

NOA

NADIN J. CUTTER, ESQ.
Nevada Bar No.: 11548
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Attorney for Defendants

Electronically Filed
Nov 03 2017 11:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

MAX JOLY, an individual;

Plaintiff,

v.

JEAN FRANCOIS RIGOLLET, an individual;
LE MACARON LLC., a Nevada Limited
Liability Company; BYDOO LLC., a Nevada
Limited Liability Company; DOES 1-10; and
ROE CORPORATIONS 1-10,

Defendants.

Case No.: A-16-734832-C
Dept. No.: XXV

NOTICE OF APPEAL

COMES NOW Defendants JEAN FRANCOIS RIGOLLET, LE MACARON, LLC and
BYDOO, LLC by and through their attorneys of record, Nadin J. Cutter, Esq. of CUTTER LAW
FIRM, CHTD., hereby submits the following Notice of Appeal.

Notice is hereby given that Defendants hereby appeal to the Supreme Court of Nevada
the Notice of Entry of Order filed in this action on the 20th of September, 2017. Defendants
reserve the right to amend this notice. Notice is hereby given that Defendants designate as the
record on appeal, each and every document, paper, pleading, note, and transcript on file herein

1 with the Clerk of the Court, with request that the Clerk of the Eighth District Court transmit to
2 the Clerk of the Nevada Supreme Court pending amended designation and the ordering of any
3 additional transcripts required.
4

5 DATED this 19th day of October, 2017

6 Respectfully submitted by:
7 **CUTTER LAW FIRM, CHTD.**

8 */s/Nadin Cutter*

9
10

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17 *Attorneys for Defendants*
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by:

✓ Electronic Service Pursuant to EDCR 7.26, EDCR 8.05, and EDCR 8.06

Adam R. Fulton, Esq.
Jared Jennings, Esq.
Jennings & Fulton
6465 W. Sahara Ave., Suite 103
Las Vegas NV 89146
Attorneys for Plaintiff

/s/Shawna Nguyen

Employee of CUTTER LAW FIRM, CHTD.

CASE SUMMARY**CASE NO. A-16-734832-C**

Max Joly, Plaintiff(s)
vs.
Jean Rigollet, Defendant(s)

§
§
§
§
§

Location: **Department 25**
Judicial Officer: **Delaney, Kathleen E.**
Filed on: **04/11/2016**
Cross-Reference Case Number: **A734832**






CASE INFORMATIONCase Type: **Other Contract**Case Flags: **Appealed to Supreme Court****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-16-734832-C
Court Department 25
Date Assigned 04/11/2016
Judicial Officer Delaney, Kathleen E.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Joly, Max	Jennings, Jared B. <i>Retained</i> 702-979-3565(W)
Defendant	Bydoo LLC	Cutter, Nadin J <i>Retained</i> 702-800-6525(W)
	LE Macaron LLC	Cutter, Nadin J <i>Retained</i> 702-800-6525(W)
	Rigollet, Jean Francois	Cutter, Nadin J <i>Retained</i> 702-800-6525(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX**

04/11/2016	 Complaint Filed By: Plaintiff Joly, Max <i>COMPLAINT</i>	
04/19/2016	 Proof of Service Filed by: Plaintiff Joly, Max <i>Proof Of Service Of Complaint; Civil Cover Sheet</i>	
04/19/2016	 Proof of Service Filed by: Plaintiff Joly, Max <i>Proof Of Service Of Complaint; Civil Cover Sheet</i>	
05/10/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Rigollet, Jean Francois <i>Initial Appearance Fee Disclosure</i>	
05/10/2016	 Proof of Service Filed by: Plaintiff Joly, Max	

CASE SUMMARY

CASE NO. A-16-734832-C

Proof Of Service Of Complaint; Civil Cover Sheet

05/11/2016



Notice of Association of Counsel

Filed By: Defendant Rigollet, Jean Francois

Notice of Appearance of Counsel

05/12/2016



Three Day Notice of Intent to Default

Filed by: Plaintiff Joly, Max

Three Day Notice Of Intent To Default Against Jean Francois Rigollet, Le Macaron LLC, & Bydoo LLC

