full time wage earner at 150% of minimum wage is near $10,500.00. For a three person household that is just slightly above 100% of the poverty level. The poverty level for a family of three is $10,060.00.

Given the discussion concerning the minimum wage taking place at both the state and federal level, we could, regarding Option I, substitute "$150 or 30 times the minimum hourly wage, whichever is greater," for "150% of 30 times minimum wage."

Also, we think that since the cost of living rises more quickly for poor people than it does for the average consumer, that the figure 150% of minimum wage rather than 130% of minimum wage (which would be dictated by the increase in the consumer price index since 1981) is appropriate. 1981 was the last year the federal minimum wage was adjusted.

LOUIS A. TABAT
CONSTABLE

CONSTABLE'S OFFICE
NORTH LAS VEGAS TOWNSHIP
1916 North Bruce Street
North Las Vegas, Nevada 89030

TELEPHONE
(702) 455-7800

April 14, 1989

SHOULD THIS BILL PASS, CLARK COUNTY STANDS TO LOSE AROUND 155,000 DOLLARS PER YEAR IF NOT MORE IN REVENUES PLUS COMMISSION FEES, FOR CONSTABLE AND HIS DEPUTIES. THIS BILL WAS SUBMITTED BY ASSEMBLYMAN, CALLISTER, WHO IS A ATTORNEY REPRESENTING COLLECTION AGENCEYS.

Senator Thomas J. Hickey
Capitol Complex
Legislative Building
C/O Mail Room
Carson City, Nevada 89710

RE: CHAPTER 31 NRS, AB 247,
SECTION 2

I feel that AB247 is a one sided bill and not enough thought has been given to the impact it would have on the Justice Courts, District Courts, Constable Office's, Sheriff's Civil Bureau, or the State in general.

If the private process servers were allowed to serve wage garnishments you can be sure that this bill would never have been put before you.

A wage garnishment is a court order which only a Constable or Sheriff can serve. A service fee and mileage fee is charged for each execution served which generates revenue for the constables office, sheriffs office and county. If only one wage garnishment is served on each case it would drastically cut revenues and among other things cause a personnel lay off.

This bill also says that employers would send checks directly to the plaintiffs rather than going through the Constable or Sheriff's office. This would raise many questions such as: who is to keep the records of the accounts? The plaintiff, the defendant, the employer? Who provides the information to the court? Will the information be kept up to date, will it be correct? What happens when a garnishment is paid off? Is the employer, or the plaintiff responsible to notify the court? What is to take place if they don't? What if their records are inaccurate?

What happens when a defendant goes to buy a house or try to establish credit and the credit reports (such as TRW) show judgments against him which he thought had been satisfied but the responsible party (whoever that might be) has neglected to contact or file the proper paperwork

1491

EXHIBIT "D"

with the court?

As it is now, only one garnishment can be honored by an employer per pay period. If this bill is passed changing a one time garnishment to a continuing writ and more than one person or company has a judgment against a defendant the employer would honor the first garnishment they receive leaving the others out of receiving any of their money until the first persons garnishment is paid in full. It is understood that this bill would put a six month cap on the garnishment. Now, how are the other creditors going to know the six months are up (think of the record keeping) and what is to keep the present creditor from turning around and immediately refiling on the defendant again leaving the others out in the cold and who is to decide which creditor is next in line to file their garnishment?

Another consideration for rejection of the bill AB247 may be compassion to the defendant himself. If Writs of Execution were to stay the way they are it gives the defendant a breathing period so to speak to keep up with their rent, util. etc. before being executed upon again. If the Legislature decides to pass AB247 it can and will cause some real hardships upon the defendant. It is rough for a person who is down and out to keep up his rent, utilities and every day living expenses when every check he receives has a big cut out of it due to a wage garnishment. The fact is that they are being attached because they do not have enough money to pay bills in the first place.

Officer Lou Lust of Phoenix, Arizona stated that their Legislature adopted a one time Writ of Garnishment procedure about 1 year ago and it has caused nothing but utter chaos for everyone concerned. Some of the problems they are confronted with are:

#1 Approximately $180,000.00 loss in revenues for the county.

#2 Small businesses as well as large aren't able to comprehend the law so are being penalized as they now have the responsibility of being the collection agency.

#3 Locks out all other creditors completely until garnishment is paid in full and in some instances that can take years.

1492

#4 *It has come to the point where even attorneys do not want to be bothered with wage garnishments.*

Officer Lou Lust is happy to talk to anyone who wishes to know how the 1 time garnishment has affected Arizona. You can reach him at (602) 967-1569 or (602) 261-5958.

The passage of this bill should be stopped. The repercussions would be astronomical.

Sincerely,

Louis A. Tabat, Constable
North Las Vegas Township

1493

JOHN J. HART
Constable of Reno Township
Washoe County Courthouse
P.O. BOX 11130
RENO, NEVADA 89520
785-4221

April 24, 1989

TO: Sue Wagner, Chairwoman Senate Judiciary Committee
Hal Smith, Vice Chairman
Mike Malone, Member
Charles Joerg, Member
Joe Neal, Member
Nick Horn, Member
Dina Titus, Member

The Constables of Washoe County are opposed to the passage of Assembly Bill #247 which allows for continuing garnishment until the amount demanded in the Writ is satisfied.

It is our contention that the present system of serving garnishments is fair to both the plaintiff and the defendant and should not be changed.

FROM: John J. Hart, Constable Reno Township
Dan Ernst, Constable Sparks Township
George Powning, Constable Verdi Township
Russ McKlem, Constable Incline Village Township
Dave Carter, Constable Gerlach Township
C.E. Polfus, Constable Wadsworth Township

1494
EXHIBIT "E"

April 21, 1989

Senate Legislative Committee
Capitol Complex
Legislative Building
Carson City, Nv 89710

Re: AB247

Dear Senators,

AB247 provides for continuing wage attachments against debtors who have been sued in court due to non-payment of outstanding debts.

On the average 50%-70% of most cases filed by creditors are for medical expenses. Most of the defendants have little or no medical insurance and the expenses incurred are usually for minor children.

Nevada's garnishment laws at the present time, call for a one time wage attachment. These debtors are paying 25% of one paycheck, leaving the balance of their checks to pay rent, utilities, food and child care. If AB247 were to be enacted, the debtor would lose 25% of his or her monthly income.

Currently, it is not uncommon for a debtor to contact the garnishing Plaintiff, make arrangements for regular monthly payments and receive a release of attachment. Under the proposed AB247, the Plaintiffs would not be willing to make arrangements for releases and payment plans as they would stand a chance of losing their place in line should another Plaintiff have a judgment against the same debtor. In many cases, there is more than one Plaintiff competing for the same defendant's paycheck. Why would a Plaintiff want to risk losing his ability to collect from the defendant, for up to 6 months, by taking a defendant's word that he will keep up the payment arrangement. The defendant would be pushed into a corner in which he could not escape.

Losing 25% of one's take home pay will not only make it impossible to meet any other medical bills incurred, it would also make it impossible for many of them to pay their everyday living expenses, thus pushing them further and further into debt. Many will be unable to fend off landlords demanding payment of rent, and will be faced with eviction from their homes, therefore, causing the overloading of the court calender. This is done in a desperate attempt to retain their shelter as long as possible. They will be forced to either quit their jobs, file bankruptcy, skip town or go on welfare. Now who pays? "The taxpayer."

1495

EXHIBIT "F"

Most of the people who are being garnished are in debt because they simply do not have the funds to pay. Granted, there are a few that are in debt due to their own excessive spending on non-necessities and unpaid credit cards etc., but they are the minority. The people that will be hit the hardest will be the ones that are already at the end of their financial ropes. If the average defendant had a normal take home pay of $800.00 per month and then had a continuing garnishment hit their check, they would be losing $200.00 each month. Who can live on the remaining $600.00? Why should they continue to work if they have children to support? They could not begin to pay for child care. It would be much easier to go on welfare and have their living expenses paid. At least, they would not have to worry about having a roof over their heads and food on the table.

Another group of individuals should also be taken into account. There is a small percentage, 15%-20%, who are not only being garnished due to civil judgments, but, they are also paying fines for court citations and other criminal matters. What happens when one of these individuals finds his paycheck being continually garnished and has to choose between a court fine and eating or paying rent? If the court fine doesn't get paid, and the individual is jailed on a bench warrant, unable to post bail, once again, who pays? The Courts will be unable to collect their fines, the plaintiffs will not get paid and the taxpayer will now pay the living expenses of these people.

It is impossible to see who will benefit from passage of this bill. It may save the debtors the costs of having a plaintiff refile for each attachment. However, if the defendant is unable to meet other obligations due to a continually short paycheck, he will have more law suits filed against him and will incur more legal expenses as a result.

The plaintiff will be at risk of losing assets to attach should the debtor be pushed into quitting his job to escape the continuing hardship or resort to bankruptcy. Government revenues will go down due to the extreme decrease in the issuance of attachments. The Sheriffs and Constables will lose work due to the decrease of writs to be served.

Finally, who is to keep the court informed of the status of an attachment since the money will be going directly to the Plaintiff. Are they to report to the court each and every time they receive a payment from an employer? The Courts already have problems with Plaintiffs failing to file a satisfaction of judgment. Occasionally, an employer will take out the normal 25% from the employee's paycheck, not noticing that the balance due is less than the 25% mandated. Who is going to make sure the plaintiff refunds the excess to the defendant?

There are too many problems with AB247 as it stands. Passage of this bill would result in utter chaos for all parties involved. Please consider the above, when deciding whether or not to sign this bill into law.

Respectfully yours,

Daniel P. Ernst
Constable, Sparks Township

1496

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-fifth Session

May 24, 1989

The Senate Committee on Judiciary was called to order by Chairman Sue Wagner, at 8:00 a.m., on Wednesday, May 24, 1989, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Sue Wagner, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Joe Neal
Senator Nicholas J. Horn
Senator Mike Malone
Senator Charles W. Joerg
Senator Dina Titus

STAFF MEMBERS PRESENT:

Jennifer Stern, Legal Counsel
Marilyn Hofmann, Committee Secretary

ASSEMBLY BILL 507 - Expands circumstances under which estate for years may be encumbered by deed of trust.

Testimony of Julien "Jay" Sourwine, State Bar of Nevada (State Bar).

Mr. Sourwine stated A.B. 507 had been requested by the Business Law Committee of the State Bar, and was approved by the Board of Governors of that organization. He said it addresses a "somewhat obscure statute" that restricts the ability to take a lease as security. Mr. Sourwine indicated the language of the statute presently requires that a lease, or any document creating an estate for years, must specifically allow it to be taken as security, a subject which is not normally addressed. He said lessees usually feel they have a right to encumber their leasehold interests, unless they have specifically bargained on that subject with their landlord. Mr. Sourwine stated many large financing transactions, will frequently involve lease financing.

ASSEMBLY BILL 247 - Provides for continuing garnishment under certain circumstances.

Senator Wagner asked Assemblyman Callister to discuss the amendments which the committee had received pertaining to the bill. Mr. Callister apologized for not providing the amendments at an earlier time. He reminded the committee of his earlier testimony: "The notion of continuing garnishment would be as follows: the garnishment would be served upon the judgment debtor by the existing court officers, whether that is a constable or a sheriff...that garnishment would then remain in effect in perpetuity until it was paid off...under the original proposal, each time the pay period came up, the funds could be sent directly to the counsel, as opposed to siphoning back through the court. After careful consideration, and meeting with representatives of both Washoe County and Clark County, I have agreed to make the following proposed amendments:

1. The garnishment would still be served by the appropriate court officer...the constable or sheriff...however, it would have a cap of 4 months...120 days...;

2. The funds would always come back via the court...;

That substantially reduces the financial impact of the bill...."

Mr. Callister indicated he had spoken with representatives of the Washoe County Sheriff's Civil Division, and "...they think that is an acceptable proposal." He said the Las Vegas Sheriff's Civil Division, "...can also live with it. No one is anxious to reduce their total work load in fear it will have an impact on their jobs...I can understand that in relationship to the constables...I cannot help but admit this is going to reduce the number of services [of process]...all I can do is urge the members of this committee to remember that the cost of those multiple services is, in each instance, passed along to the judgment debtor...the person who couldn't pay his bills to begin with...."

Senator Neal referred to certain amendments requested by Washoe County Legal Services. Mr. Callister said that organization had filed a class action suit in the United States District Court, naming the county clerk of each of the various counties in the state, seeking to have the entire garnishment process determined to be unconstitutional for lack of adequacy of notice. Mr. Callister indicated he had spoken

to the representatives of Washoe County Legal Services. He said: "There is a possibility I may have to come back to this committee, presuming that A.B. 247 meets with your favor, with some nominal amendments that do not deal with that issue at all...but that I would want to tack on because I want to clarify the garnishment procedure in total...but at this point in time that is on the sidelines...it will be dealt with in a judicial setting."

Senator Wagner asked Mr. Callister if she should hold A.B. 247, so it could be used as a "vehicle" for the amendments he was discussing. Mr. Callister answered: "If there is an appetite to move the bill with these amendments, I think we ought to...as you are aware, the state bar has also introduced its own version of a continuing garnishment [legislation]...I would not have introduced mine, if I had known they were going to do the same. I think it is in the best interest of this bill to move it out...."

Senator Neal asked Mr. Callister if he had talked to the representatives of Washoe County Legal Services, "...to see what it would take to clear this up?" Mr. Callister stated their concern was not the issue of the "continuing garnshment." He said he believed they agreed continuing garnishment was less expensive for the type of clientele they represent. He continued: "Their concern is...in Washoe County, for whatever reason, at least in the Justice Court in Washoe County, there has been a limitation imposed by one or more of their justices of the peace on the number of times you can garnish a paycheck within a monthly period. That is not a function of what is in our statute...it is just some, in my estimation, an aberration, and I don't think it deals with the same issues at all...but, they don't like the idea of the possibility that a continuing garnishment may have the net effect of allowing more garnishments per month...but because they have some judges who deal with it differently." Mr. Callister pointed out he has not asked for any changes to the existing exemption laws. He reiterated: "There is nothing in this bill that will have any impact on the state and federal exemptions...this bill does not impose any change whatsoever on the amount of a judgment debtor's salary that is available for execution or collection...."

There was no further discussion regarding the proposed amendments to A.B. 247.

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-fifth Session
May 31, 1989

The Senate Committee on Judiciary was called to order by Chairman Sue Wagner, at 8:10 a.m., on Wednesday, May 31, 1989, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Sue Wagner, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Joe Neal
Senator Nicholas J. Horn
Senator Mike Malone
Senator Charles W. Joerg
Senator Dina Titus

STAFF MEMBERS PRESENT:

Jennifer Stern, Legal Counsel
Judi Bishop, Committee Secretary

BILL DRAFT REQUEST 14-2110 - Extends period in which to prosecute sexual abuse of child.

SENATOR HORN MOVED FOR COMMITTEE INTRODUCTION OF BDR 14-2110.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY. (SENATOR NEAL WAS ABSENT FOR THE VOTE.)

* * * * * * * * * * *

SENATE BILL 480 - Prohibits abuse, neglect or exploitation of mentally retarded persons.

Testimony of Brian Lahren, Administrator for the Division of Mental Hygiene and Mental Retardation (MHMR), and Manual Wedge, Administrator of the Washoe Association for Retarded Citizens.

2204

SENATOR JOERG SECONDED THE MOTION.

Discussion ensued as to the proper way to delete the language on lines 22 through 27. Ms. Stern suggested new language, reciting:

> You could state 'this interference with state laws has been caused by the federal courts, whose process of review is extended and repetitive,' because I think you took offense to the term dilatory, 'as illustrated by the case Neuschafer vs. Whitley.'

SENATOR SMITH WITHDREW HIS MOTION TO AMEND AND DO PASS A.J.R. 32.

SENATOR JOERG WITHDREW HIS SECOND.

* * * * * * * * * * *

SENATOR SMITH MOVED TO AMEND AND DO PASS A.J.R. 32, AMENDING LANGUAGE ON LINES 22 THROUGH 27 AS PER RECOMMENDED BY LEGAL COUNSEL.

SENATOR JOERG SECONDED THE MOTION.

Senator Titus registered her objection to this bill, pointing out there have been several bills already enacted which allows speedier state processing. She added this is inappropriate as habeas corpus is one of the few rights which is actually in the body of the constitution, not added by amendment. Senator Titus advised she could not support this bill.

THE MOTION CARRIED. (SENATORS HORN AND NEAL WERE ABSENT FOR THE VOTE. SENATOR TITUS VOTED NO.)

* * * * * * * * * * *

ASSEMBLY BILL 247 - Provides for continuing garnishment under certain circumstances.

The Chairman requested Ms. Stern to explain the proposed amendments, which had previously been distributed to the committee. Ms. Stern directed her comments on the amendments to the first reprint, line 16 of page 1, deleting 180 days and reducing that figure to 120 days, so that the writ of garnishment would continue for 120 days rather than 180 days. Also, on page 4, she said the entire section 11 would be deleted and replaced with a new section 11 which would require that,

within 5 days after receipt of actual notice of the levy, it be served on the sheriff and judgment creditor.

SENATOR JOERG MOVED TO AMEND AND DO PASS A.B. 247, PER AMENDMENTS REFERRED TO ABOVE BY MS. STERN.

SENATOR SMITH SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HORN AND NEAL WERE ABSENT FOR THE VOTE. SENATOR MALONE VOTED NO.)

Senator Joerg stated, "Let the record show one more time we helped the little guy." The Chairman also requested the record show the committee has helped the working person.

* * * * * * * * * *

ASSEMBLY BILL 296 - Adopts Uniform Premarital Agreement Act.

SENATOR TITUS MOVED TO DO PASS A.B. 296.

SENATOR JOERG SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HORN AND NEAL WERE ABSENT FOR THE VOTE.)

* * * * * * * * * *

There being no further business to come before the committee, the hearing was adjourned at 10:20 a.m.

RESPECTFULLY SUBMITTED:

JUDI BISHOP,
Committee Secretary

APPROVED:

SENATOR SUE WAGNER, Chairman

DATED: 6/19/89

2223

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-fifth Session

June 2, 1989

The Senate Committee on Judiciary was called to order by Chairman Sue Wagner, at 8:00 a.m., on Friday, June 2, 1989, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Sue Wagner, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Nicholas J. Horn
Senator Mike Malone
Senator Charles W. Joerg
Senator Dina Titus

COMMITTEE MEMBERS ABSENT:

Senator Joe Neal (Excused)

STAFF MEMBERS PRESENT:

Jennifer Stern, Legal Counsel
Marilyn Hofmann, Committee Secretary

ASSEMBLY BILL 552 - Requires order for support of child to include order for withholding or assignment of wages and commissions of responsible parent.

Testimony of Nancy Angres, Deputy Attorney General, Welfare Division, State of Nevada; and Ka Zunino, Chief, Child Support Enforcement Program, Welfare Division, State of Nevada (Welfare Division).

Ms. Angres stated A.B. 552 was designed to meet federal requirements which were newly enacted in October 1988, as part of the Family Support Act. She said those requirements stress the collection of child support, to assist families who are on welfare, become independent. Ms. Angres provided the committee with a document containing an explanation of the Family Support Act of 1988 (Exhibit C). She said two issues are being addressed in A.B. 552, "Immediate Income Withholding," which must be in effect by November 9, 1990, and

2259

ASSEMBLY BILL 247 - Provides for continuing garnishment under certain circumstances.

The Chairman discussed an amendment to the bill, which addresses the concerns regarding the collection of funds, which will be processed through the sheriffs' offices. Senator Wagner also indicated the continuing lien on wages would be set at 90 days. The committee approved the amendment.

ASSEMBLY BILL 389 - Requires payment of restitution to victim of crime as condition of parole.

SENATOR TITUS MOVED DO PASS A.B. 389.

SENATOR HORN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NEAL WAS ABSENT FOR THE VOTE.)

* * * * * * * * * *

ASSEMBLY BILL 458 - Revises provisions governing approval for adoption or relinquishment of child for adoption.

Jennifer Stern reviewed the provisions of the bill, and indicated it would require the consent of a legal custodian, if any, to a specific adoption. Senator Titus indicated she believed the intent was to keep foster parents from circumventing the adoption procedure.

SENATOR HORN MOVED DO PASS A.B. 458.

SENATOR JOERG SECONDED THE MOTION.

The committee resumed a discussion of the bill. Senator Malone stated if a foster parent had taken care of a child for a long period of time, "...there is no reason why a grandparent, or anyone else, should be able to step in and adopt the child. Senator Wagner indicated she was not certain that was the intent of the legislation. She suggested the committee summon the sponsor of the bill, Assemblyman Jane Wisdom, for the purpose of additional testimony.

Testimony of Assemblyman Jane Wisdom and Thom Riley, Chief of Social Services, Nevada State Welfare Division.

Mr. Riley reviewed A.B. 458: "What the bill does...before you can file a petition to adopt a child, you need to have the

2267

MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-fifth Session
June 7, 1989

The Assembly Committee on Judiciary was called to order by Vice Chairman, Gene Porter at 8:10 a.m. on Wednesday, June 7, 1989, in Room 240 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

MEMBERS PRESENT:

Robert M. Sader, Chairman
Gene T. Porter, Vice Chairman
John C. Carpenter
Vonne Chowning
Renee L. Diamond
Robert E. Gaston
James Gibbons
Bill Kissam
Mike McGinness
John Regan
Gaylyn J. Spriggs
Vincent L. Triggs
Wendell P. Williams
Jane A. Wisdom

STAFF MEMBERS PRESENT:

None

OTHERS PRESENT:

Capt. Enrico Togneri, Washoe County Sheriff's Office
Dan Reiser, Deputy Attorney General, Gaming Division
Lawrence Semenza, Nevada Trial Lawyers' Association

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY BILL NO. 247 - Allows for continuing garnishment until amount demanded in writ is satisfied.

Discussing the Senate Amendment No. 1094 to A.B. 247, Deputy Legislative Counsel, Jennifer Stern reminded the committee the bill, as well as the amendment, had been requested by Assemblyman Callister. As a result of negotiations between the sheriffs and Mr. Callister the bill had been amended in that rather than having a continuing garnishment for a period of 180 days, this had been changed to 120 days. A new section 11 had also been added, which required these returns to go through the Sheriff's office. The Sheriff would then be able to charge a fee thus ameliorating the financial impact on their office.

Chairman Sader reported there were certain constables who were opposed to the total bill, and also evidence that Ernie Nielsen, Washoe Legal Services, objected to the bill even though there had been compromises made. Mr. Nielsen's objections were that the bill would serve to "make poor people poorer."

ASSEMBLYMAN PORTER MOVED TO CONCUR WITH SENATE AMENDMENT NO. 1094 TO ASSEMBLY BILL NO. 247.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY BILL NO. 828 - Extends provisions concerning unlawful detainer to recreational vehicle parks.

Amendment No. 1085 (Exhibit G) was introduced and Ms. Stern told the committee the focus of the bill was to account for recreational vehicles that might be in a mobile home park. The original bill spoke to recreational vehicles in recreational vehicle parks, although there were some mobile home parks that had designated lots to be recreational vehicle lots. The amendment would amend the statutes to include that. Ms. Stern then made a section by section explanation of the amendment.

Assembly Bill No. 247—Committee on Judiciary

CHAPTER 338

AN ACT relating to garnishment; allowing continuing garnishment of earnings for certain period; prohibiting an employer from discharging or disciplining an employee under certain circumstances; revising the procedure for the collection of garnished wages; and providing other matters properly relating thereto.

[Approved June 15, 1989]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 28 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Defendant" includes a party against whom a counterclaim, crossclaim or third party complaint is filed.*

Sec. 3. *"Plaintiff" includes a party who files a counterclaim, crossclaim or third party complaint.*

Sec. 4. NRS 28.010 is hereby amended to read as follows:

28.010 As used in this Title, unless the context otherwise requires, the words and terms defined in NRS 28.020 to 28.130, inclusive, *and sections 2 and 3 of this act,* have the meanings ascribed to them in those sections.

Sec. 5. Chapter 31 of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 8 of this act.

Sec. 6. *1. Except as otherwise provided in subsection 3, if the garnishee indicates in his answer to garnishee interrogatories that he is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.*

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

Sec. 7. *1. If without legal justification an employer of the defendant refuses to withhold earnings of the defendant demanded in a writ of garnishment or knowingly misrepresents the earnings of the defendant, the court may order the employer to appear and show cause why he should not be subject to the penalties prescribed in subsection 2.*

2. If after a hearing upon the order to show cause, the court determines that an employer, without legal justification, refused to withhold the earnings of a defendant demanded in a writ of garnishment or knowingly misrepresented the earnings of the defendant, the court shall order the employer to pay the plaintiff, if the plaintiff has received a judgment against the defendant,

the amount of arrearages caused by the employer's refusal to withhold or his misrepresentation of the defendant's earnings. In addition, the court may order the employer to pay the plaintiff punitive damages in an amount not to exceed $1,000 for each pay period in which the employer has, without legal justification, refused to withhold the defendant's earnings or has misrepresented the earnings.

Sec. 8. *It is unlawful for an employer to discharge or discipline an employee exclusively because the employer is required to withhold the employee's earnings pursuant to a writ of garnishment.*

Sec. 9. NRS 31.249 is hereby amended to read as follows:

31.249 1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:

(a) In the order directing the clerk to issue a writ of attachment; or

(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.

2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee **[is]** *:*

(a) Is the employer of the defendant; or

(b) Is indebted to or has property in his possession or under his control belonging to the defendant **,**

and that **[**the indebtedness or property is,**]** to the best of the knowledge and belief of the affiant, *the defendant's future wages, the garnishee's indebtedness or the property possessed is* not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the state controller.

3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.

4. Except as *otherwise* provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.

5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.

Sec. 10. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants, ...
.....
.....,
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:.....
.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount each defendant presently earns during a pay period.

Answer:.....
.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....he..... interested? If so, state its value, and state fully all particulars.

Answer:.....
.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to .....h..... or in which .....he..... interested, and now in the possession or under the control of others? If so, state particulars.

Answer:.....
.....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:.....
.....
.....
Garnishee

I (insert the name of the garnishee), do solemnly swear (or affirm) that the answers to the foregoing interrogatories by me subscribed are true.

.....
(Signature of garnishee)

SUBSCRIBED and SWORN to before me this ..... day of ....., 19....

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and file his answers or cause them to be filed in the proper court within the time required by the writ. If he fails to do so, he shall be deemed in default.

Sec. 11. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on, the judgment debtor shall, within 5 days after *receipt of actual notice of* the levy, serve on the sheriff and judgment creditor and file with the clerk of the court issuing the writ of execution an affidavit setting out his claim of exemption.

2. When such affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff fails to give the sheriff an undertaking executed by two good and sufficient sureties which:

(a) Is in a sum equal to double the value of the property levied on; and

(b) Indemnifies the judgment debtor against loss, liability, damages, costs and counsel fees by reason of the taking, withholding or sale of such property by the sheriff.

3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.

4. The sheriff shall not be liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property, where:

(a) No affidavit claiming exemption is served on him; or

(b) An affidavit claiming exemption is served on him, but the sheriff fails to release the property in accordance with this section.

Assembly Bill No. 418—Assemblymen Evans, Jeffrey, Dini, Nevin, Spinello, Sedway, Price, Marvel, Humke, DuBois, Swain, Kerns, Arberry, Myrna Williams, Diamond, Bergevin and Lambert

CHAPTER 339

AN ACT relating to registration of vehicles; requiring certain residents of other states who are employed in Nevada to register their vehicles with the department of motor vehicles and public safety; providing a fee for registration; and providing other matters properly relating thereto.

[Approved June 15, 1989]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section. 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *A border state employee who:*

1. Commutes to a place of employment in Nevada that is less than 35 air miles from the state border;

2. Has not otherwise registered his vehicle in this state; and

3. Is not otherwise required to register his vehicle in this state,

shall, pursuant to section 3 of this act, annually register the vehicle.

Sec. 3. *1. A border state employee who is required by section 2 of this act to register his vehicle shall submit to the department:*

(a) A completed application on a form furnished by the department that contains the vehicle identification number of the vehicle to be registered, the license plate number issued for the vehicle by the border state and the name and address of the owner of the vehicle;

(b) An affidavit stating that he is a border state employee as defined in NRS 482.012 and is employed in Nevada at a place of employment located less than 35 air miles from the state border; and

(c) The fee for registration specified in subsection 7 of NRS 482.480.

2. The department shall issue an identification card and registration sticker to a border state employee who complies with the provisions of subsection 1. The registration sticker must be placed on the rear of the registered

Exhibit B

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CLERK OF THE COURT

DECD
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DISTRICT COURT

CLARK COUNTY, NEVADA

RHONDA HELENE MONA,

Plaintiff,

vs.

MICHAEL JOSEPH MONA,

Defendant.

CASE NO. D-15-517425-D
DEPT NO. B

Date of Hearing: July 23, 2015
Time of Hearing: 8:45 a.m.

DECREE OF DIVORCE

The above-entitled cause having come on for hearing this 23rd day of July, 2015, before the above-entitled Court, Plaintiff, RHONDA HELENE MONA ("Wife"), present and represented by and through her attorneys, EDWARD KAINEN, ESQ., and ANDREW L. KYNASTON, ESQ., of the law firm of KAINEN LAW GROUP, PLLC; and Defendant, MICHAEL JOSEPH MONA ("Husband"), present and represented by and through his attorney, TERRY A. COFFING, ESQ., and TYE S. HANSEEN, ESQ., of the law firm of MARQUIS, AURBACH, COFFING; the Court having heard the evidence of witnesses sworn and examined in open Court, the cause having been submitted for decision and judgment, and the Court being fully advised, finds:

That the Court has jurisdiction in the premises, both as to the subject matter thereof as well as the parties thereto; that Wife has been domiciled in this State for more than six weeks preceding the commencement of this action, and that Wife is now domiciled in and is an actual, bona fide resident of the State of Nevada; that the parties are entitled to an absolute Decree of Divorce on the grounds of

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Non-Trial Dispositions:
☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred

Trial Dispositions:
☐ Disposed After Trial Start
☐ Judgment Reached by Trial

☐ Settled/Withdrawn
☐ Without Judicial Conf/Hrg
☒ With Judicial Conf/Hrg
☐ By ADR

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incompatibility as set forth in Wife's Complaint for Divorce.

The Court finds that there are no minor children of the parties, none adopted, and that Wife is not pregnant.

The Court further finds that the parties entered into a Post-Marital Property Settlement Agreement (hereinafter "Agreement") on or about the 13th day of September, 2013, which this Court determines has met the requirements of NRS 123.070, 123.080, and 123.130(1), which statutory provisions permit married parties to enter into written contracts with regard to their property during the marriage, including a right to transmute by such agreements community property to separate property, and separate property to community property. See, Verheyden v. Verheyden, 104 Nev. 342, 757 P.2d 1328 (1988). Further, that in entering into the Agreement the parties provided full and fair disclosure, each had the opportunity to consult with counsel (and indeed engaged counsel to assist them), and the Agreement includes no provisions which would otherwise render the Agreement void or unconscionable. See, Cord v. Neuhoff, 94 Nev. 21, 573 P.2d 1170 (1978), and Dimick v. Dimick, 112 Nev. 402, 915 P.2d 254 (1996). That upon equal division of community property Wife preserved the majority of her separate property designated to her under the Agreement, while Husband's portion has been dissipated by his spending and/or by his separate creditors or separate debts. This Court finds that such post marital agreements are permissible by law.

The Court further finds that Husband is presently subject to a significant outstanding judgment that was rendered against him personally, based upon a finding of fraud resulting from his personal conduct in another legal action (Case No. A-12-670352-F) to which Wife was not a party nor a named Defendant.

The Court further finds that said judgment and the liability associated therewith is the sole and separate debt of Husband; Wife and her separate property assets as established under the Agreement should not be subject to Husband's outstanding judgment. Husband shall indemnify, defend, and hold Wife harmless from his separate debts.

...

...

...

The Court further finds that Husband has engaged in various personal acts, including but not limited to those actions which resulted in the judgment against him in Case No. A-12-670352-F, and actions substantially encumbering the marital residence without Wife's knowledge or consent, which acts constitute marital waste and therefor entitle Wife to be able to receive her community property share from assets that might otherwise be awarded to Husband in this divorce action, based upon the holdings in Lofgren v. Lofgren, 112 Nev. 1282, 926 P.2d 296 (1996), and Putterman v. Putterman, 113 Nev. 606, 939 P.2d 1047 (1997).

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of matrimony heretofore and now existing between Husband and Wife be, and the same are hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to Wife, and each of the parties hereto is hereby restored to the status of a single, unmarried person.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that commencing August 1, 2015, and continuing on the 1st day of each month thereafter, Husband shall be obligated to pay periodic alimony to Wife in the amount of $10,000.00 per month. Said obligation to pay alimony shall continue until such time as Husband's death, Wife's death, or Wife's remarriage, which ever event occurs first. This obligation shall be paid via a direct wage assignment through Husband's employer.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, to the extent Wife suffers any loss to her sole and separate property resulting from or related to the outstanding fraud judgment against Husband, any other separate debts of Husband, or Husband's failure to fulfill his obligations herein, Wife shall be entitled to additional alimony sufficient to reimburse her for any such losses pursuant to the holding in Siragusa v. Siragusa, 108 Nev. 987, 843 P.2d 807 (1992).

IT IS FURTHER, ORDERED, ADJUDGE AND DECREED, based upon the findings set forth herein-above, that the parties' Post-Marital Property Settlement Agreement is valid and enforceable. Said Agreement is adopted by the Court and incorporated into this Decree and the assets set forth therein are confirmed to each party as his/her sole and separate property, subject only to the resolution of disputed third party claims in Case No. A-12-670352.

...

...

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED, concerning the parties' marital residence located at 2793 Red Arrow Dr., Las Vegas, Nevada 89135 (hereinafter "Red Arrow property") titled in The Mona Family Trust, which community asset has an estimated fair market value of $2,200,000.00, and is encumbered by a first mortgage in the amount $1,172,402.97 owed to Bank of America. Unbeknownst to Wife, Husband has further encumbered said residence by taking at least three additional notes/obligations totaling approximately $2,142,400.51, which resulted in the loss of Wife's community property equity in said residence. Said actions by Husband constitute marital waste and entitles Wife to receive her equal share from assets that might otherwise be awarded to Husband. See, Lofgren v. Lofgren, 112 Nev. 1282, 926 P.2d 296 (1996), and Putterman v. Putterman, 113 Nev. 606, 939 P.2d 1047 (1997). But for Husband's improper actions, said residence would have equity in the approximate amount of $1,000,000.00, to which each party would have been entitled to one-half. Said residence and the entirety of the liabilities and encumbrances thereon is therefor the sole and separate obligation of Husband, and Wife's interest therein shall be offset by the award of other assets as set forth herein. Husband shall indemnify, defend and hold Wife harmless therefrom.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the parties presently hold 4,000,000 stock options in CannaVest, the value of which is unknown and cannot be determined at this time, however, the parties acknowledge that the strike price for said options exceeds the current market price. As a result of Husband's acts constituting marital waste, including those with respect to the marital residence, Wife shall be awarded 3,000,000 shares of said stock options, and Husband shall be awarded 1,000,000 stock options.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that from Wife's separate property funds, she loaned approximately $787,760.88 to their son, Michael Mona, III, for the purchase of a home by their son. Accordingly, there is a $787,760.88 receivable due to Wife from their son. Said receivable is confirmed to Wife as her sole and separate property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are entitled to any returns on their respective separate property investments in the entity called ROEN. To the extent any funds are recovered from said investments, they shall each be entitled to their separate property investments.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Wife shall further have confirmed as her sole and separate property the following:

1) Any and all bank accounts in Wife's name alone, including but not limited to her separate property bank accounts at Bank of George and Bank of Nevada;
2) Wife's vehicle, 2014 Jaguar, free and clear of any encumbrances;
3) One-half of any tax refund received for the 2014 tax year;
4) The two family dogs, Rex and Lucky;
5) Wife's personal property, including her jewelry, clothing, and personalties; and
6) The furniture, furnishings, and firearms in her possession presently located in the Red Arrow property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Husband shall further have confirmed as his sole and separate property the following:

1) Any and all bank accounts in Husband's name alone;
2) Husband's vehicle, 2006 Mercedes SL, free and clear of any encumbrances;
3) One-half of any tax refund received for the 2014 tax year; and
4) Husband's personal property, including his clothing, jewelry and personalties;
5) Any and all assets and liabilities held through the entity known as MONACO.

