

1 had previously worked for that firm, nearly 5 years ago now. *Id.* Mr. Kravitz asked Mr.
2 Schnitzer whether he ever worked on the case. *Id.* Mr. Schnitzer had not. *Id.* Mr.
3 Kravitz asked whether Mr. Schnitzer had gained any confidential information about Kids
4 Quest during his time at HJC. *Id.* Mr. Schnitzer had not. *Id.* In fact, Mr. Schnitzer had
5 absolutely no knowledge about the *Blue* case. *Id.* As a result, Mr. Kravitz determined it
6 was permissible for Mr. Schnitzer to work on the instant case, and no screening was
7 required. *Id.*

9 Mr. Schnitzer has performed work on this case, but he is not the primary attorney
10 as Defendant claims. *Id.* Mr. Kravitz is the lead attorney on the case. *Id.* Mr. Schnitzer
11 has billed less than half of the total hours spent on this case. *Id.* Mr. Schnitzer has never
12 provided any confidential information regarding Defendant. *Id.* In fact, he has never
13 provided any information regarding Defendant that he did not learn through the course of
14 the instant litigation. *Id.*

16 During Mr. Schnitzer's time at HJC, he was an associate attorney. *See* Affidavit of
17 Jordan P. Schnitzer, Esq. attached as **Exhibit 2**. Mr. Schnitzer had a list of cases that he handled
18 under the supervision of an HJC partner, which was Steve Jaffe the vast majority of the time. *Id.*
19 Mr. Schnitzer was not assigned the *Blue* case as one of his "assigned" cases. *Id.* Mr. Schnitzer
20 did perform any work in the *Blue* case. *Id.* Defendant has no provided an affidavit that any
21 representative of the company ever spoke with Mr. Schnitzer. Defendant has similarly not
22 produced a single billing entry from Mr. Schnitzer on the *Blue* case.

24 According to the Court pleadings, Michael Hall, Esq. was the partner who handled the
25 *Blue* case at HJC. *Id.* After the filing of the instant Motion, Mr. Schnitzer contacted Michael
26 Hall, Esq. of HJC regarding this matter. *Id.* Mr. Hall confirmed that Mr. Schnitzer had nothing
27 to do with the defense of Defendant while at HJC. *Id.* Mr. Hall also confirmed Mr. Schnitzer no
28

1 contact with Defendant nor would he have any confidential information. *Id.* Mr. Hall also told
2 Mr. Schnitzer that Mr. Hall gave this very same information to Defendant's current counsel. *Id.*

3 As a result, Defendant and its counsel knew the statements in the Motion were untrue.
4 Defendant and its counsel were also aware that the Motion had no merit based upon the
5 conversation with Mr. Hall. Therefore, Plaintiff has served a Rule 11 Motion on Defendant's
6 counsel, which will be filed 21 days after the date of service. See Rule 11 Motion attached as
7 **Exhibit 3.**

8
9 Defendant also claims Mr. Schnitzer and another associate at HJC, Ms. Northway, shared
10 an assistant. See Motion at pg 4:16-18. Defendant claims Ms. Northway worked on Defendant's
11 prior case at HJC. Mr. Schnitzer has no recollection of sharing an assistant with Ms. Northway.
12 See **Exhibit 2.** Further, Mr. Schnitzer contacted Ms. Northway who likewise has no recollection
13 of ever sharing an assistant with Mr. Schnitzer. *Id.* In fact, Ms. Northway stated she believes
14 this statement to be untrue because she and Mr. Schnitzer sat on opposite sides of the office. *Id.*

15
16 Therefore, Mr. Schnitzer has never acquired any confidential information
17 regarding Defendant. As a result, Mr. Schnitzer and KSJ may continue representing
18 Plaintiff in the current litigation.

19 **III. ARGUMENT**

20 **A. The Rules of Professional Conduct are Designed to be Used as a Guide to**
21 **Attorney Behavior, Not as Procedural Weapons in Civil Litigation**

22 Defendant is clearly not happy with having to produce any information. They have
23 forced confidentiality agreements upon former litigants and attempted to use that as a shield
24 to protect themselves from their transgressions. Now that this Court has ruled some
25 information must be produced, Defendant is trying to disqualify Plaintiff's counsel for no
26 other reason than for delay, harassment and a tactical advantage.
27

1 Nevada case law holds that Motions to Disqualify should not be used to gain tactical
2 advantages in litigation. The Nevada Federal District Court held in *In-N-Out Burger v. In &*
3 *Out Tire & Auto, Inc.* 20078. U.S. Dist. LEXIS 63883 (D. Nev. July 24, 2008) that
4 "particularly strict judicial scrutiny: should be given to a motion to disqualify
5 opposing counsel because there is a significant possibility of abuse for tactical
6 advantage." *Optyl Eyewear Fashion Int 'I Corp v. Style Cos., Ltd*, 760 F.2d 715, 721-22 (7th
7 Cir. 1982)). Tactical consideration often motivates such motions. *In re: Marvel*, 251
8 B.R. 869, 871 (Bkrtey. N.D. Cal. 2000) As such courts must prevent parties from
9 misusing motions for disqualification as "instruments of harassment or delay." *Brown*
10 *v. Eighth Judicial Dist. Court*, 116 Nev. 1200, 1205 14 P.3d 1266 (Nev. 2000) Courts
11 therefore approach the issue of whether to disqualify opposing counsel as "a drastic
12 measure which courts should hesitate to impose except when absolutely necessary."
13 *United States v. Titan Pac. Const. Corp.*, 637 F. Supp. 1556, 1562 (W.D. Wash. 1986)
14 (quoting *Freeman*, 689 F.2d at 721).

15
16
17 Defendants transparent effort to gain a tactical advantage should be rejected because
18 there is simply no support for the Motion.
19

20 **B. There is No Basis to Disqualify Mr. Schnitzer Because Mr. Schnitzer Has No**
21 **Confidential Information**

22 Defendant's entire brief is based upon the faulty assumption, without any
23 evidence, that Mr. Schnitzer actually represented Defendant and acquired confidential
24 information about Defendant. The undisputed evidence shows that Mr. Schnitzer neither
25 represented Defendant nor acquired confidential information. As a result, there is no
26 basis for disqualification.
27
28

1 Nevada Rules of Professional Conduct ("RPC") 1.9(a) provides:

2 A lawyer who has formerly represented a client in a matter
3 shall not thereafter represent another person in the same or a
4 substantially related matter in which that person's interests
5 are materially adverse to the interests of the former client
6 unless the former client gives informed consent, confirmed in
7 writing. (Emphasis added)

8 RPC 1.9(a) does not apply in this case because Mr. Schnitzer never represented
9 Defendant in any capacity. RPC 1.9(b) applies in this case, where the "firm with which
10 [Mr. Schnitzer] was associated had previously represented [Defendant]." The rule where
11 an attorney's former firm represented someone provides the attorney may not represent
12 someone whose interests are adverse to that client and "(2) About whom the lawyer had
13 acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter..."

14 The fact that Mr. Schnitzer had no role in the *Blue* case and never obtained any
15 confidential information ends this Court's inquiry. The State Bar of Nevada Standing
16 Committee on Ethics and Professional Responsibility issued Formal Opinion No. 39 on April
17 24, 2008, which supports Plaintiff's position. See **Exhibit 4**. The Standing Committee on
18 Ethics noted that:

19 If the laterally moving lawyer had no role in the case at the
20 former firm, and did not otherwise acquire confidential
21 information material to the matter, the moving lawyer is not
22 personally disqualified from representing Client B while in the
23 new firm, Red & Green.

24 *Id.* at page 2 citing ABA Model Rule 1.9(b) Comment [5]. The same opinion emphasized
25 this point a second time:

26 [S]uppose the laterally moving lawyer had no direct role in case A v. B
27 while the lawyer was with former firm, White & Brown — but did
28 possess confidential information from the former firm so as to be
personally disqualified under Rule 1.9(b) -- and then moves to firm Red
& Green, which represents Client B in the same or a related case. In that

1 situation, the lawyer's new firm, Red & Green, could continue to
2 represent Client B without Client A consent if the personally disqualified
lawyer is ethically screened from the case.

3 Finally, if the lawyer changing firms had neither a role in the case A v.
4 B, nor the possession of confidential information about the case, then
5 neither screening nor client consent is required for the lawyer and the
6 new firm to represent the opposite party in the case.

7 *Id.* (emphasis added). See also *Edwards v. 360 [degrees] Communs.*, 189 F.R.D. 433, 436
8 (D. Nev. 1999)(in denying a motion to disqualify held “an attorney who was not directly
9 involved in a law firm’s representation of a client cannot be imputed with actual knowledge
10 of confidential information once that attorney resigns from employment with that firm...”).

11 Defendant fails to cite a single case or rule that would allow Mr. Schnitzer to be
12 disqualified where he never represented Defendant and acquired no confidential information
13 about Defendant.

14 Similarly, Defendant fails to cite a single piece of evidence that a conflict exists.
15 “The burden of proving... falls on the party moving for disqualification and that party must
16 have evidence to buttress the claim that a conflict exists.” *Robbins v. Gillock*, 109 Nev.
17 1015, 1017, 862 P.2d 1195, 1197 (1993). Without any such evidence, the Motion must be
18 denied.
19

20 Additionally, the cases cited by Defendant are not applicable here. For example, in
21 *Waid*, it was undisputed the attorney at issue had represented the moving party in a prior
22 litigation. *Waid v. Eighth Judicial Dist. Court*, 121 Nev. 605, 608, 119 P.3d 1219, 1221
23 (2005). The exact opposite is true, here. It is undisputed Mr. Schnitzer never represented
24 Defendant.
25

26 In *Ryan’s Express*, it was also undisputed that the attorney at issue obtained
27 confidential information. *Ryan’s Express Transp. Servs. v. Amador Stage Lines, Inc.*, 279
28

1 P.3d 166, 168 (Nev. 2012). In that case, the Supreme Court remanded for an evidentiary
2 hearing related to whether or not screening measures were sufficient pursuant to RPC 1.10.
3 *Id.* Such an issue is not the case before this Court because it is undisputed Mr. Schnitzer
4 never obtained any confidential information.

5 *Nev. Yellow Cab. Corp.* involved a case where the attorney at issue had actually
6 defended the party seeking disqualification. *Nev. Yellow Cab Corp. v. Eighth Judicial Dist.*
7 *Court of Nev.*, 123 Nev. 44, 46, 152 P.3d 737, 738 (2007). Again, Mr. Schnitzer never
8 defended the Defendant in this case.

10 Finally, *Coles* involved a case where the attorney did not dispute that she "gained
11 disadvantageous confidential information" while employed at her prior firm. *Coles v. Ariz.*
12 *Charlie's*, 992 F. Supp. 1214, 1216 (D. Nev. 1998). Here, the opposite is true. It is
13 undisputed Mr. Schnitzer never gained any confidential information.

15 As set forth above, Mr. Schnitzer is not disqualified from representing Plaintiff. As
16 a result, there can be no imputed disqualification of KSJ.

17 IV. CONCLUSION

18 Based on the forgoing, it is respectfully requested that Defendants' Motion to
19 Disqualify Plaintiffs' Counsel be **DENIED**.

21 DATED this 19 day of January, 2016.

22 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

23 BY: 

24 MARTIN J. KRAVITZ, ESQ.
25 Nevada Bar No. 83
26 JORDAN P. SCHNITZER, ESQ.
27 Nevada Bar No. 10744
28 WADE VAN SICKLE
Nevada Bar No. 13604
Attorneys for Plaintiff

Page 8

CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
19th day of January, 2016, I served a true and correct copy of the foregoing
PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO DISQUALIFY
PLAINTIFFS' COUNSEL to the above-entitled Court for electronic filing and service upon the
Court's Service List for the above-referenced case to the following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129

Emin L. Adams
An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD

EXHIBIT “1”

AFFIDAVIT OF MARTIN J. KRAVITZ, ESQ.

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

MARTIN J. KRAVITZ, ESQ., being duly sworn, deposes and states the following:

1. That your Affiant is an attorney duly licensed to practice law in the State of Nevada.

2. I am the managing partner in the law firm of Kravitz, Schnitzer & Johnson, Chtd., (the "Firm") and the firm represents Plaintiff in the above referenced case.

3. The case was brought into the law firm by me.

4. After accepting the case, I conducted a search, both through court pleadings and the internet, to determine whether there had been any prior similar incidents.

5. I located two claims of prior similar incidents that had gone in to litigation, one locally and one in Minnesota.

6. I wanted to, and still want to, obtain as much information as possible about any prior similar incidents.

7. As a result, I attempted to obtain as many available documents as possible, as well as speak to the Plaintiff's attorneys in the other cases.

8. I found that neither attorney from the other cases could provide any information due to a confidentiality agreement that had been forced upon them by Kids Quest.

9. This has led to the extensive discovery requests related to those two cases.

10. Additionally, during my investigation, I noticed the firm of Hall, Jaffe and Clayton ("HJC") defended Kids Quest in the prior litigation in Clark County, *Blue v. New Horizon Kids Quest*.

11. I knew one of my associates, Jordan Schnitzer, had previously worked for that firm, nearly 5 years ago now.

12. I asked Mr. Schnitzer whether he ever worked on the case.

13. He told me he had not.

14. I asked whether Mr. Schnitzer had gained any confidential information about Kids Quest during his time at HJC.

15. He told me had not.

16. In fact, Mr. Schnitzer had absolutely no knowledge about the Blue case.

17. As a result, I determined it was permissible for Mr. Schnitzer to work on the instant case, and no screening was required.

18. Mr. Schnitzer has performed work on this case, but he is not the primary attorney as Defendant claims.

19. I am the lead attorney on the case.

20. Mr. Schnitzer has billed less than half of the total hours spent on this case.

21. Mr. Schnitzer has never provided any confidential information regarding Defendant.

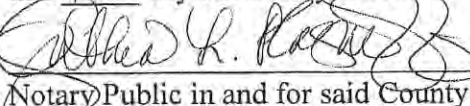
22. In fact, he has never provided any information regarding Defendant that he did not learn through the course of the instant litigation.

22. FURTHER YOUR AFFIANT SAYETH NAUGHT.

23. DATED this 19th day of January, 2016.


Martin J. Kravitz, ESQ.

25. Subscribed and Sworn to before me
this 19th day of January, 2016.

26. 
Notary Public in and for said County and State

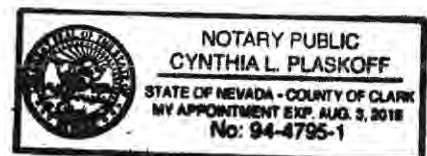


EXHIBIT “2”

AFFIDAVIT OF JORDAN P. SCHNITZER, ESQ.

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

JORDAN P. SCHNITZER, ESQ., being duly sworn, deposes and states the following:

1. That your Affiant is an attorney duly licensed to practice law in the State of Nevada.
2. I am a partner in the law firm of Kravitz, Schnitzer & Johnson, Chtd., (the "Firm") and the firm represents Plaintiff in the above referenced case.
3. That I never worked on the case involving Defendant while at Hall, Jaffe and Clayton.
4. That I never had any discussions regarding Defendant while at Hall, Jaffe and Clayton ("HJC").
5. That I never learned any information at all about Defendant while at Hall, Jaffe and Clayton.
6. That I contacted my former employer, HJC, specifically Michael Hall, Esq. regarding the allegations in the Motion to Disqualify. Mr. Hall confirmed to me that I never had anything to do with the case involving Defendant. In fact, Mr. Hall confirmed there were no billing entries for me on the case involving Defendant.
7. Mr. Hall also explained he informed Ms. Galati that I had no involvement in the Defendant's case nor any contact with the Defendant at HJC.
8. That I gained no information whatsoever, let alone confidential information, concerning Defendant while at HJC. As a result, I could not and cannot use any confidential information of Defendant in the instant case.
9. That I have no recollection of sharing an assistant with Ms. Northway.
10. That I contacted Ms. Northway and she confirmed she had no recollection of sharing an assistant with me. She believes we never shared an assistant because our offices were on opposite sides of the building.

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 So. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203; FAX - (702) 362.2203

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 14 day of January, 2016.


JORDAN P. SCHNITZER, ESQ.

Subscribed and Sworn to before me
this 14th day of January, 2016.

Erin L Adams
Notary Public in and for said
County and State

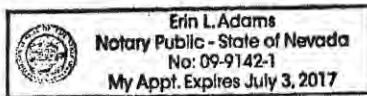


EXHIBIT “3”

Law Offices

KRAVITZ, SCHNITZER & JOHNSON, CHTD.

A Professional Corporation

Martin J. Kravitz
Gary E. Schnitzer
M. Bradley Johnson *
Jennifer N. Taylor
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January 14, 2016

Via E-Service

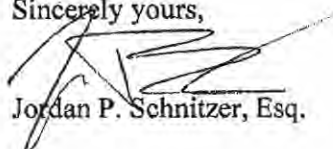
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129

Re: Isabella Godoy v. New Horizon Kid Quest III, Inc.

Dear Ms. Galati,

Attached please find Plaintiff's Motion for Rule 11 Sanctions against you and your firm related to representation and arguments made in your Motion to Disqualify. Please be advised I will file the Motion for Sanctions 21 days after today's date should you fail to withdraw your Motion to Disqualify. Govern your actions accordingly.

Sincerely yours,


Jordan P. Schnitzer, Esq.

JPS/ea

KRAVITZ, SCHNITZER & JOHNSON, CHTD.

8985 SO. EASTERN AVENUE, SUITE 200

LAS VEGAS, NEVADA 89123

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Nevada Bar No. 83
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Nevada Bar No. 10744
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Attorneys for Plaintiff,
ISABELLA GODOY, a minor,
by and through her Mother,
Veronica Jaime

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME

Plaintiff,

vs.

NEW HORIZON KIDS QUEST III, INC., a
Minnesota Corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendant.

Case No.: A-14-707949-C

Dept. No.: XXIX

**HEARING DATE:
HEARING TIME:**

PLAINTIFF'S MOTION FOR RULE 11 SANCTIONS

COMES NOW, Plaintiff ISABELLA GODOY, a Minor, by and through her mother,
VERONICA JAIME and by and through her attorneys of record, Jordan P. Schnitzer, Esq., of
the law firm of KRAVITZ, SCHNITZER & JOHNSON, CHTD., and hereby submits their
Motion for Rule 11 Sanctions.

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203; FAX - (702) 362.2203

1 This Motion is based upon the papers and pleadings on file herein, the attached
2 Memorandum of Points and Authorities, the attached exhibits, and any oral argument to be heard
3 at the time of hearing.
4

5 DATED this 14 day of January, 2016.

6 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

7
8 By: 

9 MARTIN J. KRAVITZ, ESQ.

10 Nevada Bar No. 83

JORDAN P. SCHNITZER, ESQ.

11 Nevada 10744

8985 So. Eastern Avenue, Suite 200

12 Las Vegas, Nevada 89123

Attorneys for Plaintiff,

13 *ISABELLA GODOY, a Minor,*

14 *by and through her Mother,*

Veronica Jaime

15
16
17 ////

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LAS VEGAS, NEVADA 89123
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NOTICE OF MOTION

PLEASE TAKE NOTICE that Plaintiff will bring the following **PLAINTIFF'S**
MOTION FOR RULE 11 SANCTIONS on for hearing before Department XXIX, on the ____
day of _____ 2016, at ____ a.m./p.m. or as soon thereafter as counsel may be heard.

DATED this 14 day of January, 2016.

KRAVITZ, SCHNITZER & JOHNSON, CHTD.

By: 

MARTIN J. KRAVITZ, ESQ.

Nevada Bar No. 83

JORDAN P. SCHNITZER, ESQ.

Nevada 10744

WADE J. VAN SICKLE, ESQ.

Nevada Bar No. 13604

8985 So. Eastern Avenue, Suite 200

Las Vegas, Nevada 89123

Attorneys for Plaintiff,

ISABELLA GODOY, a Minor,

by and through her Mother,

Veronica Jaime

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant, through its counsel ("Defendant's Counsel"), filed a Motion to Disqualify that
contains facts known by Defendant's Counsel to be false and without evidentiary support.
Further, the claims are not supported by law. As a result, sanctions are warranted.

II. STATEMENT OF FACTS

On December 30, 2015, Defendant filed a frivolous Motion to Disqualify (the "Motion")
the undersigned, designed solely to harass Plaintiff, containing blatant factual
misrepresentations. The Motion seeks to disqualify the undersigned based upon Jordan
Schnitzer's previous employment with Hall, Jaffe and Clayton ("HJC"). Michael Hall, Esq. of

1 HJC defended this Defendant in another case that ended 5 years ago; a case in which Mr.
2 Schnitzer had no involvement.

3 The Motion contains nothing more than baseless and untruthful allegations in support of
4 a non-existent conflict. Specifically, the Motion alleges Mr. Schnitzer may use highly
5 confidential information received from Defendant. See Motion at Exhibit D, paragraph 15.
6 Defendant and Defendant's Counsel know this is a false statement. Defendant's Counsel
7 contacted Michael Hall, Esq. of HJC regarding this matter. See Affidavit of Jordan P. Schnitzer,
8 Esq. attached as **Exhibit 1**. Mr. Hall told Defendant's Counsel that Mr. Schnitzer had absolutely
9 nothing to do with the defense of Defendant while at HJC and had no contact with Defendant.
10 *Id.* Despite this knowledge, Defendant moved forward with the Motion.
11

12 Defendant also claims Mr. Schnitzer and another associate at HJC, Ms. Northway, shared
13 an assistant. See Motion at pg 4:16-18. Defendant claims Ms. Northway worked on Defendant's
14 prior case at HJC. Defendant made the allegation concerning sharing the assistant knowing there
15 is absolutely no evidence to support the allegation. Mr. Schnitzer has no recollection of sharing
16 an assistant with Ms. Northway. *Id.* Further, Mr. Schnitzer contacted Ms. Northway who
17 likewise has no recollection of ever sharing an assistant with Mr. Schnitzer. *Id.* As a result, there
18 can be no evidence to support this alleged fact.
19

20 Finally, there is absolutely no legal basis supporting Defendant's request that this Court
21 disqualify the undersigned. As set forth above, Mr. Hall told Defendant's Counsel that Mr.
22 Schnitzer had no involvement and acquired no information related to Defendant's prior
23 litigation. *Id.* As a result, the Nevada Rules of Professional Conduct 1.9(b) allow Mr. Schnitzer
24 to represent Plaintiff in this matter. There is no legal support for a Motion to Disqualify where it
25 is undisputed Mr. Schnitzer did not represent Defendant and acquired no protected information
26 regarding Defendant.
27
28

1 **III. LAW AND ANALYSIS**

2 N.R.C.P. Rule 11 specifically provides as follows:

3 (a) Signature. Every pleading, written motion, and other paper shall be signed by at
4 least one attorney of record in the attorney's individual name, or, if the party is not
5 represented by an attorney, shall be signed by the party. Each paper shall state the
6 signer's address and telephone number, if any. Except when otherwise
7 specifically provided by rule or statute, pleadings need not be verified or
8 accompanied by affidavit. An unsigned paper shall be stricken unless omission of
9 the signature is corrected promptly after being called to the attention of the
10 attorney or party.

11 (b) Representations to court. By presenting to the court (whether by signing, filing,
12 submitting, or later advocating) a pleading, written motion, or other paper, an
13 attorney or unrepresented party is certifying that to the best of the person's
14 knowledge, information, and belief formed after an inquiry reasonable under the
15 circumstances,

16 ...

17 (2) **the claims, defenses, and other legal contentions therein are warranted by**
18 **existing law** or by a nonfrivolous argument for the extension, modification, or
19 reversal of existing law or the establishment of new law;

20 (3) **the allegations and other factual contentions have evidentiary support** or, if
21 specifically so identified, are likely to have evidentiary support after a reasonable
22 opportunity for further investigation or discovery; and

23 ...

24 (c) Sanctions. If after notice and a reasonable opportunity to respond, the court
25 determines that subdivision (b) has been violated, the court may, subject to the
26 conditions stated below, impose an appropriate sanction upon the attorneys, law
27 firms, or parties that have violated subdivision (b) or are responsible for
28 the violation.

(1) How initiated.

(A) By motion. A motion for sanctions under this rule shall be made separately from
other motions or requests and shall describe the specific conduct alleged to violate
subdivision (b). It shall be served as provided in Rule 5, but shall not be filed with
or presented to the court unless, within 21 days after service of the motion (or
such period as the court may prescribe), the challenged paper, claim, defense,
contention, allegation, or denial is not withdrawn or appropriately corrected.

[Emphasis added].

A motion for sanctions under this rule must be made separately from other motions or

1 requests and must describe the specific alleged violation of subdivision (b) and it must be served
2 as provided in Rule 5, but shall not be filed with or presented to the court unless, within 21 days
3 after service of the motion (or such other period as the court may prescribe), the challenged
4 paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately
5 corrected. If warranted, the court may award to the prevailing party on the motion reasonable
6 expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional
7 circumstances, a law firm shall be held jointly responsible for violations committed by its
8 partners, associates, and employees. *N.R.C.P.* Rule 11(c)(1)(A). A sanction imposed for violation
9 of Rule 11 shall be limited to what is sufficient to deter repetition of such conduct or comparable
10 conduct by other similarly situated. *N.R.C.P.* Rule 11(c)(2). Sanctions may consist of, or include,
11 directives of a non-monetary nature, an order to pay a penalty into court, or, if imposed on motion
12 and warranted for effective deterrence, an order directing payment to the movant of some or all of
13 the reasonable attorney's fees and other expenses incurred as a direct result of the violation. *Id.*

14
15
16 As provided herein above, Defendant and Defendant's counsel made false representations
17 in the Motion in a blatant attempt to harass Plaintiff and delay the proceedings. Further, there is
18 no law to support the Motion to Disqualify given the undisputed facts that Mr. Schnitzer never
19 represented Defendant nor obtained any confidential information related to Defendant. This
20 conduct is intentional, meant only to harass Plaintiff and delay proceedings, and should not be
21 tolerated. Defendant and Defendant's counsel were given the opportunity to correct and/or
22 withdraw these representations and have failed to do so. As a result, sanctions pursuant to Rule
23 11 are absolutely mandated.

24
25 N.R.C.P. Rule 11 provides a person signing pleadings certifies that he has read the paper
26 and that, to the best of his knowledge, the paper is well founded in fact and that the paper is not
27 interposed for any improper purpose. *Ford Motor Credit Co. v. Crawford*, 109 Nev. 616, 855
28

1 P.2d 1024 (1993). Defendant and Defendant's counsel are not being candid with this Court. To
2 allow such conduct to continue is preposterous, and their failure to withdraw the representations
3 renders this Motion for Sanctions appropriate. *See also, Thomas v. City of North Las Vegas*, 122
4 Nev. 82, 127 P.2d 1057 (2006) (Recognizing sanctions as appropriate for egregious and
5 improper conduct in filing briefs that advance arguments without citations for legal authority,
6 making assertions that lack citations, and making factual misrepresentations); *Young v. Ninth*
7 *Judicial Dist. Court, In and for County of Douglas*, 107 Nev. 642, 818 P.2d 844 (1991)
8 (Sanctions imposed after determining that no evidential support existed for petitioner's motion to
9 strike); *Barry v. Lindner*, 119 Nev. 661, 81 P.3d 537 (2003) (Sanctions of \$500 warranted for
10 attorney's failure to follow Rules of Appellate Procedure, where brief prepared by attorney made
11 assertions that were not supported by citations to the record); *Bergmann v. Boyce*, 109 Nev. 670,
12 856 P.2d 560 (1993) (When an attorney violates N. R. C. P. 11, the court "shall impose" upon
13 the attorney, the represented party, or both, "an appropriate sanction", which may include a
14 "reasonable attorney fee.")
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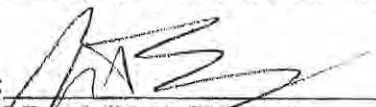
KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203; FAX - (702) 362.2203

1 IV. CONCLUSION

2 Based upon the above and foregoing, this Court should sanction James R. Olson, Esq.,
3 Felicia Galati, Esq. and their firm of Olson, Cannon, Gormley, Angulo and Stoberski pursuant to
4 N.R.C.P. Rule 11 for making intentional misrepresentations to this Court and filing the Motion
5 without legal support. Plaintiff seeks monetary sanctions including attorneys' fees and costs
6 associated with the filing of this pleadings and defending against the frivolous Motion.
7

8 DATED this 14 day of January, 2016.
9

10 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

11 BY: 
12 MARTIN J. KRAVITZ, ESQ.
13 Nevada Bar No. 83
14 JORDAN P. SCHNITZER, ESQ.
15 Nevada Bar No. 10744
16 WADE VAN SICKLE
17 Nevada Bar No. 13604
18 *Attorneys for Plaintiff*
19 8985 So. Eastern Avenue, Suite 200
20 Las Vegas, Nevada 89123
21 *Attorneys for Plaintiff,*
22 ISABELLA GODOY, a Minor,
23 *by and through her Mother,*
24 Veronica Jaime
25
26
27
28

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CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
14th day of January, 2016, I served a true and correct copy of the foregoing **PLAINTIFF'S**
MOTION FOR RULE 11 SANCTIONS to the above-entitled Court for electronic service upon
the Court's Service List for the above-referenced case to the following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129

Emin L. Adams
An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD

EXHIBIT “1”

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203; FAX - (702) 362.2203

AFFIDAVIT OF JORDAN P. SCHNITZER, ESQ.

STATE OF NEVADA)
COUNTY OF CLARK) ss.

JORDAN P. SCHNITZER, ESQ., being duly sworn, deposes and states the following:

1. That your Affiant is an attorney duly licensed to practice law in the State of Nevada.
2. I am a partner in the law firm of Kravitz, Schnitzer & Johnson, Chtd., (the "Firm") and the firm represents Plaintiff in the above referenced case.
3. That I never worked on the case involving Defendant while at Hall, Jaffe and Clayton.
4. That I never had any discussions regarding Defendant while at Hall, Jaffe and Clayton ("HJC").
5. That I never learned any information at all about Defendant while at Hall, Jaffe and Clayton.
6. That I contacted my former employer, HJC, specifically Michael Hall, Esq. regarding the allegations in the Motion to Disqualify. Mr. Hall confirmed to me that I never had anything to do with the case involving Defendant. In fact, Mr. Hall confirmed there were no billing entries for me on the case involving Defendant.
7. Mr. Hall also explained he informed Ms. Galati that I had no involvement in the Defendant's case nor any contact with the Defendant at HJC.
8. That I gained no information whatsoever, let alone confidential information, concerning Defendant while at HJC. As a result, I could not and cannot use any confidential information of Defendant in the instant case.
9. That I have no recollection of sharing an assistant with Ms. Northway.
10. That I contacted Ms. Northway and she confirmed she had no recollection of sharing an assistant with me. She believes we never shared an assistant because our offices were on opposite sides of the building.

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 14 day of January, 2016.


JORDAN P. SCHNITZER, ESQ.

Subscribed and Sworn to before me
this 14th day of January, 2016.

Erin L Adams
Notary Public in and for said
County and State

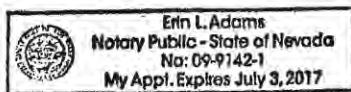


EXHIBIT “4”

**STATE BAR OF NEVADA
STANDING COMMITTEE ON
ETHICS AND PROFESSIONAL RESPONSIBILITY**

**Formal Opinion No. 39¹
April 24, 2008**

QUESTIONS

1. When a lawyer leaves one private firm and joins another (*i.e.*, lateral movement of a lawyer in private practice), may that lawyer represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client represented by that lawyer while in the former firm?

2. When a lawyer leaves one private firm and joins another (*i.e.*, lateral movement of a lawyer in private practice), may the lawyer represent a person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a client of the moving lawyer's former firm if the moving lawyer received material, confidential information about the matter while in the former firm?

3. When a lawyer leaves a private firm, may the former firm represent a person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client represented by the leaving lawyer while in the former firm?

4. Does imputed disqualification apply to all members of the firm of a laterally moving lawyer who formerly participated personally and substantially in a matter? For example, can other members of the laterally moving lawyer's new firm participate in a matter in which the lawyer personally and substantially participated if the personally disqualified lawyer is screened from the matter within the firm?

5. May screening be employed to avoid imputed disqualification in situations other than a laterally moving lawyer, such as firm mergers and multi-city firms?

6. What are the requirements of an ethical screen?

¹This opinion is issued by the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, pursuant to S.C.R. 225. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, its board of governors, any persons or tribunals charged with regulatory responsibilities, or any member of the state bar..

ANSWERS

Answer No. 1 The Laterally Moving Lawyer

When a lawyer leaves one private firm² and joins another (*i.e.*, lateral movement of a lawyer in private practice), that lawyer is personally disqualified, and may not represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client represented by the former firm if:

- (1) the lawyer formerly represented the now adverse client while in the former firm, Rule ³ 1.9(a); or
- (2) the lawyer otherwise acquired confidential information material to the matter while in the former firm, Rule 1.9(b),

unless the former client gives informed consent⁴, confirmed in writing.

This is the situation where the lawyer either personally represented Client A in case A v. B while the lawyer was with former firm, White & Brown, or otherwise acquired confidential information material to the matter while in the former firm. The lawyer then moves to firm Red & Green, which represents Client B in the same or a related case. In that situation, *the lawyer* cannot represent Client B in the new firm unless former Client A gives informed consent, confirmed in writing.

Note two important clarifications:

- (1) If the laterally moving lawyer had no role in the case at the former firm, and did not otherwise acquire confidential information material to the matter, the moving lawyer is not personally disqualified from representing Client B while in the new firm, Red & Green. ABA Model Rule 1.9(b), Comment [5]; and
- (2) Even if the laterally moving lawyer did represent Client A in case A v. B while the lawyer was with former firm, White & Brown, or otherwise acquired confidential information material to the matter while in the former

²"Firm" or "law firm" denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization. Rule 1.0(c).

³All references to "Rule" are to the Nevada Rules of Professional Conduct, effective May 1, 2006.

⁴Defined in Rule 1.0(b).

firm – and is personally disqualified from representing Client B in the new firm – that disqualification may be removed by the informed consent of former Client A. Rules 1.9(a) and (b).

Answer No. 2

Imputed Disqualification of *All* Lawyers in the Laterally Moving Lawyer's New Firm

When a lawyer leaves one private firm and joins another (i.e., lateral movement of a lawyer in private practice), and the moving lawyer is personally disqualified under Rule 1.9 from representing a person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a client of the moving lawyer's former firm, *all* lawyers in the new firm are also disqualified by imputation. None of the lawyers in the new firm may represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client represented by the former firm, unless the former client gives informed consent, confirmed in writing. Rule 1.10(a); *Brown v. Eighth Judicial District Court*, 116 Nev. 1200, 1204, 14 P.3d 1266, 1269 (2000); *Nevada Yellow Cab v. Eighth Judicial District Court*, 123 Nev. ____ (Adv. Op. 6), 152 P.3d 737, 742 (2007).

In this situation the *new firm*, Red & Green, cannot continue to represent Client B, unless former Client A gives informed consent, confirmed in writing.

Again, note two important clarifications:

- (1) Of course, there is no imputed disqualification affecting the firm unless the moving lawyer is personally disqualified. If the lawyer changing firms had no role in the case at the former firm, and did not otherwise acquire confidential information material to the matter, neither the moving lawyer, nor the new firm, are disqualified from representing Client B while in the new firm, Red & Green. ABA Model Rule 1.9(b), Comment [5]; and
- (2) Even if the laterally moving lawyer did represent Client A in case A v. B while the lawyer was with former firm, White & Brown, or otherwise acquired confidential information material to the matter while in the former firm – and the lawyer and the new firm are disqualified from representing Client B in the new firm – that disqualification may be removed by the informed consent of former Client A. Rules 1.9(a) and (b).

Answer No. 3

Imputed Disqualification of the Moving Lawyer's Former Firm

When a lawyer leaves⁵ a firm, the former *firm* may not represent a person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of a former client represented by the leaving lawyer while in the former firm, if *any* lawyer remaining in the former firm has confidential information that is material to the matter – unless the disqualification of the former firm is waived by the affected client under Rule 1.7. Rule 1.10(b) and (c).

This is the situation where the lawyer who personally represented Client A in case A v. B while the lawyer was with former firm, White & Brown, leaves the firm. In addition, Client A discharges White & Brown. The former firm, White & Brown, is then asked by Client B to represent Client B in the same or a substantially related case. In that situation, the former firm cannot represent Client B if *any* lawyer remaining in the former firm has confidential information that is material to the matter – unless the disqualification of the former firm is effectively waived by affected client under Rule 1.7⁶, Rule 1.10(c).

Answer No. 4

Screening in the Laterally Moving Lawyer's New Firm

The traditional rule has long prohibited screening of the personally disqualified lawyer as a means of the elimination of the imputed disqualification of the entire firm to whom the lawyer has laterally moved. ABA Model Rule 1.10; *Brown v. Eighth Judicial District Court*, 116 Nev. 1200, 1204 14 P.3d 1266, 1269 (2000).

However, in 2006 Nevada adopted Rule 1.10(e) which authorizes limited screening as a means of eliminating imputed disqualification. Under Rule 1.10(e), a limited exception to the imputed disqualification of all members of the *new* firm of a laterally moving lawyer may apply

⁵In this situation it does not matter whether the lawyer laterally moves to a new firm or retires, since the focus is on the former firm itself rather than the lawyer.

⁶Waiver under Rule 1.7 requires:

- (1) The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) The representation is not prohibited by law;
- (3) The representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) Each affected client gives informed consent, confirmed in writing.

when:

- (1) The personally disqualified lawyer did not have a substantial role in, or primary responsibility for, the matter that causes the disqualification under Rule 1.9; and
- (2) The personally disqualified lawyer is timely screened from any participation in the matter; and
- (3) The personally disqualified lawyer is apportioned no part of the fee therefrom; and
- (4) Written notice is promptly given to any affected former client to enable it to ascertain compliance with the provisions of this Rule.

