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Tracie K. Lindeman
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14 *Yacov Jack Hefetz*

15 No. A-11-645353-C

Dept. No. XXVIII

16 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
17 **STATE OF NEVADA IN AND FOR**
18 **THE COUNTY OF CLARK**

19 YACOV JACK HEFETZ,

Supreme Court Case No. 68843

20 Plaintiff-Appellant,

21 v.

22 CHRISTOPHER BEAVOR,

23 Defendant-Respondent.

24 **CASE APPEAL STATEMENT**

25 PLEASE TAKE NOTICE THAT Plaintiff-Appellant, Yacov Jack Hefetz
26 (hereinafter referred to as the "Appellant"), by and through his counsel, H. Stan
27 Johnson, Esq., and Michael V. Hughes, Esq. of the law firm of Cohen-Johnson,
28

1 LLC, hereby files his **Case Appeal Statement** with the Nevada Supreme Court
2 and, therefore, states as follows:

3
4 **I. Name of Appellant filing the Case Appeal Statement**

5 Plaintiff-Appellant Yacov Jack Hefetz is the appellant filing this Case
6 Appeal Statement.

7
8 **II. Identify the Judge Issuing the Decision, Judgment, or Order from
9 which the Appeal is Taken**

10 District Court Judge Ronald J. Israel is the District Court Judge who
11 issued the decision and order from which the pending appeal is taken. He is a
12 District Court Judge in the Eighth Judicial District Court for the State of Nevada.

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14 **III. Identify Each Appellant and the Name and Address of Counsel for
15 Each Appellant**

16 The Appellant is Yacov Jack Hefetz. His legal counsel is H. Stan
17 Johnson, Esq. and Michael V. Hughes, Esq. of the law firm of Cohen|Johnson,
18 LLC located at Suite 100, 255 East Warm Springs Road, Las Vegas, Nevada
19 89119. The telephone number of the law firm of Cohen|Johnson, LLC is (702)
20 823-3500.

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IV. Identify Each Respondent and the Name and Address of Appellate Counsel, if known, for Each Respondent (if the name of a Respondent's Appellate Counsel is Unknown, indicate as much and provide the Name and Address of that Respondent's Trial Counsel)

The Respondent is Christopher Beavor. His legal counsel is Joel Z. Schwarz, Esq. and Gabriel A. Blumberg, Esq. of the law firm of Dickinson Wright PLLC, Suite 200, 8383 West Sunset Road, Nevada 89113.

V. Indicate whether any Attorney identified above in Response to Question 3 or 4 is not Licensed to Practice Law in Nevada and, if so, whether the District Court granted that Attorney Permission to Appear under SCR 42 (attach a copy of any district court order granting such permission)

All attorneys identified in response to Question Nos. 3 and 4 are licensed to practice law in the State of Nevada.

VI. Indicate whether Appellant was represented by Appointed or Retained Counsel in the District Court

Appellant was represented by retained counsel in the District Court. That counsel was H. Stan Johnson, Esq. and Michael V. Hughes, Esq. of the law firm of Cohen|Johnson, LLC located at Suite 100, 255 East Warm Springs Road, Las Vegas, Nevada 89119. The telephone number of the law firm of Cohen|Johnson, LLC is (702) 823-3500.

VII. Indicate whether Appellant is represented by Appointed or Retained Counsel on Appeal

Appellant is represented by retained counsel in the Nevada Supreme Court. That counsel is H. Stan Johnson, Esq. and Michael V. Hughes, Esq. of the

1 law firm of Cohen|Johnson, LLC located at Suite 100, 255 East Warm Springs
2 Road, Las Vegas, Nevada 89119. The telephone number of the law firm of
3 Cohen|Johnson, LLC is (702) 823-3500.
4

5 **VIII. Indicate whether Appellant was granted leave to proceed in Forma**
6 **Pauperis, and the Date of Entry of the District Court Order granting**
7 **such Leave**

8 The Appellant is not proceeding in Forma Pauperis and was, therefore,
9 never granted leave to proceed in Forma Pauperis.

10 **IX. Indicate the Date the Proceedings Commenced in the District Court**
11 **(e.g., date when complaint, indictment, information, or petition was**
12 **filed)**

13 The above-captioned proceedings commenced in District Court on July
14 21, 2011 with the filing by Appellant of a Verified Complaint.

15 **X. Provide a Brief Description of the Nature of the Action and Result in**
16 **the District Court, including the Type of Judgment or Order Being**
17 **Appealed and the Relief Granted by the District Court**

18 This case involves an offer of judgment made in the context of a case
19 involving the dismissal without prejudice of an action in violation of the One
20 Action Rule.

21 On July 21, 2011, Appellant commenced the above-captioned action against
22 Respondent by filing a complaint with a single claim for breach of a guaranty. The
23 amount of that claim exceeds four million dollars. That claim proceeded to a jury
24 trial. At the conclusion of the trial the jury returned a verdict in the amount of zero
25 dollars in favor of Respondent. On May 21, 2013, the Court entered a judgment on
26 the jury verdict.
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1 On June 10, 2013, Appellant had newly retained counsel file a motion for a
2 new trial on the grounds that Respondent's prior counsel acted improperly during
3 the trial in connection with references made by him regarding Appellant's religious
4 beliefs (Jewish) and national origins (Israeli). The Court granted the motion and
5 ordered a new trial. Respondent's prior counsel did not properly appeal the
6 granting of the new trial, instead filing a writ of petition which was denied by the
7 Nevada Supreme Court.

