

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES J. COTTER, JR., derivatively on
behalf of Reading International, Inc.,

Appellant,

v.

DOUGLAS MCEACHERN, EDWARD
KANE, JUDY CODDING, WILLIAM
GOULD, MICHAEL WROTONIAK, and
nominal defendant READING
INTERNATIONAL, INC., A NEVADA
CORPORATION

Respondents.

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Case Nos. 76981, 77648 & 77733

District Court Case
No. A-15-719860-B

Coordinated with:
Case No. P-14-0824-42-E

Appeal (77648 & 76981)

Eighth Judicial District Court, Dept. XI
The Honorable Elizabeth G. Gonzalez

JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981

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**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2015-06-12	Complaint	I	JA1-JA31
2015-06-18	Amended AOS - Douglas McEachern	I	JA32-JA33
2015-06-18	Amended AOS - Edward Kane	I	JA34-JA35
2015-06-18	Amended AOS - Ellen Cotter	I	JA36-JA37
2015-06-18	Amended AOS - Guy Adams	I	JA38-JA39
2015-06-18	Amended AOS - Margaret Cotter	I	JA40-JA41
2015-06-18	Amended AOS - RDI	I	JA42-JA43
2015-06-18	Amended AOS – Timothy Storey	I	JA44-JA45
2015-06-18	Amended AOS – William Gould	I	JA46-JA47
2015-08-10	Motion to Dismiss Complaint	I	JA48-JA104
2015-08-20	Reading International, Inc. ("RDI")'s Joinder to Margaret Cotter, Ellen Cotter, Douglas McEachern, Guy Adams, & Edward Kane ("Individual Defendants") Motion to Dismiss Complaint	I	JA105-JA108
2015-08-28	T2 Plaintiffs' Verified Shareholder Derivative Complaint	I	JA109-JA126
2015-08-31	RDI's Motion to Compel Arbitration	I	JA127-JA148
2015-09-03	Individual Defendants' Motion to Dismiss Complaint	I	JA149-JA237
2015-10-06	Transcript of 9-10-15 Hearing on Defendants' Motion to Dismiss & Plaintiff Cotter Jr. ("Cotter Jr.")'s Motion for Preliminary Injunction	I, II	JA238-JA256
2015-10-12	Order Denying RDI's Motion to Compel Arbitration	II	JA257-JA259
2015-10-19	Order Re Motion to Dismiss Complaint	II	JA260-JA262
2015-10-22	First Amended Verified Complaint	II	JA263-JA312
2015-11-10	Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call	II	JA313-JA316

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-02-12	T2 Plaintiffs' First Amended Complaint	II	JA317-JA355
2016-02-23	Transcript of 2-18-16 Hearing on Motion to Compel & Motion to File Document Under Seal	II	JA356-JA374
2016-03-14	Individual Defendants' Answer to Cotter's First Amended Complaint	II	JA375-JA396
2016-03-29	RDI's Answer to Cotter, Jr.'s First Amended Complaint	II	JA397-JA418
2016-03-29	RDI's Answer to T2 Plaintiffs' First Amended Complaint	II	JA419-JA438
2016-04-05	Codding and Wrotniak's Answer to T2 Plaintiffs' First Amended Complaint	II	JA439-JA462
2016-06-21	Stipulation and Order to Amend Deadlines in Scheduling Order	II	JA463-JA468
2016-06-23	Transcript of 6-21-16 Hearing on Defendants' Motion to Compel & Motion to Disqualify T2 Plaintiffs	II	JA469-JA493
2016-08-11	Transcript of 8-9-16 Hearing on Cotter Jr.'s Motion for Partial Summary Judgment, Motion to Compel & Motion to Amend	II, III	JA494-JA518
2016-09-02	Cotter Jr.'s Second Amended Verified Complaint	III	JA519-JA575
2016-09-23	Defendant William Gould ("Gould")'s MSJ	III, IV, V, VI	JA576-JA1400
2016-09-23	MIL to Exclude Expert Testimony of Steele, Duarte-Silva, Spitz, Nagy, & Finnerty	VI	JA1401-JA1485
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 1) Re: Plaintiff's Termination and Reinstatement Claims ("Partial MSJ No. 1)	VI, VII, VIII, IX	JA1486-JA2216 (FILED UNDER SEAL JA2136A-D)

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 2) Re: The Issue of Director Independence ("Partial MSJ No. 2")	IX, X	JA2217-JA2489 (FILED UNDER SEAL JA2489A-HH)
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 3) On Plaintiff's Claims Related to the Purported Unsolicited Offer ("Partial MSJ No. 3")	X, XI	JA2490-JA2583
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 4) On Plaintiff's Claims Related to the Executive Committee ("Partial MSJ No. 4")	XI	JA2584-JA2689
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 5) On Plaintiff's Claims Related to the Appointment of Ellen Cotter as CEO ("Partial MSJ No. 5")	XI, XII	JA2690-JA2860
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 6) Re Plaintiff's Claims Re Estate's Option Exercise, Appointment of Margaret Cotter, Compensation Packages of Ellen Cotter and Margaret Cotter, and related claims Additional Compensation to Margaret Cotter and Guy Adams ("Partial MSJ No. 6")	XII, XIII, XIV	JA2861-JA3336
2016-09-23	Cotter Jr.'s Motion for Partial Summary Judgment ("MPSJ")	XIV, XV	JA3337-JA3697
2016-10-03	Order Granting Cotter Jr.'s Motion to Compel Production of Documents & Communications Re the Advice of Counsel Defense	XV	JA3698-JA3700

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-10-03	Order Re Cotter Jr.'s Motion to Permit Certain Discovery re Recent "Offer"	XV	JA3701-JA3703
2016-10-03	RDI's Joinder to MIL to Exclude Expert Testimony	XV	JA3704-JA3706
2016-10-03	RDI's Joinder to Individual Defendants' Partial-MSJ No. 1	XV	JA3707-JA3717
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 2	XV	JA3718-JA3739
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 3	XV	JA3740-JA3746
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 4	XV	JA3747-JA3799
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 5	XV	JA3800-JA3805
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 6	XV, XVI	JA3806-JA3814
2016-10-13	Individual Defendants' Opposition to Cotter Jr.'s MPSJ	XVI	JA3815-JA3920
2016-10-13	RDI's Joinder to Individual Defendants' Opposition to Cotter Jr.'s MPSJ	XVI	JA3921-JA4014
2016-10-13	Cotter Jr.'s Opposition to Gould's MSJ	XVI	JA4015-JA4051
2016-10-13	Cotter Jr.'s Opposition to Partial MSJ No. 1	XVI, XVII	JA4052-JA4083
2016-10-13	Cotter, Jr.'s Opposition to Partial MSJ No. 2	XVII	JA4084-JA4111
2016-10-13	Cotter, Jr.'s Opposition to Partial MSJ No. 6	XVII	JA4112-JA4142
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Individual Defendants' Partial MSJ No. 1	XVII, XVIII	JA4143-JA4311 (FILED UNDER SEAL JA4151A-C)

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Individual Defendants' Partial MSJ No. 2	XVIII	JA4312-JA4457
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Gould's MSJ	XVIII	JA4458-JA4517
2016-10-21	Individual Defendants' Reply ISO of Partial MSJ No. 1	XVIII	JA4518-JA4549
2016-10-21	Individual Defendants' Reply ISO Partial MSJ No. 2	XVIII, XIX	JA4550-JA4567
2016-10-21	RDI's Reply ISO Individual Defendants' Partial MSJ No. 1	XIX	JA4568-JA4577
2016-10-21	RDI's Reply ISO Individual Defendants' Partial MSJ No. 2	XIX	JA4578-JA4588
2019-10-21	RDI's Consolidated Reply ISO Individual Defendants' Partial MSJ Nos. 3, 4, 5 & 6	XIX	JA4589-JA4603
2016-10-21	RDI's Reply ISO Gould's MSJ	XIX	JA4604-JA4609
2016-10-21	Gould's Reply ISO MSJ	XIX	JA4610-JA4635
2016-10-21	Declaration of Barnett ISO Gould's Reply ISO MSJ	XIX	JA4636-JA4677
2016-10-21	Individual Defendants' Reply ISO Partial MSJ Nos. 3, 4, 5, and 6	XIX	JA4678-JA4724
2016-10-26	Individual Defendants' Objections to Declaration of Cotter, Jr. Submitted in Opposition to Partial MSJs	XIX	JA4725-JA4735
2016-11-01	Transcript of 10-27-16 Hearing on Motions	XIX, XX	JA4736-JA4890
2016-12-20	RDI's Answer to Cotter Jr.'s Second Amended Complaint	XX	JA4891-JA4916
2016-12-21	Order Re Individual Defendants' Partial MSJ Nos. 1-6 and MIL to Exclude Expert Testimony	XX	JA4917-JA4920
2016-12-22	Notice of Entry of Order Re Partial MSJ Nos. 1-6 and MIL to Exclude Expert Testimony	XX	JA4921-JA4927

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-10-04	First Amended Order Setting Civil Jury Trial, Pre-Trial Conference, and Calendar Call	XX	JA4928-JA4931
2017-10-11	Individual Defendants' Motion for Evidentiary Hearing Re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4932-JA4974
2017-10-17	Gould's Joinder to Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4975-JA4977
2017-10-18	RDI's Joinder to Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4978-JA4980
2017-11-09	Individual Defendants' Supplement to Partial MSJ Nos. 1, 2, 3, 5, and 6	XX	JA4981-JA5024
2017-11-21	RDI's Joinder to Individual Defendants' Supplement to Partial MSJ Nos. 1, 2, 3, 5 & 6	XX	JA5025-JA5027
2017-11-27	Transcript of 11-20-17 Hearing on Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy & Motion to Seal	XX	JA5028-JA5047
2017-11-28	Individual Defendants' Answer to Cotter Jr.'s Second Amended Complaint	XX, XXI	JA5048-JA5077
2017-12-01	Gould's Request For Hearing on Previously-Filed MSJ	XXI	JA5078-JA5093
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 1 & 2 & Gould MSJ	XXI	JA5094-JA5107
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 1 & 2 & Gould MSJ	XXI	JA5108-JA5118

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 5 & Gould MSJ	XXI	JA5119-JA5134
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 5 & Gould MSJ	XXI	JA5135-JA5252
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 6 & Gould MSJ	XXI	JA5253-JA5264
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 6 & Gould MSJ	XXI	JA5265-JA5299
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 3 & Gould MSJ	XXI, XXII	JA5300-JA5320
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to So-Called MSJ Nos. 2 & 3 & Gould MSJ	XXII	JA5321-JA5509
2017-12-04	Individual Defendants' Reply ISO Renewed Partial MSJ Nos. 1 & 2	XXII	JA5510-JA5537
2017-12-04	Gould's Supplemental Reply ISO of MSJ	XXII	JA5538-JA5554
2017-12-05	Declaration of Bannett ISO Gould's Supplemental Reply ISO MSJ	XXII, XXIII	JA5555-JA5685
2017-12-08	Joint Pre-Trial Memorandum	XXIII	JA5686-JA5717
2017-12-11	Transcript of 12-11-2017 Hearing on [Partial] MSJs, MILs, and Pre-Trial Conference	XXIII	JA5718-JA5792
2017-12-19	Cotter Jr.'s Motion for Reconsideration of Ruling on Partial MSJ Nos. 1, 2 & 3 and Gould's MSJ on OST ("Motion for Reconsideration")	XXIII, XXIV	JA5793-JA5909

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-26	Individual Defendants' Opposition to Cotter Jr.'s Motion For Reconsideration	XXIV	JA5910-JA5981
2017-12-27	Gould's Opposition to Cotter Jr.'s Motion for Reconsideration	XXIV	JA5982-JA5986
2017-12-27	Declaration of Bennett ISO Gould's Opposition to Cotter Jr.'s Motion for Reconsideration	XXIV, XXV	JA5987-JA6064
2017-12-28	Order Re Individual Defendants' Partial MSJs, Gould's MSJ, and MILs	XXV	JA6065-JA6071
2017-12-28	Cotter Jr.'s Motion to Stay on OST	XXV	JA6072-JA6080
2017-12-29	Notice of Entry of Order Re Individual Defendants' Partial MSJs, Gould's MSJ, and MIL	XXV	JA6081-JA6091
2017-12-29	Cotter Jr.'s Motion for Rule 54(b) Certification and Stay on OST	XXV	JA6092-JA6106
2017-12-29	Transcript of 12-28-17 Hearing on Motion for Reconsideration and Motion for Stay	XXV	JA6107-JA6131
2018-01-02	Individual Defendants' Opposition to Cotter Jr.'s Motion for Rule 54(b) Certification and Stay	XXV	JA6132-JA6139
2018-01-03	RDI's Joinder to Individual Defendants' Opposition to Cotter Jr.'s Motion for Rule 54(b) Certification and Stay	XXV	JA6140-JA6152
2018-01-03	RDI's Errata to Joinder to Individual Defendants' Opposition to Motion for Rule 54(b) Certification and Stay	XXV	JA6153-JA6161
2018-01-03	RDI's Motion to Dismiss for Failure to Show Demand Futility	XXV	JA6162-JA6170
2018-01-03	Cotter Jr.'s Reply ISO Motion for Rule 54(b) Certification and Stay	XXV	JA6171-JS6178

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-01-04	Order Granting Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6179-JA6181
2018-01-04	Notice of Entry of Order Granting Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6182-JA6188
2018-01-04	Order Denying Cotter Jr.'s Motion for Reconsideration and Stay	XXV	JA6189-JA6191
2018-01-04	Adams and Cotter sisters' Motion for Judgment as a Matter of Law	XXV	JA6192-JA6224 (FILED UNDER SEAL JA6224A-F)
2018-01-05	Cotter Jr.'s Opposition to RDI's Motion to Dismiss for Failure to Show Demand Futility	XXV	JA6225-JA6228
2018-01-05	Cotter Jr.'s Opposition to Defendants' Motion for Judgment as a Matter of Law	XXV	JA6229-JA6238
2018-01-05	Declaration of Krum ISO Cotter Jr.'s Opposition to Motion for Judgment as a Matter of Law	XXV	JA6239-JA6244
2018-01-05	Transcript of 1-4-18 Hearing on Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6245-JA6263
2018-01-08	Transcript of Hearing on Demand Futility Motion and Motion for Judgment	XXV	JA6264-JA6280
2018-01-10	Transcript of Proceedings of 01-8-18 Jury Trial–Day 1	XXV	JA6281-JA6294
2018-02-01	Cotter Jr.'s Notice of Appeal	XXV	JA6295-JA6297
2018-04-18	Cotter Jr.'s Motion to Compel (Gould)	XXV, XXVI	JA6298-JA6431

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-04-23	Cotter Jr.'s Motion for Omnibus Relief on OST	XXVI, XXVII	JA6432-JA6561 (FILED UNDER SEAL JA6350A; JA6513A-C)
2018-04-24	Gould's Opposition to Cotter Jr.'s Motion to Compel	XXVII	JA6562-JA6568
2018-04-24	Gould's Declaration ISO Opposition to Motion to Compel	XXVII	JA6569-JA6571
2018-04-24	Bannett's Declaration ISO Gould's Opposition to Motion to Compel	XXVII	JA6572-JA6581
2018-04-27	Cotter Jr.'s Reply ISO Motion to Compel (Gould)	XXVII	JA6582-JA6599
2018-04-27	RDI's Opposition to Cotter's Motion for Omnibus Relief	XXVII	JA6600-JA6698
2018-05-03	Transcript of 4-30-18 Hearing on Motions to Compel & Seal	XXVII	JA6699-JA6723
2018-05-04	Second Amended Order Setting Jury Trial, Pre-trial Conference, and Calendar Call	XXVII	JA6724-JA6726
2018-05-07	Transcript of 5-2-18 Hearing on Evidentiary Hearing	XXVII, XXVIII	JA6727-JA6815
2018-05-11	Cotter Jr.'s Opposition to RDI's Motion for Leave to File Motion	XXVIII	JA6816-JA6937
2018-05-15	Adams and Cotter sisters' Motion to Compel Production of Docs re Expert Fee Payments on OST	XXVIII, XXIX	JA6938-JA7078
2018-05-18	Cotter Jr.'s Opposition to Motion to Compel Production of Docs re Expert Fee Payments	XXIX	JA7079-JA7087
2018-05-18	Adams and Cotter sisters' Pre-Trial Memo	XXIX	JA7088-JA7135
2018-05-18	Cotter Jr.'s Pre-Trial Memo	XXIX	JA7136-JA7157

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-05-24	Transcript of 05-21-18 Hearing on Adams and Cotter sisters' Motion to Compel	XXIX	JA7158-JA7172
2018-06-01	Adams and Cotter sisters' Motion for Summary Judgment ("Ratification MSJ")	XXIX	JA7173-JA7221
2018-06-08	Cotter Jr.'s Motion to Compel on OST	XXIX, XXX, XXXI	JA7222-JA7568
2018-06-12	Cotter Jr.'s Motion for Relief Based on Noncompliance with Court's May 2, 2018 Rulings on OST ("Motion for Relief")	XXXI	JA7569-JA7607
2018-06-13	Cotter Jr.'s Opposition to Ratification MSJ	XXXI	JA7608-JA7797
2018-06-13	Cotter Jr.'s Opposition to RDI's Demand Futility Motion	XXXI, XXXII	JA7798-JA7840
2018-06-15	Adams and Cotter sisters' Reply ISO of Ratification MSJ	XXXII	JA7841-JA7874
2018-06-18	RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXII	JA7875-JA7927
2018-06-18	Adams and Cotter sisters' Joinder to RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXII, XXXIII	JA7928-JA8295
2018-06-18	Gould's Joinder to RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXIII	JA8296-JA8301
2018-06-18	Cotter Jr.'s Reply ISO Motion for Relief Re: 05-02-18 Rulings	XXXIII, XXXIV	JA8302-JA8342
2018-06-20	Transcript of 06-19-18 Omnibus Hearing on discovery motions and Ratification MSJ	XXXIV	JA8343-JA8394

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-07-12	Order Granting In Part Cotter Jr.'s Motion to Compel (Gould) & Motion for Relief	XXXIV	JA8395-JA8397
2018-07-12	Order Granting in Part Cotter Jr.'s Motion for Omnibus Relief & Motion to Compel	XXXIV	JA8398-JA8400
2018-08-14	Findings of Fact and Conclusions of Law and Judgment	XXXIV	JA8401-JA8411
2018-08-16	Notice of Entry of Findings of Fact and Conclusions of Law and Judgment	XXXIV	JA8412-JA8425
2018-08-24	Memorandum of Costs submitted by RDI for itself & the director defendants	XXXIV	JA8426-JA8446
2018-08-24	RDI's Appendix of Exhibits to Memorandum of Costs	XXXIV, XXXV, XXXVI	JA8447-JA8906
2018-09-05	Notice of Entry of SAO Re Process for Filing Motion for Attorney's Fees	XXXVI	JA8907-JA8914
2018-09-05	Cotter Jr.'s Motion to Retax Costs	XXXVI	JA8915-JA9018
2018-09-07	RDI's Motion for Attorneys' Fees	XXXVI, XXXVII	JA9019-JA9101
2018-09-12	RDI's Motion for Judgment in Its Favor	XXXVII	JA9102-JA9107
2018-09-13	Cotter Jr.'s Notice of Appeal	XXXVII	JA9108-JA9110
2018-09-14	RDI's Opposition to Cotter Jr.'s Motion to Retax Costs	XXXVII	JA9111-JA9219
2018-09-14	RDI's Appendix ISO Opposition to Motion to Retax ("Appendix") Part 1	XXXVII, XXXVIII, XXXIX	JA9220-JA9592
2018-09-14	RDI's Appendix, Part 2	XXXIX, XL, XLI	JA9593- JA10063
2018-09-14	RDI's Appendix, Part 3	XLI, XLII, XLIII	JA10064- JA10801

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-09-14	RDI's Appendix, Part 4	XLIII, XLIV	JA10802- JA10898
2018-09-14	RDI's Appendix Part 5	XLIV, XLV	JA10899- JA11270
2018-09-14	RDI's Appendix, Part 6	XLV, XLVI	JA11271- JA11475
2018-09-14	RDI's Appendix, Part 7	XLVI, XLVII, XLVIII, XLIX, L	JA11476- JA12496
2018-09-14	RDI's Appendix, Part 8	L, LI, LII	JA12497- JA12893
2018-09-14	Suggestion of Death of Gould Upon the Record	LII,	JA12894- JA12896
2018-09-24	Cotter Jr.'s Reply to RDI's Opp'n to Motion to Retax Costs	LII	JA12897- JA12921
2018-09-24	Cotter Jr.'s Appendix of Exhibits ISO Reply to RDI's Opposition to Motion to Retax Costs	LII, LIII	JA12922- JA13112
2018-10-01	Cotter Jr.'s Opposition to RDI's Motion for Judgment in its Favor	LIII	JA13113- JA13125
2018-10-02	Transcript of 10-01-18 Hearing on Cotter Jr.'s Motion to Retax Costs	LIII	JA13126- JA13150
2018-11-02	Cotter Jr.'s Letter to Court Objecting to Proposed Order	LIII	JA13151- JA13156
2018-11-02	Cotter Jr.'s Errata to Letter to Court Objecting to Proposed Order	LIII	JA13157- JA13162
2018-11-06	Order Granting in Part Motion to Retax Costs & Entering Judgment for Costs ("Cost Judgment")	LIII	JA13163- JA13167
2018-11-06	Notice of Entry of Order of Cost Judgment	LIII	JA13168- JA13174
2018-11-16	Order Denying RDI's Motion for Attorneys' Fees	LIII	JA13175- JA13178

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

CHRONOLOGICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-11-06	Order Denying RDI's Motion for Judgment in Its Favor	LIII	JA13179- JA13182
2018-11-20	Notice of Entry of Order Denying RDI's Motion for Attorneys' Fees	LIII	JA13183- JA13190
2018-11-20	Notice of Entry of Order Denying RDI's Motion for Judgment in Its Favor	LIII	JA13191- JA13198
2018-11-26	Cotter Jr.'s Motion for Reconsideration & Amendment of Cost Judgment, for Limited Stay of Execution on OST	LIII	JA13199- JA13207
2018-11-30	RDI's Opposition to Cotter Jr.'s Motion for Reconsideration and Response to Motion for Limited Stay of Execution on OST	LIII	JA13208- JA13212
2018-11-30	Adams and Cotter sisters' Joinder to RDI's Opposition to Cotter Jr.'s Motion for Reconsideration and Response to Motion for Limited Stay of Execution	LIII	JA13213- JA13215
2018-12-06	Order Re Cotter Jr.'s Motion for Reconsideration & Amendment of Judgment for Costs and for Limited Stay	LIII	JA13216- JA13219
2018-12-06	Cotter Jr.'s Notice of Appeal from Cost Judgment	LIII	JA13220- JA13222
2018-12-07	Notice of Entry of Order Re Cotter Jr.'s Motion for Reconsideration & Amendment of Cost Judgment and for Limited Stay	LIII	JA13223- JA13229
2018-12-14	Cotter Jr.'s Notice of Posting Cost Bond on Appeal	LIII	JA13230- JA13232

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-06-18	Adams and Cotter sisters' Joinder to RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXII, XXXIII	JA7928-JA8295
2018-11-30	Adams and Cotter sisters' Joinder to RDI's Opposition to Cotter Jr.'s Motion for Reconsideration and Response to Motion for Limited Stay of Execution	LIII	JA13213-JA13215
2018-01-04	Adams and Cotter sisters' Motion for Judgment as a Matter of Law	XXV	JA6192-JA6224 (FILED UNDER SEAL JA6224A-F)
2018-06-01	Adams and Cotter sisters' Motion for Summary Judgment ("Ratification MSJ")	XXIX	JA7173-JA7221
2018-05-15	Adams and Cotter sisters' Motion to Compel Production of Docs re Expert Fee Payments on OST	XXVIII, XXIX	JA6938-JA7078
2018-05-18	Adams and Cotter sisters' Pre-Trial Memo	XXIX	JA7088-JA7135
2018-06-15	Adams and Cotter sisters' Reply ISO of Ratification MSJ	XXXII	JA7841-JA7874
2015-06-18	Amended AOS - Douglas McEachern	I	JA32-JA33
2015-06-18	Amended AOS - Edward Kane	I	JA34-JA35
2015-06-18	Amended AOS - Ellen Cotter	I	JA36-JA37
2015-06-18	Amended AOS - Guy Adams	I	JA38-JA39
2015-06-18	Amended AOS - Margaret Cotter	I	JA40-JA41
2015-06-18	Amended AOS - RDI	I	JA42-JA43
2015-06-18	Amended AOS - Timothy Storey	I	JA44-JA45
2015-06-18	Amended AOS - William Gould	I	JA46-JA47

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-04-24	Bannett's Declaration ISO Gould's Opposition to Motion to Compel	XXVII	JA6572- JA6581
2016-04-05	Codding and Wrotniak's Answer to T2 Plaintiffs' First Amended Complaint	II	JA439- JA462
2015-06-12	Complaint	I	JA1-JA31
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Gould's MSJ	XVIII	JA4458- JA4517
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Individual Defendants' Partial MSJ No. 1	XVII, XVIII	JA4143- JA4311 (FILED UNDER SEAL JA4151A-C)
2016-10-17	Cotter Jr.'s Appendix of Exhibits ISO Opposition to Individual Defendants' Partial MSJ No. 2	XVIII	JA4312- JA4457
2018-09-24	Cotter Jr.'s Appendix of Exhibits ISO Reply to RDI's Opposition to Motion to Retax Costs	LII, LIII	JA12922- JA13112
2018-11-02	Cotter Jr.'s Errata to Letter to Court Objecting to Proposed Order	LIII	JA13157- JA13162
2018-11-02	Cotter Jr.'s Letter to Court Objecting to Proposed Order	LIII	JA13151- JA13156
2018-04-23	Cotter Jr.'s Motion for Omnibus Relief on OST	XXVI, XXVII	JA6432- JA6561 (FILED UNDER SEAL JA6350A; JA6513A-C)
2016-09-23	Cotter Jr.'s Motion for Partial Summary Judgment ("MPSJ")	XIV, XV	JA3337- JA3697

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-11-26	Cotter Jr.'s Motion for Reconsideration & Amendment of Cost Judgment, for Limited Stay of Execution on OST	LIII	JA13199- JA13207
2017-12-19	Cotter Jr.'s Motion for Reconsideration of Ruling on Partial MSJ Nos. 1, 2 & 3 and Gould's MSJ on OST ("Motion for Reconsideration")	XXIII, XXIV	JA5793- JA5909
2018-06-12	Cotter Jr.'s Motion for Relief Based on Noncompliance with Court's May 2, 2018 Rulings on OST ("Motion for Relief")	XXXI	JA7569- JA7607
2017-12-29	Cotter Jr.'s Motion for Rule 54(b) Certification and Stay on OST	XXV	JA6092- JA6106
2018-04-18	Cotter Jr.'s Motion to Compel (Gould)	XXV, XXVI	JA6298- JA6431
2018-06-08	Cotter Jr.'s Motion to Compel on OST	XXIX, XXX, XXXI	JA7222- JA7568
2018-09-05	Cotter Jr.'s Motion to Retax Costs	XXXVI	JA8915- JA9018
2017-12-28	Cotter Jr.'s Motion to Stay on OST	XXV	JA6072- JA6080
2018-02-01	Cotter Jr.'s Notice of Appeal	XXV	JA6295- JA6297
2018-09-13	Cotter Jr.'s Notice of Appeal	XXXVII	JA9108- JA9110
2018-12-06	Cotter Jr.'s Notice of Appeal from Cost Judgment	LIII	JA13220- JA13222
2018-12-14	Cotter Jr.'s Notice of Posting Cost Bond on Appeal	LIII	JA13230- JA13232
2018-01-05	Cotter Jr.'s Opposition to Defendants' Motion for Judgment as a Matter of Law	XXV	JA6229- JA6238

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-10-13	Cotter Jr.'s Opposition to Gould's MSJ	XVI	JA4015- JA4051
2018-05-18	Cotter Jr.'s Opposition to Motion to Compel Production of Docs re Expert Fee Payments	XXIX	JA7079- JA7087
2016-10-13	Cotter Jr.'s Opposition to Partial MSJ No. 1	XVI, XVII	JA4052- JA4083
2018-06-13	Cotter Jr.'s Opposition to Ratification MSJ	XXXI	JA7608- JA7797
2018-06-13	Cotter Jr.'s Opposition to RDI's Demand Futility Motion	XXXI, XXXII	JA7798- JA7840
2018-10-01	Cotter Jr.'s Opposition to RDI's Motion for Judgment in its Favor	LIII	JA13113- JA13125
2018-05-11	Cotter Jr.'s Opposition to RDI's Motion for Leave to File Motion	XXVIII	JA6816- JA6937
2018-01-05	Cotter Jr.'s Opposition to RDI's Motion to Dismiss for Failure to Show Demand Futility	XXV	JA6225- JA6228
2018-05-18	Cotter Jr.'s Pre-Trial Memo	XXIX	JA7136- JA7157
2018-06-18	Cotter Jr.'s Reply ISO Motion for Relief Re: 05-02-18 Rulings	XXXIII, XXXIV	JA8302- JA8342
2018-01-03	Cotter Jr.'s Reply ISO Motion for Rule 54(b) Certification and Stay	XXV	JA6171- JS6178
2018-04-27	Cotter Jr.'s Reply ISO Motion to Compel (Gould)	XXVII	JA6582- JA6599
2018-09-24	Cotter Jr.'s Reply to RDI's Opp'n to Motion to Retax Costs	LII	JA12897- JA12921
2016-09-02	Cotter Jr.'s Second Amended Verified Complaint	III	JA519- JA575
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 1 & 2 & Gould MSJ	XXI	JA5094- JA5107

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 3 & Gould MSJ	XXI, XXII	JA5300-JA5320
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 5 & Gould MSJ	XXI	JA5119-JA5134
2017-12-01	Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 6 & Gould MSJ	XXI	JA5253-JA5264
2016-10-13	Cotter, Jr.'s Opposition to Partial MSJ No. 2	XVII	JA4084-JA4111
2016-10-13	Cotter, Jr.'s Opposition to Partial MSJ No. 6	XVII	JA4112-JA4142
2017-12-27	Declaration of Bannett ISO Gould's Opposition to Cotter Jr.'s Motion for Reconsideration	XXIV, XXV	JA5987-JA6064
2016-10-21	Declaration of Bannett ISO Gould's Reply ISO MSJ	XIX	JA4636-JA4677
2017-12-05	Declaration of Bannett ISO Gould's Supplemental Reply ISO MSJ	XXII, XXIII	JA5555-JA5685
2018-01-05	Declaration of Krum ISO Cotter Jr.'s Opposition to Motion for Judgment as a Matter of Law	XXV	JA6239-JA6244
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 1 & 2 & Gould MSJ	XXI	JA5108-JA5118
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 5 & Gould MSJ	XXI	JA5135-JA5252
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to Partial MSJ Nos. 2 & 6 & Gould MSJ	XXI	JA5265-JA5299

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-01	Declaration of Levin ISO Cotter Jr.'s Supplemental Opposition to So-Called MSJ Nos. 2 & 3 & Gould MSJ	XXII	JA5321-JA5509
2016-09-23	Defendant William Gould ("Gould")'s MSJ	III, IV, V, VI	JA576-JA1400
2018-08-14	Findings of Fact and Conclusions of Law and Judgment	XXXIV	JA8401-JA8411
2017-10-04	First Amended Order Setting Civil Jury Trial, Pre-Trial Conference, and Calendar Call	XX	JA4928-JA4931
2015-10-22	First Amended Verified Complaint	II	JA263-JA312
2018-04-24	Gould's Declaration ISO Opposition to Motion to Compel	XXVII	JA6569-JA6571
2017-10-17	Gould's Joinder to Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4975-JA4977
2018-06-18	Gould's Joinder to RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXIII	JA8296-JA8301
2017-12-27	Gould's Opposition to Cotter Jr.'s Motion for Reconsideration	XXIV	JA5982-JA5986
2018-04-24	Gould's Opposition to Cotter Jr.'s Motion to Compel	XXVII	JA6562-JA6568
2016-10-21	Gould's Reply ISO MSJ	XIX	JA4610-JA4635
2017-12-01	Gould's Request For Hearing on Previously-Filed MSJ	XXI	JA5078-JA5093
2017-12-04	Gould's Supplemental Reply ISO of MSJ	XXII	JA5538-JA5554
2017-11-28	Individual Defendants' Answer to Cotter Jr.'s Second Amended Complaint	XX, XXI	JA5048-JA5077

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-03-14	Individual Defendants' Answer to Cotter's First Amended Complaint	II	JA375- JA396
2017-10-11	Individual Defendants' Motion for Evidentiary Hearing Re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4932- JA4974
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 1) Re: Plaintiff's Termination and Reinstatement Claims ("Partial MSJ No. 1)	VI, VII, VIII, IX	JA1486- JA2216 (FILED UNDER SEAL JA2136A-D)
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 2) Re: The Issue of Director Independence ("Partial MSJ No. 2")	IX, X	JA2217- JA2489 (FILED UNDER SEAL JA2489A- HH)
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 3) On Plaintiff's Claims Related to the Purported Unsolicited Offer ("Partial MSJ No. 3")	X, XI	JA2490- JA2583
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 4) On Plaintiff's Claims Related to the Executive Committee ("Partial MSJ No. 4")	XI	JA2584- JA2689
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 5) On Plaintiff's Claims Related to the Appointment of Ellen Cotter as CEO ("Partial MSJ No. 5")	XI, XII	JA2690- JA2860

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2016-09-23	Individual Defendants' Motion for Partial Summary Judgment (No. 6) Re Plaintiff's Claims Re Estate's Option Exercise, Appointment of Margaret Cotter, Compensation Packages of Ellen Cotter and Margaret Cotter, and related claims Additional Compensation to Margaret Cotter and Guy Adams ("Partial MSJ No. 6")	XII, XIII, XIV	JA2861- JA3336
2015-09-03	Individual Defendants' Motion to Dismiss Complaint	I	JA149- JA237
2016-10-26	Individual Defendants' Objections to Declaration of Cotter, Jr. Submitted in Opposition to Partial MSJs	XIX	JA4725- JA4735
2017-12-26	Individual Defendants' Opposition to Cotter Jr.'s Motion For Reconsideration	XXIV	JA5910- JA5981
2018-01-02	Individual Defendants' Opposition to Cotter Jr.'s Motion for Rule 54(b) Certification and Stay	XXV	JA6132- JA6139
2016-10-13	Individual Defendants' Opposition to Cotter Jr.'s MPSJ	XVI	JA3815- JA3920
2016-10-21	Individual Defendants' Reply ISO of Partial MSJ No. 1	XVIII	JA4518- JA4549
2016-10-21	Individual Defendants' Reply ISO Partial MSJ No. 2	XVIII, XIX	JA4550- JA4567
2016-10-21	Individual Defendants' Reply ISO Partial MSJ Nos. 3, 4, 5, and 6	XIX	JA4678- JA4724
2017-12-04	Individual Defendants' Reply ISO Renewed Partial MSJ Nos. 1 & 2	XXII	JA5510- JA5537
2017-11-09	Individual Defendants' Supplement to Partial MSJ Nos. 1, 2, 3, 5, and 6	XX	JA4981- JA5024

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-08	Joint Pre-Trial Memorandum	XXIII	JA5686- JA5717
2018-08-24	Memorandum of Costs submitted by RDI for itself & the director defendants	XXXIV	JA8426- JA8446
2016-09-23	MIL to Exclude Expert Testimony of Steele, Duarte-Silva, Spitz, Nagy, & Finnerty	VI	JA1401- JA1485
2015-08-10	Motion to Dismiss Complaint	I	JA48-JA104
2018-08-16	Notice of Entry of Findings of Fact and Conclusions of Law and Judgment	XXXIV	JA8412- JA8425
2018-11-20	Notice of Entry of Order Denying RDI's Motion for Attorneys' Fees	LIII	JA13183- JA13190
2018-11-20	Notice of Entry of Order Denying RDI's Motion for Judgment in Its Favor	LIII	JA13191- JA13198
2018-01-04	Notice of Entry of Order Granting Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6182- JA6188
2018-11-06	Notice of Entry of Order of Cost Judgment	LIII	JA13168- JA13174
2018-12-07	Notice of Entry of Order Re Cotter Jr.'s Motion for Reconsideration & Amendment of Cost Judgment and for Limited Stay	LIII	JA13223- JA13229
2017-12-29	Notice of Entry of Order Re Individual Defendants' Partial MSJs, Gould's MSJ, and MIL	XXV	JA6081- JA6091
2016-12-22	Notice of Entry of Order Re Partial MSJ Nos. 1-6 and MIL to Exclude Expert Testimony	XX	JA4921- JA4927
2018-09-05	Notice of Entry of SAO Re Process for Filing Motion for Attorney's Fees	XXXVI	JA8907- JA8914

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-01-04	Order Denying Cotter Jr.'s Motion for Reconsideration and Stay	XXV	JA6189- JA6191
2018-11-16	Order Denying RDI's Motion for Attorneys' Fees	LIII	JA13175- JA13178
2018-11-06	Order Denying RDI's Motion for Judgment in Its Favor	LIII	JA13179- JA13182
2015-10-12	Order Denying RDI's Motion to Compel Arbitration	II	JA257- JA259
2018-01-04	Order Granting Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6179- JA6181
2016-10-03	Order Granting Cotter Jr.'s Motion to Compel Production of Documents & Communications Re the Advice of Counsel Defense	XV	JA3698- JA3700
2018-07-12	Order Granting in Part Cotter Jr.'s Motion for Omnibus Relief & Motion to Compel	XXXIV	JA8398- JA8400
2018-07-12	Order Granting In Part Cotter Jr.'s Motion to Compel (Gould) & Motion for Relief	XXXIV	JA8395- JA8397
2018-11-06	Order Granting in Part Motion to Retax Costs & Entering Judgment for Costs ("Cost Judgment")	LIII	JA13163- JA13167
2018-12-06	Order Re Cotter Jr.'s Motion for Reconsideration & Amendment of Judgment for Costs and for Limited Stay	LIII	JA13216- JA13219
2016-10-03	Order Re Cotter Jr.'s Motion to Permit Certain Discovery re Recent "Offer"	XV	JA3701- JA3703
2016-12-21	Order Re Individual Defendants' Partial MSJ Nos. 1–6 and MIL to Exclude Expert Testimony	XX	JA4917- JA4920