IT IS FURTHER ORDERED, ADJUDGE AND DECREED that Husband shall be solely responsible for his separate debts, including but not limited to the fraud judgment against him arising out of the case of Far West Industries v. Rio Vista Nevada, LLC, et. al, (Case A-12-670352-F), and shall indemnify, defend, and hold Wife harmless therefrom.

IT IS FURTHER ORDERED, ADJUDGE AND DECREED that Husband shall be solely responsible for his separate debt to Mike Sifen, and shall indemnify, defend and hold Wife harmless therefrom.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten (10) days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner

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and not part of the public record. Each party shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten (10) days should any of that information become inaccurate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall bear his/her own attorney's fees and costs incurred in this matter.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties herein sign any and all documents necessary to effectuate the transfer of the property as set forth herein. Should either party fail to execute any such documents, the Clerk of the Court shall be authorized to execute such documents as necessary to effectuate the provisions of this Decree of Divorce.

DATED and DONE this 23rd day of July, 2015.

DISTRICT JUDGE
LINDA MARQUIS

Submitted by:

KAINEN LAW GROUP, PLLC

By: _____
EDWARD KAINEN, ESQ.
Nevada Bar No. 5029
ANDREW L. KYNASTON, ESQ.
Nevada Bar No. 8147
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
Attorneys for Plaintiff

Approved as to Form and Content:

MARQUIS AURBACH COFFING

By: _____
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
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10001 Park Run Drive
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Attorneys for Defendant

JUL 23 2015

CERTIFIED COPY
DOCUMENT ATTACHED IS A
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OF THE DOCUMENT ON FILE

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Exhibit C

OPP
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

RHONDA HELENE MONA, Plaintiff, vs. MICHAEL JOSEPH MONA, Defendant.	CASE NO. D-15-517425-D DEPT NO. B Date of Hearing: 10/8/ 2015 Time of Hearing: 9:00 a.m. **ORAL ARGUMENT REQUESTED: YES**

PLAINTIFF'S OPPOSITION TO FAR WEST'S MOTION TO INTERVENE, FOR A FINDING AND ORDER THAT THE POST-MARITAL AGREEMENT IS VOID BASED ON THE PRINCIPLES OF RES JUDICATA AND ISSUE PRECLUSION, AND THAT THE PLAINTIFF AND DEFENDANT ARE JOINTLY LIABLE FOR THE JUDGMENT HELD BY INTERVENOR
AND
PLAINTIFF'S COUNTERMOTION FOR FAR WEST TO PAY PLAINTIFF'S ATTORNEY'S FEES AND COSTS INCURRED PURSUANT TO NRS 12.130(1)(d)

COMES NOW, Plaintiff, RHONDA HELENE MONA, by and through her attorneys, EDWARD KAINEN, ESQ., and ANDREW L. KYNASTON, ESQ., of the law firm of KAINEN LAW GROUP, PLLC, and submits her Opposition to Far West's Motion to Intervene, For a Finding and Order that the Post-Marital Agreement is Void Based on the Principles of Res Judicata and Issue Preclusion, And that the Plaintiff and Defendant are Jointly Liable for the Judgment Held by Intervenor, and her Countermotion for Far West to Pay Plaintiff's Attorney's Fees and Costs Incurred Pursuant to NRS 12.130(1)(d), as a result of Far West's unwarranted efforts to intervene in this matter.

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This Opposition is made and based upon the pleadings on file herein, the Points and Authorities, and the Affidavit of Counsel submitted herewith.

DATED this 24th day of September, 2015.

KAINEN LAW GROUP, PLLC

By: _____
EDWARD KAINEN, ESQ.
Nevada Bar No. 5029
ANDREW L. KYNASTON, ESQ.
Nevada Bar No. 8147
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Attorneys for Plaintiff

I.

POINTS AND AUTHORITIES

NRCP Rule 24 provides:

> **(a) Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.
> (b) **Permissive Intervention.** Upon timely application anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.
> (c) **Procedure.** A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene.

NRS 12.130 provides:

> 1. Except as otherwise provided in subsection 2:
> (a) Before the trial, any person may intervene in an action or proceeding, who has an interest in the matter in litigation, in the success or either of the parties, or an interest against both.
> (b) An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by

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uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant.
(c) Intervention is made as provided by the Nevada Rules of Civil Procedure.
(d) The court shall determine upon the intervention at the same time that the action is decided. If the claim of the party intervening is not sustained, the party intervening shall pay all costs incurred by the intervention.
2. The provisions of this section do not apply to intervention in an action or proceeding by the Legislature pursuant to NRS 218F.720.

II.

STATEMENT OF FACTS

Plaintiff, RHONDA HELENE MONA (hereinafter "Rhonda"), and Defendant, MICHAEL JOSEPH MONA (hereinafter "Michael") were divorced more than two months ago by Decree of Divorce entered July 23, 2015, following a hearing before this Court held that same day. Notice of Entry of the Decree of Divorce was filed as required by Court Rule and this divorce matter was shortly thereafter closed. The parties believed that this unpleasant chapter in their life was behind them and they could now move forward with their respective lives.

Nearly a month and a half after the Notice of Entry of the Decree of Divorce, one of the Michael's creditors, Far West, has now filed it's pending Motion seeking to intervene in an already completed and closed divorce case. Far West's Motion is improper, untimely, and unnecessary.[1] It is merely a continuation of their aggressive (almost harassing) methods of trying to collect a debt. Far West's Motion should be summarily denied. Just like any other creditor, they have no business intervening in a divorce case, especially one that is already done, over, and judicially closed. The fact of the parties' divorce has no bearing on Far West's rights to seek through any legal and lawful means to collect on whatever judgment they may hold. Furthermore, Rhonda was not a named party in any prior lawsuit filed by Far West against Michael and she is not a named debtor on Far West's judgment

[1] Not only is the motion untimely under Court rules relating to intervention, but arguably under court rules regarding motions for reconsideration, to set aside, and or to file a notice of appeal, which must be done with 30 days of the Notice of Entry of the Decree. Certainly, if the actual parties to the case are beyond the time that they could file any such post judgment motion or appeal, then a non-party should likewise be prohibited from now filing a motion in a closed matter, finalized more than a month and a half before their motion to intervene was filed.

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against Michael. The parties' Decree of Divorce, like any Decree simply allocates the property and debts of the parties between them, and requires Michael to indemnify Rhonda from his debts. Far West has been aggressively trying to drag Rhonda into their collection efforts of their judgment against Michael, clearly seeing her as an additional source for possible collection. Rhonda should be left out of the dispute between Far West and Michael and be allowed to move on with her life. Attempting to intervene in the parties already concluded divorce should not be permitted by this Court.

III.

ARGUMENT

Intervention in a case is governed by NRCP Rule 24 and NRS 12.130. Intervention of Right under the Rule is allowed only "upon timely application," which is a prerequisite before further consideration of whether there is even an actual basis for intervention under the Rule. Considering the fact that the Divorce Decree was filed and entered more than a month and a half prior to Far West's Motion being filed, and after the case was already judicially closed, Far West's Motion is not timely. Furthermore, Far West was fully aware that a divorce action had been filed and was already pending between the Michael and Rhonda by at least July 9, 2015, if not earlier, because it was openly discussed at a hearing held that day in Dept. 15 before Judge Joe Hardy of the District Court (hereinafter "District Court Judge")[2] in the ongoing civil case between Michael and Far West. Therefore, for Far West to wait nearly two months to file their Motion to intervene in this divorce case, it is clearly not "timely application" so their Motion must fail for being untimely.

Next, pursuant to NRCP Rule 24(a), if the timeliness prerequisite is met, a third party can intervene "when a statute confers an unconditional right to intervene." Far West tries to argue that NRS 12.130 allows them to intervene in this divorce case, again ignoring the untimeliness of their attempted intervention. NRS 12.130(1)(a) makes it clear that a party may seek to intervene "before the trial". Again, Far West did not file their motion until a month and a half after the final hearing in this case, the Decree of Divorce was entered, and the case was closed by the Court. Again, even under the

[2] Rhonda and her counsel acknowledge that this Court is also a District Court. In the context of this Opposition and Countermotion, this nomenclature is being used to distinguish the regular civil District Court Judge (Joe Hardy) from the Family District Court Judge (Linda Marquis).

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very statute Far West tries to rely upon, their motion is not timely and must be denied.

If the Court were to entirely disregard the clear fact that Far West's Motion is untimely, NRCP Rule 24(a) further provides that intervention by a third party is only permitted "when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest." Far West's judgment is certainly not the "subject of the action" in this divorce case. Rather the subject of the action is the parties' divorce itself and all things incident thereto, including allocation of assets and debts of the parties. In this case, Far West has not demonstrated that Rhonda's and Michael's divorce action will in anyway impair or impede their ability to protect their interests as a creditor of Michael. Indeed, if the Court were to accept their logic and argument in their Motion, one might argue that any creditor should be allowed to intervene in every divorce case, whether it be a mortgage company, an automobile loan holder, a credit card company, or any other creditor. Such a conclusion would yield an absurd result, where suddenly every creditor of every party to a divorce will be required to seek to intervene in every divorce case in order to get paid from community assets prior to the division of such assets. The reality is that a divorce decree which allocates assets and responsibility for debts does nothing to bind any of the creditors or otherwise impede a creditors right to lawfully collect a debt where such a right exists. Rather, it simply assigns responsibility as and between the parties themselves. In other words, if a decree of divorce says the wife is responsible for the husband's American Express bill, American Express is still able to pursue collection against anyone from whom they have right to collect. Such a provision in a Decree does not limit the collection rights of any third party.

Notably omitted from Far West's legal analysis regarding intervention is any reference to or citation to the recently published opinion from the Court of Appeals of the State of Nevada, Anderson v. Sanchez, 131 Nev., Advance Op. 51 (decided July 23, 2015) – ironically decided the very same day that the parties' Decree of Divorce was filed in this case.[3] Anderson involved a divorce case

[3] In fact, Far West's attorney in this matter, Daniel Marks, Esq., was one of the attorneys for the Respondent in this case, so he should certainly be aware of this newly published opinion and the potential application to the legal arguments being presented in this matter.

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where the husband and wife had reached a final settlement agreement during mediation which was memorialized in a Memorandum of Understanding. Prior to entry of the final decree of divorce, the husband attempted to rescind his signature from the memorialized agreement, claiming that his sister had an ownership interest in one of the houses, and she should therefore have been joined or allowed to intervene in the action due to her claimed ownership interest in the asset. The district court proceeded to enter the Decree over husband's objections and an appeal ensued.

On appeal the Nevada Court of Appeals reversed and remanded the matter holding:

> the district court should have conducted an evidentiary hearing to decide the joinder issues before the court adjudicated the parties' property pursuant to the settlement agreement. We therefore vacate the district court's divorce decree only as it affects the disposition of the property at issue and remand this matter to the district court with instructions to conduct an evidentiary hearing to determine whether the sister should have been joined under NRCP 19(a). (Anderson, 131 Nev. Adv. Op. at Page 2)

The holding from the Court of Appeals primarily addresses the issue of whether the sister should have been joined to the action adding that "[i]f the district court determines that [the sister] is a necessary party, the court must then determine the relative rights of [husband, wife and the sister] in the [] property, and must revisit the portions of the [agreement] concerning that property as appropriate." Anderson, 131 Nev. Adv. Op. at Page 20. The crux of the issue was whether the sister had an ownership interest in the property, which is why an evidentiary hearing was required.

In conducting it's analysis, the Appellate Court provided helpful guidance for analyzing when a third party should be allowed to intervene in a divorce case. The primary fact that appeared to clearly distinguish Anderson from the facts of the case at bar was that the husband's sister claimed to have an *actual ownership interest* in one of the marital assets (a residence), whereas in this case Far West is simply a creditor seeking to collect a judgment against any/all community assets. Far West has no ownership interest in any of the parties' assets. Intervention may be proper when a third party "claims an interest in property involved in litigation." Anderson, 131 Nev. Adv. Op. at Page 12 (citing Wharff v. Wharff, 56 N.W.2d 1, 3-4 (Iowa. 1952). "The court recognized that allowing intervention would help avoid a multiplicity of suits and the possibility that the division of property in a divorce might be rendered inequitable if property divided in the divorce is later awarded to a third person in a separate action." Anderson, 131 Nev. Adv. Op. at Page 12 (citing Wharff v. Wharff, 56 N.W.2d 1, 4

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(Iowa 1952).

In this case, Far West is not, and indeed cannot, assert an ownership interest in any of the former marital assets, which might arguably justify their intervention in this case. Rather they are a judgment holder, a debt collector, whose right to continue to try to collect a debt has no bearing on, and is not impacted by, the divorce of Rhonda and Michael. Indeed, if one of the purposes of allowing an intervention is to "avoid a multiplicity of suits," the fact that Far West is already engaged in litigation with Michael regarding the collection of their judgment is assurance that their rights as a creditor are being addressed, without the necessity of them also intervening in a divorce case that is done and over.

The Court in Anderson further noted that "the majority view" among jurisdictions is that "a third person may be joined as a party to a divorce action based on a claimed interest in real or personal property that is to be divided among the divorcing parties." Anderson, 131 Nev. Adv. Op. at Page 12 (citing Copeland v. Copeland, 616 S.W.2d 773, 775 (Ark. Ct. App. 1981). Several other cases cited by the Nevada Court of Appeals in its opinion further establish that Far West's intervention in the parties' divorce is unwarranted and unnecessary. For example, the Court cites Aniballi v. Aniballi, 842 P.2d 342, 343 (Mont. 1992), which noted that "a decree of dissolution resolves rights to the marital property as between the parties seeking dissolution of the marriage, but will not determine title *in rem*." Parties in a divorce are therefore able to divide their interest in the property, leaving any interest of third parties undisturbed. Anderson, 131 Nev. Adv. Op. at Page 15 ((citing Aniballi, 842 P.2d at 343; see also Walters v. Walters, 113 S.W.3d 214, 219 (Mo. Ct. App. 2003) (recognizing that the trial court did not need to determine the relative interests of a couple and the husband's mother in the property being divided in a divorce proceeding, but could properly divide only the couple's interest by awarding '[a]ny interest the parties may have in the property.))

Again, Far West is merely a creditor who holds a judgment. They are no different from any other creditor. For example, if a community residence is awarded to one party in a divorce subject to a mortgage on the property in both parties' names; the mortgage company's right to pursue both parties in the event of a delinquency on the mortgage is not impaired by the fact that the Decree stating that one party is solely responsible for debt. Certainly, the party who was to be indemnified on the debt has a cause of action or recourse against the former spouse to recover any losses they may experience

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should the debt holder execute its rights against that party. Accordingly, denying Far West's Motion to Intervene in no way impairs or impedes their ability to try to collect on their judgment through any legal and lawful means. The Decree is a binding order as and between the parties only.

Far West next tries to argue that they should be permitted to intervene pursuant to NRCP Rule 24(b) (Permissive Intervention). Again, this rule also has a prerequisite of timeliness and Far West's Motion is not timely, as already discussed at length above. Furthermore, their argument that there is a "claim or defense and the main action have a question of law or fact in common" is a stretch at best and sanctionable under NRCP Rule 11 at worst. Far West tries to argue that the "question of law in common" is the validity of the Post-Marital Settlement Agreement and the disposition of the parties' assets. Far West argues that because the District Court Judge in the civil case between Michael and Far West made a finding that the parties post-marital agreement was a fraudulent transfer, that this Court is prohibited from considering the same in allocating the parties' assets in the divorce. In making such arguments, Far West fails to fully disclose the facts and circumstances surrounding this issue. The District Court Judge rendered an opinion regarding the parties' Post-Marital Agreement and related matters at issue in the civil case between Michael and Far West without taking any evidence notwithstanding multiple factual and legal arguments and objections set forth in that case. Rhonda is aware that Michael's attorneys in the civil case took a Writ on the District Court Judge's ruling which Writ was granted. The matter has been stayed by the Nevada Supreme Court pending further review on appeal. A copy of the Order Granting Temporary Stay filed July 20, 2015, is attached as **Exhibit "1."**

Prior to this Court even considering Far West's arguments related to specific facts and circumstances of the case, the Court must first decide if Far West can get over the threshold by qualifying to intervene in the parties closed and finalized divorce. Rhonda maintains that Far West cannot get over the threshold for all the reasons stated herein. Therefore, without delving too deeply into Far West's arguments about res judicata and issue preclusion, the very case law cited by Far West in their motion is contrary to Far West's claims about the application of res judicata. "For res judicata to apply, three pertinent elements must be present: (1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; and (3) the party against whom the judgment is asserted must have been a party

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or in privity with the party in the prior litigation." University of Nevada v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994)(citing Horvath v. Gladstone, 97 Nev. 594, 597, 637 P.2d 531, 5333 (1981) (emphasis added)). In this case, **none** of the cited "pertinent elements" are applicable notwithstanding Far West's arguments to the contrary. 1) The issue decided in the prior litigation between Michael and Far West is certainly not *identical* to the issue in the divorce case, which is simply an allocation of responsibility for the debt in question. 2) The ruling by the District Court is not final, as a Writ was granted and an appeal is pending. 3) Rhonda was certainly not a party to the litigation between Michael and Far West.

Far West in its motion is also attempting to mislead the Court by suggesting that the parties' Divorce itself is fraudulent and was done without this Court being aware of the ongoing civil litigation between Michael and Far West. These claims are entirely false. The parties' divorce is real and the reasons thereof are none of Far West's business. The language of the Decree of Divorce and testimony placed on the record at the time of the final hearing in the divorce case clearly show that this Court was made fully aware of the civil fraud judgment against Michael and the civil proceedings brought by Far West. Indeed, the civil case and the fraud judgment against Michael are mentioned at least four times in the parties' Decree of Divorce and were disclosed, discussed and referenced on the record at the final hearing. Additionally, the Decree expressly includes language acknowledging that the there is still a pending disputed third party claim in Case No. A-12-67035. As such, any argument by Far West suggesting that this Court was not made aware of the related civil action, or that the parties failed to disclose the same to the family court, is simply false. Further, such a blatantly false statement of facts is sanctionable under NRCP Rule 11.

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IV.

CONCLUSION

Based on the foregoing, Rhonda respectfully requests that the Court summarily deny Far West's Motion to Intervene and that Far West be ordered to reimburse Rhonda for her attorney's fees and costs incurred in being required to respond to Far West's unwarranted motion, as permitted by NRS 12.130(d).

Respectfully submitted,

KAINEN LAW GROUP, PLLC

By: _____
EDWARD KAINEN, ESQ.
Nevada Bar No. 5029
ANDREW L. KYNASTON, ESQ.
Nevada Bar No. 8147
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
Attorneys for Plaintiff

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AFFIDAVIT OF COUNSEL IN SUPPORT MOTION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

ANDREW L. KYNASTON, being first duly sworn, deposes and says:

That I am an attorney duly licensed to practice law in the State of Nevada. That I represent, Rhonda Helene Mona, who is the Plaintiff in the above action.

I am requesting, on behalf of my client, that Far West's Motion to Intervene be denied for the reasons set forth in the above Opposition. Also, that fees and costs be imposed as provided under NRS 12.130(d).

FURTHER, Affiant sayeth naught.

ANDREW L. KYNASTON

SUBSCRIBED AND SWORN to before me
this 24th day of September, 2015.

NOTARY PUBLIC, in and for said
County and State

K. L. NIDAY
Notary Public State of Nevada
No. 12-7715-1
My Appt. Exp. May 17, 2016

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of September, 2015, I caused to be served the **Plaintiff's Opposition to Far West's Motion to Intervene, for a Finding and Order That the Post-marital Agreement Is Void Based on the Principles of Res Judicata and Issue Preclusion, and That the Plaintiff and Defendant Are Jointly Liable for the Judgment Held by Intervenor and Plaintiff's Countermotion for Far West to Pay Plaintiff's Attorney's Fees and Costs Incurred Pursuant to Nrs 12.130(1)(d)** to all interested parties as follows:

_X_ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

Terry Coffing, Esq. 10001 Park Run Drive Las Vegas, Nevada 89145	Daniel Marks, Esq. 610 S. Ninth Street Las Vegas, Nevada 89101

___ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

___ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

___ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and NEFCR Rule 9, I caused a true copy thereof to be served via electronic mail, via Wiznet, to the following e-mail address(es):

An Employee of
KAINEN LAW GROUP, PLLC

KAINEN LAW GROUP, PLLC
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
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Exhibit D

Marquis Aurbach Coffing
Terry A. Coffing, Esq.
Nevada Bar No. 4949
Tye S. Hanseen, Esq.
Nevada Bar No. 10365
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
tcoffing@maclaw.com
thanseen@maclaw.com
Attorneys for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

RHONDA HELENE MONA,

Plaintiff,

vs.

MICHAEL JOSEPH MONA,

Defendant.

Case No.: D-15-517425-D
Dept. No.: B

Date of Hearing: October 8, 2015
Time of Hearing: 9:00 a.m.

ORAL ARGUMENT REQUESTED: YES

DEFENDANT MICHAEL MONA'S JOINDER TO PLAINTIFF'S OPPOSITION TO FAR WEST'S MOTION TO INTERVENE, FOR A FINDING AND ORDER THAT THE POST-MARITAL AGREEMENT IS VOID BASED ON THE PRINCIPLES OF RES JUDICATA AND ISSUE PRECLUSION, AND THAT THE PLAINTIFF AND DEFENDANT ARE JOINTLY LIABLE FOR THE JUDGMENT HELD BY INTERVENOR
AND
PLAINTIFF'S COUNTERMOTION FOR FAR WEST TO PAY PLAINTIFF'S ATTORNEY FEES AND COSTS INCURRED PURSUANT TO NRS 12.130(1)(d)

Defendant Michael J. Mona ("Defendant"), through the law firm of Marquis Aurbach Coffing, hereby joins Plaintiff Rhonda Mona's ("Plaintiff") Opposition to Far West's Motion to Intervene, for a Finding and Order that the Post-Marital Agreement is Void Based on the Principles of Res Judicata and Issue Preclusion, and that the Plaintiff and Defendant are Jointly Liable for the Judgment Held By Intervenor and Plaintiff's Countermotion for Far West to Pay Plaintiff's Attorney Fees and Costs Incurred Pursuant to NRS 12.130(1)(d). This Joinder hereby

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adopts the same facts, law, and analysis in the Opposition and Countermotion as if fully set forth herein, to the extent they apply to the Defendant, and is based on the same arguments and all papers and pleadings on file with this Court.

Dated this 29th day of September, 2015.

MARQUIS AURBACH COFFING

By */s/ Tye S. Hanseen*
Terry A. Coffing, Esq.
Nevada Bar No. 4949
Tye S. Hanseen, Esq.
Nevada Bar No. 10365
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendant

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

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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **DEFENDANT MICHAEL MONA'S JOINDER TO PLAINTIFF'S OPPOSITION TO FAR WEST'S MOTION TO INTERVENE, FOR A FINDING AND ORDER THAT THE POST-MARITAL AGREEMENT IS VOID BASED ON THE PRINCIPLES OF RES JUDICATA AND ISSUE PRECLUSION, AND THAT THE PLAINTIFF AND DEFENDANT ARE JOINTLY LIABLE FOR THE JUDGMENT HELD BY INTERVENOR AND PLAINTIFF'S COUNTERMOTION FOR FAR WEST TO PAY PLAINTIFF'S ATTORNEY FEES AND COSTS INCURRED PURSUANT TO NRS 12.130(1)(D)** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 29th day of September, 2015. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

Kainen Law Group

Contact	Email
Andrew Kynaston, Esq.	andrew@kainenlawgroup.com
Carol Navarro	carol@kainenlawgroup.com
Edward Kainen, Esq.	ed@kainenlawgroup.com
Kolin Niday	kolin@kainenlawgroup.com
Service	service@kainenlawgroup.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

F. Thomas Edwards, Esq.
Andrea M. Gandara, Esq.
Holley Driggs Walch, et al.
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Intervenor Far West Industries

/s/ Rosie Wesp
an employee of Marquis Aurbach Coffing

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit E

Electronically Filed
11/25/2015 09:40:13 AM

CLERK OF THE COURT

ORDR
EDWARD L. KAINEN, ESQ.
Nevada Bar No. 5029
ANDREW L. KYNASTON, ESQ.
Nevada Bar No. 8147
KAINEN LAW GROUP, PLLC
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
Telephone: (702) 823-4900
Facsimile: (702) 823-4488
Service@KainenLawGroup.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

RHONDA HELENE MONA,

Plaintiff,

vs.

MICHAEL JOSEPH MONA,

Defendant.

CASE NO. D-15-517425-D
DEPT NO. B

Date of Hearing: October 8, 2015
Time of Hearing: 9:00 a.m.

KAINEN LAW GROUP, PLLC
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Las Vegas, Nevada 89129
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ORDER

THIS MATTER having come on before the above-entitled Court on the 8th day of October, 2015, on *"Far West's Motion to Intervene, For a Finding and Order that the Post-Marital Agreement is Void Based on the Principles of Res Judicata and Issue Preclusion, and that the Plaintiff and Defendant are Jointly Liable for the Judgment Held by Intervenor, Plaintiff's Opposition thereto and Countermotion for Far West to Pay Plaintiff's Attorney's Fees and Costs Incurred Pursuant to NRS 12.130(1)(d), and Defendant's Joinder thereto"*; Intervenor, Far West Industries ("Far West"), not present but represented by and through their attorneys, DANIEL MARKS, ESQ., of THE LAW OFFICE OF DANIEL MARKS, ESQ., and THOMAS EDWARDS, ESQ., of the law firm of HOLLEY DRIGGS WALCH FINE WRAY PUZEY & THOMPSON, Plaintiff, RHONDA HELENE MONA ("Rhonda"), not present but appearing by and through her attorneys, EDWARD L. KAINEN, ESQ., and ANDREW L. KYNASTON, ESQ., of the KAINEN LAW GROUP, PLLC, and Defendant, MICHAEL

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DEPT B

JOSEPH MONA ("Michael"), not present and appearing by and through his attorney, TYE HANSEEN, ESQ., of the law firm of MARQUIS AURBACH COFFING; the Court having reviewed the pleadings and papers on file herein, and good cause appearing therefor, makes the following Findings and Orders:

THE COURT HEREBY FINDS that this case was already closed at the time Far West filed their Motion to Intervene.

Therefor, good cause appearing,

IT IS HEREBY ORDERED that Far West's Motion to Intervene is denied, due to the motion not being timely.

IT IS FURTHER ORDERED that based on the denial of Far West's Motion, Plaintiff and Defendant's request for attorney's fees should be granted. Plaintiff's and Defendant's counsel will provide the Court with Memorandum of Fees and Costs pursuant to the Brunzel factors outlining the amounts expended to oppose Far West's Motion, and Far West shall have 14 days to respond to the Memorandum of Fees and Costs filed by Plaintiff and Defendant.

IT IS FURTHER ORDERED that Far West may obtain video of the hearing conducted October 8, 2015.

DATED this 24th day of November, 2015.

DISTRICT COURT JUDGE MC

Submitted by:

KAINEN LAW GROUP, PLLC

By:
EDWARD KAINEN, ESQ., #5029
ANDREW L. KYNASTON, ESQ., #8147
3303 Novat Street, Suite 200
Las Vegas, Nevada 89129
Attorneys for Plaintiff

MARQUIS AURBACH & COFFING

By:
TYE HANSEEN, ESQ., #10365
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Defendant

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Exhibit F

WRTG
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDRA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual; MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No.: A-12-670252-C Dept. No.: XV

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

MICHAEL MONA, RESIDENT AGENT AND PRESIDENT
CANNAVEST CORPORATION
2688 SOUTH RAINBOW BOULEVARD
SUITE B
LAS VEGAS, NV 89146

BE RETURNING THE ENCLOSED CHECK FOR THE FOLLOWING REASON:
X 120 DAYS EXPIRED 9/24/16
____ GARNISHMENT RELEASED
____ BALANCE DUE _____
____ JUDGMENT PAID IN FULL
____ OTHER _____

You are hereby notified that you are attached as garnishee in the above entitled action and you are commanded not to pay any debt from yourself to Michael J. Mona, Jr., ("Defendant"), and that you must retain possession and control of all personal property, money, credit, debts, effects and choses in action of said Defendant in order that the same may be dealt with according to law. Where such property consists of wages, salaries, commissions or

Exhibit G

WRTG
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDRA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

This WRIT must be answered, signed and returned to: The Office of the Ex-Officio Constable 302 E. Carson Avenue, 5th Floor Las Vegas, NV 89155

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, **Plaintiff,** v. **RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive,** **Defendants.**	**Case No: A-12-670352-F** **Dept. No.: XV**

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

MICHAEL MONA, RESIDENT AGENT AND PRESIDENT
CANNAVEST CORPORATION
2688 SOUTH RAINBOW BOULEVARD
SUITE B
LAS VEGAS, NV 89146

You are hereby notified that you are attached as garnishee in the above entitled action and you are commanded not to pay any debt from yourself to Michael J. Mona, Jr., ("Defendant"), and that you must retain possession and control of all personal property, money, credit, debts, effects and choses in action of said Defendant in order that the same may be dealt with according to law. Where such property consists of wages, salaries, commissions or

bonuses, the amount you shall retain be in accordance with 15 U.S.C. § 1673 and NRS 31.295. Plaintiff, Far West Industries believes that you have property, money, credits, debts, effects and choses in action in your hands and under your custody and control belonging to said Defendant described as: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Judgment Debtor Michael J. Mona, Jr., paid by CannaVEST Corp.

YOU ARE REQUIRED within 20 days from the date of service of this Writ of Garnishment to answer the interrogatories set forth herein and to return your answers to the office of the Sheriff or Constable which issues the Writ of Garnishment. In case of your failure to answer the interrogatories within 20 days, a Judgment by Default in the amount due the Plaintiff may be entered against you.

IF YOUR ANSWERS TO the interrogatories indicate that you are the employer of Defendant, this Writ of Garnishment shall be deemed to **CONTINUE FOR 120 DAYS,** or until the amount demanded in the Writ is satisfied, whichever occurs earlier less any amount which is exempt and less $3.00 per pay period not to exceed $12.00 per month which you may retain as a fee for compliance. The $3.00 fee does not apply to the first pay period covered by this Writ.

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YOU ARE FURTHER REQUIRED to serve a copy of your answers to the Writ of Garnishment on Plaintiff's attorneys whose address appears below.

Dated this _____ day of _____, 2016.

Issued at direction of: **SHERIFF/CONSTABLE - CLARK COUNTY**

By: Hammack 9572
Title Date

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

F. THOMAS EDWARDS, ESQ., NV Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ., NV Bar No. 12580
E-mail: agandara@nevadafirm.com
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308

Attorneys for Plaintiff

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

The undersigned, being duly sworn, states that I received the within WRIT OF GARNISHMENT on the ____ day of _____, 2016, and personally served the same on the ____ day of _____, 2015 by showing the original WRIT OF GARNISHMENT, informing of the contents and delivering and leaving a copy, along with the statutory fee of $5.00, with _____ at _____, County of Clark, State of Nevada.

By:_____

Title:_____

INTERROGATORIES TO BE ANSWERED BY THE GARNISHEE UNDER OATH:

1. **Are you in any manner indebted to Defendants Michael M. Mona, Jr., either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars:**

ANSWER: NO

2. Are you an employer of the Defendant? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, which each Defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week the pay period, after deducting any amount required by law to be withheld.

Calculate the garnishable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: __ [B] Biweekly: ✓ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings.....$ 11,538.46

(2) Deductions required by law (not including child support).....$ 3272.09

(3) Disposable Earning [Subtract line 2 from line 1] .....$ 8266.37

(4) Federal Minimum Wage.....$ 7.25

(5) Multiply line 4 by 50.....$ 362.50

(6) Complete the following direction in accordance with the letter selected above:

[A] Multiply line 5 by 1 .....$ N/A

[B] Multiply line 5 by 2 .....$ 725.00

[C] Multiply line 5 by 52 and then divide by 24.....$ N/A

[D] Multiply line 5 by 52 and then divide by 12.....$ N/A

(7) Subtract line 6 from line 3.....$ 7541.37

This is the attachable earning. This amount must not exceed 25% of the disposable earnings from line 3.

ANSWER: 25% of $7541.37 = $1885.34. There is biweekly Spousal Support of $4615.39. Also, see the attached Claim of Exemption.

3. **Did you have in your possession, in your charge or under your control, on the date the WRIT OF GARNISHMENT was served upon you any money, property, effects, good, chattels, rights, credits or choses in the action of the Defendant, or in which Defendant is interested? If so, state its value and state fully all particulars.**

ANSWER: other than the earnings detailed above, NO.

4. **Do you know of any debts owing to the Defendant, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to the Defendant, or in which Defendant is interested, and now in possession or under the control of others? If so, state particulars.**

ANSWER: NO

5. Are you a financial institution with a personal account held by the Defendant? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in NRS 21.105, $2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in NRS 21.105 or, if no such deposit has been made, $400 or the entire amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

ANSWER: NO

6. State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

ANSWER: Terry A. Coffing, Esq., 1001 Park Run Drive, Las Vegas, NV 89145

7. **NOTE:** If, without legal justification, an employer of Defendant refuses to withhold earnings of Defendant demanded in a WRIT OF GARNISHMENT or knowingly misrepresents the earnings of Defendant, the Court shall order the employer to pay Plaintiff the amount of arrearages caused by the employer's refusal to withhold or the employer's misrepresentation of Defendant's earnings. In addition, the Court may order the employer to pay Plaintiff punitive damages in an amount not to exceed $1,000 for each pay period in which the employer has, without legal justification, refused to withhold Defendant's earnings or has misrepresented the earnings.

Kathleen Kelleher
Garnishee

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Kathleen Kelleher, do solemnly swear (or affirm) that the answers to the foregoing interrogatories subscribed by me are true.

Kathleen Kelleher
Garnishee

SUBSCRIBED AND SWORN to before me this 19th day of July, 2016.

Barbara Tsatsa
NOTARY PUBLIC

BARBARA TSATSA
Notary Public, State of Nevada
Appointment No. 14-12817-1
My Appt. Expires Jan. 23, 2018

Exhibit H

The Office of the
EX-OFFICIO CONSTABLE

July 5, 2016

RECEIVED
JUL 12 2016
MAC LAW

MICHAEL J MONA JR
10001 PARK RUN DR
LAS VEGAS, NV 89145

RE: Court Case Number A-12-670352

In accordance with NRS 21.075, we are sending you a copy of the ***Notice of Execution after Judgment*** and the ***Writ of Execution*** on your case. If this office can be of any further service, please do not hesitate to call.

