

1 Reviewed & Approved/Disapproved:

2 Dated:

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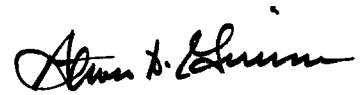
Dated: 1/30/17

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12 Attorneys for Defendant  
13 Seyfarth Shaw LLP

14 **DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**

16 **MICHAEL A. TRICARICHI,**  
17 **Plaintiff,**  
18 **v.**

) Case No. A-16-735910-B  
) Dept.: XV

19 **PRICEWATERHOUSECOOPERS,**  
20 **LLP, COÖPERATIEVE**  
21 **RABOBANK U.A., UTRECHT-**  
22 **AMERICA FINANCE CO.,**  
23 **SEYFARTH SHAW, LLP and**  
24 **GRAHAM R. TAYLOR,**

) **ORDER GRANTING MOTION**  
) **TO DISMISS THE COMPLAINT**  
) **AGAINST SEYFARTH SHAW**  
) **LLP FOR LACK OF**  
) **JURISDICTION**

25 **Defendants.**

1 Defendant Seyfarth Shaw (Seyfarth) LLP's motion to dismiss for lack  
2 of personal jurisdiction came on for hearing on November 16, 2016. Steve  
3 Morris of Morris Law Group appeared and argued for Seyfarth; Mark A.  
4 Hutchison of Hutchison & Steffen, LLC, in association with Scott F. Hessel  
5 and Thomas D. Brooks of Sperling & Slater, P.C., appeared for Plaintiff,  
6 Michael A. Tricarichi, to oppose the motion. Mr. Hutchison argued for  
7 Mr. Tricarichi.

8 The Court, having read and considered the motion papers submitted  
9 by the parties and heard and considered the arguments of their counsel, and  
10 good cause appearing, grants Seyfarth's motion based on the following  
11 reasons and summary of the allegations in the complaint and in the  
12 uncontested information tendered by the parties to the Court in the exhibits  
13 and affidavits submitted in support of and in opposition to the motion.

14 Seyfarth is an international law firm headquartered in Chicago,  
15 Illinois. It is organized under Illinois law as a limited liability partnership.  
16 The firm has offices in 10 locations in the United States, none of which is in  
17 (or was in) Nevada. Seyfarth does not employ staff, attorneys, or agents  
18 who are domiciled in Nevada, nor does the firm own or hold security in real  
19 property in Nevada. It is not registered with Nevada's Secretary of State to  
20 do business in Nevada.

21 Although Seyfarth attorneys have from time to time appeared in  
22 Nevada federal district court on behalf of clients unrelated to this case, or  
23 have acted as counsel in transactions involving Nevada real property not  
24 related to this case, and one of Seyfarth's lawyers (since 2015) is a non-  
25 resident member of the Nevada Bar, none of Seyfarth's 850 attorneys has  
26 been in Nevada in connection with any matter involving Plaintiff Tricarichi,  
27 who has never been a client of Seyfarth.

28

1       Against this background, Plaintiff contends that Seyfarth "facilitated" a  
2 transaction to minimize federal income taxes that had its origins in Ohio in  
3 2003, when Plaintiff sold a cellular telephone business he operated in Ohio  
4 and moved to Nevada. Seyfarth played no part in the transaction by which  
5 Plaintiff's business, West Side Cellular, Inc. (West Side) was sold to another  
6 entity. The "transaction" and the steps which followed it were later found  
7 by the Internal Revenue Service to be a fraudulent tax avoidance scheme, of  
8 which the Tax Court held Plaintiff had constructive knowledge sufficient to  
9 impose liability on Plaintiff for the taxes owed by West Side. The  
10 transaction began in Ohio and Seyfarth is alleged to have "facilitated" the  
11 transaction by a former Seyfarth California partner, Graham Taylor,  
12 rendering an opinion in 2003 to Millennium Recovery Fund in Ireland,  
13 which involved a specific transaction which took place outside of Nevada in  
14 2001 and was unrelated both to this case and to Plaintiff Tricarichi.  
15 Although the opinion expressly states it could only be relied on by  
16 Millennium, Plaintiff alleges the opinion somehow "facilitated" the  
17 transaction with him that the IRS later found was an abusive tax shelter.  
18 None of the transactional activity Plaintiff alleges to have injured him took  
19 place in Nevada or was directed to the state by Seyfarth.

20       The Court finds that the Plaintiff has not alleged facts that would  
21 establish personal jurisdiction over Seyfarth in Nevada. **First**, Seyfarth, an  
22 Illinois limited liability partnership with no offices in Nevada, is not subject  
23 to general jurisdiction in Nevada because it is not "at home" here. *Viega*  
24 *GmbH. Eighth Jud. Dist. Ct.*, 328 P.3d 1152, 1158 (2014); *Daimler AG v. Bauman*,  
25 134 S. Ct. 746, 751 (2014).

26       **Second**, Seyfarth is not subject to specific jurisdiction in Nevada.  
27 Plaintiff has not shown that Seyfarth purposefully established contacts with  
28 Nevada that resulted in injury to him, as *Walden v. Fiore*, 135 S. Ct. 1115,

1 1121-23 (2014), requires. *Accord, Baker v. Eighth Jud. Dist. Ct.*, 116 Nev. 527,  
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3 looks to the defendant's contacts with the forum State itself, not the  
4 defendant's contacts with persons who reside there." *Id.* at 1122 (citing *Int'l*  
5 *Shoe*, 326 U.S. 310, 319, 66 S. Ct. 154, 159-60 (1945).) Plaintiff cannot be the  
6 only link between Seyfarth and Nevada. *Id.* Rather, due process requires  
7 that jurisdiction must be founded on the defendant's contacts with Nevada,  
8 "not based on the 'random, fortuitous, or attenuated' contacts he makes by  
9 interacting with other persons affiliated with the State." *Id.* citing *Burger*  
10 *King*, 471 U.S. 462, 475, 105 S. Ct. 2174, 2183 (1985). "Put simply, however  
11 significant the plaintiff's contacts with the forum may be, those contacts  
12 cannot be 'decisive in determining whether the defendant's due process  
13 rights are violated.'" *Id.* (quoting *Rush v. Savchuk*, 444 U.S. 320, 332, 100 S. Ct.  
14 571, 579 (1980)). In this case, Plaintiff has not shown any conduct by  
15 Seyfarth in Nevada, or directed by Seyfarth to Nevada, that injured him  
16 here.

17 **Third**, the same analysis applies to the intentional torts alleged against  
18 Seyfarth (conspiracy, racketeering). Jurisdiction over Seyfarth as an  
19 intentional tortfeasor must be based on intentional conduct that is alleged or  
20 has been shown to have been directed to Nevada. *Id.* at 1123 (holding that  
21 "it is likewise insufficient to rely on a defendant's 'random, fortuitous, or  
22 attenuated contacts' or on the 'unilateral activity' of a plaintiff" with respect  
23 to intentional tort claims). Plaintiff has not shown that Seyfarth  
24 "purposefully enter[ed] the forum's market or establish[ed] contacts in the  
25 forum and affirmatively direct[ed] conduct there, and [that his] claims arise  
26 from that purposeful contact or conduct," as *Viega* requires to support  
27 specific jurisdiction over an alleged tortfeasor. 328 P.3d at 1157. Plaintiff  
28 has not made a prima facie showing that the opinion delivered to

1 Millennium in Ireland by defendant Graham Taylor was intended to have  
2 an effect in Nevada or that Plaintiff was aware of the opinion when he  
3 entered into the tax avoidance transaction with others in 2003 that the IRS  
4 later found was fraudulent. Seyfarth's out-of-state activity "did not create  
5 sufficient contacts with Nevada simply because [Seyfarth may have]  
6 directed [its] conduct at [Plaintiff] whom [Seyfarth allegedly] knew had  
7 Nevada connections." *Walden*, 134 S. Ct. at 1125. "Such reasoning  
8 improperly attributes a plaintiff's forum connections to the defendant and  
9 makes those connections 'decisive' in the jurisdictional analysis . . . [and]  
10 obscures the reality that none of [Seyfarth]'s conduct had anything to do  
11 with Nevada itself." *Id.* (internal citation omitted).

12 Absent alleging a prima facie case that Seyfarth is "at home" in Nevada  
13 or "affirmatively directed contact" with the state to deal with Plaintiff  
14 Tricarichi, such as he fails to do by his conspiracy and racketeering claims,  
15 he is not entitled to jurisdictional discovery before the Court rules on  
16 Seyfarth's motion to dismiss for lack of jurisdiction. *Viega*, 328 P.3d at 1157,  
17 1160-61; *Daimler*, 134 S. Ct. at 751, 760 (insufficient facts alleged to support  
18 either general or specific jurisdiction; absent such facts, no basis to allow  
19 jurisdictional discovery); *see also*, *Western States Wholesale Nat. Gas Litig.*, 605  
20 F. Supp. 2d 1118, 1140 (D. Nev. 2009) and *Menalco, FZE v. Buchan*, 602 F.  
21 Supp. 2d 1186, 1194 n. 1 (D. Nev. 2009) (personal jurisdiction cannot be  
22 based on the actions of co-conspirators).

23 In light of these recent cases from our Supreme Court, the U.S.  
24 Supreme Court, and the Nevada U.S. District Court, Plaintiff's reliance on  
25 *Davis v. Eighth Jud. Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981) is misplaced,  
26 as *Walden* clearly confirms. *Davis* held that defendants who conspired out-  
27 of-state could be subject to jurisdiction for injuries alleged to have occurred  
28 in Nevada as a consequence of their acts elsewhere. *Walden*, however,

1 appears to overrule *Davis* because, as the U.S. Supreme Court declared,  
2 "mere injury to a forum resident is not a sufficient connection to the forum. .  
3 . . The proper question is not where the plaintiff experienced a particular  
4 injury or effect but whether the defendant's conduct connects him to the  
5 forum in a meaningful way." 134 S. Ct. at 1125. *See also id.* at 1122 (quoting  
6 *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417 (1984)  
7 ("[The] unilateral activity of another party or a third party is not an  
8 appropriate consideration when determining whether a defendant has  
9 sufficient contacts with a forum State to justify an assertion of  
10 jurisdiction.")).

11 Thus, the opinion rendered by defendant Graham Taylor to  
12 Millennium in Ireland that allegedly "facilitated" a transaction between  
13 Plaintiff and others in an out-of-state conspiracy that Plaintiff says injured  
14 him in Nevada does not appear to be consistent with *Walden's* holding that  
15 "jurisdiction over an out-of-state intentional tortfeasor must be based on  
16 intentional conduct by the defendant that creates the necessary contacts with  
17 the forum." 134 S. Ct. at 1125. Moreover, even if *Davis* has survived *Walden*,  
18 which is highly questionable to the Court, the circumstances alleged by  
19 Plaintiff are distinguishable from the limited facts recited in the *Davis*  
20 opinion, and still do not make out a prima facie case for jurisdiction under  
21 *Viega, Daimler*, or *Walden*. The facts of this case are also distinguishable from  
22 the post-*Walden* authority Plaintiff cites. *See Best Chairs Inc. v. Factory Direct*  
23 *Wholesale, LLC*, 121 F. Supp. 3d 828 (S.D. Inc. 2015); *First Cmty. Bank, N.A. v.*  
24 *First Tennessee Bank, N.A.*, 489 S.W.2d 369 (Tenn. 2015); *Khan v. Gramercy*  
25 *Advisors, LLC*, 2016 Ill. App. (4<sup>th</sup>) 150435, 2016 Ill. App. LEXIS 425 Ill. App.  
26 Ct. 2016).

Now, for the foregoing reasons, the Court grants Seyfarth's motion to dismiss and by this order dismisses the complaint against Seyfarth Shaw, LLP, for lack of personal jurisdiction.


IT IS SO ORDERED.

Dated: December 16, 2016

  
JOE HARDY, DISTRICT COURT JUDGE

Submitted by:

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1 Reviewed & Approved/Disapproved:

2 Dated: \_\_\_\_\_

Dated: 12/12/16

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By: \_\_\_\_\_

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20 CHRISTIE LLP

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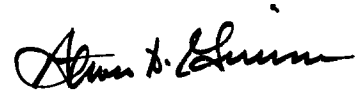
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Attorneys for Defendant

Seyfarth Shaw LLP

DISTRICT COURT  
CLARK COUNTY, NEVADA

MICHAEL A. TRICARICHI,

) Case No. A-16-735910-B

) Dept.: XV

Plaintiff,

v.

) **NOTICE OF ENTRY OF ORDER**

PRICEWATERHOUSECOOPERS,

LLP, COÖPERATIEVE

RABOBANK U.A., UTRECHT-

AMERICA FINANCE CO.,

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GRAHAM R. TAYLOR,

Defendants.

MORRIS LAW GROUP

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702/474-9400 · FAX 702/474-9422

1 PLEASE TAKE NOTICE that an Order Granting Motion to  
2 Dismiss the Complaint Against Seyfarth Shaw LLP for Lack of Jurisdiction  
3 was entered in this action on the 23rd day of December, 2016. A copy of the  
4 Order is attached hereto as Exhibit A.

5  
6 MORRIS LAW GROUP

7  
8 By: /s/ STEVE MORRIS

9 Steve Morris, Bar No. 1543  
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11 900 Bank of America Plaza  
12 300 South Fourth Street  
13 Las Vegas, Nevada 89101

14 Attorneys for Defendant  
15 Seyfarth Shaw LLP  
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# CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of MORRIS LAW GROUP, and that the following documents were served via electronic service: **NOTICE OF ENTRY OF ORDER**

TO:

Mark A. Hutchison  
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Todd W. Prall  
HUTCHISON & STEFFEN, LLC  
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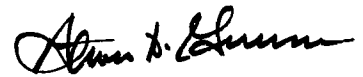
*Attorneys for Defendant*  
*PricewaterhouseCoopers LLP*

DATED this 28th day of December, 2016.

By: /s/ PATRICIA FERRUGIA

EXHIBIT A

EXHIBIT A



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1       Against this background, Plaintiff contends that Seyfarth "facilitated" a  
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11 with Nevada itself." *Id.* (internal citation omitted).

12 Absent alleging a prima facie case that Seyfarth is "at home" in Nevada  
13 or "affirmatively directed contact" with the state to deal with Plaintiff  
14 Tricarichi, such as he fails to do by his conspiracy and racketeering claims,  
15 he is not entitled to jurisdictional discovery before the Court rules on  
16 Seyfarth's motion to dismiss for lack of jurisdiction. *Viega*, 328 P.3d at 1157,  
17 1160-61; *Daimler*, 134 S. Ct. at 751, 760 (insufficient facts alleged to support  
18 either general or specific jurisdiction; absent such facts, no basis to allow  
19 jurisdictional discovery); *see also*, *Western States Wholesale Nat. Gas Litig.*, 605  
20 F. Supp. 2d 1118, 1140 (D. Nev. 2009) and *Menalco, FZE v. Buchan*, 602 F.  
21 Supp. 2d 1186, 1194 n. 1 (D. Nev. 2009) (personal jurisdiction cannot be  
22 based on the actions of co-conspirators).

23 In light of these recent cases from our Supreme Court, the U.S.  
24 Supreme Court, and the Nevada U.S. District Court, Plaintiff's reliance on  
25 *Davis v. Eighth Jud. Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981) is misplaced,  
26 as *Walden* clearly confirms. *Davis* held that defendants who conspired out-  
27 of-state could be subject to jurisdiction for injuries alleged to have occurred  
28 in Nevada as a consequence of their acts elsewhere. *Walden*, however,

1 appears to overrule *Davis* because, as the U.S. Supreme Court declared,  
2 "mere injury to a forum resident is not a sufficient connection to the forum. .  
3 . . The proper question is not where the plaintiff experienced a particular  
4 injury or effect but whether the defendant's conduct connects him to the  
5 forum in a meaningful way." 134 S. Ct. at 1125. *See also id.* at 1122 (quoting  
6 *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417 (1984)  
7 ("[The] unilateral activity of another party or a third party is not an  
8 appropriate consideration when determining whether a defendant has  
9 sufficient contacts with a forum State to justify an assertion of  
10 jurisdiction.")).

