

CASE NO. 78284

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRISHA KUPTZ-BLINKINSOP nka TRISHA MARGOLIS, an individual
Appellant
vs.
THOMAS R. BLINKINSOP, an individual
Respondent

Electronically Filed
July 26, 2019 04:10 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JOINT APPENDIX

Appeal from the Eighth Judicial District Court, Clark County, Nevada
District Court Case # A-18-783766-C
The Honorable Senior Judge Charles Thompson

BENJAMIN B. CHILDS, ESQ.
Nevada Bar No. 3946
318 S. Maryland Parkway
Las Vegas, Nevada 89101
(702) 385-3865
Attorney for Appellant
TRISHA KUPTZ-BLINKINSOP

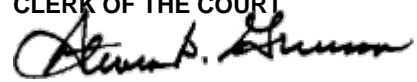
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9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 TRISHA KUPTZ-BLINKINSOP
12 nka TRISHA MARGOLIS

13 Plaintiff

14 v.

15 THOMAS R. BLINKINSOP

16 Defendant

17 CASE NO. A-18-783766-C

18 DEPT. NO. Department 18

19 COMPLAINT

20 Arbitration Exemption :
21 Declaratory Relief Requested

22 1. The parties jointly own a parcel of real property (hereinafter the "Property") with a
23 residence constructed thereon, being vested with ownership through a Grant, Bargain
24 and Sale Deed recorded December 2, 2005.

25 2. The Property is described as follows :

26 Street address : 2042 Deer Springs Drive Henderson, NV 89074

27 Legal Description : Lot Twenty-One (21) of Block One (1) of CREEKSIDE UNIT 3 as
28 shown by map thereof on file in Book 42 of Plats, Page 21 in the
29 Office of the County Recorder of Clark County, Nevada.

30 APN : 178-08-317-036

31 3. A rift has developed between the parties. .

32 4. Plaintiff TRISHA KUPTZ-BLINKINSOP nka TRISHA MARGOLIS [Trisha] has not
been able to reach an agreement with Defendant THOMAS R. BLINKINSOP [Thomas].
Thomas resides in the Property, thus Trisha proposes either selling the property and

1 disbursing the proceeds or Thomas refinancing and buying out Trisha's ownership
2 interest in the Property.

3
4 5. The Property has an approximate value of \$ 360,000.

5
6 6. The Property has a single residence home constructed on it. Therefore, the Property
7 itself is not amenable to division.

8
9 7. This Court has jurisdiction and authority to issue judgment in this matter per NRS
10 13.010.

11
12 8. Thomas resides, and has at all relevant times resided, in Clark County, Nevada.

13
14 FIRST CAUSE OF ACTION : PARTITION

15
16 9. Trisha incorporates paragraphs 1 through 8 as though fully set forth herein.

17 10. Pursuant to NRS Chapter 39, Trisha seeks declaratory relief from the Court
18 ordering the sale of the above described real property and the fair and equitable
19 division of the proceeds of the sale between the parties.

20
21 WHEREFORE, TRISHA PRAYS FOR RELIEF AS FOLLOWS :

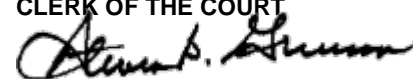
22 1. That the Property be Ordered to be sold, all liens and encumbrances be paid in full,
23 and the net proceeds divided fairly and equitably between the parties; and

24 2. That Trisha be awarded her attorney fees and costs of this suit; and

25 3. For such other relief which this court deems appropriate and just.

26
27 /s/ Benjamin B. Childs, Sr.

28 BENJAMIN B. CHILDS, Sr.
29 Nevada Bar # 3946
Attorney for Plaintiff



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7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP
9 nka TRISHA MARGOLIS

CASE NO. A-18-783766-C

DEPT. NO. Department 18

10 Plaintiff

11 v.

12 THOMAS R. BLINKINSOP

SUMMONS

13 Defendant

14
15 To : THOMAS R. BLINKINSOP
16 2042 Deer Springs Drive
17 Henderson, NV 89074

18 NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST
19 YOU WITHOUT YOU BEING HEARD UNLESS YOU RESPOND
20 WITHIN 20 DAYS. READ THE INFORMATION BELOW.

21 TO THE DEFENDANT: A Civil Complaint has been filed by the Plaintiff against
22 you.

- 23 1. If you intend to defend this lawsuit, within 20 days after this
24 Summons is served on you exclusive of the day of service, you must
25 do the following:
- 26 2.
 - 27 (a) File with the Clerk of this Court, whose address is
28 shown below, a formal written response to the
29 Complaint in accordance with the rules of the Court.
 - 30 (b) Serve a copy of your response upon the attorney whose
31 name and address is shown below.
- 32 3. Unless you respond, a default will be entered upon application of the
Plaintiff and this Court may enter a judgment against you for the

1 relief demanded in the Complaint, which could result in the taking of
2 money or property or other relief requested in the Complaint.

3 4. If you intend to seek the advice of an attorney in this matter, you
4 should do so promptly so that your response may be filed on time.

5 5. The State of Nevada, its political subdivisions, agencies, officers,
6 employees, board members, commission members and legislators
7 each have 45 days after service of this Summons within which to file
8 an Answer or other responsive pleading to the Complaint.

9
10 Issued at the request of :

11 /s/ Benjamin B. Childs
12 -----

13 BENJAMIN B. CHILDS
14 Nevada Bar # 3946
15 318 S. Maryland Parkway
16 Las Vegas, Nevada 89101
17 (702) 385-3865

STEVEN D. GRIERSON, CLERK OF COURT

By:



Deputy Clerk

Teresa Cameron

Date 11/1/2018

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6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP
9 nka TRISHA MARGOLIS

10 Plaintiff

11 v.

12 THOMAS R. BLINKINSOP

13 Defendant

) CASE NO. A-18-783766-C

) DEPT. NO. 18

) DECLARATION OF SERVICE

14 I, JOSE CAMARENA, being first duly sworn, states as follows :

15
16 I am over the age of eighteen years, am a citizen on the state of Nevada and
17 have no interest in this action.

18 On November 3, 2018 I received a file stamped copy of the complaint and
19 an electronically issues summons. I served the same on THOMAS R.
20 BLINKINSOP by personally serving the documents to him at his residence of
21 2042 Deer Springs Drive
22 Henderson, NV 89074 on November 3, 2018 at 7:15 AM.

23
24 I am not required to be licensed under NRS Chapter 648.018. I was paid
25 \$40.00 for this service.

26 I declare under penalty of perjury that the foregoing is true and correct.

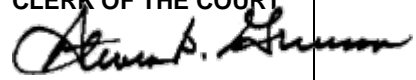
27 Executed on

28 11/3/18
(date)

29 *Jose Camarena*
(signature)

30 JOSE CAMARENA.

31 4242 KINOVA AV.
32 HENDERSON, NV 89120
(702) 876 6471



AACC

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gowesq@cox.net
(702) 318-6570
(702) 664-0459 [fax]

Attorney for Defendant/Counter-Claimant

THOMAS BLINKINSOP

DISTRICT COURT

CLARK COUNTY, NEVADA

TRISHA KUPTZ-BLINKINSOP,
aka TRISHA MARGOLIS,

Plaintiff,

v

THOMAS R. BLINKINSOP,

Defendant,

THOMAS R. BLINKINSOP,

Counter-Claimant

v

TRISHA KUPTZ,-BLINKINSOP,
aka TRISHA MARGOLIS,

Counter Defendant,

CASE NO : A-18-783766-C
DEPT : XVIII

**DEFENDANT/COUNTER-CLAIMANT
THOMAS BLINKINSOP'S ANSWER TO
COMPLAINT AND COUNTER-CLAIM**

1. Quiet Title
2. Declaratory Relief

1 COMES NOW, Defendant, THOMAS BLINKINSOP, in Answer to Plaintiff's
2 Complaint, on file herein, pursuant to Rule 8, Defendant admits, denies and alleges as
3 follows :

4 Defendant admits to paragraphs 2, 6, 7 and 8.

5 As to the balance of the allegations and averments in the Complaint, Defendant
6 generally and specifically denies any and all allegations, and further denies that Plaintiff
7 is entitled to any relief whatsoever as alleged in her Complaint, or in any other sum or
8 otherwise, or at all, as against this answering Defendant.

9 **FIRST AFFIRMATIVE DEFENSE**

10 [Failure to State a Claim]

11 Plaintiff's Complaint does not state facts sufficient to constitute a cause of action.

12 **SECOND AFFIRMATIVE DEFENSE**

13 [Unclean Hands]

14 This Answering Defendant is informed and believes that Plaintiff is barred from
15 any relief or recovery as alleged in Plaintiff's Complaint under the doctrine of Unclean
16 Hands.

17 **THIRD AFFIRMATIVE DEFENSE**

18 [Waiver]

19 This answering Defendant is informed and believes that, by virtue of real property
20 division ***agreed to*** by the Plaintiff through an uncontested summary disposition of
21 Plaintiff's complaint for divorce, after engaging in mediation ***being conducted by***
22 ***Plaintiff's attorney of record in the underlying divorce action***, Plaintiff
23 expressly agreed to, consented to and fully understood and comprehended that she was
24 forever waiving, giving up and relinquishing any and all ownership interest, legal,
25 equitable, community or otherwise, in the real property at issue she is now purportedly
26 claiming an interest in. The divorce decree was prepared by Plaintiff's attorney in the
27 underlying divorce action, wherein the full recitals set forth in the final decree of divorce
28 between the parties fully disclosed all community property assets, and based upon the
29 Plaintiff and Defendant's agreement to summary disposition of their divorce in 2009, said
30 divorce decree became a binding valid judgment of which notice of entry was given, and
31 by virtue of that final divorce decree, Plaintiff waived her right to any type of ownership

1 interest in the property at issue, whether in law, equity, community or otherwise, as
2 against this answering Defendant.

3 **FOURTH AFFIRMATIVE DEFENSE**

4 [Standing]

5 This answering Defendant is informed and believes that as a result of the real
6 property division agreed to by the parties which in the final decree of divorce, of which
7 notice of entry of said divorce decree was also entered, was a full, final, and valid binding
8 judgment and adjudication on the party's ownership rights with respect to the of the real
9 property at issue in this action, and Plaintiff has no standing to assert any interest in the
10 property at issue, either at law or in equity or otherwise.

11 **FIFTH AFFIRMATIVE DEFENSE**

12 [Full Performance/Discharge]

13 This answering Defendant is informed and believes and thereon alleges that any
14 duty or obligation, contractual or otherwise, which Plaintiff contends is owed by this
15 answering Defendant has been fully performed and/or satisfied by this answering
16 Defendant under the final divorce decree, and has been fully discharged.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 [Offset]

19 This answering Defendant is informed and believes that, without admitting any
20 liability whatsoever or that Plaintiff has any interest in the real property at issue, or that
21 Plaintiff is entitled to any relief whatsoever, is entitled to an offset of half of any and all
22 mortgage payments, insurance payments, property taxes, maintenance and/or
23 improvements on the property, nullifying and/or reducing any recovery to Plaintiff, if any.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 [Accord & Satisfaction]

26 This answering Defendant is informed and believes and thereon alleges that any
27 obligation, contractual or otherwise, which Plaintiff claims is owed by said Defendant with
28 respect to the property at issue has been fully satisfied through an accord and satisfaction
via the final divorce decree in 2009.

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 [Judicial Estoppel]

3 1. This answering Defendant is informed and believes that Plaintiff is judicially
4 estopped from claiming any interest in the real property at issue, whether legal, equitable,
5 community or otherwise

6 **NINTH AFFIRMATIVE DEFENSE**

7 [Res Judicata/Claim Preclusion/Collateral Estoppel]

8 1. This answering Defendant alleges and is informed and believes that Plaintiff
9 is precluded from relitigating the issue of whether she has any interest in the real property
10 at issue in the instant case under the doctrine of Res Judicata/Claim Preclusion.

11 2. On April 3, 2009, **Plaintiff [KUPTZ] filed** a Complaint for divorce in the
12 District Court of the Eighth Judicial District for the State of Nevada, against Defendant
13 [BLINKINSOP] seeking a dissolution of marriage with Defendant [BLINKINSOP] seeking
14 a dissolution of marriage and a judicial determination and judgment with respect to the
15 division of any and all community assets between the parties. *See Exhibit 1; Comp. for*
16 *Divorce.*

17 3. On May 19, 2009, a decree of divorce, based upon an agreed to mediation
18 undertaken by Plaintiff's family law attorney, Plaintiff and Defendant agreed to an
19 uncontested divorce and summary disposition with respect to Plaintiff's Complaint for
20 divorce, which included disposition and adjudication of all community assets, of which
21 the real property at issue in the instant case was one of the party's community assets.
22 After full agreement, settlement, understanding, review and full comprehension of the
23 real property dispositions laid out the decree of divorce, Plaintiff agreed and executed the
24 Divorce Decree, which then became a valid binding judgment, wherein the Court
25 **ORDERED, ADJUDGED AND DECREED:**

26 "that "Defendant [THOMAS BLINKINSOP] **shall receive as his sole**
27 **and separate property** the real property located at 2042 Deer Springs
28 Drive, Henderson, Nevada. Defendant shall assume, and hold Plaintiff
[TRISHA KUPTZ] harmless from, any and all encumbrances on said real
property. Plaintiff [TRISHA KUPTZ] shall execute a quitclaim deed to
remove Plaintiff's [TRISHA KUPTZ] name from title within ten days of
entry of this decree." *See Exhibit 2; Divorce Decree*

1 3 as shown by map thereof on file in Book 42 of Plate Page 21 in the Office of the County
2 Recorder of Clark County Nevada.”

3 2. At all relevant times herein mentioned, subsequent to the entry of the
4 Divorce Decree at Exhibit 2, Counter-Claimant BLINKINSOP was adjudicated as the sole
5 owner of the property via a binding and valid judgment adjudicating said property as the
6 Counter-Claimant’s. Any and all interest in law or in equity that Plaintiff KUPTZ had in
7 the property was extinguished and terminated upon the filing of the Divorce Decree and
8 the notice of entry thereon being made. Furthermore, no appeal was ever filed to
9 challenge said divorce decree with respect to the adjudication of the property.

10 3. Claimant is informed and believes and alleges that Plaintiff/Cross-
11 Defendant KUPTZ claims an interest in the property adverse to that of Counter-Claimant
12 BLINKINSOP.

13 4. Counter-Claimant seeks to quiet title against the specious and frivolous
14 claim of the Counter/Defendant KUPTZ in the property.

15 5. As a result of Counter Defendant KUPTZ’s continued failure and/or refusal
16 to comply with the Divorce Decree to quitclaim the property to Counter Claimant
17 BLINKINSOP, Counter Claimant has been damaged and continues to be damaged.

18 II

19 **SECOND CLAIM FOR RELIEF FOR DECLARATORY RELIEF**

20 6. Counter-Claimant hereby incorporates by reference and herein realleges
21 paragraphs one through five.

22 7. An actual controversy has arisen and now exists between the Counter-
23 Claimant BLINKINSOP and the Counter-Defendant KUPTZ concerning their current
24 respective rights and ownership interests, both legal and equitable, in the property.
25 Plaintiff/Counter-Defendant KUPTZ alleges to have a legal or equitable ownership
26 interest in the property, or is alleged to have an interest in said property adverse to that
27 of the Counter-Claimant BLINKINSOP who was previously adjudicated in the Divorce
28 Decree to be the sole owner of the property.

8. Counter-Claimant BLINKINSOP desires a judicial determination of the
current ownership rights of all the parties to this action in relation to the property.

9. A judicial declaration is necessary and appropriate at this time under the
circumstances in order for Counter-Claimant BLINKINSOP to enforce his sole interest

1 and superior title in the property rights so that he can exercise its exclusive right to
2 alienate, transfer and/or encumber the property.

3 10. As a direct and proximate result of Counter-Defendant's conduct as herein
4 alleged, Counter-Claimant has been unable to effectuate its exclusive property rights over
5 the property and Counter-Claimant will be irreparably harmed if he cannot quite title on
6 the property.

7 **WHEREFORE**, Counter Claimant prays for judgment against Counter-
8 Defendant, as follows:

9 **On First Claim for Relief:**

- 10 1. For a judicial declaration declaring, consistent with the previous Divorce
11 Decree, that Counter-Claimant BLINKINSOP is the sole of the property,
12 subject to any valid existing encumbrance; and
13 2. Damages proximately caused by Counter Defendant's continued failure
14 and/or refusal to transfer the property via quitclaim back to Counter
15 Defendant, and
16 3. For reasonable attorney's fees, and
17 4. For costs of suit incurred herein, and
18 5. For such other and further relief as the Court deems just and proper.

19 **On Second Claim for Relief:**

- 20 1. For a judicial declaration declaring, consistent with the previous Divorce
21 Decree, that Counter-Claimant BLINKINSOP is the sole of the property,
22 subject to any valid existing encumbrance; and
23 2. For a judicial declaration declaring that Cross Defendant KUPTZ is
24 judicially estopped from claiming any interest in the property, and
25 3. For reasonable attorney's fees, and
26 4. For costs of suit incurred herein, and
27 5. For such other and further relief as the Court deems just and proper.

28 Dated this 8th day of November, 2018

By /s/ George O. West III
George O. West III
Law Offices of George O. West III
Attorney for Plaintiff/Counter Claimant
THOMAS BLINKINSOP

EXHIBIT 1

FILED

APR 3 4 27 PM '09

Earl J. ...
CLERK OF THE COURT

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10 Attorneys for Plaintiff

7 DISTRICT COURT
8 FAMILY DIVISION
9 CLARK COUNTY, NEVADA

11 TRISHA KUPTZ,
12 Plaintiff,

13 v.

14 THOM BLINKINSOP,
15 Defendant.

Case no. *D-09-409681-D*
Dept. no. *N*

16
17 COMPLAINT FOR DIVORCE

18 Comes now, Plaintiff, Trisha Kuptz ("Plaintiff"), by and through Stacy M. Rocheleau, Esq.,
19 of Rocheleau Law Group, P.C., her attorneys of record, and as for her causes of action against
20 Defendant Thom Blinkinsop ("Defendant"), alleges as follows:

21 1. For more than six (6) weeks immediately preceding the commencement of this action,
22 Plaintiff has been, and now is, a bona fide and actual resident and domiciliary of the State of Nevada,
23 County of Clark, and has been actually and physically present and domiciled in the State of Nevada
24 for more than six (6) weeks immediately prior to the commencement of this action and still has the
25 intent to make said State of Nevada her home, residence and domicile for a indefinite period of time.

26 2. The Plaintiff and Defendant were duly and legally married on or about the 8th day of
27 June, 2002, and ever since said date have been and now are husband and wife.

28 3. There are no minor children of this marriage. There are no adopted children of this
marriage and to the best of Plaintiff's knowledge, she is not pregnant at this time.

1 4. That there are community property and debts of the parties that the court should
2 divide equitably.

3 5. That both parties waive spousal support.

4 6. That Defendant shall pay Plaintiff's attorney's fees and costs.

5 7. That Plaintiff did not change her name at the time of marriage and she will retain her
6 current name of Trisha Kuptz

7 8. The parties hereto are incompatible in marriage, which makes it impossible to live
8 together as husband and wife; to which there is no possibility for reconciliation.

9 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

10 1. That the bonds of matrimony now and heretofore existing between Plaintiff
11 and Defendant be dissolved, set forever held for not; that the Plaintiff be granted an absolute Decree
12 of Divorce; and that the parties hereto, and each of them, be restored to their single, unmarried status;

13 2. That the Court order a waiver of pay spousal support ;

14 3. That the Court make an equitable distribution and division of all community
15 property assets and debts and separate property and debts of the parties;

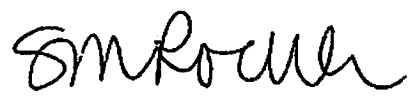
16 4. That the Court order Defendant to pay her attorney's fees and costs;

17 5. That Plaintiff shall retain her current name of Trisha Kuptz.

18 6. For such other and further relief as this Court may deem just and proper.

19 DATED this 2nd day of March, 2009.

20
21 ROCHELEAU LAW GROUP, P.C.

22
23 

24 STACY M. ROCHELEAU, ESQ.
25 Nevada Bar No.: 7886
26 375 N. Stephanie Street, Bldg. 2
27 Henderson, Nevada 89014
28 (702) 914-0400
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 stacy@rocheleaulaw.com
 Attorneys for Plaintiff

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VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

Trisha Kuptz, being first duly sworn, deposes and says:

1. That I am the Plaintiff in the above entitled action.
2. That I have read the foregoing Complaint for Divorce and know the contents thereof.
3. That the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters I believe them to be true.

DATED this 27 day of March, 2009.



Trisha Kuptz

SUBSCRIBED AND SWORN to before me
this 27 day of March, 2009.



NOTARY PUBLIC in and for said
COUNTY and STATE

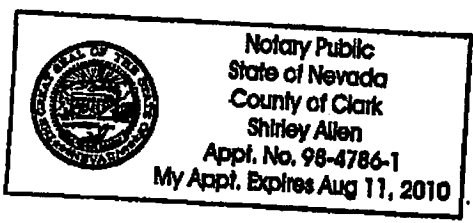


EXHIBIT 2

1 **DECD**
2 **ROCHELEAU LAW GROUP, P.C.**
3 **Stacy M. Rocheleau, Esq.**
4 **Nevada Bar No. 7886**
5 **375 N. Stephanie Street, Bldg. 2**
6 **Henderson, Nevada 89014**
7 **(702) 914-0400**
8 **Fax (702) 914-0256**
9 **stacy@rocheleaulaw.com**
10 **Attorneys for Plaintiff**

FILED

MAY 19 3 33 PM '09

[Signature]
CLERK OF THE COURT

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 **TRISHA KUPTZ,**
11 **Plaintiff,**
12 **v.**
13 **THOM BLINKINSOP,**
14 **Defendant**

Case no. **D-09-409681-0**
Dept. no. **N**

15 **DECREE OF DIVORCE**

16 The above-entitled matter having been submitted for summary disposition, and the parties
17 having reviewed and agreed to this instant Decree of Divorce, the Court having reviewed all the
18 pleadings and papers on file herein, and being fully advised in the premises, and fully satisfied that the
19 action has been fully and regularly commenced, and finds:

20 1. That the Court has complete jurisdiction in the premises, both as to the subject matter
21 thereof as well as the parties thereto;

22 2. That the Plaintiff is now, and has been an actual bona fide resident of Clark County,
23 Nevada, and has been actually domiciled there for more than six (6) weeks immediately preceding the
24 commencement of this action;

25 3. The parties were married on the 8th day of June, 2002, and ever since have been and now
26 are husband and wife.

27 **///**

28 **///**

1 4. That there are no minor children which are the issue of this marriage and no adopted
2 minor children and Plaintiff is not pregnant at this time;

3 5. That Plaintiff never changed her name.

4 6. That the division of community property set forth below is, to the extent possible, an
5 equal division of community property;

6 7. That the division of community debt as set forth below is, to the extent possible, an
7 equal division of community debts.

8 8. That both parties waive their rights to spousal support;

9 9. That each party shall bear their own attorney's fees and costs;

10 10. That the Plaintiff should be granted a Decree of Divorce for the reasons set forth
11 in the Complaint on file herein; and

12 11. That the parties desire entry of a Decree of Divorce and have waived Findings of Fact,
13 Conclusions of Law and written Notice of Entry of Judgment, right to appeal, and right to move for a
14 new trial, and all the provisions of NRS 125.181 have been met in said cause.

15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of matrimony
16 heretofore and now existing between Plaintiff and Defendant be, and the same are hereby wholly
17 dissolved, and each of the parties hereto is restored to the status of single, unmarried person.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay Plaintiff
19 the sum of \$20,000.00 as Community Property Settlement as follows:

20 1. Sum of \$8,000.00 shall be transferred from the balance owed on a credit card of
21 Plaintiff's choosing, to a credit card of Defendant's that he so selects.

22 2. Sum of \$2,000.00 shall be paid to Plaintiff as and for moving expenses within 10 days
23 of entry of decree of decree.

24 3. Sum of \$10,000.00 shall be paid to Plaintiff in payments over a period of 24 months
25 beginning the 1st day of April, 2009, or may be paid in a lump sum, at the sole
26 discretion of Defendant.

27 ///

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff is hereby
2 awarded the following as her sole and separate property and responsibility:

- 3 1. BMW vehicle and any encumbrances thereon;
- 4 2. 100% of the business known as Team Kuptz LLC and any new business opened by
5 Plaintiff and any expenses or liabilities associated with the same;
- 6 3. All credit cards in Plaintiff's name; of which Plaintiff shall have Defendant's name
7 removed from same;
- 8 4. All debts in Plaintiff's name for which Plaintiff shall hold Defendant harmless for same;
- 9 5. Any bank accounts in Plaintiff's name;
- 10 6. One-half (1/2) of all personal property, furniture and furnishings;
- 11 7. All personal clothing and effects in Plaintiff's possession.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant is hereby
13 awarded the following as his sole and separate property and responsibility:

- 14 1. Toyota vehicle and any encumbrances thereon;
- 15 2. 100% of Defendant's consulting business and any expenses or liabilities associated with
16 the same;
- 17 3. All credit cards in Defendant's name; of which Defendant shall have Plaintiff's name
18 removed from same.
- 19 4. All debts in Defendant's name for which Defendant shall hold Plaintiff harmless for
20 same.
- 21 5. Any bank accounts in Defendant's name.
- 22 6. One-half (1/2) of all personal property, furniture and furnishing.
- 23 7. All personal clothing and effects in Defendant's possession.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are each hereby
25 awarded one-half of the following investments as their sole and separate property:

- 26 1. American Funds
- 27 2. Sunrise 401k
- 28 3. Regal

1 4. PGA Retirement fund

2 5. Vanguard

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
4 his sole and separate property the real property located at 2042 Deer Springs Drive, Henderson, Nevada.
5 Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said real
6 property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10 days
7 of entry of this decree.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
9 his sole and separate property the real property located at 2405 W. Serene Avenue #814, Las Vegas,
10 Nevada. Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said
11 real property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10
12 days of entry of this decree. If said property is sold by Defendant, Plaintiff may receive one-half of the
13 profits upon sale, provided that she repay to Defendant one-half of any and all expenses paid by
14 Defendant from the date of entry of decree to the date of close of escrow. Said expenses shall include
15 but are not limited to mortgage interest, taxes, insurance, repairs, homeowner's association fees, and
16 costs of sale, all of which must be paid prior to close of escrow of such sale.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff and Defendant shall
18 transfer the real property located at 10169 Quilt Tree Street, Las Vegas, Nevada, into a limited liability
19 company of which each shall own 50%. The profit from renting said property and/or the sale of said
20 property will be divided equally by the parties. The parties shall execute a quitclaim deed to said
21 limited liability company on said real property within 10 days of entry of this decree.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties will file a joint
23 2008 Federal Income Tax Return and will divide any liability or refund associated with same equally.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay Plaintiff
25 the sum of \$937.00 as and for reimbursement for tires for her vehicle.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all separate property
27 is confirmed as that parties' separate property.

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from the date of entry of this
2 decree, any and all property acquired, or income received, or debt incurred by either of the parties,
3 except as specified herein, shall be the sole and separate property or obligation of the one so acquiring
4 or incurring the same.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall fully
6 cooperate with each other and shall not unreasonably withhold execution of any documents necessary
7 to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of
8 Court is authorized to execute any document on behalf of either party upon presentment of this Decree;


9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the parties agrees
10 to waive spousal support;

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party is to bear their
12 own attorneys fees and costs incurred to date, however, should any party need to enforce the terms
13 herein, they shall be awarded their attorney's fees and costs incurred for enforcement; and

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall provide their
15 social security numbers on a separate form to the Court and to the Welfare Division of the Department
16 of Human resources pursuant to NRS 125.130. Such information shall be maintained by the Clerk in
17 a confidential manner and not part of the public record.

18 DATED this 18 day of May, 2009.

19
20 MATHIEW HARTER
21 _____
DISTRICT COURT JUDGE
FAMILY DIVISION

22 Submitted by:
23 ROCHELEAU LAW GROUP, P.C.
24 
25 _____
Stacy M. Rocheleau, Esq.
Nevada Bar No. 7886
26 375 N. Stephanie Street, Bldg. 2
Henderson, Nevada 89014
27 (702) 914-0400
Fax (702) 914-0256
28 stacy@rocheleaulaw.com
Attorneys for Plaintiff

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Approved as to Content and Form by:


Thom Blinkinsop

Approved as to Content and Form by:


Trisha Kuptz-Blinkinsop

On this 16th day of March, 2009, personally appeared before me, the undersigned, a Notary Public in and for the County of Clark, State of Nevada, Thom Blinkinsop, who acknowledged that he reviewed and executed the above instrument.


NOTARY PUBLIC

On this 13 day of March, 2009, personally appeared before me, the undersigned, a Notary Public in and for the County of Clark, State of Nevada, Trisha-Kuptz Blinkinsop who acknowledged that she reviewed and executed the above instrument.


NOTARY PUBLIC

Yolanda Marsteller
NOTARY PUBLIC STATE OF NEVADA
My Appointment Expires 05/16/2012
Appointment No. 08-6898-1


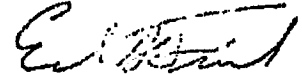

Margaret Daniels
Notary Public
State of Nevada
County of Clark
My Appt. Expires Mar 26, 2011
Certificate No: 07-2385-1

EXHIBIT 3

1 NOTC
2 ROCHELEAU LAW GROUP, P.C.
3 STACY M. ROCHELEAU, ESQ.
4 Nevada Bar No.: 7886
5 375 N. Stephanie Street, Bldg. 2
6 Henderson, Nevada 89014
7 (702) 914-0400
8 Fax: (702) 914-0256
9 stacy@rocheleaulaw.com
10 Attorneys for Plaintiff

FILED

MAY 21 4 24 PM '09


CLERK OF THE COURT

DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9 TRISHA KUPTZ,

10 Plaintiff,

11 v.

12 THOM BLINKENSOP,

13 Defendant.

) Case No.: D-09-409681-D

) Dept. No.: N

14
15 NOTICE OF ENTRY OF DECREE OF DIVORCE

16 PLEASE TAKE NOTICE that a Decree of Divorce was entered with the above-mentioned
17 Court on the 19th day of May, 2009. A copy is attached herewith.

18 Dated this 19th day of May, 2009.

19 ROCHELEAU LAW GROUP, P.C.

20 

21 STACY M. ROCHELEAU, ESQ.

22 Nevada Bar No.: 7886

23 375 N. Stephanie Street, Bldg. 2

24 Henderson, Nevada 89014

(702) 914-0400

Fax: (702) 914-0256

stacy@rocheleaulaw.com

Attorneys for Plaintiff

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of Rocheleau Law Group, PC, and that on this date, I served a true and correct copy of the Notice of Entry of Decree of Divorce on all parties to this action by placing same in an envelope with first-class postage affixed thereto and depositing it U.S. Mail in Henderson, Nevada, addressed as follows:

Trisha Kuptz
10075 S. Eastern Ave. #103
Henderson, NV 89074
Plaintiff

Thomas Richard Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074
Defendant

Dated this 21 day of May, 2009.



Employee of Rocheleau Law Group, P.C.

PROOF OF SERVICE

On November 8, 2018, I served the forgoing document(s) described as 1) **DEFENDANT THOMAS BLINKINSOP'S ANSWER TO COMPLAINT AND COUNTER CLAIM (2) DEFENDANT BLINKINSOP'S INTIAL APPEARANCE AND FEE DISCLOSURE** on interested party(ies) in this action by placing a true and correct copy and/or original thereof enclosed in a sealed envelope addressed as follows :

BENJAMIN CHILDS
318 South Maryland Pkwy
Las Vegas, NV 89101
ben@benchilds.com

(BY FIRST CLASS MAIL) I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal service on that same day with first class postage thereon fully prepaid at Las Vegas, NV in the ordinary course of business.

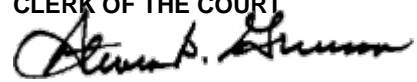
(BY PERSONAL SERVICE) I delivered such envelope by hand to the office of the addressee.

