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Tracie K. Lindeman  
Clerk of Supreme Court

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 Yacov Jack Hefetz

No. A-11-645353-C

Dept. No. XXVIII

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

YACOV JACK HEFETZ,

Supreme Court Case No. 70327

Plaintiff-Appellant,

v.

CHRISTOPHER BEAVOR,

Defendant-Respondent.

**CASE APPEAL STATEMENT**

**CASE APPEAL STATEMENT**

PLEASE TAKE NOTICE THAT Plaintiff-Appellant, Yacov Jack Hefetz (hereinafter referred to as the "Appellant"), by and through his counsel of record, H. Stan Johnson, Esq., Michael V. Hughes, Esq., and Chris W. Davis, Esq. of the law firm of Cohen|Johnson|Parker|Edwards, hereby files his **Case Appeal Statement** with the Nevada Supreme Court and, therefore, states as follows:

**1. Name of Appellant filing the Case Appeal Statement:**

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

**2. Identify the Judge Issuing the Decision, Judgment, or Order from which the Appeal is Taken:**

The Honorable Ronald J. Israel of the Eighth Judicial District Court for the State of Nevada is the District Court is the Judge who issued the decisions, judgment, or Orders from which the pending appeal is taken.

**3. Identify Each Appellant and the Name and Address of Counsel for Each Appellant:**

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

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

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

8     **5. Indicate whether any Attorney identified above in Response to Question**  
9     **3 or 4 is not Licensed to Practice Law in Nevada and, if so, whether the**  
10    **District Court granted that Attorney Permission to Appear under SCR**  
11    **42 (attach a copy of any district court order granting such permission):**

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

14    **6. Indicate whether Appellant was represented by Appointed or Retained**  
15    **Counsel in the District Court:**

16            Appellant was represented by retained counsel in the District Court. That  
17    counsel was H. Stan Johnson, Esq., Michael V. Hughes, Esq., and Chris W. Davis,  
18    Esq. of the law firm of Cohen|Johnson|Parker|Edwards located at 255 East Warm  
19    Springs Road, Suite 100, Las Vegas, Nevada 89119. The telephone number of the  
20    law firm of Cohen|Johnson|Parker|Edwards is (702) 823-3500.  
21

22    **7. Indicate whether Appellant is represented by Appointed or Retained**  
23    **Counsel on Appeal:**

24            Appellant is represented by retained counsel on appeal. That counsel is H.  
25    Stan Johnson, Esq., Michael V. Hughes, Esq., and Chris W. Davis, Esq. of the law  
26    firm of Cohen|Johnson|Parker|Edwards located at 255 East Warm Springs Road,  
27  
28

Suite 100, Las Vegas, Nevada 89119. The telephone number of the law firm of Cohen|Johnson|Parker|Edwards is (702) 823-3500.

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

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

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

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

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

On July 21, 2011, Plaintiff filed his Verified Complaint asserting claims against Defendant for breach of a guaranty to repay a \$6 million loan. Although Defendant never asserted the One Action Rule as an affirmative defense in his Answer, and the time to amend pleading had expired three (3) years before, Defendant untimely moved to dismiss, pursuant to NRS 40.435(2)(a) and NRS 40.430 (otherwise known as the "One Action Rule"). Defendant wrongly argued that the One Action Rule required Plaintiff to first pursue real property securing the loan before seeking to enforce the guaranty. Despite the clear waiver of this unplesd affirmative defense, the district court erroneously dismissed Plaintiff's Complaint, without prejudice, pursuant to NRS 40.435. Appellant-Plaintiff timely filed his Notice of Appeal to the order of dismissal on July 14, 2015.

1 Previously, on July 8, 2015, Defendant wrongly moved for attorney fees and  
2 costs based upon his unreasonable Offer of Judgment. Without any analysis  
3 required by *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), the district court  
4 erroneously granted Defendant's attorney fees and costs. Appellant-Plaintiff  
5 timely filed a notice of appeal with respect to that order on September 15, 2015.

6 On February 16, 2016, the Nevada Supreme Court filed an Order to Show  
7 Cause why the appeal should not be dismissed. The Court expressed concerns that  
8 the district court may not have adjudicated the rights and liabilities of all parties  
9 necessary for an appealable final judgment. While Appellant alleviated most of the  
10 Court's concerns, the Court found that even though the district court had orally  
11 dismissed defendants' counterclaims, without a written order dismissing the  
12 counterclaims, the district court's orders were not yet final and therefore dismissed  
13 the appeal for lack of jurisdiction. On April 21, 2016, the district court entered its  
14 written order dismissing defendants' counterclaims, and notice of entry of that  
15 order was filed the same day. Appellant-Plaintiff timely filed a notice of appeal on  
16 April 29, 2016, appealing the order dismissing his complaint and the order granting  
17 attorney fees to defendant.

18 In light of the preceding case summary, Appellant seeks an order reversing  
19 these orders.

20 **11. Indicate whether the Case has previously been the subject of an Appeal**  
21 **to or Original Writ Proceeding in the Supreme Court and, if so, the**  
22 **Caption and Supreme Court Docket Number of the Prior Proceeding:**

23 The case has been the subject of three prior appeals to the Nevada Supreme  
24 Court. The first case was captioned *Christopher Beavor v. Eighth Judicial District*  
25 *Court of the State of Nevada*, Supreme Court Docket No. 65656. The second case  
26 was captioned *Yacov Jack Hefetz v. Christopher Beavor*, Supreme Court Docket  
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28

No. 68843. The Third case was captioned *Yacov Jack Hefetz v. Christopher Beavor*, Supreme Court Docket No. 68438.

**12. Indicate whether this appeal involves child custody or visitation:**

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

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

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

Dated this 8<sup>th</sup> day of May, 2016.

**COHEN|JOHNSON|PARKER|EDWARDS**

By: /s/ Chris Davis, Esq.  
H. Stan Johnson, Esq.  
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Facsimile No. (702) 823-3400  
*Attorneys for Plaintiff-Appellant*  
*Yacov Jack Hefetz*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on the 8<sup>th</sup> day of May, 2016, a true and correct copy of the foregoing **Case Appeal Statement** was served upon each of the parties set forth below via U.S. First-Class Mail and Odyssey E-Filing System pursuant to Rule 5(b)(2)(D) of the Nevada Rules of Civil Procedure and Rule 8.05 of the Eighth Judicial District Court Rules:

Joel Z. Schwarz, Esq.  
Gabriel A. Blumberg, Esq.  
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*Attorney for Defendant-Respondent*  
*Christopher Beavor*

/s/ Jennifer Russell

An employee of Cohen|Johnson|Parker|Edwards