

IN THE SUPREME COURT OF THE STATE OF NEVADA

**Supreme Court Case No. 78256
District Court Case No. CV 39348**

Tonopah Solar Energy, LLC,
Petitioner

Electronically Filed
Mar 06 2019 02:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

The Fifth Judicial District Court, State of Nevada, Nye County, and
the Honorable Steven P. Elliott, Senior Judge,
Respondent

and

Brahma Group, Inc.,
Real Party in Interest.

**PETITIONER'S APPENDIX
VOLUME 8**

D. LEE ROBERTS, JR., ESQ.
Nevada Bar No. 8877
COLBY L. BALKENBUSH, ESQ.
Nevada Bar No. 13066
RYAN T. GORMLEY, ESQ.
Nevada Bar No. 13494
WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
(702) 938-3838
lroberts@wwhgd.com
cbalkenbush@wwhgd.com
rgormley@wwhgd.com

*Attorneys for Petitioner
Tonopah Solar Energy, LLC*

CHRONOLOGICAL INDEX

Date Filed	Description	Bates Number	Volume(s)
06/11/2018	TSE's Motion to Expunge	PA000001	1
	Exhibit 1 – Services Agreement	PA000014	1
	Exhibit 2 – Notice of Lien	PA000036	1
	Exhibit 3 – Notice of First Amended and Restated Lien	PA000044	1
	Exhibit 4 – Notice of First Amended and Restated Lien	PA000048	1
	Exhibit 5 – Notice of Second Amended and Restated Lien	PA000058	1
	Exhibit 6 – Notice of Voluntary Dismissal Without Prejudice	PA000068	1
	Exhibit 7 – Affidavit of Justin Pugh	PA000079	1
10/18/2018	TSE's Motion to Strike/Dismiss/Stay	PA000084	1
	Exhibit 1 – Brahma's Lien Foreclosure Complaint	PA000109	2
	Exhibit 2 – Brahma's First Amended Counter-Complaint and Third-Party Complaint	PA000116	2
	Exhibit 3 – Brahma's Complaint in the Eighth Judicial District Court	PA000131	2
	Exhibit 4 – Services Agreement	PA000137	2
	Exhibit 5 – Notice of Removal to Federal Court	PA000159	2
	Exhibit 6 – TSE's Answer and	PA000169	2

CHRONOLOGICAL INDEX

	Counterclaim in the Federal Action		
	Exhibit 7 – Brahma’s First Amended Complaint in the Federal Action	PA000189	2
	Exhibit 8 – Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000194	2
	Exhibit 9 – Fourth Amended and/or Restated Notice of Lien	PA000214	2
	Exhibit 10 – Certificate of Service of Surety Bond Rider	PA000225	2
10/23/2018	Brahma’s Motion for Leave to Amend filed on October 23, 2018	PA000237	2
	Exhibit 1 – Brahma’s Second Amended Counter-Complaint and Amended Third-Party Complaint	PA000244	3
	Exhibit 2 – October 17, 2018 Email	PA000257	3
	Exhibit 3 – October 18, 2018 Email	PA000260	3
11/1/2018	Notice of Entry of Order, served on November 1, 2018, denying TSE’s Motion to Expunge	PA000264	3
	Exhibit A – Order Denying TSE’s Motion to Expunge	PA000267	3
11/05/2018	Brahma’s Opposition to TSE’s Motion to Strike/Dismiss/Stay	PA000274	3
	Exhibit 1 – Services Agreement	PA000307	3
	Exhibit 2 – Notice of Lien	PA000329	4
	Exhibit 3 – Complaint, dated April 17, 2018	PA000337	4

CHRONOLOGICAL INDEX

	Exhibit 4 – Notice of Foreclosure of Mechanic’s Lien	PA000344	4
	Exhibit 5 – Notice of Lis Pendens	PA000352	4
	Exhibit 6 – April 19, 2018 Correspondence	PA000360	4
	Exhibit 7 – TSE’s Motion to Expunge, dated April 24, 2018	PA000364	4
	Exhibit 8 – Notice of Voluntary Dismissal Without Prejudice	PA000377	4
	Exhibit 9 – Notice of First Amended and Restated Lien	PA000380	4
	Exhibit 10 – Notice of Second Amended and Restated Lien	PA000393	4
	Exhibit 11 – Third Amended and/or Restated Notice of Lien	PA000403	4
	Exhibit 12 – Fourth Amended and/or Restated Notice of Lien	PA000412	4
	Exhibit 13 – NRS 108.2415 Surety Bond	PA000421	5
	Exhibit 14 – Certificate of Service of Surety Bond Rider	PA000426	5
	Exhibit 15 – Notice of Lien	PA000437	5
	Exhibit 16 – NRS 108.2415 Surety Bond	PA000440	5
	Exhibit 17 – Order of Reassignment	PA000445	5
	Exhibit 18 – Complaint in the Eighth Judicial District Court	PA000448	5

CHRONOLOGICAL INDEX

	Exhibit 19 – Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000454	5
	Exhibit 20 – Mechanic’s Lien Foreclosure Complaint in Case No. A-16-743285-C	PA000474	5
11/05/2018	TSE’s Opposition to Brahma’s Motion for Leave to Amend	PA000485	5
11/30/2018	TSE’s Reply in Support of its Motion to Strike/Dismiss/Stay	PA000492	5
	Exhibit 1 – TSE’s First Set of Interrogatories to Brahma and TSE’s First Set of Requests for Production to Brahma	PA000507	6
	Exhibit 2 – Brahma’s Motion to Stay Discovery Pending Determination of Dispositive Motion in the Federal Action	PA000522	6
	Exhibit 3 – Brahma’s Responses to TSE’s First Set of Requests for Production of Documents and First Set of Interrogatories	PA000535	6
	Exhibit 4 – Nevada Construction Law 2016 Edition by Leon F. Mead II	PA000551	6
	Exhibit 5 – Scheduling Order in the Federal Action	PA000562	6
	Exhibit 6 – TSE’s Response to Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000565	6

CHRONOLOGICAL INDEX

	Exhibit 7 – Brahma’s Reply in Support of Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000589	6
	Exhibit 8 – TSE’s Motion for Injunction and to Strike in the Federal Action	PA000603	6
	Exhibit 9 – Brahma’s Response to TSE’s Motion for Injunction and to Strike in the Federal Action	PA000619	7
	Exhibit 10 – Reply in Support of TSE’s Motion for Injunction and to Strike in the Federal Action	PA000645	7
12/03/2018	Brahma’s Reply in Support of its Motion for Leave to Amend	PA000661	7
	Exhibit 1 – Mechanic’s Lien Foreclosure Complaint in Case No. A-16-743285-C	PA000676	7
12/11/2018	Hearing Transcript from December 11, 2018 hearing	PA000687	7-8
01/25/2019	Notice of Entry of Order, served on January 25, 2019, Denying in part and Granting in part TSE’s Motion to Strike/Dismiss/Stay and Granting Brahma’s Motion for Leave to Amend	PA000870	8
	Exhibit 1 – Order Denying in part and Granting in part TSE’s Motion to Strike/Dismiss/Stay and Granting Brahma’s Motion for Leave to Amend	PA000874	8
NA	Docket for the Federal Action	PA000878	8

CHRONOLOGICAL INDEX

NA	Docket for the Nye County special proceeding	PA000886	8
-----------	---	-----------------	----------

ALPHABETICAL INDEX

Date Filed	Description	Bates Number	Volume(s)
10/23/2018	Brahma's Motion for Leave to Amend filed on October 23, 2018	PA000237	2
	Exhibit 1 – Brahma's Second Amended Counter-Complaint and Amended Third-Party Complaint	PA000244	3
	Exhibit 2 – October 17, 2018 Email	PA000257	3
	Exhibit 3 – October 18, 2018 Email	PA000260	3
11/05/2018	Brahma's Opposition to TSE's Motion to Strike/Dismiss/Stay	PA000274	3
	Exhibit 1 – Services Agreement	PA000307	3
	Exhibit 2 – Notice of Lien	PA000329	4
	Exhibit 3 – Complaint, dated April 17, 2018	PA000337	4
	Exhibit 4 – Notice of Foreclosure of Mechanic's Lien	PA000344	4
	Exhibit 5 – Notice of Lis Pendens	PA000352	4
	Exhibit 6 – April 19, 2018 Correspondence	PA000360	4
	Exhibit 7 – TSE's Motion to Expunge, dated April 24, 2018	PA000364	4
	Exhibit 8 – Notice of Voluntary Dismissal Without Prejudice	PA000377	4
	Exhibit 9 – Notice of First Amended and Restated Lien	PA000380	4
	Exhibit 10 – Notice of Second	PA000393	4

ALPHABETICAL INDEX

	Amended and Restated Lien		
	Exhibit 11 – Third Amended and/or Restated Notice of Lien	PA000403	4
	Exhibit 12 – Fourth Amended and/or Restated Notice of Lien	PA000412	4
	Exhibit 13 – NRS 108.2415 Surety Bond	PA000421	5
	Exhibit 14 – Certificate of Service of Surety Bond Rider	PA000426	5
	Exhibit 15 – Notice of Lien	PA000437	5
	Exhibit 16 – NRS 108.2415 Surety Bond	PA000440	5
	Exhibit 17 – Order of Reassignment	PA000445	5
	Exhibit 18 – Complaint in the Eighth Judicial District Court	PA000448	5
	Exhibit 19 – Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000454	5
	Exhibit 20 – Mechanic’s Lien Foreclosure Complaint in Case No. A-16-743285-C	PA000474	5
12/03/2018	Brahma’s Reply in Support of its Motion for Leave to Amend	PA000661	7
	Exhibit 1 – Mechanic’s Lien Foreclosure Complaint in Case No. A-16-743285-C	PA000676	7
NA	Docket for the Federal Action	PA000878	8

ALPHABETICAL INDEX

NA	Docket for the Nye County special proceeding	PA000886	8
12/11/2018	Hearing Transcript from December 11, 2018 hearing	PA000687	7-8
01/25/2019	Notice of Entry of Order, served on January 25, 2019, Denying in part and Granting in part TSE's Motion to Strike/Dismiss/Stay and Granting Brahma's Motion for Leave to Amend	PA000870	8
11/1/2018	Notice of Entry of Order, served on November 1, 2018, denying TSE's Motion to Expunge	PA000264	3
06/11/2018	TSE's Motion to Expunge	PA000001	1
	Exhibit 1 – Services Agreement	PA000014	1
	Exhibit 2 – Notice of Lien	PA000036	1
	Exhibit 3 – Notice of First Amended and Restated Lien	PA000044	1
	Exhibit 4 – Notice of First Amended and Restated Lien	PA000048	1
	Exhibit 5 – Notice of Second Amended and Restated Lien	PA000058	1
	Exhibit 6 – Notice of Voluntary Dismissal Without Prejudice	PA000068	1
	Exhibit 7 – Affidavit of Justin Pugh	PA000079	1
10/18/2018	TSE's Motion to Strike/Dismiss/Stay	PA000084	1
	Exhibit 1 – Brahma's Lien Foreclosure Complaint	PA000109	2

ALPHABETICAL INDEX

	Exhibit 2 – Brahma’s First Amended Counter-Complaint and Third-Party Complaint	PA000116	2
	Exhibit 3 – Brahma’s Complaint in the Eighth Judicial District Court	PA000131	2
	Exhibit 4 – Services Agreement	PA000137	2
	Exhibit 5 – Notice of Removal to Federal Court	PA000159	2
	Exhibit 6 – TSE’s Answer and Counterclaim in the Federal Action	PA000169	2
	Exhibit 7 – Brahma’s First Amended Complaint in the Federal Action	PA000189	2
	Exhibit 8 – Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000194	2
	Exhibit 9 – Fourth Amended and/or Restated Notice of Lien	PA000214	2
	Exhibit 10 – Certificate of Service of Surety Bond Rider	PA000225	2
11/05/2018	TSE’s Opposition to Brahma’s Motion for Leave to Amend	PA000485	5
11/30/2018	TSE’s Reply in Support of its Motion to Strike/Dismiss/Stay	PA000492	5
	Exhibit 1 – TSE’s First Set of Interrogatories to Brahma and TSE’s First Set of Requests for Production to Brahma	PA000507	6
	Exhibit 2 – Brahma’s Motion to Stay Discovery Pending Determination of Dispositive Motion in the Federal	PA000522	6

ALPHABETICAL INDEX

	Action		
	Exhibit 3 – Brahma’s Responses to TSE’s First Set of Requests for Production of Documents and First Set of Interrogatories	PA000535	6
	Exhibit 4 – Nevada Construction Law 2016 Edition by Leon F. Mead II	PA000551	6
	Exhibit 5 – Scheduling Order in the Federal Action	PA000562	6
	Exhibit 6 – TSE’s Response to Brahma’s Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000565	6
	Exhibit 7 – Brahma’s Reply in Support of Motion for Stay, or in the alternative, Motion to Amend Complaint in the Federal Action	PA000589	6
	Exhibit 8 – TSE’s Motion for Injunction and to Strike in the Federal Action	PA000603	6
	Exhibit 9 – Brahma’s Response to TSE’s Motion for Injunction and to Strike in the Federal Action	PA000619	7
	Exhibit 10 – Reply in Support of TSE’s Motion for Injunction and to Strike in the Federal Action	PA000645	7

1 want to go there and pull it out. You know, it's not
2 all a straight line process that I understand right
3 away.

4 And I would assume that even though, you
5 know, I don't compare my intellect to the ability of
6 the people at the table here, I'm sure that you
7 probably do that too, that, you know, we're going to
8 go down this line and see if there's something there,
9 and ultimately you find that might actually work
10 against you if you did it, or it doesn't really
11 amount to anything and you want to pull it out.

12 Well, isn't that the case here? You know,
13 like, what you're arguing, well, if you reach a dead
14 end, as I understand your argument, that you
15 shouldn't be allowed to bill even though that was
16 work that went, you know, toward, you know, getting
17 the best possible work product to the court. So is
18 that -- am I correct in understanding what you're
19 telling me or am I not?

20 MR. ROBERTS: No, your Honor. I do believe
21 that, yeah, the court is right, we reach dead ends,
22 we do work on arguments ultimately we don't make.
23 But all that wrapped up together, we believe that
24 even including that type of exigent circumstance and
25 overlapping work and running down dead ends to give

1 the court the best work product possible, that
2 206 hours on a single motion is still somewhat
3 unreasonable. And the court's applying a
4 reasonableness standard. And I would certainly
5 understand if you didn't reduce it by the full amount
6 we're requesting, but I do believe that the full
7 amount would be unreasonable for the court to grant.

8 THE COURT: All right. Thank you,
9 Mr. Roberts.

10 MR. ROBERTS: Thank you.

11 THE COURT: And then, Mr. Zimbelman?

12 MR. ZIMBELMAN: I just have two small
13 points, if I may.

14 THE COURT: Okay.

15 MR. ZIMBELMAN: One, on the order of
16 reassignment, I mean, my partner had a copy of the
17 order, and Mr. Roberts is correct that the order
18 states that the defendant then requested the matter
19 be heard before the senior judge, but before that it
20 says, and this is more in keeping with my own
21 recollection of events, "Both parties were present at
22 the hearing and indicated to the court that senior
23 judge Steven Elliott has familiarity with the parties
24 and the facts due to his involvement in a previous
25 case." All right, and we had that discussion, and it

1 was my recollection that the parties agreed that that
2 would be an appropriate reassignment and to bring the
3 case to your Honor who has familiarity and it's a
4 good place to be. Frankly, Judge Lane, he was
5 relieved to be able to pass the case on to you.

6 So on that, you know, yeah, do we ask? I
7 guess. But my recollection it was a joint request.
8 In any event, my bigger point is this: Mr. Roberts
9 sort of made this argument about a standard of care
10 analysis that equals reasonableness, and I think that
11 that's an inappropriate analogy. You can be barely
12 adequate and not violate the standard of care, right?
13 Attorneys do moderately poor work all the time that
14 doesn't meet the standard of care argument in a
15 malpractice case. But engaging in not malpractice is
16 not the same thing as doing excellent work, all
17 right? And that's what we're asking for. That's
18 what we feel that we did, and that's what we feel is
19 an appropriate award. Thank you.

20 THE COURT: All right. Thank you very much.

21 Well, you know, I certainly want to give
22 Tonopah Solar its, you know, due credit for
23 challenging, you know, what does seem like a pretty
24 high bill for something that's not a week long trial
25 or something where you would expect a very large

1 bill. But on the other hand I can understand that
2 for the Brahma Group, it certainly didn't want to
3 lose, you know, the -- basically I guess you call it
4 the security interest that it would have in its
5 almost \$13 million claim.

6 And, you know, they hired, you know,
7 topnotch attorneys, just as Tonopah Solar, you know,
8 and you guys are, you know, the best of the best.
9 You're right up there with the best attorneys in the
10 state, without doubt. And one expects that, you
11 know, the work product is a little more than what you
12 usually see in your typical case, which was kind of
13 family law, personal injury, you know, some criminal
14 casework, you know, just the routine work. This is a
15 higher level and you had a lot more at stake, and the
16 clients expect, you know, the brain power of a couple
17 really topnotch firms to do it.

18 I was in a case where I believe it was the
19 firm Gordon Silver was involved, and they had a
20 couple of attorneys there that were beyond the 425
21 level, but, you know, they had a statewide, if not
22 regional or national reputation, and they can charge
23 a lot.

24 And I don't have any problem with the three
25 partners billing, you know, at 375 to 425. Mr. Cox,

1 the associate, at 350, you know, it's asserted that
2 he's almost at the level of a partner and he has
3 worked there, you know, a number of years. And I'm
4 not so sure that, you know, he's not like, you know,
5 entry level guy. You know, he's well beyond that. I
6 don't think that those fees are unjust, given, you
7 know, who these people are and, you know, a
8 substantial firm here in a big city.

9 Going through the factors that I would need
10 to look at in the Brunzell factors, you need to look
11 at the advocate's qualities, including ability,
12 training, education, experience, professional
13 standing, and skill. There is no doubt that when you
14 look at Mr. Peel, you know, he's very well
15 experienced in, you know, understands these
16 construction liens as well as anybody in the state,
17 and, you know, the firm would undoubtedly, you know,
18 be topnotch in all these areas.

19 The character of the work, the difficulty,
20 intricacy, importance. We've gone over the
21 importance to the client. This is, you know, upwards
22 of a \$13 million claim. You know, this isn't, you
23 know, fighting over \$30,000 as we often do in court.
24 You know, there's a lot at stake, and it was, you
25 know, very difficult for me to figure it out, and,

1 you know, I had the benefit of all your briefing too,
2 you know, to guide me to a just and appropriate
3 decision I suppose, but it was very hard for me to do
4 it. You know, it's not subject matter that I would
5 work, or any typical judge would work on on a normal
6 basis. So I did find that it was very difficult and,
7 you know, many different things that had to be
8 attacked.

9 And the next one is the work performed,
10 including the skill, time, and attention given to the
11 work. And obviously a lot time and attention was
12 given to this work. And the result was that the
13 attorneys for the Brahma Group ultimately became
14 persuasive, in my opinion. My superiors might have a
15 different opinion, that's always the possibility
16 here, but it looked good to me.

17 So in the end I guess I, you know, don't
18 really have a big problem with the 206.9 hours which
19 I think is what was requested of the billing, you
20 know, that many hours coming up to \$78,417.34. You
21 know, while it is a lot of money, a lot work went
22 into this, a lot of time.

23 And even though maybe you'd come to court
24 with Judge Lane and you have a continuance, that's
25 pretty normal too in the course of litigation, you

1 know, very common. I often felt like, you know,
2 we're running a snowplow, you know, and cases that
3 get continued are the snow that's in front of this
4 plow and you're trying to get it out of there, but
5 sometimes it keeps building up and up and you can't
6 get the case going for good reason, but still it
7 happens that you can't always be fully prepared and
8 have a hearing as timely as we'd like.

9 Anyway, I feel that under the Brunzell
10 factors, the time and the dollars attributed to that
11 time are appropriate, so I am going to grant the
12 Brahma Group's motion for attorney's fees and costs.
13 And I'm wondering, you know, you're talking about the
14 amount of money for presenting the attorney's fees
15 and costs and coming here today to have the hearing
16 on it, and I think I basically need to have another,
17 you know, amount of money that, you know, something
18 in writing more than, well, I think it's going to be
19 7,000 --

20 MR. ZIMBELMAN: That's fair.

21 THE COURT: -- but you don't really know
22 that yet. So I don't want to have another hearing on
23 that, but you'll have to submit something in writing.

24 MR. ZIMBELMAN: Well, perhaps the court
25 would make an award up through the -- I guess up

1 through the amount that we submitted initially, and I
2 would be prepared to prepare a supplemental
3 declaration, run it by Mr. Reports. Maybe we can
4 even agree on the amount on those dollars.

5 THE COURT: Is that acceptable?

6 MR. ROBERTS: Yes, reserving our objection
7 to the ruling, I believe we can, in light of your
8 ruling today, reach a stipulation as to the amount of
9 additional fees which should be awarded.

10 THE COURT: Okay. We'll just do that.

11 Then why don't we take a recess before we
12 pick up something else.

13 MR. ZIMBELMAN: So is the court awarding
14 then the dollar amount that we put in the motion
15 plus --

16 THE COURT: I accept that, yes. I think
17 it's justified based on all the Brunzell factors.

18 MR. ZIMBELMAN: Okay. So if I prepare the
19 order, it would say something like, "I'm going to
20 grant the fees requested in that dollar amount plus
21 additional sums to be submitted to the court or
22 agreed upon by the parties"?

23 THE COURT: Yes. And maybe by the time you
24 draft that order, you'll have the --

25 MR. ZIMBELMAN: Hopefully we can agree.

1 Yeah. Thank you, your Honor.

2 THE COURT: Okay. Court will stand in
3 recess.

4 (A recess was taken.)

5 THE COURT: You may be seated. If I
6 understand this correctly, the next matter would be
7 Tonopah Solar Energy's motion to strike, to dismiss
8 and/or to stay. So, Mr. Roberts, maybe you could
9 explain what's going on with this one.

10 MR. ROBERTS: I'll do my best, your Honor.
11 I think maybe the easiest way to attack this is to
12 first try to simplify the procedural posture of the
13 case to the relevant factors to our motion. And it
14 is a complicated procedural history, as we just
15 discussed in the last motion.

16 The court recalled that there was a
17 complaint filed in Nye County to foreclose on the
18 lien. And in the last hearing counsel for Brahma
19 mentioned that there is a mandatory mediation clause
20 where the parties are supposed to mediate before
21 legal action can be filed, and that's why the case
22 was dismissed. And that's certainly true, but it's
23 also true that the lien statute says that you cannot
24 move to foreclose, you cannot file an action to
25 foreclose on your lien until 30 day after you file

1 it. And that first action was filed within that
2 30-day period and was improper on that grounds too.
3 So upon our demand they did dismiss that first
4 action.

5 So at the time that we filed our motion to
6 expunge, there was no legal proceeding. There was no
7 civil action into which we could file our motion to
8 expunge under NRS 108. And as they pointed out, we
9 agree that if there is a complaint initiating a legal
10 action to foreclose, you can bring a statutory motion
11 to expunge in that proceeding, and that's expressly
12 allowed by the statute. But there's nothing in the
13 statute that says you can bring a complaint, a civil
14 action in a special proceeding to expunge a lien
15 under NRS 108, which is the flip side, which is what
16 they've done here.

17 Going back to the procedural posture. We
18 filed the motion to expunge, which the court just
19 ruled upon, and the court's granted fees. It's our
20 position that that special action which was initiated
21 by filing a motion, terminates this proceeding as
22 soon as the court rules on the motion to expunge and
23 deals with the attorney's fees. So upon signing the
24 order for attorney's fees, your job will be done and
25 this special proceedings will be terminated and

1 there's nothing else that can be done in this special
2 proceeding.

3 So after we file the motion to expunge here,
4 as the property's located here, Brahma filed a
5 complain against us. They did not file it in Nye
6 County. They did not attempt to file it in this
7 court. They initiated it by filing a complaint,
8 which is the appropriate way to initiate a civil
9 action in Nevada. We removed that complaint to
10 federal court based on diversity. The federal court
11 has not remanded that case. They've not filed a
12 motion to remand that case. Instead, without leave
13 of court, we're not arguing they needed it, but
14 without leave of court they dismissed the contract
15 causes of action in federal court leaving only an
16 unjust enrichment claim, and then they refiled those
17 contract causes of action in this special proceeding,
18 not by initiating a complaint but by something called
19 a countercomplaint.

20 So that leaves us with several arguments
21 that we want to present here today. And the first
22 one is a motion to dismiss, and we believe that may
23 be the simplest way to deal with this because there
24 is very clear Nevada precedent that what they have
25 done in order to avoid federal court jurisdiction

1 over their claims is procedurally simply not allowed
2 under both the Nevada rules of Civil Procedure and
3 binding Nevada precedent, precedent that's binding on
4 this court.

5 And I would draw the court's attention to
6 Smith V Eighth Judicial District Court, 113 Nev.
7 1343, 950 P.2d 280, a 1997 supreme court case. Now,
8 in that case the lawyer filed a cross-claim, and the
9 title of the pleading said "cross-claim." And the
10 supreme court found that that cross-claim should have
11 been dismissed by the trial court because it was not
12 a proper pleading.

13 Now, under the Nevada rules, you can assert
14 a cross-claim in a pleading, but a cross-claim is not
15 a pleading. And the supreme court cited to NRCP 7A
16 which states, There shall be a complaint and an
17 answer, a reply to a counterclaim denominated as
18 such, an answer to cross-claim, if the answer
19 contains a cross-claim, a third-party complaint, if a
20 person who is not an original party is summoned under
21 the provisions of Rule 14, and a third-party answer
22 if a third-party complaint is served. And then the
23 court, the supreme court emphasized by putting in
24 italics the following portion of Rule 7A, "No other
25 pleading shall be allowed, except that a court may

1 order a reply to an answer or a third-party answer."

2 So explaining this, the court, citing the
3 Black's Law dictionary says, "A claim is not a
4 pleading, a demand as of one's own or as one's right.
5 Such a demand to be legally recognizable must be
6 asserted in a pleading. Counterclaims and
7 cross-claims are types of claims, not types of
8 pleadings." So in that case the cross-claim was
9 struck.

10 How does that apply to this case? Under
11 Rule 3, a civil action is commenced by filing a
12 complaint with the court. That's how you commence a
13 civil action. No complaint has been filed in this
14 special proceeding, and it is not a civil action
15 because it was not initiated by the filing of a
16 complaint. The document through which they asserted
17 their claims is denominated a countercomplaint.
18 Well, if you look at the list I just read you under
19 NRCP 75A, a countercomplaint is not one of the
20 pleadings allowed by Nevada law. There is no such
21 animal.

22 And under Smith they've instructed trial
23 courts when you have rogue pleadings that are filed,
24 pleadings that are not authorized by the rules of
25 civil procedure, the appropriate thing to do is to

1 strike them. So that is what we contend this court
2 should do, it should strike the countercomplaint as a
3 rogue pleading not allowed by the rules of civil
4 procedure, and that's the end of our motion, the
5 court does not have to deal with any other issue here
6 today.

7 But let's assume what they argue, it's a
8 notice pleading state and we're being too strict.
9 Well, your Honor, that same type of argument was
10 addressed in Smith. And what Smith said is that
11 pleadings are liberally construed under the notice
12 pleading standard. That doesn't mean that you can
13 file something that is not an allowed pleading. You
14 can't liberally construe something that's not a
15 pleading allowed by the rules.

16 The argument under NRS 108, you know, the
17 *expressio est unius* I think was the old Latin they
18 used to teach us, but when the legislature said you
19 can file a special -- you can file a motion to
20 expunge in a civil action that's already been
21 initiated, and they don't say you can file a motion
22 to foreclose in a special action, when you say one
23 and not the other, the court can infer an intent to
24 exclude it. And NRS 108 would have had to expressly
25 allow this because otherwise this type of pleading is

1 not allowed by the rules of civil procedure.

2 So why try to file it in this action? Why
3 try to file it as a countercomplaint rather than a
4 complaint? Because had it been filed as a complaint,
5 we could have simply removed once again to federal
6 court, and they were trying to prevent that. Which
7 leads us to our second argument, which I believe is
8 just as strong, even though the court does not have
9 to reach it, and that is that they chose to file
10 these contract causes of action in a separate
11 proceeding in Clark County. We believe they chose to
12 do that because the contract sets venue in Clark
13 County.

14 Now, whether that's permissive or simply a
15 consent to jurisdiction doesn't matter. They read
16 the contract and they filed that action in Clark
17 County after this lien hearing, after this motion to
18 expunge had been filed and was still pending here
19 before this court, they filed a separate complaint on
20 the contract in Clark County in accordance with the
21 venue provisions of the contract. It was that
22 separate complaint that they chose to file as a
23 separate proceeding which we removed to federal
24 court.

25 And under the case law, the very strong case

1 law we've cited, once we've removed that proceeding,
2 and Judge Gonzalez was assigned to the Eighth
3 Judicial District, once we removed that to federal
4 court, the federal court had jurisdiction over those
5 claims and they can voluntarily dismiss those claims
6 if they want to, that's their right, but what the
7 case law says is the entire courts of the state of
8 Nevada lose jurisdiction over those claims once
9 they're removed to federal court because the court,
10 federal court now has jurisdiction. So this court
11 does not have jurisdiction over the claims set forth
12 in the countercomplaint because they are
13 substantially the same claims which we removed to
14 federal court. And the federal court now has
15 jurisdiction, and the only way they can get those
16 claims back to state court is to file a motion for
17 remand, which they did not do.

18 So this court has absolutely no jurisdiction
19 to proceed with the claims set forth in the
20 countercomplaint. Exclusive jurisdiction lies with
21 Judge Boulware up in the federal court. And, your
22 Honor, we have moved to stay this case under the
23 arguments that the federal court has jurisdiction and
24 should not allow their jurisdiction to be subverted
25 and avoided through this procedural practice which

1 they have chosen here.

2 And that leads us to our final argument. If
3 the court is not satisfied that it's a rogue pleading
4 and should be stricken, if the court is not yet
5 convinced that the federal court has taken
6 jurisdiction and wants to and will keep it, then the
7 court can simply stay and see what the federal court
8 does, because Brahma has filed a motion to stay
9 discovery in that proceeding, and we believe that the
10 federal court is going to proceed, because the court
11 has given a hint.

12 We compete -- we submitted competing
13 scheduling orders. Under the Brahma scheduling order
14 in federal court, discovery would not begin, and
15 under ours it would begin. And the court has signed
16 our scheduling order authorizing discovery to
17 proceed, and we believe that is an indication that
18 the court is going to proceed with it.

19 And Judge Boulware himself has adjudicated
20 mechanic lien actions, although the federal court has
21 jurisdiction and can adjudicate a lien action
22 anywhere in the state of Georgia (sic). If you
23 remember the divisions are informal, so the federal
24 courts, whether northern or southern division, have
25 jurisdiction of the entire state, but I would point

1 out --

2 MR. PEEL: Nevada.

3 MR. ROBERTS: Excuse me. What did I say?

4 MR. PEEL: Georgia.

5 MR. ROBERTS: You know, I've been out of
6 Georgia -- I've been out of Georgia for 19 years,
7 your Honor, and I --

8 MR. ZIMBELMAN: It's a novel argument.

9 MR. DOMINA: I was like, well, I'm in the
10 wrong court and I don't know Georgia law.

11 MR. ROBERTS: But I was just there over the
12 weekend. I went to a nice Christmas party.

13 THE COURT: Mr. Roberts, I think you're
14 saying it, but just so I understand it, and if I
15 understand it wrong let me know, but when a case is
16 removed to the federal court under the diversity of
17 jurisdiction, because I think the deal is that
18 Tonopah Solar Energy is a Delaware corporation, and
19 the Brahma Group is a Nevada corporation, so you have
20 the diversity and they might take it, but they might
21 not.

22 Can't -- I mean, you said the judge is
23 hinting that he'll take it, but diversity cases,
24 while, you know, you have the right to, you know,
25 kind of get some sort of a stay or, you know,

1 whatever is removed probably has to be stayed, but
2 the court often kicks those things out. Isn't that
3 what -- can ultimately happen is they said we don't
4 think this is, you know, should be heard by us. You
5 know, the state court is the better forum and you're
6 out. They don't just have to take it, right.

7 MR. ROBERTS: I believe they do, your Honor.
8 And I'm glad you asked for clarification, because
9 Brahma's initiated this action in Clark County. We
10 removed to federal court. The only way to get those
11 cases out of federal court is to remand them to state
12 court. That's the only way that the state court can
13 be reinvested with jurisdiction to hear those claims,
14 and they haven't even moved to remand.

15 So I believe that while the -- I suppose the
16 federal court could choose not to proceed with
17 claims, they can't proceed anywhere else because
18 jurisdiction is divested. This court has not
19 jurisdiction to even consider claims that have been
20 properly removed to federal court. And it would
21 completely gut the whole purpose of removal, right?
22 As you know, removal is automatic. It doesn't have
23 to be removed on by any judge. As soon as you file
24 the pleading, it's up there until the court remands
25 it or dismisses it.

1 We filed removal. If you could simply
2 dismiss your claims after removal and refile them in
3 another county, well, removal wouldn't work at all in
4 accordance with the federal scheme.

5 THE COURT: Well, I just have had experience
6 with, you know, the diversity, removal, having
7 federal court kick them back out, you know. It's not
8 a sure thing.

9 MR. ROBERTS: And which is why we've given
10 the court the option to stay to see what the court
11 does. But right now the case that these claims were
12 originally filed in is sitting up with Judge Boulware
13 in federal court and he hasn't chosen not to proceed,
14 and he hasn't dismissed it, and we hasn't remanded
15 it.

16 So if the court has any doubt, you can stay
17 this case and see what Judge Boulware does to see if
18 that impacts your decision to see if he throws it
19 out, to see if he grants a motion to remand, if one
20 can still be filed. But at this point the court
21 simply cannot proceed with this action while the
22 removed claims are in federal court.

23 THE COURT: And you're saying that really
24 all the claims that were initially removed to federal
25 court would really be, you know, stuck in that, the

1 federal jurisdiction, even if they're now dismissed
2 by --

3 MR. ROBERTS: Yes. You cannot avoid removal
4 by dismissing your claims and then re-filing again in
5 state court. It's just we've cited three very strong
6 cases that say this would completely destroy the
7 authority or the removal, the right to remove if you
8 could simply, instead of moving to remand, dismiss
9 and refile again in state court. It makes no sense
10 that you could do that, your Honor.

11 THE COURT: Okay. You can proceed.

12 MR. ROBERTS: Actually, your Honor, that
13 concludes my argument. You know, we've cited case
14 law to the court. We've cited three cases that very
15 strongly say that when you remove a case to federal
16 court, not only does the actual state court you
17 removed from lose jurisdiction, but every state court
18 in the state loses jurisdiction over those removed
19 claims. And in response they have cited no authority
20 to the contrary. None.

21 And while we believe this is a very strong
22 argument, and you would be invading the province of
23 the federal court if you chose to proceed in any way
24 with this proceeding, the court never has to get
25 their because under Smith versus Eighth Judicial

1 District it's clear what you have to do. This is not
2 a pleading. There is no countercomplaint under
3 Nevada law. It's not a pleading. And the court can
4 simply dismiss it under clear Nevada precedent and
5 avoid dealing with all of this complex federal, state
6 jurisdiction morass. Thank you, your Honor.

7 THE COURT: Thank you, Mr. Roberts.

8 MR. DOMINA: Good afternoon, your Honor.
9 May I approach the lecture?

10 THE COURT: Yes, certainly.

11 MR. DOMINA: Your Honor, I will apologize in
12 advance. I know that my -- there's a lot of moving
13 parts in this particular motion, three separate
14 motions in essence that I'm opposing, and so I know
15 that my oral argument is going to go a little bit
16 longer, so I apologize in advance, but hopefully I
17 don't go too far into the lunch hour. Is that
18 acceptable?

19 THE COURT: I'm not worried about it. We
20 are going to take a lunch break. I think we probably
21 will do that but I'm not starving here.

22 MR. DOMINA: Very good.

23 THE COURT: I'm good.

24 Please introduce yourself.

25 MR. DOMINA: Sure, your Honor. Cary Domina

1 representing Brahma Group, Inc. And, your Honor,
2 TSE's objective currently, and it's clear as day,
3 they want to fight Brahma in federal court on
4 Brahma's contract claims where they're seeking
5 approximately \$13 million, much of which is owed to
6 Brahma's lower tiered subcontractors and suppliers on
7 the project because they know that that's going to
8 take years to get through that, and in the meantime
9 they want your Honor to stay Brahma's bond claim
10 action, foreclosure action on the bond claim here in
11 Nye County.

12 And the reason why they want to do that is
13 because there are certain rights that come with a
14 mechanics lien bond claim. For instance, you have
15 the right to pursue attorney's fees and costs,
16 interest as well. You have the right to pursue a
17 mechanics lien or a demand for preferential trial
18 setting, which would take their two-year timeframe,
19 give or take, in federal court and truncate it down
20 to about 60 days. And so these are -- this is really
21 what they want.

