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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, vs. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, and individual; MICHAEL J. MONA, JR., an individual; DOES I through 100, inclusive, Defendants.	Case No.: A-12-670352-F Dept. No.: XV **JOINT NOTICE OF APPEAL**

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Defendant Michael J Mona, Jr., by and through his attorneys of record, Marquis Aurbach Coffing, and Non-Party Rhonda Helene Mona, by and through her attorneys of record, Santoro Whitmire and Lemons, Grundy & Eisenberg, hereby jointly appeal to the Supreme Court of Nevada from the Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment, which was filed on June 13, 2016, and Noticed on June 15, 2016, and is attached as **Exhibit 1**.

Defendant Michael Mona and Non-Party Rhonda Mona acknowledge that the Nevada Supreme Court, sitting En Banc on July 6, 2016, heard oral argument regarding their Writ Petition (Docket No. 68434), which is directly related to the attached Order from which they are appealing. Nevertheless, to ensure no rights are waived and out of an abundance of caution, they are filing this Notice of Appeal.[1]

Dated this 14th day of July, 2016.

MAROUIS AURBACH COFFING

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Attorneys for Non-Party
Rhonda Helene Mona

[1] Rhonda Mona is not a party in this case. Thus, a judgment cannot be entered against her, and there is a legitimate question as to whether she would be considered an "aggrieved party" for purposes of appeal. Nonetheless, although the order from which this appeal is taken is not entitled a "judgment," it could possibly be interpreted as a judgment against Rhonda Mona. Because of this uncertainty, Rhonda Mona's attorneys are joining in this notice of appeal, to protect Rhonda Mona's right to challenge the order in Nevada appellate courts. *See Fernandez v. Infusaid Corp.*, 110 Nev. 187, 192-93, 871 P.2d 292 (1994) (recognizing protective notice of appeal where right to appeal is uncertain). Additionally, by joining in this notice of appeal under these unusual circumstances, Rhonda Mona in no way intends to enter a general appearance in this case.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **JOINT NOTICE OF APPEAL** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 14th day of July, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:

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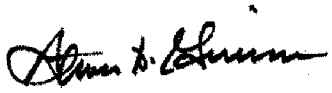

CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No.: A-12-670352-F Dept. No.: XV **NOTICE OF ENTRY OF AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT**

YOU, and each of you, will please take notice that an AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the above entitled matter was filed and entered by

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HDW | HOLLEY·DRIGGS·WALCH FINE·WRAY·PUZEY·THOMPSON

the Clerk of the above-entitled Court on the 13th day of June, 2016, a copy of which is attached hereto.

Dated this 15th day of June, 2016.

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

F. THOMAS EDWARDS, ESQ. (NBN 9549)
ANDREA M. GANDARA, ESQ. (NBN 12580)
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Attorneys for Plaintiff Far West Industries

HDW | HOLLEY•DRIGGS•WALCH / FINE•WRAY•PUZEY•THOMPSON

CERTIFICATE OF SERVICE

I certify that I am an employee of Holley Driggs Walch Fine Wray Puzey & Thompson, and that on the 15th day of June, 2016, I served via electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve, a true copy of the foregoing **NOTICE OF ENTRY OF AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT**, in the above matter, addressed as follows:

James E. Whitmire, Esq.
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Attorneys for Defendants Rhonda Helene Mona, Michael Mona, III, and Lundene Enterprises, LLC

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Fine Wray Puzey & Thompson

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CLERK OF THE COURT

AMOR

DISTRICT COURT
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, Plaintiffs, vs. RIO VISTA NEVADA, LLC, et al., Defendants.	Case No: A670352 Dept No.: XV

AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT[1]

The Court held an initial hearing regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (the "Motion") on March 30, 2016, at 9:00 a.m. (the "Initial Hearing") and, following supplemental briefing, a continued hearing regarding the Motion on May 5, 2016, at 9:00 a.m. (the "Second Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq., of the law firm Holley Driggs Walch Fine Wray Puzey & Thompson, appeared on behalf of Plaintiff Far West Industries ("Far West"). Terry A. Coffing, Esq. and Tye S. Hanseen, Esq., of the law firm Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona"). James E. Whitmire, Esq. appeared on behalf of Rhonda Helene Mona ("Ms. Mona"). Collectively, Mr. Mona and Ms. Mona are referred to as the "Monas."

The Court reviewed all relevant pleadings and papers before it, including, but not limited to: (1) the Motion filed by Far West and Exhibits 1-9; (2) the Opposition to Motion filed by Mr. Mona

[1] This Amended *Nunc Pro Tunc* Order shall replace and supersede the Order filed herein on May 23, 2016, and shall be treated as if this order had been filed then.

("Mr. Mona's Opposition"); (3) the Opposition to Motion filed by Ms. Mona ("Ms. Mona's Opposition") and Exhibits A-C; (4) the Reply in Support of the Motion filed by Far West and Exhibits 10 and 11; (5) the Errata to Ms. Mona's Opposition to the Motion; (6) the Supplemental Brief filed by Ms. Mona ("Ms. Mona's Supplement") and Exhibits A-C; (7) the Supplemental Brief filed by Far West (the "Far West Supplement") and Exhibits 12-14; and (8) the Supplemental Brief filed by Mr. Mona ("Mr. Mona's Supplement").

With no other appearances having been made, the Court having reviewed and examined the papers, pleadings and records on file in the above-entitled matter and heard the argument of counsel, and good cause appearing therefore, the Court enters the following findings of fact and conclusions of law. To the extent any finding of fact should properly be designated a conclusion of law, it shall be deemed a conclusion of law. To the extent any conclusion of law should properly be designated a finding of fact, it shall be deemed a finding of fact.

FINDINGS OF FACT

A. Judgment Collection Action and Sanctions of the Monas

Far West has a domesticated California Judgment against Mr. Mona and the Mona Family Trust dated February 21, 2002 (the "Mona Family Trust") that is now nearly $25 million, including interest accruing at a rate of $4,967.30 per day.[2] *See* Application for Foreign Judgment, filed on October 18, 2012, attaching Judgment.

On September 13, 2013, after Far West domesticated its Judgment, the Monas executed a Post-Marital Settlement Agreement through which Mr. Mona and Ms. Mona were each transferred $3,406,601.10 from the sale of the Monas' community property shares of Medical Marijuana, Inc., for $6,813,202.20. *See* Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Sanctions Order"), entered July 15, 2015, at 3:24-28.

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[2] Pursuant to CAL. CIV. PRO. CODE § 685.010(a), "Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied."

During a judgment debtor examination on June 26, 2015, Ms. Mona testified regarding the Post-Marital Settlement Agreement and testified that she had three different bank accounts in her name that contained approximately $490,000.00 in community property funds. *Id.* at 6:20-7:12.

On June 29, 2015, Far West filed an Ex Parte Application for Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Application") seeking sanctions against the Monas for violating Court orders and lying under oath to conceal their fraudulent transfer through the Post-Marital Settlement Agreement and seeking to execute against the three accounts Ms. Mona testified contained community property funds. *See* OSC Application, filed June 29, 2015. On June 30, 2015, the Court issued the Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Order to Show Cause") scheduling a hearing on July 9, 2015. *See* Order to Show Cause, entered on June 30, 2015.

During the July 9, 2015 hearing on the Order to Show Cause, the Court sanctioned the Monas and stated that "the evidence overwhelmingly support[ed] a finding of fraudulent transfer in regard to the Post-Marital Property Settlement Agreement, and the Court so find[s] that . . . was a fraudulent transfer and that those assets therefore remain community property subject to execution." *See* Transcript of Show Cause Hearing: Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Hearing Transcript"), dated July 9, 2015, attached to the Motion as **Exhibit 3**, at 38:16-18.

On July 15, 2015, the Court entered the Sanctions Order, outlining in detail several badges of fraud associated with the Post-Marital Settlement Agreement:

> First, the transfer in the Post-Marital Settlement Agreement was to an insider, Ms. Mona, as she is the wife of Mr. Mona, a judgment debtor, and was at all relevant times the Trustee of the Mona Family Trust, a judgment debtor.
>
> Second, Mr. Mona appears to have retained possession and control over some portion of the funds that were purportedly transferred pursuant to the Post-Marital Settlement Agreement.
>
> Third, Mr. Mona concealed the transaction by not producing the Post-Marital Settlement Agreement as required by the January 2013 Order

> and October 2013 Order and by not disclosing the transfer during his judgment debtor examination on November 25, 2013. Mr. Mona was not truthful when he was asked during the November 25, 2013 examination about what he did with the approximately $6.8 million dollars.
>
> Fourth, prior to effectuating the transfer through the Post-Marital Settlement Agreement, Far West sued and obtained the Judgment against Mr. Mona and the Mona Family Trust.
>
> Fifth, the Post-Marital Settlement Agreement, and the related transfers of the proceeds from the sale of the stock, transferred substantially all of Mr. Mona's assets as he was insolvent at the time of the transfers, or rendered Mr. Mona insolvent shortly after they were made.
>
> Sixth, Mr. Mona concealed assets by failing to disclose the Post-Marital Settlement Agreement in 2013, by not disclosing the transfer during his judgment debtor examination on November 25, 2013, and by not producing the bank account records for the accounts in Ms. Mona's name.
>
> Seventh, at the time of the transfer through the Post-Marital Settlement Agreement, Mr. Mona was insolvent, or the transfer rendered Mr. Mona insolvent shortly after it was made.

See Sanctions Order, entered July 15, 2015, at 8:16-9:9; *see also* OSC Hearing Transcript, dated July 9, 2015, Ex. 3, at 37:14-38:20 (describing facts demonstrating badges of fraud).

The Sanctions Order further stated:

> **IT IS HEREBY FURTHER ORDERED** that the Monas' purported transfer pursuant to the Post-Marital Property Settlement Agreement is a fraudulent transfer, and the facts proving the fraudulent transfer, including the badges of fraud outlined above, are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the facts entitling Plaintiff to execute upon the bank accounts in the name of Mrs. Mona are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the Monas are prohibited from claiming that any money purportedly transferred pursuant to the Post-Marital Property Settlement Agreement and any money in the bank accounts in the name of Mrs. Mona are exempt from execution;
>
> . . .
>
> **IT IS HEREBY FURTHER ORDERED** that Mr. Mona, Mrs. Mona, and the Monas collectively are prohibited from effectuating any transfers or otherwise disposing of or encumbering any property not exempt from execution and until the money in the bank accounts in the name of Mrs. Mona are applied to Plaintiff's Judgment.

See Sanctions Order, entered July 15, 2015, at 10:7-28.

B. Writ Petition Regarding Sanctions and Stay Pending Writ

The Monas filed a Petition for Writ of Mandamus or Prohibition as to the Sanctions Order on July 17, 2015. Among other arguments, the Monas contended that "a separate action was required before imposing liability against Rhonda Mona." *See* Petition for Writ of Mandamus or Prohibition, filed July 17, 2015, attached to the Motion as **Exhibit 4**, at 16 of 30.

On July 20, 2015, the Nevada Supreme Court issued its Order Granting Temporary Stay that stayed the Sanctions Order and proceedings in the above-captioned action. *See* Order Granting Temporary Stay, entered July 20, 2015, attached to the Motion as **Exhibit 5**.

On October 16, 2015, this Court issued its Order Regarding Motion on an Order Shortening Time for Bond Pending Appeal (the "Bond Order"), which ordered Mr. Mona and the Mona Family Trust to post a bond of $24,172,076.16 within seven business days of September 17, 2015 and Ms. Mona to post a bond of $490,000.00 within 30 calendar days of September 17, 2015. *See* Bond Order, dated October 16, 2015, at 7:6-11.

The same date, October 16, 2015, the Nevada Supreme Court issued an Order that stayed the supersedeas bond requirement and maintained the prior stay pending further briefing from the parties. *See* Order, dated October 16, 2015, attached to the Motion as **Exhibit 6**, pp. 1-2.

On November 19, 2015, the Nevada Supreme Court issued an Order Denying Motion, which stated:

> This court's stay entered August 31, 2015, and temporary stay entered October 16, 2015, shall expire within 5 business days from the date of this order unless the parties comply with the bond requirements imposed by the district court in its written order of October 16, 2015, as a condition of any stay.

See Order Denying Motion, dated November 19, 2015, attached to the Motion as **Exhibit 7**, at pp. 1-2.

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Pursuant to the Bond Order and Order Denying Motion, the stay of this action and the Sanctions Order pending the writ proceeding terminated on November 30, 2015 when Mr. Mona and Ms. Mona failed to post the required bonds.

C. Execution of Sanctions Order

When Far West was finally able to execute against Ms. Mona's accounts after the stay pending appeal expired, only $18,739.59 remained, which is less than 1% of the $3.4 million originally fraudulently transferred to Ms. Mona and less than 4% of the $490,000.00 that existed when the Sanctions Order was issued. *See* Answers to Writ of Garnishment from Bank of George, attached to Far West Supplement as **Exhibit 12**, and Answers to Writ of Garnishment from Bank of Nevada, attached to Far West Supplement as **Exhibit 13**.

Based on bank records recently produced by Ms. Mona, she transferred more than $430,000.00 after Far West moved to execute against the bank accounts in her name, including the following transfers:

06/26/2015	Ms. Mona testifies regarding fraudulent transfer through Post-Marital Settlement Agreement and separate bank accounts		
06/29/2015	Far West files its Ex Parte Application For Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find The Monas In Contempt		
07/02/2015	$10,000.00	Check to Lemons, Grundy & Eisenberg	FWSUPBRF-0001
07/02/2015	$30,000.00	Check to Kainen Law Group	FWSUPBRF-0001
07/02/2015	$75,000.00	Wire Transfer Out to Marquis Aurbach Coffing Trust	FWSUPBRF-0002
07/02/2015	$20,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/02/2015	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0001
07/06/2015	$7,708.00	Check 2582 to Ramon Sarti	FWSUPBRF-0003
07/08/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/15/2015	The Court enters the Sanctions Order		
07/20/2015	The Nevada Supreme Court enters a temporary stay of the Sanctions Order		
07/22/2015	$5,080.96	Check 2600 to Clark County Treasurer	FWSUPBRF-0004
08/24/2015	$1,523.70	Payment to Parkloft Condominium Association	FWSUPBRF-0005
08/24/2015	$2,570.70	Check 2622 to A-1 Self Storage	FWSUPBRF-0006
08/24/2015	$22,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0007

09/15/2015 *incorrectly dated as 2014	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0008
09/22/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
09/24/2015	$75,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
10/23/2015	$8,938.61	Check 2667 to SDCTTC	FWSUPBRF-0010
11/02/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0011
11/30/2015	The temporary stay of the Sanctions Order expires		
12/04/2015	$45,000.00	Check 1272 to MAC	FWSUPBRF-0012
12/11/2015	$35,000.00	Wire Transfer Out to Santoro Whitmire Ltd.	FWSUPBRF-0013

See Ms. Mona's Redacted Bank Records, attached to Far West Supplement as **Exhibit 14.**

As reflected in the table above, Ms. Mona violated the Court's explicit prohibition against her effectuating any transfers of non-exempt property until the funds in her bank accounts were applied to Far West's Judgment by paying the law firm of Marquis Aurbach Coffing $45,000 on December 4, 2015 and the law firm of Santoro Whitmire Ltd. $35,000 on December 11, 2015, after the stay pending appeal of the Sanctions Order expired. *Id.*; *see* Sanctions Order, Ex. 1 to the Motion, at 10:25-28.

In sum, the Monas turned $3.4 million dollars into just $18,739.59 so they could avoid paying the money towards satisfaction of Far West's Judgment. Ms. Mona in particular continues to show contempt for this Court and its orders by directly violating the Sanctions Order. She is not taking this proceeding seriously. The Court is dumbfounded that Ms. Mona transferred $80,000 to the law firms of Marquis Aurbach Coffing and Santoro Whitmire Ltd. after the stay pending appeal expired in December 2015 in direct violation of the Sanctions Order, which reflects that she is not an innocent party in this proceeding. The pending writ proceeding does not excuse Ms. Mona's violation of the Sanctions Order, especially in light of the fact that the Ms. Mona posted no bond and any stay of the Sanctions Order terminated on November 30, 2015.

D. Mona Fraudulent Transfer Action

On September 14, 2015, Far West filed a lawsuit, *Far West Industries v. Mona, et al.*, Case No. A-15-724490-C, against the Monas, their son, Michael Mona III ("Michael III"), and Michael III's entity, Lundene Enterprises, LLC, for various fraudulent transfers, including the Post-Marital

Settlement Agreement (the "Mona Fraudulent Transfer Action"). The Mona Fraudulent Transfer Action is pending before the Honorable Judge Rob Bare. On December 4, 2015, the Monas filed a Motion to Dismiss the Mona Fraudulent Transfer Action. *See* Defendants' Motion to Dismiss (the "Motion to Dismiss"), attached to the Motion as **Exhibit 8**. Despite arguing before the Nevada Supreme Court that a separate action was required before imposing liability against Rhonda Mona in post-judgment proceedings, the Monas argued to Judge Bare that Far West's claim should be dismissed because Far West has already successfully obtained a "final order/judgment" that the $3.4 million transfer between the Monas was a fraudulent transfer from this Court. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 3:6-13 *and* Defendant Michael J. Mona, Jr.'s Reply in Support of Motion to Dismiss, attached to the Motion as **Exhibit 9**, at 7:13-15. The Monas further argued that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue[,]" referring to the Sanctions Order. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 9:6-14.

On December 18, 2015, Far West opposed the Monas' Motion to Dismiss and filed a countermotion seeking judgment against Ms. Mona for $3,406,601.10 based on the Sanctions Order and fraudulent transfer effectuated through the Post-Marital Settlement Agreement.

On February 2, 2016, Judge Bare heard the Monas' Motion to Dismiss and Plaintiff Far West Industries' Countermotion for Summary Judgment and on March 16, 2016, entered an order denying Far West's countermotion without prejudice and stating, "[T]his Order in no way prevents Far West from seeking the judgment requested in the Countermotion from the Honorable Joe Hardy" in this case.

E. The Monas' Inconsistent Positions During Litigation

Now that Far West is seeking to execute upon the Sanctions Order by obtaining an order from this Court, the Monas are taking a contrary position before this Court regarding the finality of the Sanctions Order. In the Mona Fraudulent Transfer Action, the Monas asserted that the first element for claim preclusion was satisfied because there is currently a final judgment on Far West's fraudulent transfer claim against Ms. Mona in the instant case. *See* Motion to Dismiss, Ex. 8 to the

Motion, at 9:19-20. In identifying the final judgment in this case, the Monas readily indicated that the Sanctions Order is an "Order/Judgment" against them. *Id.* at 8:4-5, 8:9-11. The Monas further argued before Judge Bare that "claim preclusion applies to [Far West's] Complaint because there are two valid and final judgments . . . [,]" clearly referring to the Sanctions Order as one of the valid and final judgments. *Id.* at 9:1-2. They again advocated that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue" and conceded that Far West "has already asserted and obtained an Order/Judgment regarding this same exact claim [for the fraudulent transfer of $3.4 million by Mr. Mona to Ms. Mona] in Case No. A-12-670352." *Id.* at 9:6-12.