(BY EMAIL SERVICE) (Wiznet) Pursuant to NRCP, Rule 5(b)(2)(D), I hereby certify that service of the aforementioned document(s) via email to pursuant to EDCR Rule 7.26(a), as set forth herein.

(BY FAX SERVICE) Pursuant to consent under NRCP, Rule 5(b), I hereby certify that service of the aforementioned document(s) via facsimile, pursuant to EDCR Rule 7.26(a), as set forth herein.

Executed on this 8th day of November, 2018

/s/ George O. West III
GEORGE O. WEST III



1 BENJAMIN B. CHILDS
2 Nevada Bar # 3946
3 318 S. Maryland Parkway
4 Las Vegas, Nevada 89101
5 (702) 385-3865
6 Fax 384-1119
7 ben@benchilds.com
8 Attorney for Plaintiff

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP
9 nka TRISHA MARGOLIS

CASE NO. A-18-783766-C

DEPT. NO. 18

10 Plaintiff/Counterdefendant

11 v.

12 THOMAS R. BLINKINSOP

ANSWER TO COUNTERCLAIM

13 Defendant/Counterclaimant

14 Comes now Plaintiff/Counterdefendant TRISHA MARGOLIS [Trisha], by and
15 through counsel, Benjamin B. Childs, and answers the Counterclaim of THOMAS
16 R. BLINKINSOP [Thomas] as follows.

- 18 1. Trisha admits paragraphs 1, 3, 7, and 8 of the Counterclaim.
- 19 2. Trisha denies paragraphs 2, 5, and 10 of the Counterclaim.
- 20 3. Paragraph 6 is a reallegation paragraph and Trisha incorporates her responses
21 above to the applicable allegation paragraphs.
- 22 4. Trisha admits in part and denies in part paragraph 4 of the Counterclaim. Trisha
23 admits that Thomas is seeking quiet title, but denies that Trisha's claim is either
24 specious or frivolous.
- 25 5. Trisha admits in part and denies in part paragraph 9 of the Counterclaim. Trisha admits
26 that a judicial determination is appropriate, but denies it Thomas has exclusive rights in
27 the Subject Property.

29 AFFIRMATIVE DEFENSES

30 For the specific purpose of not waiving any defenses, Trisha incorporates by
31

1 reference all affirmative defenses set forth in NRC 8 as though fully set forth herein.

2 Further, the following specific affirmative defenses are asserted.

- 3
- 4 1. Statute of Limitations. Davidson vs. Davidson, 132 Nev. ___, 382 P. 3d 880 (2016)
 - 5 2. Estoppel
 - 6 3. Waiver
 - 7 4. Clean hands
 - 8 5. Statute of Frauds, NRS 111.205.
 - 9 6. Accord and satisfaction.
 - 10 7. Failure to state a claim upon which relief can be granted.
- 11

12 Wherefore, Plaintiff/Counterdefendant Trisha prays that take nothing from
13 Defendant/Counterclaimant Thomas' Counterclaim.

14 /s/ Benjamin B. Childs

15 _____
16 BENJAMIN B. CHILDS, ESQ.

17 Nevada Bar No. 3946

18 Attorney for Plaintiff/Counterdefendant

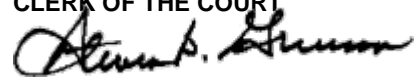
19 CERTIFICATE OF ELECTRONIC SERVICE

20
21 This PLAINTIFF/COUNTERDEFENDANT'S ANSWER TO
22 COUNTERCLAIM was served through the File and Serve system to opposing counsel on
23 the date of filing. Electronic service is in place of service by mailing.
24

25
26 /s/ Benjamin B. Childs

27 _____
28 BENJAMIN B. CHILDS, ESQ.

29 NEVADA BAR # 3946



1 BENJAMIN B. CHILDS
2 Nevada Bar # 3946
3 318 S. Maryland Parkway
4 Las Vegas, Nevada 89101
5 (702) 385-3865
6 Fax 384-1119
7 ben@benchilds.com
8 Attorney for Plaintiff/Counterdefendant

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP)	CASE NO. A-18-783766-C
9 nka TRISHA MARGOLIS)	DEPT. NO. 18
10 Plaintiff/Counterdefendant)	
11 v.)	
12 THOMAS R. BLINKINSOP)	MOTION FOR DECLARATORY
13 Defendant/Counterclaimant)	RELIEF

14 Comes now Plaintiff/Counterdefendant TRISHA MARGOLIS [Trisha], by and
15 through counsel, Benjamin B. Childs, and files her motion for declaratory relief in
16 the form of determining ownership of the Subject Property at issue herein.

18
19 NOTICE OF MOTION

20
21 TO: THOMAS R. BLINKINSOP

22
23 PLEASE TAKE NOTICE that BENJAMIN B. CHILDS, ESQ., the attorney
24 for Trisha, will bring the following **MOTION** on for hearing on December 18, 2018,
25 at 9:00 A.M., before Department 18 of the District Court, located at 330
26 S. 3rd Street [Phoenix Building] on the 11th floor in downtown Las Vegas, Nevada.

27 /s/ Benjamin B. Childs
28 BENJAMIN B. CHILDS, ESQ.
29 Nevada Bar No. 3946
30 Attorney for Plaintiff/Counterdefendant

1 FACTUAL SUMMARY
2

3 The real property at issue in this case is referred to herein as the
4
5 Subject Property and is commonly known as 2042 Deer Springs
6
7 Henderson, NV 89074, Assessor's parcel # 178-08-317-036, with the Legal
8 Description set forth below :
9

10
11 Lot Twenty-One (21) of Block One (1) of CREEKSIDE - UNIT 3
12 as shown by map thereof on file in Book 42 of Plats, Page 21 in
13 the Office of the County Recorder of Clark County, Nevada.
14

15
16 The Subject Property was transferred by Grant, Bargain and Sale
17 Deed recorded December 2, 2005 to the parties "Thomas R. Blinkinsop and
18 Trisha Kruptz-Blinkinsop, Husband and Wife as Joint Tenants with Rights of
19 Survivorship". [Exhibit 1]
20
21

22 The parties were divorced in May, 2009. [Exhibit 2] Neither party
23 renewed the judgment. [Exhibit 3 is the docket sheet for the divorce case]
24

25 On partition November 1, 2018. Trisha initiated this declaratory relief lawsuit
26 for Defendant THOMAS R. BLINKINSOP [Thomas] filed an Answer and
27 Counterclaim on November 8, 2018, asserting a cause of action for quiet title and
28 declaratory relief based exclusively on the 2009 Divorce Decree.
29
30
31
32

1 POINTS AND AUTHORITIES

2
3
4 DECLARATORY RELIEF REGARDING OWNERSHIP IS APPROPRIATE

5
6 NRS Chapter 30 is applicable to the instant case, along with NRCP 57.

7
8 NRS 30.030 Scope. Courts of record within their respective
9 jurisdictions shall have power to declare rights, status and other legal
10 relations whether or not further relief is or could be claimed. No action
11 or proceeding shall be open to objection on the ground that a
12 declaratory judgment or decree is prayed for. The declaration may be
13 either affirmative or negative in form and effect; and such declarations
14 shall have the force and effect of a final judgment or decree.

15 NRCP 57. DECLARATORY JUDGMENTS

16 The procedure for obtaining a declaratory judgment pursuant to
17 statute, shall be in accordance with these rules, and the right to trial by
18 jury may be demanded under the circumstances and in the manner
19 provided in Rules 38 and 39. The existence of another adequate
20 remedy does not preclude a judgment for declaratory relief in cases
21 where it is appropriate. The court may order a speedy hearing of an
22 action for a declaratory judgment and may advance it on the calendar.

23
24 In the interest of judicial economy, Trisha seeks to cut right to the heart of the
25 case and obtain a ruling on the ownership interests in the property because Thomas is
26 disputing that Trisha is a 50% owner. This is a threshold issue prior to ordering partition
27 pursuant to NRS 39.080, which states that the rights of the parties are to be determined
28 before partition of the Subject Property. The relevant partition statutes are set forth
29 below.
30
31
32

1 PARTIES PRESUMED TO OWN EQUAL SHARES OF SUBJECT PROPERTY

2
3
4 The parties were married June 8, 2002. The Subject Property was purchased
5 March 12, 2004, during the marriage. The Subject Property was transferred by Grant,
6 Bargain and Sale Deed recorded December 2, 2005 to the parties "Thomas R.
7 Blinkinsop and Trisha Kruptz-Blinkinsop, Husband and Wife as Joint Tenants with Rights
8 of Survivorship". [Exhibit 1]
9

10 The Nevada Supreme Court issued an opinion in Howard v. Hughes 134 Nev.
11 Adv. Op 80 (October 4, 2018). Yes, it is a confusing case name and has nothing to do
12 with Howard Hughes. This case clarifies Nevada law on property interest presumptions
13 of equal ownership in partition actions, extending the presumptions to joint tenants.
14
15 Howard restates the holding in Sack v. Tomlin, 110 Nev. 204, 871 P.2d 298 (1994) and
16 Langevin v York, 111 Nev. 1481, 907 P.2d 981 (1995) that "the presumption of equal
17 shares may be rebutted though unequal contributions to property by unrelated cotenants
18 who lack donative intent."
19
20

21 The instant case is between related cotenants, with vesting by Grant, Bargain and
22 Sale Deed signed by Thomas. So there is also donative intent. Thus, the presumption
23 is not overcome and Trisha owns one half of the Subject Property.
24
25

26
27 DAVIDSON CASE BARS ENFORCING THE 2009 DIVORCE DECREE

28
29 Thomas' entire case rests upon enforcing one provision in the 2009 Divorce
30 Decree. [Exhibit 2] This decree was never renewed by either party. [Exhibit 3 is the
31
32

1 docket sheet for the divorce case]. Davidson vs. Davidson, 132 Nev. ____ , 382 P. 3d
2 880 (2016) holds that family court judgments [decrees] have to be renewed every 6
3 years just like civil judgments, or the judgment lapses. So, since the judgment was not
4 renewed within the 6 year period, it has expired and the parties remain owners of the
5 Subject Property.
6

7
8 Trisha had her own issues with Thomas's performance of conditions contained in
9 Divorce Decree [Exhibit 2], such as that he stopped making mortgage payments on the
10 2405 W. Serene Avenue # 814 Las Vegas, NV property, which mortgage was in both
11 parties' name. Thomas literally made one payment on the Serene property after the
12 May, 2009 Divorce Decree and made no payments after the time, while receiving rental
13 income until it was foreclosed in October, 2015. Plus, Trisha bought one of the cars
14 that was in his name, which relieved him of that debt. This was an expensive BMW and
15 she wouldn't have bought it from him if she'd known that Thomas was not going to make
16 the payments he was obligated to pay. The parties invested approximately \$50,000 in
17 renovations and improvements into the Subject Property, paying cash using the
18 proceeds from a Home Equity Line of Credit [HELOC] on another parcel of real property
19 located at 10169 Quilt Tree Street Las Vegas, NV. The HELOC was in both parties'
20 names and was subsequently discharged a bankruptcy she had to file in 2011. She
21 didn't renew the Divorce Decree and acknowledges that she can't enforce any
22 provisions of that Decree now.
23
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27

28 The relevant portion of Davidson is quoted below for the Court's convenience.
29
30

31 ... Therefore, we conclude that, other than child support orders, Nevada
32

1 law does not exclude the family division from the limitations period in NRS
2 11.190(1)(a).

3 Similarly, in 2015, the Nevada Legislature amended NRS
4 125.150(3) to provide a limitations period for postjudgment motions to
5 adjudicate omitted assets in divorce, annulment, or separate maintenance
6 cases. The current statute mandates that the aggrieved party must file
7 such a motion within three years of the discovery "of the facts constituting
8 fraud or mistake." NRS 125.150(3). The same statute provides the family
9 division with "continuing jurisdiction to hear such a motion." *Id.* Thus, we
10 conclude that the Legislature does not equate "continuous jurisdiction" with
11 unending jurisdiction, as the three-year limitations period for postjudgment
12 motions to adjudicate omitted assets demonstrates.

13 Dawnette further claims that the Legislature did not intend for a
14 divorce litigant to receive a windfall for the full value of a marital property
15 by waiting for the six-year limitations period to end and then selling the
16 property and retaining the full value of the proceeds. While Dawnette's
17 argument has merit, we believe that the Legislature also did not intend for
18 parties to endlessly "sit" on potential claims. *See Doan v. Wilkerson*, 130
19 Nev., Adv. Op. 48, 327 P.3d 498, 501 (2014) ("The policy in favor of finality
20 and certainty . . . applies equally, and some might say especially, to a
21 divorce proceeding ") The Legislature provided NRS 17.214, which
22 Dawnette could have used to prevent Christopher from allegedly receiving
23 a double windfall. NRS 17.214 allows a judgment creditor to renew a
24 judgment and avoid the harsh results that could accompany the expiration
25 of a statute of limitations. Unfortunately, Dawnette failed to avail herself of
26 the statute's protections. Moreover, as we have previously reasoned, "If
27 the legislature had intended to vest the courts with continuing jurisdiction
28 over property rights [in divorce cases], it would have done so expressly."
29 *Id.* (quoting *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395, 397 (1980)
30 (alteration in original)).

31 In *Bongiovi v. Bongiovi*, 94 Nev. 321, 322, 579 P.2d 1246, 1246-47
32 (1978), this court determined that NRS 11.190 barred a party's recovery of
alimony payments that were more than six years old. There, the parties'

1 divorce decree ordered the ex-husband to make ten monthly alimony
2 payments of \$1,000 to his ex-wife. *Id.* at 322, 579 P.2d 1246. The first
3 payment was due on July 1, 1971, but the ex-wife never received any
4 payments. *Id.* On November 29, 1977, the ex-wife filed a motion seeking a
5 judgment on the arrearages, and the district court subsequently entered a
6 judgment in the amount of \$5,000 on the ex-wife's behalf. *Id.* at 322, 579
7 P.2d at 1247. The lower court said that recovery of the first five payments
8 was barred by the six-year limitation in NRS 11.190. *Id.* This court agreed
9 that NRS 11.190 applied to the former wife's motion and held that "[t]he
10 six-year period prescribed by that statute commenced to run against each
11 installment as it became due." *Id.* We see no reason to deviate from our
12 prior holding and conclude that a claim to enforce a divorce decree,
13 whether through motion practice or independent action, is governed by the
14 limitations period under NRS 11.190 and NRS 11.200. *Id.* @ 7,8
15
16
17

18 PARTITION STATUTES ANTICIPATE DECIDING OWNERSHIP INTERESTS

19

20 Partition is an absolute right and is not necessarily founded on misconduct. An
21 owner may insist upon partition as absolute right. Partition is not necessarily founded on
22 any misconduct on the part of cotenants and will be decreed so as to do the least
23 possible injury to several owners. Dall v. Confidence Silver Mining Co., 3 Nev. 531
24 (1868), cited, Kent v. Kent, 108 Nev. 398, at 402, 835 P.2d 8 (1992)
25
26
27

28 NRS 39.010 Actions for partition of real property; partial partition.

29 When several persons hold and are in possession of real property as joint
30
31
32

1 tenants or as tenants in common, in which one or more of them have an
2 estate of inheritance, or for life or lives, or for years, an action may be
3 brought by one or more of such persons for a partial partition thereof
4 according to the respective rights of the persons interested therein, and
5 for a sale of such property or a part of it, if a partition cannot be made
6 without great prejudice to the owners or if the owners consent to a sale.
7 Whenever from any cause it is, in the opinion of the court, impracticable
8 or highly inconvenient to make a complete partition, in the first instance,
9 among all the parties in interest, **the court may first ascertain and**
10 **determine the shares or interest respectively held by the original**
11 **cotenants**, and thereupon cause a partition to be made, as if the original
12 cotenants were the only parties to the action and thereafter may proceed
13 to adjudge and make partition separately of each share or portion so
14 ascertained and allotted as between those claiming under the original
15 tenant to whom the property has been set apart, or may allow them to
16 remain tenants in common thereof, as they may desire.
17

18
19 Sale can be ordered in lieu of partition when the property cannot be divided.

20 Wolford v. Wolford, 65 Nev. 710, 200 P.2d 988 (1948) This is the situation in this case.

21 However, the statute anticipates the Court deciding rights prior to ordering a
22 partition sale.
23

24
25 NRS 39.080 Rights of several parties may be determined; proof of title;
26 consideration of rights of unknown parties.

27 The rights of the several parties, plaintiffs as well as defendants, may be
28 put to issue, tried and determined by such action; and when a sale of the
29 premises is necessary, the title shall be ascertained by proof to the
30 satisfaction of the court, **before the judgment of sale shall be made ...**
31

1
2
3
4 CONCLUSION
5

6 Trisha is the owner of the Subject Property pursuant to the Grant, Bargain and
7 Sale Deed recorded in 2005. The presumption is equal ownership.
8

9 Davidson is clear that if the Divorce Decree was not renewed, it lapses and
10 cannot be enforced, even by independent action, as Thomas is trying to do in his
11 counterclaim.

12 Trisha prays for an order quieting title in the Subject Property in the name of
13 TRISHA KUPTZ-BLINKINSOP nka TRISHA MARGOLIS as to a 50% interest and
14 THOMAS R. BLINKINSOP as to a 50% interest.

15
16 /s/ Benjamin B. Childs, Sr.
17

18 _____
19 BENJAMIN B. CHILDS, Sr.
20 Nevada Bar # 3946
21 318 S. Maryland Parkway
22 Las Vegas, Nevada 89101
23 (702) 385-3865
24 Attorney for Plaintiff/Counterdefendant

25
26
27
28
29 CERTIFICATE OF ELECTRONIC SERVICE
30

31 This MOTION TO FOR DECLARATORY RELIEF, with exhibits, was served
32 through the File and Serve system to opposing counsel on the date of filing.

Electronic service is in place of service by mailing.

33
34
35
36
37
38
39 /s/ Benjamin B. Childs
40 BENJAMIN B. CHILDS, ESQ.
41 NEVADA BAR # 3946
42

DECLARATION OF TRISHA MARGOLIS

I am the Plaintiff herein. Thomas THOMAS R. BLINKINSOP and I were married in 2002 and divorced in 2009. During that time we acquired several pieces of property, all of which was addressed in the Divorce Decree filed in May, 2009.

I am a co-owner of the property located at 2042 Deer Springs Henderson, NV5832, Assessor's parcel # 178-08-317-036. I have never transferred my ownership interest in that property.

I have my own issues with Thomas's performance of conditions contained in Divorce Decree. He stopped making mortgage payment on the 2405 W. Serene Avenue # 814 Las Vegas, NV property, which mortgage was in both our names. Thomas literally made one payment on the Serene property after the May, 2009 Divorce Decree and made no payments after that time, while receiving rental income until it was foreclosed in October, 2015. Plus, I bought one of the cars that was in his name which took the loan out of his name. This was an expensive BMW car that I would not have bought if I'd know he was not going to be making the payments he was obligated to make.

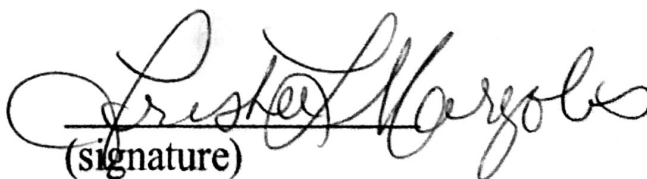
During our marriage Thomas and I invested approximately \$50,000 in renovations and improvements into the Subject Property, paying cash using the proceeds from a Home Equity Line of Credit [HELOC] on another parcel of real property located at 10169 Quilt Tree Street Las Vegas, NV. This HELOC was subsequently discharged as to my obligation in a bankruptcy I had to file in 2011.

I didn't renew the Divorce Decree and acknowledge that under Nevada law I can't enforce any provisions of that Decree now.

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

Executed on

11/15/18
(date)


(signature)

TRISHA KUPTZ-BLINKINSOP
nka TRISHA MARGOLIS

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

20051202-0000386

Fee: \$19.00 RPTT: EX#005
N/C Fee: \$25.00

12/02/2005 09:02:26
T20050217882

Requestor:
NEVADA TITLE COMPANY

Frances Deane JKA
Clark County Recorder Fgs: 6

AHA.P.N.: 178-08-317-036
R.P.T.T.: \$EXEMPT #5

Escrow #

Mail tax bill to and when recorded mail to:
Thomas R. Blinkinsop and Trisha Kuptz-
Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074

CP
H

2

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That **Thomas R. Blinkinsop, a married man as his sole and separate property**, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to **Thomas R. Blinkinsop and Trisha Kuptz-Blinkinsop, Husband and Wife as Joint Tenants with Rights of Survivorship**, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

**SEE LEGAL DESCRIPTION ATTACHED HERETO
AND MADE A PART HEREOF AS EXHIBIT "A"**

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any;
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

IN WITNESS WHEREOF, this instrument has been executed this 28 day of October, 2005



Thomas R. Blinkinsop

State Of NEVADA }
County of Clark } ss

This instrument was acknowledge before me on October 28, 2005

by Thomas R. Blinkinsop

Heather Adams
NOTARY PUBLIC
My Commission Expires: 8-1-2009



EXHIBIT "A"

LOT TWENTY-ONE (21) IN BLOCK ONE (1) OF CREEKSIDE UNIT 3, AS
SHOWN BY MAP THEREOF ON FILE IN BOOK 42 OF PLATS, PAGE 21 IN THE
OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA

ASSESSOR'S COPY

A.P.N.: 178-08-317-036

TO: NEVADA TITLE COMPANY


DATE: October 26, 2005

We hand you herewith a Deed from BLINKINSOP, Grantor herein to BLINKINSOP AND KUP TZ-BLINKINSOP, Grantee therein, conveying the following property:

2042 Deer Springs Drive
Henderson, NV 89074

Escrow Agent is hereby instructed and directed to record said Deed concurrently with the other documents called for in the above referenced escrow "as an accommodation only."

The parties herein acknowledge and understand that there shall be no Owners Policy of Title Insurance issued in connection with the recordation of this Deed. Further Escrow Agent is hereby released of any and all responsibility and/or liability in connection with said Deed.

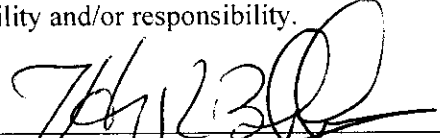


THOMAS R. BLINKINSOP



TRISHA KUP TZ-BLINKINSOP

The undersigned does hereby state and affirm that no cash consideration is due the Grantor herein at the close of the above numbered escrow. Escrow Agent is hereby released of any and all liability and/or responsibility.



THOMAS R. BLINKINSOP



TRISHA KUP TZ-BLINKINSOP

ATTACHMENT TO DEED

ACCOMMODATION RECORDING INSTRUCTIONS,
NOTICE AND WAIVER PURSUANT TO N.R.S. 692A.210
AND INDEMNITY AGREEMENT

TO: NEVADA TITLE COMPANY DATE: ESCROW/ORDER

FROM: BLINKINSOP TO BLINKINSOP & KUPTZ-BLINKINSOP

The documents listed below are for recording in the Recorder's Office as an accommodation only. You are to make no demand or inquiry in connection therewith. The undersigned understand that Nevada Title Company ("NTC") is not searching the public records in connection with any property affected thereby, and makes no assurances that the parties have any interest in any property described therein. Further, NTC has not examined the document(s), and makes no assurances as to their validity or effect on title. These documents are being delivered to the Recorder's Office only as a courtesy to the undersigned.

The undersigned also acknowledge that NTC will not now, nor will it in the future, receive any benefit, whether business or otherwise, as a result of the recordation of said document(s). The undersigned further acknowledge that NTC is unwilling to carry out the herein provided instructions without, and in the normal course of business would not do so without an Indemnity Agreement from the undersigned.

NOW THEREFORE, the undersigned do herein and hereby agree that, in consideration of NTC recording said documents, the undersigned will fully and forever protect, defend save harmless and otherwise indemnify NTC from and against any and all liabilities, responsibilities, loss, costs, damages, expenses, charges and fees including but not by way of limitation attorney's fees which it may suffer, expend or incur, directly or indirectly, under by way of, arising out of, or as a consequence of its fulfillment of these instructions and/or the recordation of the herein below described document.

THE UNDERSIGNED are responsible for the Clark County Recorder's Office documentation requirements, including (but not limited to) attaching a Declaration of Value form to any document recorded to transfer real property (or any right, title or interest therein).

The undersigned shall pay applicable Recording Fees and Transfer Tax (check payable to the "Clark County Recorder" to cover the charges concerning: i) the Recorder's Fee of \$14.00 for the first page, and \$1.00 for each additional page, of a document; ii) an additional fee of \$3.00 for any single-page document that is considered a "double-index" document; iii) real property transfer tax of \$5.10 per \$1,000.00 of equitable value in the property).

<u>DOCUMENT</u>	<u>1ST PARTY</u>	<u>2ND PARTY</u>	<u>TRANSFER TAX</u>	<u>RECORDING FEE</u>
DEED	BLINKINSOP	BLINKINSOP AND KUPTZ- BLINKINSOP	EXEMPT 5	ACCOM

FURTHERMORE, if a Lender's policy of title insurance is being issued but no Owner's title policy is being issued, then: notice is hereby given, as required in NRS 692A.210 that a mortgagee's title insurance policy is to be issued to your mortgage lender. The policy does not afford title insurance protection to you in the event of a defect or claim of defect in title to the real estate you own or are acquiring. An owner's title insurance policy affording protection to you in the amount of your purchase price, or for the amount of your purchase price plus the cost of any improvements, which you anticipate making, may be purchased by you. NRS 692A.210 requires that you sign the statement printed below if you do not wish to purchase an owner's title insurance policy.

WE HAVE RECEIVED THE FOREGOING NOTICE, AND WAIVE OUR RIGHT TO PURCHASE AN OWNER'S TITLE INSURANCE POLICY FOR OUR PROTECTION.

THOMAS R. BLINKINSOP

TRISHA KUPTZ-BLINKINSOP

EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

ORIGINAL

31

1 NOTC
2 ROCHELEAU LAW GROUP, P.C.
3 STACY M. ROCHELEAU, ESQ.
4 Nevada Bar No.: 7886
5 375 N. Stephanie Street, Bldg. 2
6 Henderson, Nevada 89014
7 (702) 914-0400
8 Fax: (702) 914-0256
9 stacy@rocheleaulaw.com
10 Attorneys for Plaintiff

FILED

MAY 21 4 24 PM '09

[Signature]
CLERK OF THE COURT

DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9 TRISHA KUPTZ,
10 Plaintiff,

) Case No.: D-09-409681-D

11 v.

) Dept. No.: N

12 THOM BLINKENSOP,
13 Defendant.
14

15 NOTICE OF ENTRY OF DECREE OF DIVORCE

16 PLEASE TAKE NOTICE that a Decree of Divorce was entered with the above-mentioned
17 Court on the 19th day of May, 2009. A copy is attached herewith.

18 Dated this 19th day of May, 2009.

19 ROCHELEAU LAW GROUP, P.C.

20 *[Signature]*

21 STACY M. ROCHELEAU, ESQ.
22 Nevada Bar No.: 7886
23 375 N. Stephanie Street, Bldg. 2
24 Henderson, Nevada 89014
25 (702) 914-0400
Fax: (702) 914-0256
stacy@rocheleaulaw.com
Attorneys for Plaintiff

CLERK OF THE COURT
MAY 21 2009

RECEIVED

[Handwritten mark]


CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of Rocheleau Law Group, PC, and that on this date, I served a true and correct copy of the Notice of Entry of Decree of Divorce on all parties to this action by placing same in an envelope with first-class postage affixed thereto and depositing it U.S. Mail in Henderson, Nevada, addressed as follows:

Trisha Kuptz
10075 S. Eastern Ave. #103
Henderson, NV 89074
Plaintiff

Thomas Richard Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074
Defendant

Dated this 21 day of May, 2009.



Employee of Rocheleau Law Group, P.C.

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1 **DECD**
2 ROCHELEAU LAW GROUP, P.C.
3 Stacy M. Rocheleau, Esq.
4 Nevada Bar No. 7886
5 375 N. Stephanie Street, Bldg. 2
6 Henderson, Nevada 89014
7 (702) 914-0400
8 Fax (702) 914-0256
9 stacy@rocheleaulaw.com
10 Attorneys for Plaintiff

FILED

MAY 19 3 33 PM '09

E. J. [Signature]
CLERK OF THE COURT

7 DISTRICT COURT
8 FAMILY DIVISION
9 CLARK COUNTY, NEVADA

10 TRISHA KUPTZ,
11 Plaintiff,
12 v.
13 THOM BLINKINSOP,
14 Defendant

Case no. *D-09-409681-D*
Dept. no. *N*

15 **DECREE OF DIVORCE**

16 The above-entitled matter having been submitted for summary disposition, and the parties
17 having reviewed and agreed to this instant Decree of Divorce, the Court having reviewed all the
18 pleadings and papers on file herein, and being fully advised in the premises, and fully satisfied that the
19 action has been fully and regularly commenced, and finds:

20 1. That the Court has complete jurisdiction in the premises, both as to the subject matter
21 thereof as well as the parties thereto;

22 2. That the Plaintiff is now, and has been an actual bona fide resident of Clark County,
23 Nevada, and has been actually domiciled there for more than six (6) weeks immediately preceding the
24 commencement of this action;

25 3. The parties were married on the 8th day of June, 2002, and ever since have been and now
26 are husband and wife.

27 ///

28 ///

1 4. That there are no minor children which are the issue of this marriage and no adopted
2 minor children and Plaintiff is not pregnant at this time;

3 5. That Plaintiff never changed her name.

4 6. That the division of community property set forth below is, to the extent possible, an
5 equal division of community property;

6 7. That the division of community debt as set forth below is, to the extent possible, an
7 equal division of community debts.

8 8. That both parties waive their rights to spousal support;

9 9. That each party shall bear their own attorney's fees and costs;

10 10. That the Plaintiff should be granted a Decree of Divorce for the reasons set forth
11 in the Complaint on file herein; and

12 11. That the parties desire entry of a Decree of Divorce and have waived Findings of Fact,
13 Conclusions of Law and written Notice of Entry of Judgment, right to appeal, and right to move for a
14 new trial, and all the provisions of NRS 125.181 have been met in said cause.

15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of matrimony
16 heretofore and now existing between Plaintiff and Defendant be, and the same are hereby wholly
17 dissolved, and each of the parties hereto is restored to the status of single, unmarried person.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay Plaintiff
19 the sum of \$20,000.00 as Community Property Settlement as follows:

- 20 1. Sum of \$8,000.00 shall be transferred from the balance owed on a credit card of
21 Plaintiff's choosing, to a credit card of Defendant's that he so selects.
- 22 2. Sum of \$2,000.00 shall be paid to Plaintiff as and for moving expenses within 10 days
23 of entry of decree of decree.
- 24 3. Sum of \$10,000.00 shall be paid to Plaintiff in payments over a period of 24 months
25 beginning the 1st day of April, 2009, or may be paid in a lump sum, at the sole
26 discretion of Defendant.