22 They don't want to be in front of your
23 Honor. They've already had kind of an adverse ruling
24 by your Honor on the motion to expunge, but they want
25 to be in federal court because it is a slow process

1 up there. It used to be that you could get things
2 done there, but it is very slow and they know that
3 and they're banking on that because every day that
4 goes by that they don't pay Brahma is money saved.
5 They're making money on interest, they're not having
6 to pay that money out, and so that's their real
7 objective.

8 But because Brahma's claims in this action
9 and the federal action arise out of the same
10 transaction and occurrence, a single judge should
11 decide the entire case. We shouldn't be piecemealing
12 this, a little bit in federal court, a little in
13 state court. But the problem with that, to say that
14 you want to have one judge decide the entire case,
15 you have to look and say, well, what courts do we
16 have? Well, this court is a court of general
17 jurisdiction, meaning this court can hear anything
18 for the most part that comes to it.

19 The federal court is not. The federal court
20 is a court of limited jurisdiction and it can only
21 hear cases where it has, where it has specific
22 statutory authorization to do so. One example would
23 be diversity. But, remember, we have to have
24 diversity, complete diversity among all the parties
25 in order to be in federal court.

1 Another issue would be if there's a federal
2 question before the court. We don't have that.
3 There's no question that -- there's no federal
4 question or no federal issue involved in this case.
5 So the only way that this is in front of the federal
6 court is based on diversity jurisdiction.

7 Now, what they want to say is, well, why
8 can't we just stay the case here. Why can't we stay
9 the bond claim. I already pointed out some of the
10 problems with that. That means we lose our right to
11 demand a preferential trial setting, we lose our
12 attorney's fees claim. A judge there, even if we're
13 able to get a judgment in federal court, isn't going
14 to be able to award attorney's fees and costs under a
15 bond claim that's over here in Nye County that's been
16 stayed, so there's a lot problems with it.

17 THE COURT: Mr. Domina, I'm just trying to,
18 you know, understand this. But the bond claim, you
19 know, a lot was made about the bond claim, and
20 certainly I'm sympathetic that, you know, we should
21 be able to proceed on the bond claim, but I don't
22 understand if the bond claim was somehow caught up in
23 the Clark County claims that were then, you know,
24 removed to federal court, wasn't that not in Clark
25 County?

1 MR. DOMINA: Right. Correct. It's not. It
2 was not filed. And I will, with the court's
3 indulgence, I'd like to spend a few minutes going
4 through some of the facts because opposing counsel
5 did go through some of the facts but omitted many of
6 them, and I think there's some gaps here. So I'd
7 like to spend some time to go through the facts so
8 that this court is aware completely of the procedural
9 posture of the case, why we are where we're at right
10 now. And so this is as good a time to do that as
11 any, but I kind of go back to my -- the line of
12 thinking that I was in just moments ago, that is this
13 is the court that should hear the entire case. Now,
14 I'm not asking you to make that decision today
15 because, frankly, I don't think you can, but I want
16 to tell you the reasons why we think it's important
17 for this court to hear the case.

18 Number one, the work of improvement was done
19 in Nye County. The Tonopah solar project is in Nye
20 County. All of the contracts that are the subject of
21 the dispute, and this includes the H & E contract
22 between Brahma and H & E, are performed in Nye
23 County. We have the liens that Brahma and H & E
24 recorded were recorded with the Nye County recorder's
25 office. The bonds that Cobra and TSE procured to

1 release the liens from the project, those are
2 recorded with the Clark County recorder's office.

3 And also very importantly is your presence
4 on this case, your Honor. You already have some
5 background information about the case. A few years
6 ago you presided over the litigation that involved
7 another one of our clients. You've had extensive
8 knowledge of this case. You've already decided a
9 dispositive issue in this case, and so to send it up
10 to the federal court now and have them hear
11 everything, one, it's not even feasible because you
12 have nondiverse parties that can't get there. Cobra
13 is a Nevada corporation. Well, so is Brahma. So you
14 can't have nondiverse parties up there.

15 Interestingly H & E is a Delaware
16 corporation. Well, guess what, so is TSE. Not a
17 nondiverse party. So there will be no way that the
18 federal court will be able to grab the entire case
19 and hear it all in federal court. And the only way
20 to have it in one court is to be back here in front
21 of your Honor.

22 THE COURT: Well, maybe I should say this:
23 That I'm very sympathetic to the position that Brahma
24 Group has here. And, you know, to bring another
25 analogy out, a personal injury lawyer whose ad on TV

1 was, you know, this is the way insurance companies
2 work: Delay, deny, don't pay. Well, I can somewhat
3 see what's going on with this, and I could kind of
4 see that Tonopah Solar is in that mode.

5 And while, yeah, we should have all of this,
6 you know, here at the state court here in Nye County,
7 everything could be, you know, handled just fine, I
8 would say that's the most expeditious way, but on the
9 other hand Tonopah Solar Energy has the right to, you
10 know, take this up to federal court if they're within
11 the law. And you might look at that as delay, deny,
12 don't pay, but unfortunately it's not, you know, it's
13 not a question of what is the right thing to do, but
14 what is the lawful thing to do.

15 So, you know, I can't just be acting because
16 this is helpful to, you know, the most expeditiously,
17 do the cheapest way possible, that, you know, get rid
18 of the case in an appropriate manner, you know, the
19 other side has the right to exercise their lawful
20 rights here.

21 MR. DOMINA: Absolutely. Understood. And,
22 your Honor, again, I don't bring this out to try to
23 convince you today that, oh, you're going to somehow
24 go and bring what's in federal court back down. We
25 know that that can't happen. But we did do

1 something. Opposing counsel made a misstatement. He
2 said the only way for the case that's currently in
3 front of the federal court to come back here is on
4 remand. And that's not technically true.

5 We have filed what's call a Colorado River
6 Doctrine stay in federal court. And what that does
7 is basically it asked the federal court to look at
8 the case and looked at -- you've got a state court
9 case that's parallel with the federal court case.
10 And if it's there on diversity only, the federal
11 court says, look, I don't really have an expertise in
12 this issue. This is construction litigation. It's
13 here on diversity only. I don't have a federal
14 question that I'm going to be resolving. And so my
15 docket is completely full. I really don't want this
16 case. It's going on already in a parallel fashion in
17 state court. There appears to be a senior judge
18 who's been assigned to the case specifically for this
19 purpose. Why on earth would I burden my docket and
20 either piecemeal this case, because, again, they
21 cannot -- the federal court will never have
22 jurisdiction over our bond claim, and those are
23 claims that we're going to pursue and we have
24 specific rights under those.

25 And so it really comes down to we believe

1 that the federal court will, in fact, entertain our
2 Colorado River motion. We didn't brief it for your
3 Honor's purpose, because of course it wasn't an issue
4 that your Honor has to decide, but I found no less
5 than four cases in the U.S. District Court of Nevada
6 where Colorado River was granted on very similar
7 facts to what we have here. And so we feel strong
8 that that's what's going to happen.

9 What they end up doing is staying the case
10 and kind of giving the opportunity for the state
11 court action to go in earnest, and you basically
12 litigate it, and once it's resolved then the federal
13 court looks to see if there's any remaining claim
14 that didn't get worked out. If so, maybe they handle
15 them, but most of the time it gets worked out and
16 that case is then terminated, dismissed or
17 what-have-you. So that's what we believe will
18 happen. And the same arguments that I made to you
19 about the reasons why it should stay here were I
20 think compelling arguments that we made in that
21 brief.

22 But let me get to the facts. These are the
23 important matters that your Honor needs to know so
24 that you know why it is we filed the Clark County
25 action and you know why it is we're in kind of the

1 situation we're in. First of all, because TSE failed
2 to pay Brahma in full for the work that it provided,
3 it recorded its original lien on the project on
4 April 9th of 2018. I'm going to kind of omit the
5 year because everything happened in 2018. So going
6 forward I'll just cite the date, assuming that it's
7 all 2018.

8 About a week after Brahma recorded that
9 lien, it filed then a complaint to foreclose against
10 that lien in Nye County. Now, that complaint only
11 had a cause of action for foreclosure. There was no
12 other cause of action with it. And as opposing
13 counsel mentioned, immediately after that they sent a
14 demand letter to Brahma's attorneys at the time, it
15 wasn't our firm, and that was on April 19th, and the
16 letter said basically, look, you need to -- you need
17 to, number one, expunge your lien; and two, we want
18 you to dismiss your complaint because you have to
19 engage in mandatory mediation, and we think it's
20 improper under the mechanics lien statute. So it
21 also said if you don't do that, if you don't expunge
22 the lien, we're going to file a motion to expunge the
23 lien if you don't do it voluntarily.

24 So on April 24th, TSE was true to its word
25 and it filed its first motion to expunge in that case

1 that had been initiated. But before Brahma could
2 receive the motion to expunge, and not wanting to
3 engage in protracted motion practice about whether
4 the complaint was ripe, they decided that they would
5 voluntarily dismiss that complaint without prejudice,
6 but they didn't discharge the lien. And so even
7 though TSE had officially appeared in that action by
8 filing its motion to expunge, and that Brahma had not
9 released its lien at the time, they made the decision
10 to withdraw their motion to expunge out of that case
11 and, you know, the parties kind of went their way for
12 a little bit.

13 And then on May 15th, H & E, who is one of
14 Brahma's suppliers on the project and is owed money,
15 is claiming money and is actually here today, a
16 representative is here today, and they, of course,
17 have their motion pending to intervene because they
18 too believe this is the right forum to pursue their
19 bond claim and contract claims, but on May 15th they
20 recorded their lien with the Nye County recorder's
21 office.

22 And on June 8th TSE filed a motion to
23 expunge that lien in the case, or in an independent
24 case they filed their motion to expunge, and that
25 case was assigned to judge, and I hope I don't mess

1 up her name, is it Wanker? Judge Wanker. But later
2 TSE withdrew that petition. So you have these two
3 cases that are kind of dead in Nye County, they're
4 just sitting there, but, again, it's always TSE
5 trying to avail itself by filing these motions to
6 expunge.

7 Now, September is -- forward a bit. On
8 September 6th H & E required Cobra, who was the
9 general contractor on the project, and I think your
10 Honor will recall the litigation a few years ago
11 involving Cobra, but Cobra was required to procure a
12 mechanics lien release bond to release the lien,
13 H & E's lien from the project. And so on June 1st
14 TSE then commenced this very action seeking to
15 expunge Brahma's lien.

16 Again the case was originally assigned to
17 Judge Lane, but on August 14th he entered an order of
18 reassignment assigning the case to your Honor because
19 the parties again presented themselves and recognized
20 that your Honor had experience and that this was
21 going to need to go to a senior judge, and they --
22 whether it was our firm or both firms that
23 collaborated, it was decided that the case would be
24 assigned to your Honor.

25 Now, Brahma's lien was then amended and

1 restated on several occasions and ultimately was
2 increased to approximately 13 million. The actual
3 number is 12,859,577, and that's by way of their
4 fourth amended lien which was recorded in Nye County.

5 At the hearing on the motion to expunge,
6 which was held on September 12th, your Honor of
7 course denied TSE's motion to expunge Brahma's lien.

8 Now, this is where we kind of get into the
9 facts of well, why -- how did we end up in Clark
10 County. Now, based on a mistake in understanding or
11 belief that section 24 of the contract between Brahma
12 and TSE required Brahma to pursue its contract base
13 claims in Clark County, and after Richard Peel
14 reached out to TSE and asked if there was a way that
15 they would stipulate that we could file the action in
16 one location, be it Nye County, Clark County,
17 wherever, but that there would be one judge to handle
18 the entire case, and TSE rejected that. TSE never
19 got back to us and then ultimately said, well, our
20 client isn't going to agree to that, do what you want
21 to do. So based on that understanding, and Brahma's
22 belief that they were dealing with a mandatory forum
23 selection clause, Brahma filed a complaint in Clark
24 County on July 17, 2018 in the Eighth Judicial Court
25 of Nevada.

1 Shortly after that, on September 10, TSE
2 then removed the Clark County action to the federal
3 court based on diversity jurisdiction only, as again
4 TSE's Delaware and Brahma is a Nevada corporation.
5 Now, it's important to note that they did not -- TSE
6 did not remove any portion of the Nye County action
7 or attempt to do anything in Nye County with respect
8 to claims being removed, and they still haven't,
9 being removed to the federal court. It was solely
10 the contract claims that were asserted -- there's
11 three of them -- breach of contract, breach of
12 implied covenant of good faith and fair dealing, and
13 then NRS 624, which isn't really a contract but it
14 has to do with the prompt pay act of Nevada.

15 So on September 17th, TSE then filed its
16 answer and its counterclaim against Brahma in the
17 federal court action where it stated, or where it
18 brought -- asserted basically counterclaims of breach
19 of contract, and it also asserted other state law
20 claims, such as fraudulent and negligent
21 misrepresentation.

22 Now, on September 21st, and as required by
23 NRS 108.239, subsection 1, Brahma filed its complaint
24 to foreclose its lien here in Nye County and filed it
25 in the action that TSE had already commenced

1 regarding the motion to expunge. The case had
2 already been commenced. Brahma filed a foreclosure
3 action, and that's how it was titled. The initial
4 complaint was entitled Brahma Group, Inc.'s Mechanics
5 Lien Foreclosure Complaint, and it included a single
6 foreclosure action because at that time TSE and Cobra
7 had not bonded around Brahma's lien. TSE and Cobra
8 hadn't bonded around the lien.

9 Now, after Brahma had filed its complaint to
10 foreclose, TSE then recorded with the Nye County's
11 office, or recorder's office a mechanics lien release
12 bond, which at the time was only one and a half times
13 the amount of Brahma's original lien, but keep in
14 mind Brahma had amended its claim, its lien, several
15 times, and so it fell short of what it needed to be,
16 which is one and a half times the fourth amended
17 lien.

18 So because that bond had been recorded, on
19 September 25th, 2018, Brahma then filed its first
20 amended complaint, which it admittedly inartfully
21 called a first amended countercomplaint where it then
22 asserted its contract claims against TSE and claims
23 against the mechanics lien release bond that Cobra
24 and TSE had procured, but it did not dismiss at that
25 time its foreclosure action against the property,

1 against its lien on the property because the bond was
2 not sufficient to cover the full lien amount and so
3 it was under-collateralized. And so they basically
4 had two different foreclosure actions, one against
5 the real property, or the work improvement I should
6 say, and one against the bond.

7 Now, because this bond was insufficient to
8 secure Brahma's lien, Brahma then filed in this same
9 action before your Honor a motion excepting to the
10 sufficiency of the bond. It's a procedure that you
11 can file where you require a party that has filed or
12 recorded a mechanics release bond to increase the
13 amount or take some action to increase it to secure
14 the lien amount, and we filed that here in the state
15 court. And after filing that, Cobra and TSE did come
16 up with a rider to the bond and increased the amount
17 of the bond to 19,289,366 bucks, which is now one and
18 a half times the amount of Brahma's fourth amended
19 lien.

20 Now, again after Brahma then amended its
21 complaint in this action to add its contract claims,
22 it then went to federal court and removed those three
23 contract claims from the federal court action, which
24 it could do because an answer within the timeframe to
25 be able to amend our answer, we were able to do so

1 freely without bringing a motion. They hadn't
2 filed -- they had filed an answer but you have a
3 little bit more time. The rule is a little different
4 in federal court. There's a little bit of a lapse
5 there. So we amended the complaint in federal court,
6 withdrew the three contract-based claims and filed
7 them here in our amended complaint with this district
8 court, with the Nye County court.

9 So then that takes us to September 16th, and
10 that is when Brahma, as I indicated, filed a motion
11 for stay in federal court based on the Colorado River
12 Doctrine where we're asking the federal court to
13 abstain from deciding that case because, number one,
14 it involves the same transaction and occurrences that
15 are here in this case, and in addition because this
16 court already has the familiarity necessary to
17 proceed on this case, and even ruled on a dispositive
18 motion.

19 So after we filed that, then TSE immediately
20 filed, and this is going to be important as I get to
21 the motion to dismiss part of the argument here, TSE
22 then filed with the federal court a motion for
23 injunctive relief asking the federal court to issue
24 an injunction against Brahma precluding it from
25 pursuing its three contract claims that it had

1 removed from the federal court action and brought
2 here to the Nye County action. Neither of those two
3 motions, the motion for the Colorado River Doctrine
4 motion or the motion for injunctive relief has been
5 set for oral argument yet. Again, based on my
6 experience with the federal court it could be several
7 months before the court gets to those two motions.

8 Then the day before -- what's interesting is
9 the day before the opposition to the motion for the
10 Colorado River stay was due, TSE gets a bright idea
11 and they said, you know what, we're going to serve
12 you, Brahma, with discovery requests. We're going to
13 serve you with interrogatories and requests for
14 production of documents.

15 And the reason why they did that so quickly
16 out the box, and they did this, by the way, before
17 the federal magistrate had even issued the scheduling
18 order setting forth the discovery timeframe, they did
19 it so they could argue in opposition to the Colorado
20 River motion that that case, the federal case, was
21 further along than the Nye County case.

22 It's one of the factors the federal court
23 will look at when deciding whether or not to grant a
24 Colorado River motion is which case is further along.
25 So they said, oh, we're going to put out these

1 basically bogus, or whatever you -- strategic
2 discovery requests all for the sole purpose of trying
3 to get that case jump started so they can come back
4 and make the argument to the federal court, "We need
5 to stay in federal court, your Honor."

6 And I bring that to the court's attention
7 because they want in their brief to say that we're
8 the ones that are forum shopping. Well, we're not
9 the ones that are trying to run away from a
10 federal -- or from a ruling that was adverse to us.
11 There's been no ruling in federal court against us.
12 We're not -- we don't care if we're in federal court
13 but we don't want to be in two cases in two courts.
14 That's our beef. We can't be in two courts. It will
15 be extremely expensive, and we know we cannot put the
16 bond claims in the federal court so the case has to
17 be here, and that's the argument we're going to make
18 to the federal court, but they want to stay in
19 federal court and we went through that already.

20 And then, finally, based on the fact that we
21 received these discovery requests, we filed -- Brahma
22 filed a motion for stay of the discovery request in
23 the federal court, and that is set for hearing on
24 December 27th. So that's the procedural posture of
25 the case, your Honor. I will refer back to some of

1 these dates as I tie it to the legal arguments. I
2 apologize if that was lengthy, but in short amount of
3 time there's been a lot in this case and some of
4 these are really important to hone in on some of the
5 nuances of what's going on here.

6 So I think I'd like to attack or address
7 their motion to strike first. I'm not sure what
8 order it was presented. I think it was motion to
9 dismiss first, but let's go with the motion to strike
10 and then I'm going to hit the motion to dismiss and
11 then the motion for stay.

12 With respect to the motion to strike, again
13 when Brahma first filed it in this action, it filed a
14 foreclosure complaint. It was not styled as a
15 countercomplaint, it was just a simple foreclosure
16 complaint. It took the case that had already been
17 generated and it filed within that very same
18 proceeding. It wasn't until Brahma amended the
19 complaint when it perhaps again inartfully called it
20 a countercomplaint. But it's really not a
21 countercomplaint. If you look at it, it's simply an
22 amended complaint because it acts as a standalone
23 complaint. It has all the makings, all of the
24 necessary notice provisions, the claims. It was
25 served by summons on TSE, on Cobra, and so it is an

1 amended complaint. We can get away -- if their
2 concern is that we call it a countercomplaint, fine,
3 let's call it something else. It's a complaint.

4 And what's interesting is when you look at
5 Rule 7, if you look at it under that lens that it is
6 a complaint, and it's not a countercomplaint because
7 we're not responding, it's not in response to
8 something, we had already filed an opposition to
9 their motion to expunge, it's a standalone complaint
10 that was simply filed in the same case that they had
11 generated. And, again, it's capable of standing on
12 its own.

13 So their argument that the countercomplaint
14 is not a pleading under Rule 7A, it's really putting
15 form over substance. And it's interesting because
16 opposing counsel took us through the list of all of
17 the different types of pleadings that are identified
18 under Rule 7A, and complaint was one of them, but one
19 of the lists I didn't see, or name on the list I
20 didn't see was "amended complaint." Well, it's not
21 on the list, but nobody in their right mind would get
22 up in front of the court and say amended complaints
23 aren't pleadings. You can't do an amended complaint.
24 It's not in Rule 7A. That's essentially what they're
25 arguing here is, well, you're calling it something

1 different, but we're calling it a complaint. It is a
2 complaint. It's stands on its own. It's not in
3 response to something. It was filed in the case.

4 Now, why did we file in the case? First of
5 all, I should note that by filing that complaint in
6 this case, it puts the parties in the same exact
7 procedural posture as if we had filed the action
8 first, and then they came in and brought their motion
9 to expunge. We're in the exact same posture as we
10 would be. You would have a complaint that was served
11 by service that they had to respond to and file an
12 answer. It's no different than had we done it that
13 way.

14 And the reason why we decided to file in the
15 state court action was we wanted to ensure that your
16 Honor was the one who got the case. If we had just
17 filed a standalone complaint, it would have likely
18 been sent to one of the other departments, it
19 wouldn't have gone to your Honor because you're not
20 getting, you know, cases unless they're assigned to
21 you, it would have gone to one of the other
22 departments and we would then had to have filed a
23 motion to consolidate.

24 Now, based on the opposition that we've
25 received on every little thing that we've done with

1 these guys, who knows if they would have stipulated
2 to that, but they may have opposed the motion to
3 consolidate as well. And so basically it was a way
4 of saying instead of filing it in a separate action,
5 let's file it in this case that's already been
6 commenced, and therefore the need to file the motion
7 to consolidate is avoided, we're not wasting
8 resources, the court's time, our client's money on
9 something of that nature.

10 THE COURT: Mr. Domina, just so I can
11 understand this, is this complaint for foreclosure
12 something different than a claim that was taken from
13 Clark County to the federal court?

14 MR. DOMINA: The foreclosure action, no,
15 your Honor. The complaint is a foreclosure action.
16 And when we amended it, we did bring the three causes
17 of action that were once in federal court, we removed
18 those and we filed same concurrent jurisdiction
19 causes of action, breach of contract claims in that
20 same complaint where the foreclosure action is
21 against the bond and the real property, the work of
22 improvement at this time.

23 THE COURT: Okay. I think I understand it.
24 Thank you.

25 MR. DOMINA: All right. And I have more

1 on -- I'm going to discuss how that's not a big deal
2 when we get to the motion to dismiss. They want
3 to -- they're positing a rule that, first of all they
4 say they cited these three really strong cases.
5 Well, there's not a single case that they cite from
6 the Ninth Circuit. They're not Nevada cases.
7 They're random cases. Some of them are outdated,
8 66 years old. One is about a tribal Indian land.
9 They have no bearing.

10 And the reason why we didn't want to waste
11 our time addressing them is because we focused on the
12 case law in the Ninth Circuit that completely shoots
13 down their proposition that there's some kind of
14 automatic stay, if you will, or automatic bar, some
15 kind of automatic bar that precludes a district court
16 from hearing state court actions that were once in
17 federal court that had been removed.

18 Now, where they may be correct is if we had
19 filed a case back in Clark County in the action where
20 it actually had been removed from, and we tried to
21 file right back into that same case, there may be
22 some legs to what they're saying, but that's not what
23 we did here. We filed those breach of contract
24 claims in an action that had actually been filed and
25 commenced before the federal action had been

1 commenced. So it's not like we're going out and
2 filing in the very same case that was removed.

3 When you have removal, and that court loses
4 jurisdiction, it's only with respect to the court
5 that it was removed from, the Clark County Eighth
6 Judicial District Court. Doesn't say anything about
7 other states, or, excuse me, other counties. And
8 their argument that they say, oh, we've got great
9 case law on it, no, they don't. It's case law all
10 over the country or three of them in different
11 jurisdictions, two of them aren't even applicable and
12 are quite older.

13 But again, once I get to the motion to
14 dismiss, you'll see that the case law really says
15 this about it. It gives us an argument that unless
16 the federal court finds that a case was removed from
17 federal jurisdiction and put into state court for
18 fraudulent means of trying to avoid federal
19 jurisdiction, the federal court will not intervene.
20 The federal court will not issue an injunction and
21 has no concern with the state court proceeding on
22 parallel litigation that may have already been in
23 federal court.

24 But that fraudulent analysis is important
25 for the courts to undertake, and it's what the Ninth

1 Circuit requires to take place. They don't even
2 mention that. That's what we argued in our brief was
3 that, wait a minute, you're forgetting about this
4 whole analysis, the fraud analysis. Why on earth --
5 if there was a black letter rule that said once you
6 remove a state court case, or once you remove claims
7 in federal court and then bring them down and try to
8 file them in state court that there's an automatic
9 bar, then you wouldn't have this case law that we
10 have from the Ninth Circuit that says, well, no, you
11 don't do that. You look to see if there was a
12 fraudulent means of trying to avoid federal
13 jurisdiction. And I'll explain that there's no
14 fraudulent means on our part. There is a valid basis
15 for why we did what we did when we amended first our
16 claim here to add those contract claims and then our
17 claim in federal court, Brahma's claim in federal
18 court.

19 So, again, I just want to make it super
20 clear for the judge, the foreclosure action, be it
21 against the work of improvement or against the surety
22 bond, was never in Clark County and was never removed
23 to federal court. It's always stayed right here in
24 Nye County. And from our perspective it can never go
25 anywhere. It has to stay here because Brahma --

1 because, again, diversity jurisdiction issues.
2 You've got Cobra, a Nevada corporation, saying it's
3 Brahma, and it's other issues there. So I wanted to
4 make sure that was clear in the court's mind.

5 Now, what's interesting though, your Honor,
6 this amended complaint that we did, it accomplishes
7 the very same goals that are set forth under NRS
8 108.2275, subsection 5, which says if you have --
9 it's basically the legislature's intent to put a
10 motion to expunge and a foreclosure action in front
11 of the same judge. You don't want to have multiple
12 judges, different departments deciding issues
13 relating to the mechanics lien foreclosure action.

14 So 108.2275, subsection 5, requires that a
15 person filing a motion to expunge would file it in a
16 foreclosure action that has already been commenced.
17 And in this case there was one, but it had been
18 dismissed and so they filed their independent one,
19 and we then filed our foreclosure action within that
20 same case.

21 Now again, as I said, had Brahma filed its
22 foreclosure action first, they would have been
23 required to file into that one, which is exactly what
24 they did, if we look back at that original complaint
25 that Brahma filed. TSE ended up filing its first

1 motion to expunge within that case. It later
2 withdrew it. That was its own decision, and it
3 decided not to use that same case when it filed its
4 second one, but nonetheless they knew that that's how
5 it worked.

6 So let's talk about the case law that
7 supports this proposition that our amended complaint
8 is valid, because that's really where I'm going. I
9 need to make sure that your Honor understands that
10 this is just an amended complaint. Yes, at one point
11 it was inartfully styled, but it doesn't matter what
12 it was called because you look at it and say, what
13 does it do? What is it effectively doing? And I
14 cite the H.W. Polk V Tooley (phonetic) case in our
15 opposition, and that was where the Nevada Supreme
16 Court took a very practical approach to a similar
17 issue when it found that -- it denied a judgment
18 debtor's motion to dismiss a case filed by a creditor
19 wherein the creditor filed a complaint to revive a
20 judgment in a case where the judgement had commenced
21 that was closed.

22 So basically you had a judgment, and the
23 creditor came in and tried to -- he commenced a new
24 action within that same case that had been closed in
25 an effort to revive this judgment. The details in

1 the case are a little sketchy. I'm not sure if it
2 had expired or what they were doing to revive it, but
3 basically the debtor was trying to say no, no, you
4 can't do that, you have to dismiss the case because
5 you filed into this wrong action and you should have
6 filed into its own separate action, which is what
7 they're arguing here.

8 And the court, the supreme court held that
9 in the absence of a specific statute requiring an
10 independent action, that the procedure followed by
11 the judgment creditor was not improper. And this is
12 the real part of that language that's important, they
13 said it was because the debtor was served with a
14 summons and complaint and had notice of the action.
15 So the court looked at it and said, well, yeah, maybe
16 they shouldn't have filed in that same case, but
17 we're not really bothered by it because it was a
18 complaint and they served it by summons on the other
19 side, and they got notice of it.

20 And that's the same argument we have here.
21 They can be all disturbed that, you know, there was
22 something different about this or it doesn't look
23 like some of the other briefing that they -- or the
24 other pleadings they've seen, but what does it look
25 like? It's a complaint. It looks exactly like any

1 other complaint that you would see that was filed in
2 any case commencing in action.

3 So just like the situation in Polk, again
4 TSE was served with our summons and complaint. It
5 was a standalone complaint. Just like the situation
6 in Polk, there's nothing in the mechanics lien
7 statute that says that you have to file a separate
8 action. You look at the mechanics lien statute, it
9 doesn't say when you go to file a foreclosure, do not
10 file within a case that's been commenced by way of a
11 motion to expunge. They say, oh, it doesn't say that
12 language so, therefore, it says you can't do it. But
13 I look at the opposite. It doesn't say anything
14 about it. It doesn't say we can't. And if you look
15 at the statute, it actually infers that the
16 legislature wants these things to be held together,
17 which is why someone filing a motion to expunge must
18 file it within a cause of action that's been
19 commenced, if it's already been commenced.

20 Again, we also argue in our briefing, your
21 Honor, that this isn't a novel issue. This isn't
22 something that we just kind of created on a whim and
23 we've done before. This is something that our firm
24 and other construction firms in the state do on a
25 regular basis, and that is to avoid having to spend

1 money filing a motion to consolidate, getting it
2 maybe in a peremptory challenge back and forth and
3 other judges. You never know where things are going
4 to end up, and so it's a streamline process to be
5 able to file your complaint in a case that's already
6 been commenced. We actually gave an attachment in
7 the briefing of another case where we did the same
8 thing and had no problem with it.

9 Now, in opposition or to support their
10 argument that you can't file a foreclosure action in
11 a commenced mechanics lien case, they cite to a
12 treatise which is purportedly a treatise on
13 construction matters in Nevada. First I would say
14 that this is a publication that is not binding on
15 this court, and it's not even authoritative. It's
16 filed by -- it was drafted by a gentleman -- he was
17 an attorney who practices in Clark County, and his
18 name is Leon Mead. And Leon Mead is a great guy, but
19 one he's not a legal scholar. He is not a professor.
20 He's just a -- he's a guy like myself or Mr. Peel.
21 Yeah, we understand the mechanics lien law but we're
22 not professors and we're not trying to draft
23 briefings or draft treatises that try to convince the
24 court one way or another on an issue.

25 And, in fact, even if you look at that

1 language, it's funny because it doesn't even say, and
2 I don't know if your Honor is familiar with what I'm
3 talking about, but this little exhibit that they
4 attached as part of their reply brief, they
5 introduced it in their reply the first time, but it
6 doesn't even stand for the proposition that they
7 claim that it does. In that case Mr. Mead simply
8 says -- this is what he says, he says, "I don't
9 believe that foreclosure suits can be filed as a
10 counterclaim to a petition to expunge a foreclosure
11 action." So he doesn't say that you can't file a
12 foreclosure action in a case that's been commenced
13 with a motion to expunge, he just says you can't file
14 it as a counterclaim. Again, we didn't do a
15 counterclaim. It's a complaint.

16 Now, Mr. Mead goes on to say that he thinks
17 the appropriate procedure would have been to file a
18 complaint and then to move the petitioning court to
19 consolidate that case over there with the motion to
20 expunge, but in essence after consolidation and after
21 a lot of work and expense, you'd be in the very same
22 procedural posture that we're in right now with TSE.

23 Now, I'm going to mention this next thing,
24 and it's not to take a jab at Leon Mead, because I
25 like Leon. I'm not going to speak ill of him, but

1 he's been wrong on several key issues in front of the
2 Nevada Supreme Court on a few different occasions.
3 And so the court shouldn't look at his treatise as
4 gospel or having some binding effect, even though
5 that's how it was cited in their brief.

6 And, in fact, in the Hardy V SNMark case,
7 which was a supreme court case decided back in 2010,
8 the supreme court specifically mentioned in a
9 footnote that it disagreed with Mr. Mead's position
10 on one of the doctrines that he espoused in that very
11 same Nevada construction manual. They said, we
12 disagree with this particular practitioner.

13 And so, again, I'm not saying that to throw
14 him under the bus or say, oh, you know, he's never
15 right, because he's a good attorney, but it wouldn't
16 be the first time that he got something wrong, and I
17 believe that he's wrong in this case as well.

18 The next argument that they make, they cite
19 the Crestline case. This is in their motion. The
20 Crestline case basically says that if you're adding a
21 motion to expunge, the district court can decide
22 three issues. They can only decide that the lien was
23 frivolous, that the lien was excessive, or that the
24 lien was neither excessive or frivolous. Those are
25 the only three issues that can happen. Well, that

1 was the holding and that's it.

2 And so what happened in that case was the
3 district court had actually denied the motion to
4 expunge and went in and increased the lien claimant's
5 lien amount, and the supreme court came in and said,
6 no, you can't do that. You can only follow what the
7 statute says.

8 But that holding has nothing to do with what
9 we're here on today. That holding does not say you
10 cannot file a foreclosure action in a case that has
11 been commenced for a motion to expunge. It says at
12 the hearing you can't take any other action, and we
13 certainly have done that. We're not asking your
14 Honor, and we didn't ask your Honor at the time of
15 the hearing to rule on some other issue or find that
16 our lien was adjudicated in full. So that is a
17 complete -- the case that they site has no bearing on
18 the issue here, so long as, again, the hearing is
19 limited and those three inquiries are addressed then
20 you don't have a problem.

21 So let's talk about the Smith case. The
22 Smith case is the case that TSE relies upon in its
23 motion, and you heard extensive argument about it
24 from opposing counsel. And in that case the court
25 found, and I'll agree with opposing counsel, they

1 found that the cross-claim that was filed by the
2 plaintiff was improper, but they did that because
3 they found that under Rule 12A it should have been --
4 it should have been with an answer, which is a
5 pleading.

6 So you can't file a cross-claim on its own,
7 and in this case the plaintiff, or the party, had
8 filed an answer and then failed to file a cross-claim
9 with it and waited several years in fact to file its
10 cross-claim, and it didn't even serve the cross-claim
11 on anybody. So the court came in and said, wait a
12 minute here, you know, you're trying to file a
13 standalone, rogue document that's not a pleading.
14 Had you attached it to an answer, then you're talking
15 business. Now you've got a pleading and you can do a
16 cross-claim, but you didn't do it at the answer and
17 your time to file the answer, your time to file that
18 cross-claim with the answer has come and gone, so,
19 therefore, we're going to strike that particular
20 pleading, or it's not a pleading, that particular
21 document because it wasn't a pleading, and
22 furthermore they didn't even serve it.

23 So unlike the cross-claim in the Smith case,
24 which again was never served on the parties and
25 required to be accompanied by the answer, i.e., the

1 pleading and was time barred, Brahma's amended
2 complaint was timely filed, it was served, and it
3 acts as a standalone pleading in compliance with NRCP
4 7A or the complaint.

5 Now, finally, the last argument I think I
6 can make on this, your Honor, on the motion to strike
7 is under NRCP 81A, and that's kind of this catchall
8 rule that says in the event that you are dealing with
9 a special proceeding, that the normal rules of civil
10 procedure can be kind of held in abeyance or kind of
11 stayed and they don't govern that specific proceeding
12 when you have instances where there may be a conflict
13 between the specific rule and/or the specific statute
14 and a rule of civil procedure.

15 So that's what I'm arguing here is that
16 under 108.2275 the legislature has shown its intent
17 to put motions to expunge and foreclosure actions
18 together and, therefore, that in and of itself is
19 enough for us to be able to do what we did because
20 Rule 81, if there was an issue with Rule 7, which I
21 don't think there is, I think we comply with Rule 7,
22 but even if your Honor felt that we had run afoul of
23 it, then simply put, 81 takes Rule 7 out of
24 application.

25 And then I guess the final word on that

1 would be this: If the court finds that there truly
2 is an error here, and that we should not have filed
3 the amended complaint in this action, then the court
4 can simply severe the amended complaint and ask the
5 clerk of the court to assign it its own case number,
6 strip it out from the motion to expunge, give it its
7 own case number, and then immediately, within the
8 same action, consolidate it back to this case, which
9 would be the same posture we're in. And it would
10 make no sense to do it that way, but if the court
11 felt like there was some kind of technical default or
12 technical issue with the amended complaint, that's
13 one way the court could handle it.

14 I don't know if your Honor had something to
15 say. It looked like you had a question.

16 THE COURT: Well, I'm struggling with any
17 right that the Brahma Group might have to take an
18 action which has been removed to the federal court
19 and dismiss out claims from there and refile in state
20 court. That is something that doesn't sound right to
21 me. It's not within my experience to do that.