05/17/2016



Demand for Security of Costs

Filed By: Defendant Rigollet, Jean Francois

Demands of Jean Francois Rigollet, Le Macaron LLC. and Bydoo LLC. for Security of Costs Pursuant to NRS 18.130

06/03/2016



Notice of Posting Non-Resident Cost Bond

Filed by: Plaintiff Joly, Max

Notice Of Posting Non-Resident Cost Bond

06/10/2016



Motion

Filed By: Plaintiff Joly, Max

Motion to Dismiss Claims Pursuant to NRCP 12(b)(5) and for More Definite Statement Pursuant to NRCP 12(e)

06/30/2016



Three Day Notice of Intent to Default

Filed by: Plaintiff Joly, Max

Three Day Notice Of Intent To Take Default Against Jean Francois Rigollet, Le Macaron LLC & ByDoo LLC

07/06/2016



Opposition

Filed By: Plaintiff Joly, Max

Plaintiff's Opposition To Defendant's Motion To Dismiss

07/13/2016



Stipulation and Order

Filed by: Defendant Rigollet, Jean Francois

Stipulation and Order to Continue the July 12th Hearing

07/15/2016



Notice of Entry of Stipulation and Order

Filed By: Defendant Rigollet, Jean Francois

Notice of Entry of Stipulation and Order to Continue the July 12th Hearing

08/15/2016



Reply to Motion

Filed By: Defendant LE Macaron LLC

Reply to Motion to Dismiss Claims Pursuant to NRCP 12(b)(5) and for More Definite Statement Pursuant to NRCP 12(e)

08/16/2016



Motion to Dismiss (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Defendants' Motion to Dismiss Claims Pursuant to NRCP 12(b)(5) and for More Definite Statement Pursuant to NRCP 12(e)

09/14/2016













Stipulation and Order

Filed by: Defendant Rigollet, Jean Francois












Stipulation and Order to Allow Amendment of Complaint

CASE SUMMARY

CASE NO. A-16-734832-C

09/16/2016	 Notice of Entry of Stipulation and Order Filed By: Defendant Rigollet, Jean Francois <i>Notice of Entry of Stipulation to Order to Allow Amendment of Complaint</i>
10/07/2016	 Amended Complaint Filed By: Plaintiff Joly, Max <i>Amended Complaint</i>
11/14/2016	 Motion Filed By: Defendant Rigollet, Jean Francois <i>Motion to Dismiss Claims in the Amended Complaint Pursuant to NRCP 12(b)(5)</i>
12/02/2016	 Opposition Filed By: Plaintiff Joly, Max <i>Plaintiff's Opposition To Defendant's Motion To Dismiss Claims In The Amended Complaint</i>
12/20/2016	 Motion to Dismiss (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Defendants' Motion to Dismiss Claims in the Amended Complaint Pursuant to NRCP 12(b)(5)</i>
01/13/2017	 Order Denying Motion Filed By: Plaintiff Joly, Max <i>Order Denying Defendant's Motion To Dismiss Claims In The Amended Complaint Pursuant To NRCP 12(B)(5)</i>
01/17/2017	 Notice of Entry of Order Filed By: Plaintiff Joly, Max <i>Notice Of Entry Of Order Denying Defendant's Motion To Dismiss Claims In The Amended Complaint Pursuant To NRCP 12(B)(5)</i>
03/14/2017	 Three Day Notice of Intent to Default Filed by: Plaintiff Joly, Max <i>Three Day Notice Of Intent To Take Default Against Jean Francois Rigollet, Le Macaron LLC, & Bydoo LLC</i>
04/04/2017	 Notice of Lis Pendens Filed by: Plaintiff Joly, Max <i>Notice Of Pendency Of Action And Lis Pendens</i>
04/21/2017	 Default Filed By: Plaintiff Joly, Max <i>Default Against Defendant jean Francois Rigollet; Le Macaron, LLC; Bydoo, LLC</i>
06/01/2017	 Notice of Change of Address Filed By: Plaintiff Joly, Max <i>Notice Of Change Of Address</i>
06/23/2017	 Motion to Set Aside Filed By: Defendant Rigollet, Jean Francois; Defendant LE Macaron LLC; Defendant Bydoo LLC <i>Motion to Set Aside Default</i>
07/06/2017	 Opposition to Motion Filed By: Plaintiff Joly, Max <i>Opposition to Set Aside Default Judgment</i>