27 ///

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff is hereby
2 awarded the following as her sole and separate property and responsibility:

- 3 1. BMW vehicle and any encumbrances thereon;
- 4 2. 100% of the business known as Team Kuptz LLC and any new business opened by
5 Plaintiff and any expenses or liabilities associated with the same;
- 6 3. All credit cards in Plaintiff's name; of which Plaintiff shall have Defendant's name
7 removed from same;
- 8 4. All debts in Plaintiff's name for which Plaintiff shall hold Defendant harmless for same;
- 9 5. Any bank accounts in Plaintiff's name;
- 10 6. One-half (1/2) of all personal property, furniture and furnishings;
- 11 7. All personal clothing and effects in Plaintiff's possession.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant is hereby
13 awarded the following as his sole and separate property and responsibility:

- 14 1. Toyota vehicle and any encumbrances thereon;
- 15 2. 100% of Defendant's consulting business and any expenses or liabilities associated with
16 the same;
- 17 3. All credit cards in Defendant's name; of which Defendant shall have Plaintiff's name
18 removed from same.
- 19 4. All debts in Defendant's name for which Defendant shall hold Plaintiff harmless for
20 same.
- 21 5. Any bank accounts in Defendant's name.
- 22 6. One-half (1/2) of all personal property, furniture and furnishing.
- 23 7. All personal clothing and effects in Defendant's possession.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are each hereby
25 awarded one-half of the following investments as their sole and separate property:

- 26 1. American Funds
- 27 2. Sunrise 401k
- 28 3. Regal

1 4. PGA Retirement fund

2 5. Vanguard

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
4 his sole and separate property the real property located at 2042 Deer Springs Drive, Henderson, Nevada.
5 Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said real
6 property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10 days
7 of entry of this decree.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
9 his sole and separate property the real property located at 2405 W. Serene Avenue #814, Las Vegas,
10 Nevada. Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said
11 real property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10
12 days of entry of this decree. If said property is sold by Defendant, Plaintiff may receive one-half of the
13 profits upon sale, provided that she repay to Defendant one-half of any and all expenses paid by
14 Defendant from the date of entry of decree to the date of close of escrow. Said expenses shall include
15 but are not limited to mortgage interest, taxes, insurance, repairs, homeowner's association fees, and
16 costs of sale, all of which must be paid prior to close of escrow of such sale.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff and Defendant shall
18 transfer the real property located at 10169 Quilt Tree Street, Las Vegas, Nevada, into a limited liability
19 company of which each shall own 50%. The profit from renting said property and/or the sale of said
20 property will be divided equally by the parties. The parties shall execute a quitclaim deed to said
21 limited liability company on said real property within 10 days of entry of this decree.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties will file a joint
23 2008 Federal Income Tax Return and will divide any liability or refund associated with same equally.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay Plaintiff
25 the sum of \$937.00 as and for reimbursement for tires for her vehicle.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all separate property
27 is confirmed as that parties' separate property.

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from the date of entry of this
2 decree, any and all property acquired, or income received, or debt incurred by either of the parties,
3 except as specified herein, shall be the sole and separate property or obligation of the one so acquiring
4 or incurring the same.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall fully
6 cooperate with each other and shall not unreasonably withhold execution of any documents necessary
7 to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of
8 Court is authorized to execute any document on behalf of either party upon presentment of this Decree;

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the parties agrees
10 to waive spousal support;

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party is to bear their
12 own attorneys fees and costs incurred to date, however, should any party need to enforce the terms
13 herein, they shall be awarded their attorney's fees and costs incurred for enforcement; and


14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall provide their
15 social security numbers on a separate form to the Court and to the Welfare Division of the Department
16 of Human resources pursuant to NRS 125.130. Such information shall be maintained by the Clerk in
17 a confidential manner and not part of the public record.

18 DATED this 18 day of May, 2009.

19
20 **MATHEW HARTER**


21 _____
DISTRICT COURT JUDGE
FAMILY DIVISION

22 Submitted by:
23 ROCHELEAU LAW GROUP, P.C.

24 
25 _____
Stacy M. Rocheleau, Esq.
Nevada Bar No. 7886
26 375 N. Stephanie Street, Bldg. 2
Henderson, Nevada 89014
27 (702) 914-0400
Fax (702) 914-0256
28 stacy@rocheleaulaw.com
Attorneys for Plaintiff

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Approved as to Content and Form by:


Thom Blinkinsop

Approved as to Content and Form by:


Trisha Kuptz-Blinkinsop

On this 16th day of March, 2009, personally appeared before me, the undersigned, a Notary Public in and for the County of Clark, State of Nevada, Thom Blinkinsop, who acknowledged that he reviewed and executed the above instrument.


NOTARY PUBLIC

On this 13 day of March, 2009, personally appeared before me, the undersigned, a Notary Public in and for the County of Clark, State of Nevada, Trisha-Kuptz Blinkinsop who acknowledged that she reviewed and executed the above instrument.


NOTARY PUBLIC

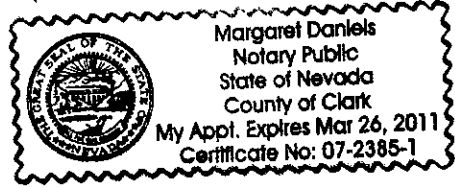


EXHIBIT 3

EXHIBIT 3

EXHIBIT 3

EXHIBIT 3

Case Information

D-09-409681-D | Trisha Kuptz, Plaintiff. vs. Thom Blinkinsop, Defendant.

Case Number	Court	Judicial Officer
D-09-409681-D	Department N	Harter, Mathew
File Date	Case Type	Case Status
04/03/2009	Divorce - Complaint	Closed

Party

Plaintiff
Kuptz, Trisha

DOB
XX/XX/XXXX

Address
2042 Deer Springs DR
Henderson NV 89074

Active Attorneys ▾
Lead Attorney
Rocheleau, Stacy
M.
Retained

Defendant
Blinkinsop, Thom

DOB
XX/XX/XXXX

Address
2042 DEER SPRINGS DR
Henderson NV 89074

Events and Hearings

Kuptz v. Blinkinsop
Case # 78284
Page 57 of 189

04/03/2009 Complaint for Divorce ▼ Complaint for Divorce
04/03/2009 Affidavit of Plaintiff ▼ Affidavit of Plaintiff
04/03/2009 Notice of Appearance ▼ Notice of Appearance
04/07/2009 Consent ▼ Consent Comment To Self- Representation
04/07/2009 Answer ▼ Answer Comment To Complaint
04/07/2009 Proof of Personal Service of Summons and Complaint ▼ Proof of Personal Service of Summons & Complaint Comment Acceptance of Service
04/09/2009 Affidavit of Resident Witness ▼ Affidavit of Resident Witness
04/20/2009 NRCP 16.2 Case Management Conference ▼ NRCP 16.2 Case Management Conference
05/08/2009 Affidavit of Resident Witness ▼ Affidavit of Resident Witness
05/12/2009 Request for Summary Disposition of Uncontested Div/Ann ▼ Request for Summary Disposition of Uncontested Div
05/19/2009 Decree of Divorce ▼ Decree of Divorce

05/21/2009 Notice of Entry of Decree ▼

Notice of Entry of Decree

Comment
of Divorce

05/26/2009 Notice of Withdrawal ▼

Notice of Withdrawal

Comment
Of Counsel

07/14/2009 Case Management Conference ▼

Judicial Officer
Harter, Mathew

Hearing Time
1:30 PM

Cancel Reason
Vacated - per Stipulation

Comment
Per Law Cler 5/18/09 BM/cc.

Financial

Kuptz, Trisha

Total Financial Assessment	\$170.00
Total Payments and Credits	\$170.00

4/3/2009	Transaction	\$170.00
	Assessment	

4/3/2009	Payment	Receipt #	Rocheleau	(\$170.00)
	(Window)	2009-12508-	Law	
		FAM	Group PC	

Blinkinsop, Thom

Total Financial Assessment	\$104.00
Total Payments and Credits	\$104.00

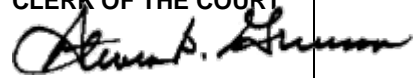
Kuptz v. Blinkinsop
Case # 78284
Page 59 of 189

4/7/2009	Transaction Assessment			\$104.00
----------	---------------------------	--	--	----------

4/7/2009	Payment (Window)	Receipt # 2009-12936- FAM	Blinkinsop, Thom	(\$104.00)
----------	---------------------	---------------------------------	---------------------	------------

Documents

Complaint for Divorce
Notice of Appearance
Affidavit of Plaintiff
Consent
Answer
Proof of Personal Service of Summons & Complaint
Affidavit of Resident Witness
NRCP 16.2 Case Management Conference
Affidavit of Resident Witness
Request for Summary Disposition of Uncontested Div
Notice of Entry of Decree
Decree of Divorce
Notice of Withdrawal



1 **OPPM/CMSJ**
2 GEORGE O. WEST III [SBN 7951]
3 Law Offices of George O. West III
4 10161 Park Run Drive, Suite 150
5 Las Vegas, Nevada 89145
6 gowesq@cox.net
7 (702) 318-6570
8 (702) 664-0459 [fax]

9 Attorney for Defendant/Counter-Claimant
10 **THOMAS BLINKINSOP**

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

13 TRISHA KUPTZ-BLINKINSOP,
14 aka TRISHA MARGOLIS,

15 Plaintiff,

16 v

17 THOMAS R. BLINKINSOP,
18 Defendant,

19 _____/
20 THOMAS R. BLINKINSOP,
21 Counter-Claimant

22 v

23 TRISHA KUPTZ,-BLINKINSOP,
24 a/k/a TRISHA MARGOLIS,
25 Counter Defendant,
26 _____/

CASE NO : A-18-783766-C
DEPT : XVIII

**DEFENDANT/COUNTER-CLAIMANT
THOMAS BLINKINSOP'S OPPOSI-
TION TO PLAINTIFF'S MOTION FOR
DECLARATORY RELIEF AND DEFEN-
DANT/COUNTER-CLAIMANT'S
COUNTER-MOTION FOR SUMMARY
JUDGMENT**

DATE: December 18, 2018

TIME : 9:00 a.m.

[Filed *concurrently* with Concise Separate
Statement of Undisputed Material Facts in
Support of BLINKINSOP's Counter-Motion
for Summary Judgment]

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD :**

2 **PLEASE TAKE NOTICE**, that on December 18, 2018 at 9:00 a.m., or as soon
3 thereafter as the matter can be heard, in Department 18, of the above entitled Court,
4 Plaintiff/Counter-Claimant THOMAS BINKINSOP (“BLINKINSOP”) will move for
5 summary judgment on Plaintiff TRISHA’s KUPTZ’s (“KUPTZ”) Complaint for Partition
6 and Declaratory Relief, **and** on Defendant/Counter-Claimant’s affirmative counter
7 claims for relief for Quiet Title and Declaratory Relief. ¹

9 This counter-motion is made pursuant to Rule 56 on the following grounds:

- 10 • That Plaintiff KUPTZ’s is barred by the doctrine of **Res Judicata/Claim**
11 **preclusion** from relitigated any issue or claim or otherwise contending or
12 claiming any ownership interest whatsoever in the real property at issue
- 13 • That Plaintiff KUPTZ’s **is estopped** from seeking partition of the real property
14 at issue.
- 15 • That Plaintiff KUPTZ **expressly waived** any and all ownership interest in the
16 real property at issue.
- 17 • That Plaintiff KUPTZ’s partition action, which is a strictly equitable claim, is
18 barred by the doctrine of **unclean hands**.

19 Furthermore, Defendant/Cross Complainant BLINKINSOP is entitled to
20 judgment as a matter of law on his affirmative claims for Quiet Title and Declaratory
21 relief, as any and all ownership rights or interest Plaintiff KUPTZ had in the real property
22 at issue, whether in law or in equity, were entirely extinguished, severed and/or
23 terminated nine (9) and half years earlier **via the party’s uncontested and**
24 **summary divorce decree**. The real property division in the party’s uncontested

25
26
27
28 ¹ KUPTZ’s Motion for Declaratory Relief is really a Motion for Summary Judgment under Rule 56
based upon the relief it seeks. Consequently, BLINKINSOP’s MSJ is entirely granted in whole to
KUPTZ’s motion.

1 divorce decree adjudged and adjudicated the real property at issue to be the ***sole and***
2 ***separate*** property of Defendant/Counter-Claimant BLINKINSOP.

3 This motion will be based upon this Notice, the attached memorandum of points
4 and authorities, the declaration of Thomas Blenkinsop, Plaintiff's Concise Separate
5 Statement of Material Undisputed Facts filed concurrently, but separately with this
6 motion, the pleadings in the file, and upon any other competent evidence to be presented
7 at the hearing.
8

9
10
11 Dated this 6th day of December, 2018

12 By /s/ George O. West III
13 George O. West III
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16 **THOMAS BLINKINSOP**

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I

INTRODUCTION

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3 The dispositive issue to be determined in this action, and in this motion, is simple.
4 Does Plaintiff KUPTZ have any ownership interest whatsoever in a particular parcel of
5 real property located at 2024 Deer Springs Drive, Henderson, NV 89074 (“Deer Springs
6 Property”). If she does not because of ***res judicata, waiver, or estoppel, or is***
7 ***otherwise barred or precluded*** from asserting any such ownership interest in the
8 Deer Springs Property, then her Complaint must be dismissed with prejudice, and
9 BLINKINSOP is entitled to judgment as a matter of law on all of his counter-claims for
10 Quiet Title and Declaratory Relief.
11

12 On or about October 28, 2005, the Deer Springs Property, under a grant, bargain
13 sale deed, was conveyed from BLINKINSOP, “*as a married man as his sole property,*” to
14 BLINKINSOP and KUPTZ “*as husband and wife as joint tenants with right of*
15 *survivorship.*” ***Critically,*** it is the October 2005 deed upon which Plaintiff KUPTZ’s
16 entire Complaint is predicated upon with respect her purported “ownership interest” in
17 the Deer Springs Property, because having an “ownership interest” in the Deer Springs
18 Property is a necessary element and prerequisite of KUPTZ’s partition action.
19

20 After BLINKINSOP conveyed the Deer Springs Property to KUPTZ and to himself
21 as “husband and wife as joint tenants with right of survivorship” via the October 2005
22 deed, three and half years later, in May of 2009, KUPTZ filed a Complaint for Divorce in
23 the Family Division of the Eighth Judicial District. As a result of the property division set
24 forth in the uncontested divorce decree, (as also ***agreed to*** by KUPTZ), any and all
25 ownership interest KUPTZ had in the Deer Spring Property was entirely extinguished,
26 dissolved, severed and/or terminated.
27

1 The extinguishment and termination of any and all ownership rights KUPTZ had
2 in the Deer Springs Property, via the divorce decree, was the direct result and product of
3 KUPTZ voluntarily and knowingly waiving, relinquishing, surrendering and renouncing
4 any and all ownership interest whatsoever she previously had in the Deer Springs
5 Property under the October, 2005 grant deed, which was then subsequently recorded in
6 December of 2005. Furthermore, the divorce decree was the direct result and product of
7 a fully negotiated agreement between KUPTZ and BLINKINSOP involving any and all
8 community, joint and separate property assets and liabilities, **which expressly**
9 **included the ownership rights in the Deer Springs Property.**

11 Furthermore, the resulting and agreed to property disposition and division was
12 effectuated with the direct involvement of KUPTZ's attorney of record in the divorce
13 action, as BLINKINSOP was in pro per. The divorce decree was prepared by KUPTZ's
14 attorney of record. After full review of the divorce decree, both KUPTZ and BLINKINSOP
15 executed the divorce decree. KUPTZ's attorney then submitted the divorce decree to the
16 family law Court for the Court's approval and signature. It was then filed with the Court
17 clerk, and then notice of its entry was filed and served by KUPTZ's attorney.

19 The divorce decree not only adjudicated BLINKSOP as having a 100% ownership
20 interest in the Deer Springs Property, (subject to any encumbrances), but perhaps most
21 compelling was KUPTZ was also **required and ordered to tender** a quit claim deed
22 to BLINKINSOP with respect to the Deer Springs Property, an important fact
23 conspicuously "omitted" from KUPTZ's motion. With respect to the Deer Springs
24 Property, the divorce decree stated and ordered:
25

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
2 his sole and separate property the real property located at 2042 Deer Springs Drive, Henderson, Nevada.
3 Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said real
4 property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10 days
5 of entry of this decree.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall fully
7 cooperate with each other and shall not unreasonably withhold execution of any documents necessary
8 to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of
9 Court is authorized to execute any document on behalf of either party upon presentment of this Decree;
10

11 KUPTZ's claims must fail based *on any one of the four (4)* following grounds,
12 even though it is clear from the undisputed record that all four apply:

- 13 1. KUPTZ is foreclosed under *Res Judicata* from asserting or relitigating
14 any ownership interest she previously had in the Deer Springs Property
15 because her ownership interest was extinguished, severed and/or
16 terminated as a result of the previous divorce decree which was valid and
17 binding judgement, wherein the Deer Springs Property was adjudicated
18 to be 100% BLINKINSOP'S sole and separate property.
- 19 2. KUPTZ is *estopped* from claiming or asserting any ownership interest
20 in the Deer Springs Property via the agreed upon divorce decree that was
21 entered in KUPTZ's underlying divorce action wherein she expressly
22 agreed to relinquish any and all ownership interest in the marital home
23 (Deer Springs Property) and cannot seek to repudiate her waiver of her
24 interest nine and half years later.
- 25 3. KUPTZ has *expressly waived* any ability or right to assert or contend
26 that she any ownership interest in the Deer Springs Property based on
27 her voluntary and knowing *waiver*, (in writing), of any and all
28 ownership interest she previously had in the Deer Springs Property via
 the agreed upon divorce decree that was entered in KUPTZ's underlying
 divorce action.

1 4. KUPTZ comes to this Court with ***unclean hands*** seeking purely
2 equitable relief to partition the Deer Springs Property when KUPTZ
3 previously agreed *and was ordered to* tender a quit claim deed to
BLINKINSOP on the Deer Springs Property under the divorce decree.

4 As will demonstrated *infra*, KUPTZ has no viable claim whatsoever to seek
5 partition of the Deer Springs Property, and as such, BLINKINSOP is entitled to judgment
6 as a matter of law on all claims alleged in KUPTZ's Complaint. BLINKINSOP's is also
7 entitled to judgment as a matter of law on all of his counter claims for Quiet Title and
8 Declaratory Relief.
9

10 II

11 BLINKINSOP'S CONCISE STATEMENT OF 12 UNDISPUTED MATERIAL FACTS

13 As required under Rule 56(c), BLINKINSOP has filed, concurrent with this
14 motion, a concise separate statement of material undisputed facts ("SS") to assist the
15 Court in its role in determining whether there exists any triable issue of material fact
16 with respect to Plaintiff's Complaint and Defendant's Counter-Claim. These undisputed
17 facts are correlated throughout this brief, mostly in the factual background section, *infra*.

18 III

19 FACTUAL BACKGROUND

20 KUPTZ and BLINKINSOP were married between 2002 and 2009. *SS # 1.* Over
21 the course of their marriage, KUPTZ and BLINKINSOP acquired the Deer Springs
22 Property, which was the marital home both parties resided in during their marriage. *SS*
23 *# 2.* BLINKINSOP still resides in Deer Springs Property with his current wife, and has
24 paid ***all*** of the mortgage payments, property taxes, hazard insurance, maintenance and
25 improvements on the Deer Springs Property since the divorce decree was finalized in May
26 of 2009. *SS # 26.*
27

1 On or about March 8, 2004, BLINKINSOP purchased the Deer Springs Property,
2 and took title to the Deer Springs Property as a “*married man as his sole and separate*
3 *property,*” as KUPTZ was not on the purchase loan to that property. *SS # 2 and Exhibit*

4 1. On or about October 28, 2005, BLINKINSOP executed a grant deed on the Deer
5 Springs Property in his capacity as “a married man as his sole and separate property” and
6 conveyed the Deer Springs Property to “*Thomas R. Blinkinsop and Trisha Kuptz-*
7 *Blinkinsop, Husband and wife as Joint Tenants with Rights of Survivorship.*” *SS # 3*
8 *and Exhibit 2.*

9
10 On April 3, 2009, after retaining a family law attorney, KUPTZ filed a verified
11 Complaint in the Family Division of the Eight Judicial District Court seeking dissolution
12 of her marriage with BLINKINSOP. *SS # 4 and Exhibit 3.* KUPTZ also sought
13 ***adjudication and division of any and all community, joint and separate***
14 ***property assets and debts.*** *SS # 5 and Exhibit 3; 2:14-16.* BLINKINSOP filed a
15 verified Answer in pro per to KUPTZ’s Complaint for divorce. *SS # 6 and Exhibit 4*

16
17 Shortly after BLINKINSOP filed his Answer, BLINKINSOP agreed to a mediation
18 with Plaintiff **and** KUPTZ’s attorney of record to attempt to resolve the divorce in an
19 amicable and uncontested manner. *SS # 6 & 7.* The parties amicably agreed to an
20 uncontested and summary divorce. *See Exhibit 4A; Req for Summary Divorce and*
21 *Exhibit 5. The summary divorce decree included the full disclosure and*
22 ***division of all of the party’s community, joint and separate property assets***
23 ***and debts.*** *SS # 12, 13 & 14. and Exhibit 5.*

24
25 KUPTZ’s attorney then prepared the divorce decree that accurately and
26 unambiguously memorialized the mutually agreed upon disposition and adjudication of
27 the party’s community and separate property assets and debts. *SS # 12, 13, & 14 and*
28 *Exhibit 5.* KUPTZ relinquished and gave up any and all ownership interest in the Deer

1 Springs Property. *See Exhibit 5; 4:3-7* The uncontested and summary divorce decree
2 adjudicated the Deer Springs Property to be the sole and separate property of
3 BLINKINSOP. *See Exhibit 5; 4:3-7*

4 **Despite** the above and additional undisputed material facts set forth in
5 BLINKINSOP's separate statement, **despite** KUPTZ's actual knowledge of her voluntary
6 agreement waiving any and all ownership interest in the Deer Springs Property via the
7 divorce decree, **despite** knowing that any ownership interest she had in the Deer Spring
8 property was entirely extinguished, severed and terminated via the previous divorce
9 decree, **despite** knowing that the Court adjudicated the Deer Springs Property to be
10 100% BLINKINSOP's sole and separate property, and **despite** knowing that KUPTZ
11 **agreed to and was also ordered** to tender a quit claim on the Deer Springs Property
12 to BLINKINSOP under the divorce decree, (which she refuses to do) -- nine and half years
13 **later**, on November 1, 2018, KUPTZ filed the instant action seeking to "partition" the
14 Deer Springs Property by **falsely and frivolously alleging** in her Complaint that she
15 has an ownership interest in said property, when she knows she has and cannot have any
16 such interest.¹
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21 ¹ Indeed, Plaintiff, and her counsel, who had full knowledge of the disposition and adjudication of
22 the Deer Springs Property in her divorce decree, knew the contents of the divorce decree, and deliberately
23 avoided any mention whatsoever in her complaint of the previous divorce decree that was entered nine and
24 half years ago, wherein the Deer Springs Property was adjudicated and adjudged to be the sole and separate
25 property of Defendant BLINKINSOP. Indeed, the first paragraph of the Complaint makes the **entirely**
26 **false and spurious factual allegation**, that KUPTZ was "vested with ownership [of the Deer Springs
27 Property] through a Grant, Bargain and Sale Deed recorded December 2, 2005."

28 However, KUPTZ and her attorney of record in the instant case actually knew, **prior to** filing the
Complaint, that any ownership interest KUPTZ had in the Deer Springs Property, via the December 2, 2005
grant deed, was entirely **extinguished, divested and severed** as a result of the clear and unambiguous
property distribution and adjudication by the Court with respect to the Deer Springs Property. Both KUPTZ
and her attorney also knew that KUPTZ was the one ordered to tender the quit claim to BLINKINSOP under
the divorce decree. If there was a complaint that is emblematic of why we have NRS 18.010(b) and EJC
7.6(b) with respect to the filing and maintaining of frivolous claims, this would be a text book example.

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IV

**A PARTY MAY MOVE FOR SUMMARY JUDGMENT IF THERE IS
NO TRIABLE ISSUE OF MATERIAL FACT AS TO ANY CLAIM FOR RELIEF**

NRCP, Rule 56(a) – (c) state in pertinent part :

“For Claimant. A party seeking to recover upon a claim [may] move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.”

For Defending Party. A party against whom a claim ... is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party’s favor as to all or any part thereof.

V

**DEFENDANT/COUNTER-CLAIMANT BLINKINSOP IS ENTITLED TO
SUMMARY JUDGMENT AS AGAINST PLAINTIFF/COUNTER-DEFENDANT
KUPTZ’S CLAIMS FOR PARTITION AND DECLARATORY RELIEF**

A. AS A MATTER OF LAW PLAINTIFF KUPTZ IS ENTIRELY FORCLOSED UNDER THE DOCTRINE OF ***RES JUDICATA/CLAIM PRECLUSION*** FROM RELITIGATING, CONTENDING OR ASSERTING ANY OWNERSHIP INTEREST WHATSOEVER IN THE DEER SPRINGS PROPERTY, WHETHER IN LAW OR IN EQUITY.

Pursuant to NRS 125.181, Plaintiff KUPTZ and BLINKINSOP agreed to a “*summary procedure of divorce*” with respect to Plaintiff KUPTZ’s Complaint for Divorce.² See

² **NRS 125.181** entitled “summary proceeding for divorce: Conditions,” states: A marriage may be dissolved by the summary procedure for divorce set forth in [NRS 125.181](#) to [125.184](#), inclusive, when all of the following conditions exist at the time the proceeding is commenced:

1. Either party has met the jurisdictional requirements of [NRS 125.020](#).
2. The spouses have lived separate and apart for 1 year without cohabitation or they are incompatible.
3. There are no minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage and a wife, to her knowledge, is not pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.
4. There is no community or joint property ***or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.***
5. The parties waive any rights to spousal support or the parties have executed an agreement setting forth the amount and manner of spousal support.
6. The parties waive their respective rights to written notice of entry of the decree of divorce, to appeal, to request findings of fact and conclusions of law and to move for a new trial.
7. The parties desire that the court enter a decree of divorce.

1 *Exhibits 4A and 5.* In other words, the dissolution of the marriage, and the division and
2 adjudication thereon of all community, joint and separate assets and debts was
3 **uncontested** and agreed to by the parties. This was effectuated via the Divorce Decree
4 that was: (1) prepared by KUPTZ's family law attorney, (2) reviewed, agreed to and
5 executed by both KUPTZ and BLINKINSOP and (3), submitted to the Court by KUPTZ's
6 attorney for signature by the Court. *See Exhibit 5.* The divorce decree was then
7 subsequently approved and signed by the Family Law Judge and then filed with the Court,
8 and notice of entry of the Divorce Decree was filed and served. *See Exhibits 5 and 6.* With
9 respect to the Deer Springs Property, the divorce decree ordered, adjudged and decreed:
10

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall receive as
12 **his sole and separate property the real property located at 2042 Deer Springs Drive, Henderson, Nevada.**
13 **Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said real**
14 **property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10 days**
15 **of entry of this decree.**

16
17 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that both parties shall fully
18 **cooperate with each other and shall not unreasonably withhold execution of any documents necessary**
19 **to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of**
20 **Court is authorized to execute any document on behalf of either party upon presentment of this Decree;**

21 KUPTZ and BLINKINSOP agreed to have KUPTZ's Complaint for Divorce to be
22 summarily disposed of pursuant to NRS 125.181, *supra*. *See also Exhibit 4A.* NRS
23 125.184 makes it **CRYSTAL CLEAR** with respect to the binding nature and res judicata
24 effect of a divorce decree *under a summary [uncontested] divorce proceeding*. NRS
25 125.184 states:
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1 ***Entry of the final judgment upon a petition for a summary***
2 ***proceeding for divorce CONSTITUTES A FINAL ADJUDICATION***
3 ***of the rights and obligations of the parties with respect to the***
4 ***status of the marriage AND THE PROPERTY RIGHTS OF THE***
5 ***PARTIES*** and waives the respective rights of the parties to written notice
6 of entry of the judgment or decree, to appeal, to request findings of fact and
7 conclusions of law and to move for a new trial. [emphasis added].³

8 The doctrine of res judicata precludes parties, or those in privities, from relitigating
9 claims or issues which has been finally and previously determined by a court of competent
10 jurisdiction. *Univ. of Nevada v. Tarkanian*, 110 Nev. 581, 598–600, 879 P.2d 1180, 1191–
11 92 (1994), holding modified by *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 963
12 P.2d 465 (1998).⁴ The doctrine is intended to prevent multiple litigation causing vexation
13 and expense to the parties and wasted judicial resources by precluding parties from
14 relitigating issues they were or could have raised in a prior action concerning the same
15 controversy. *Id.*

16 For res judicata to apply, three pertinent elements must be present: **(1)** the
17 issue decided in the prior litigation must be identical to the issue presented
18 in the current action; **(2)** the initial ruling must have been on the merits and
19 have become final; and **(3)** the party against whom the judgment is asserted
20 must have been a party or in privity with a party to the prior litigation. *Id.*

21 ³ See also *Davidson v. Davidson*, 132 Nev. Adv. Op. 71, 382 P.3d 880, 882 (2016). ***The decree of***
22 ***divorce is a final judgment.*** It adjudicates all of the parties' rights regarding child custody and support,
23 spousal support, ***and the division of property.***

24 With very limited statutory exceptions under Chapter 125 of the NRS regarding spousal
25 maintenance or child support or custody, wherein the Family law court has continuing jurisdiction to
26 modify those provisions of a divorce decree, a divorce decree in all other respects is a final binding judgment
27 like any other judgment. ***The adjudication in the divorce decree that the Deer Springs Property***
28 ***was the sole and separate property of BLINKINSOP divested and extinguished any and all***
29 ***interest whatsoever KUPTZ had in that real property, and that adjudication was***
30 ***absolutely binding on Plaintiff KUPTZ.***

31 ⁴ The “modification” to the opinion in *Tarkanian* by *Exec. Mgmt* is **not** applicable in the instant
32 action. *Exec. Mgmt* still reaffirmed *Tarkanian* with respect to claim preclusion, but *Exec. Mgmt* strictly
33 dealt with the issue vis-à-vis permissive counterclaims and cross claims under NRCP Rule 13, and only
34 within the context of subsequent litigation between **former Co-Defendants** in an previous action, which
35 is not involved or implicated in the instant action.

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Claim preclusion, or merger and bar, is triggered when a judgment is entered. ***A valid and final judgment on a claim precludes a second action on that claim or any part of it ... If the defendant [in the previous action] prevails, the plaintiff [in a subsequent action] is thereafter barred from subsequent suits on the same claim.*** See Restatement (Second) of Judgments § 24 (1982). The modern view is that claim preclusion ***embraces all grounds of recovery that were asserted in a suit, as well as those that could have been asserted, and thus has a broader reach than collateral estoppel.***

Id.

In fact, it has been long and widely held in Nevada that a former spouse is ***precluded*** under res judicata from seeking a subsequent partition of marital assets relating to a division of property that was previously adjudicated under a divorce decree.

In *Doan v. Wilkerson*, 130 Nev. 449, 454–55, 327 P.3d 498, 502 (2014) the Court held:

... Historically, our caselaw has held that ex-spouses may ***not*** bring independent actions ***to partition after the final judgment*** of the court ***unless they show fraud upon the court...***⁵

In addition to seeking a dissolution of her marriage, KUPTZ also specifically sought from the Court an adjudication and equitable division of all community and separate property assets and debts ***as between herself and BLINKINSOP, her husband.*** The real property that was encompassed within the marital estate *included the Deer Springs Property.* See *Exhibit 3; Comp.; 2-14-17 and Exhibit 5; Div. Decree; 4:3-7.*

KUPTZ put her property ownership and/or rights in the Deer Springs Property ***directly at issue*** and sought adjudication of her interest in that property in her previous divorce action. See *Exhibit 3; 2:14-17.* Any ownership interest or rights KUPTZ previously had in the Deer Springs Property based on the October 2005 grant deed,

⁵ While *Doan* had to do with partition of a pension plan that was part of a marital estate, the applicability of the rule in *Doan* with respect to real property is no different. Plaintiff has not and cannot make any credible or viable argument that any “fraud” upon the court occurred or that the divorce decree is the product of some sort of fraud or overreaching.