11 Thus, the opinion rendered by defendant Graham Taylor to  
12 Millennium in Ireland that allegedly "facilitated" a transaction between  
13 Plaintiff and others in an out-of-state conspiracy that Plaintiff says injured  
14 him in Nevada does not appear to be consistent with *Walden's* holding that  
15 "jurisdiction over an out-of-state intentional tortfeasor must be based on  
16 intentional conduct by the defendant that creates the necessary contacts with  
17 the forum." 134 S. Ct. at 1125. Moreover, even if *Davis* has survived *Walden*,  
18 which is highly questionable to the Court, the circumstances alleged by  
19 Plaintiff are distinguishable from the limited facts recited in the *Davis*  
20 opinion, and still do not make out a prima facie case for jurisdiction under  
21 *Viega*, *Daimler*, or *Walden*. The facts of this case are also distinguishable from  
22 the post-*Walden* authority Plaintiff cites. *See Best Chairs Inc. v. Factory Direct*  
23 *Wholesale, LLC*, 121 F. Supp. 3d 828 (S.D. Inc. 2015); *First Cmty. Bank, N.A. v.*  
24 *First Tennessee Bank, N.A.*, 489 S.W.2d 369 (Tenn. 2015); *Khan v. Gramercy*  
25 *Advisors, LLC*, 2016 Ill. App. (4<sup>th</sup>) 150435, 2016 Ill. App. LEXIS 425 Ill. App.  
26 Ct. 2016).

1 Now, for the foregoing reasons, the Court grants Seyfarth's motion to  
2 dismiss and by this order dismisses the complaint against Seyfarth Shaw,  
3 LLP, for lack of personal jurisdiction.

4 IT IS SO ORDERED.

5 Dated: December 16, 2016

6   
7 JOE HARDY, DISTRICT COURT JUDGE  
8

9 Submitted by:

10 MORRIS LAW GROUP

11  
12 By:   
13

14 Steve Morris, No. 1543  
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2 Dated: \_\_\_\_\_

Dated: 12/12/16

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28 *Utrecht-America Finance Co.*

1 Reviewed & Approved Disapproved:

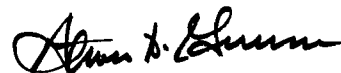
2 Dated: 12/13/16

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*Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL A. TRICARICHI,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,

Defendants.

) CASE NO. A-16-735910-B  
) DEPT NO. XV  
)  
)  
)

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
RULE 54(B) CERTIFICATION**

APR 21 2017




1 Plaintiff Michael A. Tricarichi's Motion for Rule 54(b) Certification came on for  
2 hearing before this Court on April 18, 2017. Michael K. Wall appeared on behalf of Plaintiff  
3 Michael A. Tricarichi, J.P. Hendricks appeared on behalf of Defendant Seyfarth Shaw LLP.  
4 Dan R. Waite appeared on behalf of Defendants Cooperatieve Rabobank, U.A., and Utrecht-  
5 America Finance Co. Bradley Austin appeared on behalf of Defendant  
6 PricewaterhouseCoopers, LLP. The Court, having reviewed the Motion and Reply in support  
7 thereof, along with Seyfarth Shaw's Opposition, and having heard argument from counsel for  
8 Plaintiff and Defendant Seyfarth Shaw, and good cause appearing,

10 IT IS HEREBY ORDERED that Plaintiff Michael A. Tricarichi's Motion for Rule 54(b)  
11 Certification is GRANTED in its entirety for all of the reasons set forth in the Motion and  
12 Reply. The Court further finds that (1) Defendant Seyfarth Shaw has been dismissed and, upon  
13 the Court's inquiry, Seyfarth's Shaw's counsel stated that they wish for the dismissal to be final;  
14 (2) the only way to ensure final dismissal in this circumstance is through Rule 54(b)  
15 Certification; (3) the untimeliness issue raised by Seyfarth Shaw is not accurate under Nevada  
16 law; (4) alternatively, the instant Motion was timely given the circumstances.

18 The Court accordingly finds, pursuant to NRCPP 54(b), that there is no just reason for  
19 delay of entry of final judgment as to Defendants Seyfarth Shaw LLP, Cooperatieve Rabobank,  
20 U.A., and Utrecht-America Finance Co. The Court finds that all claims for and against  
21 Defendants Seyfarth Shaw LLP, Cooperatieve Rabobank, U.A., and Utrecht-America Finance  
22 Co. have been resolved, and directs that final judgment be entered as to Defendants Seyfarth  
23 Shaw LLP, Cooperatieve Rabobank, U.A., and Utrecht-America Finance Co.

25 IT IS SO ORDERED.

26  
27 DATED: April 28, 2017

  
Hon. Joe Hardy  
DISTRICT COURT JUDGE

Submitted by:



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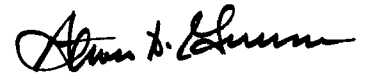
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DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL A. TRICARICHI,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,

Defendants.

) CASE NO. A-16-735910-B

) DEPT NO. XV

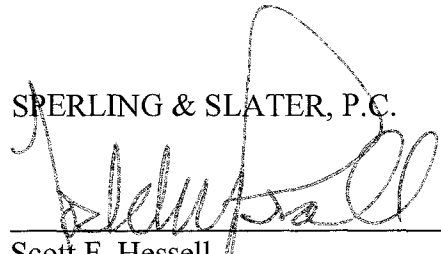
) **NOTICE OF ENTRY OF ORDER**  
) **GRANTING PLAINTIFF'S**  
) **MOTION FOR RULE 54(B)**  
) **CERTIFICATION**

1 TO: ALL INTERESTED PARTIES

2 NOTICE IS HEREBY GIVEN that an Order Granting Plaintiff's Motion for Rule 54(B)  
3 Certification was entered in the above-entitled action on May 1, 2017, a copy of which is  
4 attached hereto.

5 DATED this 2<sup>nd</sup> day of May, 2017.

6  
7 SPERLING & SLATER, P.C.

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15 HUTCHISON & STEFFEN, LLC  
16 Mark A. Hutchison  
17 Todd L. Moody  
18 Todd W. Prall  
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20 Las Vegas, NV 89145

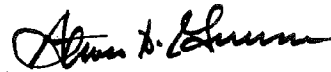
21 *Attorneys for Plaintiff Michael A. Tricarichi*  
22  
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28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, LLC  
3  
4 and that on this 2<sup>nd</sup> day of May, 2017, I caused the document entitled **NOTICE OF ENTRY**  
5 **OF ORDER GRANTING PLAINTIFF'S MOTION FOR RULE 54(B) CERTIFICATION**  
6 to be served on the following by Electronic Service to:

7 **ALL PARTIES ON THE E-SERVICE LIST**

8 /s/ Madelyn B. Carnate-Peralta  
9 An employee of Hutchison & Steffen, LLC  
10  
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CLERK OF THE COURT

1 **ORDR**

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23 *Attorneys for Plaintiff*

24 **DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 MICHAEL A. TRICARICHI,

27 Plaintiff,

28 v.

29 PRICEWATERHOUSE COOPERS, LLP,  
30 COÖPERATIEVE RABOBANK U.A.,  
31 UTRECHT-AMERICA FINANCE CO.,  
32 SEYFARTH SHAW LLP and GRAHAM R.  
33 TAYLOR,

34 Defendants.

) CASE NO. A-16-735910-B  
) DEPT NO. XV

) **ORDER GRANTING**  
) **PLAINTIFF'S MOTION FOR**  
) **RULE 54(B) CERTIFICATION**

APR 21 2017




1 Plaintiff Michael A. Tricarichi's Motion for Rule 54(b) Certification came on for  
2 hearing before this Court on April 18, 2017. Michael K. Wall appeared on behalf of Plaintiff  
3 Michael A. Tricarichi. J.P. Hendricks appeared on behalf of Defendant Seyfarth Shaw LLP.  
4 Dan R. Waite appeared on behalf of Defendants Cooperatieve Rabobank, U.A., and Utrecht-  
5 America Finance Co. Bradley Austin appeared on behalf of Defendant  
6 PricewaterhouseCoopers, LLP. The Court, having reviewed the Motion and Reply in support  
7 thereof, along with Seyfarth Shaw's Opposition, and having heard argument from counsel for  
8 Plaintiff and Defendant Seyfarth Shaw, and good cause appearing,  
9

10 IT IS HEREBY ORDERED that Plaintiff Michael A. Tricarichi's Motion for Rule 54(b)  
11 Certification is GRANTED in its entirety for all of the reasons set forth in the Motion and  
12 Reply. The Court further finds that (1) Defendant Seyfarth Shaw has been dismissed and, upon  
13 the Court's inquiry, Seyfarth's Shaw's counsel stated that they wish for the dismissal to be final;  
14 (2) the only way to ensure final dismissal in this circumstance is through Rule 54(b)  
15 Certification; (3) the untimeliness issue raised by Seyfarth Shaw is not accurate under Nevada  
16 law; (4) alternatively, the instant Motion was timely given the circumstances.  
17

18 The Court accordingly finds, pursuant to NRCP 54(b), that there is no just reason for  
19 delay of entry of final judgment as to Defendants Seyfarth Shaw LLP, Cooperatieve Rabobank,  
20 U.A., and Utrecht-America Finance Co. The Court finds that all claims for and against  
21 Defendants Seyfarth Shaw LLP, Cooperatieve Rabobank, U.A., and Utrecht-America Finance  
22 Co. have been resolved, and directs that final judgment be entered as to Defendants Seyfarth  
23 Shaw LLP, Cooperatieve Rabobank, U.A., and Utrecht-America Finance Co.  
24

25 IT IS SO ORDERED.  
26

27 DATED: April 28, 2017

28   
Hon. Joe Hardy  
DISTRICT COURT JUDGE *rn*

1 Submitted by:

2

3



4

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11 Telephone: 213-687-5000

12 *Attorneys for Defendant*

*PricewaterhouseCoopers, LLP*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**July 18, 2016**

---

A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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<b>July 18, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
----------------------	----------------	--

**HEARD BY:** Hardy, Joe

**COURTROOM:** Chambers

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Plaintiff s Motion to Associate Counsel for Scott F. Hessell, Esq. is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd Prall, Esq. [tprall@hutchlegal.com], Scott Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], and Steve L. Morris, Esq. [sm@morrislawgroup.com]. (KD 7/18/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 22, 2016**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
---------------	---

---

<b>August 22, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
------------------------	----------------	--

**HEARD BY:** Hardy, Joe

**COURTROOM:** Chambers

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendant Pricewaterhousecoopers, LLP s Motion to Associate Counsel Winston P. Hsiao is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegel.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Tyan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 22, 2016**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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<b>August 22, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
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**HEARD BY:** Hardy, Joe

**COURTROOM:** Chambers

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendant Pricewaterhousecoopers, LLP s Motion to Associate Counsel Peter B. Morrison is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegel.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Ryan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 8/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Other Business Court Matters

# COURT MINUTES

November 16, 2016

A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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**November 16, 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

<b>PRESENT:</b>	Brooks, Thomas D.	Attorney
	Gordon, Richard C.	Attorney
	Hessell, Scott F.	Attorney
	Hsiao, Winston P.	Attorney
	Hutchison, Mark A	Attorney
	Morris, Steve L.	Attorney
	Morrison, Peter B.	Attorney
	Tricarichi, Michael A.	Plaintiff
	Waite, Dan R	Attorney

## JOURNAL ENTRIES

- MOTION TO DISMISS FOR LACK OF JURISDICTION ON BEHALF OF DEFENDANT SEYFARTH  
SHAW LLP

Mr. Morris argued in support of the Motion, stating that Defendant Seyfarth was not a resident of Nevada, and did not conduct systematic or continuous business in Nevada; therefore, this Court could not have general jurisdiction over Defendant Seyfarth. As to specific jurisdiction, Mr. Morris argued that Defendant Seyfarth had not purposefully availed itself of Nevada law, nor had its director acted or undertaken acts in this jurisdiction; therefore, specific jurisdiction could not be conferred on Defendant Seyfarth. Mr. Hutchison argued in opposition, stating that conspirators

PRINT DATE: 06/01/2017

Page 4 of 14

Minutes Date: July 18, 2016



outside of Nevada that caused injury in Nevada, must answer for those injuries within the state. Additionally, Mr. Hutchison argued that Seyfarth had appeared in Nevada, and the totality of those contacts demonstrated general jurisdiction. COURT ORDERED Motion GRANTED, FINDING the following: (1) Plaintiff had not made a prima facie showing of personal jurisdiction as it related to Defendant Seyfarth Shaw; (2) the alleged contacts contained within Plaintiff's Affidavits and Declarations were insufficient, and did not confer specific jurisdiction, nor did they confer general jurisdiction on Defendant Seyfarth; (3) to the extent that the Davis case remained good law (which was questionable), the facts in the instant case were distinguishable from the limited facts in said case, and the facts in the Davis case would not apply to the circumstances alleged in the instant case, even under the prima facie standard; (4) the Walden v. Fiore case, the Daimler AG v. Bauman, and the Viega GmbH v. Eighth Judicial District Court case were controlling and instructive, as set forth in Defendant Seyfarth's briefs; (5) the Court agreed with Defendant Seyfarth's arguments on page 6 of the Motion, that Plaintiff had not set forth enough facts to establish personal jurisdiction over Seyfarth; (6) the Court agreed with Defendant Seyfarth's arguments contained in section B of the Motion, that Defendant Seyfarth was a non-resident of Nevada; therefore, Defendant Seyfarth was not subject to general jurisdiction, even under the prima facie standard; (7) the Court agreed with the arguments contained in subsection B of the Reply to the instant Motion; (8) the Court agreed with the arguments contained on page 9 of the Reply, wherein it was argued that Defendant Seyfarth's only connection to this litigation was an opinion letter he sent to Millennium Recovery Fund, which did not confer specific or general jurisdiction on Defendant Seyfarth; and (9) given the lack of satisfaction of the prima facie requirement, any alternative requests for relief were hereby DENIED for the reasons set forth in the Viega case.

Mr. Morris to prepare the Order and forward it to opposing counsel for approval as to form and content.

#### PRICEWATERHOUSECOOPERS LLP'S MOTION TO DISMISS

Mr. Morrison argued in support of the Motion, stating that the claims against PricewaterhouseCoopers had fatal flaws and were time barred. Additionally, Mr. Morrison argued that there was no question New York law applied, and that the contract had been entered into in bad faith. Mr. Hessell argued in opposition, stating that Plaintiff's allegations had been pled sufficiently in order to put Defendant on notice of the misrepresentations that occurred in 2003, and between 2005 and 2011. Alternatively, if the Court did not find Plaintiff's claims had been sufficiently pled, Mr. Hessell requested leave to file amended pleadings. COURT ORDERED Motion DENIED WITHOUT PREJUDICE, FINDING the following: (1) under the Motion to Dismiss standard, it was not appropriate to dismiss the claims at this time; and (2) the claims had been sufficiently stated under Nevada law. Mr. Hessell to prepare the Order and forward it to opposing counsel for approval as to form and content.

#### SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND

UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS

COURT ORDERED Joinder VACATED, as it was already set for hearing on January 18, 2017, at 9:00 AM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 21, 2016**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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<b>November 21, 2016</b>	<b>3:00 AM</b>	<b>Motion to Associate Counsel</b>
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**HEARD BY:** Hardy, Joe

**COURTROOM:** Chambers

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, Defendants, Utrecht-America Finance Co. and Cooperative Rabobank, U.A.s Motion to Associate Counsel (Christopher Paparella, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: Dan R. Waite, Esq. [dwaite@lrrc.com], Chris Paparella, Esq. [chris.paparella@hugheshubbard.com], Mark A. Hutchison, Esq. [mhutchison@hutchlegal.com], Todd L. Moody, Esq. [tmoody@hutchlegal.com], Todd W. Prall, Esq. [tprall@hutchlegal.com], Scott F. Hessell, Esq. [shessell@sperling-law.com], Thomas D. Brooks, Esq. [tbrooks@sperling-law.com], Patrick Byrne, Esq. [pbyrne@swlaw.com], Sherry Ly, Esq. [sly@swlaw.com], Peter B. Morrison, Esq. [peter.morrison@skadden.com], Winston P. Hsiao, Esq. [winston.hsiao@skadden.com], Steve Morris, Esq. [sm@morrislawgroup.com], and Ryan M. Lower, Esq. [rml@morrislawgroup.com]. (KD 11/22/16)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**January 18, 2017**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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**January 18, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brooks, Thomas D.	Attorney
	Paparella, Christopher M.	Attorney
	Prall, Todd	Attorney
	Waite, Dan R	Attorney

**JOURNAL ENTRIES**

- DEFENDANTS' MOTION TO DISMISS...SEYFARTH SHAW'S JOINDER IN DEFENDANTS COOPERATIVE RABOBANK U.A. AND UTRECHT AMERICAN FINANCE COMPANY'S MOTION TO DISMISS

Mr. Paparella argued in support of the Motions, stating that none of the contacts between Mr. Tricarichi, Rabobank, and Utrecht took place in Nevada; therefore, personal jurisdiction could not be established over those Defendants. Additionally, Mr. Paparella argued that Plaintiff should not be permitted to conduct jurisdictional discovery, as they had not made a prima facie case of jurisdiction over Utrecht and Rabobank. Mr. Brooks argued in opposition, stating that Defendants Utrecht and Rabobank purposefully availed themselves of Nevada law, and citing the three elements for determining specific personal jurisdiction, as set forth in the Fulbright Jaworski v. Eighth Judicial District Court case. COURT ORDERED Defendant's Motion to Dismiss and Seyfarth Shaw's Joinder were hereby GRANTED IN PART as to the lack of personal jurisdiction over the movants, for all of the reasons set forth in the Motion and Reply; Motion and Joinder DENIED IN PART WITHOUT PREJUDICE AS MOOT as to the remainder of the requested relief, given the lack of personal

jurisdiction. The Court noted that it had considered all of the exhibits in making its determination, including granting a request for judicial notice, the COURT FOUND the following: (1) under the Fulbright & Jaworski v. Eighth Jud. Dist. Ct. case, as well as the Affinity Network case, Plaintiff had not made a prima facie showing of personal jurisdiction over the moving defendants in Nevada; (2) due to the lack of a prima facie showing of personal jurisdiction, Plaintiff's request for jurisdictional discovery, there was no basis to grant Plaintiff's request for jurisdictional discovery; (3) the mere fact that Plaintiff was a Nevada resident, and that the moving Defendants were aware that Plaintiff was a Nevada resident, was not enough to establish personal jurisdiction over the moving Defendants; (4) the moving Defendants had not purposefully availed themselves of Nevada law, and the causes of action did not arise out of the movants Nevada related activities; and (5) exercise of personal jurisdiction over the moving Defendants would not be reasonable in the instant case. Mr. Prall to prepare the Order and forward it to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****March 06, 2017**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**March 06, 2017      10:30 AM      Mandatory Rule 16  
    Conference**

**HEARD BY:** Hardy, Joe**COURTROOM:** RJC Courtroom 03H**COURT CLERK:** Kristin Duncan**RECORDER:** Matt Yarbrough**REPORTER:****PARTIES**

<b>PRESENT:</b>	Brooks, Thomas D.	Attorney
	Byrne, Patrick G.	Attorney
	Hsiao, Winston P.	Attorney
	Morrison, Peter B.	Attorney
	Prall, Todd	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Brooks advised that the parties had done their initial disclosures, including identifying witnesses, and describing the documents to be produced. Regarding discovery deadlines, Mr. Brooks represented that the parties had discussed allowing twelve (12) months for factual discovery, and an additional four (4) months for experts. Mr. Morrison affirmed Mr. Brooks' representations, noting that the parties disagreed on when the initial twelve (12) months should begin to run; it was Defendant's position that the twelve months should not begin to run until such time as a decision was made on PricewaterhouseCoopers' Motion for Summary Judgment. Mr. Brooks represented that it was Plaintiff's position that discovery should begin immediately. COURT ORDERED that the time period for discovery would begin immediately, despite the pending Motion for Summary Judgment, and SET the following DISCOVERY DEADLINES: (1) the close of factual discovery would be March 6, 2018; (2) the close of expert discovery would be July 6, 2018; and (3) the Joint Case Conference Report (JCCR) would be DUE by March 20, 2018, including details on the four months of expert discovery. Mr. Brooks to prepare the first draft of the JCCR, and forward it to all

counsel for review. The Court noted that it would resolve any disputes regarding the JCCR. COURT FURTHER ORDERED a trial date was hereby SET. A Trial Order would issue. Upon Court's inquiry, Mr. Brooks stated that Plaintiff had filed a Jury Demand. In the event that a Jury Demand had not been properly filed, and if any party wished to do so, COURT ORDERED that the deadline for filing said demand would be March 13, 2017. Regarding a settlement conference, both parties felt it was too early in the case to participate in settlement discussions. Counsel indicated that they did not require ESI protocols, nor did they require the appointment of a Special Master.

Mr. Morrison stated that there were issues with jurisdiction that needed to be resolved, and Defendant was unaware of Plaintiff's intentions. Mr. Brooks advised that Plaintiff would likely be seeking 54(b) Certification as to the two dismissals, which should not affect the remainder of the case. The COURT DIRECTED the parties to move forward with the case, noting that it would deal with the 54(b) Certification issue when it arose.

Mr. Morrison stated that the instant case arose from a decision made by the Tax Court, which found that Plaintiff was liable; that decision was now on appeal with the 9th Circuit, and if the decision was overturned, the instant case would be moot. Based upon the decisions made in similar cases, Mr. Brooks argued that the instant case should not be stayed pending a decision by the 9th Circuit. Upon Court's inquiry, Mr. Brooks stated that he did not believe the instant case would be entirely moot, in the event that the Tax Court's decision was reversed. The COURT ADVISED counsel to submit the appropriate written briefing, if it wished for the Court to consider a stay.

9/17/18 8:30 AM PRE TRIAL CONFERENCE

10/3/18 8:30 AM CALENDAR CALL

10/8/18 10:30 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters****COURT MINUTES****April 18, 2017**

A-16-735910-B      Michael Tricarichi, Plaintiff(s)  
                                  vs.  
                                  PricewaterhouseCoopers LLP, Defendant(s)

**April 18, 2017      9:00 AM      Motion**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

**PRESENT:**      Austin, Bradley      Attorney  
                          Wall, Michael K.      Attorney

**JOURNAL ENTRIES**

- Also present: J.P. Hendricks, Esq. on behalf of dismissed Defendant Seyfarth Shaw; Daniel Waite, Esq. on behalf of dismissed Defendants Cooperatieve Rabobank and Utrecht-America Finance Co.

Mr. Wall argued in support of the Motion, stating that the Opposition was frivolous, and there was no time limit on bringing a Motion for 54(b) Certification. Additionally, Mr. Wall argued that the matter was certifiable, and the Court had discretion as to whether or not certification was appropriate. Mr. Hendricks argued in opposition, stating that a Motion to certify an appeal must be filed within thirty days, and Plaintiff failed to meet that deadline. Upon Court's inquiry, Mr. Hendricks stated that his client was dismissed, and he wished for the dismissal to be final. COURT ORDERED the instant Motion was hereby GRANTED in its entirety for all of the reasons set forth in the Motion and Reply, FINDING the following: (1) Defendant Seyfarth Shaw had been dismissed, and they wished for the dismissal to be final; (2) the only way to ensure final dismissal was through Rule 54(b) Certification; (3) the untimeliness issue raised by Seyfarth Shaw was not accurate under Nevada law; (4) alternatively, even if Seyfarth Shaw's timeliness argument were accurate, the instant Motion was timely given the circumstances. Mr. Wall to prepare the Order and forward it to opposing counsel for approval as to form and content.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**May 10, 2017**

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A-16-735910-B	Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)
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<b>May 10, 2017</b>	<b>9:00 AM</b>	<b>Motion for Summary Judgment</b>
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**HEARD BY:** Hardy, Joe

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Byrne, Patrick G.	Attorney
	Hessell, Scott F.	Attorney
	Hsiao, Winston P.	Attorney
	Moody, Todd L	Attorney
	Morrison, Peter B.	Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry regarding what had changed since its denial of the Motion to Dismiss in November of 2016, Mr. Morrison advised that the parties exchanged initial disclosures, and Plaintiff had done full discovery in connection with the taxes issue. Regarding the instant Motion, Mr. Morrison argued that the advice was given in August of 2003; therefore, the claims were time barred by August of 2006 under New York law. Additionally, Mr. Morrison argued that there was no dispute that New York law applied in the instant case, as all three of the factors set forth in the Mardian v. Greenberg Family Trust case had been satisfied. Mr. Hessell argued in opposition, stating

that, although some discovery had been conducted, there had not been any direct discovery with the Defendants. Furthermore, Mr. Hessell argued there was nothing to show that the parties had negotiated for a New York choice of law, and the provision in the agreement did not contain the New York statute of limitations. Based upon the request for NRCP 56(f) relief, COURT ORDERED the instant Motion was hereby DENIED WITHOUT PREJUDICE, FINDING the following: (1) the record currently before the Court did not allow it to determine whether genuine issues of material fact existed, or not.

The COURT FURTHER ORDERED that the request for NRCP 56(f) relief was hereby GRANTED, FINDING that such relief was appropriate as set forth in paragraph 10 of Michael Tricharichi's Affidavit, filed on April 10, 2017. In the even of any discovery disputes, the parties would first be REQUIRED to meet and confer in good faith, prior to raising the issue before the Court.

Mr. Hessell to prepare the Order and forward to opposing counsel for approval as to form and content.



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**MARK A. HUTCHISON**  
**10080 W. ALTA DR., STE 200**  
**LAS VEGAS, NV 89145**

**DATE: June 1, 2017**  
**CASE: A-16-735910-B**

**RE CASE:** MICHAEL A. TRICARICHI vs. PRICEWATERHOUSE COOPERS, LLP;  
COOPERATIEVE RABOBANK U.A.; UTRECHT-AMERICA FINANCE CO., SEYFARTH SHAW  
LLP; GRAHAM R. TAYLOR

NOTICE OF APPEAL FILED: May 25, 2017

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

*Please refer to Rule 3 for an explanation of any possible deficiencies.*

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**\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

# 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):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF FILING COST BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING MOTION TO DISMISS THE COMPLAINT AGAINST COOPERATIEVE RABOBANK U.A. AND UTRECHT-AMERICA FINANCE CO. FOR LACK OF PERSONAL JURISDICTION AND DENYING REMAINDER OF MOTION AS MOOT; NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS THE COMPLAINT AGAINST COOPERATIEVE RABOBANK U.A. AND UTRECHT-AMERICA FINANCE CO. FOR LACK OF PERSONAL JURISDICTION AND DENYING REMAINDER OF MOTION AS MOOT; ORDER GRANTING MOTION TO DISMISS THE COMPLAINT AGAINST SEYFARTH SHAW LLP FOR LACK OF JURISDICTION; NOTICE OF ENTRY OF ORDER; ORDER GRANTING PLAINTIFF'S MOTION FOR RULE 54(B) CERTIFICATION; NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR RULE(B) CERTIFICATION; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

MICHAEL A. TRICARICHI ,

Plaintiff(s),

vs.

PRICEWATERHOUSE COOPERS, LLP;  
COOPERATIEVE RABOBANK U.A.;  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP; GRAHAM R.  
TAYLOR,

Defendant(s),

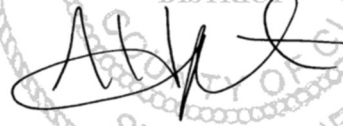
Case No: A-16-735910-B

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 1 day of June 2017.

Steven D. Grierson, Clerk of the Court

A handwritten signature in black ink, appearing to read 'A. Hampton', is written over a faint, circular court seal. The seal contains the text 'UNITED STATES DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT LAS VEGAS, NEVADA'.

---

Amanda Hampton, Deputy Clerk  
A-16-735910-B

**NOAS**

Mark A. Hutchison (4639)  
Michael K. Wall (2098)  
Todd L. Moody (5430)  
Todd W. Prall (9154)  
HUTCHISON & STEFFEN, LLC  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
Tel: (702) 385-2500  
Fax: (702) 385-2086  
Email: [mhutchison@hutchlegal.com](mailto:mhutchison@hutchlegal.com)  
[mwall@hutchlegal.com](mailto:mwall@hutchlegal.com)  
[tpvall@hutchlegal.com](mailto:tpvall@hutchlegal.com)

Scott F. Hessell  
Thomas D. Brooks  
(Pro Hac Vice)  
SPERLING & SLATER, P.C.  
55 West Monroe, Suite 3200  
Chicago, IL 60603  
Tel: (312) 641-3200  
Fax: (312) 641-6492  
Email: [shessell@sperling-law.com](mailto:shessell@sperling-law.com)  
[tdbrooks@sperling-law.com](mailto:tdbrooks@sperling-law.com)

*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,

Defendants.

Case No.: A-16-735910-B  
Dept. No.: XV

**NOTICE OF APPEAL**

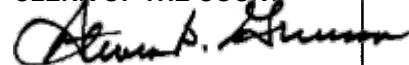
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Electronically Filed  
5/25/2017 11:59 AM  
Steven D. Grierson  
CLERK OF THE COURT



Electronically Filed  
Jun 02 2017 04:09 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

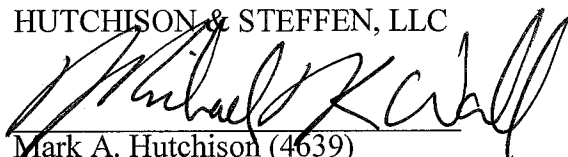
1 Notice is given that Michael A. Tricarichi, Plaintiff in the above-captioned matter,  
2 appeals to the Supreme Court of Nevada from the following orders:

- 3 1. February 8, 2017, order of the district court granting defendants  
4 Rabobank and Utrecht's motion to dismiss the complaint for lack  
5 of personal jurisdiction;
- 6 2. December 23, 2016, order of the district court granting defendant  
7 Seyfarth's motion to dismiss the complaint for lack of personal  
8 jurisdiction.

9 On May 1, 2017, the district court entered an order certifying the above-orders as final  
10 pursuant to NRCP 54(b).<sup>1</sup>

11 DATED this 25 day of May, 2017.

12 HUTCHISON & STEFFEN, LLC

13   
14 Mark A. Hutchison (4639)  
15 Michael K. Wall (2098)  
16 Todd W. Prall (9154)  
17 10080 West Alta Drive, Suite 200  
18 Las Vegas, NV 89145  
19 Tel: (702) 385-2500  
20 Fax: (702) 385-2086


21 *Attorney for Plaintiff*

22  
23  
24  
25  
26  
27 <sup>1</sup>Notice of entry of the order of certification was served electronically on May 2, 2017.

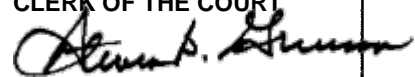
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, LLC and that on this 25<sup>th</sup> day of May, 2017, I caused the document entitled **NOTICE OF APPEAL** to be served on the following by Electronic Service to:

**ALL PARTIES ON THE E-SERVICE LIST**

  
An employee of HUTCHISON & STEFFEN, LLC





**ASTA**

Mark A. Hutchison (4639)  
Michael K. Wall (2098)  
Todd L. Moody (5430)  
Todd W. Prall (9154)  
HUTCHISON & STEFFEN, LLC  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
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[tdbrooks@sperling-law.com](mailto:tdbrooks@sperling-law.com)

*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,

Plaintiff,

v.

PRICEWATERHOUSE COOPERS, LLP,  
COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.,  
SEYFARTH SHAW LLP and GRAHAM R.  
TAYLOR,

Defendants.