Sincerely,

Office of the Ex-Officio Constable

2 enclosures

302 E Carson Ave 5th Floor / Box 552110
Las Vegas, NV 89101
Ofc: 702) 455-4099 / Fax: 702) 385-2436

EIGHTH JUDICIAL DISTRICT COURT
Clark County, Nevada
NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED.

A court has determined that you owe money to **FAR WEST INDUSTRIES**, the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:
   (a) The judgment is for a medical bill, in which case all the primary dwelling, including a mobile or manufactured home, may be exempt.
   (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than $15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money not to exceed $500,000 in present value, held in:
   (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.
20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.
21. Payments received as compensation for wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
23. Payments received as restitution for a criminal act.
24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.
25. A tax refund received from the earned income credit provided by federal law or a similar state law.
26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through Nevada Legal Services. If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the Clerk of the Court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the Clerk of the Court an executed claim of exemption. A copy of the claim of exemption must be served upon the Las Vegas Township Constable, the garnishee, and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the Las Vegas Township Constable within 9 judicial days after you serve the claim of exemption upon the Las Vegas Township Constable, garnishee, and judgment creditor, unless the Las Vegas Township Constable or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the Las Vegas Township Constable, and any garnishee not less than 5 judicial days

before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions, or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.
NRS 21.075 (2011).

WRTE
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive,

Defendants.

Case No: A-12-670352-F
Dept. No.: XV

WRIT OF EXECUTION
☒ **Earnings** ☐ **Other Property**
☐ **Earnings. Order of Support**

THE STATE OF NEVADA TO THE SHERIFF/CONSTABLE – CLARK COUNTY, GREETINGS:

On April 27, 2012, a judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Plaintiff Far West Industries as judgment creditor and against Michael J. Mona, Jr. as judgment debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at 10% per annum, $4,967.308 per day from issuance of this writ to date of levy and to which sum must be added all

commissions and costs of executing this Writ.

JUDGMENT BALANCE		AMOUNTS TO BE COLLECTED BY LEVY	
Judgment	$17,777,562.18	NET BALANCE	$25,611,068.27
Attorney's Fees	$327,548.84	Fee this Writ	
Costs	$25,562.56	Garnishment Fee	5
JUDGMENT TOTAL	$18,130,673.58	Levy Fee	30
Accrued Costs		Mileage	12
Accrued Interest	$7,540,373.24	Storage	
Less Satisfaction	$59,978.55	Interest from	
		Date of Issuance	
NET BALANCE	$25,611,068.27	SUB-TOTAL	25,611,115.27
		Commission	128,108.08
		TOTAL LEVY	25,739,223.35

NOW THEREFORE, you are commanded to satisfy the judgment for the total amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described real property: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Judgment Debtor Michael J. Mona, Jr., paid by CannaVEST Corp.

(See below or exemptions which may apply)

EXEMPTIONS WHICH APPLY TO THIS LEVY
(Check appropriate paragraph and complete as necessary)

☐ Property other than wages: The exemption set forth in NRS 21.090 or in other applicable Federal Statues may apply, consult an attorney.

☒ Earnings

The amount subject to garnishment and this writ shall not exceed for any one pay period the lessor of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period of $100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on , 20 , by the for support of , for the period from , 20 , through , 20 , in installments or $.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above:

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from date of issuance not less than 10 days or more than 60

days with the results of your levy endorsed thereon.

Submitted By:

(SIGNATURE)

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
ANDREA M. GANDARA
Nevada Bar No. 12580
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912
Attorneys for Plaintiff

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

SHERIFF/CONSTABLE – CLARK COUNTY

By: _____
Deputy Date

STEVEN D. GRIERSON, CLERK OF COURT

By: PATRICIA AZUCENA DISTRICT COURT SEAL JUN 24 2016
Deputy Clerk Date

RETURN

_____Not satisfied $ _____

_____Satisfied in sum of $ _____

_____Costs retained $ _____

_____Commission retained $ _____

_____Costs incurred $ _____

Commission incurred $ _____

_____Costs Received $ _____

REMITTED TO
JUDGMENT CREDITOR $ _____

Exhibit I

WRTE
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual; MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No: A-12-670352-F Dept. No.: XV

WRIT OF EXECUTION

☒ **Earnings** ☐ **Other Property**
☐ **Earnings, Order of Support**

THE STATE OF NEVADA TO THE SHERIFF/CONSTABLE – CLARK COUNTY, GREETINGS:

On April 27, 2012, a judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Plaintiff Far West Industries as judgment creditor and against Michael J. Mona, Jr. as judgment debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at 10% per annum, $4,967.308 per day from issuance of this writ to date of levy and to which sum must be added all

EXEMPTIONS WHICH APPLY TO THIS LEVY
(Check appropriate paragraph and complete as necessary)

☐ Property other than wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statues may apply, consult an attorney.

☒ Earnings

The amount subject to garnishment and this writ shall not exceed for any one pay period the lesser of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period of $100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on , 20 , by the for support of , for the period from , 20 , through , 20 , in installments of $.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above;

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from date of issuance not less than 10 days or more than 60

days with the results of your levy endorsed thereon.

Submitted By:

(SIGNATURE)

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
ANDREA M. GANDARA
Nevada Bar No. 12580
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912
Attorneys for Plaintiff

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

SHERIFF/CONSTABLE – CLARK COUNTY

By: _____
Deputy Date

STEVEN D. GRIERSON, CLERK OF COURT

OCT 19 2016

MICHELLE MCCARTHY

By: _____
Deputy Clerk Date

DISTRICT COURT SEAL

RETURN

____Not satisfied $ _____

____Satisfied in sum of $ _____

____Costs retained $ _____

____Commission retained $ _____

____Costs incurred $ _____

____Commission incurred $ _____

____Costs Received $ _____

REMITTED TO JUDGMENT CREDITOR $ _____

Make Check Payable To:
The Office of the
Ex-Officio Constable
302 E. Carson Avenue, 5th Floor
Las Vegas, NV 89155
702-455-4099
Put Case# & Name on Check

10594-01/1764804.doc

WRTG
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDRA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive,

Defendants.

Case No: A-12-670352-F
Dept. No.: XV

This WRIT must be answered, signed and returned to:
The Office of the
Ex-Officio Constable
302 E. Carson Avenue, 5th Floor
Las Vegas, NV 89155

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

MICHAEL MONA, RESIDENT AGENT AND PRESIDENT
CV SCIENCES, INC. FORMERLY KNOWN AS CANNAVEST CORPORATION
2688 SOUTH RAINBOW BOULEVARD
SUITE B
LAS VEGAS, NV 89146

You are hereby notified that you are attached as garnishee in the above entitled action and you are commanded not to pay any debt from yourself to Michael J. Mona, Jr., ("Defendant"), and that you must retain possession and control of all personal property, money, credit, debts, effects and choses in action of said Defendant in order that the same may be dealt with according to law. Where such property consists of wages, salaries, commissions or

bonuses, the amount you shall retain be in accordance with 15 U.S.C. § 1673 and NRS 31.295. Plaintiff, Far West Industries believes that you have property, money, credits, debts, effects and choses in action in your hands and under your custody and control belonging to said Defendant described as: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Judgment Debtor Michael J. Mona, Jr., paid by CV Sciences, Inc. formerly known as CannaVEST Corp.

YOU ARE REQUIRED within 20 days from the date of service of this Writ of Garnishment to answer the interrogatories set forth herein and to return your answers to the office of the Sheriff or Constable which issues the Writ of Garnishment. In case of your failure to answer the interrogatories within 20 days, a Judgment by Default in the amount due the Plaintiff, which amount as of October 14, 2016 is $26,120,402.76 and which amount Plaintiff demands, may be entered against you.

IF YOUR ANSWERS TO the interrogatories indicate that you are the employer of Defendant, this Writ of Garnishment shall be deemed to **CONTINUE FOR 120 DAYS**, or until the amount demanded in the Writ is satisfied, whichever occurs earlier less any amount which is exempt and less $3.00 per pay period not to exceed $12.00 per month which you may retain as a fee for compliance. The $3.00 fee does not apply to the first pay period covered by this Writ.

...

...

...

...

...

...

...

...

...

YOU ARE FURTHER REQUIRED to serve a copy of your answers to the Writ of Garnishment on Plaintiff's attorneys whose address appears below.

Dated this _____ day of _____, 2016.

Issued at direction of: **SHERIFF/CONSTABLE – CLARK COUNTY**

By: _____
Title Date

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

F. THOMAS EDWARDS, ESQ., NV Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ., NV Bar No. 12580
E-mail: agandara@nevadafirm.com
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308

Attorneys for Plaintiff

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

The undersigned, being duly sworn, states that I received the within WRIT OF GARNISHMENT on the ____ day of _____, 2016, and personally served the same on the ____ day of _____, 2015 by showing the original WRIT OF GARNISHMENT, informing of the contents and delivering and leaving a copy, along with the statutory fee of $5.00, with _____ at _____, County of Clark, State of Nevada.

By: _____

Title: _____

INTERROGATORIES TO BE ANSWERED BY THE GARNISHEE UNDER OATH:

1. Are you in any manner indebted to Defendants Michael M. Mona, Jr., either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars:

ANSWER: _____

_____

2. Are you an employer of the Defendant? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, which each Defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week the pay period, after deducting any amount required by law to be withheld.

Calculate the garnishable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: __ [B] Biweekly: __ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings.....$_____

(2) Deductions required by law (not including child support).....$_____

(3) Disposable Earning [Subtract line 2 from line 1] .....$_____

(4) Federal Minimum Wage.....$_____

(5) Multiply line 4 by 50.....$_____

(6) Complete the following direction in accordance with the letter selected above:

[A] Multiply line 5 by 1 .....$_____

[B] Multiply line 5 by 2 .....$_____

[C] Multiply line 5 by 52 and then divide by 24.....$_____

[D] Multiply line 5 by 52 and then divide by 12.....$_____

(7) Subtract line 6 from line 3.....$_____

This is the attachable earning. This amount must not exceed 25% of the disposable earnings from line 3.

ANSWER: _____

_____

3. Did you have in your possession, in your charge or under your control, on the date the WRIT OF GARNISHMENT was served upon you any money, property, effects, good, chattels, rights, credits or choses in the action of the Defendant, or in which Defendant is interested? If so, state its value and state fully all particulars.

ANSWER: _____

_____

4. Do you know of any debts owing to the Defendant, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to the Defendant, or in which Defendant is interested, and now in possession or under the control of others? If so, state particulars.

ANSWER: _____

_____

STATE OF NEVADA)
) ss;
COUNTY OF CLARK)

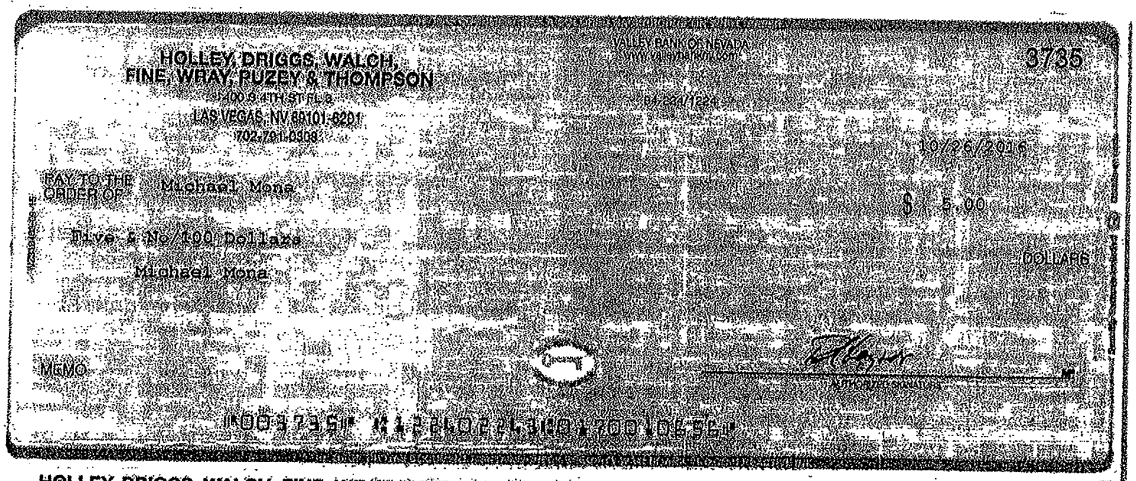
I, _____, do solemnly swear (or affirm) that the answers to the foregoing interrogatories subscribed by me are true.

_____
Garnishee

SUBSCRIBED AND SWORN to before me this

_____ day of _____, 20___.

_____
NOTARY PUBLIC



HOLLEY, DRIGGS, WALCH,
FINE, WRAY, PUZEY & THOMPSON
400 S 4TH ST FL 3
LAS VEGAS, NV 89101-6201
702.791-0308

VALLEY BANK OF NEVADA

3735

10/26/2016

PAY TO THE ORDER OF Michael Mona

$ 5.00

Five & No/100 Dollars

DOLLARS

Michael Mona

MEMO

AUTHORIZED SIGNATURE

⑈003735⑈ ⑆122402430⑆1700106556⑈

HOLLEY, DRIGGS, WALCH, FINE, WRAY, PUZEY & THOMPSON

3735

Michael Mona DLO 10/26/2016 $ 5.00

Invoice #	Account No.	Account Description	Matter ID	Amount
	1700-000-00	Client Costs - reimbursed client	10594-01	5.00

Exhibit J

AFFT
Name (Attorneys Include Bar No. & Firm)
Address
City/State/Zip
Telephone
In Proper Person OR Attorney for

DISTRICT COURT

CLARK COUNTY, NEVADA

Plaintiff(s)

Plaintiff(s),

-vs-

Defendant(s)

Defendant(s).

CASE NO. Case No.

DEPT. NO. Dept. No.

AFFIDAVIT CLAIMING EXEMPT PROPERTY

STATE OF STATE)
) ss:
COUNTY OF COUNTY)

I, Affiant's Name, believe the property or money taken from me is exempt from execution. I claim the following exemption:

Exemption

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this Day day of Month, 20Yr.

Affiant

Afft_Claim_Exm_Property.doc/3/15/2005

DOC

_____
(Name)

_____
(Address)

_____
(City, State, Zip Code)

_____
(Telephone Number)

_____
(E-mail Address)

☐ Defendant/ ☐ Other, In Proper Person

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

_____, Plaintiff(s), vs. _____, Defendant(s).	Case No.: _____ Dept. No.: _____ **CLAIM OF EXEMPTION FROM EXECUTION**

I, *(insert your name)* _____, submit this Claim of Exemption from Execution pursuant to NRS 21.112 and state as follows:

(Check only one of the following boxes.)

☐ I am a Defendant or other named party in this case and have had my wages withheld or have received a Notice of Execution regarding the attachment or garnishment of my wages, money, benefits, or property.

☐ I am not a Defendant or other named party in this case, but my wages, money, benefits, or property are the subject of an attachment or garnishment relating to a Defendant or other named party in this case. (NRS 21.112(10).)

My wages, money, benefits, or property are exempt by law from execution as indicated below. Pursuant to NRS 21.112(4), if the Plaintiff/Judgment Creditor does not file an objection and notice of hearing in response to this Claim of Exemption within eight judicial days after my Claim of Exemption from Execution has been served, any person who has control or possession over my wages, money,

benefits, or property (such as my employer or bank, for example) must release them to me within nine judicial days after this Claim of Exemption from Execution has been served.

(Check all of the following boxes that apply to your wages, money, benefits, or property.)

☐ Money or payments received pursuant to the federal Social Security Act, including retirement, disability, survivors' benefits, and SSI. (NRS 21.090(1)(y) and 42 U.S.C. § 407(a).)

☐ Money or payments for assistance received through the Nevada Department of Health and Human Services, Division of Welfare and Supportive Services, pursuant to NRS 422.291. (NRS 21.090(1)(kk) and 422A.325.)

☐ Money or payments received as unemployment compensation benefits pursuant to NRS 612.710. (NRS 21.090(1)(hh).)

☐ Money or compensation payable or paid under NRS 616A to 616D (worker's compensation/ industrial insurance), as provided in NRS 616C.205. (NRS 21.090(1)(gg).)

☐ Money or payments received as veteran's benefits. (38 U.S.C. § 5301.)

☐ Money or payments received as retirement benefits under the federal Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS). (5 U.S.C. § 8346.)

☐ Seventy-five percent (75%) of my disposable earnings. "Disposable earnings" are the earnings remaining "after the deduction . . . of any amounts required by law to be withheld." (NRS 21.090(1)(g)(1).) The "amounts required by law to be withheld" are federal income tax, Medicare, and Social Security taxes.

☐ Check here if your disposable weekly earnings to do not exceed $362.50 or 50 times the federal minimum wage (50 x $7.25 = $362.50), in which case ALL of your disposable earnings are exempt. (NRS 21.090(1)(g).)

☐ Check here if your disposable weekly earnings are between $362.50 and $483.33, in which case your exempt income is always $362.50. Your non-exempt income is your weekly disposable earnings minus $362.50, which equals *(insert amount here)*: $_____ per week. (NRS 31.295.)

☐ Money or benefits received pursuant to a court order for the support, education, and maintenance of a child, or for the support of a former spouse, including arrearages. (NRS 21.090(1)(s)-(t).)

☐ Money received as a result of the federal Earned Income Tax Credit or similar credit provided under Nevada law. (NRS 21.090(1)(aa).)

☐ $1,000 or less of my money or personal property, identified as *(describe the specific money or property you wish to make exempt)* _____, which is not otherwise exempt under NRS 21.090. (NRS 21.090(1)(z).)

☐ Money, up to $500,000, held in a retirement plan in accordance with Internal Revenue Code, including, but not limited to, an IRA, 401k, 403b, or other qualified stock bonus, pension, or profit-sharing plan. (NRS 21.090(1)(r).)

☐ All money, benefits, privileges, or immunities derived from a life insurance policy. (NRS 21.090(1)(k).)

☐ Money, benefits, or refunds payable or paid from Nevada's Public Employees' Retirement System pursuant to NRS 286.670. (NRS 21.090(1)(ii).)

☐ A homestead recorded pursuant to NRS 115.010 on a dwelling (house, condominium, townhome, and land) or a mobile home where my equity does not exceed $550,000. (NRS 21.090(1)(l).)

☐ My dwelling, occupied by me and my family, where the amount of my equity does not exceed $550,000, and I do not own the land upon which the dwelling is situated. (NRS 21.090(1)(m).)

☐ Check here if the judgment being collected arises from a medical bill. If it does, your primary dwelling and the land upon which it is situated (if owned by you), including a mobile or manufactured home, are exempt from execution regardless of your equity. (NRS 21.095.)

☐ My vehicle, where the amount of equity does not exceed $15,000, or I will pay the judgment creditor any amount over $15,000 in equity. (NRS 21.090(1)(f).)

☐ Check here if your vehicle is specially equipped or modified to provide mobility for you or your dependent and either you or your dependent has a permanent disability. Your vehicle is exempt regardless of the equity. (NRS 21.090(1)(p).)

☐ A prosthesis or any equipment prescribed by a physician or dentist for me or my dependent. (NRS 21.090(1)(q).)

☐ My private library, works of art, musical instruments, jewelry, or keepsakes belonging to me or my dependent, chosen by me and not to exceed $5,000 in value. (NRS 21.090(1)(a).)

☐ My necessary household goods, furnishings, electronics, clothes, personal effects, or yard equipment, belonging to me or my dependent, chosen by me and not to exceed $12,000 in value. (NRS 21.090(1)(b).)

☐ Money or payments received from a private disability insurance plan. (NRS 21.090(1)(ee).)

☐ Money in a trust fund for funeral or burial services pursuant to NRS 689.700. (NRS 21.090(1)(ff).)

☐ My professional library, equipment, supplies, and the tools, inventory, instruments, and materials used to carry on my trade or business for the support of me and my family not to exceed $10,000 in value. (NRS 21.090(1)(d).)

☐ Money that I reasonably deposited with my landlord to rent or lease a dwelling that is used as my primary residence, unless the landlord is enforcing the terms of the rental agreement or lease. (NRS 21.090(1)(n).)

☐ Money or payments, up to $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by me or by a person upon whom I am dependent. (NRS 21.090(1)(u).)

☐ Money or payments received as compensation for loss of my future earnings or for the wrongful death or loss of future earnings of a person upon whom I was dependent, to the extent reasonably necessary for the support of me and my dependents. (NRS 21.090(1)(v)-(w).)

☐ Money or payments received as restitution for a criminal act. (NRS 21.090(1)(x).)

☐ Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270. (NRS 21.090(1)(jj).)

☐ Child welfare assistance provided pursuant to NRS 432.036. (NRS 21.090(1)(ll).)

☐ Other: _____

_____

AUTOMATIC BANK ACCOUNT EXEMPTIONS

(Some direct-deposit funds are automatically protected and should not be taken from your bank account. If automatically protected money was taken from your bank account, check the appropriate box below and attach proof of direct-deposit benefits.)

☐ All exempt federal benefits that were electronically deposited into my account during the prior two months are protected, and I am, therefore, entitled to full and customary access to that

protected amount. (31 C.F.R. part 212.6(a).) Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above.

☐ Exempt state or federal benefits were electronically deposited into my personal bank account during the 45-day period preceding Plaintiff's service of the writ of execution or garnishment relating to my personal bank account, and under Nevada law, I am entitled to full and customary access to $2,000 or the entire amount in the account, whichever is less, regardless of any other deposits of money into the account. Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above. (A.B. 223, 2011 Leg., 76th Sess. (Nev. 2011).)

☐ A writ of execution or garnishment was levied on my personal bank account, and under Nevada law, I am entitled to full and customary access to $400 or the entire amount in my account, whichever is less, unless the writ is for the recovery of money owed for the support of any person. Money in my personal bank account that exceeds $400 may be subject to the exemptions stated above. (A.B. 223, 2011 Leg., 76th Sess. (Nev. 2011).)

Pursuant to NRS 21.112(4), if you are a Garnishee or other person who has control or possession over my exempt ☐ wages, ☐ bank accounts, ☐ benefits, ☐ other accounts/funds, or ☐ personal or real property, as stated above, you must release that money or property to me within nine judicial days after my Claim of Exemption from Execution was served on you, unless the Plaintiff/Judgment Creditor files an objection and notice of hearing within eight judicial days after service of my Claim of Exemption from Execution, which the Plaintiff/Judgment Creditor will serve on you by mail or in person.

DATED this _____ day of _____, 20_____.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

_____ *(signature)*

_____ *(print name)*

☐ Defendant/ ☐ Other, In Proper Person

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the _____ day of _____, 20_____, I placed a true and correct copy of the foregoing **CLAIM OF EXEMPTION FROM EXECUTION** in the United States Mail, with first-class postage prepaid, addressed to the following *(insert the name and address of the following parties/entities)*:

Attorney for Plaintiff/Judgment Creditor:
(or Plaintiff/Judgment Creditor directly if unrepresented)

☐ Sheriff or ☐ Constable:

Garnishee: ☐ Employer
☐ Bank
☐ Other

DATED this _____ day of _____, 20_____.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

_____ *(signature)*
_____ *(print name)*
☐ Defendant/ ☐ Other, In Proper Person

(DC WEB Rev. 01-06-2012)

Exhibit K

NRS 21.075 Notice of writ of execution: Service required; form; contents.

1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than $15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.
15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.
16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.
19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Exhibit L

NRS 21.076 Notice of writ of execution: Manner and time of service. The notice required by NRS 21.075 must be served by the sheriff on the judgment debtor by regular mail at the debtor's last known address or, if the debtor is represented by an attorney, at the attorney's office. The service must be mailed by the next business day after the day the writ of execution was served.

(Added to NRS by 1989, 1136)

Exhibit M

NRS 21.090 Property exempt from execution.

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the

judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

[1911 CPA § 346; A 1921, 22; 1941, 32; 1931 NCL § 8844] — (NRS A 1969, 841; 1971, 1498; 1973, 23; 1975, 215; 1977, 650; 1979, 985, 1637;1981, 626; 1983, 99, 665; 1987, 1206; 1989, 4, 176, 645; 1991, 812, 1414; 1993, 2629; 1995, 229; 1997, 267, 3414; 2003, 1012, 1814; 2005, 385, 974, 1015, 2230; 2007, 2710, 3018; 2009, 807; 2011, 1409, 1895, 3567; 2013, 1312)

Exhibit N

NRS 21.112 Claim of exemption: Procedure; clerk to provide form and instructions; manner in which to object; burden of proof; release of property; debtor may not be required to waive.

1. In order to claim exemption of any property levied on pursuant to this section, the judgment debtor must, within 10 days after the notice of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution the judgment debtor's claim of exemption which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 10 days after the date of each withholding of the judgment debtor's earnings.

2. The clerk of the court shall provide the form for the claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property where a claim of exemption is not served on the sheriff.

6. Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim and notice for a hearing is filed. The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

(Added to NRS by 1971, 1497; A 1989, 1137; 1991, 456; 2011, 1899)

Exhibit O

NRS 31.200 Grounds for discharge of attachment.

1. The defendant may also, at any time before trial, apply by motion, upon reasonable notice to the plaintiff, to the court in which the action is brought or to the judge thereof, for a discharge of the attachment, or the money or property attached through the use of a writ of garnishment, on the following grounds:

(a) That the writ was improperly or improvidently issued.

(b) That the property levied upon is exempt from execution or necessary and required by the defendant for the support and maintenance of the defendant and the members of the defendant's family.

(c) That the levy is excessive.

2. If the court or the judge thereof on the hearing of such motion shall find that any of the grounds stated in subsection 1 exist, the attachment and levy thereof shall be discharged. If the motion is based upon paragraph (c) of subsection 1 only, and the fact is found to exist, the discharge of attachment shall be only as to the excess.

[1911 CPA § 223; A 1921, 4; NCL § 8721]—(NRS A 1973, 1180)

Exhibit P

NRS 31.249 Application to court for writ of garnishment.

1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:

(a) In the order directing the clerk to issue a writ of attachment; or

(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.

2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:

(a) Is the employer of the defendant; or

(b) Is indebted to or has property in the garnishee's possession or under the garnishee's control belonging to the defendant,

and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller.

3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.

4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.

5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.

(Added to NRS by 1973, 1181; A 1985, 1012; 1989, 700)

Exhibit Q

NRS 31.260 Issuance and contents of writ of garnishment; notice of execution.

1. The writ of garnishment must:
(a) Be issued by the sheriff.
(b) Contain the name of the court and the names of the parties.
(c) Be directed to the garnishee defendant.
(d) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address.
(e) Require each person the court directs, as garnishees, to submit to the sheriff an answer to the interrogatories within 20 days after service of the writ upon the person.

2. The writ of garnishment must also notify the garnishee defendant that, if the garnishee defendant fails to answer the interrogatories, a judgment by default will be rendered against the garnishee defendant for:
(a) The amount demanded in the writ of garnishment or the value of the property described in the writ, as the case may be; or
(b) If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section,
↪ which amount or property must be clearly set forth in the writ of garnishment.

3. Execution on the writ of garnishment may occur only if the sheriff mails a copy of the writ with a copy of the notice of execution to the defendant in the manner and within the time prescribed in NRS 21.076. In the case of a writ of garnishment that continues for 120 days or until the amount demanded in the writ is satisfied, a copy of the writ and the notice of execution need only be mailed once to the defendant.

Exhibit R

NRS 31.270 Service of writ; tender of garnishee's fees.

1. The writ of garnishment shall be served by the sheriff of the county where the garnishee defendant is found, unless the court directs otherwise, in the same manner as provided by rule of court or law of this state for the service of a summons in a civil action.

2. At the time of the service of the writ of garnishment, the garnishee shall be paid or tendered by the plaintiff in the action or the officer serving the writ a fee of $5, and unless such sum is paid or tendered to the garnishee defendant or the person upon whom service is made for the garnishee defendant, service shall be deemed incomplete.

[1911 CPA § 230; A 1953, 548]—(NRS A 1973, 1182)

Exhibit S

NRS 31.295 Garnishment of earnings: Limitations on amount.

1. As used in this section:

(a) "Disposable earnings" means that part of the earnings of any person remaining after the deduction from those earnings of any amounts required by law to be withheld.

(b) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed:

(a) Twenty-five percent of the person's disposable earnings for the relevant workweek; or

(b) The amount by which the person's disposable earnings for that week exceed 50 times the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable,

↪ whichever is less.

3. The restrictions of subsection 2 do not apply in the case of:

(a) Any order of any court for the support of any person.

(b) Any order of any court of bankruptcy.

(c) Any debt due for any state or federal tax.

4. Except as otherwise provided in this subsection, the maximum amount of the aggregate disposable earnings of a person for any workweek which are subject to garnishment to enforce any order for the support of any person may not exceed:

(a) Fifty percent of the person's disposable earnings for that week if the person is supporting a spouse or child other than the spouse or child for whom the order of support was rendered; or

(b) Sixty percent of the person's disposable earnings for that week if the person is not supporting such a spouse or child,

↪ except that if the garnishment is to enforce a previous order of support with respect to a period occurring at least 12 weeks before the beginning of the workweek, the limits which apply to the situations described in paragraphs (a) and (b) are 55 percent and 65 percent, respectively.

(Added to NRS by 1971, 1499; A 1985, 1430; 2005, 1020)

Exhibit T

NRS 31.296 Garnishment of earnings: Period of garnishment; fee for withholding; termination of employment; periodic report by judgment creditor.

1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of garnishment to issue pursuant to NRS 31.260 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

(Added to NRS by 1989, 699; A 2011, 1907; 2013, 3811)

Exhibit U

Rule 2.20. Motions; contents; responses and replies; calendaring a fully briefed matter.

(a) Unless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities.

(b) All motions must contain a notice of motion setting the same for hearing on a day when the district judge to whom the case is assigned is hearing civil motions in the ordinary course. The notice of motion must include the time, department, and location where the hearing will occur.

(c) A party filing a motion must also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver of all grounds not so supported.

(d) Within 5 days after service of the motion, a nonmoving party may file written joinder thereto, together with a memorandum of points and authorities and any supporting affidavits. If the motion becomes moot or is withdrawn by the movant, the joinder becomes its own stand-alone motion and the court shall consider its points and authorities in conjunction with those in the motion.

(e) Within 10 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

(f) An opposition to a motion which contains a motion related to the same subject matter will be considered as a counter-motion. A counter-motion will be heard and decided at the same time set for the hearing of the original motion and no separate notice of motion is required.

(g) Whenever a motion is contested, a courtesy copy shall be delivered by the movant to the appropriate department at least 5 judicial days prior to the date of the hearing, along with all related briefing, affidavits, and exhibits.

(h) A moving party may file a reply memorandum of points and authorities not later than 5 days before the matter is set for hearing. A reply memorandum must not be filed within 5 days of the hearing or in open court unless court approval is first obtained.

(i) A memorandum of points and authorities which consists of bare citations to statutes, rules, or case authority does not comply with this rule and the court may decline to consider it. Supplemental briefs will only be permitted if filed within the original time limitations of paragraphs (a), (b), or (d), or by order of the court.

(j) If all the civil trial judges in this district are disqualified from hearing a case, a notice of motion must state: "Please take notice that the undersigned will bring the above motion on for hearing before a visiting or senior judge at such time as shall be prescribed by the court administrator."

(k) If a petition, writ, application or motion has been fully briefed but is not calendared for argument and/or decision, the party seeking relief shall deliver to the chambers of the assigned department a Notice of Readiness and Request for Setting together with an Order Setting.

[Amended; effective July 29, 2011.]

Exhibit V

HOLLEY, DRIGGS, WALCH,
FINE, WRAY, PUZEY & THOMPSON
400 S 4TH ST FL 3
LAS VEGAS, NV 89101-6201
702-791-0308

VALLEY BANK OF NEVADA
www.valleybanknv.com

94-224/1224

4205

2/27/2017

PAY TO THE ORDER OF Michael Mona

$ 5.00

Five & No/100 Dollars

DOLLARS

Michael Mona

MEMO

AUTHORIZED SIGNATURE

⑈004205⑈ ⑆122402243⑆01700106561⑈

HOLLEY, DRIGGS, WALCH, FINE, WRAY, PUZEY & THOMPSON

4205

Michael Mona RA 2/27/2017 $ 5.00

Invoice #	Account No.	Account Description	Matter ID	Amount
	1700-000-00	Client Costs - reimbursed client	10594-01	5.00

WRTE
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
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HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

Make Check Payable To:
Constable
55 Civic Way
Laughlin NV 89029-1563
702-298-2311
Put Case # & Name on Check

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual; MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive,

Defendants.

Case No: A-12-670352-F
Dept. No.: XV

WRIT OF EXECUTION
☒ **Earnings** ☐ **Other Property**
Earnings, Order of Support

THE STATE OF NEVADA TO THE SHERIFF/CONSTABLE, GREETINGS:

On April 27, 2012, a judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Plaintiff Far West Industries as judgment creditor and against Michael J. Mona, Jr. as judgment debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at 10% per annum, $4,967.308 per day from issuance of this writ to date of levy and to which sum must be added all

commissions and costs of executing this Writ.

JUDGMENT BALANCE		AMOUNTS TO BE COLLECTED BY LEVY	
Judgment	$17,777,562.18	NET BALANCE	$26,732,578.25
Attorney's Fees	$327,548.84	Fee this Writ	25.00
Costs	$25,562.56	Garnishment Fee	5.00
JUDGMENT TOTAL	$18,130,673.58	Levy Fee	33.00
Accrued Costs		Advertising	X
Accrued Interest	$8,717,625.19	Storage	X
Less Satisfaction	$115,720.52	Interest from	X
		Date of Issuance	X
NET BALANCE	$26,732,578.25	SUB-TOTAL	26732603.25
		Commission	133715.78
		TOTAL LEVY	26866371.03 Total

NOW THEREFORE, you are commanded to satisfy the judgment for the total amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described real property: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Judgment Debtor Michael J. Mona, Jr., paid by CV Sciences, Inc. formerly known as CannaVEST Corp.

(See below or exemptions which may apply)

EXEMPTIONS WHICH APPLY TO THIS LEVY
(Check appropriate paragraph and complete as necessary)

☐ Property other than wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statues may apply, consult an attorney.

☒ Earnings

The amount subject to garnishment and this writ shall not exceed for any one pay period the lessor of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period of $100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on , 20 , by the for support of , for the period from , 20 , through , 20 , in installments or $.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above:

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from date of issuance not less than 10 days or more than 60

days with the results of your levy endorsed thereon.

Submitted By:

(SIGNATURE)

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912
Attorneys for Plaintiff Far West Industries

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

SHERIFF/CONSTABLE

By:

Deputy Date

STEVEN D. GRIERSON, CLERK OF COURT

MIRIAM MEJIA DISTRICT COURT SEAL FEB 23 2017

By: Deputy Clerk Date

RETURN

____Not satisfied $ ____

____Satisfied in sum of $ ____

____Costs retained $ ____

____Commission retained $ ____

____Costs incurred $ ____

____Commission incurred $ ____

____Costs Received $ ____

REMITTED TO JUDGMENT CREDITOR $ ____

EIGHTH JUDICIAL DISTRICT COURT
Clark County, Nevada
NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED.

