

1 IN THE
2 SUPREME COURT OF THE STATE OF NEVADA

3 ESTATE OF MICHAEL DAVID
4 ADAMS, BY AND THROUGH HIS
5 MOTHER JUDITH ADAMS,
6 INDIVIDUALLY AND ON BEHALF
7 OF THE ESTATE,

8 Appellant,

9 v.

10 SUSAN FALLINI,

11 Respondent.

Supreme Court No.: 68033
District Court Case No.: CV24539
Electronically Filed
Feb 11 2016 09:40 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

12 **APPELLANT'S APPENDIX, VOLUME II**

13 **(Bates Nos. 0204-0359)**

14
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APPELLANT’S APPENDIX

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CLERK OF COUNTY

1 APP
John P. Aldrich, Esq.
2 Nevada State Bar No. 6877
ALDRICH LAW FIRM, LTD.
3 1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146
4 (702) 853-5490
Attorneys for Plaintiff
5

6 THE FIFTH JUDICIAL DISTRICT COURT
7 THE STATE OF NEVADA
COUNTY OF NYE

8 Estate of MICHAEL DAVID ADAMS, by and
9 through his mother JUDITH ADAMS,
individually and on behalf of the Estate,

Case No.: CV24539

Dept. No.: 2P

10 Plaintiff,

11 v.

12 SUSAN FALLINI, ; DOES I-X, and ROE
13 CORPORATIONS I-X, inclusive,

14 Defendants.
15

16 SUSAN FALLINI,

17 Counterclaimant,

18 vs.

19 Estate of MICHAEL DAVID ADAMS, by and
20 through his mother JUDITH ADAMS,
individually and on behalf of the Estate

21 Counterdefendants.
22

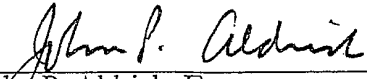
23 APPLICATION FOR DEFAULT JUDGMENT AGAINST DEFENDANT SUSAN FALLINI

24 Plaintiff JUDITH ADAMS, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF
25 MICHAEL DAVID ADAMS, by and through her attorney of record, John P. Aldrich, of Aldrich Law
26 Firm Ltd., hereby applies for an Order granting Default Judgment against the Defendant SUSAN
27

1 FALLINI. The Application is based upon the attached memorandum of Points and Authorities, the
2 attached exhibits, and any testimony the Court will accept at the hearing on this matter.

3 DATED this 21st day of June, 2010.

4 ALDRICH LAW FIRM, LTD.

5
6 
7 John P. Aldrich, Esq.
8 Nevada Bar No.: 6877
9 1601 S. Rainbow Blvd., Suite 160
10 Las Vegas, Nevada 89146
11 (702) 853-5490
12 Attorney for Plaintiff

13 NOTICE OF MOTION

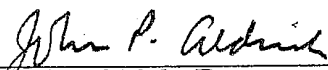
14 TO: Defendant Susan Fallini;

15 TO: Harold Kuehn, attorney for Defendant.

16 PLEASE TAKE NOTICE that the undersigned will bring an Application for Default Judgment
17 for hearing before the above entitled Court on the 19th day of July, 2010, at the hour
18 of 9:00 A.m. or as soon thereafter as counsel may be heard.

19 DATED this 21st day of June, 2010.

20 ALDRICH LAW FIRM, LTD.

21 
22 John P. Aldrich, Esq.
23 Nevada Bar No.: 6877
24 1601 S. Rainbow Blvd., Suite 160
25 Las Vegas, Nevada 89146
26 (702) 853-5490
27 Attorney for Plaintiff

1 MEMORANDUM OF POINTS AND AUTHORITY

2 I.

3 STATEMENT OF FACTS

4 The Subject Incident

5 Michael David Adams was born on May 10, 1972. He was the only child of the marriage between
6 Judith and Tony Adams. Michael was an extremely loving child, and grew into an extremely loving man.
7 Michael worked as staff geologist for Southern California Geotechnical Inc., making approximately
8 \$45,000.00 per year plus benefits.

9 On July 7, 2005 around 9:00 p.m., Michael was lawfully driving his 1994 Jeep Wrangler on SR
10 375 highway in Nye County, Nevada. At that time and place, a Hereford cow suddenly appeared in
11 Michael's travel lane, blocking his path. Although Michael was driving at a lawful rate of speed, it was
12 not possible for him to avoid colliding with the cow and he hit it head-on. Michael's Jeep rolled over
13 and left the paved highway. Sadly, Michael died at the scene.

14 Defendant was the owner of the cow which was in Michael's travel lane and caused his death.
15 The cow was many miles away from the owner's ranch at the time of the incident. Further, the defendant
16 had taken no precautions to keep the cow from the highway where the collision occurred, including
17 failing to put a florescent tag on the cow so it would be visible at night. As a direct and proximate result
18 of Defendant's negligence, Michael was killed.

19 Procedural History

20 On or about **November 29, 2006**, Plaintiff filed a lawsuit in Clark County, Nevada. Defendant
21 SUSAN FALLINI was duly served with a copy of the Summons and Complaint on **March 1, 2007**, and
22 an Answer and Counterclaim (seeking to recover the value of the cow) were filed on **March 14, 2007**.
23 The case was later transferred to Pahrump, Nye County, Nevada.

24 On **October 31, 2007**, Plaintiff submitted interrogatories to Fallini. Those interrogatories were
25 never answered. Adams also submitted requests for admissions and its first set of requests for production
26 of documents on October 31, 2007. Pursuant to Requests for Admission that Defendant never answered,
27 Defendant admitted the following:

- 1 1. That Defendant's property is not located within "open range."
- 2 2. That Defendant is the owner of the cow that is mentioned in the Complaint on file herein.
- 3 3. That it is the common practice of Nye County ranchers to mark their cattle with reflective
4 or luminescent tags.
- 5 4. That the subject cow was not marked with a reflective or luminescent tag.
- 6 5. That the subject cow crossed a fence to arrive at the location of the subject accident
7 described in the Complaint on file herein.
- 8 6. That Defendant's cattle have previously been involved in incidents with motor vehicles
9 on the roadway.
- 10 7. That Defendant does not track the location of her cattle while they are grazing away from
11 Defendant's property.
- 12 8. That Defendant does not remove her cattle from the roadway when notified that the cattle
13 are in a roadway.
- 14 9. That the subject cow was not visible at night.
- 15 10. That Defendant was aware that the subject cow was not visible at night prior to the
16 incident that is the subject of the Complaint on file herein.
- 17 11. That the subject cow was in the roadway of SR 375 at the time of the incident that is the
18 subject of the Complaint on file herein.
- 19 12. That the subject cow's presence in the roadway of SR 375 was the cause of the motor
20 vehicle accident that is the subject of the Complaint on file herein.
- 21 13. That Defendant did not know the location of the subject cow at the time of the incident
22 that is the subject of the Complaint on file herein.
- 23 14. That the presence of a reflective or luminescent tag on the subject cow would have made
24 the subject cow visible at the time of the incident that is the subject of the Complaint on
25 file herein.

26 A second set of requests for production of documents were submitted to Fallini on **July 2, 2008**,
27 requesting information as to Fallini's insurance policies and/or carriers that may provide coverage for
28

1 damages that occurred as a result of the incident

2 Defendant Fallini never responded to any of these requests. To date, Defendant Fallini has not
3 produced any responses of any kind to Plaintiff's written discovery requests. Despite an extension
4 requested by Plaintiff and granted by the Court, the discovery period has lapsed without any responses
5 being provided by Defendant.

6 On or about **April 7, 2008** (and again on **May 14, 2008** with a Certificate of Service), Plaintiff
7 filed a Motion for Partial Summary Judgment. Defendant did not oppose that motion and the Court
8 granted that Motion on **July 30, 2008**. Notice of entry of the Order Granting Plaintiff's Motion for
9 Summary Judgment was served on Defendant on **August 15, 2008**.

10 Plaintiff attempted to amicably resolve the discovery dispute and obtain a copy of Defendant's
11 applicable insurance policies, but to no avail. On **February 24, 2009**, Plaintiff sent letters to Defendant's
12 counsel seeking responses to the discovery.

13 Plaintiff's counsel, Mr. Aldrich, has attempted to discuss this discovery issue with Defendant's
14 counsel, Mr. Kuehn, as well. On or about **March 6, 2009**, Plaintiff's counsel contacted the office of
15 Defendant's counsel. Mr. Aldrich was informed that Mr. Kuehn was not available. Mr. Aldrich left a
16 message with Mr. Aldrich's phone number and asked that Mr. Kuehn return the call. No return call ever
17 came.

18 On **March 18, 2009**, Mr. Aldrich again contacted the office of Mr. Kuehn. Mr. Aldrich was
19 informed that Mr. Kuehn was not available. Mr. Aldrich left a message with Mr. Aldrich's phone number
20 and asked that Mr. Kuehn return the call. No return call ever came.

21 On **March 23, 2009** – nearly nine months after propounding the discovery and more than a year
22 ago – Plaintiff filed a Motion to Compel Defendant's Production of Documents, including information
23 regarding any insurance policies that may provide coverage for the incident as contemplated in the
24 Plaintiff's second request for documents. This motion was heard on **April 27, 2009**. The Defendant's
25 attorney, Mr. Kuehn, attended the hearing. Mr. Kuehn did not oppose the motion to compel and agreed
26 at the hearing it was warranted. Mr. Kuehn provided no explanation as to why Defendant failed to
27 respond to all discovery requests. Mr. Kuehn agreed sanctions were warranted, however, he disputed the

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1 amount of sanctions. This Honorable Court granted the Motion to Compel and awarded John Aldrich,
2 Esq., \$750.00 in sanctions for having to bring the motion. A Notice of Entry of Order on the order
3 granting the motion to compel was entered on May 18, 2009. It was served by mail on Defendant on May
4 14, 2009. Defendant never complied with the Order.

5 On **June 16, 2009**, Plaintiff filed a Motion to Strike Defendant's Answer and Counterclaim due
6 to Defendants complete failure to comply with discovery requests and this Court's Order. The
7 Defendant's counsel again attended the hearing and again provided no explanation as to why Defendant
8 failed to respond to all discovery requests, but stated Defendant would comply with discovery requests.
9 This Honorable Court denied Plaintiff's Motion to Strike based on Defendant's counsel's promises to
10 comply. This Honorable Court did, however, order Defendant to comply with the Order granting
11 Plaintiff's Motion to Compel and to respond to Plaintiff's discovery requests by **July 12, 2009** or
12 Defendant's Answer and Counterclaim would be stricken. The Court also ordered Defendant to pay a
13 \$1,000 sanction.

14 Defendant still did not comply with the Court's Order and failed to respond to Plaintiff's
15 discovery requests. On **August 31, 2009**, Plaintiff brought an Ex Parte Motion for Order to Show Cause
16 Why Defendant Susan Fallini and Her Counsel Should Not be Held in Contempt. The Court issued an
17 Order on Plaintiff's Order to Show Cause, dated **October 8, 2009**, that Susan Fallini must produce all
18 documents responsive to Plaintiffs discovery requests by **October 12, 2009**. The Court further ordered
19 that if Defendant did not supply the requested information by October 12, 2009, Defendant's counsel
20 would be held in contempt of court and would be fined \$150.00 a day, beginning October 13, 2009.
21 Further this Court ordered that if the requested information was not provided by October 12, 2009, the
22 Court would strike Defendant's pleadings in their entirety.

23 On **November 6, 2009**, an order was entered Striking Defendant's pleadings. Because
24 Defendant's Answer has been stricken, all the allegations of the Complaint are deemed to be true.

25 To date, Defendant still has failed to comply with the orders of this Honorable Court and respond
26 to Plaintiff's discovery requests. However, Mr. Kuehn's partner, Thomas Gibson, Esq., has notified
27 Plaintiff's counsel by phone and by letter that there is no insurance available. Despite providing this
28

1 information, Defendant still has not technically complied with the Court's Order. As of the date of this
2 Application, Defendant and/or her counsel owes more than **\$35,000** for not complying with this Court's
3 Orders.

4 On **November 4, 2009**, the Court entered its Findings of Fact, Conclusions of Law and Order
5 striking Defendant's Answer and Counterclaim and directing the Court Clerk to enter Default against
6 Defendant Susan Fallini. On **February 4, 2010**, the Clerk of the Court entered Default against
7 Defendant.

8 Despite repeated requests, Defendant continued to fail and refuse to provide insurance
9 information, or a response that Defendant had no insurance. Consequently, Plaintiff was again forced
10 to bring yet another Ex Parte Motion for Order to Show Cause Why Defendant and Her Counsel Should
11 Not Be Held in Contempt. The Order to Show Cause was granted, and another contempt hearing was
12 held on May 24, 2010. Neither Defendant nor her counsel, Harry Kuehn, appeared at the hearing.
13 However, Thomas Gibson, Esq., the law partner to Mr. Kuehn, appeared at the hearing. Following
14 argument by counsel, the Court made substantial findings of fact and conclusions of law. The Court also
15 held Mr. Kuehn in contempt yet again held Defendant and her counsel in contempt of court and
16 sanctioned them an additional \$5,000.00. Further, the Court again ordered Defendant to provide the
17 information that had been ordered on several prior occasions, and imposed a \$500.00 per day sanction,
18 beginning June 1, 2010, if Defendant did not respond as ordered.

19 Defendant has not responded to the discovery, but Mr. Gibson has advised Plaintiff's counsel that
20 Defendant has no insurance that is applicable to this case. Plaintiff's counsel has requested something
21 in writing, signed by the Defendant, to that effect, but has not received anything to date.

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1 II.

2 LEGAL ANALYSIS

3 Pursuant to NRCPC 55, the Court should enter a default judgment against Defendant. Further, NRS
4 41.085 provides for the recovery of various types of damages by both the estate and heirs.

5 **NRS 41.085 Heirs and personal representatives may maintain**
6 **action.**

7 1. As used in this section, "heir" means a person who, under the
8 laws of this State, would be entitled to succeed to the separate property
9 of the decedent if the decedent had died intestate. The term does not
include a person who is deemed to be a killer of the decedent pursuant
to chapter 41B of NRS, and such a person shall be deemed to have
predeceased the decedent as set forth in NRS 41B.330.

10 2. When the death of any person, whether or not a minor, is caused
11 by the wrongful act or neglect of another, the heirs of the decedent and
12 the personal representatives of the decedent may each maintain an
13 action for damages against the person who caused the death, or if the
14 wrongdoer is dead, against the wrongdoer's personal representatives,
15 whether the wrongdoer died before or after the death of the person
injured by the wrongdoer. If any other person is responsible for the
wrongful act or neglect, or if the wrongdoer is employed by another
person who is responsible for the wrongdoer's conduct, the action may
be maintained against that other person, or if the other person is dead,
against the other person's personal representatives.

16 3. An action brought by the heirs of a decedent pursuant to
17 subsection 2 and the cause of action of that decedent brought or
18 maintained by the decedent's personal representatives which arose out
of the same wrongful act or neglect may be joined.

19 4. The heirs may prove their respective damages in the action
20 brought pursuant to subsection 2 and the court or jury may award each
21 person pecuniary damages for the person's grief or sorrow, loss of
22 probable support, companionship, society, comfort and consortium, and
damages for pain, suffering or disfigurement of the decedent. The
proceeds of any judgment for damages awarded under this subsection
are not liable for any debt of the decedent.

23 5. The damages recoverable by the personal representatives of a
decedent on behalf of the decedent's estate include:

24 (a) Any special damages, such as medical expenses, which the
25 decedent incurred or sustained before the decedent's death, and funeral
expenses; and

26 (b) Any penalties, including, but not limited to, exemplary or
27 punitive damages, that the decedent would have recovered if the
28 decedent had lived,

1 but do not include damages for pain, suffering or disfigurement of the
2 decedent. The proceeds of any judgment for damages awarded under
3 this subsection are liable for the debts of the decedent unless exempted
4 by law.

5 NRS 41.085.

6 Plaintiff seeks the following damages:

7 **Grief and Sorrow, Loss of Probable Support, Companionship, Society, Comfort and Consortium**

8 Michael's parents, Judith and Tony Adams, have written letters to try and give the Court an idea
9 of how Michael's loss has affected their lives. Michael was an exceptional son and person. Plaintiff
10 respectfully refers the Court to the statements of Judith and Tony Adams, attached hereto as **Exhibits 1**
11 **and 2**. Mr. and Mrs. Adams will also be present at the prove-up hearing, should the Court determine one
12 is needed. Needless to say, the loss of Ms. Adams' only son cannot be compensated by monetary
13 remuneration because he was priceless to her. Nevertheless, Judith Adams requests **\$2,500,000.00** for
14 grief and sorrow, and loss of probable support, companionship, society, comfort and consortium.

15 **Lost Earnings**

16 Michael was 33 years old when he died. He was making approximately \$45,000 per year, plus
17 benefits, at the time of his death. Plaintiff retained Dr. Terrence Clauretie to opine regarding Michael's
18 lost earnings. Dr. Clauretie opined that Michael would have earned at least **\$1,640,696.00** during his
19 lifetime if he had not been killed by Defendant's cow. (Plaintiff's Expert Witness Designation, attached
20 hereto as **Exhibit 3**.)

21 **Hedonic Damages**

22 In addition, because of Michael's death, there has been a substantial loss of support to which Ms.
23 Adams and/or Michael's estate is entitled, including hedonic damages. Hedonic damages have been
24 specifically recognized by the Nevada Supreme Court. In Banks v. Sunrise Hospital, 120 Nev.822, 102
25 P.3d 52 (2004), the Nevada Supreme Court noted that "monetary remedies awarded to compensate
26 injured persons for their noneconomic loss of life's pleasures or the loss of enjoyment of life." Id.
27 Quoting the Supreme Court of South Carolina, the Court explained how hedonic damages are different
28 from damages for pain and suffering:

1 An award for pain and suffering compensates the injured person for the
2 physical discomfort and the emotional response to the sensation of pain
3 caused by the injury itself. Separate damages are given for mental anguish
4 where the evidence shows, for example, that the injured person suffered
5 shock, fright, emotional upset, and/or humiliation as the result of the
6 defendant's negligence.

7 On the other hand, damages for "loss of enjoyment of life" compensate for
8 the limitations, resulting from the defendant's negligence, on the injured
9 person's ability to participate in and derive pleasure from the normal
10 activities of daily life, or for the individual's inability to pursue his talents,
11 recreational interests, hobbies, or avocations.

12 Id. (quoting Boan v. Blackwell, 541 S.E.2d 242, 244 (S.C. 2001)).

13 Michael has been deprived of so much life. As his parents have noted, he will not have the
14 opportunity to marry or experience the joys that come with that sacred institution. Michael will never
15 have the opportunity to father children – no witnessing his child's first words, no kindergarten graduation,
16 no coaching little league. Finally, while some might consider elderly parents a burden, it is clear that
17 Michael would have viewed his parents' aging as an opportunity to tenderly give back to his parents some
18 of the love they had shown him during his short life. Michael will not be able to participate in so many
19 of the things that really matter in life.

20 Hedonic damages are difficult to measure because so many of the things listed above are priceless;
21 i.e., they are nearly impossible to value in monetary terms. Although expert witness testimony regarding
22 hedonic damages is permitted, see Banks, expert testimony is not necessary. Despite the fact that expert
23 testimony is not necessary, the Banks court discussed the expert witness in that case, and those comments
24 are instructive here.

25 The expert in Banks examined the value of hedonic damages using two methods – the “survey
26 method” and the “wage-risk method.” Id. Using these methods, the expert opined that the tangible value
27 of a person's life is somewhere between \$2.5 million on the low end, \$8.7 million on average, and
28 literally priceless (i.e., impossible to value) on the high end. Id. Noting that the defendant had appealed
the district court's decision to allow the expert to testify at trial, the Nevada Supreme Court held that the
expert testimony was proper. Id.

///

1 The expert in Banks was analyzing the life of a 52-year-old man who was left in a vegetative state
2 following surgery. In this case, Michael was 33 years old at the time of his death. Clearly, Michael was
3 a wonderful human being who would have enjoyed a fulfilling life with deep relationships.
4 Unfortunately, due to the Defendant's negligence, none of that can ever come to be. Consequently,
5 Plaintiff requests **\$5,000,000.00** in hedonic damages.

6 **Funeral and Other Related Expenses**

7 Plaintiff incurred the following additional expenses following Michael's death:

| | |
|---|------------|
| 8 Cremation expenses (Exhibit 4) | \$2,153.14 |
| 9 Additional expenses (see Memo of Costs) | \$3,035.71 |

10 **III.**

11 **CONCLUSION**

12 Based on the evidence set forth above, and to be presented at the prove-up hearing, the Plaintiff
13 is entitled to Default Judgment as follows:

14 On the Cause of Action alleged in the Complaint, for an award of damages against Defendant
15 Susan Fallini as follow:

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|---|--|--------------------------|
| 1 | Grief, sorrow, loss of support, etc. | \$2,500,000.00 |
| 2 | Lost earnings | \$1,640,696.00 |
| 3 | Hedonic damages | \$5,000,000.00 |
| 4 | Attorney fees reasonably incurred | \$50,000.00 |
| 5 | Sanctions already levied against Defendant | \$35,000.00 ¹ |
| 6 | Funeral and other related expenses | <u>\$5,188.85</u> |
| 7 | TOTAL JUDGMENT SOUGHT | <u>\$9,230,884.85</u> |

8 For such further relief as this Court deems appropriate.

9 Plaintiff so moves this Honorable Court.

10 Respectfully submitted this 21st day of June, 2010.

11 ALDRICH LAW FIRM, LTD.

12
 13 
 14 _____
 15 John P. Aldrich, Esq.
 16 Nevada Bar No.: 6877
 17 1601 S. Rainbow Blvd., Suite 160
 18 Las Vegas, Nevada 89146
 19 (702) 853-5490
 20 *Attorney for Plaintiff*

21
 22
 23
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 25
 26 _____
 27 ¹ Plaintiff will provide the exact amount at the time of the prove-up hearing. Plaintiff expects
 28 the actual amount due will exceed \$35,000.00.

CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that on the 21st day of June, 2010, I mailed a copy of the

APPLICATION FOR DEFAULT JUDGMENT, in a sealed envelope, to the following and that postage was fully paid thereon:

Harold Kuehn, Esq.
Gibson, & Kuehn
1601 E. Basin Avenue, Suite 101
Pahrump, NV 89060
Attorney for Defendant/Counterclaimant

Katherine M. Barker, Esq.
Law Office of Katherine M. Barker
701 Bridger Ave, Ste. 500
Las Vegas, NV 89101
*Attorney for Counterdefendant
Estate of Michael David Adams*


An employee of Aldrich Law Firm, Ltd.

EXHIBIT 1

EXHIBIT 1

Judith H Adams
6152 Rosemary Dr
Cypress CA 90630
04/09/2010

It is hard to put into words the relationship that I had with Michael. He was my only child and we were very close. He was warm, funny, smart and loving. When he no longer lived at home he called almost every day and ended each call with "...love you..." He visited frequently and never left without a kiss goodbye. Not a day goes by that I don't think about him and even now, almost five years after his death it is hard to talk about him with crying. I don't think a mother could have asked for a more wonderful son.

No one can imagine what it is like to lose and only child. Never to see that child again, never to see him happily married, never to know the joy of grandchildren, for I know that Mike loved children and wanted to have them one day. He had even chosen some favorite names. No can know how difficult it is to answer the question "...do you have any children?" Not only was Michael my only child he was my mother's only grandchild. Mike was very close to her and although she lived in Arizona Mike called her frequently, visited often and never forgot to send cards on her birthday and Mothers Day. At the time he died she was 87 years old and in frail health so I made the decision not to tell her. I was grateful that she had failing vision due to macular degeneration and could not see the pain on my face or the tears in my husbands eyes when she asked about Mike. Since we visited almost every two months I went through this agony for a long time. Each time I would have to invent some new reason for Mike's failure to call or write. This distress was only alleviated when her memory began to fade in 2008. Thankfully she went to her death last year without having to suffer the knowledge of our loss.

Beside the emotional strain I have suffered losing Mike there is a physical pain as well. It can be described as stress cardiomyopathy. It feels as though there is a hand clutching your heart and slowly squeezing it.

In thinking about my mother I know that having a child to help her as she grew older was a great comfort and I realize that I will not have this help and support in the future. This has necessitated making choices and decisions now knowing that I may be all alone at some time in the years ahead. All the friends in the world are not a substitute for family.

Mike provided emotional support when his Dad suffered a heart attack in 1992. He came home from San Diego and was at my side in the hospital. This allowed us to take turns sitting by my husband's bedside. During this time Mike patiently read the newspaper out loud whether Tony was conscious or not.

The number of ways that Mike helped us would be too many to count. If there were chores that were too physically difficult for my husband or I Mike was there. Since Mike had a cell phone long before I did he patiently showed me how to use all the features. If we went out of town Mike took care of the house made sure the plants were watered and that everything was safe.

It would be almost impossible to state how my life has changed since his death. I can say that my outlook is so different. In the past when I was shopping or traveling I might want to buy something with the thought that this could be something that I could pass along to Mike or grandchildren. Now I stop and think what possible use would I have for this item as it represents something someone will just toss out in the end. It is even difficult at times to be around friends and hear them talk about their children and grandchildren.

As difficult as Mike's death was for me the effect on my husband was even more profound. For many months after his death I tried to be exceptionally careful not to talk about Mike too much and be mindful not to cry in his presence. For a long time I grieved in solitude. It was so extremely hard to see the pain on my husband's face and I tried to alleviate this by telling him that Mike would be so upset to see us in such sorrow. My husband and I have the same doctor and each time I visit the doctor he would ask me how Tony is doing since he has seen the physical and emotional changes that have affected him. To give you just one example: about three years ago the doctor suggested that Tony have a defibrillator implant due to his heart condition. Tony vehemently refused each time the doctor talked to him. I know that the reason for his refusal is that his will and desire to live seriously diminished after Mike died. It was only after suffering a coronary arrest last November that he agreed to the implant. Even now when I know that he has been thinking about Mike he asks me "...why did I call the paramedics..."

I can say these things since I know that Mike and his Dad had a very close and loving relationship. When Mike went away to college in 1990 my husband was disconsolate. Fortunately Mike was only 100 miles from home and was home often. If they both had cell phones at that time they would have talked constantly. When Mike joined the Marine Reserves in 1991 the knowledge that we would not see or talk to Mike for the 12 weeks of basic training was almost too much for him to endure. Mike did write as frequently as he could and I wrote to him every day.

To help you understand why we feel this way about Mike is not only because he was our child but it is but it about the person he was. I invite you to go to Mike's website www.michaeldavidadams.net and read the remarks from his friends. Mike was loved not only by his family but by all those whose lives he touched. When we held a celebration of Mike's life several weeks after his death the staff at Mike's favorite local restaurant one that he went to when ever he was home had a plaque made in honor of their favorite patron. To this day it hangs on the restaurant wall. Each year on his birthday a large crowd gathers to celebrate. On the website you see reference to the annual chili cook off. This was an event that he convinced his friends to enter and in his memory they still participate in each year. You will also see that two of his very best friends named their first child Michael. To this day there are still many stories that friends take to share with me.

I realize that if you check his website you will note that Mike had an older half brother. The love and bond the two shared was remarkable. Although there is a 15 year difference in their ages they always very close. Interestingly Mike's friends became his brother's friends and his brothers friends became Mike's. I could not even begin to describe how Tony Jr. has dealt with the loss. To this day it is impossible not to cry when we talk about Mike. I don't want to minimize the relationship that my stepson and I have nor the relationship that he has with his Dad. It is just that the relationship that we all had with Mike was on a whole different level. And although my stepson says that he will be there for me I know that he has his own life and family. And although I know that he also loves his Dad and me it still can not replace the loss of our Michael.

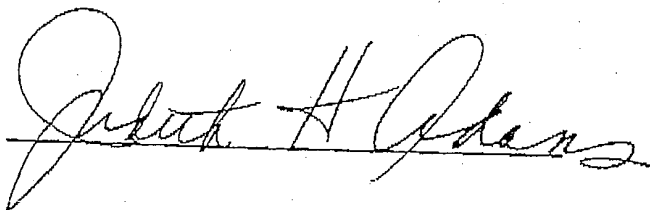


EXHIBIT 2

EXHIBIT 2

Anthony W Adams
6152 Rosemary Dr
Cypress CA 90630
04/09/2010

You would have to be a father and lose a son to know the grief and depression you feel. Mike was my son but he was also my best friend. He would call ten times during a Laker game to discuss what the team was doing wrong or call just to discuss an article he had read which he thought might be of interest to me. Our discussion would range on so many different subjects as Mike had a lot of different interests and I will miss our conversations and his discovery of new things that are happening every day. Mike liked gadgets as I do and any new invention was sure to be in his collection. I can not use my iPhone without thinking how much he would have loved it.