Case No.: A-16-735910-B  
Dept. No.: XV

**CASE APPEAL STATEMENT**

**1. Party filing this Case Appeal Statement.**

This appeal and case appeal statement is filed on behalf of plaintiff Michael A.  
Tricarichi.

///

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

The Honorable District Judge Joe Hardy, Eighth Judicial District Court, Clark County,  
Department XV, District Court Case No. A-16-735910-B.

**3. Parties to the proceedings in the district court.**

Michael A. Tricarichi Plaintiff

Pricewaterhouse Coopers, LLP, Cooperatieve  
Rabobank, U.A., Utrecht-America Finance Co.,  
Seyfarth Shaw LLP and Graham R. Taylor Defendants

**4. Parties involved in this appeal.**

Michael A. Tricarichi Appellant

Cooperatieve Rabobank, U.A.,  
Utrecht-America Finance Co., and  
Seyfarth Shaw LLP Respondents

**5. The name, law firms, addresses and telephone numbers of all counsel on appeal,  
and the party or parties they represent.**

Mark A. Hutchison (4639)  
Michael K. Wall (2098)  
Todd W. Prall (9154)  
Hutchison & Steffen, LLC  
Peccole Professional Park  
10080 W. Alta Dr., Suite 200  
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[mwall@hutchlegal.com](mailto:mwall@hutchlegal.com)  
[tprall@hutchlegal.com](mailto:tprall@hutchlegal.com)

**and**

Scott F. Hessell  
Thomas D. Brooks  
(*Pro Hac Vice*)  
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55 West Monroe, Ste. 3200  
Chicago, IL 60603  
Telephone: (312) 641-3200  
Facsimile: (312) 641-6492  
[shessell@sperling-law.com](mailto:shessell@sperling-law.com)  
[tdbrooks@sperling-law.com](mailto:tdbrooks@sperling-law.com)

*Attorneys for Appellant*

1 Dan R. Waite (4078)  
2 LEWIS ROCA ROTHGERER CHRISTIE LLP  
3 3993 Howard Hughes Pkwy., Ste. 600  
4 Las Vegas, NV 89169  
5 Telephone: (702) 949-8200  
6 Facsimile: (702) 949-8398  
7 [dwaite@LRRC.com](mailto:dwaite@LRRC.com)

and

5 Chris Paparella  
6 *(Pro Hac Vice)*  
7 HUGHES HUBBARD & REED LLP  
8 One Battery Park Plaza  
9 New York, NY 10004-1482  
10 Telephone: (212) 837-6644  
11 Facsimile: (212) 299-6644  
12 [chris.paparella@hugheshubbard.com](mailto:chris.paparella@hugheshubbard.com)

13 *Attorneys for Respondents Cooperatieve*  
14 *Rabobank, U.S. and Utrecht-America*  
15 *Finance Co.*

16 Steve Morris (1543)  
17 Ryan M. Lower (9108)  
18 MORRIS LAW GROUP  
19 900 Bank of America Plaza  
20 300 South Fourth Street  
21 Las Vegas, NV 89101  
22 Telephone: (702) 474-9400  
23 Facsimile: (702) 474-9422  
24 [sm@morrislawgroup.com](mailto:sm@morrislawgroup.com)  
25 [rml@morrislawgroup.com](mailto:rml@morrislawgroup.com)

26 *Attorneys for Respondent Seyfarth Shaw LLP*

- 27 **6. Whether any attorney identified above is not licensed to practice law in Nevada**  
28 **and if so whether the District Court granted that attorney permission to appear**  
29 **under SCR 42. (Attached copy of District Court's order).**

30 Scott F. Hessel and Thomas D. Brooks *(Pro Hac Vice entered July 21, 2016)*

31 Chris Paparella *(Pro Hac Vice entered December 5, 2016)*

- 32 **7. Whether respondents were represented by appointed or retained counsel in the**  
33 **district court.**

34 Respondents were represented by retained counsel in the district court.

- 35 **8. Whether appellant was represented by appointed or retained counsel in the**  
36 **district court.**

37 Appellant was represented by retained counsel in the district court.

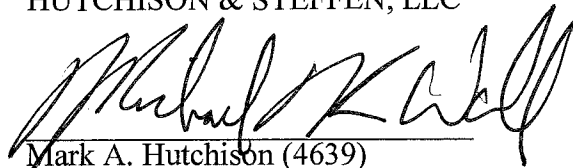


14. Whether the appeal involves the possibility of settlement.

It is counsel's belief there is a possibility of settlement.

DATED this 25 day of May, 2017.

HUTCHISON & STEFFEN, LLC



Mark A. Hutchison (4639)

Michael K. Wall (2098)

Todd W. Prall (9154)

10080 West Alta Drive, Suite 200

Las Vegas, NV 89145

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Fax: (702) 385-2086

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, LLC and that on this 25<sup>th</sup> day of May, 2017, I caused the document entitled **CASE APPEAL STATEMENT** to be served on the following by Electronic Service to:

**ALL PARTIES ON THE E-SERVICE LIST**

  
An employee of HUTCHISON & STEFFEN, LLC

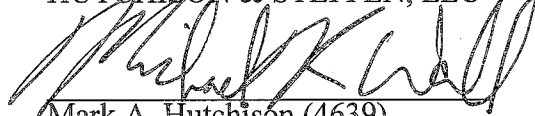
*Attorneys for Plaintiff*

///

1 Attached hereto is a copy of the Appeal Bond posted in the amount of \$500.00 by  
2 defendants.

3 DATED this 25 day of May, 2017.

4 HUTCHISON & STEFFEN, LLC

5 

6 Mark A. Hutchison (4639)

7 Michael K. Wall (2098)

8 Todd W. Prall (9154)

9 10080 West Alta Drive, Suite 200

10 Las Vegas, NV 89145

11 Tel: (702) 385-2500

12 Fax: (702) 385-2086

13 *Attorney for Plaintiff*




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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, LLC  
and that on this 30<sup>th</sup> day of May, 2017, I caused the document entitled **NOTICE OF  
FILING COST BOND** to be served on the following by Electronic Service to:

**ALL PARTIES ON THE E-SERVICE LIST**

  
An employee of HUTCHISON & STEFFEN, LLC

**HUTCHISON & STEFFEN**

A PROFESSIONAL LLC  
PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NV 89145

# OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor  
Hutchison & Steffen LLC

Receipt No.  
**2017-46357-CCCLK**

Transaction Date  
05/26/2017

Description	Amount Paid
-------------	-------------

On Behalf Of Tricarichi, Michael A.

A-16-735910-B

Michael Tricarichi, Plaintiff(s) vs. PricewaterhouseCoopers LLP, Defendant(s)

Appeal Bond

Appeal Bond

500.00

**SUBTOTAL**

**500.00**

**PAYMENT TOTAL**

**500.00**

Check (Ref #17610) Tendered

500.00

Total Tendered

**500.00**

Change

0.00

05/26/2017

03:51 PM

Cashier

Station AIKO

Audit

35868501

**OFFICIAL RECEIPT**

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

**Michael Tricarichi, Plaintiff(s)**  
**vs.**  
**PricewaterhouseCoopers LLP, Defendant(s)**

§  
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§

Location: **Department 15**  
Judicial Officer: **Hardy, Joe**  
Filed on: **04/29/2016**  
Case Number History:  
Cross-Reference Case Number: **A735910**

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**CASE INFORMATION**

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Case Type: **Other Business Court Matters**  
Case Flags: **Appealed to Supreme Court**  
**Jury Demand Filed**  
**Other Tort Case**

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**DATE**

**CASE ASSIGNMENT**

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**Current Case Assignment**

Case Number A-16-735910-B  
Court Department 15  
Date Assigned 04/29/2016  
Judicial Officer Hardy, Joe

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**PARTY INFORMATION**

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<b>Plaintiff</b>	<b>Tricarichi, Michael A.</b>	<b>Hutchison, Mark A</b> <i>Retained</i> 702-385-2500(W)
<b>Defendant</b>	<b>Cooperatieve Rabobank UA</b> Removed: 02/08/2017 Dismissed <b>PricewaterhouseCoopers LLP</b> <b>Seyfarth Shaw LLP</b> Removed: 12/23/2016 Dismissed <b>Taylor, Graham R</b> <b>Utrecht-America Finance Co</b> Removed: 02/08/2017 Dismissed	<b>Byrne, Patrick G.</b> <i>Retained</i> 702-784-5200(W)




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**DATE**

**EVENTS & ORDERS OF THE COURT**

**INDEX**


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04/29/2016	 Complaint (Business Court) Filed By: Plaintiff Tricarichi, Michael A. <i>Complaint</i>	
04/29/2016	Other Tort Case	
05/17/2016	 Demand for Jury Trial Filed By: Plaintiff Tricarichi, Michael A. <i>Demand for Jury Trial</i>	
05/17/2016	 Notice	


DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

Filed By: Plaintiff Tricarichi, Michael A.  
*Notice of Acceptance of Service of Defendant Seyfarth Shaw LLP*


06/08/2016

 Affidavit of Service  
Filed By: Plaintiff Tricarichi, Michael A.  
*Summons*


06/16/2016

 Motion to Associate Counsel  
Filed By: Plaintiff Tricarichi, Michael A.  
*Motion To Associate Counsel*


06/16/2016

 Motion to Associate Counsel  
Filed By: Plaintiff Tricarichi, Michael A.  
*Motion To Associate Counsel*


07/05/2016

 Motion to Dismiss  
Filed By: Defendant Seyfarth Shaw LLP  
*Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP*


07/05/2016

 Initial Appearance Fee Disclosure  
Filed By: Defendant Seyfarth Shaw LLP  
*Initial Appearance Fee Disclosure*


07/05/2016

 Certificate of Mailing  
Filed By: Plaintiff Tricarichi, Michael A.  
*Certificate of Mailing*


07/06/2016

 Notice of Hearing  
Filed By: Defendant Seyfarth Shaw LLP  
*Notice of Hearing on Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP*


07/11/2016

 Motion to Dismiss  
Filed By: Defendant PricewaterhouseCoopers LLP  
*PricewaterhouseCoopers LLP's Motion to Dismiss*


07/11/2016

 Request for Judicial Notice  
Filed By: Defendant PricewaterhouseCoopers LLP  
*Request for Judicial Notice in Support of Defendant PricewaterhouseCoopers LLP's Motion to Dismiss*


07/12/2016

 Certificate of Service  
Filed by: Defendant PricewaterhouseCoopers LLP  
*Supplemental Certificate of Service*


07/18/2016

 **Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)  
*Plaintiff's Motion to Associate Counsel*

07/18/2016

 **Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)  
*Plaintiff's Motion to Associate Counsel*

07/21/2016

 Motion to Associate Counsel  
Filed By: Defendant PricewaterhouseCoopers LLP  
*Motion to Associate Counsel Winston P. Hsiao*


DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

07/21/2016	 Motion to Associate Counsel Filed By: Defendant PricewaterhouseCoopers LLP <i>Motion to Associate Counsel Peter B. Morrison</i>
07/21/2016	 Order Admitting to Practice Filed By: Plaintiff Tricarichi, Michael A. <i>Order Admitting to Practice</i>
07/21/2016	 Order Admitting to Practice Filed By: Plaintiff Tricarichi, Michael A. <i>Order Admitting to Practice</i>
07/22/2016	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Order Admitting to Practice</i>
07/22/2016	 Notice of Entry of Order Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Order Admitting to Practice</i>
07/28/2016	 Acceptance of Service Filed By: Plaintiff Tricarichi, Michael A. <i>Acceptance of Service of Complaint &amp; Summons</i>
07/29/2016	 Stipulation and Order Filed by: Plaintiff Tricarichi, Michael A. <i>Stipulation and Order to Extend Time for Plaintiff Responses to Motions to Dismiss Filed by PricewaterhouseCoopers, LLP and Seyfarth Shaw LLP, and to Continue Hearing on Both Motions to Dismiss</i>
07/29/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Stipulation and Order to Extend Time for Plaintiff Responses to Motions to Dismiss Filed by PricewaterhouseCoopers, LLP and Seyfarth Shaw LLP, and to Continue Hearing on Both Motions to Dismiss</i>
08/10/2016	 Notice of Non Opposition Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Non-Opposition to Motions to Associate Counsel</i>
08/22/2016	 <b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant, PricewaterhouseCoopers, LLP's Motion to Associate Counsel Winston P. Hsiao</i>
08/22/2016	 <b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant, PricewaterhouseCoopers, LLP's Motion to Associate Counsel Peter B. Morrison</i>
08/24/2016	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>Order Granting Motion to Associate Winston P. Hsiao, Esq. as Counsel</i>
08/24/2016	 Order Granting Motion Filed By: Defendant PricewaterhouseCoopers LLP <i>Order Granting Motion to Associate Peter B. Morrison, Esq. as Counsel</i>

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

08/25/2016	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Order Granting Motion to Associate Peter B. Morrison, Esq. as Counsel</i>
08/25/2016	 Notice of Entry of Order Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Order Granting Motion to Associate Winston P. Hsiao, Esq. as Counsel</i>
08/26/2016	 Appendix Filed By: Plaintiff Tricarichi, Michael A. <i>Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Michael A. Tricarichi in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/26/2016	 Acceptance of Service Filed By: Plaintiff Tricarichi, Michael A. <i>Acceptance of Service</i>
08/26/2016	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Opposition to Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss</i>
08/26/2016	 Opposition Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Opposition to Defendant Pricewaterhouse Coopers, LLP's Request for Judicial Notice</i>
08/26/2016	 Opposition to Motion Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
08/30/2016	 Errata Filed By: Plaintiff Tricarichi, Michael A. <i>Errata to Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Seyfarth Shaw's Motion to Dismiss for Lack of Jurisdiction</i>
09/28/2016	 Reply in Support Filed By: Defendant Seyfarth Shaw LLP <i>Reply in Support of Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP</i>
09/28/2016	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>PWC's Reply in Support of Request for Judicial Notice in Support of Defendant PricewaterhouseCoopers LLP's Motion to Dismiss</i>

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

09/28/2016	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>PricewaterhouseCoopers LLP's Reply in Support of the Motion to Dismiss</i>
09/29/2016	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>Stipulation and Order to Continue Hearing on Motions to Dismiss</i>
09/30/2016	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Stipulation and Order to Continue Hearing on Motions to Dismiss</i>
10/19/2016	 Motion to Dismiss Filed By: Defendant Cooperatieve Rabobank UA <i>Motion to Dismiss</i>
10/19/2016	 Affidavit Filed By: Defendant Cooperatieve Rabobank UA <i>Affidavit of Geert Christiaan Kortlandt in Support of Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Motion to Dismiss</i>
10/19/2016	 Affidavit Filed By: Defendant Cooperatieve Rabobank UA <i>Affidavit of Dan R. Waite in Support of Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Motion to Dismiss</i>
10/19/2016	 Appendix Filed By: Defendant Cooperatieve Rabobank UA <i>Appendix of Exhibits in Support of Dan R. Waite's Affidavit to Cooperatieve Rabobank U.A. and Utrecht-America Finance co., Seyfarth Shaw LLP's Motion to Dismiss</i>
10/19/2016	 Request for Judicial Notice Filed By: Defendant Cooperatieve Rabobank UA <i>Cooperatieve Rabobank U.A. and Utrecht-America Finance Co.'s Request for Judicial Notice in Support of Motion to Dismiss</i>
10/20/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Cooperatieve Rabobank UA <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
10/20/2016	 Motion to Associate Counsel Filed By: Defendant Cooperatieve Rabobank UA <i>Motion to Associate Counsel (Christopher Paparella, Esq.)</i>
10/26/2016	 Joinder To Motion Filed By: Defendant Seyfarth Shaw LLP <i>Seyfarth Shaw's Joinder in Defendants Coperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss</i>
10/26/2016	 Joinder To Motion Filed By: Defendant Seyfarth Shaw LLP <i>Seyfarth Shaw's Joinder in Defendant Pricewaterhousecoopers LLP's Motion to Dismiss</i>
11/14/2016	