A court has determined that you owe money to **FAR WEST INDUSTRIES**, the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:
   (a) The judgment is for a medical bill, in which case all the primary dwelling, including a mobile or manufactured home, may be exempt.
   (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than $15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money not to exceed $500,000 in present value, held in:
   (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.;
and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.
20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.
21. Payments received as compensation for wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
23. Payments received as restitution for a criminal act.
24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.
25. A tax refund received from the earned income credit provided by federal law or a similar state law.
26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through Nevada Legal Services. If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the Clerk of the Court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the Clerk of the Court an executed claim of exemption. A copy of the claim of exemption must be served upon the Las Vegas Township Constable, the garnishee, and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the Las Vegas Township Constable within 9 judicial days after you serve the claim of exemption upon the Las Vegas Township Constable, garnishee, and judgment creditor, unless the Las Vegas Township Constable or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the Las Vegas Township Constable, and any garnishee not less than 5 judicial days

before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions, or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.
NRS 21.075 (2011).

WRTG
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400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
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Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

This WRIT must be answered, signed and returned to: Constable, Laughlin Township 55 Civic Way Laughlin NV 89029-1563

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No: A-12-670352-F Dept. No.: XV

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

MICHAEL MONA, RESIDENT AGENT AND PRESIDENT
CV SCIENCES, INC. FORMERLY KNOWN AS CANNAVEST CORPORATION
2688 SOUTH RAINBOW BOULEVARD
SUITE B
LAS VEGAS, NV 89146

You are hereby notified that you are attached as garnishee in the above entitled action and you are commanded not to pay any debt from yourself to Michael J. Mona, Jr., ("Defendant" or "Judgment Debtor"), and that you must retain possession and control of all personal property, money, credit, debts, effects and choses in action of said Defendant in order that the same may be dealt with according to law. Where such property consists of wages, salaries, commissions or

bonuses, the amount you shall retain be in accordance with 15 U.S.C. § 1673 and NRS 31.295. Plaintiff Far West Industries believes that you have property, money, credits, debts, effects and choses in action in your hands and under your custody and control belonging to said Defendant described as: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Michael J. Mona, Jr., paid by CV Sciences, Inc. formerly known as CannaVEST Corp.

YOU ARE REQUIRED within 20 days from the date of service of this Writ of Garnishment to answer the interrogatories set forth herein and to return your answers to the office of the Sheriff or Constable which issues the Writ of Garnishment. In case of your failure to answer the interrogatories within 20 days, a Judgment by Default in the amount due the Plaintiff, which amount as of February 15, 2017 is $26,732,578.25 and which amount Plaintiff demands, may be entered against you.

IF YOUR ANSWERS TO the interrogatories indicate that you are the employer of Defendant, this Writ of Garnishment shall be deemed to **CONTINUE FOR 120 DAYS**, or until the amount demanded in the Writ is satisfied, whichever occurs earlier less any amount which is exempt and less $3.00 per pay period not to exceed $12.00 per month which you may retain as a fee for compliance. The $3.00 fee does not apply to the first pay period covered by this Writ.

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YOU ARE FURTHER REQUIRED to serve a copy of your answers to the Writ of Garnishment on counsel for Far West Industries whose address appears below.

Dated this 3rd day of March, 2017.

Issued at direction of:

SHERIFF/CONSTABLE

JORDAN ROSS, CONSTABLE
LAUGHLIN CONSTABLE'S OFFICE

By: _____
Title **PERSONNEL # 1614** Date

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

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

17-1052

STATE OF NEVADA)
) ss:
COUNTY OF)

The undersigned, being duly sworn, states that I received the within WRIT OF GARNISHMENT on the ____ day of _____, 2016, and personally served the same on the ____ day of _____, 2015 by showing the original WRIT OF GARNISHMENT, informing of the contents and delivering and leaving a copy, along with the statutory fee of $5.00, with _____ at _____, County of _____, State of Nevada.

By: _____

Title: _____

INTERROGATORIES TO BE ANSWERED BY THE GARNISHEE UNDER OATH:

1. Are you in any manner indebted to Defendant Michael M. Mona, Jr., either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars:

ANSWER: _____

_____

2. Are you an employer of the Defendant? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, which each Defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week the pay period, after deducting any amount required by law to be withheld.

Calculate the garnishable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: __ [B] Biweekly: __ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings.....$_____

(2) Deductions required by law (not including child support).....$_____

(3) Disposable Earning [Subtract line 2 from line 1] .....$_____

(4) Federal Minimum Wage.....$_____

(5) Multiply line 4 by 50.....$_____

(6) Complete the following direction in accordance with the letter selected above:

[A] Multiply line 5 by 1 .....$_____

[B] Multiply line 5 by 2 .....$_____

[C] Multiply line 5 by 52 and then divide by 24.....$_____

[D] Multiply line 5 by 52 and then divide by 12.....$_____

(7) Subtract line 6 from line 3.....$_____

This is the attachable earning. This amount must not exceed 25% of the disposable earnings from line 3.

ANSWER: _____

_____

3. Did you have in your possession, in your charge or under your control, on the date the WRIT OF GARNISHMENT was served upon you any money, property, effects, good, chattels, rights, credits or choses in the action of the Defendant, or in which Defendant is interested? If so, state its value and state fully all particulars.

ANSWER: _____

_____

4. Do you know of any debts owing to the Defendant, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to the Defendant, or in which Defendant is interested, and now in possession or under the control of others? If so, state particulars.

ANSWER: _____

_____

5. Are you a financial institution with a personal account held by the Defendant? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in NRS 21.105, $2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in NRS 21.105 or, if no such deposit has been made, $400 or the entire amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

ANSWER: _____

_____

6. State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

ANSWER: _____

_____

7. **NOTE**: If, without legal justification, an employer of Defendant refuses to withhold earnings of Defendant demanded in a WRIT OF GARNISHMENT or knowingly misrepresents the earnings of Defendant, the Court shall order the employer to pay Plaintiff the amount of arrearages caused by the employer's refusal to withhold or the employer's misrepresentation of Defendant's earnings. In addition, the Court may order the employer to pay Plaintiff punitive damages in an amount not to exceed $1,000 for each pay period in which the employer has, without legal justification, refused to withhold Defendant's earnings or has misrepresented the earnings.

_____
Garnishee

STATE OF NEVADA)
) ss:
COUNTY OF)

I, _____, do solemnly swear (or affirm) that the answers to the foregoing interrogatories subscribed by me are true.

_____
Garnishee

SUBSCRIBED AND SWORN to before me this

_____ day of _____, 20___.

_____
NOTARY PUBLIC

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL J. MONA, JR., an individual, Appellant, vs. FAR WEST INDUSTRIES, a California corporation, Respondent.	Case No.: 73815 Appeal from the Eighth Judicial District Court, The Honorable Joe Hardy Presiding.

APPELLANT'S APPENDIX
(Volume 19, Bates Nos. 4283-4518)

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INDEX TO APPELLANT'S APPENDIX

DOCUMENT DESCRIPTION		LOCATION
Application of Foreign Judgment (filed 10/1812)		Volume 1 Bates Nos. 1–7
Notice of Filing Application of Foreign Judgment & Affidavit (filed (10/23/12)		Volume 1 Bates Nos. 8–17
Far West Industries' Ex Parte Motion for Order Allowing Examination of Judgment Debtor (filed 01/17/13)		Volume 1 Bates Nos. 18–19
	Exhibit to Far West Industries' Ex Parte Motion for Order Allowing Examination of Judgment Debtor	
Exhibit	Document Description	
A	Affidavit of John R. Hawley, Esq. in Support of Ex Parte Motion for Examination of Judgment Debtor	Volume 1 Bates Nos. 20–22
Minute Order re: Recusal and Reassignment-no hearing held (filed 01/24/13)		Volume 1 Bates Nos. 23
Order for Appearance of Judgment Debtors (filed 01/30/13)		Volume 1 Bates Nos. 24–25
	Exhibit to Order for Appearance of Judgment Debtors	
Exhibit	Document Description	
A	List of Documents and Things to be Produced at Debtor's Examination	Volume 1 Bates Nos. 26–31
Amended Order for Appearance of Judgment Debtors (filed 02/06/13)		Volume 1 Bates Nos. 32–33
Notice of Examination of Judgment Debtor on an Order Shortening Time (filed 02/13/13)		Volume 1 Bates Nos. 34–38
	Exhibits to Notice of Examination of Judgment Debtor on an Order Shortening Time	
Exhibit	Document Description	
A	Application of Foreign Judgment (filed 10/18/12)	Volume 1 Bates Nos. 39–44
B	Order for Appearance of Judgment Debtors (filed 01/30/13)	Volume 1 Bates Nos. 45–53

DOCUMENT DESCRIPTION		LOCATION
	Exhibits to Notice of Examination of Judgment Debtor on an Order Shortening Time (cont.)	
C	Amended Order for Appearance of Judgment Debtors (filed 02/06/13)	Volume 1 Bates Nos. 54–56
Second Amended Order for Appearance of Judgment Debtors (filed 02/20/13)		Volume 1 Bates Nos. 57–58
Amended Order for Examination of Judgment Debtor (filed 04/29/13)		Volume 1 Bates Nos. 59–61
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	Exhibits to Motion for Order to Show Cause Regarding Contempt on Order Shortening Time	
Exhibit	Document Description	
A	Collective documents domesticating a California judgment	Volume 1 Bates Nos. 73–80
B	Order for Appearance of Judgment Debtors (filed 01/30/13)	Volume 1 Bates Nos. 81–90
C	Emails re dates for examination of judgment debtors	Volume 1 Bates Nos. 91–94
D	Emails re dates for examination of judgment debtors	Volume 1 Bates Nos. 95–96
E	Amended Order for Examination of Judgment Debtor (filed 04/29/13)	Volume 1 Bates Nos. 97–100
F	Affidavit of John Hawley, Esq. in Support of Order Shortening Time	Volume 1 Bates Nos. 101–103
G	Letter from Tye Hanseen re: no longer representing Mr. Mona	Volume 1 Bates Nos. 104–105
H	Transcript re nonappearance of Michael J. Mona for examination of judgment debtor.	Volume 1 Bates Nos. 106–109
Special Appearance and Objection to Further Proceedings on Order to Show Cause Predicated Upon Lack of Personal Jurisdiction (filed 05/30/13)		Volume 1 Bates Nos. 110–116
Supplemental Points and Authorities Regarding a Lack of Personal Jurisdiction (filed 06/18/13)		Volume 1 Bates Nos. 117–125

DOCUMENT DESCRIPTION		LOCATION
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Order to Show Cause (filed 07/10/13)		Volume 1 Bates Nos. 130–132
Stipulation and Order (filed 07/26/13)		Volume 1 Bates Nos. 133–136
Notice to Vacate Examination of Judgment Debtors (filed 9/10/13)		Volume 1 Bates Nos. 137–139
Order (filed 10/07/13)		Volume 1 Bates Nos. 140–142
Notice of Examination of Judgment Debtor (filed 10/31/13)		Volume 1 Bates Nos. 143–145
Return and Answer to Writ of Garnishment as to Cannavest Corp. (filed 12/26/13)		Volume 1 Bates Nos. 146–147
	Exhibits to Return and Answer to Writ of Garnishment as to Cannavest Corp.	
Exhibit	Document Description	
I	Writ of Garnishment	Volume 1 Bates Nos. 148–154
Notice of Changes to Transcript of Judgment Debtor Examination of Michael J. Mona Jr. (filed 01/06/14)		Volume 1 Bates Nos. 155–158
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Notice of Entry of Order Regarding the Discovery Commissioner's Report and Recommendation (filed 05/15/14)		Volume 1 Bates Nos. 163–168
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	Exhibits to Ex Parte Application for Examination of Judgment Debtor Examination of Michael J. Mona, Individually, and as Trustee of the Mona Family Trust Dated February 12, 2002, and Rhonda Mona as Trustee of the Mona Family trust Dated February 12, 2002	
Exhibit	Document Description	
1	Definitions	Volume 1 Bates Nos. 173–179
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Notice of Entry of Order Regarding Motion for Protective Order on Order Shortening Time (filed 06/17/15)		Volume 1 Bates Nos. 183–187
Ex Parte Application for Order to Show Cause why Accounts of Rhonda Mona Should not be Subject to Execution and Why the Court Should Not Find the Monas in Contempt (filed 06/29/15)		Volume 1 Bates Nos. 188–204
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1	Post-Marital Property Settlement Agreement	Volume 1 Bates Nos. 205–217
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3	Rough Draft Transcript of Deposition of Rhonda H. Mona	Volume 1 Bates Nos. 224–233
4	Judgment and Findings of Fact and Conclusions of Law	Volume 2 Bates Nos. 234–254
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Notice of Entry of Order to Show Cause Why Accounts of Rhonda Mona Should not be Subject to Execution and Why the Court Should Not Find the Monas in Contempt (filed 06/30/15)		Volume 2 Bates Nos. 258–263
Response to Order to Show Cause Why Accounts of Rhonda Mona should not be Subject to Execution and Why the Court Should Not Find the Monas in Contempt (filed 07/07/15)		Volume 2 Bates Nos. 264–278
	Exhibits to Response to Order to Show Cause Why Accounts of Rhonda Mona should not be Subject to Execution and Why the Court Should Not Find the Monas in Contempt	
Exhibit	Document Description	
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B	Post-Marital Property Settlement Agreement	Volume 2 Bates Nos. 296–308
C	Declaration of Mike Mona in Support of Response to Order to Show Cause	Volume 2 Bates Nos. 309–310
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2	Deposition of Rhonda Mona	Volume 2 Bates Nos. 371–376
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1	Order (filed 08-31-15)	Volume 2 Bates Nos. 392–395
2	Judgment (filed 04/27/12 in the Superior Court of California Riverside	Volume 2 Bates Nos. 396–414
3	Deed of Trust	Volume 2 Bates Nos. 415–422
4	Deed of Trust with Assignment of Rents	Volume 2 Bates Nos. 423–430
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A	Order (filed 08/31/15)	Volume 2 Bates Nos. 440–443
B	Transcript of Proceedings of July 9, 2015 Hearing (filed 07/14/15)	Volume 2 Bates Nos. 444–447
C	Third Amended Complaint (filed 07/15/14)	Volume 2 Bates Nos. 448–459

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D	Complaint (filed 09/11/15)	Volume 2 Bates Nos. 460–473
E	Far West's Motion to Intervene, for a finding and Order that the Post-Marital Agreement is void Based on the Principles of Res Judicata and Issue Preclusion, and that the Plaintiff and Defendant are Jointly Liable for the Judgment Held by Intervenor (filed 09/04/15)	Volume 3 Bates Nos. 474–517
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2	Order Granting Temporary Stay (filed 07/20/15)	Volume 3 Bates Nos. 532–534
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4	Decree of Divorce (filed 07/23/15)	Volume 3 Bates Nos. 539–545
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2	Case Summary	Volume 3 Bates Nos. 568–570
3	Writ of Execution	Volume 3 Bates Nos. 571–575
4	Instructions to the Sheriff/Constable-Clark County	Volume 3 Bates Nos. 576–589
5	Writ of Garnishment	Volume 3 Bates Nos. 590–598
6	Email Chain between Tom Edward and Tye Hanseen	Volume 3 Bates Nos. 599–602
7	Decree of Divorce (filed 07/23/2015)	Volume 3 Bates Nos. 603–609
Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payment Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr. (filed 02/16/16)		Volume 3 Bates Nos. 610–622
	Exhibits to Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payment Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr.	
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1	Judgment (filed 04/27/12 in the Superior Court of the State of California, Riverside)	Volume 3 Bates Nos. 623–626
2	Management Agreement	Volume 3 Bates Nos. 627–630
3	Management Agreement	Volume 3 Bates Nos. 631–635
4	Writ of Execution	Volume 3 Bates Nos. 636–641
5	Instructions to the Sheriff/Constable-Clark County	Volume 3 Bates Nos. 642–656

	Exhibits to Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payment Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr. (cont.)	
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1	Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (filed 07/15/15) (cont. in Vol. 4)	Volume 3 Bates Nos. 680–691
2	Plaintiff's Memorandum of Fees and Costs Associated With Order to Show Cause Why Accounts of Rhonda Mona Should Not be Subject to Execution and Why the Court Should Not Find Monas in Contempt (filed 07/20/15)	Volume 3 Bates Nos. 692–696
3	Transcript of Show Cause Hearing: Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt (filed 07/14/15)	Volume 4 Bates Nos. 697–807
4	Petition for Writ of Mandamus or Prohibition (filed 07/17/15)	Volume 4 Bates Nos. 808–849
5	Order Granting Temporary Stay (filed 07/20/15)	Volume 4 Bates Nos. 850–852
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7	Order Denying Motion (filed 11/19/15)	Volume 4 Bates Nos. 857–860
8	Motion to Dismiss (filed December 4, 2015)	Volume 4 Bates Nos. 861–941 Volume 5 Bates Nos. 942–957
9	Defendant Michael J. Mona, Jr.'s Reply in Support of Motion to Dismiss (filed 01/26/16)	Volume 5 Bates Nos. 958–978
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4	Petition for Writ of Mandamus or Prohibition (filed 07/17/15)	Volume 5 Bates Nos. 982–1023
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	Exhibits to Third Party Roen Ventures, LLCs' Opposition to Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payment Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr.; and Countermotion for Attorney's Fees and Costs	
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1	Declaration of Bart Mackay in Support of Opposition to Plaintiff Far West Industries' Motion: (1) for Default Judgment Against Roen Ventures, etc.	Volume 5 Bates Nos. 1081–1090
2	Declaration of Dylan Ciciliano in Support of Opposition to Plaintiff Far West Industries' Motion: (1) for Default Judgment Against Roen Ventures, etc.	Volume 5 Bates Nos. 1091–1102
3	Complaint (filed 02/07/14)	Volume 5 Bates Nos. 1103–1110
4	Motion to Enforce Settlement Agreement (filed 11/10/15)	Volume 5 Bates Nos. 1111–1144
5	Notice of Entry of Order (01/29/16)	Volume 5 Bates Nos. 1145–1151
6	Motion to Dismiss the Roen Defendants with Prejudice (filed 03/03/16)	Volume 5 Bates Nos. 1152–1171
7	Writ of Garnishment	Volume 5 Bates Nos. 1172–1179
8	Management Agreement	Volume 5 Bates Nos. 1180–1184
Mike Mona's Opposition to Motion to Reduce Sanctions Order to Judgment (filed 03/07/16)		Volume 6 Bates Nos. 1185–1192
Non–Party Rhonda Mona's Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (filed 03/07/16)		Volume 6 Bates Nos. 1193–1200

	Exhibits to Non-Party Rhonda Mona's Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment	
Exhibit	Document Description	
A	Defendant's Opposition to Countermotion for Summary Judgment (filed 01/19/16)	Volume 6 Bates Nos. 1201–1223
B	Order Regarding Plaintiff Far West Industries' Countermotion for Summary Judgment	Volume 6 Bates Nos. 1224–1227
C	Petition for Writ of Mandamus or Prohibition (filed 07/17/15)	Volume 6 Bates Nos. 1228–1269
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	Exhibits to Plaintiff Far West Industries' Reply to Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Opposition to Countermotion to Discharge Garnishment and for Return of Proceeds	
Exhibit	Document Description	
8	Writ of Garnishment	Volume 6 Bates Nos. 1283–1289
9	Judgment Debtor Examination of Michael J. Mona, Jr.	Volume 6 Bates Nos. 1290–1294
10	Deposition of Rhonda Mona	Volume 6 Bates Nos. 1295–1298
11	Checks	Volume 6 Bates Nos. 1299–1302
Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment (filed 03/14/16)		Volume 6 Bates Nos. 1303–1309
Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment (filed 03/14/16)		Volume 6 Bates Nos. 1310–1311

	Exhibits to Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment	
Exhibit	Document Description	
11	Supplemental Appendix to Real Party In Interest's Answering Brief	Volume 6 Bates Nos. 1312–1424 Volume 7 Bates Nos. 1425–1664 Volume 8 Bates Nos. 1665–1890 Volume 9 Bates Nos. 1891–2127 Volume 10 Bates Nos. 2128–2312
Plaintiff Far West Industries' Reply to Roen Venture LLC's Opposition to Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment and Interrogatories; and (2) to Compel Roen Ventures, LLC's Turnover of Payment Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr., and Opposition to Countermotion for Attorney's Fees and Costs (filed 03/14/16)		Volume 10 Bates Nos. 2313–2322
Amended Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment (filed 03/15/16)		Volume 10 Bates Nos. 2323–2325
	Exhibits to Amended Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment	
Exhibit	Document Description	
10	Real Party in Interest's Answering Brief	Volume 10 Bates Nos. 2326–2367 Volume 11 Bates Nos. 2368–2385

	Exhibits to Amended Appendix of Exhibits to Plaintiff Far West Industries' Reply in Support of Motion to Reduce Sanctions Order to Judgment (cont.)	
11	Supplemental Appendix to Real Party in Interest's Answering Brief	Volume 11 Bates Nos. 2386–2607 Volume 12 Bates Nos. 2608–2836 Volume 13 Bates Nos. 2837–3081 Volume 14 Bates Nos. 3082–3138
Mona's Reply in Support of Countermotion to Discharge Garnishment and for Return of Proceeds (filed 03/23/16)		Volume 14 Bates Nos. 3139–3154
Errata to Non-Party Rhonda Mona's Opposition to Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (filed 03/29/16)		Volume 14 Bates Nos. 3155–3156
Non–Party Rhonda Mona's Supplemental Briefing Following Recent Oral Argument Concerning Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (filed 04/22/16)		Volume 14 Bates Nos. 3157–3172
	Exhibits to Non-Party Rhonda Mona's Supplemental Briefing Following Recent Oral Argument Concerning Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment	
Exhibit	Document Description	
A	Defendant's Opposition to Countermotion for Summary Judgment (filed 01/19/16)	Volume 14 Bates Nos. 3173–3193
B	Defendants Rhonda Helen Mona, Michael Mona II, and Lundene Enterprises, LLC's Reply to Plaintiff's Opposition to Motion to Dismiss (filed 01/26/16)	Volume 14 Bates Nos. 3194–3210
C	Transcript of Proceedings: Plaintiff Far West Industries' Opposition to Defendants' Motion to Dismiss and Countermotion for Summary Judgment (filed 04/06/26)	Volume 14 Bates Nos. 3211–3279
D	Decree of Divorce (filed 07/23/15)	Volume 14 Bates Nos. 3280–3286

Plaintiff Far West Industries' Supplemental Brief Regarding Motion to Reduce Sanctions Order to Judgment (filed 04/22/16)		Volume 14 Bates Nos. 3287–3298
	Exhibits to Plaintiff Far West Industries' Supplemental Brief Regarding Motion to Reduce Sanctions Order to Judgment	
Exhibit	Document Description	
12	Writ of Garnishment-Bank of George	Volume 14 Bates Nos. 3299–3305
13	Writ of Garnishment-Bank of Nevada	Volume 14 Bates Nos. 3306–3313
14	Mona's Redacted Bank Records	Volume 14 Bates Nos. 3314–3327
Supplemental Brief Regarding Judicial Estoppel and Reducing the Sanction Order to Judgment (filed 04/23/16)		Volume 15 Bates Nos. 3328–3346
Order Regarding Plaintiff Far West Industries' Motion: (1) For Default Judgment Against Roen Ventures, LLC for Untimely Answers to Writ of Garnishment Interrogatories; and (2) to compel Roen Ventures, LLC's Turnover of Payments Made to, on Behalf of, or for the Benefit of Michael J. Mona, Jr. (filed 04/28/16)		Volume 15 Bates Nos. 3347–3350
Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)		Volume 15 Bates Nos. 3351–3356
Notice of Entry of Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)		Volume 15 Bates Nos. 3357–3365
Notice of Entry of Order Shortening Time and Notice of Hearing (filed 07/07/16)		Volume 15 Bates Nos. 3366–3372
Joint Case Appeal Statement (filed 07/14/16)		Volume 15 Bates Nos. 3373–3378

Joint Notice of Appeal (filed 07/15/16)		Volume 15 Bates Nos. 3379–3397
Claim of Exemption (filed 07/15/16)		Volume 15 Bates Nos. 3398–3400
Plaintiff's Far West Industries' Objection to Claim of Exception from Execution on an Order Shortening Time (filed 07/21/16)		Volume 15 Bates Nos. 3401–3411
	Exhibits to Plaintiff's Far West Industries' Objection to Claim of Exception from Execution on an Order Shortening Time	
Exhibit	Document Description	
1	Writ of Garnishment-Michael Mona	Volume 15 Bates Nos. 3412–3416
2	Writ of Execution	Volume 15 Bates Nos. 3417–3421
Memorandum of Points and Authorities in Support of Claim of Exemption and Discharge (filed 07/29/16)		Volume 15 Bates Nos. 3422–3452
	Exhibits to Memorandum of Points and Authorities in Support of Claim of Exemption and Discharge	
Exhibit	Document Description	
A	Legislative History related to 120 day expiration period	Volume 15 Bates Nos. 3453–3501
B	Notice of Entry of Decree of Divorce	Volume 15 Bates Nos. 3502–3510
C	Plaintiff's Opposition to Far West's Motion to Intervene for a Finding and Order that the Post-Marital Agreement is Void Based on the Principles of Res Judicata and Issue Preclusion, and that the Plaintiff and Defendant are Jointly Liable for the Judgment Held by Intervenor and Plaintiff's Countermotion for Far West to Pay Plaintiff's Attorneys Fees and Costs Incurred Pursuant to NRS 12.130(1)(d)	Volume 15 Bates Nos. 3511–3524

	Exhibits to Memorandum of Points and Authorities in Support of Claim of Exemption and Discharge (cont.)	
D	Defendant Michael Mona's Joinder to Plaintiff's Opposition to Far West's Motion to Intervene for a Finding and Order that the Post-Marital Agreement is Void Based on the Principles of Res Judicata and Issue Preclusion, and that the Plaintiff and Defendant are Jointly Liable for the Judgment Held by Intervenor and Plaintiff's Countermotion for Far West to Pay Plaintiff's Attorneys Fees and Costs Incurred Pursuant to NRS 12.130(1)(d) (filed 09/29/15)	Volume 15 Bates Nos. 3525–3528
E	Notice of Entry of Order (filed 12/01/15)	Volume 15 Bates Nos. 3529–3533
F	Writ of Garnishment-Michael Mona	Volume 15 Bates Nos. 3534–3535
G	Constable's return of Notice of Execution after Judgment and Writ of Execution to Michael Mona	Volume 15 Bates Nos. 3536–3545
H	Writ of Garnishment- Michael Mona	Volume 15 Bates Nos. 3546–3556
I	Claim of Exemption (filed 07/15/16)	Volume 15 Bates Nos. 3557–3560
J	Mona's Opposition to Far West's Motion for Determination of Priority of Garnishment and Countermotion to Discharge Garnishment and for Return of Proceeds (filed 03/04/16)	Volume 16 Bates Nos. 3561–3598
K	Mona's Reply in Support of Countermotion to Discharge Garnishment and for Return of Proceeds (filed 03/23/16)	Volume 16 Bates Nos. 3599–3614
L	NRS 21.112	Volume 16 Bates Nos. 3615–3616
M	Affidavit of Claiming Exempt Property form	Volume 16 Bates Nos. 3617–3618
Order Sustaining Plaintiff Far West Industries' Objection to Claim of Exemption from Execution (filed 08/09/16)		Volume 16 Bates Nos. 3619–3621
Memorandum of Points and authorizes in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 11/10/16)		Volume 16 Bates Nos. 3622–3659

Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion for Discharge of Garnishment (filed 11/10/16)		Volume 16 Bates Nos. 3660–3662
	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion for Discharge of Garnishment	
Exhibit	Document Description	
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	Volume 16 Bates Nos. 3663–3711
B	Decree of Divorce dated July 23, 2015	Volume 16 Bates Nos. 3712–3718
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	Volume 16 Bates Nos. 3719–3731
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	Volume 16 Bates Nos. 3732–3735
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	Volume 16 Bates Nos. 3736–3738
F	Writ of Garnishment expiring April 29, 2016	Volume 16 Bates Nos. 3739–3740
G	Writ of Garnishment served July 1, 2016	Volume 16 Bates Nos. 3741–3748
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	Volume 16 Bates Nos. 3749–3758
I	Writ of Execution and Writ of Garnishment served October 31, 2016	Volume 16 Bates Nos. 3759–3769
J	Claim of Exemption forms from Clark County and the Self-Help Center	Volume 16 Bates Nos. 3770–3777
K	NRS 21.075	Volume 16 Bates Nos. 3778–3780
L	NRS 20.076	Volume 16 Bates Nos. 3781–3782
M	NRS 21.090	Volume 16 Bates Nos. 3783–3785
N	NRS 21.112	Volume 16 Bates Nos. 3786–3787
O	NRS 31.200	Volume 16 Bates Nos. 3788–3789
P	NRS 31.249	Volume 16 Bates Nos. 3790–3791

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion for Discharge of Garnishment (cont.)	
Q	NRS 31.260	Volume 16 Bates Nos. 3792–3793
R	NRS 31.270	Volume 16 Bates Nos. 3794–3795
S	NRS 31.295	Volume 16 Bates Nos. 3796–3797
T	NRS 31.296	Volume 16 Bates Nos. 3798–3799
U	EDCR 2.20	Volume 16 Bates Nos. 3800–3801
Claim of Exemption from Execution (filed 11/10/16)		Volume 17 Bates Nos. 3802–3985
Far West Industries' Objection to Claim of Exemption from Execution on an Order shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b) (filed 11/21/16)		Volume 17 Bates Nos. 3986–4002
	Exhibits to Far West Industries' Objection to Claim of Exemption from Execution on an Order shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b)	
Exhibit	Document Description	
1	Findings of Fact and Conclusions of Law (filed 03/06/12 Superior Court of California, County of Riverside	Volume 17 Bates Nos. 4003–4019
2	Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)	Volume 17 Bates Nos. 4020–4026
3	Writ of Execution	Volume 17 Bates Nos. 4027–4035
4	Documents from the Office of the Ex–Officio Constable	Volume 17 Bates Nos. 4036–4039
Affidavit of Service upon CV Sciences, Inc. FKA Cannavest Corp. (filed 11/23/16)		Volume 17 Bates Nos. 4040–4041

Order Continuing Hearing re Far West's Objection to Claim of Exemption from Execution on an Order Shortening Time (filed 12/06/16)		Volume 17 Bates Nos. 4042–4043
Notice of Entry of Order Continuing Hearing on Objection to Claim of Exemption (filed 12/07/16)		Volume 18 Bates Nos. 4044–4048
Opposition to Plaintiff's Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b) (filed 12/08/16)		Volume 18 Bates Nos. 4049–4054
Declaration of Rosanna Wesp (filed 12/15/16)		Volume 18 Bates Nos. 4055–4056
Order Regarding Mona's Claim of Exemption, Motion to Discharge, Memorandum of Points and Authorities, and Far West's Objection to Claim or Exemption Regarding October 2016 Garnishment (filed 01/09/17)		Volume 18 Bates Nos. 4057–4058
Notice of Entry of Order (filed 01/10/17)		Volume 18 Bates Nos. 4059–4063
Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (filed 01/20/17)		Volume 18 Bates Nos. 4064–4066
	Exhibits to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr.	
Exhibit	Document Description	
1	Subpoena Duces Tecum to Michael D. Sifen	Volume 18 Bates Nos. 4067–4076
Michael J. Mona's Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (filed 02/06/17)		Volume 18 Bates Nos. 4077–4089
	Exhibits to Michael J. Mona's Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr.	
Exhibit	Document Description	
1	Decree of Divorce (filed 07/23/15)	Volume 18 Bates Nos. 4090–4096
Reply to Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (filed 02/14/17)		Volume 18 Bates Nos. 4097–4107
	Exhibits to Reply to Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr.	
Exhibit	Document Description	
A	Decree of Divorce (filed 07/23/15)	Volume 18 Bates Nos. 4108–4114

	Exhibits to Reply to Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (cont.)	
B	Nevada Secretary of State Entity Details for CV Sciences, Inc.	Volume 18 Bates Nos. 4115–4118
C	Executive Employment Agreement	Volume 18 Bates Nos. 4119–4136
	Exhibits to Reply to Opposition to Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (cont.)	
D	Judgment Debtor Examination of Michael Mona	Volume 18 Bates Nos. 4137–4148
E	Residential Lease/Rental Agreement	Volume 18 Bates Nos. 4149–4152
F	Management Agreement	Volume 18 Bates Nos. 4153–4157
Claim of Exemption from Execution (filed 03/24/17)		Volume 18 Bates Nos. 4158–4164
Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 03/24/17)		Volume 18 Bates Nos. 4165–4167
	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment	
Exhibit	Document Description	
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	Volume 18 Bates Nos. 4168–4216
B	Decree of Divorce dated July 23, 2015	Volume 18 Bates Nos. 4217–4223
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	Volume 18 Bates Nos. 4224–4236
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	Volume 18 Bates Nos. 4237–4240
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	Volume 18 Bates Nos. 4241–4243
F	Writ of Garnishment expiring April 29, 2016	Volume 18 Bates Nos. 4244–4245

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (cont.)	
G	Writ of Garnishment served July 1, 2016	Volume 18 Bates Nos. 4246–4253
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	Volume 18 Bates Nos. 4254–4263
I	Writ of Execution and Writ of Garnishment served October 31, 2016	Volume 18 Bates Nos. 4264–4274
J	Claim of Exemption forms from Clark County and the Self-Help Center	Volume 18 Bates Nos. 4275–4282
K	NRS 21.075	Volume 19 Bates Nos. 4283–4285
L	NRS 20.076	Volume 19 Bates Nos. 4286–4287
M	NRS 21.090	Volume 19 Bates Nos. 4288–4290
N	NRS 21.112	Volume 19 Bates Nos. 4291–4292
O	NRS 31.200	Volume 19 Bates Nos. 4293–4294
P	NRS 31.249	Volume 19 Bates Nos. 4295–4296
Q	NRS 31.260	Volume 19 Bates Nos. 4297–4298
R	NRS 31.270	Volume 19 Bates Nos. 4299–4300
S	NRS 31.295	Volume 19 Bates Nos. 4301–4302
T	NRS 31.296	Volume 19 Bates Nos. 4303–4304
U	EDCR 2.20	Volume 19 Bates Nos. 4305–4306
V	Check to Mike Mona, Writ of Execution, and Writ of Garnishment	Volume 19 Bates Nos. 4307–4323

Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 03/30/17)		Volume 19 Bates Nos. 4324–4359
Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 03/30/17)		Volume 19 Bates Nos. 4360–4362
	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment	
Exhibit	Document Description	
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	Volume 19 Bates Nos. 4363–4411
B	Decree of Divorce dated July 23, 2015	Volume 19 Bates Nos. 4412–4418
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	Volume 19 Bates Nos. 4419–4431
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	Volume 19 Bates Nos. 4432–4435
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	Volume 19 Bates Nos. 4436–4438
F	Writ of Garnishment expiring April 29, 2016	Volume 19 Bates Nos. 4439–4440
G	Writ of Garnishment served July 1, 2016	Volume 19 Bates Nos. 4441–4448
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	Volume 19 Bates Nos. 4449–4458
I	Writ of Execution and Writ of Garnishment served October 31, 2016	Volume 19 Bates Nos. 4459–4469
J	Claim of Exemption forms from Clark County and the Self-Help Center	Volume 19 Bates Nos. 4470–4477
K	NRS 21.075	Volume 19 Bates Nos. 4478–4480
L	NRS 20.076	Volume 19 Bates Nos. 4481–4482
M	NRS 21.090	Volume 19 Bates Nos. 4483–4485
N	NRS 21.112	Volume 19 Bates Nos. 4486–4487

