month, day, year)	(c) Date sold (month, day, year)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) Subtract (e) from (d)
	GOODWILL/INTANGIBLES	VARIOUS	3/30/07	150,000.	0.	150,000.
7	Long-term capital gain from installment sales from Form 6252, line 26 or 37.....					7
8	Long-term capital gain (loss) from like-kind exchanges from Form 8824.....					8
9	Partnership's share of net long-term capital gain (loss), including specially allocated long-term capital gains (losses), from other partnerships, estates, and trusts.....					9
10	Capital gain distributions.....					10
11	Net long-term capital gain or (loss). Combine lines 6 through 10 in column (f). Enter here and on Form 1065, Schedule K, line 9a or 11.....					11 150,000.

BAA For Paperwork Reduction Act Notice, see the Instructions for Form 1065.

Schedule D (Form 1065) 2007



Form **4797**Department of the Treasury  
Internal Revenue Service (99)

# Sales of Business Property

(Also Involuntary Conversions and Recapture Amounts  
Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return. ▶ See separate instructions.

OMB No. 1545-0184

**2007**Attachment  
Sequence No. **27**

Name(s) shown on return

**SUMMIT TECHNOLOGIES, LLC**

Identifying number

**20-1478121**

- 1 Enter the gross proceeds from sales or exchanges reported to you for 2007 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions) **1** **715,751.**

## Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft — Most Property Held More Than 1 Year (see instructions)

2	(a) Description of property	(b) Date acquired (month, day, year)	(c) Date sold (month, day, year)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
	MANUFACTURING AND OTHER FIXED ASSETS						
		VARIOUS	3/30/07	100,000.	766,151.	978,739.	-112,588.

- 3 Gain, if any, from Form 4684, line 39. **3**
- 4 Section 1231 gain from installment sales from Form 6252, line 26 or 37. **4**
- 5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824. **5**
- 6 Gain, if any, from line 32, from other than casualty or theft. **6**
- 7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows: **7** **-112,588.**  
**Partnerships (except electing large partnerships) and S corporations.** Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.
- Individuals, partners, S corporation shareholders, and all others.** If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.
- 8 Nonrecaptured net section 1231 losses from prior years (see instructions). **8**
- 9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions). **9**

## Part II Ordinary Gains and Losses (see instructions)

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):						
BULK SALE OF INVENTORY	VARIOUS	3/30/07	715,751.		974,467.	-258,716.

- 11 Loss, if any, from line 7. **11**
- 12 Gain, if any, from line 7 or amount from line 8, if applicable. **12**
- 13 Gain, if any, from line 31. **13**
- 14 Net gain or (loss) from Form 4684, lines 31 and 38a. **14**
- 15 Ordinary gain from installment sales from Form 6252, line 25 or 36. **15**
- 16 Ordinary gain or (loss) from like-kind exchanges from Form 8824. **16**
- 17 Combine lines 10 through 16. **17** **-258,716.**
- 18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:
- a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from Form 4797, line 18a. See instructions. **18a**
- b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14. **18b**

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form **4797** (2007)



2007

## FEDERAL STATEMENTS

PAGE 1

SUMMIT TECHNOLOGIES, LLC

20-1478121

STATEMENT 1  
FORM 1065, LINE 20  
OTHER DEDUCTIONS

ADVERTISING.....	\$	10,495.
AUTO AND TRUCK EXPENSE.....		2,400.
BANK CHARGES.....		8,717.
COMPUTER EXPENSE.....		5,065.
CONSULTING.....		42,850.
INSURANCE.....		49,063.
LASERSTAR/ADVANCE.....		16,673.
LEGAL AND PROFESSIONAL.....		28,315.
MEALS AND ENTERTAINMENT.....		80.
MISCELLANEOUS.....		18.
OFFICE EXPENSE.....		4,196.
PAYROLL PROCESSING FEES.....		1,649.
POSTAGE.....		1,863.
SECURITY.....		555.
SUPPLIES.....		13,968.
TELEPHONE.....		15,865.
TESTING AND EQUIPMENT EXPENSE.....		5,116.
TRADE SHOWS AND ASSOCIATION DUES.....		5,752.
TRAVEL.....		3,531.
UTILITIES.....		29,334.
WAREHOUSE EXPENSE.....		4,053.
TOTAL	\$	249,558.

STATEMENT 2  
FORM 1065, SCHEDULE L, LINE 6  
OTHER CURRENT ASSETS

	BEGINNING	ENDING
PREPAID EXPENSES.....	\$ 8,262.	\$ 0.
TOTAL	\$ 8,262.	\$ 0.

STATEMENT 3  
FORM 1065, SCHEDULE L, LINE 13  
OTHER ASSETS

	BEGINNING	ENDING
SECURITY DEPOSITS.....	\$ 30,377.	\$ 0.
TOTAL	\$ 30,377.	\$ 0.

STATEMENT 4  
FORM 1065, SCHEDULE L, LINE 17  
OTHER CURRENT LIABILITIES

	BEGINNING	ENDING
ACCRUED EXPENSES.....	\$ 25,502.	\$ 0.
DUE TO SEAVER TRUST.....	0.	121,352.
WAGES PAYABLE.....	14,160.	0.
TOTAL	\$ 39,662.	\$ 121,352.



2007

## FEDERAL STATEMENTS

PAGE 2

SUMMIT TECHNOLOGIES, LLC

20-1478121

STATEMENT 5  
FORM 1065, SCHEDULE L, LINE 20  
OTHER LIABILITIES

	BEGINNING	ENDING
LINE OF CREDIT PAYABLE.....	\$ 989,476.	\$ 0.
NOTE PAYABLE.....	321,353.	0.
OTHER.....	49,518.	0.
TOTAL	<u>\$ 1,360,347.</u>	<u>\$ 0.</u>

STATEMENT 6  
FORM 1065, SCHEDULE M-1, LINE 6  
INCOME ON BOOKS NOT ON SCHEDULE K

ACCOUNTS PAYABLE RESERVE INCREASE.....	\$ 60,000.
ALLOWANCE FOR DOUBTFUL ACCOUNTS DECREASE.....	940.
INVENTORY RESERVE ELIMINATED ON SALE.....	32,499.
TOTAL	<u>\$ 93,439.</u>



2007

## FEDERAL SUPPORTING DETAIL

PAGE 1

SUMMIT TECHNOLOGIES, LLC

20-1478121

DEDUCTIONS  
INTEREST

INTEREST EXPENSE .....	\$	32,227.
NET OF INTEREST INCOME .....		-5,574.
TOTAL	\$	<u>26,653.</u>

BALANCE SHEET (ASSETS/LIABILITIES)  
ACCOUNTS PAYABLE

ACCOUNTS PAYABLE .....	\$	136,808.
ACCOUNTS PAYABLE RESERVE .....		-60,000.
TOTAL	\$	<u>76,808.</u>



EXHIBIT “E”

EXHIBIT “E”



IN THE SUPREME COURT OF THE STATE OF NEVADA

LEWIS HELFSTEIN; MADALYN  
HELFSTEIN; SUMMIT LASER  
PRODUCTS, INC.; AND SUMMIT  
TECHNOLOGIES, LLC,

Appellants,

vs.

UI SUPPLIES; UNINET IMAGING,  
INC.; AND NESTOR SAPORITI,  
Respondents.

No. 56383

**FILED**

OCT 19 2010

TRACEE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER GRANTING MOTION FOR STAY

This is an appeal from a district court order refusing to compel arbitration of crossclaims/third-party claims. Appellants have moved to stay the district court proceedings over those claims pending appeal. Respondents oppose the motion to the extent that it seeks to stay the proceedings only as to the crossclaims/third-party claims; respondents propose that if anything is stayed, the entire proceedings below must be stayed, upon payment of a supersedeas bond.

In determining whether to grant a stay pending appeal, this court generally considers the following factors: (1) whether the object of the appeal will be defeated if the stay is denied; (2) whether appellants will suffer irreparable or serious injury if the stay is denied; (3) whether respondents will suffer irreparable or serious injury if the stay is granted; and (4) whether appellants are likely to prevail on the merits in the appeal. NRAP 8(c). Having considered appellants' motion and respondents' opposition, and appellants' reply in light of these factors, we conclude that the factors militate in favor of a stay. See Mikohn Gaming Corp. v. McCrea, 120 Nev. 248, 251-52, 89 P.3d 36, 38 (2004) (noting that,



in appeals from orders refusing to compel arbitration, "absent a strong showing that the appeal lacks merit or that irreparable harm will result if a stay is granted, a stay should issue to avoid defeating the object of the appeal"). Accordingly, we grant the motion for a stay and hereby stay the district court proceedings in District Court Case No. A587003 as they pertain to the crossclaims/third-party claims. As no judgment has been entered on those claims, no supersedeas bond is required. NRCP 62(d); see generally McCulloch v. Jeakins, 99 Nev. 122, 659 P.2d 302 (1983).

It is so ORDERED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Foley & Oakes, PC  
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.  
Eighth District Court Clerk



**DECLARATION UNDER PENALTY OF PERJURY OF LEWIS HELFSTEIN**

Lewis Helfstein, under penalty of perjury, states the following:

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

2. When this case came to trial, I was told that in order to preserve my settlement with Seaver, I would be required to give live testimony. That is why I agreed to do so, even though my deposition had been taken and I was beyond the subpoena power of the court.

3. I dispute the contention that I misappropriated over \$500,000 from Summit Technologies, LLC. During the post-closing period (after April 4, 2007) many customer payments were sent to either UI Supplies or Summit Technologies. To the extent that these payments were designated to the wrong entity, the CFO of UI Supplies set up two ledger accounts to make the appropriate adjustments. The ledger account was labeled "Due LH" when it should have been named "Due Summit Tech". Although the ledger account was labeled that way, those funds were used to satisfy company debts. Furthermore, as shown by the 2007 tax return, excerpts of which are attached hereto as Exhibit D-1, which Ira Seaver has had since 2008, the assets of the company were used to satisfy the remaining company obligations. The tax return shows a decrease in the following categories of major tangible assets and liabilities:

	<u>Jan 1, 2007</u>	<u>Dec 31, 2007</u>	<u>REDUCTION</u> <u>During 2007</u>
Accounts Receivable	1,036,261	48,637	987,624
Inventory	1,180,235	0	1,180,235
Fixed Assets	<u>212,588</u>	<u>0</u>	<u>212,588</u>
REDUCTION IN ASSETS			<b>(2,380,477)</b>
Accounts Payable	1,144,695	76,808	1,067,887
Other Liabilities (Note 5)	<u>1,360,347</u>	<u>0</u>	<u>1,360,347</u>
The note is as follows:			
Bank Line of Credit	989,476		
Note Payable	321,353		
Other	49,518		
TOTAL REDUCTION IN LIABILITIES			<b>(2,428,234)</b>

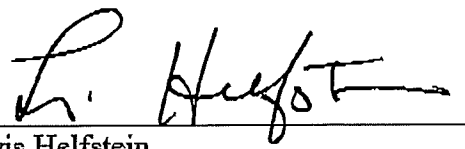


1           4.       Thus, the total reduction in <sup>tangible</sup> assets was almost identical to the total reduction in  
2 liabilities.

3           5.       Madalyn Helfstein is my wife. She and I both reside in the State of New York.  
4 Summit Laser Products, Inc. is a New York corporation and Summit Technologies, LLC is a  
5 New York limited liability company. Summit Technologies, the entity that I allegedly stole  
6 money from, conducted no business in Clark County, Nevada.  
7

8           6.       Pursuant to NRS 53.045, under penalty of perjury, I state that the foregoing is true  
9 and correct.

10           DATED this 11<sup>th</sup> day of April, 2013.

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14 Lewis Helfstein  
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28



IN THE SUPREME COURT OF THE STATE OF NEVADA

---

No.

Electronically Filed  
Apr 11 2014 03:39 p.m.  
Sharon K. Cline

**LEWIS HELFSTEIN; MADALYN HELFSTEIN; SUMMIT LASER TECHNOLOGIES, INC.; AND SUMMIT TECHNOLOGIES, LLC.** Clerk of Supreme Court

Petitioners,

vs,

**EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND  
FOR THE COUNTY OF CLARK**

Respondent

and,

**IRA AND EDYTHE SEAVER FAMILY TRUST, IRA SEAVER, CIRCLE  
CONSULTING CORPORATION.**

Real Parties in Interest.

---

Eighth Judicial District Court, Clark County, Nevada  
The Honorable Elizabeth Gonzalez, District Judge  
The Honorable Elissa Cadish, District Judge

---

District Court Case No. A-09-587003

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**PETITIONERS APPENDIX VOLUME II**

---

J. Michael Oakes, Esq.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Tel.: (702) 384-2070  
Fax: (702) 384-2128  
mike@foleyoakes.com  
*Attorneys for Petitioners*



**INDEX TO PETITIONER'S APPENDIX****SUPREME COURT NO.**

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Certificate of Mailing on Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them	Volume II	Pages 412 – 441
Certificate of Mailing on Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them	Volume II	Pages 442 – 471
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**INDEX TO PETITIONER'S APPENDIX****SUPREME COURT NO.**

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Notice of Entry of Order For Evidentiary Hearing on Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them	Volume IV	Pages 917 - 921
Notice of Entry of Stipulation and Order for Blocked Account	Volume IV	Pages 925 - 929
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Notice of Entry of Order Granting Motion for Stay	Volume II	Pages 347 - 351
Notice of Filing Declaration of Elizabeth G. Gonzalez in Response to Defendants Motion for Disqualification of Judge	Volume IV	Pages 869 - 889
Notice of Non-Opposition to Cross Defendants, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion for Stay or Dismissal, and to Compel Arbitration	Volume I	Pages 161 - 163



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**INDEX TO PETITIONER'S APPENDIX****SUPREME COURT NO.**

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CLERK OF THE COURT

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

Filed through Wiznet on July 7, 2010

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

14 vs.

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

Defendants.

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

Counterclaimants,

23 vs.

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

Counterdefendants.

CASE NO. A587003  
DEPT NO. XI

NOTICE OF APPEAL



1 UI SUPPLIES, UNINET IMAGING and  
2 NESTOR SAVORITI,

3 Cross-Claimants,

4 vs.

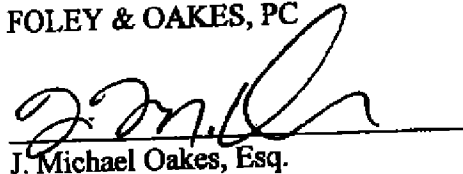
5 LEWIS HELFSTEIN, MADALYN  
6 HELFSTEIN, SUMMIT LASER PRODUCTS,  
7 INC., SUMMIT TECHNOLOGIES, LLC,

8 Cross-Defendants.

9 NOTICE IS HEREBY GIVEN that Lewis Helfstein, Madalyn Helfstein, Summit Laser  
10 Products, Inc., and Summit Technologies, LLC, hereby appeal to the Supreme Court of the State  
11 of Nevada from the Order Denying Motion To Stay Or Dismiss, entered herein on June 15, 2010.

12 DATED this 12 day of July, 2010.

13 FOLEY & OAKES, PC

14 

15 J. Michael Oakes, Esq.  
16 Nevada Bar No. 1999  
17 850 East Bonneville Avenue  
18 Las Vegas, Nevada 89101-5909  
19 Attorneys for Lewis Helfstein, Madalyn  
20 Helfstein, Summit Laser Products, Inc.,  
21 And Summit Technologies, LLC,  
22 Cross-Defendants  
23  
24  
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26  
27  
28



**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that a true and correct copy of the foregoing NOTICE OF APPEAL was served to those persons designated below on the 2<sup>nd</sup> day of July, 2010:

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

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

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

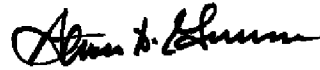
Jeffrey R. Albregts, Esq.  
Santoro, Driggs, Walch, Kearney,  
Holley & Thompson  
400 South Fourth Street  
Third Floor  
Las Vegas, NV 89101  
Facsimile No. 702- 791-1912  
*Attorneys for Plaintiffs*

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

  
An Employee Of Foley & Oakes, PC



J. Michael Oakes, Esq.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Tel.: (702) 384-2070  
Fax: (702) 384-2128  
mike@foleyoakes.com



CLERK OF THE COURT

*Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
and Summit Technologies, LLC, Cross-Defendants*

Filed through Wiznet on July 7, 2010

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. A587003

DEPT NO. XI

**LEWIS HELFSTEIN, MADALYN  
HELFSTEIN, SUMMIT LASER  
PRODUCTS, INC., AND SUMMIT  
TECHNOLOGIES, LLC'S MOTION  
TO STAY CROSSCLAIM PENDING  
APPEAL**

DATE:

TIME:

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

Counterclaimants,

vs.

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

Counterdefendants.



1 UT SUPPLIES, UNINET IMAGING and  
2 NESTOR SAPORITI,

3 Cross-Claimants,

4 vs.

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

7 Cross-Defendants.  
8

9 COMES NOW Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and  
10 Summit Technologies, LLC, (hereinafter referred to collectively as the "Helfstein Cross-  
11 Defendants"), by and through their attorneys, J. Michael Oakes, Esq. of Foley & Oakes, PC,  
12 and hereby submit their Motion to Stay Crossclaim Pending Appeal. This Motion is based  
13 upon the pleadings and papers on file herein, the Memorandum of Points Authorities which  
14 follows, and such argument as will be heard at the time of the hearing of this Motion.  
15

16 DATED this 7<sup>th</sup> day of July, 2010.

17 FOLEY & OAKES, PC

18 

19 J. Michael Oakes, Esq.

20 Nevada Bar No. 1999

21 850 East Bonneville Avenue

22 Las Vegas, Nevada 89101

23 *Attorneys for Lewis Helfstein, Madalyn*

24 *Helfstein, Summit Laser Products, Inc.,*

25 *and Summit Technologies, LLC, Cross-Defendants*  
26  
27  
28



1 **NOTICE OF MOTION**

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

8 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the undersigned  
9 will bring the following MOTION TO STAY CROSSCLAIM PENDING APPEAL on for  
10 hearing before the above-entitled Court in Department No. XI, on the \_\_\_\_ day of  
11 \_\_\_\_\_, 2010, at the hour of \_\_\_\_\_.m. of said date, or as soon thereafter as  
12 counsel can be heard.

13 DATED this 11 day of July, 2010.

14 FOLEY & OAKES, PC

15   
16 J. Michael Oakes, Esq.

17 Nevada Bar No. 1999

18 850 East Bonneville Avenue

19 Las Vegas, Nevada 89101

20 *Attorneys for Lewis Helfstein, Madalyn*

21 *Helfstein, Summit Laser Products, Inc.,*

22 *and Summit Technologies, LLC,*

23 *Cross-Defendants*  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Introduction**

3  
4 The Helfstein Cross-Defendants have filed their Notice of Appeal contemporaneously  
5 with the filing of this motion.

6 The Helfstein Cross-Defendants are hereby requesting that the Court stay this action as  
7 to the crossclaim that has been asserted against them, pending disposition of their appeal from  
8 the June 15, 2010 Order Denying Motion To Stay Or Dismiss.

9  
10 **II. Legal Argument**

11 Nevada Statutes provide for an interlocutory appeal from an order denying a motion to  
12 compel arbitration. Such an appeal is specifically provided for in NRS 38.247(1)(a), which  
13 simply states that "An appeal may be taken from: (a) An order denying a motion to compel  
14 arbitration."

15 In considering the appeal, the order will be subject to a de novo review. Specifically,  
16 as stated in State v. Second Judicial District Court of the State of Nevada, 199 P.3d 828, 125  
17 Nev. 5 (Nev. 01/29/2009):

18  
19 Whether a dispute arising under a contract is arbitrable is  
20 a matter of contract interpretation, which is a question of law that  
21 we review de novo.

22 Therefore, although this Court has previously ruled against the Helfstein Defendants,  
23 there remains a reasonable likelihood that the Nevada Supreme Court, in reviewing the matter  
24 de novo, will determine that the arbitration clause shall govern.

25 In the absence of a stay pending appeal, a successful appeal would be rendered moot.  
26 The Helfstein Defendants would be required to appear and defend the case in Court, thereby  
27



1 depriving them of the cost saving benefits of their bargain, whereby all disputes were to be  
2 arbitrated in Nassau County, New York.

3 Based thereon, in order to preserve their rights pending appeal, the Helfstein  
4 Defendants are requesting that this Court stay the adjudication of the Cross Claim.  
5

6 DATED this 7<sup>th</sup> day of July, 2010.

7 FOLEY & OAKES, PC

8 

9 J. Michael Oakes, Esq.

10 Nevada Bar No. 1999

11 850 East Bonneville Avenue

12 Las Vegas, Nevada 89101

13 Attorneys for Lewis Helfstein, Madalyn

14 Helfstein, Summit Laser Products, Inc.,

15 Summit Technologies, LLC, Cross-Defendants  
16  
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**CERTIFICATE OF SERVICE BY MAIL AND BY FACSIMILE**

I hereby certify that a true and correct copy of the foregoing DEFENDANTS, LEWIS  
HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC., SUMMIT  
TECHNOLOGIES, LLC'S MOTION TO STAY CROSSCLAIM PENDING APPEAL was  
served to those persons designated below on the 22 day of July, 2010:

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

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

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

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

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

  
An Employee Of Foley & Oakes, PC



1 **OPPM**

2 GARY E. SCHNITZER, ESQ.

3 Nevada Bar No. 395

4 MICHAEL B. LEE, ESQ.

5 Nevada Bar No. 10122

6 KRAVITZ, SCHNITZER, SLOANE,

7 & JOHNSON, CHTD.