Now the Monas are claiming before this Court that the Sanctions Order is not final and accordingly the Motion should be denied. In her Opposition to the Motion, Ms. Mona takes the position that the Sanctions Order is "interlocutory" and suggests that the Sanctions Order is somehow not final because it is on appeal.[3] *See* Ms. Mona's Opposition to the Motion, filed March 7, 2016, at 3:10-11, 4:9-10 and 23-25, 6:25-7:2. Mr. Mona takes a similar tone in his Opposition to the Motion when he argues the appeal of Sanctions Order somehow means this Court should not enter judgment in favor of Far West. *See* Mr. Mona's Opposition to the Motion, filed March 7, 2016, at 4:15-24.

The Monas also have taken inconsistent positions as to how Far West can seek redress for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement. Before the Nevada Supreme Court, the Monas argued that "[a] separate action was required before imposing liability against Rhonda." *See* Petition for Writ of Mandamus or Prohibition, Ex. 4 to the Mot., at 16 of 30. However, when Far West instituted the separate action before Judge Bare by bringing the Mona Fraudulent Transfer Action for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement, the Monas then argued "Plaintiff is barred from bringing the exact same claim, which has been decided and is the subject of an appeal." *See* Motion to Dismiss, Ex. 8 to the Motion, at

[3] Despite arguing in one instance that the Sanctions Order is only interlocutory in her Opposition to the Motion, Ms. Mona goes on to state in the same paper that the Sanctions Order entered "case terminating sanctions[.]" *See* Ms. Mona's Opposition to the Motion, at 4:14. It strains logic that an order entering case terminating sanctions is not final.

9:15-16. The Monas' arguments would leave Far West with no basis or forum to obtain relief from their fraudulent transfer.

Conclusions of Law

Pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court orders that Far West may immediately levy execution against Ms. Mona in the amount of $490,000.00 plus interest at the statutory rate to be calculated from July 15, 2015 (the date of entry of the Sanctions Order). The $490,000.00 amount reflects the amount that Ms. Mona testified was in her three bank accounts during her judgment debtor examination on June 26, 2015. Far West is precluded from seeking to recover amounts in excess of $490,000.00 against Ms. Mona, subject to future motion practice.

The Court makes its order pursuant to NRS 112.210(2) because Far West is a creditor that has obtained a judgment on a fraud claim against judgment debtor Mr. Mona. Nevada is a community property state, which subjects the entire marital estate to that judgment obtained against Mr. Mona. Therefore, the Court has authority to allow Far West to levy execution on the funds, up to $490,000, that the Court previously found were fraudulently transferred to Ms. Mona.

It is also fair and equitable to allow Far West to execute against Ms. Mona in the amount of $490,000 for several reasons:

First, the Court previously determined that the Monas fraudulently transferred $3.4 million to Ms. Mona through the Post-Marital Settlement Agreement. The original July 15, 2015 Sanctions Order arose with the issue with the bank accounts and testimony that at that time there was approximately $490,000 in the bank accounts. By the time collection was able to be made there was approximately $18,000 in the bank accounts.

Second, the Court is dumbfounded that Ms. Mona transferred funds after the stay pending appeal expired in violation of the Sanctions Order. Her conduct demonstrates that even if she was at one time an innocent party to this proceeding, she is no longer an innocent party and that she is not taking this action seriously.

///

Third, regardless of whether Ms. Mona was a party to the judgment collection action, she received $3.4 million to the detriment of Far West. Accordingly, it is fair and equitable to allow Far West to track the $3.4 million transferred to Ms. Mona through the Post-Marital Settlement Agreement.

Fourth, to the extent it is necessary and in the alternative or in addition to the Court's statutory authority pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court considers the judicial estoppel doctrine, as set forth in *Mainor v. Nault*, 120 Nev. 750, 765, 101 P.3d 308, 318 (2004) and *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009). Judge Bare has not yet ruled on the Monas' Motion to Dismiss, such that the element of successful assertion of the initial position has not technically been met at this time. However, all of the other elements of judicial estoppel have been met. The Court finds that the Monas took two totally inconsistent positions as to the finality of the Sanctions Order in two judicial proceedings – this judgment collection action and the Mona Fraudulent Transfer Action in an attempt to obtain an unfair advantage in litigation including, at a minimum, delay. These positions were not taken as a result of ignorance, fraud, or mistake. In fact, at the Second Hearing, when Ms. Mona's counsel was asked whether she would withdraw her Motion to Dismiss as to the Second Cause of Action in the Mona Fraudulent Transfer Action, which relates to the $3.4 million transfer to her through the Post-Marital Settlement Agreement, counsel could not do that, which leaves a cloud over the Mona Fraudulent Transfer Action.

The Court acknowledges that the law is not perfectly clear on the doctrine of judicial estoppel. In *Mainor v. Nault*, the Nevada Supreme Court indicates that judicial estoppel is an extraordinary remedy that should be cautiously applied and that, although not all of the required elements are always necessary, the doctrine generally applies when they are present. Contrastingly, in *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009), the Nevada Supreme Court holds that "judicial estoppel will bar a party from raising an argument only when the following conjunctive test is satisfied," *i.e.*, all the elements are met. Not all of the elements for judicial estoppel have been met here, in particular the element requiring that the party be successful

in asserting the first position (i.e., the tribunal adopted the position or accepted it as true). Nevertheless, the Court finds that through the back and forth, inconsistent positions, and contradictory arguments between this Court, Judge Bare, and the Nevada Supreme Court, the Monas have attempted to obtain an unfair advantage. And, the primary purpose of judicial estoppel "to protect the judiciary's integrity" is met if the Court orders that execution and collection efforts may proceed against Ms. Mona on the $490,000.00, plus interest. The Court, therefore, invokes the doctrine at its discretion.

Fifth, there is no stay in place and no bond has been posted, which gives additional reason for the Court to allow execution up to $490,000 plus interest.

Based on the foregoing, and good cause appearing:

IT IS HEREBY ORDERED that the relief requested in the Motion is **GRANTED IN PART AND DENIED IN PART** as set forth herein;

IT IS HEREBY FURTHER ORDERED that, pursuant to NRS 112.210(2), the Court's powers in equity which are recognized in NRS 112.240, and the judicial estoppel doctrine, Far West may immediately execute against Ms. Mona up to $490,000.00, plus statutory interest calculated from July 15, 2015;

IT IS HEREBY FURTHER ORDERED that this Court may consider allowing Far West to execute against Ms. Mona in excess of $490,000.00, subject to future motion practice.

IT IS SO ORDERED.

Dated this 13th day of June, 2016.

JOE HARDY, JR.
DISTRICT COURT JUDGE
DEPARTMENT 15

CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I e-served, emailed, faxed, mailed or placed a copy of the AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the attorney folder in the Clerk's Office addressed to:

Thomas Edwards, Esq.	tedwards@nevadafirm.com
Terry Coffing, Esq.	tcoffing@maclaw.com
James Whitmire, III, Esq.	jwhitmire@santoronevada.com
Erika Pike Turner, Esq.	eturner@gtg.legal
William Urga, Esq.	wru@juww.com

Judicial Executive Assistant

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07/14/2016 03:31:21 PM

CLERK OF THE COURT

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Terry A. Coffing, Esq.
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Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, vs. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, and individual; MICHAEL J. MONA, JR., an individual; DOES I through 100, inclusive, Defendants.	Case No.: A-12-670352-F Dept. No.: XV **JOINT CASE APPEAL STATEMENT**

Defendant Michael J. Mona, Jr., by and through his attorneys of record, Marquis Aurbach Coffing, and Non-Party Rhonda Helene Mona,[1] by and through her attorneys of record, Santoro Whitmire and Lemons, Grundy & Eisenberg, hereby file this Joint Case Appeal Statement.

1. Name of appellant filing this Case Appeal Statement:

Defendant Michael J. Mona, Jr. and Non-Party Rhonda Helene Mona.

2. Identify the Judge issuing the decision, judgment, or order appealed from:

Honorable Joe Hardy, Jr.

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant: Defendant Michael J Mona, Jr.

Terry A. Coffing, Esq.
Tye S. Hanseen, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145

Appellant: Non-Party Rhonda Helene Mona

James E. Whitmire, Esq.
Santoro Whitmire
10100 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89135

and

Robert L. Eisenberg, Esq.
Lemons, Grundy & Eisenberg
6005 Plumas Street, Third Floor
Reno, Nevada 89519

[1] Rhonda Mona is not a party in this case. Thus, a judgment cannot be entered against her, and there is a legitimate question as to whether she would be considered an "aggrieved party" for purposes of appeal. Nonetheless, although the order from which this appeal is taken is not entitled a "judgment," it could possibly be interpreted as a judgment against Rhonda Mona. Because of this uncertainty, Rhonda Mona's attorneys have joined in the notice of appeal, to protect Rhonda Mona's right to challenge the order in Nevada appellate courts. *See Fernandez v. Infusaid Corp.*, 110 Nev. 187, 192-93, 871 P.2d 292 (1994) (recognizing protective notice of appeal where right to appeal is uncertain). Additionally, by joining in this case appeal statement under these unusual circumstances, Rhonda Mona in no way intends to enter a general appearance in this case.

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as much and provide the name and address of that respondent's trial counsel):

Respondent: Far West Industries

F. Thomas Edwards, Esq.
Andrea M. Gandara, Esq.
Holley Driggs Walch
Fine Wray Puzey & Thompson
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A.

6. Indicated whether appellant was represented by appointed or retained counsel in the district court:

Retained.

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained.

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:

N/A.

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint indictment, information, or petition was filed):

October 18, 2012.

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:

> The underlying action is a foreign judgment collection case. Respondent Far West obtained a California judgment against Appellant Michael J. Mona, domesticated the judgment in Nevada, and began collection activities. In the Nevada judgment collection case, Far West sought a judgment against non-party Rhonda Mona, Michael J. Mona's ex-wife.
>
> Because Rhonda Mona is not a party in the underlying judgment collection action, a judgment cannot be entered against her. Nonetheless, the District Court entered an order that could be interpreted as a judgment against Rhonda Mona because it allows for execution against her in the amount of $490,000.00.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

> This case gave rise to the pending Writ Petition in Case No. 68434, *Rhonda Helene Mona and Michael J. Mona, Jr. v. Eight Judicial District Court (Far West Industries).*

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

N/A.

///

///

///

MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This appeal involves the possibility of settlement.

Dated this 14th day of July, 2016.

MAROUIS AURBACH COFFING

By: /s/ Tye S. Hanseen
Terry A. Coffing, Esq.
Nevada Bar No. 4949
Tye S. Hanseen, Esq.
Nevada Bar No. 10365
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Michael J. Mona, Jr.

LEMONS, GRUNDY & EISENBERG

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Attorneys for Non-Party
Rhonda Helene Mona

SANTORO WHITMIRE

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **JOINT CASE APPEAL STATEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 14th day of July, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:

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/s/ Rosie Wesp
An employee of Marquis Aurbach Coffing

DEPARTMENT 15

CASE SUMMARY

CASE NO. A-12-670352-F

Far West Industries, Plaintiff(s)	§	Location:	**Department 15**
vs. Rio Vista Nevada, LLC , Defendant(s)	§	Judicial Officer:	**Hardy, Joe**
	§	Filed on:	**10/18/2012**
	§	Case Number History:	
	§	Cross-Reference Case Number:	**A670352**

CASE INFORMATION

Statistical Closures
10/18/2012 Default Judgment

Case Type: **Foreign Judgment**

Case Flags: **Appealed to Supreme Court**

DATE	CASE ASSIGNMENT

Current Case Assignment

Case Number	A-12-670352-F
Court	Department 15
Date Assigned	05/04/2015
Judicial Officer	Hardy, Joe

PARTY INFORMATION

		Lead Attorneys
Plaintiff	**Far West Industries**	**Edwards, F. Thomas** *Retained* 702-791-0308(W)
Defendant	**Maize, Bruce**	
	Mona Family Trust	**Coffing, Terry A.** *Retained* 7023820711(W)
	Mona, Michael J, Jr.	**Coffing, Terry A.** *Retained* 7023820711(W)
	Rio Vista Nevada, LLC	
	World Development Inc	

DATE	EVENTS & ORDERS OF THE COURT	INDEX
10/18/2012	Application of Foreign Judgment - NRS 17 Filed By: Plaintiff Far West Industries *Application Of Foreign Judgment*	
10/18/2012	Case Opened	
10/18/2012	**Foreign Judgment** (Judicial Officer: Earley, Kerry) Debtors: Rio Vista Nevada, LLC (Defendant), World Development Inc (Defendant), Bruce Maize (Defendant), Michael J Mona, Jr. (Defendant) Creditors: Far West Industries (Plaintiff) Judgment: 10/18/2012, Docketed: 10/25/2012 Total Judgment: 18,130,673.58	
10/23/2012	Notice of Filing Application of Foreign Judgment & Affidavit Filed By: Plaintiff Far West Industries *Notice Of Filing Application Of Foreign Judgment And Affidavit*	

11/06/2012	Proof of Service Filed by: Plaintiff Far West Industries *Proof Of Service*
11/09/2012	Amended Filed By: Plaintiff Far West Industries *Amended Proof Of Service*
01/17/2013	Ex Parte Motion Filed By: Plaintiff Far West Industries *Far West Industries' Ex Parte Motion for Order Allowing Examination of Judgment Debtor*
01/24/2013	**Minute Order** (3:00 AM) (Judicial Officer: Earley, Kerry) *Recusal and Reassignment*
01/28/2013	Notice of Department Reassignment
01/30/2013	Order for Appearance of Judgment Debtor Filed By: Plaintiff Far West Industries *Order for Appearance of Judgment Debtors*
02/06/2013	Amended Order Filed By: Plaintiff Far West Industries *Amended Order for Appearance of Judgment Debtors*
02/13/2013	Notice of Examination of Judgment Debtor File By: Plaintiff Far West Industries *Notice of Examination of Judgment Debtor on an Order Shortening Time*
02/20/2013	Amended Order Filed By: Plaintiff Far West Industries *Second Amended Order for Appearance of Judgment Debtors*
04/29/2013	Amended Order Filed By: Plaintiff Far West Industries *Amended Order for Examination of Judgment Debtor*
05/21/2013	Motion for Order to Show Cause Filed By: Plaintiff Far West Industries *Motion for Order to Show Cause Regarding Contempt on Order Shortening Time*
05/30/2013	Notice Filed By: Defendant Mona, Michael J, Jr. *Notice of Special Appearance*
05/30/2013	Objection Filed By: Defendant Mona, Michael J, Jr. *Special Appearance And Objection To Further Proceedings On Order To Show Cause Predicated Upon Lack of Personal Jurisdiction*
05/31/2013	**Motion for Order to Show Cause** (9:00 AM) (Judicial Officer: Sturman, Gloria) **05/31/2013, 07/03/2013** *Plaintiff's Motion for Order for Michael J. Mona to Show Cause Regarding Contempt for Failure to Appear at Judgment Debtor Examination*

06/05/2013 Initial Appearance Fee Disclosure
Filed By: Defendant Mona, Michael J, Jr.
Initial Fee Disclosure

06/18/2013 Supplemental Points and Authorities
Filed by: Defendant Mona, Michael J, Jr.
Supplemental Points and Authorities REgarding a Lack of Personal Jurisdiction

06/28/2013 Reply
Filed by: Plaintiff Far West Industries
Reply in Support of Motion to Order to Show Cause Re Contempt

07/10/2013 Order
Filed By: Plaintiff Far West Industries
Order to Show Cause

07/26/2013 Stipulation and Order
Filed by: Defendant Mona, Michael J, Jr.
Stipulation and Order

07/29/2013 Notice of Entry of Stipulation and Order
Filed By: Defendant Mona, Michael J, Jr.
Noic of Entry of Stipulation and Order

09/06/2013 Receipt
Party: Defendant Mona, Michael J, Jr.
Receipt of Original Documents

09/10/2013 Notice
Filed By: Plaintiff Far West Industries
Notice to Vacate Examination of Judgment Debtors

09/18/2013 **Status Check** (9:00 AM) (Judicial Officer: Sturman, Gloria)
09/18/2013, 12/04/2013
Status Check: Compliance With Court's 7/25/13 Order

09/25/2013 Receipt
Party: Defendant Mona, Michael J, Jr.
Receipt of Original Document

10/07/2013 Order
Filed By: Defendant Mona, Michael J, Jr.
Order

10/31/2013 Notice
Filed By: Plaintiff Far West Industries
Notice of Examination of Judgment Debtor

12/26/2013 Return
Party: Defendant Mona, Michael J, Jr.
Return and Answer to Writ of Garnishment as to Cannavest Corp.

