

EXHIBIT C

EXHIBIT C

1 **2540**

2 HOLLY S. PARKER, ESQ.
3 Nevada State Bar No: 10181
4 MARILEE BRETERNITZ, ESQ.
5 Nevada State Bar No. 12563
6 LAXALT & NOMURA, LTD.
7 9600 Gateway Drive
8 Reno, Nevada 89521
9 hparker@laxalt-nomura.com
mbreternitz@laxalt-nomura.com
Telephone: (775) 322-1170
Facsimile: (775) 322-1865
Attorneys for Defendant Alaska
Pacific Leasing Company

10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

11 IN AND FOR THE COUNTY OF WASHOE

12
13 MB AMERICA, INC., a Nevada
14 Corporation

15 Plaintiff

16 vs.

17 ALASKA PACIFIC LEASING COMPANY,
18 a Alaska business corporation; and DOES
19 1-THROUGH X, inclusive,

20 Defendants.

CASE NO: CV14-01229

DEPT. NO. 8

NOTICE OF ENTRY OF ORDER

21 TO: All Parties and their counsel.

22 PLEASE TAKE NOTICE that an Order granting Defendant Alaska Pacific Leasing
23 Company's Motion for Attorneys' Fees was filed on January 13, 2015, a copy of which is
24 attached hereto.

1 **AFFIRMATION PURSUANT TO NRS 239.B.030**

2 The preceding document does not contain the social security number of any person.

3 DATED this 21st day of January, 2015.

4 LAXALT & NOMURA, LTD.

5
6 

7 HOLLY S. PARKER, ESQ.

8 Nevada State Bar No: 10181

9 MARILEE BRETERNITZ, ESQ.

10 Nevada State Bar No. 12563

11 LAXALT & NOMURA, LTD.

12 9600 Gateway Drive

13 Reno, Nevada 89521

14

15

16 Telephone: (775) 322-1170

17 Facsimile: (775) 322-1865

18 Attorneys for Defendant Alaska

19 Pacific Leasing Company

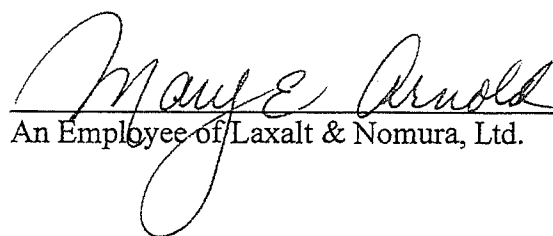
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of LAXALT & NOMURA, LTD., and that on the 21st day of January, 2015, I caused to be served a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER by:

- ☐ Mail on the parties listed below in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the Law Offices of Laxalt & Nomura, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.
- ☒ By electronic service under NEFCR 9, by filing the foregoing with the Clerk of Court using the E-Flex system, which will electronically mail the filing to the following individuals at the email addresses furnished by the registered users through the E-Flex system.
- ☐ Personal delivery by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.
- ☐ Facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.
- ☐ Federal Express or other overnight delivery.
- ☐ Reno/Carson Messenger Service

addressed as follows:

Michael E. Sullivan, Esq.
Robison Belaustegui, Sharp & Low
71 Washington Street
Reno, NV 89503
Attorneys for Plaintiff MB America, Inc.


An Employee of Laxalt & Nomura, Ltd.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

MB AMERICA, INC., a Nevada
corporation,

Case No. CV14-01229

Dept. No. 8

Plaintiff,

vs.

ALASKA PACIFIC LEASING
COMPANY, a Alaska business
corporation; and DOES I-X, inclusive,

Defendant.

ORDER

On October 22, 2014, this court entered an *Order* granting summary judgment, and dismissing this case without prejudice. Currently before the court is Defendant Alaska Pacific Leasing Company's ("Alaska Pacific") *Motion for Attorney Fees*. Plaintiff MB America, Inc., ("MB America") opposed the motion, and also filed a *Motion to Retax Costs*. This order follows.