CASE SUMMARY**CASE NO. A-16-734832-C**

07/06/2017	 Motion for Default Judgment Filed By: Plaintiff Joly, Max <i>Motion For Default Judgment Against Defendants Jean Francois Rigollet, Le Macaron, LLC, and ByDoo LLC</i>
08/01/2017	 Motion to Set Aside (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Motion to Set Aside Default</i>
09/20/2017	 Order Filed By: Plaintiff Joly, Max <i>Order Denying Defendant's Motion To Set Aside Default</i>
09/20/2017	 Notice of Entry of Order Filed By: Plaintiff Joly, Max <i>Notice Of Entry Of Order Denying Defendant's Motion To Set Aside Default</i>
10/04/2017	 Motion Filed By: Defendant Rigollet, Jean Francois <i>Motion for Reconsideration of the September 20, 2017 NOtice of Entry of Order</i>
10/17/2017	 Opposition to Motion Filed By: Plaintiff Joly, Max <i>Opposition to Motion for Reconsideration of the September 20, 2017 Notice of Entry of Order</i>
10/20/2017	 Notice of Appeal Filed By: Defendant Rigollet, Jean Francois; Defendant LE Macaron LLC; Defendant Bydoo LLC <i>Notice of Appeal</i>
10/20/2017	 Amended Notice Filed By: Defendant Rigollet, Jean Francois; Defendant LE Macaron LLC; Defendant Bydoo LLC <i>Amended Motion for Reconsideration of the September 20th, 2017 Notice of Entry of Order</i>
10/23/2017	 Order Shortening Time Filed By: Defendant LE Macaron LLC <i>Order Shortening Time</i>
10/23/2017	 Motion Filed By: Defendant LE Macaron LLC <i>Motion for Permission to File Reconsideration One Minute Late</i>
10/23/2017	 Order Shortening Time Filed By: Defendant LE Macaron LLC <i>Order Shortening Time</i>
10/31/2017	Motion For Reconsideration (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Motion for Reconsideration of The September 20, 2017 Notice of Entry of Order</i>
10/31/2017	Motion (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Motion for Permission to File Reconsideration One Minute Late</i>
DATE	FINANCIAL INFORMATION

| **Defendant** Bydoo LLC

CASE SUMMARY**CASE NO. A-16-734832-C**

Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 10/24/2017	0.00
Defendant LE Macaron LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 10/24/2017	0.00
Defendant Rigollet, Jean Francois	
Total Charges	247.00
Total Payments and Credits	247.00
Balance Due as of 10/24/2017	0.00
Plaintiff Joly, Max	
Total Charges	270.00
Total Payments and Credits	270.00
Balance Due as of 10/24/2017	0.00
Plaintiff Joly, Max	
Security Cost Bond Balance as of 10/24/2017	1,500.00

DISTRICT COURT CIVIL COVER SHEET A-16-734832-C

CLARK

County, Nevada

Case No.