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**











	 <b>Opposition</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Supplemental Opposition to Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss</i>
11/16/2016	<b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Motion to Dismiss for Lack of Jurisdiction on Behalf of Defendant Seyfarth Shaw LLP</i>
11/16/2016	<b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>PricewaterhouseCoopers LLP's Motion to Dismiss</i>
11/16/2016	<b>CANCELED Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Vacated - Duplicate Entry</i> <i>Seyfarth Shaw's Joinder in Defendants Cooperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss</i>
11/16/2016	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Hardy, Joe)
11/17/2016	 <b>Stipulation and Order</b> Filed by: Plaintiff Tricarichi, Michael A. <i>Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co., and to Continue the Hearing Set on the Motion to Dismiss</i>
11/18/2016	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co., and to Continue the Hearing Set on the Motion to Dismiss</i>
11/21/2016	 <b>Motion to Associate Counsel</b> (3:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendants, Utrecht-America Finance Co and Cooperatieve Rabobank, UA's Motion to Associate Counsel (Christopher Paparella, Esq.)</i>
11/28/2016	 <b>Transcript of Proceedings</b> <i>Transcript of Proceedings All Pending Motions November 16, 2016</i>
11/30/2016	 <b>Stipulation and Order</b> Filed by: Plaintiff Tricarichi, Michael A. <i>Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. (Second Request)</i>
12/05/2016	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Stipulation and Order to Extend Time for Plaintiff to Respond to Motion to Dismiss Filed by Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. (Second Request)</i>
12/05/2016	 <b>Order Granting Motion</b> Filed By: Defendant Cooperatieve Rabobank UA <i>Order Granting Cooperatieve Rabobank, U.A., and Utrecht-America Finance Company's Motion to Associate Counsel (Christopher M. Paparella, Esq.)</i>
12/06/2016	 <b>Notice of Entry</b> Filed By: Defendant Cooperatieve Rabobank UA <i>Notice of Entry of Order Granting Cooperatieve Rabobank, U.A., and Utrecht-America Finance Company's Motion to Associate Counsel (Christopher M. Paparella, Esq.)</i>



DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**










12/07/2016	 Opposition to Motion to Dismiss Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i>
12/07/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Thomas D. Brooks in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i>
12/07/2016	 Affidavit in Support Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Michael A. Tricarichi in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i>
12/07/2016	 Appendix Filed By: Plaintiff Tricarichi, Michael A. <i>Appendix of Exhibits in Support of Plaintiff's (1) Opposition to Defendants Rabobank and Utrecht's Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery</i>
12/12/2016	 Order Denying Motion Filed By: Plaintiff Tricarichi, Michael A. <i>Order Regarding Defendant Pricewaterhousecoopers LLP's Motion to Dismiss Based on Statute Limitations and Collateral Estoppel</i>
12/13/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Order Regarding Defendant Pricewaterhouse Coopers, LLP's Motion to Dismiss Based on Statute Limitations and Collateral Estoppel</i>
12/23/2016	 Order Granting Motion Filed By: Defendant Seyfarth Shaw LLP <i>Order Granting Motion to Dismiss the Complaint Against Seyfarth Shaw LLP for Lack of Jurisdiction</i>
12/23/2016	<b>Order of Dismissal</b> (Judicial Officer: Hardy, Joe) Debtors: Michael A. Tricarichi (Plaintiff) Creditors: Seyfarth Shaw LLP (Defendant) Judgment: 12/23/2016, Docketed: 12/30/2016
12/28/2016	 Notice of Entry of Order Filed By: Defendant Seyfarth Shaw LLP <i>Notice of Entry of Order</i>
01/13/2017	 Reply in Support Filed By: Defendant Cooperatieve Rabobank UA <i>Reply in Support of Motion to Dismiss</i>
01/17/2017	 Answer to Complaint Filed by: Defendant PricewaterhouseCoopers LLP <i>PricewaterhouseCoopers LLP's Answer to Complaint</i>

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

01/18/2017	<b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe) Events: 10/19/2016 Motion to Dismiss <i>Defendants' Motion to Dismiss</i>
01/18/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Seyfarth Shaw's Joinder in Defendants Cooperative Rabobank U.A. and Utrecht American Finance Company's Motion to Dismiss</i>
01/18/2017	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Hardy, Joe)
01/26/2017	 Transcript of Proceedings <i>Transcript of Proceedings Defendant's Motion to Dismiss; Seyearth Shaw's Joinder in Defendants' Motion to Dismiss January 18, 2017</i>
01/27/2017	 Business Court Order <i>Business Court Order</i>
02/07/2017	 Arbitration File <i>Arbitration File</i>
02/08/2017	 Order Granting Motion Filed By: Defendant Cooperative Rabobank UA <i>Order Granting Motion To Dismiss the Complaint Against Cooperatieve Rabobank U.A. and Utrecht-America Finance Co. for Lack of Personal Jurisdiction and Denying Remainder of Motion as Moot</i>
02/08/2017	<b>Order of Dismissal Without Prejudice</b> (Judicial Officer: Hardy, Joe) Debtors: Michael A. Tricarichi (Plaintiff) Creditors: Cooperatieve Rabobank UA (Defendant), Utrechit-America Finance Co (Defendant) Judgment: 02/08/2017, Docketed: 02/15/2017
02/09/2017	 Notice of Entry of Order Filed By: Defendant Cooperative Rabobank UA <i>Notice of Entry of Order Granting Motion to Dismiss The Complaint Against Cooperatieve Rabobank U.A. and Utrecht-America Finance Company for Lack of Personal Jurisdiction and Denying Remainder of Motion as Moot</i>
02/14/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Stipulation and Order to Continue Mandatory Rule 16 Conference</i>
02/14/2017	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>Stipulation and Order to Continue Mandatory Rule 16 Conference</i>
02/27/2017	 Notice of Service Party: Defendant PricewaterhouseCoopers LLP <i>PricewaterhouseCoopers LLP's Notice of Serving NRCP 16.1(a)1 Initial Disclosures</i>
02/27/2017	 Notice Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Notice of Serving NRCP 16.1(A)(1) Initial Disclosures</i>
03/06/2017	 Motion for Summary Judgment Filed By: Defendant PricewaterhouseCoopers LLP

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

*PricewaterhouseCoopers LLP's Motion for Summary Judgment*

03/06/2017	 <b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Hardy, Joe) 02/27/2017 <i>Continued to 03/06/2017 - At the Request of Counsel - Tricarichi, Michael A.; PricewaterhouseCoopers LLP</i>
03/14/2017	 <b>Motion</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Motion for Rule 54(B) Certification</i>
03/15/2017	 <b>Notice of Motion</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Motion re: Plaintiff's Motion for Rule 54(B) Certification</i>
03/16/2017	 <b>Stipulation and Order</b> Filed by: Plaintiff Tricarichi, Michael A. <i>Stipulation and Order to Extend Time for Plaintiff's Response to Motion for Summary Judgment Filed by PricewaterhouseCoopers LLP and to Continue Hearing on Motion</i>
03/17/2017	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Stipulation and Order to Extend Time for Plaintiff's Response to Motion for Summary Judgment Filed by PricewaterhouseCoopers LLP and to Continue Hearing on Motion</i>
03/20/2017	 <b>Joint Case Conference Report</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Joint Case Conference Report</i>
03/21/2017	 <b>Business Court Order</b> <i>Business Court Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>
03/22/2017	 <b>Stipulation and Order</b> Filed by: Defendant PricewaterhouseCoopers LLP <i>Stipulation and Order Governing the Production and Exchange of Confidential Information</i>
03/23/2017	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Stipulation and Order Governing the Production and Exchange of Confidential Information</i>
03/29/2017	 <b>Opposition to Motion</b> Filed By: Defendant Seyfarth Shaw LLP <i>Opposition to Motion for 54(b) Certification [Seyfarth Shaw LLP]</i>
04/10/2017	 <b>Affidavit</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Michael A. Tricarichi in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment</i>
04/10/2017	 <b>Affidavit</b> Filed By: Plaintiff Tricarichi, Michael A. <i>Affidavit of Thomas D. Brooks in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment</i>

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

04/10/2017	 Opposition Filed By: Plaintiff Tricarichi, Michael A. <i>Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment</i>
04/10/2017	 Appendix Filed By: Plaintiff Tricarichi, Michael A. <i>Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant Pricewaterhouse Coopers LLP's Motion for Summary Judgment</i>
04/11/2017	 Reply in Support Filed By: Plaintiff Tricarichi, Michael A. <i>Reply in Support of Plaintiff's Motion for Rule 54(B) Certification</i>
04/14/2017	 Stipulation and Order Filed by: Defendant PricewaterhouseCoopers LLP <i>Stipulation and Order</i>
04/17/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant PricewaterhouseCoopers LLP <i>Notice of Entry of Stipulation and Order</i>
04/18/2017	 <b>Motion</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Plaintiff's Motion for Rule 54(B) Certification</i>
04/26/2017	 Reply in Support Filed By: Defendant PricewaterhouseCoopers LLP <i>PricewaterhouseCoopers LLP's Reply in Support of Motion for Summary Judgment</i>
05/01/2017	 Order Filed By: Plaintiff Tricarichi, Michael A. <i>Order Granting Plaintiff's Motion for Rule 54(B) Certification</i>
05/02/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Entry of Order Granting Plaintiff's Motion for Rule 54(B) Certification</i>
05/10/2017	 <b>Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>PricewaterhouseCoopers LLP's Motion for Summary Judgment</i> 04/06/2017 <i>Continued to 05/03/2017 - Stipulation and Order - Tricarichi, Michael A.; PricewaterhouseCoopers LLP; Taylor, Graham R</i> 05/03/2017 <i>Continued to 05/10/2017 - Stipulation and Order - Tricarichi, Michael A.; PricewaterhouseCoopers LLP</i>
05/25/2017	 Notice of Appeal Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Appeal</i>
05/25/2017	 Case Appeal Statement Filed By: Plaintiff Tricarichi, Michael A. <i>Case Appeal Statement</i>
05/30/2017	 Notice of Filing Cost Bond

DEPARTMENT 15  
**CASE SUMMARY**  
**CASE NO. A-16-735910-B**

	Filed By: Plaintiff Tricarichi, Michael A. <i>Notice of Filing Cost Bond</i>	
08/13/2018	<b>Status Check</b> (9:30 AM) (Judicial Officer: Hardy, Joe)	
09/17/2018	<b>Pre Trial Conference</b> (8:30 AM) (Judicial Officer: Hardy, Joe)	
10/03/2018	<b>Calendar Call</b> (8:30 AM) (Judicial Officer: Hardy, Joe)	
10/08/2018	<b>Jury Trial</b> (10:30 AM) (Judicial Officer: Hardy, Joe)	
DATE	FINANCIAL INFORMATION	

<b>Defendant</b> Cooperatieve Rabobank UA	
Total Charges	1,525.00
Total Payments and Credits	1,525.00
<b>Balance Due as of 6/1/2017</b>	<b>0.00</b>
<b>Defendant</b> Seyfarth Shaw LLP	
Total Charges	1,483.00
Total Payments and Credits	1,483.00
<b>Balance Due as of 6/1/2017</b>	<b>0.00</b>
<b>Defendant</b> Utrechit-America Finance Co	
Total Charges	1,483.00
Total Payments and Credits	30.00
<b>Balance Due as of 6/1/2017</b>	<b>1,453.00</b>
<b>Defendant</b> PricewaterhouseCoopers LLP	
Total Charges	1,683.00
Total Payments and Credits	1,683.00
<b>Balance Due as of 6/1/2017</b>	<b>0.00</b>
<b>Plaintiff</b> Tricarichi, Michael A.	
Total Charges	1,574.50
Total Payments and Credits	1,574.50
<b>Balance Due as of 6/1/2017</b>	<b>0.00</b>
<b>Plaintiff</b> Tricarichi, Michael A.	
Appeal Bond Balance as of 6/1/2017	<b>500.00</b>

# BUSINESS COURT CIVIL COVER SHEET A-16-735910-B

Clark

County, Nevada

XV

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

## I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):

MICHAEL A. TRICARICHI

Defendant(s) (name/address/phone):

PRICEWATERHOUSE COOPERS, LLP, et al.

Attorney (name/address/phone):

Mark A. Hutchison, Esq., Todd L. Moody, Todd W. Prall  
Hutchison & Steffen, LLC, 10080 W. Alta Drive, Suite 200,  
Las Vegas, NV 89145, Tel: 702-385-2500

Attorney (name/address/phone):

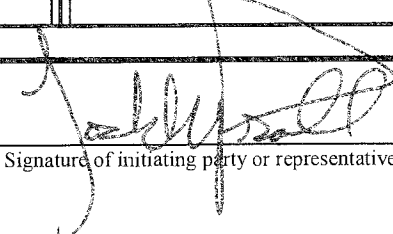
## II. Nature of Controversy *(Please check the applicable boxes for both the civil case type and business court case type)*

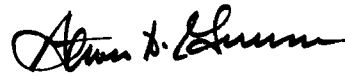
☐

Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
<p style="text-align: center;"><b>Real Property</b></p> <p><b>Landlord/Tenant</b></p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p><b>Title to Property</b></p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input type="checkbox"/> Other Title to Property</p> <p><b>Other Real Property</b></p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p> <p style="text-align: center;"><b>Construction Defect &amp; Contract</b></p> <p><b>Construction Defect</b></p> <p><input type="checkbox"/> Chapter 40</p> <p><input type="checkbox"/> Other Construction Defect</p> <p><b>Contract Case</b></p> <p><input type="checkbox"/> Uniform Commercial Code</p> <p><input type="checkbox"/> Building and Construction</p> <p><input type="checkbox"/> Insurance Carrier</p> <p><input type="checkbox"/> Commercial Instrument</p> <p><input type="checkbox"/> Collection of Accounts</p> <p><input type="checkbox"/> Employment Contract</p> <p><input type="checkbox"/> Other Contract</p> <p style="text-align: center;"><b>Judicial Review/Appeal/Other Civil Filing</b></p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Foreclosure Mediation Case</p> <p><b>Appeal Other</b></p> <p><input type="checkbox"/> Appeal from Lower Court</p>	<p style="text-align: center;"><b>Torts</b></p> <p><b>Negligence</b></p> <p><input type="checkbox"/> Auto</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Other Negligence</p> <p><b>Malpractice</b></p> <p><input type="checkbox"/> Medical/Dental</p> <p><input type="checkbox"/> Legal</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Other Malpractice</p> <p><b>Other Torts</b></p> <p><input type="checkbox"/> Product Liability</p> <p><input checked="" type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p> <p style="text-align: center;"><b>Civil Writs</b></p> <p><input type="checkbox"/> Writ of Habeas Corpus</p> <p><input type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p> <p><input type="checkbox"/> Writ of Prohibition</p> <p><input type="checkbox"/> Other Civil Writ</p>	<p style="text-align: center;"><b>CLARK COUNTY BUSINESS COURT</b></p> <p><input type="checkbox"/> NRS Chapters 78-89</p> <p><input type="checkbox"/> Commodities (NRS 91)</p> <p><input type="checkbox"/> Securities (NRS 90)</p> <p><input type="checkbox"/> Mergers (NRS 92A)</p> <p><input type="checkbox"/> Uniform Commercial Code (NRS 104)</p> <p><input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate</p> <p><input type="checkbox"/> Trademark or Trade Name (NRS 600)</p> <p><input type="checkbox"/> Enhanced Case Management</p> <p><input checked="" type="checkbox"/> Other Business Court Matters</p> <p style="text-align: center;"><b>WASHOE COUNTY BUSINESS COURT</b></p> <p><input type="checkbox"/> NRS Chapters 78-88</p> <p><input type="checkbox"/> Commodities (NRS 91)</p> <p><input type="checkbox"/> Securities (NRS 90)</p> <p><input type="checkbox"/> Investments (NRS 104 Art.8)</p> <p><input type="checkbox"/> Deceptive Trade Practices (NRS 598)</p> <p><input type="checkbox"/> Trademark/Trade Name (NRS 600)</p> <p><input type="checkbox"/> Trade Secrets (NRS 600A)</p> <p><input type="checkbox"/> Enhanced Case Management</p> <p><input type="checkbox"/> Other Business Court Matters</p>

29<sup>th</sup> Apr 2016  
Date

  
Signature of initiating party or representative



CLERK OF THE COURT

**ORDR**

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*Attorneys for Defendants*  
*Coöperatieve Rabobank U.A. and Utrecht-America Finance Co.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,	) Case No. A-16-735910-B
Plaintiff,	) Dept.: XV
v.	)
	) <b>ORDER GRANTING MOTION TO</b>
PRICEWATERHOUSECOOPERS, LLP,	) <b>DISMISS THE COMPLAINT AGAINST</b>
COÖPERATIEVE RABOBANK U.A.,	) <b>COÖPERATIEVE RABOBANK U.A.</b>
UTRECHT-AMERICA FINANCE CO.,	) <b>AND UTRECHT-AMERICA FINANCE</b>
SEYFARTH SHAW, LLP and GRAHAM R.	) <b>CO. FOR LACK OF PERSONAL</b>
TAYLOR,	) <b>JURISDICTION AND DENYING</b>
Defendants.	) <b>REMAINDER OF MOTION AS MOOT</b>
	)
	) <b>Date of Hearing: January 18, 2017</b>
	) <b>Time of Hearing: 9:00 a.m.</b>

Defendants Coöperatieve Rabobank U.A. ("Rabobank") and Utrecht-America Finance Company ("Utrecht")'s motion to dismiss for, among other things, lack of personal jurisdiction (the "Motion") came on for hearing on January 18, 2017. Chris Paparella of Hughes Hubbard & Reed LLP, in association with Dan Waite of Lewis Roca Rothgerber Christie LLP, appeared and

1 argued in support of the Motion for Defendants Rabobank and Utrecht. Thomas D. Brooks of  
2 Sperling & Slater, P.C., in association with Todd Prall of Hutchison & Steffen, LLC, appeared and  
3 argued in opposition to the Motion for Plaintiff Michael A. Tricarichi.