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (cont.)	
O	NRS 31.200	Volume 19 Bates Nos. 4488–4489
P	NRS 31.249	Volume 19 Bates Nos. 4490–4491
Q	NRS 31.260	Volume 19 Bates Nos. 4492–4493
R	NRS 31.270	Volume 19 Bates Nos. 4494–4495
S	NRS 31.295	Volume 19 Bates Nos. 4496–4497
T	NRS 31.296	Volume 19 Bates Nos. 4498–4499
U	EDCR 2.20	Volume 19 Bates Nos. 4500–4501
V	Check to Mike Mona, Writ of Execution, and Writ of Garnishment	Volume 19 Bates Nos. 4502–4518
W	Check to CV Sciences, Writ of Execution, and Writ of Garnishment	Volume 20 Bates Nos. 4519–4535
X	Affidavit of Service regarding March 15, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	Volume 20 Bates Nos. 4536–4537
Claim of Exemption from Execution (filed 03/30/17)		Volume 20 Bates Nos. 4538–4544
Order Regarding Far West's Application for Issuance of Order for Arrest of Defendant Michael J. Mona, Jr. (filed 03/31/17)		Volume 20 Bates Nos. 4545–4546
Notice of Entry of Order (filed 04/03/17)		Volume 20 Bates Nos. 4547–4550
Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 04/20/17)		Volume 20 Bates Nos. 4551–4585
Claim of Exemption from Execution (filed 04/20/17)		Volume 20 Bates Nos. 4586–4592

Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 04/20/17)		Volume 20 Bates Nos. 4593–4595
	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment	
Exhibit	Document Description	
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	Volume 20 Bates Nos. 4596–4644
B	Decree of Divorce dated July 23, 2015	Volume 20 Bates Nos. 4645–4651
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	Volume 20 Bates Nos. 4652–4664
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	Volume 20 Bates Nos. 4665–4668
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	Volume 20 Bates Nos. 4669–4671
F	Writ of Garnishment expiring April 29, 2016	Volume 20 Bates Nos. 4672–4673
G	Writ of Garnishment served July 1, 2016	Volume 20 Bates Nos. 4674–4681
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	Volume 20 Bates Nos. 4682–4691
I	Writ of Execution and Writ of Garnishment served October 31, 2016	Volume 20 Bates Nos. 4692–4702
J	Claim of Exemption forms from Clark County and the Self-Help Center	Volume 20 Bates Nos. 4703–4710
K	NRS 21.075	Volume 20 Bates Nos. 4711–4713
L	NRS 20.076	Volume 20 Bates Nos. 4714–4715
M	NRS 21.090	Volume 20 Bates Nos. 4716–4718
N	NRS 21.112	Volume 20 Bates Nos. 4719–4720
O	NRS 31.200	Volume 20 Bates Nos. 4721–4722
P	NRS 31.249	Volume 20 Bates Nos. 4723–4724

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (cont.)	
Q	NRS 31.260	Volume 20 Bates Nos. 4725–4726
R	NRS 31.270	Volume 20 Bates Nos. 4727–4728
S	NRS 31.295	Volume 20 Bates Nos. 4729–4730
T	NRS 31.296	Volume 20 Bates Nos. 4731–4732
U	EDCR 2.20	Volume 20 Bates Nos. 4733–4734
V	Check to Mike Mona, Writ of Execution, and Writ of Garnishment	Volume 20 Bates Nos. 4735–4751
W	Check to CV Sciences, Writ of Execution, and Writ of Garnishment	Volume 20 Bates Nos. 4752–4768
X	Affidavit of Service regarding March 15, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	Volume 21 Bates Nos. 4769–4770
Y	Affidavit of Service regarding April 3, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	Volume 21 Bates Nos. 4771–4788
Stipulation and Order Regarding Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (filed 04/24/17)		Volume 21 Bates Nos. 4789–4791
Notice of Entry Stipulation and Order Regarding amended Nunc Pro Tunc Order regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment (filed 04/25/17)		Volume 21 Bates Nos. 4792–4797
Plaintiff Far West Industries Objection to Claim of Exemption from Execution on an Order Shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b) (filed 05/02/17)		Volume 21 Bates Nos. 4798–4817

	Exhibits to Plaintiff Far West Industries Objection to Claim of Exemption from Execution on an Order Shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b)	
Exhibit	Document Description	
1	Findings of Fact and Conclusions of law (filed 03/06/12 Superior Court of California Riverside)	Volume 21 Bates Nos. 4818–4834
2	Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)	Volume 21 Bates Nos. 4835–4841
3	Nevada Secretary of State Entity Details for CV Sciences, Inc.	Volume 21 Bates Nos. 4842–4845
4	Answers to Interrogatories	Volume 21 Bates Nos. 4846–4850
Stipulation and Order Regarding Writ of Garnishment Served 04/03/17 and Claim of Exemption , and Vacating Related Hearing without Prejudice (filed 05/15/17)		Volume 21 Bates Nos. 4851–4854
Notice of Entry of Stipulation and Order Regarding Writ of Garnishment Served 04/03/17 and Claim of Exemption , and Vacating Related Hearing without Prejudice (filed 05/16/17)		Volume 21 Bates Nos. 4855–4861
Claim of Exemption from Execution (filed 05/23/17)		Volume 21 Bates Nos. 4862–4868
Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 05/23/17)		Volume 21 Bates Nos. 4869–4871
	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment	
Exhibit	Document Description	
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	Volume 21 Bates Nos. 4872–4920
B	Decree of Divorce dated July 23, 2015	Volume 21 Bates Nos. 4921–4927
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	Volume 21 Bates Nos. 4928–4940

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (cont.)	
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	Volume 21 Bates Nos. 4941–4944
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	Volume 21 Bates Nos. 4945–4947
F	Writ of Garnishment expiring April 29, 2016	Volume 21 Bates Nos. 4948–4949
G	Writ of Garnishment served July 1, 2016	Volume 21 Bates Nos. 4950–4957
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	Volume 21 Bates Nos. 4958–4967
I	Writ of Execution and Writ of Garnishment served October 31, 2016	Volume 21 Bates Nos. 4968–4978
J	Claim of Exemption forms from Clark County and the Self-Help Center	Volume 21 Bates Nos. 4979–4986
K	NRS 21.075	Volume 21 Bates Nos. 4987–4989
L	NRS 20.076	Volume 21 Bates Nos. 4990–4991
M	NRS 21.090	Volume 21 Bates Nos. 4992–4994
N	NRS 21.112	Volume 21 Bates Nos. 4995–4996
O	NRS 31.200	Volume 21 Bates Nos. 4997–4998
P	NRS 31.249	Volume 21 Bates Nos. 4999–5000
Q	NRS 31.260	Volume 21 Bates Nos. 5001–5002
R	NRS 31.270	Volume 21 Bates Nos. 5003–5004
S	NRS 31.295	Volume 21 Bates Nos. 5005–5006
T	NRS 31.296	Volume 21 Bates Nos. 5007–5008

	Exhibits to Appendix of Exhibits Attached to Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (cont.)	
U	EDCR 2.20	Volume 21 Bates Nos. 5009–5010
V	Check to Mike Mona, Writ of Execution, and Writ of Garnishment	Volume 22 Bates Nos. 5011–5027
W	Check to CV Sciences, Writ of Execution, and Writ of Garnishment	Volume 22 Bates Nos. 5028–5044
X	Affidavit of Service regarding March 15, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	Volume 22 Bates Nos. 5045–5046
Y	Affidavit of Service regarding April 3, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	Volume 22 Bates Nos. 5047–5064
Z	Writ of Execution and Writ of Garnishment served May 9, 2017	Volume 22 Bates Nos. 5065–5078
Memorandum of Points and Authorities in Support of Claim of Exemption and Motion to Discharge Garnishment (filed 05/23/17)		Volume 22 Bates Nos. 5079–5114
Plaintiff Far West Industries Objection to Claim of Exemption from Execution on an Order Shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b) (filed 06/05/17)		Volume 22 Bates Nos. 5115–5131
	Exhibits to Plaintiff Far West Industries Objection to Claim of Exemption from Execution on an Order Shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b)	
Exhibit	Document Description	
1	Findings of Fact and Conclusions of law (filed 03/06/12 in Superior Court of California Riverside)	Volume 22 Bates Nos. 5132–5148
2	Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)	Volume 22 Bates Nos. 5149–5155

	Exhibits to Plaintiff Far West Industries Objection to Claim of Exemption from Execution on an Order Shortening Time and Motion for Attorney Fees and Costs Pursuant to NRS 18.010(2)(b) (cont.)	
3	Affidavit of Service by Laughlin Township Constable's Office	Volume 22 Bates Nos. 5156–5157
4	Affidavit of Service by Laughlin Township Constable's Office	Volume 22 Bates Nos. 5158–5159
Notice of Entry of Order Sustaining Plaintiff Far West Industries' Objection to Claim of Exemption from Execution (filed 07/19/17)		Volume 22 Bates Nos. 5160–5165
Ex Parte Motion for Order Allowing Judgment Debtor Examination of Michael J. Mona, Jr., Individually, and as Trustee of the Mona Family Trust Dated February 12, 2002 (filed 08/16/17)		Volume 22 Bates Nos. 5166–5179
Notice of Appeal (filed 08/18/17)		Volume 22 Bates Nos. 5180–5182
	Exhibits to Notice of Appeal	
Exhibit	Document Description	
1	Notice of Entry of Order Sustaining Plaintiff Far West Industries' Objection to Claim of Exemption from Execution (filed 07/19/17)	Volume 22 Bates Nos. 5183–5189
2	Notice of Entry of Order Regarding Plaintiff Far West Industries' Motion for Determination of Priority of Garnishment and Defendant Michael J. Mona's Countermotion to Discharge Garnishment and for Return of Proceeds (filed 06/21/16)	Volume 22 Bates Nos. 5190–5199
Order for Examination of Judgment Debtor Michael J. Mona, Jr., Individually, and as Trustee of the Mona Family Trust dated February 12, 2002 (filed 08/18/17)		Volume 22 Bates Nos. 5200–5211
Far West Industries' Reply to CV Sciences Inc.'s Answers to Writ of Garnishment Interrogatories and Ex parte Request for Order to Show Cause Why CV Sciences Inc. Should Not be Subjected to Garnishment Penalties (filed 11/20/17)		Volume 22 Bates Nos. 5212–5223

	Exhibits to Far West Industries' Reply to CV Sciences Inc.'s Answers to Writ of Garnishment Interrogatories and Ex parte Request for Order to Show Cause Why CV Sciences Inc. Should Not be Subjected to Garnishment Penalties	
Exhibit	Document Description	
1	Answers to Interrogatories to be Answered by Garnishee	Volume 22 Bates Nos. 5224–5229
2	United States Securities and Exchange Commission, Form 10-K	Volume 22 Bates Nos. 5230–5233
3	Judgment Debtor Examination of Michael J. Mona, Jr.	Volume 22 Bates Nos. 5234–5241
4	Excerpts of Car Lease Documents	Volume 22 Bates Nos. 5242–5244
5	Excerpts of Life Insurance Premium Documents	Volume 22 Bates Nos. 5245–5250
6	Excerpts of Car Insurance Documents	Volume 23 Bates Nos. 5251–5254
7	Laughlin Constable Affidavit of Service	Volume 23 Bates Nos. 5255–5256
8	Laughlin Constable Affidavit of Mailing	Volume 23 Bates Nos. 5257–5258
9	Answers to Writ of Garnishment Interrogatories	Volume 23 Bates Nos. 5259–5263
10	Email Exchange between Andrea Gandara an Tye Hanseen June 26, 2017 through August 26, 2017	Volume 23 Bates Nos. 5264–5267
11	Email Exchange between Andrea Gandara an Tye Hanseen, November 2017	Volume 23 Bates Nos. 5268–5275
Docket of Case No. A670352		Volume 23 Bates Nos. 5276–5284

Exhibit K

NRS 21.075 Notice of writ of execution: Service required; form; contents.

1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than $15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.
15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.
16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.
19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Exhibit L

NRS 21.076 Notice of writ of execution: Manner and time of service. The notice required by NRS 21.075 must be served by the sheriff on the judgment debtor by regular mail at the debtor's last known address or, if the debtor is represented by an attorney, at the attorney's office. The service must be mailed by the next business day after the day the writ of execution was served.

(Added to NRS by 1989, 1136)

Exhibit M

NRS 21.090 Property exempt from execution.

1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the

judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

[1911 CPA § 346; A 1921, 22; 1941, 32; 1931 NCL § 8844] — (NRS A 1969, 841; 1971, 1498; 1973, 23; 1975, 215; 1977, 650; 1979, 985, 1637;1981, 626; 1983, 99, 665; 1987, 1206; 1989, 4, 176, 645; 1991, 812, 1414; 1993, 2629; 1995, 229; 1997, 267, 3414; 2003, 1012, 1814; 2005, 385, 974, 1015, 2230; 2007, 2710, 3018; 2009, 807; 2011, 1409, 1895, 3567; 2013, 1312)

Exhibit N

NRS 21.112 Claim of exemption: Procedure; clerk to provide form and instructions; manner in which to object; burden of proof; release of property; debtor may not be required to waive.

1. In order to claim exemption of any property levied on pursuant to this section, the judgment debtor must, within 10 days after the notice of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution the judgment debtor's claim of exemption which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 10 days after the date of each withholding of the judgment debtor's earnings.

2. The clerk of the court shall provide the form for the claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property where a claim of exemption is not served on the sheriff.

6. Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim and notice for a hearing is filed. The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

(Added to NRS by 1971, 1497; A 1989, 1137; 1991, 456; 2011, 1899)

Exhibit O

NRS 31.200 Grounds for discharge of attachment.

1. The defendant may also, at any time before trial, apply by motion, upon reasonable notice to the plaintiff, to the court in which the action is brought or to the judge thereof, for a discharge of the attachment, or the money or property attached through the use of a writ of garnishment, on the following grounds:

(a) That the writ was improperly or improvidently issued.

(b) That the property levied upon is exempt from execution or necessary and required by the defendant for the support and maintenance of the defendant and the members of the defendant's family.

(c) That the levy is excessive.

2. If the court or the judge thereof on the hearing of such motion shall find that any of the grounds stated in subsection 1 exist, the attachment and levy thereof shall be discharged. If the motion is based upon paragraph (c) of subsection 1 only, and the fact is found to exist, the discharge of attachment shall be only as to the excess.

[1911 CPA § 223; A 1921, 4; NCL § 8721]—(NRS A 1973, 1180)

Exhibit P

NRS 31.249 Application to court for writ of garnishment.

1. No writ of garnishment in aid of attachment may issue except on order of the court. The court may order the writ of garnishment to be issued:

(a) In the order directing the clerk to issue a writ of attachment; or

(b) If the writ of attachment has previously issued without notice to the defendant and the defendant has not appeared in the action, by a separate order without notice to the defendant.

2. The plaintiff's application to the court for an order directing the issuance of a writ of garnishment must be by affidavit made by or on behalf of the plaintiff to the effect that the affiant is informed and believes that the named garnishee:

(a) Is the employer of the defendant; or

(b) Is indebted to or has property in the garnishee's possession or under the garnishee's control belonging to the defendant,

and that to the best of the knowledge and belief of the affiant, the defendant's future wages, the garnishee's indebtedness or the property possessed is not by law exempt from execution. If the named garnishee is the State of Nevada, the writ of garnishment must be served upon the State Controller.

3. The affidavit by or on behalf of the plaintiff may be contained in the application for the order directing the writ of attachment to issue or may be filed and submitted to the court separately thereafter.

4. Except as otherwise provided in this section, the grounds and procedure for a writ of garnishment are identical to those for a writ of attachment.

5. If the named garnishee is the subject of more than one writ of garnishment regarding the defendant, the court shall determine the priority and method of satisfying the claims, except that any writ of garnishment to satisfy a judgment for the collection of child support must be given first priority.

(Added to NRS by 1973, 1181; A 1985, 1012; 1989, 700)

Exhibit Q

NRS 31.260 Issuance and contents of writ of garnishment; notice of execution.

1. The writ of garnishment must:

(a) Be issued by the sheriff.

(b) Contain the name of the court and the names of the parties.

(c) Be directed to the garnishee defendant.

(d) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address.

(e) Require each person the court directs, as garnishees, to submit to the sheriff an answer to the interrogatories within 20 days after service of the writ upon the person.

2. The writ of garnishment must also notify the garnishee defendant that, if the garnishee defendant fails to answer the interrogatories, a judgment by default will be rendered against the garnishee defendant for:

(a) The amount demanded in the writ of garnishment or the value of the property described in the writ, as the case may be; or

(b) If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that section,

which amount or property must be clearly set forth in the writ of garnishment.

3. Execution on the writ of garnishment may occur only if the sheriff mails a copy of the writ with a copy of the notice of execution to the defendant in the manner and within the time prescribed in NRS 21.076. In the case of a writ of garnishment that continues for 120 days or until the amount demanded in the writ is satisfied, a copy of the writ and the notice of execution need only be mailed once to the defendant.

Exhibit R

NRS 31.270 Service of writ; tender of garnishee's fees.

1. The writ of garnishment shall be served by the sheriff of the county where the garnishee defendant is found, unless the court directs otherwise, in the same manner as provided by rule of court or law of this state for the service of a summons in a civil action.

2. At the time of the service of the writ of garnishment, the garnishee shall be paid or tendered by the plaintiff in the action or the officer serving the writ a fee of $5, and unless such sum is paid or tendered to the garnishee defendant or the person upon whom service is made for the garnishee defendant, service shall be deemed incomplete.

[1911 CPA § 230; A 1953, 548]—(NRS A 1973, 1182)

Exhibit S

NRS 31.295 Garnishment of earnings: Limitations on amount.

1. As used in this section:

(a) "Disposable earnings" means that part of the earnings of any person remaining after the deduction from those earnings of any amounts required by law to be withheld.

(b) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed:

(a) Twenty-five percent of the person's disposable earnings for the relevant workweek; or

(b) The amount by which the person's disposable earnings for that week exceed 50 times the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable,

↪ whichever is less.

3. The restrictions of subsection 2 do not apply in the case of:

(a) Any order of any court for the support of any person.

(b) Any order of any court of bankruptcy.

(c) Any debt due for any state or federal tax.

4. Except as otherwise provided in this subsection, the maximum amount of the aggregate disposable earnings of a person for any workweek which are subject to garnishment to enforce any order for the support of any person may not exceed:

(a) Fifty percent of the person's disposable earnings for that week if the person is supporting a spouse or child other than the spouse or child for whom the order of support was rendered; or

(b) Sixty percent of the person's disposable earnings for that week if the person is not supporting such a spouse or child,

↪ except that if the garnishment is to enforce a previous order of support with respect to a period occurring at least 12 weeks before the beginning of the workweek, the limits which apply to the situations described in paragraphs (a) and (b) are 55 percent and 65 percent, respectively.

(Added to NRS by 1971, 1499; A 1985, 1430; 2005, 1020)

Exhibit T

NRS 31.296 Garnishment of earnings: Period of garnishment; fee for withholding; termination of employment; periodic report by judgment creditor.

1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of garnishment to issue pursuant to NRS 31.260 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

(Added to NRS by 1989, 699; A 2011, 1907;2013, 3811)

Exhibit U

Rule 2.20. Motions; contents; responses and replies; calendaring a fully briefed matter.

(a) Unless otherwise ordered by the court, papers submitted in support of pretrial and post-trial briefs shall be limited to 30 pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities.

(b) All motions must contain a notice of motion setting the same for hearing on a day when the district judge to whom the case is assigned is hearing civil motions in the ordinary course. The notice of motion must include the time, department, and location where the hearing will occur.

(c) A party filing a motion must also serve and file with it a memorandum of points and authorities in support of each ground thereof. The absence of such memorandum may be construed as an admission that the motion is not meritorious, as cause for its denial or as a waiver of all grounds not so supported.

(d) Within 5 days after service of the motion, a nonmoving party may file written joinder thereto, together with a memorandum of points and authorities and any supporting affidavits. If the motion becomes moot or is withdrawn by the movant, the joinder becomes its own stand-alone motion and the court shall consider its points and authorities in conjunction with those in the motion.

(e) Within 10 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

(f) An opposition to a motion which contains a motion related to the same subject matter will be considered as a counter-motion. A counter-motion will be heard and decided at the same time set for the hearing of the original motion and no separate notice of motion is required.

(g) Whenever a motion is contested, a courtesy copy shall be delivered by the movant to the appropriate department at least 5 judicial days prior to the date of the hearing, along with all related briefing, affidavits, and exhibits.

(h) A moving party may file a reply memorandum of points and authorities not later than 5 days before the matter is set for hearing. A reply memorandum must not be filed within 5 days of the hearing or in open court unless court approval is first obtained.

(i) A memorandum of points and authorities which consists of bare citations to statutes, rules, or case authority does not comply with this rule and the court may decline to consider it. Supplemental briefs will only be permitted if filed within the original time limitations of paragraphs (a), (b), or (d), or by order of the court.

(j) If all the civil trial judges in this district are disqualified from hearing a case, a notice of motion must state: "Please take notice that the undersigned will bring the above motion on for hearing before a visiting or senior judge at such time as shall be prescribed by the court administrator."

(k) If a petition, writ, application or motion has been fully briefed but is not calendared for argument and/or decision, the party seeking relief shall deliver to the chambers of the assigned department a Notice of Readiness and Request for Setting together with an Order Setting.

[Amended; effective July 29, 2011.]

Exhibit V

HOLLEY, DRIGGS, WALCH,
FINE, WRAY, PUZEY & THOMPSON
400 S 4TH ST FL 3
LAS VEGAS, NV 89101-6201
702-791-0308

VALLEY BANK OF NEVADA
www.valleybanknv.com

94-224/1224

4205

2/27/2017

PAY TO THE ORDER OF Michael Mona

$ 5.00

Five & No/100 Dollars

DOLLARS

Michael Mona

MEMO

AUTHORIZED SIGNATURE

"004205" ⑆122402243⑆01700106566"

HOLLEY, DRIGGS, WALCH, FINE, WRAY, PUZEY & THOMPSON

4205

Michael Mona RA 2/27/2017 $ 5.00

Invoice #	Account No.	Account Description	Matter ID	Amount
	1700-000-00	Client Costs - reimbursed client	10894-01	5.00

WRTE
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

Make Check Payable To:
Constable
55 Civic Way
Laughlin NV 89029-1563
702-298-2311
Put Case # & Name on Check

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No: A-12-670352-F Dept. No.: XV

WRIT OF EXECUTION
☒ **Earnings** ☐ **Other Property**
☐ **Earnings, Order of Support**

THE STATE OF NEVADA TO THE SHERIFF/CONSTABLE, GREETINGS:

On April 27, 2012, a judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Plaintiff Far West Industries as judgment creditor and against Michael J. Mona, Jr. as judgment debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at 10% per annum, $4,967.308 per day from issuance of this writ to date of levy and to which sum must be added all

commissions and costs of executing this Writ.

JUDGMENT BALANCE		AMOUNTS TO BE COLLECTED BY LEVY	
Judgment	$17,777,562.18	NET BALANCE	$26,732,578.25
Attorney's Fees	$327,548.84	Fee this Writ	25.00
Costs	$25,562.56	Garnishment Fee	5.00
JUDGMENT TOTAL	$18,130,673.58	Levy Fee	33.00
Accrued Costs		Advertising	X
Accrued Interest	$8,717,625.19	Storage	X
Less Satisfaction	$115,720.52	Interest from	X
		Date of Issuance	X
NET BALANCE	$26,732,578.25	SUB-TOTAL	26732655.25
		Commission	133715.78
		TOTAL LEVY	26866371.03 Total

NOW THEREFORE, you are commanded to satisfy the judgment for the total amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described real property: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Judgment Debtor Michael J. Mona, Jr., paid by CV Sciences, Inc. formerly known as CannaVEST Corp.

(See below or exemptions which may apply)

EXEMPTIONS WHICH APPLY TO THIS LEVY
(Check appropriate paragraph and complete as necessary)

☐ Property other than wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statues may apply, consult an attorney.

☒ Earnings

The amount subject to garnishment and this writ shall not exceed for any one pay period the lessor of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period of $100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on , 20 , by the for support of , for the period from , 20 , through , 20 , in installments or $.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above:

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from date of issuance not less than 10 days or more than 60

days with the results of your levy endorsed thereon.

Submitted By:

(SIGNATURE)

STEVEN D. GRIERSON, CLERK OF COURT

MIRIAM MEJIA DISTRICT COURT SEAL FEB 23 2017

By: _____
Deputy Clerk Date

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
ANDREA M. GANDARA, ESQ.
Nevada Bar No. 12580
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912
Attorneys for Plaintiff Far West Industries

I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy endorsed thereon.

SHERIFF/CONSTABLE

By: _____

Deputy Date

RETURN

____Not satisfied $ _____

____Satisfied in sum of $ _____

____Costs retained $ _____

____Commission retained $ _____

____Costs incurred $ _____

____Commission incurred $ _____

____Costs Received $ _____

REMITTED TO
JUDGMENT CREDITOR $ _____

EIGHTH JUDICIAL DISTRICT COURT
Clark County, Nevada
NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED.

A court has determined that you owe money to **FAR WEST INDUSTRIES**, the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:
   (a) The judgment is for a medical bill, in which case all the primary dwelling, including a mobile or manufactured home, may be exempt.
   (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than $15,000.
12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money not to exceed $500,000 in present value, held in:
   (a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.;
and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:
(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;
(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;
(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;
(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;
(e) Certain powers held by a trust protector or certain other persons;
(f) Any power held by the person who created the trust; and
(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:
(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;
(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and
(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.
20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.
21. Payments received as compensation for wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
23. Payments received as restitution for a criminal act.
24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.
25. A tax refund received from the earned income credit provided by federal law or a similar state law.
26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through Nevada Legal Services. If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the Clerk of the Court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the Clerk of the Court an executed claim of exemption. A copy of the claim of exemption must be served upon the Las Vegas Township Constable, the garnishee, and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the Las Vegas Township Constable within 9 judicial days after you serve the claim of exemption upon the Las Vegas Township Constable, garnishee, and judgment creditor, unless the Las Vegas Township Constable or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the Las Vegas Township Constable, and any garnishee not less than 5 judicial days

before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions, or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.
NRS 21.075 (2011).

10594-01/1764834

WRTG
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDRA, ESQ.
Nevada Bar No. 12580
E-mail: agandara@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

This WRIT must be answered, signed and returned to:
Constable, Laughlin Township
55 Civic Way
Laughlin NV 89029-1563

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation, Plaintiff, v. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual, MICHAEL J. MONA, JR., an individual; DOES 1 through 100, inclusive, Defendants.	Case No: A-12-670352-F Dept. No.: XV

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

MICHAEL MONA, RESIDENT AGENT AND PRESIDENT
CV SCIENCES, INC. FORMERLY KNOWN AS CANNAVEST CORPORATION
2688 SOUTH RAINBOW BOULEVARD
SUITE B
LAS VEGAS, NV 89146

You are hereby notified that you are attached as garnishee in the above entitled action and you are commanded not to pay any debt from yourself to Michael J. Mona, Jr., ("Defendant" or "Judgment Debtor"), and that you must retain possession and control of all personal property, money, credit, debts, effects and choses in action of said Defendant in order that the same may be dealt with according to law. Where such property consists of wages, salaries, commissions or

bonuses, the amount you shall retain be in accordance with 15 U.S.C. § 1673 and NRS 31.295. Plaintiff Far West Industries believes that you have property, money, credits, debts, effects and choses in action in your hands and under your custody and control belonging to said Defendant described as: "Earnings," which means compensation paid or payable for personal services performed in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus, of Michael J. Mona, Jr., paid by CV Sciences, Inc. formerly known as CannaVEST Corp.

YOU ARE REQUIRED within 20 days from the date of service of this Writ of Garnishment to answer the interrogatories set forth herein and to return your answers to the office of the Sheriff or Constable which issues the Writ of Garnishment. In case of your failure to answer the interrogatories within 20 days, a Judgment by Default in the amount due the Plaintiff, which amount as of February 15, 2017 is $26,732,578.25 and which amount Plaintiff demands, may be entered against you.

IF YOUR ANSWERS TO the interrogatories indicate that you are the employer of Defendant, this Writ of Garnishment shall be deemed to **CONTINUE FOR 120 DAYS**, or until the amount demanded in the Writ is satisfied, whichever occurs earlier less any amount which is exempt and less $3.00 per pay period not to exceed $12.00 per month which you may retain as a fee for compliance. The $3.00 fee does not apply to the first pay period covered by this Writ.

...

...

...

...

...

...

...

...

...

YOU ARE FURTHER REQUIRED to serve a copy of your answers to the Writ of Garnishment on counsel for Far West Industries whose address appears below.

Dated this 3rd day of March, 2017.

Issued at direction of:

SHERIFF/CONSTABLE

By: **JORDAN ROSS, CONSTABLE LAUGHLIN CONSTABLE'S OFFICE**
Title **PERSONNEL # 1614** Date

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

F. THOMAS EDWARDS, ESQ. (NBN 9549)
E-mail: tedwards@nevadafirm.com
ANDREA M. GANDARA, ESQ. (NBN 12580)
E-mail: agandara@nevadafirm.com
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiff Far West Industries

17-1052

STATE OF NEVADA)
) ss:
COUNTY OF)

The undersigned, being duly sworn, states that I received the within WRIT OF GARNISHMENT on the ____ day of _____, 2016, and personally served the same on the ____ day of _____, 2015 by showing the original WRIT OF GARNISHMENT, informing of the contents and delivering and leaving a copy, along with the statutory fee of $5.00, with _____ at _____, County of _____, State of Nevada.

By:_____

Title:_____

INTERROGATORIES TO BE ANSWERED BY THE GARNISHEE UNDER OATH:

1. Are you in any manner indebted to Defendant Michael M. Mona, Jr., either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars:

ANSWER: _____

_____

2. Are you an employer of the Defendant? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, which each Defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week the pay period, after deducting any amount required by law to be withheld.

Calculate the garnishable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: __ [B] Biweekly: __ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings.....$_____

(2) Deductions required by law (not including child support).....$_____

(3) Disposable Earning [Subtract line 2 from line 1] .....$_____

(4) Federal Minimum Wage.....$_____

(5) Multiply line 4 by 50.....$_____

(6) Complete the following direction in accordance with the letter selected above:

[A] Multiply line 5 by 1 .....$_____

[B] Multiply line 5 by 2 .....$_____

[C] Multiply line 5 by 52 and then divide by 24.....$_____

[D] Multiply line 5 by 52 and then divide by 12.....$_____

(7) Subtract line 6 from line 3.....$_____

This is the attachable earning. This amount must not exceed 25% of the disposable earnings from line 3.

ANSWER: _____

_____

3. Did you have in your possession, in your charge or under your control, on the date the WRIT OF GARNISHMENT was served upon you any money, property, effects, good, chattels, rights, credits or choses in the action of the Defendant, or in which Defendant is interested? If so, state its value and state fully all particulars.

ANSWER: _____

_____

4. Do you know of any debts owing to the Defendant, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to the Defendant, or in which Defendant is interested, and now in possession or under the control of others? If so, state particulars.

ANSWER: _____

_____

5. Are you a financial institution with a personal account held by the Defendant? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in NRS 21.105, $2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in NRS 21.105 or, if no such deposit has been made, $400 or the entire amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

ANSWER: _____

_____

6. State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

ANSWER: _____

_____

7. **NOTE:** If, without legal justification, an employer of Defendant refuses to withhold earnings of Defendant demanded in a WRIT OF GARNISHMENT or knowingly misrepresents the earnings of Defendant, the Court shall order the employer to pay Plaintiff the amount of arrearages caused by the employer's refusal to withhold or the employer's misrepresentation of Defendant's earnings. In addition, the Court may order the employer to pay Plaintiff punitive damages in an amount not to exceed $1,000 for each pay period in which the employer has, without legal justification, refused to withhold Defendant's earnings or has misrepresented the earnings.

_____
Garnishee

STATE OF NEVADA)
) ss:
COUNTY OF)

I, _____, do solemnly swear (or affirm) that the answers to the foregoing interrogatories subscribed by me are true.

_____
Garnishee

SUBSCRIBED AND SWORN to before me this
_____ day of _____, 20___.

_____
NOTARY PUBLIC

DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, and individual; MICHAEL J. MONA, JR., an individual; DOES I through 100, inclusive,

Defendants.

Case No.: A-12-670352-F
Dept. No.: XV

Electronically Filed
03/30/2017 01:52:03 PM

CLERK OF THE COURT

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF CLAIM OF EXEMPTION AND MOTION TO DISCHARGE GARNISHMENT

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Tenn. Code Ann. § 36–5–501(i)(1) 13
Tex. Fam. Code § 8.105 13
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Far West has served more garnishments—this time on March 7, 2017 and on March 15, 2017. Like before, Far West did not effectuate proper service on either of these garnishments. Regarding the March 7 garnishment, Far West again made the same mistake of making the check for administrative costs payable to the debtor instead of CV Sciences. And, as to the March 15, 2017 garnishment, Far West served it on the wrong entity. Moreover, the Constable confirmed that it would not be sending the required notice that allows for execution and triggers the time to file an exemption on either garnishment because there were service deficiencies. Nevertheless, out of an abundance of caution, Mona is submitting another claim of exemption.

Also, the last garnishment expired on October 29, 2016. At the time of the expiration, Mona's spousal support obligation to his ex-wife took first position and was the sole withholding from Mona's wages. Under Federal and Nevada law, because the support obligation exceeds 25% of Mona's disposable earnings, once it took first position, Mona's wages became exempt from any further withholdings from creditor garnishments. Indeed, Nevada law is clear that garnishments in Nevada do not endure in perpetuity – they expire. Nevada legislative history expressly supports this conclusion. The Legislature flatly rejected the proposal to have garnishments endure forever when it enacted the current law allowing garnishments to last for only 120 days. Therefore, the earnings are exempt from execution, and the Court should affirm the Claim of Exemption and enter an Order that Far West's March 7, 2017 and March 15, 2017 wage garnishments are void and all subsequent wage garnishments are void until the spousal support obligation no longer occupies first position.