(Assigned by Clerk's Office)

XXV

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

Plaintiff(s) (name/address/phone): MAX JOLY, an individual	Defendant(s) (name/address/phone): JEAN FRANCOIS RIGOLLET, an individual; LE MACARON LLC, a Nevada Limited Liability Company; BYDOO LLC a Nevada Limited Liability Company; DOES 1-10; and ROE CORPORATIONS 1-20
Attorney (name/address/phone): Jared B. Jennings & Adam R. Fulton 6465 West Sahara Ave., Suite 103 Las Vegas, NV 89146 702-979-3565 / fax 702-362-2060	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

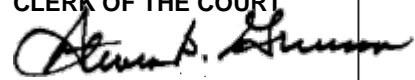
4-11-16

Date

Vikki Bierstedt

Signature of initiating party or representative

See other side for family-related case filings.



ORDR

JARED B. JENNINGS, ESQ.

Nevada Bar No. 7762

ADAM R. FULTON, ESQ.

Nevada Bar No. 11572

JENNINGS & FULTON, LTD.

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Telephone: (702) 979-3565

Facsimile: (702) 362-2060

Email: jjennings@jfnvlaw.com

Email: afulton@jfnvlaw.com

Attorney for Plaintiff Max Joly

DISTRICT COURT
CLARK COUNTY, NEVADA

MAX JOLY, an individual

Plaintiff,

vs.

JEAN FRANCOIS RIGOLLET, an individual;
LE MACARON LLC, a Nevada Limited
Liability Company; BYDOO LLC, a Nevada
Limited Liability Company; DOES 1-10; and
ROE CORPORATIONS 1-10,

Defendants.

Case No.: A-16-734832-C

Dept. No.: XXV

**ORDER DENYING DEFENDANT'S
MOTION TO SET ASIDE DEFAULT**

Please take notice that the Defendant's Motion To Set Aside Default came before the Court on the scheduled hearing date of August 1, 2017, at 9:00am in Department XXV before the honorable Judge Kathleen E. Delaney presiding. The Law Firm of Jennings & Fulton, LTD., particularly Jared B. Jennings Esq., appeared on behalf of the Plaintiff, MAX JOLY; the Cutter Law Firm, CHTD., particularly Nadine J. Cutter, Esq., appeared on behalf of the Defendants, JEAN FRANCOIS RIGOLLET, LE MACARON LLC, and BYDOO LLC (hereinafter "Defendant").

AUG 31 2017

JENNINGS & FULTON, LTD.
2580 Sorrel St.
Las Vegas, NV 89146
702.979.3565

1 Upon the Court's consideration of the pleadings and papers on file herein, the arguments
2 presented at the hearing, and good cause appearing therefore, the Court finds as follows:

3
4 **THE COURT FINDS** that the Defendant had knowledge that Defendant's Motion to
5 Dismiss filed on June 10, 2016, which was stipulated and continued and eventually heard on
6 December 20, 2016, was Denied at the hearing held on December 20, 2016.

7 **THE COURT FURTHER FINDS** that the Defendant had knowledge that the Notice of
8 Entry of Order related to the Order Denying Defendant's Motion to Dismiss was entered and filed
9 on January 17, 2017, in which the Court found that the Plaintiff pled sufficient facts to support the
10 stated claims contained in the First Amended Complaint.

11 **THE COURT FURTHER FINDS** that Defendant's time to file an Answer to Plaintiff's
12 Complaint being 20 days under N.R.C.P. 12(a)(2) for an individual, and N.R.C.P. 4(d)(1) for a
13 corporation, was tolled up to and until January 17, 2017, under N.R.C.P. 12(a)(4)(A), at which
14 time Defendant was required to serve Plaintiff with a Responsive Pleading within 10 days from
15 the date of the Notice of Entry of Order Denying Defendant's Motion to Dismiss.

16 **THE COURT FURTHER FINDS** that the Plaintiff made several efforts after the
17 expiration of 10 days subsequent to the Notice of Entry of Order Denying Defendant's Motion to
18 Dismiss filed and served on January 17, 2017, to communicate to Defendant's Counsel the need
19 to file an Answer, that Defendant was well beyond the 10 days required to file an Answer, and
20 that Plaintiff would move for a Default Judgment if Defendant failed to respond.