12/26/2013

	Receipt of Copy Filed by: Defendant Mona, Michael J, Jr. *Receipt of Copy*
12/26/2013	Certificate of Service Filed by: Defendant Mona, Michael J, Jr. *Certificate of Service*
01/06/2014	Notice Filed By: Defendant Mona, Michael J, Jr. *Notice Of Changes To Transcript Of Judgment Debtor Examination of Michael J. Mona, Jr.*
02/26/2014	Subpoena Filed by: Plaintiff Far West Industries *Subpoena*
03/18/2014	Substitution of Attorney Filed by: Defendant Mona, Michael J, Jr. *Substitution of Attorneys*
03/28/2014	Motion to Associate Counsel Filed By: Other Sobieski, Theodore *Motion to Associate Counsel (S. Todd Neal, Esq.)*
04/07/2014	Motion to Compel Filed By: Plaintiff Far West Industries *Motion to Compel Discovery on Order Shortening Time*
04/11/2014	Notice Filed By: Defendant Mona, Michael J, Jr. *Notice of Forthcoming Opposition to Motion to Compel Discovery*
04/14/2014	Opposition to Motion to Compel Filed By: Defendant Mona, Michael J, Jr. *Defendant Michael J. Mona, Jr.'s Opposition to Motion to Compel Discovery on Order Shortening Time*
04/14/2014	**Motion to Compel** (1:30 PM) (Judicial Officer: Beecroft, Chris A., Jr.) *Motion to Compel Discovery on Order Shortening Time*
05/02/2014	**Motion to Associate Counsel** (9:00 AM) (Judicial Officer: Sturman, Gloria) *Non-Party Theodore Sobieski's ("Sobieski")by and through his counsel Jolly Urga, Motion to Associate Counsel (S. Todd Neal, Esq.)*
05/05/2014	*CANCELED* **Status Check: Compliance/Sanctions** (2:00 PM) (Judicial Officer: Beecroft, Chris A., Jr.) *Vacated - per Commissioner*
05/15/2014	Notice of Entry of Order Filed By: Defendant Mona, Michael J, Jr. *Notice of Entry of Order Regarding the Discovery Commissioner's Report and Recommendation*
05/15/2014	Discovery Commissioners Report and Recommendations

Filed By: Defendant Mona, Michael J, Jr.
Discovery Commissioner's Report and Recommendation

07/09/2014 Notice of Change of Firm Name
Filed By: Defendant Rio Vista Nevada, LLC
Notice of Change of Firm Name

01/05/2015 Case Reassigned to Department 2
District Court Case Reassignment 2015

02/27/2015 Order to Show Cause Re: Dismissal
Order to Show Cause Re: Dismissal

03/18/2015 **Show Cause Hearing** (9:30 AM) (Judicial Officer: Scotti, Richard F.)
Re; Dismissal

05/01/2015 Substitution of Attorney
Filed by: Plaintiff Far West Industries
Substitution of attorneys for Plaintiff Far West Industries

05/04/2015 Case Reassigned to Department 15
Case reassigned from Judge Richard F Scotti Dept 2

05/08/2015 Ex Parte Application for Examination of Judgment Debtor
Filed By: Plaintiff Far West Industries
Ex Parte Motion for Order Allowing Judgment Debtor Examination of Michael J. Mona, Jr., Individually, and as Trustee of the Mona Family Trust Dated February 12, 2002, and Rhonda Mona as Trustee of the Mona Family Trust Dated February 12, 2002

05/13/2015 Order for Judgment Debtor Examination
Filed By: Plaintiff Far West Industries
Order for Examination of Judgment Debtor Michael J. Mona, Jr., Individually, and as Trustee of the Mona Family Trust Dated February 2, 2001

05/13/2015 Order for Judgment Debtor Examination
Filed By: Plaintiff Far West Industries
Order for Examination of Rhonda Mona as Trustee of Judgment Debtor The Mona Family Trust Dated February 12, 2001

05/14/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order for Examination of Judgment Debtor Michael J. Mona, Jr., Individually, and as Trustee of The Mona Family Trust Dated February 12, 2001

05/14/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order for Examination of Rhonda Mona, as Trustee of the Mona family Trust Dated February 12, 2002

05/20/2015 Affidavit
Filed By: Plaintiff Far West Industries
Affidavit of Service

05/21/2015 Ex Parte Motion
Filed By: Plaintiff Far West Industries
Ex Parte Motion to Serve Rhonda Mona as Trustee of the Mona Family Trust Dated February

12, 2002 via Certified or Registered Mail Pursuant to NRS 14.090(1)(b)

05/26/2015 Order Granting Motion
Filed By: Plaintiff Far West Industries
Order Granting Ex Parte Motion to Serve Rhonda Mona as Trustee of the Mona Family Trust Dated February 12, 2002 Via Certified or Registered Mail Pursuant to NRS 14.090(1)(b)

05/27/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order Granting Ex Parte Motion to Serve Rhonda Mona as Trustee of The Mona Family Trust Dated February 12, 2002 via Certified or Registered Mail Pursuant to NRS 14.090(1)(b)

06/04/2015 Certificate of Service
Filed by: Plaintiff Far West Industries
Certificate of Service Via U.S. Postal Service on Rhonda Mona, Trustee of the Mona Family Trust Dated February 12, 2001

06/08/2015 Certificate of Service
Filed by: Defendant Mona, Michael J, Jr.
Certificate of Service

06/08/2015 Motion for Protective Order
Filed By: Defendant Mona, Michael J, Jr.
Motion for Protective Order on Order Shortening Time

06/09/2015 Opposition to Motion
Filed By: Plaintiff Far West Industries
Opposition to Motion for Protective Order on Order Shortening Time

06/10/2015 **Motion for Protective Order** (9:00 AM) (Judicial Officer: Hardy, Joe)
Deft Michael J Mona Jr's Motion for Protective Order on Order Shortening Time

06/17/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order Regarding Motion for Protective Order on Order Shortening Time

06/17/2015 Order
Filed By: Plaintiff Far West Industries
Order Regarding Motion for Protective Order on Order Shortening Time

06/29/2015 Ex Parte Application
Party: Plaintiff Far West Industries
Ex Parte Application for Order to Show Cause why Accounts of Rhonda Mona Should not be Subject to Execution and Why the Court Should Not Find the Monas in Contempt

06/30/2015 Order to Show Cause
Filed by: Plaintiff Far West Industries
Order to Show Cause Why Accounts of Rhonda Mona Should not Be Subject to Execution and Why the Court Should not Find Monas in Contempt

06/30/2015 Receipt of Copy
Filed by: Plaintiff Far West Industries
Receipt of Copy

06/30/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contemp

07/07/2015 Response
Filed by: Defendant Rio Vista Nevada, LLC
Response to Order to Show Cause Why Accounts of Rhonda Mona Should Not be SUbject to Execution and Why the Court Should Not Find Monas in Contempt

07/08/2015 Reply in Support
Filed By: Plaintiff Far West Industries
Reply In Support of Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not find The Monas in Contempt

07/08/2015 Supplement
Filed by: Defendant Mona, Michael J, Jr.
Supplement to Response to Order to Show Cause Why Accounts of Rhonda Mona Should be Subject to Execution and why the Court Should not find the Monas in Contempt

07/08/2015 Declaration
Filed By: Plaintiff Far West Industries
Declaration In Support of Request for Contempt

07/09/2015 **Show Cause Hearing** (9:00 AM) (Judicial Officer: Hardy, Joe)
Show Cause Hearing: Why Accounts of Rhonda Mona Should not be Subject to Execution and Why the Court Should Not Find Monas in Contempt

07/14/2015 Transcript of Proceedings
Show Cause Hearing: on July 9, 2015

07/15/2015 Order
Filed By: Plaintiff Far West Industries
Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas In Contempt

07/16/2015 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt

07/16/2015 Motion to Compel
Filed By: Plaintiff Far West Industries
Motion to Compel Application of Particular Assets Towards Satisfaction of Judgment

07/20/2015 Notice
Filed By: Defendant Mona, Michael J, Jr.
Notice of Filing Writ Petition

07/20/2015 Memorandum of Costs and Disbursements
Filed By: Plaintiff Far West Industries
Plaintiff's Memorandum of Fees and Costs Associated with Order to Show Cause Why Accounts of Rhonda Mona Should Not be Subject to Execution and Why the Court Should Not Find Monas In Contempt

07/20/2015	Notice of Stay Filed By: Defendant Mona, Michael J, Jr. *Notice of Entry of Order Granting Temporary Stay*
08/17/2015	*CANCELED* **Motion to Compel** (9:00 AM) (Judicial Officer: Hardy, Joe) *Vacated - per Law Clerk* *Motion to Compel Application of Particular Assets Towards Satisfaction of Judgment*
09/09/2015	Motion for Bond Pending Appeal Filed By: Plaintiff Far West Industries *Motion on An Order Shortening Time for Bond Pending Appeal*
09/16/2015	Opposition Filed By: Defendant Mona, Michael J, Jr. *Opposition to Motion on an Order Shortening Time for Bond Pending Appeal*
09/17/2015	**Motion** (9:00 AM) (Judicial Officer: Hardy, Joe) *Plaintiff's Motion on An Order Shortening Time for Bond Pending Appeal*
09/29/2015	Reporters Transcript *Hearing Transcript September 17, 2015*
10/12/2015	Motion to Compel Filed By: Plaintiff Far West Industries *Second Motion to Compel Application of Particular Assets Towards Satisfaction of Judgment*
10/16/2015	Order *Order Regarding Motion on an Order Shortening Time for Bond Pending Appeal*
11/12/2015	*CANCELED* **Motion to Compel** (9:00 AM) (Judicial Officer: Hardy, Joe) *Vacated - per Order* *Second Motion to Compel Application of Particular Assets Towards Satisfaction of Judgment*
02/16/2016	Motion Filed By: Plaintiff Far West Industries *Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment*
02/16/2016	Motion Filed By: Plaintiff Far West Industries *Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments Made to, On Behalf of, or for the Benefit of Michael J. Mona, Jr.*
02/19/2016	Motion Filed By: Plaintiff Far West Industries *Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment*
02/19/2016	Appendix Filed By: Plaintiff Far West Industries *Appendix of Exhibits to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment*
02/22/2016	Amended Filed By: Plaintiff Far West Industries

Amended Appendix of Exhibits to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/04/2016 Opposition and Countermotion
Filed By: Defendant Mona, Michael J, Jr.
Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Countermotion to Discharge Garnishment and for Return of Proceeds

03/04/2016 Opposition to Motion
Filed By: Other Roen Ventures LLC
Third Party Roen Ventures, LLC's Opposition to Plaintiff Far West Industries' Motion; (1) For Default Judgment against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments made to, on Behalf of, or for the Benefit of Michael J. Mona, JR; and Countermotion for Attorney's Fees and Costs

03/07/2016 Motion
Filed By: Other Mona, Rhonda Helene
Non-Party Rhonda Mona's Precautionary Motion to Enlarge Time to File Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/07/2016 Opposition
Filed By: Defendant Mona, Michael J, Jr.
Mike Mona's Opposition to Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/07/2016 Opposition
Filed By: Other Mona, Rhonda Helene
Non-Party Rhonda Mona's Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/14/2016 Reply to Opposition
Filed by: Plaintiff Far West Industries
Plaintiff Far West Industries' Reply to Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Opposition to Countermotion to Discharge Garnishment and for Return of Proceeds

03/14/2016 Reply to Opposition
Filed by: Plaintiff Far West Industries
Plaintiff Far West Industries Reply to Roen Venture LLC's Opposition to Motion (1) for Default Judgment Against Roen Ventures LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to Compel Roen Ventures LLC's Turnover of Payments Made to, on Behalf of or for the Benefitof Michael J Mona Jr., and Opposition to Countermotion for Attorney's Fees and Costs

03/14/2016 Reply in Support
Filed By: Plaintiff Far West Industries
Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment

03/14/2016 Appendix
Filed By: Plaintiff Far West Industries
Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment

03/15/2016 Amended
Filed By: Plaintiff Far West Industries

Amended Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment

03/16/2016 Receipt of Copy
Filed by: Plaintiff Far West Industries
Receipt of Copy

03/16/2016 Receipt of Copy
Filed by: Plaintiff Far West Industries
Receipt of Copy to Lee, Hernandez, Lundrum & Garafalo

03/16/2016 Receipt of Copy
Filed by: Plaintiff Far West Industries
Receipt of Copy

03/16/2016 Receipt of Copy
Filed by: Plaintiff Far West Industries
Receipt of Copy

03/17/2016 **Minute Order** (3:00 AM) (Judicial Officer: Hardy, Joe)
Minute Order: Rescheduling the following Motions for lack of courtesy copies: (A) Plaintiff Far West Industries Motion for Determination of Priority of Garnishment; (B) Plaintiff Far West Industries' Motion: (1) for Default Judgment Against Roen Ventures, LLC for Untimely Answers for Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments Made to, On Behalf of, or for the Benefit of Michael J. Mona, Jr.; and (C) Plaintiff Far West Industries Motion to Reduce Sanctions Order to Judgment and Michael Mona's Countermotion to Discharge Garnishment and for Return of Proceeds

03/21/2016 Amended Certificate of Service
Party: Plaintiff Far West Industries
Amended Certificate of Service to Plaintiff Far West Industries' Reply to Roen Venture LLC's Opposition to Motion (1) for Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr., and Opposition to Countermotion for Attorney's Fees and Costs

03/23/2016 Reply in Support
Filed By: Other Roen Ventures LLC
Reply in Support of Countermotion for Attorneys' Fees and Costs

03/23/2016 Reply in Support
Filed By: Defendant Mona, Michael J, Jr.
Mona's Reply in Support of Countermotion to Discharge Garnishment and for Return of Proceeds

03/29/2016 Errata
Filed By: Other Mona, Rhonda Helene
Errata to Non-Party Rhonda Mona's Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/30/2016 **Motion** (9:00 AM) (Judicial Officer: Hardy, Joe)
Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment

03/30/2016 **Motion for Default Judgment** (9:00 AM) (Judicial Officer: Hardy, Joe)

Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments Made to, On Behalf of, or for the Benefit of Michael J.

Mona, Jr.

03/30/2016 **Motion** (9:00 AM) (Judicial Officer: Hardy, Joe)
03/30/2016, 05/05/2016
Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

03/30/2016 **Opposition and Countermotion** (9:00 AM) (Judicial Officer: Hardy, Joe)
Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Countermotion to Discharge Garnishment and for Return of Proceeds

03/30/2016 **Opposition and Countermotion** (9:00 AM) (Judicial Officer: Hardy, Joe)
Third Party Roen Ventures, LLC's Opposition to Plaintiff Far West Industries' Motion; (1) For Default Judgment against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments made to, on Behalf of, or for the Benefit of Michael J. Mona, JR; and Countermotion for Attorney's Fees and Costs

03/30/2016 **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)

04/11/2016 *CANCELED* **Motion** (9:00 AM) (Judicial Officer: Hardy, Joe)
Vacated - per Judge
Non-Party Rhonda Mona's Precautionary Motion to Enlarge Time to File Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

04/22/2016 Supplemental Brief
Filed By: Other Mona, Rhonda Helene
Non-Party Rhonda Mona's Supplemental Briefing Following Recent Oral Argument Concerning Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

04/22/2016 Supplemental Brief
Filed By: Plaintiff Far West Industries
Plaintiff Far West Industries' Supplemental Brief Regarding Motion to Reduce Sanctions Order to Judgment

04/23/2016 Supplement
Filed by: Defendant Mona, Michael J, Jr.
Supplemental Brief Regarding Judicial Estoppel and Reducing the Sanction Order to Judgment

04/28/2016 Order
Filed By: Plaintiff Far West Industries
Order Regarding Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payments Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr.

04/28/2016 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order

05/23/2016 Order
Filed By: Plaintiff Far West Industries
Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

05/24/2016 Notice
Filed By: Other Mona, Rhonda Helene

Non-Party Rhonda Mona's Notice of Objection and Competing Order Concerning Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

05/24/2016 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

06/13/2016 Amended Order
Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

06/15/2016 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice of Entry of Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment

06/21/2016 **Minute Order** (3:00 AM) (Judicial Officer: Hardy, Joe)
Decision: Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment...Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Countermotion to Discharge Garnishment and for Return of Proceeds

06/21/2016 Order
Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds

06/21/2016 Notice of Entry of Order
Filed By: Plaintiff Far West Industries
Notice Of Entry Of Order Regarding Plaintiff Far West Industries' Motion For Determination Of Priority Of Garnishment And Defendant Michael J. Mona's Countermotion To Discharge Garnishment And For Return Of Proceeds

06/27/2016 Motion
Filed By: Other Roen Ventures LLC
Third Party Roen Ventures, LLC's Motion to Deposit Payments with the Clerk of the Court

06/28/2016 Initial Appearance Fee Disclosure
Filed By: Other Roen Ventures LLC
Initial Appearance Fee Disclosure

06/30/2016 Notice
Filed By: Other Roen Ventures LLC
Notice of Posting Payment

07/06/2016 Application
Filed By: Other Roen Ventures LLC
Application for Order Shortening Time

07/07/2016 Notice of Entry of Order
Filed By: Other Roen Ventures LLC
Notice of Entry of Order Shortening Time and Notice of Hearing

07/14/2016 Case Appeal Statement
Filed By: Other Mona, Rhonda Helene

	Joint Case Appeal Statement
07/14/2016	*CANCELED* **Motion** (9:00 AM) (Judicial Officer: Hardy, Joe) *Vacated - per Stipulation and Order* *Third Party Roen Ventures, LLC's Motion to Deposit Payments with the Clerk of the Court*
07/14/2016	Stipulation Filed by: Plaintiff Far West Industries *Stipulation Regarding Third Party Roen Ventures, LLC's Motion to Deposit Payments with the Clerk of the Court*
07/15/2016	Claim Filed By: Defendant Mona, Michael J, Jr. *Claim of Exemption*
07/15/2016	Notice of Appeal Filed By: Other Mona, Rhonda Helene *Joint Notice of Appeal*
07/15/2016	Notice of Entry Filed By: Plaintiff Far West Industries *Notice of Entry of Stipulation Regarding Third Party Roen Ventures, LLC's Motion to Deposit Payments with the Clerk of the Court*

DATE	FINANCIAL INFORMATION	
	Defendant Mona Family Trust	
	Total Charges	30.00
	Total Payments and Credits	30.00
	Balance Due as of 7/18/2016	**0.00**
	Defendant Mona, Michael J, Jr.	
	Total Charges	283.50
	Total Payments and Credits	283.50
	Balance Due as of 7/18/2016	**0.00**
	Defendant Rio Vista Nevada, LLC	
	Total Charges	3.50
	Total Payments and Credits	3.50
	Balance Due as of 7/18/2016	**0.00**
	Other Mona, Rhonda Helene	
	Total Charges	31.00
	Total Payments and Credits	31.00
	Balance Due as of 7/18/2016	**0.00**
	Other Roen Ventures LLC	
	Total Charges	223.00
	Total Payments and Credits	223.00
	Balance Due as of 7/18/2016	**0.00**
	Plaintiff Far West Industries	
	Total Charges	475.00
	Total Payments and Credits	475.00
	Balance Due as of 7/18/2016	**0.00**
	Other Roen Ventures LLC	
	Interplead Funds Balance as of 7/18/2016	**6,985.43**
	Plaintiff Far West Industries	
	Appeal Bond Balance as of 7/18/2016	**500.00**

CIVIL COVER SHEET

A-12-670352-F

IV

Clark County, Nevada

Case No. _____
(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Far West Industries	Rio Vista Nevada, LLC, World Development, Inc., Bruce Maize, Michael J. Mona, Jr.
Attorney (name/address/phone): David S. Lee, Esq. Lee, Hernandez, Landrum, Garofalo & Blake, APC 7575 Vegas Drive, Suite 150 Las Vegas, Nevada 89128 (702) 880-9750	Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ **Arbitration Requested**

Civil Cases

Real Property

- ☐ **Landlord/Tenant**
  - ☐ Unlawful Detainer
- ☐ **Title to Property**
  - ☐ Foreclosure
  - ☐ Liens
  - ☐ Quiet Title
  - ☐ Specific Performance
- ☐ **Condemnation/Eminent Domain**
- ☐ **Other Real Property**
  - ☐ Partition
  - ☐ Planning/Zoning

Torts

Negligence

- ☐ **Negligence – Auto**
- ☐ **Negligence – Medical/Dental**
- ☐ **Negligence – Premises Liability** (Slip/Fall)
- ☐ **Negligence – Other**

- ☐ **Product Liability**
  - ☐ Product Liability/Motor Vehicle
  - ☐ Other Torts/Product Liability
- ☐ **Intentional Misconduct**
  - ☐ Torts/Defamation (Libel/Slander)
  - ☐ Interfere with Contract Rights
- ☐ **Employment Torts** (Wrongful termination)
- ☐ **Other Torts**
  - ☐ Anti-trust
  - ☐ Fraud/Misrepresentation
  - ☐ Insurance
  - ☐ Legal Tort
  - ☐ Unfair Competition

Probate

- ☐ **Summary Administration**
- ☐ **General Administration**
- ☐ **Special Administration**
- ☐ **Set Aside Estates**
- ☐ **Trust/Conservatorships**
  - ☐ Individual Trustee
  - ☐ Corporate Trustee
- ☐ **Other Probate**

Other Civil Filing Types

- ☐ **Construction Defect**
  - ☐ Chapter 40
  - ☐ General
- ☐ **Breach of Contract**
  - ☐ Building & Construction
  - ☐ Insurance Carrier
  - ☐ Commercial Instrument
  - ☐ Other Contracts/Acct/Judgment
  - ☐ Collection of Actions
  - ☐ Employment Contract
  - ☐ Guarantee
  - ☐ Sale Contract
  - ☐ Uniform Commercial Code
- ☐ **Civil Petition for Judicial Review**
  - ☐ Other Administrative Law
  - ☐ Department of Motor Vehicles
  - ☐ Worker's Compensation Appeal

- ☐ **Appeal from Lower Court** *(also check applicable civil case box)*
  - ☐ Transfer from Justice Court
  - ☐ Justice Court Civil Appeal
- ☐ **Civil Writ**
  - ☐ Other Special Proceeding
- ☒ **Other Civil Filing**
  - ☐ Compromise of Minor's Claim
  - ☐ Conversion of Property
  - ☐ Damage to Property
  - ☐ Employment Security
  - ☐ Enforcement of Judgment
  - ☒ Foreign Judgment – Civil
  - ☐ Other Personal Property
  - ☐ Recovery of Property
  - ☐ Stockholder Suit
  - ☐ Other Civil Matters

III. Business Court Requested (Please check applicable category; *for Clark or Washoe Counties only.*)

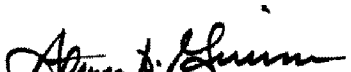
- ☐ NRS Chapters 78-88
- ☐ Commodities (NRS 90)
- ☐ Securities (NRS 90)
- ☐ Investments (NRS 104 Art. 8)
- ☐ Deceptive Trade Practices (NRS 598)
- ☐ Trademarks (NRS 600A)
- ☐ Enhanced Case Mgmt/Business
- ☐ Other Business Court Matters

October 18, 2012

Date

Signature of initiating party or representative

Electronically Filed
06/13/2016 02:55:51 PM



CLERK OF THE COURT

AMOR

DISTRICT COURT
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, Plaintiffs, vs. RIO VISTA NEVADA, LLC, et al., Defendants.	Case No: A670352 Dept No.: XV

AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT[1]

The Court held an initial hearing regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (the "Motion") on March 30, 2016, at 9:00 a.m. (the "Initial Hearing") and, following supplemental briefing, a continued hearing regarding the Motion on May 5, 2016, at 9:00 a.m. (the "Second Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq., of the law firm Holley Driggs Walch Fine Wray Puzey & Thompson, appeared on behalf of Plaintiff Far West Industries ("Far West"). Terry A. Coffing, Esq. and Tye S. Hanseen, Esq., of the law firm Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona"). James E. Whitmire, Esq. appeared on behalf of Rhonda Helene Mona ("Ms. Mona"). Collectively, Mr. Mona and Ms. Mona are referred to as the "Monas."

