

1 **\$2515**

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12 3800 Howard Hughes Parkway, Suite 500

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14 Telephone: (702) 862-8300

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16 *Attorneys for Cross-Claimant*

17 *MDB Trucking, LLC*

12 **SECOND JUDICIAL DISTRICT COURT**
13 **WASHOE COUNTY, NEVADA**

14 GENEVA M. REMMERDE

15 Plaintiff,

16 vs.

17 MDB TRUCKING, LLC, et al

18 Defendants.

19 AND ALL RELATED CASES.

Case No.: CV16-00976

Dept. No.: 10

NOTICE OF APPEAL

21 **NOTICE IS HEREBY GIVEN** that Cross-Claimant MDB Trucking, LLC ("MDB"), by
22 and through its counsel of record Nicholas M. Wieczorek, Esq., Jeremy J. Thompson, Esq. and
23 Colleen E. McCarty, Esq. of the law firm of Clark Hill PLLC, hereby appeals to the Supreme
24 Court of Nevada from the Order Granting in Part and Denying in Part of Cross-Claimant MDB
25 Trucking LLC's Motion To Retax And Settle Cross-Defendant Versa Products Company Inc.'s
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1 Verified Memorandum of CostS entered in this action on the 13th day of June, 2018.

2 DATED this 13th day of July, 2018.

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5 CLARK HILL PLLC

6 By: Colleen E. McCarty
7 NICHOLAS M. WIECZOREK
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15 *Attorneys for Defendant/Cross-Claimant*
16 *MDB Trucking, LLC*

17
18 AFFIRMATION

19 Pursuant to NRS 239B.030, the undersigned hereby affirms that this document filed in
20 this court does not contain the social security number of any person.


21 DATED this 13th day of July, 2018.

22 CLARK HILL PLLC

23 By: Colleen E. McCarty
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MDB Trucking, LLC

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JOSH COLE AICKLEN, ESQ.
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6385 S. Rainbow Blvd., Suite 600
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Versa Products Co., Inc.


An employee of Clark Hill PLLC

1310

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Attorneys for Cross-Claimant

MDB Trucking, LLC

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

GENEVA M. REMMERDE

Plaintiff,

vs.

MDB TRUCKING, LLC, et al

Defendants.

AND ALL RELATED CASES.

Case No.: CV16-00976

Dept. No.: 10

CASE APPEAL STATEMENT

Cross-Claimant MDB Trucking, LLC ("MDB"), by and through its counsel of record Nicholas M. Wieczorek, Esq., Jeremy J. Thompson, Esq. and Colleen E. McCarty, Esq. of the law firm of Clark Hill PLLC, hereby submits its Case Appeal Statement, pursuant to Rule 3(f)(3) of the Nevada Rules of Appellate Procedure, as follows:

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///

1 (A) The district court case number and caption showing the names of all parties to the
2 proceedings below, but the use of et al. to denote parties is prohibited:

3 The district court case number and caption are stated above. The parties to the
4 proceedings below are Cross-Claimant, MDB Trucking, LLC, and Cross-Defendant, Versa
5 Products Company, Inc.

6 (B) The name of the judge who entered the order or judgment being appealed:

7 Hon. Elliot A. Sattler, Second Judicial District Court, Washoe County, Nevada.

8 (C) The name of each appellant and the name and address of counsel for each appellant:

9 MDB Trucking, LLC, Appellant.

10 Nicholas M. Wiczoerk, Esq.

11 Jeremy J. Thompson, Esq.

12 Colleen E. McCarty, Esq.

13 Clark Hill PLLC

14 3800 Howard Hughes Parkway, Suite 500

15 Las Vegas, Nevada 89169

16 Telephone: 702-862-8300

17 Facsimile: 702-862-8400

18 Attorneys for Cross-Claimant/Appellant

19 (D) The name of each respondent and the name and address of appellate counsel, if
20 known, for each respondent, but if the name of a respondent's appellate counsel is
21 not known, then the name and address of that respondent's trial counsel:

22 Versa Products Company, Inc., Respondent.

23 Josh Cole Aicklen, Esq.

24 David B. Avakian, Esq.

25 Paige S. Shreve, Esq.

26 Lewis Brisbois Bisgaard & Smith LLP

27 6385 S. Rainbow Boulevard, Suite 600

28 Las Vegas, Nevada 89118

Telephone: 702-893-3383

Facsimile: 702-893-3789

Trial Counsel for Cross-Defendant/Respondent

///

///

1 (E) Whether an attorney identified in response to subparagraph (D) is not licensed to
2 practice law in Nevada, and if so, whether the district court granted that attorney
3 permission to appear under SCR 42, including a copy of any district court order
granting that permission:

4 Not applicable.

5 (F) Whether the appellant was represented by appointed counsel in the district court,
6 and whether the appellant is represented by appointed counsel on appeal:

7 Not applicable.

8 (G) Whether the district court granted the appellant leave to proceed in forma pauperis,
9 and if so, the date of the district court's order granting that leave:

10 Not applicable.

11 (H) The date that the proceedings commenced in the district court:

12 MDB Trucking, LLC filed its Cross-Claim against Versa Products Company, Inc. and
13 RMC Lamar Holdings, Inc., f/k/a Ranch Manufacturing Company (subsequently dismissed
14 party) in the district court on June 15, 2016. The original filing date for the above-captioned
15 Case No. CV16-01914 was May 2, 2016.

16 (I) A brief description of the nature of the action and result in the district court,
17 including the type of judgment or order being appealed and the relief granted by the
18 district court:

19 This case arises from a personal injury action. On December 4, 2015, Ernest and Carol
20 Fitzsimmons filed a complaint styled *Fitzsimmons v. MDB Trucking, LLC, et al.*, in the Second
21 Judicial District Court, Case No. CV15-02349 (the "Fitzsimmons Action"). Numerous other
22 plaintiffs' cases were subsequently consolidated into the Fitzsimmons Action. Two additional
23 cases resulting from the same accident were filed but not consolidated with the Fitzsimmons
24 Action, the instant matter, *Remmerde v. MDB Trucking, LLC*, Case No. CV-00976, and *Bible v.*
25 *MDB Trucking, LLC*, Case No. CV16-01914. The personal injury claims all related to multiple
26 traffic accidents which occurred when a semi-trailer owned and operated by MDB inadvertently
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1 dumped a load of gravel on the freeway. MDB settled all of the underlying plaintiffs' claims and
2 thereafter pursued its Cross-Claim for Contribution against Versa. All three cases were
3 subsequently dismissed by the District Court's order granting case-ending sanctions, pursuant to
4 NRCP 37. All three cases are currently on appeal from that order, in Supreme Court Case Nos.
5 75022, 75319 and 75321, respectively.
6

7 On February 9, 2018, Versa filed a Motion for Attorneys' Fees and Costs Pursuant to
8 NRCP 37 and NRCP 68 ("Motion for Attorneys' Fees") and a Verified Memorandum of Costs
9 ("Memorandum of Costs") wherein it sought attorneys' fees in the amount of \$731.00 and costs
10 in the amount of \$413.00 from MDB. Thereafter, MDB timely filed a Motion to Retax and
11 Settle Costs ("Motion to Retax") and opposed the Motion for Attorneys' Fees. After full
12 briefing, the District Court heard oral argument on the Motion for Attorneys' Fees and Motion to
13 Retax on April 6, 2018, at which time it took the matters under advisement. The District Court
14 entered its final written Order on June 7, 2018, wherein it granted in part and denied in part the
15 Motion for Attorneys' Fees and Motion to Retax. Specifically, Versa's request for attorneys'
16 fees was denied. MDB was ordered to pay Versa costs in the amount of \$413.00 and is
17 appealing said cost award in its entirety.
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20 **(J) Whether the case has previously been the subject of an appeal to or original writ**
21 **proceeding in the Supreme Court or Court of Appeals and, if so, the caption and**
22 **docket number of the prior proceeding.**

23 Supreme Court Case No. 75022, 75319 and 75321, respectively, all styled as *MDB*
24 *Trucking, LLC, v. Versa Products Company, Inc.*, are pending to challenge the district court's
25 original grant of case ending sanctions.
26

27 **(K) Whether this appeal involves child custody or visitation:**

28 Not applicable.

1 (L) Whether this appeal involves the possibility of settlement:

2 Yes. The parties herein, and their respective counsel of record, are scheduled to
3 participate in the Settlement Conference Program, pursuant to Rule 16 of the Nevada Rules of
4 Appellate Procedure. Mediation is scheduled to take place on July 18, 2018, and the parties are
5 seeking to reach a global settlement, inclusive of the instant appeal.
6

7 DATED this 13th day of July, 2018.

8 CLARK HILL PLLC

9
10 By: Colleen E. McCarty

11 NICHOLAS M. WIECZOREK

12 Nevada Bar No. 6170

13 JEREMY J. THOMPSON

14 Nevada Bar No. 12503

15 COLLEEN E. MCCARTY

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19 Attorneys for Defendant/Cross-Claimant

20 MDB Trucking, LLC
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DATED this 13th day of July, 2018.

By: Colleen E. McCarty
NICHOLAS M. WIECZOREK
Nevada Bar No. 6170
JEREMY J. THOMPSON
Nevada Bar No. 12503
COLLEEN E. MCCARTY
Nevada Bar No. 13186
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Las Vegas, Nevada 89169
Attorneys for Defendant/Cross-Claimant
MDB Trucking, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Clark Hill PLLC, and that on this 13th day of July, 2018, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** via electronic means, by operation of the Court's electronic filing system upon each party in this case who is registered as an electronic case filing user with the Clerk, or by U.S. Mail, postage prepaid thereon, to:

JOSH COLE AICKLEN, ESQ.
DAVID B. AVAKIAN, ESQ.
PAIGE S. SHREVE, ESQ.
LEWIS BRISBOIS BISGAARD
& SMITH LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant
VERSA PRODUCTS COMPANY, INC.



An employee of Clark Hill PLLC

SECOND JUDICIAL DISTRICT COURT**STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV16-00976****Case Description: GENEVA M. REMMERDE VS. MDB TRUCKING ETAL (D10)****Case Number: CV16-00976 Case Type: AUTO - Initially Filed On: 5/2/2016****Parties**

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - ELLIOTT A. SATTLER - D10	Active
PLTF - GENEVA M REMMERDE - @1292731	Active
DEFT - DANIEL ANTHONY KOSKI - @1123354	Active
DEFT - MDB TRUCKING, LLC - @1280259	Active
3DEF - DRAGON ESP, LTD. - @1294651	Active
3DEF - RMC LAMAR HOLDINGS, INC. - @1293583	Active
3DEF - THE MODERN GROUP GP-SUB, INC - @1294650	Active
ATTY - Sarah Marie Quigley, Esq. - 11518	Active
ATTY - Jeremy J. Thompson, Esq. - 12503	Active
ATTY - Nicholas M. Wiczorek, Esq. - 6170	Active
ATTY - Jessica Woelfel, Esq. - 11885	Active
ATTY - Colleen E. McCarty, Esq. - 13186	Active
ATTY - Josh Cole Aicklen, Esq. - 7254	Active
ATTY - Matthew Christopher Addison, Esq. - 4201	Active
ATTY - Jacob D. Bundick, Esq. - 9772	Active
ATTY - Katherine F. Parks, Esq. - 6227	Active
ATTY - Kathleen A. Sigurdson, Esq. - 6823	Party ended on: 10/25/2016 12:00:00AM
ATTY - Brian M. Brown, Esq. - 5233	Active
ATTY - Thierry Vincent Barkley, Esq. - 724	Active

Disposed Hearings

- 1 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 8/10/2016 at 15:36:00
Extra Event Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO DISMISS THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S
Event Disposition: S200 - 9/21/2016
- 2 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 9/8/2016 at 09:04:00
Extra Event Text: MOTION TO DISMISS THIRD PARTY COMPLAINT (NO ORDER)
Event Disposition: S200 - 10/26/2016
- 3 Department: D10 -- Event: STATUS HEARING -- Scheduled Date & Time: 11/4/2016 at 09:00:00
Extra Event Text: STATUS HEARING (1 HOUR)(COURT REPORTER NEEDED)
Event Disposition: D435 - 11/4/2016
- 4 Department: D10 -- Event: STATUS HEARING -- Scheduled Date & Time: 12/16/2016 at 15:00:00

Event Disposition: D435 - 12/16/2016
- 5 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/6/2017 at 16:07:00
Extra Event Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT/THIRD-PARTY PLAINTIFF
Event Disposition: S200 - 6/28/2017

Report Does Not Contain Sealed Cases or Confidential Information

- 6 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 7/17/2017 at 16:54:00
Extra Event Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT/THIRD PAI
Event Disposition: S200 - 8/1/2017
- 7 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 8/3/2017 at 16:12:00
Extra Event Text: VERSA PRODUCTS COMPANY, INC.'S MOTION FOR PROTECTIVE ORDER REGARDING PRODUCTION FOR TRADE SECRET DOCUMENT:
Event Disposition: S200 - 8/9/2017
- 8 Department: D10 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 10/5/2017 at 14:00:00
Extra Event Text: PRETRIAL CONFERENCE (TRIAL SET FOR OCTOBER 30, 2017)(1/2 HOUR)
Event Disposition: D870 - 11/29/2016
- 9 Department: D10 -- Event: TRIAL - JURY -- Scheduled Date & Time: 10/30/2017 at 08:30:00
Extra Event Text: NO. 1 SETTING-JURY TRIAL-PERSONAL INJURY MATTER (5 DAYS)
Event Disposition: D870 - 11/29/2016
- 10 Department: D10 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 12/1/2017 at 10:00:00
Extra Event Text: PRETRIAL CONFERENCE (TRIAL SET FOR JANUARY 22, 2018)(1 HOUR)
Event Disposition: D845 - 12/1/2017
- 11 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 12/12/2017 at 16:05:00
Extra Event Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.S MOTION TO STRIKE DEFENDANT/CROSS-CLAIMANT/CROSS-DEFEND/
Event Disposition: S200 - 1/22/2018
- 12 Department: D10 -- Event: TRIAL - JURY -- Scheduled Date & Time: 1/22/2018 at 08:30:00
Extra Event Text: NO. 1 SETTING-JURY TRIAL-PERSONAL INJURY MATTER (5 DAYS)
Event Disposition: D870 - 12/5/2017
- 13 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 3/12/2018 at 11:25:00
Extra Event Text: THIRD-PARTY VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 6
Event Disposition: S200 - 3/14/2018
- 14 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 3/19/2018 at 14:35:00
Extra Event Text: MDB TRUCKING LLC'S MOTION TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY INC'S VERIFIED MEMORANI
Event Disposition: S200 - 3/20/2018
- 15 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 4/6/2018 at 10:00:00
Extra Event Text: HEARING ON MOTION FOR ATTORNEY FEES AND COSTS AND MOTION TO RETAX (2 HOURS)(COURT REPORTER REQUESTED BY BOTI
Event Disposition: D840 - 4/6/2018
- 16 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 4/6/2018 at 11:32:00
Extra Event Text: (MOTION FOR ATTORNEY FEES & COSTS AND MOTION TO RETAX COSTS TAKEN UNDER ADVISEMENT AT THE CONCLUSION OF THE H
Event Disposition: S200 - 6/7/2018

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|---|--------------------|----------|--|
| 1 | 5/2/2016 | - | \$1425 - \$Complaint - Civil
Additional Text: Transaction 5494076 - Approved By: MFERNAND : 05-02-2016:14:35:51 |
| 2 | 5/2/2016 | - | PAYRC - **Payment Receipted
Additional Text: A Payment of \$260.00 was made on receipt DCDC538769. |

- 3 5/3/2016 - 4090 - ** Summons Issued
 Additional Text: (2)
- 4 5/27/2016 - 4085 - Summons Filed
 Additional Text: DANIEL ANTHONY - 5/19/16 - Transaction 5536424 - Approved By: RKWATKIN : 05-27-2016:11:31:25
- 5 5/27/2016 - NEF - Proof of Electronic Service
 Additional Text: Transaction 5536603 - Approved By: NOREVIEW : 05-27-2016:11:33:13
- 6 6/8/2016 - 1130 - Answer ...
 Additional Text: THIERRY V BARKLEY FOR MDB TRUCKING LLC AND DANIEL A KOSKI - Transaction 5552708 - Approved By: SWOLFE : 06-08-2016:13:13:17
- 7 6/8/2016 - \$1560 - \$Def 1st Appearance - CV
 Additional Text: MDB TRUCKING LLC - Transaction 5552708 - Approved By: SWOLFE : 06-08-2016:13:13:17
- 8 6/8/2016 - \$DEFT - \$Addl Def/Answer - Prty/Appear
 Additional Text: DANIEL A KOSKI - Transaction 5552708 - Approved By: SWOLFE : 06-08-2016:13:13:17
- 9 6/8/2016 - PAYRC - **Payment Receipted
 Additional Text: A Payment of \$243.00 was made on receipt DCDC542667.
- 10 6/8/2016 - NEF - Proof of Electronic Service
 Additional Text: Transaction 5552797 - Approved By: NOREVIEW : 06-08-2016:13:14:18
- 11 6/8/2016 - JF - **First Day Jury Fees Deposit
 Additional Text: Transaction 5552960 - Approved By: PMSEWELL : 06-08-2016:14:53:33
- 12 6/8/2016 - 1580 - Demand for Jury
 Additional Text: Transaction 5552960 - Approved By: PMSEWELL : 06-08-2016:14:53:33
- 13 6/8/2016 - PAYRC - **Payment Receipted
 Additional Text: A Payment of \$320.00 was made on receipt DCDC542693.
- 14 6/8/2016 - NEF - Proof of Electronic Service
 Additional Text: Transaction 5553155 - Approved By: NOREVIEW : 06-08-2016:14:54:34
- 15 6/9/2016 - 4085 - Summons Filed
 Additional Text: CAROLINA GRALICIN RA FOR MDB TRUCKING 6/02/16 - Transaction 5554278 - Approved By: CSULEZIC : 06-09-2016:11:15:56
- 16 6/9/2016 - NEF - Proof of Electronic Service
 Additional Text: Transaction 5554620 - Approved By: NOREVIEW : 06-09-2016:11:18:44
- 17 6/9/2016 - 3840 - Request Exemption Arbitration
 Additional Text: DEFENDANT'S (DANIEL A KOSKI) REQUEST FOR EXEMPTION FROM COURT ANNEXED ARBITRATION PROGRAM - Transaction 5555644 - Approved By: YVILORIA : 06-09-2016:16:10:58
- 18 6/9/2016 - NEF - Proof of Electronic Service
 Additional Text: Transaction 5556037 - Approved By: NOREVIEW : 06-09-2016:16:12:29
- 19 6/22/2016 - \$4180 - \$Third Party Complaint
 Additional Text: Transaction 5574280 - Approved By: RKWATKIN : 06-22-2016:13:05:40
- 20 6/22/2016 - 1130 - Answer ...
 Additional Text: ANSWER TO COMPLAINT - Transaction 5574284 - Approved By: RKWATKIN : 06-22-2016:13:34:41

- 21 6/22/2016 - PAYRC - **Payment Received
Additional Text: A Payment of \$135.00 was made on receipt DCDC544068.
- 22 6/22/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5574494 - Approved By: NOREVIEW : 06-22-2016:13:06:40
- 23 6/22/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5574595 - Approved By: NOREVIEW : 06-22-2016:13:35:29
- 24 6/23/2016 - 4090 - ** Summons Issued
Additional Text: X4
- 25 6/24/2016 - 4085 - Summons Filed
Additional Text: MATTHEW ADDISON - 6/24/16 - Transaction 5579583 - Approved By: RKWATKIN : 06-24-2016:14:57:12
- 26 6/24/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5579627 - Approved By: NOREVIEW : 06-24-2016:14:58:11
- 27 6/24/2016 - 1356 - Certificate of Mailing
Additional Text: TO MATTHEW ADDISON, ESQ, JESSICA WOEFEL, ESQ AND JOSH AICKLEN, DAVID AVAKIAN ON 6/24/16 - Transaction 5579744 - Approved By: SWOLFE : 06-24-2016:16:40:10
- 28 6/24/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5579833 - Approved By: NOREVIEW : 06-24-2016:16:41:07
- 29 7/5/2016 - 4085 - Summons Filed
Additional Text: GREGORY CAMPISI OBO VERSA PRODUCTS - 6/27/16 - Transaction 5592389 - Approved By: RKWATKIN : 07-05-2016:13:02:36
- 30 7/5/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5592748 - Approved By: NOREVIEW : 07-05-2016:13:03:31
- 31 7/5/2016 - 3975 - Statement ...
Additional Text: DEFENDANT'S (MDB TRUCKING, LLC) NRCP 7.1 CORPORATE DISCLOSURE STATEMENT - Transaction 5592919 - Approved By: TBRIITON : 07-05-2016:15:46:23
- 32 7/5/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5593345 - Approved By: NOREVIEW : 07-05-2016:15:47:13
- 33 7/7/2016 - A120 - Exemption from Arbitration
Additional Text: Transaction 5596876 - Approved By: NOREVIEW : 07-07-2016:09:46:03
- 34 7/7/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5596878 - Approved By: NOREVIEW : 07-07-2016:09:46:51
- 35 7/12/2016 - 3696 - Pre-Trial Order
Additional Text: Transaction 5603702 - Approved By: NOREVIEW : 07-12-2016:11:06:57
- 36 7/12/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5603713 - Approved By: NOREVIEW : 07-12-2016:11:10:00
- 37 7/14/2016 - 1165 - Answer Third Party Complaint
Additional Text: Transaction 5607744 - Approved By: CSULEZIC : 07-14-2016:09:50:32
- 38 7/14/2016 - \$1560 - \$Def 1st Appearance - CV
Additional Text: RMC LAMAR HOLDINGS, INC - Transaction 5607744 - Approved By: CSULEZIC : 07-14-2016:09:50:32

- 39 7/14/2016 - PAYRC - **Payment Received
Additional Text: A Payment of \$213.00 was made on receipt DCDC546303.
- 40 7/14/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5608007 - Approved By: NOREVIEW : 07-14-2016:09:52:14
- 41 7/18/2016 - \$1560 - \$Def 1st Appearance - CV
Additional Text: VERSA PRODUCTS COMPANY, INC. - Transaction 5614156 - Approved By: RKWATKIN : 07-19-2016:08:26:10
- 42 7/18/2016 - 1817 - Initial Appear. Fee Disclosure
Additional Text: Transaction 5614156 - Approved By: RKWATKIN : 07-19-2016:08:26:10
- 43 7/19/2016 - PAYRC - **Payment Received
Additional Text: A Payment of \$213.00 was made on receipt DCDC546657.
- 44 7/19/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5614385 - Approved By: NOREVIEW : 07-19-2016:08:27:03
- 45 7/19/2016 - 2315 - Mtn to Dismiss ...
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO DISMISS THIRD PARTY PLAINTIFF, MDB TRUCKING, LLC'S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY PURSUANT TO NRCP12(B){5) - Transaction 5614508 - Approved By: CSULEZIC : 07-19-2016:09:56:34
- 46 7/19/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5614703 - Approved By: NOREVIEW : 07-19-2016:09:57:27
- 47 7/29/2016 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION TO THIRD-PARTY DEFENDANT'S [VERSA PRODUCTS COMPANY, INC.] MOTIONS TO DISMISS - Transaction 5634033 - Approved By: TBRITTON : 07-29-2016:13:18:23
- 48 7/29/2016 - 2275 - Mtn to Consolidate
Additional Text: PLAINTIFF'S MOTION TO CONSOLIDATE ENTIRE CASE - Transaction 5634135 - Approved By: CSULEZIC : 07-29-2016:14:17:08
- 49 7/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5634321 - Approved By: NOREVIEW : 07-29-2016:13:19:23
- 50 7/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5634529 - Approved By: NOREVIEW : 07-29-2016:14:18:15
- 51 8/1/2016 - 2315 - Mtn to Dismiss ...
Additional Text: THIRD PARTY DEFENDANT THE MODERN GROUP GP-SUB, INC.'S AND DRAGON ESP LTD.'S MOTION TO DISMISS THIRD PARTY COMPLAINT - Transaction 5636778 - Approved By: RKWATKIN : 08-02-2016:08:28:03
- 52 8/1/2016 - \$1560 - \$Def 1st Appearance - CV
Additional Text: THE MODERN GROUP GP-SUB, INC - Transaction 5636778 - Approved By: RKWATKIN : 08-02-2016:08:28:03
- 53 8/2/2016 - PAYRC - **Payment Received
Additional Text: A Payment of \$213.00 was made on receipt DCDC548259.
- 54 8/2/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5637080 - Approved By: NOREVIEW : 08-02-2016:08:28:52
- 55 8/8/2016 - 3795 - Reply...
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S REPLY IN SUPPORT OF MOTION TO DISMISS THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY PURSUANT TO NRCP 12(B)(5) - Transaction 5647531 - Approved By: RKWATKIN : 08-08-2016:16:53:07

- 56 8/8/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5648130 - Approved By: NOREVIEW : 08-08-2016:16:55:07
- 57 8/10/2016 - 3860 - Request for Submission
Additional Text: Transaction 5652012 - Approved By: RKWATKIN : 08-10-2016:15:36:15
DOCUMENT TITLE: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO DISMISS THIRD-PARTY PLAINTIFF
MDB TRUCKING, LLC'S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY PURSUANT TO NRCP 12(8)(5) (NO ORDER)
PARTY SUBMITTING: JOSH AICKLEN
DATE SUBMITTED: 8/10/16
SUBMITTED BY: RKWATKIN
DATE RECEIVED JUDGE OFFICE:
- 58 8/10/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5652495 - Approved By: NOREVIEW : 08-10-2016:15:37:04
- 59 8/15/2016 - 2645 - Opposition to Mtn ...
Additional Text: 3RD PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC'S OPPOSITION TO PLAINTIFF'S MOTION TO
CONSOLIDATE ENTIRE CASE - Transaction 5658911 - Approved By: SWOLFE : 08-16-2016:10:30:24
- 60 8/16/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5660277 - Approved By: NOREVIEW : 08-16-2016:10:31:31
- 61 8/16/2016 - 1830 - Joinder...
Additional Text: DEFENDANTS' IMDB & DANIEL KOSKI JOINER TO THIRD PARTY DEFENDANTS' OPPOSITION TO MOTION TO
CONSOLIDATE THE ENTIRE CASE - Transaction 5661523 - Approved By: TBRIITON : 08-17-2016:08:13:05
- 62 8/17/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5662071 - Approved By: NOREVIEW : 08-17-2016:08:14:01
- 63 8/18/2016 - 2645 - Opposition to Mtn ...
Additional Text: THIRD-PARTY PLAINTIFF'S OPPOSITION TO THIRD-PARTY DEFENDANTS' THE MODERN GROUP AND DRAGON ESP,
LTD's MOTION TO DISMISS THIRD-PARTY COMPLAINT - Transaction 5666336 - Approved By: SWOLFE : 08-18-2016:15:42:44
- 64 8/18/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5666866 - Approved By: NOREVIEW : 08-18-2016:15:43:42
- 65 8/23/2016 - 4301 - Withdrawal of Motion
Additional Text: PLAINTIFF'S WITHDRAWAL OF MOTION TO CONSOLIDATE - Transaction 5673711 - Approved By: MFERNAND : 08-24-
2016:08:37:53
- 66 8/24/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5674104 - Approved By: NOREVIEW : 08-24-2016:08:38:53
- 67 8/29/2016 - 3795 - Reply...
Additional Text: Reply in Support of Third Party Defendants' Motion to Dismiss Third Party Complaint - Transaction 5682580 - Approved
By: YVILORIA : 08-29-2016:16:55:33
- 68 8/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5683053 - Approved By: NOREVIEW : 08-29-2016:16:57:18
- 69 8/30/2016 - 2529 - Notice of Early Case Conferenc
Additional Text: Transaction 5684539 - Approved By: NOREVIEW : 08-30-2016:14:04:00
- 70 8/30/2016 - 2605 - Notice to Set
Additional Text: 9/26/16 @9:30 - Transaction 5684541 - Approved By: CSULEZIC : 08-30-2016:15:13:36
- 71 8/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5684561 - Approved By: NOREVIEW : 08-30-2016:14:07:15

- 72 8/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5685056 - Approved By: NOREVIEW : 08-30-2016:15:14:55
- 73 8/31/2016 - 4085 - Summons Filed
Additional Text: THE MODERN GROUP 8/30/16 - Transaction 5686307 - Approved By: CSULEZIC : 08-31-2016:13:13:33
- 74 8/31/2016 - 4085 - Summons Filed
Additional Text: RA CT CORPORATION SYSTEMS 8/30/16 - Transaction 5686322 - Approved By: CSULEZIC : 08-31-2016:13:17:06
- 75 8/31/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5686696 - Approved By: NOREVIEW : 08-31-2016:13:14:24
- 76 8/31/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5686718 - Approved By: NOREVIEW : 08-31-2016:13:18:16
- 77 9/7/2016 - 3860 - Request for Submission
Additional Text: Transaction 5696618 - Approved By: RKWATKIN : 09-08-2016:09:02:50
DOCUMENT TITLE: MOTION TO DISMISS THIRD PARTY COMPLAINT (NO ORDER)
PARTY SUBMITTING: JACOB BUNDICK, ESQ
DATE SUBMITTED: 9/8/16
SUBMITTED BY: RKWATKIN
DATE RECEIVED JUDGE OFFICE:
- 78 9/8/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5696977 - Approved By: NOREVIEW : 09-08-2016:09:04:06
- 79 9/21/2016 - 3105 - Ord Granting ...
Additional Text: ORDER GRANTING THIRD PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC'S MOTION TO DISMISS THIRD PARTY PLAINTIFF, MDB TRUCKING, LLC'S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY PURSUANT TO NRCP 12(B)(5). - Transaction 5719768 - Approved By: NOREVIEW : 09-21-2016:17:01:45
- 80 9/21/2016 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 81 9/21/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5719769 - Approved By: NOREVIEW : 09-21-2016:17:03:55
- 82 9/23/2016 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 5722889 - Approved By: NOREVIEW : 09-23-2016:11:06:32
- 83 9/23/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5722893 - Approved By: NOREVIEW : 09-23-2016:11:07:35
- 84 9/28/2016 - 1250E - Application for Setting eFile
Additional Text: FOR PRETRIAL CONFERENCE ON OCTOBER 5, 2017, AT 2:00 P.M. AND JURY TRIAL ON OCTOBER 30, 2017, AT 8:30 A.M. - Transaction 5730562 - Approved By: NOREVIEW : 09-28-2016:12:57:00
- 85 9/28/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5730567 - Approved By: NOREVIEW : 09-28-2016:12:57:52
- 86 10/10/2016 - 3370 - Order ...
Additional Text: [CONSOLIDATING CASE INTO CV15-02410 - ks] - Transaction 5749821 - Approved By: NOREVIEW : 10-10-2016:16:42:35
- 87 10/10/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5749831 - Approved By: NOREVIEW : 10-10-2016:16:44:09

- 88 10/11/2016 - 1485 - Corrected Judgment or Ord
Additional Text: Transaction 5750342 - Approved By: NOREVIEW : 10-11-2016:09:50:13
- 89 10/11/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5750351 - Approved By: NOREVIEW : 10-11-2016:09:51:34
- 90 10/11/2016 - 3242 - Ord Setting Hearing
Additional Text: ORDER SETTING JOINT STATUS HEARING FOR NOVEMBER 4, 2016, AT 9:00 A.M. - Transaction 5751641 - Approved By: NOREVIEW : 10-11-2016:15:05:57
- 91 10/11/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5751644 - Approved By: NOREVIEW : 10-11-2016:15:06:57
- 92 10/19/2016 - 1105 - Amended Ord and/or Judgment
Additional Text: AMENDED ORDER GRANTING THIRD PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC'S MOTION TO DISMISS THIRD PARTY PLAINTIFF MDB TRUCKING THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY - Transaction 5765941 - Approved By: NOREVIEW : 10-19-2016:14:09:34
- 93 10/19/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5765948 - Approved By: NOREVIEW : 10-19-2016:14:10:25
- 94 10/25/2016 - 4075 - Substitution of Counsel
Additional Text: SARAH QUIGLEY ESQ - Transaction 5775547 - Approved By: CSULEZIC : 10-25-2016:16:54:19
- 95 10/25/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5776244 - Approved By: NOREVIEW : 10-25-2016:16:55:19
- 96 10/26/2016 - 3025 - Ord Granting/Denying in Part
Additional Text: MOTION TO DISMISS THIRD PARTY COMPLAINT - Transaction 5778225 - Approved By: NOREVIEW : 10-26-2016:15:51:17
- 97 10/26/2016 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 98 10/26/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5778243 - Approved By: NOREVIEW : 10-26-2016:15:53:39
- 99 11/3/2016 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 5789437 - Approved By: NOREVIEW : 11-03-2016:12:40:32
- 100 11/3/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5789439 - Approved By: NOREVIEW : 11-03-2016:12:41:22
- 101 11/4/2016 - MIN - ***Minutes
Additional Text: 11/4/16 - STATUS HRG - Transaction 5791793 - Approved By: NOREVIEW : 11-04-2016:13:17:45
- 102 11/4/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5791800 - Approved By: NOREVIEW : 11-04-2016:13:18:43
- 103 11/17/2016 - 3835 - Report...
Additional Text: JOINT STATUS REPORT - Transaction 5810893 - Approved By: TBRITTON : 11-17-2016:10:29:10
- 104 11/17/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5811102 - Approved By: NOREVIEW : 11-17-2016:10:30:17

- 105 11/28/2016 - 4050 - Stipulation ...
Additional Text: STIPULATION TO CONTINUE TRIAL DATE - Transaction 5823809 - Approved By: CSULEZIC : 11-28-2016:15:40:14
- 106 11/28/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5824579 - Approved By: NOREVIEW : 11-28-2016:15:41:38
- 107 11/29/2016 - 3020 - Ord Granting Continuance
Additional Text: ORDER GRANTING STIPULATION TO CONTINUE TRIAL DATE; PARTIES WILL RESET - Transaction 5825395 - Approved By: NOREVIEW : 11-29-2016:09:34:09
- 108 11/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5825400 - Approved By: NOREVIEW : 11-29-2016:09:35:11
- 109 12/16/2016 - 2610 - Notice ...
Additional Text: Joint Discovery Plan & Proposed Scheduling Order - Transaction 5859491 - Approved By: CSULEZIC : 12-16-2016:16:53:18
- 110 12/16/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5859864 - Approved By: NOREVIEW : 12-16-2016:16:54:13
- 111 12/16/2016 - MIN - ***Minutes
Additional Text: 12/16/16 - STATUS HRG - Transaction 5859917 - Approved By: NOREVIEW : 12-16-2016:17:14:46
- 112 12/16/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5859922 - Approved By: NOREVIEW : 12-16-2016:17:15:46
- 113 12/21/2016 - 1250E - Application for Setting eFile
Additional Text: FOR PRETRIAL CONFERENCE ON DECEMBER 1, 2017, AT 10:00 A.M. AND JURY TRIAL ON JANUARY 22, 2018, AT 8:30 A.M. - Transaction 5865768 - Approved By: NOREVIEW : 12-21-2016:11:33:41
- 114 12/21/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5865784 - Approved By: NOREVIEW : 12-21-2016:11:35:08
- 115 1/17/2017 - 4050 - Stipulation ...
Additional Text: DFX: DOCUMENT CONTAINS IMPROPER SIGNATURES - Transaction 5900378 - Approved By: CSULEZIC : 01-17-2017:16:46:34
- 116 1/17/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5901247 - Approved By: NOREVIEW : 01-17-2017:16:47:36
- 117 2/2/2017 - 4050 - Stipulation ...
Additional Text: Transaction 5931756 - Approved By: PMSEWELL : 02-02-2017:15:52:41
- 118 2/2/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5931875 - Approved By: NOREVIEW : 02-02-2017:15:53:51
- 119 2/3/2017 - 3105 - Ord Granting ...
Additional Text: ORDER GRANTING STIPULATION WITH REGARDS TO JOINT CASE CONFERENCE REPORT - Transaction 5932543 - Approved By: NOREVIEW : 02-03-2017:09:19:42
- 120 2/3/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5932551 - Approved By: NOREVIEW : 02-03-2017:09:20:45
- 121 5/3/2017 - \$2200 - \$Mtn for Summary Judgment
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY INC'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-PARTY COMPLAINT - Transaction 6082232 - Approved By: YVILORIA : 05-03-2017:13:55:17

- 122 5/3/2017 - PAYRC - **Payment Received
Additional Text: A Payment of \$200.00 was made on receipt DCDC574158.
- 123 5/3/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6082353 - Approved By: NOREVIEW : 05-03-2017:13:56:21
- 124 5/4/2017 - 2610 - Notice ...
Additional Text: of Association of Counsel - MCDONALD CARANO, LLP ASSOCIATES WITH GREENBERG TRAURIG, LLP FOR THE MODERN GROUP GP-SUB AND DRAGON ESP, LTD - Transaction 6084574 - Approved By: PMSEWELL : 05-04-2017:13:49:43
- 125 5/4/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6084748 - Approved By: NOREVIEW : 05-04-2017:13:50:51
- 126 5/12/2017 - 2165 - Mtn for Protective Ord
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR PROTECTIVE ORDER REGARDING PRODUCTION OF TRADE SECRET DOCUMENTS AND INFORMATION ORAL ARGUMENT REQUESTED - Transaction 6097383 - Approved By: PMSEWELL : 05-12-2017:08:58:51
- 127 5/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6097509 - Approved By: NOREVIEW : 05-12-2017:08:59:52
- 128 5/15/2017 - 2475 - Mtn to Strike...
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-PARTY COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE FOR AN ADVERSE JURY INSTRUCTION - Transaction 6100499 - Approved By: YVILORIA : 05-15-2017:13:32:31
- 129 5/15/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6100532 - Approved By: NOREVIEW : 05-15-2017:13:33:37
- 130 5/15/2017 - 1650 - Errata...
Additional Text: ERRATA TO THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-PARTY COMPLAINT PURSUANT TO NRCP 37; OR IN THE ALTERNATIVE, FOR AN ADVERSE JURY INSTRUCTION - Transaction 6100950 - Approved By: PMSEWELL : 05-15-2017:15:49:55
- 131 5/15/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6101097 - Approved By: NOREVIEW : 05-15-2017:15:50:41
- 132 5/16/2017 - 1650 - Errata...
Additional Text: ERRATA TO THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MOB TRUCKING, LLC'S THIRD-PARTY COMPLAINT PURSUANT TO NRCP 37; OR IN THE ALTERNATIVE, FOR AN ADVERSE JURY INSTRUCTION - Transaction 6101522 - Approved By: TBRIITON : 05-16-2017:09:11:44
- 133 5/16/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6101729 - Approved By: NOREVIEW : 05-16-2017:09:12:39
- 134 6/6/2017 - 3860 - Request for Submission
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT/THIRD-PARTY PLAINTIFF MOB TRUCKING, LLC'S THIRD-PARTY COMPLAINT (PAPER ORDER NOT PROVIDED) - Transaction 6135039 - Approved By: TBRIITON : 06-06-2017:15:56:00
PARTY SUBMITTING: JOSH C. AICKLEN, ESQ.
DATE SUBMITTED: JUNE 6, 2017
SUBMITTED BY: TBRIITON
DATE RECEIVED JUDGE OFFICE:
- 135 6/6/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6135414 - Approved By: NOREVIEW : 06-06-2017:15:57:02
- 136 6/28/2017 - 3105 - Ord Granting ...
Additional Text: ORDER GRANTING MDB'S JOINT MOTION FOR CONTINUANCE AS TO CROSS DEFENDANTS VERSA'S MOTION FOR SUMMARY JUDGMENT - Transaction 6170963 - Approved By: NOREVIEW : 06-28-2017:12:21:55

- 137 6/28/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6170969 - Approved By: NOREVIEW : 06-28-2017:12:22:54
- 138 6/28/2017 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 139 7/7/2017 - 2610 - Notice ...
Additional Text: NOTICE OF ASSOCIATION OF COUNSEL - MORRIS POLICH & PURDY LLP / MDB TRUCKING, LLC AND DANIEL KOSKI - Transaction 6184199 - Approved By: TBRITTON : 07-07-2017:14:17:31
- 140 7/7/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6184566 - Approved By: NOREVIEW : 07-07-2017:14:18:27
- 141 7/7/2017 - 2645 - Opposition to Mtn ...
Additional Text: MDB Opposition to Third Party Defendant Motion for Summary Judgment - Transaction 6185383 - Approved By: CSULEZIC : 07-10-2017:09:36:57
- 142 7/10/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6185695 - Approved By: NOREVIEW : 07-10-2017:09:37:57
- 143 7/17/2017 - 3860 - Request for Submission
Additional Text: Transaction 6199496 - Approved By: SWOLFE : 07-17-2017:16:52:54
DOCUMENT TITLE: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT/THIRD PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-PARTY COMPLAINT (NO ORDER PROVIDED)
PARTY SUBMITTING: NICHOLAS WIECZOREK, ESQ
DATE SUBMITTED: 7/17/17
SUBMITTED BY: SWOLFE
DATE RECEIVED JUDGE OFFICE:
- 144 7/17/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6200127 - Approved By: NOREVIEW : 07-17-2017:16:54:05
- 145 7/20/2017 - 2610 - Notice ...
Additional Text: Notice of Firm Name Change - Transaction 6206344 - Approved By: CSULEZIC : 07-20-2017:14:59:48
- 146 7/20/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6206516 - Approved By: NOREVIEW : 07-20-2017:15:00:43
- 147 8/1/2017 - 3347 - Ord to Set
Additional Text: ORDER TO SET HEARING ON MOTION FOR SUMMARY JUDGMENT - Transaction 6225306 - Approved By: NOREVIEW : 08-01-2017:10:53:42
- 148 8/1/2017 - S200 - Request for Submission Complet
Additional Text: PARTIES WILL SET HEARING
- 149 8/1/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6225329 - Approved By: NOREVIEW : 08-01-2017:10:55:22
- 150 8/3/2017 - 3860 - Request for Submission
Additional Text: VERSA PRODUCTS COMPANY, INC.'S MOTION FOR PROTECTIVE ORDER REGARDING PRODUCTION FOR TRADE SECRET DOCUMENTS AND INFORMATION which was filed on May 12, 2017 - Transaction 6231332 - Approved By: CSULEZIC : 08-03-2017:14:58:17
PARTY SUBMITTING: JOSH AICKLEN ESQ
DATE SUBMITTED: 8/03/17
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 151 8/3/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6231503 - Approved By: NOREVIEW : 08-03-2017:15:00:39

- 152 8/4/2017 - 2630 - Objection to ...
Additional Text: MDB TRUCKING LLC'S OBJECTION TO VERSA PRODUCTS COMPANY, INC.'S REQUEST FOR SUBMISSION AND ALTERNATIVE REQUEST FOR JUDICIAL NOTICE - Transaction 6234178 - Approved By: YVILORIA : 08-07-2017:08:15:03
- 153 8/7/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6234343 - Approved By: NOREVIEW : 08-07-2017:08:16:03
- 154 8/9/2017 - 3370 - Order ...
Additional Text: ORDER STAYING DECISION ON MOTION FOR PROTECTIVE ORDER - Transaction 6240624 - Approved By: NOREVIEW : 08-09-2017:15:02:20
- 155 8/9/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6240629 - Approved By: NOREVIEW : 08-09-2017:15:03:19
- 156 8/9/2017 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 157 12/5/2017 - 3990 - Stip & Ord Dismiss W/Prejudice
Additional Text: Transaction 6423822 - Approved By: NOREVIEW : 12-05-2017:13:30:03
- 158 12/5/2017 - F120 - Stipulated Dismissal
No additional text exists for this entry.
- 159 12/5/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6423826 - Approved By: NOREVIEW : 12-05-2017:13:31:04
- 160 12/5/2017 - 2990 - Ord Return of Jury Fees
Additional Text: Transaction 6424394 - Approved By: NOREVIEW : 12-05-2017:15:35:24
- 161 12/5/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6424402 - Approved By: NOREVIEW : 12-05-2017:15:36:27
- 162 12/6/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$320.00 on Check Number 33708
- 163 12/12/2017 - 3860 - Request for Submission
Additional Text: Transaction 6436001 - Approved By: YVILORIA : 12-12-2017:15:54:39
DOCUMENT TITLE: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.S MOTION TO STRIKE DEFENDANT/CROSS-CLAIMA
NT/CROSS-DEFENDANT MDB TRUCKING, LLC'S CROSS-CLAIM
PARTY SUBMITTING: JOSH COLE AICKLEN ESQ
DATE SUBMITTED: DEC 12, 2017
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 164 12/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6436057 - Approved By: NOREVIEW : 12-12-2017:15:57:31
- 165 1/22/2018 - 3105 - Ord Granting ...
Additional Text: ORDER GRANTING VERSA'S MOTION TO STRIKE MDB'S CROSS CLAIM; CROSS CLAIM DISMISSED - Transaction 6492566 - Approved By: NOREVIEW : 01-22-2018:16:16:30
- 166 1/22/2018 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 167 1/22/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6492571 - Approved By: NOREVIEW : 01-22-2018:16:17:29

- 168 2/8/2018 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 6522570 - Approved By: NOREVIEW : 02-08-2018:13:14:26
- 169 2/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6522574 - Approved By: NOREVIEW : 02-08-2018:13:15:16
- 170 2/9/2018 - 1950 - Memorandum of Costs
Additional Text: VERSA PRODUCTS COMPANY, INC VERIFIED MEMORANDUM OF COSTS - Transaction 6524284 - Approved By: SWILLIAM : 02-09-2018:09:49:47
- 171 2/9/2018 - 1950 - Memorandum of Costs
Additional Text: VERSA PRODUCTS COMPANY INC'S VERIFIED MEMORANDUM OF COSTS - Transaction 6524406 - Approved By: SWILLIAM : 02-09-2018:10:34:00
- 172 2/9/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6524476 - Approved By: NOREVIEW : 02-09-2018:09:51:11
- 173 2/9/2018 - 2010 - Mtn for Attorney's Fee
Additional Text: Transaction 6524529 - Approved By: PMSEWELL : 02-09-2018:11:02:30
- 174 2/9/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6524643 - Approved By: NOREVIEW : 02-09-2018:10:34:50
- 175 2/9/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6524777 - Approved By: NOREVIEW : 02-09-2018:11:03:38
- 176 2/20/2018 - 2430 - Mtn to Retax Costs
Additional Text: MOTION TO RETAX AND SETTLE VERSA'S VERIFIED MEMORANDUM OF COSTS - Transaction 6539629 - Approved By: PMSEWELL : 02-20-2018:14:08:45
- 177 2/20/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6539956 - Approved By: NOREVIEW : 02-20-2018:14:09:51
- 178 3/1/2018 - 2645 - Opposition to Mtn ...
Additional Text: CROSS-CLAIMANT MDB TRUCKING LLC'S OPPOSITION TO CROSS-DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 - Transaction 6557212 - Approved By: YVILORIA : 03-01-2018:15:27:05
- 179 3/1/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6557498 - Approved By: NOREVIEW : 03-01-2018:15:28:09
- 180 3/8/2018 - 2645 - Opposition to Mtn ...
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S OPPOSITION TO THIRD-PARTY PLAINTIFF MDG TRUCKING LLC'S MOTION TO RETAX AND SETTLE COSTS - Transaction 6567745 - Approved By: YVILORIA : 03-08-2018:13:26:33
- 181 3/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6567776 - Approved By: NOREVIEW : 03-08-2018:13:27:24
- 182 3/8/2018 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: Transaction 6568327 - Approved By: YVILORIA : 03-08-2018:15:10:16
- 183 3/8/2018 - SAB - **Supreme Court Appeal Bond
Additional Text: Transaction 6568344 - Approved By: YVILORIA : 03-08-2018:15:16:44
- 184 3/8/2018 - 1310 - Case Appeal Statement
Additional Text: Transaction 6568349 - Approved By: YVILORIA : 03-08-2018:15:10:39

- 185 3/8/2018 - PAYRC - **Payment Received
Additional Text: A Payment of \$34.00 was made on receipt DCDC602918.
- 186 3/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6568466 - Approved By: NOREVIEW : 03-08-2018:15:11:25
- 187 3/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6568467 - Approved By: NOREVIEW : 03-08-2018:15:11:35
- 188 3/8/2018 - PAYRC - **Payment Received
Additional Text: A Payment of \$500.00 was made on receipt DCDC602921.
- 189 3/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6568488 - Approved By: NOREVIEW : 03-08-2018:15:19:45
- 190 3/8/2018 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 6568794 - Approved By: NOREVIEW : 03-08-2018:16:22:53
- 191 3/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6568798 - Approved By: NOREVIEW : 03-08-2018:16:23:52
- 192 3/12/2018 - 3790 - Reply to/in Opposition
Additional Text: THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S REPLY TO MDB'S OPPOSITION TO ITS MOTION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 - Transaction 6571908 - Approved By: YVILORIA : 03-12-2018:11:19:33
- 193 3/12/2018 - 3860 - Request for Submission
Additional Text: Transaction 6571913 - Approved By: YVILORIA : 03-12-2018:11:21:24
DOCUMENT TITLE: THIRD-PARTY VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68
PARTY SUBMITTING: JOSH COLE AICKLEN ESQ
DATE SUBMITTED: MAR 12, 2018
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 194 3/12/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6571938 - Approved By: NOREVIEW : 03-12-2018:11:20:25
- 195 3/12/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6571943 - Approved By: NOREVIEW : 03-12-2018:11:22:15
- 196 3/13/2018 - 1188 - Supreme Court Receipt for Doc
Additional Text: SUPREME COURT NO. 75319 / RECEIPT FOR DOCUMENTS - Transaction 6574876 - Approved By: NOREVIEW : 03-13-2018:14:23:23
- 197 3/13/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6574882 - Approved By: NOREVIEW : 03-13-2018:14:24:35
- 198 3/14/2018 - 3347 - Ord to Set
Additional Text: ORDER TO SET HEARING ON MOTION FOR ATTORNEY FEES AND COSTS AND MOTION TO RETAX - Transaction 6577153 - Approved By: NOREVIEW : 03-14-2018:14:33:19
- 199 3/14/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6577156 - Approved By: NOREVIEW : 03-14-2018:14:34:07
- 200 3/14/2018 - S200 - Request for Submission Complet
No additional text exists for this entry.

- 201 3/19/2018 - 1250E - Application for Setting eFile
Additional Text: FOR HEARING ON MOTION FOR ATTORNEY FEES AND COSTS AND MOTION TO RETAX SET FOR APRIL 6, 2018, AT 10:00 A.M. - Transaction 6583005 - Approved By: NOREVIEW : 03-19-2018:10:54:20
- 202 3/19/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6583013 - Approved By: NOREVIEW : 03-19-2018:10:55:22
- 203 3/19/2018 - 3790 - Reply to/in Opposition
Additional Text: REPLY TO OPPOSITION TO MOTION TO RETAX COSTS - Transaction 6583804 - Approved By: YVILORIA : 03-19-2018:14:14:26
- 204 3/19/2018 - 3860 - Request for Submission
Additional Text: Transaction 6583812 - Approved By: YVILORIA : 03-19-2018:14:25:56
DOCUMENT TITLE: MDB TRUCKING LLC'S MOTION TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY INC'S
VERIFIED MEMORANDUM OF COSTS FILED 2-20-18
PARTY SUBMITTING: NICHOLAS WIECZOREK ESQ
DATE SUBMITTED: MAR 19, 2018
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 205 3/19/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6583912 - Approved By: NOREVIEW : 03-19-2018:14:15:54
- 206 3/19/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6584046 - Approved By: NOREVIEW : 03-19-2018:14:27:54
- 207 3/20/2018 - S200 - Request for Submission Complet
Additional Text: HEARING SET
- 208 4/6/2018 - MIN - ***Minutes
Additional Text: 4/6/18 - ORAL ARGUMENTS - Transaction 6616543 - Approved By: NOREVIEW : 04-06-2018:12:59:49
- 209 4/6/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6616547 - Approved By: NOREVIEW : 04-06-2018:13:00:59
- 210 5/21/2018 - 4185 - Transcript
Additional Text: 4/6/18 Hearing on Motion for Attorney's Fees and Motion to Retax - Transaction 6689158 - Approved By: NOREVIEW : 05-21-2018:12:23:22
- 211 5/21/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6689161 - Approved By: NOREVIEW : 05-21-2018:12:24:19
- 212 6/7/2018 - 3025 - Ord Granting/Denying in Part
Additional Text: ON VERSA'S MOTION FOR ATTORNEY FEES AND COSTS AND MDB TRUCKING'S MOTION TO RETAX COSTS - Transaction 6719088 - Approved By: NOREVIEW : 06-07-2018:16:35:50
- 213 6/7/2018 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 214 6/7/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6719096 - Approved By: NOREVIEW : 06-07-2018:16:37:00
- 215 6/13/2018 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 6725968 - Approved By: NOREVIEW : 06-13-2018:09:04:32
- 216 6/13/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6725971 - Approved By: NOREVIEW : 06-13-2018:09:05:30

- 217 7/13/2018 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: MBD TRUCKING, LLC - Transaction 6775521 - Approved By: CVERA : 07-13-2018:12:45:42
- 218 7/13/2018 - SAB - **Supreme Court Appeal Bond
Additional Text: Transaction 6775524 - Approved By: CVERA : 07-13-2018:12:47:14
- 219 7/13/2018 - 1310 - Case Appeal Statement
Additional Text: MDB TRUCKING, LLC - Transaction 6775525 - Approved By: CVERA : 07-13-2018:12:47:50
- 220 7/13/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$34.00 was made on receipt DCDC614505.
- 221 7/13/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6775556 - Approved By: NOREVIEW : 07-13-2018:12:46:53
- 222 7/13/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$500.00 was made on receipt DCDC614506.
- 223 7/13/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6775558 - Approved By: NOREVIEW : 07-13-2018:12:48:09
- 224 7/13/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6775561 - Approved By: NOREVIEW : 07-13-2018:12:48:49
- 225 7/13/2018 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 6776128 - Approved By: NOREVIEW : 07-13-2018:15:34:40

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

GENEVA M. REMMERDE,

Plaintiff,

Case No. CV16-00976

Dept. No. 10

vs.

MDB TRUCKING, LLC; et al.,

Defendants.

ORDER

Presently before the Court is the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 ("the Motion for Fees") filed by Third-Party Defendant VERSA PRODUCTS, INC. ("Versa") on February 9, 2018. Versa contemporaneously filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S VERIFIED MEMORANDUM OF COSTS ("the Memorandum of Costs"). Cross-Claimant MDB TRUCKING, LLC ("MDB") filed the CROSS-CLAIMANT MDB TRUCKING LLC'S OPPOSITION TO CROSS-DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 ("the Opposition to the Motion for Fees") on March 1, 2018. Versa filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S

1 REPLY TO MDB'S OPPOSITION TO ITS MOTION FOR ATTORNEYS' FEES AND COSTS
2 PURSUANT TO NRCP 37 AND NRCP 68 ("the Reply in Support of the Motion for Fees") on
3 March 12, 2018, and contemporaneously submitted the matter for the Court's consideration.

4 Also before the Court is the CROSS-CLAIMANT MDB TRUCKING LLC'S MOTION
5 TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY INC.'S
6 VERIFIED MEMORANDUM OF COSTS ("the Motion to Retax") filed by MDB on February 20,
7 2018. Versa filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S
8 OPPOSITION TO THIRD-PARTY PLAINTIFF MDB TRUCKING LLC'S MOTION TO
9 RETAX COSTS ("the Opposition to the Motion to Retax") on March 8, 2018. MDB filed the
10 REPLY TO OPPOSITION TO MOTION TO RETAX COSTS ("the Reply in Support of the
11 Motion to Retax") on March 19, 2018, and contemporaneously submitted the matter for the
12 Court's consideration. The Court heard oral argument on the Motion for Fees and the Motion to
13 Retax on April 6, 2018, at which time the Court took the matters under advisement.

14 This case arises from a personal injury action. A COMPLAINT ("the Complaint") was filed
15 by plaintiffs Ernest Bruce Fitzsimmons and Carol Fitzsimmons, on December 4, 2015 ("the
16 Fitzsimmons Action"). The Fitzsimmons Action was assigned Second Judicial District Court case
17 number CV15-02349. Numerous other plaintiffs were joined into the Fitzsimmons Action. Two
18 additional cases were filed and prosecuted outside of the Fitzsimmons Action: the instant case and
19 JAMES BIBLE V. MDB TRUCKING, LLC et al., CV16-01914 ("the Bible Action"). The instant
20 action was filed on May 2, 2016. The Bible Action was filed September 20, 2016. It is alleged in
21 all three actions that on July 7, 2014, Defendant Daniel Anthony Koski ("Koski"), while driving a
22 truck for MDB, negligently spilled a load of gravel into the roadway. The spilled gravel caused the
23 driving plaintiffs to lose control of their vehicles and numerous accidents occurred. The plaintiffs

1 sustained physical and emotional injuries as a result of the accidents. In response to the Complaint,
2 MDB filed a THIRD-PARTY COMPLAINT (“the MDB Cross-Claim”) June 22, 2016. The MDB
3 Cross-Claim had two causes of action relative to Versa: Implied Indemnification and
4 Contribution.¹ MDB alleges it was not Koski’s negligence that caused the gravel to spill; rather, the
5 spill was caused by the “unreasonably dangerous and defective” design and manufacture of the
6 trailer that held the gravel. The MDB Cross-Claim, 3:5-7. Therefore, MDB brought the Cross-
7 Claim against the manufacturers of the trailer and its components, including Versa. MDB avers
8 Versa produced a solenoid valve which would, “activate inadvertently allowing the gates to open
9 and release the load [of gravel] carried by the trailer.” The MDB Cross-Claim, 3:10-11. MDB also
10 claims there were safer alternatives available to Versa; the solenoid valve was unreasonably
11 dangerous and defective; and Versa failed to provide appropriate safety mechanisms regarding the
12 solenoid valve. The MDB Cross-Claim, 3:12-18.

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15 The Court entered an ORDER (“the January Order”) on January 22, 2018, granting the
16 THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.’S MOTION TO STRIKE
17 DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC’S THIRD-PARTY
18 COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE, FOR AN ADVERSE
19 JURY INSTRUCTION (“the Motion to Strike”).² The Court found MDB’s disposal of the
20 electrical systems that control the solenoid which operated the Versa valve crippled Versa’s ability
21 to present its case. As a result, the Court dismissed MDB’s sole remaining claim against Versa.
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26 ¹ Versa filed THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY INC.’S MOTION TO DISMISS
27 THIRD-PARTY PLAINTIFF, MDB TRUCKING, LLC’S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY
PURSUANT TO NRCP 12(B)(5) (“the MTD”) on July 19, 2016. The Court granted the MTD on October 19, 2016.

28 ² The Court incorporated by reference the ORDER entered December 22, 2017 (“the December Order”), on identical
issues in the Fitzsimmons Action.

1 The Court finds Versa is not entitled to an award of attorneys' fees. In general, a district
2 court may not award "attorney fees... unless authorized to do so by a statute, rule or contract."
3 *U.S. Design & Constr. v. I.B.W.W. Local 357*, 118 Nev. 458, 462, 50 P.3d 170, 173 (2002). NRCP
4 68 provides:

5
6 (a) The Offer. At any time more than 10 days before trial, any party may serve an
7 offer in writing to allow judgment to be taken in accordance with its terms and
8 conditions.

9 ...

10 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to obtain a
11 more favorable judgment,

12 (1) the offeree cannot recover any costs or attorney's fees and shall not recover
13 interest for the period after the service of the offer and before the judgment;
14 and

15 (2) the offeree shall pay the offeror's post-offer costs, applicable interest on
16 the judgment from the time of the offer to the time of entry of the judgment
17 and reasonable attorney's fees, if any be allowed, actually incurred by the
18 offeror from the time of the offer....

19 An award of attorney's fees and costs pursuant to NRCP 68 requires an evaluation of the
20 following factors:

21 (1) whether the plaintiff's claim was brought in good faith; (2) whether the
22 defendants' offer of judgment was reasonable and in good faith in both its timing and
23 amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was
24 grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror
25 are reasonable and justified in amount.

26 *Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). A court may only award
27 reasonable attorney's fees. The following factors are to be examined in determining whether the
28 fees sought are reasonable:

(1) the qualities of the advocate: his ability, his training, education, experience, professional
standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its
importance, time and skill required, the responsibility imposed and the prominence and

1 character of the parties where they affect the importance of the litigation; (3) the work
2 actually performed by the lawyer: the skill, time and attention given to the work; (4) the
3 result: whether the attorney was successful and what benefits were derived.

4 *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

5 Versa served MDB with an offer of judgment for \$1,000.00 per plaintiff (“the Initial Offer”)
6 on May 4, 2017. The Motion for Fees, Exhibit 1. The following day, the parties attended
7 mediation. The Motion for Fees, 6:20-21. At mediation, MDB demanded \$175,000.00 from Versa
8 and another cross-defendant, RMC LAMAR HOLDING, INC. (“Ranco”), the manufacturer of the
9 trailer. TRANSCRIPT OF PROCEEDINGS, HEARING ON MOTION FOR ATTORNEY FEES
10 AND COSTS AND MOTION TO RETAX, April 6, 2018 (“Transcript”), 10:4-10. Versa offered
11 \$100,000.00, and Ranco offered \$50,000.00 (“the Mediation Offer”). MDB rejected the Mediation
12 Offer, and indicated MDB would settle for no less than \$175,000.00 from Versa and Ranco.
13 Transcript, 10:13-15. The Motion for Fees alleges Versa telephoned MDB approximately two
14 business days later offering to settle for \$175,000.00 (“the Final Offer”). The Motion for Fees, 7:2-
15 3. At oral argument the Court queried MDB about the Final Offer. The Court took a brief recess to
16 allow counsel for MDB to call co-counsel for details on the specifics of the Final Offer. Transcript,
17 31:7-14. MDB conceded Versa made the Final Offer, and that it was made “in close proximity” to
18 the mediation. Transcript, 32:2-15. MDB contends the Final Offer was not for \$175,000.00,
19 although co-counsel could not recall the specific amount. Transcript, 32:3-8.

20 Versa is not entitled to an award of attorneys’ fees pursuant to NRCP 68. MDB’s claim was
21 brought in good faith. Further, the Court finds it was not unreasonable for MDB to reject the Initial
22 Offer. The Opposition to the Motion for Fees argues the Initial Offer was unreasonable because it
23 “amounted to less than one half of one percent (0.005) of the total settlement amount MDB paid to
24 plaintiffs....” The Opposition to the Motion for Fees, 7:2-3. The Court agrees. The fact Versa
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1 made an offer of \$100,000.00 one day later and was willing to meet MDB's full demand two
2 business days later clearly demonstrates the Initial Offer of \$1,000.00 per plaintiff was
3 unreasonable and not made in good faith. MDB's decision to reject the Mediation Offer and
4 especially the Final Offer were unreasonable, but those rejections cannot be the basis for awarding
5 Versa attorneys' fees. NRCP 68 applies to *written* offers. The Court has been presented with no
6 document evincing the Mediation Offer or the Final Offer were reduced to writing. An analysis of
7 the first three *Beattie* factors leads to the conclusion Versa is not entitled to fees pursuant to NRCP
8 68; therefore, a *Brunzell* analysis of the reasonableness of the fees requested is unnecessary.³

11 The Motion for Fees avers Versa is entitled to attorneys' fees pursuant to NRCP 37 because
12 the December Order issued case-concluding sanctions against MDB. NRCP 37 provides:

13 (b) Failure to Comply With Order.

14 ...

15
16 (2) Sanctions--Party. If a party or an officer, director, or managing
17 agent of a party or a person designated under Rule 30(b)(6) or 31(a) to
18 testify on behalf of a party fails to obey an order to provide or permit
19 discovery, including an order made under subdivision (a) of this rule
20 or Rule 35, or if a party fails to obey an order entered under Rules 16,
21 16.1, and 16.2 the court in which the action is pending may make such
22 orders in regard to the failure as are just, and among others the
23 following:

24 ...

25 (C) An order striking out pleadings or parts thereof, or staying
26 further proceedings until the order is obeyed, or dismissing the
27 action or proceeding or any part thereof, or rendering a
28 judgment by default against the disobedient party;

29 ...

³ The Court would conclude, should it be necessary, the fees requested were reasonable and would satisfy the *Brunzell* factors.

1 In lieu of any of the foregoing orders or in addition thereto, the court shall require the
2 party failing to obey the order or the attorney advising that party or both to pay the
3 reasonable expenses, including attorney's fees, caused by the failure, unless the court
4 finds that the failure was substantially justified or that other circumstances make an
award of expenses unjust.

5 The Court finds an award of attorneys' fees would be unjust. Case-concluding sanctions
6 against MDB was a windfall for Versa. The Motion for Fees argues, "there is no substantial
7 justification for MDB's failure to preserve the evidence other than to obstruct discovery and
8 frustrate the progress of this litigation." The Motion for Fees, 8:26-28. However, the December
9 Order made clear "the Court does not find MDB intentionally disposed of the components in order
10 to harm Versa, nor were MDB's employees acting with any malevolence...." The December Order,
11 8:20-22. MDB did not intend to "obstruct discovery and frustrate the progress of this litigation" as
12 the Motion suggests. Although dismissal of MDB's claim against Versa was warranted, it was a
13 severe sanction. Further sanctions would be unjust.
14

15 The Court finds the amount of costs requested is reasonable. District Courts have "wide, but
16 not unlimited, discretion to award costs to prevailing parties." *Cadle Co. v. Woods & Erickson,*
17 *LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049, 1054 (2015), *recently upheld by Golightly & Vannah,*
18 *PLLC v. TJ Allen, LLC*, 132 Nev. Adv. Op. 41, 373 P.3d 103, 107 (2016). Costs awarded "must be
19 reasonable, necessary, and actually incurred." *Id.* NRS 18.020 explains a prevailing party may, as
20 a matter of course, recover costs from an adverse party against whom judgment is rendered in
21 certain actions. These actions include those for recovery of money or damages exceeding
22 \$2,500.00, and those that involve the title or boundaries of real estate. NRS 18.020(3); NRS
23 18.020(5). The specific costs that may be recovered by a prevailing party are enumerated in the
24 statute. In pertinent part, costs allowed are as follows: "Reporters' fees for depositions, including a
25 reporter's fee for one copy of each deposition," NRS 18.005(2); "Fees for ... deposing witnesses,
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1 unless the court finds that the witness was called without reason or necessity,” *Id.* at (4);
2 “Reasonable fees of not more than five expert witnesses in an amount not more than \$1,500.00 for
3 each witness, unless the court allows a larger fee after determining the circumstances surrounding
4 the expert’s testimony were of such a necessity as to require a larger fee,” *Id.* at (5); “The fee of any
5 sheriff or licensed process server for the delivery of service of any summons or subpoena used in
6 the action, unless the court determines that the service was not necessary,” *Id.* at (7); “Reasonable
7 costs for photocopies,” *Id.* at (12); “Any other reasonable and necessary expense incurred in
8 connection with the action, including reasonable and necessary expenses for computerized services
9 for legal research.” *Id.* at (17). It is within a court’s sound discretion to allow a reasonable award of
10 either part or all of the prevailing party’s costs, and to apportion the costs between the parties. NRS
11 18.050; *see also Bergmann v. Boyce*, 109 Nev. 670, 679, 856 P.2d 560, 566 (1993); *Cadle Co.*, 131
12 Nev. Adv. Op. 15, 345 P.3d at 1054. However, statutes that allow recovery of costs must be strictly
13 construed. *Bergmann*, 109 Nev. at 679, 856 P.2d at 566. Accordingly, a court’s discretion should
14 be “sparingly exercised” when it considers whether or not to award expenses that are “not
15 specifically allowed by statute and precedent.” *Bergman*, 109 Nev. at 679, 856 P.2d at 566.

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19 In order for a court to make an award of costs, the party seeking costs must file with the
20 clerk and serve upon the adverse party a verified memorandum of costs. NRS 18.110(1). Beyond
21 the memorandum of costs, the prevailing party must also provide the court with evidence, or
22 “justifying documentation,” which demonstrates how the costs being sought were “reasonable,
23 necessary, and actually incurred” in the action. *Cadle Co.*, 131 Nev. Adv. Op. 15, 345 P.3d at
24 1054. Accordingly, appropriate “justifying documentation must mean something more than a
25 memorandum of costs.” *Id.* Without such documentation, a court may not award costs. *Id.* If the
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1 party against whom costs are sought wishes to dispute the costs, they must make a motion to the
2 court within three days of the memorandum's filing. NRS 18.110(4). Once in receipt of that
3 motion, the Court will be allowed to settle the costs. *Id.*

4
5 The Motion to Retax argues Versa should not be permitted to recover costs incurred
6 subsequent to Versa's offer of judgment. This argument is without merit. The Reply in Support of
7 the Motion to Retax concedes an award of costs is not limited to those incurred after an offer of
8 judgment; rather, it argues the Opposition to the Motion to Retax contradicts the Memorandum of
9 Costs and the Motion for Fees. The Reply in Support of the Motion to Retax, 5:22-26. It alleges
10 the Memorandum of Costs and the Motion for Fees indicate the only costs sought are those incurred
11 subsequent to the offer of judgment. The Court finds no such contradiction warranting the retaxing
12 of costs on this basis.

13
14 It is hereby **ORDERED** the THIRD-PARTY DEFENDANT VERSA PRODUCTS
15 COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO
16 NRCP 37 AND NRCP 68 is **GRANTED IN PART AND DENIED IN PART**. Versa's request
17 for attorneys' fees is denied. MDB shall pay Versa's costs as set forth below.

18
19 It is **FURTHER ORDERED** the CROSS-CLAIMANT MDB TRUCKING LLC'S
20 MOTION TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY
21 INC.'S VERIFIED MEMORANDUM OF COSTS is **DENIED**. MDB is ordered to pay costs in
22 the amount of \$413.00.

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24 DATED this 7 day of June, 2018.

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27 ELLIOTT A. SATTLER
28 District Judge

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8 Attorneys for Third-Party Defendant VERSA
PRODUCTS COMPANY, INC.
9

10 DISTRICT COURT
11 WASHOE COUNTY, NEVADA

12 GENEVA M. REMMERDE,

13 Plaintiff,

14 vs.

15 DANIEL ANTHONY KOSKI; MDB
16 TRUCKING, LLC; DOES I-X and ROE I-V,

17 Defendants.

18 AND ALL RELATED CASES.
19
20

Case No. CV16-00976

Dept. 10

NOTICE OF ENTRY

21 TO: ALL INTERESTED PARTIES:

22 ///

23 ///

1 PLEASE TAKE NOTICE that the Order was entered by the above-entitled Court on
2 the 7th day of June, 2018, a copy of which is attached hereto as Exhibit 1 and made a part
3 hereof.

4 AFFIRMATION

5 Pursuant to NRS 239B.030, the undersigned hereby affirms that this document
6 filed in this court does not contain the social security number of any person.

7 DATED this 13th day of June, 2018

8 Respectfully Submitted,

9 LEWIS BRISBOIS BISGAARD & SMITH LLP

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12

By /s/ Josh Cole Aicklen

13

JOSH COLE AICKLEN
Nevada Bar No. 007254

14

DAVID B. AVAKIAN
Nevada Bar No. 009502

15

PAIGE S. SHREVE
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16

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17

Attorneys for Defendant/Cross-Defendant
VERSA PRODUCTS COMPANY, INC.

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LIST OF EXHIBITS

Exhibit 1

Order

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 2018 a true and correct copy of NOTICE OF ENTRY was served via the Court's electronic e-filing system addressed as follows:

Matthew C. Addison, Esq.
McDONALD CARANO WILSON LLP
100 W. Liberty St., 10th Floor
Reno, NV 89501
RMC LAMAR HOLDINGS, INC.

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Las Vegas, NV 89169
Attorneys for MDB TRUCKING, LLC and
DANIEL ANTHONY KOSKI

/s/ Susan Kingsbury
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT 1

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

GENEVA M. REMMERDE,

Plaintiff,

Case No. CV16-00976

Dept. No. 10

vs.

MDB TRUCKING, LLC; et al.,

Defendants.

ORDER

Presently before the Court is the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 ("the Motion for Fees") filed by Third-Party Defendant VERSA PRODUCTS, INC. ("Versa") on February 9, 2018. Versa contemporaneously filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S VERIFIED MEMORANDUM OF COSTS ("the Memorandum of Costs"). Cross-Claimant MDB TRUCKING, LLC ("MDB") filed the CROSS-CLAIMANT MDB TRUCKING LLC'S OPPOSITION TO CROSS-DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCP 37 AND NRCP 68 ("the Opposition to the Motion for Fees") on March 1, 2018. Versa filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S

1 REPLY TO MDB'S OPPOSITION TO ITS MOTION FOR ATTORNEYS' FEES AND COSTS
2 PURSUANT TO NRCP 37 AND NRCP 68 ("the Reply in Support of the Motion for Fees") on
3 March 12, 2018, and contemporaneously submitted the matter for the Court's consideration.
4

5 Also before the Court is the CROSS-CLAIMANT MDB TRUCKING LLC'S MOTION
6 TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY INC.'S
7 VERIFIED MEMORANDUM OF COSTS ("the Motion to Retax") filed by MDB on February 20,
8 2018. Versa filed the THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S
9 OPPOSITION TO THIRD-PARTY PLAINTIFF MDB TRUCKING LLC'S MOTION TO
10 RETAX COSTS ("the Opposition to the Motion to Retax") on March 8, 2018. MDB filed the
11 REPLY TO OPPOSITION TO MOTION TO RETAX COSTS ("the Reply in Support of the
12 Motion to Retax") on March 19, 2018, and contemporaneously submitted the matter for the
13 Court's consideration. The Court heard oral argument on the Motion for Fees and the Motion to
14 Retax on April 6, 2018, at which time the Court took the matters under advisement.
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17 This case arises from a personal injury action. A COMPLAINT ("the Complaint") was filed
18 by plaintiffs Ernest Bruce Fitzsimmons and Carol Fitzsimmons, on December 4, 2015 ("the
19 Fitzsimmons Action"). The Fitzsimmons Action was assigned Second Judicial District Court case
20 number CV15-02349. Numerous other plaintiffs were joined into the Fitzsimmons Action. Two
21 additional cases were filed and prosecuted outside of the Fitzsimmons Action: the instant case and
22 JAMES BIBLE V. MDB TRUCKING, LLC et al., CV16-01914 ("the Bible Action"). The instant
23 action was filed on May 2, 2016. The Bible Action was filed September 20, 2016. It is alleged in
24 all three actions that on July 7, 2014, Defendant Daniel Anthony Koski ("Koski"), while driving a
25 truck for MDB, negligently spilled a load of gravel into the roadway. The spilled gravel caused the
26 driving plaintiffs to lose control of their vehicles and numerous accidents occurred. The plaintiffs
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28

1 sustained physical and emotional injuries as a result of the accidents. In response to the Complaint,
2 MDB filed a THIRD-PARTY COMPLAINT (“the MDB Cross-Claim”) June 22, 2016. The MDB
3 Cross-Claim had two causes of action relative to Versa: Implied Indemnification and
4 Contribution.¹ MDB alleges it was not Koski’s negligence that caused the gravel to spill; rather, the
5 spill was caused by the “unreasonably dangerous and defective” design and manufacture of the
6 trailer that held the gravel. The MDB Cross-Claim, 3:5-7. Therefore, MDB brought the Cross-
7 Claim against the manufacturers of the trailer and its components, including Versa. MDB avers
8 Versa produced a solenoid valve which would, “activate inadvertently allowing the gates to open
9 and release the load [of gravel] carried by the trailer.” The MDB Cross-Claim, 3:10-11. MDB also
10 claims there were safer alternatives available to Versa; the solenoid valve was unreasonably
11 dangerous and defective; and Versa failed to provide appropriate safety mechanisms regarding the
12 solenoid valve. The MDB Cross-Claim, 3:12-18.

15 The Court entered an ORDER (“the January Order”) on January 22, 2018, granting the
16 THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.’S MOTION TO STRIKE
17 DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC’S THIRD-PARTY
18 COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE, FOR AN ADVERSE
19 JURY INSTRUCTION (“the Motion to Strike”).² The Court found MDB’s disposal of the
20 electrical systems that control the solenoid which operated the Versa valve crippled Versa’s ability
21 to present its case. As a result, the Court dismissed MDB’s sole remaining claim against Versa.
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26 ¹ Versa filed THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY INC.’S MOTION TO DISMISS
27 THIRD-PARTY PLAINTIFF, MDB TRUCKING, LLC’S THIRD CAUSE OF ACTION FOR IMPLIED INDEMNITY
PURSUANT TO NRCP 12(B)(5) (“the MTD”) on July 19, 2016. The Court granted the MTD on October 19, 2016.

28 ² The Court incorporated by reference the ORDER entered December 22, 2017 (“the December Order”), on identical
issues in the Fitzsimmons Action.

1 The Court finds Versa is not entitled to an award of attorneys' fees. In general, a district
2 court may not award "attorney fees... unless authorized to do so by a statute, rule or contract."
3 *U.S. Design & Constr. v. I.B.W.W. Local 357*, 118 Nev. 458, 462, 50 P.3d 170, 173 (2002). NRCP
4 68 provides:

5
6 (a) The Offer. At any time more than 10 days before trial, any party may serve an
7 offer in writing to allow judgment to be taken in accordance with its terms and
8 conditions.

9 ...

10 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to obtain a
11 more favorable judgment,

12 (1) the offeree cannot recover any costs or attorney's fees and shall not recover
13 interest for the period after the service of the offer and before the judgment;
14 and

15 (2) the offeree shall pay the offeror's post-offer costs, applicable interest on
16 the judgment from the time of the offer to the time of entry of the judgment
17 and reasonable attorney's fees, if any be allowed, actually incurred by the
18 offeror from the time of the offer....

19 An award of attorney's fees and costs pursuant to NRCP 68 requires an evaluation of the
20 following factors:

21 (1) whether the plaintiff's claim was brought in good faith; (2) whether the
22 defendants' offer of judgment was reasonable and in good faith in both its timing and
23 amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was
24 grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror
25 are reasonable and justified in amount.

26 *Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). A court may only award
27 reasonable attorney's fees. The following factors are to be examined in determining whether the
28 fees sought are reasonable:

(1) the qualities of the advocate: his ability, his training, education, experience, professional
standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its
importance, time and skill required, the responsibility imposed and the prominence and

1 character of the parties where they affect the importance of the litigation; (3) the work
2 actually performed by the lawyer: the skill, time and attention given to the work; (4) the
3 result: whether the attorney was successful and what benefits were derived.

4 *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

5 Versa served MDB with an offer of judgment for \$1,000.00 per plaintiff ("the Initial Offer")
6 on May 4, 2017. The Motion for Fees, Exhibit 1. The following day, the parties attended
7 mediation. The Motion for Fees, 6:20-21. At mediation, MDB demanded \$175,000.00 from Versa
8 and another cross-defendant, RMC LAMAR HOLDING, INC. ("Ranco"), the manufacturer of the
9 trailer. TRANSCRIPT OF PROCEEDINGS, HEARING ON MOTION FOR ATTORNEY FEES
10 AND COSTS AND MOTION TO RETAX, April 6, 2018 ("Transcript"), 10:4-10. Versa offered
11 \$100,000.00, and Ranco offered \$50,000.00 ("the Mediation Offer"). MDB rejected the Mediation
12 Offer, and indicated MDB would settle for no less than \$175,000.00 from Versa and Ranco.
13 Transcript, 10:13-15. The Motion for Fees alleges Versa telephoned MDB approximately two
14 business days later offering to settle for \$175,000.00 ("the Final Offer"). The Motion for Fees, 7:2-
15 3. At oral argument the Court queried MDB about the Final Offer. The Court took a brief recess to
16 allow counsel for MDB to call co-counsel for details on the specifics of the Final Offer. Transcript,
17 31:7-14. MDB conceded Versa made the Final Offer, and that it was made "in close proximity" to
18 the mediation. Transcript, 32:2-15. MDB contends the Final Offer was not for \$175,000.00,
19 although co-counsel could not recall the specific amount. Transcript, 32:3-8.

20 Versa is not entitled to an award of attorneys' fees pursuant to NRCP 68. MDB's claim was
21 brought in good faith. Further, the Court finds it was not unreasonable for MDB to reject the Initial
22 Offer. The Opposition to the Motion for Fees argues the Initial Offer was unreasonable because it
23 "amounted to less than one half of one percent (0.005) of the total settlement amount MDB paid to
24 plaintiffs...." The Opposition to the Motion for Fees, 7:2-3. The Court agrees. The fact Versa
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1 made an offer of \$100,000.00 one day later and was willing to meet MDB's full demand two
2 business days later clearly demonstrates the Initial Offer of \$1,000.00 per plaintiff was
3 unreasonable and not made in good faith. MDB's decision to reject the Mediation Offer and
4 especially the Final Offer were unreasonable, but those rejections cannot be the basis for awarding
5 Versa attorneys' fees. NRCP 68 applies to *written* offers. The Court has been presented with no
6 document evincing the Mediation Offer or the Final Offer were reduced to writing. An analysis of
7 the first three *Beattie* factors leads to the conclusion Versa is not entitled to fees pursuant to NRCP
8 68; therefore, a *Brunzell* analysis of the reasonableness of the fees requested is unnecessary.³

9
10
11 The Motion for Fees avers Versa is entitled to attorneys' fees pursuant to NRCP 37 because
12 the December Order issued case-concluding sanctions against MDB. NRCP 37 provides:

13 (b) Failure to Comply With Order.

14 ...

15
16 (2) Sanctions--Party. If a party or an officer, director, or managing
17 agent of a party or a person designated under Rule 30(b)(6) or 31(a) to
18 testify on behalf of a party fails to obey an order to provide or permit
19 discovery, including an order made under subdivision (a) of this rule
20 or Rule 35, or if a party fails to obey an order entered under Rules 16,
21 16.1, and 16.2 the court in which the action is pending may make such
22 orders in regard to the failure as are just, and among others the
23 following:

24 ...

25 (C) An order striking out pleadings or parts thereof, or staying
26 further proceedings until the order is obeyed, or dismissing the
27 action or proceeding or any part thereof, or rendering a
28 judgment by default against the disobedient party;

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³ The Court would conclude, should it be necessary, the fees requested were reasonable and would satisfy the *Brunzell* factors.

1 In lieu of any of the foregoing orders or in addition thereto, the court shall require the
2 party failing to obey the order or the attorney advising that party or both to pay the
3 reasonable expenses, including attorney's fees, caused by the failure, unless the court
4 finds that the failure was substantially justified or that other circumstances make an
award of expenses unjust.

5 The Court finds an award of attorneys' fees would be unjust. Case-concluding sanctions
6 against MDB was a windfall for Versa. The Motion for Fees argues, "there is no substantial
7 justification for MDB's failure to preserve the evidence other than to obstruct discovery and
8 frustrate the progress of this litigation." The Motion for Fees, 8:26-28. However, the December
9 Order made clear "the Court does not find MDB intentionally disposed of the components in order
10 to harm Versa, nor were MDB's employees acting with any malevolence...." The December Order,
11 8:20-22. MDB did not intend to "obstruct discovery and frustrate the progress of this litigation" as
12 the Motion suggests. Although dismissal of MDB's claim against Versa was warranted, it was a
13 severe sanction. Further sanctions would be unjust.
14

15 The Court finds the amount of costs requested is reasonable. District Courts have "wide, but
16 not unlimited, discretion to award costs to prevailing parties." *Cadle Co. v. Woods & Erickson,*
17 *LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049, 1054 (2015), *recently upheld by Golightly & Vannah,*
18 *PLLC v. TJ Allen, LLC*, 132 Nev. Adv. Op. 41, 373 P.3d 103, 107 (2016). Costs awarded "must be
19 reasonable, necessary, and actually incurred." *Id.* NRS 18.020 explains a prevailing party may, as
20 a matter of course, recover costs from an adverse party against whom judgment is rendered in
21 certain actions. These actions include those for recovery of money or damages exceeding
22 \$2,500.00, and those that involve the title or boundaries of real estate. NRS 18.020(3); NRS
23 18.020(5). The specific costs that may be recovered by a prevailing party are enumerated in the
24 statute. In pertinent part, costs allowed are as follows: "Reporters' fees for depositions, including a
25 reporter's fee for one copy of each deposition," NRS 18.005(2); "Fees for... deposing witnesses,
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1 unless the court finds that the witness was called without reason or necessity," *Id.* at (4);
2 "Reasonable fees of not more than five expert witnesses in an amount not more than \$1,500.00 for
3 each witness, unless the court allows a larger fee after determining the circumstances surrounding
4 the expert's testimony were of such a necessity as to require a larger fee," *Id.* at (5); "The fee of any
5 sheriff or licensed process server for the delivery of service of any summons or subpoena used in
6 the action, unless the court determines that the service was not necessary," *Id.* at (7); "Reasonable
7 costs for photocopies," *Id.* at (12); "Any other reasonable and necessary expense incurred in
8 connection with the action, including reasonable and necessary expenses for computerized services
9 for legal research," *Id.* at (17). It is within a court's sound discretion to allow a reasonable award of
10 either part or all of the prevailing party's costs, and to apportion the costs between the parties. NRS
11 18.050; *see also Bergmann v. Boyce*, 109 Nev. 670, 679, 856 P.2d 560, 566 (1993); *Cadle Co.*, 131
12 Nev. Adv. Op. 15, 345 P.3d at 1054. However, statutes that allow recovery of costs must be strictly
13 construed. *Bergmann*, 109 Nev. at 679, 856 P.2d at 566. Accordingly, a court's discretion should
14 be "sparingly exercised" when it considers whether or not to award expenses that are "not
15 specifically allowed by statute and precedent." *Bergman*, 109 Nev. at 679, 856 P.2d at 566.

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19 In order for a court to make an award of costs, the party seeking costs must file with the
20 clerk and serve upon the adverse party a verified memorandum of costs. NRS 18.110(1). Beyond
21 the memorandum of costs, the prevailing party must also provide the court with evidence, or
22 "justifying documentation," which demonstrates how the costs being sought were "reasonable,
23 necessary, and actually incurred" in the action. *Cadle Co.*, 131 Nev. Adv. Op. 15, 345 P.3d at
24 1054. Accordingly, appropriate "justifying documentation must mean something more than a
25 memorandum of costs." *Id.* Without such documentation, a court may not award costs. *Id.* If the
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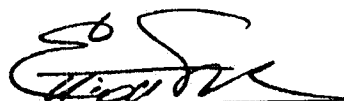
1 party against whom costs are sought wishes to dispute the costs, they must make a motion to the
2 court within three days of the memorandum's filing. NRS 18.110(4). Once in receipt of that
3 motion, the Court will be allowed to settle the costs. *Id.*

4
5 The Motion to Retax argues Versa should not be permitted to recover costs incurred
6 subsequent to Versa's offer of judgment. This argument is without merit. The Reply in Support of
7 the Motion to Retax concedes an award of costs is not limited to those incurred after an offer of
8 judgment; rather, it argues the Opposition to the Motion to Retax contradicts the Memorandum of
9 Costs and the Motion for Fees. The Reply in Support of the Motion to Retax, 5:22-26. It alleges
10 the Memorandum of Costs and the Motion for Fees indicate the only costs sought are those incurred
11 subsequent to the offer of judgment. The Court finds no such contradiction warranting the retaxing
12 of costs on this basis.

13
14 It is hereby **ORDERED** the THIRD-PARTY DEFENDANT VERSA PRODUCTS
15 COMPANY, INC.'S MOTION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO
16 NRCP 37 AND NRCP 68 is **GRANTED IN PART AND DENIED IN PART**. Versa's request
17 for attorneys' fees is denied. MDB shall pay Versa's costs as set forth below.

18
19 It is **FURTHER ORDERED** the CROSS-CLAIMANT MDB TRUCKING LLC'S
20 MOTION TO RETAX AND SETTLE CROSS-DEFENDANT VERSA PRODUCTS COMPANY
21 INC.'S VERIFIED MEMORANDUM OF COSTS is **DENIED**. MDB is ordered to pay costs in
22 the amount of \$413.00.