II. FACTS AND BACKGROUND.

The following facts are relevant:

- 1989—Nevada enacted the 120 day expiration period related to garnishments, which is found in NRS 31.296. *See* Legislative History related to 120 day expiration period attached as **Exhibit A** (Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)). The original Bill proposed to have garnishments endure in perpetuity. *Id.* However, the Legislature rejected the proposal and enacted the 120 day expiration period. *Id.*

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- July 23, 2015—Mike and Rhonda Mona divorced. *See* **Exhibit B**. Per the Decree, Mike is obligated to pay $10,000 per month in support. *Id.* at 3:14.
- September 4, 2015—Far West attempted to intervene to challenge the divorce.
- September 28, 2015—Rhonda opposed Far West's attempt to intervene in the divorce and Mike joined in the Opposition. *See* **Exhibits C and D**.
- November 25, 2015—The court denied Far West's attempt to intervene in the divorce and awarded Mike and Rhonda the fees they incurred in opposing Far West's intervention attempt. *See* **Exhibit E**.
- April 29, 2016—Pursuant to NRS 31.296, Far West's garnishment regarding Mona's wages expired. *See* **Exhibit F**.
- July 1, 2016—Far West served the invalid garnishment that was the subject of the July 15, 2016 Claim of Exemption. *See* **Exhibits G and H**.
- July 15, 2016—Mona filed the July 15 Claim of Exemption. *See* on file herein.
- August 1, 2016—The Court heard argument on Mona's Claim of Exemption and Discharge Request. The Court denied the Claim of Exemption based on the premise that Mona was required to sign the related declaration. In doing so, the Court did not rule on the accompanying Motion to Discharge and held that all other arguments were moot. *See* August 9, 2016 Order on file herein.
- October 29, 2016—Pursuant to NRS 31.296, Far West's July 1, 2016 garnishment regarding Mona's wages expired. *See* **Exhibits G and H**.
- October 31, 2016—Far West served the invalid garnishment that was the subject of the prior Claim of Exemption. *See* **Exhibit I**.
- November 10, 2016—Mona filed the prior Claim of Exemption and Points and Authorities. *See* November 10, 2016 Claim and Points and Authorities on file.
- January 10, 2017—The Court entered its Order holding that Far West was not allowed to execute on the October 31, 2016 Garnishment because service was incomplete. *See* January 10, 2017 Notice and related Order on file herein.
- March 7, 2017—Far West improperly served the Writ of Garnishment that is the subject of the prior and current Claims of Exemption by issuing the check to the debtor instead of the garnishee. *See* **Exhibit V**.
- March 15, 2017—Far West improperly served an overlapping garnishment that is also the subject of the current Claim by serving the entity next door to the garnishee and a person not associated with the garnishee. *See* **Exhibits W and X**.
- March 24, 2017—Mona filed a Claim of Exemption for the March 7, 2017 garnishment and Points and Authorities. *See* March 24, 2017 Claim of Exemption and Points and Authorities on file herein.
- March 30, 2017—Mona filed the present Claim of Exemption for the March 7, 2017 and March 15, 2017 garnishments with the related points and authorities as

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further support for the exemption claim. *See* March 30, 2017 Claim of Exemption and Points and Authorities on file herein.[1]

The prior briefs and arguments on the priority disputes are applicable to the current dispute before the Court. Mona incorporates herein by reference as if fully set forth herein the prior oral and written arguments, hearing transcripts, and contents of: Mona's Opposition to Motion for Priority and Countermotion for Return Proceeds (3/4/16); Mona's Reply in Support of Countermotion for Return of Proceeds (3/23/16); Mona's Points and Authorities in Support of Claim of Exemption and Discharge (7/29/16); Mona's Claim of Exemption and related Memorandum of Points and Authorities (11/10/2016); and Mona's Claim of Exemption and related Memorandum of Points and Authorities (3/24/16). *See* these documents on file herein.

III. LEGAL ARGUMENT—CLAIM OF EXEMPTION.

Execution may not occur on the garnishments because service was not properly effectuated. Also, a withholding from Mona's wages consistent with Far West's demands is a violation of Federal and Nevada law. Therefore, Far West's garnishments are barred.

A. EXECUTION IS NOT PROPER BECAUSE THE SERVICE OF THE WRITS WAS INCOMPLETE AND NOT EFFECTUATED.

Far West has failed to comply with statutory requirements for at least three reasons: First, NRS 21.075 mandates that execution may not occur unless service is effectuated per NRS 21.075 and NRS 21.076. Specifically, this office had to be served by mail with the notice and writ of execution for the March 7 garnishment by March 8 and for the March 15 garnishment by March 16. *See* NRS 21.075 and 21.076. To date, this office has not been properly served with either of the notices. Moreover, in working to obtain the related notices from the Constable to trigger the timing requirements in NRS 21.112 to file the Claim of Exemption, the Constable confirmed that the notices would not be forthcoming because the garnishments were deficient

[1] The Sheriff should have served the notices NRS 21.112, 21.075 and 21.076 require on March 8 and March 16. Mona never received the notices. Mona's firm inquired of the Constable and was informed that the notices would not be served because the garnishments were deficient. Thus, there has been no "trigger" to commence the 10 days within which Mona must file the Claim of Exemption. Nevertheless, out of an abundance of caution, Mona is filing the Claim of Exemption on March 30, 2017, which equates to 10 judicial days from March 16—the day the Sheriff would have typically served the notice.

and a third garnishment was apparently being sent out for service. Second, per NRS 31.270, "service shall be deemed incomplete" unless a $5 check made payable to the garnishee was paid "[a]t the time of service. *See* NRS 31.270(2). Far West, for the March 7 garnishment, once again made the check payable to the debtor instead of the garnishee. *See* **Exhibit V**. Third, as for the March 15 garnishment, Far West served the wrong entity. It served the entity next door to CV Sciences and served a person apparently not even associated with CV Sciences. *See* **Exhibit W**. Therefore, Far West cannot execute on either the March 7 or March 15 Writs of Garnishment and the Court must grant the Claim of Exemption.

B. THE SUPPORT OBLIGATION HAS PRIORITY OVER FAR WEST'S GARNISHMENT.

Priority between the support obligation[2] and Far West's garnishment has been determined by operation of Nevada law. Pursuant to Nevada law, Far West's July 1 wage garnishment expired on October 29 and now sits behind an ongoing support order. Thus, there is nothing for the Court to decide and no discretion to exercise regarding priority because Nevada law has decided the issue. If the Court believes it retains discretion to determine priority under NRS 31.249, then Nevada law, the law of other jurisdictions, and the Family Court, which determined priority, all provide clear and detailed guidance that the support obligation should take priority.

1. Nevada Law Expressly Rejects Far West's Contention that it Has First Priority in Perpetuity Until Satisfaction of its Judgment.

NRS 31.296 allowed Far West's July 1, 2016 garnishment to continue for only 120 days. Pursuant to NRS 31.296, the garnishment expired on October 29, 2016. Far West advocates for a position contrary to NRS 31.296. Far West believes the expiration of its garnishment means nothing more than having to serve a new garnishment to effectively have a garnishment that continues forever until its judgment is satisfied. Further, Far West believes it remains in first position irrespective of whether its writ expired and other creditors are waiting in line.

[2] When determining garnishment restrictions, a support order is considered a "garnishment." *See* 15 U.S.C. § 1672(c) (stating: "The term 'garnishment' means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.").

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The Nevada Legislature flatly rejected Far West's position when it enacted the 120 day expiration period in NRS 31.296. The original bill allowed for continual garnishment until the applicable judgment was satisfied, just as Far West is proposing. Specifically, Assemblyman Mathew Callister, the primary sponsor of the bill, proposed that writs:

> [R]emain in effect until the judgment was satisfied in full in lieu of repeating the procedure every pay period."

Exhibit A at p. 12. There was, however, immediate and significant opposition to Mr. Callister's proposal. For example, Marc J. Fowler, representing the Washoe County Sherriff's Office stated:

> An on-going garnishment . . . would tie one debtor to one creditor indefinitely. Other creditors would have to wait in line as long as six years [unless a judgment was renewed], on the first debt served by the garnishment. Collection on multiple judgments would be delayed indefinitely.

Id. at p. 13. When asked about priority of garnishments, Mr. Fowler indicated that the procedure was first come first served. *Id.* The Sheriff's office provided written opposition as well stating:

> This bill would also allow for a single plaintiff to tie up a defendant for his debt alone, preventing any other plaintiff from obtaining a garnishment under execution until satisfaction of the existing claim. *Id.* at p. 16 (Exhibit C to Bill).

In addition, the North Las Vegas Township submitted written opposition stating:

> They [process server] would make one copy which is served to the employer and stays in effect until the judgment is paid in full or judgment expires after six years unless renewed. That is how this law would read if this law was passed. Lets [sic] say that a garnishment is served by Sears . . . and down the road another company or individual has a garnishment to serve on the same party, he has no chance of collecting any part of it because the law states that only one collection can be made on any one person . . . this is not right as it is now whoever serves the garnishment first would be the recipient, except for the IRS and Child Support Division, they take priority. I think AB 247 is a one sided bill and should be put to rest. *Id.* at p. 17 (Exhibit D to Bill).

And:

> As it is now, only one garnishment can be honored by an employer per pay period. If this bill is passed changing a one-time garnishment to a continuing writ and more than one person or company has a judgment against a defendant the employer would honor the first garnishment they receive leaving the others out of receiving any of their money until the first person's garnishment is paid in full. It is understood that this bill would put a six month cap on the garnishment. Now, how are the other creditor's going to know the six months are up . . . *Id.* at p. 46.

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Further, Dan Ernst from the Constable of Sparks Township "pointed out several counties in California had discovered continuing garnishment did not work, and had discontinued the practice." *Id.* at p. 14. As a result, Charlotte Shaber, Nevada Business Factors, recommended a 90 day expiration period. *Id.* at p. 15. Mr. Callister responded with a 180 day expiration period. *Id.* at p. 19. After back and forth about the merits of the bill, the current 120 day expiration period was proposed, passed, and enacted. *Id.* at p. 53 and NRS 31.296. Also, the idea that a creditor may remain in first position indefinitely was expressly rejected. Exhibit A and NRS 31.296. Thus, as of October 29, 2016, the support order took first position as the sole withholding and Far West cannot now cut back in line in first position.

Moreover, the Legislative History above refutes the argument that the date of the judgment/date the obligation was incurred determines priority. Rather, priority is determined by the date of the garnishments themselves until expiration. The various Townships touched on this point in their comments and letters detailed in the Legislative History. Exhibit A; *see also e.g.*, *Voss Products, Inc. v. Carlton*, 147 F. Supp. 2d 892, 896 (E.D. Tenn. 2001) (between garnishments of the same type, the prior in time is to be satisfied first); 28 U.S.C. § 3205(8) (writs issued under this section shall have priority over writs which are issued later in time). Therefore, priority between the support obligation and garnishment has already been determined by operation of Nevada law. And, neither equity nor policy serve to disregard the Legislature's rejection of Far West's position – the case law in Section III.C. further supports this position.

2. *First Interstate Bank of California v. H.C.T.*, 108 Nev. 242, 246, 828 P.2d 405, 408 (1992) and Antecedent Debt.

Far West will cite *First Interstate Bank of California v. H.C.T.*, 108 Nev. 242, 246, 828 P.2d 405, 408 (1992) in favor of its priority arguments. However, an actual reading of the *First Interstate* case reveals that there is very little, if anything, in the *First Interstate* case that applies to the priority issues in this case. In *First Interstate*, both First Interstate Bank of California and Independence Bank asserted a claim to a $322,000 Certificate of Deposit ("CD"). *First Interstate Bank of California v. H.C.T.*, 108 Nev. 242, 246, 828 P.2d 405, 408 (1992). The district court awarded the CD to Independence Bank on summary judgment and First Interstate

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Bank of California appealed. *Id.* at 406. The Nevada Supreme Court affirmed the lower Court's decision. Specifically, in 1988, a company called HCT borrowed $350,000 from Independence Bank. *Id.* Two of HCT's principals guaranteed the loan from Independence Bank. *Id.* Shortly thereafter, HCT purchased the CD from First Interstate Bank of Nevada in the name of Sunrise Development Company ("Sunrise") and Clark County Public Works. *Id.* In May of 1990, HCT assigned its rights an interest in the CD to Independence, presumably to avoid any liability under the guaranties for the $350,000 loan from Independence. *See id.* Also in May of 1990, First Interstate Bank of California obtained a judgment against HCT for $314,059.65 in a California superior court, which judgment HCT appealed. *Id.*

While the appeal was ongoing between HCT and First Interstate Bank of California, HCT and Sunrise entered into arbitration proceedings to determine ownership of the CD. On July 24, 1990, the American Arbitration Association ("AAA") awarded HCT the funds from the CD. *Id.* On August 21, 1990, the arbitrator's award was judicially confirmed.

In August of 1990, First Interstate Bank of California filed suit in Nevada district court to enforce the California foreign judgment against HCT. *Id.* at 407. In conjunction with the foreign judgment collection action, First Interstate Bank of California applied for a writ of garnishment on the funds from the CD that the AAA had awarded to HCT in the arbitration proceedings against Sunrise. *Id.* On August 20, 1990, the day before the arbitrator's award giving the CD to HCT was judicially confirmed, First Interstate Bank of California served the writ of garnishment for the CD on First Interstate Bank of Nevada, which held the CD. *Id.*

HCT moved to dismiss the First Interstate Bank of California foreign judgment collection action seeking to enforce the California judgment alleging the California judgment was not final because both HCT and First Interstate Bank of California appealed the judgment. *Id.* The district court denied HCT's motion to dismiss. *Id.* To avoid getting involved in the determination of ownership of the CD, First Interstate Bank of Nevada filed an interpleader action requesting that the court determine/establish the ownership of the CD. *Id.* HCT filed a motion for summary judgment in the interpleader case asserting that Independence Bank's interest in the CD took priority because HCT assigned its interest in the CD to Independence

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Bank before First Interstate Bank of California issued its writ of garnishment. *Id.* Independence Bank, of course, joined in HCT's motion. *Id.*

The district court granted HCT's motion for summary judgment and directing the CD funds to be delivered to Independence Bank. *Id.* First Interstate Bank of California appealed. *Id.* On appeal, First Interstate Bank of California argued that its interest in the CD attached on August 20, 1990 when it caused its writ of garnishment to be served on First Interstate Bank of Nevada and that HCT/Independence Bank's interest attached when the award from the AAA was judicially confirmed on August 21, 1990. *Id.* In order to determine ownership of the CD, the Supreme Court stated:

> [T]he threshold question in this case is: at what point in time did HCT acquire its interest in the CD—when it was awarded the funds in arbitration, or when the district court confirmed the arbitration award?

To determine priority, the Supreme Court indicated that the Legislature intended for arbitration awards to be final and binding. *Id.* (citation omitted). Further, the Supreme Court indicated that an arbitration award conclusively determines the rights of the parties unless it is invalidated by a reviewing court. *Id.* And, if an arbitration award is upheld, the rights of the parties are determined from the date of the award and not by the date of the judgment confirming the award. *Id.* According to the Supreme Court, any other result would defeat the purpose of arbitration to decide the issues between the parties without judicial intervention. *Id.* (citing *Marion Mfg. Co. v. Long*, 588 F.2d 538, 541 (6th Cir.1978) (citations omitted).

In conclusion, the Supreme Court agreed with the Sixth Circuit affirming the district court decision that HCT acquired its interest in the CD when it was awarded funds in arbitration. *Id.* at 408. Thus, HCT assignment of its interest in the CD to Independence Bank on May 4, 1990 was vested when the AAA awarded HCT the funds in arbitration on July 24, 1990. *Id.* As a result, HCT's and Independence Bank's interest in the CD was prior in time to First Interstate Bank of California interest, which vested on August 20, 1990 when First Interstate Bank of California served the writ of garnishment against the CD on First Interstate Bank of Nevada. *Id.* The Supreme Court further indicated that priority between a garnishment and an assignment depends on which interest is first in time, but that an assignment takes priority only to the extent

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that the consideration given for the assignment represents an antecedent debt or present advance. *Id.* (citations omitted).

As the Court can see, *First Interstate* is not the same as the present case. The threshold issue in the *First Interstate* case was whether an interest is acquired at the time of an arbitration award or when the award is judicially confirmed. *Id.* at 407. *First Interstate*, unlike this case, has nothing to do with wage withholdings, garnishment restrictions, a 120-day expiration period, competing garnishments, or priority of competing withholdings from wages. *Id.*, generally.

Not even the reference in *First Interstate* related to assignment versus garnishment is applicable. The Divorce Decree in this case is not an assignment—it's a Divorce Decree. *See* Divorce Decree at **Exhibit B**, generally. Further, the support order/obligation to Rhonda is not an assignment. *Id.* at 3:12-16. Rather, the support order is just that—an obligation to pay spousal support. *Id.* It cannot be legitimately stated that the spousal support itself is an assignment. Unlike the CD in *First Interstate*, Rhonda has not assigned the spousal support to any person or entity. *Id.* Rather, at most, the method of payment of the spousal support is via wages assigned for that purpose. *Id.* This is a distinction that makes a difference.

Moreover, the garnishment versus assignment argument and reliance on *First Interstate* to place the spousal support in second position conflicts with Federal law. Federal law holds that spousal support, when captured in the scheme of garnishment restrictions, is a garnishment. 15 U.S.C. § 1672(c) (the "term 'garnishment' means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt). This authority, as well as the cases cited below and throughout the country, holds that spousal support, when considering garnishment restrictions, is a "garnishment."

As a result, even if the spousal support was an assignment, which itself is not, for the purposes of this matter, it would be considered a competing garnishment. If this is not the case, then the outcome would violate the Supremacy Clause as well as 15 U.S.C. § 1673 stating:

> ***No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section***. 15 U.S.C. § 1673 (emphasis added).

Therefore, *First Interstate* has nothing to do with this case and the related circumstances.

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Lastly, even if *First Interstate* was controlling, even if Federal law did not define spousal support as a garnishment, and even if the spousal support here was an assignment, it still would not matter for at least two reasons. First, following Plaintiff's logic, it would forever have first position for wage withholdings, which would conflict with the Nevada Legislative history and related intentions regarding expiration of garnishments. Second, assignments that represent antecedent debt take priority under *First Interstate* (*see also Board of Trustees v. Durable Developers*, 102 Nev. 401, 724 P.2d 736, 746 (1986) (citations omitted)) and spousal support has been defined as antecedent debt. *In re Futoran*, 76 F.3d 265, 267 (9th Cir. 1996) (although unmatured, the husband's future spousal support obligations were antecedent debt). This makes sense considering the rationale for spousal support could be explained in this case as being value for past services – here 30+ years of marriage. *See e.g. Fed. Deposit Ins. Co. v. Malin*, 802 F.2d 12, 18 (2d Cir. 1986) (a husband's obligation to support his wife is an antecedent debt). Therefore, *First Interstate* does not help Plaintiff's case.

3. Multiple States Across the Country Hold that Spousal Support Orders Take Priority Over All Other Creditor Garnishments.

The law of other jurisdictions is persuasive as to spousal support having priority. Nevada's garnishment restrictions have not been amended since 1989 and, at that time, the main issue was whether wage garnishments should continue until judgment satisfaction or expire after a period of time. The Federal Government and other states have been more progressive and have provided persuasive guidance for this Court in determining priority. For example:

Federal Debt Collection

28 U.S.C. § 3205 requires that spousal support orders take priority:

> Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time. *See* 28 U.S.C. § 3205(8).

Arizona

In Arizona, "conflicting wage garnishments and levies rank according to priority in time of service." Ariz. Rev. Stat. § 12-1598.14(A). However, under subsection B:

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> Garnishments, levies and wage assignments which are not for the support of a person are inferior to wage assignments for the support of a person. Garnishments which are not for the support of a person and levies are inferior to garnishments for the support of a person. Ariz. Rev. Stat. § 12-1598.14(B).

California

"The clerk of the court shall give priority to the application for, and issuance of, writs of execution on orders or judgments for . . . spousal support. Cal. Civ. Proc. Code § 699.510.

Florida

Florida collection law requires that spousal support take priority over a judgment creditor's wage garnishment. *Bickett v. Bickett*, 579 So. 2d 149, 150 (Fla. Dist. Ct. App. 1991) (Court has "full authority to stay, modify, or condition the writ to assure (a) that alimony and child support payments have priority, and (b) that the husband has funds remaining on which to live.") (citations omitted); *see also* § 61.1301, Fla.Stat. (1989); Fla.R.Civ.P. 1.550(b).

Illinois

In Illinois, support orders get priority over other procedures for enforcing judgments. *In re Salaway*, 126 B.R. 58, 60 (Bankr. C.D. Ill. 1991). "A lien obtained hereunder shall have priority over any subsequent lien obtained hereunder, except that liens for the support of a spouse or dependent children shall have priority over all other liens . . ." 735 Ill. Comp. Stat. 5/12-808.

Indiana

In *Miller v. Owens*, the appellate court stated:

> A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2). 953 N.E.2d 1079, 1085 (Ind. Ct. App. 2011) (citing I.C. § 24–4.5–5–105).

New Jersey

Income withholding for alimony, maintenance, or child support "shall have priority over any other withholding and garnishments without regard to the dates that the other income withholding or garnishments were issued." N.J.S. 2A:17–56.10(b).

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New York

New York gives priority to those for support, regardless of the timing of those garnishments. *General Motors Acceptance Corp. v. Metropolitan Opera Ass'n*, 98 Misc.2d 307, 413 N.Y.S.2d 818 (App.Term, 1st Dep't 1978); *Gertz v. Massapequa Public Schools*, N.Y.L.J., Nov. 17, 1980, at 17 (Sup.Ct.Nas.Co.1980).

Pennsylvania

"An order of attachment for support shall have priority over any other attachment, execution, garnishment or wage assignment." *See* Statutes of PA, Title 42 § 8127(b).

Rhode Island

"Any order for wage withholding under this section [includes "any person to whom support is owed"] shall have priority over any attachment, execution, garnishment, or wage assignment unless otherwise ordered by the court." *See* 15 R.I. Gen. Laws § 15-5-25(f).

Tennessee

Between garnishments of the same type, the prior in time is to be satisfied first. *Voss Products, Inc. v. Carlton*, 147 F. Supp. 2d 892, 896 (E.D. Tenn. 2001) (citing Tenn. Code Ann. § 26–2–214). As between creditor and support order garnishments, priority goes to those for support, regardless of the time. *Id.* (citing Tenn. Code Ann. § 36–5–501(i)(1)).

Texas

"An order or writ of withholding under this chapter [spousal maintenance] has priority over any garnishment, attachment, execution, or other order affecting disposable earnings, except for an order or writ of withholding for child support under Chapter 158." Tex. Fam. Code § 8.105; see also 17 West's Tex. Forms, Family Law § 6:261 (3d ed.) ("An order or writ of withholding for spousal maintenance . . . has priority over any garnishment, attachment, execution, or other order affecting disposable earnings, except for an order or writ of withholding for child support under Tex. Fam. Code Ann. Ch. 158.").

Washington

"A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process." RCW 26.23.060. Further, an "order for wage

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assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver . . . for support of a dependent child, and except for another wage assignment or garnishment for maintenance." RCW 26.18.110.

Wyoming

Wyoming gives priority to support garnishments. *Union Pac. R.R.*, 57 P.3d at 1208-09.

Summary of Spousal Support Priority from Federal Law and Other States

Wisconsin, Colorado, Oklahoma, Maine, Idaho, and Nebraska, as well as others, also give priority to spousal support orders. This is persuasive when exercising discretion to determine priority. Further, like Nevada, when there are equal garnishments (i.e. creditor versus creditor garnishments), the priority is determined by the timing of the writs (i.e. first come first served until expiration, if applicable) and not the dates of the underlying judgments.

C. TO DETERMINE THE APPROPRIATE WITHHOLDINGS, IT IS IMPORTANT TO BEGIN WITH FEDERAL GARNISHMENT RESTRICTIONS BECAUSE UNDER THE SUPREMACY CLAUSE NEITHER NEVADA LAW NOR THE PROCEEDINGS IN THIS CASE MAY BE BROADER THAN FEDERAL LAW.

Once it is determined that spousal support has priority, applying the law to determine the appropriate withholdings becomes clear. Federal law is important here because under Federal collection law and the Supremacy Clause (Article VI, U.S. Constitution), the garnishment restriction provisions of the Consumer Credit Protection Act (15 U.S.C. § 1671 et. seq.) pre-empt state law insofar as state law permits recovery exceeding that of Federal garnishment restrictions. *See* Article VI, U.S. Constitution and 15 U.S.C. § 1671 et. seq. Specifically, 15 U.S.C. § 1673, which details Federal law garnishment restrictions, provides in part as follows:

> (a) **MAXIMUM ALLOWABLE GARNISHMENT** Except as provided in subsection (b) and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed
>
> (1) ***25 per centum*** of his disposable earnings for that week, or
>
> (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of title 29 in effect at the time the earnings are payable,

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> whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).
>
> (b) EXCEPTIONS
>
> (1) The restrictions of subsection (a) do not apply in the case of
>
> (A) ***any order for the support of any person*** issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.
>
> . . .
>
> (2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce ***any order for the support of any person*** shall not exceed—
>
> (A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), ***50 per centum*** of such individual's disposable earnings for that week; and
>
> (B) where such individual is not supporting such a spouse or dependent child described in clause (A), ***60 per centum*** of such individual's disposable earnings for that week;
>
> . . .
>
> (c) EXECUTION OR ENFORCEMENT OF GARNISHMENT ORDER OR PROCESS PROHIBITED
>
> ***No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section***. 15 U.S.C. § 1673 (emphasis added).

As a result, under Federal collection law, the maximum amount of disposable earnings that may be withheld is 25% for a typical wage garnishment and 50% or 60% for a spousal support obligation, depending on whether the debtor is supporting an additional spouse or child unrelated to the support order. *Id.* Further, ***no court or state may make or enforce any order or process that violates these restrictions***. *Id.*

Based on the above, it is fairly clear how the statutory limitations apply when a single garnishment is at issue, whether it be due to a creditor judgment or support obligation. The application, however, is not as straightforward when a support obligation and garnishment are at issue at the same time. Fortunately, the Department of Labor and case law have explained the

proper application, which is: If the support obligation exceeds 25% of the debtor's disposable earnings and takes priority, the creditor garnishment is not allowed. This premise is discussed in more detail immediately below.

D. OTHER COURTS HAVE PROVIDED GUIDANCE FOR APPLYING THE GARNISHMENT RESTRICTIONS IN CASES WHEN BOTH A SUPPORT OBLIGATION AND CREDITOR GARNISHMENT ARE AT ISSUE AT THE SAME TIME.

When a support obligation and creditor garnishment are in play at the same time and the support obligation takes priority, no withholding of wages is allowed for the creditor garnishment if the support obligation exceeds 25% of the debtor's disposable earnings. However, in the event that the support obligation equates to less than 25%, then the law allows the creditor garnishment to attach the remaining amounts up to 25% (i.e. if a support obligation equates to 20% of the disposable earnings, then the creditor is entitled to the remaining 5%).

Below, Mona sets forth four cases explaining in detail the law and this application process. Although these cases are not Nevada cases, they are still applicable because they discuss the related Federal garnishment restrictions, which Nevada state law may limit further but may not broaden. Also, in large part, Nevada law mirrors the Federal law and there are no Nevada cases discussing the application of garnishment restrictions in similar detail. In short, ***there cannot be a result against Mona in this case that exceeds what would be allowed under Federal law*** and, as a result, these Federal law cases are persuasive and applicable.

Long Island Trust v. U.S. Postal Service

In *Long Island Trust Co. v. U.S. Postal Serv.*, the Second Circuit Court of Appeals dealt with an issue similar to that which is presently in front of this Court. 647 F.2d 336, 337-42 (2d Cir. 1981). Specifically, the Long Island Trust recovered a judgment against Donald Cheshire and served Cheshire's employer, the United States Postal Service ("USPS"), with an income garnishment – just like Far West did here with Mona. *Id.* at 338-339. However, the USPS refused to comply with the wage execution claiming that more than 25% of the debtor's disposable income was being withheld for court ordered support payments and the Consumer Credit Protection Act barred any further deductions. *Id.*

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Long Island Trust responded to the USPS's refusal to withhold additional funds by commencing an action against the USPS to recover the income withholdings. *Id.* The USPS subsequently moved for summary judgment on the basis that 42% of Cheshire's earnings were being garnished pursuant to a support order issued by the Nassau County Family Court. Id. The USPS argued that the Consumer Credit Protection Act prohibited garnishment where earnings were already being withheld to the extent of 25% or more. *Id.* Long Island Trust argued that the law allowed for simultaneous withholdings for family support and judgment creditors, even when the amount of the support withholding exceeded 25%. *Id.* The district court agreed with USPS, adopted USPS's interpretation of the Consumer Credit Protection Act, and entered judgment in its favor. *Id.* Long Island Trust appealed. *Id.*

On appeal, Long Island Trust argued that support obligations should be considered entirely independently of creditor garnishments and that the Act should be construed as reserving 25% of the earnings for creditors, leaving 75% for satisfaction of family support orders. *Id.* The appellate court disagreed with Long Island Trust stating: "We find no basis for this argument either in the language of the statute or in its legislative history." *Id.* (emphasis added). The appellate court concluded that 15 U.S.C. § 1673 placed a ceiling of 25% on the amount of disposable earnings subject to creditor garnishment, with an exception being that the ceiling could be raised to as high as 65% percent if the garnishment was to enforce a support order. *Id.* In other words, no more than 25% may be withheld when garnishments are sought only by creditors and as much as 65% may be withheld when garnishments are sought only to enforce support orders. *Id.*

The appellate court then acknowledged that the Act was less clear as to the interrelationship when both creditor and support garnishments are at issue. *Id.* To clarify the proper application in such scenarios, the appellate court discussed the purpose of the Act indicating that the principal purpose in passing the Consumer Credit Protection Act was not to protect the rights of creditors, ***"but to limit the ills that flowed from the unrestricted garnishment of wages."*** *Id.* (emphasis added). The appellate court explained that when it enacted the Consumer Credit Protection Act, Congress was concerned with the increasing

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number of personal bankruptcies, which it believed put an undue burden on interstate commerce, and it observed that the number of bankruptcies was vastly higher in states that had harsh garnishment laws. *Id.* Therefore, ***the Act was designed to sharply curtail creditors' rights to garnish wages with a concern for the welfare of the debtor***. *Id.* To this end, the Act restricted, and in no way expanded, the rights of creditors. *Id.* Indeed, as the *Long Island Trust* court noted, the express goal of the Act as a whole was to "restrict the availability of garnishment as a creditors' remedy." *Id.* (citations omitted).

Further, the *Long Island Trust* court found "no merit in Long Island Trust's argument that 25 percent of an employee's disposable earnings are reserved for creditors and that up to 65 percent more may be garnished to enforce a support order." *Id.* The court reasoned that subsections (a) entitled "maximum allowable garnishment" and (b) setting forth "exceptions" do not support Long Island Trust's interpretation of the Act. *Id.* "And in view of Congress's overall purpose of restricting garnishments in order to decrease the number of personal bankruptcies, it would be unjustifiable to infer that the general ceiling and its exceptions were intended to be cumulated to allow garnishments of disposable income to the total extent of 90 percent."

The *Long Island Trust* court reinforced its decision with the Secretary of Labor's comments regarding the Act stating:

> Compliance with the provisions of section (1673)(a) and (b) may offer problems when there is more than one garnishment. In that event the priority is determined by State law or other Federal laws as the CCPA contains no provisions controlling the priorities of garnishments. However, in no event may the amount of any individual's disposable earnings which may be garnished exceed the percentages specified in section (1673). To illustrate:(iv) If 25% or more of an individual's disposable earnings were withheld pursuant to a garnishment for support, and the support garnishment has priority in accordance with State law, the Consumer Credit Protection Act does not permit the withholding of any additional amounts pursuant to an ordinary garnishment which is subject to the restrictions of section (1673(a)). *Id.* (citing 29 C.F.R. § 870.11).

In conclusion, the *Long Island Trust* court indicated that it was "mindful of the argument that the statute as thus construed may help debtors to evade payment of their just debts if they collusively procure orders of support that exceed the general statutory maximum of 25 percent." Id. The court intimated that this point, however, was considered and vigorously debated in

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Congress prior to the passage of the Act. *Id.* (citing H.R.Rep.Reprint at 1978; remarks of Representative Jones, 114 Cong.Rec. 1834-35 (1968)). Further, the court noted that the decision did not leave the creditor powerless to collect on its judgment because there are a variety of means available to creditors to enforce judgments. *Id.* Due to the support obligation, the Act merely prohibited further garnishment of the employee's wages. *Id.*

Union Pacific R.R. v. Trona Valley Fed. Credit Union

The *Union Pacific Railroad* court also dealt with a case that involved both a support obligation and a creditor garnishment. 2002 WY 165, ¶¶ 14-16, 57 P.3d 1203, 1208-09 (Wyo. 2002). In handling the case, the court indicated that under 15 U.S.C. § 1672(c) (a section of the Act), the "term 'garnishment' means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt." *Union Pac. R.R. v. Trona Valley Fed. Credit Union*, 2002 WY 165, ¶¶ 14-16, 57 P.3d 1203, 1208-09 (Wyo. 2002) (quoting 15 U.S.C. § 1672(c)); *see also Koethe*, 328 N.W.2d 293, 297 (Iowa 1982); *Marshall*, 444 F.Supp. 1110, 1116 (E.D. Mich. 1978); *Donovan v. Hamilton County Municipal Court*, 580 F.Supp. 554, 556 (S.D. Ohio 1984).

Moreover, according to the *Union Pacific Railroad* court, the statutes limit a garnishment to 25% of a person's disposable earnings with an exception for support obligations, which may take up to 65% of the disposable earnings. *Id.* And, if a garnishor or garnishee treated a support withholding as an amount "required by law to be withheld" prior to calculating the 25% of a person's "disposable earnings," the resulting amount withheld would be contrary to the clear and unambiguous language of the Federal (which mirrors Nevada) and Wyoming (also mirrors Nevada) statutes. *Id.* Such an approach would mean that up to 65% of the earnings could be withheld for support and subtracted to determine "disposable earnings." *Id.* Then, 25% of those "disposable earnings," on top of the 65% already withheld, could be garnished by creditors. *Id.* (citing *Koethe*, 328 N.W.2d at 298; *Long Island Trust*, 647 F.2d at 339–40). And, this is not the proper application because creditor garnishments may be imposed only to the extent support garnishments that take priority do not exceed the general 25% limit for garnishments. *Id.*

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The *Union Pacific Railroad* court was also "sympathetic to the concerns" the creditor in the case expressed "that the statute, as construed, can limit or even prevent a judgment creditor from recovering their money by allowing debtors to evade payment when their support orders exceed the general statutory maximum of 25%." *Id.* However, the court indicated that the purpose of the "statutes was to deter predatory credit practices while ***preserving debtors' employment and insuring a continuing means of support for themselves and their dependents***." *Id.* (emphasis added) (citing 15 U.S.C.A. § 1671 (1998); *Kahn v. Trustees of Columbia University*, 109 A.D.2d 395, 492 N.Y.S.2d 33, 37 (N.Y.A.D. 1 Dept.1985)). And, "in any event, these statutes merely prohibit the garnishment of a debtor's wages and do not inhibit a judgment creditor from pursuing other means to collect on a judgment." *Id.* (citing Wyo. Stat. Ann. § 1–15–201 through –212). Thus, creditor garnishments are appropriate only to the extent support withholdings that take priority do not exceed the general 25% limit and, further, ***"support garnishments are not to be treated as an exemption to be deducted from gross earnings in calculating disposable earnings."*** *Id.*

Com. Edison v. Denson

In *Com. Edison v. Denson*, like the other cases discussed above, the court refuted the argument that support obligations should be treated independently, or not considered, when determining withholdings for creditor wage garnishments. Specifically, the court stated:

> The contention that payroll deductions required under a support order should not be included when computing the percentage reduction of a debtor's disposable earnings is not a legally supportable interpretation and application of these [federal and Illinois garnishment restrictions] statutes. *Com. Edison v. Denson*, 144 Ill. App. 3d 383, 384-89, 494 N.E.2d 1186, 1188-90 (1986).

The *Com. Edison v. Denson* court discussed Federal law and the Supremacy Clause (Article VI, U.S. Constitution) indicating that the garnishment restrictions in the Consumer Credit Protection Act pre-empt state law to the extent state law permits recovery in excess of 25% of an individual's disposable earnings. *Id.* The court then reiterated the 25% general limitation for creditor wage garnishments and 60% limitation exception when a support order is applicable. *Id.*; *see also* 15 U.S.C. § 1673.