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-28	Order Re Individual Defendants' Partial MSJs, Gould's MSJ, and MILs	XXV	JA6065-JA6071
2015-10-19	Order Re Motion to Dismiss Complaint	II	JA260-JA262
2016-12-20	RDI's Answer to Cotter Jr.'s Second Amended Complaint	XX	JA4891-JA4916
2016-03-29	RDI's Answer to Cotter, Jr.'s First Amended Complaint	II	JA397-JA418
2016-03-29	RDI's Answer to T2 Plaintiffs' First Amended Complaint	II	JA419-JA438
2018-08-24	RDI's Appendix of Exhibits to Memorandum of Costs	XXXIV, XXXV, XXXVI	JA8447-JA8906
2018-09-14	RDI's Appendix ISO Opposition to Motion to Retax ("Appendix") Part 1	XXXVII, XXXVIII, XXXIX	JA9220-JA9592
2018-09-14	RDI's Appendix, Part 2	XXXIX, XL, XLI	JA9593-JA10063
2018-09-14	RDI's Appendix, Part 3	XLI, XLII, XLIII	JA10064-JA10801
2018-09-14	RDI's Appendix, Part 4	XLIII, XLIV	JA10802-JA10898
2018-09-14	RDI's Appendix Part 5	XLIV, XLV	JA10899-JA11270
2018-09-14	RDI's Appendix, Part 6	XLV, XLVI	JA11271-JA11475
2018-09-14	RDI's Appendix, Part 7	XLVI, XLVII, XLVIII, XLIX, L	JA11476-JA12496
2018-09-14	RDI's Appendix, Part 8	L, LI, LII	JA12497-JA12893

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-06-18	RDI's Combined Opposition to Cotter Jr.'s Motion to Compel & Motion for Relief	XXXII	JA7875-JA7927
2019-10-21	RDI's Consolidated Reply ISO Individual Defendants' Partial MSJ Nos. 3, 4, 5 & 6	XIX	JA4589-JA4603
2018-01-03	RDI's Errata to Joinder to Individual Defendants' Opposition to Motion for Rule 54(b) Certification and Stay	XXV	JA6153-JA6161
2016-10-13	RDI's Joinder to Individual Defendants' Opposition to Cotter Jr.'s MPSJ	XVI	JA3921-JA4014
2018-01-03	RDI's Joinder to Individual Defendants' Opposition to Cotter Jr.'s Motion for Rule 54(b) Certification and Stay	XXV	JA6140-JA6152
2016-10-03	RDI's Joinder to Individual Defendants' Partial-MSJ No. 1	XV	JA3707-JA3717
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 2	XV	JA3718-JA3739
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 3	XV	JA3740-JA3746
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 4	XV	JA3747-JA3799
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 5	XV	JA3800-JA3805
2016-10-03	RDI's Joinder to Individual Defendants' Partial MSJ No. 6	XV, XVI	JA3806-JA3814
2017-11-21	RDI's Joinder to Individual Defendants' Supplement to Partial MSJ Nos. 1, 2, 3, 5 & 6	XX	JA5025-JA5027
2016-10-03	RDI's Joinder to MIL to Exclude Expert Testimony	XV	JA3704-JA3706

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-10-18	RDI's Joinder to Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy as Derivative Plaintiff	XX	JA4978- JA4980
2018-09-07	RDI's Motion for Attorneys' Fees	XXXVI, XXXVII	JA9019- JA9101
2018-09-12	RDI's Motion for Judgment in Its Favor	XXXVII	JA9102- JA9107
2015-08-31	RDI's Motion to Compel Arbitration	I	JA127- JA148
2018-01-03	RDI's Motion to Dismiss for Failure to Show Demand Futility	XXV	JA6162- JA6170
2018-11-30	RDI's Opposition to Cotter Jr.'s Motion for Reconsideration and Response to Motion for Limited Stay of Execution on OST	LIII	JA13208- JA13212
2018-09-14	RDI's Opposition to Cotter Jr.'s Motion to Retax Costs	XXXVII	JA9111- JA9219
2018-04-27	RDI's Opposition to Cotter's Motion for Omnibus Relief	XXVII	JA6600- JA6698
2016-10-21	RDI's Reply ISO Gould's MSJ	XIX	JA4604- JA4609
2016-10-21	RDI's Reply ISO Individual Defendants' Partial MSJ No. 1	XIX	JA4568- JA4577
2016-10-21	RDI's Reply ISO Individual Defendants' Partial MSJ No. 2	XIX	JA4578- JA4588
2015-08-20	Reading International, Inc. ("RDI")'s Joinder to Margaret Cotter, Ellen Cotter, Douglas McEachern, Guy Adams, & Edward Kane ("Individual Defendants") Motion to Dismiss Complaint	I	JA105- JA108
2015-11-10	Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call	II	JA313- JA316

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2018-05-04	Second Amended Order Setting Jury Trial, Pre-trial Conference, and Calendar Call	XXVII	JA6724-JA6726
2016-06-21	Stipulation and Order to Amend Deadlines in Scheduling Order	II	JA463-JA468
2018-09-14	Suggestion of Death of Gould Upon the Record	LII,	JA12894-JA12896
2016-02-12	T2 Plaintiffs' First Amended Complaint	II	JA317-JA355
2015-08-28	T2 Plaintiffs' Verified Shareholder Derivative Complaint	I	JA109-JA126
2015-10-06	Transcript of 9-10-15 Hearing on Defendants' Motion to Dismiss & Plaintiff Cotter Jr. ("Cotter Jr.")'s Motion for Preliminary Injunction	I, II	JA238-JA256
2016-02-23	Transcript of 2-18-16 Hearing on Motion to Compel & Motion to File Document Under Seal	II	JA356-JA374
2016-06-23	Transcript of 6-21-16 Hearing on Defendants' Motion to Compel & Motion to Disqualify T2 Plaintiffs	II	JA469-JA493
2016-08-11	Transcript of 8-9-16 Hearing on Cotter Jr.'s Motion for Partial Summary Judgment, Motion to Compel & Motion to Amend	II, III	JA494-JA518
2016-11-01	Transcript of 10-27-16 Hearing on Motions	XIX, XX	JA4736-JA4890
2017-11-27	Transcript of 11-20-17 Hearing on Motion for Evidentiary Hearing re Cotter Jr.'s Adequacy & Motion to Seal	XX	JA5028-JA5047
2017-12-11	Transcript of 12-11-2017 Hearing on [Partial] MSJs, MILs, and Pre-Trial Conference	XXIII	JA5718-JA5792

**JOINT APPENDIX TO OPENING BRIEFS
FOR CASE NOS. 77648 & 76981**

ALPHABETICAL INDEX

Date	Description	Vol. #	Page Nos.
2017-12-29	Transcript of 12-28-17 Hearing on Motion for Reconsideration and Motion for Stay	XXV	JA6107-JA6131
2018-01-05	Transcript of 1-4-18 Hearing on Cotter Jr.'s Motion for Rule 54(b) Certification	XXV	JA6245-JA6263
2018-01-08	Transcript of Hearing on Demand Futility Motion and Motion for Judgment	XXV	JA6264-JA6280
2018-01-10	Transcript of Proceedings of 01-8-18 Jury Trial–Day 1	XXV	JA6281-JA6294
2018-05-03	Transcript of 4-30-18 Hearing on Motions to Compel & Seal	XXVII	JA6699-JA6723
2018-05-07	Transcript of 5-2-18 Hearing on Evidentiary Hearing	XXVII, XXVIII	JA6727-JA6815
2018-05-24	Transcript of 05-21-18 Hearing on Adams and Cotter sisters' Motion to Compel	XXIX	JA7158-JA7172
2018-06-20	Transcript of 06-19-18 Omnibus Hearing on discovery motions and Ratification MSJ	XXXIV	JA8343-JA8394
2018-10-02	Transcript of 10-01-18 Hearing on Cotter Jr.'s Motion to Retax Costs	LIII	JA13126-JA13150

CERTIFICATE OF SERVICE

I certify that I am an employee of MORRIS LAW GROUP; I am familiar with the firm's practice of collection and processing documents for mailing; that, in accordance therewith, I caused the following document to be e-served via the Supreme Court's electronic service process. I hereby certify that on the 28th day of August, 2019, a true and correct copy of the foregoing **JOINT APPENDIX TO OPENING BRIEFS FOR CASE NOS. 77648 & 76981**, was served by the following method(s):

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continues, this response may be supplemented.

DATED this 13th day of November, 2015.

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Reading International, Inc.'s Third Supplemental Response to James Cotter, Jr.'s Request for Production of Documents* to be filed and served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 13th day of November, 2015.

/s/ Megan L. Sheffield

AN EMPLOYEE OF GREENBERG TRAURIG, LLP

EXHIBIT B

LV 41983888v1

REP137

JA13061

RDI's Third Production of Documents

ProdBeg	Response to Request
RD10002468	JJC JR.'S Request 6
RD10002469	JJC JR.'S Request 2
RD10002470	JJC JR.'S Request 2;T2 Group's Request 3
RD10002473	JJC JR.'S Request 1
RD10002474	JJC JR.'S Request 1
RD10002475	JJC JR.'S Request 2
RD10002476	JJC JR.'S Request 1
RD10002477	JJC JR.'S Request 2
RD10002478	JJC JR.'S Request 2
RD10002479	JJC JR.'S Request 1
RD10002480	JJC JR.'S Request 2
RD10002481	JJC JR.'S Request 1
RD10002483	JJC JR.'S Request 2
RD10002484	JJC JR.'S Request 2
RD10002485	JJC JR.'S Request 2;T2 Group's Request 3
RD10002488	JJC JR.'S Request 1
RD10002489	JJC JR.'S Request 1
RD10002491	JJC JR.'S Request 1
RD10002492	JJC JR.'S Request 2
RD10002497	JJC JR.'S Request 1
RD10002499	JJC JR.'S Request 1
RD10002502	JJC JR.'S Request 1
RD10002503	JJC JR.'S Request 2
RD10002509	JJC JR.'S Request 2
RD10002515	JJC JR.'S Request 1
RD10002518	JJC JR.'S Request 1
RD10002521	JJC JR.'S Request 1
RD10002522	JJC JR.'S Request 1
RD10002524	T2 Group's Request 3
RD10002526	T2 Group's Request 3
RD10002528	JJC JR.'S Request 1
RD10002529	T2 Group's Request 3
RD10002531	T2 Group's Request 3
RD10002533	T2 Group's Request 3
RD10002536	T2 Group's Request 3
RD10002540	JJC JR.'S Request 1
RD10002554	JJC JR.'S Request 2

LV 420571538v1

REP138

JA13062

RD10002557	JJC JR.'S Request 2
RD10002559	T2 Group's Request 3
RD10002561	JJC JR.'S Request 2
RD10002564	JJC JR.'S Request 2
RD10002567	JJC JR.'S Request 2
RD10002569	JJC JR.'S Request 2
RD10002573	JJC JR.'S Request 6
RD10002580	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10002582	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10002583	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10002584	JJC JR.'S Request 1
RD10002585	JJC JR.'S Request 1
RD10002586	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10002588	JJC JR.'S Request 1
RD10002591	JJC JR.'S Request 1
RD10002592	JJC JR.'S Request 1
RD10002594	JJC JR.'S Request 1
RD10002596	JJC JR.'S Request 6
RD10002597	JJC JR.'S Request 6
RD10002602	JJC JR.'S Request 6
RD10002603	JJC JR.'S Request 6
RD10002608	JJC JR.'S Request 6
RD10002609	JJC JR.'S Request 6
RD10002616	JJC JR.'S Request 6
RD10002617	JJC JR.'S Request 6
RD10002624	JJC JR.'S Request 6
RD10002625	JJC JR.'S Request 6
RD10002632	JJC JR.'S Request 6
RD10002633	JJC JR.'S Request 6
RD10002640	JJC JR.'S Request 6
RD10002641	JJC JR.'S Request 6
RD10002648	JJC JR.'S Request 6
RD10002649	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10002656	JJC JR.'S Request 6
RD10002658	JJC JR.'S Request 6
RD10002665	JJC JR.'S Request 6
RD10002667	JJC JR.'S Request 6

LV 420571538v1

REP139

JA13063

RD10002674	JJC JR.'S Request 6
RD10002675	JJC JR.'S Request 6
RD10002682	JJC JR.'S Request 6
RD10002687	JJC JR.'S Request 6
RD10002688	JJC JR.'S Request 6
RD10002689	JJC JR.'S Request 6
RD10002696	JJC JR.'S Request 6
RD10002701	JJC JR.'S Request 6
RD10002702	JJC JR.'S Request 6
RD10002709	JJC JR.'S Request 6
RD10002714	JJC JR.'S Request 6
RD10002715	JJC JR.'S Request 6
RD10002722	JJC JR.'S Request 6
RD10002727	JJC JR.'S Request 6
RD10002728	JJC JR.'S Request 6
RD10002729	JJC JR.'S Request 1
RD10002730	JJC JR.'S Request 1
RD10002731	JJC JR.'S Request 6
RD10002732	JJC JR.'S Request 1
RD10002733	JJC JR.'S Request 1
RD10002734	JJC JR.'S Request 6
RD10002735	JJC JR.'S Request 6
RD10002736	JJC JR.'S Request 6
RD10002737	JJC JR.'S Request 6
RD10002738	JJC JR.'S Request 6
RD10002739	JJC JR.'S Request 6
RD10002740	JJC JR.'S Request 6
RD10002741	T2 Group's Request 4
RD10002743	JJC JR.'S Request 1
RD10002746	JJC JR.'S Request 1
RD10002798	JJC JR.'S Request 1
RD10002799	JJC JR.'S Request 1
RD10002803	JJC JR.'S Request 1
RD10002804	JJC JR.'S Request 1
RD10002805	JJC JR.'S Request 6
RD10002831	JJC JR.'S Request 1
RD10002834	JJC JR.'S Request 3;JJC JR.'S Request 6
RD10002839	JJC JR.'S Request 6
RD10002841	JJC JR.'S Request 3
RD10002843	JJC JR.'S Request 3
RD10002902	JJC JR.'S Request 5

LV 420571538v1

REP140

JA13064

RD10002903	JJC JR.'S Request 5
RD10002905	JJC JR.'s Request 1; JJC JR.'s Request 3; JJC JR.'s Request 6
RD10002908	JJC JR.'S Request 1; JJC JR.'S Request 6
RD10002909	JJC JR.'S Request 1
RD10002910	JJC JR.'S Request 1
RD10002911	JJC JR.'S Request 1; JJC JR.'S Request 6
RD10002913	JJC JR.'S Request 1; JJC JR.'S Request 5
RD10002915	JJC JR.'S Request 1
RD10002918	JJC JR.'S Request 1
RD10002919	JJC JR.'S Request 2
RD10002925	JJC JR.'S Request 2
RD10002932	JJC JR.'S Request 2
RD10002938	JJC JR.'S Request 2
RD10002950	JJC JR.'S Request 2
RD10002956	JJC JR.'S Request 2
RD10002963	JJC JR.'S Request 2
RD10002969	JJC JR.'S Request 6
RD10002971	JJC JR.'S Request 1
RD10002972	JJC JR.'S Request 6
RD10002974	JJC JR.'S Request 6
RD10002975	JJC JR.'S Request 6
RD10002978	JJC JR.'S Request 6
RD10002979	JJC JR.'S Request 6
RD10002980	JJC JR.'S Request 6
RD10002981	JJC JR.'S Request 6
RD10002983	JJC JR.'S Request 1; JJC JR.'S Request 6
RD10002984	JJC JR.'S Request 1; JJC JR.'S Request 6
RD10002985	JJC JR.'S Request 3
RD10002987	JJC JR.'S Request 1
RD10002988	JJC JR.'S Request 1
RD10002989	JJC JR.'S Request 2
RD10002991	JJC JR.'S Request 2
RD10002996	JJC JR.'S Request 2
RD10002998	JJC JR.'S Request 2
RD10003000	JJC JR.'S Request 2
RD10003003	T2 Group's Request 5
RD10003006	JJC JR.'S Request 1; JJC JR.'S

LV 420571538v1

REP141

JA13065

	Request 6
RD10003007	JJC JR.'S Request 5
RD10003010	JJC JR.'S Request 1
RD10003013	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003014	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003015	JJC JR.'S Request 1
RD10003016	JJC JR.'S Request 6
RD10003017	JJC JR.'S Request 6
RD10003018	JJC JR.'S Request 2
RD10003021	JJC JR.'S Request 2
RD10003035	JJC JR.'S Request 2
RD10003040	T2 Group's Request 3
RD10003042	JJC JR.'S Request 2
RD10003044	JJC JR.'S Request 1
RD10003045	JJC JR.'S Request 5
RD10003050	JJC JR.'S Request 1
RD10003051	JJC JR.'S Request 2
RD10003052	JJC JR.'S Request 2
RD10003062	JJC JR.'S Request 2
RD10003063	JJC JR.'S Request 2
RD10003066	JJC JR.'S Request 2
RD10003075	JJC JR.'S Request 6
RD10003076	JJC JR.'S Request 6
RD10003083	JJC JR.'S Request 6
RD10003088	JJC JR.'S Request 2
RD10003092	JJC JR.'S Request 2
RD10003093	JJC JR.'S Request 2
RD10003094	JJC JR.'S Request 2
RD10003095	JJC JR.'S Request 2
RD10003096	JJC JR.'S Request 2
RD10003100	JJC JR.'S Request 2
RD10003101	JJC JR.'S Request 2
RD10003102	JJC JR.'S Request 2
RD10003103	JJC JR.'S Request 2
RD10003104	JJC JR.'S Request 1
RD10003106	JJC JR.'S Request 2;T2 Group's Request 3
RD10003107	JJC JR.'S Request 2;T2 Group's Request 3
RD10003108	JJC JR.'S Request 1

RD10003110	JJC JR.'S Request 2;T2 Group's Request 3
RD10003111	JJC JR.'S Request 2;T2 Group's Request 3
RD10003112	JJC JR.'S Request 2
RD10003116	JJC JR.'S Request 2
RD10003117	JJC JR.'S Request 2
RD10003118	JJC JR.'S Request 2
RD10003119	JJC JR.'S Request 2
RD10003120	JJC JR.'S Request 1
RD10003121	JJC JR.'S Request 2;T2 Group's Request 3
RD10003122	JJC JR.'S Request 2;T2 Group's Request 3
RD10003123	JJC JR.'S Request 1
RD10003124	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003131	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003135	JJC JR.'S Request 6
RD10003136	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003140	JJC JR.'S Request 1
RD10003141	JJC JR.'S Request 6
RD10003142	JJC JR.'S Request 6
RD10003149	JJC JR.'S Request 2;T2 Group's Request 3
RD10003150	JJC JR.'S Request 2;T2 Group's Request 3
RD10003153	JJC JR.'S Request 1
RD10003154	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003155	JJC JR.'S Request 1
RD10003168	JJC JR.'S Request 1
RD10003169	JJC JR.'S Request 6
RD10003170	JJC JR.'S Request 1
RD10003171	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003172	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003187	JJC JR.'S Request 1
RD10003188	JJC JR.'S Request 1
RD10003190	JJC JR.'S Request 1
RD10003191	JJC JR.'S Request 1

LV 420571538v1

REP143

JA13067

RD10003193	JJC JR.'S Request 1
RD10003195	JJC JR.'S Request 1
RD10003202	JJC JR.'S Request 1
RD10003206	JJC JR.'S Request 2;T2 Group's Request 3
RD10003217	JJC JR.'S Request 6
RD10003219	JJC JR.'S Request 2
RD10003221	JJC JR.'S Request 2
RD10003222	JJC JR.'S Request 2
RD10003232	JJC JR.'S Request 2
RD10003233	JJC JR.'S Request 2
RD10003236	JJC JR.'S Request 2
RD10003245	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003246	JJC JR.'S Request 1
RD10003249	JJC JR.'S Request 4
RD10003250	JJC JR.'S Request 4
RD10003252	JJC JR.'S Request 6
RD10003253	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003254	JJC JR.'S Request 2
RD10003258	JJC JR.'S Request 2
RD10003259	JJC JR.'S Request 2
RD10003260	JJC JR.'S Request 2
RD10003261	JJC JR.'S Request 2
RD10003271	JJC JR.'S Request 2
RD10003272	JJC JR.'S Request 2
RD10003275	JJC JR.'S Request 2
RD10003284	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003291	JJC JR.'S Request 1
RD10003297	JJC JR.'S Request 1
RD10003303	JJC JR.'S Request 6
RD10003304	JJC JR.'S Request 6
RD10003309	JJC JR.'S Request 6
RD10003311	JJC JR.'S Request 6
RD10003318	JJC JR.'S Request 6
RD10003319	JJC JR.'S Request 6
RD10003326	JJC JR.'S Request 6
RD10003327	JJC JR.'S Request 6
RD10003328	JJC JR.'S Request 6
RD10003335	JJC JR.'S Request 6

TDI0003336	JJC JR.'S Request 6
TDI0003343	JJC JR.'S Request 6
TDI0003347	JJC JR.'S Request 1
TDI0003348	JJC JR.'S Request 1;JJC JR.'S Request 6
TDI0003349	JJC JR.'S Request 1
TDI0003362	JJC JR.'S Request 1
TDI0003363	JJC JR.'S Request 1;JJC JR.'S Request 6
TDI0003365	JJC JR.'S Request 1;JJC JR.'S Request 6
TDI0003366	JJC JR.'S Request 2
TDI0003367	JJC JR.'S Request 2;T2 Group's Request 3
TDI0003370	JJC JR.'S Request 1
TDI0003371	JJC JR.'S Request 1
TDI0003374	JJC JR.'S Request 1
TDI0003379	JJC JR.'S Request 1
TDI0003380	JJC JR.'S Request 1
TDI0003382	JJC JR.'S Request 2
TDI0003387	JJC JR.'S Request 2
TDI0003392	JJC JR.'S Request 2
TDI0003396	JJC JR.'S Request 2
TDI0003400	JJC JR.'S Request 2
TDI0003404	JJC JR.'S Request 2
TDI0003405	JJC JR.'S Request 2
TDI0003406	JJC JR.'S Request 2
TDI0003410	JJC JR.'S Request 2
TDI0003411	JJC JR.'S Request 2
TDI0003412	JJC JR.'S Request 2
TDI0003413	JJC JR.'S Request 2
TDI0003414	JJC JR.'S Request 2;T2 Group's Request 3
TDI0003415	JJC JR.'S Request 2;T2 Group's Request 3
TDI0003416	JJC JR.'S Request 3
TDI0003422	JJC JR.'S Request 2
TDI0003424	JJC JR.'S Request 2
TDI0003433	JJC JR.'S Request 2
TDI0003435	JJC JR.'S Request 2;T2 Group's Request 3
TDI0003436	JJC JR.'S Request 2;T2 Group's Request 3

LV 420571538v1

REP145

JA13069

RD10003437	JJC JR.'S Request 6
RD10003439	JJC JR.'S Request 6
RD10003440	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003441	JJC JR.'S Request 3
RD10003442	JJC JR.'S Request 3
RD10003447	JJC JR.'S Request 6
RD10003448	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003449	JJC JR.'S Request 1
RD10003451	JJC JR.'S Request 6
RD10003452	JJC JR.'S Request 2
RD10003454	JJC JR.'S Request 2
RD10003455	JJC JR.'S Request 2
RD10003484	JJC JR.'S Request 5
RD10003486	JJC JR.'S Request 2;T2 Group's Request 3
RD10003488	JJC JR.'S Request 2
RD10003490	JJC JR.'S Request 2;T2 Group's Request 3
RD10003491	JJC JR.'S Request 2;T2 Group's Request 3
RD10003493	JJC JR.'S Request 2;T2 Group's Request 3
RD10003495	JJC JR.'S Request 2
RD10003496	JJC JR.'S Request 2;T2 Group's Request 3
RD10003497	JJC JR.'S Request 2;T2 Group's Request 3
RD10003500	JJC JR.'S Request 5
RD10003517	JJC JR.'S Request 5
RD10003565	JJC JR.'S Request 5
RD10003576	JJC JR.'S Request 2;JJC JR.'S Request 3
RD10003577	JJC JR.'S Request 2
RD10003587	JJC JR.'S Request 2
RD10003589	JJC JR.'S Request 2
RD10003592	JJC JR.'S Request 2
RD10003594	JJC JR.'S Request 2
RD10003597	JJC JR.'S Request 2;T2 Group's Request 3
RD10003598	JJC JR.'S Request 2;T2 Group's Request 3
RD10003600	JJC JR.'S Request 2;T2 Group's

LV 420571538v1

REP146

JA13070

	Request 3
RD10003601	JJC JR.'S Request 5
RD10003602	JJC JR.'S Request 5
RD10003603	JJC JR.'S Request 5
RD10003645	JJC JR.'S Request 5
RD10003656	JJC JR.'S Request 5
RD10003660	JJC JR.'S Request 2
RD10003662	JJC JR.'S Request 2
RD10003665	JJC JR.'S Request 5
RD10003666	JJC JR.'S Request 3
RD10003667	JJC JR.'S Request 3
RD10003668	JJC JR.'S Request 5
RD10003669	JJC JR.'S Request 5
RD10003710	JJC JR.'S Request 2;T2 Group's Request 3
RD10003711	JJC JR.'S Request 2;T2 Group's Request 3
RD10003714	JJC JR.'S Request 2
RD10003715	JJC JR.'S Request 2
RD10003717	JJC JR.'S Request 2
RD10003718	JJC JR.'S Request 2
RD10003719	JJC JR.'S Request 2
RD10003720	JJC JR.'S Request 2
RD10003722	JJC JR.'S Request 2
RD10003723	JJC JR.'S Request 2
RD10003724	JJC JR.'S Request 2
RD10003725	JJC JR.'S Request 2
RD10003726	JJC JR.'S Request 2;T2 Group's Request 3
RD10003727	JJC JR.'S Request 2;T2 Group's Request 3
RD10003728	JJC JR.'S Request 2
RD10003729	JJC JR.'S Request 2
RD10003733	JJC JR.'S Request 2
RD10003738	JJC JR.'S Request 2
RD10003743	JJC JR.'S Request 1
RD10003744	JJC JR.'S Request 2
RD10003745	JJC JR.'S Request 1
RD10003746	JJC JR.'S Request 2
RD10003747	JJC JR.'S Request 1
RD10003748	JJC JR.'S Request 2
RD10003749	JJC JR.'S Request 1

LV 420571538v1

REP147

JA13071

RD10003751	JJC JR.'S Request 1
RD10003752	JJC JR.'S Request 1
RD10003753	JJC JR.'S Request 6
RD10003754	JJC JR.'S Request 1
RD10003755	JJC JR.'S Request 1
RD10003758	JJC JR.'S Request 1
RD10003759	JJC JR.'S Request 2
RD10003764	JJC JR.'S Request 2
RD10003769	JJC JR.'S Request 2
RD10003773	JJC JR.'S Request 2
RD10003774	JJC JR.'S Request 2
RD10003775	JJC JR.'S Request 1
RD10003776	JJC JR.'S Request 1
RD10003777	JJC JR.'S Request 1
RD10003778	JJC JR.'S Request 2
RD10003779	JJC JR.'S Request 1
RD10003781	JJC JR.'S Request 1
RD10003787	JJC JR.'S Request 2
RD10003801	JJC JR.'S Request 2
RD10003802	JJC JR.'S Request 2
RD10003805	JJC JR.'S Request 2
RD10003808	JJC JR.'S Request 2
RD10003809	JJC JR.'S Request 2
RD10003810	JJC JR.'S Request 2
RD10003812	JJC JR.'S Request 2
RD10003814	JJC JR.'S Request 2
RD10003817	JJC JR.'S Request 2
RD10003819	JJC JR.'S Request 2
RD10003822	JJC JR.'S Request 2
RD10003824	JJC JR.'S Request 2
RD10003827	JJC JR.'S Request 2
RD10003829	JJC JR.'S Request 2
RD10003832	JJC JR.'S Request 2
RD10003834	JJC JR.'S Request 2
RD10003836	JJC JR.'S Request 2
RD10003838	JJC JR.'S Request 2
RD10003841	JJC JR.'S Request 2
RD10003843	JJC JR.'S Request 2
RD10003845	JJC JR.'S Request 2
RD10003847	JJC JR.'S Request 2
RD10003850	JJC JR.'S Request 2

LV 420571538v1

REP148

JA13072

RD10003852	JJC JR.'S Request 2
RD10003854	JJC JR.'S Request 2
RD10003856	JJC JR.'S Request 2
RD10003859	JJC JR.'S Request 2
RD10003861	JJC JR.'S Request 2
RD10003863	JJC JR.'S Request 2
RD10003865	JJC JR.'S Request 2
RD10003868	JJC JR.'S Request 2
RD10003870	JJC JR.'S Request 2
RD10003872	JJC JR.'S Request 2
RD10003875	JJC JR.'S Request 2
RD10003878	JJC JR.'S Request 2
RD10003880	JJC JR.'S Request 2
RD10003883	JJC JR.'S Request 2
RD10003885	JJC JR.'S Request 2
RD10003886	JJC JR.'S Request 2
RD10003897	JJC JR.'S Request 2
RD10003910	JJC JR.'S Request 2
RD10003911	JJC JR.'S Request 2
RD10003922	JJC JR.'S Request 2
RD10003935	JJC JR.'S Request 3
RD10003937	JJC JR.'S Request 1
RD10003938	JJC JR.'S Request 1;JJC JR.'S Request 6
RD10003945	JJC JR.'S Request 2
RD10003946	JJC JR.'S Request 2
RD10003951	JJC JR.'S Request 2
RD10003952	JJC JR.'S Request 2;T2 Group's Request 3
RD10003964	JJC JR.'S Request 2
RD10003965	JJC JR.'S Request 2
RD10003968	JJC JR.'S Request 2
RD10003970	JJC JR.'S Request 2
RD10003971	JJC JR.'S Request 2
RD10003972	JJC JR.'S Request 2
RD10003974	JJC JR.'S Request 2
RD10003977	JJC JR.'S Request 2
RD10003978	JJC JR.'S Request 2
RD10003983	JJC JR.'S Request 2
RD10003984	JJC JR.'S Request 2
RD10003986	JJC JR.'S Request 2
RD10003987	JJC JR.'S Request 2

LV 420571538v1

REP149

JA13073

RD10003989	JJC JR.'S Request 2
RD10003991	JJC JR.'S Request 2
RD10003992	JJC JR.'S Request 2
RD10003993	T2 Group's Request 5
RD10003994	T2 Group's Request 5
RD10003997	T2 Group's Request 5
RD10004000	JJC JR.'S Request 2
RD10004001	JJC JR.'S Request 2
RD10004004	JJC JR.'S Request 2
RD10004005	JJC JR.'S Request 2;T2 Group's Request 3
RD10004012	JJC JR.'S Request 1
RD10004013	JJC JR.'S Request 2
RD10004015	JJC JR.'S Request 2
RD10004018	JJC JR.'S Request 2
RD10004019	JJC JR.'S Request 2
RD10004022	JJC JR.'S Request 2
RD10004023	JJC JR.'S Request 2
RD10004024	JJC JR.'S Request 2
RD10004025	JJC JR.'S Request 1
RD10004026	JJC JR.'S Request 1
RD10004027	JJC JR.'S Request 1
RD10004028	JJC JR.'S Request 1
RD10004029	JJC JR.'S Request 2
RD10004030	JJC JR.'S Request 2
RD10004031	JJC JR.'S Request 1
RD10004032	JJC JR.'S Request 1
RD10004035	JJC JR.'S Request 2
RD10004037	JJC JR.'S Request 2
RD10004038	JJC JR.'S Request 2
RD10004045	JJC JR.'S Request 2
RD10004047	JJC JR.'S Request 2
RD10004054	JJC JR.'S Request 2
RD10004056	JJC JR.'S Request 2
RD10004058	JJC JR.'S Request 2
RD10004059	JJC JR.'S Request 2
RD10004061	JJC JR.'S Request 1
RD10004062	JJC JR.'S Request 1
RD10004063	JJC JR.'S Request 2
RD10004065	JJC JR.'S Request 2
RD10004067	JJC JR.'S Request 2
RD10004069	JJC JR.'S Request 2

LV 420571538v1

REP150

JA13074

RD10004070	JJC JR.'S Request 2
RD10004072	JJC JR.'S Request 2
RD10004075	JJC JR.'S Request 2
RD10004078	JJC JR.'S Request 2
RD10004081	JJC JR.'S Request 2
RD10004082	JJC JR.'S Request 2
RD10004084	JJC JR.'S Request 2
RD10004086	JJC JR.'S Request 2
RD10004090	JJC JR.'S Request 2
RD10004091	JJC JR.'S Request 2
RD10004092	JJC JR.'S Request 2
RD10004096	JJC JR.'S Request 2
RD10004097	JJC JR.'S Request 2
RD10004098	JJC JR.'S Request 2
RD10004100	JJC JR.'S Request 2
RD10004102	JJC JR.'S Request 2
RD10004103	JJC JR.'S Request 2
RD10004113	JJC JR.'S Request 2
RD10004114	JJC JR.'S Request 2
RD10004116	JJC JR.'S Request 2
RD10004119	JJC JR.'S Request 2
RD10004122	JJC JR.'S Request 2
RD10004124	JJC JR.'S Request 2
RD10004125	JJC JR.'S Request 2
RD10004130	JJC JR.'S Request 2
RD10004132	JJC JR.'S Request 2
RD10004133	JJC JR.'S Request 2
RD10004134	JJC JR.'S Request 2
RD10004135	JJC JR.'S Request 2
RD10004141	JJC JR.'S Request 1
RD10004142	JJC JR.'S Request 2
RD10004144	JJC JR.'S Request 2
RD10004145	JJC JR.'S Request 2
RD10004148	JJC JR.'S Request 2
RD10004149	JJC JR.'S Request 2
RD10004159	JJC JR.'S Request 2
RD10004160	JJC JR.'S Request 2
RD10004163	JJC JR.'S Request 2
RD10004172	JJC JR.'S Request 2
RD10004173	JJC JR.'S Request 2
RD10004182	JJC JR.'S Request 2

LV 420571538v1

REP151

JA13075

RD10004185	JJC JR.'S Request 2;T2 Group's Request 3
RD10004186	JJC JR.'S Request 2;T2 Group's Request 3
RD10004187	JJC JR.'S Request 2
RD10004188	JJC JR.'S Request 2
RD10004191	JJC JR.'S Request 2
RD10004192	JJC JR.'S Request 2
RD10004193	JJC JR.'S Request 2
RD10004197	JJC JR.'S Request 2
RD10004211	JJC JR.'S Request 1
RD10004212	JJC JR.'S Request 2
RD10004219	JJC JR.'S Request 1
RD10004222	JJC JR.'S Request 1
RD10004223	JJC JR.'S Request 6
RD10004224	JJC JR.'S Request 1

DDW
MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
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Counsel for Reading International, Inc.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAMES J. COTTER, JR., individually and
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, et al,

Defendants.

In the Matter of the Estate of
JAMES J. COTTER,

Deceased.

JAMES J. COTTER, JR.,

Plaintiff,

v.

READING INTERNATIONAL, INC., a
Nevada corporation; DOES 1-100, and
ROE ENTITIES, 1-100, inclusive,

Defendants.

Case No. A-15-719860-B
Dept. No. XI

Coordinated with:

Case No. P 14-082942-E
Dept. XI

Case No. A-16-735305-B
Dept. XI

**READING INTERNATIONAL, INC.'S
THIRTY-SEVENTH
SUPPLEMENTAL NRCP 16.1 INITIAL
DISCLOSURES**

GREENBERG TRAURIG, LLP
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Facsimile: (702) 792-9002

1 Reading International, Inc. ("RDI") by and through its attorneys, and pursuant to Rule
2 16.1 of the Nevada Rules of Civil Procedure, hereby provides its Thirty-Seventh Supplement to
3 its Initial Disclosures. **Supplemental information can be found in bold font.**

4 These disclosures are based on information reasonably available to RDI as of this date,
5 recognizing that the investigation continues and that discovery has just begun. RDI reserves the
6 right to supplement or modify this supplemental disclosure statement at any time as additional
7 information becomes available during the course of discovery.

8 In making this disclosure, RDI does not purport to identify every individual, document,
9 data compilation, or tangible thing possibly relevant to this lawsuit. Rather, RDI's disclosure
10 represents a good faith effort to identify discoverable information they currently and reasonably
11 believes may be used to support their claims and defenses as required by NRCP 16.1.
12 Furthermore, RDI makes this disclosure without waiving its right to object to the production of
13 any document, data compilations, or tangible thing disclosed on the basis of any privilege, work
14 product, relevancy, undue burden, or other valid objection. This disclosure does not include
15 information that may be used solely for impeachment purposes. While making this disclosure,
16 RDI reserves, among other rights, (1) its right to object on the grounds of competency, privilege,
17 work product, relevancy and materiality, admissibility, hearsay, or any other proper grounds to
18 the use of any disclosed information, for any purpose in whole or in part in this action or any
19 other action and (2) its right to object on any and all proper grounds, at any time, to any
20 discovery request or motion relating to the subject matter of this disclosure.