1 (Exhibit 2), was **fully and entirely adjudicated** in the underlying divorce action. *See*
2 *Exhibit 5; Div. Decree 4: 3-7.*

3 KUPTZ's previous interest in the Deer Springs Property under the October 2005
4 deed was entirely terminated, severed and extinguished because BLINKINSOP was
5 adjudicated to have 100% ownership in the Deer Springs Property, subject to existing
6 encumbrances. *See Exhibit 5, 4:3-7.* The issue of KUPTZ's "ownership interest"
7 involving the Deer Springs Property which KUPTZ seeks partition of, as alleged in the
8 current action, **is identical** to those rights raised in KUPTZ's previous divorce action,
9 which was fully adjudicated. *See Exhibits 3 and 5. Element number one is met.*

11 KUPTZ and BLINKINSOP agreed to an uncontested "summary divorce
12 proceeding" pursuant to NRS 125.181, *supra*. They reviewed and executed the divorce
13 decree, which was then subsequently approved and signed by the judge and then filed
14 with the Court. *Exhibit 5.* That divorce decree adjudicated the Deer Springs Property as
15 BLINKINSOP as the **sole and separate property**. *Exhibit 5, 4: 3-7.* This was a
16 judgment on "on the merits and was final" with respect to the party's property rights
17 pursuant to NRS 125.184, *supra*. **Element number two is met.**

19 Finally, Plaintiff KUPTZ is the party against whom Defendant BLINKINSOP now
20 seeks to assert the res judicata effect of the prior divorce judgment. BLINKINSOP was
21 also the same adverse party to KUPTZ to the underlying divorce action. **Element**
22 **number three is met.**

24 It is axiomatic that if a party seeks a partition of real property, in order to have *any*
25 *valid grounds* to do so, that person is required to have some sort of ownership interest in
26 the real property at issue. KUPTZ is entirely precluded from subsequently raising or
27 relitigating any issue relating to any ownership interest she claims to have in the Deer
28 Springs Property via a subsequent action for partition. Ownership of the Deer Springs

1 Property has been fully and previously adjudicated **not** to be hers, but rather the sole and
2 separate property of BLINKINSOP. *See Exhibit 5; Divorce Decree.*

3 Because Plaintiff's second claim for relief for declaratory relief seeking a
4 declaration of her "property interest" in the Deer Springs Property is wholly dependent
5 and entirely derivative on her failed claim for partition, that claim is subject to dismissal
6 as well. Based on the aforementioned, Plaintiff KUPTZ, as a matter of law, is
7 foreclosed from contending or relitigating any issues relating to any ownership rights
8 in the Deer Springs Property, and her complaint should be dismissed with prejudice.
9 If there was a "textbook" case of res judicata after a final real property distribution in a
10 divorce decree, this would be it.
11

12 **B. KUPTZ IS ESTOPPED FROM ASSERTING OR SEEKING A PARTITION**
13 **BECAUSE OF HER PREVIOUS AGREEMENT TO RELINQUISH ANY AND**
14 **ALL OWNESHIP INTEREST IN THE DEER SPRINGS PROPERTY VIA THE**
UNCONTESTED DIVORCE DECREE

15 KUPTZ contends that the right to partition is an "absolute right." *Plntf's Mot. 7:*
16 *20-21.* It is not, because a claim for partition is strictly an equitable claim grounded
17 entirely upon equitable principals. *See Terrible v. Terrible, 91 Nev. 279, 534 P.2d 919*
18 *(1975), infra.* KUPTZ is estopped from seeking partition of the Deer Springs Property via
19 a subsequent action after the divorce decree became final. KUPTZ agreed to relinquish,
20 surrender and give up any and all ownership interest she had in that Deer Springs
21 Property. *Exhibit 5, 4: 3-7.* KUPTZ agreed and conceded that the Deer Springs Property
22 was the sole and separate property of BLINKINSOP. *Exhibit 5, 4: 3-7* ***In exchange***
23 **BLINKINSOP agreed to hold KUPTZ harmless from any liability on all encumbrances on**
24 **the Deer Springs Address, and assume all liabilities on the property, which would have**
25 **also included the HELOC.⁶ *Exhibit 5, 4:3-7.*** The Deer Springs Property was also
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28 ⁶ In her motion, KUPTZ concedes she was on the HELOC loan on the Deer Springs Property.
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1 underwater approximately \$180,00.00 in negative equity at the time of the divorce. SS
2 #21.

3 Consequently, while part of the marital estate, the Deer Springs Property offered
4 **KUPTZ no positive cash position in the property and just continued liability**
5 **for the HELOC** -- hence the reason for KUPTZ conceding and relinquishing any and all
6 of her ownership interest to BLINKINSOP, **as long as** BLINKINSOP agreed to assume
7 all liabilities on the property, which he agreed to do, and in fact he has done. *Exhibit 5,*
8 *4:3-7 and SS # 18, 25 & 26.* **For the last nine and half years,** BLINKINSOP has
9 resided at the Deer Springs Property, has paid all of the mortgage payments on the
10 property, all of the property taxes, the hazard insurance, and all other maintenance and
11 improvements on the property, yet KUPTZ now wants 50% of the positive equity in the
12 property. SS # 26.

13
14 After KUPTZ gladly accepted the benefits under the divorce decree with respect
15 to the Deer Springs Property, (i.e. not being responsible for any mortgage debt, **(which**
16 **was a community debt)**, in addition to other liabilities on the HELOC on an upside
17 down real property -- wherein BLINKINSOP also agreed to hold KUPTZ harmless of all
18 encumbrances after BLINKINSOP weathered the worst real estate melt down ever to
19 occur in the Las Vegas market). Now, **nine and half years later,** KUPTZ seeks to
20 repudiate her knowing and voluntary relinquishment of any and all ownership interest
21 she had in the Deer Springs Property, and now seeks to “cash in” on the positive equity by
22 seeking a partition, after the property was adjudicated 100% that of BLINKINSOP – this
23 notwithstanding the fact that KUPTZ was also ordered to tender a quit claim deed to
24 BLINKINSOP on the property, and refuses to do so. *Exhibit 5, 4: 3-7.* KUPTZ now seeks
25 to “pick and choose” which terms of her divorce decree she wants to repudiate, nine and
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1 half years later, -- terms which were also relied upon by BLINKINSOP in agreeing to the
2 term of the distribution and adjudication under that same decree.

3 Consequently, in addition to being barred by the doctrine of Res Judicata, KUPTZ
4 is ***also estopped*** from subsequently seeking any partition relating to the Deer Spring
5 Property based upon her prior agreement to relinquish her ownership interest in the Deer
6 Springs Property, which was also part of the final divorce decree. See also *Terrible v.*
7 *Terrible*, 91 Nev. 279, 534 P.2d 919 (1975). *Exhibit 7*.

9 *Terrible* is directly on point and **is dispositive** of the relief Plaintiff seeks in her
10 Complaint. In *Terrible*, the parties were husband and wife who were engaged in a divorce
11 proceeding. One of the real properties included in the marital estate was one that was
12 ***held in joint tenancy*** by the husband and the wife. The court terminated the joint
13 tenancy in that particular real property and ordered that the property (“Parcel 1”) be held
14 as tenants in common, with each spouse owning an undivided one half interest.

15
16 However, as part of the divorce decree, (and as confirmed in the Court’s findings
17 of fact and conclusions of law), the husband also agreed that the wife shall be allowed to
18 occupy Parcel 1 and retain all income therefrom and maintain Parcel 1 in good rental
19 condition, and shall pay all property taxes, utilities, hazard insurance and other expenses
20 incurred in the use and occupancy of Parcel 1. The wife did so. This appeared to be
21 done to offset any spousal maintenance the husband may have owed to the wife.

22
23 Approximately, seven months after the divorce decree was entered, the husband
24 received an offer on Parcel 1 in the amount of \$150,000.00. The husband attempted
25 to induce the ex-wife to agree to the sale, but she refused. The husband then filed a
26 subsequent action ***seeking partition*** of Parcel 1 on his undivided half interest in the
27 property.

1 After the trial court granted partitioned and ordered a sale of the property (Parcel
2 1), the Supreme Court *reversed* the trial court and ruled the husband ***was estopped***
3 from seeking any partition of the property in a subsequent action after entry of the divorce
4 decree, ***because the issue of partitioning the property was litigated in the***
5 ***divorce action and adjudicated by the divorce decree.*** The *Terrible* Court stated
6 and held:

7
8 ***... [T]he right to partition the real property is NOT absolute and***
9 ***MAY BE WAIVED BY REASON OF AN AGREEMENT, or, as here,***
10 ***defeated by directives in a prior judgment from which no appeal***
11 ***has been taken.*** [citations omitted]

12 ... It has been said in general terms that an adult tenant in common has an
13 absolute right to partition. . . . (B)ut it has been in cases where there was
14 neither an equitable nor legal objection to the exercise of the right, and
15 partition was in accordance with the principles governing courts of equity.
16 ***Wherever any interest inconsistent with partition has been***
17 ***involved, the general rule has always been qualified by the***
18 ***statement that equity will not award partition at the suit of one***
19 ***in violation of his own agreement, . . . or where partition would***
20 ***be contrary to equitable principles. Partition will not be***
21 ***awarded in a court of equity, where THERE HAS BEEN AN***
22 ***AGREEMENT EITHER NOT TO PARTITION, or where the***
23 ***agreement is such that it is necessary to secure the fulfillment of***
24 ***the agreement that there should not be a partition...***

25 *Here the issue of the right to possession and enjoyment of this particular*
26 *property was litigated in the action for divorce and adjudicated by the*
27 *divorce decree. It cannot be relitigated in this action for partition*
28 ***between the same parties. THE DIVORCE DECREE IS A BAR TO***
THIS SUBSEQUENT ACTION FOR PARTITION...

The doctrine of equitable estoppel will not permit a party to repudiate acts
done or positions taken or assumed by him when there has been reliance
thereon and prejudice would result to the other party. [citations omitted]

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[The husband] voluntarily consented to an occupation and use of the real property which has been embodied in a decree of divorce upon which [the wife] has relied. **By that unilateral concession [the husband] HAS WAIVED ANY RIGHT TO PARTITION to which he might otherwise have been entitled and he is estopped from proceeding to partition.**

It is well settled that a person cannot accept and reject the same instrument, or, having availed himself of it as to part, defeat its provisions in any other part. ***[This] principle is ... applicable with equal force to a decree of divorce...***

We conclude that respondent's action for partition IS BARRED by the divorce decree...

Id, 282-84 and 921-22

The same is true in the instant case except the facts in the instant case are even more compelling than those in *Terrible*. *Terrible* dealt with a former spouse's subsequent and continued *right to use and possession* of real property that was adjudicated as part of the marital estate, wherein the spouse *out of possession* former spouse still retained a one half undivided ownership interest in the real property ***under the final divorce decree.***

In the instant case, KUPTZ relinquished and never retained any ownership interest whatsoever in the Deer Springs Property in the underlying binding and uncontested divorced decree. *Exhibit 5, 4:3-7*. KUPTZ has no ownership interest in the Deer Springs Property, nor does she even have the right to be in possession of the property under the divorce decree. *Exhibit 5, 4:3-7*. KUPTZ is estopped from seeking any subsequent partition of the property after BLINKINSOP relied on KUTPZ's relinquishment of her all her ownership interest in the divorce decree, and continued to pay the mortgage for the last nine and half years, which has now resulted in, in

1 conjunction with a market turn around, in positive equity status in the Deer Springs
2 Property in the amount of approximately \$150,000.00. SS # 26.

3 If there was a “textbook” case of estoppel after a final real property distribution in
4 a divorce decree, this would be it.

5 **C. KUPTZ EXPRESSLY WAIVED ANY AND ALL OWNERSHIP RIGHTS AND**
6 **INTEREST SHE PREVIOUSLY HAD THE DEER SPRINGS PROPERTY,**
7 **WHETHER IN LAW OR IN EQUITY, BY AGREEING TO AND VOLUNTARILY**
8 **ENTERING INTO THE UNDERLYING SUMMARY DIVORCE DECREE**

9 A waiver is an intentional relinquishment of a known right. To be effective,
10 a waiver must occur with full knowledge of all material facts. *Thompson v. City of N. Las*
11 *Vegas*, 108 Nev. 435, 439, 833 P.2d 1132, 1134 (1992); *State, Univ. & Cmty. Coll. Sys. v.*
12 *Sutton*, 120 Nev. 972, 987, 103 P.3d 8, 18 (2004) [same]. See also *McKeeman v. Gen.*
13 *Am. Life Ins. Co.*, 111 Nev. 1042, 1048, 899 P.2d 1124, 1128 (1995). [holding a finding of
14 waiver requires “an existing right, a knowledge of its existence, and an actual intention
15 to relinquish it.”]⁷

16 Plaintiff KUPTZ retained a family law attorney to prosecute her complaint for
17 divorce. *Exhibits 3, 4A, 5 and 6*. KUPTZ, was not only represented by a skilled family
18 law attorney, but KUPTZ **by profession** was also an active and licensed real estate agent
19 in Nevada throughout her marriage to BLINKINSOP. SS # 11. KUPTZ clearly knew and
20 fully understood she had an ownership interest in the Deer Springs Property at the time
21 the Complaint for divorce was filed in 2009. This is not only because the property was
22 acquired during the marriage, **but more importantly she knew this because she**
23 **was on title to the property via the October 2005 deed.** *Exhibit 2.*

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26 ⁷ See also *Hudson v. Horseshoe Club Operating Co.*, 112 Nev. 446, 457, 916 P.2d 786, 792 (1996)
27 [same]; *Williams v. Second Judicial Dist. Court of State ex rel. Cty. of Washoe*, 2016 WL 1122883, at *1
28 [unpublished] (Nev. 2016) [same]; *Schettler v. Ralron Capital Corp.*, 2016 WL 2853438, at *1
[unpublished] (Nev. 2016)

1 Subsequent to the filing of the Complaint for divorce, Plaintiff KUPTZ and
2 Defendant BLINKINSOP mutually agreed to an uncontested and summary divorce which
3 included an agreement with respect to the distribution and adjudication of any and all
4 community and separate assets and liabilities. *Exhibit 5, 4:3-7. **The divorce decree***
5 ***memorialized their agreement.** Exhibit 5.* KUPTZ's family law attorney was also
6 directly involved with the party's mediation with respect to the distribution and
7 adjudication of all community, joint and separate property assets and liabilities, as
8 BLINKINSOP was in pro per. *SS # 8.* The divorce decree was prepared by KUPTZ's
9 attorney which accurately memorializes the property distribution between the parties.
10 *See Exhibit 5.* The divorce decree was then executed by KUPTZ and BLINKINSOP, filed
11 with Court and then signed by the Judge and filed with the clerk's office. *See Exhibit 5.*
12

13 There ***cannot be any colorable dispute*** that KUPTZ was fully aware of and
14 clearly understood that she had an express and actual ownership interest in the Deer
15 Springs Property at the time she agreed to relinquish any and all ownership interest she
16 had in the property. *See Exhibit 5.* However, after being fully aware of the all the facts
17 with respect to her actual ownership interest in the Deer Springs Property, and fully
18 understanding the nature, scope and extent of her ownership rights and interest in the
19 Deer Springs Property, as well as her remedies with respect to the property in her
20 underlying divorce action, KUPTZ knowingly, voluntarily, clearly and unmistakably
21 waived, relinquished, surrendered, renounced and gave up any and all ownership
22 rights and interest in the Deer Springs Property via the agreed upon divorce decree.
23 This cannot be disputed or overcome by any testimony or evidence submitted by
24 KUPTZ. The divorce decree on its face is crystal clear. *See Exhibit 5.*
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1 Based on the aforementioned, because Plaintiff KUPTZ has *waived* any and
2 all her ownership rights in the Deer Springs Property, she cannot prevail on her claim
3 for partition as a matter of law, and her complaint should be dismissed with prejudice.
4

5 **D. KUPTZ’S PREVIOUS OWNERSHIP INTEREST IN THE DEER SPRINGS**
6 **PROPERTY DOES NOT SOMEHOW “MAGICALLY REVIVE” OR OTHERWISE**
7 **“SPRING BACK TO LIFE” BASED ON HER FAILURE AND/OR CONTINUED**
8 **REFUSAL TO TENDER THE QUIT CLAIM, (AS PREVIOUSLY ORDERED TO**
9 **DO SO), OR BECAUSE BLINKINSOP DID NOT “RENEW” THE DIVORCE**
10 **DECREE UNDER NRS 17.214**

11 Boiled down to its essence, KUPTZ has the temerity to contend that her previous
12 ownership interest in the Deer Springs Property has “magically revived” and “sprung back
13 to life,”⁸ because BLINKINSOP did not renew the divorce decree that adjudicated the
14 Deer Springs Property to be BLINKINSOP’s sole and separate property – this despite the
15 fact that KUTPZ is the one who is *in clear violation* of the family court’s order and
16 judgment with respect to her failure and/or refusal to tender the required quit claim to
17 BLINKINSOP regarding the Deer Springs Property.

18 KUPTZ does not cite any applicable or valid authority that supports her outlandish
19 theory of “spontaneous revival” of her previous ownership interest in the Deer Springs
20 Property after that property was adjudicated by the Court, via a valid and binding
21 judgment, to be *the sole and separate property* of BLINKINSOP. As set forth *infra*,
22 *Davidson v. Davidson*, 132 Nev. Adv. Op. 71, 382 P.3d 880 (2016), most certainly does
23 not stand for this principal, not even remotely. *Davidson* is heavily relied on by KUPTZ
24 in her motion, but it entirely inapplicable to the operative facts, as well as with respect to
25 the issues of law at are truly germane to this case, which are res judicata, waiver, estoppel
26 and unclean hands.

27 ⁸ KUPTZ contends in her motion “... since the judgment was not renewed within the 6 year period, it
28 has expired and **[KUPTZ] remains [an] owner[] of the Subject Property**” *Plntf’s Mot. 5:4-7*.
Unfortunately, for KUPTZ the law does not work this way.

1 **Critically**, when the uncontested and summary divorce decree was filed in the
2 underlying divorce action in the instant case, the res adjudicata effect of the divorce
3 decree with respect to the Deer Springs Property did two things: (1) it **extinguished and**
4 **terminated** any and all previous ownership interest KUPTZ had in the Deer Springs
5 Property, and (1), it adjudicated the property to be the sole and separate property of
6 BLINKINSOP.
7

8 Secondly, and even more critical is the fact that the divorce decree did **not** establish
9 any “indebtedness” owed by BLINKINSOP to KUPTZ in relation to the Deer Springs
10 Property, nor did the divorce decree set up or establish any type of debtor/creditor
11 relationship or other similar status as between BLINKINSOP or KUPTZ in relation to the
12 Deer Springs Property. There could not have been any such debtor/creditor relationship
13 established as between BLINKINSOP and KUPTZ, because the Deer Springs Property
14 was adjudicated to be BLINKINSOP’s sole and separate property. BLINKINSOP owed no
15 indebtedness or monies to KUPTZ in relation to the Deer Springs Property.
16

17 In fact, if anything, *Davidson* is supportive of BLINKINSOP’s position that KUPTZ
18 is entirely barred and precluded from relitigating any issue involving or relating to the
19 property distribution in the divorce decree, in particular with respect to any ownership
20 interest KUPTZ previously had in the Deer Springs Property, because under *Davidson*, a
21 divorce decree is a “final” judgment like any other judgment. **See fn _____, supra.** NRS
22 125.184, (which was conveniently omitted from KUPTZ’s motion), is clear with respect to
23 the binding nature and res judicata effect of a property rights under a divorce decree
24 *under a summary [uncontested] divorce proceeding.* NRS 125.184 states:
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1 ***Entry of the final judgment upon a petition for a summary***
2 ***proceeding for divorce CONSTITUTES A FINAL ADJUDICATION***
3 ***of the rights and obligations of the parties with respect to the***
4 ***status of the marriage AND THE PROPERTY RIGHTS OF THE***
5 ***PARTIES*** and waives the respective rights of the parties to written notice of
6 entry of the judgment or decree, to appeal, to request findings of fact and
7 conclusions of law and to move for a new trial. [emphasis added].

8 It is baffling how KUPTZ's counsel could colorably or plausibly argue that
9 *Davidson* is even remotely applicable to the instant case, or that *Davidson* supports
10 KUPTZ's contention that BLINKINSOP was required to "renew" the divorce decree
11 pursuant to NRS 17. 241 in order for him to "preserve" the Court's previous adjudication
12 and order that the Deer Springs Property is the sole the separate property of
13 BLINKINSOP. It does not stand for that proposition, not even remotely. *Davidson* is
14 apples, and the instant case is watermelons in this respect. Notably, the operative factual
15 and legal distinctions in *Davidson*, when compared to the instant case make this
16 abundantly obvious, but KUPTZ conspicuously omitted the operative facts of *Davidson*
17 in their motion.

18 In *Davidson*, the Court entered a decree of divorce in 2006. The divorce decree
19 found the martial home to be part of the martial estate. The decree also required the
20 wife to execute a quitclaim deed to the husband and release all of her rights in the
21 marital residence. ***In exchange for the quit claim, the decree required the***
22 ***husband to pay the ex-wife one-half of the equity value in the martial***
23 ***residence***, according to the appraised value in 2006. Unlike in the instant action,
24 the wife *complied* with the Court's order and quit claimed her ownership interest in
25 the martial home to husband in 2006.

1 Two weeks after the divorce, the couple reconciled and began to cohabitate
2 wherein the former wife moved back into the marital home with her former husband
3 through 2011. They never remarried. The reconciliation did not endure, and in 2014,
4 eight years **after** the divorce decree became final and the ex-wife tendered the quit
5 claim deed to the ex-husband in final in 2006, the ex-wife filed a motion in family
6 court to enforce **and collect** her 50% of the equity (**i.e. the money to be paid to**
7 **her**), in the marital home, as ordered and provided for in the decree.⁹

9 The trial court found the ex-wife's claim to enforce and collect 50% of the equity
10 in the marital property, **based upon the payment obligations** under property
11 distribution in the divorce decree, was time barred. The Supreme Court upheld the
12 trial court and held that the ex-wife did not bring her claim **for the payment of her**
13 **50% interest** in the marital home within six years, under NRS 11.090(1)(a).
14 Consequently, the ex-wife was time barred from **collecting any monies** that were
15 due and owing to her from the former husband under the divorce decree. The
16 *Davidson* court was very clear on this point. The court stated and held:
17

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19 [The former wife] further claims that the Legislature did not intend for a divorce
20 litigant [the former husband] to receive a windfall for the full value of a marital
21 property by waiting for the six-year limitations period to end and then selling the
22 property and retaining the full value of the proceeds. While [The former wife's]
23 argument has merit, we believe that the Legislature also did not intend for parties
24 to endlessly "sit" on potential claims. See *Doan v. Wilkerson*, 130 Nev. Adv. Op. 48,
25 327 P.3d 498, 501 (2014) (**"The policy in favor of finality and certainty ...**
26 **applies equally, and some might say especially, to a divorce**
proceeding."). The Legislature provided NRS 17.214, which [The former wife]
could have used to prevent [the former husband] from allegedly receiving a double
windfall. NRS 17.214 **allows a judgment creditor** to renew a judgment and
avoid the harsh results that could accompany the expiration of a statute of
limitations. Unfortunately, [The former wife] failed to avail herself of the statute's
protections...¹⁰

27 ⁹ Apparently the property had been sold by the ex-husband after the ex-wife moved out.

28 ¹⁰ NRS 17.214 states in pertinent part:

1. **A judgment creditor** or a judgment creditor's successor in interest may renew a judgment which has not been paid by:

1 ... [W] conclude that no basis exists for us to create a new rule that excuses property
2 distribution provisions in divorce decrees from NRS 11.190(1)(a) and that the six-
3 year statute of limitations in NRS 11.190(1)(a) applies to the instant case... We
4 conclude that the statute of limitations expired six years after [the former wife]
5 delivered the quitclaim deed to [the former husband on the marital home].

6 NRS 11.200 states as follows:

7 The time in NRS 11.190 shall be deemed to date from the last transaction
8 or the last item charged or last credit given; and whenever any payment on
9 principal or interest has been or shall be made upon an existing contract,
10 whether it be a bill of exchange, promissory note ***or other evidence of***
11 ***indebtedness*** if such payment be made after the same shall have become
12 due, ***the limitation shall commence from the time the last***
13 ***payment was made.***

14 ***According to NRS 11.200, the statute of limitations began running***
15 ***when there was “evidence of indebtedness” for half of the equity in the***
16 ***marital property ... [E]vidence of indebtedness*** occurred with the delivery
17 of the deed. Here, the latest time at which the debt was due ... was after [the former
18 wife] delivered the quitclaim deed to [the former husband] in 2006. As a result,
19 the statute of limitations for [the former wife's] claim has expired. See NRS
20 11.190(1)(a) ... [T]he consideration for receiving half of the equity was [the former
21 wife's] deliverance of the deed so that [the former husband] could title the house
22 in his name alone. The decree does not indicate that [the former wife] was to vacate
23 the residence in consideration for half of the equity. Consequently, [the former
24 husband] ***became indebted*** to [the former wife] when she delivered the deed to
25 him, not when she vacated the residence in 2011. Thus, we conclude that
26 NRS 11.200 and our holding in *Borden* apply here and the statute of limitations
27 began running after [the former wife] delivered the quitclaim deed to Christopher
28 in 2006. Because the statute of limitations expired in 2012, [the former wife's]
motion is time-barred pursuant to NRS 11.190(1)(a).

We hold that when a litigant seeks to enforce a provision in a decree ***awarding***
him or her half of the equity in marital property, the statute of limitations
begins to accrue when there is ***evidence of indebtedness***, which occurred in
this case when [the former wife] delivered the quitclaim deed to [the former
husband]. Accordingly, we affirm the decision of the district court.

(a) Filing an affidavit with the clerk of the court where the judgment is entered and docketed,
within 90 days before the date the judgment expires by limitation. The affidavit must be titled as an
“Affidavit of Renewal of Judgment” and must specify:

(1) The names of the parties and the name of the ***judgment creditor’s*** successor in interest, if
any, and the source and succession of his or her title;

(5) ***The date and amount of any payment on the judgment;***

(6) Whether there are any setoffs or counterclaims in favor of the ***judgment debtor*** and the
amount or, if a setoff or counterclaim is unsettled or undetermined it will be allowed as payment or credit
on the judgment;

(7) ***The exact amount due on the judgment;***

3. The ***judgment creditor*** or the judgment creditor’s successor in interest shall notify the
judgment debtor ... at his or her last known address within 3 days after filing the affidavit.

Id at 132 Nev. Adv. Op. 71, 884–86

1
2 There are two operative and critical distinctions between *Davidson* and in the
3 instant case making *Davidson* entirely inapplicable. As a threshold matter, unlike in the
4 instant action, in *Davidson*, the ex-wife was **adjudicated** and awarded by the court, via
5 the divorce decree, to be entitled to 50% of the equity in the martial home, which was to
6 be ***paid to her*** by the ex-husband.

7 In the instant case KUPTZ was adjudicated to have NO ownership or other interest,
8 either in law or in equity, in the martial home, (Deer Springs Property), because the
9 marital home was adjudicated, via the divorce decree, to be BLINKINSOP's ***sole and***
10 ***separate property***. KUPTZ cannot seek a partition to real property to which she has
11 no ownership interest, nor was KUPTZ ever entitled to the payment of any monies or
12 other "indebtedness" from BLINKINSOP relating to or arising from the Deer Springs
13 property under the divorce decree, which segues into the next point why *Davidson* is
14 inapplicable.
15

16 Unlike the instant action, *Davidson* specifically dealt with ***“terms of***
17 ***indebtedness” and collection of monies*** owed by one former spouse to the other,
18 relating to and arising from a property division under a final divorce decree (judgment).
19 *Simply put, the ex-husband in Davidson owed the ex-wife 50% of the appraised value in*
20 *the martial home under the divorce decree.* Put another way, the underlying divorce
21 decree in *Davidson* established a debtor/creditor status and/or relationship as between
22 the former husband and former wife ***involving an actual debt or monies that were***
23 ***to be paid*** by one spouse to the other (i.e. the ex-wife had a judgment for monies owed
24 to her from the ex-husband.)
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1 No such situation is involved in the instant case, not even remotely. Not only did
2 BLINKINSOP not owe any monies or other indebtedness to KUPTZ under the divorce
3 decree arising from or related to the Deer Springs Property, but notably, under *Davidson*,
4 the Supreme Court held that the ex-wife had six years, (like any other judgment creditor),
5 to file suit **to collect those amounts** owed to her regarding the property distribution,
6 or in the alternative, renew the divorce decree (judgment) under NRS 17.214 to extend
7 the time to preserve her **collect those monies** from the ex-husband with respect to her
8 50% equity in the marital home under the divorce decree.

10 Consequently, even assuming arguendo that BLINKINSOP was a “judgment
11 debtor” in relation to KUPTZ involving monies owed to her relating to the Deer Springs
12 Property, (which he does not), under *Davidson*, KUPTZ would **be barred** and precluded
13 from collecting any of those monies because she would have been the ex-spouse
14 responsible for renewing the divorce decree **as the judgment creditor**, not
15 BLINKINSOP.

17 *Davidson* had nothing to do with a former spouse’s ability to seek or otherwise
18 preserve his or her rights to a partition of real property that was adjudicated the sole and
19 separate property of the other spouse in the divorce decree. Rather, *Davidson* only had
20 to do with the applicable statute of limitations when an ex-spouse **is indebted** to the
21 other ex-spouse under the terms of the property distribution in the final divorce decree.
22 KUPTZ’s argument that *Davidson* is dispositive or otherwise even germane to this case
23 lacks any merit.

25 **E. KUPTZ IS BARRED FROM PREVAILING ON HER COMPLAINT FOR
26 PARTITION BECAUSE SHE HAS UNCLEAN HANDS**

27 “A partition action is an equitable one in which the courts will apply the broad
28 principles of equity. *Kent v. Kent*, 108 Nev. 398, 401–02, 835 P.2d 8, 10 (1992). See

1 also *Terrible, supra*, holding that an action for partition is one based in equity.

2 **Partition will not be awarded in a court of equity, where THERE**
3 **HAS BEEN AN AGREEMENT EITHER NOT TO PARTITION, or**
4 **where the agreement is such that it is necessary to secure the**
5 **fulfillment of the agreement that there should not be a**
6 **partition...**

7 *Terrible, supra.*

8 “The doctrine of unclean hands derives from the equitable maxim that ‘he who
9 comes into equity *must come with clean hands*. The doctrine bars relief to a party who
10 has engaged in improper conduct in the matter in which that party is seeking relief.”
11 *Truck Ins. Exch. v. Palmer J. Swanson, Inc.*, 124 Nev. 629, 637–38, 189 P.3d 656, 662
12 (2008). ***“The doctrine of unclean hands is an equitable doctrine that prevents***
13 ***relief to a party that has acted improperly.”*** *Debunch v. State, ex rel. Dep't of*
14 *Transp.*, 126 Nev. 705, 367 P.3d 762 (2010). The divorce decree states very clearly:

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall fully**
16 **cooperate with each other and shall not unreasonably withhold execution of any documents necessary**
17 **to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of**
18 **Court is authorized to execute any document on behalf of either party upon presentment of this Decree;**

19 KUPTZ agreed to and was ordered to tender a quit claim deed to BLINKINSOP in
20 the Deer Springs Property nine and half years ago. *Exhibit 5*. KUPTZ also agreed to and
21 the Court ***previously ordered*** for her to “*fully cooperate*” and she “*shall not*
22 *unreasonably withhold executed of any documents necessary to effectuate the transfer*
23 *of any property specified herein...*” *Exhibit 5*. Yet KUPTZ comes to this court seeking
24 equity when KUPTZ is the party in blatant violation of that previous order and judgment,
25 vis-à-vis the Deer Springs Property, and who continues to refuse to comply with that order
26 -- but she now seeks, nine and half years later, 50% of the equity in the Deer Springs
27 Property?
28

1 Furthermore, KUPTZ was relieved of any further liability for the mortgage and
2 other expenses regarding the Deer Springs Property when the property was drastically
3 underwater and had no equity. *SS # 21 and Exhibit 5*. KUPTZ also received a hold
4 harmless agreement from BLINKINSOP with respect to any encumbrances on the
5 property. *Exhibit 5*. Now, ***nine and half years later***, knowing she has not paid a
6 single dime towards any mortgage payments, has not incurred any payment burdens on
7 the property, and knowing that the property now has substantial equity in it as a result of
8 BLINKINSOP abiding by his obligation to pay the mortgage under the divorce decree,
9 (coupled with much better market conditions), KUPTZ now comes to this court seeking
10 equitable relief in the form of a partition?
11

12 KUPTZ willingly accepted all the benefits under the divorce decree with respect to
13 no longer being burdened by the Deer Springs Property, now she wants to renounce and
14 repudiate the voluntary relinquishment of her ownership interest in the Deer Springs
15 Property nine and half years later seeking 50% equity in the Deer Springs Property, after
16 she has refused to comply with the previous court order?
17

18 Notwithstanding all the other reasons stated herein, based on the aforementioned,
19 KUPTZ has unclean hands precluding her from seeking any partition with respect to the
20 Deer Springs Property.
21

22 VI

23 **BLINKINSOP IS ENTITLED TO JUDGMENT AS A MATTER OF LAW ON** 24 **HIS COUNTER CLAIMS FOR QUITE TITLE AND DECLARATORY RELIEF**

25 “In a quiet title action, a plaintiff’s right to relief depends on superiority of
26 title.” [T]he burden of proof rests with the plaintiff to prove good title in himself.” *W.*
27 *Sunset 2050 Tr. v. Nationstar Mortg., LLC*, 420 P.3d 1032, 1034–35 (Nev. 2018). Based
28 on the aforementioned, KUPTZ has no interest, either in law or in equity, in Deer Springs

1 Property – none. *Exhibit 5; Div. Decree.* It was extinguished nine and half years ago via
2 the divorce decree and adjudicated to be BLINKIINSOP’S sole and separate property.
3 *Exhibit 5.* BLINKINSOP is entitled to judgment as a matter of law on his counter claim.