The Court reviewed all relevant pleadings and papers before it, including, but not limited to: (1) the Motion filed by Far West and Exhibits 1-9; (2) the Opposition to Motion filed by Mr. Mona

[1] This Amended *Nunc Pro Tunc* Order shall replace and supersede the Order filed herein on May 23, 2016, and shall be treated as if this order had been filed then.

("Mr. Mona's Opposition"); (3) the Opposition to Motion filed by Ms. Mona ("Ms. Mona's Opposition") and Exhibits A-C; (4) the Reply in Support of the Motion filed by Far West and Exhibits 10 and 11; (5) the Errata to Ms. Mona's Opposition to the Motion; (6) the Supplemental Brief filed by Ms. Mona ("Ms. Mona's Supplement") and Exhibits A-C; (7) the Supplemental Brief filed by Far West (the "Far West Supplement") and Exhibits 12-14; and (8) the Supplemental Brief filed by Mr. Mona ("Mr. Mona's Supplement").

With no other appearances having been made, the Court having reviewed and examined the papers, pleadings and records on file in the above-entitled matter and heard the argument of counsel, and good cause appearing therefore, the Court enters the following findings of fact and conclusions of law. To the extent any finding of fact should properly be designated a conclusion of law, it shall be deemed a conclusion of law. To the extent any conclusion of law should properly be designated a finding of fact, it shall be deemed a finding of fact.

FINDINGS OF FACT

A. Judgment Collection Action and Sanctions of the Monas

Far West has a domesticated California Judgment against Mr. Mona and the Mona Family Trust dated February 21, 2002 (the "Mona Family Trust") that is now nearly $25 million, including interest accruing at a rate of $4,967.30 per day.[2] *See* Application for Foreign Judgment, filed on October 18, 2012, attaching Judgment.

On September 13, 2013, after Far West domesticated its Judgment, the Monas executed a Post-Marital Settlement Agreement through which Mr. Mona and Ms. Mona were each transferred $3,406,601.10 from the sale of the Monas' community property shares of Medical Marijuana, Inc., for $6,813,202.20. *See* Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Sanctions Order"), entered July 15, 2015, at 3:24-28.

///

///

[2] Pursuant to CAL. CIV. PRO. CODE § 685.010(a), "Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied."

During a judgment debtor examination on June 26, 2015, Ms. Mona testified regarding the Post-Marital Settlement Agreement and testified that she had three different bank accounts in her name that contained approximately $490,000.00 in community property funds. *Id.* at 6:20-7:12.

On June 29, 2015, Far West filed an Ex Parte Application for Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Application") seeking sanctions against the Monas for violating Court orders and lying under oath to conceal their fraudulent transfer through the Post-Marital Settlement Agreement and seeking to execute against the three accounts Ms. Mona testified contained community property funds. *See* OSC Application, filed June 29, 2015. On June 30, 2015, the Court issued the Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Order to Show Cause") scheduling a hearing on July 9, 2015. *See* Order to Show Cause, entered on June 30, 2015.

During the July 9, 2015 hearing on the Order to Show Cause, the Court sanctioned the Monas and stated that "the evidence overwhelmingly support[ed] a finding of fraudulent transfer in regard to the Post-Marital Property Settlement Agreement, and the Court so find[s] that . . . was a fraudulent transfer and that those assets therefore remain community property subject to execution." *See* Transcript of Show Cause Hearing: Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Hearing Transcript"), dated July 9, 2015, attached to the Motion as **Exhibit 3**, at 38:16-18.

On July 15, 2015, the Court entered the Sanctions Order, outlining in detail several badges of fraud associated with the Post-Marital Settlement Agreement:

> First, the transfer in the Post-Marital Settlement Agreement was to an insider, Ms. Mona, as she is the wife of Mr. Mona, a judgment debtor, and was at all relevant times the Trustee of the Mona Family Trust, a judgment debtor.
>
> Second, Mr. Mona appears to have retained possession and control over some portion of the funds that were purportedly transferred pursuant to the Post-Marital Settlement Agreement.
>
> Third, Mr. Mona concealed the transaction by not producing the Post-Marital Settlement Agreement as required by the January 2013 Order

> and October 2013 Order and by not disclosing the transfer during his judgment debtor examination on November 25, 2013. Mr. Mona was not truthful when he was asked during the November 25, 2013 examination about what he did with the approximately $6.8 million dollars.
>
> Fourth, prior to effectuating the transfer through the Post-Marital Settlement Agreement, Far West sued and obtained the Judgment against Mr. Mona and the Mona Family Trust.
>
> Fifth, the Post-Marital Settlement Agreement, and the related transfers of the proceeds from the sale of the stock, transferred substantially all of Mr. Mona's assets as he was insolvent at the time of the transfers, or rendered Mr. Mona insolvent shortly after they were made.
>
> Sixth, Mr. Mona concealed assets by failing to disclose the Post-Marital Settlement Agreement in 2013, by not disclosing the transfer during his judgment debtor examination on November 25, 2013, and by not producing the bank account records for the accounts in Ms. Mona's name.
>
> Seventh, at the time of the transfer through the Post-Marital Settlement Agreement, Mr. Mona was insolvent, or the transfer rendered Mr. Mona insolvent shortly after it was made.

See Sanctions Order, entered July 15, 2015, at 8:16-9:9; *see also* OSC Hearing Transcript, dated July 9, 2015, Ex. 3, at 37:14-38:20 (describing facts demonstrating badges of fraud).

The Sanctions Order further stated:

> **IT IS HEREBY FURTHER ORDERED** that the Monas' purported transfer pursuant to the Post-Marital Property Settlement Agreement is a fraudulent transfer, and the facts proving the fraudulent transfer, including the badges of fraud outlined above, are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the facts entitling Plaintiff to execute upon the bank accounts in the name of Mrs. Mona are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the Monas are prohibited from claiming that any money purportedly transferred pursuant to the Post-Marital Property Settlement Agreement and any money in the bank accounts in the name of Mrs. Mona are exempt from execution;
>
> . . .
>
> **IT IS HEREBY FURTHER ORDERED** that Mr. Mona, Mrs. Mona, and the Monas collectively are prohibited from effectuating any transfers or otherwise disposing of or encumbering any property not exempt from execution and until the money in the bank accounts in the name of Mrs. Mona are applied to Plaintiff's Judgment.

See Sanctions Order, entered July 15, 2015, at 10:7-28.

B. Writ Petition Regarding Sanctions and Stay Pending Writ

The Monas filed a Petition for Writ of Mandamus or Prohibition as to the Sanctions Order on July 17, 2015. Among other arguments, the Monas contended that "a separate action was required before imposing liability against Rhonda Mona." *See* Petition for Writ of Mandamus or Prohibition, filed July 17, 2015, attached to the Motion as **Exhibit 4**, at 16 of 30.

On July 20, 2015, the Nevada Supreme Court issued its Order Granting Temporary Stay that stayed the Sanctions Order and proceedings in the above-captioned action. *See* Order Granting Temporary Stay, entered July 20, 2015, attached to the Motion as **Exhibit 5**.

On October 16, 2015, this Court issued its Order Regarding Motion on an Order Shortening Time for Bond Pending Appeal (the "Bond Order"), which ordered Mr. Mona and the Mona Family Trust to post a bond of $24,172,076.16 within seven business days of September 17, 2015 and Ms. Mona to post a bond of $490,000.00 within 30 calendar days of September 17, 2015. *See* Bond Order, dated October 16, 2015, at 7:6-11.

The same date, October 16, 2015, the Nevada Supreme Court issued an Order that stayed the supersedeas bond requirement and maintained the prior stay pending further briefing from the parties. *See* Order, dated October 16, 2015, attached to the Motion as **Exhibit 6**, pp. 1-2.

On November 19, 2015, the Nevada Supreme Court issued an Order Denying Motion, which stated:

> This court's stay entered August 31, 2015, and temporary stay entered October 16, 2015, shall expire within 5 business days from the date of this order unless the parties comply with the bond requirements imposed by the district court in its written order of October 16, 2015, as a condition of any stay.

See Order Denying Motion, dated November 19, 2015, attached to the Motion as **Exhibit 7**, at pp. 1-2.

///

///

Pursuant to the Bond Order and Order Denying Motion, the stay of this action and the Sanctions Order pending the writ proceeding terminated on November 30, 2015 when Mr. Mona and Ms. Mona failed to post the required bonds.

C. Execution of Sanctions Order

When Far West was finally able to execute against Ms. Mona's accounts after the stay pending appeal expired, only $18,739.59 remained, which is less than 1% of the $3.4 million originally fraudulently transferred to Ms. Mona and less than 4% of the $490,000.00 that existed when the Sanctions Order was issued. *See* Answers to Writ of Garnishment from Bank of George, attached to Far West Supplement as **Exhibit 12**, and Answers to Writ of Garnishment from Bank of Nevada, attached to Far West Supplement as **Exhibit 13**.

Based on bank records recently produced by Ms. Mona, she transferred more than $430,000.00 after Far West moved to execute against the bank accounts in her name, including the following transfers:

06/26/2015	Ms. Mona testifies regarding fraudulent transfer through Post-Marital Settlement Agreement and separate bank accounts		
06/29/2015	Far West files its Ex Parte Application For Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find The Monas In Contempt		
07/02/2015	$10,000.00	Check to Lemons, Grundy & Eisenberg	FWSUPBRF-0001
07/02/2015	$30,000.00	Check to Kainen Law Group	FWSUPBRF-0001
07/02/2015	$75,000.00	Wire Transfer Out to Marquis Aurbach Coffing Trust	FWSUPBRF-0002
07/02/2015	$20,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/02/2015	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0001
07/06/2015	$7,708.00	Check 2582 to Ramon Sarti	FWSUPBRF-0003
07/08/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/15/2015	The Court enters the Sanctions Order		
07/20/2015	The Nevada Supreme Court enters a temporary stay of the Sanctions Order		
07/22/2015	$5,080.96	Check 2600 to Clark County Treasurer	FWSUPBRF-0004
08/24/2015	$1,523.70	Payment to Parkloft Condominium Association	FWSUPBRF-0005
08/24/2015	$2,570.70	Check 2622 to A-1 Self Storage	FWSUPBRF-0006
08/24/2015	$22,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0007

09/15/2015 *incorrectly dated as 2014	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0008
09/22/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
09/24/2015	$75,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
10/23/2015	$8,938.61	Check 2667 to SDCTTC	FWSUPBRF-0010
11/02/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0011
11/30/2015	The temporary stay of the Sanctions Order expires		
12/04/2015	$45,000.00	Check 1272 to MAC	FWSUPBRF-0012
12/11/2015	$35,000.00	Wire Transfer Out to Santoro Whitmire Ltd.	FWSUPBRF-0013

See Ms. Mona's Redacted Bank Records, attached to Far West Supplement as **Exhibit 14.**

As reflected in the table above, Ms. Mona violated the Court's explicit prohibition against her effectuating any transfers of non-exempt property until the funds in her bank accounts were applied to Far West's Judgment by paying the law firm of Marquis Aurbach Coffing $45,000 on December 4, 2015 and the law firm of Santoro Whitmire Ltd. $35,000 on December 11, 2015, after the stay pending appeal of the Sanctions Order expired. *Id.*; *see* Sanctions Order, Ex. 1 to the Motion, at 10:25-28.

In sum, the Monas turned $3.4 million dollars into just $18,739.59 so they could avoid paying the money towards satisfaction of Far West's Judgment. Ms. Mona in particular continues to show contempt for this Court and its orders by directly violating the Sanctions Order. She is not taking this proceeding seriously. The Court is dumbfounded that Ms. Mona transferred $80,000 to the law firms of Marquis Aurbach Coffing and Santoro Whitmire Ltd. after the stay pending appeal expired in December 2015 in direct violation of the Sanctions Order, which reflects that she is not an innocent party in this proceeding. The pending writ proceeding does not excuse Ms. Mona's violation of the Sanctions Order, especially in light of the fact that the Ms. Mona posted no bond and any stay of the Sanctions Order terminated on November 30, 2015.

D. Mona Fraudulent Transfer Action

On September 14, 2015, Far West filed a lawsuit, *Far West Industries v. Mona, et al.*, Case No. A-15-724490-C, against the Monas, their son, Michael Mona III ("Michael III"), and Michael III's entity, Lundene Enterprises, LLC, for various fraudulent transfers, including the Post-Marital

Settlement Agreement (the "Mona Fraudulent Transfer Action"). The Mona Fraudulent Transfer Action is pending before the Honorable Judge Rob Bare. On December 4, 2015, the Monas filed a Motion to Dismiss the Mona Fraudulent Transfer Action. *See* Defendants' Motion to Dismiss (the "Motion to Dismiss"), attached to the Motion as **Exhibit 8**. Despite arguing before the Nevada Supreme Court that a separate action was required before imposing liability against Rhonda Mona in post-judgment proceedings, the Monas argued to Judge Bare that Far West's claim should be dismissed because Far West has already successfully obtained a "final order/judgment" that the $3.4 million transfer between the Monas was a fraudulent transfer from this Court. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 3:6-13 *and* Defendant Michael J. Mona, Jr.'s Reply in Support of Motion to Dismiss, attached to the Motion as **Exhibit 9**, at 7:13-15. The Monas further argued that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue[,]" referring to the Sanctions Order. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 9:6-14.

On December 18, 2015, Far West opposed the Monas' Motion to Dismiss and filed a countermotion seeking judgment against Ms. Mona for $3,406,601.10 based on the Sanctions Order and fraudulent transfer effectuated through the Post-Marital Settlement Agreement.

On February 2, 2016, Judge Bare heard the Monas' Motion to Dismiss and Plaintiff Far West Industries' Countermotion for Summary Judgment and on March 16, 2016, entered an order denying Far West's countermotion without prejudice and stating, "[T]his Order in no way prevents Far West from seeking the judgment requested in the Countermotion from the Honorable Joe Hardy" in this case.

E. The Monas' Inconsistent Positions During Litigation

Now that Far West is seeking to execute upon the Sanctions Order by obtaining an order from this Court, the Monas are taking a contrary position before this Court regarding the finality of the Sanctions Order. In the Mona Fraudulent Transfer Action, the Monas asserted that the first element for claim preclusion was satisfied because there is currently a final judgment on Far West's fraudulent transfer claim against Ms. Mona in the instant case. *See* Motion to Dismiss, Ex. 8 to the

Motion, at 9:19-20. In identifying the final judgment in this case, the Monas readily indicated that the Sanctions Order is an "Order/Judgment" against them. *Id.* at 8:4-5, 8:9-11. The Monas further argued before Judge Bare that "claim preclusion applies to [Far West's] Complaint because there are two valid and final judgments . . . [,]" clearly referring to the Sanctions Order as one of the valid and final judgments. *Id.* at 9:1-2. They again advocated that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue" and conceded that Far West "has already asserted and obtained an Order/Judgment regarding this same exact claim [for the fraudulent transfer of $3.4 million by Mr. Mona to Ms. Mona] in Case No. A-12-670352." *Id.* at 9:6-12.

Now the Monas are claiming before this Court that the Sanctions Order is not final and accordingly the Motion should be denied. In her Opposition to the Motion, Ms. Mona takes the position that the Sanctions Order is "interlocutory" and suggests that the Sanctions Order is somehow not final because it is on appeal.[3] *See* Ms. Mona's Opposition to the Motion, filed March 7, 2016, at 3:10-11, 4:9-10 and 23-25, 6:25-7:2. Mr. Mona takes a similar tone in his Opposition to the Motion when he argues the appeal of Sanctions Order somehow means this Court should not enter judgment in favor of Far West. *See* Mr. Mona's Opposition to the Motion, filed March 7, 2016, at 4:15-24.

The Monas also have taken inconsistent positions as to how Far West can seek redress for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement. Before the Nevada Supreme Court, the Monas argued that "[a] separate action was required before imposing liability against Rhonda." *See* Petition for Writ of Mandamus or Prohibition, Ex. 4 to the Mot., at 16 of 30. However, when Far West instituted the separate action before Judge Bare by bringing the Mona Fraudulent Transfer Action for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement, the Monas then argued "Plaintiff is barred from bringing the exact same claim, which has been decided and is the subject of an appeal." *See* Motion to Dismiss, Ex. 8 to the Motion, at

[3] Despite arguing in one instance that the Sanctions Order is only interlocutory in her Opposition to the Motion, Ms. Mona goes on to state in the same paper that the Sanctions Order entered "case terminating sanctions[.]" *See* Ms. Mona's Opposition to the Motion, at 4:14. It strains logic that an order entering case terminating sanctions is not final.