4 The Court, having read and considered the Motion papers submitted by the parties and  
5 heard and considered the arguments of their counsel, and good cause appearing, grants the Motion  
6 for lack of personal jurisdiction based on the following reasons, summary of the allegations in the  
7 complaint, and information tendered by the parties to the Court in the exhibits and affidavits  
8 submitted in support of and in opposition to the Motion, and denies as moot and without prejudice  
9 the remainder of the arguments raised by the Motion.

## 10 **BACKGROUND**

### 11 **The Tax Shelter**

12 In Spring 2003, Mr. Tricarichi, who was then an Ohio resident, owned an Ohio corporation  
13 called West Side Cellular, Inc. ("West Side") that was about to receive a \$65 million settlement  
14 payment from a lawsuit.<sup>1</sup> Mr. Tricarichi and Ohio lawyers at the Hahn Loeser firm began  
15 searching for ways to avoid paying all the tax due on the \$65 million payment. Mr. Tricarichi  
16 decided to engage in a "midco" transaction with a San Francisco-based promoter called Fortrend.  
17 The transaction involved the sale by Mr. Tricarichi of West Side to an offshore Fortrend  
18 subsidiary called Nob Hill. Mr. Tricarichi would receive most of West Side's cash and Fortrend  
19 would receive a \$5 million promotion fee. Nob Hill would offset West Side's tax liabilities with  
20 tax deductions from distressed debt. Mr. Tricarichi sold West Side to Nob Hill on September 9,  
21 2003, and received \$34.6 million in cash.

22 West Side failed to pay 2003 federal income taxes on the \$65 million settlement payment.  
23 The IRS sought payment of those taxes, plus penalties and interest, from Mr. Tricarichi. Mr.  
24 Tricarichi commenced a proceeding in Tax Court to challenge the IRS's decision. The Tax Court  
25 upheld the IRS's determination that Mr. Tricarichi was liable for over \$21 million in unpaid taxes,  
26 penalties, fees, and pre-judgment interest. In doing so, the Tax Court found after extensive

27 <sup>1</sup> Although the Tax Court found that Mr. Tricarichi did not move to Nevada until after his midco transaction was  
28 consummated, Mr. Tricarichi made a prima facie showing on this Motion that he relocated to Nevada before the  
transaction was consummated.



1 discovery and a trial that Mr. Tricarichi had constructive knowledge that Fortrend intended to  
2 implement an illegitimate tax shelter.

3 **Rabobank and Utrecht**

4 Rabobank is a cooperative organized under Dutch law. Its principal place of business is in  
5 the Netherlands, and it has a branch in New York, New York. Utrecht is a subsidiary of Rabobank  
6 that is incorporated in Delaware and has its principal place of business in New York, New York.  
7 Rabobank and Utrecht (i) are not licensed to conduct business in Nevada, (ii) do not maintain any  
8 offices or branches in Nevada, (iii) do not have any employees in Nevada, (iv) are not required to  
9 and do not pay taxes in Nevada, and (v) do not have registered agents in Nevada. All of Rabobank  
10 and Utrecht's witnesses and documents relevant to this action are in New York.

11 Defendants Rabobank and Utrecht provided certain financial services in New York in  
12 connection with the subject transaction. Mr. Tricarichi, West Side and Nob Hill set up accounts at  
13 Rabobank's New York branch before the closing. Mr. Tricarichi signed a Non-Confidentiality  
14 Certificate in which he agreed Rabobank and Utrecht had not made any statement to Mr.  
15 Tricarichi about the potential tax consequences of the subject transaction. On September 9, 2003,  
16 Utrecht lent Nob Hill \$29.9 million in New York, which Nob Hill transferred to Mr. Tricarichi's  
17 New York Rabobank escrow account, along with the balance of the \$34.6 million purchase price.  
18 Mr. Tricarichi transferred the \$34.6 million to another bank account he controlled in New York.  
19 That same day, Nob Hill repaid Utrecht the \$29.9 million loan, along with a \$150,000 transaction  
20 fee, in New York. Fortrend received \$5 million of West Side's cash as a promotion fee.

21 Mr. Tricarichi and West Side's account agreements with Rabobank and Nob Hill's loan  
22 documents with Utrecht use Rabobank and Utrecht's New York addresses. The agreements and  
23 loan documents provide they are governed by New York law, and several of them provide for a  
24 New York forum for disputes (the others are silent on forum). None of the agreements and loan  
25 documents provide for Nevada law or a Nevada forum.

26 Mr. Tricarichi's Complaint asserts claims against Rabobank and Utrecht for aiding and  
27 abetting fraud, civil conspiracy, violations of Nevada Revised Statutes Section 207.400, and unjust  
28 enrichment. (Compl. Counts III-VIII.) All of Mr. Tricarichi's claims are based on his contention

that Rabobank, Utrecht and the other defendants defrauded him into believing that the tax shelter was legitimate. Rabobank and Utrecht filed a motion to dismiss the claims against them based on the following grounds: lack of personal jurisdiction, *forum non conveniens*, statute of limitations, collateral estoppel and failure to state a claim.

**THERE IS NO PERSONAL JURISDICTION OVER RABOBANK AND UTRECHT**

Nevada’s long-arm statute allows courts to exercise personal jurisdiction in civil matters “on any basis not inconsistent with the Constitution of [Nevada] or the Constitution of the United States.” NEV. REV. STAT. § 14.065 (2015). “When a nonresident defendant challenges personal jurisdiction, the plaintiff bears the burden of showing that jurisdiction exists.” *Fulbright & Jaworski v. Eighth Jud. Dist. Ct.*, 131 Nev. Adv. Op. 5, 7, 342 P.3d 997, 1001 (2015) (internal citation omitted). “In so doing, the plaintiff must satisfy the requirements of Nevada’s long-arm statute and show that jurisdiction does not offend principles of due process.” *Id.*; *see also Walden v. Fiore*, 134 S. Ct. 1115, 1121, 188 L. Ed. 2d 12, 19 (2014) (“[T]he Fourteenth Amendment ‘constrains a State’s authority to bind a nonresident defendant to a judgment of its courts.’”) (citing *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291, 100 S. Ct. 559, 564 (1980)). To be subject to jurisdiction in a particular State, a nonresident defendant must have “certain minimum contacts . . . such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463, 61 S. Ct. 339, 342-43 (1940)). Mr. Tricarichi concedes that there is no general jurisdiction over Rabobank and Utrecht. Thus, the inquiry here is focused on whether the Court may exercise specific personal jurisdiction over Rabobank and Utrecht.

The exercise of “specific jurisdiction is proper only where the cause of action arises from the defendant’s contacts with the forum.” *Fulbright & Jaworski*, 131 Nev. Adv. Op. at 10, 342 P.3d at 1002 (internal citations omitted). In determining whether specific personal jurisdiction over a nonresident is proper, Nevada courts consider (1) whether the defendant purposefully availed itself of the privilege of acting in Nevada or causing important consequences in Nevada,

(2) whether the cause of action arises out of the defendant's Nevada-related activities, and (3) whether the exercise of jurisdiction over the defendant is reasonable. *Id.*

This inquiry "focuses on the relationship among the defendant, the forum, and the litigation." *Walden v. Fiore*, 134 S. Ct. at 1121, 118 L. Ed. 2d at 19-20 (internal quotations omitted). For specific jurisdiction to comport with due process, "the defendant's suit-related conduct must create a substantial connection with the forum State." *Id.* Two aspects of this necessary relationship are relevant here.

"First, the relationship must arise out of contacts that the 'defendant *himself*' creates with the forum State." *Id.* at 1122, 118 L. Ed. 2d at 20 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475, 105 S. Ct. 2174, 2284 (1985)) (emphasis in original). "Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties." *Id.* (citing *World-Wide Volkswagen Corp.*, 444 U.S. at 291-292, 100 S. Ct. at 564-65). "[C]ontacts between the plaintiff (or third parties) and the forum State" do not suffice. *Id.* (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417, 104 S. Ct. 1863, 1873 (1984)). "Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be 'decisive in determining whether the defendant's due process rights are violated.'" *Id.* (quoting *Rush v. Savchuk*, 444 U.S. 320, 332, 100 S. Ct. 571, 579 (1980)).

Second, the "'minimum contacts' analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there." *Id.* (citing *Int'l Shoe*, 326 U.S. at 319, 66 S. Ct. at 159-60.) Thus, "the plaintiff cannot be the only link between the defendant and the forum." *Id.* at 1122, 188 L. Ed. 2d at 21. "Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him." *Id.* at 1122-23, 188 L. Ed. 2d at 21. (citing *Burger King*, 471 U.S. at 478, 105 S. Ct. at 2178). Instead, "[d]ue process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the 'random, fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the State." *Id.* at 1123, 188 L. Ed. 2d at 21 (citing *Burger King*, 471 U.S. at 475, 105 S. Ct. at 2183).

1 The same principles apply to intentional torts, as to which “it is likewise insufficient to rely  
2 on a defendant’s ‘random, fortuitous, or attenuated contacts’ or on the ‘unilateral activity’ of a  
3 plaintiff.” *Id.* at 1123, 188 L. Ed. 2d at 21 (internal citation omitted). Therefore, “[a] forum  
4 State’s exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on  
5 intentional conduct by the defendant that creates the necessary contacts with the forum.” *Id.*

6 These principles support dismissal here. First, Mr. Tricarichi has not identified any  
7 jurisdictionally significant contacts Rabobank or Utrecht directed at Nevada. Second, while Mr.  
8 Tricarichi alleges Rabobank and Utrecht had contact with him while knowing he was a Nevada  
9 resident at the time of the transaction, his claims do not arise out of those contacts. Third, the  
10 Court finds that it would not be reasonable to exercise personal jurisdiction over Rabobank and  
11 Utrecht for the reasons below.

12 Mr. Tricarichi does not identify a single Nevada activity by Rabobank or Utrecht in  
13 connection with the matters on which his claims are based. Mr. Tricarichi’s transaction was  
14 consummated in New York, Ohio and California. Rabobank and Utrecht had no ongoing  
15 obligations or continuing contacts with Mr. Tricarichi in Nevada (or elsewhere). Rabobank and  
16 Utrecht’s services occurred in New York, where they were located, and those services ended on  
17 September 9, 2003. While Mr. Tricarichi alleges that Nob Hill communicated with him while he  
18 was physically located in Nevada, he does not identify any communication made by Rabobank or  
19 Utrecht to him while he was physically located in Nevada. In fact, Mr. Tricarichi identifies only  
20 three direct communications with Rabobank or Utrecht, none of which came from Rabobank or  
21 Utrecht and none of which touched Nevada. The three communications Mr. Tricarichi identifies  
22 were faxes sent from San Francisco to Rabobank and Utrecht in New York. (*See* Exhibit M<sup>2</sup>  
23 (escrow account documents), Exhibit N (resignation document), and Exhibit O (wire transfer  
24 instructions).)<sup>3</sup>

25 \_\_\_\_\_  
26 <sup>2</sup> Exhibits refer to the Appendix of Exhibits in Support of Plaintiff’s (1) Opposition to Defendants Rabobank and  
27 Utrecht’s Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery, dated Dec. 7, 2016  
28 (“Pl. App. Ex.”).

<sup>3</sup> The fax headers on all three faxes show they were faxed from the 415 area code. And the escrow account documents  
in Exhibit M state Mr. Tricarichi signed them in San Francisco.

1 Mr. Tricarichi's allegations that Rabobank and Utrecht knew he had a Nevada address are  
2 insufficient to obtain jurisdiction over Rabobank and Utrecht under *Walden*. It is not enough to  
3 allege that Rabobank and Utrecht dealt with someone they knew had a physical address in Nevada.  
4 The Court held in *Walden* that only the defendant's connections to the forum, not the plaintiff's,  
5 are relevant. See 134 S. Ct. at 1121-25, 118 L. Ed. at 19-24. The Court reversed a finding of  
6 specific personal jurisdiction because the court below, instead of evaluating the defendant's own  
7 contacts with Nevada, mistakenly premised jurisdiction on the defendant's knowledge that the  
8 plaintiffs had connections with the forum. 134 S. Ct. at 1124, 118 L. Ed. at 23. The Supreme  
9 Court held that the lower court had improperly "shift[ed] the analytical focus from [the  
10 defendant's] contacts with the forum to his contacts with [the plaintiffs]." *Id.* (internal citations  
11 omitted) (holding that "[s]uch reasoning improperly attributes a plaintiff's forum connections to  
12 the defendant and makes those connections 'decisive' in the jurisdictional analysis . . . [and]  
13 obscures the reality that none of petitioner's challenged conduct had anything to do with Nevada  
14 itself"). The Supreme Court found that the plaintiffs' reliance on *Calder v. Jones*, 465 U.S. 783,  
15 104 S. Ct. 1482 (1984) — a decision on which Mr. Tricarichi also relies here — for the argument  
16 that "they suffered the 'injury' caused by petitioner's allegedly tortious conduct . . . while they  
17 were residing in the forum" was "misplaced" because "*Calder* made clear that mere injury to a  
18 forum resident is not a sufficient connection to the forum" and "[r]egardless of where a plaintiff  
19 lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has  
20 formed a contact with the forum State" through conduct that "connects him to the forum in a  
21 meaningful way." *Walden*, 134 S. Ct. at 1125, 118 L. Ed. at 23.

22 Here, Rabobank and Utrecht's New York activity "did not create sufficient contacts with  
23 Nevada simply because [they may have] directed [their] conduct at [Mr. Tricarichi] whom [they  
24 allegedly] knew had Nevada connections." *Walden*, 134 S. Ct. at 1125, 118 L. Ed. 2d at 23.  
25 "Such reasoning improperly attributes a plaintiff's forum connections to the defendant and makes  
26 those connections 'decisive' in the jurisdictional analysis . . . [and] obscures the reality that none  
27 of [Rabobank or Utrecht]'s conduct had anything to do with Nevada itself." *Id.* (internal citation  
28

1 omitted). Nevada jurisdiction over Rabobank and Utrecht must instead be based on acts by them  
2 that were purposefully directed at Nevada. No such acts are identified by Mr. Tricarichi.