8 8985 S. Eastern Ave., Suite 200

9 Las Vegas, Nevada 89123

10 Telephone: (702) 222-4142

11 Facsimile: (702) 362-2203

12 Email: gschnitzer@kssattorneys.com

13 mlee@kssattorneys.com

14 *Attorneys for Defendants UI Supplies,*

15 *UniNet Imaging and Nestor Saporiti*

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CLERK OF THE COURT

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

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

14 Plaintiff,

15 vs.

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

22 Defendants.

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

25 Counter-Claimants

26 vs.

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

Counter-Defendants

Case No. A587003

Dept. No. XI

**DEFENDANTS UI SUPPLIES, UNINET  
IMAGING AND NESTOR SAPORITI'S  
OPPOSITION TO CROSS  
DEFENDANTS', LEWIS HELFSTEIN,  
MADALYN HELFSTEIN, SUMMIT  
LASER TECHNOLOGIES, LLC.'S  
MOTION TO STAY CROSSCLAIM  
PENDING APPEAL; COUNTER-  
MOTION TO DISMISS IF STAY IS  
GRANTED**

Date of Hearing: August 20, 2010

Time of Hearing: chambers



1 UI SUPPLIES, UNINET IMAGING AND  
2 NESTOR SAPORITI

3 Cross-Claimants

4 vs.

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

8 Cross-Defendants

**DEFENDANTS UI SUPPLIES, UNINET  
IMAGING AND NESTOR SAPORITI'S  
OPPOSITION TO CROSS  
DEFENDANTS', LEWIS HELFSTEIN,  
MADALYN HELFSTEIN, SUMMIT  
LASER TECHNOLOGIES, LLC.'S  
MOTION TO STAY CROSSCLAIM  
PENDING APPEAL**

9 COME NOW, UI Supplies, UniNet Imaging (UI Supplies and UniNet Imaging are  
10 collectively referred to as "UniNet"), and Nestor Saporiti ("Mr. Saporiti") (UI, UniNet, and Mr.  
11 Saporiti are collectively referred to as the "UniNet Defendants"), by and through their attorneys of  
12 record, the law firm of Kravitz, Schnitzer, Sloane, & Johnson, Chtd., and hereby respectfully file this  
13 Opposition ("Opposition") to Cross Defendants, Lewis Helfstein ("Mr. Helfstein"), Madalyn  
14 Helfstein, Summit Laser Products, Inc. ("Summit"), and Summit Technologies, LLC. (also referred  
15 to as "Summit") (all collectively referred to as "Helfstein Defendants") Motion to Stay Crossclaim  
16 Pending Appeal ("Motion"). This Opposition is made and based upon the accompanying  
17 Memorandum of Points and Authorities, any attached exhibits, affidavits, declarations, or other  
18 supporting documents, and any oral argument permitted at the time of the hearing.

19 The Opposition refers to the remaining Parties as follows: the Ira and Edythe Seaver Family  
20 Trust; Ira Sever ("Mr. Seaver"); and Circle Consulting Corporation ("Circle Consulting"); and Ira  
21 and Edythe Seaver Family Trust, Mr. Seaver, and Circle Consulting as "Plaintiffs".

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. INTRODUCTION**

24 **A. Summary of Argument**

25 The Helfstein Defendants are indispensable parties to this litigation. If a stay is permissible,  
26 then the entire action should be stayed - not just the cross-claims. However, if the stay is limited to  
27 the cross-claims only, then, alternatively, Plaintiffs' action should be dismissed under Nevada Rule  
28 of Civil Procedure 19(a). The Helfstein Defendants should be required to post a supercedas bond



1 for \$2 Million if the cross-claims are stayed. This represents Plaintiffs' potential damages that  
2 would be the subject of the cross-claims.

3 **B. Statement of the Facts**

4 The following facts are taken from Plaintiffs' Complaint. On or about August 12, 2004, the  
5 Helfstein Defendants entered into an agreement with Mr. Seaver to form Summit. *See* Complaint at  
6 ¶ 5. The Helfstein Defendants would manage and control Summit, but would need Mr. Seaver's  
7 approval on decisions concerning the capital structure of Summit. *Id.* For compensation, Mr. Seaver  
8 and/or the Seaver Trust were to receive \$6,700 per month in distributions from Summit subject to a  
9 \$55,000 pretax profit. *Id.* Furthermore, Summit's operating agreement required Summit to enter  
10 into the Consulting Agreement with Mr. Seaver for an annual fee of \$120,000 with annual \$5,000  
11 increases. *Id.* On or about September 1, 2004, the Helfstein Defendants entered into an operating  
12 agreement with the Seaver Trust for the operations of Summit as a New York limited liability  
13 company ("Operating Agreement"). *Id.* at ¶ 6.

14 1. Consulting Agreement

15 On the same day of the execution of the Operating Agreement, Circle Consulting entered into  
16 an agreement with Summit that established Circle Consulting would provide consulting services, as  
17 agreed in the Operating Agreement, to Summit from January 1, 2005 to December 31, 2014  
18 (previously referred to as "Consulting Agreement"). *See Id.*; *see also* Consulting Agreement  
19 attached as Exhibit "1" at ¶ 2 at IS0000104. In terms of the material provisions of the Consulting  
20 Agreement to the Motion, it contained a paragraph stating that:

21 14. Governing Law.

22 The agreement shall be governed by and construed in  
23 accordance with the laws of the State of Nevada. If any provision  
24 of this agreement shall be unenforceable or invalid, such  
25 unenforceability or invalidity shall not affect the remaining  
26 provisions of this agreement. In the event of any such action,  
proceeding or counterclaim brought by either party hereto in  
connection with or arising under this Agreement, the parties  
hereby agree to waive trial by jury in any such action or  
proceeding.

27 *See* Ex. 1 at ¶ 14 at IS 0000110-11.  
28



2. Agreement For Purchase and Sale of Assets

On or about March 27, 2007, UI and Summit entered into the Agreement for Purchase and Sale of Assets by and between UI Supplies, INC., and SUMMIT TECHNOLOGIES, LLC ("Asset Purchase Agreement"). See Asset Purchase Agreement attached as Exhibit "2" at 1. In terms of employment contracts and other benefits, the Asset Purchase Agreement specifically provided that:

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

See *Id.* at ¶ 7.6 (emphasis added). "Exhibit E" explicitly states that "CONSULTING AGREEMENT WITH IRA SEAVER AND LEWIS HELFSTEIN NOT BEING ASSUMED." See Exhibit "E" attached as Exhibit "3". Thus, the Consulting Agreement automatically terminated as of the Closing Date. *Id.*

Furthermore, on November 10, 2009, Mr. Helfstein provided a Declaration regarding the Consulting Agreement. He wrote that:

I was responsible for negotiating and approving the [Asset Purchase Agreement] on behalf of Summit. As part of the [Asset Purchase Agreement], Uninet negotiated replacement consulting agreements between Uninet, myself and Mr. Seaver. I executed a replacement consulting agreement with Uninet on my own behalf. There were negotiations between Uninet and Seaver for a replacement agreement, but to the best of my knowledge was (sic) no such agreement was signed.

See Declaration of Lewis Helfstein attached as Exhibit "4" at ¶ 7. Thus, the Asset Purchase Agreement clearly establishes that the UniNet Defendants did not assume the Consulting Agreement. Nevertheless, Plaintiffs have brought a frivolous lawsuit against the UniNet Defendants under the terms of the Consulting Agreement.

a. Warranties From Seller to UniNet Defendants

The Asset Purchase Agreement provided the UniNet Defendants with a series of warranties, which are directly applicable to the UniNet Defendants' right to seek indemnification from the



1 Helfstein Defendants for the claims alleged by Plaintiffs. Summit represented that it had the  
2 approval and authority of all members to enter into the Asset Purchase Agreement. *See* Ex. 2 at ¶  
3 6.1. Similarly, Summit asserted that it had full power and authority to enter into the Asset Purchase  
4 Agreement “without any conflict with any other restriction or limitation, whether imposed by or  
5 contained in Seller’s management agreement or by or in any law, legal requirement, or otherwise.”  
6 *Id.*

7 Additionally, Summit also represented that there were no potential claims or threats of  
8 litigation involving the assets it was selling other than ACM Technologies v. Summit Technologies  
9 LLC. *See* Ex. 2. It provided a general disclosure that:

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

15 *Id.* (emphasis added).

16 Additionally, the Asset Purchase Agreement also stated that:

17 The execution, delivery, and performance of this Agreement by Seller and  
18 the consummation of the transactions contemplated by this Agreement  
19 will not result in or constitute any of the following: (a) a default or an  
20 event that, with notice, lapse of time, or both, would be a default, breach,  
21 or violation of the management agreement of Seller or any lease, license,  
promissory note, conditional sales contract, commitment, indenture, or  
other agreement, instrument, or arrangement to which Seller is a party or  
by which any of them or any asst or properties of any of them is bound .  
...”

22 *Id.* The Asset Purchase Agreement also provided that it had the necessary right, power, legal  
23 capacity, and authority to enter into the agreement, and “no approvals or consents of any person other  
24 than the Seller [was] necessary in connection with the sale” of Summit’s assets. *Id.* at ¶ 7.10.

25 Finally, and most importantly, Summit stated that:

26 “to the best of Seller’s knowledge, none of the representations and  
27 warranties made by Seller in this Agreement, or in any certificate or  
28 memorandum furnished or to be furnished, contains or will contain any  
untrue statement of material fact, or omits to state a material fact  
necessary to prevent the statement from being misleading.”



1 *Id.* at ¶ 7.12.

2 In total, the Helfstein Defendants provided several warranties to the UniNet Defendants that:  
3 (1) the Consulting Agreement was terminated; (2) it had the necessary authority and consent to  
4 terminate the Consulting Agreement; (3) there were no potential claims or threats of litigation; (4)  
5 there would not be a breach of the Consulting Agreement from the Asset Purchase Agreement; and  
6 (5) there were no misrepresentations of material fact that would make any of the foregoing  
7 misleading.

8  
9 b. *UniNet Defendants Relied on Helfstein Defendants' Representation  
that the Consulting Agreement Was not Being Assigned*

10 The Helfstein Defendants induced the UniNet Defendants into executing the Asset Purchase  
11 Agreement based on their representation that the Consulting Agreement was not being assigned  
12 through the Asset Purchase Agreement. The UniNet Defendants did not want the Consulting  
13 Agreement. They merely wanted the technology and assets owned by Summit. Exhibit "E" and the  
14 Declaration of Mr. Helfstein all demonstrate that the Asset Purchase Agreement did not assign the  
15 Consulting Agreement. These are key facts that support the UniNet Defendants' claims for  
16 indemnification from the Helfstein Defendants as to the Plaintiffs' claims. Moreover, it shows that  
17 the Helfstein Defendants status as indispensable parties.

18 **C. Statement of Procedure**

19 On April 3, 2009, Plaintiffs filed a Complaint against both the Helfstein Defendants and  
20 UniNet Defendants. In the Complaint, Plaintiffs assert ten causes of action: (1) Breach of Circle  
21 Consulting Contract (against all Defendants); (2) Breach of Summit Technologies Formation  
22 Agreement (against Helfstein Defendants Only); (3) Breach of Summit Technologies Operating  
23 Agreement (against Helfstein Defendants and Summit Only); (4) Breach of Fiduciary Duty (against  
24 Helfstein Defendants Only); (5) Promissory Estoppel (against UniNet Defendants Only); (6) Unjust  
25 Enrichment (against UniNet Defendants Only); (7) Accounting (against Summit and Helfstein  
26 Defendants Only); (8) Declaratory Relief (against All Defendants); (9) Breach of Implied Covenant  
27 of Good Faith and Fair Dealing (against All Defendants); and (10) Alter Ego (against All  
28 Defendants). However, on November 23, 2009, Plaintiffs executed a voluntary dismissal of the



1 Helfstein Defendants. Notably, all of Plaintiffs' claims arise under the Consulting Agreement.

2 In turn, on January 19, 2010, the UniNet Defendants filed a Cross-Claim against the Helfstein  
3 Defendants. The Cross-Claim asserts twelve claims against the Helfstein Defendants: (1) Breach of  
4 Contract; (2) Breach of the Covenant of Good Faith and Fair Dealing; (3) Unjust Enrichment; (4)  
5 Fraud; (5) Fraudulent Misrepresentation; (6) Intentional Misrepresentation; (7) Negligent  
6 Misrepresentation; (8) Breach of Express and Implied Warranties; (9) Implied Indemnity; (10)  
7 Express Indemnity; (11) Apportionment; and (12) Equitable Estoppel.<sup>1</sup>

8 Plaintiffs are asserting claims for alleged breach of the Consulting Agreement against the  
9 UniNet Defendants. *See* Compl. at ¶¶ 24-27, 48-53. However, the UniNet Defendants were not a  
10 party to that contract. Only the Helfstein Defendants were parties to both the Consulting Agreement  
11 and the Asset Purchase Agreement. *See* Exs. 1, 2. In that light, they are "indispensable" to the  
12 adjudication of the dispute over the Consulting Agreement, and to the UniNet Defendants' defense  
13 from Plaintiffs' frivolous litigation. Similarly, the Helfstein Defendants are liable to the UniNet  
14 Defendants under a theory of indemnification for any damages they may incur as a result of the  
15 claims arising under the Consulting Agreement.

16 On April 20, 2010, the Helfstein Defendants filed a Motion to Stay or Dismissal and to  
17 Compel Arbitration ("Compel Motion"). On May 25, 2010, this Honorable Court heard oral  
18 arguments in support of the legal briefs from the Parties regarding the Compel Motion. After  
19 entertaining all Parties, this Court denied the Compel Motion. It found that:

20 Cross-Claimants' cross claims against Cross-Defendants do not arise  
21 under the 2007 Agreement for Purchase and Sale of Assets by and  
22 between UI Supplies, INC., and SUMMIT TECHNOLOGIES, LLC.  
23 ("Asset Purchase Agreement"). As such, the binding arbitration clause,  
choice of forum, and choice of law provisions of the Asset Purchase  
Agreement do not apply.

24 *See* Order Denying Motion to Stay or Dismiss dated June 10, 2010 attached as Exhibit "5". On July  
25 15, 2010, this Order was filed. On July 16, 2010, the Order was entered. Thereafter, on July 7,  
26

---

27 <sup>1</sup> In terms of classifying the cross-claims, the first eight claims arise under Nevada Rule of Civil Procedure 13(h).  
28 The remaining claims arise under Nevada Rule of Civil Procedure 14(a) based on a theory of indemnification, which  
constitute third-party claims.



2010, the Helfstein Defendants filed a Notice of Appeal, Case Appeal Statement, and this instant Motion.

## II. DISCUSSION

The Helfstein Defendants seek to stay the cross-claim asserted against them pending their appeal. *See* Mot. at 4:6-8. However, the Helfstein Defendants are indispensable parties to Plaintiffs' case. If a complete stay is improper, then Plaintiffs' case should be dismissed under Nevada Rule of Civil Procedure 19(a). Alternatively, if a stay is appropriate, the Helfstein Defendants should be required to post a bond for \$2 Million. Furthermore, any stay should apply to the entire case, not simply the cross-claim. In support, the following Discussion is organized into four Parts. Part A sets forth the standard for seeking a motion to stay pending appeal. Part B states the factors that the Nevada Supreme Court considers in requiring a supercedas bond. Part C asserts that a partial stay is improper, and a stay of the entire case pending appeal would be more appropriate. Finally, in the alternative, Part D requests a dismissal of Plaintiffs' case if the Helfstein Defendants cannot be made a party to this action.

### A. Standard for a Motion to Stay Pending Appeal

Nevada Revised Statute §38.247(1)(a) allows an appeal of an order denying a motion to compel arbitration. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *In re Smith*, 389 B.R. 902, 917 (Bkrtcy. D. Nev. 2008) (quoting *Landis v. North American Co.*, 299 U.S. 248, 57 S.Ct. 163, 81 L.Ed. 153 (1936)). In *Landis*, the United States Supreme Court stated that the exercise of this power "can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis*, 299 U.S. at 254-55, 57.

The *Smith* Court further took notice that, in terms of staying adversary proceedings:

"[w]here it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which



could be expected to result from a stay.”

*In re Smith*, 389 B.R. at 917 (quoting *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir.2005)).

Similarly, Nevada has guidelines that a court should in weighing considering whether to issue a stay. In terms of appeals, courts consider the following factors: (1) whether the object of the appeal will be defeated if the stay is denied, (2) whether appellant will suffer irreparable or serious injury if the stay is denied, (3) whether respondent will suffer irreparable or serious injury if the stay is granted, and (4) whether appellant is likely to prevail on the merits in the appeal. Nev. R. App. Pro. 8(c); *see also Fritz Hansen A/S v. Dist. Ct.*, 116 Nev. 650, 6 P.3d 982 (2000). Nevertheless, if one or two factors are especially strong, they may counterbalance other weak factors. *Fritz Hansen A/S*, 116 Nev. at 659, 6 P.3d at 987.

1. *Whether the Object of the Appeal Will be Defeated if the Stay is Denied*

The Helfstein Defendants failed to proffer any arguments demonstrating that the object of the appeal would be defeated if this Honorable Court did not grant a stay. This, in and of itself, is sufficient to demonstrate that the Helfstein Defendants do not have a legitimate basis for seeking a stay of the cross-claims. *In arguendo*, the mandatory provisions of the Asset Purchase Agreement are inapplicable to the claims that arise out of the Consulting Agreement. As such, the Helfstein Defendants’ appeal is immaterial to the cross-claims, and the purpose of the appeal will be unaffected. This justifies a denial of the Motion.

2. *Whether Appellant Will Suffer Irreparable or Serious Injury if the Stay is Denied*

Once again, the Helfstein Defendants did not provide any argument regarding any potential irreparable or serious injury if a stay was denied. As before, this demonstrates that the Helfstein Defendants do not have a good faith basis for seeking the stay. However, *in arguendo*, it is fairly clear that Plaintiffs’ damages, if any, are against the Helfstein Defendants only. Thus, the Helfstein Defendants will not likely suffer any irreparable or serious injury if this Honorable Court denied their motion for a stay.

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1                   3.       Whether Respondent Will Suffer Irreparable or Serious Injury if the Stay is  
2                               Granted

3           The Helfstein Defendants are indispensable parties to Plaintiffs' claims under the Consulting  
4 Agreement. As a practical matter, the Helfstein Defendants' absence from this litigation impairs and  
5 impedes the UniNet Defendants' ability to protect their interests. Similarly, there is a substantial risk  
6 of inconsistent outcomes if the UniNet Defendants are obligated to defend this action without the  
7 presence of the Helfstein Defendants. Thus, the UniNet Defendants respectfully request that this  
8 Honorable Court consider the extent that a judgment rendered without the Helfstein Defendants will  
9 prejudice the UniNet Defendants. Additionally, they also request that the Court consider the extent  
10 that a judgment under the Consulting Agreement can actually be rendered without the Helfstein  
11 Defendants when the UniNet Defendants were never a party nor assumed it.

12           In terms of the Consulting Agreement, it contains a Governing Law provision that makes  
13 Nevada the choice of law and the forum for any disputes arising thereunder. See Ex. 1 at ¶ 14 at IS  
14 0000110-11. Plaintiffs are suing the UniNet Defendants for breach of the Consulting Agreement.  
15 Under the Governing Law provision, the Eighth Judicial District Court is the proper forum for  
16 disputes arising out of or connected to the Consulting Agreement. Evidence of this is Plaintiffs'  
17 original action that named the Helfstein Defendants as defendants. This demonstrates that the  
18 Helfstein Defendants are indispensable parties to the Consulting Agreement, which allows the  
19 UniNet Defendants to join them to this litigation under Nevada Rule of Civil Procedure 13(h).

20           Furthermore, this Honorable Court should take notice that the Helfstein Defendants' active  
21 fault actually and proximately caused 100% of Plaintiffs' alleged damages. The Helfstein  
22 Defendants were contractually obligated to Circle Consulting through the Consulting Agreement.  
23 Thus, they had a legal obligation to abide by those terms and avoid materially breaching the  
24 Consulting Agreement. In terms of the Asset Purchase Agreement, Mr. Helfstein attempted to  
25 terminate the Consulting Agreement.