Motion for Attorney Fees

NRS 18.010(1) provides that the "compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law." As a general rule, Nevada courts broadly enforce attorney's fees provisions in written agreements. *See Semenza v. Caughlin Crafted Homes*, 111 Nev. 1089, 901 P.2d 684 (1995).

1 In this case, the agreement between the parties provided that

2 If mediation between the parties does not result in a mutual satisfying
3 settlement within 180 days after submission to mediation, then each
4 party will have the right to enforce the obligations of this Agreement in
5 the court of law of Reno, Nevada with all reasonable attorney fees,
6 court costs and expenses incurred by the prevailing party in such
7 litigation to be paid by the other party.

8 Alaska Pacific contends that an award of fees is appropriate pursuant this
9 contractual language, because it successfully litigated a summary judgment motion
10 against MB America, causing the complaint to be dismissed without prejudice.
11 Among other arguments, MB America submits that any award of attorney fees
12 would be premature, as the parties have not actually litigated any underlying
13 dispute. Rather, because this court dismissed MB America's complaint for the
14 purpose of allowing the parties to first submit their dispute to mediation, MB
15 America argues that there has been no actual change in legal relationship between
16 the parties, indicating that Alaska Pacific not "prevailing party" as contemplated by
17 the parties' agreement.

18 Despite MB America's argument that the dispute between the parties
19 remains ongoing, this particular legal action has ended. Further, because the court
20 has granted Alaska Pacific's motion to dismiss, they are clearly a prevailing party
21 at this juncture. *See Semenza*, 111 Nev. at 1096, 901 P.2d at 688. Accordingly, the
22 court concludes that pursuant to the agreement between the parties, Alaska Pacific
23 is entitled to an award of attorney fees.¹

24 Nonetheless, when determining the amount of any fee award, the court notes
25 that any award must be reasonable in light of the quality of the attorney, the
26 character of the case, the work actually performed, and the result achieved. *See*
27 *Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 192 P.3d 730 (2008)
28 (citing *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969)).

Alaska Pacific asserts that its counsel have spent in excess of sixty attorney
hours defending this case, and has requested a fee award in the amount of

1 \$19,315.00. This case consisted of a single motion for summary judgment, on the
2 basis that the parties had failed to exhaust their contractual administrative
3 remedies. The summary judgment motion was ten pages long, and does not contain
4 any extensive legal research. Accordingly, given the factors set forth in *Brunzell*,
5 the court cannot conclude that the requested fees are reasonable. While counsel in
6 this case are eminently qualified, in light of the character of this case, as well as the
7 work actually performed, the court finds an award of \$5,000.00 to be reasonable.
8 Therefore, the court awards Alaska Pacific attorney's fees in the amount of
9 \$5,000.00.

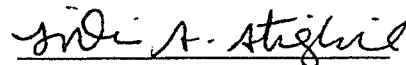
10 *Motion to Retax Costs*

11 In addition to an award of attorney fees, Alaska Pacific requests costs in the
12 amount of \$649.75. This includes \$72.35 in photocopying, and \$160.55 in legal
13 research fees. MB America contends that the fees for photocopying and legal
14 research are excessive. This court disagrees. Alaska Pacific has provided the
15 research invoices from Lexis Nexis, as well as documentation related to the dates
16 and numbers of photocopies made. The court does not find these charges to be
17 unreasonable. Accordingly, the court awards Alaska Pacific costs in the amount of
18 \$649.75. See NRS 18.020.

19 Therefore, for the reasons stated above, the court ORDERS Alaska Pacific's
20 *Motion for Attorneys' Fees* GRANTED. The court further ORDERS MB America's
21 *Motion to Retax Costs* DENIED. The court AWARDS Alaska Pacific attorney's fees
22 and costs in the amount of \$5,649.75.

23 IT IS SO ORDERED.

24 DATED this 13th day of January, 2015.

25
26 
27 LIDIA S. STIGLICH
28 District Judge

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13th day of January, 2015, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Holly Parker, Esq.

Michael Sullivan, Esq.

Marilee Breternitz, Esq.