It's strange that everything I look at seems to remind me of Mike, whether it's the barbeque where he enjoyed cooking or the bird house that I caught him putting up for my birthday. Mike liked to surprise me with the simple things. On our last Fathers Day we had dinner together at a restaurant where Mike's friend was the manager and of course the service was excellent. Yes, Mike had many friends and not holiday goes by that one of them does not call.

It is hard to see a young family with children and know that you won't be seeing any grandchildren. All the items that I saved to pass on to Mike and all the toys that he held onto to pass on to his children have lost their value and have no meaning to me. Some day I hope to be able to walk into his room without tears in my eyes but I don't see that happening any time soon.

They say that time heals all wounds but whoever said that did not lose a son like Mike.

Anthony Adams

EXHIBIT 3

EXHIBIT 3

1 DOW
John P. Aldrich
2 Nevada Bar No. 6877
ALDRICH LAW FIRM, LTD
3 3654 N. Rancho Drive
Las Vegas, Nevada 89130
4 (702) 853-5490
Attorneys for Plaintiffs

5
6 THE FIFTH JUDICIAL DISTRICT COURT
THE STATE OF NEVADA
7 COUNTY OF NYE

8 Estate of MICHAEL DAVID ADAMS,
by and through his mother JUDITH
9 ADAMS, individually and on behalf of the
Estate,

Case No.: CV24539
Dept.: 2P

10
11 Plaintiffs,

12 vs.
SUSAN FALLINI, DOES I-X and ROE
13 CORPORATIONS I-X, inclusive,

14 Defendants.

15 SUSAN FALLINI,

16 Counterclaimant,

17 vs.

18 Estate of MICHAEL DAVID ADAMS,
by and through his mother JUDITH
19 ADAMS, individually and on behalf of the
Estate,

20 Counterdefendants.

21
22 PLAINTIFF'S DESIGNATION OF EXPERT WITNESSES

23 TO: SUSAN FALLINI, Defendant/Counterclaimant;

24 TO: HAROLD KUEHN, ESQ., attorney for Defendant/Counterclaimant;

25 TO: KATHERINE M. BARKER, ESQ., attorney for Counterdefendant, Estate of Michael David
26 Adams

27 COMES NOW Plaintiff Estate of Michael David Adams, by and through his mother, Judith
28 Adams, by and through her attorney, John P. Aldrich, Esq., of ALDRICH LAW FIRM, LTD., his
attorney of record, and hereby submits his initial Designation of Expert Witnesses pursuant to NRCP

1 26(b)(5) as follows:

2 **Expert Witness:**

- 3 1. Terrence M. Claurette, Ph.D., C.P.A.
4 3741 Lyle Lane
5 Las Vegas, NV 89120

6 Dr. Claurette is a professor of finance at the University of Nevada, Las Vegas. Using the
7 Wage and employment data from his employer, Southern California Geotechnical: 2003 to 2005;
8 Standard worklife tables for persons in the technical and related support occupations; 2008 Annual
9 Report of the Trustees of OASDI (for future growth in earning capacity); Interest rates on United
10 States Treasury securities (to discount future losses to present value); and fringe benefit rates
11 published by the United States Department of Labor, Dr. Claurette estimated the lifetime earnings
12 of Mr. Michael Adams subsequent to his death in July, 2005. Dr. Claurette's report of his findings
13 is attached as Exhibit "1".

14 Dr. Claurette's CV is attached as Exhibit "2". Exhibits "3" and "4" contain Dr. Claurette's
15 list of testimony and depositions and his fee schedule.

16 **Documents**

| Exhibit | Description |
|---------|--|
| 17 1 | Report prepared by Terrence M. Claurette, Ph.D., CPA, dated December 22, 2008, 18 regarding his findings after reviewing employment records. (16 pages) |
| 19 2 | Dr. Claurette's CV (6 pages) |
| 20 3 | Dr. Claurette's Trial & Deposition Testimony List (9 pages) |
| 21 4 | Dr. Claurette's Fee Schedule (1 page) |
| 22 | |

23 2. The following individuals are anticipated to testify as Plaintiff's experts at
24 the trial of this matter, regarding their involvement in Plaintiff's accident. Said individuals are
25 expected to testify as to the injuries Plaintiff Michael David Adams sustained in the subject incident;
26 the diagnosis and prognosis; and as to the authenticity and genuineness of their medical records and
27 billings, as well as to the reasonableness of the medical charges incurred herein:

- 28 a. Nevada Highway Patrol
Trooper M. Scott Simon, #6399, Primary Investigator

1 Trooper Guy Davis, #6485, Assisting Officer
Trooper Bill West, #6648, Assisting Officer

2 b. Nye County Sheriff's Department
3 Deputy Duane Downing, Deputy Coroner

4 This witness is also expected to testify as to the cause of Mr. Adams' death, his
5 injuries, and the time of his death.

6 c. Gunters Funeral Home
Dean Glasford

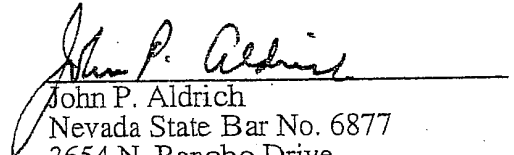
7 d. Pro Towing
8 Marshall Davis

9 Plaintiff expressly reserves the right to utilize any and all witnesses identified in Defendant's
10 Expert Witness Designation for proper purposes.

11 Plaintiff expressly reserves the right to supplement, augment, modify, reduce, or otherwise
12 alter these designations for purposes of identifying rebuttal and/or impeachment witnesses.

13 DATED this 22nd day of December, 2008.

14 ALDRICH LAW FIRM, LTD.

15 
16 John P. Aldrich
17 Nevada State Bar No. 6877
3654 N. Rancho Drive
18 Las Vegas, Nevada 89130
(702) 853-5490
19 (702) 853-5491 (fax)
Attorneys for Plaintiff Judith Adams

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CERTIFICATE OF MAILING

I hereby certify that on this 22nd day of December, 2008, service of the foregoing
PLAINTIFF'S DESIGNATION OF EXPERT WITNESS was made this date by depositing a true
and correct copy of the same for mailing in Las Vegas, Nevada, addressed to:

Harold Kuehn, Esq.
Gibson, & Kuehn
1601 E. Basin Avenue, #101
Pahrump, NV 89060
*Attorney for Defendant/Counterclaimant
Susan Fallini*

Katherine M. Barker, Esq.
Barker Law Office
701 Bridger Ave, Ste. 500
Las Vegas, NV 89101
*Attorney for Counterdefendant
Estate of Michael David Adams*


An employee of ALDRICH LAW FIRM, LTD.

EXHIBIT 1

**REPORT ON THE LIFETIME EARNINGS OF
MR. MICHAEL ADAMS
TERRENCE M. CLAURETIE
DECEMBER 22, 2008**

ASSIGNMENT

I have been asked by Mr. John Aldrich to estimate the lifetime earnings of Mr. Michael Adams subsequent to his death in July, 2005.

MATERIALS RELIED UPON

For this purpose I have relied upon the following.

1. Wage and employment data from his employer, Southern California Geotechnical: 2003 to 2005.
2. Standard worklife tables for persons in the technical and related support occupations
3. 2008 Annual Report of the Trustees of OASDI (for future growth in earning capacity)
4. Interest rates on United States Treasury securities (to discount future losses to present value,
5. Fringe benefit rates published by the United States Department of Labor.

CALCULATION OF LIFETIME EARNINGS

Table one shows the calculation in this case. At the time of his death Mr. Adams was earning \$45,000 annually and had the typical fringe benefits (23% by United States Department of Labor estimates). The lifetime earnings begin in the month of his death and continue for his worklife expectancy, age 60.62. The growth in earnings is assumed to be 3.7% annually based on information from item # 3 above. The discount rate is four per cent annually based on item number 4. The present value of the lifetime earnings is ***\$1,640,696.***

COMPENSATION

I charge \$350 per hour for non-testimony work and \$450 for all testimony. I have allocated two hours to this report and have attached an invoice.

ATTACHMENTS

In addition to materials relied upon I have attached:

1. Current CV
2. Testimony history

3. Invoice.

Erin M. Stuebel

TABLE ONE

LIFETIME EARNING CAPACITY

| | | | |
|-------------------------|---------|----------------|--------------------|
| NAME: | ADAMS | DOB | 10-May-72 |
| GENDER: | MALE | DOD | 30-Jul-05 |
| ATTORNEY: | ALDRICH | DOR | 22-Dec-08 |
| | | Age DOR | 36.62 P. 198 |
| | | Work-Life | 24 or until |
| | | Last Day of EC | 60.62 |
| | | | 30-Jul-05 |
| | | | 23.00% |
| | | | 3.50% |
| | | | 3.70% |
| | | | 3.00% |
| | | | 0.70% |
| | | | 4.00% |
| | | | annual |
| | | | \$4,612.50 |
| | | | \$55,350 |
| | | | 40.77 |
| | | | 288 |
| | | | \$5,184.82 |
| | | | \$62,218 |
| | | | \$199,973 |
| | | | \$1,440,723 |
| | | | \$1,640,696 |
| Past Earning Capacity | | | |
| Future Earning Capacity | | | |
| Total | | | |

Qualified Retirement Plan

APPLICATION FOR DISTRIBUTION From A Qualified Retirement Plan

Please read the important information and instructions on the following pages.

GENERAL INFORMATION

Name of Plan Southern California Geotechnical, Inc Retirement 401(k) Plan
Plan Number R 0003465
Name of Employer Southern California Geotechnical
Address 1200 N. Hancock Ste 101
City Anaheim State CA Zip 92807
Name of Participant Michael D. Adams Date of Birth 05/10/72
Vested % Hours Worked During Plan Year SSN Account # 545-53-7622

Complete the following section for the individual requesting the payout.

Name Anthony W. Adams
Home Address 1655 Rosemary DR.
City Cypress State CA Zip 90630
Social Security No. 552-15-4603 Telephone #

DISTRIBUTION REASON

- Normal Retirement Age, Disability, Death (checked), Termination of Employment, Plan Termination, Hardship, Loan Disbursement, Other, Date of Event

METHOD OF PAYMENT

- Single Sum Cash Payment - Amount (checked) All Shares (checked)
Installment Payments, In the following manner: Monthly, Quarterly, Semiannually, Annually, Other
Required Minimum Distribution - Amount For Tax Year
Is your spouse more than 10 years younger than you, and is he or she your sole beneficiary for the entire calendar year?
Qualified Joint and Survivor Annuity (If permitted by Plan. Additional documentation required; contact your plan administrator)
Direct Rollover of Eligible Rollover Distribution to: (Check one) IRA, 403(a) Plan, 457(b) Plan, Qualified Plan, 403(b) Plan
Specify new plan or complete and attach the Direct Rollover Request form:
Other:
Specify investment(s) to be liquidated (or other special instructions):

ACCOUNT DISTRIBUTED (For use with 401(k) plans only.)

- Employee 401(k) Contributions: Entire Account (checked) \$
Matching Contribution: Entire Account (checked) \$
Employer Profit Sharing Contribution: Entire Account (checked) \$
Other: Entire Account (checked) \$

Performance Review

Employee Name Mike Adams Title STAFF GEOLOGIST

Reason for Review REQUEST BY EMPLOYEE Date 1-31-05

Reviewed by Guy JAS

Current Salary \$ 41k per yr New Salary \$ 45k per yr effective 2-6-05

The purpose of this evaluation is to achieve the following:

- Evaluate: Review the employee's recent performance relative to goals set during the previous review and relative to the employer's expectations.
- Communicate: The supervisor and employee communicate openly and honestly about the employee's performance.
- Set Goals: The employee and supervisor establish mutually agreed upon goals for the employee's future progress and development.

1. Position Objectives and Responsibilities: STAFF GEOLOGIST

2. Review of Goals and/or Objectives Established at Previous Review:

- A. Goal: IMPROVE FIELD LOGS, WELL DESCRIPTIONS
Result: THEY HAVE IMPROVED. CONTINUE TO WORK ON THIS
- B. Goal: GET MORE ORGANIZED
Result: NEEDS WORK.
- C. Goal: MORE INDEPENDANT WORK & THOUGHT - CHECK YOUR OWN WORK
Result: STILL NEEDS IMPROVEMENT
- D. Goal: NO OFFICE FILES IN FIELD
Result: IMPROVING, DOES NOT SEEM TO BE A PROBLEM.
- E. Goal: _____
Result: _____
- F. Goal: _____
Result: _____



2-50 Small Group Employee Application

Blue Cross Dental Net and Blue Cross Dental SelectHMO, and all medical products except Blue Cross Basic PPO, Blue Cross Saver PPO and Advantage PPO offered by Blue Cross of California. Blue Cross PPO and FFS Dental, Blue Cross Basic PPO, Blue Cross Saver PPO, Advantage PPO, Life and AD&D products offered by BC Life & Health Insurance Company.

Small Group Services
Blue Cross of California
P.O. Box 9062
Oxnard, CA 93031-9062
www.bluecrossca.com



INSTRUCTIONS

1. You, the employee, must complete this application. You are solely responsible for its accuracy and completeness.
2. All questions must be answered in full or the application may be returned to you resulting in a delay in processing.
3. Type or print clearly using blue or black ink.

Group No.
230954

1 COVERAGE - Please verify with your employer which plans are available.

A. MEDICAL COVERAGE SELECTION - Check only one Medical Plan:

- | | | | |
|------------------------------------|--|---|--|
| <input type="checkbox"/> Basic PPO | <input type="checkbox"/> PPO \$40 Copay | <input type="checkbox"/> Premier PPO \$20 Copay | <input type="checkbox"/> High Deductible EPO |
| <input type="checkbox"/> Saver PPO | <input checked="" type="checkbox"/> PPO \$30 Copay | <input type="checkbox"/> Premier PPO \$10 Copay | <input type="checkbox"/> Saver HMO |
| | <input type="checkbox"/> Advantage PPO \$25 Copay | | <input type="checkbox"/> HMO 100% |

If selecting an HMO, you must select a Primary Medical Group (PMG) or an Independent Practice Association (IPA). If you are selecting an IPA, please select a Primary Care Physician for each enrolling family member and list them by number below in Section 3A.

HMO plan PMG or IPA Medical Office Number: Are you currently a patient of this facility? Yes No

B. DENTAL COVERAGE SELECTION - (If group has elected Dental Coverage) - Check only one Dental Plan:

- | | | |
|---|--|-----------------------------|
| <input type="checkbox"/> High Option PPO* | <input checked="" type="checkbox"/> Dental Net - You must select a Dental Office No. | <input type="text"/> 006459 |
| <input type="checkbox"/> Standard Option PPO* | <input type="checkbox"/> Blue Cross Dental SelectHMO - You must select a Dental Office No. | <input type="text"/> 006459 |
| <input type="checkbox"/> Basic Option PPO* | | Dental Office No. |

*Fee-for-service dental coverage is substituted if the member is outside of PPO dental service area.

C. OPTIONAL DEPENDENT LIFE INSURANCE (Available only if offered by employer.)

- Yes No

D. SUPPLEMENTAL LIFE INSURANCE (Available only if offered by employer.)

- Yes No Amount: \$15,000 \$25,000 \$50,000 \$100,000

2 EMPLOYEE INFORMATION - Must be completed by employee.

- | | | | |
|---|--|-------------------------------------|---------------------------------|
| <input type="checkbox"/> New group enrollment | <input checked="" type="checkbox"/> New hire | <input type="checkbox"/> COBRA | COBRA/Cal-COBRA Effective Date: |
| <input type="checkbox"/> Family addition | <input type="checkbox"/> Change of coverage | <input type="checkbox"/> Cal-COBRA* | <input type="text"/> |
| <input type="checkbox"/> Late enrollment | <input type="checkbox"/> Other | | |

*Cal-COBRA applicants must submit first month's premium.

| | | | | |
|---|---|--|---|----------------------------------|
| Last Name Adams | First Name Mike | M.I. D | Marital Status <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married | Social Security No. 545537622 |
| Home Address (P.O. Box not acceptable unless rural P.O. Box) 350 Marine Dr. #52 | | Apt No. | # of Dependents including Spouse* 0 | Spouse's Social Security No. |
| City Seal Beach | | State CA | ZIP Code 90740 | Home Phone No. (562) 596-5244 |
| Hire Date (MM/DD/YY) | Employer Name Southern California Geotechnical | Occupation/Job Title Staff Geologist | <input type="checkbox"/> Part time <input checked="" type="checkbox"/> Full time | # of Hours Worked per Week |
| Business Phone No. (714) 777-0332 | Salary (Required) \$3167 | <input type="checkbox"/> Hourly <input type="checkbox"/> Weekly <input checked="" type="checkbox"/> Monthly | Life Insurance Beneficiary - Last Name, First, M.I. Adams, Anthony W | Relationship Brother |
| Language Choice (Optional) <input checked="" type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Chinese <input type="checkbox"/> Korean | | Ethnic Origin (Optional) <input checked="" type="checkbox"/> Caucasian <input type="checkbox"/> Black/African American <input type="checkbox"/> Hispanic <input type="checkbox"/> Chinese <input type="checkbox"/> Korean <input type="checkbox"/> Native American <input type="checkbox"/> Other | | |

*Spouse includes domestic partner ONLY if your employer has elected that coverage. If coverage is available, domestic partner enrollment requires submission of a signed and notarized Domestic Partner Affidavit or, if applicable, a copy of a valid Declaration of Domestic Partnership filed with and stamped by the Secretary of State of California.



Life and Worklife Expectancies

Hugh Richards, M.S.

Jon R. Abele, Esq.


 [®] Lawyers & Judges
Publishing Company, Inc.

Table 11: Worklife expectancies by occupation and sex, all races, conventional model, 1990, continued

| Age | Technicians and Related Support Occupations | | | | | | | | | | | |
|-----|---|------|------|--------------|----------------|-------------|---------|------|------|--------------|----------------|-------------|
| | Males | | | | | | Females | | | | | |
| | All * | < HS | HS | Some College | College Degree | Grad Degree | All * | < HS | HS | Some College | College Degree | Grad Degree |
| 18 | 39.8 | 33.3 | 39.2 | 39.1 | 41.4 | 43.8 | 34.5 | 26.1 | 32.9 | 34.9 | 35.6 | 38.3 |
| 19 | 39.2 | 32.8 | 38.5 | 38.6 | 40.7 | 43.0 | 33.9 | 25.5 | 32.2 | 34.3 | 34.8 | 37.5 |
| 20 | 38.6 | 32.2 | 37.7 | 38.0 | 40.1 | 42.3 | 33.2 | 25.0 | 31.4 | 33.6 | 34.1 | 36.8 |
| 21 | 37.9 | 31.6 | 37.0 | 37.3 | 39.4 | 41.6 | 32.5 | 24.4 | 30.7 | 32.9 | 33.4 | 36.0 |
| 22 | 37.2 | 30.9 | 36.2 | 36.6 | 38.7 | 40.9 | 31.7 | 23.8 | 29.9 | 32.1 | 32.5 | 35.2 |
| 23 | 36.4 | 30.2 | 35.3 | 35.8 | 37.9 | 40.1 | 30.9 | 23.2 | 29.1 | 31.3 | 31.7 | 34.5 |
| 24 | 35.6 | 29.4 | 34.5 | 35.1 | 37.0 | 39.4 | 30.1 | 22.6 | 28.3 | 30.6 | 30.8 | 33.7 |
| 25 | 34.8 | 28.6 | 33.6 | 34.2 | 36.1 | 38.6 | 29.3 | 22.0 | 27.5 | 29.7 | 30.0 | 32.9 |
| 26 | 33.9 | 27.9 | 32.8 | 33.4 | 35.3 | 37.8 | 28.5 | 21.4 | 26.8 | 28.9 | 29.1 | 32.1 |
| 27 | 33.1 | 27.1 | 31.9 | 32.5 | 34.4 | 37.0 | 27.7 | 20.8 | 26.0 | 28.1 | 28.3 | 31.2 |
| 28 | 32.2 | 26.3 | 31.0 | 31.6 | 33.5 | 36.2 | 26.9 | 20.3 | 25.2 | 27.3 | 27.4 | 30.4 |
| 29 | 31.3 | 25.6 | 30.1 | 30.7 | 32.7 | 35.4 | 26.1 | 19.7 | 24.5 | 26.4 | 26.6 | 29.6 |
| 30 | 30.4 | 24.8 | 29.2 | 29.8 | 31.8 | 34.5 | 25.3 | 19.1 | 23.7 | 25.6 | 25.7 | 28.8 |
| 31 | 29.4 | 24.1 | 28.3 | 28.9 | 30.8 | 33.6 | 24.4 | 18.5 | 23.0 | 24.8 | 24.9 | 27.9 |
| 32 | 28.5 | 23.3 | 27.4 | 27.9 | 29.9 | 32.7 | 23.7 | 17.9 | 22.2 | 24.0 | 24.1 | 27.1 |
| 33 | 27.6 | 22.6 | 26.5 | 27.1 | 29.0 | 31.7 | 22.9 | 17.4 | 21.5 | 23.2 | 23.3 | 26.3 |
| 34 | 26.7 | 21.8 | 25.6 | 26.2 | 28.1 | 30.8 | 22.1 | 16.8 | 20.7 | 22.4 | 22.5 | 25.4 |
| 35 | 25.8 | 21.0 | 24.7 | 25.3 | 27.1 | 29.9 | 21.3 | 16.2 | 19.9 | 21.6 | 21.6 | 24.6 |
| 36 | 24.9 | 20.2 | 23.9 | 24.4 | 26.2 | 28.9 | 20.5 | 15.6 | 19.2 | 20.8 | 20.8 | 23.7 |
| 37 | 24.0 | 19.4 | 23.0 | 23.5 | 25.3 | 28.0 | 19.7 | 15.0 | 18.4 | 20.0 | 20.0 | 22.9 |
| 38 | 23.1 | 18.6 | 22.1 | 22.6 | 24.4 | 27.1 | 18.9 | 14.4 | 17.7 | 19.1 | 19.2 | 22.0 |
| 39 | 22.2 | 17.9 | 21.2 | 21.6 | 23.5 | 26.1 | 18.0 | 13.8 | 16.9 | 18.3 | 18.4 | 21.2 |
| 40 | 21.3 | 17.1 | 20.3 | 20.7 | 22.6 | 25.2 | 17.3 | 13.3 | 16.1 | 17.5 | 17.6 | 20.3 |
| 41 | 20.4 | 16.3 | 19.4 | 19.8 | 21.6 | 24.3 | 16.5 | 12.6 | 15.3 | 16.7 | 16.8 | 19.5 |
| 42 | 19.4 | 15.5 | 18.5 | 18.9 | 20.7 | 23.4 | 15.6 | 12.0 | 14.5 | 15.9 | 16.0 | 18.6 |
| 43 | 18.6 | 14.7 | 17.6 | 18.0 | 19.8 | 22.4 | 14.8 | 11.4 | 13.7 | 15.0 | 15.2 | 17.8 |
| 44 | 17.6 | 13.9 | 16.7 | 17.1 | 18.9 | 21.5 | 13.9 | 10.7 | 13.0 | 14.2 | 14.4 | 16.9 |
| 45 | 16.7 | 13.1 | 15.9 | 16.2 | 18.0 | 20.6 | 13.1 | 10.1 | 12.2 | 13.4 | 13.5 | 16.0 |
| 46 | 15.7 | 12.4 | 15.0 | 15.3 | 17.0 | 19.7 | 12.2 | 9.5 | 11.4 | 12.5 | 12.7 | 15.2 |
| 47 | 14.8 | 11.6 | 14.1 | 14.4 | 16.1 | 18.8 | 11.4 | 8.9 | 10.6 | 11.7 | 11.8 | 14.3 |
| 48 | 13.8 | 10.9 | 13.2 | 13.5 | 15.2 | 17.9 | 10.5 | 8.3 | 9.9 | 10.9 | 11.0 | 13.4 |
| 49 | 13.0 | 10.1 | 12.3 | 12.6 | 14.3 | 17.0 | 9.8 | 7.7 | 9.1 | 10.0 | 10.2 | 12.6 |
| 50 | 12.1 | 9.4 | 11.4 | 11.7 | 13.4 | 16.1 | 8.9 | 7.1 | 8.4 | 9.2 | 9.4 | 11.7 |
| 51 | 11.2 | 8.7 | 10.6 | 10.8 | 12.5 | 15.2 | 8.2 | 6.5 | 7.7 | 8.4 | 8.6 | 10.9 |
| 52 | 10.2 | 7.9 | 9.7 | 9.9 | 11.6 | 14.3 | 7.4 | 6.0 | 7.0 | 7.6 | 7.8 | 10.1 |
| 53 | 9.3 | 7.2 | 8.9 | 9.0 | 10.7 | 13.4 | 6.7 | 5.4 | 6.3 | 6.9 | 7.0 | 9.3 |
| 54 | 8.5 | 6.5 | 8.1 | 8.2 | 9.8 | 12.5 | 6.0 | 4.8 | 5.7 | 6.1 | 6.3 | 8.5 |
| 55 | 7.6 | 5.8 | 7.3 | 7.4 | 8.9 | 11.7 | 5.3 | 4.3 | 5.1 | 5.5 | 5.6 | 7.7 |
| 56 | 6.8 | 5.2 | 6.5 | 6.5 | 8.1 | 10.8 | 4.7 | 3.7 | 4.5 | 4.8 | 5.0 | 7.0 |
| 57 | 6.0 | 4.5 | 5.7 | 5.8 | 7.3 | 9.9 | 4.1 | 3.2 | 4.0 | 4.2 | 4.4 | 6.4 |
| 58 | 5.3 | 3.9 | 5.0 | 5.0 | 6.5 | 9.2 | 3.6 | 2.7 | 3.5 | 3.7 | 3.8 | 5.8 |
| 59 | 4.6 | 3.4 | 4.3 | 4.4 | 5.7 | 8.4 | 3.1 | 2.3 | 3.0 | 3.2 | 3.3 | 5.2 |
| 60 | 4.0 | 2.9 | 3.7 | 3.7 | 5.0 | 7.6 | 2.7 | 2.0 | 2.6 | 2.8 | 2.9 | 4.7 |
| 61 | 3.3 | 2.4 | 3.1 | 3.2 | 4.4 | 6.9 | 2.3 | 1.6 | 2.2 | 2.4 | 2.5 | 4.1 |
| 62 | 2.9 | 2.0 | 2.6 | 2.7 | 3.8 | 6.3 | 1.9 | 1.3 | 1.9 | 2.0 | 2.1 | 3.6 |
| 63 | 2.4 | 1.7 | 2.2 | 2.2 | 3.3 | 5.6 | 1.6 | 1.1 | 1.6 | 1.7 | 1.8 | 3.2 |
| 64 | 2.0 | 1.4 | 1.8 | 1.9 | 2.8 | 5.1 | 1.3 | 0.9 | 1.3 | 1.5 | 1.5 | 2.8 |
| 65 | 1.7 | 1.2 | 1.5 | 1.5 | 2.4 | 4.5 | 1.1 | 0.8 | 1.1 | 1.2 | 1.2 | 2.5 |
| 66 | 1.5 | 1.0 | 1.3 | 1.3 | 2.1 | 4.0 | 0.9 | 0.6 | 0.9 | 1.0 | 1.0 | 2.2 |
| 67 | 1.2 | 0.8 | 1.1 | 1.1 | 1.7 | 3.6 | 0.8 | 0.5 | 0.7 | 0.9 | 0.8 | 1.9 |
| 68 | 1.0 | 0.7 | 0.9 | 0.9 | 1.5 | 3.2 | 0.6 | 0.4 | 0.6 | 0.7 | 0.7 | 1.7 |
| 69 | 0.9 | 0.6 | 0.8 | 0.8 | 1.2 | 2.8 | 0.5 | 0.4 | 0.5 | 0.6 | 0.6 | 1.5 |
| 70 | 0.7 | 0.5 | 0.7 | 0.7 | 1.0 | 2.5 | 0.5 | 0.3 | 0.4 | 0.5 | 0.5 | 1.3 |

* Weighted averages by education. Sources: see Chapter 12.

C. ASSUMPTIONS ABOUT THE FUTURE

Future income and expenditures of the OASI and DI Trust Funds will depend on many factors, including the size and characteristics of the population receiving benefits, the level of monthly benefit amounts, the size of the workforce, and the level of workers' earnings. These factors will depend in turn on future birth rates, death rates, immigration, marriage and divorce rates, retirement-age patterns, disability incidence and termination rates, employment rates, productivity gains, wage increases, inflation, and many other demographic, economic, and program-specific factors.

