

CLERK OF THE COURT

ORDR
JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
COTTON, DRIGGS, WALCH,
HOLLEY, WOLOSON & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
jalbregts@nevadafirm.com
Telephone: (702) 791-0308
Facsimile: (702) 791-1912
Attorneys for Plaintiffs
Ira and Edythe Seaver Family Trust and
Circle Consulting Corporation

DISTRICT COURT
CLARK COUNTY, NEVADA

IRA AND EDYTHER 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.

AND RELATED CLAIMS

Case No.: A-587003
Dept. No.: XI

**ORDER GRANTING PLAINTIFFS'
MOTION TO DISMISS THE UNINET
DEFENDANTS ONLY**

Date: January 21, 2014
TIME: 8:30 A.M.

This matter having come on before this Honorable Court at the above-referenced date and time pursuant to Plaintiffs' Motion To Dismiss The Uninet Defendants Only; Plaintiffs, and each of them, appearing by and through their attorney Jeffrey R. Albregts, Esq, of Cotton, Driggs, Walch, Holley, Woloson & Thompson (by telephone); Defendants Summit Technologies, LLC, Summit Laser Products, Inc, Lewis Helfstein and Madalyn Helfstein ("Helfstein Defendants") by and through their attorney, J. Michael Oakes, not appearing; Defendants UI Supplies, UI Technologies, Uninet Imaging, Inc, and Nestor Saporiti ("Uninet Defendants") appearing by and

1 through their attorney, Jeffrey Silvestri; no opposition having been filed to (Plaintiffs') Motion
2 To Dismiss The Uninet Defendants Only; good cause appearing, it is hereby

3 ORDERED, ADJUDGED and DECREED, as follows:

- 4 1. Plaintiffs' claims are hereby DISMISSED WITH PREJUDICE as against the UI
5 Defendants only, (their Settlement Agreement), but shall remain pending against the
6 Helfstein Defendants, pursuant to the Settlement Agreement executed by Plaintiffs
7 and the UI Defendants.
8
9 2. That this action and any counterclaims by NESTOR SAPORITI and the UI
10 Defendants against Plaintiffs is hereby DISMISSED WITH PREJUDICE as against
11 Plaintiffs only, NESTOR SAPORITI and the UI Defendants reserving whatever
12 rights and claims they may have against the Helfstein Defendants, too, albeit not in
13 this case.
14
15 3. Pursuant to their Settlement Agreement, each party shall bear their own attorneys'
16 fees and costs incurred herein.

17 DATED this 19 day of February, 2014.

18 
19 HONORABLE ELIZABETH GONZALEZ,
20 DISTRICT COURT JUDGE
142

21 Submitted by:

22 COTTON, DRIGGS, WALCH,
23 HOLLEY, WOLOSON & THOMPSON

24 JEFFREY R. ALBRECHTS, ESQ., #0066
25 *Attorneys for Plaintiffs*
26
27
28

1 Approved as to form and content:

2 FOLEY & OAKES

3 *Refused to sign*

4 J. MICHAEL OAKES, ESQ., NSB 1999
5 *Attorney for "Helfstein" Defendants*

6 Approved as to form and content:

7 McDONALD CARANO WILSON, LLP

8 *Jeff S. Silvestri*

9 JEFFREY A. SILVESTRI, ESQ., NSB 5779
10 *Attorney for "Nestor Saporiti and the UI*
11 *Defendants"*

12

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CLERK OF THE COURT

0056
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
Email: mike@foleyoakes.com
Attorneys for the Helfsteins

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.

And Related Claims

Case No. A-09-587003
Dept. No. XI

DATE: March 25, 2014
TIME: 8:30 a.m.


MOTION TO DISMISS

COMES NOW Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT
LASER PRODUCTS, INC., AND SUMMIT TECHNOLOGIES, LLC (collectively referred to
herein as "the Helfsteins"), by and through their attorneys, J. Michael Oakes, of the law firm of
Foley & Oakes, PC, and hereby move to dismiss this case, based upon the grounds that the
reopening of the case pursuant to NRCP 60(b) is improper and untimely, and based upon the lack

1 of jurisdiction over them due to improper service and the lack of minimum contacts with the State
2 of Nevada. This Motion is based upon the pleadings and papers on file herein, the Memorandum
3 of Points and Authorities which follows, and such argument as will be heard at the time of the
4 hearing of this Motion.

5 DATED this 21st day of February, 2014.

6 FOLEY & OAKES, PC

7 
8 J. Michael Oakes, Esq.
9 Nevada Bar No. 1999
10 850 East Bonneville Avenue
11 Las Vegas, Nevada 89101
12 *Attorneys for the Helfsteins*

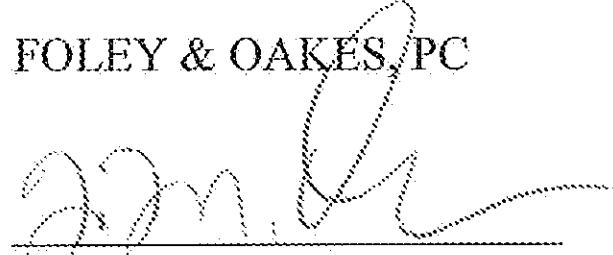
13 **NOTICE OF MOTION**

14 TO: ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

15
16 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the undersigned
17 will bring the following MOTION TO DISMISS on for hearing before the above-entitled Court on
18 the 25 day of MARCH, 2014, at the hour of 8:30A .m. of said date, in Department
19 No. XI, or as soon thereafter as counsel can be heard.

20 DATED this 21st day of February, 2014.

21 FOLEY & OAKES, PC

22 
23 J. Michael Oakes, Esq.
24 Nevada Bar No. 1999
25 850 East Bonneville Avenue
26 Las Vegas, Nevada 89101
27 (702) 384-2070
28 *Attorneys for the Helfsteins*

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 The Helfstein parties are not properly subject to the jurisdiction of this court. They never
5 appeared on Plaintiff's case because the case was settled before responding, and their appearance in
6 the case on the third party complaint was solely to enforce an arbitration and venue provision,
7 requiring that those claims be heard in New York through arbitration.
8

9 After being dismissed from the action, they were never served with process, but, instead, a
10 Motion To Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against
11 Them was filed against them, pursuant to NRCP 60(b), seeking to undo the voluntary dismissal that
12 had been filed back on November 23, 2009.

13 This motion asserts that (i) the voluntary dismissal of these Defendants on November 23,
14 2009 concluded the action as to them, and bringing them back in based upon an NRCP 60(b) motion
15 is improper, (ii) in connection with a voluntary dismissal, the 6 month period for filing an NRCP
16 60(b) motion begins to run from the time of the dismissal, and (iii) even if the Plaintiffs' use of an
17 NRCP 60(b) motion was proper and timely, the Defendants do not have sufficient contacts with the
18 State of Nevada to be required to defend this case here.
19

20 The specific allegation made by the Plaintiffs is best observed by looking at Plaintiff's own
21 description. In Plaintiffs' Motion To Set Aside Rescinded Helfstein Settlement Agreement and
22 Proceed on Claims Against Them, they state that "...Mr. Helfstein had been fraudulently operating
23 the Summit companies for many years prior to selling them to Mr. Saporiti." See page 4, lines 17-
24 20.
25

26 These claims arise out of Plaintiff's membership interest in Summit, a New York limited
27 liability company, operating in New York. The events complained of herein, i.e., alleging that Lew
28 Helfstein misappropriated money from Summit Technologies, LLC, took place in New York,

1 involve a New York limited liability company, and involve New York law. The allegations have
2 nothing to do with any activity in Nevada, and requiring the Helfsteins to defend in this jurisdiction
3 offends traditional notions of fair play and substantial justice.

4 **II.**

5 **STATEMENT OF THE CASE**

6 This Court issued a ruling on July 11, 2013, that Plaintiff's 60(b) motion was not untimely.
7 In that ruling, the Court did not address the jurisdictional arguments raised by the Helfsteins, and
8 specifically reserved those issues for a later date. This motion seeks a determination of those issues
9 at this time. The Helfstein defendants assert that they cannot be brought back into the case
10 pursuant to an NRCP60(b) motion, that the November 23, 2009 dismissal of them concluded the
11 case as to them, such that any 6 month period for filing an NRCP60(b) motion commenced at that
12 time, and that the exercise of jurisdiction against them in Nevada is improper and unreasonable,
13 due to the lack of minimum contacts with the State of Nevada.
14

15 **III.**

16 **LEGAL ARGUMENT**

17 Prior to the filing of a responsive pleading by these Defendants, the plaintiffs settled with
18 the Helfsteins, and a Notice of Voluntary Dismissal was filed on November 23, 2009.

19 The effect of the voluntary dismissal – regardless of whether it was pursuant to NRCP
20 41(a)(i) or (ii) - was to conclude the jurisdiction of the Court over the matter involving the
21 Helfsteins. In Jeep Corporation v. District Court, 98 Nev 440, at 443-444, 652 P.2d 1183 (Nev.
22 1982), the Court explained:
23

24
25 The primary issue posed is whether the stipulation of dismissal is
26 effective. We hold that it is. In pertinent part, NRCP 41(a)(1) reads
27 as follows: [a]n action may be dismissed by the plaintiff upon
28 repayment of defendants' filing fees, without order of the court . . .
(ii) by filing a stipulation of dismissal signed by all parties who
have appeared in the action. (Emphasis supplied.) Once the

1 stipulation has been signed and filed, dismissal is effectuated
2 automatically without need of judicial sanction or affirmation. First
3 National Bank of Toms River, N. J. v. Marine City, Inc., 411 F.2d
4 674 (3rd Cir. 1969). **This Court has previously held that the**
5 **notice of dismissal under NRCP 41(a)(1)(i) "closes the file.**
6 **There is nothing the defendant can do to fan the ashes of that**
7 **action into life and the court has no role to play.** This is a matter
8 of right running to the plaintiff and may not be extinguished or
9 circumscribed by adversary or court." Federal Sav. and Loan Ins.
10 Corp. v. Moss, 88 Nev. 256, 495 P.2d 616 (1972). The only
11 difference between subsection (i) and subsection (ii) of the rule is
12 that the former is a unilateral dismissal by plaintiff before issues
13 are joined and the latter is a stipulated dismissal which may be
14 filed at any time. **In neither case may the court intervene or**
15 **otherwise affect the dismissal. In both instances, the action is**
16 **terminated and the court is without further jurisdiction in the**
17 **matter. The language of the rule is clear."** (Emphasis added).
18

19
20 As a second point, even if an NRCP 60(b) motion may be used by a Plaintiff to rescind
21 their own voluntary dismissal, the 6 month time limit for such motion commences upon the filing
22 of the dismissal, rather than upon entry of final judgment in the case. The voluntary dismissal is
23 not an adjudication upon the merits by the court, and is not an interim or partial order subject to
24 appeal only upon entry of final judgment. There is no appeal from it. It is final for the party
25 dismissed, and results in terminating the action as to the dismissed party right then, not at some
26 later point in time. See Jeep Corporation, supra.

27
28 As a result, even if the 6 month period for filing a 60(b) motion ordinarily commences only
upon entry of final judgment – as previously ruled by this Court – that rule does not, and should
not, apply to a voluntary dismissal.

As a third and final point, the claims referenced herein, i.e., that Lew Helfstein
misappropriated money from Summit Technologies, LLC, took place in New York, involve a New
York limited liability company, and involve New York law.

1 As New York residents, the Helfsteins are not subject to the general jurisdiction of the Court.
2 The only basis for asserting jurisdiction over them would be specific jurisdiction. As explained in
3 Trump v. District Court, 109 Nev. 687, at 700-701, 857 P.2d 740:

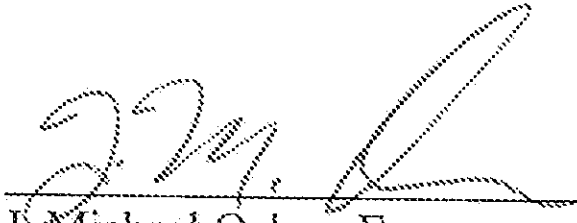
4 Absent general jurisdiction, specific personal jurisdiction over a
5 defendant may be established only where the cause of action arises
6 from the defendant's contacts with the forum. Budget Rent-A-Car,
7 108 Nev. at 486, 835 P.2d at 20; Price and Sons, 108 Nev. at 390,
8 831 P.2d at 602. A state may exercise specific personal jurisdiction
9 only where (1) the defendant purposefully avails himself on the
10 privilege of serving the market in the forum or of enjoying the
11 protection of the laws of the forum, or where the defendant
12 purposefully establishes contacts with the forum state and
13 affirmatively directs conduct toward the forum state, and (2) the
14 cause of action arises from that purposeful contact with the forum
15 or conduct targeting the forum.

16 Even accepting Plaintiffs' allegations as true, the alleged wrongdoing had nothing to do
17 with activities of the defendants in the State of Nevada. It is unreasonable for them to be required
18 to defend this action here, as they did not purposely avail themselves of the privilege of conducting
19 business in this forum.

20 In summary, this action should be dismissed. The voluntary dismissal of the Helfstein
21 defendants concluded the action as to them, the attempted reopening of the case under NRCP 60(b)
22 is improper and untimely, and the Helfsteins are not properly subject to the jurisdiction of the
23 Court.

24 DATED this 21st day of February, 2014.

25 FOLEY & OAKES, PC

26 
27 J. Michael Oakes, Esq.
28 Nevada Bar No. 1999
850 East Bonneville Avenue
Las Vegas, Nevada 89101
Attorneys for the Helfsteins

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Foley & Oakes, PC, and that on the 21st day of February, 2014, I served the following document(s):

MOTION TO DISMISS

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

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

Jeff Silvestri, Esq.
Seth T. Floyd, Esq.
McDonald Carano Wilson LLP
2300 West Sahara Avenue, Suite 1000
Las Vegas, NV 89102
Attorneys for Defendants

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

Michael Lee, Esq.
Law Office of Michael B. Lee
2000 South Eastern Avenue
Las Vegas, Nevada 89104
Attorneys for Defendants

Jeffrey Albregts, Esq.
Cotton, Driggs, Walch
Holley, Woloson & Thompson
400 South 4th Street, Third Floor
Las Vegas, NV 89101
Attorneys for Plaintiffs

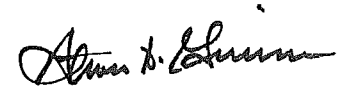
☐ **By Direct Email** (as opposed to through the ECF system (list persons and email addresses). Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **By Facsimile Transmission** to person(s) and addresses as follows: I faxed the document(s) to the persons at the fax numbers listed herein. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

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


An employee of FOLEY & OAKES, PC

3/11/14


CLERK OF THE COURT

OPP
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
Attorneys for Plaintiffs

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,

Defendants,

Case No.: 09 A 587003
Dept. No.: XI

PLAINTIFFS' OPPOSITION TO
(HELFSTEIN DEFENDANTS')
MOTION TO DISMISS

DATE: March 25, 2014
TIME: 8:30 AM

Plaintiffs, and each of them, hereby file their Opposition to the Motion to Dismiss filed herein by Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC (collectively referred to herein as "The Helfstein Defendants"). This Opposition is made and based upon the Points and Authorities, all of the pleadings and papers on file herein, and the testimony of Lewis Helfstein at trial from March 19, 2012 through April 25, 2012.

Dated this 6th day of March, 2014.

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

JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
Attorneys for Plaintiffs

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POINTS AND AUTHORITIES

I. Facts

The Helfstein Defendants now seek dismissal of this case against them (again) based on two arguments: (1) that Plaintiffs voluntary dismissal of this case against them previously is “final” (ostensibly for all purposes herein); and (2) this Court does not have personal jurisdiction over them. As this Court well knows, Mr. Helfstein refused to personally attend trial in this case, or even for his deposition in Nevada, instead choosing to testify by telephone/video conference at both proceedings.¹ No matter, both arguments by Mr. Helfstein are as patently wrong now as they were when he first tried to make them in this case. Furthermore, the Helfstein Defendants’ Motion to Dismiss does not even begin to address the affect the Nevada Supreme Court’s prior “Stay Order” had on this case insofar as any timeliness issues are concerned here and, therefore, Plaintiffs do not address them herein.

Be that as it may, this Court clearly has “specific” personal jurisdiction over the Helfstein Defendants. Although Mr. and Mrs. Helfstein may not have ever resided in Nevada, thus depriving this Court of “general” personal jurisdiction over them, the undisputed evidence in this case is that this Court clearly has “specific” personal jurisdiction over them. Indeed, their company, Laserstar Distribution Corp. was a Nevada corporation which Mr. Helfstein testified at trial he operated here. Mrs. Helfstein was also, at certain times, a shareholder as well. The Helfsteins also operated Summit Technologies, LLC in Nevada. Further, as this Court may recall, Mr. Helfstein also testified that he operated these companies here *vis a vis* his partner, Ira Seaver, during their business venture giving rise to this case. Mr. Helfstein also testified that Summit Technologies LLC operated pretty much as the alter ego of Summit Laser Products, Inc and the Court heard trial testimony about how the Helfsteins transferred over \$100,000 in insurance proceeds to Summit Laser Products, Inc, Mrs. Helfstein’s company. In short, Mr. and Mrs. Helfstein and their companies operated in Nevada to make money for themselves and,

¹ Mr. Helfstein, also a New York lawyer, even managed to depart his deposition there along with the documents he produced. As the Court may recall, Mr. Helfstein, in attempting to circumvent his personal appearance in Nevada for his trial testimony, provided a note from his New York doctor stating that he was injured and should not travel, but we learned he was in Florida while testifying at trial.

1 therefore, they availed themselves of the privileges and protections of this forum, i.e., Nevada.²

2 Correspondingly, the legal authority cited by the Helfstein Defendants for their
3 argument -- that Plaintiffs' voluntary dismissal of them concluded this case against them once
4 and for all -- does not address the issue of fraud. In other words, whether a voluntary dismissal
5 procured by means of fraud is *void ab initio*. As the Helfstein Defendants' motion fails to
6 address this issue at all, Plaintiffs incorporate and reassert their previous arguments in this regard
7 and by which this Court previously granted their 60(b) motion.

8 **II.**
9 **Legal Argument**

10 As the Helfstein Defendants argue in their Motion to Dismiss:

11 "A state may exercise specific personal jurisdiction
12 only where (1) the defendant purposefully avails himself on
13 the privilege of serving the market in the forum or of enjoying
14 the protection of the laws of the forum, or where the defendant
15 purposefully establishes contacts with the forum state and
16 affirmatively directs conduct toward the forum state, and (2)
17 the cause of action arises from that purposeful contact with the
18 forum or conduct targeting the forum."

19 *See, Trump v. District Court*, 109 Nev. 687, at 700-701, 857 P.2d 740 (1993). With all due
20 respect, the case at bar against the Helfstein Defendants could not be a better fit for this Court
21 asserting specific personal jurisdiction over them here. Again, Mr. Helfstein's trial testimony
22 provides a sufficient basis for doing so, as this Court well knows.

23 Likewise, the Helfstein Defendants raise nothing new in their argument that Plaintiff's
24 voluntary dismissal of them pursuant to their Settlement Agreement concluded this case against
25 them once and for all. The case cited by the Helfstein Defendants for this argument -- *Jeep Corp*
26 *v. District Court*, 98 Nev. 440, at 443-444, 652 P.2d 1183 (1982) -- fails to even consider the
27 fundamental issue here of fraud, meaning that the Helfstein Defendants fraudulently procured a
28 voluntary dismissal of this case against them from the Plaintiffs *vis a vis* their Settlement
Agreement. In other words, the *Jeep* case wholly fails to address the issue of a voluntary

² When the Helfstein's pulled up their Nevada stakes, they also left owing the State of Nevada for various taxes and fees, including employment taxes, which they never paid.

1 dismissal procured by fraud and whether such dismissal is therefore *void ab initio*. In short, the
2 *Jeep* case is inapposite to the issues presented to this Court in this case, and this Court's granting
3 of 60(b) relief to Plaintiffs was proper, and still is now.³

4 Finally, the Helfstein Defendants cite no legal authority whatsoever for their proposition
5 that, "the 6 month time limit (for an NRCP 60(b) motion) commences upon the filing of the
6 dismissal rather than upon entry of final judgment in the case." The Helfstein Defendants simply
7 make this bald statement in their Points and Authorities without referencing or citing to any legal
8 authority for it whatsoever. It is respectfully submitted that, for public policy reasons and other
9 reasons of rationality, such time limits would not apply and, even if they did, would not
10 commence until the fraud was discovered. In any event, this Court need not give any
11 consideration to this ad hoc argument by the Helfstein Defendants either.

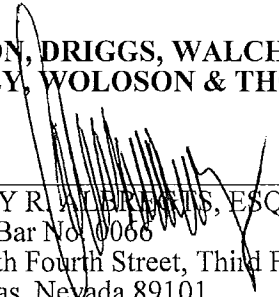
12 In summary, this Court not only has specific personal jurisdiction over the Helfstein
13 Defendants, but its granting of 60(b) relief to Plaintiffs was proper insofar as the Helfstein
14 Defendants fraudulently procured a voluntary dismissal from them *vis a vis* their Settlement
15 Agreement.

16 **III.**
17 **Conclusion**

18 Plaintiffs therefore respectfully request that this Court deny the Helfstein Defendants'
19 Motion to Dismiss with prejudice.

20 Respectfully submitted this 6 day of March, 2014.

21 **COTTON, DRIGGS, WALCH,**
22 **HOLLEY, WOLOSON & THOMPSON**

23 
24 _____
25 JEFFREY R. ROBERTS, ESQ.
26 Nevada Bar No. 0066
27 400 South Fourth Street, Third Floor
28 Las Vegas, Nevada 89101
*Attorneys for Plaintiffs Ira and Edythe Seaver
Family Trust and Circle Consulting Corp.*

³ The *Jeep* case also did not address a voluntary dismissal solely by the Plaintiff rather than one
pursuant to stipulation under NRCP 41.

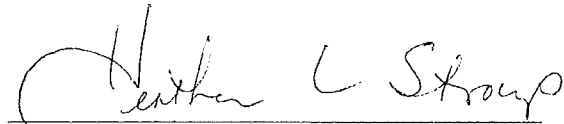
1
2 **CERTIFICATE OF MAILING**

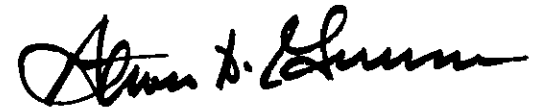
3 I HEREBY CERTIFY that, on the 7th day of March, 2014 and pursuant to NRCP 5(b),

4 I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **PLAINTIFFS'**
5 **OPPOSITION TO (HELFSTEIN DEFENDANTS') MOTION TO DISMISS** postage
6 prepaid and addressed to:

7 J. Michael Oakes, Esq.
8 Foley & Oakes
9 850 East Bonneville Ave.
10 Las Vegas, NV 89101
*Attorneys for Lewis Helfstein, Madelyn
Helfstein, Summit Laser Products, Inc., and
Summit Technologies, LLC.*

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

14
15
16 
17 An employee of Cotton, Driggs, Walch,
Holley, Woloson & Thompson



CLERK OF THE COURT

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
Email: mike@foleyoakes.com
Attorneys for the Helfsteins

DISTRICT COURT

CLARK COUNTY, NEVADA

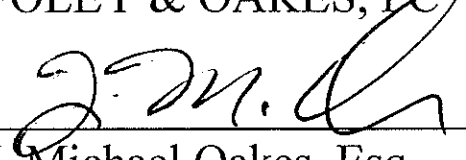
IRA AND EDYTHE SEAVER FAMILY	)	Case No. A-09-587003
TRUST, IRA SEAVER, CIRCLE	)	Dept. No. XI
CONSULTING CORPORATION,)	
)	
Plaintiffs,)	
vs.)	
)	
LEWIS HELFSTEIN, MADALYN)	
HELFSTEIN, SUMMIT LASER PRODUCTS,)	
INC., SUMMIT TECHNOLOGIES, LLC, UI)	
SUPPLIES, UNINET IMAGING, INC.,)	
NESTOR SAPORITI and DOES 1 through 20,	)	DATE: April 1, 2014
and ROE entities 21 through 40, inclusive,	)	TIME: 8:30 a.m.
)	
Defendants.)	
)	
)	
)	
)	
And Related Claims)	

REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

COMES NOW Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC., AND SUMMIT TECHNOLOGIES, LLC (collectively referred to herein as "the Helfsteins"), by and through their attorneys, J. Michael Oakes, of the law firm of Foley & Oakes, PC, and hereby submit their Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss.

1 DATED this 25th day of March, 2014.

2 FOLEY & OAKES, PC

3 
4 J. Michael Oakes, Esq.

5 Nevada Bar No. 1999

6 850 East Bonneville Avenue

7 Las Vegas, Nevada 89101

8 *Attorneys for the Helfsteins*

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I.**

11 **INTRODUCTION**

12 As stated in the Motion, this motion asserts that (i) the voluntary dismissal of these
13 Defendants on November 23, 2009 concluded the action as to them, and bringing them back in based
14 upon an NRCP 60(b) motion is improper, (ii) in connection with a voluntary dismissal, the 6 month
15 period for filing an NRCP 60(b) motion begins to run from the time of the dismissal, and (iii) even if
16 the Plaintiffs' use of an NRCP 60(b) motion was proper and timely, the Defendants do not have
17 sufficient contacts with the State of Nevada to be required to defend this case here.

18
19 With regard to the first two points, Plaintiff's opposition argues that the dismissal was void
20 ab initio due to their allegation of fraud. If this argument held true, then the time for filing a motion
21 under NRCP 60(b) would never commence to run.

22 While essentially ignoring this significant legal point, the opposition reverts to the Plaintiffs'
23 standard answer for all issues in this case, i.e., that everything they need to establish liability and
24 jurisdiction against the Helfstein Defendants was already presented at the trial between the Plaintiff
25 and the Saporiti Defendants.

26
27 Specifically, on the point of the lack of contacts between the Helfstein Defendants and the
28 State of Nevada, the most Plaintiff can do is point to their description of trial testimony where

1 Helfstein purportedly testified that “Laserstar Distribution Corp. was a Nevada corporation which
2 Mr. Helfstein testified at trial he operated here.”

3 This case has nothing to do with Laserstar. The claims asserted by the Plaintiffs are based
4 upon Seaver’s membership interest in Summit Technologies, LLC, a New York limited liability
5 company, with Plaintiff asserting that that “...Mr. Helfstein had been fraudulently operating the
6 Summit companies for many years prior to selling them to Mr. Saporiti.” See page 4, lines 17-20 of
7 Plaintiffs’ Motion To Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims
8 Against Them. The Plaintiffs have failed to establish their burden of showing any plausible basis for
9 the assertion of jurisdiction over the Helfstein defendants.
10

11 The opposition then makes a vague reference to the Nevada Supreme Court’s October 19,
12 2010 Order Granting Motion for Stay, a copy of which is attached hereto as Exhibit “A”. Plaintiffs
13 argue that somehow the stay order affected their ability to rescind their settlement agreement with
14 Helfstein, and that is why they did not do so sooner. Nothing in the Order supports them, as the
15 Order related solely to the crossclaim asserted by Saporiti. The specific language of the Order stated
16 “[A]ccordingly, we grant the motion for a stay and hereby stay the district court proceedings in
17 District Court Case No. A587003 as they pertain to the crossclaims/third-party claims.” Also, the
18 stay first went into effect on October 19, 2010, almost a full year after the November 23, 2009
19 dismissal of the Helfstein defendants.
20

21 In summary, the Court lost jurisdiction over the Helfstein defendants at the time of their
22 dismissal, and it would be improper to bring them back into the case based upon an NRCP 60(b)
23 motion served by mail upon their counsel. Second, as for the timing of any such motion under NRCP
24 60(b), the voluntary dismissal was final as to the Helfstein Defendants back when it was filed. As a
25 result, any motion under NRCP 60(b) would have needed to be filed within six months thereof,
26 notwithstanding the fact that the case remained pending between the other parties. Finally, the
27 Plaintiffs have not met their burden of establishing that the Helfstein Defendants have sufficient
28

1 contacts with the State of Nevada to properly be subject to specific jurisdiction here on the claims
2 that are being asserted against them.

3 II.

4 LEGAL ARGUMENT

5 Prior to the filing of a responsive pleading by these Defendants, the plaintiffs settled with
6 the Helfsteins, and a Notice of Voluntary Dismissal was filed on November 23, 2009.

7
8 A voluntary dismissal is not a “final judgment, order, or proceeding,” subject to
9 modification under NRCP 60(b). The decision in Jeep Corporation v. District Court, 98 Nev 440,
10 at 443-444, 652 P.2d 1183 (Nev. 1982) said that “...the notice of dismissal under NRCP
11 41(a)(1)(i) closes the file. There is nothing the defendant can do to fan the ashes of that action into
12 life and the court has no role to play.”

13 The effect is the same for a dismissal under NRCP 41(a)(1)(i) or (ii). The decision stated
14 that “[I]n neither case may the court intervene or otherwise affect the dismissal. In both instances,
15 the action is terminated and the court is without further jurisdiction in the matter. The language of
16 the rule is clear.” See 98 Nev at 443-444.

17
18 Further, even if an NRCP 60(b) motion may be used by a Plaintiff to rescind their own
19 voluntary dismissal, the Jeep decision can only lead to the conclusion that the 6 month time limit
20 for such motion commences upon the filing of the dismissal, rather than upon entry of final
21 judgment in the case. The voluntary dismissal is not an adjudication upon the merits by the court,
22 and is not an interim or partial order subject to appeal only upon entry of final judgment. There is
23 no appeal from it as the Plaintiff is not an aggrieved party under NRAP 3A(a), and the dismissal
24 is not an appealable determination under NRAP 3A(b). The dismissal is final for the party
25 dismissed, and results in terminating the action as to them right then, not at some later point in
26 time. See Jeep Corporation, supra.
27
28

1 As a result, even if the 6 month period for filing a 60(b) motion ordinarily commences only
2 upon entry of final judgment – as previously ruled by this Court – that rule does not, and should
3 not, apply to a voluntary dismissal. To hold otherwise would negate what the settling party
4 bargained for, i.e., finality.

5 The Plaintiffs have argued that their voluntary dismissal was void ab initio, due to their
6 allegation of fraud. This is a circular argument. In essence, they are arguing that the time for
7 setting aside their dismissal never begins to run, because it is always void ab initio. Such a result
8 would be absurd.

9
10 As for jurisdiction, the only basis for asserting jurisdiction over the Helfstein defendants
11 would be specific jurisdiction. Plaintiffs conceded this in their opposition.

12 The fact that the Seavers reside in Nevada, and may assert that they suffered damages here,
13 does not give rise to specific jurisdiction.

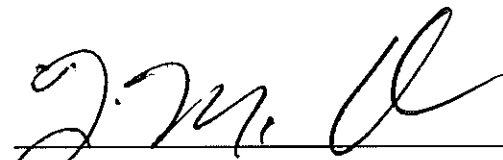
14 Specific jurisdiction was recently addressed by the United States Supreme Court in *Walden*
15 *v. Fiore*, 571 US ____, 2014, Slip Opinion No. 12-574, February 25, 2014. The Supreme Court
16 held that the focus must be on the defendant's contacts with the forum state, rather than any effect
17 upon the Plaintiff. The Supreme Court stated "[D]ue Process requires that a defendant be haled
18 into a court in a forum state based on his own affiliation with the State, not based on the 'random,
19 fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the
20 State." The Supreme Court then held:

21
22 "Well-established principles of personal jurisdiction are sufficient
23 to decide this case. The proper focus of the "minimum contacts"
24 inquiry in intentional-tort cases is "the relationship among the
25 defendant, the forum, and the litigation.'" (*Citation omitted*). And
26 it is the defendant, not the plaintiff or third parties, who must
27 create contacts with the forum State."
28

1 Even accepting Plaintiffs' allegations as true, the alleged wrongdoing of the Helfstein
2 defendants had nothing to do with activities in the State of Nevada. To the contrary, it was the
3 Plaintiffs that availed themselves of the privilege of doing business in New York, by becoming
4 members of a New York limited liability company. It is unreasonable for them to be required to
5 defend this action here, as they did not purposely avail themselves of the privilege of conducting
6 business in this forum.

7
8 DATED this 25th day of March, 2014.

9 FOLEY & OAKES, PC

10
11 
12 J. Michael Oakes, Esq.
13 Nevada Bar No. 1999
14 850 East Bonneville Avenue
15 Las Vegas, Nevada 89101
16 *Attorneys for the Helfsteins*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Foley & Oakes, PC, and that on the 25th day of March, 2014, I served the following document(s):

REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

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

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

Jeff Silvestri, Esq.
Seth T. Floyd, Esq.
McDonald Carano Wilson LLP
2300 West Sahara Avenue, Suite 1000
Las Vegas, NV 89102
Attorneys for Defendants

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

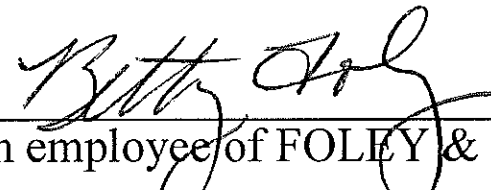
Michael Lee, Esq.
Law Office of Michael B. Lee
2000 South Eastern Avenue
Las Vegas, Nevada 89104
Attorneys for Defendants

Jeffrey Albregts, Esq.
Cotton, Driggs, Walch
Holley, Woloson & Thompson
400 South 4th Street, Third Floor
Las Vegas, NV 89101
Attorneys for Plaintiffs
702-791-1912

☐ **By Direct Email** (as opposed to through the ECF system (list persons and email addresses). Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **By Facsimile Transmission** to person(s) and addresses as follows: I faxed the document(s) to the persons at the fax numbers listed hereinabove. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

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


An employee of FOLEY & OAKES, PC

* * * Communication Result Report (Mar. 25. 2014 3:21PM) * * *

1)
2)

Date/Time: Mar. 25. 2014 3:20PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
1487	Memory TX Admin	7911912	P. 11	OK	

Reason for error

E. 1) Hang up or line fail

E. 3) No answer

E. 5) Exceeded max. E-mail size

E. 2) Busy

E. 4) No facsimile connection

E. 6) Destination does not support IP-Fax

FOLEY & OAKES, PC

ATTORNEYS AT LAW

DANIEL T. FOLEY
J. MICHAEL OAKES850 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
TELEPHONE: (702) 384-2070
FACSIMILE: (702) 384-2128
ATTORNEYS AT LAW
email: liz@foleyonkes.comJOSEPH M. FOLEY
(1924-2002)

FACSIMILE TRANSMITTAL SHEET

DATE: March 25, 2014

TO: Jeffrey Albregts, Esq.

FAX: 702-791-1912

From: Liz Gould, Assistant to J. Michael Oakes, Esq.

Original will X will not follow

Subject: Case No. A-09-587003

Number of pages including this cover sheet: 11

Notes/Comments:

Please see Attached.