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:


CHRISTINE KUHL
Judicial Assistant

EXHIBIT B

EXHIBIT B

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

MB AMERICA, INC., a Nevada
corporation,

Case No. CV14-01229

Dept. No. 8

Plaintiff,

vs.

ALASKA PACIFIC LEASING
COMPANY, a Alaska business
corporation; and DOES I-X, inclusive,

Defendant.

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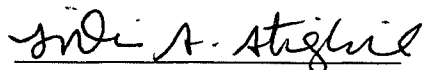
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23 **IT IS SO ORDERED.**

24 **DATED** this 13th day of January, 2015.

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27 LIDIA S. STIGLICH
28 District Judge

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13th day of January, 2015, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

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Michael Sullivan, Esq.

Marilee Breternitz, Esq.

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:


CHRISTINE KUHL
Judicial Assistant

EXHIBIT A

EXHIBIT A

1 **\$1425**

2 Michael E. Sullivan, Esq. (SBN 5142)
3 **ROBISON, BELAUSTEGUI, SHARP & LOW**
4 A Professional Corporation
5 71 Washington Street
6 Reno, Nevada 89503
7 Telephone: (775) 329-3151
8 *Attorneys for Plaintiff MB America, Inc.*

9
10 **IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF WASHOE**
12

13 MB AMERICA, INC., a Nevada
14 corporation,

Case No.: CV14-01229

15 Plaintiff,

Dept. No.: 8

16 v.

**COMPLAINT FOR DECLARATORY
RELIEF**

17 ALASKA PACIFIC LEASING COMPANY,
18 a Alaska business corporation; and DOES
19 I through X, inclusive,

**(Exemption From Arbitration NAR 3
Declaratory Relief Sought)**

20 Defendants.
21 _____/

22 For its Complaint, Plaintiff alleges as follows:

23 **PARTIES**

24 1. Plaintiff MB AMERICA, INC. ("Plaintiff") is a Nevada corporation licensed
25 to conduct business in the State of Nevada.

26 2. Defendant ALASKA PACIFIC LEASING COMPANY ("Defendant") is an
27 Alaska business corporation.

28 3. DOES I through X, inclusive, are fictitious names of Defendants who are
the agents representative and/or employees of the named Defendant who are equally
responsible for MB America's claims as alleged herein, in either a representative
capacity or by virtue of independent actions or omissions. When the true names and
identities of these DOE Defendants are ascertained, Plaintiff will seek leave to amend
this Complaint to insert their true names and identities.

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FACTUAL ALLEGATIONS

4. Plaintiff is a Nevada corporation headquartered in Reno, Nevada. Plaintiff is in the business of selling rock crushing machines, primarily for commercial purposes.

5. On information and belief, Defendant is an Alaska business based out of Anchorage, Alaska.

6. In or about August 2012, Plaintiff and Defendant entered into an agreement ("Agreement") whereby Defendant agreed to become a dealer for Plaintiff's line of products. Attached, as Exhibit "1", is a true and correct copy of the Agreement.

7. On or about December 16, 2013, Plaintiff terminated the Agreement.

8. Defendant purchased products from Plaintiff and Defendant has complained without legal justification that it wants to rescind the purchase.

9. Nevada is the proper jurisdiction for any controversy of any type. Defendant will not comply with ¶13 of the Agreement; accordingly, Plaintiff seeks court-ordered mediation.

10. A factual and legal dispute currently exists between the parties as to the terms and conditions of the parties' Agreement. Accordingly, it has been necessary for Plaintiff to file the instant declaratory relief action seeking the rights and obligations of the parties to this contract.

FIRST CLAIM FOR RELIEF

(Declaratory Relief Against All Defendants)

11. Plaintiff incorporates the allegations contained in paragraphs 1 through 10 of this Complaint as though set forth fully herein.

12. A dispute currently exists as to whether Plaintiff has met all of its obligations under the terms of its Agreement contract with Defendant. Plaintiff is seeking a declaration from this Court that **Exhibit '1'** is a legally binding and enforceable contract with Defendant, and further that Plaintiff has not breached any obligation under its contract as claimed by Defendant. Accordingly, Plaintiff is seeking a

1 declaratory judgment from this Court pursuant to NRCP 57 and NRS Chapter 30 that
2 the Agreement is valid and binding on all parties to this action, and that Defendant is not
3 entitled to any relief as is claimed by Defendant.

