

EXHIBIT “L”

3105

**In the Second Judicial District Court of the State of Nevada
In and For the County of Washoe**

MARK B. STEPPAN,

Plaintiff,

v.

JOHN ILIESCU, JR. and SONNIA ILIESCU, as
trustees of the John Iliescu, Jr. and
Sonnia Iliescu 1992 Family Trust
Agreement; JOHN ILIESCU; DOES I-V,
INCLUSIVE, AND ROE CORPORATIONS VI-X,
INCLUSIVE,

Defendants.

And Related Claims.

Consolidated Case Nos. CV07-00341
and CV07-01021

Dept. No. 10

**Decision and Order Granting Motion
Seeking Clarification of Finality of Judgment**

On February 26, 2015, this Court entered a Judgment, Decree and Order for Foreclosure of Mechanics Lien ("Judgment"). The Applicants in Case No. CV07-00341 and the above-captioned Defendants in Case No. CV07-01021, consolidated therewith (hereinafter the "Defendants" or "Appellants") appealed the Judgment, thereby commencing *Iliescu et al. v. Steppan*, Nevada Supreme Court Case No. 68346 (the

1 "Appeal"). On October 23, 2015 the Nevada Supreme Court entered an "Order
2 Granting Motion for Stay Without Posting Any Further Security and Order to Show
3 Cause" ("Order to Show Cause") in the Appeal, which, among other matters, provides
4 in relevant part:
5

6 The district court purported to certify the February 26, 2015 [Judgment]
7 as final pursuant to NRCP 54(b), however, the certification appears
8 improper because the district court did not make an express direction
9 for the entry of judgment. Further . . . it is not clear whether the
appellants or respondent have been completely removed from the
action.

10 Order to Show Cause, page 2.

11 On October 29, 2015, Defendants (and Appellants) filed a "Motion Seeking
12 Clarification of Finality of Court's Recent Judgment for Purposes of Maintaining
13 Appeal...." ("Motion"). The Motion was fully briefed, submitted for decision, and
14 argued at a hearing on November 13, 2015. Based on the briefing and oral arguments,
15 it is plain that both Plaintiff/Respondent and Defendants/Appellants agree that the
16 Judgment is a final, appealable order. Such was also this Court's intent. Furthermore,
17 no claims remain pending herein against the Defendants/Appellants or the
18 Plaintiff/Respondent.
19

20 For purposes of clarification, this Court hereby amends, with retroactive effect,
21 the Judgment, as set forth hereinafter. In the event that this Court currently lacks
22 jurisdiction to amend the Judgment, this Court indicates that upon dismissal of the
23 Appeal it will amend the Judgment to comply with NRCP 54(b) and any other
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1 requirements of the Nevada Supreme Court to make the Judgment final and
2 appealable, as set forth herein.

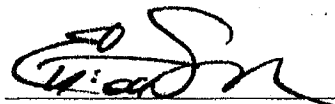
3 Therefore, good cause appearing,

4 IT IS HEREBY ORDERED as follows:

5 Paragraph 7 of the Judgment is hereby amended, *nunc pro tunc*, as aforestated,
6 to read as follows:
7

8 7. This Judgment finally and fully adjudicates all of the claims and all of the
9 defenses between Mark B. Steppan ("Steppan") on the one hand, and John Iliescu Jr.,
10 individually, and John Iliescu, Jr., and Sonnia Iliescu as Trustees of the John Iliescu Jr.
11 and Sonnia Iliescu 1992 Family Trust Agreement ("Iliescus") on the other hand, in
12 both of these consolidated cases. Notwithstanding the existence of certain pending
13 third-party claims by the Iliescus against certain third-party defendants which
14 remain pending and have not yet been fully resolved or adjudicated herein, this Court,
15 pursuant to NRCP 54(b): expressly determines that there is no just reason for delay;
16 expressly directs entry of this Judgment in favor of Steppan and against the Iliescus
17 as of February 26, 2015; and certifies this Judgment as final.
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20 DATED November 17 2015.

21 
22 Hon. Elliott A. Sattler
23 District Judge
24
25

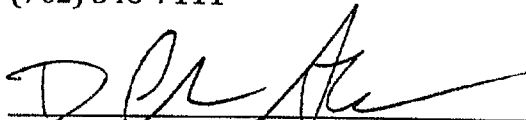
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Form of order submitted by:

G. Mark Albright (NV 1394)
D. Chris Albright (NV 4904)
Albright Stoddard Warnick & Albright
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
(702) 348-7111


Attorneys for Defendants

Form of order approved by:

Michael D. Hoy (NV 2723)
Hoy Chrissinger Kimmel & Vallas
50 West Liberty Street, Suite 840
Reno, Nevada 89501
(775) 786-8000


Attorneys for Plaintiff

EXHIBIT “K”

FILED

Electronically

01-05-2012:05:40:07 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 2683659

1 **CODE: 3995**

2 Gregory F. Wilson, Esq.

3 Nevada Bar No. 2517

4 WILSON & QUINT LLP

5 417 West Plumb Lane

6 Reno, Nevada 89509

7 Telephone: 775.786.7600

8 Facsimile: 775.786.7764

9 Email: gfwilson@wilsonquint.com

10 Attorneys for John Schleining

11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

12 **IN AND FOR THE COUNTY OF WASHOE**

13 **MARK B. STEPPAN,**

Case No. CV07-00341

14 Plaintiff,

(Consolidated with
Case No. CV07-01021)

15 v.

Dept. No. 10

16 **JOHN ILIESCU JR. and SONIA ILIESCU, as**
17 **Trustees of the JOHN ILIESCU, JR. AND SONNIA**
18 **ILIESCU 1992 FAMILY TRUST AGREEMENT;**
19 **JOHN ILIESCU, individually; DOES I-V, inclusive;**
20 **and ROE CORPORATIONS VI-X, inclusive,**

21 Defendants.

22
23 **AND RELATED CROSS-CLAIMS AND**
24 **THIRD-PARTY CLAIMS.**

25 **STIPULATION AND ORDER**
26 **FOR DISMISSAL WITHOUT PREJUDICE**
27 **OF ALL CLAIMS BY JOHN SCHLEINING AGAINST HALE LANE PEEK DENNISON**
28 **AND HOWARD, HOLLAND & HART, LLP, AND R. CRAIG HOWARD**

1 **STIPULATION FOR DISMISSAL WITHOUT PREJUDICE**

2 This Stipulation is entered into by and between Cross-Claimant and Third-Party Plaintiff
3 JOHN SCHLEINING on the one hand ("SCHLEINING") and Cross-Defendant HALE LANE PEEK
4 DENNISON AND HOWARD, Third-Party Defendant HOLLAND & HART, LLP and Third-Party
5 Defendant R. CRAIG HOWARD on the other hand (collectively "HALE LANE").

6 This action, Case No. CV07-01021 consolidated with Case No. CV07-00341, is referred to as
7 the "Action".

8 SCHLEINING and HALE LANE are collectively referred to as the "Parties."

9 The Parties hereby stipulate, by and through their counsel of record, as follows:

10 1. SCHLEINING's Cross-Claim and Third-Party Complaint against HALE LANE filed
11 September 2, 2009 in the Action ("Complaint") shall be dismissed WITHOUT PREJUDICE with each
12 of the Parties to bear their own attorney fees and costs, except as provided in paragraph 2 below;

13 2. In the event SCHLEINING files a subsequent action against HALE LANE, arising
14 from the events, acts or omissions alleged in the Complaint ("Subsequent Action"), HALE LANE
15 shall have the right to seek their costs as defined in NRS 18.005 ("Costs") incurred in this Action as
16 though the court had granted HALE LANE's August 16, 2011 pending motion for summary judgment
17 against SCHLEINING. Such request shall be made by filing a memorandum of costs with the court
18 presiding over the Subsequent Action. SCHLEINING waives any claim that the memorandum of
19 costs was untimely. SCHLEINING reserves the right to move that HALE LANE's costs be retaxed.

20 ///

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22 ///

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25 ///

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27 ///

1 IT IS SO STIPULATED.

2 Dated: December 22, 2011


3 WILSON & QUINT LLP

4
5
6 By: 
Gregory F. Wilson

7 417 West Plumb Lane
8 Reno, Nevada 89509
9 Telephone: 775.786.7600
Attorneys for John Schleining

10 Dated: December 22, 2011

11
12 LEMONS, GRUNDY & EISENBERG

13
14 By: 
15 Christopher M. Rusby

16 6005 Plumas Street 3rd Floor
17 Reno, Nevada 89519
18 Telephone: 775.786.6868
19 Attorneys for Hale Lane Peek Dennison and
Howard, Holland & Hart, LLP and R. Craig
20 Howard

21 ORDER

22 The Court, having considered the foregoing Stipulation of the Parties, and good cause
23 appearing,

24 IT IS SO ORDERED.

25 Dated: December 25, 2012

26
27 
28 DISTRICT COURT JUDGE

NRS 239B.030 AFFIRMATION

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

Dated: December 22, 2011

By:


Gregory F. Wilson

WILSON & QUINT LLP
417 West Plumb Lane
Reno, Nevada 89509
Telephone: 775.786.7600
Attorneys for John Schleining

EXHIBIT “J”

ORIGINAL

FILED

Code:2520

STEPHEN R. HARRIS, ESQ.
BELDING, HARRIS & PETRONI, LTD.

Nevada Bar No. 001463

417 West Plumb Lane

Reno, Nevada 89509

Telephone: (775) 786-7600

Facsimile: (775) 786-7764

2007 DEC 18 PM 4:08

HOWARD W. CONYERS

BY

DEPUTY

Attorney for John Schleining, individually/Third
Party Defendant and Decal Oregon, Inc., Third
Party Defendant

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARK B. STEPPAN,

Case No. CV07-01021

Plaintiff,

Dept. No. B6

vs.

JOHN ILIESCU JR. and SONIA ILIESCU, as
Trustees of the JOHN ILIESCU, JR. AND SONIA
ILIESCU 1992 FAMILY TRUST AGREEMENT;
JOHN ILIESCU, individually; DOES I-V, inclusive;
and ROE CORPORATIONS VI-X, inclusive,

Defendants.

JOHN ILIESCU JR. and SONIA ILIESCU, as
Trustees of the JOHN ILIESCU, JR. AND SONIA
ILIESCU 1992 FAMILY TRUST AGREEMENT;
JOHN ILIESCU, individually; SONIA ILIESCU,
individually,

Third-Party Plaintiffs,

Consolidated with:

v.

Case No. CV07-00341

CONSOLIDATED PACIFIC DEVELOPMENT,
INC., a Nevada corporation; DECAL OREGON,
INC., an Oregon Corporation; CALVIN BATY,

Department No. B6

1 individually; JOHN SCHLEINING, individually;
2 HALE LANE PEEK DENNISON AND HOWARD
3 PROFESSIONAL CORPORATION, a Nevada
4 professional corporation, dba HALE LANE; KAREN
D. DENNISON; R. CRAIG HOWARD; JERRY M.
SNYDER; and DOES I thru X,

5 Third-Party Defendants.
6 _____/

7 **NOTICE OF APPEARANCE**

8
9 STEPHEN R. HARRIS, ESQ., of BELDING, HARRIS & PETRONI, LTD., counsel for
10 Defendants John Schleining, individually/Third Party Defendant and Decal Oregon, Inc., Third Party
11 Defendant, does hereby make an appearance in this case and requests special notice of all matters for
12 which notice is required to be given. All such notices should be directed as follows:

13 STEPHEN R. HARRIS, ESQ.
14 BELDING, HARRIS & PETRONI, LTD.
15 417 West Plumb Lane
16 Reno, NV 89509
17 Facsimile: (775) 786-7764

18 DATED this 18th day of December, 2007.

19 STEPHEN R. HARRIS, ESQ.
20 BELDING, HARRIS & PETRONI, LTD.
21 417 W. Plumb Lane
22 Reno, NV 89509

23 
24 Attorney for John Schleining and Decal Oregon, Inc.
25 Third-Party Defendants 

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CERTIFICATE OF SERVICE

MARK B. STEPPAN, vs. JOHN ILIESCU JR. and SONIA ILIESCU, ET AL,
Case No. CV07-01021 consolidated with Case No. CV07-00341

Pursuant to NRCp 5, I certify under penalty of perjury that I am an employee of the law offices of Belding, Harris & Petroni, Ltd. 417 West Plumb Lane, Reno, NV 89509, and that on this 18th day of December, 2007, I served the foregoing document(s) described as follows:

NOTICE OF APPEARANCE

on the party(s) set forth below by:

BY FACSIMILE: on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

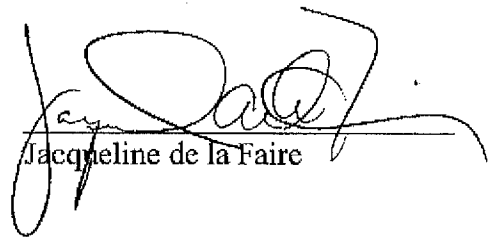
X BY MAIL: Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage paid, following ordinary business practices, address as follows:

Stephen C. Mollath, Esq.
Prezant & Mollath
6560 S.W. McCarran Boulevard, Suite A
Reno, NV 89509

and

Sallie Armstrong, Esq.
Downey Brand, LLP
427 W. Plumb Lane
Reno, NV 89509
**Attorney for John Iliescu, Jr. And Sonnia Iliescu
and the John Iliescu, Jr. And Sonnia Iliescu 1992 Family Trust**

DATED this 18th day of December, 2007.


Jacqueline de la Faire

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA
AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does affirm that the preceding document, ANSWER TO THIRD PARTY COMPLAINT filed in case number CV07-01021:

- ☒ Document does not contain the social security number of any person
- OR -
- ☐ Document contains the social security number of a person as required by:
- ☐ A specific state or federal law, to wit:
(State specific state or federal law).
- or -
 - ☐ For the administration of a public program
- or -
 - ☐ For an application for a federal or state grant
- or -
 - ☐ Confidential Family Court information Sheet
(NRS 125.130, NRS 125.230 AND NRS 125B.055)

DATED this 18th day of December, 2007.

STEPHEN R. HARRIS, ESQ.
BELDING, HARRIS & PETRONI, LTD.
417 W. Plumb Lane
Reno, NV 89509

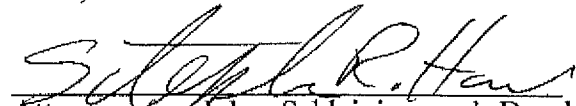
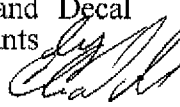

Attorney for John Schleining and Decal
Oregon, Inc. Third-Party Defendants 

EXHIBIT “I”

1 Code 3370
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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
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10
11 MARK B. STEPPAN,

Case No. CV07-00341

12
13 Plaintiff,

Dept. No. 6

14 vs.

15 JOHN ILIESCU JR. AND SONIA
16 ILIESCU, as Trustees of the JOHN
17 ILIESCU, JR. and SONIA ILIESCU
18 1992 FAMILY TRUST AGREEMENT
et al.,

19 Defendants.
20 _____/

21 ALL RELATED MATTERS
22 _____/

23 ORDER

24 Judith A. Otto filed a motion to withdraw as attorney of record third-party defendant
25 Consolidated Pacific Development, Inc.

26 No opposition was filed.
27
28

1 The Court finds that the requirements set forth in Rule of Professional Conduct
2 1.116 as well as those in Nevada Supreme Court Rule 46, governing a withdrawal of
3 counsel, are satisfied.

4 Accordingly the motion to withdraw is granted.

5 Third-party defendant Consolidated Pacific Development, Inc. shall file and serve
6 notice of new counsel within thirty (30) days of the entry of this order.

7
8
9 DATED: This 18th day of March, 2010.

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12 _____
13 DISTRICT JUDGE
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Heidi Boe
Judicial Assistant

EXHIBIT “H”

ORIGINAL

FILED

2008 FEB 22 PM 1:30

HOWARD W. COXTERS

BY *[Signature]*
DEPUTY

1 CODE 1140
2 Judith A. Otto, SBN 3326
3 The Law Offices of
4 JUDITH A. OTTO, LTD.
5 1601 Montclair Ave., Suite B
6 Reno, Nevada 89509
7 Telephone: (775) 827-6886

8 Attorneys for Third Party Defendant
9 Consolidated Pacific Development, Inc.,
10 a Nevada corporation

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

12 IN AND FOR THE COUNTY OF WASHOE

13 MARK B. STEPPAN,

14 Plaintiff,

Case No. CV07-00341

15 vs.