This is a Nevada specific Rule not adopted by the ABA Model Rules.⁷

Significantly, screening is allowed to avoid imputed disqualification without the consent of the former client – even if the laterally moving lawyer possesses confidential information from the former firm so as to be personally disqualified under Rule 1.9(b) – but only if the laterally moving lawyer did not have a *substantial role in, or primary responsibility for*, the matter. When the laterally moving lawyer did have a substantial role in, or primary responsibility for, the matter, the ABA rule prohibiting screening applies.⁸

Thus, screening cannot remove the imputed disqualification bar against all of the members of the laterally moving lawyer's new firm if:

- (1) The personally disqualified lawyer had a substantial role in, or primary responsibility for, the matter that causes the disqualification under Rule 1.9; or
- (2) The personally disqualified lawyer is apportioned a part of the fee therefrom; or
- (3) Written notice is not promptly given to the affected former client to enable it to ascertain compliance with the provisions of this Rule.

⁷ABA Model Rule 1.10 has no subsection (e) authorizing screening. However, both the ABA and the Nevada Rules allow screening to remove imputed disqualification with respect to former judges, other adjudicative officers, law clerks to such a person, former arbitrators, mediators or other third-party neutrals, and former public officers or former government employees, who enter private practice in a firm. Rules 1.11 and 1.12.

⁸

ABA Model Rule 1.10.

For example, suppose the lawyer who was the lead or “2nd chair” counsel for Client A in case A v. B while the lawyer was with former firm, White & Brown, moves to firm Red & Green, which represents Client B in the same or a related case. In that situation, the lawyer’s new firm, Red & Green, cannot continue to represent Client B. In that situation, screening could not eliminate the imputed disqualification. However, even if screening did not remove the imputed disqualification, both the laterally moving lawyer and the new firm, Red & Green, could continue to represent Client B if Client A waives the conflict under Rule 1.7. Rule 1.10(c).

On the other hand, suppose the laterally moving lawyer had no direct role in case A v. B while the lawyer was with former firm, White & Brown – but did possess confidential information from the former firm so as to be personally disqualified under Rule 1.9(b) – and then moves to firm Red & Green, which represents Client B in the same or a related case. In that situation, the lawyer’s new firm, Red & Green, could continue to represent Client B without Client A consent if the personally disqualified lawyer is ethically screened from the case.

Finally, if the lawyer changing firms had neither a role in the case A v. B, nor the possession of confidential information about the case, then neither screening nor client consent is required for the lawyer and the new firm to represent the opposite party in the case.

Answer No. 5

Screening in Situations Other than a Laterally Moving Lawyer, Such as Firm Mergers and Multi-City Firms

The ABA rule prohibiting screening to remove imputed disqualification applies to all situations other than a laterally moving lawyer. In all other situations – such as law firm mergers and multi-city law firms – at least one lawyer in the merged or multi-city firm will necessarily have had a substantial role in, or primary responsibility for, the matter. Thus, in all other situations, the Nevada specific exception in Rule 1.10(e) cannot apply. Under the limited Nevada exception, screening can only apply to remove imputed disqualification from the new firm of a lawyer changing firms.

However, there is one other situation where screening is appropriate. Even when the disqualification is removed by the consent of the former client, all lawyers in possession of confidential information from the former representation are under a continuing obligation to protect and not reveal the information in the new representation. Rule 1.9(c). As a result, a voluntary ethical screen as described below in Answer No. 6, is a recommended “best practice”.

Answer No. 6

The Minimum Requirements of an Ethical Screen

An ethical screen must isolate the personally disqualified lawyer from any participation in the matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under the Model Rules or other law. Rule 1.0(k).

The elements of an effective ethical screen should at a minimum include:

- a. the personally disqualified lawyer must agree in writing not to participate in the representation and not to discuss the matter with any employee of, or person affiliated with, the firm;
- b. all employees of, and persons affiliated with, the firm must be advised in writing that the personally disqualified lawyer is personally disqualified and screened from the matter and not to discuss the matter with the personally disqualified lawyer;
- c. the isolation of files, documentation, and communications, including electronic communications, relating to the matter from the personally disqualified lawyer. For example, with respect to files, they could be labeled on the outside something to the effect that “name of the personally disqualified lawyer is screened from this matter”;
- d. the writings described in (1) and (2) above should be periodically resent so long as the screen is necessary; and
- e. at appropriate times the personally disqualified lawyer should swear or affirm to the tribunal, if any, that (s)he has not breached the agreement described in (1) above.

See, LaSalle v. County of Lake, 703 F.2d 252 (7th Cir. 1983); *Delaware River Port Authority v. Home Insurance Company*, 1994 WL 444710 (DC Pa. 1994); *Sufficiency of Screening Measures (Chinese Wall) Designed to Prevent Disqualification of Law Firm, Member of Which is Disqualified for Conflict of Interest*, 68 A.L.R. Fed. 687 (1984); Restatement of the Law Third, The Law Governing Lawyers, §124. In addition, the above minimum requirements of an ethical screen are consistent with those suggested by the Nevada Supreme Court for laterally moving nonlawyers (i.e., legal assistants, paralegals, investigators, etc.), which were announced prior to its passage of Rule 1.10(e) to allow laterally moving lawyers to be screened. *Liebowitz v. The Eighth Jud. Dist. Ct.*, 119 Nev. 523, 532 78 P.3d 515, 521 (2003).

1 **II. STATEMENT OF FACTS**

2 On October 1, 2014, Plaintiff filed her Complaint. *See Exhibit 1*, Complaint. Defendant
3 filed its Answer on November 12, 2014. *See Exhibit 2*, Answer. The parties conducted an Early
4 Case Conference on January 26, 2015. *See Exhibit 3*, Joint Case Conference Report. On
5 March 13, 2015, Plaintiff served her First Set of Requests for Production of Documents upon
6 Defendant. *See Exhibit 4*, Plaintiff's First Set of Requests for Production of Documents. The
7 documentation sought included corporate manuals, marketing materials, training materials, prior
8 incidents and complaints, documents relating to the subject child perpetrator, and discovery
9 related to Clark County District Court Case No. A547414 ("Case No. A547414"). *Id.* On April
10 30, 2015, Defendant provided inadequate responses thereto. *See Exhibit 5*, Defendant's
11 Responses to Plaintiff's First Set of Requests for Production of Documents.

12 On June 1, 2015, Defendant moved the Court for a Protective Order asserting that the
13 production of the requested documents would violate NAC 432A.360 and the Confidentiality
14 Agreement relating to Case No. A547414. *See Exhibit 6*, Defendant's Motion For Protective
15 Order Pursuant To NRCP 26(C). On June 18, 2015, Plaintiff filed her Opposition and Counter-
16 Motion to Compel Defendant to produce the documents identified in its written discovery
17 requests. The matter was heard by the Discover Commissioner on July 8, 2015 *See Exhibit 7*,
18 Discovery Commissioner's Report and Recommendations.

19 ////

20 ////

21 ////

22 ////

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24 ////

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1 The Discovery Commissioner's Report and Recommendations states in pertinent part:

2 IT IS FURTHER RECOMMENDED Defendants are to produce ten years
3 of incident reports involving battery, sexual or otherwise, by one child
4 upon another occurring at any of the Defendant's locations nationally as
5 sought by Request for Production Number 4. These reports are to be
6 exchanged and maintained as confidential within the confines of Rule
7 26(c) protections stated above. Defendant shall redact any child's name
8 mentioned whether the attacker, or the victim, from the reports. However,
9 Plaintiffs may review the un-redacted reports involving the particular
10 minor in this case only, including his name and the name of his parents.
11 The name will be maintained as confidential within the confines of this
12 case pursuant to Rule 26(c) until counsel are allowed to amend the
13 Complaint to bring in the Parents, or until otherwise ordered by the
14 District Court Judge;

15 *Id.* at 4:3-14.

16 IT IS FURTHER RECOMMENDED the Commissioner retained the
17 privilege of attorney work product and attorney-client communications.
18 However, Defendant must produce, at Plaintiffs' copy expense (such
19 charges to be reasonable under the circumstances), the discovery sought in
20 Request for Production Number 12 that is not privileged, i.e. Defendant's
21 answers to written discovery (not privileged or confidential), depositions
22 of Defendant's employees, agents and or principals, Defendant's expert
23 disclosures and reports, and any pleadings of the Defendant.

24 *Id.* at 5:7-16.

25 Additionally, Plaintiff filed her Third Set of Requests for Production of Documents to
26 Defendant. *See Exhibit 8*, Plaintiff's Third Set of Requests for Production of Documents to
27 Defendant. Contained therein Plaintiff made the following request:

28 REQUEST NO. 60:

Copies of any and all claims against any New Horizon or Kids Quest for alleged
molestation, violence, physical abuse or sexual abuse or assaults of any kind of a
minor at any New Horizon or Kids Quest facility, including any corporate entities
with knowledge of any incident referenced above, including name, address and
phone numbers, dates of occurrence, information on current and former
employees with information to the referenced claims for the prior 10 years.

On August 20, 2015, Defendant filed its Ex-Parte Motion on Order Shortening Time to
Seal Objections to Discovery Commissioner Report and Recommendations and Exhibits Thereto
alleging the moving papers would violate NAC 432A.360 and the Confidentiality Agreement from

1 Case No. A547414. See Exhibit 9, Defendant's Ex-Parte Motion. On August 24, 2015, the
2 District Court granted Defendant's Ex Parte Motion finding sealing or redaction justified or
3 required because "the documents concern minors and alleged sexual assault; the records are
4 subject to a Confidentiality Order in another case." See Exhibit 10, Defendant's Order to Seal
5 Defendant's Objection to Discovery Commissioner's Report and Recommendations and Exhibits
6 Thereto. On August 25, 2015, Defendant filed its Objection to Discovery Commissioner's Report
7 and Recommendations. See Defendant's Objection to Discovery Commissioner's Report and
8 Recommendations. (Filed Under Seal.)
9

10 **III. LEGAL STANDARD**

11 Nevada Rules of Civil Procedure ("NRCPP") 26 governs discovery. The rule states in
12 pertinent part:

13 (b) **Discovery scope and limits.** Unless otherwise limited by Order of the Court in
14 accordance with these rules, the scope of discovery is as follows:

15 (1) In general. Parties may obtain discovery regarding any matter, not privileged,
16 which is relevant to the subject matter involved in the pending action, whether it
17 relates to the claim or defense of the party seeking discovery or to the claim or
18 defense of any other party, including the existence, description, nature, custody,
19 condition and location of any books, documents, or other tangible things and the
20 identity and location of persons having knowledge of any discoverable matter. It is
21 not ground for objection that the information sought will be inadmissible at the
22 trial if the information sought appears reasonably calculated to lead to the
23 discovery of admissible evidence. All discovery is subject to the limitations
24 imposed by Rule 26(b)(2)(i), (ii), and (iii).

25 NRCPP 26; see also *State ex rel. Tidvall v. Eighth Judicial Dist. Court*, 91 Nev. 520, 527, 539 P.2d
26 456, 460 (1975).

27 Further, the Nevada Supreme Court has held discovery is limited, not merely to admissible
28 evidence, but to requests that "appear[] reasonably calculated to lead to the discovery of admissible

evidence." *Schlatter v. Eighth Judicial Dist. Court*, 93 Nev. 189, 192, 561 P.2d 1342, 1343 (1977).

This broad right of discovery is based on the general principle that litigants have a right to every man's evidence, and that wide access to relevant facts serves the integrity and fairness of the judicial process by promoting the search for the truth. *State ex rel. Tidvall v. Eighth Judicial Dist. Court*, 91 Nev. 520, 524, 539 P.2d 456, 458 (1975) citing *United States v. Bryan*, 339 U.S. 323, 331 (1950).

IV. LEGAL ARGUMENT

Defendant has continuously attempted to prevent the disclosure of discoverable materials and shown a clear intent to maintain a shroud of secrecy around its conduct. More importantly, Defendant is doing so under the façade of protecting the privacy interests of previous minor victims. The obstructionist behavior is inappropriate. A recent Federal Court Opinion addresses this exact abuse of the discovery process:

Discovery – a process intended to facilitate the free flow of information between parties – is now too often mired in obstructionism. Today's "litigators" are quick to dispute discovery requests, slow to produce information, and all-too-eager to object at every stage of the process. They often object using boilerplate language containing every objection imaginable, despite the fact that Courts have resoundingly disproved of such boilerplate objections. Some litigators do this to grandstand for their client, to intentionally obstruct the flow of clearly discoverable information, to try and win a war of attrition, or to intimidate and harass the opposing party. Others do it simply because its how they were taught. As my distinguished colleague and renowned expert on civil procedure Judge Paul Grimm of the District Court of Maryland has written: "It would appear that there is something in the DNA of the American civil justice system that resists cooperation during discovery." Whatever the reasons, obstructionist discovery conduct is born of a warped view of zealous advocacy, often formed by insecurities and fear of the truth. This conduct fuels the astronomical costly litigation industry at the expense of "the just, speedy, and inexpensive determination of every action and proceeding." Fed. R.Civ. P. 1. It persists because most litigators and a few real trial lawyers- even very good ones, like the lawyers in this case- have come to accept it as part of the routine chicanery of federal discovery practice.

Sec. Nat'l Bank of Sioux City v. Abbott Labs., 299 F.R.D. 595, 595-598, 2014 U.S. Dist.

LEXIS 102228, *1, 89 Fed. R. Serv. 3d (Callaghan) 468, 2014 WL 3704277 (N.D. Iowa

2014).

This Court should reject Defendant's clear abuse of discovery practices.

A. Defendant's Nationwide Incident Reports are Discoverable and Relevant to the Present Litigation

Defendant asserts that the Discovery Commissioner had no basis for ordering Plaintiff to produce documentation and incident reports related to sexual assaults and batteries occurring in all of Defendant's facilities when the relevant Request sought the aforementioned documentation relating to sexual assaults occurring at Defendant's Boulder Highway premises. See Defendant's Objection at 12: 8-25, 13:1-8. Defendant's argument is moot. On July 8, 2015, Plaintiff served her Third Set of Requests for Production of Documents. See Exhibit 8, Plaintiff's Third Set of Request for Production of Documents. Contained therein Plaintiff made the following request:

REQUEST NO. 60:

Copies of any and all claims against any New Horizon or Kids Quest for alleged molestation, violence, physical abuse or sexual abuse or assaults of any kind of a minor at any New Horizon or Kids Quest facility, including any corporate entities with knowledge of any incident referenced above, including name, address and phone numbers, dates of occurrence, information on current and former employees with information to the referenced claims for the prior 10 years.

As indicated above, Plaintiff has formally sought all of the information which Defendant was mandated to produce pursuant to the Discovery Commissioner's Report and Recommendations. Furthermore, Plaintiff has no legitimate basis for failing to produce the documents. None of the documentation sought is privileged. Defendant asserts that NAC 432A.360 prohibits the production of prior incident reports, particularly in Case No. A547414, Blue v. Kids Quest ("Blue"). See Defendant's Objection at 19:22-25. However, this administrative code is not a privilege. See NRS 49.015. Additionally, there is no language in this administrative code, and Defendant provides no legal authority, to support the contention that the administrative code prohibits the disclosure of information as required by judicial proceedings.

1 As such, Defendant's argument is unfounded and the documentation is discoverable. *See* NRCP
2 26(b)(1).

3 Likewise, the Request seeks information and documentation that is relevant to the issues
4 of the present litigation. Specifically, the prior incident reports and claims against Defendant
5 demonstrate it had notice and knowledge of minor on minor assaults. As such, the evidence is
6 relevant to establishing liability with respect to the claims premised in negligence and fraud as
7 well as punitive damages. *See* NRS 48.015.

8
9 Additionally, Defendant asserts Plaintiff's counsel misrepresented facts of the case to
10 inflame the Discovery Commissioner and obtain discovery well beyond what is normally
11 allowed in the jurisdiction. *See* Defendant's Objection at 4:7-11. Specifically, Defendant cited
12 the following excerpt of the Hearing transcript:

13 "the cases always stem around the same issue, which is they don't staff
14 property, they don't have enough people, they do not follow administrative
15 regulations." *Id.* at 4:11-14.

16 Contrary to Defendant's assertion, there is nothing misleading about Plaintiff's
17 Counsel's statement. Defendant was cited by the Bureau of Services for Child Care for
18 violating NAC 432A.520. *See* Exhibit 11, Bureau of Services For Child Care Site Report.
19 NAC 432A.520(1) mandates that:

20 A licensee of a child care facility shall have a staff which is sufficient in
21 number to provide physical care, supervision and individual attention to
22 each child and allow time for interaction between the staff and the children
23 to promote the children's social competence, emotional well-being and
24 intellectual development.

25 NAC 432A.520(emphasis added).

26 ////

27 ////

28 ////

1 Accordingly, the citation demonstrates that Defendant was not adequately staffed to
2 uphold its duty under the administrative code. Further, the Site Report states in pertinent part:

3 Since this time and since semi-annual inspection on 7/5/13 Kids Quest &
4 Misty as Designated Operator have made corporate significant changes
5 (improvement) in this facility and throughout all Las Vegas locations in
6 the staff/child ratio & supervision.

7 See Exhibit 11, Bureau of Services for Child Care Site Report (emphasis added).

8 As indicated by the Site Report, Defendant's policies and procedures relating to its staff
9 to child ratio in its Las Vegas locations were deficient at the time of the subject incident, but
10 were later improved. As such, the statements of Plaintiff's Counsel were accurate and true and
11 were not made for an improper purpose, i.e. to inflame the Discovery Commissioner to obtain
12 excess discovery.

13 In sum, Defendant has no valid basis for not producing incident reports and claims
14 relating to sexual batteries for all of its facilities. The documentation is not privileged, is
15 relevant to the issues of liability, and discoverable evidence. Accordingly, Defendant's
16 Objection should be overruled.

17
18 A. The Ten (10) Year Time Frame Is Not Overly Broad and Does
19 Not Impose an Undue Burden Upon Defendant

20 Defendant alleges that the ordering of nationwide incident reports for a ten (10) year time
21 period is unprecedented in this jurisdiction as five (5) years is the normal time frame. See
22 Defendant's Objection at 13:21-26, 14:1-3. Defendant provides no controlling legal authority to
23 support its position. Furthermore, both Federal and State Courts routinely order the production of
24 documents for periods of time beyond five (5) years. *Design Basics, L.L.C. v. Strawn*, 271
25 F.R.D. 513, 527, 2010 U.S. Dist. LEXIS 122008, *40 (D. Kan. 2010)(ordering the production of
26 financial documents for the preceding ten (10) years); *In re Exmark Mfg. Co., Inc.*, 299 S.W.3d
27 519, 531, 2009 Tex. App. LEXIS 8469, *27 (Tex. App. Corpus Christi 2009)("While
28

1 a Discovery Order that covered a ten (10) year period might be too broad under some
2 circumstances, there is certainly nothing too broad as a matter of law about all Discovery Orders
3 covering ten (10) years.”); *Dahl v. Wells Fargo Advisors, LLC*, 2012 U.S. Dist. LEXIS 4827, *9,
4 2012 WL 124986 (D. Minn. Jan. 17, 2012) (affirming Order granting discovery request of
5 documentation for the preceding eight (8) years); *BSDC Joshua HDFC v. Carter*, 2009 N.Y.
6 Misc. LEXIS 2486, *3, 241 N.Y.L.J. 107 (N.Y. Sup. Ct. 2009)(Order the production of leases,
7 re-certifications and other documents for the previous ten (10) years). As such, Defendant’s
8 argument is unfounded.
9

10 Additionally, Defendant alleges the production of the incident reports is unduly
11 burdensome. Specifically, Defendant alleges it must review documents relating to 3,023,055
12 children and tens of millions of hours of child care for the ten (10) year time period. *See*
13 Defendant’s Objection at 14:9-15. Simply because Defendant has provided care for
14 approximately three (3) million children does not equate to a significantly high number of
15 incidents or claims being filed. In fact, Defendant asserts that there has been “ONLY two (2)
16 prior lawsuits where sexual or physical assault of minor by minor has been alleged against
17 Defendant” and “ONLY 1 claim, not lawsuit, where a physical assault by minor from minor was
18 made and damages sought from Defendant” *See* Defendant’s Objection at 14:20-25, 15:1. As
19 such, it is irrelevant that Defendant has provided care to 3,023,055 children because the scope of
20 documentation that must be produced is properly limited to minor on minor assaults, sexual or
21 otherwise. *See Exhibit 7, Discovery Commissioner’s Report and Recommendations at 4:3-14.*
22
23

24 Similarly, Defendant asserts that it faces an undue burden because it must “go through
25 many boxes containing many documents (no just incident reports) and to many locations to look
26 for incident reports responsive...” to the Discovery Commissioner’s Order. *See* Defendant’s
27 Objection at 7:15-19. As an initial matter, it is unknown whether Defendant purposely maintains
28 a deficient filing system as part of its efforts maintain the shroud of secrecy related to incidents

1 occurring at its child care facilities. Nevertheless, Defendant has provided no legal authority to
2 support its position that undue burden may be established as a result of a party's own deficiency
3 in keeping records.

4 On the contrary, "[t]he fact that a responding party maintains records in different
5 locations, utilizes a filing system that does not directly correspond to the subjects set forth in
6 Plaintiffs' Interrogatory, or that responsive documents might be voluminous does not suffice to
7 sustain a claim of undue burden." *Thomas v. Cate*, 715 F. Supp. 2d 1012, 1033, 2010 U.S. Dist.
8 LEXIS 21750, *47-48 (E.D. Cal. 2010); see also *Simon v. ProNational Insurance Co.*, 2007
9 U.S. Dist. LEXIS 96318, 2007 WL 4893477, *2 (S.D. Fla. 2007) (in granting Plaintiff's Motion
10 to Compel documents regarding similarly situated policy holders over a six (6) year period, held
11 that Defendant's claim of undue burden was insufficient to preclude production; noted that a
12 company cannot sustain a claim of undue burden by citing deficiencies in its own filing
13 system); *Kelly v. Montgomery Lynch & Associates, Inc.*, 2007 U.S. Dist. LEXIS 93651, 2007
14 WL 4412572, *2 (N.D. Ohio 2007) (in granting Plaintiff's Motion to Compel, rejected
15 Defendant's claim of undue burden, notwithstanding Defendant's proffer that its "filing system is
16 not maintained in a searchable way and the information sought would require 'manually
17 searching through hundreds of thousands of records.'). Accordingly, the fact that Defendant
18 may have to review boxes of documents from multiple storage centers, as a result of its own
19 inadequate internal record-keeping procedures, is not a basis for failing to produce the
20 documents ordered by the Discovery Commissioner.

21 Similarly, Defendant argues that the Discovery Commissioner's Report and
22 Recommendations would cause it to experience an undue expense. See Defendant's Objection at
23 15:14-15. Specifically, Defendant asserts that it has incurred a cost of \$10,633 as a result of
24 locating, shipping, and reviewing documents from July 31, 2015 through August 20, 2015. *Id.* at
25 15:17-22. Defendant proclaims that it has provided "tens of millions" of hours of care to its
26
27
28

1 children. The current hourly rate, as provided on its website, for Defendant's Boulder City
2 Casino location is \$9.50 for "tiny tots" and \$9.00 for a "child." See Exhibit 12, Website
3 Screenshot, a conservative calculation of twenty (20) million hours of care at a rate of \$9.00 per
4 hour equates to Defendant's earning a gross income of \$180 million over the past ten (10) years.
5 Accordingly, the cost of producing the documents, when viewed in comparison to the revenue of
6 the company, is not unduly expensive or excessive.

7
8 Furthermore, Defendant argues that incident reports beyond the five (5) year period are
9 irrelevant as they are remote in time and occurred at different centers with different employees
10 and different circumstances involved. See Defendant's Objection at 15: 1-9. As a preliminary
11 matter, discovery evidence is not limited to "admissible" information. NRCP 26(b)(1) ("It is not
12 ground for objection that the information sought will be inadmissible at the trial if the
13 information sought appears reasonably calculated to lead to the discovery of admissible
14 evidence."). Accordingly, Defendant's argument is without merit.

15
16 Nevertheless, the incident reports and claims are relevant for several reasons. First, as set
17 forth above, prior incident reports and claims prove Defendant's liability. Specifically, the
18 evidence demonstrates Defendant was on notice, as a consequence of prior sexual assaults, that
19 its company's policies and procedures were inadequate to provide a safe environment for its
20 children. Yet, Defendant took no action to remedy the deficiencies in its corporate policies.
21 Further, Defendant continued to advertise its facilities were safe knowing the opposite to be true.
22 As such, the evidence is relevant to Plaintiff's negligence and fraud causes of action and is
23 admissible. See NRS 48.015; NRS 48.025. Second, the nationwide incident reports demonstrate
24 a national pattern of consciously disregarding the health and safety of its child patrons.
25 Consequently, the evidence cuts to the issue of punitive damages. Therefore, not only are the
26 nationwide incident reports and claims discoverable, they are admissible at trial.

27
28 ////

1 Defendant has not demonstrated that producing the documents identified in the Discovery
2 Commissioner's Report and Recommendations would cause it an undue burden. Accordingly,
3 this Court must overrule Defendant's Objection.

4 **B. Settlement Agreement**

5 Likewise, Defendant asserts that information disclosed during the course of a lawsuit is
6 privileged or confidential. *See* Defendant's Objection at 18:14-16. Further, Defendant argues at
7 length that materials disclosed during discovery are not public record. *Id.* at 18:16-25. This
8 argument is a red herring. There is no statutory privilege protecting documentation disclosed
9 during the discovery phase of a prior lawsuit. *See* NRS 49.015. Furthermore, a document need
10 not be a public record to be discoverable. NRCP 26(b)(1) ("parties may obtain discovery
11 regarding any matter, not privileged, which is relevant to the subject matter..."). As set forth
12 above, the documentation disclosed in Case No. A547414 is undoubtedly relevant to the issues
13 of the present case. Accordingly, Defendant's objection to the Discovery Commissioner's
14 Report and Recommendations based upon privilege or confidentiality is unmeritorious.

15
16
17 Additionally, Defendant asserts that Plaintiff's request regarding Discovery from Case
18 No. A547414 is overly broad in that "it seeks all of Defendant's discovery in the prior case,
19 which involves information private to the Plaintiff there, and can include such things as
20 scholastic records, medical records (in violation of HIPPA, personal information, address, etc.
21 *See* Defendant's Objection at 19:19-23. Contrary to this assertion, the Discovery
22 Commissioner's Order does not mandate the disclosure of any information of the Plaintiff in
23 Case No. A547414. The Order states in pertinent part:

24
25 Defendant must produce, at Plaintiffs' copy expense (such charges to be
26 reasonable under the circumstances), the discovery sought in Request for
27 Production Number 12 that is not privileged, i.e. Defendant's answers to
28 written discovery (not privileged or confidential), depositions of
Defendant's employees, agents and or principals, Defendant's expert
disclosures and reports, and any pleadings of the Defendant.

1 See Exhibit 7, Discovery Commissioner's Report and Recommendations at 5:8-13.

2 Clearly the Discovery Commissioner's Order did not require Defendant to disclose any
3 information of the Plaintiff in Case No. A547414. As such, Defendant's argument is unfounded.
4 Moreover, because the private information of the Plaintiff in Case No. A547414 is not being
5 disclosed, there is no concern in protecting his privacy interests or Defendant violating NAC
6 432.A360. As such, Defendant fails to demonstrate the Order is overly broad or infringes upon
7 any privacy interest of the Plaintiff in Case No. A547414.
8

9 Further, Defendant asserts that the previously disclosed documents would not lead to
10 discoverable evidence and would only waste judicial resources. See Defendant's Objection at
11 20:5-7. As set forth above, the evidence establishes Defendant had notice and knowledge of
12 sexual assaults occurring in its facilities, but failed to revise or otherwise improve its corporate
13 policies to ensure the safety of its child patrons which demonstrates it was at least negligent.
14 Additionally, Defendant continued to advertise that its facilities provided its child patrons with a
15 safe environment and the "best" childcare despite knowledge of the untruthfulness of these
16 statements. Accordingly, the evidence is not only relevant to issues of liability in the negligence
17 context, it is also admissible and necessary to permit Plaintiff to present the merits of her fraud
18 case. Accordingly, Defendant's argument is without merit.
19

20 Additionally, Defendant asserts that it should not be forced to produce the
21 aforementioned documents because confidentiality of settlement agreements promotes settlement
22 agreements and preserves judicial resources. See Defendant's Objection at 20:8-24. The holding
23 in *Kalinauskas v. Wong*, is particularly instructive on this issue. 151 F.R.D. 363, 364, 1993 U.S.
24 Dist. LEXIS 14526, *1, 28 Fed. R. Serv. 3d (Callaghan) 472 (D. Nev. 1993).
25

26 In *Wong*, Plaintiff, Kalinauskas filed a sexual harassment suit against former employee
27 Desert Palace, Inc., dba Caesars Palace Hotel & Casino ("Caesars"). *Id.* As part of discovery,
28 Plaintiff, Kalinauskas sought to depose, Donna R. Thomas, a former Caesar's employee who

1 filed a sexual harassment suit against Caesar's the previous year. *Id.* Thomas' case was settled
2 without trial and contained a Confidentiality Agreement which the Court sealed upon the
3 stipulated agreement of the parties. *Id.* The Confidentiality Agreement stated that Thomas"
4 shall not discuss any aspect of Plaintiff's employment at Caesars other than to state the dates of
5 her employment and her job title." *Id.* Caesars filed a Protective Order preventing the
6 deposition of Thomas based upon the Confidentiality Agreement. *Id.* The Court granted
7 Caesar's Motion to the extent that the terms of the settlement were not to be discussed by
8 Thomas, but denied as to all other request. *Id.*
9

10 In formulating its opinion, the Court noted the public policy favoring settlements, but
11 also emphasized that "Courts must police the circumstances under which litigants seek to protect
12 their interest while concealing legitimate areas of public concern." *Id.* at 366. Additionally the
13 Court noted that "preventing the deposition of Thomas or the discovery of documents created in
14 her case could lead to wasteful efforts to generate discovery already in existence." *Id.*
15

16 Next, the Court rejected Caesar's argument that Plaintiff, Kalinauskas was required to
17 show a compelling need to obtain discovery prior to being provided the factual information
18 regarding Thomas case. *Id.* at 367. Instead, the Court held that the "compelling need" standard
19 applied only to the specific details of the terms of the Settlement Agreement, i.e. the amount and
20 conditions of the agreement. *Id.* Accordingly, since Plaintiff, Kalinauskas was seeking factual
21 information surrounding Thomas's case, the Court reopened discovery for the purposes of
22 allowing the deposition of Thomas. *Id.*
23

24 Like the Defendant in *Wong*, Defendant is attempting to protect its commercial interests
25 and conceal an area of legitimate public concern, the safety and well-being of children while at
26 child care, on the basis of a confidentiality clause. As noted by the *Wong* Court, this cuts in the
27 face of Nevada public policy, 151 F.R.D. at 366. Further, there is no issue of protecting the
28 privacy interests of the Plaintiff in Case No. A547414. As set forth above, Defendant is not

1 being ordered to produce any of his information or specific terms of the Settlement Agreement.
2 Instead, Defendant is ordered to produce documentation it disclosed during the discovery phase
3 of the prior litigation. See Exhibit 7, Discovery Commissioner's Report and Recommendations
4 at 5:8-13. Undoubtedly Defendant is attempting to safeguard its financial interests under the
5 guise of protecting the privacy interest of the Plaintiff in Case No. A547414. This is an
6 inadequate basis for not producing the documents it was ordered to produce.

7
8 Similarly, Defendant asserts that Plaintiff is attempting to have Defendant subsidize her
9 costs of litigation. See Defendant's Objection at 21:25-26. This argument is wholly unfounded.
10 First, the Discovery Commissioner's Order requires Plaintiff to pay the reasonable costs
11 associated with copying the relevant documentation. See Exhibit 7, Discovery Commissioner's
12 Report and Recommendations at 5:8-13. As such, the only cost Defendant must bear, like any
13 other corporate Defendant, is the cost of locating the files which is a result of its own deficient
14 filing system. Second, like the Plaintiff in *Wong*, Plaintiff will be prejudiced and forced to waste
15 time and resources conducting discovery that already exists. Rather than expediting the
16 litigation process, Defendant wishes to continue to cause undue delay and expense.

17
18 Moreover, Defendant argues that Defendant has not shown that discovery from Case No.
19 A547414 is not somehow available through other means. This argument is wholly nonsensical.
20 First, Plaintiff need not demonstrate a compelling need for the requested documentation because
21 the documentation relates to the facts of the case, not the specific terms of the Settlement
22 Agreement. *Kalinauskas v. Wong*, 151 F.R.D. at 367. Second, Defendant argued at length that
23 discovery from Case No. A547414 is not public record and that it is protected by the
24 Confidentiality Agreement. See Defendant's Objection at 17-19. Logically, Plaintiff would not
25 have access to the documents if they are not public record and neither party to the settlement in
26 Case No. A547414 have disclosed the documents in fear of breaching the Settlement Agreement.
27 As such, Defendant's argument is insufficient to demonstrate that it should not be required to
28

1 comply with the Discovery Commissioner's Order.

2 Finally, the portions of the Confidentiality Agreement that Defendant would be breached
3 by complying with a Court Order, if any, are invalid. Defendant's entire argument rests upon the
4 incorrect premise that a party's rights under a contract supersede the law. However, Nevada law
5 is clear that contracts that violate the law are void. *Drexler v. Tyrrell*, 15 Nev. 114, 131
6 (1880)("Courts will not lend their aid to enforce illegal contracts or actions grounded upon
7 immoral or illegal acts. Every act is unlawful which the law forbids to be done, and
8 every contract is void which contravenes the law.")(emphasis added).

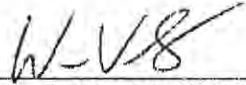
9
10 Consequently, even if provisions of the Confidentiality Agreement relating to Case No.
11 A547414 would be breached by Defendant's compliance with the Court's Order, said provisions
12 are unenforceable and Defendant would not be subject to a penalty. Therefore, the
13 Confidentiality Agreement is an insufficient basis for objecting to the Discovery Commissioner's
14 Report and Recommendations and the Court must overrule Defendant's Objection.

15
16 V. CONCLUSION

17 Based on the foregoing, Plaintiff respectfully requests that this Court overrule
18 Defendant's Objection to Discovery Commissioner's Report and Recommendations.

19 DATED this 1st day of September, 2015.

20 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

21
22 BY: 
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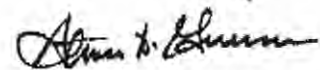
CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the 12th day of September, 2015, I served a true and correct copy of the foregoing **PLAINTIFF'S OPPOSITION TO DEFENDANT'S OBJECTION TO DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS** to the above-entitled Court for *electronic filing and service* upon the Court's Service List for the above-referenced case to the following counsel:

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An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD

EXHIBIT L



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

8

VERONICA JAIME,

9

Plaintiff,

10

vs.

11

NEW HORIZON KIDS QUEST III, INC.,

12

Defendant.

13

14

BEFORE THE HONORABLE BONNIE A. BULLA, DISCOVERY COMMISSIONER

15

WEDNESDAY, JULY 8, 2015

16

RECORDER'S TRANSCRIPT OF PROCEEDINGS

17

DEFENDANT'S MOTION FOR PROTECTIVE ORDER; PLAINTIFF'S OPPOSITION
TO DEFENDANT'S MOTION FOR PROTECTIVE ORDER AND COUNTERMOTION
TO COMPEL

18

19

20

APPEARANCES:

21

For the Plaintiff:

MARTIN J. KRAVITZ, ESQ.,
WADE VANSICKLE, ESQ.

22

23

For the Defendant:

EMILY MONTGOMERY, ESQ.

24

25

RECORDED BY: FRANCESCA HAAK, COURT RECORDER

1 Las Vegas, Nevada - Wednesday, July 8, 2015, 10:07 a.m.

2 * * * * *

3 DISCOVERY COMMISSIONER: Godoy. Am I saying that right? I apologize if
4 I've mispronounced it.

5 MR. KRAVITZ: Godoy or -

6 DISCOVERY COMMISSIONER: Godoy.

7 MR. KRAVITZ: Yes.

8 DISCOVERY COMMISSIONER: Come on up.

9 MR. KRAVITZ: Picking up the file. Martin Kravitz, Bar number 083, for Godoy,
10 with Wade VanSickle.

11 DISCOVERY COMMISSIONER: It's Godoy versus New Horizon Kids.

12 MR. KRAVITZ: Yes.

13 DISCOVERY COMMISSIONER: Thank you.

14 MS. MONTGOMERY: Emily Montgomery, on behalf of the Defendant.

15 DISCOVERY COMMISSIONER: Okay. So basically we've got to deal with the
16 issue of the protective order, if there is going to be one, on certain requests that have been --
17 the information's been requested by the Plaintiffs. With -- and I just went through them, so if
18 it's acceptable to you all, I'll go through the requests, and then we can talk about them, and
19 there's also some admissions as well.

20 Request to produce number 1 are the security policies; those need to be
21 exchanged. The issue is whether or not they should be put under a protective order. I don't
22 think they're trade secrets, but I do think that arguably it could be proprietary information,
23 but I don't want the protective order so restricted they -- it cannot be addressed in the future.
24 So I just feel like let's maintain 'em confidentially within the confines of the litigation
25 pursuant to Rule 26C until such time as otherwise ordered the District Court Judge. So at

1 trial if you want to introduce part of that security policy and procedures in exhibit, all bets
2 are off at that time.

3 MR. KRAVITZ: Your Honor, may I speak to that?

4 DISCOVERY COMMISSIONER: Yes.

5 MR. KRAVITZ: You know, I – we come here all the time for all of our hotels that
6 we represent. I have seen that ridiculous argument made and rejected by this very Court that
7 the security policies that are adopted by the hotels are proprietary. They're certainly not
8 trade secrets. And the case that they cite is called Finkel versus Cashman. It's my case.

9 DISCOVERY COMMISSIONER: I think I said they weren't trade secrets.

10 MR. KRAVITZ: Yeah, but they're not proprietary either. There's a game that's
11 being played nationally with this company. Two weeks ago, three weeks ago in Minnesota
12 they got hit with a thirteen-and-a-half million dollar judgment. In every case that they have
13 where these children are being beaten and attacked and sexually assaulted by other children
14 the cases always stem around the same issue, which is they don't staff properly, they don't
15 have enough people, they don't follow administrative regulations. They are constantly in
16 trouble, and so what did they do? In every case they attempt to prevent disclosure of
17 materials because they don't want anybody to know.