3 Accordingly, Mr. Tricarichi's "claimed injury does not evince a connection between [him]  
4 and Nevada" because "it is not the sort of effect that is tethered to Nevada in any meaningful  
5 way." *Walden v. Fiore*, 134 S. Ct. at 1125, 118 L. Ed. 2d at 23. The fact that Mr. Tricarichi now  
6 has to repay the IRS from Nevada the amounts he wrongfully sought to evade paying is not due to  
7 anything that independently occurred in Nevada—in fact, as stated above, the Tax Court found  
8 that the relevant actions happened in Ohio—rather Mr. Tricarichi must pay the IRS from Nevada  
9 "because Nevada is where [he] chose to be at a time when [the IRS sought to recover the funds at  
10 issue]." *Id.* (noting that "Respondents would have experienced this same lack of access in  
11 California, Mississippi, or wherever else they might have traveled and found themselves wanting  
12 more money than they had."); *see also Picot v. Weston*, 780 F.3d 1206, 1212 (9th Cir. 2015);  
13 *Olivine Int'l Mktg. v. Texas Packaging Co.*, No. 2:09-CV-02118-KJD, 2010 WL 4024232, at \*4  
14 (D. Nev. Sept. 27, 2010). Mr. Tricarichi would be liable to the IRS for his tax obligations  
15 wherever he moved in the United States. The fact that he chose Nevada is, by itself, insufficient to  
16 establish specific jurisdiction. *Picot*, 780 F.3d at 1126.

17 Moreover, the few communications Mr. Tricarichi identifies between himself and  
18 Rabobank and Utrecht were ministerial in nature. These communications concerned the accounts  
19 Mr. Tricarichi opened for himself and West Side at Rabobank, his and his wife's resignations as  
20 officers of West Side, and the transfer of funds. Mr. Tricarichi's claims do not arise out of these  
21 communications.

22 In view of the foregoing facts, the Court also finds that it would not be reasonable to  
23 exercise personal jurisdiction over Rabobank or Utrecht.

24 **Mr. Tricarichi Cannot Base Personal Jurisdiction on His Conspiracy Claims**

25 In light of these recent cases from our Supreme Court, the U.S. Supreme Court, and the  
26 Nevada U.S. District Court, *Walden* confirms that Mr. Tricarichi misplaces his reliance on *Davis*  
27 *v. Eighth Jud. Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981). *Davis* held that defendants who  
28 conspired out-of-state could be subject to jurisdiction for injuries alleged to have occurred in

1 Nevada as a consequence of their acts elsewhere. *Walden*, however, appears to overrule *Davis*  
2 because, as the U.S. Supreme Court declared, “mere injury to a forum resident is not a sufficient  
3 connection to the forum. . . . The proper question is not where the plaintiff experienced a  
4 particular injury or effect but whether the defendant’s conduct connects him to the forum in a  
5 meaningful way.” 134 S. Ct. at 1125. *See also id.* at 1122 (quoting *Helicopteros Nacionales de*  
6 *Colombia, S.A. v. Hall*, 466 U.S. 408, 417 (1984) (“[The] unilateral activity of another party or a  
7 third party is not an appropriate consideration when determining whether a defendant has  
8 sufficient contacts with a forum State to justify an assertion of jurisdiction.”)).

9 Thus, Rabobank and Utrecht’s alleged “facilitation” of a transaction between Mr.  
10 Tricarichi and others in an out-of-state conspiracy that Mr. Tricarichi says injured him in Nevada  
11 does not appear to be consistent with *Walden*’s holding that “jurisdiction over an out-of-state  
12 intentional tortfeasor must be based on intentional conduct by the defendant that creates the  
13 necessary contacts with the forum.” 134 S. Ct. at 1125. Moreover, even if *Davis* has survived  
14 *Walden*, which is highly questionable to the Court, the circumstances alleged by Mr. Tricarichi are  
15 distinguishable from the limited facts recited in the *Davis* opinion, which still do not make out a  
16 prima facie case for jurisdiction under *Viega GmbH. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 40,  
17 16-18, 328 P.3d 1152, 1157, 1160-61 (2014), *Daimler AG v. Bauman*, 134 S. Ct. 746, 187 L. Ed.  
18 2d 624 (2014), or *Walden*. The facts of this case are also distinguishable from the post-*Walden*  
19 authority Mr. Tricarichi cites. *See Best Chairs Inc. v. Factory Direct Wholesale, LLC*, 121 F.  
20 Supp. 3d 828 (S.D. Inc. 2015); *First Cmty. Bank, N.A. v. First Tennessee Bank, N.A.*, 489 S.W.2d  
21 369 (Tenn. 2015); *Khan v. Gramercy Advisors, LLC*, 2016 Ill. App. (4<sup>th</sup>) 150435, 2016 Ill. App.  
22 LEXIS 425 Ill. App. Ct. 2016).

### 23 THERE IS NO BASIS FOR JURISDICTIONAL DISCOVERY

24 There is no basis for jurisdictional discovery here because Mr. Tricarichi has failed to  
25 establish a prima facie basis for specific personal jurisdiction. *See Viega GmbH. Eighth Jud. Dist.*  
26 *Ct.*, 130 Nev. Adv. Op. 40, 16-18, 328 P.3d 1152, 1157, 1160-61 (2014); *Daimler*, 134 S. Ct. at  
27 751, 760 (insufficient facts alleged to support either general or specific jurisdiction; absent such  
28 facts, no basis to allow jurisdictional discovery); *see also Western States Wholesale Nat. Gas*

1 *Litig.*, 605 F. Supp. 2d 1118, 1140 (D. Nev. 2009) and *Menalco, FZE v. Buchan*, 602 F. Supp. 2d  
2 1186, 1194 n. 1 (D. Nev. 2009) (personal jurisdiction cannot be based on the actions of co-  
3 conspirators). Moreover, the fact that Mr. Tricarichi has already had the benefit of extensive  
4 discovery from Rabobank and Utrecht in the Tax Court proceeding prior to filing his Complaint,  
5 as evidenced by his filing of numerous documents in this action produced by Rabobank in the Tax  
6 Court action, further supports denial of jurisdictional discovery here.

7 **OTHER ARGUMENTS**

8 Given the dismissal of all claims against Rabobank and Utrecht on personal jurisdiction  
9 grounds, the rest of the arguments raised by the Motion are denied, without prejudice, as moot.

10 **CONCLUSION**

11 Now, for the foregoing reasons, the Court grants the Motion and by this Order dismisses  
12 the Complaint against Rabobank and Utrecht for lack of personal jurisdiction, and denies the  
13 remainder of the arguments raised by the Motion, without prejudice, as moot.

14 IT IS SO ORDERED.

15 Dated: February 7, 2017

16   
17 DISTRICT COURT JUDGE

18 Submitted by:

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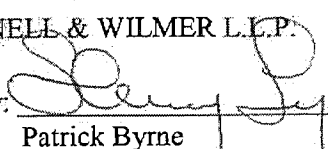
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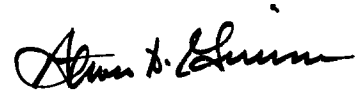
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12 **DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 MICHAEL A. TRICARICHI,  
15  
16 Plaintiff,

Case No. A-16-735910-B

Dept. No. XV

17 vs.

18 PRICEWATERHOUSECOOPERS, LLP,  
19 COÖPERATIEVE RABOBANK, U.A.,  
20 UTRECHT-AMERICA FINANCE CO.,  
21 SEYFARTH SHAW LLP and GRAHAM R.  
22 TAYLOR,

23 Defendants.

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION TO DISMISS THE  
COMPLAINT AGAINST  
COÖPERATIEVE RABOBANK U.A. AND  
UTRECHT-AMERICA FINANCE CO. FOR  
LACK OF PERSONAL JURISDICTION  
AND DENYING REMAINDER OF  
MOTION AS MOOT**

24 NOTICE IS HEREBY GIVEN that an Order Granting Motion to Dismiss the Complaint  
25 Against Coöperatieve Rabobank U.A. and Utrecht-America Finance Company for Lack of  
26 Personal Jurisdiction and Denying Remainder of Motion as Moot, was entered on February 8,  
27 2017.

28 ////

1 A copy of the Order is attached hereto.

2  
3 Dated this 9th day of February, 2017.

4  
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Lewis Roca  
ROTHGERBER CHRISTIE

**CERTIFICATE OF SERVICE**

Pursuant to Rule 5(b), I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court and caused a true and accurate copy of the same to be served via the Court's E-Filing System DAP/Wiznet, upon the following counsel of record. The date and time of the electronic service is in place of the date and place of deposit in the mail.

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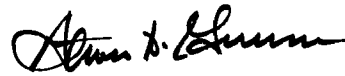
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Dated this 9th day of February, 2017.

/s/ Luz Horvath

An employee of Lewis Roca Rothgerber Christie LLP



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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MICHAEL A. TRICARICHI,	) Case No. A-16-735910-B
Plaintiff,	) Dept.: XV
v.	)
	) <b>ORDER GRANTING MOTION TO</b>
PRICEWATERHOUSECOOPERS, LLP,	) <b>DISMISS THE COMPLAINT AGAINST</b>
COÖPERATIEVE RABOBANK U.A.,	) <b>COÖPERATIEVE RABOBANK U.A.</b>
UTRECHT-AMERICA FINANCE CO.,	) <b>AND UTRECHT-AMERICA FINANCE</b>
SEYFARTH SHAW, LLP and GRAHAM R.	) <b>CO. FOR LACK OF PERSONAL</b>
TAYLOR,	) <b>JURISDICTION AND DENYING</b>
Defendants.	) <b>REMAINDER OF MOTION AS MOOT</b>
	)
	) <b>Date of Hearing: January 18, 2017</b>
	) <b>Time of Hearing: 9:00 a.m.</b>

Defendants Coöperatieve Rabobank U.A. ("Rabobank") and Utrecht-America Finance Company ("Utrecht")'s motion to dismiss for, among other things, lack of personal jurisdiction (the "Motion") came on for hearing on January 18, 2017. Chris Paparella of Hughes Hubbard & Reed LLP, in association with Dan Waite of Lewis Roca Rothgerber Christie LLP, appeared and

1 argued in support of the Motion for Defendants Rabobank and Utrecht. Thomas D. Brooks of  
2 Sperling & Slater, P.C., in association with Todd Prall of Hutchison & Steffen, LLC, appeared and  
3 argued in opposition to the Motion for Plaintiff Michael A. Tricarichi.

4 The Court, having read and considered the Motion papers submitted by the parties and  
5 heard and considered the arguments of their counsel, and good cause appearing, grants the Motion  
6 for lack of personal jurisdiction based on the following reasons, summary of the allegations in the  
7 complaint, and information tendered by the parties to the Court in the exhibits and affidavits  
8 submitted in support of and in opposition to the Motion, and denies as moot and without prejudice  
9 the remainder of the arguments raised by the Motion.

## 10 **BACKGROUND**

### 11 **The Tax Shelter**

12 In Spring 2003, Mr. Tricarichi, who was then an Ohio resident, owned an Ohio corporation  
13 called West Side Cellular, Inc. ("West Side") that was about to receive a \$65 million settlement  
14 payment from a lawsuit.<sup>1</sup> Mr. Tricarichi and Ohio lawyers at the Hahn Loeser firm began  
15 searching for ways to avoid paying all the tax due on the \$65 million payment. Mr. Tricarichi  
16 decided to engage in a "midco" transaction with a San Francisco-based promoter called Fortrend.  
17 The transaction involved the sale by Mr. Tricarichi of West Side to an offshore Fortrend  
18 subsidiary called Nob Hill. Mr. Tricarichi would receive most of West Side's cash and Fortrend  
19 would receive a \$5 million promotion fee. Nob Hill would offset West Side's tax liabilities with  
20 tax deductions from distressed debt. Mr. Tricarichi sold West Side to Nob Hill on September 9,  
21 2003, and received \$34.6 million in cash.

22 West Side failed to pay 2003 federal income taxes on the \$65 million settlement payment.  
23 The IRS sought payment of those taxes, plus penalties and interest, from Mr. Tricarichi. Mr.  
24 Tricarichi commenced a proceeding in Tax Court to challenge the IRS's decision. The Tax Court  
25 upheld the IRS's determination that Mr. Tricarichi was liable for over \$21 million in unpaid taxes,  
26 penalties, fees, and pre-judgment interest. In doing so, the Tax Court found after extensive

27 <sup>1</sup> Although the Tax Court found that Mr. Tricarichi did not move to Nevada until after his midco transaction was  
28 consummated, Mr. Tricarichi made a prima facie showing on this Motion that he relocated to Nevada before the  
transaction was consummated.

1 discovery and a trial that Mr. Tricarichi had constructive knowledge that Fortrend intended to  
2 implement an illegitimate tax shelter.

3 **Rabobank and Utrecht**

4 Rabobank is a cooperative organized under Dutch law. Its principal place of business is in  
5 the Netherlands, and it has a branch in New York, New York. Utrecht is a subsidiary of Rabobank  
6 that is incorporated in Delaware and has its principal place of business in New York, New York.  
7 Rabobank and Utrecht (i) are not licensed to conduct business in Nevada, (ii) do not maintain any  
8 offices or branches in Nevada, (iii) do not have any employees in Nevada, (iv) are not required to  
9 and do not pay taxes in Nevada, and (v) do not have registered agents in Nevada. All of Rabobank  
10 and Utrecht's witnesses and documents relevant to this action are in New York.

11 Defendants Rabobank and Utrecht provided certain financial services in New York in  
12 connection with the subject transaction. Mr. Tricarichi, West Side and Nob Hill set up accounts at  
13 Rabobank's New York branch before the closing. Mr. Tricarichi signed a Non-Confidentiality  
14 Certificate in which he agreed Rabobank and Utrecht had not made any statement to Mr.  
15 Tricarichi about the potential tax consequences of the subject transaction. On September 9, 2003,  
16 Utrecht lent Nob Hill \$29.9 million in New York, which Nob Hill transferred to Mr. Tricarichi's  
17 New York Rabobank escrow account, along with the balance of the \$34.6 million purchase price.  
18 Mr. Tricarichi transferred the \$34.6 million to another bank account he controlled in New York.  
19 That same day, Nob Hill repaid Utrecht the \$29.9 million loan, along with a \$150,000 transaction  
20 fee, in New York. Fortrend received \$5 million of West Side's cash as a promotion fee.

21 Mr. Tricarichi and West Side's account agreements with Rabobank and Nob Hill's loan  
22 documents with Utrecht use Rabobank and Utrecht's New York addresses. The agreements and  
23 loan documents provide they are governed by New York law, and several of them provide for a  
24 New York forum for disputes (the others are silent on forum). None of the agreements and loan  
25 documents provide for Nevada law or a Nevada forum.

26 Mr. Tricarichi's Complaint asserts claims against Rabobank and Utrecht for aiding and  
27 abetting fraud, civil conspiracy, violations of Nevada Revised Statutes Section 207.400, and unjust  
28 enrichment. (Compl. Counts III-VIII.) All of Mr. Tricarichi's claims are based on his contention



1 that Rabobank, Utrecht and the other defendants defrauded him into believing that the tax shelter  
2 was legitimate. Rabobank and Utrecht filed a motion to dismiss the claims against them based on  
3 the following grounds: lack of personal jurisdiction, *forum non conveniens*, statute of limitations,  
4 collateral estoppel and failure to state a claim.