Dept No. B6

16 JOHN ILIESCU JR. and SONIA
17 ILIESCU, as Trustees of the
18 JOHN ILIESCU, JR., and SONIA
19 ILIESCU 1992 FAMILY TRUST
20 AGREEMENT; JOHN ILIESCU,
21 individually; DOES I-V,
22 inclusive; and ROE
23 CORPORATIONS VI-X, inclusive.

24 Defendants.

25 _____/
26 JOHN ILIESCU, JR., and SONIA
27 ILIESCU, as Trustees of the
28 JOHN ILIESCU, JR., and SONIA
ILIESCU FAMILY TRUST AGREEMENT;
JOHN ILIESCU, JR., individually;
SONIA ILIESCU, individually,

Third Party Plaintiffs,

vs.

CONSOLIDATED PACIFIC
DEVELOPMENT, INC., a
Nevada corporation; DECAL
OREGON, INC., an Oregon corporation;
CALVIN BATY, individually; JOHN

iliescu/answer

LAW OFFICES OF
JUDITH A. OTTO, LTD.
1610 MONTCLAIR AVENUE, SUITE B
RENO, NEVADA 89509
775-827-6886

CV07-00341
JOHN ILIESCU JR. vs. MARK B. STEPPAN
District Court
Washoe County
Nevada
DC-9900002508-072
11 Pages
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SCHLEINING, individually; HALE
LANE PEEK DENNISON and HOWARD
PROFESSIONAL CORPORATION, a Nevada
professional corporation, dba
HALE LANE; KAREN D. DENNISON; R
CRAIG HOWARD; JERRY M. SNYDER,
and DOES I thru X

Third Party Defendants,

**ANSWER OF DEFENDANT CONSOLIDATED PACIFIC DEVELOPMENT, INC.
TO THIRD PARTY PLAINTIFFS' COMPLAINT**

COME NOW Third Party Defendant, CONSOLIDATED PACIFIC
DEVELOPMENT, INC., a Nevada corporation, ("Defendant") by and
through their attorneys, the law office of Judith A. Otto, Ltd.,
who, in answer to Third Party Plaintiff's Complaint, admits,
denies and avers as follows:

1. In answer to paragraphs 1, 2 and 3, Defendant lacks
knowledge or information sufficient to form a belief as to their
truth or falsity and on that basis deny same.

2. In answer to paragraph 4, Defendant admits the
allegations contained therein.

3. In answer to paragraphs 5, 6, 7, 8, 9 and 10, Defendant
lacks knowledge or information sufficient to form a belief as to
their truth or falsity and on that basis deny same.

4. In answer to paragraph 11, Defendant denies the
allegations contained therein.

5. In answer to paragraph 12, Defendant admits the
allegations contained therein.

1 6. In answer to paragraphs 13 and 14, Defendant admits a
2 Land Purchase Agreement was prepared by Johnson dated July 21,
3 2005 stating a purchase price of \$6,800,000.00 and deny all
4 remaining allegations contained therein.

5 7. In answer to paragraphs 15 and 16, Defendant admits
6 Plaintiff Iliescu executed a revised "Land Purchase Agreement"
7 prepared by Johnson under date of July 29, 2005, which acceptance
8 referenced Addendum No. 1 dated August 1, 2005 and Addendum No. 2
9 dated August 2, 2005, each executed by Iliescu on August 3, 2005,
10 which Addendum No. 2 provided for "fine tuning" and by the
11 parties and counsel for both parties, and denies each and every
12 remaining allegation contained therein.

13 8. In answer to paragraph 17 Defendant admits the
14 allegations contained therein.

15 9. In answer to paragraph 18 Defendant lacks knowledge or
16 information sufficient to form a belief as to their truth or
17 falsity and on that basis deny same.

18 10. In answer to paragraph 19, Defendant's admit to the
19 allegations contained therein.

20 11. In answer to paragraph 20, 21, 22, and 23 Defendant
21 lacks knowledge or information sufficient to form a belief as to
22 their truth or falsity and on that basis deny same.

23 12. In answer to paragraph 24, Defendant's admit that Mark
24 Steppan, AIA recorded a mechanic's lien on the property on
25 November 7, 2006 in the sum of \$1,783,548.00, a copy of which is
26 attached to the Complaint as Exhibit "B". Defendant lacks
27
28

1 knowledge or information sufficient to form a belief as to the
2 truth or falsity of the remaining allegations and on that basis
3 deny same.

4 13. In answer to paragraph 25, Defendant admits to the
5 allegations contained therein.

6 14. In answer to paragraph 26, Defendant admits Paragraph 2
7 of the Mechanics Lien speaks for itself. Defendant lacks
8 knowledge or information sufficient to form a belief as to the
9 truth or falsity of the remaining allegations and on that basis
10 deny same.

11 15. In answer to paragraph 27, Defendant admits that on or
12 about April 18, 2007, it assigned its interest in the Purchase
13 Agreement to BSC Investments, LLC. Defendant lacks knowledge or
14 information sufficient to form a belief as to the truth or
15 falsity of the remaining allegations and on that basis deny same.

16 16. In answer to paragraph 28, Defendant lacks knowledge or
17 information sufficient to form a belief as to its truth or
18 falsity and on that basis deny same.

19 17. In answer to paragraph 29, Defendant admits Addendum
20 No. 4 was prepared dated September 18, 2006 and was executed by
21 Defendant and Iliescu on or about September 19, 2006. Defendant
22 lacks knowledge or information sufficient to form a belief as to
23 the truth or falsity of the remaining allegations and on that
24 basis deny same.

25 18. In answer to paragraphs 30, 31, 32, 33, and 34,
26 Defendant lacks knowledge or information sufficient to form a
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1 belief as to their truth or falsity and on that basis deny same.

2 19. In answer to paragraph 35, Defendant admits to the
3 allegations contained therein.

4 20. In answer to paragraph 36, Defendant denies the
5 allegations contained therein.

6 21. In answer to paragraphs 37 through 43, no allegations
7 are made against this Defendant and no response is required
8 and/or Defendant lacks knowledge or information sufficient to
9 form a belief as to their truth or falsity and on that basis deny
10 same.

11 22. In answer to paragraph 44, Defendant restates its
12 responses to paragraphs 1 through 43 above as though fully set
13 forth herein.

14 23. In answer to paragraph 45, Defendant admits the
15 allegations.

16 24. In answer to paragraph 46 Defendant denies the
17 allegations contained therein.

18 25. In answer to paragraphs 47, 48 and 49, Defendant lacks
19 knowledge or information knowledge or information sufficient to
20 form a belief as to their truth or falsity and on that basis deny
21 same.

22 26. In answer to paragraph 50, Defendant denies the
23 allegations contained herein.

24 27. In answer to paragraph 51 Defendant restates its
25 responses to paragraphs 1 through 50 above as though fully set
26 forth herein.

1 28. In answer to paragraphs 52 through 54 Defendant denies
2 the allegations contained therein.

3 29. In answer to paragraphs 55 through 61, no allegations
4 are made against this Defendant and no response is required
5 and/or Defendant lacks knowledge or information sufficient to
6 form a belief as to their truth or falsity and on that basis deny
7 same.

8
9 FIRST AFFIRMATIVE DEFENSE

10 Plaintiff has failed to state a claim against this Defendant
11 upon which relief may be granted.

12 SECOND AFFIRMATIVE DEFENSE

13 Plaintiff has failed to Mediate as required by Paragraph 40 of
14 the Purchase Agreement.

15 THIRD AFFIRMATIVE DEFENSE

16 Defendant assigned all its right under the Purchase Agreement
17 and the Addendums thereto, as provided therein, to BSC Investments,
18 LLC., which assumed all the obligations under the Purchase
19 Agreement and the Addendums thereto.

20 FOURTH AFFIRMATIVE DEFENSE

21 Plaintiffs has not been damaged by any actions of the
22 Defendant.

23 FIFTH AFFIRMATIVE DEFENSE

24 Defendant is informed and believes and thereon allege that
25 Plaintiff has failed to act reasonably to mitigate, minimize or
26 avoid damages, if any there be. As a result, Plaintiff's recovery,
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1 if any, should be barred or reduced.

2 SIXTH AFFIRMATIVE DEFENSE

3 Defendant is informed and believes and on that basis alleges
4 that each and every claim for relief thereof is barred, in whole or
5 in part by the doctrine of estoppel.

6 SEVENTH AFFIRMATIVE DEFENSE

7 Defendant is informed and believes and on that basis alleges
8 that each and every claim for relief thereof is barred, in whole or
9 in part by waiver.

10 EIGHTH AFFIRMATIVE DEFENSE

11 Defendant is informed and believe and on that basis allege
12 that each and every claim for relief thereof is barred, in whole or
13 in part, by the doctrine of unclean hands.

14 NINTH AFFIRMATIVE DEFENSE

15 Defendants are informed and believe and on that basis allege
16 that Plaintiff is not entitled to any attorney fees or costs of
17 suit.

18 TENTH AFFIRMATIVE DEFENSE

19 Pursuant to NRCP 11, at the time of filing this Answer, all
20 possible affirmative defenses may not have been alleged herein
21 insofar as sufficient facts may not have been available to this
22 Defendant after reasonable inquiry, and therefore this Defendant
23 reserves the right to amend this pleading to allege additional
24 affirmative defenses if subsequent investigation so warrants.

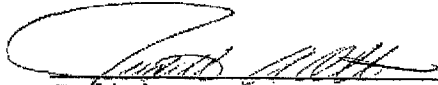
1 WHEREFORE, this Defendant prays for judgment in its favor as
2 follows:

3 1. That Plaintiffs take nothing by their Complaint and that
4 same be dismissed with prejudice against the Defendants.

5 2. That the Defendants be awarded their costs and attorneys'
6 fees as a cost of litigation and/or as an element of special
7 damages for defending against Plaintiff's Complaint.

8 3. That the Court further award any additional relief that it
9 deems appropriate under the circumstances.
10

11
12 DATED this 20th day of February, 2008.

13
14 
15 Judith A. Otto,
16 Law Offices of Judith A. Otto, Ltd.
17 1601 Montclair Ave., Suite B
18 Reno, Nevada 89509
19 (775) 827-6886

20
21 Attorneys for Defendant
22 Consolidated Pacific Development,
23 A Nevada corporation
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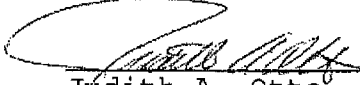
1 SECOND JUDICIAL DISTRICT COURT
2 COUNTY OF WASHOE, STATE OF NEVADA

3 AFFIRMATION
4 PURSUANT TO NRS. 239B.030

5 The undersigned does hereby affirm that the preceding
6 document, **Answer of Defendants Consolidated Pacific Development,**
7 **Inc., a Nevada corporation, To Third Party Plaintiff's Complaint**
8 **filed in case number: CV07-00341**

- 9
- 10 ☒ Document does not contain the social security number of
11 any person.
- 12 ☐ Document contains the social security number of a person
13 as required by:
- 14 ☐ A specific state or federal law, to wit:

15
16 Dated this 20th day of February, 2008.

17
18 
19 Judith A. Otto
20 SBN 3326
21 The law offices of
22 JUDITH A. OTTO, LTD.
23 1610 Montclair Ave. Ste. B
24 Reno, Nevada 89509
25 Phone: (775) 827-6886
26 Attorney for CONSOLIDATED
27 PACIFIC DEVELOPMENT, INC.,
28 A Nevada corporation

LAW OFFICES OF
JUDITH A. OTTO, LTD.
1610 MONTCLAIR AVENUE, SUITE B
RENO, NEVADA 89509
775-827-6886

1 STATE OF _____)
2 :SS.
3 County of _____)

4 Sam Caniglia, being duly sworn, deposes and says:

5 That he is the President of Consolidated Pacific Development,
6 a Nevada corporation, Third Party Defendant herein; that he has
7 read the foregoing ANSWER OF DEFENDANT CONSOLIDATED PACIFIC
8 DEVELOPMENT, INC. TO THIRD PARTY PLAINTIFFS' COMPLAINT, and that
9 the same is true of his own knowledge, except as to the matters
10 based upon information and believe as stated therein, and to those
11 matters he believes them to be true.

12 
13 Sam Caniglia

14 Subscribed and Sworn to before me,
15 this _____ day of February, 2008

16 _____
17 Notary Public
18
19
20
21
22
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26
27
28

LAW OFFICES OF
JUDITH A. OTTO, LTD.
1810 MONTCLAIR AVENUE, SUITE 3
RENO, NEVADA 89509
775-827-4816

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JUDITH A. OTTO, LTD.
1610 MONTCLAIR AVENUE, SUITE B
RENO, NEVADA 89509
775-827-6886

Stephen Mollath, Esq.
PREZANT & MOLLATH
6560 SW McCarran Blvd. Ste A
Reno, Nevada 89509

Sallie Armstrong
DOWNEY BRAND LLP
427 W. Plumb Lane
Reno, Nevada 89509

DATED this 22nd day of February, 2008.

Kim Ganis

EXHIBIT “G”

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

MARK B. STEPPAN,

Case No. CV07-00341

Plaintiff,

(Consolidated with
Case No. CV07-01021)

vs.

Dept. No. 10

JOHN ILIESCU JR. and SONIA ILIESCU, as
Trustees of the JOHN ILIESCU, JR. AND SONNIA
ILIESCU 1992 FAMILY TRUST AGREEMENT;
JOHN ILIESCU, individually; DOES I-V, inclusive;
and ROE CORPORATIONS VI-X, inclusive,

Defendants.

AND RELATED CROSS-CLAIMS AND
THIRD-PARTY CLAIMS.

ORDER GRANTING THIRD PARTY DEFENDANT JOHN SCHLEINING'S
MOTION TO DISMISS

Presently before the Court is a Motion to Dismiss Third Party Complaint ("Motion") filed by Third Party Defendant John Schleining ("Schleining") on November 2, 2011. The Motion seeks dismissal without prejudice of all claims against Schleining filed by John Iliescu, Jr. and Sonnia Iliescu, as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement and John Iliescu individually (collectively "Iliescu").

1 The Motion is made on grounds that more than 750 days have passed since Schleining
2 made his first appearance in this action, that Iliescu never filed a Case Conference Report as
3 required by NRCP Rule 16.1 and that Iliescu's Third Party Complaint should therefore be
4 dismissed without prejudice pursuant to NRCP Rule 16.1(e)(2).

5 On November 16, 2011, Iliescu filed his Response to Motion to Dismiss ("Response").
6 Iliescu's Response stated that "Iliescu has no substantive legal defense to the position of Third
7 Party Defendant John Schleining" and that "the Court should grant the Motion and dismiss
8 Iliescu's claims against John Schleining, all without prejudice."

9 Later on November 16, 2011, Schleining filed his Request for Submission ("Request").
10 Schleining's Request stated that "[b]ased upon Iliescu's Response, John Schleining elects not to file
11 a reply in support of the Motion and requests that the Motion be submitted to the Court for
12 decision." For the reasons set out below, the Court grants the Motion.

13
14
15 **I. Procedural and Factual Background**

16 The pleadings and papers on file herein reflect that this matter arises from a failed real
17 property development and recordation of a mechanic's lien on the subject property. Plaintiff Mark
18 B. Steppan ("Steppan") is an architect licensed in Nevada and an employee of the California
19 architectural firm Fisher-Friedman & Associates ("Fisher-Friedman"). Third Party Plaintiff Iliescu
20 is the owner of the subject undeveloped real property in downtown Reno (the "Iliescu Property").
21 A group of developers headed by non-party Consolidated Pacific Development, Inc. (collectively
22 "Developers") planned to purchase and develop the Iliescu Property. Third-Party Defendants Hale
23 Lane Peek Dennison & Howard, Professional Corporation, Karen Dennison, Craig Howard and
24 Jerry Snyder and cross-defendants Holland & Hart LLP and Craig Howard (collectively "Hale
25 Lane") represented numerous persons and entities regarding development of the Iliescu Property.
26
27
28

1 Third-Party Defendant Schleining, a part owner of one of the non-party Developers, signed a
2 December 8, 2006 indemnity agreement prepared by Hale Lane in favor of Iliescu.