4
5 **VII**
6 **CONCLUSION**

7 Based on the aforementioned, the Court should grant BLINKINSOP’s counter
8 motion for summary judgment and dismiss KUPTZ’s Complaint with prejudice, and grant
9 BLINKINSOP’s counter motion with respect to his claims for Quit Title and Declaratory
10 relief.

11
12
13 Dated this 6th day of December, 2018

14 By /s/ George O. West III
15 George O. West III
16 Law Offices of George O. West III
17 Attorney for Plaintiff/Counter Claimant
18 **THOMAS BLINKINSOP**

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DECLARATION OF THOMAS BLINKINSOP

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, Thomas Blinkinsop, hereby declare:

That I am the Defendant/Counter-Claimant in this action and I have first-hand knowledge of the matters set forth herein, and if called to be a witness in this matter, I would and could competently testify:

1. Exhibits 1 and 2 are true and correct copies of the pertinent deeds to the Deer Springs Property taken from the Clark County Record’s office’ website. They are true and correct facsimiles of the originals of such documents.

2. I am thoroughly familiar with the documents that were filed in Kuptz’s divorce action, wherein I was the Defendant in that underlying divorce action of which I either received service or gave service of them. Exhibits 3, 4, 4A, 5 and 6 are true and correct conformed copies of Kuptz’s Complaint for Divorce, my Answer in pro per to the Complaint, the Request for Summary and Uncontested Divorce, the divorce decree and the notice of entry of order regarding the divorce decree.

3. Trisha Kuptz and me were married on June 8, 2002, and remained married through 2009 until our marriage was dissolved in 2009 as a result of Kuptz’s Complaint for divorce that was filed in the District Court for Clark County.

4. On or about March of 2004 I purchased the Deer Springs Property and took title “as a married man as his sole and separate property.” *See deed at Exhibit 1.* As I recall, the reason Kurtz was not on the deed was because she was not on the loan for the purchase of the Deer Springs Property.

1 5. On or about October 28, 2005, I conveyed the Deer Springs Property to
2 Kuptz and myself as “Thomas Blinkinsop and Trisha Kuptz as husband and wife as joint
3 tenants with right of survivorship.” *See deed at Exhibit 2.* Subsequent to that transfer,
4 both myself and Kuptz took out a Home Equity Line of Credit (“HELOC”) on the Deer
5 Springs Property. Kuptz was on that loan. We resided in the Deer Springs Property
6 throughout the course of our marriage.
7

8 6. Shortly after I accepted service of the complaint, Kuptz and I discussed
9 trying to work out an amicable and uncontested divorce and work out a fair division of all
10 the martial and separate assets, properties and liabilities Kuptz and me worked out a
11 framework of what we thought was fair and we could agree to. At that time, due to the
12 downturn in the real estate market, coupled with the balance on the HELOC, the Deer
13 Springs Property was underwater approximately \$180,000.00 in negative equity.
14

15 7. Shortly thereafter, myself, Kuptz and Kuptz’s family law attorney, Stacy
16 Rouceleau met at Ms. Rouceleau’s office to discuss what we agreed upon and anything
17 else we may have left out or needed to think about. Based on that meeting, Ms. Rouceleau
18 drafted the Divorce Decree at Exhibit 5 for both Kuptz’s and my signature. The Divorce
19 Decree accurately reflects what was agreed between Kuptz and myself, including the
20 property distribution, which also specifically the Deer Springs Property. I reviewed it and
21 executed it and had my signature notarized. It is at exhibit 5.
22

23 8. Prior to and during the course of our marriage, Kuptz was, by profession, a
24 real estate agent, and who was active in her profession throughout our marriage.
25

26 9. I reviewed the divorce decree at Exhibit 6. It accurately reflected the
27 property distribution that was agreed to between myself and Kuptz, including the Deer
28 Springs Property, which Kuptz agreed to give to me as my sole and separate property, and
in exchange, I would hold her harmless from any encumbrances on the property,

1 including the HELOC on the property. The Deer Springs Property was underwater, but
2 knew in time it would recover and intended on staying in the property for the long run.

3 10. Since the divorce decree, I have resided in the Deer Springs Property with
4 my current wife. I have paid all the mortgage payments, property tax, hazard insurance,
5 and all maintenance and improvements on the property. With the substantial reduction
6 in the mortgage over the last nine and half years, coupled with the recovery in the real
7 estate market, the Deer Springs Property now has approximately \$150,000 positive
8 equity in it.
9

10 Executed this 6th day of December, 2018 at Las Vegas Nevada.

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13 Thomas Blinkinsop
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EXHIBIT 1

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**State of Nevada
Declaration of Value**

1. Assessor Parcel Number(s)
 a) 178-08-317-036
 b) _____
 c) _____
 d) _____

2. Type of Property:
 a) Vacant Land b) Sgl. Fam. Residence
 c) Condo/Twnhse d) 2-4 Plex
 e) Apt. Bldg. f) Comm'l/Ind'l
 g) Agricultural h) Mobile Home
 i) Other _____

FOR RECORDER'S OPTIONAL USE ONLY
 Document/Instrument #: _____
 Book: _____ Page: _____
 Date of Recording: _____
 Notes: _____

3. Total Value/Sales Price of Property \$ N/A
 Deed in Lieu of Foreclosure Only (value of property) N.A
 Transfer Tax Value: \$ N/A
 Real Property Transfer Tax Due \$ -exempt-

4. **If Exemption Claimed:**
 a. Transfer Tax Exemption, per NRS 375.090, # 5 Section:
 b. Explain Reason for Exemption: Transfer to spouse, no consideration

5. Partial Interest: Percentage being transferred: 100 %
 The undersigned declare(s) and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owned.

Signature: _____ Capacity: GRANTOR
 Signature: _____ Capacity: GRANTEE
SELLER (GRANTOR) INFORMATION **BUYER (GRANTEE) INFORMATION**
 (REQUIRED) (REQUIRED)

Print Name: THOMAS R. BLINKINSOP Print Name: THOMAS R. BLINKINSOP AND TRISHA KUPTZ BLINKINSOP
 Address: 2042 Deer Springs Dr Address: 10169 Quilt Tree Street
 City/State/Zip: Henderson, NV 89074 City/State/Zip: Las Vegas, NV 89123

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)
 Print Name: Nevada Title Company Esc. #: _____
 Address: 701 N Green Valley Pkwy, #120
 City: Henderson State: NV Zip: 89074
 (AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

20048912
02051

State of Nevada
Declaration of Value

1. Assessor's Parcel Number(s)

- a) 178-08-317-026
- b)
- c)
- d)

2. Type of Property:

- a) Vacant Land
- b) Single Fam. Resi
- c) Condo/Townhse
- d) 2-4 Plex
- e) Apt. Bldg.
- f) Comm/Ind'l
- g) Agricultural
- h) Mobile Home
- i) Other _____

FOR RECORDER'S OPTIONAL USE ONLY	
Documentation/Instrument #:	_____
Book:	_____ Page: _____
Date of Recording:	_____
Notes:	(S)

3. Total Value/Sales Price of Property: \$300,000.00
 Deed in Lieu of Foreclosure Only (value of property): ()
 Transfer Tax Value: \$300,000.00
 Real Property Transfer Tax Due: \$ 1,530.00

4. If Exemption Claimed:

- a. Transfer Tax Exemption, per NRS 375.090, Section: _____
- b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: ___%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____ Capacity _____
 Signature Robin L. Rockey Capacity Seller

Print Name: Robin L. Rockey Address: 2042 Deer Springs Drive City, State, Zip: Henderson, NV 89074	Print Name: Thomas R. Blinkinsop Address: <u>2042 Deer Springs</u> City, State, Zip: <u>Henderson, NV 89074</u>
--	---

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Company Name: United Title of Nevada Esc #04119026-061-LAE
 (AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

2051

20040312
02051

CLARK COUNTY, NEVADA
FRANCES DEANE, RECORDER

RECORDED AT THE REQUEST OF:

UNITED TITLE OF NEVADA

03-12-2004 14:01 DCM

OFFICIAL RECORDS

BOOK/INSTR: 20040312-02051

PAGE COUNT: 3

FEE: 16.00
RPTT: 1,530.00

APN: 178-08-317-036
AMT: R.P.T.T. \$1,530.00

WHEN RECORDED MAIL TO and MAIL TAX
STATEMENT TO:

THOMAS R. BLINKINSOP
2042 DEER SPRINGS DRIVE
HENDERSON, NEVADA 89074

(17)

88

ESCROW NO: 04119826-061-LAE

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That

Robin L. Rockey, an unmarried woman

in consideration of \$10.00 and other valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to

Thomas R. Blinkinsop, A Married Man as his sole and separate property (1)

all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

- Subject to:
1. Taxes for the current fiscal year, paid current.
 2. Conditions, covenants, restrictions, reservations, rights, rights of way and easements now of record, if any.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my/our hand(s) on February 4, 2004

SELLERS:

Robin L. Rockey
Robin L. Rockey

(1)

(1)

(1)

(1)

20040312
02051

ESCROW NO: 04119026-061-LAE

Escrow No. 04119026-061-LAE

STATE OF NEVADA)
) ss.
COUNTY OF Clark)

On this March 8, 2004

appeared before me, a Notary Public,

Robin L. Rokey



personally known or proven to me to be the person(s) whose name(s) is/are subscribed to the above instrument, who acknowledged that he/she/they executed the instrument for the purposes therein expressed.

Notary Public Robin L. Rokey
My commission expires: 10/15/07

20080312
02051

ESCROW NO: 04119026-051-LAE

EXHIBIT A

Lot Twenty-One (21) in Block One (1) of CREEKSIDE UNIT 3, as shown by map thereof on file in Book 42 of Plats, Page 21, in the Office of the County Recorder of Clark County, Nevada.

Page 3 of 3

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EXHIBIT 2

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20051202-0000386

Fee: \$19.00 RPTT: EX#005
N/C Fee: \$25.00

12/02/2005 09:02:26
T20050217882

Requestor:
NEVADA TITLE COMPANY

Frances Deane JKA
Clark County Recorder Fgs: 6

AHA.P.N.: 178-08-317-036
R.P.T.T.: \$EXEMPT #5

Escrow #

Mail tax bill to and when recorded mail to:
Thomas R. Blinkinsop and Trisha Kuptz-
Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074

CP
H

2

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That Thomas R. Blinkinsop, a married man as his sole and separate property, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to Thomas R. Blinkinsop and Trisha Kuptz-Blinkinsop, Husband and Wife as Joint Tenants with Rights of Survivorship, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A"

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any:
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

IN WITNESS WHEREOF, this instrument has been^{ly}executed this 28 day of October, 2005

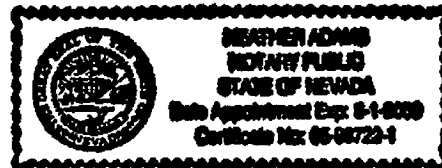

Thomas R. Blinkinsop

State Of NEVADA }
County of Clark } ss

This instrument was acknowledge before me on October 28, 2005

by Thomas R. Blinkinsop

Heather Adams
NOTARY PUBLIC }
My Commission Expires: 8-1-2009



#

EXHIBIT "A"

LOT TWENTY-ONE (21) IN BLOCK ONE (1) OF CREEKSIDE UNIT 3, AS
SHOWN BY MAP THEREOF ON FILE IN BOOK 42 OF PLATS, PAGE 21 IN THE
OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA

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B

A.P.N.: 178-08-317-036

TO: NEVADA TITLE COMPANY

B

DATE: October 26, 2005

We hand you herewith a Deed from BLINKINSOP, Grantor herein to BLINKINSOP AND KUPTZ-BLINKINSOP, Grantee therein, conveying the following property:

2042 Deer Springs Drive
Henderson, NV 89074

B


Escrow Agent is hereby instructed and directed to record said Deed concurrently with the other documents called for in the above referenced escrow "as an accommodation only."

The parties herein acknowledge and understand that there shall be no Owners Policy of Title Insurance issued in connection with the recordation of this Deed. Further Escrow Agent is hereby released of any and all responsibility and/or liability in connection with said Deed.



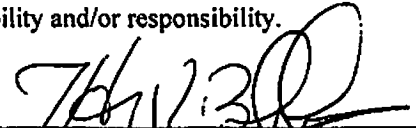
THOMAS R. BLINKINSOP

B

THOMAS R. BLINKINSOP


TRISHA KUPTZ-BLINKINSOP

The undersigned does hereby state and affirm that no cash consideration is due the Grantor herein at the close of the above numbered escrow. Escrow Agent is hereby released of any and all liability and/or responsibility.



THOMAS R. BLINKINSOP

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TRISHA KUPTZ-BLINKINSOP

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ATTACHMENT TO DEED

ACCOMMODATION RECORDING INSTRUCTIONS,
NOTICE AND WAIVER PURSUANT TO N.R.S. 692A.210
AND INDEMNITY AGREEMENT

TO: NEVADA TITLE COMPANY DATE: ESCROW/ORDER

FROM: BLINKINSOP TO BLINKINSOP & KUPTZ-BLINKINSOP

The documents listed below are for recording in the Recorder's Office as an accommodation only. You are to make no demand or inquiry in connection therewith. The undersigned understand that Nevada Title Company ("NTC") is not searching the public records in connection with any property affected thereby, and makes no assurances that the parties have any interest in any property described therein. Further, NTC has not examined the document(s), and makes no assurances as to their validity or effect on title. These documents are being delivered to the Recorder's Office only as a courtesy to the undersigned.

The undersigned also acknowledge that NTC will not now, nor will it in the future, receive any benefit, whether business or otherwise, as a result of the recordation of said document(s). The undersigned further acknowledge that NTC is unwilling to carry out the herein provided instructions without, and in the normal course of business would not do so without an Indemnity Agreement from the undersigned.

NOW THEREFORE, the undersigned do herein and hereby agree that, in consideration of NTC recording said documents, the undersigned will fully and forever protect, defend save harmless and otherwise indemnify NTC from and against any and all liabilities, responsibilities, loss, costs, damages, expenses, charges and fees including but not by way of limitation attorney's fees which it may suffer, expend or incur, directly or indirectly, under by way of, arising out of, or as a consequence of its fulfillment of these instructions and/or the recordation of the herein below described document.

THE UNDERSIGNED are responsible for the Clark County Recorder's Office documentation requirements, including (but not limited to) attaching a Declaration of Value form to any document recorded to transfer real property (or any right, title or interest therein).

The undersigned shall pay applicable Recording Fees and Transfer Tax (check payable to the "Clark County Recorder" to cover the charges concerning: i) the Recorder's Fee of \$14.00 for the first page, and \$1.00 for each additional page, of a document; ii) an additional fee of \$3.00 for any single-page document that is considered a "double-index" document; iii) real property transfer tax of \$5.10 per \$1,000.00 of equitable value in the property).

<u>DOCUMENT</u>	<u>1ST PARTY</u>	<u>2ND PARTY</u>	<u>TRANSFER TAX</u>	<u>RECORDING FEE</u>
DEED	BLINKINSOP	BLINKINSOP AND KUPTZ- BLINKINSOP	EXEMPT 5	ACCOM

FURTHERMORE, if a Lender's policy of title insurance is being issued but no Owner's title policy is being issued, then: notice is hereby given, as required in NRS 692A.210 that a mortgagee's title insurance policy is to be issued to your mortgage lender. The policy does not afford title insurance protection to you in the event of a defect or claim of defect in title to the real estate you own or are acquiring. An owner's title insurance policy affording protection to you in the amount of your purchase price, or for the amount of your purchase price plus the cost of any improvements, which you anticipate making, may be purchased by you. NRS 692A.210 requires that you sign the statement printed below if you do not wish to purchase an owner's title insurance policy.

WE HAVE RECEIVED THE FOREGOING NOTICE, AND WAIVE OUR RIGHT TO PURCHASE AN OWNER'S TITLE INSURANCE POLICY FOR OUR PROTECTION.


THOMAS R. BLINKINSOP


TRISHA KUPTZ-BLINKINSOP

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EXHIBIT 3

FILED

APR 3 4 27 PM '09

Earl D. ...
CLERK OF THE COURT

1 **COMP**
2 **ROCHELEAU LAW GROUP, P.C.**
3 **STACY M. ROCHELEAU, ESQ.**
4 Nevada Bar No.: 7886
5 375 N. Stephanie Street, Bldg. 2
6 Henderson, Nevada 89014
(702) 914-0400
Fax: (702) 914-0256
stacy@rocheleaulaw.com
Attorneys for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

11 TRISHA KUPTZ,
12 Plaintiff,
13
14 v.
15 THOM BLINKINSOP,
16 Defendant

Case no. *D-09-409681-D*
Dept. no. *N*

COMPLAINT FOR DIVORCE

17 Comes now, Plaintiff, Trisha Kuptz ("Plaintiff"), by and through Stacy M. Rocheleau, Esq.,
18 of Rocheleau Law Group, P.C., her attorneys of record, and as for her causes of action against
19 Defendant Thom Blinkinsop ("Defendant"), alleges as follows:
20

21 1. For more than six (6) weeks immediately preceding the commencement of this action,
22 Plaintiff has been, and now is, a bona fide and actual resident and domiciliary of the State of Nevada,
23 County of Clark, and has been actually and physically present and domiciled in the State of Nevada
24 for more than six (6) weeks immediately prior to the commencement of this action and still has the
25 intent to make said State of Nevada her home, residence and domicile for a indefinite period of time.

26 2. The Plaintiff and Defendant were duly and legally married on or about the 8th day of
27 June, 2002, and ever since said date have been and now are husband and wife.

28 3. There are no minor children of this marriage. There are no adopted children of this
marriage and to the best of Plaintiff's knowledge, she is not pregnant at this time.

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4. That there are community property and debts of the parties that the court should divide equitably.

5. That both parties waive spousal support.

6. That Defendant shall pay Plaintiff's attorney's fees and costs.

7. That Plaintiff did not change her name at the time of marriage and she will retain her current name of Trisha Kuptz

8. The parties hereto are incompatible in marriage, which makes it impossible to live together as husband and wife; to which there is no possibility for reconciliation.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. That the bonds of matrimony now and heretofore existing between Plaintiff and Defendant be dissolved, set forever held for not; that the Plaintiff be granted an absolute Decree of Divorce; and that the parties hereto, and each of them, be restored to their single, unmarried status;

2. That the Court order a waiver of pay spousal support ;

3. That the Court make an equitable distribution and division of all community property assets and debts and separate property and debts of the parties;

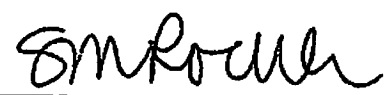
4. That the Court order Defendant to pay her attorney's fees and costs;

5. That Plaintiff shall retain her current name of Trisha Kuptz.

6. For such other and further relief as this Court may deem just and proper.

DATED this 2nd day of March, 2009.

ROCHELEAU LAW GROUP, P.C.



STACY M. ROCHELEAU, ESQ.
Nevada Bar No.: 7886
375 N. Stephanie Street, Bldg. 2
Henderson, Nevada 89014
(702) 914-0400
Fax: (702) 914-0256
stacy@rocheleaulaw.com
Attorneys for Plaintiff

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VERIFICATION

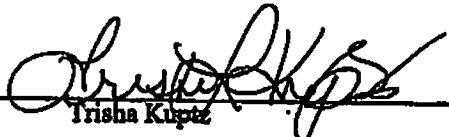
STATE OF NEVADA }
COUNTY OF CLARK } ss.

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Trisha Kuptz, being first duly sworn, deposes and says:

1. That I am the Plaintiff in the above entitled action.
2. That I have read the foregoing Complaint for Divorce and know the contents thereof.
3. That the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters I believe them to be true.

DATED this 27 day of March, 2009.



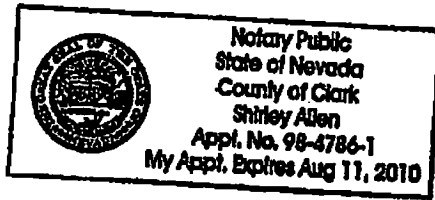
 Trisha Kuptz

SUBSCRIBED AND SWORN to before me
this 27 day of March, 2009.

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 NOTARY PUBLIC in and for said
 COUNTY and STATE



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EXHIBIT 4

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1 ANS
2 Thomas Richard Blinkinsop
3 2042 Deer Springs Drive
4 Henderson, NV 89074
5 (702) 300-7648
6 Defendant in Proper Person

FILED
APR 7 4 00 PM '09
[Signature]
CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

8 TRISHA KUPTZ,
9 Plaintiff,
10 v.
11 THOM BLINKINSOP,
12 Defendant
13 Case no. D-09-409681-D
14 Dept. no. N

ANSWER TO COMPLAINT

15 COMES NOW, Defendant, Thom Blinkinsop, Defendant in Proper Person, and for his
16 answer to the Complaint for Divorce on file herein, avers and states as follows

17 1. Defendant admits the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 of
18 the Complaint.

19 WHEREFORE, Defendant prays for judgment as follows:

20 1. That the bonds of matrimony now and heretofore existing between Plaintiff and
21 Defendant be dissolved, set forever held for not; that the parties be granted an absolute Decree of
22 Divorce; and that the parties hereto, and each of them, be restored to their single, unmarried status;

23 2. That Plaintiff retain her current name of Trisha Kuptz.

24 3. That Defendant pay Plaintiff's attorney's fees and costs;

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4. For such other and further relief as this Court may deem just and proper.
DATED this 20th day of March, 2009.


THOM BLINKINSOP
2042 Deer Springs Drive
Henderson, NV 89074
(702) 300-7648
Defendant in Proper Person

VERIFICATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

Thom Blinkinsop, being first duly sworn, deposes and says:

- 1. That I am the Defendant in the above entitled action.
- 2. That I have read the foregoing Answer to Complaint and know the contents thereof.
- 3. That the same is true of my own knowledge, except for those matters therein

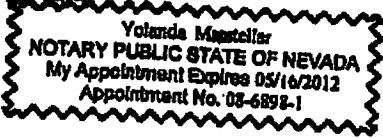
contained stated upon information and belief, and as to those matters I believe them to be true.

DATED this 20th day of March, 2009.


Thom Blinkinsop

SUBSCRIBED AND SWORN to before
me this 20th day of March, 2009.


NOTARY PUBLIC in and for said
COUNTY and STATE



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EXHIBIT 4A

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1 REQT
2 ROCHELEAU LAW GROUP, P.C.
3 STACY M. ROCHELEAU, ESQ.
4 Nevada Bar No.: 7886
5 375 N. Stephanie Street, Bldg. 2
6 Henderson, Nevada 89014
(702) 914-0400
Fax: (702) 914-0256
stacy@rocheleaulaw.com
Attorneys for Plaintiff

FILED
May 12 3 45 PM '09
CLERK OF COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

9 TRISHA KUPTZ,
10 Plaintiff,
11 v.
12 THOM BLINKINSOP,
13 Defendant

Case no. D-09-409681-D
Dept. no. N

14 REQUEST FOR SUMMARY DISPOSITION OF UNCONTESTED DIVORCE

15 COMES NOW, Plaintiff, Trisha Kuptz, by and through Rocheleau Law Group, her attorneys
16 of record, and requests this Court for a Summary Disposition of an uncontested divorce without a
17 hearing.

18 Dated this 20th day of April, 2009.

21 ROCHELEAU LAW GROUP, P.C.

22 
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Attorneys for Plaintiff


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CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of Rocheleau Law Group, PC, and that on this date, I served a true and correct copy of the Request for Summary Disposition of Uncontested Divorce on all parties to this action by placing same in an envelope with first-class postage affixed thereto and depositing it U.S. Mail in Henderson, Nevada, addressed as follows:

Thomas Richard Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074
Defendant Pro Per

Dated this 11 ^{MAY} day of April, 2009.



Employee of Rocheleau Law Group, P.C.

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EXHIBIT 5

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1 **DECD**
2 **ROCHELBAU LAW GROUP, P.C.**
3 **Stacy M. Rocheleau, Esq.**
4 **Nevada Bar No. 7886**
5 **375 N. Stephanie Street, Bldg. 2**
6 **Henderson, Nevada 89014**
7 **(702) 914-0400**
8 **Fax (702) 914-0256**
9 **stacy@rocheleaulaw.com**
10 **Attorneys for Plaintiff**

FILED

MAY 19 3 33 PM '09

[Signature]
CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

10 **TRISHA KUPTZ,**
11 **Plaintiff,**
12 **v.**
13 **THOM BLINKINSOP,**
14 **Defendant**

Case no. **D-09-409681-D**
Dept. no. **N**

DECREE OF DIVORCE

16 The above-entitled matter having been submitted for summary disposition, and the parties
17 having reviewed and agreed to this instant Decree of Divorce, the Court having reviewed all the
18 pleadings and papers on file herein, and being fully advised in the premises, and fully satisfied that the
19 action has been fully and regularly commenced, and finds:

- 20 1. That the Court has complete jurisdiction in the premises, both as to the subject matter
21 thereof as well as the parties thereto;
- 22 2. That the Plaintiff is now, and has been an actual bona fide resident of Clark County,
23 Nevada, and has been actually domiciled there for more than six (6) weeks immediately preceding the
24 commencement of this action;
- 25 3. The parties were married on the 8th day of June, 2002, and ever since have been and now
26 are husband and wife.

27 **///**
28 **///**

[Signature] *[Signature]*

1 4. That there are no minor children which are the issue of this marriage and no adopted
2 minor children and Plaintiff is not pregnant at this time;

3 5. That Plaintiff never changed her name.

4 6. That the division of community property set forth below is, to the extent possible, an
5 equal division of community property;

6 7. That the division of community debt as set forth below is, to the extent possible, an
7 equal division of community debts.

8 8. That both parties waive their rights to spousal support;

9 9. That each party shall bear their own attorney's fees and costs;

10 10. That the Plaintiff should be granted a Decree of Divorce for the reasons set forth
11 in the Complaint on file herein; and

12 11. That the parties desire entry of a Decree of Divorce and have waived Findings of Fact,
13 Conclusions of Law and written Notice of Entry of Judgment, right to appeal, and right to move for a
14 new trial, and all the provisions of NRS 125.181 have been met in said cause.


15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the bonds of matrimony
16 heretofore and now existing between Plaintiff and Defendant be, and the same are hereby wholly
17 dissolved, and each of the parties hereto is restored to the status of single, unmarried person.

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall pay Plaintiff
19 the sum of \$20,000.00 as Community Property Settlement as follows:

- 20 1. Sum of \$8,000.00 shall be transferred from the balance owed on a credit card of
21 Plaintiff's choosing, to a credit card of Defendant's that he so selects.
22 2. Sum of \$2,000.00 shall be paid to Plaintiff as and for moving expenses within 10 days
23 of entry of decree of decree.
24 3. Sum of \$10,000.00 shall be paid to Plaintiff in payments over a period of 24 months
25 beginning the 1st day of April, 2009, or may be paid in a lump sum, at the sole
26 discretion of Defendant.

27 ///

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TRB 

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff is hereby
2 awarded the following as her sole and separate property and responsibility:

- 3 1. BMW vehicle and any encumbrances thereon;
- 4 2. 100% of the business known as Team Kuptz LLC and any new business opened by
5 Plaintiff and any expenses or liabilities associated with the same;
- 6 3. All credit cards in Plaintiff's name; of which Plaintiff shall have Defendant's name
7 removed from same;
- 8 4. All debts in Plaintiff's name for which Plaintiff shall hold Defendant harmless for same;
- 9 5. Any bank accounts in Plaintiff's name;
- 10 6. One-half (1/2) of all personal property, furniture and furnishings;
- 11 7. All personal clothing and effects in Plaintiff's possession.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant is hereby
13 awarded the following as his sole and separate property and responsibility:

- 14 1. Toyota vehicle and any encumbrances thereon;
- 15 2. 100% of Defendant's consulting business and any expenses or liabilities associated with
16 the same;
- 17 3. All credit cards in Defendant's name; of which Defendant shall have Plaintiff's name
18 removed from same.
- 19 4. All debts in Defendant's name for which Defendant shall hold Plaintiff harmless for
20 same.
- 21 5. Any bank accounts in Defendant's name.
- 22 6. One-half (1/2) of all personal property, furniture and furnishing.
- 23 7. All personal clothing and effects in Defendant's possession.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are each hereby
25 awarded one-half of the following investments as their sole and separate property:

- 26 1. American Funds
- 27 2. Sunrise 401k
- 28 3. Regal

1 4. PGA Retirement fund

2 5. Vanguard

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
4 his sole and separate property the real property located at 2042 Deer Springs Drive, Henderson, Nevada.
5 Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said real
6 property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10 days
7 of entry of this decree.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall receive as
9 his sole and separate property the real property located at 2405 W. Serene Avenue #814, Las Vegas,
10 Nevada. Defendant shall assume, and hold Plaintiff harmless from, any and all encumbrances on said
11 real property. Plaintiff shall execute a quitclaim deed to remove Plaintiff's name from title within 10
12 days of entry of this decree. If said property is sold by Defendant, Plaintiff may receive one-half of the
13 profits upon sale, provided that she repay to Defendant one-half of any and all expenses paid by
14 Defendant from the date of entry of decree to the date of close of escrow. Said expenses shall include
15 but are not limited to mortgage interest, taxes, insurance, repairs, homeowner's association fees, and
16 costs of sale, all of which must be paid prior to close of escrow of such sale.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff and Defendant shall
18 transfer the real property located at 10169 Quilt Tree Street, Las Vegas, Nevada, into a limited liability
19 company of which each shall own 50%. The profit from renting said property and/or the sale of said
20 property will be divided equally by the parties. The parties shall execute a quitclaim deed to said
21 limited liability company on said real property within 10 days of entry of this decree.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties will file a joint
23 2008 Federal Income Tax Return and will divide any liability or refund associated with same equally.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay Plaintiff
25 the sum of \$937.00 as and for reimbursement for tires for her vehicle.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any and all separate property
27 is confirmed as that parties' separate property.

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from the date of entry of this
2 decree, any and all property acquired, or income received, or debt incurred by either of the parties,
3 except as specified herein, shall be the sole and separate property or obligation of the one so acquiring
4 or incurring the same.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall fully
6 cooperate with each other and shall not unreasonably withhold execution of any documents necessary
7 to effectuate the transfer of any property specified herein, and if parties fail to cooperate, the Clerk of
8 Court is authorized to execute any document on behalf of either party upon presentment of this Decree;

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the parties agrees
10 to waive spousal support;

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party is to bear their
12 own attorneys fees and costs incurred to date, however, should any party need to enforce the terms
13 herein, they shall be awarded their attorney's fees and costs incurred for enforcement; and

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall provide their
15 social security numbers on a separate form to the Court and to the Welfare Division of the Department
16 of Human resources pursuant to NRS 125.130. Such information shall be maintained by the Clerk in
17 a confidential manner and not part of the public record.