21 **THE COURT FURTHER FINDS** that the Plaintiff properly filed and served upon
22 Defendant a Three Day Notice of Intent to Take Default against Defendant on March 14, 2017.

23 **THE COURT FURTHER FINDS** that the Defendant served a letter upon Plaintiff's
24 counsel on April 4, 2017, requesting an extension to file an Answer to Max Joly's First Amended
25 Complaint no later than Friday, April 7, 2017¹.

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28 ¹ Defendant's letter to Plaintiff's Counsel electronically served on Tuesday, April 4, 2017, asked
for an extension until Friday April 4, 2017, which the parties and Court determined at the August
1, 2017 hearing was meant to be Friday April 7, 2017.

1 **THE COURT FURTHER FINDS** that on April 21, 2017, the Plaintiff properly filed and
2 served upon Defendant a Default for Defendant's failure to file any responsive pleading at that
3 time.

4 **THE COURT FURTHER FINDS** that the Defendant's Counsel's claim of being in a car
5 accident subsequent to April 4, 2017, did not provide an any facts to support why Defendant
6 failed to file and serve a responsive pleading during time that had transpired between the Notice
7 of Entry of Order Denying Defendant's Motion to Dismiss, which was properly filed and served
8 on January 17, 2017 and the April 7th, 2017 requested extension deadline, considering that the
9 Defendants had been properly served the Three Day Notice of Intent to Take Default against
10 Defendant on March 14, 2017.

11 **THE COURT FURTHER FINDS** that Defendant was unable to provide facts sufficient
12 to establish Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.
13 to set aside the Entry of Default, filed and served on April 21, 2017, under N.R.C.P. 60(b).

14 **THE COURT FURTHER FINDS** that Defendant was unable to provide facts sufficient
15 to establish *good cause shown* to set aside the entry of Default, filed and served on April 21,
16 2017, under N.R.C.P. 55(c).


17 **TREREFOR, IT IS SO ORDERED**, that the Defendant's Motion to Set Aside the
18 Default is Denied *with prejudice* in its entirety.

19 Dated: The 31st, day of August, 2017

20
21 
22 DISTRICT COURT JUDGE
23 EA

22 Submitted By:

23 JENNINGS & FULTON, LTD

24 
25 JARED B. JENNINGS, ESQ.
26 Nevada Bar No. 7762
27 ADAM R. FULTON, ESQ.
28 Nevada Bar No. 11572
 JENNINGS & FULTON, LTD.
 2580 Sorrel St.

1 Las Vegas, NV 89146
2 Telephone: (702) 979-3565
3 Facsimile: (702) 362-2060
4 Email: jjennings@jfnvlaw.com
5 Email: afulton@jfnvlaw.com
6 *Attorney for Plaintiff Max Joly*

7 ///

8 ///

9 Approved as to Form and Content:

10 CUTTER LAW FIRM, CHTD.

11
12 _____
13 NADINE J. CUTTER, ESQ.

14 Nevada Bar No. 11548

15 6787 w. Tropicana Ave., Suite 268

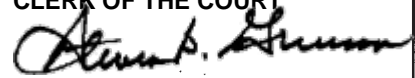
16 Las Vegas, Nevada 89103

17 Telephone: (702) 800-6525

18 Facsimile: (702) 800-6527

19 Email: cutter@cutterlegal.com

20 *Attorney for Defendants JEAN FRANCOIS RIGOLLET, an individual; LE MACARON LLC, a*
21 *Nevada Limited Liability Company; BYDOO LLC, a Nevada Limited Liability Company; et all.*



1 **NEOJ**
JENNINGS & FULTON, LTD.
2 JARED B. JENNINGS, ESQ.
Nevada Bar No. 007762
3 ADAM R. FULTON, ESQ.
Nevada Bar No. 11572
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5 Las Vegas, NV 89146
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Email jjennings@jfnvlaw.com
7 Email afulton@jfnvlaw.com

8 *Attorneys for Plaintiff: Max Joly*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 MAX JOLY, an individual

14 Plaintiff,

15 vs.