3 In July 2005, Iliescu entered into a written contract with Developers for the sale of the
4 Iliescu Property. The proposed sale was contingent upon Developers obtaining the necessary
5 entitlements and permits from the City of Reno ("Governmental Approvals"). The Developers
6 planned to develop the Iliescu Property into a high-rise condominium project to be known as
7 Wingfield Towers ("the Project").
8

9 Developers sought the assistance of architects to help obtain the Governmental Approvals.
10 The California based architectural firm Fisher-Friedman worked on a time and materials basis to
11 conceptually design the Project, prepare certain schematic drawings and make presentations to the
12 Reno Planning Commission and to the Reno City Council in support of Developers' applications
13 for Governmental Approvals. Developers paid some \$430,870 as compensation for this
14 architectural work done on a time and materials basis.
15

16 Developers later signed a more extensive architectural agreement with Steppan, a licensed
17 Nevada architect and employee of Fisher-Friedman, that included a percentage-based form of
18 compensation for the Project to be built in the future. By fall of 2006, disputes had arisen between
19 the architects and Developers. On November 7, 2006, Steppan recorded a Notice of Lien on the
20 Iliescu Property in the amount of \$1,783,548.85.
21

22 This litigation commenced over four and a half years ago when Iliescu filed an Application
23 for release of Steppan's lien in Case No. CV07-00341 on February 14, 2007. On May 4, 2007,
24 Steppan filed his Complaint to foreclose mechanic's lien against Iliescu in Case No. CV07-01021.
25 These cases were consolidated by the Court's September 14, 2007 Order.
26

27 On September 27, 2007, Iliescu filed his Answer and Third-Party Complaint. Iliescu's
28 Third-Party Complaint against Schleining alleged claims for indemnity based upon a written

1 indemnity agreement dated December 8, 2006 prepared by Hale Lane and signed by Schleining.
2 Iliescu's Third-Party Complaint against Hale Lane alleged claims of legal malpractice and
3 negligence.

4 The first Early Case Conference in this matter was held on February 21, 2008. The next
5 day, February 22, 2008, Judge Adams held an off-the-record Case Management Conference.
6 Steppan and Iliescu subsequently filed cross-motions for partial summary judgment. On June 22,
7 2009, Judge Adams granted Steppan's partial motion for summary judgment.

8
9 Schleining and Hale Lane, each named in Iliescu's Third-Party Complaint, then filed their
10 responsive pleadings. On September 2, 2009, Schleining made his first appearance and filed both
11 his Answer to Iliescu's Third-Party Complaint and his own Third-Party Complaint and Cross-
12 Claim against Hale Lane. On October 7, 2009, Hale Lane filed its Answer to Iliescu's Third-Party
13 Complaint and Answer to Schleining's Third-Party Complaint and Cross-Claim.

14
15 By October 7, 2009, all parties had made their first appearances. A second Early Case
16 Conference was held on October 13, 2009. NRCP Rule 16.1(c) mandates the filing of a Case
17 Conference Report by plaintiffs, including third party plaintiffs, within 30 days after each Early
18 Case Conference. Iliescu therefore was required to file a Case Conference Report by November
19 12, 2009. Iliescu never filed a Case Conference Report.

20 21 **II. Legal Analysis**

22 NRCP Rule 16.1(b) requires the parties, with exceptions not applicable here, to conduct an
23 Early Case Conference within 30 days after the filing of an answer by the first answering
24 defendant. NRCP Rule 16.1(c) requires that a Case Conference Report be filed within 30 days
25 after each Early Case Conference. *Moon v. McDonald, Carano & Wilson*, 126 Nev. ___, 245 P.3d
26 1138, 1139 (2010). The plaintiff bears the burden to file the Case Conference Report. NRCP
27 Rule 16.1(e)(2) and *Arnold v. Kip*, 123 Nev. 410, 414, 168 P.3d 1050 (2007).
28

//

NRCP Rule 16.1(e)(2) states "[i]f the plaintiff does not file a case conference report within 240 days after an appearance by a defendant, the case may be dismissed as to that defendant upon motion or on the court's own initiative, without prejudice."

The Nevada Supreme Court has confirmed that cases should be dismissed where a plaintiff fails to file a Case Conference Report within the required 240 days. See, Arnold, 123 Nev. 410; and Moon, 245 P.3d 1138. In this case, Schleining made his first appearance on September 2, 2009 by filing his Answer to Iliescu's Third-Party Complaint. Iliescu thereafter had 240 days, or until April 30, 2010, to file his Case Conference Report and avoid the consequences of Rule 16.1(e)(2). Iliescu failed to file a Case Conference Report during that time or at any time thereafter.

The Motion was filed on November 2, 2011, more than 750 days after Schleining made his first appearance in this action on September 2, 2009 and over 500 days after expiration of Rule 16.1(e)(2)'s 240 day deadline for filing a Case Conference Report.

The decision to dismiss an action without prejudice for a plaintiff's failure to comply with requirements of NRCP Rule 16.1(e)(2) is within the sound discretion of the District Court. Arnold v. Kip, supra at 415, 1053. NRCP Rule 16.1(e)(2) was adopted to promote the prosecution of litigation within adequate timelines. The sanctions set out in Rule 16.1 exist to ensure compliance with the specific deadlines identified in the Rule. *Id.*

In this case, the Court finds that Schleining made his first appearance in this litigation over two years ago, that Iliescu never filed a Case Conference Report and that Iliescu's failure to do so constitutes a gross violation of the requirements of NRCP Rule 16.1. The Court further finds that Iliescu's failure to file the required Case Conference Report is unexcused and is the fault of Iliescu.

1 The Court has reviewed Iliescu's November 16, 2011 Response to the Motion. The Court
2 further finds that Iliescu had admitted that Iliescu has no substantive legal defense to the Motion.


3 The Court further finds that Iliescu consents to the grant of the Motion and to the dismissal
4 of Iliescu's claims against Schleining without prejudice.

5 **III. Conclusion**

6 For each of the foregoing reasons, the Court, in proper exercise of its discretion, hereby
7 enters the following order:
8

9 **NOW, THEREFORE, IT IS HEREBY ORDERED** that the Motion to Dismiss Third
10 Party Complaint filed by Third-Party Defendant Schleining on November 2, 2011 is **GRANTED**
11 and Third Party Plaintiff Iliescu's claims against Schleining are hereby **DISMISSED WITHOUT**
12 **PREJUDICE** pursuant to NRCP Rule 16.1(e)(2).
13

14
15 Dated this 22 day of November 2011.

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19 STEVEN P. ELLIOTT

20 District Court Judge
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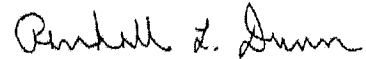
EXHIBIT “F”

FILED

September 4, 2008

Clerk, U.S. Bankruptcy Court

Below is an order of the Court.


U.S. Bankruptcy Judge

DN7 (12/6/07)

**UNITED STATES BANKRUPTCY COURT
District of Oregon**

In re
Calvin Eugene Baty Jr., xxx-xx-8812
Debtor(s)

} Case No. **08-32573-rld7**

} CHAPTER 7 ORDER RE:
} DISCHARGE OF DEBTOR(S)
}

It appearing that on 5/30/08 a bankruptcy petition was filed by the debtor(s); timely complaints filed pursuant to 11 USC §523(a) could be pending and the court could still order that any affected debt is nondischargeable, however no complaint objecting to the debtor's discharge pursuant to 11 USC §727 was timely filed (or such complaint was filed, and after due notice and hearing, was not sustained); each timely filed written reaffirmation agreement was either rescinded or not approved by the court; and therefore,

IT IS ORDERED the debtor(s) shall be granted a discharge under §727 of Title 11, United States Code (the Bankruptcy Code).

EXPLANATION OF BANKRUPTCY DISCHARGE IN A CHAPTER 7 CASE

This court order grants a discharge to the person(s) named as a debtor. It is not a dismissal of the case and it does not determine how much money, if any, the trustee will pay to creditors.

Collection of Discharged Debts Prohibited. The discharge prohibits any attempt to collect from a debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. (If applicable there are also special rules that protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.) A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts that are Discharged. The Chapter 7 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt existed on the date the bankruptcy case was filed. (If this case was begun under a different chapter of the Bankruptcy Code and converted to Chapter 7, the discharge applies to debts owed when the bankruptcy case was converted.)

Debts that are Not Discharged. Some of the common types of debts which are not discharged in a Chapter 7 bankruptcy case are:

- a. Debts for most taxes;
- b. Debts incurred to pay nondischargeable taxes;
- c. Debts that are for domestic support obligations, or debts to a spouse or former spouse for property settlement;
- d. Debts for most student loans;
- e. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- f. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- g. Some debts which were not properly listed by the debtor;
- h. Debts the bankruptcy court specifically has decided or will decide in this case are not discharged;
- i. Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts; and
- j. Debts owed to certain pension, profit sharing, stock bonus, other retirement plans, or to the Thrift Savings Plan for federal employees for certain types of loans from these plans.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.

EXHIBIT “E”

B1 (Official Form 1) (1/08)

United States Bankruptcy Court District of Oregon				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): Baty, Calvin Eugene Jr.			Name of Joint Debtor (Spouse) (Last, First, Middle):		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 8812			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all):		
Street Address of Debtor (No. & Street, City, State & Zip Code): 2408 SW 15th Ave Portland, OR			Street Address of Joint Debtor (No. & Street, City, State & Zip Code):		
ZIPCODE 97201-7600			ZIPCODE		
County of Residence or of the Principal Place of Business: Multnomah			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address):			Mailing Address of Joint Debtor (if different from street address):		
ZIPCODE			ZIPCODE		
Location of Principal Assets of Business Debtor (if different from street address above):					
ZIPCODE					
Type of Debtor (Form of Organization) (Check one box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)		Nature of Business (Check one box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input checked="" type="checkbox"/> Other Tax-Exempt Entity (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box.) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.	
Filing Fee (Check one box.) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (Applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.			Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts owed to non-insiders or affiliates are less than \$2,190,000. Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).		
Statistical/Administrative Information <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors <input type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input checked="" type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000					
Estimated Assets <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input checked="" type="checkbox"/> \$500,001 to \$1,000,000 <input type="checkbox"/> \$1,000,001 to \$10,000,000 <input type="checkbox"/> \$10,000,001 to \$50,000,000 <input type="checkbox"/> \$50,000,001 to \$100,000,000 <input type="checkbox"/> \$100,000,001 to \$500,000,000 <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion					
Estimated Liabilities <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1 million to \$10 million <input checked="" type="checkbox"/> \$10 million to \$50 million <input type="checkbox"/> \$50 million to \$100 million <input type="checkbox"/> \$100 million to \$500 million <input type="checkbox"/> \$500 million to \$1 billion <input type="checkbox"/> More than \$1 billion					

Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): Baty, Calvin Eugene Jr.	
Prior Bankruptcy Case Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed: None	Case Number:	Date Filed:	
Location Where Filed:	Case Number:	Date Filed:	
Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor: None	Case Number:	Date Filed:	
District:	Relationship:	Judge:	
Exhibit A (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.) <input type="checkbox"/> Exhibit A is attached and made a part of this petition.		Exhibit B (To be completed if debtor is an individual whose debts are primarily consumer debts.) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by § 342(b) of the Bankruptcy Code. <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> X _____ Signature of Attorney for Debtor(s) </div> <div style="text-align: right;"> _____ Date </div> </div>	
Exhibit C Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? <input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No			
Exhibit D (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.) <input checked="" type="checkbox"/> Exhibit D completed and signed by the debtor is attached and made a part of this petition. If this is a joint petition: <input type="checkbox"/> Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
Information Regarding the Debtor - Venue (Check any applicable box.) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. <input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes.) <input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.) <div style="text-align: center; margin-bottom: 10px;"> _____ (Name of landlord or lessor that obtained judgment) </div> <div style="text-align: center; margin-bottom: 10px;"> _____ (Address of landlord or lessor) </div> <input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and <input type="checkbox"/> Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. <input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).			

Voluntary Petition*(This page must be completed and filed in every case)*

Name of Debtor(s):

Baty, Calvin Eugene Jr.**Signatures****Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under Chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Calvin Baty, Jr.

Signature of Debtor

Calvin Baty, Jr.

X _____

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

May 30, 2008

Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only **one** box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.

☐ Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X _____

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Attorney*

X /s/ Robert J Vanden Bos

Signature of Attorney for Debtor(s)

Robert J Vanden Bos 78100

Printed Name of Attorney for Debtor(s)

Vanden Bos & Chapman

Firm Name

319 SW Washington Ste 520

Address

Portland, OR 97204

Telephone Number

May 30, 2008

Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Signature of Non-Attorney Petition Preparer

I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; 2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h) and 342(b); 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social Security Number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

X _____

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose social security number is provided above.

Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.

EXHIBIT “D”

1880

**In the Second Judicial District Court of the State of Nevada
In and for the County of Washoe**

MARK B. STEPPAN,

Plaintiff,

v.

JOHN ILIESCU, JR.; SONNIA SANTEE ILIESCU; JOHN
ILIESCU, JR. and SONNIA SANTEE ILIESCU, as
trustees of the John Iliescu, Jr. and Sonnia
Iliescu 1992 Family Trust,

Defendants.

Consolidated Case Nos. CV07-00341 and
CV07-01021

Dept. No. 10

And Related cross-claims and third-party
claims.

**Judgment, Decree and Order for
Foreclosure of Mechanics Lien**

Based upon the Findings of Fact, Conclusions of Law, and Decision (May 28, 2014, E-flex Transaction #4451229); Order Regarding Plaintiff's Motion for Costs (September 5, 2014, E-flex Transaction #4594487), Order Regarding Plaintiff's Motion for Attorney Fees (September 8, 2014, E-flex Transaction #4595799), Order Regarding Reconsideration of Attorney Fees (December 10, 2014, E-flex Transaction 4729999), and the rulings regarding the computation of prejudgment interest during the June 12, 2014 hearing reflected in the hearing transcript at pages 21 and 22.

1 IT HEREBY IS ORDERED, ADJUDGED, AND DECREED:

2 1. Plaintiff Mark B. Steppan shall take judgment on the Notice and Claim of Lien
3 recorded on November 7, 2006 as Document 3460499 in the official records of the Washoe
4 County Recorder, as amended by the Amended Notice and Claim of Lien recorded May 3,
5 2007 as Document 3528313, and as further amended by the Second Amended Notice and
6 Claim of Lien recorded November 8, 2013 as Document 4297751 for the following
7 amounts:

8 A. Principal.....	\$1,753,403.73
9 B. Prejudgment interest.....	\$2,527,329.23
10 C. Attorney fees.....	\$233,979.50
11 D. Costs	<u>\$21,550.99</u>
12 Total	\$4,536,263.45

13 2. Pursuant to NRS 108.239(10), the real property described as Assessor Parcel
14 Number 011-112-03, 011-112-06, 011-112-07, and 011-112-12, and more particularly
15 described in Exhibit A hereto (the "Property") shall be sold in satisfaction of the Plaintiff's
16 mechanics lien in the amounts specified herein.

17 3. Pursuant to NRS 108.239(10), Plaintiff Mark B. Steppan shall cause the
18 Property to be sold within the time and in the manner provided for sales on execution for
19 the sale of real property.

20 4. The costs of the sale shall be deducted from the gross proceeds, and the
21 balance shall constitute the Net Sale Proceeds.

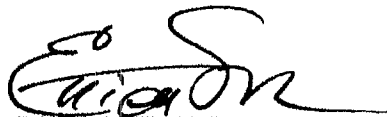
22 5. Pursuant to NRS 108.239(11), if the Net Sale Proceeds are equal to or exceed
23 the Lienable Amount, then the Lienable Amount shall be disbursed to Plaintiff Mark B.
24
25

1 Steppan, and the surplus shall be disbursed to Defendants John Iliescu, Jr. and Sonnia
2 Iliescu as trustees of the John Iliescu Jr. and Sonnia Iliescu Trust.

3 6. If the Net Sale Proceeds are less than the Lienable Amount, then all of the Net
4 Sale Proceeds shall be disbursed to Plaintiff Mark B. Steppan. Within 30 calendar days after
5 the sale, Steppan may by motion seek additional relief pursuant to NRS 108.239(12).
6 Defendants reserve all rights regarding any additional relief including, but not limited to,
7 the arguments in the Defendants' Motion for Relief From Court's Attorneys' Fees and Costs
8 Orders and For Correction, Reconsideration, or Clarification of Such Orders to Comply with
9 Nevada Mechanic's Lien Law (filed September 15, 2014, e-Flex Transaction 4606433).
10

11 7. Certain third party claims by the Defendants, against a third-party
12 defendants, remain pending in this lawsuit, which have been stayed by prior stipulations of
13 the parties. The Court determines that there is no just reason for delay and,
14 notwithstanding any remaining claims against other parties herein, this Judgment is
15 certified as final pursuant to NRCP 54(b) with respect to the parties hereto and the claims
16 between them.