Liz Gould
Legal Assistant

EXHIBIT “A”

EXHIBIT “A”

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. LINDEMAN
CLERK OF SUPREME COURT
BY W. WOOD
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

REGISTER OF ACTIONS**CASE NO. 09A587003****Ira And Edythe Seaver Family Trust, Plaintiff(s) vs. UI Supplies,
Defendant(s)**§
§
§
§
§
§
§
§Case Type: **Business Court**Date Filed: **04/03/2009**Location: **Department 11**Cross-Reference Case Number: **A587003**Supreme Court No.: **56383****61090**

PARTY INFORMATION

Lead Attorneys**Defendant UI Supplies****Jeffrey A. Silvestri**
Retained
7028734100(W)**Plaintiff Ira And Edythe Seaver Family Trust****Jeffrey Richard Albregts**
Retained
702-791-0308(W)

EVENTS & ORDERS OF THE COURT

DISPOSITIONS**PA000956**

- 11/23/2009 **Dismissal Pursuant to NRCP 41** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: Lewis Helfstein (Defendant), Madalyn Helfstein (Defendant), Summit Laser Products Inc (Defendant), Summit Technologies LLC (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 11/23/2009, Docketed: 11/30/2009
- 05/09/2011 **Order of Dismissal Without Prejudice** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Cross Claimant), Uninet Imaging (Cross Claimant), Nestor Saporiti (Cross Claimant)
Creditors: Lewis Helfstein (Cross Defendant), Madalyn Helfstein (Cross Defendant), Summit Laser Products Inc (Cross Defendant), Summit Technologies LLC (Cross Defendant)
Judgment: 05/09/2011, Docketed: 05/17/2011
- 05/11/2011 **Clerk's Certificate** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Cross Claimant), Uninet Imaging (Cross Claimant), Nestor Saporiti (Cross Claimant)
Creditors: Lewis Helfstein (Cross Defendant), Madalyn Helfstein (Cross Defendant), Summit Laser Products Inc (Cross Defendant), Summit Technologies LLC (Cross Defendant)
Judgment: 05/11/2011, Docketed: 05/17/2011
Comment: Motion Reversed...case to be dismissed see 05-09-2011's Order to Compel and Dismiss
- 06/29/2011 **Summary Judgment** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: Circle Consulting Corporation (Plaintiff)
Creditors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant)
Judgment: 06/29/2011, Docketed: 07/07/2011
- 09/12/2012 **Amended Judgment** (Judicial Officer: Gonzalez, Elizabeth) Reason: Amended
Debtors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant), UI Technologies (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 09/12/2012, Docketed: 05/30/2012
Total Judgment: 565,597.44
Comment: Certain Claims
- 05/18/2012 **Judgment** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant), UI Technologies (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 05/18/2012, Docketed: 05/30/2012
Total Judgment: 565,597.44
Comment: Certain Claims
- 02/20/2014 **Order of Dismissal With Prejudice** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant), UI Technologies (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 02/20/2014, Docketed: 02/27/2014
Debtors: IRA and Edythe Seaver Family Trust (Counter Defendant), IRA Seaver (Counter Defendant), Circle Consulting Corporation (Counter Defendant)
Creditors: UI Supplies (Counter Claimant), Uninet Imaging Inc (Counter Claimant), Nestor Saporiti (Counter Claimant)
Judgment: 02/20/2014, Docketed: 02/27/2014

OTHER EVENTS AND HEARINGS

- 04/03/2009 **Complaint**
COMPLAINT FILED Fee \$151.00
09A5870030001.tif pages
- 04/03/2009 **Initial Appearance Fee Disclosure**
INITIAL APPEARANCE FEE DISCLOSURE
09A5870030002.tif pages
- 05/21/2009 **Request to Transfer to Business Court**
Request for Transfer to Business Court
- 05/22/2009 **Notice of Department Reassignment**
- 06/15/2009 **Declaration**
Declaration of Non-Service
- 06/15/2009 **Declaration**
Declaration of Non-Service
- 06/18/2009 **Summons**
Summons
- 06/25/2009 **Notice**
Notice of Association
- 06/25/2009 **Demand for Jury Trial**
Demand for Jury Trial
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**

PA000957

06/26/2009 **Summons**
Summons
 06/26/2009 **Summons**
Summons
 07/02/2009 **Initial Appearance Fee Disclosure**
 07/02/2009 **Motion to Dismiss**
(Vacated 08-20-2009)
 07/20/2009 **Opposition to Motion to Dismiss**
Plaintiffs' Opposition to Motion to Dismiss
 07/30/2009 **Reply to Opposition**
Reply to Plaintiffs Opposition to Motion to Dismiss
 08/04/2009 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defts UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss
Parties Present
Minutes
 Result: Vacate
 08/20/2009 **Order Vacating**
Order Vacating Motion to Dismiss
 08/21/2009 **Notice of Entry of Order**
Plt's Notice of Entry of Order Vacating Motion to Dismiss
 09/09/2009 **Motion to Dismiss**
Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
 09/09/2009 **Three Day Notice of Intent to Default**
Plaintiffs Three Day Notice of Intent to Default
 09/11/2009 **Notice of Hearing**
Notice of Hearing on Motion to Dismiss, or in the alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
 10/08/2009 **Opposition**
Opposition to Countermotion for Early Discovery
 10/08/2009 **Reply to Opposition**
Reply to Plaintiffs' Opposition to Motion to Dismiss
 10/09/2009 **Reply**
Plaintiffs' Reply to Countermotion for Early Discovery
 10/15/2009 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defts UI Supplies, Uninet Imaging, and Nestor Saporiti's Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
 10/15/2009 **Opposition and Countermotion**
Plaintiffs Opposition to Motion To Dismiss and Countermotion for Early Discovery
 10/15/2009 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs Opposition to Motion To Dismiss and Countermotion for Early Discovery
 10/15/2009 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (10/15/09)
Parties Present
Minutes
 Result: Denied
 10/16/2009 **Business Court Order**
Mandatory Rule 16 Conference
 10/22/2009 **Order Denying Motion**
Order Denying Defendants' Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
 10/22/2009 **Order Denying**
Order Denying Plaintiffs' Countermotion for Early Discovery
 10/22/2009 **Notice of Entry of Order**
Notice of Entry of Order Denying Plaintiffs' Countermotion for Early Discovery
 10/22/2009 **Notice of Entry of Order**
Notice of Entry of Order Denying Defendants' Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
 10/23/2009 **Answer**
Defendant UI Supplies Uninet Imaging and Nestor Saporiti's Answer and Counterclaim to Complaint
 11/04/2009 **Notice of Early Case Conference**
Notice of NRCP 16.1 Early Case Conference
 11/13/2009 **Mandatory Rule 16 Conference** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
12/04/2009 Reset by Court to 11/13/2009
 Result: Matter Heard
 11/13/2009 **Business Court Order**
Business Court Scheduling and Trial Setting Order
 11/16/2009 **Motion to Dismiss**

PA000958

Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for More Definite Statement

11/18/2009 **Notice of Hearing**
Notice of Hearing Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for a More Definite Statement

11/23/2009 **Notice of Voluntary Dismissal**
Notice of Voluntary Dismissal of Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC Only

12/01/2009 **Notice of Deposition**

12/07/2009 **Joint Case Conference Report**

01/07/2010 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Pltfs'/CounterDefts' Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for More Definite Statement
12/22/2009 Reset by Court to 01/07/2010

01/08/2010 **Stipulation and Order**
Stipulation and Order to Amend Plaintiff's First Amended Complaint

01/11/2010 **Motion for Protective Order**
Motion for a Protective Order For Depositions on an Order Shortening Time

01/11/2010 **Opposition to Motion For Protective Order**
Plaintiffs' Opposition to Motion for Protective Order

01/11/2010 **Notice of Entry**
Notice of entry of Stipulation and Order to Amend Plaintiff's First Amended Complaint

01/12/2010 **Motion for Protective Order** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Motion for a Protective Order For Depositions on an Order Shortening Time
Parties Present
Minutes
Result: Denied in Part

01/19/2010 **Answer**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's first Amended Answer to Complaint, Counterclaim, And Cross Claim

01/22/2010 **Order**
Order Regarding Motion for Protective Order on Order Shortening Time

01/25/2010 **Notice of Entry of Order**
Notice of Entry of Order Regarding Motion for Protective Order on Order Shortening Time

02/04/2010 **Reply to Counterclaim**
Reply to Amended Counterclaim

02/17/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Depositions Outside the State of Nevada

02/19/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission to Take Foreign Deposition

02/19/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission to Take Foreign Deposition

02/19/2010 **Motion for Determination of Good Faith Settlement**
Plaintiffs' Motion for Determination of Good Faith Settlement

02/26/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Depositions Outside the State of Nevada

03/02/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission To Take Foreign Deposition

03/08/2010 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiff's Motion for Determination of Good Faith Settlement

03/10/2010 **Motion to Bifurcate**
Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

03/10/2010 **Motion to Associate Counsel**
Motion To Associate Out-Of-State Counsel

03/10/2010 **Certificate of Mailing**
Certificate of Mailing of Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

03/10/2010 **Summons**
Summons

03/11/2010 **Receipt of Copy**
Receipt of Copy

03/25/2010 **CANCELED Motion for Good Faith Settlement** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Law Clerk

04/09/2010 **Settlement Conference** (10:30 AM) (Judicial Officer Delaney, Kathleen E.)
Parties Present
Minutes
Result: Not Settled

04/15/2010 **Motion to Associate Counsel** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

PA000959

Plaintiff's Motion to Associate Counsel (Robert M. Freedman, Esq).

Parties Present

Minutes

03/18/2010 Reset by Court to 04/15/2010

Result: Granted

04/15/2010 **Order Admitting to Practice**

Order Admitting to Practice

04/16/2010 **Notice of Intent to Take Default**

Cross-Claimants' Three-Day Notice of Intent to Take Default of Cross-Defendants, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC

04/16/2010 **Notice of Entry of Order**

Notice of Entry of Order

04/16/2010 **Opposition to Motion**

Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order and Countermotion to Compel

04/20/2010 **Initial Appearance Fee Disclosure**

Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC's Initial Appearance and Fee Disclosure

04/20/2010 **Motion to Stay**

Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration

04/21/2010 **Reply to Opposition**

Defendant/Counterclaimant Uninet Imaging Reply to Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

04/22/2010 **Notice of Non Opposition**

Notice of Nonopposition 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

04/22/2010 **Notice of Motion**

Cross-Defendants, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Notice of Motion to Stay or Dismissal and to Compel Arbitration

04/23/2010 **Affidavit**

Affidavit of Lewis Helfstein

04/29/2010 **Motion to Bifurcate** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

04/29/2010, 05/20/2010, 05/25/2010, 05/28/2010, 06/04/2010, 06/18/2010

Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

Minutes

04/16/2010 Reset by Court to 04/29/2010

05/13/2010 Reset by Court to 05/20/2010

Result: Matter Continued

04/29/2010 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

04/29/2010, 05/20/2010, 05/25/2010, 05/28/2010, 06/04/2010, 06/18/2010

Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or in the Alternative Motion for Protective Order and Countermotion to Compel

Minutes

05/13/2010 Reset by Court to 05/20/2010

Result: Continued

04/29/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Parties Present

Minutes

Result: Continued

05/06/2010 **Opposition to Motion**

Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Cross Defendants', Lewis Helfstein, Madalyn Helfstein, Summit Laser Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration, and Alternatively, Counter-Motion to Stay Proceedings Pending Arbitration; Motion to Dismiss Pursuant to Nevada Rule of Civil Procedure 19

05/13/2010 **Motion for Partial Summary Judgment**

Plaintiff's Motion for Partial Summary Judgment re: Assignment of Consulting Agreement; Declarations of Ira Seaver, Lewis Helfstein and Jeffrey Albrechts, Esq. Filed Contemporaneously With Request for Judicial Notice

05/13/2010 **Request for Judicial Notice**

Plaintiff's Request for Judicial Notice in Support Of: 1. Plaintiffs Motion for Partial Summary Judgment Re: Contract Claim; 2. Plaintiffs Opposition to Uninet's Third Motion to Dismiss Asserted Plaintiffs Action Filed as a Counter Motion in Uninet's Opposition to Helfstein's Motion to Dismiss

05/17/2010 **Errata**

Errata to Plaintiff's Request for Judicial Notice in Support of: 1. Plaintiff's Motion for Partial Summary Judgment Re: Contract Claim; 2. Plaintiff's Opposition to Uninet's Third Motion to Dismiss Asserted Plaintiffs Action Filed as a Counter MOTION in Uninet's Opposition to Helfstein's Motion to Dismiss

05/17/2010 **Reply**

PA000960

Cross-Defendants, Lewis Helfstein, Madamy Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Reply Brief on Motion for Stay or Dismissal and to Compel Arbitration

05/20/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (05/20/10)
Parties Present
Minutes
 Result: Matter Heard

05/20/2010 **Opposition**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Countermotion to Stay or Dismiss

05/25/2010 **Motion to Stay** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration
 Result: Denied

05/25/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (05/25/10)
Parties Present
Minutes
 Result: Matter Heard

05/26/2010 **Transcript of Proceedings**
Transcript of Proceedings Hearing on Motions

05/28/2010 **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (05/28/10)
Minutes
 Result: Matter Continued

06/01/2010 **Opposition**
Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Request for Judicial Notice

06/01/2010 **Opposition and Countermotion**
Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment re: Assignment; Declaration of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq.; and Counter-Motion for Summary Judgment

06/04/2010 **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (06/04/10)
Minutes
 Result: Matter Heard

06/08/2010 **Reply to Opposition**
Plaintiffs Ira and Edythe Seaver Family Trust, Ira Seaver, and Circle Consulting Corporation's Reply to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment Re: Assignment, and, Opposition to Defendants Counter-Motion for Summary Judgment; Declarations of Ira Seaver and Robert M. Freedman

06/08/2010 **Reply to Opposition**
Plaintiffs' Reply to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Request for Judicial Notice

06/09/2010 **Status Check** (2:00 PM) (Judicial Officer Gonzalez, Elizabeth)
Status Check: Conference Call - Proposed Orders
Parties Present
Minutes
 Result: Matter Resolved

06/10/2010 **Supplement**
Supplement to Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment re: Assignment; Declaration of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq.; and Counter-Motion for Summary Judgment

06/15/2010 **Motion for Partial Summary Judgment** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiff's Motion for Partial Summary Judgment re: Assignment of Consulting Agreement; Declarations of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq. Filed Contemporaneously With Request for Judicial Notice
 Result: Denied

06/15/2010 **Motion for Partial Summary Judgment** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiff's Request for Judicial Notice in Support Of: 1. Plaintiffs Motion for Patrial Summary Judgment Re: Contract Claim; 2. Plaintiffs Opposition to Uninets' Third Motion to Dismiss Asserted Plaintiffs Action Filed as a Counter Motion in Uninet's Opposition to Helfstein's Motion to Dismiss
 Result: Denied

06/15/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (06/15/10)
Parties Present
Minutes
 Result: Matter Heard

06/15/2010 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Supplement to Defendant's UI Supplies, Uninet Imaging, and Nestor Saporiti's Opposition to Plaintiff Motion for Partial Summary Judgment re: Assignment; Declaration Of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq. and Counter Motion for Summary Judgment
 Result: Denied

06/15/2010 **Order Denying**
Order Denying Motion to Stay or Dismiss

PA000961

06/16/2010 **Notice of Entry of Order**

06/17/2010 **Notice of Intent to Take Default**
Cross-Claimant's Three-Day Notice of Intent to Take Default of Cross-Defendants, Lewis Helfstein, Madayn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC

06/18/2010 **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (06/18/10)
Minutes
 Result: Matter Heard

06/22/2010 **Order Denying Motion**
Order Denying Plaintiffs' Motion for Summary Judgment, Plaintiffs' Request for Judicial Notice; and UniNet Defendants' Counter-Motion for Summary Judgment

06/24/2010 **Notice of Entry of Order**
Notice of Entry of Order

07/02/2010 **Status Check** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
07/02/2010, 07/30/2010, 08/13/2010, 08/27/2010, 09/02/2010
Status Check: Submission Of Stipulation Of Protective Order
Minutes
 Result: Matter Continued

07/07/2010 **Notice of Appeal**
Notice of Appeal

07/07/2010 **Case Appeal Statement**
Case Appeal Statement

07/07/2010 **Motion to Stay**
Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion to Stay Crossclaim Pending Appeal

07/08/2010 **Notice of Motion**
Motion to Stay Crossclaim Pending Appeal

07/14/2010 **Receipt**

07/21/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Issue Subpoena for Deposition Duces Tecum in State of California

07/23/2010 **Opposition**
Plaintiffs' Opposition to Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC's Motion To Stay Crossclaim Pending Appeal

07/26/2010 **Opposition to Motion**
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 Cross-Claim Pending Appeal; Counter-Motion to Dismiss if Stay is Granted

08/05/2010 **Opposition**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Countermotion To Dismiss If Stay Is Granted

08/12/2010 **Reply**
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

08/12/2010 **Motion for Protective Order**
Plaintiffs' Motion for Protective Order

08/13/2010 **Opposition**
Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC's Reply Brief to Plaintiffs' Opposition to Motion to Stay Crossclaim Pending Appeal

08/19/2010 **Stipulation and Order**
Stipulation and Order to Extend Discovery Cut-Off Date

08/20/2010 **Motion** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defts Lewis Helfstein, Madelyn Helfstein, Summit Laser Product and Summit Technologies Motion to Stay Crossclaim Pending Appeal
Minutes
 Result: Denied

08/20/2010 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order To Extend Discovery Cut-Off Date

08/24/2010 **Opposition to Motion For Protective Order**
Opposition to Plaintiff's Motion for Protective and Counter-Motion to Compel Discovery

09/02/2010 **Status Check: Discovery** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
09/02/2010, 11/04/2010
Parties Present
 Result: Matter Continued

09/02/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (09/02/10)
Parties Present
Minutes
 Result: Matter Heard

09/03/2010 **Stipulated Protective Order**
Stipulated Protective Order Regarding Confidential Information From Uninet

09/07/2010 **Reply**

PA000962

Reply to Defendants' Opposition to Seaver's Motion for Protective Order; Opposition to Defendants' Motion to Compel

09/14/2010 **Motion for Protective Order** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Plaintiffs' Motion for Protective Order

Result: Granted in Part

09/14/2010 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Deft's Opposition to Plaintiff's Motion for Protective and Counter-Motion to Compel Discovery

Result: Granted

09/14/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

All Pending Motions (09/14/10)

Parties Present

Minutes

Result: Matter Heard

09/16/2010 **Notice of Entry of Stipulation and Order**

Notice of Entry of Stipulation and Order to Amend Plaintiff's First Amended Complaint

09/16/2010 **Notice of Taking Deposition**

Notice of Taking the Deposition of Irwin Groner, Esq.

09/16/2010 **Application for Issuance of Commission to Take Deposition**

Application for Issuance of Commission to Take Deposition of Irwin Groner, Esq. Outside the State of Nevada

09/24/2010 **Transcript of Proceedings**

Transcript of Proceedings Hearing on Motions, Tuesday, May 25, 2010

09/24/2010 **Brief**

Plaintiffs' Omnibus Motion in Limine

10/12/2010 **Hearing** (12:30 PM) (Judicial Officer Gonzalez, Elizabeth)

Hearing: Conference Call

Parties Present

Minutes

Result: Matter Heard

10/14/2010 **Opposition**

Defendant UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiff's Omnibus Motion in Limine

10/14/2010 **Order**

Order on Plaintiffs' Motion for a Protective Order

10/15/2010 **Pre-Trial Disclosure**

Plaintiffs' Pre-Trial Disclosures

10/18/2010 **Notice of Entry of Order**

Notice of Entry of Order on Plaintiffs' Motion for a Protective Order

10/21/2010 **Reply to Opposition**

Plaintiffs' Reply to Opposition filed by the Uninet Defendants to Plaintiffs' Motion in Limine Re: Exhibit E and Re: Seaver's Medical History

10/22/2010 **Stipulation and Order**

Stipulation and Order to Extend the Time to File a Reply to Defendants' Opposition to Plaintiffs' Omnibus Motion in Limine

10/25/2010 **Notice**

Notice of Entry of Order Granting Motion for Stay

10/26/2010 **Omnibus Motion in Limine** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Plaintiffs' Omnibus Motion in Limine

Parties Present

Minutes

Result: Matter Heard

10/26/2010 **Notice of Entry of Order**

Notice of Entry of Order

11/03/2010 **Motion**

Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on Order Shortening Time

11/04/2010 **Certificate of Mailing**

Certificate of Mailing

11/05/2010 **Opposition to Motion**

Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on an Order Shortening Time

11/09/2010 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)

Result: Matter Heard

11/09/2010 **Motion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on Order Shortening Time

Result: Granted

11/09/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

All Pending Motions (11/09/10)

Parties Present

Minutes

Result: Matter Heard

11/10/2010 **Order**

Order Regarding Plaintiffs' Omnibus Motion in Limine

PA000963

11/15/2010 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

11/22/2010 **Notice of Entry of Order**
Notice of Entry of Order Regarding Plaintiff's Omnibus Motion in Limine

12/02/2010 **Motion**
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/02/2010 **Opposition to Motion**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/03/2010 **Certificate of Mailing**
Certificate of Mailing

12/08/2010 **Reply**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiff's Opposition to Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/09/2010 **Motion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time
Parties Present
Minutes
Result: Granted

12/14/2010 **Order**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions.

12/16/2010 **Order**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/17/2010 **Supplement to Motion for Summary Judgment**
Supplement to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment - Table of Undisputed Facts

12/17/2010 **Motion for Summary Judgment**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

12/17/2010 **Motion to Dismiss**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

12/20/2010 **Notice of Entry of Order**

12/20/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Deposition of Steven Hecht Outside the State of Nevada

12/22/2010 **Notice of Entry of Order**

01/04/2011 **Notice of Motion**
Notice of Motion to Dismiss Pursuant to NRCP 19

01/04/2011 **Notice of Motion**
Notice of Motion for Summary Judgment

01/14/2011 **Notice of Entry of Order**
Notice of Entry of Order

01/14/2011 **Opposition to Motion to Dismiss**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss

01/14/2011 **Opposition to Motion For Summary Judgment**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti's Motion for Summary Judgment

01/20/2011 **Reply to Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiffs' Opposition to Motion for Summary Judgment

01/20/2011 **Reply to Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiffs' Opposition to Motion to Dismiss Pursuant to NRCP 19

01/20/2011 **Notice**
Plaintiffs' Notice of Rescission of Helfstein Settlement

01/25/2011 **Motion for Summary Judgment** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendant's UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
01/18/2011 Continued to 01/25/2011 - At the Request of Counsel - Circle Consulting Corporation
Result: Denied

01/25/2011 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19
01/18/2011 Continued to 01/25/2011 - At the Request of Counsel - Circle Consulting Corporation
Result: Denied

01/25/2011 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

01/27/2011 **Motion to Withdraw As Counsel**
Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel of Record on Order Shortening Time

01/27/2011 **Supplement**
Supplement to Defendants' Pre-Trial Disclosures

PA000964

01/27/2011 **Pre-Trial Disclosure**
Defendant's Pre-Trial Disclosures

01/28/2011 **Notice of Non Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Notice of Non-Opposition to Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel

02/01/2011 **Motion to Withdraw As Counsel**
Motion to Withdraw As Counsel on Order Shortening Time

02/02/2011 **Pre-trial Memorandum**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Pre-Trial Memo

02/03/2011 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)
Result: Matter Heard

02/03/2011 **Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel of Record on Order Shortening Time
Result: Granted

02/03/2011 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

02/04/2011 **Order Denying**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

02/04/2011 **Order Denying**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

02/07/2011 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

02/15/2011 **Order Granting**
Order Granting Motion to Withdraw as Counsel on Order Shortening Time

02/15/2011 **Notice of Entry of Order**
Notice of Entry of Order on Defendants UI Supplies, Uninet Imaging Inc. and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

02/15/2011 **Notice of Entry of Order**
Notice of Entry of Order on Defendants UI Supplies, Uninet Imaging Inc. and Nestor Saporiti's Motion for Summary Judgment

02/16/2011 **Order Granting**
Order on Tharpe & Howell's Motion to Withdraw as Co-Counsel of Record

02/16/2011 **Notice of Motion**
Notice of Motion

02/17/2011 **Notice of Entry of Order**
Notice of Entry of Order

02/17/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting Motion to Withdraw as Counsel on Order Shortening Time

03/03/2011 **Status Check: Trial Setting** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Status Check: Retention of Counsel
Parties Present
Minutes
Result: Granted

03/08/2011 **Order**
Order On Defendants UI Supplies, Uninet Imaging, And Nestor Saporiti's Motion To Enlarge Time To Designate Ronald Rosenberg As Witness For Trial

03/10/2011 **Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to Designate Ronald Rosenberg as Witness for Trial on an Order Shortening Time

03/10/2011 **Amended Order Setting Civil Non-Jury Trial**
2nd Amended Order Setting Civil Non-Jury Trial and Calendar Call

05/03/2011 **Order Shortening Time**
Order Shortening Time on Motion to Continue Trial

05/05/2011 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Ira Seaver's Motion for Continuance on and Order Shortening Time; Countermotion to Dismiss Pursuant to Nevada Rule of Civil Procedure 41(e)

05/05/2011 **Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/09/2011 **Response**
Plaintiff's Response to Defendant's Opposition to Plaintiff's Motion Continue Trial and Response to Defendant's Motion for a Dismissal

05/09/2011 **Response**
Plaintiff's Response to Defendant Uninet Imaging and Nestor Saporiti's Motion to Deem Admissions Admitted on an Order Shortening Time

05/09/2011 **Notice of Motion**
Notice of Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/09/2011 **Order**
Order Compelling Arbitration and Dismissing Crossclaim

05/10/2011 **Motion to Continue Trial** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

PA000965

Pliff's Pro Per Motion to Continue Trial

05/10/2011 **Opposition and Counter motion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Ira Seaver's Motion for Continuance on and Order Shortening Time; Countermotion to Dismiss Pursuant to Nevada Rule of Civil Procedure 41(e)

05/10/2011 **Motion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/10/2011 **Notice of Entry of Order**
Notice of Entry of Order Compelling Arbitration and Dismissing Crossclaim

05/10/2011 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
 Result: Matter Heard

05/11/2011 **NV Supreme Court Clerks Certificate/Judgment -Remanded**

05/17/2011 **Motion for Summary Judgment**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

05/19/2011 **Notice of Motion**
Notice of Motion for Summary Judgment

05/27/2011 **Order**
Order Regarding Plaintiffs' Motion to Continue Trial; Defendants' Motion to Deem Admissions Admitted and Counter-Motion to Dismiss for Lack of Prosecution

05/27/2011 **Notice of Entry of Order**
Notice of Entry of Order Regarding Plaintiffs' Motion to Continue Trial; Defendants' Motion to Deem Admissions Admitted and Counter-Motion to Dismiss for Lack of Prosecution

06/01/2011 **Response**
Plaintiff's Response to Defendant Uninet Imaging and Nestor Saporiti's Motion for summary Judgement, Or alaternatively More Time to Respond Or An Order Determining defective service of Plaintiff's Motion

06/09/2011 **CANCELED Status Check** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

06/14/2011 **Supplemental**
Plaintiff's Supplemental Response to Defendants Motion for Summary Judgment and Plaintiff's Counter Motion for Summary Judgment and Judicial Requests

06/21/2011 **Motion for Summary Judgment** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
Parties Present
Minutes
 Result: Denied in Part

06/23/2011 **Order Setting Civil Bench Trial**
3rd Amended Order Setting Civil Bench Trial And Calendar Call

06/29/2011 **Order**
Order Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

06/29/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

07/11/2011 **Motion to Reconsider**
Plaintiffs' Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

07/15/2011 **Certificate of Mailing**
Certificate of Mailing

07/19/2011 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion to Reconsider Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

08/11/2011 **Reply in Support**
Plaintiffs' Reply In Motion To Reconsider Court's Order Dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion For Summary Judgment

08/19/2011 **Motion For Reconsideration** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs' Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
Minutes
 Result: Denied

09/06/2011 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

09/09/2011 **Order Denying Motion**
Order Denying Motion to Reconsider

09/16/2011 **Notice of Entry of Order**
Notice of Entry of Order

09/16/2011 **Order**
Order Sealing and Redacting Records

PA000966

09/16/2011 **Stipulation and Order**
Stipulation and Order to Seal/Redact Confidential Portions of Exhibit 2 to Plaintiffs' Previously-Filed Reply in Support of Their Motion to Reconsider this Court's Order Dated June 29, 2011

09/19/2011 **Redacted Version**

09/19/2011 **Motion to Reconsider**
Plaintiff Circle Consulting's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

09/21/2011 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order

09/21/2011 **Receipt of Copy**
Receipt of Copy

09/21/2011 **Notice of Entry of Order**
Notice of Entry of Order

09/27/2011 **Notice of Entry of Order**
Notice of Entry of Order

10/14/2011 **Notice of Non Opposition**
Notice of Non-Opposition to Plaintiff Circle Consulting Corporation's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

10/19/2011 **Amended Certificate of Service**
Amended Certificate of Service

10/21/2011 **Motion to Reconsider** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiff Circle Consulting's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
Minutes
 Result: Granted

11/08/2011 **Notice of Association of Counsel**
Notice of Association of Counsel

11/09/2011 **Order Granting Motion**
Order Granting Renewed Motion To Reconsider

11/10/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting Renewed Motion to Reconsider

11/14/2011 **Motion**
Motion for Continued Settlement Conference

11/14/2011 **Motion for Clarification**
Motion for Clarification on Anti-Assignment Clause

11/15/2011 **Notice of Motion**
Notice of Motion for Continued Settlement Conference

11/15/2011 **Notice of Motion**
Notice of Motion for Clarification on Anti-Assignment Clause

12/01/2011 **Opposition**
Plaintiff Circle Consulting's Opposition to the Uninet Defendants' Motion for Continued Settlement Conference

12/01/2011 **Opposition**
Plaintiff Circle Consulting's Opposition to the Uninet Defendants' Motion for Clarification on Anti-Assignment Clause

12/01/2011 **Joinder**
Plaintiffs Joinder to Circle Consulting Corp.' S Opposition to Defendants Motion for Clarification

12/16/2011 **Motion** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Motion for Continued Settlement Conference

12/16/2011 **Motion to Clarify** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Motion for Clarification on Anti-Assignment Clause

12/16/2011 **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Minutes
 Result: Matter Heard

12/20/2011 **Motion to Dismiss**
Motion to Dismiss Ira and Edythe Seaver Family Trust

12/21/2011 **Notice of Motion**
Notice of Motion

12/21/2011 **Motion for Order to Show Cause**
Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/22/2011 **Notice of Motion**
Notice of Motion

12/22/2011 **Supplement**
Supplement to Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/27/2011 **Supplement**
Second Supplement to Emergency Motion for an order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/28/2011 **Opposition**
Plaintiff's Opposition Response and Plaintiff's Request for Motion as Detailed Below

12/29/2011 **Motion for Order to Show Cause** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

PA000967

Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

Parties Present

Minutes

Result: Matter Heard

12/30/2011 **Order Denying Motion**

Order Denying the Uninet Defendants' Motion For Continued Settlement Conference

12/30/2011 **Order Denying Motion**

Order Denying The Uninet Defendants' Motion For Clarification on Anti-Assignment Clause

01/05/2012 **Notice of Entry**

Notice of Entry of Order Denying the Uninet Defendants' Motion for Clarification on Anti-Assignment Clause

01/05/2012 **Notice of Entry**

Notice of Entry of Order Denying the Uninet Defendants' Motion for Continued Settlement Conference

01/06/2012 **Opposition**

Plaintiff's Opposition

01/12/2012 **Supplemental**

Plaintiff's Supplemental Opposition

01/19/2012 **Order**

Order on Emergency Motion for an Order to show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

01/24/2012 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Motion to Dismiss Ira and Edythe Seaver Family Trust

Parties Present

Minutes

Result: Moot

01/27/2012 **Motion to Clarify**

Plaintiff's Motion for Clarification

02/13/2012 **Opposition to Motion**

Opposition to Plaintiffs' Motion for Clarification

02/24/2012 **Pre-trial Memorandum**

Plaintiffs' Pretrial Memorandum

02/27/2012 **Response**

Plaintiff's Response to Defendant's Opposition to Plaintiff's Motion for Clarification

02/27/2012 **Pre-trial Memorandum**

Defendants UI Supplies, UniNet Imaging, and Nestor Saporiti's Pre-Trial Memorandum

03/02/2012 **Motion to Clarify** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Plaintiff's Motion for Clarification

Minutes

Result: Denied

03/05/2012 **Joinder**

Plaintiff's Joinder to Circle Consulting Corporations Pre Trial Memorandum

03/08/2012 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)

2nd Amended Order Setting Civil Non-Jury Trial and Calendar Call

Parties Present

Minutes

09/01/2011 Reset by Court to 03/08/2012

Result: Matter Continued

03/08/2012 **Pre-trial Memorandum**

Plaintiff's Supplemental Pre-Trial Memorandum

03/09/2012 **At Request of Court** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Parties Present

Minutes

Result: Matter Heard

03/12/2012 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)

Vacated - per Judge

03/12/2012 **Supplement**

Supplement to Defendants UI Supplies, UniNet Imaging, and Nestor Saporiti's Pre Trial Memo

03/13/2012 **Errata**

Errata to Plaintiffs' Pretrial Memorandum

03/14/2012 **Deposition**

Designation of Deposition Testimony of Steven Hecht by Page/Line Citation

03/14/2012 **Deposition**

Designation of Deposition Testimony of Lewis Helfstein by Page/Line Citation

03/19/2012 **Bench Trial** (1:00 PM) (Judicial Officer Gonzalez, Elizabeth)

03/19/2012, 03/20/2012, 03/21/2012

Parties Present

PA000968

	<u>Minutes</u>
	Result: Matter Continued
03/19/2012	Trial Memorandum <i>Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Rule 7.27 Trial Memoranda</i>
03/27/2012	Errata <i>Plaintiffs' Errata to Complaint</i>
04/11/2012	Transcript of Proceedings <i>Transcript of Proceedings - Excerpt of Bench Trial - Day 2 (Testimony of Ira Seaver) - March 20, 2012</i>
04/11/2012	Transcript of Proceedings <i>Transcript of Proceedings - Excerpt of Bench Trial - Day3 (Testimony of Ira Seaver) - March 21, 2012</i>
04/12/2012	Calendar Call (9:15 AM) (Judicial Officer Gonzalez, Elizabeth) <u>Parties Present</u>
	<u>Minutes</u>
	Result: Trial Date Set
04/20/2012	Transcript of Proceedings <i>Transcript of Proceedings Portion of Bench Trial - Day 2 (Testimony of Lewis Helfstein and Joseph Cachia) March 20, 2012</i>
04/20/2012	Transcript of Proceedings <i>Transcript of Proceedings Portion of Bench Trial - Day 3 (Testimony of Nestor Saporiti) March 21, 2012</i>
04/23/2012	Bench Trial (2:00 PM) (Judicial Officer Gonzalez, Elizabeth) 04/23/2012, 04/24/2012, 04/25/2012 <i>Bench Trial Continued</i> <u>Parties Present</u>
	<u>Minutes</u>
	Result: Matter Heard
04/23/2012	Notice <i>Designation of Deposition Testimony of Steven Hecht by Page/Line Citation</i>
05/18/2012	Status Check (3:00 AM) (Judicial Officer Gonzalez, Elizabeth) <i>Received Findings of Facts and Conclusions of Law</i> <u>Minutes</u>
	Result: Matter Heard
05/18/2012	Finding of Fact and Conclusions of Law
05/21/2012	Notice of Entry of Findings of Fact, Conclusions of Law <i>Notice of Entry of Findings of Fact and Conclusions of Law</i>
05/25/2012	Memorandum of Costs and Disbursements <i>Plaintiffs' Verified Memorandum of Costs and Disbursements</i>
05/30/2012	Transcript of Proceedings <i>Transcript Of Proceedings Portion Of Bench Trial - Day 5 April 24, 2012</i>
05/30/2012	Transcript of Proceedings <i>Transcript Of Proceedings Portion Of Bench Trial - Day 6 (Testimony Of Nestor Saporiti And Ira Seaver) April 25, 2012</i>
06/01/2012	Motion to Retax <i>Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs</i>
06/04/2012	Certificate of Mailing <i>Certificate of Mailing</i>
06/04/2012	Notice of Motion <i>Notice of Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs</i>
06/04/2012	Motion for Attorney Fees and Costs <i>Plaintiffs' Motion For An Award Of Attorney's Fees, Costs And Prejudgment Interest</i>
06/05/2012	Motion to Amend Judgment <i>Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies</i>
06/06/2012	Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
06/06/2012	Notice of Motion <i>Notice of Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies</i>
06/12/2012	Motion for Stay of Execution <i>Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond</i>
06/12/2012	Opposition to Motion <i>Opposition to Plaintiffs Motion for an Award of Attorneys' Fees, Costs, and Prejudgment Interest; Counter-Motion for Attorneys' Fees for UniNet and Mr. Saporiti</i>
06/13/2012	Notice of Motion <i>Notice of Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond</i>
06/14/2012	Opposition to Motion <i>Plaintiffs' Opposition to Defendants' Motion to Strike Plaintiff's Verified Memorandum of Costs And Disbursements, Or In The Alternative, Retax Costs</i>
06/15/2012	Notice of Appeal <i>Notice of Appeal to the Supreme Court From a Judgment of a District Court</i>
06/15/2012	Case Appeal Statement <i>Case Appeal Statement</i>

PA000969

06/20/2012 **Opposition to Motion**
Plaintiffs' Opposition to Motion to Alter or Amend Judgment, Or In The Alternative, For Satisfaction of Judgment Based On Settlement With Summit Technologies

06/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Excerpt of Bench Trial - Day 1 (Testimony of Rodney S. Conant) March 19, 2012

06/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Excerpt of Bench Trial - Day 4 (Testimony of Ira Seaver and Edythe Seaver) April 23, 2012

06/22/2012 **Reply in Support**
Plaintiffs' Reply In Support of Their Motion For An Award of Attorney's Fees, Costs and Prejudgment Interest; Opposition to Countermotion for Attorney's Fees For Uninet Imaging, Inc. and Nestor Saporiti

06/26/2012 **Opposition to Motion**
Plaintiffs' Conditional Opposition to Uninet Defendants' Motion For A Stay Pending Appeal And To Set Amount Of Supersedeas Bond

06/28/2012 **Reply to Opposition**
Reply to Plaintiffs' Opposition to the Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies

06/29/2012 **Association of Counsel**
Association of Counsel

07/10/2012 **Motion to Strike** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs
07/06/2012 Reset by Court to 07/10/2012
09/20/2012 Reset by Court to 09/20/2012
09/20/2012 Reset by Court to 09/25/2012

07/10/2012 **Motion for Attorney Fees and Costs** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
07/10/2012, 09/25/2012, 11/08/2012
Plaintiffs' Motion For An Award Of Attorney's Fees, Costs And Prejudgment Interest
07/06/2012 Reset by Court to 07/10/2012
09/20/2012 Reset by Court to 09/20/2012
09/20/2012 Reset by Court to 09/25/2012

07/10/2012 **Motion to Amend Judgment** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies
07/06/2012 Reset by Court to 07/10/2012
09/20/2012 Reset by Court to 09/20/2012
09/20/2012 Reset by Court to 09/25/2012