The intermediate demographic and economic assumptions shown in table II.C1, designated as alternative II, reflect the Trustees' best estimates of future experience, and therefore most of the figures in this overview depict only the outcomes under the intermediate assumptions. Any projection of the future is, of course, uncertain. For this reason, alternatives I (low cost) and III (high cost) are included to provide a range of possible future experience. The assumptions for these two alternatives are also shown in table II.C1, and their implications are highlighted in a separate section on the uncertainty of the projections.

Assumptions are reexamined each year in light of recent experience and new information. This annual review helps to ensure that the assumptions provide the Trustees' best estimate of future possibilities.

Table II.C1.—Ultimate¹ Values of Key Demographic and Economic Assumptions for the Long-Range (75-year) Projection Period

| Ultimate assumptions | Intermediate | Low Cost | High Cost |
|---|--------------|----------|-----------|
| Total fertility rate (children per woman) | 2.0 | 2.3 | 1.7 |
| Average annual percentage reduction in total age-sex-adjusted death rates from 2032 to 2082 | .73 | .32 | 1.21 |
| Average annual net immigration (in thousands) over the period 2008-82 | 1,070 | 1,375 | 790 |
| Annual percentage change in: | | | |
| Productivity (total U.S. economy) | 1.7 | 2.0 | 1.4 |
| Average wage in covered employment | 3.9 | 3.4 | 4.4 |
| Consumer Price Index (CPI) | 2.8 | 1.8 | 3.8 |
| Real-wage differential (percent) | 1.1 | 1.6 | .6 |
| Unemployment rate (percent) | 5.5 | 4.5 | 6.5 |
| Annual trust fund real interest rate (percent) | 2.9 | 3.6 | 2.1 |

¹ Ultimate values are assumed to be reached within 25 years. See chapter V for details, including historical values and projected values prior to reaching the ultimate.



Daily Treasury Yield Curve Rates

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[Historical Data](#)

This data is also available in XML format by clicking on the XML icon

[Daily Treasury Yield Curve Rates](#)

[Daily Treasury Bill Rates](#)

[Daily Treasury Long-Term Rates](#)

[Daily Treasury Real Yield Curve Rates](#)

[Daily Treasury Real Long-Term Rates](#)

December 2008

| Date | 1 mo | 3 mo | 6 mo | 1 yr | 2 yr | 3 yr | 5 yr | 7 yr | 10 yr | 20 yr | 30 yr |
|----------|------|------|------|------|------|------|------|------|-------|-------|-------|
| 12/01/08 | 0.09 | 0.07 | 0.44 | 0.81 | 0.90 | 1.16 | 1.71 | 2.13 | 2.72 | 3.51 | 3.22 |
| 12/02/08 | 0.04 | 0.06 | 0.42 | 0.77 | 0.90 | 1.12 | 1.65 | 2.08 | 2.68 | 3.47 | 3.18 |
| 12/03/08 | 0.02 | 0.02 | 0.35 | 0.70 | 0.87 | 1.07 | 1.60 | 2.03 | 2.67 | 3.45 | 3.17 |
| 12/04/08 | 0.01 | 0.02 | 0.26 | 0.61 | 0.82 | 1.02 | 1.51 | 1.93 | 2.55 | 3.35 | 3.06 |
| 12/05/08 | 0.02 | 0.02 | 0.23 | 0.54 | 0.93 | 1.19 | 1.67 | 2.09 | 2.67 | 3.41 | 3.11 |
| 12/08/08 | 0.01 | 0.03 | 0.28 | 0.53 | 0.97 | 1.27 | 1.76 | 2.17 | 2.77 | 3.45 | 3.16 |
| 12/09/08 | 0.04 | 0.03 | 0.25 | 0.49 | 0.84 | 1.15 | 1.61 | 2.03 | 2.67 | 3.35 | 3.06 |
| 12/10/08 | 0.00 | 0.00 | 0.21 | 0.49 | 0.86 | 1.21 | 1.62 | 2.05 | 2.69 | 3.39 | 3.09 |
| 12/11/08 | 0.00 | 0.01 | 0.22 | 0.51 | 0.79 | 1.11 | 1.55 | 1.99 | 2.64 | 3.35 | 3.07 |
| 12/12/08 | 0.03 | 0.02 | 0.21 | 0.50 | 0.78 | 1.05 | 1.55 | 1.98 | 2.60 | 3.36 | 3.07 |
| 12/15/08 | 0.00 | 0.03 | 0.28 | 0.50 | 0.75 | 1.02 | 1.50 | 1.92 | 2.53 | 3.29 | 2.98 |
| 12/16/08 | 0.05 | 0.04 | 0.23 | 0.45 | 0.65 | 0.88 | 1.34 | 1.77 | 2.37 | 3.16 | 2.86 |
| 12/17/08 | 0.03 | 0.05 | 0.19 | 0.45 | 0.73 | 0.98 | 1.35 | 1.70 | 2.20 | 3.01 | 2.66 |
| 12/18/08 | 0.03 | 0.00 | 0.15 | 0.43 | 0.68 | 0.92 | 1.26 | 1.59 | 2.08 | 2.86 | 2.53 |
| 12/19/08 | 0.00 | 0.02 | 0.14 | 0.44 | 0.74 | 1.02 | 1.35 | 1.66 | 2.13 | 2.89 | 2.55 |

* 30-year Treasury constant maturity series was discontinued on February 18, 2002 and reintroduced on February 9, 2006. From February 18, 2002 to February 8, 2006, Treasury published alternatives to a 30-year rate. See Long-Term Average Rate for more information.

Treasury discontinued the 20-year constant maturity series at the end of calendar year 1986 and reinstated that series on October 1, 1993. As a result, there are no 20-year rates available for the time period January 1, 1987 through September 30, 1993.

Treasury Yield Curve Rates. These rates are commonly referred to as "Constant Maturity Treasury" rates, or CMTs. Yields are interpolated by the Treasury from the daily yield curve. This curve, which relates the yield on a security to its time to maturity is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations obtained by the Federal Reserve Bank of New York. The yield values are read from the yield curve at fixed maturities, currently 1, 3 and 6 months and 1, 2, 3, 5, 7, 10, 20, and 30 years. This method provides a yield for a 10 year maturity, for example, even if no outstanding security has exactly 10 years remaining to maturity.

Treasury Yield Curve Methodology. The Treasury yield curve is estimated daily using a cubic spline model. Inputs to the model are primarily bid-side yields for on-the-run Treasury securities. See our [Treasury Yield Curve Methodology](#) page for details.

U.S. Treasury Daily Treasury Bill Rates

Negative Yields and Nominal Constant Maturity Treasury Series Rates (CMTs). Current financial market conditions, in conjunction with extraordinary low levels of interest rates, have resulted in negative yields for some Treasury securities trading in the secondary market. Negative yields for Treasury securities most often reflect highly technical factors in Treasury markets related to the cash and repurchase agreement markets, and are at times unrelated to the time value of money.

For more information regarding these statistics contact the Office of Debt Management by email at debt.management@do.treas.gov.

For other Public Debt information contact (202) 504-3550.



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Internet Address: <http://www.bls.gov/ect>

USDL: 08-0788
For Release: 10:00 AM EDT
Wednesday, June 11, 2008

EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—MARCH 2008

Employer costs for employee compensation averaged \$28.46 per hour worked in March 2008, the U.S. Department of Labor's Bureau of Labor Statistics reported today. Wages and salaries, which averaged \$19.83, accounted for 69.7 percent of these costs, while benefits, which averaged \$8.63, accounted for the remaining 30.3 percent. (See table 1.) Employer Costs for Employee Compensation, based on the National Compensation Survey, measures employer costs for wages, salaries, and employee benefits for nonfarm private and state and local government workers.

Costs for legally required benefits, including Social Security, Medicare, unemployment insurance, and workers' compensation, averaged \$2.24 per hour (7.9 percent of total compensation). Employer costs for life, health, and disability insurance benefits averaged \$2.40 (8.4 percent); paid leave benefits (vacations, holidays, sick leave, and other leave) averaged \$2.00 (7.0 percent); and retirement and savings benefits averaged \$1.26 (4.4 percent) per hour worked.

Health benefit costs in private industry

The average cost for health benefits was \$1.92 per hour worked in private industry (7.2 percent of total compensation) in March 2008. In March 2003, employer costs for health benefits averaged \$1.41, or 6.3 percent of total compensation.

Among occupational groups, employer costs for health benefits ranged from 90 cents per hour and 6.8 percent of total compensation for service workers to \$2.77 and 5.8 percent of total compensation for management, professional, and related occupations. Among other occupational categories, employer costs for health benefits averaged \$1.67 (7.9 percent) for sales and office occupations, lower than \$2.30 (7.6 percent) for natural resources, construction, and maintenance occupations, and \$2.21 (9.6 percent) for production, transportation, and material moving occupations. (See table 5.)

Employer costs for health benefits were significantly higher for union workers, averaging \$3.95 per hour (10.9 percent), than for nonunion workers, averaging \$1.68 (6.5 percent). (See table 5.)

NOTE

Effective with the December 2008 release, series for metropolitan and nonmetropolitan areas in table 7 will be discontinued.

In goods-producing industries, health benefit costs were higher, \$2.68 per hour (8.5 percent of total compensation), than in service-providing industries, \$1.73 per hour (6.8 percent of total compensation). (See table 6.)

Within goods-producing industries, health insurance costs were \$2.91 per hour (9.3 percent of total compensation) for manufacturing workers, greater than the cost for construction workers (\$2.09 and 6.9 percent of compensation.) Service-providing industries varied greatly in costs, ranging from 61 cents in leisure and hospitality (5.2 percent), to \$2.60 in the financial activities industry (7.3 percent) and \$2.90 in the information industry (7.4 percent). (See table 6.)

Among the four regions, costs for health benefits ranged from \$1.65 per hour in the South to \$2.12 in the Northeast. Health care costs were \$2.06 in the Midwest and \$1.99 in the West. The proportion of total compensation represented by health benefits was 6.9 percent in the West, South and Northeast, and 7.9 percent in the Midwest. Within census divisions, hourly health benefit costs ranged from \$1.56 in the West South Central division, to \$2.17 in the Middle Atlantic and East North Central divisions. (See table 7.)

Health benefit costs increased, both in average hourly dollar amount and as a proportion of total compensation, with establishment size. Establishments with fewer than 50 workers averaged \$1.26 (5.8 percent), those with 50-99 workers averaged \$1.64 (7.0 percent), those with 100-499 employees averaged \$2.12 (7.9 percent), and those with 500 or more employees averaged \$3.01 (8.0 percent). (See table 8.)

Private industry

In March 2008, private industry employer compensation costs averaged \$26.76 per hour worked. Wages and salaries averaged \$18.91 per hour (70.6 percent), while benefits averaged \$7.86 (29.4 percent). Employer costs for paid leave averaged \$1.80 per hour worked (6.7 percent), supplemental pay averaged 80 cents (3.0 percent), insurance benefits averaged \$2.06 (7.7 percent), retirement and savings averaged 96 cents (3.6 percent), and legally required benefits \$2.24 (8.4 percent) per hour worked. (See table 5.)

Employer costs for health benefits varied by industry, occupation, bargaining status, region and establishment size. These differences reflect in part, varying incidence of benefit coverage among these groups. The National Compensation Survey also produces comprehensive data on the percentage of workers with access to and that participate in various employer provided benefit plans. For more information, see the BLS internet site <http://www.bls.gov/ncs/ebs/home.htm>.

Note

The Employer Costs for Employee Compensation news release for June 2008 is scheduled for Wednesday, September 10, 2008, at 10:00 AM (EDT).

**Relative importance of employer costs for
employee compensation, March 2008**

| Compensation component | Civilian workers | State and local government | Private industry |
|------------------------|------------------|----------------------------|------------------|
| Wages & salaries | 69.7% | 65.9% | 70.6% |
| Benefits | 30.3 | 34.1 | 29.4 |
| Paid leave | 7.0 | 8.2 | 6.7 |
| Supplemental pay | 2.6 | 0.9 | 3.0 |
| Insurance | 8.4 | 11.4 | 7.7 |
| Health benefits | 7.9 | 11.0 | 7.2 |
| Retirement & savings | 4.4 | 7.6 | 3.6 |
| Defined benefit | 2.7 | 6.7 | 1.6 |
| Defined contribution | 1.8 | 0.8 | 2.0 |
| Legally required | 7.9 | 6.0 | 8.4 |

Employer costs per hour worked for health benefits and total benefits, by various categories, March 2008

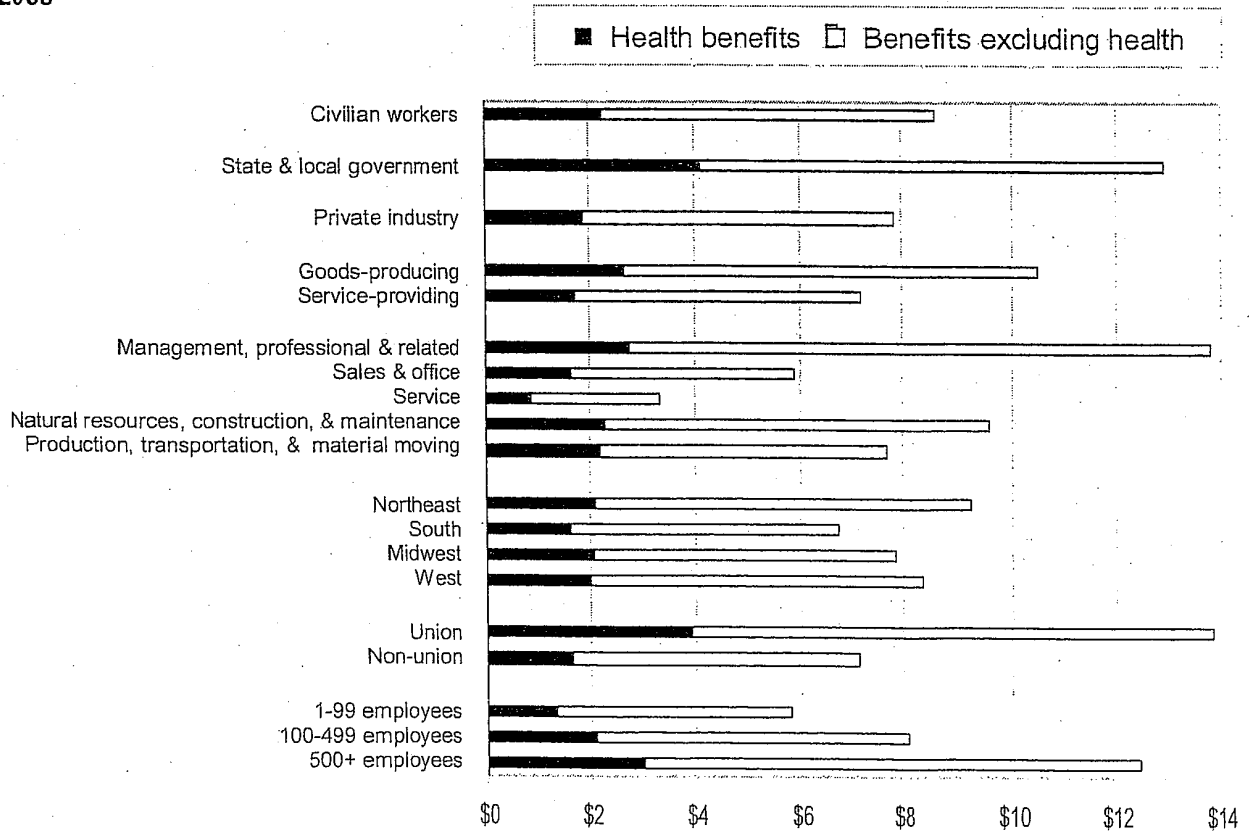


EXHIBIT 2

Terrence M. Clauretje, Ph.D., C.P.A. (RETIRED CPA)
Department of Finance
University of Nevada, Las Vegas
4505 So. Maryland Parkway
Las Vegas, Nevada 89154-6025
(702) 895-3223 (Office)
(702) 456-1035 (Home)

EDUCATION

Stonehill College

1961 - 1965, B.A. in Economics

Washington State University

1965 - 1971, Ph.D. in Economics

Shepherd State College

1977 - 1978, non-degree program in Accounting. C.P.A., 1979

Texas Tech University

2007-2008, coursework in structured settlements

TEACHING EXPERIENCE

University of Nevada, Las Vegas
Las Vegas, Nevada 89154

Professor, 1988 - Present

Teach undergraduate courses in Finance, Principles of Managerial Finance, Intermediate Managerial Finance, Real Estate Finance, and Investments. Teach graduate courses in Problems in Business Finance.

Louisiana State University in Shreveport
Shreveport, Louisiana 71115

Professor, 1985 - 1988

Associate Professor, 1981 - 1985

Taught undergraduate courses in Economics, Money and Banking, Real Estate, Financial Management, Investments, Capital Budgeting, and Statistics. Taught graduate courses in Financial Management.

Shepherd State College
Shepherdstown, West Virginia 25443

Associate Professor, 1977 - 1981

Assistant Professor, 1972 - 1977

Taught undergraduate courses in Economics and Business Administration, with an emphasis on the quantitative disciplines.

Marshall University
Huntington, West Virginia 25701

Assistant Professor, 1971 - 1972

Taught undergraduate and graduate courses in Economics, with an emphasis on Money and Banking and on Monetary Theory.

Washington State University
Pullman, Washington 99163

Teaching Assistant, 1965 - 1970

RESEARCH

Dissertation: "Monetary Growth Rates, the Business Demand for Funds, and the Residential Mortgage Market: A Sectoral Econometric Study."
 Received an award for outstanding dissertations at the Eastern Finance Association Meeting, April, 1973.

Articles: (Chronological)

1. "Interest Rates, the Business Demand for Funds, and the Residential Mortgage Market: A Sectoral Econometric Study," Journal of Finance, December, 1973.
2. "Interest Rates and the Sectoral Behavior of the Residential Mortgage Market: A Theoretical Model," Southern Economic Journal, July, 1974.
3. "Factors Affecting Student Performance in Principles of Economics," Journal of Economic Education, Spring, 1975, co-authored with E.J. Johnson.
4. "Why do GNMA's Yield More Than Treasuries?" Journal of Portfolio Management, Spring, 1982.
5. "How Much is an Assumable Loan Worth?" Real Estate Review, Fall, 1982.
6. "Breakeven Point in Mortgage Buybacks," Mortgage Banking, August, 1982.
7. "Participant Behavior in Sweepstakes Contests," Mid South Journal of Economics, (refereed section), Summer, 1982, co-authored with Melvin W. Harju.
8. "'Safe' Mortgage Buybacks: Look Again," Mortgage Banking, January, 1983.
9. "The Value of Real Property Attached by Creative Financing," Appraisal Review Journal, January, 1983.
10. "BASIC Program for Valuation of Assumable Low-rate Loans," Appraisal Journal, January, 1983.
11. "The Selection of Deans: Schools of Business at American Colleges and Universities," Proceedings of the Southwest AIDS, March, 1983.
12. "Expropriation Under Louisiana Law: Compensation to the Full Extent of the Loss," The Louisiana Bar Journal, April, 1983, co-authored with Melvin W. Harju.
13. "Do Single-Family House Prices Always Reflect the Value of Creative Financing?" Appraisal Review Journal, Vol. 6, No. 2, Fall, 1983.
14. "Interest Rates: Lending and Consequences," Mortgage Banking, September, 1983.
15. "Tax Rulings Affect Alternative Mortgage Instruments," Financial Planner, August, 1983, co-authored with John Marts.
16. "Recent Tax Rulings on AMI's," Journal of Accountancy, January, 1984, co-authored with John Marts.
17. "A Note on the Bias in House Price Capitalization Models," Journal of the American Real Estate & Urban Economics Association, Winter, 1983.
18. "New Directions in Eminent Domain: The Emerging Issue of Enhancement," The Appraisal Journal, April, 1984, co-authored with Melvin W. Harju.
19. "Alternative Mortgages Have Hidden Costs," Real Estate Review, Spring, 1984, co-authored with John Marts.
20. "Mortgage Market's New World," Mortgage Banking, (special issue), June, 1984.
21. "The Effect of Liquidity, Regulations and Taxes on the Portfolio Decision of Financial Institutions," Midsouth Journal of Economics (refereed section), June, 1984.
22. "Taxes, Negative Amortization, and the Duration of Graduated Payment Mortgages: Implications for Interest Rate Risk," Midsouth Journal of Economics (refereed section), September, 1984.
23. "Capitalization of Seller-Supplied Financing: Implications for Assessment," Property Tax Journal, December, 1984.
24. "The Impact of Credit Watch on Equity Returns and Bond Prices," Journal of Financial Research, Spring, 1985, co-authored with James Wansley.
25. "New Opportunities for Collegiate Real Estate Programs," Journal of Real Estate Education, Winter/ Spring, 1985.
26. "The Auditor's Use of Real Estate Appraisal Reports," Real Estate Appraiser and Analyst, Winter, 1984, co-authored with R. Steve McDuffie.

27. "What the Review Appraiser Should Know About Generally Accepted Auditing Standards," Appraisal Review Journal, Winter, 1985, co-authored with R. Steve McDuffie.
28. "Designing ARMS for Interest Rate Uncertainty," Mortgage Banking, May, 1985.
29. "The Impact of New Auditing Guidelines on the Appraisal Profession: Results of a Survey of Institute Members," Appraisal Journal, October, 1985, co-authored with R. Steve McDuffie.
30. "ARMs Investments: Variance and Returns," Mortgage Banking, November, 1985.
31. "Comment on the Below-Market Financing Premium: The Buyer's Viewpoint," Property Tax Journal, December, 1985.
32. "The Impact of Bond Issues on Housing Markets," Housing Finance Review, 1986, co-authored with C.F. Sirmans and Paul Merkle.
33. "Pricing Adjustable Rate Mortgages: A Review of Recent Findings," Real Estate Finance Journal, Spring, 1986.
34. "The Expanding Concept of Just Compensation and the Role of the Appraiser," Journal of the American Real Estate and Urban Economics Association, Summer, 1986, co-authored with Mel Harju.
35. "Terms of Financing and Residential Property Prices: Views of Appraisers," Real Estate Appraiser and Analyst, Fall, 1986, co-authored with Douglas S. Bible.
36. "Cash Equivalency: Appraiser's Views and Applications," The Appraisal Journal, January, 1987.
37. "How Appraisers Have Responded to R41b Cash Equivalency," The Appraisal Review, Vol. 33, 1987, co-authored with Douglas S. Bible.
38. "The Impact of Interstate Foreclosure Cost Differences and the Value of Mortgages on Default Rates," Journal of the American Real Estate and Urban Economics Association, 1987.
39. "The Impact of Legal Costs on the Default-Foreclosure Process of Residential Mortgages: A Quantitative Analysis," American Business Law Journal, co-authored with Robert Aalberts, Winter, 1988.
40. "Microeconomic Theory of Leasehold Takings: An Analysis of Eminent Domain Applied to Leasehold Condemnation," Midsouth Journal of Economics and Finance, 1988, co-authored with Robert Aalberts and Clarence Adams.
41. "Empirical Evidence on the Interstate Differences in Foreclosure Rates: Would the Uniform Land Transactions Act Help?" Federal Home Loan Bank Board, Research Paper #135, February, 1988.
42. "Regional Economic Diversification and Residential Mortgage Default Risk," Journal of Real Estate Research, Spring, 1988.
43. "Comment: Resolution of Incentive Conflicts in the Mortgage Industry," Journal of Real Estate Finance and Economics, 2: 1989.
44. "Analyzing Local Economic Conditions: An Added Responsibility for Appraisers?" Journal of Real Estate Appraisal and Economics, Spring, 1989, co-authored with Robert Aalberts and Richard Hoyt.
45. "Appraisal Regulation and Certification: Views of Appraisers," The Appraisal Journal, July, 1989, co-authored with Doug Bible and Marshall Graham.
46. "How State Laws Affect Foreclosure Costs," Secondary Mortgage Markets, Spring, 1989, co-authored with Thomas Herzog.
47. "Weighing the Risk of Self-Insurance," Mortgage Banking, December, 1988, co-authored with Jack Corgel.
48. "State Foreclosure Laws, Risk Shifting, and the Private Mortgage Insurance Industry," Journal of Risk and Insurance, September, 1989.
49. "The Impact of Legal Costs on Private Mortgage Insurance Company Losses: 1980-1986," Journal of Insurance Regulation, June, 1989.
50. "What Independent Fee Appraisers Think About Certification and Regulation," The Appraisal Review, 39, 1989, co-authored with Douglas Bible.
51. "How Society Appraisers View Appraisal Regulation and Certification," The Real Estate Appraiser and Analyst, 1989, co-authored with Richard Hoyt and Doug Bible.
52. "Diversification Strategies for Mortgage Default Risk Management," Real Estate Finance Journal, 1990, co-authored with John Corgel.
53. "A Note on Mortgage Risk: Default and Loss Rates," AREUEA Journal, Summer, 1990.

54. "A Note on Refinancing Costs, Prepayment Assumptions, and the Value of Mortgage Backed Securities," Journal of Real Estate Finance and Economics, September, 1990, co-authored with Mel Jameson and Ron Rogers.
55. "The Effect of State Foreclosure Laws on Loan Losses: Some Evidence from the Mortgage Insurance Industry," Journal of Money, Credit and Banking, May, 1990.
56. "Interest Rates and the Foreclosure Process: An Agency Problem in FHA Mortgage Insurance", Journal of Risk and Insurance, January, 1991, co-authored with Mel Jameson.
57. "Institutional Bond Pricing and Information Arrival: The Case of Bond Rating Changes", Journal of Business Finance and Accounting, 1991, co-authored with James Wansley and John Glascock.
58. "Sexual Harassment in Housing", Journal of Property Management, January/February, 1992, co-authored with Robert Aalberts.
59. "Mortgage Revenue Bonds and Local Housing Markets", Chapter 11 in Mortgage Revenue Bonds, Danny Durning, ed., Kluwer Academic Publishing, Boston, 1992.
60. "Regulation and Certification in Appraisal: A Comparative Analysis," Journal of Real Estate Appraisal and Economics, Summer, 1992, co-authored with Douglas Bible.
61. "A Note on the Ranking of Real Estate Authors: Where Else Do They Publish and Who Cares?," Journal of Real Estate Research, Summer, 1993, co-authored with Nasser Daneshvary.
62. "Property Data from Tax Assessor's Files," Journal of Real Estate Literature, July, 1995.
63. "A Note on Foreclosure Sales and Selling Prices: Are Real Estate Markets Efficient?," Journal of Real Estate Research, March, 1997, with Thomas Carroll and Helen Neill.
64. "Ordinary and Reverse Tax Effect in Personal Injury and Wrongful Death Cases," Journal of Forensic Economics, Fall, 1994, co-authored with Mel Jameson and Robert Aalberts.
65. "Residential Loan Renegotiation: Theory and Evidence," Journal of Real Estate Research, Vol. 10, No. 2, 1995, co-authored with Mel Jameson.
66. "HUD versus Private Bank Foreclosures: The Impact on Residential Prices," Journal of Housing Economics, June, 1995, co-authored with Thomas Carroll, Helen Neill, and Cindy Jorgenson.
67. "Living Next to Godliness: Residential Property Values and Churches," Journal of Real Estate Finance and Economics, May, 1996, co-authored with Thomas Carroll and Jeff Jensen.
68. "The Economic Impact of a Transient Hazard on Property Values: The 1988 Pepcon Explosion in Henderson, NV," Journal of Real Estate Finance and Economics, Vol. 13, No. 2, 1996, co-authored with Thomas Carroll, Jeff Jensen, and Margaret Waddoups.
69. "Quantifying the Tax Advantage of Structural vs. Lump-Sum Settlements in Personal Injury Awards," Journal of Legal Economics, Winter 1996/1997 with Clarence Ray.
70. "Sexual Harassment of Tenants in Rental Housing: an Ethical and Legal Debate in the wake of Shellhammer and Grerre Cases" with Robert Aalberts. Vol. 5, 1998 Ethics in Real Estate (monograph).
71. "Discount Point Concession: Comment" Journal of Real Estate Finance and Economics, Nov. 1999.
72. "What Appraisers need to know about the Year 2000 Problem" co-authored with Thomas Grotewold. The Appraisal Journal, April, 1999.
73. "Year-round School Schedules and Residential Property Values" co-authored with Helen Neil. May, 2000 Journal of Real Estate Finance and Economics.
74. "A Note on the Earnings of Real Estate Salespersons when others in the Financial Services Industry" co-authored with Thomas Carroll. November, 2000 Journal of Real Estate Finance and Economics.
75. "Efficiency and Costs in Education: Year-Round vs. Traditional Schedules" with Nasser Daneshvary, June, 2001 Economics of Education Review.
76. "Goodwill and Covenants-not-to-Compete: Divorce Actions in Community Property Jurisdictions" with Robert Aalberts, Nevada Lawyer, April, 2000.
77. "Small Business Valuation: Goodwill and Covenants-not-to-Compete in Community Property Divorce Actions" with Robert Aalberts and Joseph Matoney, Journal of Forensic Economics, fall, 2000 pp. 217-231.
78. "The Effect of Tax Laws and the Cost of Capital on the Size of Newly Constructed Strip Shopping Centers" with Mel Jameson, July/August 2002, Journal of Real Estate Research.

