

Case No. 73175

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**In the Supreme Court of Nevada**

MICHAEL A. TRICARICHI,

Appellant,

vs.

COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.  
AND SEYFARTH SHAW LLP,

Respondents.

Electronically Filed  
Jan 15 2019 09:10 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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**APPEAL**

from the Eighth Judicial District Court, Department XV  
Clark County, Nevada  
The Honorable JOE HARDY, District Judge  
District Court Case No. CV12-02222

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**RESPONDENTS RABOBANK AND UTRECHT'S  
NOTICE OF SUPPLEMENTAL AUTHORITIES**

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DAN R. WAITE (SBN 4078)  
LEWIS ROCA ROTHGERBER CHRISTIE LLP  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
(702) 949-8200  
dwaite@lrrc.com

CHRIS PAPARELLA  
(*Admitted Pro Hac Vice*)  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, NY 10004-1482  
(212) 837-6644  
chris.paparella@hugheshubbard.com

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

Respondents Rabobank and Utrecht join in and adopt Respondent Seyfarth Shaw's Notice of Supplemental Authorities dated January 11, 2019 (Doc. 2019-01623), attached hereto as Exhibit A, which provided notice under NRAP 31(e) of certain supplemental authorities decided after Respondents filed their answering brief. Respondents cite these authorities for the same legal propositions set forth in Seyfarth Shaw's Notice and add an additional authority.

1. *Morrill v. Scott Fin. Corp.*, 873 F.3d 1136 (9th Cir. 2017). This case supplements the authorities cited on pages 14 to 23 of Respondents' Answering Brief.

2. *Old. Rep. Nat. Title Ins. Co. v. Bell*, 549 S.W.3d 550 (Tex. 2018). This case supplements the authorities cited on pages 14 to 23 of Respondents' Answering Brief.

3. *Wescott v. Reisner*, 2018 WL 2463614 (N.D. Cal. Jun. 1, 2018). This case supplements the authorities cited on pages 24 to 26 of Respondents' Answering Brief.

4. *David L. v. Super. Ct.*, 240 Cal. Rptr. 3d 462 (Cal. App. 2018). This case supplements the authorities cited on pages 14 to 23 of Respondents' Answering Brief.

5. *Yagman v. Kelly*, 2018 WL 2138461 (C.D. Cal. Mar. 20, 2018). This case supplements the authorities cited on pages 24 to 26 of Respondents'

Answering Brief.

6. *Tricarichi v. Comm’r of Internal Revenue*, No. 16-73418, 2018 WL 5921226 (9th Cir. Nov. 13, 2018). This 9th Circuit decision affirmed the Tax Court opinion on which Respondents rely on pages 8 to 10 and 27 of their Answering Brief to support their legal arguments.

7. In addition, Respondents give notice under NRAP 31(e) of *Axiom Foods, Inc. v. Acerchem Int’l, Inc.*, 874 F.3d 1064 (9th Cir. 2017). *Axiom Foods* held that in light of the U.S. Supreme Court’s decision in *Walden v. Fiore*, 134 S.Ct. 1115 (2014), “while a theory of individualized targeting may remain relevant to the minimum contacts inquiry, it will not, on its own, support the exercise of specific jurisdiction, absent compliance with what *Walden* requires.” *Axiom Foods*, 874 F.3d at 1070. This case supplements the authorities cited on pages 14 to 23 of Respondents’ Answering Brief.

Dated this 14th day of January, 2019.

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: /s/ Dan R. Waite

DAN R. WAITE (SBN 4078)  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
(702) 949-8200

*Attorney for Respondents Coöperatieve  
Rabobank U.A. and Utrecht-America  
Finance Co.*

**CERTIFICATE OF SERVICE**

I certify that on January 14, 2019, I submitted the foregoing “Respondents’ Notice of Supplemental Authorities” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

Mark A. Hutchison  
Michael K. Wall  
Todd W. Prall  
HUTCHISON & STEFFEN, LLC  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145

Scott F. Hessel  
Thomas D. Brooks  
SPERLING & SLATER, P.C.  
55 West Monroe, Suite 3200  
Chicago, IL 60603

/s/ Jessie M. Helm  
An Employee of Lewis Roca Rothgerber Christie LLP

# Exhibit A

# Exhibit A

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Jan 10 2019 04:03 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

MICHAEL A. TRICARICHI,

Appellant,

v.

COÖPERATIEVE RABOBANK U.A.,  
UTRECHT-AMERICA FINANCE CO.  
and SEYFARTH SHAW LLP,

Respondents.

Case Number: 73175

District Court Case Number:  
A-16-735910-B

**SEYFARTH SHAW LLP'S NOTICE  
OF SUPPLEMENTAL  
AUTHORITIES**

MORRIS LAW GROUP  
Steve Morris, Bar No. 1543  
Akke Levin, Bar No. 9102  
Ryan M. Lower, Bar No. 9108  
411 E. Bonneville Ave, Ste. 360  
Las Vegas, NV 89101  
Telephone No.: (702) 474-9400

Attorneys for Respondent  
Seyfarth Shaw LLP

Respondent Seyfarth Shaw LLP ("Seyfarth") hereby gives notice under NRAP 31(e) of the following supplemental authorities, which were decided after Seyfarth filed its answering brief:

1. *Morrill v. Scott Fin. Corp.*, 873 F.3d 1136 (9th Cir. 2017).