07/10/2012 **Motion For Stay** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond
07/13/2012 Reset by Court to 07/10/2012

07/10/2012 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Opposition to Plaintiffs Motion for an Award of Attorneys' Fees, Costs, and Prejudgment Interest; Counter-Motion for Attorneys' Fees for UniNet and Mr. Saporiti
07/06/2012 Reset by Court to 07/10/2012
09/20/2012 Reset by Court to 09/20/2012
09/20/2012 Reset by Court to 09/25/2012

07/10/2012 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

07/18/2012 **Claim**
UniNet and Nestor Saporiti's Claim of Exemption from Levy

07/18/2012 **Claim**
UI Supplies Claim of Exemption from Levy

07/18/2012 **Proof of Service**
Proof of Service re Constable's Office (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Constable's Office (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Jeffrey R. Albregts, Esq. (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Ira Seaver (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re JPMorgan Chase (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**

PA000970

Proof of Service re Citibank (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Jeffrey R. Albregts, Esq. (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Ira Seaver (re UniNet Claim for Exemption)

07/20/2012 **Motion to Clarify**
Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti Have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies

07/24/2012 **Notice of Hearing**
Notice of Hearing

07/26/2012 **Objection**
Plaintiffs' Objections to Defendant Uninet and Nestor Saporiti's Claim of Exemption From Levy and Notice of Hearing of Same

07/26/2012 **Objection**
Plaintiffs' Objections to Defendant UI Supplies' Claim of Exemption from Levy and Notice of Hearing of Same

08/08/2012 **Order**
Order

08/08/2012 **Notice of Entry of Order**
Notice of Entry of Order

08/09/2012 **Opposition to Motion**
Plaintiffs' Opposition To Motion (1) For Order Clarifying That Uninet Imaging, Inc. And Nestor Saporiti Have No Liability Pursuant To This Court's Findings Of Fact And Conclusions Of Law, (2) To Strike Writs Of Execution And Garnishment, And (3) For Order Returning Funds To Uninet Imaging, Inc. And Ui Supplies

08/27/2012 **Reporters Transcript**
Transcript of Portion of Bench Trial - Day 1, heard March 19, 2012

08/27/2012 **Reporters Transcript**
Transcript of Portion of Bench Trial - Day 6, heard April 25, 2012

08/27/2012 **Reply in Support**
Reply in Support of Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies

08/31/2012 **Motion to Compel**
Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time

09/04/2012 **Motion for Order** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants' Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti Have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies
Parties Present
Minutes
08/31/2012 Reset by Court to 09/04/2012
Result: Denied

09/10/2012 **Motion**
Motion in Support of UI Supplies and UI Technologies' Claim of Exemption from Levy

09/12/2012 **Opposition to Motion**
Plaintiffs' Opposition to Uninet Defendants' Motion To Compel And Motion In Support of UI Supplies' and UI Technologies' Claim of Exemption From Levy

09/12/2012 **Reply in Support**
Reply in Support of Claim for Exemption

09/12/2012 **Findings of Fact, Conclusions of Law and Judgment**
Amended Findings of Fact and Conclusions of Law and Judgment

09/13/2012 **Motion to Compel** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Inc., UI Technologies, Inc., Uninet Imaging, Inc., and Nestor Saporiti's Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time
09/11/2012 Reset by Court to 09/13/2012

09/13/2012 **Hearing** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Hearing on Exemption
09/11/2012 Reset by Court to 09/13/2012

09/13/2012 **Notice of Entry of Judgment**
Notice of Entry of Amended Findings of Fact and Conclusions of Law and Judgment

09/13/2012 **All Pending Motions** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Denied

09/14/2012 **Order Denying**
Order Denying Stay of Execution

09/14/2012 **Notice of Entry of Order**
Notice of Entry of Order Denying Stay of Execution

PA000971

09/19/2012 **Motion for Summary Judgment**
Motion for Summary Judgment Regarding Validity of the Settlement Agreement

09/19/2012 **Notice**
Notice of Re-Filing of Motion to Alter or Amend Judgment, or in the Alternative for Satisfaction of Judgment Based on Settlement with Summit Technologies

09/19/2012 **Amended Notice**
Amended Notice of Appeal to the Supreme Court from an Amended Judgment of a District Court

09/19/2012 **Amended**
Amended Case Appeal Statement

09/20/2012 **Notice of Hearing**
Notice of Hearing

09/21/2012 **Order Denying**
Order Denying Claim of Exemption From Execution (And For Release Of Levied Funds); and Denying Motion to Compel

09/24/2012 **Notice of Entry of Order**
Notice of Entry of Order Denying Claim of Exemption From Execution (And For Release of Levied Funds); And Denying Motion To Compel

09/25/2012 **Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
09/25/2012, 11/08/2012
Status Check: Set Evidentiary Hearing
09/20/2012 Reset by Court to 09/25/2012

09/25/2012 **All Pending Motions** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Continued

10/01/2012 **Transcript of Proceedings**
Transcript of Proceedings Defendants' Motions for Order Clarifying No Liability Pursuant to Court's Findings of Fact and Conclusions of Law, to Strike Writs of Execution and Garnishment, and for Order Returning Funds to Uninet Imaging, Inc. and Ui Supplies September 4, 2012

10/01/2012 **Transcript of Proceedings**
Transcript of Proceedings Defendants' Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time September 13, 2012

10/03/2012 **Motion**
Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/03/2012 **Receipt of Copy**
Receipt of Copy of Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/09/2012 **CANCELED Motion** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Vacated
Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/16/2012 **Declaration**
Declaration of Ira Seaver in Opposition to Motion For Summary Judgment Regarding Validity of The Settlement Agreement

10/17/2012 **Opposition to Motion**
Plaintiffs' Opposition to Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Videoconference on Order Shortening Time

10/22/2012 **Reply in Support**
Reply in Support of Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/23/2012 **Motion** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants' Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein
Parties Present
Minutes
Result: Granted

10/24/2012 **Stipulation and Order**
Stipulation and Order

10/25/2012 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order

10/31/2012 **Notice of Withdrawal of Motion**
Notice of Withdrawal of Motion for Summary Judgment Regarding Validity of the Settlement Agreement

11/06/2012 **CANCELED Motion for Summary Judgment** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge
Motion for Summary Judgment Regarding Validity of the Settlement Agreement
10/23/2012 Reset by Court to 11/06/2012

11/08/2012 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)

11/08/2012 **All Pending Motions** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

11/20/2012 **Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

PA000972

03/25/2013 **Declaration**
Declaration of Ira Seaver in Support of Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

03/25/2013 **Motion**
Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

03/27/2013 **Certificate of Mailing**
Certificate of Mailing

03/28/2013 **Certificate of Mailing**
Certificate of Mailing

04/11/2013 **Opposition**
Opposition to Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

04/22/2013 **Declaration**
Supplemental Declaration of Ira Seaver in Support of Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

04/22/2013 **Reply to Opposition**
Plaintiffs' Reply in Support of Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

04/25/2013 **Motion to Set Aside** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them
Parties Present
Minutes
Result: Matter Heard

04/25/2013 **Reply to Opposition**
Plaintiffs' Reply in Support of Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

05/02/2013 **Transcript of Proceedings**
Transcript of Proceedings Hearing On Plaintiff's Motion To Set Aside April 25, 2013

05/09/2013 **Motion**
Defendant's Motion for Disqualification of Judge

05/09/2013 **Demand for Jury Trial**
Demand for Jury Trial

05/09/2013 **Errata**
Errata to Defendant's Motion for Disqualification of Judge

05/10/2013 **Status Check** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Status Check: Attorney Oak's Stay Filing
Minutes
Result: Off Calendar

05/10/2013 **Notice**
Notice of Filing Declaration of Elizabeth G. Gonzalez in Response to Defendant's Motion for Disqualification off Judge

05/22/2013 **Opposition**
Plaintiffs' Opposition to (Helfstein) Defendants' Motion For Disqualification of Judge

06/05/2013 **Reply**
Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Reply for its Motion for Disqualification of Judge

06/13/2013 **Motion** (3:00 AM) (Judicial Officer Togliatti, Jennifer)
Defendant's Motion for Disqualification of Judge
Minutes
Result: Minute Order - No Hearing Held

07/10/2013 **Order Denying Motion**
Order Denying Defendant's Motion for Disqualification of Judge

07/11/2013 **Notice of Entry of Order**
Notice of Entry of Order

07/16/2013 **Order Scheduling Status Check**
Order Scheduling Status Check

07/17/2013 **Order**
Order for Evidentiary Hearing on Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them

07/18/2013 **Notice of Entry of Order**
Notice of Entry Of Order

07/19/2013 **Status Report**
Plaintiff's Status Report Per Court's Order Scheduling Status Check (Dated July 16, 2013)

07/19/2013 **Status Report**
Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Status Report

07/23/2013 **Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Matter Heard

07/24/2013 **Business Court Order**
Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference, and Calendar Call

07/31/2013 **Substitution of Attorney**

PA000973

08/22/2013 **Substitution of Counsel**
 08/22/2013 **Stipulation and Order**
 Stipulation and Order for Blocked Account
 08/28/2013 **Notice of Entry of Order**
 Notice of Entry of Order
 09/24/2013 **Motion**
 Plaintiffs' MOTION to Extend Business Court Scheduling Deadlines By Thirty Days On Order Shortening Time (First Request)
 11/01/2013 **Motion** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 Plaintiffs' MOTION to Extend Business Court Scheduling Deadlines By Thirty Days On Order Shortening Time (First Request)
 Minutes
 Result: Granted
 12/17/2013 **Order Granting Motion**
 Order Granting Plaintiffs' Motion To Extend Business Court Scheduling Deadlines By Thirty Days (First Request)
 12/18/2013 **Notice of Entry of Order**
 Notice of Entry of Order
 12/18/2013 **Motion to Dismiss**
 Plaintiffs' Motion To Dismiss The Uninet Defendants Only
 12/23/2013 **Notice of Hearing**
 Notice of Hearing
 01/21/2014 **Motion to Dismiss** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Plaintiffs' Motion To Dismiss The Uninet Defendants Only
 Parties Present
 Minutes
 Result: Granted
 02/20/2014 **Order Granting Motion**
 Order Granting Plaintiffs' Motion To Dismiss The Uninet Defendants Only
 02/20/2014 **Notice of Entry of Order**
 Notice of Entry of Order
 02/21/2014 **Motion to Dismiss**
 Motion to Dismiss
 02/24/2014 **Certificate of Mailing**
 Certificate of Mailing
 02/25/2014 **CANCELED Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Vacated
 01/30/2014 Reset by Court to 02/25/2014
 02/25/2014 **Stipulation and Order to Extend Discovery Deadlines**
 Stipulation and Order To Extend Discovery Sixty Days (Second Request)
 02/26/2014 **Business Court Order**
 1st Amended Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call
 02/28/2014 **Notice of Entry of Order**
 Notice of Entry of Order
 03/06/2014 **Opposition**
 Plaintiffs' Opposition To (Helfstein Defendants') Motion to Dismiss
 03/25/2014 **Reply to Opposition**
 Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss
 03/28/2014 **CANCELED Pre Trial Conference** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Vacated
 04/01/2014 **Motion to Dismiss** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion to Dismiss
 Parties Present
 Minutes
 03/25/2014 Reset by Court to 04/01/2014
 Result: Motion Denied
 04/22/2014 **Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Status Check (per counsel's request)
 06/06/2014 **Pre Trial Conference** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 06/26/2014 **Calendar Call** (8:45 AM) (Judicial Officer Gonzalez, Elizabeth)
 04/17/2014 Reset by Court to 06/26/2014
 06/30/2014 **Jury Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
 04/21/2014 Reset by Court to 06/30/2014

FINANCIAL INFORMATION

Conversion Extended Connection Type No Convert Value @ 09A587003
 Total Financial Assessment

PA000974 211.00

	Total Payments and Credits			211.00
	Balance Due as of 04/08/2014			0.00
04/03/2009	Transaction Assessment			211.00
04/03/2009	Conversion Payment	Receipt # 01499509	LAW OFFICES THARPE & HOWELL	(211.00)
	Defendant Helfstein, Lewis			
	Total Financial Assessment			1,507.00
	Total Payments and Credits			1,507.00
	Balance Due as of 04/08/2014			0.00
04/21/2010	Transaction Assessment			1,483.00
04/21/2010	Wiznet	Receipt # 2010-11884-CCCLK	Helfstein, Lewis	(1,483.00)
07/07/2010	Transaction Assessment			24.00
07/07/2010	Wiznet	Receipt # 2010-27528-CCCLK	Helfstein, Lewis	(24.00)
	Defendant Helfstein, Madalyn			
	Total Financial Assessment			30.00
	Total Payments and Credits			30.00
	Balance Due as of 04/08/2014			0.00
04/21/2010	Transaction Assessment			30.00
	Defendant Saporiti, Nestor			
	Total Financial Assessment			203.00
	Total Payments and Credits			203.00
	Balance Due as of 04/08/2014			0.00
07/02/2009	Transaction Assessment			203.00
07/02/2009	Payment (Window)	Receipt # 2009-35486-FAM	Kravitz Schnitzer & Sloane	(203.00)
	Defendant Summit Laser Products Inc			
	Total Financial Assessment			30.00
	Total Payments and Credits			30.00
	Balance Due as of 04/08/2014			0.00
04/21/2010	Transaction Assessment			30.00
	Defendant Summit Technologies LLC			
	Total Financial Assessment			30.00
	Total Payments and Credits			30.00
	Balance Due as of 04/08/2014			0.00
04/21/2010	Transaction Assessment			30.00
	Defendant UI Supplies			
	Total Financial Assessment			630.00
	Total Payments and Credits			630.00
	Balance Due as of 04/08/2014			0.00
07/02/2009	Transaction Assessment			30.00
07/02/2009	Payment (Window)	Receipt # 2009-35490-FAM	Kravitz Schnitzer & Sloane	(30.00)
12/26/2010	Transaction Assessment			200.00
12/26/2010	Wiznet	Receipt # 2010-72288-CCCLK	UI Supplies	(200.00)
05/17/2011	Transaction Assessment			200.00
05/17/2011	Wiznet	Receipt # 2011-51513-CCCLK	UI Supplies	(200.00)
09/19/2012	Transaction Assessment			200.00
09/19/2012	Wiznet	Receipt # 2012-117500-CCCLK	UI Supplies	(200.00)

Defendant UI Technologies

Total Financial Assessment

473.00

Total Payments and Credits

473.00

Balance Due as of 04/08/2014**0.00**

06/06/2012 Transaction Assessment

473.00

06/06/2012 Wiznet

Receipt # 2012-71551-CCCLK

UI Technologies

(473.00)

Defendant Uninet Imaging Inc

Total Financial Assessment

54.00

Total Payments and Credits

54.00

Balance Due as of 04/08/2014**0.00**

07/02/2009 Transaction Assessment

30.00

07/02/2009 Payment (Window)

Receipt # 2009-35487-FAM

Kravitz Schnitzer & Sloane

(30.00)

06/15/2012 Transaction Assessment

24.00

06/15/2012 Wiznet

Receipt # 2012-76193-CCCLK

Uninet Imaging Inc

(24.00)

Plaintiff Ira And Edythe Seaver Family Trust

Total Financial Assessment

455.00

Total Payments and Credits

455.00

Balance Due as of 04/08/2014**0.00**

05/14/2010 Transaction Assessment

200.00

05/14/2010 Wiznet

Receipt # 2010-16705-CCCLK

Ira And Edythe Seaver Family Trust

(200.00)

05/15/2010 Transaction Assessment

200.00

05/15/2010 Wiznet

Receipt # 2010-16971-CCCLK

Ira And Edythe Seaver Family Trust

(200.00)

01/19/2012 Transaction Assessment

3.00

01/19/2012 Payment (Window)

Receipt # 2012-07720-CCCLK

Ira And Edythe Seaver Family Trust

(3.00)

06/20/2012 Transaction Assessment

20.00

06/20/2012 Payment (Window)

Receipt # 2012-77955-CCCLK

Cptpm. Droggs. Walch, Holley, Woloson & Thompson

(20.00)

09/13/2012 Transaction Assessment

9.00

09/13/2012 Payment (Window)

Receipt # 2012-115026-CCCLK

COTTON, DRIGGS, WALCH

(9.00)

09/20/2012 Transaction Assessment

23.00

09/20/2012 Payment (Window)

Receipt # 2012-117826-CCCLK

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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

IRA AND EDYTHE SEAVER
FAMILY TRUST, et al.

Plaintiffs

vs.

UI SUPPLIES, et al.

Defendants

And related cases and parties

CASE NO. A-587003

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON DEFENDANTS' MOTION TO DISMISS

TUESDAY, APRIL 1, 2014

APPEARANCES:

FOR THE PLAINTIFFS:

JEFFREY R. ALBREGTS, ESQ.

FOR THE DEFENDANTS:

MICHAEL OAKES, ESQ.

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

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CLERK OF THE COURT

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1 LAS VEGAS, NEVADA, TUESDAY, APRIL 1, 2014, 8:32 A.M.)
2 (Court was called to order)
3 THE COURT: All right. If I could go to Seaver
4 versus UI. Mr. Oakes is here. Okay, guys.
5 MR. OAKES: Good morning, Your Honor.
6 THE COURT: Good morning.
7 MR. OAKES: Michael Oakes for the Helfstein
8 defendants.
9 MR. ALBREGTS: 'Morning, Your Honor. Jeff Albregts
10 for the plaintiffs.
11 THE COURT: It's your motion, Mr. Oakes.
12 MR. OAKES: Thank you, Your Honor.
13 We're asserting that there's no personal
14 jurisdiction here, that there's no showing of minimum contact
15 sufficient for this Court to exercise jurisdiction over my
16 clients.
17 In response it seems like, rather than submitting
18 evidence on that, what we get is that the plaintiff is relying
19 on what is tantamount to issue preclusion because the trial of
20 this case took place already and the Court heard some
21 evidence. Instead of submitting evidence in response to my
22 motion, it's always -- or it's not always, it's "See the
23 trial." Well, my client wasn't a party to the trial, and we
24 don't think issue --
25 THE COURT: Your client participated in the trial.

1 MR. OAKES: He was not subject to the Court's
2 jurisdiction as of the date of the trial, Your Honor. That
3 would be our assertion.

4 THE COURT: I understand what you're saying, Mr.
5 Oakes.

6 MR. OAKES: And so, as a result, what we're --
7 basically they're asking you to do is apply issue preclusion
8 to show jurisdiction, rather than show something in the
9 opposition itself. What it boils down to is the allegation
10 they've made in this case is that my client misappropriated
11 funds from a New York limited liability company. We assert
12 that that portion of the case or allegations such as that,
13 there would be jurisdiction in New York, but there is no
14 jurisdiction over my clients here.

15 As a corollary to that, when the dismissal took
16 place, when my client was dismissed from the case by the
17 plaintiffs back in 2009 the Court lost jurisdiction over them,
18 and, as a result, we assert that the use of the 60(b) motion
19 to try to bring them back in after the trial has taken place
20 is either not proper at all or, if it was proper at all, that
21 it would run six months -- that the time for bringing that
22 motion would have been six months from the entry of the
23 dismissal, as opposed to awaiting finality of all of the other
24 issues remaining in the case, and that the six-month period
25 had expired.

1 THE COURT: Okay. So talk to me about your original
2 motion that you filed in this case.

3 MR. OAKES: My original motion in this case was
4 based upon the fact that six months --

5 THE COURT: Not this part of the case. Your
6 original motion in this case related to the third-party claim.
7 Remember like five years ago?

8 MR. OAKES: Yeah. That part of the case, Your
9 Honor, was a motion to compel arbitration of the cross-
10 claim/third-party complaint that had --

11 THE COURT: It was not a motion saying, Judge, you
12 don't have personal jurisdiction. It was a motion to enforce
13 an arbitration provision.

14 MR. OAKES: Yes. And a venue provision.

15 THE COURT: I understand.

16 MR. OAKES: Yes.

17 THE COURT: For New York.

18 MR. OAKES: And I'm not sure what else you're asking
19 about. Your Honor recalls it just like I do. I'm not sure if
20 you have a question other than what we just discussed.

21 THE COURT: I just wanted to make sure that we were
22 all clear that your original motion that you filed in this
23 case was not one that said there wasn't personal jurisdiction
24 over your clients, it was an affirmative request by your
25 clients to enforce an arbitration provision and a venue

1 provision.

2 MR. OAKES: On the third-party complaint/cross-
3 claim.

4 THE COURT: Which I denied, but the Supreme Court
5 said I was wrong.

6 MR. OAKES: Yes.

7 THE COURT: Which is okay.

8 MR. OAKES: Yes.

9 THE COURT: Anything else?

10 MR. OAKES: Only to repeat somewhat that we've
11 argued about the six-month clause on the motion I filed -- or
12 the opposition I filed to the motion Mr. Albregts filed a few
13 months ago. But I think there is a bit of a jurisdictional
14 twist to it in that since the Court lost jurisdiction over my
15 clients when the dismissal took place, that the use of 60(b)
16 to bring them in -- back in was A, improper, and B, if proper
17 at all, that the six months would not be dependent upon
18 finality as between all of the other parties in this case,
19 that it would run simply from the time when the dismissal was
20 entered, and emphasis being on the fact that that's not an
21 appealable order, it's final when it's entered. The dismissal
22 is conclusive and ends the Court's jurisdiction over my
23 clients at that time.

24 THE COURT: Thank you.

25 MR. ALBREGTS: Thank you, Your Honor.

1 Perhaps I'm remiss in not going back for reasons of
2 economy and pulling out the trial testimony or the transcript
3 of Mr. Helfstein's testimony, but it was my recollection
4 clearly that he testified he did business there. There was a
5 whole series of questions, cross- and direct examination about
6 that, how he did business here, why he did business here. So
7 the personal jurisdiction argument I'm not real clear on
8 insofar as he availed himself of the benefits of this forum by
9 conducting business here through businesses Summit Laser and
10 whatnot, and Ira Seaver.

11 Secondly, he was excused from testifying personally
12 at trial, Your Honor, for purported medical reasons is my
13 recollection.

14 Third, I don't believe there -- and I meant to check
15 my second in remiss here this morning, Your Honor, is whether
16 he even has an affirmative defense preserving personal
17 jurisdiction, insofar as I think it was waived by his motion
18 to this Court to arbitrate the case in the first place. I see
19 it the same way you did, that I don't recall any personal
20 jurisdiction argument at that time.

21 Secondly, the stay order of the Court timewise --
22 maybe three remisses here -- the stay order didn't lapse until
23 the time we went to trial on Saporiti, so there was really
24 nothing we could do anyway insofar as that order meant we
25 couldn't lump Mr. Saporiti and Mr. Helfstein in at trial at

1 the same time, which everybody seemed to understand. And we
2 proceeded against Mr. Saporiti and his -- I think everybody --

3 THE COURT: It would have been a whole lot easier if
4 we could have tried it all together.

5 MR. ALBREGTS: Oh, I agree, Your Honor.

6 THE COURT: But the Nevada Supreme Court said no.

7 MR. ALBREGTS: Right, Your Honor. That's the
8 highest court in the state.

9 So, in any event -- said no to me many times, too --
10 on the voluntary dismissal I don't -- that's -- I don't -- for
11 the reasons of the staying of the case and how would it be --
12 how would you lose jurisdiction at the time of the voluntary
13 dismissal when the argument to bring them back in is that the
14 settlement agreement --

15 THE COURT: Since there's a stay, I never lost
16 jurisdiction.

17 MR. ALBREGTS: Okay. Your Honor, if you have any
18 questions, I'll submit it on the briefs. So I apologize for
19 being --

20 THE COURT: Mr. Oakes, anything else?

21 MR. OAKES: Yeah. I think -- yes, Your Honor.
22 First of all, two things. Number one, enforcing an
23 arbitration clause on a third-party claim which had issues in
24 it different from the claim asserted by the plaintiff is not
25 purposefully availing oneself of the privilege of doing

1 business in the state of Nevada.

2 Second, as for the stay, if we're talking about it
3 from the standpoint of six months from the time the dismissal
4 was entered, the stay from the Supreme Court wasn't entered
5 until almost a year after the dismissal. The dismissal was
6 November 23, 20009, the stay was October 19, 2010. If the six
7 months begin to run as we say it do -- as we say it did as of
8 the date of entry, the six months was long gone prior to the
9 stay.

10 The second aspect is the stay had never anything to
11 do with the -- anything preventing the plaintiff from doing
12 anything vis-a-vis my client. The stay was narrowly written
13 and specifically stated that it related only to the cross-
14 claim and third-party complaint that had been filed by
15 Saporiti against my clients, the codefendants. And therefore
16 the stay is really of no consequence, the argument about the
17 stay. It never was a stay of anything that the plaintiff
18 could or should have done. And, as I said, it wasn't entered
19 until almost a year after the dismissal in any event.

20 THE COURT: Thank you.

21 The motion is denied. Six months begins to run from
22 the final judgment in the case. Here the final judgment was
23 only recently entered, despite the fact we tried this case
24 long, long ago.

25 The Helfstein appeared in the case originally and

1 did not contest personal jurisdiction in requesting the
2 affirmative relief that they did, and here, given the
3 allegations of fraud in the procurement of the settlement
4 agreement, the Court finds that it is appropriate to permit
5 the action to go forward.

6 However, there will be a special interrogatory that
7 goes to the finder of fact -- I can't remember if it's me or a
8 jury -- it's a jury, who will make a determination if there
9 was fraud in the procurement of the settlement agreement. If
10 they say no, we will not give them any more questions to
11 answer.

12 You understand, Mr. Albregts?

13 MR. ALBREGTS: Yes.

14 THE COURT: All right.

15 MR. OAKES: All right. Point of clarification, Your
16 Honor. Where we were at, my understanding --

17 THE COURT: Which time?

18 MR. OAKES: Huh?

19 THE COURT: Which time? Because, remember, you got
20 to be out of the case for two years or three years or four
21 years.

22 MR. OAKES: Yes.

23 THE COURT: Lucky guy.

24 MR. OAKES: We submitted a jury demand to make sure
25 we didn't lose it. It's my understanding that the next thing

1 we're doing is an evidentiary hearing on a 60(b) motion.

2 THE COURT: I've got to at some point in time have
3 somebody make the decision as to whether there was fraud.

4 MR. OAKES: Understood. What I'm trying to make
5 myself clear on is if the Court is of a mind that we're trying
6 the entire case at that time, or whether we're doing the 60(b)
7 first.

8 THE COURT: Well, given what --

9 MR. OAKES: And it was my understanding from the
10 last hearing that we were going to have an evidentiary hearing
11 on the 60(b) motion.

12 THE COURT: I was always going to have an
13 evidentiary hearing on the 60(b) motion. But trial's set in
14 June.

15 MR. OAKES: And it was my understanding that was
16 trial on the 60(b) motion. And that's what I'm asking for
17 now, is some clarification on that.

18 THE COURT: Well, I set it as a jury trial in June,
19 which to me would not be an evidentiary hearing. If it's a
20 60(b) issue, I was going to try the 60(b) -- try the issues on
21 the 60(b) issue, give a jury instruction, then try the rest of
22 the issues. If what you're telling me is you want to do it
23 differently, you and Mr. Albregts need to talk.

24 MR. OAKES: I thought we were doing it different.
25 And I think Your Honor set the jury trial because out of an

1 abundance of caution I filed the jury demand. Frankly,
2 though, it was a little bit confusing as to whether I was
3 filing that demand for the full trial or the 60(b) aspect,
4 which I thought was clearly going to be separately done --
5 initially done.

6 THE COURT: I thought we were going to do the 60(b)
7 issue long, long ago, since you guys came back and started
8 fighting -- or, I'm sorry, arguing amongst yourselves.

9 Let me see if I can find our status check from when
10 you came back.

11 MR. OAKES: I don't have the order here, but I think
12 the order --

13 THE COURT: Hold on.

14 MR. OAKES: -- was clearly stating you were going --

15 THE COURT: I said, "An evidentiary hearing is to be
16 set for this matter regarding the Rule 60(b) issues for
17 purposes of determining whether the settlement agreement
18 should be set aside." Based upon the Court's views there does
19 not appear to have been a final order rendered, and I set a
20 status check for you guys to talk about scheduling.

21 MR. ALBREGTS: That's my recollection, too, Your
22 Honor, same as Mike.

23 THE COURT: And that was in April of last year.

24 I then had a status check with you in May of last
25 year.

1 MR. ALBREGTS: Your Honor, subject to Mr. Oakes's
2 clients' constitutional rights to a jury trial, having filed a
3 demand, I need to talk to my client. But I have no problem I
4 think for reasons of economy doing a 60(b) hearing as you've
5 originally ordered or just mentioned subject to your calendar
6 and whatever Mr. Oakes has to say about the jury trial issue.

7 THE COURT: You guys told me in July it would take
8 one day for the hearing, and I issued a scheduling order for
9 the rest of the stuff. Let me see if I can find my scheduling
10 order, because I didn't look at it earlier. Hold on a second,
11 Mr. Oakes. You may be right. Wow. We've had a lot of
12 filings in this case.

13 Okay. So I entered the order July 24, 2013, and I
14 set you for a stack that started April 21st, 2014, and we've
15 moved that. I didn't bifurcate it in the order, but I had
16 intended to do a one-day hearing some day. But that one-day
17 hearing will not be a jury trial. If you want to have that
18 decided by the jury, we'll do it all together.

19 MR. OAKES: I don't think the motion part is really
20 a jury trial issue, but I think -- I think it --

21 THE COURT: Well, it can be.

22 MR. OAKES: I think it needs to be done separately
23 first. And I didn't want to waive my jury trial on the
24 ultimate issues of the case if you --

25 THE COURT: Well, when do you want to do it?

1 MR. OAKES: -- if you kept us in on 60(b).
2 THE COURT: So when do you want to do it?
3 MR. OAKES: I have some discovery out to Mr.
4 Albregts that he responded, and we have complaints about how
5 thorough his responses were.
6 THE COURT: Okay.
7 MR. OAKES: We need to either work that out and get
8 it in front of you and then take a couple of depositions. So
9 90 days?
10 MR. ALBREGTS: There's privilege issues, Your Honor,
11 on --
12 THE COURT: Well, the problem is, Mr. Oakes, that's
13 beyond my current trial setting.
14 MR. OAKES: We're still within our time to set those
15 depos and file a timely motion to compel. And I'm probably
16 going to have to do that.
17 THE COURT: Okay. Well, you guys do that, and we
18 will try and figure it out. It may be we do the evidentiary
19 hearing on one day with me and then we set the jury trial a
20 couple weeks later.
21 MR. OAKES: Sounds like a plan, Your Honor.
22 THE COURT: Okay. But you're on the stack for June.
23 MR. OAKES: Okay.
24 THE COURT: June 30th. So I'd like to figure out a
25 way, if we can, to get it all resolved, wrap up this case

1 fully and finally at one point in time so you guys can go back
2 up to Carson City.

3 MR. OAKES: That's a possibility even now.

4 THE COURT: I'm aware of that, Mr. Oakes. And I'm
5 not bothered by it.

6 MR. OAKES: Oh, I understand. We have to figure it
7 out. It's an interesting case.

8 MR. ALBREGTS: Yes.

9 THE COURT: It is a unique case. And if they'd let
10 me try it all together the first time, I wouldn't be in this
11 position.

12 MR. ALBREGTS: [Inaudible] says it's a bar exam
13 case.

14 MR. OAKES: Your Honor has already ruled, so I'm not
15 going to continue to argue.

16 THE COURT: Okay. 'Bye.

17 MR. ALBREGTS: Thank you, Your Honor.

18 THE PROCEEDINGS CONCLUDED AT 8:49 A.M.

19 * * * * *

20

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

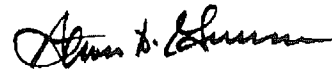
FLORENCE HOYT
Las Vegas, Nevada 89146

Florence M. Hoyt

FLORENCE HOYT, TRANSCRIBER

4/8/14

DATE



CLERK OF THE COURT

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5 **EIGHTH JUDICIAL DISTRICT COURT**

6 **CLARK COUNTY, NEVADA**

7
8 IRA AND EDYTHE SEAVER FAMILY)
9 TRUST, et al.,)

10 Plaintiffs,)

11 vs.)

12 UI SUPPLIES, et al.,)

13 Defendants.)
14

Case No.: 09587003

Dept. No.: XI

**NOTICE OF FILING
DECLARATION OF ELIZABETH
G. GONZALEZ IN RESPONSE TO
DEFENDANT'S MOTION FOR
DISQUALIFICATION OF JUDGE**

15
16
17 Attached hereto as Exhibit 1 is the Declaration of Elizabeth G. Gonzalez filed in response
18 to Defendant's Motion of Disqualification of Judge.

19
20 Dated this 10th day of May 2013

21
22
23
24
25
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MAY 10 2013
CLERK OF THE COURT
33

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, I mailed a copy of the NOTICE OF FILING DECLARATION OF ELIZABETH G. GONZALEZ IN RESPONSE TO DEFENDANT'S MOTION FOR DISQUALIFICATION OF JUDGE, or placed a copy in the attorney's folder or delivered to the Court's chambers, to:

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

Jeffrey Albregts, Esq. (Cotton, Driggs, Walch, Holley, Woloson & Thompson)
Attorney for Plaintiffs Ira and Edythe Seaver Family Trust and Circle Consulting Corporation

Jeff Silvestri, Esq. and Seth T. Floyd, Esq. (McDonald Carano Wilson)
Attorneys for Defendants

Michael Lee, Esq. (Law Office of Michael B. Lee)
Attorneys for Defendants

Gary B. Schnitzer, Esq. (Kravitz, Schnitzer, Sloane & Johnson)
Attorneys for Defendants

J. Michael Oakes, Esq. (Foley & Oakes)
Attorneys for Defendants

The Honorable Jennifer Togliatti (10th Floor RJC)

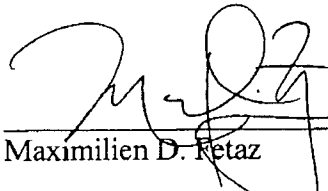

Maximilien D. Retaz

EXHIBIT 1

DECLARATION OF ELIZABETH G. GONZALEZ

I, Elizabeth Gonzalez, declare as follows:

1. Your declarant is Elizabeth Gonzalez, District Court Judge, Department 11 of the Eighth Judicial District Court, and has personal knowledge of all matters stated herein; and is competent to testify to the matters set forth herein.

2. I am aware of the Defendant's¹ Motion for Disqualification of Judge² which was filed in the subject case entitled Seaver, et al. v. UI Supplies, et al., case number A587003, and which seeks to disqualify me from hearing the case alleging my lack of impartiality and bias.

3. I previously presided over a bench trial in this matter. During trial, Defendant Lewis Helfstein testified. Following the trial, I entered Findings of Fact and Conclusions of Law.³

4. This motion appears to allege that I have a bias against the Helfstein Defendants.

5. I do not have a bias against the Helfstein Defendants. Other than the information I obtained as part of my work on A587003, I have no information related to the Helfstein Defendants.

6. While I have drawn conclusions based upon Lewis Helfstein's testimony at trial and the documentary evidence at trial, that Lewis Helfstein lacked credibility, that was a determination made by weighing the evidence and testimony at trial.

7. The information I did obtain as part of my work on A587003 in no way will lead me to be other than impartial toward the Helfstein Defendants.⁴

8. I have not discussed any part of the subject case with any party or persons related to any party during the pendency of A587003.

9. I do not have a personal, business, or other relationship with any party or persons related to any party in A587003 which affects my impartiality.

¹ Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC, collectively referred to as the Helfstein Defendants filed the referenced motion.

² My chambers also received a copy of an Errata to Defendant's Motion for Disqualification of Judge.

³ The Findings of Fact and Conclusions of Law is attached as exhibit A to this declaration.

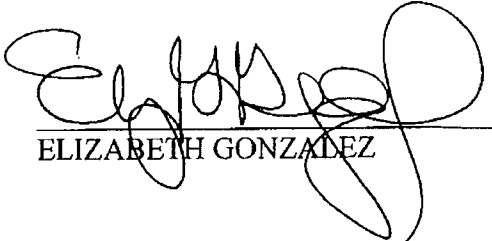
⁴ The Helfstein Defendants' counsel's affidavit filed pursuant to NRS 1.235 states the primary basis for their request is found in the April 25, 2013 hearing transcript. A review of the transcript demonstrates my lack of impartiality and bias. The transcript simply demonstrates my acknowledgment that issues surrounding the Helfstein Defendants were raised at trial.

10. The Court notes that a jury demand has been filed by the Helfstein Defendants.

11. Any rulings I have made in A587003 have been the result of critical legal and factual analysis, and not the result of partiality or personal bias in favor of any party.

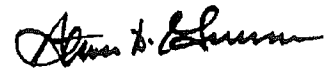
12. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 10th day of May, 2013.

A handwritten signature in black ink, appearing to read 'Elizabeth Gonzalez', is written over a horizontal line. The signature is stylized with large loops and flourishes.

ELIZABETH GONZALEZ

EXHIBIT A


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

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Plaintiff,

Date of Trial: March 19, 2012

vs.

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,¹ 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

¹ The Court granted a motion to add UI Technologies as a defendant during trial.