21 The following disclosures are made subject to the above objections and qualifications.

22 **INITIAL DISCLOSURES**

23 **A.**

24 **LIST OF WITNESSES PROVIDED BY RDI**

25 Based on the information currently available to RDI, the following individuals are
26 identified:

27 ///

1. James J. Cotter, Jr.
c/o Lewis Roca Rothgerber
3993 Howard Hughes Pkwy., Ste. 600
Las Vegas, NV 89169
2. Margaret Cotter
c/o Cohen-Johnson, LLC
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Las Vegas, NV 89119
And
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- 1 And
2 c/o Bird, Maraella, Boxer, Wolpert,
3 Nessim, Drooks, Lincenberg & Rhow
4 1875 Century Park East, 23rd Floor
5 Los Angeles, CA 90067
- 6 8. William Gould
7 c/o Maupin Cox & LeGoy
8 4785 Caughlin Parkway
9 Reno, NV 89519
- 10 And
11 c/o Bird, Maraella, Boxer, Wolpert,
12 Nessim, Drooks, Lincenberg & Rhow
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14 Los Angeles, CA 90067
- 15 9. PMK of JMG Capital Management, LLC
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17 32121 Lindero Canyon Road, Ste. 200
18 Westlake Village, CA 91361
- 19 And
20 c/o Patti, Sgro, Lewis & Roger
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- 23 10. PMK of Kase Capital
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5 And
6 c/o Patti, Sgro, Lewis & Roger
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- 9 14. PMK of Kase Management
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13 And
14 c/o Patti, Sgro, Lewis & Roger
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16 Las Vegas, NV 89101
- 17 15. PMK of Kase Qualified Fund
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19 32121 Lindero Canyon Road, Ste. 200
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21 And
22 c/o Patti, Sgro, Lewis & Roger
23 720 S. 7th Street, 3rd Floor
24 Las Vegas, NV 89101
- 25 16. PMK of Pacific Capital Management, LLC
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27 32121 Lindero Canyon Road, Ste. 200
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8 Mill Valley, CA 94941
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10 c/o Reading International
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13 Los Angeles, CA 90045
- 14 29. Michael Wrotniak
15 c/o Reading International
16 6100 Center Drive
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- 19 30. Andrew Shapiro
20 591 Redwood Highway
21 Suite 2345
22 Mill Valley, CA 94941
- 23 31. Jon Glaser
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27 And
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Dallas, TX 75201
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33. Derek Alderton
Address Unknown
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Los Angeles, CA 90095-1481

35. Richard Roll
California Institute of Technology
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36. Michael Klausner
Nancy and Charles Munger Professor of Business
Stanford Law School
Stanford, CA 94305
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New York, NY 10022
39. Myron T. Steele, Esq.
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40. Tiago Duarte-Silva, Charles River Associate
c/o Lewis Roca Rothgerber Christie LLP
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Las Vegas, NV 89119
45. PMK of Diamond A Investors, LP
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6720 Via Austi Parkway, Ste. 430
Las Vegas, NV 89119

//

46. Sumeet Goel
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Suite 620
Los Angeles, CA 90245

47. Christine Liang
Address Unknown

48. Roberto Moldes
Address Unknown

B.

LIST OF DOCUMENTS PROVIDED BY DEFENDANTS

Based on the information reasonably available, the following categories of documents are in RDI's possession, custody or control and may be used by RDI to support their claims or defenses. The following documents will be sent via secure file transfer:

Beg. Bates#	Description
RDI0000001- RDI0000095	RDI's first set of data responsive to expedited discovery requests
RDI0000096- RDI0002467	RDI's second set of data responsive to expedited discovery requests
RDI0002468- RDI0004224	RDI's third set of data responsive to expedited discovery requests
RDI0004225- RDI0011216	RDI's Fourth Supplemental Production
RDI0011217- RDI0016091	RDI's Fifth Supplemental Production
	RDI's Privilege Log of Emails, attached hereto as Exhibit 1
	RDI's Privilege Log of Documents and Loose Files, attached hereto as Exhibit 2
	List of Counsel Identified on Privilege Log, attached hereto as Exhibit 3
RDI0016092- RDI0018198	RDI's Sixth Supplemental Production

	RDI's Supplemental Privilege Log of Craig Tompkins data ¹
	RDI's Redaction Log attached hereto as Exhibit 4
RDI0018199- RDI0022814	RDI's Seventh Supplemental Production
	RDI's Supplemental Privilege Log of Emails, attached hereto as Exhibit 5
	RDI's Supplemental Privilege Log of Documents and Loose Files, attached hereto as Exhibit 6
RDI0022815- RDI0025532	RDI's Eighth Supplemental Production
RDI0025533- RDI0029186	RDI's Ninth Supplemental Production
	RDI's Supplemental Privilege Log of emails and documents, attached hereto as Exhibit 7 ²
RDI0029187- RDI0035423	RDI's Tenth Supplemental Production
RDI0035424- RDI0037096	RDI's Eleventh Supplemental Production
RDI0037097- RDI0043136	RDI's Twelfth Supplemental Production
RDI00430137- RDI0046281	RDI's Thirteenth Supplemental Production
	RDI's Supplemental Privilege Log of emails and documents, attached hereto as Exhibit 8 ³
RDI0046282- RDI0050667	RDI's Fourteenth Supplemental Production
RDI0050668- RDI0054887	RDI's Fifteenth Supplemental Production
RDI0054888- RDI0055808	RDI's Sixteen Supplemental Production

¹ Please be advised that this log contains emails sent to or from Craig Tompkins that did not include any non-retained attorneys or other third-party recipients. This log was created after running the agreed upon search terms on data collected from Mr. Tompkins and using a predicative coding model. Due to the volume of data collected from Mr. Tompkins, a manual review of all emails was not completed and as such this log may include documents not relevant to this litigation, but this data was captured by the predicative coding model which assigned these materials a response score of 70 or higher. All attachments to any privileged communications are included on this log. Due to volume, this document will not be served via Wiznet and will be sent via FTP.

² Due to volume, this document will not be served via Wiznet and will be sent via FTP.

³ Due to volume, this document will not be served via Wiznet and will be sent via FTP.

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	RDI's Supplemental Privilege Log of emails and documents, attached hereto as Exhibit 9 ⁴
RDI0055809- RDI0058011	RDI's Seventeenth Supplemental Production
RDI0058012- RDI0058299	RDI's Eighteenth Supplemental Production
RDI0058300- RDI0059676	RDI's Nineteenth Supplemental Production
RDI0059677- RDI0059743	RDI's Twentieth Supplemental Production
RDI0059744- RDI0060025	RDI's Twenty-First Supplemental Production
RDI0060026- RDI0060048	RDI's Twenty-Second Supplemental Production
	RDI's Supplemental Privilege Log of Documents and Loose Files, attached hereto as Exhibit 10
RDI0060049- RDI0060071	RDI's Twenty-Third Supplemental Production
RDI0060072- RDI0063688	RDI's Twenty-Fourth Supplemental Production
RDI0063689- RDI0063803	RDI's Twenty-Fifth Supplemental Production
RDI0063804- RDI0063918	RDI's Twenty-Sixth Supplemental Production
	RDI's Privilege Log of Documents relating to James Cotter Jr.'s Requests for Production dated January 12, 2018
RDI0063919- RDI0063920	RDI's Twenty-Seventh Supplemental Production
RDI0063921- RDI0064969	RDI's Twenty-Eight Supplemental Production
	RDI's Privilege Log of Documents relating to Collection of Materials Ordered at May 2, 2018 Hearing
RDI0064970- RDI0065120	RDI's Twenty-Ninth Supplemental Production
	RDI's Supplemental Privilege Log of Documents relating to Collection of Materials Ordered at May 2, 2018 Hearing
RDI0065121- RDI67406	RDI's Thirtieth Production
RDI0067407- RDI0070364	RDI's Thirty-First Production

⁴ Due to volume, this document will not be served via Wiznet and will be sent via FTP.

RDI0070365- RDI0071543	RDI's Thirty-Second Production -
	RDI's Amended Privilege Log of Documents relating to Collection of Materials Ordered at May 2, 2018 Hearing (Amends logs produced on 5/30/2018 & 5/31/2018)
RDI0071544- RDI0071599	RDI's Thirty-Third Production (also includes replacement image for RDI0070450)
	RDI's Second Amended Privilege Log of Documents relating to Collection of Materials Ordered at May 2, 2018 Hearing (Log is amended to reflect bates numbers of documents produced with RDI's 33 rd Production; all amended items are highlighted in yellow)
	RDI'S Amended Privilege Log relating to James Cotter Jr.'s Requests for Production dated January 12, 2018 (amended log served on 2/22/2018; this log is amended to reflect bates numbers of documents produced with RDI's 33 rd Production; all amended items are highlighted in yellow)

RDI reserves its right to submit as an exhibit any document, data compilation or tangible item identified by any other party in this action or obtained from any third party. RDI further reserves its right to amend and/or supplement this first supplemental list of documents, data compilations, or tangible items as discovery proceeds and additional documents are produced by parties and third parties.

Further, RDI will provide its production materials as described below whenever possible and requests that all parties provide their productions utilizing the same guidelines:

All electronically stored information ("ESI") shall be produced electronically in a form that maximizes the ability to search the information by the use of search terms and that maximizes the amount of metadata that accompanies the information. Specifically, when available, please provide all ESI as a .DAT file including metadata for the following fields:

Field Name	Email	Attachment	Loose	Description
BegBates	x	x	x	First Bates number of native file document/email
EndBates	x	x	x	Last Bates number of native file document/email
BegAttach	x	x	x	First Bates number of attachment range
EndAttach	x	x	x	Last Bates number of attachment range
PgCount	x	x	x	Number of pages in native file document/email
Custodian	x	x	x	Custodian of file

1	CustodianAll	x	x	x	Custodian of file, followed by all other Custodians that have a duplicate of the record. This list is de-duped within the Custodian names. This will be a multi-choice field.
2					
3	FileType	x	x	x	Application Name field value pulled from metadata of the native file.
4	FileExt	x	x	x	File extension of native file
5	FileName	x	x	x	Original filename of native file. Contains subject of e-mail for e-mail records
6	FilePath	x	x	x	Full path to source files (if e-docs or loose e-mail) or folder path contained with a mail store (if NSF or PST)
7	Subject	x	x	x	Subject field value extracted from metadata of native file; email subject for email, subject field extracted from metadata for loose efiles.
8					
9	TO	x			Recipient(s) of the e-mail; email and friendly name if available in metadata
10	FROM	x			Author of the e-mail
11	CC	x			Recipient(s) of "Carbon Copies" of the e-mail; email and friendly name if available in metadata
12					
13	BCC	x			Recipient(s) of "Blind Carbon Copies" of the e-mail; email and friendly name if available in metadata
14	DATESENT	x			Sent date of an e-mail
15	TIMESENT	x			Time the e-mail was sent
16	DATERCVD	x			Received date of an e-mail
17	TIMERCVD	x			Time the e-mail was received
18	AUTHOR		x	x	Author metadata from the loose efile
19	DATECREATE D		x	x	Creation Date from the properties of the native file. When not available the file system date.
20	TIMECREATE D		x	x	Creation Time of the native file from the properties of the native file. When not available the file system time.
21	DATELASTM OD		x	x	Last Modified Date from the properties of the native file. When not available the file system date.
22	TIMELASTMO D		x	x	Last Modified Time from the properties of the native file. When not available the file system time
23	MD5HASH		x	x	MD5 Hash value of the document.
24	DOCLINK	x	x	x	Path to Native file in exported data
25	OCRPATH	x	x	x	Path to Text file corresponding to each document in export

- The .DAT file must use the following Concordance® default delimiters: Comma ASCII character (020) Quote ASCII character (254)
- Date fields should be provided in the format: mm/dd/yyyy
- Date and time fields must be two separate fields

- Text must be produced as separate text files, not as fields within the .DAT file.
- The full path to the text file (OCRPATH) should be included in the .DAT file.
- Native file documents must be named per the BegBates number.
- The full path of the native file must be provided in the .DAT file for the DocLink field.
- Black and white images must be 300 DPI Group IV single-page TIFF files.
- File names cannot contain embedded spaces or special characters (including the comma).
- All TIFF image files must have a unique file name, i.e. Bates number.
- Images must be endorsed with sequential Bates numbers in the lower right corner of each image.
- Excel spreadsheets should have a placeholder image named by the Bates number of the file.
- Production should include an Opticon or IPRO image cross-reference file

C.

DAMAGES

RDI will seek to recover the full extent of their damages to which they are entitled as a result of Plaintiff filing this action, including all costs, expert fees and attorney's fees incurred as a result of this dispute. The total computation of RDI's damages cannot be completed as amounts continue to accrue.

RDI reserves its right to supplement this disclosure as additional information becomes available.

DATED this 15th day of June, 2018.

GREENBERG TRAURIG, LLP

/s/Mark E. Ferrario

MARK E. FERRARIO, ESQ. (NV Bar No. 1625)
KARA B. HENDRICKS, ESQ. (NV Bar No. 7743)
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Counsel for Reading International, Inc.

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing *Reading International, Inc.'s Thirty-Seventh NRCP 16.1 Disclosures* to be e-served via the Court's Wiznet E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 15th day of June, 2018.

/s/ Andrea Lee Rosehill
AN EMPLOYEE OF GREENBERG TRAURIG, LLP

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EXHIBIT 4

REP168

JA13092

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
6/12/15	Complaint		
8/14/15	Cotter's First RFP to individual defendants and RDI, seeking 6 categories of documents limited to "documents created or dated on or after January 1, 2014."		Exhibit 1
8/17/14	T2 Plaintiff's First RFP seeking 6 categories of documents starting 6/1/2013 to date		Exhibit 2
9/10/15	Navigant invoice to RDI: \$6,936.25 "discovery consulting" fees \$225 - \$350/hr. \$5,000 "collection fees"	Block-billing; No description of "collection" work performed; No identification of "client"; Boilerplate descriptions.	EP 0893-0894
9/17/15	RDI's responses to First RFPs of Plaintiff and T2 Plaintiffs: RDI imaged RDI's server		Exhibit 3
10/16/15	Navigant invoice to RDI: \$45,098.75 "consulting fees" & \$121,823.24 expenses including:	Excessive hours (>100) for "consulting" at excessive hourly rates (\$225-350) akin to hourly attorney rates and above paralegal rates; No breakdown per timer;	EP 0898 - 0913

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
	<p>\$90,050 [data in] 1801 GB \$22,760 [data out] 113.80 GB \$2,500 collection 2 mobile devices \$675 Relativity user fees [9]</p>	<p>Pervasive block-billing (3.0 & 3.5) with inadequate descriptions ("client communication and support") by Ashley Smith; Pervasive block-billing by Caroline Miller (3.5; 4.0; 8.0); unnecessary uploading of entire RDI server given limited RFPs; Excessive data processing; Excessive user fees;</p>	
10/16/15	<p>Navigant bill to Quinn Emanuel: \$10,023.75 "consulting fees" \$19,824.60 [data in] 107.16 GB \$375 Relativity user fees [5]</p>	<p>Non-descriptive, repetitive block-billing by Ashley Smith ("client communication (N. Helpen), discovery consulting"); Paralegal-type search work (1.80 "Ran searches"; "Checked on problematic document for client"); Excessive fees for data processing; Excessive number of users</p>	EP 0919 – 0923
10/29/15	<p>RDI 2nd. Supp.: RDI 96 –2467</p>		Ex. 3
11/13/15	<p>RDI 3rd Supp.: RDI 2468 –4224</p>		Ex. 3
11/13/15	<p>Navigant bill GT: \$38,807.50 "consulting fees" \$525 Relativity user fees [7]</p>	<p>Pervasive block-billing and paralegal work by Amy Tsang (review, analysis, and production of data); All 26.5 hours of Ashley Smith block-billed with similar generic descriptions</p>	EP 0928 – 0940

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		("Client communication, conference calls. Discovery consulting, case management"); All 47.3 hours of Caroline Miller block-billed up to 6.5 hours doing pervasive and excessive paralegal-type work (esp. given the number of GT users); 17.25 of paralegal work by Stacey Levy (e.g., "review Ellen Cotter's mobile device conversations"); Excessive number of users.	
11/13/15	Navigant bill QE: \$6,005.00 "consulting fees" \$225 -350 /hr \$10,454.35 [data processing] 56.51 gb \$375.00 user fees [5]	Excessive block-billed paralegal-type work by Miller and Stacey Levy; excessive fees for data processing	EP 0943 - 0947
11/19/15	RDIs 4 th Supp.: RDI 4274 – 11216		Ex. 3
12/03/15	RDIs 5 th Supp.: RDI 11276 – 16039		Ex. 3
12/09/15	T2 2 nd set of RFPs		Ex. 2
12/21/15	Navigant bill RDI: \$16,025.00 consulting \$1,050.00 Relativity user fees [14 users]	All 7 hours of Ashley Smith block-billed at \$350 per hour with similar generic descriptions ("Client communication. Discovery consulting"); All 23.6 hours of Caroline Miller block-billed doing pervasive and excessive paralegal-type	EP 0955 - 0962

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		work (productions; prepare searches; production chart work); excessive (14) users.	
12/21/15	Navigant bill QE - \$5,971.25 consulting fees	2.5 hours of Ashley Smith block-billed at \$350 per hour with similar generic descriptions ("Client communication, production QC"); 9.3 hours of Caroline Miller block-billed and paralegal-type work (run searches; prepare productions; prepare searches)	EP 0965 – 0958
01/12/16	Navigant bill –RDI \$34,350.00 professional fees \$1,125.00 Relativity user fees [15]	Excessive number of hours (116.75) in "consulting" and "project management" fees: 8.5 hours of Ashley Smith block-billed at \$350 per hour with <i>identical</i> generic descriptions ("Case management: Multiple correspondence with client [who?] regarding project status, next steps, project requests and requirements"); 67.5 hours of Caroline Miller block-billed up to 6.5 hours of paralegal-type work (run searches; prepare productions; prepare searches); and 29.2 hours of Nicole LeBeau with paralegal-type work	EP 0976 – 0991

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		(searches, determine privileged documents etc.)	
01/12/16	Navigant bill – QE \$7337.50 professional fees	Block-billing; 25H paralegal-type work Nicole Miller	EP 0994 – 0999
01/12/16	Navigant bill – Productions \$3,542.50 professional fees	Paralegal-type work Miller	EP 1002 - 1005
1/13/16	RDI's responses to T2 2 nd set of RFP that sought records going back 4 years		Ex. 2
02/19/16	Navigant bill - \$50,786.25 professional fees \$1,125.00 Relativity user fees [15]	Excessive number of hours (179.05) in "consulting" and "project management" fees: 18 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("On-going communication with client, discovery consulting. . .") ; 95.15 hours of Caroline Miller block-billed up to 7 hours with paralegal-type work (run searches; prepare productions; prepare searches and batches); and 51.6 hours of Nicole LeBeau with paralegal-type work (searches, determine privileged documents etc.)	EP 1008 – 1025
02/19/16	Navigant bill – QE \$4087.50 professional fees	Block-billing for paralegal work Miller (production searches)	EP 1029 - 1031

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
02/24/16	RDI's 1 st Supp. response to T2 RFPs: RDI 22815 – 22823		Ex. 2
02/24/16	Navigant bill – \$4,937.50 professional fees	11.5 of block-billed hours Miller; paralegal-type work (1.6 "prepared letters for destruction of clawback. . . .")	EP 1034 – 1037
03/14/16	Navigant bill GT - \$21,356.75 professional fees \$2,777.50 [data in] 55.55 gb \$5,326.00 [data out] 26.63 gb \$675.00 Relativity user fees [9]	Excessive project management hours (79.53 and consulting; 7.5 hours of Ashley Smith block-billed at \$350 per hour with generic descriptions ("Case management"); 51.5 hours of Caroline Miller block-billed up to 6 hours of paralegal-type work (run searches; prepare productions; prepare searches); and 9.8 hours of Nicole LeBeau with paralegal-type work (review search terms, identify documents for redaction); excessive number of users	EP 1040 – 1049
03/14/16	Navigant bill – QE \$17,180.00 professional fees \$675 Relativity user fees [9]	Excessive block-billing and paralegal work (run searches; discuss search terms; at excessive rates; billing 1.5 hours "wait[ing] for Ellen Cotter to arrive"; 6. H travel to directors' houses for data collection	EP 1052 – 1061
03/14/16	Navigant bill – \$3,767.50 professional fees	Block-billing	EP 1064 – 1067

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
03/15/16	Navigant bill – SHEPPARD MULLIN \$840.18	Unrelated	EP 1070 – 1072
03/18/16	T2s 2 nd RFP to RDI		Ex. 2
03/23/16	RDIs 2 ⁿ Supp. T2 RFP		Ex. 2
04/26/16	Navigant bill – GT \$26,036.25 professional fees \$3,080.50 [data in] 61.61 gb \$675 Relativity user fees [9]	Excessive number of hours (115.85) in "consulting" and "project management" fees: 15 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("Case management, continuing discussion. . . ."); excessive 72.40 hours of Caroline Miller block-billed up to 5.8 hours of paralegal-type work and inadequate descriptions; and 10.2 hours of Nicole LeBeau with paralegal-type work (searches, determine privileged documents etc.)	EP 1075 - 1089
04/26/16	Navigant bill – QE \$8,207.50 professional fees \$675 Relativity user fees [9]	Excessive, needless consulting hours, block-billing	EP 1092 – 1100
04/26/16	Navigant bill – \$2,847.50 professional fees	Excessive consulting, block-billing	EP 1103 – 1106
5/18/16	Navigant bill – QE \$12,591.25 professional fees	54.85 hours of excessive project management all block-billed; 6 hours of work related to unknown "Sacks firm"	EP 1129 - 1140

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
5/18/16	Navigant bill – Productions \$4,195.00	10 hours of excessive project management all block-billed	EP 1143 – 1146
5/20/16	Navigant bill – GT \$23,473.75 professional fees \$450.00 Relativity user fees [6]	Excessive (>100 hours) consulting and project management work block-billed; inadequately described (Smith & Miller)	EP 1109 – 1126
6/20/16	RDI's 3 rd Supp. response to T2s 2 nd RFPs		Ex. 2
6/20/16	RDI's 6 th Supp. Resp. to Cotter's RFPs		Ex. 1
6/20/16	RDI's 6 th Supp. response to T2s RFPs		Ex. 2
06/21/16	RDI's 1 st Supp. Resp. to Cotter's 2 nd RFPs: RDI 37197 – 54528		Ex. 1
6/21/16	RDI's 1 st Supp. Resp. to T2s 3 rd RFPs		Ex. 2
6/24/16	Cotter's 2 nd RFPs to RDI		
6/29/16	Navigant bill – RDI \$14,355.00 professional fees	Excessive number of hours in "consulting" and "project management" fees block-billed at excessive rates	EP 1149 – 1159
6/29/16	Navigant bill – QE \$5,602.50 project management fees \$375.00 Relativity user fees [5]	Excessive number of hours in "project management" fees block-billed at excessive rates	EP 1162 – 1167

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
6/29/16	Navigant bill -- \$3,397.50 professional fees \$375.00 Relativity user fees [5]	Excessive number of hours in "project management" fees block-billed at excessive rates	EP 1170 - 1174
6/29/16	Navigant bill -- COTTER TRUST \$2,532.50	Unrelated	EP 1177
7/12/16	Motion for T2 settlement		
7/21/16	Navigant bill --RDI \$14,907.50 professional fees \$300.00 Relativity user fees [4]	Excessive number of hours (45.4) in "consulting" and "project management" fees: 26.5 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("Ongoing client communication [with who?] RE project requests around depo prep"; excessive 16 hours of Caroline Miller block-billed	EP 1182 - 1188
	Other invoices		EP 1189- EP 1217
	TOTAL billing by 7/21/16: \$635,722.20		
1/6/17	Navigant bill -- RDI \$7952.50 professional fees \$5227.85 expenses [Nov-Dec hosting fees]	Excessive hours in "case" management and "project" management (29.7), numerous entries "Ongoing communication with client regarding additional production data	EP 1287- 1291

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		to export and load (10.5 hrs); production and export (17.3)	
1/6/2017	Navigant bill – QE \$6,660.00 professional fees \$3,890.87 expenses [Nov/Dec hosting fees)	Excessive hours in "project" management (29.60 hrs): production and export	EP 1293 – 1297
2/27/17	Navigant bill – QE \$5,557.50 professional fees \$2001.33 expenses	Excessive "project" management (24.7 hrs) – transition to other team members; productions (2 gb produced)	EP 1321 – 1325
12/20/17	Navigant bill – QE \$4,998.10 professional fees \$1,726.70 expenses	Excessive fees (25.6 hrs) – multiple searches for counsel for depositions	EP1426 – 1428
4/26/18	Navigant bill – QE \$5,883.75 professional fees \$2168.97 expenses	Excessive fees (26.15 hrs) – prepared clawback docs for redaction; document load for RDI; prepare productions (1 gb)	EP 1491 – 1493
6/25/18	Navigant bill – GT \$14,770.00 professional fees \$9,769.04 expenses	Excessive fees (62.20 hrs) for 103.1 gb in, 8.81 gb out re directors' data	EP 1508 - 1512
6/25/18	Navigant bill – QE \$24,980.00 professional fees \$3,231.42 expenses \$3,066.012 travel expenses	Excessive fees (78.8 hrs) collecting directors' data, processing; 9.65 gb in; unreasonable to travel to the data as opposed to send the data on hard drive	EP 1515 – 1520
8/20/18	Navigant bill – GT \$6,707.50 professional fees \$3,632.47 expenses	Excessive fees (29.7 hrs) 6/1 – 6/15/ 18; resubmissions for production, coding choices.	EP 1526 – 1527

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
8/16 – 7/20/18	Navigant bills remainder of case: \$249,154.18		EP 1218 - 1533
6/15/18	RDI's 37 th supplemental disclosures: total produced RDI 71544 – 71599		Ex. 3; <i>see</i> <i>also</i> Ex. 4 to Motion to Retax

EXHIBIT 5

REP180

JA13104

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
Andre Matyczynski			
06/2015	\$7,880.24 for Tim Storey airfare to NZ after board meeting	<i>No relation to litigation</i>	EP 1653
08/2015	\$4,060 for SPR reports	<i>No itemization or explanation</i>	EP 1665 - 1671
DOUG MCEACHERN			
02/12/2016	\$191.31 for breakfast w/EC, M. Ferrario, parking, mileage for Storey deposition	<i>Unnecessary to attend</i>	EP 1684
05/16/2016	\$96.00 train and taxi to Jim Cotter's depo	<i>Unnecessary to attend</i>	EP 1687
ELLEN COTTER			
07/2015	\$1,195.25 for Mandarin Hotel and other travel costs for "court" 7/10/2015 - 7/11/2015	<i>No hearing in this case until August 2015.</i>	EP 1712 - 1714
09/2015	\$1,348.26 for Mandarin Hotel and other travel costs for court 9/17/2015- 9/18/2015	<i>No court hearing on those dates</i>	EP 1730, 1733
05/2016	\$341.17 for Uber and meals for Margaret Cotter (MC) and EC depositions	<i>Excessive</i>	EP 1744 - 1746
07/2016	\$795.02 for travel costs for 7/28/2016 hearing on motion to approve T2 settlement in LV, incl. airfare and \$241.16 dinner with Craig Tompkins ("CT")	<i>Unrelated to Plaintiff's case & excessive</i>	EP 1762, 1766

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
08/2016	\$883.61 for 7/28/2016 [T2 settlement] hearing (incl. Mandarin Hotel \$497.53, Mandarin Hotel limo airport to hotel \$85.00, Sweet Limousine LAX to EC home \$97.75, Sweet Limousine LV trip \$116.25)	<i>Unrelated to Plaintiff's case & excessive</i>	EP 1780 – 1781, 1790
10/2016	\$2,094.83 (incl. 9/29/16 stay at Mandarin, airfare, Oct. 1 meal for "litig. Meeting" with GT, Akin Gump (AG), and QE (\$970.13) \$995.54 for 10/6/2016 court hearing [T2 settlement] (including for airfare, Sweet Limousine [2 charges for \$222.50] Mandarin Hotel room, and \$91.71 meal-	<i>Unrelated to case; AG was employment counsel in arbitration; excessive</i> <i>Unrelated to P's case; excessive</i>	EP 1798 – 1800
12/2017	\$14,500.37 including: Four Seasons director rooms at \$3,183.72; Copier \$3,825.00; Brook Furniture \$2,505; Office space rental \$4,066.65; and airfare \$587.96	<i>Excessive and unnecessary costs due to choice of out of state counsel</i>	EP 1838 – 1841
01/2018	\$9,761.64 including: -12/29/2017: three limos, \$750 for transportation from Four Seasons to court -first class airfare for Mr. & Mrs. Gould from LA: \$1,760.40,	<i>Excessive, extravagant local and long-distance transportation & travel costs for spouses</i>	EP 1894 – 1899

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
	-airfare for Mr. &Mrs. Kane from San Diego \$320.40, -1/9-1/11/2018: three limos court to hotel \$750; -two limos for Goulds to/from airport: \$500; --- -1/7/2018: 4 limos: \$1,000 hotel/airport. - -computer rental QE: 380.82, -1/8/2018 directors limos hotel/court: \$500, -1/9/2018 limo airport/hotel McEachern & Adams: \$500 -1/10/2018 Sweet Limo EMC LV to home \$918.75 -1/13/2018 EC, MC meals \$322.22 -1/15/2018 Sweet Limo EMC LV to home \$787.50 -1/24/2018 Cox Comm IT/data QE: \$507.82		
01/2018	\$420.40 Upgrade for airfare Mr. & Mrs Kane LV to SD	<i>Unnecessary / unreasonable spouse</i>	EP 1913 - 1914
02/2018	\$1,008.67 for LV office space	<i>Unnecessary expense due to choice of out of town counsel and availability of local counsel firm space</i>	EP 1919 - 1920, 1931 - 1932
05/2018	\$572.06 for 5/2/2018 hearing (including airfare \$334.40 and Sweet Limo LAX to EC home \$116.25)	<i>Unnecessary</i>	EP 1943 - 1944
LAURA BATISTA			

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
1/3 – 1/10/2018	\$880.70 Meals and mileage LA/LV/LA	<i>Unnecessary company expense</i>	EP 1953 – 1954
MARGARET COTTER			
08/2015	\$2,418.36 for 8/12/2015 hearing [T2 motion to intervene] (incl. Mandarin Hotel, meals, taxis (\$877.26) and Airfare LAX to NYC \$1,541.10)	<i>Unrelated to Plaintiff's case; excessive unnecessary and unreasonable</i>	EP 1971 – 1972
12/2017	12/16/2017 airfare JFK to LAS \$1,038.98 01/05/2018 airfare JFK LAS \$2,698.30 1/9/2018 airfare LAS JFK \$2,228.30 1/26/2018 taxi \$13.30 [not in LV]	<i>Excessively high, duplicate travel costs</i>	EP 1978 - 1980
VICTOR ALBIZURES JR			
01/2018	\$451.72 incl. 1/10/2018 mileage \$304.11 1/10/2018 meals \$147.61	<i>No need shown</i>	EP 1993 – 1994
01/2018	\$623.52 incl. 1/3/2018 mileage \$411.60 to LV and Cal Oaks 1/4/2017 lunch w/Laura \$90	<i>No need shown; unnecessary travel to California; excessive meal cost</i>	EP 2000 – 2001
WILLIAM ELLIS			
05/2015	\$359.21 for dinner and drinks with T Storey & lunch with Ghose	<i>Case not filed until 6/2015; no depositions held</i>	EP 2010 – 2011
07/2015	\$3,250 arbitration fee for Cotter	<i>Unrelated to this case; pertains to employment arbitration</i>	EP 2014 – 2015

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
CRAIG TOMPKINS			
2015	\$675.35 – all flight changes for trips to LV in July, August, October	<i>Unnecessary; unreasonable; no court hearings in July</i>	EP 2024 - 2025
07/2015	\$1,308.91 including: \$792.70 flight Oregon (OR) LV OR \$40 travel agent fee \$413.34 for Mandarin hotel	<i>Unnecessary luxury accommodations and travel; unrelated travel: there were no court proceedings in this litigation in July 2015</i>	EP 2028, 2030
08/2015	\$1,288.86 for 8/11/2015 court hearing T2 motion to intervene, including: \$790.60 airfare OR LV OR \$413.93 Mandarin hotel	<i>Unrelated to this case; unnecessary & excessive luxury accommodations</i>	EP 2034 - 2035
09/2015	\$3,052.91 for a 9/10/2015 hearing re motion to dismiss, expedite discovery, including: \$1,774.09 airfare OR LV OR \$73.82 Mandarin hotel 9/1 \$200.00 <u>9/2</u> dinner with Susan O'Malley [?] \$149.38 taxis <u>9/2</u> in LV \$150.40 Mirage hotel \$657.02 Mirage hotel <u>9/11 – 12/2015</u> \$48.74 taxis LV 9/11 – 12	<i>Unnecessary and unreasonable luxury accommodations, meals, and first-class travel</i>	EP 2054 – 2055
10/2015	\$2,097.60 for 10/29/2015 Rule 16 conference, including costs for:	<i>Unnecessary; unreasonable luxury accommodations,</i>	EP 2065 - 2066

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
	\$532 airfare OR LV OR 10/6 - 7 \$312.48 Mirage hotel 10/6 \$431.96 airfare 10/28 \$580.60 Mirage hotel 10/28 - 10/29 \$117.52 taxis 10/28 - 10/30	<i>needless travel to non-substantive hearing</i>	
11/2015	\$1,468.96 for 10/29/2015 Rule 16 conference trip, including additional costs for: \$580.60 Mirage hotel 10/30 - 11/1 trip to LV and Indio \$187.06 taxis \$556 In Ace transportation LV to Indio (?)	<i>Unnecessary; unreasonable luxury accommodations, needless travel to non-substantive hearing; unrelated travel</i>	EP 2078 - 2079
12/2015	\$224.20 for 1/8/2016 trip to LV [illegible backup] - no hearing		EP 2087 - 2088
01/2016	\$1,797.28 for 1/19/2016 hearing RDI motion to dismiss, including: \$939.00 airfare OR LV OR \$398.21 Mirage hotel \$123.99 meals at Mirage \$200 airfare 1/28 [no hearing]	<i>Unnecessary; unreasonable luxury accommodations, meals, needless travel; unrelated travel</i>	EP 2091 - 2092
05/2016	\$1,921.13 for 5/26/2016 hearing T2 motion for preliminary injunction, including: \$1,179.78 airfare OR LV OR \$528.39 Mirage hotel \$155.66 meals	<i>Unnecessary; unreasonable luxury accommodations, meals, first-class, needless travel; unrelated to Plaintiff's case.</i>	EP 2100 - 2101

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
06/2016	\$2,193.08 for 6/21/2016 hearing motion to disqualify T2 plaintiffs, including: \$804.20 airfare 6/11 -12 [no hearing] \$222.88 Caesars Palace 6/11 - 12 \$206.24 Caesars Palace 6/21 - 6/22 \$132.31 dinner at Nobu 6/22	<i>Unnecessary; unreasonable luxury accommodations, meals, travel; unrelated to Plaintiff's case.</i>	EP 2109 - 2110
07/2016	\$1,318.94 for 7/28/2016 hearing motion to approve T2 settlement, including: \$1,006.40 airfare OR LV OR \$292.74 Mandarin hotel	<i>Unnecessary; unreasonable luxury accommodations, meals, first-class travel; unrelated to Plaintiff's case.</i>	EP 2118 - 2119
08/2016	\$1,514.03 including: \$312.48 Mandarin hotel 7/28 \$1,098.80 8/1 airfare OR LAX OR [not LV travel]	<i>No need shown; travel unrelated to court hearing; apparent business expense; excessive first-class travel and hotel costs</i>	EP 2123 - 2124
10/2016	\$3,582.87 for 10/6/2016 hearing T2 settlement Including: \$1,854.80 airfare OR LV OR \$402.32 Mandarin hotel 10/27/2016 hearing MPSJ: \$480.10 airfare OR LV OR \$278.68 Mandarin hotel	<i>Unrelated to Plaintiff's case; excessive first-class travel and hotel costs</i> <i>Excessive hotel costs.</i>	EP 2131 - 2132
11/2016	\$359.41 Mandarin hotel 10/29	<i>Excessive hotel costs</i>	EP 2138 - 2139

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
05/2017	\$67.19 Uber fees 5/19 – 20 to Venetian	<i>Unrelated; no LV hearing</i>	EP 2144 – 2145
09/2017	\$1,562.74 for 9/28/2016 hearing motion to compel communications re advice of counsel Including: \$790.60 airfare \$687.85 Caesar's Palace	<i>Unnecessary; excessive & unreasonable luxury hotel accommodations, first-class travel</i>	EP 2149 – 2150
11/2017	\$1,252.71 for 11/20/2017 hearing motion for evidentiary hearing adequacy of derivative plaintiff, including: \$722.40 airfare \$180.27 Caesars Palace \$122.84 dinner Nobu \$107.74 meals	<i>Unnecessary; excessive & unreasonable hotel and meal costs, first-class travel</i>	EP 2157 – 2160, 2166 – 2167, 2171 – 2172
12/2017	\$4,046.25 for 12/11/2017 hearing pre-trial motions including: \$495.80 airfare OR LV OR \$245.90 Caesars Palace AND \$3,143.00 deposit for residence 1/5–2/5/2018	<i>Unnecessary; excessive lodging costs for trial; no proof costs incurred/non-refundable</i>	EP 2175 – 2176
01/2018	\$1,109.89 for trial including: \$409.91 Caesars Palace meal 1/11 \$318.25 car mileage Playa Vista to LV, 1/4 & 1/14	<i>-Excessive meal costs; no need shown for travel</i>	EP 2185 – 2186, 2192 – 2193
05/2018	Costs for 5/2/2018 evidentiary hearing: \$409.69 airfare	<i>No need shown.</i>	EP 2196 – 2198



1 **OPP**

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18 Attorneys for Plaintiff
19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,	) Case No. A-15-719860-B
23 derivatively on behalf of Reading	) Dept. No. XI
24 International, Inc.,)
25	) Coordinated with:
26 Plaintiff,)
27 v.	) Case No. P-14-0824-42-E
28	) Dept. No. XI
29 MARGARET COTTER, ELLEN)
30 COTTER, GUY ADAMS,	) Jointly Administered
31 EDWARD KANE, DOUGLAS)
32 McEACHERN, WILLIAM	) PLAINTIFF JAMES J. COTTER
33 GOULD, JUDY CODDING,	) JR.'S OPPOSITION TO READING
34 MICHAEL WROTONIAK,	) INTERNATIONAL, INC.'S
35	) MOTION FOR JUDGMENT IN ITS
36 Defendants.	) FAVOR
37 And)
38 READING INTERNATIONAL,) Hearing Date: October 22, 2018
39 INC., a Nevada corporation,) Hearing Time: 9:00 a.m.
40 Nominal Defendant.)
41)

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1 I. INTRODUCTION

2 Nominal defendant RDI filed a Motion for Judgment in its Favor
3 because RDI just realized, in an "oops" moment, that is not a "prevailing
4 party" and may not be entitled to a single dollar of the **\$1.2 million** it
5 recklessly spent to help the Cotter sisters prevail on claims that were not
6 made against RDI but made on its behalf.