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Despite these garnishment restrictions, plaintiffs in the *Com. Edison* case argued that support obligations should be considered entirely independent of judgment creditor garnishments, and that the court should construe the Consumer Credit Protection Act as reserving employees' earnings for judgment creditors after the satisfaction of family support orders. *Id.* However, as discussed above, the court rejected this argument stating:

> We find no basis for this argument either in the language of the statutes or in their legislative history. Our conclusion is reinforced by the manner in which 15 U.S.C. Sec. 1673 has been construed by the Secretary of Labor, who is charged with enforcing the provisions of that Act (15 U.S.C., Sec. 1676). *Id.*

The court further elaborated indicating ***"in no event may the amount of any individual's disposable earnings which may be garnished exceed the percentages specified in section 1673."*** *Id.* (emphasis added). The *Com. Edison* court cited an example:

> To illustrate: If 25% or more of an individual's disposable earnings were withheld pursuant to a garnishment for support, and the support garnishment has priority in accordance with State law, the Consumer Credit Protection Act does not permit the withholding of any additional amounts pursuant to an ordinary garnishment which is subject to the restrictions of section (1673(a))." 29 C.F.R., Sec. 870.11. Furthermore, we think this conclusion is consistent with the decisions of Federal courts that have considered the issue. *See Long Island Trust Co. v. United States Postal Service*, (2nd Cir.1981), 647 F.2d 336; *Donovan v. Hamilton County Municipal Court*, (S.D.Ohio, 1984), 580 F.Supp. 554; *Marshall v. District Court for Forty-First B Judicial District*, (E.D.Mich.1978), 444 F.Supp. 1110; *Hodgson v. Hamilton Municipal Court*, (S.D.Ohio 1972), 349 F.Supp. 1125, 1140; *Hodgson v. Cleveland Municipal Court*, (N.D.Ohio 1971), 326 F.Supp. 419).

In conclusion, the *Com. Edison* court, like other courts, acknowledged that it was "mindful of the plaintiff's argument that the statutes as thus construed may help debtors to evade payment of their debts if they collusively procure orders of support that exceed the statutory maximums." *Id.* The court further indicated, however, that "this point was considered and indeed vigorously debated in Congress prior to the passage of the Act." *Id.* (citing H.R. Rep. No. 1040, 90th Cong. 2nd Sess. (1968); U.S. Code & Admin. News 1968, p. 1962; Remarks of Representative Jones, 114 Cong. Rec. 1834-35 (1968); Remarks of Representative Sullivan, 114 Cong. Rec. 14388 (1968) quoted in *Long Island Trust Co.*, 647 F.2d at 442, fn. 8.[3] And, the

[3] "By far, the biggest controversy in the whole bill—even larger than the controversy over revolving credit—involved the subject of garnishment. In H.R. 11601 as originally introduced, we proposed the complete abolishment

Com. Edison court ***was not willing to tamper "with the way in which Congress has chosen to balance the interests of the debtor, his family, and his creditors"*** pointing out that the result did not leave plaintiffs powerless to collect on their judgments, but merely precluded garnishment of wages in excess of the statutory maximums. *Id.* (emphasis added).

Voss Products, Inc. v. Carlton

The *Voss Products* court faced a similar situation as the court above and reached the same result in *Voss Products, Inc. v. Carlton*, 147 F. Supp. 2d 892, 896-98 (E.D. Tenn. 2001). In this case, the court stated:

> If support, withheld pursuant to a court order, were included in the definition of 'amounts required by law to be withheld,' the result would be contrary to the purposes of the Act. Up to 65 percent of the employee's after-tax earnings could be withheld for support, 15 U.S.C. § 1673(b), and since this amount would be subtracted to determine 'disposable earnings,' an additional 25 percent of these disposable earnings would be garnished by general creditors. This hypothetical result is clearly an incorrect reading of the Act. It would be inconsistent with Congress's overall purpose of restricting garnishment to cumulate the sections of 15 U.S.C. § 1673 to allow garnishment of up to 90 percent of an employee's after-tax income. *Voss Products, Inc. v. Carlton*, 147 F. Supp. 2d 892, 896-98 (E.D. Tenn. 2001) (citing *Long Island Trust Co.*, 647 F.2d at 341.

As a result, the *Voss Products* court also found that § 1673 places a 25% percent ceiling on the amount of disposable earnings subject to garnishment, "with the exception that the ceiling may be raised as high as 65 percent if the garnishment is to enforce family support orders." *Id.* Further, the court stated that it found "no merit in plaintiff's argument that 25 percent of an employee's disposable earnings are reserved for creditors and that up to 65 percent more may be garnished to enforce a support order." *Id.* Further the court stated that certainly "the structure of the section—with subsection (a) entitled 'Maximum allowable garnishment' and subsection (b) setting forth 'Exceptions' for support garnishments—does not suggest such an interpretation." *Id.* Moreover, "in view of Congress's overall purpose of restricting garnishments in order to decrease the number of personal bankruptcies, ***it would be unjustifiable to infer that the general ceiling and its exceptions were intended to be cumulated to allow garnishments of disposable income to the total extent of 90 percent."*** *Id.* (emphasis added). As other courts did, the *Voss*

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of this modern-day form of debtors' prison. But we were willing to listen to the weight of the testimony that restriction of this practice would solve many of the worst abuses, while abolishment might go too far in protecting the career deadbeat."

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Products court stated the Secretary of Labor's comments, who is charged with enforcing the provisions of the Act, supported this conclusion. *Id.* The court concluded that the subject support order fully absorbed the maximum of disposable earnings subject to garnishment and nothing could be withheld pursuant to the plaintiff's garnishment application. *Id.*

In re Borochov

In *In re Borochov*, the court also addressed an issue similar to the one in this case. The court stated:

> The question presented is the maximum amount that can be taken from a debtor's paycheck to pay a family support obligation and a judgment on another type of claim. This court entered a nondischargeable judgment against the debtor and later issued a writ of garnishment to the debtor's employer. The debtor is also subject to an order assigning a portion of his wages to pay spousal or child support (a "support order"). The judgment creditor contends that the employer paid too little on the garnishment. The employer now contends that it paid too much. 2008 WL 2559433, at *1 (Bankr. D. Haw. June 23, 2008).

In addressing this scenario, which is exactly similar to the present case, the court discussed the Consumer Credit Protection Act stating:

> Section 1673 is easy to apply when the debtor is subject to a support order or an ordinary garnishment. The statute is less clear, however, in a case where the debtor is subject both to a support order and an ordinary garnishment. *Id.* at *2-3.

According to the Court, there are two ways to reconcile the maximum percentage withholdings identified in sections 1673(a) and (b). *Id.* The first way is to treat them as two separate limitations (25% for ordinary creditors and 65% for support) that may be added together. *Id.* However, this could leave the debtor with as little as ten percent of the earnings to support the debtor and, if applicable, a new spouse and family. *Id.* The second way treats the ordinary creditor and support percentages (25% and 65%) as overlapping; "if the amount payable to the support creditor under section 1673(b) exceeds the percentage payable under section 1673(a), ***the ordinary creditor gets nothing.***" *Id.* (emphasis added). Further, according to the court, "***the case law uniformly follows the second approach***." *Id.* (citations omitted). The court stated that this view is consistent with comments from the U.S. Department of Labor, 29 C.F.R. § 870.11(b)(2), and with the policy of protecting consumers from excessive garnishments. *Id.* In conclusion, the court ordered that any amounts paid under the support order to first be applied to

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the 25% limit imposed by section 1673(a) and if the support payments exhaust the applicable limit under section 1673(a), the ordinary creditor is not entitled to any payments on account of the garnishment. *Id.* In conclusion, the court recognized that the holding did not prohibit state law from further limiting the creditor's rights. *Id.*

Donovan v. Hamilton Cty. Mun. Court

In *Donovan v. Hamilton Cty. Mun. Court*, 580 F. Supp. 554, 557-58 (S.D. Ohio 1984), the court concluded that "the language of § 1673(a) is self-executing, and that therefore ***the court order authorizing the withholding of an amount in excess of twenty-five percent of the debtor's disposable income is a violation of this section."*** *Id.* The court indicated that if state law, statutory or otherwise, permitted garnishment of a greater amount of an employee's disposable earnings than permitted under § 303(a) of Title III of the Consumer Credit Protection Act (15 U.S.C. § 1673(a)), then it violated federal standards. *Id.* (citing *Hodgson v. Hamilton Municipal Court*, 349 F.Supp. 1125, 1140 (S.D.Ohio 1972). The court indicated this conclusion was consistent with decisions of other courts. *Id.* (citing *Long Island Trust Co. v. United States Postal Service*, 647 F.2d 336 (2d Cir.1981); *Marshall v. District Court for Forty-First-B Judicial District*, 444 F.Supp. 1110 (E.D.Mich.1978); *Hodgson v. Hamilton Municipal Court*, 349 F.Supp. 1125, 1140 (S.D.Ohio 1972); *Hodgson v. Cleveland Municipal Court*, 326 F.Supp. 419 (N.D. Ohio 1971). The court further indicated that in reaching this decision it was affording the Department of Labor the deference it is entitled to as the interpreting agency of the Act. *Id.* (citing *Griggs v. Duke Power Co.*, 401 U.S. 424, 434, 91 S.Ct. 849, 855 (1971); *Udall v. Tallman*, 380 U.S. 1, 16, 85 S.Ct. 792, 801 (1965)). Based on the above, the court concluded that because the Municipal Court's approach resulted in the garnishment of an amount in excess of 25 percent of the disposable earnings, it violated federal standards. *Id.*

The court then considered whether it needed to go so far as to permanently enjoin the Municipal Court and its clerk from doing anything that had the practical effect of subjecting an amount of greater than 25 percent of the employee's disposable earnings to garnishment in any given pay period. *Id.* Citing and referencing the judge's commentary in *Hodgson*, 349 F.Supp. at 1137, the court indicated that §§ 1673(c) and 1676 may be ***fairly read to constitute express***

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authorization from Congress to issue an injunction against a State court and "that the Consumer Credit Protection Act 'can be given its intended scope only by the stay of state court proceedings if that is necessary.'" *Id.* (citing *Hodgson* at 1137). The *Donovan* court then stated that it had no assurances that the parties were willing to comply with Federal law on garnishment restrictions and, as a result, concluded that injunctive relief was necessary. *Id.* Accordingly, the *Donovan* ***court enjoined the lower court***, its clerk, and its employees from issuing garnishments:

> that, alone or in conjunction with pre-existing garnishments, subject to garnishment ***an amount in excess of twenty-five percent of the debtor's disposable earnings in any given pay period, notwithstanding the fact that the debtor may not have claimed the exemption provided for in § 1673(a).*** *Id.* (emphasis added).

Lough v. Robinson

The *Lough* court confirmed once again that "garnishment" is defined as "any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt." *Lough v. Robinson*, 111 Ohio App. 3d 149, 153, 675 N.E.2d 1272, 1274 (1996) (citing 15 U.S.C. § 1672(c)). A support order, as mentioned in U.S. Code, Section 1673(b), Title 15 is a debt and therefore falls within the meaning of garnishment in Section 15 U.S.C. 1672(c). *Id.* (citing *Marshall v. Dist. Court for the Forty—First Judicial Dist.*, 444 F.Supp. 1110, 1116 (E.D. Mich. 1978); *Marco v. Wilhelm*, 13 Ohio App.3d 171, 173, (1983); *Long Island Trust Co.*, 647 F.2d at 341). To hold otherwise would frustrate the intention of Congress in drafting the Consumer Credit Protection Act. *Id.* (citing *Long Island Trust Co., supra*). Moreover, if "support orders" were not included within the meaning of "garnishment," up to ninety percent of appellant's income — sixty-five percent for a support order and twenty-five percent for a garnishment — could be withheld. *Id.* This would likely lead appellant or one in his position to the bankruptcy courthouse door, which would further frustrate the intention of Congress to reduce bankruptcies caused by garnishment orders. *Id.*

Beyond the above, one of the main issues in *Lough v. Robinson* was whether disposable earnings should have been withheld after the support withholding. 111 Ohio App. 3d 149, 155-56, 675 N.E.2d 1272, 1276-77 (1996). The *Lough* court held:

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> twenty-five percent of appellant's disposable earnings minus the amount of the support order yields a negative number. Therefore, ***the entire amount that was withheld by the employer for the creditor garnishment was excess and should have been returned to appellant.*** *Id.*

The court further indicated that a garnishment for support will serve to bar a creditor garnishment if the garnishment for support is for 25 percent or more of the disposable earnings. *Id.* If the garnishment for support is for less than 25 percent, then the creditor has the right to garnish what is left of the 25 percent of the disposable earnings after calculating the support withholding. *Id.* (citations omitted). The court further elaborated that if support orders were not considered garnishments for calculation purposes, the result would be garnishments of up to 25 percent along with support orders of up to sixty-five percent, which would equate to 90% of a person's disposable earnings and violative of the Consumer Credit Protection Act. *Id.*

The *Lough* court held the employee was subject to a support order that amounted to 38% of his disposable earnings and, consequently, no creditor garnishments were allowable because the support withholding exceeded 25 percent of the employee's disposable earnings. *Id.* As a result, ***any prior amounts withheld exceeding 25 percent were to be returned to the employee.*** *Id.* The court further observed that limitations on creditor garnishments do not leave a creditor powerless to collect. *Id.* Rather, "the Consumer Credit Protection Act and analogous state laws only restrict the garnishment of wages and do not purport to immunize the debtor's other assets." *Id.* (citations omitted). The trial court's decision was reversed. *Id.*

Summary Regarding Application of Garnishment Restrictions

The above cases are applicable to this case because they detail and discuss the correct application of the Federal garnishment restrictions, which Nevada state law, not only mirrors, but may not broaden. In other words, ***under the Supremacy Clause and 15 U.S.C. § 1673(c), Mona can end up no worse under Nevada law than he does under the Consumer Protection Act.*** And, under Federal law, when a support obligation and creditor garnishment are in play at the same time, no withholding of wages is allowed for the creditor garnishment if the support obligation takes priority and exceeds 25% of the debtor's disposable earnings. Nevada state law

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may limit these percentages more, but may not broaden or enforce any process in violation of these percentages.

Below Mona discusses how Nevada law mirrors Federal law and how the law further impacts the present case.

E. NEVADA GARNISHMENT RESTRICTIONS MIRROR THE CONSUMER CREDIT PROTECTION ACT AND, LIKEWISE, DISALLOW FAR WEST'S GARNISHMENT EFFORTS ON MONA'S WAGES.

Based on the Supremacy Clause and 15 U.S.C. § 1673(c), it would make sense for Nevada to establish garnishment restrictions that at least mirror the Federal restrictions, which is exactly what the Nevada Legislature has done. Nevada's limitations are found in NRS 31.295. Pursuant to NRS 31.295(2), the:

> maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed: (a) Twenty-five percent of the person's disposable earnings for the relevant workweek . . . NRS 31.295(2).

Thus, exactly like 15 U.S.C. § 1673, Nevada limits withholdings from creditor garnishments to 25% of disposable earnings. *Compare* NRS 31.295(2) and 15 U.S.C. § 1673(a). Like 15 U.S.C. § 1673, NRS 31.295 also contains support obligation exceptions to the 25% limitation. Pursuant to subsections 3 and 4 of NRS 31.295, the 25% restriction does not apply in the case of any "order of any court for the support of any person." NRS 31.295(3)(a). In such a situation, the maximum amount of disposable earnings subject to withholding to enforce any order for the support of any person may not exceed 60%, which mirrors the Federal limitation in 15 U.S.C. § 1673(b)(2)(B). *Compare* NRS 31.295(4)(b) and 15 U.S.C. § 1673(b)(2)(B). As a result, the Nevada and Federal limitations mirror one another. Thus, the results when determining garnishment limitations under Nevada law should mirror Federal law limitations.

F. IF FAR WEST RECEIVES THE WITHHOLDING IT IS SEEKING, THE RESULT WILL VIOLATE FEDERAL AND NEVADA LAW.

To show the violation of Nevada and Federal law that will result if Far West receives the withholding it is seeking, Mona has provided the illustrations below. Specifically, Mona is subject to a support order withholding of $10,000 per month ($4,615.39 bi-weekly) and his bi-

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weekly earnings are $12,692.31. Thus, as the Court knows from the law detailed above, to handle this scenario:

- First, Mona's disposable earnings must be determined ($7,523.78).
- Second, there must be a calculation of the support withholding in relation to the disposable earnings (currently 61% calculated as follows:$4,615.39 [support withholding] / $7,523.78 [disposable earnings] = .613).
- Third, the resulting percentage in step two above must be compared to the limitations set forth in NRS 31.295 and 15 U.S.C. § 1673(b)(2)(B).
- Fourth, if on comparison, the resulting percentage in step two (61%) exceeds 25%, then Far West is not entitled to any withholding and its wage garnishment is invalid under Nevada and Federal law.

To further emphasize this conclusion, Mona has included an illustration below to summarize and depict the correct and appropriate withholdings and calculations.

1. Proposed Withholdings Calculations <u>Violating</u> Federal and Nevada Law

Biweekly salary	$12,692.31	
Deductions	-$4,443.53	(income tax, social security, and Medicare)
Fed. Minimum wage	-725.00	
Disposable earnings	$7,523.78	
25% of disp. earnings	-$1,880.95	($7,523.78 [disposable earnings] X .25 [25% earnings restriction] = $1,880.95) (demanded amt. to Far West)
Spousal support	-$4,615.39	$10,000 per month as the Divorce Decree orders and calculated to a bi-weekly amount of $4,615.39)
Remaining amounts	$1,027.44	This equates to 86% of Mona's disposable earnings to Mona being withheld ($6,496.34 [total withholdings of $1,880.95 to Far West and $4,615.39 to Rhonda] / $7,523.78 [disposable earnings] = .863). The statutory maximum is 60%.

The calculations above represent the result if the Court denies the Claim of Exemption. This result violates Federal and Nevada law because it represents 86% (25% to Far West and 61% to Rhonda) of Mona's disposable earnings when the maximum withholding is limited to 60% under NRS 31.295(4)(b) and 15 U.S.C. § 1673(b)(2)(B).

2. Withholdings/Calculations Necessary to Comply With Federal and Nevada Law

The following illustration represents the proper withholdings necessary to comply with Nevada and Federal law in this case.

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Biweekly salary	$12,692.31	
Deductions	-$4,443.53 (income tax, social security, and Medicare)	
Fed. Minimum wage	-725.00	
Disposable earnings	$7,523.78	
Spousal support	$4,615.39	This equates to 61% of Mona's disposable earnings ($4,615.39 [spousal support] / $7,523.78 [disposable earnings] = .613 or 61% of disposable earnings)
Amt. to Far West	$0	(because Mona's withholdings already exceed 25%)
Remaining amounts	$2,908.39	(This equates to Mona receiving 39% of his disposable earnings)

These calculations represent the proper result when complying with the garnishment restrictions that Federal and Nevada law set forth. Rhonda is entitled to her withholding under the support order. Far West is not entitled to anything because Rhonda's withholding exceeds 25%. Mona is entitled to the remaining $2,908.39.

G. THE SUPPORT ORDER MUST HAVE PRIORITY OR ANY RESULT WILL VIOLATE FEDERAL AND NEVADA LAW.

As discussed in detail above, if Far West's proposal (its wage garnishment has priority over the support order) is allowed to proceed, the result will violate Federal and Nevada law because 86% of Mona's disposable earnings will be withheld when the maximum withholding when a support order is in play is 60%. NRS 31.295(4)(b) and 15 U.S.C. § 1673(b)(2)(B). And, "***No court . . . may make, execute, or enforce any order or process in violation of this section*** [15 U.S.C. § 1673]." 15 U.S.C. § 1673(c). Thus, the Court here should affirm Mona's Claim of Exemption.

IV. LEGAL ARGUMENT-MOTION TO DISCHARGE.

Although the Claim of Exemption is sufficient, Mona also addresses NRS 31.045 and NRS 31.200 below. Specifically, pursuant to NRS 31.045(2), Mona is entitled to file a motion requesting the discharge of the writ. And, part of the basis of the claim of exemption, in addition to the arguments above, is that the writ is improper and should have never been issued; the wages proposed to be withheld are exempt because they are in excess of statutory maximums; and, the wages proposed to be withheld are excessive under Federal and Nevada. *See* NRS 31.200. The

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substance of these arguments is detailed above and throughout the exhibits attached hereto and is incorporated herein by reference. Nevertheless, out of an abundance of caution, Mona reiterates and summarizes the points below.

1. Far West Improperly and Improvidently had the Writ Issued.

Far West knows that its garnishment expired after 120 days. This is why it issued another garnishment. Far West also knows that Mona has an ongoing support obligation to Rhonda Mona that replaced Far West's garnishment in first position once the garnishment expired on October 29, 2016. As a result, Far West improperly sought and obtained the current garnishment because with the support obligation taking first position, the garnishment has no impact without violating Nevada and Federal law. Indeed, Mona established and argued repeatedly above that because the support order took priority and equated to more than 25% of Mona's disposable earnings, which is the maximum amount that could be subject to a wage garnishment under Federal and Nevada law, that Far West was not entitled to anything. *See* NRS 31.295(2) and 15 U.S.C. § 1673(a). Thus, Mona's brief has addresses the impropriety of Far West's garnishment and he again incorporates herein by reference said arguments.

2. The Wages Far West is Proposing to Garnish are Exempt from Execution Because they Exceed Allowed Statutory Maximums.

Federal and Nevada law set forth garnishment restrictions and exemptions of which Mona will not receive the benefit if Far West gets what it demands. Mona addressed repeatedly throughout this brief that his wages are exempt from execution because the support order now has priority and exceeds 25% of his disposable earnings. After all, a significant portion of this brief has been dedicated to establishing that Far West's proposal will result in 86% of Mona's disposable earnings being withheld when 25% is the maximum for wage garnishments. In summary, Nevada's limitations are found in NRS 31.295. Pursuant to NRS 31.295(2), the:

> maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed: (a) Twenty-five percent of the person's disposable earnings for the relevant workweek . . . NRS 31.295(2).

Thus, exactly like 15 U.S.C. § 1673, Nevada limits withholdings from creditor garnishments to 25% of disposable earnings. *Compare* NRS 31.295(2) and 15 U.S.C. § 1673(a). Like 15 U.S.C.

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§ 1673, NRS 31.295 also contains support obligation exceptions to the 25% limitation. Pursuant to subsections 3 and 4 of NRS 31.295, the 25% restriction does not apply in the case of any "order of any court for the support of any person." NRS 31.295(3)(a). In such a situation, the maximum amount of disposable earnings subject to withholding to enforce any order for the support of any person may not exceed 60%, which mirrors the Federal limitation in 15 U.S.C. § 1673(b)(2)(B). *Compare* NRS 31.295(4)(b) and 15 U.S.C. § 1673(b)(2)(B). Therefore, the Nevada and Federal limitations mirror one another and so should the results when determining garnishment limitations under Nevada and Federal law. As a result, the withholdings Far West demands are exempt.

3. The Levy Resulting from Far West's Proposal is Excessive.

One of Mona's primary arguments herein is that the garnishment will result in excessive withholdings. To illustrate this point, Mona identified and explained the garnishment restrictions and analyzed them in relation to the circumstances of this case. The result, based on Far West's proposal, was an 86% withholding of Mona's disposable earnings. This is excessive and Mona incorporates herein the related arguments throughout the brief.

V. CONCLUSION.

Based on the foregoing, the Court should grant the Claim of Exemption.

Dated this 30th day of March, 2017.

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DISTRICT COURT

CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, and individual; MICHAEL J. MONA, JR., an individual; DOES I through 100, inclusive,

Defendants.

Case No.: A-12-670352-F
Dept. No.: XV

APPENDIX OF EXHIBITS ATTACHED TO MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF CLAIM OF EXEMPTION AND MOTION TO DISCHARGE GARNISHMENT

Exhibit No.	Description	Bates Number
A	Nevada Assembly Bill 247, Chapter 338, Page 699 (1989)	2-49
B	Decree of Divorce dated July 23, 2015	51-56
C	Rhonda's Opposition to Motion to Intervene dated September 28, 2015	58-69
D	Mona's September 29, 2015 Joinder to Rhonda's Opposition	71-73
E	November 25, 2015 Order Denying Intervention and awarding fees and costs	75-76
F	Writ of Garnishment expiring April 29, 2016	78
G	Writ of Garnishment served July 1, 2016	80-86
H	July 5, 2016 correspondence from Constable with Notice and Writ of Execution	88-96

MAC:04725-003 3046055_1

Exhibit No.	Description	Bates Number
I	Writ of Execution and Writ of Garnishment served October 31, 2016	98-107
J	Claim of Exemption forms from Clark County and the Self-Help Center	109-115
K	NRS 21.075	117-118
L	NRS 20.076	120
M	NRS 21.090	122-123
N	NRS 21.112	125
O	NRS 31.200	127
P	NRS 31.249	129
Q	NRS 31.260	131
R	NRS 31.270	133
S	NRS 31.295	135
T	NRS 31.296	137
U	EDCR 2.20	139
V	Check to Mike Mona, Writ of Execution, and Writ of Garnishment	140-156
W	Check to CV Sciences, Writ of Execution, and Writ of Garnishment	157-173
X	Affidavit of Service regarding March 15, 2017 service of Writ of Execution, and Writ of Garnishment from Laughlin Township Constable's Office	174-175

Dated this 30th day of March, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPENDIX OF EXHIBITS ATTACHED TO MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF CLAIM OF EXEMPTION AND MOTION TO DISCHARGE GARNISHMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 30th day of March, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:[1]

Holley Driggs Walch Fine Wray Puzey & Thompson

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Office of the Ex-Officio Constable
302 E. Carson Avenue, 5th Floor
Las Vegas, NV 89155

CV Sciences
2688 South Rainbow Blvd., Suite B
Las Vegas, Nevada 89146

/s/ Rosie Wesp
an employee of Marquis Aurbach Coffing

[1] Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit A

N E L I S

DETAIL LISTING
FROM FIRST TO LAST STEP

TODAY'S DATE:Mar. 21, 19 5
TIME : 1:17 pm
LEG. DAY:89 Regular
PAGE : 1 OF 1

1989

AB 247 By Judiciary GARNISHMENT

Provides for continuing garnishment under certain circumstances. (BDR 3-388)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

02/22 27 Read first time. Referred to Committee on Judiciary. To printer.

02/23 28 From printer. To committee.
02/23 28 Dates discussed in committee: 2/28, 3/28, 4/11 (A&DP) 6/7
04/11 59 From committee: Amend, and do pass as amended.
04/11 59 (Amendment number 181.)
✓04/12 60 Read second time. Amended. To printer.
04/13 61 From printer. To engrossment.
04/13 61 Engrossed. First reprint.✓
✓04/14 62 Read third time. Passed, as amended. Title approved, as amended. (27 Yeas, 14 Nays, 1 Absent, 0 Excused,

0 Not Voting.) To Senate.

04/17 63 In Senate.
04/17 63 Read first time. Referred to Committee on Judiciary. To committee.

04/17 63 Dates discussed in Committee: 4/27, ~~5/26~~, 5/24, 5/31, 6/2 (A&DP)

06/02 97 From committee: Amend, and do pass as amended.
06/02 97 (Amendment number 1094.)
✓06/03 98 Read second time. Amended. To printer.
06/05 99 From printer. To re-engrossment.
06/05 99 Re-engrossed. Second reprint.✓
✓06/05 99 Placed on General File.
✓06/05 99 Read third time. Passed, as amended. Title approved. (20 Yeas, 1 Nays, 0 Absent, 0 Excused, 0 Not Voting.) To Assembly.

06/06 100 In Assembly.
06/07 101 Senate amendment concurred in. To enrollment.
06/09 103 Enrolled and delivered to Governor.
06/15 108 Approved by the Governor.
06/16 109 Chapter 338.
Effective October 1, 1989.
6/2-After passage discussion, Senate Judiciary.
6/7-After passage discussion, Assembly Judiciary Committee.

(* = instrument from prior session)

1. Later investigation and testimony could come from any number of sources. It would then become confusing to determine who contributed the information on which the citation was issued, and whom to subpoena in either a criminal or case later arising. As the law presently operated, the citation had to be issued by personal knowledge of the officer; and

2. NRS 44.801 presently had no limiting language as to when the citation might be issued.

Also opposing the bill, as written, was Halina Jones, representing the Nevada Division of the California State Automobile Association. She agreed with comments made by Mr. Kilburn, as well as the objection made by Mr. Carpenter and Mr. Gaston. Ms. Jones opined that from the motorists standpoint, the proposed bill could encourage delays in auto accident investigations; and these delays would work to the detriment of the motorist.

No further testimony was offered on A.B. 242 and the hearing was opened on A.B. 247.

ASSEMBLY BILL NO. 247 - Allows for continuing garnishment until amount demanded in writ is satisfied.

As prime sponsor of A.B. 247, Assemblyman Matthew Callister was asked to clarify for the committee the intent of the bill and difference between "attachment" and "garnishment." Mr. Callister stated the present system was cumbersome for all parties, particularly for wage garnishments that would have to be repeated; and streamlining the process would ameliorate the cost, for both judgment debtor and judgment creditor.

Julien Sourwine and James O'Reilly, representing the State Bar of Nevada, agreed with Mr. Callister's testimony. Mr. O'Reilly said, "It [present statute] makes the effective use of a Nevada judgment very limited in terms of collecting money from those who truly owe money and have been adjudicated responsible to the plaintiff. The idea is very simple. Those who have had their day in court should pay what has been determined by our courts, and the bureaucratic process should not be an impediment to collecting the money."

Mr. Gaston felt it was important to understand that A.B. 247 would allow a "win/win" situation. Presently, he added, garnishments were made on a one-at-a-time basis, each instance garnering only a portion of the whole judgment. Keeping in mind each instance could be as much as $75 in costs, the resultant expense to all parties was significant.

There were two schools of thought exposed in discussion. Several committee members expressed concern for the employee's rights, whereas others were concerned about employers' rights. At issue, especially, was section 4 dealing with the employer's obligations and penalties for not carrying out those obligations. While Mr. Sourwine stated the Bar Association took no stand on section 4, several committee members were opposed to any imposition of sanctions to the employer in the exercise of garnishment. This objection was based upon their belief that an employer had the right to discharge an employee and operate his business as he saw proper. Mr. Callister was adamant, however, that section 4 remain intact, saying, "It's critical to have an explicit statement of state policy that it would be absolutely inappropriate for any employer to sanction an employee because he had had financial difficulties that resulted in a judgment against him. I think that's why the language is there and that's why it's been lifted from 31A and parroted again here."

It was suggested by Mr. Regan that a fee be allowed the employer for making the collection. The following discussion resulted in a suggestion by Mr. O'Reilly that the entire bill be redrafted using the terms of "judgement creditor" and "judgment debtor," rather than plaintiff and defendant. Chairman Sader asked Mr. Callister to work with him to rewrite substantive issues dealing with the status of the employer and creating causes of action against the employer, as well as clarifying technical and wording problems with the bill.

Final testimony was taken from Charlotte Shaber, President of National Factors (a collection agency in Carson City), and also representing the Nevada Collectors' Association. There were two areas which Ms. Shaber addressed:

1. Ms. Shaber asserted the Interrogatories contained in section 6 (current statutory language) were unnecessary exercises and should be eliminated from the law.

2. The Federal Fair Debt Collection Practices Act, Ms. Shaber said, provided that an employer could not terminate a debtor for one garnishment. For reasons of garnishment, an employee could be terminated only after the third instance, and this Act did, in fact, apply to all judgments, both state and federal.

In summary, Ms. Shaber said she was just suggesting that those reworking the law should consider existing federal law, as well as all aspects of state law.

ASSEMBLY BILL NO. 249 - Clarifies scope of exemption from elimination of joint and several liability for concerted acts of defendants

Chairman Sader said that problems dealing with concerted acts had arisen which had not been foreseen or agreed to by either side in the debate on tort reform proposals during the previous session. This law arose from a "compromise" in the 1987 session. The clarification of concerted acts of health care providers was within the intent of 1987 legislation. Mr. Sader said he did not consider A.B. 249 a new substantive change -- only a clarification.

Opening testimony in support was heard from Larry Matheis, Executive Director of the Nevada State Medical Association, who read a statement into the record (see Exhibit C).

The next testimony was heard from Dr. John Scott, Chairman of the Nevada Medical Association's Committee on Governmental Affairs. Dr. Scott read a statement into the record (see Exhibit D), and added there was an additional problem with S.B. 511 (from the 1987 Legislative Session) which concerned the early settlement by one or more of the parties involved. If one of the parties settled, that could leave the non-settling party liable for more than his true percentage of attributable negligence. Dr. Scott said he did not believe this was the intent of negotiations in 1987. He suggested this could be rectified in A.B. 249, line 18, by bracketing "not thereafter" and changing "nor" (in the same line) to "and."

Additional supporting testimony was taken from Robert Byrd, President of Nevada Medical Liability Insurance Co., who said, "On behalf of my company, we are in favor of A.B. 249. ... I intended to say I think the intent was clear, but

MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-fifth Session
March 28, 1989

The Assembly Committee on Judiciary was called to order by Chairman Robert M. Sader at 8:05 am on Tuesday, March 28, 1989, in Room 240 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, Exhibit B is the Attendance Roster.

MEMBERS PRESENT:

Robert M. Sader, Chairman
John C. Carpenter
Vonne Chowning
Renee L. Diamond
Robert E. Gaston
James Gibbons
Bill Kissam
Gene Porter
Mike McGinness
John Regan
Gaylyn J. Spriggs
Vincent L. Triggs
Wendell P. Williams
Jane A. Wisdom

MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Jennifer Stern, Legislative Counsel Bureau

OTHERS PRESENT:

Marc J. Fowler-Washoe County Sheriff
Dan Ernst-Sparks Constable
Jim Spencer-Department of Administration
Judy Matteucci-Department of Administration
Rochelle Summers-Department of Administration
Marianne Aragon-Washoe County Sheriff's office
Charlotte Shaber-National Business Factors
George McNally-Nevada Trial Lawyers
Bill Bradley-Nevada Trial Lawyers
Fred Hillerby-NV Manufacturers Association
John Sande III-NV Bankers Association
John Pappageorge-Clark County

Following roll call, the chairman opened the hearing on AB 247.

ASSEMBLY BILL 247- Allows for continuing garnishment until amount demanded in writ is satisfied. (BDR 3-388)

Assemblyman Matt Callister, Clark County-District 1, led the testimony as the bill's prime sponsor.

"When you, the plaintiff, sue someone," he began, "and after due process obtain a judgment, the tricky part becomes how to collect upon that judgment."

He testified the simplest method of collection was to garnish the paycheck of an employee at the employer level. He stated as an attorney it was unfortunate to have to go through that process and then bill his client, the plaintiff, for the expenditure, but it often was the only way at this time to be able to offer the judgment creditor recovery on the judgment.

Using the example of an employee of Caesar's Palace having a judgment, he continued it was necessary to prepare two legal documents in order to collect. The first document was a writ of garnishment, and the second, written instructions to the sheriff or constable. The documents, along with the appropriate fees are filed with the county, who in turn sends the sheriff or constable to serve the writ upon the employer, Caesar's Palace.

Caesar's Palace must either respond in writing that the individual is no longer employed with them, or attach the employee's paycheck up to 25 percent of net proceeds, send the garnished wages back to the sheriff, who in turn delivers it to Mr. Callister's firm for the plaintiff.

"It is an unduly circuitous and burdensome procedure, and I think it is very expensive," Mr. Callister iterated, "But it is very important to note there are two particular costs involved-one at the county level, and the other for serving the writ of garnishment..."

He proposed the writ remain in effect until the judgment was satisfied in full in lieu of repeating the procedure every pay cycle. Admitting it would mean a reduction in income to sheriffs and constables, Mr. Callister noted the time reduction involved for their staffs.

He said the federal government already had continuing garnishments, and in some instances the state provided for them, such as failure to pay child support. He opined the proposal simplified a lengthy process and allowed for streamlining.