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CLERK OF THE COURT

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Defendants").² Plaintiffs Complaint³ asserts ten causes of action: (1) Breach of Circle Consulting Contract (against all Defendants); (2) Breach of Summit Technologies Formation Agreement (against Helfstein Defendants Only); (3) Breach of Summit Technologies Operating Agreement (against Helfstein Defendants and Summit Only); (4) Breach of Fiduciary Duty (against Helfstein Defendants Only)⁴; (5) Promissory Estoppel (against UniNet Defendants Only); (6) Unjust Enrichment (against UniNet Defendants Only); (7) Accounting (against Summit and Helfstein Defendants Only)⁵; (8) Declaratory Relief (against All Defendants); (9) Breach of Implied Covenant of Good Faith and Fair Dealing (against All Defendants)⁶; and (10) Alter Ego (against All Defendants)⁷. During trial the Court permitted amendment to add a claim for breach of fiduciary duty against the UI Defendants.

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

FINDINGS OF FACT

1. On or about August 12, 2004, Lewis Helfstein ("Helfstein")⁸ on behalf of Summit

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

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

⁴ The court permitted amendment of this claim during trial to include the UI Defendants.

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

⁶ The Court granted dismissal of the tortious claims for breach of the covenant of good faith and fair dealing.

⁷ The Court granted dismissal of this claim against the UI Defendants and UniNet.

⁸ On November 23, 2009, Plaintiffs executed a voluntary dismissal of the Helfstein Defendants 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 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")⁹

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 ⁹ 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. . .

21 7. Agreement not to Aid Competition

22 7.1 Consultant acknowledges and agrees that during the term of this Agreement, it will not in any
23 way, directly or indirectly, . . . engage in represent, furnish consulting services to, be employed
24 by, or have any interest in . . . any business which manufactures, sells or distributes parts and
25 supplies for the remanufacturing of business machine toner cartridges in competition with the
26 Company or refills business machine toner cartridges.

25 * * *

26 7.2 The Consultant is exempt with regards to this paragraph for the following activity:

27 Consulting with Tangerine Express, so long as their activity remains on the retail level, Raven
28 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.¹⁰

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 Express¹¹ Raven Industries¹², etc.¹³), 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 ¹⁰ 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 ¹¹ Tangerine is an office supply business operated by Seaver's wife, Edythe.

26 ¹² 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 ¹³ 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 Imaging¹⁴ 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.¹⁵

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
27 ¹⁴ Ex. 227

28 ¹⁵ 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.¹⁶

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 ¹⁶ 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.¹⁷

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 ¹⁷ 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 ¹⁸	\$469,450.92
7 Loss of Health Insurance Premiums ¹⁹	<u>\$ 96,146.52</u>
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 ¹⁸ 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 ¹⁹ 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
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 17th 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:

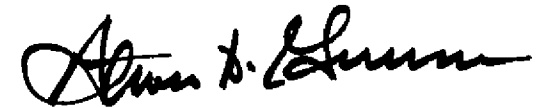
Jeffrey R. Albregts, Esq. (Cotton, Driggs, et al)

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

OPPS

JEFFREY R. ALBREGTS, ESQ.
Nevada State Bar No. 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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

IRA AND EDYTHER 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.: A-09-587003

Dept. No.: XI

**PLAINTIFFS' OPPOSITION TO
(HELFSTEIN) DEFENDANTS'
MOTION FOR DISQUALIFICATION
OF JUDGE**

Date:

Time:

Plaintiffs, and each of them, hereby oppose the Helfstein Defendants' Motion For Disqualification of Judge Gonzalez in this case, and hereby also adopt and incorporate by reference as though fully set forth herein the Notice of Filing of Declaration of Elizabeth G. Gonzalez in response to the same.

I.

INTRODUCTORY STATEMENT

This pending motion has absolutely no basis in fact or law. Factually, the motion is unsupported by any declaration (requisite or otherwise) and the Declaration of Judge Gonzalez in response to it also clearly establishes that it has no factual basis in the first place. Furthermore, Mr. Helfstein has failed to point to anything whatsoever in the record of this case which would rise to the factual level necessary to disqualify Judge Gonzales from continuing to adjudicate it. Rather, Mr. Helfstein's motion is nothing more than an inferential ad hominem attack on Judge Gonzalez, clearly designed to deflect attention away from his fraudulent conduct to date in this case. Mr. Helfstein will do or say anything in order not to be held accountable for his fraudulent misdeeds in this jurisdiction. For goodness sakes, he does not question her impartiality on any legitimate ground or prior to this case being assigned to her, but solely on the basis she found him to be an incredible witness, which he also concedes is part of her job. In short, there is no more nefarious a civil litigant than the likes of Mr. Helfstein.

Indeed, Mr. Helfstein's pending motion does not even begin to meet the legal threshold necessary to disqualify Judge Gonzalez in this case. Mr. Helfstein's pending motion also utterly begs the issue of economy insofar as Judge Gonzalez has presided over this case for quite a few years now. At the end of the day, Mr. Helfstein's pending motion is a desperate strategic attempt to delay this case and intimidate Judge Gonzalez (in the meantime) if she is not disqualified from it. Ergo, Mr. Helfstein should be sanctioned for filing his pending motion to disqualify Judge Gonzalez on absolutely frivolous and scurrilous factual and legal grounds. See NRCP 11.

II.

LEGAL ARGUMENT

While citing to NRS 1.235, which sets forth the "procedure for disqualifying judges other than Supreme Court justices" in Nevada, Mr. Helfstein fails to comply with its provisions including providing the requisite affidavit to the Court "specifying the facts upon which the disqualification is sought." NRS 1.235(1). The gist of Mr. Helfstein's argument is as

1 mendacious as it is ill-founded in the law, i.e., because Judge Gonzalez found him to be an
2 incredible witness, she no longer can maintain her impartiality in this case. Significantly, and
3 again, Mr. Helfstein does not accuse Judge Gonzalez of being partial or biased prior to his
4 testimony before her.

5 “As a general rule, a judge has a duty to preside to the
6 conclusion of all proceedings, in the absence of some statute, rule
7 of court, ethical standard, or other compelling reason to the
8 contrary. Further, a judge is presumed to be impartial, and the
9 party asserting a challenge carries the legal burden of establishing
10 sufficient factual and legal grounds warranting disqualification.”
11 (Citations omitted.)

12 See, *City of Las Vegas Downtown Redevelopment Agency v. Eighth Judicial District*
13 *Court, and the Honorable Mark R. Denton*, 116 Nev. 640, at 643, 5 P.3rd 1059 (2000). With all
14 due respect, the only Nevada case cited by Mr. Helfstein in his motion, *Towbin Dodge v. Eighth*
15 *Judicial District Court and the Honorable Kathy A. Hardcastle*, 121 Nev. 251, 112 P.3rd 1063
16 (2005), is inapposite here.

17 “The test for whether a judge’s impartiality might reasonably be questioned is objective,
18 and presents a question of law.” *Ybarra v. Nevada*, 127 Nev. Adv. Rep. 4, 247 P.3rd 269, at 271
19 (2011), (“the burden is on the party asserting the challenge to establish sufficient factual grounds
20 warranting disqualification, ... (and) whether a reasonable person, knowing all the facts, would
21 harbor reasonable doubts about the judge’s impartiality.”) In *Ybarra*, the Nevada Supreme Court
22 found that the trial judge was not “required” to be disqualified on the basis that he had a prior
23 relationship with parties involved in that case.

24 Ultimately, “the question is whether the trial umpire’s misadventures are so pervasive
25 and of such a magnitude that the trial ambiance is discernibly unfair to the defendant when
26 viewed from the cold record on appeal.” *McNair v. Nevada*, 108 Nev. 53, at 62, 825 P.2nd 571
27 (1992) (“the interaction between litigants, counsel, and a district court judge should be properly
28

1 viewed against the entire trial background, ... rather than the myopic perspective afforded by
2 isolated incidents.”) There (and again), the Nevada Supreme Court found that disqualification of
3 the trial judge was not warranted or “required.”

4 Such is the case here. As strange as the procedural history of this case may be, exceeded
5 only by Mr. Helfstein’s desperate attempts to not be held accountable in Nevada by Judge
6 Gonzalez for his fraudulent misdeeds here, disqualification of her in this case is clearly not
7 “required” here. In point of as much, Judge Gonzalez has not adjudicated anything yet as to Mr.
8 Helfstein, but has simply set an evidentiary hearing to determine whether plaintiffs may rescind
9 their Settlement Agreement with him on the grounds set forth in NRCP 60(b).¹ At best, Mr.
10 Helfstein’s motion is patently premature because Judge Gonzalez has simply said she would
11 address the issue at an evidentiary hearing rather than adjudicate it *vis a vis* motion practice,
12 which is also a correct application of the law and procedure required here.
13
14

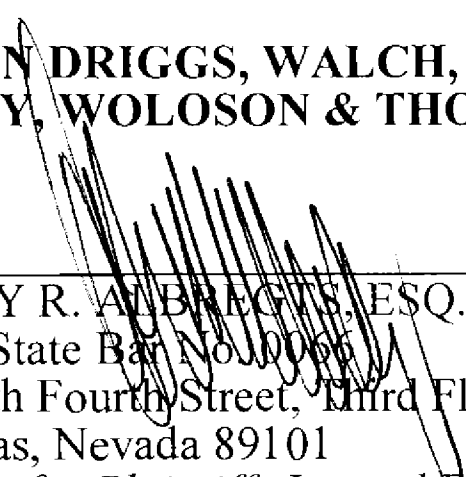
15 III.

16 CONCLUSION

17 For these reasons, and those particularly pertaining to economy here (meaning Judge
18 Gonzalez knows this case inside and out), Plaintiffs respectfully request that Mr. Helfstein’s
19 motion to disqualify her be denied in its entirety.

20 Dated this 27 day of May, 2013.

21 **COTTON DRIGGS, WALCH,**
22 **HOLLEY, WOLOSON & THOMPSON**

23 
24 JEFFREY R. ALBRECHTS, ESQ.
25 Nevada State Bar No. 00066
26 400 South Fourth Street, Third Floor
27 Las Vegas, Nevada 89101
28 *Attorneys for Plaintiffs Ira and Edythe Seaver*
Family Trust and Circle Consulting
Corporation

¹ In fact, the order currently pending and confirming that ruling by Judge Gonzalez in setting that hearing is the version proposed by Mr. Helfstein’s counsel, not this writer.

1
2
3 **CERTIFICATE OF MAILING**

4 I HEREBY CERTIFY that, on the 22 day of May, 2013, and pursuant to NRCP 5(b), I
5 deposited for mailing in the U.S. Mail a true and correct copy of the foregoing Plaintiffs'
6 Opposition to (Helfstein) Defendants' Motion For Disqualification of Judge, postage prepaid and
7 addressed to:

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

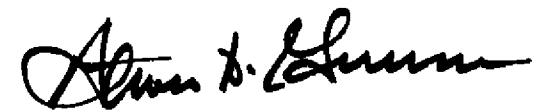
12 Michael Lee, Esq.
13 LAW OFFICE OF MICHAEL B. LEE
14 2000 South Eastern Avenue
15 Las Vegas, NV 89104
16 *Attorneys for Defendants*

17 Jeffrey A. Silvestri, Esq.
18 Seth T. Floyd, Esq.
19 McDONALD CARANO WILSON LLP
20 2300 W. Sahara Avenue, Suite 1200
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*

J. Michael Oakes, Esq.
Foley & Oakes
850 East Bonneville Ave.
Las Vegas, NV 89109
*Attorneys for Lewis Helfstein, Madelyn
Helfstein, Summit Laser Products, Inc., and
Summit Technologies, LLC.*


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



CLERK OF THE COURT

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,*

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.

And Related Claims

) Case No. A-09-587003

) Dept. No. XI

) **LEWIS HELFSTEIN, MADALYN**
) **HELFSTEIN, SUMMIT LASER**
) **PRODUCTS, INC., AND SUMMIT**
) **TECHNOLOGIES, LLC'S REPLY**
) **FOR ITS MOTION FOR**
) **DISQUALIFICATION OF JUDGE**

) **Date: June 13, 2013**

) **Time: Chambers**

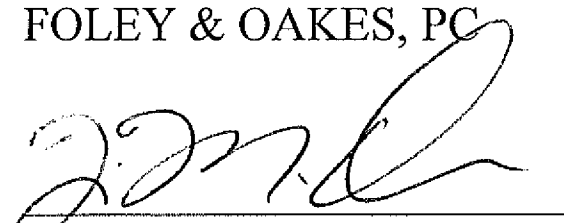
COMES NOW Defendants, LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT
LASER PRODUCTS, INC., and SUMMIT TECHNOLOGIES, LLC, (collectively referred to
herein as "Helfstein"), by and through their attorneys, J. Michael Oakes, of the law firm of Foley

///

1 & Oakes, PC, and hereby submit their Reply for its Motion for Disqualification of Judge.

2 DATED this 5th day of June, 2013.

3 FOLEY & OAKES, PC

4
5 
6 J. Michael Oakes, Esq.

7 Nevada Bar No. 1999

8 850 East Bonneville Avenue

9 Las Vegas, Nevada 89101

10 (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 The Helfstein parties have moved to disqualify the Honorable Judge Elizabeth Gonzalez
5 (the "Court") from conducting further proceedings in this case.

6 The Plaintiff has opposed the motion and the Court has filed an affidavit, confirming that
7 "Other than the information I obtained as part of my work on A587003, I have no information
8 related to the Helfstein Defendants." Helfstein does not dispute this statement.

9 The reason for this motion is that the Court has drawn strong conclusions about Lew
10 Helfstein, his credibility, and issues affecting the liability of the Helfstein defendants in a trial
11 where Helfstein was not a party, having settled out on Plaintiff's claim and having obtained an
12 Order from the Nevada Supreme Court compelling arbitration of the third party claim of the
13 remaining defendant. A copy of the Order of Reversal and Remand is attached as Exhibit "A".

14 These strong conclusions, and their effect on the Court's view of Helfstein, were made
15 clear at the hearing of April 25, 2013, the transcript of which was filed on May 2, 2013, and again
16 in the Court's own Affidavit, stating that "While I have drawn conclusions based upon Lewis
17 Helfstein's testimony at trial and the documentary evidence at trial, that Helfstein lacked
18 credibility, that was a determination made by weighing the evidence and testimony at trial."

19 Since these conclusions came from a trial in which Helfstein was not a party, the
20 determinations made by the Court could never have any sort of res judicata or collateral estoppel
21 effect against Helfstein. Yet, the situation here will be much worse. Now that the trial is concluded
22 and Plaintiff is trying to bring Helfstein back into the case, by alleging fraud as a basis to set aside
23 its voluntary dismissal of Helfstein, Helfstein will have to "move the boulder uphill," rather than
24 being able to defend himself on a level playing field.

1 To deny this motion would leave Helfstein in a position that is inherently unfair and
2 prejudicial. Furthermore, the effect of such a ruling would be to dampen the desire of any party to
3 settle a case or enforce an arbitration provision, contrary to Nevada's stated policy of encouraging
4 settlement and enforcing arbitration provisions.

5 II.

6 LEGAL ARGUMENT

7 A. Helfstein Was Not A Party to the Case At the Time of Trial

8 There is no known Nevada case that deals with this precise situation, where an attempt is
9 made to bring a witness and previously dismissed party into the same case in which he or she
10 previously testified at trial.

11 There are Nevada cases that refuse disqualification where a party has to appear before the
12 same judge that ruled adverse to them previously. For instance, see *Rivero v. Rivero*, 195 P.3d
13 328, 124 Nev. Adv. Op. No. 84 (2008). The rationale for those decisions was explained in *Liteky*
14 *v. U.S.*, 510 U.S. 540, 114 S.Ct. 1147, 127 L.Ed.2d 474 (U.S. 1994)

15
16 The judge who presides at a trial may, upon completion of the
17 evidence, be exceedingly ill disposed towards the defendant, who
18 has been shown to be a thoroughly reprehensible person. But the
19 judge is not thereby recusable for bias or prejudice, since his
20 knowledge and the opinion it produced were properly and
21 necessarily acquired in the course of the proceedings, and are
22 indeed sometimes (as in a bench trial) necessary to completion of
23 the judge's task. As Judge Jerome Frank pithily put it: "Impartiality
24 is not gullibility. Disinterestedness does not mean child-like
25 innocence. If the judge did not form judgments of the actors in
26 those court-house dramas called trials, he could never render
27 decisions." In *re J. P. Linahan, Inc.*, 138 F.2d 650, 654 (CA2
28 1943). Also not subject to deprecatory characterization as "bias" or
"prejudice" are opinions held by judges as a result of what they
learned in earlier proceedings. **It has long been regarded as
normal and proper for a judge to sit in the same case upon its
remand, and to sit in successive trials involving the same
defendant.**" (Emphasis added).

1 All of the stated reasons apply to a situation where a prior case has been decided against a
2 party. Those reasons do not apply here. Helfstein appeared before the Court as a witness, not as
3 a party. None of the Helfstein defendants were on trial in the trial between the Plaintiff and the
4 Defendants. They did not conduct discovery in the case, nor did they hire experts, present
5 evidence, or cross examine witnesses at trial. The Court certainly had the right, and even the
6 duty, to rule on the issues presented by the parties before it. However, it is clear that it is now
7 unable to proceed impartially on deciding issues concerning Helfstein, who was merely a witness
8 in the prior trial.
9

10 **B. Denial of This Motion Would Be Inconsistent with Nevada Public Policy**
11 **Concerning the Encouragement of Settlement and the Enforcement of**
12 **Arbitration Provisions**

13 Helfstein was named as a Defendant in the complaint, and then settled the case with the
14 Plaintiff prior to filing a responsive pleading. Then, when Helfstein was named as a Third Party
15 Defendant, Helfstein filed a motion to compel arbitration of the third party dispute. Although the
16 motion to compel arbitration was denied, the decision was reversed by the Nevada Supreme
17 Court.

18 Thus, Helfstein's status as a non-party came about as a result of his settlement with the
19 Plaintiff, and the enforcement of the contractual arbitration provision with the Third Party
20 Plaintiff.

21 Nevada has a strong policy of encouraging settlement. See Matthews v. Collman, 110
22 Nev. 940, 950, 878 P.2d 971 (Nev. 1994), stating that:

23 "NRCP 68 and NRS 17.115 are designed to facilitate and
24 encourage settlement. See Morgan v. Demille, 106 Nev. 671, 674,
25 799 P.2d 561, 563 (1990). They do so by placing the risk of loss on
26 the non-accepting offeree, with no risk to the offeror, thus
27 encouraging both offers and acceptance of offers. Placing the risk
28 of loss of eligibility for fees and costs on an offeror, as Matthews
would have us do, would have the opposite result and would
discourage plaintiffs from making offers to settle. **Such a result
would attenuate Nevada's policy of encouraging both parties to**

1 **make pre-trial settlement offers, as illustrated by our rule's**
2 **specific departure from the unilateral federal model.”**
3 (Emphasis added).

4 Nevada also has a strong public policy in favor of arbitration. See Phillips v. Parker, 106
5 Nev. 415, 417, 794 P.2d 716 (1990), stating

6 “[T]here is a strong public policy favoring contractual provisions
7 requiring arbitration as a dispute resolution mechanism.”

8 Helfstein’s actions in settling with the plaintiff and enforcing an arbitration provision
9 with the third party plaintiff were entirely consistent with those policies. Settling cases and
10 enforcing arbitration provisions are favored actions, not disfavored. Yet, it is those very actions
11 that have now placed him in peril with the Court, as shown by its comments, i.e.,
12 *“Unfortunately, you weren’t here for the trial where your client testified and lots of unusual*
13 *things occurred,”* and *“And I was disappointed that the Supreme Court decided to essentially*
14 *say, you didn’t have to be part of the litigation, which is why we are currently in this position. If*
15 *you’d been here on the third-party complaint, we wouldn’t be in this position, Mr. Oakes.”*

16 So, if this motion is not granted, Helfstein will find themselves in “this position,” where it
17 appears reasonably likely that there is a lack of impartiality and that conclusions made in a trial
18 between other litigants will be used against them.

19 The policy of Nevada is to encourage defendants to settle. Likewise, the policy of Nevada
20 is to encourage arbitration of disputes. Upon doing so, the remaining parties frequently target the
21 dismissed party when the case goes to trial, resulting in a situation where they, not being
22 represented at trial, are labeled as “bad guys” by the presiding judge or jury. After such a trial, if
23 the previously dismissed party now has to defend themselves as a party, it is inherently unfair for
24 that same judge or jury to then preside over their case, especially when the Court’s comments
25 show that its “impartiality might reasonably be questioned.”
26
27
28

1 **C. The Court Has Information About the Case That Is Personal Knowledge**
2 **Derived From Sources Where Helfstein Was Not Represented**

3 Both judges and juries are to avoid acquiring personal information about a case. The only
4 thing that should matter is what is presented at trial, in the presence of all parties. However, the
5 Court has now heard the testimony, looked at documentary evidence, and made decisions
6 concerning the case, and all of that occurred in a trial where Helfstein was not a party and was
7 not represented by counsel.

8 Rule 2.11 under Canon 2 of the NCJC states:

9 **“Rule 2.11. Disqualification.**

10 (A) A judge shall disqualify himself or herself in any
11 proceeding in which the judge’s impartiality might reasonably be
12 questioned, including but not limited to the following
13 circumstances:

14 (1) The judge has a personal bias or prejudice concerning a
15 party or a party’s lawyer, or personal knowledge of facts that are in
16 dispute in the proceeding...”

17 The whole point of disqualifying a judge with personal knowledge is to ensure that the
18 only evidence the judge hears is that which is presented in the courtroom where all of the parties
19 who may be affected are represented.

20 Although the Court did not go outside of the judicial proceedings to conduct an
21 investigation, the decisions it has made in the initial trial are now analogous to “personal
22 knowledge.” The Court did what it was supposed to do. The Court heard the evidence. The Court
23 made up its mind. However, its determination of the weight of the evidence is now personal, and

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26 ///

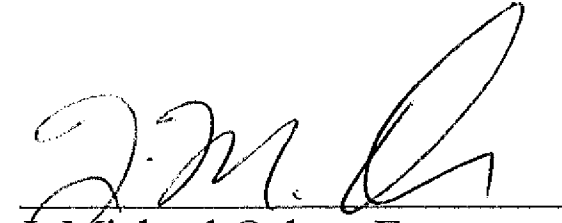
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28 ///

1 its knowledge was derived in a proceeding other than the proceedings in which Helfstein must
2 now participate.

3 DATED this 5th day of June, 2013.

4 FOLEY & OAKES, PC

5
6 

7 J. Michael Oakes, Esq.
8 Nevada Bar No. 1999
9 850 East Bonneville Avenue
10 Las Vegas, Nevada 89101
11 (702) 384-2070

12 *Attorneys for Lewis Helfstein, Madalyn*
13 *Helfstein, Summit Laser Products, Inc.,*
14 *Summit Technologies, LLC,*
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16
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28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Foley & Oakes, PC,
and that on the 5th day of June, 2013, I served the following document(s):

**LEWIS HELFSTEIN, MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC.,
AND SUMMIT TECHNOLOGIES, LLC'S REPLY FOR ITS MOTION FOR
DISQUALIFICATION OF JUDGE**

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

[x] **By United States Mail**, postage fully prepaid to person(s) and addresses as
follows:

Ira Seaver
Ira and Edythe Seaver Family Trust
Circle Consulting Corporation
2407 Ping Drive
Henderson, NV 89074
In Proper Person

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

Michael Lee, Esq.
Law Office of Michael B. Lee
2000 South Eastern Avenue
Las Vegas, Nevada 89104
Attorneys for Defendants

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

Jeff Silvestri, Esq.
Seth T. Floyd, Esq.
McDonald Carano Wilson LLP
2300 West Sahara Avenue, Suite 1000
Las Vegas, NV 89102
Attorneys for Defendants

Honorable Judge Elizabeth Gonzalez
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

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

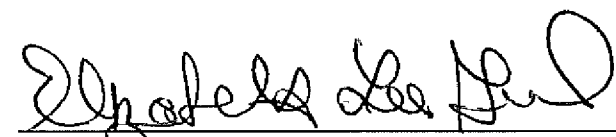

An employee of FOLEY & OAKES, PC

EXHIBIT “A”

EXHIBIT “A”

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

APR 07 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order denying a motion to compel arbitration and for a stay or dismissal. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Facts

In 2004, appellants Lewis and Madalyn Helfstein and plaintiffs in the action below (who are not parties to this appeal) entered into agreements to form and operate appellant Summit Technologies, Inc., and for plaintiffs to provide consulting services for the corporation until December 31, 2014. In 2007, the Helfsteins, acting on behalf of Summit Technologies, entered into an agreement with respondents, under which respondents purchased certain Summit Technologies assets. The asset purchase and sale agreement (PSA) provided that any controversy or claim arising out of or relating to the agreement shall be settled by binding arbitration in Nassau County, New York.

In the district court, plaintiffs filed a complaint against appellants and respondents, asserting contract- and tort-based causes of action, based in part on allegations that respondents represented to plaintiffs that respondents had obtained the rights to the consulting agreement between plaintiffs and Summit Technologies, but respondents refused to compensate plaintiffs for performing the consulting services.

After plaintiffs voluntarily dismissed the action against appellants, respondents filed an amended answer to the complaint, a counterclaim against plaintiffs, and a cross-claim against appellants. The cross-claim alleged that appellants, in executing the PSA, represented and warranted that the consulting agreement between plaintiffs and Summit Technologies was "not being assumed" and that appellants misrepresented the nonassignment of the consulting agreement, damaging respondents and exposing them to liability on plaintiffs' claims. Respondents sought monetary damages on the cross-claim and indemnity for any damages that plaintiffs might recover on their claims against respondents.

Based on provisions in the PSA, appellants moved to stay or dismiss the cross-claim, to compel arbitration, and to enforce the agreement's forum selection clause. Respondents opposed the motion, and the district court denied it, finding that the PSA was not the basis for plaintiffs' complaint, so the arbitration and forum provisions did not apply. This appeal followed.

Discussion

On appeal, appellants argue that respondents' allegations against appellants arise out of or are related to the PSA, and thus the arbitration and forum selection clauses in that agreement should have been enforced. Respondents assert that because the plaintiffs brought their action against respondents in Nevada based on alleged breaches of the consulting agreement, respondents were properly allowed to bring a cross-claim against appellants under NRCP 13(h), and under NRCP 14(a), they were properly allowed to join appellants in order to seek indemnity for any damages that they might have to pay plaintiffs. Respondents point out that they were not parties to the consulting agreement, and only appellants were parties to both the consulting agreement and the PSA. Thus, respondents assert that appellants are indispensable to the

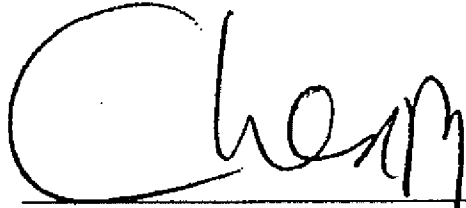
consulting agreement dispute and to respondents' defense against plaintiffs' claims.


Whether a dispute is subject to arbitration is a contract interpretation question, subject to de novo review on appeal. Clark Co. Public Employees v. Pearson, 106 Nev. 587, 590, 798 P.2d 136, 137 (1990). Nevada recognizes that strong public policy favors arbitration, and any doubts as to whether claims fall within the scope of the arbitration agreement must be resolved in favor of arbitration. Id. at 591, 798 P.2d at 138.

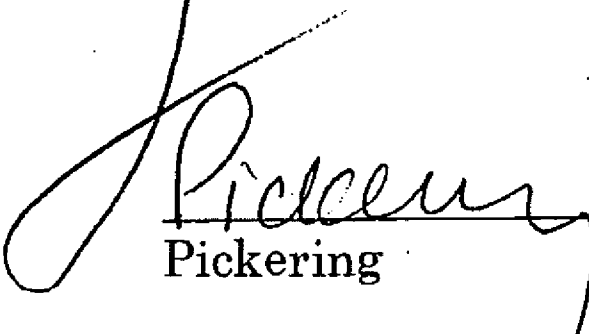
Having considered the parties' arguments and the record, we conclude that the arbitration and forum selection clauses apply to respondents' breach of contract- and fraud-based claims and request for indemnity against appellants. The arbitration and forum selection clauses state that they cover "any controversy or claim arising out of or relating to" the PSA. Respondents, in bringing third-party claims against appellants, specifically alleged that appellants made fraudulent representations under the PSA, breached the terms of the PSA, and failed to comply with their duties and representations under the PSA. See Nat. City Golf v. Higher Ground Country Club, 641 F. Supp. 2d 196, 209 (S.D.N.Y. 2009) (recognizing that "arising out of or relating to" language in an arbitration clause has been held to be the "paradigm of a broad clause" (quoting Collins & Aikman Products Co. v. Bldg. Systems, 58 F.3d 16, 20 (2d Cir. 1995)), and that "if the allegations underlying the claims so much as touch matters covered by the parties' agreements, then those claims must be arbitrated") (internal quotations omitted). And the only agreement governing the relationship between appellants and respondents is the PSA, containing the arbitration clause. See Nat. City Golf, 641 F. Supp. 2d at 210 (concluding that the third-party plaintiff's claims against the third-party defendant for breach of warranty, indemnification, and

contribution fell under parties' service agreement and were therefore subject to arbitration, since the allegations could not be evaluated without considering representations made in the service agreement itself). Respondents' claims are based on appellants' actions in allegedly inducing respondents to purchase Summit Technologies, and those claims cannot be resolved without reference to the PSA. Thus, because the PSA's arbitration and forum selection clauses apply to respondents' claims against appellants, 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' cross-claim against appellants, without prejudice to either respondents' or appellants' rights to litigate their disputes through arbitration in Nassau County, New York.

It is so ORDERED.¹


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

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

¹We are not persuaded by respondents' indispensable party argument. See, e.g., General Refractories Co. v. First State Ins. Co., 500 F.3d 306 (3d Cir. 2007) (holding that simply because a party has a right to seek contribution or indemnity from a nonparty does not render the latter indispensable under FRCP 19).


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Ira and Edythe Seaver Family Trust, et al,

Plaintiff(s),

vs.

Lewis Helfstein, et al,

Defendant(s).

And All Related Matters.

Case No. A587003
Dept. No. VI

**ORDER DENYING DEFENDANT'S
MOTION FOR DISQUALIFICATION
OF JUDGE**

On May 9, 2013, Defendant's Motion for Disqualification of Judge was filed. Later that same day, an Errata thereto was filed to include the signature of counsel. A Notice of Filing Declaration of Elizabeth G. Gonzalez in Response to Defendant's Motion for Disqualification of Judge was filed on May 10, 2013. Plaintiffs' Opposition to (Helfstein) Defendants' Motion for Disqualification of Judge was filed on May 22, 2013. On June 5, 2013, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Reply for its Motion for Disqualification of Judge was filed. The instant Motion was referred by Chief Judge Togliatti to this Court for decision on June 13, 2013. After full review of the papers and pleadings on file herein, the Court hereby denies the instant Motion, and finds that a hearing is not necessary for resolution of this matter, pursuant to EDCR 2.23.

NRS 1.230(1) provides: "[a] judge shall not act as such in an action or proceeding when he entertains actual bias or prejudice for or against one of the parties to the action." Furthermore, Canon 2 of the Revised Nevada Code of Judicial Conduct (the "Code") provides: "[a] judge shall perform the duties of judicial office impartially, competently, and diligently." More specifically, Rule 2.11(A)(1) of the Code states that a judge shall disqualify herself "in any proceeding in which the judge's impartiality might reasonably be questioned, including [circumstances where] the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of

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ELISSA F. CADISH
DISTRICT JUDGE
DEPARTMENT VI

1 facts that are in dispute in the proceeding.” However, the mere appearance of bias or prejudice is
2 not sufficient to warrant disqualification. Implied bias is only grounds for disqualification in certain
3 limited circumstances not applicable here, pursuant to NRS 1.230(2). A judge is “presumed to be
4 impartial, [and] ‘the burden is upon the party asserting the challenge to establish sufficient factual
5 grounds warranting disqualification.’” *Ybarra v. State*, 137 Nev. Adv. Op. 4, at 6 (March 3, 2011),
6 quoting *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988).

7 The Nevada Supreme Court has held that “rulings and actions of a judge during the course of
8 official judicial proceedings do not establish legally cognizable grounds for disqualification.” *In re*
9 *Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). The *Dunleavy* Court
10 went on to note, “The personal bias necessary to disqualify must ‘stem from an extrajudicial source
11 and result in an opinion on the merits on some basis other than what the judge learned from his
12 participation in the case.’” *Id.* at 790, 769 P.2d at 1275, quoting *United States v. Beneke*, 449 F.2d
13 1259, 1260-61 (8th Cir. 1971). “[R]emarks of a judge made in the context of a court proceeding are
14 not considered indicative of improper bias or prejudice unless they show that the judge has closed
15 his or her mind to the presentation of all the evidence.” *Cameron v. State*, 114 Nev. 1281, 1283,
16 968 P.2d 1169, 1171 (1998). Similarly, the United States Supreme Court has held that “opinions
17 formed by the judge on the basis of facts introduced or events occurring in the course of the current
18 proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless
19 they display a deep-seated favoritism or antagonism that would make fair judgment impossible.
20 Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile
21 to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.”
22 *Liteky v. United States*, 510 U.S. 540, 555, 114 S. Ct. 1147, 1157 (1994).

23 In this case, the Helfstein Defendants seek to disqualify Judge Gonzalez based on comments
24 she made at an April 25, 2013 hearing regarding her impressions formed as a result of the trial and
25 other prior proceedings in this very case. Although Mr. Helfstein was not an active party herein at
26 the time of the trial due to a complicated procedural history with which the parties are familiar, he
27 was a witness at the bench trial and Judge Gonzalez was required to evaluate the credibility of his
28 testimony in order to make her ruling therein. Those opinions do not indicate any improper bias or

1 prejudice but rather reflect her appropriate evaluations as the judge herein. There is no evidence of
2 any outside relationships or basis for any of her opinions outside the official proceedings of record
3 herein. Moreover, Judge Gonzalez has indicated her commitment to being impartial going forward,
4 and she scheduled an evidentiary hearing regarding the motion to set aside the settlement agreement
5 with Mr. Helfstein which was before her at the April 25 hearing giving rise to the instant Motion.

6 Under the circumstances, Judge Gonzalez' impressions formed as a result of court proceedings
7 herein do not establish a bias or prejudice that would warrant disqualification, particularly in light of
8 her ability to consider the evidence presented herein going forward in evaluating the matters before
9 her. Thus, the instant Motion for Disqualification of Judge is denied.


10 DATED this 10th day of July, 2013

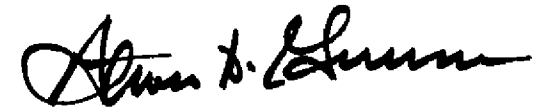
11
12 
13 _____
14 ELISSA F. CADISH, DISTRICT JUDGE

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on the date filed, I electronically served, mailed to the following proper persons,
17 or placed a copy of this order in the attorney's folder in the Clerk's Office as follows:

18 Ira Seaver, Pro Per, 2407 Ping Drive, Henderson, NV 89074
19 J. Michael Oakes, Esq., **Foley & Oakes**
20 Michael Lee, Esq., Law Office of Michael B. Lee
21 Jeffrey Albregts, Esq., Cotton, Driggs, Walch, Holley, Woloson & Thompson
22 Gary E. Schnitzer, Esq., Kravitz, Schnitzer, Sloane & Johnson
23 Judge Elizabeth Gonzalez, 8th Judicial District Court

24 
25 Timothy D. Kelley
26 Judicial Executive Assistant



CLERK OF THE COURT

1 **NEOJ**
2 JEFFREY R. ALBREGTS
3 Nevada Bar No. 0066
4 jalbregts@nevadafirm.com
5 COTTON, DRIGGS, WALCH,
6 HOLLEY, WOLOSON & THOMPSON
7 400 South Fourth Street, Third Floor
8 Las Vegas, Nevada 89101
9 Telephone: 702/791-0308
10 Facsimile: 702/791-1912
11 *Attorney for Plaintiffs*

12
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25
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DISTRICT COURT
CLARK COUNTY, NEVADA

IRA AND EDYTHE SEAVER FAMILY
TRUST, et al.,
Plaintiffs,

v.

LEWIS HELFSTEIN, et al,
Defendants.

And All Related Matters.

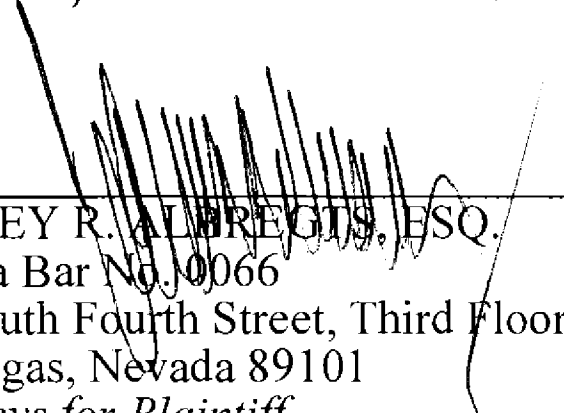
Case No: A587003
Dept. No.: VI

NOTICE OF ENTRY OF ORDER

YOU, and each of you, will please take notice that an Order Denying Defendant's Motion For Disqualification Of Judge in the above entitled matter was filed and entered by the Clerk of the above-entitled Court on the 10th day of July, 2013, a copy of which is attached hereto.