9:15-16. The Monas' arguments would leave Far West with no basis or forum to obtain relief from their fraudulent transfer.

Conclusions of Law

Pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court orders that Far West may immediately levy execution against Ms. Mona in the amount of $490,000.00 plus interest at the statutory rate to be calculated from July 15, 2015 (the date of entry of the Sanctions Order). The $490,000.00 amount reflects the amount that Ms. Mona testified was in her three bank accounts during her judgment debtor examination on June 26, 2015. Far West is precluded from seeking to recover amounts in excess of $490,000.00 against Ms. Mona, subject to future motion practice.

The Court makes its order pursuant to NRS 112.210(2) because Far West is a creditor that has obtained a judgment on a fraud claim against judgment debtor Mr. Mona. Nevada is a community property state, which subjects the entire marital estate to that judgment obtained against Mr. Mona. Therefore, the Court has authority to allow Far West to levy execution on the funds, up to $490,000, that the Court previously found were fraudulently transferred to Ms. Mona.

It is also fair and equitable to allow Far West to execute against Ms. Mona in the amount of $490,000 for several reasons:

First, the Court previously determined that the Monas fraudulently transferred $3.4 million to Ms. Mona through the Post-Marital Settlement Agreement. The original July 15, 2015 Sanctions Order arose with the issue with the bank accounts and testimony that at that time there was approximately $490,000 in the bank accounts. By the time collection was able to be made there was approximately $18,000 in the bank accounts.

Second, the Court is dumbfounded that Ms. Mona transferred funds after the stay pending appeal expired in violation of the Sanctions Order. Her conduct demonstrates that even if she was at one time an innocent party to this proceeding, she is no longer an innocent party and that she is not taking this action seriously.

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Third, regardless of whether Ms. Mona was a party to the judgment collection action, she received $3.4 million to the detriment of Far West. Accordingly, it is fair and equitable to allow Far West to track the $3.4 million transferred to Ms. Mona through the Post-Marital Settlement Agreement.

Fourth, to the extent it is necessary and in the alternative or in addition to the Court's statutory authority pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court considers the judicial estoppel doctrine, as set forth in *Mainor v. Nault*, 120 Nev. 750, 765, 101 P.3d 308, 318 (2004) and *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009). Judge Bare has not yet ruled on the Monas' Motion to Dismiss, such that the element of successful assertion of the initial position has not technically been met at this time. However, all of the other elements of judicial estoppel have been met. The Court finds that the Monas took two totally inconsistent positions as to the finality of the Sanctions Order in two judicial proceedings – this judgment collection action and the Mona Fraudulent Transfer Action in an attempt to obtain an unfair advantage in litigation including, at a minimum, delay. These positions were not taken as a result of ignorance, fraud, or mistake. In fact, at the Second Hearing, when Ms. Mona's counsel was asked whether she would withdraw her Motion to Dismiss as to the Second Cause of Action in the Mona Fraudulent Transfer Action, which relates to the $3.4 million transfer to her through the Post-Marital Settlement Agreement, counsel could not do that, which leaves a cloud over the Mona Fraudulent Transfer Action.

The Court acknowledges that the law is not perfectly clear on the doctrine of judicial estoppel. In *Mainor v. Nault,* the Nevada Supreme Court indicates that judicial estoppel is an extraordinary remedy that should be cautiously applied and that, although not all of the required elements are always necessary, the doctrine generally applies when they are present. Contrastingly, in *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009), the Nevada Supreme Court holds that "judicial estoppel will bar a party from raising an argument only when the following conjunctive test is satisfied," *i.e.*, all the elements are met. Not all of the elements for judicial estoppel have been met here, in particular the element requiring that the party be successful

in asserting the first position (i.e., the tribunal adopted the position or accepted it as true). Nevertheless, the Court finds that through the back and forth, inconsistent positions, and contradictory arguments between this Court, Judge Bare, and the Nevada Supreme Court, the Monas have attempted to obtain an unfair advantage. And, the primary purpose of judicial estoppel "to protect the judiciary's integrity" is met if the Court orders that execution and collection efforts may proceed against Ms. Mona on the $490,000.00, plus interest. The Court, therefore, invokes the doctrine at its discretion.

Fifth, there is no stay in place and no bond has been posted, which gives additional reason for the Court to allow execution up to $490,000 plus interest.

Based on the foregoing, and good cause appearing:

IT IS HEREBY ORDERED that the relief requested in the Motion is **GRANTED IN PART AND DENIED IN PART** as set forth herein;

IT IS HEREBY FURTHER ORDERED that, pursuant to NRS 112.210(2), the Court's powers in equity which are recognized in NRS 112.240, and the judicial estoppel doctrine, Far West may immediately execute against Ms. Mona up to $490,000.00, plus statutory interest calculated from July 15, 2015;

IT IS HEREBY FURTHER ORDERED that this Court may consider allowing Far West to execute against Ms. Mona in excess of $490,000.00, subject to future motion practice.

IT IS SO ORDERED.

Dated this 13th day of June, 2016.

JOE HARDY, JR.
DISTRICT COURT JUDGE
DEPARTMENT 15

CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I e-served, emailed, faxed, mailed or placed a copy of the AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the attorney folder in the Clerk's Office addressed to:

Thomas Edwards, Esq.	tedwards@nevadafirm.com
Terry Coffing, Esq.	tcoffing@maclaw.com
James Whitmire, III, Esq.	jwhitmire@santoronevada.com
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Judicial Executive Assistant

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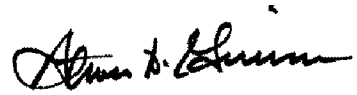

CLERK OF THE COURT

NEOJ
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HOLLEY•DRIGGS•WALCH
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DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No.: A-12-670352-F Dept. No.: XV **NOTICE OF ENTRY OF AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT**

YOU, and each of you, will please take notice that an AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the above entitled matter was filed and entered by

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the Clerk of the above-entitled Court on the 13th day of June, 2016, a copy of which is attached hereto.

Dated this 15th day of June, 2016.

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

F. THOMAS EDWARDS, ESQ. (NBN 9549)
ANDREA M. GANDARA, ESQ. (NBN 12580)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiff Far West Industries

HDW | HOLLEY•DRIGGS•WALCH / FINE•WRAY•PUZEY•THOMPSON

CERTIFICATE OF SERVICE

I certify that I am an employee of Holley Driggs Walch Fine Wray Puzey & Thompson, and that on the 15th day of June, 2016, I served via electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve, a true copy of the foregoing **NOTICE OF ENTRY OF AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT**, in the above matter, addressed as follows:

James E. Whitmire, Esq.
SANTORO WHITMIRE
10100 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89135
Attorneys for Defendants Rhonda Helene Mona, Michael Mona, III, and Lundene Enterprises, LLC

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An employee of Holley Driggs Walch
Fine Wray Puzey & Thompson

HDW | HOLLEY•DRIGGS•WALCH | FINE•WRAY•PUZEY•THOMPSON

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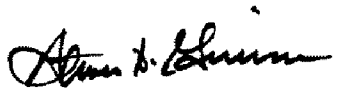

CLERK OF THE COURT

AMOR

DISTRICT COURT
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, Plaintiffs, vs. RIO VISTA NEVADA, LLC, et al., Defendants.	Case No: A670352 Dept No.: XV

AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT[1]

The Court held an initial hearing regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (the "Motion") on March 30, 2016, at 9:00 a.m. (the "Initial Hearing") and, following supplemental briefing, a continued hearing regarding the Motion on May 5, 2016, at 9:00 a.m. (the "Second Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq., of the law firm Holley Driggs Walch Fine Wray Puzey & Thompson, appeared on behalf of Plaintiff Far West Industries ("Far West"). Terry A. Coffing, Esq. and Tye S. Hanseen, Esq., of the law firm Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona"). James E. Whitmire, Esq. appeared on behalf of Rhonda Helene Mona ("Ms. Mona"). Collectively, Mr. Mona and Ms. Mona are referred to as the "Monas."

The Court reviewed all relevant pleadings and papers before it, including, but not limited to: (1) the Motion filed by Far West and Exhibits 1-9; (2) the Opposition to Motion filed by Mr. Mona

[1] This Amended *Nunc Pro Tunc* Order shall replace and supersede the Order filed herein on May 23, 2016, and shall be treated as if this order had been filed then.

("Mr. Mona's Opposition"); (3) the Opposition to Motion filed by Ms. Mona ("Ms. Mona's Opposition") and Exhibits A-C; (4) the Reply in Support of the Motion filed by Far West and Exhibits 10 and 11; (5) the Errata to Ms. Mona's Opposition to the Motion; (6) the Supplemental Brief filed by Ms. Mona ("Ms. Mona's Supplement") and Exhibits A-C; (7) the Supplemental Brief filed by Far West (the "Far West Supplement") and Exhibits 12-14; and (8) the Supplemental Brief filed by Mr. Mona ("Mr. Mona's Supplement").

With no other appearances having been made, the Court having reviewed and examined the papers, pleadings and records on file in the above-entitled matter and heard the argument of counsel, and good cause appearing therefore, the Court enters the following findings of fact and conclusions of law. To the extent any finding of fact should properly be designated a conclusion of law, it shall be deemed a conclusion of law. To the extent any conclusion of law should properly be designated a finding of fact, it shall be deemed a finding of fact.

FINDINGS OF FACT

A. Judgment Collection Action and Sanctions of the Monas

Far West has a domesticated California Judgment against Mr. Mona and the Mona Family Trust dated February 21, 2002 (the "Mona Family Trust") that is now nearly $25 million, including interest accruing at a rate of $4,967.30 per day.[2] *See* Application for Foreign Judgment, filed on October 18, 2012, attaching Judgment.

On September 13, 2013, after Far West domesticated its Judgment, the Monas executed a Post-Marital Settlement Agreement through which Mr. Mona and Ms. Mona were each transferred $3,406,601.10 from the sale of the Monas' community property shares of Medical Marijuana, Inc., for $6,813,202.20. *See* Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Sanctions Order"), entered July 15, 2015, at 3:24-28.

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[2] Pursuant to CAL. CIV. PRO. CODE § 685.010(a), "Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied."

During a judgment debtor examination on June 26, 2015, Ms. Mona testified regarding the Post-Marital Settlement Agreement and testified that she had three different bank accounts in her name that contained approximately $490,000.00 in community property funds. *Id.* at 6:20-7:12.

On June 29, 2015, Far West filed an Ex Parte Application for Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Application") seeking sanctions against the Monas for violating Court orders and lying under oath to conceal their fraudulent transfer through the Post-Marital Settlement Agreement and seeking to execute against the three accounts Ms. Mona testified contained community property funds. *See* OSC Application, filed June 29, 2015. On June 30, 2015, the Court issued the Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the "Order to Show Cause") scheduling a hearing on July 9, 2015. *See* Order to Show Cause, entered on June 30, 2015.

During the July 9, 2015 hearing on the Order to Show Cause, the Court sanctioned the Monas and stated that "the evidence overwhelmingly support[ed] a finding of fraudulent transfer in regard to the Post-Marital Property Settlement Agreement, and the Court so find[s] that . . . was a fraudulent transfer and that those assets therefore remain community property subject to execution." *See* Transcript of Show Cause Hearing: Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Hearing Transcript"), dated July 9, 2015, attached to the Motion as **Exhibit 3**, at 38:16-18.

On July 15, 2015, the Court entered the Sanctions Order, outlining in detail several badges of fraud associated with the Post-Marital Settlement Agreement:

> First, the transfer in the Post-Marital Settlement Agreement was to an insider, Ms. Mona, as she is the wife of Mr. Mona, a judgment debtor, and was at all relevant times the Trustee of the Mona Family Trust, a judgment debtor.
>
> Second, Mr. Mona appears to have retained possession and control over some portion of the funds that were purportedly transferred pursuant to the Post-Marital Settlement Agreement.
>
> Third, Mr. Mona concealed the transaction by not producing the Post-Marital Settlement Agreement as required by the January 2013 Order

> and October 2013 Order and by not disclosing the transfer during his judgment debtor examination on November 25, 2013. Mr. Mona was not truthful when he was asked during the November 25, 2013 examination about what he did with the approximately $6.8 million dollars.
>
> Fourth, prior to effectuating the transfer through the Post-Marital Settlement Agreement, Far West sued and obtained the Judgment against Mr. Mona and the Mona Family Trust.
>
> Fifth, the Post-Marital Settlement Agreement, and the related transfers of the proceeds from the sale of the stock, transferred substantially all of Mr. Mona's assets as he was insolvent at the time of the transfers, or rendered Mr. Mona insolvent shortly after they were made.
>
> Sixth, Mr. Mona concealed assets by failing to disclose the Post-Marital Settlement Agreement in 2013, by not disclosing the transfer during his judgment debtor examination on November 25, 2013, and by not producing the bank account records for the accounts in Ms. Mona's name.
>
> Seventh, at the time of the transfer through the Post-Marital Settlement Agreement, Mr. Mona was insolvent, or the transfer rendered Mr. Mona insolvent shortly after it was made.

See Sanctions Order, entered July 15, 2015, at 8:16-9:9; *see also* OSC Hearing Transcript, dated July 9, 2015, Ex. 3, at 37:14-38:20 (describing facts demonstrating badges of fraud).

The Sanctions Order further stated:

> **IT IS HEREBY FURTHER ORDERED** that the Monas' purported transfer pursuant to the Post-Marital Property Settlement Agreement is a fraudulent transfer, and the facts proving the fraudulent transfer, including the badges of fraud outlined above, are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the facts entitling Plaintiff to execute upon the bank accounts in the name of Mrs. Mona are deemed established;
>
> **IT IS HEREBY FURTHER ORDERED** that the Monas are prohibited from claiming that any money purportedly transferred pursuant to the Post-Marital Property Settlement Agreement and any money in the bank accounts in the name of Mrs. Mona are exempt from execution;
>
> . . .
>
> **IT IS HEREBY FURTHER ORDERED** that Mr. Mona, Mrs. Mona, and the Monas collectively are prohibited from effectuating any transfers or otherwise disposing of or encumbering any property not exempt from execution and until the money in the bank accounts in the name of Mrs. Mona are applied to Plaintiff's Judgment.

See Sanctions Order, entered July 15, 2015, at 10:7-28.

B. Writ Petition Regarding Sanctions and Stay Pending Writ

The Monas filed a Petition for Writ of Mandamus or Prohibition as to the Sanctions Order on July 17, 2015. Among other arguments, the Monas contended that "a separate action was required before imposing liability against Rhonda Mona." *See* Petition for Writ of Mandamus or Prohibition, filed July 17, 2015, attached to the Motion as **Exhibit 4**, at 16 of 30.

On July 20, 2015, the Nevada Supreme Court issued its Order Granting Temporary Stay that stayed the Sanctions Order and proceedings in the above-captioned action. *See* Order Granting Temporary Stay, entered July 20, 2015, attached to the Motion as **Exhibit 5**.

On October 16, 2015, this Court issued its Order Regarding Motion on an Order Shortening Time for Bond Pending Appeal (the "Bond Order"), which ordered Mr. Mona and the Mona Family Trust to post a bond of $24,172,076.16 within seven business days of September 17, 2015 and Ms. Mona to post a bond of $490,000.00 within 30 calendar days of September 17, 2015. *See* Bond Order, dated October 16, 2015, at 7:6-11.

The same date, October 16, 2015, the Nevada Supreme Court issued an Order that stayed the supersedeas bond requirement and maintained the prior stay pending further briefing from the parties. *See* Order, dated October 16, 2015, attached to the Motion as **Exhibit 6**, pp. 1-2.

On November 19, 2015, the Nevada Supreme Court issued an Order Denying Motion, which stated:

> This court's stay entered August 31, 2015, and temporary stay entered October 16, 2015, shall expire within 5 business days from the date of this order unless the parties comply with the bond requirements imposed by the district court in its written order of October 16, 2015, as a condition of any stay.

See Order Denying Motion, dated November 19, 2015, attached to the Motion as **Exhibit 7**, at pp. 1-2.

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Pursuant to the Bond Order and Order Denying Motion, the stay of this action and the Sanctions Order pending the writ proceeding terminated on November 30, 2015 when Mr. Mona and Ms. Mona failed to post the required bonds.

C. Execution of Sanctions Order

When Far West was finally able to execute against Ms. Mona's accounts after the stay pending appeal expired, only $18,739.59 remained, which is less than 1% of the $3.4 million originally fraudulently transferred to Ms. Mona and less than 4% of the $490,000.00 that existed when the Sanctions Order was issued. *See* Answers to Writ of Garnishment from Bank of George, attached to Far West Supplement as **Exhibit 12**, and Answers to Writ of Garnishment from Bank of Nevada, attached to Far West Supplement as **Exhibit 13**.

Based on bank records recently produced by Ms. Mona, she transferred more than $430,000.00 after Far West moved to execute against the bank accounts in her name, including the following transfers:

06/26/2015	Ms. Mona testifies regarding fraudulent transfer through Post-Marital Settlement Agreement and separate bank accounts		
06/29/2015	Far West files its Ex Parte Application For Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find The Monas In Contempt		
07/02/2015	$10,000.00	Check to Lemons, Grundy & Eisenberg	FWSUPBRF-0001
07/02/2015	$30,000.00	Check to Kainen Law Group	FWSUPBRF-0001
07/02/2015	$75,000.00	Wire Transfer Out to Marquis Aurbach Coffing Trust	FWSUPBRF-0002
07/02/2015	$20,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/02/2015	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0001
07/06/2015	$7,708.00	Check 2582 to Ramon Sarti	FWSUPBRF-0003
07/08/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/15/2015	The Court enters the Sanctions Order		
07/20/2015	The Nevada Supreme Court enters a temporary stay of the Sanctions Order		
07/22/2015	$5,080.96	Check 2600 to Clark County Treasurer	FWSUPBRF-0004
08/24/2015	$1,523.70	Payment to Parkloft Condominium Association	FWSUPBRF-0005
08/24/2015	$2,570.70	Check 2622 to A-1 Self Storage	FWSUPBRF-0006
08/24/2015	$22,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0007

09/15/2015 *incorrectly dated as 2014	$9,500.00	Check to Rhonda Mona	FWSUPBRF-0008
09/22/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
09/24/2015	$75,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
10/23/2015	$8,938.61	Check 2667 to SDCTTC	FWSUPBRF-0010
11/02/2015	$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0011
11/30/2015	The temporary stay of the Sanctions Order expires		
12/04/2015	$45,000.00	Check 1272 to MAC	FWSUPBRF-0012
12/11/2015	$35,000.00	Wire Transfer Out to Santoro Whitmire Ltd.	FWSUPBRF-0013

See Ms. Mona's Redacted Bank Records, attached to Far West Supplement as **Exhibit 14.**

As reflected in the table above, Ms. Mona violated the Court's explicit prohibition against her effectuating any transfers of non-exempt property until the funds in her bank accounts were applied to Far West's Judgment by paying the law firm of Marquis Aurbach Coffing $45,000 on December 4, 2015 and the law firm of Santoro Whitmire Ltd. $35,000 on December 11, 2015, after the stay pending appeal of the Sanctions Order expired. *Id.*; *see* Sanctions Order, Ex. 1 to the Motion, at 10:25-28.