26           UniNet Defendants are entitled to indemnification from the Helfstein Defendants. The  
27 undisputed facts demonstrate that the only defendants culpable for Plaintiffs' alleged damages are  
28 the Helfstein Defendants. Overwhelming evidence demonstrates that the UniNet Defendants did not



1 want to assume the Consulting Agreement. *See* Ex. 2. The UniNet Defendants do not have any legal  
2 obligation to Plaintiffs. As such, any liability borne by the UniNet Defendants arising out of the  
3 Consulting Agreement should be completely shifted to the Helfstein Defendants. *See* Nev. R. Civ.  
4 Pro. 14(a). In total, the Nevada Rules of Civil Procedure demand that the Helfstein Defendants  
5 remain parties to this action in Nevada. The cross-claims and third-party claims do not arise against  
6 the Helfstein Defendants solely based on the Asset Purchase Agreement. They arise directly out of  
7 the Consulting Agreement itself. Under that contract, it specifically provides that Nevada is the  
8 proper forum. Therefore, a partial stay pending appeal is improper.

9 4. *Whether Appellant is Likely to Prevail on the Merits in the Appeal*

10 a. *Standard of Review*

11 “Whether a dispute arising under a contract is arbitrable is a matter of contract interpretation,  
12 which is a question of law that we review de novo.” *State ex rel. Masto v. Second Judicial Dist.*  
13 *Court ex rel. County*, 125 Nev. 5, \_\_\_, 199 P.3d 828, 832 (2009) (citing *Clark Co. Public Employees*  
14 *v. Pearson*, 106 Nev. 587, 590, 798 P.2d 136, 137 (1990); *Phillips v. Parker*, 106 Nev. 415, 417, 794  
15 P.2d 716, 718 (1990)). Here, this Honorable Court found that:

16 Cross-Claimants’ cross claims against Cross-Defendants do not arise  
17 under the 2007 Agreement for Purchase and Sale of Assets by and  
18 between UI Supplies, INC., and SUMMIT TECHNOLOGIES, LLC.  
19 (“Asset Purchase Agreement”). As such, the binding arbitration clause,  
choice of forum, and choice of law provisions of the Asset Purchase  
Agreement do not apply.

20 *See* Order Denying Motion to Stay or Dismiss dated June 10, 2010 attached as Exhibit “5”. The  
21 arbitration clause in the Asset Purchase Agreement is inapplicable. On the other hand, the  
22 Consulting Agreement clearly sets Nevada as the proper jurisdiction for claims arising out of it. *See*  
23 Ex. 1 at IS 0000110-11. Plaintiffs are prosecuting a case based on the Consulting Agreement. *See*  
24 Compl. The UniNet Defendants are defending Plaintiffs’ claims that arise under the Consulting  
25 Agreement. Similarly, they are asserting cross-claims that arise out of Plaintiffs’ Complaint. Even  
26 in undertaking a *de novo* review of this Court’s Order, the arbitration provision does not apply. As  
27 such, the Helfstein Defendants are unlikely to prevail on the merits of their appeal. This justifies the  
28 denial of the request to stay the cross-claims instead of the entire case.



**B. Requirement for a Supersedeas Bond**

Under Nevada Rule of Civil Procedure 62(d), the appellant may obtain a stay by giving a supersedeas bond after the time the notice of appeal is filed. The stay is effective when the supersedeas bond is filed. *Id.* The purpose of the supersedeas bond is to protect the prevailing party from loss resulting from a stay of execution of the judgment. *McCulloch v. Jeakins*, 99 Nev. 122, 123, 659 P.2d 302, 303 (1983). However, District Courts retain the power to grant a stay in the absence of a full bond. *Nelson v. Heer*, 121 Nev. 832, 833, 112 P.3d 1253 (2005) (citation omitted). The District Court is better positioned to resolve any factual disputes concerning the adequacy of any proposed security. *Id.* at 837, 122 P.3d at 1254.

The Nevada Supreme Court adopted the Seventh Circuit's approach determining when the courts may waive the supersedeas bond requirement. This approach includes five factors: (1) the complexity of the collection process; (2) the amount of time required to obtain a judgment after it is affirmed on appeal; (3) the degree of confidence that the district court has in the availability of funds to pay the judgment; (4) whether the defendant's ability to pay the judgment is so plain that the cost of a bond would be a waste of money; and (5) whether the defendant is in such a precarious financial situation that the requirement to post a bond would place other creditors of the defendant in an insecure position. *Id.* (citing *Dillon v. City of Chicago*, 866 F.2d 902, 904-05 (7th Cir. 1988)).

1. *The Complexity of the Collection Process*

The Helfstein Defendants reside in New York. Thus, to collect a Judgment against them would be difficult. Collection would involve obtaining an Exemplified Judgment from the Clark County Clerk and domesticating that Judgment in New York. Thus, domesticating a Judgment rendered against the Helfstein Defendants would be relatively difficult. As such, a bond would protect the UniNet Defendants in the event that the trier-of-fact determines that the Helfstein Defendants are liable under the cross-claims.

2. *The Amount of Time Required to Obtain a Judgment After it is Affirmed on Appeal*

This factor is not applicable.

///



3. *The Degree of Confidence That the District Court has in the Availability of Funds to Pay the Judgment*

Previously, Plaintiffs claimed that the Helfstein Defendants were insolvent. *See* Plaintiffs' Motion for Determination of Good Faith Settlement attached as Exhibit "6". Upon information and belief, Plaintiffs obtained this information from Mr. Helfstein. Thus, this Honorable Court should have zero confidence in the Helfstein Defendants' ability to fund any Judgment rendered against them. Therefore, a supercedas bond is appropriate.

4. *Whether the Defendant's Ability to pay the Judgment is so Plain That the Cost of a Bond Would be a Waste of Money*

The Motion for Determination of Good Faith Settlement demonstrates that the Helfstein Defendants will not have the ability to pay a Judgment rendered against them. *See* Ex. 6. Therefore, the Helfstein Defendants will not be able to prove that their ability to pay a Judgment would make the cost of a bond economically wasteful.

5. *Whether the Defendant is in Such a Precarious Financial Situation That the Requirement to Post a Bond Would Place Other Creditors of the Defendant in an Insecure Position*

There is no evidence that there are other creditors of the Defendants at risk for an insecure position.

**C. The Entire Case Should Be Stayed Pending Appeal**

The Helfstein Defendants are indispensable parties to this action. As asserted at length in Section II(A)(3), the absence of the Helfstein Defendants from the main litigation will impede the UniNet Defendants to protect their interest. As such, a partial stay of the cross-claims only is improper. In weighing the competing interests of the UniNet Defendants, the Helfstein Defendants, and Plaintiffs, staying the entire action would maintain an even balance as identified by the United States Supreme Court. *Landis v. North American Co.*, 299 U.S. 248, 254-55, 57, S.Ct. 163, 81 L.Ed. 153 (1936). It would cause great hardship to the UniNet Defendants if it were required to defend against Plaintiffs' claims without the presence of the Helfstein Defendants in this litigation. As such, the UniNet Defendants respectfully request that this Honorable Court deny the Helfstein Defendants' request to stay the cross-claims only.



1           D.     Alternatively, if Arbitration is Proper, Then Plaintiffs' Case Should Be  
2                 Dismissed Pursuant to Nevada Rule of Civil Procedure 19

3                 1.     Standard for Motion to Dismiss under Nevada Rule of Civil Procedure 19

4                 A defendant may move to dismiss plaintiff's complaint when plaintiff fails to join a party  
5                 under Nevada Rule of Civil Procedure 19. NRCP 12(b)(6). "In reviewing a motion to dismiss, the  
6                 plaintiff's evidence and all reasonable inferences that can be drawn from the evidence must be  
7                 admitted[,] and interpreted in the light most favorable to the plaintiff." *Fava v. Hammond Co.*, 102  
8                 Nev. 323, 325-26, 720 P.2d 702, 704 (1986).

9                 Under Nevada Rule of Civil Procedure 19,

10                (a)     A person who is subject to service of process and whose joinder  
11                         will not deprive the court of jurisdiction over the subject matter  
12                         of the action shall be joined as a party in the action if **(1) in the**  
13                         **person's absence complete relief cannot be accorded among**  
14                         **those already parties**, or (2) the person claims an interest  
15                         relating to the subject of the action and is so situated that the  
16                         disposition of the action in the persons absence may (i) as a  
17                         practical matter **impair or impede the persons ability to protect**  
18                         **that interest** or (ii) leave any of the persons already parties  
19                         subject to a **substantial risk of incurring double, multiple, or**  
20                         **otherwise inconsistent obligations** by reason of the claimed  
21                         interest. If the person has not been so joined, the court shall order  
22                         that the person be made a party. If the person should join as a  
23                         plaintiff but refuses to do so, the person may be made a  
24                         defendant, or, in a proper case, an involuntary plaintiff."

25                (b)     If a person as described in subdivision (a)(1)-(2) hereof cannot be  
26                         made a party, the court shall determine whether in equity and  
27                         good conscience the action should proceed among the parties  
28                         before it, or should be dismissed, the absent person being thus  
                              regarded as indispensable. The factors to be considered by the  
                              court include: first, to what extent a judgment rendered in the  
                              persons absence might be prejudicial to the person or those  
                              already parties; second, the extent to which, by protective  
                              provisions in the judgment, by the shaping of relief, or other  
                              measures, the prejudice can be lessened or avoided; third, whether  
                              a judgment rendered in the persons absence will be adequate;  
                              fourth, whether the plaintiff will have an adequate remedy if the  
                              action is dismissed for nonjoinder.

(Emphasis added).

                  Here, the Helfstein Defendants are indispensable parties. Section I(A)(3) already described  
the facts and circumstances supporting this determination. In both equity and good conscience,  
Plaintiffs' action against the UniNet Defendants should be dismissed based on the absence of the



1 Helfstein Defendants. It is grossly unjust and unfair to allow Plaintiffs to prosecute a case against  
2 the UniNet Defendants for an agreement they were never a party to. Furthermore, it is highly  
3 questionable to allow Plaintiffs to prosecute their case through the Asset Purchase Agreement,  
4 although they were never a party to it. The only party with privity to both the Consulting Agreement  
5 and the Asset Purchase Agreement are the Helfstein Defendants. As such, they qualify as both  
6 “indispensable parties.”

7 The absence of the Helfstein Defendants will substantially deprive the UniNet Defendants of  
8 a complete defense in this matter. As a practical matter, it impairs their ability to protect their  
9 interest and leave them susceptible to sustaining a substantial risk of receiving inconsistent findings  
10 that they are liable for an agreement they never assumed. The plain language of the Asset Purchase  
11 Agreement demonstrates that the UniNet Defendants are incurring massive prejudice as a result of  
12 Plaintiffs’ frivolous action against them. Plaintiffs had adequate remedy originally when they sued  
13 the Helfstein Defendants. It is a gross miscarriage of justice to allow Plaintiffs to continue  
14 prosecuting this case without joining the Helfstein Defendants as cross-claimants.

15 The UniNet Defendants are entitled to join the Helfstein Defendants in this matter. Under  
16 Nevada Rule of Civil Procedure 13(h), the Helfstein Defendants qualify as “indispensable parties”  
17 arising under the same facts and circumstances as claims presented in Plaintiffs’ Complaint.  
18 Furthermore, the Helfstein Defendants are liable to the UniNet Defendants under theories of  
19 indemnification and contribution. The Asset Purchase Agreement contains a series of warranties that  
20 the UniNet Defendants were not assuming the Consulting Agreement. Gross injustice occurs if  
21 Plaintiffs can prosecute claims under the Consulting Agreement against the UniNet Defendants  
22 without joining the Helfstein Defendants as a party. Therefore, the UniNet Defendants respectfully  
23 request that this Honorable Court dismiss Plaintiffs’ case if the Helfstein Defendants are not joined  
24 as indispensable parties.

### 25 **III. CONCLUSION**

26 Staying the cross-claims pending the Helfstein Defendants’ appeal instead of the entire action  
27 would result in manifest injustice to the UniNet Defendants. The Helfstein Defendants are  
28 indispensable parties to Plaintiffs’ litigation arising under the Consulting Agreement. Substantial

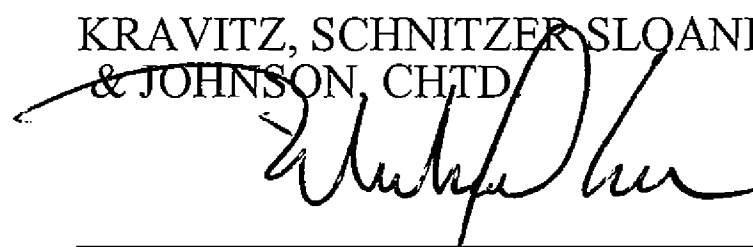


1 evidence demonstrates that the Helfstein Defendants are critical to help the trier-of-fact assess  
2 Plaintiffs' claims and the potential liabilities of both the Helfstein Defendants and the UniNet  
3 Defendants. As such, a partial stay is improper and the entire litigation should be stayed pending  
4 appeal.

5 Alternatively, if this Honorable Court determines that a stay is proper, this action should be  
6 dismissed under Nevada Rule of Civil Procedure 19(a). Or on the other hand, the Helfstein  
7 Defendants should be required to post a supercedeas bond in the amount of \$2 Million. The  
8 Helfstein Defendants' residence in a foreign jurisdiction illustrates that both Plaintiffs and the  
9 UniNet Defendants will have a difficult time collecting any judgments rendered against them. In that  
10 light, a supercedeas bond would address those concerns. Thus, imposing a supercedeas bond in the  
11 amount of \$2 Million would be appropriate if this Court was inclined to grant the Motion for a  
12 partial stay.

13 DATED this 26 day of July, 2010.

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



17  
18 GARY E. SCHNITZER, ESQ. (NSB 395)  
19 MICHAEL B. LEE, ESQ. (NSB 10122)  
20 8985 S. Eastern Avenue, Suite 200  
21 Las Vegas, Nevada 89123  
22 Telephone: (702) 222-4142  
23 Facsimile: (702) 362-2203  
24 *Attorneys for Defendants UI Supplies,*  
25 *UniNet Imaging and Nestor Saporiti*  
26  
27  
28



**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 26 day of July, 2010, I placed a copy of the foregoing  
**DEFENDANTS UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S**  
**OPPOSITION TO CROSS DEFENDANTS', LEWIS HELFSTEIN, MADALYN**  
**HELFSTEIN, SUMMIT LASER TECHNOLOGIES, LLC.'S MOTION TO STAY**  
**CROSSCLAIM PENDING APPEAL** in the United States mail, postage pre-paid, and addressed as follows:

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

Byron L. Ames, Esq. (NBN 7581)  
Jonathan D. Blum, Esq. (NBN 9515)  
THARPE & HOWELL  
3425 Cliff Shadows Parkway, Suite 150  
Las Vegas, Nevada 89129  
Tel: (702) 562-3301  
Fax: (702) 562-3305  
[bames@tharpe-howell.com](mailto:bames@tharpe-howell.com)  
[jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)  
*Attorneys for Plaintiffs*

J. Michael Oakes, Esq.  
Foley & Oakes, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
Tel: 702-384-2070  
Fax: 702-384-2128  
[mike@foleyoakes.com](mailto:mike@foleyoakes.com)



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

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# **EXHIBIT 1**



## CONSULTING & NON-COMPETITION AGREEMENT

This AGREEMENT, dated as of September 1, 2004, is made between Summit Technologies, LLC ("Company"), a New York limited liability corporation and Circle Consulting Corporation ("Consultant"), a Nevada corporation, having a place of business at 2407 Ping Drive, Henderson, NV 89074.

### WITNESSETH:

WHEREAS, the Company has, pursuant to a certain Agreement of Contribution dated September 1, 2004, acquired certain assets of National Data Center, Inc. ("NDC") and,

WHEREAS, the principal of Consultant is thoroughly familiar with the business operations of NDC; and

WHEREAS, as a condition of contribution of the business and assets of NDC to the Company, the Company agreed to retain the services of the Consultant for a fixed fee over a period of time and the Consultant has agreed to render such services to the Company; and

WHEREAS, the Company wishes to retain Consultant to render such services to the Company and its affiliates and the Consultant wishes to render such services, all on the terms and conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto agree as follows:



1. Engagement.

The Company hereby engages Consultant and Consultant's hereby accept such engagement upon the terms and conditions hereinafter set forth.

2. Term.

The Consultant will be bound by this on the date first above written and payment pursuant to this agreement shall commence Jan 1, 2005 and shall continue until December 31, 2014, unless otherwise terminated pursuant to Section 9.

3. Compensation.

3.1 For all services rendered and covenants given by Consultant under this Agreement, the Company shall pay Consultant an initial annual fee of \$125,000, paid monthly. The payment shall be increased by the Federal Employment tax expense as indicated in Schedule A. This fee shall be increased \$5,000 each year, beginning on January 1, 2006, and annually on January 1 each year thereafter.

3.2 In addition to the annual fee, the consultant will be reimbursed by the LLC for certain other reasonable expenses, including cell phone usage, auto, insurance and medical coverage.

3.3 In addition to the above, LLC will pay Consultant 05 cents for each chip and 02 cents for resets the company has manufactured and sold up to 40,000 per month, and 02 cents for each one sold thereafter. There shall be an average profit, by the LLC, of at least \$1.50 on each chip or \$1.00 for reset for the incentive to be paid. The monthly profit shall be based upon the average of profit for the previous calendar month. This payment will be made to Consultant quarterly. The LLC will calculate chip sales first, arriving at maximum units of 40,000 per month, in calculating payments.



3.4 Additional payments. A payment of ten thousand dollars per month shall be made until a total of \$ \_\_\_\_\_ is made.

4. Services to be Rendered.

Consultant shall be engaged in rendering consulting services to the Company and to the Managers of the Company, in connection with the operations the business acquired by the Company from NDC, including improvement on existing formulations and developing new formulations for new toner printing devices, Also included shall be the supervision , research and development of microchip technology as it relates to toner printing devices.

The Consultant has entered into an agreement with Ira Seaver for his exclusive service for a term to run concurrent with this Agreement and will furnish the services of Ira Seaver to perform the services required by this contract.

5. Extent of Services.

Consultant, shall from time to time, make available to the Company, the Consultant's employees, including its President, Ira Seaver on an exclusive basis, to the extent reasonably necessary to enable Consultant to render the services required hereby. Consultant and its employees, if any, shall devote such portion of their business time, attention, and energies to the business of the Company and its affiliates as shall be necessary to render services hereunder, as determined by Consultant in its reasonable discretion.

6. Disclosure of Information.

Consultant, recognizes and acknowledges that the trade secrets of the Company and its affiliates and their proprietary information and procedures, as they may exist from time to time, are valuable, special, and unique assets of the



Company's business, access to and knowledge of which are essential to performance of the Consultant's duties hereunder. Except to the extent required in order for the Consultant to carry out and perform the terms of this Agreement, Consultant, will not, at any time during the term of this Agreement disclose, in whole or in part, such secrets, information or processes to any person, firm, corporation, association or other entity for any reason or purpose whatsoever, nor shall they make use of any such property their own purposes of benefit of any firm person or corporation, or other entity (except the Company) under any circumstances during the term of this Agreement; provided, that these restrictions shall not apply to such secrets, information, and processes which are in public domain (provided that Consultant was not responsible, directly or indirectly, for such secrets, information or processes entering the public domain after the date hereof without the Company's written consent). Consultant agrees to hold as the Company's property, all memoranda, books, papers, letters, and other data, and all copies thereof and there from, in any way relating to the Company's business and affairs, whether made by him or otherwise coming into his possession, and on termination of his employment, or on demand of the Company, at any time, to deliver the same to the Company.

7. 7. Agreement not to Aid Competition.

7.1 Consultant acknowledges and agrees that during the term of this Agreement, it will not in any way, directly or indirectly, whether for its account or for the account of any other person, firm, or company engage in, represent, furnish consulting services to, be employed by, or have any interest in (whether as owner, principal, director, officer, partner, agent, consultant, stockholder, otherwise) any business which manufactures, sells or distributes parts and supplies for the



remanufacturing of business machine toner cartridges in competition with the Company or refills business machines toner cartridges. Further, Consultants shall knowingly induce or attempt to induce any person or entity which is a customer of the Company or any of its subsidiaries at any time during the term of this Agreement to cease doing business, in whole or in part, with the Company or such subsidiary, or solicit or endeavor to cause any employee of the Company or its subsidiaries to leave the employ of the Company or such subsidiary.

For the sole purposes of Sections 6 and 7 of this Agreement, the term "Consultant" shall include Consultant, and Ira Seaver individually, and any other person who hereafter renders services to the Company on behalf of Consultant. Consultant agrees that the covenant set forth in this Section 7 is reasonable with respect to its duration, geographic area and scope. If any particular portion of this Section 7 deemed amended to reduce in scope and/or duration the portion thus adjudicated to be invalid or unenforceable to the extent necessary to render it valid or enforceable, such amendment to apply only with respect to the operation of this Section 7 in particular jurisdiction(s) in which adjudication is made.

7.2 The Consultant is exempt with regards to this paragraph for the following activity: Consulting with Tangerine Express, so long as their activity remain on the retail level, Raven Industries, Laserstar Distribution Corporation and the collecting of commissions from Coates Toner manufacturers.