4 13. Plaintiff has incurred legal fees and court costs associated with
5 prosecuting this action, and hereby seeks reimbursement of those costs and fees to the
6 extent allowed under Nevada law.

7 14. Venue and jurisdiction is proper in Nevada as there is a forum selection
8 clause found in the Agreement (attached here as **Exhibit "1."**) Additionally, and on
9 separate grounds, this contract was consummated in the State of Nevada, and
10 Defendant obtained the goods and services set forth in the contract in the State of
11 Nevada.

12 **SECOND CLAIM FOR RELIEF**

13 **(Specific Performance)**

14 15. Plaintiff incorporates the allegations contained in paragraphs 1 through 14
15 of this Complaint as though set forth fully herein.

16 16. Plaintiff requests this Court to order the parties to mediation as set forth in
17 the parties' Agreement.

18 WHEREFORE, Plaintiff prays for relief as follows:

19 1. For declaratory relief in the form of an order and judgment by this Court
20 finding that the Agreement is valid and enforceable, and that Plaintiff has met its
21 obligation under the terms of its Agreement, and that Defendant is not entitled to any
22 recovery under the Agreement or Nevada or Alaska law, along with any other provision
23 in said contract.

24 2. That Plaintiff be entitled to recover its costs and reasonable attorney's
25 fees incurred herein;

26 3. That this matter be referred to mediation in Nevada; and
27

28 **///**

4. For such other and further relief as the Court deems proper.

AFFIRMATION: The undersigned does hereby affirm that this document does not contain the Social Security Number of any person.

DATED this 04th day of June, 2014.

ROBISON, BELAUSTEGUI, SHARP & LOW
A Professional Corporation
71 Washington Street
Reno, Nevada 89503

By: M. E. Sullivan
MICHAEL E. SULLIVAN, ESQ.
Attorneys for Plaintiff MB America, Inc.

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INDEX OF EXHIBITS

1. Agreement dated August 20, 2013.....4 pages

EXHIBIT 1

EXHIBIT 1



THE CRUSHING EVOLUTION

MB America, Inc.
8730 Technology Way
Reno, NV 89521
Phone 775-853-1058 - Fax 775-682-4302

www.mbamerica.com

Agreement

This Agreement is made as of the 1 day of August in the year of 2012, by and between "MB America, Inc.", a corporation incorporated under the laws of the state of Nevada, represented by Miriano Ravazzolo who has the necessary powers ("MB"), and "Alaska Pacific Leasing" a corporation incorporated under the laws of the state of Alaska, represented by Mr. David Faulk who has the necessary powers ("Dealer"), and to be administered as follows:

1. **APPOINTMENT AND ACCEPTANCE.** MB appoints Dealer as its exclusive reseller to promote the sale of the Products and Services as defined in paragraph 2 herein, and Dealer accepts the appointment and agrees to promote the sale of MB's Products as defined by this Agreement.
2. **PRODUCTS AND AREA.** The products covered by this Agreement (Products) are "crushing attachments", "screening attachments" and any other product and service manufactured and/or sold by the company "MB SpA" of Breganze, Italy ("Manufacturer") under its own brand name at the date of this agreement. Any new standard or custom Product developed or added by Manufacturer during the lifetime of this Agreement is not automatically included in the Agreement, but has to be agreed upon each time. The Area covered in this agreement is as specified in the Annex A, part I, of this Agreement.
3. **PRICES.** Dealer will purchase the Products at the prices specified in the current Price List, minus the dealer discount, and with the payment terms, as specified in the Annex A, part III, of this Agreement. Unless specifically agreed time by time, the prices are for material picked up by Dealer at one of our warehouses in the US, and do not include any transport or any other accessory cost.