17 DATED February 26, 2015.

18
19 

20 Hon. Elliott A. Sattler,
21 District Judge
22
23
24
25

EXHIBIT “C”

CV07-00341
DC-9900011812-081
JOHN ILIESCU ETAL VS. MARK S G Pagas
District Court 10/07/2009 04:55 PM
Washoe County
1155
CP98SLV-1

1155

David R. Grundy, Esq. SBN 864
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
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Telephone: (775) 786-6868
Facsimile: (775) 786-9716

Attorneys for Third Party Defendants
Hale Lane, Holland & Hart and R. Craig Howard

FILED

2009 OCT -7 PM 4:55

HOWARD W. CRYERS

BY *[Signature]*
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARK B. STEPPAN,

Plaintiffs,

vs.

JOHN ILIESCU JR. and SONNIA ILIESCU, as
Trustees of the JOHN ILIESCU, JR. AND SONNIA
ILIESCU 1992 FAMILY TRUST AGREEMENT; JOHN
ILIESCU, individually; DOES I-V, inclusive; and ROE
CORPORATIONS VI-X, inclusive,

Defendants.

CONSOLIDATED

Case No.: CV07-00341

Dept. No.: B6

JOHN ILIESCU, JR. and SONNIA ILIESCU,
as Trustees of the JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST
AGREEMENT; JOHN ILIESCU, JR.,
individually; SONNIA ILIESCU, individually,

Third-Party Plaintiffs,

vs.

CONSOLIDATED PACIFIC DEVELOPMENT,
INC., a Nevada Corporation; DECAL
OREGON, INC., an Oregon Corporation;
CALVIN BATY, individually; JOHN SCHLEINING,
individually; HALE LANE PEEK DENNISON
AND HOWARD PROFESSIONAL CORPORATION,
a Nevada professional corporation, dba HALE
LANE; KAREN D. DENNISON; R. CRAIG
HOWARD; JERRY M. SNYDER; and DOES I
thru X,

Third-Party Defendants.

LEMONS, GRUNDY
& EISENBERG
6005 PLUMAS ST.
THIRD FLOOR
RENO, NV 89519
(775) 786-6868

1 JOHN SCHLEINING,

2 Cross-Claimant,

3 vs.

4 HALE LANE PEEK DENNISON AND HOWARD
5 PROFESSIONAL CORPORATION, a Nevada
6 Professional corporation, dba HALE LANE
and DOES XXI - XXX, inclusive,

7 Cross-Defendant.

8 JOHN SCHLEINING,

9 Third-Party Plaintiff,

10 vs.

11 HOLLAND & HART, LLP, a professional
12 corporation, R. CRAIG HOWARD and DOES
XXXI - XL, inclusive,

13 Third-Party Defendants.

14
15 **ANSWER TO CROSS-CLAIM OF JOHN SCHLEINING**

16 Cross-defendant Hale Lane Peek Dennison and Howard Professional Corporation
17 (hereinafter "Hale Lane") and R. Craig Howard (erroneously sued herein as a Third-Party
18 Defendant although he is already a party to this litigation), in answer to the cross-claim filed
19 by John Schleining herein, admit, deny and allege as follows:

20 1. These answering cross-defendants are without information sufficient to form a
21 belief as to the truth or falsity of the allegations contained in paragraphs 1, 3, 4, 6, and 9.

22 2. These answering cross-defendants deny the allegations contained in
23 paragraphs 5, 8 and 10.

24 3. These answering cross-defendants admit the allegations contained in
25 paragraphs 2, 7 and 11.

26 **FIRST CAUSE OF ACTION (sic)**

27 4. In answer to paragraph 12 of the third party complaint, these cross-defendants
28 adopt and incorporate by reference and makes a part hereof all of their- previous answers.

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& EISENBERG
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THIRD FLOOR
RENO, NV 89519
(775) 786-6868

1 4. The claims asserted against cross-defendants have not yet accrued since the
2 underlying dispute between buyer, seller, developers and developers' lien claimant has not
3 yet been concluded by final judgment. These cross-defendants are thus entitled to a dismissal
4 of these claims, or in the alternative, a stay of proceedings until cross-claimant's damages, if
5 any, are fixed by the court.

6 5. This action is premature since some of the persons responsible for
7 indemnifying defendant Iliescu have claims currently pending in a bankruptcy matter through
8 which all or part of the damages being sought here may be paid or recompensed, entitling
9 these cross-defendants to a stay or dismissal of the pending claims.

10 6. Cross-claimant has, with full knowledge of the material facts, and for his own
11 personal and financial reasons, waived any conflicts of interest in writing.

12 7. Cross-claimant is estopped from asserting a conflict of interest by virtue of his
13 execution of written waivers, upon which these cross-defendants relied in their continued
14 representation of other clients.

15 8. The damages claimed by cross-claimant were caused solely by the acts or
16 omissions of others not named in this cross-complaint.

17 9. These cross-defendants at all times acted in good faith during their
18 engagement as counsel for the various parties who chose to retain these cross- defendants.

19 10. Throughout their engagement as counsel in this matter, cross-defendants
20 disclosed both orally and in writing and in a timely fashion the scope of their attorney/client
21 relationship with other parties and sought and received consent from cross-claimant to
22 represent other parties in light of the fact that cross-claimants' interests would be advanced
23 thereby.

24 11. These cross-defendants at all times acted in good faith at the request of cross-
25 claimant, in an effort to further the interests of their clients, whose interests were aligned and
26 consistent with one another.

27 ///

28 ///

1 12. At all times relevant to the allegations of the cross-complaint, these defendants
2 were not acting as attorney for cross-claimant and no attorney/client relationship existed
3 between cross-claimant and cross-defendants.

4 13. These cross-defendants owed no fiduciary or other duties incident to an
5 attorney/client relationship to cross-claimant.

6 WHEREFORE, cross-defendants pray for judgment as follows:

7 1. That cross-claimant take nothing by way of the cross-complaint filed herein and
8 that the same be dismissed with prejudice;

9 2. For costs of suit herein and for a reasonable attorneys' fee incurred in defense
10 hereof; and,

11 3. For such other relief as the court deems proper.

12 The undersigned affirms that this document does not contain the social security
13 number of any person.

14 DATED: October 7, 2009

15
16
17 BY: 

David R. Grundy
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
Reno, Nevada 89519
Phone No.: (775) 786-6868
Attorneys for Third Party Defendants

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25 LEMONS, GRUNDY
& EISENBERG
26 6005 PLUMAS ST.
THIRD FLOOR
27 RENO, NV 89519
(775) 786-6868
28

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Lemons, Grundy & Eisenberg and that on October 7, 2009 I deposited in the United States Mail, with postage fully prepaid, a true and correct copy of the within **ANSWER TO CROSS-CLAIM OF JOHN SCHLEINING**, addressed to the following:

Gayle A. Kern, Esq.
Gayle A. Kern, Ltd.
5421 Kietzke Lane, Suite 200
Reno, Nevada 89511

Gregory F. Wilson, Esq.
Matthew F. Quint, Esq.
WILSON & QUINT LLP
417 West Plumb Lane
Reno, Nevada 89509

Stephen C. Mollath, Esq.
Prezant & Mollath
6560 SW McCarran Blvd., Suite A
Reno, Nevada 89509

Steven M. Wilker, Esq.
Tonkon Torp LLP
1600 Pioneer Tower
888 SW Fifth Ave.
Portland, Oregon 97204

Christa L. Mann

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THIRD FLOOR
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EXHIBIT “B”

ORIGINAL

FILED

2009 SEP -2 PM 1:54

HOWARD W. CONYERS

BY *Asst. Secy*
DEPUTY

CODE: 1165

Gregory F. Wilson, Esq.
Nevada Bar No. 2517

Matthew F. Quint, Esq.

Nevada Bar No. 10962

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Reno, Nevada 89509

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mfquint@wilsonquint.com

Attorneys for JOHN SCHLEINING

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARK B. STEPPAN,

Plaintiff,

vs.

JOHN ILIESCU JR. and SONNIA ILIESCU, as Trustees of the
JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY
TRUST AGREEMENT; JOHN ILIESCU, individually; DOES I-
V, inclusive; and ROE CORPORATIONS VI-X, inclusive,

Defendants.

JOHN ILIESCU, JR. and SONNIA ILIESCU, as Trustees of the
JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY
TRUST AGREEMENT; JOHN ILIESCU, JR., individually;
SONNIA ILIESCU, individually,

Third-Party Plaintiffs,

vs.

CONSOLIDATED PACIFIC DEVELOPMENT, INC., a Nevada
Corporation; DECAL OREGON, INC., an Oregon Corporation;
CALVIN BATY, individually; JOHN SCHLEINING,
individually; HALE LANE PEEK DENNISON AND HOWARD
PROFESSIONAL CORPORATION, a Nevada professional
corporation, dba HALE LANE; KAREN D. DENNISON; R.
CRAIG HOWARD; JERRY M. SNYDER; and DOES I thru X,

Third-Party Defendants.

CV07-00341

Case No.: CV07-01021

Dept. No.: B6

Consolidated with:

Case No. CV07-00341

Department No. B6

CV07-00341
JOHN ILIESCU ETAL VS. MARK
District Court
Washoe County
1165
RSTMPSON

1 JOHN SCHLEINING,

2 Cross-Claimant,

3 vs.

4 HALE LANE PEEK DENNISON AND HOWARD
5 PROFESSIONAL CORPORATION, a Nevada professional
6 corporation, dba HALE LANE and DOES XXI – XXX, inclusive,

6 Cross-Defendant.

7
8 JOHN SCHLEINING,

9 Third-Party Plaintiff,

10 vs.

11 HOLLAND & HART, LLP, a professional corporation, R.
12 CRAIG HOWARD and DOES XXXI – XL, inclusive,

13 Third-Party Defendants.

14
15 **JOHN SCHLEINING'S ANSWER TO THIRD-PARTY COMPLAINT, CROSS-CLAIM**
16 **AND THIRD-PARTY COMPLAINT**

17 **ANSWER TO THIRD-PARTY COMPLAINT**

18 Third-Party Defendant JOHN SCHLEINING ("Schleining") by and through his attorneys
19 WILSON & QUINT LLP, hereby answers the THIRD-PARTY COMPLAINT filed by Third-
20 Party Plaintiffs JOHN ILIESCU, JR. and SONNIA ILIESCU, individually and as Trustees of the
21 John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement (collectively "Iliescu") and in
22 support thereof, admit, deny and allege as follows.

23 **PARTIES**

24 1. Answering paragraph 1, Schleining lacks sufficient information and belief to form
25 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

26 2. Answering paragraph 2, Schleining lacks sufficient information and belief to form
27 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

1 3. Answering paragraph 3, Schleining lacks sufficient information and belief to form
2 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

3 4. Answering paragraph 4, Schleining lacks sufficient information and belief to form
4 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

5 5. Schleining admits the allegations of paragraph 5.

6 6. Answering paragraph 6, Schleining lacks sufficient information and belief to form
7 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

8 7. Schleining admits the allegations of paragraph 7.

9 8. Schleining admits the allegations of paragraph 8.

10 9. Schleining admits the allegations of paragraph 9.

11 10. Answering paragraph 10, Schleining lacks sufficient information and belief to form
12 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

13 11. Schleining denies the allegations contained in paragraph 11.

14 **GENERAL ALLEGATIONS**

15 12. Answering paragraph 12, Schleining lacks sufficient information and belief to form
16 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

17 13. Answering paragraph 13, Schleining lacks sufficient information and belief to form
18 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

19 14. Answering paragraph 14, Schleining lacks sufficient information and belief to form
20 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

21 15. Answering paragraph 15, Schleining lacks sufficient information and belief to form
22 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

23 16. Answering paragraph 16, Schleining admits that the Purchase Agreement, as
24 amended, included an Addendum No. 1 and Addendum No. 2. Schleining alleges that the
25 Purchase Agreement and Addenda speak for themselves. Other than as specifically admitted or
26 alleged, Schleining denies the allegations contained in paragraph 16.

27 17. Answering paragraph 17, Schleining lacks sufficient information and belief to form
28 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

1 18. Answering paragraph 18, Schleining lacks sufficient information and belief to form
2 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

3 19. Answering paragraph 19, Schleining admits that an Addendum No. 3 was prepared.
4 Schleining alleges that Addendum No. 3 speaks for itself. Other than as specifically admitted or
5 alleged, Schleining denies the allegations contained in paragraph 19.

6 20. Answering paragraph 20, Schleining admits the first sentence thereof but denies
7 that Calvin Baty was ever a "purchaser". Schleining further admits that a copy of a December 14,
8 2005 letter is attached as Exhibit A to the Complaint. Schleining alleges that Exhibit A speaks for
9 itself. Other than as specifically admitted or alleged, Schleining denies the allegations contained
10 in paragraph 20.

11 21. Answering paragraph 21, Schleining lacks sufficient information and belief to form
12 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

13 22. Answering paragraph 22, Schleining lacks sufficient information and belief to form
14 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

15 23. Answering paragraph 23, Schleining lacks sufficient information and belief to form
16 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

17 24. Answering paragraph 24, Schleining admits the allegations contained in the first
18 two sentences thereof. Other than as specifically admitted, Schleining lacks sufficient information
19 and belief to form an opinion as to the truth of the allegations contained in paragraph 24 and
20 therefore denies said allegations.

21 25. Schleining admits the allegations of paragraph 25.

22 26. Answering paragraph 26, Schleining alleges that the Mechanic's Lien speaks for
23 itself. Other than as specifically alleged, Schleining lacks sufficient information and belief to
24 form an opinion as to the truth of the allegations contained in paragraph 26 and therefore denies
25 said allegations.

26 27. Answering paragraph 27, Schleining lacks sufficient information and belief to form
27 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

28 28. Schleining admits the allegations of paragraph 28.

1 29. Answering paragraph 29, Schleining admits that an Addendum No. 4 to the
2 Purchase Agreement was prepared by Hale Lane, et al. Other than as specifically admitted,
3 Schleining lacks sufficient information and belief to form an opinion as to the truth of the
4 allegations contained in paragraph 29 and therefore denies said allegations.

5 30. Answering paragraph 30, Schleining lacks sufficient information and belief to form
6 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

7 31. Answering paragraph 31, Schleining admits that Hale Lane, et al. and R. Craig
8 Howard prepared an indemnity agreement for their clients, a copy of which is attached as Exhibit
9 C to the Third-Party Complaint. Other than as specifically admitted, Schleining lacks sufficient
10 information and belief to form an opinion as to the truth of the allegations contained in paragraph
11 31 and therefore denies said allegations.

12 32. Answering paragraph 32, Schleining lacks sufficient information and belief to form
13 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

14 33. Answering paragraph 33, Schleining lacks sufficient information and belief to form
15 an opinion as to the truth of the allegations contained therein and therefore denies said allegations.

16 34. Schleining admits the allegations of paragraph 34.

17 35. Schleining admits the allegations of paragraph 35.

18 36. The allegations contained in paragraph 36 are legal conclusions to which no
19 response is required.

20 **ANSWER TO FIRST CLAIM FOR RELIEF**

21 37. Answering paragraph 37, Schleining realleges and incorporates herein by reference
22 his responses to paragraphs 1 through 36, inclusive, as though fully set forth.

23 38. Schleining admits the allegations of paragraph 38.

24 39. Answering paragraph 39, Schleining admits that Third-Party Plaintiffs so contend.
25 Other than as specifically admitted, Schleining denies the allegations contained in paragraph 39.

26 40. Answering paragraph 40, Schleining admits that he disputes Iliescu's interpretation
27 and assertion of rights.
28

1 41. Answering paragraph 41, Schleining denies that a judicial declaration of the
2 parties' respective rights, duties and obligations is appropriate under the circumstances alleged in
3 the Third-Party Complaint.

4 **ANSWER TO SECOND CLAIM FOR RELIEF**

5 42. Answering paragraph 42, Schleining realleges and incorporates herein by reference
6 his responses to paragraphs 1 through 41, inclusive, as though fully set forth.

7 43. Schleining denies the allegations contained in paragraph 43. Without limiting the
8 generality of the foregoing, Schleining denies that he has any obligation whatsoever to indemnify
9 Iliescu under any circumstances, or that he is liable to Iliescu in any amount whatsoever.

10 **ANSWER TO THIRD THROUGH SIXTH CLAIMS FOR RELIEF**

11 44. Neither the Third, Fourth, Fifth or Sixth Claims For Relief purport to allege any
12 claims against Schleining. Therefore, Schleining need not respond to the factual allegations set
13 forth therein.