18 DATED this 18 day of May, 2009.

19
20 MATHEW HARTER

21 DISTRICT COURT JUDGE
22 FAMILY DIVISION

23 Submitted by:

24 ROCHELEAU LAW GROUP, P.C.

25 
26 Stacy M. Rocheleau, Esq.
27 Nevada Bar No. 7886
28 375 N. Stephanie Street, Bldg. 2
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(702) 914-0400
Fax (702) 914-0256
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Attorneys for Plaintiff

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Approved as to Content and Form by:


Thom Blinkinsop

Approved as to Content and Form by:

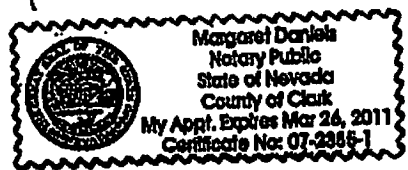

Trisha Kuptz-Blinkinsop

On this 16th day of March
2009, personally appeared before me, the
undersigned, a Notary Public in and for the
County of Clark, State of Nevada, Thom
Blinkinsop, who acknowledged that he
reviewed and executed the above instrument.


NOTARY PUBLIC

On this 13 day of March
2009, personally appeared before me, the
undersigned, a Notary Public in and for the
County of Clark, State of Nevada, Trisha-
Kuptz Blinkinsop who acknowledged that she
reviewed and executed the above instrument.


NOTARY PUBLIC





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EXHIBIT 6

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NOTICE
ROCHELEAU LAW GROUP, P.C.
STACY M. ROCHELEAU, ESQ.
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stacy@rocheleaulaw.com
Attorneys for Plaintiff

FILED

MAY 21 4 24 PM '09

[Signature]
CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

TRISHA KUPTZ,
Plaintiff,

v.

THOM BLINKENSOP,
Defendant.

Case No.: D-09-409681-D
Dept. No.: N

NOTICE OF ENTRY OF DECREE OF DIVORCE

PLEASE TAKE NOTICE that a Decree of Divorce was entered with the above-mentioned Court on the 19th day of May, 2009. A copy is attached herewith.

Dated this 19th day of May, 2009.

ROCHELEAU LAW GROUP, P.C.

[Signature]

STACY M. ROCHELEAU, ESQ.
Nevada Bar No.: 7886
375 N. Stephanie Street, Bldg. 2
Henderson, Nevada 89014
(702) 914-0400
Fax: (702) 914-0256
stacy@rocheleaulaw.com
Attorneys for Plaintiff

TP

CERTIFICATE OF MAILING

1
2 I HEREBY CERTIFY that I am an employee of Rocheleau Law Group, PC, and that on this
3 date, I served a true and correct copy of the Notice of Entry of Decree of Divorce on all parties to
4 this action by placing same in an envelope with first-class postage affixed thereto and depositing it
5 U.S. Mail in Henderson, Nevada, addressed as follows:
6

7 Trisha Kuptz
8 10075 S. Eastern Ave. #103
9 Henderson, NV 89074
Plaintiff TP

10 Thomas Richard Blinkinsop
11 2042 Deer Springs Drive
12 Henderson, NV 89074
Defendant

13 Dated this 21 day of May, 2009.

14
15 
16 Employee of Rocheleau Law Group, P.C.
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EXHIBIT 7

91 Nev. 279
Supreme Court of Nevada.

Elizabeth M. TERRIBLE, Appellant,
v.
Joseph Frank TERRIBLE, Respondent.

No. 7328.
|
April 30, 1975.

Synopsis

Ex-wife appealed from a judgment of the Eighth Judicial District Court, Clark County, John F. Mendoza, J., granting exhusband's petition for partition of real property distributed under the terms of divorce decree. The Supreme Court, Batjer, J., held that ex-husband waived any right to demand partition when he agreed, during course of prior divorce trial, that until such time as the parties agreed upon a sale his wife could live in residence situated on the parcel in question, manage the properties located thereon, retain the income and pay the costs of use and occupancy; and he was estopped from repudiating and invalidating, in part, the divorce decree from which no appeal was taken.

Reversed and remanded with instructions.

West Headnotes (3)

- ||| **Divorce**
- ⊕ Operation and effect
- Partition**
- ⊕ Defenses in general

Ex-husband waived any right to demand partition of parcel when he agreed, during course of prior divorce trial, that until such time as the parties agreed upon a sale his wife could live in residence situated on the parcel, manage the properties located thereon, retain the income and pay the costs of use and occupancy; and he was estopped from repudiating and invalidating, in part, the divorce decree from which no appeal was taken. N.R.S. 39.010.

1 Cases that cite this headnote

- ||| **Partition**
- ⊕ Cotenancy or other common interest of parties
- Partition**
- ⊕ Defenses in general

Every tenant in common that has the right to the present enjoyment of property, or the proceeds thereof, is entitled to demand a partition thereof as a matter of right, but the right to partition is not absolute and may be waived by reason of an agreement or defeated by directives in a prior judgment from which no appeal has been taken.

1 Cases that cite this headnote

- ||| **Estoppel**
- ⊕ Reliance on adverse party
- Estoppel**
- ⊕ Prejudice to person setting up estoppel

Doctrine of equitable estoppel will not permit a party to repudiate acts done or positions taken or assumed by him when there has been reliance thereon and prejudice would result to the other party.

Cases that cite this headnote

||| **Attorneys and Law Firms**

*279 **919 Albright & McGimsey, Las Vegas, for appellant.

Austin, Thorndal & Liles, Las Vegas, for respondent.

*280 OPINION

BATJER, Justice:

On May 6, 1971, a decree (judgment) of divorce was entered terminating the marriage of the parties. One of the parcels of property distributed under the terms of the decree was Parcel 1¹ in which the trial **920 judge terminated the joint tenancy and *281 ordered that the parcel be held by the parties as tenants in common, each owning an undivided one-half interest.

On or about January 21, 1972, the respondent received an offer in the amount of \$150,00 for the entire parcel. He attempted to induce the appellant to agree to the sale, but she refused. He then instituted this action to partition his interest.

The district judge, who is not the judge who entered the divorce decree, held a trial on the petition for partition and found that, although the respondent's interest was a subject for partition, it was impractical to partition the parcel, so he ordered it sold and the net proceeds of sale to be equally divided.

In her appeal from the judgment of partition, appellant relies in part on the provisions of NRS 39.010.² See *Conter v. Herschel*, 24 Nev. 152, 50 P. 851 (1897); *Wolford v. Wolford*, 65 Nev. 710, 200 P.2d 988 (1948). She contends that the district court erred because respondent had an insufficient interest in the parcel to entitle him to have it partitioned and that the judgment of divorce precluded him from such entitlement.

¹ We need not determine whether respondent had a sufficient interest in the parcel to afford him standing to demand partition because (1) he waived any right to so petition when he consented during the course of the divorce trial that until such time *282 as the parties agreed upon a sale, the appellant could live in the residence situated on the parcel, manage the properties located thereon, retain the income and pay the costs of use and occupancy, and (2) he is estopped from repudiating and invalidating, in part, the divorce entered on May 6, 1971, from which no appeal has been taken.

By his unilateral concession memorialized in the divorce court's findings of fact and conclusions of law, respondent gave assurance to appellant that, until such time as the parties had agreed upon a sale or until such time as a formula for sale is determined, the appellant could live in the residence on the parcel, manage the properties located thereon, retain the income and pay the costs of the use and occupancy.

² In *Wolford*, supra, an action was filed for partition of a parcel of property awarded to the parties as tenants in common in a prior annulment proceeding. There, this court said: 'Every tenant in common that has the right to the present enjoyment of the property, or the proceeds **921 thereof, is entitled to demand a partition of the property as a matter of right.' 65 Nev. at 715, 716, 200 P.2d at 991. Nevertheless, the right to partition the real property is not absolute and may be waived by reason of an agreement, or, as here, defeated by directives in a prior judgment from which no appeal has been taken. Cf. *Rodkey v. Rees*, 527 P.2d 1150 (Okla.App.1974); *Goodpasture v. Goodpasture*, 115 N.J.Super. 189, 278 A.2d 531 (1971); *Nazzisi v. Nazzisi*, 203 Cal.App.2d 121, 21 Cal.Rptr. 396 (Dist.Ct.App.1966).

The rule concerning the right to partition was stated by the Illinois court in *Arnold v. Arnold*, 308 Ill. 365, 139 N.E. 592, 593 (Ill.1923), in the following language: '. . . It has been said in general terms that an adult tenant in common has an absolute right to partition. . . . (B)ut it has been in cases where there was neither an equitable nor legal objection to the exercise of the right, and partition was in accordance with the principles governing courts of equity. Wherever any interest inconsistent with partition has been involved, the general rule has always been qualified by the statement that equity will not award partition at the suit of one in violation of his own agreement, . . . or where partition would be contrary to equitable principles. Partition will not be awarded in a court of equity, where there has been an agreement either not to partition, or where the agreement is such that it is necessary to secure the fulfillment of the agreement that there should not be a partition. Such an agreement may be verbal, if it has been acted upon, and it need not *283 be expressed, but will be readily implied, and enforced, if necessary to the protection of the parties.'

Here the issue of the right to possession and enjoyment of this particular property was litigated in the action for divorce and adjudicated by the divorce decree. It cannot be relitigated in this action for partition between the same parties. The divorce decree is a bar to this subsequent action for partition although partition was not sought in the divorce action. *Miller v. Miller*, 54 Nev. 44, 3 P.2d 1069 (1931).

³ The doctrine of equitable estoppel will not permit a party to repudiate acts done or positions taken or assumed by him when there has been reliance thereon and prejudice would result to the other party. See *Gardner v. Pierce*, 22 Nev. 146, 36 P. 782 (1894); *Noble Gold Mines Co. v. Olsen*, 57 Nev. 448, 66 P.2d 1005 (1937). Cf. *Woods v. Bromley*, 69 Nev. 96, 241 P.2d 1103 (1952); *Beck v. Curti*, 56 Nev. 72, 45 P.2d 601 (1935); *Shannon v.*

Terrible v. Terrible, 91 Nev. 279 (1975)

534 P.2d 919

Minnock, 6 Nev. 377 (1871); Goodpasture v. Goodpasture, supra.

Respondent has voluntarily consented to an occupation and use of the real property which has been embodied in a decree of divorce upon which appellant has relied. By that unilateral concession respondent has waived any right to partition to which he might otherwise have been entitled and he is estopped from proceeding to partition.

In *Nazzisi*, supra, the husband was given the exclusive right to reside on a parcel of property as a result of a property settlement agreement. There the court so found by virtue of the agreement, notwithstanding the general rule that a cotenant may require partition of a cotenancy as a matter of absolute right.

In *Wolford*, supra, where a judgment of partition was affirmed, the facts are readily distinguishable from this case because there a simple designation was made by the court decreeing that property would be held by the parties as tenants in common. There were no restrictions or obligations attached, such as those found in the divorce decree in this case. In *Wolford* there was no waiver or estoppel, therefore partition was mandatory.

In *Alexander v. Winters*, 23 Nev. 475, 486, 49 P. 116, 119 (1879), this court said: **922 'It is well settled that a person cannot accept and reject the same instrument, or, having availed himself of it as to part, defeat its provisions in any other part.' *284 Although reference in *Alexander* was to a contract, the principle is applicable with equal force to a decree of divorce which embodies the unilateral concessions of the respondent.

We conclude that respondent's action for partition is barred by the divorce decree. The judgment of the district court is reversed and the matter is remanded with instructions to enter judgment for appellant.

GUNDERSON, C.J., and ZENOFF, MOWBRAY and THOMPSON, JJ., concur.

All Citations

91 Nev. 279, 534 P.2d 919

Footnotes

- 1 In pertinent parts the judgment effecting Parcel I reads as follows:
 'C. Plaintiff shall occupy Parcel I and shall collect and retain all income therefrom and maintain the same in good rental condition, pay all real and personal property taxes assessed against the property, pay all utilities and other expenses incurred in the use and occupancy of the property, and maintain and pay extended coverage fire and casualty insurance thereon and neither remove nor permit the removal of any personal property situated thereon until such time as said parcel is sold.
 'Plaintiff shall not incur any expenses for maintenance or repairs or additions to any of the units at the expense in excess of one month's rent derived from such unit without first obtaining the permission or consent of the defendant to undertake these expenditures.
 'D. That should either party desire to sell his or her interest in Parcel 1 or 2, or any part thereof, and finds a purchaser or purchasers, who are ready, able and willing to purchase the same, the other party shall have an option to purchase the interest of the party so desiring to sell for the amount of any bona fide offer made by any third party or parties; and the option of either party to buy the interest of the other party at such price shall extend for a period of seventy-five (75) days after notice of such bona fide offer has been communicated to it in writing by the party desiring to sell.
 'If said option to purchase at such price is not exercised within such seventy-five (75) day period, then the party so desiring to sell may dispose of his or her interest, or interests to a third party, or parties.
 'That as and for support and maintenance, the plaintiff has been awarded the occupancy and income from Parcel 1 and the outdoor advertising sign, until Parcel 1 is sold or otherwise disposed of. That in the event plaintiff's income from all sources, including such parcel, employment and otherwise, averages over a year's time less than \$400 per month, the defendant shall pay to plaintiff a sum sufficient for her income to be equal to the sum of \$400 per month.'
- 2 NRS 39.010 provides in pertinent part: 'When several persons hold and are in possession of real property as joint tenants or as tenants in common, in which one or more of them have an estate of inheritance, or for life or lives, or for years, an action may be brought by one or more of such persons for a partial partition thereof according to the respective rights of the persons interested therein, and for a sale of such property or a part of it, if it appears that a partition cannot be made without great prejudice to the owners. Whenever from any cause it is, in the opinion of the court, impracticable or highly inconvenient to make a complete partition, in the first instance, among all the parties in interest, the court may first ascertain and determine the shares or interest, respectively held by the original cotenants, and thereupon adjudge and cause a partition to be made, as if such original cotenants

Ruptz v. Blankinship

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EXHIBIT 8

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382 P.3d 880
Supreme Court of Nevada.

Dawnette R. DAVIDSON, Appellant,
v.
Christopher B. DAVIDSON, Respondent.

No. 67698

FILED SEPTEMBER 29, 2016

Synopsis

Background: Former wife brought action to enforce provision of divorce decree that required former husband to pay former wife one-half the equity in the marital home. The Eighth Judicial District Court, Family Court Division, Clark County, Vincent Ochoa, J., denied former wife’s motion, and she appealed.

Holdings: The Supreme Court, Cherry, J., held that:

[1] former wife’s action was subject to six-year limitations period for actions on judgments, and

[2] six-year limitations period began to run when there was evidence of indebtedness, which occurred on the date former wife delivered quitclaim deed to the marital home.

Affirmed.

West Headnotes (10)

[1] **Divorce**
☞ Nature, scope and effect of decision

Trial court’s order denying former wife’s motion to enforce divorce decree provision that granted her the right to receive half of the equity in the marital residence affected rights growing out of the judgment previously entered, and therefore constituted an appealable special order entered after final judgment. Nev. R. App. P. 3A(b)(8).

1 Cases that cite this headnote

[2] **Divorce**
☞ Time for proceedings; laches

Statute that allowed family division to enforce its orders in separate maintenance actions without any time limitations did not apply to former wife’s motion to enforce provision of divorce decree, and therefore, former wife’s motion was subject to six-year limitations period for actions on judgments. Nev. Rev. St. §§ 11.190(1)(a), 11.200, 125.240.

1 Cases that cite this headnote

[3] **Appeal and Error**
☞ Statutory or legislative law

The Supreme Court reviews questions of statutory construction de novo.

Cases that cite this headnote

[4] **Statutes**
☞ Intent
Statutes
☞ Construing together; harmony

The Supreme Court’s goal in construing statutes is to uphold the intent of the Legislature and harmonize the statutes, if possible.

1 Cases that cite this headnote

[5] **Statutes**
☞ Intent

When construing statutes, the Supreme Court’s goal is to uphold the Legislature’s intent and harmonize the statutes, if possible.

task is to ascertain the intent of those who enacted the provisions at issue, and to adopt an interpretation that best captures their objective.

Cases that cite this headnote

^[6] **Statutes**
⇨ Plain Language; Plain, Ordinary, or Common Meaning

When construing statutes, the Supreme Court must give words their plain meaning unless doing so would violate the spirit of the provision.

Cases that cite this headnote

^[7] **Statutes**
⇨ Construing together; harmony

Whenever possible, the Supreme Court will construe statutory provisions so that they are in harmony with each other.

Cases that cite this headnote

^[8] **Statutes**
⇨ General and specific terms and provisions; ejusdem generis

When construing statutes, specific provisions take precedence over general provisions.

Cases that cite this headnote

^[9] **Limitation of Actions**
⇨ Proceedings Constituting Commencement of Action

For statute of limitations purposes, a motion

^[9] may be treated as an independent action or vice versa as is appropriate.

Cases that cite this headnote

^[10] **Divorce**
⇨ Time for proceedings; laches

Six year statute of limitations applicable to former wife's motion to enforce divorce decree provision that required former husband to pay former wife one-half the equity in the marital home began to run when there was evidence of indebtedness, which occurred on the date former wife delivered quitclaim deed to the marital home, regardless of how long wife enjoyed the benefits of the marital home. Nev. Rev. St. §§ 11.190(1)(a), 11.200.

Cases that cite this headnote

^[10] ***881** Appeal from a district court order denying a post-decree motion to enforce a provision of a divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Vincent Ochoa, Judge.

Attorneys and Law Firms

Mills, Mills & Anderson and Gregory S. Mills and Daniel W. Anderson, Las Vegas, for Appellant.

Hofland & Tomsheck and Bradley J. Hofland, Las Vegas, for Respondent.
BEFORE THE COURT EN BANC.¹

OPINION

By the Court, CHERRY, J.:

Nevada's statute of limitations for actions on judgments, Kuntz v. Blinkinson

NRS 11.190(1)(a), provides that an action to enforce the provisions of a judgment or decree from any state or federal court be commenced within six years. NRS 11.200 dictates that the limitations period commences "from the last transaction or the last item charged or last credit given." In the underlying district court action, appellant Dawnette Davidson moved the family division of the district court to enforce a term of the parties' decree of divorce, which required her ex-husband, respondent Christopher Davidson, to pay Dawnette one-half of the equity in the marital home according to a 2006 appraisal in exchange for Dawnette quitclaiming the residence to Christopher. Dawnette commenced this action more than six years after she delivered the quitclaim deed. According to Dawnette, her motion was timely because NRS 125.240 allows the family division of the district court to enforce its decrees without time limitations. She also asserts that her motion was timely because the parties resided together in the marital home until 2011 and it was unreasonable for her to pursue payment from Christopher while she enjoyed the benefits of the residence.

We conclude that the Nevada Legislature did not grant the family divisions of the district courts the authority to endlessly enforce divorce decrees except where the Legislature specifically provided for enforcement regardless of the age of the claim, *see, e.g.*, NRS 125B.050 (allowing enforcement of a child support order without a time limitation for commencing the action). We also conclude that the accrual time for the limitations period in an action on a divorce decree commences "from the last transaction or the last item charged or last credit given." *See* NRS 11.200. Here, the last transaction occurred in 2006, when Dawnette delivered the quitclaim deed to Christopher. As Dawnette delivered the quitclaim deed more than six years before *882 she moved the family division of the district court to enforce the decree, her claim is time-barred.

FACTS

The district court granted Christopher and Dawnette a decree of divorce in 2006. Their decree required Dawnette to execute a quitclaim deed and release all of her rights in the marital residence. In exchange, the decree required Christopher to pay one-half of the equity in the residence, according to the appraised value in 2006, to Dawnette. Approximately two weeks after the parties divorced, they reconciled and cohabitated in the marital residence until 2011. They never remarried. The parties

agree that Dawnette executed the quitclaim deed, and Christopher claims that he refinanced the property and paid half of the equity to Dawnette. However, Dawnette denies that Christopher ever made payment.

In 2014, Dawnette filed a motion to enforce the decree, claiming that she never received her half of the equity in the property. Christopher opposed the motion, arguing that he had previously paid Dawnette her half of the equity. He also argued that the statute of limitations barred Dawnette's claim. In response, Dawnette argued that the statute of limitations had not yet begun to run because the decree did not provide a date by which Christopher was required to tender payment to her. Without deciding whether Christopher paid Dawnette, the district court denied Dawnette's motion. The court concluded that an action to enforce a decree of divorce must be commenced within six years pursuant to NRS 11.190(1)(a) and that Dawnette's claim was therefore untimely.

On appeal, Dawnette argues that (1) the district court erred when it ruled that NRS 11.190(1)(a) barred her action to enforce the decree because NRS 125.240, not NRS 11.190(1)(a), applies to motions to enforce a decree of divorce; and (2) even if NRS 11.190(1)(a) does apply, the statute of limitations had not expired because accrual of the statute of limitations does not begin until demand for performance is made or a reasonable amount of time has passed. Christopher argues that the district court's order denying her motion is not appealable and that the district court correctly ruled that the statute of limitations for Dawnette's claim had passed.

DISCUSSION

Whether this court has jurisdiction to consider Dawnette's appeal

[1] In his answering brief, Christopher argues that no statute or court rule allows this court to review an order denying a motion for enforcement of a judgment. He asserts that although NRAP 3A(b)(8) allows an appeal from an order after final judgment, the order, to be reviewable, must impact a party's rights based on a previous judgment. He asserts that the order at issue interprets the parties' previous decree, but the order does not amend the decree or alter the parties' rights under it.

In her reply, Dawnette argues that the district court's order denying her motion is appealable pursuant to NRAP 3A(b)(8) because it impacts her right to one-half of the equity in the marital residence, as set forth in the decree of divorce. We agree with Dawnette.

NRAP 3A(b)(8) allows an appeal from any "special order entered after final judgment." In *Gumm v. Mainor*, 118 Nev. 912, 914, 59 P.3d 1220, 1221 (2002), this court held that, "to be appealable ..., a special order made after final judgment must be an order affecting the rights of some party to the action, growing out of the judgment previously entered."

In the instant case, Dawnette appeals from the district court's decision and order, which denied her motion to enforce the parties' decree of divorce. The decree of divorce was the final judgment. It adjudicated all of the parties' rights regarding child custody and support, spousal support, and the division of property. See *Gumm*, 118 Nev. at 916, 59 P.3d at 1223. In her motion, Dawnette sought to enforce her right to receive half of the equity in the marital residence, according to the 2006 appraisal value. Her right to receive these funds was established by the decree. Accordingly, the order from which Dawnette appeals is a "special order entered after final judgment," see NRAP 3A(b)(8), because the *883 order denied her claim for one-half of the equity in the property and thus affects Dawnette's rights "growing out of the judgment previously entered," see *Gumm*, 118 Nev. at 914, 59 P.3d at 1221. Therefore, this court has jurisdiction to consider the instant appeal.

Whether the family division of the district court may enforce its decrees without time limitations

^[2]Notwithstanding NRS 11.190(1)(a), Dawnette argues that NRS 125.240 gives the district court plenary power to enforce a decree of divorce any time after it is entered. She claims that because NRS 11.190(1)(a) and NRS 125.240 conflict with each other, this court must give NRS 125.240 priority over NRS 11.190(1)(a). Christopher asserts that all courts have continuing jurisdiction to enforce their decrees. But, he maintains, continuing jurisdiction does not nullify the statute of limitations and grant a court perpetual authority. We agree with Christopher.

^[3] ^[4] ^[5] ^[6] ^[7] ^[8]We review questions of statutory construction de novo. *I. Cox Constr. Co. v. CH2 Invs., LLC*, 129 Nev. 139, 142, 296 P.3d 1202, 1203 (2013). This court's goal in construing statutes is to uphold the

intent of the Legislature and harmonize the statutes, if possible.

Our task is to ascertain the intent of those who enacted the provisions at issue, and to adopt an interpretation that best captures their objective. We must give words their plain meaning unless doing so would violate the spirit of the provision. Whenever possible, we construe provisions so that they are in harmony with each other. Specific provisions take precedence over general provisions.

^[9]*Gunn v. Legislature of State of Nev.*, 119 Nev. 277, 285, 71 P.3d 1269, 1274–75 (2003), *overruled on other grounds by Nevadans for Nev. v. Beers*, 122 Nev. 930, 142 P.3d 339 (2006).

Dawnette's argument that NRS 125.240 allows the family division of the district court to enforce its decrees and judgments without any time limitations is unavailing. NRS 125.240 applies to actions for separate maintenance. However, the parties' action in this case was one for divorce, see NRS 125.010 to 125.185, not separate maintenance, see NRS 125.190 to 125.280. NRS 125.250 states that "[i]n all cases commenced under NRS 125.190 to 125.280, inclusive, the proceedings and practice must be the same, as nearly as may be, as those provided in actions for divorce." Although the proceedings in a separate maintenance case must mirror divorce proceedings as much as possible, this court has never held that the reverse is also true, and we decline to do so today. Accordingly, even if NRS 125.240 allowed the family division to enforce its orders in separate maintenance actions without any time limitations, the statute does not apply to the instant matter, which concerns a decree of divorce.

Additionally, if the Nevada Legislature intended to eliminate the statute of limitations for enforcement of all family division orders, it would have specifically given the district courts such authority. This is evidenced by another statute applying to the enforcement of family division orders. In NRS 125B.050, the Legislature specifically invested the district courts with the authority to enforce child support orders regardless of the age of the claim:

3. If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:

Kuptz v. Blinkinsop

- (a) Collect arrearages in the amount of that support; or
- (b) Seek reimbursement of money paid as public assistance for that child.

(Emphasis added.) The Legislature has not provided such authority for family division orders that divide the parties' joint property. Therefore, we conclude that, other than child support orders, Nevada law does not exclude the family division from the limitations period in NRS 11.190(1)(a).

Similarly, in 2015, the Nevada Legislature amended NRS 125.150(3) to provide a limitations period for postjudgment motions to adjudicate omitted assets in divorce, annulment, or separate maintenance cases. The current statute mandates that the aggrieved party must file such a motion within three years of the discovery "of the facts constituting *884 fraud or mistake." NRS 125.150(3). The same statute provides the family division with "continuing jurisdiction to hear such a motion." *Id.* Thus, we conclude that the Legislature does not equate "continuous jurisdiction" with unending jurisdiction, as the three-year limitations period for postjudgment motions to adjudicate omitted assets demonstrates.

Dawnette further claims that the Legislature did not intend for a divorce litigant to receive a windfall for the full value of a marital property by waiting for the six-year limitations period to end and then selling the property and retaining the full value of the proceeds. While Dawnette's argument has merit, we believe that the Legislature also did not intend for parties to endlessly "sit" on potential claims. *See Doan v. Wilkerson*, 130 Nev. Adv. Op. 48, 327 P.3d 498, 501 (2014) ("The policy in favor of finality and certainty ... applies equally, and some might say especially, to a divorce proceeding."). The Legislature provided NRS 17.214, which Dawnette could have used to prevent Christopher from allegedly receiving a double windfall. NRS 17.214 allows a judgment creditor to renew a judgment and avoid the harsh results that could accompany the expiration of a statute of limitations. Unfortunately, Dawnette failed to avail herself of the statute's protections. Moreover, as we have previously reasoned, "[i]f the legislature had intended to vest the courts with continuing jurisdiction over property rights [in divorce cases], it would have done so expressly." *Id.* (quoting *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395, 397 (1980) (alteration in original)).

¹⁹In *Bongiovi v. Bongiovi*, 94 Nev. 321, 322, 579 P.2d 1246, 1246-47 (1978), this court determined that NRS 11.190 barred a party's recovery of alimony payments that were more than six years old. There, the parties' divorce decree ordered the ex-husband to make ten

monthly alimony payments of \$1,000 to his ex-wife. *Id.* at 322, 579 P.2d 1246. The first payment was due on July 1, 1971, but the ex-wife never received any payments. *Id.* On November 29, 1977, the ex-wife filed a motion seeking a judgment on the arrearages, and the district court subsequently entered a judgment in the amount of \$5,000 on the ex-wife's behalf. *Id.* at 322, 579 P.2d at 1247. The lower court said that recovery of the first five payments was barred by the six-year limitation in NRS 11.190. *Id.* This court agreed that NRS 11.190 applied to the former wife's motion and held that "[t]he six-year period prescribed by that statute commenced to run against each installment as it became due." *Id.* We see no reason to deviate from our prior holding and conclude that a claim to enforce a divorce decree, whether through motion practice or through an independent action, is governed by the limitations period under NRS 11.190 and NRS 11.200.²

¶ Lastly, our holding is consistent with several other states that apply limitations periods to enforcement of property distribution provisions in divorce decrees.³ Thus, we conclude that no basis exists for us to create a new rule that excuses property distribution provisions in divorce decrees from NRS 11.190(1)(a) and that the six-year statute of limitations in NRS 11.190(1)(a) applies to the instant case.

¶
*885 *Whether the statute of limitations has expired for Dawnette's action*

¹⁰Dawnette asserts that even if NRS 11.190(1)(a) does apply, the district court should have concluded that the statute did not begin to run until after the parties' post-decree separation in 2011. She contends that because the decree did not contain a deadline by which Christopher was to tender her interest in the marital property, the time for Christopher's performance was within a reasonable time after the parties' final separation. Dawnette contends that because she was still living in the marital residence and enjoying the benefits of the property, she did not need to seek enforcement of her interest. Christopher charges that even without an express deadline, NRS 11.200 sets when the time begins to run. He explains that the time began to run in 2007, when he refinanced the marital residence because that was when the last undertaking on the property occurred. We conclude that the statute of limitations expired six years after Dawnette delivered the quitclaim deed to Christopher.

NRS 11.200 states as follows: Kuptz v. Blinkinsop

The time in NRS 11.190 shall be deemed to date from the last transaction or the last item charged or last credit given; and whenever any payment on principal or interest has been or shall be made upon an existing contract, whether it be a bill of exchange, promissory note or other evidence of indebtedness if such payment be made after the same shall have become due, the limitation shall commence from the time the last payment was made.

According to NRS 11.200, the statute of limitations began running when there was “evidence of indebtedness” for half of the equity in the marital property to Dawnette. NRS 11.200 comports with our holding in *Borden v. Clow*, 21 Nev. 275, 278, 30 P. 821, 822 (1892).⁴ There, we explained that the running of the statute of limitations begins when a deed is delivered. This court was asked to determine when the statute of limitations began to run in a case where the defendant gave the plaintiff an absolute deed to real property in order to secure a debt. *Id.* at 276, 30 P. at 821. The parties neglected to set a date upon which the payment would be due and disputed whether the plaintiff’s cause of action was barred by the statute of limitations for contracts. *Id.* at 276–77, 30 P. at 821. We concluded that the delivery of the deed triggered the statute of limitations:

It is a rule in regard to the statute of limitations, *applicable in all cases*, that the statute begins to run when the debt is due, and an action can be instituted upon it. There was no agreement between the parties as to when this indebtedness should be paid; therefore the statute began to run immediately upon the delivery of the deed to the defendant.

Id. at 278, 30 P. at 822 (emphasis added). Thus, evidence of indebtedness occurred with the delivery of the deed. Here, the latest time at which the debt was due, pursuant to *Borden*, was after Dawnette delivered the quitclaim deed to Christopher in 2006. As a result, the statute of limitations for Dawnette’s claim has expired. *See* NRS 11.190(1)(a).

Instead of looking to NRS 11.200 and *Borden*, Dawnette relies upon our holding in *Mayfield v. Koroghli*, 124 Nev. 343, 349, 184 P.3d 362, 366 (2008). She asserts that it

was not reasonable for her to pursue her half of the equity in the marital residence while she was still living there—up until 2011. In *Mayfield*, we field that

a fundamental principle of contract law is that the time for performance under a contract is not considered of the essence unless the contract expressly so provides or the circumstances of the contract so imply. If time is not of the essence, the parties generally must perform under the contract within a reasonable time, which depends upon the nature of the contract and the particular circumstances involved.