79. "Fringe Benefits, Employer-Paid Health Insurance and the Age-Earnings Cycle: Implications for Forensic Economists", 12:3 Winter 2002-2003, Journal of Legal Economics.
80. "Residential Properties Taken Under Eminent Domain: Do Government Appraisers Track Market Values?," with Keith Schwer and William Kuhn, Journal of Real Estate Research, 26:3 July/September 2004
81. "Leave Vacant or Rent: The Optimal Decision for Absentee Home Sellers," with Marv Wolverton, Journal of Real Estate Research, 28:1, 2006.
82. "Quantification of the Effect of Worker Disability on the Probability of Participation and Employment", Journal of Legal Economics, 13(1) Spring/Summer, 2003
83. "The Impact of Vocational Rehabilitation Services on Employment and Earnings of Disabled Persons" The Rehabilitation Professional, October/November, 2004, pp. 49-59.
84. "The Effect of Time-on-Market and Location on Search Costs and Anchoring: the Case of Single Family Properties, with Paul Thistle, Journal of Real Estate Finance and Economics, 2007 35: pp. 181-196.
85. "A Note on the Relationship Between Overtime Work and Age," Journal of Legal Economics, Vol. 14#1 pp. 23-31.
86. "Gender Differences in the Valuation of Employer Provided Health Insurance: with Nasser Daneshvary Economic Inquiry October, 2007 pp. 800-816.
87. "Economies of Scale and Cost Efficiencies: A Panel-Data Stochastic Frontier Analysis of Real estate Investment Trusts" with Stephen Miller and Thomas Springer, The Manchester School Vol 74 #4 pp 483-499.
88. "Principal-Agent Conflict and Broker Effort Near Listing Contract Expiration: The Case of Residential Properties", with Nasser Daneshvary, Journal of Real Estate Finance and Economics, 2008
89. "Estimating the House Foreclosure Discount Corrected for Spatial Price Interdependence and Endogeneity of Marketing Time," with Nasser Daneshvary, Real Estate Economics, forthcoming

Textbooks:

1. Real Estate, John Wiley & Sons, 1992 with Larry Wofford.
2. Real Estate Finance: Theory and Practice, Thompson Learning, 2002 with G. Stacy Sirmans.
3. Learning Real Estate Finance, with G. Stacy Sirmans, Prentice-Hall, 2002
4. Commercial real Estate Finance: An Introduction, Mortgage bankers Association of America, 2004.

OTHER PROFESSIONAL SERVICE

Editor, Real Estate Finance Journal, 1998-2000

Member of Board of Editors, Journal of Real Estate Research, 1987 - 1988.

Member of Board of Editors of Journal of Real Estate Finance and Economics.

Editorial Review Board - Research in Real Estate Monograph Series, Volume III.

Editor, Special Issue of Journal of Real Estate Research; Ten Year Anniversary of the American Real Estate Society.

Referee for:
Journal of Real Estate Research.
American Real Estate and Urban Economic Association Journal.
Journal of Real Estate Finance and Economics.
Journal of Applied Business Research.
Financial Management

President, American Real Estate Society, 1991-1992.

PROFESSIONAL ASSOCIATIONS (PAST AND PRESENT)

American Economic Association
 American Real Estate and Urban Economic Association
 American Institute of Certified Public Accountants

American Real Estate Society
American Finance Association

PROFESSIONAL LEGAL SEMINARS

Tax Issues in Wrongful Termination Cases

2008 annual meetings of the Nevada Justice Association (formerly Nevada Trial Lawyers Association)

EXHIBIT 3

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETTE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/ DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|--|-----------------------|---|----------------------|---|--------------------|-------------|
| Abeyla, Helen v. Ralplis Grocery | A506028 | 8 th Judicial District | Defendant | Brady, Vorwerck, Ryder & Caspino | Deposition, Trial | Damages |
| Ackers, Andrea v. Hermostillo-Davalos | A492718 | 8 th Judicial District | Plaintiff | Yannah & Vannah | Deposition | Damages |
| Actuna v. Busby | A468730 | 8 th Judicial District | Plaintiff | Paul Powell, Esq. | Deposition | Damages |
| Amador v. Kerry Malin et al. | A464465 | 8 th Judicial District | Plaintiff | Jerry H. Mowbray, Esq. | Dep. & Trial | Damages |
| Amante v. Ford Motor Co. | A459611 | 8 th Judicial District | Plaintiff | Lawrence Smith, Esq. | Deposition | Damages |
| Amirikhani v. Helmick | A496839 | 8 th Judicial District | Plaintiff | Robert T. Eglert, Esq. | Deposition | Damages |
| Arellano v. Park North, LLC | A425066 | 8 th Judicial District | Plaintiff | Mainor, Eglert & Cottle | Deposition | Damages |
| Arenas-DeCastillo v. Ricardo Nunez-Moreno | A515482 | 8 th Judicial District | Plaintiff | | | |
| Arnold, Linda v. Skyline Restaurant & Casino | A465357 | 8 th Judicial District | Plaintiff | Leslie Stovall | Trial | Damages |
| Arnold, Linda v. Skyline Restaurant & Casino | A465357 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Asmussen v. Feil | A470577 | 8 th Judicial District | Plaintiff | Paul Powell, Esq. | Deposition | Damages |
| ASQ, Inc. v. Colonial Bank | A406878 | 8 th Judicial District | Defendant | Edward Coleman, Esq. | Deposition | Damages |
| Bank of America v. Robert V. Jones, et al. | A406648 | 8 th Judicial District | Plaintiff | Robert Kistler, Esq. Gordon & Silver | Deposition & Trial | Damages |
| Banner, Panix v. Don King Productions | A422631 | 8 th Judicial District | Plaintiff | Henry Marquis, Esq. | Trial | Damages |
| Baracco, Margarte v. Wal-Mart Stores | 2:07-CV-01415-LDG-RJJ | U.S. District Court District of Nevada | Plaintiff | Yannah & Vannah | Deposition | Damages |
| Barfield v. Sierra Health Ser. | A414252 | 8 th Judicial District | Plaintiff | Lawrence Springburg, Esq. | Deposition | Damages |
| Barnard, Virginia v. Goldberg, Michael | A524294 | 8 th Judicial District | Plaintiff | G. Dallas Horton | Deposition | Damages |
| Barton, James v. Dettloff, Mitchell | A466568 | 8 th Judicial District | Plaintiff | Richard Harris | Deposition | Damages |
| Baron, Sarah v. Kogut, Kelly | A494998 | 8 th Judicial District | Plaintiff | Lanny Waite | Deposition | Damages |
| Batz v. David Robinson. Alamo Financing | CV-S-05-0294-PAL | United States District Court NV | Plaintiff | Bruce Scott Dickinson, Esq. | Deposition | Damages |
| Beck v. Jones | A486859 | 8 th Judicial District | Plaintiff | Robert Eglert, Esq. | Trial | Damages |
| Berganza V. AAPI Consolidated | A478637 | 8 th Judicial District | Plaintiff | Robert Murdock | Deposition | Damages |
| Bergeron, Diane v. woldemarian, Alazor | A538507 | 8 th Judicial District | Plaintiff | Mainor, Eglert, Cottle | Deposition | Damages |
| Bialock, Louis v. Hendrickson, Gregg C. | A520537 | 8 th Judicial District | Plaintiff | Yannah & Vannah | Deposition | Damages |
| Bobby Long v. Phylis Reller | A461076 | 8 th Judicial District | Plaintiff | Adam Ganz, Esq. | Dep. & Trial | Damages |
| Brady, Ron v. Hirata, Lyle et al. | A511214 | 8 th Judicial District | Plaintiff | Patit & Sgro | Deposition | Damages |
| Breen v. Cohen | A444793 | 8 th Judicial District | Defendant | Lon Burke, Esq. | Deposition | Damages |
| Brenda Page v. Ascar Ezeddar, M.D. | A382167 | 8 th Judicial District | Plaintiff | Eckely Keach, Esq. | Deposition | Damages |
| Britteli v. Wells Cargo | A479435 | 8 th Judicial District | Plaintiff | Paul Powell, Esq. | Deposition | Damages |
| Bryan, Dennis v. McFall, Paul | A491945 | 8 th Judicial District | Plaintiff | Yannah & Vannah | Deposition | Damages |
| Burke v. The Prudential Insurance Company of America | CV-S-04-0750-JCM GWF | United States District Court NV | Plaintiff | Carolyn Ellsworth, Esq. | Deposition | Damages |
| Camp v. Honda Motor Co. | A362879 | 8 th Judicial District | Plaintiff | Howard Needham, Esq. | Deposition | Damages |
| Campbell, Timothy v. Turner, Jonathan | YC055206 | County of Los Angeles, Southwest District | Plaintiff | Paul Powell | Deposition | Damages |
| Carl Aspgren v. Billie Barns | A390949 | 8 th Judicial District | Plaintiff | Jury Trial in Progress | Trial | Damages |
| Chalson v. Altel | A407769 | 8 th Judicial District | Defendant | Roger Wirth, Esq. | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETTE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/DEPENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|---------------------|--|---------------------|----------------------------|--------------------|-------------|
| Cheryl Grant v. Lelua Enter. | A385194 | 8 th Judicial District | Plaintiff | Richard Meyers, Esq. | Deposition | Damages |
| Childs, Patricia v. Cherry, D | A503879 | 8 th Judicial District | Plaintiff | Glen Lerner | | Damages |
| Christian v. Cunningham | A451833 | 8 th Judicial District | Plaintiff | Peter Christiansen, Esq. | Deposition | Damages |
| City of Las Vegas Downtown Development v. Moldon | A344462 | 8 th Judicial District | Defendant | Charles R. Gardener, Esq. | Deposition | Damages |
| CMI v. 1-2-3-4-5 | A456331 | 8 th Judicial District | Plaintiff | Avece M. Higbee, Esq. | Trial | Damages |
| Coble v. | 000500291 | Arbitration | Plaintiff | Cisneros | Arbitration | Damages |
| Collins, Jerimey v. Dixon, Joseph Allen | | 5 th Judicial District of Washington County, Utah | Plaintiff | Daniel Simon | Deposition | Damages |
| Conger, David v. Quinones, Hector | A521272 | 8 th Judicial District | Plaintiff | Paul Powell | Deposition | Damages |
| Conner, Pete v. Brookshire | A430916 | 8 th Judicial District | Plaintiff | Daniel S. Simon, Esq. | Dep. & Trial | Damages |
| Cooper, Kim v. Ford Motor Corp | A466566 | 8 th Judicial District | Plaintiff | Harris Law Firm | Deposition | Damages |
| Courtney Lee v. Verall | A495282 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Deposition | Damages |
| Crabtree, Andrew v. El Rey Motel, Inc | Civil No. 050500600 | 5 th Judicial Court of Iron County, State of Utah | Plaintiff | Brain Harris | Deposition | Damages |
| Crocetti v. Cone | A383119 | 8 th Judicial District | Plaintiff | Robert Eglet, Esq. | Trial | Damages |
| Cutler, Charlyne v. Drabant, Ashley | A528527 | 8 th Judicial District | Plaintiff | Paul Powell | Deposition | Damages |
| Curtis Lee v. Union Pac. RR | A455119 | 8 th Judicial District | Plaintiff | Daniel T. Foley, Esq. | Deposition | Damages |
| Dagel, Sandra v. Dollar Rent A Car-Systems | A456047 | 8 th Judicial District | Plaintiff | Mainer, Eglet & Cottle | Deposition | Damages |
| Damaso, Cesar v. Chafin | A446238 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Delegado v. Terrible Herbst | A437408 | 8 th Judicial District | Plaintiff | Immanuel B. Arin, Esq. | Trial | Damages |
| Diana Francis v. Vaughn Smith | A479173 | 8 th Judicial District | Plaintiff | Nathan M. Costello, Esq. | Deposition | Damages |
| Dipaola, Lorraine v. Camden USA, Inc. | A513720 | 8 th Judicial District | Plaintiff | Yannah & Yannah | Deposition, Trial | Damages |
| Dougherty v. Temple | A502369 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Douglas Jones v. Southwest Airlines | A433503 | 8 th Judicial District | Plaintiff | Matthew R. Yannah, Esq. | Deposition | Damages |
| Dropp, Marlon v. Bivens. | A494333 | 8 th Judicial District | Plaintiff | Arin | Deposition | Damages |
| Dupree v. Karen Street a California Limited LTD Partnership | A472834 | 8 th Judicial District | Plaintiff | Daniel S. Simon, Esq. | Deposition | Damages |
| Earthguard v. Clark County | A406630 | 8 th Judicial District | Plaintiff | Matthew Callister, Esq. | Deposition | Damages |
| Edgar, Alicia v. Quest Diagnostics, Inc. | A511862 | 8 th Judicial District | Plaintiff | Richard Harris | Deposition | Damages |
| Edwards v. Elite Marine, LLC | A419733 | 8 th Judicial District | Plaintiff | Robert Yannah, Esq. | Deposition & Trial | Damages |
| Eichholz v. J.C.Penney | A485509 | 8 th Judicial District | Plaintiff | Brian K. Harris, Esq. | Deposition | Damages |
| Estupinan v. Knowlton | A504352 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Evans v. Bulle | A515985 | 8 th Judicial District | Plaintiff | Mitchell Cobeaga | Deposition | Damages |
| Hampton, David v. Rexroal | A483361 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Erica Jackson v. Tarr-Harrison Family Limited Partnership | A486611 | 8 th Judicial District | Plaintiff | Michelle L. Anderton, Esq. | Trial | Damages |
| Erwin Bohlmann v. Byron John Printz, Ash, Inc. | A344401 | 8 th Judicial District | Defendant | Paul Eisinger, Esq. | Deposition | Damages |
| Essau v. Nevada Speedway | A447246 | 8 th Judicial District | Plaintiff | | Deposition | Damages |
| Estate of Ledesma v. Cano | A432086 | 8 th Judicial District | Plaintiff | Matthew Yannah, Esq. | Deposition | Damages |
| Faubion v. Arata | A427617 | 8 th Judicial District | Plaintiff | Mark A. Lobello, Esq. | Deposition | Damages |
| Forsberg v. University Medical | A440583 | 8 th Judicial District | Plaintiff | Timothy L. Palazzo, Esq. | Deposition | Damages |
| Foster v. Tennessee | A459546 | 8 th Judicial District | Plaintiff | | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETTE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/DEMANDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|-----------------------|-----------------------------------|---------------------|---------------------------|--------------------|-------------|
| Foster v. Texas Station | A452392 | 8 th Judicial District | Plaintiff | Ralph A. Schwartz, Esq. | Deposition | Damages |
| Fowler v. Mandalay Bay Corporation | A488094 | 8 th Judicial District | Plaintiff | Bradley S. Mainor, Esq. | Deposition, Trial | Damages |
| Fuentes v. Mark Thomas et al. | A440648 | 8 th Judicial District | Plaintiff | Glen Paternoster, Esq. | Trial | Damages |
| Fuss v. Delta Gulf Corp. | A469493 | 8 th Judicial District | Plaintiff | Steven Burris, Esq. | Deposition | Damages |
| Garcia, Rose v. Underbrink | A51461 | 8 th Judicial District | Plaintiff | Immanuel Arin | Deposition | Damages |
| Garreans, Lori v. State Farm Insurance Co. | A479903 | 8 th Judicial District | Plaintiff | Ralph Schwartz, Esq. | Deposition | Damages |
| Gary Dobbs v. Michael Knowlden, et al. | A481744 | 8 th Judicial District | Plaintiff | Paul Powell, Esq. | Deposition | Damages |
| Genier v. Sloan | D245940 | 8 th Judicial District | Plaintiff | Daniel Marks, Esq. | Deposition | Damages |
| Gentry v. Wal-Mart | A455908 | 8 th Judicial District | Plaintiff | Kristina R. Americo, Esq. | Deposition | Damages |
| George v. Tlumack | A398374 | 8 th Judicial District | Plaintiff | Alfred Osborne, Esq. | Trial | Damages |
| Giarusso v. Nevada State Board of Medical Examiners | CV-S-05-0640-RLH-PAL | United States District Court | Plaintiff | Patti & Sgro | Deposition | Damages |
| Gibson, Sharon v. Peismatt, Inc. | T-06-cv-01634-JMC-LRL | United States District Court | Plaintiff | Norberto Cisneros | Deposition | Damages |
| Giglio, Debbie v. FGA, Inc. et al. | A523058 | 8 th Judicial District | Plaintiff | Mainor, Eglet, Cottle | Deposition | Damages |
| Goldstein v. Motor Cargo | A464963 | 8 th Judicial District | Plaintiff | Richard Harris, Esq. | Deposition | Damages |
| Gonzales, Blanca v. Smith's Food & Drug Centers | A509790 | 8 th Judicial District | Plaintiff | Paul Powell | Deposition | Damages |
| Gonzales v. Suburban Lounge | A432186 | 8 th Judicial District | Defendant | Immanuel Arin, Esq. | Deposition | Damages |
| Goodman, Evan v. Mirage Casino Hotel | A510922 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Green, Robert v. GE and Armstrong | A528384 | 8 th Judicial District | Plaintiff | Crockett & Myers | Deposition | Damages |
| Griese, Mark v. Team Ford, et. a. | A524710 | 8 th Judicial District | Plaintiff | Daniel Simon | Deposition | Damages |
| Gray, Mark v. Virtual Construction | A496972 | 8 th Judicial District | Defendant | Leslie Stovall | Deposition | Damages |
| Guerrero v. Republic Silver State Disposal | A385149 | 8 th Judicial District | Plaintiff | John Bertoldo, Esq. | Trial | Damages |
| Hamawi v. Zola Williamson | A383974 | 8 th Judicial District | Plaintiff | Barbara I. Johnston, Esq. | Dep. & Trial | Damages |
| Hamby, Melissa v. Loe, Judy | A474252 | 8 th Judicial District | Plaintiff | Gazda & Tadavon | Deposition | Damages |
| Hamilton v. Nassif | A492093 | 8 th Judicial District | Plaintiff | F.K. Cavley, Esq. | Deposition | Damages |
| Hampton, David v. | A483361 | 8 th Judicial District | Plaintiff | Lerner, Eglet | Deposition, Trial | Damages |
| Hamton v. Development by TNT, L.P. | A406650 | 8 th Judicial District | Plaintiff | Joseph Kistler, Esq. | Deposition | Damages |
| Harding v. James R. Gonzales | A492196 | 8 th Judicial District | Plaintiff | Gerald Gillock, Esq. | Deposition | Damages |
| Hennagan v. Zak; Valley Hospital Medical Center | A385035 | 8 th Judicial District | Plaintiff | J. Mitchell Cobeaga, Esq. | Deposition & Trial | Damages |
| Heraty v. Republic State Disposal | A453864 | 8 th Judicial District | Plaintiff | Steven M. Burris, Esq. | Deposition | Damages |
| Hershey v. Henri Specialties | A476598 | 8 th Judicial District | Plaintiff | Rohay | Deposition | Damages |
| Hicks, John v. D&K Drywall | A473269 | 8 th Judicial District | Plaintiff | Christiansen Law Firm | Deposition | Damages |
| Hidalgo v. Soto | A420169 | 8 th Judicial District | Plaintiff | Robert Vannah, Esq. | Trial | Damages |
| Hill, Delwin v. Dal-Tile | A517771 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Hilliard, Kenneth v. Robert Lee Price, et. al. | A497338 | 8 th Judicial District | Plaintiff | Dallas Horton | Deposition | Damages |
| Hirabayashi v. St. Jude Medical Cardiac Rhythm Management Division | A493206 | 8 th Judicial District | Plaintiff | BEEN ORDERED SEALED | Deposition | Damages |
| Hood, Christopher, Debra Hood, Michael Hood v. Clements, William G. et. al. | A535221 | 8 th Judicial District | Plaintiff | Mainor, Eglet & Cottle | Deposition | Damages |
| Hood, Brenda v. Transitional Hospitals Corp of America | A530033 | 8 th Judicial District | Plaintiff | Bryson | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETTE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/ DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|--|----------------------------|--|-------------------------|---|--------------------------|--------------------|
| Howard v. Waldorf | A418520 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Deposition | Damages |
| Image Commercial Cleaners v. Edward Sheridan | A488775 | 8 th Judicial District | Plaintiff | Matthew Q. Callister, Esq. | Deposition | Damages |
| Isom v. Ford Motor Co. | A438131 | 8 th Judicial District | Plaintiff | Robert Cottle, Esq. | Deposition | Damages |
| James Drenman v. Maryland Casualty Co. | CV-S-04-0990-PMP PAL | United States District Court NV | Plaintiff | William J. Brim, Esq. | Deposition | Damages |
| Jerry Schlosser v. New Castle Corp. & Escalibur Hotel and Casino | A462029 | 8 th Judicial District | Plaintiff | Mark Kulla, Esq. | Deposition | Damages |
| Johnson, William v. Johnson v. Moskal | A501439 A501439 | 8 th Judicial District 8 th Judicial District | Plaintiff Plaintiff | Robert Eglet | Trial Deposition | Damages Damages |
| Johnson v. Diamond Const. Associates | A424752 A405028 | 8 th Judicial District 8 th Judicial District | Plaintiff Plaintiff | Matthew R. Vannah, Esq. Robert D. Vannah, Esq. | Deposition Deposition | Damages Damages |
| Joseph Dennis v. Gutierrez-Perez, et al. | A463874 | 8 th Judicial District | Plaintiff | Ralph A. Schwartz, Esq. | Deposition | Damages |
| Joseph Gausch v. Signh, MD. | A376316 | 8 th Judicial District | Plaintiff | William Brenske, Esq. | Trial | Damages |
| Kadir v. Zachary Yoest & Patricia Yoest | A501060 | 8 th Judicial District | Plaintiff | Immanuel B. Arin, Esq. | Deposition | Damages |
| Karenfeld v. American Eurocopter | A474642 | 8 th Judicial District | Plaintiff | John M. Cobega, Esq. | Deposition | Damages |
| Kempf v. Catholic Healthcare West, et. al. | A526615 | 8 th Judicial District | Plaintiff | Laurence Springberg | Deposition | Damages |
| Kempton v. Respond, Inc. | A457179 | 8 th Judicial District | Plaintiff | Matthew L. Johnson, Esq. | Deposition | Damages |
| Kem, v. Reeves | A510794 | 8 th Judicial District | Plaintiff | Roger Cram | Deposition | Damages |
| Kindness, Harold v. Hi Desert Appliance | A513344 | 8 th Judicial District | Plaintiff | Maimor, Eglet & Cottle | Deposition | Damages |
| King, Denise v. Maiza, Salah and Checker Cab Co. | A503658 | 8 th Judicial District | Plaintiff | Maimor, Eglet & Cottle | Deposition | Damages |
| Kohlman v. Evans | A470268 | 8 th Judicial District | Plaintiff | Ellen Stoebing, Esq. | Deposition | Damages |
| Konrath, Monte v. Falk, Rodney | A536056 | 8 th Judicial District | Plaintiff | Daniel Carvalho | Deposition | Damages |
| Korien-Kimber v. Estate of Raymond Aquilar | A433507 | 8 th Judicial District | Plaintiff | Patti Wise, Esq. | Deposition | Damages |
| Kuckenbecker v. McFrugals | A422658 | 8 th Judicial District | Plaintiff | John Bertoldo, Esq. | Deposition | Damages |
| LaKamp, Vonda v. Turbine Master, Inc. | A510506 | 8 th Judicial District | Plaintiff | Vannah & Vannah | Deposition | Damages |
| Lasich, Gloria v. Pleasant Hills Villas Apts, et. al. | A538262 | 8 th Judicial District | Plaintiff | Christiansen Law Office | Deposition | Damages |
| Levin v. Ford Motor Co. | A483101 | 8 th Judicial District | Plaintiff | Cottle | Deposition | Damages |
| Lewis, Ray v. Cervantes | A494194 | 8 th Judicial District | Plaintiff | Powell, Paul | Deposition | Damages |
| Lewis v. Harris | A416747 | 8 th Judicial District | Plaintiff | Burnis & Thomas | Deposition | Damages |
| Lindsie, v Dixon | A543068 | 8 th Judicial District | Plaintiff | Adam Ganz | Deposition | Damages |
| Liu v. KB Homes | A494122 | 8 th Judicial District | Plaintiff | Patricia P. Trent, Esq. | Deposition | Damages |
| Loeffler-owens v Wal Mart Stores | 2:07-cv-003300-KJD-LRL | U.S. District Court | Plaintiff | Benson, Bertoldo, & Baker | Deposition | Damages |
| Logan v. Lefond | A397436 | 8 th Judicial District | Plaintiff | Michael A. Koning, Esq. | Deposition | Damages |
| Lomax et al v. LYMPD, TASER, International, Inc. | A CV-S-05-01464-PMP-RJJ | United States District Court | Plaintiff | Maimor, Eglet & Cottle | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETIE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/DEPENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|-------------|-----------------------------------|---------------------|-------------------------------------|----------------------|-------------|
| Loranly v. Montevista Hosp. | A450780 | 8 th Judicial District | Plaintiff | Hamilton D. Moore, Esq. | Deposition | Damages |
| Lucero v. Laurie Lansen, MD. | A388461 | 8 th Judicial District | Plaintiff | Roy E. Smith, Esq. | Trial | Damages |
| Lyon v. Smith | A491510 | 8 th Judicial District | Plaintiff | Ivy Gage, Esq. | Deposition | Damages |
| MacDiarmid, Neile v. Murphy, Michael | A526499 | 8 th Judicial District | Plaintiff | Vannah & Vannah | Deposition | Damages |
| MacDonald v. Brooker | A485373 | 8 th Judicial District | Plaintiff | Bruce Schupp, Esq. | Deposition | Damages |
| Mack, Jackie v. Wal Mart Stores | A525358 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Madison, David v. Tintanium Metals Corp. | A477422 | 8 th Judicial District | Plaintiff | Mitch Cobiaga | Deposition | Damages |
| Maldonado-Cruz v. Gebrehiwet | A496357 | 8 th Judicial District | Plaintiff | Brian K. Harris, Esq. | Deposition | Damages |
| Malloy v. Clanton | A495910 | 8 th Judicial District | Plaintiff | Bruce L. Woodbury, Esq. | Deposition | Damages |
| Maria Saucedo v. Smith's Food and Drug Center | A326991 | 8 th Judicial District | Plaintiff | Leslie M. Stovall, Esq. | Deposition | Damages |
| Mark Brown v. Cirque De Soleil | A448850 | 8 th Judicial District | Plaintiff | Crockett & Myers | Deposition & Trial | Damages |
| Martinez, Dolores v. Jameson, Florence | A495652 | 8 th Judicial District | Plaintiff | Mainor, Egleet & Cottle | Deposition | Damages |
| Martinez, David v. Safari Apartments | A506369 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| May v. Baxter | A399335 | 8 th Judicial District | Plaintiff | Gerald Gillock, Esq. | Deposition | Damages |
| McAfee, Jeni v. Varis, Harris | A537394 | 8 th Judicial District | Plaintiff | Jensen | Deposition | Damages |
| McCowan v. Mandalay Resort Group | A478938 | 8 th Judicial District | Plaintiff | Ralph A. Schwartz, Esq. | Deposition | Damages |
| McElfresh, Richard v. Steimer, Richard | A510919 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| McGuire v. Sunrise Hospital and Medical Center | A460008 | 8 th Judicial District | Plaintiff | Robert T. Egleet, Esq. | Deposition | Damages |
| McIntyre, Lisa v. Pipes Paving Company | A477764 | 8 th Judicial District | Plaintiff | Leslie Mark Stovall | Deposition | Damages |
| McLachlan v. Pinette et al. | A489969 | 8 th Judicial District | Plaintiff | Robert T. Egleet, Esq. | Deposition | Damages |
| McNeil, Sandy v. Jessop, Leslie | A527274 | 8 th Judicial District | Plaintiff | Jensen, Janice | Deposition | Damages |
| Merker v. Estate of Ralph Englestadt | A463675 | 8 th Judicial District | Defendant | Rawlins, Olson & Cannon | Trial | Damages |
| Messer v. Escamilla-Estrada | A467965 | 8 th Judicial District | Plaintiff | Robert T. Egleet, Esq. | Dep. & Trial | Damages |
| Messerschmitt v. Skiles | A429663 | 8 th Judicial District | Plaintiff | Richard Harris, Esq. | Deposition | Damages |
| Meyer, Jeffrey v. Terry Kokk and C.M. Reprographics | A528410 | 8 th Judicial District | Plaintiff | Vannah & Vannah | Deposition | Damages |
| Molina v. Jack Laino et al. | A479124 | 8 th Judicial District | Plaintiff | JURY TRIAL IN PROCESS ACCESS DENIED | Deposition | Damages |
| Mohar, Laura v. Perry, Amy | A525022 | 8 th Judicial District | Plaintiff | Haul & Ganiz | Deposition | Damages |
| Moore, Gail v. Terrible Herbst | A521872 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Moore v | A449006 | 8 th Judicial District | Plaintiff | | Deposition and Trial | Damages |
| Morales, Michelle v. Outback, Nevada | A498389 | 8 th Judicial District | Plaintiff | Greenman, Goldberg, et. al. | Deposition | Damages |
| Mourad, Renee v. Mirage Casino-Hotel | A518442 | 8 th Judicial District | Plaintiff | Leslie Stovall | Deposition | Damages |
| Mowen v. Walgreen | A435945 | 8 th Judicial District | Plaintiff | Peter Christiansen, Esq. | Deposition | Damages |
| Moyer-Malone v. Segal Enter. | A425391 | 8 th Judicial District | Plaintiff | Robert T. Egleet, Esq. | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERENCE M. CLAURETIE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|-------------|--|---------------------|-----------------------------|----------------------|-------------|
| Mulbeck v. Monterey Park II Apartments | A441221 | 8 th Judicial District | Plaintiff | Robert T. Eglert, Esq. | Deposition | Damages |
| Mullins, Alisa v. Juarez, Monica | A488645 | 8 th Judicial District | Plaintiff | Robert T. Eglert, Esq. | Deposition | Damages |
| Nance v. ATC Vancorn | A404395 | 8 th Judicial District | Plaintiff | Roger P. Croteau, Esq. | Deposition | Damages |
| Nash v. Nevada Yellow Cab | A394552 | 8 th Judicial District | Plaintiff | Robert Eglert, Esq. | Deposition | Damages |
| Natesha Smith v. Kelly Ann Lemmart et al. | A433647 | 8 th Judicial District | Plaintiff | Paul D. Powell, Esq. | Deposition | Damages |
| Natzel v. Robert A. Johnson | A436825 | 8 th Judicial District | Plaintiff | Robert T. Eglert, Esq. | Deposition | Damages |
| Neails v. Con Am Mngmt | A405077 | 8 th Judicial District | Plaintiff | J. Mitchell Cobeaqa, Esq. | Deposition | Damages |
| Nichols v. Mandalay Resort Group | A426111 | 8 th Judicial District | Plaintiff | Judd Balmer, Esq. | Deposition | Damages |
| Obergh v. Billy Llamas, Safeco Ins. Co. | A461327 | 8 th Judicial District | Plaintiff | Manor, Eglert, Cottle | Deposition | Damages |
| Odrinas v. Rodriguez | A455341 | 8 th Judicial District | Plaintiff | Bruce D. Schlupp, Esq. | Trial | Damages |
| Ohan v. Reese | A507611 | 8 th Judicial District | Plaintiff | Justin Wilson | Deposition | Damages |
| Old West Enterprises v. Craiggen & Pike | A395876 | 8 th Judicial District | Plaintiff | Yamah & Costello | Trial | Damages |
| Olivas, Manuel v. Bordin, Jim | 1188533 | Superior Court of State of California, County of Santa Barbara | Plaintiff | Daniel Simon | Deposition | Damages |
| O,Neil, Kristine v. Joseph Watson, MD. | A462083 | 8 th Judicial District | Plaintiff | | Deposition | Damages |
| Otterstein v. Murray Transportation | A465654 | 8 th Judicial District | Plaintiff | Mathew Aaron, Esq. | Deposition | Damages |
| Owen v. Taylor | A474387 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Pachas v. Valley Health System | A467763 | 8 th Judicial District | Plaintiff | Noel Gage, Esq. | Deposition | Damages |
| Pappadato v. Sky Dive Las Vegas | A399689 | 8 th Judicial District | Plaintiff | Neil Galatz, Esq. | Deposition and Trial | Damages |
| Passno v. Julian Phelps | A460225 | 8 th Judicial District | Plaintiff | Paul D. Powell, Esq. | Deposition | Damages |
| Pauline Kane v. Hard Rock Hotel | A488916 | 8 th Judicial District | Defendant | Lewis W. Brandon, Jr., Esq. | Deposition | Damages |
| Peggy Lopez v. Sears Roebuck and Co. | A404029 | 8 th Judicial District | Plaintiff | Robert Eglert, Esq. | Deposition | Damages |
| Pehrson v. Lee | A444435 | 8 th Judicial District | Defendant | Paul Kirst, Esq. | Deposition | Damages |
| Peoples v. Neibaur | A45154 | 8 th Judicial District | Plaintiff | D.N. Tomlinson, Esq. | Deposition | Damages |
| Pertera v. Hilliard | A512167 | 8 th Judicial District | Plaintiff | Manor; Eglert & Cottle | Deposition | Damages |
| Perez, Gina v. Kriegh, Melville | A516240 | 8 th Judicial District | Plaintiff | Derrpsey, Roberts & Smith | Deposition | Damages |
| Perez v. Fremont Medical Cnt | A455047 | 8 th Judicial District | Plaintiff | Noel Gage, Esq. | Deposition | Damages |
| Perri v. McDaniel | A425071 | 8 th Judicial District | Plaintiff | Noel Gage, Esq. | Deposition | Damages |
| Perroni, Regina v. Salgado-Baez | A492719 | 8 th Judicial District | Plaintiff | Roger Cram | Deposition | Damages |
| Peterson v. Shairf | A400201 | 8 th Judicial District | Plaintiff | Keith Gallher, Esq. | Deposition | Damages |
| Pidsosny, Alycia v. Wal-Mart, Inc. | A490043 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| Price Woods v. Hanover Ins. | A437612 | 8 th Judicial District | Plaintiff | Kelly Watson, Esq. | Deposition | Damages |
| Pye, Brian v. FM & Nancy L. Corrigan Family Trust | A489837 | 8 th Judicial District | Plaintiff | | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERENCE M. CLAURETIE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/ DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|--|----------------------|-----------------------------------|----------------------|--------------------------------|--------------------|-------------|
| Rabeau-Luke v. Maglara | A464996 | 8 th Judicial District | Plaintiff | | Deposition | Damages |
| Reliance Fire Prevention v. Hartford Insurance Co. | A471154 | 8 th Judicial District | Plaintiff | Imanuel Arin, Esq. | Deposition | Damages |
| Reza, Staci v. Star Theater | A477952 | 8 th Judicial District | Plaintiff | Imanuel Arin, Esq. | Deposition | Damages |
| Rightpath v. Madison Adv. | A508769 | 8 th Judicial District | Defendant | Greenberg & Traurig | Deposition | Damages |
| Rivera v. Matheson Triking | A486912 | 8 th Judicial District | Plaintiff | Patti & Sgro | Deposition | Damages |
| Roark v. City of Las Vegas | CV-S-05-0913-LRH-GWF | United States District Court, NV | Plaintiff | | | |
| Roberts v. Tsitouras | A463161 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Deposition | Damages |
| Robinson v. Marcus | A431887 | 8 th Judicial District | Plaintiff | Leslie M. Stovall, Esq. | Deposition | Damages |
| Romanoff v. Stewert and Sundell Concrete | A442848 | 8 th Judicial District | Defendant | Scott B Van Alfen, Esq. | Deposition | Damages |
| Ros v. Washington Group International | A510787 | 8 th Judicial District | Plaintiff | Bryan Lewis, Esq. | Deposition | Damages |
| Rosman v. Coast Hotels | A478674 | 8 th Judicial District | Plaintiff | | | |
| Roth v. Bayerisdie Motoren Werjke | A453810 | 8 th Judicial District | Plaintiff | Robert Cottle, Esq. | Deposition | Damages |
| Rotllstein, Joey v. McCracken, Megan | A539898 | 8 th Judicial District | Plaintiff | Paul Powell | Deposition | Damages |
| Sandoval v. Michaels | A460033 | 8 th Judicial District | Plaintiff | McKnight | Deposition | Damages |
| San Juan, et. al. v. Walter Gonzalez | 02-CV-0238 | | Plaintiff | Callister & Reynolds | Deposition | Damages |
| Saucedo v. Continental Currency of Nevada | A441546 | 8 th Judicial District | Plaintiff | Daniel S. Simon, Esq. | Deposition | Damages |
| Saunders v. Harsco Corporation | CV-S-04-0956-JCM-LRL | United States District Court NV | Plaintiff | Imanuel Arin, Esq. | Deposition | Damages |
| Savannah Gibbs v. Joseph Edwards, MD | A462421 | 8 th Judicial District | Plaintiff | Todd L. Moody, Esq. | Deposition | Damages |
| Seacoco v. Vistana Condo Owners Assoc. Inc. | A500541 | 8 th Judicial District | Plaintiff | Paul D. Powell, Esq. | Deposition | Damages |
| Scarlett v. Stofler | A466843 | 8 th Judicial District | Plaintiff | Robert Yannah, Esq. | Deposition | Damages |
| Schwab v. Sokoloff | A507596 | 8 th Judicial District | Plaintiff | Stokes/Josh Harris | Deposition | Damages |
| Selden v. Bellagio | A434516 | 8 th Judicial District | Plaintiff | David Churchill, Esq. | Deposition | Damages |
| Sharretts v. Schuelke | A415610 | 8 th Judicial District | Plaintiff | Matthew Callister, Esq. | Deposition | Damages |
| Silva v. Racol Automation | A427934 | 8 th Judicial District | Plaintiff | Michael Hagemeyer, Esq. | Deposition & Trial | Damages |
| Silvia Rosales v. Jeffery W. Powell | A468956 | 8 th Judicial District | Plaintiff | Daniel S. Simon, Esq. | Deposition | Damages |
| Singer, Chicka v. Palms Restaurant of Las Vegas | A428394 | 8 th Judicial District | Plaintiff | Burris & Thomas | Trial | Damages |
| Sintes, Kimberly v. Sunrise Mountain View Hospital | A492274 | 8 th Judicial District | Plaintiff | Robert Cottle | Deposition | Damages |
| Sirico v. California Hotel and Casino | A454148 | 8 th Judicial District | Plaintiff | Andrew J. Thomas, Esq. | Deposition | Damages |
| Small v. Déjà Vu Showgirls | A511848 | 8 th Judicial District | Plaintiff | JURY IN PROGRESS ACCESS DENIED | Deposition | Damages |
| Smith, Alicia v. Wal Mart Stores, Inc. | A508273 | 8 th Judicial District | Plaintiff | G. Dallas Horton | Deposition | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETIE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/ DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|-------------|-----------------------------------|----------------------|---------------------------|--------------------|-------------|
| Smith v. Marcelo | A461231 | 8 th Judicial District | Plaintiff | Paul D. Powell, Esq. | Deposition & Trial | Damages |
| Smith, Emmitt v. Alamo Rent-A-Car | A476774 | 8 th Judicial District | Plaintiff | Chad Bowers | Trial | Damages |
| Sonetti v. Rocha | A487909 | 8 th Judicial District | Plaintiff | Paul D. Powell, Esq. | Deposition | Damages |
| Southern Wine & Spirits of America, Inc v. Chateau Vegas Wine, Inc. | A460811 | 8 th Judicial District | Defendant | Matthew Callister | Deposition | Damages |
| Spahic v. Rossi | A438297 | 8 th Judicial District | Plaintiff | Craig Perry, Esq. | Deposition | Damages |
| Staci Howard v. Dr. Conte, Green Valley Pediatrics | A404089 | 8 th Judicial District | Plaintiff | Sherman Mayor, Esq. | Deposition & Trial | Damages |
| Stake v. Shac, LLC. | A471174 | 8 th Judicial District | Defendant | Greenberg Traurig | Deposition | Damages |
| Steve Plak v. American Drug Stores, Inc. | A388003 | 8 th Judicial District | Plaintiff | Jerome DePalma, Esq. | Deposition | Damages |
| Strong v. Hayward Pool Products | A479871 | 8 th Judicial District | Plaintiff | Robert W. Cottle, Esq. | Deposition | Damages |
| Stuart v. Pennington | A430317 | 8 th Judicial District | Plaintiff | Albert Massi, Esq. | Deposition | Damages |
| Scabo, Christopher v. The Mirage Casino-Hotel | A509990 | 8 th Judicial District | Plaintiff | Mainor, Eglet & Cottle | Deposition | Damages |
| Taylor v. David Levy | A482780 | 8 th Judicial District | Plaintiff | F.K. Cawley, Esq. | Deposition | Damages |
| Tejada v. Frehner Construction Co. | A502211 | 8 th Judicial District | Plaintiff | Patti Wise, Esq. | Deposition | Damages |
| Templeton v. Niemeayer | A442247 | 8 th Judicial District | Plaintiff | Peter Christiansen | Trial | Damages |
| Teng, Vitus v. Sodexo | A500871 | 8 th Judicial District | Plaintiff | Mainor, Eglet, Cottle | Deposition | Damages |
| Thompson v. Kutcher | A434134 | 8 th Judicial District | Plaintiff | Matthew Varnah, Esq. | Deposition | Damages |
| Thunderbark, Nattie v. Tillman v. Wright | A500393 | 8 th Judicial District | Plaintiff | Brandon Barkhuuff | Trial | Damages |
| Toenyes v. Howard | A461102 | 8 th Judicial District | Plaintiff | Lawrence Springberg, Esq. | Deposition | Damages |
| | A494349 | 8 th Judicial District | Plaintiff | Bruce Tingey, Esq. | Deposition | Damages |
| Toomin v. Royal and Sun Alliance | A444688 | 8 th Judicial District | Defendant | Janice H. Jensen, Esq. | Deposition | Damages |
| Treich Phillip v. St. Judes Ranch for Children | A493499 | 8 th Judicial District | Plaintiff | G. Dallas Horton | Deposition | Damages |
| Uppleger v. Farmer | A453916 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Deposition | Damages |
| Uyehara, Desiree v. Medellin, Victor | A534635 | 8 th Judicial District | Plaintiff | Vannah & Vannah | Deposition | Damages |
| Van Horn v. U.S.F. Fabrication, Inc. | A446696 | 8 th Judicial District | Plaintiff | Laurence J. Smith, Esq. | Trial & Deposition | Damages |
| Van Hoist v. Giron | A445421 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Deposition | Damages |
| Vance v. Gold River Casino | A382433 | 8 th Judicial District | Plaintiff | Michael A. Koning, Esq. | Deposition | Damages |
| Variale v. Diffen | A432577 | 8 th Judicial District | Plaintiff | James Christensen, Esq. | Dep. & Trial | Damages |
| Villafuerte v. Daimler Chrysler | A431873 | 8 th Judicial District | Plaintiff | Ralph Schwartz, Esq. | Deposition | Damages |
| Vitarrelli v. Harrah's | A426735 | 8 th Judicial District | Plaintiff | Eugene White, Esq. | Deposition | Damages |
| Von Unruh v. Ford Motor Co. | A455094 | 8 th Judicial District | Plaintiff | Steven M. Baker, Esq. | Dep. & Trial | Damages |
| Walker v. Curry | A487148 | 8 th Judicial District | Plaintiff | Struckmeyer & Wilson | Deposition | Damages |
| Weich, Lynn v. Larry Nelson | A437738 | 8 th Judicial District | Plaintiff | Mainor Firm | Trial | Damages |
| Werner v. Tuvell | A520659 | 8 th Judicial District | Plaintiff | Mills & Mills | Deposition | Damages |
| Western Technologies, Inc. v. Anderson | A368873 | 8 th Judicial District | Plaintiff | Mark E. Traiton, Esq. | Trial | Damages |
| Weyrich, Evelyn v. Green Valley Ranch Gaming | A505126 | 8 th Judicial District | Plaintiff | Glen Lerner | Deposition | Damages |
| White, Peter v. Rodrigues, Benjamin | A499947 | 8 th Judicial District | Plaintiff | Jensen (Christiansen) | Deposition | Damages |
| William Uppleger v. Michael Farmer | A453916 | 8 th Judicial District | Plaintiff | Robert T. Eglet, Esq. | Trial | Damages |
| Williams v. Gillin | A487670 | 8 th Judicial District | Plaintiff | Paul Powell, Esq. | Deposition | Damages |
| Wilson v. Fayad | A449152 | 8 th Judicial District | Plaintiff | Lawrence Springberg, Esq. | Deposition, Trial | Damages |
| Wonders v. Douglas | A451562 | 8 th Judicial District | Plaintiff | Xavier Gonzales, Esq. | Deposition & Trial | Damages |