18 Now, one of the things that happened in this case when we first took it on is we
19 went right to the District Court filings and guess what we found? Another case that was filed
20 some years ago and settled dealing with the very same issue in the same location, not enough
21 supervision and an assault and a very brutal beating that took place by one child on another.

22 So the game that's constantly played is, oh, we can't give you that material. If
23 I did that in my hotels where, you know, you – how many times do we come here and people
24 want to see reports going back 20 years, and you ultimately limit it down and you say five
25 years, similar location, similar happenings, you have to produce those things because that

1 shows notice and knowledge. It's the very basis of a lawsuit.

2 The other thing you have to remember in this case is we added one claim on it
3 that wasn't done in the previous claim, which is they have a national pattern of this, so what
4 we're looking to do is to sue them for punitive damages for fraud because the advertising
5 that they put out says, you know, put your children here in a safe, friendly environment,
6 constant supervision; it doesn't happen. That's why these attacks occur.

7 This particular one occurred because they left an area of the play area with
8 lights out and nobody in it, and so what we're trying to get at is, is the idea is I don't mind
9 that certain things be kept confidential. But don't keep telling me that everything you have
10 is secret. For instance, they will not produce the reports of prior incidents of beatings or
11 sexual assaults because we're protecting the names of the children. I didn't ask 'em for the
12 names of the children.

13 DISCOVERY COMMISSIONER: You said you could redact them.

14 MR. KRAVITZ: Sure.

15 DISCOVERY COMMISSIONER: And I agree with you on that.

16 MR. KRAVITZ: I mean, this --

17 DISCOVERY COMMISSIONER: It's a business record.

18 MR. KRAVITZ: Right, and --

19 DISCOVERY COMMISSIONER: I agree.

20 MR. KRAVITZ: -- we're gonna be asking for this nationally because the pattern is
21 there's so many lawsuits out there and there have been so many settlements out there, we
22 need to see what this company does, and they play this game everywhere they go.

23 I did, in fact, call the attorney after I saw the article in the paper about the
24 thirteen-and-a-half million dollars. He says: Marty, I'd love to give you everything. But
25 guess what they did? They got a court order that says I can't produce anything without a

1 further court order, and so he says: I can't even give you anything. And he says: The
2 evidence is overwhelming, exactly what you're talking about. So there's where – that's my
3 dilemma in this case.

4 DISCOVERY COMMISSIONER: Okay. Well, and I appreciate that. I think all of
5 the information you've requested is reasonable. The question is what should be restricted for
6 now, not forever, but just placed under a Rule 26C protective order as being proprietary, not
7 a trade secret. And I do think that the security policies may fall into that category.

8 Ultimately, I don't think they're going to be protected forever, but I don't see
9 any reason why at the present time we can't just keep them within the confines of the
10 litigation so they can be shared with the experts, they can be shared with the client, they can
11 be shared with any member of your office staff and the lawyers working on the case, but I
12 just don't want them filed in open court. Keep them protected until the Judge otherwise
13 orders.

14 MR. KRAVITZ: So if we need to use them, we file them under seal?

15 DISCOVERY COMMISSIONER: Right.

16 MR. KRAVITZ: All right.

17 DISCOVERY COMMISSIONER: And you take a copy of this order with you.

18 MR. KRAVITZ: Okay.

19 DISCOVERY COMMISSIONER: With respect to request to produce number 3,
20 which is the corporate manuals regarding the care and supervision and control, I'm a little bit
21 uncertain whether or not these corporate manuals are out there in the public eye already, and
22 if they've got a copyright on them, they're already basically I think, you know, I'm not sure
23 how protected they are. I'm not sure if an index has been provided to you, Mr. Kravitz, to
24 look at what's in those manuals.

25 MR. KRAVITZ: No. All we've gotten are the constant objections that say –

1 DISCOVERY COMMISSIONER: Okay.

2 MR. KRAVITZ: -- wordy objections.

3 DISCOVERY COMMISSIONER: Defense counsel, do you have a copy of the index
4 of those manuals?

5 MS. MONTGOMERY: I don't have it with me, Your Honor. If I could address
6 whether or not those are -- those have been maintained confidentially, I don't -- I'm not aware
7 at this point whether or not we've applied for a copyright on that, but I can say that -- and I
8 said this on the affidavit from New Horizon's Kid Quest -- they only provide the manual to
9 employees during the training, and they then retrieve it back --

10 DISCOVERY COMMISSIONER: Right, I read that.

11 MS. MONTGOMERY: -- at the end of -- right. So it's not something that's been
12 disseminated beyond the need to train an employee with regard to the contents of the manual.

13 MR. KRAVITZ: And so what I get to do? I get to question the employees about
14 what your training was and did they comply with the training. It's --

15 DISCOVERY COMMISSIONER: So the manuals will need to be produced, I will
16 go ahead and put it under that Rule 26C protective order until such time as otherwise ordered
17 by the District Court Judge. But, again, you can use them at deposition. I would recommend
18 if there's any portion of the manual, Mr. Kravitz, you actually want it attached to the
19 deposition, at least you do that under seal until such time as the Judge otherwise orders. And
20 then if you file any portion of them with any type of dispositive motion, for example, you're
21 going to file it under seal, but I will tell you under the New York Times -- or the Seattle
22 Times case -- I apologize -- the Seattle Times case, once the information is attached to
23 dispositive motion it's probably going to be part of the public record. But I think for now we
24 can at least get the discovery back on track. Disclose the information. Put the limited Rule
25 26C protective order on it as being proprietary information. It needs to remain within the

1 confines of the litigation. It can be shared with the staff, the lawyers, the experts working,
2 the client working on the file. But if it's going to be actually attached to deposition or in
3 court, you're going to need to do that part under seal, and, defense counsel, you're going to
4 have to be proactive about that.

5 Request to produce number 4, I believe, Mr. Kravitz, these are the ten years of
6 incident reports you want. You're going to need to produce those. You just need to make
7 sure you redact the minors' names.

8 MR. KRAVITZ: Except for the one because --

9 DISCOVERY COMMISSIONER: I'm sorry. For --

10 MR. KRAVITZ: Except for one. They want to redact the name of the child who did
11 the attack in this particular case.

12 DISCOVERY COMMISSIONER: I think that child's already been disclosed in the
13 video.

14 MR. KRAVITZ: Well, they've tried to get it back. Well, we don't have -- but I want
15 the name and the -- because the reality is, is that we have that right, if we so choose, in this
16 proceeding or in another to sue the parents for -- under the Parental Responsibility Act, and
17 you can't claim, oh, we're not gonna tell you who that child is.

18 DISCOVERY COMMISSIONER: So in this particular case we'll have them disclose
19 the name of the minor that was involved in this incident, but that information will be
20 maintained confidentially under Rule 26C until such time as you're allowed to amend the
21 complaint to bring in the parents or until such time as otherwise ordered by the District Court
22 Judge.

23 MS. MONTGOMERY: Your Honor, that --

24 DISCOVERY COMMISSIONER: But that's only for this case you can disclose the
25 name of the child.

1 MS. MONTGOMERY: Okay. Your Honor, our position is that that ten years is
2 really – is overbroad at this point, and I also wanted to seek clarification on the ruling as to
3 whether is this all nationwide facilities or just this Boulder Station in Las Vegas facility?

4 DISCOVERY COMMISSIONER: Well, I thought it was just limited to the
5 Defendant.

6 MR. KRAVITZ: Your Honor, the –

7 MS. MONTGOMERY: The Defendant is a nationwide company.

8 MR. KRAVITZ: And those policies and procedures are not being followed
9 nationwide. So, in fact, we've talked to a consultant who's worked against them before and
10 said when you open that door, wait until you see what's about to pour out.

11 DISCOVERY COMMISSIONER: Okay. So why don't we take one – let's take this
12 in steps. How long has the facility been opened that was at issue in this case – for at least ten
13 years, right?

14 MR. KRAVITZ: Yeah, it's beyond that.

15 MS. MONTGOMERY: Yeah.

16 DISCOVERY COMMISSIONER: So I think in this case, because it is a very unusual
17 type of tort, we've got to go far enough back to take a look at the pattern, if there is one.

18 MS. MONTGOMERY: For this facility.

19 DISCOVERY COMMISSIONER: We're going to start with this facility. I don't
20 know how many facilities you have in Nevada. How many do you have in Nevada?

21 MS. MONTGOMERY: This is the only one in Nevada.

22 DISCOVERY COMMISSIONER: Do we have different regions of these?

23 MS. MONTGOMERY: I mean, we have –

24 DISCOVERY COMMISSIONER: I mean, is there like a Western region, and a
25 Midwest –

1 MR. KRAVITZ: No. What they've done is -
2 MS. MONTGOMERY: No.
3 MR. KRAVITZ: -- they create separate -- there is a parent company that has separate
4 LLCs in each location in order to try to make the separation, except the policies and
5 procedures, as I understand it, apply to all.
6 DISCOVERY COMMISSIONER: Apply to all.
7 MR. KRAVITZ: And the issues are the same in location, after location, after
8 location, which is a lack of staffing. What they're supposed to do is have one supervisor for
9 every so number of children depending on the state's regulations, and what they do is they
10 allow some of the supervisors to also act as the money takers, so they wind up not having
11 enough in staffing.
12 DISCOVERY COMMISSIONER: All right. So how many facilities do we have in
13 the United States?
14 MS. MONTGOMERY: I would have to look that up, Your Honor. I think it's under
15 10.
16 MR. KRAVITZ: It is. It's not that many.
17 DISCOVERY COMMISSIONER: Okay. Well, this can't be a very difficult search I
18 would hope.
19 MS. MONTGOMERY: For all assaults in any facility for ten years?
20 DISCOVERY COMMISSIONER: I think that we have to limit it though -- it's an
21 assault by another child.
22 MR. KRAVITZ: Yes.
23 DISCOVERY COMMISSIONER: That's the limitation.
24 MS. MONTGOMERY: And a sex assault by another child?
25 DISCOVERY COMMISSIONER: Well, I mean, I'm not --

1 MR. KRAVITZ: It's the same problem.

2 DISCOVERY COMMISSIONER: -- sure exactly what happened here completely.

3 Do we really know completely what happened?

4 MR. KRAVITZ: The issue is it really doesn't get limited down to that because the

5 film is pretty vague as to what happened.

6 DISCOVERY COMMISSIONER: Yeah.

7 MR. KRAVITZ: So the very fact it's at least a battery at the very least. It could be a

8 sexual battery.

9 DISCOVERY COMMISSIONER: Let's do it as a battery, sexual or otherwise.

10 MR. KRAVITZ: All right.

11 DISCOVERY COMMISSIONER: And that may limit it a little further, so not just

12 name calling --

13 MR. KRAVITZ: Oh, no, I'm not interested in that.

14 DISCOVERY COMMISSIONER: -- or bullying in that regard. But I'm talking

15 about a physical hitting, battery, fight.

16 MS. MONTGOMERY: Okay. For ten years.

17 DISCOVERY COMMISSIONER: Okay. And if there is a delineation between that,

18 just like a physical fight versus a sexual assault, I need you to identify the cases where there

19 was, in fact, an alleged sexual assault.

20 MS. MONTGOMERY: Okay.

21 DISCOVERY COMMISSIONER: Because that's a very different -- I mean, it's still a

22 battery, but it is a aspect that is relevant particularly to this case.

23 MS. MONTGOMERY: Okay. So we have all batteries, minor on minor.

24 MR. KRAVITZ: Nationally.

25 MS. MONTGOMERY: Nationally.

1 DISCOVERY COMMISSIONER: Right. And if you only have ten facilities,
2 hopefully this will not be difficult. If some of those facilities have not been opened ten
3 years, then just go back to the date that they were opened.

4 MS. MONTGOMERY: Okay. Okay.

5 DISCOVERY COMMISSIONER: And the minors' children's names are to be
6 redacted. These are business records. I'm not going to put them under the protective order,
7 but I will require that the identity of the minor that was involved in this particular case be
8 protected and under the Rule 26C protective order.

9 MS. MONTGOMERY: And that's the minor victim only.

10 MR. KRAVITZ: Minor attacker and the minor victim in this case are going to be
11 protected under 26.

12 DISCOVERY COMMISSIONER: I just indicated we're talking about the minor
13 child who caused the incident. That's what we're talking about.

14 MS. MONTGOMERY: Correct.

15 DISCOVERY COMMISSIONER: So that minor child's name must be disclosed, but
16 it will be maintained confidentially within the confines of this litigation. All the other minor
17 children, whether they were the victim or the aggressor, will be redacted.

18 MS. MONTGOMERY: Okay.

19 DISCOVERY COMMISSIONER: But for this case only you're going to need to
20 identify both the victim and the aggressor, but the names will – that particular document,
21 we'll just maintain that confidential. If you're going to attach it to something, you will need
22 to redact the names. Is that clear? Okay.

23 MR. KRAVITZ: Very clear.

24 DISCOVERY COMMISSIONER: All right. Request to produce number 6, I wasn't
25 certain exactly what you wanted. Prior bad acts, I don't know how that would be admissible

1 unless there's an exception for like a felony conviction, and in a way I'm not certain per se
2 that that would be relevant in this case since the aggressor was another minor. I do think it's
3 relevant though as to whether or not the employees were ever reprimanded for failure to
4 supervise, et cetera, but I would suspect that that would be in the employment files, which I
5 suspect should have been produced.

6 MR. KRAVITZ: They have not.

7 DISCOVERY COMMISSIONER: The employees --

8 MR. KRAVITZ: Actually --

9 DISCOVERY COMMISSIONER: -- that were involved.

10 MR. KRAVITZ: -- I think it's poorly drafted, as I look at it. I think what we should
11 have been asking for is reports related to potential criminal conduct by one child on another
12 and reports to the employees who were involved. And you're right as to any employees that
13 were involved, that is ultimately going to be the issue, was there any reprimanding, was there
14 retraining, was there -- after the prior incidents, what did you do to try to tighten up
15 procedures?

16 DISCOVERY COMMISSIONER: All right. But --

17 MS. MONTGOMERY: We haven't received a request of that nature.

18 DISCOVERY COMMISSIONER: Okay. I think request to produce is very
19 confusing. I hate to use the word confusing. I think you could just revise it and resend it.

20 MR. KRAVITZ: Okay.

21 DISCOVERY COMMISSIONER: So I'm going to protect request to produce
22 number 6 as it's currently written, but we'll allow of course the Plaintiff to revise it and seek
23 the information that they really need to have as it relates to that request.

24 Request to produce number 8 is all advertising marketing materials. These
25 absolutely need to be produced, and there is no protection for those materials. There's no

1 expectation. That's why they're marketing materials.

2 MS. MONTGOMERY: We have actually produced those since the drafting of these
3 briefs.

4 MR. VANSICKLE: Yes, Your Honor, just to the extent -- so this would stand to the
5 extent that all of the documents that we have requested have been provided, not just a partial,
6 if that makes sense, 'cause --

7 MR. KRAVITZ: What are you asking for -- nationally?

8 MR. VANSICKLE: No, no, no, unless we could.

9 MR. KRAVITZ: No. I mean, that's the issue. I think it was limited to the location,
10 but.

11 MS. MONTGOMERY: I'm sorry, I didn't hear that.

12 MR. KRAVITZ: It was limited to the -- what was produced was only limited to the
13 location again, so it needs to be expanded so that -- because the request is broad enough.

14 DISCOVERY COMMISSIONER: Well, I don't know if they use the same marketing
15 materials --

16 MR. KRAVITZ: That's what --

17 DISCOVERY COMMISSIONER: -- nationwide.

18 MR. KRAVITZ: -- I want to find out.

19 DISCOVERY COMMISSIONER: So I think that that's an issue that has to be
20 determined. If you use the same marketing materials nationwide, then by all means the
21 national materials need to be produced. If there were also specific materials for this
22 particular local location, then you need to produce those as well. Whatever marketing
23 materials you have that relate to this particular institution need to be produced.

24 MS. MONTGOMERY: Understood.

25 DISCOVERY COMMISSIONER: Okay.

1 THE RECORDER: Excuse me, counsel, could I have your appearance again, please.

2 MR. VANSICKLE: Yes. I'm sorry. Wade VanSickle.

3 THE RECORDER: Thank you.

4 MR. VANSICKLE: 13604.

5 DISCOVERY COMMISSIONER: So then we go to request to produce number 9,
6 and this encompasses the same concepts that we've been talking about with the training
7 manuals, videos. I'm going to require those to be produced. I will put them under the
8 protective order, but I do want to say this. To the extent that these materials are already –
9 have been already disclosed in litigation, they are no longer proprietary and should not be
10 subject to that protective order.

11 Now, I don't know the answer to that question, but I am going to require the
12 defense counsel to double-check and make sure that none of these materials are already out
13 in the public eye, because if they are, then the protective order will not apply. And that
14 would, of course, go to any of the materials that we're talking about. Once they've been
15 formally disclosed and they are no longer – and they've been made public, we can't unring
16 that bell. But otherwise the protective order will apply until such time as the Judge
17 otherwise determines.

18 Request to produce number 11, I wasn't sure what you were looking for.

19 MR. VANSICKLE: So this was – yeah, I think, Your Honor, we may have already
20 discussed this, but this would be – not all – the identity of the minor perpetrator in this
21 instance.

22 MR. KRAVITZ: Yeah, that's the issue of the child who was the attacker. It is
23 confusing as it read, but what we were asking for is what's the name of the child who
24 attacked our child.

25 DISCOVERY COMMISSIONER: Okay.

1 MR. KRAVITZ: And the materials that relate to that.

2 DISCOVERY COMMISSIONER: And I think this is a request to produce, so I think,
3 as request to produce 11 is written, I'm going to go ahead and protect it, but the information
4 will be provided to you in the incident report that we've previously discussed.

5 If there are other incident reports that involve this child that would perhaps go
6 to notice of a problem --

7 MR. KRAVITZ: Yes.

8 DISCOVERY COMMISSIONER: -- then those incident reports must be identified
9 appropriately. Now, we can do this one of two ways. We can either put those incident
10 reports under the protective order as well. We can redact the minor child who is the
11 aggressor in this case. We can redact his name in those incident reports and put a number
12 there.

13 MR. KRAVITZ: Just put the 26C over this. It's gonna be --

14 DISCOVERY COMMISSIONER: Are you fine with that?

15 MR. KRAVITZ: Sure.

16 DISCOVERY COMMISSIONER: All right.

17 MR. KRAVITZ: That's not gonna be a problem because ultimately we'll be going to
18 the Court as we get ready for summary judgment asking that this all be released.

19 DISCOVERY COMMISSIONER: Exactly.

20 MR. KRAVITZ: Okay.

21 DISCOVERY COMMISSIONER: But I -- the Judge needs to do that.

22 MR. KRAVITZ: All right. That'll be fine.

23 DISCOVERY COMMISSIONER: Okay? All right. Request to produce number 12,
24 this is the other case that was found in the search. Obviously the attorney work product and
25 the attorney-client communications I'm going to retain the privilege. I'm not going to start

1 opening up other attorneys' files in subsequent lawsuits. Mr. Kravitz, you don't want me to
2 do that.

3 MR. KRAVITZ: No, but what I am interested, for instance, is the depositions that
4 were taken. There's a lot of case law that says depositions in themselves are never subject to
5 protection.

6 DISCOVERY COMMISSIONER: Well, and I think that's part of the Seattle Times
7 case.

8 MR. KRAVITZ: Yeah.

9 DISCOVERY COMMISSIONER: So here's my recommendation. Everything that's
10 not privileged, put together, copy it, and you can send the Plaintiff's counsel the bill for it
11 under Rule 34D. Make it reasonable, not twenty dollars a page.

12 MR. KRAVITZ: Send it to Kinkos and we'll pay the bill.

13 DISCOVERY COMMISSIONER: All right.

14 MR. KRAVITZ: Okay.

15 DISCOVERY COMMISSIONER: But just so we're clear, any of the materials in that
16 file that you have that involve depositions, discovery, anything that would be presumptively
17 public and not privileged, not confidential, make copies of, whether it's pleadings. I don't
18 know what else you want, Mr. Kravitz. But anything that's in the file that is not privileged -

19 MR. KRAVITZ: Expert witness testimony, it's depositions, but it's gonna be those
20 reports.

21 DISCOVERY COMMISSIONER: You're looking for the depositions and the
22 reports.

23 MR. KRAVITZ: Sure, and to make sure we're getting it, can they do a privilege log
24 on what they're retaining? They can generally describe correspondence with the insurance
25 company and counsel. I could care less about that.

1 DISCOVERY COMMISSIONER: The names?
2 MR. KRAVITZ: Yes.
3 DISCOVERY COMMISSIONER: Okay. So just do a modified privilege log so that
4 at least Plaintiff's counsel can see what you've not disclosed.
5 MS. MONTGOMERY: Okay.
6 DISCOVERY COMMISSIONER: Correspondence file, 200 pages, attorney-client
7 privilege.
8 MR. KRAVITZ: That's fine.
9 MS. MONTGOMERY: Your Honor, and just so it's clear, we really are – we feel
10 hamstrung by this prior agreement, this confidentiality agreement, that, you know, we really
11 feel that we're being forced to violate that.
12 DISCOVERY COMMISSIONER: I don't understand what the confidentiality
13 agreement –
14 MR. KRAVITZ: The amount of the settlement I could care less about. I don't even
15 need to see the settlement agreement.
16 DISCOVERY COMMISSIONER: Right.
17 MS. MONTGOMERY: We're not allowed to disclose any of the facts underlying
18 that lawsuit at all.
19 MR. KRAVITZ: But they drafted that to protect them. That's what they do in every
20 lawsuit.
21 DISCOVERY COMMISSIONER: So here's my recommendation. Why don't you
22 object to my Report and Recommendations, and I would suggest you bring a separate motion
23 before the Judge to request that that order be lifted to allow you to at least disclose. And I'm
24 not talking about any settlement. I'm going to protect all the settlement information, all the
25 settlement discussions, the attorney-client privilege, the attorney work product. But I do

1 expect things that were filed in the District Court case -- 'cause I doubt the case was sealed.
2 MS. MONTGOMERY: No, it wasn't, and --
3 DISCOVERY COMMISSIONER: Yeah.
4 MS. MONTGOMERY: -- our position is that they can get pleadings, et cetera, on
5 Wiznet.
6 MR. KRAVITZ: But I can't get --
7 MS. MONTGOMERY: And they have already done that.
8 MR. KRAVITZ: -- depositions, and I can't get the discovery materials, I can't get --
9 DISCOVERY COMMISSIONER: But --
10 MR. KRAVITZ: --the reports.
11 DISCOVERY COMMISSIONER: -- very few people file their expert reports.
12 MR. KRAVITZ: Right.
13 DISCOVERY COMMISSIONER: I mean, I used to file some of mine, but very few
14 people do.
15 MS. MONTGOMERY: But here's --
16 DISCOVERY COMMISSIONER: So I think what we're really concerned about here
17 is the answers to the written discovery, the -- that's not privileged or confidential, the
18 depositions, the expert reports, and I guess any pleadings.
19 MR. KRAVITZ: Incident reports are part of that. It's what they put together to be
20 produced, discovery.
21 DISCOVERY COMMISSIONER: As long as it's not subject --
22 MR. KRAVITZ: Privileged, yeah.
23 DISCOVERY COMMISSIONER: You know, as long as the file is not sealed, and it
24 was filed, and there's no -- and if you're concerned about it, then you're going to need to
25 bring a motion to the Court.

1 MS. MONTGOMERY: Okay. Well --

2 DISCOVERY COMMISSIONER: The Judge.

3 MS. MONTGOMERY: Okay. And the other --

4 DISCOVERY COMMISSIONER: Because I'm going to order them produced, and
5 you can object to my Report and Recommendation. I will require the Plaintiffs to pay
6 reasonable copy costs for everything under Rule 34D, but I will specifically, just so it's clear,
7 I'm protecting any of the settlement information, settlement discussions, attorney-client
8 privilege, attorney work product privileges will all be protected.

9 What I am not willing to protect are the depositions, the expert disclosures,
10 anything that's already been made public, and if it -- I'm hoping that that prior confidentiality
11 agreement had some provision in it unless otherwise ordered by a judge. Well, then you're
12 going to need to do what you need to do on that, whether it's to bring a separate motion or
13 whatever you need to do. But this is the exact purpose as to why the courts are so reluctant
14 to seal information as a matter of public policy. So, but again you're welcome to object, and
15 the Court may view it differently.

16 And, Mr. Kravitz, you may want to be proactive and bring your motion to have
17 the Court rule on the validity of that protective order that's in place in the other case.

18 MR. KRAVITZ: I'm thinking about what --

19 DISCOVERY COMMISSIONER: Mechanically, I'm not sure what the best
20 approach is, but I'm confident the lawyers will figure it out.

21 With respect to the admissions, there I think are three of them -- one, two, and
22 three. You have to either admit or deny and explain why you can neither admit nor deny.
23 Requiring facts to be applied to law is not a reason to say it calls for a legal conclusion.

24 Do you have a duty? Do you have a duty?

25 MS. MONTGOMERY: It's a legal question.

1 DISCOVERY COMMISSIONER: Well, is it one – but think of it this way. Whether
2 you breach the duty might be a legal question. Whether you had a duty in this case, if you
3 say you don't know the answer to that, and that's read to a jury, I'm thinking that's not a
4 good plan. Now, I might have said admit that we had a duty to comply with the applicable
5 standard of care. But you need to admit, deny or explain why you can do neither. I mean,
6 it's not – the issue is admit that you breached – the question isn't admit that you breached
7 your duty. The question is admit that you had one. It's different.

8 The second request for admissions has to be answered, and the third request I
9 am going to protect as it's written because we don't know what the Bureau of Services for
10 Child Care alleged, the way it's written.

11 MR. KRAVITZ: Actually I was thinking about that last night. Probably have to go
12 serve them, and we'll probably have that battle before you, you know that.

13 DISCOVERY COMMISSIONER: I think it's not – I think with respect to this
14 Defendant it's not something that they can accurately respond to, so I'll protect request for
15 admission number 3, but the second one does need to be answered. I'm trying to find it here.
16 Yeah, admit that the Plaintiff did nothing to cause the subject accident. Okay. If you think
17 she did contributed to it, then it's a deny. If you don't have any factual basis for comparative
18 fault, then I would admit it. If you're in discovery, and you feel like you can't accurately
19 admit or deny because you haven't done X, Y, and Z, then you need to explain that in your
20 answer. And I'll protect number 3. So number 1 and number 2 need to be answered or
21 responded to appropriately. Admit, deny or explain why you can neither admit nor deny.
22 All righty.

23 MR. KRAVITZ: Great. Thank you.

24 DISCOVERY COMMISSIONER: Who's going to prepare my Report and
25 Recommendation? I think Plaintiffs ought to.

1 MR. KRAVITZ: Yeah, we're gonna have to write this one up.

2 DISCOVERY COMMISSIONER: Okay.

3 MR. KRAVITZ: And we'll submit to them too.

4 DISCOVERY COMMISSIONER: Okay.

5 MR. KRAVITZ: All right. Thank you.

6 MS. MONTGOMERY: Your Honor, the one - I have one more issue.

7 DISCOVERY COMMISSIONER: Yes.

8 MS. MONTGOMERY: In the Conclusion section of my - the motion for a protective
9 order, to the extent that some of this information has been protected, we did also request a
10 claw back provision be entered into the protective order.

11 DISCOVERY COMMISSIONER: Well, I think I already denied the issue with
12 regard to the videotape that was previously disclosed.

13 MS. MONTGOMERY: That's correct.

14 DISCOVERY COMMISSIONER: I'm not willing to put a catchall claw back in. I
15 know the Federal Courts recognize the claw back provision. The State Court does not.
16 That's why I really encourage people to agree to it in the joint case conference report.
17 Having said that, I will be willing to entertain a motion on a specific issue, but I think up to
18 this point, if something has been previously disclosed, I'm not willing to have it clawed back
19 at the present time. If you're concerned about future disclosures that might occur, I'd like
20 you to have your 2.34 conference and see what you can work out. I have no problem if one
21 is agreed to, but it just has to be within certain parameters, and I do recommend you follow
22 the Federal Court Rules on a claw back.

23 So the Defendant's motion for protective order is granted in part and denied in
24 part with respect to the parameters discussed today. The countermotion to compel is granted
25 in part and denied in part with respect to the parameters we've discussed. No fees or costs.

1 Plaintiff's counsel, you prepare my Report and Recommendation. I need it in
2 ten days. Run it by defense counsel. Status check will be?

3 THE CLERK: August 7th at 11.

4 DISCOVERY COMMISSIONER: Don't be here for that.

5 MR. KRAVITZ: Thank you so much.

6 DISCOVERY COMMISSIONER: Thank you. Have a -

7 MR. KRAVITZ: You've been very -

8 DISCOVERY COMMISSIONER: -- good day.

9 MR. KRAVITZ: -- helpful.

10 [Proceeding concluded at 10:40 a.m.]

11 * * *

12 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
13 video recording of this proceeding in the above-entitled case.

14 

15 FRANCESCA HAAK
16 Court Recorder/Transcriber
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25

EXHIBIT M

COURTESY
COPY

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10 mkravitz@ksjattorneys.com
11 Attorneys for Plaintiff.
12 ISABELLA GODOY, a minor, by and through
13 her Mother, Veronica Jaime

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 ISABELLA GODOY, a Minor, by and through
11 her mother, VERONICA JAIME

Case No.: A-14-707949-C
Dept No.: XXIX

12 Plaintiff,

13 vs.
14 NEW HORIZON KIDS QUEST III, INC., a
15 Minnesota Corporation; DOES 1 through 10,
16 inclusive; and ROE CORPORATIONS 1
17 through 20, inclusive,

18 Defendant.

19 **DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS**

20 Hearing Date: Wednesday, July 8, 2015
21 Hearing Time: 9:30 a.m.

22 Attorney for Plaintiff: Martin J. Kravitz, Esq. and Wade J. VanSickle, Esq.
23 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

24 Attorney for Defendant: Emily H. Montgomery, Esq.
25 OLSON, CANNON, GORMLEY, ANGULO &
26 STOBERSKI

27 ///

I.

FINDINGS

This matter having come on for hearing on July 8, 2015 on Defendant's Motion for Protective Order, and Plaintiff's Opposition to Defendant's Motion for Protective Order and Countermotion to Compel with Plaintiff being represented by Martin J. Kravitz, Esq. and Wade J. VanSickle, Esq. and Defendant New Horizon being represented by Emily Montgomery, Esq. The Discovery Commissioner having reviewed the papers and pleadings on file herein, and having entertained oral argument of counsel and being informed in the premises, finds as follows:

1. Defendant filed its Motion for Protective Order on June 1, 2015.
2. On June 18, 2015, Plaintiff filed her Opposition thereto and Countermotion to Compel.
3. On June 29, 2015, Defendant filed its Reply in support of its Motion.
4. On June 30, 2015, Plaintiff filed her Reply in support of her Countermotion.
5. The information contained within the documentation Plaintiff seeks in Request for Production Number 1 may be proprietary information, but does not constitute trade secret and is not being used for competitive advantage.
6. The information contained within the documentation Plaintiff seeks in Request for Production Number 3 could be proprietary information, but it is unclear whether the documents have been part of public record.
7. Some of the information contained in the Incident Reports requested in Request for Production Numbers 4, 6, 11, and 12 relate to minor children not involved in the current litigation.
8. The information contained within documentation sought by Request for Production Number 8 is not proprietary and the documents are not subject to Rule 26(c) protection.
9. Documentation requested in Request for Production Number 9 that has been disclosed in

prior litigation is not proprietary and not subject to Rule 26(c) protection.

10. The documentation requested in Request for Production Number 11 may be relevant to the issue of notice, but the documents are subject to Rule 26(c) protection.

11. Some of the documentation sought in Request for Production Number 12 is not confidential; these documents include: 16.1 disclosures, written discovery responses, any documents produced in response to discovery, deposition transcripts, ^{of the Defendant's employment} and expert testimony and reports. The Commissioner makes this finding because not only is the ^{and/or principal} material relevant, but it will also expedite and save significant expense in the current litigation if such materials are provided. Notwithstanding, the Commissioner preserves and retains the attorney-client and work product privileges.

II. RECOMMENDATIONS

IT IS THEREFORE RECOMMENDED Defendant's Motion for Protective Order is GRANTED in part and DENIED in part;

IT IS FURTHER RECOMMENDED Plaintiff's Countermotion to Compel is GRANTED in part and DENIED in part;

IT IS FURTHER RECOMMENDED neither party is entitled to an award of fees or costs;

IT IS FURTHER RECOMMENDED Plaintiff must produce the policies and procedures in effect at the time of the May 13, 2013 subject incident, as sought in Request for Production Number 1, but the documents must be maintained as confidential within the confines of the litigation pursuant to Rule 26(c) until otherwise ordered by the District Court. The parties may share documents with experts, clients, and law firm office staff. The parties shall file the documents under seal if necessary to bring motions or other matters before the District Court. Defendant shall produce its corporate manuals, as sought in Request for Production Number 3, under a Protective Order pursuant to Rule 26(c) within the confines of litigation until otherwise

³
² Counsel for the parties and the Discovery Commissioner conducted a Conference Call on August 12, 2015 to Clarify the Scope of this request. The documents to be produced are non-privileged documents of the Defendant, only. The Commissioner expects the parties to maintain the confidentiality of the minor children involved. BB

ordered by District Court Judge. The manuals may be used at depositions, and if attaching portions thereof to depositions or motions, the parties shall place portions under seal;

IT IS FURTHER RECOMMENDED Defendants are to produce ten years of Incident Reports involving battery, sexual or otherwise, by one child upon another occurring at any of Defendant's locations nationally as sought by Request for Production Number 4. These reports are to be exchanged and maintained as confidential within the confines of Rule 26(c) protections stated above. Defendant shall redact any child's name mentioned whether the attacker, or the victim, from the reports. However, Plaintiffs may review the unreacted reports involving the particular minor ^{in this case only, by} including his name and the name of his parents. The name will be maintained as confidential within the confines of this case pursuant to Rule 26 (c) until counsel are allowed to amend the Complaint to bring in the Parents, or until otherwise ordered by the District Court Judge;

IT IS FURTHER RECOMMENDED the documents requested in Request for Production Number 6 are protected as currently written. Plaintiff may revise the request and make additional requests to obtain employment files. Defendant reserves the right to object at a later time;

IT IS FURTHER RECOMMENDED Defendant is to produce all national and local marketing materials, as sought in Request For Production of Document Number 8, related to Defendant's facilities and used within the last five (5) years as the documents are not protected;

IT IS FURTHER RECOMMENDED Defendant must produce the requested manuals, audios, and videos regarding training of New Horizons' Kid Quest, III, Inc. employees for the preceding five (5) years as requested in Request for Production Number 9. These documents are subject to Rule 26(c) protections. However, any of the aforementioned documents disclosed in prior litigation are no longer proprietary and not subject to rule 26(c) protection;

IT IS FURTHER RECOMMENDED Defendant must provide Plaintiff any reports of any incident involving the particular minor attacker in this case, whether it was before or after the particular incident, together with any incident reports concerning the attacker child and or the handling of any previous complaints regarding him as provided in Request for Production

The names of the other minor children involved in such incidents will be redacted
Number 11. These reports are subject to the protections of Rule 26(c) as outlined herein; *and remain Confidential;*

IT IS FURTHER RECOMMENDED the Commissioner retained the privilege of attorney *will* work product and attorney-client communications. However, Defendant must produce, at *also include* Plaintiffs' copy expense (such charges to be reasonable under the circumstances), the discovery *the names* sought in Request for Production Number 12 that is not privileged, i.e. answers to written *Defendants' the* discovery (not privileged or confidential), depositions *of Defendant's employees, agents and/or principals.* expert disclosures reports, and any *of the Defendant's* pleadings. Defendant does not have to produce any documents which are subject to the attorney-client or work product privileges, or settlement information and discussions. Upon request by Plaintiff's counsel, Defendant must prepare a modified privilege log so Plaintiff's counsel is able *of Defendant's and* to see what was not produced. *parents of said child; until further briefing is provided on this issue.*

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KRAVITZ, SCHNITZER & JOHNSON, CHTD.

8985 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123
(702) 362-6666

ISABELLA GODOY et al. v. NEW HORIZON KIDS QUEST III, INC.
A-14-707949-C

IT IS FURTHER RECOMMENDED Admissions 1 and 2 must be answered;

IT IS FURTHER RECOMMENDED Admission 3 is PROTECTED as written.

Plaintiff is to prepare the Report and Recommendations, and Defendant is to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Plaintiff is to appear at a status check hearing to report on the Report and Recommendations on August 7, 2015, at 11:00 a.m.

DATED this 14 day of August, 2015.



DISCOVERY COMMISSIONER

Submitted by:
KRAVITZ, SCHNITZER & JOHNSON,
CHTD.

By: W-V-S
MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
WADE J. VANSICKLE, ESQ.
Nevada Bar No. 13604
8985 S. Eastern Ave. Ste. 200
Las Vegas, Nevada 89123
Attorneys for Plaintiff,
ISABELLA GODOY, a minor, by and
through her Mother, Veronica Jaime

Approved as to form and content by:
OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI

By: _____
JAMES R. OLSON, ESQ.
Nevada Bar No. 116
EMILY H. MONTGOMERY, ESQ.
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NEW HORIZON KIDS QUEST III, INC

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ISABELLA GODOY et al. v. NEW HORIZON KIDS QUEST III, INC.
A-14-707949-C

NOTICE

Pursuant to NRCP 16.1 (d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

[Pursuant to E.D.C.R. 2.34 (f) an objections must be filed and served no more than five (5) judicial days after receipt of The Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or (3) days after mailing to a party or his attorney, or three (3) days after mailing to a party or his attorney, or three (3) days after the Clerk of the Court deposits a copy of the Report in the folder of a party's lawyer in the Clerk's Office. See E.D.C.R. 2.34 (f)]

A copy of the foregoing Discovery Commissioner's Report was:

_____ Mailed to Plaintiff/Defendant at the following address on the ____ day of _____, 20__:

X Placed in the folder of Plaintiff's & Defendant's counsel in the Clerk's Office on the 18 day of Aug. 2015

STEVEN D. GRIERSON

By JENNIFER LOTT

Deputy Clerk

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 S. Eastern Ave., Ste. 200
Las Vegas, Nevada 89123
(702) 362-6666

ISABELLA GODOY et al. v. NEW HORIZON KIDS QUEST III, INC.
A-14-707949-C

ORDER

The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

_____ The parties having waived the right to object thereto,

_____ No timely objection having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34 (f),

_____ Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

AND

_____ IT IS HEREBY ORDERED the Discovery Commissioner's Report & Recommendations are affirmed and adopted.

_____ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

_____ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report and Recommendations is set for _____, 20__, at _____ a.m.