7 RDI's Motion is a legal nonstarter. The reason why nominal
8 defendant RDI has "not yet received" and could not receive "judgment in its
9 favor" is because Plaintiff did not make any claims against RDI. He made
10 claims against directors, including his sisters for whom Greenberg Traurig
11 (GT) piled up enormous costs and fees to defend. The Court cannot "fix"
12 and rewrite history by ruling RDI can recoup its outrageous costs. Even
13 assuming the Court could transform RDI from a nominal to an adverse
14 party, the Court has already entered a final judgment in this case, which is
15 now on appeal, and the Court no longer has jurisdiction to grant the "relief"
16 RDI seeks. For these reasons and those set out below, the Court should
17 deny RDI's opportunistic, procedurally-barred Motion in its entirety.

18 II. ARGUMENT

19 A. RDI is not entitled to judgment in its favor because Plaintiff's
20 claims were made on its behalf and not against it.

21 1. RDI was a nominal defendant.

22 In a derivative case, the corporation must be named as a nominal
23 defendant, but it is actually the "real party in interest" *on whose behalf* the
24 derivative case is brought. *Ross v. Bernhard*, 396 U.S. 531, 538–39 (1970);
25 *Patrick v. Alacer Corp.*, 167 Cal. App. 4th 995, 1005-09, 84 Cal.Rptr.3d 642,
26 652 (2008). Unless the lawsuit poses a threat to the corporation, a nominal
27 defendant must " 'take and maintain a wholly neutral position taking sides
28 neither with the complainant nor with the defending director.' " *Swenson v.*
Thibaut, 250 S.E. 2d 279, 293-94 (N.C. App. 1978) (quoting *Solimine v.*

1 *Hollander*, 129 N.J.Eq. 264, 19 A.2d 344 (1941)). The director defendants,
2 especially those in "control" of the corporation, have no right to use the
3 corporation for the purpose of "step[ing] in and, by answer, attempt to
4 defeat what is practically its own suit and causes of action," nor do they
5 have the right to "impose on the corporation the burden of fighting their
6 battle." *Patrick*, 167 Cal. App. 4th at 1008 (internal quotation marks and
7 citation omitted).

8 Here, Plaintiff filed a derivative lawsuit naming RDI only as a
9 nominal defendant. All of Plaintiff's three complaints specifically
10 distinguish between the individual director defendants—named
11 "Defendants"—and RDI—named "Nominal Defendant" in the caption. *See*,
12 June 12, 2015 Complaint, on file at 1 (Caption); Oct. 22, 2015 Am. Compl.
13 ("FAC"), on file, at 1 (Caption); Sept. 2, 2016 Second Am. Compl ("SAC") on
14 file, at 1 (Caption). Nowhere in *any* of the three complaints are
15 "Defendants" defined to include RDI.

16 **2. Plaintiff did not make claims against RDI.**

17 None of Plaintiff's four causes of action was made against RDI.
18 Rather, the claims were made against two or more of the individual
19 "Defendants." *See, e.g.*, Compl. at 25 ("For Breach of Fiduciary - against All
20 Defendants"); FAC at 43 ("Breach of Fiduciary Duty - Against MC, EC,
21 Adams, Kane and McEachern"); SAC at 47 ("For Breach of Fiduciary -
22 against All Defendants"); *id.* at 51 ("Aiding and Abetting Breach of Fiduciary
23 Duty - Against MC and EC").

24 If there were any doubt about what "Defendants" meant, one
25 only needs to look at the allegations following each of the causes of action
26 made against "All Defendants." They all allege a variant of the same thing:

27 Each of the **individual defendants**. . . **was a director** of RDI. As
28 such, each owed fiduciary duties **to** RDI . . . including fiduciary
duties of care . . . good faith and loyalty **to** RDI.

1 SAC ¶ 174 at 48; *id.* ¶181 (to same effect); *id.* ¶188 (to same effect). RDI is
2 not a "director of RDI" and RDI could not possibly breach fiduciary duties to
3 itself. The paragraphs that follow only further confirm that Plaintiff's claims
4 were not made against RDI. *See* ¶¶ 177-178 (alleging that "each of the
5 **individual** defendants . . . breached their respective duties of care and good
6 faith" and that Plaintiff **and the Company** and its other shareholders have
7 suffered injury . . .") (emphasis added).

8 Plaintiff did not seek damages or injunctive relief *against* RDI.

9 He sought relief on *behalf* of RDI:

10 As a result of the ongoing acts of Defendants, **the Company**
11 [defined as RDI], Plaintiff and other RDI shareholders have
12 suffered and will continue to suffer immediate and ongoing
13 irreparable injury for which no adequate remedy at law exists,
14 including as alleged herein. . . .

15 . . . unless such injunctive relief is granted, Plaintiff, **the**
16 **Company** and other shareholders will suffer irreparable harm for
17 which no adequate remedy at law exists.

18 *E.g.*, Compl. ¶¶ 133-134; FAC ¶¶ 192-193 (emphasis added)

19 Plaintiff's SAC could not be clearer, saying in bold, capital
20 letters: "**RDI AND RDI SHAREHOLDERS ARE INJURED.**" SAC at 45; *see*
21 *also id.* at 53, ¶202 ("unless such injunctive relief is granted, Plaintiff, the
22 Company and other shareholders will suffer irreparable harm"). Plaintiff's
23 Prayer for Relief specifically asked for "**damages** incurred by RDI. . . ." *Id.* at
24 54, ¶ 5 (emphasis added).

25 RDI is also wrong in contending Plaintiff sought reinstatement
26 from RDI. This is what the *T2 Plaintiffs* sought. *See* August 28, 2015
27 Verified Shareholder Derivative Compl. at 16 (B.(ii)) (seeking "an order
28 reinstating James J. Cotter, Jr. as the President and CEO of RDI"). The relief
Plaintiff Cotter Jr. asked for was an order confirming that the individual
directors lacked independence or disinterestedness to vote on his

1 termination so that their vote was invalid. SAC at 54, Prayer for Relief
2 ¶3(a)-(e).

3 **3. Plaintiff's request for proper disclosures did not pose a**
4 **"threat" to the company.**

5 Some courts outside Nevada have recognized a limited
6 exception to the rule that a nominal defendant may generally not defend
7 itself in a derivative suit. These courts have held that nominal defendants
8 may defend themselves against derivative actions that threaten rather than
9 advance the corporate interests, such as actions to: (1) interfere with a
10 corporate reorganization; (2) interfere with internal management in the
11 absence of an allegation of bad faith or fraud; (3) enjoin performance of
12 contracts; or (4) appoint a receiver. *See National Bankers Life Ins. Co. v.*
13 *Adler*, 324 S.W.2d 35, 37 (Tex. Civ. App. 1959) (citing cases); *see also Patrick*,
14 167 Cal. App. 4th. at 1010 (citing cases without deciding if such exception
15 exists "under California law. . . or . . . not").

16 RDI cites all five subsections of ¶3 of Plaintiff's Prayer for Relief
17 to argue that Plaintiff sought relief against RDI, but only ¶3(c) of the SAC
18 even addressed RDI. That subsection asked both "RDI *and* the individual
19 defendants to make . . . corrective disclosures . . . in advance of RDI's 2017
20 ASM" SAC ¶ 3(c) (emphasis added).¹ As RDI recognizes, this relief was
21 based on conduct by the *individual* defendants, *id.* ¶101, which formed the
22 basis for Plaintiff's third cause of action against the *individual* defendants
23 for breach of fiduciary duty. *See id.* ¶¶ 188-190 (alleging that the directors
24 breached their duties of candor and disclosure by failing to cause RDI to
25 make "timely, accurate and complete disclosures" and by causing RDI to

26
27 ¹ Plaintiff's Reply to RDI's Opposition to Plaintiff's Motion to Retax Costs
28 mistakenly indicates that this ancillary relief was not sought until September
2016. Reply at 6:23-25. The October 22, 2015 FAC also included a similar ¶
3(c) in the Prayer for Relief, although the initial complaint did not.

1 "disseminate untimely and materially misleading if not inaccurate
2 information . . .").

3 Plaintiff's third cause of action did not come close to threatening
4 RDI's existence so as to justify abandoning the "wholly neutral position" RDI
5 was required to take. Other than citing cases, RDI's Motion never explains
6 *how* the relief Plaintiff asked would be a threatening "incursion into its
7 affairs." Motion at 4. Corrective disclosures, if they were warranted, would
8 only further RDI's interests and those of its shareholders. Similarly, RDI
9 does not explain how requiring the directors to have "*bona fide*
10 qualifications" before becoming board members infringes on the
11 corporation's "rights." Motion at 3:11. All that Plaintiff was asking for is
12 compliance with proper principles of corporate governance.

13 **4. RDI through GT voluntarily assumed an adversarial role.**

14 Plaintiff did not treat RDI as anything other than a nominal
15 defendant. Rather, RDI *unilaterally* undertook an adversarial role
16 throughout this case, including by answering the FAC and SAC that were
17 filed on its behalf, and by filing a series of adversarial joinders to the various
18 motions for summary judgment filed by the individual defendants. *See*,
19 *e.g.*, Oct. 3, 2016 Joinders, on file; March 29, 2016 Answer to FAC and
20 December 20, 2016 Answer to SAC, on file.

21 The mere fact that RDI was a nominal defendant did not shield it
22 from discovery, nor did requesting documents from it turn the company
23 into an adversary of Plaintiff Cotter. Moreover, Plaintiff's counsel
24 specifically objected to RDI's counsel making arguments in support of RDI's
25 Joinder to the Cotter defendants' Partial MSJ on Independence. *See* Oct. 27
26 Hearing Tr. at 70:18-24 ("Your honor. . . They're a nominal defendant").
27 Thus, RDI's attempt to blame Plaintiff for the improper role RDI and its
28

1 hopelessly conflicted counsel played throughout this litigation should be
2 rejected.

3 **B. The Court's August 8, 2018 judgment left nothing to decide.**

4 "[A] final judgment is one that disposes of all the issues
5 presented in the case, and leaves nothing for the future consideration of the
6 court, except for post-judgment issues such as attorney's fees and costs." *Lee*
7 *v. GNLV Corp.*, 996 P. 2d 416, 417 (Nev. 2000). Thus, an order granting
8 summary judgment, which adjudicates the rights and liabilities of all parties
9 and disposes of all issues presented in the case, is *final*. *Id.*

10 Here, the Court entered its Findings of Fact and Conclusions of
11 Law granting summary judgment in favor of the only three remaining
12 defendants, Ellen Cotter, Margaret Cotter, and Guy Adams ("FFCL"), on
13 August 8, 2018. The Court had earlier granted summary judgment against
14 the five other individual defendants, and had certified that order as final
15 under NRCP 54(b). *See* January 4, 2018 Certification Order, on file. Because
16 RDI was a nominal defendant on whose behalf Plaintiff's claims were
17 brought and Plaintiff's rights and liabilities were decided in the FFCL, there
18 was nothing left for the Court to decide.

19 **1. RDI's counsel agreed that there was "nothing left" to**
20 **decide.**

21 During the June 19, 2018 hearing—right after the Court granted
22 the director defendants' Motion for Summary Judgment on ratification
23 ("Ratification MSJ")—the Court specifically asked counsel for the parties to
24 go over their pleadings and tell the Court if there were any derivative claims
25 left for her to decide. June 19, 2018 Hearing Tr. at 47:19-48:17. RDI's
26 counsel, Mr. Ferrario, told the Court he did not "think anything else is left."
27 *Id.* at 48:24. When the attorneys for the defendants and RDI came back into
28 the courtroom, Mr. Ferrario told the Court that from his client's perspective

1 and the perspective of the attorneys for the directors, there was "nothing
2 left." June 19, 2018 Hearing Tr. at 49:13-15 ("There's nothing left from Mr.
3 Tayback's perspective, my perspective, or the directors of the company.
4 There's nothing left.")

5 Although RDI proposed to "submit" its Motion to Dismiss
6 Pursuant to NRCP 12(b)(2)—which argued Plaintiff lacked derivative
7 standing to bring his claims for failure to show that demand would have
8 been futile—the Court held that the motion was moot. *Id.* at 49:8 ("It's moot.
9 Unless there's something left, it's moot"). This had nothing to do with the
10 Court "recognizing that resolution of the claims against the Individual
11 Defendants also resolved claims against Reading." Motion at 3:24-26. As
12 explained above, Plaintiff's SAC made **no claims** against RDI. What the
13 Court recognized is that if there were no derivative claims left against the
14 Cotter defendants, there was no basis to determine whether Plaintiff had
15 standing to assert them. Put another way, Plaintiff's standing to bring his
16 derivative claims became a moot issue after the Court granted the Cotter
17 defendants' Ratification MSJ.

18 **C. The Court lacks jurisdiction to grant RDI relief.**

19 The "timely filing of a notice of appeal divests the district court
20 of jurisdiction to act" *Foster v. Dingwall*, 126 Nev. 49, 52, 228 P.3d 453,
21 454–55 (2010) (internal quotation marks and citations omitted). Although
22 the district court retains limited jurisdiction to review motions seeking to
23 alter, vacate, or otherwise change or modify an order or judgment under
24 NRCP 60(b) and to *deny* them, it does not have the jurisdiction to *grant* such
25 a motion. *Foster*, 126 Nev. at 53, 228 P.3d at 455 (citation omitted).

26 Here, the Court entered its FFCL on August 8, 2018. They were
27 filed on August 14, 2018. *See* FFCL, on file. Written notice of entry of the
28 FFCL was given on August 17, 2018. *See* Notice of Entry of FFCL, on file.

1 Plaintiff timely appealed from the FFCL to the Nevada Supreme Court on
2 September 13, 2018. *See* Notice of Appeal, on file. Plaintiff earlier appealed
3 from the Court's January 4 Order certifying as final the December 28, 2017
4 Order dismissing the five other individual defendants. Therefore, the Court
5 lacks jurisdiction to grant RDI's motion.

6 It is too late for RDI to now argue, as it does, that the Court's
7 order dismissing the five defendants is *not* final. Motion at 4:4-7. RDI
8 argued the exact opposite four months ago, when it said:

9 The Court's written order was issued December 28, 2017, and at
10 the request of Plaintiff, was subsequently certified as a final
11 judgment pursuant to NRCP 54(b). Plaintiff subsequently filed a
12 Notice of Appeal as to that judgment. Accordingly, *this Court no
longer has jurisdiction to alter or amend that judgment.*

13 Motion to Dismiss Pursuant to NRCP 12(b)(2) at 8:24-27 (emphasis added).

14 **D. The Court should deny the Motion, because there are no
grounds under Rule 60 to grant it.**

15 If the Court were inclined to grant RDI relief, then the Court
16 could "certify its intent to grant the requested relief" *Foster*, 228 P.3d at
17 455. But here, there is no basis to do so.

18 **1. There was no clerical mistake.**

19 Under Rule 60(a), a court may correct clerical mistakes in
20 judgments, order, or other parts of the record. Nev. R. Civ. P. 60(a). As the
21 Nevada Supreme Court has held:

22 [A] clerical error is a mistake in writing or copying. As more
23 specifically applied to judgments and decrees a clerical error is a
24 mistake or omission by a clerk, counsel, or judge, or printer
25 *which is not the result of the exercise of a judicial function.* In
other words, a clerical error is one which *cannot reasonably be
attributed to the exercise of judicial consideration or discretion.*

26 *Channel 13 of Las Vegas, Inc. v. Ettlinger*, 94 Nev. 578, 580, 583 P.2d 1085,
27 1086 (1978) (quoting *Marble v. Wright*, 77 Nev. 244, 248, 362 P.2d 265, 267
28 (1961)); *see also Pickett v. Comanche Constr., Inc.*, 108 Nev. 422, 426-27, 836

1 P.2d 42, 45 (1992) (holding same and holding that the amended judgment
2 was void because it involved a substantive change from the prior judgment).

3 RDI does not point to any fact showing that the clerk, its counsel,
4 this Court, or a printer made a clerical mistake in writing or in copying the
5 FFCL. Therefore, there is no basis for relief under Rule 60(a).

6 **2. Omitting RDI from the FFCL was not an oversight.**

7 Under NRCP 60(b)(1), a party seeking for relief from a final
8 judgment on grounds of "mistake, inadvertence, surprise, or excusable
9 neglect" has the burden of proving his position "by a preponderance of the
10 evidence." *Britz v. Consol. Casinos Corp.*, 87 Nev. 441, 446, 488 P.2d 911, 915
11 (1971) (internal quotation marks and citation omitted). The Court must also
12 consider several factors before granting relief, including whether the
13 moving party: (1) promptly sought relief; (2) lacked knowledge of the
14 procedural requirements; and (3) acted in good faith. *Yochum v. Davis*, 98
15 Nev. 484, 486–87, 653 P.2d 1215, 1216-17 (1982) (citations omitted).

16 RDI cites Rule 60(b)(1) without discussion of the Rule's
17 requirements or the application of them to the facts of this case. Motion at
18 5:4. Thus, RDI has utterly failed meet its burden of proof to obtain relief
19 under Rule 60(b)(1). *Britz*, 87 Nev. at 446, 488 P.2d at 915 (holding that the
20 appellants had "failed to carry their burden of showing mistake,
21 inadvertence, surprise, or excusable neglect, either singly or in
22 combination").

23 None of the applicable *Yochum* factors weigh in its favor in any
24 event. Omitting RDI from the FFCL was not an oversight or mistake. RDI's
25 counsel was intimately involved in drafting the FFCL. RDI is well aware
26 that no claims were brought against it and that there was no basis to grant
27 judgment in its favor. RDI's counsel is also well aware of the procedural
28 rules of the Court; it only sought relief *after* realizing the impact of not being

1 a prevailing party that would support recovery of costs. Thus, RDI's Motion
2 cannot be considered as having been filed in good faith.

3 **3. The Motion seeks a judgment that the Court does not have**
4 **the authority to award.**

5 Rule 60(b) does not permit a court to grant affirmative relief in
6 *addition* to the relief contained in the prior order or judgment. *Delay v.*
7 *Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007). In *Delay*, the appellants asked
8 the district court to give them "a new judgment on a takings theory against a
9 separate defendant"—the United States—"that was not bound by the prior
10 judgment" *Id.* at 1047. The appellants sought to: (1) "revisit the
11 circumstances that enabled the United States to be dismissed from the action
12 under the controlling law of the time, [2] reinsert the United States as the
13 real party-in-interest under a retrospective application of Lebron-Brentwood
14 Academy, and [3] gain a judgment against the United States on a new
15 takings claim to effect that Delay had a property interest in his cause of
16 action against the United States that was destroyed upon termination of the
17 Commission." *Id.* at 1046. The district court denied the Rule 60(b) motion,
18 and the Ninth Circuit affirmed its ruling, because the federal rule, like
19 Nevada's counterpart, only allows a party to set aside a judgment—not to
20 substitute it for a new one granting additional relief. *Id.*

21 Here, RDI is asking the Court for similar affirmative relief after
22 the fact that the Court cannot grant for reasons that go beyond Rule 60(b).
23 RDI's request for judgment requires the Court to disregard its nominal
24 defendant status and transform RDI into a "Defendant" by presuming
25 Plaintiff made claims against RDI when in fact he did not. RDI also asks the
26 Court to presume that RDI could breach fiduciary duties against itself *and* to
27 presume that RDI prevailed on phantom claims not made against it. RDI
28 did not even join in the Ratification MSJ. Even assuming it had joined, the

1 ratification resolved the fiduciary duty claims against the *individual*
2 defendants, not the corporation. RDI's Motion Pursuant to NRCP 12(b)(2)
3 also did not ask for judgment in its favor, nor could it: the Rule 12(b)(2)
4 motion was based on Plaintiff's standing to make *derivative* claims—*i.e.*,
5 claims filed on RDI's behalf—against the directors.² Thus, RDI's Motion is
6 legally out of bounds. There is no basis under Rule 60 or any other rule to
7 grant RDI relief.

8 **III. CONCLUSION**

9 Based on the foregoing reasons, Plaintiff respectfully requests
10 the Court deny RDI's Motion in its entirety.

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12
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26

27 ² Notably, RDI again failed to ask for an evidentiary hearing, as Plaintiff
28 pointed out in his opposition brief. Thus, the 12(b)(2) Motion should have
been denied even if not rendered moot by the dismissal of Plaintiff's claims
against the remaining three Cotter defendants.

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I caused the following document(s) **PLAINTIFF JAMES J. COTTER JR.'S OPPOSITION TO READING INTERNATIONAL, INC.'S MOTION FOR JUDGMENT IN ITS FAVOR** to be served via the Court's Odyssey E-Filing System: to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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DATED this 1st day of October, 2018.

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1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 1, 2018, 9:20 A.M.

2 (Court was called to order)

3 THE COURT: That takes me to Cotter.

4 So, Ms. Levin, it's your motion.

5 MS. LEVIN: Good morning, Your Honor.

6 THE COURT: Hang up on whoever it is, please.

7 MS. LEVIN: I came with some documents. I'm sorry.

8 (Pause in the proceedings)

9 MS. LEVIN: Just a minute.

10 THE COURT: Just put him on hold.

11 Ms. Levin, I'm sorry for the interruption. Would
12 you like to proceed?

13 MS. LEVIN: Yes. Thank you, Your Honor.

14 Your Honor, this is our motion to retax costs. The
15 defendants have asked for 2.9 million in costs. They now have
16 had two opportunities to meet their burden of proof that their
17 extraordinary \$2.9 million cost bills were not only actually
18 incurred -- only also incurred for this case, but they were
19 necessary and reasonable. Now, they failed twice in that
20 obligation. The first time they mainly gave us spreadsheets
21 for the majority of the costs sought. The second time they
22 gave us on the eve of the hearing an 8-volume, 3,500-page
23 document dump essentially saying, here's the backup for our
24 outrageous expenses and you figure it out.

25 They have an obligation to in good faith only seek

1 those costs that met all those three criteria. They still did
2 not check for reasonableness even after we gave them very
3 specific examples for each category with citations to the
4 exhibit pages that appeared either unnecessary, unreasonable,
5 or unsupported or all of the above. So they only responded in
6 their opposition brief to examples we had given them, if that.

7 So although they say they omitted costs related
8 solely to the T-2 plaintiffs, they did not. Those costs
9 permeate all categories from filing fees to research to travel
10 costs to ediscovery. We should not have been put in this
11 position to do their work, Your Honor, given the outrageous
12 amount of costs they seek, the sloppy and untimely piecemeal
13 production of documents, and the absence of declarations
14 showing, rather than just saying, that these costs were
15 actually incurred, necessarily incurred, and reasonable.

16 The Court should use its discretion to drastically
17 reduce those costs, if not allow them at all.

18 THE COURT: Okay. So I have the memo of costs and
19 disbursements in front of me.

20 MS. LEVIN: Okay.

21 THE COURT: And I went through your charts and your
22 comparisons. Your number that you would urge me to give for
23 Category Number 1, which is all filing fees is what?

24 MS. LEVIN: Well, it's RDI's filing fees especially.
25 The fact that RDI was a nominal defendant, they should have

1 kept a wholly neutral position in this case, they were not
2 even the prevailing party. And that's our main argument with
3 respect to RDI. It is not a prevailing party. There's no
4 judgment entered in its favor. So they shouldn't be entitled
5 to any of their \$1.2 million costs. So that's our main
6 argument.

7 But with respect even -- even the filing fees, even
8 assuming the Court would allow them fees, we gave them --
9 again, we -- I think they should be disallowed at least 3,000
10 of their \$3,700 filing fees, because all of those filings were
11 related to a motion to compel arbitration, that was 1.5.
12 There were six joinders in dispositive motions of the
13 corporate defendants, so they joined essentially in the
14 defense of directors who were alleged to have breached the
15 duty to the company. So those filing fees should be
16 disallowed. And there's numerous T-2 filings.

17 So, again, we did the work for them because they
18 didn't want to do their job. But there are many other filing
19 fees, and their free dollars, whatever. But, again, so our
20 main argument is none of them should be allowed. But if the
21 Court's going to allow anything, they shouldn't -- at least
22 \$3,000 should be deducted.

23 THE COURT: Do you want to go through any of the
24 other categories for me? I understand your issue on the
25 expert witnesses. I'm going to deal with that separately, Mr.

1 Ferrario, given the statutory limitation.

2 Anything else?

3 MS. LEVIN: Well, I can go category by category,
4 Your Honor. Now, first --

5 THE COURT: You did in your briefing. So I'm asking
6 you if there's anything else you want to tell me that wasn't
7 in the briefing.

8 MS. LEVIN: I would like to actually -- what we did
9 is in the reply brief we cited -- we meant to give more cites
10 to the appendix, and what we did is instead we cited back to
11 the original motion appendix. So I have some examples.
12 Because, again, they gave us a backup, but the backup --

13 THE COURT: I'd be happy to take your examples.

14 MS. LEVIN: Okay. Great. And I'll share with the
15 other side, too.

16 THE COURT: Great. We'll mark it as Court's
17 Exhibit 1.

18 MS. LEVIN: So Court Exhibit 1 would be supplemental
19 examples for the Byrd & Morella [phonetic] costs, and the
20 other one would be supplemental examples of the backup for
21 Quinn Emanuel, which further supports the unreasonableness --

22 THE COURT: So I'm going to mark them collectively
23 as Court's Exhibit 1.

24 MS. LEVIN: Thank you, Your Honor.

25 THE COURT: All right. Anything else you'd like to

1 add, Ms. Levin?

2 MS. LEVIN: If I can just look -- because I think
3 you understand our arguments and --

4 THE COURT: I do.

5 MS. LEVIN: Oh. One thing, also. The Cotter
6 defendants and the copy costs, Mr. Searcy's declaration says
7 we gave the costs per copy. But their backups do not support
8 that. You have to kind of figure it out yourself by deducting
9 -- they're giving the number, and then you have to go and look
10 through a line that says US Dollar. It says 2, but that's
11 actually the quantity. So it turned out they billed 24 cents
12 per page, which is excessive. So we would submit that -- you
13 can see that, by the way, on exhibit page 2926. So that
14 should be cut in half.

15 I mean, I can go through each categories, Your
16 Honor. If you have questions --

17 THE COURT: You don't need to. I read your brief.

18 MS. LEVIN: Okay.

19 THE COURT: What I'm trying to find out is there
20 anything else you want to tell me that wasn't in the brief or
21 you want focus on.

22 MS. LEVIN: Okay. Can I just go through my --

23 THE COURT: Because you did a really good job on the
24 reply before, and Mr. Ferrario did a pretty good job on the
25 opposition brief.

1 MS. LEVIN: I'll take that as a compliment.

2 Well, the whole necessity of the -- well, I think we
3 put that in the reply brief, too.

4 THE COURT: All right.

5 MS. LEVIN: I'll stop right here.

6 THE COURT: Thank you.

7 Mr. Ferrario.

8 MR. FERRARIO: Good morning, Your Honor.

9 THE COURT: Good morning.

10 MR. FERRARIO: I really don't quite know where to
11 begin. I know Ms. Levin's only been in this case for a few
12 months. And it's unfortunate Mr. Krum's not here to kind of
13 -- we could go back to the beginning. But Your Honor will
14 remember that this case started back in the summer of 2015.
15 And it started when Mr. Cotter was terminated from his
16 position as the CEO of Reading. And Your Honor will remember
17 that the company contested whether -- and that's who I
18 represent, I represent the company -- contested whether Mr.
19 Cotter was an appropriate derivative plaintiff. And then we
20 contested his position as a derivative plaintiff. We said
21 this was a matter that should be covered in arbitration which
22 was pending in California. And Your Honor denied our requests
23 to put an end to this case. And Your Honor gave Mr. Cotter
24 throughout the course of these proceeding every opportunity to
25 try to manufacture a claim that Your Honor characterized at

1 one hearing as truly unique. There was no other case in the
2 country that we could find -- a derivative case --

3 THE COURT: The story of my life.

4 MR. FERRARIO: -- that approximated this. And what
5 I find strange is now we stand here in front of this Court
6 with the Court having given Mr. Cotter every opportunity --

7 THE COURT: A million two in expert expenses, Mr.
8 Ferrario?

9 MR. FERRARIO: Well, Your Honor, let -- and, you
10 know, I represent the company, again. We had an indemnity
11 obligation. But you know what I'll tell Your Honor, and you
12 know this. When you have big cases sometimes you have big
13 expert fees. What is missing --

14 THE COURT: There was nothing I saw in the experts
15 that were presented to me or provided information in this case
16 that would put us in the realm of a million two.

17 MR. FERRARIO: Well, let me tell you how it
18 happened, Your Honor. I'd be happy to do that, okay.

19 THE COURT: That'd be great.

20 MR. FERRARIO: Because what's missing here is the
21 claim that they brought, okay. They brought a claim against
22 the directors for one hundred to \$150 million, okay.

23 THE COURT: Is that why they stayed at The Four
24 Seasons in the chairman suites?

25 MR. FERRARIO: I don't -- you know what, I hate

1 arguing costs motions. You want to say, stay at the Golden
2 Nugget, I could care less about that.

3 THE COURT: Well, they should have.

4 MR. FERRARIO: This case is about -- no, there's
5 other things there. But I don't even -- you do what you want
6 on that. I could care less, okay. The big categories here
7 are expert fees and ediscovery, okay.

8 THE COURT: Yes. And I have questions on
9 ediscovery. But right now I'm asking you questions on
10 experts.

11 MR. FERRARIO: And on experts what's lost in their
12 pleading, and they don't deal with that, it was a hundred to
13 \$150 million claim. Now, the point I want to make here is
14 this. I have to go back to the beginning. Mr. Cotter was not
15 an outsider. He was an insider. He intentionally pled claims
16 against the directors to avoid having to make a demand on the
17 board. He said the directors were all interested. After this
18 Court gave him every opportunity to prove those claims, the
19 Court found on summary judgment that he didn't have any
20 evidence to support that.

21 Now, during the course of the case --

22 THE COURT: For some of the directors.

23 MR. FERRARIO: Yeah. For five independent
24 directors.

25 THE COURT: For some of the directors.

1 MR. FERRARIO: Exactly. There was an issue of fact
2 with the others, okay.

3 THE COURT: Yes.

4 MR. FERRARIO: Three. But the point here is you
5 gave him every opportunity to do that.

6 Now, let's look at how the case evolved. Hundred to
7 \$150 million in damages. What happens as we're running up to
8 trial in January, okay, all of a sudden we're here, not in
9 this courtroom, upstairs --

10 THE COURT: I had a jury.

11 MR. FERRARIO: We had a jury outside.

12 THE COURT: We were next door.

13 MR. FERRARIO: Mr. Cotter suddenly taken ill two
14 days after we're in court, right. What do we find out about
15 this illness? Well, the illness kind of coincides with him
16 not paying his experts. What happens after that? Your Honor,
17 says, you know what, if you're going to call an expert at
18 trial on your hundred to \$150 million damage claim then what
19 you have to do is you have to present to the other side all of
20 the billing records so we can see if there was some
21 shenanigans with regard to the continuance in January.

22 What happens? They abandon the hundred to
23 \$150 million damage claim on the eve of the June trial. What
24 does that tell you about their case? Was Mr. Cotter acting in
25 his fiduciary capacity as a derivative plaintiff when he

1 abandoned that claim? We were going to trial in the summer,
2 just a couple months ago, on claims -- I don't even know what
3 we were fighting over. And I'm not sure Mr. Krum did at the
4 time Your Honor granted the final relief that brings us here.

5 So when we go back and we look at the evolution of
6 this case I submit that the fees are reasonable. And you know
7 how you can test that? Where are their bills?

8 THE COURT: Other than Chief Justice [inaudible].

9 MR. FERRARIO: I am willing to bet you, okay, that
10 the bills they didn't pay -- because we believe they stiffed
11 their experts, which is why they wouldn't show up -- that the
12 bills they didn't pay approximate the charges that were
13 incurred by the experts who were hired by the directors.

14 Now, having said that, we dealt with some very novel
15 claims regarding the value of stock tied to certain actions of
16 the company. They put this forth this fella Duarte Silva, who
17 came up with these wild calculations. Well, you know what,
18 when you put forth somebody that comes up with wild
19 calculations then the other side apparently, under their
20 scenario, shouldn't defend against that. Which is farcical.
21 You'd have to call your malpractice carrier. Even though you
22 think their claim is ridiculous, you still have to go out and
23 find an expert to counter that.

24 Experts that deal in these types of cases, deal with
25 these economic theories, are far and few between. And so when

1 you look at this in light of the claims that were made you're
2 talking about expert fees that are less -- well, 1 percent of
3 the claim that was being made. I don't see how you can say
4 that's unreasonable, especially without calling them on the
5 carpet and finding out what their expert charged to
6 manufacture the claim that they abandoned.

7 THE COURT: Other than Chief Justice Steel, who they
8 told me how much he charged.

9 MR. FERRARIO: And that's a good one, too. Because
10 I stood in front of you a couple -- probably a year and a half
11 ago and I said, why have they called Justice Steel. Justice
12 Steel's report -- and he might be a nice fella. I've never
13 met the guy.

14 THE COURT: He is a nice fellow.

15 MR. FERRARIO: But this guy writes a report and he
16 says, this is what would happen in Delaware. And I stood in
17 front of Your Honor and I said, we're not in Delaware, so why
18 is Justice Steel testifying. And Your Honor said, we'll deal
19 with this at trial.

20 THE COURT: Well, because the Nevada Supreme Court
21 sometimes looks to Delaware in making decisions about things.

22 MR. FERRARIO: But Your Honor is --

23 THE COURT: I know.

24 MR. FERRARIO: -- the arbiter of the law here, not
25 Justice Steel.

1 THE COURT: Well, no. The Nevada Supreme Court is.

2 MR. FERRARIO: What he -- well, finally.

3 THE COURT: Yeah.

4 MR. FERRARIO: Well, if we get past you. But the --

5 THE COURT: Or file a writ.

6 MR. FERRARIO: Or file a writ. But Justice Steel's
7 report was, quite frankly, nothing more than a memo on
8 Delaware law that any of us could have commissioned one of our
9 associates, quite frankly, to prepare. And so we argued
10 against that. But they wanted that.

11 And the point here I'm making, Your Honor, you gave
12 them every opportunity. They ran the costs up.

13 THE COURT: A million two in experts, Mr. Ferrario.

14 MR. FERRARIO: Absolutely. That's what it cost.

15 THE COURT: Okay.

16 MR. FERRARIO: We've given you the bill.

17 THE COURT: So let's go to my other issue.

18 MS. LEVIN: Your Honor, can I respond?

19 THE COURT: No. I'm not done.

20 MS. LEVIN: Okay.

21 THE COURT: The ediscovery. There have been issues
22 raised about the lack of pro ration among various other
23 litigation and claims that are -- these parties are continuing
24 to be in, including the litigation in California and the
25 arbitration matter, as well as the probate matter here. Can

1 you tell me why haven't pro rated the expenses for the
2 ediscovery and the hosting?

3 MR. FERRARIO: Well, we actually have.

4 THE COURT: How do I tell that?

5 MR. FERRARIO: I can tell you right now that there
6 are -- well, actually, it's kind of interesting, because the
7 parties -- for example, the Cotter sisters, okay --

8 THE COURT: Yes.

9 MR. FERRARIO: -- they're involved in the litigation
10 in California, the trust litigation and all that.

11 THE COURT: And here in the probate case now.

12 MR. FERRARIO: And here in the probate case.

13 THE COURT: Since you let Mr. Peek be involved.

14 MR. FERRARIO: And Mr. Peek is involved, yes. And
15 so are hosting this information, okay. And it was done
16 because of what happened in this case. That's what started
17 this.

18 THE COURT: So did you pro rate it among the other
19 cases?

20 MR. FERRARIO: You know, I would have to ask Ms.
21 Hendricks that question. But I'm sure it was pro rated.

22 THE COURT: How can I tell?

23 MR. FERRARIO: And the reason that I know that is
24 because I'm getting phone calls from the lawyer in California
25 on the trust case asking why he's still having to pay

1 Navigant. That's -- and I just had those calls last week. So
2 they are paying that.

3 THE COURT: Okay.

4 MR. FERRARIO: All right.

5 THE COURT: So then let me ask you the other
6 question related to the ediscovery. Typically when there are
7 consulting expenses related to the ediscovery those either
8 show up in the expert category or in some category other than
9 just the straight ediscovery hosting. Because it's
10 consulting. Can you tell me why you didn't show it someplace
11 else and put an ediscovery category?