22 MR. DOMINA: And obviously I've been
23 spending my time on the motion to strike.

24 THE COURT: And I might, you know, I might
25 be inclined to favor Tonopah Solar's position on

1 that, but maybe I can severe out the claim that you
2 say is simply a foreclosure action which wasn't part
3 of the Clark County claims that were removed to
4 federal court, if I understand this right. I mean, I
5 would distinguish certain claims within your thing
6 that was erroneously marked as a --

7 MR. DOMINA: So, your Honor, putting aside
8 the concern it appears that you have with respect to
9 the three causes of action that were removed from
10 federal court and then brought into the complaint,
11 putting that aside, does your Honor have an issue
12 with respect to the complaint in and of itself, just
13 the procedural issue and how it relates to Rule 7A?

14 THE COURT: Well, I think I can understand
15 that, everybody agrees, and if you look at the either
16 case law or statute, I think it's in the statute,
17 that, well, you can take a motion to foreclose and
18 put in a, you know, motion to expunge within the same
19 case. And if you can do that, why can't you do it
20 the other way?

21 You know, if the other thing comes first,
22 the motion to expunge, then can't you come in with a,
23 you know, motion to foreclose and for that, and it
24 would seem like they do go together. And I
25 understand your position about that, and, you know,

1 if there's a way that I can do that, I probably will.

2 MR. DOMINA: Okay. So then I think that --
3 that was the motion to strike part. That's what I
4 wanted the court to understand is that the complaint
5 itself is okay, it's viable, it doesn't -- there's
6 not an issue with it.

7 Now we need to talk about those three causes
8 of action that are in that complaint and how we deal
9 with those, and that was their argument for the
10 motion to dismiss. Primarily they argue, again, that
11 the court lacks subject matter jurisdiction to even
12 hear those three cases, or these three causes of
13 action, because they were once in federal court and
14 now are here in state court.

15 But, again, the court, number one, your
16 Honor need not decide that issue today. Your Honor
17 could say, you know what, maybe I have jurisdiction,
18 maybe I don't. If the federal court believes that
19 you don't have jurisdiction, then the federal court
20 will grant their motion for injunction, which they
21 filed in federal court. And so there's no reason to
22 say, oh, I'm not going to take jurisdiction of this
23 based on what they're telling you because they've
24 also filed in the federal court a motion for
25 injunction trying to stop those three causes of

1 action from being heard.

2 So there's really no harm in saying, well,
3 let's proceed on them, and if there's no
4 jurisdiction, then there's no jurisdiction. But I
5 think that there is jurisdiction, and, again, because
6 the only cases that they've cited, none of them are
7 within the Ninth Circuit. But the cases that I
8 wanted to call your attention to, your Honor --

9 THE COURT: I don't want to say anything bad
10 about my superiors at the Ninth Circuit, but, you
11 know, I've gone to those Erwin Chemerinsky --

12 MR. DOMINA: Right.

13 THE COURT: -- lectures. He describes how
14 the Ninth Circuit is by far the most overturned
15 circuit in the country.

16 MR. DOMINA: Well, fortunately this isn't
17 just one rogue case. This is a doctrine that they
18 follow in the Ninth Circuit, they follow in the Fifth
19 Circuit. And the two cases that we cite, one is the
20 Lou V Belzberg in the Ninth Circuit, and basically
21 that's a case that involved parallel litigation.

22 You had a state court case that had been
23 commenced only after a party had removed a prior
24 state court case to federal court. And what they
25 ended up doing was the same thing that we did, they

1 then took a -- they then went to state court and
2 filed the same exact litigation that had been removed
3 to federal court and pursued it in state court.
4 Well, at that point the party that removed it in
5 federal court filed a motion for injunction in front
6 of the district court. And the district court said,
7 well, how do we treat this? What do we do? And they
8 do recognize that in the event that you can show that
9 there's a fraud, a fraudulent purpose to avoid the
10 jurisdiction of the federal court, then you can go
11 ahead and enjoin a state court from having
12 jurisdiction over those causes of action that were
13 then -- that were once in federal court.

14 But if you don't find that there's fraud,
15 and this is the Lou case, this is what Lou says, Lou
16 says -- or what the Lou court did, it overturned a
17 district court that had actually issued the
18 injunction of the state court action. And the reason
19 why the Lou court overturned it was because they
20 found that there wasn't fraud. They said, look,
21 these are parallel cases, yes. And, yes, it looks to
22 be very similar, but we don't think they did it for a
23 fraudulent purpose. They added some new parties,
24 there's some new claims. Yes, it's parallel
25 jurisdiction but it doesn't rise to the level of

1 fraud.

2 Now, you may say, well, how have you shown
3 me that you haven't tried to avoid this fraudulently?
4 Number one, I would say this: That's the federal
5 court's decision to make. That will be argued at the
6 time of their motion for injunction in front of the
7 federal court, and we will be putting on argument to
8 that court. So your Honor doesn't have to decide,
9 oh, I'm going to dismiss these three claims because
10 it's already up and teed up for the federal court.
11 And if they think something's been run afoul, they'll
12 make that determination. So that's number one.

13 But, two, we did this for a very specific
14 reason. Remember I indicated that when we first
15 looked at that, when Brahma first looked at the
16 contract, the forum selection clause, it looked to be
17 a mandatory forum selection cause. It's not. It's
18 permissive. And I think TSE has even kind of
19 acknowledged that it is permissive. They keep
20 saying, well, even if it's not mandatory. So they've
21 kind of looked at the language.

22 And if you look at the case that we cite
23 with respect to that, that's on -- that's the
24 American First Credit Union case. That case is a
25 Nevada Supreme Court decision and it holds that

1 clauses in which a party agrees to submit to
2 jurisdiction are not necessarily mandatory. It says
3 absent specific language of exclusion, any agreement
4 conferring jurisdiction in one forum will not be
5 interpreted as excluding jurisdiction elsewhere. So
6 the clause that we're talking about is section 24,
7 and it's exactly that. It is a clause that confers
8 jurisdiction but doesn't expressly exclude other
9 jurisdictions in Clark County.

10 So when we filed that Clark County claim,
11 basically they're only in federal court because we
12 filed the Clark County action thinking that that was
13 what was required under the contract. They would not
14 be in -- they'd have no diversity if those claims
15 were not filed in Clark County because they would be
16 here and you would have Brahma linked up with, again,
17 Cobra and the others parties on the bond and they
18 would not be able to remove it to federal court. In
19 addition to the fact that they're a plaintiff in this
20 case, they wouldn't be able to do it in federal
21 court.

22 So the whole reason why we're in federal
23 court was based on this issue here. But as we
24 started looking at it, we realized that there's
25 actually a statutory basis to be in front of Nye

1 County on the contract claims, and that is under the
2 mechanics lien statute. If I can quickly turn your
3 attention to NRS 108.2421, subsection 1, this is a
4 statute that entitles -- this is only applicable if
5 you have a mechanics lien release bond in play. So
6 if you're dealing with a lien on real property, it's
7 not applicable.

8 But if you're dealing with a mechanics lien
9 release bond, as Brahma is here, under 108.2421,
10 subsection 1, Brahma's expressly authorized to bring
11 contract claims against TSE in the county where the
12 property is located. And this is the language. It
13 says the lien claimant is entitled to bring an action
14 against the principal and the surety on the surety
15 bond, and this is the important language, and the
16 lien claimant's debtor in any court of competent
17 jurisdiction that is located within the county where
18 the property upon which the work and permit is
19 located.

20 Well, we know who the principal is. That's
21 Cobra. We know who the surety is. That's AHAC,
22 American Home Assurance Company. Well, who is the
23 lien claimant's debtor? That is TSE. They're the
24 debtor. So this statute gives us the right to pursue
25 a claim against all three parties in the same action

1 in the county where the property is located.

2 Now, you may say, okay, well, you didn't.

3 Well, the problem is the forum selection clause that
4 they're trying to foist upon us, if it violates a
5 provision of the mechanics lien statutes, which in
6 this case it does, in other words that provision is
7 requiring us to file in Clark County, and this
8 statute gives us the right to file in Nye County,
9 then it violates the mechanics lien statute under
10 108.2453 that says you can't have a provision in a
11 contract that requires any lien claimant to waive or
12 release any rights under the mechanics lien statute,
13 period. This is one such right.

14 We believe that under 108.2421, subsection
15 1, we have the absolute right, had the absolute right
16 to file in Nye County against TSE, against Brahma,
17 against everybody, even if that provision in the
18 contract was mandatory. And because they're claiming
19 that it's mandatory, and if the court found that it
20 was mandatory, it would then be in violation of
21 108.2453, and that statute says that any provision is
22 void and unenforceable, it's against public policy,
23 and void and unenforceable, and so, therefore, that
24 provision could not have even been enforceable
25 against us, and any action that was taken, i.e., the

1 filing of the Clark County case to begin with was
2 void because it was based on a demand that the
3 contract require us to file within Clark County, and
4 that goes against the mechanics lien statute.

5 So, again, you have this statute that
6 provides rights that can't be waived and, therefore,
7 based on that understanding, based on that belief
8 that we do have rights to able to pursue the claims
9 in Clark County, or, excuse me, in Nye County, that's
10 why we decided we would file those contract claims in
11 Nye County and we would take them out of federal
12 court. That's not fraud, and that's the analysis.
13 There is no case law that they can point to in Nevada
14 that says if you remove a case to federal court that
15 all states or all counties, all courts within this
16 state are now deprived of jurisdiction on claims that
17 are similar to those.

18 In fact, the case law is the very opposite.
19 The case law says there are instances where you can
20 have parallel litigation and the federal court will
21 not issue an injunction unless and until it has been
22 satisfied that they found fraud in the way that
23 the -- in the way that the claims were asserted in
24 state court after the fact.

25 So that's where we're at. There's no fraud.

1 I'm not asking your Honor to even make that
2 determination, because you don't have to. It's a
3 determination that will be made in the federal court,
4 but at this juncture your Honor can come up with a
5 couple things. One is the complaint on its face is a
6 complaint. It satisfies all of the requirements
7 under Rule 7A. Not a problem.

8 So then we move to, well, what about those
9 causes of action that are in there that were giving
10 you a problem before? Your Honor doesn't have to
11 decide whether you have jurisdiction or not. You can
12 just deny the motion, even deny it without prejudice
13 and let's see what the federal court says. If the
14 federal court says there's no jurisdiction, then the
15 injunction will be filed and we'll have a
16 different --

17 THE COURT: So are you proposing that I
18 would stay action on those claims and not simply
19 dismiss them?

20 MR. DOMINA: No, I'm not proposing that you
21 stay action on them, because here's why. Your Honor
22 is going to need to know the contract issues between
23 the parties. We're going to go forward on the
24 mechanics lien, or the lien -- the bond claim
25 regardless, because that can't be anywhere else but

1 in this court.

2 And so we have the right to file a demand
3 for preferential trial setting, and your Honor can't
4 just say, well, here's the bond, here's the judgment.
5 Your Honor will have to get into the issues that are
6 between the parties, the contractual issues: How
7 much do they owe us, how much do they claim they've
8 paid us, how much are they claiming in offsets.
9 Those are issues that are going to have to be looked
10 at irrespective of whether those actual causes of
11 action for breach of contract are in the case or not.

12 So I would say the best thing to do is let's
13 go forward with those three claims as if you do have
14 jurisdiction on them. Let's develop the discovery on
15 them, because it's not like it's going to be all for
16 not and we're going to, you know, end up saying, oh,
17 well, we just wasted all our time learning what kind
18 of contract issues were there because those contract
19 issues are going to be relevant with respect to the
20 foreclosure action on the bond, which the court must
21 decide, must determine what the lienable value is.
22 And you can only do that by way of understanding the
23 parties' agreements and offsets. So that is what
24 we're proposing, your Honor.

25 And as far as the stay goes, staying

1 anything, especially the bond claim that we have,
2 that would be in complete contrast or it would be
3 basically taking away Brahma's right to pursue its
4 mechanics lien claim as well as its bond claim under
5 its demand for preferential trial setting. So under
6 no circumstance can we stay that. That case --
7 because if you stay it, it doesn't go anywhere. It
8 can't go to federal court. It has to remain here in
9 this court. And by staying it then we go their
10 route, the two-year process, whereas under the
11 mechanics lien statute we have an automatic right to
12 file a demand for preferential trial setting which
13 will then ask the court to clear its calendar within
14 60 days of filing that demand and giving us a trial
15 within that timeframe.

16 And that would be something, if there was
17 ever any attempt for them to thwart that or to stay
18 it, that would be something that the Nevada Supreme
19 Court, based on their Fontainebleau analysis, would
20 frown upon and think that now we've interfered with
21 mechanics lien rights that are sacrosanct, that are
22 entitled to -- or that all lien claimants are
23 entitled to. So with that, your Honor, do you have
24 any specific questions for me with respect to what
25 may be --

1 THE COURT: Well, when I look at what you're
2 attempting to do on behalf of the Brahma Group, I
3 certainly wouldn't call it fraud in the ordinary
4 sense of the word, because, you know, you want to
5 have your client get, you know, an expeditious and
6 economical, you might say, resolution of the case.

7 But on the other hand, you are taking
8 something that, you know, had been removed to the
9 federal court, you know, these certain claims, three
10 claims you say, and dismiss them from the action
11 there and then refile them as part of the foreclosure
12 action, that's what I'm understanding, and I don't
13 know. I mean, maybe that's called fraud under, you
14 know, the rules of removal simply to take claims out
15 and refile them in order to prosecute the claims in
16 state court rather than federal court. You know, I
17 think your motives are good, but maybe you can't do
18 that. Maybe that's called fraud under, you know, the
19 diversity case law. I don't know that at this point.

20 MR. DOMINA: And I understand that, which is
21 exactly why this should be an issue that's decided by
22 the federal court because they -- this is
23 something --

24 THE COURT: Well, they would certainly know.

25 MR. DOMINA: Yeah, they filed their motion

1 for injunction, and that's pending before the federal
2 court. And so it's not -- again, it's not something
3 this court has to -- it's not a bridge this court has
4 to cross. You can just say, look, I'm deferring any
5 decision on the motion to dismiss those claims
6 because what if the federal court disagrees with them
7 and there is no injunction that's been issued and
8 your Honor then dismisses those cases, those causes
9 of action, then we're kind of -- we're not up there,
10 we're not down here and we're trying to figure out
11 what's going on.

12 So I think the best solution would be hold
13 in abeyance any decision with respect to the motion
14 to dismiss those three causes of action and let the
15 federal court decide what it's going to do. And if
16 the federal court issues the injunction, then that
17 was the decision, but at least they have the case law
18 and probably the, you know, this is where those
19 things get filed is in the federal court. They're
20 the ones that, you know, control this. There isn't
21 case law that you'll find in Nevada that says you do
22 not automatically have jurisdiction over causes of
23 action that have been removed from federal court to
24 state court. So that would be our position is let's
25 bump that one, hold that one off and let the federal

1 court decide it.

2 THE COURT: All right.

3 MR. DOMINA: Any other questions, your
4 Honor?

5 THE COURT: Not at this point.

6 MR. DOMINA: Okay. Thank you.

7 THE COURT: Why don't we break for lunch,
8 that's the reasonable thing to do, since it's after
9 12:30. I don't think we have to keep going, do we?

10 MR. ROBERTS: I'm happy to let the court
11 decide what would be most convenient for you.

12 THE COURT: Let's just take a --

13 MR. ROBERTS: I'll probably take about
14 20 minutes. If you'd like to get it done now, I'm
15 happy to do that. If you'd like to break for lunch,
16 that's fine too.

17 THE COURT: I think we ought to break for
18 lunch. That's probably the better thing to do. And
19 we'll try to get back in an hour, you know, about
20 1:35 then if we can possibly do that. All right.
21 Court will stand in recess.

22 (A lunch recess was taken.)

23 THE COURT: Good afternoon. You may be
24 seated.

25 MR. PEEL: Your Honor, if I may, Richard

1 Peel, for the record. I did talk to Mr. Roberts, and
2 he has graciously agreed to give me just a few
3 moments to address the court before it's his turn to
4 provide his rebuttal.

5 THE COURT: Okay.

6 MR. PEEL: Mr. Roberts used an analogy, and
7 he said that I'm like Lance Armstrong in that I am
8 the guy that let's other people do the work and then
9 I end up allowing them to break the wind for me so
10 that I can end up taking the lead. I don't feel that
11 way in this circumstance, by any means, but I am here
12 to provide some observations that I have heard and
13 seen in sitting back here and watching what has
14 unfolded. So I'd like to just take a brief moment
15 and address those issues.

16 I want to make it clear for the court, the
17 three claims that we've been talking about are breach
18 of contract, breach of the covenant of good faith and
19 fair dealing, and violation of NRS 624. Those are
20 the three claims that were pending in federal court.
21 And Mr. Roberts used the word "dismissed," and your
22 Honor even used the word "dismissed" on occasion, but
23 they were removed by way of an amendment from the
24 underlying complaint when it was amended in federal
25 court, and instead those three causes of action were

1 brought over here.

2 As Mr. Domina correctly noted, the claim for
3 foreclosure of lien and the claim against the bond
4 have never been in federal court. They're not the
5 subject of the federal court, and they are properly
6 before this court.

7 I've sat and listened to what the court's
8 concerns are, and specifically I've heard very loudly
9 that your Honor is concerned about proceeding on
10 three causes of action that have yet to be ruled on
11 by the federal court. And so in talking to the
12 client, what we feel like would be the best way to
13 approach this is to allow Brahma to go ahead and
14 amend its underlying complaint, turn around and allow
15 for those three causes of action to be included, but
16 to dismiss the mechanics lien foreclosure action,
17 which is moot at this point because of the bond
18 that's in place, allow us to revise the claim against
19 the bond to increase the amount that was provided by
20 way of the surety rider that Cobra issued, and then
21 to turn around and have the court stay only those
22 three contract-related causes of action pending the
23 federal court ruling on those three causes of action
24 at a later date. This would allow the court to go
25 forward on the bond claim that is properly before

1 this court, which it has jurisdiction to hear and to
2 adjudicate.

3 And so we think that this, in addressing
4 your concern that that would address that concern
5 such that you're able to wait and see what the
6 federal court does on the three contract claims, but
7 still allow the underlying claim against the bond to
8 proceed, which is our biggest concern because every
9 day that \$13 million does create a huge burden on my
10 client.

11 That's what I had to offer. I appreciate
12 you indulging me for a few moments. I'm very
13 grateful. And I'll turn the time over to
14 Mr. Roberts.

15 THE COURT: All right. Thank you, Mr. Peel.
16 Mr. Roberts, you may explain your client's
17 position to the best of your ability what I should do
18 then.

19 MR. ROBERTS: Thank you. And the first
20 thing, although I recognize the court mentioned
21 something and then acknowledged that it was probably
22 not relevant to your decision, I would like to
23 address the "delay, deny, don't pay" comment by the
24 court. And I certainly understand how at first blush
25 it appears that these guys are looking for money and

1 we're trying to avoid an adjudication on it; however,
2 I would submit to you that if the court looked a
3 little harder, that the delay deny is actually over
4 here on this side of the table where Brahma is.

5 The contract has been performed for a period
6 of time. Tonopah Solar Energy paid invoices for a
7 period of time. A management company was brought in
8 to take a look at things, and they found evidence of
9 fraud, if not intentional fraud, at least negligent
10 misrepresentations. There were problems. There were
11 impossibilities with the bills that we had received.
12 And they saw indicia that there was more there.
13 That's why Tonopah Solar Energy stopped paying
14 because they believed that not only were the invoices
15 which had been submitted suspect, but that they had
16 been induced to wrongfully pay moneys which were not
17 owed.

18 What did we do? We asked to see the backup
19 for the invoices that we paid that would prove that
20 they were owed the money and that they had performed
21 the work. They said oh, under NRS 624 you didn't
22 object within X numbers of days so, oh, doesn't
23 matter, you're not entitled to see any proof. You
24 can't get it back. Ha, ha, we tricked you. Too
25 late.

1 We made an offer of judgment. A substantial
2 offer of judgement. They turned it down. It could
3 be us that's asking for attorney's fees at the end of
4 the day. But we also said this is our best offer
5 blind, give us the backup and we'll consider paying
6 more. Total refusal to give us documents. So, yes,
7 in federal court, once a scheduling order was issued,
8 on the first available day that we could, we
9 submitted discovery requests to them, not only to
10 determine how much they were owed, but to determine
11 how much they owed us for overpayments.

12 We have a countercomplaint in the federal
13 action seeking millions of dollars, and we're trying
14 to get discovery on that. And the court has issued a
15 scheduling order allowing that discovery to proceed.
16 They have filed a stay request in federal court
17 trying to avoid answering discovery, not only on the
18 amount that they're actually due, but on the amount
19 we've overpaid prior to today.

20 The delay and the deny is on that side of
21 the table, your Honor. This is not a situation where
22 an owner is simply saying, oh, I'm out of money, I'm
23 not going to pay, and I'm going to fight and I'm
24 going to make excuses. Tonopah Solar Energy has the
25 power. They don't need a bond. They don't need

1 security. We have the money. We have the money in
2 escrow to pay them if they prove they are owed this
3 money.

4 So there's no subversion here. We're trying
5 to get discovery to figure out how much they're owed,
6 they're trying to avoid it. That's what's going on
7 today.

8 Forum shopping. They represented that they
9 think we filed the removal to avoid jurisdiction with
10 you because you had denied our motion to expunge.
11 What they're forgetting is that we removed on
12 September 10th, 2018. This court held its hearing on
13 September 12th, 2018. So two days before we knew
14 what you were going to do, we filed the removal.

15 The order of the proceedings was also
16 misquoted to your Honor this morning. The complaint
17 in Clark County was filed in July, 2018. Our notice
18 of removal was filed 9-10-2018. And their
19 foreclosure complaint, the one that they said it just
20 was inartfully named, was filed September 20th. So
21 it wasn't until ten days after we removed their Clark
22 County action that they came back here to Nye County
23 to try to file the foreclosure complaint in this
24 special proceeding. The forum shopping is not us,
25 your Honor.

1 And now let's take a look at what they say
2 was a complaint. And we agree that the initial
3 document was labeled Brahma Group, Inc.'s Mechanics
4 Lien Foreclosure Complaint, but let's look beyond the
5 title. In this, Brahma Group is referred to as the
6 counter-claimant lien claimant. Tonopah Solar Energy
7 is the counter-defendant. In the introductory
8 paragraph in the complaint says that the
9 counter-claimant, Brahma Group -- counter-claimant
10 lien claimant, Brahma Group, Inc., by and through its
11 attorneys of record and for its complaint in this
12 action against the counter-defendants complains and
13 alleges as follows. So if you go beyond the title,
14 it's a countercomplaint, and it was filed in this
15 special proceeding.

16 So I think that does lead us back to where I
17 was this morning, and I urge the court to simply find
18 this is a rogue pleading and strike it and let them
19 start over properly. And I understand, you know, as
20 the court was giving some feedback during Brahma's
21 presentation that you said that you know that under
22 the statute that you can file a motion to expunge in
23 a complaint for foreclosure, so it makes sense to the
24 court that you could do the opposite, file a
25 complaint for foreclosure in a motion to expunge

1 special proceeding. And would I ask the court to
2 rethink that facially plausible conclusion simply
3 because of two things. One is the statute
4 specifically allows the filing of a special action or
5 a motion to expunge in a foreclosure complaint, but
6 it doesn't expressly allow the other.

7 And now why would it make a difference? The
8 reason it makes a difference is because right back to
9 Rule 3, a civil action is commenced by filing a
10 complaint. This is not a civil action. This is a
11 special proceeding pursuant to NRS 108. There is no
12 civil action. The only way to initiate a civil
13 action is by filing a complaint. And even if you
14 were to construe this document as a complaint, it did
15 not initiate a civil action. It attempted to come
16 into a special proceeding. It lists this civil, this
17 civil action number on the docket. And they
18 acknowledge that they did that so that you would get
19 jurisdiction of it, but it goes -- it goes further
20 than that.

21 You initiate a civil action by filing a
22 complaint. If they had filed this document and
23 allowed it to be assigned a case number and it was a
24 new civil action, that would have been proper. The
25 only parties to this when they did this on

1 September 20th was Brahma versus Tonopah Solar
2 Energy. We had just removed ten days earlier. If
3 they had filed this as a civil action, the way they
4 were supposed to do, the result wouldn't be exactly
5 the same as Brahma suggests. If they had filed it as
6 a civil action, we would have removed it too. Right?
7 We've got 30 days from removal. If they file it into
8 a special proceeding which we had initiated, we can't
9 remove that. If they had done it the right way, this
10 would be up in federal court now too, because the
11 federal court can take jurisdiction over foreclosure
12 proceedings.

13 And so the whole scheme here was fraudulent,
14 not in the sense of criminal fraud, not in the sense
15 of civil fraud, but in the sense of the way the
16 federal courts used the word "fraud" in connection
17 with removal proceedings. What is a fraudulent
18 joinder? It's including a party who's not necessary
19 for the purpose of avoiding federal jurisdiction.
20 Why did they amend to get rid of the complaints? And
21 I agree they amended to eliminate the causes of
22 action they refiled here rather than dismiss, that's
23 because they'd already voluntarily dismissed once.
24 If they dismissed again then they would be barred, so
25 they did this amended complaint to remove the causes

1 of action and then filed them here. And I think
2 there is sufficient evidence that the reason they've
3 done this, the reason for these maneuverings is to
4 avoided federal jurisdiction over claims properly
5 removed to federal court.

6 They cited a case where the supreme court
7 said, you know, you had notice. The fact that you
8 filed this into another cause of action, we're not
9 going to -- that we don't have a problem with that
10 because there was notice of the action, they've been
11 served. The key and distinguishing factor there is
12 it was filed into a civil action, which had been
13 initiated by the filing of a complaint. There is no
14 civil action here initiated by the filing of a
15 complaint. There's only a special proceeding.

16 And Leon Mead, while, you know, I think if
17 being overturned by the Nevada Supreme Court
18 invalidated an attorney's right to write books, none
19 of us would be able to write books about the law,
20 your Honor. I know I wouldn't. But Leon Mead wrote
21 Nevada Construction Law, and he's a neutral party to
22 this dispute. And the neutral party says a
23 foreclosure suit cannot be filed as a counterclaim to
24 a petition to expunge. And that may be just his
25 opinion, but it's an opinion consistent with the

1 Smith V Eighth Judicial District case. It's an
2 opinion consistent with the Nevada Rules of Civil
3 Procedure.

4 And I do believe that this is a very simple
5 issue, and it's probably a writable issue, if this
6 court does not dismiss this rogue pleading and allow
7 them to refile in accordance with the rules of civil
8 procedure. And that is the way that we think that
9 the court should come down today.

10 There is no forum shopping on the part of
11 Tonopah Solar Energy. Tonopah Solar Energy is from
12 Delaware, and they have a right to be in federal
13 court to avoid whatever bias might be against them as
14 an out-of-state defendant in state court. And they
15 properly removed the breach of contract action.
16 They're entitled to have that breach of contract
17 action heard in a federal forum. And their right to
18 have that done should not be subverted through these
19 types of maneuverings.

20 The only reason that they can claim there's
21 a parallel state court proceeding is because they
22 amended to remove their claims and refiled. You
23 can't create a competing state case in order to
24 subvert federal jurisdiction. It would render the
25 right to remove meaningless.

1 There was one more thing, your Honor, if
2 you'd just allow me to check my notes. I'm trying to
3 be brief here. And that brings us around to, just as
4 a practical matter, the idea that they cannot obtain
5 complete relief in federal court. As this court
6 knows, there's ancillary jurisdiction, there's
7 supplemental jurisdiction. If removal was proper at
8 the time of removal, then the federal court has a
9 right to consider whether it has supplemental or
10 ancillary jurisdiction in order to give complete
11 relief.

12 But even if the court were to believe that
13 they cannot get the decision in federal court on
14 their bond claim against Cobra, it really doesn't
15 alter the analysis, and here's why. I had a case a
16 few years back with Judge Denton in the Eighth
17 Judicial District. It was a case arising out of a
18 public works project in Clark County, and there was a
19 mandatory arbitration clause. The sub filed a
20 mechanics lien, as they had a right to do. We moved
21 to compel arbitration. And what Judge Denton did is
22 he says, okay, the arbitrators have jurisdiction over
23 the contract dispute. Go decide the contract
24 dispute, get an award and then come back here and
25 I'll enter a foreclosure on the lien and I'll award

1 attorney's fees under the statute, if proper, and
2 allows the parties, who have a right to have their
3 contract claims heard in arbitration, to have that
4 heard while still preserving the lien rights of the
5 plaintiff.

6 And this case can happen the same way. We
7 believe that the federal court has jurisdiction to
8 foreclose on a lien, foreclosure on a bond, grant
9 attorney's fees. But even if they don't, we will
10 not, and this is judicial estoppel, I'll represent to
11 the court, we will not raise any type of
12 jurisdictional argument. The amount of the claim on
13 the bond cannot exceed the amount they're owed on
14 their contract for labor and materials. It's one and
15 the same.

16 So it's just a ministerial matter to enter
17 judgement on the bond once the court, with proper
18 jurisdiction, decides how much is owed under the
19 contract. And whatever court enters judgment on the
20 bond, we agree will have authority to enter
21 attorney's fees under the statute, if allowed. And I
22 say "if allowed" because, as I told the court, I
23 won't mention an amount, I think that would be
24 improper, but there's an offer of judgment. If
25 there's an offer of judgment, and they don't get more

1 than the offer of judgement, we get our attorney's
2 fees and they get no attorney's fees under NRS 108.
3 And so it's not a forgone conclusion that someone is
4 going to have to decided how much attorney's fees
5 they get for foreclosing on the bond.

6 We would urge the court to go no further
7 than to look to see if under Smith V Eighth Judicial
8 District this document they filed into a special
9 proceeding was a complaint initiating a civil action,
10 or was it filed into a civil action already initiated
11 by a complaint. The answer is "no" and "no." It's a
12 rogue pleading. You strike it. They can start over
13 and then we can deal with all of these other messy
14 jurisdictional issues. Thank you, your Honor.

15 THE COURT: I'm just wondering if you can,
16 one more time, explain or give some authority to the
17 concept that these three causes of action: Breach of
18 contract, breach of covenant of good faith and fair
19 dealing, and NRS 624; is that right?

20 MR. ROBERTS: Yes.

21 THE COURT: That those actions were removed
22 to federal court, then the Brahma Group has attempted
23 to dismiss it in federal court and refile in the
24 state court, why is that improper? Why are they
25 forbidden from doing that, just so I have it here

1 maybe once more on the record. I'm inclined to think
2 that must be the law, but you're the one that would
3 know the law better than I on the subject.

4 MR. ROBERTS: Your Honor, let me cite the
5 court to a few cases. Resolution Trust Corp. V
6 Bayside Developers, 43F 3rd, 1230 at page 1238, Ninth
7 Circuit opinion which, quote -- remove the quotes
8 yet. Once a party removes a case, the federal
9 removal statute bars any further proceedings in state
10 court, quote, because the state court loses
11 jurisdiction upon filing of the petition for removal.

12 The Ninth Circuit in California ex rel
13 Sacramento Metro Air Quality Management District V
14 the United States, 215 F.3d 1005 at page 1011, Ninth
15 Circuit 2000, quote, it is impossible to obtain
16 judicial remedies and sanctions in state and local
17 courts once an action is removed to federal court
18 because removal of an action to federal court
19 necessarily divests state --

20 (Cellphone interruption.)

21 MR. ROBERTS: Sorry, your Honor, I
22 apologize. I set a call when I thought we would be
23 done here at 1:30 and I forget to turn off my ringer.

24 To continue, removal an action to federal
25 court necessarily divests state and local courts of

1 their jurisdiction over a particular dispute.

2 So I think that if the court, both based on
3 this law, and certainly what the court is familiar
4 with personally, if they had sued us for breach of
5 contract in this court, and we have removed that
6 claim to federal court, and they had dismissed it and
7 refiled again in your court, what would you do?
8 Would you think you had jurisdiction? Can you avoid
9 a remand -- a removal? Can you avoid seeking a
10 remand by just getting rid of the federal claim and
11 then trying again and then going back up to federal
12 court and saying, oh, no, no, they can't do --
13 there's a parallel state court proceeding. We filed
14 these claims back with Judge Elliott after they
15 removed and now they're two cases. You can't do
16 that.

17 So the only question for this court is does
18 it make a difference that they refiled them in Nye
19 instead of re-filing in Clark. And we've cited three
20 cases from other jurisdictions which are a little old
21 that says no, you can't do that kind of trickery.
22 Once the state courts are divested of jurisdiction,
23 it's not just the particular court it was removed
24 from, but it's all of the state courts in that state.
25 And that makes sense. We agree there's no Ninth

1 Circuit or Nevada law addressing that particular
2 issue, but it makes sense that you can't do this type
3 of gamesmanship simply to avoid a federal forum where
4 they don't want to be.

5 And they don't need to be here to get
6 complete relief because it is -- even if they can't
7 get jurisdiction over Brahma and the bond, it's a
8 simply ministerial act for this court to enter
9 judgement on the bond and award attorney's fees, if
10 we owe them anything under our contract, your Honor.

11 THE COURT: Thank you.

12 MR. ROBERTS: Thank you.

13 THE COURT: Anything else or can I move on?
14 But in the end, Mr. Roberts gets the last word.

15 MR. DOMINA: Understood.

16 THE COURT: Anything else? No? All right.

17 Well, Mr. Robert, I do appreciate, you know,
18 your explanation of those last two issues. And I
19 agree with you on the issue of once a claim, not
20 just, you know, part of a claim, but the whole claim
21 of those things are taken out and removed to federal
22 court, I don't think you can simply, well, let's move
23 to dismiss them and refile them in the state court.
24 That would vitiate the whole theory, you know, the
25 reason for, you know, removal to federal court. You

1 can't just do that on your own. This can't be right.

2 So as to these claims: Breach of contract,
3 NRS 624, and breach of the covenant of good faith and
4 fair dealing, since they were removed to the federal
5 court, I want the federal court basically to take
6 action. What I'm going to do is rather than just
7 throw them out, I want this case to move as
8 expeditiously at all possible in this department, if
9 it can, and, you know, I'm simply going to stay the
10 action in this court on those pending, you know,
11 let's see what the federal court does.

12 If the federal court agrees to divest itself
13 of those, fine. But if it feels that it wants to
14 take jurisdiction of those claims, then those claims
15 will be dismissed here. But at the moment we I think
16 stay and wait and see what the federal court does.

17 And I still do appreciate your explanation
18 of why it's okay to take a motion, let's say a motion
19 to foreclose or a complaint to foreclose, and then
20 file in with it a motion to expunge the lien, but you
21 can't go otherwise, you explained that, because a
22 motion to expunge is a special proceeding and it
23 isn't a complaint.

24 But I'm not going to rule in your favor on
25 that. I'm going to rule in favor of the Brahma Group

1 that they had a live expungement action here, because
2 I hadn't issued any written order on it, plus there
3 was still the pending, you know, motion for
4 attorney's fees. It wasn't dead. They still had a
5 live case here. And I believe that the reverse
6 should be allowed. It's appropriate under the
7 circumstances. And I adopt the rationale explained by
8 Mr. Peel and Mr. Domina.

9 So I want the, you know, that to survive and
10 would deny, you know, the motion insofar as it tries
11 to go after the foreclosure complaint. And I believe
12 it is truly a complaint, not a countercomplaint
13 that's somehow not a pleading. I think that was just
14 something that was put on there, but it really is
15 just the reverse of what's contemplated in the
16 statute, that it tries to take those two things, put
17 them together in the case to expeditiously, you know,
18 reach a conclusion in the best possible expedient way
19 here in court.

20 So I'm not quite sure how to word all this
21 but maybe I need help from Mr. Domina in terms of
22 what this -- what he wants this court to find in
23 order to keep that thing alive. But I am keeping
24 alive your, you know, all your claims with regard to,
25 you know, the proceeding against the bond. I think

1 that needs to be allowed. And what Mr. Peel said
2 makes sense that since you made that filing, you have
3 an adequate, you know, one and a half times the
4 amount of the bond for your claim so it meets the
5 statutory requirements, and therefore what you have
6 is really an action against the bond, not an action
7 to foreclose on the property anymore. You know,
8 that's not going to happen. And in a way it seems to
9 me, you know, that regardless of the federal claim,
10 if the Brahma Group can get satisfaction from the
11 bond, it seems like the other part is moot.

12 Anyway, Mr. Peel or Mr. Domina, if you
13 would --

14 MR. PEEL: I think I'll step up.

15 THE COURT: What sort of wording do you want
16 me to put into this to keep your claims alive?

17 MR. PEEL: I assume that your Honor is going
18 to prepare the order? Is that what you're intending?

19 THE COURT: No, I want you to -- of course I
20 want you to do it.

21 MR. PEEL: All right. So what I would say
22 is is that of course you're denying their motion to
23 strike and to dismiss, you're granting their motion
24 to stay but only as to the three causes of action.

25 THE COURT: That's correct.

1 MR. PEEL: That Brahma will have the right
2 to amend its complaint to remove the mechanics lien
3 foreclosure action as it pertains to the real
4 property.

5 THE COURT: Correct.

6 MR. PEEL: To increase the amount of the
7 claim against the surety bond that Cobra caused to be
8 posted, and that, again, those three causes of action
9 will be stayed, but otherwise the action can proceed.