In sum, the Monas turned $3.4 million dollars into just $18,739.59 so they could avoid paying the money towards satisfaction of Far West's Judgment. Ms. Mona in particular continues to show contempt for this Court and its orders by directly violating the Sanctions Order. She is not taking this proceeding seriously. The Court is dumbfounded that Ms. Mona transferred $80,000 to the law firms of Marquis Aurbach Coffing and Santoro Whitmire Ltd. after the stay pending appeal expired in December 2015 in direct violation of the Sanctions Order, which reflects that she is not an innocent party in this proceeding. The pending writ proceeding does not excuse Ms. Mona's violation of the Sanctions Order, especially in light of the fact that the Ms. Mona posted no bond and any stay of the Sanctions Order terminated on November 30, 2015.

D. Mona Fraudulent Transfer Action

On September 14, 2015, Far West filed a lawsuit, *Far West Industries v. Mona, et al.*, Case No. A-15-724490-C, against the Monas, their son, Michael Mona III ("Michael III"), and Michael III's entity, Lundene Enterprises, LLC, for various fraudulent transfers, including the Post-Marital

Settlement Agreement (the "Mona Fraudulent Transfer Action"). The Mona Fraudulent Transfer Action is pending before the Honorable Judge Rob Bare. On December 4, 2015, the Monas filed a Motion to Dismiss the Mona Fraudulent Transfer Action. *See* Defendants' Motion to Dismiss (the "Motion to Dismiss"), attached to the Motion as **Exhibit 8**. Despite arguing before the Nevada Supreme Court that a separate action was required before imposing liability against Rhonda Mona in post-judgment proceedings, the Monas argued to Judge Bare that Far West's claim should be dismissed because Far West has already successfully obtained a "final order/judgment" that the $3.4 million transfer between the Monas was a fraudulent transfer from this Court. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 3:6-13 *and* Defendant Michael J. Mona, Jr.'s Reply in Support of Motion to Dismiss, attached to the Motion as **Exhibit 9**, at 7:13-15. The Monas further argued that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue[,]" referring to the Sanctions Order. *See* Motion to Dismiss, filed December 4, 2015, Ex. 8, at 9:6-14.

On December 18, 2015, Far West opposed the Monas' Motion to Dismiss and filed a countermotion seeking judgment against Ms. Mona for $3,406,601.10 based on the Sanctions Order and fraudulent transfer effectuated through the Post-Marital Settlement Agreement.

On February 2, 2016, Judge Bare heard the Monas' Motion to Dismiss and Plaintiff Far West Industries' Countermotion for Summary Judgment and on March 16, 2016, entered an order denying Far West's countermotion without prejudice and stating, "[T]his Order in no way prevents Far West from seeking the judgment requested in the Countermotion from the Honorable Joe Hardy" in this case.

E. The Monas' Inconsistent Positions During Litigation

Now that Far West is seeking to execute upon the Sanctions Order by obtaining an order from this Court, the Monas are taking a contrary position before this Court regarding the finality of the Sanctions Order. In the Mona Fraudulent Transfer Action, the Monas asserted that the first element for claim preclusion was satisfied because there is currently a final judgment on Far West's fraudulent transfer claim against Ms. Mona in the instant case. *See* Motion to Dismiss, Ex. 8 to the

Motion, at 9:19-20. In identifying the final judgment in this case, the Monas readily indicated that the Sanctions Order is an "Order/Judgment" against them. *Id.* at 8:4-5, 8:9-11. The Monas further argued before Judge Bare that "claim preclusion applies to [Far West's] Complaint because there are two valid and final judgments . . . [,]" clearly referring to the Sanctions Order as one of the valid and final judgments. *Id.* at 9:1-2. They again advocated that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the Issue" and conceded that Far West "has already asserted and obtained an Order/Judgment regarding this same exact claim [for the fraudulent transfer of $3.4 million by Mr. Mona to Ms. Mona] in Case No. A-12-670352." *Id.* at 9:6-12.

Now the Monas are claiming before this Court that the Sanctions Order is not final and accordingly the Motion should be denied. In her Opposition to the Motion, Ms. Mona takes the position that the Sanctions Order is "interlocutory" and suggests that the Sanctions Order is somehow not final because it is on appeal.[3] *See* Ms. Mona's Opposition to the Motion, filed March 7, 2016, at 3:10-11, 4:9-10 and 23-25, 6:25-7:2. Mr. Mona takes a similar tone in his Opposition to the Motion when he argues the appeal of Sanctions Order somehow means this Court should not enter judgment in favor of Far West. *See* Mr. Mona's Opposition to the Motion, filed March 7, 2016, at 4:15-24.

The Monas also have taken inconsistent positions as to how Far West can seek redress for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement. Before the Nevada Supreme Court, the Monas argued that "[a] separate action was required before imposing liability against Rhonda." *See* Petition for Writ of Mandamus or Prohibition, Ex. 4 to the Mot., at 16 of 30. However, when Far West instituted the separate action before Judge Bare by bringing the Mona Fraudulent Transfer Action for the Monas' fraudulent transfer through the Post-Marital Settlement Agreement, the Monas then argued "Plaintiff is barred from bringing the exact same claim, which has been decided and is the subject of an appeal." *See* Motion to Dismiss, Ex. 8 to the Motion, at

[3] Despite arguing in one instance that the Sanctions Order is only interlocutory in her Opposition to the Motion, Ms. Mona goes on to state in the same paper that the Sanctions Order entered "case terminating sanctions[.]" *See* Ms. Mona's Opposition to the Motion, at 4:14. It strains logic that an order entering case terminating sanctions is not final.

9:15-16. The Monas' arguments would leave Far West with no basis or forum to obtain relief from their fraudulent transfer.

Conclusions of Law

Pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court orders that Far West may immediately levy execution against Ms. Mona in the amount of $490,000.00 plus interest at the statutory rate to be calculated from July 15, 2015 (the date of entry of the Sanctions Order). The $490,000.00 amount reflects the amount that Ms. Mona testified was in her three bank accounts during her judgment debtor examination on June 26, 2015. Far West is precluded from seeking to recover amounts in excess of $490,000.00 against Ms. Mona, subject to future motion practice.

The Court makes its order pursuant to NRS 112.210(2) because Far West is a creditor that has obtained a judgment on a fraud claim against judgment debtor Mr. Mona. Nevada is a community property state, which subjects the entire marital estate to that judgment obtained against Mr. Mona. Therefore, the Court has authority to allow Far West to levy execution on the funds, up to $490,000, that the Court previously found were fraudulently transferred to Ms. Mona.

It is also fair and equitable to allow Far West to execute against Ms. Mona in the amount of $490,000 for several reasons:

First, the Court previously determined that the Monas fraudulently transferred $3.4 million to Ms. Mona through the Post-Marital Settlement Agreement. The original July 15, 2015 Sanctions Order arose with the issue with the bank accounts and testimony that at that time there was approximately $490,000 in the bank accounts. By the time collection was able to be made there was approximately $18,000 in the bank accounts.

Second, the Court is dumbfounded that Ms. Mona transferred funds after the stay pending appeal expired in violation of the Sanctions Order. Her conduct demonstrates that even if she was at one time an innocent party to this proceeding, she is no longer an innocent party and that she is not taking this action seriously.

///

Third, regardless of whether Ms. Mona was a party to the judgment collection action, she received $3.4 million to the detriment of Far West. Accordingly, it is fair and equitable to allow Far West to track the $3.4 million transferred to Ms. Mona through the Post-Marital Settlement Agreement.

Fourth, to the extent it is necessary and in the alternative or in addition to the Court's statutory authority pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS 112.240, the Court considers the judicial estoppel doctrine, as set forth in *Mainor v. Nault*, 120 Nev. 750, 765, 101 P.3d 308, 318 (2004) and *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009). Judge Bare has not yet ruled on the Monas' Motion to Dismiss, such that the element of successful assertion of the initial position has not technically been met at this time. However, all of the other elements of judicial estoppel have been met. The Court finds that the Monas took two totally inconsistent positions as to the finality of the Sanctions Order in two judicial proceedings – this judgment collection action and the Mona Fraudulent Transfer Action in an attempt to obtain an unfair advantage in litigation including, at a minimum, delay. These positions were not taken as a result of ignorance, fraud, or mistake. In fact, at the Second Hearing, when Ms. Mona's counsel was asked whether she would withdraw her Motion to Dismiss as to the Second Cause of Action in the Mona Fraudulent Transfer Action, which relates to the $3.4 million transfer to her through the Post-Marital Settlement Agreement, counsel could not do that, which leaves a cloud over the Mona Fraudulent Transfer Action.

The Court acknowledges that the law is not perfectly clear on the doctrine of judicial estoppel. In *Mainor v. Nault*, the Nevada Supreme Court indicates that judicial estoppel is an extraordinary remedy that should be cautiously applied and that, although not all of the required elements are always necessary, the doctrine generally applies when they are present. Contrastingly, in *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009), the Nevada Supreme Court holds that "judicial estoppel will bar a party from raising an argument only when the following conjunctive test is satisfied," *i.e.*, all the elements are met. Not all of the elements for judicial estoppel have been met here, in particular the element requiring that the party be successful

in asserting the first position (i.e., the tribunal adopted the position or accepted it as true). Nevertheless, the Court finds that through the back and forth, inconsistent positions, and contradictory arguments between this Court, Judge Bare, and the Nevada Supreme Court, the Monas have attempted to obtain an unfair advantage. And, the primary purpose of judicial estoppel "to protect the judiciary's integrity" is met if the Court orders that execution and collection efforts may proceed against Ms. Mona on the $490,000.00, plus interest. The Court, therefore, invokes the doctrine at its discretion.

Fifth, there is no stay in place and no bond has been posted, which gives additional reason for the Court to allow execution up to $490,000 plus interest.

Based on the foregoing, and good cause appearing:

IT IS HEREBY ORDERED that the relief requested in the Motion is **GRANTED IN PART AND DENIED IN PART** as set forth herein;

IT IS HEREBY FURTHER ORDERED that, pursuant to NRS 112.210(2), the Court's powers in equity which are recognized in NRS 112.240, and the judicial estoppel doctrine, Far West may immediately execute against Ms. Mona up to $490,000.00, plus statutory interest calculated from July 15, 2015;

IT IS HEREBY FURTHER ORDERED that this Court may consider allowing Far West to execute against Ms. Mona in excess of $490,000.00, subject to future motion practice.

IT IS SO ORDERED.

Dated this 13th day of June, 2016.

JOE HARDY, JR.
DISTRICT COURT JUDGE
DEPARTMENT 15

CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I e-served, emailed, faxed, mailed or placed a copy of the AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the attorney folder in the Clerk's Office addressed to:

Thomas Edwards, Esq.	tedwards@nevadafirm.com
Terry Coffing, Esq.	tcoffing@maclaw.com
James Whitmire, III, Esq.	jwhitmire@santoronevada.com
Erika Pike Turner, Esq.	eturner@gtg.legal
William Urga, Esq.	wru@juww.com

Judicial Executive Assistant

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **January 24, 2013**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

January 24, 2013 **3:00 AM** **Minute Order**

HEARD BY: Earley, Kerry **COURTROOM:**

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- As this Court is familiar with one of the parties, in accordance with Rule 2.11(a), and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS this case be REASSIGNED at random. Matters set on Department IV s December 13, 2012 Civil Motion Calendar are CONTINUED 30 days pending department reassignment.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment	COURT MINUTES	**May 31, 2013**

A-12-670352-F	Far West Industries, Plaintiff(s) vs. Rio Vista Nevada, LLC , Defendant(s)

May 31, 2013	**9:00 AM**	**Motion for Order to Show Cause**	**Plaintiff's Motion for Order to Show Cause Regarding Contempt on OST**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Ying Pan

RECORDER: Kerry Esparza

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Attorney John Muije (Bar No. 2419) appearing on behalf of Defendants.

Mr. Hawley indicated there is a Foreign Judgment. Mr. Muije stated Defendants were never served in Nevada, and he just found out about this Motion less than 48 hours ago. COURT ORDERED, matter CONTINUED; Defendants' Supplemental Opposition DUE by 6/14/13, and Plaintiff's Reply DUE by 6/26/13. Mr. Hawley requested Defendant, Michael Mona, be admonished not to transfer any money in the interim. Mr. Muije opposed the admonishment as this Court does not have jurisdiction over Mr. Mona.

CONTINUED TO: 7/3/13 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment	COURT MINUTES	**July 03, 2013**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

July 03, 2013 **9:00 AM** **Motion for Order to Show Cause**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES PRESENT:
Hawley, John R. Attorney
Muije, John W. Attorney

JOURNAL ENTRIES

- Argument by counsel on PLAINTIFF'S MOTION FOR ORDER FOR MICHAEL J. MONA TO SHOW CAUSE REGARDING CONTEMPT FOR FAILURE TO APPEAR AT JUDGMENT DEBTOR EXAMINATION. Mr. Hawley advised that a mutually agreed date with defendant and his former counsel had been set and then the defendant did not appear. He stated that if the defendant would appear at an examination, plaintiff would withdraw its show cause motion. He explained that this action was a foreign judgment entered in order to collect on a California judgment against defendant Mona which Mr. Mona did not appeal. Mr. Muije stated defendant Mona was not in contempt of court as he had never been personally served on this action and pursuant to statute, a foreign judgment is to be considered a new case. COURT STATED ITS FINDINGS that this matter was governed by Rule 5 and that service was proper. COURT ORDERED motion GRANTED; with new date for examination to be set out at least 30 days at a time agreeable to Mr. Muije. Mr. Muije made an oral motion requesting a stay to prepare a writ regarding Court's ruling that personal service was not required, which was objected to Mr. Hawley, and COURT ORDERED DENIED.

Mr. Hawley to prepare proposed Order.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **September 18, 2013**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

September 18, 2013 **9:00 AM** **Status Check**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES PRESENT:

Hawley, John R.	Attorney
Muije, John W.	Attorney

JOURNAL ENTRIES

- At STATUS CHECK: COMPLIANCE WITH COURT'S 7/25/13 ORDER, counsel requested Court's guidance to set parameters to return defendant's business records and to conduct the judgment debtor exam. Counsel advised 18 of 20 boxes have been delivered and the remaining 2 should be delivered next week. Court instructed Mr. Hawley to make copies of the records in his possession and return them to Mr. Muije next Wednesday (Sept 25) when the final boxes are delivered; copy and return those documents within one week (October 2) and set the judgment debtor exam for two 8-hour days with reasonable breaks after reviewing the documents. COURT ORDERED status check SET but advised counsel if the matter should be wrapped up, the status check could be vacated by notice to Chambers.

CONTINUED TO 12/4/2013 AT 9:00AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment	COURT MINUTES	**December 04, 2013**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

December 04, 2013 **9:00 AM** **Status Check**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES PRESENT:
Hawley, John R. Attorney
Muije, John W. Attorney

JOURNAL ENTRIES

- At STATUS CHECK: COMPLIANCE WITH COURT'S 7/25/13 ORDER, counsel appeared and explained that the parties have conducted the judgment debtor's exam and everything is going along satisfactorily. Upon Court's inquiry, counsel advised they did not want to close this case and would like another status check set in six months. COURT SO ORDERED.

CONTINUED TO 7/23/2014 at 9:00AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **April 14, 2014**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

April 14, 2014 **1:30 PM** **Motion to Compel**

HEARD BY: Beecroft, Chris A., Jr. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Alan Castle

RECORDER: Richard Kangas

REPORTER:

PARTIES PRESENT:
Coffing, Terry A. Attorney
Hawley, John R. Attorney

JOURNAL ENTRIES

- Arguments by counsel. COMMISSIONER RECOMMENDED, Plaintiff's Motion to Compel Discovery is DENIED. Mr. Coffing will prepare Report and Recommendation and submit to Discovery Commissioner within ten (10) days of this hearing, otherwise, SANCTIONS MAY ISSUE; Mr. Hawley to approve as to form and content. Matter set for status check on compliance.

5/05/14 2:00 p.m. Status Check: Compliance - Report and Recommendations

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment	COURT MINUTES	**May 02, 2014**

A-12-670352-F	Far West Industries, Plaintiff(s) vs. Rio Vista Nevada, LLC , Defendant(s)

May 02, 2014	**9:00 AM**	**Motion to Associate Counsel**

HEARD BY: Sturman, Gloria **COURTROOM:** RJC Courtroom 03H

COURT CLERK: Linda Denman

RECORDER: Kerry Esparza

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- NON-PARTY THEODORE SOBIESKI'S ("SOBIESKI") BY AND THROUGH HIS COUNSEL JOLLY URGA, MOTION TO ASSOCIATE COUNSEL (S. TODD NEAL, ESQ.) was left on calendar for counsel to explain why the motion was filed in this closed case but supporting documentation referenced a current business court case. MATTER OFF CALENDAR.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **March 18, 2015**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

March 18, 2015 **9:30 AM** **Show Cause Hearing**

HEARD BY: Scotti, Richard F. **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Keri Cromer

RECORDER:

REPORTER: Jennifer Church

PARTIES PRESENT: Hawley, John R. Attorney

JOURNAL ENTRIES

- Mr. Hawley advised this was a foreign judgment and they had a six-year writ of garnishment. Court directed Mr. Hawley to contact Chambers if it could help in any way.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **June 10, 2015**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

June 10, 2015 **9:00 AM** **Motion for Protective Order**

HEARD BY: Hardy, Joe **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Jennifer Kimmel

RECORDER: Matt Yarbrough

REPORTER:

PARTIES PRESENT:

Edwards, F. Thomas	Attorney
Gandara, Andrea	Attorney
Hanseen, Tye S.	Attorney

JOURNAL ENTRIES

- Court stated its inclinations. Matter argued and submitted. Court stated, this case has a tortured history relating to the examination of the judgment debtor. Additionally the Defense has caused the Court concern given they have not provided any details about the travel schedule of the debtor, Mr. Mona, which should have been done.

COURT FINDS, Mr. Mona has been given sufficient notice to be present for the next examination. Accordingly, COURT ORDERED, Deft's counsel shall provide documents requested and they shall be either hand delivered to the Pltfs Counsel's office or through e-mail on or before 6/19/15.

COURT FURTHER ORDERED, parties shall reach an agreement as to the date of the examination of judgment debtor which shall occur on or between 6/23/15 and 6/30/15, as mutually convenient with the opposing side. Court directed counsel to accommodate the opposing side when setting this examination.

COURT stated, the Deft. cannot unilaterally decide not to answer some of the Pltf's questions simply

because he has previously answered those questions.

COURT admonished Deft. is under the obligation to not transfer any non-exempt asset(s).

Court directed Mr. Edwards, Esq. to prepare the Order and submit to Mr. Hanseen, Esq. for his review and signature.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **July 09, 2015**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

July 09, 2015 **9:00 AM** **Show Cause Hearing**

HEARD BY: Hardy, Joe **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Jennifer Kimmel

RECORDER: Matt Yarbrough

REPORTER:

PARTIES PRESENT:

Coffing, Terry A.	Attorney
Edwards, F. Thomas	Attorney
Gandara, Andrea	Attorney

JOURNAL ENTRIES

- Also present Mssrs. Ed Kainen, Esq. and Andrew Kynaston, Esq. in interest for Ms. Rhonda Mona as counsel in the divorce case. Mr. Coffing, Esq. present on behalf of Mr. Mona and Ms. Mona only as limited to this Motion for the Order to Show Cause (OSC) and Mr. Mona has waived any potential conflict concerning same.