12 MR. FERRARIO: I can't, Your Honor. I mean, that
13 was --

14 THE COURT: How much of it is consulting? Is it a
15 quarter?

16 MR. FERRARIO: Oh --

17 THE COURT: Seems like a lot in looking at it.

18 MR. FERRARIO: I don't think it was that much in
19 consulting with them. I mean, the fact of the matter is the
20 biggest fight we had here on ediscovery was with then Mr. Krum
21 before Ms. Levin got into the case. And I made some notes.
22 We had 12 custodians that we had to go through. And remember,
23 Your Honor, how this case unfolded. At the very --

24 THE COURT: You mean that you guys wanted a
25 preliminary injunction --

1 MR. FERRARIO: You're going --

2 THE COURT: -- I set a hearing, and you never showed
3 up?

4 MR. FERRARIO: You're going right where I'm going.

5 THE COURT: Okay.

6 MR. FERRARIO: Right at the beginning fire drill,
7 injection, he shouldn't have been discharged. Then all of a
8 sudden he abandons that. Then we get into -- and he wanted,
9 you know, expedited discovery, which was a fire drill on our
10 part, which is why some of these costs are up. Then he
11 abandons that. Then we get into regular discovery. But what
12 happened, and Your Honor will recall this, Mr. Cotter sought
13 to amend his complaint and basically challenged almost every
14 major decision made by the board of the course of this
15 litigation without really any merit to that. So we had -- we
16 would continually go back and have to look for data and
17 harvest data because he would amend his complaint or he'd
18 bring something else in and say, wait a while, you know, you
19 didn't entertain this offer from Patten Vision [phonetic] and
20 that was a breach of your fiduciary duty. There we go again
21 on another discover goose chase, all because of the plaintiff.
22 It's not like I sat around one day in the midst of all the
23 other cases I had and I said to Ms. Hendricks and Ms. Cowden,
24 hey, let's just do some discovery in Cotter. That's not why
25 this happened. It happened because of the plaintiff. And the

1 plaintiff was never interested in benefitting the company.
2 And that became clear at the end of this case when he
3 abandoned his damage claims and we were going to trial
4 challenging essentially two decisions that I think monetarily
5 to the company might have come in at about 125,000 bucks,
6 something like that.

7 So I now go all the way back to the beginning. We
8 stood in front of you three years ago and we said this was a
9 personal dispute by Mr. Cotter, he wasn't an appropriate
10 derivative plaintiff, he was trying to vindicate his rights
11 personally, not to benefit the company. And that's exactly
12 what the conduct in this case showed. You can stand here now
13 and say all sorts of things, oh, this is ridiculous, oh, they
14 should have stayed at The Four Seasons or they shouldn't have
15 stayed here. You can talk all you want. Look at how the case
16 unfolded.

17 And the final point I'll make is this. It all
18 starts, all of this starts -- and Your Honor will see this
19 probably in your other case -- with Mr. Cotter preying on his
20 father while he's on his death bed.

21 THE COURT: That's my probate case, not today.

22 MR. FERRARIO: But that's where this --

23 THE COURT: But that's not today.

24 MR. FERRARIO: -- all starts.

25 THE COURT: But, Mr. Ferrario, that's not this case

1 today.

2 MR. FERRARIO: I understand. So here, Judge, we've
3 given you the declarations. You've got tons of receipts. You
4 want to cut down The Four Seasons, I don't care, okay. You
5 want to noodle the filing fees -- I guess I wasn't supposed to
6 file anything even though it was a novel case and Your Honor
7 said we could file and participate, I guess we couldn't file.

8 THE COURT: I didn't say that. No, I didn't.

9 MR. FERRARIO: I didn't understand that part of
10 their opposition. You want to do all that, I'm fine with the
11 Court's discretion on those things. But on experts and on the
12 ediscovery, all of that was necessitated by the conduct of the
13 plaintiff to meet, A, the claims that were being made, which
14 they pooh-pooh now, oh, well, wait a while, why did you do
15 that. Hundred to \$150 million. I don't think there's a
16 lawyer in this room that would stand up and say those are not
17 significant claims. We couldn't knock that expert out. You
18 let him in. They only abandoned him. So we're not supposed
19 to defend against that, they're not supposed to defend against
20 that? And then I have to -- the company has to indemnify
21 them. What happened in this is case is you gave him a chance
22 and he lost.

23 And what happened? In a case where he should have
24 been trying to benefit the company he cost the company dearly.
25 And at the end of the day he couldn't prove his claim, and he

1 lost. And you know what, sometimes you have to pay.

2 THE COURT: Okay. Mr. Searcy, is there anything you
3 want to add?

4 MR. SEARCY: Nothing for me, Your Honor. Thank you.

5 THE COURT: Thank you.

6 Ms. Levin.

7 MS. LEVIN: Your Honor, if I can --

8 THE COURT: Mr. Johnson, you don't want anything, do
9 you, since you're Mr. Searcy's local counsel?

10 MR. JOHNSON: I'm okay, Your Honor.

11 THE COURT: Okay.

12 MS. LEVIN: To start with the last point, Mr.

13 Ferrario's argument that we are now saying that the claims
14 were frivolous, that's not right. That's their argument.

15 That's what they've been saying the whole case, this is such a
16 frivolous case, there's no evidence, we always knew there was
17 no evidence. So, nevertheless, without any evidence and by
18 calling the claims speculative they went out and incurred
19 \$45,000 in Westlaw research, or claiming that only Nevada law
20 applied. Then they went out and hired a damage expert,
21 initial damage expert, who charged a half million dollars to
22 look at whether the stock went up or down.

23 Now, the claim that they're saying that the
24 complaint sought 100 million damages, they don't cite to the
25 complaint. And there's a reason for that. Because it's not

1 in the complaint. Where that comes out of is Duarte Silva,
2 the expert Duarte Silva, who put in his expert report that --
3 in a footnote, that he believed that there could be a
4 potential damage of 100 million. So every time they say, this
5 is what the plaintiff cost us to do, the plaintiff cost; no,
6 the plaintiff did not seek those damages. They had already
7 hired an expert who charged a half a million dollars. So for
8 them to say, you know, this is all caused by the plaintiff is
9 not true.

10 The point about the ediscovery, you understand
11 ediscovery, Your Honor. We gave you a chart. This is not a
12 document-intensive case. And they say it's the plaintiff,
13 it's the plaintiff. We gave you the requests for productions.
14 There were six very distinct categories in the plaintiff's
15 first request for production. And you know what RDI did?
16 They put the entire company server, the entire company server
17 on a database, almost 2 terabytes. The allegations pertaining
18 to Mr. Cotter's termination only went back one year.
19 Nevertheless, they put the entire server on there. So for
20 them to say, this is all caused by Cotter, no, it's caused by
21 their mismanagement of this case. They just had a party with
22 this case.

23 They only produced 71,000 pages of documents, not
24 documents, pages of documents. And it was in rolling
25 productions. They're saying now it was all because of us. It

1 was -- they took forever to get RDI to produce anything.

2 Your Honor asked about how the consulting fees, if
3 it was a quarter. We gave you a chart and we added up all the
4 consulting fees that they charged as, quote, "ediscovery
5 costs." They came to about half, \$455,000 in consulting fees.
6 And we showed Your Honor the way that these consultants at the
7 Navigant database vendor, how they billed their entries.
8 "Client communication term reporting, client conference calls.
9 Client conference calls, communication, assignment. Client
10 conference calls," and hours and hours that were billed at
11 attorney rates, at 350 per hour. They did searches, they did
12 typical paralegal work. We shouldn't have to pay for that.

13 And, Your Honor, you have an example of a case where
14 you didn't allow even close to the amount that they're
15 seeking. And that's the In re DISH Network case. Now, in
16 that case there are many more custodians. They have to --

17 THE COURT: But we were in a very short time frame
18 in the DISH Network case, because the SLC did their
19 investigation and we had a summary judgment motion. We were
20 on that case, what, less than a year.

21 MS. LEVIN: Right. But those documents went back to
22 2008.

23 THE COURT: [Unintelligible].

24 MS. LEVIN: Here the plaintiff filed -- in 2015 he
25 specifically limited his document requests to documents

1 starting in January '14. It was year earlier. And in the
2 DISH Network case they have to search three different servers.

3 So what I'm saying, Your Honor, to get to the bottom
4 of this, the consulting fees are outrageous. The sheer amount
5 of ediscovery costs are outrageous given the relatively few
6 documents that they produced. It just doesn't warrant even
7 close to this.

8 So -- and the rest is in our briefs.

9 THE COURT: All right. Thank you.

10 The categories in the memorandum of costs and
11 disbursement are retaxed for Number 3. The expert witnesses
12 are reduced to a total of 250,000 for Mr. Clausner, 250,000
13 for Mr. Roll. Mr. Chavem's amount of one fifty-two is
14 compensated. Mr. Foster, his amount of 201,000 is
15 compensated. (Transcriber's note: All names above phonetic)

16 With respect to the statutory limitation the Court
17 finds that, given the nature of this particular case, is it
18 appropriate to exceed the statutory limitation, that the
19 amounts that have been requested in large part by the
20 defendants are excessive.

21 With respect to any costs by Mr. Gould, those costs
22 are too late. Mr. Gould was successful on a motion for
23 summary judgment almost a year ago at this point, so
24 regardless of Reading's position in the case with
25 indemnification, the motion is late.

1 With respect to Category Number 12, given the
2 consulting that is included which may be more appropriate as a
3 request for attorneys' fees or should have been included as
4 expert expenses, depending upon how you categorize it, the
5 amount is reduced to \$450,000.

6 With respect to Category 13 the motion to retax is
7 granted.

8 With respect to Category 14 the motion to retax is
9 granted.

10 With respect to Category 15 the motion to retax is
11 granted.

12 With respect to Category 16 the motion to retax is
13 granted.

14 And with respect to Category 17 the motion to retax
15 is granted.

16 Anything else?

17 MR. FERRARIO: Thank you, Your Honor.

18 THE COURT: 'Bye.

19 THE PROCEEDINGS CONCLUDED AT 9:49 A.M.

20 * * * * *

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**



FLORENCE M. HOYT, TRANSCRIBER

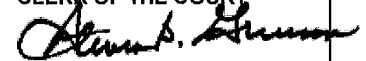
10/1/18

DATE

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Attorneys for Plaintiff, James J. Cotter, Jr.

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Defendants.

and

READING INTERNATIONAL,
INC., a Nevada corporation,

Nominal Defendant.

) Case No. A-15-719860-B
) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) LETTER TO COURT OBJECTING
) TO PROPOSED ORDER

1 Plaintiff James J. Cotter, Jr.'s letter to the Court objecting to RDI's
2 proposed order on Plaintiff's Motion to Retax Costs is attached hereto as
3 Exhibit 1.

4
5 MORRIS LAW GROUP

6 By: /s/ Akke Levin

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **LETTER TO COURT OBJECTING TO PROPOSED ORDER**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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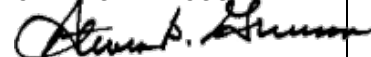
DATED this 2nd day of November, 2018.

By: /s/ Patty A. Quinn
An employee of Morris Law Group

NOT USED

NOT USED

NOT USED



1 **ERR**

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18 Attorneys for Plaintiff
19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,) Case No. A-15-719860-B
23 derivatively on behalf of Reading) Dept. No. XI
24 International, Inc.,)

25) Coordinated with:
26)
27 Plaintiff,)
28 v.) Case No. P-14-0824-42-E
29) Dept. No. XI

30 MARGARET COTTER, ELLEN)
31 COTTER, GUY ADAMS,) Jointly Administered
32 EDWARD KANE, DOUGLAS)

33 McEACHERN, WILLIAM) **ERRATA TO LETTER TO COURT**
34 GOULD, JUDY CODDING,) **OBJECTING TO PROPOSED**
35 MICHAEL WROTONIAK,) **ORDER**

36)
37 Defendants.)

38 And)

39 READING INTERNATIONAL,)
40 INC., a Nevada corporation,)

41 Nominal Defendant.)

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1 On November 2, 2018, plaintiff James J. Cotter, Jr., filed a Letter
2 to the Court Objecting to Proposed Order.

3 Upon closer review it appears that Exhibit 1 of the Letter to the
4 Court Objecting to Proposed Order was not attached. A true and correct
5 copy of Exhibit 1 is attached hereto.

6 MORRIS LAW GROUP
7

8 By: /s/ AKKE LEVIN

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **ERRATA TO LETTER TO COURT OBJECTING TO PROPOSED ORDER**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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*Attorneys for Defendant William
Gould*

DATED this 2nd day of November, 2018.

By: /s/ Patricia A. Quinn

Exhibit 1

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
6/12/15	Complaint		
8/14/15	Cotter's First RFP to individual defendants and RDI, seeking 6 categories of documents limited to "documents created or dated on or after January 1, 2014."		Exhibit 1
8/17/14	T2 Plaintiff's First RFP seeking 6 categories of documents starting 6/1/2013 to date		Exhibit 2
9/10/15	Navigant invoice to RDI: \$6,936.25 "discovery consulting" fees \$225 - \$350/hr. \$5,000 "collection fees"	Block-billing; No description of "collection" work performed; No identification of "client"; Boilerplate descriptions.	EP 0893-0894
9/17/15	RDI's responses to First RFPs of Plaintiff and T2 Plaintiffs: RDI imaged RDI's server		Exhibit 3
10/16/15	Navigant invoice to RDI: \$45,098.75 "consulting fees" & \$121,823.24 expenses including:	Excessive hours (>100) for "consulting" at excessive hourly rates (\$225-350) akin to hourly attorney rates and above paralegal rates; No breakdown per timer;	EP 0898 - 0913

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
	<p>\$90,050 [data in] 1801 GB \$22,760 [data out] 113.80 GB \$2,500 collection 2 mobile devices \$675 Relativity user fees [9]</p>	<p>Pervasive block-billing (3.0 & 3.5) with inadequate descriptions ("client communication and support") by Ashley Smith; Pervasive block-billing by Caroline Miller (3.5; 4.0; 8.0); unnecessary uploading of entire RDI server given limited RFPs; Excessive data processing; Excessive user fees;</p>	
10/16/15	<p>Navigant bill to Quinn Emanuel: \$10,023.75 "consulting fees" \$19,824.60 [data in] 107.16 GB \$375 Relativity user fees [5]</p>	<p>Non-descriptive, repetitive block-billing by Ashley Smith ("client communication (N. Helpen), discovery consulting"); Paralegal-type search work (1.80 "Ran searches"; "Checked on problematic document for client"); Excessive fees for data processing; Excessive number of users</p>	EP 0919 – 0923
10/29/15	<p>RDI 2nd. Supp.: RDI 96 –2467</p>		Ex. 3
11/13/15	<p>RDI 3rd Supp.: RDI 2468 –4224</p>		Ex. 3
11/13/15	<p>Navigant bill GT: \$38,807.50 "consulting fees" \$525 Relativity user fees [7]</p>	<p>Pervasive block-billing and paralegal work by Amy Tsang (review, analysis, and production of data); All 26.5 hours of Ashley Smith block-billed with similar generic descriptions</p>	EP 0928 – 0940

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		("Client communication, conference calls. Discovery consulting, case management"); All 47.3 hours of Caroline Miller block-billed up to 6.5 hours doing pervasive and excessive paralegal-type work (esp. given the number of GT users); 17.25 of paralegal work by Stacey Levy (e.g., "review Ellen Cotter's mobile device conversations"); Excessive number of users.	
11/13/15	Navigant bill QE: \$6,005.00 "consulting fees" \$225 -350 /hr \$10,454.35 [data processing] 56.51 gb \$375.00 user fees [5]	Excessive block-billed paralegal-type work by Miller and Stacey Levy; excessive fees for data processing	EP 0943 - 0947
11/19/15	RDIs 4 th Supp.: RDI 4274 – 11216		Ex. 3
12/03/15	RDIs 5 th Supp.: RDI 11276 – 16039		Ex. 3
12/09/15	T2 2 nd set of RFPs		Ex. 2
12/21/15	Navigant bill RDI: \$16,025.00 consulting \$1,050.00 Relativity user fees [14 users]	All 7 hours of Ashley Smith block-billed at \$350 per hour with similar generic descriptions ("Client communication. Discovery consulting"); All 23.6 hours of Caroline Miller block-billed doing pervasive and excessive paralegal-type	EP 0955 - 0962

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		work (productions; prepare searches; production chart work); excessive (14) users.	
12/21/15	Navigant bill QE - \$5,971.25 consulting fees	2.5 hours of Ashley Smith block-billed at \$350 per hour with similar generic descriptions ("Client communication, production QC"); 9.3 hours of Caroline Miller block-billed and paralegal-type work (run searches; prepare productions; prepare searches)	EP 0965 – 0958
01/12/16	Navigant bill –RDI \$34,350.00 professional fees \$1,125.00 Relativity user fees [15]	Excessive number of hours (116.75) in "consulting" and "project management" fees: 8.5 hours of Ashley Smith block-billed at \$350 per hour with <i>identical</i> generic descriptions ("Case management: Multiple correspondence with client [who?] regarding project status, next steps, project requests and requirements"); 67.5 hours of Caroline Miller block-billed up to 6.5 hours of paralegal-type work (run searches; prepare productions; prepare searches); and 29.2 hours of Nicole LeBeau with paralegal-type work	EP 0976 – 0991

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		(searches, determine privileged documents etc.)	
01/12/16	Navigant bill – QE \$7337.50 professional fees	Block-billing; 25H paralegal-type work Nicole Miller	EP 0994 – 0999
01/12/16	Navigant bill – Productions \$3,542.50 professional fees	Paralegal-type work Miller	EP 1002 - 1005
1/13/16	RDI's responses to T2 2 nd set of RFP that sought records going back 4 years		Ex. 2
02/19/16	Navigant bill - \$50,786.25 professional fees \$1,125.00 Relativity user fees [15]	Excessive number of hours (179.05) in "consulting" and "project management" fees: 18 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("On-going communication with client, discovery consulting. . .") ; 95.15 hours of Caroline Miller block-billed up to 7 hours with paralegal-type work (run searches; prepare productions; prepare searches and batches); and 51.6 hours of Nicole LeBeau with paralegal-type work (searches, determine privileged documents etc.)	EP 1008 – 1025
02/19/16	Navigant bill – QE \$4087.50 professional fees	Block-billing for paralegal work Miller (production searches)	EP 1029 - 1031

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
02/24/16	RDI's 1 st Supp. response to T2 RFPs: RDI 22815 – 22823		Ex. 2
02/24/16	Navigant bill – \$4,937.50 professional fees	11.5 of block-billed hours Miller; paralegal-type work (1.6 "prepared letters for destruction of clawback. . . .")	EP 1034 – 1037
03/14/16	Navigant bill GT - \$21,356.75 professional fees \$2,777.50 [data in] 55.55 gb \$5,326.00 [data out] 26.63 gb \$675.00 Relativity user fees [9]	Excessive project management hours (79.53 and consulting; 7.5 hours of Ashley Smith block-billed at \$350 per hour with generic descriptions ("Case management"); 51.5 hours of Caroline Miller block-billed up to 6 hours of paralegal-type work (run searches; prepare productions; prepare searches); and 9.8 hours of Nicole LeBeau with paralegal-type work (review search terms, identify documents for redaction); excessive number of users	EP 1040 – 1049
03/14/16	Navigant bill – QE \$17,180.00 professional fees \$675 Relativity user fees [9]	Excessive block-billing and paralegal work (run searches; discuss search terms; at excessive rates; billing 1.5 hours "wait[ing] for Ellen Cotter to arrive"; 6. H travel to directors' houses for data collection	EP 1052 – 1061
03/14/16	Navigant bill – \$3,767.50 professional fees	Block-billing	EP 1064 – 1067

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
03/15/16	Navigant bill – SHEPPARD MULLIN \$840.18	Unrelated	EP 1070 – 1072
03/18/16	T2s 2 nd RFP to RDI		Ex. 2
03/23/16	RDIs 2 ⁿ Supp. T2 RFP		Ex. 2
04/26/16	Navigant bill – GT \$26,036.25 professional fees \$3,080.50 [data in] 61.61 gb \$675 Relativity user fees [9]	Excessive number of hours (115.85) in "consulting" and "project management" fees: 15 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("Case management, continuing discussion. . . ."); excessive 72.40 hours of Caroline Miller block-billed up to 5.8 hours of paralegal-type work and inadequate descriptions; and 10.2 hours of Nicole LeBeau with paralegal-type work (searches, determine privileged documents etc.)	EP 1075 - 1089
04/26/16	Navigant bill – QE \$8,207.50 professional fees \$675 Relativity user fees [9]	Excessive, needless consulting hours, block-billing	EP 1092 – 1100
04/26/16	Navigant bill – \$2,847.50 professional fees	Excessive consulting, block-billing	EP 1103 – 1106
5/18/16	Navigant bill – QE \$12,591.25 professional fees	54.85 hours of excessive project management all block-billed; 6 hours of work related to unknown "Sacks firm"	EP 1129 - 1140

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
5/18/16	Navigant bill – Productions \$4,195.00	10 hours of excessive project management all block-billed	EP 1143 – 1146
5/20/16	Navigant bill – GT \$23,473.75 professional fees \$450.00 Relativity user fees [6]	Excessive (>100 hours) consulting and project management work block-billed; inadequately described (Smith & Miller)	EP 1109 – 1126
6/20/16	RDI's 3 rd Supp. response to T2s 2 nd RFPs		Ex. 2
6/20/16	RDI's 6 th Supp. Resp. to Cotter's RFPs		Ex. 1
6/20/16	RDI's 6 th Supp. response to T2s RFPs		Ex. 2
06/21/16	RDI's 1 st Supp. Resp. to Cotter's 2 nd RFPs: RDI 37197 – 54528		Ex. 1
6/21/16	RDI's 1 st Supp. Resp. to T2s 3 rd RFPs		Ex. 2
6/24/16	Cotter's 2 nd RFPs to RDI		
6/29/16	Navigant bill – RDI \$14,355.00 professional fees	Excessive number of hours in "consulting" and "project management" fees block-billed at excessive rates	EP 1149 – 1159
6/29/16	Navigant bill – QE \$5,602.50 project management fees \$375.00 Relativity user fees [5]	Excessive number of hours in "project management" fees block-billed at excessive rates	EP 1162 – 1167

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
6/29/16	Navigant bill -- \$3,397.50 professional fees \$375.00 Relativity user fees [5]	Excessive number of hours in "project management" fees block-billed at excessive rates	EP 1170 - 1174
6/29/16	Navigant bill -- COTTER TRUST \$2,532.50	Unrelated	EP 1177
7/12/16	Motion for T2 settlement		
7/21/16	Navigant bill --RDI \$14,907.50 professional fees \$300.00 Relativity user fees [4]	Excessive number of hours (45.4) in "consulting" and "project management" fees: 26.5 hours of Ashley Smith block-billed at \$350 per hour with near-identical generic descriptions ("Ongoing client communication [with who?] RE project requests around depo prep"; excessive 16 hours of Caroline Miller block-billed	EP 1182 - 1188
	Other invoices		EP 1189- EP 1217
	TOTAL billing by 7/21/16: \$635,722.20		
1/6/17	Navigant bill -- RDI \$7952.50 professional fees \$5227.85 expenses [Nov-Dec hosting fees]	Excessive hours in "case" management and "project" management (29.7), numerous entries "Ongoing communication with client regarding additional production data	EP 1287- 1291

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
		to export and load (10.5 hrs); production and export (17.3)	
1/6/2017	Navigant bill – QE \$6,660.00 professional fees \$3,890.87 expenses [Nov/Dec hosting fees)	Excessive hours in "project" management (29.60 hrs): production and export	EP 1293 – 1297
2/27/17	Navigant bill – QE \$5,557.50 professional fees \$2001.33 expenses	Excessive "project" management (24.7 hrs) – transition to other team members; productions (2 gb produced)	EP 1321 – 1325
12/20/17	Navigant bill – QE \$4,998.10 professional fees \$1,726.70 expenses	Excessive fees (25.6 hrs) – multiple searches for counsel for depositions	EP1426 – 1428
4/26/18	Navigant bill – QE \$5,883.75 professional fees \$2168.97 expenses	Excessive fees (26.15 hrs) – prepared clawback docs for redaction; document load for RDI; prepare productions (1 gb)	EP 1491 – 1493
6/25/18	Navigant bill – GT \$14,770.00 professional fees \$9,769.04 expenses	Excessive fees (62.20 hrs) for 103.1 gb in, 8.81 gb out re directors' data	EP 1508 - 1512
6/25/18	Navigant bill – QE \$24,980.00 professional fees \$3,231.42 expenses \$3,066.012 travel expenses	Excessive fees (78.8 hrs) collecting directors' data, processing; 9.65 gb in; unreasonable to travel to the data as opposed to send the data on hard drive	EP 1515 – 1520
8/20/18	Navigant bill – GT \$6,707.50 professional fees \$3,632.47 expenses	Excessive fees (29.7 hrs) 6/1 – 6/15/ 18; resubmissions for production, coding choices.	EP 1526 – 1527

RDI e-DISCOVERY

Date	Description	Reason	Doc Nos
8/16 – 7/20/18	Navigant bills remainder of case: \$249,154.18		EP 1218 - 1533
6/15/18	RDI's 37 th supplemental disclosures: total produced RDI 71544 – 71599		Ex. 3; <i>see</i> <i>also</i> Ex. 4 to Motion to Retax

EXHIBIT 5

REP180

JA13104

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
Andre Matyczynski			
06/2015	\$7,880.24 for Tim Storey airfare to NZ after board meeting	<i>No relation to litigation</i>	EP 1653
08/2015	\$4,060 for SPR reports	<i>No itemization or explanation</i>	EP 1665 – 1671
DOUG MCEACHERN			
02/12/2016	\$191.31 for breakfast w/EC, M. Ferrario, parking, mileage for Storey deposition	<i>Unnecessary to attend</i>	EP 1684
05/16/2016	\$96.00 train and taxi to Jim Cotter's depo	<i>Unnecessary to attend</i>	EP 1687
ELLEN COTTER			
07/2015	\$1,195.25 for Mandarin Hotel and other travel costs for "court" 7/10/2015 – 7/11/2015	<i>No hearing in this case until August 2015.</i>	EP 1712 – 1714
09/2015	\$1,348.26 for Mandarin Hotel and other travel costs for court 9/17/2015– 9/18/2015	<i>No court hearing on those dates</i>	EP 1730, 1733
05/2016	\$341.17 for Uber and meals for Margaret Cotter (MC) and EC depositions	<i>Excessive</i>	EP 1744 – 1746
07/2016	\$795.02 for travel costs for 7/28/2016 hearing on motion to approve T2 settlement in LV, incl. airfare and \$241.16 dinner with Craig Tompkins ("CT")	<i>Unrelated to Plaintiff's case & excessive</i>	EP 1762, 1766

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
08/2016	\$883.61 for 7/28/2016 [T2 settlement] hearing (incl. Mandarin Hotel \$497.53, Mandarin Hotel limo airport to hotel \$85.00, Sweet Limousine LAX to EC home \$97.75, Sweet Limousine LV trip \$116.25)	<i>Unrelated to Plaintiff's case & excessive</i>	EP 1780 – 1781, 1790
10/2016	\$2,094.83 (incl. 9/29/16 stay at Mandarin, airfare, Oct. 1 meal for "litig. Meeting" with GT, Akin Gump (AG), and QE (\$970.13) \$995.54 for 10/6/2016 court hearing [T2 settlement] (including for airfare, Sweet Limousine [2 charges for \$222.50] Mandarin Hotel room, and \$91.71 meal-	<i>Unrelated to case; AG was employment counsel in arbitration; excessive</i> <i>Unrelated to P's case; excessive</i>	EP 1798 – 1800
12/2017	\$14,500.37 including: Four Seasons director rooms at \$3,183.72; Copier \$3,825.00; Brook Furniture \$2,505; Office space rental \$4,066.65; and airfare \$587.96	<i>Excessive and unnecessary costs due to choice of out of state counsel</i>	EP 1838 – 1841
01/2018	\$9,761.64 including: -12/29/2017: three limos, \$750 for transportation from Four Seasons to court -first class airfare for Mr. & Mrs. Gould from LA: \$1,760.40,	<i>Excessive, extravagant local and long-distance transportation & travel costs for spouses</i>	EP 1894 – 1899

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
	-airfare for Mr. &Mrs. Kane from San Diego \$320.40, -1/9-1/11/2018: three limos court to hotel \$750; -two limos for Goulds to/from airport: \$500; --- -1/7/2018: 4 limos: \$1,000 hotel/airport. - -computer rental QE: 380.82, -1/8/2018 directors limos hotel/court: \$500, -1/9/2018 limo airport/hotel McEachern & Adams: \$500 -1/10/2018 Sweet Limo EMC LV to home \$918.75 -1/13/2018 EC, MC meals \$322.22 -1/15/2018 Sweet Limo EMC LV to home \$787.50 -1/24/2018 Cox Comm IT/data QE: \$507.82		
01/2018	\$420.40 Upgrade for airfare Mr. & Mrs Kane LV to SD	<i>Unnecessary / unreasonable spouse</i>	EP 1913 - 1914
02/2018	\$1,008.67 for LV office space	<i>Unnecessary expense due to choice of out of town counsel and availability of local counsel firm space</i>	EP 1919 - 1920, 1931 - 1932
05/2018	\$572.06 for 5/2/2018 hearing (including airfare \$334.40 and Sweet Limo LAX to EC home \$116.25)	<i>Unnecessary</i>	EP 1943 - 1944
LAURA BATISTA			

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
1/3 – 1/10/2018	\$880.70 Meals and mileage LA/LV/LA	<i>Unnecessary company expense</i>	EP 1953 – 1954
MARGARET COTTER			
08/2015	\$2,418.36 for 8/12/2015 hearing [T2 motion to intervene] (incl. Mandarin Hotel, meals, taxis (\$877.26) and Airfare LAX to NYC \$1,541.10)	<i>Unrelated to Plaintiff's case; excessive unnecessary and unreasonable</i>	EP 1971 – 1972
12/2017	12/16/2017 airfare JFK to LAS \$1,038.98 01/05/2018 airfare JFK LAS \$2,698.30 1/9/2018 airfare LAS JFK \$2,228.30 1/26/2018 taxi \$13.30 [not in LV]	<i>Excessively high, duplicate travel costs</i>	EP 1978 - 1980
VICTOR ALBIZURES JR			
01/2018	\$451.72 incl. 1/10/2018 mileage \$304.11 1/10/2018 meals \$147.61	<i>No need shown</i>	EP 1993 – 1994
01/2018	\$623.52 incl. 1/3/2018 mileage \$411.60 to LV and Cal Oaks 1/4/2017 lunch w/Laura \$90	<i>No need shown; unnecessary travel to California; excessive meal cost</i>	EP 2000 – 2001
WILLIAM ELLIS			
05/2015	\$359.21 for dinner and drinks with T Storey & lunch with Ghose	<i>Case not filed until 6/2015; no depositions held</i>	EP 2010 – 2011
07/2015	\$3,250 arbitration fee for Cotter	<i>Unrelated to this case; pertains to employment arbitration</i>	EP 2014 – 2015

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
CRAIG TOMPKINS			
2015	\$675.35 – all flight changes for trips to LV in July, August, October	<i>Unnecessary; unreasonable; no court hearings in July</i>	EP 2024 - 2025
07/2015	\$1,308.91 including: \$792.70 flight Oregon (OR) LV OR \$40 travel agent fee \$413.34 for Mandarin hotel	<i>Unnecessary luxury accommodations and travel; unrelated travel: there were no court proceedings in this litigation in July 2015</i>	EP 2028, 2030
08/2015	\$1,288.86 for 8/11/2015 court hearing T2 motion to intervene, including: \$790.60 airfare OR LV OR \$413.93 Mandarin hotel	<i>Unrelated to this case; unnecessary & excessive luxury accommodations</i>	EP 2034 - 2035
09/2015	\$3,052.91 for a 9/10/2015 hearing re motion to dismiss, expedite discovery, including: \$1,774.09 airfare OR LV OR \$73.82 Mandarin hotel 9/1 \$200.00 <u>9/2</u> dinner with Susan O'Malley [?] \$149.38 taxis <u>9/2</u> in LV \$150.40 Mirage hotel \$657.02 Mirage hotel <u>9/11 – 12/2015</u> \$48.74 taxis LV 9/11 – 12	<i>Unnecessary and unreasonable luxury accommodations, meals, and first-class travel</i>	EP 2054 – 2055
10/2015	\$2,097.60 for 10/29/2015 Rule 16 conference, including costs for:	<i>Unnecessary; unreasonable luxury accommodations,</i>	EP 2065 - 2066

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
	\$532 airfare OR LV OR 10/6 - 7 \$312.48 Mirage hotel 10/6 \$431.96 airfare 10/28 \$580.60 Mirage hotel 10/28 - 10/29 \$117.52 taxis 10/28 - 10/30	<i>needless travel to non-substantive hearing</i>	
11/2015	\$1,468.96 for 10/29/2015 Rule 16 conference trip, including additional costs for: \$580.60 Mirage hotel 10/30 - 11/1 trip to LV and Indio \$187.06 taxis \$556 In Ace transportation LV to Indio (?)	<i>Unnecessary; unreasonable luxury accommodations, needless travel to non-substantive hearing; unrelated travel</i>	EP 2078 - 2079
12/2015	\$224.20 for 1/8/2016 trip to LV [illegible backup] - no hearing		EP 2087 - 2088
01/2016	\$1,797.28 for 1/19/2016 hearing RDI motion to dismiss, including: \$939.00 airfare OR LV OR \$398.21 Mirage hotel \$123.99 meals at Mirage \$200 airfare 1/28 [no hearing]	<i>Unnecessary; unreasonable luxury accommodations, meals, needless travel; unrelated travel</i>	EP 2091 - 2092
05/2016	\$1,921.13 for 5/26/2016 hearing T2 motion for preliminary injunction, including: \$1,179.78 airfare OR LV OR \$528.39 Mirage hotel \$155.66 meals	<i>Unnecessary; unreasonable luxury accommodations, meals, first-class, needless travel; unrelated to Plaintiff's case.</i>	EP 2100 - 2101

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
06/2016	\$2,193.08 for 6/21/2016 hearing motion to disqualify T2 plaintiffs, including: \$804.20 airfare 6/11 -12 [no hearing] \$222.88 Caesars Palace 6/11 - 12 \$206.24 Caesars Palace 6/21 - 6/22 \$132.31 dinner at Nobu 6/22	<i>Unnecessary; unreasonable luxury accommodations, meals, travel; unrelated to Plaintiff's case.</i>	EP 2109 - 2110
07/2016	\$1,318.94 for 7/28/2016 hearing motion to approve T2 settlement, including: \$1,006.40 airfare OR LV OR \$292.74 Mandarin hotel	<i>Unnecessary; unreasonable luxury accommodations, meals, first-class travel; unrelated to Plaintiff's case.</i>	EP 2118 - 2119
08/2016	\$1,514.03 including: \$312.48 Mandarin hotel 7/28 \$1,098.80 8/1 airfare OR LAX OR [not LV travel]	<i>No need shown; travel unrelated to court hearing; apparent business expense; excessive first-class travel and hotel costs</i>	EP 2123 - 2124
10/2016	\$3,582.87 for 10/6/2016 hearing T2 settlement Including: \$1,854.80 airfare OR LV OR \$402.32 Mandarin hotel 10/27/2016 hearing MPSJ: \$480.10 airfare OR LV OR \$278.68 Mandarin hotel	<i>Unrelated to Plaintiff's case; excessive first-class travel and hotel costs</i> <i>Excessive hotel costs.</i>	EP 2131 - 2132
11/2016	\$359.41 Mandarin hotel 10/29	<i>Excessive hotel costs</i>	EP 2138 - 2139

RDI EMPLOYEE EXPENSES

Date	Description	Reason	Doc Nos
05/2017	\$67.19 Uber fees 5/19 – 20 to Venetian	<i>Unrelated; no LV hearing</i>	EP 2144 – 2145
09/2017	\$1,562.74 for 9/28/2016 hearing motion to compel communications re advice of counsel Including: \$790.60 airfare \$687.85 Caesar's Palace	<i>Unnecessary; excessive & unreasonable luxury hotel accommodations, first-class travel</i>	EP 2149 – 2150
11/2017	\$1,252.71 for 11/20/2017 hearing motion for evidentiary hearing adequacy of derivative plaintiff, including: \$722.40 airfare \$180.27 Caesars Palace \$122.84 dinner Nobu \$107.74 meals	<i>Unnecessary; excessive & unreasonable hotel and meal costs, first-class travel</i>	EP 2157 – 2160, 2166 – 2167, 2171 – 2172
12/2017	\$4,046.25 for 12/11/2017 hearing pre-trial motions including: \$495.80 airfare OR LV OR \$245.90 Caesars Palace AND \$3,143.00 deposit for residence 1/5–2/5/2018	<i>Unnecessary; excessive lodging costs for trial; no proof costs incurred/non-refundable</i>	EP 2175 – 2176
01/2018	\$1,109.89 for trial including: \$409.91 Caesars Palace meal 1/11 \$318.25 car mileage Playa Vista to LV, 1/4 & 1/14	<i>-Excessive meal costs; no need shown for travel</i>	EP 2185 – 2186, 2192 – 2193
05/2018	Costs for 5/2/2018 evidentiary hearing: \$409.69 airfare	<i>No need shown.</i>	EP 2196 – 2198



1 **OPP**

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18 Attorneys for Plaintiff
19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,	) Case No. A-15-719860-B
23 derivatively on behalf of Reading	) Dept. No. XI
24 International, Inc.,)
25	) Coordinated with:
26 Plaintiff,)
27 v.	) Case No. P-14-0824-42-E
28	) Dept. No. XI
29 MARGARET COTTER, ELLEN)
30 COTTER, GUY ADAMS,	) Jointly Administered
31 EDWARD KANE, DOUGLAS)
32 McEACHERN, WILLIAM	) PLAINTIFF JAMES J. COTTER
33 GOULD, JUDY CODDING,	) JR.'S OPPOSITION TO READING
34 MICHAEL WROTONIAK,	) INTERNATIONAL, INC.'S
35	) MOTION FOR JUDGMENT IN ITS
36 Defendants.	) FAVOR
37 And)
38 READING INTERNATIONAL,) Hearing Date: October 22, 2018
39 INC., a Nevada corporation,) Hearing Time: 9:00 a.m.
40 Nominal Defendant.)
41)

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1 I. INTRODUCTION

2 Nominal defendant RDI filed a Motion for Judgment in its Favor
3 because RDI just realized, in an "oops" moment, that is not a "prevailing
4 party" and may not be entitled to a single dollar of the **\$1.2 million** it
5 recklessly spent to help the Cotter sisters prevail on claims that were not
6 made against RDI but made on its behalf.