The Price List, discounts and terms can be changed by MB at any moment with an advanced notice of 30 days; however, existing orders and/or proposals will be carried over at the conditions existing at the moment of their acceptance.
4. **WARRANTY AND SERVICE.** The warranty and service terms will be as defined in the Annex C. In any case, Dealer will communicate to MB the date of sale and the name and address of the purchasing entity for every Product sold, within 30 days from the sale; as well as the date of first use for Products that are used for rentals or demonstrations. Failure to do so will void any warranty on the Product, constitute significant breach of the Agreement.
5. **SALES OUTSIDE TERRITORY.** We discourage you selling New Products outside the Territory. Should you do so, you will be assessed a "servicing fee" of twenty percent (20%) of the discounted price of such New Product. The servicing fee, less an administrative assessment of 3%, will be paid to the dealer in whose Territory you sold the New Product, to compensate that dealer for providing support and for any advertising and effort spent in promoting interest in the Product. New Product for the purpose of this paragraph is product in service less than one year, except if sold at auctions.

Bucket Crushers Worldwide



6. **RELATIONSHIP AND CONDUCT OF BUSINESS.** Dealer shall use its best efforts to promote the sale of and solicit orders for the Products and services, and will conduct all its business in its own name and in such a manner as it may see fit, pay all its own expenses including all commissions, salaries, bonuses, and expenses of its own employees and sales persons and any and all taxes properly and lawfully associated with doing business as an independent entity in the assigned territory.

MB shall furnish Dealer, at no expense to Dealer, with catalogs, literature, and any other material available for the proper promotion and solicitation of orders for the Products in the assigned territory. MB can contribute to the marketing activities of Dealer, as advertising, exhibitions and the like, on a time-by-time base or as result of separate agreements.

MB can participate, at its own expense and decision, to exhibitions, conventions or conferences in any area of the country, and Dealer is not obliged to participate or contribute to said events.

Dealer shall abide by MB's terms and conditions pertaining to the sale of the Products and services, their operations, and their warranty (if any), and shall communicate same to customers. Dealer shall hold MB harmless from and shall indemnify MB for all liability, loss, costs, expenses or damages, including court costs and reasonable attorneys' fees, caused by any misrepresentation made by Dealer or its employees concerning MB's products or services.

Dealer is directly initiating and maintaining the relationship with its customer and will cooperate with the MB to solve possible disputes arising in connection with the Product.

Dealer is an independent entity and shall have sole control of the means of performing under this Agreement. Nothing in this Agreement shall be construed to constitute Dealer as a partner or employee of MB nor shall either have any authority to bind the other in any respect.

7. **BRAND PROTECTION.** Every Product sold to a final user will have to carry all the original logos, branding, identification numbers and serials as supplied by Manufacturer. Dealer will not alter, modify or hide the brand name or logos in any way. Proposals, quotes and invoices to the final users will have to clearly specify the Manufacturer's brand name.

Dealer can produce its own promotional material and/or advertising about the Product. However every document or photo will have to clearly indicate Manufacturer brand and logo, and the drafts of said promotional material or advertising will have to be submitted to MB for approval before printing and/or producing. MB has the faculty to deny the approval within 5 days from the date of receiving the drafts, at its own discretion.

8. **TERM OF AGREEMENT AND TERMINATION.** This Agreement shall be effective on the date listed on page 1 and shall continue in force for an initial term of 1 year.

This Agreement may be terminated by either party:

- (a) By written agreement mutually agreed upon to be terminated at any time; or
- (b) (But not effective during the initial term of the Agreement), for no cause upon at least 90 days' prior written notice to the other party;
- (c) By both parties in case of breach of this agreement, with 30 days written notice.
- (d) After 30 days' written notice if either party has filed or has filed against it a petition in bankruptcy (which is not dismissed within 30 days after it is filed) or after 30 days' written notice if either party has other cause.

9. **RIGHTS UPON TERMINATION.** Upon termination of this Agreement any current order will be carried on as scheduled. MB will however have the option to request a different payment term for

Bucket Crushers Worldwide



any order placed by Dealer from the moment of the notice of termination.

10. **ENTIRE AGREEMENT; MODIFICATION.** This Agreement contains the entire understanding of the parties, shall supersede any other oral or written agreements, and shall be binding upon successors and assigns. It may not be modified in any way without the written consent of an officer or owner of both parties.