Dated this 11th day of July, 2013.

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



JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiff

1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that, on the 11th day of July, 2013, and pursuant to NRCP 5(b), I
3 deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF**
4 **ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR DISQUALIFICATION**
5 **OF JUDGE**, postage prepaid and addressed to:

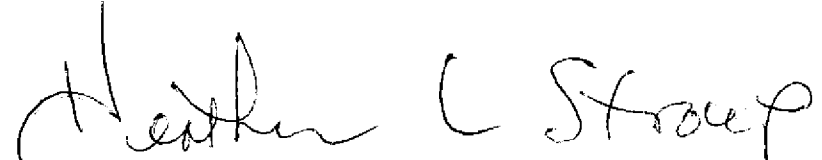
6 Mr. Ira Seaver
7 2407 Ping Drive
8 Henderson, NV 89074
In Proper Person

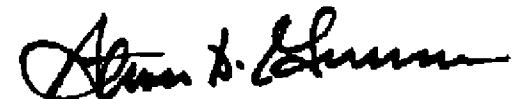
9 Michael Lee, Esq.
10 LAW OFFICE OF MICHAEL B. LEE
11 2000 South Eastern Avenue
Las Vegas, NV 89104
Attorneys for Defendants

12 Jeffrey A. Silvestri, Esq.
13 Seth T. Floyd, Esq.
14 McDONALD CARANO WILSON LLP
2300 W. Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Attorneys for Defendants

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

20 J. Michael Oakes, Esq.
21 Foley & Oakes
22 850 East Bonneville Ave.
Las Vegas, NV 89109
Attorneys for Lewis Helfstein, Madelyn
23 *Helfstein, Summit Laser Products, Inc., and*
Summit Technologies, LLC.

25 
26 _____
27 An employee of Cotton, Driggs, Walch,
28 Holley, Woloson & Thompson



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

Ira and Edythe Seaver Family Trust, et al,

Plaintiff(s),

vs.

Lewis Helfstein, et al,

Defendant(s).

And All Related Matters.

Case No. A587003

Dept. No. VI

**ORDER DENYING DEFENDANT'S
MOTION FOR DISQUALIFICATION
OF JUDGE**

On May 9, 2013, Defendant's Motion for Disqualification of Judge was filed. Later that same day, an Errata thereto was filed to include the signature of counsel. A Notice of Filing Declaration of Elizabeth G. Gonzalez in Response to Defendant's Motion for Disqualification of Judge was filed on May 10, 2013. Plaintiffs' Opposition to (Helfstein) Defendants' Motion for Disqualification of Judge was filed on May 22, 2013. On June 5, 2013, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Reply for its Motion for Disqualification of Judge was filed. The instant Motion was referred by Chief Judge Togliatti to this Court for decision on June 13, 2013. After full review of the papers and pleadings on file herein, the Court hereby denies the instant Motion, and finds that a hearing is not necessary for resolution of this matter, pursuant to EDCR 2.23.

NRS 1.230(1) provides: "[a] judge shall not act as such in an action or proceeding when he entertains actual bias or prejudice for or against one of the parties to the action." Furthermore, Canon 2 of the Revised Nevada Code of Judicial Conduct (the "Code") provides: "[a] judge shall perform the duties of judicial office impartially, competently, and diligently." More specifically, Rule 2.11(A)(1) of the Code states that a judge shall disqualify herself "in any proceeding in which the judge's impartiality might reasonably be questioned, including [circumstances where] the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of

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ELISSA F. CADISH
DISTRICT JUDGE
DEPARTMENT VI

1 facts that are in dispute in the proceeding.” However, the mere appearance of bias or prejudice is
2 not sufficient to warrant disqualification. Implied bias is only grounds for disqualification in certain
3 limited circumstances not applicable here, pursuant to NRS 1.230(2). A judge is “presumed to be
4 impartial, [and] ‘the burden is upon the party asserting the challenge to establish sufficient factual
5 grounds warranting disqualification.’” *Ybarra v. State*, 137 Nev. Adv. Op. 4, at 6 (March 3, 2011),
6 quoting *Goldman v. Bryan*, 104 Nev. 644, 649, 764 P.2d 1296, 1299 (1988).

7 The Nevada Supreme Court has held that “rulings and actions of a judge during the course of
8 official judicial proceedings do not establish legally cognizable grounds for disqualification.” *In re*
9 *Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). The *Dunleavy* Court
10 went on to note, “The personal bias necessary to disqualify must ‘stem from an extrajudicial source
11 and result in an opinion on the merits on some basis other than what the judge learned from his
12 participation in the case.’” *Id.* at 790, 769 P.2d at 1275, quoting *United States v. Beneke*, 449 F.2d
13 1259, 1260-61 (8th Cir. 1971). “[R]emarks of a judge made in the context of a court proceeding are
14 not considered indicative of improper bias or prejudice unless they show that the judge has closed
15 his or her mind to the presentation of all the evidence.” *Cameron v. State*, 114 Nev. 1281, 1283,
16 968 P.2d 1169, 1171 (1998). Similarly, the United States Supreme Court has held that “opinions
17 formed by the judge on the basis of facts introduced or events occurring in the course of the current
18 proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless
19 they display a deep-seated favoritism or antagonism that would make fair judgment impossible.
20 Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile
21 to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.”
22 *Liteky v. United States*, 510 U.S. 540, 555, 114 S. Ct. 1147, 1157 (1994).

23 In this case, the Helfstein Defendants seek to disqualify Judge Gonzalez based on comments
24 she made at an April 25, 2013 hearing regarding her impressions formed as a result of the trial and
25 other prior proceedings in this very case. Although Mr. Helfstein was not an active party herein at
26 the time of the trial due to a complicated procedural history with which the parties are familiar, he
27 was a witness at the bench trial and Judge Gonzalez was required to evaluate the credibility of his
28 testimony in order to make her ruling therein. Those opinions do not indicate any improper bias or

1 prejudice but rather reflect her appropriate evaluations as the judge herein. There is no evidence of
2 any outside relationships or basis for any of her opinions outside the official proceedings of record
3 herein. Moreover, Judge Gonzalez has indicated her commitment to being impartial going forward,
4 and she scheduled an evidentiary hearing regarding the motion to set aside the settlement agreement
5 with Mr. Helfstein which was before her at the April 25 hearing giving rise to the instant Motion.

6 Under the circumstances, Judge Gonzalez' impressions formed as a result of court proceedings
7 herein do not establish a bias or prejudice that would warrant disqualification, particularly in light of
8 her ability to consider the evidence presented herein going forward in evaluating the matters before
9 her. Thus, the instant Motion for Disqualification of Judge is denied.


10 DATED this 10th day of July, 2013

11
12 
13 ELISSA F. CADISH, DISTRICT JUDGE
14

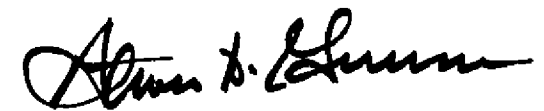
15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on the date filed, I electronically served, mailed to the following proper persons,
17 or placed a copy of this order in the attorney's folder in the Clerk's Office as follows:

18 Ira Seaver, Pro Per, 2407 Ping Drive, Henderson, NV 89074
19 J. Michael Oakes, Esq., Foley & Oakes
20 Michael Lee, Esq., Law Office of Michael B. Lee
21 Jeffrey Albregts, Esq., Cotton, Driggs, Walch, Holley, Woloson & Thompson
22 Gary E. Schnitzer, Esq., Kravitz, Schnitzer, Sloane & Johnson
23 Judge Elizabeth Gonzalez, 8th Judicial District Court
24

25 
26 Timothy D. Kelley
27 Judicial Executive Assistant
28

1 **NEOJ**
2 JEFFREY R. ALBREGTS
3 Nevada Bar No. 0066
4 jalbregts@nevadafirm.com
5 COTTON, DRIGGS, WALCH,
6 HOLLEY, WOLOSON & THOMPSON
7 400 South Fourth Street, Third Floor
8 Las Vegas, Nevada 89101
9 Telephone: 702/791-0308
10 Facsimile: 702/791-1912
11 *Attorney for Plaintiffs*



CLERK OF THE COURT

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

11 IRA AND EDYTHE SEAVER FAMILY
12 TRUST, et al.,
13 Plaintiffs,

Case No: A-587003
Dept. No.: XI

14 v.

15 LEWIS HELFSTEIN, et al,
16 Defendants.

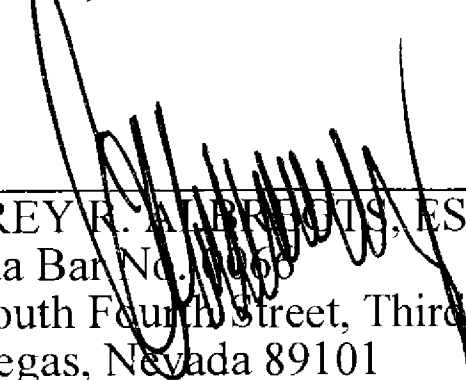
NOTICE OF ENTRY OF ORDER

17 And All Related Matters.

18 YOU, and each of you, will please take notice that an Order For Evidentiary Hearing On
19 Plaintiff's Motion To Set Aside Rescinded Helfstein Settlement Agreement And Proceed On
20 Claims Against Them in the above entitled matter was filed and entered by the Clerk of the
21 above-entitled Court on the 17th day of July, 2013, a copy of which is attached hereto.

22 Dated this 17th day of July, 2013.

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

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 18th day of July, 2013, and pursuant to NRCP 5(b), I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER FOR EVIDENTIARY HEARING ON PLAINTIFF'S MOTION TO SET ASIDE RESCINDED HELFSTEIN 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 1200
Las Vegas, NV 89102

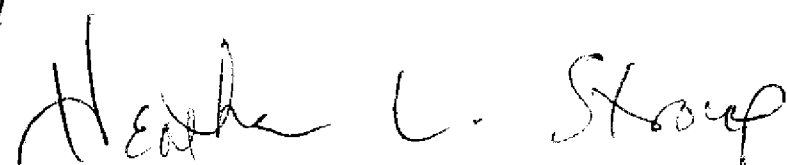
Attorneys for Defendants

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

Attorneys for Defendants

J. Michael Oakes, Esq.
Foley & Oakes
850 East Bonneville Ave.
Las Vegas, NV 89101

*Attorneys for Lewis Helfstein, Madelyn
Helfstein, Summit Laser Products, Inc., and
Summit Technologies, LLC.*



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

JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
COTTON, DRIGGS, WALCH,
HOLLEY, WOLOSON & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
jalbregts@nevadafirm.com
Telephone: (702) 791-0308
Facsimile: (702) 791-1912
Attorneys for Plaintiffs
Ira and Edythe Seaver Family Trust and
Circle Consulting Corporation

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

AND RELATED CLAIMS

DATE: April 25, 2013
TIME: 8:30 a.m.

This matter having come on for hearing before this honorable Court at the above referenced date and time pursuant to Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them; Plaintiffs, and each of them, appearing by and through their attorney Jeffrey R. Albregts, Esq, of Cotton, Driggs, Walch, Holley, Woloson & Thompson, as well as Plaintiff Edythe Seaver appearing in person; Defendants Summit Technologies, LLC, Summit Laser Products, Inc, Lewis Helfstein and

1 Madalyn Helfstein (“Helfstein Defendants”) appearing by and through their attorney J. Michael
2 Oakes, Esq, of Foley and Oakes; Defendants UI Supplies, Uninet Imaging, Inc, and Nestor
3 Saporiti (“Uninet Defendants”) appearing by and through their attorney Jeffrey A. Silvestri, Esq,
4 of McDonald Carano Wilson LLP; the Court having heard the argument of counsel and having
5 read the briefs on file herein, and having found (based upon its review of the court’s docket) that
6 no “final” order or judgment was ever entered in this case from which time began to run or could
7 be tolled although this Court previously entered Findings of Fact and Conclusions of Law which
8 awarded a sum certain to Plaintiffs; therefore, this Court evaluates this Motion by Plaintiffs on
9 the grounds set forth in NRCP 60(b)(1) and (2), including for “mistake, inadvertence, surprise,
10 and excusable neglect,” for purposes of determining whether Plaintiffs’ Settlement Agreement
11 with the Helfstein Defendants and its Notice of Voluntary Dismissal should be set aside, good
12 cause appearing, it is hereby
13

14
15 ORDERED, ADJUDGED and DECREED that an evidentiary hearing will be held on the
16 issues raised in Plaintiffs’ Motion to Set Aside Rescinded Helfstein Settlement Agreement and
17 Proceed on Claims Against Them, subject to Plaintiffs depositing into an interest bearing
18 blocked bank account the \$60,000 in settlement funds they originally received from the Helfstein
19 Defendants; and it is
20

21 FURTHER ORDERED, ADJUDGED and DECREED that, upon Plaintiffs’ filing proof
22 with this Court that they have deposited said \$60,000 in settlement funds received from the
23 Helfstein Defendants into an interest bearing blocked bank account, an evidentiary hearing shall
24 be set and scheduled for approximately ninety (90) days afterwards for the purpose of
25 determining whether this Court should set aside their Settlement Agreement with the Helfstein
26 Defendants pursuant to NRCP 60(b)(1) and (2), and so that these parties may also conduct any
27 necessary discovery before then subject to the discretion of this Court; and it is
28

1 FURTHER ORDERED, ADJUDGED and DECREED that Plaintiffs' Reply Brief in
2 Support of Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on
3 Claims Against Them, based on the stipulation of all of these parties in open court, shall be and
4 hereby is stricken from the record of this case and Plaintiffs shall file a "corrected" Reply Brief
5 which deletes any reference to the amount of their settlement with the Uninet Defendants; and it
6 is
7

8 FURTHER ORDERED, ADJUDGED and DECREED that the jurisdictional arguments
9 raised in opposition to the motion are reserved for a later date, and it is

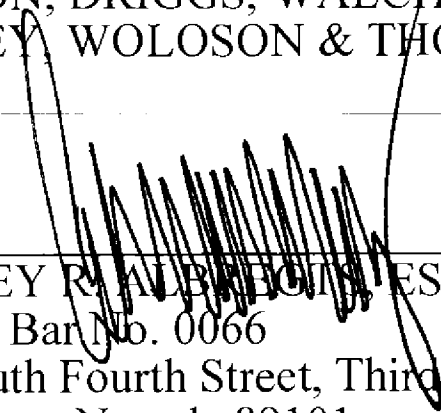
10 FURTHER ORDERED, ADJUDGED and DECREED that a Status Check hearing shall
11 be set for this case on the "In Chambers" calendar to determine whether counsel for the Helfstein
12 Defendants is going to file a Motion for a Stay with the Nevada Supreme Court before any
13 evidentiary hearing is scheduled and held by this Court as ordered herein.
14

15 DATED this 11 day of ^{mt}May, 2013.

16
17 
18 DISTRICT JUDGE

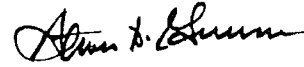
19 Submitted by:

20 COTTON, DRIGGS, WALCH,
21 HOLLEY WOLOSON & THOMPSON

22
23 
24 JEFFREY R. ALBRECHT, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

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

28 //



CLERK OF THE COURT

1 **SAO**
2 JEFFREY R. ALBREGTS, ESQ.
3 Nevada Bar No. 0066
4 COTTON, DRIGGS, WALCH,
5 HOLLEY, WOLOSON & THOMPSON
6 400 South Fourth Street, Third Floor
7 Las Vegas, Nevada 89101
8 jalbregts@nevadafirm.com
9 Telephone: (702) 791-0308
10 Facsimile: (702) 791-1912
11 *Attorneys for Plaintiffs*
12 *Ira and Edythe Seaver Family Trust and*
13 *Circle Consulting Corporation*

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

11 * * *

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

15 Plaintiffs,

16 v.

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

23 Defendants.

24 **AND RELATED CLAIMS**

Case No.: A-587003
Dept. No.: XI

**STIPULATION AND ORDER FOR
BLOCKED ACCOUNT**

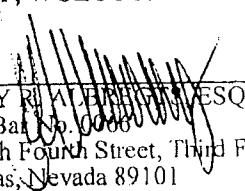
25 IT IS HEREBY AGREED AND STIPULATED, by and between Plaintiffs, and each of
26 them, by and through their attorney, JEFFREY R. ALBREGTS, ESQ, of COTTON, DRIGGS,
27 WALCH, HOLLEY, WOLOSON & THOMPSON; and Defendants LEWIS HELFSTEIN and
28 MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC., and SUMMIT
TECHNOLOGIES, LLC., by and through their attorney, J. MICHAEL OAKES, ESQ, of

1 FOLEY & OAKES, PC, as follows:

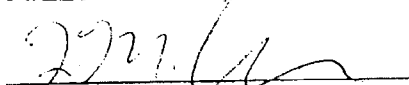
- 2 1. That a blocked, interest bearing account shall be opened at Bank of Nevada for the
3 Sixty Thousand Dollars (\$60,000) in funds the court ordered to be deposited pending
4 the determination of all issues between these parties.
5
6 2. The Guardian-Custodian of the Funds shall jointly be Jeffrey R. Albregts, Esq. and J.
7 Michael Oakes, Esq., attorneys of record for the Plaintiffs and Defendants herein
8 respectively.
9
10 3. Access to the funds may only be made by written request co-signed by both
11 Guardians-Custodians jointly, or by Court order, which shall state (a) when and (b) to
12 whom the funds shall be released.
13
14 4. This Stipulation is being executed to implement this Court's prior Order, and shall not
15 be viewed as a waiver or admission concerning the claims or defenses of any party.

16 Dated this 1st day of August, 2013.

17 COTTON DRIGGS, WALCH,
18 HOLLEY, WOLOSON & THOMPSON

19 
20 JEFFREY R. ALBREGTS, ESQ.,
Nevada Bar No. 0000
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

21 FOLEY & OAKES, P.C.

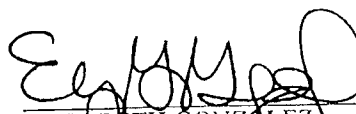
22 
23 J. Michael Oakes, ESQ.,
24 Nevada State Bar No. 1999
850 E. Bonneville Avenue
Las Vegas, NV 89101
25 Attorney for Defendants Helfstein, et ux.,
26 Summer Laser Products, Inc., and
27 Summit Technologies, L.L.C.
28

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ORDER

It is so Ordered.

Entered this 20 day of August, 2013.


ELIZABETH GONZALEZ
DISTRICT JUDGE

Submitted by:

COTTON, DRIGGS, WALCH,
HOLLEY, WOLOSON & THOMPSON

/s/

JEFFREY R. ALBREGTS, ESQ.
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*

8/29/13

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CLERK OF THE COURT

1 **NEOJ**
2 JEFFREY R. ALBREGTS
3 Nevada Bar No. 0066
4 jalbregts@nevadafirm.com
5 COTTON, DRIGGS, WALCH,
6 HOLLEY, WOLOSON & THOMPSON
7 400 South Fourth Street, Third Floor
8 Las Vegas, Nevada 89101
9 Telephone: 702/791-0308
10 Facsimile: 702/791-1912
11 *Attorney for Plaintiffs*

12
13
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DISTRICT COURT
CLARK COUNTY, NEVADA

IRA AND EDYTHE SEAVER FAMILY
TRUST, et al.,
Plaintiffs,

Case No: A587003
Dept. No.: VI

v.

LEWIS HELFSTEIN, et al,
Defendants.

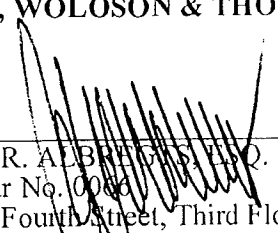
NOTICE OF ENTRY OF ORDER

And All Related Matters.

YOU, and each of you, will please take notice that a Stipulation and Order For Blocked Account in the above entitled matter was filed and entered by the Clerk of the above-entitled Court on the 22nd day of August, 2013, a copy of which is attached hereto.

Dated this 23rd day of August, 2013.

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


JEFFREY R. ALBREGTS, ESQ.
Nevada Bar No. 0066
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiff

CERTIFICATE OF MAILING

I HEREBY CERTIFY that, on the 28th day of August, 2013, and pursuant to NRCP 5(b),
I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF
ENTRY OF STIPULATION AND ORDER FOR BLOCKED ACCOUNT**, postage prepaid
and addressed to:

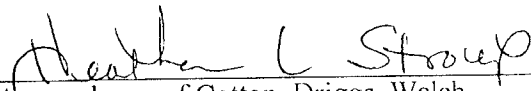
Mr. Ira Seaver
2407 Ping Drive
Henderson, NV 89074

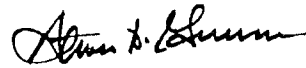
Michael Lee, Esq.
LAW OFFICE OF MICHAEL B. LEE
2000 South Eastern Avenue
Las Vegas, NV 89104
Attorneys for Defendants

Jeffrey A. Silvestri, Esq.
Seth T. Floyd, Esq.
McDONALD CARANO WILSON LLP
2300 W. Sahara Avenue,
Suite 1200
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

J. Michael Oakes, Esq.
Foley & Oakes
850 East Bonneville Ave.
Las Vegas, NV 89109
*Attorneys for Lewis Helfstein, Madelyn
Helfstein, Summit Laser Products, Inc., and
Summit Technologies, LLC.*


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



CLERK OF THE COURT

1 **SAO**

JEFFREY R. ALBREGTS, ESQ.

2 Nevada Bar No. 0066

COTTON, DRIGGS, WALCH,

3 HOLLEY, WOLOSÓN & THOMPSON

400 South Fourth Street, Third Floor

4 Las Vegas, Nevada 89101

jalbregts@nevadafirm.com

5 Telephone: (702) 791-0308

Facsimile: (702) 791-1912

6 *Attorneys for Plaintiffs*

Ira and Edythe Seaver Family Trust and

7 *Circle Consulting Corporation*

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 * * *

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

14 Plaintiffs,

15 v.

16 LEWIS HELFSTEIN, MADALYN
17 HELFSTEIN, SUMMIT LASER PRODUCTS,
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
21

Case No.: A-587003
Dept. No.: XI

**STIPULATION AND ORDER FOR
BLOCKED ACCOUNT**

22 IT IS HEREBY AGREED AND STIPULATED, by and between Plaintiffs, and each of
23 them, by and through their attorney, JEFFREY R. ALBREGTS, ESQ, of COTTON, DRIGGS,
24 WALCH, HOLLEY, WOLOSÓN & THOMPSON; and Defendants LEWIS HELFSTEIN and
25 MADALYN HELFSTEIN, SUMMIT LASER PRODUCTS, INC., and SUMMIT
26 TECHNOLOGIES, LLC., by and through their attorney, J. MICHAEL OAKES, ESQ, of
27
28

1 FOLEY & OAKES, PC, as follows:

- 2 1. That a blocked, interest bearing account shall be opened at Bank of Nevada for the
- 3 Sixty Thousand Dollars (\$60,000) in funds the court ordered to be deposited pending
- 4 the determination of all issues between these parties.
- 5 2. The Guardian-Custodian of the Funds shall jointly be Jeffrey R. Albregts, Esq. and J.
- 6 Michael Oakes, Esq., attorneys of record for the Plaintiffs and Defendants herein
- 7 respectively.
- 8 3. Access to the funds may only be made by written request co-signed by both
- 9 Guardians-Custodians jointly, or by Court order, which shall state (a) when and (b) to
- 10 whom the funds shall be released.
- 11 4. This Stipulation is being executed to implement this Court's prior Order, and shall not
- 12 be viewed as a waiver or admission concerning the claims or defenses of any party.
- 13

14 Dated this 11th day of August, 2013.

15
16 COTTON DRIGGS, WALCH,
HOLLEY, WOLOSON & THOMPSON

17
18 JEFFREY R. ALBREGTS, ESQ.,
Nevada Bar No. 0000
19 400 South Fourth Street, Third Floor
20 Las Vegas, Nevada 89101
Attorneys for Plaintiffs

21 FOLEY & OAKES, P.C.

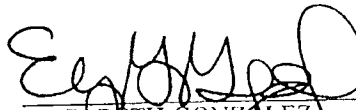
22
23 J. Michael Oakes, ESQ.,
24 Nevada State Bar No. 1999
850 E. Bonneville Avenue
25 Las Vegas, NV 89101
Attorney for Defendants Helfstein, et ux.,
26 *Summer Laser Products, Inc., and*
Summit Technologies, LLC.

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ORDER

It is so Ordered.

Entered this 20 day of August, 2013.


ELIZABETH GONZALEZ
DISTRICT JUDGE

Submitted by:

COTTON, DRIGGS, WALCH,
HOLLEY, WOLOSON & THOMPSON

/s/

JEFFREY R. ALBREGTS, ESQ.
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*

IN THE SUPREME COURT OF THE STATE OF NEVADA

No.

Electronically Filed
Apr 11 2014 03:40 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

PETITIONERS APPENDIX VOLUME IV

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

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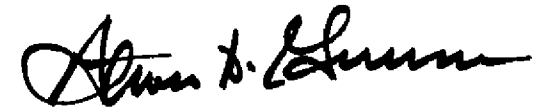
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Notice of Voluntary Dismissal of Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC Only	Volume I	Pages 38 – 39
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CLERK OF THE COURT

MTN
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,)	
	)	<u>ERRATA TO DEFENDANT'S</u>
Plaintiffs,	)	<u>MOTION FOR</u>
vs.	)	<u>DISQUALIFICATION OF JUDGE</u>
)	
LEWIS HELFSTEIN, MADALYN)	
HELFSTEIN, SUMMIT LASER PRODUCTS,	)	Date:
INC., SUMMIT TECHNOLOGIES, LLC, UI	)	Time:
SUPPLIES, UNINET IMAGING, INC.,)	
NESTOR SAPORITI and DOES 1 through 20,)	
and ROE entities 21 through 40, inclusive,)	
)	
Defendants.)	
)	
)	
)	
And Related Claims)	
)	
)	

ERRATA TO DEFENDANT'S MOTION FOR DISQUALIFICATION OF JUDGE

This Errata is being filed because the Motion for Disqualification was inadvertently filed without a signature of counsel on page 15.

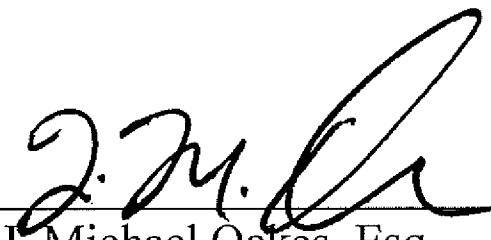
COMES NOW, Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC, ("Helfstein") by and through their attorneys J.

1 Michael Oakes of the firm of Foley & Oakes, PC, hereby moves to disqualify the Honorable
2 Judge Elizabeth Gonzalez from conducting further proceedings in this case.

3 This motion is made and based upon the pleadings and papers on file herein, the
4 Memorandum of Points and Authorities submitted herewith, and, specifically, the grounds that the
5 Court's impartiality toward Helfstein might reasonably be questioned, as a result of hearing
6 evidence in connection with the underlying trial of this case between the Plaintiff and the other
7 defendants.
8

9 DATED this 9th day of May, 2013.

10 FOLEY & OAKES, PC.

11
12
13 
14 J. Michael Oakes, Esq.

15 Nevada Bar No. 1999

16 850 East Bonneville Avenue

17 Las Vegas, Nevada 89101

18 (702) 384-2070

19 *Attorneys for Lewis Helfstein, Madalyn*

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

21 *Summit Technologies, LLC*
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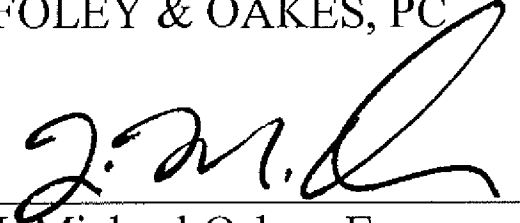
NOTICE OF MOTION

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the following DEFENDANT'S MOTION FOR DISQUALIFICATION OF JUDGE on for hearing before the above-entitled Court on the 13 day of June, 2013, at the hour In Chambers of .m. of said date, in Department No. 9, or as soon thereafter as counsel can be heard.

DATED this 9th day of May, 2013.

FOLEY & OAKES, PC



J. Michael Oakes, Esq.

Nevada Bar No. 1999

850 East Bonneville Avenue

Las Vegas, Nevada 89101

(702) 384-2070

Attorneys for Lewis Helfstein, Madalyn

Helfstein, Summit Laser Products, Inc.,

Summit Technologies, LLC

1
2
3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I.**

5 **INTRODUCTION**

6
7 Plaintiff filed this action on April 3, 2009. Prior to filing a responsive pleading,
8 Helfstein settled with the Plaintiff. A settlement agreement was signed, and a notice of
9 voluntary dismissal was filed by the Plaintiff on November 23, 2009.

10 The other defendant, UI Supplies, Uninet Imaging, Inc., and Nestor Saporiti
11 (“Saporiti”), filed a third party complaint against Helfstein, in an attempt to bring him back into
12 the case. In response, Helfstein filed a motion to compel arbitration in New York of the third
13 party dispute, based on a contract that required it. The Honorable Judge Elizabeth Gonzalez
14 (hereafter, the “Court”) denied the motion, and Helfstein’s motion for a stay pending appeal, but
15 following a writ of mandamus to the Nevada Supreme Court, the Court’s decision was reversed,
16 and the third party complaint was dismissed. At that point, Helfstein was out of the case.

17 The Plaintiff continued with its case against the other defendant, Saporiti. There were
18 countless motion and counter motions, and a trial was held in April and May of 2012. Findings
19 of fact and conclusions of law were entered on or about May 18, 2012.

20 Although the docket in this case is now up to 17 pages, Helfstein’s involvement, as a
21 party to the case, was limited to that which is described above. They settled with the Plaintiff
22 and the Third-Party Complaint was dismissed due to the arbitration and venue clauses in the
23 contract. A copy of the docket is attached as Exhibit “A”.

24 Following the trial, on or about March 28, 2013 (40 months after the settlement and
25 notice of voluntary dismissal, and 10 months after the trial), Plaintiff filed a motion to set aside
26 its notice of voluntary dismissal and the settlement with Helfstein.

27 At the initial hearing of the motion to set aside the settlement on April 25, 2013, the
28 Court made a number of disturbing comments, which demonstrated that the Court was not

1 impartial as to Helfstein, and had, in fact, developed a bias against him, based upon proceedings
2 that had occurred in the case at a time when Helfstein was not a party, but merely a witness. A
3 copy of the Hearing Transcript, filed on May 2, 2013, is attached as Exhibit "B".

4 Since the Plaintiff now seeks to reopen the case as against Helfstein, by first setting
5 aside the voluntary dismissal and settlement, and then, if successful, proceeding to trial against
6 Helfstein on the claims that were dismissed 40 months ago, Helfstein should not be required to
7 defend those claims on an uneven playing field. These important determinations should be made
8 by a court or jury that is impartial and unbiased.

9 By way of analogy, if the trial between the other parties to this case had been conducted
10 in front of a jury, it is beyond question that all of those jurors would be precluded from serving on
11 a jury deciding claims made against individuals or entities that appeared before them solely as a
12 witness. Their hearing of all of the arguments and evidence, with one or both of the existing
13 parties pointing directly at the empty chair, i.e., Helfstein, would prevent them from being
14 impartial and unbiased in any subsequent proceedings against that empty chair. That same
15 analysis holds true here. The Court, through its comments, has shown that the Court's
16 impartiality might reasonably be questioned.

17 Since the Court's impartiality as to Helfstein "might reasonably be questioned," this case
18 should be assigned to a different department.¹

19 II.

20 Statement of Facts

21
22 To understand the context of this motion, it is important for this court to be aware of
23 some of the lengthy history. Helfstein's position concerning the motion to rescind settlement is
24
25
26

27 ¹ In order to ensure compliance with the rules relating to this sort of motion, Helfstein's counsel is
28 submitting an affidavit, attached as Exhibit "C", setting forth the reasons for this motion, which are based
upon the Hearing Transcript, as well as certifying that this motion is filed in good faith and is not being
interposed for delay.

1 described in its opposition to the motion, which is attached hereto as Exhibit "D" for ease of
2 reference. To repeat some of the important history:

3 On April 3, 2009, Plaintiff filed the Complaint herein. It alleged that Helfstein had
4 manipulated the books and records of the company in which Plaintiff was a member, breached
5 the operating agreement of the company, engaged in self-dealing, acted with malice,
6 intentionally exploited company assets for their own benefit, breached their fiduciary
7 obligations, and, demanded an accounting.

8
9 On or about November 20, 2009, before filing a responsive pleading, the Helfstein
10 parties concluded a Settlement Agreement with the Plaintiffs and paid the \$60,000 settlement
11 payment.

12 The Settlement Agreement contained provisions for a broad general release of all
13 claims, for the exclusion of any oral promises, and for negating any claim that either party was
14 relying upon any statement or representation of the other. The release specifically related to
15 claims that had been brought or those that could have been brought. Highlights of these
16 provisions include the following:
17

18 The parties "hereby expressly release each other in this matter as
19 well as their respective attorneys, agents, employees, principals,
20 assignees, assignors, successors, and/or heirs from any and all
21 liability, obligations, debts, claims, demands and lawsuits of any
22 kind or nature whatsoever and, to that end, hereby acknowledge,
23 represent and warrant that this mutual release is accepted in full
24 compromise settlement and satisfaction of, and as sole
25 consideration for the final release and discharge of all claims,
26 actions, debts, obligations and demands whatsoever **that now
27 exist or may hereafter occur which have been asserted or
28 could have been asserted by the undersigned in that lawsuit
pending between these parties...**"

It also stated:

"the execution of this Mutual Release, in conjunction or
contemporaneously with the dismissal of Case A8587003 (sic)
with prejudice, extinguishes any and all claims and/or defenses
that have been asserted or may have been asserted in the

1 aforedescribed litigation or under aforedescribed contracts by them
2 and, accordingly, **this mutual release and the dismissal of said**
3 **legal action with prejudice shall be and hereby are subject to**
 the principles and doctrines of res judicata and/or collateral
 estoppel.”

4 It also stated:

5 **“That this Agreement is the entire, complete sole and only**
6 **understanding and agreement of, by and between the**
7 **undersigned releases,** pertaining to the subject matter expressed
8 herein and there are no independent, collateral, different,
9 additional, or other outstanding agreements, oral or written, or
10 obligations to be performed, things to be done, or payments to be
11 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.”

12 It also stated:

13 “That this Agreement was carefully read in its entirety by the
14 undersigned and is understood and known to be a full and final
15 compromise, settlement, release, accord, and satisfaction and
16 discharge of all claims, actions and causes of action and suits, as
17 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.”

18 On November 23, 2009, Plaintiffs filed a “Notice of Voluntary Dismissal of the Summit
19 Defendants.” Although the Settlement Agreement said that the dismissal was to be with
20 prejudice, the Notice of Voluntary Dismissal filed by counsel for the Plaintiffs did not so state.
21

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

25 “After protracted negotiations, a settlement in the amount of
26 \$60,000, to be paid by the Summit Defendants to Plaintiffs, was
27 reached. This amount represents a good faith, fair, negotiated
28 settlement to the contested claims. First, the Summit Defendants
 had no insurance coverage for these claims, and their ability to
 finance long and protracted litigation was questionable. Further,

1 there was the possibility that, after costly litigation, even if a much
2 larger judgment was awarded, such a judgment would not be
3 collectible. Thus, after months of settlement negotiations, a fair
4 compromise in the amount of \$60,000 was reached.”

5 The moving papers explained further that:

6 In this case, the proposed settlement of sixty thousand dollars
7 (\$60,000) is substantial and represents a fair account of the
8 Summit Defendants’ potential liability, the ability of such amounts
9 to be collected, and the risks and costs of litigation. The settlement
10 was reached after months of extensive negotiations between the
11 parties See Exhibit “C”. Plaintiffs and the settling defendants were
12 afforded a full and adequate opportunity to review and evaluate the
13 nature of the allegations and the potential defenses.”

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

16 “2. In early 2009, on behalf of the Plaintiffs, settlement
17 negotiations were initiated with Defendants Lewis Helfstein,
18 Madalyn Helfstein, Summit Laser Products, Inc. and Summit
19 Technologies, LLC (collectively the “Summit Defendants”).

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

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

26 On March 25, 2010, the motion for approval of the settlement as being in good faith was
27 vacated, and, as a result, the Court never ruled on the settlement, and the claims for contribution
28 and indemnity by the other defendants were not precluded.

On May 27, 2010, Plaintiffs’ lawyer wrote to Helfstein’s lawyer, stating “if you are
going to preserve this 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.”

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

5 Almost seven months later, (and 14 months after the dismissal of Helfstein from the
6 case), on January 20, 2011, Plaintiff filed its Notice of Rescission of Helfstein Settlement, while
7 retaining the \$60,000 settlement payment.
8

9 In March and April of 2012, the trial of the matter between the Plaintiffs and the Saporiti
10 Defendants was conducted.