10 MR. ZIMBELMAN: Richard, we need to attach
11 the rider as well, the rider to the bond to the
12 extent it's a --

13 MR. PEEL: Mr. Zimbelman brings up a good
14 point in that rather than go back and issue a new
15 bond, what Cobra did is it had the surety issue a
16 surety rider, which is basically just an amendment to
17 the underlying bond. And so that will need to be
18 attached to the amended complaint. Again, that would
19 resolve and from my perspective the things that I
20 understand the court has desire to address. Did I
21 miss anything?

22 MR. ZIMBELMAN: That's right.

23 MR. DOMINA: That's right.

24 MR. PEEL: Anyway, that's the gist of what
25 this order would present for the court's approval and

1 signature.

2 THE COURT: Mr. Roberts, does that sound
3 like, not what you agree with, but does that sound
4 like a reasonable conclusion as to what the court
5 believes is the correct ruling?

6 MR. ROBERTS: Your Honor, I believe it
7 sounds like a workable solution to implement opinions
8 expressed by the court. I would notice -- I would
9 point out that I think the court even misspoke or
10 forgot about a technicality, and that is these lien
11 expungement proceedings are over. The court's ruled.
12 They're over, and there is no claim against the bond
13 in these proceedings. There's only a lien
14 foreclosure action. Cobra is not a party.
15 Nothing -- they aren't a party. There's no claim
16 against the bond. You aren't allowing something to
17 proceed because it was decided before the expungement
18 proceeding.

19 This case is over, and they don't want to
20 foreclose the lien. They can't. They want to file a
21 complaint against a bond, and that hasn't been done
22 and these proceedings are over and we continue to
23 except, take exception to the court's ruling. But
24 having said that, I think that what's been proposed
25 by Mr. Peel implements your order as well as anything

1 I can come up with.

2 THE COURT: Okay.

3 MR. PEEL: I would just --

4 THE COURT: I'll go along with what you
5 said, Mr. Peel.

6 MR. PEEL: All right. Then I'll sit down.

7 THE COURT: Okay.

8 MR. PEEL: No reason to go further. Thank
9 you.

10 THE COURT: No, I accept the argument
11 presented by Mr. Roberts, but I don't approve of it.
12 I just understand that he has that position.

13 And then as to the next, is there a next
14 item?

15 MR. ZIMBELMAN: I think the motion to amend
16 has been resolved by way of this discussion we just
17 had, because what we'd be doing is effectively
18 amending our motion to amend on the fly to do exactly
19 what Mr. Peel suggested.

20 MR. ROBERTS: Our only objection to the
21 amendment, your Honor, is that you cannot amend a
22 rogue pleading, that the initial pleading is
23 improper, so you can't amend an improper pleading.
24 But the court has overruled us on that so we'll stand
25 by our objection, but I agree the allowing the

1 amendment follows from the court's order.

2 THE COURT: Okay. Great.

3 MR. ROBERTS: But there is one more thing
4 though that this brings up, your Honor, that I would
5 ask. As I mentioned, I think this is a pure legal
6 issue and there's no discretion to rule against the
7 Nevada Supreme Court opinion in Smith V Judicial
8 District. We're going to seek a writ on this, and I
9 would ask the court to stay the foreclosure action
10 until the court rules on the writ to avoid -- I'm
11 required by the rules to ask you for a stay before I
12 ask the court of appeals. And we will commit to the
13 court and the parties that we'll get that writ filed
14 within a week, and as long as we do that, I would
15 request that you stay what we believe to be an
16 extract judicial foreclosure action until that writ
17 is decided.

18 THE COURT: Well, I don't know that I can
19 take any action just on this oral presentation, but
20 Mr. Peel?

21 MR. PEEL: My response to that would be as
22 the attorney's fees, they certainly have the right to
23 seek an appeal of that issue pursuant to 108.2275.
24 But as to the rest of it that we've discussed this
25 afternoon and talked about and what the court has

1 indicated is its intended ruling, they don't have the
2 right to stay that part of the proceeding.

3 So based on that, and really what they're
4 seeking to do is to go to argue up on appeal
5 everything we've discussed rather than just the
6 attorney's fees issue, which is the subject of
7 108.2275. So based on that I would say that that's
8 an improper oral motion. If he chooses to bring it,
9 he should bring it as a separate written motion with
10 this court, or he can bring it with the Nevada
11 Supreme Court, if he so chooses, but it's improper
12 before this court.

13 THE COURT: Well, I won't act on it as an
14 oral motion at this time, you know, without the
15 benefit of briefing and the other side informally
16 just what they think. I think that's the appropriate
17 thing. I'm not going to prejudge your issue, but I
18 just don't think I'm going to do it. And if you can
19 get this thing going in a hurry, I can certainly do
20 something, but I'm leaving town, what, February 16th
21 for a month, so you won't get anything out of me
22 during that period of time.

23 MR. ROBERTS: Very good.

24 THE COURT: But in January I'll be -- okay.

25 MR. KILBER: Your Honor, Jeremy Kilber on

1 behalf of Cobra. I did have a housekeeping issue,
2 just to clarify. Are we staying the present
3 complaint that is on file in this action, because I
4 believe we were named, and we would have an answer
5 due if that's the operative pleading. And if we're
6 staying those causes of action, then we wouldn't have
7 an answer due.

8 THE COURT: I signed this stipulation and
9 order to continue hearing on H & E --

10 MR. PEEL: That's for H & E.

11 MR. KILBER: That's for a different party,
12 your Honor.

13 THE COURT: -- to intervene --

14 MR. DOMINA: Cobra was only named on the
15 bond.

16 MR. ZIMBELMAN: I believe I can answer your
17 concerns. The court has granted us the ability to
18 amend our complaint to --

19 THE COURT: Right.

20 MR. ZIMBELMAN: -- attach the rider and
21 increase the claim on the bond. At that point you'd
22 have additional time to file your answer, because it
23 would be in the pleading. So and we'll of course
24 work with you, grant you any reasonable extension
25 that you may require.

1 MR. PEEL: And I've already given -- give me
2 your name again.

3 MR. KILBER: Jeremy.

4 MR. PEEL: -- Jeremy -- Jeremy's partner,
5 Mr. Crisp (phonetic), I've already given him an
6 extension in which to answer until after this
7 proceeding is concluded. So they've already got an
8 extension. We're not asking them to respond to the
9 existing complaint. Instead we'll amend and then at
10 that time we'll have whatever course that you've got.

11 MR. KILBER: Perfect. All right. Just
12 making sure. I don't want to miss the filing.

13 THE COURT: Okay. All right. Well, thank
14 you very much. And the court will stand in recess.

15 MR. PEEL: Thank you very much.

16 MR. ROBERTS: Thank you for your time, your
17 Honor.

18 (Thereupon the proceedings
19 were concluded at 2:14 p.m.)

20 * * * * *

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

3 SS:

4 COUNTY OF CLARK)

5 I, Deborah Ann Hines, certified court
6 reporter, do hereby certify that I took down in
7 shorthand (Stenotype) all of the proceedings had in
8 the before-entitled matter at the time and place
9 indicated; and that thereafter said shorthand notes
10 were transcribed into typewriting at and under my
11 direction and supervision and the foregoing
12 transcript constitutes a full, true and accurate
13 record of the proceedings had.

14 IN WITNESS WHEREOF, I have hereunto affixed
15 my hand this 21st day of December, 2018.

16

17

18



19

Deborah Ann Hines, CCR #473, RPR

20

21

22

23

24

25

#	-	96:3,9 97:14	14 43:21	2.3 17:18
#473 1:24	---ooo--- 3:2	108.2453 97:10,21	14th 64:17	20 17:15,16 19:10 104:14
\$	0	10:04 1:20	1520 1:16	20-plus 13:23,24
\$12.8 5:22	02 17:14	10th 110:12	15th 63:13,19	200 2:13
\$13 10:21 12:11 35:5 36:22 54:5 107:9	03A 18:2	11 1:19 3:1	16th 69:9 129:20	2000 119:15
\$250 14:15	1	113 43:6	17 65:24	2003 13:9
\$30,000 36:23	1 66:23 96:3, 10 97:15	1140 2:18	17th 66:15	2005 13:9
\$400 13:22	10 66:1	12 26:10	19 49:6	2008 15:4
\$425 13:4,21	1005 119:14	12,859,577 65:3	19,289,366 68:17	2009 25:13
\$700 12:25	1011 119:14	1230 119:6	1997 43:7	2010 85:7
\$7500 5:12	108 41:8,15 45:16,24 112:11 118:2	1238 119:6	19th 62:15	2018 1:19 3:1 25:10,16 26:10 62:4,5, 7 65:24 67:19 110:12,13,17
\$78,417 5:9	108.2275 5:1 6:7 79:8,14 88:16 128:23 129:7	12A 87:3	1:30 119:23	206 25:1 33:2
\$78,417.34 37:20	108.239 66:23	12th 65:6 110:13	1:35 104:20	206.9 37:18
\$80,000 21:7	108.2421	13 65:2	1st 64:13	20th 110:20 113:1
		1343 43:7	2 1:2	215 119:14

21st 17:20 66:22	375 35:25	60 54:20 101:14	2:14	9
2275 6:9,16	39348 1:1	624 66:13 105:19 108:21 118:19 122:3	72 19:1	9-10-2018 110:18
24 65:11 95:6	3rd 119:6		75A 44:19	950 43:7
24th 62:24	4	6385 2:5	7A 43:15,24 73:14,18,24 88:4 90:13 99:7	9th 62:4
250 13:4 25:11	400 2:5 23:14	66 76:8		A
25th 67:19	41 19:22	68 19:1	8	A.M. 1:20
27th 71:24	425 23:13 35:20,25	6th 64:8	8.5 26:15,23	abeyance 88:10 103:13
280 43:7	43F 119:6	7	80 18:23	ability 7:21 32:5 36:11 107:17 130:17
2:14 131:19	5	7 73:5 88:20, 21,23	81 88:20,23	able 34:5 56:13,14,21 58:18 68:25 83:5 88:19 95:18,20 98:8 107:5 114:19
3	5 79:8,14	7,000 38:19	81A 88:7	absence 81:9
3 17:16 44:11 112:9	5.5 20:1	70 22:12	89052 2:24	absent 95:3
30 19:3 22:13 40:25 113:7	514280 1:25	702 326-2399 2:24	89060 1:17	absolute 97:15
30-day 41:2	59 28:19	702 836-9800 2:19	89074 2:13	
300 2:18	59.9 20:12	702 938-3809 2:6	89118 2:6	
350 14:17 36:1	6	702 990-7272	89144 2:19	
	6 5:1		8th 63:22	

absolutely 27:19 47:18 59:21	across 19:3, 10 22:12 26:25	90:2,9 91:8, 13 92:1 93:12,18 95:12 96:13, 25 97:25 99:9,18,21 100:11,20 102:10,12 103:9,14,23 105:25 106:10,15,16, 22,23 109:13 110:22 111:12 112:4, 9,10,12,13, 15,17,21,24 113:3,6,22 114:1,8,10, 12,14 115:15, 17 118:9,10, 17 119:17,18, 24 122:6,10 123:1 124:6, 24 125:3,8,9 126:14 128:9, 16,19 130:3,6	actually 17:8 19:9,13 21:12 32:9 52:12 63:15 76:20, 24 82:15 83:6 86:3 93:17 95:25 108:3 109:18	121:1
abstain 69:13	act 66:14 121:8 129:13		ad 58:25	adequate 34:12 124:3
absurd 22:16	acted 24:23		add 68:21 78:16	adjudicate 48:21 107:2
accept 39:16 127:10	acting 6:24 59:15		added 17:23 19:20 93:23	adjudicated 48:19 86:16
acceptable 28:3 39:5 53:18	action 40:21, 24 41:1,4,7, 10,14,20 42:9,15,17 44:11,13,14 45:20,22 46:2,10,16 48:21 50:9 51:21 54:10 55:8,9 61:11, 25 62:11,12 63:7 64:14 65:15 66:2,6, 17,25 67:3,6, 25 68:9,13, 21,23 70:1,2 72:13 74:7,15 75:4,14,15, 17,19,20 76:19,24,25 78:20 79:10, 13,16,19,22 80:24 81:5,6, 10,14 82:2,8, 18 83:10 84:11,12 86:10,12 89:3,8,18	actions 48:20 68:4 76:16 88:17 118:21	address 72:6 105:3,15 107:4,23 125:20	adjudication 108:1
accompanied 87:25			adding 85:20	admission 19:4
accomplishes 79:6			addition 18:22 69:15 95:19	admittedly 67:20
accordance 46:20 51:4 115:7			additional 39:9,21 130:22	adopt 123:7
achieve 20:10			addressed 21:11 45:10 86:19	advance 53:12,16
achieved 15:24		activities 26:8 27:6	addressing 76:11 107:3	adverse 54:23 71:10
acknowledge 28:14 112:18		acts 72:22 88:3		advised 22:2
acknowledge d 94:19 107:21		actual 24:20 52:16 65:2 100:10		advocate 8:1
				advocate's 7:21 36:11
				affecting 8:13

afoul 88:22 94:11	42:5 62:9 66:16 67:22, 23,25 68:1,4, 6 69:24 71:11 75:21 78:21 96:11,14,25 97:16,17,22, 25 98:4 106:3,18 107:7 111:12 115:13 116:14 123:25 124:6 125:7 126:12, 16,21 128:6	95:1 122:12	allegation 19:22	60:16 66:25 67:2 69:16 71:19 72:16 73:8 75:5 77:22 79:16 82:19 83:5 94:10 113:23 118:10 131:1, 5,7
after 40:25 42:3 46:17 51:2 62:8,13 65:13 66:1 67:9 68:15,20 69:19 84:20 92:23 98:24 104:8 110:21 120:14 123:11 131:6		AHAC 96:21	alleges 111:13	
afternoon 53:8 104:23 128:25	ago 15:16 57:12 58:6 64:10	ahead 93:11 106:13	allow 27:25 28:2 45:25 47:24 106:13, 14,18,24 107:7 112:6 115:6 116:2	also 11:15 17:23 28:1,23 40:23 58:3 62:21 66:19 82:20 91:24 109:4 110:15
again 7:6 8:21 21:7,19 28:22 46:5 52:4,9 59:22 60:20 64:4, 16,19 66:3 68:20 70:5 72:12,19 73:11 77:13 78:19 79:1,21 82:3,20 84:14 85:13 86:18 87:24 91:10, 15 92:5 95:16 98:5 103:2 113:24 120:7, 11 125:8,18 131:2	agree 30:19 39:4,25 41:9 65:20 86:25 111:2 113:21 117:20 120:25 121:19 126:3 127:25	all 3:7,18 4:4 6:22 11:4,5 16:15 18:5 19:4 22:4 23:4 25:12 27:9,16 29:15 32:2,23 33:8, 25 34:13,16, 20 36:18 37:1 39:17 51:3,24 53:5 55:24 57:20 58:19 59:5 62:1,7 71:2 72:23 73:16 74:5 75:25 76:3 77:9 81:21 96:25 98:15 99:6 100:15, 17 101:22 104:2,20 107:15 118:13 120:24 121:16 122:8 123:20,24 124:21 127:6 131:11,13	allowed 32:15 41:12 43:1,25 44:20 45:3, 13,15 46:1 112:23 117:21,22 123:6 124:1	alter 116:15
against 5:20 10:12 11:13 15:9 32:10	agreed 34:1 39:22 105:2		allowing 105:9 109:15 126:16 127:25	although 25:21 48:20 107:20
	agreement 28:3 95:3		allows 112:4 117:2	always 13:21 37:15 38:7 64:4 78:23
	agreements 100:23		almost 17:4 35:5 36:2	amend 4:2,6, 7,10 68:25 106:14 113:20 125:2 127:15,18,21, 23 130:18 131:9
	agrees 90:15		along 70:21, 24 127:4	amended 8:21 64:25 65:4 67:14, 16,20,21
			already 31:9 45:20 54:23 56:9 58:4,8	

68:18,20 69:5,7 72:18, 22 73:1,20, 22,23 75:16 78:15 79:6 80:7,10 88:1 89:3,4,12 105:24 113:21,25 115:22 125:18	17 39:1,4,8, 14,20 67:13 68:2,13,14, 16,18 72:2 86:5 106:19 109:18 117:12,13,23 124:4 125:6	51:3 56:1 58:7,24 83:7, 24 114:8	119:22 appeal 128:23 129:4	14:9 16:19 53:9 80:16 106:13
amending 30:2 127:18	analogy 34:11 58:25 105:6	answering 109:17 Anthem 2:23	appeals 128:12 Appearances 2:1	appropriate 4:22 12:5,6,7, 12 13:25 15:22,23 20:9 22:18 34:2,19 37:2 38:11 42:8 44:25 59:18 84:17 123:6 129:16
amendment 17:24 30:5 105:23 125:16 127:21 128:1	analysis 7:10 16:3 19:16,17 21:6 22:24 34:10 77:24 78:4 98:12 101:19 116:15	anybody 11:14 13:10 36:16 87:11	appeared 63:7 appearing 5:14	appropriately 8:7 12:22 21:17
amendments 8:22 29:7,22, 23 30:3	analyze 7:13 9:23	anything 15:17 32:11 55:17 66:7 77:6 82:13 92:9 101:1 121:10,13,16 125:21 126:25 129:21	appears 60:17 90:8 107:25	approval 125:25
America 10:13	ancillary 116:6,10	Anyway 38:9 124:12 125:24	applicable 77:11 96:4,7	approve 127:11
American 94:24 96:22	and/or 40:8 88:13		application 88:24	approved 3:25
among 55:24	animal 44:21	anywhere 31:12 48:22 50:17 78:25 99:25 101:7	apply 44:10	approximatel y 5:11 54:5 65:2
amount 12:5, 6,7 20:9 25:18 26:2 30:20,21 31:23 32:11 33:5,7 38:14,	Ann 1:24		applying 33:3	April 62:4,15, 24
	another 8:8 10:5 18:6 21:13 24:1 28:6 38:16,22	apologize 20:24 22:9 53:11,16 72:2	appreciate 107:11 121:17 122:17	arbitration 116:19,21 117:3
			approach	arbitrators

116:22	88:5 91:9 94:7 117:12 127:10	20:15,17 47:2 60:18 63:25 64:16,24 74:20 112:23	72:6	128:22 129:6
areas 36:18			attacked 37:8	attorneys 7:24,25 8:3 12:21 17:2 25:11 34:13 35:7,9,20 37:13 62:14 111:11
argue 4:22 6:19 12:16 16:25 18:14 21:24 28:21 29:15 45:7 70:19 82:20 91:10 129:4	arguments 5:13 8:17 9:1 10:12,15 19:18 21:8 28:13 32:22 42:20 47:23 61:18,20 72:1	assigning 64:18	attempt 5:20 23:19 42:6 66:7 101:17	
		associate 25:11 36:1	attempted 112:15 118:22	attributed 38:10
argued 4:21 8:24 9:7,13 19:21 20:12 78:2 94:5	arise 11:18 55:9	associates 14:3,4,5	attempting 102:2	August 64:17
	arising 4:24, 25 116:17	assume 29:11 32:4 45:7 124:17	attend 20:13	authoritative 83:15
arguing 10:12,14 21:3 23:12 32:13 42:13 73:25 81:7 88:15	Armstrong 105:7	assuming 62:6	attention 12:1 16:20 37:10, 11 43:5 71:6 92:8 96:3	authorities 9:18 21:21,23
	around 67:7,8 106:14,21 116:3	Assurance 96:22	attorney 4:23 6:8 8:1 25:4, 20 28:8,9 83:17 85:15	authority 52:7,19 117:20 118:16
argument 9:6,12,14,20 10:16 12:1 13:13 16:4 17:7 18:23 19:23 21:18 23:18 26:11 28:20 30:16 32:14 34:9,14 45:9,16 46:7 48:2 49:8 52:13,22 53:15 69:21 70:5 71:4,17 73:13 77:8,15 81:20 83:10 85:18 86:23	aside 90:7,11	attach 30:4 125:10 130:20		authorization 55:22
	assert 43:13	attached 8:18 29:25 30:6,14 84:4 87:14 125:18	attorney's 3:15 4:12 5:3 6:13 24:9 25:8 28:6 38:12,14 41:23,24 54:15 56:12, 14 109:3 114:18 117:1, 9,21 118:1,2, 4 121:9 123:4	authorized 44:24 96:10
	asserted 36:1 44:6,16 66:10,18,19 67:22 98:23	attachment 83:6		authorizing 48:16
	assign 89:5	attack 40:11		authorship 16:18
	assigned			

automatic 50:22 76:14, 15 78:8 101:11	award 5:2 7:18 34:19 38:25 56:14 116:24,25 121:9	111:16 112:8 116:16,24 120:11,14 125:14	65:10,21 66:3 69:11 70:5 71:20 74:24 91:23 95:23 98:2,7 101:19 120:2 129:3,7	71:14
automatically 103:22	awarded 24:14 39:9	background 58:5	basically 35:3 38:16 60:7 61:11 62:16 66:18 68:3 71:1 75:3 79:9 80:22 81:3 85:20 92:20 95:11 101:3 122:5 125:16	before 1:15 3:21 20:14 25:13,15 28:21 33:19 39:11 40:20 46:19 56:2 63:1 68:9 70:7,8,9,16 76:25 82:23 99:10 103:1 105:3 106:6, 25 110:13 126:17 128:11 129:12
avail 64:5	awarding 30:16 39:13	backtrack 31:5		
available 109:8	awards 23:22	backup 108:18 109:5		
AVENUE 1:16	aware 57:8	bad 92:9		
average 24:16,17 25:19	away 32:3 71:9 73:1 101:3	balances 19:12	BASIN 1:16	began 17:17
Aviator 31:7	<hr/> B <hr/>	banking 55:3	basis 6:18 21:8 37:6 78:14 82:25 95:25	begin 48:14, 15 98:1
avoid 42:25 52:3 53:5 77:18 78:12 82:25 93:9 94:3 108:1 109:17 110:6, 9 115:13 120:8,9 121:3 128:10	back 9:22 15:4,6,12 20:17,22 28:22 29:1,21 41:17 47:16 51:7 57:11 58:20 59:24 60:3 65:19 71:3,25 76:19,21 79:24 83:2 85:7 89:8 104:19 105:13 108:24 110:22	bar 76:14,15 78:9	Bayside 119:6	beginning 13:18
avoided 47:25 75:7 114:4		barely 34:11	bearing 15:16 76:9 86:17	behalf 18:12 22:14 102:2 130:1
avoiding 113:19		barred 88:1 113:24	became 37:13	being 12:22 13:5 18:12 29:5 45:8 66:8,9 92:1 114:17
		bars 119:9	becomes 26:5 28:4	belief 65:11, 22 98:7
		base 65:12	beef 14:3	
		based 4:6 8:17 39:17 42:10 56:6		

believe 7:1 8:6,7 9:5 12:5 22:5 26:24 32:20,23 33:6 35:18 39:7 42:22 46:7,11 48:9,17 50:7, 15 52:21 60:25 61:17 63:18 84:9 85:17 97:14 115:4 116:12 117:7 123:5, 11 126:6 128:15 130:4, 16	106:12 107:17 109:4 123:18 better 6:11 22:3,4 50:5 104:18 119:3 between 13:4 20:21 57:22 65:11 88:13 99:22 100:6 beyond 11:16 35:20 36:5 111:4,13 bias 115:13 big 10:3,9,10, 22 12:9 19:15 36:8 37:18 76:1 bigger 16:2,3 34:8 biggest 12:15 14:3 107:8 bill 18:16 25:22 26:4 27:13,18,19, 22,24 32:15 34:24 35:1 billed 12:18 18:3,5 19:5,	13 22:21 25:18,20 billing 16:9 17:1,3,6,11, 12 18:10,24 19:14,24 22:1,7 25:24, 25 27:1,3,8, 25 28:2 35:25 37:19 billings 18:7 bills 13:21 26:2 108:11 binding 43:3 83:14 85:4 bit 13:2 28:11 53:15 55:12 63:12 64:7 69:3,4 black 78:5 Black's 44:3 blanche 23:22 blind 109:5 BLM 8:18 30:1,6,14 block 16:25	17:3,5,12 18:10,16,24 19:5,13,14,24 25:24,25 26:4 27:1,3,25 28:2 blocks 6:3 blush 107:24 board 19:3,10 22:12 26:25 bogus 71:1 bond 54:9,10, 14 56:9,15, 18,19,21,22 60:22 63:19 64:12 67:12, 18,23 68:1,6, 7,10,12,16,17 71:16 75:21 78:22 95:17 96:5,9,15 99:24 100:4, 20 101:1,4 106:3,17,19, 25 107:7 109:25 116:14 117:8, 13,17,20 118:5 121:7,9 123:25 124:4, 6,11 125:7, 11,15,17 126:12,16,21 130:15,21	bonded 67:7, 8 bonds 57:25 books 114:18,19 both 8:2 9:22, 24 15:10 18:17 33:21 43:2 64:22 120:2 bothered 81:17 Boulevard 2:5 Boulware 47:21 48:19 51:12,17 bounce 29:11,14,16 bounced 15:6 box 70:16 bracket 24:3 brag 13:25 Brahma 1:10
--	---	--	--	--

3:5 4:12 8:24 10:25 29:25 35:2 37:13 38:12 40:18 42:4 48:8,13 49:19 54:1,3 55:4 57:22,23 58:13,23 62:2,8 63:1,8 65:11,12,23 66:4,16,23 67:2,4,9,14, 19 68:8,20 69:10,24 70:12 71:21 72:13,18 78:25 79:3, 21,25 89:17 94:15 95:16 96:9 97:16 102:2 106:13 108:4 111:3, 5,9,10 113:1, 5 118:22 121:7 122:25 124:10 125:1	18 75:19 76:23 100:11 105:17,18 115:15,16 118:17,18 120:4 122:2,3 break 53:20 104:7,15,17 105:9 bridge 103:3 brief 5:12 9:11,22 11:11 16:11,12 17:17,18,22 19:8,21,23 20:2 21:22 23:4 61:2,21 71:7 78:2 84:4 85:5 105:14 116:3 briefing 20:7 37:1 81:23 82:20 83:7 129:15 briefings 83:23 briefly 20:19 briefs 21:19 bright 70:10 Brimley 2:12	24:23 bring 6:10,15 10:23 34:2 41:10,13 58:24 59:22, 24 71:6 75:16 78:7 96:10,13 129:8,9,10 bringing 69:1 brings 14:8 116:3 125:13 128:4 brought 8:15 22:15 31:8 66:18 70:1 74:8 90:10 106:1 108:7 Brunzell 7:10, 12,19 8:8 10:5 21:5 36:10 38:9 39:17 bucks 68:17 bugging 27:14 building 38:5 built 31:16 bump 103:25	bunch 3:12 burden 60:19 107:9 bus 85:14 business 87:15 <hr/> C <hr/> calculation 26:22 calendar 101:13 California 119:12 call 35:3 60:5 73:2,3 92:8 102:3 119:22 called 15:3 42:18 67:21 72:19 80:12 102:13,18 calling 73:25 74:1 came 3:21 8:16 13:16 15:5 20:14,22	24:1 28:20 74:8 80:23 86:5 87:11 110:22 can't 4:7 19:14 26:7 38:5,7 45:14 49:22 50:17 56:8 58:12,14 59:15,25 71:14 73:23 81:4 82:12,14 83:10 84:11, 13 86:6,12 87:6 90:19,22 97:10 98:6 99:25 100:3 101:8 102:17 108:24 113:8 115:23 120:12,15,21 121:2,6 122:1,21 126:20 127:23 cannot 40:23, 24 51:21 52:3 60:21 71:15 86:10 114:23 116:4,13 117:13 127:21 capable 73:11 care 24:3,5 34:9,12,14
---	--	---	--	--

71:12	71:3,16,25	7 91:12 92:6,	Center 2:18	14:15 15:21
	72:3,16 73:10	7,19 93:21		24:12 35:22
carte 23:22	74:3,4,6,16	103:8 119:5	central 29:24	
	75:5 76:5,12,	120:15,20		charged
Cary 2:10	19,21 77:2,9,		certain 13:16	23:20 24:20,
53:25	14,16 78:6,9	casework	31:23 54:13	21
	79:17,20	35:14	90:5 102:9	
case 1:1 3:5	80:1,3,6,14,			charging
6:2 7:1,5,10	18,20,24	catchall 88:7	certainly 9:24	25:15
8:5,19 10:24	81:1,4,16		10:1,9 11:19	
11:18,22,23	82:2,10 83:5,	caught 56:22	13:3 27:8	cheapest
14:14,20,23,	7,11 84:7,12,		30:11 33:4	59:17
25 15:3,4,14	19 85:6,7,17,	cause 62:11,	34:21 35:2	
18:13 19:7,9	19,20 86:2,	12 82:18	40:22 53:10	check 116:2
20:14,17	10,17,21,22,	94:17 114:8	56:20 86:13	
21:13 22:5,6	24 87:7,23		102:3,24	Chemerinsky
24:19,25	89:5,7,8	caused 125:7	107:24 120:3	92:11
25:12,15,21	90:16,19		128:22	
30:15 31:3	92:17,21,22,	causes 42:15,	129:19	choose 50:16
32:12 33:25	24 93:15	17 46:10	cetera 4:2	
34:3,5,15	94:22,24	75:16,19 90:9		chooses
35:12,18 38:6	95:20 97:6	91:7,12,25	challenge	129:8,11
40:13,21	98:1,13,14,	93:12 99:9	83:2	
42:11,12	18,19 100:11	100:10 103:8,		chose 6:20
43:7,8 44:8,	101:6 102:6,	14,22 105:25	challenging	46:9,11,22
10 46:25	19 103:17,21	106:10,15,22,	34:23	52:23
47:7,22 49:15	112:23 114:6	23 113:21,25	chance 21:15	chosen 48:1
51:11,17	115:1,23	118:17		51:13
52:13,15	116:15,17	124:24 125:8	changes	
55:11,14	117:6 119:8	130:6	13:17	Christmas
56:4,8 57:9,	122:7 123:5,	cautious 24:6		49:12
13,17 58:4,5,	17 126:19		character 8:8,	chunk 19:15
8,9,18 59:18	cases 7:2,12	CCR 1:24	12 10:6 36:19	
60:2,8,9,16,	9:18,21	cellphone	charge 12:21	circuit 76:6,
18,20 61:9,16	15:18,20 19:8	119:20		
62:25 63:10,	24:13 25:12			
23,24,25	38:2 49:23			
64:16,18,23	50:11 52:6,14			
65:18 67:1	55:21 61:5			
69:13,15,17	64:3 71:13			
70:20,21,24	74:20 76:4,6,			

12 78:1,10 92:7,10,14, 15,18,19,20 119:7,12,15 121:1	25 45:3,20 46:1 88:9,14 112:9,10,12, 15,16,17,21, 24 113:3,6,15 114:12,14 115:2,7 118:9,10	11:17 101:22	clarify 130:2	17,19 27:12, 14,20 28:3 36:21 65:20 102:5 106:12 107:10
circumstance 31:22 32:24 101:6 105:11		claiming 63:15 97:18 100:8	clarity 22:8	
			Clark 46:11, 12,16,20 50:9 56:23,24 58:2 61:24 65:9, 13,16,23 66:2 75:13 76:19 77:5 78:22 83:17 90:3 95:9,10,12,15 97:7 98:1,3,9 110:17,21 116:18 120:19	client's 75:8 107:16
circumstance s 123:7	claim 10:21 12:11 18:15, 16 35:5 36:22 42:16 44:3 54:9,10,14 56:9,12,15, 18,19,21,22 60:22 61:13 63:19 67:14 75:12 78:16, 17 84:7 90:1 95:10 96:25 99:24 100:7 101:1,4 106:2,3,18,25 107:7 115:20 116:14 117:12 120:6, 10 121:19,20 124:4,9 125:7 126:12,15 130:21	claims 11:2 15:7 43:1 44:7,17 47:5, 8,11,13,16,19 50:13,17,19 51:2,11,22,24 52:4,19 54:4 55:8 56:23 60:23 63:19 65:13 66:8, 10,20 67:22 68:21,23 69:6,25 71:16 72:24 75:19 76:24 78:6,16 89:19 90:3,5 93:24 94:9 95:14 96:1,11 98:8,10,16,23 99:18 100:13 102:9,10,14, 15 103:5 105:17,20 107:6 114:4 115:22 117:3 120:14 122:2, 14 123:24 124:16		clients 12:21 16:24 22:2 27:14,24,25 28:1 35:16 58:7
citations 11:12				closed 80:21, 24
cite 62:6 76:5 80:14 83:11 85:18 92:19 94:22 119:4			clause 40:19 65:23 94:16 95:6,7 97:3 116:19	Cobra 2:21 57:25 58:12 64:8,11 67:6, 7,23 68:15 72:25 79:2 95:17 96:21 106:20 116:14 125:7, 15 126:14 130:1,14
cited 7:2 15:18,20 19:7,8 24:13 25:9 43:15 47:1 52:5,13, 14,19 76:4 85:5 92:6 114:6 120:19			clauses 95:1	
			clear 42:24 53:1,4 54:2 78:20 79:4 101:13 105:16	
citing 15:15 44:2	claimant 5:4 96:13 97:11 111:6,10		clerk 89:5	collaborated 64:23
city 36:8		clarification 50:8	client 5:22 7:7 14:2 15:23,25 20:11 22:14, 22 23:13 24:24 26:12,	collaboration 16:6
civil 41:7,13 42:8 43:2 44:11,13,14,	claimant's 86:4 96:16,23	clarified 30:4		Colorado 60:5 61:2,6 69:11 70:3, 10,19,24
	claimants			

comb 18:24	128:12	111:12	12:15 73:22 113:20	8:23 106:9
come 28:22 29:1 37:23 54:13 60:3 68:15 71:3 87:18 90:22 99:4 112:15 115:9 116:24 127:1	common 38:1	complaint 14:6 40:17 41:9,13 42:7, 9,18 43:16, 19,22 44:12, 13,16 46:4, 19,22 62:9, 10,18 63:4,5 65:23 66:23 67:4,5,9,20 68:21 69:5,7 72:14,16,19, 22,23 73:1,3, 6,9,18,20,23 74:1,2,5,10, 17 75:11,15, 20 79:6,24 80:7,10,19 81:14,18,25 82:1,4,5 83:5 84:15,18 88:2,4 89:3,4, 12 90:10,12 91:4,8 99:5,6 105:24 106:14 110:16,19,23 111:2,4,8,11, 23,25 112:5, 10,13,14,22 113:25 114:13,15 118:9,11 122:19,23 123:11,12 125:2,18 126:21 130:3, 18 131:9	complete 55:24 86:17 101:2 116:5, 10 121:6 completely 50:21 52:6 57:8 60:15 76:12 complex 10:4 28:14 31:3 53:5 complexity 8:14 28:17 29:22 30:10 compliance 88:3 complicated 28:15 29:8 40:14 comply 88:21 concept 118:17 concern 73:2 77:21 90:8 107:4,8 concerned	concerning 14:13 concerns 12:16 21:11 106:8 130:17 concluded 131:7,19 concludes 22:11 52:13 conclusion 112:2 118:3 123:18 126:4 concurrent 75:18 conduct 24:5 confer 3:21 conference 26:14 conferring 95:4 confers 95:7 conflict 88:12 Congress
comes 55:18 60:25 90:21	company 1:7 10:8 16:17 17:2 96:22 108:7			
coming 5:14 29:20 37:20 38:15	compare 7:1 32:5			
commence 44:12	comparison 7:4			
commenced 44:11 64:14 66:25 67:2 75:6 76:25 77:1 79:16 80:20,23 82:10,19 83:6,11 84:12 86:11 92:23 112:9	compel 116:21			
commencing 82:2	compelling 61:20			
comment 107:23	compete 48:12			
commit	competent 96:16			
	competing 48:12 115:23			
	complain 42:5			
	complains	complaints		