11. **SURVIVABILITY OF AGREEMENT; HIERARCHY.** If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. In case that any provision or part thereof in Annex A or Annex C would be considered contrasting with any provision or part in this Agreement, the provisions in Annex A or Annex C will prevail.

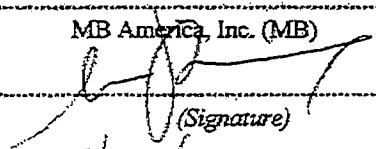
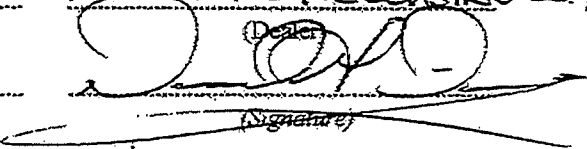
12. **APPLICABLE LAW - WAIVER.** This Agreement shall be construed according to the laws of the State of Nevada. The failure of either party to enforce, at any time or for any period of time, any provisions of this Agreement shall not be construed as a waiver of such provision or of the right of such party thereafter to enforce such provision.

13. **DISPUTES AND MEDIATION.** The parties agree that any disputes or questions arising hereunder, including the construction or application of this Agreement shall be submitted to mediation between MB and Dealer with the rules of the American Arbitration Association, of which any hearing or meeting should be conducted in Reno, NV. Any mediation settlement by the parties shall be documented in writing. If such mediation settlement modifies the language of this Agreement, the modification shall be put in writing, signed by both parties and added to this Agreement as an attachment.

If mediation between the parties does not result in a mutual satisfying settlement within 180 days after submission to mediation, then each party will have the right to enforce the obligations of this Agreement in the court of law of Reno, Nevada with all reasonable attorney fees, court costs and expenses incurred by the prevailing party in such litigation to be paid by the other party.

14. **NOTICES.** All notices, demands or other communications by either party to the other shall be in writing and shall be effective upon personal delivery, or 72 hours after deposited in the United States mail, first class certified postage prepaid, or by email.

IN WITNESS WHEREOF, the officers or owners of both parties hereto have executed this Agreement to be effective on the day and year listed on page one of this Agreement written in multiple counterparts, each of which shall be considered an original.

MB America, Inc. (MB)	ALASKA PACIFIC LEASING CO., INC.
	
(Signature)	(Signature)
8/20/2012	AUGUST 17, 2012

MB America, Inc
Dealer Agreement with
Alaska Pacific Leasing
9191 Old Seward Highway Unit #15
Anchorage, Alaska, 99515

Annex A

Part I – Territory

The territory will be the States of **Alaska**.

Part II - Sales Objectives:

After 120 days from the execution of this Agreement, MB will submit to Dealer a Target Sales Objective for the remaining time of the agreement, which will consider the market situation and the potentials of the line.

Part III - Discount and Payments:

The discount reserved is **36%** (thirty-six percent) on the current price list and its modifications. Dealer will pay the shipping costs from one of our warehouses to his premises.

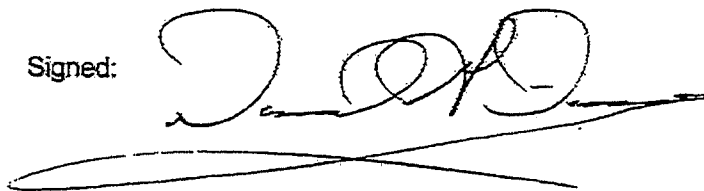
The payments will be by check or wire transfer as follows:

- 10% at the order
- final amount, including transport and any other costs, before shipping.

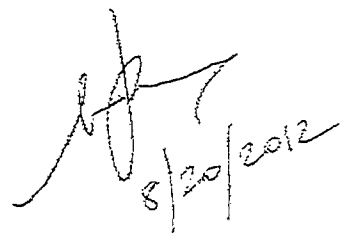
MB America will establish a maximum credit line with Dealer, which will not be exceeded at any moment.