The Chairman told the committee he had received word from the Welfare Division of new federal requirements which would mandate changes in the present wage withholding law on child support. He asked Mr. Callister if the necessary language could be included in this bill, to which Assemblyman Callister replied he had no objection.

Marc J. Fowler and Marianne Aragon, representing the Washoe County Sheriff's Office-Civil Division, testified in opposition to the bill. (Exhibit C). Mr. Fowler explained Washoe County would lose $14,000 per year in repeat garnishment revenue if AB 247 was passed. Stating approximately 80 percent of garnishments were repeats, he clarified it was the sheriff, not the attorney, who prepared the writs of garnishment in Washoe County and then served them, adding the average fee for this service was $15.

An on-going garnishment, he continued, would tie one debtor to one creditor indefinitely. Other creditors would have to wait as long as six years, on the first debt served by garnishement. Collection on multiple judgments would be delayed indefinitely.

Mr. Sader asked Mr. Fowler if a subsequent creditor would have any voice in prioritizing garnishment debts, adding Mr. Callister's suggestion was to leave the issue of prioritizing up to the court's discretion since a formula could prove to be inflexible.

Mr. Fowler answered his procedure now was "first in time," that is, first come, first served. He added his office would also lose the commissions they were allowed to charge for executions, which would amount to approximately $6,000 per year if the bill was passed, and the public would have to pay for the collection of private debts.

Mr. Carpenter asked the witness if he now served garnishments every two weeks. Mr. Fowler answered he did not, adding the procedure was generally repeated on a monthly basis.

"If you garnish 25 percent of someone's paycheck every two weeks, we could be forcing some of these people into bankruptcy," opined Mr. Fowler.

Another issue troubling Mr. Fowler was the mountain of paper work under current law which still had to be completed if the bill passed. He added if the sheriff's office would still complete it, there would be no income intake.

Mr. Kissam spoke in support of the bill.

Mr. Gibbons asked Mr. Fowler if his office was not required to repeatedly serve garnishments, would his work load substantially drop.

Mr. Fowler answered repeat garnishments were only a small percentage of his office's duties, and were filtered in with services provided to other governmental agencies.

Dan Ernst, Constable of Sparks Township, spoke in opposition to the bill. He referred to a letter from the Constable of North Las Vegas. (See Exhibit D). He testified Washoe County could lose as much as $35,000 in fees alone. Citing the mountains of paperwork necessary to process paychecks under a continuing garnishment, he complained he would receive no revenue if the bill passed.

Chairman Sader asked the witness if his office took a commission on the writs when served. Mr. Ernst replied his office was allowed to take 2 percent, but did not.

"Would you prefer," began Mr. Sader, "if we pass this bill, not to have the bookkeeping at all, or to have it and take the commission?"

It was Mr. Ernst's belief taking commissions was unfair to the defendant, and he preferred not to do so.

Mr. Fowler preferred to keep the books and take the commission. Both Mr. Fowler and Mr. Ernst wanted the paperwork, but neither wanted it without renumeration.

Mr. Ernst pointed out several counties in California had discovered continuing garnishment did not work, and had discontinued the practice.

Mr. Sader agreed there could be significant problems with the practice, including debtors claiming not to have received their money. "What if we raised the fees," the chairman asked the witnesses. "Would you prefer a flat fee or a percentage fee?"

Mr. Ernst replied he would prefer a flat fee, stating the amount of paper work and responsibility to the court was the same no matter what amount was being garnished. He said all types of notices took the same amount of time to handle and suggested a $10 fee.

John Sande, on behalf of the Nevada Banker's Association, testified in support of any legislation which would streamline the process of garnishment.

Fred Hillerby, representing the Nevada Manufacturing Association, also supported the bill and its concepts. He

commented, however, that garnishing up to 25 percent was a major problem with a large population of minimum-wage workers. He suggested a sliding scale fee schedule.

John Pappageorge, representing Clark County, testified the fiscal impact for Clark County was an estimated $100,000 if the bill was passed.

Chalotte Shaber, National Business Factors, voiced concern over continuing garnishment being a hardship on those garnished. She suggested 90 days was a reasonable length of time for the writ to be in effect. She also suggested the potential problem of the creditor denying receiving payment could be avoided with an affidavit going directly to the court instead of the sheriff, thereby simplifying the process.

The hearing was closed on AB 247 and opened on AB 320.

ASSEMBLY BILL 320- Provides for indemnification of certain independent contractors with state who provide medical services. (BDR 3-4)

No one testified in support of AB 320.

Mary Finnell, State Risk Manager, spoke against the bill, stating it would have a fiscal impact and should be referred to Ways and Means. She testified the bill originated from the reluctance of insurance companies to work with doctors who contracted medical services to the prisons in the 1987 legislative session. She informed the committee the Department of Prisons had been amended out of the statute, and voiced concern that the Division of Mental Health and Retardation consisted of an entirely different area of liability and must be studied.

Bill Bradley from the Nevada Trial Lawyers voiced opposition to granting immunity to any providers not already enumerated in the statute. He opined the bill was directed at those people who needed protection the most, those in mental hospitals. He stated abuse was a known problem in such places, and the way to solve the problem was not to grant more individuals freedom from liability, which would foster the problem, saying "...immunity breeds contempt..."

The hearing was closed on AB 330 and opened on AB 411.

ASSEMBLY BILL 411- Clarifies state's right of subrogation under program for compensation of victims of crime. (BDR 16-569)

WASHOE COUNTY SHERIFF'S OFFICE

Serving Since 1861

VINCENT G. SWINNEY
Sheriff

911 PARR BOULEVARD
RENO, NEVADA 89512 - 1000
TELEPHONE: (Area 702) 328-3000

March 27, 1989

Assemblyman Robert Sader
Chairman, Assembly Judiciary Committee
Capitol Complex
Assembly Chambers
Carson City, Nevada 89701

Dear Sir:

This letter is to state our objections to Assembly Bill 247, An Act relating to garnishment.

Under this bill the bookkeeping extends indefinitely for the Sheriff/Constable, with no fee due to the sheriff or constable for the bookkeeping, deposits made, returns to the court or disbursement of funds.

Our collected fees under AB 247 would then have to be absorbed by the tax payer and public employees for collection of private debts, hence the Fiscal Note showing no effect on local government is in error.

This bill would also allow for a single plaintiff to tie up a defendant for his debt alone, preventing any other plaintiff from obtaining a garnishment under execution until satisfaction of the existing claim. This would benefit collection services primarily, and could prevent the ordinary citizen from remedy.

Approximately 80% of the garnishments currently served by this office are repeats of prior services. These generate approximately $14,000.00 per year in revenue for Washoe County or 15% of all revenue generated by service of civil process. The fee for each service is, with mileage, approximately $15.00 which pays for delivery of the process, bookkeeping and related functions.

I offer to you the testimony of my staff on this matter and will have them available to you and your committee on March 28, 1989.

Sincerely,

Vincent G. Swinney

Vincent G. Swinney, Sheriff of Washoe County

EXHIBIT C

1182

16

11

LOUIS A. TABAT
CONSTABLE

CONSTABLE'S OFFICE
NORTH LAS VEGAS TOWNSHIP
[illegible] North Bruce Street
North Las Vegas, Nevada [illegible]

TELEPHONE
[illegible]

CHAPTER 31 NRS

AB 247

SECTION 2

We understand that this bill was introduced by the private process service agencies. As it stands the server must now have his office fill out a Writ of Execution and a Writ of Garnishment and then bring it to the court and pay a filing fee. When they finish with the court they have the writs served by the Constable's office. It is the Constable's duty to serve the garnishment because it is a court order. What the process servers are doing is cutting the cost for themselves by not paying extra filing fees. They would make one copy which is served to the employer and stays in effect until judgment is paid in full or judgment expires after six years unless renewed. That is how the law would read if this law is passed. Lets say that a garnishment is served by Sears, Roebuck & Co. and down the road another company or and individual has a garnishment to serve on the same party he has no chance of collecting any part of it because the law states that only one collection can be made on anyone person per pay period, this is not right as it is now whoever serves the garnishment first would be the recipient, except for the IRS and Child Support Division they take priority. I think that AB 247 is a one sided bill and should be put to rest.

If the process server was allowed to serve the wage garnishment you would not have this bill before you. This is a court order and a Constable or Sheriff must serve it. If this section was to pass where there is a one time service of the Writ of Garnishment, that type of service would put the burden on the employer i.e. Casino's, Construction companies, School District, Motels, Hotels, etc. It is making the employer a collection agent and if the writs were to be served every pay period it would be a constant reminder to the employer. This bill is also penalizing the County of revenues. Justice court would lose anywhere from $50,0000 to $60.000.00 dollars and District Court averages $60,000.00 to $70,000.00 dollars per year. The total combined is a lost to the County of approximately $120,000.00 to $130,000.00 in filing fees per year, which is required plus the Deputy Constable and his Deputies are not salaried, this is there livelihood and therefore is not a cost factor to the taxpayers. This bill would also penalize the employer, should he miss a payment and have to go to Court and perhaps pay a heavy fine because he failed to be a good collection agent. The employer is now burdened with many other collections for his employees such as witholding taxes and child support garnishments.

EXHIBIT D
17

MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Sixty-fifth Session
April 11, 1989

The Assembly Committee on Judiciary was called to order by the Chairman, Robert Sader at 8:05 a.m. on Tuesday, April 11, 1989, in Room 240 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda, There was no Attendance Roster.

MEMBERS PRESENT:

Robert Sader, Chairman
John C. Carpenter
Vonne Chowning-Excused
Renee L. Diamond
Robert E. Gaston
James Gibbons
Bill Kissam
Mike McGinness
Gene Porter, Vice Chairman
John Regan
Gaylyn J. Spriggs
Vincent L. Triggs
Wendell P. Williams
Jane A. Wisdom

MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Jennifer Stern, Legislative Counsel Bureau

OTHERS PRESENT:

Assemblyman Courtenay Swain, District 28
Assemblyman Matt Callister, District 1

Assembly Bill 452- Authorizes financial institution to establish authenticity of its records by affidavit of custodian of records. (BDR 4-537)

There were minor technical amendments only.

ASSEMBLYMAN DIAMOND MOVED TO AMEND AND DO PASS.

SECONDED BY ASSEMBLYMAN REGAN.

MOTION CARRIED UNANIMOUSLY.

The workshop opened on AB 247.

Assembly Bill 247- Allows for continuing garnishment until amount demanded in writ is satisfied. (BDR 3-388)

The bill's prime sponsor, Assemblyman Matt Callister, Clark County District 1, explained amendment number 181 to AB 247. (Exhibit E). He testified a cap of 180 days was added in which the continuing garnishment could be in effect. If at the end of that time the writ was not satisfied, the procedure would need to be repeated.

Chairman Sader asked the witness how to stop the process.

Mr. Callister stated there was an official procedure in place to be served on the employer to stop garnishment. He continued the court determined the priority of claims, but child support must come first.

Mrs. Diamond raised the concern who would keep track of the paper trail.

Mr. Callister replied the Sheriff or Constable would have the same paper trail, but only every 180 days.

Mr. Regan asked about the fiscal note to the counties.

Mr. Sader answered there would be little income loss to those counties with sheriffs, but there would be a loss in old townships which had unsalaried constables.

ASSEMBLYMAN PORTER MOVED AMEND AND DO PASS OF AB 247.

SECONDED BY ASSEMBLYMAN WISDOM.

There was discussion between Mrs. Spriggs and Mr. Callister regarding income loss to counties.

Mr. Gaston pointed out constables may lose income, but if the bill did not pass, it would continue to be those garnished who were in fact paying their salaries.

MOTION PASSED. ASSEMBLYMEN CHOWNING, SPRIGGS AND SADER VOTED NO.

The Chairman distributed amendment number 372 to AB 3.

Assembly Bill 3- Authorizes court to require parent in arrears in payment of support for children to make security deposit to secure future payments. (BDR 11-558)

Mr. Sader reminded the committee that concepts were taken from other bills and put into AB 3. In addition, there were various technical changes.

Mr. Porter questioned the ability of the Welfare Division or District Attorney's office to petition for a review, and added, ..."If the parents don't have a gripe, then why should the state be allowed...to bring these people back into court for review."

Mr. Sader concurred with Mr. Porter, saying the amendment was not worded closely enough, but he could think of two areas in which the state would have legitimate interest. The first would be if the state were involved in the enforcement of the order, and the second, if the state had expended sums on behalf of the child.

Mr. Triggs suggested the bill be amended to be consistent with statutes for handicapped children.

ASSEMBLYMAN WISDOM MOVED AMEND TO INCLUDE MR. PORTER'S AND MR. TRIGGS'CONCERNS AND DO PASS

SECONDED BY ASSEMBLYMAN GIBBONS.

Mrs. Spriggs went on record in opposition to the bill, saying she suggested going after the non-custodial parents who were in default already.

Mr. Regan pointed out the committee had previously intended to add a provision allowing the custodial parent to place a lien in order to prevent using bankruptcy as a shield. This was was not included in the amendment.

The chairman responded the protections were adequate without additional language.

Roll call on Assembly Bill No. 195:
YEAS—41.
NAYS—None.
Absent—Sheerin.

Assembly Bill No. 195 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 209.
Bill read third time.
Remarks by Assemblyman Callister.
Roll call on Assembly Bill No. 209:
YEAS—41.
NAYS—None.
Absent—Sheerin.

Assembly Bill No. 209 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 247.
Bill read third time.
Remarks by Assemblymen Callister, Evans, Swain, Adler, Brookman, Sader and McGaughey.
Assemblyman Nevin moved that Assembly Bill No. 247 be taken from the General File and placed on the Chief Clerk's desk.
Remarks by Assemblyman Nevin.
Motion lost on a division of the house.
Remarks by Assemblyman Myrna Williams.
Roll call on Assembly Bill No. 247:
YEAS—27.
NAYS—Banner, Bogaert, Brookman, Chowning, Humke, Kerns, McGaughey, Nevin, Price, Regan, Sader, Schofield, Swain, Mr. Speaker—14.
Absent—Sheerin.

Assembly Bill No. 247 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 297.
Bill read third time.
Remarks by Assemblyman Sader.
Roll call on Assembly Bill No. 297:
YEAS—41.
NAYS—None.
Absent—Sheerin.

Assembly Bill No. 297 having received a constitutional majority, Mr. Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 343.

MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Sixty-fifth Session

April 27, 1989

The Senate Committee on Judiciary was called to order by Chairman Sue Wagner, at 8:00 a.m., on Thursday, April 27, 1989, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Sue Wagner, Chairman
Senator R. Hal Smith, Vice Chairman
Senator Joe Neal
Senator Nicholas J. Horn
Senator Mike Malone
Senator Charles W. Joerg
Senator Dina Titus

STAFF MEMBERS PRESENT:

Jennifer Stern, Legal Counsel
Marilyn Hofmann, Committee Secretary

ASSEMBLY BILL 247 - Provides for continuing garnishment under certain circumstances.

Testimony of Julien G. (Jay) Sourwine, State Bar of Nevada.

Mr. Sourwine stated the bar supported the concept of the bill, which provides for a garnishment to be effective for 180 days. He said he understood there was opposition to the measure, at least with respect to the portion which provides payment collected under the writ would go directly to the garnishor or the garnishor's attorney. He added the State Bar of Nevada takes no position on that aspect of the bill. Mr. Sourwine continued: "It is the view of the State Bar [of Nevada] that both the judgment creditors and the judgment debtors would be better served if the writ did not have to be served every time you wanted to try to collect." He explained a garnishment is used to collect wages, after a judgment has been rendered, and collection is limited to 25 percent of net disposable earnings. Mr. Sourwine added: "The service of a writ of garnishment on an every time basis requires that you carefully time the service of the writ in order to have it served on an employer on or immediately before payday. Every time you

serve [the writ] there are additional charges which are tacked onto the debt, so the debtor ends up paying a substantial amount more than the original [amount] of the debt, for the administrative costs in connection with the writ."

Mr. Sourwine indicated the bill, as passed by the Assembly, allows the writ of garnishment to continue for 180 days after it is served. He stated: "We think that is a reasonable period of time. If that doesn't result in complete satisfaction of the debt, then the writ would have to be re-served. The State Bar [of Nevada] believes the present process is far too cumbersome and far too expensive, particularly for the debtors. We support the measure, without taking a position on where the money ought to go...we have no problem with the money going to the sheriff or constable...so that the accounting can be kept by an independent third party."

Testimony of Assemblyman Matthew Callister.

Mr. Callister, the sponsor of A.B. 247, explained the bill was "simply an attempt to reduce the manpower and dollar costs of what I think is a rather archaic system of collecting on judgments. I think we would do well to adopt the federal system, which is the continuing garnishment system...the system which is employed by most progressive jurisdictions that have sought to reduce this costly system of service and re-service...by creating a much simpler vehicle for the collection of indebtedness. We have had success in Nevada with a continuing garnishment system, which is at present the vehicle available if you are collecting upon the Uniform Child Support Act...we know that it works."

Mr. Callister indicated the committee would hear testimony from several constables, "...who view this as a change in procedure that will have a net reduction in their income...because constables make money off of serving and re-serving these writs of garnishment. I don't have an easy answer for you, except to suggest that I think it is better policy to reduce the burden financially on a debtor who could not pay his bills to begin with, and as such, has now been adjudicated a judgment debtor. It is important to realize that this cost is always uniformly passed along to the judgment debtor."

Mr. Callister noted in 80 percent or more of the instances where a person's wages are garnished, "...you now have his attention, and if the debt is not satisfied, he will consult with counsel for the plaintiff...he will structure a voluntary payment schedule. That is a better, cheaper, more cost-

effective procedure." Mr. Callister referred to the section of the bill relating to accounting practices, and stated: "I can tell you that in Clark County, there is no accounting procedure going on...there is no one in the sheriff's civil bureau who is watching the reducing, declining balance. There is no one totaling that up to verify, as the garnishments come through the sheriff's office...if the amount being garnished or sought is greater or less than the total remaining balance due. That doesn't happen. The people who watch that are the plaintiff's counsel and the defendant's counsel. All that the garnishment passing through the sheriff's office accomplishes, is a guarantee that there is a paper trail. I would suggest that same paper trail will still exist...."

Mr. Callister said since the court system is incapable of monitoring payments against a judgment, "...it is a bit of a red herring to say having the payments going directly to the plaintiff is somehow unsafe...in 80 percent of the cases, that is what already is happening." Senator Malone pointed out a major portion of the income of the various constables comes from the handling of garnishments. He said he believed in Clark County the sum of $200,000 per year generated by the sheriff's office was placed in the county general fund.

Mr. Callister elaborated on the procedure involved in collecting garnishment funds: "Under the present system...if the sheriff must make a second trip, pick up [the papers] take them back to the sheriff's office...the sheriff's office files the returned writ, separates the check and mails it back to the attorney's office. It is important to note, that the procedure does not entail anyone totaling up the checks...." Mr. Callister responded to Senator Malone's statement regarding the $200,000 generated by the sheriff's office, which would be reduced by virtue of passage of A.B. 247, and said: "My answer would be there is going to be an equivalent reduction in obligation for work to be performed...the police department would have better use for those officers...."

Testimony of John Sande, Nevada Bankers Association.

Mr. Sande indicated the association would support "...anything which would expedite the garnishment process, and provide less cost to the defendant."

Testimony of Charlotte W. Shaber, National Business Factors, Inc. Collection Service.

Ms. Shaber stated she felt the concept of the legislation was a good one, but there were some concerns. She said Mr. Callister's statement regarding accounting procedures was

true. She said there was nothing precluding the ability of the garnishee to send the answer to the writ directly to the court, indicating the sums collected were forwarded to the plaintiff, without going through the sheriff. Ms. Shaber said the other area of concern was the 180-day provision set forth in the bill. She stated other states had ruled 90 days was much more equitable. Ms. Shaber added: "If you have not caught their attention in 90 days, they are going to be one of the people that will have to be garnished every time. We are also concerned with bankruptcies. If we keep [the debtors] so tight for so long, they are going to seek other alternatives...."

Ms. Shaber referred to the requirement for interrogatories as a part of the garnishment process, and stated: "These interrogatories are an extra piece of paper that is needed for nothing. It just costs the employer more time and annoyance." She reiterated her opposition to §10 of the bill. Senator Neal asked Ms. Shaber what would happen in a situation where an employer is holding a garnishment, and the defendant makes an arrangement to pay the debt directly to the plaintiff. Ms. Shaber replied a "Release of Garnishment" is filed and served upon the employer.

Senator Wagner asked Mr. Callister how he felt about a 180-day time frame as opposed to a 90-day period of time. Mr. Callister said the bill as originally drafted, had no cap at all. He reiterated earlier testimony that in 80 percent to 90 percent of the time, a debtor, after having wages attached once or twice, will take care of the debt. He added: "It is less expensive for the creditor up front, and the debtor ultimately, to have that kind of arrangement." He said it was important to remember that the law would not expand or reduce a person's exemption. Mr. Callister indicated they wished to create a maximum period of time for those few number of cases in which a continuing garnishment procedure is necessary. He concluded: "If you were to make [the provision] 90 days, then we are not making quite as much of a change as we could."

Mr. Callister referred to §8 of the bill, regarding the discharge of an employee because of a garnishment action. He said the language had been "lifted" from language which was already in the uniform child support-collection statutes. He continued: "At the request of some assemblymen, and over my preferences, it was substantially reduced. I find myself in the odd position of not now representing the best interests of who someone might suspect I was...instead I am trying to say, let's not take some poor guy's job away just because he has not been able to pay his bills. There was a much stiffer sanction initially...I had suggested there ought to be a civil

penalty for an employer who terminates someone exclusively because he had the bad luck to not be able to pay some bills, and now has a judgment rendered against him. At the request of some of my colleagues, I downgraded that to the language [now in the bill], which is a generic expression of legislative intent. I think we need to have something in the law. You cannot fire somebody just because he was not able to pay his bills."

Mr. Callister then referenced §9.5 of A.B. 247, regarding priority of claims. He said the problem is not a new one, but "...one that exists under the present system. For example, in the area of commercial litigation...when a business fails to pay one bill, it probably has not paid a lot of bills, and there will probably be multiple lawsuits against that defendant...it is kind of a race to see who can get his judgment first, and attempt to collect on that judgment first. Not infrequently, you will find writs...will be served on the same day. A judge has to make a determination of who gets the first crack...under the present law, there is no statute that deals with that." He added he believed the judge should be the arbiter in a multiple-creditor scenario. Mr. Callister said the language of §9.5, states: "...if the named garnishee is the subject of more than one writ of garnishment...the court shall determine the priority...unless the garnishment is for child support...it shall be given first priority."

Mr. Sourwine referred to earlier testimony by Ms. Shaber, that the interrogatory provision in the bill should be removed, and said, "I submit that is not appropriate. The writ of garnishment is used in other situations besides the employment context...you can serve a writ...upon anyone that you think either is holding property that belongs to the judgment debtor, or owes something...you may not be sure. These interrogatories are the way you find out, because the person served is obliged to answer and state whether they are indebted...to the judgment debtor. We don't think it is a useless piece of paper." Senator Malone asked if the interrogatories could be condensed. Mr. Sourwine indicated some of the questions might be combined, but pointed out that the proposed amendment added a question to the interrogatories. Mr. Callister stated he joined with Mr. Sourwine in his opinion. He said he was certain it was a burden to an employer to have to respond to the interrogatories, but the alternative might be a multi-page set of interrogatories written by an attorney, or possibly a subpoena to appear in a courtroom. He concluded: "I think this remedy is the least expensive and most effective remedy we have...."

Testimony of Fidel Salcedo, Justice of the Peace, Reno Township.

The Judge stated he was not "for or against" the bill, but wished to set forth the following concerns: "§6.2, regarding a $3 fee per pay period that the garnishee is entitled to...how do they collect it or whom do they collect it from? There is the potential for a hearing...the concerns I have are the potential hearings, additional to the court; §7.2...again there are additional hearings created for the judiciary...because we have situations where employers do not respond, and the plaintiffs bring actions back to the court; §9...it is great to 'let the judge make the decision,' but we have a lot of decisions to make, and this creates another scenario where there are additional hearings before the court; §11.4...there is a potential for many, many hearings to come out of this one, because we are talking about sending money directly to plaintiffs. I think I can state with conservatism that plaintiffs...in come cases, are not the most reliable people either...." Judge Salcedo reiterated all of his concerns dealt with the additional hearings which he believed would be created by passage of A.B. 247.

Testimony of Rod Barbash, President, Nevada Collectors' Association.

Mr. Barbash indicated his organization was an association comprised of bill collectors in the state. He said they were in agreement with the concept of the bill, but were against the way it was written. He said in his office alone, they send out over 300 executions each month. Mr. Barbash disagreed with Mr. Callister's testimony, and said when a paycheck is attached, "...very few...come back and make an arrangement to pay." He continued: "If we garnish someone's paycheck, and it is on there for 180 days, I would be a fool to release the paycheck if they did come back and want to make arrangements. If I did release it, my competitor or someone else with a judgment might come in...I would have to go back to the end of the line." He indicated the association believed a 90-day continuing garnishment would be a better solution.

Mr. Barbash testified his company pays over $5,000 each month to the sheriff's department and to the constables for delivering papers, and added: "When the bill says it has no effect on local government, I don't agree with that. There is definitely a monetary effect....." He said in Washoe County and other parts of northern Nevada, "...the constable or sheriff serves the papers...the employers return the money to their offices...they file an affidavit with the court that

shows how much was paid, so the court at all times knows what is going on." He concluded he believed it would "create a complete chaotic state in the court, if they didn't know what was going on."

Testimony of Ernest Nielsen, Washoe Legal Services.

Mr. Nielsen stated Washoe Legal Services was a nonprofit law firm which represents low income individuals. He supplied the committee with a prepared statement, which is attached hereto as Exhibit C. He stated: "My testimony suggests a potential remedy for what I see as a major dilemma...that is to amend A.B. 247 by adding some changes to the current garnishment wage exemption laws. The changes I am proposing affect the garnishment exemption in two ways: (1) it eliminates the regressive nature of the exemption; and (2) it raises the floor (30 times the minimum wage)." He continued to discuss his proposal set forth in Exhibit C. He indicated he was providing it to the committee, "...because I think it is a workable way of addressing one of the negative side effects of continuing garnishment...."

Testimony of Constable Louis A. Tabat, North Las Vegas Township.

Constable Tabat provided the committee with a letter, set forth herein as Exhibit D. He said he disagreed with Mr. Callister's testimony that the constable's office "...did not keep an accurate accounting of the monies coming in...we have to, by law. There is no way you can keep an accurate account, when the checks are being forwarded to the plaintiff." He reiterated the first and foremost problem with A.B. 247, would be the revenues lost to the counties. He pointed out the constables are not salaried employees, but rather receive commissions from their services.

Senator Wagner asked Mr. Tabat if testimony such as his had been offered to the Assembly Committee on Judiciary. He indicated he had forwarded copies of his letter to the committees, and other constables had testified.

Testimony of Constable John J. Hart, Reno Township.

Constable Hart handed the committee a short statement, attached hereto as Exhibit E. He added: "We beat this bill 2 years ago in the committee, and we thought we were through with it." He said he had contacted all the constables in Washoe County, and they were all against A.B. 247. Constable Hart said he did not believe the bill was fair to the low income workers, because "...it will hit every paycheck they

get." He also said the constables are responsible for transferring the funds collected to the plaintiff, "...and I can't see any bett'r way."

Testimony of Constable Daniel R. Ernst, Sparks Township.

Constable Ernst presented to the committee a letter, dated April 21, 1989, which is attached as Exhibit F. He then showed the committee a copy of the interrogatories referred to in earlier testimony (Exhibit G), and said he believed they were "very simple." He reiterated the constable's office is in "total control...and knows what is going on." He added they know the entire procedure for doing garnishment actions. The constable also mentioned testimony regarding a state law dealing with the firing of an employee because his wages have been garnished. Constable Ernst said there was no state law, but rather a federal law governing this issue. He concluded by asking the committee to please read the letter he had provided to them (Exhibit F).

Testimony of Lieutenant (Lt.) Randy Oakes, Clark County Sheriff's Office.

He said the Clark County Sheriff's Office, Civil Bureau, estimates a fiscal impact, if A.B. 247 is passed, in excess of $100,000. Lt. Oakes stated he believed their other concerns had been addressed in earlier testimony. In response to a question from Senator Malone, Lt. Oakes said there were deputy sheriffs assigned to the civil bureau, who were hired specifically to handle the service of garnishment actions. Senator Malone pointed out "...they were not taking anybody off the street to do this process," and Lt. Oakes agreed.

Testimony of Sergeant (Sgt.) Marc J. Fowler, Washoe County Sheriff's Office, Civil Section.

Sgt. Fowler indicated most of the department's concerns had been brought up "...by everyone who has spoken in opposition." He also referred to the matter of interrogatories, and said he believed they were a necessity, but could be written more simply. Sgt. Fowler said they have a lot of questions arise from employers who do not understand the legal terminology. He also stated his office accounts for the money they receive. Sgt. Fowler also indicated they felt their concern was being a "mediator" between the parties involved, so there would be an accurate accounting.

Mr. Callister asked to respond briefly to some of the points set forth by opponents. He stated: "Other than the opposition from Clark and Washoe County, which I did not have

on the other side, I pretty much anticipated most of the comments...I think it is important to not be fooled...to understand how the system operates. A number of questions have been raised about accountability. I would ask anyone here to show me a copy of a declining balance ledger card that is maintained." One of the constables present indicated he would provide that to Mr. Callister. Mr. Callister reiterated he was not aware that was routinely done. He continued to say language needs to be adopted to deal with the "priority problem," and stated: "I think you have heard adequate testimony here today that there is no statutory law dealing with the priority problem...I think that shows the need. The 'first come, first served' rule strikes me as rather unjust. I think there needs to be some statutory language to address that." Mr. Callister indicated the 180-day period set forth in the bill might be reduced to 90 days. He said there might be some sense in "...reducing the gaps of time that would exist in the paper trail...but I think if you go much below 100 days, you run into a problem of making the statute, as proposed, meaningless."

Mr. Callister concluded: "Finally, I think we have to address what is the obvious confrontation here today. There has been some intimation that this is special interest legislation, because attorneys have to pay this cost. I would suggest to you exactly the reverse. This is a cost...that statutorily is passed on to he who can least afford it...the judgment debtor, who could not pay his bills...." He stated: "As policy makers, we need to look to who the real special interest is...those who reap a financial benefit on the backs of the poor." With respect to earlier testimony of Mr. Nielsen regarding the exemption issue, Mr. Callister responded: "This bill does not deal with exemptions. It doesn't try to reduce the amount of anyone's exemption. This legislation focuses on the procedure for garnishment...it doesn't change the amount of the garnishment. My suggestion is, if there is a problem, in Washoe County or elsewhere, that ought to be dealt with in a separate bill that addresses the exemptions per se. I don't want to get what I perceive to be a fairly clean bill targeted to accomplish one goal, confused with a separate side issue...."

There was no further testimony, and the hearing was closed on A.B. 247.

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TESTIMONY
BEFORE SENATE JUDICIARY COMMITTEE
CONCERNING AB 247 - CONTINUING GARNISHMENT
APRIL 27, 1989

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Generally I support AB 247. The continuing garnishment avoids the $5 garnishment fee (in Justice Court only) plus cost of service ($10-$15) associated with <u>each</u> garnishment which simply gets passed on to the debtor.

However, it was not until this bill passed out of the Assembly that I was educated about a serious side effect of a continuing garnishment.

Currently because of the non continuous nature of garnishment (at least in Washoe County) a weekly wage earner may be subject to a garnishment only once in every three weeks. My office staff has looked into why this is. It does not appear to be the required result. However, at least the Reno Justice Court refuses to process a subsequent garnishment until the preceding one is complete. Regardless of whether that is an appropriate process, the unfortunate result in Washoe County will be that the weekly wage earner will now have their check garnished every week. Even though continuous garnishment does not erode legal protections, it does change the status quo such that up to three times the amount formerly garnished will now be garnished.

We propose an amendment to AB 247 (e.g. N.R.S. 31.295 and N.R.S. 21.090). We prefer the proposal described in I.

I

This first approach makes the new exemption floor 150% of the minimum wage times 30 (150.75). Only 25% of the dollars above that 150% floor could be taken.

N.R.S. 31.295 - Maximum amount of earnings subject to garnishment.

1. As used in this section, the term "disposable earnings" means that part of the earnings of any person remaining after the deduction from those earnings of any amounts required by law to be withheld.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed [(a)] 25% of his disposable earnings <u>in excess of 150% of 30 times</u>

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EXHIBIT "C"

the federal minimum hourly wage prescribed by Section 6(a)(1) of the Federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable for the relevant pay period. [; or (b) the amount by which his disposable earnings for each week of that period exceed 150% of 30 times the federal minimum hourly wage prescribed by Section 6(a)(1) of the federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable, whichever is less.]

N.R.S. 21.090, Property Exempt from Execution,

"g" One hundred and fifty percent (150%) of 30 times the minimum hourly wage prescribed by Section 6(a)(1) of the federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable plus 75% of the disposable earnings of a judgment debtor during this period which exceed 150% of 30 times minimum hourly wage described above. [For any pay period, 75% of the disposable earnings of a judgment debtor during this period, or for each week of the period 150% of 30 times the minimum hourly wage prescribed by Section 6(a)(1) of the Federal Fair Labor Standards Act of 1938 and in effect at the time the earnings are payable whichever is greater.] The exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph, "disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law, to be withheld...

II

This second approach makes the exemption floor simply the minimum wage times 30 (100.50). Only 25% of the dollars above that floor could be taken.

N.R.S. 31.295 - Maximum amount of earnings subject to garnishment.

1. As used in this section, the term "disposable earnings" means that part of the earnings of any person remaining after the deduction from those earnings of any amounts required by law to be withheld.

2. The maximum amount of the aggregate disposable earnings of a person which are subject to garnishment may not exceed [(a)] 25% of his disposable earnings in excess of 30 times the federal minimum hourly wage prescribed by Section 6(a)(1) of the Federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable for the relevant pay period. [; or (b) the amount by which his disposable earnings for each week of that period exceed 30 times the

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federal minimum hourly wage prescribed by Section 6(a)(1) of the federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable, whichever is less.]

N.R.S. 21.090, Property Exempt from Execution,

"g" Thirty (30) times the minimum hourly wage prescribed by Section 6(a)(1) of the federal Fair Labor Standards Act of 1938 in effect at the time the earnings are payable plus 75% of the disposable earnings of a judgment debtor during this period which exceed the 30 times minimum hourly wage described above. [For any pay period, 75% of the disposable earnings of a judgment debtor during this period, or for each week of the period 30 times the minimum hourly wage prescribed by Section 6(a)(1) of the Federal Fair Labor Standards Act of 1938 and in effect at the time the earnings are payable whichever is greater.] The exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph, "disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law, to be withheld...

III

Justifications for the Proposals in I and II

A. Justification for II:

1. Regressive nature of current exemption e.g. marginal dollars over $100.50 per week up to $134 are fully garnished and then it levels off at 25% of each dollar greater than $134.

2. Continuous garnishment has the effect of garnishing weekly wage earner weekly rather than once every three weeks or so according to information gathered in Washoe County.

B. Additional Justification for Proposal I:

3. The federal floor has not changed for years. The cost of living, however, has increased (at least 130%). Therefore, it is appropriate to increase the floor to make normal costs of living affordable.

4. Nevada's costs including housing costs, are very high relative to persons at or near poverty level. For example, the gross wage of a family with a single full time wage earner at minimum wage is slightly less than $7,000.00. The gross wage of a family with a single

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