Dated this _____ day of _____, 20__.

DISTRICT COURT JUDGE


CLERK OF THE COURT

OPPS
MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
JORDAN P. SCHNITZER, ESQ.
Nevada 10744
KRAVITZ, SCHNITZER
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Attorneys for Plaintiff,
ISABELLA GODOY, a minor, by and through
her Mother, Veronica Jaime

DISTRICT COURT
CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME

Plaintiff,

vs.
NEW HORIZON KIDS QUEST III, INC., a
Minnesota Corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendant.

Case No.: A-14-707949-C
Dept No.: XXIX

**PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO
DISQUALIFY PLAINTIFFS'
COUNSEL**

Date of Hearing: 2/01/16
Time of Hearing: 9:30 a.m.

COMES NOW, Plaintiff ISABELLA GODOY, a Minor, by and through her mother,
VERONICA JAIME and by and through their attorneys of record Jordan P. Schnitzer, Esq., of
the law firm of KRAVITZ, SCHNITZER & JOHNSON, CHTD., and hereby submits their
Opposition to Defendant's Motion to Disqualify Plaintiffs' Counsel. This Opposition is based on
the following Memorandum of Points and Authorities and any oral argument this Court may

1 allow.

2 **I. INTRODUCTION**

3 Defendant's Motion should be denied because Mr. Schnitzer never represented
4 Defendant and never acquired any confidential information regarding Defendant. As a result,
5 there is no ethical rule prohibiting Mr. Schnitzer or his current firm from litigating against
6 Defendant. This Motion is nothing more than a delay and harassment tactic by Defendant based
7 upon false and misleading statements.
8

9 **II. FACTUAL BACKGROUND**

10 The present case involves a child on child sexual assault, resulting from a lack of
11 supervision, at a day care center known as Kids Quest. The case was brought in to
12 Kravitz, Schnitzer and Johnson ("KSJ") by its managing partner, Marty Kravitz. *See*
13 Affidavit of Martin Kravitz, attached as **Exhibit 1**. After accepting the case, Mr. Kravitz
14 conducted a search, both through court pleadings and the internet, to determine whether
15 there had been any prior similar incidents. *Id.* Mr. Kravitz located two claims of prior
16 similar incidents that had gone in to litigation, one locally and one in Minnesota. *Id.*
17

18 Mr. Kravitz wanted to, and still wants to, obtain as much information as possible
19 about the prior similar incidents. *Id.* As a result, Mr. Kravitz attempted to obtain as many
20 available documents as possible, as well as speak to the Plaintiff's attorneys in the other
21 cases. *Id.* Mr. Kravitz found that neither attorney from the other cases could provide any
22 information due to a confidentiality agreement that had been forced upon them by Kids
23 Quest. *Id.* This has led to the extensive discovery requests related to those two cases. *Id.*
24

25 Additionally, during Mr. Kravitz's investigation, he noticed the firm of Hall, Jaffe
26 and Clayton ("HJC") defended Kids Quest in the prior litigation in Clark County, *Blue v.*
27 *New Horizon Kids Quest*. *Id.* Mr. Kravitz knew one of his associates, Jordan Schnitzer,
28

1 **REQUEST NO. 40:**

2 Copies of all contracts, agreements or other documents of any kind between Defendant New
3 Horizon Kids Quest, Inc. and its landlord which permitted the daycare facility to be present and
4 in operation as a business at Boulder Station.
5

6 **REQUEST NO. 41:**

7 Copies of all complaints filed by any person or organization with any state licensing agency
8 regarding the Defendant.
9

10 **REQUEST NO. 42:**

11 Copies of all New Horizon Incident File Information Gathering Checklists used at the New
12 Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of the subject incident.
13

14 **REQUEST NO. 43:**

15 Copies of all 5 hour Maximum Stay Check-In Forms signed by Plaintiff's guardian at the New
16 Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of the subject incident.
17

18 **REQUEST NO. 44:**

19 Copies of all New Horizon Daily Authorizations signed by Plaintiff's guardian at the New
20 Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of the subject incident.
21

22 **REQUEST NO. 45:**

23 Copies of any and all incident report(s) prepared by the director of the New Horizon Kids Quest
24 III, Inc. daycare facility regarding the subject incident at the New Horizon Kids Quest III, Inc.
25 daycare facility.
26

27 **REQUEST NO. 46:**

28 Copies of any and all statements, correspondence, memoranda, reports or documents of any kind,

1 whether handwritten or typed, by director or any other employee or agent of the Defendant
2 regarding the subject incident at the New Horizon Kids Quest III, Inc. daycare facility.

3 **REQUEST NO. 47:**

4
5 Copies of all follow up incident reports prepared by director or any other employee or agent of
6 the Defendant reflecting their review of security tape regarding the subject incident at the New
7 Horizon Kids Quest III, Inc. daycare facility.

8 **REQUEST NO. 48:**

9
10 Any Kids Quest or New Horizon brochures being used at the time of the subject incident.

11 **REQUEST NO. 49:**

12
13 Any currently used Kids Quest Brochures.

14 **REQUEST NO. 50:**

15
16 Any Kids Quest brochures being used in the past ten years.

17 **REQUEST NO. 51:**

18
19 Copies of any and all police department incident reports regarding any incidents of alleged
20 molestation, violence, physical or sexual abuse or assaults of any kind at the New Horizon Kids
21 Quest III, Inc. daycare facility referenced in Plaintiff's Complaint.

22 **REQUEST NO. 52:**

23
24 Copies of all police department incident reports regarding any incidents of alleged molestation,
25 violence, sexual or physical abuse or assaults of any kind at any Kids Quest facility.

26 **REQUEST NO. 53:**

27
28 Copies of any and all statements taken by parties or witnesses, written or recorded regarding the

1 subject incident in question, whether taken at the time of the subject incident or any time after
2 the subject incident.

3 **REQUEST NO. 54:**

4
5 Copies of any and all expert liability and medical reports regarding the subject incident.

6 **REQUEST NO. 55:**

7 Copies of any and all photos, videotapes, movies, pictures, digital images, diagrams, or
8 documentary evidence regarding the subject incident.

9 **REQUEST NO. 56:**

10
11 Copies of any and all documents, manuals or instructions of any kind which were provided to
12 defendants employees on duty at the New Horizon Kids Quest III, Inc. daycare facility at any
13 time on the date of the subject incident, for purposes of educating those employees in procedures
14 for the safety of the children under their care.

15 **REQUEST NO. 57:**

16
17 A list of all persons on the premises of the New Horizon Kids Quest III, Inc. daycare facility at
18 any time on May 13, 2013, the date of the subject incident.

19 **REQUEST NO. 58:**

20
21 Documentation of any and all physical alterations made to the New Horizon Kids Quest III, Inc.
22 daycare facility premises before and since May 13, 2013, the date of the subject incident.

23 **REQUEST NO. 59:**

24
25 Copies of any and all claims against New Horizon Kids Quest, Inc. for alleged molestation,
26 violence, physical abuse or sexual abuse or assaults of any kind of a minor at the New Horizon
27 Kids Quest III, Inc. daycare facility including name, address and phone numbers, dates of
28

1 occurrence, information on current and former employees with information to the referenced
2 claims for the prior 10 years.

3 **REQUEST NO. 60:**
4

5 Copies of any and all claims against any New Horizon or Kids Quest for alleged molestation,
6 violence, physical abuse or sexual abuse or assaults of any kind of a minor at any New Horizon
7 or Kids Quest facility, including any corporate entities with knowledge of any incident
8 referenced above, including name, address and phone numbers, dates of occurrence, information
9 on current and former employees with information to the referenced claims for the prior 10
10 years.
11

12 **REQUEST NO. 61:**
13

14 Copies of any and all lawsuits filed for alleged molestation, physical abuse or sexual abuse or
15 assaults of any kind of a minor at the New Horizon Kids Quest III, Inc. daycare facility including
16 court, case title, court number and date of filing.

17 **REQUEST NO. 62:**
18

19 Any and all documents, renderings, blueprints, physical dimensions, documentation of placement
20 and installation, memoranda, notes, emails, letters and recommendations by any experts used by
21 Defendant New Horizon Kids Quest III, Inc. regarding any aspect of the New Horizon Kids
22 Quest III, Inc. daycare facility at issue.

23 **REQUEST NO. 63:**
24

25 Copies of any and all minutes, notes, memoranda, correspondence or documents of any kind
26 from meeting with your landlord regarding the subject incident.
27
28

1 **REQUEST NO. 64:**

2 Copies of any and all minutes, notes, memoranda or documents of any kind from meetings with
3 your landlord regarding other incidents of alleged molestation, violence, physical or sexual abuse
4 or assaults of any kind of a minor.
5

6 **REQUEST NO. 65:**

7 Copy of the Visitor In and Out Log at the New Horizon Kids Quest III, Inc. daycare facility from
8 May 13, 2013, the date of the subject incident.
9

10 **REQUEST NO. 66:**

11 Copy of any teammate manual(s) in place at the New Horizon Kids Quest III, Inc. daycare
12 facility on the date of the subject incident.
13

14 **REQUEST NO. 67:**

15 Copy of any and all current teammate manual(s) in place at the New Horizon Kids Quest III, Inc.
16 daycare facility.
17

18 **REQUEST NO. 68:**

19 Copy of computer sales report at the New Horizon Kids Quest III, Inc. daycare facility on May
20 13, 2013, the date of the subject incident.
21

22 **REQUEST NO. 69:**

23 Copy of the computer scheduler listing/measures report with number of guests by age at the New
24 Horizon Kids Quest III, Inc. daycare facility from May 13, 2013, the date of the subject incident.
25

26 **REQUEST NO. 70:**

27 Copies of any and all comments, emails, correspondence, inquiries, complaints or any other
28

1 communication received from your website retained by any current or former owner, employee,
2 agent or representative of Defendant New Horizon Kids Quest III, Inc. since 2005.

3 **REQUEST NO. 71:**

4
5 Copies of any and all documented action and follow-up to comments emails, correspondence,
6 inquiries, complaints or any other communication from your website retained by any current or
7 former owner, employee, agent or representative of Defendant since 2005.

8 **REQUEST NO. 72:**

9
10 Copies of any and all required documents filled in by director of the New Horizon Kids Quest
11 III, Inc. daycare facility regarding the subject incident.

12 **REQUEST NO. 73:**

13
14 Copies of any and all non-privileged documents given to the law firm Olson, Cannon, Gormley,
15 Angulo & Stoberski regarding the subject incident.

16 **REQUEST NO. 74:**

17
18 Copies of any and all non-privileged documents given to any law firm regarding the subject
19 incident.

20 **REQUEST NO. 75:**

21
22 Copies of any and all documents given to the law firm Olson, Cannon, Gormley, Angulo &
23 Stoberski regarding any incident of alleged molestation, violence, physical abuse or sexual abuse
24 or assaults of any kind at any New Horizon or Kids Quest facility.

25 **REQUEST NO. 76:**

26
27 Copies of any and all non-privileged documents given to any law firm regarding any incident of
28 alleged molestation, violence, physical abuse or sexual abuse or assaults of any kind at any New

1 Horizon or Kids Quest facility.

2 **REQUEST NO. 77:**

3 Copies of any and all documents given to any current or former owner, employee, agent or
4 representative of Defendant New Horizon Kids Quest, Inc. or New Horizon Kids Quest, Inc.
5 regarding the subject incident.
6

7 **REQUEST NO. 78:**

8 Copies of any and all documents given to any current or former owner, employee, agent or
9 representative of New Horizon Kids Quest, Inc. regarding any incident of alleged molestation,
10 violence, physical or sexual abuse or assaults of any kind at the New Horizon Kids Quest III, Inc.
11 daycare facility.
12

13 **REQUEST NO. 79:**

14 Copies of any and all documentation of the staff's placement on the floor at the New Horizon
15 Kids Quest III, Inc. daycare facility on May 13, 2013 at the time of the subject incident.
16

17 **REQUEST NO. 80:**

18 Copies of any and all documentation produced by any teammate, staff member, associate
19 director, director, employee or agent of Defendant New Horizon Kids Quest III, Inc. regarding
20 the subject incident.
21

22 **REQUEST NO. 81:**

23 Any and all documentation regarding the placement of each video camera at the New Horizon
24 Kids Quest III, Inc. daycare facility on May 13, 2013, the date of the subject incident.
25

26 **REQUEST NO. 82:**

27 Any and all documentation regarding the placement of all cameras since 2005 at the Mille Lac's
28

1 New Horizon daycare facility.

2 **REQUEST NO. 83:**

3 Any and all documentation regarding installation and upkeep of all video cameras at the New
4 Horizon Kids Quest III, Inc. daycare facility.

6 **REQUEST NO. 84:**

7 Copy of any New Horizon Kids Quest III, Inc. safety manual.

9 **REQUEST NO. 85:**

10 Copy of any safety manual kept at the New Horizon Kids Quest III, Inc. daycare facility on May
11 13, 2013, the date of the subject incident.

13 **REQUEST NO. 86:**

14 Copy of any licensing binder kept at the New Horizon Kids Quest III, Inc. daycare facility on
15 May 13, 2013, the date of the subject incident.

17 **REQUEST NO. 87:**

18 Copy of any safety checklist kept at the New Horizon Kids Quest III, Inc. daycare facility on
19 May 13, 2013, the date of the subject incident.

21 **REQUEST NO. 88:**

22 Copy of any and all licensing requirements regarding ratio of staff to children.

24 **REQUEST NO. 89:**

25 Copies of any and all protocols for staff members at the New Horizon Kids Quest III, Inc.
26 daycare facility when any children enter any particular part of the facility.

1 **REQUEST NO. 90:**

2 Copies of any and all protocols for a 30-month-old to 12 year old at the New Horizon Kids Quest
3 III, Inc. daycare facility.
4

5 **REQUEST NO. 91:**

6 Copies of any and all Quest Logs documenting when employees entered particular areas at the
7 New Horizon Kids Quest III, Inc. daycare facility at any time on May 13, 2013, the date of the
8 subject incident.
9

10 **REQUEST NO. 92:**

11 Copy of any and all marketing loop tapes displayed for outside customers to view at the New
12 Horizon Kids Quest III, Inc. facility on May 13, 2013, the date of the subject incident at this
13 facility.
14

15 **REQUEST NO. 93:**

16 Copy of any and all marketing loop tapes currently displayed for outside customers to view at the
17 New Horizon Kids Quest III, Inc. daycare facility.
18

19 **REQUEST NO. 94:**

20 Copy of any and all policy and/or procedure manuals in place at the New Horizon Kids Quest III,
21 Inc. daycare facility on May 13, 2013, the date of the subject incident.
22

23 **REQUEST NO. 95:**

24 Copies of any and all documents used for insurance purposes regarding the subject incident at
25 the New Horizon Kids Quest III, Inc. daycare facility.
26

27 **REQUEST NO. 96:**

28 Copies of any all safety procedures, safety training, and risk management matters regarding the

1 New Horizon Kids Quest III, Inc. daycare facility since 2005.

2 **REQUEST NO. 97:**

3 Copies of any and all documentation, whether handwritten or typed, by director, associate
4 director, teammates or any other employee or agent of the Defendant regarding the subject
5 incident.
6

7 **REQUEST NO. 98:**

8 Copies of any and all documentation, whether handwritten or typed, by director, associate
9 director, teammates or any other employee or agent of the Defendant given to any licensing
10 entity regarding the subject incident.
11

12 **REQUEST NO. 99:**

13 A copy of the "on-call" employee schedule used on May 13, 2013, the date of the subject
14 incident.
15

16 **REQUEST NO. 100:**

17 A copy of the New Teammate Orientation (Form #110) from the employee file of each employee
18 working at this New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of
19 this subject incident.
20

21 **REQUEST NO. 101:**

22 A copy of the Human Relation Quiz (Form #111) from the employee file of each employee
23 working at this New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of
24 this subject incident.
25

26 **REQUEST NO. 102:**

27 A copy of the Golden Rules (Form #113) from the employee file of each employee working at
28

1 this New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of this subject
2 incident.

3 **REQUEST NO. 103:**

4 A copy of the Responsibilities of the Teammate (Form #112) from the employee file of each
5 employee working at this New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013,
6 the date of this subject incident.
7

8 **REQUEST NO. 104:**

9 A copy of the Behavior Redirection Guidelines (Form #115) from the employee file of each
10 employee working at this New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013,
11 the date of this subject incident.
12

13 **REQUEST NO. 105:**

14 Safety Policy Statement (Form #300) from the employee file of each employee working at this
15 New Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of this subject
16 incident.
17

18 **REQUEST NO. 106:**

19 Copy of the videotape, *Through Our Parents Eyes*, a nine-segment videotape and Participant
20 Manual that must be initiated within the first 90 days of employment and proof that each
21 employee viewed a copy of the videotape.
22

23 **REQUEST NO. 107:**

24 Copy of the videotape, *Reducing The Risk*, a videotape and study guide pertaining to controlling
25 infectious disease in the child care setting and proof that each employee viewed a copy of the
26 videotape.
27
28

1 REQUEST NO. 108:

2 Copy of the self-esteem videotape created by Sue Dunkley used for training purposes and proof
3 that each employee viewed a copy of the videotape.
4

5 REQUEST NO. 109:

6 Copies of any and all videotapes, CD's or recordings used during employee orientation and
7 training.
8

9 REQUEST NO. 110:

10 Copies of all periodic evaluation reviews of any directors, associate directors, teammates,
11 employees or any other agents of the Defendants working at the New Horizon Kids Quest III,
12 Inc. daycare facility on May 13, 2013, the date of the subject incident.
13

14 REQUEST NO. 111:

15 Copies of any and all disciplinary action taken at any time towards any directors, associate
16 directors, teammates, employees, or other agents of the Defendant on duty at the New Horizon
17 Kids Quest III, Inc. daycare facility on the date of the subject incident, including but not limited
18 to verbal warnings, corrective interview, notes and documentation of suspension or termination.
19

20 REQUEST NO. 112:

21 Copies of any and all disciplinary action towards any former employee taken at any time towards
22 any directors, associate directors, teammates, employees, or other agents of the Defendant on
23 duty at the New Horizon Kids Quest III, Inc. daycare facility on the date of the subject incident,
24 including but not limited to verbal warnings, corrective interview, and documentation of
25 suspension or termination.
26
27
28

1 **REQUEST NO. 113:**

2 Copy of all New Teammate Safety Checklist (Form # 105) filled in by directors, associate
3 directors, teammates, or other employees upon completion of the Safety Training Module for
4 each employee working at the New Horizon Kids Quest III, Inc. daycare facility on the date of
5 the subject incident.
6

7 **REQUEST NO. 114:**

8
9 Copy of all Teammate Manual Receipts (Form #106) confirming employee received, read, and
10 understood the Kids Quest Teammate Manual and the Quality Customer Service Manual for
11 each employee working at the New Horizon Kids Quest III, Inc. daycare facility on the date of
12 the subject incident.

13 **REQUEST NO. 115:**

14
15 Copy of the quality customer service manual used by the Defendant.

16 **REQUEST NO. 116:**

17
18 Copy of all Safety Policy Statement Receipt (Form #107) signed by employee after completing
19 Safety Module Training and kept in personnel file for each employee working at this New
20 Horizon Kids Quest III, Inc. daycare facility on the date of the subject incident.

21 **REQUEST NO. 117:**

22
23 Copy of all Teammate Development Training Record (Form #108) containing employee in-
24 service hours or additional training that has been completed for each employee working at the
25 New Horizon Kids Quest III, Inc. daycare facility on the date of the subject incident.

26 **REQUEST NO. 118:**

27
28 Copy of all Nevada Statutes and Regulations regarding the care of children that applied to

1 Defendant's conduct in the subject incident.

2 **REQUEST NO. 119:**

3 Copies of any and all complaints, regardless of whether substantiated or inconclusive,
4 investigations, reports of disciplinary action and any other information received from any
5 licensing bureau in connection with the New Horizon Kids Quest III, Inc. daycare facility.
6

7 **REQUEST NO. 120:**

8 Copies of any and all complaints, regardless of whether substantiated or inconclusive,
9 investigations, reports of disciplinary action and any other information received from any
10 licensing bureau in connection with any New Horizon Kids Quest, Inc. daycare facility.
11

12 **REQUEST NO. 121:**

13 A copy of the map of the New Horizon Kids Quest III, Inc. daycare facility showing the layout
14 of the facility and the placement of equipment/playpieces and/or play area.
15

16 **REQUEST NO. 122:**

17 Copies of any and all insurance policies where Defendant was insured that were in effect May
18 13, 2013, the date of the subject incident.
19

20 **REQUEST NO. 123:**

21 Copies of any and all applications for those insurance policies that were in effect May 13, 2013,
22 the date of this subject incident.
23

24 **REQUEST NO. 124:**

25 Copies of any and all childcare services agreements being used at the New Horizon Kids Quest
26 III, Inc. daycare facility on May 13, 2013 to which Defendant was a party.
27
28

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203, FAX - (702) 362.2203

1 REQUEST NO. 125:

2 Copies of any and all childcare services agreements being used at any New Horizon or Kids
3 Quest daycare facility on May 13, 2013 to which Defendant was a party.
4

5 REQUEST NO. 126:

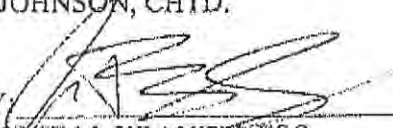
6 Copies of any written complaints or random inspections by any governmental entity of any kind
7 regarding the New Horizon Kids Quest III, Inc. daycare facility.
8

9 REQUEST NO. 127:

10 All architectural drawings, blueprints, schematics, renderings, charts, plats, plans or
11 specifications of any kind regarding the New Horizon Kids Quest III, Inc. daycare facility.
12

13 Dated this 8 day of July, 2015.
14

15 KRAVITZ, SCHNITZER
16 & JOHNSON, CHTD.

17 BY: 
18 MARTIN J. KRAVITZ, ESQ.
19 Nevada Bar No. 83
20 JORDAN P. SCHNITZER, ESQ.
21 Nevada Bar No. 10744
22 8985 So. Eastern Avenue, Suite 200
23 Las Vegas, Nevada 89123
24 Attorney for Plaintiff,
25 ISABELLA GODOY, a Minor, by and
26 through her mother, VERONICA JAIME
27
28

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CERTIFICATE OF SERVICE

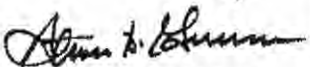
In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
8th day of July, 2015, I served a true and correct copy of the foregoing
PLAINTIFF'S THIRD REQUESTS FOR PRODUCTION FOR DOCUMENTS TO
DEFENDANT, NEW HORIZON KIDS QUEST III, INC. to the above-entitled Court for
electronic filing and service upon the Court's Service List for the above-referenced case to the
following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129



An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD.

EXHIBIT J


CLERK OF THE COURT

1 **OPPS**
2 MARTIN J. KRAVITZ, ESQ.
3 Nevada Bar No. 83
4 JORDAN P. SCHNITZER, ESQ.
5 Nevada 10744
6 KRAVITZ, SCHNITZER
7 & JOHNSON, CHTD.
8 8985 So. Eastern Avenue, Suite 200
9 Las Vegas, Nevada 89123
10 Telephone: (702) 362-6666
11 Facsimile: (702) 362-2203
12 mkravitz@ksjattorneys.com
13 *Attorneys for Plaintiff,*
14 *ISABELLA GODOY, a minor, by and through*
15 *her Mother, Veronica Jaime*

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

12
13 ISABELLA GODOY, a Minor, by and through
14 her mother, VERONICA JAIME

15 Plaintiff,

16 vs.
17 NEW HORIZON KIDS QUEST III, INC., a
18 Minnesota Corporation; DOES I through 10,
19 inclusive; and ROE CORPORATIONS I
20 through 20, inclusive,

21 Defendant.

Case No.: A-14-707949-C
Dept No.: XXIX

**OPPOSITION TO DEFENDANT'S
MOTION FOR PROTECTIVE
ORDER AND
COUNTERMOTION TO
COMPEL**

Before the Discovery Commissioner

Date of Hearing: July 8, 2015
Time of Hearing: 9:30 a.m.

21 COMES NOW, Plaintiff ISABELLA GODOY, a Minor, by and through her mother,
22 VERONICA JAIME and by and through their attorneys of record Jordan P. Schnitzer, Esq., of
23 the law firm of KRAVITZ, SCHNITZER & JOHNSON, CHTD., and hereby submits their
24 Opposition to Defendants Motion For Protective Order and Countermotion to Compel. This
25 Opposition and Countermotion is based on the following Memorandum of Points and Authorities
26 and any oral argument this Court may allow.
27
28

AFFIDAVIT OF WADE VAN SICKLE IN SUPPORT OF MOTION TO COMPEL
PURSUANT TO EDCR 2.34

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

WADE VAN SICKLE, being first duly sworn, deposes and says:

1. I am a licensed attorney admitted to practice law in all courts in the State of Nevada.
2. I make this affidavit in support of Defendant T.I.'s Motion to Compel.
3. I have personal knowledge of the matters stated in this affidavit and could testify as a competent witness, if called upon to do so.
4. On October 1, 2014, Plaintiff filed her Complaint.
5. Defendant filed its Answer on November 12, 2014.
6. The parties conducted an Early Case Conference on January 26, 2015.
7. On March 13, 2015, Plaintiff served her First Set of Requests for Production of Documents upon Defendant.¹
8. On April 30, 2015, Defendant provided inadequate responses Plaintiff's First Set of Requests for Production of Documents.²
9. On April 30, 2015, Plaintiff served her First Set of Request for Admissions upon Defendant.³
10. On May 13, 2015, counsel for both parties participated in an EDCR 2.34 "meet and confer" conference.
11. Despite a good faith effort, the parties were unable to settle the disputed discovery

¹ Plaintiff's First Set of Requests for Production are attached hereto as Exhibit 4.

² Defendants Responses to First Set of Requests for Production of Documents as Exhibit 5.

³ Plaintiff's First Set of Requests for Admissions as Exhibit 6.

1 requests.

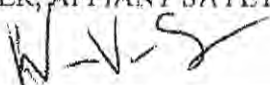
2 12. On June 2, 2015, Defendant provided inadequate responses to Plaintiff's Requests for
3 Admissions.⁴

4 13. On June 18, 2015, counsel for both parties participated in a second EDCR 2.34 "meet and
5 confer" conference to discuss the disputed Responses to Plaintiff's First Requests for Admission.

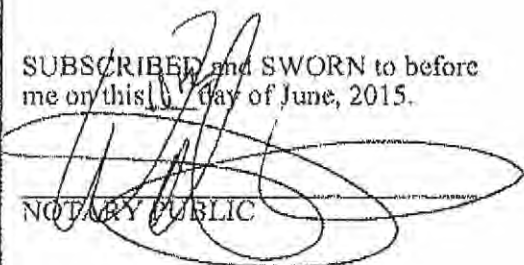
6 14. Despite the parties, good faith effort, the dispute was not resolved.

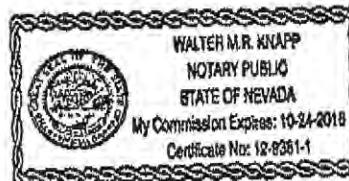
7 15. I submit this Affidavit in compliance with EDCR 2.34 to demonstrate my compliance
8 with the rule and to illustrate the efforts that were undertaken to try to resolve these issues
9 without the need to involve the Court.
10

11 FURTHER, AFFIANT SAYETH NAUGHT.
12

13 
14 WADE VAN SICKLE, ESQ.

15
16 SUBSCRIBED and SWORN to before
17 me on this 17 day of June, 2015.

18 
19 NOTARY PUBLIC



20
21
22
23
24
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27
28 ⁴ Defendants Responses to First Set of Requests for Admissions as Exhibit 8

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case involves a sexual assault at a national child care facility. Defendant has a history of prior sexual assaults at this particular location, as well as its other national locations, and is attempting to use an administrative code as a shield to prevent Plaintiff from proving its fraud (regarding false advertising of the level of safety) and punitive damage causes of action. Specifically, Defendant does not want any discovery related to prior incidents, corporate policies, procedures and training.

This appears to be a strategy employed nationally to prevent any Plaintiff from proving notice of prior incidents as Defendant has tried to enforce unwarranted confidentiality agreements and protective orders in every litigated case.

Defendant's Motion for Protective Order should be denied because Defendant's purported proprietary information is not privileged and Plaintiff will not violate NAC 432A.360 by disclosing documentation and information related to previous crimes and complaints. Defendant asserts that Plaintiff is seeking trade secret information in her discovery requests for Defendant's corporate manuals, advertising and marketing materials, and training manuals, audios, and videos. Assuming Defendant's assertion is true, it is immaterial that the information sought is proprietary because it is relevant to the present litigation, no privilege applies thereto, and the information is discoverable. *See* NRCP 26.1(NRCP 26(b)(1) provides that "parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter...").

Similarly, Defendant's basis for seeking a protective order regarding the disclosure of documentation associated with prior crimes and complaints is insufficient. Specifically,

1 Contrary to this assertion, Defendant will clearly not be violating the Nevada Administrative
2 Code by complying with an Order from this Court. Moreover, this information is relevant to the
3 instant matter and is not privileged, and Defendant has no justification for failing to disclose the
4 requested information. *See* NRCp 26.1 Accordingly, this Court should deny Plaintiff's Motion.

5
6 Additionally, this Court should issue an Order compelling Defendant to produce the
7 documentation requested in the eight (8) subject Requests for Production of Documents and
8 provide adequate responses to Plaintiff's First Set of Requests For Admission. As previously
9 mentioned, Defendant's basis for refusing to produce the requested documentation is
10 insufficient. Specifically, not one of the documents requested is privileged. Moreover, every
11 document requested is relevant the core issues of this litigation. As such, this Court should grant
12 Plaintiff's Motion to Compel Defendant to produce the documentation requested in the
13 respective written discovery requests.

14
15 Likewise, Defendant fails to adequately respond to all of Plaintiff's Requests for
16 Admission. Instead, Defendant attempts to avoid its obligation and provide Responses
17 containing inappropriate boilerplate objections. Defendant is clearly seeking to avoid providing
18 any information in this case, at all costs.

19 **II. STATEMENT OF FACTS**

20 On October 1, 2014, Plaintiff filed her Complaint. *See Exhibit 1, Complaint.* Defendant
21 filed its Answer on November 12, 2014. *See Exhibit 2, Answer.* The parties conducted an Early
22 Case Conference on January 26, 2015. *See Exhibit 3, JCCR.* On March 13, 2015, Plaintiff
23 served her First Set of Requests for Production of Documents upon Defendant. *See Exhibit 4,*
24 *Plaintiff's First Set of Requests for Production of Documents.* On April 30, 2015, Defendant
25 provided inadequate responses thereto. *See Exhibit 5, Defendant's Responses to Plaintiff's*
26 *First Set of Requests for Production of Documents.* On the same day, Plaintiff served upon
27
28

1 Defendant her First Set of Requests for Admission. See Exhibit 6, Plaintiff's First Set of
2 Requests for Admission. On May 13, 2015, counsel for both parties participated in an EDCR
3 2.34 "meet and confer" conference. See Exhibit 7, Affidavit of Wade Van Sickle, Esq. The
4 parties attempted to resolve the written discovery disputes, but were unable to do so. *Id.* The
5 following Requests for Production of Documents are still disputed:
6

7 **REQUEST NO. 1:**

8 Produce a copy of any security policies in existence at the time of the May 13, 2013
9 incident.

10 **RESPONSE NO. 1:**

11 Defendant Objects to this request on the basis that it is vague and ambiguous as to what is
12 meant by "security policies" and not reasonably calculated to the discovery of admissible
13 evidence given the allegations in the Complaint. In addition, Defendant objects to this
14 request on the grounds that it calls for the disclosure of confidential, proprietary and/or
15 trade secret information, and is overbroad in scope. Subject to and without waiving said
16 objections, in order to prohibit disclosure of confidential, proprietary and/or trade secret
17 information, Defendant will produce said policies once a mutually agreeable protective
18 order is in place.

19 **REQUEST NO. 3:**

20 Produce copies of the corporate manual(s) regarding the care, supervision and control of
21 your child patrons in effect at the time of the subject incident on May 13, 2013.

22 **RESPONSE NO. 3:**

23 Defendant objects to this request on the basis that it is vague and ambiguous as to what is
24 meant by "corporate manual(s) regarding the care supervision and control of your child
25 patrons," overbroad and unduly burdensome as to subject matter and not reasonably
26 calculated to the discovery of admissible evidence given the allegations in the Complaint.
27 In addition, Defendant objects to this request on the grounds that is calls for the
28 disclosure of confidential, proprietary and/or trade secret information. Subject to and
without waiving said objections, in order to prohibit disclosure of confidential,
proprietary and/or trade secret information, Defendant will produce said manuals once a
mutually agreeable protective order is in place.

REQUEST NO. 4:

Produce a complete copy of any documents, including video and incident reports, related
to any sexual assault and/or battery (actual or claimed) at the New Horizon Kids Quest
III, Inc. premises for the period May 13, 2003 through May 13, 2013.

RESPONSE NO. 4:

Defendant objects to this request on the basis that it is overbroad, unduly burdensome and harassing, including because it seeks certain documents for a period of 10 years, which Defendant further objects to this request on the basis that it is not reasonably calculated to the discovery of admissible. Defendant also objects to this request on the basis that it seeks information that is equally available to Plaintiffs as far as it relates to any action filed in a court of law. Finally, Defendant objects to this request on the basis of privacy and confidentiality. See, e.g., NAC 432A.360. Subject to and without waiving said objections, see Defendant's disclosures

REQUEST NO. 6:

Produce a complete copy of any documents, including video, related to prior crimes and complaints made by and/or to its employees and/or guests to New Horizon Kids Quest III, Inc. for the time period of May 13, 2003 through May 13, 2013.

RESPONSE NO. 6:

Defendant objects to this request on the basis that it is overbroad, unduly burdensome and harassing, including because it seeks certain documents for a period of 10 years and relates to any and all crimes, which Defendant further objects to this request on the basis that it is not reasonably calculated to the discovery of admissible. Defendant also objects to this request on the basis that it is vague and ambiguous as to what is meant by "crimes" and calls for legal opinion and/or conclusion. Finally, Defendant objects to this request on the basis of privacy and confidentiality See, e.g., NAC 432A.360. Subject to and without waiving said objections see Response to Request No. 4.

REQUEST NO. 8:

Produce a copy of all advertising and marketing materials done by the New Horizon Kids Question III, Inc. within the five (5) years preceding the incident.

RESPONSE NO. 8:

Defendant object to this request on the basis that it is overly broad and unduly burdensome, including because it is not limited to place or area, and , therefore, not reasonably calculated to lead to this discovery of admissible evidence. In addition, Defendant objects to this request on the grounds that it calls for the disclosure of confidential, proprietary and/or trade secret information. Subject to and without waiving said objections, in order to prohibit disclosure of confidential, proprietary and/or trade secret information, Defendant will produce said materials once a mutually agreeable protective order is in place.

1 **REQUEST NO. 9:**

2 Produce a copy of all manuals, audios and videos regarding the training of New Horizon
3 Kids Quest III, Inc. employees within the last five (5) years.

4 **RESPONSE NO. 9:**

5 Defendant objects to this request on the basis that it is overbroad, unduly burdensome and
6 harassing, including because it seeks manuals, etc., regarding the training of employees
7 without limitation as to subject matter. Defendant further objects to this request on the
8 basis that it is not reasonably calculated to the discovery of admissible. In addition,
9 Defendant objects to this request on the grounds that it calls for the disclosure of
10 confidential, proprietary and/or trade secret information, and is overbroad in scope.
11 Subject to an without waiving said objections, in order to prohibit disclosure of
12 confidential, proprietary and/or trade secret information, Defendant will produce said
13 things once a mutually agreeable protective order is in place.

14 **REQUEST NO. 11:**

15 Produce any and all documents mentioning Minor⁵ or his parents/guardians, including
16 Anissa Wright, including but not limited to prior incident reports and customer histories.

17 **RESPONSE NO. 11:**

18 Defendant objects to this request on the basis of privacy and confidentiality. See, e.g.,
19 NAC 432A.360. See Defendant's disclosures. Discovery is continuing.

20 **REQUEST NO. 12:**

21 Produce all discovery including NRCP 16.1 disclosures, written discovery, deposition
22 transcripts and expert reports from Clark County District Court Case No. A547414.

23 **RESPONSE NO. 12:**

24 Defendant objects to this request on the basis that is overbroad, unduly burdensome,
25 harassing, and not reasonably calculated to lead to this discovery of admissible. Finally,
26 Defendant objects to this request on the basis that it seeks some documents that might be
27 equally available to Plaintiffs. Finally, Defendant objects to this request on the basis of
28 privacy and confidentiality. See, e.g., NAC 432A.360. Subject to and without waiving
29 said objections, Case No. A547414 is the subject of a confidentiality agreement and,
30 accordingly Defendant cannot produce said documents.

31 Additionally, on June 2, 2015, Defendant filed its Responses to Plaintiff's First Set of
32 Requests for Admission. See Exhibit 8, Defendant's Responses to Plaintiff's First Set of

33 ⁵ Minor's name has been redacted.

1 **Requests for Admission.** Defendant rested upon inappropriate boilerplate objections. On June
2 17, 2015, Plaintiff and Defendant participated in a second EDCR 2.24 "meet and confer"
3 meeting to resolve the dispute. *See Exhibit 7.* Unfortunately, the parties were unable to resolve
4 the various contentions. The following Requests for Admission are still disputed:

5
6 **REQUEST NO.1:**

7 Admit that on the date of the subject incident it was your duty, and/or responsibility, as
8 the owner and/or operator of New Horizon Kids Quest III, Inc., to protect and insure the
9 safety, health and well-being to its children and patrons on its premises.