124 Nev. at 349, 184 P.3d at 366 (footnotes and quotations omitted). Even if the decree of divorce were a simple contract, Dawnette does not explain why a “reasonable time,” *see* *886 *id.* to demand performance under the decree of divorce was after the parties separated in 2011, instead of when she delivered the deed in 2006. We conclude that Dawnette’s claim—that it was not reasonable to demand performance while she enjoyed the benefits of the marital residence—is unpersuasive. Dawnette apparently believed that her delivery of the deed was reasonable and Christopher’s refinancing of the property was reasonable. Therefore, demanding payment, despite living in the marital residence, was likewise reasonable. Moreover, the consideration for receiving half of the equity was Dawnette’s deliverance of the deed so that Christopher could title the house in his name alone. The decree does not indicate that she was to vacate the residence in consideration for half of the equity. Consequently, Christopher became indebted to Dawnette when she delivered the deed to him, not when she vacated the residence in 2011.

Thus, we conclude that NRS 11.200 and our holding in *Borden* apply here and the statute of limitations began running after Dawnette delivered the quitclaim deed to Christopher in 2006. Because the statute of limitations expired in 2012, Dawnette’s motion is time-barred pursuant to NRS 11.190(1)(a).

CONCLUSION

We hold that the six-year statute of limitations in NRS

11.190(1)(a) applies to claims for enforcement of a property distribution provision in a divorce decree entered in the family divisions of the district courts. Like any other claim “upon a judgment or decree of any court of the United States, or of [any court of] any state or territory within the United States,” *see* NRS 11.190(1)(a), actions to enforce the provisions of a divorce decree must be initiated within six years. We further hold that when a litigant seeks to enforce a provision in a decree awarding him or her half of the equity in marital property, the statute of limitations begins to accrue when there is evidence of indebtedness, which occurred in this case when Dawnette delivered the quitclaim deed to Christopher. Accordingly, we affirm the decision of the district court.

We concur:

Parraguirre, C.J.

Hardesty, J.

Douglas, J.

Gibbons, J.

Pickering, J.

All Citations

382 P.3d 880, 132 Nev. Adv. Op. 71

Footnotes

- 1 The Honorable Nancy M. Saitta, Justice, having retired, this matter was decided by a six-justice court.
- 2 We do not distinguish between a motion and an independent action to enforce a divorce decree because “[a] party is not bound by the label he puts on his papers.” *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 652, 218 P.3d 853, 857 (2009) (internal citations and quotation marks omitted). “A motion may be treated as an independent action or vice versa as is appropriate.” *Id.*
- 3 *See, e.g., Cedergreen v. Cedergreen*, 811 P.2d 784, 786 (Alaska 1991) (limiting actions upon divorce decrees to ten years); *Mark v. Safren*, 227 Cal.App.2d 151, 38 Cal.Rptr. 500, 503–04 (1964) (imposing a ten-year statute of limitations upon a divorce decree); *O’Hearn v. O’Hearn*, 99 Md.App. 537, 638 A.2d 1192, 1195 (1994) (restricting litigation upon a divorce decree to a 12-year statute of limitations); *Tauber v. Lebow*, 65 N.Y.2d 596, 493 N.Y.S.2d 1008, 483 N.E.2d 1140, 1142 (1985) (placing a six-year statute of limitations on claims from divorce decrees); *Wichman v. Shabino*, 851 N.W.2d 202, 205 (S.D. 2014) (recognizing a limitations period of 20 years to enforce a divorce decree); *Abrams v. Salinas*, 467 S.W.3d 606, 611 (Tex. App. 2015) (subjecting a case upon a decree of divorce to a ten-year limitations statute); *Kessimakis v. Kessimakis*, 977 P.2d 1226, 1229 (Utah Ct. App. 1999) (constraining a suit on a divorce decree to an eight-year statute of limitations).
- 4 Although the *Borden* case is over 100 years old, we have never overruled its holding, nor do we find cause to do so now.

PROOF OF SERVICE

STATE OF NEVADA)
)
COUNTY OF CLARK)

On December 8, 2018, I served the forgoing document(s) described as 1) **DEFENDANT/COUNTER-CLAIMANT THOMAS BLINKINSOP’S OPPOSITION TO PLAINTIFF’S MOTION FOR DECLARATORY RELIEF AND DEFENDANT/COUNTER-CLAIMANT’S COUNTER-MOTION FOR SUMMARY JUDGMENT** 2) **DEFENDANT BLINKINSOP’S CONCISE SEPARATE STATEMENT OF OF UNDISPUTATED MATERIAL FACTS IN SUPPORT OF COUNTER MOTION FOR SUMMARY JUDGMENT** on interested party(ies) in this action by either fax and/or email, or by placing a true and correct copy and/or original thereof addressed as follows:

BEN CHILDS, ESQ
318 South Maryland Pkwy
Las Vegas, NV 89101
ben@benchilds.com

(BY FIRST CLASS MAIL) I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal service on that same day with first class postage thereon fully prepaid at Las Vegas, NV in the ordinary course of business.

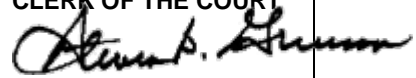
(BY PERSONAL SERVICE) I delivered such envelope by hand to the office, and/or to the attorney listed as the addressee below.

(BY FAX SERVICE) Pursuant to consent under NRCP, Rule 5(b), I hereby certify that service of the aforementioned document(s) via facsimile, pursuant to EDCR Rule 7.26(a), as set forth herein.

(BY EMAIL SERVICE) (Wiznet/email) Pursuant NRCP, Rule 5(b)(2)(D), and the EDCR on electronic service, I hereby certify that service of the aforementioned document(s) via email to pursuant to the relevant and pertinent provisions of EDCR and NRCP, as set forth herein.

Executed on this 6th day of December, 2018, at Las Vegas, Nevada

/s/ George O. West III
GEORGE O. WEST III



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9 Attorney for Defendant/Counter-Claimant
10 **THOMAS BLINKINSOP**

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

13 TRISHA KUPTZ-BLINKINSOP,
14 aka TRISHA MARGOLIS,

CASE NO : A-18-783766-C
DEPT : XVIII

15 Plaintiff,

**CONCISE SEPARATE STATEMENT
OF MATERIAL UNDISPUTED FACTS
IN SUPPORT OF BLINKINSOPS
COUNTER MOTION FOR SUMMARY
JUDGMENT**

16 v

DATE: December 18, 2018

17 THOMAS R. BLINKINSOP,

TIME : 9:00 a.m.

18 Defendant,

19 _____/
20 THOMAS R. BLINKINSOP,

21 Counter-Claimant

22 v

23 TRISHA KUPTZ,-BLINKINSOP,
24 a/k/a TRISHA MARGOLIS,

25 Counter Defendant,
26 _____/
27
28

UNDISPUTED MATERIAL FACT

SUPPORTING EVIDENCE

1 **1.** Plaintiff (“KUPTZ”) and Defendant
2 (“BLINKINSOP”) were legally married
3 on June 8, 2002.
4

Dec. of BLINKINSOP ¶ 3.

5 **2.** During the marriage BLINKINSOP
6 purchased the Deer Springs Property in
7 March of 2004 “as a married man as
8 sole and separate property,” as KUPTZ
9 was not on the loan in acquiring the
10 property, which was the marital home
11 BLINKINSOP and KUPTZ lived in
12 during the duration of their marriage.

Dec. of BLINKINSOP ¶ 4; Exh. 1,
March 8, 2004 Deed.

13 **3.** On October 28, 2005, BLINKINSOP
14 executed a grant deed conveying the
15 Deer Springs Property to “Thomas
16 Blinkinsop and Trisha Kuptz as
17 husband and wife as joint tenants with
18 right of survivorship.”

Dec. of BLINKINSOP ¶ 5; Exh. 2,
October 28, 2005 Deed.

19 **4.** On April 3, 2009, KUPTZ filed a
20 Complaint for Divorce in the Eighth
21 Judicial District Court and was
22 represented by counsel.

Exh. 3; Complaint

23 **5.** As part of her divorce action KUPTZ
24 sought a dissolution of her marriage
25 with BLINKINSOP and also
26 ***specifically sought, in her***
27 ***Complaint*** for the Court to adjudicate
28 any and equitable distribution and
division of all community and separate
property and debts as between KUPTZ
and BLINKINSOP.

Exh. 3; Complaint, 2: 14-16

6. BLINKINSOP filed an Answer in Pro
Per.

Exh. 4A

1 7. Shortly after BLINKINSOP filed his
2 Answer in the underlying divorce
3 action, he and KUPTZ agreed to the
4 division of the marital estate, separate
5 property and assets and debts and to
6 have KUPTZ's attorney draw up the
7 divorce decree.

Dec. of BLINKINSOP, ¶ 6

8 8. Shortly after informally agreeing to
9 the division of property, KUPTZ and
10 BLINKINSOP met KUPTZ's family law
11 attorneys at her office to agree to an
12 uncontested summary divorce and to
13 formally work out a final property
14 division and distribution.

Dec. of BLINKINSOP, ¶ 7

15 9. The Deer Springs Property was part
16 of the marital estate under the October
17 28, 2005 deed at it was held by
18 BLINKINSOP and KUPTZ *as husband
19 and wife as joint tenants with right of
20 survivorship.*

Exh. 2, October 28, 2005 Deed; Dec. of
BLINKINSOP ¶ 5

21 10. The Deer Springs Property was the
22 marital home where both KUPTZ and
23 BLINKINSOP resided during the course
24 of their marriage and was part of the
25 marital estate.

Dec. of BLINKINSOP ¶ 5

26 11. By profession, KUPTZ was a
27 licensed and active real estate agent in
28 Nevada, and was so during her entire
marriage with BLINKINSOP.

Dec. of BLINKINSOP ¶ 8

1 **12.** As a professional real estate agent,
2 and also being represented by counsel,
3 **KUPTZ knew and had full**
4 **knowledge and understanding**
5 that she was on title to the Deer Springs
6 Property via a grant deed dated October
7 28, 2005, and therefore understood she
8 had an ownership interest in that real
9 property at the time she filed her
10 Complaint for Divorce.

Exh. 5, Divorce Decree

11 **13.** The uncontested divorce decree
12 was the **direct product and result** of
13 the agreement between KUPTZ and
14 BLINKINSOP with respect to the
15 division and distribution of all of the
16 marital separate estate, assets, and
17 liability, including all real properties,
18 wherein KUPTZ's attorney was directly
19 involved.

Dec. of BLINKINSOP ¶ 7

20 **14.** Shortly after the meeting with
21 KUPTZ's family law attorney of record
22 in the underlying divorce case, KUPTZ's
23 attorney (Stacy Roceleau) prepared the
24 divorce decree which memorialized the
25 agreed upon distribution and division
26 of marital estate and debts as well as
27 separate property and debts.

Dec. of BLINKINSOP ¶ 7

28 **15.** Knowing the Deer Springs Property
was part of the marital estate, and
knowing of her ownership interest in
the property, KUPTZ **expressly**
agreed in the divorce decree that the
Deer Springs Property was
BLINKINSOP's sole and separate
property.

Exhibit 5, Divorce Decree, 4: 3-7

1 **16.** The divorce decree expressly states
2 that KUPTZ “fully reviewed and agreed”
3 to the property distribution in the
4 divorce decree.

Exhibit 5, Divorce Decree, 1: 16-19

5 **17.** When KUPTZ executed the
6 uncontested divorce decree, she was
7 fully aware and understood that she was
8 giving up and relinquishing any and all
9 ownership interest in the Deer Springs
10 Property via the uncontested summary
11 divorce decree.

Exhibit 5, Divorce Decree, 1: 16-19, 4:
3-7

12 **18.** BLINKINSOP was to hold KUPTZ
13 harmless from any encumbrances on
14 the Deer Springs Property, and KUPTZ
15 was relieved from any further payments
16 on any encumbrances on the Deer
17 Springs Property under the divorce
18 decree.

Exhibit 5, Divorce Decree, 4: 3-7

19 **19.** The uncontested and summary
20 divorce decree prepared by KUPTZ’s
21 attorney makes clear that that **both**
22 **parties had reviewed it prior to**
23 **signing it.**

Exhibit 5, Divorce Decree, 1: 16-19, 4:
3-7

24 **20.** Both KUPTZ and BLINKINSOP
25 signed the uncontested divorce decree
26 and had their signature notarized.

Exhibit 5, Divorce Decree, 6: 1-9

27 **21.** At the time the divorce decree was
28 executed, the Deer Springs Property
had significant negative equity in the
approximate amount of \$180.00.00

Dec. of BLINKINSOP ¶ 6

1 **22.** Under the divorce decree KUPTZ
2 agreed to and was ordered to tender a
3 quit claim deed to BLINKINSOP
4 conveying her relinquished ownership
interest to BLINKINSOP with respect to
the Deer Springs Property

Exhibit 5, Divorce Decree, 4: 3-7

5 **23.** KUPTZ agreed to and was ordered
6 to “fully cooperate” in executing any
7 and all documents to effectuate transfer
of title to the Deer Springs Property

Exhibit 5, Divorce Decree, 5: 5-9

8 **24.** KUPTZ failed and still refuses to
9 tender the required quit claim deed
10 involving the Deer Springs Property to
BLINKINSOP

Exh. 2, Complaint

11 **25.** KUPTZ paid no further mortgage
12 payments, property taxes, hazard
13 insurance or for any improvements or
14 maintenance to the property after the
divorce decree was filed in 2009.

Dec. of BLINKINSOP ¶ 10.

15 **26.** For the last nine and half years,
16 since the divorce decree became final,
17 BLINKINSOP has been residing in the
18 Deer Springs Property, has paid all
19 mortgage payments, all property taxes,
20 hazard insurance and any maintenance
21 and improvements on the property, and
the property now has \$ 150,000 in
equity in it.

Dec. of BLINKINSOP ¶ 10.

22
23 Dated this 6th day December, 2018

24 By /s/ George O. West III
25 George O. West III
26 Law Offices of George O. West III
27 Attorney for Plaintiff/Counter Claimant
28 **THOMAS BLINKINSOP**

PROOF OF SERVICE

STATE OF NEVADA)
)
COUNTY OF CLARK)

On December 8, 2018, I served the forgoing document(s) described as 1) **DEFENDANT/COUNTER-CLAIMANT THOMAS BLINKINSOP’S OPPOSITION TO PLAINTIFF’S MOTION FOR DECLARATORY RELIEF AND DEFENDANT/COUNTER-CLAIMANT’S COUNTER-MOTION FOR SUMMARY JUDGMENT** 2) **DEFENDANT BLINKINSOP’S CONCISE SEPARATE STATEMENT OF OF UNDISPUTATED MATERIAL FACTS IN SUPPORT OF COUNTER MOTION FOR SUMMARY JUDGMENT** on interested party(ies) in this action by either fax and/or email, or by placing a true and correct copy and/or original thereof addressed as follows:

BEN CHILDS, ESQ
318 South Maryland Pkwy
Las Vegas, NV 89101
ben@benchilds.com

(BY FIRST CLASS MAIL) I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal service on that same day with first class postage thereon fully prepaid at Las Vegas, NV in the ordinary course of business.

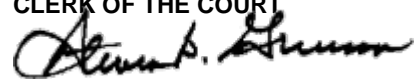
(BY PERSONAL SERVICE) I delivered such envelope by hand to the office, and/or to the attorney listed as the addressee below.

(BY FAX SERVICE) Pursuant to consent under NRCP, Rule 5(b), I hereby certify that service of the aforementioned document(s) via facsimile, pursuant to EDCR Rule 7.26(a), as set forth herein.

(BY EMAIL SERVICE) (Wiznet/email) Pursuant NRCP, Rule 5(b)(2)(D), and the EDCR on electronic service, I hereby certify that service of the aforementioned document(s) via email to pursuant to the relevant and pertinent provisions of EDCR and NRCP, as set forth herein.

Executed on this 6th day of December, 2018, at Las Vegas, Nevada

/s/ George O. West III
GEORGE O. WEST III



1 BENJAMIN B. CHILDS
2 Nevada Bar # 3946
3 318 S. Maryland Parkway
4 Las Vegas, Nevada 89101
5 (702) 385-3865
6 Fax 384-1119
7 ben@benchilds.com
8 Attorney for Plaintiff/Counterdefendant

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP)
9 nka TRISHA MARGOLIS)
10 Plaintiff/Counterdefendant)

CASE NO. A-18-783766-C
DEPT. NO. 9

11 v.)

REPLY TO OPPOSITION AND
OPPOSITION TO COUNTERMOTION

12 THOMAS R. BLINKINSOP)
13 Defendant/Counterclaimant)

Hearing : 1/15/2019 @ 08:30 AM

14 INTRODUCTION

15
16 TRISHA replies to the Thomas' Opposition and opposes Thomas'
17 Countermotion. Further, given that the Countermotion was one for summary
18 judgment before discovery has commenced, Trisha moves for continuance
19 pursuant to NRCP 56(f), which states as follows :

20
21 (f) When Affidavits Are Unavailable. Should it appear from the affidavits of
22 a party opposing the motion that the party cannot for reasons stated
23 present by affidavit facts essential to justify the party's opposition, the court
24 may refuse the application for judgment or may order a continuance to
25 permit affidavits to be obtained or depositions to be taken or discovery to
26 be had or may make such other order as is just.

27 Since discovery hasn't even commenced, in an abundance of caution, the
28 declaration of Trisha's attorney is attached supporting her motion for continuance
29 pursuant to NRCP 56(f), which should be read in conjunction with Trisha's own
30 declarations. The Court cannot grant summary judgment without allowing
31 discovery as there are factual issues regarding the equitable defenses raised in
32 Thomas' motion.

1 Thomas is asking this court to enforce a divorce decree which would be
2 unenforceable in the family court case. Thomas's Opposition's aggressive
3 employment of bold type and underlining is an desperate effort to convince the
4 court that he has a legal basis to avoid Trisha's ownership interest in the Subject
5 Property, when he has none.

7 TIME LIMITS ON ENFORCEMENT OF FAMILY COURT JUDGMENTS

9 Interestingly, even spousal support payments expire on an ongoing basis if
10 the a divorce decree is not renewed. Bongiovi v. Bongiovi, 94 Nev. 321, 579 P.2d
11 1246 (1978). In that case, the Nevada Supreme Court determined that NRS
12 11.190 barred a party's recovery of alimony payments that were more than 6
13 years old. The Davison decision expressly upheld that reasoning. . Davidson
14 vs. Davidson, 132 Nev. ___, ___, 382 P. 3d 880, 887 (2016)

15 As in Bongiovi, NRS 125.240, in conjunction with NRS 11.190, bars
16 Thomas from recovering in this case, as the decree is over 6 years old.

17
18 NRS 125.240 Enforcement of judgment and orders: Remedies. The
19 final judgment and any order made before or after judgment may be
20 enforced by the court by such order as it deems necessary. A
21 receiver may be appointed, security may be required, execution may
22 issue, real or personal property of either spouse may be sold as
23 under execution in other cases, and disobedience of any order may
24 be punished as a contempt.

25 NRS 11.190 Periods of limitation. Except as otherwise provided in
26 NRS 125B.050 and 217.007, actions other than those for the
27 recovery of real property, unless further limited by specific statute,
28 may only be commenced as follows:

29 1. Within 6 years:

30 (a) An action upon a judgment or decree of any court of the
31 United States, or of any state or territory within the United
32 States, or the renewal thereof.

1 The instant case is factually identical to Davidson, which involved a
2 Nevada couple who was divorced in 2006. Their divorce decree stated that the
3 wife would quit-claim her rights to the marital residence over to her husband and
4 that the husband would pay her one-half of the home's equity. Such agreements
5 are common in Nevada divorces. The parties, however, reconciled and began
6 living together again only two weeks after their divorce was finalized. The parties
7 separated again in 2011 and the wife did not seek to file to enforce the order,
8 regarding her half of the former marital home's equity, until 2014.

9 Davidson expressly holds that since Thomas missed the 6 year deadline,
10 he cannot ask the Court to enforce the 2009 Divorce Decree.

11
12 We conclude that the Nevada Legislature did not grant the family
13 divisions of the district courts the authority to endlessly enforce
14 divorce decrees except where the Legislature specifically provided for
15 enforcement regardless of the age of the claim, see, e.g., NRS
16 125B.050 (allowing enforcement of a child support order without a
17 time limitation for commencing the action). Id @ 2.

18 Prior to Davison, this provision normally applied to situations involving a
19 money judgment when the judgment creditor fails to timely renew the judgment
20 and the right to collect lapses. By applying the limitations statute to divorce
21 decrees Davidson expressly set a precedent that a party wants to enforce
22 property and/or debt distributions in a divorce decree, that party only has six years
23 to go back to Court and ask for enforcement of the decree.

24 Again, Thomas cannot enforce the 2009 Divorce Decree in the family court
25 case. Another court is likewise barred from enforcing the same decree. Any
26 other result would totally contradict the Davidson decision..

27 STATUTE OF FRAUDS

28
29 Thomas executed and on December 2, 2005 a Grant, Bargain and Sale
30 Deed was recorded memorializing ownership of the Subject Property [Exhibit 1].
31 No other deed has been executed regarding the Subject Property.

1 Thomas now takes the totally unsupported position that the 2009 Divorce
2 Decree which at the time entitled him to receive a deed, operates to transfer
3 Trisha's interest in the Subject Property to him. Thomas' argument completely
4 ignores the unambiguous holding in Davidson set forth in Trisha's motion.
5 Thomas would have had a possible, though losing argument, before Davidson
6 was decided in 2016, but he has no legal argument now. In fact, Thomas's
7 argument makes absolutely no sense and has no legal basis now.

8 The statute of frauds requiring that all transfer of rights in real property be
9 in writing has been the law for literally hundreds of years to prevent people like
10 Thomas from being able to waste everyone's time as is happening herein.
11 Nevada's statute of frauds is set forth below.

12 NRS 111.205 No estate created in land unless by operation of law or
13 written conveyance; leases for terms not exceeding 1 year.

14
15 1. No estate or interest in lands, other than for leases for a term not
16 exceeding 1 year, nor any trust or power over or concerning lands, or
17 in any manner relating thereto, shall be created, granted, assigned,
18 surrendered or declared after December 2, 1861, unless by act or
19 operation of law, or **by deed or conveyance, in writing,**
20 **subscribed by the party creating, granting, assigning,**
21 **surrendering or declaring the same,** or by his lawful agent
22 thereunto authorized in writing.

23 Thomas could have enforced the 2009 Divorce Decree while it was
24 enforceable. Thomas failed to take any action until literally December, 2018,
25 after the Divorce Decree had expired and become void.

26 JUDGMENTS THAT ARE NOT RENEWED ARE VOID

27 NRS 17.150 (2) expressly sets the duration of divorce decree at 6 years.
28 "... The lien continues for 6 years after the date the judgment **or decree** was
29 docketed, and is continued each time the judgment **or decree** is renewed,..."

30 This is the same time period as NRS 11.190.
31
32

1 It is undisputed in this case that Thomas did not timely renew the Divorce
2 Decree. Pursuant to NRS 17.214(1)(a), a judgment must be renewed “within
3 90 days before the date the judgment expires by limitation.”

4 Leven v. Frey 123 Nev. 399, 168 P.3d 712 (2007) is the seminal case
5 interpreting NRS 17.214. The judgment creditor in Leven timely filed the Affidavit
6 of Renewal, but did not serve the Affidavit until 12 days later, and did not record
7 the Affidavit until 17 days after it was filed, “well beyond the three-day
8 requirement for recording and service.” Id @ 399

9 Leven held by a unanimous decision that absent strict compliance with the
10 time and service requirements of the statute, the judgment is void. Court’s
11 decision is unambiguous.

12
13 ...we conclude that a judgment creditor must strictly comply
14 with the timing requirement for service under NRS 17.214(3) in order
15 to successfully renew the judgment. As Frey failed to comply with
16 this service requirement as well as the recordation requirement, the
17 judgment against Leven was not properly renewed and thus, it
18 expired.

19 CONCLUSION

20 NRS 17.214 requires a judgment creditor to timely file, record
21 (when the judgment to be renewed is recorded), and serve his or her
22 affidavit of renewal to successfully renew a judgment, and strict
23 compliance with these provisions is required. As Frey did not timely
24 record and serve his affidavit of renewal, he did not comply with NRS
25 17.214(1)(b) and (3), and thus he failed to successfully renew the
26 judgment. . We therefore reverse the district court's order denying
27 Leven's motion to declare void the expired judgment and remand this
28 matter to the district court with instructions that it grant the motion. Id
29 @ 409

30 Thus, an unrenewed judgment is VOID, not just voidable. VOID. Once
31 expired, the judgment is “dead” and is void and unenforceable. This holding is
32 consistent in other states.

1 Counsel also located an older Ohio App case, Pavarini v. Rini, 1981 Ohio
2 App. LEXIS 10930 (1981). In that case, the Ohio creditor was trying to enforce a
3 foreign judgment from Arizona. This effort was denied and was appealed. In the
4 appellate opinion, the court said that if the judgment had expired under Arizona
5 law, it was "dead" for all purposes and could not be revived by any means.

6 Burshan v. Nat. Union Fire Ins. Co., 805 So. 2d 835 (Fla. Dist. Ct. App.
7 2001) was Florida collection case in which a creditor was attempting to collect on
8 a New York judgment by garnishing assets in Florida after the judgment had
9 expired. The Florida District Court of Appeals held that untimely proceedings to
10 enforce a final judgment, which Thomas effectively is seeking in his
11 Countermotion, are barred by the statute of limitations.

12
13 TERRIBLE DECISION IS INAPPLICABLE

14
15 The 1975 Terrible decision regarding partition of real property which was
16 distributed by a divorce decree is inapplicable to the instant case. There is
17 evidence of an agreement, as was present between the Terrible's, about
18 residency, distribution at sale, etc. If Thomas' reliance on the holding in Terrible
19 is adopted by the Court, it would result in granting Trisha's declaratory relief
20 motion in that she is solely seeking a declaration that she is seeking an order
21 quieting title in the Subject Property in the name of TRISHA KUPTZ-BLINKINSOP nka
22 TRISHA MARGOLIS as to a 50% interest and THOMAS R. BLINKINSOP as to a 50%
23 interest.

24 Although Thomas doesn't seek injunctive relief in his Countermotion,
25 the effect of the Court adopting the Terrible holding in this case would be to
26 reform the 2009 Divorce Decree to have Thomas be entitled to live in the
27 property and be solely responsible for the expenses until sale. This action
28 is expressly prohibited by the Davidson decision, NRS 125.240 and NRS
29 11.190(1)(a).

1 EQUITABLE DEFENSES CITED BY THOMAS ARE EITHER
2 IRRELEVANT OR THEY BENEFIT TRISHA

3
4 Given the express holding above, Thomas' equitable arguments
5 based on estoppel, waiver, and unclean hands are all irrelevant because
6 those preceded the divorce and were part of the divorce decree that is now
7 dead for all purposes relevant to the instant proceeding.

8 In fact, Thomas's equitable arguments should be equally applied
9 against him and merely serve to further justify the result required by Leven
10 and Davidson, that being that the 2009 Divorce Decree expired, and is
11 void.

12 13 WAIVER

14 A. DEFINITION OF WAIVER

15 Waiver "is comprehensively defined as a voluntary and intentional
16 relinquishment or abandonment of a known existing legal right, advantage,
17 benefit, claim or privilege, which except for such waiver the party would
18 have enjoyed." 31 C.J.S. Section 61. See also Manual of Model Civil Jury
19 Instructions for the Ninth Circuit, 1985 edition, West Publishing Company,
20 page 235.

21 22 B. LAW OF WAIVER IN NEVADA

23
24 Waiver has been defined as "the intentional relinquishment of a
25 known right." Mahban v. MGM Grand Hotels, 100 Nev. 593, 596, 691 P.2d
26 421, 423 (1984). A determination of whether there has been a waiver is
27 usually a question best reserved for the trier of fact. Id. However, the
28 circumstances of this action clearly indicate waiver as a matter of law.

29 In Thompson v. City of North Las Vegas, 108 Nev. 435, 833 P.2d 1132
30 (1992), the Supreme Court of Nevada held that waiver of a right is appropriate

1 whenever a party has knowledge of the facts and relinquishes his right.

2 Mill-Spex, Inc. v. Pyramid Precast Corporation, 101 Nev. 820, 710 P.2d
3 1387(1985) was a landlord/tenant case wherein the landlord sued to collect rent
4 due and the tenant counterclaimed for damages arising from the landlord's failure
5 to make necessary repairs. The Nevada Supreme Court held that the renewal of
6 the lease by the lessee "does not, in itself, constitute a waiver of its right to seek
7 damages." id @ 1388. The court stated, "A waiver is the intentional
8 relinquishment of a known right. A waiver may be implied from conduct which
9 evidences an intention to waive a right, or by conduct which is inconsistent with
10 any other intention than to waive the right." id @ 1388 [citations omitted].

11 In this case, Thomas could have sought to enforce the Divorce Decree
12 under NRS 125.240, as the Court expressly addressed in Davidson, but he failed
13 to do so. He could have renewed the Divorce Decree, but he failed to do so.

14 15 ESTOPPEL

16 A. DEFINITION OF ESTOPPEL

17 The law of estoppel is based on common law equitable principles.
18 "Equitable estoppel is defined in many cases as the effect of the voluntary
19 conduct of a party whereby he is absolutely precluded, both at law and in equity,
20 from asserting rights which might perhaps have otherwise existed, ..., as against
21 another person who in good faith relied on such conduct, and has been led
22 thereby to change his position for the worse, and who on his part acquires some
23 corresponding right either of contract or of remedy." 31 C.J.S. section 59.

24 25 B. ELEMENTS OF ESTOPPEL IN NEVADA

26 The elements of estoppel are defined in Nevada law in SOUTHERN
27 NEVADA MEMORIAL HOSPITAL v. STATE OF NEVADA, DEPARTMENT OF
28 HUMAN RESOURCES, 101 Nev. 387, 705 P. 2d 139 (1985), cited SIIS v. Giles
29 110 Nev. 216, 220, 871 P.2d 920 (1994) Southern dealt with hospitals seeking to
30 reinstate letters of approval issued by the Department of Human Resources and
31

1 then later rescinded. While one important issue in that case was whether the
2 doctrine of equitable estoppel could be applied at all to a government agency, the
3 Nevada Supreme Court restated the elements of equitable estoppel as set forth
4 in Chequer, Inc. v. Painters & Decorators, 98 Nev. 609, 655 P.2d 996 (1982).

5 These elements are:

6 "1) The party to be estopped must be apprized of the true facts

7 2) He must intend that his conduct shall be acted upon, or must so act that the
8 party asserting estoppel has the right to believe it was so intended

9 3) The party asserting the estoppel must be ignorant of the true state of facts

10 4) He must have relied to his detriment on the conduct of the party to be

11 estopped" SOUTHERN NEVADA MEMORIAL HOSPITAL v. STATE OF

12 NEVADA, DEPARTMENT OF HUMAN RESOURCES, 705 P. 2d 139 @ 142

13 (1985). The court in Southern went on to analyze each element as applied to
14 the fact situation and simply looked to see if the element was present before
15 moving on to the next element.

16
17 C. APPLICATION OF THE ELEMENTS TO THE INSTANT CASE

18 1) The party to be estopped must be apprized of the true facts. Thomas
19 claims that he knew that he was entitled to get a deed to the Subject Property.
20 His entire argument is that he knew when he signed the Divorce Decree in 2009
21 that he was entitled to get a deed to the Subject Property.

22 2) He must intend that his conduct shall be acted upon, or must so act that
23 the party asserting estoppel has the right to believe it was so intended

24 Thomas took NO action to enforce the Decree of Divorce. As outlined in
25 her affidavit, Trisha moved on with her life post-divorce believing that she is the
26 co-owner of the Subject Property since she never transferred her ownership
27 interest. Meanwhile, Thomas was accepting rent for a long time and not making
28 payments on a condo located at 2405 W. Serene Avenue # 814 Las Vegas, NV,
29 which mortgage was solely in Trisha's name. This eventually forced her to file
30 bankruptcy.