7 RDI's Motion is a legal nonstarter. The reason why nominal
8 defendant RDI has "not yet received" and could not receive "judgment in its
9 favor" is because Plaintiff did not make any claims against RDI. He made
10 claims against directors, including his sisters for whom Greenberg Traurig
11 (GT) piled up enormous costs and fees to defend. The Court cannot "fix"
12 and rewrite history by ruling RDI can recoup its outrageous costs. Even
13 assuming the Court could transform RDI from a nominal to an adverse
14 party, the Court has already entered a final judgment in this case, which is
15 now on appeal, and the Court no longer has jurisdiction to grant the "relief"
16 RDI seeks. For these reasons and those set out below, the Court should
17 deny RDI's opportunistic, procedurally-barred Motion in its entirety.

18 II. ARGUMENT

19 A. RDI is not entitled to judgment in its favor because Plaintiff's
20 claims were made on its behalf and not against it.

21 1. RDI was a nominal defendant.

22 In a derivative case, the corporation must be named as a nominal
23 defendant, but it is actually the "real party in interest" *on whose behalf* the
24 derivative case is brought. *Ross v. Bernhard*, 396 U.S. 531, 538–39 (1970);
25 *Patrick v. Alacer Corp.*, 167 Cal. App. 4th 995, 1005-09, 84 Cal.Rptr.3d 642,
26 652 (2008). Unless the lawsuit poses a threat to the corporation, a nominal
27 defendant must " 'take and maintain a wholly neutral position taking sides
28 neither with the complainant nor with the defending director.' " *Swenson v.*
Thibaut, 250 S.E. 2d 279, 293-94 (N.C. App. 1978) (quoting *Solimine v.*

1 *Hollander*, 129 N.J.Eq. 264, 19 A.2d 344 (1941)). The director defendants,
2 especially those in "control" of the corporation, have no right to use the
3 corporation for the purpose of "step[ing] in and, by answer, attempt to
4 defeat what is practically its own suit and causes of action," nor do they
5 have the right to "impose on the corporation the burden of fighting their
6 battle." *Patrick*, 167 Cal. App. 4th at 1008 (internal quotation marks and
7 citation omitted).

8 Here, Plaintiff filed a derivative lawsuit naming RDI only as a
9 nominal defendant. All of Plaintiff's three complaints specifically
10 distinguish between the individual director defendants—named
11 "Defendants"—and RDI—named "Nominal Defendant" in the caption. *See*,
12 June 12, 2015 Complaint, on file at 1 (Caption); Oct. 22, 2015 Am. Compl.
13 ("FAC"), on file, at 1 (Caption); Sept. 2, 2016 Second Am. Compl ("SAC") on
14 file, at 1 (Caption). Nowhere in *any* of the three complaints are
15 "Defendants" defined to include RDI.

16 **2. Plaintiff did not make claims against RDI.**

17 None of Plaintiff's four causes of action was made against RDI.
18 Rather, the claims were made against two or more of the individual
19 "Defendants." *See, e.g.*, Compl. at 25 ("For Breach of Fiduciary - against All
20 Defendants"); FAC at 43 ("Breach of Fiduciary Duty - Against MC, EC,
21 Adams, Kane and McEachern"); SAC at 47 ("For Breach of Fiduciary -
22 against All Defendants"); *id.* at 51 ("Aiding and Abetting Breach of Fiduciary
23 Duty - Against MC and EC").

24 If there were any doubt about what "Defendants" meant, one
25 only needs to look at the allegations following each of the causes of action
26 made against "All Defendants." They all allege a variant of the same thing:

27 Each of the **individual defendants**. . . **was a director** of RDI. As
28 such, each owed fiduciary duties **to** RDI . . . including fiduciary
duties of care . . . good faith and loyalty **to** RDI.

1 SAC ¶ 174 at 48; *id.* ¶181 (to same effect); *id.* ¶188 (to same effect). RDI is
2 not a "director of RDI" and RDI could not possibly breach fiduciary duties to
3 itself. The paragraphs that follow only further confirm that Plaintiff's claims
4 were not made against RDI. *See* ¶¶ 177-178 (alleging that "each of the
5 **individual** defendants . . . breached their respective duties of care and good
6 faith" and that Plaintiff **and the Company** and its other shareholders have
7 suffered injury . . .") (emphasis added).

8 Plaintiff did not seek damages or injunctive relief *against* RDI.

9 He sought relief on *behalf* of RDI:

10 As a result of the ongoing acts of Defendants, **the Company**
11 [defined as RDI], Plaintiff and other RDI shareholders have
12 suffered and will continue to suffer immediate and ongoing
13 irreparable injury for which no adequate remedy at law exists,
including as alleged herein. . . .

14 . . . unless such injunctive relief is granted, Plaintiff, **the**
15 **Company** and other shareholders will suffer irreparable harm for
which no adequate remedy at law exists.

16 *E.g.*, Compl. ¶¶ 133-134; FAC ¶¶ 192-193 (emphasis added)

17 Plaintiff's SAC could not be clearer, saying in bold, capital
18 letters: "**RDI AND RDI SHAREHOLDERS ARE INJURED.**" SAC at 45; *see*
19 *also id.* at 53, ¶202 ("unless such injunctive relief is granted, Plaintiff, the
20 Company and other shareholders will suffer irreparable harm"). Plaintiff's
21 Prayer for Relief specifically asked for "**damages** incurred by RDI. . . ." *Id.* at
22 54, ¶ 5 (emphasis added).

23 RDI is also wrong in contending Plaintiff sought reinstatement
24 from RDI. This is what the *T2 Plaintiffs* sought. *See* August 28, 2015
25 Verified Shareholder Derivative Compl. at 16 (B.(ii)) (seeking "an order
26 reinstating James J. Cotter, Jr. as the President and CEO of RDI"). The relief
27 Plaintiff Cotter Jr. asked for was an order confirming that the individual
28 directors lacked independence or disinterestedness to vote on his

1 termination so that their vote was invalid. SAC at 54, Prayer for Relief
2 ¶3(a)-(e).

3 **3. Plaintiff's request for proper disclosures did not pose a**
4 **"threat" to the company.**

5 Some courts outside Nevada have recognized a limited
6 exception to the rule that a nominal defendant may generally not defend
7 itself in a derivative suit. These courts have held that nominal defendants
8 may defend themselves against derivative actions that threaten rather than
9 advance the corporate interests, such as actions to: (1) interfere with a
10 corporate reorganization; (2) interfere with internal management in the
11 absence of an allegation of bad faith or fraud; (3) enjoin performance of
12 contracts; or (4) appoint a receiver. *See National Bankers Life Ins. Co. v.*
13 *Adler*, 324 S.W.2d 35, 37 (Tex. Civ. App. 1959) (citing cases); *see also Patrick*,
14 167 Cal. App. 4th. at 1010 (citing cases without deciding if such exception
15 exists "under California law. . . or . . . not").

16 RDI cites all five subsections of ¶3 of Plaintiff's Prayer for Relief
17 to argue that Plaintiff sought relief against RDI, but only ¶3(c) of the SAC
18 even addressed RDI. That subsection asked both "RDI *and* the individual
19 defendants to make . . . corrective disclosures . . . in advance of RDI's 2017
20 ASM" SAC ¶ 3(c) (emphasis added).¹ As RDI recognizes, this relief was
21 based on conduct by the *individual* defendants, *id.* ¶101, which formed the
22 basis for Plaintiff's third cause of action against the *individual* defendants
23 for breach of fiduciary duty. *See id.* ¶¶ 188-190 (alleging that the directors
24 breached their duties of candor and disclosure by failing to cause RDI to
25 make "timely, accurate and complete disclosures" and by causing RDI to

26
27 ¹ Plaintiff's Reply to RDI's Opposition to Plaintiff's Motion to Retax Costs
28 mistakenly indicates that this ancillary relief was not sought until September
2016. Reply at 6:23-25. The October 22, 2015 FAC also included a similar ¶
3(c) in the Prayer for Relief, although the initial complaint did not.

1 "disseminate untimely and materially misleading if not inaccurate
2 information . . .").

3 Plaintiff's third cause of action did not come close to threatening
4 RDI's existence so as to justify abandoning the "wholly neutral position" RDI
5 was required to take. Other than citing cases, RDI's Motion never explains
6 *how* the relief Plaintiff asked would be a threatening "incursion into its
7 affairs." Motion at 4. Corrective disclosures, if they were warranted, would
8 only further RDI's interests and those of its shareholders. Similarly, RDI
9 does not explain how requiring the directors to have "*bona fide*
10 qualifications" before becoming board members infringes on the
11 corporation's "rights." Motion at 3:11. All that Plaintiff was asking for is
12 compliance with proper principles of corporate governance.

13 **4. RDI through GT voluntarily assumed an adversarial role.**

14 Plaintiff did not treat RDI as anything other than a nominal
15 defendant. Rather, RDI *unilaterally* undertook an adversarial role
16 throughout this case, including by answering the FAC and SAC that were
17 filed on its behalf, and by filing a series of adversarial joinders to the various
18 motions for summary judgment filed by the individual defendants. *See,*
19 *e.g.,* Oct. 3, 2016 Joinders, on file; March 29, 2016 Answer to FAC and
20 December 20, 2016 Answer to SAC, on file.

21 The mere fact that RDI was a nominal defendant did not shield it
22 from discovery, nor did requesting documents from it turn the company
23 into an adversary of Plaintiff Cotter. Moreover, Plaintiff's counsel
24 specifically objected to RDI's counsel making arguments in support of RDI's
25 Joinder to the Cotter defendants' Partial MSJ on Independence. *See* Oct. 27
26 Hearing Tr. at 70:18-24 ("Your honor. . . They're a nominal defendant").
27 Thus, RDI's attempt to blame Plaintiff for the improper role RDI and its
28

1 hopelessly conflicted counsel played throughout this litigation should be
2 rejected.

3 **B. The Court's August 8, 2018 judgment left nothing to decide.**

4 "[A] final judgment is one that disposes of all the issues
5 presented in the case, and leaves nothing for the future consideration of the
6 court, except for post-judgment issues such as attorney's fees and costs." *Lee*
7 *v. GNLV Corp.*, 996 P. 2d 416, 417 (Nev. 2000). Thus, an order granting
8 summary judgment, which adjudicates the rights and liabilities of all parties
9 and disposes of all issues presented in the case, is *final*. *Id.*

10 Here, the Court entered its Findings of Fact and Conclusions of
11 Law granting summary judgment in favor of the only three remaining
12 defendants, Ellen Cotter, Margaret Cotter, and Guy Adams ("FFCL"), on
13 August 8, 2018. The Court had earlier granted summary judgment against
14 the five other individual defendants, and had certified that order as final
15 under NRCP 54(b). *See* January 4, 2018 Certification Order, on file. Because
16 RDI was a nominal defendant on whose behalf Plaintiff's claims were
17 brought and Plaintiff's rights and liabilities were decided in the FFCL, there
18 was nothing left for the Court to decide.

19 **1. RDI's counsel agreed that there was "nothing left" to**
20 **decide.**

21 During the June 19, 2018 hearing—right after the Court granted
22 the director defendants' Motion for Summary Judgment on ratification
23 ("Ratification MSJ")—the Court specifically asked counsel for the parties to
24 go over their pleadings and tell the Court if there were any derivative claims
25 left for her to decide. June 19, 2018 Hearing Tr. at 47:19-48:17. RDI's
26 counsel, Mr. Ferrario, told the Court he did not "think anything else is left."
27 *Id.* at 48:24. When the attorneys for the defendants and RDI came back into
28 the courtroom, Mr. Ferrario told the Court that from his client's perspective

1 and the perspective of the attorneys for the directors, there was "nothing
2 left." June 19, 2018 Hearing Tr. at 49:13-15 ("There's nothing left from Mr.
3 Tayback's perspective, my perspective, or the directors of the company.
4 There's nothing left.")

5 Although RDI proposed to "submit" its Motion to Dismiss
6 Pursuant to NRCP 12(b)(2)—which argued Plaintiff lacked derivative
7 standing to bring his claims for failure to show that demand would have
8 been futile—the Court held that the motion was moot. *Id.* at 49:8 ("It's moot.
9 Unless there's something left, it's moot"). This had nothing to do with the
10 Court "recognizing that resolution of the claims against the Individual
11 Defendants also resolved claims against Reading." Motion at 3:24-26. As
12 explained above, Plaintiff's SAC made **no claims** against RDI. What the
13 Court recognized is that if there were no derivative claims left against the
14 Cotter defendants, there was no basis to determine whether Plaintiff had
15 standing to assert them. Put another way, Plaintiff's standing to bring his
16 derivative claims became a moot issue after the Court granted the Cotter
17 defendants' Ratification MSJ.

18 **C. The Court lacks jurisdiction to grant RDI relief.**

19 The "timely filing of a notice of appeal divests the district court
20 of jurisdiction to act" *Foster v. Dingwall*, 126 Nev. 49, 52, 228 P.3d 453,
21 454–55 (2010) (internal quotation marks and citations omitted). Although
22 the district court retains limited jurisdiction to review motions seeking to
23 alter, vacate, or otherwise change or modify an order or judgment under
24 NRCP 60(b) and to *deny* them, it does not have the jurisdiction to *grant* such
25 a motion. *Foster*, 126 Nev. at 53, 228 P.3d at 455 (citation omitted).

26 Here, the Court entered its FFCL on August 8, 2018. They were
27 filed on August 14, 2018. *See* FFCL, on file. Written notice of entry of the
28 FFCL was given on August 17, 2018. *See* Notice of Entry of FFCL, on file.

1 Plaintiff timely appealed from the FFCL to the Nevada Supreme Court on
2 September 13, 2018. *See* Notice of Appeal, on file. Plaintiff earlier appealed
3 from the Court's January 4 Order certifying as final the December 28, 2017
4 Order dismissing the five other individual defendants. Therefore, the Court
5 lacks jurisdiction to grant RDI's motion.

6 It is too late for RDI to now argue, as it does, that the Court's
7 order dismissing the five defendants is *not* final. Motion at 4:4-7. RDI
8 argued the exact opposite four months ago, when it said:

9 The Court's written order was issued December 28, 2017, and at
10 the request of Plaintiff, was subsequently certified as a final
11 judgment pursuant to NRCP 54(b). Plaintiff subsequently filed a
12 Notice of Appeal as to that judgment. Accordingly, *this Court no
longer has jurisdiction to alter or amend that judgment.*

13 Motion to Dismiss Pursuant to NRCP 12(b)(2) at 8:24-27 (emphasis added).

14 **D. The Court should deny the Motion, because there are no
grounds under Rule 60 to grant it.**

15 If the Court were inclined to grant RDI relief, then the Court
16 could "certify its intent to grant the requested relief" *Foster*, 228 P.3d at
17 455. But here, there is no basis to do so.

18 **1. There was no clerical mistake.**

19 Under Rule 60(a), a court may correct clerical mistakes in
20 judgments, order, or other parts of the record. Nev. R. Civ. P. 60(a). As the
21 Nevada Supreme Court has held:

22 [A] clerical error is a mistake in writing or copying. As more
23 specifically applied to judgments and decrees a clerical error is a
24 mistake or omission by a clerk, counsel, or judge, or printer
25 *which is not the result of the exercise of a judicial function.* In
other words, a clerical error is one which *cannot reasonably be
attributed to the exercise of judicial consideration or discretion.*

26 *Channel 13 of Las Vegas, Inc. v. Ettlinger*, 94 Nev. 578, 580, 583 P.2d 1085,
27 1086 (1978) (quoting *Marble v. Wright*, 77 Nev. 244, 248, 362 P.2d 265, 267
28 (1961)); *see also Pickett v. Comanche Constr., Inc.*, 108 Nev. 422, 426-27, 836

1 P.2d 42, 45 (1992) (holding same and holding that the amended judgment
2 was void because it involved a substantive change from the prior judgment).

3 RDI does not point to any fact showing that the clerk, its counsel,
4 this Court, or a printer made a clerical mistake in writing or in copying the
5 FFCL. Therefore, there is no basis for relief under Rule 60(a).

6 **2. Omitting RDI from the FFCL was not an oversight.**

7 Under NRCP 60(b)(1), a party seeking for relief from a final
8 judgment on grounds of "mistake, inadvertence, surprise, or excusable
9 neglect" has the burden of proving his position "by a preponderance of the
10 evidence." *Britz v. Consol. Casinos Corp.*, 87 Nev. 441, 446, 488 P.2d 911, 915
11 (1971) (internal quotation marks and citation omitted). The Court must also
12 consider several factors before granting relief, including whether the
13 moving party: (1) promptly sought relief; (2) lacked knowledge of the
14 procedural requirements; and (3) acted in good faith. *Yochum v. Davis*, 98
15 Nev. 484, 486–87, 653 P.2d 1215, 1216-17 (1982) (citations omitted).

16 RDI cites Rule 60(b)(1) without discussion of the Rule's
17 requirements or the application of them to the facts of this case. Motion at
18 5:4. Thus, RDI has utterly failed meet its burden of proof to obtain relief
19 under Rule 60(b)(1). *Britz*, 87 Nev. at 446, 488 P.2d at 915 (holding that the
20 appellants had "failed to carry their burden of showing mistake,
21 inadvertence, surprise, or excusable neglect, either singly or in
22 combination").

23 None of the applicable *Yochum* factors weigh in its favor in any
24 event. Omitting RDI from the FFCL was not an oversight or mistake. RDI's
25 counsel was intimately involved in drafting the FFCL. RDI is well aware
26 that no claims were brought against it and that there was no basis to grant
27 judgment in its favor. RDI's counsel is also well aware of the procedural
28 rules of the Court; it only sought relief *after* realizing the impact of not being

1 a prevailing party that would support recovery of costs. Thus, RDI's Motion
2 cannot be considered as having been filed in good faith.

3 **3. The Motion seeks a judgment that the Court does not have**
4 **the authority to award.**

5 Rule 60(b) does not permit a court to grant affirmative relief in
6 *addition* to the relief contained in the prior order or judgment. *Delay v.*
7 *Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007). In *Delay*, the appellants asked
8 the district court to give them "a new judgment on a takings theory against a
9 separate defendant"—the United States—"that was not bound by the prior
10 judgment" *Id.* at 1047. The appellants sought to: (1) "revisit the
11 circumstances that enabled the United States to be dismissed from the action
12 under the controlling law of the time, [2] reinsert the United States as the
13 real party-in-interest under a retrospective application of Lebron-Brentwood
14 Academy, and [3] gain a judgment against the United States on a new
15 takings claim to effect that Delay had a property interest in his cause of
16 action against the United States that was destroyed upon termination of the
17 Commission." *Id.* at 1046. The district court denied the Rule 60(b) motion,
18 and the Ninth Circuit affirmed its ruling, because the federal rule, like
19 Nevada's counterpart, only allows a party to set aside a judgment—not to
20 substitute it for a new one granting additional relief. *Id.*

21 Here, RDI is asking the Court for similar affirmative relief after
22 the fact that the Court cannot grant for reasons that go beyond Rule 60(b).
23 RDI's request for judgment requires the Court to disregard its nominal
24 defendant status and transform RDI into a "Defendant" by presuming
25 Plaintiff made claims against RDI when in fact he did not. RDI also asks the
26 Court to presume that RDI could breach fiduciary duties against itself *and* to
27 presume that RDI prevailed on phantom claims not made against it. RDI
28 did not even join in the Ratification MSJ. Even assuming it had joined, the

1 ratification resolved the fiduciary duty claims against the *individual*
2 defendants, not the corporation. RDI's Motion Pursuant to NRCP 12(b)(2)
3 also did not ask for judgment in its favor, nor could it: the Rule 12(b)(2)
4 motion was based on Plaintiff's standing to make *derivative* claims—*i.e.*,
5 claims filed on RDI's behalf—against the directors.² Thus, RDI's Motion is
6 legally out of bounds. There is no basis under Rule 60 or any other rule to
7 grant RDI relief.

8 III. CONCLUSION

9 Based on the foregoing reasons, Plaintiff respectfully requests
10 the Court deny RDI's Motion in its entirety.

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23
24
25
26
27 ² Notably, RDI again failed to ask for an evidentiary hearing, as Plaintiff
28 pointed out in his opposition brief. Thus, the 12(b)(2) Motion should have
been denied even if not rendered moot by the dismissal of Plaintiff's claims
against the remaining three Cotter defendants.

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I caused the following document(s) **PLAINTIFF JAMES J. COTTER JR.'S OPPOSITION TO READING INTERNATIONAL, INC.'S MOTION FOR JUDGMENT IN ITS FAVOR** to be served via the Court's Odyssey E-Filing System: to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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DATED this 1st day of October, 2018.

By: /s/ Patricia A. Quinn

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

• • • • •

Transcript of Proceedings

JA13126

APPEARANCES:

FOR THE PLAINTIFF:

AKKE LEVIN, ESQ.

FOR THE DEFENDANTS:

MARSHALL M. SEARCY, ESQ.

KEVIN M. JOHNSON, ESQ.

MARK E. FERRARIO, ESQ.

1 LAS VEGAS, NEVADA, MONDAY, OCTOBER 1, 2018, 9:20 A.M.

2 (Court was called to order)

3 THE COURT: That takes me to Cotter.

4 So, Ms. Levin, it's your motion.

5 MS. LEVIN: Good morning, Your Honor.

6 THE COURT: Hang up on whoever it is, please.

7 MS. LEVIN: I came with some documents. I'm sorry.

8 (Pause in the proceedings)

9 MS. LEVIN: Just a minute.

10 THE COURT: Just put him on hold.

11 Ms. Levin, I'm sorry for the interruption. Would
12 you like to proceed?

13 MS. LEVIN: Yes. Thank you, Your Honor.

14 Your Honor, this is our motion to retax costs. The
15 defendants have asked for 2.9 million in costs. They now have
16 had two opportunities to meet their burden of proof that their
17 extraordinary \$2.9 million cost bills were not only actually
18 incurred -- only also incurred for this case, but they were
19 necessary and reasonable. Now, they failed twice in that
20 obligation. The first time they mainly gave us spreadsheets
21 for the majority of the costs sought. The second time they
22 gave us on the eve of the hearing an 8-volume, 3,500-page
23 document dump essentially saying, here's the backup for our
24 outrageous expenses and you figure it out.

25 They have an obligation to in good faith only seek

1 those costs that met all those three criteria. They still did
2 not check for reasonableness even after we gave them very
3 specific examples for each category with citations to the
4 exhibit pages that appeared either unnecessary, unreasonable,
5 or unsupported or all of the above. So they only responded in
6 their opposition brief to examples we had given them, if that.

7 So although they say they omitted costs related
8 solely to the T-2 plaintiffs, they did not. Those costs
9 permeate all categories from filing fees to research to travel
10 costs to ediscovery. We should not have been put in this
11 position to do their work, Your Honor, given the outrageous
12 amount of costs they seek, the sloppy and untimely piecemeal
13 production of documents, and the absence of declarations
14 showing, rather than just saying, that these costs were
15 actually incurred, necessarily incurred, and reasonable.

16 The Court should use its discretion to drastically
17 reduce those costs, if not allow them at all.

18 THE COURT: Okay. So I have the memo of costs and
19 disbursements in front of me.

20 MS. LEVIN: Okay.

21 THE COURT: And I went through your charts and your
22 comparisons. Your number that you would urge me to give for
23 Category Number 1, which is all filing fees is what?

24 MS. LEVIN: Well, it's RDI's filing fees especially.
25 The fact that RDI was a nominal defendant, they should have

1 kept a wholly neutral position in this case, they were not
2 even the prevailing party. And that's our main argument with
3 respect to RDI. It is not a prevailing party. There's no
4 judgment entered in its favor. So they shouldn't be entitled
5 to any of their \$1.2 million costs. So that's our main
6 argument.

7 But with respect even -- even the filing fees, even
8 assuming the Court would allow them fees, we gave them --
9 again, we -- I think they should be disallowed at least 3,000
10 of their \$3,700 filing fees, because all of those filings were
11 related to a motion to compel arbitration, that was 1.5.
12 There were six joinders in dispositive motions of the
13 corporate defendants, so they joined essentially in the
14 defense of directors who were alleged to have breached the
15 duty to the company. So those filing fees should be
16 disallowed. And there's numerous T-2 filings.

17 So, again, we did the work for them because they
18 didn't want to do their job. But there are many other filing
19 fees, and their free dollars, whatever. But, again, so our
20 main argument is none of them should be allowed. But if the
21 Court's going to allow anything, they shouldn't -- at least
22 \$3,000 should be deducted.

23 THE COURT: Do you want to go through any of the
24 other categories for me? I understand your issue on the
25 expert witnesses. I'm going to deal with that separately, Mr.

1 Ferrario, given the statutory limitation.

2 Anything else?

3 MS. LEVIN: Well, I can go category by category,
4 Your Honor. Now, first --

5 THE COURT: You did in your briefing. So I'm asking
6 you if there's anything else you want to tell me that wasn't
7 in the briefing.

8 MS. LEVIN: I would like to actually -- what we did
9 is in the reply brief we cited -- we meant to give more cites
10 to the appendix, and what we did is instead we cited back to
11 the original motion appendix. So I have some examples.
12 Because, again, they gave us a backup, but the backup --

13 THE COURT: I'd be happy to take your examples.

14 MS. LEVIN: Okay. Great. And I'll share with the
15 other side, too.

16 THE COURT: Great. We'll mark it as Court's
17 Exhibit 1.

18 MS. LEVIN: So Court Exhibit 1 would be supplemental
19 examples for the Byrd & Morella [phonetic] costs, and the
20 other one would be supplemental examples of the backup for
21 Quinn Emanuel, which further supports the unreasonableness --

22 THE COURT: So I'm going to mark them collectively
23 as Court's Exhibit 1.

24 MS. LEVIN: Thank you, Your Honor.

25 THE COURT: All right. Anything else you'd like to

1 add, Ms. Levin?

2 MS. LEVIN: If I can just look -- because I think
3 you understand our arguments and --

4 THE COURT: I do.

5 MS. LEVIN: Oh. One thing, also. The Cotter
6 defendants and the copy costs, Mr. Searcy's declaration says
7 we gave the costs per copy. But their backups do not support
8 that. You have to kind of figure it out yourself by deducting
9 -- they're giving the number, and then you have to go and look
10 through a line that says US Dollar. It says 2, but that's
11 actually the quantity. So it turned out they billed 24 cents
12 per page, which is excessive. So we would submit that -- you
13 can see that, by the way, on exhibit page 2926. So that
14 should be cut in half.

15 I mean, I can go through each categories, Your
16 Honor. If you have questions --

17 THE COURT: You don't need to. I read your brief.

18 MS. LEVIN: Okay.

19 THE COURT: What I'm trying to find out is there
20 anything else you want to tell me that wasn't in the brief or
21 you want focus on.

22 MS. LEVIN: Okay. Can I just go through my --

23 THE COURT: Because you did a really good job on the
24 reply before, and Mr. Ferrario did a pretty good job on the
25 opposition brief.

1 MS. LEVIN: I'll take that as a compliment.

2 Well, the whole necessity of the -- well, I think we
3 put that in the reply brief, too.

4 THE COURT: All right.

5 MS. LEVIN: I'll stop right here.

6 THE COURT: Thank you.

7 Mr. Ferrario.

8 MR. FERRARIO: Good morning, Your Honor.

9 THE COURT: Good morning.

10 MR. FERRARIO: I really don't quite know where to
11 begin. I know Ms. Levin's only been in this case for a few
12 months. And it's unfortunate Mr. Krum's not here to kind of
13 -- we could go back to the beginning. But Your Honor will
14 remember that this case started back in the summer of 2015.
15 And it started when Mr. Cotter was terminated from his
16 position as the CEO of Reading. And Your Honor will remember
17 that the company contested whether -- and that's who I
18 represent, I represent the company -- contested whether Mr.
19 Cotter was an appropriate derivative plaintiff. And then we
20 contested his position as a derivative plaintiff. We said
21 this was a matter that should be covered in arbitration which
22 was pending in California. And Your Honor denied our requests
23 to put an end to this case. And Your Honor gave Mr. Cotter
24 throughout the course of these proceeding every opportunity to
25 try to manufacture a claim that Your Honor characterized at

1 one hearing as truly unique. There was no other case in the
2 country that we could find -- a derivative case --

3 THE COURT: The story of my life.

4 MR. FERRARIO: -- that approximated this. And what
5 I find strange is now we stand here in front of this Court
6 with the Court having given Mr. Cotter every opportunity --

7 THE COURT: A million two in expert expenses, Mr.
8 Ferrario?

9 MR. FERRARIO: Well, Your Honor, let -- and, you
10 know, I represent the company, again. We had an indemnity
11 obligation. But you know what I'll tell Your Honor, and you
12 know this. When you have big cases sometimes you have big
13 expert fees. What is missing --

14 THE COURT: There was nothing I saw in the experts
15 that were presented to me or provided information in this case
16 that would put us in the realm of a million two.

17 MR. FERRARIO: Well, let me tell you how it
18 happened, Your Honor. I'd be happy to do that, okay.

19 THE COURT: That'd be great.

20 MR. FERRARIO: Because what's missing here is the
21 claim that they brought, okay. They brought a claim against
22 the directors for one hundred to \$150 million, okay.

23 THE COURT: Is that why they stayed at The Four
24 Seasons in the chairman suites?

25 MR. FERRARIO: I don't -- you know what, I hate

1 arguing costs motions. You want to say, stay at the Golden
2 Nugget, I could care less about that.

3 THE COURT: Well, they should have.

4 MR. FERRARIO: This case is about -- no, there's
5 other things there. But I don't even -- you do what you want
6 on that. I could care less, okay. The big categories here
7 are expert fees and ediscovery, okay.

8 THE COURT: Yes. And I have questions on
9 ediscovery. But right now I'm asking you questions on
10 experts.

11 MR. FERRARIO: And on experts what's lost in their
12 pleading, and they don't deal with that, it was a hundred to
13 \$150 million claim. Now, the point I want to make here is
14 this. I have to go back to the beginning. Mr. Cotter was not
15 an outsider. He was an insider. He intentionally pled claims
16 against the directors to avoid having to make a demand on the
17 board. He said the directors were all interested. After this
18 Court gave him every opportunity to prove those claims, the
19 Court found on summary judgment that he didn't have any
20 evidence to support that.

21 Now, during the course of the case --

22 THE COURT: For some of the directors.

23 MR. FERRARIO: Yeah. For five independent
24 directors.

25 THE COURT: For some of the directors.

1 MR. FERRARIO: Exactly. There was an issue of fact
2 with the others, okay.

3 THE COURT: Yes.

4 MR. FERRARIO: Three. But the point here is you
5 gave him every opportunity to do that.

6 Now, let's look at how the case evolved. Hundred to
7 \$150 million in damages. What happens as we're running up to
8 trial in January, okay, all of a sudden we're here, not in
9 this courtroom, upstairs --

10 THE COURT: I had a jury.

11 MR. FERRARIO: We had a jury outside.

12 THE COURT: We were next door.

13 MR. FERRARIO: Mr. Cotter suddenly taken ill two
14 days after we're in court, right. What do we find out about
15 this illness? Well, the illness kind of coincides with him
16 not paying his experts. What happens after that? Your Honor,
17 says, you know what, if you're going to call an expert at
18 trial on your hundred to \$150 million damage claim then what
19 you have to do is you have to present to the other side all of
20 the billing records so we can see if there was some
21 shenanigans with regard to the continuance in January.

22 What happens? They abandon the hundred to
23 \$150 million damage claim on the eve of the June trial. What
24 does that tell you about their case? Was Mr. Cotter acting in
25 his fiduciary capacity as a derivative plaintiff when he

1 abandoned that claim? We were going to trial in the summer,
2 just a couple months ago, on claims -- I don't even know what
3 we were fighting over. And I'm not sure Mr. Krum did at the
4 time Your Honor granted the final relief that brings us here.

5 So when we go back and we look at the evolution of
6 this case I submit that the fees are reasonable. And you know
7 how you can test that? Where are their bills?

8 THE COURT: Other than Chief Justice [inaudible].

9 MR. FERRARIO: I am willing to bet you, okay, that
10 the bills they didn't pay -- because we believe they stiffed
11 their experts, which is why they wouldn't show up -- that the
12 bills they didn't pay approximate the charges that were
13 incurred by the experts who were hired by the directors.

14 Now, having said that, we dealt with some very novel
15 claims regarding the value of stock tied to certain actions of
16 the company. They put this forth this fella Duarte Silva, who
17 came up with these wild calculations. Well, you know what,
18 when you put forth somebody that comes up with wild
19 calculations then the other side apparently, under their
20 scenario, shouldn't defend against that. Which is farcical.
21 You'd have to call your malpractice carrier. Even though you
22 think their claim is ridiculous, you still have to go out and
23 find an expert to counter that.

24 Experts that deal in these types of cases, deal with
25 these economic theories, are far and few between. And so when

1 you look at this in light of the claims that were made you're
2 talking about expert fees that are less -- well, 1 percent of
3 the claim that was being made. I don't see how you can say
4 that's unreasonable, especially without calling them on the
5 carpet and finding out what their expert charged to
6 manufacture the claim that they abandoned.

7 THE COURT: Other than Chief Justice Steel, who they
8 told me how much he charged.

9 MR. FERRARIO: And that's a good one, too. Because
10 I stood in front of you a couple -- probably a year and a half
11 ago and I said, why have they called Justice Steel. Justice
12 Steel's report -- and he might be a nice fella. I've never
13 met the guy.

14 THE COURT: He is a nice fellow.

15 MR. FERRARIO: But this guy writes a report and he
16 says, this is what would happen in Delaware. And I stood in
17 front of Your Honor and I said, we're not in Delaware, so why
18 is Justice Steel testifying. And Your Honor said, we'll deal
19 with this at trial.

20 THE COURT: Well, because the Nevada Supreme Court
21 sometimes looks to Delaware in making decisions about things.

22 MR. FERRARIO: But Your Honor is --

23 THE COURT: I know.

24 MR. FERRARIO: -- the arbiter of the law here, not
25 Justice Steel.

1 THE COURT: Well, no. The Nevada Supreme Court is.

2 MR. FERRARIO: What he -- well, finally.

3 THE COURT: Yeah.

4 MR. FERRARIO: Well, if we get past you. But the --

5 THE COURT: Or file a writ.

6 MR. FERRARIO: Or file a writ. But Justice Steel's
7 report was, quite frankly, nothing more than a memo on
8 Delaware law that any of us could have commissioned one of our
9 associates, quite frankly, to prepare. And so we argued
10 against that. But they wanted that.

11 And the point here I'm making, Your Honor, you gave
12 them every opportunity. They ran the costs up.

13 THE COURT: A million two in experts, Mr. Ferrario.

14 MR. FERRARIO: Absolutely. That's what it cost.

15 THE COURT: Okay.

16 MR. FERRARIO: We've given you the bill.

17 THE COURT: So let's go to my other issue.

18 MS. LEVIN: Your Honor, can I respond?

19 THE COURT: No. I'm not done.

20 MS. LEVIN: Okay.

21 THE COURT: The ediscovery. There have been issues
22 raised about the lack of pro ration among various other
23 litigation and claims that are -- these parties are continuing
24 to be in, including the litigation in California and the
25 arbitration matter, as well as the probate matter here. Can

1 you tell me why haven't pro rated the expenses for the
2 ediscovery and the hosting?

3 MR. FERRARIO: Well, we actually have.

4 THE COURT: How do I tell that?

5 MR. FERRARIO: I can tell you right now that there
6 are -- well, actually, it's kind of interesting, because the
7 parties -- for example, the Cotter sisters, okay --

8 THE COURT: Yes.

9 MR. FERRARIO: -- they're involved in the litigation
10 in California, the trust litigation and all that.

11 THE COURT: And here in the probate case now.

12 MR. FERRARIO: And here in the probate case.

13 THE COURT: Since you let Mr. Peek be involved.

14 MR. FERRARIO: And Mr. Peek is involved, yes. And
15 so are hosting this information, okay. And it was done
16 because of what happened in this case. That's what started
17 this.

18 THE COURT: So did you pro rate it among the other
19 cases?

20 MR. FERRARIO: You know, I would have to ask Ms.
21 Hendricks that question. But I'm sure it was pro rated.

22 THE COURT: How can I tell?

23 MR. FERRARIO: And the reason that I know that is
24 because I'm getting phone calls from the lawyer in California
25 on the trust case asking why he's still having to pay

1 Navigant. That's -- and I just had those calls last week. So
2 they are paying that.

3 THE COURT: Okay.

4 MR. FERRARIO: All right.

5 THE COURT: So then let me ask you the other
6 question related to the ediscovery. Typically when there are
7 consulting expenses related to the ediscovery those either
8 show up in the expert category or in some category other than
9 just the straight ediscovery hosting. Because it's
10 consulting. Can you tell me why you didn't show it someplace
11 else and put an ediscovery category?

12 MR. FERRARIO: I can't, Your Honor. I mean, that
13 was --

14 THE COURT: How much of it is consulting? Is it a
15 quarter?

16 MR. FERRARIO: Oh --

17 THE COURT: Seems like a lot in looking at it.

18 MR. FERRARIO: I don't think it was that much in
19 consulting with them. I mean, the fact of the matter is the
20 biggest fight we had here on ediscovery was with then Mr. Krum
21 before Ms. Levin got into the case. And I made some notes.
22 We had 12 custodians that we had to go through. And remember,
23 Your Honor, how this case unfolded. At the very --

24 THE COURT: You mean that you guys wanted a
25 preliminary injunction --

1 MR. FERRARIO: You're going --

2 THE COURT: -- I set a hearing, and you never showed
3 up?

4 MR. FERRARIO: You're going right where I'm going.

5 THE COURT: Okay.

6 MR. FERRARIO: Right at the beginning fire drill,
7 injection, he shouldn't have been discharged. Then all of a
8 sudden he abandons that. Then we get into -- and he wanted,
9 you know, expedited discovery, which was a fire drill on our
10 part, which is why some of these costs are up. Then he
11 abandons that. Then we get into regular discovery. But what
12 happened, and Your Honor will recall this, Mr. Cotter sought
13 to amend his complaint and basically challenged almost every
14 major decision made by the board of the course of this
15 litigation without really any merit to that. So we had -- we
16 would continually go back and have to look for data and
17 harvest data because he would amend his complaint or he'd
18 bring something else in and say, wait a while, you know, you
19 didn't entertain this offer from Patten Vision [phonetic] and
20 that was a breach of your fiduciary duty. There we go again
21 on another discover goose chase, all because of the plaintiff.
22 It's not like I sat around one day in the midst of all the
23 other cases I had and I said to Ms. Hendricks and Ms. Cowden,
24 hey, let's just do some discovery in Cotter. That's not why
25 this happened. It happened because of the plaintiff. And the

1 plaintiff was never interested in benefitting the company.
2 And that became clear at the end of this case when he
3 abandoned his damage claims and we were going to trial
4 challenging essentially two decisions that I think monetarily
5 to the company might have come in at about 125,000 bucks,
6 something like that.