8. Remedies by Company.

If there be a breach or threatened breach of any provision(s) of Sections 6 or 7 of this Agreement the Company should be entitled to seek temporary and permanent injunctive relief restraining Consultant from such breach without the necessity of



proving actual damage. Subject to the payment obligations set forth in Section 3 hereof, which are unconditional, nothing herein shall be construed as prohibiting the Company from pursuing a claim for monetary damages resulting from such breach or threatened breach, or other relief. Any claim by the Company alleging any violation or breach by the Consultant under Sections 6 or 7 hereof shall be brought by way of a separate action, and not by way of offset or counterclaim as to the monies due or payments required to be made to the Consultant under this Agreement.

Notwithstanding the foregoing, in the event the Company obtains a money judgment against consultant or Seaver for a breach of section 6 or 7 hereof, and such judgment is not bonded, vacated or the enforcement thereof otherwise stayed, then such judgment may be satisfied by way of offset against the monies to be paid to Consultant hereunder, to the extent of such money judgment. The restrictions and covenants contained in Sections 6 and 7 hereof, shall be ipso facto, null and void, in the event of uncured default, beyond any applicable grace periods, on the part of the Company herein.

9. Termination:

9.1. Disability: The Company may terminate Consultant's contract upon the total disability of Ira Seaver. Ira Seaver shall be deemed to be totally disabled if (i) he is unable to perform his duties under this Agreement by reason of mental or physical illness or accident for a period of ninety (90) consecutive days or (ii) he is unable to perform his duties under this Agreement by reason of mental or physical illness or accident for one hundred twenty (120) days in any twelve (12) month period, or (iii) Ira Seaver files an application for to receive permanent disability benefits. Upon termination by reason of the Ira Seaver's disability, the



Corporation's sole and exclusive obligation will be to pay the Consulting fee for a 6 month period from the original date of disability. In the event, within 24 months of disability, Ira Seaver can resume his duties then the termination shall be void and the Consultant will not receive compensation for four month.

9.2. The Company may terminate this contract in the event of Ira Seaver's death during the term of this Agreement. The Company's sole and exclusive obligation will be to pay the Consulting fee for a period of 6 months from the date of his death, plus the amounts set forth in Section 3.4 above.

10. Assignment.

This Agreement may not be assigned by any party hereto.

11. Notices.

Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and sent by registered or certified mail, return receipt requested, or by overnight (next weekday) delivery via FedEx, U.P.S. or Airborne Express to the respective party at:

If to Consultant:

Ira Seaver  
2407 Ping Drive  
Henderson, NV 89074

with a copy to:

Irwin Groner  
21021 Ventura Blvd. Suite 200  
Woodland Hills, CA 91364

If to the Company:

Summit Technologies  
95 Orville Drive  
Bohemia, NY 11716

with a copy to:



Lewis Helfstein  
10 Meadowgate East  
St. James, New York 11780

Notices delivered by Federal Express, U.P.S. or Airborne Express delivery service shall constitute delivery as of the next day of the dispatch. Notices sent by hand shall be deemed effective upon delivery by hand as of the next business day after dispatch. Notices sent by hand shall be deemed effective upon delivery and notices sent by registered or certified mail, return receipt requested shall be deemed effective five days after mailing. Either party may change its address by notice given in accordance with this Section. All such notices shall be deemed made regardless of whether or not the intended recipient refuses or fails to accept delivery thereof.

12. Waiver or Breach.

A waiver by either party of a breach of any provision of this Agreement by the other party shall not be effective unless in writing and shall not operate or be construed as a waiver of any other or subsequent breach by the other party.

13. Entire Agreement.

This instrument contains the entire agreement of the parties. It may be changed only by agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

14. Governing Law.

The agreement shall be governed by and construed in accordance with the laws of the State of Nevada. If any provision of this agreement shall be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this agreement. In the event of any action, proceeding or



counterclaim brought by either party hereto in connection with or arising under this Agreement, the parties hereby agree to waive trial by jury in any such action or proceeding.

15. Binding Effect.

Upon execution and delivery of this Agreement, this Agreement shall be binding upon and inure to the benefit to the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.

16. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

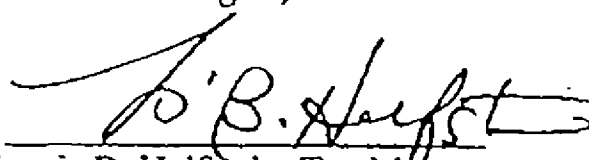
17. Attorney's Fees.

In the event that either party to this Agreement commences a litigation to enforce its rights hereunder, the prevailing party in any such party shall be entitled to reimbursement by the other party of the reasonable fees and expenses of the prevailing party's attorneys.

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


THE COMPANY  
Summit Technologies, LLC

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


  
Lewis B. Helfstein, Tax Manager



CONSULTANT

By:   
Ira Seaver, President

The undersigned acknowledges the applicability of and agrees to be bound  
individually to the provisions of Sections 6, 7 and 8 above.

  
Ira Seaver



# **EXHIBIT 2**



/s/ [Signature] [Signature]

## AGREEMENT FOR PURCHASE AND SALE OF ASSETS

by and between

UI SUPPLIES, INC. and

SUMMIT TECHNOLOGIES, LLC

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

### 1. Sale and Purchase of Assets

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

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



/s/ RF

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

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

#### **1.4 Returns**

### **2. Purchase Price and Payment for Acquired Assets**

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



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

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

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

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

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

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

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

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

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

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

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

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



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

### 3. Liabilities and Sales Tax

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

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

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

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

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

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



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

#### 4. Lease

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

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

#### 5. Other Obligations

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

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

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

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



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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

## **9. Closing**

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

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

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

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



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

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

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

#### 10. Conditions Precedent To Buyer's Performance

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

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



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

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

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

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

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

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

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

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

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



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

**11. Conditions Precedent to Seller's Performance**

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

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

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

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

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

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

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

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



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

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

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

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

## 12. Arbitration

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

## 13. Notices

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

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

with a copy to:

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



(b) IF TO BUYER:  
UI Supplies, Inc.  
95 Orville Drive  
Bohemia, New York 11716  
Fax: \_\_\_\_\_

(c) IF TO UNINET:  
Uninet Imaging, Inc.  
11124 Washington Boulevard  
Culver City, Cal. 90232

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

#### 14. Construction

14.1 Except as otherwise provided herein:

- (a) **Entire Agreement.** This Agreement covers the entire understandings of Buyer and Seller regarding its subject matter, and supersedes all prior agreements and understandings, and no modification or amendment of its terms or conditions shall be effective unless in writing and signed by Buyer and Seller;
- (b) **Successors and Assigns.** This Agreement shall inure to the benefit of, and is binding on, the respective successors, assigns, distributees, heirs, and personal representatives of Buyer and Seller;
- (c) **Headings.** This Agreement shall not be interpreted by reference to any of its titles or headings, which are inserted for purposes of convenience only;
- (d) **Waiver and Release.** This Agreement is subject to the waiver and release of any of its requirements, as long as the waiver or release is in writing and signed by the party to be bound, but any such waiver or release shall be construed narrowly and shall not be considered a waiver or release of any further, similar, or related requirement or occurrence, unless expressly specified, and no waiver by any party of any default, misrepresentation or breach of warranty, covenant or agreement made or to be performed hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty, covenant or agreement made or to be



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

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

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

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

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

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

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

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

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



st

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

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

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

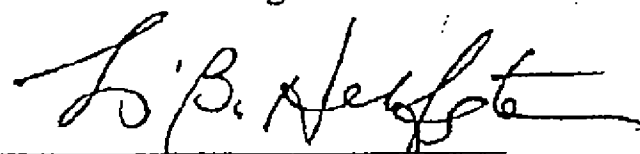
**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first written above.

Dated: Bohemia, New York  
March 29, 2007

SELLER:

Summit Technologies LLC

By:

  
Lewis B. Helfstein, Managing Member

Ira and Edythe Family Trust

By:

Ira Seaver, Trustee

BUYER:

UI Supplies, Inc.

Dated: \_\_\_\_\_, New York  
March \_\_, 2007

By:

  
Nector Saporiti, President



# **EXHIBIT 3**



**EXHIBIT E**  
**EMPLOYMENT AGREEMENTS**

**NONE**

**CONSULTING AGREEMENTS WITH IRA SEAVER AND LEWIS HELFSTEIN**  
**NOT BEING ASSUMED**

*AK*  
*FW*



# **EXHIBIT 4**



**DECLARATION OF LEWIS HELFSTEIN**

I, Lewis Helfstein, hereby declare as follows:

1. I have personal knowledge of all matters stated herein and am competent to testify to the same.

2. I am an attorney and am admitted to practice in all courts in the State of New York, and am a Defendant in *Ira and Edythe Family Trust v. Helfstein et al.*, Nevada District Court Case No. A587003, in Department XI. I am also the managing agent of Summit Technologies LLC. ("Summit")

3. In 2004, I negotiated the purchase of certain assets, including intellectual property, ("Business Assets") owned and developed by Plaintiffs, which were exchanged for an interest in Summit Technologies, LLC ("2004 Sale"). The parties entered into a series of agreements, in which among other things, Plaintiff's transferred their assets from National Data Center, Inc. to Summit Technologies LLC. This resulted in Mr. Seaver obtaining an ownership interest in Summit and a separate Consulting and Non-Competition Agreement. ("Consulting Agreement")

4. The Consulting Agreement and the attendant relationship with Seaver were considered an asset of Summit. It provided Summit a business advantage because it provided Summit access to Mr. Seaver's intellectual expertise and reputation in the imaging industry; it restricted Mr. Seaver's abilities to disseminate information about the company and its products; and, it kept Mr. Seaver from competing with Summit. I entered into a similar Consulting Agreement with Summit.

5. I was responsible for the drafting of the Consulting Agreement. The consulting agreement was never an Employment Agreement, and at no time was Seaver



CCC00196

PA000309



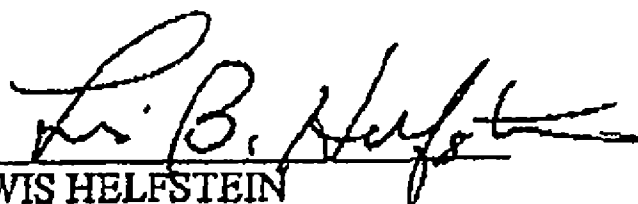
ever an employee of Summit.

6. The anti-assignment provision in the Consulting Agreements was for the benefit of Seaver and Summit, and Summit waives any claims with respect to the enforcement of it.

7. In 2007, an agreement was entered into between the Uninet Defendants and Summit Technologies, wherein Uninet purchased the assets of Summit. (The "2007 Sale") I was responsible for negotiating and approving the Agreements for the 2007 Sale on behalf of Summit. As part of the 2007 Sale, Uninet negotiated replacement consulting agreements between Uninet, myself and Mr. Seaver. I executed a replacement consulting agreement with Uninet on my own behalf. There were negotiations between Uninet and Seaver for a replacement agreement, but to the best of my knowledge was no such agreement was signed.

8. It is my understanding, that subsequent to the 2007 Sale to the Uninet Defendants, Seaver has communicated directly with Uninet, and that Uninet promoted their acquisition of Summit, including Summit's relationship with Seaver. To the best of my knowledge, Seaver has upheld his obligations under the Consulting Agreement to Summit and to Uninet.

I declare under the penalty of perjury that the foregoing is true and correct.

  
LEWIS HELFSTEIN  
SUMMIT TECHNOLOGIES LLC.  
11/10/09  
DATE

Robert / Helfstein dec.

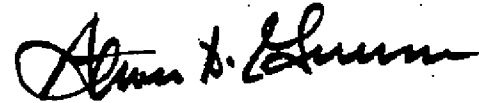
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PA000310



# **EXHIBIT 5**





CLERK OF THE COURT

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

16 IRA AND EDYTHE SEAVER FAMILY TRUST,  
17 IRA SEAVAR, CIRCLE CONSULTING  
18 CORPORATION

Plaintiff,

vs.

19 LEWIS HELFSTEIN, MADALYN HELFSTEIN,  
20 SUMMIT LASER PRODUCTS, INC., SUMMIT  
21 TECHNOLOGIES LLC, UI SUPPLIES, UNINET  
22 IMAGING, INC., NESTOR SAPORITI and DOES  
23 1 through 20, and ROE entities 21 through 40,  
24 inclusive,

Defendants.

25 UI SUPPLIES, UNINET IMAGING, INC.,  
26 NESTOR SAPORITI

Counter-Claimants

vs.

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

Counter-Defendants

Case No. A587003

Dept. No. XI

Date of Hearing: May 25, 2010

Time of Hearing: 9:00 a.m.

**NOTICE OF ENTRY OF ORDER**

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



1 UI SUPPLIES, UNINET IMAGING AND  
2 NESTOR SAVORITI

3 Cross-Claimants

4 vs.

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

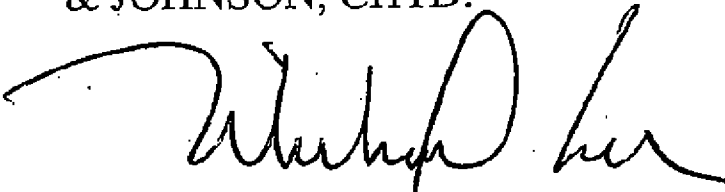
8 Cross-Defendants

9 **NOTICE OF ENTRY OF ORDER**

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

13 DATED this 16 day of June, 2010.

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



16 GARY E. SCHNITZER, ESQ. (NSB 395)

17 MICHAEL B. LEE, ESQ. (NSB 10122)

18 8985 S. Eastern Avenue, Suite 200

19 Las Vegas, Nevada 89123

20 Telephone: (702) 222-4142

21 Facsimile: (702) 362-2203

22 *Attorneys for Defendants UI Supplies,*  
23 *Uninet Imaging and Nestor Saporiti*



**CERTIFICATE OF MAILING**

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

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

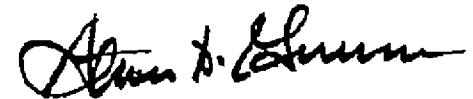
Byron L. Ames, Esq. (NBN 7581)  
Jonathan D. Blum, Esq. (NBN 9515)  
THARPE & HOWELL  
3425 Cliff Shadows Parkway, Suite 150  
Las Vegas, Nevada 89129  
Tel: (702) 562-3301  
Fax: (702) 562-3305  
[barnes@tharpe-howell.com](mailto:barnes@tharpe-howell.com)  
[jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)  
*Attorneys for Plaintiffs*

J. Michael Oakes, Esq.  
Foley & Oakes, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
Tel: 702-384-2070  
Fax: 702-384-2128  
[mike@foleyoakes.com](mailto:mike@foleyoakes.com)



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





CLERK OF THE COURT

**ORDD**

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

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiff,

vs.

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

Defendants.

UI SUPPLIES, UNINET IMAGING, INC.,  
NESTOR SAPORITI

Counter-Claimants

vs.

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

Counter-Defendants

Case No. A587003

Dept. No. XI

**ORDER DENYING MOTION TO STAY  
OR DISMISS**

Date of Hearing: May 25, 2010

Time of Hearing: 9:00 a.m.



**ORDER DENYING MOTION TO STAY OR DISMISS**

THIS MATTER was set for hearing on the 25th day of May, 2010, on Cross-Defendants Lewis Helfstein, Madalyn Helfstein, and Summit Laser ("Cross-Defendants") Motion for Stay or Dismissal, and to Compel Arbitration ("Motion"), by and through their attorneys of record, the law firm of Foley & Oakes, P.C., and Cross-Claimants UI Supplies, UniNet Imaging, and Nestor Saporiti (collectively referred to as the "Cross-Claimants"), by and through their attorneys of record, the law firm of Kravitz, Schnitzer, Sloane & Johnson, Chtd., and this Honorable Court having considered the papers and pleadings on file herein, and entertaining oral arguments, the Court hereby issues the following decree:

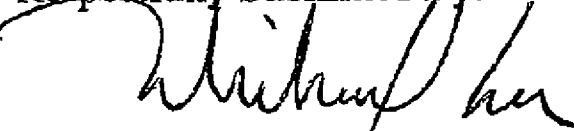
**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**, that Cross-Defendants Motion is **DENIED** as Cross-Claimants' cross claims against Cross-Defendants do not arise under the 2007 Agreement for Purchase and Sale of Assets by and between UI Supplies, INC., and SUMMIT TECHNOLOGIES, LLC. ("Asset Purchase Agreement"). As such, the binding arbitration clause, choice of forum, and choice of law provisions of the Asset Purchase Agreement do not apply.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED**, that Cross-Claimants' Counter-Motions are also **DENIED** as moot.

Dated this 10 day of June, 2010.

  
DISTRICT JUDGE 

Respectfully Submitted By:

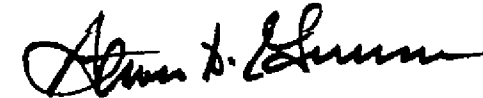
  
GARY E. SCHNITZER, ESQ. (NSB 395)  
MICHAEL B. LEE, ESQ. (NSB 10122)  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, Nevada 89123  
Telephone: (702) 222-4142  
Facsimile: (702) 362-2203  
*Attorneys for Cross-Claimants*



# **EXHIBIT 6**



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CLERK OF THE COURT

1 **MDGF**  
Byron L. Ames, Esq.  
2 Nevada Bar No.: 7581  
Jonathan D. Blum, Esq.  
3 Nevada Bar No.: 9515  
**THARPE & HOWELL**  
4 3425 Cliff Shadows Pkwy., Suite 150  
Las Vegas, Nevada 89129  
5 (702) 562-3301  
Fax: (702) 562-3305  
6 [bames@tharpe-howell.com](mailto:bames@tharpe-howell.com)  
[jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

7 Robert Freedman  
8 California Bar No.: 139563  
**THARPE & HOWELL**  
9 15250 Ventura Blvd., 9<sup>th</sup> Floor  
Sherman Oaks, California 91403  
10 (818) 205-9955  
Fax: (818) 205-9944  
11 [rfreedman@tharpe-howell.com](mailto:rfreedman@tharpe-howell.com)  
*Pro Hac Vice Application Pending*

12 **JEFFREY R. ALBREGTS, ESQ.**  
13 Nevada Bar No. 0066  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
14 **BRIAN G. ANDERSON, ESQ.**  
Nevada Bar No. 10500  
15 [banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)  
16 **SANTORO, DRIGGS, WALCH,**  
**KEARNEY, HOLLEY & THOMPSON**  
400 South Fourth Street, Third Floor  
17 Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
18 Facsimile: (702) 791-1912

19 Attorneys for Plaintiffs,  
IRA AND EDYTHE SEAVER FAMILY TRUST,  
20 IRA SEAVER, CIRCLE CONSULTING CORPORATION

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 \* \* \*

24 IRA AND EDYTHE SEAVER FAMILY )  
TRUST, IRA SEAVER, CIRCLE )  
25 CONSULTING CORPORATION, )

26 Plaintiffs )

27 v. )

28 LEWIS HELFSTEIN, MADALYN )

CASE NO.: A587003  
DEPT. NO.: XI



1 HELFSTEIN, SUMMIT LASER PRODUCTS. )  
2 INC., SUMMIT TECHNOLOGIES LLC, UI )  
3 SUPPLIES, UNINET IMAGING, INC., )  
4 NESTOR SAPORITI and DOES 1 through 20, )  
5 and ROE entities 21 through 40, inclusive, )  
6 Defendants. )

ZSE92-21742

7 **PLAINTIFFS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT**

8 Plaintiffs, IRA AND EDYTHE SEAVER FAMILY TRUST, IRA SEAVER and CIRCLE  
9 CONSULTING CORPORATION, hereby move this Court for a determination that the  
10 settlement they entered into with Defendants LEWIS HELFSTEIN, MADALYN HELFSTEIN,  
11 SUMMIT LASER PRODUCTS, INC., SUMMIT TECHNOLOGIES LLC, was made in good  
12 faith.

13 This Motion is made and based upon the attached Points and Authorities, the papers and  
14 pleadings on file herein, and such oral argument as the Court may entertain at the hearing of this  
15 motion.

16 DATED this 19 day of February, 2010.

17 THARPE & HOWELL

18  
19  
20 By:

Byron L. Ames, Esq.  
Nevada Bar No.: 7581  
Jonathan D. Blum, Esq.  
Nevada Bar No.: 9515  
3425 Cliff Shadows Pkwy., Suite 150  
Las Vegas, Nevada 89129

21 Attorneys for Plaintiffs,  
22 IRA AND EDYTHE SEAVER FAMILY TRUST,  
23 IRA SEAVER, CIRCLE CONSULTING  
24 CORPORATION  
25  
26  
27  
28



THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite 150  
Las Vegas, Nevada 89129

NOTICE OF MOTION

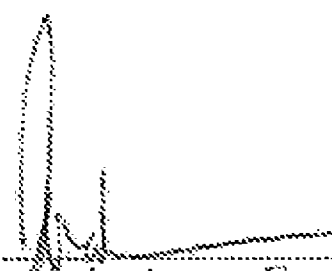
TO: ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD;

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing MOTION on for hearing before the above entitled Court on the 25 day of March, 2010, in Department 21 at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard.

DATED this \_\_\_\_\_ day of February, 2010.