10
11 **RESPONSE TO REQUEST NO. 1:**

12 Defendant objects to this request on the basis that it is vague and ambiguous as to what is
13 meant by "protect and insure the safety, health and well-being to its children and patrons
14 on its premises." Defendant also objects to this request on the basis that it seeks a legal
15 opinion and/or conclusion which is the task of the trier of fact to determine.

16
17 **REQUEST NO. 2:**

18 Admit that Plaintiff, Isabella Godoy, did nothing to cause the subject incident to occur on
19 May 13, 2013.

20
21 **RESPONSE TO REQUEST NO. 2:**

22 Defendant objects to this request on the basis that it seeks information uniquely in
23 possession of the Plaintiff, which has not been provided to Defendant in discovery.
24 Therefore, Defendant cannot respond hereto. Discovery is continuing.

25
26 **REQUEST NO.3:**

27 Admit you violated NAC 432A.520 as alleged by the Bureau of Services for Child Care
28 set forth in DEF000019.

RESPONSE TO REQUEST NO. 3:

Defendant objects to this request on the basis that it seeks a legal opinion and/or
conclusion and seeks information as to the Bureau of Services position, which Defendant
does not know beyond that which it has already been disclosed by it. *See* DEF000019-
DEF000020. Defendant also objects to this request on the basis that the document speaks
for itself. Therefore, Defendant cannot respond thereto.

1 III. LEGAL STANDARD

2 A. Responses to Requests for Production of Documents

3 The Nevada Rules of Civil Procedure specifically allow discovery of any non-privileged
4 matter that is relevant to any party's claim or defense. *See* Nev. R. Civ. P. 26(b)(1); *Schlatter v.*
5 *Eighth Judicial Dist. Court*, 93 Nev. 189, 192, 561 P.2d 1342, 1343 (1977). Discovery is
6 limited, not merely to admissible evidence, but to requests that "appear[] reasonably calculated
7 to lead to the discovery of admissible evidence." *Id.* (emphasis added). "Relevance for purposes
8 of discovery is defined very broadly. *See Hickman v. Taylor*, 329 U.S. 495, 506-07 (1947)
9 (Information is relevant to the subject matter if it might reasonably assist a party in evaluating
10 the case, preparing for trial or facilitating settlement.) " This broad right of discovery is based on
11 the general principle that litigants have a right to every man's evidence, and that wide access to
12 relevant facts serves the integrity and fairness of the judicial process by promoting the search for
13 the truth. *See United States v. Bryan*, 339 U.S. 323, 331 (1950) (emphasis added).

14 NRCP 33, 34 and 36 provides that a party may serve Interrogatories, Requests for
15 Production of Documents and Requests for Admission on any other party and the same are to be
16 answered by the party served within 30 days. These rules provide that all grounds for objection
17 shall be stated with specificity and any ground not stated in a timely objection is waived. The
18 party serving written discovery may move for an order pursuant to NRCP 37(a) for failure to
19 respond. NRCP 34(b).

20 B. Privileges Legal Standard

21 All privileges are listed under NRCP 49. Specifically, NRS 49.015 provides:

- 22 1. Except as otherwise required by the Constitution of the United States or of
23 the State of Nevada, and except as otherwise provided in this title or title 14 of
24 NRS, or NRS 41.071, no person has a privilege to:
25
26
27
28

- (a) Refuse to be a witness;
- (b) Refuse to disclose any matter;
- (c) Refuse to produce any object or writing; or
- (d) Prevent another from being a witness or disclosing any matter or producing any object or writing.

C. Uniform Trade Secrets Act Legal Standard

Chapter 600 of the Nevada Revised Statute governs the misappropriation of trade secrets.

NRS 600A. 035 states in pertinent part:

A person who, with intent to injure an owner of a trade secret or with reason to believe that his or her actions will injure an owner of a trade secret, without limitation:

1. Steals, misappropriates, takes or conceals a trade secret or obtains a trade secret through fraud, artifice or deception;
 2. Wrongfully copies, duplicates, sketches, draws, photographs, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates or conveys a trade secret;
 3. Receives, buys or possesses a trade secret with knowledge or reason to know that the trade secret was obtained as described in subsection 1 or 2;
 4. Attempts to commit an offense described in subsection 1, 2 or 3;
 5. Solicits another person to commit an offense described in subsection 1, 2 or 3; or
 6. Conspires to commit an offense described in subsection 1, 2 or 3, and one of the conspirators performs an act to further the conspiracy,
- is guilty of a category C felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.

Nev. Rev. Stat. Ann. § 600A.035

IV. LEGAL ARGUMENT

A. Defendant Should Be Compelled To Produce The Documentation Identified In Plaintiff's First Requests For Production Of Documents Numbers 1, 3, 8, And 9

Defendant should be compelled to produce a copy of the security policies in place on May 13, 2013 (Request No. 1), corporate manuals regarding the care, supervision and control of child patrons in effect on the date of the subject incident (Request No. 3), all advertising and

1 marketing materials by Defendant in the five years preceding the subject incident (Request No.
2 8),⁶ and all manuals, audios and videos regarding the training of Defendant's employees within
3 the last five years (Request No.9) because the information is not privileged and is directly
4 relevant to the issues of this litigation. Defendant asserts that the information requested is a trade
5 secret and therefore protected. See Defendant's Motion for Protective Order at 9-10.
6 Accepting Defendant's allegations that the information is in fact proprietary as true, Defendant
7 has failed to demonstrate the information is privileged or otherwise not discoverable.
8

9 Specifically, Defendant relies upon *Finkel v. Cashman Profl, Inc.*, 128 Nev. Adv. Op.
10 6, 270 P.3d 1259, 1264 (2012), and the Uniform Trade Secrets Act ("UTSA") to establish the
11 information sought is a trade secret and protected. *Id.* Plaintiff's reliance upon *Finkel* and the
12 UTSA is misplaced. Particularly, the *Finkel* Court affirmed the trial court's preliminary
13 injunction to prevent a former employee from misappropriating his employer's trade secrets, not
14 a protective order to shield the owner of the proprietary information from participating in
15 discovery. Plaintiff is not seeking Defendant's trade secrets for pecuniary gain. Instead,
16 Plaintiff is seeking the information as it is material to all four causes of action asserted in
17 Plaintiff's Complaint. As such, the *Finkel* holding is irrelevant to the present litigation.
18

19 Similarly, the UTSA concerns the theft and misappropriation of trade secrets. See NRS
20 600A.035. As set forth above, Plaintiff is not attempting to steal, misappropriate, or otherwise
21 improperly use Defendant's trade secret information. Further, Plaintiff is not seeking this
22 information for financial gain. Instead, it is necessary for Plaintiff to obtain the requested
23 information in order to substantiate her causes of action premised in negligence and fraud.
24 Accordingly, the UTSA is inapplicable in the present matter.
25

26
27 ⁶ Defendant has recently provided Plaintiff with documentation regarding its advertising and marketing.
28 To the extent Defendant has not provided all documentation related to the aforementioned topics, this
discovery response is still in dispute.

1 Additionally, Plaintiff has not alleged nor demonstrated that the documentation Plaintiff
2 seeks is privileged. On the contrary, trade secrets are not privileged. See NRS 49.015.
3 Moreover, as demonstrated above, the information cuts to the issues of whether Defendant
4 breached the duty owed to Plaintiff and whether Defendant intentionally or negligently
5 misrepresented certain facts to Plaintiff. Consequently, the information is relevant to the instant
6 litigation and therefore is discoverable. See NRS 48.015; See NRCP 26.1. Accordingly, this
7 Court should compel Defendants to produce the documentation identified in Plaintiff's Requests
8 for Production of Documents Numbers 1, 2, 3, 8, And 9.

10 **B. This Court Should Compel Defendant To Produce The Documentation Identified In**
11 **Plaintiff's First Requests For Production of Documents Numbers 4, 6, 11, And 12**

12 Defendant should be ordered to produce the documents related to any sexual assault
13 and/or battery (actual or claimed) at Defendant's facility for the period May 13, 2011 through
14 May 13, 2013 (Request No. 4), documents related to prior crimes and complaints made by and/or
15 to Defendant's employees and/or Defendant's guests for the period May 13, 2003 through May
16 13, 2013 (Request No. 6), all documents mentioning the alleged child perpetrator or his
17 parents/guardians, including but not limited to prior incident reports and customer histories
18 (Request No. 11); and all discovery from Clark County District Court Case No. A547414
19 because the information is not privileged and is relevant to the issues of the case at bar (Request
20 No. 12).

21 Defendant asserts that its disclosure of the above-referenced documents would violate
22 NAC 432A.360. This administrative code simply provides that the facility shall not disclose
23 information concerning a child. Consequently, Defendant's argument treats this administrative
24 code as if it were a privilege. However, NRCP 26(b)(1) provides that "parties may obtain
25 discovery regarding any matter, not privileged, which is relevant to the subject matter..."
26 Plaintiff does not assert the information is irrelevant. NAC 432A.360 is clearly not a privilege.
27
28

1 See NRS 49.015. As a result, there is no basis for this Court not to compel Defendant to produce
2 the documentation identified in Plaintiff's Requests for Production of Documents Numbers 4, 6,
3 11, and 12.

4 Additionally, Defendant asserts that Plaintiff's Requests for Production Number 12, all
5 discovery for Clark County District Court Case No. A547414, is barred by a confidentiality
6 agreement. See Defendant's Motion for Protective Order at 12:9-14. The holding in *Kalinauskas*
7 *v. Wong*, is particularly instructive on this issue. 151 F.R.D. 363, 364, 1993 U.S. Dist. LEXIS
8 14526, *1, 28 Fed. R. Serv. 3d (Callaghan) 472 (D. Nev. 1993).

9
10 In *Wong*, Plaintiff Kalinauskas filed a sexual harassment suit against former employee
11 Desert Palace, Inc., dba Caesars Palace Hotel & Casino ("Caesars"). *Id.* As part of discovery,
12 Plaintiff Kalinauskas sought to depose, Donna R. Thomas, a former Caesar's employee who filed
13 a sexual harassment suit against Caesar's the previous year. *Id.* Thomas' case was settled
14 without trial and contained a confidentiality agreement which the court sealed upon the
15 stipulated agreement of the parties. *Id.* The confidentiality agreement stated that Thomas" shall
16 not discuss any aspect of plaintiff's employment at Caesars other than to state the dates of her
17 employment and her job title." *Id.* Caesars filed a protective order preventing the deposition of
18 Thomas based upon the confidentiality agreement. *Id.* The Court granted Caesar's Motion to
19 the extent that the terms of the settlement were not to be discussed by Thomas, but denied as to
20 all other request. *Id.*

21
22
23 In formulating its opinion, the court noted the public policy favoring settlements, but also
24 emphasized that "courts must police the circumstances under which litigants seek to protect their
25 interest while concealing legitimate areas of public concern." *Id.* at 366. Additionally the court
26 noted that "preventing the deposition of Thomas or the discovery of documents created in her
27 case could lead to wasteful efforts to generate discovery already in existence." *Id.*

1 Next, the court rejected Caesar's argument that Plaintiff Kalinauskas was required to
2 show a compelling need to obtain discovery prior to being provided the factual information
3 regarding Thomas case. *Id.* at 367. Instead, the court held that the "compelling need" standard
4 applied only to the specific details of the terms of the settlement agreement, i.e. the amount and
5 conditions of the agreement. *Id.* Accordingly, since Plaintiff Kalinauskas was seeking factual
6 information surrounding Thomas's case, the court reopened discovery for the purposes of
7 allowing the deposition of Thomas. *Id.*

9 Here, there is no Court Order sealing the case records. Defendant should be compelled to
10 produce the aforementioned documentation. Like the defendant in *Wong*, Defendant is
11 attempting to protect its interest and conceal an area of legitimate public concern, the safety and
12 well-being of children while at child care, on the basis of a confidentiality clause. As noted by
13 the *Wong* Court, this cuts in the face of Nevada public policy. 151 F.R.D. at 366.

15 Moreover, like the plaintiff in *Wong*, Plaintiff will be prejudiced and forced to waste
16 time and resources conducting discovery that already exists. Finally, Plaintiff need not
17 demonstrate a compelling need for the requested documentation because the documentation
18 relates to the facts of the case, not the specific terms of the settlement agreement. As such,
19 Defendant's reliance upon the confidentiality agreement is insufficient to prevent this Court from
20 compelling it to disclose the documentation identified in Plaintiff's Request For Production of
21 Documents Number 4, 6, 11, and 12.

23 **C. This Court Should Compel Defendant To Fully Answer Plaintiff's Requests For**
24 **Admission**

25 Defendant should be compelled to adequately answer Plaintiff's Requests For Admission.
26 Defendant objects to and argues that Request For Admission No. 1 is "vague and ambiguous as to
27 what is meant by 'protect and insure the safety, health and well-being to its children and patrons
28 on its premises.'" See Exhibit 8 at 2. Contrary to Defendant's assertion, the plain language of

1 Request No. 1 is clear, concise, and contains no legalese. Accordingly, Defendant's objection is
2 inappropriate. See *Olivarez v. Rebel Oil Company, et. al.*, Discovery Commissioner Opinion #11,
3 pg. 7-8 (April 2003) citing *Pleasants v. Allbaugh*, 2002 U.S. Dist. Lexis 8941 (D.D.C.2002); *G-*
4 *69 v. Degnan*, 130 F.R.D. 326 (D.N.J. 1990); *Josephs v. Harris Corp.*, 677 F.2d 985 (3d Cir.
5 1982); *Ritacca v. Abbott Labs*, 203 F.R.D. 332 (E.D.Ill. 2001); *Athridge v. Aetna Cas. and Sur.*
6 *Co.*, 184 F.R.D. 181 (D.D.C. 1998)(Repeating the familiar phrase that each request is "vague,
7 ambiguous, overly broad, unduly burdensome and oppressive, not relevant nor calculated to lead
8 to the discovery of admissible evidence and, further, seeks material protected by the
9 attorney/client or other privilege and the work product doctrine" is insufficient).

11 Further, Defendant argues Request No. 1 seeks a legal opinion and/or conclusion which is
12 the task of the trier of fact to determine. *Id.* This is an insufficient objection. Specifically,
13 NRCP 36(a) states that "[a] party may serve upon any other party a written request for the
14 admission...of the truth of any matters within the scope of Rule 26(b) set forth in the request that
15 relate to statements or opinions of fact or of the application of law to fact...." NRCP 36(a).
16 Therefore, Defendant's objection is inappropriate.

18 Likewise, Defendant objects to and argues Request for Admission No. 2 "seeks
19 information uniquely in possession of Plaintiff, which has not been provided to Defendant in
20 discovery" and "[t]herefore, Defendant cannot respond thereto." See **Exhibit 8 at 2**. Contrary to
21 Defendant's position, during discovery, Defendant provided Plaintiff video footage of the subject
22 incident which includes, *inter alia*, Plaintiff's conduct and bodily language. See **Exhibit 9**. As
23 such, Defendant has sufficient knowledge and information to answer this Request. Therefore,
24 Defendant's objection is improper.

26 Similarly, Defendant objects to and argues Request For Admission No. 3 "seeks a legal
27 opinion and/or conclusion." See **Exhibit 8 at 3**. With respect to Defendant's first objection, as
28

1 indicated above, NRCP 36(a) permits requests that relate to the application of law to fact. NRCP
2 36(a). Accordingly, Defendant's objection is without merit.

3 Similarly, Defendant objects to and argues Request No. 3 "seeks information as to the
4 Bureau of Services position, which Defendant does not know beyond which has already been
5 disclosed by it," *See Exhibit 8* at 3. This objection is unfounded. As stated above, Defendant
6 provided Plaintiff video footage of the subject incident which clearly depicts the subject incident
7 including the fact that Defendant's employees were not present in the room in which the subject
8 incident occurred or that Defendant's employees were not supervising the children as required by
9 NAC 432A.520. *See Exhibit 9*. Accordingly, Defendant presently possesses sufficient
10 information to understand the basis of the Bureau of Service for Child Care's finding and
11 Defendant should be compelled to adequately answer Request No. 3.
12

13 Finally, Defendant objects to Request for Admission No. 3 "on the basis that the
14 document speaks for itself." *See Exhibit 8* at 3. Plaintiff is not seeking any statement contained
15 within the Bureau of Service for Child Care's Site Report. Instead, Plaintiff, as permitted by
16 NRCP 36, is seeking Defendant admit that it violated NAC 432A.520. As previously mentioned,
17 Defendant contains sufficient information to respond. Accordingly, Defendant's objection is
18 improper and it should be compelled to adequately respond to Request No. 3.
19
20 //
21 //

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
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1 V. CONCLUSION

2 Based on the foregoing, Plaintiff respectfully requests that this Court deny Defendant's
3 Motion for Protective Order and grant Plaintiff's Motion to Compel.

4 DATED this 18th day of June, 2015.

5 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

6
7 BY: 

8 MARTIN J. KRAVITZ, ESQ.
9 Nevada Bar No. 83
10 JORDAN P. SCHNITZER, ESQ.
11 Nevada Bar No. 10744
12 WADE VAN SICKLE
13 Nevada Bar No. 13604
14 *Attorneys for Plaintiff*
15
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CERTIFICATE OF SERVICE

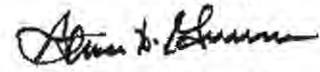
In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
18th day of June, 2015, I served a true and correct copy of the foregoing
**OPPOSITION TO DEFENDANT'S MOTION FOR PROTECTIVE ORDER AND
COUNTERMOTION TO COMPEL** to the above-entitled Court for electronic filing and
service upon the Court's Service List for the above-referenced case to the following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129



An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD

EXHIBIT K


CLERK OF THE COURT

1 **OPPS**
2 MARTIN J. KRAVITZ, ESQ.
3 Nevada Bar No. 83
4 JORDAN P. SCHNITZER, ESQ.
5 Nevada 10744
6 WADE J. VAN SICKLE, ESQ.
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9 *Attorneys for Plaintiff,*
10 *ISABELLA GODOY, a minor,*
11 *by and through her Mother,*
Veronica Jaime

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 ISABELLA GODOY, a Minor, by and through
15 her mother, VERONICA JAIME

16 Plaintiff,

17 vs.
18 NEW HORIZON KIDS QUEST III, INC., a
19 Minnesota Corporation; DOES 1 through 10,
20 inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

21 Defendant.

Case No.: A-14-707949-C

Dept No.: XXIX

22 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S**
23 **OBJECTION TO DISCOVERY COMMISSIONER'S**
24 **REPORT AND RECOMMENDATIONS**

25 COMES NOW, Plaintiff ISABELLA GODOY, a Minor, by and through her mother,
26 VERONICA JAIME and by and through their attorneys of record Jordan P. Schnitzer, Esq., of
27 the law firm of KRAVITZ, SCHNITZER & JOHNSON, CHTD., and hereby submits their
28

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
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TEL - (702) 362 2203; FAX - (702) 362 2203

1 Opposition to Defendant's Objection To Discovery Commissioner's Report And
2 Recommendations.

3 This Opposition is made and based upon the points and authorities, the attached exhibits,
4 the papers and pleadings on file herein.
5

6 DATED this 1st day of September, 2015.

7 KRAVITZ, SCHNITZER & JOHNSON, CHTD.

8 By: 
9

10 MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
11 JORDAN P. SCHNITZER, ESQ.
Nevada Bar No. 10744
12 WADE J. VAN SICKLE, ESQ.
Nevada Bar No. 13604
13 8985 So. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123
14 Attorneys for Plaintiff,
ISABELLA GODOY, a minor,
15 by and through her Mother,
Veronica Jaime

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 The Court must overrule Defendant's Objection to the Discovery Commissioner's Report
19 and Recommendations because it has failed to demonstrate the scope of the Order was overly
20 broad or unduly burdensome or that it mandated the production of privileged material.
21 Defendant asserts that the Discovery Commissioner erred in ordering the production of
22 documents from all of its nationwide facilities when the discovery request in question sought
23 documentation from only one location. This argument is moot. Plaintiff has since served written
24 discovery upon Defendant seeking the relevant, nationwide documentation. This information is
25 both discoverable and relevant to the issues of the present litigation. As such, Defendant must
26 produce the documents.
27
28

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1 Additionally, Defendant contends the time frame for which it must produce the
2 documents should be reduced to five (5) years preceding the subject incident. Defendant cites no
3 legal authority to support its position. On the contrary, both State and Federal Courts routinely
4 order parties to produce documentation beyond a five-year time frame. Accordingly, the Order is
5 not overly broad.

6 Similarly, Defendant asserts the Order places upon it an undue financial burden.
7 Specifically, Defendant alleges that it has incurred \$10,633 as a result of it locating, transporting,
8 and reviewing internal documentation. Defendant's argument is a red herring. The
9 aforementioned cost is largely due to Defendant's inadequate filing system, not any fault of
10 Plaintiff. Nevertheless, Defendant earns tens of millions of dollars in annual gross income. The
11 cost of producing the documents in relation to this annual revenue is insignificant. Accordingly,
12 the Discovery Commissioner's Report and Recommendations is not unduly burdensome.

13 Finally, Defendant alleges the Order compels it to breach a Confidentiality Agreement
14 related to Clark County District Court Case No. A547414. Contrary to this assertion, the Order
15 does not mandate Defendant to produce any information contained in the Settlement Agreement.
16 Instead, it requires Defendant to provide previously disclosed discovery and pleadings that is not
17 privileged or confidential. Since Defendant is not ordered to disclose information related to the
18 Confidentiality Agreement or Settlement, there is no concern that the contract will be breached.
19 Notwithstanding, Nevada public policy favors the disclosure of "areas of legitimate public
20 concern" over the contractual rights of parties to a Settlement Agreement. Undoubtedly child
21 care is an area of "public concern" which permits the Court to order the disclosure of documents
22 related to the Confidentiality Agreement or Settlement. Consequently, the Confidentiality
23 Agreement relating to Clark County District Court Case No. A547414 does not preclude
24 Defendant from complying with the Order. Therefore, this Court should overrule Defendant's
25 Objection.
26
27
28

EXHIBIT B

ORIGINAL

FILED

2007 OCT 22 A 11:40

1 ANS
2 MICHAEL R. HALL
3 Nevada Bar No. 005978

4 HALL JAFFE & CLAYTON, LLP
5 7455 W. WASHINGTON AVE., STE. 460
6 LAS VEGAS, NEVADA 89128
7 (702) 316-4111
8 FAX (702) 316-4114

9 Attorney for Defendant
10 NEW HORIZON KIDS QUEST III

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 ROBANN C. BLUE, a minor, by and through
14 her Guardian Ad Litem, SANDI
15 WILLIAMSON,

16 Plaintiff,

17 vs.

18 NEW HORIZON KIDS QUEST III, a
19 Minnesota Corporation, BOULDER
20 STATION, INC., a Nevada Corporation; and
21 DOES 1 through 20 and ROE
22 CORPORATIONS 1 through 20, inclusive,

23 Defendants.

CASE NO.: A547414

DEPT. NO.: XIII

DEFENDANT NEW HORIZON KIDS QUEST
III'S ANSWER TO COMPLAINT

24 COMES NOW, Defendant New Horizon Kids Quest III ("New Horizon"), by and through
25 its attorney of record, MICHAEL R. HALL, of the law firm HALL JAFFE & CLAYTON, hereby answers
26 as filed by Robann Blue, a minor, by and through the Guardian Ad Litem, Sandy Williamson ("Blue"),
27 who hereby admits, denies, and affirmatively alleges as follows:

28 GENERAL ALLEGATIONS

1. Answering Paragraph 1 of Plaintiff's Complaint Answering Defendant is without
sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained
therein, and accordingly, those allegations are hereby denied.

2. Answering Paragraph 2 of the Plaintiff's Complaint, this Answering Defendant

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1 admits all allegations contained therein.

2 3. Answering Paragraph 3 of the Plaintiff's Complaint, this Answering Defendant
3 admits all allegations contained therein.

4 4. Paragraph 4 does not call for a response from New Horizon, in an abundance of
5 caution, however, New Horizon denies the allegations of paragraph 4.

6 5. Answering Paragraph 5, New Horizon admits that it offers an entertainment
7 facility for children at the Boulder Station, but denies that it is a "daycare facility," New Horizon admits
8 the remaining allegations contained in paragraph 5.

9 6. Answering Paragraph 6, New Horizon admits that it strives to prove the best
10 possible facilities for children, New Horizon denies the remaining allegations contained in paragraph 6.

11 7. Answering Paragraph 7 of the Plaintiff's Complaint, this Answering Defendant is
12 without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
13 contained therein, and accordingly, those allegations are hereby denied.

14 8. Answering Paragraph 8 of the Plaintiff's Complaint, this Answering Defendant is
15 without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
16 contained therein, and accordingly, those allegations are hereby denied.

17 **FIRST CAUSE OF ACTION**

18 **(Negligence Against Defendants New Horizon, Boulder Station, Does 1 to 5**
19 **and Roe Corporation 1 to 5)**

20 9. Answering Paragraph 9 of the Plaintiff's Complaint, this Answering Defendant
21 repeats and realleges its answers and responses to paragraphs 1 through 8 as if more fully set forth
22 herein, and thereby incorporate them.

23 10. Answering Paragraph 10, New Horizon admits that it owed whatever duties were
24 imposed upon it by the law, and denies the remaining allegations contained in Paragraph 10.

25 11. Answering Paragraph 11 of the Plaintiff's Complaint, this Answering Defendant
26 denies all allegations contained therein.

27 12. Answering Paragraph 12 of the Plaintiff's Complaint, this Answering Defendant
28

1 denies all allegations contained therein.

2 13. Answering Paragraph 13 of the Plaintiff's Complaint, this Answering Defendant
3 denies all allegations contained therein.

4 **SECOND CAUSE OF ACTION**

5 **(Intentional Misrepresentation Against Defendants New Horizon, Boulder Station,**
6 **Does 1 to 5 and Roe Corporations 1 to 5)**

7 14. Answering Paragraph 14 of the Plaintiff's Complaint, this Answering Defendant
8 repeats and realleges its answers and responses to paragraphs 1 through 13 as if more fully set forth
9 herein, and thereby incorporate them.

10 15. Answering Paragraph 15, New Horizon admits that it, at all times, has strived to
11 provide a safe and positive environment for children. As to the remaining allegations in Paragraph 15,
12 New Horizon simply states that its materials speak for themselves.

13 16. Answering Paragraph 16 of the Plaintiff's Complaint, this Answering Defendant
14 denies all allegations contained therein.

15 17. Answering Paragraph 17 of the Plaintiff's Complaint, this Answering Defendant
16 denies all allegations contained therein.

17 18. Answering Paragraph 18 of the Plaintiff's Complaint, this Answering Defendant
18 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
19 contained therein, and accordingly, those allegations are hereby denied.

20 19. Answering Paragraph 19 of the Plaintiff's Complaint, this Answering Defendant
21 denies all allegations contained therein.

22 20. Answering Paragraph 20 of the Plaintiff's Complaint, this Answering Defendant
23 denies all allegations contained therein.

24 **THIRD CAUSE OF ACTION**

25 **(Negligent Misrepresentation Against Defendants New Horizon, Boulder Station, Does 1 to 5 and**
26 **Roe Corporations 1 to 5)**

27 21. Answering Paragraph 21 of the Plaintiff's Complaint, this Answering Defendant
28

1 repeats and realleges its answers and responses to paragraphs 1 through 20 as if more fully set forth
2 herein, and thereby incorporate them.

3 22. Answering Paragraph 22, New Horizon admits that it, at all times, has strived to
4 provide a safe and positive environment for children. As to the remaining allegations in Paragraph 22,
5 New Horizon simply states that its materials speak for themselves.

6 23. Answering Paragraph 23 of the Plaintiff's Complaint, this Answering Defendant
7 denies all allegations contained therein.

8 24. Answering Paragraph 24 of the Plaintiff's Complaint, this Answering Defendant
9 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
10 contained therein, and accordingly, those allegations are hereby denied.

11 25. Answering Paragraph 25 of the Plaintiff's Complaint, this Answering Defendant
12 denies all allegations contained therein.

13 26. Answering Paragraph 26 of the Plaintiff's Complaint, this Answering Defendant
14 denies all allegations contained therein.

15 **FOURTH CAUSE OF ACTION**

16 **(Sexual Battery as Against Defendants Does 6 to 10)**

17 27. Answering Paragraph 27 of the Plaintiff's Complaint, this Answering Defendant
18 repeats and realleges its answers and responses to paragraphs 1 through 26 as if more fully set forth
19 herein, and thereby incorporate them.

20 28. Answering Paragraph 28 of the Plaintiff's Complaint, this Answering Defendant
21 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
22 contained therein, and accordingly, those allegations are hereby denied.

23 29. Answering Paragraph 29 of the Plaintiff's Complaint, this Answering Defendant
24 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
25 contained therein, and accordingly, those allegations are hereby denied.

26 30. Answering Paragraph 30 of the Plaintiff's Complaint, this Answering Defendant
27 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
28

1 contained therein, and accordingly, those allegations are hereby denied.

2 **FIFTH CAUSE OF ACTION**

3 **(Conspiracy as Against Defendants Does 6 to 10)**

4 31. Answering Paragraph 31 of the Plaintiff's Complaint, this Answering Defendant
5 repeats and realleges its answers and responses to paragraphs 1 through 30 as if more fully set forth
6 herein, and thereby incorporate them.

7 32. Answering Paragraph 32 of the Plaintiff's Complaint, this Answering Defendant
8 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
9 contained therein, and accordingly, those allegations are hereby denied.

10 33. Answering Paragraph 33 of the Plaintiff's Complaint, this Answering Defendant
11 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
12 contained therein, and accordingly, those allegations are hereby denied.

13 34. Answering Paragraph 34 of the Plaintiff's Complaint, this Answering Defendant
14 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
15 contained therein, and accordingly, those allegations are hereby denied.

16 35. Answering Paragraph 35 of the Plaintiff's Complaint, this Answering Defendant
17 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
18 contained therein, and accordingly, those allegations are hereby denied.

19 **SIXTH CAUSE OF ACTION**

20 **(Negligence as Against Defendants Does 6 to 10)**

21 36. Answering Paragraph 36 of the Plaintiff's Complaint, this Answering Defendant
22 repeats and realleges its answers and responses to paragraphs 1 through 35 as if more fully set forth
23 herein, and thereby incorporate them.

24 37. Answering Paragraph 37 of the Plaintiff's Complaint, this Answering Defendant
25 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
26 contained therein, and accordingly, those allegations are hereby denied.

27 38. Answering Paragraph 38 of the Plaintiff's Complaint, this Answering Defendant
28

1 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
2 contained therein, and accordingly, those allegations are hereby denied.

3 39. Answering Paragraph 39 of the Plaintiff's Complaint, this Answering Defendant
4 is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations
5 contained therein, and accordingly, those allegations are hereby denied.

6
7 **AFFIRMATIVE DEFENSES**

8 As and for its affirmative defenses in this case, New Horizon asserts the following:

9 1. Any injury suffered by Blue was caused solely by the acts of third parties over whom
10 New Horizon had no control;

11 2. Defendant alleges that the Plaintiff Sandi Williamson assumed whatever risk or
12 hazard existed at the time of the claimed incident and was therefore responsible for the alleged injuries
13 suffered and further, that the Plaintiff Sandi Williamson was guilty of negligence on her own part which
14 caused or contributed to any injuries suffered by the Plaintiff Blue.

15 3. That it has been necessary for the Defendant to employ the services of an attorney to
16 defend this action and a reasonable sum should be allowed Defendant is and for attorney's fees, together
17 with its costs expended in this action.

18 4. Defendant alleges that at the time and place alleged in the Complaint, Plaintiff
19 Williamson did not exercise ordinary care, caution or prudence in the premises to avoid said incident and
20 the resulting injuries, if any, complained of were directly and proximately contributed to and caused by the
21 fault, carelessness and negligence of the Plaintiff.

22 5. Defendant alleges that the incident alleged in the Complaint, and the alleged damages
23 and injury, if any, to Plaintiffs, were proximately caused or contributed to by Plaintiff Williamson's own
24 negligence and such negligence was greater than any of the Defendant's negligence.

25 6. Defendant alleges that the Plaintiffs fails to name a party necessary for full and
26 adequate relief essential in this action.

27 7. Defendant alleges that the allegations contained in the Plaintiffs' Complaint failed
28

1 to state a cause of action against Defendant upon which relief can be granted.

2 8. Defendant alleges that this Court lacks jurisdiction to consider the claims and further
3 alleges that this Court lacks jurisdiction to consider this action.

4 9. Plaintiff has failed to mitigate her damages;

5 10. That the damages, if any, incurred by Plaintiff are not attributable to any act, conduct
6 or omission on the part of Defendant; Defendant denies that it was negligent in any manner or in any degree
7 with respect to the matter set forth in Plaintiff's Complaint.

8 11. Defendant hereby incorporates by reference those affirmative defenses enumerated in
9 Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. Such defenses are herein
10 incorporated by reference for the specific purpose of not waiving any such defense. In the event further
11 investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek
12 leave of Court to amend this answer to specifically assert any such defense.

13 12. Defendant denies each and every allegation of Plaintiff's Complaint not specifically
14 admitted or otherwise plead to herein.

15 13. New Horizon reserves the right to add such other and additional defenses as they
16 become known through the course of discovery.

17
18 **WHEREFORE**, New Horizon respectfully request this Court enter judgment in its favor and
19 against Plaintiff as follows:

20 A. That Plaintiff's Complaint be dismissed and that she take nothing thereby;

21 B. That New Horizon be awarded its costs and attorney's fees and costs, together with
22 the interest at the highest rate permitted by law until paid in full; and

23 ...

24 ...

25 ...

26 ...

27 ...

28

1 C. For such other and further relief as this Court deems just and appropriate under the
2 circumstances of this case.

3 DATED this 19 day of October, 2007.

4 HALL JAFFE & CLAYTON, LLP

5 By: for 5-#9470

6 MICHAEL R. HALL
7 Nevada Bar No. 005978
8 7455 W. Washington, Ste. 460
9 Las Vegas, Nevada 89128
10 Attorneys for Defendant
11 New Horizon
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1 CERTIFICATE OF SERVICE

2 Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify under penalty
3 of perjury that I am an employee of HALL JAFFE & CLAYTON, LLP, and that on the 19 day of October,
4 2007, the foregoing, **DEFENDANT NEW HORIZON KIDS QUEST III'S ANSWER TO**
5 **COMPLAINT**, was served upon the parties by placing an original or true copy thereof in a sealed envelope,
6 and depositing it in the U.S. Mail, postage prepaid, at Las Vegas, Nevada, addressed as follows:

7 Joseph A. Long, Esq.
Long Blumberg
8 2950 Buskirk Ave., Ste. 315
Walnut Creek, CA 94597
9 Attorney for Plaintiffs

10 Richard Pyatt, Esq.
Pyatt Silvestri & Hanlon
11 701 Bridger Ave., Ste. 600
Las Vegas, Nevada 89101
12 Attorneys for Defendant
Boulder Station


13 
14 An Employee of
15 HALL JAFFE & CLAYTON, LLP.
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EXHIBIT C

≡ Menu


- [Home](#)
- [Attorney Search](#)
- [Free Consultation](#)

[Las Vegas Attorneys](#)

Top Lawyers and Attorneys in Las Vegas

Jordan P. Schnitzer

Jordan P. Schnitzer Attorney Rating

 3 out of 5 Stars
Total Ratings: 7

Free Consultation

No

Contingency Fee

No

Home Visits

No



Top Specialties

1. Personal Injury
2. Litigation
3. Commercial Litigation

Bar Admissions:

- U.S. District Court District of California, 2008
- U.S. District Court District of Nevada, 2007

Work Experience:

- Kravitz, Schnitzer & Johnson, Chtd., Partner, 2014–present
- Kravitz, Schnitzer & Johnson, Chtd., Associate, 2011–2014
- Hall Jaffe & Clayton, LLP, Associate, 2009–2011
- CNA Insurance Company, Staff Counsel, 2008–2009
- Kemp, Jones & Coulthard, LLP, Associate, 2007–2008
- Carroll, Guido, & Groffman, LLP, Law Clerk, 2006
- Hogan & Hartson, Summer Associate, 2006
- Rose Klein & Marias, Law Clerk, 2005

Education:

- University of California at Los Angeles School of Law, JD – Juris Doctor, 2007
- Arizona State University, BS – Bachelor of Science, Cum Laude, 2004

Organizations:

- American Society of Legal Advocates, 2013–present
- American Bar Association, 2013–present
- Clark County Bar Association, 2007–present

Awards and Recognition:

- Top 40 Under 40 – The National Trial Lawyers, 2014
- Top Lawyer – Desert Companion Magazine, 2014
- Rising Star, 2014
- 10 Best – American Institute of Personal Injury Attorneys, 2014
- Top 10 Under 40 – National Academy Of Personal Injury Attorneys, 2014
- Top 40 Lawyers Under 40 – American Society of Legal Advocates, 2014
- Rising Star, 2013
- Legal Elite, 2013
- Top 40 Lawyers Under 40 – American Society of Legal Advocates, 2013
- BV Rated – Martindale-Hubbell, 2012

Attorney Profile:

Jordan has been named one of Nevada's Legal Elite by Nevada Business magazine, a Mountain States Rising Star by Super Lawyers magazine, one of the Top 40 Under 40 by The National Trial Lawyers, one of the Top 10 Personal Injury Attorneys Under 40 in Nevada by the National Academy of Personal Injury Attorneys, one of the Top 40 Litigators Under 40 in Nevada by the American Society of Legal Advocates and a Top Lawyer in Las Vegas by Desert Companion Magazine as a result of his trial, litigation, arbitration and mediation successes. He is also rated as Distinguished for his legal

ability and achieved the highest possible rating for legal ethics by Martindale Hubbell.

Jordan is a member of the litigation group where he primarily practices in the areas of catastrophic personal injury, commercial, corporate, real property and insurance defense litigation (including premises liability, products liability and motor vehicle accidents). Jordan recently received a jury verdict award in excess of \$2.2 million in a plaintiff's medical malpractice case against a doctor and a surgical center.