7 So I now go all the way back to the beginning. We
8 stood in front of you three years ago and we said this was a
9 personal dispute by Mr. Cotter, he wasn't an appropriate
10 derivative plaintiff, he was trying to vindicate his rights
11 personally, not to benefit the company. And that's exactly
12 what the conduct in this case showed. You can stand here now
13 and say all sorts of things, oh, this is ridiculous, oh, they
14 should have stayed at The Four Seasons or they shouldn't have
15 stayed here. You can talk all you want. Look at how the case
16 unfolded.

17 And the final point I'll make is this. It all
18 starts, all of this starts -- and Your Honor will see this
19 probably in your other case -- with Mr. Cotter preying on his
20 father while he's on his death bed.

21 THE COURT: That's my probate case, not today.

22 MR. FERRARIO: But that's where this --

23 THE COURT: But that's not today.

24 MR. FERRARIO: -- all starts.

25 THE COURT: But, Mr. Ferrario, that's not this case

1 today.

2 MR. FERRARIO: I understand. So here, Judge, we've
3 given you the declarations. You've got tons of receipts. You
4 want to cut down The Four Seasons, I don't care, okay. You
5 want to noodle the filing fees -- I guess I wasn't supposed to
6 file anything even though it was a novel case and Your Honor
7 said we could file and participate, I guess we couldn't file.

8 THE COURT: I didn't say that. No, I didn't.

9 MR. FERRARIO: I didn't understand that part of
10 their opposition. You want to do all that, I'm fine with the
11 Court's discretion on those things. But on experts and on the
12 ediscovery, all of that was necessitated by the conduct of the
13 plaintiff to meet, A, the claims that were being made, which
14 they pooh-pooh now, oh, well, wait a while, why did you do
15 that. Hundred to \$150 million. I don't think there's a
16 lawyer in this room that would stand up and say those are not
17 significant claims. We couldn't knock that expert out. You
18 let him in. They only abandoned him. So we're not supposed
19 to defend against that, they're not supposed to defend against
20 that? And then I have to -- the company has to indemnify
21 them. What happened in this is case is you gave him a chance
22 and he lost.

23 And what happened? In a case where he should have
24 been trying to benefit the company he cost the company dearly.
25 And at the end of the day he couldn't prove his claim, and he

1 lost. And you know what, sometimes you have to pay.

2 THE COURT: Okay. Mr. Searcy, is there anything you
3 want to add?

4 MR. SEARCY: Nothing for me, Your Honor. Thank you.

5 THE COURT: Thank you.

6 Ms. Levin.

7 MS. LEVIN: Your Honor, if I can --

8 THE COURT: Mr. Johnson, you don't want anything, do
9 you, since you're Mr. Searcy's local counsel?

10 MR. JOHNSON: I'm okay, Your Honor.

11 THE COURT: Okay.

12 MS. LEVIN: To start with the last point, Mr.

13 Ferrario's argument that we are now saying that the claims
14 were frivolous, that's not right. That's their argument.

15 That's what they've been saying the whole case, this is such a
16 frivolous case, there's no evidence, we always knew there was
17 no evidence. So, nevertheless, without any evidence and by
18 calling the claims speculative they went out and incurred
19 \$45,000 in Westlaw research, or claiming that only Nevada law
20 applied. Then they went out and hired a damage expert,
21 initial damage expert, who charged a half million dollars to
22 look at whether the stock went up or down.

23 Now, the claim that they're saying that the
24 complaint sought 100 million damages, they don't cite to the
25 complaint. And there's a reason for that. Because it's not

1 in the complaint. Where that comes out of is Duarte Silva,
2 the expert Duarte Silva, who put in his expert report that --
3 in a footnote, that he believed that there could be a
4 potential damage of 100 million. So every time they say, this
5 is what the plaintiff cost us to do, the plaintiff cost; no,
6 the plaintiff did not seek those damages. They had already
7 hired an expert who charged a half a million dollars. So for
8 them to say, you know, this is all caused by the plaintiff is
9 not true.

10 The point about the ediscovery, you understand
11 ediscovery, Your Honor. We gave you a chart. This is not a
12 document-intensive case. And they say it's the plaintiff,
13 it's the plaintiff. We gave you the requests for productions.
14 There were six very distinct categories in the plaintiff's
15 first request for production. And you know what RDI did?
16 They put the entire company server, the entire company server
17 on a database, almost 2 terabytes. The allegations pertaining
18 to Mr. Cotter's termination only went back one year.
19 Nevertheless, they put the entire server on there. So for
20 them to say, this is all caused by Cotter, no, it's caused by
21 their mismanagement of this case. They just had a party with
22 this case.

23 They only produced 71,000 pages of documents, not
24 documents, pages of documents. And it was in rolling
25 productions. They're saying now it was all because of us. It

1 was -- they took forever to get RDI to produce anything.

2 Your Honor asked about how the consulting fees, if
3 it was a quarter. We gave you a chart and we added up all the
4 consulting fees that they charged as, quote, "ediscovery
5 costs." They came to about half, \$455,000 in consulting fees.
6 And we showed Your Honor the way that these consultants at the
7 Navigant database vendor, how they billed their entries.
8 "Client communication term reporting, client conference calls.
9 Client conference calls, communication, assignment. Client
10 conference calls," and hours and hours that were billed at
11 attorney rates, at 350 per hour. They did searches, they did
12 typical paralegal work. We shouldn't have to pay for that.

13 And, Your Honor, you have an example of a case where
14 you didn't allow even close to the amount that they're
15 seeking. And that's the In re DISH Network case. Now, in
16 that case there are many more custodians. They have to --

17 THE COURT: But we were in a very short time frame
18 in the DISH Network case, because the SLC did their
19 investigation and we had a summary judgment motion. We were
20 on that case, what, less than a year.

21 MS. LEVIN: Right. But those documents went back to
22 2008.

23 THE COURT: [Unintelligible].

24 MS. LEVIN: Here the plaintiff filed -- in 2015 he
25 specifically limited his document requests to documents

1 starting in January '14. It was year earlier. And in the
2 DISH Network case they have to search three different servers.

3 So what I'm saying, Your Honor, to get to the bottom
4 of this, the consulting fees are outrageous. The sheer amount
5 of ediscovery costs are outrageous given the relatively few
6 documents that they produced. It just doesn't warrant even
7 close to this.

8 So -- and the rest is in our briefs.

9 THE COURT: All right. Thank you.

10 The categories in the memorandum of costs and
11 disbursement are retaxed for Number 3. The expert witnesses
12 are reduced to a total of 250,000 for Mr. Clausner, 250,000
13 for Mr. Roll. Mr. Chavem's amount of one fifty-two is
14 compensated. Mr. Foster, his amount of 201,000 is
15 compensated. (Transcriber's note: All names above phonetic)

16 With respect to the statutory limitation the Court
17 finds that, given the nature of this particular case, is it
18 appropriate to exceed the statutory limitation, that the
19 amounts that have been requested in large part by the
20 defendants are excessive.

21 With respect to any costs by Mr. Gould, those costs
22 are too late. Mr. Gould was successful on a motion for
23 summary judgment almost a year ago at this point, so
24 regardless of Reading's position in the case with
25 indemnification, the motion is late.

1 With respect to Category Number 12, given the
2 consulting that is included which may be more appropriate as a
3 request for attorneys' fees or should have been included as
4 expert expenses, depending upon how you categorize it, the
5 amount is reduced to \$450,000.

6 With respect to Category 13 the motion to retax is
7 granted.

8 With respect to Category 14 the motion to retax is
9 granted.

10 With respect to Category 15 the motion to retax is
11 granted.

12 With respect to Category 16 the motion to retax is
13 granted.

14 And with respect to Category 17 the motion to retax
15 is granted.

16 Anything else?

17 MR. FERRARIO: Thank you, Your Honor.

18 THE COURT: 'Bye.

19 THE PROCEEDINGS CONCLUDED AT 9:49 A.M.

20 * * * * *

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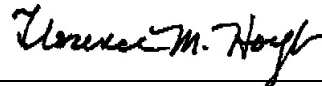
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**



FLORENCE M. HOYT, TRANSCRIBER

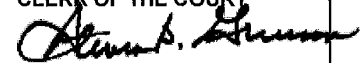
10/1/18

DATE

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DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR.,
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Defendants.

and

READING INTERNATIONAL,
INC., a Nevada corporation,

Nominal Defendant.

) Case No. A-15-719860-B
) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) LETTER TO COURT OBJECTING
) TO PROPOSED ORDER

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1 Plaintiff James J. Cotter, Jr.'s letter to the Court objecting to RDI's
2 proposed order on Plaintiff's Motion to Retax Costs is attached hereto as
3 Exhibit 1.

4
5 MORRIS LAW GROUP

6 By: /s/ Akke Levin

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **LETTER TO COURT OBJECTING TO PROPOSED ORDER**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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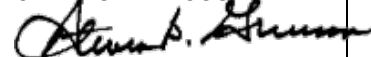
DATED this 2nd day of November, 2018.

By: /s/ Patty A. Quinn
An employee of Morris Law Group

NOT USED

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1 **ERR**

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20 DISTRICT COURT
21 CLARK COUNTY, NEVADA

22 JAMES J. COTTER, JR.,) Case No. A-15-719860-B
23 derivatively on behalf of Reading) Dept. No. XI
24 International, Inc.,)

25) Coordinated with:
26)
27 Plaintiff,)
28 v.) Case No. P-14-0824-42-E
29) Dept. No. XI

30 MARGARET COTTER, ELLEN)
31 COTTER, GUY ADAMS,) Jointly Administered
32 EDWARD KANE, DOUGLAS)

33 McEACHERN, WILLIAM) **ERRATA TO LETTER TO COURT**
34 GOULD, JUDY CODDING,) **OBJECTING TO PROPOSED**
35 MICHAEL WROTONIAK,) **ORDER**

36)
37 Defendants.)

38 And)

39 READING INTERNATIONAL,)
40 INC., a Nevada corporation,)

41 Nominal Defendant.)

MORRIS LAW GROUP
411 E. BONNEVILLE AVE., STE. 360 • LAS VEGAS, NEVADA 89101
702/474-9400 • FAX 702/474-9422

1 On November 2, 2018, plaintiff James J. Cotter, Jr., filed a Letter
2 to the Court Objecting to Proposed Order.

3 Upon closer review it appears that Exhibit 1 of the Letter to the
4 Court Objecting to Proposed Order was not attached. A true and correct
5 copy of Exhibit 1 is attached hereto.

6 MORRIS LAW GROUP
7

8 By: /s/ AKKE LEVIN

9 Steve Morris, Bar No. 1543
10 Akke Levin, Bar No. 9102
11 411 E. Bonneville Ave., Ste. 360
12 Las Vegas, Nevada 89101

13 Mark G. Krum, Bar No. 10913
14 YURKO, SALVESEN & REMZ, P.C.
15 1 Washington Mall, 11th Floor
16 Boston, MA 02108

17 Attorneys for Plaintiff
18 James J. Cotter, Jr.
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **ERRATA TO LETTER TO COURT OBJECTING TO PROPOSED ORDER**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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255 East Warm Springs Road, Ste. 110
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Marshall Searcy
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Michael Wrotniak*

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1875 Century Park East, 23rd Fl.
Los Angeles, CA 90067-2561

*Attorneys for Defendant William
Gould*

DATED this 2nd day of November, 2018.

By: /s/ Patricia A. Quinn

Exhibit 1

MORRIS LAW GROUP
ATTORNEYS AT LAW

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LAS VEGAS, NV 89101
TELEPHONE: 702/474-9400
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WEBSITE: www.morrislawgroup.com

November 2, 2018

VIA HAND DELIVERY

The Honorable Elizabeth Gonzalez
Regional Justice Center, Dept. 11
200 Lewis Avenue
Las Vegas, Nevada 89101

Re: *James J. Cotter, Jr., v. Margaret Cotter, et al.*
Case No. A-15-719860-B

Dear Judge Gonzalez:

On behalf of Plaintiff James J. Cotter, we object to RDI's proposed order on Plaintiff's Motion to Retax—in particular paragraph 5 of the proposed findings of fact—because the proposed findings have no basis in the transcript of the October 1, 2018 hearing on the Motion to Retax or the Court's minute order respecting that hearing, which reads, in relevant part:

10/01/2018 9:00 AM

.... COURT ADVISED the categories in the Memorandum of Costs and Disbursement are retaxed for Number 3. The expert witnesses are reduced to \$250,000.00 for Mr. Klausner, \$250,000.00 for Mr. Roll, the \$152 amount for Mr. Strombom is compensated and Mr. Foster's amount of \$201,000 is compensated. With respect to the statutory limitation, COURT FINDS that given the nature of this particular case, is it appropriate to exceed the statutory limitation, that the amounts that have been requested in large part by defendants are excessive. ...

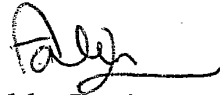
Further, given that under *Khoury v. Seastrand*, 377 P.3d 81, 95 (Nev. 2016) and *Frazier v. Drake*, 131 Nev., Adv. Op. 64, 357 P.3d 365, 378 (Ct.App.2015), it is for the Court to provide a reasoned analysis and state

AKKE LEVIN
DIRECT DIAL: 702/759-8383
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The Honorable Elizabeth Gonzalez
November 2, 2018
Page 2

the basis for awarding expert witness costs above \$1,500 per expert, we have particular concern with RDI's proposed findings that are unsupported by the record evidence (*e.g.*, "that the expert testimony was very important to the Defendants' preparation of their defense"); inconsistent with the Court's minute order (*e.g.*, the "hourly fees were reasonable" and "in line with the fees ordinarily charged by experts in the respective fields"), and speculative. (*E.g.*, "Had the matter gone to trial, and Plaintiff presented the testimony of his designated experts, the experts' testimony would most likely have been highly significant to the outcome of the case").

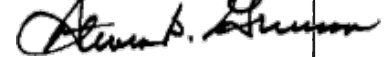
Sincerely,

A handwritten signature in black ink, appearing to read 'Akke', with a long horizontal flourish extending to the right.

Akke Levin

AL:pq

cc: All Counsel (Via Odyssey eFileNV Electronic Service)



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10 *Counsel for Reading International, Inc.*

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

13 JAMES J. COTTER, JR., individually and
14 derivatively on behalf of Reading
International, Inc.

15 Plaintiff,

16 v.

17
18 MARGARET COTTER, ELLEN
COTTER, GUY ADAMS, EDWARD
19 KANE, DOUGLAS McEACHERN,
TIMOTHY STOREY, WILLIAM
20 GOULD, and DOES 1 through 100,
21 inclusive,

22 Defendants.

Case No. A-15-719860-B

Dept. No. XI

**ORDER 1) GRANTING IN PART AND
DENYING IN PART MOTION TO
RETAX AND SETTLE COSTS, AND
2) ENTERING JUDGMENT
FOR COSTS**

**Date of Hearing: October 1, 2018
Time of Hearing: 8:30 a.m.**

23
24 This Matter came before the Court on October 1, 2018 on Plaintiff's Motion to Retax
25 Costs. Plaintiff James J. Cotter, Jr. appeared by and through his counsel, Akke Levin, Esq.
26 Reading International, Inc. ("Reading") appeared by and through its counsel Mark E. Ferrario,
27 Esq. The Individual Defendants appeared by and through their counsel, Marshall M. Searcy, Esq.
28 and Kevin M. Johnson, Esq.

1 The Court, having considered the Memorandum of Costs and support therefore submitted
2 by the Defendants, and the Motion and attendant briefing; and having heard the arguments of
3 counsel, for good cause, makes the following Findings of Fact and Conclusions of Law:

4 **FINDINGS OF FACT**

5 1. On August 24, 2018, Reading submitted a Verified Memorandum of Costs on
6 behalf of itself and the Individual Defendants, stating its total recoverable costs as \$2,917,257.00.
7 Later, in its Opposition to Plaintiff's Motion to Retax, Reading adjusted the amount claimed to
8 \$2,883,044.37. This amount was broken down into 17 numbered cost categories. In support of its
9 request for costs, both in the Verified Memorandum and in its Opposition to the Motion to Retax,
10 Reading produced spread sheets listing disbursements, which amounts were verified by respective
11 counsel; as well as invoices, receipts, and similar data showing the expenditures. Additionally,
12 Reading produced declarations by counsel stating the reasons the various expenses were incurred.

13 2. In his Motion to Retax, Plaintiff challenged all costs incurred by Reading, on the
14 grounds that it was a nominal defendant and not the prevailing party; and all costs incurred by
15 William Gould, on the grounds that Gould failed to timely file his cost bill after he obtained a final
16 judgment that was certified as final in January 2018. Plaintiff separately challenged most
17 categories of costs incurred by Reading and the Individual Defendants on numerous grounds,
18 including that the costs were unnecessary or unreasonable, unsupported, or not properly
19 recoverable.

20 3. The Court finds that expenses incurred on behalf of Mr. Gould may not be
21 recovered, as the deadline for Mr. Gould to claim such costs had long passed when he filed to
22 recover his costs.

23 4. The Court finds that cost categories 1, 2, and 4-11 were actually, necessarily, and
24 reasonably incurred for the defense of this case.

25 5. As to category 3, which stated costs incurred for expert expenses, the Court
26 determines that an amount greater than \$1,500 per expert is appropriate, because the circumstances
27 surrounding each expert's testimony was of sufficient necessity to require the larger fee. Reviewing
28 the factors set forth in *Frazier v. Drake*, 357 P.3d 365, 377 (Nev. Ct. App. 2015), as discussed in

1 both the Memorandum of Costs and Opposition to the Motion to Retax, the Court finds that the
2 expert testimony was very important to the Defendants' preparation of their defense, particularly in
3 light of the Plaintiff's damages expert's opinion that damages were as high as \$150 million, as well
4 as Plaintiff's retention of a former Chief Judge of the Delaware Chancery Court as a corporate
5 governance expert. While the matter here ultimately resolved without a trial, Defendants had to
6 prepare their experts for a trial that had been scheduled to commence in January, and also were
7 engaged in preparation in anticipation of the rescheduled trial. Had the matter gone to trial, and
8 Plaintiff presented the testimony of his designated experts, the experts' testimony would most likely
9 have been highly significant to the outcome of the case.

10 Defendants experts were each well known in their fields, with academic and professional
11 accomplishments. The hourly fees charged were reasonable comparable to similar experts, including
12 those retained by Plaintiff, and in line with the fees ordinarily charged by experts in the respective
13 fields.

14 Based on the above analysis, the Court determines that the fees incurred by Mr. Strombom
15 and for Mr. Foster are compensable in their entirety, and the fees incurred for Mr. Klausner and Mr.
16 Roll are compensable in reduced amounts. The compensable amounts are:

17 Mr. Klausner - \$250,000

18 Mr. Roll - \$250,000

19 Mr. Strombom - \$152,000

20 Mr. Foster - \$201,000

21 6. As to category 12, which stated costs incurred for e-discovery, the Court finds that
22 the consulting fees that were included in the invoices would be more appropriate as a request for
23 attorneys' fees or should not have been included as expert expenses, and justifies reducing the
24 compensable amount to \$450,000, which amount is reasonable considering the circumstances of
25 this case.

26 7. The Motion to Retax is granted as to the expenses set forth in Categories 13-17.
27
28

CONCLUSIONS OF LAW

1. In category 1, for filing fees, Reading and the director defendants other than Gould (hereafter collectively "Reading") are entitled to reimbursement of their costs in the amount of \$9,160.24.

2. In Category 2, for Deposition Reporters' Fees, Reading is entitled to reimbursement of its costs in the amount of \$111,208.15.

3. In Category 3, for expert witness fees, Reading is entitled to reimbursement of its costs in the amount of \$853,000.00.

4. In Category 4, for process servers, Reading is entitled to reimbursement of its costs in the amount of \$1,001.86.

5. In Category 5, for official reporters' fees, Reading is entitled to reimbursement of its costs in the amount of \$3,874.89.

6. In Category 6, for photocopies, Reading is entitled to reimbursement of its costs in the amount of \$12,931.73.

7. In Category 7, for telephone calls/conferences, Reading is entitled to reimbursement of its costs in the amount of \$1,112.62.

8. In Category 8, for postage, Reading is entitled to reimbursement of its costs in the amount of \$3,566.32.

9. In Category 9, for Deposition travel expenses, Reading is entitled to reimbursement of its costs in the amount of \$52,053.77.

10. In Category 10, for computerized legal research, Reading is entitled to reimbursement of its costs in the amount of \$53,936.41.

11. In Category 11, for couriers, Reading is entitled to reimbursement of its costs in the amount of \$2,473.74.

12. In Category 12, for E-Discovery, Reading is entitled to reimbursement of its costs in the reduced amount of amount of \$450,000.

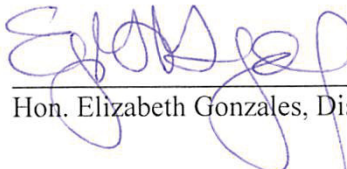
13. Reading is not entitled to reimbursement of the costs claimed in Categories 13-17.

1 **ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

2 1. Plaintiffs' Motion to Retax and Settle Costs is Granted in Part and Denied in Part.

3 2. The Clerk shall enter final judgment in favor of Defendant Reading and against
4 Plaintiff James J. Cotter, Jr. for costs in the amount of **\$1,554,319.73**.

5 DATED this 5 day of November, 2018

6 

7 Hon. Elizabeth Gonzales, District Court Judge

8
9 Respectfully submitted:

10
11 **GREENBERG TRAURIG, LLP**

12 

13 MARK E. FERRARIO, ESQ. (BAR NO. 1625)

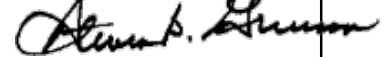
14 KARA B. HENDRICKS, ESQ. (BAR NO. 7743)

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17 Las Vegas, Nevada 89135

18 *Counsel for Reading International, Inc.*



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7 hendricksk@gtlaw.com
cowdent@gtlaw.com
8 *Counsel for Reading International, Inc.*

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

11 JAMES J. COTTER, JR., individually and
12 derivatively on behalf of Reading
International, Inc.,

13 Plaintiff,

14 v.

15 MARGARET COTTER, et al,
16 Defendants.

Case No. A-15-719860-B
Dept. No. XI

NOTICE OF ENTRY OF ORDER

17
18 TO: All parties and their counsel of record:

19 YOU AND EACH OF YOU will please take notice that the *Order 1) Granting in Part and*
20 *Denying in Part Motion to Retax and Settle Costs, and 2) Entering Judgment for Costs* was entered
21 on November 6, 2018. A copy of said order is attached hereto.

22 DATED: this 6th day of November, 2018.

23 GREENBERG TRAUIG, LLP

24 /s/ Kara B. Hendricks

25 MARK E. FERRARIO (NV Bar No. 1625)
KARA B. HENDRICKS (NV Bar No. 7743)
26 TAMI D. COWDEN (NV Bar No. 8994)
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Counsel for Reading International, Inc.

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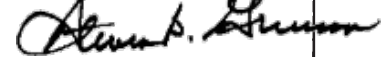
CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing ***Notice of Entry of Order*** be filed and served via the Court's Odyssey E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED: this 6th day of November, 2018

/s/ Andrea Lee Rosehill
AN EMPLOYEE OF GREENBERG TRAURIG, LLP

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10 *Counsel for Reading International, Inc.*

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

13 JAMES J. COTTER, JR., individually and
14 derivatively on behalf of Reading
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15 Plaintiff,

16 v.

17
18 MARGARET COTTER, ELLEN
COTTER, GUY ADAMS, EDWARD
19 KANE, DOUGLAS McEACHERN,
TIMOTHY STOREY, WILLIAM
20 GOULD, and DOES 1 through 100,
21 inclusive,

22 Defendants.

Case No. A-15-719860-B

Dept. No. XI

**ORDER 1) GRANTING IN PART AND
DENYING IN PART MOTION TO
RETAX AND SETTLE COSTS, AND
2) ENTERING JUDGMENT
FOR COSTS**

**Date of Hearing: October 1, 2018
Time of Hearing: 8:30 a.m.**

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5 governance expert. While the matter here ultimately resolved without a trial, Defendants had to
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12 those retained by Plaintiff, and in line with the fees ordinarily charged by experts in the respective
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16 Roll are compensable in reduced amounts. The compensable amounts are:

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21 6. As to category 12, which stated costs incurred for e-discovery, the Court finds that
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23 attorneys' fees or should not have been included as expert expenses, and justifies reducing the
24 compensable amount to \$450,000, which amount is reasonable considering the circumstances of
25 this case.

26 7. The Motion to Retax is granted as to the expenses set forth in Categories 13-17.
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CONCLUSIONS OF LAW

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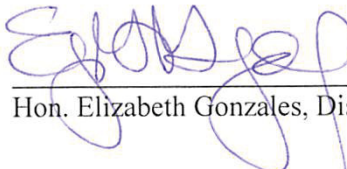
13. Reading is not entitled to reimbursement of the costs claimed in Categories 13-17.

1 **ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

- 2 1. Plaintiffs' Motion to Retax and Settle Costs is Granted in Part and Denied in Part.
3 2. The Clerk shall enter final judgment in favor of Defendant Reading and against

4 Plaintiff James J. Cotter, Jr. for costs in the amount of **\$1,554,319.73**.

5 DATED this 5 day of November, 2018

6 

7 Hon. Elizabeth Gonzales, District Court Judge

8
9 Respectfully submitted:

10
11 **GREENBERG TRAURIG, LLP**

12 

13 MARK E. FERRARIO, ESQ. (BAR NO. 1625)

14 KARA B. HENDRICKS, ESQ. (BAR NO. 7743)

15 TAMI D. COWDEN, ESQ. (BAR NO. 8994)

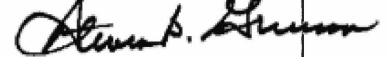
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18 *Counsel for Reading International, Inc.*

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11/16/2018 2:27 PM
Steven D. Grierson
CLERK OF THE COURT



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Attorneys for Plaintiff
James J. Cotter, Jr.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAMES J. COTTER, JR.,
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,
Nominal Defendant.

) Case No. A-15-719860-B
) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) **ORDER DENYING READING
INTERNATIONAL, INC.'S MOTION
FOR ATTORNEYS' FEES**


) **Date of Hearing: October 22, 2018
Time of Hearing: 9:00 a.m.**

11-14-16070121 KCVB

1 THIS MATTER CAME BEFORE THE COURT on the Motion for
2 Attorneys' Fees filed by nominal defendant Reading International, Inc.
3 ("RDI"). Defendants Ellen Cotter, Margaret Cotter, Guy Adams, Edward
4 Kane, Douglas McEachern, Judy Coddington, and Michael Wrotniak
5 ("Defendants") filed a Joinder to the Motion for Attorneys' Fees. Akke Levin
6 and Steve Morris appeared on behalf of Plaintiff. Mark Ferrario appeared
7 on behalf of RDI. Marshall M. Searcy and Kevin M. Johnson appeared on
8 behalf of Defendants. The Court, having considered the papers filed and
9 arguments made in support of and in opposition to the Motion for
10 Attorneys' Fees, and for good cause appearing, finds that this case does not
11 meet the standards of NRS 18.010 to support an award of attorneys' fees.
12 The fact that the Court ultimately granted summary judgment based upon
13 ratification by the directors that the Court found to be independent does not
14 make plaintiff's case a vexatious claim. Wherefore,

15 IT IS HEREBY ORDERED THAT the Motion for Attorneys' Fees
16 and the Joinder are DENIED.

17
18 DATED this 15 day of November, 2018.

19
20 
21 THE HONORABLE ELIZABETH
22 GONZALEZ,
23 DISTRICT COURT JUDGE

24 Submitted by:

25 MORRIS LAW GROUP

26
27 By: 

28 Steve Morris, Bar No. 1543
Akke Levin, Bar No. 9102

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8 James J. Cotter, Jr.

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11/16/2018 2:29 PM
Steven D. Grierson
CLERK OF THE COURT



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18 Attorneys for Plaintiff

19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,
23 derivatively on behalf of Reading
24 International, Inc.,

25 Plaintiff,

26 v.

27 MARGARET COTTER, ELLEN
28 COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,

Nominal Defendant.

) Case No. A-15-719860-B

) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E

) Dept. No. XI

) Jointly Administered

) **ORDER DENYING READING**
) **INTERNATIONAL, INC.'S MOTION**
) **FOR JUDGMENT IN ITS FAVOR**

) **Date of Hearing: October 22, 2018**

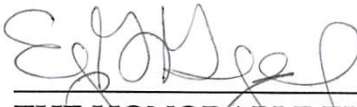
) **Time of Hearing: 9:00 a.m.**

11-17-160045-1-0000

1 THIS MATTER CAME BEFORE THE COURT on the Motion for
2 Judgment in its Favor filed by Reading International, Inc. ("RDI"). Akke
3 Levin and Steve Morris appeared on behalf of Plaintiff. Mark Ferrario
4 appeared on behalf of RDI. The Court, having considered the arguments
5 made in the papers filed in support of and in opposition to the Motion, and
6 for good cause appearing,

7 IT IS HEREBY ORDERED that RDI's Motion for Judgment in its
8 Favor is DENIED because RDI is a nominal party.

9
10 DATED this 15 day of November, 2018.

11 

12
13 THE HONORABLE ELIZABETH
14 GONZALEZ,
15 DISTRICT COURT JUDGE

16 Submitted by:

17 MORRIS LAW GROUP

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19 By: 

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28 Attorneys for Plaintiff
James J. Cotter, Jr.

1 APPROVED AS TO FORM AND CONTENT:
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Douglas McEachern, Judy Coddington, and
Michael Wrotniak

1 APPROVED AS TO FORM AND CONTENT:


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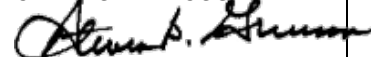
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28 Douglas McEachern, Judy Coddington, and
Michael Wrotniak



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18 Attorneys for Plaintiff
19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,) Case No. A-15-719860-B
23 derivatively on behalf of Reading) Dept. No. XI
24 International, Inc.,)

25 Plaintiff,

26 v.

27 MARGARET COTTER, ELLEN)
28 COTTER, GUY ADAMS,)
EDWARD KANE, DOUGLAS)
McEACHERN, WILLIAM)
GOULD, JUDY CODDING,)
MICHAEL WROTNIAK,)

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,
Nominal Defendant.

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) **NOTICE OF ENTRY OF ORDER**
) **DENYING READING**
) **INTERNATIONAL, INC.'S**
) **MOTION FOR ATTORNEYS' FEES**

1 PLEASE TAKE NOTICE that an Order Denying RDI's Motion
2 for Attorneys' Fees was entered in this action on the 16th day of November,
3 2018

4 A copy of the Order is attached as Exhibit 1.

5 MORRIS LAW GROUP
6

7 By: /s/ AKKE LEVIN
8 Steve Morris, Bar No. 1543
9 Akke Levin, Bar No. 9102
10 411 E. Bonneville Ave., Ste. 360
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16 Attorneys for Plaintiff
17 James J. Cotter, Jr.
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **NOTICE OF ENTRY OF ORDER DENYING READING INTERNATIONAL, INC.'S MOTION FOR ATTORNEYS' FEES**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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*Attorneys for /Defendants Edward Kane,
Douglas McEachern, Judy Coddling, and
Michael Wrotniak*

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*Attorneys for Nominal
Defendant Reading
International, Inc.*

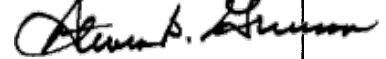
DATED this 20th day of November, 2018.

By: /s/ Patricia A. Quinn

EXHIBIT 1

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Attorneys for Plaintiff
James J. Cotter, Jr.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAMES J. COTTER, JR.,
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTNIAK,

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,
Nominal Defendant.

) Case No. A-15-719860-B
) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) **ORDER DENYING READING
INTERNATIONAL, INC.'S MOTION
FOR ATTORNEYS' FEES**


) **Date of Hearing: October 22, 2018
Time of Hearing: 9:00 a.m.**

11-14-1600127 KCVB

1 THIS MATTER CAME BEFORE THE COURT on the Motion for
2 Attorneys' Fees filed by nominal defendant Reading International, Inc.
3 ("RDI"). Defendants Ellen Cotter, Margaret Cotter, Guy Adams, Edward
4 Kane, Douglas McEachern, Judy Coddington, and Michael Wrotniak
5 ("Defendants") filed a Joinder to the Motion for Attorneys' Fees. Akke Levin
6 and Steve Morris appeared on behalf of Plaintiff. Mark Ferrario appeared
7 on behalf of RDI. Marshall M. Searcy and Kevin M. Johnson appeared on
8 behalf of Defendants. The Court, having considered the papers filed and
9 arguments made in support of and in opposition to the Motion for
10 Attorneys' Fees, and for good cause appearing, finds that this case does not
11 meet the standards of NRS 18.010 to support an award of attorneys' fees.
12 The fact that the Court ultimately granted summary judgment based upon
13 ratification by the directors that the Court found to be independent does not
14 make plaintiff's case a vexatious claim. Wherefore,

15 IT IS HEREBY ORDERED THAT the Motion for Attorneys' Fees
16 and the Joinder are DENIED.

17
18 DATED this 15 day of November, 2018.

19
20 
21 THE HONORABLE ELIZABETH
22 GONZALEZ,
23 DISTRICT COURT JUDGE

24 Submitted by:

25 MORRIS LAW GROUP

26
27 By: 

28 Steve Morris, Bar No. 1543
Akke Levin, Bar No. 9102

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7 Attorneys for Plaintiff
8 James J. Cotter, Jr.

9 APPROVED AS TO FORM AND CONTENT:

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James J. Cotter, Jr.

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18 Attorneys for Plaintiff
19 James J. Cotter, Jr.

20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,) Case No. A-15-719860-B
23 derivatively on behalf of Reading) Dept. No. XI
24 International, Inc.,)

25 Plaintiff,

26 v.

27 MARGARET COTTER, ELLEN)
28 COTTER, GUY ADAMS,)
EDWARD KANE, DOUGLAS)
McEACHERN, WILLIAM)
GOULD, JUDY CODDING,)
MICHAEL WROTNIAK,)

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,
Nominal Defendant.

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) **NOTICE OF ENTRY OF ORDER**
) **DENYING READING**
) **INTERNATIONAL, INC.'S**
) **MOTION FOR JUDGMENT IN ITS**
) **FAVOR**

1 PLEASE TAKE NOTICE that an Order Denying RDI's Motion
2 for Judgment in its Favor was entered in this action on the 16th day of
3 November, 2018

4 A copy of the Order is attached as Exhibit 1.

5 MORRIS LAW GROUP
6

7 By: /s/ AKKE LEVIN
8 Steve Morris, Bar No. 1543
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CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **NOTICE OF ENTRY OF ORDER DENYING READING INTERNATIONAL, INC.'S MOTION FOR JUDGMENT IN ITS FAVOR**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

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*Attorneys for Nominal
Defendant Reading
International, Inc.*

DATED this 20th day of November, 2018.

By: /s/ Patricia A. Quinn

EXHIBIT 1

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20 **DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 JAMES J. COTTER, JR.,
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EDWARD KANE, DOUGLAS
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Defendants.

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) Case No. A-15-719860-B

) Dept. No. XI

) Coordinated with:

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) Dept. No. XI

) Jointly Administered

) **ORDER DENYING READING
INTERNATIONAL, INC.'S MOTION
FOR JUDGMENT IN ITS FAVOR**

) **Date of Hearing: October 22, 2018**

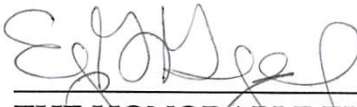
) **Time of Hearing: 9:00 a.m.**

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3 Levin and Steve Morris appeared on behalf of Plaintiff. Mark Ferrario
4 appeared on behalf of RDI. The Court, having considered the arguments
5 made in the papers filed in support of and in opposition to the Motion, and
6 for good cause appearing,

7 IT IS HEREBY ORDERED that RDI's Motion for Judgment in its
8 Favor is DENIED because RDI is a nominal party.

9
10 DATED this 15 day of November, 2018.

11 

12
13 THE HONORABLE ELIZABETH
14 GONZALEZ,
15 DISTRICT COURT JUDGE

16 Submitted by:

17 MORRIS LAW GROUP

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Attorneys for Plaintiff
James J. Cotter, Jr.

**FILE WITH
MASTER CALENDAR**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAMES J. COTTER, JR.,
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN
COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM
GOULD, JUDY CODDING,
MICHAEL WROTONIAK,

Defendants.

And

READING INTERNATIONAL,
INC., a Nevada corporation,

Nominal Defendant.

) Case No. A-15-719860-B

) Dept. No. XI

) Coordinated with:

) Case No. P-14-0824-42-E

) Dept. No. XI

) Jointly Administered

**MOTION FOR
RECONSIDERATION AND
AMENDMENT OF JUDGMENT
FOR COSTS, FOR LIMITED STAY
OF EXECUTION**

AND

**APPLICATION FOR ORDER
SHORTENING TIME**

Hearing Date: 12/3/18

Hearing Time: 9:00 a.m.