TESTIMONY AND DEPOSITIONS OF TERRENCE M. CLAURETIE, Ph.D.

| CASE NAME | CASE NUMBER | JURISDICTION | PLAINTIFF/DEFENDANT | ATTORNEY NAME | TYPE OF TESTIMONY | DESCRIPTION |
|---|-------------|-----------------------------------|---------------------|------------------------|-------------------|-------------|
| Groneman | A488783 | 8 th Judicial District | Plaintiff | Robert Ehinger, Esq. | Deposition | Damages |
| Yeung v. Roberts Zaczek, Joe v. Masse, Jason | A504814 | 8 th Judicial District | Plaintiff | Mainor, Eglet & Cottle | Deposition | Damages |
| Zawalski v. Campbell | A510459 | 8 th Judicial District | Plaintiff | G. Dallas Horton | Deposition | Damages |
| Zellars v. Zuniga | A426355 | 8 th Judicial District | Plaintiff | Leslie Stovall, Esq. | Deposition | Damages |
| Zimmerman v. Ford Motor Co | A448318 | 8 th Judicial District | Plaintiff | Robert W. Cottle, Esq. | Deposition | Damages |

EXHIBIT 4

INVOICE

DATE: DECEMBER 22, 2008

ATTORNEY: ALDRICH

CASE: MICHAEL ADAMS

ACTIVITY: REPORT ON LIFE TIME EARNINGS

RATE: \$350/HR

TRAVEL TIME: 2 HOURS

AMOUNT: ***\$700***

PLEASE FORWARD CHECK TO:

TERRENCE M. CLAURETIE
3741 LYLE LN.
LAS VEGAS, NV. 89120

TAX ID# 087-36-6072

EXHIBIT 4

EXHIBIT 4

Gunter's Funeral Homes
 200 Bryan Street
 P.O. Box 820
 Tonopah, NV 89048
 (775) 482-5200

DECEASED Michael Davis Adams No. _____
 DATE OF DEATH July 8, 2005
 PLACE OF DEATH Tonopah, NV
 DATE OF STATEMENT July 11, 2005

SERVICES, FACILITIES & TRANSPORTATION

Basic Services of Funeral Director & Staff \$
 Embalming \$
 Other Preparation of Body \$
 Use of Facilities & Staff for Viewing / Visitation \$
 Use of Facilities & Staff for Funeral Ceremony \$
 Use of Facilities & Staff for Memorial Service \$
 Use of Equipment & Staff for Graveside Service \$
 Use of Equipment & Staff for Church Service \$
 Transfer of Remains to Funeral Home \$
 Hearse \$
 Limousine \$
 Sedan \$
 Service / Utility Vehicle \$
 TOTAL SERVICE CHARGE \$

MERCHANDISE

Casket (for alternative container) \$
 Nameplate (Minimum Fiberglass) \$
 Material Cremation container, included \$
 color in direct cremation packages \$
 Outer Burial Container \$
 Nameplate \$
 Material \$
 Clothing \$
 Acknowledgment Cards \$
 Register Book \$
 Memory Folders / Prayer Cards \$
 BODY TOUCH \$90.00
 Cremation Urn \$
 TOTAL MERCHANDISE \$90.00

SPECIAL SERVICES

Forwarding Remains to: Receiving Remains from:
 Immediate Burial \$
 Direct Cremation \$1220.00
 Other \$
 TOTAL OF SPECIAL CHARGES \$1220.00
 TOTAL FUNERAL HOME CHARGES \$1310.00
 (This total does not include Cash Advances)

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

Charges are only for those items that you indicated or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.
 If you selected a funeral that may require embalming, even as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you buried. If we charged for embalming, we will explain why below.

CASH ADVANCES

Verified Copies of Death Certificates
 6 @ \$10.00 each 110 61.00
 Clergy \$
 Musician \$
 Paid Newspaper Notice \$

Cemetery Cremation Fee 250.00
 Transport to Crematory 150.00
 Cremation & Casket Shipping 75.00
 Additional Mileage (Removal) 296.00
 (188 Mi.) TOTAL CASH ADVANCES \$872.00
 We charge you for our services in obtaining (specify cash advance items).

SUMMARY

Total Funeral Home Charges \$1310.00
 Local Sales Tax (if applicable) \$
 State Sales Tax (if applicable) \$11.14
 Total Cash Advances \$872.00
 GRAND TOTAL \$2153.14
 Less Credits and Payments \$
 Total Credits \$

BALANCE DUE \$2153.14

Bring To

DISCLOSURES

Reason for embalming None Done

If any law, cemetery or crematory requirements have required the purchase of any items listed, the law or requirement is explained below.
Cremation Container required by crematory (Included in Direct cremation total)

ACKNOWLEDGEMENT AND AGREEMENT

I hereby acknowledge that I have the legal right to arrange the final services for the deceased, and I authorize this funeral establishment to perform services, furnish goods, and incur outside charges specified on this Statement. I acknowledge that I have reviewed the General Price List and the Casket Price List and the Outer Burial Container Price List.

Terms of Payment Price to pay to be provided

Full payment is due no later than _____

If any payment is not paid when due, an unwaived LATE CHARGE of _____ % per month (ANNUAL PERCENTAGE RATE _____ %) on the unpaid balance will be due. I agree to pay the Balance Due listed on this Statement, plus any Late Charge, in the event I default in payment to this funeral establishment. I agree to pay (reasonable attorney's fees and court costs in addition to any Late Charge applicable. I understand and agree that I am assuming personal liability for the charges set forth in this Statement and that this is in addition to the liability imposed by law upon the estate of the deceased. By my signature below, I hereby agree to all of the above and acknowledge receipt of a copy of this Statement.

Signature _____ Date _____

Signature _____ Date _____
 ACCEPTANCE: This funeral establishment agrees to provide all services, merchandise (except as noted) indicated on this Statement.
 By David Johnson 7-11-05

1 John Ohlson, Esq.
2 Bar Number 1672
3 BOWEN HALL OHLSON & OSBORNE
4 555 South Center Street
5 Reno, Nevada 89501
6 Telephone: (775) 323-8678
7 *Attorneys for Susan Fallini*

8
9 **FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10
11 **IN AND FOR THE COUNTY OF NYE**

12 * * * * *

13 Estate of MICHAEL DAVID ADAMS,
14 By and through his mother JUDITH ADAMS,
15 Individually and on behalf of the Estate,

16 Plaintiff,

Case No.: CV24539

17 vs.

Dept. No.: 2P

18 SUSAN FALLINI, DOES I-X, and
19 ROECORPORATIONS I-X, inclusive,

20 Defendant.

21 _____/
22 AND ALL RELATED CLAIMS.
23 _____/

24
25 **OPPOSITION TO APPLICATION FOR DEFAULT JUDGMENT**
26 **AGAINST DEFENDANT SUSAN FALLINI**

27 Comes Now, Defendant SUSAN FALLINI, by and through her counsel of record, John
28 Ohlson, Esq. and hereby submits the within opposition to application for default judgment as
follows:

1. Undersigned Counsel was just retained to represent defendants herein, and just received the Application for Default from former counsel on today's date.
2. On information and belief, the defendant Susan Fallini learned of the status of this case last week. She promptly sought new counsel.

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3. Plaintiff's Counsel has accurately described the procedural history of this case beginning at page 3 of his motion, and continuing through page 7.
4. On information and belief, defendant's former counsel, Mr. Kuehn suffered some sort of mental breakdown, and allowed this case, and others in his office to become the "train wreck" that it is, without informing his client, Ms Fallini.
5. Undersigned counsel is working as quickly as possible to prepare and file a motion with this Court seeking redress on behalf of the defendant who is blameless in this disaster.
6. It is the understanding that a status conference is set before this Court on July 19, 2010. It is planned that Defendant's motions will be filed in sufficient time for opposition thereto to be made before that status conference and the Court's hearing of this application and other matters at the Status conference.
7. It would aggravate the injustice that has been visited on all parties and the Court by Mr. Kuehn to continue to proceed in the default of the defendant, without giving the defendant an opportunity to be heard.

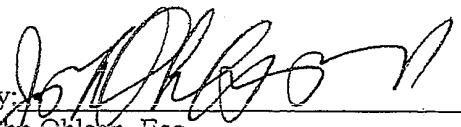
Based on the foregoing, it is respectfully requested that the Court defer ruling on the plaintiff's Application For Default until the matter comes before the Court on July 19, 2010 or until such other time as the Court fixes for a hearing to be had hereon.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 23 day of June, 2010.

BOWEN HALL OHLSON & OSBORNE

By: 
John Ohlson, Esq.
Bar Number 1672
555 S. Center Street
Reno, Nevada 89501
Telephone: (775) 323-8678

CERTIFICATE OF SERVICE

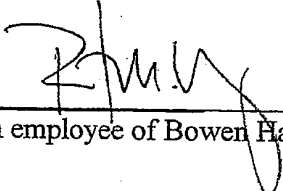
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Pursuant to NRCP 5(b), I hereby certify that I am an employee of BOWEN, HALL,
OHLSON, & OSBORNE, and that on this date I personally served a true copy of the foregoing
OPPOSITION TO APPLICATION FOR DEFAULT JUDGMENT AGAINST
DEFENDANT SUSAN FALLINI, by the method indicated and addressed to the following:

John P. Aldrich, Esq.
Aldrich Law Firm, Ltd.
1601 S. Rainbow Blvd., Ste. 160
Las Vegas, NV 89146

Via U.S. Mail
 Via Overnight Mail
 Via Hand Delivery
 Via Facsimile
 Via ECF

DATED this 23 day of June, 2010.



An employee of Bowen Hall

1 John Ohlson, Esq.
Bar Number 1672
2 BOWEN HALL OHLSON & OSBORNE
555 South Center Street
3 Reno, Nevada 89501
Telephone: (775) 323-8678
4 *Attorneys for Susan Fallini*

5
6 **FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF NYE**

8 * * * * *

9 Estate of MICHAEL DAVID ADAMS,
By and through his mother JUDITH ADAMS,
10 Individually and on behalf of the Estate,

11 Plaintiff,

Case No.: CV24539

12 Dept. No.: 2P

13 vs.

14 SUSAN FALLINI, DOES I-X, and
ROE CORPORATIONS I-X, inclusive,

15 Defendant.

16 _____ /
17 AND ALL RELATED CLAIMS.
18 _____ /

19 **MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION**

20 Comes Now, Defendant SUSAN FALLINI, by and through her counsel of record, John
21 Ohlson, Esq. and moves this Court for leave to file herein a Motion for Reconsideration, in the
22 form and substance of Exhibit 1 to the memorandum of points and authorities submitted herewith.

23 This motion is made and based on the memorandum of points and authorities submitted
24 herewith, and all the records, files, and pleadings on file herein.

25 ***Points and Authorities***

26 District Court Rule 13(7) provides as follows:

27 No motion once heard and disposed of shall be renewed in the same cause, nor shall
28

1 the same matters therein embraced be reheard, unless by leave of the court granted
2 upon motion therefor, after notice of such motion to the adverse parties.

3 Defendant seeks leave, as required by the Rule, to file herein the Motion For Reconsideration
4 attached hereto as Exhibit 1, and incorporated herein by reference. As set forth in the proposed
5 motion, the motion is meritorious, and not interposed for delay.


6 Accordingly, it is respectfully requested that the motion be granted, and that defendant be
7 allowed to file herein, the motion, Exhibit 1.

8
9 **AFFIRMATION**
10 **Pursuant to NRS 239B.030**

11 The undersigned does hereby affirm that the preceding document does not contain the
12 social security number of any person.