Jordan began his career as an associate with a prominent local firm practicing in the areas of plaintiff's personal injury, mass tort litigation, commercial litigation and title insurance defense. He then went to work as Staff Counsel for one of the largest insurance carriers in the United States prior to joining the firm.

Contact Information:

Jordan P. Schnitzer
Kravitz, Schnitzer and Johnson, Chtd.
8985 S Eastern Ave, Suite 200
Las Vegas, NV 89123
Telephone: (702) 362-6666
Website: <http://www.ksjattorneys.com>



HAVE MORE QUESTIONS?

SIGN UP for a FREE Consultation with a Las Vegas Personal Injury Attorney

Your Name

EXHIBIT D

AFFIDAVIT OF TROY DUNKLEY

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

TROY DUNKLEY, being first duly sworn, deposes and says that:

1. That Affiant is over the age of eighteen, is a citizen of the State of Minnesota, is competent to testify to the information contained in this Affidavit, and believes the contents of this Affidavit to be true and correct to the best of Affiant's knowledge.
2. That Affiant is the Chief Operating Officer of New Horizons Kids Quest / Cyber Quest in Plymouth, Minnesota;
3. New Horizon Kids Quest III, Inc. offers play and entertainment services for children below 12 years. The company offers various activities for children, such as arts and crafts, video and construction games, a karaoke stage, play environments, a play piece, a gym, a science laboratory, and a multi-station iPad station. It also provides services for birthday parties, and group and corporate events.
4. That in 2007, through its insurance carrier, Defendant retained Hall Jaffe & Clayton (HJC) to represent it in Robann C. Blue, a Minor, by and through her Guardian ad Litem, Sandi Williamson v. New Horizons Kids Quest III, Inc., Case No. A547414 ("Blue").
5. That on October 22, 2007, HJC made an appearance in Blue and filed an answer on Defendant's behalf.
6. That on June 29, 2009, a joint case conference report was filed in Blue. The parties engaged in discovery. The Blue plaintiff took 2 depositions of Defendant's employees and/or representatives -- Wendy Rowe (person most knowledgeable) on November 20, 2009, and Traci Peterson (Operations Manager) on May 11, 2010, which HJC defended.

7. That on March 23, 2011, the Blue case went to trial. It continued on March 24 and 25, 2011. The parties engaged in settlement discussions and settled the case. On September 15, 2011, the case was dismissed by way of stipulation and order.
8. That HJC represented Defendant in Blue over the course of just under 4 years. During that time, Defendant and its employees revealed confidential information to HJC about its policies, practices, procedures, training, staff, supervision of children, etc., in support of its defense. Defendant was comfortable disclosing confidential information to HJC in support of its defense because it knew that information was protected by the attorney client privilege, duties of loyalty and confidentiality owed by HJC attorneys, and the Rules of Professional Conduct regarding confidentiality and conflicts of interest. All of the communications between HJC attorneys and Defendant and/or its employees were confidential and that information could not have been obtained but for the attorney-client relationship that existed.
9. That on October 1, 2014, Plaintiff's attorneys filed a Complaint against Defendant.
10. That Affiant believes Mr. Schnitzer and his current law firm have a conflict of interest in representing Plaintiff against Defendant in the current action.
11. That both Blue and this action involve claims of negligence, intentional misrepresentation, and negligent misrepresentation and arise out of allegations of a minor-on minor sexual assault that occurred at Defendant's premises while the minors were in Defendant's care. Both the Blue plaintiff sought and Plaintiff seeks special, general and punitive damages
12. That on December 14, 2015, Defendant discovered that Mr. Schnitzer, Plaintiff's attorney, was a lawyer at HJC when it represented Defendant in the prior similar


litigation – Blue – which case has been the subject of much discovery done by Plaintiff in this case.

13. That neither Defendant nor Affiant has consented to Mr. Schnitzer's or his current law firm's representation of Plaintiff in this action against Defendant.
14. That neither Mr. Schnitzer nor anyone at his current law firm contacted Defendant or Affiant about whether we would agree to this representation.
15. That Affiant is very concerned that Mr. Schnitzer and his current law firm may use and/or might have already used some highly confidential information he/it received from Defendant or any of its agents, representatives and/or employees in the defense of Defendant in Blue on behalf of Plaintiff against Defendant in this case.
16. That Plaintiff has done discovery in this case, including issued requests for production specifically relating to and/or otherwise implicating Blue. In addition, Plaintiff filed a Motion To Compel Defendant, in part, related to discovery in Blue, which this Court granted,
17. That Plaintiff's Complaint, disclosures, discovery, and statements to this Court conclusively establish that this case is just like Blue, the case defended by Mr. Schnitzer's former law firm -- HJC. Now, Mr. Schnitzer is suing Defendant, a former client of his former law firm, in a substantially related matter involving the same claims, allegations and issues, including staffing, supervision, etc.
18. That Mr. Schnitzer was a lawyer at HJC, a small twelve-attorney firm, when HJC represented Defendant in Blue; while at HJC, Mr. Schnitzer and Ms. Northway (one of the HJC attorneys who represented Defendant in Blue) shared the same assistant; Mr. Schnitzer was at HJC when it defended 2 depositions in Blue involving Defendant's

employees; and Ms. Peterson's (Defendant's employee) deposition was taken in Blue when Mr. Schnitzer was at HJC and Plaintiff/Mr. Schnitzer listed Ms. Peterson as a witness in this case.

19. Based on all of the above, Defendant believes Mr. Schnitzer and his current law firm have a conflict of interest that requires their disqualification.

Further Affiant sayeth naught.


TROY DUNKLEY
CHIEF OPERATING OFFICER
NEW HORIZON KIDS QUEST III, INC.

SUBSCRIBED AND SWORN to before me
this 30th day of January, 2018 5
December


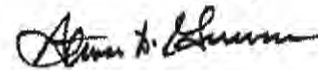

NOTARY PUBLIC in
and for said County and State



EXHIBIT E



CLERK OF THE COURT

1 SAO
2 MICHAEL R. HALL, ESQ.
3 Nevada Bar No. 005978

4 HALL JAFFE & CLAYTON, LLP
5 7455 WEST WASHINGTON AVENUE, SUITE 400
6 LAS VEGAS, NEVADA 89123
7 (702) 316-4111
8 FAX (702) 316-4114

9 mhall@lawhjc.com
10 Attorney for Defendants

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

13 ROBANN C. BLUE, a Minor, by and through
14 her Guardian ad Litem, SANDI
15 WILLIAMSON,

16 Plaintiff,

17 vs.

18 NEW HORIZON KIDS QUEST III, a
19 Minnesota Corporation, BOULDER
20 STATION HOTEL; a Nevada Corporation;
21 and DOES 1 through 20 and RGE
22 CORPORATIONS 1 through 20, inclusive,

23 Defendants.

CASE NO. A547414
DEPT. NO. XIII

**STIPULATION AND ORDER FOR
DISMISSAL WITH PREJUDICE**

24 IT IS HEREBY STIPULATED by and between the Plaintiff, ROBANN C. BLUE, a minor, by and
25 through her Guardian ad Litem, SANDI WILLIAMSON and Defendants, NEW HORIZON KIDS QUEST
26 III and BOULDER STATION HOTEL, parties hereto, by and through their respective counsel, JEROME
27 R. BOWEN, ESQ. for Plaintiff, MICHAEL R. HALL, ESQ. for Defendants and ROBERT P. MOLINA,
28 ESQ., Co-Counsel for Defendant BOULDER STATION HOTEL that this matter be dismissed with
prejudice, each party to bear its own costs and attorney fees.

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DISTRICT COURT DEPT# 13

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<input type="checkbox"/> Jdgm on file heard	<input type="checkbox"/> Default Jdgm	<input type="checkbox"/> Jury Trial
<input type="checkbox"/> Min to Dis (by debt)	<input type="checkbox"/> Transferred	

1 DATED this 6th day of September, 2011.

2 BOWEN LAW OFFICES

3 JHBL 11909
4 JEROME R. BOWEN, ESQ.

5 Nevada Bar No. 004540

6 7465 W. Lake Mead Blvd., Ste. 270

7 Las Vegas, NV 89128

8 Attorney for Plaintiff

DATED this 12th day of September, 2011.

HALL JAFFE & CLAYTON, LLP

[Signature]
MICHAEL R. HALL, ESQ.

Nevada Bar No. 005978

7455 W. Washington Ave., Ste. 460

Las Vegas, Nevada 89128

Attorneys for Defendants

9 DATED this 12th day of September, 2011.

10 PYATT SILVESTRI & HANLON

11 [Signature]
ROBERT P. MOLINA, ESQ.

12 Nevada Bar No. 006422

13 701 Bridger Avenue, Suite 600

14 Las Vegas, NV 89101

15 Co-Counsel for Defendant

16 BOULDER STATION, INC.

17 ORDER

18 ORDERED, ADJUDGED AND DECREED that the Complaint filed in the above-entitled case be
19 hereby dismissed with prejudice, each party to bear its own costs and fees.

20 IT IS SO ORDERED this 14th day of September, 2011.

21 [Signature]
DISTRICT COURT JUDGE

22 Submitted by

23 HALL JAFFE & CLAYTON, LLP

24 By

25 MICHAEL R. HALL, ESQ.

26 Nevada Bar No. 005978

27 7455 W. Washington Ave, Suite 460

28 Las Vegas, Nevada 89128

(702) 316-4111

Attorneys for Defendants

EXHIBIT F

MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
JORDAN P. SCHNITZER, ESQ.
Nevada Bar No. 10744
KRAVITZ, SCHNITZER
& JOHNSON, CHTD.
8985 So. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123
Telephone: (702) 362-6666
Facsimile: (702) 362-2203
mkravitz@ksjattorneys.com
jschnitzer@ksjattorneys.com
Attorneys for Plaintiff,
ISABELLA GODOY, a minor, by and through
her Mother, Veronica Jaime

DISTRICT COURT

CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME

Plaintiff,

vs.

NEW HORIZON KIDS QUEST III, INC., a
Minnesota Corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendant.

Case No.: A-14-707949-C
Dept. No.: XXIX

**PLAINTIFF'S FOURTH
SUPPLEMENTAL EARLY CASE
CONFERENCE DISCLOSURE
STATEMENT LIST OF
DOCUMENTS AND WITNESSES
AND NRCP 16.1 (a)(3) PRE-TRIAL
DISCLOSURES**

COMES NOW, Plaintiff ISABELLA GODOY, a Minor, by and through her mother,
VERONICA JAIME, and by and through their attorneys of record, Martin J. Kravitz, Esq. and
Jordan P. Schnitzer, Esq. of the law firm of KRAVITZ, SCHNITZER & JOHNSON, CHTD.,
and hereby submits following Fourth Supplemental Early Case Conference Disclosure Statement
Pursuant to the NRCP 16.1 and further submits the following information as Plaintiff's NRCP
16.1 (a)(3) Pre-Trial Disclosures, as Plaintiff intends to introduce the following documents and
witnesses at the trial of this matter.

I.

LIST OF WITNESSES PLAINTIFF

EXPECTS TO PRESENT AT TRIAL

15. Sandy Southwell, Detective
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 S. Martin L. King Blvd.
Las Vegas, NV 89106
(702) 828-3111

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

16. Lisa Torgerson
Child Care Facilities Surveyor
and/or Person Most Knowledgeable and/or COR
BUREAU OF SERVICES FOR CHILD CARE
(702) 486-0575
Address Unknown

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

17. M. Shake
LAS VEGAS METROPOLITAN POLICE DEPARTMENT
400 S. Martin L. King Blvd.
Las Vegas, NV 89106
(702) 828-3111

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

18. Geneses Gordon
STATE OF NEVADA
HEALTH DIVISION - CHILD CARE LICENSING
4180 S. Pecos Rd. Ste. 150
Las Vegas, NV 89121
(702) 486-7918

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

19. Danella
DISTRICT ATTORNEY'S OFFICE -- JUVENILE
601 N. Pecos Rd. North Building, Room 470
Las Vegas, NV 89101-2408

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

20. Christina Druzhynina
KIDS QUEST BOULDER STATION
c/o James R. Olson, Esq.
Felicia Galati, Esq.
Olson, Cannon, Gormley Angulo & Stoberski
9950 West Cheyenne Avenue
Las Vegas, NV 89129

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

21. Marissa Gonzalez
KIDS QUEST BOULDER STATION
c/o James R. Olson, Esq.
Felicia Galati, Esq.
Olson, Cannon, Gormley Angulo & Stoberski
9950 West Cheyenne Avenue
Las Vegas, NV 89129

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

22. Janeth Hernandez
KIDS QUEST BOULDER STATION
c/o James R. Olson, Esq.
Felicia Galati, Esq.
Olson, Cannon, Gormley Angulo & Stoberski
9950 West Cheyenne Avenue
Las Vegas, NV 89129

The witness is expected to testify as to facts and circumstances surrounding the
allegations in the Complaint.

23. Amanda Meier
KIDS QUEST BOULDER STATION
c/o James R. Olson, Esq.

1 Felicia Galati, Esq.
2 Olson, Cannon, Gormley Angulo & Stoberski
3 9950 West Cheyenne Avenue
4 Las Vegas, NV 89129

5 The witness is expected to testify as to facts and circumstances surrounding the
6 allegations in the Complaint.

7 25. Traci Peterson
8 Address Unknown

9 The witness is expected to testify as to facts and circumstances surrounding the
10 allegations in the Complaint.

11 Plaintiff reserves the right to designate as witnesses all parties, witnesses designated by
12 and party, as well as any person whose identity becomes known in the course of discovery.

13 II.

14 LIST OF WITNESSES PLAINTIFF

15 EXPECTS TO PRESENT AT TRIAL IF THE NEED ARISES

16 No additional disclosures at this time. Plaintiff reserves the right to supplement this list
17 as the discovery process continues.

18 Plaintiff reserves the right to designate as witnesses all parties, any witnesses designated
19 by any party, as well as any person whose identity becomes known in the course of discovery.

20 III.

21 LIST OF WITNESSES WHO HAVE BEEN SUBPOENAED

22 No additional disclosures at this time. Plaintiff reserves the right to supplement this list
23 as the discovery process continues.

24 Plaintiff reserves the right to designate as witnesses all parties, any witnesses designated
25 by any party, as well as any person whose identity becomes known in the course of discovery.
26
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28

KRAVITZ, SCHNITZER & JOHNSON, CHD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL: (702) 362.2203; FAX: (702) 362.2203

1 IV.

2 LIST OF WITNESSES PLAINTIFF EXPECTS TO
3 PRESENT AT TRIAL VIA DEPOSITION TESTIMONY

4 No additional disclosures at this time. Plaintiff reserves the right to supplement this list
5 as the discovery process continues.

6 Plaintiff reserves the right to designate as witnesses all parties, any witnesses designated
7 by any party, as well as any person whose identity becomes known in the course of discovery.

8 V.

9 LIST OF DOCUMENTS AND EXHIBITS PLAINTIFF
10 EXPECTS TO PRESENT AT TRIAL

11 8. State of Nevada, Department of Health and Human Services, Nevada Division of
12 Public and Behavioral Health, Child Care and Licensing Program Records.

- 13 • STATE OF NEVADA 0001-0026.

14 Plaintiff specifically reserves the right to supplement the above list of documents as
15 information becomes known.

16 //

17 //

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362 2203; FAX - (702) 362 2203

VI.

COMPUTATION OF DAMAGES CLAIMED BY PLAINTIFF

No additional disclosures at this time. Plaintiff reserves the right to supplement this list as the discovery process continues.

Plaintiff specifically reserves the right to supplement this computation of damages as information becomes known.

DATED this 27 day of August, 2015

KRAVITZ, SCHNITZER
& JOHNSON, CHTD.

BY: 

MARTIN J. KRAVITZ, ESQ.

Nevada Bar No. 83

JORDAN P. SCHNITZER, ESQ.

Nevada Bar No. 10744

8985 So. Eastern Avenue, Suite 200

Las Vegas, Nevada 89123

Attorney for Plaintiff

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362-2203; FAX - (702) 362-2203

CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
28th day of August, 2015, I served a true and correct copy of the foregoing
PLAINTIFF'S FOURTH SUPPLEMENTAL EARLY CASE CONFERENCE
DISCLOSURE STATEMENT LIST OF DOCUMENTS AND WITNESSES AND NRCP
16.1 (a)(3) PRE-TRIAL DISCLOSURES to the above-entitled Court for electronic filing and
service upon the Court's Service List for the above-referenced case to the following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129



An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD.

EXHIBIT G

AFFIDAVIT OF FELICIA GALATI

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

FELICIA GALATI, being first duly sworn, deposes and states:

1. That your Affiant is a shareholder of the law firm of Olson, Cannon, Gormley, Angulo & Stoberski and is duly licensed to practice law before all of the Courts in the State of Nevada.

2. That your Affiant is one of the attorneys assigned by the law firm Olson, Cannon, Gormley, Angulo & Stoberski to represent the interests of Defendant New Horizons Kids Quest III, Inc. in Isabella Godoy, a Minor, by and through her mother, Veronica Jaime v. New Horizons Kids Quest III, Inc., Case No. A-14-707949-C,

3. That your Affiant makes this Affidavit in support of Defendant's Motion To Disqualify Plaintiff's Attorneys ("Motion").

4. That Mr. Schnitzer has been the attorney primarily representing Plaintiff in this case. He attended the Early Case Conference and made all but a few court appearances. He has conducted all but one of the meet-and-confer conferences in this case. His name appears on all but a few of the papers filed after the Complaint, beginning with the request to exempt this case from arbitration executed on December 2, 2014. No depositions have been taken yet in this case.

5. That attached to Defendant's Motion as Exhibit C are true and correct copies of the web pages for www.vegasatronryes.info that Affiant obtained regarding Jordan P. Schnitzer, Esq., Plaintiff's attorney.

6. That Plaintiff has conducted much discovery in this case regarding Robann C. Blue, a Minor, by and through her Guardian ad Litem, Sandi Williamson v. New Horizons Kids Quest III, Inc., Case No. A547414.

7. That attached to Defendant's Motion as Exhibit H is a true and correct copy of Plaintiff's first Requests for Production of Documents to Defendant.

8. That attached to Defendant's Motion as Exhibit I is a true and correct copy of Plaintiff's third Requests for Production of Documents to Defendant.

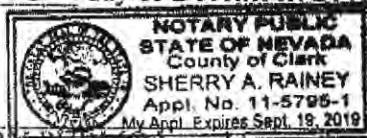
1 9. That Plaintiff has repeatedly indicated this case is just like Blue and Plaintiff is
2 using Blue to avoid having to do discovery that was done in Blue to prosecute this action against
3 Defendant.

4 10. Affiant hereby attests that the foregoing information is true and accurate to the
5 best of her knowledge as of the date of his signature hereon.

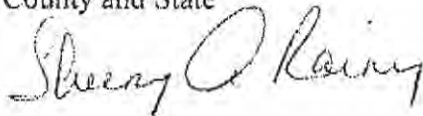
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FELICIA GALATI

SUBSCRIBED AND SWORN to before
me this 30th day of December, 2015.



NOTARY PUBLIC in and for said
County and State



Law Offices of
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
A Professional Corporation
6949 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 Telecopier (702) 383-0703

EXHIBIT H

MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
KRAVITZ, SCHNITZER
& JOHNSON, CHTD.
8985 So. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123
Telephone: (702) 362-6666
Facsimile: (702) 362-2203
mkravitz@ksjattorneys.com

*Attorneys for Plaintiff,
ISABELLA GODOY, a minor, by and through
her Mother, Veronica Jaime*

DISTRICT COURT
CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME

Plaintiff,

vs.
NEW HORIZON KIDS QUEST III, INC., a
Minnesota Corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendant.

Case No.: A-14-707949-C
Dept. No.: XXIX

PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION
OF DOCUMENTS TO
DEFENDANT

TO: NEW HORIZON KIDS QUEST III, INC.; and

TO: JAMES R. OLSON, ESQ. AND FELICIA GALATI, ESQ., of OLSON, CANNON,
GORMLEY, ANGULO & STOBERSKI, its attorneys.

Under authority of N.R.C.P. 34, Plaintiff, ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME, hereby request that Defendant NEW HORIZON KIDS
QUEST III, INC. respond to the following First Set of Requests for Production of Documents,
within thirty days of receipt hereof:

DEFINITIONS

A. You, your, yourself, NEW HORIZON or Defendant means Defendant NEW HORIZON KIDS QUEST III, INC. and any agent of NEW HORIZON KIDS QUEST III, INC. or NEW HORIZON KIDS QUEST III, INC. predecessor(s) in interest.

B. Plaintiff or Plaintiff Isabella means Plaintiff Isabella Godoy and any agent for Plaintiff Isabella Godoy.

C. Person means all entities of every description and includes natural persons, corporations, partnerships, companies, and estates.

D. Identify a person or identity of a person means to state his or her full name, address, and telephone number; his or her occupation and title; the name, address, and telephone number of his or her employer, if known; and any family, social, recreational, professional, or employment relationship you have with the person.

E. Identify a business entity means to give that entity's full name; principal addresses of the business; telephone numbers; type of entity (corporation, partnership, etc.); place of incorporation (where applicable); names, addresses, and titles of principal executive officers; and names, addresses, and titles of all individuals or entities owning more than a ten percent (10%) interest in the entity.

F. Document includes reports, compilations of data or information, or records made in any form, such as by writing, typewriting, printing (including computer printouts), photography, and electronic memory, regardless of how the matter is stored.

G. Identify a document means to describe briefly the form of the document; describe generally the subject of its contents; state the date and place of preparation; state the purpose of its preparation; state the date and place of its mailing or submission to the person or firm who received it; and identify the person or firm who prepared the document, the person or firm who

1 received it, and the person or firm who has possession or control of the original copy of the
2 document, or an appropriate custodian who would have a complete copy available for inspection.

3 H. Fact means all evidentiary facts presently known to you and all evidentiary facts,
4 the existence of which is presently inferred by you from the existence of any combination of
5 evidentiary and/or ultimate facts.

6 I. Communications means any and all types of verbal and/or written
7 communication. By way of example, the term communications includes (but is not limited to)
8 spoken words, written letters, notes, memoranda, facsimiles, e-mail, telephone messages, and/or
9 voice mail messages.

10 J. Identify a communication means to state the name and address of each person in
11 the communication and to state the subject matter of the communication. If the communication
12 was in writing, identify all documents or records which relate to the communication.

13 K. Relates to shall mean consists of, refers to, reflects or be in any way logically or
14 factually connected with the matter discussed.

15 L. If Defendant refers to any document which has been previously produced, please
16 identify the document by Bates Stamp number. If Plaintiff asserts a privilege over any requested
17 information, a detailed privilege log must be provided in accordance with Eighth Judicial District
18 Court Rule 2.34 and *Albourn v. Koe*, Discovery Commissioner Opinion #10 (November 2001).
19 If any privilege is asserted, the privilege log must identify the author of the document and the
20 author's capacity, the recipients, including all parties to whom the document was copied to, and
21 the capacity of each such person, other individuals with access to the document and their
22 capacities, the type of document, the subject matter of the document, the purposes for the
23 creation of the document, the date on the document, and a detailed specific explanation as to why
24 the document is privileged or otherwise immune from discovery including a presentation of all
25 factual grounds and a legal analysis in a non-conclusory fashion.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

Produce a copy of any security policies in existence at the time of the May 13, 2013 incident.

REQUEST NO. 2:

Produce complete copies of any and all CCTV video footage recorded on May 13, 2013, depicting Plaintiff, Isabella Godoy on May 13, 2013.

REQUEST NO. 3:

Produce copies of the corporate manual(s) regarding the care, supervision and control of your child patrons in effect at the time of the subject incident on May 13, 2013.

REQUEST NO. 4:

Produce a complete copy of any documents, including video and incident reports, related to any sexual assault and/or battery (actual or claimed) at the New Horizon Kids Quest III, Inc. premises for the period May 13, 2003 through May 13, 2013.

REQUEST NO. 5:

Produce copies of all written and/or recorded written statements from any person having knowledge or purported to have knowledge regarding the subject incident.

REQUEST NO. 6:

Produce a complete copy of any documents, including video, related to prior crimes and complaints made by and/or to its employees and/or guests to New Horizon Kids Quest III, Inc. for the time period of May 13, 2003 through May 13, 2013.

REQUEST NO. 7:

Produce copies of any and all documents prepared by and/or on behalf of Defendant, New Horizon Kids Quest III, Inc. in the ordinary course of business concerning the investigation of the subject incident.

REQUEST NO. 8:

Produce a copy of all advertising and marketing materials done by the New Horizon Kids Quest III, Inc. within the five (5) years preceding the incident.

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL -- (702) 362.2203; FAX -- (702) 362.2203

REQUEST NO. 9:

Produce a copy of all manuals, audios and videos regarding the training of New Horizon Kids Quest III, Inc. employees within the last five (5) years.

REQUEST NO. 10:

Produce a copy of New Horizon Kids Quest III, Inc.'s floor plan on May 13, 2013.

REQUEST NO. 11:

Produce any and all documents mentioning Samaje Wright or his parents/guardians, including Anissa Wright, including but not limited to prior incident reports and customer histories.

REQUEST NO. 12:

Produce all discovery including NRCP 16.1 disclosures, written discovery, deposition transcripts and expert reports from Clark County District Court Case No. A547414.

Dated this 13 day of March, 2015.

KRAVITZ, SCHNITZER
& JOHNSON, CHTD.

BY: 

MARTIN J. KRAVITZ, ESQ.
Nevada Bar No. 83
JORDAN P. SCHNITZER, ESQ.
Nevada Bar No. 10744
8985 So. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123
Attorney for Plaintiff,
ISABELLA GODOY, a Minor, by and
through her mother, VERONICA JAIME

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8965 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362.2203; FAX - (702) 362.2203

CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the
13 day of March, 2015, I served a true and correct copy of the foregoing
PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION FOR DOCUMENTS TO
DEFENDANT, NEW HORIZON KIDS QUEST III, INC. to the above-entitled Court for
electronic filing and service upon the Court's Service List for the above-referenced case to the
following counsel:

James R. Olson, Esq.
Felicia Galati, Esq.
OSLON, CANNON, GORMLEY,
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129



An employee of
KRAVITZ, SCHNITZER & JOHNSON, CHTD.

EXHIBIT I

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL. - (702) 362-2203; FAX - (702) 362-2203

MARTIN I. KRAVITZ, ESQ.
Nevada Bar No. 83
KRAVITZ, SCHNITZER
& JOHNSON, CHTD.
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Telephone: (702) 362-6666
Facsimile: (702) 362-2203
mkravitz@ksjattorneys.com

ELECTRONICALLY SERVED
07/08/2015 05:01:58 PM

*Attorneys for Plaintiff,
ISABELLA GODOY, a minor, by and through
her Mother, Veronica Jaime*

DISTRICT COURT
CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME

Plaintiff,

vs.
NEW HORIZON KIDS QUEST III, INC., a
Minnesota Corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendant.

Case No.: A-14-707949-C
Dept. No.: XXIX

PLAINTIFF'S THIRD SET OF
REQUESTS FOR PRODUCTION
OF DOCUMENTS TO
DEFENDANT

TO: NEW HORIZON KIDS QUEST III, INC.; and

TO: JAMES R. OLSON, ESQ. AND FELICIA GALATI, ESQ., of OLSON, CANNON,
GORMLEY, ANGULO & STOBERSKI, its attorneys.

Under authority of N.R.C.P. 34, Plaintiff, ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME, hereby request that Defendant NEW HORIZON KIDS
QUEST III, INC. respond to the following Third Set of Requests for Production of Documents,
within thirty days of receipt hereof:

PRELIMINARY ISSUES

Plaintiff acknowledges that any documents produced pursuant to these requests are subject to the Confidentiality Order pursuant to NRCP 26(c) as ordered by the Discovery Commissioner on July 8, 2015. Further, Defendant may redact the complete names of any minors in any documents so long as there is enough unredacted to differentiate individuals and incidents, such as leaving first and last initials, only.

DEFINITIONS

A. You, your, yourself, NEW HORIZON or Defendant means Defendant NEW HORIZON KIDS QUEST III, INC. and any agent of NEW HORIZON KIDS QUEST III, INC. or NEW HORIZON KIDS QUEST III, INC. predecessor(s) in interest.

B. Plaintiff or Plaintiff Isabella means Plaintiff Isabella Godoy and any agent for Plaintiff Isabella Godoy.

C. Person means all entities of every description and includes natural persons, corporations, partnerships, companies, and estates.

D. Identify a person or identity of a person means to state his or her full name, address, and telephone number; his or her occupation and title; the name, address, and telephone number of his or her employer, if known; and any family, social, recreational, professional, or employment relationship you have with the person.

E. Identify a business entity means to give that entity's full name; principal addresses of the business; telephone numbers; type of entity (corporation, partnership, etc.); place of incorporation (where applicable); names, addresses, and titles of principal executive officers; and names, addresses, and titles of all individuals or entities owning more than a ten percent (10%) interest in the entity.

1 F. Document includes reports, compilations of data or information, or records made
2 in any form, such as by writing, typewriting, printing (including computer printouts),
3 photography, and electronic memory, regardless of how the matter is stored.

4 G. Identify a document means to describe briefly the form of the document; describe
5 generally the subject of its contents; state the date and place of preparation; state the purpose of
6 its preparation; state the date and place of its mailing or submission to the person or firm who
7 received it; and identify the person or firm who prepared the document, the person or firm who
8 received it, and the person or firm who has possession or control of the original copy of the
9 document, or an appropriate custodian who would have a complete copy available for inspection.
10

11 H. Fact means all evidentiary facts presently known to you and all evidentiary facts,
12 the existence of which is presently inferred by you from the existence of any combination of
13 evidentiary and/or ultimate facts.

14 I. Communications means any and all types of verbal and/or written
15 communication. By way of example, the term communications includes (but is not limited to)
16 spoken words, written letters, notes, memoranda, facsimiles, e-mail, telephone messages, and/or
17 voice mail messages.
18

19 J. Identify a communication means to state the name and address of each person in
20 the communication and to state the subject matter of the communication. If the communication
21 was in writing, identify all documents or records which relate to the communication.
22

23 K. Relates to shall mean consists of, refers to, reflects or be in any way logically or
24 factually connected with the matter discussed.

25 L. If Defendant refers to any document which has been previously produced, please
26 identify the document by Bates Stamp number. If Plaintiff asserts a privilege over any requested
27 information, a detailed privilege log must be provided in accordance with Eighth Judicial District
28

1 Court Rule 2.34 and *Albourn v. Koe*, Discovery Commissioner Opinion #10 (November 2001).
2 If any privilege is asserted, the privilege log must identify the author of the document and the
3 author's capacity, the recipients, including all parties to whom the document was copied to, and
4 the capacity of each such person, other individuals with access to the document and their
5 capacities, the type of document, the subject matter of the document, the purposes for the
6 creation of the document, the date on the document, and a detailed specific explanation as to why
7 the document is privileged or otherwise immune from discovery including a presentation of all
8 factual grounds and a legal analysis in a non-conclusory fashion.

10 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

11 **REQUEST NO. 14:**

12 All employee files from any person employed at the New Horizon Kids Quest III, Inc. daycare
13 facility from May 2008 through and including May 13, 2013, the date of the subject incident.

15 **REQUEST NO. 15:**

16 Entire employee personnel file belonging to Shift Supervisor Christina Druzhynina.

18 **REQUEST NO. 16:**

19 A list of all children checked in or present at the New Horizon Kids Quest III, Inc. daycare
20 facility on May 13, 2013, the date of the subject incident.

22 **REQUEST NO. 17:**

23 A copy of all records of any kind from each of the children checked in or present at the New
24 Horizon Kids Quest III, Inc. daycare facility on May 13, 2013, the date of the subject incident.

26 **REQUEST NO. 18:**

27 A copy of all computer information from the New Horizon Kids Quest III, Inc. daycare facility
28 regarding Plaintiff.

1 REQUEST NO. 19:

2 A copy of all correspondence either written to or received from any person regarding the subject
3 incident.
4

5 REQUEST NO. 20:

6 Copies of all incident reports, investigation reports, police reports, daycare licensing reports or
7 investigations related to or having to do or connected in any way with the subject incident,
8 including documents produced by any entity of any kind, including governmental entities.
9

10 REQUEST NO. 21:

11 Copies of all investigation reports or incident reports related to or having to do with the subject
12 incident or connected in any way to the subject incident prepared by any employee, supervisor,
13 manager, owner, representative, agent, or other person connected with the Defendant in any way.
14

15 REQUEST NO. 22:

16 All incident reports from any Kids Quest or New Horizon location involving reports of alleged
17 molestation, violence, sexual or physical abuse, assaults of any kind, or any incident whatsoever
18 that can be considered a sexual or physical allegation of any nature whether conduct was from an
19 employee, parent or other child.
20

21 REQUEST NO. 23:

22 All incident reports involving reports of alleged molestation, violence, sexual or physical abuse,
23 assaults of any kind, or any incident whatsoever that can be considered a sexual or physical
24 allegation of any nature whether conduct was from an employee, parent or other child at the New
25 Horizon Kids Quest III, Inc. daycare facility.
26
27
28

1 REQUEST NO. 24:

2 All pleadings and discovery of any kind, including disclosures, written discovery, deposition
3 transcripts, trial transcripts and expert reports, from any legal proceedings involving a Kids
4 Quest or New Horizon location, including those where Defendant New Horizon Kids Quest III,
5 Inc., or any associated entity owned by or affiliated with New Horizons Kids Quest, Inc. was
6 sued for any injury to a child.
7

8 REQUEST NO. 25:

9
10 All expert reports and expert depositions from any previous litigation involving an entity
11 owning, controlling or operating a Kids Quest or New Horizon facility including those in which
12 Defendant New Horizon Kids Quest III, Inc. and New Horizon Kids Quest, Inc. were involved.
13

14 REQUEST NO. 26:

15 Any and all letters, memoranda, correspondence or documents of any kind that provided notice
16 to Defendant New Horizon Kids Quest III, Inc. of prior incidents of alleged molestation,
17 violence, physical or sexual abuse, assaults of any kind, or injuries of any kind at the New
18 Horizon Kids Quest III, Inc. daycare facility as operated by Defendant New Horizon Kids Quest
19 III, Inc.
20

21 REQUEST NO. 27:

22 Any and all letters, memoranda, correspondence or document of any kind that provided notice
23 of prior incidents of alleged molestation, violence, physical or sexual abuse, assaults of any kind,
24 or injuries of any kind at any Kids Quest or New Horizon facility.
25

26 REQUEST NO. 28:

27 Any and all depositions given by any employee, manager, supervisor, owner, agent or
28

1 representative of any Kids Quest or New Horizon, including but not limited to those owned and
2 operated by New Horizon Kids Quest, Inc. from any litigation where Defendant was sued for an
3 alleged injury to a child.

4 **REQUEST NO. 29:**
5

6 A copy of surveillance videotapes from each camera at the New Horizon Kids Quest III, Inc.
7 daycare facility from the entire day of May 13, 2013.

8 **REQUEST NO. 30:**
9

10 A list of all employees who were employed by Defendant New Horizon Kids Quest III, Inc. on
11 May 13, 2013, the date of the subject incident. Please include a copy of each employees
12 employment file.

13 **REQUEST NO. 31:**
14

15 A list of all employees who were employed by Defendant New Horizon Kids Quest III, Inc. for
16 10 years previous to and including May 13, 2013, the date of the subject incident. Please include
17 a copy of each employees employment file.

18 **REQUEST NO. 32:**
19

20 A list of all employees who worked at the New Horizon Kids Quest III, Inc. on May 13, 2013,
21 the date of the subject incident referenced in Plaintiff's Complaint.

22 **REQUEST NO. 33:**
23

24 Copies of all time cards, computer printouts, documents, and information of any kind whether
25 digital or written, which shows when each employee, teammate, director, supervisor, manager,
26 agent or other representative began and ended his or her shift on May 13, 2013, the date of the
27 subject incident.
28

1 REQUEST NO. 34:

2 A copy of any employee handbook, rules of conduct or any written other information given to
3 employees at the time of hiring, orientation or during any time of employment.
4

5 REQUEST NO. 35:

6 Copies of any written guidelines, regulations, policies and/or procedures having to do in any way
7 with the care and safety of children.
8

9 REQUEST NO. 36:

10 Copies of all policies or procedures which were posted anywhere in this daycare facility on May
11 13, 2013, the date of the subject incident.
12

13 REQUEST NO. 37:

14 Copies of all correspondence, memoranda, reports, transcripts, notices and documents of any
15 kind involved in any investigation regarding whether Defendant New Horizon Kids Quest III,
16 Inc.'s contract with its landlord was to be renewed regardless of who prepared said documents.
17

18 REQUEST NO. 38:

19 Copies of any and all documents of any kind provided from the New Horizon Kids Quest III,
20 Inc. daycare facility to any owners, corporate headquarters, or any other person in New Horizon
21 Kids Quest, Inc. or other corporate entity company regarding the subject incident or investigative
22 findings of the subject incident following its occurrence.
23

24 REQUEST NO. 39:

25 Copy of any and all documents with any entity of any kind, including governmental entities, to
26 obtain daycare licensing of the facility referenced in Plaintiff's complaint.
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEW HORIZON KIDS QUEST III,
INC., a Minnesota corporation; DOES
1 through 10, inclusive; and ROE
CORPORATIONS 1 through 20,
inclusive,

Petitioner,

v.

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA IN AND FOR THE
COUNTY OF CLARK; THE
HONORABLE SUSAN SCANN,
DISTRICT JUDGE,

and

ISABELLA GODOY, a Minor, by and
through her mother, VERONICA
JAIME,

Respondents.

Electronically Filed
Mar 08 2016 03:24 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

CASE NO.

DISTRICT COURT CASE NO.

A-14-707949-C

APPENDIX TO
PETITION FOR WRIT OF MANDAMUS
(VOLUME 1)

JAMES R. OLSON, ESQ.
Nevada Bar No. 000116
FELICIA GALATI, ESQ.
Nevada Bar No. 007341
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, NV 89129
jolson@ocgas.com
fgalati@ocgas.com
Attorneys for NEW HORIZON KIDS
QUEST III, INC.