Court having reviewed the Ex-parte Application for OSC, Order to Show Cause, Notice of Entry of Order on the OSC , Receipt of Copy and Mr. Mona s Response to the OSC, Pltf s Reply in support of the OSC as well as Mr. Mona s Supplement to the Response to the OSC, which was received yesterday, late. As well as several Nevada cases and cites and the exhibits attached to the briefs. Court is familiar with the issues and given the seriousness of these issues Court expects to entertain arguments. Courtesy copy of Ms. Mona's declaration was provided to the Court by Mr. Edwards.

Matter argued and submitted by Mr. Edwards. Court appreciates the concession by Pltf. that if Mr. or Mrs. Mona do want another Judge to rule on the contempt issue they are entitled to that right. Court did review that statute and a couple of the cases therefore COURT is NOT FINDING CONTEMPT by either Mr. or Ms. Mona, unless they want the Court to consider it today, and the Court would

presume they do not. Therefore the request for contempt is DENIED WITHOUT PREJUDICE and if the Pltf. wants to follow up with another Judge on that ground, the Court will consider whether or not sanctions should be issued.

The Court appreciates the supplement filed by Mr. Mona, and although the timing was not appreciated, the Court does find it to be understandable given the timing of the hearing today.

Matter argued and submitted by Mr. Coffing. Mr. Coffing concedes that Mr. Edwards offered to continue this hearing. Court inquired if counsel want a continuance to which Mr. Coffing advised there is injunctive language that his client could not live with within the time frame his and all interested parties would permit therefore it was necessary to go forward today. Court inquired as to why Mr. Mona has not provided the documents requested in the examination of judgment debtor, given he is the debtor. Mr. Coffing explained the bank accounts were no longer in Mr. Mona s name and they were no longer his records.

COURT ORDERED, matter is GRANTED in PART and DENIED in PART the sanctions requested.

Norwest and Hogevoll cases, cited by Mr. and Mrs. Mona do not apply in this situation. Those cases are distinguishable in that neither of them dealt with collection of judgment as we have here. Additionally the fact that appears undisputed that Ms. Mona had nothing to do with the underlying transactions is largely irrelevant at this judgment execution stage.

In the Opposition, Pg. 6, line 13 Mr. & Mrs. Mona s are in the process of a divorce but left out this fact at that proceedings were filed 7/2 and and both had testified in their examination shortly before the 7/2 hearing and did not indicate, at that time of any plans to get divorced.

The Monas argue that the Court does not have authority to rule, due to the pending divorce action, but they provide no authority by case law or statute that says a Judge must stay or defer ruling to a recently filed divorce proceeding that was initiated after the Court issued several Orders to Show Cause.

The Monas admit on Pg. 7, line 9 of their Opposition that the rule is that all property acquired after marriage is presumed to be community property and the Court agrees with that. It is undisputed the parties were married for thirty years. There has been no evidence , before the Court, that the assets and debts and property we are dealing with were acquired prior to their marriage and therefore the Considers those assets, debts and property to be community property due to lack of evidence to the contrary.

Court has authority under NRS 21.280 and 21.330 to order parties, judgment debtors and even non-parties, to the extent Ms. Mona is considered to be a non-party, not to transfer or dispose of assets as the Court has and is doing today.

COURT FINDS, regarding the Post-Marital Property Settlement Agreement after considering the

factors set forth in NRS 112.180(1)(a) that the distribution is or was a fraudulent transfer made to hinder, delay or otherwise defraud Pltf. in its efforts to execute on the judgment. Therefore COURT FINDS the property contained therein; the 6.8 million or so in proceeds does remain to be community property, subject to execution.

COURT FINDS, Mr. Mona lied on 11/25/13 examination regarding what he did with the stock sale proceeds ie: paid bills, which was obviously not entirely true. Then he indicated he paid off some debts, just personal bills and loaned 2.6 million to Roen Ventures. But at no time did he report or disclose, in either the document production or at his examination hearing of the purported transfer of 3.4 million to Ms. Mona. Sometimes, parties can say, I forgot however the problem with Mr. Mona taking that position is that the purported transfer occurred just a few weeks before his examination. Additionally COURT FINDS, Mr. Mona violated the 1/30/13 order by not producing the agreement or the bank account records that purportedly are Ms. Mona s separate bank account. COURT FINDS that those would constitute community property and should have been disclosed and were not. COURT further FINDS, Mr. Mona did violate the order of 10/7/13 to complete production of documents. Violated the 5/13/15 order by failing to produce the community property bank records. Specified these bank accounts are the Bank of George checking account, Bank of George Money Market Account and the Bank of Nevada checking account. Given the bank account numbers were not provided in Ms. Mona s examination the court does not have them and hopes this description is sufficient.

Under NRS 21.320 the money in the Bank of Georgia and Bank of Nevada is subject to and shall be used to satisfy this judgment in accordance with the rules of execution on judgment including the various exemptions that may apply.

Mr. Mona further admits he should have provided the Post Marital Agreement, thought he did produce it, but does not know why he did not disclose that information.

Court looks at the Nevada Supreme Court cited by Pltf. and Henry vs. Rizzolo case and FINDS transfer set forth in the Post Marital Agreement was transfer to an insider. There is some question as to whether Ms. Mona received 3.4 million or 2 million and if it was 2 million, certainly Mr. Mona, as the judgment debtor, did retain some possession or control after the ostensible transfer of 3.4 million. COURT FINDS the transfer was concealed and was not produced. Mr. Mona was not truthful in his answers at the examination.

Before the transfer was made, certainly the debtors, knew they had been sued and he had a judgment against him. The transfer was of substantially all of the debtor's assets as Mr. Mona testified he was insolvent. Again, debtor removed or concealed assets by effectuating that purported transfer and not disclosing it either in the production nor in the examination testimony. Additionally, the debtor was insolvent or became insolvent shortly after the transfer.

Court agrees with Pltf. in characterizing "Badges of Fraud" or factors and they are not an exhaustive list such as elements in a complaint and you do not have to meet every one of the factors to reach a

conclusion that a fraudulent transfer was made.

COURT ORDERED the purported transfer, pursuant to the Post-Mairtal Property Settlement Agreement is a fraudulent transfer, and the facts proving the fraudulent transfer, including badges of fraud as discussed previously, are deemed established. COURT issues an order entitling Plaintiff to execute upon the bank accounts at Bank of George and Bank of Nevada in the name of Ms. Mona are deemed established.
- COURT FURTHER ORDERED, the Monas are prohibited from claiming that any money purportedly transferred pursuant to the Post-Marital Property Settlement Agreement and any money in the bank accounts in the name of Ms. Mona are exempt from execution. The Court does not issue 4, does not issue 5 as those are the contempt related sanctions.

COURT FURTHER ORDERED, Mr. and Ms. Mona, produce within seven days (7) from today, any previously undisclosed bank records for the past five years, regardless of whose name is on the account.

COURT FURTHER ORDERED, Pltf. awarded reasonable expenses, including attorney s fees and costs incurred, as a result of the failure to comply with the Court s orders. Pltf. is directed to submit a bill of fees and costs within seven (7) days from today. Court will not order Mr. Mona be imprisoned.

COURT FURTHER ORDERED, Mr. and Ms. Mona are prohibited from effectuating any transfer or otherwise disposing of or encumbering any property not exempt from execution until their assets have been applied toward satisfaction of Pltf s judgment.

Mr. Coffing moved for SEVEN (7) DAY STAY of the Court s ruling, additional argument ensued. COURT FURTHER ORDERED, request is GRANTED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **September 17, 2015**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

September 17, 2015 9:00 AM Motion

HEARD BY: Hardy, Joe **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Jennifer Kimmel

RECORDER: Matt Yarbrough

REPORTER:

PARTIES PRESENT:

Coffing, Terry A.	Attorney
Edwards, F. Thomas	Attorney
Gandara, Andrea	Attorney

JOURNAL ENTRIES

- Court has reviewed the Pltf's Motion on an Order Shortening Time for Bond Pending Appeal, the attached exhibits , the Supreme Court order of 8/31/15, the Opposition to this Motion, the Nelson vs. Hear case and McCullock vs. Genkins case as well as briefs submitted to the Court previously and the Court's 7/15/15 Order which gave rise to the Writ filed in front of the Supreme Court.

Matter argued and submitted. Mr. Edwards, Esq. provided a copy of the Divorce Decree to the Court for review. Argument resumed.

Court confirmed, Mr. Coffing, Esq. represents Mona Family Trust and Michael Mona and in a limited capacity for Rhonda Mona, as to rights only. COURT stated, it understands and agrees that as to Ms. Mona, she is not a judgment debtor but she has been affected by the Court's prior ruling, if the Court considers the writ and its affect on Ms. Mona. Court requests counsel to address argument as to Ms. Mona.

COURT ORDERED, Pltf's Motion for Bond Pending Appeal on an Order Shortening Time is GRANTED in PART, as follows: The to extent the Defts. Rio Vista Nevada, LLC, World

Development, Inc., Bruze Maize and Mr. Mona desire to have the present stay remain in place, as currently stayed by the Nevada Supreme Court, they shall be required to post a bond for Mr. Michael Mona in the amount of $24,172,076.16 within SEVEN business (7) DAYS and to the extent Ms. Mona desires the stay to remain in place, she shall be required to post a bond in the amount of $490,000.00 within THIRTY (30) DAYS.

Court stated its FINDINGS and REASONS as follows: Court FINDS the Nelson case 121 NV 832 to be the controlling Nevada case on point and in addition to the Nevada Supreme Court Order dated 8/31/15 as well as NRAP 8 and the NRCP 62 or the case dealing with supersedeas bonds. Court is applying the factors as set forth in Nelson vs. Hear. Factor one, complexity of collection process, the collection process in this case has been extremely complex, convoluted and time consuming attorney fee costs consuming, favors the Pltf. and Deft's posting a supersedeas bond. Factor two, the amount of time required to obtain a judgment after it is affirmed on appeal, there is already a valid judgment, which is not on appeal, therefore this factor favors the Pltf. Factor three, the degree of confidence the District Court has in the ability of funds to pay the judgment, Court has ZERO confidence given everything the Court has seen and heard, there is nothing that indicates the Defendants have the ability to pay the funds. Factor four, whether the Deft. ability to pay the judgment that costs would be a waste favors Deft's posting a full supersedeas bond. Hypothetically if the Deft's had a $100,000. supersedeas bond against Apple, it would be clear that Apple would be able to pay same, which is not what we have in this case. Factor five, whether Deft. is in such a precariousl financial situation that the requirement to post a bond would place other creditors of the Deft. in an insecure position - Defts' have not offered any evidence or cognent argument as to what other creditors they may be facing. Additionally Court appreciates the statement of counsel in terms of separating the judgment debtor Defendants from Ms. Rhonda Mona, which is why if the judgment debtor Defendants are ordered to post the full amount if they desire the stay to remain in place. As to all the Defendants as stated in the Nelson case the purpose of security for a stay pending appeal, was to protect the judgment creditor's ability to collect the judgment if it is affirmed by preserving the status quo and preventing prejudice to the creditor arising from the stay. However a supersedeas bond should not be the judgment debtors sole remedy, particularily where other appropriate, reliable alternatives exist. Thus the focus is properly on security while maintaining the status quo and protecing the judgment creditor pending an appeal. Not how "unusual" the cirecumstances are given the case may be [the part where the Supreme Court overruled the McCullough case.] In Nelson the Supreme Court did not fully overrule McCullough, except for portions of it, and some still apply particularily the statement in McCullough [which is still good law] "thus a supercedeous bond posted under NRCP 62 should usually be set in an amount that will permit full satisfaction of the judgment." District Court has the discretion to provide for a bond in a lesser amount or may permit security other than a bond. Accordingly, Court will exercise its discretion as to the Deft. judgment debtors and there is no reason, under Nelson, whereby they should be permitted a stay of execution with a bond less that the full amount and an alternative was not requested.

COURT FINDS, as to Rhonda Mona the facts, as Court finds them, apply to allow the Court to exercise its discretion to reduce the bond amount from $24,000,000. to $490,000.00. COURT FINDS, there was a sale of stock whereby $6,813,202.20 came into Mr. Mona and from that arose the

agreement between Mr. & Mrs. Mona (which the Court believes to be fraudulent transfer) but nevertheless, assuming the agreement was valid, they split this amount in half whereby Ms. Mona (according to those documents and to which she may have later testified to the contrary), but according to that document she received $3,406,601.10, which is the amount the Court would have found to be appropriate for a supersedeas bond as to Ms. Mona, however,
the Court accepts the limitation suggested by Pltf's counsel for an amount of $4980,000. given the amounts that we think may have been in her bank accounts. Court understands that we are not sure because part of what has occurred is we don't have adequate records that the Court previously ordered produced, noting that the Nevada Supreme Court did stay the Court's order in that regard. Court agrees that as stated by Mr. Coffing, that Ms. Mona is not in the same position as the judgment debtors as both sides are familiar with. First she is not a judgment debtor Deft. in this action. Second, the underlying judgment arose from the actions of Mr. Mona and the other judgment debtors and not through any involvement of Ms. Mona. In going back to the Nelson factors: 1) complexity of the collection process COURT FINDS this factor favors the reduction to the $490,000. but not to zero. In keeping it at that amount we have judgment debtor examination that was under taken, records that were requested that were not fully disclosed by Mr. and Ms. Mona and still have not been disclosed (understandably due to the stay now in place). Court is concerned and it does factor in the granting of the $490,000. ordered, with the loan from Mrs. Mona to her son that admittedly was not fully documented and no evidence of payments have been provided. The divorce decree causes the Court to hesitate, although not enough to order the full $24 Million bond, the collection process is not as complex as the other judgment debtors in this case. The amount of time required to obtain a judgment after it is affirmed on appeal, Court thinks that primarily this factor does not apply, however the Court thinks that if we had a case right on point with facts akin to ours, that the Nevada Supreme Court would clarify that such that the factor would apply. Court thinks it would be modified such that it would be the amount of time it would be to obtain an affirmation of the Court's ruling, which does not favor granting a full bond amount. 3) the degree of confidence the District Court has in Ms. Mona's ability to pay the either the order or the judgment or a portion of the judgment, Court has no confidence and this factor may favor a $24 million bond for her. 4) Ms. Mona's ability to pay either the judgment or any portion thereof or comply with the Court's order, which is stayed now, is not so plain that the cost of a bond would not be a waste of money.
- 5) Whether Ms. Mona is in such a precarious financial situation that the requirement to post a bond would place other creditors, of Ms. Mona, in a precarious position. And the Court thinks this factor weighs in favor of reducing the bond to be posted by Ms. Mona from the full $24 million to $490,000. in order to continue a stay of this Court's order from which Ms. Mona and Defendants have sought writ relief from the Nevada Supreme Court.

In going back to the Order from the Supreme Court they state, "...we note that a bond would be an appropriate method to protect a real party in interest ability to eventually execute on their judgment and as explained above, the District Court is the proper forum to seek a bond."

Some discussion was touched upon, at least in the opposition, we can't post a bond in three days as requested in the Motion. Accordingly, Court will entertained additional argument from counsel. COURT FURTHER ORDERED, that Ms. Mona have 30 days to post a bond and Defendants have 7

days to post a bond. Court clarified that none of Defendants nor Mrs. Mona are being ordered to post such a bond; however, postings are required to stay further enforcement of the Court's order.

Counsel may clarify that Rio Vista is no longer in the caption and the reason for such, within the Order.

Court directed Mr. Edwards to prepare the Order and submit to Mr. Coffing for his review and signature prior to submitting to the Court for signature.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment	COURT MINUTES	**March 17, 2016**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

March 17, 2016 **3:00 AM** **Minute Order**

HEARD BY: Hardy, Joe **COURTROOM:** Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, Plaintiff s three motions (A) Plaintiff Far West Industries Motion for Determination of Priority of Garnishment; (B) Plaintiff Far West Industries Motion: (1) for Default Judgment Against Roen Ventures, LLC for Untimely Answers for Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC s Turnover of Payments Made to, On Behalf of, or for the Benefit of Michael J. Mona, Jr.; and (C) Plaintiff Far West Industries Motion to Reduce Sanctions Order to Judgment and Michael Mona s Countermotion to Discharge Garnishment and for Return of Proceeds are CONTINUED to March 30, 2016, at 9:00 a.m., due to Plaintiff s failure to timely provide complete sets of courtesy copies pursuant to EDCR 2.20(g). The Court requires full sets of the pending motions along with the oppositions, replies, and any other relevant briefing.

EDCR 2.20(g) provides: Whenever a motion is contested, a courtesy copy shall be delivered by the movant to the appropriate department at least 5 judicial days prior to the date of the hearing, along with all related briefing, affidavits, and exhibits. (emphasis added). Due to the voluminous nature of the briefs and exhibits here, the Court requests Plaintiff (movant) provide the sets of courtesy copies in binders that facilitate easy, accessible viewing. The binders shall be provided to the Court on or before March 23, 2016.

CLERK'S NOTE: A copy of this minute order e-mailed to: F. Thomas Edwards, Esq. [tedwards@nevadafirm.com], Terry A. Coffing, Esq. [tcoffing@maclaw.com], James Whitmire, Esq. [jwhitmire@santoronevada.com], Erika Pike Turner, Esq. [eturner@gordonsilver.com], and William

Urga, Esq. [wru@juww.com]. (KD 3/17/16)

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment | **COURT MINUTES** | **March 30, 2016**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

March 30, 2016 **9:00 AM** **All Pending Motions**

HEARD BY: Hardy, Joe **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES PRESENT:

Ciciliano, Dylan T.	Attorney
Coffing, Terry A.	Attorney
Edwards, F. Thomas	Attorney
Gandara, Andrea	Attorney
Hanseen, Tye S.	Attorney
Whitmire III, James E.	Attorney

JOURNAL ENTRIES

- The Court noted the questions it had regarding the pending Motions, and requested counsel address certain points in their arguments.