5 **THERE IS NO PERSONAL JURISDICTION OVER RABOBANK AND UTRECHT**

6 Nevada's long-arm statute allows courts to exercise personal jurisdiction in civil matters  
7 "on any basis not inconsistent with the Constitution of [Nevada] or the Constitution of the United  
8 States." NEV. REV. STAT. § 14.065 (2015). "When a nonresident defendant challenges personal  
9 jurisdiction, the plaintiff bears the burden of showing that jurisdiction exists." *Fulbright &*  
10 *Jaworski v. Eighth Jud. Dist. Ct.*, 131 Nev. Adv. Op. 5, 7, 342 P.3d 997, 1001 (2015) (internal  
11 citation omitted). "In so doing, the plaintiff must satisfy the requirements of Nevada's long-arm  
12 statute and show that jurisdiction does not offend principles of due process." *Id.*; *see also Walden*  
13 *v. Fiore*, 134 S. Ct. 1115, 1121, 188 L. Ed. 2d 12, 19 (2014) ("[T]he Fourteenth Amendment  
14 "constrains a State's authority to bind a nonresident defendant to a judgment of its courts.") (citing  
15 *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291, 100 S. Ct. 559, 564 (1980)). To  
16 be subject to jurisdiction in a particular State, a nonresident defendant must have "certain  
17 minimum contacts . . . such that the maintenance of the suit does not offend 'traditional notions of  
18 fair play and substantial justice.'" *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154,  
19 158 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463, 61 S. Ct. 339, 342-43 (1940)). Mr.  
20 Tricarichi concedes that there is no general jurisdiction over Rabobank and Utrecht. Thus, the  
21 inquiry here is focused on whether the Court may exercise specific personal jurisdiction over  
22 Rabobank and Utrecht.

23 The exercise of "specific jurisdiction is proper only where the cause of action arises from  
24 the defendant's contacts with the forum." *Fulbright & Jaworski*, 131 Nev. Adv. Op. at 10, 342  
25 P.3d at 1002 (internal citations omitted). In determining whether specific personal jurisdiction  
26 over a nonresident is proper, Nevada courts consider (1) whether the defendant purposefully  
27 availed itself of the privilege of acting in Nevada or causing important consequences in Nevada,  
28

(2) whether the cause of action arises out of the defendant's Nevada-related activities, and (3) whether the exercise of jurisdiction over the defendant is reasonable. *Id.*

This inquiry "focuses on the relationship among the defendant, the forum, and the litigation." *Walden v. Fiore*, 134 S. Ct. at 1121, 118 L. Ed. 2d at 19-20 (internal quotations omitted). For specific jurisdiction to comport with due process, "the defendant's suit-related conduct must create a substantial connection with the forum State." *Id.* Two aspects of this necessary relationship are relevant here.

"First, the relationship must arise out of contacts that the 'defendant *himself*' creates with the forum State." *Id.* at 1122, 118 L. Ed. 2d at 20 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475, 105 S. Ct. 2174, 2284 (1985)) (emphasis in original). "Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties." *Id.* (citing *World-Wide Volkswagen Corp.*, 444 U.S. at 291-292, 100 S. Ct. at 564-65). "[C]ontacts between the plaintiff (or third parties) and the forum State" do not suffice. *Id.* (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417, 104 S. Ct. 1863, 1873 (1984)). "Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be 'decisive in determining whether the defendant's due process rights are violated.'" *Id.* (quoting *Rush v. Savchuk*, 444 U.S. 320, 332, 100 S. Ct. 571, 579 (1980)).

Second, the "'minimum contacts' analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there." *Id.* (citing *Int'l Shoe*, 326 U.S. at 319, 66 S. Ct. at 159-60.) Thus, "the plaintiff cannot be the only link between the defendant and the forum." *Id.* at 1122, 188 L. Ed. 2d at 21. "Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him." *Id.* at 1122-23, 188 L. Ed. 2d at 21. (citing *Burger King*, 471 U.S. at 478, 105 S. Ct. at 2178). Instead, "[d]ue process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the 'random, fortuitous, or attenuated' contacts he makes by interacting with other persons affiliated with the State." *Id.* at 1123, 188 L. Ed. 2d at 21 (citing *Burger King*, 471 U.S. at 475, 105 S. Ct. at 2183).

1 The same principles apply to intentional torts, as to which “it is likewise insufficient to rely  
2 on a defendant’s ‘random, fortuitous, or attenuated contacts’ or on the ‘unilateral activity’ of a  
3 plaintiff.” *Id.* at 1123, 188 L. Ed. 2d at 21 (internal citation omitted). Therefore, “[a] forum  
4 State’s exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on  
5 intentional conduct by the defendant that creates the necessary contacts with the forum.” *Id.*

6 These principles support dismissal here. First, Mr. Tricarichi has not identified any  
7 jurisdictionally significant contacts Rabobank or Utrecht directed at Nevada. Second, while Mr.  
8 Tricarichi alleges Rabobank and Utrecht had contact with him while knowing he was a Nevada  
9 resident at the time of the transaction, his claims do not arise out of those contacts. Third, the  
10 Court finds that it would not be reasonable to exercise personal jurisdiction over Rabobank and  
11 Utrecht for the reasons below.

12 Mr. Tricarichi does not identify a single Nevada activity by Rabobank or Utrecht in  
13 connection with the matters on which his claims are based. Mr. Tricarichi’s transaction was  
14 consummated in New York, Ohio and California. Rabobank and Utrecht had no ongoing  
15 obligations or continuing contacts with Mr. Tricarichi in Nevada (or elsewhere). Rabobank and  
16 Utrecht’s services occurred in New York, where they were located, and those services ended on  
17 September 9, 2003. While Mr. Tricarichi alleges that Nob Hill communicated with him while he  
18 was physically located in Nevada, he does not identify any communication made by Rabobank or  
19 Utrecht to him while he was physically located in Nevada. In fact, Mr. Tricarichi identifies only  
20 three direct communications with Rabobank or Utrecht, none of which came from Rabobank or  
21 Utrecht and none of which touched Nevada. The three communications Mr. Tricarichi identifies  
22 were faxes sent from San Francisco to Rabobank and Utrecht in New York. (*See* Exhibit M<sup>2</sup>  
23 (escrow account documents), Exhibit N (resignation document), and Exhibit O (wire transfer  
24 instructions).)<sup>3</sup>

25 \_\_\_\_\_  
26 <sup>2</sup> Exhibits refer to the Appendix of Exhibits in Support of Plaintiff’s (1) Opposition to Defendants Rabobank and  
27 Utrecht’s Motion to Dismiss, and (2) Counter-Motion for Leave to Take Jurisdictional Discovery, dated Dec. 7, 2016  
28 (“Pl. App. Ex.”).

<sup>3</sup> The fax headers on all three faxes show they were faxed from the 415 area code. And the escrow account documents  
in Exhibit M state Mr. Tricarichi signed them in San Francisco.

1 Mr. Tricarichi's allegations that Rabobank and Utrecht knew he had a Nevada address are  
2 insufficient to obtain jurisdiction over Rabobank and Utrecht under *Walden*. It is not enough to  
3 allege that Rabobank and Utrecht dealt with someone they knew had a physical address in Nevada.  
4 The Court held in *Walden* that only the defendant's connections to the forum, not the plaintiff's,  
5 are relevant. See 134 S. Ct. at 1121-25, 118 L. Ed. at 19-24. The Court reversed a finding of  
6 specific personal jurisdiction because the court below, instead of evaluating the defendant's own  
7 contacts with Nevada, mistakenly premised jurisdiction on the defendant's knowledge that the  
8 plaintiffs had connections with the forum. 134 S. Ct. at 1124, 118 L. Ed. at 23. The Supreme  
9 Court held that the lower court had improperly "shift[ed] the analytical focus from [the  
10 defendant's] contacts with the forum to his contacts with [the plaintiffs]." *Id.* (internal citations  
11 omitted) (holding that "[s]uch reasoning improperly attributes a plaintiff's forum connections to  
12 the defendant and makes those connections 'decisive' in the jurisdictional analysis . . . [and]  
13 obscures the reality that none of petitioner's challenged conduct had anything to do with Nevada  
14 itself"). The Supreme Court found that the plaintiffs' reliance on *Calder v. Jones*, 465 U.S. 783,  
15 104 S. Ct. 1482 (1984) — a decision on which Mr. Tricarichi also relies here — for the argument  
16 that "they suffered the 'injury' caused by petitioner's allegedly tortious conduct . . . while they  
17 were residing in the forum" was "misplaced" because "*Calder* made clear that mere injury to a  
18 forum resident is not a sufficient connection to the forum" and "[r]egardless of where a plaintiff  
19 lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has  
20 formed a contact with the forum State" through conduct that "connects him to the forum in a  
21 meaningful way." *Walden*, 134 S. Ct. at 1125, 118 L. Ed. at 23.

22 Here, Rabobank and Utrecht's New York activity "did not create sufficient contacts with  
23 Nevada simply because [they may have] directed [their] conduct at [Mr. Tricarichi] whom [they  
24 allegedly] knew had Nevada connections." *Walden*, 134 S. Ct. at 1125, 118 L. Ed. 2d at 23.  
25 "Such reasoning improperly attributes a plaintiff's forum connections to the defendant and makes  
26 those connections 'decisive' in the jurisdictional analysis . . . [and] obscures the reality that none  
27 of [Rabobank or Utrecht]'s conduct had anything to do with Nevada itself." *Id.* (internal citation  
28

1 omitted). Nevada jurisdiction over Rabobank and Utrecht must instead be based on acts by them  
2 that were purposefully directed at Nevada. No such acts are identified by Mr. Tricarichi.

3 Accordingly, Mr. Tricarichi's "claimed injury does not evince a connection between [him]  
4 and Nevada" because "it is not the sort of effect that is tethered to Nevada in any meaningful  
5 way." *Walden v. Fiore*, 134 S. Ct. at 1125, 118 L. Ed. 2d at 23. The fact that Mr. Tricarichi now  
6 has to repay the IRS from Nevada the amounts he wrongfully sought to evade paying is not due to  
7 anything that independently occurred in Nevada—in fact, as stated above, the Tax Court found  
8 that the relevant actions happened in Ohio—rather Mr. Tricarichi must pay the IRS from Nevada  
9 "because Nevada is where [he] chose to be at a time when [the IRS sought to recover the funds at  
10 issue]." *Id.* (noting that "Respondents would have experienced this same lack of access in  
11 California, Mississippi, or wherever else they might have traveled and found themselves wanting  
12 more money than they had."); *see also Picot v. Weston*, 780 F.3d 1206, 1212 (9th Cir. 2015);  
13 *Olivine Int'l Mktg. v. Texas Packaging Co.*, No. 2:09-CV-02118-KJD, 2010 WL 4024232, at \*4  
14 (D. Nev. Sept. 27, 2010). Mr. Tricarichi would be liable to the IRS for his tax obligations  
15 wherever he moved in the United States. The fact that he chose Nevada is, by itself, insufficient to  
16 establish specific jurisdiction. *Picot*, 780 F.3d at 1126.

17 Moreover, the few communications Mr. Tricarichi identifies between himself and  
18 Rabobank and Utrecht were ministerial in nature. These communications concerned the accounts  
19 Mr. Tricarichi opened for himself and West Side at Rabobank, his and his wife's resignations as  
20 officers of West Side, and the transfer of funds. Mr. Tricarichi's claims do not arise out of these  
21 communications.

22 In view of the foregoing facts, the Court also finds that it would not be reasonable to  
23 exercise personal jurisdiction over Rabobank or Utrecht.

24 **Mr. Tricarichi Cannot Base Personal Jurisdiction on His Conspiracy Claims**

25 In light of these recent cases from our Supreme Court, the U.S. Supreme Court, and the  
26 Nevada U.S. District Court, *Walden* confirms that Mr. Tricarichi misplaces his reliance on *Davis*  
27 *v. Eighth Jud. Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981). *Davis* held that defendants who  
28 conspired out-of-state could be subject to jurisdiction for injuries alleged to have occurred in

1 Nevada as a consequence of their acts elsewhere. *Walden*, however, appears to overrule *Davis*  
2 because, as the U.S. Supreme Court declared, “mere injury to a forum resident is not a sufficient  
3 connection to the forum. . . . The proper question is not where the plaintiff experienced a  
4 particular injury or effect but whether the defendant’s conduct connects him to the forum in a  
5 meaningful way.” 134 S. Ct. at 1125. *See also id.* at 1122 (quoting *Helicopteros Nacionales de*  
6 *Colombia, S.A. v. Hall*, 466 U.S. 408, 417 (1984) (“[The] unilateral activity of another party or a  
7 third party is not an appropriate consideration when determining whether a defendant has  
8 sufficient contacts with a forum State to justify an assertion of jurisdiction.”)).

9 Thus, Rabobank and Utrecht’s alleged “facilitation” of a transaction between Mr.  
10 Tricarichi and others in an out-of-state conspiracy that Mr. Tricarichi says injured him in Nevada  
11 does not appear to be consistent with *Walden*’s holding that “jurisdiction over an out-of-state  
12 intentional tortfeasor must be based on intentional conduct by the defendant that creates the  
13 necessary contacts with the forum.” 134 S. Ct. at 1125. Moreover, even if *Davis* has survived  
14 *Walden*, which is highly questionable to the Court, the circumstances alleged by Mr. Tricarichi are  
15 distinguishable from the limited facts recited in the *Davis* opinion, which still do not make out a  
16 prima facie case for jurisdiction under *Viega GmbH. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 40,  
17 16-18, 328 P.3d 1152, 1157, 1160-61 (2014), *Daimler AG v. Bauman*, 134 S. Ct. 746, 187 L. Ed.  
18 2d 624 (2014), or *Walden*. The facts of this case are also distinguishable from the post-*Walden*  
19 authority Mr. Tricarichi cites. *See Best Chairs Inc. v. Factory Direct Wholesale, LLC*, 121 F.  
20 Supp. 3d 828 (S.D. Inc. 2015); *First Cmty. Bank, N.A. v. First Tennessee Bank, N.A.*, 489 S.W.2d  
21 369 (Tenn. 2015); *Khan v. Gramercy Advisors, LLC*, 2016 Ill. App. (4<sup>th</sup>) 150435, 2016 Ill. App.  
22 LEXIS 425 Ill. App. Ct. 2016).

### 23 **THERE IS NO BASIS FOR JURISDICTIONAL DISCOVERY**

24 There is no basis for jurisdictional discovery here because Mr. Tricarichi has failed to  
25 establish a prima facie basis for specific personal jurisdiction. *See Viega GmbH. Eighth Jud. Dist.*  
26 *Ct.*, 130 Nev. Adv. Op. 40, 16-18, 328 P.3d 1152, 1157, 1160-61 (2014); *Daimler*, 134 S. Ct. at  
27 751, 760 (insufficient facts alleged to support either general or specific jurisdiction; absent such  
28 facts, no basis to allow jurisdictional discovery); *see also Western States Wholesale Nat. Gas*

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1 *Litig.*, 605 F. Supp. 2d 1118, 1140 (D. Nev. 2009) and *Menalco, FZE v. Buchan*, 602 F. Supp. 2d  
2 1186, 1194 n. 1 (D. Nev. 2009) (personal jurisdiction cannot be based on the actions of co-  
3 conspirators). Moreover, the fact that Mr. Tricarichi has already had the benefit of extensive  
4 discovery from Rabobank and Utrecht in the Tax Court proceeding prior to filing his Complaint,  
5 as evidenced by his filing of numerous documents in this action produced by Rabobank in the Tax  
6 Court action, further supports denial of jurisdictional discovery here.

7 **OTHER ARGUMENTS**

8 Given the dismissal of all claims against Rabobank and Utrecht on personal jurisdiction  
9 grounds, the rest of the arguments raised by the Motion are denied, without prejudice, as moot.

10 **CONCLUSION**

11 Now, for the foregoing reasons, the Court grants the Motion and by this Order dismisses  
12 the Complaint against Rabobank and Utrecht for lack of personal jurisdiction, and denies the  
13 remainder of the arguments raised by the Motion, without prejudice, as moot.

14 IT IS SO ORDERED.

15 Dated: February 7, 2017

16   
17 DISTRICT COURT JUDGE

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