13 Dated this 2 day of July, 2010.

14 **BOWEN HALL OHLSON & OSBORNE**

15
16
17 By: 
18 John Ohlson, Esq.
19 Bar Number 1672
20 555 S. Center Street
21 Reno, Nevada 89501
22 Telephone: (775) 323-8678
23
24
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CERTIFICATE OF SERVICE

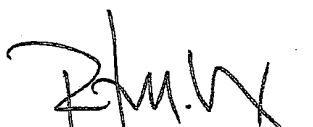
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Pursuant to NRCF 5(b), I hereby certify that I am an employee of BOWEN, HALL, OHLSON, & OSBORNE, and that on this date I personally served a true copy of the foregoing **MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION**, by the method indicated and addressed to the following:

John P. Aldrich, Esq.
Aldrich Law Firm, Ltd.
1601 S. Rainbow Blvd., Ste. 160
Las Vegas, NV 89146

- Via U.S. Mail
- Via Overnight Mail
- Via Hand Delivery
- Via Facsimile
- Via ECF

DATED this 2 day of July, 2010.



 An employee of Bowen Hall

SCHEDULE OF EXHIBITS

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EXHIBIT 1: Motion for Reconsideration

EXHIBIT 1

EXHIBIT 1

1 John Ohlson, Esq.
Bar Number 1672
2 BOWEN HALL OHLSON & OSBORNE
555 South Center Street
3 Reno, Nevada 89501
Telephone: (775) 323-8678
4 Attorneys for Susan Fallini

5
6 **FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF NYE**

8 * * * * *

9 Estate of MICHAEL DAVID ADAMS,
By and through his mother JUDITH ADAMS,
10 Individually and on behalf of the Estate,

11 Plaintiff,

Case No.: CV24539

12 Dept. No.: 2P

13 vs.

14 SUSAN FALLINI, DOES I-X, and
ROE CORPORATIONS I-X, inclusive,

15 Defendant.

16 _____/

17 AND ALL RELATED CLAIMS.

18 _____/

19 **MOTION TO RECONSIDER PRIOR ORDERS**

20 Comes Now, Defendant SUSAN FALLINI, by and through her counsel of record, John
21 Ohlson, Esq. and hereby moves the court for its orders reconsidering prior orders:

22 (1) Granting Plaintiff's Motion for Partial Summary Judgment signed on July 29, 2008;

23 (2) Granting Motion for Summary Judgment in Favor of Counter-defendant, October 16,
24 2008;

25 (3) Findings of Fact, Conclusions of Law and Order Striking Answer and Counterclaim,
November 4, 2009.

26 This motion is made and based on the points and authorities and affidavits submitted
27 herewith, and all the records, files and proceedings on file herein, and the testimony to be had
28

1 hereon.

2 *Memorandum of Points and Authorities In Support of Motion for Reconsideration*

3 **I.**
4 **Facts and Procedural History**

5 The train wreck that is this case commenced with the filing of the complaint on January
6 31, 2007, over three years ago. The procedural history of this matter since that time is accurately
7 set forth in Plaintiff's "*Application for Default Judgment Against Defendant Susan Fallini*," filed
8 herein on June 24, 2010. Two Orders of this Court, however, have so far been proven to be case
9 determinative: First, the Order Granting Plaintiff's Motion for Partial Summary Judgment
10 (7/29/08); and the Order Striking Answer and Counterclaim (11/04/09).
11

12 The foundation for the Courts Order for Partial Summary Judgment lies in the failure of
13 former Counsel Harry Kuehn (hereinafter Kuehn) to respond to Requests for Admission served
14 by Plaintiff on October 31, 2007. Since the requests for admission were not denied earlier than
15 December 31, 2007, they were deemed admitted by default. Those admissions established the
16 following "facts" for the purpose of this case:
17

- 18 1. Fallini's property is not located within an "open range" as it is defined in NRS 568.355.
- 19 2. Fallini is the owner of the cow that is mentioned in the Plaintiff's Complaint on file herein
20 ("subject cow").
- 21 3. It is the common practice of Nye County, Nevada ranchers to mark their cattle with
22 reflective or luminescent tags.
- 23 4. The subject cow was not marked with a reflective or luminescent tag.
- 24 5. The subject cow crossed a fence to arrive at the location of the subject accident described
25 in the Complaint of file herein.
- 26 6. Fallini's cattle had previously been involved in incidents with motor vehicles on the
27 roadway.
28

- 1 7. Fallini does not track the location of her cattle while they are grazing away from her
- 2 property.
- 3 8. Fallini does not remove her cattle from the roadway when notified that the cattle are in a
- 4 roadway.
- 5 9. The subject cow was not visible at night.
- 6 10. Fallini was aware that the subject cow was not visible at night prior to the incident that is
- 7 the subject of the Complaint on file herein.
- 8 11. The subject cow was in the roadway of SR 375 at the time of the incident that is the
- 9 subject matter of the Complaint on file herein.
- 10 12. The subject cow's presence in the roadway of SR 375 was the cause of the motor vehicle
- 11 accident that is the subject of the Complaint on file herein.
- 12 13. Fallini did not know the location of the subject cow at the time of the incident that is the
- 13 subject of the Complaint on file herein.
- 14 14. The presence of a reflective or luminescent tag on the subject cow would have made the
- 15 subject cow visible at the time of the incident that is the subject of the Complaint on file
- 16 herein.
- 17
- 18
- 19

20 The Order striking answer and counterclaim, of course, arose from Kuehn's repeated
21 failure, even in the face of contempt citations and sanctions to respond to discovery.

22 The order for partial summary judgment established defendant's liability in this matter,
23 and the order striking answer and counterclaim left the defendants in the position of default.

24 **II.**
25 **Authorities**

26 Since the 5th Judicial District has not enacted local rules of practice, the first inquiry on
27 the subject of motions to reconsider rulings should be to the District Court Rules, and particularly
28 Rule 13(7), which provides as follows:

1 No motion once heard and disposed of shall be renewed in the same cause, nor shall
2 the same matters therein embraced be reheard, unless by leave of the court granted
upon motion therefor, after notice of such motion to the adverse parties.

3 The Supreme Court has recognized the propriety of motions for reconsideration under DCR
4 13(7). See Arnold v. Kip 123 Nev. 410, 168 P3d 1050 (2007).

5 But, when is it appropriate for the Court to reconsider, and reverse prior rulings (having been
6 made in the case prior to final judgment)? The authorities seem to indicate that the standard is
7 two-pronged. First, the prior decision must be *clearly erroneous*; second, the order must work a
8 *manifest injustice*. Little Earth v. Department of Housing 807 Fed 2d 1433 (8th Cir. 1986).¹ The
9 Court's ability to reconsider is not even hampered by the "law of the case doctrine" when the
10 order reconsidered would work a manifest injustice. United States v. Serpa 930 Fed 2d 639 (8th
11 Cir., 1991).

12
13 **III.**
14 **Clearly Erroneous**

15
16 Plaintiff achieved victory in this matter due to Kuehn's failure to deny requests for
17 admission. The essential subject matter of which established liability and provided that the area of
18 highway on which the accident occurred in this case was **not** open range. It was further
19 established, through failure to deny, that defendant failed in her responsibility to attached
20 reflective strips to her cows, as is the custom in that part of Nye County.

21 Both propositions of fact are clearly erroneous. Attached hereto as Exhibit 1, is the letter
22 of Gilbert Garcia, Esq. Deputy Attorney General for NDOT. Mr. Garcia states what everybody in
23 Nye County seems to know, that the area in which the accident occurred was, in fact, open range.
24 Further the affidavits of Susan Fallini (Exhibit 2) and Joe Fallini (Exhibit 3) support Mr. Garcia's
25 statement. If the Court allows testimony at the hearing on this motion, defendant will call several
26

27 ¹ This 8th Circuit decision was cited by the Supreme Court in Masonry and Tile Contractors v. Jolley 113 Nev.
28 737, 941 P 2d 486, 489 (1997), in holding that the District Court properly granted reconsideration of a previously
decided issue that was clearly erroneous.

1 witnesses to testify as to the open range character to the area in question.

2 Because Mr. Keuhn failed to deny the plaintiff's request for admission, the questions were
3 deemed admitted. To compound matters, Kuehn failed to oppose plaintiff's motion for summary
4 judgment. The Court had no choice but to grant the motion for summary judgment, **even though**
5 **the factual premise therefore is patently untrue.** Had defendants been properly represented, the
6 Court may well have taken judicial notice that the area in question in this case was open range.
7 Instead, the Court was forced to accept a false factual premise due to Keuhn's failures.

9 On the subject of reflective strips, Susan and Joe Fallini (Exhibits 2 and 3) and long time
10 brand inspector Chris Call (Exhibit 4) do, and can present evidence that no such custom and
11 practice exists among ranchers in Nye County. Once again, the Court was forced down Alice's
12 rabbit hole by Kuehn, who allowed this preposterous premise to be established by virtue of
13 unanswered discovery.
14

15 Because the Partial Summary Judgment rests on factual falsehoods, it is **clearly**
16 **erroneous.** The first prong has been met.

17 **IV.**
18 **Manifest Injustice**

19 Promptly after this case was initiated, defendant Susan Fallini retained Mr. Kuehn to
20 represent her in the defense of this action. Kuehn accepted service for the defendants on February
21 22, 2007. Until approximately June 2, 2010 Kuehn failed to communicate the status of the case,
22 **except to tell defendant that the case was "over and had been taken care of."** Finally, Mr.
23 Tom Gibson (apparently having been apprised of Kuehn's many derelictions in this case)
24 contacted defendants and gave them the bad news.
25

26 Defendants had no idea that they had been served with discovery requests. Defendants had
27 no idea that, among those requests were Requests for Admissions, the failure to deny would
28 become case determinative. They had no idea they had been served with interrogatories (which

1 they would have promptly and easily answered). They had no idea they had been asked for
2 documents which they would have promptly produced if they had existed. The defendants were
3 completely unaware that the lawyer they had hired and paid had failed so miserably to protect
4 their interests that every motion made by plaintiff had gone unopposed. They were ignorant of the
5 fact that their lawyer had repeatedly exposed them to contempt citations (which were never
6 served on them personally).
7

8 The defendants would have been better off if they had proceeded in pro per. As soon as
9 they discovered that their lawyer had failed in his ethical obligations (competence) and had been
10 the engine of this disaster, they consulted long time counsel who referred them to new counsel
11 without delay.

12 Rule 1.1 of the Nevada Rules of Professional Conduct provides as follows:

13 A lawyer shall provide competent representation to a client. Competent
14 representation requires the legal knowledge, skill, thoroughness and preparation
15 reasonably necessary for the representation.

16 Kuehn's breach of this requirement of professional responsibility not only brought this
17 unjust result upon his client, but it forced the Court to enter decisions based entirely on his
18 failures, and not on sound factual and legal premises. He has subverted the administration of
19 justice. He has further complicated and frustrated the efforts of plaintiff's counsel who has
20 suffered along with the Court in his attempt to prosecute his client's claim fairly and ethically. If
21 this case does not represent the "manifest injustice" of which the Supreme Court speaks, then
22 manifest injustice does not exist.
23

24 It is expected that Kuehn and partner Gibson will be subpoenaed to testify at the hearing
25 hereon, and possibly explain the unexplainable by shedding light on Kuehn's mental condition.
26

27 **V.**
Conclusions

28 The Court's Orders granting partial summary judgment and striking answer and

1 counterclaim merit reconsideration and withdrawal. Those orders are clearly erroneous because
2 they are based on false factual premises.

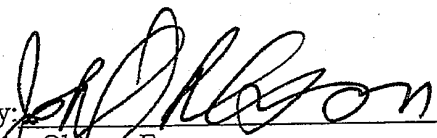
3 Because Susan Fallini's lawyer failed to communicate with her, she had no idea that the case
4 was proceeding down its disastrous path. Because she had been told by her lawyer that the case
5 had been taken care of, she reasonably believed that it was over with and did not concern herself
6 with it. Susan Fallini is blameless in this matter. The fault lies entirely with Kuehn. To visit Ms.
7 Fallini with the consequences of Kuehn's derelictions and incompetence would truly bring about
8 a "manifest injustice."
9

10 **AFFIRMATION**
11 **Pursuant to NRS 239B.030**

12 The undersigned does hereby affirm that the preceding document does not contain the
13 social security number of any person.

14 Dated this 2 day of July, 2010.

15 **BOWEN HALL OHLSON & OSBORNE**

16
17
18 
19 By: John Ohlson, Esq.
20 Bar Number 1672
21 555 S. Center Street
22 Reno, Nevada 89501
23 Telephone: (775) 323-8678
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AFFIDAVIT OF JOHN OHLSON, ESQ.

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

I, John Ohlson, being first duly sworn, do hereby affirm under penalty of perjury that the assertions of this affidavit are true, that I have personal knowledge of the matters stated in this affidavit, except as to those matters stated on information and belief, and as to those matters, I believe them to be true, and that if called as a witness, I could competently testify to the matters contained herein.

1. Affiant has been licensed to practice law in Nevada since September 1972, and is one of the lawyers representing defendant Susan Fallini;
2. Affiant personally interviewed Susan Fallini, Joe Fallini, Chris Call, and Tony Lesperance for the purposes of preparing their affidavits for this motion.
3. Each of the above described persons gave affiant information as set forth in their respective affidavits. Each acknowledged that their affidavits would be prepared for signature to support this motion. Each agreed to sign said affidavits upon receipt, and to testify in court as necessary.
4. Because of the shortness of time and distances involved, affiant was unable to obtain their signatures as of this filing, but will file signed originals upon receipt.

[Handwritten Signature]
JOHN OHLSON



ROBERT M. MAY
NOTARY PUBLIC
STATE OF NEVADA
MY COMMISSION EXPIRES: 8-12-2012
COMMISSION NO: 04-91310-2

SUBSCRIBED AND SWORN TO THIS
2 DAY OF July, 2010.

[Handwritten Signature]

NOTARY PUBLIC

Initials _____

CERTIFICATE OF SERVICE

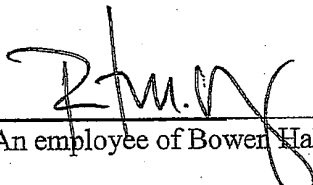
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Pursuant to NRCP 5(b), I hereby certify that I am an employee of BOWEN, HALL,
OHLSON, & OSBORNE, and that on this date I personally served a true copy of the foregoing
MOTION TO RECONSIDER PRIOR ORDERS, by the method indicated and addressed to
the following:

John P. Aldrich, Esq.
Aldrich Law Firm, Ltd.
1601 S. Rainbow Blvd., Ste. 160
Las Vegas, NV 89146

Via U.S. Mail
 Via Overnight Mail
 Via Hand Delivery
 Via Facsimile
 Via ECF

DATED this 2 day of July, 2010.


An employee of Bowen Hall

SCHEDULE OF EXHIBITS

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EXHIBIT 1: Correspondence from Gilbert Garcia

EXHIBIT 2: Affidavit of Susan Fallini

EXHIBIT 3: Affidavit of Joe Fallini

EXHIBIT 4: Affidavit of Chris Call

EXHIBIT 5: Affidavit of Tony Lesperance

EXHIBIT 1

EXHIBIT 1



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 East Washington Ave., Suite 3900
Las Vegas, Nevada 89101

CATHERINE CORTEZ MASTO
Attorney General

KEITH G. MUNRO
Assistant Attorney General

JIM SPENCER
Chief of Staff

June 21, 2010

VIA U.S. Mail

Joe Fallini
HC 76 Box 1100
Tonopah, NV 89049

Re: State Route 375, Open Range

Dear Mr. Fallini:

Please be advised that I am writing this letter on behalf of the Nevada Department of Transportation ("NDOT") at your request regarding the open range status and signage of State Route 375.

NDOT's Tonopah sub-district has jurisdiction and maintenance responsibilities of SR 375 from milepost 0 to 49.36, which ends at the Nye-Lincoln county line. Within the limits of the above mentioned mileposts, there are no fences on the state right-of-way, and this section of highway is posted and signed as open range. If requested, we will provide our sign inventory list, which lists the milepost locations where these open range signs are located.

If you have any questions or concerns regarding the above, please contact me at (702) 486-3428. Thank you for your cooperation.

Sincere Regards,

A handwritten signature in black ink, appearing to read "Gilbert R. Garcia", written over a horizontal line.

Gilbert R. Garcia
Deputy Attorney General
Bureau of Government Affairs
Transportation Division

cc: Steve Baer, Assistant District Engineer

EXHIBIT 2

EXHIBIT 2

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- 6. Had affiant known of the discovery requests made by plaintiff, affiant would have responded as required by law. Affiant would have denied the requests for admissions served herein.
- 7. The area of the accident is open range, and was at the time of the accident. The roadway is posted by the Nevada Department of Transportation as such. There is not, and never has been a custom or practice of cattle ranchers in Nye County to affix their cattle with luminescent or reflective devices of any kind. Affiant has ranched in Nye County for many years and has never even heard of such custom or practice.
- 8. There is no insurance coverage applicable to plaintiff's claim.

SUSAN FALLINI

SUBSCRIBED AND SWORN TO THIS
DAY OF _____, 2010.

NOTARY PUBLIC

EXHIBIT 3

EXHIBIT 3

AFFIDAVIT OF JOE FALLINI

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STATE OF _____)
) ss.
COUNTY OF _____)

I, Joe Fallini first duly sworn, do hereby affirm under penalty of perjury that the assertions of this affidavit are true, that I have personal knowledge of the matters stated in this affidavit, except as to those matters stated on information and belief, and as to those matters, I believe them to be true, and that if called as a witness, I could competently testify to the matters contained herein.

1. Affiant is the husband of defendant Susan Fallini, and makes this affidavit in support of the Motion to Reconsider submitted herewith.
2. Affiant has read the Points and Authorities supporting said motion and swears that the factual allegations therein are true and correct;
3. Affiant has ranched in Nye County with Defendant for many years and is aware of the customs and practices of cattle ranchers in Nye County, as well as open range laws and their applicability to the area of the accident in this case;
4. Affiant has read the statements of Susan Fallini in her affidavit, and swears the same are true and correct, all from personal knowledge

JOE FALLINI

SUBSCRIBED AND SWORN TO THIS
_____ DAY OF _____, 2010.

NOTARY PUBLIC

Initials _____

EXHIBIT 4

EXHIBIT 4

AFFIDAVIT OF CHRIS CALL

STATE OF _____)
COUNTY OF _____) ss.

I, Chris Call first duly sworn, do hereby affirm under penalty of perjury that the assertions of this affidavit are true, that I have personal knowledge of the matters stated in this affidavit, except as to those matters stated on information and belief, and as to those matters, I believe them to be true, and that if called as a witness, I could competently testify to the matters contained herein.

1. Affiant has been involved, in one way or another, with ranching in Nevada for most of my life.
2. I worked for the Nevada Department of Agriculture as a brand inspector, district supervisor of brand inspections, and administrator. I retired chief administrator of the State Brand Inspection Division in 2010.
3. Most of my experience has been in with Nye County, Nevada ranching. I have a B.S. Degree from UNR, and have taken post graduate courses. I am familiar with all aspects of cattle ranching in Nye County, including customs and practices, and with open range laws.
4. The area of highway on State Route 375 from milepost 0 to 49.36 is, and has been for many years open range. That area of highway is posted as such to warn motorists.
5. There is not now, nor has there ever been a common practice among ranchers in Nye county to affix luminescent or reflective markers to cattle. In fact, I have never even heard of such a practice being common in Nevada.

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Initials _____

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6. I called in this matter, I will testify consistently herewith.

CHRIS CALL

SUBSCRIBED AND SWORN TO THIS
____ DAY OF _____, 2010.

NOTARY PUBLIC

Initials _____

EXHIBIT 5

EXHIBIT 5

AFFIDAVIT OF TONY LESPERANCE

STATE OF _____)
COUNTY OF _____) ss.

I, Tony Lesperance first duly sworn, do hereby affirm under penalty of perjury that the assertions of this affidavit are true, that I have personal knowledge of the matters stated in this affidavit, except as to those matters stated on information and belief, and as to those matters, I believe them to be true, and that if called as a witness, I could competently testify to the matters contained herein.

1. Affiant is currently appointed and serving director of the Nevada Department of Agriculture. Affiant formerly taught at UNR's school of agriculture, and has been involved in agriculture in Nevada for more than 60 years;
2. Affiant is familiar with Nevada's open range laws and knows that SR 375, as pertinent to this case is open range;
3. Affiant further is well acquainted with the customs and practices of cattle ranchers in Nye County, Nevada. The idea that a Nevada cattle rancher would tag his/her cattle with luminescent or reflective tags to aid in the cow being seen at night on a roadway, is simply unheard of.

TONY LESPERANCE

SUBSCRIBED AND SWORN TO THIS
_____ DAY OF _____, 2010.

NOTARY PUBLIC

Initials _____

1 CASE NO. CV 24539

2 DEPARTMENT 2P

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IN THE FIFTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE

7

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* * *

9

10 ESTATE OF MICHAEL DAVID ADAMS, *

11 by and through his mother JUDITH *

12 ADAMS, individually and on behalf *

APPLICATION FOR

13 of the Estate, *

DEFAULT JUDGMENT

14 Plaintiff, *

15 -vs- *

16 SUSAN FALLINI; DOES I-X, and *

17 ROE CORPORATIONS I-X, inclusive, *

18 Defendants. *

19

20

* * *

21

22 The above-entitled cause of action came on regularly

23 for hearing before the Honorable Judge Robert W. Lane at

24 Pahrump, Nevada on July 19, 2010.

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APPEARANCES

For the Plaintiff: JOHN P. ALDRICH, Esq.
1601 S. Rainbow Blvd.
Suite 160
Las Vegas, Nevada 89146

For the Defendant: JOHN OHLSON, Esq.
555 South Center Street
Reno, Nevada 89501

* * * * *

1 THE COURT: All right, let's get started.
2 Prove up real quick and do what you need to do.

3 MR. ALDRICH: (Inaudible) I don't think I'll
4 take all that long. I have two witnesses. I know that
5 Mr. Ohlson has an issue he wanted to address before we
6 started.

7 MR. OHLSON: I'll reserve it for the
8 finish of the live testimony. It relates to the matters
9 that were filed.

10 THE COURT: Very good.

11 MR. OHLSON: And also relates to an issue I
12 want to raise and that is since the answer and counter
13 claim are stricken, can you still consider comparative
14 fault?

15 THE COURT: I probably would have unless
16 I now hear an argument that I can't because I like to
17 consider everything but you're not going to open a door
18 after we hear all the live testimony and have to reopen
19 up the live testimony again, are you?

20 MR. ALDRICH: So save the argument for
21 comparative fault now or later?

22 THE COURT: I'd probably do it now.

23 MR. ALDRICH: Comparative fault based on
24 what? An affirmative defense? (Inaudible.)

25 THE COURT: You should be aware that out

1 here in the rurals, cows run on highways.

2 MR. ALDRICH: Sure, but my position is,

3 based on what? An affirmative defense as asserted in
4 the case? I mean, what happens in these situations is a
5 prove up (inaudible). I'm here to prove up the damages.
6 We're going to hear from Mr. and Ms. Adams for a few
7 minutes. I've attached some other documents. We're going
8 to talk about those a little bit and then we're going to
9 ask the Court to enter a judgment.

10 If the Court's going to diminish that
11 judgment, it needs to be based on evidence. Well, what
12 evidence would that be? If affirmative defense that was
13 asserted, there aren't any, so --

14 THE COURT: Are you asserting right now that
15 at this prove up, the other side isn't allowed to present
16 evidence or argue or anything at this time? They have to
17 remain silent so you can ask for half a billion dollars
18 and that's the evidence, that you're asking for half a
19 billion right now, and they're not allowed to say a word
20 and I don't have anything in opposition so I have to give
21 you a half a billion?

22 MR. ALDRICH: Well, I certainly have taken
23 that position in my pleadings and I could ask for half a
24 billion dollars but --

25 THE COURT: How do I know that the half

1 a million you're going to ask for isn't any more
2 unreasonable than half a billion?

3 MR. ALDRICH: Just a couple of things to
4 touch on that I addressed in my -- I guess it was a
5 reply to their opposition to the application for default
6 judgment. Sort of losing track of --

7 THE COURT: Say that again. I'm kidding.

8 MR. ALDRICH: But the bottom line is that in
9 the -- I cited one case in the reply and I'll just read
10 the one sentence from it and it's Young versus Johnny
11 Robero Building, 106 Nevada 88, and it says that the
12 defaulting party gives up the right to object to all but
13 the most patent and fundamental defects in the accounting
14 in default judgment.

15 So -- and I go into here a little bit
16 about -- I think was this motion -- about whether or
17 not they're entitled to participate in hearing, to cross
18 examine, to do anything, and it's my position that they're
19 not.

20 Now the case that's cited in here talks about
21 a situation where there was an application for default
22 judgment that was going forward and the parties had agreed
23 that they would be able to cross examine, the defendant
24 would, but not present evidence and that type of thing,
25 and then apparently that stipulation didn't work out and

1 they weren't allowed to do that and they went forward,
2 ~~but it talks about how the Court certainly has the~~
3 discretion to allow that to happen.

4 My position here is they haven't identified
5 witnesses in the case or anything like that. I've done
6 the proof that's necessary when there is no opposition
7 to the other side and in their opposition to my
8 application for default judgment, they didn't take any
9 issue at all (inaudible).

10 THE COURT: You cited a case a moment ago
11 that said the most patent and what?

12 MR. ALDRICH: Fundamental defects in the
13 accounting.

14 THE COURT: Okay. Now I'm not going to let
15 them get a windfall, right? Right?

16 MR. ALDRICH: Sure.

17 THE COURT: So there's naturally going to
18 be questions on my mind. When they say they want half
19 a million for such and such, I'm going to think to
20 myself, is that reasonable, and you're going to argue
21 it is.

22 Let's say hypothetically -- I don't know --
23 we have it written here -- loss of consortium or
24 something, I don't know, and you say, well, half a
25 million's -- you didn't bring in your experts, right?

1 MR. ALDRICH: I did not bring my experts
2 (inaudible).

3 THE COURT: Right.

4 And so let's say hypothetically you say
5 loss of education, or loss of -- let's do loss of income,
6 there we go. That's a good one. You've got lost
7 earnings, one-point-six million. Now --

8 MR. ALDRICH: I do have an expert for that
9 number.

10 THE COURT: Figures.

11 But, anyway, let's say hypothetically that
12 I'm sitting here saying to myself, wow, one-point-six,
13 that seems kind of high and I'm not sure that's the right
14 thing to give him or not. What am I going to base my
15 decision on, on whether to give it or not, unless I allow
16 the other side an opportunity to ask some questions about
17 it, which would help me, and that's why I'm inclined to
18 say, well, let's let them ask some questions to help me
19 so I'm not just picking figures out of the air and saying
20 one-point-six million, no, I think he would have lost his
21 job in three years, I'm going to give him a hundred
22 thousand and so forth.

23 MR. ALDRICH: Well, Your Honor is the finder
24 of fact and certainly the case law indicates --

25 THE COURT: Well, you were basically arguing

1 that they shouldn't really be allowed to ask, where I'm
2 more inclined to let them.

3 MR. ALDRICH: I understand.

4 THE COURT: Okay.

5 MR. ALDRICH: I'm simply conceding to the
6 Court that, yes, you're going to have to make that
7 difficult decision. My position is that they shouldn't
8 be able to present evidence.

9 THE COURT: Well, I don't know if they have
10 any evidence to present.

11 MR. ALDRICH: I don't know if they do either
12 because I haven't received any notice of any --

13 THE COURT: I doubt they're going to have
14 their own expert to tell us what his loss of income was
15 but they can ask reasonable questions of whoever it is
16 that's going to testify to loss of income.

17 MR. ALDRICH: And that's the Court's
18 discretion. I think that the case law says that we
19 present it to the Court. The Court certainly, on it's
20 own, can say, you know, my request for one-point-six
21 million in lost earnings is too high. Certainly, at
22 least on that one, I have an expert for. I asked for
23 five million in hedonic damages and the Court can take
24 a look at that and reduce or increase it if it felt like
25 that was what it need to do.

1 THE COURT: All right. I just feel funny
2 that sometimes on occasion I'm asked to pick numbers
3 out of the air. I'd prefer it would be based on evidence
4 but at the same time if somebody comes forward to me in a
5 civil action and they say, well, we think it's worth three
6 million -- here's what our expert said, it's worth three
7 million, and in my head I'm, no, it's more like seven
8 hundred and fifty thousand, and now I'm picking the thing
9 out of the air but I know three million's not reasonable
10 and so forth, but go ahead and present your evidence and
11 we'll figure it out as we go along.

12 MR. ALDRICH: Fair enough.

13 THE COURT: Go ahead.

14 MR. ALDRICH: All right. I want to start
15 with calling Judith Adams.

16 THE COURT: All right.

17 Ms. Adams, if you can come up here please
18 to this witness stand.

19 There's a little ramp. Be cautious walking
20 up it.

21
22 (Whereupon the witness was sworn by the
23 clerk.)

24
25 THE COURT: Thank you. Have a seat.