11 On or about March 25, 2013, almost a full year after the trial, Plaintiff filed a motion to
12 rescind its settlement agreement with Helfstein.

13 **III.**

14 **HIGHLIGHTS FROM THE TRANSCRIPT**

15 The following are important excerpts from the hearing Transcript, which show that the
16 Court's impartiality "might reasonably be questioned." Some of the key statements are
17 highlighted in bold:
18

19 Page 5-7:

20 MR. OAKES: Gives them more time, but is also imposes a much more stringent
21 standard that is nowhere close to anything that happened in this case. According to - -

22 THE COURT: **Unfortunately, you weren't here for the trial where your client**
23 **testified and lots of unusual things occurred.**

24 MR. OAKES: I've read the findings, Your Honor, and I understand you made
25 credibility determinations concerning my client that were not favorable to him. And I think that
26 goes, frankly, to the prejudice of having this motion heard by this Court. And by no means am I
27 suggesting any denigration of Your Honor - -
28

1 THE COURT: Oh, I understand, Mr. Oakes.

2 MR. OAKES: - - But my client was not represented by counsel in any of the discovery,
3 initiated no discovery, took no depositions, participated in no - -

4 THE COURT: But he was represented by counsel. You were his lawyer. It's just
5 because of the ruling you had from the Nevada Supreme Court you did not participate in the
6 litigation.

7 MR. OAKES: Yeah. He was dismissed.

8 THE COURT: But he was represented by counsel. I mean, he had counsel.

9 MR. OAKES: Well, he had counsel.

10 THE COURT: Plus he's trained as an attorney.

11 MR. OAKES: Your Honor, initiated no discovery because not a party to the case, was
12 dismissed from the plaintiff's claim, and the third-party claim was dismissed and stayed. He
13 was not participating as a party through any of the discovery, did not send any interrogatories or
14 written requests, did not obtain an expert to respond to any of their expert allegations.

15 What they're asking you to do here is, since you've already tried the case and made
16 negative findings against my client as a witness at the time, to take those and somehow apply
17 those in a res judicata manner or some quasi res judicata matter when he wasn't a party to the
18 case, he was dismissed.

19 Page 10 -12:

20 THE COURT: Well, some of the things they said in court was that Mr. Helfstein was
21 nor cooperating in accordance with the terms of the settlement agreement. That was one of the
22 other things they said, and that he wasn't providing the information that he had agreed to
23 provide. **So there were a lot of issues related to Mr. Helfstein during the course of the**
24 **litigation. And I was disappointed that the Supreme Court decided to essentially say, you**

1 didn't have to be part of the litigation, which is why we are currently in this position. If
2 you'd been here on the third-party complaint, we wouldn't be in this position, Mr. Oakes.

3 MR. OAKES: Your Honor, I'm hard pressed to concede that I made an error by trying
4 to invoke an arbitration and forum - - choice of venue clause.

5 THE COURT: I understand what you are saying.

6 MR. OAKES: And I'm also - -

7
8 THE COURT: **But the long-term consequences of that are that you weren't in the**
9 **litigation when issues related to your client - -**

10 MR. OAKES: My client settled, Your Honor. He was out of the case. He had a
11 document that says, the settlement agreement would be given res judicata and collateral
12 estoppel effect.

13 THE COURT: Mr. Oakes, he was a third-party defendant. And while it may be that the
14 arbitration provision was enforceable and your client tried - - chose to invoke that provision,
15 because you had duplicative forums of litigation occurring - - and I don't know what happened
16 between the Uninet defendants and your client on the third-party complaint, but because you
17 had duplicative forums, you the potential for conflicting rulings. Which is the situation we were
18 ultimately placed in here and which was why I had a motion to amend the findings of fact and
19 conclusions of law that was filed I think by Mr. Silvestri - - no, by Mr. Lee.

20
21 MR. OAKES: There's no conflicting ruling relative to my client, Your Honor. You
22 found against the Uninet defendants, as you had every right to do. Cases get tried against one
23 defendant when another gets let out all of the time. What would be fundamentally unfair to my
24 client - -

25
26 THE COURT: Has your client resolved their claims against the Uninet defendants?

27 ///

28 ///

1 IV.

2 LEGAL ARGUMENT

3 The Hearing Transcript reveals that the Court's impartiality might reasonably be
4 questioned. That hearing was the first hearing Helfstein had appeared in, as a party, since
5 having its Motion for Stay Pending Appeal denied. Key examples include: Page 5, Lines 17-19
6 of the Hearing Transcript: "Unfortunately, you weren't here for the trial where your client
7 testified and lots of unusual things occurred." Page 10, Line 24 to Page 11, Line 5: "So there
8 were a lot of issues related to Mr. Helfstein during the course of the litigation. And I was
9 disappointed that the Supreme Court decided to essentially say, you didn't have to be part of the
10 litigation, which is why we are currently in this position. If you'd been here on the third-party
11 complaint, we wouldn't be in this position, Mr. Oakes..." Page 11, Lines 11 – 13: "But the
12 long-term consequences of that are that you weren't in the litigation when issues related to your
13 client..."
14

15 These quotes demonstrate that although Helfstein was not even a party to the prior
16 proceedings, which included 17 pages of docket entries and a full trial on the merits between the
17 parties remaining in the case, the Court has formed strong opinions about Helfstein, and is
18 unable to disregard them. This is not to cast aspersions towards the Court, since in this case, like
19 many cases where there is an "empty chair" at trial, the remaining parties had very little "nice"
20 to say about the "empty chair".
21

22 However, now that Plaintiff is seeking to undo its settlement with Helfstein, it is entirely
23 unfair to require Helfstein to litigate the potential claims against them on what is now an uneven
24 playing field. No juror from the prior case would be permitted to hear these claims, and, now
25 that the Court has demonstrated its predilections based upon Helfstein's role in the case as a
26 non-party, the Court should not hear it either.
27

1 The rules relating to disqualification are found in NRS 1.235 and in the Nevada Code of
2 Judicial Conduct (“NCJC”), particularly Canon 2. These rules, and the case law interpreting
3 them, state that this motion should be heard by a different judge, and the current judge may
4 transfer the case to another department or file an affidavit in opposition. **It is certainly**
5 **Helfstein’s desire that the Court will do the former, recognizing that none of the**
6 **arguments made herein are intended to disparage the Court, but arise merely due to the**
7 **unique situation in this case, where the Plaintiff seeks to unwind its settlement and**
8 **dismissal of a previously dismissed party, after the full trial on the merits has taken place**
9 **between the Plaintiff and the other defendants.**

11 NRS 1.235 provides, in pertinent part:

12 **NRS 1.235 Procedure for disqualifying judges other than**
13 **Supreme Court justices.**

14 1. Any party to an action or proceeding pending in any court
15 other than the Supreme Court, who seeks to disqualify a judge for
16 actual or implied bias or prejudice must file an affidavit
17 specifying the facts upon which the disqualification is sought. The
18 affidavit of a party represented by an attorney must be
accompanied by a certificate of the attorney of record that the
affidavit is filed in good faith and not interposed for delay. Except
as otherwise provided in subsections 2 and 3, the affidavit must be
filed:

19 (a) Not less than 20 days before the date set for trial or
hearing of the case; or

20 (b) Not less than 3 days before the date set for the hearing of
any pretrial matter...

21 4. At the time the affidavit is filed, a copy must be served
22 upon the judge sought to be disqualified. Service must be made by
23 delivering the copy to the judge personally or by leaving it at the
judge’s chambers with some person of suitable age and discretion
employed therein.

24 5. The judge against whom an affidavit alleging bias or
prejudice is filed shall proceed no further with the matter and
shall:

25 (a) Immediately transfer the case to another department of the
26 court, if there is more than one department of the court in the
27 district, or request the judge of another district court to preside at
the trial or hearing of the matter; or

28 (b) File a written answer with the clerk of the court within 5
judicial days after the affidavit is filed, admitting or denying any

1 or all of the allegations contained in the affidavit and setting forth
2 any additional facts which bear on the question of the judge's
3 disqualification. The question of the judge's disqualification must
thereupon be heard and determined by another judge agreed upon
by the parties or, if they are unable to agree, by a judge appointed:

4 (1) By the presiding judge of the judicial district in
judicial districts having more than one judge, or if the presiding
5 judge of the judicial district is sought to be disqualified, by the
judge having the greatest number of years of service.

6 (2) By the Supreme Court in judicial districts having only
7 one judge.

8 Canon 2 of the NCJC provides that "A judge shall perform the duties of judicial office
9 impartially, competently, and diligently." Rule 2.11 under Canon 2, and the comments
10 concerning that rule provide, in pertinent part, as follows:

11 **"Rule 2.11. Disqualification.**

12 (A) A judge shall disqualify himself or herself in any
13 proceeding in which the judge's impartiality might reasonably be
questioned, including but not limited to the following
circumstances:

14 (1) The judge has a personal bias or prejudice concerning a
15 party or a party's lawyer, or personal knowledge of facts that are
in dispute in the proceeding...

16 **COMMENT**

17 [1] Under this Rule, a judge is disqualified whenever the
18 judge's impartiality might reasonably be questioned, regardless of
19 whether any of the specific provisions of paragraphs (A)(1)
through (6) apply."

20 Although the procedure for a motion under NCJC is not fully set forth, the case
21 of Towbin Dodge v. Eighth Judicial District Court, 112 P.3d 1063, 121 Nev. 251 (Nev. 2005),
22 held that motions under the Canons set forth in the NCJC are conducted as follows:

23 "We conclude that the federal procedure provides a convenient
24 method for enforcing Canon 3E in situations when NRS 1.235
25 does not apply. Thus, if new grounds for a judge's disqualification
26 are discovered after the time limits in NRS 1.235(1) have passed,
then a party may file a motion to disqualify based on Canon 3E as
27 soon as possible after becoming aware of the new information. The
motion must set forth facts and reasons sufficient to cause a
28 reasonable person to question the judge's impartiality, and the
challenged judge **may** contradict the motion's allegations. We

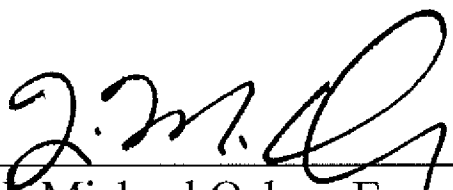
1 deviate from federal practice in one respect, however. While the
2 federal procedure permits the challenged judge to hear the motion,
3 we share the concerns identified by some federal courts when the
4 challenged judge decides the motion. Thus, the motion must be
5 referred to another judge.”

6 Thus, in response to this motion, the Court may refer this case to another department, or
7 it may oppose the motion by filing an affidavit. In the latter event, the motion is to be heard by a
8 different judge, and the test is whether the Court’s “impartiality might reasonably be
9 questioned.” Helfstein asserts that the answer to this question is not difficult. No one would
10 want to be in a position of having to litigate their claims before a court that has formed opinions
11 about them as a result of a trial between other parties. Fairness dictates that Plaintiff’s belated
12 attempt to litigate claims against Helfstein be heard by a different judge.

13 DATED this 9th day of May, 2013.

14 Respectfully submitted,

15 FOLEY & OAKES, PC.

16
17
18 
19 J. Michael Oakes, Esq.
20 Nevada Bar No. 1999
21 850 East Bonneville Avenue
22 Las Vegas, Nevada 89101
23 (702) 384-2070
24 Attorneys for Lewis Helfstein, Madalyn
25 Helfstein, Summit Laser Products, Inc.,
26 Summit Technologies, LLC
27
28

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 9th day of May, 2013, I served the following document(s):

4 **ERRATA TO DEFENDANT'S MOTION FOR DISQUALIFICATION OF JUDGE**

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

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

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*

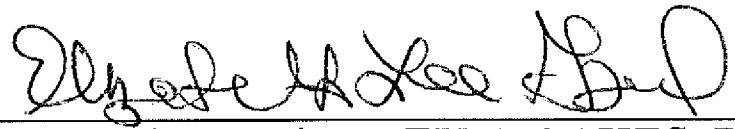
Jeffrey Albregts, Esq.
Cotton, Driggs, Walch
Holley, Woloson & Thompson
400 South 4th Street, Third Floor
Las Vegas, NV 89101

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

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

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

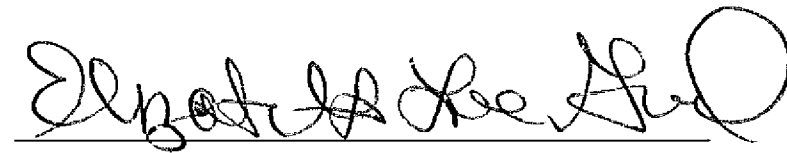
24 I declare under the penalty of perjury that the foregoing is true and correct.

25 
26 An employee of FOLEY & OAKES, PC

CERTIFICATE OF HAND DELIVERY

I hereby certify that on this day of 9th May, 2013 I personally delivered a copy of the
ERRATA TO DEFENDANT'S MOTION FOR DISQUALIFICATION OF JUDGE to
Honorable Judge Elizabeth Gonzalez's inbox to the address listed as follows:

Honorable Judge Elizabeth Gonzalez
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155



An Employee of Foley & Oakes, PC

EXHIBIT “A”

EXHIBIT “A”

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New District Civil/Criminal Search](#) [Refine Search](#) [Back](#) Location : District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE No. 09A587003

Ira And Edythe Seaver Family Trust, Plaintiff(s) vs. UI Supplies, Defendant(s)

§
§
§
§
§
§
§
§

Case Type: **Business Court**
Date Filed: **04/03/2009**
Location: **Department 11**
Conversion Case Number: **A587003**
Supreme Court No.: **56383**
61090

PARTY INFORMATION

Lead Attorneys

Counter
Claimant Saporiti, Nestor

Gary Schnitzer
Retained
702-222-4149(W)

Counter
Claimant UI Supplies

Gary Schnitzer
Retained
702-222-4149(W)

Counter
Claimant Uninet Imaging Inc

Gary Schnitzer
Retained
702-222-4149(W)

Counter
Defendant Circle Consulting Corporation

Jeffrey Richard Albregts
Retained
702-791-0308(W)

Counter
Defendant IRA and Edythe Seaver Family Trust

~~Jeffrey Richard Albregts~~
Retained
~~702-791-0308(W)~~

Counter
Defendant IRA Seaver

Pro Se

Defendant Saporiti, Nestor

Michael B. Lee
Retained
702-477-7030(W)

Defendant UI Supplies

Michael B. Lee
Retained
702-477-7030(W)

Defendant UI Technologies

Michael B. Lee
Retained

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

- 11/23/2009 **Dismissal Pursuant to NRCP 41** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: Lewis Helfstein (Defendant), Madalyn Helfstein (Defendant), Summit Laser Products Inc (Defendant), Summit Technologies LLC (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 11/23/2009, Docketed: 11/30/2009
- 05/09/2011 **Order of Dismissal Without Prejudice** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Cross Claimant), Uninet Imaging (Cross Claimant), Nestor Saporiti (Cross Claimant)
Creditors: Lewis Helfstein (Cross Defendant), Madalyn Helfstein (Cross Defendant), Summit Laser Products Inc (Cross Defendant), Summit Technologies LLC (Cross Defendant)
Judgment: 05/09/2011, Docketed: 05/17/2011
- 05/11/2011 **Clerk's Certificate** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Cross Claimant), Uninet Imaging (Cross Claimant), Nestor Saporiti (Cross Claimant)
Creditors: Lewis Helfstein (Cross Defendant), Madalyn Helfstein (Cross Defendant), Summit Laser Products Inc (Cross Defendant), Summit Technologies LLC (Cross Defendant)
Judgment: 05/11/2011, Docketed: 05/17/2011
Comment: Motion Reversed...case to be dismissed see 05-09-2011's Order to Compel and Dismiss
- 06/29/2011 **Summary Judgment** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: Circle Consulting Corporation (Plaintiff)
Creditors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant)
Judgment: 06/29/2011, Docketed: 07/07/2011
- 09/12/2012 **Amended Judgment** (Judicial Officer: Gonzalez, Elizabeth) Reason: Amended
Debtors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant), UI Technologies (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 09/12/2012, Docketed: 05/30/2012
Total Judgment: 565,597.44
Comment: Certain Claims
- 05/18/2012 **Judgment** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: UI Supplies (Defendant), Uninet Imaging Inc (Defendant), Nestor Saporiti (Defendant), UI Technologies (Defendant)
Creditors: Ira And Edythe Seaver Family Trust (Plaintiff), Ira Seaver (Plaintiff), Circle Consulting Corporation (Plaintiff)
Judgment: 05/18/2012, Docketed: 05/30/2012
Total Judgment: 565,597.44
Comment: Certain Claims

OTHER EVENTS AND HEARINGS

- 04/03/2009 **Complaint**
COMPLAINT FILED Fee \$151.00
09A5870030001.tif pages
- 04/03/2009 **Initial Appearance Fee Disclosure**
INITIAL APPEARANCE FEE DISCLOSURE
09A5870030002.tif pages
- 05/21/2009 **Request to Transfer to Business Court**
Request for Transfer to Business Court
- 05/22/2009 **Notice of Department Reassignment**
- 06/15/2009 **Declaration**
Declaration of Non-Service
- 06/15/2009 **Declaration**
Declaration of Non-Service
- 06/18/2009 **Summons**
Summons
- 06/25/2009 **Notice**
Notice of Association
- 06/25/2009 **Demand for Jury Trial**
Demand for Jury Trial
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**
Summons
- 06/26/2009 **Summons**
Summons
- 07/02/2009 **Initial Appearance Fee Disclosure**
- 07/02/2009 **Motion to Dismiss**
(Vacated 08-20-2009)
- 07/20/2009 **Opposition to Motion to Dismiss**
Plaintiffs' Opposition to Motion to Dismiss
- 07/30/2009 **Reply to Opposition**
Reply to Plaintiffs Opposition to Motion to Dismiss
- 08/04/2009 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defts UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss
Parties Present

Minutes
Result: Vacate
08/20/2009 **Order Vacating**
Order Vacating Motion to Dismiss
08/21/2009 **Notice of Entry of Order**
Plff's Notice of Entry of Order Vacating Motion to Dismiss
09/09/2009 **Motion to Dismiss**
Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
09/09/2009 **Three Day Notice of Intent to Default**
Plaintiffs Three Day Notice of Intent to Default
09/11/2009 **Notice of Hearing**
Notice of Hearing on Motion to Dismiss, or in the alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
10/08/2009 **Opposition**
Opposition to Countermotion for Early Discovery
10/08/2009 **Reply to Opposition**
Reply to Plaintiffs' Opposition to Motion to Dismiss
10/09/2009 **Reply**
Plaintiffs' Reply to Countermotion for Early Discovery
10/15/2009 **Motion to Dismiss (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Defts UI Supplies, Uninet Imaging, and Nestor Saporiti's Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
10/15/2009 **Opposition and Countermotion**
Plaintiffs Opposition to Motion To Dismiss and Countermotion for Early Discovery
10/15/2009 **Opposition and Countermotion (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs Opposition to Motion To Dismiss and Countermotion for Early Discovery
10/15/2009 **All Pending Motions (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (10/15/09)
Parties Present
Minutes
Result: Denied
10/16/2009 **Business Court Order**
Mandatory Rule 16 Conference
10/22/2009 **Order Denying Motion**
Order Denying Defendants' Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
10/22/2009 **Order Denying**
Order Denying Plaintiffs' Countermotion for Early Discovery
10/22/2009 **Notice of Entry of Order**
Notice of Entry of Order Denying Plaintiffs' Countermotion for Early Discovery
10/22/2009 **Notice of Entry of Order**
Notice of Entry of Order Denying Defendants' Motion to Dismiss, or in the Alternative, Motion for Dismissal of Breach of Circle Consulting Contract Claim
10/23/2009 **Answer**
Defendant UI Supplies Uninet Imaging and Nestor Saporiti's Answer and Counterclaim to Complaint
11/04/2009 **Notice of Early Case Conference**
Notice of NRCP 16.1 Early Case Conference
11/13/2009 **Mandatory Rule 16 Conference (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
12/04/2009 Reset by Court to 11/13/2009
Result: Matter Heard
11/13/2009 **Business Court Order**
Business Court Scheduling and Trial Setting Order
11/16/2009 **Motion to Dismiss**
Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for More Definite Statement
11/18/2009 **Notice of Hearing**
Notice of Hearing Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for a More Definite Statement
11/23/2009 **Notice of Voluntary Dismissal**
Notice of Voluntary Dismissal of Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC Only
12/01/2009 **Notice of Deposition**
12/07/2009 **Joint Case Conference Report**
01/07/2010 **Motion to Dismiss (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Plffs/CounterDefts' Motion to Dismiss Counterclaims for Deceptive Trade Practices and Misappropriation of Trade Secrets and Motion for More Definite Statement
12/22/2009 Reset by Court to 01/07/2010
01/08/2010 **Stipulation and Order**
Stipulation and Order to Amend Plaintiff's First Amended Complaint
01/11/2010 **Motion for Protective Order**
Motion for a Protective Order For Depositions on an Order Shortening Time
01/11/2010 **Opposition to Motion For Protective Order**
Plaintiffs' Opposition to Motion for Protective Order
01/11/2010 **Notice of Entry**
Notice of entry of Stipulation and Order to Amend Plaintiff's First Amended Complaint
01/12/2010 **Motion for Protective Order (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Motion for a Protective Order For Depositions on an Order Shortening Time
Parties Present
Minutes
Result: Denied in Part
01/19/2010 **Answer**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's first Amended Answer to Complaint, Counterclaim, And Cross Claim

01/22/2010 **Order**
Order Regarding Motion for Protective Order on Order Shortening Time

01/25/2010 **Notice of Entry of Order**
Notice of Entry of Order Regarding Motion for Protective Order on Order Shortening Time

02/04/2010 **Reply to Counterclaim**
Reply to Amended Counterclaim

02/17/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Depositions Outside the State of Nevada

02/19/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission to Take Foreign Deposition

02/19/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission to Take Foreign Deposition

02/19/2010 **Motion for Determination of Good Faith Settlement**
Plaintiffs' Motion for Determination of Good Faith Settlement

02/26/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Depositions Outside the State of Nevada

03/02/2010 **Commission to Take Deposition Outside the State of Nevada**
Commission To Take Foreign Deposition

03/08/2010 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiff's Motion for Determination of Good Faith Settlement

03/10/2010 **Motion to Bifurcate**
Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

03/10/2010 **Motion to Associate Counsel**
Motion To Associate Out-Of-State Counsel

03/10/2010 **Certificate of Mailing**
Certificate of Mailing of Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

03/10/2010 **Summons**
Summons

03/11/2010 **Receipt of Copy**
Receipt of Copy

03/25/2010 **CANCELED Motion for Good Faith Settlement (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Vacated - per Law Clerk

04/09/2010 **Settlement Conference (10:30 AM) (Judicial Officer Deianey, Kathleen E.)**
Parties Present
Minutes
 Result: Not Settled

04/15/2010 **Motion to Associate Counsel (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Plaintiff's Motion to Associate Counsel (Robert M. Freedman, Esq.)
Parties Present
Minutes
 03/18/2010 Reset by Court to 04/15/2010
 Result: Granted

04/15/2010 **Order Admitting to Practice**
Order Admitting to Practice

04/16/2010 **Notice of Intent to take Default**
Cross-Claimants' Three-Day Notice of Intent to Take Default of Cross-Defendants, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC

04/16/2010 **Notice of Entry of Order**
Notice of Entry of Order

04/16/2010 **Opposition to Motion**
Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order and Countermotion to Compel

04/20/2010 **Initial Appearance Fee Disclosure**
Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC's Initial Appearance and Fee Disclosure

04/20/2010 **Motion to Stay**
Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration

04/21/2010 **Reply to Opposition**
Defendant/Counterclaimant Uninet Imaging Reply to Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order

04/22/2010 **Notice of Non Opposition**
Notice of Nonopposition 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

04/22/2010 **Notice of Motion**
Cross-Defendants, Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Notice of Motion to Stay or Dismissal and to Compel Arbitration

04/23/2010 **Affidavit**
Affidavit of Lewis Helfstein

04/29/2010 **Motion to Bifurcate (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
 04/29/2010, 05/20/2010, 05/25/2010, 05/28/2010, 06/04/2010, 06/18/2010
Defendant/Counter-Claimant Uninet Imaging Motion to Bifurcate Case Into Liability and Damages or, in the Alternative, Motion for Protective Order
Minutes
 04/16/2010 Reset by Court to 04/29/2010
 05/13/2010 Reset by Court to 05/20/2010
 Result: Matter Continued

04/29/2010 **Opposition and Countermotion (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**

04/29/2010, 05/20/2010, 05/25/2010, 05/28/2010, 06/04/2010, 06/18/2010
 Plaintiffs' Opposition to Motion to Bifurcate Case Into Liability and Damages or in the Alternative Motion for Protective Order and Countermotion to Compel

Minutes

05/13/2010 Resel by Court to 05/20/2010

Result: Continued

04/29/2010 All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Parties Present

Minutes

Result: Continued

05/06/2010 Opposition to Motion
 Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Cross Defendants', Lewis Helfstein, Madalyn Helfstein, Summit Laser Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration, and Alternatively, Counter-Motion to Stay Proceedings Pending Arbitration; Motion to Dismiss Pursuant to Nevada Rule of Civil Procedure 19

05/13/2010 Motion for Partial Summary Judgment
 Plaintiff's Motion for Partial Summary Judgment re: Assignment of Consulting Agreement; Declarations of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq. Filed Contemporaneously With Request for Judicial Notice

05/13/2010 Request for Judicial Notice
 Plaintiff's Request for Judicial Notice in Support Of: 1. Plaintiff's Motion for Partial Summary Judgment Re: Contract Claim; 2. Plaintiff's Opposition to Uninet's Third Motion to Dismiss Asserted Plaintiff's Action Filed as a Counter Motion in Uninet's Opposition to Helfstein's Motion to Dismiss

05/17/2010 Errata
 Errata to Plaintiff's Request for Judicial Notice in Support of: 1. Plaintiff's Motion for Partial Summary Judgment Re: Contract Claim; 2. Plaintiff's Opposition to Uninet's Third Motion to Dismiss Asserted Plaintiff's Action Filed as a Counter Motion in Uninet's Opposition to Helfstein's Motion to Dismiss

05/17/2010 Reply
 Cross-Defendants, Lewis Helfstein, Madamy Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Reply Brief on Motion for Stay or Dismissal and to Compel Arbitration

05/20/2010 All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 All Pending Motions (05/20/10)

Parties Present

Minutes

Result: Matter Heard

05/20/2010 Opposition
 Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Countermotion to Stay or Dismiss

05/25/2010 Motion to Stay (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion for Stay or Dismissal and to Compel Arbitration

Result: Denied

05/25/2010 All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 All Pending Motions (05/25/10)

Parties Present

Minutes

Result: Matter Heard

05/26/2010 Transcript of Proceedings
 Transcript of Proceedings Hearing on Motions

05/28/2010 All Pending Motions (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 All Pending Motions (05/28/10)

Minutes

Result: Matter Continued

06/01/2010 Opposition
 Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Request for Judicial Notice

06/01/2010 Opposition and Countermotion
 Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment re: Assignment; Declaration of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq.; and Counter-Motion for Summary Judgment

06/04/2010 All Pending Motions (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 All Pending Motions (06/04/10)

Minutes

Result: Matter Heard

06/08/2010 Reply to Opposition
 Plaintiffs Ira and Edythe Seaver Family Trust, Ira Seaver, and Circle Consulting Corporation's Reply to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment Re: Assignment, and, Opposition to Defendants Counter-Motion for Summary Judgment; Declarations of Ira Seaver and Robert M. Freedman

06/08/2010 Reply to Opposition
 Plaintiffs' Reply to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Request for Judicial Notice

06/09/2010 Status Check (2:00 PM) (Judicial Officer Gonzalez, Elizabeth)
 Status Check: Conference Call - Proposed Orders

Parties Present

Minutes

Result: Matter Resolved

06/10/2010 Supplement
 Supplement to Defendants UI Supplies, UniNet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion for Partial Summary Judgment re: Assignment; Declaration of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq.; and Counter-Motion for Summary Judgment

06/15/2010 Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 Plaintiff's Motion for Partial Summary Judgment re: Assignment of Consulting Agreement; Declarations of Ira Seaver, Lewis Helfstein and Jeffrey Albregts, Esq. Filed Contemporaneously With Request for Judicial Notice

Result: Denied

06/15/2010 Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Plaintiff's Request for Judicial Notice in Support Of: 1. Plaintiff's Motion for Partial Summary Judgment Re: Contract Claim; 2. Plaintiff's Opposition to Uninet's Third Motion to Dismiss Asserted Plaintiff's Action Filed as a Counter Motion in Uninet's Opposition to Helfstein's Motion to Dismiss

Result: Denied

06/15/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (06/15/10)
Parties Present
Minutes
 Result: Matter Heard

06/15/2010 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Supplement to Defendant's UI Supplies, Uninet Imaging, and Nestor Saporiti's Opposition to Plaintiff Motion for Partial Summary Judgment re: Assignment; Declaration Of Ira Seaver, Lewis Helfstein and Jeffrey Albrechts, Esq. and Counter Motion for Summary Judgment
 Result: Denied

06/15/2010 **Order Denying**
Order Denying Motion to Stay or Dismiss

06/16/2010 **Notice of Entry of Order**

06/17/2010 **Notice of Intent to take Default**
Cross-Claimant's Three-Day Notice of Intent to Take Default of Cross-Defendants, Lewis Helfstein, Madayn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC

06/18/2010 **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (06/18/10)
Minutes
 Result: Matter Heard

06/22/2010 **Order Denying Motion**
Order Denying Plaintiff's Motion for Summary Judgment, Plaintiff's Request for Judicial Notice; and UniNet Defendants' Counter-Motion for Summary Judgment

06/24/2010 **Notice of Entry of Order**
Notice of Entry of Order

07/02/2010 **Status Check** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 07/02/2010, 07/30/2010, 08/13/2010, 08/27/2010, 09/02/2010
Status Check: Submission Of Stipulation Of Protective Order
Minutes
 Result: Matter Continued

07/07/2010 **Notice of Appeal**
Notice of Appeal

07/07/2010 **Case Appeal Statement**
Case Appeal Statement

07/07/2010 **Motion to Stay**
Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., and Summit Technologies, LLC's Motion to Stay Crossclaim Pending Appeal

07/08/2010 **Notice of Motion**
Motion to Stay Crossclaim Pending Appeal

07/14/2010 **Receipt**

07/21/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Issue Subpoena for Deposition Duces Tecum in State of California

07/23/2010 **Opposition**
Plaintiffs' Opposition to Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc. and Summit Technologies, LLC's Motion To Stay Crossclaim Pending Appeal

07/26/2010 **Opposition to Motion**
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 Cross-Claim Pending Appeal; Counter-Motion to Dismiss if Stay is Granted

08/05/2010 **Opposition**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Countermotion To Dismiss If Stay Is Granted

08/12/2010 **Reply**
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

08/12/2010 **Motion for Protective Order**
Plaintiffs' Motion for Protective Order

08/13/2010 **Opposition**
Cross-Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser Products, Inc., Summit Technologies, LLC's Reply Brief to Plaintiffs' Opposition to Motion to Stay Crossclaim Pending Appeal

08/19/2010 **Stipulation and Order**
Stipulation and Order to Extend Discovery Cut-Off Date

08/20/2010 **Motion** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defts Lewis Helfstein, Madelyn Helfstein, Summit Laser Product and Summit Technologies Motion to Stay Crossclaim Pending Appeal
Minutes
 Result: Denied

08/20/2010 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order To Extend Discovery Cut-Off Date

08/24/2010 **Opposition to Motion For Protective Order**
Opposition to Plaintiff's Motion for Protective and Counter-Motion to Compel Discovery

09/02/2010 **Status Check: Discovery** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
 09/02/2010, 11/04/2010
Parties Present
 Result: Matter Continued

09/02/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (09/02/10)
Parties Present
Minutes
 Result: Matter Heard

09/03/2010 **Stipulated Protective Order**
Stipulated Protective Order Regarding Confidential Information From Uninet

09/07/2010 **Reply**
Reply to Defendants' Opposition to Seaver's Motion for Protective Order; Opposition to Defendants' Motion to Compel

09/14/2010 **Motion for Protective Order** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs' Motion for Protective Order
 Result: Granted in Part

09/14/2010 **Opposition and Countermotion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Deft's Opposition to Plaintiff's Motion for Protective and Counter-Motion to Compel Discovery
 Result: Granted

09/14/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (09/14/10)
Parties Present
Minutes
 Result: Matter Heard

09/16/2010 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order to Amend Plaintiff's First Amended Complaint

09/16/2010 **Notice of Taking Deposition**
Notice of Taking the Deposition of Irwin Groner, Esq.

09/16/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Deposition of Irwin Groner, Esq. Outside the State of Nevada

09/24/2010 **Transcript of Proceedings**
Transcript of Proceedings Hearing on Motions, Tuesday, May 25, 2010

09/24/2010 **Brief**
Plaintiffs' Omnibus Motion in Limine

10/12/2010 **Hearing** (12:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Hearing: Conference Call
Parties Present
Minutes
 Result: Matter Heard

10/14/2010 **Opposition**
Defendant UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiff's Omnibus Motion in Limine

10/14/2010 **Order**
Order on Plaintiffs' Motion for a Protective Order

10/15/2010 **Pre-Trial Disclosure**
Plaintiffs' Pre-Trial Disclosures

10/18/2010 **Notice of Entry of Order**
Notice of Entry of Order on Plaintiffs' Motion for a Protective Order

10/21/2010 **Reply to Opposition**
Plaintiffs' Reply to Opposition filed by the Uninet Defendants to Plaintiffs' Motion in Limine Re: Exhibit E and Re: Seaver's Medical History

10/22/2010 **Stipulation and Order**
Stipulation and Order to Extend the Time to File a Reply to Defendants' Opposition to Plaintiffs' Omnibus Motion in Limine

10/25/2010 **Notice**
Notice of Entry of Order Granting Motion for Stay

10/26/2010 **Omnibus Motion in Limine** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiffs' Omnibus Motion in Limine
Parties Present
Minutes
 Result: Matter Heard

10/26/2010 **Notice of Entry of Order**
Notice of Entry of Order

11/03/2010 **Motion**
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on Order Shortening Time

11/04/2010 **Certificate of Mailing**
Certificate of Mailing

11/05/2010 **Opposition to Motion**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on an Order Shortening Time

11/09/2010 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)
 Result: Matter Heard

11/09/2010 **Motion** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions on Order Shortening Time
 Result: Granted

11/09/2010 **All Pending Motions** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
All Pending Motions (11/09/10)
Parties Present
Minutes
 Result: Matter Heard

11/10/2010 **Order**
Order Regarding Plaintiffs' Omnibus Motion in Limine

11/15/2010 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

11/22/2010 **Notice of Entry of Order**
Notice of Entry of Order Regarding Plaintiff's Omnibus Motion in Limine

12/02/2010 **Motion**
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/02/2010 **Opposition to Motion**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on Order Shortening Time

12/03/2010 **Certificate of Mailing**
Certificate of Mailing

12/08/2010 **Reply**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiff's Opposition to Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/09/2010 **Motion (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Defendants UI Supplies Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time
Parties Present
Minutes
 Result: Granted

12/14/2010 **Order**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to File Dispositive Motions.

12/16/2010 **Order**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Emergency Motion to Enlarge Time to Depose Steven Hecht on an Order Shortening Time

12/17/2010 **Supplement to Motion for Summary Judgment**
Supplement to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment - Table of Undisputed Facts

12/17/2010 **Motion for Summary Judgment**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

12/17/2010 **Motion to Dismiss**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

12/20/2010 **Notice of Entry of Order**

12/20/2010 **Application for Issuance of Commission to Take Deposition**
Application for Issuance of Commission to Take Deposition of Steven Hecht Outside the State of Nevada

12/22/2010 **Notice of Entry of Order**

01/04/2011 **Notice of Motion**
Notice of Motion to Dismiss Pursuant to NRCP 19

01/04/2011 **Notice of Motion**
Notice of Motion for Summary Judgment

01/14/2011 **Notice of Entry of Order**
Notice of Entry of Order

01/14/2011 **Opposition to Motion to Dismiss**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss.