16 JEAN FRANCOIS RIGOLLET, an
17 individual; LE MACARON LLC, a Nevada
Limited Liability Company; BYDOO LLC, a
18 Nevada Limited Liability Company; DOES
1-10; and ROE CORPORATIONS 1-10,

19 Defendants.
20
21
22

) Case No.: A-16-734832-C

) Dept. No.: XXV

23 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE**

24 **DEFAULT**

25 PLEASE TAKE NOTICE that the Order Denying Defendant's Motion to Set Aside
26 Default was entered in the above captioned matter on the 20th day of September, 2017, a
27 copy of which is attached hereto.
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JENNINGS & FULTON, LTD.

Dated: The 20th day of September 2017.

/s/ Jared B. Jennings

JARED B. JENNINGS, ESQ.

Nevada Bar No. 007762

ADAM R. FULTON, ESQ.

Nevada Bar No. 11572

JENNINGS & FULTON, LTD.

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Email: jjennings@jfnvlaw.com

Email: afulton@jfnvlaw.com

Attorneys for Plaintiff: Max Joly

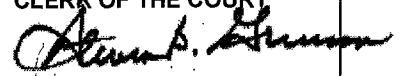
1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of Jennings & Fulton, LTD., and pursuant
3 to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and
4 correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S**
5 **MOTION TO SET ASIDE DEFAULT** to be submitted electronically for filing and/or service
6 with the Eighth Judicial District Court via the Court's Electronic Filing System on the 20th day
7 of September, 2017, to the following:

8
9
10
11 Nadin J. Cutter, Esq.
12 George E. Robinson, Esq.
13 CUTTER LAW FIRM, CHTD.
14 6787 West Tropicana, Suite 268
15 Las Vegas, Nevada 89103
Telephone: (702) 800-6525
Facsimile: (702) 800-6527
Cutter@CutterLegal.com

16 *Counsel for Defendants*

17
18 /s/ Vicki Bierstedt
an employee of Jennings & Fulton, LTD.



1 **ORDR**

2 JARED B. JENNINGS, ESQ.

3 Nevada Bar No. 7762

4 ADAM R. FULTON, ESQ.

5 Nevada Bar No. 11572

6 JENNINGS & FULTON, LTD.

7 2580 Sorrel St.

8 Las Vegas, NV 89146

9 Telephone: (702) 979-3565

10 Facsimile: (702) 362-2060

11 Email: jjennings@jfnvlaw.com

12 Email: afulton@jfnvlaw.com

13 *Attorney for Plaintiff Max Joly*

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

16 ***

17 MAX JOLY, an individual

18 Plaintiff,

19 vs.

20 JEAN FRANCOIS RIGOLLET, an individual;
21 LE MACARON LLC, a Nevada Limited
22 Liability Company; BYDOO LLC, a Nevada
23 Limited Liability Company; DOES 1-10; and
24 ROE CORPORATIONS 1-10,

25 Defendants.

Case No.: A-16-734832-C

Dept. No.: XXV

26 **ORDER DENYING DEFENDANT'S**
27 **MOTION TO SET ASIDE DEFAULT**

28 Please take notice that the Defendant's Motion To Set Aside Default came before the Court on the scheduled hearing date of August 1, 2017, at 9:00am in Department XXV before the honorable Judge Kathleen E. Delaney presiding. The Law Firm of Jennings & Fulton, LTD., particularly Jared B. Jennings Esq., appeared on behalf of the Plaintiff, MAX JOLY; the Cutter Law Firm, CHTD., particularly Nadine J. Cutter, Esq., appeared on behalf of the Defendants, JEAN FRANCOIS RIGOLLET, LE MACARON LLC, and BYDOO LLC (hereinafter "Defendant").