PLAINTIFF FAR WEST INDUSTRIES' MOTION: (1) FOR DEFAULT JUDGMENT AGAINST ROEN VENTURES, LLC FOR UNTIMELY ANSWERS TO WRIT OF GARNISHMENT AND INTERROGATORIES; AND (2) TO COMPEL ROEN VENTURES LLC'S TURNOVER OF PAYMENTS MADE TO, ON BEHALF OF, OR FOR THE BENEFIT OF MICHAEL J. MONA, JR...THIRD PARTY ROEN VENTURES, LLC'S OPPOSITION TO PLAINTIFF FAR WEST INDUSTRIES' MOTION; (1) FOR DEFAULT JUDGMENT AGAINST ROEN VENTURES, LLC FOR UNTIMELY ANSWERS TO WRIT OF GARNISHMENT INTERROGATORIES; AND (2) TO COMPEL ROEN VENTURES, LLC'S TURNOVER OF PAYMENTS MADE TO, ON BEHALF OF, OR FOR THE BENEFIT OF MICHAEL J. MONA, JR.; AND COUNTERMOTION FOR ATTORNEY'S FEES AND

COSTS

Mr. Edwards argued in support of Plaintiff Far West Industries' Motion, advising that NRS 31.290(2) stated that a garnishee shall be named in default for failing to answer Interrogatories within the required twenty (20) day time frame. Additionally, Mr. Edwards rebutted Roen Ventures' argument that he had violated professional rule of conduct 3.5(a), stating that said argument was a tactic for Roen Ventures to avoid severe sanctions, and did not apply in the instant case. Furthermore, Mr. Edwards argued that NRCP 55 had been complied with, and the default against Roen Ventures was authentic. As to the requested relief, Mr. Edwards stated that it was Plaintiff's position that they were entitled to the $24,000,000.00 listed on the Writ. Mr. Ciciliano argued in opposition, stating that Roen Ventures was two days late filing their Answer to Interrogatories, and an explanation for the late filing was provided in their declaration; however, to argued that NRS 31.290(2) called for the entry of a $24,000,000.00 default judgment was improper. Upon Court's inquiry regarding the six month pre-payment of Mr. Mona's mortgage, Mr. Ciciliano indicated that his firm had agreed to accept service of the Writ of Garnishment in June of 2015, and the Writ was subsequently served on the incorrect party, instead of Roen Ventures; therefore, he was unsure whether his client was aware of the Writ when the mortgage pre-payment was made. The Court inquired as to whether Mr. Ciciliano's firm's offer to accept service of the Writ of Garnishment extended into the relevant time frame of December of 2015 and January of 2016. Mr. Ciciliano advised that the offer was of the table at the times mentioned by the Court. The Court noted for the record that it did not appreciate Mr. Ciciliano's representations that his firm had agreed to accept service, when in fact, they had withdrawn that offer during the relevant time frame of December of 2015 through January of 2016. COURT ORDERED Plaintiff Far West Industries' Motion GRANTED IN PART as to the amounts due under the management agreement that were currently due and owing, or may become due and owing, those amounts potentially being those payments due from July of 2016 through however long the management agreement may still be in place, pursuant to the arguments set forth in the Motion and Reply, and pursuant to NRS 21.320. COURT ORDERED Plaintiff Far West Industries' Motion DENIED IN PART as to the remainder of the requested relief, for the following reasons: (1) lack of a specified value for the property, or the amount of money in the Writ of Garnishment as set forth in NRS 31.320(1)(a); pursuant to Nevada law, as well as the rules of civil procedure regarding defaults and judgments, no basis could be found to award the requested $24,000,000.00 default judgment due to the Answers to Interrogatories being two (2) days late; and (3) under NRS 31.320(2), waiting until after a judgment was entered to be able to relieve a garnishee does not make sense, and would lead to an absurd result; therefore, although the language in that subsection refers to there already being a judgment in place, waiting for said circumstances to occur in the instant case would lead to an absurd result. COURT FURTHER ORDERED the Countermotion for Attorney's Fees and Costs was hereby DENIED, due to the lack of candor on the part of Mr. Ciciliano regarding his firm's willingness to accept service of the Writ. Mr. Edwards to prepare the Order and forward it to Mr. Ciciliano for approval as to form and content.

Mr. Ciciliano exited the courtroom, as none of the other pending Motions concerned his client.

PLAINTIFF FAR WEST INDUSTRIES' MOTION FOR DETERMINATION OF PRIORITY OF GARNISHMENT...MONA'S OPPOSITION TO FAR WEST'S MOTION FOR DETERMINATION OF PRIORITY OF GARNISHMENT AND COUNTERMOTION TO DISCHARGE GARNISHMENT AND FOR RETURN OF PROCEEDS

Mr. Edwards argued in support of Far West Industries' Motion, stating that the fraud judgment was entered against the Monas in April of 2012, and judgment debtor exams were held in June of 2015, at which time the Monas testified that they had no plans to divorce; subsequently, the Monas filed for divorce on July 2, 2015, when they realized Plaintiffs would be garnishing their community property, and the divorce was finalized on July 23, 2015. Additionally, Mr. Edwards argued that Nevada did not have an alimony priority; therefore, the judgment in the instant case - having been entered in April of 2012 - should have priority over the decree of divorce and any alimony payments, based upon the time at which each interest arose. Mr. Hanseen argued in opposition, stating that the Monas' divorce was valid and binding, and that first interests had nothing to do with the Federal garnishment restrictions, nor did they have anything to do with the Federal cap on garnishment withholdings. Additionally, Mr. Hanseen argued that support orders had a maximum of 60% for withholdings, and the maximum was still 60% when dealing with multiple garnishments; therefore, not determining that the support order had priority over the judgment in the instant case would be a violation of Federal law.

Mr. Hanseen argued in support of the Countermotion, citing U.S. Code 15, subsection 1672(c), and stating that the garnishments withheld from August 1, 2015, onwards should be returned, as they were in excess of the statutory caps.

COURT ORDERED Plaintiff Far West Industries' Motion for Determination of Property, as well as the Countermotion to Discharge were hereby TAKEN UNDER ADVISEMENT, in order to allow the Court to perform an additional review of the cases and statutes cited in the briefs; a written Order shall issue.

PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT

Mr. Edwards argued in support of the Motion, stating that this Court entered a final judgment regarding the issue of fraudulent transfer, and Plaintiff was entitled to proceed despite the fact that the issue was up on appeal. Additionally, Mr. Edwards argued that NRS 112.220(2) allowed for a judgment to be entered against the transferee (Rhonda Mona) in the amount of the fraudulent transfer. Furthermore, Mr. Edwards argued for $11,000.00 in attorney's fees, as well as fees and costs, for having to prepare and argue the instant Motion. Mr. Whitmire argued in opposition, stating that Rhonda Mona was never served as a party in the instant action; therefore, the Court did not have jurisdiction to enter a judgment against her. COURT ORDERED Motion CONTINUED to allow the parties to submit SUPPLEMENTAL BRIEFING on the following issues: (1) estoppel in terms of the representation made to Judge Bare that there was a final judgment in the instant case; (2) whether the

Court could say that Plaintiff Far West would be permitted to execute on the Order that had already been entered regarding the fraudulent transfer, regardless of whether it was a final judgment; (3) the "execution" of the bank accounts; and (4) that the $3.4 million Order or judgment was essentially tracking the funds that this Court already ruled had been fraudulently transferred to Rhonda Mona. Colloquy regarding the briefing schedule. COURT FURTHER ORDERED a BRIEFING SCHEDULE SET as follows: simultaneous supplemental briefs to be SUBMITTED BY April 22, 2016, no later than 5:00 PM. The Court noted for the record that the parties were not limited in their supplemental briefs to the issues the Court raised, and the parties could enter into a stipulation if they felt the due date for the supplemental briefs needed to be extended.

5/5/16 9:00 AM PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **May 05, 2016**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

May 05, 2016 **9:00 AM** **Motion**

HEARD BY: Hardy, Joe **COURTROOM:** Phoenix Building Courtroom - 11th Floor

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES PRESENT:

Coffing, Terry A.	Attorney
Edwards, F. Thomas	Attorney
Gandara, Andrea	Attorney
Hanseen, Tye S.	Attorney
Whitmire III, James E.	Attorney

JOURNAL ENTRIES

- The Court provided its initial thoughts regarding the Motion, including its reading of NRS 112.210(2) and NRS 112.240. Mr. Edwards stated the history of the case, including the fraudulent transfers the Court found had been made by Ms. Mona. Regarding the requested relief, Mr. Edwards argued that the Court held jurisdiction over Rhonda Mona by virtue of its sanctions Order against her, and said Order should be converted to a final judgment due to Ms. Mona's violation of the Court's Order. Mr. Coffing argued in opposition, stating that the estoppel argument failed, because all the elements had not been met. Mr. Whitmire also argued in opposition, stating that the Court did not have jurisdiction to enter an Order against an individual who was a non-party. Regarding the issue of fraudulent transfer, Mr. Whitmire argued that said issue needed to be litigated as a separate action to allow for due process under Nevada law. Pursuant to NRS 112.210(2), as well as the Court's powers in equity as statutorily confirmed under NRS 112.240, COURT ORDERED Motion GRANTED, FINDING that Plaintiff Far West Industries would be PERMITTED TO EXECUTE and COLLECT on the assets of Rhonda Mona, that amount being limited to $490,000.00 at the time of this ruling, including any applicable interest as calculated from the date of the sanctions Order (7/15/15)

to today's date (5/5/16), for the following reasons: (1) Plaintiff was a creditor with a judgment on a debtor, said debtor being Michael Mona; (2) Nevada being a community property State, the entirety of the marital estate was subject to the judgment against Michael Mona; (3) Plaintiff has met most of the elements of judicial estoppel, but not all; however, the Nevada Supreme Court found in Mainor v. Nault, that not all of the elements were necessary, in particular the party being successful in asserting their first position; (4) the Court had previously FOUND that a fraudulent transfer was made by Rhonda Mona in the amount of $3,400,000.00, so whether or not Ms. Mona was a party to the instant case at that time, she did receive the benefit of $3,400,000.00 to the detriment of Plaintiff Far West Industries; (5) when the Court inquired of Rhonda Mona's counsel whether she would be willing to withdraw the claim preclusion argument as part of the Motion to Dismiss on the second cause of action in front of Judge Bare, Ms. Mona's counsel could not commit to doing that; (6) Rhonda Mona withdrew funds subsequent to the dissolution of the stay that was in place; and (7) although this matter was in front of the Nevada Supreme Court on a Writ, that did not permit Ms. Mona to violate the Court's Order after the stay was no longer in place.

Mr. Edwards to prepare the Proposed Order and forward it to opposing counsel for approval as to form and content; if the parties were unable to agree upon the language in Mr. Edwards proposed Order, competing Proposed Orders could be submitted to the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Foreign Judgment COURT MINUTES **June 21, 2016**

A-12-670352-F Far West Industries, Plaintiff(s)
vs. Rio Vista Nevada, LLC , Defendant(s)

June 21, 2016 **3:00 AM** **Minute Order**

HEARD BY: Hardy, Joe **COURTROOM:** Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- PLAINTIFF FAR WEST INDUSTRIES' MOTION FOR DETERMINATION OF PRIORITY OF GARNISHMENT...MONA'S OPPOSITION TO FAR WEST'S MOTION FOR DETERMINATION OF PRIORITY OF GARNISHMENT AND COUNTERMOTION TO DISCHARGE GARNISHMENT AND FOR RETURN OF PROCEEDS

Having reviewed the parties pleadings and briefs herein, including, but not limited to, Plaintiff Far West Industries (Plaintiff) Motion for Determination of Priority of Garnishment (Motion); Defendant Michael J. Mona s (Defendant) Opposition to Far West s Motion for Determination of Priority of Garnishment and Countermotion to Discharge Garnishment and for Return of Proceeds (Opposition and Countermotion, respectively); Plaintiff Far West Industries Reply to Mona s Opposition to Far West s Motion for Determination of Priority of Garnishment and Opposition to Countermotion to Discharge Garnishment and for Return of Proceeds; and Defendant s Reply in Support of Countermotion to Discharge Garnishment and for Return of Proceeds, and having held argument on March 30, 2016 and taken this matter under advisement, the Court GRANTS Plaintiff s Motion and DENIES Defendant s Countermotion as follows:
Plaintiff obtained a judgment of over $18 million from a California state court against Defendant on April 27, 2012. Plaintiff domesticated the judgment in Nevada and has been garnishing Defendant s wages since December 2013 at approximately $1,950 on a bi-weekly basis. In December 2015, Plaintiff

obtained a new Writ of Execution for Defendant s earnings, which was served on Defendant s employer on January 7, 2016. On January 28, 2016, Plaintiff received Defendant s Interrogatories in response to the Writ of Garnishment indicating that Defendant s weekly gross earnings totaled $11,538.56, with deductions required by law totaling $8,621.62. The deductions required by law excluded from Defendant s gross earnings comprised of federal income tax, Social Security, Medicare, and $4,615.39 in alimony payments to Defendant s ex-wife, Rhonda Mona (Ms. Mona). Based on those deductions, payments to Plaintiff decreased to less than $750. Plaintiff subsequently filed its Motion for Determination of Priority of Garnishment requesting that this Court establish priority between Plaintiff s garnishment and Ms. Mona s alimony claim.

I. Amount and Priority of Garnishments

Under federal law the maximum amount of wages that may be garnished in any workweek may not exceed either (1) 25% of an individual s disposable earnings or (2) the amount by which the individual s disposable earnings for that week exceed thirty times the Federal minimum hourly wage, whichever is less. In the event of a garnishment pursuant to an order for the support of a person, the maximum aggregate disposable earnings of an individual, where such individual is not supporting a spouse or dependent child, may not exceed 60% of the individual s disposable earnings for that week. When an issue arises as to multiple garnishments, priority is determined by state law or other federal law. Nevada law mirrors the provisions set forth in 15 U.S.C. 1673, and states that the aggregate disposable earnings subject to garnishment may not exceed 25%, with a maximum of 60% where there is an order for the support of a person. As to priority of claims, Nevada law gives the Court discretion in determining the priority and method of satisfying claims, except that any writ to satisfy a judgment for child support must be given first priority pursuant to NRS 31.249(5). Defendant identifies several states that grant garnishment priority to spousal support orders. However, applying such a priority to Ms. Mona s alimony is not supported by Nevada law, which provides garnishment priority solely to child support orders. Thus, unlike the cases cited by Defendant, it is inappropriate to award priority to Ms. Mona s alimony claim because such a priority is simply not supported by Nevada law. Since Ms. Mona s alimony claim is not automatically entitled to priority under Nevada law, this Court has discretion to determine priority between Plaintiff s garnishment and Ms. Mona s alimony claim pursuant to NRS 31.249.

II. Priority of Garnishments

Nevada case law regarding priority of garnishments is limited. However, in First Interstate Bank of California v. H.C.T., the Nevada Supreme Court held that priority depends on which interest is first in time, and agreed with a Sixth Circuit case that the rights of the parties are determined from the date of the award. In this case, Plaintiff s April 27, 2012 judgment clearly pre-dates the July 23, 2015 Divorce Decree. Even if the date of Plaintiff s first garnishment is used as the date for determining priority, Plaintiff s interest would still be first in time, as Plaintiff s first garnishment of Defendant s wages occurred on December 13, 2013.

The Court in First Interstate further provided that as between an assignment and a garnishment, an assignment takes priority over a writ of garnishment only to the extent that the consideration given for the assignment represents an antecedent debt or present advance. Under this test, Ms. Mona s alimony, paid via a direct wage assignment through Defendant s employer, takes priority only if it

represents consideration for an antecedent debt or present advance. In this case, Defendant s obligation under the Decree of Divorce represents only a court order to pay monthly alimony to Ms. Mona, and was not ordered as consideration for an antecedent debt or present advance. Thus, Plaintiff s judgment still takes priority even under this analysis.

III. Expiration

Defendant claims that Plaintiff s status as first in time was lost when Plaintiff s garnishment expired. However, Plaintiff was prevented from renewing its garnishment for four months (from July 20, 2015 to November 30, 2015) because of a stay pending an appeal instituted by Defendant and Ms. Mona. Plaintiff obtained a new garnishment immediately after expiration of the stay on December 1, 2015. It would be inequitable for Plaintiff s garnishment to lose its position to Ms. Mona s ongoing support order simply because it was prevented from renewing its garnishment during the four month period when the case was stayed.

IV. Defendant s Motion to Discharge the Writ

In his Countermotion to Discharge Writ and Return Funds to Mona, Defendant cites to NRS 31.045(2) in asserting his right to move for discharge of the writ. As Plaintiff correctly asserts, NRS 31.200 states that a Defendant may move for discharge of an attachment on the following grounds:
(a) That the writ was improperly or improvidently issued;
(b) That the property levied upon is exempt from execution or necessary and required by the defendant for the support and maintenance of the defendant and members of the defendant s family;
(c) That the levy is excessive.

In his countermotion, Defendant incorporates by reference the facts, law, and analysis included in his Opposition, but does not specifically address which, if any, of the three parameters of NRS 31.200 he bases his motion.
Furthermore, Defendant s request that Plaintiff return any excess garnishment fails to address why Plaintiff, and not Defendant s employer Cannavest, should be required to remit any excess garnishment to Defendant. Defendant provided no controlling or persuasive authority requiring a judgment creditor to return funds that an employee claims were overpaid.

In light of the foregoing, this Court finds that because Plaintiff s garnishment predates the Decree of Divorce, Plaintiff s garnishment is entitled to priority over Ms. Mona s alimony claim, and Plaintiff is entitled to garnish 25% of Defendant s disposable earnings (calculated by subtracting federal taxes, Social Security, and Medicare from Defendant s biweekly salary) before any deductions may be made to satisfy Ms. Mona s alimony claim. Furthermore, there are no facts supporting Defendant s countermotion for discharge under NRS 31.200. To the extent that Defendant s employer Cannavest garnished Defendant s wages in an amount exceeding what it was allowed, Defendant may seek reimbursement directly from Cannavest.

Based on the foregoing, and good cause appearing:

IT IS HEREBY ORDERED that Plaintiff s garnishment is entitled to take priority over Ms. Mona s alimony claim.

IT IS FURTHER ORDERED that Plaintiff is entitled to garnish 25% of Defendant s disposable earnings, calculated by subtracting federal taxes, Social Security, and Medicare from Defendant s

biweekly earnings. Any amount in excess of 25% of Defendant s disposable earnings may be applied to satisfy Ms. Mona s alimony claim.

IT IS FURTHER ORDERED that Defendant s Countermotion to Discharge Garnishment and for Return of Proceeds is DENIED.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Thomas Edwards, Esq. [tedwards@nevadafirm.com], Terry Coffing, Esq. [tcoffing@maclaw.com], James Whitmire, III, Esq. [jwhitmire@santoronevada.com], Erika Pike Turner, Esq. [eturner@gtg.legal], and William Urga, Esq. [wru@juww.com]. (KD 6/21/16)

Certification of Copy

State of Nevada
County of Clark } **SS:**

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

JOINT NOTICE OF APPEAL; JOINT CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; AMENDED NUNC PRO TUNC ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT; NOTICE OF ENTRY OF AMENDED NUNC PRO TUNC ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT; DISTRICT COURT MINUTES

FAR WEST INDUSTRIES, Plaintiff(s), vs. RIO VISTA NEVADA, LLC; WORLD DEVELOPMENT, INC.; BRUCE MAIZE; MICHAEL J. MONA, JR., an individual; MICHAEL J. MONA, JR., as trustee of the MONA FAMILY TRUST DATED FEBRUARY 21, 2002, Defendant(s),	Case No: A-12-670352-F Dept No: XV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 18 day of July 2016.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk

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MARQUIS AURBACH COFFING
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	DATE	AMOUNT
Two Hundred Fifty and No/100 Dollars	7/14/2016	***$250.00***

PAY TO THE ORDER OF

Clerk of the Supreme Court

201 S. Carson St., Ste. # 201
Carson City, NV 89701

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