*Morrill* held that specific personal jurisdiction requires (1) a "tort [that] must involve the forum state itself, and not just have some effect on a party who resides there," and (2) a "prima facie showing" that a defendant's "alleged actions were directed at" the forum state, and not just the plaintiff. 873 F.3d at 1145, 1148-49. This case supplements the authorities cited on pages 16, 20, 21, and 22 of Seyfarth's Answering Brief.

2. *Old. Rep. Nat. Title Ins. Co. v. Bell*, 549 S.W.3d 550 (Tex. 2018). The *Bell* court held that the "mere existence or allegation of a conspiracy directed at Texas is not sufficient to confer [personal] jurisdiction"; nor is it enough that a defendant knew that the 'brunt' of the alleged harm would be felt there. *Bell*, 549 S.W.3d at 560, 565. Rather, the "'effects' of the alleged tort must connect the defendant to the forum state itself, not just to a plaintiff who lives there." *Id.* at 564. This case supplements the authorities cited on pages 16, 22, 26, 29 and 30 of Seyfarth's Answering Brief.

3. *Wescott v. Reisner*, 2018 WL 2463614 (N.D. Cal. Jun. 1, 2018). *Wescott* held that "where conspiracy is alleged, an exercise of personal jurisdiction must be based on forum-related acts that were *personally committed by each nonresident defendant*, and acts of an alleged co-conspirator [] cannot be imputed to establish jurisdiction over the third party defendant." *Id.* at \*4 (internal quotation marks, alterations, and citations omitted) (emphasis in the original). This case supplements the authorities cited on pages 29 and 30 of Seyfarth's Answering Brief.

4. *David L. v. Super. Ct.*, 240 Cal. Rptr. 3d 462 (Cal. App. 2018). *David L.* holds, *inter alia*, that under *Walden v. Fiore*, 134 S. Ct. 1115 (2014), specific jurisdiction must rest on a defendant's contacts with the forum, "not merely a plaintiff who lives here," and those forum contacts must be "suit-related," and not be for unrelated business or personal purposes. *David L.*, 240 Cal. Rptr. 3d at 465, 474. This case supplements the authorities cited on pages 16 and 20 of Seyfarth's Answering Brief.

5. *Yagman v. Kelly*, 2018 WL 2138461 (C.D. Cal. Mar. 20, 2018). The court in *Yagman* declined to adopt the conspiracy theory of jurisdiction, observing that there was not a "single opinion from any California court, the Ninth Circuit, or any district court within the Ninth



Circuit that endorses 'a conspiracy theory of jurisdiction'. . . ." *Yagman*, 2018 WL 2138461, at \*8. This case supplements the case law cited on page 28 of Seyfarth's Answering Brief.

Finally, the Tax Court opinion on which Seyfarth relies on page 8 of its Answering Brief to support its legal arguments was affirmed by the 9th Circuit on November 13, 2018. *See Tricarichi v. Comm'r of Internal Revenue*, No. 16-73418, 2018 WL 5921226 (9th Cir. Nov. 13, 2018).

Respectfully submitted,

MORRIS LAW GROUP

By: /s/ STEVE MORRIS  
Steve Morris, Bar No. 1543  
Akke Levin, Bar No. 9102  
Ryan M. Lower, Bar No. 9108  
411 E. Bonneville Ave., Ste. 360  
Las Vegas, NV 89101

Attorneys for Respondent  
Seyfarth Shaw LLP

## CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the following document: **SEYFARTH SHAW LLP'S NOTICE OF SUPPLEMENTAL AUTHORITIES** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows:

Mark A. Hutchison  
Michael K. Wall  
Todd W. Prall  
HUTCHISON & STEFFEN, LLC  
10080 West Alta Drive, Suite 200  
Las Vegas, Nevada 89145

Scott F. Hessell (*Pro Hac Vice*)  
Thomas D. Brooks (*Pro Hac Vice*)  
SPERLING & SLATER, P.C.  
55 West Monroe, Suite 3200  
Chicago, IL 60603

*Attorneys for Appellant*

Dan R. Waite  
LEWIS ROCA ROTHGERBER  
CHRISTIE LLP  
3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169

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

Pursuant to Nev. R. App. P. 25, I certify that I am an employee of MORRIS LAW GROUP; that, in accordance therewith, I caused a copy of SEYFARTH SHAW LLP'S NOTICE OF SUPPLEMENTAL AUTHORITIES to be delivered, in a sealed envelope, on the date and to the addressee(s) shown below (as indicated below):

Chris Paparella  
(*Pro Hac Vice*)  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, NY 10004-1482

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

DATED this 10th day of January, 2019.

By: /s/ PATRICIA QUINN