01/14/2011 **Opposition to Motion For Summary Judgment**
Plaintiffs' Opposition to Defendants UI Supplies, Uninet Imaging, Inc. and Nestor Saporiti's Motion for Summary Judgment

01/20/2011 **Reply to Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiffs' Opposition to Motion for Summary Judgment

01/20/2011 **Reply to Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Reply to Plaintiffs' Opposition to Motion to Dismiss Pursuant to NRCP 19

01/20/2011 **Notice**
Plaintiffs' Notice of Rescission of Helfstein Settlement

01/25/2011 **Motion for Summary Judgment (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Defendant's UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
 01/18/2011 Continued to 01/25/2011 - At the Request of Counsel - Circle Consulting Corporation
 Result: Denied

01/25/2011 **Motion to Dismiss (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19
 01/18/2011 Continued to 01/25/2011 - At the Request of Counsel - Circle Consulting Corporation
 Result: Denied

01/25/2011 **All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Parties Present
Minutes
 Result: Matter Heard

01/27/2011 **Motion to Withdraw As Counsel**
Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel of Record on Order Shortening Time

01/27/2011 **Supplement**
Supplement to Defendants' Pre-Trial Disclosures

01/27/2011 **Pre-Trial Disclosure**
Defendant's Pre-Trial Disclosures

01/28/2011 **Notice of Non Opposition**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Notice of Non-Opposition to Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel

02/01/2011 **Motion to Withdraw As Counsel**
Motion to Withdraw As Counsel on Order Shortening Time

02/02/2011 **Pre-trial Memorandum**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Pre-Trial Memo

02/03/2011 **Calendar Call (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)**
 Result: Matter Heard

02/03/2011 **Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Tharpe & Howell, LLP's Motion to Withdraw as Co-Counsel of Record on Order Shortening Time
 Result: Granted

02/03/2011 **All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Parties Present
Minutes
 Result: Matter Heard

02/04/2011 **Order Denying**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

02/04/2011 **Order Denying**
Order on Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

02/07/2011 **CANCELED Bench Trial (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)**
 Vacated - per Judge

02/15/2011 **Order Granting**
Order Granting Motion to Withdraw as Counsel on Order Shortening Time

02/15/2011 **Notice of Entry of Order**
Notice of Entry of Order on Defendants UI Supplies, Uninet Imaging Inc. and Nestor Saporiti's Motion to Dismiss Pursuant to NRCP 19

02/15/2011 **Notice of Entry of Order**
Notice of Entry of Order on Defendants UI Supplies, Uninet Imaging Inc. and Nestor Saporiti's Motion for Summary Judgment

02/16/2011 **Order Granting**
Order on Tharpe & Howell's Motion to Withdraw as Co-Counsel of Record

02/16/2011 **Notice of Motion**
Notice of Motion

02/17/2011 **Notice of Entry of Order**
Notice of Entry of Order

02/17/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting Motion to Withdraw as Counsel on Order Shortening Time

03/03/2011 **Status Check: Trial Setting (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Status Check: Retention of Counsel
Parties Present
Minutes
 Result: Granted

03/08/2011 **Order**
Order On Defendants UI Supplies, Uninet Imaging, And Nestor Saporiti's Motion To Enlarge Time To Designate Ronald Rosenberg As Witness For Trial

03/10/2011 **Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Enlarge Time to Designate Ronald Rosenberg as Witness for Trial on an Order Shortening Time

03/10/2011 **Amended Order Setting Civil Non-Jury Trial**
2nd Amended Order Setting Civil Non-Jury Trial and Calendar Call

05/03/2011 **Order Shortening Time**
Order Shortening Time on Motion to Continue Trial

05/05/2011 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Ira Seaver's Motion for Continuance on and Order Shortening Time; Counter-motion to Dismiss Pursuant to Nevada Rule of Civil Procedure 41(e)

05/05/2011 **Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/09/2011 **Response**
Plaintiff's Response to Defendant's Opposition to Plaintiff's Motion Continue Trial and Response to Defendant's Motion for a Dismissal

05/09/2011 **Response**
Plaintiff's Response to Defendant Uninet Imaging and Nestor Saporiti's Motion to Deem Admissions Admitted on an Order Shortening Time

05/09/2011 **Notice of Motion**
Notice of Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/09/2011 **Order**
Order Compelling Arbitration and Dismissing Crossclaim

05/10/2011 **Motion to Continue Trial (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Plt's Pro Per Motion to Continue Trial

05/10/2011 **Opposition and Counter-motion (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Ira Seaver's Motion for Continuance on and Order Shortening Time; Counter-motion to Dismiss Pursuant to Nevada Rule of Civil Procedure 41(e)

05/10/2011 **Motion (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion to Deem Request for Admissions Admitted on an Order Shortening Time

05/10/2011 **Notice of Entry of Order**
Notice of Entry of Order Compelling Arbitration and Dismissing Crossclaim

05/10/2011 **All Pending Motions (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
 Result: Matter Heard

05/11/2011 **NV Supreme Court Clerks Certificate/Judgment -Remanded USJR**

05/17/2011 **Motion for Summary Judgment**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

05/19/2011 **Notice of Motion**
Notice of Motion for Summary Judgment

05/27/2011 **Order**
Order Regarding Plaintiffs' Motion to Continue Trial; Defendants' Motion to Deem Admissions Admitted and Counter-Motion to Dismiss for Lack of Prosecution

05/27/2011 **Notice of Entry of Order**
Notice of Entry of Order Regarding Plaintiffs' Motion to Continue Trial; Defendants' Motion to Deem Admissions Admitted and Counter-Motion to Dismiss for Lack of Prosecution

06/01/2011 **Response**
Plaintiff's Response to Defendant Uninet Imaging and Nestor Saporiti's Motion for summary Judgment, Or alaternatively More Time to Respond Or An Order Determining defective service of Plaintiff's Motion

06/09/2011 **CANCELED Status Check (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
 Vacated - per Judge

06/14/2011 **Supplemental**
Plaintiff's Supplemental Response to Defendants Motion for Summary Judgment and Plaintiff's Counter Motion for Summary Judgment and Judicial Requests

06/21/2011 **Motion for Summary Judgment (9:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment
Parties Present
Minutes
 Result: Denied in Part

06/23/2011 **Order Setting Civil Bench Trial**
3rd Amended Order Setting Civil Bench Trial And Calendar Call

06/29/2011 **Order**
Order Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

06/29/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

07/11/2011 **Motion to Reconsider**
Plaintiffs' Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

07/15/2011 **Certificate of Mailing**
Certificate of Mailing

07/19/2011 **Opposition to Motion**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Opposition to Plaintiffs' Motion to Reconsider Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

08/11/2011 **Reply in Support**
Plaintiffs' Reply in Motion To Reconsider Court's Order Dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion For Summary Judgment

08/19/2011 **Motion For Reconsideration (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Plaintiffs' Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

Minutes
 Result: Denied

09/06/2011 **CANCELED Bench Trial (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)**
Vacated - per Judge

09/09/2011 **Order Denying Motion**
Order Denying Motion to Reconsider

09/16/2011 **Notice of Entry of Order**
Notice of Entry of Order

09/16/2011 **Order**
Order Sealing and Redacting Records

09/16/2011 **Stipulation and Order**
Stipulation and Order to Seal/Redact Confidential Portions of Exhibit 2 to Plaintiffs' Previously-Filed Reply in Support of Their Motion to Reconsider this Court's Order Dated June 29, 2011

09/19/2011 **Redacted Version**

09/19/2011 **Motion to Reconsider**
Plaintiff Circle Consulting's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

09/21/2011 **Notice of Entry of Stipulation and Order**
Notice of Entry of Stipulation and Order

09/21/2011 **Receipt of Copy**
Receipt of Copy

09/21/2011 **Notice of Entry of Order**
Notice of Entry of Order

09/27/2011 **Notice of Entry of Order**
Notice of Entry of Order

10/14/2011 **Notice of Non Opposition**
Notice of Non-Opposition to Plaintiff Circle Consulting Corporation's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

10/19/2011 **Amended Certificate of Service**
Amended Certificate of Service

10/21/2011 **Motion to Reconsider (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Plaintiff Circle Consulting's Renewed Motion to Reconsider Court's Order dated June 29, 2011, Granting in Part and Denying in Part Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Motion for Summary Judgment

Minutes
 Result: Granted

11/08/2011 **Notice of Association of Counsel**
Notice of Association of Counsel

11/09/2011 **Order Granting Motion**
Order Granting Renewed Motion To Reconsider

11/10/2011 **Notice of Entry of Order**
Notice of Entry of Order Granting Renewed Motion to Reconsider

11/14/2011 **Motion**
Motion for Continued Settlement Conference

11/14/2011 **Motion for Clarification**
Motion for Clarification on Anti-Assignment Clause

11/15/2011 **Notice of Motion**
Notice of Motion for Continued Settlement Conference

11/15/2011 **Notice of Motion**
Notice of Motion for Clarification on Anti-Assignment Clause

12/01/2011 **Opposition**
Plaintiff Circle Consulting's Opposition to the Uninet Defendants' Motion for Continued Settlement Conference

12/01/2011 **Opposition**
Plaintiff Circle Consulting's Opposition to the Uninet Defendants' Motion for Clarification on Anti-Assignment Clause

12/01/2011 **Joinder**
Plaintiff's Joinder to Circle Consulting Corp.'s Opposition to Defendants Motion for Clarification

12/16/2011 **Motion (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Motion for Continued Settlement Conference

12/16/2011 **Motion to Clarify (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Motion for Clarification on Anti-Assignment Clause

12/16/2011 **All Pending Motions (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)**

Minutes
 Result: Matter Heard

12/20/2011 **Motion to Dismiss**
Motion to Dismiss Ira and Edythe Seaver Family Trust

12/21/2011 **Notice of Motion**
Notice of Motion

12/21/2011 **Motion for Order to Show Cause**
Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/22/2011 **Notice of Motion**
Notice of Motion

12/22/2011 **Supplement**
Supplement to Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/27/2011 **Supplement**
Second Supplement to Emergency Motion for an order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

12/28/2011 **Opposition**
Plaintiff's Opposition Response and Plaintiff's Request for Motion as Detailed Below

12/29/2011 **Motion for Order to Show Cause** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Emergency Motion for an Order to Show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time
Parties Present
Minutes
 Result: Matter Heard

12/30/2011 **Order Denying Motion**
Order Denying the Uninet Defendants' Motion For Continued Settlement Conference

12/30/2011 **Order Denying Motion**
Order Denying The Uninet Defendants' Motion For Clarification on Anti-Assignment Clause

01/05/2012 **Notice of Entry**
Notice of Entry of Order Denying the Uninet Defendants' Motion for Clarification on Anti-Assignment Clause

01/05/2012 **Notice of Entry**
Notice of Entry of Order Denying the Uninet Defendants' Motion for Continued Settlement Conference

01/06/2012 **Opposition**
Plaintiff's Opposition

01/12/2012 **Supplemental**
Plaintiff's Supplemental Opposition

01/19/2012 **Order**
Order on Emergency Motion for an Order to show Cause Regarding Breach of Stipulated Protective Order Regarding Confidential Information on an Order Shortening Time

01/24/2012 **Motion to Dismiss** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Motion to Dismiss Ira and Edythe Seaver Family Trust
Parties Present
Minutes
 Result: Moot

01/27/2012 **Motion to Clarify**
Plaintiff's Motion for Clarification

02/13/2012 **Opposition to Motion**
Opposition to Plaintiffs' Motion for Clarification

02/24/2012 **Pre-trial Memorandum**
Plaintiffs' Pretrial Memorandum

02/27/2012 **Response**
Plaintiff's Response to Defendant's Opposition to Plaintiff's Motion for Clarification

02/27/2012 **Pre-trial Memorandum**
Defendants UI Supplies, UniNet Imaging, and Nestor Saporiti's Pre-Trial Memorandum

03/02/2012 **Motion to Clarify** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Plaintiff's Motion for Clarification
Minutes
 Result: Denied

03/05/2012 **Joinder**
Plaintiff's Joinder to Circle Consulting Corporations Pre Trial Memorandum

03/08/2012 **Calendar Call** (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)
2nd Amended Order Setting Civil Non-Jury Trial and Calendar Call
Parties Present
Minutes
 09/01/2011 Reset by Court to 03/08/2012
 Result: Matter Continued

03/08/2012 **Pre-trial Memorandum**
Plaintiff's Supplemental Pre-Trial Memorandum

03/09/2012 **At Request of Court** (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
 Result: Matter Heard

03/12/2012 **CANCELED Bench Trial** (1:30 PM) (Judicial Officer Gonzalez, Elizabeth)
Vacated - per Judge

03/12/2012 **Supplement**
Supplement to Defendants UI Supplies, UniNet Imaging, and Nestor Saporiti's Pre Trial Memo

03/13/2012 **Errata**
Errata to Plaintiffs' Pretrial Memorandum

03/14/2012 **Deposition**
Designation of Deposition Testimony of Steven Hecht by Page/Line Citation

03/14/2012 **Deposition**
Designation of Deposition Testimony of Lewis Helfstein by Page/Line Citation

03/19/2012 **Bench Trial (1:00 PM)** (Judicial Officer Gonzalez, Elizabeth)
03/19/2012, 03/20/2012, 03/21/2012
Parties Present
Minutes
Result: Matter Continued

03/19/2012 **Trial Memorandum**
Defendants UI Supplies, Uninet Imaging and Nestor Saporiti's Rule 7.27 Trial Memoranda

03/27/2012 **Errata**
Plaintiffs' Errata to Complaint

04/11/2012 **Transcript of Proceedings**
Transcript of Proceedings - Excerpt of Bench Trial - Day 2 (Testimony of Ira Seaver) - March 20, 2012

04/11/2012 **Transcript of Proceedings**
Transcript of Proceedings - Excerpt of Bench Trial - Day3 (Testimony of Ira Seaver) - March 21, 2012

04/12/2012 **Calendar Call (9:15 AM)** (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
Result: Trial Date Set

04/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Portion of Bench Trial - Day 2 (Testimony of Lewis Helfstein and Joseph Cachia) March 20, 2012

04/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Portion of Bench Trial - Day 3 (Testimony of Nestor Saporiti) March 21, 2012

04/23/2012 **Bench Trial (2:00 PM)** (Judicial Officer Gonzalez, Elizabeth)
04/23/2012, 04/24/2012, 04/25/2012
Bench Trial Continued
Parties Present
Minutes
Result: Matter Heard

04/23/2012 **Notice**
Designation of Deposition Testimony of Steven Hecht by Page/Line Citation

05/18/2012 **Status Check (3:00 AM)** (Judicial Officer Gonzalez, Elizabeth)
Received Findings of Facts and Conclusions of Law
Minutes
Result: Matter Heard

05/18/2012 **Finding of Fact and Conclusions of Law**

05/21/2012 **Notice of Entry of Findings of Fact, Conclusions of Law**
Notice of Entry of Findings of Fact and Conclusions of Law

05/25/2012 **Memorandum of Costs and Disbursements**
Plaintiffs' Verified Memorandum of Costs and Disbursements

05/30/2012 **Transcript of Proceedings**
Transcript Of Proceedings Portion Of Bench Trial - Day 5 April 24, 2012

05/30/2012 **Transcript of Proceedings**
Transcript Of Proceedings Portion Of Bench Trial - Day 6 (Testimony Of Nestor Saporiti And Ira Seaver) April 25, 2012

06/01/2012 **Motion to Retax**
Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs

06/04/2012 **Certificate of Mailing**
Certificate of Mailing

06/04/2012 **Notice of Motion**
Notice of Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs

06/04/2012 **Motion for Attorney Fees and Costs**
Plaintiffs' Motion For An Award Of Attorney's Fees, Costs And Prejudgment Interest

06/05/2012 **Motion to Amend Judgment**
Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies

06/06/2012 **Initial Appearance Fee Disclosure**
Initial Appearance Fee Disclosure

06/06/2012 **Notice of Motion**
Notice of Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies

06/12/2012 **Motion for Stay of Execution**
Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond

06/12/2012 **Opposition to Motion**
Opposition to Plaintiffs Motion for an Award of Attorneys' Fees, Costs, and Prejudgment Interest; Counter-Motion for Attorneys' Fees for UniNet and Mr. Saporiti

06/13/2012 **Notice of Motion**
Notice of Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond

06/14/2012 **Opposition to Motion**
Plaintiffs' Opposition to Defendants' Motion to Strike Plaintiff's Verified Memorandum of Costs And Disbursements, Or in The Alternative, Retax Costs

06/15/2012 **Notice of Appeal**
Notice of Appeal to the Supreme Court From a Judgment of a District Court

06/15/2012 **Case Appeal Statement**
Case Appeal Statement

06/20/2012 **Opposition to Motion**
Plaintiffs' Opposition to Moton to Alter or Amend Judgment, Or In The Alternative, For Satisfaction of Judgment Based On Settlement With Summit Technologies

06/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Excerpt of Bench Trial - Day 1 (Testimony of Rodney S. Conant) March 19, 2012

06/20/2012 **Transcript of Proceedings**
Transcript of Proceedings Exerpt of Bench Trial - Day 4 (Testimony of Ira Seaver and Edythe Seaver) April 23, 2012

06/22/2012 **Reply in Support**
Plaintiffs' Reply In Support of Their Motion For An Award of Attorney's Fees, Costs and Prejudgment Interest; Opposition to Countermotion for Attorney's Fees For Uninet Imaging, Inc. and Nestor Saporiti

06/26/2012 **Opposition to Motion**

06/28/2012 **Plaintiffs' Conditional Opposition to Uninet Defendants' Motion For A Stay Pending Appeal And To Set Amount Of Supersedeas Bond**
Reply to Opposition
Reply to Plaintiffs' Opposition to the Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies

06/29/2012 **Association of Counsel**
Association of Counsel

07/10/2012 **Motion to Strike (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Motion to Strike Plaintiffs' Verified Memorandum of Costs and Disbursements, or in the Alternative, Retax Costs
07/06/2012 *Reset by Court to 07/10/2012*
09/20/2012 *Reset by Court to 09/20/2012*
09/20/2012 *Reset by Court to 09/25/2012*

07/10/2012 **Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
07/10/2012, 09/25/2012, 11/08/2012
Plaintiffs' Motion For An Award Of Attorney's Fees, Costs And Prejudgment Interest
07/06/2012 *Reset by Court to 07/10/2012*
09/20/2012 *Reset by Court to 09/20/2012*
09/20/2012 *Reset by Court to 09/25/2012*

07/10/2012 **Motion to Amend Judgment (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Motion to Alter or Amend Judgment, or in the Alternative, for Satisfaction of Judgment Based on Settlement With Summit Technologies
07/06/2012 *Reset by Court to 07/10/2012*
09/20/2012 *Reset by Court to 09/20/2012*
09/20/2012 *Reset by Court to 09/25/2012*

07/10/2012 **Motion For Stay (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Motion for Stay Pending Appeal and to Set Amount of Supersedeas Bond
07/13/2012 *Reset by Court to 07/10/2012*

07/10/2012 **Opposition and Countermotion (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
07/10/2012, 09/25/2012, 11/08/2012
Defendant's Opposition to Plaintiffs Motion for an Award of Attorneys' Fees, Costs, and Prejudgment Interest; Counter-Motion for Attorneys' Fees for UniNet and Mr. Saporiti
07/06/2012 *Reset by Court to 07/10/2012*
09/20/2012 *Reset by Court to 09/20/2012*
09/20/2012 *Reset by Court to 09/25/2012*

07/10/2012 **All Pending Motions (9:00 AM) (Judicial Officer Gonzalez, Elizabeth)**
Parties Present
Minutes
Result: Matter Heard

07/18/2012 **Claim**
UniNet and Nestor Saporiti's Claim of Exemption from Levy

07/18/2012 **Claim**
UI Supplies Claim of Exemption from Levy

07/18/2012 **Proof of Service**
Proof of Service re Constable's Office (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Constable's Office (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Jeffrey R. Albregts, Esq. (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Ira Seaver (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re JPMorgan Chase (re UI Supplies Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Citibank (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Jeffrey R. Albregts, Esq. (re UniNet Claim for Exemption)

07/18/2012 **Proof of Service**
Proof of Service re Ira Seaver (re UniNet Claim for Exemption)

07/20/2012 **Motion to Clarify**
Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti Have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies

07/24/2012 **Notice of Hearing**
Notice of Hearing

07/26/2012 **Objection**
Plaintiffs' Objections to Defendant Uninet and Nestor Saporiti's Claim of Exemption From Levy and Notice of Hearing of Same

07/26/2012 **Objection**
Plaintiffs' Objections to Defendant UI Supplies' Claim of Exemption from Levy and Notice of Hearing of Same

08/08/2012 **Order**
Order

08/08/2012 **Notice of Entry of Order**
Notice of Entry of Order

08/09/2012 **Opposition to Motion**
Plaintiffs' Opposition To Motion (1) For Order Clarifying That Uninet Imaging, Inc. And Nestor Saporiti Have No Liability Pursuant To This Court's Findings Of Fact And Conclusions Of Law, (2) To Strike Writs Of Execution And Garnishment, And (3) For Oder Returning Funds To Uninet Imaging, Inc. And Ui Supplies

08/27/2012 **Reporters Transcript**
Transcript of Portion of Bench Trial - Day 1, heard March 19, 2012

08/27/2012 **Reporters Transcript**
Transcript of Portion of Bench Trial - Day 6, heard April 25, 2012

08/27/2012 **Reply in Support**
Reply in Support of Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies

08/31/2012 **Motion to Compel**
Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time

09/04/2012 **Motion for Order** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants' Motion (1) for Order Clarifying that UniNet Imaging, Inc. and Nestor Saporiti Have No Liability Pursuant to this Court's Findings of Fact and Conclusions of Law, (2) to Strike Writs of Execution and Garnishment, and (3) for Order Returning Funds to UniNet Imaging, Inc. and UI Supplies
Parties Present
Minutes
 08/31/2012 Reset by Court to 09/04/2012
 Result: Denied

09/10/2012 **Motion**
Motion in Support of UI Supplies and UI Technologies' Claim of Exemption from Levy

09/12/2012 **Opposition to Motion**
Plaintiffs' Opposition to Uninet Defendants' Motion To Compel And Motion In Support of UI Supplies' and UI Technologies' Claim of Exemption From Levy

09/12/2012 **Reply in Support**
Reply in Support of Claim for Exemption

09/12/2012 **Findings of Fact, Conclusions of Law and Judgment**
Amended Findings of Fact and Conclusions of Law and Judgment

09/13/2012 **Motion to Compel** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Defendants UI Supplies, Inc., UI Technologies, Inc., Uninet Imaging, Inc., and Nestor Saporiti's Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time
 09/11/2012 Reset by Court to 09/13/2012

09/13/2012 **Hearing** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Hearing on Exemption
 09/11/2012 Reset by Court to 09/13/2012

09/13/2012 **Notice of Entry of Judgment**
Notice of Entry of Amended Findings of Fact and Conclusions of Law and Judgment

09/13/2012 **All Pending Motions** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
 Result: Denied

09/14/2012 **Order Denying**
Order Denying Stay of Execution

09/14/2012 **Notice of Entry of Order**
Notice of Entry of Order Denying Stay of Execution

09/19/2012 **Motion for Summary Judgment**
Motion for Summary Judgment Regarding Validity of the Settlement Agreement

09/19/2012 **Notice**
Notice of Re-Filing of Motion to Alter or Amend Judgment, or in the Alternative for Satisfaction of Judgment Based on Settlement with Summit Technologies

09/19/2012 **Amended Notice**
Amended Notice of Appeal to the Supreme Court from an Amended Judgment of a District Court

09/19/2012 **Amended**
Amended Case Appeal Statement

09/20/2012 **Notice of Hearing**
Notice of Hearing

09/21/2012 **Order Denying**
Order Denying Claim of Exemption From Execution (And For Release Of Levied Funds); and Denying Motion to Compel

09/24/2012 **Notice of Entry of Order**
Notice of Entry of Order Denying Claim of Exemption From Execution (And For Release of Levied Funds); And Denying Motion To Compel

09/25/2012 **Status Check** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 09/25/2012, 11/08/2012
Status Check: Set Evidentiary Hearing
 09/20/2012 Reset by Court to 09/25/2012

09/25/2012 **All Pending Motions** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
Parties Present
Minutes
 Result: Matter Continued

10/01/2012 **Transcript of Proceedings**
Transcript of Proceedings Defendants' Motions for Order Clarifying No Liability Pursuant to Court's Findings of Fact and Conclusions of Law, to Strike Writs of Execution and Garnishment, and for Order Returning Funds to Uninet Imaging, Inc. and UI Supplies September 4, 2012

10/01/2012 **Transcript of Proceedings**
Transcript of Proceedings Defendants' Motion to Compel Plaintiffs to Produce Communications with Counsel Regarding the Helfstein Settlement Agreement and Rescission on Order Shortening Time September 13, 2012

10/03/2012 **Motion**
Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/03/2012 **Receipt of Copy**
Receipt of Copy of Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/09/2012 **CANCELED Motion** (8:30 AM) (Judicial Officer Gonzalez, Elizabeth)
 Vacated
Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time

10/16/2012	Declaration <i>Declaration of Ira Seaver in Opposition to Motion For Summary Judgment Regarding Validity of The Settlement Agreement</i>
10/17/2012	Opposition to Motion <i>Plaintiffs' Opposition to Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Videoconference on Order Shortening Time</i>
10/22/2012	Reply in Support <i>Reply in Support of Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein by Video Conference on Order Shortening Time</i>
10/23/2012	Motion (8:30 AM) (Judicial Officer Gonzalez, Elizabeth) <i>Defendants' Motion to Permit Deposition and/or Trial Testimony of Lewis Helfstein</i> <u>Parties Present</u> <u>Minutes</u> Result: Granted
10/24/2012	Stipulation and Order <i>Stipulation and Order</i>
10/25/2012	Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order</i>
10/31/2012	Notice of Withdrawal of Motion <i>Notice of Withdrawal of Motion for Summary Judgment Regarding Validity of the Settlement Agreement</i>
11/06/2012	CANCELED Motion for Summary Judgment (8:30 AM) (Judicial Officer Gonzalez, Elizabeth) <i>Vacated - per Judge</i> <i>Motion for Summary Judgment Regarding Validity of the Settlement Agreement</i> <i>10/23/2012 Reset by Court to 11/06/2012</i>
11/08/2012	Calendar Call (9:15 AM) (Judicial Officer Gonzalez, Elizabeth)
11/08/2012	All Pending Motions (8:30 AM) (Judicial Officer Gonzalez, Elizabeth) <u>Parties Present</u> <u>Minutes</u> Result: Matter Heard
11/20/2012	Status Check (8:30 AM) (Judicial Officer Gonzalez, Elizabeth) <u>Parties Present</u> <u>Minutes</u> Result: Matter Heard
03/25/2013	Declaration <i>Declaration of Ira Seaver in Support of Plaintiff's Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
03/25/2013	Motion <i>Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
03/27/2013	Certificate of Mailing <i>Certificate of Mailing</i>
03/28/2013	Certificate of Mailing <i>Certificate of Mailing</i>
04/11/2013	Opposition <i>Opposition to Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
04/22/2013	Declaration <i>Supplemental Declaration of Ira Seaver in Support of Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
04/22/2013	Reply to Opposition <i>Plaintiffs' Reply in Support of Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
04/25/2013	Motion to Set Aside (8:30 AM) (Judicial Officer Gonzalez, Elizabeth) <i>Plaintiffs' Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
04/25/2013	Reply to Opposition <i>Plaintiffs' Reply in Support of Motion to Set Aside Rescinded Helfstein Settlement Agreement and Proceed on Claims Against Them</i>
05/02/2013	Transcript of Proceedings <i>Transcript of Proceedings Hearing On Plaintiff's Motion To Set Aside April 25, 2013</i>
05/10/2013	Status Check (3:00 AM) (Judicial Officer Gonzalez, Elizabeth) <i>STATUS CHECK: ATTORNEY OAK'S STAY FILING.</i>

FINANCIAL INFORMATION

Conversion Extended Connection Type No Convert Value @ 09A587003			
	Total Financial Assessment		211.00
	Total Payments and Credits		211.00
	Balance Due as of 05/07/2013		0.00
04/03/2009	Transaction Assessment		211.00
04/03/2009	Conversion Payment	Receipt # 01499509	LAW OFFICES THARPE & HOWELL (211.00)
Defendant Helfstein, Lewis			
	Total Financial Assessment		1,507.00
	Total Payments and Credits		1,507.00
	Balance Due as of 05/07/2013		0.00
04/21/2010	Transaction Assessment		1,483.00
04/21/2010	Wiznet	Receipt # 2010-11884-CCCLK	Helfstein, Lewis (1,483.00)
07/07/2010	Transaction Assessment		24.00
07/07/2010	Wiznet	Receipt # 2010-27628-CCCLK	Helfstein, Lewis (24.00)

		Defendant Helfstein, Madalyn		
		Total Financial Assessment		30.00
		Total Payments and Credits		30.00
		Balance Due as of 05/07/2013		0.00
04/21/2010	Transaction Assessment			30.00
		Defendant Saporiti, Nestor		
		Total Financial Assessment		203.00
		Total Payments and Credits		203.00
		Balance Due as of 05/07/2013		0.00
07/02/2009	Transaction Assessment			203.00
07/02/2009	Payment (Window)	Receipt # 2009-35486-FAM	Kravitz Schnitzer & Sloane	(203.00)
		Defendant Summit Laser Products Inc		
		Total Financial Assessment		30.00
		Total Payments and Credits		30.00
		Balance Due as of 05/07/2013		0.00
04/21/2010	Transaction Assessment			30.00
		Defendant Summit Technologies LLC		
		Total Financial Assessment		30.00
		Total Payments and Credits		30.00
		Balance Due as of 05/07/2013		0.00
04/21/2010	Transaction Assessment			30.00
		Defendant UI Supplies		
		Total Financial Assessment		630.00
		Total Payments and Credits		630.00
		Balance Due as of 05/07/2013		0.00
07/02/2009	Transaction Assessment			30.00
07/02/2009	Payment (Window)	Receipt # 2009-35490-FAM	Kravitz Schnitzer & Sloane	(30.00)
12/26/2010	Transaction Assessment			200.00
12/26/2010	Wiznet	Receipt # 2010-72288-CCCLK	UI Supplies	(200.00)
05/17/2011	Transaction Assessment			200.00
05/17/2011	Wiznet	Receipt # 2011-51513-CCCLK	UI Supplies	(200.00)
09/19/2012	Transaction Assessment			200.00
09/19/2012	Wiznet	Receipt # 2012-117500-CCCLK	UI Supplies	(200.00)
		Defendant UI Technologies		
		Total Financial Assessment		473.00
		Total Payments and Credits		473.00
		Balance Due as of 05/07/2013		0.00
06/06/2012	Transaction Assessment			473.00
06/06/2012	Wiznet	Receipt # 2012-71551-CCCLK	UI Technologies	(473.00)
		Defendant Uninet Imaging Inc		
		Total Financial Assessment		54.00
		Total Payments and Credits		54.00
		Balance Due as of 05/07/2013		0.00
07/02/2009	Transaction Assessment			30.00
07/02/2009	Payment (Window)	Receipt # 2009-35487-FAM	Kravitz Schnitzer & Sloane	(30.00)
06/15/2012	Transaction Assessment			24.00
06/15/2012	Wiznet	Receipt # 2012-76193-CCCLK	Uninet Imaging Inc	(24.00)
		Plaintiff Ira And Edythe Seaver Family Trust		
		Total Financial Assessment		455.00
		Total Payments and Credits		455.00
		Balance Due as of 05/07/2013		0.00
05/14/2010	Transaction Assessment			200.00
05/14/2010	Wiznet	Receipt # 2010-16705-CCCLK	Ira And Edythe Seaver Family Trust	(200.00)
05/15/2010	Transaction Assessment			200.00

05/15/2010	Wiznet	Receipt # 2010-16971-CCCLK	Ira And Edythe Seaver Family Trust	(200.00)
01/19/2012	Transaction Assessment			3.00
01/19/2012	Payment (Window)	Receipt # 2012-07720-CCCLK	Ira And Edythe Seaver Family Trust	(3.00)
06/20/2012	Transaction Assessment			20.00
06/20/2012	Payment (Window)	Receipt # 2012-77955-CCCLK	Cpttpm. Droggs. Walch, Holley, Woloson & Thompson	(20.00)
09/13/2012	Transaction Assessment			9.00
09/13/2012	Payment (Window)	Receipt # 2012-115026-CCCLK	COTTON, DRIGGS, WALCH	(9.00)
09/20/2012	Transaction Assessment			23.00
09/20/2012	Payment (Window)	Receipt # 2012-117826-CCCLK	Cotton, Driggs, Walch	(23.00)

EXHIBIT “B”

EXHIBIT “B”

ORIGINAL

Alvin D. Quinn

CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

IRA AND EDYTHE SEAVER
FAMILY TRUST, et al.

Plaintiffs

vs.

UI SUPPLIES, et al.

Defendants

And related cases and parties

CASE NO. A-587003

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON PLAINTIFFS' MOTION TO SET ASIDE

THURSDAY, APRIL 25, 2013

APPEARANCES:

FOR THE PLAINTIFFS:

JEFFREY R. ALBREGTS, ESQ.

FOR THE DEFENDANTS:

JEFFREY A. SILVESTRI, ESQ.
MICHAEL OAKES, ESQ.

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

RECEIVED

MAY 02 2013

CLERK OF THE COURT

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 25, 2013, 9:03 A.M.)

2 (Court was called to order)

3 THE COURT: Mr. Oakes, it's nice to see you back.

4 MR. OAKES: Good morning, Your Honor. Michael Oakes
5 on behalf of the Helfstein parties.

6 MR. ALBREGTS: Good morning, Your Honor. Jeff
7 Albregts on behalf of plaintiffs appearing with the Edie
8 Seaver.

9 THE COURT: Wimpy. Remember the one that was wimpy?

10 MR. ALBREGTS: Yes, Your Honor.

11 MR. SILVESTRI: Good morning, Your Honor. Jeff
12 Silvestri on behalf the Uninet defendants, UI Supplies, UI
13 Technologies, Nestor Saporiti.

14 THE COURT: All right. It's your motion.

15 MR. ALBREGTS: I don't have a lot to add to what's
16 been briefed, Your Honor. Basically what we're seeking -- and
17 I'm sorry if there's any confusion in that respect -- is the
18 evidentiary hearing the Court had previously contemplated on
19 the Helfstein on the Helfstein settlement whether my clients
20 were fraudulently induced into it prior to our settlements
21 with the Uninet defendants. And it's not a motion asking you
22 to try the whole case again, but to make the determination
23 that you were going to make before as to whether there was a
24 reason for doing so.

25 THE COURT: I understand. I remember what I was

1 doing.

2 MR. ALBREGTS: Very well, Your Honor. If you have
3 any questions, I'd be happy to answer them.

4 THE COURT: Then talk to me about your fallback
5 position, which is your offer to put the \$60,000 in the
6 depository of the clerk. That's your fallback position. It's
7 on page 8.

8 MR. ALBREGTS: Yes, Your Honor. I'm not sure
9 [unintelligible]. Well, yes, we would deposit \$60,000 with
10 the court clerk in order to --

11 THE COURT: Do you really want to put it with the
12 court clerk where nobody earns interest, or do you guys want
13 to put it in an interest-bearing blocked account that you'll
14 agree to?

15 MR. ALBREGTS: Interest-bearing blocked account, if
16 everyone would agree to it, would make more sense, I would
17 believe.

18 MR. OAKES: I want to put it back in my client's
19 account. But, frankly, I don't think we need to get there.

20 THE COURT: I understand that, Mr. Oakes.

21 MR. OAKES: You're kind of way ahead of me. You're
22 looking at me for an answer, and I don't want to concede that
23 that should happen.

24 THE COURT: Well, we're not there yet. But okay.

25 MR. ALBREGTS: I don't have anything else to add,

1 unless you have questions, Your Honor.

2 THE COURT: No. I'm way familiar with this case. I
3 even remember when Mr. Oakes was involved in it the first
4 time.

5 MR. ALBREGTS: Thank you, Your Honor.

6 MR. OAKES: Good morning, Mr. Oakes. Welcome back.

7 MR. OAKES: Hello, Your Honor.

8 Procedurally first. We hit on this in their brief,
9 but I think there's a new point that needs to be brought up.
10 60(b)(3) would -- if this motion is a motion under 60(b)(3),
11 it's untimely. And I don't think there's any doubt about
12 that.

13 THE COURT: I've never had a final judgment in this
14 case yet.

15 MR. OAKES: The judgment was finalized, the order or
16 proceeding was finalized as to my client when they were
17 dismissed from the case --

18 THE COURT: That's not final.

19 MR. OAKES: -- back in '09.

20 THE COURT: That's not final.

21 MR. OAKES: According to the settlement agreement,
22 that notice of voluntary dismissal was supposed to be with
23 prejudice.

24 THE COURT: But it can't be final, because the case
25 is going on. I understand what you're saying.

1 MR. OAKES: It's not final in the sense of appeal.
2 THE COURT: Correct.
3 MR. OAKES: But how would they appeal from their own
4 notice of voluntary dismissal?
5 THE COURT: You'd be surprised what people do.
6 MR. OAKES: Well, we believe that that was the
7 proceeding that triggered the running of the rule. We're
8 years out from that. And therefore any attempt to do this
9 under 60(b)(3) is untimely. Therefore, the only way to look
10 at it is if there was indeed fraud on the Court under the
11 broader 60(b) -- it's not broader, it's a more narrow standard
12 under 60(b), fraud upon the Court.
13 THE COURT: Just gives them more time.
14 MR. OAKES: Gives them more time, but it also
15 imposes a much more stringent standard that is nowhere close
16 to anything that happened in this case. According to --
17 THE COURT: Unfortunately, you weren't here for the
18 trial where your client testified and lots of unusual things
19 occurred.
20 MR. OAKES: I've read the findings, Your Honor, and
21 I understand you made credibility determinations concerning my
22 client that were not favorable to him. And I think that goes,
23 frankly, to the prejudice of having this motion heard by this
24 Court. And by no means am I suggesting any denigration of
25 Your Honor --

1 THE COURT: Oh, I understand, Mr. Oakes.

2 MR. OAKES: -- but my client was not represented by
3 counsel in any of the discovery, initiated no discovery, took
4 no depositions, participated in no --

5 THE COURT: But he was represented by counsel. You
6 were his lawyer. It's just because of the ruling you had from
7 the Nevada Supreme Court you did not participate in the
8 litigation.