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JUDITH ADAMS,

called as a witness on behalf of the plaintiff, being
first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ALDRICH:

Q. All right, Ms. Adams, if you would just state
your name please for the record.

A. Judith Adams.

Q. And are you married?

A. Yes, I am.

Q. And to whom are you married?

A. Anthony Adams.

Q. Okay. Is that the gentlemen next to me here?

A. Yes, it is.

Q. All right. And just a little bit of background
for the Court, do you currently work?

A. Yes, I do.

Q. Where do you work?

A. I work for the Social Security Administration.

Q. And what do you do there?

A. I'm an operations supervisor.

Q. How long have you been employed in that capacity?

A. Forty years.

1 Q. I imagine you could tell us a little bit about
2 social security.

3 A. I could.

4 Q. And do you have any children?

5 A. I had one child, Michael Adams.

6 Q. Okay. And you know we're here to talk about the
7 case involving Michael's death, right?

8 A. Yes.

9 Q. Okay. What I would like to do is to have you
10 tell the Judge a little bit about Michael and I want to
11 help you. I know that's a broad question so what I'd
12 like for you to do is give him some information about
13 Michael and maybe start and go chronologically. Maybe
14 that would help.

15 MR. OHLSON: Your Honor, I object to the
16 form of the question. It is overly broad and we ought
17 to stick -- try to stick to admissible evidence.

18 THE COURT: And it's twenty to twelve, so
19 tell me about your son, well, he was born in this hospital
20 and on we go for the next few hours.

21 MR. ALDRICH: It certainly will be shorter
22 than that but I'm happy to narrow it down. I didn't want
23 to lead too much but (inaudible).

24 THE COURT: Thank you.

25 Q. (By Mr. Aldrich) What was Michael like as a .

1 child?

2 A. ~~He was a wonderful child. He was very good.~~

3 He was very loving. He had an enormous number of friends.

4 He was involved in a tremendous amount of activities.

5 Q. And what were his hobbies?

6 A. He liked sports. He liked reading. It would
7 be hard to kind of pinpoint hobbies as such. There was
8 hardly any aspect of daily life that he wasn't interested
9 in.

10 Q. And how was your relationship with Michael when
11 he was young?

12 A. Excellent.

13 Q. Tell me a little bit about Michael's education.

14 A. He went to high school. He graduated from high
15 school. He went to university. He took a break from
16 his university studies to go into the Marine Reserves.
17 He was in the Reserves for six months. When he left the
18 Reserves, he resumed his education. He graduated with a
19 degree in geology and started working in that field.

20 Q. And what was he doing for work at the time of
21 his death?

22 A. He was working as a staff geologist.

23 Q. And for what company, if you know?

24 A. Actually at the time that he died, he was
25 working for a company called Horizon Well Logging. He

1 had just previously worked for Southern California --
2 I think -- Geotechnical, and he went back to work for
3 Horizon Well Logging.

4 Q. And how was your relationship with Michael in
5 the, let's say, two or three years before his passing?

6 A. At that point in time he was not living at home
7 so we spoke on the phone frequently. I often said that
8 the cell phone must be an appendage of his. If we didn't
9 speak on the phone because he was working in an area that
10 was out of range, he would e-mail frequently.

11 Q. And did you communicate with him often?

12 A. Very often. Probably even -- he probably
13 communicated with my husband ^{even} more frequently.

14 Q. And in -- let's just keep it at the two or
15 three years before his passing, did he help out around
16 your house?

17 A. He did, if needed, and there were probably things
18 to do in the house that might have been too difficult for
19 either my husband or I to accomplish so if we needed help
20 in terms, ^{of} you know, say physical labor, he'd certainly
21 come over and helped us with that. He helped me with
22 some technical issues, you know. Every time I would get
23 ^{ANew} on the cell phone, it was like, okay, show me how to use
24 this, so little things like that.

25 Q. And your son passed away approximately five

1 years ago. Is that correct?

2 A. It was five years ago the beginning of this
3 month.

4 Q. And is your need for his assistance at this time
5 greater than it was five years ago?

6 A. Well, as I see that both of us are getting
7 older, certainly there's more times that I would probably
8 think to call on him. There's probably less physical
9 things that neither one of us could accomplish now and
10 certainly he would have helped me. My husband's had
11 a number of illnesses. He certainly would have been
12 at my side, supportive, you know, as I was going through
13 those issues with my husband.

14 Q. And have you actually had times then in your
15 life when there were problems with your husband and
16 Michael would come and help you?

17 A. Absolutely.

18 Q. Tell us about that.

19 Q. My husband suffered a heart attack in 1992 and
20 at that time he came up from school to be with us. He
21 came to the hospital every day. He relieved me, you
22 know -- in intensive care, even though you get excellent
23 care, someone still needs to be there, so he would come
24 and relieve me, so we would take turns sitting next to
25 Tony in the hospital.

1 Q. Okay. How's your husband's health now?

2 ~~A. His health has not improved since then. He's~~
3 had a second open heart surgery and, in November, he
4 suffered a cardiac arrest that he was in the hospital
5 for about two and a half weeks. At that time he needed
6 to have a defibrillator implant so this is always, you
7 know, something that's on my mind.

8 Q. I want to call your attention to the approximate
9 time that Michael passed away. How did you find out that
10 he had passed away?

11 MR. OHLSON: Objection. Relevance.

12 THE COURT: Overruled.

13 How old was he at the time he died?

14 MS. ADAMS: Thirty-three.

15 THE COURT: And no wife or kids?

16 MS. ADAMS: No.

17 THE COURT: And he didn't live at home with
18 you, right?

19 MS. ADAMS: No.

20 THE COURT: Okay.

21 All right. Go ahead. It's overruled.

22 A. (By Ms. Adams) Um, two policemen from the
23 police department in the city where we live came to
24 our door and, at first, you know, you wonder why are
25 policemen at your door, and as soon as he said, "Are

1 you the parents of Michael Adams," I immediately knew
2 that obviously they were telling me something about him

3 but this was later in the day. From what I understand,
4 he was pronounced dead in the morning and we did not find
5 out until the evening.

6 MR. ALDRICH: May I approach the witness?
7 I just want to show her the exhibits and authenticate
8 that.

9 THE COURT: That'll be fine.

10 Q. (By Mr. Aldrich) I'm showing you what we've
11 marked as Exhibit 1 to our application for default
12 judgment. And do you recognize this document?

13 A. Yes.

14 Q. Okay. And then I'm going to flip to the third
15 page on that document. Is that your signature?

16 A. Yes, it is.

17 Q. Okay. And is the information that you have
18 provided to the Court in this letter true and correct?

19 A. Yes, it is.

20 Q. And I also want to draw your attention to
21 Exhibit 4, and we'll let the Court know that Exhibit 3
22 has its own Exhibit 4, so I'm actually going to refer
23 to the Gunter's Funeral Home (inaudible). Do you know
24 what that is?

25 A. Yes.

1 Q. Can you tell us what that is?

2 A. That is the bill for the funeral arrangements
3 and cremation.

4 Q. And did you actually have to pay that bill?

5 A. Yes, I did.

6 Q. All right. Thank you.

7 Now I'd like for you to tell us how Michael's
8 death has affected your life.

9 A. Well, there isn't a day that goes by that I
10 don't think about him and even when thinking about him
11 or talking about him, it's exceedingly difficult. If
12 you would understand the medical terminology stress
13 cardiomyopathy, it's sort of called broken heart
14 syndrome, and, for me, it feels like -- when I think
15 about Michael -- like someone has their hands around
16 your heart and starts squeezing it and just tighter and
17 tighter. Just even sitting in the courtroom this morning,
18 you know, I'm overcome with this, and knowing how it
19 affects my husband is increasingly distressing for me,
20 and realizing that he was an only child and at some point
21 in time, you know, I may be facing, you know, widowhood
22 and realizing that I'm not going to have Michael to help
23 me, you know, as I get older is, you know -- it's
24 unimaginable.

25 Q. And just so we can understand a little bit about

1 Michael's relationships, I understand he had a fiancée
2 but he was not engaged at the time he passed away.

3 A. That is correct.

4 Q. Okay. And he did not have any children.

5 A. No.

6 Q. Okay. Did he have friends?

7 A. Many friends.

8 Q. Did anything happen today that indicates the
9 relationship he had with friends --

10 MR. OHLSON: Objection. Relevance.

11 THE COURT: What's the relevance of that?

12 MR. ALDRICH: For the Court to have an
13 understanding of what Michael was like.

14 THE COURT: I just -- when you say he had
15 a lot of friends, I believe you. Are you asking her
16 to talk about the kind of friendship or --

17 MR. ALDRICH: Maybe as an offer of proof,
18 she's indicated to me that he's had a big influence on
19 friends and that they do things still repeatedly to
20 remember him. I wanted to give her a chance to explain
21 that.

22 THE COURT: Do they?

23 MS. ADAMS: Yes.

24 Each year on his birthday, they all get
25 together. They invite my husband and I and we celebrate

1 Michael's life and we do this on a regular basis. His
2 friends, to this day, call me to see just, you know, how
3 I'm doing. His friends would -- in one of the documents
4 that I provided to you, one of his friends referred to
5 Michael as the glue that kept their group together. He
6 was the one that organized activities for them and it was
7 very hard for them afterwards to get together and organize
8 things because Michael wasn't there to do it for them.

9 Q. (By Mr. Aldrich) I think I've covered -- I'm
10 trying to remember if there was anything else you wanted
11 to let the Court know about Michael.

12 A. Well, I think most of, you know, what I covered
13 was in my statement. It's just -- it's very hard to
14 realize that you've lost your only child, to realize that
15 you'll never have grandchildren, how difficult it is when
16 people come up and ask, "Oh, do you have children," or
17 when my contemporaries are talking about their grand-
18 children, it's not a conversation that I can participate
19 in.

20 Q. All right.

21 MR. ALDRICH: Those are all the questions
22 I have, Your Honor.

23 THE COURT: Thank you very much.
24 Did you have any questions?

25 MR. OHLSON: I do.

1 THE COURT: Really? Okay.
2

3 CROSS EXAMINATION
4

5 BY MR. OHLSON:

6 Q. Ma'am, you brought this lawsuit on behalf of
7 the estate of your son. Is that correct?

8 A. Correct.

9 Q. Not on behalf of you and your husband
10 individually. I mean, that's what it says.

11 A. Okay.

12 MR. ALDRICH: I think I'm going to object
13 because it says -- the pleading says individually and on
14 behalf of the estate.

15 MR. OHLSON: All right. I stand corrected.

16 Q. (By Mr. Ohlson) When your son died, you were
17 living in what city and state?

18 A. Cyprus, California.

19 Q. And where was your son living?

20 A. He lived in Seal Beach, California.

21 Q. And what was he doing in this part of the country
22 when he died? Do you know?

23 A. He was working outside of Rachel for Horizon
24 Well Logging.

25 Q. And when your son died, you and your husband

1 were not financially dependent upon him, were you?

2 A. Financially dependent?

3 Q. Yes.

4 A. No, we are not.

5 MR. OHLSON: That's all I have.

6 THE COURT: Anything else?

7 MR. ALDRICH: No, Your Honor.

8 THE COURT: All right.

9 Thank you. You can step down.

10 MR. ALDRICH: And I would just like to call

11 Anthony Adams to testify.

12 THE COURT: All right.

13 If you can come up here to the witness
14 stand please.

15 You look like you're in pretty good shape
16 for all the medical problems you've had.

17 MR. ADAMS: That's what my doctor says too.

18 THE COURT: Raise your right hand.

19

20 (Whereupon the witness was sworn by the
21 clerk.)

22

23 THE COURT: Thank you, sir. Have a seat.

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ANTHONY ADAMS,

called as a witness on behalf of the plaintiff, being
first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ALDRICH:

Q. Sir, would you please state your name?

A. Anthony Adams.

Q. And as -- we heard this before so I'll be really
quick, obviously you're married to Judith Adams. Correct?

A. Correct.

Q. And Michael Adams was your son?

A. Yes.

Q. Okay. And I just want to let the Court get to
know you a little bit. Do you currently work?

A. No, I'm retired now.

Q. Okay. Where did you work when you worked?

A. I had my own business. I manufactured shoes
and distribute them.

Q. Okay. Now obviously you know we're here to talk
about Michael and his death. I sort of want to short
circuit if I can. Is there anything about his childhood
or education that your wife mentioned that you wanted to
add to?

1 A. No. Michael played baseball. He played soccer.
2 His team won the championship when he played soccer. He
3 just was active. He took judo, was in the Marines, went
4 to England to play soccer, went to Hawaii to play soccer,
5 just everything. He was a reader. We'd discuss
6 astrophysics. We could discuss baseball. We could
7 discuss the Lakers. When they would win -- Lakers made
8 their draft, I'd have ten calls in the matter of an hour.

9 I mean, Michael was my son which -- he was
10 my friend. I can't add a lot to that.

11 Q. And I know this is difficult so I'll just --
12 tell us how your life is different without Michael.

13 A. Well, you'd have to lose a child to know what
14 it is to lose a child that you love. Okay?

15 If anyone wants to know what Michael was
16 like, go to michaeldavidadams.net. There you'll see all
17 his friends that have left comments and everything else.

18 He was just a remarkable person. That's all
19 you can say.

20 When we had a service for Michael, one of
21 the men said that they would actually bid lower just to
22 work with him.

23 MR. ALDRICH: May I approach the witness,
24 Your Honor?

25 THE COURT: Yes.

1 Q. (By Mr. Aldrich) I'm going to show you what
2 we've marked as Exhibit 2 to the application for default
3 judgment.

4 I can see you're getting some glasses out.
5 I'd ask you to take a look at that. Is
6 that your signature there at the end?

7 A. Yes, it is.

8 Q. Is everything in this letter true and correct?

9 A. Yes.

10 Q. Okay. And have you participated in the
11 celebrations that your wife talked about?

12 A. Yes. In fact, we have a chili cook off
13 Saturday where all of his friends will get together.
14 It was called Mike's ^{FREE FAT} (inaudible) chili and we've been
15 doing it every year since Michael died.

16 Q. Is there anything else that you would like the
17 Judge to know about Michael that we haven't talked about
18 here today?

19 A. I couldn't even describe Michael because he
20 was just -- he was just Michael. He was just -- there
21 are just no words. Okay?

22 Q. All right. Thank you.

23 MR. ALDRICH: Those are all the questions
24 that I have.

25 THE COURT: Anything?

1 MR. OHLSON: No, thank you, Your Honor.

2 THE COURT: All right.

3 Thank you for testifying. You can step down.

4 THE COURT: Anything else, Counsel?

5 MR. ALDRICH: No, Your Honor. Those are
6 the witnesses that I have. Obviously we can talk about
7 argument if the Court wants to hear. I don't know if you
8 want to address the issues in the (inaudible) that I
9 attached to my supplement now or do you want me just to
10 talk for a second.

11 THE COURT: We're going to read through them
12 very carefully, of course, when we sit down to figure out
13 how much damages.

14 Counsel?

15 MR. OHLSON: I have a witness, if you'll
16 permit me to call the defendant.

17 THE COURT: All right.

18 MR. OHLSON: Ms. Fallini, will you step
19 forward please?

20 And will you face the clerk and raise your
21 right hand?

22 Ma'am? Ms. Fallini? Will you raise your
23 right hand and be sworn?

24

25 (Whereupon the witness was sworn by the

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clerk.)

SUSAN FALLINI,

called as a witness on behalf of the defense being first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. OHLSON:

Q. What is your name?

A. Susan Fallini.

Q. Are you the defendant in this case?

A. Yes, sir.

Q. Do you know the location at which the accident
in this case occurred?

A. Yes, I do.

Q. Where was it?

A. It's on Highway 375. I'm not aware of the
marker post but it's between two of our wells, water
wells, by a hard pan lake.

Q. If we asked you to, could you take us to the
very place right now?

A. Absolutely. There's a marker. They have planted
a marker there and we fenced it in so the cows wouldn't

1 knock it down.

2 Q. Do you know of your own personal knowledge

3 whether that stretch of highway is designated as open
4 range?

5 A. It is.

6 MR. ALDRICH: I object to relevance. It's
7 prove up.

8 THE COURT: It doesn't matter. I'm aware
9 that it is.

10 Go ahead.

11 MR. OHLSON: If you are, Your Honor, you'll
12 take judicial notice of that?

13 THE COURT: That'll be fine.

14 MR. OHLSON: That's all I have.

15 MS. FALLINI: That's it?

16 THE COURT: Thank you for testifying.

17 MS. FALLINI: Uh-huh.

18 THE COURT: Anything else?

19 MR. ALDRICH: I've got some argument if the
20 Court wants to hear it.

21 THE COURT: You're welcome to make argument.
22 We're going to read through your brief and I've got the
23 notes from the hearing today and you're welcome to add
24 anything you want to.

25 MR. ALDRICH: Thank you.

1 And I wanted to address some of the things
2 that the Court commented on earlier, especially sort of
3 pulling numbers out of the sky.

4 This is not your typical application for
5 default judgment. Normally you see it, it's a breach
6 of a copier lease or breach of a car lease or something
7 like that and you've got a document that says, you know,
8 you're supposed to make three-hundred-dollar-a-month
9 payments for five years and you didn't and here's the
10 number and there you go. This is different than that
11 and so it requires some extra care.

12 I wanted to just address each of the issues
13 that I raised in here briefly.

14 We've got -- we're asking for grief, sorrow,
15 loss of probable support, companionship, society, comfort,
16 consortium and so on the issues, I've put in here we've
17 asked for two and a half million dollars. I'll be the
18 first one to stand here and tell you that's a very
19 difficult number to define and really define.

20 But when you think about it, and you've
21 heard the testimony from them and what Michael meant
22 to them, two and a half million dollars is a fair
23 number in my opinion. Now obviously the Court's going
24 to do what the Court does but this is not a number that
25 I threw in so it would be a big number.

1 You sit down and you think about it because
2 a lot of times, you'll see those Visa commercials and it
3 ends with, you know, this much to do this and this much
4 to do that and this experience is priceless. That's
5 really what it comes down to. They're not going to have
6 grandchildren. There's literally an end to a family line
7 right there. What is that worth? I don't know but it's
8 at least two and a half million dollars.

9 I comment on the lost earnings. We've
10 attached the wage information and we have an expert
11 for that number and so I think we've got some hard
12 numbers there.

13 Hedonic damages. Hedonic damages are
14 monetary remedies awarded to compensate injured persons
15 for their non-economic loss of life's pleasures or loss
16 and enjoyment of life. All this information about what
17 Michael was and who he was and friends that still, in
18 his honor, hold chili cookoffs and all these different
19 things, that matters and it matters to the Court's
20 determination of hedonic damages.

21 Michael literally lost a life. He lost the
22 opportunity to be a father. He lost the opportunity to
23 be a grandfather. He lost the opportunity to help his
24 parents in their old age. He lost a lot of opportunities
25 that the rest of us are fortunate enough to have and so,

1 you know, we have -- the number we came up with for
2 hedonic damages was five million dollars.

3 Now the case law that I read on hedonic
4 damages talks about how you can have an expert to
5 testify to that but you don't have to. Obviously we're
6 relying on the Court. I cited the case that talked
7 about how different people have valued that. It comes
8 back to my comment before. What is the value of not
9 being able to do all these things and yet being killed?
10 I don't know the answer to that but, again, when you
11 consider the things that he lost, I believe five million
12 dollars is a number that is fair. Okay?

13 Obviously we've got the expenses in there
14 associated with his death and then I also have -- I want
15 to at least comment on it -- the sanction issue. You
16 know, I assume the Court will add that into the judgment.
17 I think it should be added into the judgment. It's my
18 position that because the discovery that's still
19 outstanding has not been responded to, that that number
20 just kicks up by five hundred dollars every day.

21 I certainly, in candor to the Court, will
22 advise the Court that I received that information in a
23 letter, that there was no insurance apparently for Ms.
24 Fallini, and that was sometime in early June but, again,
25 I believe that Foriter says that they're supposed to

1 respond to discovery and they have not.

2 ~~And so, having made those comments, I'm~~
3 happy to entertain any questions the Court might have.

4 THE COURT: I don't have any.

5 Counsel, anything you want to say?

6 MR. OHLSON: There is, Your Honor.

7 Counsel's right. This is an unusual case.

8 First of all, when you are considering this
9 case for your ruling, and I'm assuming you're taking the
10 case under submission, please consider that the experts'
11 calculations and the documents at this point and made in
12 this forum are hearsay.

13 Counsel and plaintiff could have brought the
14 witnesses to this hearing. They knew it was a prove up
15 hearing and I assume they came here expecting to prevail
16 on the underlying issues. Right now they're not properly
17 before the Court but, be that as it may, I've been
18 practicing law as long as Mr. Chantiel has been.

19 I just noticed we don't have a court
20 reporter.

21 THE COURT: That's correct. The parties
22 have to request one but we are video taping and taping
23 the proceedings.

24 MR. OHLSON: We are otherwise recording the
25 proceedings.

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THE COURT: Correct.

MR. OHLSON: ~~But I was in practice in~~

September of '72 and (inaudible) criminal practice like Mr. Chantiel. As a matter of fact, we're friends with each other, and I've defended a number of murder cases in which I've heard the parents of the deceased speak to the courtroom at sentencing and the same things always occur to me and that is, as powerful as a trial level judge is, there's nothing in the world you can do to bring back the deceased or to fix the pain on losing a child.

Simple matter is we're not supposed to survive our children. They're supposed to survive us. This is a pain that the plaintiff and her husband are going to bear until their last days and there's no amount of money that's going to fix this pain, no amount of money.

So what are we doing here? We're here because the whole body of tort law has said that in circumstances such as this, we -- the Court should make a prevailing plaintiff whole. As a matter of fact, when you instruct juries, you instruct them that if they find personal issue of liability, then after that, they should consider damages and then you tell them what damages they can consider.

1 Well, in this case, there were no financial
2 dependents so the issue of the income and how many years
3 of income remains -- is not relevant to any issue in the
4 case because there are no financial dependents that are
5 deprived of the income. The plaintiffs were never
6 financially dependent upon the deceased, nor did he have
7 children or a spouse.

8 They ask funeral expenses. There were
9 apparently those last expenses and I acknowledge that
10 the -- there is emotional pain and suffering but, once
11 again, how do you make a person whole for that? I
12 suggest to you, Your Honor, that you don't. You don't.

13 If you give the plaintiffs ten million
14 dollars, are they going to feel any better? No, they're
15 not going to feel any better. Are they going to feel any
16 better than if you give them fifty thousand dollars?
17 They're not going to feel any better. They're devastated
18 and they're going to remain devastated and, for that, you
19 have my sincere condolences.

20 So what to decide. You have before you and
21 the Court's acknowledged that the area in which this
22 accident happened was open range. Well, the way a jury
23 would do it and the way you would instruct a jury would
24 be to first determine the amount of damages and then,
25 after that's determined, a percentage of which the

1 plaintiff was at fault, in this case considering open
2 range, who takes the percentage, and the Court would
3 apply that percentage to the amount of damages. If the
4 percentage exceeded fifty percent, the damages would be
5 zero. Less than fifty percent, well (inaudible).

6 Your Honor, the system has come under a lot
7 of scrutiny lately and a lot of criticism and a lot of
8 well-founded criticism, criticism from all parts about
9 outlandish results and outlandish verdicts and
10 outstanding amounts of money, and I think, in part,
11 because in many of these cases, the amounts of money
12 that are awarded don't rationally and reasonably relate
13 to the loss and to making whole.

14 Certainly you wouldn't replace the deceased's
15 income. Do you make him whole? Do you make anybody
16 whole? No, you're not.

17 We request that Your Honor consider a result
18 in this case that acknowledges the plaintiffs' loss.
19 Yes, we knew you lost and, yes, we know that no amount
20 of money can ever relieve the pain from you, no amount
21 of money. Take this amount of money as a recognition
22 on our part that you have lost and you've lost greatly
23 and deeply and then let the parties go their way.

24 THE COURT: Thank you.

25 Anything else?

1 MR. ALDRICH: I do. Just a couple of
2 comments.

3 First of all, the open range issue. There
4 are facts in this case that have been conclusively
5 determined and if the Court follows those facts as
6 they've been conclusively determined in this case,
7 there's not going to be a finding of any comparative
8 fault on the part of Michael Adams.

9 Secondly, comparative fault and affirmative
10 defense (inaudible) asserted and everyone's on notice of
11 when they come to trial. There is no affirmative defense
12 here. It is not appropriate for the Court to consider
13 comparative fault and I have seen no case law. Now in
14 the interest of candor to the Court, I haven't looked for
15 case law on that issue because today's the first day I
16 heard of it. I hadn't thought of that, quite frankly.

17 Obviously Mr. Ohlson is capable and has
18 brought that issue before the Court. I also suspect,
19 however, if there were actually case law to support that,
20 that would be here too, so having said that, I think that
21 those arguments do not hold water, so to speak.

22 The next comment that I have is about
23 Exhibit 3 which is the calculation of lost wages. I
24 would have brought the guy here to testify in person but
25 there was no objection to him in the first place and you

1 hate to pay somebody all that money to come all the way
2 out here when there's not an objection.

3 There was an opposition to my application,
4 no mention of an objection to the evidence or the state
5 of the evidence. Certainly there's no evidence in
6 opposition to that to say that he's wrong or anything
7 else, so we do ask the Court to consider that. And I
8 will note that our argument is that that is part of
9 special damages and is permitted to be recovered.

10 You know, the other issue, I guess, we run
11 into, as Mr. Ohlson was arguing today, is you can't make
12 them whole so don't give them very much or you can't make
13 them whole, so punt.

14 We've gone through and been very meticulous
15 about how we've reached the number that we're asking for
16 and, you know, I'm here to say, I admit it to the Court,
17 there's not a definitive number necessarily but you think
18 this stuff through and you think about what sons mean to
19 parents and things like that and it is worth a lot if
20 you're trying to do that.

21 To do anything but to try to compensate them
22 for their loss would be wrong and, of course, if the Court
23 awarded ten million dollars and there was ten million
24 dollars sitting on this table right here today and they
25 had a choice of ten million dollars or Michael walking

1 through that door over there, of course, they're going
2 to say have Michael walk through that door. They don't
3 want ten million dollars. They want Michael back but he
4 can't come back. We can't do that.

5 So what does the court system do? It
6 allows us to try to compensate people from a financial
7 perspective when you can't bring back their loved one,
8 so we would ask the court to take that into consideration
9 and award a substantial amount. We've got the numbers
10 that we've given to the Court and that's what we're
11 asking for.

12 THE COURT: Thank you, sir.

13 You don't have any more, do you?

14 MR. OHLSON: Just one point, if I might, so
15 that I'm clear on an argument. It's our position that
16 no plaintiff in this case has suffered the loss of the
17 deceased's income. He had no financial dependents.

18 THE COURT: Thank you.

19 All right, we'll have the decision for you
20 in a few days. Thank you for coming in.

21 MR. OHLSON: Thank you, Your Honor.

22 MR. ALDRICH: Thank you. We appreciate your
23 time.

24 THE COURT: Thank you.

25 Is there anything else we needed to do?

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THE CLERK: (Inaudible.)

THE COURT: All right, we'll go ahead and

recess then.


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CERTIFICATE

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I, DanRa Boscovich, certify that I am a Certified Court Reporter in the State of Nevada; that I reported and transcribed the above-entitled hearing from an electronic recording; and that the foregoing constitutes a transcript as full and correct as the electronic recording would allow.

Dated: August 27, 2011.


DanRa Boscovich, CCR 218

1 NEO
John P. Aldrich, Esq.
2 Nevada Bar No. 6877
ALDRICH LAW FIRM, LTD.
3 1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146
4 (702) 853-5490
(702) 227-1975 fax
5 Attorneys for Plaintiff

FILED

2010 AUG 18 P 2:11
REBECCA BALLARD
NYE COUNTY CLERK
BY DEPUTY

6
7 THE FIFTH JUDICIAL DISTRICT COURT
THE STATE OF NEVADA
8 COUNTY OF NYE

9 Estate of MICHAEL DAVID ADAMS,)
10 by and through his mother JUDITH)
ADAMS, individually and on behalf of the)
11 Estate,)

Case No.: CV24539
Dept.: 2P

12 Plaintiffs,

13 vs.

14 SUSAN FALLINI, DOES I-X and ROE)
CORPORATIONS I-X, inclusive,)

15 Defendants.

16 SUSAN FALLINI,

17 Counterclaimant,

18 vs.

19 Estate of MICHAEL DAVID ADAMS,)
20 by and through his mother JUDITH)
ADAMS, individually and on behalf of the)
21 Estate,)

22 Counterdefendants.

23 NOTICE OF ENTRY OF ORDER

24 ///

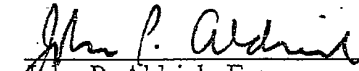
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1 PLEASE TAKE NOTICE that an Order After Hearing was entered in the above-entitled
2 matter on August 12, 2010, a copy of which is attached hereto as Exhibit 1.