VOLUME 1

NUMBER	DOCUMENT	BATES NUMBER
1	Complaint filed 10/1/14	APP1-8
2	Answer to Plaintiff's Complaint filed 11/12/14	APP9-16
3	Defendant's Third-Party Complaint filed on 7/27/15	APP17-20
4	Third-Party Defendant's Answer to Third-Party Complaint filed on 8/31/15	APP21-23
5	Defendant's Motion to Disqualify Plaintiff's Attorney filed on 12/30/15	APP24-188
6	Plaintiff's Opposition to Motion to Disqualify Plaintiff's Attorney filed on 1/19/16	APP189-225

RESPECTFULLY SUBMITTED this 8th day of March, 2016.

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI



JAMES R. OLSON, ESQ.
Nevada Bar No. 000116
FELICIA GALATI, ESQ.
Nevada Bar No. 007341
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Defendant/Petitioner
NEW HORIZON KIDS QUEST III,
INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2016, I sent via e-mail a true and correct copy of the above and foregoing **APPENDIX TO PETITION FOR WRIT OF MANDAMUS (VOLUME 1)** by electronic service through the Nevada Supreme Court's website, (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Martin J. Kravitz, Esq.
Kravitz, Schnitzer & Johnson, Chtd.
8985 S. Eastern Avenue, Suite 200
Las Vegas, NV 89123
702-362-6666
702-362-2203 fax
mkravitz@ksjattorneys.com
Attorney for Plaintiff/Respondent

Clay Treese, Esq.
2272-1 S. Nellis Blvd.
Las Vegas, NV 89142
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Attorney for Anissa Wright

Honorable Susan Scann
Eighth Judicial District Court
Department 29
200 Lewis Avenue
Las Vegas, NV 89155


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI


CLERK OF THE COURT

1 **COMP**
2 MARTIN J. KRAVITZ, ESQ.
3 Nevada Bar No. 83
4 KRAVITZ, SCHNITZER
5 & JOHNSON, CHTD.
6 8985 So. Eastern Avenue, Suite 200
7 Las Vegas, Nevada 89123
8 Telephone: (702) 362-6666
9 Facsimile: (702) 362-2203
10 mkravitz@ksjattorneys.com

11 *Attorneys for Plaintiff,*
12 *ISABELLA GODOY, a minor, by and through*
13 *her Mother, Veronica Jaime*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 ISABELLA GODOY, a Minor, by and through
17 her mother, VERONICA JAIME

18 Plaintiff,

19 vs.

20 NEW HORIZON KIDS QUEST III, INC., a
21 Minnesota Corporation; DOES 1 through 10,
22 inclusive; and ROE CORPORATIONS 1
23 through 20, inclusive,

24 Defendant.

Case No.: A-14-707949-C
XXIX

COMPLAINT

25 COMES NOW, Plaintiff, ISABELLA GODOY, a Minor, by and through her mother,
26 VERONICA JAIME, by and through her attorney of record, the law firm of KRAVITZ,
27 SCHNITZER & JOHNSON, CHTD., prays and alleges against Defendant, NEW HORIZON
28 KIDS QUEST III, INC. as follows:

//

KRAVITZ, SCHNITZER & JOHNSON, CHTD.
8985 SO. EASTERN AVENUE, SUITE 200
LAS VEGAS, NEVADA 89123
TEL - (702) 362-2203; FAX - (702) 362-2203

JURISDICTIONAL ALLEGATIONS

1. Plaintiff ISABELLA GODOY, a Minor, by and through her mother, VERONICA JAIME (hereinafter "Plaintiff") is, and at all times relevant, was a resident of Clark County, Nevada.

2. Plaintiff is informed and believes and thereupon alleges that Defendant NEW HORIZON KIDS QUEST III, INC. (hereinafter "NEW HORIZON") is, and was at all times relevant, a Minnesota Corporation duly licensed to conduct business in the State of Nevada.

4. Defendants DOE 1 THROUGH 10 and ROE CORPORATIONS 1 THROUGH 20, are individuals, associations, corporations, partnerships or other entities which are employees, employers, agents, servants, masters, owners, controllers, partners, or in association with Defendant NEW HORIZON and/or have in some way caused or contributed to Plaintiff's damages as herein alleged. The true names or capacities, whether individual, corporate, associate or otherwise, are unknown to Plaintiff. Plaintiff alleges that each Defendant designated herein as a DOE and/or ROE is responsible in some manner for the events and happenings referred to in this Complaint and negligently caused injury and damages to Plaintiff. Plaintiff will ask leave of Court to amend this Complaint to insert the true names and capacities of DOES 1 THROUGH 10 and ROE CORPORATIONS 1 THROUGH 20 to include those true names and charging allegations when they are ascertained.

5. At all times relevant, Defendant NEW HORIZON operated a day care facility upon the Premises of Boulder Station. The day care facility is, and at all times relevant was, located at 4111 Boulder Highway in Las Vegas, Nevada (hereinafter sometimes referred to as the "Premises").

6. At all times relevant, NEW HORIZON advertised it offered "Supervised Hourly Child Care" in a "safe...supervised... setting perfect for children 6 weeks to 12 years old."

1 7. NEW HORIZON also advertised "Safety is our number one priority."

2 8. NEW HORIZON also advertised its staff is "trained and certified in CPR and first
3 aid, as well as in all forms of child care supervision strategies. There are ongoing trainings
4 throughout their employment to supplement and refresh their skills."

5 9. In addition, NEW HORIZON represented that they provided and continuously
6 improved the "best child development on the planet".
7

8 10. On or about May 13, 2013, Plaintiff was entrusted by her father, Robert Godoy, to
9 the care of Defendant. Specifically, Plaintiff was left in the care and custody of the child care
10 facility operated by NEW HORIZON and located on the Premises of Boulder Station.

11 11. While in the care and custody of Defendant, and on Defendant's Premises,
12 Plaintiff was sexually assaulted by one or more minor males who, Plaintiff is informed and
13 believes, were also left in the care and custody of Defendant.
14

15 **FIRST CAUSE OF ACTION**

16 **(Negligence Against Defendant New Horizon,
Does 1 to 10 and Roe Corporations 1 to 20)**

17 12. Plaintiff incorporates by this reference all of the allegations contained in
18 Paragraphs 1 through 11, as if fully set forth herein.
19

20 13. At all times relevant, Defendant owed a special duty of reasonable care and
21 diligence to the minor children, including Plaintiff, who were entrusted to their care, supervision
22 and control.

23 14. Defendant breached this special duty of reasonable care, diligence, supervision
24 and control of said minors, including Plaintiff, who were entrusted to them, that they allowed the
25 aforementioned sexual battery to occur to Plaintiff.
26

27 15. The acts and gross conduct of NEW HORIZON, as discussed above, were willful,
28 wanton, and made with a conscious disregard of prior sexual assaults of minors on the premises

1 as well as a conscious disregard of known safety precautions and procedures, entitling Plaintiff
2 to an award of punitive damages in an amount in excess of \$10,000.

3 16. As a direct, legal and proximate result of Defendant's negligence, Plaintiff
4 suffered harm and injury to her physical, psychological and mental health.

5 17. As a further direct, legal and proximate result of Defendant's negligence, Plaintiff
6 incurred special and general damages in excess of \$10,000.

7 18. As a result of Defendant's conduct, Plaintiff is entitled to Punitive damages in an
8 amount in excess of \$10,000.

9 19. It has been necessary for the Plaintiff to retain the services of an attorney to
10 prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and costs as suit
11 therefore.

12
13 **SECOND CAUSE OF ACTION**

14
15 **(Intentional Misrepresentation Against Defendant New Horizon,
16 Does 1 to 10 and Roe Corporations 1 to 20)**

17 20. Plaintiff incorporates by this reference all of the allegations contained in
18 Paragraphs 1 through 19, as if fully set forth herein.

19 21. At all times relevant, Defendant represented that it offered "Supervised Hourly
20 Child Care" in a "safe...supervised ... setting perfect for children 6 weeks to 12 years old."

21 22. NEW HORIZON also represented that "Safety is our number one priority and it is
22 incorporated in everything we do."

23 23. NEW HORIZON also represented that its staff is "trained and certified in CPR
24 and first aid, as well as in all forms of child care supervision strategies. There are ongoing
25 trainings throughout their employment to supplement and refresh their skills."

26 24. In addition, NEW HORIZON represented that they provided and continuously
27 improved the "best child development on the planet."
28

1 25. The true facts are that, at all times relevant, the statements in Paragraphs 21-24
2 were false.

3 26. Defendant knew when it made these representations concerning the quality of
4 child care, that the representations were false because there were prior incidents of sexual
5 assaults of minors at the Premises.

6 27. The false statements were made with the intent to deceive Plaintiff's father and
7 guardian, to induce him to entrust Plaintiff to the care of Defendant.

8 28. Plaintiff's father and guardian believed the representations made by Defendant to
9 be true, and in reliance upon those representations, he was induced to entrust his minor child,
10 Plaintiff to the care, custody, and supervision of Defendant.

11 29. The acts and gross conduct of NEW HORIZON, as discussed above, were willful,
12 wanton, and made with a conscious disregard of prior sexual assaults of minors on the premises
13 as well as a conscious disregard of known safety precautions and procedures, entitling Plaintiff
14 to an award of punitive damages in an amount in excess of \$10,000.

15 30. As a direct, legal and proximate result of Defendant's negligence, Plaintiff
16 suffered harm and injury to her physical, psychological and mental health.

17 31. As a further direct, legal and proximate result of Defendant's negligence, Plaintiff
18 incurred special and general damages in excess of \$10,000.

19 32. As a result of Defendant's conduct, Plaintiff is entitled to Punitive damages in an
20 amount in excess of \$10,000.

21 33. It has been necessary for the Plaintiff to retain the services of an attorney to
22 prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and costs as suit
23 therefore.

THIRD CAUSE OF ACTION

**(Negligent Misrepresentation Against Defendant New Horizon,
Does 1 to 10 and Roe Corporations 1 to 20)**

34. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through 33, as if fully set forth herein.

35. At all times relevant, NEW HORIZON advertised it offered "Supervised Hourly Child Care" in a "safe...supervised ... setting perfect for children 6 weeks to 12 years old."

36. NEW HORIZON also advertised "Safety is our number one priority."

37. NEW HORIZON also advertised its staff is "trained and certified in CPR and first aid, as well as in all forms of child care supervision strategies. There are ongoing trainings throughout their employment to supplement and refresh their skills."

38. In addition, NEW HORIZON represented that they provided and continuously improved the "best child development on the planet."

39. Defendant, when it made these representations concerning the quality of child care made available by Defendant, had no reasonable grounds for believing that its representations were true, particularly given the fact that other minors had been sexually assaulted at the Premises.

40. Defendant made those representations with the intent to induce Plaintiff's father and guardian to entrust her minor child, Plaintiff to the care, custody and supervision of Defendant.

41. Plaintiff's father and guardian believed the representations made by Defendant to be true, and in reliance upon those representations, he was induced to entrust his minor child, Plaintiff to the care, custody, and supervision of Defendant.

42. As a direct, legal and proximate result of Defendant's negligence, Plaintiff suffered harm and injury to her physical, psychological and mental health.

1 43. As a further direct, legal and proximate result of Defendant's negligence, Plaintiff
2 incurred special and general damages in excess of \$10,000.

3 44. It has been necessary for the Plaintiff to retain the services of an attorney to
4 prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and costs as suit
5 therefore.
6

7 **FOURTH CAUSE OF ACTION**

8 **(Negligent Hiring, Training, Supervision, and**
9 **Retention Against Defendant New Horizon)**

10 45. Plaintiff incorporates by this reference all of the allegations contained in
11 Paragraphs 1 through 44, as if fully set forth herein.

12 46. Defendant owed Plaintiff a duty as an employer to adequately investigate
13 employees prior to hiring them, to properly train the employees, to adequately supervise their
14 employees and to properly retain employees based upon performance of their jobs.

15 47. Defendant breached that duty of care by failing to adequately investigate the
16 background, train, supervise and/or retain its employees.

17 48. Defendant's failure to hire enough employees, hire only qualified employees,
18 properly train and/or supervise those employees, and retain only qualified employees
19 proximately caused Plaintiff special and general damages in excess of \$10,000.
20

21 49. The acts and gross conduct of NEW HORIZON, as discussed above, were willful,
22 wanton, and made with a conscious disregard of prior sexual assaults of minors on the premises
23 as well as a conscious disregard of known safety precautions and procedures, entitling Plaintiff
24 to an award of punitive damages in an amount in excess of \$10,000.
25

26 50. As a direct, legal and proximate result of Defendant's negligence, Plaintiff
27 suffered harm and injury to her physical, psychological and mental health.
28

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1 51. As a further direct, legal and proximate result of Defendant's negligence, Plaintiff
2 incurred special and general damages in excess of \$10,000.

3 52. It has been necessary for the Plaintiff to retain the services of an attorney to
4 prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and costs as suit
5 therefore.
6

7 PRAYER FOR RELIEF

8 Wherefore, Plaintiff expressly reserves his right to amend this Complaint prior to or at
9 the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays
10 for judgment against all DEFENDANTS and each of them as follows:

- 11 1. For special and general damages in an amount in excess of \$10,000.00;
12 2. For punitive damages in an amount to be determined at trial in excess of \$10,000.00;
13 3. For reasonable attorneys' fees, costs of suit and interest incurred herein; and
14 4. For such other and further relief as this Court deems just and proper.
15

16 DATED this 1 day of October, 2014.

17 KRAVITZ, SCHNITZER
18 & JOHNSON, CHTD.

19 BY: 
20 MARTIN J. KRAVITZ, ESQ.
21 Nevada Bar No. 83
22 Attorney for Plaintiff,
23 Isabella Godoy, a Minor, by and through
24 her Mother, Veronica Jaime
25
26
27
28


CLERK OF THE COURT

ANS
JAMES R. OLSON, ESQ.
Nevada Bar No. 000116
FELICIA GALATI, ESQ.
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Fax: 702-383-0701
jolson@ocgas.com
fgalati@ocgas.com
Attorneys for Defendant
NEW HORIZON KIDS QUEST III, INC.

DISTRICT COURT
CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME,

Plaintiff,

CASE NO. A-14-707949-C
DEPT. NO. XXIX

v.

NEW HORIZON KIDS QUEST III, INC., a
Minnesota corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendants.

**DEFENDANT NEW HORIZON KIDS QUEST III, INC.'S
ANSWER TO COMPLAINT**

COMES NOW Defendant NEW HORIZON KIDS QUEST III, INC., by and through its
attorneys, JAMES R. OLSON, ESQ. and FELICIA GALATI, ESQ. of the law firm of OLSON,
CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby answers Plaintiff's Complaint in
this matter as follows:

JURISDICTIONAL ALLEGATIONS

1. Answering Paragraphs 1, 4 (sic), 5, 6, 7, 8, 9, 10 and 11 of Plaintiff's Complaint,
this answering Defendant is without sufficient information to form a belief as to the truth or
falsity of the allegations contained therein, and upon said grounds denies same.

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OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
A Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
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2. Answering Paragraph 2 of Plaintiff's Complaint, this answering Defendant admits the allegations contained therein.

FIRST CAUSE OF ACTION

**(Negligence Against Defendant New Horizon,
Does 1 to 10 and Roe Corporations 1 to 20)**

3. Answering Paragraph 12 of Plaintiff's Complaint, this answering Defendant repeats and realleges its answers to each and every allegation contained in Paragraphs 1 through 11 of Plaintiff's Complaint, as though more fully set forth herein.

4. Answering Paragraphs 13 and 19 of Plaintiff's Complaint, this answering Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies same.

5. Answering Paragraphs 14, 15, 16, 17 and 18 of Plaintiff's Complaint, this answering Defendant denies the allegations contained therein.

SECOND CAUSE OF ACTION

**(Intentional Misrepresentation Against Defendant New Horizon,
Does 1 to 10 and Roe Corporations 1 to 20)**

6. Answering Paragraph 20 of Plaintiff's Complaint, this answering Defendant repeats and realleges its answers to each and every allegation contained in Paragraphs 1 through 19 of Plaintiff's Complaint, as though more fully set forth herein.

7. Answering Paragraphs 21, 22, 23, 24, 28 and 33 of Plaintiff's Complaint, this answering Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies same.

8. Answering Paragraphs 25, 26, 27, 29, 30, 31 and 32 of Plaintiff's Complaint, this answering Defendant denies the allegations contained therein.

THIRD CAUSE OF ACTION

**(Negligent Misrepresentation Against Defendant New Horizon,
Does 1 to 10 and Roe Corporations 1 to 20)**

9. Answering Paragraph 34 of Plaintiff's Complaint, this answering Defendant repeats and realleges its answers to each and every allegation contained in Paragraphs 1 through 33 of Plaintiff's Complaint, as though more fully set forth herein.

10. Answering Paragraphs 35, 36, 37, 38, 41 and 44 of Plaintiff's Complaint, this answering Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies same.

11. Answering Paragraphs 39, 40, 42 and 43 of Plaintiff's Complaint, this answering Defendant denies the allegations contained therein.

FOURTH CAUSE OF ACTION

(Negligent Hiring, Training, Supervision and Retention Against Defendant New Horizon)

12. Answering Paragraph 45 of Plaintiff's Complaint, this answering Defendant repeats and realleges its answers to each and every allegation contained in Paragraphs 1 through 44 of Plaintiff's Complaint, as though more fully set forth herein.

13. Answering Paragraphs 46 and 52 of Plaintiff's Complaint, this answering Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations contained therein, and upon said grounds denies same.

14. Answering Paragraphs 47, 48, 49, 50 and 51 Plaintiff's Complaint, this answering Defendant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim against this answering Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The damages sustained by Plaintiff, if any, were caused by the acts of third persons who are not agents, servants, or employees of this answering Defendant in any manner or form, and as such, this answering Defendant is not liable in any manner to Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, were directly and proximately caused and/or contributed to by the negligence, carelessness or fault of the Plaintiff, which is greater than the alleged negligence, carelessness or fault, if any, of this answering Defendant, and, therefore, Plaintiff's claims against this answering Defendant are barred.

FOURTH AFFIRMATIVE DEFENSE

If Plaintiff sustained any injuries, economic or otherwise, said injuries were proximately caused by her failure to mitigate her damages, if any, and/or take corrective action. Accordingly, any and all recovery is barred or should be limited to the extent or degree of Plaintiff's failure to mitigate her damages, if any.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff is barred from asserting any claim against this answering Defendant because the Plaintiff's alleged damages were the result of intervening, superseding conduct of others.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the principles of laches.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint is barred by the statute of limitations.

EIGHTH AFFIRMATIVE DEFENSE

This answering Defendant has engaged in no actions or inactions constituting negligence.

NINTH AFFIRMATIVE DEFENSE

This answering Defendant has engaged in no actions or inactions constituting intentional misrepresentation.

TENTH AFFIRMATIVE DEFENSE

This answering Defendant has engaged in no actions or inactions constituting negligent misrepresentation.

ELEVENTH AFFIRMATIVE DEFENSE

This answering Defendant has engaged in no actions or inactions constituting negligent hiring, supervision and/or retention.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by her own intentional acts.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrines of waiver and estoppel.

FOURTEENTH AFFIRMATIVE DEFENSE

That an award of punitive damages would be unconstitutional in that it would deny this answering Defendant its rights as guaranteed in the Due Process and Equal Protection Clauses of both United States and Nevada Constitutions.

FIFTEENTH AFFIRMATIVE DEFENSE

That if punitive damages are recoverable in this case, which this answering Defendant specifically denies, such an award cannot be disproportionate to the actor's alleged misconduct.

SIXTEENTH AFFIRMATIVE DEFENSE

That if punitive damages are recoverable in this case, which this answering Defendant specifically denies, such are criminal punishment in nature and must be proven by at least a clear and convincing evidence.

SEVENTEENTH AFFIRMATIVE DEFENSE

That the negligence of this answering Defendant, if any, was not the proximate cause of any injuries or damages to Plaintiff.

EIGHTEENTH AFFIRMATIVE DEFENSE

The premises under control of this answering Defendant was in a reasonably safe condition at all times relevant to this action.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff's alleged injuries resulted from an occurrence which this answering Defendant had no knowledge or any reasonable basis to anticipate.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff's action is barred by a release of liability.

TWENTY-FIRST AFFIRMATIVE DEFENSE

All of the risks and dangers, if any, involved in the factual situation described in Plaintiff's Complaint were open, obvious and known to the Plaintiff, and, by reason thereof, Plaintiff assumed such risks and dangers incident thereto. The injuries alleged by Plaintiff were caused by and arose out of such risks.

TWENTY-SECOND AFFIRMATIVE DEFENSE

No award of punitive damages can be awarded against this answering Defendant under the facts and circumstances alleged in Plaintiff's Complaint.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The contributory negligence of Plaintiff contributed more to the alleged injuries and resulting damages sustained than the alleged negligence of this answering Defendant, and any recovery by Plaintiff should be barred.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

This answering Defendant, at all times relevant to the allegations contained in Plaintiff's Complaint, acted with due care and circumspection in the performance of any and all duties imposed on it.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

No officer, director or managing agent of this answering Defendant expressly authorized to direct or ratify an employee's conduct on its behalf had advance knowledge of his/her unfitness and employed him/her with conscious disregard of the rights and/or safety of Plaintiff, expressly authorized or ratified the wrongful act or is personally guilty of oppression, fraud, or malice, express or implied.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail because Plaintiff failed to name a necessary party for full and adequate relief.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

At all time set forth herein, this answering Defendant did not act with a wanton, willful or otherwise conscious disregard of Plaintiff and, therefore, there can be no factual or legal basis for punitive damages.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

This answering Defendant is not liable for a third party's intentional torts pursuant to NRS 41.745.

TWENTY-NINTH AFFIRMATIVE DEFENSE

This answering Defendant incorporates all other defenses enumerated in Nevada Rule of Civil Procedure 8 for the purpose of not waiving any such defenses.

THIRTIETH AFFIRMATIVE DEFENSE

That pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer. This answering Defendant reserves the right to amend its Answer to allege additional affirmative defenses if subsequent investigation warrants.

WHEREFORE, this answering Defendant prays as follows:

1. That Plaintiff take nothing by reason of her Complaint on file herein;
2. For reasonable attorney's fees;
3. For costs of suit incurred and to be incurred herein; and
4. For such other and further relief as the Court may deem just and proper in the premises.
5. Demand is hereby made by this answering Defendant for a trial by jury in the above-entitled action.

DATED this 12th day of November, 2014.

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI



JAMES R. OLSON, ESQ.
Nevada Bar No. 000116
FELICIA GALATI, ESQ.
Nevada Bar No. 007341
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Defendant
NEW HORIZON KIDS QUEST III, INC.

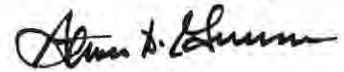
1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on this 12th day of November, 2014, I sent via e-mail a true and
3 correct copy of the above and foregoing **DEFENDANT NEW HORIZON KIDS QUEST III,**
4 **INC.'S ANSWER TO COMPLAINT** on the Clark County E-File Electronic Service List (or, if
5 necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

6 Martin J. Kravitz, Esq.
7 Kravitz, Schnitzer & Johnson, Chtd.
8 8985 S. Eastern Avenue, Suite 200
9 Las Vegas, NV 89123
702-362-6666
702-362-22-03 fax
Attorney for Plaintiff

10
11 
12 An Employee of OLSON, CANNON, GORMLEY,
13 ANGULO & STOBERSKI
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CLERK OF THE COURT

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Attorneys for Defendant
NEW HORIZON KIDS QUEST III, INC.

DISTRICT COURT

CLARK COUNTY, NEVADA

ISABELLA GODOY, a Minor, by and through
her mother, VERONICA JAIME,

Plaintiff,

v.

NEW HORIZON KIDS QUEST III, INC., a
Minnesota corporation; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 20, inclusive,

Defendants.

NEW HORIZON KIDS QUEST III, INC., a
Minnesota corporation,

Third-Party Plaintiff,

v.

ANISSA WRIGHT, individually and as natural
parent and guardian of S. W.,

Third-Party Defendant.

CASE NO. A-14-707949-C
DEPT. NO. XXIX

THIRD-PARTY COMPLAINT

COMES NOW Defendant/Third-Party Plaintiff NEW HORIZON KIDS QUEST III,
INC., by and through its attorneys JAMES R. OLSON, ESQ. and FELICIA GALATI, ESQ. of
the law firm of OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby

Law Offices of
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1 complains against Third-Party Defendants ANISSA WRIGHT, individually and as natural parent
2 and guardian of S.W. (hereinafter "Third-Party Defendants") as follows:

3 **FIRST CLAIM FOR RELIEF**
4 **(Indemnity)**

5 1. At all times mentioned herein, Defendant/Third-Party Plaintiff NEW HORIZON
6 KIDS QUEST III, INC. (hereinafter "Defendant/Third-Party Plaintiff"), was at all times relevant to
7 these proceedings, a corporation conducting business in the State of Nevada.

8 2. Upon information and belief, Third-Party Defendants were at all times relevant to
9 these proceedings, residents of Clark County, State of Nevada.

10 3. Plaintiff ISABELLA GODOY, a Minor, by and through her mother, VERONICA
11 JAIME (hereinafter "Plaintiff"), filed a Complaint against Defendant/Third-Party Plaintiff alleging
12 negligence, intentional misrepresentation, negligent misrepresentation, negligent hiring, training,
13 supervision and retention. Defendant/Third-Party Plaintiff incorporates by reference herein the
14 allegations of Plaintiff's Complaint as if fully set forth herein.

15 6. Defendant/Third-Party Plaintiff has timely answered Plaintiff's Complaint and has
16 plead appropriate affirmative defenses.

17 7. If Plaintiff recovers against Defendant/Third-Party Plaintiff for damages as alleged
18 in the Complaint, such liability will have been brought, or caused wholly, by the reason of the
19 conduct, actions and responsibility of the Third-Party Defendants and not as a result of any acts or
20 omissions or responsibility on the part of Defendant/Third-Party Plaintiff.

21 8. If Plaintiff recovers against Defendant/Third-Party Plaintiff, then Defendant/Third-
22 Party Plaintiff is entitled to full and complete indemnity from Third-Party Defendants.

23 9. That, as a result of Plaintiff's Complaint and as a result of Third-Party Defendant's
24 actions, Defendant/Third-Party Plaintiff has been forced to retain the services of OLSON,
25 CANNON, GORMLEY, ANGULO & STOBERSKI, and as such is entitled to attorney's fees
26 pursuant to the Third-Party Complaint.
27
28

SECOND CLAIM FOR RELIEF
(Contribution)

10. Defendant/Third-Party Plaintiff repeats and realleges Paragraphs 1 through 9 of the Third-Party Complaint as if fully set forth herein.

11. If Plaintiff recovers against Defendant/Third-Party Plaintiff, then Defendant/Third-Party Plaintiff is entitled to contribution by Third-Party Defendants, as is provided in NRS 17.225 through 17.305, inclusive.

12. That, as a result of Plaintiff's Complaint and as a result of Third-Party Defendants' actions, Defendant/Third-Party Plaintiff has been forced to retain the services of OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and as such is entitled to attorney's fees pursuant to the Third-Party Complaint.

WHEREFORE, Third-Party Plaintiff prays as follows:

1. For indemnity against Third-Party Defendants in an amount in excess of \$10,000.00;
2. For contribution from Third-Party Defendants in an amount in excess of \$10,000.00;
3. For attorneys fees and costs of suit; and
4. For such other and further relief as this Honorable Court deems just and proper.

DATED this 27th day of July, 2015.

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI



JAMES R. OLSON, ESQ.
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9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Defendant/Third-Party Plaintiff
NEW HORIZON KIDS QUEST III, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 2015, I sent via e-mail a true and correct copy of the above and foregoing **THIRD-PARTY COMPLAINT** on the Clark County E-File Electronic Service List (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Martin J. Kravitz, Esq.
Kravitz, Schnitzer & Johnson, Chtd.
8985 S. Eastern Avenue, Suite 200
Las Vegas, NV 89123
702-362-6666
702-362-2203 fax
mkravitz@ksjattorneys.com
Attorney for Plaintiff


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI

ANS

Anissa Wright

(NAME)

5820 Melrose Lane #202

(ADDRESS)

Las Vegas NV 89156

(CITY, STATE, ZIP)

702-601-3759

(TELEPHONE)

Third Party Defendant, Pro Se

DISTRICT COURT

CLARK COUNTY, NEVADA

Isabella Godoy, a minor

PLAINTIFF

New Horizon Kids Quest III, Inc. et al

DEFENDANTS

New Horizon Kids Quest III, Inc

THIRD PARTY PLAINTIFF

Anissa Wright

THIRD PARTY DEFENDANT

Case No.: A-14-707949-C

Dept. No.: XXIX

ANSWER TO
THIRD-PARTY
COMPLAINT

Defendant(s), Anissa Wright, Pro Se, hereby submits this Answer to the Complaint on file herein, and alleges and avers as follows:

1. Answering paragraph(s) _____

of Plaintiff's Complaint, Defendant(s) ADMITS each and every allegation contained therein.

② Answering paragraph(s) 1, 2, 4, 5, 6, 9

of Plaintiff's Complaint, Defendant(s) DENIES each and every allegation contained therein.

3. Answering paragraph(s) 3, 7, 8, 10, 11, 12

of Plaintiff's Complaint, Defendant(s) state(s) that Defendant(s) do(es) not have sufficient knowledge or information upon which to base a belief as to the truth of the allegation contained therein and therefore Defendant(s) DENIES each and every allegation contained therein.

4. Answering paragraph(s) Don't know what happened

of the Plaintiff's Complaint, Defendant(s) STATE(S) I asked to see the tape the police were called I was contacted, at home later police said nothing happened when my son was at kids quest. Still have not seen the tape.

FILED

2015 AUG 31 A 11:59

John H. [Signature]
CLERK OF THE COURT

1 **AFFIRMATIVE DEFENSES**

2 1. Defendant(s) hereby incorporate(s) by reference those affirmative defenses
3 enumerated in NRCP 8 as though fully set forth herein, as applicable upon discovery. In the
4 event further investigation or discovery reveals the applicability of any such defenses,
5 Defendant(s) reserve(s) the right to seek leave of court to amend this Answer to more
6 specifically assert any such defense. Such defenses are herein incorporated by reference for the
7 specific purposes of not waiving any such defenses.

8 ☒ Accord and satisfaction.

9 ☐ Arbitration and award.

10 ☐ Assumption of risk.

11 ☐ Contributory negligence.

12 ☐ Discharge in bankruptcy.

13 ☐ Duress.

14 ☐ Estoppel.

15 ☐ Failure of consideration.

16 ☐ Fraud.

17 ☐ Illegality.

18 ☐ Injury by fellow servant.

19 ☐ Laches.

20 ☐ License.

21 ☐ Payment.

22 ☐ Release.

23 ☐ Res judicata.

24 ☐ Statute of frauds.

25 ☐ Statute of limitations.

26 ☐ Waiver.

27 2. All possible affirmative defenses may not have been alleged herein insofar as
28 sufficient facts were not available after reasonable inquiry upon filing of this Answer. Therefore

1 Defendant(s) reserve(s) the right to amend this Answer to allege additional affirmative defenses
2 and claims, counter-claims, cross-claims or third-party claims, as applicable, upon further
3 investigation and discovery.

4 X. I don't know the reason I am being sued.

6 **WHEREFORE**, this Answering Defendant prays that this Honorable Court will:

- 7 1. Dismiss the Complaint with prejudice or grant Plaintiff a reduced amount based upon
8 the admissions, denials and affirmative defenses, if any, as alleged above herein;
9 2. Award Defendant(s)'s costs; and
10 3. Award Defendant(s) such other and further relief as the Court deems just and
11 equitable.

12 DATED this 31 day of August, 2015.

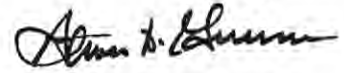
14 Anissa Wright
15 Defendant Pro Se

17 **CERTIFICATE OF MAILING**

18 I HEREBY CERTIFY that on the 31 day of August, 2015, I
19 placed a true and correct copy of the foregoing ANSWER in the United States Mail at Las
20 Vegas, Nevada, with first-class postage prepaid, addressed to the following:

21 Emily H. Montgomery
22 9950 West Cheyenne Ave
23 Las Vegas NV 89129

26 Anissa Wright
27 Defendant Pro Se



CLERK OF THE COURT

1 MDQA
2 JAMES R. OLSON, ESQ.
3 Nevada Bar No. 000116
4 FELICIA GALATI, ESQ.
5 Nevada Bar No. 007341
6 OLSON, CANNON, GORMLEY
7 ANGULO & STOBERSKI
8 9950 West Cheyenne Avenue
9 Las Vegas, NV 89129
10 Phone: 702-384-4012
11 Fax: 702-383-0701
12 jolson@ocgas.com
13 fgalati@ocgas.com
14 Attorneys for Defendant
15 NEW HORIZON KIDS QUEST III, INC.

DISTRICT COURT

CLARK COUNTY, NEVADA

13 ISABELLA GODOY, a Minor, by and through
14 her mother, VERONICA JAIME,

Plaintiff,

v.

16 NEW HORIZON KIDS QUEST III, INC., a
17 Minnesota corporation; DOES 1 through 10,
18 inclusive; and ROE CORPORATIONS 1
19 through 20, inclusive,

Defendants.

20 NEW HORIZON KIDS QUEST III, INC., a
21 Minnesota corporation,

Third-Party Plaintiff,

v.

24 ANISSA WRIGHT, individually and as natural
25 parent and guardian of S.W.,

Third-Party Defendant.

CASE NO. A-14-707949-C
DEPT. NO. XXIX

27 DEFENDANT'S MOTION TO DISQUALIFY PLAINTIFF'S ATTORNEYS
28

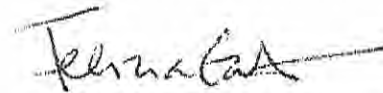
Law Offices of
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
a Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 • Telex 7021-182-0781

1 COMES NOW Defendant NEW HORIZON KIDS QUEST III, INC., by and through its
2 attorneys of record, OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby
3 submits its Motion To Disqualify Plaintiff's Attorneys.

4 This Motion is made and based upon this written Motion, the attached memorandum of
5 points and authorities, any and all papers on file herewith, together with any arguments
6 introduced at the time of hearing.

7 DATED this 30th day of December, 2015.

8
9 OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

10
11 

12 JAMES R. OLSON, ESQ.
13 Nevada Bar No. 000116
14 FELICIA GALATI, ESQ.
15 Nevada Bar No. 007341
16 9950 West Cheyenne Avenue
17 Las Vegas, NV 89129
18 Attorneys for Defendant
19 NEW HORIZON KIDS QUEST III, INC.
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NOTICE OF MOTION

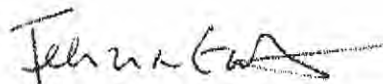
TO: Plaintiff

TO: Plaintiff's attorneys

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion To Disqualify Plaintiff's Attorneys on for hearing before the above-entitled Court, in Department No. XXIX, at the Regional Justice Center, Las Vegas, Nevada, on the 01 day of February, 2016, at the hour of 9:30 a.m., or as soon thereafter as counsel may be heard.

DATED this 30th day of December, 2015.

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI



JAMES R. OLSON, ESQ.
Nevada Bar No. 000116
FELICIA GALATI, ESQ.
Nevada Bar No. 007341
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Defendant
NEW HORIZON KIDS QUEST III, INC.

MEMORANDUM OF POINTS AND AUTHORITIES

A. INTRODUCTION

Defendant seeks an order disqualifying Plaintiff's attorneys from representing Plaintiff because of a conflict of interest. No order short of disqualification can adequately address the issues and concerns related hereto.

1 **B. FACTUAL AND PROCEDURAL BACKGROUND**

2 **Blue Case Facts And Plaintiff's Attorney's Background**

3 On August 31, 2007, the following action was filed against Defendant – Robann C. Blue,
4 a Minor, by and through her Guardian ad Litem, Sandi Williamson v. New Horizons Kids Quest
5 III, Inc., Case No. A547414 ("Blue").¹ The Blue plaintiff alleged negligence, intentional
6 misrepresentation, negligent misrepresentation, sexual battery, and conspiracy claims.² More
7 specifically, the Blue plaintiff alleged that on May 14, 2005, she was left at Defendant's child
8 care facility at Boulder Station and was sexually assaulted by a minor male who was also in the
9 care of the facility.³ The Blue plaintiff sought general, special and punitive damages.⁴

10 On October 22 2007, the law firm of Hall Jaffe & Clayton ("HJC") made an appearance
11 in Blue as counsel on behalf of Defendant and filed an answer.⁵ Between 2009 and 2011,
12 Jordan P. Schnitzer, Esq., Plaintiff's attorney, was an attorney at HJC.⁶ At the time HJC
13 represented Defendant in Blue, it was a small firm consisting of about 12 attorneys.⁷ In
14 addition, Mr. Schnitzer and Jill Northway, Esq., one of the HJC attorneys actively representing
15 Defendant in Blue, shared the same assistant – Crystal Hernandez-Smith.⁸

16 On June 29, 2009, a joint case conference report was filed in Blue.⁹ Thereafter, the
17 parties engaged in discovery.¹⁰ The Blue plaintiff took at least 2 depositions of Defendant's
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22 ¹ See Blue complaint, attached hereto as Exhibit A.

23 ² Id. at pp. 3-7.

24 ³ Id. at ¶3.

25 ⁴ Id. at p. 7.

26 ⁵ See Blue answer, attached hereto as Exhibit B.

27 ⁶ See www.vegasattorneys.info webpage, p. 2, attached hereto as Exhibit C; Affidavit of Troy
28 Dunkley, attached hereto as Exhibit D.

⁷ See Affidavit of Troy Dunkley, attached hereto as Exhibit D.

⁸ Id.

⁹ Id.

¹⁰ Id.