9 MR. OAKES: Yeah. He was dismissed.

10 THE COURT: But he was represented by counsel. I
11 mean, he had counsel.

12 MR. OAKES: Well, he had counsel.

13 THE COURT: Plus he's trained as an attorney.

14 MR. OAKES: Your Honor, initiated no discovery
15 because not a party to the case, was dismissed from the
16 plaintiffs' claim, and the third-party claim was dismissed and
17 stayed. He was not participating as a party through any of
18 the discovery, did not send any interrogatories or written
19 requests, did not obtain an expert to respond to any of their
20 expert allegations.

21 What they're asking you to do here is, since you've
22 already tried the case and made negative findings against my
23 client as a witness at the time, to take those and somehow
24 apply those in a res judicata manner or some quasi res
25 judicata matter when he wasn't a party to the case, he was

1 dismissed.

2 So we bounced around a bit, but I want to go back to
3 the 60(b) standard. The standard was described in a case
4 where Lawrence Davidson absconded with clients' money. The
5 most widely accepted definition, which we adopt, holds that,
6 "The concept of fraud on the court embraces only that species
7 of fraud which does or attempts to subvert the integrity of
8 the court itself or is a fraud perpetrated by officers of the
9 court so that the judicial machinery cannot perform in the
10 usual manner. Relief should be denied in the absence of such
11 conduct."

12 What we're talking about here is my client was one
13 of two defendants, and he settled out his case for \$60,000 and
14 paid the money. Now they're saying, well, we continued to
15 audit him after that and we think he's -- we could have won
16 \$560,000 and therefore we were defrauded.

17 Your Honor, that's not the type of fraud that is
18 talked about under the 60(b) fraud upon the court standard.
19 They settled the case, they presented you with an affidavit of
20 counsel stating that he had investigated the case, the
21 strengths of weaknesses, for over 10 months. He also stated
22 in there that he had thought about all of the aspects
23 concerning ability to collect, ability to prevail, and had
24 made a determination that the settlement was a good and fair
25 settlement.

1 The settlement specifically excluded any oral
2 representations on the part of either party, and released all
3 of the claims and specifically the claim they're making now
4 that Mr. Helfstein absconded with money and proceeds from
5 Summit.

6 The allegations were contained in the complaint that
7 Helfstein manipulated the books and records of the company.
8 That's the allegation in their complaint in April of 2009 that
9 they investigated for over 10 months without settling. That's
10 paragraph 15 of the complaint.

11 The complaint also asked for and alleged in 21, "The
12 Helfstein defendants and Summit breached the operating
13 agreement by, among other things, self dealing with respect to
14 the assets and operations of the company." That was the
15 allegation of their complaint that they investigated for
16 10 months before settling and taking \$60,000.

17 The allegation also stated in 23 that the Helfstein
18 defendants acted with malice, they secretly and purposely
19 deprived them of contract benefits, and intentionally
20 exploited their property assets, relationship, and name for
21 their own benefit.

22 And one last point which is very significant, in
23 April of 2009 they alleged a seventh cause of action for an
24 accounting, stating that, "Summit and the Helfstein defendants
25 breached their fiduciary obligations by not operating and

1 managing Summit properly and by failing to properly account
2 for and report on its financial condition." That's what they
3 settled.

4 It then says, "As a result, a full and complete
5 accounting of its activities is required in order to ascertain
6 its true financial condition." That's paragraph 45 of the
7 complaint. That's what they settled.

8 I think I have never seen a situation where someone
9 sued for an accounting, settles their claims, gets a cash
10 payment, and then conducts discovery to internally conduct
11 that accounting themselves, come up with a number higher than
12 the settlement amount and then say they were defrauded. There
13 was no representation as to the financial condition of the
14 company, and all of those representations were excluded in the
15 settlement agreement. Furthermore -- as drafted by counsel
16 for the plaintiffs.

17 Furthermore, the settlement agreement specifically
18 stated that no one is relying on any representations of the
19 other party.

20 So, that being said, aside from the timeliness,
21 there is no fraud here, fraud in connection with the
22 settlement agreement. Settlement agreements are entered into
23 all of the time on fraud causes of action where you settle for
24 less than what you think you might have got. They are also
25 often reduced due to concerns over collectability,

1 particularly when there's no insurance policy involved.
2 There's no pocket to immediately go get money. Lots of
3 defendants that appear wealthy have spendthrift trusts.
4 Collecting on judgments is not an easy task.

5 There is every reason in the world why they took the
6 60,000 in the first place, and there's every reason in the
7 world now for you to refuse their efforts to set aside that
8 settlement agreement.

9 I would add also that it's early. We talked about
10 the need to restore consideration, and that's a fundamental
11 element in any rescission case. You've got to act promptly,
12 and you've got to restore the consideration. They were
13 already talking about maybe we have to set aside the
14 settlement agreement a mere six months after it happened. At
15 that point in time, frankly, other than their complaining that
16 they didn't get the declaration they wanted from Mr.
17 Helfstein, we don't know what the exact basis of their claim
18 was as to why they were entitled to revoke the agreement.

19 What we do --

20 THE COURT: Well, some of the things they said in
21 court was that Mr. Helfstein was not cooperating in accordance
22 with the terms of the settlement agreement. That was one of
23 the other things they said, and that he wasn't providing the
24 information that he had agreed to provide. So there were a
25 lot of issues related to Mr. Helfstein during the course of

1 the litigation. And I was disappointed that the Supreme Court
2 decided to essentially say, you didn't have to be part of the
3 litigation, which is why we are currently in this position.
4 If you'd been here on the third-party complaint, we wouldn't
5 be in this position, Mr. Oakes.

6 MR. OAKES: Your Honor, I'm hard pressed to concede
7 that I made an error by trying to invoke an arbitration and
8 forum -- choice of venue clause.

9 THE COURT: I understand what you're saying.

10 MR. OAKES: And I'm also --

11 THE COURT: But the long-term consequences of that
12 are that you weren't in the litigation when issues related to
13 your client --

14 MR. OAKES: My client settled, Your Honor. He was
15 out of the case. He had a document that says, the settlement
16 agreement would be given res judicata and collateral estoppel
17 effect.

18 THE COURT: Mr. Oakes, he was a third-party
19 defendant. And while it may be that the arbitration provision
20 was enforceable and your client tried -- chose to invoke that
21 provision, because you had duplicative forums of litigation
22 occurring -- and I don't know what happened between the Uninet
23 defendants and your client on the third-party complaint, but
24 because you had duplicative forums, you the potential for
25 conflicting rulings. Which is the situation we were

1 ultimately placed in here and which was why I had a motion to
2 amend the findings of fact and conclusions of law that was
3 filed I think by Mr. Silvestri -- no, by Mr. Lee.

4 MR. OAKES: There's no conflicting ruling relative
5 to my client, Your Honor. You found against the Uninet
6 defendants, as you had every right to do. Cases get tried
7 against one defendant when another gets let out all of the
8 time. What would be fundamentally unfair to my client --

9 THE COURT: Has your client resolved their claims
10 against the Uninet defendants?

11 MR. OAKES: To my knowledge, no. I think they were
12 awaiting the outcomes here.

13 THE COURT: Do you know if there's been an
14 assignment by the Uninet defendants of their claims against
15 your client?

16 MR. OAKES: I'm sorry?

17 THE COURT: Has there been an assignment of the
18 claims against your client by the Uninet defendants?

19 MR. OAKES: Claims against my client?

20 THE COURT: Uninet had claims against your client,
21 remember. That's how you got to be a third-party defendant.

22 MR. OAKES: Yes.

23 THE COURT: Have those claims been assigned, or do
24 you know?

25 MR. OAKES: Not to my knowledge.

1 THE COURT: Okay.

2 MR. OAKES: I have no knowledge of that. I don't
3 know.

4 THE COURT: Okay.

5 MR. OAKES: So going back to it, this proceeding
6 went forward at a time when my client was dismissed from the
7 plaintiffs' case and was not required to be here as a third-
8 party defendant because he wasn't subject to the jurisdiction
9 of the Court. And whether it was jurisdiction or actually it
10 was choice of law, choice of venue, an arbitration clause.

11 THE COURT: It was a forum.

12 MR. OAKES: So going to the laches -- and that goes
13 to the laches point. As of May 2010 they believed they had a
14 basis to rescind the settlement agreement. As of January of
15 2011 they filed a document which we contend had no effect
16 whatsoever other than to declare finally for the first time on
17 January 20, 2011, that they indeed now didn't want to threaten
18 rescinding the contract, but actually wanted to do it while
19 still retained the consideration, even then taking no steps to
20 bring my client back into the case so he could defend himself.

21 We believe that that is laches, that that is
22 prejudice, that my client could have and should have been
23 allowed to participate in the case if they were going to
24 proceed timely and actually seek to rescind the settlement
25 agreement. It should have been done no later than January

1 2011, and, frankly, if they thought they had a basis to do it
2 in May of 2010, they should have done that then.

3 Finally, there is a jurisdictional point, Your
4 Honor. And I don't know that today's the day to reach it, but
5 I'm going to bring it up, because I don't want to be viewed as
6 waiving it. The complaint was never answered by Madelyn or
7 Lou Helfstein, and the allegations that are now being made
8 have to do with things that were done, money taken from Summit
9 Corporation, a New York corporation, all of the wrongdoing
10 took place, if there was any, in New York, and we believe that
11 there would be jurisdictional arguments, as well, to preclude
12 this Court from hearing this case as to the Helfstein parties.
13 I don't know that now would be specifically the time to raise
14 them, but I'm bringing that up now because I want them on the
15 table so that they're not waived.

16 THE COURT: I appreciate that.

17 Mr. Silvestri, is there anything you want to say?

18 MR. SILVESTRI: Just briefly, Your Honor. As the
19 Court knows, my clients settled with the Seavers. You asked
20 that the -- about the litigation that Uninet and Summit has.
21 It's still ongoing in New York. My understanding was that
22 that was stayed pending resolution of the case here.

23 You asked if any claims had been assigned, any of
24 Uninet's claims have been assigned. They have not. However,
25 I will bring to the Court's attention, as I -- because you

1 might be hearing from me again very shortly, the settlement
2 agreement -- and I know you don't want to, but the settlement
3 agreement --

4 THE COURT: No. I always appreciate hearing from
5 you, Mr. Silvestri.

6 MR. SILVESTRI: Well, thank you.

7 The settlement agreement itself was supposed to be
8 confidential. It's got a big confidentiality statement in
9 there. I've brought a copy of it. I don't want to talk about
10 the agreement, because it is in itself confidential. But
11 Section 8 has a confidentiality agreement. It says that we're
12 not going to be talking about this, we're not going to be
13 talking about how much, when, details, whatever. The reply
14 brief talks about how much we settled for. It says a number,
15 much to my clients' dissatisfaction and disappointment, and my
16 client's very upset about it. I would have filed some kind of
17 motion. I didn't have time. I only got the reply brief a
18 couple days ago.

19 THE COURT: So you think the mention on page 5
20 should be redacted?

21 MR. SILVESTRI: Absolutely think the mention on
22 page 5 should be redacted.

23 THE COURT: Is that the only place it is?

24 MR. SILVESTRI: I believe. You know, it will
25 certainly limit the damage. As I've said, damage has been

1 done for reasons that I'm not really willing to talk about,
2 but --

3 THE COURT: Is it okay for me to strike the reply,
4 Mr. Albregts and for you to refile it without mentioning or
5 redacting the potentially confidential information?

6 MR. ALBREGTS: So stipulated.

7 But you did say we were going to discuss this after
8 court.

9 MR. SILVESTRI: Yes. And it came up because --

10 THE COURT: How about just for the -- I'm going to
11 strike the document called "Plaintiffs' Reply in Support of
12 Motion to Set Aside/Rescind Helfstein Settlement Agreement and
13 Proceed on Claims Against Them," because it inadvertently
14 includes confidential information.

15 MR. ALBREGTS: Thank you very much, Your Honor.

16 MR. SILVESTRI: There was no --

17 THE COURT: Mr. Albregts is then going to file a
18 redacted version of the document.

19 MR. ALBREGTS: Today, Your Honor, yes.

20 MR. SILVESTRI: I was not indicating --

21 THE COURT: Is that okay?

22 MR. SILVESTRI: Yes. I was not meaning to indicate
23 in any way that it was purposeful or deliberate or anything of
24 that nature. I wanted to raise it with the Court so that I
25 didn't have to file a motion, and --

1 THE COURT: I took care of it.
2 MR. SILVESTRI: I appreciate it.
3 As far as the -- whatever the ruling's going to be,
4 we have fully and finally settled all our claims. I just want
5 to make sure that whatever happens if this case goes forward
6 that nobody's going to be looking back at my clients.
7 THE COURT: When was the final judgment?
8 MR. SILVESTRI: You want my opinion on when the
9 final judgment was?
10 THE COURT: I want you to tell me, because I'm
11 looking through here trying to find what I would characterize
12 as a final judgment, and I don't see it.
13 MR. SILVESTRI: I will tell you what you told me the
14 final judgment was.
15 THE COURT: The findings of fact that I issued,
16 which aren't really a judgment.
17 MR. SILVESTRI: Well, when I asked because the issue
18 came up about was there a timely --
19 THE COURT: Motion --
20 MR. SILVESTRI: -- filing of motion to alter or
21 amend, my position at that time was it was timely because
22 there was no -- nothing called "judgment." And your ruling
23 back to me, although I'm not sure it was a formal ruling, but
24 your statement to me was, when those findings of fact and
25 conclusions of law came out that's the final judgment.

1 THE COURT: Somebody's supposed to enter the
2 judgment document. But that's my judgment.

3 MR. SILVESTRI: My position at the time was because
4 the judgment was never entered as a final judgment, which
5 typically you see when you get findings of fact, conclusions
6 of law, then you get somebody that lodges it as a final
7 judgment. That's what I was operating under. Your statement
8 to me at the time was I was incorrect and that your findings
9 of fact and conclusions of law were supposed to be considered
10 the final judgment.

11 THE COURT: Yep. But I never -- I still today don't
12 have a judgment.

13 MR. SILVESTRI: And we never -- we never created one
14 or lodged one, because we were working on the ruling that you
15 said that was it.

16 THE COURT: Well, and also we were working on the
17 fraud issue.

18 MR. SILVESTRI: There were several issues still
19 ongoing, but --

20 THE COURT: And an evidentiary hearing that I was
21 going to have --

22 MR. SILVESTRI: Correct.

23 THE COURT: -- related to those fraud issues.
24 Okay. Anything else?

25 MR. SILVESTRI: Not from me.

1 THE COURT: Anything else, Mr. Albregts?

2 MR. ALBREGTS: Your Honor, going backwards very
3 quickly, there was no satisfaction of judgment exchanged in
4 the settlement process. I don't think that would be
5 confidential, it'd be something filed with you. So I think
6 your instincts on that are correct.

7 As to jurisdiction, fraudulent procurement of
8 settlement agreement signed in this jurisdiction I think gets
9 to those arguments. If you want to address that later, I'd be
10 happy to brief it.

11 On the issues raised by Mr. Oakes, who, as always,
12 advocates extremely well for his clients, the way I view them,
13 Your Honor -- and this is one of the strangest, if not the
14 strangest, I've ever been in, but -- in terms of all the
15 elements involved, but it seems like it's a 12(b)(5) summary
16 judgment type analysis. And to get to those issues there's
17 genuine issues of fact as to whether indeed all of the things
18 that Mr. Oakes raises are the case. And all we're asking for
19 is not the trial, we're asking for the evidentiary hearing
20 that you were going to set before, the 60 days brief or
21 limited discovery subject to whatever limitations you want to
22 put on it to get to that issue. If you decide after that, no,
23 there's no basis for it, the arguments Mr. Oakes makes with
24 the settlement agreement are correct, I have no problem with
25 that. That's all.

1 And on the other issue, Your Honor, I see it your
2 way, too. I don't see any way how we -- in the Supreme
3 Court's decision my clients could have done anything after
4 2010, 2011 on that. And my recollection, not always as good
5 as Mr. Silvestri's was, the couple times I tried to do that
6 you said, Mr. Albregts, the Supreme Court's told us we
7 couldn't go there.

8 THE COURT: I don't have to agree with them. I just
9 have to do what they tell me to do.

10 MR. ALBREGTS: So that's my recollection. Thank you
11 for your patience and time, Your Honor.

12 THE COURT: Mr. Oakes.

13 MR. OAKES: Your Honor, there was never a stay of
14 anything directed to the plaintiff or what the plaintiff could
15 do.

16 THE COURT: No. I said you weren't part of the
17 case.

18 MR. OAKES: It says that there was a stay of the
19 third-party/cross-claims.

20 THE COURT: Right. You weren't part of the case.

21 MR. OAKES: And the reason I wasn't part of the case
22 was because the plaintiff had dismissed us. It was a twofold
23 reason we weren't a party to the case. The plaintiff
24 dismissed my client, the third-party claims were stayed, the
25 plaintiff had the ability to file this motion then. Nothing's

1 changed vis-a-vis the Supreme Court order. They had -- they
2 were never stopped by the Supreme Court order from taking
3 steps -- or from taking this very step way back as early as
4 the first day after the order was entered.

5 THE COURT: Anything else, Mr. Oakes?

6 MR. OAKES: No, Your Honor.

7 THE COURT: All right. The term "final" in
8 Rule 60(b) is similar to the term "final" for appellate
9 purposes. Based upon my review of the docket, there does not
10 appear to be a final order that exists. Although I issued
11 findings of fact and conclusions of law that awarded a sum
12 certain, unfortunately no judgment was ever entered related to
13 that which would then cause the time to begin to run for
14 purposes of the word "final."

15 As a result, I am going to evaluate this a mistake,
16 inadvertence, surprise, or excusable neglect for purposes of
17 making a determination as to whether the settlement agreement
18 should be set aside.

19 I'm going to set an evidentiary hearing to make a
20 determination as to whether the settlement agreement should be
21 set aside.

22 I am not making a finding that there was a fraud
23 upon the court, which is necessary for NRCP 60(b)(3) for that,
24 because I don't have a final judgment and I'll have to get
25 there. I'm not saying there wasn't fraud in the settlement

1 agreement. I'm saying I don't know because I haven't had the
2 evidentiary hearing yet.

3 So what do you want to do before an evidentiary
4 hearing besides go to Carson City, Mr. Oakes?

5 MR. OAKES: Go to Carson City, Your Honor.

6 THE COURT: Part of this order that the plaintiffs,
7 who received the \$60,000 in settlement funds, must deposit
8 those into a blocked, interest-bearing account that is agreed
9 to between Mr. Oakes and Mr. Albregts. If you'll submit an
10 order on that, we'll get the funds deposited so that the funds
11 are there if I determine the settlement agreement is in fact
12 set aside. Because I have not made that determination yet,
13 but I want the funds to be available in case I do make that
14 determination.

15 MR. ALBREGTS: Yes, Your Honor.

16 THE COURT: Any questions?

17 MR. ALBREGTS: You want me to prepare the order?

18 THE COURT: I want Mr. Albregts to prepare the
19 order. I want you to send it to both of them to look at.

20 MR. ALBREGTS: Yes, Your Honor.

21 THE COURT: And then I want you to prepare --

22 MR. ALBREGTS: Can you give me a couple days,
23 because I would like the minutes or the transcript, if that's
24 possible.

25 THE COURT: It's always possible.

1 MR. ALBREGTS: Yes, Your Honor.
2 THE COURT: You just have to ask politely.
3 MR. ALBREGTS: Oh, of course, Your Honor. I'll have
4 my assistant do it so that we're assured of that.
5 THE COURT: All right. So --
6 MR. OAKES: I do have questions, Your Honor.
7 THE COURT: This is what's going to happen. Mr.
8 Albregts is going to send you a copy of the draft order.
9 Hopefully it's not going to be too bad. I'm going to get it
10 entered. You're then going to decide if you're going to do
11 something and go to Carson City. If you go to Carson City,
12 then I'm going to probably entertain your motion for a stay
13 before I conduct the evidentiary hearing. The question is do
14 I then need to put the \$60,000 in the interest-bearing account
15 if you get a stay. And I'll address that at the time we get
16 there.
17 MR. OAKES: Okay, Your Honor.
18 MR. ALBREGTS: So --
19 THE COURT: Is that the plan you're planning to
20 follow, Mr. Oakes?
21 MR. OAKES: Pretty likely.
22 So you're saying that evidentiary hearing would be
23 under 60(b)(1)?
24 THE COURT: Well, and (2).
25 MR. OAKES: Okay. I mean, not that I'm stipulating.

1 I don't mean okay I'm stipulating. I understand.
2 THE COURT: Okay you understand what I said.
3 MR. OAKES: Yes.
4 THE COURT: All right.
5 MR. OAKES: Okay.
6 THE COURT: Anything else?
7 MR. ALBREGTS: Thank you, Your Honor.
8 THE CLERK: [Inaudible].
9 THE COURT: No, because he's going to ask for a
10 stay. I'm going to set a status check in two weeks on my
11 chambers calendar and make sure Mr. Oakes did what he said.
12 Otherwise, if he doesn't file a motion for stay, then I'll
13 figure out what we have to do before we have the evidentiary
14 hearing.
15 MR. ALBREGTS: Yes, Your Honor.
16 MR. OAKES: Thank you very much.
17 MR. ALBREGTS: Thank you, Your Honor.
18 THE COURT: Because sometimes people want to do
19 discovery before we do those kind of hearings, and I'm always
20 open to discussing that issue.
21 Mr. Silvestri, it was lovely to see you. Good luck
22 in your arguments next week.
23 MR. SILVESTRI: Thank you.
24 THE PROCEEDINGS CONCLUDED AT 9:30 A.M.
25 * * * * *

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146

Florence M. Hoyt
FLORENCE HOYT, TRANSCRIBER

4/30/13

DATE

EXHIBIT “C”

EXHIBIT “C”

AFFIDAVIT OF J. MICHAEL OAKES, ESQ.

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

J. MICHAEL OAKES, ESQ., being first duly sworn, deposes and states the following:

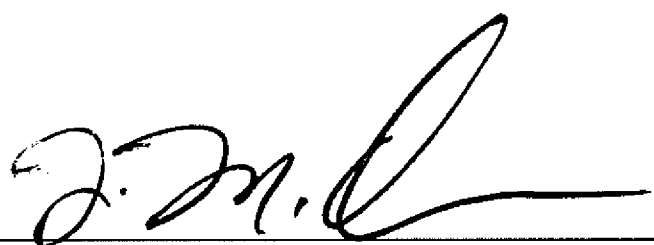
1. I have personal knowledge of the facts and statement set forth herein. I make this affidavit as counsel for Helfstein, in order to ensure compliance with the rules governing the filing of a Motion for Disqualification.

2. I hereby certify that this motion is being filed in good faith, and is not interposed for delay.

3. The grounds for this motion are based upon the statements made at the hearing of April 25, 2013, which are shown by the hearing transcript, attached to the motion as Exhibit "B".

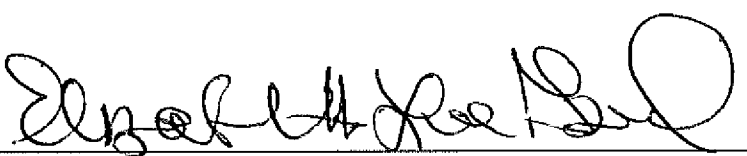
Further Your Affiant Saith Naught.

Dated this 9th day of May, 2013.



J. Michael Oakes, Esq.

SUBSCRIBED and SWORN to before me
this 9th day of May, 2013.



NOTARY PUBLIC in and for said
County and State

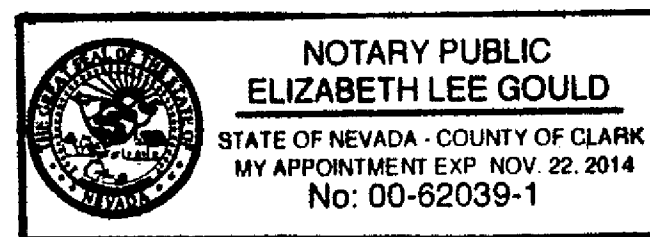
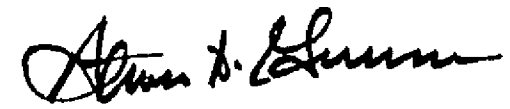


EXHIBIT “D”

EXHIBIT “D”



CLERK OF THE COURT

1 **OPPS**
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 (702) 384-2070 - office
8 (702) 384-2128 - facsimile
9 mike@foleyoakes.com
10 *Attorneys for Lewis Helfstein, Madalyn*
11 *Helfstein, Summit Laser Products, Inc.,*
12 *Summit Technologies, LLC*

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.

Case No. A-09-587003

Dept. No. XI

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.

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

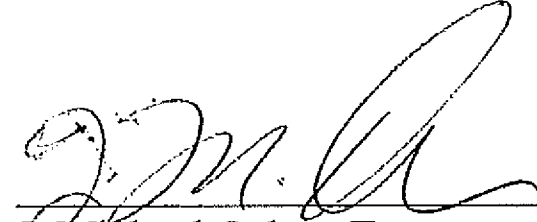
25 COMES NOW, Defendants Lewis Helfstein, Madalyn Helfstein, Summit Laser
26 Products, Inc., and Summit Technologies, LLC, by and through their attorneys Foley & Oakes,
27 PC, and hereby opposes Plaintiff's Ira and Edythe Seaver Family Trust, and Circle Consulting
28 Corporation's Motion to Set Aside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

FOLEY
&
OAKES

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 11th day of April, 2013.

6 FOLEY & OAKES, PC.

7
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

15 Helfstein, Summit Laser Products, Inc.,

16 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 II.

21 LEGAL ARGUMENT

22 A. The Motion is Time Barred

23 NRCP 60(b) provides as follows:

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."**¹

¹ 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.

29 This motion comes long after the 6 months for bringing a motion under NRCP 60(b) has
30 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.¹ 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 ¹ 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.¹
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 ¹ 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 2nd 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. 2nd 936 (C.A. 7th, 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
29 of resolving such issue."

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

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

34 The Plaintiffs have retained the \$60,000 in consideration that was paid to them by the
35 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
immediately return whatever of value he has received under it,
and then he may defend against an action for specific
performance . . . and he may recover back whatever he has
paid. . . . He cannot at the same time affirm the contract by
retaining its benefits and rescind it by repudiating its burdens.
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**
26
27
28

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.

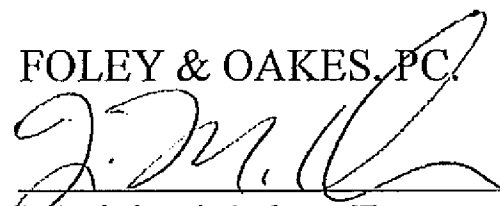
12 Alternatively, the Plaintiff has failed to establish fraud, has failed to return the consideration
13 paid by the Helfstein parties, and the relief requested is precluded by their unreasonable delay based
14 upon the equitable doctrine of laches.

15 The motion should be denied.

16 DATED this 11th 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 11th 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
10 follows:

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

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

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

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

18 Michael Lee, Esq.
19 Seth T. Floyd, Esq.
McDonald Carano Wilson LLP
2300 West Sahara Avenue, Suite 1000
20 Las Vegas, NV 89102
21 *Attorneys for Defendants*

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

23 
24 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.

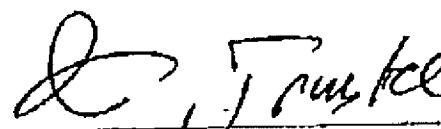
**BY SIGNING THIS SETTLEMENT/CONFIDENTIALITY AGREEMENT
AND MUTUAL RELEASE OF ALL CLAIMS
THE UNDERSIGNED ACKNOWLEDGE AND WARRANT:**

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

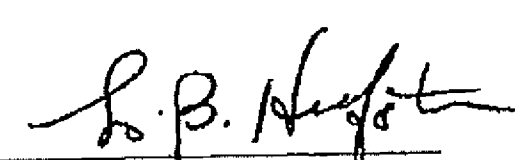
Read and signed on this 18
day of Feb, 2009.


IRA SEAVER

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


CIRCLE CONSULTING
CORPORATION

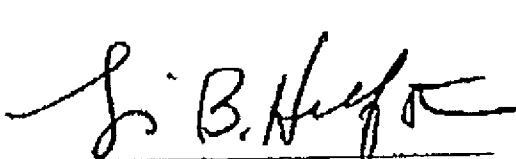
Read and signed on this 20th
day of November, 2009.


LEWIS HELFSTEIN

Read and signed on this 20th
day of November, 2009.


MADALYN HELFSTEIN

Read and signed on this 20th
day of November, 2009.


SUMMIT LASER
PRODUCTS, INC.

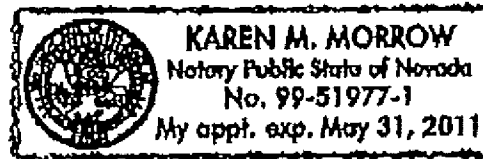
Read and signed on this 20th
day of November, 2009.


SUMMIT TECHNOLOGIES, LLC

STATE OF Nevada }
COUNTY OF Clark } ss.

On this 18th 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.

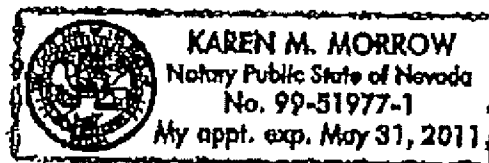
Karen M. Morrow
NOTARY PUBLIC



STATE OF Nevada }
COUNTY OF Clark } ss.

On this 18th 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

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. Driggs

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:

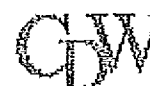
We want to take Helfstein's depo asap so please provide to us some dates for July. If we don't receive any we will just go ahead and notice him. We also will be requesting copies of all of his docs and files and maybe even his hard drives. This case is going to trial over the k at issue here b/c of his 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
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, WOLUSUN & THOMPSON

[click here for v-card](#)

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



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EXHIBIT “D”

EXHIBIT “D”

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

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

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

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

7 3. I dispute the contention that I misappropriated over \$500,000 from Summit
8 Technologies, LLC. During the post-closing period (after April 4, 2007) many customer
9 payments were sent to either UI Supplies or Summit Technologies. To the extent that these
10 payments were designated to the wrong entity, the CFO of UI Supplies set up two ledger
11 accounts to make the appropriate adjustments. The ledger account was labeled "Due LH" when
12 it should have been named "Due Summit Tech". Although the ledger account was labeled that
13 way, those funds were used to satisfy company debts. Furthermore, as shown by the 2007 tax
14 return, excerpts of which are attached hereto as Exhibit D-1, which Ira Seaver has had since
15 2008, the assets of the company were used to satisfy the remaining company obligations. The tax
16 return shows a decrease in the following categories of major tangible assets and liabilities:
17
18

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

4. Thus, the total reduction in assets was almost identical to the total reduction in liabilities.

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

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

DATED this 11th day of April, 2013.

L. Helfstein
Lewis Helfstein

EXHIBIT “D-1”

EXHIBIT “D-1”

Form 1065

Department of the Treasury
Internal Revenue ServiceU.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 11780D 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 returnH Check accounting method: (1) ☐ Cash (2) ☒ Accrual (3) ☐ Other (specify) _____

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year. _____

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.

INCOME	
1a	3,097,051.
1b	
1c	3,097,051.
2	2,138,445.
3	958,606.
4	
5	
6	-258,716.
7	
8	699,890.
9 354,236.	
10	
11 4,491.	
12 85,366.	
13 80,301.	
14 80,418.	
15 26,653.	
16a	
16b	
16c	
17	
18	
19	
20 SEE STATEMENT 1 249,558.	
21 881,023.	
22 -181,133.	

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

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 ☐ No

Preparer's SSN or PTIN

P00544604

Paid
Preparer's
Use OnlyPreparer's
signature

ROBERT L. BELLOTTI

Date

3-14-08

Check if self-
employed. ☐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

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

PTPA0105L 12/27/07

Form 1065 (2007)

PA000857

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

Schedule A Cost of Goods Sold (see the instructions)

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

c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970).....

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

1 What type of entity is filing this return? Check the applicable box:

- a ☐ Domestic general partnership b ☐ Domestic limited partnership
 c ☒ Domestic limited liability company d ☐ Domestic limited liability partnership
 e ☐ Foreign partnership f ☐ Other.....

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)

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)

Form 1065 (2007) SUMMIT TECHNOLOGIES, LLC 20-1478121		Total amount	
Schedule K Partners' Distributive Share Items		1	-181,133.
Income (Loss)	1 Ordinary business income (loss) (page 1, line 22)	2	
	2 Net rental real estate income (loss) (attach Form 8825)	3a	
	3a Other gross rental income (loss)	3b	
	b Expenses from other rental activities (attach stmt)	3c	
	c Other net rental income (loss). Subtract line 3b from line 3a	4	
	4 Guaranteed payments	5	
	5 Interest income	6a	
	6 Dividends: a Ordinary dividends	6b	
	b Qualified dividends	7	
	7 Royalties	8	
	8 Net short-term capital gain (loss) (attach Schedule D (Form 1065))	9a	150,000.
9a Net long-term capital gain (loss) (attach Schedule D (Form 1065))	9b		
b Collectibles (28%) gain (loss)	9c		
c Unrecaptured section 1250 gain (attach statement)	10	-112,588.	
10 Net section 1231 gain (loss) (attach Form 4797)	11		
11 Other income (loss) (see instructions) Type ▶	12		
Deductions	12 Section 179 deduction (attach Form 4562)	13a	
	13a Contributions	13b	
	b Investment interest expense	13c (2)	
	c Section 59(a)(2) expenditures: (1) Type ▶ (2) Amount. ▶	13d	
Self-Employment	d Other deductions (see instructions) Type ▶	14a	
	14a Net earnings (loss) from self-employment	14b	
	b Gross farming or fishing income	14c	
Credits	c Gross nonfarm income	15a	
	15a Low-income housing credit (section 42(j)(5))	15b	
	b Low-income housing credit (other)	15c	
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	15d	
	d Other rental real estate credits (see instructions) Type ▶	15e	
	e Other rental credits (see instructions) Type ▶	15f	
Foreign Transactions	f Other credits (see instructions) Type ▶	16a	
	16a Name of country or U.S. possession	16b	
	b Gross income from all sources	16c	
	c Gross income sourced at partner level	16d	
	Foreign gross income sourced at partnership level	16e	
	d Passive category ▶ e General category ▶ f Other	16f	
	Deductions allocated and apportioned at partner level	16g	
	g Interest expense ▶ h Other	16h	
	Deductions allocated and apportioned at partnership level to foreign source income	16i	
	i Passive category ▶ j General category ▶ k Other	16j	
l Total foreign taxes (check one): ▶ Paid <input type="checkbox"/> Accrued <input type="checkbox"/>	16k		
m Reduction in taxes available for credit (attach statement)	16l		
n Other foreign tax information (attach statement)	16m		
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	
Other Information	18a Tax-exempt interest income	18a	
	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							-50,303.
b Limited partners	-93,418.						

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

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		7 Other decreases (itemize)	
3 Net income (loss) per books	-50,362.		
4 Other increases (itemize)		8 Add lines 6 and 7	-71,295.
		9 Balance at end of year. Subtract line 8 from line 5	
5 Add lines 1 through 4	-71,295.		

► Attach to Form 1065.

Employer identification number

Name of partnership

20-1478121

SUMMIT TECHNOLOGIES, LLC

SUMMIT TECHNOLOGIES, LLC				
Part I:	Short-Term Capital Gains and Losses — Assets Held One Year or Less			

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

Schedule K, line 8 or 11				
Part II Long-Term Capital Gains and Losses – Assets Held More Than One Year				
	(a) Description of asset	(b) Date acquired	(c) Date sold	(d) Gain or loss
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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.

Schedule D (Form 1065) 200

Schedule D (Form 1065) 2007

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

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

2007Attachment
Sequence No. 27

Name(s) shown on return

Identifying number

20-1478121

SUMMIT TECHNOLOGIES, LLC

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						
4	Section 1231 gain from installment sales from Form 6252, line 26 or 37						
5	Section 1231 gain or (loss) from like-kind exchanges from Form 8824						
6	Gain, if any, from line 32, from other than casualty or theft						
7	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows: 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.						-112,588.
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)						
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)						

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					
12	Gain, if any, from line 7 or amount from line 8, if applicable					
13	Gain, if any, from line 31					
14	Net gain or (loss) from Form 4684, lines 31 and 38a					
15	Ordinary gain from installment sales from Form 6252, line 25 or 36					
16	Ordinary gain or (loss) from like-kind exchanges from Form 8824					
17	Combine lines 10 through 16					
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	\$ 1,360,347.	\$ 0.

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	\$ 93,439.

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

TRACEY K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
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