8 On or about January 21, 2015, Respondent's newly retained and current
9 counsel appeared in the above-captioned case.

10 On April 3, 2015, Beavor served Appellant with an Offer of Judgment
11 pursuant to which Respondent offered to allow a judgment to be taken against him
12 in the amount of ten thousand dollars, including costs and attorney's fees.

13 On April 7, 2015, Beavor's counsel announced for the first time and after the
14 close of discovery his intention to raise the affirmative defense of the One Action
15 Rule arising under NRS § 40.430. When making that announcement,
16 Respondent's counsel had not served Appellant with a copy of his motion to
17 dismiss based on the One Action Rule. Without a copy of the motion to dismiss on
18 the basis of the One Action Rule, Appellant did not have an opportunity to
19 examine the merits of the affirmative defense of the One Action Rule.

20 On April 13, 2015, Appellant permitted the Offer of Judgment in the amount
21 of ten thousand dollars to lapse and, therefore, to be rejected.

22 On May 7, 2015, Respondent filed his dispositive motion to dismiss based
23 on the One Action Rule. On June 17, 2015, the Court granted Respondent's
24 motion to dismiss and entered an order dismissing the case *without prejudice*. In
25 light of that disposition, Appellant still has the opportunity to obtain a judgment in
26 an amount in excess of four million dollars, which is still substantially more
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1 favorable than the offer in the amount of ten thousand dollars set forth in the
2 Respondent's offer of judgment.

3 On June 25, 2015, Respondent filed his Memorandum of Costs and
4 Disbursements seeking to recover alleged costs in the approximate amount of
5 \$338.48.

6 On July 8, 2015, Beavor filed his motion for Attorney's Fees and Costs
7 seeking fees in the approximate amount of \$21,831.00.

8 On or about September 3, 2015, a Notice of Entry of Order was entered on
9 the docket of the above-captioned case. That notice contained the Court's order
10 granting Respondent's motion for attorneys' fees and costs. The Court's order,
11 however, only awarded attorneys' fees in the amount of \$15,000.00 and costs in
12 the amount of \$338.48.

13 In light of the preceding case summary, Appellant seeks an order reversing
14 the award of attorneys' fees and costs since the basis for the award is an order of
15 dismissal without prejudice and not a judgment.

16 **XI. Indicate whether the Case has previously been the subject of an**
17 **Appeal to or Original Writ Proceeding in the Supreme Court and, if**
18 **so, the Caption and Supreme Court Docket Number of the Prior**
Proceeding

19 The case has been the subject of two prior appeals to the Nevada
20 Supreme Court. One case had the caption of *Christopher Beavor v. Eighth*
21 *Judicial District Court of the State of Nevada* and was assigned Nevada Supreme
22 Court docket number 65656. The other case had the caption of Yacov Jack Hefetz
23 v. Christopher Beavor and was assigned Nevada Supreme Court Docket No.
24 68843.
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XII. Indicate whether this appeal involves child custody or visitation

The pending appeal does not involve child custody or visitation issues.

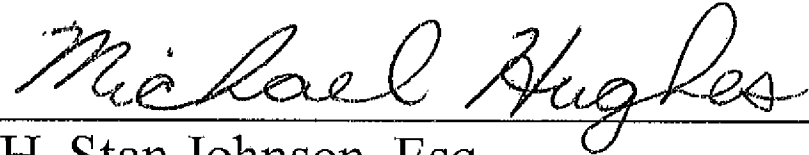
XIII. If This is a Civil Case, Indicate Whether This Appeal Involves the Possibility of Settlement

The pending appeal involves a civil case for which there does not appear to be the possibility of settlement.

Dated this 22nd day of September, 2015.

COHEN|JOHNSON, LLC

By:



H. Stan Johnson, Esq.

Nevada Bar No. 00265

Michael V. Hughes, Esq.

Nevada Bar No. 13154

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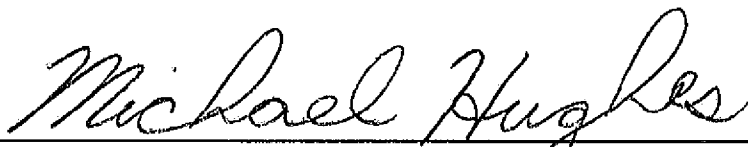
Attorneys for Plaintiff-Appellant

Yacov Jack Hefetz

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on the 22nd day of September, 2015, a true and correct copy of the foregoing **Case Appeal Statement** was served upon each of the parties set forth below via U.S. First-Class Mail and Odyssey E-Filing System pursuant to Rule 5(b)(2)(D) of the Nevada Rules of Civil Procedure and Rule 8.05 of the Eighth Judicial District Court Rules:

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Christopher Beavor


An employee of Cohen-Johnson, LLC