31:9	45:11	105:18 107:6	convince	25
connection	contains	108:5 115:15,	59:23 83:23	
30:18 113:16	18:17 43:19	16 116:23	convinced	counter-
consent	contemplated	117:3,14,19	48:5	claimant
46:15	123:15	118:18 120:5		111:6,9
consider	contract-based	121:10 122:2	copy 33:16	counter-
10:11 11:4,6	45:1		Corp 119:5	defendant
19:19 50:19	contend 45:1	contract-		111:7
109:5 116:9	context 24:1	related	corporate	counter-
considered	continuance	106:22	17:10	defendants
3:13 16:22	37:24	contractor	corporation	111:12
consistent	continue 3:8	64:9	1:11 49:18,19	counterclaim
114:25 115:2	26:10 119:24	contractors	58:13,16 66:4	43:17 66:16
	126:22 130:9	5:25 15:10	79:2	84:10,14,15
consolidate	continued	contracts	correct 20:4	114:23
74:23 75:3,7	25:13 38:3	57:20	32:18 33:17	counterclaim
83:1 84:19	contract	contractual	57:1 76:18	s 44:6 66:18
89:8	42:14,17	100:6	124:25 125:5	countercompl
consolidation	46:10,12,16,	contrary	126:5	aint 42:19
84:20	20,21 54:4	52:20	correctly 40:6	44:17,19 45:2
construction	57:21 63:19		106:2	46:3 47:12,20
13:23 36:16	65:11,12	contrast	costs 4:23	53:2 67:21
60:12 82:24	66:10,11,13,	101:2	5:3,10 6:13	72:15,20,21
83:13 85:11	19 67:22		23:19 38:12,	73:2,6,13
114:21	68:21,23	control	15 54:15	109:12
construe	69:25 75:19	103:20	56:14	111:14
45:14 112:14	76:23 78:16	convenient	counsel	123:12
construed	94:16 95:13	104:11	17:10,16	countervailin
	96:1,11		40:18 57:4	g 21:2
	97:11,18		60:1 62:13	counties 77:7
	98:3,10 99:22		73:16 86:24,	98:15
	100:11,18			

country 77:10 92:15	3:3,23 4:4,8, 11,17 5:2,9, 17 7:9,16 8:15 9:18 12:25 14:12, 17,22,25 15:5 17:5,8 18:10, 21 19:11 22:24 23:3,8, 16,20 24:13, 23 25:9,17 26:6,16,20,21 27:4,7 29:9, 24 30:7,20,23 32:17,21 33:1,7,8,11, 14,22 34:20 36:23 37:23 38:21,24 39:5,10,13, 16,21,23 40:2,5,16 41:18,22 42:7,10,13, 14,15,25 43:4,6,7,10, 11,15,23,25 44:2,12 45:1, 5,23 46:6,8, 19,24 47:4,9, 10,14,16,18, 21,23 48:3,4, 5,7,10,14,15, 18,20 49:10, 13,16 50:2,5, 10,11,12,16, 18,20,24 51:5,7,10,13, 16,20,22,23, 25 52:5,9,11, 14,16,17,23, 24 53:3,7,10,	19,23 54:3, 19,25 55:12, 13,16,17,19, 20,25 56:2,6, 13,17,24 57:8,13,17 58:10,18,19, 20,22 59:6, 10,24 60:3,6, 7,8,9,11,17, 21 61:1,5,11, 13 65:24 66:3,9,17 68:15,22,23 69:4,5,8,11, 12,16,22,23 70:1,6,7,22 71:4,5,11,12, 16,18,19,23 73:22 74:15 75:10,13,17, 23 76:15,16, 17 77:3,4,6, 16,17,19,20, 21,23 78:6,7, 8,17,18,23 80:16 81:8,15 83:15,24 84:18 85:2,3, 7,8,21 86:3,5, 24 87:11 89:1,3,5,10, 13,16,18,20, 24 90:4,10,14 91:4,11,13, 14,15,18,19, 21,24 92:9, 13,22,24 93:1,3,5,6,10, 11,13,16,17, 18,19 94:7,8, 10,25 95:11,	18,21,23 96:16 97:19 98:12,14,20, 24 99:3,13, 14,17 100:1, 20 101:8,9, 13,19 102:1, 9,16,22,24 103:2,3,6,15, 16,19,23,24 104:1,2,5,7, 10,12,17,21, 23 105:3,5, 16,20,25 106:4,5,6,11, 21,23,24 107:1,6,15, 20,24 108:2 109:7,14,16 110:12 111:17,20,24 112:1 113:10, 11 114:5,6,17 115:6,9,13, 14,21 116:5, 8,12,13 117:7,11,17, 19,22 118:6, 15,21,22,23, 24 119:5,10, 17,18,25 120:2,3,5,6,7, 12,13,17,23 121:8,11,13, 16,22,23,25 122:5,10,11, 12,16 123:19, 22 124:15,19, 25 125:5,20 126:2,4,8,9 127:2,4,7,10, 24 128:2,7,9,	10,12,13,18, 25 129:10,11, 12,13,24 130:8,13,17, 19 131:13,14 court's 19:9 33:3 41:19 43:5 57:2 71:6 75:8 79:4 94:5 106:7 125:25 126:11,23 128:1 courts 8:9 24:14 44:23 47:7 48:24 55:15 71:13, 14 77:25 98:15 113:16 119:17,25 120:22,24 covenant 66:12 105:18 118:18 122:3 cover 68:2 Cox 14:6,7,13 15:15 16:15 35:25 crazy 13:1 create 17:21 30:8 107:9 115:23
-------------------------------	--	---	--	---

created 29:23 30:7,9 82:22	D	88:8 96:6,8 105:19 118:19 122:4	117:18	Delaware 1:7 49:18 58:15 66:4 115:12
credit 6:3 34:22 94:24	DANIEL 2:17	deals 10:9 41:23	deciding 69:13 70:23 79:12	delay 59:2,11 107:23 108:3 109:20
creditor 80:18,19,23 81:11	date 3:8 15:12 62:6 106:24	Deborah 1:24	decision 7:13 26:13,17 37:3 51:18 57:14 63:9 80:2 94:5,25 103:5,13,17 107:22 116:13	demand 41:3 44:4,5 54:17 56:11 62:14 98:2 100:2 101:5,12,14
Crestline 85:19,20	dates 15:4 72:1	debtor 81:3, 13 96:16,23, 24		demonstrated 8:19,21
criminal 35:13 113:14	day 15:24 17:15,16,19 40:25 54:2 55:3 70:8,9 107:9 109:4,8	debtor's 80:18	declaration 39:3	denied 65:7 80:17 86:3 110:10
Crisp 131:5	days 54:20 101:14 108:22 110:13,21 113:2,7	December 1:19 3:1 71:24	default 89:11	denominated 43:17 44:17
cross 103:4		decide 31:25 55:11,14 61:4 85:21,22 91:16 94:8 99:11 100:21 103:15 104:1, 11 116:23	defeat 6:23 26:20	Denton 116:16,21
cross-claim 43:8,9,10,14, 18,19 44:8 87:1,6,8,10, 16,18,23	dead 31:4 32:13,21,25 64:3 123:4		defend 5:20	deny 59:2,11 99:12 107:23 108:3 109:20 123:10
cross-claims 44:7	deal 9:25 10:3,4,19,22 12:10 14:8 20:23 22:17 42:23 45:5 49:17 76:1 91:8 118:13	decided 26:16 58:8 63:4 64:23 74:14 80:3 85:7 98:10 102:21 118:4 126:17 128:17	defendant 1:12 2:8 33:18 115:14	denying 124:22
currently 54:2 60:2		decides	defended 31:10	department 122:8
customarily 24:18	dealing 53:5 65:22 66:12		defending 6:13 22:15	
CV 1:1			deferring 103:4	

departments 74:18,22 79:12	109:10	directly 6:1	40:15 128:24 129:5	58:9 69:17
dependent 6:5	develop 9:23 100:14	disagree 85:12	discussion 33:25 127:16	dispute 5:5 12:19 23:10 57:21 114:22 116:23,24 120:1
deprived 98:16	Developers 119:6	disagreed 85:9	dismiss 3:17 4:8 40:7 41:3 42:22 47:5 51:2 52:8 53:4 62:18 63:5 67:24 69:21 72:9,10 76:2 77:14 80:18 81:4 89:19 91:10 94:9 99:19 102:10 103:5, 14 106:16 113:22 115:6 118:23 121:23 124:23	disputed 21:1
DEPT 1:2	dhansen@ gibbsgiden. com 2:20	disagrees 103:6		disputes 29:17
describe 17:5	Dial 2:4	discharge 63:6		disputing 7:23
describes 92:13	dictionary 44:3	disclose 23:15		distinguish 90:5
desire 125:20	difference 112:7,8 120:18	discourage 27:16		distinguishin g 114:11
destroy 52:6		discovery 6:17 7:3 10:3 48:9,14,16 70:12,18 71:2,21,22 100:14 109:9, 14,15,17 110:5	dismissed 40:22 42:14 43:11 51:14 52:1 61:16 79:18 105:21, 22 113:23,24 120:6 122:15	district 1:4,15 19:9,11 43:6 47:3 53:1 61:5 69:7 76:15 77:6 85:21 86:3 93:6,17 115:1 116:17 118:8 119:13 128:8
detail 21:12 22:6	different 7:5 15:14 16:13, 14 28:11 29:7 31:1 37:7,15 68:4 69:3 73:17 74:1,12 75:12 77:10 79:12 81:22 85:2 99:16 130:11	discretion 7:14 22:17 25:18 26:1 30:21 128:6	dismisses 50:25 103:8	disturbed 81:21
detailed 20:25			dismissing 52:4	diversity 42:10 49:16, 20,23 51:6
details 80:25	difficult 36:25 37:6	discuss 76:1	dispositive	
determination 28:12 94:12 99:2,3	difficulty 8:9 36:19	discussed		
determine 18:25 26:2,6 27:4 100:21				

55:23,24 56:6 60:10,13 66:3 79:1 95:14 102:19	documentation 21:25	doubt 35:10 36:13 51:16	25:6	13
divest 122:12	documents 70:14 109:6	down 15:6,25 32:8,25 54:19 59:24 60:25 76:13 78:7 103:10 109:2 115:9 127:6	during 20:18 31:2,14 111:20 129:22	education 7:22 36:12
divested 50:18 120:22	dollar 39:14, 20		duty 24:2,4	effect 10:12 85:4
divests 119:19,25	dollars 5:18 6:25 38:10 39:4 109:13	draft 21:12 31:24 39:24 83:22,23	<hr/> E <hr/>	effective 15:24
diving 15:1	Domina 2:10 49:9 53:8,11, 22,25 56:17 57:1 59:21 75:10,14,25 89:22 90:7 91:2 92:12,16 99:20 102:20, 25 104:3,6 106:2 121:15 123:8,21 124:12 125:23 130:14	drafted 83:16	E's 64:13	effectively 7:3 9:7 10:23 13:8 80:13 127:17
division 48:24		drafting 16:14 19:22 20:4	each 26:8	effort 12:2 19:16 25:7 80:25
divisions 48:23		Drage 2:23	earlier 113:2	
docket 60:15, 19 112:17		draw 43:5	early 30:1	Eighth 43:6 47:2 52:25 65:24 77:5 115:1 116:16 118:7
doctrine 60:6 69:12 70:3 92:17	done 15:2 18:11 21:9 22:1,10 41:16,24 42:1,25 55:2 57:18 74:12, 25 82:23 86:13 104:14 113:9 114:3 115:18 119:23 126:21	drive 2:18,23 23:24	earnest 61:11	
doctrines 85:10		driven 8:14	earth 60:19 78:4	either 60:20 90:15
document 44:16 87:13, 21 111:3 112:14,22 118:8		due 33:24 34:22 70:10 109:18 130:5, 7	easiest 40:11	Electric 25:8
		dumpster 15:1	EAST 1:16	eliminate 5:21 26:21 113:21
		duplication	economical 102:6	
			economy 12:20	Elliott 1:15 33:23 120:14
			edits 16:12,	

elsewhere 95:5	16:25 19:24	101:22,23 108:23 115:16	ESQ 2:3,4,9, 10,11,17,22	99:1,12 105:22 112:13 116:12 117:9 121:6 126:9
emphasized 43:23	engages 17:3 22:24	entitlement 28:9	essence 53:14 84:20	
end 15:24 17:10 18:13 19:20 31:4,8 32:14 37:17 45:4 61:9 65:9 83:4 100:16 105:9, 10 109:3 121:14	engaging 34:15	entitles 96:4	essentially 73:24	event 34:8 88:8 93:8
ended 79:25 92:25	enjoin 93:11	entries 18:23	est 45:17	events 33:21
ends 32:21, 25	enough 88:19	entry 20:1 26:15 28:1 36:5	estimate 5:16	every 7:10 15:13 28:1 52:17 55:3 74:25 107:8
Energy 1:7 3:5,16 23:7 49:18 59:9 108:6,13 109:24 111:6 113:2 115:11	enrichment 42:16	equals 34:10	estimated 5:11	everybody 17:2 22:4 90:15 97:17
Energy's 40:7	enter 116:25 117:16,20 121:8	Equipment 2:16 3:9	estoppel 117:10	everything 10:25 21:17 28:7 58:11 59:7 62:5 129:5
enforceable 97:24	entered 64:17	Eric 2:9 4:19	evaluate 18:10	evidence 7:16,17 108:8 114:2
engage 6:21 7:9 11:2 62:19 63:3	enters 117:19	erroneously 90:6	even 9:4 16:11 19:2,4 20:6,21 24:20 32:4,15,24 37:23 39:4 46:8 50:14,19 52:1 56:12 58:11 63:6 69:17 70:17 77:11 78:1 83:15,25 84:1,6 85:4 87:10,22 88:22 91:11 94:18,20 97:17,24	exact 16:10 74:6,9 93:2
engaged	entertain 61:1	error 89:2		exactly 79:23 81:25 95:7 102:21 113:4 127:18
	entire 47:7 48:25 55:11, 14 57:13 58:18 65:18	Erwin 92:11		example
	entitled 5:5 7:8 18:14 21:9 22:22 67:4 96:13	escrow 110:2		
		especially 101:1		
		espoused 85:10		

11:21 16:12 25:24 26:9 27:11 28:18 55:22	Exclusive 47:20	expeditiously 59:16 122:8 123:17	121:18 122:17	expungement 123:1 126:11, 17
exceed 117:13	excuse 30:13 49:3 77:7 98:9	expense 84:21	expressed 126:8	extend 6:2
excellent 7:25 34:16	excuses 109:24	expensive 7:6 71:15	expressio 45:17	extends 11:16
except 43:25 126:23	exercise 22:18 26:1 30:21 59:19	experience 7:22 36:12 51:5 64:20 70:6 89:21	expressly 41:11 45:24 95:8 96:10 112:6	extension 130:24 131:6, 8
excepting 68:9	exhibit 84:3	experienced 14:5 23:11 36:15	expunge 4:21 5:21 6:16 17:23,25 18:3,4,8,19 26:11,20 27:22 28:10 41:6,8,11,14, 18,22 42:3 45:20 46:18 54:24 62:17, 21,22,25 63:2,8,10,23, 24 64:6,15 65:5,7 67:1 73:9 74:9 79:10,15 80:1 82:11,17 84:10,13,20 85:21 86:4,11 88:17 89:6 90:18,22 110:10 111:22,25 112:5 114:24 122:20,22	extensive 5:13 20:7 58:7 86:23
exception 126:23	exigent 31:14,22 32:24	expert 13:6		extent 18:11 125:12
exceptionally 23:11 24:7,11	existing 131:9	expertise 60:11		extract 128:16
excess 5:22	exists 6:6	expired 81:2		extraordinaril y 24:6
excessive 85:23,24	expect 34:25 35:16	explain 19:11 40:9 78:13 107:16 118:16		extremely 5:23 71:15
exclude 45:24 95:8	expects 35:10	explained 122:21 123:7		ezimbelman@ peelbrimley. com 2:14
excluding 95:5	expedient 123:18	explaining 44:2		<hr/> F <hr/>
exclusion 95:3	expeditious 59:8 102:5	explanation		F.3d 119:14

face 99:5	14:25 19:12 22:1,2,18	20,23 49:16 50:10,11,16, 20 51:4,7,13, 22,24 52:1, 15,23 53:5 54:3,19,25 55:9,12,19,25 56:1,3,4,5,13, 24 58:10,18, 19 59:10,24 60:3,6,7,9,10, 13,21 61:1,12 66:2,9,17 68:22,23 69:4,5,11,12, 22,23 70:1,6, 17,20,22 71:4,5,10,11, 12,16,18,19, 23 75:13,17 76:17,25 77:16,17,18, 19,20,23 78:7,12,17,23 89:18 90:4,10 91:13,18,19, 21,24 92:24 93:3,5,10,13 94:4,7,10 95:11,18,20, 22 98:11,14, 20 99:3,13,14 101:8 102:9, 16,22 103:1, 6,15,16,19, 23,25 105:20, 24 106:4,5, 11,23 107:6 109:7,12,16 113:10,11,16, 19 114:4,5 115:12,17,24	116:5,8,13 117:7 118:22, 23 119:8,17, 18,24 120:6, 10,11 121:3, 21,25 122:4, 5,11,12,16 124:9 fee 6:9 14:20 15:2 23:19 26:22 28:8 feedback 111:20 feel 6:17 10:24 12:22 13:25 14:10 15:22 20:8 21:15,16 22:19 30:16 34:18 38:9 61:7 105:10 106:12 feels 15:23 122:13 fees 3:15 4:1, 12,23 5:3,5 6:8,13 7:7 18:12,14 19:3 21:5,7,9 22:13 23:21, 23 24:10,25 25:9,12 28:6, 9 30:17,19,20 36:6 38:12,14 39:9,20	41:19,23,24 54:15 56:12, 14 109:3 117:1,9,21 118:2,4 121:9 123:4 128:22 129:6 fell 67:15 felt 13:21 14:13 25:1 38:1 88:22 89:11 few 11:11 15:8 28:13 57:3 58:5 64:10 85:2 105:2 107:12 116:16 119:5 Fifth 1:4 92:18 fight 11:1 54:3 109:23 fighting 36:23 figure 36:25 103:10 110:5 file 6:18 30:3 40:24,25 41:7 42:3,5,6 45:13,19,21 46:2,3,9,22
facially 112:2	fairness 7:15			
fact 4:7 23:15 61:1 71:20 83:25 85:6 87:9 95:19 98:18,24 114:7	faith 30:16 66:12 105:18 118:18 122:3			
factor 8:8 10:5 11:25 12:9 114:11	familiar 84:2 120:3			
factors 7:20 11:5 14:12 36:9,10 38:10 39:17 40:13 70:22	familiarity 33:23 34:3 69:16			
factored 7:20 11:5 14:12 36:9,10 38:10 39:17 40:13 70:22	family 35:13			
facts 29:17 30:12 33:24 57:4,5,7 61:7, 22 65:9	far 8:22 53:17 92:14 100:25			
factually 20:24	far 8:22 53:17 92:14 100:25			
failed 28:23 62:1 87:8	fashion 60:16			
fair 21:7 38:20 66:12 105:19 118:18 122:4	favor 89:25 122:24,25			
fairly 5:6,12	feasible 58:11			
	February 129:20			
	federal 42:10, 15,25 46:5,23 47:3,4,9,10, 14,21,23 48:5,7,10,14,			

47:16 50:23 62:22 65:15 68:11 74:4, 11,14 75:5,6 76:21 78:8 79:15,23 82:7,9,10,18 83:5,10 84:11,13,17 86:10 87:6,8, 9,12,17 97:7, 8,16 98:3,10 100:2 101:12 110:23 111:22,24 113:7 122:20 126:20 130:3, 22	81:5,6,16 82:1 83:16 84:9 87:1,8 88:2 89:2 91:21,24 93:2,5 95:10, 12,15 99:15 102:25 103:19 109:16 110:9, 14,17,18,20 111:14 112:22 113:3, 5 114:1,8,12, 23 116:19 118:8,10 120:13 128:13	88:5 find 24:23 32:9 37:6 86:15 93:14 103:21 111:17 123:22 finds 77:16 89:1 fine 59:7 73:2 104:16 122:13 fine-toothed 18:24 firm 35:19 36:8,17 62:15 64:22 82:23 firms 17:9 35:17 64:22 82:24 first 3:6 4:1, 13 7:20 11:18 20:14 30:5 40:12 41:1,3 42:21 62:1,25 67:19,21 72:7,9,13 74:4,8 76:3 78:15 79:22, 25 83:13 84:5 85:16 90:21 94:14,15,24	107:19,24 109:8 fits 11:22,23 five 29:7 flip 41:15 fly 127:18 focused 76:11 foist 97:4 follow 31:1,4 86:6 92:18 followed 81:10 following 8:17 43:24 follows 111:13 128:1 Fontainebleau 6:2 101:19 footnote 85:9 forbidden 118:25	foreclose 40:17,24,25 41:10 45:22 62:9 66:24 67:10 90:17, 23 117:8 122:19 124:7 126:20 foreclosing 118:5 foreclosure 54:10 62:11 67:2,5,6,25 68:4 72:14,15 75:11,14,15, 20 78:20 79:10,13,16, 19,22 82:9 83:10 84:9, 10,12 86:10 88:17 90:2 100:20 102:11 106:3, 16 110:19,23 111:4,23,25 112:5 113:11 114:23 116:25 117:8 123:11 125:3 126:14 128:9, 16 forget 119:23 forgetting 78:3 110:11 forgone
filed 3:17 15:2 21:22 25:9,10,14,16 40:17,21 41:1,5,18 42:4,11 43:8 44:13,23 46:4,16,18,19 48:8 51:1,12, 20 57:2 60:5 61:24 62:9,25 63:22,24 65:23 66:15, 23,24 67:2,9, 19 68:8,11,14 69:2,6,10,19, 20,22 71:21, 22 72:13,17 73:8,10 74:3, 7,17,22 75:18 76:19,23,24 79:18,19,21, 25 80:3,18,19	filing 41:21 42:7 44:11,15 63:8 64:5 68:15 74:5 75:4 77:2 79:15,25 82:17 83:1 98:1 101:14 112:4,9,13,21 114:13,14 119:11 124:2 131:12 filings 30:1, 12 final 48:2 88:25 finally 15:6 21:24 71:20			

118:3	frankly 6:21 11:13 12:1,19 13:20 34:4 57:15	60:15 62:2 68:2 86:16	gentleman 83:16	99:9 101:14 111:20
forgot 14:22 126:10		fully 38:7	Georgia 48:22 49:4,6, 10	glad 13:14 50:8
form 17:3 73:15	fraud 78:4 93:9,14,20 94:1 98:12, 22,25 102:3, 13,18 108:9 113:14,15,16	funny 84:1	getting 15:25 20:23 22:2 32:16 74:20 83:1 120:10	goals 79:7
format 19:13		further 70:21, 24 112:19 118:6 119:9 127:8		goes 4:8 11:12 55:4 84:16 98:4 100:25 112:19
fortunately 92:16	fraudulent 66:20 77:18, 24 78:12,14 93:9,23 113:13,17	fuzzy 18:22	Gibbs 2:17	
forum 50:5 63:18 65:22 71:8 94:16,17 95:4 97:3 110:8,24 115:10,17 121:3	fraudulently 94:3	<hr/> G <hr/>	Giden 2:17	gone 31:16 36:20 74:19, 21 87:18 92:11
forward 28:24 62:6 64:7 99:23 100:13 106:25	freely 69:1	gamesmanshi p 121:3	gist 125:24	Gonzalez 47:2
found 29:24 30:8 43:10 61:4 80:17 86:25 87:1,3 93:20 97:19 98:22 108:8	frivolous 85:23,24	gaps 57:6	give 5:17 22:13 23:22 25:24 32:25 34:21 54:19 89:6 105:2 109:5,6 116:10 118:16 131:1	good 3:3,23 4:18 9:25 16:21 20:23 22:10,22 23:6 30:16 34:4 37:16 38:6 53:8,22,23 57:10 66:12 85:15 102:17 104:23 105:18 118:18 122:3 125:13 129:23
four 61:5	front 7:17 9:19 38:3 54:22 56:5 58:20 60:3 73:22 79:10 85:1 93:5 94:6 95:25	gave 12:5 21:15 83:6	given 4:20 9:3 10:11 12:1 30:17 36:6 37:10,12 48:11 51:9 131:1,5	
fourth 65:4 67:16 68:18	frown 101:20	general 7:1 15:10 55:16 64:9	gives 77:15 96:24 97:8	Gordon 35:19
	fruition 31:16	generally 22:10	giving 61:10	
	full 33:5,6	generated 72:17 73:11		

GORMLEY 2:4	grateful 107:13	105:8	happens 38:7	38:8,15,22 40:18 46:17 65:5 71:23 76:16 86:12, 15,18 110:12 130:9
gospel 85:4	great 4:11 7:14 14:8 21:11 22:17 77:8 83:18 128:2	guys 35:8 75:1 107:25	happy 104:10,15	
govern 88:11		H	hard 37:3	heck 8:1
government 10:16,17 27:10 31:12, 20	grounds 41:2	H.W. 80:14	harder 108:3	held 65:6 81:8 82:16 88:10 110:12
government's 9:8 10:14,18	Group 1:10 3:5 4:12 35:2 37:13 49:19 54:1 58:24 67:4 89:17 102:2 111:3, 5,9,10 118:22 122:25 124:10	ha 108:24	Hardy 85:6	Helix 25:8
grab 58:18		half 67:12,16 68:18 124:3	harm 92:2	help 123:21
grabbed 13:12		hand 27:15 35:1 59:9 102:7	having 51:6 55:5 82:25 85:4 93:11 126:24	helpful 59:16
graciously 105:2	Group's 38:12	handle 61:14 65:17 89:13	he'll 49:23	Henderson 2:13,24
grant 33:7 38:11 39:20 70:23 91:20 117:8 130:24	guess 3:6 5:7 10:2 21:5 34:7 35:3 37:17 38:25 58:16 88:25	handled 59:7	hear 4:15 50:13 55:17, 21 57:13,17 58:10,19 91:12 107:1	here 3:4,5 4:20 5:14 8:16 9:10,19 11:21 13:14 15:19 18:18 20:14 22:3 23:4,24 28:20 29:15 31:3 32:6,12 36:8 37:16 38:15 41:16 42:3,4, 21 45:5 46:18 48:1 53:21 54:10 56:8,15 57:6 58:20,24 59:6,20 60:3, 13 61:7,19
granted 5:6 41:19 61:6 130:17	guide 37:2	HANSEN 2:17	heard 4:1 33:19 50:4 86:23 92:1 105:12 106:8 115:17 117:3, 4	
granting 124:23	Gunn 2:4	happen 50:3 59:25 61:8,18 85:25 117:6 124:8	hearing 1:12 3:8,22 20:13 25:2,5,23 28:24 33:22	
grants 51:19	gut 50:21	happened 20:19,21 62:5 86:2		
	guy 36:5 83:18,20			

63:15,16 66:24 68:14 69:7,15,21 70:2 71:17 72:5 73:25 76:23 78:16, 23,25 81:7,20 86:9,18 87:12 88:15 89:2 91:14 95:16, 23 96:9 101:8 103:10 105:11,13 106:1 108:4 110:4,22 113:13,22 114:1,14 116:3,24 118:25 119:23 121:5 122:15 123:1, 5,19 here's 15:20 99:21 100:4 116:15 hey 18:23 high 8:3 12:17 17:10 30:17 34:24 higher 23:17 24:21 25:21 35:15 highest 24:11 highly 10:7	14:4,10 himself 48:19 Hines 1:24 hint 48:11 hinting 49:23 hired 35:6 hiring 11:9 historical 13:15 history 40:14 hit 72:10 hold 27:15 103:12,25 holding 86:1, 8,9 holds 94:25 Home 96:22 hone 72:4 Honor 3:20 4:5,10,16,19	8:14 15:4 18:2,18 19:17,18 20:7,17 22:11 23:2,6 25:25 26:9 29:13 30:22 32:20 34:3 40:1,10 45:9 47:22 49:7 50:7 52:10,12 53:6,8,11,25 54:1,9,23,24 58:4,21 59:22 61:4,23 64:10,18,20, 24 65:6 68:9 71:5,25 74:16,19 75:15 79:5 80:9 82:21 84:2 86:14 88:6,22 89:14 90:7,11 91:16 92:8 94:8 99:1,4,10,21 100:3,5,24 101:23 103:8 104:4,25 105:22 106:9 109:21 110:16,25 114:20 116:1 118:14 119:4, 21 121:10 124:17 126:6 127:21 128:4 129:25 130:12 131:17 Honor's 61:3	HONORABLE 1:15 hope 11:12 63:25 hopefully 39:25 53:16 hour 13:4,21, 22 53:17 104:19 hours 17:18 19:12,22 20:1,13 24:22 25:1 26:15,23 28:19 33:2 37:18,20 housekeeping 130:1 Howard 31:7, 8 however 108:1 Hudgins 2:4 huge 107:9 Hughes 31:7, 8 hundred	18:18 hurry 129:19 <hr/> I <hr/> i.e. 87:25 97:25 idea 70:10 116:4 ideas 16:21 identified 73:17 II 31:14 ill 84:25 immediately 62:13 69:19 89:7 immunity 9:7, 13 10:11 20:20 impacts 51:18 impaired 9:8 10:18 implement
--	---	---	---	--

126:7	119:15	106:15	Indian 76:8	initial 9:12 21:6,12 30:12 67:3 111:2 127:22
implements 126:25	improper 25:3 26:16 27:24 41:2 62:20 81:11 87:2 117:24 118:24 127:23 129:8, 11	includes 57:21	indicated 33:22 69:10 94:14 129:1	
implicated 11:20		including 7:21 32:24 36:11 37:10 113:18	indication 48:17	initially 8:16 9:11 16:15 39:1 51:24
implied 66:12			indicia 108:12	initiate 42:8 112:12,15,21
importance 5:24 8:10,13 10:20 11:15 36:20,21	improperly 24:24	inconsistent 19:23		
	improvement 9:2 57:18 68:5 75:22 78:21	incorporated 16:23	individual 24:7 27:5	initiated 41:20 42:7 44:15 45:21 50:9 63:1 113:8 114:13, 14 118:10
important 6:6 10:1,10,22 12:12 13:20 14:9 18:9 57:16 61:23 66:5 69:20 72:4 77:24 81:12 96:15	inadequate 21:25	Incorporated's 3:9	induced 108:16	
	inappropriate 34:11	incorrect 20:5	indulgence 57:3	initiating 41:9 42:18 118:9
importantly 6:7 19:6 58:3	inartfully 67:20 72:19 80:11 110:20	increase 29:3 68:12,13 106:19 125:6 130:21	indulging 107:12	injunction 69:24 77:20 91:20,25 93:5,18 94:6 98:21 99:15 103:1,7,16
imposed 8:11		increased 28:17 65:2 68:16 86:4	infer 45:23	
impossibilities 108:11	Inc.'s 67:4 111:3		infers 82:15	injunctive 69:23 70:4
impossibility 27:4	inclined 89:25 119:1	incurred 7:7 22:14	informal 48:23	injury 35:13 58:25
impossible 17:4 26:6,21	include 26:4	independent 63:23 79:18 81:10	informally 129:15	input 16:16
	included 67:5		information 58:5	inquiries

86:19	intense 20:7	119:20	invoices 18:1 108:6,14,19	129:6,17 130:1
ins 27:8	intent 45:23 79:9 88:16	intervene 3:10 63:17 77:19 130:13	involved 5:15 13:19 15:5 35:19 56:4 58:6 92:21	issued 70:17 93:17 103:7 106:20 109:7, 14 123:2
insane 31:9	intentional 108:9	into 11:22,23 31:19 37:22 41:7 53:17 65:8 76:21 77:17 79:23 81:5,6 90:10 100:5 112:16 113:7 114:8, 12 118:8,10 124:16	involvement 29:17 33:24	issues 8:15 12:4 28:15,16 29:25 30:3 79:1,3,12 85:1,22,25 99:22 100:5, 6,9,18,19 103:16 105:15 118:14 121:18
instance 54:14	intentionally 29:25 30:8,13	intricacy 8:10 36:20	involves 69:14	italics 43:24
instances 88:12 98:19	interest 9:8 10:14,18 35:4 54:16 55:5	introduce 53:24	irrespective 100:10	item 127:14
instead 42:12 52:8 75:4 105:25 120:19 131:9	interesting 70:8 73:4,15 79:5	introduced 84:5	issue 3:7,16 4:9 9:25 10:1, 2 18:9,20 25:25 26:24 28:4 30:7 31:1 45:5 56:1,4 58:9 60:12 61:3 69:23 77:20 80:17 82:21 83:24 86:15, 18 88:20 89:12 90:11, 13 91:6,16 95:23 98:21 102:21 115:5 121:2,19 125:14,15 128:6,23	J
instructed 44:22	Interestingly 58:15	introductory 111:7		jab 84:24
instruction 24:4	interfered 101:20	invading 52:22		January 129:24
insufficient 68:7	internal 6:8	invalid 6:20		Jeremy 2:22 129:25 131:3, 4
insurance 17:1 59:1	interpreted 95:5	invalidated 114:18		Jeremy's 131:4
intellect 32:5	interrogatorie s 70:13	invested 25:6		
intended 129:1	interrogatory 12:13			
intending 124:18	interruption			

jkilber@weildrage.com 2:25	83:3	17,19 78:13 79:1 91:11, 17,19,22 92:4,5 93:10, 12,25 95:2,4, 5,8 96:17 98:16 99:11, 14 100:14 103:22 107:1 110:9 112:19 113:11,19 114:4 115:24 116:6,7,10,22 117:7,18 119:11 120:1, 8,22 121:7 122:14	keeping 33:20 123:23	knows 4:5 13:9 75:1 116:6
job 1:25 8:4 21:7 22:10 41:24	judgment 6:19 56:13 80:17,20,22, 25 81:11 100:4 109:1 117:19,24,25		keeps 38:5	<hr/> L <hr/>
Joe 11:10			key 30:2 85:1 114:11	labeled 111:3
joinder 113:18	judicial 1:4 43:6 47:3 52:25 65:24 77:6 115:1 116:17 117:10 118:7 119:16 128:7, 16		kick 51:7	labor 6:3 117:14
joint 34:7			kicks 50:2	lack 22:8
judge 1:15 20:15,16 27:10 28:21, 25 29:2,3,10, 11,14,15 33:19,23 34:4 37:5,24 47:2, 21 48:19 49:22 50:23 51:12,17 55:10,14 56:12 60:17 63:25 64:1, 17,21 65:17 78:20 79:11 116:16,21 120:14	July 65:24 110:17	jurisdictional 117:12 118:14	Kilber 2:22 129:25 130:11 131:3, 11	lacks 91:11
	jump 71:3	jurisdictions 77:11 95:9 120:20	kind 18:22 35:12 49:25 54:23 57:11 59:3 61:10,25 62:4 63:11 64:3 65:8 76:13,15 82:22 88:7,10 89:11 94:18, 21 100:17 103:9 120:21	Lance 105:7
	juncture 99:4	jury 24:4		land 9:14 30:1,6,14 76:8
	June 25:9,16 63:22 64:13	justified 28:18 30:11 39:17		Lane 20:15, 17 28:21,25 29:3,10,14,16 34:4 37:24 64:17
	jurisdiction 42:25 46:15 47:4,8,10,11, 15,18,20,23, 24 48:6,21,25 49:17 50:13, 18,19 52:1, 17,18 53:6 55:17,20 56:6 60:22 66:3 75:18 77:4,	<hr/> K <hr/>	kinds 13:1	language 81:12 82:12 84:1 94:21 95:3 96:12,15
judgement 80:20 109:2 117:17 118:1 121:9		keep 48:6 67:13 94:19 104:9 123:23 124:16	knew 80:4 110:13	lapse 69:4
judges 79:12			knowledge 58:8	large 5:7 6:3 34:25
			known 29:10	

Las 2:6,19	lawyers 7:25	44:5	level 14:7 35:15,21 36:2,5 93:25	11,21,22 106:3,16 111:4,6,10 116:20,25 117:4,8 122:20 125:2 126:10,13,20
last 4:3,20 9:10 11:19 12:8 13:14 40:15,18 88:5 121:14,18	lead 105:10 111:16	legislative 13:19	liability 1:7	
	leads 46:7 48:2	legislature 45:18 82:16 88:16	liberality 8:22	
late 108:25	learning 100:17	legislature's 79:9	liberally 45:11,14	lienable 100:21
later 17:15,17 64:1 80:1 106:24	least 30:13 103:17 108:9	legitimate 6:18	lien 5:3,22 6:9,20 8:18, 20,22,24 9:1, 3,8,14 10:21 11:1,8,16,17 12:11 13:6,9, 10 15:3,7 17:24 29:7 30:1,5,12 40:18,23,25 41:14 46:17 48:20,21 54:14,17 62:3,9,10,17, 20,22,23 63:6,9,20,23 64:12,13,15, 25 65:4,7 66:24 67:5,7, 8,11,13,14, 17,23 68:1,2, 8,14,19 79:13 82:6,8 83:11, 21 85:22,23, 24 86:4,5,16 96:2,5,6,8,13, 16,23 97:5,9, 11,12 98:4 99:24 101:4,	liens 5:24 6:5, 6 36:16 57:23 58:1
Latin 45:17	leave 4:2,10 42:12,14	legs 76:22		lies 47:20
law 13:6,10, 23 24:1 30:15 35:13 44:3,20 46:25 47:1,7 49:10 52:14 53:3 59:11 66:19 76:12 77:9,14 78:9 80:6 83:21 90:16 98:13, 18,19 102:19 103:17,21 114:19,21 119:2,3 120:3 121:1	leaves 42:20	lengthy 72:2		Life 19:7
	leaving 42:15 129:20	lens 73:5		light 39:7
	lecture 53:9	Leon 83:18 84:24,25 114:16,20		like 5:6 12:3 14:10 17:9,13 19:21 23:20 24:19 27:11 28:2 30:23 32:13 34:23 36:4 38:1,8 39:19 49:9 57:3,7 72:6 77:1 81:23,25 82:3,5 83:20 84:25 89:11, 15 90:24 100:15 104:14,15 105:7,14 106:12 107:22
	lectures 92:13	less 20:9 25:5,6,22 61:4		
	Lee 2:3 23:6	let 23:4 49:15 61:22 103:14, 25 104:10 111:18 119:4		
lawful 59:14, 19	legacy 15:12			
lawyer 24:12 27:10 43:8 58:25	legal 9:20 23:10 40:21 41:6,9 72:1 83:19 128:5	letter 17:15 62:14,16 78:5		
	legally 20:25			