3 DATED this 17th day of August, 2010.

4 ALDRICH LAW FIRM, LTD.

5
6 
7 John P. Aldrich, Esq.
8 Nevada State Bar No. 6877
9 1601 S. Rainbow Blvd., Suite 160
10 Las Vegas, Nevada 89146
11 (702) 853-5490
12 (702) 227-1975
13 *Attorneys for Plaintiff*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 17th day of August, 2010, I mailed a copy of the
16 NOTICE OF ENTRY OF ORDER, in a sealed envelope, to the following and that postage was fully
17 paid thereon:

18 John Ohlson, Esq.
19 275 Hill Street, Suite 230
20 Reno, Nevada 89501
21 *Attorney for Defendant/Counterclaimant*

22 Katherine M. Barker, Esq.
23 Law Office of Katherine M. Barker
24 823 S. Las Vegas Blvd., Ste. 300
25 Las Vegas, NV 89101
26 *Attorney for Counterdefendant*
27 *Estate of Michael David Adams*

28 
An employee of Aldrich Law Firm, Ltd.

EXHIBIT 1

EXHIBIT 1



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FILED

Case No. CV 24539
Dept. 2P

2010 AUG 12 A 9:00

REBECCA BALLARD

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE

ESTATE OF MICHAEL DAVID ADAMS,
by and through his mother JUDITH
ADAMS, individually and on behalf of the
Estate

Plaintiff,

vs.

SUSAN FALLINI; DOES I-X, and ROE
CORPORATIONS I-X, inclusive

Defendants.

ORDER AFTER HEARING

This matter is regarding a motor vehicle accident involving Michael Adams and a Hereford Cow owned by the Defendant. On June 24, 2010, Plaintiff filed an Application for Default Judgment against Defendant Susan Fallini. Plaintiff requested \$2,500,000 for grief, sorrow, loss of support; \$1,640,696 for lost career earnings; \$5,000,000 for hedonic damages loss of life's pleasure and enjoyment; \$35,000 for Sanctions already levied against Defendants; \$50,000 for attorney's fees; and \$5,188.85 for funeral and other related expenses for a total of \$9,230,884.85. Defendants filed an Opposition on June 24,

2010. A hearing was held on this matter on July 19, 2010, in which Plaintiff and Defendants appeared with their counsels. After hearing arguments from both sides regarding the Defendant's violation of procedural rules, the Court denied Defendant's



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Motion for Reconsideration and proceeded with the Prove Up Hearing and Canceled the Trial scheduled for August 2010. Judith Adams, Anthony Adams, and Susan Fallini were sworn in and testified. The parties' counsel gave their closing statements. The Court heard testimony, counsels' statements and arguments, and reviewed the pleadings on file herein. This Order follows.

ORDER

IT IS HEREBY ORDERED that the Defendant's Motion for Reconsideration is DENIED.

IT IS FURTHER ORDERED that the Court grants the Plaintiff \$1,000,000 in Damages for Grief, Sorrow, and loss of support.

IT IS FURTHER ORDERED that the Court grants the Plaintiff \$1,640,696 in Damages for future lost earnings.

IT IS FURTHER ORDERED that the Court grants the Plaintiff \$50,000 in Attorney's Fees.

IT IS FURTHER ORDERED that the Court grants the Plaintiff \$35,000 in sanctions levied against the Defendant.

IT IS FURTHER ORDERED that the Court grants the Plaintiff \$5,188.85 in funeral and other related expenses.

~~IT IS FURTHER ORDERED that Plaintiff's request for Hedonic damages is~~
DENIED.

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DATED this 12th day of August 2010.



DISTRICT JUDGE

FIFTH JUDICIAL DISTRICT COURT
ESMERELDA, MINERAL AND NYE COUNTIES



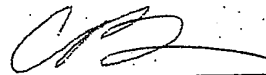
CERTIFICATION OF MAILING

The undersigned hereby certifies that on the 12th day of August 2010, he mailed copies of the foregoing ORDER AFTER HEARING to the following:

John P. Aldrich, Esq.
ALDRICH LAW FIRM, LTD.
1601 S. Rainbow Blvd., Suite 160
Las Vegas, NV 89146

John Ohlson, Esq.
BOWEN, HALL, OHLSON & OSBORNE
555 South Center Street
Reno, NV 89501

Katherine M. Barker, Esq.
LAW OFFICE OF KATHERINE M. BARKER
823 S. Las Vegas Blvd., Ste. 300
Las Vegas, NV 89101



C. PAUL TECHO
Law Clerk to
DISTRICT JUDGE

FIFTH JUDICIAL DISTRICT COURT
ESMERELDA, MINERAL AND NYE COUNTIES



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1 John Ohlson, Esq.
Bar Number 1672
2 275 Hill Street, Suite 230
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5 Marvel & Kump, Ltd.
Elko, Nevada 89801
6 Telephone: (775) 777-1204
Attorneys for Susan Fallini
7

8
9 **FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF NYE**

11 * * * * *

12 Estate of MICHAEL DAVID ADAMS,
13 By and through his mother JUDITH ADAMS,
Individually and on behalf of the Estate,

14 Plaintiff,

Case No.: CV24539

Dept. No.: 2P

15 vs.

16 SUSAN FALLINI, DOES I-X, and
17 ROE CORPORATIONS I-X, inclusive,

18 Defendant.
19 _____/

20 AND ALL RELATED CLAIMS.
21 _____/

22 **NOTICE OF APPEAL**

23 TO: Plaintiff, and her counsel of record, John Aldrich, Esq.

24 Notice is given that Defendant SUSAN FALLINI, appeals to the Supreme Court of

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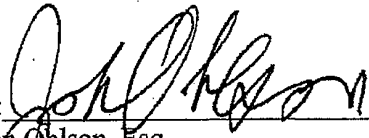
Nevada from: (1) the August 12, 2010 Order After Hearing.

DATED this 7 day of September, 2010.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 7 day of September, 2010.

By: 
John Ohlson, Esq.
Bar Number 1672
275 Hill Street, Suite 230
Reno, Nevada 89501
Telephone: (775) 323-2700

Jeff Kump, Esq.
Bar Number 5694
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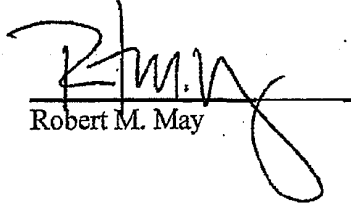
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of JOHN OHLSON, and that on this date I personally served a true copy of the foregoing **NOTICE OF APPEAL**, by the method indicated and addressed to the following:

John P. Aldrich, Esq.
Aldrich Law Firm, Ltd.
1601 S. Rainbow Blvd., Ste. 160
Las Vegas, NV 89146

Via U.S. Mail
 Via Overnight Mail
 Via Hand Delivery
 Via Facsimile
 Via ECF

DATED this 7 day of September, 2010.


Robert M. May

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

SUSAN FALLINI,
Appellant,
vs.
ESTATE OF MICHAEL DAVID ADAMS, BY
AND THROUGH HIS MOTHER JUDITH
ADAMS, INDIVIDUALLY AND ON BEHALF OF
THE ESTATE,
Respondent.

Supreme Court No. 56840
District Court Case No. cv0024539

**NOTICE OF REFERRAL TO SETTLEMENT PROGRAM AND SUSPENSION
OF RULES**

TO: Aldrich Law Firm, Ltd.
Marvel & Kump, Ltd.
Bowen, Hall, Ohlson & Osborne

This notice is to inform you that this appeal may be assigned to the court's Settlement Program. See NRAP 16(a). The issuance of this notice automatically stays the time for filing a request for transcripts under NRAP 9, and for filing briefs under NRAP 31. See NRAP 16(a)(1).

Rule 14 requires a docketing statement be filed and served within 20 days of the docketing of the notice of appeal. This timeline is not stayed by this notice.

DATE: September 20, 2010

Tracie Lindeman, Clerk of Court

By: Tiffany Maccagno
Deputy Clerk

Notification List

Electronic
Bowen, Hall, Ohlson & Osborne
Aldrich Law Firm, Ltd

Paper
Marvel & Kump, Ltd.

10-24101

1 CASE NO. CV 31449

2 DEPT. NO. 1

FILED

2011 JAN 31 P 12:01
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NYE COUNTY CLERK
BY DEPUTY

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6 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR THE COUNTY OF NYE**
8

9 **SUSAN FALLINI, and JOE FALLINI**

10 **Plaintiffs,**

11 vs.

**COMPLAINT FOR DECLARATORY
RELIEF**

12 **THE HONORABLE ROBERT W. LANE,**
13 **TONY ADAMS, JUDITH ADAMS,**
14 **JOHN P. ALDRICH, ESQ.,**
HAROLD KUEHN, ESQ., and Does I through V,
jointly and severally,

15 **Defendants.**

16
17 COMES NOW, Plaintiffs SUSAN FALLINI and JOE FALLINI, by and through their attorneys Jeff
18 Kump, Esq., of the law firm of Marvel & Kump, Ltd., of Elko, Nevada, and John Ohlson, Esq. of Reno,
19 Nevada, and complain for Declaratory Relief against the Defendants, THE HONORABLE ROBERT W.
20 LANE, TONY ADAMS, JUDITH ADAMS, JOHN P. ALDRICH, ESQ. and HAROLD KUEHN, ESQ.,
and allege as follows.

21 **Nature of the Action**

22 1. Plaintiffs, SUSAN FALLINI and JOE FALLINI, seek a declaration that a judgment entered
23 against them in the total sum of \$2,730,884.85, in the matter of Estate of MICHAEL DAVID ADAMS, By
24 and through his mother JUDITH ADAMS, Individually and on behalf of the Estate vs. SUSAN FALLINI,
25 case number CV24539, Department 2, in the Fifth Judicial District Court of Nevada, is null, void and of no
26 effect, and should be set aside and vacated. Said judgment was entered here on August 12, 2010, a copy of
27 which is attached hereto as Exhibit 1.
28

MARVEL & KUMP
Attorney at Law
217 Idaho Street
Elko, NV 89801

1 Parties

2 2. That at all times mentioned herein, Plaintiffs, Susan Fallini and Joe Fallini, husband and wife,
3 were residents of the State of Nevada.

4 3. That at all times mentioned herein, Defendants, Robert Lane, John Aldrich, and Harold
5 Kuehn, were officers of the court of the State of Nevada, and residents of said State.

6 4. On information and belief, that Defendants Judith Adams and Tony Adams, are residents of
7 the State of California.

8 General Allegations

9 5. That on or about January 31, 2007 a Complaint was filed, naming Susan Fallini as the
10 Defendant, that alleged negligence resulting in the death of Michael Adams. Fallini promptly
11 retained a local attorney, Defendant Harry Kuehn and an Answer and Counterclaim was filed on March 14,
12 2007 together with an Objection to Pahrump as Forum and Motion to have Matter Heard in Tonopah.
13 Defendant John Aldrich opposed Defendant's Motion to have the Matter Heard in Tonopah and the
14 information in the responsive pleading misinformed the Court that Defendant "lives equally distant between
15 Pahrump and Tonopah in the Armagosa Valley..." Counsel for Fallini, Harold Kuehn of Gibson & Kuehn,
16 failed to correct the false statement and the Court denied Fallini's motion regarding change of venue.

17 6. That on or about June 14, 2007 a Early Case Conference was scheduled and on June 15, 2007
18 all parties attended. On October 23, 2007 Plaintiff filed Plaintiff's and Counter-Defendant's Case
19 Conference Report that was not signed by Susan Fallini's Counsel.

20 7. That on or about October 31, 2007, Adams sent counsel for Fallini written discovery
21 requests, including Requests for Admission, Requests for Production of Documents, and Interrogatories.
22 Counsel for Fallini did not respond.

23 8. That on or about April 7, 2008 Adams filed a Motion for Partial Summary Judgment alleging
24 that on October 31, 2007 Fallini was served with written discovery requests, including Requests for
25 Admission, Requests for Production of Documents, and Interrogatories. Again counsel for Fallini did not
26 respond. On July 30, 2008, the Court issued an Order Granting Adam's Motion for Partial Summary
27 Judgment. Notice of Entry of Order was filed on August 15, 2008.

28 9. That on or about July 14, 2008 there was a hearing before the Honorable Robert W. Lane.

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Attorney at Law
217 Idaho Street
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1 Adam's counsel, John P. Aldrich was present but Fallini's counsel was not present, the Court having entered
2 its Order Granting Plaintiff's Motion for Partial Summary Judgment on July 29, 2008 containing fourteen
3 separate findings of fact and the following Conclusions of Law:

- 4 1. Defendant Fallini had a duty to ensure that the subject cow was not in the roadway
5 at the time of the incident described in the Complaint.
- 6 2. Defendant Fallini had a duty to follow the common practice of Nye County, Nevada
7 ranchers and to mark her cow with reflecting or lamination tags.
- 8 3. Defendant Fallini breached the duty of care to the decedent, as set forth in the
9 findings of Fact and Conclusions of Law.
- 10 4. As a result of Defendant Fallini's breach, the decedent, Michael David Adams, was
11 killed.
- 12 5. Defendant Fallini is liable for the damages to which Plaintiff is entitled, in an amount
13 to be determined at a later time.

14 10. On September 22, 2008, Adams filed a Motion to Reopen Discovery and for an Extension
15 of Time to Complete Discovery for the purpose of retaining an expert and establishing an opinion as to
16 decedent's lost earning capacity.

17 11. That on or about March 23, 2009 Adams filed a Motion to compel Fallini's Production of
18 Documents. Plaintiff alleged that "to this date, Fallini has not produced any responses of any kind to
19 Plaintiff's written discovery requests." Adams alleged that he had sent letters to Fallini's attorney that went
20 unanswered and made phone calls to Fallini's attorney that also went without return call.

21 12. That on or about April 27, 2009 the Court heard Adams' Motion to Compel Defendant's
22 Production of Documents. Fallini's attorney, Kuehn, attended the hearing and did not oppose Adams' motion
23 to compel and in fact agreed at the hearing it was warranted. Mr. Kuehn provided no explanation as to why
24 he had failed to respond to all discovery requests.

25 13. That on or about May 18, 2009 Adams filed a Request for Trial Setting and the Order to Set
26 Trial was filed May 20, 2009.

27 14. That on or about June 16, 2009 Adams filed a Motion to Strike Defendant's Answer and
28 Counterclaim.

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1 15. That on or about July 13, 2009 Fallini's Counsel filed an Opposition to Adams' Motion to
2 Strike Defendant's Answer and Counterclaim in favor of a monetary sanction against Defendant's counsel.

3 Mr. Kuehn wrote: "The discovery non-compliance set out in plaintiff's motion is absolutely not the fault
4 of the party and the blame should be attributed to counsel in full."

5 16. The Court denied Plaintiff's Motion to Strike Defendant's Answer and Counterclaim by
6 Order dated July 17, 2009. The court sanctioned Mr. Kuehn \$1,000.00, ordered discovery completed by
7 August 12, 2009 or the Court would grant Plaintiff's Motion to Strike.

8 17. That on or about August 31, 2009 Adams filed an Ex Parte Motion for Order to Show Cause
9 Why Defendant Susan Fallini and Her Counsel Should Not Be Held In Contempt of Court. Plaintiff alleged
10 that "to date, Defendant has failed to comply with the order of this Honorable Court and respond to
11 Plaintiff's discovery requests. Defendant's counsel has paid the \$1,750 in sanctions as ordered by the
12 Court."

13 18. By Order dated September 1, 2009 the Court ordered Susan Fallini and her counsel to appear
14 September 28, 2009 at 9:00 a.m. Susan Fallini did not appear. John P. Aldrich, Counsel for Plaintiff, and
15 Mr. Kuehn for Defendant appeared in chambers. The Court ordered that Defense counsel had until October
16 12, 2009 to comply with the Court Order Granting Plaintiff's counsel John P. Aldrich's Motion to Compel
17 and if Defendant failed to do so the Court would strike defendant's pleadings in their entirety and Defense
18 counsel would be held in contempt and fined \$150 per day until the information was provided.

19 19. Defense counsel, Mr. Kuehn, did not comply as ordered. On November 4, 2009 the Court struck
20 the Defendant's answer and counterclaim and held defendant's counsel, Mr. Kuehn, in contempt. Notice
21 of Entry of Order was filed on November 9, 2009.

22 20. Default was filed on February 4, 2010; Notice of Entry of Default was filed February 11,
23 2010.

24 21. That on or about April 7, 2010 Plaintiff's counsel John P. Aldrich filed an Ex Parte Motion
25 for Order to Show Cause Why Defendant Susan Fallini and Her Counsel Should Not Be Held In Contempt
26 of Court and Possible Sanctions be Imposed. Plaintiff's counsel John P. Aldrich suggested that the Court
27 refer this matter to the State Bar and that the Court impose stiff sanctions: \$5,000 immediately and \$500 per
28 day until Defendant complies and "if both Defendant and her counsel are not present in Court, Plaintiff will

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1 request that the Court issue a bench warrant until Defendant complies.”

2 22. By Order dated April 19, 2010 the Court ordered Susan Fallini and her counsel to appear May
3 24, 2010 at 9:00 a.m.

4 23. That on May 24, 2010 Plaintiff's counsel John P. Aldrich and Thomas Gibson on behalf of
5 Fallini appeared for hearing. As with the prior Orders, neither Fallini nor her counsel responded. Mr.
6 Gibson indicated he had not seen the file and provided no valid excuse. Mr. Gibson made specific
7 representations to the Court that “the client, Defendant Susan Fallini, was unaware of the status of this case.”

8 24. On June 24, 2010 Plaintiff filed an Application for Default Judgment against Fallini.
9 On July 6, 2010, Defendant Fallini, through new counsel, filed a Motion for Leave to file a Motion for
10 Reconsideration of prior orders. A Hearing was held on July 19, 2010, wherein Defendant's Motion for
11 Reconsideration was Denied. Further, Defendant Fallini was left in a position of default. The Court entered
12 its Order After Hearing on August 12, 2010 and awarded damages to Plaintiff and judgment was entered
13 therein.

14 **Defendant Kuehn**

15 25. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set
16 forth herein.

17 26. “The rule that attorney’s negligence may be imputed to his client and prevent the latter from
18 relying on that ground for opening or vacating a judgment does not necessarily prevail in the event of the
19 attorney’s abandonment or withdrawal from the case.” (114 ALR 279 (1938); St. John Medical Center v.
20 Brown, 125 P.3d 700 (OKLA 2005); Yusem v. Butler, 683 So. 2d 1170 (FLA 1996); Myers v. All West
21 Transport, 766 P. 2d 864 (MT 1988); Boeckmann v. Smith, 189 S.W. 2d 449 (MO 1945); Stub v. Harrison,
22 96 P.2d 979 (CA. 1939).

23 27. The Defense counsel, Mr. Kuehn’s action, providing no notice to his client was one of wilful
24 abandonment.

25 28. Defense counsel, Mr. Kuehn, secreted himself and his failure to act was a circumstance
26 beyond the control of his client, Mrs. Fallini.

27 29. Plaintiff's counsel John P. Aldrich took advantage of the defense attorney’s failures.

28 30. The record also reflects that despite being ordered to produce his client, defense counsel, Mr.

MARVEL & KUMP
Attorney at Law
217 Idaho Street
Elko, NV 89801

1 Kuehn, refused, and neglected to do as a further act of abandonment.

2 31. Mrs. Fallini was not aware that a single hearing was held or that there was even a single
3 discovery request.

4 32. Under the rare circumstances of this case, Mrs. Fallini should not be charged with the conduct
5 of her counsel. This was a gross dereliction of duty and consequences should not have been directed to the
6 innocent client. Mrs. Fallini was, in effect, not represented by counsel in the underlying proceedings.

7 **Defendant Aldrich**

8 33. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set
9 forth herein.

10 34. Plaintiff's counsel John P. Aldrich misinformed the Court, of the specifics as set forth herein
11 in Paragraph 9 verbatim, in clear violation of SCR 172, and NRCP 11.

12 35. Plaintiff's counsel John P. Aldrich's pleadings and motions, as set forth herein
13 in Paragraph 9 verbatim, to which the Court relied, contained allegations that were false, misleading, and/or
14 have no evidentiary support, in violation of Nevada law.

15 36. NRCP 11 provides that by presenting pleadings and written motions and attorney is certifying
16 that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under
17 the circumstances, the allegations and other factual contentions have evidentiary support.

18 37. On or about October 31, 2007, Plaintiff's counsel John P. Aldrich sent Defense counsel, Mr.
19 Kuehn written discovery requests, including Requests for Admission, Requests for Production of
20 Documents, and Interrogatories. As expected, Mr. Kuehn did not respond, and on April 7, 2008 Plaintiff's
21 counsel John P. Aldrich filed a Motion for Partial Summary Judgment alleging that Requests for Admissions
22 not being answered must be deemed admitted.

23 38. The following alleged material facts are false, misleading, and have no evidentiary support,
24 but were deemed admitted by the Court for defense counsel's failure to respond:

- 25 a. Fallini's property is not located within an "open range" as it is defined in NRS 568.355;
- 26
- 27
- 28

1 b. It is the common practice of Nye County, Nevada ranchers to mark their cattle with reflective or
2 luminescent tags;¹

3 39. There is no evidentiary support for the facts put forward by Plaintiff that Fallini's property
4 is not located within an "open range" as it is defined in NRS 568.355 and that it is the common practice of
5 Nye County, Nevada ranchers to mark their cattle with reflective or luminescent tags. At all times herein,
6 defendant Aldrich acted on behalf of his clients, defendants Tony and Judith Adams.

7 **Defendant Lane**

8 40. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set
9 forth herein.

10 41. Whenever any officer of the Court commits fraud during a proceeding in the court, he/she
11 is engaged in "fraud upon the court." In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the
12 Court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud
13 between the parties or fraudulent documents, false statements or perjury. . . . It is where the court or a
14 member is corrupted or influenced or influence is attempted or **where the judge has not performed his**
15 **judicial function** - - - thus where the impartial function of the court have been directly corrupted."

16 42. The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the
17 appearance of justice", Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing Offutt v. United
18 States, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954).

19 43. The court failed to follow the law as to notice with respect to non-represented litigants.

20 44. The court accepted the statements made by plaintiff as true, knowing the statement to be false,
21 in granting the plaintiff's motion for summary judgment.

22 45. The Court relied on defendant's alleged facts, false facts, that were deemed admitted for
23 defense counsel's failure to respond in granting Plaintiff's Motion for Summary Judgment.

24 46. The judge failed to perform his judicial functions in the underlying matter herein, and in so
25 failing violated The Nevada Code of Judicial Conduct in the following particulars:

26
27
28 ¹ Also, When Defendant initially moved for the matter to be heard in Tonopah, Plaintiff misinformed the Court that Defendant lived in "Armagosa Valley."

- 1 a. Rule 2.5 Competence, Diligence, and Copperarion, in that Judge Lane failed to act
2 competently and diligently in the face of obvious dereliction of Attorney Kuehn;
- 3 b. Rule 2.6 Ensuring the Right to be Heard. When it became obvious that Attorney
4 Kuehn had abandoned his client, plaintiff Fallini, Judge Lane failed to employ the
5 resources available to him in suspending Kuehn from practice before him, and
6 notifying plaintiff;
- 7 c. Rule 2.16 Responding to Judicial and Lawyer Misconduct by failing to notify the
8 appropriate authority regarding Kuehn's misconduct, dereliction, and abandonment
9 of plaintiffs.

10 47. All of the foregoing resulted in a miscarriage of justice, and the resultant void judgment
11 against plaintiff.

12 **Conclusions**

- 13 48. Accordingly, a real, substantial, and justiciable controversy has arisen, and now exists
14 between plaintiffs and defendants, which controversy is subject to resolution by this Court.
- 15 49. Based on the foregoing, plaintiffs are entitled to a declaration that the judgment against them,
16 as described herein, is null, void, and of no effect.

17 WHEREFORE, Plaintiffs pray for a judgment as follows:

- 18 1. That the judgement against plaintiff in the total sum of \$2,730,884.85, in the matter of Estate
19 of MICHAEL DAVID ADAMS, By and through his mother JUDITH ADAMS, Individually
20 and on behalf of the Estate vs. SUSAN FALLINI, case number CV24539, Department 2, in
21 the Fifth Judicial District Court of Nevada, is null, void, and of no effect;
- 22 2. For attorneys' fees, costs, and disbursements incurred by Plaintiffs herein;

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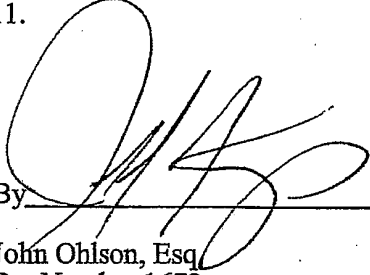
3. For such additional and further relief as this Court deems just and proper.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 27th day of January, 2011.

By _____


John Ohlson, Esq.
Bar Number 1672
275 Hill Street, Suite 230
Reno, Nevada 89501
Telephone: (775) 323-2700

Jeff Kump, Esq.
Bar Number 5694
Marvel & Kump, Ltd.
217 Idaho St.
Elko, Nevada 89801
Telephone: (775) 777-1204

Attorneys for Plaintiffs

SCHEDULE OF EXHIBITS

EXHIBIT 1: August 12, 2010 Order

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MARVEL & KUMP
Attorney at Law
217 Idaho Street
Elko, NV 89801

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUSAN FALLINI,
Appellant,
vs.
ESTATE OF MICHAEL DAVID ADAMS, BY AND
THROUGH HIS MOTHER JUDITH ADAMS,
INDIVIDUALLY AND ON BEHALF OF THE ESTATE,
Respondent.

No. 56840

FILED

FEB 15 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY T. W. C. D.
DEPUTY CLERK

SETTLEMENT PROGRAM STATUS REPORT

A settlement conference was held in this matter on _____, 201__.

I file the following report of the proceedings:

- / / The parties have agreed to a settlement of this matter.
- / / The parties were unable to agree to a settlement of this matter.
- / / The settlement conference is continued as follows:

Date: _____ Time: _____

Location: _____

The settlement judge recommends that this case be removed from the settlement program and returned to the appellate process. Counsel were waiting to determine if an insurance carrier that is not a party but indispensable for settlement was willing to participate in settlement negotiations. The carrier has declined to participate making a settlement conference unworkable.

Carolyn A. Morrell
Settlement Judge

- The settlement judge shall file this report with the Supreme Court within 10 days from the date of any settlement conference. See NRAP 16(e)(3).
- A final status report is due within 180 days from assignment date. See NRAP 16(f)(1).
- For cases involving child custody, visitation, relocation or guardianship, a final status report is due within 120 days from the assignment date. See NRAP 16(f)(1).

RECEIVED
FEB 14 2011
AT THE TIME OF FILING, THE CLERK'S OFFICE WILL MAIL THIS REPORT AND ATTACHMENTS TO ALL COUNSEL AND TO THE SETTLEMENT JUDGE.

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

11-5808

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Electronically Filed
Mar 10 2011 10:51 a.m.

IN THE SUPREME COURT OF THE STATE OF IOWA
Frank A. Lindeman

OFFICE OF THE CLERK

* * * * *

SUSAN FALLINI,

Supreme Court No.: 56840

Appellant,

vs.

Estate of MICHAEL DAVID ADAMS,
By and through his mother JUDITH ADAMS,
Individually and on behalf of the Estate,

Respondent.

CERTIFICATE

COMES NOW, appellant SUSAN FALLINI, by and through her counsel JOHN
OHLSON and JEFF KUMP, and hereby serves notice upon this Court and the attorneys of record
in this case that no transcript is available and as such, no transcript is being requested pursuant to

////

////

////

1 NRAP 9.

2

3

AFFIRMATION
Pursuant to NRS 239B.030

4

The undersigned does hereby affirm that the preceding document does not contain the

5

social security number of any person.

6

Dated this 10th day of March, 2011.

7

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By: /s/ John Ohlson

11

John Ohlson, Esq.

12

Bar Number 1672

13

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Jeff Kump, Esq.

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Telephone: (775) 777-1204

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Attorneys for Susan Fallini

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of JOHN OHLSON, and that on this date I personally served a true copy of the foregoing **CERTIFICATE**, by the method indicated and addressed to the following:

John P. Aldrich, Esq.
Aldrich Law Firm, Ltd.
1601 S. Rainbow Blvd., Ste. 160
Las Vegas, NV 89146

- Via U.S. Mail
- Via Overnight Mail
- Via Hand Delivery
- Via Facsimile
- Via ECF

DATED this 10th day of March, 2011.

/s/ Robert M. May
Robert M. May