Any delay in the payment will allow MB America to request and charge the payment of compounded interests of 1.5% monthly.

Signed:



Date: **AUGUST 17, 2012**



8/20/2012

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

MB AMERICA, INC., A NEVADA
CORPORATION,
Appellant,

vs.

ALASKA PACIFIC LEASING COMPANY, A
ALASKA BUSINESS CORPORATION,
Respondent.

No. 67329

Electronically Filed
Feb 11 2015 03:40 p.m.

Tracie K. Lindeman
Clerk of Supreme Court
DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Second Department Eight (8)
County Washoe Judge Stiglich
District Ct. Case No. CV14-01229

2. Attorney filing this docketing statement:

Attorney Michael E. Sullivan Telephone (775) 329-3151
Firm Robison, Belaustegui, Sharp & Low
Address 71 Washington Street
Reno, Nevada 89503

Client(s) MB America, Inc.

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Holly S. Parker Telephone (775) 322-1170
Firm Laxalt & Nomura, Ltd.
Address 9600 Gateway Drive
Reno, Nevada 89521

Client(s) Alaska Pacific Leasing Company

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|-------------------------------------------------------------|-------------------------------------------------------------------------|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

MB America, Inc., Appellant, vs. Alaska Business Leasing Company, Respondent
Case No. 66860

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

N/A

8. Nature of the action. Briefly describe the nature of the action and the result below:

The substantive summary judgment order in this case has been appealed, and is the subject of pending Nevada Supreme Court Appeal No. 66860. This current appeal concerns the district court's order awarding attorney fees and costs to respondent.

9. Issues on appeal. State specifically all issues in this appeal (attach separate sheets as necessary):

Whether the district court abused its discretion in awarding attorney fees and costs to respondent?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Aside from the substantive related appeal, Nevada Supreme Court Appeal No. 66860, there are no other known pending appeals raising same or similar issues.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? N/A

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from January 13, 2015

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served January 21, 2015

Was service by:

☐ Delivery

☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed January 26, 2015

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---------------------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
The district court's award of attorney fees is an appealable final judgment.

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiff: MB America, Inc.

Defendant: Alaska Pacific Leasing Company

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Appellant: (1) Declaratory Relief; (2) Specific Performance.

These claims were resolved on October 22, 2014, with the district court's entry of summary judgment. That order is the subject of Nevada Supreme Court Appeal No. 66860. This appeal concerns the district court's order awarding attorney fees to respondents on January 13, 2015.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

There are no pending claims remaining below. This appeal concerns a collateral order awarding attorney fees that was entered after all substantive claims pertaining to all parties were already disposed of on summary judgment. The order resolving the substantive claims is the subject of Nevada Supreme Court Appeal No. 66860.

(b) Specify the parties remaining below:

There are no parties remaining below. This appeal concerns a collateral order awarding attorney fees that was entered after all substantive claims pertaining to all parties were already disposed of on summary judgment. The order resolving the substantive claims is the subject of Nevada Supreme Court Appeal No. 66860.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

There are no substantive claims remaining below; thus, no such determination was needed even though this current order being appealed did not resolve any claims. This appeal concerns a collateral order awarding attorney fees that was entered after all substantive claims pertaining to all parties were already disposed of on summary judgment. The order resolving the substantive claims is the subject of Nevada Supreme Court Appeal No. 66860.

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION


I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

MB America, Inc.
Name of appellant

February 11, 2015
Date

Nevada, Washoe
State and county where signed

Michael E. Sullivan
Name of counsel of record


Signature of counsel of record


CERTIFICATE OF SERVICE

I certify that on the 11th day of February, 2015, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Holly S. Parker, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521

Dated this 11th day of February, 2015


Signature

MB AMERICA, INC. v. ALASKA PACIFIC LEASING COMPANY

INDEX OF EXHIBITS TO DOCKETING STATEMENT

26. File-stamped copies of the following documents:

Exhibit "A" Complaint, filed June 6, 2014

Exhibit "B" Order, filed January 13, 2015

Exhibit "C" Notice of Entry of Order, filed January 21, 2015