124:11 126:3, 4,7	63:12 69:3,4 74:25 81:1 84:3 108:3 120:20	looks 61:13 81:25 93:21	M	72:23
likely 74:17		lose 35:3 47:8 52:17 56:10, 11	machinery 31:17	malpractice 6:22 10:23 25:3 34:15
limited 1:7 31:23 55:20 86:19	live 123:1,5		made 8:25 9:6,12 10:16 13:17 19:16, 19 28:14 34:9 56:19 60:1 61:18,20 63:9 99:3 109:1 124:2	management 108:7 119:13
line 25:19 32:2,8 57:11	LLC 1:7	loses 52:18 77:3 119:10		mandatory 40:19 62:19 65:22 94:17, 20 95:2 97:18,19,20 116:19
linked 95:16	local 119:16, 25	lot 8:25 12:11 20:20 27:15 28:15 30:25 31:19 35:15, 23 36:24 37:11,21,22 53:12 56:16, 19 72:3 84:21	magistrate 70:17	maneuvering s 114:3 115:19
list 44:18 73:16,19,21	located 42:4 96:12,17,19 97:1		make 3:6 9:20 16:4,14 18:22 19:5,18 22:12 23:15 32:22 38:25 57:14 71:4,17 78:19 79:4 80:9 85:18 88:6 89:10 94:5,12 99:1 105:16 109:24 112:7 120:18	Manhattan 15:3
listened 106:7	location 65:16	Lou 92:20 93:15,16,19		manner 59:18
lists 73:19 112:16	Locher 2:17	loudly 106:8		manual 85:11
litigate 61:12	long 7:15 9:10 10:2 34:24 86:18 128:14	lower 12:18 24:19 54:6		many 31:15 37:7,20 57:5
litigation 8:13 10:20 11:16 15:3 31:3,22 37:25 58:6 60:12 64:10 77:22 92:21 93:2 98:20	longer 53:16	lroberts@ wwhgd.com 2:7	makes 16:13 52:9 111:23 112:8 120:25 121:2 124:2	marked 90:6
little 13:2 23:16 24:3 28:11 35:11 53:15 55:12	looked 7:11 31:15 37:16 60:8 81:15 89:15 94:15, 16,21 100:9 108:2	lump 26:23	making 23:18 55:5 131:12	market 12:20
	looking 95:24 107:25	lunch 53:17, 20 104:7,15, 18,22	makings	materials 6:4 117:14

math 18:22	102:13,17,18 119:1 123:21	82:6,8 83:11, 21 96:2,5,8 97:5,9,12 98:4 99:24 101:4,11,21 106:16 111:3 116:20 125:2	microphone 13:13	misrepresent ation 66:21
matter 18:2,3, 5,6 23:16 33:18 37:4 40:6 46:15 80:11 91:11 108:23 116:4 117:16	Mead 83:18 84:7,16,24 114:16,20 Mead's 85:9	mediate 40:20	might 29:21 32:9 37:14 49:20 59:11 89:17,24 102:6 115:13	misrepresent ations 108:10
matters 23:12 61:23 83:13	mean 6:24 16:6 21:5,19 22:4 29:3 33:16 45:12 49:22 90:4 102:13	mediation 40:19 62:19	million 5:22 10:21 12:11 35:5 36:22 54:5 65:2 107:9	miss 125:21 131:12
maximum 24:14		meet 34:14	millions 109:13	misspoke 126:9
may 3:3,20 4:9,19 5:18 8:9 16:9 30:7 33:13 40:5 42:22 43:25 53:9 63:13,19 75:2 76:18,21 77:22 88:12 94:2 97:2 101:25 104:23,25 107:16 114:24 130:25	meaning 55:17 meaningless 115:25 means 56:10 77:18 78:12, 14 105:11	meeting 26:12,17,18 27:12,13 meets 124:4 mention 78:2 84:23 117:23 mentioned 10:6,21 40:19 62:13 85:8 107:20 128:5	mind 7:20 16:19 30:25 67:14 73:21 79:4 mini 21:5 ministerial 117:16 121:8	mistake 65:10 mode 59:4 moderately 34:13 moment 12:4 105:14 122:15
maybe 3:6 13:2 14:18 17:5 23:25 31:25 37:23 39:3,23 40:8, 11 58:22 61:14 81:15 83:2 90:1 91:17,18	meantime 54:8 mechanic 48:20 mechanics 5:24 6:5,6 54:14,17 62:20 64:12 67:4,11,23 68:12 79:13	mess 30:9 63:25 messy 118:13 Metro 19:7 119:13	minute 78:3 87:12 minutes 17:15,17 57:3 104:14 misquoted 110:16	moments 57:12 105:3 107:12 money 22:3, 23 37:21 38:14,17 55:4,5,6 63:14,15 75:8 83:1 107:25

108:20 109:22 110:1, 3 moneys 108:16 month 129:21 months 70:7 moot 106:17 124:11 morass 53:6 more 6:7 12:11 13:9 15:15 19:6,25 20:9,21 25:19 33:20 35:11, 15 38:18 69:3 75:25 108:12 109:6 116:1 117:25 118:16 119:1 128:3 morning 3:3, 4 4:18 23:6 110:16 111:17 most 18:9 55:18 59:8,16 61:15 92:14 104:11 motion 3:9,	17,18,25 4:1, 2,6,9,12,14, 21,22,23 6:10,14,15,18 8:17 9:12 10:3 17:23,25 18:3,4,8,19 20:3 21:4,12 22:15 25:8,14 26:11,20 27:21 28:8,10 30:18 33:2 38:12 39:14 40:7,13,15 41:5,7,10,18, 21,22 42:3, 12,22 45:4, 19,21 46:17 47:16 48:8 51:19 53:13 54:24 61:2 62:22,25 63:2,3,8,10, 17,22,24 65:5,7 67:1 68:9 69:1,10, 18,21,22 70:3,4,9,20, 24 71:22 72:7,8,9,10, 11,12 73:9 74:8,23 75:2, 6 76:2 77:13 79:10,15 80:1,18 82:11,17 83:1 84:13,19 85:19,21 86:3,11,23 88:6 89:6,23 90:17,18,22, 23 91:3,10,	20,24 93:5 94:6 99:12 102:25 103:5, 13 110:10 111:22,25 112:5 122:18, 20,22 123:3, 10 124:22,23 127:15,18 129:8,9,14 motions 3:6, 22 7:3 15:2 53:14 64:5 70:3,7 88:17 motives 102:17 motto 16:17 mountain 23:24 move 4:9 28:24 40:24 84:18 99:8 121:13,22 122:7 moved 3:11 47:22 50:14 116:20 movie 31:6 moving 52:8 53:12	much 12:2 24:19 25:2 26:7 34:20 54:5 100:7,8 109:10,11 110:5 117:18 118:4 131:14, 15 multiple 26:5 79:11 must 44:5 82:17 100:20, 21 119:2 <hr/> N <hr/> name 4:19 64:1 73:19 83:18 131:2 named 110:20 130:4, 14 narrow 28:9 national 35:22 nature 75:9 near 14:7,8 nearly 12:11 21:6	necessarily 95:2 119:19, 25 necessary 9:5 20:10 25:1 26:19 69:16 72:24 113:18 necessitates 26:25 need 8:5 16:2,22 21:7 36:9,10 38:16 62:16 64:21 71:4 75:6 80:9 91:7,16 99:22 109:25 121:5 123:21 125:10,17 needed 42:13 67:15 needs 61:23 124:1 negligent 66:20 108:9 neither 70:2 85:24 neutral 114:21,22 Nev 43:6
--	---	---	---	---

Nevada 1:5, 10,17 5:23 11:20,22,23 12:18 13:6,8, 11 24:4 27:2 30:15 42:9,24 43:2,3,13 44:20 47:8 49:2,19 53:3, 4 58:13 61:5 65:25 66:4,14 76:6 79:2 80:15 83:13 85:2,11 94:25 98:13 101:18 103:21 114:17,21 115:2 121:1 128:7 129:10 never 8:4 17:8 52:24 60:21 65:18 78:22,24 83:3 85:14 87:24 106:4 new 80:23 93:23,24 112:24 125:14 next 11:25 37:9 40:6 84:23 85:18 127:13 nice 49:12 Ninth 76:6,12	77:25 78:10 92:7,10,14, 18,20 119:6, 12,14 120:25 nitpicks 19:20 nobody 13:17 73:21 nominally 30:14 non-permitted 21:18 nondiverse 58:12,14,17 none 52:20 92:6 114:18 nonetheless 5:8 80:4 normal 37:5, 25 88:9 northern 48:24 note 66:5 74:5 noted 106:2	notes 116:2 nothing 22:20,21 41:12 42:1 82:6 86:8 126:15 notice 9:2,3 45:8,11 72:24 81:14,19 110:17 114:7, 10 126:8 novel 49:8 82:21 NRCP 43:15 44:19 88:3,7 NRS 5:1 6:7 41:8,15 45:16,24 66:13,23 79:7 96:3 105:19 108:21 112:11 118:2, 19 122:3 nuances 72:5 number 1:25 5:6,7,9,13 6:4 13:1 15:7 36:3 57:18 62:17 65:3 69:13 89:5,7 91:15 94:4,12 112:17,23	numbers 108:22 NV 2:6,13,19, 24 Nye 1:5 40:17 42:5 54:11 56:15 57:19, 22,24 59:6 62:10 63:20 64:3 65:4,16 66:6,7,24 67:10 69:8 70:2,21 78:24 95:25 97:8,16 98:9,11 110:22 120:18 <hr/> O <hr/> object 108:22 objection 39:6 127:20, 25 objective 54:2 55:7 observations 105:12 obtain 116:4 119:15 obviously	5:14 7:9 10:7, 21 11:1,20 12:8 13:5 37:11 89:22 occasion 105:22 occasions 65:1 85:2 occurrence 55:10 occurrences 69:14 October 17:20 <hr/> off 11:10 103:25 119:23 offer 107:11 109:1,2,4 117:24,25 118:1 office 26:13 57:25 58:2 63:21 67:11 officially 63:7 offsets 100:8, 23
---	--	---	---	---

often 36:23 38:1 50:2	68:4,6,17 69:13 70:22 73:18 74:16, 18,21 76:8 79:17,18,23 80:4,10 83:19,24 85:10 89:13 91:15 92:17, 19 94:4,12 95:4 97:13 99:5 103:25 110:19 112:3 116:1 117:14 118:16 119:2 124:3 128:3	108:14 109:9, 17 112:12,25 114:15 115:20 120:17 124:24 126:13 127:20 130:14	opposite 82:13 98:18 111:24	48:13
old 45:17 76:8 120:20			opposition 4:6 7:2 17:22 22:11 27:21 70:9,19 73:8 74:24 80:15 83:9	ordinary 13:3 24:8 25:20 102:3
older 77:12				original 43:20 62:3 67:13 79:24
omit 62:4		opened 18:2		
omitted 57:5		operative 130:5	option 51:10	originally 51:12 64:16
once 19:8 46:5 47:1,3,8 61:12 75:17 76:16 77:13 78:5,6 91:13 93:13 109:7 113:23 117:17 119:1, 8,17 120:22 121:19	one's 44:4	opinion 37:14,15 114:25 115:2 119:7 128:7	options 6:16	others 95:17
	ones 15:7 29:14 71:8,9 103:20	opinions 126:7	oral 26:10 28:19 53:15 70:5 128:19 129:8,14	otherwise 45:25 122:21 125:9
	only 3:10 5:21 7:14 8:24 9:13 11:9 13:20 15:8 18:3 23:22 26:5,23 28:9 42:15 47:15 50:10, 12 52:16 55:20 56:5 58:19 60:2, 10,13 62:10 66:3 67:12 77:4 85:22,25 86:6 92:6,23 95:11 96:4 100:22 106:21	opportunity 21:14 61:10	order 3:8,14, 21 5:15 20:25 21:2 24:25 26:1 33:15,17 39:19,24 41:24 42:25 44:1 48:13,16 55:25 64:17 70:18 72:8 102:15 109:7, 15 110:15 115:23 116:10 123:2, 23 124:18 125:25 126:25 128:1 130:9	out-of-state 115:14
one 4:13 7:20 13:13,24 14:12 15:3,9 18:18 19:25 24:7 25:11 26:5,8,15,23 29:2,24 33:15 35:10 37:9 40:9 42:22 44:19 45:22 51:19 55:14, 22 57:18 58:7,11,20 62:17 63:13 65:16,17 67:12,16		oppose 29:1, 18		outdated 76:7
		opposed 29:21 75:2		outs 27:8
		opposing 5:8 17:16 28:9 53:14 57:4 60:1 62:12 73:16 86:24, 25	orders 31:24	outside 17:1
				over 31:25 36:20,23 43:1 47:4,8,11 49:11 52:18 56:15 58:6 60:22 73:15 77:10 84:19 93:12 103:22 106:1 107:13

108:3 111:19 113:11 114:4 116:22 118:12 120:1 121:7 126:11, 12,19,22	owed 30:19 54:5 63:14 108:17,20 109:10,11 110:2,5 117:13,18	92:21 93:21, 24 98:20 115:21 120:13	93:23 95:17 96:25 99:23 100:6 112:25 117:2 128:13	31:13 55:4,6 59:2,12 62:2 66:14 107:23 108:16 109:23 110:2
overbilling 14:13	own 19:4 21:2,22 28:16 30:9 33:20 44:4 73:12 74:2 80:2 81:6 87:6 89:5,7 122:1	parcels 8:25	parties' 100:23	paying 16:20 23:13 108:13 109:5
overcharged 24:24		part 8:14 20:1,2 30:2 55:18 69:21 78:14 81:12 84:4 90:2 91:3 102:11 115:10 121:20 124:11 129:2	partner 13:5 14:7 33:16 36:2 131:4	Peel 2:11,12 13:5,12 16:13 23:10,14 24:23 36:14 49:2,4 65:13 83:20 104:25 105:1,6 107:15 123:8 124:1,12,14, 17,21 125:1, 6,13,24 126:25 127:3, 5,6,8,19 128:20,21 130:10 131:1, 4,15
overlapping 32:25	owner 30:6 109:22		partners 35:25	
overpaid 109:19	<hr/> P <hr/>	participate 26:12	parts 53:13	
overpayment s 109:11	P.2d 43:7	particular 19:25 53:13 85:12 87:19, 20 120:1,23 121:1	party 8:2 28:6,7,11 43:20 49:12 58:17 68:11 87:7 92:23 93:4 95:1 113:18 114:21,22 119:8 126:14, 15 130:11	
overruled 127:24	p.m. 131:19			
overstaffing 12:3 16:4	Pahrump 1:17 26:12	particularly 5:1 14:5 15:14 21:10 27:14	pass 34:5	Peel's 23:17
overturned 92:14 93:16, 19 114:17	paid 7:7 22:15 31:20 100:8 108:6, 19	parties 3:7,14 8:12 9:22 10:6 33:21,23 34:1 39:22 40:20 55:24 58:12,14 63:11 64:19 74:6 87:24	past 24:15	pending 46:18 63:17 103:1 105:20 106:22 122:10 123:3
overworked 24:25	paragraph 111:8		paths 31:2	
owe 100:7 121:10	parallel 23:25 60:9,16 77:22		pay 6:12 12:21 26:16, 18 27:20 29:5,19,20	people 17:10 32:6 36:7 105:8
				percent

18:19,23 19:3,10 22:12,13	personal 35:13 58:25	piecemealing 55:11	45:11 73:17, 23 81:24	positing 76:3
peremptory 83:2	personally 120:4	place 24:1 34:4 78:1 106:18	plow 38:4	position 6:1,2 41:20 58:23 85:9 89:25 90:25 103:24 107:17 127:12
perfect 11:21, 24 131:11	perspective 13:15 78:24 125:19	plaintiff 1:8 2:2 87:2,7 95:19 117:5	plus 5:9 39:15,20 123:2	positive 15:25
perfectly 28:2	persuasive 37:14	plan 3:24 11:24	point 13:13 17:14,16 23:15 28:4,23 34:8 48:25 51:20 80:10 93:4 98:13 102:19 104:5 106:17 125:14 126:9 130:21	possibility 37:15
performed 14:1 26:4 37:9 57:22 108:5,20	pertaining 18:4,8 20:3	plausible 112:2		possible 31:19 32:17 33:1 59:17 122:8 123:18
perhaps 38:24 72:19	pertains 125:3	play 96:5		
period 9:10 20:18 31:18 41:2 97:13 108:5,7 129:22	petition 6:23 64:2 84:10 114:24 119:11	player 10:10	pointed 29:6 31:13 41:8 56:9	possibly 104:20
permissive 46:14 94:18, 19	petitioning 84:18	pleading 4:7 43:9,12,14, 15,25 44:4,6 45:3,8,12,13, 15,25 48:3 50:24 53:2,3 73:14 87:5, 13,15,20,21 88:1,3 111:18 115:6 118:12 123:13 127:22,23 130:5,23	points 33:13	posted 125:8
permit 96:18	phonetic 80:14 131:5		policy 5:23 11:20,22,23 97:22	posture 40:12 41:17 57:9 71:24 74:7,9 84:22 89:9
permits 5:2	pick 10:25 11:2 39:12		Polk 80:14 82:3,6	potential 11:17
person 14:11 24:5,8 43:20 79:15	picture 16:3	pleadings 30:15 44:8, 20,23,24	poor 34:13	potentially 3:18
	piecemeal 60:20		portion 28:5 43:24 66:6	power 35:16

109:25	prejudge 129:17	72:8 127:11	10:7	90:13
practical 80:16 116:4	prejudice 63:5 99:12	presenting 21:8 38:14	pride 16:18	procedurally 43:1
practice 47:25 63:3	preparations 26:10	preservation 12:10	Primarily 91:10	procedure 43:2 44:25 45:4 46:1 68:10 81:10 84:17 88:10, 14 115:3,8
practices 83:17	prepare 9:24 20:13,16,21 21:14 25:2 28:19 39:2,18 124:18	preserving 117:4	principal 96:14,20	
practicing 13:23		presided 58:6	prior 15:2 29:16 92:23 109:19	proceed 6:17, 19 47:19 48:10,17,18 50:16,17 51:13,21 52:11,23 56:21 69:17 92:3 107:8 109:15 125:9 126:17
practitioner 85:12	prepared 6:11 9:17 21:1 25:4 28:20,24 38:7 39:2	president 30:24	probably 3:13 16:5 27:13 31:9 32:7 50:1 53:20 91:1 103:18 104:13,18 107:21 115:5	
pre-lien 9:3		presumably 5:15		
precedent 27:2 42:24 43:3 53:4	preparing 17:24 21:13 25:22	pretty 20:6 34:23 37:25		
precluded 30:2	presence 58:3	prevail 6:11	problem 17:21 18:18 35:24 37:18 55:13 83:8 86:20 97:3 99:7,10 114:9	proceeding 4:24,25 5:19 6:21 11:3 18:12 41:6, 11,14,21 42:2,17 44:14 46:11,23 47:1 48:9 52:24 72:18 77:21 88:9,11 106:9 110:24 111:15 112:1, 11,16 113:8 114:15 115:21 118:9 120:13 122:22
precludes 76:15	present 8:5 33:21 42:21 125:25 130:2	prevailing 5:3 12:17,20 28:7,11	problems 56:10,16 108:10	
precluding 69:24	presentation 111:21 128:19	prevent 46:6	procedural 40:12,14 41:17 47:25 57:8 71:24 74:7 84:22	
preferential 54:17 56:11 100:3 101:5, 12	presented 8:2 9:21 64:19	previous 33:24		
		previously		

123:25 126:18 129:2 131:7	project 9:2 11:18,19 15:10 31:10, 11 54:7 57:19 58:1 62:3 63:14 64:9,13 116:18	126:24	43:21 46:21 72:24	112:11 128:23
proceedings 41:25 110:15 113:12,17 119:9 126:11, 13,22 131:18	projects 10:8 31:15	proposing 99:17,20 100:24	prudence 24:8 25:20	pursue 54:15, 16 60:23 63:18 65:12 96:24 98:8 101:3
process 13:19 16:16 29:12 32:2 54:25 83:4 101:10	prominence 8:12 10:5	proposition 76:13 80:7 84:6	public 5:23 11:20,22,23 97:22 116:18	pursued 93:3
procure 64:11	prompt 66:14	prosecute 102:15	publication 83:14	pursuing 69:25
procured 57:25 67:24	proof 108:23	protracted 63:3	pull 6:22 32:1,11	put 8:5 11:5,7 23:25 31:24 39:14 70:25 71:15 77:17 79:9 88:17,23 90:18 123:14, 16 124:16
product 16:19 32:17 33:1 35:11	proper 43:12 112:24 116:7 117:1,17	prove 108:19 110:2	punitive 30:19	puts 74:6
production 12:14 70:14	properly 50:20 106:5, 25 111:19 114:4 115:15	provide 13:15 19:16 22:6,25 105:4,12	pure 128:5	putting 11:11 43:23 73:14 90:7,11 94:7
professional 7:22 36:12	property 8:18 9:15 67:25 68:1,5 75:21 96:6,12,18 97:1 124:7 125:4	provided 12:12,23 14:1 16:15 62:2 106:19	purely 19:22 20:4	<hr/> Q <hr/>
professor 83:19	property's 42:4	provides 98:6	purportedly 83:12	qualities 7:21 36:11
professors 83:22	proposed	province 52:22	purpose 50:21 60:19 61:3 71:2 93:9,23 113:19	quality 7:24 8:3 119:13
		provisions	pursuant	question

56:2,3,4 59:13 60:14 89:15 120:17	24:11,12,15, 16,17,18,20 25:11,14	realized 95:24	reasonablene ss 27:5 33:4 34:10	44:5
questions 23:1 101:24 104:3	rates 12:16, 25 15:11,12, 21,22,23 24:10,14 25:21	really 4:9 15:21 16:1,20 18:20 19:20 21:15,16 22:9 27:9 31:2,11 32:10 35:17 37:18 38:21 51:23,25 54:20 60:11, 15,25 66:13 72:4,20 73:14 76:4 77:14 80:8 81:17 92:2 116:14 123:14 124:6 129:3	reasons 57:16 61:19	recognize 93:8 107:20
quickly 70:15 96:2	rather 46:3 102:16 113:22 122:6 125:14 129:5		reassignment 33:16 34:2 64:18	recognized 13:6 64:19
quite 77:12 123:20	rational 123:7		rebuttal 105:4	recognizes 5:25
quote 119:7, 10,15	re-filing 52:4 120:19		recall 4:20 14:12 29:24 64:10	recollection 33:21 34:1,7
quotes 119:7		reason 6:20 7:15 8:20 19:17 38:6 54:12 70:15 74:14 76:10 91:21 93:18 94:14 95:22 112:8 114:2,3 115:20 121:25 127:8	recalled 40:16	record 3:6 105:1 111:11 119:1
R	reach 32:13, 21 39:8 46:9 123:18		receive 63:2	recorded 57:24 58:2 62:3,8 63:20 65:4 67:10,18 68:12
Rainbow 2:5	reached 65:14		received 71:21 74:25 108:11	recorder's 57:24 58:2 63:20 67:11
raise 21:19 117:11	read 7:10 31:25 44:18 46:15	reasonable 5:2 6:13 23:21,23 24:2,3,4,8,9, 10,12,15,18 25:4 26:3,7 30:20 104:8 126:4 130:24	recent 14:14	recover 27:21
raised 14:6	ready 4:15 20:16,23 29:15		recently 14:20,25	reduce 19:3 24:25 25:18 27:2 30:21 33:5
random 76:7	real 55:6 68:5 75:21 81:12 96:6 125:3		recess 39:11 40:3,4 104:21,22 131:14	reduced 15:12
ranges 15:19, 20			recognizable	
rate 12:17,20 13:4 14:1 23:16,21				

reduction 19:10,12 22:13 27:1	regional 35:22	121:6	14,18 113:7, 17 116:7,8 119:9,11,18, 24 120:9 121:25	repeated 29:23
redundancy 12:3,6 16:6	regular 82:25	relies 86:22		reply 5:12 9:6,16,17,21 16:6 19:21 21:10,14,20, 22 43:17 44:1 84:4,5
refer 71:25	reimbursed 7:8	relieved 34:5	remove 52:7, 15 66:6 78:6 95:18 98:14 113:9,25 115:22,25 119:7 125:2	
referred 111:5	reinvested 50:13	remain 101:8		Reported 1:24
refile 51:2 52:9 89:19 102:11,15 115:7 118:23 121:23	rejected 19:9 65:18	remand 42:12 47:17 50:11, 14 51:19 52:8 60:4 120:9,10	removed 42:9 46:5,23 47:1, 3,9,13 49:16 50:1,10,20,23 51:22,24 52:17,18 56:24 66:2,8, 9 68:22 70:1 75:17 76:17, 20 77:2,5,16 78:22 89:18 90:3,9 92:23 93:2,4 102:8 103:23 105:23 110:11,21 113:2,6 114:5 115:15 118:21 119:17 120:5, 15,23 121:21 122:4	Reports 39:3
refiled 42:16 113:22 115:22 120:7, 18	rel 119:12	remanded 19:10 42:11 51:14		represent 7:16 117:10
reflect 22:1	related 9:13 17:25	remands 50:24		representativ e 63:16
reflected 16:8	relates 90:13	remedies 119:16		represented 110:8
refusal 109:6	relating 79:13	remember 8:18 9:9 13:12 20:14 48:23 55:23 94:14		representing 54:1
regard 123:24	release 58:1 64:12 67:11, 23 68:12 96:5,9 97:12	removal 50:21,22 51:1,2,3,6 52:3,7 77:3 102:14 110:9,	removes 119:8	reputation 35:22
regarding 26:11,13,14, 17 28:13 67:1	released 63:9		render 115:24	request 12:13,25 14:21 21:6 34:7 71:22 109:16 128:15
regardless 99:25 124:9	relevant 40:13 100:19 107:22			requested
	relief 69:23 70:4 116:5,11			

7:18 18:13 33:18 37:19 39:20	resolve 125:19	responses 12:13	revive 80:19, 25 81:2	121:17
requesting 33:6	resolved 61:12 127:16	responsibility 8:11	rewrote 13:8	Roberts 2:3 4:5 7:25 11:13 23:6,7, 9 27:7,19 29:13 32:20 33:9,10,17 34:8 39:6 40:8,10 49:3, 5,11,13 50:7 51:9 52:3,12 53:7 104:10, 13 105:1,6,21 107:14,16,19 118:20 119:4, 21 121:12,14 126:2,6 127:11,20 128:3 129:23 131:16
requests 13:4 70:12,13 71:2,21 109:9	resolving 60:14	rest 128:24	Richard 2:11 26:14 65:13 104:25 125:10	
require 27:25 68:11 98:3 130:25	resources 75:8	restated 65:1	rid 59:17 113:20 120:10	
required 8:11 20:11 26:1 64:8,11 65:12 66:22 79:23 87:25 95:13 128:11	respect 66:7 72:12 77:4 90:8,12 94:23 100:19 101:24 103:13	result 7:6 15:25 20:10 37:12 113:4	rider 68:16 106:20 125:11,16 130:20	
requirements 99:6 124:5	respectfully 12:4	results 12:8	rights 54:13 59:20 60:24 97:12 98:6,8 101:21 117:4	rogue 44:23 45:3 48:3 87:13 92:17 111:18 115:6 118:12 127:22
requires 5:2 16:7 78:1 79:14 97:11	respond 10:14,15 74:11 131:8	rethink 112:2	reverse 123:5,15	Ronny 26:14
requiring 81:9 97:7	responded 9:21 11:7	reversed 7:12	review 26:2	rough 5:16
reserving 39:6	responding 5:13 73:7	reviewed 17:15	ringer 119:23	route 101:10
resolution 102:6 119:5	response 9:16 16:5 18:19 52:19 73:7 74:3 128:21	reviewing 16:11	ripe 63:4	routine 35:14
		revise 106:18	rise 93:25	RPR 1:24
		revising 16:12	risk 11:8	
			River 60:5 61:2,6 69:11 70:3,10,20,24	
			Robert	

rule 43:21,24 44:11 69:3 73:5,14,18,24 76:3 78:5 86:15 87:3 88:8,13,14, 20,21,23 90:13 99:7 112:9 122:24, 25 128:6	S Sacramento 119:13 sacrosanct 101:21 said 12:24 14:14 29:18 30:6 43:9 45:10,18 49:22 50:3 60:2 62:16,21 65:19 70:11, 25 78:5 79:21 81:13,15 85:11 86:5 87:11 93:6,20 105:7 108:21 109:4 110:19 111:21 114:7 124:1 126:24 127:5 same 7:24 16:10 17:14, 16,19 24:22 25:11,23 26:12,14 34:16 45:9 47:13 55:9 61:18 68:8 69:14 72:17 73:10 74:6,9 75:18,20 76:21 77:2 79:7,11,20 80:3,24	81:16,20 83:7 84:21 85:11 89:8,9 90:18 92:25 93:2 96:25 113:5 117:6,15 sanctions 119:16 sat 106:7 satisfaction 124:10 satisfied 48:3 98:22 satisfies 99:6 saved 55:4 saw 13:18 16:5 108:12 say 7:11 17:2, 19 19:14 26:15 39:19 45:21,22 49:3 52:6,15 55:13,15 56:7 58:22 59:8 68:6 71:7 73:22 76:4 77:6,8 80:12 81:3 82:9,11, 13,14 83:13 84:1,11,16	85:14 86:9 89:15 90:2 91:17,22 92:9 94:2,4 97:2 100:4,12 102:6,10 103:4 111:1 117:22 122:18 124:21 129:7 saying 15:19, 20 17:13 23:9 25:2,4 27:11, 23 28:20 31:11 49:14 51:23 75:4 76:22 79:2 85:13 92:2 94:20 100:16 109:22 120:12 says 6:10 20:1 24:5 30:24 33:20 40:23 41:13 44:3 47:7 60:11 77:14 78:10 79:8 82:7,12 84:8, 13 85:20 86:7,11 88:8 93:15,16 95:2 96:13 97:10, 21 98:14,19 99:13,14 103:21 111:8 114:22 116:22 120:21	scheduling 48:13,16 70:17 109:7, 15 scheme 51:4 113:13 scholar 83:19 seated 3:4 40:5 104:24 second 11:8 46:7 80:4 section 65:11 95:6 secure 68:8, 13 security 5:21 9:8 11:9 35:4 110:1 seek 128:8,23 seeking 27:21 30:4 54:4 64:14 109:13 120:9 129:4 seem 5:18 16:9 34:23 90:24
--	--	---	--	---

seems 4:22 124:8,11	26:10 64:7,8 65:6 66:1,15, 22 67:19 69:9 110:12,13,20 113:1	severe 89:4 90:1	107:17 115:9, 18 123:6 129:9	Silver 35:19
seen 13:1 81:24 105:13		shift 23:19 28:5	shouldn't 21:20 26:18 32:15 55:11 81:16 85:3	similar 16:9 61:6 80:16 93:22 98:17
selection 65:23 94:16, 17 97:3	Serene 2:12	shifted 24:19		similarly 20:12
send 58:9	serve 70:11, 13 87:10,22	shifting 23:19	show 93:8	simple 10:2 29:6 72:15 115:4
Senet 2:17	served 43:22 72:25 74:10 81:13,18 82:4 87:24 88:2 114:11	shoes 11:8	showed 9:4, 18 28:23	simplest 42:23
senior 29:11 33:19,22 60:17 64:21	service 74:11	shopping 71:8 110:8,24 115:10	shown 88:16 94:2	simplify 40:12
sense 19:5 52:9 89:10 102:4 111:23 113:14,15 120:25 121:2 124:2	services 3:9 14:15	short 10:2 11:11 31:18 67:15 72:2	side 10:10 27:22 41:15 59:19 81:19 108:4 109:20 129:15	simply 5:5 27:3 43:1 46:5,14 48:7 51:1,21 52:8 53:4 72:21 73:10 84:7 88:23 89:4 90:2 99:18 102:14 109:22 111:17 112:2 121:3,8,22 122:9
sensitive 5:24	set 24:5,15 47:11,19 70:5 71:23 79:7 119:22	shortly 25:13, 15 66:1	side's 6:12	since 104:8 122:4 124:2
sent 62:13 74:18	sets 46:12	should 3:6 18:14,21 19:18 25:18 31:12 39:9 43:10 45:2 47:24 48:4 50:4 55:10 56:20 57:13 58:22 59:5 61:19 68:5 74:5 81:5 87:3,4 89:2 102:21	signature 126:1	single 30:18 33:2 55:10
separate 46:10,19,22, 23 53:13 75:4 81:6 82:7 129:9	setting 23:20 54:18 56:11 70:18 100:3 101:5,12		signed 3:10 21:2 48:15 130:8	
September	several 42:20 65:1 67:14 70:6 85:1 87:9		significant 5:19 6:3	
			signing 41:23	

67:5 76:5	22 87:23 115:1 118:7 128:7	56:22 59:23 123:13	50:23	4,11,16 113:8 114:15 118:8 122:22
sir 4:17		someone 13:8 24:16 82:17 118:3	sophisticated 8:3 10:8	
sit 127:6	SNMARK 85:6		Sorry 119:21	specific 55:21 60:24 81:9 88:11,13 94:13 95:3 101:24
site 86:17	snow 38:3	something 12:25 21:19 25:19 27:1,13 29:4 32:8 34:24,25 38:17,23 39:12,19 42:18 45:13, 14 60:1 73:3, 8,25 74:3 75:9,12 81:22 82:22,23 85:16 89:14, 20 101:16,18 102:8,23 103:2 107:21 123:14 126:16 129:20	sort 21:22 26:25 31:21, 22 34:9 49:25 124:15	
sitting 51:12 64:4 105:13	snowplow 38:2		sound 89:20 126:2,3	specifically 60:18 85:8 106:8 112:4
situation 62:1 82:3,5 109:21	solar 1:7 3:4, 16 5:4 10:7,8 23:7 34:22 35:7 40:7 49:18 57:19 59:4,9 108:6, 13 109:24 111:6 113:1 115:11		sounds 27:11 126:7	spend 25:1 57:3,7 82:25
sketchy 81:1			southern 48:24	spending 6:25 89:23
skill 7:23 8:11 11:25 36:13 37:10	Solar's 4:1 7:25 89:25		sovereign 9:7,13 10:11 20:19	spent 5:18 9:25 12:2 18:5 19:22 20:8,12,22,23 21:4 22:23 26:3,7,8 27:5 28:18
skilled 14:4, 10	sole 71:2	something's 94:11	speak 4:13 10:17 84:25	spoke 17:13
skillful 23:11 24:7,11	solely 66:9	sometimes 16:8 18:13 31:4 38:5	speaking 17:25	staffing 12:6
slop 8:4	solution 103:12 126:7		special 11:3 41:14,20,25 42:1,17 44:14 45:19,22 88:9 110:24 111:15 112:1,	stake 35:15 36:24
slow 54:25 55:2	somebody 10:17 12:12 13:6 16:21	somewhat 30:18 33:2 59:2		stakes 7:5
small 33:12	somehow	soon 41:22		stand 40:2
Smith 43:6 44:22 45:10 52:25 86:21,				

84:6 104:21 127:24 131:14	68:14 74:15 76:16 77:17, 21 78:6,8 82:24 89:19 91:14 92:22, 24 93:1,3,11, 18 98:16,24 102:16 103:24 115:14,21,23 118:24 119:9, 10,16,19,25 120:13,22,24 121:23	82:7,8,15 86:7 88:13 90:16 96:2,4, 24 97:8,9,12, 21 98:4,5 101:11 111:22 112:3 117:1,21 119:9 123:16	130:2,6 step 124:14 Steven 1:15 33:23 sticking 28:4 still 33:2 38:6 46:18 51:20 66:8 107:7 117:4 122:17 123:3,4 stipulate 65:15 stipulated 3:8 75:1 stipulation 3:10 39:8 130:8 stop 13:7 91:25 stopped 108:13 stops 6:23 story 10:2 straight 32:2	strategic 71:1 streamline 83:4 street 11:10 stricken 48:4 strict 45:8 strictly 17:24 strike 3:17 4:2 40:7 45:1, 2 72:7,9,12 87:19 88:6 89:23 91:3 111:18 118:12 124:23 strip 89:6 strong 46:8, 25 52:5,21 61:7 76:4 strongly 20:8 21:16 52:15 struck 44:9 struggling 89:16 stuck 23:24
standalone 72:22 73:9 74:17 82:5 87:13 88:3	stated 66:17	statutes 13:16 97:5 statutory 41:10 55:22 95:25 124:5 stay 3:18 40:8 47:22 48:7,8 49:25 51:10, 16 54:9 56:8 60:6 61:19 69:11 70:10 71:5,18,22 72:11 76:14 78:25 99:18, 21 100:25 101:6,7,17 106:21 109:16 122:9, 16 124:24 128:9,11,15 129:2 stayed 50:1 56:16 78:23 88:11 125:9 staying 61:9 100:25 101:9	standing 7:22 36:13 73:11 stands 74:2 start 23:9 25:13 111:19 118:12 started 71:3 95:24 starving 53:21 state 1:5 12:17 13:10 35:10 36:16 45:8 47:7,16 48:22,25 50:5,11,12 52:5,9,16,17, 18 53:5 55:13 59:6 60:8,17 61:10 66:19	statement 9:17 21:21 statements 16:9 22:1,7 states 10:13 33:18 43:16 77:7 98:15 119:14 statewide 35:21 status 26:13, 17 statute 6:6,9 8:22 13:8,9 23:20,21 40:23 41:12, 13 62:20 81:9