JENNINGS & FULTON, LTD.
2580 Sorrel St.
Las Vegas, NV 89146
702.979.3565

AUG 31 2017

1 Upon the Court's consideration of the pleadings and papers on file herein, the arguments
2 presented at the hearing, and good cause appearing therefore, the Court finds as follows:

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6 December 20, 2016, was Denied at the hearing held on December 20, 2016.

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10 stated claims contained in the First Amended Complaint.

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13 corporation, was tolled up to and until January 17, 2017, under N.R.C.P. 12(a)(4)(A), at which
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18 Dismiss filed and served on January 17, 2017, to communicate to Defendant's Counsel the need
19 to file an Answer, that Defendant was well beyond the 10 days required to file an Answer, and
20 that Plaintiff would move for a Default Judgment if Defendant failed to respond.

21 **THE COURT FURTHER FINDS** that the Plaintiff properly filed and served upon
22 Defendant a Three Day Notice of Intent to Take Default against Defendant on March 14, 2017.

23 **THE COURT FURTHER FINDS** that the Defendant served a letter upon Plaintiff's
24 counsel on April 4, 2017, requesting an extension to file an Answer to Max Joly's First Amended
25 Complaint no later than Friday, April 7, 2017¹.

26
27
28 ¹ Defendant's letter to Plaintiff's Counsel electronically served on Tuesday, April 4, 2017, asked
for an extension until Friday April 4, 2017, which the parties and Court determined at the August
1, 2017 hearing was meant to be Friday April 7, 2017.

1 **THE COURT FURTHER FINDS** that on April 21, 2017, the Plaintiff properly filed and
2 served upon Defendant a Default for Defendant's failure to file any responsive pleading at that
3 time.

4 **THE COURT FURTHER FINDS** that the Defendant's Counsel's claim of being in a car
5 accident subsequent to April 4, 2017, did not provide an any facts to support why Defendant
6 failed to file and serve a responsive pleading during time that had transpired between the Notice
7 of Entry of Order Denying Defendant's Motion to Dismiss, which was properly filed and served
8 on January 17, 2017 and the April 7th, 2017 requested extension deadline, considering that the
9 Defendants had been properly served the Three Day Notice of Intent to Take Default against
10 Defendant on March 14, 2017.

11 **THE COURT FURTHER FINDS** that Defendant was unable to provide facts sufficient
12 to establish Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.
13 to set aside the Entry of Default, filed and served on April 21, 2017, under N.R.C.P. 60(b).

14 **THE COURT FURTHER FINDS** that Defendant was unable to provide facts sufficient
15 to establish *good cause shown* to set aside the entry of Default, filed and served on April 21,
16 2017, under N.R.C.P. 55(c).

17 **TREREFORE, IT IS SO ORDERED**, that the Defendant's Motion to Set Aside the
18 Default is Denied *with prejudice* in its entirety.

19 Dated: The 31st, day of August, 2017

20
21 
22 DISTRICT COURT JUDGE

22 Submitted By:

23 JENNINGS & FULTON, LTD

24 

25 JARED B. JENNINGS, ESQ.
26 Nevada Bar No. 7762
27 ADAM R. FULTON, ESQ.
28 Nevada Bar No. 11572
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6 *Attorney for Plaintiff Max Joly*

7 ///

8 ///

9 Approved as to Form and Content:

10 CUTTER LAW FIRM, CHTD.

11
12 _____
13 NADINE J. CUTTER, ESQ.
14 Nevada Bar No. 11548
15 6787 w. Tropicana Ave., Suite 268
16 Las Vegas, Nevada 89103
17 Telephone: (702) 800-6525
18 Facsimile: (702) 800-6527
19 Email: cutter@cutterlegal.com

20 *Attorney for Defendants JEAN FRANCOIS RIGOLLET, an individual; LE MACARON LLC, a*
21 *Nevada Limited Liability Company; BYDOO LLC, a Nevada Limited Liability Company; et all.*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

August 16, 2016

A-16-734832-C	Max Joly, Plaintiff(s) vs. Jean Rigollet, Defendant(s)
---------------	--