1 employees and/or representatives – Wendy Rowe (person most knowledgeable) who was
2 deposed on November 20, 2009, and Traci Peterson (Operations Manager) who was deposed on
3 May 11, 2010, which HJC defended.¹¹

4 On March 23, 2011, the Blue case went to trial.¹² It continued on March 24 and 25,
5 2011.¹³ The parties engaged in settlement discussions and settled the case.¹⁴ On September 15,
6 2011, the case was dismissed by way of stipulation and order.¹⁵

7 Thus, HJC represented Defendant in Blue over the course of just under 4 years. During
8 that time, Defendant and its employees revealed confidential information to HJC about it
9 policies, practices, procedures, training, staff, supervision of children, etc., in support of its
10 defense of the case.¹⁶ Defendant was comfortable disclosing confidential information to HJC in
11 support of its defense because it knew that information was protected by the attorney-client
12 privilege, duties of loyalty and confidentiality owed by HJC, and the Rules of Professional
13 Conduct regarding confidentiality and conflicts of interest.¹⁷ All of the communications
14 between HJC attorneys and Defendant and/or its employees were confidential and that
15 information could not have been obtained but for the attorney-client relationship that existed.
16

17 Sometime in 2011, Mr. Schnitzer joined Kravitz, Schnitzer & Johnson or its then
18 formal.¹⁸

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23
24 ¹¹ Id.

25 ¹² Id.

26 ¹³ Id.

27 ¹⁴ Id.

28 ¹⁵ Blue stipulation and order of dismissal, attached hereto as Exhibit E.

¹⁶ See Affidavit of Troy Dunkley, attached hereto as Exhibit D.

¹⁷ Id.

¹⁸ See www.vegasattorneys.info webpage, p. 2, attached hereto as Exhibit C.

This Case

On October 1, 2014, Plaintiff's attorneys filed a Complaint in this case against Defendant alleging negligence, intentional misrepresentation, negligent misrepresentation, and negligent hiring, training and supervision claims.¹⁹ More specifically, Plaintiff alleges that on May 13, 2013, she was left at Defendant's child care facility at Boulder Station and was sexually assaulted by a minor male who was also in the care of the facility.²⁰ Plaintiff seeks special, general and punitive damages.²¹ Thus, this action is just like Blue, both by way of claims, the specific allegations and damages sought. All that is different is the plaintiffs, the minor perpetrators and the dates of the incident. On August 28, 2015, Plaintiff listed Traci Peterson, who was deposed in Blue while Mr. Schnitzer was an attorney at HJC, as a witness in this case.²²

Mr. Schnitzer has been the attorney primarily representing Plaintiff in this case.²³ He attended the Early Case Conference and made all but a few court appearances.²⁴ He has conducted all but one of the meet-and-confer conferences in this case.²⁵ His name appears on all but a few of the papers filed after the Complaint, beginning with the request to exempt this case from arbitration executed on December 2, 2014.²⁶ No depositions have been taken yet in this case.

On December 14, 2015, Defendant discovered that Mr. Schnitzer, Plaintiff's attorney, was a member of HJC when it represented Defendant in Blue. Plaintiff has conducted much

¹⁹ See Complaint.

²⁰ Id. at ¶¶ 10-11.

²¹ Id. at p. 8.

²² See Affidavit of Troy Dunkley, attached hereto as Exhibit D; Plaintiff's fourth supplemental disclosure, attached hereto as Exhibit F.

²³ See Affidavit of Felicia Galati, attached hereto as Exhibit G.

²⁴ Id.

²⁵ Id.

1 discovery in this case regarding Blue.²⁷ For example, Plaintiff has issued requests for
2 production specifically relating to and/or otherwise implicating Blue as follows:

3 **REQUEST NO. 12:**

4 Produce all discovery including NRCP 16.1 disclosures, written discovery, deposition
5 transcripts and expert reports from Clark County District Court Case No. A547414.²⁸

6 **REQUEST NO. 61:**

7 Copies of any and all lawsuits filed for alleged molestation, physical abuse or sexual
8 abuse or assaults of any kind of a minor at the New Horizon Kids Quest III, Inc. daycare
9 facility including court, case title, court number and date of filing.²⁹

10 Thus, Plaintiff is relying upon Blue to support this case.

11 Also, the critical nature of Blue to this case further is established by the papers Plaintiff
12 filed and the arguments he has made. For example, Plaintiff filed a Counter-Motion To Compel
13 ("Counter-Motion") Defendant relating to Request for Production No. 12 requiring Defendant to
14 produce all the discovery (including NRCP 16.1 disclosures, written discovery, deposition
15 transcripts and expert reports) in Blue and filed other papers relating to the Blue case
16 documents.³⁰ Plaintiff also has repeatedly indicated this case is just like Blue and Plaintiff is
17 using Blue to avoid having to do discovery that was done in Blue to prosecute this action against
18 Defendant.³¹ For example, Plaintiff maintained at the hearing on Plaintiff's Counter-Motion
19 where she was seeking the Blue case documents:
20
21
22

23 ²⁶ Id.

24 ²⁷ See Affidavit of Troy Dunkley, attached hereto as Exhibit D.

25 ²⁸ See Affidavit of Felicia Galati, attached hereto as Exhibit G; Plaintiff's first Requests for
26 Production to Defendant, p. 5, attached hereto as Exhibit H.

27 ²⁹ See Affidavit of Felicia Galati, attached hereto as Exhibit G; Plaintiff's third Requests for
28 Production to Defendant, p. 12, attached hereto as Exhibit I.

³⁰ See Plaintiff's Counter-Motion To Compel (exhibits redacted), pp. 13-15, attached hereto as
Exhibit J; Plaintiff's Opposition to Defendant's Objection to Discovery Commissioner's Report
and Recommendations (exhibits redacted), pp. 9 and 14-18, attached hereto as Exhibit K.

³¹ Id.; Affidavit of Felicia Galati, attached hereto as Exhibit G.

1 In every case that they have where these children are being beaten and attacked
2 and sexually assaulted by other children the cases stem around the same issue,
3 which is they don't staff properly, they don't have enough people, they don't
4 follow administrative regulations . . . one of the things that happened in this case .
5 . . . is we found . . . [a]nother case that was filed some years ago and settled
6 dealing with the very same issue in the same location, not enough supervision and
7 an assault and a very brutal beating that took place by one child on another . . .
8 they have a national pattern of this, so what we are looking to do is to sue them
9 for punitive damages for fraud because the advertising that they put out says, you
10 know, put your children here in a safe, friendly environment, constant
11 supervision; it doesn't happen. That's why these attacks occur . . .³²

12 we're gonna be asking for this nationally because the pattern is there's so many
13 lawsuit out there and there have been so many settlements out there, we need to
14 see what this company does . . .³³

15 And the issues are the same in location, after location, after location, which is a
16 lack of staffing.³⁴

17 Pursuant to Plaintiff's Counter-Motion and related argument, this Court granted Plaintiff
18 substantial relief ordering Defendant to produce the following as it relates to Blue: Defendant's
19 answers to written discovery; depositions of Defendant's employees, agents and/or principals;
20 Defendant's expert disclosure reports; and Defendant's pleadings.³⁵ Thus, Plaintiff's Complaint,
21 disclosures, discovery, and statements to this Court conclusively establish that this case is just
22 like Blue, the case defended by Mr. Schnitzer's former law firm -- HJC. Now, Mr. Schnitzer is
23 suing a former client of his former law firm.

24 Mr. Schnitzer and his current law firm must be disqualified because he was an attorney at
25 HJC at the time it represented Defendant in a substantially related matter, and that conflict of
26 interest relating to a former client is imputed to both him and his current law firm.

27 ³² See Transcript of 7/8/15 Hearing, 3:12 to 4:6, attached hereto as Exhibit L.

28 ³³ Id. at 4:20-22.

³⁴ Id. at 9:7-8.

³⁵ See Discovery Commissioner Report and Recommendations regarding 7/8/15 hearing,
attached hereto as Exhibit M.

1 **C. STANDARD FOR DISQUALIFICATION**

2 Conflicts of interest are governed by the Nevada Rules of Professional Conduct.

3 Generally, they are based on a lawyer's continuing duties of loyalty and confidentiality owed to
4 a client after the termination of a representation. This case involves a conflict of interest relating
5 to a former client and an imputed conflict of interest. Nevada Rule of Professional
6 Conduct ("RPC") 1.9 (Duties to Former Clients) provides:
7

8 (a) A lawyer who has formerly represented a client in a matter shall not thereafter
9 represent another person in the same or a substantially related matter in which
10 that person's interests are materially adverse to the interests of the former client
11 unless the former client gives informed consent, confirmed in writing.

12 (b) A lawyer shall not knowingly represent a person in the same or a substantially
13 related matter in which a firm with which the lawyer formerly was associated had
14 previously represented a client:

15 (1) Whose interests are materially adverse to that person; and

16 (2) About whom the lawyer had acquired information protected by Rules 1.6 and
17 1.9(c) that is material to the matter;

18 (3) Unless the former client gives informed consent, confirmed in writing.

19 (c) A lawyer who has formerly represented a client in a matter or whose present
20 or former firm has formerly represented a client in a matter shall not thereafter:

21 (1) Use information relating to the representation to the disadvantage of the
22 former client except as these Rules would permit or require with respect to a
23 client, or when the information has become generally known; or

24 (2) Reveal information relating to the representation except as these Rules would
25 permit or require with respect to a client.

26 **RPC 1.10 (Imputation of Conflicts of Interest) provides:**

27 (a) While lawyers are associated in a firm, none of them shall knowingly
28 represent a client when any one of them practicing alone would be prohibited
from doing so by Rules 1.7, 1.9, or 2.2, unless the prohibition is based on a
personal interest of the prohibited lawyer and does not present a significant risk
of materially limiting the representation of the client by the remaining lawyers in
the firm.

1 ...
2 (e) When a lawyer becomes associated with a firm, no lawyer associated in the
3 firm shall knowingly represent a person in a matter in which that lawyer is
4 disqualified under Rule 1.9 unless:

5 (1) The personally disqualified lawyer did not have a substantial role in or
6 primary responsibility for the matter that causes the disqualification under Rule
7 1.9;

8 (2) The personally disqualified lawyer is timely screened from any participation
9 in the matter and is apportioned no part of the fee therefrom; and

10 (3) Written notice is promptly given to any affected former client to enable it to
11 ascertain compliance with the provisions of this Rule.

12 A party seeking disqualification bears the burden of proving two matters are substantially
13 related. Waid v. District Court, 121 Nev. 605, 610, 119 P.3d 1219, 1222 (2005). However, in
14 proving that a prior representation is substantially related to the present litigation, the moving
15 party is not required to disclose confidences actually communicated, nor can the court inquire
16 into whether a lawyer actually acquired confidential information in the prior representation. Id.
17 **The court can only “undertake a realistic appraisal of whether confidences might have
18 been disclosed in the prior matter that will be harmful to the client in the latter matter. Id.**
19 **at 610, 1222-23. The focus is upon the general features of the matters involved and inferences**
20 **as to the likelihood that confidences were imparted by the former client that could be used to**
21 **adverse effect in the subsequent representation. Restatement (Third) of the Law Governing**
22 **Lawyers, § 132, com. d(iii) (2000). When the prior matter involved litigation, it is**
23 **conclusively presumed that the lawyer obtained confidential information about the issues**
24 **involved in the litigation. Id.**

25
26 In Waid, the Nevada Supreme Court upheld the district court’s disqualification of the
27 lawyer concluding that since the former representation encompassed allegations that the former
28

1 client (Del Mar) and its officers and directors were involved in a Ponzi scheme, it was
2 reasonable for the court to infer that confidential information and likely quite sensitive
3 information was given to the lawyer during the prior representation; and Plaintiff's 16.1
4 disclosure proclaimed that information concerning the Ponzi scheme, the subject of the prior
5 representation, was extremely relevant to the current litigation. Waid, 121 Nev. at 610-11, 119
6 P.3d at 1223.
7

8 Finally, RPC 1.10, ethical principles and public policy considerations require this Court
9 to impose a presumption of shared confidence and disqualify entire law firms. Ryan's Express v.
10 Amador Stage Lines, 128 Nev. Adv. Op. 27, 279 P.3d 166, 170 (2012) ("A presumption of
11 shared confidence, wherein it is presumed that an attorney takes with him or her any confidences
12 gained in a former relationship and shares them with the firm, is imposed by the imputation
13 provisions of RPC 1.10, 1.11, and 1.12.") In applying the rule of imputed disqualification, the
14 court must carefully balance the competing interests of a client's right to choice of counsel
15 against another client's interest in avoiding disclosure of confidential information. Id.
16

17 **D. LEGAL ARGUMENT**

18

19 The Nevada Supreme Court has established a three-part test to determine whether a
20 lawyer must be disqualified based on a former client conflict. A lawyer in Nevada must be
21 disqualified from representing a client adverse to a former client if: (1) an attorney-client
22 relationship existed, (2) the current and former matters are substantially related, and (3) the
23 current representation is adverse to the former client. Nev. Yellow Cab Corp. v. Eighth Judicial
24 District Court, 123 Nev. 44, 50, 152 P.3d 737, 741 (2007). Although Nev. Yellow Cab Corp.
25 dealt with the prior version of RPC 1.9 – Supreme Court Rule ("SCR") 159 – it applies to this
26 matter given the Rules are substantially the same. Id. at 51, 741.
27
28

1 In Nev. Yellow Cab Corp., the Nevada Supreme Court upheld the district court's order
2 granting a motion to disqualify counsel – Vannah, and Vannah Costello Vanna & Ganz – in a
3 bad-faith insurance action, finding the court did not manifestly abuse its broad discretion. It
4 found that the law firm of Vannah Costello Canepa Riedy & Rubino was one of the firms
5 retained to represent Insurance Company of the West (ICW) to defend its insureds in civil
6 lawsuits filed by third parties. Id. at 47, 739. As to SCR 159 (now RPC 1.9), the former client
7 conflict rule, the Court applied the above 3-part test. Id. at 50, 741. **It held that under SCR**
8 **160 (now RPC 1.10), the imputed conflict rule, the disqualification of a lawyer practicing**
9 **in a firm is generally imputed to other lawyers in the firm.** Id. at 51, 741. Only the first and
10 second elements – whether ICW was a former client, and whether the current and former
11 representations were substantially related – were at issue. Id. The Court found there was an
12 attorney-client relationship between ICW (the insurer) and the law firm, and ICW was a former
13 client of the law firm. Id. at 51-52, 741-42. On the issue of whether the two representations
14 were substantially related, the Court adopted and applied the Waid test requiring a district court
15 presented with a disqualification motion based on a former representation to:

16 (1) make a factual determination concerning the scope of the former representation, (2)
17 evaluate whether it is reasonable to infer that the confidential information allegedly given
18 would have been given to a lawyer representing a client in those matters, and (3)
19 determine whether that information is relevant to the issues raised in the present
20 litigation. Id. at 610, 1223.

21 Nev. Yellow Cab Corp., 123 Nev. at 52, 152 P.3d at 742. A superficial resemblance between
22 the matters is not sufficient. Id. “[T]he focus is properly on the precise relationship between the
23 present and former representation.” Id. quoting Waid, supra. With respect to the first prong, the
24 Court held documents supported a finding that the law firm was responsible for defending the
25 Nash litigation from its inception in January 1999 until November 2002 only four to five months
26
27
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1 before trial, and that associate Denise Osmond participated extensively in this representation.
2 Id. With respect to the second prong, the Court held the district court could have reasonably
3 inferred that the associate obtained confidential information concerning ICW's handling of
4 Nash's claim during the 3-year period. Id. at 52-53, 742. A current matter is substantially
5 related to a former matter when, in light of the scope of the former representation, it would be
6 reasonable to infer that the lawyer acquired confidential information that is relevant to the issues
7 raised in the current matter. Id. at 52, 742. Finally, the way that ICW handled Nash's claim
8 against Yellow Cab was the precise subject of the underlying litigation. Id. at 53, 742. Thus,
9 the district court did not abuse its discretion in concluding that the two matters were
10 substantially related, that Osmond had a conflict under SCR 159 and the conflict was imputed to
11 Vannah and the rest of the law firm under SCR 160. Id. In determining whether disqualification
12 is warranted, the court must undertake a balancing test and should weigh the prejudices that the
13 parties will suffer based on the district court's decision, consider the public interest in the
14 administration of justice, and discourage the use of such motions for purposes of harassment and
15 delay. Id. at 53, 742-43.

16
17
18
19 Courts deciding attorney disqualification motions are faced with the delicate and
20 sometimes difficult task of balancing competing interests: the individual right to be
21 represented by counsel of one's choice, each party's right to be free from the risk of even
22 inadvertent disclosure of confidential information, and the public's interest in the
23 scrupulous administration of justice. While **doubts should generally be resolved in**
24 **favor of disqualification**, parties should not be allowed to misuse motions for
25 disqualification as instruments of harassment or delay.

26 Id. at 53, 743 (emphasis added) quoting Brown v. Dist. Ct., 116 Nev. 1200, 1205, 14 P.3d 1266,
27 1269-70 (2000). One purpose of disqualification is to prevent disclosure of confidential
28 information that could be used to a former client's disadvantage. Id. Although ICW perceived a
conflict almost immediately after the complaint was filed but waited two years to seek

1 disqualification, the Court upheld the district court's decision because it was more familiar with
2 the case, had the best opportunity to evaluate whether disqualification was warranted, and the
3 Court was not persuaded the district court abused its broad discretion. *Id.* at 53-54, 743. Thus,
4 the Court determined that the disqualification of Vannah and his firm – who did not directly
5 participate in the representation of ICW in the prior matter – was warranted because Ms.
6 Osmond, an associate of the firm represented ICW in the prior matter. Thus, SCR 160, and now
7 RPC 1.10, prohibits a formerly associated lawyer from representing a person with interests
8 materially adverse to a client represented by a firm at a time when the formerly associated
9 lawyer was employed at the firm where the matter is substantially related. *Id.* Once a
10 determination is made that the representations are substantially related and the interests of the
11 client are materially adverse, disqualification of the formerly associated lawyer is required under
12 SCR 159 and 160 – now RPC 1.9 and 1.10. *Id.*

15 In a federal case applying the same Rules and tests, the United States District Court made
16 a similar determination. In *Coles v. Arizona Charlie's*, 992 F.Supp. 1214 (1998), the United
17 States District Court disqualified Janet Pancoast, Esq., an attorney who had worked for the firm
18 that represented the employer in a prior race discrimination action from representing the
19 plaintiffs in a subsequent race discrimination case. In *Coles*, the law firm of Kirshman, Harris &
20 Cooper ("KHC"), a six-attorney firm, represented the employer. *Id.* at 1215, 1216. William
21 Cooper, Esq., of KHC, was the lawyer responsible for the prior discrimination case. *Id.* Ms.
22 Pancoast did not work on the prior case, but attended firm meetings during which lawyers
23 discussed the status of client matters, including the employer's cases. *Id.* KHC received
24 confidential information in the course of representing the employer, which was shared through
25 daily interaction and firm meetings. *Id.* All KHC lawyers, including Ms. Pancoast, had access
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1 to the prior case files. Id. The court held a substantial relationship existed between the
2 employer's prior representation by KHC in the discrimination action, and the current
3 representation of the plaintiffs by Ms. Pancoast against the employer based on several findings:
4 both cases involved allegations of race discrimination in employment; KHC provided legal
5 advice to the employer regarding its employment practices and policies; the plaintiffs alleged
6 those practices and policies were unlawful and alleged a pattern and practice of race
7 discrimination by the employer; confidential information disclosed to KHC during the prior
8 representation could be relevant to plaintiffs' pattern and practice allegation; and Ms. Pancoast
9 participated in KHC meetings which included discussions of the employer's employment
10 practices and litigation. Id. at 1215-16. It was entirely possible that confidential information
11 disclosed in the prior representation was relevant to plaintiff's pending discrimination case
12 against the employer as both alleged race discrimination and the past conduct of the employer
13 could be used to establish a pattern or practice of discrimination to support an employee's claim
14 of discrimination. Id. at 1217.

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17 In this case, RPC 1.9(b) applies because Mr. Schnitzer's former firm – HJC – represented
18 Defendant in a substantially related matter, the Blue case, at a time when he was a lawyer
19 employed by that law firm. In addition, RPC 1.10(a) and (c) apply to impute the conflict of
20 interest to Mr. Schnitzer and his current law firm. The most relevant facts relevant to
21 disqualification include the following: (1) Mr. Schnitzer was a lawyer at HJC, a small twelve-
22 attorney firm, when HJC represented Defendant in Blue; (2) while at HJC, Mr. Schnitzer and
23 Ms. Northway (one of the HJC attorneys who represented Defendant in Blue) shared the same
24 assistant; (3) Mr. Schnitzer was at HJC when it defended 2 depositions in Blue involving
25 Defendant's employees; and (4) Ms. Peterson's (Defendant's employee) deposition was taken in
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1 Blue when Mr. Schnitzer was at HJC and Plaintiff/Mr. Schnitzer listed Ms. Peterson as a witness
2 in this case.

3 Blue and this action are substantially related matters. Both cases allegedly involve
4 minor-on-minor sexual assaults committed at Defendant's premises. Both cases seek/sought the
5 same damages. Both cases involve(d) the same claims – negligence, intentional
6 misrepresentation, and negligent misrepresentation. Both cases involve(d) the same issues,
7 including staffing, lack of supervision, Defendant's policies, procedures and practices including
8 regarding employee training, supervision of children, safety, staff to child ratios, etc. Thus, as in
9 Nev. Yellow Cab Corp., it can be reasonably inferred that the HJC attorneys representing
10 Defendant in Blue obtained confidential information concerning Defendant during the 4-year
11 period when HJC represented Defendant, when it defended the employee depositions therein,
12 and when it conducted the trial in Blue. Furthermore, that information is relevant to this
13 litigation given Plaintiff's clear position in this case that it involves a staffing issue, etc., like
14 Blue, and that is what always happens; and Plaintiff listing Ms. Peterson (a witness in Blue) in
15 this case.³⁶ A current matter is substantially related to a former matter when, in light of the
16 scope of the former representation, it would be reasonable to infer that the lawyer acquired
17 confidential information that is relevant to the issues raised in the current matter. Nev. Yellow
18 Cab Corp., 123 Nev. at 52, 152 P.3d at 742. Furthermore, because Blue involved litigation, it is
19 conclusively presumed that HJC obtained confidential information about the issues involved in
20 the litigation. Restatement, supra. This conflict is imputed to Mr. Schnitzer, who was an
21 attorney at HJC at the time it represented Defendant, and to Kravitz, Schnitzer & Johnson,
22 through RPC 1.9(b), and 1.10(a) and (e).
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³⁶ See Footnotes, 31-33, supra.

Also, as in Coles, where the United States District Court disqualified Ms. Pancoast, an attorney who worked for the firm that represented the employer in a prior race discrimination action from representing the plaintiffs in a subsequent race discrimination case even though she did not work on the prior case, so too must Mr. Schnitzer and his current law firm be disqualified. HJC, like KHC in Coles, received confidential information in the course of representing Defendant in Blue that is relevant to Plaintiff's pending case against Defendant as both cases allege the same claims, make the same allegations, raise the same issues and seek the same damages – as Plaintiff has repeatedly told this Court to support her demands for related discovery and succeeded thereon. Under RPC 1.9 and 1.10, no HJC attorney that was at the firm during the pendency of Blue, including Mr. Schnitzer, can represent a party in an action against Defendant that is substantially related. Finally, any doubt regarding disqualification must be resolved in Defendant's favor. Id. at 53, 743. Allowing Mr. Schnitzer and his current law firm to continue to represent Plaintiff against Defendant – when Mr. Schnitzer's former law firm (HJC) represented Defendant in Blue in prior similar litigation involving the same claims, allegations, issues, policies and procedures, damages, etc. – is prohibited by the Rules of Professional Conduct. Based on all of the foregoing, Plaintiff's attorneys must be disqualified.

E. CONCLUSION

IN ACCORDANCE WITH THE FOREGOING, Defendant respectfully requests this Court grant its Motion To Disqualify Plaintiff's Attorneys because of the former client conflict of interest that is imputed to Mr. Schnitzer and his current law firm under RPC 1.9 and 1.10. Neither Mr. Schnitzer nor his current law firm can represent Plaintiff against Defendant when Mr. Schnitzer's former firm represented Defendant while Mr. Schnitzer was at the firm in prior substantially related litigation – Blue – involving the same claims, allegations, issues, and

1 damages because Mr. Schnitzer's former firm obtained confidential information such that the
2 conflict is imputed to Mr. Schnitzer and his current law firm. Plaintiff's attorneys must be
3 disqualified pursuant to RPC 1.9 and 1.10.

4 DATED this 30th day of December, 2015.

6 OLSON, CANNON, GORMLEY
7 ANGULO & STOBERSKI

8 

9
10 JAMES R. OLSON, ESQ.
11 Nevada Bar No. 000116
12 FELICIA GALATI, ESQ.
13 Nevada Bar No. 007341
14 EMILY H. MONTGOMERY, ESQ.
15 Nevada Bar No. 012825
16 9950 West Cheyenne Avenue
17 Las Vegas, NV 89129
18 Attorneys for Defendant
19 NEW HORIZON KIDS QUEST III, INC.
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Law Offices of
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
a Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 344-4112 Telephone (702) 383-0761

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of December, 2015, I sent via e-mail a true and correct copy of the above and foregoing **DEFENDANT'S MOTION TO DISQUALIFY PLAINTIFF'S ATTORNEYS** on the Clark County E-File Electronic Service List (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

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mkravitz@ksjattorneys.com
Attorney for Plaintiff

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clay@claytreese.com
Attorney for Anissa Wright


An Employee of OLSON, CANNON, GORMLEY,
ANGULO & STOBERSKI

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EXHIBIT A

1 COM

2 Joseph A. Long, Esq.
3 Nevada Bar No. 006041
4 LONG BLUMBERG
5 2950 Buskirk Avenue, Suite 315
6 Walnut Creek, California 94597
7 Telephone: (925) 941-0090
8 Facsimile: (925) 941-0085

9 LAW OFFICES OF JOSEPH A. LONG
10 8921 W. Sahara Avenue, Suite B
11 Las Vegas, Nevada 89117
12 Telephone: (702) 631-5650
13 Facsimile: (702) 631-5603

14 Attorney for Plaintiff
15 ROBANN C. BLUE, a Minor, by and through
16 her Guardian *ad Litem*, SANDI WILLIAMSON

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 ROBANN C. BLUE, a Minor, by and through
20 her Guardian *ad Litem*, SANDI WILLIAMSON,

21 Plaintiff,

22 v.

23 NEW HORIZON KIDS QUEST III, INC., a
24 Minnesota Corporation; BOULDER
25 STATION, INC., a Nevada Corporation; DOES
1 through 20; and ROE CORPORATIONS 1
through 20, Inclusive,

26 Defendants.

27 Plaintiff ROBANN C. BLUE, a Minor, by and through her Guardian *ad Litem* SANDI
28 WILLIAMSON, alleges as follows:

29 GENERAL ALLEGATIONS

30 1. Plaintiff ROBANN C. BLUE, a Minor, by and through her Guardian *ad Litem* SANDI
31 WILLIAMSON (hereinafter "Plaintiff") is, and at all times relevant, was a resident of Clark County,
32 Nevada.

CLERK OF THE COURT

AUG 31 8 25 AM '07

FILED

CLERK OF THE COURT

AUG 31 2007

RECEIVED

COMPLAINT FOR DAMAGES

1 2. Plaintiff is informed and believes and thereupon alleges that Defendant NEW HORIZON KIDS
2 QUEST III, INC. (hereinafter "NEW HORIZON") is, and was at all times relevant, a Minnesota
3 Corporation duly licensed to conduct business in the State of Nevada.

4 3. Plaintiff is informed and believes and thereupon alleges that Defendant BOULDER STATION,
5 INC. (hereinafter "BOULDER STATION"), is, and was and at all times relevant, a Nevada Corporation
6 duly licensed to conduct business in the State of Nevada.

7 4. The true names and capacities, whether individual, corporate, or otherwise of Defendant DOES
8 1 through 20 and ROE CORPORATIONS 1 through 20 are unknown to Plaintiff who therefore sues said
9 Defendants by such fictitious names. Plaintiff alleges that each Defendant designated herein as DOES
10 1 through 20 and ROE CORPORATIONS 1 through 20 are responsible in some manner for the damages
11 herein alleged. Plaintiff requests leave of Court to amend this Complaint to insert the true names and
12 capacities of said Defendants when same has been ascertained by Plaintiff.

13 5. At all times relevant, Defendant NEW HORIZON operated a day care facility upon the Premises
14 of Defendant BOULDER STATION. The day care facility of Defendant BOULDER STATION's day
15 care facility is, and at all times relevant was, located at 4111 Boulder Highway in Las Vegas, Nevada
16 (hereinafter sometimes referred to as the "Premises").

17 6. At all times relevant, Defendant NEW HORIZON stated its mission to be "providing and
18 continuously improving the best child development on the planet".

19 7. On or about May 14, 2005, Plaintiff ROBANN C. BLUE, who at the time was four years old,
20 was entrusted by her Mother and Guardian, SANDI WILLIAMSON, to the care of Defendants.
21 Specifically, ROBANN C. BLUE was left in the care and custody of the child care facility operated by
22 NEW HORIZON and located on the Premises of Defendant BOULDER STATION.

23 8. While Plaintiff ROBANN C. BLUE was in the care and custody of Defendants, and on
24 Defendants' Premises, she was sexually assaulted and sodomized by one or more minor males who,
25 Plaintiff is informed and believes, were also left in the care and custody of Defendants.

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4 **FIRST CAUSE OF ACTION**

5 (Negligence Against Defendants New Horizon, Boulder Station, Does 1 to 5 and Roe
6 Corporations 1 to 5)

7 9. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
8 8, as if fully set forth herein.

9 10. At all times relevant, Defendants owed a duty of care to the minor children, including Plaintiff,
10 who were entrusted to their care, supervision and control.

11 11. At all times relevant, Defendants were so negligent in their care, supervision and control of said
12 minors, including Plaintiff, who were entrusted to them, that they allowed the aforementioned sexual
13 battery to occur to Plaintiff ROBANN C. BLUE.

14 12. As a direct, legal and proximate result of Defendants' negligence, Plaintiff ROBANN C. BLUE
15 suffered harm and injury to her physical, psychological and mental health.

16 13. As a further direct, legal and proximate result of Defendants' negligence, Plaintiff ROBANN C.
17 BLUE incurred expenses for medical care and treatment all to Plaintiff's damages in a sum within the
18 jurisdiction of the Court and to be shown according to proof, but in no event less than \$10,000.

19 **SECOND CAUSE OF ACTION**

20 (Intentional Misrepresentation Against Defendants New Horizon,
21 Boulder Station, Does 1 to 5 and Roe Corporations 1 to 5)

22 14. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
23 13, above, as if fully set forth herein.

24 15. At all times relevant, Defendants represented that "each activity center is staffed with
25 experienced child care professionals" and that "New Horizon's Kid Quest staff is carefully selected and
26 trained to treat children with dignity, respect, and help them develop positive self-esteem." In addition,
27 Defendants represented that they provided and continuously improved the "best child development on
28 the planet" and that "children six weeks to twelve weeks are fully secure" at Defendants' facilities.

16. The true facts are that, at all times relevant, minor children, including Plaintiff, were not fully
secure; that Defendants did not provide and continuously improve the best child development on the

1 planet and that Defendants did not help Plaintiff develop positive self-esteem, but rather, did harm
2 Plaintiff's self-esteem.

3 17. Defendants knew, when they made these representations concerning the quality of child care, that
4 the representations were false and were made with the intent to deceive Plaintiff's mother and guardian
5 and to induce her to entrust Plaintiff to the care of Defendants.

6 18. Plaintiff's mother and guardian believed the representations made by Defendants to be true, and
7 in reliance upon those representations, she was induced to entrust her minor child, Plaintiff ROBANN
8 C. BLUE to the care, custody, and supervision of Defendants.

9 19. As a direct, legal and proximate result of the intentional misrepresentation by Defendants, and
10 each of them, Plaintiff has suffered harm and injury to her physical, psychological and mental health.

11 20. As a further direct, legal and proximate result of Defendants' intentional misrepresentation,
12 Plaintiff ROBANN C. BLUE incurred expenses for medical care and treatment all to Plaintiff's damages
13 in a sum within the jurisdiction of the Court and to be shown according to proof, but in no event less
14 than \$10,000.

15 THIRD CAUSE OF ACTION

16 (Negligent Misrepresentation Against Defendants New Horizon,
17 Boulder Station Hotel, Does 1 to 5 and Roe Corporations 1 to 5)

18 21. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
19 20, above, as if fully set forth herein.

20 22. At all times relevant, Defendants represented that "each activity center is staffed with
21 experienced child care professionals" and that "New Horizon's Kid Quest staff is carefully selected and
22 trained to treat children with dignity, respect, and help them develop positive self-esteem." In addition,
23 Defendants represented that they provided and continuously improved the "best child development on
24 the planet" and that "children six weeks to twelve weeks are fully secure" at Defendants' facilities.

25 23. Defendants, when they made these representations concerning the quality of child care made
26 available by Defendants, had no reasonable grounds for believing that their representations were true,
27 and made those representations with the intent to induce Plaintiff's mother and guardian to entrust her
28 minor child, Plaintiff ROBANN C. BLUE to the care, custody and supervision of Defendants.

1 24. Plaintiff's mother and guardian believed the representations made by Defendants to be true, and
2 in reliance on those representations, she was induced to entrust her minor child, Plaintiff ROBANN C.
3 BLUE to the care, custody, and supervision of Defendants.

4 25. As a direct, legal and proximate result of the negligent misrepresentation by Defendants, and
5 each of them, Plaintiff has suffered harm and injury to her physical, psychological and mental health.

6 26. As a further direct, legal and proximate result of Defendants' negligent misrepresentation,
7 Plaintiff ROBANN C. BLUE incurred expenses for medical care and treatment all to Plaintiff's damages
8 in a sum within the jurisdiction of the Court and to be shown according to proof, but in no event less
9 than \$10,000.

10 FOURTH CAUSE OF ACTION

11 (Sexual Battery as Against Defendants Does 6 - 10)

12 27. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
13 26, above, as if fully set forth herein.

14 28. On or about May 14, 2005, on the Premises as described above in Paragraph 5 of this Complaint,
15 DOES 6 through 10, all of whom Plaintiff believes and thereupon alleges were minor males, acted with
16 the intent to cause a harmful and offensive contact with Plaintiff ROBANN C. BLUE's person.
17 Specifically, Defendants caused a sexually offensive contact with Plaintiff by touching her genitals and
18 buttocks and by placing their genitals in Plaintiff's mouth.

19 29. As a direct, legal and proximate result of Defendants' intentional, harmful and offensive conduct,
20 Plaintiff ROBANN C. BLUE suffered harm and injury to her physical, psychological and mental health.

21 30. As a further direct, legal and proximate result of Defendants' intentional, harmful and offensive
22 conduct, Plaintiff ROBANN C. BLUE incurred expenses for medical care and treatment all to Plaintiff's
23 damages in a sum within the jurisdiction of the Court and to be shown according to proof, but in no
24 event less than \$10,000.

25 FIFTH CAUSE OF ACTION

26 (Conspiracy as Against Defendants Does 6-10)

27 31. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
28 30, above, as if fully set forth herein.

1 32. On or about May 14, 2005, Defendants DOES 6 through 10, all of whom Plaintiff believes and
2 thereupon alleges were minor males, knowingly and willingly conspired and agreed among themselves
3 to commit a sexual battery upon Plaintiff ROBANN C. BLUE in that one or more of said Defendants
4 did commit the harmful and offensive contact with Plaintiff's person which is described more fully in
5 Paragraph 28 of this Complaint while the other Defendants did act as a "look out" to ensure that the
6 sexual battery would not be prevented, interrupted or discovered by those persons entrusted with the
7 care, supervision and control Plaintiff and of Defendants DOES 6 through 10.

8 33. Thereafter, and in furtherance of this conspiracy, Defendants did, in fact, commit a sexual battery
9 upon Plaintiff ROBANN C. BLUE.

10 34. As a direct, legal and proximate result of this conspiracy by Defendants, Plaintiff ROBANN C.
11 BLUE suffered harm and injury to her physical, psychological and mental health.

12 35. As a further direct, legal and proximate result of this conspiracy, Plaintiff ROBANN C. BLUE
13 incurred expenses for medical care and treatment all to Plaintiff's damages in a sum within the
14 jurisdiction of the Court and to be shown according to proof, but in no event less than \$10,000.

15 **SIXTH CAUSE OF ACTION**

16 **(Negligence as Against Defendants Does 6 - 10)**

17 36. Plaintiff incorporates by this reference all of the allegations contained in Paragraphs 1 through
18 35, above, as if fully set forth herein.

19 37. On or about May 14, 2005, on the Premises described above in Paragraph 5 of this Complaint,
20 DOES 6 through 10, all of whom Plaintiff believes and thereupon alleges were minor males, were so
21 negligent that they caused harmful and offensive contact with Plaintiff ROBANN C. BLUE's person,
22 specifically, contact with Plaintiff's genitals and buttocks, and contact between Defendants' genitals
23 and Plaintiff ROBANN C. BLUE's mouth.

24 38. As a direct, legal and proximate result of Defendants' negligence Plaintiff ROBANN C. BLUE
25 suffered harm and injury to her physical, psychological and mental health.

26 39. As a further direct, legal and proximate result of Defendants' negligence and Defendants'
27 harmful and offensive conduct, Plaintiff ROBANN BLUE incurred expenses for medical care and
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1 treatment all to Plaintiff's damages in a sum within the jurisdiction of the Court and to be shown
2 according to proof, but in no event less than \$10,000.

3 WHEREFORE, Plaintiff ROBANN C. BLUE prays judgment of this Court against all
4 Defendants as follows:

- 5 1. For general damages in an amount in excess of \$10,000;
- 6 2. For expenses for medical and psychological care and treatment which have been incurred to
7 date and will be incurred in the future;
- 8 3. For punitive and exemplary damages in excess of \$10,000;
- 9 4. For reasonable attorneys' fees and costs of suit incurred herein, and for such other and further
10 relief as this Court deems just and proper.

11 DATED this 23rd day of August, 2007

LONG BLUMBERG

By: 

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Attorney for Plaintiff
ROBANN C. BLUE, a Minor,
by and through her Guardian *ad Litem*,
SANDI WILLIAMSON

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Complaint for Damages filed in or submitted for District Court, Clark County Case Number: _____

☒ Does Not Contain the social security number of any person

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

-or-

B. For the administration of a public program or for an application for a federal state

grant.

Signature

August 23, 2007

Date

JOSEPH A. LONG

Print Name

Attorney

Title