51:25	substantial 7:16,17 36:8 109:1	113:5	7:18 17:22 83:9	survived 15:8
stuff 20:20		suit 114:23	supported 7:15	suspect 27:12 108:15
styled 72:14 80:11	substantially 25:5,6,22 47:13	Suite 2:5,13, 18	supports 80:7	sympathetic 56:20 58:23
sub 18:2 116:19	subversion 110:4	suits 84:9	suppose 4:13 37:3 50:15	synthesize 9:23
subcontractor s 54:6	subvert 115:24	sum 26:23	supposed 22:20 40:20 113:4	<hr/> T <hr/>
subject 7:14 37:4 57:20 91:11 106:5 119:3 129:6	subverted 47:24 115:18	summary 6:18	supreme 15:5 43:7,10,15,23 80:15 81:8 85:2,7,8 86:5 94:25 101:18 114:6,17 128:7 129:11	table 14:9 32:6 108:4 109:21
submit 21:20 22:15 23:1 38:23 95:1 108:2	such 12:19 30:1 43:18 44:5,20 66:20 97:13 107:5	summons 72:25 81:14, 18 82:4		take 26:22 39:11 49:20, 23 50:6 53:20 54:8,18,19 59:10 68:13 78:1 84:24 86:12 89:17 90:17 91:22 98:11 102:14 104:12,13 105:14 108:8 111:1 113:11 122:5,14,18 123:16 126:23 128:19
submitted 12:24 14:20 15:11 18:1 21:1 39:1,21 48:12 108:15 109:9	sued 120:4	sums 39:21	sur-reply 21:23	
	sufficiency 68:10	super 78:19	surety 78:21 96:14,21 106:20 125:7, 15,16	
	sufficient 68:2 114:2	superiors 37:14 92:10	surprise 21:20	
subsection 5:1 66:23 79:8,14 96:3, 10 97:14	suggest 11:15 13:10 24:17	supplemental 9:17 20:19 21:21 39:2 116:7,9		
substance 73:15	suggested 127:19	suppliers 54:6 63:14	surprised 5:7	taken 40:4 48:5 75:12 97:25 104:22 121:21
	suggests	support 4:23	survive 123:9	

takes 69:9 88:23	126:10	28:11 35:11 38:18 46:3 61:5 70:21 74:12 75:12 102:16 112:20 113:22 118:1, 7 119:3 122:6 125:14 129:5	13:25 64:19	thinking 11:9, 10 23:23 30:25 31:6,21 57:12 95:12
taking 101:3 102:7 105:10	technically 20:5 60:4		theory 121:24	
talk 12:3,15 14:18 24:9,13 80:6 86:21 91:7 105:1	teed 94:10		therefore 19:14 75:6 82:12 87:19 88:18 97:23 98:6 124:5	thinks 84:16
talked 9:9 128:25	telephone 17:13	their 5:13 7:2 8:17 9:14,16 11:1,2 12:1, 15,21 14:3 18:23 19:4, 18,23 21:1, 11,22 24:24 26:2,18,19 27:15,24 28:16 30:1,5, 9 43:1 44:17 47:6,24 52:25 54:18 55:6 59:19 63:10, 11,17,18,20, 24 65:3 71:7 72:7 73:1,9, 13,21 74:8 76:13 77:8 79:18 83:9 84:4,5 85:5, 19 91:9,20 94:6 101:9,19 102:25 110:18,21 115:17,22 116:14 117:2, 14 120:1 124:22,23	thereupon 131:18	third-party 43:19,21,22 44:1
talking 5:19 9:19 14:19 18:10 24:10 30:15 38:13 84:3 87:14 95:6 105:17 106:11	telling 32:19 91:23		thing 10:22 12:20 16:10, 11 19:25 24:22 34:16 44:25 51:8 59:13,14 74:25 83:8 84:23 90:5,21 92:25 100:12 104:8,18 107:20 116:1 123:23 128:3 129:17,19	thought 29:12 30:25 119:22
task 26:3	tempered 7:14			thought- about 22:6
tasks 26:5	ten 110:21 113:2			three 35:24 52:5,14 53:13 66:11 68:22 69:6,25 75:16 76:4 77:10 85:22,25 86:19 90:9 91:7,12,25 94:9 96:25 100:13 102:9 103:14 105:17,20,25 106:10,15,22, 23 107:6 118:17 120:19 124:24 125:8
teach 45:18	term 24:2		things 3:13 13:1 17:20 19:21 20:3,21 26:13,18 29:8 31:24 37:7 50:2 55:1 82:16 83:3 99:5 103:19 108:8 112:3 121:21 123:16 125:19	
team 14:9 23:10	terminated 41:25 61:16			
teamwork 16:7	terminates 41:21			
technical 89:11,12	terms 123:21			
technicality	terrific 8:1			
	than 12:12,18 13:10 15:15 16:13,14 19:25 20:10 23:17 24:19	themselves		through 13:19 30:5 31:16 36:9

38:25 39:1 44:16 47:25 54:8 57:4,5,7 71:19 73:16 111:10 115:18	67:6,12,25 69:3 72:3 75:8,22 76:11 84:5 85:16 86:14 87:17 88:1 89:23 94:6 100:17 107:13 108:6, 7 116:8 118:16 129:14,22 130:22 131:10,16	115:9	town 2:18 129:20	tricked 108:24
throw 85:13 122:7		together 11:5 16:7 32:23 82:16 88:18 90:24 123:17	traffic 23:24	trickery 120:21
throws 51:18		token 7:24	trained 14:4, 10	tried 31:17 76:20 80:23 94:3
thwart 101:17		told 117:22	training 7:21 36:12	tries 123:10, 16
tie 72:1	timeframe 54:18 68:24 70:18 101:15	Tonopah 1:7 3:4,16 4:1 5:4 7:24 10:7 23:7 34:22 35:7 40:7 49:18 57:19 59:4,9 89:25 108:6,13 109:24 111:6 113:1 115:11	transaction 55:10 69:14	true 20:6 29:9 40:22,23 60:4 62:24
tied 28:8	timely 38:8 88:2		transferred 28:21,25	truly 89:1 123:12
tiered 54:6	times 31:14 67:12,15,16 68:18 124:3	took 72:16 73:16 80:16 93:1	travel 26:11	truncate 54:19
time 4:20 6:3 8:10 9:10,22, 25 11:25 12:2 13:14 15:14 17:23 18:4,5, 7,17,18,23 19:5 20:9,14, 18,23 21:4 25:5,22 26:3, 5,6,8,15 27:2, 5,16,17,23 28:1,5,18 29:4,20 31:18,23 34:13 37:10, 11,22 38:10, 11 39:23 41:5 57:7,10 61:15 62:14 63:9	title 43:9 111:5,13	Tooley 80:14	treat 93:7	trust 22:17 119:5
	titled 67:3	topnotch 35:7,17 36:18	treatise 83:12 85:3	try 6:23 18:25 19:18 40:12 46:2,3 59:22 78:7 83:23 104:19 110:23
	today 3:11,14 5:14,17 22:17,25 29:21 38:15 39:8 42:21 45:6 57:14 59:23 63:15, 16 86:9 91:16 109:19 110:7	total 5:18 109:6	treatises 83:23	
		totality 30:17	trial 6:19 15:6,9 21:13 34:24 43:11 44:22 54:17 56:11 100:3 101:5,12,14	trying 23:15 28:5 38:4 46:6 56:17 64:5 71:2,9 77:18 78:12
		toward 32:16	tribal 76:8	

81:3 83:22 87:12 91:25 97:4 103:10 108:1 109:13, 17 110:4,6 116:2 120:11	two 15:15 17:9 33:12 62:17 64:2 68:4 70:2,7 71:13,14 77:11 92:19 94:13 110:13 112:3 120:15 121:18 123:16	38:9 41:8,15 43:2,13,20 44:10,18,22 45:11,16 46:25 47:22 48:13,15 49:16 52:25 53:2,4 56:14 60:24 62:20 73:5,14,18 79:7 85:14 87:3 88:7,16 95:13 96:1,9 97:9,12,14 99:7 101:4,5, 10 102:13,18 108:21 111:21 117:1, 18,21 118:2,7 121:10 123:6	75:11,23 83:21 90:4, 14,25 91:4 102:20 107:24 111:19 125:20 127:12	unheard 13:3 Union 94:24 United 10:13 119:14 unius 45:17 unjust 36:6 42:16 unless 74:20 77:15 98:21 unlike 87:23 unreasonable 6:25 23:13 33:3,7 unreasonably 6:24 until 25:13 40:25 50:24 72:18 98:21 110:21 128:10,16 131:6 upwards 36:21 urge 111:17 118:6
TSE 22:11 26:11 57:25 58:16 62:1,24 63:7,22 64:2, 4,14 65:12, 14,18 66:1,5, 15,25 67:6,7, 10,22,24 68:15 69:19, 21 70:10 72:25 79:25 82:4 84:22 86:22 94:18 96:11,23 97:16	two-year 54:18 101:10 type 24:16 28:11 32:24 45:9,25 117:11 121:2 types 44:7 73:17 115:19	under-billing 13:22 under- collateralized 68:3 underlying 4:22 29:17 105:24 106:14 107:7 125:17 understand 17:11 27:9 32:2,14 33:5 35:1 40:6 49:14,15 56:18,22	understandin g 32:18 65:10, 21 98:7 100:22 102:12 understands 36:15 80:9 Understood 59:21 121:15 undertake 77:25 undoubtedly 36:17 unenforceabl e 97:22,23 unfair 22:16 unfolded 105:14 unfortunately 59:12	
TSE's 54:2 65:7 66:4	typical 35:12 37:5			
TUESDAY 1:19 3:1	U			
turn 96:2 105:3 106:14, 21 107:13 119:23	U.S. 19:9 61:5 ultimately 30:3 31:16,25 32:9,22 37:13 50:3 65:1,19			
turned 109:2				
Turner 2:17	under 5:1 6:16 23:19 28:6 30:11			
TV 58:25				

use 80:3	violate 34:12	Wanker 64:1	wasting 75:7	Wells 19:7
used 45:18 55:1 105:6, 21,22 113:16	violates 97:4, 9	want 3:15 23:9 27:16 30:23 32:1,11 34:21 35:2 38:22 42:21 47:6 54:3,9, 12,21,22,24 55:14 56:7 57:15 60:15 62:17 65:20 71:7,13,18 76:2,10 78:19 79:11 92:9 102:4 105:16 121:4 122:5,7 123:9 124:15, 19,20 126:19, 20 131:12	watching 105:13 way 4:8 8:16 16:19 21:22 26:9 27:9,24 40:11 42:8,23 47:15 50:10, 12 52:23 56:5 58:17,19 59:1,8,17 60:2 63:11 65:3,14 70:16 74:13 75:3 82:10 83:24 89:10,13 90:20 91:1 98:22,23 100:22 105:11,23 106:12,20 112:12 113:3, 9,15 115:8 117:6 123:18 124:8 127:16	went 15:1,5,6, 9 20:17 31:3 32:16 37:21 49:12 63:11 68:22 71:19 86:4 93:1 whack 19:15 what-have-you 61:17 whatever 5:10 30:24 50:1 71:1 115:13 117:19 131:10 whatsoever 7:4 Wheeler 2:4
uses 24:2	violation 97:20 105:19			
usually 35:12	virtually 17:2			
V	vitality 6:4			
valid 78:14 80:8	vitiate 121:24			
value 22:22, 25 100:21	void 4:7 8:20 30:15 97:22, 23 98:2			
vastly 7:4,5	voluntarily 47:5 62:23 63:5 113:23	wanted 26:20 74:15 79:3 91:4 92:8		
Vegas 2:6,19	vulnerable 6:1,2	wanting 63:2		
venue 46:12, 21	W	wants 13:24 27:15 48:6 82:16 122:13 123:22	weeds 16:1	whereas 101:10
versus 3:5 14:17 19:7 52:25 113:1	wait 78:3 87:11 107:5 122:16	war 31:8,14, 17	week 34:24 62:8 128:14	wherein 80:19
viable 91:5	waited 87:9	waste 76:10	weekend 49:12	wherever 65:17
view 13:18 18:9,20 22:23	waive 97:11	wasted 100:17	Weil 2:23	whether 12:12 18:11,
Village 2:23	waived 98:6		Weinberg 2:4	

25 29:25 46:14 48:24 63:3 64:22 70:23 99:11 100:10 116:9	wind 105:9	121:14 123:20	working 17:17,22 20:2	114:20
while 37:21 49:24 50:15 51:21 52:21 59:5 114:16 117:4	withdraw 63:10	wording 124:15	works 16:24 116:18	<hr/> Y <hr/>
whim 82:22	withdrew 64:2 69:6 80:2	words 19:13, 24 97:6	World 31:14	year 25:10 62:5
whole 3:12 9:2 50:21 78:4 95:22 113:13 121:20,24	within 41:1 59:10 68:24 72:17 79:19 80:1,24 82:10,18 89:7,21 90:5, 18 92:7 96:17 98:3,15 101:13,15 108:22 128:14	work 8:9 9:1 11:13 12:1,22 13:7 14:1 16:7,8,19,23 18:11 24:17 26:19 27:17 31:19 32:9, 16,17,22,25 33:1 34:13,16 35:11,14 36:19 37:5,9, 11,12,21 51:3 57:18 59:2 62:2 68:5 75:21 78:21 84:21 96:18 105:8 108:21 130:24	worried 18:21 53:19 wrapped 32:23 writ 128:8,10, 13,16 writable 115:5 write 114:18, 19 writing 38:18, 23 written 123:2 129:9 wrong 22:16 49:10,15 81:5 85:1,16,17 wrongfully 108:16 wrote 13:7	years 13:23, 24 15:16 36:3 49:6 54:8 58:5 64:10 76:8 87:9 116:16 yet 18:16 38:22 48:4 70:5 106:10 119:8 yourself 11:7 53:24 <hr/> Z <hr/>
widely 13:6	without 30:25 35:10 42:12, 14 63:5 69:1 99:12 129:14	workable 126:7 worked 8:25 17:8,18 36:3 61:14,15 80:5 worked-on 22:5 workers 6:4		Zimbelman 2:9 3:20,24 4:15,18,19 5:11 14:16, 19,24 15:1 17:7,12 23:3, 14 33:11,12, 15 38:20,24 39:13,18,25 49:8 125:10, 13,22 127:15 130:16,20
will 12:21 18:1 40:2 41:24,25 48:6 53:11,21 57:2 58:17,18 60:21 61:1,17 64:10 70:23 71:14,25 76:14 77:19, 20 91:1,20 94:5,7 95:4 98:20 99:3,15 100:5 101:13 104:21 117:9, 11,20 122:15 125:1,9,17 128:12 131:14	Wittbrodt 2:17 won 12:9,10 wondering 38:13 118:15 word 62:24 88:25 102:4 105:22 113:16			

1 **NEO**
RICHARD L. PEEL, ESQ.
2 Nevada Bar No. 4359
ERIC B. ZIMBELMAN, ESQ.
3 Nevada Bar No. 9407
CARY B. DOMINA, ESQ.
4 Nevada Bar No. 10567
RONALD J. COX, ESQ.
5 Nevada Bar No. 12723
PEEL BRIMLEY LLP
6 3333 E. Serene Avenue, Suite 200
Henderson, Nevada 89074-6571
7 Telephone: (702) 990-7272
Facsimile: (702) 990-7273
8 rpeel@peelbrimley.com
ezimbelman@peelbrimley.com
9 cdomina@peelbrimley.com
rcox@peelbrimley.com
10 *Attorneys for Brahma Group, Inc.*

11 **FIFTH JUDICIAL DISTRICT COURT**
12 **NYE COUNTY, NEVADA**

13 TONOPAH SOLAR ENERGY, LLC, a Delaware
limited liability company,

14 Plaintiff,

15 vs.

16 BRAHMA GROUP, INC., a Nevada corporation,

17 Defendant.
18
19
20
21
22
23

24 AND ALL RELATED CROSS-ACTIONS.
25
26
27
28

CASE NO. : CV 39348
DEPT. NO. : 2

NOTICE OF ENTRY OF ORDER

- (I) **DENYING TONOPAH
SOLAR ENERGY, LLC'S
MOTION TO STRIKE AND
DISMISS; AND**
- (II) **GRANTING IN PART
TONOPAH SOLAR
ENERGY, LLC'S MOTION
FOR STAY**
- (III) **GRANTING BRAHMA
GROUP, INC'S MOTION TO
AMEND**

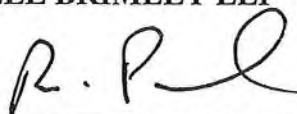
PEEL BRIMLEY LLP
3333 E. SERENE AVENUE, STE. 200
HENDERSON, NEVADA 89074
(702) 990-7272 ♦ FAX (702) 990-7273

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an **ORDER (I) DENYING TONOPAH SOLAR ENERGY, LLC'S MOTION TO STRIKE AND DISMISS; AND (II) GRANTING IN PART TONOPAH SOLAR ENERGY, LLC'S MOTION FOR STAY and (III) GRANTING BRAHMA GROUP, INC'S MOTION TO AMEND** was filed on January 24, 2019, a copy of which is attached as Exhibit 1.

Dated this 25th day of January, 2019.

PEEL BRIMLEY LLP



RICHARD L. PEEL, ESQ. (4359)
ERIC B. ZIMBELMAN, ESQ. (9407)
CARY B. DOMINA, ESQ. (10567)
RONALD J. COX, ESQ. (12723)
3333 E. Serene Avenue, Suite 200
Henderson, Nevada 89074-6571
Attorneys for Brahma Group, Inc.

PEEL BRIMLEY LLP
3333 E. SERENE AVENUE, STE. 200
HENDERSON, NEVADA 89074
(702) 990-7272 ♦ FAX (702) 990-7273

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that I am an employee of PEEL BRIMLEY LLP and that on this 25th day of January, 2019, I caused the above and foregoing document entitled **NOTICE OF ENTRY OF ORDER** to be served as follows:

- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ pursuant to NEFCR 9, upon all registered parties via the Court's electronic filing system;
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**;
- ☐ to be hand-delivered; and/or
- ☒ other: Electronic Service (E-mail)

to the party(ies) and/or attorney(s) listed below at the address and/or facsimile number indicated below:

D. Lee Roberts, Jr., Esq.
Colby L. Balkenbush, Esq.
WEINBERG, WHEELER, HUDGINS
GUNN & DIAL, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, NV 89118
lroberts@wwhgd.com
cbalkenbush@wwhgd.com
Attorneys for Tonopah Solar Energy, LLC

Geoffrey Crisp, Esq.
WEIL & DRAGE
2500 Anthem Village Drive
Henderson, NV 89052
gcrisp@weildrage.com
*Attorneys for Cobra Thermosolar
Plants, Inc.*



An Employee of Peel Brimley LLP

EXHIBIT 1

ORIGINAL

1 **ORDER**

2 RICHARD L. PEEL, ESQ.

3 Nevada Bar No. 4359

4 ERIC B. ZIMBELMAN, ESQ.

5 Nevada Bar No. 9407

6 CARY B. DOMINA, ESQ.

7 Nevada Bar No. 10567

8 RONALD J. COX, ESQ.

9 Nevada Bar No. 12723

10 **PEEL BRIMLEY LLP**

11 3333 E. Serene Avenue, Suite 200

12 Henderson, Nevada 89074-6571

13 Telephone: (702) 990-7272

14 Facsimile: (702) 990-7273

15 rpeel@peelbrimley.com

16 ezimbelman@peelbrimley.com

17 cdomina@peelbrimley.com

18 rcox@peelbrimley.com

19 *Attorneys for Brahma Group, Inc.*

FILED

2019 JAN 24 A 10:37

NYE COUNTY CLERK

BY Bennett
DEPUTY

21 **FIFTH JUDICIAL DISTRICT COURT**

22 **NYE COUNTY, NEVADA**

23 TONOPAH SOLAR ENERGY, LLC, a Delaware
24 limited liability company,

25 Plaintiff,

26 vs.

27 BRAHMA GROUP, INC., a Nevada corporation,

28 Defendant.

CASE NO. : CV 39348
DEPT. NO. : 2

ORDER

- (I) DENYING TONOPAH SOLAR ENERGY, LLC'S MOTION TO STRIKE AND DISMISS; AND
- (II) GRANTING IN PART TONOPAH SOLAR ENERGY, LLC'S MOTION FOR STAY
- (III) GRANTING BRAHMA GROUP, INC'S MOTION TO AMEND

PEEL BRIMLEY LLP
3333 E. SERENE AVENUE, STE. 200
HENDERSON, NEVADA 89074
(702) 990-7272 • FAX (702) 990-7273

1 BRAHMA GROUP, INC., a Nevada corporation,

2 Counterclaimant/Lien Claimant,

3 vs.

4 TONOPAH SOLAR ENERGY LLC, a Delaware
5 limited liability company; BOE BONDING
6 COMPANIES I through X; DOES I through X;
7 ROE CORPORATIONS I through X; and TOE
TENANTS I through X, inclusive,

8 Counter-Defendant,

9 BRAHMA GROUP, INC., a Nevada corporation,

10 Third-Party Plaintiff,

11 vs.

12 COBRA THERMOSOLAR PLANTS, INC., a
13 Nevada corporation; AMERICAN HOME
14 ASSURANCE COMPANY, a surety; BOE
15 BONDING COMPANIES I through X; DOES I
16 through X; ROE CORPORATIONS I through X,
inclusive,

17 Third-Party Defendants.

18 **ORDER**

19 These matters came on for hearing December 11, 2018 (the "Hearing") before the
20 Honorable Senior Judge Steven Elliott on the Motion to Strike, Motion to Dismiss and Motion
21 for Stay ("Motion to Strike") filed by Plaintiff TONOPAH SOLAR ENERGY, LLC ("TSE")
22 and Motion to Amend filed by Defendant, Brahma Group, Inc. ("Brahma"). D. Lee Roberts,
23 Esq., and Ryan Gormley, Esq. of WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC
24 appeared on behalf of TSE. Richard Peel, Esq., Eric B. Zimbelman, Esq. and Cary Domina, Esq.
25 of PEEL BRIMLEY LLP appeared on behalf of Brahma.

26 The Court having considered all the pleadings and papers on file, and having heard
27 argument of counsel, hereby ORDERS as follows, having rendered its oral decision from the
28 bench on December 11, 2018:

1 The Court finds that Brahma's Amended Counter-Complaint does not violate NRCP 7(a)
2 because it (i) acts as a standalone complaint, (ii) was served on TSE, and (iii) provides adequate
3 notice of the claims that are at issue between Brahma and TSE. While incorrectly styled as a
4 "Counter-Complaint," the Court finds that it is really a "Complaint" and complies with NRCP
5 7(a) as it "puts the matters asserted therein at issue." In fact, the initial pleading Brahma filed in
6 this Action was identified as a "Mechanic's Lien Foreclosure Complaint" and was not called an
7 Amended Counter-Complaint until Brahma amended the initial Complaint.

8 The Court further finds that there was nothing improper with Brahma filing its Counter-
9 Complaint in the same Case TSE commenced when it filed its Motion to Expunge Brahma's
10 Lien. First, NRS 108.2275(5) establishes the Nevada Legislature's intent to combine mechanic's
11 lien foreclosure actions with motions to expunge liens. ~~Had Brahma filed a standalone complaint~~
12 ~~as an independent action and then moved the Court to consolidate that action with Case No. CV-~~
13 ~~39348 as TSE suggests, the Parties would be in the same position they currently find themselves~~
14 ~~in. Also,~~ ^{SPE} at the time Brahma filed its Amended Counter-Complaint in this Action, the Court had
15 not yet ruled on Brahma's Motion for Attorney's Fees and Costs under NRS 108.2275, so that
16 Case was still open.

17 The Court further finds that the following three Causes of Action asserted by Brahma
18 against TSE are stayed: (i) Breach of Contract; (ii) Breach of Implied Covenant of Good Faith
19 and Fair Dealing; and (iii) Violations of NRS 624 until such time as the federal court rules on
20 Brahma's and TSE's pending motions filed in the federal action. With respect to all remaining
21 causes of action (as may be further amended), nothing herein is intended to be a stay of such
22 claims and causes of action and Brahma is entitled to proceed with the prosecution of such
23 claims.

24 Finally, the Court finds that Brahma shall be permitted to amend its Amended Counter-
25 Complaint to (i) withdraw the mechanic's lien foreclosure action against TSE's Work of
26 Improvement; (ii) identify the Rider to the Bond (as defined in the Parties' Briefing); and (iii)
27 increase its mechanic's lien foreclosure action against the Bond and Rider to \$19,289,366. The
28 three stayed Causes of Action shall be included in the Second Amended Complaint but shall

PEEL BRIMLEY LLP
3333 E. SERENE AVENUE, STE. 200
HENDERSON, NEVADA 89074
(702) 990-7272 ♦ FAX (702) 990-7273

1 remain stayed as set forth above.

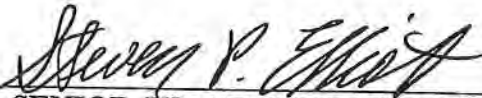
2 **THEREFORE, IT IS HEREBY ORDERED** that TSE's Motion to Strike Brahma's
3 Amended Counter-Compliant is DENIED;

4 **IT IS FURTHER ORDERED** that TSE's Motion to Dismiss Brahma's Amended
5 Counter-Complaint is DENIED; and

6 **IT IS FURTHER ORDERED** that TSE's Motion for Stay is DENIED in part and
7 GRANTED in part. The Motion for Stay is granted only as to the following three Causes of
8 Action which TSE initially removed to federal court: (i) Breach of Contract; (ii) Breach of
9 Implied Covenant of Good Faith and Fair Dealing; and (iii) Violations of NRS 624. These three
10 Causes of Action shall be stayed until such time as the Federal Court rules on whether this Court
11 has proper jurisdiction over these claims. Brahma may prosecute its remaining claims and causes
12 of action as amended. TSE's Motion for Stay is DENIED as to all other claims.

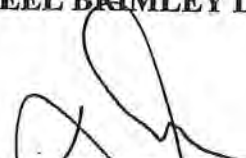
13 **IT IS FURTHER ORDERED** that Brahma shall be permitted to amend its Amended
14 Counter-Complaint.

15 Dated this 24 day of January, 2019.

16
17 

18 SENIOR JUDGE STEVEN ELLIOTT

19
20 Respectfully submitted by:
21 **PEEL BRIMLEY LLP**

22 
23 RICHARD L. PEEL, ESQ. (4359)
24 ERIC B. ZIMBELMAN, ESQ. (9407)
25 CARY B. DOMINA, ESQ. (10567)
26 RONALD J. COX, ESQ. (12723)
27 3333 E. Serene Avenue, Suite 200
28 Henderson, Nevada 89074-6571
Attorneys for Brahma Group, Inc.

Approved as to form and Content
WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

D. LEE ROBERTS, JR, ESQ. (8877)
COLBY L. BALKENBUSH, ESQ. (13066)
RYAN T. GORMLEY, ESQ. (13494)
6385 South Rainbow Blvd., Suite 400
Las Vegas, Nevada 89118
Attorneys for Tonopah Solar Energy, LLC

**United States District Court
District of Nevada (Las Vegas)
CIVIL DOCKET FOR CASE #: 2:18-cv-01747-RFB-GWF**

Brahma Group, Inc. v. Tonopah Solar Energy, LLC
Assigned to: Judge Richard F. Boulware, II
Referred to: Magistrate Judge George Foley, Jr
Demand: \$11,900,000
Case in other court: District Court, Clark County, Nevada,
A-18-777815-B
Cause: 28:1332 Diversity-Other Contract

Date Filed: 09/10/2018
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Brahma Group, Inc.

represented by **Eric Zimbelman**
Peel Brimley LLP
3333 E. Serene Avenue
Suite 200
Henderson, NV 89074-6571
702-990-7272
Fax: 702-990-7273
Email: ezimbelman@peelbrimley.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Richard Leslie Peel
Peel Brimley LLP
3333 E. Serene Ave., Ste. 200
Henderson, NV 89074
702-990-7272
Email: rpeel@peelbrimley.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Cary B Domina
Peel Brimley LLP
3333 E. Serene Avenue
Henderson, NV 89074-6571
702-990-7272
Fax: 702-990-7273
Email: cdomina@peelbrimley.com
ATTORNEY TO BE NOTICED

V.

Defendant

Tonopah Solar Energy, LLC

represented by **Colby Balkenbush**
Weinberg Wheeler Hudgins Gunn &

Dial, LLC
6385 S. Rainbow Blvd.
Suite 400
Las Vegas, NV 89118
702-938-3838
Fax: 702-938-3864
Email: cbalkenbush@wwhgd.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

D. Lee Roberts , Jr
Weinberg, Wheeler, Hudgins, Gunn &
Dial, LLC
6385 S. Rainbow Blvd.
Suite 400
Las Vegas, NV 89118
702-938-3838
Fax: 702-938-3864
Email: lroberts@wwhgd.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan T. Gormley
Weinberg Wheeler Hudgins Gunn , Dial
6385 S. Rainbow Blvd.
Suite 400
LAS VEGAS, NV 89118
702-938-3838
Fax: 702-938-3864
Email: rgormley@wwhgd.com
ATTORNEY TO BE NOTICED

Counter Claimant

Tonopah Solar Energy, LLC

represented by **Colby Balkenbush**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

D. Lee Roberts , Jr
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan T. Gormley
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter Defendant**Brahma Group, Inc.**represented by **Eric Zimbelman**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Richard Leslie Peel**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Cary B Domina**

(See above for address)

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/10/2018	<u>1</u>	PETITION FOR REMOVAL from District Court, Clark County, NV, Case Number A-18-777815-B, (Filing fee \$ 400 receipt number 0978-5233951) by Tonopah Solar Energy, LLC. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet) (Balkenbush, Colby) NOTICE of Certificate of Interested Parties requirement: Under Local Rule 7.1-1, a party must <u>immediately</u> file its disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court. (Entered: 09/10/2018)
09/10/2018		Case assigned to Judge Richard F. Boulware, II and Magistrate Judge George Foley, Jr. (JM) (Entered: 09/10/2018)
09/10/2018	<u>2</u>	MINUTE ORDER IN CHAMBERS of the Honorable Judge Richard F. Boulware, II on 9/10/2018. Statement regarding removed action is due by 9/25/2018. Joint Status Report regarding removed action is due by 10/10/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 09/10/2018)
09/10/2018	<u>3</u>	CERTIFICATE of Interested Parties by Tonopah Solar Energy, LLC that identifies all parties that have an interest in the outcome of this case. Corporate Parent Capital One, National Association, Corporate Parent Banco Santander, S.A., Corporate Parent Inversiones Capital Global, S.A., Corporate Parent Cobra Energy Investment, LLC, Corporate Parent Cobra Industrial Services, Inc., Corporate Parent SolarReserve, Inc., Corporate Parent ACS Servicios Comunicaciones y Energia S.L., Other Affiliate Tonopah Solar Energy Holdings II, LLC, Other Affiliate Tonopah Solar Energy Holdings, I, LLC, Other Affiliate Tonopah Solar I, LLC, Other Affiliate Tonopah Solar Investments, LLC, Other Affiliate Cobra Energy Investment Finance, LLC, Other Affiliate SolarReserve CSP Holdings, LLC, Other Affiliate SolarReserveCSP Finance, LLC, Other Affiliate SolarReserve, LLC for Tonopah Solar Energy, LLC added. (Balkenbush, Colby) (Entered: 09/10/2018)
09/17/2018	<u>4</u>	

		ANSWER re 1 Petition for Removal, <i>to Brahma Group, Inc.'s Complaint</i> (, Discovery Plan/Scheduling Order due by 11/1/2018.), COUNTERCLAIM against Brahma Group, Inc. by Tonopah Solar Energy, LLC. filed by Tonopah Solar Energy, LLC.(Balkenbush, Colby) NOTICE of Certificate of Interested Parties requirement: Under Local Rule 7.1-1, a party must <u>immediately</u> file its disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court. (Entered: 09/17/2018)
09/19/2018	5	CERTIFICATE of Interested Parties by Tonopah Solar Energy, LLC that identifies all parties that have an interest in the outcome of this case. Other Affiliate Department of Energy for Tonopah Solar Energy, LLC, Tonopah Solar Energy, LLC added. (Balkenbush, Colby) (Entered: 09/19/2018)
09/24/2018	6	DEMAND for Trial by Jury by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. (Balkenbush, Colby) (Entered: 09/24/2018)
09/25/2018	7	STATEMENT REGARDING REMOVAL by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. (Balkenbush, Colby) (Entered: 09/25/2018)
09/25/2018	8	First AMENDED COMPLAINT against All Defendants by Brahma Group, Inc.. No changes to parties. Proof of service due by 12/24/2018.(Domina, Cary) (Entered: 09/25/2018)
09/25/2018	9	CERTIFICATE of Interested Parties by Brahma Group, Inc.. There are no known interested parties other than those participating in the case (Domina, Cary) (Entered: 09/25/2018)
10/05/2018	10	ANSWER to 4 Answer to Petition for Removal,,, Counterclaim,, filed by Brahma Group, Inc..(Domina, Cary) (Entered: 10/05/2018)
10/09/2018	11	ANSWER to 8 Amended Complaint filed by Tonopah Solar Energy, LLC. (Balkenbush, Colby) (Entered: 10/09/2018)
10/10/2018	12	Joint STATUS REPORT by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. (Balkenbush, Colby) (Entered: 10/10/2018)
10/16/2018	13	MOTION to Stay Case, or in the Alternative, Motion to amend Complaint by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Attachments: # 1 Exhibit 1 - Services Agreement, # 2 Exhibit 2 - Original Lien, # 3 Exhibit 3 - Notice of First Amended and Restated Lien, # 4 Exhibit 4 - Notice of Second Amended and Restated Lien, # 5 Exhibit 5 - Third Ameded and/or Restated Notice of Lien, # 6 Exhibit 6 - Fourth Amended and/or Restated Notice of Lien, # 7 Exhibit 7 - Brahma Surety Bond, # 8 Exhibit 8 - Brahma Surety Bond Rider, # 9 Exhibit 9 - H&E Surety Bond, # 10 Exhibit 10 - TSE's Motion to Expunge, # 11 Exhibit 11 - Brahma's Complaint filed in the Clark County Action, # 12 Exhibit 12 - Mechanic's Lien Foreclosure Complaint, # 13 Exhibit 13 - First Amended Counter-Complaint and Third-Party Complaint, # 14

		Exhibit 14 - TSE's October 15, 2018 Letter) (Domina, Cary) (Entered: 10/16/2018)
10/17/2018	14	MOTION NOTICE for Oral Argument by Brahma Group, Inc. re 13 Motion to Stay Case. (Domina, Cary) <u>Event modified by Clerk's Office on 10/17/2018 (EDS).</u> (Entered: 10/17/2018)
10/18/2018	15	CERTIFICATE OF SERVICE for 9 Certificate of Interested Parties, 8 Amended Complaint by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 10/18/2018)
10/18/2018	16	MOTION for Permanent Injunction by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. Responses due by 11/1/2018. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit) (Balkenbush, Colby) (Entered: 10/18/2018)
10/22/2018	17	NOTICE of <i>Withdrawal of Demand for Jury Trial</i> by Tonopah Solar Energy, LLC.. (Balkenbush, Colby) (Entered: 10/22/2018)
10/30/2018	18	RESPONSE to 13 Motion to Stay Case,,, by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. Replies due by 11/6/2018. (Attachments: # 1 Exhibit, # 2 Exhibit) (Balkenbush, Colby) (Entered: 10/30/2018)
11/01/2018	19	FIRST STIPULATION FOR EXTENSION OF TIME re 16 Motion for Permanent Injunction, by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 11/01/2018)
11/05/2018	20	RESPONSE to 16 Motion for Permanent Injunction, by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. Replies due by 11/12/2018. (Attachments: # 1 Declaration Declaration of Richard L. Peel, Esq. in Support of Brahma Group, Inc.'s Response to Tonopah Solar Energy's Motion for Preliminary Injunction and Motion to Strike [ECF No. 16], # 2 Exhibit 1 - Services Agreement, # 3 Exhibit 2 - Original Lien, # 4 Exhibit 3 - First Complaint, # 5 Exhibit 4 - Notice of Foreclosure, # 6 Exhibit 5 - Notice of Lis Pendens, # 7 Exhibit 6 - Letter dated April 19, 2018, # 8 Exhibit 7 - First Motion to Expunge, # 9 Exhibit 8 - Voluntary Dismissal, # 10 Exhibit 9 - First Amended Lien, # 11 Exhibit 10 - Second Amended Lien, # 12 Exhibit 11 - Third Amended Lien, # 13 Exhibit 12 - Fourth Amended Complaint, # 14 Exhibit 13 - Brahma Surety Bond, # 15 Exhibit 14 - Brahma Surety Bond Rider, # 16 Exhibit 15 - H&E Lien, # 17 Exhibit 16 - Tonopah's Motion to Expunge the H&E Lien, # 18 Exhibit 17 - H&E Surety Bond, # 19 Exhibit 18 - TSE's Second Motion to Expunge Brahma's Lien, # 20 Exhibit 19 - Order of Reassignment, # 21 Exhibit 20 - Judge Elliott's Order Denying TSE's Second Motion to Expunge the Brahma Lien, # 22 Exhibit 21 - Brahma's Fee Motion, # 23 Exhibit 22 - Brahma's Complaint filed in the Clark County Action, # 24 Exhibit 23 - Mechanic's Lien Foreclosure Complaint, # 25 Exhibit 24 - First Amended Counter-Complaint and Third-Party Complaint, # 26 Exhibit 25 - TSE's Motion to Strike, Motion to Dismiss or Motion to Stay, # 27 Exhibit 26 - Brahma's