August 16, 2016 9:00 AM Motion to Dismiss

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Dania Batiste

RECORDER:

REPORTER: Sharon Howard

PARTIES

PRESENT: Jennings, Jared B. Attorney
 Robinson, George E. Attorney

JOURNAL ENTRIES

- Mr. Robinson advised the Court that in after speaking with opposing counsel this morning, he will take this motion off calendar, as the parties have stipulated that Plaintiff will file an amended complaint within 21 days. Mr. Jennings concurred, and added that an answer will be filed 10 days after the complaint.

COURT SO NOTED, and ORDERED, counsel to follow the rules; case to proceed in the normal course.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

December 20, 2016

A-16-734832-C Max Joly, Plaintiff(s)
vs.
Jean Rigollet, Defendant(s)

December 20, 2016 9:00 AM Motion to Dismiss

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Renee Silvaggio

PARTIES

PRESENT: Cutter, Nadin J Attorney
Jennings, Jared B. Attorney

JOURNAL ENTRIES

- Arguments by counsel on the merits of the motion, and colloquy regarding the allegations in the compliant. COURT ORDERED, Motion DENIED, and STATED ITS FINDINGS. Mr. Jennings is to prepare the Order. Upon Mr. Jennings inquiry, COURT ADVISED it is not asking that a second amended compliant be filed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****August 01, 2017**

A-16-734832-C Max Joly, Plaintiff(s)
 vs.
 Jean Rigollet, Defendant(s)

August 01, 2017 9:00 AM Motion to Set Aside

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Sharon Howard

PARTIES

PRESENT:	Cutter, Nadin J	Attorney
	Jennings, Jared B.	Attorney
	Rigollet, Jean Francois	Defendant

JOURNAL ENTRIES

- Ms. Cutter argued she was in a severe car accident and required multiple doctor's appointment, she had to release a senior staff member from her employment which lead to a work load issue. Adding, she has been in good communication with opposing counsel as she has a close relationship with Mr. Fulton. Mr. Jennings argued his client lives in Switzerland, and the Pltf. has always been his client to represent; his client is demanding action as it has been a year and an Answer has still not been filed. Mr. Jennings argued Deft. has been liquidating assets and is probably funneling them back to Tahiti where he resides. Ms. Cutter further argued this is an investment that went bad, there are no bad acts; Mr. Rigollet is in Court today. Mr. Jennings stated he is opposed to setting aside the matter; if the Court does set aside the matter he requests the Pltf. pay all attorney fees. Additional argument by Ms. Cutter regarding excusable neglect. COURT STATED ITS FINDINGS; the Court DOES NOT FIND the Motion untimely; there is a mistake here, everybody knew what had to be done. COURT NOTED in considering NRCP 55 and NRCP 60 the Court does not see any good cause here; it would be an abuse of the Court's discretion to find good cause or excusable neglect. COURT ORDERED, Motion DENIED. Mr. Jennings is to prepare the order, provide it to opposing counsel for review as to form and content and return it back to the Court within 10 days. Colloquy regarding Ms. Cutter's request to Stay the matter pending reconsideration. COURT ADVISED It will not Stay the matter, It

will consider any well plead motion.



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

NADIN J. CUTTER, ESQ.
6787 W. TROPICANA, STE 268
LAS VEGAS, NV 89103

DATE: October 24, 2017
CASE: A-16-734832-C

RE CASE: MAX JOLY vs. JEAN FRANCOIS RIGOLLET; LE MACARON, LLC; BYDOO, LLC

NOTICE OF APPEAL FILED: October 20, 2017

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE DEFAULT; NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE DEFAULT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

MAX JOLY,

Plaintiff(s),

vs.

JEAN FRANCOIS RIGOLLET; LE
MACARON, LLC; BYDOO, LLC,

Defendant(s),

Case No: A-16-734832-C

Dept No: XXV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of October 2017.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk