

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY J. WILLARD, individually and as;
Trustee of the Larry James Willard Trust Fund;
and OVERLAND DEVELOPMENT
CORPORATION, a California corporation,

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Elizabeth A. Brown
Clerk of Supreme Court

Appellants,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual,

Respondents.

APPENDIX TO APPELLANTS' OPENING BRIEFS

VOLUME 11 OF 19

Submitted for all appellants by:

ROBERT L. EISENBERG (SBN 950)
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Third Floor
Reno, NV 89519
775-786-6868

RICHARD D. WILLIAMSON (SBN 1001)
JONATHAN TEW (SBN 9932)
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
50 West Liberty Street, Suite 600
Reno, NV 89501
775-329-5600

ATTORNEYS FOR APPELLANTS
LARRY J. WILLARD, et al.

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	Exhibit 51: <i>UCC Financing Statement</i> regarding the Virginia Property, recorded July 5, 2007 in the Washoe County Recorder's Office as Doc. No 3551285		10	2265-2272
	Exhibit 52: Sales brochure for the Virginia Property prepared by Daniel Gluhaich for marketing purposes in 2012		10	2273-2283
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	Exhibit 2: December 12, 2014, Plaintiffs Initial Disclosures		10	2335-2342
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	Exhibit 9: December 2, 2016, Expert Disclosure of Gluhaich		11	2578-2586

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	Exhibit 23: Defendants' Second Request for Production on Willard		12	2700-2707
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	Exhibit 25: Defendants Requests for Admission to Willard		12	2714-2719
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57.	Opposition to Defendants' Motion to Strike, or in the Alternative, Motion for Leave to File Sur-Reply	06/22/18	18	4037-4053
58.	Reply in Support of Motion to Strike, or in the Alternative, Motion for Leave to File Sur-Reply	06/29/18	18	4054-4060
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60.	Notice of Entry of Order re Order Denying Plaintiffs' Rule 60(b) Motion for Relief	12/03/18	18	4093-4096
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62.	Notice of Entry of Order re Judgment	12/11/18	18	4133-4136
	Exhibit 1: December 11, 2018 Judgment		18	4137-4140
63.	Notice of Appeal	12/28/18	18	4141-4144
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64.	Transcript of Proceedings – Status Hearing	08/17/15	18	4217-4234
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66.	Transcript of Proceedings - Pre-Trial Conference	12/12/17	19	4304-4331
67.	Transcript of Proceedings - Oral Arguments – Plaintiffs’ Rule 60(b) Motion (condensed)	09/04/18	19	4332-4352
<u>ADDITIONAL DOCUMENTS</u>				
68.	Order Granting Defendants’ Motion for Partial Summary Judgment [Oral Argument Requested] ¹	01/04/18	19	4353-4357

¹ This document was inadvertently omitted earlier. It was added here because all of the other papers in the 19-volume appendix had already been numbered.

EXHIBIT 5

EXHIBIT 5



100 WEST LIBERTY STREET, SUITE 940
 RENO, NV 89501-1991
 TELEPHONE: (775) 343-7500
 FACSIMILE: (775) 786-0131
<http://www.dickinsonwright.com>

BRIAN R. IRVINE
 BIRVINE@DICKINSONWRIGHT.COM
 (775) 343-7507

August 28, 2015

VIA E-MAIL and U.S. Mail

Brian P. Moquin
 LAW OFFICES OF BRIAN P. MOQUIN
 3506 La Castellet Court
 San Jose, California 95148
bmoquin@lawprism.com

Dear Mr. Moquin:

As you are aware, the Court in the above-referenced matter held a status conference on Monday, August 17, 2015, to address Defendants' concerns about your continual delay to timely respond to Defendants' discovery requests to Defendants' prejudice.

During this status conference, you promised—in open court—that you would provide Defendants with discovery responses to Defendants' outstanding discovery requests in advance of the parties' depositions scheduled to begin on August 20, 2015. These responses included the following: (1) supplemental responses to Defendants' first set of discovery requests; and (2) responses to Defendants' second set of discovery requests.

You have yet to comply with your promise. On August 18, 2015, you provided Defendants with responses to their second set of discovery requests, but these responses were deficient. Among other things, you failed to provide any of Plaintiffs' tax returns as requested in Defendants' Second Set of Requests for Production of Documents. Further, you have never provided us with any supplemental documents responsive to Defendants' first set of discovery requests. These responses are now egregiously untimely and, based on your representation in open court, border contempt.

Further, your failure to timely provide responsive documents is significantly prejudicial to our clients' ability to prepare their defenses in this case. Defendants are still missing key documents, and, based on your failure to timely provide such documents prior to the depositions of Messrs. Wooley, Willard and Gluhaich, were unable to analyze these documents prior to the depositions or depose the witnesses about these documents. As such, we will likely need to conduct additional depositions.

Clearly, your consistent delay and disregard for deadlines has foreclosed Defendants' ability to disclose any expert by the September 11, 2015, deadline presently set in place, an issue which was acknowledged by your co-counsel, Mr. O'Mara, as early as June 2015. *See Exhibit 1.*

DICKINSON WRIGHT PLLC

Brian P. Moquin
August 28, 2015
Page 2

In fact, given the highly-likely need for additional depositions (upon your disclosure of the missing documents with which you have failed to provide us), it will also be virtually impossible to comply with the discovery deadlines set in place.

Likely in recognition of these issues, Mr. O'Mara represented at the August 17, 2015, status conference that he is willing to vacate the January 11, 2016, trial date presently in place and move the trial to a later date. This should encompass a stipulation to vacate and amend the present discovery deadlines in place. Accordingly, we have attached a Stipulation and Order reflecting the same for your review and signature. See **Exhibit 2**. After we receive a signed Order vacating the trial date and current discovery deadlines, we can set up a time to reset the trial date and then draft an amended joint case conference report with the new discovery deadlines keyed off of the new trial date.

Finally, we plan to submit our Motion to Compel your supplemental responses and file our Motion to Compel responses to Defendants' second set of discovery requests (particularly Defendants' second set of Requests for Production of Documents) if we do not receive these documents by Wednesday, September 2, 2015. There is no excuse for your extreme delay in providing us with these documents.

Thank you and I appreciate your prompt attention to the matters discussed herein.

Sincerely,

A handwritten signature in blue ink, appearing to read "BRI" followed by a stylized flourish.

Brian R. Irvine

BRI:mr
Enclosures

cc: David O'Mara
david@omaralaw.net

RENO 65540-1 1630v1

EXHIBIT 1

EXHIBIT 1

Mina Reel

From: Anjali D. Webster
Sent: Tuesday, June 30, 2015 4:29 PM
To: david@omaralaw.net; Brian Moquin
Cc: Brian R. Irvine; Mina Reel
Subject: FW: Willard et al. v. BHI et al.

Hi David,

I received your voicemail this morning; thank you. As you can see from the email exchange below, Mr. Moquin assured us last week—for the third time—that Plaintiffs' past due discovery responses were forthcoming; per his email, we were supposed to receive such responses by the end of last week. We still do not have any discovery responses. Also, as you can see from the below email exchange, we were not aware that Mr. Moquin is in trial. Rather, we were given an entirely different reason for his delay: he indicated that he received 162,000 documents from Mr. Gluhaich, and that he needed to review and produce those.

Respectfully, there is no excuse for Plaintiffs' failure to at least provide us with partial discovery responses that are promptly updated as documents and information become available. Our discovery responses were first served to Plaintiffs more than two months ago. Surely Plaintiffs have responsive documents in their possession separate from the claimed 162,000 documents from Mr. Gluhaich. And surely Plaintiffs can respond to most, if not all, of the interrogatories at this time. Please provide the discovery responses immediately, and advise whether the responses are complete or whether we can expect additional information.

Finally, I appreciate your offer to extend expert disclosure deadlines as a result of Plaintiffs' delay. However, given the other deadlines through the close of discovery, we would only be able to extend these deadlines by a fairly limited amount of time. I will let you know if we need an extension and we can discuss deadlines further at that time.

Thanks, and I look forward to hearing from you soon.

From: Anjali D. Webster
Sent: Tuesday, June 23, 2015 11:11 AM
To: 'Brian Moquin'; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: RE: Willard et al. v. BHI et al.

Dear Brian:

I appreciate your response, but this is now the third time that you are informing us that you need more time. You asked for an extension on May 26, 2015, which we permitted. You then informed Brian Irvine telephonically that you would have responses to us by early in the week of June 15, and no later than June 19. After complete silence last week, you are now informing us yet again that you need more time. You have had more than two months to respond to our requests. We need to conduct significant written and deposition discovery before the expert disclosure deadline or the close of the discovery period, and this continued delay is significantly prejudicing our ability to prepare a defense to this case. Given the pattern of delay, we have no assurance that we will receive discovery responses and therefore feel it necessary to seek court involvement. If you provide adequate and timely responses to our discovery requests, we will consider withdrawing the motion.

In the interim, could you please provide us with any responsive documents you have thus far? And if you are still working on documents, could you please provide us with the responses to our interrogatories?

Thank you,

Anjali

From: Brian Moquin [<mailto:bmoquin@lawprism.com>]
Sent: Tuesday, June 23, 2015 10:39 AM
To: Anjali D. Webster; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

I called and spoke with Mr. Irvine when the question regarding issuing a subpoena to Mr. Gluhaich arose. I told him that I was going down to retrieve documents from Mr. Gluhaich, which I did. I have been working literally day and night ever since, culling through 162,000 e-mail messages that I received from him to extract messages related to the discovery responses. While it is certainly within your right to file a motion to compel, I will have the responses to you by the end of this week.

Brian

408.300.0022
 408.460.7787 cell

On 6/23/15 10:19 AM, Anjali D. Webster wrote:

Dear Messrs. Moquin and O'Mara:

Plaintiffs' responses to Defendants' discovery requests served on April 22, 2015, in the above-referenced case are now **21 days past due**, even with the agreed-upon extension. Based upon Plaintiffs' failure to answer, we are filing a Motion to Compel Discovery Responses and an Ex Parte Motion for an Order Shortening Time on the briefing of the Motion to Compel in Second Judicial District Court today.

Thank you,

Anjali

Anjali D. Webster Attorney

100 West Liberty Street Phone 775-343-7498
 Suite 940 Fax 775-786-0131
 Reno NV 89501-1991 Email AWebster@dickinsonwright.com

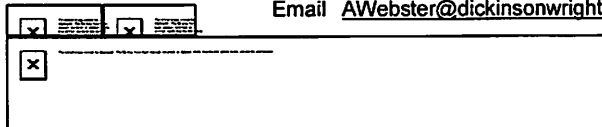


EXHIBIT 2

EXHIBIT 2

1 **4030**

2 DICKINSON WRIGHT, PLLC
 3 JOHN P. DESMOND
 Nevada Bar No. 5618
 4 BRIAN R. IRVINE
 Nevada Bar No. 7758
 ANJALI D. WEBSTER
 Nevada Bar No. 12515
 5 100 West Liberty Street, Suite 940
 Reno, NV 89501
 6 Tel: (775) 343-7500
 Fax: (775) 786-0131
 7 Email: Jdesmond@dickinsonwright.com
 Email: Brvine@dickinsonwright.com
 8 Email: Awebster@dickinsonwright.com

9 *Attorney for Defendants*
 10 *Berry Hinckley Industries, and*
Jerry Herbst

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

13
 14 LARRY J. WILLARD, individually and as CASE NO. CV14-01712
 trustee of the Larry James Willard Trust Fund;
 15 OVERLAND DEVELOPMENT DEPT. 6
 CORPORATION, a California corporation;
 16 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 17 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

18 Plaintiff,

19 vs.

20 BERRY-HINCKLEY INDUSTRIES, a Nevada
 corporation; and JERRY HERBST, an
 21 Individual;

22 Defendants.

23 _____ /
 24 BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 25 an individual;

26 Counterclaimants,

27 vs
 28

STIPULATION AND ORDER TO
CONTINUE TRIAL
(FIRST REQUEST)

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

5
6 Counter-defendants.

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STIPULATION AND ORDER TO CONTINUE TRIAL
(FIRST REQUEST)

Plaintiffs Edward C. Wooley and Judith A. Wooley, individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos Revocable Trust 2000, Plaintiffs/ Counter-defendants Larry J. Willard, individually and as trustee of the Larry James Willard Trust Fund, and Overland Development Corporation (collectively, "Plaintiffs"); and Defendants/ Counterclaimants Berry-Hinckley Industries and Jerry Herbst (collectively, "Defendants," and together with Plaintiffs, "the Parties"), by and through their respective attorneys of record, hereby stipulate and agree that good cause exists for this Court to enter an order continuing the trial scheduled to begin on January 11, 2016 based on the following:

- The Parties need to conduct significant additional discovery, including discovery relating to expert disclosures.

The parties further stipulate and agree that should this Court enter an order continuing the trial, the following deadlines in the Joint Case Conference Report filed on February 4, 2015, shall be amended as follows:

- The discovery deadline shall be extended until sixty (60) days before the first day of the rescheduled trial; provided, however, that if the 60th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.
- The deadline to serve, file, and submit for decision any dispositive motions shall be extended until thirty (30) days before the first day of the rescheduled trial; provided, however, that if the 30th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

- The deadline to serve expert disclosures shall be extended until ninety (90) days before the close of discovery; provided, however, that if the 90th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.
- The deadline to serve rebuttal expert disclosures shall be extended until thirty (30) days after the deadline to file initial expert disclosures; provided, however, that if the 30th day after initial expert disclosures falls on a weekend or holiday, the deadline shall be the following judicial day.

Undersigned counsel certifies that their respective clients have been advised that a stipulation for continuance is to be submitted on their behalf. The parties have no objection thereto.

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Attorneys for Plaintiffs

Attorneys for Defendants

LAW OFFICES OF BRIAN P. MOQUIN
Brian P. Moquin
3506 La Castellet Court
San Jose, California 95148

THE O'MARA LAW FIRM
David C. O'Mara
311 E. Liberty Street
Reno, Nevada 89501

DICKINSON WRIGHT, PLLC
JOHN P. DESMOND
BRIAN R. IRVINE
ANJALI D. WEBSTER
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131

ORDER

This Court, having reviewed the Stipulation to Continue Trial submitted by the parties, and good cause appearing,

IT IS HEREBY ORDERED that good cause exists to continue the trial in the above-referenced matter.

IT IS FURTHER ORDERED that the parties shall reset the trial within five (5) days of this Order, unless this Court waives this requirement.

IT IS FURTHER ORDERED that the discovery deadline shall be extended until 60 days before the first day of the rescheduled trial; provided, however, that if the 60th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

IT IS FURTHER ORDERED that the deadline to serve, file, and submit for decision any dispositive motions shall be extended until 30 days before the first day of the rescheduled trial; provided, however, that if the 30th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

IT IS FURTHER ORDERED that the deadline to serve expert disclosures shall be extended until ninety (90) days before the close of discovery; provided, however, that if the 90th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

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1 IT IS FURTHER ORDERED that the deadline to serve rebuttal expert disclosures shall
2 be extended until 30 days after the deadline to file initial expert disclosures; provided, however,
3 that if the 30th day after initial expert disclosures falls on a weekend or holiday, the deadline
4 shall be the following judicial day.

5 IT IS SO ORDERED.

6 DATED this __ day of _____, 2015.

7
8 _____
DISTRICT COURT JUDGE

9 *Respectfully submitted by:*

10 DICKINSON WRIGHT, PLLC

11 _____
12 JOHN P. DESMOND
13 Nevada Bar No. 5618
14 BRIAN R. IRVINE
15 Nevada Bar No. 7758
16 ANJALI D. WEBSTER
17 Nevada Bar No. 12515
18 100 West Liberty Street, Suite 940
19 Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Brivine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

20 *Attorneys for Defendants*
21 *Berry-Hinckley Industries and Jerry Herbst*
22
23
24
25
26
27

28 RENO 65540-1 1624v1

EXHIBIT 6

EXHIBIT 6



100 WEST LIBERTY STREET, SUITE 940
 RENO, NV 89501-1991
 TELEPHONE: (775) 343-7500
 FACSIMILE: (775) 786-0131
<http://www.dickinsonwright.com>

BRIAN R. IRVINE
 BIRVINE@DICKINSONWRIGHT.COM
 (775) 343-7507

March 3, 2016

VIA E-MAIL and U.S. Mail

Brian P. Moquin
 LAW OFFICES OF BRIAN P. MOQUIN
 3506 La Castellet Court
 San Jose, California 95148
bmoquin@lawprism.com

Re: *Willard v. Berry-Hinckley Industries, et al.*, Case No. CV14-01712

Dear Mr. Moquin:

We still have not received responses from your clients with respect to the following discovery requests:

- The Wooley Plaintiffs' state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Willard's state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Overland's state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Overland's federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2009, 2013, 2014 and/or any other years not produced in this case from 2005-2014;
- Willard's federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2013, 2014 and/or any other years not produced in this case from 2005-2014;
- The Wooley Plaintiffs' federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2009, 2010 and/or any other years not produced in this case from 2005-2014.

Please provide us with responses to the aforementioned discovery requests immediately, as well as responses to any discovery requests not mentioned herein to which Plaintiffs have not yet responded.

Brian P. Moquin
March 3, 2016
Page 2

Additionally, the Nevada Rules of Civil Procedure require you to update or supplement your discovery responses throughout the litigation to ensure that they are accurate and up-to-date. Specifically, NRCP 26(e) provides:

A party who has made a disclosure under Rule 16.1 or 16.2 or responded to a request for discovery with a disclosure or response is under a duty to supplement or correct the disclosure or response to include information thereafter acquired, if ordered by the court or in the following circumstances:

(1) A party is under a duty to supplement at appropriate intervals its disclosures under Rule 16.1(a) or 16.2(a) if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. With respect to the testimony of an expert from whom a report is required under Rule 16.1(a)(2)(B) the duty extends both to information contained in the report and to information provided through a deposition of the expert, and any additions or other changes to this information shall be disclosed by the time the party's disclosures under Rule 16.1(a)(3) are due.

(2) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production or request for admission, if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

NRCP 26(e).

Please ensure that Plaintiffs promptly supplement and/or correct their responses to all of Defendants' discovery requests to which NRCP 26(e) applies, including, but not limited to, the following discovery requests:

- Interrogatory No. 1 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify in detail any and all measures you have taken, if any, to re-let or sell the Property since the Lease was allegedly breached.

Brian P. Moquin
 March 3, 2016
 Page 3

- Interrogatory No. 2 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify any persons or entities who expressed interest in leasing or purchasing the Property since the Lease was allegedly breached.
- Interrogatory No. 3 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify and explain in detail any and all methods you have utilized to advertise the availability of the Property for lease or sale, including but not limited to signage, brochures, websites, newspapers, or any other similar means since the Lease was allegedly breached.
- Interrogatory No. 5 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please explain if and how you are still currently advertising the availability of the Property for sale or lease.
- Interrogatory No. 6 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.
- Interrogatory No. 6 in Defendants' Second Set of Interrogatories to the Wooley Plaintiffs: what is your current balance due on any and all mortgage loans for the Highway 50 Property?
- Interrogatory No. 7 in Defendants' Second Set of Interrogatories to the Wooley Plaintiffs: are you presently in default on any mortgage payments for any and all mortgage loans for the Highway 50 Property? If so, when was your last mortgage payment?
- All corresponding requests for production of documents.

For each of the above-referenced Interrogatories, we have not received any updated information since we took Mr. Wooley's deposition last year.

For your convenience and ease of reference, all of Defendants' discovery requests have been attached to this Letter.

Sincerely,



Brian R. Irvine

BRI:mr
 Enclosures

cc: David O'Mara
david@omaralaw.net

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: jdesmond@dickinsonwright.comEmail: birvine@dickinsonwright.comEmail: awebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
Individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

LARRY J. WILLARD, individually and as
trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

Counter-defendants.

DEFENDANTS/COUNTERCLAIMANTS' FIRST REQUESTS FOR ADMISSIONS

Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY HERBST, by and through their attorneys of record, DICKINSON WRIGHT. PLLC, hereby requests Plaintiffs/Counter-defendants LARRY J. WILLARD and OVERLAND DEVELOPMENT CORPORATION answer the following Requests for Admissions pursuant to NRCP 33, within thirty (30) days after service hereof.

PRELIMINARY INSTRUCTIONS AND DEFINITIONS

1. "BHI" means Berry-Hinckley Industries, a Nevada corporation.
2. "Defendants" means BHI and Jerry Herbst.
3. "First Amended Complaint" means the Verified First Amended Complaint filed by Plaintiffs in Case No. CV14-01712 on January 21, 2015.
4. "Operation and Management Agreement" means the May 1, 2013, Operation and Management Agreement made and entered into by and between BHI and Overland Corporation d/b/a LJW Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.
5. "Willard Property" means that certain real property located at 7695-77699 S. Virginia Street, Reno, Nevada (APN 043-011-48).
6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry James Willard Trust.
7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises Inc.
8. "Willard Plaintiffs" means Willard and Overland.

10. "Willard Guaranty" means the March 9, 2007, Guaranty Agreement between Jerry Herbst and the Willard Plaintiffs.

12. "Answer to Counterclaim" means the Willard Plaintiffs' answer to Defendants' Counterclaim in Case No. CV14-01712 filed on May 27, 2015.

1. Admit that the expiration of the lease term set forth in the Willard Lease is August 23, 2023.

3. Admit that You agreed that during the term of the Operation and Management Agreement, BHI would have no obligation to make the rent payments set forth in the Willard Lease.

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry-Hinckley Industries and
Jerry Herbst*

I certify that I am an employee of DICKINSON WRIGHT, PLLC, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST REQUESTS FOR ADMISSIONS on the parties as set forth below:

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.

Mina Keel

An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

LARRY J. WILLARD, individually and as
trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

Counter-defendants.

DEFENDANTS/COUNTERCLAIMANTS'
FIRST REQUESTS FOR ADMISSIONS

Defendants/Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
(collectively, "Defendants") by and through their attorneys of record, Dickinson Wright, PLLC,
hereby requests Plaintiffs EDWARD C. WOOLEY AND JUDITH A. WOOLEY answer the
following Requests for Admissions pursuant to NRCP 33, within thirty (30) days after service
hereof.

PRELIMINARY INSTRUCTIONS AND DEFINITIONS

The following preliminary definitions and instructions apply to each of the requests
hereinafter set forth, and Defendants incorporate the same herein by reference.

1. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
Revocable Trust 2000.

2. "You" and "your" shall mean the Wooley Plaintiffs, and (i) all of their present
and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
(ii) any other person or entity acting on their behalf.

3. "First Amended Complaint" means the Verified First Amended Complaint filed
by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

4. "Highway 50 Property" means that certain real property located at 1820 Highway
50 East, Carson City, Nevada (APN 002-368-27).

5. "Baring Property" means that certain real property located at 1365 Baring
Boulevard, Sparks (APN 030-041-08).

1 6. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
2 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
3 Revocable Trust 2000.

4 7. "Highway 50 Lease" means the December 2005 Lease for the Highway 50
5 Property between the Wooley Plaintiffs and BHI.

6 8. "Baring Lease" means the Lease for the Baring Property between the Wooley
7 Plaintiffs and BHI.

8
9 **Requests for Admission**

10 1. Admit that in the May 2011 Second Amendment to the Highway 50 Lease, You
11 agreed to reduce the base monthly rent to \$20,025.82.

12 2. Admit that BHI was not in default on the Baring Lease at the time that Jackson
13 Oil began operating at the Baring Property.

14 3. Admit that, as of the date You sold the Baring Property, the tenant was not in
15 default of the Baring Lease.

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Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: Brivine@dickinsonwright.com
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

I certify that I am an employee of DICKINSON WRIGHT, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANT'S FIRST REQUESTS FOR ADMISSIONS on the parties as set forth below:

- A.App.2383

1 DISC**2 GORDON SILVER****3 JOHN P. DESMOND****4 Nevada Bar No. 5618****5 BRIAN R. IRVINE****6 Nevada Bar No. 7758****7 KATHLEEN M. BRADY****8 Nevada Bar No. 11525****9 100 West Liberty Street****10 Suite 940****11 Reno, Nevada 89501****12 Tel: (775) 343-7500****13 Fax: (775) 786-0131****14 Email: jdesmond@gordonsilver.com****15 Email: birvine@gordonsilver.com****16 Email: kbrady@gordonsilver.com****17 *Attorneys for Defendants*****18 *Berry Hinckley Industries, and*****19 *Jerry Herbst*****20 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****21 IN AND FOR THE COUNTY OF WASHOE****22 LARRY J. WILLARD, individually and as****23 trustee of the Larry James Willard Trust Fund;****24 OVERLAND DEVELOPMENT****25 CORPORATION, a California corporation;****26 EDWARD E. WOOLEY AND JUDITH A.****27 WOOLEY, individually and as trustees of the****28 Edward C. Wooley and Judith A. Wooley****Intervivos Revocable Trust 2000,****Plaintiff,****CASE NO.: CV14-01712****vs.****DEPT. NO.: 6****BERRY-HINCKLEY INDUSTRIES, a****Nevada corporation; JERRY HERBST, an****individual; and JH, INC., a Nevada****corporation,****Defendants.****BERRY-HINCKLEY INDUSTRIES, a****Nevada corporation; and JERRY HERBST, an****individual;****Counterclaimants**

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5
6 Counter-defendants

7 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR**
8 **PRODUCTION OF DOCUMENTS**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
11 HERBST, by and through their attorneys of record, Gordon Silver, hereby request pursuant to
12 NRCP 34, that Plaintiff/Counter-Defendants, EDWARD E. WOOLEY AND JUDITH A.
13 WOOLEY, both respond and produce the following documents, within thirty (30) days after
14 service hereof:

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 1. "Communication" or "Communications" shall mean (a) any form of data
17 transmission, including letters, faxes, emails, and all other transmission of data via
18 telecommunications, (b) all meetings of two or more persons and all documents describing such
19 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
20 which ideas are discussed, interpreted or exchanged among two or more persons.

21 2. "Correspondence" shall mean any writing or document relating to any
22 communication, including but not limited to letters, emails, notes, telephone message pads, text
23 messages, transcriptions, faxes, and memoranda.

24 3. "Person" shall mean natural persons, firms, proprietorships, associations,
25 partnerships, corporations, governmental entities, and every other type of organization or entity.

26 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
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1 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
2 including all other means by which information, correspondence, notes, notations,
3 representations, depictions, or data is stored. This definition includes originals, copies, non-
4 identical copies and preliminary, intermediate, and final drafts or writings, records,
5 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
6 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
7 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
8 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
9 invoices, receipts, working papers, and records of every kind and description, whether inscribed
10 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
11 photographic, video, punched, or other means - and computer records, whether reflected by
12 printout or stored on disk, drum, tape or otherwise.
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14
15 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
16 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
17 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
18 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
19 bearing on any logical or factual connection with the matter discussed.
20

21 6. "You" and "your", refer to the named Plaintiffs in this action, and (i) all of their
22 present and former agents, representatives, accountants, investigators, consultants, and/or
23 attorneys; or (ii) any other person or entity acting on their behalf.

24 7. "Plaintiffs" means Edward C. Wooley and Judith A Wooley, and/or their agents,
25 representatives or employees.

26 8. When used herein, the term "Lease Agreement" means the December 2, 2005,
27 Lease Agreement between Edward C. Wooley and Judith A Wooley ("Wooley"), and Berry-
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1 Hinckley Industries (“BHI”), and the subsequent amendments thereto.

2 9. When used herein, the term “Lease Guarantee” means the March 9, 2007,
3 Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

4 10. When used herein, the term “Property” means 1820 Highway 50 East, Carson
5 City, Nevada.
6

7 **REQUEST FOR PRODUCTION OF DOCUMENTS:**

8 1. Please produce any and all documents identified in response to Interrogatory No.
9 1 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

10 2. Please produce any and all documents identified in response to Interrogatory No.
11 2 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

12 3. Please produce any and all documents identified in response to Interrogatory No.
13 3 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

14 4. Please produce any and all documents identified in response to Interrogatory No.
15 4 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

16 5. Please produce any and all documents identified in response to Interrogatory No.
17 5 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

18 6. Please produce any and all documents identified in response to Interrogatory No.
19 6 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

20 7. Please produce any and all documents identified in response to Interrogatory No.
21 7 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

22 8. Please produce any and all documents identified in response to Interrogatory No.
23 8 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.

24 9. Please produce any and all documents identified in response to Interrogatory No.
25 9 in Defendants/Counterclaimants’ First Set of Interrogatories, served concurrently herewith.
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1 10. Please produce any and all documents identified in response to Interrogatory No.
2 10 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

3 11. Please produce any and all documents evidencing any contracts with real estate
4 brokers for the listing and marketing of the Property for sale or lease from January 1, 2013 to
5 present.

6 12. Please produce any and all documents evidencing communications with real
7 estate brokers or other real estate professionals regarding the Property from January 1, 2013
8 through present.

9 13. Please produce any and all documents evidencing communications with
10 prospective purchasers or lessees of the Property from January 1, 2013 through present.

11 14. Please produce copies of any and all marketing materials prepared in connection
12 with your efforts to sell or lease the Property from January 1, 2013 through present.

13 15. Please produce any and all appraisals for the Property from January 1, 2012
14 through present.

15 16. Please produce any and all documents evidencing your research, evaluation
16 and/or analysis as to the sale value of the Property.

17 17. Please produce any and all documents evidencing your research, evaluation
18 and/or analysis as to the fair market rental value of the Property.

19 18. Please produce any and all documents evidencing comparisons of the sale value
20 of other similar real property in the Northern Nevada area.

21 19. Please produce any and all documents evidencing comparisons of the fair market
22 rental value of other similar real property in the Northern Nevada area.

23 20. Please produce any and all documents evidencing communications and/or
24 correspondence between you, or any of you, and Jerry Herbst and/or Berry-Hinckley, related to
25

1 the Lease Agreement, Guaranty, or any other documents related to the Property, from 2007 to the
2 present.

3 21. Please produce any and all documents regarding and/or evidencing the sale of the
4 Baring Property.

5 DATED this 21st day of April, 2015.

6 GORDON SILVER

7
8 By: 

9 JOHN P. DESMOND
10 Nevada Bar No. 5618
11 BRIAN R. IRVINE
12 Nevada Bar No. 7758
13 KATHLEEN M. BRADY
14 Nevada Bar No. 11525
15 100 West Liberty Street, Suite 940
16 Reno, Nevada 89501
17 Tel: (775) 343-7500
18 Fax: (775) 786-0131
19 Email: jdesmond@gordonsilver.com
20 Email: birvine@gordonsilver.com
21 Email: kbrady@gordonsilver.com

22 *Attorneys for Defendants,*
23 *Berry Hinckley Industries, and*
24 *Jerry Herbst*
25
26
27
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CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS to EDWARD E. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Via E-Mail

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

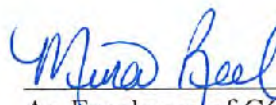
_____ Federal Express (or other overnight delivery)

_____ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC

GORDON SILVER

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

KATHLEEN M. BRADY

Nevada Bar No. 11525

100 West Liberty Street

Suite 940

Reno, Nevada 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: jdesmond@gordonsilver.comEmail: birvine@gordonsilver.comEmail: kbrady@gordonsilver.com*Attorneys for Defendants**Berry Hinckley Industries, and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually and as
 trustee of the Larry James Willard Trust Fund;
 OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiff,

CASE NO.: CV14-01712

vs.

DEPT. NO.: 6

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; JERRY HERBST, an
 individual; and JH, INC., a Nevada
 corporation,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual;

Counterclaimants

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5 Counter-defendants

6 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR**
7 **PRODUCTION OF DOCUMENTS**

8 TO: LARRY J. WILLARD

9 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
10 HERBST, by and through their attorneys of record, Gordon Silver, hereby requests that
11 Plaintiff/Counter-Defendant, LARRY J. WILLARD, both respond and produce the following
12 documents, within thirty (30) days after service hereof:

13 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

14 1. "Communication" or "Communications" shall mean (a) any form of data
15 transmission, including letters, faxes, emails, and all other transmission of data via
16 telecommunications, (b) all meetings of two or more persons and all documents describing such
17 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
18 which ideas are discussed, interpreted or exchanged among two or more persons.

19 2. "Correspondence" shall mean any writing or document relating to any
20 communication, including but not limited to letters, emails, notes, telephone message pads, text
21 messages, transcriptions, faxes, and memoranda.

22 3. "Person" shall mean natural persons, firms, proprietorships, associations,
23 partnerships, corporations, governmental entities, and every other type of organization or entity.

24 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
25 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
26

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. “Relate to,” “related to,” or “relating to” shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. “You” and “your”, refer to the named Plaintiffs in this action, and (i) all of their
20 present and former agents, representatives, accountants, investigators, consultants, and/or
21 attorneys; or (ii) any other person or entity acting on their behalf.
22

23 7. “Plaintiff” means Larry J. Willard and/or his agents, representatives or
24 employees.
25

26 8. When used herein, the term “Lease Agreement” means the November 18, 2005,
27 Lease Agreement between OVERLAND DEVELOPMENT CORPORATION INC. dba LJW
28 ENTERPRISES INC. and LARRY J. WILLARD, TRUSTEE OF THE LARRY JAMES

1 WILLARD TRUST ("Willard"), and Berry-Hinckley Industries ("BHI"), and the subsequent
2 amendments thereto.

3 9. When used herein, the term "Lease Guarantee" means the March 9, 2007,
4 Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

5 10. When used herein, the term "Property" means 7695-7699 S. Virginia Street Reno,
6 Nevada.
7

8 **REQUEST FOR PRODUCTION OF DOCUMENTS:**

9 1. Please produce any and all documents identified in response to Interrogatory No.
10 1 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

11 2. Please produce any and all documents identified in response to Interrogatory No.
12 2 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

13 3. Please produce any and all documents identified in response to Interrogatory No.
14 3 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

15 4. Please produce any and all documents identified in response to Interrogatory No.
16 4 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

17 5. Please produce any and all documents identified in response to Interrogatory No.
18 5 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

19 6. Please produce any and all documents identified in response to Interrogatory No.
20 6 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

21 7. Please produce any and all documents identified in response to Interrogatory No.
22 7 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

23 8. Please produce any and all documents identified in response to Interrogatory No.
24 8 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

25 9. Please produce any and all documents identified in response to Interrogatory No.
26
27
28

1 9 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

2 10. Please produce any and all documents identified in response to Interrogatory No.
3 10 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

4 11. Please produce any and all documents identified in response to Interrogatory No.
5 11 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

6 12. Please produce any and all documents identified in response to Interrogatory No.
7 12 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

8 13. Please produce any and all documents evidencing any contracts with real estate
9 brokers or other real estate professionals for the listing and marketing of the Property for sale or
10 lease from January 1, 2013 to present.

11 14. Please produce any and all documents evidencing communications with real
12 estate brokers regarding the Property from January 1, 2013 through present.

13 15. Please produce any and all documents evidencing communications with
14 prospective purchasers or lessees of the Property from January 1, 2013 through present.

15 16. Please produce copies of any and all marketing materials prepared in connection
16 with your efforts to sell or lease the Property from January 1, 2013 through present.

17 17. Please produce any and all appraisals for the Property from January 1, 2012
18 through present.

19 18. Please produce any and all documents evidencing your research, evaluation
20 and/or analysis as to the sale value of the Property.

21 19. Please produce any and all documents evidencing your research, evaluation
22 and/or analysis as to the fair market rental value of the Property.

23 20. Please produce any and all documents evidencing comparisons of the sale value
24 of other similar real property in the Northern Nevada area.

22. Please produce any and all documents evidencing communications and/or correspondence between you, or any of you, and Jerry Herbst and/or Berry-Hinckley, related to the Lease Agreement, Guaranty, Interim Operating Agreement or any other documents related to the Property, from 2007 to the present.

23. Please produce any and all documents regarding the short sale of the Property, including, but not limited to communications regarding the sort sale, transactional documents for the short sale, and tax documents generated as a result of the sort sale.

24. Please produce any and all documents supporting your damages calculations in Paragraphs 13-18 of your Verified First Amended Complaint.

DATED this 21st day of April, 2015.

GORDON SILVER

By:

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
KATHLEEN M. BRADY
Nevada Bar No. 11525
100 West Liberty Street, Suite 940
Reno, Nevada 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@gordonsilver.com
Email: birvine@gordonsilver.com
Email: kbrady@gordonsilver.com

*Attorneys for Defendants,
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCp 5(b), I am serving a true and correct copy of the attached **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** on the parties as set forth below:

☒ XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

☐ Certified Mail, Return Receipt Requested

☐ Via Facsimile (Fax)

☐ Via E-Mail

☐ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

☐ Federal Express (or other overnight delivery)

☐ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC
 GORDON SILVER
 JOHN P. DESMOND
 Nevada Bar No. 5618
 BRIAN R. IRVINE
 Nevada Bar No. 7758
 KATHLEEN M. BRADY
 Nevada Bar No. 11525
 100 West Liberty Street
 Suite 940
 Reno, Nevada 89501
 Tel: (775) 343-7500
 Fax: (775) 786-0131
 Email: jdesmond@gordonsilver.com
 Email: birvine@gordonsilver.com
 Email: kbrady@gordonsilver.com

Attorneys for Defendants
Berry Hinckley Industries, and
Jerry Herbst

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

LARRY J. WILLARD, individually and as
 trustee of the Larry James Willard Trust Fund;
 OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiff,

CASE NO.: CV14-01712

vs.

DEPT. NO.: 6

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; JERRY HERBST, an
 individual; and JH, INC., a Nevada
 corporation,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual;

Counterclaimants

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5 Counter-defendants

6 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES**

7 **TO LARRY J. WILLARD**

8 TO: LARRY J. WILLARD

9 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
10 HERBST, by and through their attorneys of record, Gordon Silver, and pursuant to Rules 26 and
11 33 of the Federal Rules of Civil Procedure, hereby demands that Plaintiff/Counter-defendant
12 LARRY J. WILLARD, answer the following Interrogatories, separately and fully, in writing,
13 under oath, within thirty (30) days after service.
14

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.
18

19 1. When used herein, the term "Plaintiff" means Larry J. Willard and/or his agents,
20 representatives or employees.

21 2. When used herein, the terms "you" and "your", their plural, or any synonym thereof, are
22 intended to and shall embrace and include, in addition to the Plaintiff, counsel for said Plaintiff
23 and all agents, employees, investigators, representatives, servants and others who are acting or
24 purporting to act on its behalf or who are in possession of, or may have obtained, information for
25 or on behalf of Plaintiff.
26

27 3. When used herein, the terms "document" and "writing," and the plural forms thereof,
28 shall mean all written, typewritten, printed, recorded, or graphic matters, however produced or

1 reproduced, of every kind and description, pertaining in any way to the subject matter of this
2 action. The terms "document" and "writing" shall include, but are not limited to, any books,
3 pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications, leases,
4 memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial records,
5 security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
6 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
7 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
8 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
9 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
10 or reproduced, in Plaintiff's possession, custody or control, or to which Plaintiffs have or have
11 had access. Documents shall also include any drafts or variations or markings to original
12 documents.
13

14
15 4. Whenever there is a request to identify or state the identity of a documents, provide as to
16 such document the following information:

- 17 a. The date of its preparation;
18 b. The names, title and address of each author and signatory;
19 c. The name, title and address of each addressee and each other person receiving a copy
20 thereof;
21 d. Its present and/or last known custodian and location; and
22 e. Its title and/or all identifying or categorizing designations.
23

24 5. When used herein, the term "person," its plural or any synonym thereof, is intended to
25 and shall embrace and include any individual, partnership, corporation, trust, estate, company,
26 association, government agency (federal, state, local or foreign), or any other entity.

27 6. Whenever there is a request to identify a person, provide or state the identity of a person,
28

1 provide as to each such person the following information:

- 2 a. His or her name, date of birth, gender and social security number;
- 3 b. His or her present or last known home address;
- 4 c. His or her present business address, business telephone, name of employer, and
- 5 job title; and
- 6 d. His, her or its status or relationship with each of the parties to this action.

7
8 7. All information is to be divulged which is in Plaintiff's possession or control, or can be
9 ascertained upon reasonable investigation of areas within your control. The knowledge of
10 Plaintiff's attorneys is deemed to be Plaintiff's knowledge, so that, apart from privileged matters,
11 if Plaintiff's attorneys have knowledge of the information sought to be elicited herein, said
12 knowledge must be incorporated into your answers, even if such information is unknown to
13 Plaintiff.

14
15 8. In the event you withhold from identification any document as privileged, you are
16 requested to provide a list of documents withheld and state the following information with
17 respect to each document withheld:

- 18 a. The date appearing on the document, and, if it has no date, the date, or
- 19 approximate date, on which it was prepared;
- 20 b. The title, label, code number or file number of the document;
- 21 c. The name and current address of the person(s) who signed the documents
- 22 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 23 d. The name and current address of the person(s) to whom the document was
- 24 directed and the person(s) to whom a copy of the document was directed;
- 25 e. A general description of the subject matter(s) to which the document relates;
- 26
- 27
- 28

1 f. The name and current address of the person(s) having present possession,
2 custody, or control of the document; and

3 g. The grounds on which the document has been withheld.

4 9. With respect to any non-documentary information or communications, required to be
5 identified or described by these requests as to which a claim of privilege is asserted, separately
6 state the following:
7

8 a. The basis of the claim and privilege;

9 b. A general description of the subject of the information and communication;

10 c. The identities of all person(s) with knowledge of the information or
11 communication;

12 d. The date of communication;

13 e. The identities of all persons present when the communication took place; and

14 f. The type of communication (i.e., face-to-face conversation, telephone
15 conversation) and the location of each party to the communication at the time it took place.
16

17 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
18 interrogatories as follows:

19 "in a timely manner if the party learns in some material respect the disclosure or
20 response is incomplete or incorrect and if the additional or corrective information
21 has not otherwise been made known to the other parties during discovery or in
writing."

22 11. If you object to any portion of the Interrogatories, state the specific ground for such
23 objection and respond to the request to the extent to which there is no objection.

24 12. If you do not know or have the information requested in any or all of the following
25 discovery, please identify the person who, to the best of your knowledge, would know or have
26 the answer or information requested.
27
28

14. When used herein, the term “Lease” means the November 18, 2005, Lease Agreement between OVERLAND DEVELOPMENT CORPORATION INC. dba LJW ENTERPRISES INC. and LARRY J. WILLARD, TRUSTEE OF THE LARRY JAMES WILLARD TRUST (“Willard”), and Berry-Hinckley Industries (“BHI”), and the subsequent amendments thereto.

15. When used herein, the term "Lease Guarantee" means the March 9, 2007, Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

16. When used herein, the term "Property" means 7695-7699 S. Virginia Street Reno, Nevada.

INTERROGATORY NO. 1

Please identify and describe in detail any and all measures you have taken, if any, to re-let or sell the Property since the Lease was allegedly breached.

Please identify any persons or entities who expressed interest in leasing or purchasing the Property since the Lease was allegedly breached.

Please identify and explain in detail any and all methods you have utilized to advertise the availability of the Property for lease or sale, including but not limited to signage, brochures, websites, newspapers, periodicals or any other similar means since the Lease was allegedly breached.

INTERROGATORY NO. 4

Please specify the date upon which the Property was first advertised for lease or sale after the Lease was allegedly breached.

INTERROGATORY NO. 5

Please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.

INTERROGATORY NO. 6

Please specify the date upon which you are claiming that BHI abandoned the Property as specified in Paragraph 13 of the Amended Complaint.

INTERROGATORY NO. 7

Please explain in detail how the damages in Paragraphs 13-18 alleged in your Amended Complaint were calculated.

INTERROGATORY NO. 8

Please identify and describe in detail your basis for stating in Paragraph 13 of the Amended Complaint that BHI had an obligation to make payments to Plaintiffs pursuant to the Interim Operating Agreement.

INTERROGATORY NO. 9

Please identify and describe in detail the circumstances of the short sale referred to in Paragraph 15 of the Amended Complaint, including the process by which Willard decided to short sale the Property.

INTERROGATORY NO. 10

Please identify and describe in detail the insurance on the Willard Property referred to in Paragraph 16 of the Amended Complaint. Please also include details of the installation of the Security Fence and charges by Nevada Energy.

1 **INTERROGATORY NO. 11**

2 Please identify and explain in detail your basis for claiming that BHI is responsible for
3 the legal fees associated with Willard's Bankruptcy filing, referred to in Paragraph 17 of the
4 Complaint, which was subsequently dismissed voluntarily.

5 **INTERROGATORY NO. 12**

6 Please identify and explain in detail your basis for claiming that BHI is responsible for
7 the legal fees associated with Plaintiffs' filing of a lawsuit in Santa Clara, California.

8 DATED this 2nd day of April, 2015.

9 GORDON SILVER

10
11 By: 

12 JOHN P. DESMOND
Nevada Bar No. 5618
13 BRIAN R. IRVINE
Nevada Bar No. 7758
14 KATHLEEN M. BRADY
Nevada Bar No. 11525
100 West Liberty Street, Suite 940
15 Reno, Nevada 89501
Tel: (775) 343-7500
16 Fax: (775) 786-0131
Email: jdesmond@gordonsilver.com
17 Email: birvine@gordonsilver.com
18 Email: kbrady@gordonsilver.com

19 *Attorneys for Defendants,*
20 *Berry Hinckley Industries, and*
21 *Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCPC 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES TO LARRY J. WILLARD on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Via E-Mail

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

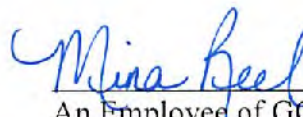
_____ Federal Express (or other overnight delivery)

_____ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

1 DISC**2 GORDON SILVER****3 JOHN P. DESMOND****4 Nevada Bar No. 5618****5 BRIAN R. IRVINE****6 Nevada Bar No. 7758****7 KATHLEEN M. BRADY****8 Nevada Bar No. 11525****9 100 West Liberty Street****10 Suite 940****11 Reno, Nevada 89501****12 Tel: (775) 343-7500****13 Fax: (775) 786-0131****14 Email: jdesmond@gordonsilver.com****15 Email: birvine@gordonsilver.com****16 Email: kbrady@gordonsilver.com****17 *Attorneys for Defendants*****18 *Berry Hinckley Industries, and*****19 *Jerry Herbst*****20 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****21 IN AND FOR THE COUNTY OF WASHOE****22 LARRY J. WILLARD, individually and as**
23 trustee of the Larry James Willard Trust Fund;**24 OVERLAND DEVELOPMENT****25 CORPORATION, a California corporation;****26 EDWARD E. WOOLEY AND JUDITH A.****27 WOOLEY, individually and as trustees of the****28 Edward C. Wooley and Judith A. Wooley****Intervivos Revocable Trust 2000,****Plaintiff,****CASE NO.: CV14-01712****vs.****DEPT. NO.: 6****22 BERRY-HINCKLEY INDUSTRIES, a**
23 Nevada corporation; JERRY HERBST, an
24 individual; and JH, INC., a Nevada
25 corporation,**Defendants.****26 BERRY-HINCKLEY INDUSTRIES, a**
27 Nevada corporation; and JERRY HERBST, an
28 individual;**Counterclaimants**

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5
6 Counter-defendants

7 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES**

8 **TO EDWARD E. WOOLEY AND JUDITH A. WOOLEY**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
11 HERBST, by and through their attorneys of record, Gordon Silver, and pursuant to Rules 26 and
12 33 of the Nevada Rules of Civil Procedure, hereby demands that Plaintiff/Counter-defendants
13 EDWARD E. WOOLEY AND JUDITH A. WOOLEY, answer the following Interrogatories,
14 separately and fully, in writing, under oath, within thirty (30) days after service.

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.

18
19 1. When used herein, the term "Plaintiffs" means EDWARD E. WOOLEY AND JUDITH
20 A. WOOLEY and/or their agents, representatives or employees.

21 2. When used herein, the terms "you" and "your", their plural, or any synonym thereof, are
22 intended to and shall embrace and include, in addition to the Plaintiffs, counsel for said Plaintiffs
23 and all agents, employees, investigators, representatives, servants and others who are acting or
24 purporting to act on their behalf or who are in possession of, or may have obtained, information
25 for or on behalf of Plaintiffs.

26
27 3. When used herein, the terms "document" and "writing," and the plural forms thereof,
28 shall mean all written, typewritten, printed, recorded, or graphic matters, however produced or

1 reproduced, of every kind and description, pertaining in any way to the subject matter of this
2 action. The terms "document" and "writing" shall include, but are not limited to, any books,
3 pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications, leases,
4 memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial records,
5 security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
6 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
7 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
8 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
9 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
10 or reproduced, in Plaintiff's possession, custody or control, or to which Plaintiffs have or have
11 had access. Documents shall also include any drafts or variations or markings to original
12 documents.
13

14
15 4. Whenever there is a request to identify or state the identity of a documents, provide as to
16 such document the following information:

- 17 a. The date of its preparation;
18 b. The names, title and address of each author and signatory;
19 c. The name, title and address of each addressee and each other person receiving a copy
20 thereof;
21 d. Its present and/or last known custodian and location; and
22 e. Its title and/or all identifying or categorizing designations.
23

24 5. When used herein, the term "person," its plural or any synonym thereof, is intended to
25 and shall embrace and include any individual, partnership, corporation, trust, estate, company,
26 association, government agency (federal, state, local or foreign), or any other entity.

27 6. Whenever there is a request to identify a person, provide or state the identity of a person,
28

1 provide as to each such person the following information:

- 2 a. His or her name, date of birth, gender and social security number;
- 3 b. His or her present or last known home address;
- 4 c. His or her present business address, business telephone, name of employer, and
- 5 job title; and
- 6 d. His, her or its status or relationship with each of the parties to this action.

7
8 7. All information is to be divulged which is in Plaintiffs' possession or control, or can be
9 ascertained upon reasonable investigation of areas within your control. The knowledge of
10 Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters,
11 if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said
12 knowledge must be incorporated into your answers, even if such information is unknown to
13 Plaintiffs.

14
15 8. In the event you withhold from identification any document as privileged, you are
16 requested to provide a list of documents withheld and state the following information with
17 respect to each document withheld:

- 18 a. The date appearing on the document, and, if it has no date, the date, or
- 19 approximate date, on which it was prepared;
- 20 b. The title, label, code number or file number of the document;
- 21 c. The name and current address of the person(s) who signed the documents
- 22 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 23 d. The name and current address of the person(s) to whom the document was
- 24 directed and the person(s) to whom a copy of the document was directed;
- 25 e. A general description of the subject matter(s) to which the document relates;
- 26
- 27
- 28

1 f. The name and current address of the person(s) having present possession,
2 custody, or control of the document; and

3 g. The grounds on which the document has been withheld.

4 9. With respect to any non-documentary information or communications, required to be
5 identified or described by these requests as to which a claim of privilege is asserted, separately
6 state the following:
7

8 a. The basis of the claim and privilege;

9 b. A general description of the subject of the information and communication;

10 c. The identities of all person(s) with knowledge of the information or
11 communication;

12 d. The date of communication;

13 e. The identities of all persons present when the communication took place; and

14 f. The type of communication (i.e., face-to-face conversation, telephone
15 conversation) and the location of each party to the communication at the time it took place.
16

17 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
18 interrogatories as follows:

19 "in a timely manner if the party learns in some material respect the disclosure or
20 response is incomplete or incorrect and if the additional or corrective information
21 has not otherwise been made known to the other parties during discovery or in
writing."

22 11. If you object to any portion of the Interrogatories, state the specific ground for such
23 objection and respond to the request to the extent to which there is no objection.

24 12. If you do not know or have the information requested in any or all of the following
25 discovery, please identify the person who, to the best of your knowledge, would know or have
26 the answer or information requested.
27
28

1 13. When used herein, the term "Amended Complaint" shall refer to the Verified First
2 Amended Complaint filed by Plaintiffs in this action on January 21, 2015.

3 14. When used herein, the term "Lease Agreement" means the December 2, 2005, Lease
4 Agreement between EDWARD C. WOOLEY AND JUDITH A WOOLEY ("WOOLEY"), and
5 Berry-Hinckley Industries ("BHI"), and the subsequent amendments thereto.

6 15. When used herein, the term "Lease Guarantee" means the March 9, 2007, Guaranty
7 Agreement executed by Jerry Herbst for the benefit of BHI.

8 16. When used herein, the term "Property" means 1820 Highway 50 East, Carson City,
9 Nevada.
10

11 17. When used herein, the term "Baring Location" means 1365 Baring Boulevard Sparks,
12 Nevada.
13

14 INTERROGATORIES

15 INTERROGATORY NO. 1

16 Please identify and describe in detail any and all measures you have taken, if any, to re-
17 let or sell the Property since the Lease was allegedly breached.

18 INTERROGATORY NO. 2

19 Please identify any persons or entities who have expressed interest in leasing or
20 purchasing the Property since the Lease was allegedly breached.

21 INTERROGATORY NO. 3

22 Please identify and explain in detail any and all methods you have utilized to advertise
23 the availability of the Property, including but not limited to signage, brochures, websites,
24 newspapers, periodicals or any other similar means since the Lease was allegedly breached.
25

26 ///

27 ///

28

INTERROGATORY NO. 4

Please specify the date upon which the Property was first advertised for lease or sale after the Lease was allegedly breached.

INTERROGATORY NO. 5

Please explain if and how you are still currently advertising the availability of the Property for sale or lease.

INTERROGATORY NO. 6

Please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.

INTERROGATORY NO. 7

Please explain in detail how the damages in Paragraphs 33-42 alleged in your Amended Complaint were calculated.

INTERROGATORY NO. 8

Please identify and explain in detail the basis for your allegation in Paragraph 40 of the Amended Complaint that “[a]s a further direct and proximate result of BHI breaching Wooley Lease #1, because the Sparks Property was cross-collateralized with the Highway 50 Property, the Wooley Plaintiffs were forced to sell the Sparks Property at a loss of \$147,847.30.”

INTERROGATORY NO. 9

Please identify and explain in detail the basis for your allegation in Paragraph 41 of the Amended Complaint that “[a]s a further direct and proximate result of BHI breaching Wooley Lease #1, because the Sparks Property was cross-collateralized with the Highway 50 Property and the Wooley Plaintiffs were forced to sell the Sparks Property, the Wooley Plaintiffs incurred tax liabilities in an amount to be proven at trial but which is at least \$600,000.00.”

///

1 INTERROGATORY NO. 10

2 Please identify and explain in detail your basis for claiming that BHI is responsible for
3 the legal fees associated with Plaintiffs' filing of a lawsuit in Santa Clara, California.

4 DATED this 21st day of April, 2015.

5 GORDON SILVER

6
7 By: 

8 JOHN P. DESMOND

9 Nevada Bar No. 5618

10 BRIAN R. IRVINE

11 Nevada Bar No. 7758

12 KATHLEEN M. BRADY

13 Nevada Bar No. 11525

14 100 West Liberty Street, Suite 940

15 Reno, Nevada 89501

16 Tel: (775) 343-7500

17 Fax: (775) 786-0131

18 Email: jdesmond@gordonsilver.com

19 Email: birvine@gordonsilver.com

20 Email: kbrady@gordonsilver.com

21 *Attorneys for Defendants,*
22 *Berry Hinckley Industries, and*
23 *Jerry Herbst*
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES TO EDWARD E. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Via E-Mail

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

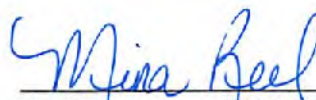
_____ Federal Express (or other overnight delivery)

_____ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

7 TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, hereby
10 requests that Plaintiffs/Counter-Defendants, LARRY J. WILLARD, both respond and produce
11 the following documents, within thirty (30) days after service hereof:
12

13 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

14 1. "Communication" or "Communications" shall mean (a) any form of data
15 transmission, including letters, faxes, emails, and all other transmission of data via
16 telecommunications, (b) all meetings of two or more persons and all documents describing such
17 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
18 which ideas are discussed, interpreted or exchanged among two or more persons.
19

20 2. "Correspondence" shall mean any writing or document relating to any
21 communication, including but not limited to letters, emails, notes, telephone message pads, text
22 messages, transcriptions, faxes, and memoranda.

23 3. "Person" shall mean natural persons, firms, proprietorships, associations,
24 partnerships, corporations, governmental entities, and every other type of organization or entity.

25 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
26 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
27
28

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
20 James Willard Trust.

21 7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.
23

24 8. "Willard Plaintiffs" means Willard and Overland.

25 9. "You" and "your" refer to the Willard Plaintiffs, and (i) all of their present and
26 former agents, representatives, accountants, investigators, consultants, and/or attorneys; or (ii)
27 any other person or entity acting on their behalf.
28

10. "BHI" means Berry-Hinckley Industries, a Nevada corporation.
11. "Defendants" means BHI and Jerry Herbst.
12. "First Amended Complaint" means the Verified First Amended Complaint filed by Plaintiffs in Case No. CV14-01712 on January 21, 2015.
13. "Operation and Management Agreement" means the May 1, 2013, Operation and Management Agreement made and entered into by and between BHI and Overland Corporation d/b/a LJW Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.
14. "Willard Property" means that certain real property located at 7695-77699 S. Virginia Street, Reno, Nevada (APN 043-011-48).
15. "Willard Lease" means the November 18, 2005, Lease Agreement between the Willard Plaintiffs and BHI for lease of the Willard Property.
16. "Willard Guaranty" means the March 9, 2007, Guaranty Agreement between Jerry Herbst and the Willard Plaintiffs.
17. "Answer to Counterclaim" means the Willard Plaintiffs' answer to Defendants' Counterclaim in Case No. CV14-01712 filed on May 27, 2015.

Requests for Production of Documents

1. Please provide any and all Documents identified in response to Interrogatory No. 1 in Defendants' Second Set of Interrogatories, served concurrently herewith.
2. Please provide any and all Documents identified in response to Interrogatory No. 2 in Defendants' Second Set of Interrogatories, served concurrently herewith.
3. Please provide any and all Documents identified in response to Interrogatory No. 3 in Defendants' Second Set of Interrogatories, served concurrently herewith.
4. Please provide any and all Documents identified in response to Interrogatory No. 4 in Defendants' Second Set of Interrogatories, served concurrently herewith.
5. Please provide any and all Documents identified in response to Interrogatory No. 5 in Defendants' Second Set of Interrogatories, served concurrently herewith.
6. Please provide any and all Documents identified in response to Interrogatory No. 6 in Defendants' Second Set of Interrogatories, served concurrently herewith.

1 7. Please provide any and all Documents identified in response to Interrogatory No.
2 7 in Defendants' Second Set of Interrogatories, served concurrently herewith.

3 8. Please provide any and all Documents identified in response to Interrogatory No.
4 8 in Defendants' Second Set of Interrogatories, served concurrently herewith.

5 9. Please provide any and all Documents identified in response to Interrogatory No.
6 9 in Defendants' Second Set of Interrogatories, served concurrently herewith.

7 11. Please provide any and all of Willard's federal income tax returns from 2005
8 through 2014. Please include all supporting schedules and statements.

9 12. Please provide any and all of Overland's federal income tax returns from 2005
10 through 2014. Please include all supporting schedules and statements.

11 13. Please produce documents sufficient to identify any and all commissions that You
12 have paid to any real estate broker, real estate agent, or realty company performing work for You
13 on the Willard Property from 2005 through present.

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this Two day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

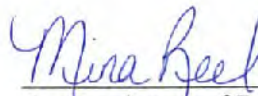
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.



An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

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Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD C. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

1
2
3 LARRY J. WILLARD, individually and as
4 trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5 Counter-defendants.

6
7 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR**
8 **PRODUCTION OF DOCUMENTS**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/ Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
11 (collectively, "Defendants"), by and through their attorneys of record, Dickinson Wright,
12 PLLC, hereby request that pursuant to NRCP 34, Plaintiffs Edward C. Wooley and Judith A.
13 Wooley both respond and produce the following documents, within thirty (30) days of service
14 hereof:

15
16 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

17 The following preliminary definitions and instructions apply to each of the requests
18 hereinafter set forth, and Defendants incorporate the same herein by reference.

19 1. "Communication" or "Communications" shall mean (a) any form of data
20 transmission, including letters, faxes, emails, and all other transmission of data via
21 telecommunications, (b) all meetings of two or more persons and all documents describing such
22 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
23 which ideas are discussed, interpreted or exchanged among two or more persons.

24 2. "Correspondence" shall mean any writing or document relating to any
25 communication, including but not limited to letters, emails, notes, telephone message pads, text
26 messages, transcriptions, faxes, and memoranda.

1 3. “Person” shall mean natural persons, firms, proprietorships, associations,
2 partnerships, corporations, governmental entities, and every other type of organization or entity.

3 4. “Document” or “Documents” shall refer to and includes, but is not limited to, any
4 and all “writings” as that terms is defined by Nevada Revised Statute section 52.225, and also
5 including all other means by which information, correspondence, notes, notations,
6 representations, depictions, or data is stored. This definition includes originals, copies, non-
7 identical copies and preliminary, intermediate, and final drafts or writings, records,
8 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
9 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
10 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
11 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
12 invoices, receipts, working papers, and records of every kind and description, whether inscribed
13 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
14 photographic, video, punched, or other means - and computer records, whether reflected by
15 printout or stored on disk, drum, tape or otherwise.

16 5. “Relate to,” “related to,” or “relating to” shall mean constituting, pertaining to,
17 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
18 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
19 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
20 bearing on any logical or factual connection with the matter discussed.

21 6. The “Wooley Plaintiffs” means Edward C. Wooley and Judith A. Wooley,
22 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
23 Revocable Trust 2000.

24 7. “You” and “your” shall mean the Wooley Plaintiffs, and (i) all of their present
25 and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
26 (ii) any other person or entity acting on their behalf.

1 8. "First Amended Complaint" means the Verified First Amended Complaint filed
2 by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

3 9. "Highway 50 Property" means that certain real property located at 1820 Highway
4 50 East, Carson City, Nevada (APN 002-368-27).

5 10. "Baring Property" means that certain real property located at 1365 Baring
6 Boulevard, Sparks (APN 030-041-08).

7 11. "Highway 50 Lease" means the December 2005 Lease for the Highway 50
8 Property between the Wooley Plaintiffs and BHI.

9 12. "Baring Lease" means the Lease for the Baring Property between the Wooley
10 Plaintiffs and BHI.

11 **Requests for Production of Documents**

12 1. Please provide any and all Documents identified in response to Interrogatory No.
13 1 in Defendants' Second Set of Interrogatories, served concurrently herewith.

14 2. Please provide any and all Documents identified in response to Interrogatory No.
15 2 in Defendants' Second Set of Interrogatories, served concurrently herewith.

16 3. Please provide any and all Documents identified in response to Interrogatory No.
17 3 in Defendants' Second Set of Interrogatories, served concurrently herewith.

18 4. Please provide any and all Documents identified in response to Interrogatory No.
19 4 in Defendants' Second Set of Interrogatories, served concurrently herewith.

20 5. Please provide any and all Documents identified in response to Interrogatory No.
21 5 in Defendants' Second Set of Interrogatories, served concurrently herewith.

22 6. Please provide any and all Documents identified in response to Interrogatory No.
23 6 in Defendants' Second Set of Interrogatories, served concurrently herewith.

24 7. Please provide any and all Documents identified in response to Interrogatory No.
25 7 in Defendants' Second Set of Interrogatories, served concurrently herewith.

26 8. Please provide any and all Documents identified in response to Interrogatory No.
27

1 8 in Defendants' Second Set of Interrogatories, served concurrently herewith.

2 9. Please provide any and all Documents supporting Your contention that the
3 Highway 50 Property diminished in value by \$2,000,000 as set forth in paragraph 34 of the First
4 Amended Complaint.

5 10. Please provide any and all Documents evidencing the value of the Highway 50
6 Property in between December 2005 and February 2013.

7 11. Please produce documents sufficient to identify any and all commissions that You
8 have paid to any real estate broker, real estate agent, or realty company performing work for You
9 on the Highway 50 Property from 2005 through present.

10 12. Please produce documents sufficient to identify any and all commissions that You
11 have paid to any real estate broker, real estate agent, or realty company performing work for You
12 on the Baring Property from 2005 through present.

13 13. Please provide any and all of the Wooley Plaintiffs' federal income tax returns
14 from 2005 through 2014. Please include all supporting schedules and statements.

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24 ///

25 ///

26 ///

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: [Birvine@dickinsonwright.com](mailto:birvine@dickinsonwright.com)
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

I certify that I am an employee of DICKINSON WRIGHT, and that on this date, pursuant to NRC 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO EDWARD C. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

- X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Via Facsimile (Fax)

- X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.

Mina Kheel

An employee of Dickinson Wright

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

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Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

4 Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES TO**
7 **EDWARD E. WOOLEY AND JUDITH A. WOOLEY**

8 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

9 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES ("BHI") and JERRY
10 HERBST (collectively, "Defendants"), by and through their attorneys of record, Dickinson
11 Wright, PLLC, and pursuant to Rules 26 and 33 of the Nevada Rules of Civil Procedure, hereby
12 demands that Plaintiffs EDWARD E. WOOLEY AND JUDITH A. WOOLEY, answer the
13 following Interrogatories, separately and fully, in writing, under oath, within thirty (30) days
14 after service.

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendants incorporate the same herein by reference.

18 1. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
19 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
20 Revocable Trust 2000.

21 2. When used herein, the terms "You" and "Your," their plural, or any synonym
22 thereof, are intended to and shall embrace and include, in addition to the Wooley Plaintiffs,
23 counsel for said Wooley Plaintiffs and all agents, employees, investigators, representatives,
24 servants and others who are acting or purporting to act on their behalf or who are in possession
25 of, or may have obtained, information for or on behalf of Wooley Plaintiffs.

26 3. When used herein, the terms "Document" and "Writing," and the plural forms

1 thereof, shall mean all written, typewritten, printed, recorded, or graphic matters, however
2 produced or reproduced, of every kind and description, pertaining in any way to the subject
3 matter of this action. The terms "document" and "writing" shall include, but are not limited to,
4 any books, pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications,
5 leases, memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial
6 records, security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
7 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
8 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
9 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
10 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
11 or reproduced, in Plaintiff s possession, custody or control, or to which Plaintiffs have or have
12 had access. Documents shall also include any drafts or variations or markings to original
13 documents.

14 4. Whenever there is a request to identify or state the identity of a document, provide
15 as to such document the following information:

- 16 a. The date of its preparation;
- 17 b. The names, title and address of each author and signatory;
- 18 c. The name, title and address of each addressee and each other person
19 receiving a copy thereof;
- 20 d. Its present and/or last known custodian and location; and
- 21 e. Its title and/or all identifying or categorizing designations.

22 5. When used herein, the term "Person," its plural or any synonym thereof, is
23 intended to and shall embrace and include any individual, partnership, corporation, trust, estate,
24 company, association, government agency (federal, state, local or foreign), or any other entity.

25 6. Whenever there is a request to identify a Person, provide or state the identity of a
26 Person, provide as to each such Person the following information:

- a. His or her name, date of birth, and gender;
- b. His or her present or last known home address;
- c. His or her present business address, business telephone, name of employer, and job title; and
- d. His, her or its status or relationship with each of the parties to this action.

7. All information is to be divulged which is in Plaintiffs' possession or control, or can be ascertained upon reasonable investigation of areas within your control. The knowledge of Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters, if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said knowledge must be incorporated into your answers, even if such information is unknown to Plaintiffs.

8. In the event you withhold from identification any document as privileged, you are requested to provide a list of documents withheld and state the following information with respect to each document withheld:

- a. The date appearing on the document, and, if it has no date, the date, or approximate date, on which it was prepared;
- b. The title, label, code number or file number of the document;
- c. The name and current address of the person(s) who signed the documents and, if it was not signed, the name and current address of the person(s) who prepared it;
- d. The name and current address of the person(s) to whom the document was directed and the person(s) to whom a copy of the document was directed;
- e. A general description of the subject matter(s) to which the document relates;
- f. The name and current address of the person(s) having present possession, custody, or control of the document; and
- g. The grounds on which the document has been withheld.

1 9. With respect to any non-documentary information or communications, required to
2 be identified or described by these requests as to which a claim of privilege is asserted,
3 separately state the following:

- 4 a. The basis of the claim and privilege;
5 b. A general description of the subject of the information and
6 communication;
7 c. The identities of all person(s) with knowledge of the information or
8 communication;
9 d. The date of communication;
10 e. The identities of all persons present when the communication took place;
11 and
12 f. The type of communication (i.e., face-to-face conversation, telephone
13 conversation) and the location of each party to the communication at the time it took
14 place.

15 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
16 interrogatories as follows:

17 in a timely manner if the party learns in some material respect the disclosure or
18 response is incomplete or incorrect and if the additional or corrective information
19 has not otherwise been made known to the other parties during discovery or in
writing.

20 11. If you object to any portion of the Interrogatories, state the specific ground for
21 such objection and respond to the request to the extent to which there is no objection.

22 12. If you do not know or have the information requested in any or all of the
23 following discovery, please identify the person who, to the best of your knowledge, would know
24 or have the answer or information requested.

25 13. "First Amended Complaint" means the Verified First Amended Complaint filed
26 by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

1 14. “Highway 50 Property” means that certain real property located at 1820 Highway
2 50 East, Carson City, Nevada (APN 002-368-27).

3 15. “Baring Property” means that certain real property located at 1365 Baring
4 Boulevard, Sparks (APN 030-041-08).

5 16. “Highway 50 Lease” means the December 2005 Lease for the Highway 50
6 Property between the Wooley Plaintiffs and BHI.

7 17. “Baring Lease” means the Lease for the Baring Property between the Wooley
8 Plaintiffs and BHI.

INTERROGATORIES

INTERROGATORY NO. 1

11 Please identify the provision in the Highway 50 Lease which supports Your contention in
12 paragraph 28 of the First Amended Complaint that the rental rate in the Highway 50 Lease
13 increases by two percent per month.

INTERROGATORY NO. 2

15 Please explain the basis for Your contention in paragraph 31 of the First Amended
16 Complaint that the Wooley Plaintiffs agreed to amend the Highway 50 Lease and the Baring
17 Lease through shortening the lease term by 30 months in return for Herbst personally
18 guaranteeing that BHI would make all lease payments through the term of the lease.

INTERROGATORY NO. 3

20 Please identify and describe in detail any and all facts demonstrating that BHI knew at
21 the time You and BHI entered into the Highway 50 Lease that the Highway 50 Property was
22 “cross-collateralized” with the Baring Property.

INTERROGATORY NO. 4

24 Please identify and describe in detail any and all facts demonstrating that Jerry Herbst
25 knew at the time You and BHI entered into the Highway 50 Lease that the Highway 50 Property
26 was “cross-collateralized” with the Baring Property.

1 **INTERROGATORY NO. 5**

2 Please identify any Documents which entitle You to the security deposit from the
3 subtenant at the Highway 50 Property in the amount of \$2,845 as set forth in paragraph 39 of the
4 First Amended Complaint.

5 **INTERROGATORY NO. 6**

6 What is Your current balance due on any and all mortgage loans for the Highway 50
7 Property?

8 **INTERROGATORY NO. 7**

9 Are you presently in default on any mortgage payments for any and all mortgage loans
10 for the Highway 50 Property? If so, when was your last mortgage payment?

11 **INTERROGATORY NO. 8**

12 With regard to each of the Requests for Admission propounded concurrently herewith,
13 for each Request wherein your answer is anything other than an unequivocal "admit," please
14 state the basis for your failure to admit and the facts that support your response, including the
15 names of all witnesses and the identity or a description of all documents or evidence supporting a
16 response.

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Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Brivine@dickinsonwright.com
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/ COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES TO EDWARD C. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

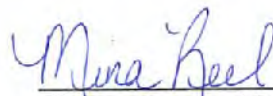
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.



An employee of Dickinson Wright

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs.

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES**
7 **TO LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION**

TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, and
10 pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, hereby demands that
11 Plaintiffs/Counter-defendants LARRY J. WILLARD and OVERLAND DEVELOPMENT
12 CORPORATION, answer the following Interrogatories, separately and fully, in writing,
13 under oath, within thirty (30) days after service.
14

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.

18 1. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
19 James Willard Trust.
20

21 2. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.

23 3. "Willard Plaintiffs" means Willard and Overland.

24 4. When used herein, the terms "you" and "your", their plural, or any synonym
25 thereof, are intended to and shall embrace and include, in addition to the Willard Plaintiffs,
26

1 counsel for said Plaintiffs and all agents, employees, investigators, representatives, servants and
2 others who are acting or purporting to act on its behalf or who are in possession of, or may have
3 obtained, information for or on behalf of Plaintiffs.

4 5. When used herein, the terms "document" and "writing," and the plural forms
5 thereof, shall mean all written, typewritten, printed, recorded, or graphic matters, however
6 produced or reproduced, of every kind and description, pertaining in any way to the subject
7 matter of this action. The terms "document" and "writing" shall include, but are not limited to,
8 any books, pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications,
9 leases, memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial
10 records, security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
11 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
12 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
13 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
14 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
15 or reproduced, in Plaintiff s possession, custody or control, or to which Plaintiffs have or have
16 had access. Documents shall also include any drafts or variations or markings to original
17 documents.
18

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21 6. Whenever there is a request to identify or state the identity of a documents,
22 provide as to such document the following information:

- 23 a. The date of its preparation;
- 24 b. The names, title and address of each author and signatory;
- 25 c. The name, title and address of each addressee and each other person
26 receiving a copy thereof;

1 d. Its present and/or last known custodian and location; and

2 e. Its title and/or all identifying or categorizing designations.

3 7. When used herein, the term "person," its plural or any synonym thereof, is
4 intended to and shall embrace and include any individual, partnership, corporation, trust, estate,
5 company, association, government agency (federal, state, local or foreign), or any other entity.

6
7 8. Whenever there is a request to identify a person, provide or state the identity of a
8 person, provide as to each such person the following information:

9 a. His or her name, date of birth, gender and social security number;

10 b. His or her present or last known home address;

11 c. His or her present business address, business telephone, name of
12 employer, and job title; and

13
14 d. His, her or its status or relationship with each of the parties to this action.

15 9. All information is to be divulged which is in Plaintiffs' possession or control, or
16 can be ascertained upon reasonable investigation of areas within your control. The knowledge of
17 Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters,
18 if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said
19 knowledge must be incorporated into your answers, even if such information is unknown to
20 Plaintiffs.

21
22 10. In the event you withhold from identification any document as privileged, you are
23 requested to provide a list of documents withheld and state the following information with
24 respect to each document withheld:

25 a. The date appearing on the document, and, if it has no date, the date, or
26 approximate date, on which it was prepared;

- 1 b. The title, label, code number or file number of the document;
- 2 c. The name and current address of the person(s) who signed the documents
- 3 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 4 d. The name and current address of the person(s) to whom the document was
- 5 directed and the person(s) to whom a copy of the document was directed;
- 6 e. A general description of the subject matter(s) to which the document
- 7 relates;
- 8 f. The name and current address of the person(s) having present possession,
- 9 custody, or control of the document; and
- 10 g. The grounds on which the document has been withheld.
- 11 11. With respect to any non-documentary information or communications, required to
- 12 be identified or described by these requests as to which a claim of privilege is asserted,
- 13 separately state the following:
- 14 a. The basis of the claim and privilege;
- 15 b. A general description of the subject of the information and
- 16 communication;
- 17 c. The identities of all person(s) with knowledge of the information or
- 18 communication;
- 19 d. The date of communication;
- 20 e. The identities of all persons present when the communication took place;
- 21 and
- 22 f. The type of communication (i.e., face-to-face conversation, telephone
- 23 conversation) and the location of each party to the communication at the time it took place.
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1 12. Pursuant to the Nevada Rules of Civil Procedure, you are under a duty to
2 supplement to these interrogatories as follows:

3 in a timely manner if the party learns in some material respect the disclosure o
4 response is incomplete or incorrect and if the additional or corrective information
5 has not otherwise been made known to the other parties during discovery or in
6 writing.

7 13. If you object to any portion of the Interrogatories, state the specific ground for
8 such objection and respond to the request to the extent to which there is no objection.

9 14. If you do not know or have the information requested in any or all of the
10 following discovery, please identify the person who, to the best of your knowledge, would know
11 or have the answer or information requested.

12 15. "BHI" means Berry-Hinckley Industries, a Nevada corporation.

13 16. "Defendants" means BHI and Jerry Herbst.

14 17. "First Amended Complaint" means the Verified First Amended Complaint filed
15 by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

16 18. "Operation and Management Agreement" means the May 1, 2013, Operation and
17 Management Agreement made and entered into by and between BHI and Overland Corporation
18 d/b/a LJW Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.

19 19. "Willard Property" means that certain real property located at 7695-77699 S.
20 Virginia Street, Reno, Nevada (APN 043-011-48).

21 20. "Willard Lease" means the November 18, 2005, Lease Agreement between the
22 Willard Plaintiffs and BHI for lease of the Willard Property.

23 21. "Willard Guaranty" means the March 9, 2007, Guaranty Agreement between
24 Jerry Herbst and the Willard Plaintiffs.
25
26

INTERROGATORY NO. 1

INTERROGATORY NO. 2

INTERROGATORY NO. 3

INTERROGATORY NO. 4

INTERROGATORY NO. 5

Please identify and explain in detail the factual basis for Your contention that Defendants are responsible for the claimed accounting fees associated with Willard's Bankruptcy filing.

1 referred to in Paragraph 17 of the First Amended Complaint, which was subsequently dismissed
2 voluntarily.

3 **INTERROGATORY NO. 6**

4 Please identify the outstanding balance due and owing on any and all mortgage loans for
5 the Willard Property as of the date of the short sale identified in paragraph 15 of the Amended
6 Complaint.
7

8 **INTERROGATORY NO. 7**

9 Please identify and describe in detail the claimed City of Reno fines referred to in
10 paragraph 13 of the First Amended Complaint.
11

12 **INTERROGATORY NO. 8**

13 Please identify the date that You contend that the Operation and Management Agreement
14 terminated.

15 **INTERROGATORY NO. 9**

16 With regard to each of the Requests for Admission propounded concurrently herewith,
17 for each Request wherein your answer is anything other than an unequivocal "admit," please
18 state the basis for your failure to admit and the facts that support your response, including the
19 names of all witnesses and the identity or a description of all documents or evidence supporting a
20 response.
21

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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

*Attorney for Defendants
Berry-Hinckley Industries and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES TO LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.



An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD C. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual,

Defendants.

/

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1
2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 OVERLAND DEVELOPMENT
5 CORPORATION, a California corporation;
6
7 Counter-defendants.
8 _____ /

9
10 **DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR**
11 **PRODUCTION OF DOCUMENTS**

12 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

13 Defendants/ Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
14 (collectively, "Defendants"), by and through their attorneys of record, Dickinson Wright,
15 PLLC, hereby request that pursuant to NRC 34, Plaintiffs Edward C. Wooley and Judith A.
16 Wooley both respond and produce the following documents, within thirty (30) days of service
17 hereof:

18 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

19 The following preliminary definitions and instructions apply to each of the requests
20 hereinafter set forth, and Defendants incorporate the same herein by reference.

21 1. "Communication" or "Communications" shall mean (a) any form of data
22 transmission, including letters, faxes, emails, and all other transmission of data via
23 telecommunications, (b) all meetings of two or more persons and all documents describing such
24 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
25 which ideas are discussed, interpreted or exchanged among two or more persons.

26 2. "Correspondence" shall mean any writing or document relating to any
27 communication, including but not limited to letters, emails, notes, telephone message pads, text
28 messages, transcriptions, faxes, and memoranda.

3. "Person" shall mean natural persons, firms, proprietorships, associations,

1 partnerships, corporations, governmental entities, and every other type of organization or entity.

2 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
3 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
4 including all other means by which information, correspondence, notes, notations,
5 representations, depictions, or data is stored. This definition includes originals, copies, non-
6 identical copies and preliminary, intermediate, and final drafts or writings, records,
7 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
8 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
9 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
10 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
11 invoices, receipts, working papers, and records of every kind and description, whether inscribed
12 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
13 photographic, video, punched, or other means - and computer records, whether reflected by
14 printout or stored on disk, drum, tape or otherwise.

15 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
16 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
17 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
18 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
19 bearing on any logical or factual connection with the matter discussed.

20 6. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
21 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
22 Revocable Trust 2000.

23 7. "You" and "your" shall mean the Wooley Plaintiffs, and (i) all of their present
24 and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
25 (ii) any other person or entity acting on their behalf.
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REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please provide any and all of the Wooley Plaintiffs' state income tax returns from 2005 through 2014. Please include all supporting schedules and statements.

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of September, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Brivine@dickinsonwright.com
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO EDWARD C. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of September, 2015.



An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brivine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD C. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

7 TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, hereby
10 requests that Plaintiffs/Counter-Defendants, LARRY J. WILLARD, both respond and produce
11 the following documents, within thirty (30) days after service hereof:
12

13 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

14 1. "Communication" or "Communications" shall mean (a) any form of data
15 transmission, including letters, faxes, emails, and all other transmission of data via
16 telecommunications, (b) all meetings of two or more persons and all documents describing such
17 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
18 which ideas are discussed, interpreted or exchanged among two or more persons.
19

20 2. "Correspondence" shall mean any writing or document relating to any
21 communication, including but not limited to letters, emails, notes, telephone message pads, text
22 messages, transcriptions, faxes, and memoranda.

23 3. "Person" shall mean natural persons, firms, proprietorships, associations,
24 partnerships, corporations, governmental entities, and every other type of organization or entity.

25 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
26 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
27
28

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
20 James Willard Trust.

21 7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.
23

24 8. "Willard Plaintiffs" means Willard and Overland.

25 9. "You" and "your" refer to the Willard Plaintiffs, and (i) all of their present and
26 former agents, representatives, accountants, investigators, consultants, and/or attorneys; or (ii)
27 any other person or entity acting on their behalf.
28

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please provide any and all of Willard's state income tax returns from 2005 through 2014.
Please include all supporting schedules and statements.

REQUEST FOR PRODUCTION NO. 2:

Please provide any and all of Overland's state income tax returns from 2005 through 2014. Please produce all supporting schedules and statements.

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of September, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

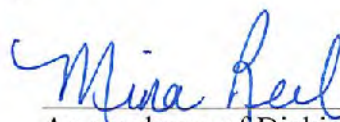
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of September, 2015.



An employee of Dickinson Wright, PLLC

EXHIBIT 7

EXHIBIT 7



100 WEST LIBERTY STREET, SUITE 940
RENO, NV 89501-1991
TELEPHONE: (775) 343-7500
FACSIMILE: (775) 786-0131
<http://www.dickinsonwright.com>

BRIAN R. IRVINE
BIRVINE@DICKINSONWRIGHT.COM
(775) 343-7507

March 15, 2016

VIA E-MAIL

Brian P. Moquin, Esq.
Law Offices of Brian P. Moquin
3287 Ruffino Lane
San Jose, CA 95148
bmoquin@lawprism.com

Dear Mr. Moquin:

This letter serves as a follow-up request for documents in the above-referenced case. First, with respect to the Willard Plaintiffs' Response to Defendants' First Set of Interrogatories at 7, the Willard Plaintiffs responded, in pertinent part, as follows:

The tax consequences in the amount of at least \$3,000,000.00 was obtained from Respondent's accountant, Mitra Ehsanipour. This figure was revised on March 1, 2015 by Ms. Ehsanipour to be \$2,430,000.00 for Overland Development Corporation and \$3,152,000.00 for Larry Willard.

Please provide all supporting documentation for this response.

Second, as requested in our March 3, 2016, letter, please supplement Plaintiffs' written discovery responses to the extent that they are incomplete or contain additional or corrective information. NRCP 26(e). Such supplemental answers should include, but not be limited to, all measures taken by the Wooley Plaintiffs to re-let or sell the Property since the Lease was allegedly breached. I have attached a copy of the March 3, 2016, Letter as **Exhibit 1** for your convenience.

Please also keep in mind when supplementing Plaintiffs' responses that Defendants' written discovery requests are directed to the named Plaintiffs, and all of their present and former agents, representatives, accountants, investigators, consultants, employees and/or attorneys, and

Brian P. Moquin
March 15, 2016
Page 2

any other person or entity acting on their behalf. Thus, to the extent that Mr. Gluhaich (or any other agent, representative, or employee) is in possession of a responsive document, Plaintiffs are charged with producing that document.

I look forward to your prompt response.

Sincerely,

DICKINSON WRIGHT PLLC



Brian R. Irvine

BRI/mr

cc: David O'Mara
david@omaralaw.net

EXHIBIT 1

EXHIBIT 1



100 WEST LIBERTY STREET, SUITE 940
 RENO, NV 89501-1991
 TELEPHONE: (775) 343-7500
 FACSIMILE: (775) 786-0131
<http://www.dickinsonwright.com>

BRIAN R. IRVINE
 BIRVINE@DICKINSONWRIGHT.COM
 (775) 343-7507

March 3, 2016

VIA E-MAIL and U.S. Mail

Brian P. Moquin
 LAW OFFICES OF BRIAN P. MOQUIN
 3506 La Castellet Court
 San Jose, California 95148
bmoquin@lawprism.com

Re: *Willard v. Berry-Hinckley Industries, et al.*, Case No. CV14-01712

Dear Mr. Moquin:

We still have not received responses from your clients with respect to the following discovery requests:

- The Wooley Plaintiffs' state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Willard's state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Overland's state income tax returns from 2005 through 2014, as requested in Defendants' September 2, 2015, requests for production of documents;
- Overland's federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2009, 2013, 2014 and/or any other years not produced in this case from 2005-2014;
- Willard's federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2013, 2014 and/or any other years not produced in this case from 2005-2014;
- The Wooley Plaintiffs' federal tax returns for the following years, as requested in Defendants' requests for production of documents: 2005, 2006, 2007, 2008, 2009, 2010 and/or any other years not produced in this case from 2005-2014.

Please provide us with responses to the aforementioned discovery requests immediately, as well as responses to any discovery requests not mentioned herein to which Plaintiffs have not yet responded.

Brian P. Moquin
March 3, 2016
Page 2

Additionally, the Nevada Rules of Civil Procedure require you to update or supplement your discovery responses throughout the litigation to ensure that they are accurate and up-to-date. Specifically, NRCP 26(e) provides:

A party who has made a disclosure under Rule 16.1 or 16.2 or responded to a request for discovery with a disclosure or response is under a duty to supplement or correct the disclosure or response to include information thereafter acquired, if ordered by the court or in the following circumstances:

(1) A party is under a duty to supplement at appropriate intervals its disclosures under Rule 16.1(a) or 16.2(a) if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. With respect to the testimony of an expert from whom a report is required under Rule 16.1(a)(2)(B) the duty extends both to information contained in the report and to information provided through a deposition of the expert, and any additions or other changes to this information shall be disclosed by the time the party's disclosures under Rule 16.1(a)(3) are due.

(2) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production or request for admission, if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

NRCP 26(e).

Please ensure that Plaintiffs promptly supplement and/or correct their responses to all of Defendants' discovery requests to which NRCP 26(e) applies, including, but not limited to, the following discovery requests:

- Interrogatory No. 1 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify in detail any and all measures you have taken, if any, to re-let or sell the Property since the Lease was allegedly breached.

Brian P. Moquin
March 3, 2016
Page 3

- Interrogatory No. 2 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify any persons or entities who expressed interest in leasing or purchasing the Property since the Lease was allegedly breached.
- Interrogatory No. 3 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify and explain in detail any and all methods you have utilized to advertise the availability of the Property for lease or sale, including but not limited to signage, brochures, websites, newspapers, or any other similar means since the Lease was allegedly breached.
- Interrogatory No. 5 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please explain if and how you are still currently advertising the availability of the Property for sale or lease.
- Interrogatory No. 6 in Defendants' First Set of Interrogatories to the Wooley Plaintiffs: please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.
- Interrogatory No. 6 in Defendants' Second Set of Interrogatories to the Wooley Plaintiffs: what is your current balance due on any and all mortgage loans for the Highway 50 Property?
- Interrogatory No. 7 in Defendants' Second Set of Interrogatories to the Wooley Plaintiffs: are you presently in default on any mortgage payments for any and all mortgage loans for the Highway 50 Property? If so, when was your last mortgage payment?
- All corresponding requests for production of documents.

For each of the above-referenced Interrogatories, we have not received any updated information since we took Mr. Wooley's deposition last year.

For your convenience and ease of reference, all of Defendants' discovery requests have been attached to this Letter.

Sincerely,



Brian R. Irvine

BRI:mr
Enclosures

cc: David O'Mara
david@omaralaw.net

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: jdesmond@dickinsonwright.comEmail: birvine@dickinsonwright.comEmail: awebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
Individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

LARRY J. WILLARD, individually and as
trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

Counter-defendants.

DEFENDANTS/COUNTERCLAIMANTS' FIRST REQUESTS FOR ADMISSIONS

Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY HERBST, by and through their attorneys of record, DICKINSON WRIGHT. PLLC, hereby requests Plaintiffs/Counter-defendants LARRY J. WILLARD and OVERLAND DEVELOPMENT CORPORATION answer the following Requests for Admissions pursuant to NRC 33, within thirty (30) days after service hereof.

PRELIMINARY INSTRUCTIONS AND DEFINITIONS

1. "BHI" means Berry-Hinckley Industries, a Nevada corporation.
2. "Defendants" means BHI and Jerry Herbst.
3. "First Amended Complaint" means the Verified First Amended Complaint filed by Plaintiffs in Case No. CV14-01712 on January 21, 2015.
4. "Operation and Management Agreement" means the May 1, 2013, Operation and Management Agreement made and entered into by and between BHI and Overland Corporation d/b/a LJW Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.
5. "Willard Property" means that certain real property located at 7695-77699 S. Virginia Street, Reno, Nevada (APN 043-011-48).
6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry James Willard Trust.
7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises Inc.
8. "Willard Plaintiffs" means Willard and Overland.

10. "Willard Guaranty" means the March 9, 2007, Guaranty Agreement between Jerry Herbst and the Willard Plaintiffs.

12. "Answer to Counterclaim" means the Willard Plaintiffs' answer to Defendants' Counterclaim in Case No. CV14-01712 filed on May 27, 2015.

1. Admit that the expiration of the lease term set forth in the Willard Lease is August 23, 2023.

3. Admit that You agreed that during the term of the Operation and Management Agreement, BHI would have no obligation to make the rent payments set forth in the Willard Lease.

4. Admit that upon the closing of the March 2014 short sale of the Willard Property, You were no longer required to make payments on any mortgage loan You entered into on the Willard Property.

Page 3 of 5

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry-Hinckley Industries and
Jerry Herbst*

I certify that I am an employee of DICKINSON WRIGHT, PLLC, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST REQUESTS FOR ADMISSIONS on the parties as set forth below:

Federal Express (or other overnight delivery) Electronic Notification

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.

Mina Keel

An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

LARRY J. WILLARD, individually and as
trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

Counter-defendants.

DEFENDANTS/COUNTERCLAIMANTS'
FIRST REQUESTS FOR ADMISSIONS

Defendants/Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
(collectively, "Defendants") by and through their attorneys of record, Dickinson Wright, PLLC,
hereby requests Plaintiffs EDWARD C. WOOLEY AND JUDITH A. WOOLEY answer the
following Requests for Admissions pursuant to NRCP 33, within thirty (30) days after service
hereof.

PRELIMINARY INSTRUCTIONS AND DEFINITIONS

The following preliminary definitions and instructions apply to each of the requests
hereinafter set forth, and Defendants incorporate the same herein by reference.

1. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
Revocable Trust 2000.

2. "You" and "your" shall mean the Wooley Plaintiffs, and (i) all of their present
and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
(ii) any other person or entity acting on their behalf.

3. "First Amended Complaint" means the Verified First Amended Complaint filed
by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

4. "Highway 50 Property" means that certain real property located at 1820 Highway
50 East, Carson City, Nevada (APN 002-368-27).

5. "Baring Property" means that certain real property located at 1365 Baring
Boulevard, Sparks (APN 030-041-08).

1 6. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
2 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
3 Revocable Trust 2000.

4 7. "Highway 50 Lease" means the December 2005 Lease for the Highway 50
5 Property between the Wooley Plaintiffs and BHI.

6 8. "Baring Lease" means the Lease for the Baring Property between the Wooley
7 Plaintiffs and BHI.

8
9 **Requests for Admission**

10 1. Admit that in the May 2011 Second Amendment to the Highway 50 Lease, You
11 agreed to reduce the base monthly rent to \$20,025.82.

12 2. Admit that BHI was not in default on the Baring Lease at the time that Jackson
13 Oil began operating at the Baring Property.

14 3. Admit that, as of the date You sold the Baring Property, the tenant was not in
15 default of the Baring Lease.

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19 ///

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23 ///

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
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Email: Brvine@dickinsonwright.com
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

1 DISC**2 GORDON SILVER****3 JOHN P. DESMOND****4 Nevada Bar No. 5618****5 BRIAN R. IRVINE****6 Nevada Bar No. 7758****7 KATHLEEN M. BRADY****8 Nevada Bar No. 11525****9 100 West Liberty Street****10 Suite 940****11 Reno, Nevada 89501****12 Tel: (775) 343-7500****13 Fax: (775) 786-0131****14 Email: jdesmond@gordonsilver.com****15 Email: birvine@gordonsilver.com****16 Email: kbrady@gordonsilver.com****17 *Attorneys for Defendants*****18 *Berry Hinckley Industries, and*****19 *Jerry Herbst*****20 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****21 IN AND FOR THE COUNTY OF WASHOE****22 LARRY J. WILLARD, individually and as****23 trustee of the Larry James Willard Trust Fund;****24 OVERLAND DEVELOPMENT****25 CORPORATION, a California corporation;****26 EDWARD E. WOOLEY AND JUDITH A.****27 WOOLEY, individually and as trustees of the****28 Edward C. Wooley and Judith A. Wooley****Intervivos Revocable Trust 2000,****Plaintiff,****CASE NO.: CV14-01712****vs.****DEPT. NO.: 6****BERRY-HINCKLEY INDUSTRIES, a****Nevada corporation; JERRY HERBST, an****individual; and JH, INC., a Nevada****corporation,****Defendants.****BERRY-HINCKLEY INDUSTRIES, a****Nevada corporation; and JERRY HERBST, an****individual;****Counterclaimants**

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5
6 Counter-defendants

7 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR**
8 **PRODUCTION OF DOCUMENTS**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
11 HERBST, by and through their attorneys of record, Gordon Silver, hereby request pursuant to
12 NRCP 34, that Plaintiff/Counter-Defendants, EDWARD E. WOOLEY AND JUDITH A.
13 WOOLEY, both respond and produce the following documents, within thirty (30) days after
14 service hereof:

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 1. "Communication" or "Communications" shall mean (a) any form of data
17 transmission, including letters, faxes, emails, and all other transmission of data via
18 telecommunications, (b) all meetings of two or more persons and all documents describing such
19 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
20 which ideas are discussed, interpreted or exchanged among two or more persons.

21 2. "Correspondence" shall mean any writing or document relating to any
22 communication, including but not limited to letters, emails, notes, telephone message pads, text
23 messages, transcriptions, faxes, and memoranda.

24 3. "Person" shall mean natural persons, firms, proprietorships, associations,
25 partnerships, corporations, governmental entities, and every other type of organization or entity.

26 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
27
28

1 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
2 including all other means by which information, correspondence, notes, notations,
3 representations, depictions, or data is stored. This definition includes originals, copies, non-
4 identical copies and preliminary, intermediate, and final drafts or writings, records,
5 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
6 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
7 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
8 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
9 invoices, receipts, working papers, and records of every kind and description, whether inscribed
10 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
11 photographic, video, punched, or other means - and computer records, whether reflected by
12 printout or stored on disk, drum, tape or otherwise.
13

14
15 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
16 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
17 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
18 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
19 bearing on any logical or factual connection with the matter discussed.
20

21 6. "You" and "your", refer to the named Plaintiffs in this action, and (i) all of their
22 present and former agents, representatives, accountants, investigators, consultants, and/or
23 attorneys; or (ii) any other person or entity acting on their behalf.

24 7. "Plaintiffs" means Edward C. Wooley and Judith A Wooley, and/or their agents,
25 representatives or employees.

26 8. When used herein, the term "Lease Agreement" means the December 2, 2005,
27 Lease Agreement between Edward C. Wooley and Judith A Wooley ("Wooley"), and Berry-
28

1 Hinckley Industries ("BHI"), and the subsequent amendments thereto.

2 9. When used herein, the term "Lease Guarantee" means the March 9, 2007,
3 Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

4 10. When used herein, the term "Property" means 1820 Highway 50 East, Carson
5 City, Nevada.

6 **REQUEST FOR PRODUCTION OF DOCUMENTS:**

7
8 1. Please produce any and all documents identified in response to Interrogatory No.
9 1 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

10 2. Please produce any and all documents identified in response to Interrogatory No.
11 2 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

12 3. Please produce any and all documents identified in response to Interrogatory No.
13 3 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

14 4. Please produce any and all documents identified in response to Interrogatory No.
15 4 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

16 5. Please produce any and all documents identified in response to Interrogatory No.
17 5 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

18 6. Please produce any and all documents identified in response to Interrogatory No.
19 6 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

20 7. Please produce any and all documents identified in response to Interrogatory No.
21 7 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

22 8. Please produce any and all documents identified in response to Interrogatory No.
23 8 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

24 9. Please produce any and all documents identified in response to Interrogatory No.
25 9 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

1 10. Please produce any and all documents identified in response to Interrogatory No.
2 10 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

3 11. Please produce any and all documents evidencing any contracts with real estate
4 brokers for the listing and marketing of the Property for sale or lease from January 1, 2013 to
5 present.

6 12. Please produce any and all documents evidencing communications with real
7 estate brokers or other real estate professionals regarding the Property from January 1, 2013
8 through present.

9 13. Please produce any and all documents evidencing communications with
10 prospective purchasers or lessees of the Property from January 1, 2013 through present.

11 14. Please produce copies of any and all marketing materials prepared in connection
12 with your efforts to sell or lease the Property from January 1, 2013 through present.

13 15. Please produce any and all appraisals for the Property from January 1, 2012
14 through present.

15 16. Please produce any and all documents evidencing your research, evaluation
16 and/or analysis as to the sale value of the Property.

17 17. Please produce any and all documents evidencing your research, evaluation
18 and/or analysis as to the fair market rental value of the Property.

19 18. Please produce any and all documents evidencing comparisons of the sale value
20 of other similar real property in the Northern Nevada area.

21 19. Please produce any and all documents evidencing comparisons of the fair market
22 rental value of other similar real property in the Northern Nevada area.

23 20. Please produce any and all documents evidencing communications and/or
24 correspondence between you, or any of you, and Jerry Herbst and/or Berry-Hinckley, related to
25

1 the Lease Agreement, Guaranty, or any other documents related to the Property, from 2007 to the
2 present.

3 21. Please produce any and all documents regarding and/or evidencing the sale of the
4 Baring Property.

5 DATED this 21st day of April, 2015.

6 GORDON SILVER

7
8 By: 

9 JOHN P. DESMOND
10 Nevada Bar No. 5618
11 BRIAN R. IRVINE
12 Nevada Bar No. 7758
13 KATHLEEN M. BRADY
14 Nevada Bar No. 11525
15 100 West Liberty Street, Suite 940
16 Reno, Nevada 89501
17 Tel: (775) 343-7500
18 Fax: (775) 786-0131
19 Email: jdesmond@gordonsilver.com
20 Email: birvine@gordonsilver.com
21 Email: kbrady@gordonsilver.com

22 *Attorneys for Defendants,*
23 *Berry Hinckley Industries, and*
24 *Jerry Herbst*
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** to **EDWARD E. WOOLEY AND JUDITH A. WOOLEY** on the parties as set forth below:

☒ XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

☐ Certified Mail, Return Receipt Requested

☐ Via Facsimile (Fax)

☐ Via E-Mail

☐ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

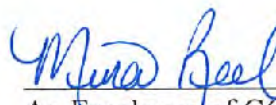
☐ Federal Express (or other overnight delivery)

☐ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC

GORDON SILVER

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

KATHLEEN M. BRADY

Nevada Bar No. 11525

100 West Liberty Street

Suite 940

Reno, Nevada 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: jdesmond@gordonsilver.comEmail: birvine@gordonsilver.comEmail: kbrady@gordonsilver.com*Attorneys for Defendants**Berry Hinckley Industries, and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually and as
 trustee of the Larry James Willard Trust Fund;
 OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiff,

CASE NO.: CV14-01712

vs.

DEPT. NO.: 6

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; JERRY HERBST, an
 individual; and JH, INC., a Nevada
 corporation,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual;

Counterclaimants

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5
6 Counter-defendants

7 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR**
8 **PRODUCTION OF DOCUMENTS**

9 TO: LARRY J. WILLARD

10 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
11 HERBST, by and through their attorneys of record, Gordon Silver, hereby requests that
12 Plaintiff/Counter-Defendant, LARRY J. WILLARD, both respond and produce the following
13 documents, within thirty (30) days after service hereof:

14 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

15 1. "Communication" or "Communications" shall mean (a) any form of data
16 transmission, including letters, faxes, emails, and all other transmission of data via
17 telecommunications, (b) all meetings of two or more persons and all documents describing such
18 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
19 which ideas are discussed, interpreted or exchanged among two or more persons.
20

21 2. "Correspondence" shall mean any writing or document relating to any
22 communication, including but not limited to letters, emails, notes, telephone message pads, text
23 messages, transcriptions, faxes, and memoranda.
24

25 3. "Person" shall mean natural persons, firms, proprietorships, associations,
26 partnerships, corporations, governmental entities, and every other type of organization or entity.

27 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
28 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. “Relate to,” “related to,” or “relating to” shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. “You” and “your”, refer to the named Plaintiffs in this action, and (i) all of their
20 present and former agents, representatives, accountants, investigators, consultants, and/or
21 attorneys; or (ii) any other person or entity acting on their behalf.
22

23 7. “Plaintiff” means Larry J. Willard and/or his agents, representatives or
24 employees.
25

26 8. When used herein, the term “Lease Agreement” means the November 18, 2005,
27 Lease Agreement between OVERLAND DEVELOPMENT CORPORATION INC. dba LJW
28 ENTERPRISES INC. and LARRY J. WILLARD, TRUSTEE OF THE LARRY JAMES

1 WILLARD TRUST ("Willard"), and Berry-Hinckley Industries ("BHI"), and the subsequent
2 amendments thereto.

3 9. When used herein, the term "Lease Guarantee" means the March 9, 2007,
4 Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

5 10. When used herein, the term "Property" means 7695-7699 S. Virginia Street Reno,
6 Nevada.
7

8 **REQUEST FOR PRODUCTION OF DOCUMENTS:**

9 1. Please produce any and all documents identified in response to Interrogatory No.
10 1 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

11 2. Please produce any and all documents identified in response to Interrogatory No.
12 2 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

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15 4. Please produce any and all documents identified in response to Interrogatory No.
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18 5 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

19 6. Please produce any and all documents identified in response to Interrogatory No.
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24 8 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

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26
27
28

1 9 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

2 10. Please produce any and all documents identified in response to Interrogatory No.
3 10 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

4 11. Please produce any and all documents identified in response to Interrogatory No.
5 11 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

6 12. Please produce any and all documents identified in response to Interrogatory No.
7 12 in Defendants/Counterclaimants' First Set of Interrogatories, served concurrently herewith.

8 13. Please produce any and all documents evidencing any contracts with real estate
9 brokers or other real estate professionals for the listing and marketing of the Property for sale or
10 lease from January 1, 2013 to present.

11 14. Please produce any and all documents evidencing communications with real
12 estate brokers regarding the Property from January 1, 2013 through present.

13 15. Please produce any and all documents evidencing communications with
14 prospective purchasers or lessees of the Property from January 1, 2013 through present.

15 16. Please produce copies of any and all marketing materials prepared in connection
16 with your efforts to sell or lease the Property from January 1, 2013 through present.

17 17. Please produce any and all appraisals for the Property from January 1, 2012
18 through present.

19 18. Please produce any and all documents evidencing your research, evaluation
20 and/or analysis as to the sale value of the Property.

21 19. Please produce any and all documents evidencing your research, evaluation
22 and/or analysis as to the fair market rental value of the Property.

23 20. Please produce any and all documents evidencing comparisons of the sale value
24 of other similar real property in the Northern Nevada area.

22. Please produce any and all documents evidencing communications and/or correspondence between you, or any of you, and Jerry Herbst and/or Berry-Hinckley, related to the Lease Agreement, Guaranty, Interim Operating Agreement or any other documents related to the Property, from 2007 to the present.

23. Please produce any and all documents regarding the short sale of the Property, including, but not limited to communications regarding the sort sale, transactional documents for the short sale, and tax documents generated as a result of the sort sale.

24. Please produce any and all documents supporting your damages calculations in Paragraphs 13-18 of your Verified First Amended Complaint.

DATED this 21st day of April, 2015.

GORDON SILVER

By:

JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
KATHLEEN M. BRADY
Nevada Bar No. 11525
100 West Liberty Street, Suite 940
Reno, Nevada 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@gordonsilver.com
Email: birvine@gordonsilver.com
Email: kbrady@gordonsilver.com

*Attorneys for Defendants,
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCp 5(b), I am serving a true and correct copy of the attached **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** on the parties as set forth below:

☒ XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

☐ Certified Mail, Return Receipt Requested

☐ Via Facsimile (Fax)

☐ Via E-Mail

☐ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

☐ Federal Express (or other overnight delivery)

☐ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC
 GORDON SILVER
 JOHN P. DESMOND
 Nevada Bar No. 5618
 BRIAN R. IRVINE
 Nevada Bar No. 7758
 KATHLEEN M. BRADY
 Nevada Bar No. 11525
 100 West Liberty Street
 Suite 940
 Reno, Nevada 89501
 Tel: (775) 343-7500
 Fax: (775) 786-0131
 Email: jdesmond@gordonsilver.com
 Email: birvine@gordonsilver.com
 Email: kbrady@gordonsilver.com

Attorneys for Defendants
Berry Hinckley Industries, and
Jerry Herbst

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

LARRY J. WILLARD, individually and as
 trustee of the Larry James Willard Trust Fund;
 OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiff,

CASE NO.: CV14-01712

vs.

DEPT. NO.: 6

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; JERRY HERBST, an
 individual; and JH, INC., a Nevada
 corporation,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual;

Counterclaimants

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5 Counter-defendants

6 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES**

7 **TO LARRY J. WILLARD**

8 TO: LARRY J. WILLARD

9 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
10 HERBST, by and through their attorneys of record, Gordon Silver, and pursuant to Rules 26 and
11 33 of the Federal Rules of Civil Procedure, hereby demands that Plaintiff/Counter-defendant
12 LARRY J. WILLARD, answer the following Interrogatories, separately and fully, in writing,
13 under oath, within thirty (30) days after service.
14

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.
18

19 1. When used herein, the term "Plaintiff" means Larry J. Willard and/or his agents,
20 representatives or employees.

21 2. When used herein, the terms "you" and "your", their plural, or any synonym thereof, are
22 intended to and shall embrace and include, in addition to the Plaintiff, counsel for said Plaintiff
23 and all agents, employees, investigators, representatives, servants and others who are acting or
24 purporting to act on its behalf or who are in possession of, or may have obtained, information for
25 or on behalf of Plaintiff.
26

27 3. When used herein, the terms "document" and "writing," and the plural forms thereof,
28 shall mean all written, typewritten, printed, recorded, or graphic matters, however produced or

1 reproduced, of every kind and description, pertaining in any way to the subject matter of this
2 action. The terms "document" and "writing" shall include, but are not limited to, any books,
3 pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications, leases,
4 memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial records,
5 security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
6 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
7 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
8 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
9 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
10 or reproduced, in Plaintiff's possession, custody or control, or to which Plaintiffs have or have
11 had access. Documents shall also include any drafts or variations or markings to original
12 documents.
13

14
15 4. Whenever there is a request to identify or state the identity of a documents, provide as to
16 such document the following information:

- 17 a. The date of its preparation;
18 b. The names, title and address of each author and signatory;
19 c. The name, title and address of each addressee and each other person receiving a copy
20 thereof;
21 d. Its present and/or last known custodian and location; and
22 e. Its title and/or all identifying or categorizing designations.
23

24 5. When used herein, the term "person," its plural or any synonym thereof, is intended to
25 and shall embrace and include any individual, partnership, corporation, trust, estate, company,
26 association, government agency (federal, state, local or foreign), or any other entity.

27 6. Whenever there is a request to identify a person, provide or state the identity of a person,
28

1 provide as to each such person the following information:

- 2 a. His or her name, date of birth, gender and social security number;
- 3 b. His or her present or last known home address;
- 4 c. His or her present business address, business telephone, name of employer, and
- 5 job title; and
- 6 d. His, her or its status or relationship with each of the parties to this action.

7

8 7. All information is to be divulged which is in Plaintiff's possession or control, or can be

9 ascertained upon reasonable investigation of areas within your control. The knowledge of

10 Plaintiff's attorneys is deemed to be Plaintiff's knowledge, so that, apart from privileged matters,

11 if Plaintiff's attorneys have knowledge of the information sought to be elicited herein, said

12 knowledge must be incorporated into your answers, even if such information is unknown to

13 Plaintiff.

14

15 8. In the event you withhold from identification any document as privileged, you are

16 requested to provide a list of documents withheld and state the following information with

17 respect to each document withheld:

- 18 a. The date appearing on the document, and, if it has no date, the date, or
- 19 approximate date, on which it was prepared;
- 20 b. The title, label, code number or file number of the document;
- 21 c. The name and current address of the person(s) who signed the documents
- 22 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 23 d. The name and current address of the person(s) to whom the document was
- 24 directed and the person(s) to whom a copy of the document was directed;
- 25 e. A general description of the subject matter(s) to which the document relates;
- 26
- 27
- 28

1 f. The name and current address of the person(s) having present possession,
2 custody, or control of the document; and

3 g. The grounds on which the document has been withheld.

4 9. With respect to any non-documentary information or communications, required to be
5 identified or described by these requests as to which a claim of privilege is asserted, separately
6 state the following:
7

8 a. The basis of the claim and privilege;

9 b. A general description of the subject of the information and communication;

10 c. The identities of all person(s) with knowledge of the information or
11 communication;

12 d. The date of communication;

13 e. The identities of all persons present when the communication took place; and

14 f. The type of communication (i.e., face-to-face conversation, telephone
15 conversation) and the location of each party to the communication at the time it took place.
16

17 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
18 interrogatories as follows:

19 "in a timely manner if the party learns in some material respect the disclosure or
20 response is incomplete or incorrect and if the additional or corrective information
21 has not otherwise been made known to the other parties during discovery or in
writing."

22 11. If you object to any portion of the Interrogatories, state the specific ground for such
23 objection and respond to the request to the extent to which there is no objection.

24 12. If you do not know or have the information requested in any or all of the following
25 discovery, please identify the person who, to the best of your knowledge, would know or have
26 the answer or information requested.
27
28

14. When used herein, the term “Lease” means the November 18, 2005, Lease Agreement between OVERLAND DEVELOPMENT CORPORATION INC. dba LJW ENTERPRISES INC. and LARRY J. WILLARD, TRUSTEE OF THE LARRY JAMES WILLARD TRUST (“Willard”), and Berry-Hinckley Industries (“BHI”), and the subsequent amendments thereto.

15. When used herein, the term "Lease Guarantee" means the March 9, 2007, Guaranty Agreement executed by Jerry Herbst for the benefit of BHI.

16. When used herein, the term "Property" means 7695-7699 S. Virginia Street Reno, Nevada.

INTERROGATORY NO. 1

Please identify and describe in detail any and all measures you have taken, if any, to re-let or sell the Property since the Lease was allegedly breached.

Please identify any persons or entities who expressed interest in leasing or purchasing the Property since the Lease was allegedly breached.

Please identify and explain in detail any and all methods you have utilized to advertise the availability of the Property for lease or sale, including but not limited to signage, brochures, websites, newspapers, periodicals or any other similar means since the Lease was allegedly breached.

INTERROGATORY NO. 4

Please specify the date upon which the Property was first advertised for lease or sale after the Lease was allegedly breached.

INTERROGATORY NO. 5

Please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.

INTERROGATORY NO. 6

Please specify the date upon which you are claiming that BHI abandoned the Property as specified in Paragraph 13 of the Amended Complaint.

INTERROGATORY NO. 7

Please explain in detail how the damages in Paragraphs 13-18 alleged in your Amended Complaint were calculated.

INTERROGATORY NO. 8

Please identify and describe in detail your basis for stating in Paragraph 13 of the Amended Complaint that BHI had an obligation to make payments to Plaintiffs pursuant to the Interim Operating Agreement.

INTERROGATORY NO. 9

Please identify and describe in detail the circumstances of the short sale referred to in Paragraph 15 of the Amended Complaint, including the process by which Willard decided to short sale the Property.

INTERROGATORY NO. 10

Please identify and describe in detail the insurance on the Willard Property referred to in Paragraph 16 of the Amended Complaint. Please also include details of the installation of the Security Fence and charges by Nevada Energy.

1 **INTERROGATORY NO. 11**

2 Please identify and explain in detail your basis for claiming that BHI is responsible for
3 the legal fees associated with Willard's Bankruptcy filing, referred to in Paragraph 17 of the
4 Complaint, which was subsequently dismissed voluntarily.

5 **INTERROGATORY NO. 12**

6 Please identify and explain in detail your basis for claiming that BHI is responsible for
7 the legal fees associated with Plaintiffs' filing of a lawsuit in Santa Clara, California.

8 DATED this 2nd day of April, 2015.

9 GORDON SILVER

10
11 By: 

12 JOHN P. DESMOND
Nevada Bar No. 5618
13 BRIAN R. IRVINE
Nevada Bar No. 7758
14 KATHLEEN M. BRADY
Nevada Bar No. 11525
100 West Liberty Street, Suite 940
15 Reno, Nevada 89501
Tel: (775) 343-7500
16 Fax: (775) 786-0131
Email: jdesmond@gordonsilver.com
17 Email: birvine@gordonsilver.com
18 Email: kbrady@gordonsilver.com

19 *Attorneys for Defendants,*
20 *Berry Hinckley Industries, and*
21 *Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCPC 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES TO LARRY J. WILLARD on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Via E-Mail

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

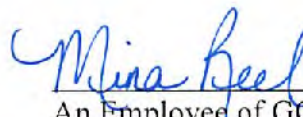
_____ Federal Express (or other overnight delivery)

_____ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

1 DISC**2 GORDON SILVER****3 JOHN P. DESMOND****4 Nevada Bar No. 5618****5 BRIAN R. IRVINE****6 Nevada Bar No. 7758****7 KATHLEEN M. BRADY****8 Nevada Bar No. 11525****9 100 West Liberty Street****10 Suite 940****11 Reno, Nevada 89501****12 Tel: (775) 343-7500****13 Fax: (775) 786-0131****14 Email: jdesmond@gordonsilver.com****15 Email: birvine@gordonsilver.com****16 Email: kbrady@gordonsilver.com****17 *Attorneys for Defendants*****18 *Berry Hinckley Industries, and*****19 *Jerry Herbst*****20 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****21 IN AND FOR THE COUNTY OF WASHOE****22 LARRY J. WILLARD, individually and as**
23 trustee of the Larry James Willard Trust Fund;**24 OVERLAND DEVELOPMENT****25 CORPORATION, a California corporation;****26 EDWARD E. WOOLEY AND JUDITH A.****27 WOOLEY, individually and as trustees of the****28 Edward C. Wooley and Judith A. Wooley****Intervivos Revocable Trust 2000,****Plaintiff,****CASE NO.: CV14-01712****vs.****DEPT. NO.: 6****22 BERRY-HINCKLEY INDUSTRIES, a**
23 Nevada corporation; JERRY HERBST, an
24 individual; and JH, INC., a Nevada
25 corporation,**Defendants.****26 BERRY-HINCKLEY INDUSTRIES, a**
27 Nevada corporation; and JERRY HERBST, an
28 individual;**Counterclaimants**

1 vs.

2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 and OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5
6 Counter-defendants

7 **DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES**

8 **TO EDWARD E. WOOLEY AND JUDITH A. WOOLEY**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
11 HERBST, by and through their attorneys of record, Gordon Silver, and pursuant to Rules 26 and
12 33 of the Nevada Rules of Civil Procedure, hereby demands that Plaintiff/Counter-defendants
13 EDWARD E. WOOLEY AND JUDITH A. WOOLEY, answer the following Interrogatories,
14 separately and fully, in writing, under oath, within thirty (30) days after service.

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.

18
19 1. When used herein, the term "Plaintiffs" means EDWARD E. WOOLEY AND JUDITH
20 A. WOOLEY and/or their agents, representatives or employees.

21 2. When used herein, the terms "you" and "your", their plural, or any synonym thereof, are
22 intended to and shall embrace and include, in addition to the Plaintiffs, counsel for said Plaintiffs
23 and all agents, employees, investigators, representatives, servants and others who are acting or
24 purporting to act on their behalf or who are in possession of, or may have obtained, information
25 for or on behalf of Plaintiffs.

26
27 3. When used herein, the terms "document" and "writing," and the plural forms thereof,
28 shall mean all written, typewritten, printed, recorded, or graphic matters, however produced or

1 reproduced, of every kind and description, pertaining in any way to the subject matter of this
2 action. The terms "document" and "writing" shall include, but are not limited to, any books,
3 pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications, leases,
4 memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial records,
5 security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
6 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
7 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
8 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
9 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
10 or reproduced, in Plaintiff's possession, custody or control, or to which Plaintiffs have or have
11 had access. Documents shall also include any drafts or variations or markings to original
12 documents.
13

14
15 4. Whenever there is a request to identify or state the identity of a documents, provide as to
16 such document the following information:

- 17 a. The date of its preparation;
18 b. The names, title and address of each author and signatory;
19 c. The name, title and address of each addressee and each other person receiving a copy
20 thereof;
21 d. Its present and/or last known custodian and location; and
22 e. Its title and/or all identifying or categorizing designations.
23

24 5. When used herein, the term "person," its plural or any synonym thereof, is intended to
25 and shall embrace and include any individual, partnership, corporation, trust, estate, company,
26 association, government agency (federal, state, local or foreign), or any other entity.

27 6. Whenever there is a request to identify a person, provide or state the identity of a person,
28

1 provide as to each such person the following information:

- 2 a. His or her name, date of birth, gender and social security number;
- 3 b. His or her present or last known home address;
- 4 c. His or her present business address, business telephone, name of employer, and
- 5 job title; and
- 6 d. His, her or its status or relationship with each of the parties to this action.

7

8 7. All information is to be divulged which is in Plaintiffs' possession or control, or can be

9 ascertained upon reasonable investigation of areas within your control. The knowledge of

10 Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters,

11 if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said

12 knowledge must be incorporated into your answers, even if such information is unknown to

13 Plaintiffs.

14

15 8. In the event you withhold from identification any document as privileged, you are

16 requested to provide a list of documents withheld and state the following information with

17 respect to each document withheld:

- 18 a. The date appearing on the document, and, if it has no date, the date, or
- 19 approximate date, on which it was prepared;
- 20 b. The title, label, code number or file number of the document;
- 21 c. The name and current address of the person(s) who signed the documents
- 22 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 23 d. The name and current address of the person(s) to whom the document was
- 24 directed and the person(s) to whom a copy of the document was directed;
- 25 e. A general description of the subject matter(s) to which the document relates;
- 26
- 27
- 28

1 f. The name and current address of the person(s) having present possession,
2 custody, or control of the document; and

3 g. The grounds on which the document has been withheld.

4 9. With respect to any non-documentary information or communications, required to be
5 identified or described by these requests as to which a claim of privilege is asserted, separately
6 state the following:
7

8 a. The basis of the claim and privilege;

9 b. A general description of the subject of the information and communication;

10 c. The identities of all person(s) with knowledge of the information or
11 communication;

12 d. The date of communication;

13 e. The identities of all persons present when the communication took place; and

14 f. The type of communication (i.e., face-to-face conversation, telephone
15 conversation) and the location of each party to the communication at the time it took place.
16

17 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
18 interrogatories as follows:

19 "in a timely manner if the party learns in some material respect the disclosure or
20 response is incomplete or incorrect and if the additional or corrective information
21 has not otherwise been made known to the other parties during discovery or in
writing."

22 11. If you object to any portion of the Interrogatories, state the specific ground for such
23 objection and respond to the request to the extent to which there is no objection.

24 12. If you do not know or have the information requested in any or all of the following
25 discovery, please identify the person who, to the best of your knowledge, would know or have
26 the answer or information requested.
27
28

1 13. When used herein, the term "Amended Complaint" shall refer to the Verified First
2 Amended Complaint filed by Plaintiffs in this action on January 21, 2015.

3 14. When used herein, the term "Lease Agreement" means the December 2, 2005, Lease
4 Agreement between EDWARD C. WOOLEY AND JUDITH A WOOLEY ("WOOLEY"), and
5 Berry-Hinckley Industries ("BHI"), and the subsequent amendments thereto.

6 15. When used herein, the term "Lease Guarantee" means the March 9, 2007, Guaranty
7 Agreement executed by Jerry Herbst for the benefit of BHI.

8 16. When used herein, the term "Property" means 1820 Highway 50 East, Carson City,
9 Nevada.
10

11 17. When used herein, the term "Baring Location" means 1365 Baring Boulevard Sparks,
12 Nevada.
13

14 INTERROGATORIES

15 INTERROGATORY NO. 1

16 Please identify and describe in detail any and all measures you have taken, if any, to re-
17 let or sell the Property since the Lease was allegedly breached.

18 INTERROGATORY NO. 2

19 Please identify any persons or entities who have expressed interest in leasing or
20 purchasing the Property since the Lease was allegedly breached.

21 INTERROGATORY NO. 3

22 Please identify and explain in detail any and all methods you have utilized to advertise
23 the availability of the Property, including but not limited to signage, brochures, websites,
24 newspapers, periodicals or any other similar means since the Lease was allegedly breached.
25

26 ///

27 ///

28

INTERROGATORY NO. 4

Please specify the date upon which the Property was first advertised for lease or sale after the Lease was allegedly breached.

INTERROGATORY NO. 5

Please explain if and how you are still currently advertising the availability of the Property for sale or lease.

INTERROGATORY NO. 6

Please identify any and all brokers or other real estate professionals you engaged to assist with your efforts to re-let or sell the Property.

INTERROGATORY NO. 7

Please explain in detail how the damages in Paragraphs 33-42 alleged in your Amended Complaint were calculated.

INTERROGATORY NO. 8

Please identify and explain in detail the basis for your allegation in Paragraph 40 of the Amended Complaint that “[a]s a further direct and proximate result of BHI breaching Wooley Lease #1, because the Sparks Property was cross-collateralized with the Highway 50 Property, the Wooley Plaintiffs were forced to sell the Sparks Property at a loss of \$147,847.30.”

INTERROGATORY NO. 9

Please identify and explain in detail the basis for your allegation in Paragraph 41 of the Amended Complaint that “[a]s a further direct and proximate result of BHI breaching Wooley Lease #1, because the Sparks Property was cross-collateralized with the Highway 50 Property and the Wooley Plaintiffs were forced to sell the Sparks Property, the Wooley Plaintiffs incurred tax liabilities in an amount to be proven at trial but which is at least \$600,000.00.”

///

1 **INTERROGATORY NO. 10**

2 Please identify and explain in detail your basis for claiming that BHI is responsible for
3 the legal fees associated with Plaintiffs' filing of a lawsuit in Santa Clara, California.

4 DATED this 21st day of April, 2015.

5 GORDON SILVER

6
7 By: 

8 JOHN P. DESMOND

9 Nevada Bar No. 5618

10 BRIAN R. IRVINE

11 Nevada Bar No. 7758

12 KATHLEEN M. BRADY

13 Nevada Bar No. 11525

14 100 West Liberty Street, Suite 940

15 Reno, Nevada 89501

16 Tel: (775) 343-7500

17 Fax: (775) 786-0131

18 Email: jdesmond@gordonsilver.com

19 Email: birvine@gordonsilver.com

20 Email: kbrady@gordonsilver.com

21 *Attorneys for Defendants,*
22 *Berry Hinckley Industries, and*
23 *Jerry Herbst*
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' FIRST SET OF INTERROGATORIES TO EDWARD E. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

XXX Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Via E-Mail

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

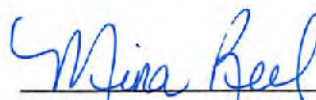
_____ Federal Express (or other overnight delivery)

_____ Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

DATED this 22nd day of April, 2015.



An Employee of GORDON SILVER

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR**
7 **PRODUCTION OF DOCUMENTS**

TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, hereby
10 requests that Plaintiffs/Counter-Defendants, LARRY J. WILLARD, both respond and produce
11 the following documents, within thirty (30) days after service hereof:
12

13 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

14 1. "Communication" or "Communications" shall mean (a) any form of data
15 transmission, including letters, faxes, emails, and all other transmission of data via
16 telecommunications, (b) all meetings of two or more persons and all documents describing such
17 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
18 which ideas are discussed, interpreted or exchanged among two or more persons.
19

20 2. "Correspondence" shall mean any writing or document relating to any
21 communication, including but not limited to letters, emails, notes, telephone message pads, text
22 messages, transcriptions, faxes, and memoranda.

23 3. "Person" shall mean natural persons, firms, proprietorships, associations,
24 partnerships, corporations, governmental entities, and every other type of organization or entity.

25 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
26 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
27
28

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
20 James Willard Trust.

21 7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.
23

24 8. "Willard Plaintiffs" means Willard and Overland.

25 9. "You" and "your" refer to the Willard Plaintiffs, and (i) all of their present and
26 former agents, representatives, accountants, investigators, consultants, and/or attorneys; or (ii)
27 any other person or entity acting on their behalf.
28

10. "BHI" means Berry-Hinckley Industries, a Nevada corporation.
11. "Defendants" means BHI and Jerry Herbst.
12. "First Amended Complaint" means the Verified First Amended Complaint filed by Plaintiffs in Case No. CV14-01712 on January 21, 2015.
13. "Operation and Management Agreement" means the May 1, 2013, Operation and Management Agreement made and entered into by and between BHI and Overland Corporation d/b/a LJW Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.
14. "Willard Property" means that certain real property located at 7695-77699 S. Virginia Street, Reno, Nevada (APN 043-011-48).
15. "Willard Lease" means the November 18, 2005, Lease Agreement between the Willard Plaintiffs and BHI for lease of the Willard Property.
16. "Willard Guaranty" means the March 9, 2007, Guaranty Agreement between Jerry Herbst and the Willard Plaintiffs.
17. "Answer to Counterclaim" means the Willard Plaintiffs' answer to Defendants' Counterclaim in Case No. CV14-01712 filed on May 27, 2015.

Requests for Production of Documents

1. Please provide any and all Documents identified in response to Interrogatory No. 1 in Defendants' Second Set of Interrogatories, served concurrently herewith.
2. Please provide any and all Documents identified in response to Interrogatory No. 2 in Defendants' Second Set of Interrogatories, served concurrently herewith.
3. Please provide any and all Documents identified in response to Interrogatory No. 3 in Defendants' Second Set of Interrogatories, served concurrently herewith.
4. Please provide any and all Documents identified in response to Interrogatory No. 4 in Defendants' Second Set of Interrogatories, served concurrently herewith.
5. Please provide any and all Documents identified in response to Interrogatory No. 5 in Defendants' Second Set of Interrogatories, served concurrently herewith.
6. Please provide any and all Documents identified in response to Interrogatory No. 6 in Defendants' Second Set of Interrogatories, served concurrently herewith.

1 7. Please provide any and all Documents identified in response to Interrogatory No.
2 7 in Defendants' Second Set of Interrogatories, served concurrently herewith.

3 8. Please provide any and all Documents identified in response to Interrogatory No.
4 8 in Defendants' Second Set of Interrogatories, served concurrently herewith.

5 9. Please provide any and all Documents identified in response to Interrogatory No.
6 9 in Defendants' Second Set of Interrogatories, served concurrently herewith.

7 11. Please provide any and all of Willard's federal income tax returns from 2005
8 through 2014. Please include all supporting schedules and statements.

9 12. Please provide any and all of Overland's federal income tax returns from 2005
10 through 2014. Please include all supporting schedules and statements.

11 13. Please produce documents sufficient to identify any and all commissions that You
12 have paid to any real estate broker, real estate agent, or realty company performing work for You
13 on the Willard Property from 2005 through present.

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29 ///

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this Two day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

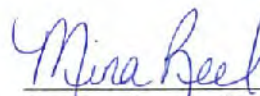
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.



An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD C. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual,

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

1
2
3 LARRY J. WILLARD, individually and as
4 trustee of the Larry James Willard Trust Fund;
OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

5 Counter-defendants.

6
7 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF REQUESTS FOR**
8 **PRODUCTION OF DOCUMENTS**

9 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

10 Defendants/ Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
11 (collectively, "Defendants"), by and through their attorneys of record, Dickinson Wright,
12 PLLC, hereby request that pursuant to NRCP 34, Plaintiffs Edward C. Wooley and Judith A.
13 Wooley both respond and produce the following documents, within thirty (30) days of service
14 hereof:

15
16 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

17 The following preliminary definitions and instructions apply to each of the requests
18 hereinafter set forth, and Defendants incorporate the same herein by reference.

19 1. "Communication" or "Communications" shall mean (a) any form of data
20 transmission, including letters, faxes, emails, and all other transmission of data via
21 telecommunications, (b) all meetings of two or more persons and all documents describing such
22 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
23 which ideas are discussed, interpreted or exchanged among two or more persons.

24 2. "Correspondence" shall mean any writing or document relating to any
25 communication, including but not limited to letters, emails, notes, telephone message pads, text
26 messages, transcriptions, faxes, and memoranda.

1 3. “Person” shall mean natural persons, firms, proprietorships, associations,
2 partnerships, corporations, governmental entities, and every other type of organization or entity.

3 4. “Document” or “Documents” shall refer to and includes, but is not limited to, any
4 and all “writings” as that terms is defined by Nevada Revised Statute section 52.225, and also
5 including all other means by which information, correspondence, notes, notations,
6 representations, depictions, or data is stored. This definition includes originals, copies, non-
7 identical copies and preliminary, intermediate, and final drafts or writings, records,
8 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
9 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
10 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
11 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
12 invoices, receipts, working papers, and records of every kind and description, whether inscribed
13 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
14 photographic, video, punched, or other means - and computer records, whether reflected by
15 printout or stored on disk, drum, tape or otherwise.

16 5. “Relate to,” “related to,” or “relating to” shall mean constituting, pertaining to,
17 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
18 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
19 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
20 bearing on any logical or factual connection with the matter discussed.

21 6. The “Wooley Plaintiffs” means Edward C. Wooley and Judith A. Wooley,
22 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
23 Revocable Trust 2000.

24 7. “You” and “your” shall mean the Wooley Plaintiffs, and (i) all of their present
25 and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
26 (ii) any other person or entity acting on their behalf.

1 8. "First Amended Complaint" means the Verified First Amended Complaint filed
2 by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

3 9. "Highway 50 Property" means that certain real property located at 1820 Highway
4 50 East, Carson City, Nevada (APN 002-368-27).

5 10. "Baring Property" means that certain real property located at 1365 Baring
6 Boulevard, Sparks (APN 030-041-08).

7 11. "Highway 50 Lease" means the December 2005 Lease for the Highway 50
8 Property between the Wooley Plaintiffs and BHI.

9 12. "Baring Lease" means the Lease for the Baring Property between the Wooley
10 Plaintiffs and BHI.

11 **Requests for Production of Documents**

12 1. Please provide any and all Documents identified in response to Interrogatory No.
13 1 in Defendants' Second Set of Interrogatories, served concurrently herewith.

14 2. Please provide any and all Documents identified in response to Interrogatory No.
15 2 in Defendants' Second Set of Interrogatories, served concurrently herewith.

16 3. Please provide any and all Documents identified in response to Interrogatory No.
17 3 in Defendants' Second Set of Interrogatories, served concurrently herewith.

18 4. Please provide any and all Documents identified in response to Interrogatory No.
19 4 in Defendants' Second Set of Interrogatories, served concurrently herewith.

20 5. Please provide any and all Documents identified in response to Interrogatory No.
21 5 in Defendants' Second Set of Interrogatories, served concurrently herewith.

22 6. Please provide any and all Documents identified in response to Interrogatory No.
23 6 in Defendants' Second Set of Interrogatories, served concurrently herewith.

24 7. Please provide any and all Documents identified in response to Interrogatory No.
25 7 in Defendants' Second Set of Interrogatories, served concurrently herewith.

26 8. Please provide any and all Documents identified in response to Interrogatory No.
27

1 8 in Defendants' Second Set of Interrogatories, served concurrently herewith.

2 9. Please provide any and all Documents supporting Your contention that the
3 Highway 50 Property diminished in value by \$2,000,000 as set forth in paragraph 34 of the First
4 Amended Complaint.

5 10. Please provide any and all Documents evidencing the value of the Highway 50
6 Property in between December 2005 and February 2013.

7 11. Please produce documents sufficient to identify any and all commissions that You
8 have paid to any real estate broker, real estate agent, or realty company performing work for You
9 on the Highway 50 Property from 2005 through present.

10 12. Please produce documents sufficient to identify any and all commissions that You
11 have paid to any real estate broker, real estate agent, or realty company performing work for You
12 on the Baring Property from 2005 through present.

13 13. Please provide any and all of the Wooley Plaintiffs' federal income tax returns
14 from 2005 through 2014. Please include all supporting schedules and statements.

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

DISC
 DICKINSON WRIGHT, PLLC
 JOHN P. DESMOND
 Nevada Bar No. 5618
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 Nevada Bar No. 12515
 100 West Liberty Street, Suite 940
 Reno, NV 89501
 Tel: (775) 343-7500
 Fax: (775) 786-0131
 Email: Jdesmond@dickinsonwright.com
 Email: Brvine@dickinsonwright.com
 Email: AWebster@dickinsonwright.com

Attorney for Defendants
Berry-Hinckley Industries and
Jerry Herbst

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

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD E. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual,
 Defendants.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
CORPORATION, a California corporation;

4 Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES TO**
7 **EDWARD E. WOOLEY AND JUDITH A. WOOLEY**

8 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

9 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES ("BHI") and JERRY
10 HERBST (collectively, "Defendants"), by and through their attorneys of record, Dickinson
11 Wright, PLLC, and pursuant to Rules 26 and 33 of the Nevada Rules of Civil Procedure, hereby
12 demands that Plaintiffs EDWARD E. WOOLEY AND JUDITH A. WOOLEY, answer the
13 following Interrogatories, separately and fully, in writing, under oath, within thirty (30) days
14 after service.

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendants incorporate the same herein by reference.

18 1. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
19 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
20 Revocable Trust 2000.

21 2. When used herein, the terms "You" and "Your," their plural, or any synonym
22 thereof, are intended to and shall embrace and include, in addition to the Wooley Plaintiffs,
23 counsel for said Wooley Plaintiffs and all agents, employees, investigators, representatives,
24 servants and others who are acting or purporting to act on their behalf or who are in possession
25 of, or may have obtained, information for or on behalf of Wooley Plaintiffs.

26 3. When used herein, the terms "Document" and "Writing," and the plural forms

thereof, shall mean all written, typewritten, printed, recorded, or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this action. The terms "document" and "writing" shall include, but are not limited to, any books, pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications, leases, memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial records, security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers, counteroffers, time records, accounting records, minutes, records of meetings, reports, notes, diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings, photographs, films, medical and hospital records and reports, x-ray photographs, or any other handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, in Plaintiff s possession, custody or control, or to which Plaintiffs have or have had access. Documents shall also include any drafts or variations or markings to original documents.

4. Whenever there is a request to identify or state the identity of a document, provide as to such document the following information:

- a. The date of its preparation;
- b. The names, title and address of each author and signatory;
- c. The name, title and address of each addressee and each other person receiving a copy thereof;
- d. Its present and/or last known custodian and location; and
- e. Its title and/or all identifying or categorizing designations.

5. When used herein, the term "Person," its plural or any synonym thereof, is intended to and shall embrace and include any individual, partnership, corporation, trust, estate, company, association, government agency (federal, state, local or foreign), or any other entity.

6. Whenever there is a request to identify a Person, provide or state the identity of a Person, provide as to each such Person the following information:

- a. His or her name, date of birth, and gender;
- b. His or her present or last known home address;
- c. His or her present business address, business telephone, name of employer, and job title; and
- d. His, her or its status or relationship with each of the parties to this action.

7. All information is to be divulged which is in Plaintiffs' possession or control, or can be ascertained upon reasonable investigation of areas within your control. The knowledge of Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters, if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said knowledge must be incorporated into your answers, even if such information is unknown to Plaintiffs.

8. In the event you withhold from identification any document as privileged, you are requested to provide a list of documents withheld and state the following information with respect to each document withheld:

- a. The date appearing on the document, and, if it has no date, the date, or approximate date, on which it was prepared;
- b. The title, label, code number or file number of the document;
- c. The name and current address of the person(s) who signed the documents and, if it was not signed, the name and current address of the person(s) who prepared it;
- d. The name and current address of the person(s) to whom the document was directed and the person(s) to whom a copy of the document was directed;
- e. A general description of the subject matter(s) to which the document relates;
- f. The name and current address of the person(s) having present possession, custody, or control of the document; and
- g. The grounds on which the document has been withheld.

1 9. With respect to any non-documentary information or communications, required to
2 be identified or described by these requests as to which a claim of privilege is asserted,
3 separately state the following:

- 4 a. The basis of the claim and privilege;
5 b. A general description of the subject of the information and
6 communication;
7 c. The identities of all person(s) with knowledge of the information or
8 communication;
9 d. The date of communication;
10 e. The identities of all persons present when the communication took place;
11 and
12 f. The type of communication (i.e., face-to-face conversation, telephone
13 conversation) and the location of each party to the communication at the time it took
14 place.

15 10. Pursuant to FRCP 26(e)(1)(A), you are under a duty to supplement to these
16 interrogatories as follows:

17 in a timely manner if the party learns in some material respect the disclosure or
18 response is incomplete or incorrect and if the additional or corrective information
19 has not otherwise been made known to the other parties during discovery or in
writing.

20 11. If you object to any portion of the Interrogatories, state the specific ground for
21 such objection and respond to the request to the extent to which there is no objection.

22 12. If you do not know or have the information requested in any or all of the
23 following discovery, please identify the person who, to the best of your knowledge, would know
24 or have the answer or information requested.

25 13. "First Amended Complaint" means the Verified First Amended Complaint filed
26 by Plaintiffs in Case No. CV14-01712 on January 21, 2015.

1 14. “Highway 50 Property” means that certain real property located at 1820 Highway
2 50 East, Carson City, Nevada (APN 002-368-27).

3 15. “Baring Property” means that certain real property located at 1365 Baring
4 Boulevard, Sparks (APN 030-041-08).

5 16. “Highway 50 Lease” means the December 2005 Lease for the Highway 50
6 Property between the Wooley Plaintiffs and BHI.

7 17. “Baring Lease” means the Lease for the Baring Property between the Wooley
8 Plaintiffs and BHI.

INTERROGATORIES

INTERROGATORY NO. 1

11 Please identify the provision in the Highway 50 Lease which supports Your contention in
12 paragraph 28 of the First Amended Complaint that the rental rate in the Highway 50 Lease
13 increases by two percent per month.

INTERROGATORY NO. 2

15 Please explain the basis for Your contention in paragraph 31 of the First Amended
16 Complaint that the Wooley Plaintiffs agreed to amend the Highway 50 Lease and the Baring
17 Lease through shortening the lease term by 30 months in return for Herbst personally
18 guaranteeing that BHI would make all lease payments through the term of the lease.

INTERROGATORY NO. 3

20 Please identify and describe in detail any and all facts demonstrating that BHI knew at
21 the time You and BHI entered into the Highway 50 Lease that the Highway 50 Property was
22 “cross-collateralized” with the Baring Property.

INTERROGATORY NO. 4

24 Please identify and describe in detail any and all facts demonstrating that Jerry Herbst
25 knew at the time You and BHI entered into the Highway 50 Lease that the Highway 50 Property
26 was “cross-collateralized” with the Baring Property.

1 **INTERROGATORY NO. 5**

2 Please identify any Documents which entitle You to the security deposit from the
3 subtenant at the Highway 50 Property in the amount of \$2,845 as set forth in paragraph 39 of the
4 First Amended Complaint.

5 **INTERROGATORY NO. 6**

6 What is Your current balance due on any and all mortgage loans for the Highway 50
7 Property?

8 **INTERROGATORY NO. 7**

9 Are you presently in default on any mortgage payments for any and all mortgage loans
10 for the Highway 50 Property? If so, when was your last mortgage payment?

11 **INTERROGATORY NO. 8**

12 With regard to each of the Requests for Admission propounded concurrently herewith,
13 for each Request wherein your answer is anything other than an unequivocal "admit," please
14 state the basis for your failure to admit and the facts that support your response, including the
15 names of all witnesses and the identity or a description of all documents or evidence supporting a
16 response.

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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC


JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: jdesmond@dickinsonwright.com
Email: birvine@dickinsonwright.com
Email: awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/ COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES TO EDWARD C. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

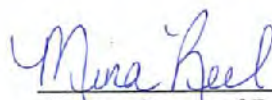
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of July, 2015.



An employee of Dickinson Wright

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD E. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs.

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' SECOND SET OF INTERROGATORIES**
7 **TO LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION**

TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, and
10 pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, hereby demands that
11 Plaintiffs/Counter-defendants LARRY J. WILLARD and OVERLAND DEVELOPMENT
12 CORPORATION, answer the following Interrogatories, separately and fully, in writing,
13 under oath, within thirty (30) days after service.
14

15 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

16 The following preliminary definitions and instructions apply to each of the requests
17 hereinafter set forth, and Defendant incorporates the same herein by reference.

18 1. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
19 James Willard Trust.
20

21 2. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.

23 3. "Willard Plaintiffs" means Willard and Overland.

24 4. When used herein, the terms "you" and "your", their plural, or any synonym
25 thereof, are intended to and shall embrace and include, in addition to the Willard Plaintiffs,
26

1 counsel for said Plaintiffs and all agents, employees, investigators, representatives, servants and
2 others who are acting or purporting to act on its behalf or who are in possession of, or may have
3 obtained, information for or on behalf of Plaintiffs.

4 5. When used herein, the terms "document" and "writing," and the plural forms
5 thereof, shall mean all written, typewritten, printed, recorded, or graphic matters, however
6 produced or reproduced, of every kind and description, pertaining in any way to the subject
7 matter of this action. The terms "document" and "writing" shall include, but are not limited to,
8 any books, pamphlets, periodicals, memoranda, letters, correspondence, telegrams, applications,
9 leases, memoranda of understanding, agreements, contracts, permits, articles, bylaws, financial
10 records, security instruments, checks, bank statements, receipts, invoices, bids, proposals, offers,
11 counteroffers, time records, accounting records, minutes, records of meetings, reports, notes,
12 diaries, logs, tapes, transcripts, recordings, records of phone calls, work papers, charts, drawings,
13 photographs, films, medical and hospital records and reports, x-ray photographs, or any other
14 handwritten, recorded, transcribed, punched, taped, filmed or graphic matter, however produced
15 or reproduced, in Plaintiff s possession, custody or control, or to which Plaintiffs have or have
16 had access. Documents shall also include any drafts or variations or markings to original
17 documents.
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19
20 6. Whenever there is a request to identify or state the identity of a documents,
21 provide as to such document the following information:
22

- 23 a. The date of its preparation;
24 b. The names, title and address of each author and signatory;
25 c. The name, title and address of each addressee and each other person
26 receiving a copy thereof;
27

1 d. Its present and/or last known custodian and location; and

2 e. Its title and/or all identifying or categorizing designations.

3 7. When used herein, the term "person," its plural or any synonym thereof, is
4 intended to and shall embrace and include any individual, partnership, corporation, trust, estate,
5 company, association, government agency (federal, state, local or foreign), or any other entity.

6
7 8. Whenever there is a request to identify a person, provide or state the identity of a
8 person, provide as to each such person the following information:

9 a. His or her name, date of birth, gender and social security number;

10 b. His or her present or last known home address;

11 c. His or her present business address, business telephone, name of
12 employer, and job title; and

13
14 d. His, her or its status or relationship with each of the parties to this action.

15 9. All information is to be divulged which is in Plaintiffs' possession or control, or
16 can be ascertained upon reasonable investigation of areas within your control. The knowledge of
17 Plaintiffs' attorneys is deemed to be Plaintiffs' knowledge, so that, apart from privileged matters,
18 if Plaintiffs' attorneys have knowledge of the information sought to be elicited herein, said
19 knowledge must be incorporated into your answers, even if such information is unknown to
20 Plaintiffs.

21
22 10. In the event you withhold from identification any document as privileged, you are
23 requested to provide a list of documents withheld and state the following information with
24 respect to each document withheld:

25 a. The date appearing on the document, and, if it has no date, the date, or
26 approximate date, on which it was prepared;

- 1 b. The title, label, code number or file number of the document;
- 2 c. The name and current address of the person(s) who signed the documents
- 3 and, if it was not signed, the name and current address of the person(s) who prepared it;
- 4 d. The name and current address of the person(s) to whom the document was
- 5 directed and the person(s) to whom a copy of the document was directed;
- 6 e. A general description of the subject matter(s) to which the document
- 7 relates;
- 8 f. The name and current address of the person(s) having present possession,
- 9 custody, or control of the document; and
- 10 g. The grounds on which the document has been withheld.
- 11 11. With respect to any non-documentary information or communications, required to
- 12 be identified or described by these requests as to which a claim of privilege is asserted,
- 13 separately state the following:
- 14 a. The basis of the claim and privilege;
- 15 b. A general description of the subject of the information and
- 16 communication;
- 17 c. The identities of all person(s) with knowledge of the information or
- 18 communication;
- 19 d. The date of communication;
- 20 e. The identities of all persons present when the communication took place;
- 21 and
- 22 f. The type of communication (i.e., face-to-face conversation, telephone
- 23 conversation) and the location of each party to the communication at the time it took place.
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in a timely manner if the party learns in some material respect the disclosure or response is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during discovery or in writing.

14. If you do not know or have the information requested in any or all of the foregoing discovery, please identify the person who, to the best of your knowledge, would know the answer or information requested.

16. “Defendants” means BHI and Jerry Herbst.

18. "Operation and Management Agreement" means the May 1, 2013, Operation and Management Agreement made and entered into by and between BHI and Overland Corporation, LLC, as amended, by and among BHI, Overland Corporation, LLC, JWE Enterprises, Inc. and Larry Willard as Trustee of the Willard Family Trust.

20. "Willard Lease" means the November 18, 2005, Lease Agreement between the
d Plaintiffs and BHI for lease of the Willard Property.

Page 6 of 10

INTERROGATORY NO. 1

INTERROGATORY NO. 2

INTERROGATORY NO. 3

INTERROGATORY NO. 4

INTERROGATORY NO. 5

Please identify and explain in detail the factual basis for Your contention that Defendants are responsible for the claimed accounting fees associated with Willard's Bankruptcy filing.

1 referred to in Paragraph 17 of the First Amended Complaint, which was subsequently dismissed
2 voluntarily.

3 **INTERROGATORY NO. 6**

4 Please identify the outstanding balance due and owing on any and all mortgage loans for
5 the Willard Property as of the date of the short sale identified in paragraph 15 of the Amended
6 Complaint.
7

8 **INTERROGATORY NO. 7**

9 Please identify and describe in detail the claimed City of Reno fines referred to in
10 paragraph 13 of the First Amended Complaint.
11

12 **INTERROGATORY NO. 8**

13 Please identify the date that You contend that the Operation and Management Agreement
14 terminated.

15 **INTERROGATORY NO. 9**

16 With regard to each of the Requests for Admission propounded concurrently herewith,
17 for each Request wherein your answer is anything other than an unequivocal "admit," please
18 state the basis for your failure to admit and the facts that support your response, including the
19 names of all witnesses and the identity or a description of all documents or evidence supporting a
20 response.
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AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of July, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

*Attorney for Defendants
Berry-Hinckley Industries and
Jerry Herbst*

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X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

Federal Express (or other overnight delivery) Electronic Notification

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

Mina Beel
An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brvine@dickinsonwright.comEmail: AWebster@dickinsonwright.com*Attorney for Defendants**Berry-Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
 and as trustee of the Larry James Willard
 Trust Fund; OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD C. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST, an
 individual,

Defendants.

/

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; and JERRY HERBST,
 an individual;

Counterclaimants,

vs

1
2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 OVERLAND DEVELOPMENT
5 CORPORATION, a California corporation;
6
7 Counter-defendants.
8 /

9
10 **DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR**
11 **PRODUCTION OF DOCUMENTS**

12 TO: EDWARD E. WOOLEY AND JUDITH A. WOOLEY

13 Defendants/ Counterclaimants Berry-Hinckley Industries ("BHI") and Jerry Herbst
14 (collectively, "Defendants"), by and through their attorneys of record, Dickinson Wright,
15 PLLC, hereby request that pursuant to NRC 34, Plaintiffs Edward C. Wooley and Judith A.
16 Wooley both respond and produce the following documents, within thirty (30) days of service
17 hereof:

18 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

19 The following preliminary definitions and instructions apply to each of the requests
20 hereinafter set forth, and Defendants incorporate the same herein by reference.

21 1. "Communication" or "Communications" shall mean (a) any form of data
22 transmission, including letters, faxes, emails, and all other transmission of data via
23 telecommunications, (b) all meetings of two or more persons and all documents describing such
24 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
25 which ideas are discussed, interpreted or exchanged among two or more persons.

26 2. "Correspondence" shall mean any writing or document relating to any
27 communication, including but not limited to letters, emails, notes, telephone message pads, text
28 messages, transcriptions, faxes, and memoranda.

3. "Person" shall mean natural persons, firms, proprietorships, associations,

1 partnerships, corporations, governmental entities, and every other type of organization or entity.

2 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
3 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
4 including all other means by which information, correspondence, notes, notations,
5 representations, depictions, or data is stored. This definition includes originals, copies, non-
6 identical copies and preliminary, intermediate, and final drafts or writings, records,
7 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
8 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
9 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
10 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
11 invoices, receipts, working papers, and records of every kind and description, whether inscribed
12 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
13 photographic, video, punched, or other means - and computer records, whether reflected by
14 printout or stored on disk, drum, tape or otherwise.

15 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
16 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
17 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
18 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
19 bearing on any logical or factual connection with the matter discussed.

20 6. The "Wooley Plaintiffs" means Edward C. Wooley and Judith A. Wooley,
21 individually and as trustees of the Edward C. Wooley and Judith A. Wooley Intervivos
22 Revocable Trust 2000.

23 7. "You" and "your" shall mean the Wooley Plaintiffs, and (i) all of their present
24 and former agents, representatives, accountants, investigators, consultants, and/or attorneys; or
25 (ii) any other person or entity acting on their behalf.
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REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please provide any and all of the Wooley Plaintiffs' state income tax returns from 2005 through 2014. Please include all supporting schedules and statements.

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of September, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: AWebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries, and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO EDWARD C. WOOLEY AND JUDITH A. WOOLEY on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

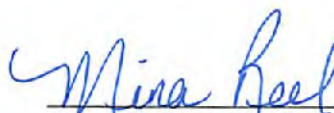
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of September, 2015.



An employee of Dickinson Wright, PLLC

DISC

DICKINSON WRIGHT, PLLC

JOHN P. DESMOND

Nevada Bar No. 5618

BRIAN R. IRVINE

Nevada Bar No. 7758

ANJALI D. WEBSTER

Nevada Bar No. 12515

100 West Liberty Street, Suite 940

Reno, NV 89501

Tel: (775) 343-7500

Fax: (775) 786-0131

Email: Jdesmond@dickinsonwright.comEmail: Brivine@dickinsonwright.comEmail: Awebster@dickinsonwright.com*Attorney for Defendants**Berry Hinckley Industries and**Jerry Herbst***IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA****IN AND FOR THE COUNTY OF WASHOE**

LARRY J. WILLARD, individually
and as trustee of the Larry James Willard
Trust Fund; OVERLAND DEVELOPMENT
CORPORATION, a California corporation;
EDWARD C. WOOLEY AND JUDITH A.
WOOLEY, individually and as trustees of the
Edward C. Wooley and Judith A. Wooley
Intervivos Revocable Trust 2000,

CASE NO. CV14-01712

DEPT. 6

Plaintiff,

vs.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST, an
individual

Defendants.

BERRY-HINCKLEY INDUSTRIES, a
Nevada corporation; and JERRY HERBST,
an individual;

Counterclaimants,

vs

1 LARRY J. WILLARD, individually and as
2 trustee of the Larry James Willard Trust Fund;
3 OVERLAND DEVELOPMENT
4 CORPORATION, a California corporation;

Counter-defendants.

5
6 **DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR**
7 **PRODUCTION OF DOCUMENTS**

TO: LARRY J. WILLARD AND OVERLAND DEVELOPMENT CORPORATION

8 Defendants/Counterclaimants BERRY-HINCKLEY INDUSTRIES and JERRY
9 HERBST, by and through their attorneys of record, DICKINSON WRIGHT, PLLC, hereby
10 requests that Plaintiffs/Counter-Defendants, LARRY J. WILLARD, both respond and produce
11 the following documents, within thirty (30) days after service hereof:
12

13 **PRELIMINARY INSTRUCTIONS AND DEFINITIONS**

14 1. "Communication" or "Communications" shall mean (a) any form of data
15 transmission, including letters, faxes, emails, and all other transmission of data via
16 telecommunications, (b) all meetings of two or more persons and all documents describing such
17 meetings, (c) all telephone conversations and telephone conferences, and (d) all situations in
18 which ideas are discussed, interpreted or exchanged among two or more persons.
19

20 2. "Correspondence" shall mean any writing or document relating to any
21 communication, including but not limited to letters, emails, notes, telephone message pads, text
22 messages, transcriptions, faxes, and memoranda.

23 3. "Person" shall mean natural persons, firms, proprietorships, associations,
24 partnerships, corporations, governmental entities, and every other type of organization or entity.

25 4. "Document" or "Documents" shall refer to and includes, but is not limited to, any
26 and all "writings" as that terms is defined by Nevada Revised Statute section 52.225, and also
27
28

1 including all other means by which information, correspondence, notes, notations,
2 representations, depictions, or data is stored. This definition includes originals, copies, non-
3 identical copies and preliminary, intermediate, and final drafts or writings, records,
4 correspondence, e-mail, papers, books, pamphlets, periodicals, accounts, letters, photographs,
5 objects, telegrams, notes, minutes, memoranda, interoffice and intra office communications,
6 reports, studies, surveys, forecasts, analyses, estimates, contracts, leases, deeds, licenses,
7 agreements, charts, maps, scale sheets, graphs, indices, calendars, diaries, purchase orders,
8 invoices, receipts, working papers, and records of every kind and description, whether inscribed
9 by hand or mechanical means - such as electronic, microfilm, phonic (such as tape recordings),
10 photographic, video, punched, or other means - and computer records, whether reflected by
11 printout or stored on disk, drum, tape or otherwise.
12

13 5. "Relate to," "related to," or "relating to" shall mean constituting, pertaining to,
14 referring to, alluding to, responding to, elaborating upon, concerning, memorializing, supporting,
15 refuting, evidencing, connected with, commenting on, regarding, discussing, showing,
16 describing, reflecting, analyzing, recording, including, mentioning, in respect of, analyzing or
17 bearing on any logical or factual connection with the matter discussed.
18

19 6. "Willard" means Larry J. Willard individually and/or as Trustee of the Larry
20 James Willard Trust.

21 7. "Overland" means Overland Development Corporation, Inc. dba LJW Enterprises
22 Inc.
23

24 8. "Willard Plaintiffs" means Willard and Overland.

25 9. "You" and "your" refer to the Willard Plaintiffs, and (i) all of their present and
26 former agents, representatives, accountants, investigators, consultants, and/or attorneys; or (ii)
27 any other person or entity acting on their behalf.
28

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please provide any and all of Willard's state income tax returns from 2005 through 2014.
Please include all supporting schedules and statements.

REQUEST FOR PRODUCTION NO. 2:

Please provide any and all of Overland's state income tax returns from 2005 through 2014. Please produce all supporting schedules and statements.

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 2nd day of September, 2015.

DICKINSON WRIGHT, PLLC



JOHN P. DESMOND
Nevada Bar No. 5618
BRIAN R. IRVINE
Nevada Bar No. 7758
ANJALI D. WEBSTER
Nevada Bar No. 12515
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

*Attorney for Defendants
Berry Hinckley Industries and
Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC and that on this date, pursuant to NRCP 5(b), I am serving a true and correct copy of the attached DEFENDANTS/COUNTERCLAIMANTS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS on the parties as set forth below:

X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices

Certified Mail, Return Receipt Requested

Via Facsimile (Fax)

X Via E-Mail

Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

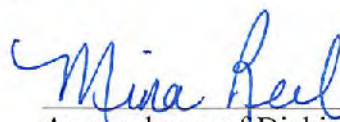
Federal Express (or other overnight delivery) Electronic Notification

addressed as follows:

David C. O'Mara
THE O'MARA LAW FIRM, P.C.
311 E. Liberty Street
Reno, Nevada 89501

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148

DATED this 2nd day of September, 2015.



An employee of Dickinson Wright, PLLC

EXHIBIT 8

EXHIBIT 8



100 WEST LIBERTY STREET, SUITE 940
 RENO, NV 89501-1991
 TELEPHONE: (775) 343-7500
 FACSIMILE: (775) 786-0131
<http://www.dickinsonwright.com>

ANJALI D. WEBSTER
 AWEBSTER@DICKINSONWRIGHT.COM
 (775) 343-7528

April 20, 2016

VIA E-MAIL

Brian P. Moquin, Esq.
 Law Offices of Brian P. Moquin
 3287 Ruffino Lane
 San Jose, CA 95148
bmoquin@lawprism.com

Dear Mr. Moquin:

This letter serves as a follow-up to our April 18, 2016, conversation regarding the above-referenced case. Specifically, I want to address the numerous categories of documents that are relevant to your clients' damages claims that have not been produced, despite multiple requests. These are: (1) Plaintiffs' tax returns that have not yet been provided; (2) any new information relating to the current re-let status of the property located in Carson City, Nevada, owned by the Wooley Plaintiffs; (3) new information relating to the Wooley Plaintiffs' efforts to refinance the Wooley Plaintiffs' loan on the property located in Carson City, Nevada; (4) information relating to Plaintiffs' tax calculations performed by Plaintiffs' accountants and referenced as part of Plaintiffs' responses to Defendants' interrogatories; and (5) any other supplemental information which Plaintiffs are required pursuant to NRCP 26(e)(2). I will address each item we discussed in turn.

1. Documents in your possession.

During our conversation, you informed me that you sent us a DVD with some of Defendants' requested documents earlier this month. As I informed you, my office has not received those documents. You then stated that you would provide me with an email link to those documents by Monday, April 18, 2016. To date, no link has been provided.

2. Documents and Information in Mr. Gluhaich's and Plaintiffs' accountants' possession.

During our conversation, you informed me that you do not believe that the Wooley Plaintiffs have any obligation to produce documents or respond to interrogatories that concern information or documents in Mr. Gluhaich's possession or in the possession of Plaintiffs' accountants.

Brian P. Moquin
 April 20, 2016
 Page 2

We disagree as to the scope of the Wooley Plaintiffs' obligations to respond to interrogatories and requests for production, and believe that Plaintiffs are required to respond with any information or documents reasonably in their control. To that effect, Defendants' written discovery requests are directed to the named Plaintiffs, and all of their present and former agents, representatives, accountants, investigators, consultants, employees and/or attorneys, and any other person or entity acting on their behalf.

Indeed, "[i]n answering interrogatories, a party is charged with knowledge of **what its agents know, or what is in records available to it**, or even for purposes of Rule 33, information others have given it on which it intends to rely in its suit.... Though there are limits on the extent to which a party can be required to hunt out information in order to answer interrogatories, it will be required to provide facts available to it without undue labor and expense." 8B Fed.¹ Prac. & Proc. Civ. 2177 (3d ed.); *see also Essex Builders Grp., Inc. v. Amerisure Ins. Co.*, 230 F.R.D. 682, 685 (M.D. Fla. 2005) ("The answering party cannot limit his answers to matters within his own knowledge and ignore information immediately available to him or under his control.... If an appropriate interrogatory is propounded, the answering party will be required to give the information available to him, if any, through his attorney, investigators employed by him or on his behalf or other agents or representative whether personally known to the answering party or not ... If the answering party lacks necessary information to make a full, fair and specific answer to an interrogatory, it should so state under oath and should set forth in detail the efforts made to obtain the information.").

Similarly, when responding to requests for production of documents, NRCP 34(a) requires a party to produce documents in response to a request for production where those documents are "in the responding party's possession, custody, or control[.]" "Under Rule 34, a party must produce or permit inspection of documents responsive to a request for production of documents when such documents are in the party's possession, custody or control. [F]ederal courts have consistently held that documents are deemed to be within [a party's] 'possession, custody or control' for purposes of Rule 34 if the party has actual possession, custody, or control, **or has the legal right to obtain the documents on demand**. Accordingly, a party has an obligation to conduct a reasonable inquiry into the factual basis of his responses to discovery, and, based on that inquiry, [a] party responding to a Rule 34 production request ... is under **an affirmative duty to seek that information reasonably available to [it] from [its] employees, agents, or others subject to [its] control**." *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 189 (C.D. Cal. 2006).

¹"Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." *Executive Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002).

Brian P. Moquin
April 20, 2016
Page 3

Here, Mr. Gluhaich serves as a broker for the Wooley Plaintiffs on the Highway 50 Property. *See, e.g.*, DG00001. It is not tenable to argue that Mr. Gluhaich is not an agent, representative, or employee of the Wooley Plaintiffs, that documents in Mr. Gluhaich's possession that relate to Mr. Wooley's property are not accessible to Mr. Wooley, or that Mr. Wooley does not have the authority to obtain those documents. Thus, to the extent that Mr. Gluhaich possesses information or documents responsive to Defendants' discovery requests, the Wooley Plaintiffs are charged with knowledge and production of that information.²

With respect to items in Plaintiffs' accountants' possession, you have placed these directly at issue by modeling your damages upon the accountants' calculations. In the Willard Plaintiffs' Response to Defendants' First Set of Interrogatories at 7, the Willard Plaintiffs responded, in pertinent part, as follows:

The tax consequences in the amount of at least \$3,000,000.00 was obtained from Respondent's accountant, Mitra Ehsanipour. This figure was revised on March 1, 2015 by Ms. Ehsanipour to be \$2,430,000.00 for Overland Development Corporation and \$3,152,000.00 for Larry Willard.

Thus, for the reasons discussed herein, Plaintiffs are also charged with knowledge and production of this information.

It is also of no consequence that Plaintiffs are responding to requests for supplemental information. *See* NRCp 26(e)(2).

Finally, even if you believe that Plaintiffs are under no obligation to produce documents or answer interrogatories based upon information in possession of their employees and representatives, the timing of this eleventh-hour objection prejudices us. If your position is now that our only recourse is to subpoena these individuals, then we should have been informed of your position much earlier:³ as you are aware, subpoenaing an out-of-state party will result in several additional weeks of delay to receive our requested documents. The expert disclosure deadline is in nine days: a delay of several weeks obviously impacts our ability to comply with that deadline.

²You implied that there might be no new updates to report. If there are no new offers to rent the property, please provide us with a verified statement from Mr. Wooley confirming this fact.

³On March 23, 2016, you informed us that "I have asked Mr. Gluhaich to compile a list of all entities that have expressed an interest in that property, expect to receive those documents either today or tomorrow. Once I have received the, I will be able to send updated SROG responses to my clients for verification."

Brian P. Moquin
 April 20, 2016
 Page 4

3. NRCP 16.1 Damages Computation.

While we did not specifically discuss Plaintiffs' NRCP 16.1 damages computation on April 18, 2016, this is an issue which we have raised on multiple occasions. We request that Plaintiffs provide us with their NRCP 16.1 damages calculation immediately as required by the NRCP.

Specifically, NRCP 16.1(a)(1)(C) requires a party to provide "a computation of any category of damages claimed by disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered" Courts interpreting the federal counterpart to NRCP 16.1(a)(1)(C) have explained that "the 'category of damages' disclosure requires more than a list of the broad types of damages." *Olaya v. Wal-Mart Stores, Inc.*, 2:11-CV-997-KJD-CWH, 2012 WL 3262875 (D. Nev. Aug. 7, 2012). Indeed, the rule, "by its very terms," requires "a 'computation,' supported by documents." *Design Strategy, Inc. v. Davis*, 469 F.3d 284, 295 (2d Cir. 2006).

Here, it is clear that the Willard Plaintiffs have been able to compute numerous categories of damages, including damages for fines from the City of Reno, deprivation of rental income, lost earnest money, closing costs and tax consequences from the sale of the Willard Property in March 2014, and other various expenses. *See, e.g.*, Verified First Amended Complaint at ¶¶13-18. The Wooley Plaintiffs have likewise been able to compute numerous categories of damages, including deprivation of rental income, diminution of value of the Highway 50 Property, and property taxes, insurance and other expenses for the Highway 50 property, a "loss" incurred as a result of the sale of the Sparks Property, and tax consequences resulting from the sale of the Sparks Property. *Id.* at ¶¶33-41. However, neither the Willard Plaintiffs nor the Wooley Plaintiffs have produced "under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered." NRCP 16.1(a)(1)(C).

NRCP 37(c)(1) provides that "[a] party that without substantial justification fails to disclose information required by Rule 16.1 . . . is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed," and "[t]he burden is upon the disclosing party to show that the failure to disclose information or witnesses was justified or harmless." *Jackson v. United Artists Theatre Circuit, Inc.*, 278 F.R.D. 586, 594 (D. Nev. 2011). Please provide a supplemental disclosure with a mathematical computation of damages in each category, and produce the documents or other

Brian P. Moquin
April 20, 2016
Page 5

material upon which such computations are based. Should Plaintiffs fail to comply with the express terms of NRCP 16.1(a)(1)(C) in their computation of damages, including providing the supporting documents or other information upon which the computation is based, please be advised that Defendants will avail themselves of all available legal remedies, including filing motions seeking to exclude evidence of such categories of damages.

4. Continuance.

Your clients' failure to provide us with the discovery documents had prejudiced our ability to prepare a defense on behalf of our clients. Without such documents, we cannot depose several witnesses, and our experts are unable to complete their opinions. This also jeopardizes our ability to submit dispositive motions with complete information in time for the Court to fully consider those motions. All of this is supposed to occur under our discovery rules in a timely fashion, but it has not. Accordingly, we believe that a brief continuance of the trial date and discovery deadlines is needed. During our conversation, you informed me that you would speak to your clients regarding a short continuance of the trial, which is presently scheduled to begin on August 29, 2016. Please review the attached draft Stipulation and Order and sign it and return it to me if your clients will stipulate. See **Exhibit 1**.

If you and your clients are not amenable to a continuance, we will have no choice but to file a Motion to Continue the Trial Date. As we discussed, there are many documents that we have been requesting for weeks but, despite repeated assurances, documents not yet been provided. See **Exhibits 2-6**. Your failure to provide us with these documents has prevented us from being able to provide our expert with all of the documentation required to do a complete analysis, and is therefore significantly prejudicing our ability to defend this case.

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Brian P. Moquin
April 20, 2016
Page 6

We would like to resolve this issue amicably rather than filing another Motion to Compel and Motion to Continue, and therefore believe that a stipulation to a short continuance is the best solution. I request that you respond by no later than the close of business on **Friday, April 22, 2016**, so that we can act in a timely manner.

Sincerely,

DICKINSON WRIGHT PLLC



Anjali D. Webster

ADW/mr

cc: David O'Mara
david@omaralaw.net

EXHIBIT 1

EXHIBIT 1

1 3980
 2 DICKINSON WRIGHT, PLLC
 3 JOHN P. DESMOND
 4 Nevada Bar No. 5618
 5 BRIAN R. IRVINE
 6 Nevada Bar No. 7758
 7 ANJALI D. WEBSTER
 8 Nevada Bar No. 12515
 9 100 West Liberty Street, Suite 940
 10 Reno, NV 89501
 11 Tel: (775) 343-7500
 12 Fax: (775) 786-0131
 13 Email: Jdesmond@dickinsonwright.com
 14 Email: Birvine@dickinsonwright.com
 15 Email: Awebster@dickinsonwright.com
 16 *Attorney for Defendants*
 17 *Berry Hinckley Industries, and*
 18 *Jerry Herbst*

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

14 LARRY J. WILLARD, individually and as
 15 trustee of the Larry James Willard Trust Fund;
 16 OVERLAND DEVELOPMENT
 17 CORPORATION, a California corporation;
 18 EDWARD C. WOOLEY AND JUDITH A.
 19 WOOLEY, individually and as trustees of the
 20 Edward C. Wooley and Judith A. Wooley
 21 Intervivos Revocable Trust 2000,

CASE NO. CV14-01712
 DEPT. 6

STIPULATION AND [PROPOSED]
ORDER TO CONTINUE TRIAL

19 Plaintiff,
 20 vs.

(SECOND REQUEST)

21 BERRY-HINCKLEY INDUSTRIES, a Nevada
 22 corporation; and JERRY HERBST, an
 23 Individual;

Defendants.

24 BERRY-HINCKLEY INDUSTRIES, a
 25 Nevada corporation; and JERRY HERBST,
 26 an individual;

27 Counterclaimants,
 28 vs

1
2 LARRY J. WILLARD, individually and as
3 trustee of the Larry James Willard Trust Fund;
4 OVERLAND DEVELOPMENT
5 CORPORATION, a California corporation;

6
7 Counter-defendants.
8

9
10 Plaintiffs Edward C. Wooley and Judith A. Wooley, individually and as trustees of the
11 Edward C. Wooley and Judith A. Wooley Intervivos Revocable Trust 2000, Plaintiffs/ Counter-
12 defendants Larry J. Willard, individually and as trustee of the Larry James Willard Trust Fund, and
13 Overland Development Corporation (collectively, "Plaintiffs"); and Defendants/ Counterclaimants
14 Berry-Hinckley Industries and Jerry Herbst (collectively, "Defendants," and together with Plaintiffs,
15 "the Parties"), by and through their respective attorneys of record, hereby stipulate and agree that
16 good cause exists for this Court to enter an order to vacate the trial date scheduled to begin on
17 August 29, 2016 based on the following:

18 1. The Parties need to conduct significant additional discovery, including discovery
19 relating to expert disclosures.

20 2. Specifically, Plaintiffs still need to provide Defendants with (1) Plaintiffs' tax returns
21 that have not yet been provided; (2) any new information relating to the current re-let status of the
22 property located in Carson City, Nevada, owned by the Wooley Plaintiffs; (3) new information
23 relating to the Wooley Plaintiffs' efforts to refinance the Wooley Plaintiffs' loan on the property
24 located in Carson City, Nevada; (4) information relating to Plaintiffs' tax calculations performed by
25 Plaintiffs' accountants and referenced as part of Plaintiffs' responses to Defendants' interrogatories;
26 (5) Plaintiffs' NRCP 16.1 damages calculations; and (6) any other supplemental information
27 requested by Defendants.

28 3. Accordingly, the Parties stipulate to a short continuance of the trial date, up to and
including 180 days beyond the presently scheduled date of August 29, 2016.

4. The Parties agree to appear and reschedule the trial within five (5) days of the date of
this Court's Order approving the Parties' stipulation.

1 The parties further stipulate and agree that should this Court enter an order continuing the
2 trial, the following deadlines in the March 14, 2016, Stipulation and Order on file herein shall be
3 amended as follows:

4 1. The discovery deadline shall be extended until sixty (60) days before the first day of
5 the rescheduled trial; provided, however, that if the 60th day before trial falls on a weekend or
6 holiday, the deadline shall be the following judicial day.

7 2. The deadline to serve, file, and submit for decision any dispositive motions shall be
8 extended until thirty (30) days before the first day of the rescheduled trial; provided, however, that if
9 the 30th day before trial falls on a weekend or holiday, the deadline shall be the following judicial
10 day.

11 3. The deadline to serve expert disclosures shall be extended until ninety (90) days
12 before the close of discovery; provided, however, that if the 90th day before the close of discovery
13 falls on a weekend or holiday, the deadline shall be the following judicial day.

14 4. The deadline to serve rebuttal expert disclosures shall be extended until thirty (30)
15 days after the deadline to file initial expert disclosures; provided, however, that if the 30th day after
16 initial expert disclosures falls on a weekend or holiday, the deadline shall be the following judicial
17 day.

18 ///

20 ///

22 ///

24 ///

26 ///

28 ///

1 Undersigned counsel certifies that their respective clients have been advised that a stipulation
2 for continuance is to be submitted on their behalf. The parties have no objection thereto.

3 **AFFIRMATION**
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document does not contain the social
6 security number of any person.

7 Dated this __ day of April, 2016.

Dated this __ day of April, 2016.

8 Attorneys for Plaintiffs

Attorneys for Defendants

9
10 _____
11 LAW OFFICES OF BRIAN P. MOQUIN
12 Brian P. Moquin
13 3506 La Castellet Court
14 San Jose, California 95148

15 THE O'MARA LAW FIRM
16 David C. O'Mara
17 311 E. Liberty Street
18 Reno, Nevada 89501

DICKINSON WRIGHT, PLLC
JOHN P. DESMOND
BRIAN R. IRVINE
ANJALI D. WEBSTER
100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131

ORDER

This Court, having reviewed the Stipulation to Continue Trial submitted by the parties, and good cause appearing,

IT IS HEREBY ORDERED that good cause exists to vacate the trial date in the above-referenced matter.

IT IS FURTHER ORDERED that the parties shall reset the trial within five (5) days of this Order, unless this Court waives this requirement.

IT IS FURTHER ORDERED that the discovery deadline shall be extended until 60 days before the first day of the rescheduled trial; provided, however, that if the 60th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

IT IS FURTHER ORDERED that the deadline to serve, file, and submit for decision any dispositive motions shall be extended until 30 days before the first day of the rescheduled trial; provided, however, that if the 30th day before trial falls on a weekend or holiday, the deadline shall be the following judicial day.

IT IS FURTHER ORDERED that the deadline to serve expert disclosures shall be extended until ninety (90) days before the close of discovery; provided, however, that if the 90th day before the close of discovery falls on a weekend or holiday, the deadline shall be the following judicial day.

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///

1 IT IS FURTHER ORDERED that the deadline to serve rebuttal expert disclosures shall be
2 extended until 30 days after the deadline to file initial expert disclosures; provided, however, that if
3 the 30th day after initial expert disclosures falls on a weekend or holiday, the deadline shall be the
4 following judicial day.

5
6
7
8 IT IS SO ORDERED.

9 DATED this __ day of _____, 2016.

10
11 _____
DISTRICT COURT JUDGE

12 *Respectfully submitted by:*

13 DICKINSON WRIGHT, PLLC

14
15 _____
16 JOHN P. DESMOND
17 Nevada Bar No. 5618
18 BRIAN R. IRVINE
19 Nevada Bar No. 7758
20 ANJALI D. WEBSTER
21 Nevada Bar No. 12515
22 100 West Liberty Street, Suite 940
Reno, NV 89501
Tel: (775) 343-7500
Fax: (775) 786-0131
Email: Jdesmond@dickinsonwright.com
Email: Birvine@dickinsonwright.com
Email: Awebster@dickinsonwright.com

23 *Attorneys for Defendants*
24 *Berry-Hinckley Industries and Jerry Herbst*

CERTIFICATE OF SERVICE

I certify that I am an employee of DICKINSON WRIGHT, PLLC, and that on this date, pursuant to NRCp 5(b), I am serving the attached **STIPULATION AND ORDER TO CONTINUE TRIAL (SECOND REQUEST)** on the party(s) set forth below by:

- ☒ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, Reno, Nevada, postage prepaid, following ordinary business practices.
- ☐ By electronic service by filing the foregoing with the Clerk of Court using the E Flex system, which will electronically mail the filing to the following individuals.
- ☐ Certified Mail
- ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the addressee(s) set forth below.
- ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the addressees) noted below. addressed as follows:
- ☒ By email to the email addresses below.
- ☐ Federal Express (or other overnight delivery)

Brian P. Moquin
LAW OFFICES OF BRIAN P. MOQUIN
3506 La Castellet Court
San Jose, California 95148
bmoquin@lawprism.com

David C. O'Mara
THE O'MARA LAW FIRM
311 E. Liberty Street
Reno, Nevada 89501
david@omaralaw.net

DATED this ____ day of April, 2016.

An Employee of DICKINSON WRIGHT, PLLC

RENO 65540-1 7984v1

EXHIBIT 2

EXHIBIT 2

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Monday, March 14, 2016 12:21 PM
To: Mina Reel; david@omaralaw.net
Cc: John P. Desmond; Brian R. Irvine; Anjali D. Webster; Cindy S. Grinstead
Subject: Re: Willard, Wooley v. BHI et al.

Thanks for the copy.

I will have more supplemental discovery uploaded to Dropbox later today.

brian

On 3/14/16 12:12 PM, Mina Reel wrote:

The attached Stipulation and Proposed Order was lodged with the court today.

Hard copies will be mailed to Mr. Moquin and Mr. O'Mara.

Mina Reel Legal Secretary

100 West Liberty Phone 775-343-7509
Street Fax 775-786-0131
Suite 940
Reno NV 89501-1991 Email MReel@dickinsonwright.com

DICKINSON WRIGHT PLLC
MICHIGAN ARIZONA NEVADA OHIO TENNESSEE WASHINGTON D.C. TORONTO

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail.

Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

EXHIBIT 3

EXHIBIT 3

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Monday, March 21, 2016 8:20 AM
To: Anjali D. Webster; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

I'm working on finalizing these for you, will have those in my clients' possession to you mid-morning at the latest.

On 3/17/16 10:24 AM, Anjali D. Webster wrote:

- 2005 Overland Federal Tax Return. You mentioned yesterday that you do not presently have that tax return. Please confirm.
- 2005 Overland State Tax Return.
- 2013 Overland State Tax Return.
- 2014 Overland State Tax Return.
- 2009 Willard State Tax Return.
- 2013 Willard State Tax Return.
- 2014 Willard State Tax Return.
- 2005 Wooley State Tax Return.
- 2007 Wooley State Tax Return.
- 2008 Wooley State Tax Return.
- 2009 Wooley State Tax Return.
- 2010 Wooley State Tax Return.
- 2014 Wooley State Tax Return.

EXHIBIT 4

EXHIBIT 4

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Tuesday, April 05, 2016 8:54 AM
To: Anjali D. Webster; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

Sorry, I ran into some technical issues. I need to depart for a hearing now but will be able to put a bow on the documents this afternoon.

Brian

On 4/1/16 8:53 AM, Anjali D. Webster wrote:

Dear Brian:

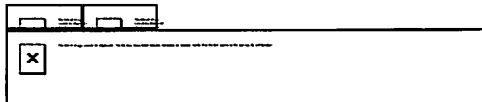
When we spoke on Monday, you represented that you would produce all documents requested by Defendants by Wednesday, March 30. To date, we have not received any documents from you. It has now been nearly one month since we initially asked you to supplement Plaintiffs' responses on March 3, and as you can see from your below email, we have already agreed to multiple extensions of time. Can you please advise us as to when we can expect to receive these documents?

Thank you,

Anjali

Anjali D. Webster Attorney

100 West Liberty Phone 775-343-7498
 Street Suite 940 Fax 775-786-0131
 Reno NV 89501-1991 Email AWebster@dickinsonwright.com



From: Brian Moquin [<mailto:bmoquin@lawprism.com>]
Sent: Monday, March 21, 2016 8:20 AM
To: Anjali D. Webster; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

I'm working on finalizing these for you, will have those in my clients' possession to you mid-morning at the latest.

On 3/17/16 10:24 AM, Anjali D. Webster wrote:

- 2005 Overland Federal Tax Return. You mentioned yesterday that you do not presently have that tax return. Please confirm.

- 2005 Overland State Tax Return.
- 2013 Overland State Tax Return.
- 2014 Overland State Tax Return.
- 2009 Willard State Tax Return.
- 2013 Willard State Tax Return.
- 2014 Willard State Tax Return.
- 2005 Wooley State Tax Return.
- 2007 Wooley State Tax Return.
- 2008 Wooley State Tax Return.
- 2009 Wooley State Tax Return.
- 2010 Wooley State Tax Return.
- 2014 Wooley State Tax Return.

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail.

Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

EXHIBIT 5

EXHIBIT 5

Mina Reel

From: Anjali D. Webster
Sent: Thursday, March 17, 2016 10:25 AM
To: Brian Moquin; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Willard et al. v. BHI et al.
Attachments: RENO-#7086-v1-Letter_to_Moquin_re_Supplemental_Responses.pdf; BRI Letter 03 03 16.pdf

Dear Mr. Moquin:

This email serves to confirm that, per our telephone conversation, you will provide us the following documents by tomorrow: (1) those documents responsive to Brian Irvine's letters, attached; and (2) bates-stamped tax returns for all years requested by Plaintiffs, both federal and state.

With regard to the latter category, we are missing the following tax returns from Plaintiffs:

- 2005 Overland Federal Tax Return. You mentioned yesterday that you do not presently have that tax return. Please confirm.
- 2005 Overland State Tax Return.
- 2013 Overland State Tax Return.
- 2014 Overland State Tax Return.
- 2009 Willard State Tax Return.
- 2013 Willard State Tax Return.
- 2014 Willard State Tax Return.
- 2005 Wooley State Tax Return.
- 2007 Wooley State Tax Return.
- 2008 Wooley State Tax Return.
- 2009 Wooley State Tax Return.
- 2010 Wooley State Tax Return.
- 2014 Wooley State Tax Return.

Please promptly provide these documents.

Thanks very much,

Anjali

EXHIBIT 6

EXHIBIT 6

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Wednesday, March 23, 2016 8:04 AM
To: Anjali D. Webster; david@omaralaw.net
Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

In an attempt to review what documents have already been produced, I unzipped the discovery responses in the Gluhaich Subpoena folder, inadvertently doing so in the Dropbox share. No new documents were added.

I was waiting for additional State returns from my clients, and am now in possession of all those that they have, which I will send to you shortly.

I am also putting together additional documents related to the Highway 50 property loan, which was taken over by another lender a few months ago. I have asked Mr. Gluhaich to compile a list of all entities that have expressed an interest in that property, expect to receive those documents either today or tomorrow. Once I have received them, I will be able to send updated SROG responses to my clients for verification.

Brian

On 3/22/16 9:56 AM, Anjali D. Webster wrote:

Dear Brian:

Can you please advise the status of the tax returns? Additionally, as noted in my previous email, you represented that you will provide bates stamped copies of all tax returns, including bates stamped copies of those tax returns which have already been produced (none are presently bates stamped) by last Friday. We have not yet received those.

Additionally, my Dropbox account indicates that numerous documents in the "Gluhaich Subpoena" folder were modified yesterday, but none of these documents appear to be new. Can you please provide me with a list of exactly which documents you have provided/are providing to us this week?

Thanks very much,

Anjali

Anjali D. Webster Attorney

100 West Liberty Street
 Suite 940
 Reno NV 89501-1991
 Phone 775-343-7498
 Fax 775-786-0131
 Email AWebster@dickinsonwright.com



From: Brian Moquin [<mailto:bmoquin@lawprism.com>]
Sent: Monday, March 21, 2016 8:20 AM
To: Anjali D. Webster; david@omaralaw.net

Cc: Brian R. Irvine; Mina Reel
Subject: Re: Willard et al. v. BHI et al.

I'm working on finalizing these for you, will have those in my clients' possession to you mid-morning at the latest.

On 3/17/16 10:24 AM, Anjali D. Webster wrote:

- 2005 Overland Federal Tax Return. You mentioned yesterday that you do not presently have that tax return. Please confirm.
- 2005 Overland State Tax Return.
- 2013 Overland State Tax Return.
- 2014 Overland State Tax Return.
- 2009 Willard State Tax Return.
- 2013 Willard State Tax Return.
- 2014 Willard State Tax Return.
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- 2007 Wooley State Tax Return.
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- 2009 Wooley State Tax Return.
- 2010 Wooley State Tax Return.
- 2014 Wooley State Tax Return.

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EXHIBIT 9

EXHIBIT 9

THE O'MARA LAW FIRM, P.C.
 DAVID C. O'MARA, ESQ.
 NEVADA BAR NO. 8599
 311 East Liberty Street
 Reno, Nevada 89501
 Telephone: 775/323-1321
 Fax: 775/323-4082

LAW OFFICES OF BRIAN P. MOQUIN
 BRIAN P. MOQUIN, ESQ.
 Admitted *Pro Hac Vice*
 CALIFORNIA BAR NO. 247583
 3287 Ruffino Lane
 San Jose, CA 95148
 Telephone: 408.300.0022
 Fax: 408.843.1678
 bmoquin@lawprism.com

Attorneys for Plaintiffs
 LARRY J. WILLARD,
 OVERLAND DEVELOPMENT CORPORATION,
 EDWARD C. WOOLEY, and JUDITH A. WOOLEY

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

LARRY J. WILLARD, individually and as
 trustee of the Larry James Willard Trust Fund;
 OVERLAND DEVELOPMENT
 CORPORATION, a California corporation;
 EDWARD C. WOOLEY AND JUDITH A.
 WOOLEY, individually and as trustees of the
 Edward C. Wooley and Judith A. Wooley
 Intervivos Revocable Trust 2000,

Plaintiffs,

v.

BERRY-HINCKLEY INDUSTRIES, a
 Nevada corporation; JERRY HERBST, an
 individual; and JH, INC., a Nevada
 corporation,

Defendants.

Case No. CV14-01712

Dept. 6

**PLAINTIFFS' INITIAL DISCLOSURE
 OF EXPERT WITNESSES**

Pursuant to the Court's Scheduling Order and NRCP 16.1(a)(2), Plaintiffs Larry J. Willard and Overland Development Corporation ("the Willard Plaintiffs") and Edward C. Wooley, and Judith A. Wooley ("the Wooley Plaintiffs") (collectively, "Plaintiffs") hereby disclose their list of expert witnesses they intent to call at trial in the instant matter. None of the witnesses listed below have been retained.

I. Daniel Gluhaich

Address:

Daniel Gluhaich
175 E. Main Avenue, Suite 130
Morgan Hill, CA 95037
(408) 201-0120

Mr. Gluhaich has already been deposed by Defendants as a fact witness for Plaintiffs. Mr. Gluhaich's curriculum vitae is attached hereto, and includes his expert witness fee schedule.

Mr. Gluhaich will be called by Plaintiffs as an expert witness to testify regarding the following issues:

1. The real estate market conditions and fair market value, and the recognized industry practice for assessing same, of the Highway 50 Property at the time it was purchased by the Wooley Plaintiffs, at the point in time just prior to Defendants' breach of the Highway 50 Lease, and subsequent to Defendants' breach of the Highway 50 Lease.

2. The real estate market conditions and fair market value, and the recognized industry practice for assessing same, of the Baring Property at the time it was purchased by the Wooley Plaintiffs, at the time it was sold by the Wooley Plaintiffs.

3. The real estate market conditions and fair rental value, and the recognized industry practice for assessing same, of the Highway 50 Property at the point in time just prior to Defendants' breach of the Highway 50 Lease and subsequent to Defendants' breach of the Highway 50 Lease.

4. The real estate market conditions and fair market value, and the recognized industry practice for assessing same, of the Virginia Property at the time it was purchased by the Willard Plaintiffs, at the point in time just prior to Defendants' breach of the Willard Lease, and

subsequent to Defendants' breach of the Willard Lease.

5. The effect on rental value and market value of a commercial property when an anchor tenant terminates the lease and leaves the property "dark" and/or in a state of dishevelment/disrepair, in general and with respect to the properties at issue in this case.

6. The standard real estate practices regarding short sales of commercial properties, in general and with respect to the Virginia Property.

7. The benefits and regulations regarding 1031 Exchanges, in general and with respect to the properties at issue in this case, including the implications of terminating same.

8. The characteristics of a "Triple Net Lease" and the benefits of same to owners of commercial properties, in general and with respect to the properties at issue in this case.

9. The standard of practice, procedures and techniques normally used in the marketing of commercial properties, and the factors affecting the price at which commercial properties should be offered for sale or for rent, in general and with respect to the properties at issue in this case.

10. Interpretation and analysis of the validity of written appraisals of the properties at issue in this matter, as well as the standard practices and techniques used in appraisals.

11. The effect of the cross-collateralization of mortgage loans secured by real property, in general and with respect to the Baring and Highway 50 Properties.

12. The significance, in terms of property value and marketability, of personal guaranties that back long-term commercial leases, in general and with respect to the properties at issue in this case.

Plaintiffs expressly reserve the right to elicit expert testimony from the employees and representatives of other parties and from experts disclosed by other parties to this action.

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///

Respectfully submitted,

LAW OFFICES OF BRIAN P. MOQUIN

DATED: December 2, 2016

By: 

BRIAN P. MOQUIN

Admitted *Pro Hac Vice*

California Bar No. 257583

3287 Ruffino Lane

San Jose, CA 95148

(408) 300-0022

(408) 843-1678 (facsimile)

DAVID C. O'MARA

Nevada Bar No. 8599

311 East Liberty Street

Reno, Nevada 89501

(775) 323-1321

(775) 323-4082 (facsimile)

Attorneys for Plaintiffs

Daniel Gluhaich

175 E. Main Avenue, Suite 130, Morgan Hill, CA 95037
(408) 201-0120 / (408) 461-0262 cell / dgluhaich@interorealestate.com

I am a real estate professional, licensed as an agent in California since 1987 and as a broker in Nevada since 2001. I specialize in transactions involving commercial and industrial properties. I also have extensive experience in real estate development and have served as an expert witness in litigation involving commercial real estate.

EDUCATION

1979	Diploma, Gilroy High School, Gilroy, CA
1981	Associate of Science, Crop Science, Hartnell junior College, Salinas, CA
1983	Bachelor of Science, Crop Science, California Polytechnic State University, San Luis Obispo, CA

REAL ESTATE CAREER

1987	Completed Real Estate Program, Anthony School, San Jose, CA
1987 – Pres.	Licensed Real Estate Agent, California Department of Real Estate
1987 – 1991	Real Estate Agent, Fox & Carskadon
1991 – 1997	Real Estate Agent, Contempo Realty, Gilroy, CA
1997 – Pres.	Real Estate Agent, Intero Real Estate Services, Morgan Hill, CA
2001 – Pres.	Licensed Real Estate Broker, Nevada Real Estate Division
2001 – Pres.	Vice President, Colliers International, Las Vegas, NV

PROFESSIONAL ACCOMPLISHMENTS

- Closed over \$1 billion worth of transactions
- Closed over 1,200 escrows
- Ranked #1 Producer in 1989 at Cornish & Carey Morgan Hill
- Ranked Top 60 out of 900 agents in 1989 at Cornish & Carey
- Ranked #1 Producer in 1995 and 1997 for Contempo Realty out of 850 agents
- Ranked #4 Producer in the world by Century 21 in 1999 and 2000 out of more than 100,000 agents

COMMERCIAL REAL ESTATE EXPERIENCE

- Extensive experience with commercial/industrial leasing
- Experience leasing retail space in shopping centers
- Sold numerous commercial and industrial properties
- Sold several thousand acres of crop, grazing, and undeveloped land
- Brokered sales of retail centers, professional office buildings, and industrial buildings
- Coordinated numerous build-to-suit properties
- Handled numerous 1031 tax deferred exchanges and reverse exchanges

REAL ESTATE DEVELOPMENT EXPERIENCE

- Partner in development of 80+ spec homes from Hollister, CA to Los Altos Hills, CA
- Partner in construction of 21,000 sq.ft. industrial building
- Partner in 30-acre industrial park in Gilroy, CA to build ~350,000 – 400,000 sq. ft. of metal and tilt-up buildings

Daniel Gluhaich

175 E. Main Avenue, Suite 130, Morgan Hill, CA 95037
 (408) 201-0120 / (408) 461-0262 cell / dgluhaich@interorealestate.com

EXPERT WITNESS EXPERIENCE

I possess the qualifications to testify as an expert witness regarding issues including commercial real estate sales and purchases, corporate leasing, real estate appraisal analysis, fair market and fair rental value, 1031 tax deferred exchanges, reverse exchanges, triple net leasing, as well as the duties and standard of care required of California real estate agents and Nevada real estate agents and brokers. I have been actively monitoring and analyzed real estate market conditions in Northern California since 1987 and in Las Vegas and Northern Nevada since 2001.

As of December 2016, I have been retained as an expert witness in two real estate litigation cases in Nevada. In both cases, I was retained to provide an expert opinion regarding the market value and the diminution in value of commercial properties.

FEE SCHEDULE FOR EXPERT WITNESS SERVICES

Case Review/Consulting	\$ 400.00/hour
Appearance for Deposition as Expert Witness	\$ 450.00/hour
Expert Report Research and Drafting	\$ 400.00/hour
Research and Preparation for Trial Appearances	\$ 400.00/hour
Expert Witness Appearance at Trial	\$ 450.00/hour
Travel by Car Outside San Francisco Bay Area	\$ 0.57/mile
Travel by Air	Round-Trip Ticket Cost + 10% Handling Fee
Reproduction, Document Prep, Other Expenses	At Cost
Per Diem for Engagements Requiring Overnight Stays	\$ 335.00/day

AFFIRMATION

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document filed in the above-referenced matter does not contain the Social Security Number of any person.

LAW OFFICES OF BRIAN P. MOQUIN

DATED: December 2, 2016

By: 

BRIAN P. MOQUIN
Admitted *Pro Hac Vice*
California Bar No. 257583
3287 Ruffino Lane
San Jose, CA 95148
(408) 300-0022
(408) 843-1678 (facsimile)

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Nevada that on this date I served a true and correct copy of the foregoing document as follows:

[X] By sending a true and correct copy of the foregoing document by electronic mail to jdesmond@dickinsonwright.com, birvine@dickinsonwright.com, and awebster@dickinsonwright.com.

DATED: December 2, 2016



BRIAN P. MOQUIN

EXHIBIT 10

EXHIBIT 10

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Monday, December 05, 2016 12:17 PM
To: Mina Reel
Cc: David O'Mara, Esq.; John P. Desmond; Brian R. Irvine; Anjali D. Webster
Subject: Re: Willard Wooley v. BHI
Attachments: 20161205 Wooley Damages Calculation - v1.3.pdf

Brian—

Per our conversation a few minutes ago, attached is a PDF version of the final damages calculation spreadsheet for the Wooley Plaintiffs for use in the ongoing informal settlement negotiations between Tim Herbst and Ed Wooley with Dan Gluhaich evidently serving as intermediary. Please forward this to Tim Herbst as you see fit. Note that I will be tendering supplemental disclosures in the imminent future that will include the actual spreadsheet.

We also discussed your desire to re-depose Dan Gluhaich as an expert as soon as possible; I will check with him as to available dates and will get back to you shortly. To that end, you agreed to allow Plaintiffs to provide an amended expert witness disclosure by mid-afternoon Thursday, December 8, 2016 to include the facts and conclusions to which Mr. Gluhaich will be testifying in the interest of minimizing the amount of time needed for the deposition.

Best,
Brian

Brian P. Moquin, Esq.
Law Offices of Brian P. Moquin
3287 Ruffino Lane
San Jose, CA 95148

skype: brianmoquin
408.300.0022
408.460.7787 cell
408.843.1678 fax

WOOLEY CALCULATION OF DAMAGES

v1.3 BPM 12/05/2016

1820 E. William Street, Highway 50, Carson City, NV
 Plaintiffs Edward C. and Judith A. Willard

I. CALCULATION PARAMETERS

REF	DESCRIPTION	VALUE	Evidence ¹
A	Default Interest Rate:	18%	Exh. 2-32
B	Discount Rate:	4%	Exh. 2-17
C	Interest Through:	12/5/2016	
D	Hwy 50 Lease Term Start:	11/30/2005	Exh. 2-1
E	Hwy 50 Lease Term End:	12/1/2025	Exh. 2-1
F	Hwy 50 Date of Breach:	3/1/2013	EW ¶¶ 20-23; Exh. 21
G	Baring Purchase Price:	\$ 3,286,552.00	EW ¶ 5; Exh. 3-1
H	Baring Fair Market Value:	\$ 3,100,000.00	EW ¶ 30; Exh. 28
I	Hwy 50 Purchase Price:	\$ 3,400,000.00	EW ¶ 3; Exh. 1-1
J	Hwy 50 Fair Market Value:	\$ 765,000.00	EW ¶ 43; Exh. 42
K	Hwy 50 Fair Rental Value:	\$ 7,500.00	DG ¶ 11
L	B&J Pizza Sublease Rent/Mo:	\$ 2,485.80	EW ¶ 31; Exh. 20-2

II. COSTS AND LOSSES

REF	DATE	DESCRIPTION	AMOUNT	INTEREST THRU 12/5/2016	TOTAL	EVIDENCE ¹
A	3/1/13	Hwy 50 Diminution in Value	\$ 2,635,000.00	\$ 1,786,746.58	\$ 4,421,746.58	EW ¶ 43; Exhs. 1, 42
B	7/15/13	Hwy 50 Property Tax	1,051.01	642.18	1,693.19	EW ¶ 32; Exh. 31
C	7/28/13	Hwy 50 Insurance	735.00	444.38	1,179.38	EW ¶ 25; Exh. 23
D	9/12/13	Carson City Utilities	284.48	165.54	450.02	EW ¶ 26; Exh. 24
E	12/31/13	2013 Property Expenses	12,822.53	6,766.08	19,588.61	EW ¶ 39; Exh. 38
F	3/6/14	Goldblatt & Associates	45,088.00	22,346.35	67,434.35	EW ¶ 33; Exh. 22
G	5/20/14	Baring Costs of Sale	149,229.13	68,440.98	217,670.11	EW ¶ 30; Exh. 28
H	5/20/14	Baring Diminution in Value	186,552.00	85,558.37	272,110.37	EW ¶ 30; Exhs. 3, 28
I	12/31/14	2014 Property Expenses	9,824.63	3,415.74	13,240.37	EW ¶ 40; Exh. 39
J	1/1/15	2014 Fed Cap Gain Tax	343,833.00	119,371.28	463,204.28	EW ¶ 31; RB ¶ 6; Exh. 29
K	1/1/15	2014 Hawaii Cap Gain Tax	136,946.00	47,544.65	184,490.65	EW ¶ 31; RB ¶ 8; Exh. 30
L	1/1/15	2014 Loss Carry Forward	27,293.00	9,475.53	36,768.53	EW ¶ 31; RB ¶ 7; Exh. 29
M	6/10/15	Hwy 50 Appraisal Fee	3,000.00	804.82	3,804.82	EW ¶ 43; Exh. 42-81
N	12/31/15	2015 Property Expenses	12,165.99	2,039.89	14,205.88	EW ¶ 41; Exh. 40
O	9/30/16	2016 Property Expenses	8,776.74	285.66	9,062.40	EW ¶ 42; Exh. 41
P			\$3,572,601.51	\$2,154,048.04	\$5,726,649.55	

¹ Evidence Key: EW = Aff. Edward C. Wooley; RB = Aff. Robert W. Bianchi; DG = Aff. Daniel Gluhaich; Exh. = Exhibit

III. NET PRESENT VALUE OF LEASE

REF	MONTH	RENT	NET PRESENT VALUE (RUNNING TOTAL)
A	3/13	\$ 20,426.34	\$ 20,358.48
	4/13	20,426.34	40,649.32
B	5/13	20,834.87	61,277.22
	6/13	20,834.87	81,836.59
	7/13	20,834.87	102,327.66
	8/13	20,834.87	122,750.65
	9/13	20,834.87	143,105.79
	10/13	20,834.87	163,393.31
	11/13	20,834.87	183,613.43
	12/13	20,834.87	203,766.36
	1/14	20,834.87	223,852.35
	2/14	20,834.87	243,871.60
	3/14	20,834.87	263,824.35
	4/14	20,834.87	283,710.81
C	5/14	21,251.57	303,927.61
	6/14	21,251.57	324,077.24
	7/14	21,251.57	344,159.93
	8/14	21,251.57	364,175.90
	9/14	21,251.57	384,125.38
	10/14	21,251.57	404,008.57
	11/14	21,251.57	423,825.71
	12/14	21,251.57	443,577.02
	1/15	21,251.57	463,262.70
	2/15	21,251.57	482,882.98
	3/15	21,251.57	502,438.08
	4/15	21,251.57	521,928.21
D	5/15	22,314.15	542,324.86
	6/15	22,314.15	562,653.74
	7/15	22,314.15	582,915.09
	8/15	22,314.15	603,109.13
	9/15	22,314.15	623,236.07
	10/15	22,314.15	643,296.15
	11/15	22,314.15	663,289.58
	12/15	22,314.15	683,216.59
	1/16	22,314.15	703,077.40
	2/16	22,314.15	722,872.22
	3/16	22,314.15	742,601.28
	4/16	22,314.15	762,264.80
E	5/16	23,429.86	782,842.90
	6/16	23,429.86	803,352.63
	7/16	23,429.86	823,794.22
	8/16	23,429.86	844,167.90

IV. FAIR RENTAL VALUE

REF	MONTH	FAIR RENTAL VALUE	NET PRESENT VALUE (RUNNING TOTAL)
A	3/13	\$ 0.00	\$ 0.00
	4/13	0.00	0.00
	5/13	0.00	0.00
	6/13	0.00	0.00
	7/13	0.00	0.00
	8/13	0.00	0.00
	9/13	0.00	0.00
	10/13	0.00	0.00
	11/13	0.00	0.00
	12/13	0.00	0.00
	1/14	0.00	0.00
	2/14	0.00	0.00
B	3/14	7,500.00	6,180.20
	4/14	7,500.00	12,269.07
	5/14	7,500.00	18,267.96
	6/14	7,500.00	24,178.19
	7/14	7,500.00	30,001.08
	8/14	7,500.00	35,737.92
	9/14	7,500.00	41,389.97
	10/14	7,500.00	46,958.50
	11/14	7,500.00	52,444.74
	12/14	7,500.00	57,849.89
	1/15	7,500.00	63,175.17
	2/15	7,500.00	68,421.75
	3/15	7,500.00	73,590.79
	4/15	7,500.00	78,683.45
	5/15	7,500.00	83,700.84
	6/15	7,500.00	88,644.09
	7/15	7,500.00	93,514.28
	8/15	7,500.00	98,312.50
	9/15	7,500.00	103,039.80
	10/15	7,500.00	107,697.25
	11/15	7,500.00	112,285.87
	12/15	7,500.00	116,806.67
	1/16	7,500.00	121,260.67
	2/16	7,500.00	125,648.84
	3/16	7,500.00	129,972.17
	4/16	7,500.00	134,231.60
	5/16	7,500.00	138,428.08
	6/16	7,500.00	142,562.55
	7/16	7,500.00	146,635.92
	8/16	7,500.00	150,649.09

REF	MONTH	RENT	NET PRESENT VALUE (RUNNING TOTAL)
	9/16	\$ 23,429.86	\$ 864,473.90
	10/16	23,429.86	884,712.43
	11/16	23,429.86	904,883.72
	12/16	23,429.86	924,988.00
	1/17	23,429.86	945,025.49
	2/17	23,429.86	964,996.41
	3/17	23,429.86	984,900.98
	4/17	23,429.86	1,004,739.43
F	5/17	24,601.35	1,025,500.59
	6/17	24,601.35	1,046,192.77
	7/17	24,601.35	1,066,816.22
	8/17	24,601.35	1,087,371.14
	9/17	24,601.35	1,107,857.78
	10/17	24,601.35	1,128,276.35
	11/17	24,601.35	1,148,627.09
	12/17	24,601.35	1,168,910.22
	1/18	24,601.35	1,189,125.96
	2/18	24,601.35	1,209,274.54
	3/18	24,601.35	1,229,356.19
	4/18	24,601.35	1,249,371.11
G	5/18	25,831.42	1,270,316.96
	6/18	25,831.42	1,291,193.23
	7/18	25,831.42	1,312,000.14
	8/18	25,831.42	1,332,737.92
	9/18	25,831.42	1,353,406.81
	10/18	25,831.42	1,374,007.03
	11/18	25,831.42	1,394,538.81
	12/18	25,831.42	1,415,002.37
	1/19	25,831.42	1,435,397.96
	2/19	25,831.42	1,455,725.78
	3/19	25,831.42	1,475,986.07
	4/19	25,831.42	1,496,179.05
H	5/19	27,122.99	1,517,311.23
	6/19	27,122.99	1,538,373.22
	7/19	27,122.99	1,559,365.22
	8/19	27,122.99	1,580,287.49
	9/19	27,122.99	1,601,140.25
	10/19	27,122.99	1,621,923.72
	11/19	27,122.99	1,642,638.16
	12/19	27,122.99	1,663,283.77
	1/20	27,122.99	1,683,860.79
	2/20	27,122.99	1,704,369.45
	3/20	27,122.99	1,724,809.97
	4/20	27,122.99	1,745,182.59

REF	MONTH	FAIR RENTAL VALUE	NET PRESENT VALUE (RUNNING TOTAL)
	9/16	\$ 7,500.00	\$ 154,602.95
	10/16	7,500.00	158,498.38
	11/16	7,500.00	162,336.24
	12/16	7,500.00	166,117.38
	1/17	7,500.00	169,842.65
	2/17	7,500.00	173,512.86
	3/17	7,500.00	177,128.84
	4/17	7,500.00	180,691.37
	5/17	7,500.00	184,201.26
	6/17	7,500.00	187,659.27
	7/17	7,500.00	191,066.19
	8/17	7,500.00	194,422.75
	9/17	7,500.00	197,729.71
	10/17	7,500.00	200,987.80
	11/17	7,500.00	204,197.74
	12/17	7,500.00	207,360.24
	1/18	7,500.00	210,476.01
	2/18	7,500.00	213,545.73
	3/18	7,500.00	216,570.08
	4/18	7,500.00	219,549.74
	5/18	7,500.00	222,485.37
	6/18	7,500.00	225,377.61
	7/18	7,500.00	228,227.11
	8/18	7,500.00	231,034.50
	9/18	7,500.00	233,800.40
	10/18	7,500.00	236,525.42
	11/18	7,500.00	239,210.17
	12/18	7,500.00	241,855.25
	1/19	7,500.00	244,461.24
	2/19	7,500.00	247,028.71
	3/19	7,500.00	249,558.24
	4/19	7,500.00	252,050.39
	5/19	7,500.00	254,505.71
	6/19	7,500.00	256,924.75
	7/19	7,500.00	259,308.03
	8/19	7,500.00	261,656.10
	9/19	7,500.00	263,969.46
	10/19	7,500.00	266,248.64
	11/19	7,500.00	268,494.13
	12/19	7,500.00	270,706.44
	1/20	7,500.00	272,886.05
	2/20	7,500.00	275,033.46
	3/20	7,500.00	277,149.13
	4/20	7,500.00	279,233.53

REF	MONTH	RENT	NET PRESENT VALUE (RUNNING TOTAL)
I	5/20	\$ 28,479.14	\$ 1,766,502.77
	6/20	28,479.14	1,787,752.12
	7/20	28,479.14	1,808,930.87
	8/20	28,479.14	1,830,039.26
	9/20	28,479.14	1,851,077.53
	10/20	28,479.14	1,872,045.90
	11/20	28,479.14	1,892,944.60
	12/20	28,479.14	1,913,773.88
	1/21	28,479.14	1,934,533.95
	2/21	28,479.14	1,955,225.06
	3/21	28,479.14	1,975,847.42
	4/21	28,479.14	1,996,401.27
J	5/21	29,903.09	2,017,911.12
	6/21	29,903.09	2,039,349.50
	7/21	29,903.09	2,060,716.66
	8/21	29,903.09	2,082,012.83
	9/21	29,903.09	2,103,238.25
	10/21	29,903.09	2,124,393.16
	11/21	29,903.09	2,145,477.78
	12/21	29,903.09	2,166,492.35
	1/22	29,903.09	2,187,437.11
	2/22	29,903.09	2,208,312.28
	3/22	29,903.09	2,229,118.11
	4/22	29,903.09	2,249,854.80
K	5/22	31,398.25	2,271,556.00
	6/22	31,398.25	2,293,185.10
	7/22	31,398.25	2,314,742.34
	8/22	31,398.25	2,336,227.96
	9/22	31,398.25	2,357,642.21
	10/22	31,398.25	2,378,985.31
	11/22	31,398.25	2,400,257.50
	12/22	31,398.25	2,421,459.02
	1/23	31,398.25	2,442,590.10
	2/23	31,398.25	2,463,650.98
	3/23	31,398.25	2,484,641.89
	4/23	31,398.25	2,505,563.06
L	5/23	32,968.16	2,527,457.31
	6/23	32,968.16	2,549,278.82
	7/23	32,968.16	2,571,027.84
	8/23	32,968.16	2,592,704.60
	9/23	32,968.16	2,614,309.34
	10/23	32,968.16	2,635,842.31
	11/23	32,968.16	2,657,303.74
	12/23	32,968.16	2,678,693.87

REF	MONTH	FAIR RENTAL VALUE	NET PRESENT VALUE (RUNNING TOTAL)
	5/20	\$ 7,500.00	\$ 281,287.13
	6/20	7,500.00	283,310.38
	7/20	7,500.00	285,303.73
	8/20	7,500.00	287,267.62
	9/20	7,500.00	289,202.49
	10/20	7,500.00	291,108.76
	11/20	7,500.00	292,986.87
	12/20	7,500.00	294,837.21
	1/21	7,500.00	296,660.22
	2/21	7,500.00	298,456.28
	3/21	7,500.00	300,225.80
	4/21	7,500.00	301,969.16
	5/21	7,500.00	303,686.77
	6/21	7,500.00	305,378.99
	7/21	7,500.00	307,046.20
	8/21	7,500.00	308,688.78
	9/21	7,500.00	310,307.07
	10/21	7,500.00	311,901.46
	11/21	7,500.00	313,472.28
	12/21	7,500.00	315,019.89
	1/22	7,500.00	316,544.62
	2/22	7,500.00	318,046.83
	3/22	7,500.00	319,526.83
	4/22	7,500.00	320,984.96
	5/22	7,500.00	322,421.54
	6/22	7,500.00	323,836.90
	7/22	7,500.00	325,231.33
	8/22	7,500.00	326,605.16
	9/22	7,500.00	327,958.69
	10/22	7,500.00	329,292.21
	11/22	7,500.00	330,606.02
	12/22	7,500.00	331,900.42
	1/23	7,500.00	333,175.69
	2/23	7,500.00	334,432.12
	3/23	7,500.00	335,669.97
	4/23	7,500.00	336,889.54
	5/23	7,500.00	338,091.08
	6/23	7,500.00	339,274.86
	7/23	7,500.00	340,441.15
	8/23	7,500.00	341,590.20
	9/23	7,500.00	342,722.27
	10/23	7,500.00	343,837.61
	11/23	7,500.00	344,936.47
	12/23	7,500.00	346,019.09

REF	MONTH	RENT	NET PRESENT VALUE (RUNNING TOTAL)
	1/24	\$ 32,968.16	\$ 2,700,012.93
	2/24	32,968.16	2,721,261.17
	3/24	32,968.16	2,742,438.82
	4/24	32,968.16	2,763,546.10
	5/24	34,616.57	2,785,635.13
	6/24	34,616.57	2,807,650.76
	7/24	34,616.57	2,829,593.26
M	8/24	34,616.57	2,851,462.86
	9/24	34,616.57	2,873,259.80
	10/24	34,616.57	2,894,984.32
	11/24	34,616.57	2,916,636.67
	12/24	34,616.57	2,938,217.09
	1/25	34,616.57	2,959,725.81
	2/25	34,616.57	2,981,163.07
	3/25	34,616.57	3,002,529.11
	4/25	34,616.57	3,023,824.17
N	5/25	35,308.90	3,045,472.97
	6/25	35,308.90	3,067,049.84
	7/25	35,308.90	3,088,555.03
	8/25	35,308.90	3,109,988.78
	9/25	35,308.90	3,131,351.31
	10/25	35,308.90	3,152,642.88
	11/25	35,308.90	3,173,863.70
O	TOTALS:	\$ 4,161,031.80	\$ 3,173,863.70

REF	MONTH	FAIR RENTAL VALUE	NET PRESENT VALUE (RUNNING TOTAL)
	1/24	\$ 7,500.00	\$ 347,085.71
	2/24	7,500.00	348,136.57
	3/24	7,500.00	349,171.89
	4/24	7,500.00	350,191.92
	5/24	7,500.00	351,196.87
	6/24	7,500.00	352,186.97
	7/24	7,500.00	353,162.44
	8/24	7,500.00	354,123.50
	9/24	7,500.00	355,070.35
	10/24	7,500.00	356,003.21
	11/24	7,500.00	356,922.28
	12/24	7,500.00	357,827.77
	1/25	7,500.00	358,719.87
	2/25	7,500.00	359,598.80
	3/25	7,500.00	360,464.73
	4/25	7,500.00	361,317.87
	5/25	7,500.00	362,158.40
	6/25	7,500.00	362,986.51
	7/25	7,500.00	363,802.38
	8/25	7,500.00	364,606.19
	9/25	7,500.00	366,947.05
	10/25	7,500.00	473,731.96
	11/25	7,500.00	473,731.96
C	TOTALS:	\$1,057,500.00	\$ 473,731.96

V. ACCELERATED RENT

REF	DESCRIPTION	AMOUNT
A	NET PRESENT VALUE OF REMAINING LEASE TERM RENT: \$	3,173,863.70
B	NET PRESENT VALUE OF FAIR RENTAL VALUE:	-473,731.96
C	RENTAL INCOME FROM B&H PIZZA, 3/13 - 2/14:	-29,769.60
D	Total:	\$ 2,670,362.14

VI. TOTAL DAMAGES

REF	DESCRIPTION	DAMAGE AMOUNT	INTEREST THRU 12/5/2016	AMOUNT WITH INTEREST
A	ACCELERATED RENT: \$	2,670,362.14	\$ 1,810,725.02	\$ 4,481,087.16
B	COSTS AND LOSSES:	3,572,601.51	2,154,048.04	5,726,649.55
C	TOTALS:	\$ 6,242,963.65	\$ 3,964,773.06	\$ 10,207,736.71

VII. INTEREST ACCRUAL RATE

INTEREST PER DAY:	\$3,078.72
INTEREST PER MONTH:	\$93,644.45
INTEREST PER YEAR:	\$1,123,733.46

EXHIBIT 11

EXHIBIT 11

Mina Reel

From: Brian R. Irvine
Sent: Friday, December 09, 2016 8:46 AM
To: Brian Moquin
Cc: david@omaralaw.net; Anjali D. Webster
Subject: Willard / Wooley v. BHI

Dear Brian-

I did not receive the supplemented expert disclosure for Mr. Gluhaich yesterday that you had promised, nor have I received deposition dates for him. As you know, we have a number of deadlines coming up in the litigation, including the deadline for disclosing rebuttal experts. Obviously, we will be prejudiced by further delay in learning all of the expert opinion testimony that plaintiffs intend to present at trial. Please provide the information immediately.

In addition, in the Wooley plaintiffs' damages spreadsheet you provided me earlier this week, you included new damages calculations that we have never seen before. As you know, we have been demanding that plaintiffs meet their obligations under NRCP 16.1(a)(1)(C) to provide "[a] computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter . . . on which such computation is based" for more than a year. For unknown reasons, plaintiffs have utterly refused to meet this obligation. Given the Wooley plaintiffs' apparent change in position regarding damages, this is concerning to say the least, and continues to prejudice defendants' ability to defend the case. Moreover, it is impossible for us to recommend any settlement to our clients without this information. Please provide NRCP 16.1 damages computations for all plaintiffs, immediately.

Please do not hesitate to contact me with any questions.

Thank you,

Brian Irvine

Brian R. Irvine Member

100 West Liberty Street
 Suite 940
 Reno NV 89501-1991
 Phone 775-343-7507
 Fax 844-670-6009
 Email BIrvine@dickinsonwright.com

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DICKINSON WRIGHT^{PLLC}
 ARIZONA FLORIDA KENTUCKY MICHIGAN NEVADA OHIO
 TENNESSEE TEXAS WASHINGTON D.C. TORONTO

EXHIBIT 12

EXHIBIT 12

Mina Reel

From: Brian R. Irvine
Sent: Friday, December 23, 2016 10:19 AM
To: Brian Moquin
Cc: David O'Mara, Esq.; John P. Desmond; Anjali D. Webster; Mina Reel
Subject: RE: Willard Wooley v. BHI

Dear Brian-

As you know, Plaintiffs disclosed Dan Gluhaich as a lay expert witness on December 2, 2016, the deadline for the disclosure of initial expert witnesses. Plaintiffs' disclosure indicated that Mr. Gluhaich would offer expert testimony in more than ten separate categories, but did not identify any of the actual opinions that Mr. Gluhaich intended to offer at trial.

Defendants disclosed the expert report of Michelle Salazar, also on December 2, 2016. Ms. Salazar's report addressed certain issues with Plaintiffs' damages model (ascertained through the First Amended Complaint and Plaintiffs' responses to interrogatories, rather than through an NRCP 16.1 damages disclosure, which Plaintiffs have never provided) and contained all of the direct (non-rebuttal) opinions that Ms. Salazar intended to offer about Plaintiffs' damages model that existed as of December 2, 2016.

You and I spoke on December 5, 2016. During that phone call, I indicated that we would need significant additional information about Mr. Gluhaich's potential expert testimony, including a supplemental disclosure providing the opinions he intended to offer and an additional deposition of Mr. Gluhaich, before we could prepare and disclose potential expert report(s) rebutting Mr. Gluhaich. During our call, you recognized that the December 2, 2016 disclosure of Mr. Gluhaich did not contain any specific information about the opinions he intended to offer and promised to: (1) provide available deposition dates for Mr. Gluhaich shortly; and (2) provide an amended expert witness disclosure by Thursday, December 8, 2016 to include the facts and conclusions to which Mr. Gluhaich would be testifying. As of this morning, we have not received any such amended disclosure for Mr. Gluhaich or any deposition dates. Obviously, Plaintiffs' failure to provide this information has made it impossible for Defendants to comply with the January 3, 2017 deadline for disclosing the reports of rebuttal expert witnesses because we simply have no information about the substance of Mr. Gluhaich's opinions that we may wish to rebut. Please confirm that Plaintiffs will grant Defendants an open extension for submitting any expert reports rebutting the opinions of Mr. Gluhaich until we have received your amended disclosure, deposed Mr. Gluhaich and provided any rebuttal expert(s) with sufficient opportunity to review that material and prepare rebuttal report(s). If we do not receive such an extension, we will seek relief from the Court on shortened time next week. As Ms. Salazar's expert report disclosed December 2 was complete, we expect Plaintiffs to meet the January 3, 2017 deadline for disclosing any expert report rebutting her opinions.

In addition, following our discussion on December 5, you emailed me a spreadsheet with a new damages computation for the Wooley plaintiffs, and indicated that I could provide the spreadsheet to my clients for settlement purposes only. However, the "settlement only" spreadsheet contained a new damages model that Plaintiffs had never before utilized in the case; namely, the spreadsheet used a \$7,500 "fair rental value" deduction as part of the "accelerated rent" calculation. Prior to receiving the spreadsheet December 5, we had never seen any calculation of accelerated rent using that number or applying any formula with any discount for fair rental value. In the Wooley plaintiffs' July 2015 response to Interrogatory No. 7, they indicated that "[t]he remaining amount of rent due under the Lease was calculated as the sum of each year's annual payments shown in red in the table above, yielding a total of \$4,420,244.00. The Net Present Value as of March 1, 2013 was then calculated using the 'NPV' formula in the Apple Numbers spreadsheet application, applying a 4% Discount Rate per the terms of the Lease...". No mention was made of any reduction in that accelerated rent figure for "fair rental value" as is set forth in the new spreadsheet. This poses a significant problem because Defendants have not had the ability to conduct discovery about this new computation of damages or the methodology used to arrive at the numbers in the Wooley spreadsheet. And, because we never saw the spreadsheet (or received any other indication of the new methodology) prior to the expert disclosure deadline, Defendants were prejudiced in that they were unable to have an expert examine the methodology and calculation and comment on it in any way.

Damages for both the Wooley plaintiffs and the Willard plaintiffs have been and continue to be a moving target, and we have not been able to retain experts to opine on the Wooley plaintiffs' new damages (nor have Plaintiffs officially disclosed that damages model - the spreadsheet remains "for settlement purposes only" and we accordingly have not provided it to any potential expert(s)). We still have never received an NRCP 16.1 damages computation from either set of Plaintiffs, despite numerous demands. Please ensure that Plaintiffs meet their obligations to provide such computations immediately, or we will seek to preclude Plaintiffs from seeking any non-disclosed damages at trial, including those contained in the Wooley spreadsheet you sent me on December 5. We also reserve the right to provide Plaintiffs' damages disclosure to Ms. Salazar so she can provide new opinions about any new damages model.

Finally, we still do not have any documentation supporting the Wooley plaintiffs' claim for State Capital Gains Liability. Please provide that immediately.

Please do not hesitate to contact me with any questions or concerns.

Brian Irvine

From: Brian Moquin [bmoquin@lawprism.com]
Sent: Monday, December 05, 2016 12:16 PM
To: Mina Reel
Cc: David O'Mara, Esq.; John P. Desmond; Brian R. Irvine; Anjali D. Webster
Subject: Re: Willard Wooley v. BHI

Brian—

Per our conversation a few minutes ago, attached is a PDF version of the final damages calculation spreadsheet for the Wooley Plaintiffs for use in the ongoing informal settlement negotiations between Tim Herbst and Ed Wooley with Dan Gluhaich evidently serving as intermediary. Please forward this to Tim Herbst as you see fit. Note that I will be tendering supplemental disclosures in the imminent future that will include the actual spreadsheet.

We also discussed your desire to re-depose Dan Gluhaich as an expert as soon as possible; I will check with him as to available dates and will get back to you shortly. To that end, you agreed to allow Plaintiffs to provide an amended expert witness disclosure by mid-afternoon Thursday, December 8, 2016 to include the facts and conclusions to which Mr. Gluhaich will be testifying in the interest of minimizing the amount of time needed for the deposition.

Best,
 Brian

Brian P. Moquin, Esq.
 Law Offices of Brian P. Moquin
 3287 Ruffino Lane
 San Jose, CA 95148

skype: brianmoquin
 408.300.0022
 408.460.7787 cell
 408.843.1678 fax

Brian R. Irvine Member

100 West Liberty Street
 Suite 940
 Reno NV 89501-1991
 Phone 775-343-7507
 Fax 844-670-6009
 Email Blrvine@dickinsonwright.com



EXHIBIT 13

EXHIBIT 13

Mina Reel

From: Brian Moquin <bmoquin@lawprism.com>
Sent: Tuesday, December 27, 2016 10:09 AM
To: Brian R. Irvine
Cc: David O'Mara, Esq.; John P. Desmond; Anjali D. Webster; Mina Reel
Subject: Re: Willard Wooley v. BHI
Attachments: 2014 Wooley HI State Tax Return -redacted.pdf

Brian—

You are granted an open extension for submitting any expert reports rebutting the opinions of Mr. Gluhaich until you have received Plaintiffs' amended disclosure, deposed Mr. Gluhaich, and provided any rebuttal expert(s) with sufficient opportunity to review that material and prepare rebuttal report(s).

Attached is the 2014 Hawaii State Tax return for the Wooleys. The remaining supplemental disclosures as well as the amended expert witness disclosure will be tendered today.

Regards,
 Brian

On Dec 23, 2016, at 10:19 AM, Brian R. Irvine <BIrvine@dickinson-wright.com> wrote:

Dear Brian-

As you know, Plaintiffs disclosed Dan Gluhaich as a lay expert witness on December 2, 2016, the deadline for the disclosure of initial expert witnesses. Plaintiffs' disclosure indicated that Mr. Gluhaich would offer expert testimony in more than ten separate categories, but did not identify any of the actual opinions that Mr. Gluhaich intended to offer at trial.

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Best,
Brian

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Law Offices of Brian P. Moquin
3287 Ruffino Lane
San Jose, CA 95148

skype: brianmoquin
408.300.0022
408.460.7787 cell
408.843.1678 fax

Brian R. Irvine Member

100 West Liberty Street
Suite 940
Reno NV 89501-1991

Phone 775-343-7507

Fax 844-670-6009

[<imagee66404.JPG><imagea5b9c8.JPG>](#) Email BIrvine@dickinsonwright.com
<imagea86116.JPG>

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