		Opposition to TSE's Nye County Motion to Stay) (Domina, Cary) (Entered: 11/05/2018)
11/06/2018	21	STIPULATION FOR EXTENSION OF TIME (First Request) <i>and Order Extending Deadline to File Reply</i> re 13 Motion to Stay Case,,, by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 11/06/2018)
11/07/2018	22	ORDER granting 19 Stipulation; Re: 16 Motion for Permanent Injunction, Responses due by 11/5/2018. Replies due by 11/16/2018. Signed by Judge Richard F. Boulware, II on 11/7/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 11/07/2018)
11/07/2018	23	ORDER granting 21 Stipulation; Re: 13 Motion to Stay Case, Replies due by 11/8/2018. Signed by Judge Richard F. Boulware, II on 11/7/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 11/08/2018)
11/08/2018	24	REPLY to Response to 13 Motion to Stay Case,,, by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 11/08/2018)
11/14/2018	25	PROPOSED Discovery Plan/Scheduling Order by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc. <i>Special Scheduling Review Requested</i> (Domina, Cary) (Entered: 11/14/2018)
11/15/2018	26	SCHEDULING ORDER. Re: 25 Proposed Discovery Plan/Scheduling Order. Discovery due by 10/25/2019. Motions due by 11/25/2019. Proposed Joint Pretrial Order due by 12/26/2019. Signed by Magistrate Judge George Foley, Jr on 11/15/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 11/15/2018)
11/15/2018	27	NOTICE PURSUANT TO LOCAL RULE IB 2-2: In accordance with 28 USC § 636(c) and FRCP 73, the parties in this action are provided with a link to the "AO 85 Notice of Availability, Consent, and Order of Reference - Exercise of Jurisdiction by a U.S. Magistrate Judge" form on the Court's website - www.nvd.uscourts.gov . AO 85 Consent forms should NOT be electronically filed. Upon consent of all parties, counsel are advised to manually file the form with the Clerk's Office. (A copy of form AO 85 has been mailed to parties not receiving electronic service.) NOTICE OF GENERAL ORDER 2013-1 AND OPPORTUNITY FOR EXPEDITED TRIAL SETTING: The parties in this action are provided with a link to General Order 2013-1 and the USDC Short Trial Rules on the Court's website - www.nvd.uscourts.gov . If the parties agree that this action can be ready for trial within 180 days and that a trial of this matter would take 3 days or less, the parties should consider participation in the USDC Short Trial Program. If the parties wish to be considered for entry into the Court's Short Trial Program, they should execute and electronically file with USDC Short Trial Form 4(a)(1) or Form 4(a)(2). (no image attached) (JM) (Entered: 11/15/2018)
11/16/2018	28	REPLY to Response to 16 Motion for Permanent Injunction, by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. (Balkenbush, Colby) (Entered: 11/16/2018)

11/28/2018	29	MOTION to Stay Discovery by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Attachments: # 1 Exhibit Declaration of Ronald J. Cox, Esq.) (Domina, Cary) (Entered: 11/28/2018)
11/29/2018	30	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge George Foley, Jr. on 11/29/2018. By Deputy Clerk: Ivy Hensel. Re: 29 MOTION to Stay Discovery by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc. Motion Hearing set for Thursday, December 27, 2018 at 1:30 PM in LV Courtroom 3A before Magistrate Judge George Foley, Jr. (no image attached) (Copies have been distributed pursuant to the NEF - IH) (Entered: 11/29/2018)
12/04/2018	31	MOTION to Compel <i>Brahma Group, Inc. to Respond to Requests for Production and Interrogatories</i> by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. Responses due by 12/18/2018. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit) (Gormley, Ryan) Modified on 12/26/2018 (JM). (Entered: 12/04/2018)
12/12/2018	32	RESPONSE to 29 Motion to Stay Discovery by Counter Claimant Tonopah Solar Energy, LLC, Defendant Tonopah Solar Energy, LLC. Replies due by 12/19/2018. (Attachments: # 1 Exhibit) (Gormley, Ryan) (Entered: 12/12/2018)
12/18/2018	33	STIPULATION FOR EXTENSION OF TIME (First Request) (<i>Extend Response</i>) re 31 Motion to Compel, by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 12/18/2018)
12/18/2018	34	STIPULATION FOR EXTENSION OF TIME (First Request) (<i>Extend Reply</i>) re 29 Motion to Stay Discovery by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 12/18/2018)
12/19/2018	35	ORDER granting 33 Stipulation; Re: 31 Motion to Compel, Responses due by 12/21/2018. Signed by Magistrate Judge George Foley, Jr on 12/19/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 12/19/2018)
12/19/2018	36	ORDER granting 34 Stipulation; Re: 29 Motion to Stay Discovery, Replies due by 12/21/2018. Signed by Magistrate Judge George Foley, Jr on 12/19/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 12/19/2018)
12/21/2018	37	STIPULATION and Order to Withdraw Pending Discovery Motions [ECF Nos. 29 and 31] re 31 Motion to Compel, 29 Motion to Stay Discovery by Plaintiff Brahma Group, Inc., Counter Defendant Brahma Group, Inc.. (Domina, Cary) (Entered: 12/21/2018)
12/26/2018	38	ORDER granting 37 Stipulation to Withdraw Pending Discovery Motions; Signed by Magistrate Judge George Foley, Jr on 12/26/2018. (Copies have been distributed pursuant to the NEF - JM) (Entered: 12/26/2018)

PACER Service Center

Transaction Receipt

02/12/2019 12:22:05			
PACER Login:	paceraadminwwhgd	Client Code:	9999.0008
Description:	Docket Report	Search Criteria:	2:18-cv-01747-RFB-GWF
Billable Pages:	6	Cost:	0.60

Case #: CV-0039348

Judge: ELLIOTT, STEVEN P

Date Filed: 06/11/18 Department: 02

Case Type: RP OTH REAL PROP/OTHER TITLE TO PROP

Title/Caption: TONOPAH SOLAR ENERGY, LLC, a Delaware
limited liability company,
Plaintiff
VS
BRAHMA GROUP, INC., a Nevada Corp.
Defendant

Comments: FILE IN PAHRUMP/SENIOR JUDGE ELLIOTT

Defendant(s)
BRAHMA GROUP INC

Attorney(s)
PEEL, RICHARD

Defendant(s)
H&E EQUIPMENT SERVICES, INC.

Attorney(s)
HANSEN, DANIEL M.

Plaintiff(s)
TONOPAH SOLAR ENERGY LLC

Attorney(s)
ROBERTS JR., D. LEE
BALKENBUSH, COLBY L.

Hearings:

Date	Time	Hearing	Reference
8/06/18	9:00	MOTION TO EXPUNGE MECHANICS LIEN	7/23ORDER

JUDGE: ROBERT W. LANE; CLERK: VERONICA AG UILAR; BAILIFF: JAMELE TAYLOR; APP: D. LEE ROBERTS, ESQ., IS PRESENT ON BEHALF OF PLAINTIFF, TONOPAH SOLAR ENERGY; RICHARD PEEL, ESQ., AND RONNIE COX, ESQ., ARE PRESENT WITH DAVID ZIMMERMAN. MR. ROBERTS ADDRESSES THE RECUSAL FROM DEPARTMENT 1; STATES HE IS READY TO PROCEED. THE COURT STATES HE IS INCLINED TO TRANSFER THE MATTER TO SENIOR JUDGE ELLIOT SINCE HE IS AWARE OF THE MATTER AND EXPLAINS HE WILL NOTIFY COUNSELS IF THE CASE IS TRANSFERRED.

9/12/18 1:15 MOTION HEARING
SENIOR JUDGE: STEVEN ELLIOTT
CLERK: SARAH WESTFALL
BAILIFF: JAMELE TAYLOR
APPS: D. LEE ROBERTS JR. & COLBY L. BALKENBUSH PRESENT ON BEHALF OF PLAINTIFF;
RICHARD L. PEEL, ERIC B. ZIMBELMAN, & RONNIE J. COX PRESENT ON BEHALF OF
DEFENDANT, WITH CLIENT REPRESENTATIVE DAVID ZIMMERMAN.
COURT CALLS THE MATTER; CALENDARER TODAY ON PLAINTIFF, TONOPAH SOLAR
ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN. COURT
INFORMS COUNSEL HE HAS REVIEWED THE PLEADINGS ON FILE IN RELATION TO THE
INSTANT MOTION AND HANDS THE MATTER OVER TO COUNSEL FOR ARGUMENT. MR.
ROBERTS PRESENTS ARGUMENT IN SUPPORT OF PLAINTIFF'S MOTION AND SUBMITS
FOR THE COURT'S REVIEW CASE LAW CONCERNING BURDEN OF PROOF. MR. ZIMBELMAN
RESPONDS AND PRESENTS ARGUMENT IN OPPOSITION OF PLAINTIFF'S MOTION. COURT
RAISES QUESTIONS WITH REGARD TO ANOTHER CASE, NUMBER CV39237. MR. PEEL
ADDRESSES THE COURT REGARDING CV39237 AND NOTES IT WAS DISMISSED VOLUNTARILY
WITHOUT PREJUDICE BY HIS CLIENT DUE TO PROVISIONS WITHIN THE CONTRACT BETWEEN
THE PARTIES. MR. ZIMBELMAN CONTINUES WITH OPPOSING ARGUMENT AND SUBMITS
TO THE COURT. COURT TAKES A BRIEF RECESS. COURT RETURNS TO SESSION. MR.

ZIMBELMAN ADDRESSES THE COURT'S CONCERNS WITH REGARD TO BRAHMA GROUP, INC.'S LIEN. MR. PEEL INTERJECTS, REVIEWS STATUTES PERTAINING TO LIENS AND PRESENTS ARGUMENT SUPPORTING BRAHMA GROUP, INC.'S LIEN. MR. ROBERTS PRESENTS REBUTTAL ARGUMENT. MR. PEEL PROCEEDS WITH SOME FINAL POINTS. MR. ROBERTS RESPONDS AND MOVES TO STRIKE MR. PEEL'S COMMENTS AS TO THE ORIGINAL INTENT AT THE TIME THE LIEN WAS FILED. COURT RULES AGAINST TONOPAH SOLAR ENERGY, LLC AND FINDS THE LIEN STANDS. COURT OUTLINES HIS CONCLUSIONS FOR COUNSEL. COURT ORDERS PLAINTIFF, TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN DENIED. MR. PEEL IS TO PREPARE THE ORDER FROM TODAY'S HEARING AND RUN BY OPPOSING COUNSEL FOR REVIEW PRIOR TO SUBMISSION. COURT IS ADJOURNED.

10:00 MOTION HEARING
12/11/18 10:00 MOTION TO STRIKE .. (TSE)
JUDGE:STEVEN P ELLIOTT
CLERK:DEBRA BENNETT;COURT REPORTER:DEBBIE HINES
BAILIFF:JAMELE TAYLOR
APPEAR:RICHARD PEEL;ERIC B. ZIMBELMAN AND CARY DOMINA PRESENT ON BEHALF OF BRAHMA GROUP INC.; D.LEE ROBERTS JR AND RYAN GORMLEY PRESENT ON BEHALF OF TONOPAH SOLAR ENERGY LLC;DANIEL M HANSEN PRESENT ON BEHALF OF H&E EQUIPMENT SERVICES, INC. ATTORNEY JEREMY KILBER FROM WEIL & DRAGE PRESENT ON BEHALF OF COBRA.COURT OPENS ADDRESSING MOTIONS AND BEGINNING WITH H&E EQUIPMENTS MOTION TO INTERVENE.PARTIES HAVE STIPULATED TO CONTINUE HEARING DATE ON H&E EQUIPMENTS MOTION TO INTERVENE.COURT STATES STIP AND ORDER HAS BEEN SIGNED TODAY SO THAT CAN BE MOVED ON.MR ZIMBELMAN ON BEHALF OF BRAHMA GROUP INC PRESENTS THE MOTION ADDRESSING ATTORNEYS FEES THAT THEY ARE REQUESTING.MR ROBERTS ON BEHALF OF TONOPAH SOLAR ARGUES THAT THE RATES ARE TOO HIGH AND OBJECTS TO THE BLOCK BILLING USED BY BRAHMA AS LACKING IN TRANSPARENCY.COURT PRESENTS VIEW THAT ULTIMATELY BRAHMA IS JUSTIFIED AND RULES IN FAVOR OF BRAHMAS MOTION AND GRANTS THE MOTION FOR ATTORNEYS FEES AND COSTS.COURT STATES MR ZIMBELMAN CAN SUBMIT SOMETHING IN WRITING TO ADDRESS ADDITONAL FEES AND COSTS TO COVER TODAYS HEARING. MR ZIMBELMAN STATES IF THE COURT COULD MAKE AN AWARD UP THROUGH THE AMOUNT SUBMITTED INITIALLY AND THEN HE COULD PREPARE A SUPPLEMENTAL DECLARATION, RUN IT BY MR ROBERTS. MR ROBERTS AGREES TO STIP TO THIS.COURT MOVES TO TAKE A SHORT RECESS.COURT BACK IN SESSION.COURT ADDRESSES NEXT MOTION, TONOPAH SOLARS MOTION TO STRIKE, DISMISS OR STAY. MR ROBERTS PRESENTS HIS ARGUMENT FOR EACH MOTION AND THE FEDERAL COURTS JURISDICTION ON THIS CASE. MR ROBERTS STATES IF THE COURT WILL NOT STRIKE OR DISMISS THEN HE WOULD REQUEST A STAY UNTIL THE FEDERAL COURT HAS RULED OR WEIGHED IN ON THE CASE BEFORE THEM. THIS CASE AT FEDERAL COURT HAS JURISDICTION AND MR ROBERTS BELEIVES THEY WILL PROCEED WITH THIS CASE.FEDERAL COURT SHOULD TAKE PRECEDENCE OVER THE STATE.COURT ADDRESSES MR ROBERTS AS TO FEDERAL COURTS OBLIGATION TO TAKE THIS CASE.MR ROBERTS STATES JURISDICTION IS DIVESTED. A REMAND HAS NOT BEEN REQUESTED.COURT STATES IT IS NOT A SURE THING. MR. ROBERTS ARGUES THIS IS WHY THEY ARE REQUESTING THE COURT GRANT ITS MOTION FOR A STAY UNTIL THEY HEAR BACK ON WHAT FEDERAL COURT DECIDES TO DO WITH THIS CASE. MR. ROBERTS CONCLUDES HIS ARGUMENT.MR DOMINA ON BEHALF OF BRAHMA GROUP BEGINS HIS REBUTTAL.MR DOMINA STATES TONOPAH SOLAR IS TRYING TO DRAG OUT THE CASE IN FEDERAL COURT TO DELAY PAYING BRAHMA GROUP WHILE AT THE SAME TIME COLLECTING INTEREST ON THIS MONEY. MR DOMINA ARGUES THAT THE FEDERAL COURT HAS LIMITED JURISDICTION AND CAN ONLY HEAR CASES WHERE IT HAS SPECIFIC STATUTORY AUTHORIZATION TO DO SO. ONE EXAMPLE IS DIVERSITY. THIS COURT IS A COURT OF GENERAL JURISDICTION. MR DOMINA STATES HIS CONCERNS WITH THE BOND CLAIMS AND FEDERAL COURT NOT BEING ABLE TO AWARD THE ATTORNEYS FEES AND COSTS IF THE BOND CLAIM HAS A STAY WITH THIS COURT IN NYE COUNTY. COURT ADDRESSES MR DOMINA AS TO THE CLAIM BOND BEING FILED WITH THE FEDERAL

11/2/18GERIE
GERIE

COURT. MR DOMINA STATES IT WAS NOT FILED IN CLARK COUNTY AND WILL PROCEED TO CLARIFY THIS ISSUE. MR DOMINA CONTINUES TO STATE HIS REASONS FOR THE CASE TO BE HEARD HERE IN NYE COUNTY. COURT STATES THAT TONOPAH SOLAR HAS THE RIGHT TO TAKE THIS UP TO FEDERAL COURT IF THEY ARE WITHIN THE LAW AND YOU MIGHT LOOK AT THIS AS DENY, DELAY, DONT PAY BUT UNFORTUNATELY IT IS NOT WHAT IS THE RIGHT THING TO DO BUT WHAT IS THE LAWFUL THING TO DO. MR DOMINA CONTINUES TO ARGUE AND FEELS THAT FEDERAL COURT WILL DISMISS THE CASE AND IT WILL BE ABLE TO CONTINUE ON IN NYE COUNTY. COURT BREAKS FOR LUNCH. COURT BACK IN SESSION. MR ZIMBELMAN ON BEHALF OF BRAHMA GROUP COVERS THE CLAIMS IN FEDERAL COURT AND THE CLAIMS IN DISTRICT COURT NYE COUNTY. MR ZIMBELMAN IS REQUESTING THE BOND CLAIM TO PROCEED IN DISTRICT COURT ALLOW THEM TO AMEND THEIR COMPLAINT. MR ROBERTS ADDRESSES THE DENY, DELAY, DONT PAY. TONOPAH SOLARS POSITION IS THAT BRAHMA HAS REFUSED TO GIVE THEM BACKUP INVOICES THEY REQUESTED AFTER IT WAS BROUGHT TO THEIR ATTENTION THEY HAD BEEN OVERPAYING. MR ROBERTS STATES THAT THEY ARE NOT THE ONES TRYING TO DELAY THIS CASE. MR ROBERTS CONTINUES TO ARGUE THE FORUM SHOPPING ISSUE AND THE FILING OF BRAHMAS ROGUE DOCUMENT (COUNTER-COMPLAINT). COURT MAINTAINS THE DOCUMENT IS CONSIDERED A VALID DOCUMENT AND FILING. COURT ADDRESSES ALL PARTIES AND STATES IT IS DENYING TONOPAH SOLARS MOTION TO STRIKE AND DISMISS; WILL STAY THE THREE CAUSES OF ACTION, WAIT AND SEE WHAT FEDERAL COURT WILL DO. COURT ADDRESSES THE ACTION AGAINST THE BOND NOT FORECLOSURE, IF BRAHMA CAN GET SATISFACTION FROM THE BOND THEN THE OTHER PART IS MOOT. COURT STATES MR PEEL IS TO PREPARE THE ORDER. MR PEEL CLARIFIES AND OUTLINES THE DETAILS THAT WILL MAKE UP THE ORDER. MR ROBERTS TAKES EXCEPTION TO COURTS RULING BUT HAVING SAID THAT, WHAT HAS BEEN PROPOSED BY MR PEEL IS AS GOOD AS ANYTHING I COULD COME UP WITH TO IMPLEMENT THE COURTS ORDER. COURT ACCEPTS THE ARGUMENT PRESENTED BY MR ROBERTS BUT DOES NOT APPROVE OF IT. COURT UNDERSTANDS THAT HE HAS THAT POSITION. JEREMY KILBER ON BEHALF OF COBRA, REQUESTS CLARIFICATION ON WHEN TO FILE ANSWER. MR ZIMBELMAN STATES HE SHOULD FILE HIS ANSWER AFTER BRAHMA GROUP HAS FILED THE AMENDED COMPLAINT. COURT SETS A HEARING DATE FOR H & E EQUIPMENT SERVICES MOTION TO INTERVENE FOR JANUARY 3RD 2019 AT 10AM. MR. PEEL IS TO PREPARE THE ORDER. TRANSCRIPTS FOR THIS HEARING WILL BE PREPARED AND FILED BY COURT REPORTER DEBBIE HINES. COURT IS ADJOURNED.

12/11/18 10:00 MOTION FOR LEAVE TO AMEND .. (BRAHMA) GERIE
SEE MINUTES ABOVE

12/11/18 10:00 MOTION FOR ATTORNEY'S FEES .. (BRAHMA) GERIE
SEE MINUTES ABOVE

12/11/18 10:00 MOTION TO INTERVENE PENDING HEARING DATE GERIE
SEE MINUTES ABOVE

1/24/19 9:00 MOTION TO INTERVENE 1/3 ORD
JUDGE: STEPHEN ELLIOT

CLERK: DEBRA BENNETT; COURT REPORTER: DEBBIE HINES

BAILIFF: JAMELE TAYLOR

APPEAR: ERIC ZIMBELMAN PRESENT ON BEHALF OF BRAHMA; DANIEL HANSEN PRESENT ON BEHALF OF H & E.

COLBY BALKENBUSH PRESENT ON BEHALF OF TONOPAH SOLAR.

COURT ADDRESSES ALL PARTIES. MR ZIMBELMAN PRESENTS ARGUMENT IN SUPPORT OF HIS MOTION TO CONSOLIDATE.

CV 39799 INTO CV 39348 MAKES LOGICAL AND JUDICIAL SENSE TO CONSOLIDATE.

MR BALKENBUSH PRESENTS CASE OPPOSING MOTION TO CONSOLIDATE. THE IDENTICAL CLAIMS; 2 SEPARATE ACTIONS; AGAINST RULE 15 AND CLAIM SPLITTING. TSE WANTS EVERYTHING MOVED TO FEDERAL COURT. DENY MOTION AND DISMISS

REDUNDANT IDENTICAL CLAIM THAT HAS BEEN FILED. MR ZIMBELMAN PRESENTS REBUTTAL ARGUMENT; REQUESTS CASES BE HEARD IN TOTAL ALL CONSOLIDATED; HEARD TOGETHER IN EITHER JURISDICTION. COURT DOES NOT FEEL THERE IS A VIOLATION OF RULE 15. COURT GRANTS MOTION TO CONSOLIDATE. COURT ADDRESSES THE PROPOSED ORDER AND PROBLEMS WITH SOME OF THE WORDING; CHANGES TO SOME OF THE VERBAGE USED. MR BALKENBUSH AGREES WITH THE COURT'S VIEWS ON THE PROPOSED ORDER. MR ZIMBLEMAN EXPLAINS THE REASONING BEHIND THE PROPOSED ORDER AND HOW IT WAS WORDED. COURT REFERS TO LEON MEAD AND HIS TREATISE. COURT WILL DELINEATE AND SIGN ORDER. BOTH ATTORNEYS AGREE WITH THE COURT. MR HANSEN PRESENTS HIS ARGUMENT ON HIS MOTION TO INTERVENE AND JOIN THIS CASE ON BREACH OF FORECLOSURE.

MR ZIMBLEMAN PRESENTS ARGUMENT ON SEPARATE LIEN ACTIONS.

MR BALKENBUSH OPPOSES THE MOTION TO INTERVENE. COURT FINDS GOOD CAUSE ON MOTION TO INTERVENE AND GRANTS H & E'S MOTION TO INTERVENE. H & E WILL SUBMIT COMPLAINT AND ORDER. NOTHING FURTHER. COURT IS ADJOURNED. DEBBIE HINES WILL PREPARE AND FILE TRANSCRIPTS FOR THIS HEARING.

1/24/19 9:00 MOTION TO CONSOLIDATE CASE
SEE MINUTES ABOVE

1/3 ORD

Filings:

Date	Pty	Filing	Fees
6/11/18	P	TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP INC.'S MECHANIC'S LIEN	245.00
7/02/18	C	STIPULATION AND ORDER TO CONTINUE HEARING DATE FOR TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANICS LIEN	
7/16/18	P	NOTICE OF HEARING OF TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN	
7/25/18	D	BRAHMA GROUP, INC.'S OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN	
7/31/18	P	TONOPAH SOLAR ENERGY, LLC'S REPLY TO BRAHMA GROUP, INC.'S OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN	
8/03/18	D	BRAHMA GROUP, INC.'S SUPPLEMENT TO ITS OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN	198.00
8/10/18	C	ORDER SETTING HEARING (9/12/18)	
8/14/18	C	ORDER OF REASSIGNMENT (SENIOR JUDGE ELLIOTT)	
8/15/18	P	TONOPAH SOLAR ENERGY, LLC'S ERRATA TO ITS REPLY TO BRAHMA GROUP, INC.'S OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANICS LIEN	
8/17/18	D	BRAHMA GROUP, INC.'S STATEMENT OF SUPPLEMENTAL AUTHORITIES IN SUPPORT OF ITS OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN	
9/07/18	P	TONOPAH SOLAR ENERGY, LLC'S RESPONSE TO BRAHMA GROUP, INC.'S STATEMENT OF SUPPLEMENTAL AUTHORITIES IN SUPPORT OF ITS OPPOSITION TO TONOPAH SOLAR ENERGY, LLC'S MOTION TO EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN (HRG 9/12/18)	
		***** END OF FILE # 1 *****	
9/21/18	D	BRAHMA GROUP, INC.'S MECHANIC'S LIEN FORECLOSURE COMPLAINT	
9/21/18	D	NOTICE OF FORECLOSURE	
9/21/18	D	NOTICE OF LIS PENDENS	
9/21/18	D	CERTIFICATE OF SERVICE	

PA000889

9/21/18 D BRAHMA GROUP, INC.'S (I) PETITION TO EXCEPT TO THE
SUFFICIENCY OF SURETY BOND; AND (II) PETITION TO
COMPEL THE INCREASE OF THE AMOUNT OF THE SURETY
BOND, OR ALTERNATIVELY, THE PROVISION OF ADDITIONAL
SECURITY/ NOTICE OF PETITION (DATE TBD)

9/25/18 D BRAHMA GROUP, INC.S: (I) FIRST AMENDED COUNTER-COMPLAINT;
AND (II) THIRD-PARTY COMPLAINT

9/25/18 C SUMMONS (ISSUED) (COBRA THERMOSOLAR PLANTS, INC.)

9/25/18 C SUMMONS (ISSUED) (AMERICAN HOME ASSURANCE COMPANY)

9/25/18 D AMENDED CERTIFICATE OF SERVICE

9/25/18 D RECEIPT OF COPY

9/25/18 D RECEIPT OF COPY

9/26/18 C SUMMONS ON FIRST AMENDED COUNTER-COMPLAINT (ISSUED -
SOLAR ENERGY, LLC)

9/26/18 C SUMMONS (2ND ISSUED - TONOPAH SOLAR ENERGY, LLC)

9/26/18 C SUMMONS (2ND ISSUED - COBRA THERMOSOLAR PLANTS INC.)

10/11/18 O CERTIFICATE OF SERVICE

10/11/18 O AFFIDAVIT OF SERVICE TO BRAHMA GROUP, INC

10/11/18 O AFFIDAVIT OF SERVICE TO H&E EQUIPMENT SERVICES, INC.

10/11/18 D RECEIPT OF COPY

10/11/18 D SUMMONS-SERVED (FRANCES GUTIERREZ)

10/11/18 D SUMMONS-SERVED (GALINA HILLS)

10/11/18 D SUMMONS-SERVED (COBRA THEDRMOSOLAR PLANTS)

10/11/18 D RECEIPT OF COPY

10/11/18 D AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE
COMPANY

10/11/18 D AFFIDAVIT/DECLARATION OF SERVICE TONOPAH SOLAR ENERGY, LLC

10/11/18 D AFFIDAVIT/DECLARATION OF SERVICE - COBRA THERMOSOLAR
PLANTS, INC

10/11/18 D RECEIPT OF COPY

10/11/18 C ORDER SETTING HEARING (11/02/18)

10/18/18 P TONOPAH SOLAR ENGERY, LCC'S MOTION TO STIKE BRAHMA GROUP,
INC.'S FIRST AMENDED COUNTER-COMPLAINT, OR, IN THE
ALTERNATIVE, MOTION TO DISMISS COUNTER-COMPLAINT, OR,
IN THE ALTERNATIVE, MOTION TO STAY THIS ACTION UNTIL THE
CONCLUSION OF THE PROCEEDINGS IN FEDERAL COURT

10/19/18 D NOTICE OF VACATING HEARING AND WITHDRAWING (I) PETITION
TO EXCEPT TO THE SUFFICIENCY OF SURETY BOND AND
(II) PETITION TO COMPEL THE INCREASE OF THE AMOUNT OF
THE SURETY BOND, OR ALTERNATIVELY, THE PROVISION OF
ADDITIONAL SECURITY

10/19/18 D BRAHMA GROUP, INC.'S MOTION FOR LEAVE TO AMEND ITS FIRST
AMENDED COUNTERCOMPLAINT AND THIRD-PARTY COMPLAINT

10/29/18 C ORDER DENYING TONOPAH SOLAR ENERGY, LLC'S MOTION TO
EXPUNGE BRAHMA GROUP, INC.'S MECHANIC'S LIEN

11/01/18 D NOTICE OF ENTRY OF ORDER

11/01/18 D PROOF OF SERVICE (SUMMONS, FIRST AMENDED COUNTER-COMPLAINT;
AND THIRD-PARTY COMPLAINT, & PETITION TO EXCEPT..-DEFENDANT
AMERICAN HOME ASSURANCE COMPANY)

11/01/18 D BRAHMA GROUP, INC.'S MOTION FOR ATTORNEY'S FEES AND COSTS
PURSUANT TO NRS 108.2275(6) (C)

***** END OF FILE # 2 *****

11/05/18 P TONOPAH SOLAR ENERGY, LLC'S OPPOSITION TO BRAHMA GROUP,
IN'S MOTION FOR LEAVE TO AMEND ITS FIRST AMENDED
COUNTER-COMPLAINT AND THIRD-PARTY COMPLAINT

11/05/18 D BRAHMA GROUP, INC.'S OPPOSITION TO TONOPAH SOLAR ENERGY,
LLC'S MOTION TO STRIKE, MOTION TO DISMISS OR MOTION FOR

STAY

11/05/18	D	AFFIDAVIT OF PUBLICATION	
11/05/18	D	RECEIPT OF COPY (ATTORNEYS FOR COBRA THERMOSOLAR PLANTS, INC - 1. BRAHMA GROUP, INC.'S MOTION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275(6)(C); 2. NOTICE OF ENTRY OF ORDER DENYING TONOPAH'S MOTION TO EXPUNGE; AND PROOF OF SERVICE)	
11/05/18	D	RECEIPT OF COPY (ATTORNEY'S FOR COUNTER-DEFENDANT, TONOPAH SOLAR ENERGY, LLC - 1. BRAHMA GROUP, INC.'S MOTION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275(6)(C); 2. NOTICE OF ENTRY OF ORDER DENYING TONOPAH'S MOTION TO EXPUNGE; AND 3. PROOF OF SERVICE)	
11/13/18	D	AFFIDAVIT/DECLARATION OF SERVICE COBRA THERMOSOLAR PLANTS, INC	
11/13/18	D	AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE COMPANY	
11/16/18	O	H&E EQUIPMENT SERVICES, INC. MOTION TO INTERVENE/NOTICE OF MOTION	198.00
11/26/18	P	TONOPAH SOLAR ENERGY, LLC'S OPPOSITION TO BRAHMA GROUP, INC.'S MOTION FOR ATTORNEY FEES AND COTS PURSUANT TO NRS 108.2275(6)(C) *****END OF FILE #3*****	
11/30/18	P	TONOPAH SOLAR ENERGY LLC'S REPLY TO BRAHMA GROUP INC'S OPPOSITION TO TONOPAH SOLAR ENERGY LLC'S MOTION TO STRIKE BRAHMA GROUP INC'S FIRST AMENDED COUNTER-COMPLAINT OR IN THE ALTERNATIVE MOTION TO DISMISS COUNTER-COMPLAINT OR IN THE ALTERNATIVE MOTION TO STAY THIS ACTION UNTIL THE CONCLUSION OF THE PROCEEDINGS IN FEDERAL COURT	
12/03/18	D	NOTICE OF HEARING	
12/03/18	D	AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE COMPANY	
12/03/18	D	AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE COMPANY (2ND DOC)	
12/03/18	D	BRAHMA GROUP INC'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO AMEND ITS FIRST AMENDED COUNTER-COMPLAINT AND THIRD PARTY COMPLAINT	
12/04/18	D	BRAHMA GROUP, INC.'S REPLY TO TONOPAH SOLAR ENERGY LLC'S OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS PURSUANT TO NRS 108.2275(6)(C)	
12/11/18	C	STIPULATION AND ORDER TO CONTINUE HEARING DATE FOR H&E EQUIPMENT SERVICES, INC.'S MOTION TO INTERVENE ONLY (HEARING 1/03/2019 10:00AM)	
12/14/18	D	AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE COMPANY	
12/14/18	D	AFFIDAVIT/DECLARATION OF SERVICE AMERICAN HOME ASSURANCE COMPANY	
12/17/18	D	BRAHMA GROUP, INC.'S MOTION TO CONSOLIDATE CASE NO. CV39799 WITH CASE NUMBER CV39348	
12/17/18	D	NOTICE OF HEARING(1/3/19)	
12/18/18	P	NOTICE OF HEARING OF H&E EQUIPMENT SERVICES INC.'S MOTION TO INTERVENE (HEARING 1/03/2019 10:00 AM)	
12/20/18	C	ORDER RE-SETTING HEARING (1/3/19 @ 10AM TO 1/24/19 @ 9AM)	
12/28/18	D	STIPULATION REGARDING AMOUNT OF ADDITIONAL FEES AWARDED TO BRAHMA (TOTAL OF \$88,417.34)	
1/04/19	D	RECEIPT OF COPY (MOTION TO CONSOLIDATE AND NOTICE OF HEARING TO WEIL & DRAGE - 12/21/18)	
1/04/19	D	RECEIPT OF COPY (MOTION TO CONSOLIDATE AND NOTICE OF HEARING TO WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC - 12/21/18)	

PA000891

1/04/19 D AFFIDAVIT/DECLARATION OF SERVICE - WEINBERG, WHEELER,
HUDGINS, GUNN & DIAL, LLC, D. LEE ROBERTS, JR., ESQ.,
COLBY L. BALKENBUSH, ESQ., ATTORNEYS FOR DEFENDANT
TONOPAH SOLAR ENERGY, LLC (12/21/18)

1/04/19 D AFFIDAVIT/DECLARATION OF SERVICE - WEIL & DRAGE, GEOFFREY
CRISP, ESQ., ATTORNEYS FOR COBRA THERMOSOLAR PLANTS, INC.
(12/21/18)

1/07/19 P TSE'S OPPOSITION OT BRAHMA'S MOTION TO CONSOLIDATE CASE NO.
CV 39799 WITH CASE NO. CV 39348

1/08/19 C ORDER GRANTING BRAHMA'S MOTION FOR ATTORNEY'S FEES AND COSTS
PURSUANT TO NRS 108.2275(6)(C)

1/09/19 D NOTICE OF ENTRY OF ORDER(ORDER GRANTING BRAHMA'S MOTION FOR
ATTORNEY'S FEES AND COSTS)

1/14/19 D BRAHMA GROUP, INC.'S REPLY TO TONOPAH SOLAR ENERGY, LLC'S
OPPOSITION TO MOTION TO CONSOLIDATE CASE NO. CV 39799 WITH
CASE NO. CV 39348 (HEARING 01/24/19)

1/14/19 P TSE'S OPPOSITION TO H& E EQUIPMENT SERVICES, INC.'S MOTION T
TO INTERVENE (HEARING 1/24/2019 9:00 AM)

1/22/19 P H&E EQUIPMENT SERVICES, INC. REPLY IN SUPPORT OF MOTION TO
INTERVENE

1/24/19 C ORDER:DENYING TONOPAH SOLAR ENERGY,LLC'S MOTION TO STRIKE
AND DISMISS;AND GRANTING IN PART TONOPAH SOLAR ENERGY LLC'S
MOTION FOR STAY; GRANTING BRAHMA GROUP, INC'S MOTION TO
AMEND

1/28/19 D NOTICE OF ENTRY OF ORDER (1) DENYING TONOPAH SOLAR ENERGY,
LLC'S MOTION TO STRIKE AND DISMISS; AND (II) GRANTING
IN PART TONOPAH SOLAR ENERGY, LLC'S MOTION FOR STAY,
(III) GRANTING BRAHMA GROUP, INC'S MOTION TO AMEND

1/30/19 C ORDER ON H&E EQUIPMENT SERVICES, INC.'S MOTION TO INTERVENE