23
24 DATED this 7 day of June, 2018.

25
26 
27 ELLIOTT A. SATTLER
28 District Judge

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CASE NO. CV15-01337	<u>OLIVIA JOHN ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV15-02349	<u>FITZSIMMONS ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00519	<u>JULIE KINS VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00626	<u>CROSSLAND ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00976	<u>GENEVA REMMERDE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01087	<u>STATE FARM VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01335	<u>CORTHELL ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01410	<u>JOSE NACULANGGA VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01914	<u>JAMES BIBLE VS. MDB TRUCKING, LLC ETAL</u>

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Page 1

APPEARANCES-HEARING

11/4/16
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

STATUS HEARING

9:04 a.m. – Court convened.

Counsel present on behalf of the Plaintiffs:

Joseph Bradley, Esq., was present on behalf of Plaintiffs Ernest & Carol Fitzsimmons.
Sarah Quigley, Esq., was present on behalf of Plaintiffs Angela Wilt, Benjamin & Rosa Robles, Julie Kins, and Geneva Remmerde.

Terry Friedman, Esq., was present on behalf of Plaintiff Olivia John.

Craig Murphy, Esq., was present on behalf of Plaintiffs Christy & Shawn Corthell.

James Sloan, Esq., was present on behalf of Plaintiff James Bible.

Kevin Berry, Esq., was present on behalf of Plaintiffs Beverly, Patrick & Ryan Crossland.

Riley Clayton, Esq., was present on behalf of Plaintiff State Farm Mutual Auto Insurance Company.

Counsel present on behalf of the Defendants:

Brian Brown, Esq., was present on behalf of Defendants, MDB Trucking, LLC and Daniel A. Koski.

Paige Shreve, Esq., was present on behalf of Defendant Versa Products Company, Inc.

Lisa Zastrow, Esq., was present on behalf of Defendants The Modern Group GP-SUB, Inc., and Dragon ESP, Ltd.

Jessica Woelfel, Esq., was present on behalf of Defendant RMC Lamar Holdings, Inc.

Stephen Kent, Esq., was present on behalf of Defendant MDB Trucking, LLC, in CV16-01087.

Brent Harsh, Esq., was present on behalf of Defendant Vicki Meissner.

COURT reviewed the procedural history of the cases, noting that they were assigned to various departments throughout the Second Judicial District Court, and Chief Judge Flanagan decided that it would be more prudent for all cases to be handled by a single department, and therefore all cases have been transferred to this Court; and he further noted that if any other actions are filed in Washoe County as a result of the July 2014 incident, they will be assigned to Department Ten.

CASE NO. CV15-01337	<u>OLIVIA JOHN ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV15-02349	<u>FITZSIMMONS ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00519	<u>JULIE KINS VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00626	<u>CROSSLAND ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00976	<u>GENEVA REMMERDE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01087	<u>STATE FARM VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01335	<u>CORTHELL ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01410	<u>JOSE NACULANGGA VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01914	<u>JAMES BIBLE VS. MDB TRUCKING, LLC ETAL</u>

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Page 2

APPEARANCES-HEARING

11/4/16
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

STATUS HEARING

Counsel Clayton advised the Court that the State Farm case (CV16-01087) has been settled, and he will be getting settlement documents to the Court within the next couple of weeks. **COURT** excused counsel Clayton from the remainder of the hearing. Counsel Kent concurred with counsel Clayton regarding CV16-01087, however noted that he has filed a new case regarding the carriers, in which MDB Trucking is the Plaintiff, and all clients present today have been named in the new lawsuit; and he further advised the Court that it is his intention today to get the parties served, and to perhaps set up a global mediation.

At this point in the hearing, the Clerk determined that the new case number is CV16-02091, MDB Trucking, LLC etal vs. Financial Pacific Insurance Company etal, and it is assigned to Department Eight.

COURT advised the parties that his Judicial Assistant has been contacted by the Clerk, and she is working on getting CV16-02091 transferred to Department 10. Counsel Brown advised the Court that he has not been served in CV16-01410, and therefore he is not appearing in that case.

COURT noted that no parties have been served in CV16-01410; and he further reviewed the procedural history of the cases.

Discussion ensued between the Court and counsel Bradley regarding the trial date set in CV15-02349, which was originally set for March 20, 2017, in Department Fifteen, however when the case was transferred to Department Ten, the March 20, 2017, date was vacated.

Upon questioning by the Court, counsel Bradley indicated that they would not object to some of the other cases being consolidated into their case.

Discussion ensued between the Court and respective counsel regarding consolidation of the cases.

Counsel Brown presented the Court and respective counsel with a draft of proposed discovery deadlines; and he further gave the Court information regarding the incident that occurred in these cases, which is why he believes that there will be 2 phases of discovery – first to determine why the gravel was on the road, and second to determine damages. Counsel Brown requested that the Court eventually enter an order which will guide the discovery process as the cases move forward.

CASE NO. CV15-01337	<u>OLIVIA JOHN ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV15-02349	<u>FITZSIMMONS ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00519	<u>JULIE KINS VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00626	<u>CROSSLAND ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00976	<u>GENEVA REMMERDE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01087	<u>STATE FARM VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01335	<u>CORTHELL ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01410	<u>JOSE NACULANGGA VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01914	<u>JAMES BIBLE VS. MDB TRUCKING, LLC ETAL</u>

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Page 3

APPEARANCES-HEARING

11/4/16
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

STATUS HEARING

COURT noted that he is aware that the parties were granted a preferential trial setting in CV15-02349; further discussion ensued regarding the March 20, 2017, trial date that was set in Department Fifteen, prior to the case being transferred to Department Ten. Discussion then ensued between the Court and respective counsel regarding the possibility of settlement work.

Counsel Brown indicated that the parties have been working together very well, and he suggested that the Court require them to submit a joint status report.

COURT ORDERED: A Joint Status Report shall be filed by 5:00 p.m. on Wednesday, November 16, 2016; all parties must participate in the Joint Status Report (with the exception of the Naculangga matter.)

COURT FURTHER ORDERED: The previous trial date set in CV15-02349 shall be maintained, and therefore a ten (10) day Jury Trial shall be set in CV15-02349 for March 20, 2017, at 8:30 a.m., in Department Ten.

Counsel Zastrow gave the Court information regarding the Motions to Dismiss that have been fully briefed but not submitted, noting that she is holding off on submission of the Motions as she is working on a stipulation with some of the other parties.

Counsel Murphy advised the Court that he intends to file a Motion to Consolidate in his case, CV16-01335.

Discussion ensued between the Court and respective counsel regarding an additional Status Hearing.

Counsel Zastrow noted that it is costly for her to appear in person at Status Hearings, and requested that she be allowed to be present telephonically.

COURT DENIED counsel Zastrow's request, noting that all counsel must be present in person at all future hearings.

COURT ORDERED: An additional Status Hearing is set for **December 16, 2016, at 10:00 a.m.**

10:33 a.m. – Court adjourned.

CASE NO. CV15-02349	<u>FITZSIMMONS ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00976	<u>GENEVA REMMERDE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01410	<u>JOSE NACULANGGA VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01914	<u>JAMES BIBLE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-02091	<u>MDB TRUCKING, LLC ETAL VS. FINANCIAL PACIFIC INS. ETAL</u>

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Page 1

APPEARANCES-HEARING

12/16/16
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

STATUS HEARING

3:07 p.m. – Court convened.

Counsel present on behalf of the Plaintiffs:

Sarah Quigley, Esq., was present on behalf of Plaintiffs Ernest & Carol Fitzsimmons, Angela Wilt, Benjamin & Rosa Robles, Julie Kins, and Geneva Remmerde.

Julie Throop, Esq., was present on behalf of Plaintiff Olivia John.

James Sloan, Esq., was present on behalf of Plaintiff James Bible.

Kevin Berry, Esq., was present on behalf of Plaintiffs Beverly, Patrick & Ryan Crossland.

Stephen Kent, Esq., was present telephonically on behalf of MDB Trucking, LLC in case number CV16-02091.

Counsel present on behalf of the Defendants:

Thierry V. Barkley, Esq., was present on behalf of Defendants, MDB Trucking, LLC and Daniel A. Koski.

Ken Bick, Esq., was present on behalf of Defendant Versa Products Company, Inc.

Jacob Bundick, Esq., was present telephonically on behalf of Defendants The Modern Group GP-SUB, Inc., and Dragon ESP, Ltd.

Matt Addison, Esq., was present on behalf of Defendant RMC Lamar Holdings, Inc.

Ted Kurtz, Esq., was present telephonically on behalf of Associated International Insurance Company in case number CV16-02091.

COURT advised respective counsel that he has recently discovered that his wife and counsel Brown's wife are friends, and while this will not impact his ability to be fair and impartial in this case in any way, he must put this information on the record, and the parties are free to file a motion regarding this issue if they wish.

COURT further reviewed the procedural history of the cases, noting that the upcoming trial date in CV15-02349 was vacated.

Counsel Quigley advised the Court that the parties have agreed to reset the trial date in CV15-02349 for October 31, 2017.

Counsel Barkley advised the Court that there will additional subrogation cases filed.

Discussion ensued between the Court and respective counsel regarding this matter being declared complex litigation.

CASE NO. CV15-02349	<u>FITZSIMMONS ETAL VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-00976	<u>GENEVA REMMERDE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01410	<u>JOSE NACULANGGA VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-01914	<u>JAMES BIBLE VS. MDB TRUCKING, LLC ETAL</u>
CASE NO. CV16-02091	<u>MDB TRUCKING, LLC ETAL VS. FINANCIAL PACIFIC INS. ETAL</u>

DATE, JUDGE
OFFICERS OF
COURT PRESENT

Page 2

APPEARANCES-HEARING

12/16/16
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

STATUS HEARING

COURT ORDERED: CV15-02349 shall be declared complex litigation pursuant to NRS 16.1 (f).

COURT advised respective counsel that with regards to the consolidated cases, all documents must now be filed in CV15-02349.

Upon questioning by the Court, counsel Addison recommended that two additional status hearings be set, equidistant between now and the trial date.

Discussion ensued regarding discovery, and the Pretrial Order.

COURT advised respective counsel to pay close attention to the Pretrial Order, specifically to submission deadlines for pretrial motions and motions in limine. Discussion ensued regarding how long the parties expect the trial to last in CV15-02349.

COURT ORDERED: Respective counsel shall meet and confer, and then contact the Department Ten Judicial Assistant, Sheila Mansfield, to set two additional status hearings; one hearing shall be set in April 2017, and one shall be set in August 2017. Counsel must be present in person at all future hearings.

3:41 p.m. – Court adjourned.

CASE NO. CV15-02349 **CONSOLIDATED: FITZSIMMONS ETAL VS. MDB TRUCKING ETAL**
CASE NO. CV16-00976 **GENEVA REMMERDE VS. MDB TRUCKING ETAL**
CASE NO. CV16-01914 **JAMES BIBLE VS. MDB TRUCKING ETAL**

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

4/6/18
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. Merkouris
(Clerk)
M. Pava
(Reporter)

ORAL ARGUMENTS

10:00 a.m. – Court convened.

Colleen McCarty, Esq., was present on behalf of Defendants, MDB Trucking, LLC and Daniel A. Koski.

Joshua Aicklen, Esq., was present on behalf of Defendant Versa Products Company, Inc.

COURT reviewed the procedural history of the cases.

Defendant/Cross-Defendant Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and NRCP 68 (filed in each case)

Cross-Claimant MDB Trucking LLC's Motion to Retax and Settle Cross-Defendant Versa Products Company Inc.'s Verified Memorandum of Costs (filed in each case)

Counsel Aicklen presented argument in support of Versa's Motions for Attorney Fees & Costs, and in opposition of MDB's Motions to Retax Costs.

Counsel McCarty responded; and she further requested a brief recess to allow her time to call counsel Wiczorek and speak to him about the settlement offers.

10:47 a.m. – Court stood in recess.

10:56 a.m. – Court reconvened.

Counsel McCarty gave the Court information regarding the settlement offers; and she further argued in opposition of Versa's Motions for Attorney Fees & Costs, and in support of MDB's Motions to Retax Costs.

Counsel Aicklen replied.

COURT ORDERED: Motions taken under advisement; the Court will issue a written order.

11:32 a.m. – Court adjourned.

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

GENEVA M. REMMERDE,

Case No. CV16-00976

Plaintiff,

Dept. No. 10

vs.

MDB TRUCKING, LLC; et al,

Defendant.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 13th day of July, 2018, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 13th day of July, 2018

Jacqueline Bryant
Clerk of the Court

By /s/ Cynthia Vera
Cynthia Vera
Deputy Clerk

AMERICAN LEGAL INVESTIGATION
SERVICES NEVADA, INC.
FIELD ACCOUNT

2920 N GREEN VALLEY PKWY STE 514 BLDG #5
HENDERSON, NV 89014

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