14 WHEREFORE, Schleining prays for judgment as hereinafter set forth.

15 **SEPARATE, ADDITIONAL AND AFFIRMATIVE DEFENSES**

16 Schleining further alleges the following as his separate, additional and affirmative defenses
17 to the causes of action alleged in the Third-Party Complaint.

18 1. The Third-Party Complaint fails to state a claim upon which relief can be granted
19 against Schleining.

20 2. The claims alleged in the Third-Party Complaint are barred by the doctrine of
21 unclean hands.

22 3. The claims alleged in the Third-Party Complaint are barred by the doctrine of laches.

23 4. The claims alleged in the Third-Party Complaint are barred by the doctrines of
24 waiver, release, acquiescence or ratification.

25 5. The claims alleged in the Third-Party Complaint are barred by the doctrine of
26 estoppel.

27 6. The claims alleged in the Third-Party Complaint are barred by the doctrine of
28 superior equities.

1 7. Third-Party Plaintiffs have failed to take reasonable action to mitigate their alleged
2 damages, if any, and therefore the contracts alleged in the Third-Party Complaint are void,
3 unenforceable and exonerated as to Schleining.

4 8. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
5 Complaint because of the absence of consideration, insufficiency of consideration or failure of
6 consideration for the alleged indemnity agreement.

7 9. Third-Party Plaintiffs failed to disclose to Schleining facts known to Third-Party
8 Plaintiffs as to Third-Party Plaintiffs' conduct with respect to the transactions alleged in the Third-
9 Party Complaint at such times when Third-Party Plaintiffs had reason to believe such facts
10 materially increased the risk beyond which Schleining intended to assume, at which times Third-
11 Party Plaintiffs had reason to believe that such facts were unknown to Schleining, and at which
12 times Third-Party Plaintiffs had reasonable opportunities to communicate such facts to Schleining.
13 Third-Party Plaintiffs breached their legal duties to Schleining by such failures to disclose. The
14 indemnity agreement alleged in the Third-Party Complaint is therefore void, unenforceable and
15 exonerated as to Schleining.

16 10. Third-Party Plaintiffs breached the covenant of good faith and fair dealing implied
17 in the contracts alleged in the Third-Party Complaint and therefore such contracts are void,
18 unenforceable and exonerated as to Schleining.

19 11. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
20 Complaint by the doctrine of mutual mistake.

21 12. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
22 Complaint by the doctrine of unilateral mistake.

23 13. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
24 Complaint because Schleining has been discharged and exonerated from any and all obligations
25 and duties arising out of the indemnity agreement alleged in the Third-Party Complaint.

26 14. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
27 Complaint because Schleining is excused from performance on any indemnity agreement between
28 Schleining and Third-Party Plaintiffs by reason of mistake of fact or mistake of law.

1 15. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
2 Complaint because the indemnity agreement alleged in the Third-Party Complaint is void and/or
3 unenforceable.

4 16. Third-Party Plaintiffs are barred from the relief requested in the Third-Party Complaint
5 because the indemnity agreement alleged in the Third-Party Complaint with Schleining and others, as
6 written and as performed by Third-Party Plaintiffs, is unconscionable.

7 17. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
8 Complaint because Third-Party Plaintiffs substantially and materially breached their agreements
9 with Defendants, Schleining, and others, which conduct extinguishes Third-Party Plaintiffs' right
10 to maintain its claim against Schleining.

11 18. Third-Party Plaintiffs are barred from the relief requested in the Third-Party
12 Complaint because of Third-Party Plaintiffs' misrepresentations, concealments and false promises.

13 19. Schleining reserves his right to amend this Answer to allege additional affirmative
14 defenses in light of the subsequently discovered or appreciated facts.

15 WHEREFORE, Third-Party Defendant JOHN SCHLEINING prays for judgment as
16 follows.

17 1. That Third-Party Plaintiffs take nothing by reason of their Third-Party Complaint
18 and that judgment be entered thereon in favor of Schleining;

19 2. For costs of suit incurred in this action;

20 3. For his attorney's fees and costs to the extent permitted by law, contract, or equity; and

21 4. For such other and further relief as may be deemed just and proper in the
22 circumstances.

23 **CROSS-CLAIM OF JOHN SCHLEINING AGAINST HALE LANE PEEK DENNISON**

24 **AND HOWARD**

25 Schleining JOHN SCHLEINING, by and through his counsel, alleges as follows.

26 **PARTIES**

27 1. Schleining JOHN SCHLEINING is an individual and resident of the State of
28 Oregon.

1 2. Schleining is informed and believes and on that basis alleges that Cross-Defendant
2 HALE LANE PEEK DENNISON AND HOWARD ("Hale Lane") is and was at all relevant times
3 a Nevada professional corporation doing business as a firm of lawyers licensed to practice law in
4 the State of Nevada.

5 3. Schleining is unaware of the true names or capacities of persons or entities sued
6 herein as DOES XXI – XXX, inclusive, and therefore sues said persons or entities by such
7 fictitious names. Schleining is informed and believes and therefore alleges that each of said DOE
8 Cross-Defendants' wrongful acts or omissions proximately caused the injuries alleged herein by
9 Schleining.

10 4. Schleining reserves his right to amend his Cross-Claim after the identities of said
11 DOE Cross-Defendants and the nature of their wrongful acts becomes known.

12 5. Schleining is informed and believes and therefore alleges that at all times relevant
13 herein each of the Cross-Defendants was the agent, partner or employee of each of the other
14 Cross-Defendants and, in committing the acts or omissions hereinafter alleged, was acting within
15 the course and scope of such agency, partnership or employment.

16 **GENERAL ALLEGATIONS**

17 6. Schleining is informed and believes and therefore alleges that on or about August
18 2005, John Iliescu, Jr. and Sonnia Iliescu, as Trustees of the John Iliescu Jr. and Sonnia Iliescu
19 1992 Family Trust Agreement, John Iliescu, Jr. and Sonnia Iliescu (collectively "Iliescu") entered
20 into a contract to sell certain real property located in Washoe County commonly known as 219
21 Court Street, Reno, Nevada, 0 Court Street, Reno, Nevada, and 223 Court Street, Reno, Nevada
22 (collectively "the Property") to Consolidated Pacific Development, Inc. ("CPD"). That contract,
23 as subsequently modified and/or amended, is hereafter referred to as the "Purchase Agreement".

24 7. Schleining is informed and believes and therefore alleges that on or before
25 September 22, 2005, Iliescu retained Hale Lane to represent them in connection with the Purchase
26 Agreement and the sale of the Property to CPD and that Hale Lane continued to represent Iliescu
27 as their lawyers at all relevant times thereafter.
28

1 8. Schleining is informed and believes and therefore alleges that, on or before
2 December 14, 2005, CPD and Calvin Baty retained Hale Lane to represent them and their
3 successors-in-interest in connection with their acquisition of the Property under the Purchase
4 Agreement, and that said representation included but was not limited to obtaining certain
5 entitlements on the Property.

6 9. CPD assigned its rights in and under the Purchase Agreement to DeCal Custom
7 Homes and Construction ("DeCal"), an entity owned and controlled by Schleining. Thereafter,
8 Calvin Baty, Sam Caniglia, President of CPD, and Schleining formed BSC Financial, LLC
9 ("BSC"). DeCal thereafter assigned its rights in and under the Purchase Agreement to BSC and
10 continued with the task of obtaining the necessary entitlements on the Property as contemplated by
11 the Purchase Agreement.

12 10. Upon obtaining the assignment of the buyers' rights in and under the Purchase
13 Agreement and prior to December 8, 2006, Schleining, Baty, and BSC retained Hale Lane to
14 represent them as purchasers of the Property and in connection with obtaining the desired
15 entitlements. At all relevant times thereafter, Hale Lane continued to represent Ilescu as sellers of
16 the Property on the one hand and Schleining, Baty, and BSC as buyers of the Property on the other
17 hand.

18 11. On or about November 7, 2006, Architect Mark Stepan ("Stepan") recorded a
19 mechanic's lien on the Property. In that mechanic's lien, Stepan claimed he was owed in excess
20 of \$1.7 million for work performed for the benefit of the Property.

21 **FIRST CAUSE OF ACTION**
22 **(Negligent Misrepresentation)**

23 12. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
24 through 11 of this Cross-Claim.

25 13. On or about December 8, 2006, following the recordation of the mechanic's lien by
26 Stepan, Hale Lane, acting on behalf of its Ilescu clients, prepared a document entitled
27 "Indemnity". A true and correct copy of the Indemnity is attached hereto as Exhibit 1 and
28 incorporated herein by reference as though fully set forth.

1 14. The Indemnity provides, in pertinent part, at paragraph 1:

2 "Indemnity. Baty, Schleining and BSC hereby, jointly and severally, agree
3 to indemnify, defend, protect and hold Iliescu harmless against all damages, losses,
4 expenses, costs, liabilities, including, without limitation, payments due or which
5 may be due to the architect [Steppan]"

6 15. On or about December 8, 2006, Hale Lane presented the Indemnity to
7 Schleining for signature. At that time, Hale Lane was purporting to act as lawyers both for
8 Iliescu as indemnitees and for Schleining, Baty and BSC as indemnitors.

9 16. In order to induce their client Schleining to sign the Indemnity, Hale Lane
10 negligently represented to Schleining and advised him as follows: (1) as a result of their legal
11 research, Hale Lane had concluded that Steppan had no right to record or enforce a lien against the
12 Property because Steppan had failed to serve or record the required pre-lien notices; (2) under no
13 circumstances could Steppan obtain a judgment against Iliescu as owners of the Property and (3)
14 Schleining would have absolutely "no exposure" to Iliescu if he signed the Indemnity. Hale Lane
15 then asked and advised Schleining to sign the Indemnity.

16 17. The representations and legal advice made by Hale Lane to Schleining set forth in
17 paragraph 16 above were false and negligently made. For example and without limitation, as this
18 Court has found, Steppan's mechanic's lien is enforceable notwithstanding Steppan's failure to
19 serve or record pre-lien notices and therefore Schleining may have exposure to Iliescu under the
20 Indemnity.

21 18. At the time Hale Lane made the misrepresentations and rendered the advice set
22 forth in paragraph 16 above, Hale Lane did not have sufficient basis or information on which to
23 make such representations and render such legal advice and Hale Lane failed to exercise
24 reasonable care or competence in so doing.

25 19. Schleining was ignorant of the falsity of Hale Lane's representations. Given the
26 nature of his relationship with Hale Lane, Schleining justifiably relied on Hale Lane's
27 representations and advice. Schleining executed the Indemnity in reliance on Hale Lane's
28 representations and advice.

1 20. As a direct, proximate and consequential result of executing the Indemnity,
2 Schleining has been damaged in an amount in excess of ten thousand dollars (\$10,000).

3 **SECOND CLAIM FOR RELIEF**

4 **(Breach of Fiduciary Duty)**

5 21. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
6 through 20 of this Cross-Claim.

7 22. As a result of its attorney-client relationships with Schleining, Baty and BSC, Hale
8 Lane was a fiduciary of Schleining and owed to Schleining the highest duty of loyalty and fidelity.

9 23. Hale Lane breached its fiduciary obligations to Schleining as follows:

10 a. By failing to advise Schleining that there was an inherent conflict of interest
11 in Hale Lane's joint representation of Schleining, Baty and BSC as indemnitors and Iliescu as
12 indemnitees;

13 b. By failing to advise Schleining of the consequences of its conflict of interest
14 in purporting to represent both the indemnitors and the indemnitees;

15 c. By favoring the interests of its indemnitee clients, Iliescu, over the interests
16 of its indemnitor clients, Schleining, Baty and BSC;

17 d. By advising Schleining to sign and asking Schleining to sign the Indemnity
18 when it was not in Schleining's best interest to do so; and

19 e. By violating Nevada Rule of Professional Conduct 1.7.

20 24. As a direct and proximate result of Hale Lane's breaches of its fiduciary duties as
21 alleged above, Schleining has been damaged in an amount in excess of ten thousand dollars
22 (\$10,000).

23 **THIRD CLAIM FOR RELIEF**

24 **(Legal Malpractice)**

25 25. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
26 through 24 of this Cross-Claim.

27 26. As Schleining's, Baty's and BSC's lawyers, Hale Lane owed Schleining the duty to
28 use such skill, prudence and diligence as lawyers of ordinary skill and capacity possessed in
exercising and performing the tasks which Hale Lane undertook, particularly in this instance the

1 duty to apply that level of diligence and judgment held by reputable licensed lawyers in northern
2 Nevada engaged in the types of business and transactions described above.

3 27. Hale Lane breached its duties to Schleining set forth hereinabove in committing the
4 acts and omissions alleged herein.

5 28. As a direct and proximate result of said breaches, Schleining has been damaged in
6 an amount in excess of ten thousand dollars (\$10,000).

7 WHEREFORE, JOHN SCHLEINING prays for judgment as follows:

- 8 1. For damages in an amount in excess of ten thousand dollars (\$10,000);
- 9 2. For reasonable attorney's fees incurred in the prosecution and defense of this action
10 to the extent permitted by law, equity, or contract;
- 11 3. For costs of suit; and
- 12 4. For such other and further relief as this Court may deem just and proper.

13 **THIRD-PARTY COMPLAINT OF JOHN SCHLEINING AGAINST HOLLAND & HART,**

14 **LLP AND R. CRAIG HOWARD**

15 Third-Party Plaintiff JOHN SCHLEINING, by and through his counsel, alleges as follows.

16 **PARTIES**

17 1. Third-Party Plaintiff JOHN SCHLEINING ("Schleining") is an individual and
18 resident of the State of Oregon.

19 2. Schleining is informed and believes and on that basis alleges that (a) Cross-
20 Defendant HALE LANE PEEK DENNISON AND HOWARD ("Hale Lane") is and was at all
21 relevant times a Nevada professional corporation doing business as a firm of lawyers licensed to
22 practice law in the State of Nevada; (b) on or about May 2008, Cross-Defendant Hale Lane
23 publicly announced that it had "combined" with Third Party Defendant HOLLAND & HART,
24 LLP, a Colorado limited liability partnership doing business as a law firm in the Western United
25 States; (c) thereafter Cross-Defendant Hale Lane and Third Party Defendant HOLLAND &
26 HART, LLP together represented themselves to the public as a single law firm and single legal
27 entity and (d) on and after May 2008, Third Party Defendant HOLLAND & HART, LLP assumed
28 and continues to assume all of the past, present and future duties, obligations and liabilities of

1 Cross-Defendant Hale Lane.

2 3. Third Party Defendant R. CRAIG HOWARD ("Howard") is an attorney licensed to
3 practice law in the State of Nevada and at all relevant times was and is a principal, partner or
4 shareholder of Cross-Defendant Hale Lane and/or Third Party Defendant HOLLAND & HART,
5 LLP. Cross-Defendant Hale Lane and Third Party Defendants HOLLAND & HART, LLP and
6 Howard are collectively hereinafter referred to as "Attorneys."

7 4. Schleining is unaware of the true names or capacities of persons or entities sued
8 herein as DOES XXXI – XL, inclusive, and therefore sues said persons or entities by such
9 fictitious names. Schleining is informed and believes and therefore alleges that each of said DOE
10 Third Party Defendants' wrongful acts or omissions proximately caused the injuries alleged herein
11 by Schleining. Schleining reserves his right to amend his pleadings after the identities of said
12 DOE Third Party Defendants and the nature of their wrongful acts becomes known.

13 5. Schleining is informed and believes and therefore alleges that at all times relevant
14 herein each of the Third-Party Defendants was the agent, partner or employee of each of the other
15 Third-Party Defendants and, in committing the acts or omissions hereinafter alleged, was acting
16 within the course and scope of such agency, partnership or employment.

17 **GENERAL ALLEGATIONS**

18 6. Schleining is informed and believes and therefore alleges that on or about August
19 2005, John Iliescu, Jr. and Sonnia Iliescu, as Trustees of the John Iliescu Jr. and Sonnia Iliescu
20 1992 Family Trust Agreement, John Iliescu, Jr. and Sonnia Iliescu (hereinafter, collectively,
21 "Iliescu") entered into a contract to sell certain real property located in Washoe County commonly
22 known as 219 Court Street, Reno, Nevada, 0 Court Street, Reno, Nevada, and 223 Court Street,
23 Reno, Nevada (collectively "the Property") to Consolidated Pacific Development, Inc. ("CPD").
24 That contract, as subsequently modified and/or amended, is hereafter referred to as the "Purchase
25 Agreement".