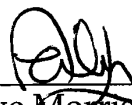
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Plaintiff James J. Cotter, Jr. ("Plaintiff") hereby moves the Court under EDCR 2.24(b) and NRCP 59(e) for reconsideration and amendment of the Court's November 6 Order awarding RDI \$1,554,319.73 in costs. Plaintiff further moves the Court for a limited stay of execution of the November 6 Judgment for Costs under NRCP 62(b). Plaintiff moves the Court under EDCR 2.26 for an Order shortening time to notice and hear this Motion.

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Attorneys for Plaintiff
James J. Cotter, Jr.

DECLARATION OF AKKE LEVIN
IN SUPPORT OF APPLICATION FOR
ORDER SHORTENING TIME

I, Akke Levin, declare:

1. I am an attorney with Morris Law Group, counsel for Plaintiff James J. Cotter, Jr. I have personal knowledge of the facts stated in this declaration except as to those stated on information and belief, which facts I have investigated and believe to be true. I would be competent to testify to them if called upon to do so.

2. On November 6, the Court entered an order on Plaintiff's Motion to Retax Costs, which awards RDI \$1,554,319.73 in costs incurred by it and other defendants ("Judgment for Costs").

3. On November 16, the Court entered an order denying RDI's Motion for Judgment in its Favor. Notice of entry of this order was served on November 20, 2018.

4. This Motion is not filed for the purpose of delay but seeks to address a narrow legal issue that the Court's recently-entered Order denying RDI's Motion for Judgment in its Favor brought to the foreground.

5. Good cause exists under EDCR 2.26 to shorten the time for notice and hearing of this Motion for Reconsideration. The deadline to file an appeal from the November 6 Judgment for Costs is rapidly approaching and the issues raised in this Motion have an impact on the scope of the appeal as well on the possible success of the mediation scheduled in one of the appeals on December 18, 2018. Further, Cotter Jr. seeks a limited stay from execution of the Judgment for Costs, which would otherwise lapse on November 26.

6. I spoke with Mr. Ferrario on November 20 and with Ms. Cowden on November 21, 2018 about stipulating to a limited stay of execution of the Judgment for Costs. Ms. Cowden today advised that her

1 client would not seek to enforce the Judgment if Cotter Jr. posted a bond.
2 As an alternative, Ms. Cowden said her client would agree to a seven-day
3 stay. I advised Ms. Cowden that Mr. Cotter was presently travelling but
4 that I would relate the offer to him.

5 7. This Motion is being served by the court's E-Service
6 System to all counsel of record.

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

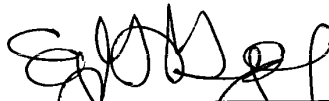
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10 

11 Akke Levin, Bar No. 9102

12 **ORDER SHORTENING TIME**

13 On application of Akke Levin, counsel for plaintiff James J.
14 Cotter, Jr., and good cause appearing,
15

16 IT IS HEREBY ORDERED that the time for notice and hearing of
17 the Motion for Reconsideration shall be, and it hereby is, shortened and
18 shall be heard on shortened time on the 3 day of Dec,
19 2018, at the hour of 9 00 .m.

20 

21 Judge Elizabeth Goff Gonzalez
22 District Court Judge, Dept. 11

23 DATED: 11/21/18
24

25 **I. INTRODUCTION**

26 On November 6, 2018, the Court awarded \$1,554,319.73 Million
27 in costs to the individual defendants other than Gould and nominal
28 defendant Reading International, Inc. ("RDI"). See Judgment for Costs, on
file, at 5. As part of the Judgment for Costs, the Court awarded RDI a total

1 of \$581,718.69 for ten categories of costs, including, but not limited to, legal
2 research costs, E-discovery costs, deposition transcripts, and filing fees. *See*
3 *id.* at 4.

4 On November 16, 2018, the Court entered its order denying
5 RDI's Motion for Judgment in its Favor, holding that RDI was a nominal
6 defendant. *See* Nov. 16 Order, on file, at 2. Given the Court's order that RDI
7 is a nominal defendant and not entitled to judgment in its favor, RDI was
8 not—nor could it be—a prevailing party entitled to costs under NRS 18.020.
9 The Court should grant reconsideration to correct this manifest legal error,
10 amend the Judgment for Costs under NRCP 59(e) by omitting the
11 \$581,718.69 in costs awarded to RDI, and enter an amended judgment in the
12 amount of \$972,601.04.¹

13 II. ARGUMENT

14 A. Amendment of the Judgment for Costs is warranted to correct a 15 manifest error of law.

16 One of the "basic grounds" for a Rule 59(e) motion is to correct a
17 "manifest error of law . . ." *AA Primo Builders, LLC v. Washington*, 126
18 Nev. 578, 582, 245 P.3d 1190, 1193 (2010) (internal quotation marks and
19 citation omitted). The Court also has authority under EDCR 2.24(a) to
20 reconsider prior rulings even if "the same matters therein embraced" were
21 set out in the initial motion. EDCR 2.24(a); *see also* EDCR 2.24(b) (setting
22 out procedural requirements only). As discussed below, the Court should
23 amend the Judgment for Costs, because it was a manifest error of law to
24 award RDI, a nominal defendant that did not obtain a judgment in its favor,
25 costs under NRS 18.020.

26
27
28 ¹ Cotter Jr. is not abandoning his other arguments but will raise those on
appeal.

1 B. RDI was denied judgment in its favor and is therefore not a
2 prevailing party entitled to costs.

3 To be entitled to costs under NRS 18.020, RDI had to be the
4 "prevailing party" and not a mere nominal defendant. Only a "party in
5 whose favor judgment is rendered" may file a memorandum of costs. NRS
6 18.110(1). No claims were brought against RDI and the damages sought by
7 Cotter Jr. were sought on RDI's behalf; not against it. RDI also was not
8 aligned with the prevailing directors, even though RDI *acted* like it by
9 taking an active role in the litigation and joining in the prevailing directors'
10 dispositive motions.

11 The Court agreed: it expressly denied RDI a judgment in its
12 favor, holding that RDI was a mere nominal defendant. Nov. 16 Order, on
13 file, at 2. As a matter of law, therefore, RDI cannot be a "prevailing party"
14 entitled to costs. NRS 18.110; NRS 18.020.

15 Because there is no legal authority for the Court to award RDI
16 *any* costs under NRS 18.020, it was error to award RDI costs in categories 1
17 (filing fees \$3,770.24); category 2 (deposition reporters fees \$48,227.60);
18 category 5 (official reporters fees \$3,874.89); category 6 (photocopies
19 \$1,380.72); Category 7 (telephone calls \$225.52); category 8 (postage \$498.98);
20 category 9 (deposition travel costs \$23,942.59); category 10 (computerized
21 legal research \$47,324.41); category 11 (courier expenses \$2,473.74); and
22 category 12 (E-discovery \$450,000). The Court should therefore amend the
23 Judgment to omit the total of costs awarded RDI—*i.e.*, \$581,718.69—from
24 the total \$1,554,319.73 awarded and enter an amended judgment in the
25 amount of \$972,601.04.

1 C. The Court should grant Cotter Jr. a limited stay of execution of
2 the Judgment for Costs pending decision of this Motion or the
3 filing of the appeal.

4 Under Rule 62(b), the Court may, "on such conditions for the
5 security of the adverse party as are proper . . . stay the execution of or any
6 proceedings to enforce a judgment pending the disposition of a motion . . .
7 to . . . amend a judgment made pursuant to Rule 59" NRCP 62(b).
8 Cotter Jr. requests the Court for a limited stay of execution pending the
9 decision of this Motion or until Cotter Jr. files the appeal from the Judgment
10 for Costs, because the outcome of this Motion may impact the amount of the
11 supersedeas bond he will post at that time. Cotter Jr.'s counsel attempted to
12 reach stipulation with counsel for RDI to stay execution but was unable to
13 do so in time to obviate submitting this motion. See Levin Decl. ¶ 6. Cotter
14 Jr. is not seeking to delay this matter, as evidenced by this Motion, which is
15 filed on an expedited basis.

16 III. CONCLUSION

17 For the reasons stated above, the Court should reconsider its
18 Judgment for Costs and enter an amended Judgment for Costs in the
19 amount of \$972,601.04. The Court should further grant Cotter Jr. a limited
20 stay of execution pending the decision of this Motion or until Cotter Jr. files
21 the appeal.

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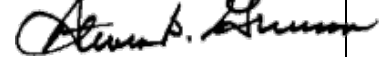
Attorneys for Plaintiff
James J. Cotter, Jr.

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **MOTION FOR RECONSIDERATION AND AMENDMENT OF JUDGMENT FOR COSTS, FOR LIMITED STAY OF EXECUTION, AND APPLICATION FOR ORDER SHORTENING TIME** to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 26th day of Nov., 2018.

By: 



1 **OPP**
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16 *Counsel for Reading International, Inc.*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 JAMES J. COTTER, JR. individually and
20 derivatively on behalf of Reading International,
21 Inc.,

22 Plaintiffs,

23 v.

24 MARGARET COTTER, ELLEN COTTER,
25 GUY ADAMS, EDWARD KANE, DOUGLAS
26 McEACHERN, WILLIAM GOULD, JUDY
27 CODDING, MICHAEL WROTONIAK, and
28 DOES 1 through 100, inclusive,

Defendants.

READING INTERNATIONAL, INC., a Nevada
corporation,

Nominal Defendant.

Case No.: A-15-719860-B
Dept. No.: XI

Case No.: P-14-082942-E
Dept. No.: XI

Related and Coordinated Cases

BUSINESS COURT

**READING'S OPPOSITION/RESPONSE
TO PLAINTIFF'S MOTION FOR
RECONSIDERATION AND RESPONSE
TO MOTION FOR LIMITED STAY OF
EXECUTION ON ORDER SHORTENING
TIME**

**HEARING DATE & TIME:
Monday, 12/3/18, 9:00 a.m.**

Reading International, Inc. ("Reading") submits the following Opposition to Plaintiff's Motion for Reconsideration, and also responds to the request for a Limited Stay of Execution.

OPPOSITION TO MOTION FOR RECONSIDERATION

Plaintiff's Motion for Reconsideration is based solely on an argument that it raised in its Motion to Retax, and that this Court obviously rejected, i.e., that only a party that has had judgment

1 entered in its favor may receive an award of costs. However, as explained in Reading's Opposition
2 to the Motion to Retax, NRS 18.020 provides to the contrary. That statute provides:

3 Costs must be allowed of course ***to the prevailing party against any adverse party***
4 ***against whom judgment is rendered***, in the following cases:

5 * * *

6 3. In an action for the recovery of money or damages, where the plaintiff seeks to
7 recover more than \$2,500.

8 * * *

9 NRS 18.020 (emphasis added). Costs could be awarded in this matter because Plaintiff pleaded that
10 he sought damages in excess of \$10,000. Additionally, pursuant to NRS 18.050, "[e]xcept as limited
11 by this section, in other actions in the district court, part or all of the prevailing party's costs may be
12 allowed and may be apportioned between the parties, or on the same or adverse sides."

13 Plaintiff repeats his erroneous description of NRS 18.110, which he states limits the
14 application for costs to an individual in whose favor judgment has been entered. However, as noted
15 previously, the statute does not limit who *may* file a motion to retax; it states who *must* file one.

16 Furthermore, any doubt that Plaintiff's theory is wrong is established by *Copper Sands*
17 *Homeowners v. Flamingo 94 Ltd.*, 130 Nev. Adv. Op. 81, 335 P.3d 203, 204 (2014). In that
18 construction defect case, the court entered judgment against the Plaintiff HOA, dismissing its claims
19 against the developer, and thereby essentially mooted the third party claims the developer had
20 brought against the subcontractors, as such claims had been contingent on the HOA's Plaintiff's
21 claims. Even though the HOA had not brought claims against the subcontractors, the Court found that
22 the subcontractors were adverse to the HOA, because the subcontractors' liability was contingent on
23 the success of the HOA's claims against the developer.

24 While Plaintiff has previously claimed that he was "functionally" aligned with RDI, such a
25 claim is simply false. RDI properly defended against Plaintiffs' claims, because RDI's interests were
26 at stake. *See Blish V. Thompson Auto. Arms Corp*, 30 Del. Ch. 538, 542 (Del. 1948) (corporation may
27 defend derivative action, "if corporate interests are threatened by the suit. . ."); *National Bankers v.*
28 *Adler*, 324 S.W.2d 35, 37 (Tex. Civ. App. 1959) (corporation may defend against derivative action
that threatens rather than advances the corporate interests); *Swenson v. Thibaut*, 39 N.C. App. 77, 100

(N.C. Ct. App. 1978) (corporation may defend against claims that seek to enjoin corporation action or interfere with internal corporate governance). Had Plaintiff been successful in obtaining what he sought in his prayer for relief, 1) RDI would have been required to reinstate Plaintiff to his position of CEO, and thus, remove its own CEO and President; 2) Reading's board would have been enjoined from taking actions using committees to effect board business, thus encroaching on Reading's corporate rights under both Nevada law and Reading's Bylaws; 3) Reading would have had to make corrective disclosures; 4) Reading would have been required to imposed specific qualifications for members of its Board of Directors; and 5) limitations would have been placed on the voting rights of certain Reading stock. **See SAC, Prayer for Relief, a-e.** All of that requested injunctive relief would have been imposed on *Reading*, as such requirements would have survived the term of any specific board members. Accordingly, *functionally*, Reading was adverse to Plaintiff, regardless of the *form* of its party status.

Finally, Plaintiff cites no authority that holds that a "nominal defendant" may not be awarded costs. A nominal defendant is still a party and as such is entitled under the circumstances here to recover costs as previously awarded.

RESPONSE TO MOTION FOR LIMITED STAY

As Ms. Levin indicated in her declaration, Reading has no objection to a stay, with the posting of a suitable bond.¹ Since Plaintiff has indicated in the Motion that an appeal will likely be taken, rather than requiring an additional motion for stay, Reading suggests that such stay be deemed effective through the expiration of the deadline for filing the notice of appeal, or, if an appeal is filed, through the resolution of said appeal.

Ms. Levin's reference to an "alternative" suggestion, involving a stay for seven days indicates this offer was misunderstood. In order to avoid the need for a motion to stay, Reading was willing to

¹ Ms. Levin's reference to an alternative suggestion, involving a stay for seven days indicates this offer was misunderstood. In order to avoid the need for a motion to stay, Reading was willing to agree that the *posting of a bond* could be delayed by seven days. This was offered in response to the concern that Plaintiff could not quickly arrange for a bond. At this point, however, Plaintiff has had ample time to prepare for posting a bond, and accordingly, the requested stay should be effective only upon the posting of a bond sufficient to secure the full value of the judgment and interest. See NRCP 62(d).

1 agree that the *posting of a bond* could be delayed by seven days. This was offered in response to the
2 concern that Plaintiff could not quickly arrange for a bond. At this point, however, Plaintiff has had
3 ample time to prepare for posting a bond, and accordingly, the requested stay should be effective only
4 upon the posting of a bond sufficient to secure the full value of the judgment and interest. See NRCP
5 62(d).

6 The bond amount should, of course, consider the likely time to resolve the appeal. Reading
7 requests that the bond amount be for the full amount of the judgment, \$1,554, 319.73, plus two years
8 interest at the statutory rate, which is currently 7 percent. Rounding to the nearest thousand, this
9 would result in a bond in the amount of \$1,772,000.

10 Accordingly, Reading agrees that a stay may issue, upon the filing of a bond in the amount of
11 \$1,772,000.

12 CONCLUSION

13 Plaintiff has failed to show that there is any basis for this Court to reconsider the judgment for
14 costs granted to Reading. Accordingly, Plaintiff's Motion to Reconsider should be denied.

15 And, as set forth above, Reading agrees that a stay may issue, upon the filing of a bond in the
16 amount of \$1,772,000.

17 DATED this 30th day of November, 2018

18
19 GREENBERG TRAUIG, LLP

20 /s/ Mark E. Ferrario

21 MARK E. FERRARIO, ESQ. (NV Bar No. 1625)

22 KARA B. HENDRICKS, ESQ. (NV Bar No. 7743)

23 TAMI D. COWDEN, ESQ. (NV Bar No. 8994)

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25 Las Vegas, Nevada 89135

26 *Counsel for Reading International, Inc.*

1 **CERTIFICATE OF SERVICE**

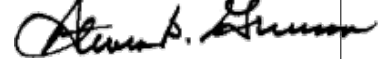
2 Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused
3 a true and correct copy of the *Reading's Opposition/Response to Plaintiff's Motion for*
4 *Reconsideration and Response to Motion for Limited Stay of Execution on Order Shortening Time*
5 to be filed and served via the Court's Odyssey E-Filing system. The date and time of the electronic
6 proof of service is in place of the date and place of deposit in the mail.

7 DATED this 30th day of November 2018

8
9 /s/ Andrea Lee Rosehill

10 AN EMPLOYEE OF GREENBERG TRAURIG, LLP
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*Attorneys for Defendants Margaret Cotter,
Ellen Cotter, and Guy Adams*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

JAMES J. COTTER, JR. individually and
derivatively on behalf of Reading
International, Inc.,

Plaintiff,

v.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
CODDING, MICHAEL WROTNIAK, and
DOES 1 through 100, inclusive,

Defendants,

READING INTERNATIONAL, INC., a Nevada
corporation,

Nominal Defendant.

Case No.: A-15-719860-B
Dept. No.: XI

Case No.: P-14-082942-E
Dept. No.: XI

BUSINESS COURT

**DEFENDANTS MARGARET COTTER,
ELLEN COTTER, GUY ADAMS,
EDWARD KANE, DOUGLAS
MCEACHERN, JUDY CODDING, AND
MICHAEL WROTNIAK'S JOINDER TO
READING'S OPPOSITION/RESPONSE
TO PLAINTIFF'S MOTION FOR
RECONSIDERATION AND RESPONSE
TO MOTION FOR LIMITED STAY OF
EXECUTION ON ORDER SHORTENING
TIME**

1 Dismissed Defendants Margaret Cotter, Ellen Cotter, Douglas McEachern, Guy Adams,
2 Edward Kane, Judy Coddington, and Michael Wrotniak, by and through their counsel, hereby
3 submit this Joinder to Defendant Reading's Opposition/Response to Plaintiff's Motion for
4 Reconsideration and Response to Motion for Limited Stay of Execution on Order Shortening
5 Time filed on November 30th, 2018. The Dismissed Defendants join in this Response/Opposition
6 in its entirety and specifically join in Readings' request that Plaintiff post an appropriate bond if
7 a stay is entered for the reasons contained in Reading's Response/Opposition.

8 Further, because the Court has already decided that costs awarded to Reading were
9 properly incurred and thus compensable by plaintiff, then to the extent the Court decides to
10 amend its ruling awarding the costs to RDI as a prevailing party, the appropriately incurred costs
11 should still be awarded to the individual directors as prevailing parties in the litigation.

12 DATED this 30th day of November 2018.

13 **COHEN|JOHNSON|PARKER|EDWARDS**

14
15 /s/ H. Stan Johnson

16 H. STAN JOHNSON, ESQ.
Nevada Bar No. 00265
sjohnson@cohenjohnson.com
17 KEVIN M. JOHNSON, ESQ.
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21 SULLIVAN, LLP**

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Telephone: (213) 443-3000

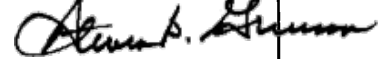
27 *Attorneys for Defendants Margaret Cotter, Ellen*
28 *Cotter, and Guy Adams*

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1 ORD
2 MARK E. FERRARIO, ESQ.
(NV BAR No. 1625)
3 KARA B. HENDRICKS, ESQ.
(NV BAR No. 7743)
4 TAMI COWDEN, ESQ.
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8 ferrariom@gtlaw.com
hendricksk@gtlaw.com
9 cowdent@gtlaw.com
10 *Counsel for Reading International, Inc.*

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

13 JAMES J. COTTER, JR., individually and
14 derivatively on behalf of Reading
International, Inc.

15 Plaintiff,

16 v.

17 MARGARET COTTER, ELLEN COTTER,
18 GUY ADAMS, EDWARD KANE,
DOUGLAS McEACHERN, TIMOTHY
19 STOREY, WILLIAM GOULD, and DOES 1
20 through 100, inclusive,

21 Defendants.

Case No. A-15-719860-B

Dept. No. XI

**ORDER DENYING IN PART AND
GRANTING IN PART PLAINTIFF'S
MOTION FOR RECONSIDERATION
AND AMENDMENT OF JUDGMENT
FOR COSTS AND FOR LIMITED
STAY OF EXECUTION ON ORDER
SHORTENING TIME**

Date of Hearing: December 3, 2018

Time of Hearing: 9:00 a.m.

24 This Matter came before the Court on December 3, 2018 on Plaintiff's *Motion for*
25 *Reconsideration and Amendment of Judgment for Costs and For Limited Stay of Execution on Order*
26 *Shortening Time ("Motion for Reconsideration")*. Plaintiff James J. Cotter, Jr. appeared by and
27 through his counsel, Akke Levin, Esq. Reading International, Inc. ("Reading") appeared by and
28

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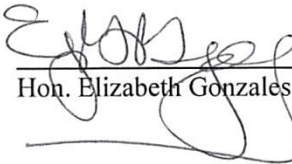
1 through its counsel Kara B. Hendricks, Esq. The Individual Defendants appeared by and through
2 their counsel, Marshall M. Searcy, Esq. and Kevin M. Johnson, Esq.

3 The Court, having considered the Motion and attendant briefing; and having heard the
4 arguments of counsel, for good cause, finds that Plaintiff has failed to show sufficient cause to
5 warrant reconsideration or amendment of the Judgment on Costs entered in favor of Reading and
6 the Individual Defendants, and further finds that a stay of enforcement of such Judgment shall be
7 entered, and that Plaintiff shall have seven calendar days from the date of the December 3, 2018
8 hearing in which to procure a bond equal to the amount of the judgment plus one year of interest at
9 the statutory rate.

10 **ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

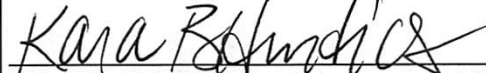
- 11 1. Plaintiffs' Motion for Reconsideration is DENIED.
12 2. Plaintiff's request for a limited stay of execution on the Judgment for Costs is
13 GRANTED.
14 3. Plaintiff shall have until and including Monday December 10, 2018 to post a
15 supersedeas bond in the amount of **\$1,663, 122.11** and provide notice that a bond has
16 been posted.
17 4. Upon posting of the bond, enforcement of the Judgment for Costs in favor of Reading
18 and the Individual Defendants shall be stayed pending the resolution of the appeal.

19 DATED this 6 day of December, 2018

20 
21 Hon. Elizabeth Gonzales, District Court Judge
22

23 Respectfully submitted:

24 **GREENBERG TRAURIG, LLP**

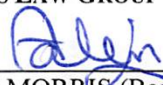
25 
26 MARK E. FERRARIO, ESQ. (BAR NO. 1625)
27 KARA B. HENDRICKS, ESQ. (BAR NO. 7743)
28 TAMI D. COWDEN, ESQ. (BAR NO. 8994)
10845 Griffith Peak Drive, Suite 600
Las Vegas, Nevada 89135
Counsel for Reading International, Inc.

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APPROVED AS TO FORM AND CONTENT:

Dated this 4th day of December 2018.

MORRIS LAW GROUP

By: 
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AKKE LEVIN (Bar No. 9102)
411 E. Bonneville Ave., Ste. 360
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Mark G. Krum (Bar No. 10913)
Noemi Ann Kawamoto
(admitted pro hac vice)
1 Washington Mall, 11th Floor
Boston, MA 02108

Attorneys for Plaintiff, James J. Cotter, Jr.

Dated this ____ day of December 2018.

COHEN JOHNSON PARKER EDWARDS

By: _____
H. STAN JOHNSON, ESQ. (BAR NO. 00265)
255 East Warm Springs Road, Suite 100
Las Vegas, Nevada 89119

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

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865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017

*Attorneys for Defendants Margaret Cotter, Ellen
Cotter, and Guy Adams*

1 **APPROVED AS TO FORM AND CONTENT:**

2 Dated this ____ day of December 2018.

3 **MORRIS LAW GROUP**

4 By: _____

5 STEVE MORRIS (Bar No. 1543)

6 AKKE LEVIN (Bar No. 9102)

7 411 E. Bonneville Ave., Ste. 360

8 Las Vegas, Nevada 89101

9 **YURKO, SALVESEN & REMZ, P.C.**

10 Mark G. Krum (Bar No. 10913)

11 Noemi Ann Kawamoto

12 (*admitted pro hac vice*)

13 1 Washington Mall, 11th Floor

14 Boston, MA 02108

15 *Attorneys for Plaintiff, James J. Cotter, Jr.*

Dated this 4th day of December 2018.

COHEN JOHNSON PARKER EDWARDS

By: H. Stan Johnson

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255 East Warm Springs Road, Suite 100

Las Vegas, Nevada 89119

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702/474-9400 · FAX 702/474-9422

ORIGINAL

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Steven D. Grierson
CLERK OF THE COURT



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16 Telephone: (617) 723-6900
17 Facsimile: (617) 723-6905
18 Email: mkrum@bizlit.com

19 Attorneys for Plaintiff, James J. Cotter, Jr.

20 DISTRICT COURT
21 CLARK COUNTY, NEVADA

22 JAMES J. COTTER, JR.,) Case No. A-15-719860-B
23 derivatively on behalf of Reading) Dept. No. XI
24 International, Inc.,)

25 Plaintiff,

26 v.

27 MARGARET COTTER, ELLEN)
28 COTTER, GUY ADAMS,)
EDWARD KANE, DOUGLAS)
McEACHERN, WILLIAM)
GOULD, JUDY CODDING,)
MICHAEL WROTNIAK,)

Defendants.

and

READING INTERNATIONAL,
INC., a Nevada corporation,
Nominal Defendant.

) Coordinated with:

) Case No. P-14-0824-42-E
) Dept. No. XI

) Jointly Administered

) **NOTICE OF APPEAL**

MORRIS LAW GROUP

411 E. BONNEVILLE AVE., STE. 360 · LAS VEGAS, NEVADA 89101
702/474-9400 · FAX 702/474-9422

1 Please take notice that Plaintiff James J. Cotter, Jr. hereby appeals
2 to the Supreme Court of Nevada and/or the Appeals Court of the State of
3 Nevada from:

4 1. The District Court's November 6, 2018 order (1) granting in
5 part and denying in part motion to retax and settle costs and (2) entering
6 judgment for costs ("Judgment for Costs").

7 MORRIS LAW GROUP

8 By: /s/ Akke Levin

9 Steve Morris, Bar No. 1543
10 Akke Levin, Bar No. 9102
11 411 E. Bonneville Ave., Ste. 360
Las Vegas, Nevada 89101

12 Mark G. Krum, Bar No. 10913
13 Noemi Ann Kawamoto (*admitted pro hac*
14 *vice*)
YURKO, SALVESEN & REMZ, P.C.
15 1 Washington Mall, 11th Floor
16 Boston, MA 02108

17 Attorneys for Plaintiff
18 James J. Cotter, Jr.
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MORRIS LAW GROUP
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702/474-9400 • FAX 702/474-9422

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that I am an employee of MORRIS LAW GROUP and that on the date below, I cause the following document(s) to be served via the Court's Odyssey E-Filing System: **NOTICE OF APPEAL**, to be served on all interested parties, as registered with the Court's E-Filing and E-Service System. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

Stan Johnson
Cohen-Johnson, LLC
255 East Warm Springs Road, Ste. 110
Las Vegas, NV 89119

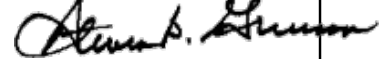
Christopher Tayback
Marshall Searcy
Quinn Emanuel Urquhart & Sullivan LLP
865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017

*Attorneys for Defendants Edward Kane,
Douglas McEachern, Judy Coddington, and
Michael Wrotniak*

Mark Ferrario
Kara Hendricks
Tami Cowden
Greenberg Traurig, LLP
3773 Howard Hughes Parkway
Suite 400 North
Las Vegas, NV 89169
*Attorneys for Nominal
Defendant Reading International,
Inc.*

DATED this 6th day of December, 2018.

By: /s/ Patricia A. Quinn
An employee of Morris Law Group



1 NEOJ
2 MARK E. FERRARIO, ESQ.
(NV Bar No. 1625)
3 KARA B. HENDRICKS, ESQ.
(NV Bar No. 7743)
4 TAMI D. COWDEN (NV Bar No. 8994)
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ferrariom@gtlaw.com
7 hendricksk@gtlaw.com
cowdent@gtlaw.com
8 *Counsel for Reading International, Inc.*

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

11 JAMES J. COTTER, JR., individually and
12 derivatively on behalf of Reading
International, Inc.,

13 Plaintiff,

14 v.

15 MARGARET COTTER, et al,

16 Defendants.

Case No. A-15-719860-B
Dept. No. XI

NOTICE OF ENTRY OF ORDER

17
18
19
20 TO: All parties and their counsel of record:

21 YOU AND EACH OF YOU will please take notice that the *Order Denying in Part and*
22 *Granting in Part Plaintiff's Motion for Reconsideration and Amendment of Judgment for Costs*
23 *and for Limited Stat of Execution on Order Shortening Time* was entered on December 6, 2018. A
24
25
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27

Greenberg Traurig, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
(702) 792-3773
(702) 792-9002 (fax)

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copy of said order is attached hereto.

DATED: this 7th day of December, 2018.

GREENBERG TRAURIG, LLP

/s/ Kara B. Hendricks

MARK E. FERRARIO (NV Bar No. 1625)

KARA B. HENDRICKS (NV Bar No. 7743)

TAMI D. COWDEN (NV Bar No. 8994)

10845 Griffith Peak Drive, Suite 600

Las Vegas, NV 89135

Counsel for Reading International, Inc.

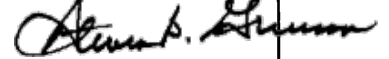
CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused a true and correct copy of the forgoing ***Notice of Entry of Order*** be filed and served via the Court's Odyssey E-Filing system. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED: this 7th day of December, 2018

/s/ Andrea Lee Rosehill

AN EMPLOYEE OF GREENBERG TRAURIG, LLP



1 ORD
2 MARK E. FERRARIO, ESQ.
3 (NV BAR No. 1625)
4 KARA B. HENDRICKS, ESQ.
5 (NV BAR No. 7743)
6 TAMI COWDEN, ESQ.
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13 ferrariom@gtlaw.com
14 hendricksk@gtlaw.com
15 cowdent@gtlaw.com
16 *Counsel for Reading International, Inc.*

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR., individually and
derivatively on behalf of Reading
International, Inc.

Plaintiff,

v.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE,
DOUGLAS McEACHERN, TIMOTHY
STOREY, WILLIAM GOULD, and DOES 1
through 100, inclusive,

Defendants.

Case No. A-15-719860-B

Dept. No. XI

**ORDER DENYING IN PART AND
GRANTING IN PART PLAINTIFF'S
MOTION FOR RECONSIDERATION
AND AMENDMENT OF JUDGMENT
FOR COSTS AND FOR LIMITED
STAY OF EXECUTION ON ORDER
SHORTENING TIME**

Date of Hearing: December 3, 2018

Time of Hearing: 9:00 a.m.

This Matter came before the Court on December 3, 2018 on Plaintiff's *Motion for Reconsideration and Amendment of Judgment for Costs and For Limited Stay of Execution on Order Shortening Time ("Motion for Reconsideration")*. Plaintiff James J. Cotter, Jr. appeared by and through his counsel, Akke Levin, Esq. Reading International, Inc. ("Reading") appeared by and

11-15-18-03:59 RECEIVED


1 through its counsel Kara B. Hendricks, Esq. The Individual Defendants appeared by and through
2 their counsel, Marshall M. Searcy, Esq. and Kevin M. Johnson, Esq.

3 The Court, having considered the Motion and attendant briefing; and having heard the
4 arguments of counsel, for good cause, finds that Plaintiff has failed to show sufficient cause to
5 warrant reconsideration or amendment of the Judgment on Costs entered in favor of Reading and
6 the Individual Defendants, and further finds that a stay of enforcement of such Judgment shall be
7 entered, and that Plaintiff shall have seven calendar days from the date of the December 3, 2018
8 hearing in which to procure a bond equal to the amount of the judgment plus one year of interest at
9 the statutory rate.

10 **ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

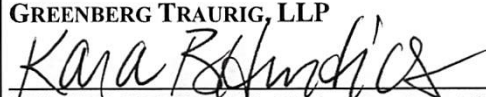
- 11 1. Plaintiffs' Motion for Reconsideration is DENIED.
12 2. Plaintiff's request for a limited stay of execution on the Judgment for Costs is
13 GRANTED.
14 3. Plaintiff shall have until and including Monday December 10, 2018 to post a
15 supersedeas bond in the amount of **\$1,663, 122.11** and provide notice that a bond has
16 been posted.
17 4. Upon posting of the bond, enforcement of the Judgment for Costs in favor of Reading
18 and the Individual Defendants shall be stayed pending the resolution of the appeal.

19 DATED this 6 day of December, 2018

20 
21 Hon. Elizabeth Gonzales, District Court Judge
22

23 Respectfully submitted:

24 **GREENBERG TRAURIG, LLP**


25 
26 MARK E. FERRARIO, ESQ. (BAR NO. 1625)
27 KARA B. HENDRICKS, ESQ. (BAR NO. 7743)
28 TAMI D. COWDEN, ESQ. (BAR NO. 8994)
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Las Vegas, Nevada 89135
Counsel for Reading International, Inc.

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APPROVED AS TO FORM AND CONTENT:

Dated this 4th day of December 2018.

MORRIS LAW GROUP

By: 
STEVE MORRIS (Bar No. 1543)
AKKE LEVIN (Bar No. 9102)
411 E. Bonneville Ave., Ste. 360
Las Vegas, Nevada 89101

YURKO, SALVESEN & REMZ, P.C.

Mark G. Krum (Bar No. 10913)
Noemi Ann Kawamoto
(admitted pro hac vice)
1 Washington Mall, 11th Floor
Boston, MA 02108

Attorneys for Plaintiff, James J. Cotter, Jr.

Dated this ____ day of December 2018.

COHEN JOHNSON PARKER EDWARDS

By: _____
H. STAN JOHNSON, ESQ. (BAR NO. 00265)
255 East Warm Springs Road, Suite 100
Las Vegas, Nevada 89119

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

CHRISTOPHER TAYBACK, ESQ.
California Bar No. 145532, *pro hac vice*
MARSHALL M. SEARCY, III, ESQ.
California Bar No. 169269, *pro hac vice*
865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017

*Attorneys for Defendants Margaret Cotter, Ellen
Cotter, and Guy Adams*

1 **APPROVED AS TO FORM AND CONTENT:**

2 Dated this ____ day of December 2018.

3 **MORRIS LAW GROUP**

4 By: _____

5 STEVE MORRIS (Bar No. 1543)

6 AKKE LEVIN (Bar No. 9102)

7 411 E. Bonneville Ave., Ste. 360

8 Las Vegas, Nevada 89101

9 **YURKO, SALVESEN & REMZ, P.C.**

10 Mark G. Krum (Bar No. 10913)

11 Noemi Ann Kawamoto

12 (*admitted pro hac vice*)

13 1 Washington Mall, 11th Floor

14 Boston, MA 02108

15 *Attorneys for Plaintiff, James J. Cotter, Jr.*

Dated this 4th day of December 2018.

COHEN JOHNSON PARKER EDWARDS

By: H. Stan Johnson

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255 East Warm Springs Road, Suite 100

Las Vegas, Nevada 89119

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SULLIVAN, LLP**

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California Bar No. 145532, *pro hac vice*

MARSHALL M. SEARCY, III, ESQ.

California Bar No. 169269, *pro hac vice*

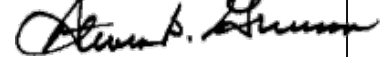
865 South Figueroa Street, 10th Floor

Los Angeles, CA 90017

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Cotter, and Guy Adams*

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(702) 792-9002 (fax)

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Steven D. Grierson
CLERK OF THE COURT



NPP
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KARA B. HENDRICKS, ESQ.
(NV BAR NO. 7743)
TAMI D. COWDEN, ESQ.
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ferrariom@gtlaw.com
hendricksk@gtlaw.com
cowdent@gtlaw.com

Counsel for Reading International, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMES J. COTTER, JR., DERIVATIVELY
ON BEHALF OF READING
INTERNATIONAL, INC.,

Plaintiff,

v.

MARGARET COTTER, ELLEN COTTER,
GUY ADAMS, EDWARD KANE, DOUGLAS
McEACHERN, WILLIAM GOULD, JUDY
CODDING, AND MICHAEL WROTONIAK,
READING INTERNATIONAL, INC., A
NEVADA CORPORATION,

Defendants,

And

READING INTERNATIONAL, INC., A
NEVADA CORPORATION,

Nominal Defendant

CASE NO.: A-15-719860-B

DEPT. NO.: XI

**NOTICE OF POSTING OF APPEAL
COST BOND**

To: ALL PARTIES AND THEIR COUNSEL:

Please take notice that concurrently with the filing of the Notice of Appeal herein, Plaintiffs are posting Five Hundred Dollars (\$500.00) pursuant to NRAP 7.

Dated this 14th day of December, 2018.

GREENBERG TRAURIG, LLP

BY: /s/ Mark E. Ferrario

MARK E. FERRARIO, ESQ. (NV BAR No. 1625)

KARA B. HENDRICKS, ESQ. (NV BAR No. 7743)

TAMI D. COWDEN, ESQ. (NV BAR No. 8994)

10845 Griffith Peak Dr., Suite 600

Las Vegas, Nevada 89135

Counsel for Reading International, Inc.

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I certify that on this day, I caused the foregoing ***Notice of Posting of Appeal Cost Bond*** to be e-served via the Court's Odyssey E-Filing system on the parties registered to this matter. The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

DATED this 14th day of December 2018.

/s/ Andrea Lee Rosehill

An employee of Greenberg Traurig, LLP