THARPE & HOWELL

By:

  
Byron L. Ames, Esq.  
Nevada Bar No.: 7581  
Jonathan D. Blum, Esq.  
Nevada Bar No.: 9515  
3425 Cliff Shadows Pkwy., Suite 150  
Las Vegas, Nevada 89129

Attorneys for Plaintiffs,  
IRA AND EDYTHE SEAVER FAMILY TRUST,  
IRA SEAVER, CIRCLE CONSULTING  
CORPORATION



## POINTS AND AUTHORITIES

### **I. BACKGROUND/OVERVIEW**

#### **A. The Parties**

This matter involves three sets of parties and two contracts. Plaintiffs are The Ira and Edy Seaver Family Trust, Ira Seaver and Circle Consulting Corporation (collectively "Plaintiffs"). The first group of Defendants consist of Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC (collectively the "Summit Defendants"); and the second set of Defendants consists of UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti (collectively the "Uninet Defendants").

#### **B. The Agreements**

By way of background, Plaintiff Ira Seaver, through his company National Data Center ("NDC"), developed a certain technology relating to printer toner cartridges. More specifically, Seaver developed computer chips which are an essential component for new printer cartridges, or replacement printer cartridges, to function. Seaver also developed toner formulations. In September of 2004, Plaintiffs entered a series of agreements with the Summit Defendants, which effectively led to Plaintiffs transferring their interests in and to NDC and Lasarstar Distribution Company, Inc. to the Summit Defendants. Pursuant to the agreements, the Plaintiffs were to receive, from the Summit Defendants, scheduled cash distributions, payments for consulting, and payments for the sale of computer chips. Among the agreements, was a document titled "Consulting & Non-Competition Agreement" whereby Summit retained Circle Consulting's services for a fixed fee as a method of paying for the assets it obtained from Plaintiffs. See Consulting & Non-Competition Agreement, Exhibit "A."

The second agreement at issue in this case is the Agreement for Purchase and Sale of Assets executed by the Uninet Defendants (specifically UI Supplies) and the Summit Defendants (the "Asset Purchase Agreement"). See Asset Purchase Agreement, Exhibit "B." In that agreement, the Summit Defendants sold, transferred and assigned interests the Summit Defendants obtained from Plaintiffs, to UI Supplies. The Asset Purchase Agreement included the transfer of the Circle Consulting Agreement such that UI Supplies stepped into the shoes of Summit when it purchased



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Suite 150  
Las Vegas, Nevada 89129

1 Summit's assets.

2 **C. Procedural Posture**

3 The Uninet Defendants filed a Motion to Dismiss which was denied on October 15, 2009.  
4 They subsequently filed an Answer and Counterclaim, but did not assert a cross claim against the  
5 Summit Defendants. After months of settlement negotiations, Plaintiffs reached a settlement with  
6 the Summit Defendants for \$60,000.00, as explained in more detail below. See Declaration of  
7 Jeffrey R. Albregts, Exhibit "C." Based on the settlement, on November 23, 2009 Plaintiffs filed  
8 a Notice of Voluntary Dismissal of the Summit Defendants. See Dismissal, Exhibit "D."

9 On January 19, 2010, the Uninet Defendants filed an Amended Answer to Complaint,  
10 Counterclaim, and Cross Claim. That Cross Claim, the first filed by the Uninet Defendants, asserts  
11 various causes of action against the dismissed Summit Defendants, which claims technically must  
12 be alleged against them via a Third Party Complaint. See NRCP 14(a). Irrespective of as much,  
13 this Motion seeks formal Court-recognition and approval of the good faith settlement between  
14 Plaintiffs and the Summit Defendants in order to preclude the Uninet Defendants' (cross) claims  
15 against the Summit Defendants pursuant to NRS 17.245.

16 **D. Facts**

17 Under the Consulting & Non-Competition Agreement, Plaintiffs were to receive  
18 compensation from the Summit Defendants for providing consultation to Summit Technologies,  
19 LLC and abiding by the non-compete, non-disclosure and confidentiality obligations. That  
20 agreement was dated September 1, 2004. See Exhibit "A." Such compensation was to include  
21 annual consulting fees of \$120,000 with \$5,000 annual increases. Id. Plaintiffs allege that the  
22 Summit Defendants failed to make some of the required payments under the Consulting &  
23 Non-Competition Agreement, and filed this lawsuit.

24 On or about March 30, 2007, the Uninet Defendants executed the Asset Purchase Agreement,  
25 described above, wherein they acquired rights and duties under the Consulting & Non-Competition  
26 Agreement from the Summit Defendants. Thus, the Summit Defendants were liable to pay Plaintiffs  
27 during the roughly 30 months between September 1, 2004 and March 30, 2007. Based on the  
28 compensation structure outlined in the agreement, the Summit Defendants were obligated to pay



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Suite 150  
Las Vegas, Nevada 89129

1 Plaintiffs approximately \$400,000 for that time period. Plaintiffs received only approximately  
2 \$180,000 throughout these 30 months. Thus, Plaintiffs were still owed roughly \$210,000 at the time  
3 of the filing of this lawsuit. It is recovery of these damages that Plaintiffs sought in the instant suit  
4 against the Summit Defendants.

5 After protracted negotiations, a settlement in the amount of \$60,000.00, to be paid by the  
6 Summit Defendants to Plaintiffs, was reached. This amount represents a good faith, fair, negotiated  
7 settlement to the contested claims. First, the Summit Defendants had no insurance coverage for  
8 these claims, and their ability to finance long and protracted litigation was questionable. Further,  
9 there was the possibility that, after costly litigation, even if a much larger judgment was awarded,  
10 such a judgment would not be collectible. Thus, after months of settlement negotiations, a fair  
11 compromise in the amount of \$60,000.00 was reached.

## 12 II. ARGUMENT

13 Plaintiffs reached a good faith negotiated settlement with the Summit Defendants. Months  
14 later, the Uninet Defendants brought a cross claim against the already dismissed Summit Defendants.  
15 Based on the following statute and interpreting case law, Plaintiffs' settlement with the Summit  
16 Defendants should be deemed to be in good faith, and the cross claim, bringing the Summit  
17 Defendants back into the case, should be precluded.

### 18 A. Legal Standard

19 NRS 17.245 provides, in pertinent part:

20 1. When a release or a covenant not to sue or not to enforce judgment is  
21 given in good faith to one of two or more persons liable in tort for the same  
injury or the same wrongful death:

22 a. It does not discharge any of the other tortfeasors from liability for  
23 the injury or wrongful death unless its terms so provide, but it reduces  
24 the claim against the others to the extent of any amount stipulated by  
the release or the covenant, or in the amount of the consideration paid  
for it, whichever is greater; and

25 b. It discharges the tortfeasor to whom it is given from all liability for  
26 contribution and for equitable indemnity to any other tortfeasor.

27 In The Doctor's Company v. Vincent, 120 Nev. 644, 98 P.3d 681(2004), the Nevada  
28 Supreme Court addressed the issue of the determination of good faith settlements, including factors



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Suite 150  
Las Vegas, Nevada 89129

1 that should be used by the District Court in determining the merits of such a motion. The District  
2 Court is to consider the factors outlined in In Re MGM Grand Hotel Fire Litigation, 570 F. Supp.  
3 913 (D. Nev. 1983), and use its discretion as provided in Velsicol Chemical Corp. v. Davidson, 107  
4 Nev. 356, 360, 811 P.2d 561 (1991). In Velsicol, the Court found:

5 We hold that the determination of good faith should be left to the  
6 sound discretion of the trial court based upon all relevant facts  
7 available, and that, in the absence of an abuse of that discretion, the  
8 trial court's finding should not be disturbed Id. at 360.

9 In this case, the proposed settlement of sixty thousand dollars (\$60,000.00) is substantial and  
10 represents a fair account of the Summit Defendants' potential liability, the ability of such amounts  
11 to be collected, and the risks and costs of litigation. This settlement was reached after months of  
12 extensive negotiations between the parties. See Exhibit "C." Plaintiffs and the settling defendants  
13 were afforded a full and adequate opportunity to review and evaluate the nature of the allegations  
14 and potential defenses. An analysis of the factors outlined in In Re MGM Grand Fire Litigation,  
15 leads to the conclusion that the settlement between Plaintiffs and the Summit Defendants was  
16 reached in good faith.

17 1. *Amount Paid In Settlement:* After extensive, arm's length negotiations between the  
18 settling parties, they concluded that a settlement of \$60,000.00 is a fair account of the settling  
19 parties' potential liability.

20 2. *Allocation of the Settlement Proceeds Amongst Plaintiffs:* Plaintiff Ira Seaver is the  
21 beneficiary and principal of all plaintiff entities. Thus, allocation is not an issue.

22 3. *Insurance Policy Limits of the Settling Parties:* There was no policy of insurance for  
23 these claims.

24 4. *The Financial Condition of the Settling Parties:* The financial condition of the  
25 Summit Defendants was an issue considered during the settlement negotiations. Plaintiffs believe  
26 that a better result, through protracted litigation, was unlikely given the Summit Defendants'  
27 financial condition. This settlement was reached in order that the Summit Defendants extract  
28 themselves from the ongoing litigation and was based in part on the high costs of litigation, and the  
risks of trial.



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Suite 150  
Las Vegas, Nevada 89129

1           5.       *The Existence of Collusion, Fraud, or Tortious Conduct Aimed to Injure the Interests*  
2 *of the Non-settling Parties:* The settlement was not based on collusion, fraud, or tortious conduct  
3 aimed to injure the interests of the non-settling parties. **See Declaration of Jeffrey R. Albregts,**  
4 **Exhibit "C."** Rather, the settlement was reached after protracted negotiations between the parties,  
5 a thorough evaluation of the strength of the claims and defenses, and the costs of litigation. At the  
6 time the settlement was reached, there were no cross claims pending between these defendants.

7           Based on the factors outlined above, Plaintiffs respectfully request that this Court approve  
8 this settlement and deem it to be in good faith. Further, the cross claim brought by the Uninet  
9 Defendants against the Summit Defendants should be precluded and dismissed.

10           **B.       No Express Indemnity Exists in Favor of the Uninet Defendants**

11           It must be noted that the Asset Purchase Agreement does not contain any express indemnity  
12 in favor of the Uninet Defendants. Rather, the only indemnification is in favor of the *Seller* (the  
13 Summit Defendants). The Asset Purchase Agreement states, "Buyer [Uninet] hereby agrees to  
14 indemnify and hold Seller [Summit] harmless and against all liabilities, claims, causes of action,  
15 costs and expenses, including reasonable attorney fees...." **See Page 7, ¶ 9(b), Exhibit "B."** The  
16 agreement goes on to state, "Buyer [Uninet] shall have no right to seek indemnification based on a  
17 breach of a representation and/or warranty made by Seller [Summit] herein or in any other document  
18 entered into by Seller in connection herewith...." **See Page 19-20, ¶ 18(a)(xiii), Exhibit "B."**  
19 With no express indemnity provision, Summit should be discharged from claims by Uninet if the  
20 settlement is deemed to have been in good faith.

21           **C.       All of the Uninet Defendants' Cross Claims Against the Summit Defendants**  
22 **Should Be Dismissed**

23           As noted above, the Uninet Defendants have filed a cross-claim against the Summit  
24 Defendants based on the claims brought by the Plaintiffs against the Uninet Defendants. Based on  
25 the Summit Defendants good faith settlement with Plaintiffs, the Uninet Defendants should be  
26 precluded from bringing their cross claim against the Summit Defendants. As such, Plaintiffs seek  
27 court recognition that the settlement with the Summit Defendants was in good faith. Therefore, the  
28 Uninet Defendants' cross claim against the Summit Defendants must be dismissed.



1 **III. CONCLUSION**

2 The Plaintiffs and Summit Defendants have reached a fair and equitable settlement in the  
3 amount of \$60,000.00. Therefore, Plaintiff respectfully requests that this Court grant its Motion for  
4 Determination of Good Faith Settlement pursuant to NRS 17.245, and further requests that this Court  
5 issue an Order that all claims against the Summit Defendants be dismissed and forever barred.

6 DATED this 19 day of February, 2010.

7  
8 THARPE & HOWELL

9  
10 By: 

11 Byron L. Ames, Esq.  
12 Nevada Bar No.: 7581  
13 Jonathan D. Blum, Esq.  
14 Nevada Bar No.: 9515  
15 3425 Cliff Shadows Pkwy., Suite 150  
16 Las Vegas, Nevada 89129

17 Attorneys for Plaintiffs.  
18 IRA AND EDYTHE SEAVER FAMILY TRUST,  
19 IRA SEAVER, CIRCLE CONSULTING  
20 CORPORATION  
21  
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24  
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3425 Cliff Shadows Parkway  
Suite 150  
Las Vegas, Nevada 89129




CERTIFICATE OF MAILING

I hereby certify that on the 14 day of February, 2010, service of the foregoing PLAINTIFFS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT was made by placing a copy of said document in a sealed envelope with postage fully prepaid, addressed as follows and mailed in accordance with this Firm's practice of collecting, processing and depositing envelopes in a United States Mail receptacle:

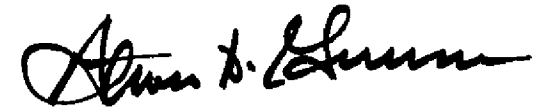
Jeffrey R. Albregts, Esq.  
SANTORO, DRIGGS, WALCH, KEARNEY,  
HOLLEY & THOMPSON  
400 South Fourth Street, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89101  
(702) 791-0308  
Fax: (702) 791-1912  
*Co-Counsel for Plaintiffs*

Gary E. Schnitzer, Esq.  
KRAVITZ, SCHNITZER, SLOANE, JOHNSON & EBERHARDY  
8985 South Eastern Avenue, Suite 200  
Las Vegas, Nevada 89123  
(702) 362-6666  
Fax: (702) 362-2203  
*Attorney for Defendants,*  
*UI Supplies, Uninet Imaging, Inc.*  
*and Nestar Saporiti*

  
An Employee of Tharpe & Howell

THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite 150  
Las Vegas, Nevada 89129





CLERK OF THE COURT

**OPPS**

JEFFREY R. ALBREGTS, ESQ. /NBN 0066  
SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
[jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
[banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)

JONATHAN D. BLUM, ESQ. /NBN 9515  
THARPE & HOWELL  
3425 Cliff Shadows Parkway, Suite 150  
Las Vegas, NV 89129  
Telephone: (702) 562-3301  
Facsimile: (702) 562-3305  
[jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

ROBERT M. FREEDMAN, ESQ.

*Admitted Pro Hac Vice*

THARPE & HOWELL  
15250 Ventura Boulevard, Ninth Floor  
Sherman Oaks, CA 91403  
Telephone: (818) 205-9955  
Facsimile: (818) 205-9944  
[rfreedman@tharpe-howell.com](mailto:rfreedman@tharpe-howell.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

Plaintiffs,

v.

UI SUPPLIES; UNINET IMAGING, INC.;  
NESTOR SAPORITI; DOES 1 through 20; and  
ROE entities 21 through 40, inclusive,

Defendants.

AND RELATED ACTIONS.

Case No.: A587003  
Dept. No.: XI

**PLAINTIFFS' OPPOSITION TO  
DEFENDANTS UI SUPPLIES, UNINET  
IMAGING AND NESTOR SAPORITI'S  
COUNTERMOTION TO DISMISS IF  
STAY IS GRANTED**

DATE: 8-20-10  
TIME: CHAMBERS

In opposing the pending Motion for Stay of defendants Lewis and Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC (hereinafter "Helfstein"), defendants UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti ("hereinafter "Saporiti") have also filed another (counter) motion to dismiss this case in the event this Court grants that stay. This is plaintiffs' opposition to that (Saporiti's) countermotion to dismiss if Helfstein's motion for stay is granted.



POINTS AND AUTHORITIES

This is the fifth motion to dismiss filed by the Saporiti defendants in this action.<sup>1</sup> Although Saporiti's current version is presented as a countermotion to dismiss if the stay requested by the Helfstein defendants is granted by this Court, the Saporiti defendants nonetheless stay true to form in requesting dismissal of this case vis-à-vis arguments of hyperbole and with little or no citation to any legal authority (here, no case law is cited whatsoever). For these reasons, this Court must, once again, deny the Saporiti defendants' most recent and fifth request to dismiss this case against them.

The remedy set forth in NRCP 19(b) regarding indispensable parties is a harsh remedy and rarely, if ever, granted by the court for obvious reasons of due process. *See e.g., Potts v. Vokits*, 101 Nev. 90, 962 P.2d 1304 (1985) ("if in equity and good conscience the action cannot proceed without the necessary party, that party is indispensable and the case must be dismissed under subsection (b) of this rule"). This is hardly the situation in the case at bar here because the Helfstein defendants are, as a matter of law, not indispensable to the adjudication of plaintiff's claims against the Saporiti defendants, nor the ability of the Saporiti defendants to defend against them. In fact, four of the twelve claims alleged by the Saporiti defendants against the Helfstein defendants are basically crossclaims for indemnity and contribution, claims which do not even arise until an adverse judgment is entered herein against the Saporiti defendants and in favor of plaintiffs. *See Rodriguez v. Prima Donna Company, LLC*, \_\_\_ Nev. \_\_\_, 216 P.3d 793, 801 (2009) (Generally, the remedy of indemnity is only available after the defendant has extinguished its own liability through settlement or by paying a judgment).

In other words, the Saporiti defendants' claims for indemnity against the Helfstein defendants do not even arise (or ever arise in this action) until a judgment is entered herein against the Saporiti defendants and in favor of plaintiffs, in which case, the Saporiti defendants would then have at least one year to pursue the Helfstein defendants for reimbursement of, or contribution to, the same. *See* NRS 17.285. Furthermore, Saporiti's remaining crossclaims

<sup>1</sup> Plaintiffs hereby incorporate by reference as though fully set forth herein all of their prior oppositions and/or briefs in opposition to Saporiti's prior motions to dismiss this case.



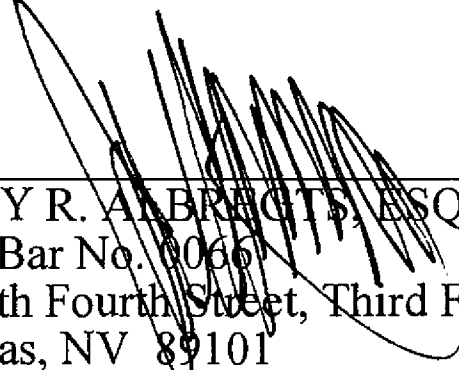
1 against Helfstein are either basically for breach of contract which has a six year statute of  
2 limitations (NRS 11.190(1)(b)), or for some type of misrepresentation in formation of the  
3 contract which has a statute of limitations of three years but is only "deemed to accrue upon the  
4 discovery by the aggrieved party of the facts constituting the fraud or mistake" (NRS  
5 11.190(3)(b)). Ergo, the Helfstein defendants are neither indispensable to the adjudication of this  
6 action, nor plaintiff's claims against the Saporiti defendants in this action nor, for that matter,  
7 any other matter pending in this action.

8 Having said that, it obviously makes immense sense, and it would be much more  
9 economical and advantageous to adjudicate and try this action, with the Helfstein defendants on  
10 board. Indeed, attached hereto as exhibit "1" are true and correct copies of documents Mr.  
11 Helfstein provided to Mr. Seaver which show payments from Helfstein (vis-à-vis Summit) to  
12 Saporiti (vis-à-vis Uninet) after the close of the deal, although these payments were never  
13 reflected or mentioned in their sale contract. (See Declaration of Ira Seaver attached hereto in  
14 support of these documents.) Furthermore, all of these issues and documents, as well as the  
15 Helfstein and Saporiti defendants themselves, are the subject of extensive discovery efforts by  
16 plaintiffs at this time. In short, rather than even consider the fifth and current (counter) motion to  
17 dismiss of the Saporiti defendants, this Court should simply deny the Helfstein defendants'  
18 Motion for a Stay and allow this action to proceed to trial as it is currently scheduled.

19 For these reasons, plaintiffs respectfully request that this Court deny both Helfstein's  
20 motion for stay and Saporiti's countermotion to dismiss.

21 DATED this 5 day of August, 2010.

22 SANTORO, DRIGGS, WALCH,  
23 KEARNEY, HOLLEY & THOMPSON

24  
25   
26 JEFFREY R. ALBRECHTS, ESQ.  
27 Nevada Bar No. 00661  
28 400 South Fourth Street, Third Floor  
Las Vegas, NV 89101  
*Attorneys for Plaintiffs*



**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 5<sup>th</sup> day of August, 2010, and pursuant to NRCP 5(b),

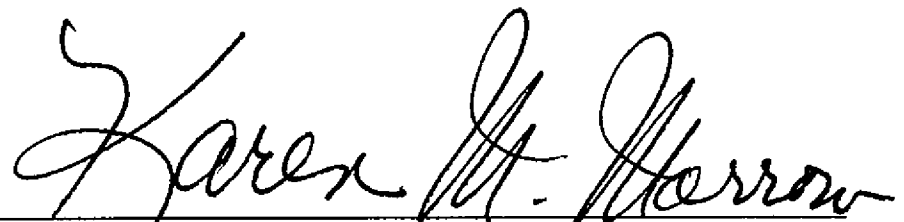
I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S COUNTERMOTION TO DISMISS IF STAY IS GRANTED**, postage prepaid and addressed to:

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
*Attorneys for Lewis Helfstein,  
Madalyn Helfstein, Summit Laser  
Products, Inc., Summit Technologies, LLC*

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
KRAVITZ, SCHNITZER, SLOANE &  
JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite No. 200  
Las Vegas, Nevada 89123  
*Attorneys for Defendants UI Supplies,  
Uninet Imaging and Nestor Saporiti*

Robert M. Freedman, Esq.  
THARPE & HOWELL  
15250 Ventura Boulevard  
Ninth Floor  
Sherman Oaks, CA 91403

and  
Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Senior Associate  
THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite No. 150  
Las Vegas, NV 89129  
*Co-Counsel for Plaintiffs*



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



**DECLARATION OF IRA SEAVER**

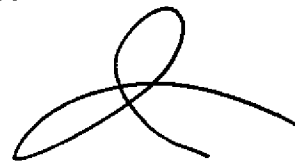
Ira Seaver, under penalty of perjury, hereby declares as follows:

1. I am a plaintiff in the above captioned case, have personal knowledge of the facts set forth herein, except as otherwise indicated, am competent to so testify, and make this declaration in support of PLAINTIFFS' OPPOSITION TO DEFENDANTS UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S COUNTERMOTION TO DISMISS IF STAY IS GRANTED.

2. Attached hereto are true and correct copies of documents reflecting payments from Helfstein (vis-à-vis Summit) to Saporiti (vis-à-vis Uninet) after the close of the deal, but which were never reflected or mentioned in their sale contract.

Further this affiant sayeth naught.

Dated this 4<sup>th</sup> day of August, 2010.



IRA SEAVER



## GENERAL LEDGER DETAIL REPORT

DETAIL POSTINGS FOR PERIODS 01 THRU 12 ENDING 12/31/07

COUNT NO./ R DATE	JOURNAL POSTING REMARKS	BEGINNING BAL	DEBIT	CREDIT	NET CHANGE	ENDING BAL
10-00-00	Petty Cash	152.44				152.44
01/01/07	CR-R0716 A/R CASH RECEIPTS - 01/01/07		46.00			198.44
01/09/07	CR-R0691 A/R CASH RECEIPTS - 01/09/07		60.00			258.44
01/09/07	MC-R0059 PETTY CASH /CK:005684		500.00			758.44
01/31/07	PC-J0001 to record petty cash			601.00		157.44
02/01/07	CR-R0799 A/R CASH RECEIPTS - 02/01/07		238.00			395.44
02/13/07	CR-R0843 A/R CASH RECEIPTS - 02/13/07		10.00			405.44
02/20/07	CR-R0869 A/R CASH RECEIPTS - 02/20/07		54.00			459.44
02/27/07	MC-R0069 PETTY CASH /CK:005944		500.00			959.44
03/02/07	CR-R0916 A/R CASH RECEIPTS - 03/02/07		92.00			1,051.44
04/30/07	AJ-J0254 to reclass			1,051.44		.00
		152.44	1,500.00	1,652.44	152.44CR	.00
10-00-00	Chase Payroll Checking	7,142.71				7,142.71
01/03/07	AJ-J0106 to transfer to PR		6,000.00			13,142.71
01/09/07	AJ-J0114 to transfer to pr		42,000.00			55,142.71
01/16/07	AJ-J0134 to transfer to PR		6,000.00			61,142.71
01/23/07	AJ-J0133 to transfer to PR		40,000.00			101,142.71
01/30/07	AJ-J0143 to transfer to PR		6,000.00			107,142.71
01/31/07	MP-J0008 to record Payroll			28,395.76		78,746.95
01/31/07	MP-J0008 to record Payroll			65,773.18		12,973.77
02/06/07	AJ-J0148 to record PR transfer		46,000.00			58,973.77
02/21/07	AJ-J0162 to transfer to PR		25,000.00			83,973.77
02/22/07	AJ-J0163 to transfer to PR		14,000.00			97,973.77
02/27/07	AJ-J0165 to transfer to PR		6,000.00			103,973.77
02/28/07	AJ-J0194 to fix PR JE			13,693.99		90,279.78
02/28/07	AJ-J0194 to fix PR JE			999.00		89,280.78
02/28/07	MP-J0009 to record PR			14,936.44		74,344.34
02/28/07	MP-J0009 to record PR			67,718.14		6,626.20
03/07/07	AJ-J0166 to transfer to PR		38,000.00			44,626.20
03/13/07	AJ-J0170 to transfer from chase to pr		13,000.00			57,626.20
03/21/07	AJ-J0174 to transf to PR		38,000.00			95,626.20
03/28/07	AJ-J0171 transfer to PR		6,000.00			101,626.20
03/31/07	MP-J0011 payroll for March			26,090.72		75,535.48
03/31/07	MP-J0011 payroll for March			71,478.07		4,057.41
04/04/07	AJ-J0179 to transfer to PR		52,000.00			56,057.41
04/11/07	AJ-J0190 to transfer to PR account		6,368.96			62,426.37
04/18/07	AJ-J0204 to record PR transfer		18,018.01			80,444.38
04/20/07	CR-R1114 MISC ACCT REF:107			24,386.97		56,057.41
04/30/07	PR-J0001 to record			19,454.93		36,602.48
04/30/07	PR-J0001 to record			54,469.79		17,867.31CR
08/31/07	AJ-J0223 to record trf from ML to PR		155,000.00			137,132.69
08/31/07	AJ-J0245 to reclass		5,577.05			142,709.74
10/18/07	AJ-J0256 DPI check			10,000.00		132,709.74
		7,142.71	522,964.02	397,396.99	125,567.03	132,709.74
50-00-00	Flex Spending Account	2,305.35				2,305.35
01/01/07	AJ-J0250 to reclass			1,087.66		1,217.69
01/10/07	AJ-J0115 to adjust Flex account balance			680.81		536.88
01/31/07	AJ-J0247 to reclass			1,624.54		1,087.66CR
01/31/07	MP-J0008 to record Payroll			703.04		1,790.70CR
01/31/07	MP-J0008 to record Payroll			384.62		2,175.32CR
01/31/07	MP-J0008 to record Payroll		1,087.66			1,087.66CR
02/28/07	MP-J0009 to record PR		1,087.66			.00
03/31/07	AJ-J0248 to reclass			1,087.66		1,087.66CR
03/31/07	MP-J0011 payroll for March		1,087.66			.00
04/30/07	AJ-J0249 to reclass			1,087.66		1,087.66CR
04/30/07	PR-J0001 to record		1,087.66			.00



## GENERAL LEDGER DETAIL REPORT

DETAIL POSTINGS FOR PERIODS 01 THRU 12 ENDING 12/31/07

ACCOUNT NO.	DATE	JOURNAL	POSTING	REMARKS	BEGINNING BAL	DEBIT	CREDIT	NET CHANGE	ENDING BAL
10-00-00		Loan from LBH Enterprises		(Continued)					
05/16/07		MC-R0102 LBH ENTERPRISES, INC.		/CK:006225		5,000.00			50,000.00CR
05/22/07		CR-R1153 MISC ACCT		REF:178			3,042.95		53,042.95CR
05/29/07		CR-R1169 MISC ACCT		REF:199			487.25		53,530.20CR
06/05/07		MC-R0108 LBH ENTERPRISES, INC.		/CK:006234		50,000.00			3,530.20CR
06/11/07		AJ-J0215 to reclass misposting				358.00			3,172.20CR
					50,000.00CR	55,358.00	8,530.20	46,827.80	3,172.20CR
10-00-00		Suspense Clearing Account			.00				.00
01/04/07		AJ-J0184 to adjust					4.95		4.95CR
01/04/07		CR-R0671 A/R CASH RECEIPTS - 01/04/07				4.95			.00
04/05/07		AJ-J0193 to record 50K laserstar pmt					50,000.00		50,000.00CR
04/09/07		AJ-J0192 to record inven sale and purch					150,020.00		200,020.00CR
05/14/07		AJ-J0237 to record Misc Dep					5,604.64		205,624.64CR
05/18/07		AJ-J0238 to record misc dep					2,483.22		208,107.86CR
06/08/07		CR-R1191 A/R CASH RECEIPTS - 06/08/07				487.25			207,620.61CR
06/08/07		CR-R1192 A/R CASH RECEIPTS - 06/08/07				3,042.95			204,577.66CR
07/10/07		AJ-J0222 to record Deposit 7.10 dep					50,000.00		254,577.66CR
07/10/07		AJ-J0222 to record Deposit 7.12					50,000.00		304,577.66CR
07/10/07		AJ-J0235 to reclass				50,000.00			254,577.66CR
07/10/07		AJ-J0236 to reclass to FF				50,000.00			204,577.66CR
					.00	103,535.15	308,112.81	204,577.66CR	204,577.66CR
10-00-00		Due to UIS			.00				.00
04/02/07		CR-R1062 MISC ACCT		REF: DUE TO UIS			5,609.77		5,609.77CR
04/02/07		CR-R1063 MISC ACCT		REF: DUE TO UIS			1,138.74		6,748.51CR
04/03/07		AJ-J0175				59.49			6,808.00CR
04/03/07		CR-R1064 MISC ACCT		REF: DUE TO UIS			5,042.19		11,731.21CR
04/03/07		CR-R1068 MISC ACCT		REF: DUE TO UIS			2,104.04		13,835.25CR
04/04/07		CR-R1070 MISC ACCT		REF: DUE TO UIS			4,273.55		18,110.80CR
04/04/07		CR-R1071 MISC ACCT		REF: DUE TO UIS			2,148.17		20,258.97CR
04/06/07		CR-R1076 Eco Laser Product		REF: W040607			1,173.00		21,431.97CR
04/17/07		CR-R1094 North East Laser		REF:4219			1,041.75		22,473.72CR
04/17/07		CR-R1095 MISC ACCT		REF:6960			495.95		22,969.67CR
04/17/07		CR-R1096 MISC ACCT		REF:1259			338.30		23,307.97CR
04/17/07		CR-R1098 MISC ACCT		REF:8647			252.00		23,559.97CR
04/17/07		CR-R1099 The Copy Man		REF:6951			233.25		23,793.22CR
04/17/07		CR-R1145 MISC ACCT		REF:M/O			120.00		23,913.22CR
04/18/07		CR-R1100 MISC ACCT		REF:66655737			4.95		23,918.17CR
04/19/07		CR-R1104 LASER LINE INC.		REF:3270			480.00		24,398.17CR
04/19/07		CR-R1105 MISC ACCT		REF: DUE TO UIS			338.50		24,736.67CR
04/20/07		CR-R1108 MISC ACCT		REF: DUE TO UIS			107.00		24,843.67CR
04/20/07		MC-R0089 UI Supplies, Inc.		/CK:006205		21,766.61			3,077.06CR
04/23/07		CR-R1109 MISC ACCT		REF: DUE TO UIS			707.75		3,784.81CR
04/23/07		CR-R1110 CES COPIER EXPRES		REF:4313			72.25		3,857.06CR
04/23/07		CR-R1110 IOT (Int'l Office		REF:18200			450.00		4,307.06CR
04/23/07		CR-R1113 MISC ACCT		REF:UIS B063			4,975.00		9,282.06CR
04/24/07		CR-R1116 MISC ACCT		REF:8375434			48.75		9,330.81CR
04/25/07		CR-R1123 Lazer Sharp		REF:10636			127.00		9,457.81CR
04/25/07		CR-R1124 MISC ACCT		REF:8684			206.88		9,664.69CR
04/27/07		CR-R1128 MISC ACCT		REF:1985			125.35		9,790.04CR
04/30/07		CR-R1130 MISC ACCT		REF:24895			78.70		9,868.74CR
04/30/07		CR-R1130 MISC ACCT		REF:31104			79.70		9,948.44CR
04/30/07		CR-R1130 MISC ACCT		REF:3890			630.95		10,579.39CR
05/01/07		CR-R1132 MISC ACCT		REF:59678			1,054.00		11,633.39CR
05/01/07		CR-R1132 MISC ACCT		REF: C764			159.00		11,792.39CR
05/02/07		CR-R1175 Alpha Omega Copie		REF:9778			170.75		11,963.14CR
05/03/07		CR-R1134 MISC ACCT		REF:15839			905.00		12,868.14CR
05/04/07		CR-R1135 BABCOCK BUSINESS		REF:6485			71.50		12,939.64CR
05/04/07		CR-R1136 KK OFFICE SOLUTIO		REF:12049			535.90		13,475.54CR
05/04/07		CR-R1136 LASER PERFORMANCE		REF:67279			555.00		14,030.54CR
05/04/07		CR-R1136 MISC ACCT		REF:10608			262.50		14,293.04CR
05/04/07		CR-R1136 MISC ACCT		REF:1890			396.20		14,689.24CR
05/04/07		CR-R1136 MISC ACCT		REF:208300			170.00		14,859.24CR



## GENERAL LEDGER DETAIL REPORT

DETAIL POSTINGS FOR PERIODS 01 THRU 12 ENDING 12/31/07

COUNT NO./

R DATE	JOURNAL	POSTING REMARKS	BEGINNING BAL	DEBIT	CREDIT	NET CHANGE	ENDING BAL
00-00-00	Due to UIS		(Continued)				
05/04/07	CR-R1136 MISC ACCT	REF:5971			120.00		14,979.24CR
05/04/07	CR-R1136 MISC ACCT	REF:6880			1,562.50		16,541.74CR
05/04/07	CR-R1136 MISC ACCT	REF:9361			182.90		16,724.64CR
05/04/07	CR-R1137 MISC ACCT	REF:W050207			3,250.00		19,974.64CR
05/04/07	CR-R1142 MISC ACCT	REF:W050407			4,615.00		24,589.64CR
05/04/07	CR-R1150 MISC ACCT	REF:REVW050407		4,615.00			19,974.64CR
05/07/07	CR-R1138 Rome Computer (L	REF:1063			1,389.45		21,364.09CR
05/07/07	CR-R1139 Applied Laser Tec	REF:14994			178.00		21,502.09CR
05/07/07	CR-R1139 Dove Data Product	REF:59883			80.00		21,582.09CR
05/07/07	CR-R1139 MISC ACCT	REF:00403762B			1,472.90		23,054.99CR
05/07/07	CR-R1139 MISC ACCT	REF:13365			140.75		23,195.74CR
05/07/07	CR-R1139 MISC ACCT	REF:26405			27.00		23,222.74CR
05/07/07	CR-R1139 MISC ACCT	REF:3690			1,247.65		24,470.39CR
05/07/07	CR-R1139 MISC ACCT	REF:3896			909.95		25,380.34CR
05/07/07	CR-R1139 MISC ACCT	REF:4343			505.65		25,885.99CR
05/07/07	CR-R1139 MISC ACCT	REF:56279			2,484.70		28,370.69CR
05/07/07	CR-R1139 MISC ACCT	REF:56814223			638.00		29,008.69CR
05/07/07	CR-R1139 U.S. Cartridge In	REF:5192			687.50		29,696.19CR
05/08/07	CR-R1140 MISC ACCT	REF:6996			705.40		30,401.59CR
05/08/07	CR-R1141 MISC ACCT	REF:35520			440.00		30,841.59CR
05/08/07	CR-R1141 MISC ACCT	REF:4263			504.25		31,345.84CR
05/10/07	CR-R1143 TECHNOINK, INC.	REF:12198			62.75		31,408.59CR
05/10/07	CR-R1143 MISC ACCT	REF:15340			71.35		31,479.94CR
05/10/07	CR-R1143 MISC ACCT	REF:4728			233.00		31,712.94CR
05/11/07	CR-R1144 EVREX / DBA FRON	REF:3092			372.50		32,085.44CR
05/11/07	CR-R1144 MISC ACCT	REF:11187			391.45		32,476.89CR
05/11/07	CR-R1144 MISC ACCT	REF:204880615			234.55		32,711.44CR
05/11/07	CR-R1144 MISC ACCT	REF:33116			79.05		32,790.49CR
05/11/07	CR-R1144 MISC ACCT	REF:3371			447.60		33,238.09CR
05/11/07	CR-R1144 MISC ACCT	REF:6909			1,255.00		34,493.09CR
05/11/07	CR-R1144 MISC ACCT	REF:713			113.70		34,606.79CR
05/11/07	CR-R1144 MISC ACCT	REF:9710			227.25		34,834.04CR
05/14/07	CR-R1147 B & M Technologie	REF:14145			429.85		35,263.89CR
05/14/07	CR-R1147 MISC ACCT	REF:000880229			220.00		35,483.89CR
05/14/07	CR-R1147 MISC ACCT	REF:103467			74.75		35,558.64CR
05/14/07	CR-R1147 MISC ACCT	REF:11538			383.50		35,942.14CR
05/14/07	CR-R1147 MISC ACCT	REF:11550			173.00		36,115.14CR
05/14/07	CR-R1147 MISC ACCT	REF:12074			532.00		36,647.14CR
05/14/07	CR-R1147 MISC ACCT	REF:1269			401.25		37,048.39CR
05/14/07	CR-R1147 MISC ACCT	REF:1351			85.30		37,133.69CR
05/14/07	CR-R1147 MISC ACCT	REF:1363			185.00		37,321.69CR
05/14/07	CR-R1147 MISC ACCT	REF:15875			1,163.50		38,485.19CR
05/14/07	CR-R1147 MISC ACCT	REF:16564			1,847.40		40,332.59CR
05/14/07	CR-R1147 MISC ACCT	REF:21645			343.75		40,676.34CR
05/14/07	CR-R1147 MISC ACCT	REF:3090			247.90		40,924.24CR
05/14/07	CR-R1147 MISC ACCT	REF:3112			72.25		40,996.49CR
05/14/07	CR-R1147 MISC ACCT	REF:31142			158.20		41,154.69CR
05/14/07	CR-R1147 MISC ACCT	REF:3148			69.00		41,223.69CR
05/14/07	CR-R1147 MISC ACCT	REF:3160			172.75		41,396.44CR
05/14/07	CR-R1147 MISC ACCT	REF:3907			933.20		42,329.64CR
05/14/07	CR-R1147 MISC ACCT	REF:4474			129.00		42,458.64CR
05/14/07	CR-R1147 MISC ACCT	REF:48935			2,979.00		45,437.64CR
05/14/07	CR-R1147 MISC ACCT	REF:5225			90.25		45,527.89CR
05/14/07	CR-R1147 MISC ACCT	REF:5523			87.75		45,615.64CR
05/14/07	CR-R1147 MISC ACCT	REF:5521			79.00		45,694.64CR
05/14/07	CR-R1147 MISC ACCT	REF:5526			50.00		45,744.64CR
05/14/07	CR-R1147 MISC ACCT	REF:56659			387.50		46,132.14CR
05/14/07	CR-R1147 MISC ACCT	REF:5999			263.75		46,395.89CR
05/14/07	CR-R1147 MISC ACCT	REF:7853			380.10		46,775.99CR
05/14/07	CR-R1147 MISC ACCT	REF:8223			249.00		47,024.99CR
05/14/07	CR-R1147 MISC ACCT	REF:9932			459.15		47,484.14CR
05/15/07	CR-R1146 MISC ACCT	REF:19257			783.25		48,267.39CR
05/15/07	CR-R1146 MISC ACCT	REF:2307			597.80		48,865.19CR
05/15/07	CR-R1146 MISC ACCT	REF:5516			749.25		49,614.44CR
05/15/07	CR-R1146 MISC ACCT	REF:60046			2,796.50		52,410.94CR
05/15/07	CR-R1146 MISC ACCT	REF:7011			75.00		52,485.94CR
05/15/07	CR-R1146 MISC ACCT	REF:9645			285.20		52,771.14CR
05/15/07	CR-R1146 MISC ACCT	REF:9778			1,328.50		54,099.64CR
05/15/07	CR-R1159 MISC ACCT	REF:W051507			7,756.85		61,856.49CR
05/16/07	CR-R1148 MISC ACCT	REF:1764			134.45		62,000.94CR
05/16/07	CR-R1148 MISC ACCT	REF:33086			309.50		62,310.44CR
05/16/07	CR-R1148 MISC ACCT	REF:52542			1,318.50		63,628.94CR
05/16/07	MC-R0103 UI Supplies	CK:006228		20,156.63			43,472.31CR

20,156.63

From ML



## GENERAL LEDGER DETAIL REPORT

DETAIL POSTINGS FOR PERIODS 01 THRU 12 ENDING 12/31/07

ACCOUNT NO	DATE	JOURNAL	POSTING	REMARKS	BEGINNING BAL	DEBIT	CREDIT	NET CHANGE	ENDING BAL
10-00-00		Due to US		(Continued)					
05/17/07		CR-R1151 MISC ACCT	REF:14889				70.00		43,712.51CR
05/17/07		CR-R1151 MISC ACCT	REF:33230				268.25		43,980.56CR
05/17/07		CR-R1151 MISC ACCT	REF:67294				680.55		44,661.11CR
05/17/07		CR-R1151 The Cartridge Com	REF:6924				195.75		44,856.86CR
05/18/07		CR-R1152 MISC ACCT	REF:10669				209.35		45,066.21CR
05/18/07		CR-R1152 MISC ACCT	REF:1369				349.35		45,415.56CR
05/18/07		CR-R1152 MISC ACCT	REF:1737				824.85		46,240.41CR
05/18/07		CR-R1152 MISC ACCT	REF:3217				348.75		46,589.16CR
05/18/07		CR-R1152 MISC ACCT	REF:5312				76.60		46,665.76CR
05/18/07		CR-R1152 MISC ACCT	REF:5554				1,067.75		47,693.51CR
05/18/07		CR-R1152 MISC ACCT	REF:56830				2,348.20		50,041.71CR
05/18/07		CR-R1152 MISC ACCT	REF:57423405				445.75		50,487.46CR
05/21/07		CR-R1155 MISC ACCT	REF:W052107				3,750.36		54,238.02CR
05/21/07		CR-R1156 MISC ACCT	REF:5/21 DEP				26,367.32		80,605.34CR
05/21/07		MC-R0104 UI Supplies, Inc	CK:006229		14,859.40				65,745.94CR
05/21/07		MC-R0105 UI Supplies, Inc	CK:006230		28,073.20				37,672.74CR
05/22/07		CR-R1158 MISC ACCT	REF:5/22 DEP				2,759.20		40,431.94CR
05/23/07		CR-R1161 MISC ACCT	REF:5/23 DEP				2,811.05		43,242.99CR
05/23/07		CR-R1166 Telos	REF:W052307				520.45		43,763.44CR
05/24/07		CR-R1162 MISC ACCT	REF:W05407				5,360.00		49,123.44CR
05/24/07		CR-R1164 MISC ACCT	REF:5/24 DEP				11,822.00		60,945.44CR
05/25/07		CR-R1165 MISC ACCT	REF:5/25 DEP				1,945.52		62,890.96CR
05/25/07		CR-R1174 MISC ACCT	REF:W052507				1,399.76		64,290.72CR
05/29/07		CR-R1170 Pelikan Hardcopy	REF:W052907				3,883.50		71,174.22CR
05/29/07		CR-R1171 MISC ACCT	REF:W052907				250.00		71,424.22CR
05/29/07		CR-R1182 MISC ACCT	REF:5/29 DEP				25,337.76		96,761.98CR
05/29/07		MC-R0107 UI Supplies, Inc.	CK:006232		66,072.95				30,689.03CR
05/30/07		CR-R1172 MISC ACCT	REF:60408				2,903.75		33,592.78CR
05/31/07		CR-R1173 MISC ACCT	REF:5/31 DEP				1,320.15		34,912.93CR
06/01/07		CR-R1179 MISC ACCT	REF:6/1 DEP				9,936.26		44,849.19CR
06/04/07		CR-R1186 MISC ACCT	REF:6/4 DEP				21,395.20		66,244.39CR
06/05/07		CR-R1183 MISC ACCT	REF:6/5 DEP				6,845.19		73,089.58CR
06/05/07		CR-R1184 EVREX - DBA FRON	REF:3111				1,798.50		74,888.08CR
06/05/07		CR-R1200 MISC ACCT	REF:W060507				5,289.90		80,177.98CR
06/06/07		CR-R1185 MISC ACCT	REF:6/6 DEP				6,858.25		87,036.23CR
06/07/07		CR-R1181 MISC ACCT	REF:6/7 DEP				3,130.45		90,166.68CR
06/08/07		CR-R1189 MISC ACCT	REF:6/8 DEP				9,325.42		99,492.10CR
06/08/07		MC-R0110 UI Supplies, Inc.	CK:006245		85,529.52				14,262.58CR
06/11/07		CR-R1193 MISC ACCT	REF:6/11 DEP				16,708.39		30,970.97CR
06/12/07		CR-R1196 MISC ACCT	REF:REDEPOSIT				221.75		31,192.72CR
06/12/07		CR-R1197 MISC ACCT	REF:6/12 DEP				4,105.32		35,298.04CR
06/12/07		CR-R1201 MISC ACCT	REF:W061207				6,481.83		41,779.87CR
06/13/07		CR-R1198 MISC ACCT	REF:31222				5,118.60		46,898.47CR
06/14/07		CR-R1202 Cartridge World H	REF:W061407				8,630.26		55,528.73CR
06/15/07		CR-R1203 MISC ACCT	REF:W61507				4,159.95		59,688.68CR
06/15/07		CR-R1209 MISC ACCT	REF:W061507				20,000.00		79,688.68CR
06/15/07		MC-R0112 UI Supplies, Inc	CK:006247		35,541.98				44,146.70CR
06/18/07		CR-R1205 MISC ACCT	REF:W61807				3,250.00		47,396.70CR
06/18/07		CR-R1206 K.P Moked Office	REF:W61807				4,264.39		51,661.09CR
07/05/07		CR-R1215 MISC ACCT	REF:W070507				6,643.65		58,304.74CR
07/12/07		CR-R1212 MISC ACCT	REF:W071207				14,806.50		73,111.24CR
07/12/07		CR-R1216 MISC ACCT	REF:W071207				5,421.99		78,533.23CR
07/13/07		CR-R1214 MISC ACCT	REF:W071307				5,076.32		83,609.55CR
07/18/07		CR-R1211 MISC ACCT	REF:W071807				12,893.00		96,502.55CR
07/20/07		CR-R1217 MISC ACCT	REF:W072007				27,467.62		123,970.17CR
07/23/07		CR-R1218 MISC ACCT	REF:W072307				4,835.45		128,805.62CR
07/30/07		AJ-J0244 to reclass					2,576.45		131,382.07CR
07/30/07		MC-R0116 UI Supplies	CK:011243		131,798.17				416.10
08/07/07		CR-R1221 MISC ACCT	REF:W8607				19,601.50		19,185.40CR
08/07/07		CR-R1222 MISC ACCT	REF:W80607				922.20		20,107.60CR
08/07/07		CR-R1223 DIGITEC OFFICE SO	REF:ADJ				62.50		20,170.10CR
08/07/07		CR-R1223 KK OFFICE Solutio	REF:ADJ				122.04		20,292.14CR
08/07/07		CR-R1223 REDUNDANT CARTRID	REF:ADJ				17.50		20,309.64CR
08/07/07		CR-R1223 Northeast Toner I	REF:ADJ				1,980.59		22,290.23CR
08/07/07		CR-R1223 OUT OF TONER.COM	REF:ADJ				100.00		22,390.23CR
08/07/07		CR-R1223 A-Prompt Business	REF:ADJ				566.00		22,956.23CR
08/07/07		CR-R1223 Community Busines	REF:ADJ				44.00		22,994.23CR
08/07/07		CR-R1223 Capital Imaging P	REF:ADJ				94.05		23,088.28CR
08/07/07		CR-R1223 The Cartridge Pro	REF:ADJ				22.00		23,110.28CR
08/07/07		CR-R1223 Cartridge World (	REF:ADJ				2.25		23,112.53CR



## GENERAL LEDGER DETAIL REPORT

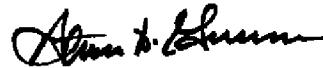
DETAIL POSTINGS FOR PERIODS 01 THRU 12 ENDING 12/31/07

COUNT NO	R	DATE	JOURNAL	POSTING	REMARKS	BEGINNING BAL	DEBIT	CREDIT	NET CHANGE	ENDING BAL
10-00-00			Due to UIS		(Continued)					
08/07/07			CR-R1223 D & M Copier Serv REF:ADJ					56.85		23,169.58CR
08/07/07			CR-R1223 Data Prox Equipme REF:ADJ					29.90		23,199.28CR
08/07/07			CR-R1223 Flo-Tech REF:ADJ					5,985.90		29,185.18CR
08/07/07			CR-R1223 Ink & Toner Excha REF:ADJ					14.85		29,200.03CR
08/07/07			CR-R1223 Printer Solutions REF:ADJ					182.85		29,382.88CR
08/07/07			CR-R1223 Payroll Systems I REF:ADJ					54.00		29,436.88CR
08/07/07			CR-R1223 Ribbons Express REF:ADJ					315.00		29,751.88CR
08/07/07			CR-R1223 Reynolds Office M REF:ADJ					13.90		29,765.78CR
08/07/07			CR-R1223 The Copy Man REF:ADJ					158.00		29,923.78CR
08/31/07			AJ-J0245 to reclass				20,523.70			9,400.08CR
						.00	428,996.65	438,396.73	9,400.08CR	9,400.08CR
10-00-00			Retained Earnings-Prior Years			22,450.71CR	.00	.00	.00	22,450.71CR
						22,450.71CR	.00	.00	.00	22,450.71CR
15-00-00			Summit Laser Products CAPITAL			125,889.18	.00	.00	.00	125,889.18
						125,889.18	.00	.00	.00	125,889.18
16-00-00			Seaver Trust CAPITAL			188,835.21CR	.00	.00	.00	188,835.21CR
						188,835.21CR	.00	.00	.00	188,835.21CR
10-00-00			Sales			.00				.00
01/08/07			SO-R0220 S/O INVOICE ENTRY - 01/08/07 BTCH N0108					161.10		161.10CR
01/18/07			SO-R0232 S/O INVOICE ENTRY - 01/18/07 BTCH N0118					18.60		179.70CR
01/22/07			SO-R0234 S/O INVOICE ENTRY - 01/22/07 BTCH N0119					11.00		190.70CR
01/22/07			SO-R0235 S/O INVOICE ENTRY - 01/22/07 BTCH N0122					43.80		234.50CR
01/24/07			SO-R0239 S/O INVOICE ENTRY - 01/24/07 BTCH N0124					70.50		305.00CR
01/25/07			SO-R0242 S/O INVOICE ENTRY - 01/25/07 BTCH N0125					.31		305.31CR
01/29/07			SO-R0247 S/O INVOICE ENTRY - 01/29/07 BTCH N0129					92.20		397.51CR
01/30/07			SO-R0248 S/O INVOICE ENTRY - 01/30/07 BTCH N0130					18.90		416.41CR
03/02/07			SO-R0285 S/O INVOICE ENTRY - 03/02/07 BTCH N0302					60.00		476.41CR
03/08/07			SO-R0292 S/O INVOICE ENTRY - 03/08/07 BTCH N0308					1,259.30		1,715.71CR
03/16/07			SO-R0300 S/O INVOICE ENTRY - 03/16/07 BTCH N0315					42.50		1,758.21CR
03/21/07			SO-R0309 S/O INVOICE ENTRY - 03/21/07 BTCH N0321					10.50		1,768.71CR
03/21/07			SO-R0311 S/O INVOICE ENTRY - 03/21/07 BTCH N0322					46.00		1,814.71CR
03/23/07			SO-R0313 S/O INVOICE ENTRY - 03/23/07 BTCH N0323					.50		1,815.01CR
03/29/07			SO-R0321 S/O INVOICE ENTRY - 03/29/07 BTCH N0329					945.00		2,760.01CR
04/09/07			AJ-J0192 to record inven sale and purch					715,750.56		718,510.57CR
05/14/07			CR-R1147 MISC ACCT REF:24111					4,844.30		723,354.87CR
						.00	.00	723,354.87	723,354.87CR	723,354.87CR
10-00-00			Sales Returns			.00				.00
01/02/07			SO-R0214 S/O INVOICE ENTRY - 01/02/07 BTCH 01541				200.00			200.00
01/04/07			SO-R0218 S/O INVOICE ENTRY - 01/04/07 BTCH 01542				75.90			275.90
01/09/07			SO-R0221 S/O INVOICE ENTRY - 01/09/07 BTCH 01544				1,493.10			1,769.00
01/11/07			SO-R0224 S/O INVOICE ENTRY - 01/11/07 BTCH 01551				1,979.82			3,748.82
01/15/07			SO-R0228 S/O INVOICE ENTRY - 01/15/07 BTCH 01557				1,180.75			4,929.57
01/18/07			SO-R0233 S/O INVOICE ENTRY - 01/18/07 BTCH 01558				28.00			4,957.57
01/22/07			SO-R0236 S/O INVOICE ENTRY - 01/22/07 BTCH 01559				22.50			4,980.07
01/23/07			SO-R0237 S/O INVOICE ENTRY - 01/23/07 BTCH 01560				819.75			5,799.82
01/26/07			SO-R0243 S/O INVOICE ENTRY - 01/26/07 BTCH 01563				65.00			5,864.82
01/29/07			SO-R0245 S/O INVOICE ENTRY - 01/29/07 BTCH 01564				159.46			6,024.28
01/29/07			SO-R0246 S/O INVOICE ENTRY - 01/29/07 BTCH 01565				181.00			6,205.28
02/06/07			SO-R0256 S/O INVOICE ENTRY - 02/06/07 BTCH 01569				1,832.55			8,037.83
02/09/07			SO-R0260 S/O INVOICE ENTRY - 02/09/07 BTCH 01572				1,178.00			9,215.83
02/14/07			SO-R0264 S/O INVOICE ENTRY - 02/14/07 BTCH 01573				150.00			9,365.83
02/15/07			SO-R0265 S/O INVOICE ENTRY - 02/15/07 BTCH 01574				811.28			10,177.11
02/16/07			SO-R0267 S/O INVOICE ENTRY - 02/16/07 BTCH 01582				186.10			10,363.21
02/20/07			SO-R0270 S/O INVOICE ENTRY - 02/20/07 BTCH 01585				2,311.10			12,674.31
02/21/07			SO-R0272 S/O INVOICE ENTRY - 02/21/07 BTCH 01588				863.20			13,537.51
02/21/07			SO-R0274 S/O INVOICE ENTRY - 02/21/07 BTCH 01594				445.50			13,983.01
02/26/07			SO-R0276 S/O INVOICE ENTRY - 02/26/07 BTCH 01595				2,227.53			16,210.54



**RPLY**

J. Michael Oakes, Esq.  
Nevada Bar No. 1999  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, Nevada 89101  
Tel.: (702) 384-2070  
Fax: (702) 384-2128  
mike@foleyoakes.com  
*Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
Summit Technologies, LLC,  
Cross-Defendants*



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Counterclaimants,

vs.

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

Counterdefendants.

CASE NO. A587003  
DEPT NO. XI

**CROSS-DEFENDANTS, LEWIS  
HELFSTEIN, MADALYN  
HELFSTEIN, SUMMIT LASER  
PRODUCTS, INC., AND SUMMIT  
TECHNOLOGIES, LLC'S REPLY  
BRIEF TO UI SUPPLIES, UNINET  
IMAGING AND NESTOR  
SAPORITI'S OPPOSITION TO  
MOTION FOR STAY OF  
CROSSCLAIM PENDING APPEAL**

DATE: August 20, 2010  
TIME: In Chambers



1 UI SUPPLIES, UNINET IMAGING and  
2 NESTOR SAPORITI,

3 Cross-Claimants,

4 vs.

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

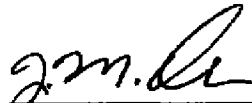
8 Cross-Defendants.

9 **CROSS-DEFENDANTS, LEWIS HELFSTEIN, MADALYN HELFSTEIN,**  
10 **SUMMIT LASER PRODUCTS, INC., AND SUMMIT TECHNOLOGIES, LLC'S**  
11 **REPLY BRIEF TO UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S**  
12 **OPPOSITION TO MOTION FOR STAY OF CROSSCLAIM PENDING APPEAL**

13 COMES NOW Cross - Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN,  
14 SUMMIT LASER PRODUCTS, INC., and SUMMIT TECHNOLOGIES, LLC, ( collectively  
15 referred to herein as "Helfstein"), by and through their attorneys, J. Michael Oakes, of the law  
16 firm of Foley & Oakes, PC, and hereby submit their Reply Brief on Motion for Stay of  
17 Crossclaim Pending Appeal.

18 DATED this 1<sup>st</sup> day of August, 2010.

19 FOLEY & OAKES, PC

20   
21 J. Michael Oakes, Esq.  
22 Nevada Bar No. 1999  
23 850 East Bonneville Avenue  
24 Las Vegas, Nevada 89101  
25 (702) 384-2070  
26 Attorneys for Lewis Helfstein, Madalyn  
27 Helfstein, Summit Laser Products, Inc.,  
28 Summit Technologies, LLC,  
Cross-Defendants



1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2  
3           In relying upon Fritz Hansen A/S v. District Court, 116 Nev. 650, 6 P.3d 982 (Nev.  
4 2000), Saporiti's opposition has misstated the standard for the granting of this motion. In  
5 considering whether to grant a stay pending appeal from an order denying a motion to compel  
6 arbitration, the burden of showing irreparable harm is upon the party opposing the stay, rather  
7 than the movant. The rule has been stated that "absent a strong showing that the appeal lacks  
8 merit or that irreparable harm will result if a stay is granted, a stay should issue to avoid  
9 defeating the object of the appeal."

10           This is in recognition of the unique circumstances presented by such a motion, as  
11 explained by the Nevada Supreme Court in Mikohn Gaming Corp. v. McCrea, 89 P.3d 36, 120  
12 Nev. 248 (Nev. 2004), where the Court stated:

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

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



1 This liberal standard for the granting of a stay pending appeal is reflective of Nevada's  
2 strong public policy in favor of arbitration.<sup>1</sup> Applying these principles to this case will  
3 demonstrate that the granting of a stay in this instance is appropriate.

4 First, Saporiti will not suffer any form of irreparable harm if a stay is granted. Indeed,  
5 the irreparable harm analysis does not generally play a significant role in the decision whether to  
6 issue a stay. This was explained in the Mikohn decision as follows:

8 Although irreparable or serious harm remains part of the  
9 stay analysis, this factor will not generally play a significant role  
10 in the decision whether to issue a stay. Normally, the only  
11 cognizant harm threatened to the parties is increased litigation  
12 costs and delay. We have previously explained that litigation  
13 costs, even if potentially substantial, are not irreparable harm.  
14 Similarly, a mere delay in pursuing discovery and litigation  
15 normally does not constitute irreparable harm. See 120 Nev. at  
16 253.

17 Given this standard, Saporiti is unable to demonstrate any sort of irreparable harm that  
18 would be sufficient to overcome the general rule that a stay should issue to avoid defeating the  
19 object of the appeal.

20 Second, Saporiti is unable to make "a strong showing that the appeal lacks merit." The  
21 only claims that involve Helfstein are those described in Saporiti's Cross Claim (which is  
22 really a third party claim) for indemnity. The Cross Claim itself alleges that "Cross-  
23 Defendants breached the terms of the Sales Agreement by exposing Cross-Claimants to alleged  
24 damages by Plaintiffs related to the Consulting Agreement." (See paragraph 10 of the Cross-  
25 Claim). This means that the indemnity claims asserted by Saporiti are "arising out of or  
26 relating to" the Sales Agreement, and all doubts concerning their arbitrability must be resolved  
27 in favor of arbitration.

28 <sup>1</sup> In furtherance of that public policy, the Mikohn decision did not require the posting of a bond  
by the appellant.



1 The question to be presented on appeal will be whether the indemnity claim is governed  
2 by the broad form arbitration agreement contained in the Asset Purchase Agreement, which  
3 states "Any controversy on claims arising out of or relating to this Agreement, or its breach,  
4 shall be settled by binding arbitration . . ." As explained in Kindred v. Second Judicial Dist.  
5 Cl., 116 Nev. 405, 996 P.2d 903 (2000):  
6

7 . . . in judging the scope of the arbitration agreements, we  
8 "resolve all doubts concerning the arbitrability of the subject  
9 matter of a dispute in favor of arbitration." See 116 Nev. At  
10 411.

11 Given the broad language of the agreement to arbitrate and the public policy requiring  
12 that arbitration agreements be broadly construed in favor of arbitration, there is a reasonable  
13 likelihood that Helfstein will prevail on its appeal. Clearly, the appeal has been brought in  
14 good faith, and, therefore, the "strong showing that it lacks merit" is missing here.

15 Finally, Saporiti continues to argue that Helfstein is an indispensable party. This  
16 argument will undoubtedly be raised again in opposing the appeal. However, there is no  
17 authority to support this novel proposition, which would require a finding that all of a  
18 defendant's potential indemnitors would have to be joined as parties to prevent dismissal of a  
19 Plaintiff's case. This result would be absurd. Indemnity claims are not compulsory claims, and  
20 they are frequently litigated as separate cases, following disposition of the underlying claim.

21 By way of contrast, there are several examples of cases where the Nevada Supreme Court  
22 has found certain parties to be indispensable, but none of them are analogous to an indemnity (or  
23 contribution) claim. For instance, an owner of legal title to real property is an indispensable  
24 party in a quiet title action, See Schwob v. Hemsath, 98 Nev. 293, 646 P.2d 1212 (1982); an  
25 assignee of an interest in a judgment is a proper plaintiff in enforcement action, See  
26 Mandlebaum v. Gregovich, 24 Nev. 154, 50 P. 849 (1897); in an action to set aside a  
27 conveyance of property into trust, the trust beneficiaries must be joined, See Robinson v.  
28



1 Kind, 23 Nev. 330, 47 P. 977 (1897); when a plaintiff seeks to set aside a conveyance of  
2 property, the person who received the property in the conveyance must be joined as a party.  
3 See Johnson v. Johnson, 93 Nev. 655, 572 P.2d 925 (1977); where unsuccessful bidder filed  
4 suit to challenge public contract award, successful bidder was an indispensable party, See  
5 Blaine Equipment Co., Inc. v. State, 138 P.3d 820, 122 Nev. 860 (Nev. 2006).  
6

7 In short, the Helfstein parties are not indispensable parties to this case. The Plaintiffs  
8 can pursue their case and the Saporiti parties can pursue their counterclaim. Mr. Helfstein's  
9 deposition will be taken just like any witness (it is currently set for August 23), and his  
10 testimony may be considered at the trial of the case. However, it is a complete misuse of the  
11 term to conclude that a person becomes an "indispensable party" merely because they have  
12 knowledge of facts bearing upon the dispute.  
13

14 Helfstein recognizes that the court ruled against him in considering the Motion for Stay  
15 of Dismissal, and to Compel Arbitration in the first place. However, given the language of the  
16 agreement itself, and the language of the Cross-Claim which shows that the asserted claims  
17 arise directly out of the agreement containing the arbitration provision, it can hardly be said  
18 that there has been "a strong showing that the appeal lacks merit." By way of comparison, the  
19 Mikohn decision granted the requested stay pending appeal merely because "it is not clear" if  
20 arbitration would be required. Specifically, the Mikohn decision stated as follows:  
21

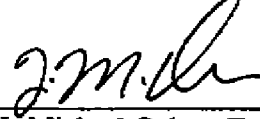
22 In this case, the merits are unclear at this stage. Without a full  
23 appellate review of the record, we cannot determine if Mikohn's  
24 appeal is likely to succeed. As a result, because it is not clear if  
25 arbitration of McCrea's claims is required by the employment  
26 agreement's arbitration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



1 Based upon the foregoing, the Helfstein parties assert that Saporiti has not shown any  
2 reason why the general rule in favor of granting a stay should not be applied. Therefore, it is  
3 respectively requested that this Motion be granted, and that a stay be issued, without bond,  
4 pending the outcome of the interlocutory appeal.

5  
6 Respectively submitted this 12<sup>th</sup> day of August, 2010.

7 FOLEY & OAKES, PC

8   
9 J. Michael Oakes, Esq.  
10 Nevada Bar No. 1999  
11 850 East Bonneville Avenue  
12 Las Vegas, Nevada 89101  
13 (702) 384-2070  
14 *Attorneys for Lewis Helfstein, Madalyn  
Helfstein, Summit Laser Products, Inc.,  
Summit Technologies, LLC,  
Cross-Defendants*



**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that a true and correct copy of the foregoing **CROSS-DEFENDANTS, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC., AND SUMMIT TECHNOLOGIES, LLC'S REPLY BRIEF TO UI SUPPLIES, UNINET IMAGING AND NESTOR SAPORITI'S OPPOSITION TO MOTION FOR STAY CROSSCLAIM PENDING APPEAL** was served to those persons designated below on the 10<sup>th</sup> day of August, 2010:

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

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

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

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

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

Robert Freedman, Esq.  
Tharpe & Howell LLP  
15250 Ventura Blvd., 9<sup>th</sup> Floor  
Sherman Oaks, CA 91403  
Facsimile No. 818-205-9944  
*Attorneys for Plaintiffs*

  
An Employee Of Foley & Oakes, PC



09A587003

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Business Court**

**COURT MINUTES**

**August 20, 2010**

---

09A587003

Ira And Edythe Seaver Family Trust, Plaintiff(s)

vs.

UI Supplies, Defendant(s)

---

**August 20, 2010**

**3:00 AM**

**Motion**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Nicole McDevitt, Relief Clerk

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

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

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

**PRINT DATE:** 08/23/2010

**Page 1 of 1**

**Minutes Date:**

**August 20, 2010**

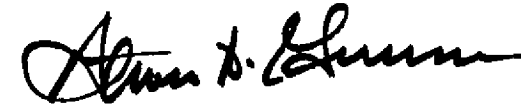
PA000346



1 **NOTC**

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

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CLERK OF THE COURT

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

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

14 Plaintiffs,

14 vs.

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

19 Defendants.

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

22 Counterclaimants,

22 vs.

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

26 Counterdefendants.

CASE NO. A587003  
DEPT NO. XI

**NOTICE OF ENTRY OF ORDER**  
**GRANTING MOTION FOR STAY**



1 UI SUPPLIES, UNINET IMAGING and  
2 NESTOR SAVORITI,

3 Cross-Claimants,

4 vs.

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

7 Cross-Defendants.  
8

9 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order Granting  
10 Motion for Stay was entered by the Nevada Supreme Court on the 19<sup>th</sup> day of October, 2010, a  
11 copy of which is attached hereto as Exhibit "A".  
12

13  
14 DATED this 25<sup>th</sup> day of October, 2010.

15 FOLEY & OAKES, PC

16   
17

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

20 *Attorneys for Lewis Helfstein, Madalyn*  
21 *Helfstein, Summit Laser Products, Inc.,*  
22 *Summit Technologies, LLC,*  
23 *Cross-Defendants*  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** was served to those persons designated below on the **25**th day October of, 2010:

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

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

Robert Freedman, Esq.  
Tharpe & Howell LLP  
15250 Ventura Blvd., 9<sup>th</sup> Floor  
Sherman Oaks, CA 91403  
*Attorneys for Plaintiffs*

Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Tharpe & Howell  
3425 Cliff Shadows Parkway, Suite 150  
Las Vegas, NV 89129  
*Attorneys for Plaintiffs*

Jeffrey R. Albregts, Esq.  
Santoro, Driggs, Walch, Kearney,  
Holley & Thompson  
400 South Fourth Street  
Third Floor  
Las Vegas, NV 89101  
*Attorneys for Plaintiffs*

Gary E. Schnitzer, Esq,  
Michael B. Lee, Esq.  
Kravitz, Schnitzer, Sloane & Johnson Chtd.  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, NV 89123  
*Attorneys for Defendants UI Supplies, Uninet Imaging and Nestor Saporiti*

  
An Employee Of Foley & Oakes, PC



IN THE SUPREME COURT OF THE STATE OF NEVADA

LEWIS HELFSTEIN; MADALYN  
HELFSTEIN; SUMMIT LASER  
PRODUCTS, INC.; AND SUMMIT  
TECHNOLOGIES, LLC,  
Appellants,

vs.

UI SUPPLIES; UNINET IMAGING,  
INC.; AND NESTOR SAPORITI,  
Respondents.

No. 56383

**FILED**

OCT 19 2010

TRACEY K. LINDENMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER GRANTING MOTION FOR STAY

This is an appeal from a district court order refusing to compel arbitration of crossclaims/third-party claims. Appellants have moved to stay the district court proceedings over those claims pending appeal. Respondents oppose the motion to the extent that it seeks to stay the proceedings only as to the crossclaims/third-party claims; respondents propose that if anything is stayed, the entire proceedings below must be stayed, upon payment of a supersedeas bond.

In determining whether to grant a stay pending appeal, this court generally considers the following factors: (1) whether the object of the appeal will be defeated if the stay is denied; (2) whether appellants will suffer irreparable or serious injury if the stay is denied; (3) whether respondents will suffer irreparable or serious injury if the stay is granted; and (4) whether appellants are likely to prevail on the merits in the appeal. NRAP 8(c). Having considered appellants' motion and respondents' opposition, and appellants' reply in light of these factors, we conclude that the factors militate in favor of a stay. See Mikohn Gaming Corp. v. McCrea, 120 Nev. 248, 251-52, 89 P.3d 36, 38 (2004) (noting that,



in appeals from orders refusing to compel arbitration, "absent a strong showing that the appeal lacks merit or that irreparable harm will result if a stay is granted, a stay should issue to avoid defeating the object of the appeal"). Accordingly, we grant the motion for a stay and hereby stay the district court proceedings in District Court Case No. A587003 as they pertain to the crossclaims/third-party claims. As no judgment has been entered on those claims, no supersedeas bond is required. NRCP 62(d); see generally McCulloch v. Jeakins, 99 Nev. 122, 659 P.2d 302 (1983).

It is so ORDERED.

Cherry J.  
Cherry

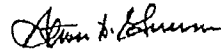
Saitta J.  
Saitta

Gibbons J.  
Gibbons

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Foley & Oakes, PC  
Kravitz, Schnitzer, Sloane, Johnson & Eberhardy, Chtd.  
Eighth District Court Clerk



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CLERK OF THE COURT

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 NOTC  
2 JEFFREY R. ALBREGTS, ESQ. /NBN 0066  
3 SANTORO, DRIGGS, WALCH,  
4 KEARNEY, HOLLEY & THOMPSON  
5 400 South Fourth Street, Third Floor  
6 Las Vegas, Nevada 89101  
7 Telephone: (702) 791-0308  
8 Facsimile: (702) 791-1912  
9 [jalbregts@nevadafirm.com](mailto:jalbregts@nevadafirm.com)  
10 [banderson@nevadafirm.com](mailto:banderson@nevadafirm.com)

11 JONATHAN D. BLUM, ESQ. /NBN 9515  
12 THARPE & HOWELL  
13 3425 Cliff Shadows Parkway, Suite 150  
14 Las Vegas, NV 89129  
15 Telephone: (702) 562-3301  
16 Facsimile: (702) 562-3305  
17 [jblum@tharpe-howell.com](mailto:jblum@tharpe-howell.com)

18 ROBERT M. FREEDMAN, ESQ.  
19 *Admitted Pro Hac Vice*  
20 THARPE & HOWELL  
21 15250 Ventura Boulevard, Ninth Floor  
22 Sherman Oaks, CA 91403  
23 Telephone: (818) 205-9955  
24 Facsimile: (818) 205-9944  
25 [rffreedman@tharpe-howell.com](mailto:rffreedman@tharpe-howell.com)

26 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

AND RELATED ACTIONS.

Case No.: A587003  
Dept. No.: XI

PLAINTIFFS' NOTICE OF  
RESCISSION OF HELFSTEIN  
SETTLEMENT

07650-03/690005

PA000352



SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 TO: LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC.  
2 and SUMMIT TECHNOLOGIES, LLC, Defendants

3 TO: J. MICHAEL OAKES, ESQ., their attorney:

4 YOU ARE HEREBY NOTIFIED that plaintiffs hereby rescind their settlement with you,  
5 defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit  
6 Technologies, LLC, a true and correct copy of which Settlement Agreement is attached hereto as  
7 exhibit "1," which was also the subject of plaintiff's Motion for Determination of Good Faith  
8 Settlement that was previously filed with this Court but taken off calendar prior to hearing.  
9 Plaintiffs' grounds include, but are not limited to, the fact that Mr. Seaver first learned that he  
10 was fraudulently induced to enter into said Settlement Agreement after plaintiffs entered into it.  
11 Specifically, Mr. Seaver learned of facts and the existence of documents which evidence that Mr.  
12 Helfstein breached his legal duty to provide Mr. Seaver relevant and material facts and  
13 documents prior to entering into the agreement. Mr. Helfstein's duty to produce the facts and  
14 documents arose out of his fiduciary obligation to Mr. Seaver with respect to Summit  
15 technology, and Mr. Helfstein's failure to properly comply with his discovery obligations. As a  
16 stay is currently entered in this action by the Nevada Supreme Court on behalf of said  
17 defendants, plaintiffs can take no further action pursuant to this notice until that stay is lifted.

18 DATED this 26 day of January, 2011.

19  
20 SANTORO, DRIGGS, WALCH,  
21 KEARNEY, HOLLEY & THOMPSON

22  
23  
24 JEFFREY R. WALKER, ESQ.  
25 Nevada Bar No. 10066  
26 400 South Fourth Street, Third Floor  
27 Las Vegas, Nevada 89101  
28 Attorneys for Plaintiffs





**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the <sup>24</sup>24 day of January, 2011 and pursuant to NRCP

5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing

**PLAINTIFFS' NOTICE OF RESCISSION OF HELFSTEIN SETTLEMENT**, postage

prepaid and addressed to:

J. Michael Oakes, Esq.  
FOLEY & OAKES, PC  
850 East Bonneville Avenue  
Las Vegas, NV 89101  
*Attorneys for Lewis Helfstein,  
Madalyn Helfstein, Summit Laser  
Products, Inc., Summit Technologies, LLC*

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
KRAVITZ, SCHNITZER, SLOANE &  
JOHNSON, CHTD.  
8985 South Eastern Avenue, Suite No. 200  
Las Vegas, Nevada 89123  
*Attorneys for Defendants UI Supplies,  
Uninet Imaging and Nestor Saporiti*

Robert M. Freedman, Esq.  
THARPE & HOWELL  
15250 Ventura Boulevard  
Ninth Floor  
Sherman Oaks, CA 91403  
and

Byron L. Ames, Esq.  
Jonathan D. Blum, Esq.  
Senior Associate  
THARPE & HOWELL  
3425 Cliff Shadows Parkway  
Suite No. 150  
Las Vegas, NV 89129  
*Co-Counsel for Plaintiffs*

A handwritten signature in cursive script, reading 'Karen A. Morrow', written in black ink over a horizontal line.

An employee of SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



# **EXHIBIT “1”**



**SETTLEMENT/CONFIDENTIALITY AGREEMENT  
AND MUTUAL RELEASE OF ALL CLAIMS**

The undersigned, IRA AND EDYTHE SEAVER FAMILY TRUST, IRA SEAVER and CIRCLE CONSULTING CORPORATION ("Seaver Plaintiffs") on one side; and LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC. and SUMMIT TECHNOLOGIES, LLC (hereinafter "Helfstein Defendants") on the other side; for good and valuable consideration in the amount of SIXTY THOUSAND DOLLARS (\$60,000.00), which is to be paid by the Helfstein Defendants to the Seaver Plaintiffs upon filing and receipt of a final order of dismissal, with prejudice, as against the Helfstein Defendants, which sum is now on deposit in the trust account of Santoro, Driggs, Walch, Kearney, Holley & Thompson; and which sum is to be returned to the Helfstein defendants if said order is not received by them within ninety days of the date of execution of this agreement, hereby expressly release each other in this matter as well as their respective attorneys, agents, employees, principals, assignees, assignors, successors and/or heirs from any and all liability, obligations, debts, claims, demands and lawsuits of any kind or nature whatsoever and, to that end, hereby acknowledge, represent and warrant that this mutual release is accepted in full compromise settlement and satisfaction of, and as sole consideration for the final release and discharge of all claims, actions, debts, obligations and demands whatsoever that now exist or may hereafter occur which have been asserted or could have been asserted by the undersigned in that lawsuit pending between these parties filed in District Court, Clark County, Nevada, entitled Ira and Edythe Seaver Family Trust, Ira Seaver and Circle Consulting Corporation v. Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies LLC, UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti (Case No. A587003).



The consideration and/or covenants for this Agreement are (1) the payment of \$60,000 by the Helfstein Defendants to the Seaver Plaintiffs; (2) the dismissal of said legal action (Case No. A587003) with prejudice as to the Helfstein Defendants only, each side to bear their own attorney's fees and costs of suit incurred therein; (3) that Lewis Helfstein also hereby agrees to cooperate in providing testimony and evidence in said case on behalf of the Seaver Plaintiffs and, in the event it becomes necessary for Helfstein to travel to Nevada more than once, Seaver will pay for the cost of as much (but only after Helfstein's first trip there); and (4) the provisions set forth hereinbelow.

By accepting and executing this Settlement/Confidentiality Agreement And Mutual Release ("Agreement"), no party to this agreement admits any liability whatsoever and they each accept this duly executed Mutual Release solely for the purpose of resolving the issues that were caused by the above referenced lawsuit and do not make any admission of any kind whatsoever, and that the execution of this Mutual Release, in conjunction or contemporaneously with the dismissal of Case A8587003 with prejudice, extinguishes any and all claims and/or defenses that have been asserted or may have been asserted in the aforescribed litigation or under aforescribed contracts by them and, accordingly, this mutual release and the dismissal of said legal action with prejudice shall be and are hereby subject to the principles and doctrines of res judicata and/or collateral estoppel.

That this Agreement is the entire, complete sole and only understanding and agreement of, by and between the undersigned releasees, pertaining to the subject matter expressed herein and there are no independent, collateral, different, additional or other outstanding agreements, oral or written, or obligations to be performed, things to be done, or payments to be made; and further, no promise, inducement or consideration other than the execution of this release. This release is accepted in full compromise, settlement and satisfaction of, and as sole consideration



for, the final release and discharge of all actions, claims, debts, obligations and demands at issue in said lawsuit.

To the fullest extent of the law possible, the terms of this Agreement shall be kept confidential by the undersigned and their agents, representative, heirs and attorneys and shall not be disclosed by them to any unauthorized third party. Further, the undersigned hereby agree not to disparage each other regarding the subject matter of this lawsuit. The term "disparage" is used herein to mean and include any defamatory comment or writing, or any comment or writing which a reasonable person would understand to be intended by the person making the comment or publishing the writing as a demeaning or deprecating comment concerning the person or entity who is the subject of the comment.

**BY SIGNING THIS SETTLEMENT/CONFIDENTIALITY AGREEMENT  
AND MUTUAL RELEASE OF ALL CLAIMS  
THE UNDERSIGNED ACKNOWLEDGE AND WARRANT:**

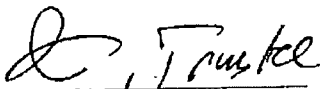
That this Agreement was carefully read in its entirety by the undersigned and is understood and known to be a full and final compromise, settlement, release, accord and satisfaction and discharge of all claims, actions and causes of action and suits, as state above and that this document is signed and executed voluntarily without reliance upon any statement or representation of or by any party, or any of their representatives, agents, employees or affiliated entities. All of the terms and conditions of this release are contractual and not mere recitals; the undersigned are of legal age and capacity, competent to sign this document and accepts full responsibility for the same. In the event that the undersigned violate these provisions of confidentiality, nondisparagement, and/or disclose the terms and conditions of this settlement to any unauthorized third party (excluding directors, officers, employees, attorneys, accountants and successors of any party to this agreement) without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, they hereby agree to pay the




attorneys' fees and costs incurred by the other releasee(s) in having to enforce this agreement and its confidentiality and nondisparagement provisions. The undersigned hereby acknowledge and understand that these confidentiality provisions are material to the terms and conditions of this Agreement.

**THE UNDERSIGNED HAVE READ THE FOREGOING  
SETTLEMENT/CONFIDENTIALITY AGREEMENT AND MUTUAL RELEASE  
AND FULLY UNDERSTAND SAID RELEASE AND AGREEMENT**


Read and signed on this 18  
day of Feb, 2009.

  
**IRA AND EDYTHE SEAVER  
FAMILY TRUST**

Read and signed on this 18  
day of Feb, 2009.

  
**IRA SEAVER**

Read and signed on this 18  
day of Feb, 2009.

  
**CIRCLE CONSULTING  
CORPORATION**

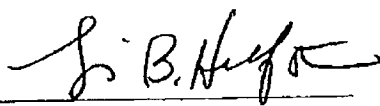
Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
**LEWIS HELFSTEIN**

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
**MADALYN HELFSTEIN**

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

  
**SUMMIT LASER  
PRODUCTS, INC.**

Read and signed on this 20<sup>th</sup>  
day of November, 2009.

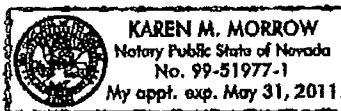
  
**SUMMIT TECHNOLOGIES, LLC**



STATE OF Nevada }  
COUNTY OF Clark } ss.

On this 18<sup>th</sup> day of November, 2009, before me, a notary public, personally appeared **IRA SEAVER** on behalf of **IRA AND EDYTHE SEAVER FAMILY TRUST**, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

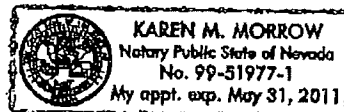
Karen M. Morrow  
NOTARY PUBLIC



STATE OF Nevada }  
COUNTY OF Clark } ss.

On this 18<sup>th</sup> day of November, 2009, before me, a notary public, personally appeared **IRA SEAVER**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Karen M. Morrow  
NOTARY PUBLIC



STATE OF NY }  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **LEWIS HELFSTEIN**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korpi  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011



STATE OF NY  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **MADALYN HELFSTEIN**, an individual, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korpi  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011

STATE OF NY  
COUNTY OF Suffolk } ss.

On this 20 day of November, 2009, before me, a notary public, personally appeared **LEWIS HELFSTEIN** on behalf of **SUMMIT LASER PRODUCTS, INC. and SUMMIT TECHNOLOGIES, LLC**, personally known to me (or proved to me on the basis of satisfactory evidence), to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument, the person or entity upon behalf of which person acted, executed the instrument.

Christine Korpi  
NOTARY PUBLIC

CHRISTINE KORPI  
Notary Public, State of New York  
No. 01K06169069  
Qualified in Suffolk County  
Commission Expires June 18, 2011