26 7. Schleining is informed and believes and therefore alleges that on or before
27 September 22, 2005, Iliescu retained Attorneys to represent them in connection with the Purchase
28

1 Agreement and the sale of the Property to CPD and that Attorneys continued to represent Iliescu
2 as their lawyers at all relevant times thereafter.

3 8. Schleining is informed and believes and therefore alleges that, on or before
4 December 14, 2005, CPD and Calvin Baty retained Attorneys to represent them and their
5 successors-in-interest in connection with their acquisition of the Property under the Purchase
6 Agreement, and that said representation included but was not limited to obtaining certain
7 entitlements on the Property.

8 9. CPD assigned its rights in and under the Purchase Agreement to DeCal Custom
9 Homes and Construction ("DeCal"), an entity owned and controlled by Schleining. Thereafter,
10 Calvin Baty, Sam Caniglia, President of CPD, and Schleining formed BSC Financial, LLC
11 ("BSC"). DeCal assigned its rights in and under the Purchase Agreement to BSC, which
12 continued with the task of obtaining the necessary entitlements on the Property as contemplated by
13 the Purchase Agreement.

14 10. Upon obtaining the assignment of the buyers' rights in and under the Purchase
15 Agreement and prior to December 8, 2006, Schleining, Baty, and BSC retained Attorneys to
16 represent them as purchasers of the Property and in connection with obtaining the desired
17 entitlements. At all relevant times thereafter, Attorneys continued to represent Iliescu as sellers of
18 the Property on the one hand and Schleining, Baty, and BSC as buyers of the Property on the other
19 hand.

20 11. On or about November 7, 2006, Architect Mark Steppan ("Steppan") recorded a
21 mechanic's lien on the Property. In that mechanic's lien, Steppan claimed he was owed in excess
22 of \$1.7 million for work performed for the benefit of the Property.

23 **FIRST CAUSE OF ACTION**
24 **(Negligent Misrepresentation)**

25 12. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
26 through 11 of this Cross-Claim.

27 13. On or about December 8, 2006, following the recordation of the mechanic's lien by
28 Steppan, Attorneys, acting on behalf of their Iliescu clients, prepared a document entitled

1 "Indemnity". A true and correct copy of the Indemnity is attached hereto as Exhibit 1 and
2 incorporated herein by reference as though fully set forth.

3 14. The Indemnity provides, in pertinent part, at paragraph 1:

4 "Indemnity. Baty, Schleining and BSC hereby, jointly and severally, agree
5 to indemnify, defend, protect and hold Iliescu harmless against all damages, losses,
6 expenses, costs, liabilities, including, without limitation, payments due or which
may be due to the architect [Steppan]"

7 15. On or about December 8, 2006, Attorneys presented the Indemnity to
8 Schleining for signature. At that time, Attorneys were purporting to act as lawyers both for
9 Iliescu as indemnitees and for Schleining, Baty and BSC as indemnitors.

10 16. In order to induce their client Schleining to sign the Indemnity, Attorneys
11 represented to Schleining and advised him as follows: (1) as a result of their legal research,
12 Attorneys had concluded that Steppan had no right to record or enforce a lien against the Property
13 because Steppan had failed to serve or record the required pre-lien notices; (2) under no
14 circumstances could Steppan obtain a judgment against Iliescu as owners of the Property and (3)
15 Schleining would have absolutely "no exposure" to Iliescu if he signed the Indemnity. Attorneys
16 then asked and advised Schleining to sign the Indemnity.

17 17. The representations made and legal advice rendered by Attorneys to Schleining set
18 forth in paragraph 16 above were false and negligently made. For example and without limitation,
19 as this Court has found, Steppan's mechanic's lien is enforceable notwithstanding Steppan's
20 failure to serve or record pre-lien notices and therefore Schleining may have exposure to Iliescu
21 under the Indemnity.

22 18. At the time Attorneys made the misrepresentations and rendered the legal advice
23 set forth in paragraph 16 above, Attorneys did not have sufficient basis or information on which to
24 make such representations and render such legal advice and Attorneys failed to exercise
25 reasonable care or competence in so doing.

26 19. Schleining was ignorant of the falsity of the representations. Given the nature of
27 his relationship with Attorneys, Schleining justifiably relied on Attorneys' representations and
28 advice. Schleining executed the Indemnity in reliance on Attorneys' representations and advice.

1 20. As a direct, proximate and consequential result of executing the Indemnity,
2 Schleining has been damaged in an amount in excess of ten thousand dollars (\$10,000).

3 **SECOND CLAIM FOR RELIEF**
4 **(Breach of Fiduciary Duty)**

5 21. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
6 through 20 of this Cross-Claim.

7 22. As a result of their attorney-client relationships with Schleining, Baty and BSC,
8 Attorneys were fiduciaries of Schleining and owed to Schleining the highest duty of loyalty and
9 fidelity.

10 23. Attorneys breached their fiduciary obligations to Schleining as follows:

11 a. By failing to advise Schleining that there was an inherent conflict of interest
12 in Attorneys' joint representation of Schleining, Baty and BSC as indemnitors and Iliescu as
13 indemnitees;

14 b. By failing to advise Schleining of the consequences of their conflict of
15 interest in purporting to represent both the indemnitors and the indemnitees;

16 c. By favoring the interests of its indemnitee clients, Iliescu, over the interests
17 of its indemnitor clients, Schleining, Baty and BSC;

18 d. By advising Schleining to sign and asking Schleining to sign the Indemnity
19 when it was not in Schleining's best interest to do so; and

20 e. By violating Nevada Rule of Professional Conduct 1.7.

21 24. As a direct and proximate result of Attorneys' breaches of their fiduciary duties as
22 alleged above, Schleining has been damaged in an amount in excess of ten thousand dollars
23 (\$10,000).

24 **THIRD CLAIM FOR RELIEF**
25 **(Legal Malpractice)**

26 25. Schleining realleges and incorporates herein as though fully set forth paragraphs 1
27 through 24 of this Cross-Claim.

28 26. As Schleining's, Baty's and BSC's lawyers, Attorneys owed Schleining the duty to
use such skill, prudence and diligence as lawyers of ordinary skill and capacity possessed in

1 exercising and performing the tasks which Attorneys undertook, particularly in this instance the
2 duty to apply that level of diligence and judgment held by reputable licensed lawyers in northern
3 Nevada engaged in the types of business and transactions described above.

4 27. Attorneys breached their duties to Schleining set forth hereinabove in committing
5 the acts and omissions alleged herein.

6 28. As a direct and proximate result of said breaches, Schleining has been damaged in
7 an amount in excess of ten thousand dollars (\$10,000).

8 WHEREFORE, JOHN SCHLEINING prays for judgment as follows:

- 9 1. For damages in an amount in excess of ten thousand dollars (\$10,000);
10 2. For reasonable attorney's fees incurred in the prosecution and defense of this action
11 to the extent permitted by law, equity, or contract;
12 3. For costs of suit; and
13 4. For such other and further relief as this Court may deem just and proper.

14
15 DATED: September 2, 2009

WILSON & QUINT LLP

16
17 By: 

Gregory J. Wilson, Esq.

417 West Plumb Lane

Reno, NV 89509

Telephone: 775.786.7600

Facsimile: 775.786.7764

Email: gfwilson@wilsonquint.com

Attorneys for JOHN SCHLEINING

NRS 239B.030 AFFIRMATION

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

DATED: September 2, 2009

WILSON & QUINT LLP

By: 

Gregory F. Wilson, Esq.

417 West Plumb Lane

Reno, NV 89509

Telephone: 775.786.7600

Facsimile: 775.786.7764

Email: gfwilson@wilsonquint.com

Attorneys for JOHN SCHLEINING

CERTIFICATE OF SERVICE

I certify that I am an employee of Wilson & Quint LLP, and that on this date, pursuant to NRCP 5(b), I am serving a true copy of the following:

**JOHN SCHLEINING'S ANSWER TO THIRD-PARTY COMPLAINT, CROSS-CLAIM
AND THIRD-PARTY COMPLAINT**

on the parties set forth below:

Gayle A. Kern, Esq.
Gayle A. Kern, Ltd.
5421 Kietzke Lane, No. 200
Reno, Nevada 89511
Telephone: 775.324.5930
Email: gaylekern@kernltd.com

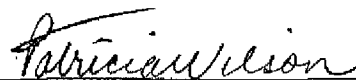
Steven M. Wilker, Esq.
Tonkon Torp LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, Oregon 97204
Telephone: 503.221.1440
Email: steven.wilker@tonkon.com

Stephen C. Mollath, Esq.
Prezant & Mollath
6560 SW McCarran Blvd., Suite A
Reno, Nevada 89509
Telephone: 775.786.3011
Email: scmpe@gbis.com

David R. Grundy, Esq.
Lemons, Grundy & Eisenberg
6005 Plumas Street, Third Floor
Reno, Nevada 89519
Telephone: 775.786.9716
Email: drg@lge.net

XXX Placing a true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, postage prepaid, following ordinary business practices.

DATED this 2nd day of September 2009.


Patricia Wilson

THIRD-PARTY DEFENDANT'S INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Document</u>	<u>Number of Pages</u>
1	"Indemnity"	2

CV07-00341 DC-9900010918-024
JOHN ILIESCU ETAL VS. MARK S. 4 Pages
District Court 09/02/2009 01:54 PM 1186
Washoe County RSIMPSON
CX1

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

INDEMNITY

THIS INDEMNITY ("Agreement") is executed by BSC FINANCIAL, LLC, a limited liability company ("BSC"), CALVIN BATY, individually ("Baty"), and JOHN SCHLEINING, individually ("Schleining") (collectively, the "Indemnifying Parties"), in favor of JOHN ILIESCU, JR., and SONNIA SANTEE ILIESCU, individually and as Trustees of the JOHN ILIESCU, JR., AND SONNIA ILIESCU 1992 FAMILY TRUST (collectively, "Iliescu"), and is effective as of the date set forth by the parties' respective signatures.

RECITALS:

A. Consolidated Pacific Development, Inc., a Nevada corporation ("Consolidated"), entered into a Land Purchase Agreement with Iliescu dated July 29, 2005, together with Addendum No. 1 dated August 1, 2005, Addendum No. 2 dated August 2, 2005, Addendum No. 3 dated October 8, 2005, and Addendum No. 4 dated as of September 18, 2006 (collectively, "Purchase Agreement"), concerning certain real property located in the City of Reno, County of Washoe, State of Nevada, identified as APNs 011-112-05, 06, 07 and 12, and more particularly described in the Title Report attached to Addendum No. 3 ("Property"). Sam Caniglia, President of Consolidated, Baty and Schleining formed BSC in order to proceed with the entitlement of the project on the Property.

B. BSC entered into an AIA Architectural Agreement ("AIA Contract") with Mark Stepan, AIA ("Architect"), for architectural services for a mixed-use development including residential, retail, and parking ("Project"). The architectural schematic drawings were necessary to obtain the land use entitlements for the Project. The land use entitlements were approved by the City of Reno.

C. On November 7, 2006, the Architect recorded in Washoe County, Nevada, a Notice and Claim of Lien against the Property in the amount of \$1,783,548.85 for claims of unpaid architectural services ("Mechanic's Lien"). These unpaid amounts are contested by BSC. In addition, the Mechanic's Lien is an improper lien not in compliance with Nevada law because the Architect failed to deliver to Iliescu (i) a Notice of Right to Lien pursuant to NRS 108.245, and (ii) a Notice of Intent to Lien pursuant to NRS 108.226(6).

D. Baty and Schleining are principals of BSC.

E. Baty, Schleining and BSC desire to indemnify Iliescu for any and all claims and costs related to the Architect's recording of the Mechanic's Lien on the Property.

NOW, THEREFORE, for valuable consideration, Baty, Schleining and BSC hereby agree as follows:

1. Indemnity. Baty, Schleining and BSC hereby, jointly and severally, agree to indemnify, defend, protect and hold Iliescu harmless against all damages, losses, expenses, costs, liabilities, including, without limitation, payments due or which may be due to the Architect arising out of services performed pursuant to the AIA Contract or any change order or extras

related thereto, including interest, penalties and attorney fees which may be claimed by Architect to be owed by either BSC or Consolidated.

2. Attorneys' Fees. Baty, Schleining and BSC hereby jointly and severally agree to pay all attorney's fees and costs incurred to contest and discharge the Mechanic's Lien. In the event that a discharge of the Mechanic's Lien does not occur pursuant to a resolution of the dispute with Architect within ten (10) days of the date of this Indemnity, the Indemnifying Parties agree to initiate an action in the Washoe County District Court to contest and to discharge the Mechanic's Lien for (i) failing to comply with Nevada law, and (ii) the excessive amount. The Indemnifying Parties agree to diligently prosecute such action in an expedited manner to eliminate the Mechanic's Lien.

IN WITNESS WHEREOF, the Indemnifying Parties have executed this Indemnity as of the date set forth below.

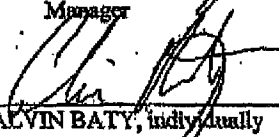
BSC FINANCIAL, LLC, a limited liability
company

Dated: December 8, 2006

By: 

Calvin Baty
Manager

Dated: December 8, 2006


CALVIN BATY, individually

Dated: December 8, 2006


JOHN SCHLEINING, individually

EXHIBIT “A”

CV07-00341
DOCS
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10/07/2009 04:54 PM
District Court
Washoe County
DOCS
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David R. Grundy, Esq. SBN 864
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
Reno, Nevada 89519
Telephone: (775) 786-6868
Facsimile: (775) 786-9716

Attorneys for Third Party Defendants
Hale Lane, Karen D. Dennison, R. Craig
Howard and Jerry M. Snyder

FILED

2009 OCT -7 PM 4:54

HOWARD W. SNYDER

BY *[Signature]*
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MARK B. STEPPAN,

Plaintiffs,

vs.

JOHN ILIESCU JR. and SONNIA ILIESCU, as
Trustees of the JOHN ILIESCU, JR. AND SONNIA
ILIESCU 1992 FAMILY TRUST AGREEMENT; JOHN
ILIESCU, individually; DOES I-V, inclusive; and ROE
CORPORATIONS VI-X, inclusive,

Defendants.

CONSOLIDATED

Case No.: CV07-00341

Dept. No.: B6

JOHN ILIESCU, JR. and SONNIA ILIESCU,
as Trustees of the JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST
AGREEMENT; JOHN ILIESCU, JR.,
individually; SONNIA ILIESCU, individually,

Third-Party Plaintiffs,

vs.

CONSOLIDATED PACIFIC DEVELOPMENT,
INC., a Nevada Corporation; DECAL
OREGON, INC., an Oregon Corporation;
CALVIN BATY, individually; JOHN SCHLEINING,
individually; HALE LANE PEEK DENNISON
AND HOWARD PROFESSIONAL CORPORATION,
a Nevada professional corporation, dba HALE
LANE; KAREN D. DENNISON; R. CRAIG
HOWARD; JERRY M. SNYDER; and DOES I
thru X,

Third-Party Defendants.

LEMONS, GRUNDY
& EISENBERG
6005 PLUMAS ST.
THIRD FLOOR
RENO, NV 89519
(775) 786-6868

1 JOHN SCHLEINING,

2 Cross-Claimant,

3 vs.

4 HALE LANE PEEK DENNISON AND HOWARD
5 PROFESSIONAL CORPORATION, a Nevada
6 Professional corporation, dba HALE LANE
and DOES XXI - XXX, inclusive,

7 Cross-Defendant.

8 JOHN SCHLEINING,

9 Third-Party Plaintiff,

10 vs.

11 HOLLAND & HART, LLP, a professional
12 corporation, R. CRAIG HOWARD and DOES
XXXI - XL, inclusive,

13 Third-Party Defendants.

14
15 **ANSWER TO THIRD PARTY COMPLAINT**

16 Third party defendants Hale Lane Peek Dennison and Howard Professional
17 Corporation, Karen D. Dennison, R. Craig Howard and Jerry M. Snyder (collectively, "Hale
18 Lane"), in answer to the third party complaint of John Iliescu, Jr. and Sonnia Iliescu, as
19 Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement; John Iliescu,
20 Jr., individually and Sonnia Iliescu, individually (collectively, "Iliescu"), on file herein, admit,
21 deny and allege as follows:

22 1. Hale Lane are without information sufficient to form a belief as to the truth or
23 falsity of the allegations contained in paragraphs 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 16, 17, 21, 23,
24 27, and 35.

25 2. Hale Lane admit the allegations contained in paragraphs 2, 3, 8, 9, 19, 25, 29, 34
26 and 36 of the third party complaint.

27 3. Hale Lane deny the allegations contained in paragraphs 11, 20, 22 and 28 of the
28 third party complaint.

1 4. In response to Paragraph 18, Hale Lane admit that Iliescu retained the Hale
2 Lane law firm to review, "fine tune", clarify and advise Iliescu relative to the Purchase
3 Agreement. The remaining allegations of Paragraph 18 are denied.

4 5. In response to Paragraph 24, Hale Lane admit that on or about November 7,
5 2006 Mark Steppan, AIA recorded a mechanic's lien on the property, and that a copy of that
6 lien is attached as Exhibit "B". The remaining allegations of Paragraph 24 are denied.

7 5. In response to Paragraph 26, Hale Lane admit that the mechanic's lien
8 recorded by Mark Steppan, AIA on November 7, 2006 made reference, at its Paragraph 2, to
9 BSC Financial, LLC, as the entity that employed Mark Steppan, AIA and who furnished the
10 work and services in connection with Iliescu's property. The remaining allegations of
11 Paragraph 26 are denied.

12 6. In response to Paragraph 30, Hale Lane admit that the Hale Lane law firm
13 represented Iliescu in regard to a) the Mechanic's Lien recorded by Mark Steppan, AIA, and b)
14 closing the Land Purchase Agreement. The remaining allegations of Paragraph 30 are denied.

15 8. In response to Paragraph 31, Hale Lane admit that on or about December 8,
16 2006, as a result of the recordation of the Mechanic's Lien by Mark Steppan, AIA, the Hale
17 Lane law firm and R. Craig Howard prepared an Indemnity Agreement for their clients referred
18 to in Paragraph 28 in the third party complaint, a copy of which was attached thereto as
19 Exhibit "C". Said Indemnity Agreement was submitted to Iliescu on December 12, 2006. The
20 remaining allegations of Paragraph 31 are denied.

21 9. In response to Paragraph 32, Hale Lane admit that on or about December 26,
22 2006, the Hale Lane law firm drafted a Conflict of Interest Waiver Agreement and submitted it
23 to Iliescu and BSC Financial, LLC for signature. The Agreement was executed by the parties. A
24 copy of said Agreement was attached to the third party complaint as Exhibit "D". The
25 remaining allegations of Paragraph 32 are denied.

26 10. In response to Paragraph 33, Hale Lane admit that thereafter, the Hale Lane
27 law firm embarked upon a course of advising Iliescu and preparing documents so as to allow
28

1 the Purchase Agreement to close with BSC Financial, LLC. The remaining allegations of
2 Paragraph 33 are denied.

3 **FIRST CLAIM FOR RELIEF**

4 11. No allegations are made in this First Claim for Relief against Hale Lane and thus
5 no response is required of Hale Lane. In the event that a response is deemed required, each
6 allegation of this First Claim for Relief is denied.

7 **SECOND CLAIM FOR RELIEF**

8 12. No allegations are made in this Second Claim for Relief against Hale Lane and
9 thus no response is required of Hale Lane. In the event that a response is deemed required,
10 each allegation of this Second Claim for Relief is denied.

11 **THIRD CLAIM FOR RELIEF**

12 13. No allegations are made in this Third Claim for Relief against Hale Lane and
13 thus no response is required of Hale Lane. In the event that a response is deemed required,
14 each allegation of this Third Claim for Relief is denied.

15 **FOURTH CLAIM FOR RELIEF**

16 14. No allegations are made in this Fourth Claim for Relief against Hale Lane and
17 thus no response is required of Hale Lane. In the event that a response is deemed required,
18 each allegation of this Fourth Claim for Relief is denied.

19 **FIFTH CLAIM FOR RELIEF**

20 15. In answer to paragraph 55 of the complaint, Hale Lane adopt and incorporate
21 by reference and makes a part hereof all of their previous answers.

22 16. Hale Lane admit the allegations contained in paragraph 56 of the third party
23 complaint.

24 17. Hale Lane deny the allegations contained in paragraph 57 of the third party
25 complaint.

26 **SIXTH CLAIM FOR RELIEF**

27 18. In answer to paragraph 58 of the complaint, Hale Lane adopt and incorporate
28 by reference and makes a part hereof all of their previous answers.

1 19. Hale Lane deny the allegations contained in paragraphs 59, 60 and 61 of the
2 third party complaint.

3 **AFFIRMATIVE DEFENSES**

4 1. Iliescu have failed to state a claim against Hale Lane upon which relief can be
5 granted.

6 2. Iliescu were careless and negligent with respect to the matters alleged in the
7 complaint, and said carelessness and negligence proximately caused or contributed to the
8 happening of the incidents complained of and to the damages, loss or damages of which
9 Iliescu complain, if any there were.

10 3. The damages claimed by Iliescu were caused solely by the acts or omissions of
11 others not named in this action.

12 4. The claims asserted against Hale Lane have not yet accrued since the
13 underlying dispute between buyer, seller, developers and developers' lien claimant has not
14 yet been concluded by final judgment. Hale Lane are thus entitled to a dismissal of these
15 claims, or in the alternative, a stay of proceedings until Iliescu's damages, if any, are fixed by
16 the court.

17 5. This action is premature since some of the persons responsible for
18 indemnifying Iliescu have claims currently pending in a bankruptcy matter through which all
19 or part of the damages being sought here may be paid or recompensed, entitling Hale Lane to
20 a stay or dismissal of the pending claims.

21 6. Iliescu have, with full knowledge of the material facts, and for their own
22 personal and financial reasons, waived any conflicts of interest in writing.

23 7. Iliescu are estopped from asserting a conflict of interest by virtue of their
24 execution of written waivers, which these parties relied upon in their continued
25 representation of other clients.

26 8. The damages claimed by Iliescu were caused solely by the acts or omissions of
27 others not named in this action.

1 9. Hale Lane at all times acted in good faith during their engagement as counsel
2 for the various parties who chose to retain Hale Lane.

3 10. Throughout their engagement as counsel for Iliescu Hale Lane disclosed both
4 orally and in writing and in a timely fashion the scope of their attorney/client relationship with
5 other parties and sought and received consent from Iliescu to represent other parties in light
6 of the fact that Iliescu's interests would be advanced thereby.

7 11. Hale Lane at all times acted in good faith at the request of Iliescu, in an effort
8 to further the interests of their clients, whose interests were aligned and consistent with one
9 another.

10 WHEREFORE, Hale Lane pray as follows:

11 1. That Iliescu take nothing in this action, and that the action be dismissed with
12 prejudice;

13 2. That Hale Lane recover their costs of suit incurred herein and a reasonable
14 attorneys' fee from Iliescu; and,

15 3. For such other and further relief as the court deems proper.

16 The undersigned affirms that this document does not contain the social security
17 number of any person.

18 DATED: October 7, 2009

19
20
21 BY: 

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28

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of Lemons, Grundy & Eisenberg and that on October 7, 2009 I deposited in the United States Mail, with postage fully prepaid, a true and correct copy of the within **ANSWER TO THIRD PARTY COMPLAINT**, addressed to the following:

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Counsel for Appellants

Electronically Filed
Nov 19 2015 03:23 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, individually, JOHN ILIESCU,
JR. and SONNIA SANTEE ILIESCU, as Trustees
of the JOHN ILIESCU, JR. AND SONNIA
ILIESCU 1992 FAMILY TRUST AGREEMENT,

Appellants

vs.

MARK B. STEPPAN,

Respondent.

Supreme Court No. 68346

Washoe County Case No. CV07-00341

(Consolidated w/CV07-01021)

**RESPONSE TO ORDER TO
SHOW CAUSE**

COME NOW, APPELLANTS, JOHN ILIESCU, JR., individually, and JOHN ILIESCU JR. and SONNIA SANTEE ILIESCU, as Trustees of the JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST AGREEMENT (jointly hereinafter “Appellants” or “Movants” or “Iliescus”), by and through their undersigned counsel of record, ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and hereby respond to this Court’s Order to Show Cause entered on October 23, 2015, as part of this Court’s “Order Granting Motion for Stay Without Posting Any Further Security and Order to Show Cause” (hereinafter “Order to Show Cause”).

The Order to Show Cause compelled the Appellants to show cause why this appeal should not be dismissed, in part, for lack of jurisdiction, as filed prematurely. This response indicates that the Judgment appealed from herein was in fact final and appealable, as clarified and confirmed by certain of the documents attached herewith and as more fully explained herein,

the finality of which judgment was also recently reconfirmed by the district court, as described hereinafter.

I. PROCEDURAL FACTS

A. A Listing of the Claims Brought Below.

1. The first of two consolidated cases appealed herein was initiated on February 14, 2007 via the filing in Washoe County District Court, of an Application, under NRS 108.2275, for release of mechanic's lien, by the Iliescus who are now the Appellants herein, against Mark B. Steppan, the Respondent herein, who had recorded a mechanic's lien against real property owned by the Iliescus (hereinafter, the **"Iliescus' NRS 108.2275 Claim against Steppan"**). This Application was assigned Washoe County Court No. CV07-00341. *See*, the July 16, 2015 Docketing Statement previously filed with this Court by the undersigned (hereinafter "Dkt Statement") at numbered Exhibit (hereinafter "Exh.") 1 thereto.

2. Mark Steppan filed his Mechanic's Lien foreclosure Complaint, also in Washoe County District Court, on May 4, 2007 (Case No. CV07-01021) (Dkt Statement Exh. 2). (Hereinafter **"Steppan's Mechanic's Lien Foreclosure Claim against the Iliescus"**). The two cases were consolidated via an Order entered September 6, 2007.

3. On September 27, 2007 the Iliescus filed an Answer and Third-Party Complaint in response to Steppan's Complaint to foreclose his mechanic's lien. Dkt Statement Exh. 3. This Third-Party Complaint included declaratory relief and indemnity claims against Calvin Baty (jointly hereinafter the **"Iliescus' Indemnity Claims against Calvin Baty"**).

4. This Third-Party Complaint also included declaratory relief and indemnity claims against John Schleining (hereinafter the **"Iliescus' Indemnity Claims against John Schleining"**).

5. This Third-Party Complaint also included claims for breach of contract and specific performance against Consolidated Pacific Development, Inc. (hereinafter the **"Iliescus' Contract Claims against Consolidated"**).

6. This pleading also included third-party specific performance claims against DeCal Oregon, Inc. (hereinafter the **"Iliescus' Contract Claims against DeCal Oregon, Inc."**).

7. Additionally, this Third-Party Complaint included claims for legal malpractice and negligence alleged against Hale Lane Peek Dennison and Howard Professional Corporation (hereinafter the **"Iliescus' Malpractice Claims against Hale Lane"**).

8. Said pleading also included legal malpractice and negligence¹ claims against Karen D. Dennison, and against R. Craig Howard, and against Jerry M. Snyder (hereinafter the **"Iliescus' Malpractice Claims against Individual Attorneys Dennison, Howard, and Snyder"**).

The law firm of Hale Lane, and the attorney Defendants Karen D. Dennison, R. Craig Howard, and Jerry M. Snyder, filed an Answer to the Third-Party Complaint on October 7, 2009, which did not contain any crossclaims, counterclaims or third-party claims. A copy of this Answer is attached as **Exhibit "A"** hereto.

9. On September 2, 2009, John Schleining filed an Answer to the Iliescus' Third-Party Complaint, which Answer included a Crossclaim and Third-Party Complaint. *See, Exhibit "B"* hereto. This pleading included a Crossclaim against the law firm of Hale Lane for negligent misrepresentation, breach of fiduciary duty, and legal malpractice (hereinafter, the **"Schleining Malpractice Claims against Hale Lane"**).

10. This pleading also included a third-party claim against the law firm of Holland & Hart, LLP for the same causes of action (hereinafter the **"Schleining Malpractice Claims against Holland & Hart"**).

11. Schleining's Third-Party Complaint against Holland & Hart also named R. Craig Howard (who should actually have been identified as a Cross-defendant, rather than a Third-Party Defendant), for the same causes of action (hereinafter the **"Schleining Malpractice Claims against Howard"**).

Hale Lane, and individual attorney R. Craig Howard, filed an Answer to the crossclaim and third-party claim of John Schleining which did not contain any of its own crossclaims or counterclaims, or third-party claims, on October 7, 2009. **Exhibit "C"** hereto.

¹ Although the parenthetical title to the sixth claim for relief does not name the individual attorney Defendants, paragraph 59, under the title, does so.

B. A Listing of the Current Disposition of Each Claim.

Of the eleven (11) sets of claims listed above, numbers 1, 2, 3, 4, 8, 9, 10, and 11 have been resolved, or adjudicated or are otherwise no longer pending below. Only claims 5, 6, and 7 still remain pending below. Based thereon, no claims remain against either of the parties to this appeal. This is shown as follows:

1. The **Iliescus' NRS 108.2275 Claim against Steppan** was ultimately adjudicated via the entry of the "Judgment, Decree & Order for Foreclosure of Mechanics Lien" herein on February 26, 2015, resolving all of the claims between the Iliescus and Steppan in both consolidated cases, all of which arose out of the claimed Steppan lien, in favor of Steppan (Dkt Statement Exh. 14). This Judgment constituted the final disposition of the lien claim issues, including on the basis of certain prior interim partial summary judgment orders also appealed herein, as to the validity and basis for calculating the amount of Respondent's lien. By upholding the validity of the lien, this Judgment finally adjudicated all of the Appellants' NRS 108.2275 claims under Case No. CV07-00341 such that it is independently appealable under NRS 108.2275(8) (indicating that an "appeal may be taken from an Order" entered thereunder). What is more, the district court has recently reiterated and further clarified the finality of this Judgment, as described in greater detail below. Although previously submitted with the Docketing Statement, a copy of this February 26, 2015 Judgment is reattached for this Court's convenience as **Exhibit "D"** hereto.

2. The **Steppan Lien Foreclosure Claim against the Iliescus** was ultimately adjudicated based on the "Judgment, Decree & Order for Foreclosure of Mechanics Lien" entered herein on February 26, 2015. **Exhibit "D."** This Judgment finally adjudicated Respondent's lien foreclosure lawsuit in Case No. CV07-0201, and ruled that Steppan "shall take Judgment" in the amounts adjudicated therein. Furthermore, the Judgment directed the sale of the lien property, such that it is final and appealable under NRAP 3A(b)(1). *See, Simmons Self-Storage Partners, LLC v. Rib Roof, Inc.*, 247 P.3d 1107 (Nev. 2011) (judgment adjudicating amount of mechanic's lien would have been final and appealable, if it had included an order directing the sale of the property). In addition, Paragraph 7 of this final Judgment recognized the existence of pending Third-Party Claims, but nevertheless determined that no just reason for

delay existed, and the Judgment, Decree, and Order for Foreclosure of the Mechanic's Lien should be certified as final (and therefore appealable) under NRCP 54(b). **Exhibit "D"** hereto at paragraph 7. The district court has recently reiterated and further clarified the finality of this Judgment, as described in greater detail below

3. The **Iliescus' Indemnity Claims against Calvin Baty** were stayed via a bankruptcy filing by Baty (**Exhibit "E"** hereto) and were then discharged therein (**Exhibit "F"** hereto), and are therefore no longer pending in this action.

4. The **Iliescus' Indemnity Claims against John Schleining** were dismissed from this suit on November 22, 2011 (*see*, **Exhibit "G"** hereto).

5. The **Iliescus' Contract Claims against Consolidated** have not yet been fully resolved or adjudicated and are still pending below. On February 22, 2008, Consolidated Pacific Development filed an Answer which contained no crossclaims or third-party claims. **Exhibit "H"** hereto. (On March 18, 2010, an Order entered allowing the attorney for Consolidated Pacific Development, Inc. to withdraw from the suit. **Exhibit "I"** hereto. This Order indicated that Consolidated was to have new counsel enter an appearance within thirty (30) days. It never did so. Nor was any last known address for Consolidated ever provided, either in the Motion or Order to withdraw. No further involvement with the case appears to have occurred with respect to Consolidated Pacific Development, Inc. which entity is now in revoked status with the Nevada Secretary of State. Thus, default proceedings will likely be taken hereafter against this entity, below, or it may be dismissed at some point, but the third-party claims against it remain pending below.)

6. The **Iliescus' Contract Claims against DeCal Oregon Inc.** have not yet been fully adjudicated, or resolved and are still pending below. DeCal entered an appearance herein on December 18, 2007 (**Exhibit "J"** hereto) but never filed an Answer. (Thus, as with Consolidated Pacific Development, third-party claims remain pending below against this third-party Defendant, albeit whether they will continue to be pursued remains to be seen.)

7. The **Iliescus' Third-Party Malpractice Claims against Hale Lane** have not been adjudicated or resolved and are still pending below. These claims were *stayed*, pending the outcome of the remainder of this litigation, on February 13, 2013. *See*, Dkt Statement Exh. 7,

“Second Stipulation to Stay Proceedings Against Defendant Hale Lane and Order to Stay and to Dismiss Claims Against Defendants Dennison, Howard and Snyder Without Prejudice, February 14, 2013.”

8. The **Iliescus’ Malpractice Claims against Individual Attorneys Dennison, Howard, and Snyder** were *dismissed* without prejudice on February 13, 2013. *See*, Dkt Statement Exh. 7, “Second Stipulation to Stay Proceedings Against Defendant Hale Lane and Order to Stay and to Dismiss Claims Against Defendants Dennison, Howard and Snyder Without Prejudice,” entered on February 14, 2013.

9. The **Schleining Malpractice Claims against Hale Lane** were dismissed on January 5, 2012, without prejudice, and are therefore no longer pending in the action below. *See Exhibit “K”* hereto.

10. Similarly, the **Schleining Malpractice Claims against Howard** were dismissed on January 5, 2012 and are therefore no longer pending in the action below. *See Exhibit “K”* hereto.

11. The **Schleining Malpractice Claims against Holland and Hart** were likewise dismissed on January 5, 2012 (**Exhibit “K”**) and are therefore no longer pending in the action below.

II. LEGAL ANALYSIS

Based on the foregoing, the only claims which remain pending below at this time are the Iliescus’ Contract Claims against Consolidated; the Iliescus’ Contract Claims against DeCal Oregon Inc., and the Iliescus’ Malpractice Claims against Hale Lane. No claims against the Iliescus or Steppan remain pending below, including any claims between them.

The Iliescus filed this appeal believing the “Judgment, Decree & Order for Foreclosure of Mechanics Lien,” at issue herein, together with certain prior interim orders and decisions on which it was based, had been rendered final and appealable, including by virtue of that Judgment having included language indicating that it was final and appealable and that there was no just reason for delay, notwithstanding the existence of any still pending third-party claims.

This Court has questioned, in its Order to Show Cause, whether that is accurate, including based on the following analysis:

The district court purported to certify the February 26, 2015, order as final pursuant to NRCP 54(b), however, the certification appears improper because the district court did not make an express direction for the entry of judgment. *See* NRCP 54(b); *Knox v. Dick*, 99 Nev. 514, 516, 665 P.2d 267, 268 (1983). Further, in the absence of the September 2, 2009, third party complaint [*i.e.*, the Schleining Third-Party Complaint which this Court's Order noted had not been attached to the Docketing Statement, but which is now attached and provided as **Exhibit "B"** hereto] it is not clear whether appellants or respondent have been completely removed from the action. *See Mallin v. Farmers Ins. Exch.*, 106 Nev. 606, 797 P.2d 978 (1990).

Thus, this Court raises two primary concerns: ***First***, whether the district court's judgment was adequately certified as final, based on whether it made an express direction for the entry of judgment; ***second***, whether the third-party claims of John Schleining would affect the finality and appealability of the court's judgment. In addition, as a ***third*** matter the Order to Show Cause referenced an additional concern. All three of this Court's concerns are addressed below:

1. RESPONSE TO FIRST CONCERN: THE JUDGMENT WAS ADEQUATELY CERTIFIED AS FINAL; AND, ALTERNATIVELY, THE DISTRICT COURT HAS RECENTLY RE-CERTIFIED THE JUDGMENT AS FINAL.

With respect to the first question raised by this Court, in *Knox v. Dick*, 99 Nev. 514, 516, 665 P.2d 267, 268 (1983), this Court reviewed a district court order treating a motion to dismiss as a motion for summary judgment, and granting dismissal of two out of three Defendants. This Court determined that the order was non-appealable, as it did not expressly make the required determination that there was no just reason for delay, notwithstanding the existence of claims against a third Defendant not dismissed in the lower court's order. *Knox*, 99 Nev. at 516, 665 P.2d at 269. This Court's decision also quoted the provisions of NRCP 54(b) regarding the need for the lower court to expressly direct the entry of judgment (as referenced in this Court's Order to Show Cause in the herein matter) but did not emphasize or reach that issue. Each of these two certification issues are addressed below.

(A) The district court's Judgment at issue herein did include an express determination that there was no just reason for delay.

In the present case, the district court's ultimate ruling on all of the claims between the Iliescus and Steppan, below, namely its February 26, 2015 "Judgment Decree and Order for

convenience as **Exhibit “D”** hereto, included a final paragraph noting the existence of third party claims, and concluded with the following statement: “The Court determines that there is no just reason for delay and, notwithstanding any remaining claims against other parties herein, this Judgment is certified as final pursuant to NRCP 54(b) with respect to the parties hereto and the claims between them.” Thus, the present case is readily distinguishable from *Knox*, in that (unlike the original order granting dismissal as to two defendants, but not as to a third defendant, at issue in *Knox*), the Judgment in this case did in fact make the express determination required by the subject Rule of Civil Procedure.

(B) The district court’s Judgment at issue herein did direct the entry of Judgment.

With respect to the question of expressly directing the entry of judgment, the lower court’s final judgment appealed from herein did in fact do just that, indicating as follows: “Plaintiff Mark B. Steppan **shall take judgment on the Notice and Claim of Lien . . .** for the following amounts:” which amounts were then set forth therein. (Judgment, Dkt. 14, at p. 2, at lines 1-12 (emphasis added)).

By way of further analysis, it might be noted that the *Knox* decision was determined prior to this Court’s decision in *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000), which indicated that an order granting summary judgment was in and of itself final and appealable, regardless of whether it utilized any particular wording, and whether it was termed an “Order” or a “Judgment” so long as it was otherwise final in its adjudication of all of the issues and as to all of the parties, even though a subsequent “judgment” thereon was later entered.

In the present case, it is clear that the district court’s Judgment, below, adjudicating all of the lien claims, and all claims by and between Steppan and the Iliescus, was and is intended as a Judgment, upon which Judgment was directed to be entered, and that the court’s language directed it be treated as such. **Exhibit “D.”** Importantly, this was not an order granting a motion, upon which it might in some situations be expected that the Court would clarify that judgment be entered on the order (such as was the case in *Knox* or for orders granting summary judgment motions, before this Court’s *Lee* decision). This was the Court’s final Judgment entered after a three day bench trial.

For example, after a three-day bench trial, the district court in this matter entered its “Findings of Fact, Conclusions of Law, and Decision” on May 28, 2014 (Dkt. Statement Exh. 11). This document was not styled a judgment, nor did it indicate that judgment was to be entered thereon. On the final page, page 12, of this decision document, the district court indicated that further proceedings would take place as to the amount of the costs and attorneys’ fees to be included in a final judgment as to the lien amount. This was done, and the district court thereafter entered orders adjudicating the amount of the costs and fees. (Dkt Statement Exh. 12 and Dkt. Statement Exh. 13). Only thereafter (and following a Rule 60(b) motion as to the court’s findings of fact and conclusions of law and decision), did the Court tally up the entire amount of the lien and enter its ultimate Judgment (Dkt Statement Exh. 14; and **Exhibit “D”** hereto).

Throughout that final Judgment document, the Court indicated its direction that it be treated as an entered judgment: the document was entitled “Judgment, Decree and Order for Foreclosure of Mechanics Lien”. It was filed under Washoe County filing Code 1880, the filing “code used when a Judgment is filed” under that clerk’s office’s rules. It contains the word “Judgment” just above the page number, on every page. The Judgment document indicates that it was based on prior orders, which had not themselves been final judgments, including the court’s prior Findings of Fact and Conclusions of Law and Decision, its prior orders regarding costs and attorneys’ fees, and its prior rulings regarding computation of interest. After this explanation the document indicates that, based on those prior rulings “Plaintiff Mark B. Steppan **shall take judgment on the Notice and Claim of Lien . . .** for the following amounts:” which were then set forth therein. (Judgment, **Exhibit “D”** at p. 2, ll. 1-12) (emphasis added). While this is not the exact same wording as “directs that judgment be entered” it clearly has the same meaning, intent, and effect.

Furthermore, this district court Judgment went on to expressly indicate that the property subject to the lien “shall be sold in satisfaction of the Plaintiff’s mechanics lien in the amounts set forth herein.” **Exhibit “D.”** By including this language, the Judgment met the test for finality of a mechanic’s lien judgment which this Court established in *Simmons Self-Storage Partners, LLC v. Rib Roof, Inc.*, 247 P.3d 1107 (Nev. 2011). In that case, this Court ruled that a

judgment adjudicating the amount of a mechanic's lien would have been final and appealable, if it had included an order directing the sale of the property. The final Judgment, now before this Court, did just that. **Exhibit "D"** hereto.

(C) The District Court Has In Any Event Again Certified Its Prior Judgment as Final.

If this Court's concern (that the district court's Judgment did not adequately certify its own finality), as expressed in its Order to Show Cause, is accurate, then the district court has retained jurisdiction in this matter while this Court's Order to Show Cause has been pending. Based thereon, prior to preparing the current Response to the Order to Show Cause, the undersigned requested that the district court issue a new order amending its Judgment to again clarify its finality. This is similar to the procedure which was followed in *Knox*, in which this Court issued an order to show cause similar to the one responded to herein, to determine whether an appeal had been filed prematurely. Before responding to or obtaining a final ruling on that order, the appellant went back to the district court, which then issued a new order containing the appropriate certification. Based thereon, this Court allowed the original Notice of Appeal to be upheld. *Knox*, 99 Nev. at 516, 655 P.2d at 269.

In accordance with this procedural precedent and principle (which, by citing to *Knox*, this Court seemed to the undersigned to be inviting reliance upon herein), Movants have recently sought from and obtained from the lower court an Order clarifying the finality of its Judgment. If that Judgment was final in the first place, as argued above, then this recently obtained Order is of no effect (having been obtained from a court without jurisdiction) and was also moot and unnecessary. If that Judgment was not, however, previously final, then the lower court had jurisdiction to make it final, and has now done so. More particularly, attached as **Exhibit "L"** hereto is an Order dated November 17, 2015, from the lower court, entitled "Decision and Order Granting Motion Seeking Clarification of Finality of Judgment." That Decision and Order includes the following key provisions:

On October 29, 2015, Defendants (and Appellants) filed a "Motion Seeking Clarification of Finality of Court's Recent Judgment for Purposes of Maintaining Appeal..." ("Motion"). The Motion was fully briefed, submitted for decision, and argued at a hearing on November 13, 2015. Based on the briefing and oral arguments, it is plain that both Plaintiff/Respondent and Defendants/Appellants agree that the Judgment is a final, appealable order. Such

was also this Court's intent. Furthermore, no claims remain pending herein against the Defendants/Appellants or the Plaintiff/Respondent.

For purposes of clarification, **this Court hereby amends, with retroactive effect, the Judgment**, as set forth hereinafter. In the event that this Court currently lacks jurisdiction to amend the Judgment, this Court indicates that upon dismissal of the Appeal it will amend the Judgment to comply with NRCP 54(b) and any other requirements of the Nevada Supreme Court to make the Judgment final and appealable, as set forth herein.

Therefore, good cause appearing,

IT IS HEREBY ORDERED as follows:

Paragraph 7 of the Judgment is hereby amended, *nunc pro tunc*, as aforestated, to read as follows:

7. This Judgment finally and fully adjudicates all of the claims and all of the defenses between Mark B. Steppan ("Steppan") on the one hand, and John Iliescu Jr., individually, and John Iliescu, Jr., and Sonnia Iliescu as Trustees of the John Iliescu Jr. and Sonnia Iliescu 1992 Family Trust Agreement ("Iliescus") on the other hand, in both of these consolidated cases. **Notwithstanding the existence of certain pending third-party claims** by the Iliescus against certain third-party defendants which remain pending and have not yet been fully resolved or adjudicated herein, this Court, pursuant to NRCP 54(b): expressly determines that **there is no just reason for delay; expressly directs entry of this Judgment** in favor of Steppan and against the Iliescus as of February 26, 2015; and certifies this Judgment as final.

See, **Exhibit "L"** hereto, at pp. 2 and 3 thereof (emphasis added).

Based on the foregoing, the undersigned requests that this Court not dismiss this appeal, but instead, either (1) uphold the Notice of Appeal as originally valid and not premature; or, (2) uphold the Notice of Appeal as rendered originally valid and timely and not premature on the basis of the district court's interim and retroactive order of clarification and amendment attached herewith as **Exhibit "L"** hereto; or (3) provide such instructions to the appellants and/or the lower court as will allow an appropriate appeal to be filed hereafter, in a timely fashion, upon the correct procedures being employed below and hereafter, as will prevent any trap for the unwary from causing any inappropriate loss of any appellate rights herein.

2. RESPONSE TO SECOND CONCERN: THE SCHLEINING CLAIMS ARE NO LONGER PENDING.

With respect to the second of the concerns expressed by this Court, a copy of the September 2, 2009 Third-Party Complaint filed by Schleining has now been attached herewith as **Exhibit “B.”** The undersigned apologizes for any oversight in failing to attach this pleading to the docketing statement. In addition, the Order indicating that the claims brought by Schleining therein are no longer pending below has also been attached herewith as **Exhibit “K”** hereto. It should be noted that Schleining brought no claims against either the Iliescus or against Steppan, and it should further be noted that the claims brought by Schleining are no longer pending below as part of the instant case. In addition, although irrelevant in light of the district court’s Rule 54(b) certification, the third-party claims brought against Schleining are no longer pending as part of this case below (**Exhibit “F”** hereto), such that Schleining is not a party to this case at this time.

3. RESPONSE TO THIRD CONCERN: OTHER ISSUE.

This Court has also questioned the Appellants for having identified the district court’s May 27, 2015 Order denying a motion to alter or amend as an order challenged on appeal, indicating that such an order is not appealable. That being the case, the undersigned concedes that said Order should not have been listed as among the orders being appealed herein. The appeal from that Order may be dismissed (without a dismissal of the remainder of the appeal), or the reference to that Order may be stricken from the list of items being appealed (without affecting the appeal of the other orders and judgment, listed as being appealed from herein).

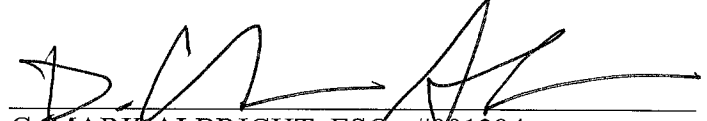
III. CONCLUSION

For the reasons set forth above, it is respectfully requested that this Court uphold the Notice of Appeal as timely filed and not premature. Alternatively, the Court may uphold the Notice of Appeal as having been rendered timely and not premature by the district court’s intervening order of clarification attached as **Exhibit “L”** hereto. Only the appeal from the May 27, 2015 Order should be stricken or dismissed without affecting the remainder of the appeal. If the Court should disagree with this analysis, it is respectfully requested that this Court maintain the appeal of the Judgment insofar as it finally adjudicated the Iliescus’ NRS 108.2275 claims,

and it is further requested that this Court stay said appeal, for purposes of judicial economy, until the remainder of the claims can be appealed, following a request to the lower court to again modify its judgment language to make it more clearly appealable, or following whatever other action may be taken below to render the judgments and orders entered to date ultimately final and appealable hereafter.

DATED this 19th day of November, 2015.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT

A handwritten signature in black ink, appearing to be 'G. Mark Albright', written over a horizontal line.

G. MARK ALBRIGHT, ESQ., #001394

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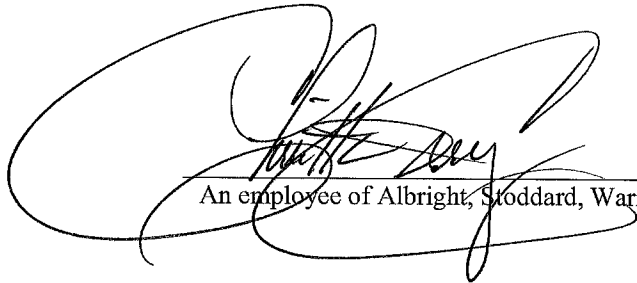
Counsel for Appellants

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT, and that on this 19th day of November, 2015, service was made by the following mode/method a true and correct copy of the foregoing **RESPONSE TO ORDER TO SHOW CAUSE**, to the following person(s):

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☐ Regular Mail



An employee of Albright, Stoddard, Warnick & Albright