1 3) The party asserting the estoppel must be ignorant of the true state of
2 facts.

3 Trisha did even know that Thomas was seeking to enforce the Divorce
4 Decree, since he took no action until after she initiated the instant action.

5
6 4) He must have relied to his detriment on the conduct of the party to be
7 estopped

8 Even the smallest change in position, in reliance on the party to be
9 estopped representations, satisfies the detrimental reliance requirement.

10 Alpark Distributing, Inc. v. Poole, 600 P.2d 229 (1979) was a Nevada case
11 dealing with enforcement of an oral contract for the lease of real property. While
12 the statute of frauds would normally have prevented enforcement of the lease,
13 the Nevada Supreme Court held that the lease was enforceable due to the
14 lessor's representations which induced the lessee's to move from their home
15 based on the lease which was in dispute in that case.

16 The Alpark Distributing, Inc. court stated, "Detrimental reliance sufficient to
17 create an estoppel does not necessarily require a showing of financial or
18 pecuniary loss." id @ 231.

19 The Nevada Supreme Court has further stated as follows :

20
21 The doctrine of equitable estoppel is properly invoked
22 whenever "unconscionable injury would result from denying
23 enforcement of the contract after one party has been induced by the
24 other seriously to change his position in reliance on the contract."

25 Alpark Distributing Inc. v. Poole, 95 Nev. 605, 600 P.2d 229 (1979);

26 Monarco v. Lo Greco, 35 Cal.2d 621, 220 P.2d 737 (Cal. 1950).

27 Goldstein v. Hanna 97 Nev. 559, 563, 635 P.2d 290 (1981)

28
29 In the instant case Trisha clearly changed her position by filing a
30 bankruptcy and incurring all the resultant financial penalties. Her bankruptcy

1 directly benefitted Thomas, because the HELOC which encumbered the Subject
2 Property was discharged, resulting in an increase in net equity in the Subject
3 Property. Meanwhile, Thomas has received no ding on his credit, only Trisha
4 has.

5
6 LACHES

7
8 Laches is an equitable doctrine which essentially requires prompt action to
9 enforce a right against another person. Thomas waited for over nine years after
10 the Divorce Decree to address the ownership issue of the Subject Property. He
11 did not take prompt action to enforce the Divorce Decree

12
13 UNCLEAN HANDS

14
15 Thomas cannot seek equitable relief from this Court unless he has clean
16 hands. Clean hands means that he must have acted properly throughout her
17 dealings with Respondent. Thomas collected rent without making mortgage
18 payments on the Serene Property, as was required in the 2009 Decree of Divorce
19 [Exhibit 1, 4:10] thereby forcing Trisha to file bankruptcy.

20
21 CONCLUSION

22
23 The Davidson court expressly precluded the exact arguments that Thomas
24 makes, as set forth above.

25 Thomas is effectively trying to get another district court to enforce a family
26 division decree, which could not be enforced by the original court, in direct
27 contradiction of the Davidson decision.

28 For that, and the other reasons set forth above, Thomas's counter motion
29 for summary judgment should be denied, and Trisha's Motion for Declaratory

1 Relief should be granted.

2
3 /s/ Benjamin B. Childs

4 ~~BENJAMIN B. CHILDS, ESQ.~~
5 Nevada Bar No. 3946
6 Attorney for Plaintiff/Counterdefendant

6 DECLARATION OF COUNSEL REGARDING LACK OF DISCOVERY

7
8 I am the attorney for Plaintiff/Counterdefendant TRISHA KUPTZ-BLINKINSOP
9 nka TRISHA MARGOLIS.

10 If the court is considering granting the summary judgment motion filed by
11 Thomas based on equitable defenses, Trisha requests a continuance to conduct
12 discovery as discovery has not commenced in this case. Testimony, affidavits
13 and other admissible evidence such as responses to written discovery,
14 documents, and inspection of physical items are not possible to be produced until
15 discovery has been completed. Thus, this declaration is made pursuant to NRCP
16 56(f) in response to Defendant's Motion for Summary Judgment.

17 Two examples of the relevant evidence which can be obtained through
18 discovery include the following :

- 19 a. The amount and payment history of the HELOC on 2405 W. Serene
20 Avenue # 814 Las Vegas, NV property, which Thomas was to pay
21 pursuant to the 2009 Divorce Decree. [Exhibit 1, 4:10]
22 b. The amount and payment history and rent received on 10169 Quilt
23 Tree Street Las Vegas, NV, title to which was to be transferred into a
24 limited liability company with the profit from rentals or sale to be split.
25 See 2009 Divorce Decree. [Exhibit 1, 4:17-21]

26 These statements are made based on my personal knowledge. I declare
27 under penalty of perjury that the foregoing is true and correct.

28
29 Executed on January 7, 2019

/s/ Benjamin B. Childs, Sr.
Benjamin B. Childs, Sr.

1 CERTIFICATE OF ELECTRONIC SERVICE

2
3 This REPLY TO OPPOSITION AND OPPOSITION TO COUNTERMOTION, with
4 attached Declarations, was served through the File and Serve system to
5
6 opposing counsel on the date of filing. Electronic service is in place of service by
7 mailing.
8

9
10 /s/ Benjamin B. Childs

11 _____
12 BENJAMIN B. CHILDS, ESQ.
13 NEVADA BAR # 3946
14
15
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32

DECLARATION OF TRISHA MARGOLIS

I wanted to clarify that the Deer Springs home had a HELOC attached to the property.

I am unclear of the actual amount and would need to obtain the loan documents that Thom has on the Deer Springs property.

However, when Thom decided to stop paying the mortgage on 2405 Serene and I was forced to claim Bankruptcy the HELOC was forgiven on Deer Springs and removed and he had a gain in equity.

Thom has the windfall of this situation to my detriment and is the one with unclean hands.

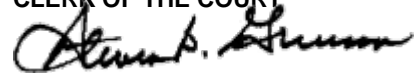
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on

1/7/2019
(date)


(signature)

TRISHA KUPTZ-BLINKINSOP
nka TRISHA MARGOLIS



1 BENJAMIN B. CHILDS
Nevada Bar # 3946
2 318 S. Maryland Parkway
Las Vegas, Nevada 89101
3 (702) 385-3865
Fax 384-1119
4 ben@benchilds.com
Attorney for Plaintiff/Counterdefendant

5
6 DISTRICT COURT
CLARK COUNTY, NEVADA

7 TRISHA KUPTZ-BLINKINSOP)
nka TRISHA MARGOLIS)
8)
9 Plaintiff/Counterdefendant)

CASE NO. A-18-783766-C
DEPT. NO. 9

10 v.)

11 THOMAS R. BLINKINSOP)
12 Defendant/Counterclaimant)

13
14 NOTICE OF ENTRY OF
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

15
16 Take notice that FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER was
17 filed on February 27, 2019. A true, correct and complete copy of said FINDINGS OF FACT,
18 CONCLUSIONS OF LAW AND ORDER is attached hereto.

19
20 /s/ Benjamin B. Childs

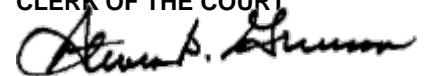
21 BENJAMIN B. CHILDS
Nevada Bar # 3946
22 Attorney for Plaintiff/Counterdefendant

23 CERTIFICATE OF ELECTRONIC SERVICE

24 This NOTICE OF ENTRY OF ENTRY OF FINDINGS OF FACT,
25 CONCLUSIONS OF LAW AND ORDER, with attachment, was served through the File
26 and Serve system to opposing counsel on the date of filing. Electronic service is in
27 place of service by mailing.

28 /s/ Benjamin B. Childs

29
30 BENJAMIN B. CHILDS, ESQ.
31 NEVADA BAR # 3946



1 BENJAMIN B. CHILDS
Nevada Bar # 3946
2 318 S. Maryland Parkway
Las Vegas, Nevada 89101
3 (702) 385-3865
Fax 384-1119
4 ben@benchilds.com
Attorney for Plaintiff/Counterdefendant

5
6 DISTRICT COURT
CLARK COUNTY, NEVADA

7 TRISHA KUPTZ-BLINKINSOP) CASE NO. A-18-783766-C
nka TRISHA MARGOLIS)
8) DEPT. NO. 18
9 Plaintiff/Counterdefendant)
10 v.)
11 THOMAS R. BLINKINSOP)
12 Defendant/Counterclaimant)

13
14 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

15
16 On January 15, 2019 Plaintiff/Counterdefendant TRISHA KUPTZ-BLINKINSOP's
17 ("KUPTZ") Motion for Declaratory Relief Motion for Continuance under NRCP 56(f) and
18 Defendant/Counterclaimant THOMAS BLINKINSOP's ("BLINKINSOP") Counter Motion
19 for Summary Judgment came on regularly for hearing. The Honorable Charles
20 Thompson presiding. After reading the moving and opposing papers, and after having
21 heard the arguments of counsel, the Court hereby denies KUPTZ's Motion for
22 Declaratory Relief and Motion for Continuance under NRCP 56(f) and grants
23 BLINKINSOP'S counter motion for summary judgment.
24

25 FINDINGS OF FACT

26
27 The Court finds the following facts.
28 Kuptz initiated this case October 31, 2018 seeking partition of the Subject
29 Property.
30
31
32

1 The Subject Property involved in this case is described below :

2
3 Street address : 2042 Deer Springs Drive Henderson, NV 89074

4 Legal Description : Lot Twenty-One (21) of Block One (1) of CREEKSIDE UNIT 3
5 as shown by map thereof on file in Book 42 of Plats, Page 21
6 in the Office of the County Recorder of Clark County, Nevada.

7 APN : 178-08-317-036
8

9 The Court finds that the parties were married and acquired the Subject Property
10 by Grant, Bargain and Sale Deed recorded December 2, 2005 to the parties "Thomas
11 R. Blinkinsop and Trisha Kruptz-Blinkinsop, Husband and Wife as Joint Tenants with
12 Rights of Survivorship".

13 The parties subsequently divorced and a Decree of Divorce filed May 19, 2009
14 was filed in Clark County, Nevada, Case # D-09-409681-D. In that divorce case, Kuptz
15 was the plaintiff and Blinkinsop was the defendant. That Decree of Divorce states, in
16 relevant part, as follows :

17
18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
19 Defendant shall receive as his sole and separate property the real
20 property located at 2042 Deer Springs Drive, Henderson, Nevada.
21 Defendant shall assume, and hold Plaintiff harmless from, any and
22 all encumbrances on said real property. Plaintiff shall execute a
23 quitclaim deed to remove Plaintiff's name from title within 10 days of
entry of this decree.

24 Other portions of the Decree of Divorce are irrelevant to the decision in this case.
25 Neither party took any steps to enforce the provision in the Decree of Divorce
26 regarding the Subject Property until the filing of this case October 31, 2018.
27

28 CONCLUSIONS OF LAW
29

30 Kuptz's reliance on the holding in Davidson vs. Davidson, 132 Nev. ___, 382 P.
31 3d 880 (2016) is misplaced. The holding in *Davidson* does not affect the Family Law
32

1 Court's previous adjudication that the Subject Property was the sole and separate
2 property of BLINKINSOP. Furthermore the holding in *Davidson* did not require
3 BLINKINSOP to renew the divorce decree pursuant to NRS 17.241 in order for him to
4 preserve the Court's previous adjudication and order.

5 The limitation of actions deadline in NRS 11.190(1) is not applicable to the facts
6 in this case.

7 Kuptz is precluded from pursuing her partition action by the doctrines of
8 doctrine of res judicata/claim preclusion. *Univ. of Nevada v. Tarkanian*, 110 Nev. 581,
9 598, 879 P.2d 1180, 1191 (1994) is the seminal case on this issue and applies in this
10 case.

11
12 ORDER

13
14 Based on the aforementioned, BLINKINSOP is entitled to a declaratory judgment
15 adjudicating and adjudging the Subject Property as his sole and separate property,
16 subject to any existing encumbrances. BLINKINSOP is further entitled to a declaratory
17 judgment extinguishing, severing, dissolving, cancelling and terminating any and all
18 ownership interest or rights to the property, whether in law or in equity, with respect to
19 KUPTZ.

20 Kuptz' motion for declaratory relief is denied.

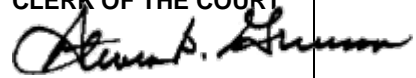
21 Kuptz' Motion for a Continuance under NRCP 56(f) is denied.

22
23 It is so ORDERED this February, 26, 2019.

24
25 *J. Charles Thompson*
26 Sr. District Court Judge

27 SENIOR JUDGE
28 J. CHARLES THOMPSON

29
30
31
32 *Benjamin B. Childs, Sr.*
33 BENJAMIN B. CHILDS, Sr.
34 Nevada Bar # 3946
35 Attorney for Plaintiff/Counterdefendant



1 **NJUD**
2 GEORGE O. WEST III [SBN 7951]
3 Law Offices of George O. West III
4 10161 Park Run Drive, Suite 150
5 Las Vegas, Nevada 89145
6 gowesq@cox.net
7 (702) 318-6570
8 (702) 664-0459 [fax]

9 Attorney for Defendant/Counter-Claimant
10 **THOMAS BLINKINSOP**

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

13 TRISHA KUPTZ-BLINKINSOP,
14 aka TRISHA MARGOLIS,

CASE NO : A-18-783766-C
DEPT : IX

15 Plaintiff,

NOTICE OF ENTRY OF JUDGMENT

16 v

17 THOMAS R. BLINKINSOP,
18 Defendant,

19 _____/
20 THOMAS R. BLINKINSOP,

21 Counter-Claimant

22 v

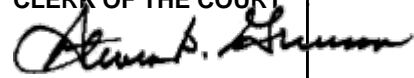
23 TRISHA KUPTZ,-BLINKINSOP,
24 aka TRISHA MARGOLIS,

25 Counter Defendant,
26 _____/

EXHIBIT A

 ORIGINAL

Electronically Filed
3/9/2019 3:19 PM
Steven D. Grierson
CLERK OF THE COURT



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JUDG
GEORGE O. WEST III [SBN 7951]
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Attorney for Defendant/Counter-Claimant
THOMAS BLINKINSOP

DISTRICT COURT
CLARK COUNTY, NEVADA

TRISHA KUPTZ-BLINKINSOP,
aka TRISHA MARGOLIS,

CASE NO : A-18-783766-C
DEPT : IX

Plaintiff,

DECLARATORY JUDGEMENT

v

THOMAS R. BLINKINSOP,
Defendant,

THOMAS R. BLINKINSOP,
Counter-Claimant

v

TRISHA KUPTZ,-BLINKINSOP,
aka TRISHA MARGOLIS,
Counter Defendant,

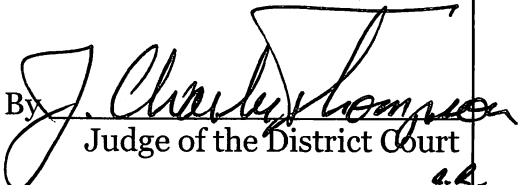
1 On January 15, 2019, Defendant/Counter-Claimant THOMAS R. BLINKINSOP's
2 counter motion for summary judgment on his counter claims for quit title and declaratory
3 relief came on regularly for hearing. After reading the moving and opposing papers, and
4 after hearing the arguments of counsel, the Court granted ~~Plaintiff's~~ ^{DEFENDANT'S} counter motion as to
5 both of THOMAS R. BLINKINSOP's claims for relief.

6 **IT IS HEREBY ADJUDGED, ADJUDICATED AND DECREED, that**
7 **THOMAS R. BLINKINSOP** is the sole and 100% owner, in both law and equity,
8 subject to any existing encumbrances of record, with respect to the following real
9 property ("Deer Springs Property"), commonly known as 2042 Deer Springs Drive,
10 Henderson, NV 89075, with APN # 178-08-317-036 and legal description as follows:

11 Lot Twenty-One of Block (1) of CREEKSIDE UNIT 3, as shown by map
12 thereof on file in Book 42 of Plats, Page 21, in the Office of the County
13 Recorder of Clark County, Nevada.

14 **IT IS FURTHERMORE HEREBY ADJUDGED, ADJUDICATED AND**
15 **DECREED,** that any and all ownership and/or record title interest of TRISHA
16 BLINKINSOP a/k/a TRISHA KUPTZ a/k/a TRISHA KUPTZ-BLINKINSOP in the Deer
17 Springs Property, whether in law or in equity, that was established and/or conveyed to
18 her under the grant deed executed by THOMAS R. BLINKINSOP dated October 28, 2005,
19 which was subsequently recorded with the Clark County Recorder on December 2, 2005,
20 bearing instrument number 2005-1202-0000386, is hereby extinguished, severed,
21 dissolved, cancelled and terminated. For clarity, a true and correct copy of said October
22 28, 2005 grant deed bearing instrument number 2005-1202-0000386 is attached to this
23 order as Exhibit 1.

24 Dated this 4th day of March, 2019

25 By 
26 Judge of the District Court
27 a.d.

28 Submitted by:

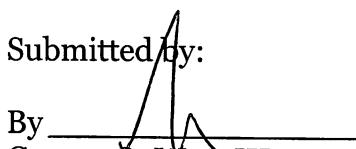
29 By 
30 George O. West III
31 Law Offices of George O. West III
32 **Consumer Attorneys Against Auto Fraud**
33 Attorney for Defendant/Counter-Claimant
34 **THOMAS BLINKINSOP**

EXHIBIT 1

20051202-0000386

Fee: \$19.00 RPTT: EX#005
N/C Fee: \$25.00

12/02/2005 09:02:26
T20050217882

Requestor:
NEVADA TITLE COMPANY

Frances Deane JKA
Clark County Recorder Fgs: 6

AHA.P.N.: 178-08-317-036
R.P.T.T.: \$EXEMPT #5

Escrow #

Mail tax bill to and when recorded mail to:
Thomas R. Blinkinsop and Trisha Kuptz-
Blinkinsop
2042 Deer Springs Drive
Henderson, NV 89074

CP
H

2

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH, That Thomas R. Blinkinsop, a married man as his sole and separate property, for a valuable consideration, the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to Thomas R. Blinkinsop and Trisha Kuptz-Blinkinsop, Husband and Wife as Joint Tenants with Rights of Survivorship, all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:


**SEE LEGAL DESCRIPTION ATTACHED HERETO
AND MADE A PART HEREOF AS EXHIBIT "A"**

SUBJECT TO:

1. Taxes for the current fiscal year, not delinquent, including personal property taxes of any former owner, if any;
2. Restrictions, conditions, reservations, rights, rights of way and easements now of record, if any, or any that actually exist on the property.

TOGETHER WITH all singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

IN WITNESS WHEREOF, this instrument has been^{ly}executed this 28 day of October, 2005


Thomas R. Blinkinsop

State Of NEVADA }
County of Clark } ss

This instrument was acknowledge before me on October 28, 2005

by Thomas R. Blinkinsop

Heather Adams
NOTARY PUBLIC }
My Commission Expires: 8-1-2009



#

EXHIBIT "A"

LOT TWENTY-ONE (21) IN BLOCK ONE (1) OF CREEKSIDE UNIT 3, AS
SHOWN BY MAP THEREOF ON FILE IN BOOK 42 OF PLATS, PAGE 21 IN THE
OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA

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1 **PROOF OF SERVICE**

2 On March 12, 2019, I served the forgoing document(s) described as 1) **NOTICE OF**
3 **ENTRY OF JUDGMENT** on interested party(ies) in this action by placing a true and
4 correct copy and/or original thereof enclosed in a sealed envelope addressed as follows :

5 **BENJAMIN CHILDS**
6 318 South Maryland Pkwy
7 Las Vegas, NV 89101
8 ben@benchilds.com

9 **(BY FIRST CLASS MAIL)** I am readily familiar with the firm’s practice of collection
10 and processing correspondence for mailing. Under that practice it would be deposited
11 with the U.S. Postal service on that same day with first class postage thereon fully prepaid
12 at Las Vegas, NV in the ordinary course of business.

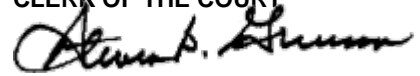
13 **(BY PERSONAL SERVICE)** I delivered such envelope by hand to the office of the
14 addressee.

15 **(BY EMAIL SERVICE)** (Wiznet) Pursuant to NRCP, Rule 5(b)(2)(D), I hereby
16 certify that service of the aforementioned document(s) via email to pursuant to EDCR Rule
17 7.26(a), as set forth herein.

18 **(BY FAX SERVICE)** Pursuant to consent under NRCP, Rule 5(b), I hereby certify that
19 service of the aforementioned document(s) via facsimile, pursuant to EDCR Rule 7.26(a),
20 as set forth herein.

21 Executed on this 9th day of March, 2019

22 */s/ George O. West III*
23 GEORGE O. WEST III



1 BENJAMIN B. CHILDS
2 Nevada Bar # 3946
3 318 S. Maryland Parkway
4 Las Vegas, Nevada 89101
5 (702) 385-3865
6 Fax 384-1119
7 ben@benchilds.com
8 Attorney for Plaintiff

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 TRISHA KUPTZ-BLINKINSOP
9 nka TRISHA MARGOLIS

CASE NO. A-18-783766-C

DEPT. NO. 9

Plaintiff/Counterdefendant

10 v.

11 THOMAS R. BLINKINSOP

NOTICE OF APPEAL

12 Defendant/Counterclaimant

14 Notice is hereby given that Plaintiff/Counterdefendant TRISHA MARGOLIS hereby
15 appeals to the Supreme Court of Nevada from the following Order :

- 17 1. FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER filed February 26,
18 2019.

20 /s/ Benjamin B. Childs

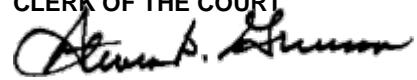
21 ~~BENJAMIN B. CHILDS~~
22 Nevada Bar # 3946
23 Attorney for Plaintiff/Counterdefendant

24 **CERTIFICATE OF ELECTRONIC SERVICE**

25 This Notice of Appeal, was served through the Odessey File and Serve system to
26 all attorneys at the time of filing. Electronic service is in place of mailing.

28 /s/ Benjamin B. Childs

29 ~~BENJAMIN B. CHILDS, ESQ.~~
30 NEVADA BAR # 3946



1 BENJAMIN B. CHILDS
2 Nevada Bar # 3946
3 318 S. Maryland Parkway
4 Las Vegas, Nevada 89101
5 (702) 385-3865
6 Fax 384-1119
7 ben@benchilds.com
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 TRISHA KUPTZ-BLINKINSOP
10 nka TRISHA MARGOLIS

CASE NO. A-18-783766-C
DEPT. NO. 9

Plaintiff/Counterdefendant

v.

THOMAS R. BLINKINSOP

AMENDED
NOTICE OF APPEAL

Defendant/Counterclaimant

13
14 Notice is hereby given that Plaintiff/Counterdefendant TRISHA MARGOLIS hereby
15 appeals to the Supreme Court of Nevada from the following Order and Judgment :

- 16 1. FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER filed February 26,
17 2019.
- 18 2. DECLARATORY JUDGMENT filed March 9, 2019

19 /s/ Benjamin B. Childs

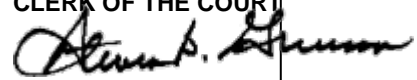
20
21 ~~BENJAMIN B. CHILDS~~
22 Nevada Bar # 3946
23 Attorney for Plaintiff/Counterdefendant

24 **CERTIFICATE OF ELECTRONIC SERVICE**

25
26 This AMENDED NOTICE OF APPEAL, was served through the Odessey File and Serve
27 system to all attorneys at the time of filing. Electronic service is in place of mailing.

28
29 /s/ Benjamin B. Childs

30 ~~BENJAMIN B. CHILDS, ESQ.~~
31 NEVADA BAR # 3946



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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

TRISHA KUPTZ-BLINKINSOP,)	
)	
Plaintiff(s),)	Case No. A-18-783766-C
)	
vs.)	DEPT. IX
)	
THOMAS BLINKINSOP,)	
)	
Defendant(s).)	

BEFORE THE HONORABLE CHARLES THOMPSON,
SENIOR DISTRICT COURT JUDGE

TUESDAY, JANUARY 15, 2019

**TRANSCRIPT OF PROCEEDINGS RE:
ALL PENDING MOTIONS**

APPEARANCES:

For the Plaintiff(s): BENJAMIN B. CHILDS, ESQ.

For the Defendant(s): GEORGE O. WEST III, ESQ.

RECORDED BY: ROBIN PAGE, COURT RECORDER

1 **LAS VEGAS, NEVADA, TUESDAY, JANUARY 15, 2019**

2 [Proceeding commenced at 8:49 a.m.]

3
4 THE COURT: Blinkinsop vs. Blinkinsop.

5 MR. WEST: Good morning, Your Honor. George West
6 appearing on behalf of Defendant Tom Blinkinsop and Counterclaimant
7 Tom Blinkinsop, and opposing and moving party.

8 MR. CHILDS: Benjamin Childs for the plaintiff, Trisha Kuptz.

9 THE COURT: All right. This is cross-motions for declaratory
10 relief and for summary judgment.

11 MR. CHILDS: Yes. Do you want me to go first? Because I
12 filed the Motion for Declaratory Relief.

13 THE COURT: You filed the first motion.

14 MR. CHILDS: Okay. Sure. Thank you.

15 Anyways, it all kind of hinges on the *Davidson* case, and I
16 think -- I believe everybody --

17 THE COURT: I've read it.

18 MR. CHILDS: -- involved agrees with that. And so if you look
19 at page 7 of my initial motion starting -- I just quoted right from it,
20 lines 13 -- 12, 13, it goes -- you know, I have a huge quote, but the
21 punch line is:

22 We see no reason to deviate from our prior holding, include
23 that a claim to enforce a divorce decree, whether through motion
24 practice --

25 Which is where we're at.

1 -- or an independent action --

2 Which that could also be interpreted as an independent action,
3 because they filed a counterclaim.

4 -- is governed by the limitations period of 11.190 and
5 NRS 11.200.

6 So what *Davidson* said was if you have a divorce decree, you
7 can't just reside on it, rely on it forever. There's a time period and
8 it's 11.190.

9 And so it doesn't use the word, Void. But I cited the *Levenson*
10 [phonetic] case, which talked about renewal of a judgment, which could
11 have been done by either party. And *Levenson* uses the word, Void.

12 So our argument is that their reliance on trying to enforce a
13 divorce decree is void, because six -- more than six years passed from
14 the date of the divorce decree.

15 I came up with two other statutes from other states, one from
16 Ohio and one from Florida, and they're cited. And they use the word,
17 Void.

18 As for the opposition, they also cited to a terrible case called
19 *Terribles*, saying that there was a -- you can't have partition if there was
20 an agreement in the divorce decree that one party reside in the house.
21 And I cite the Court to the decree, which is Exhibit 2 on page 4. There's
22 no -- as in the *Terribles* case, there was an agreement that one party
23 would reside in the house.

24 And in the incident case in the divorce decree, it just says that
25 he's going to receive the -- this Deer Springs property, which is the

1 subject property that we're talking about. That's his sole and separate
2 property. So there's no agreement that he would reside there.

3 Finally, they -- their entire case relies on equitable defenses,
4 because, of course, they're barred because they didn't renew it in the
5 NRS 11.190, the deadline is -- has passed.

6 They're relying on equitable defenses, and I believe they
7 benefit my client, Trisha, because one big one that they're relying on is
8 the Clean Hands Doctrine, and so I cited, and it's supported by her
9 affidavit, that he was required to make payments on another property --
10 these people owned about four or five pieces of real estate when they
11 were divorced -- the Serene property. He didn't -- he accepted the rent,
12 didn't make the payments, which eventually resulted in foreclosure. But
13 the more important thing is it resulted in her having to file a bankruptcy
14 right away. So she's changed her position and the equitable defenses
15 argue against him receiving any type of benefit.

16 And I just point out on page 10, line 3 of my reply, there
17 should be a not in there; she did not know that he was not going to
18 enforce the decree. She did not know that he was going to try to enforce
19 the decree. Keep in mind, the decree I think was in 2009.

20 So I believe it's a straight legal case and should be decided.
21 But our position is it should be decided in my client's favor, because
22 there's only one document that has to do with ownership of the property,
23 and it's a deed from Thomas to my client.

24 And I cited this recent case of *Howard vs. Hughes*, which I
25 know is confusing, it's got nothing to do with Howard Hughes. The

1 name of the case is *Howard vs. Hughes*. And it specifically sets out that
2 the presumption is, when you own property as joint tenants, that's
3 a 50/50 ownership.

4 THE COURT: Thank you.

5 MR. WEST: Thank you, Your Honor.

6 As a threshold matter, opposing counsel -- I'd like to get this
7 out of the -- opposing counsel is trying to interject issues of fact when --
8 or material fact when this is a pure issue of law for the Court to
9 determine.

10 Most compelling here is the Court knows is that summary
11 judgment motions, which essentially Plaintiff's counsel did file it in title of
12 summary judgment, we filed the summary judgment. And based on our
13 answers, as the Court knows summary judgment is framed by the
14 pleadings.

15 And what they're doing now is the only property at issue is the
16 Deer Springs property. So what they're doing now through declarations,
17 trying to seek a Rule 56(f), throwing in additional allegations now about
18 two other properties that are simply not at issue in this case. If they
19 wanted to throw those in there --

20 THE COURT: I understand.

21 MR. WEST: -- so he can't -- he's not entitled to Rule 56. He
22 hasn't demonstrated anything that would otherwise persuade this Court
23 by affidavit that additional discovery is needed to otherwise adequately
24 respond to this motion, because their entire basis is with respect to new
25 properties. So that's number one.

1 Number two, what also sticks out, Your Honor, as I'm sure
2 you've seen it, is this case is about res judicata claim preclusion, which
3 is completely avoided. Their opposition to our motion is completely
4 devoid of the primary defense in this case, which is res judicata. It's
5 almost like we didn't discuss it. It's not found anywhere in his opposition
6 to our motion, because they lose on that. Res judicata claim
7 preclusions, as Your Honor knows, is a straight issue of law.

8 The documents upon which both parties rely in this case,
9 which is the underlying divorce decree, the complaint, what was sought
10 in the complaint, the authentication of those documents are not at issue.
11 So the issue is what's contained in those documents.

12 Furthermore, they never responded to or disputed any of the
13 undisputed material facts in our separate statement. That's huge. They
14 almost -- they conceded all the material issues in here with respect to
15 what was in our statement. They haven't raised any other triable issues.

16 The reason they don't want to talk about res judicata and
17 claim preclusion is because nine and a half years ago, it was very clear
18 by the judgment. And there's a specific statute under the family code,
19 Your Honor. And that's Section 125.181. And it says:

20 Entry of the final judgment upon petition for a summary
21 proceeding of divorce constitutes a final adjudication of the rights
22 and obligations of the parties with respect to the status of the
23 marriage and the property rights of the parties, and waives the
24 respective rights of the parties to written notice of entry of judgment
25 or decree to appeal, request a finding of fact, conclusions of law, or

1 move for a new trial.

2 This Exhibit 3, I believe, which is the divorce decree, was
3 made pursuant to 125.181, effectuated through 125.184. Ms. Blinkinsop
4 was shepherded through the process by her very well known family law
5 lawyer who drafted this divorce decree after the parties got together and
6 amicably agreed what was going to be distributed.

7 Her complaint was very clear. This was Trisha's complaint.
8 Nine and a half years ago she sought divorce against my client,
9 Mr. Blinkinsop. In that complaint, in her prayer, she specifically asked
10 for an adjudication of any and all community property, separate property
11 assets, and debts. So she's seeking that adjudication. There is a
12 summary uncontested final divorce decree that clearly says that the
13 Deer Springs property is the sole and separate property of my client,
14 Mr. Blinkinsop, subject to any encumbrances, and that he will promise to
15 hold Ms. Blinkinsop harmless. There are plenty of consideration here.

16 That is a final adjudication. She cannot come back nine and a
17 half years later, after the divorce decree. The divorce decree bans and
18 it's a total bar to any subsequent action regarding that property.

19 With respect to *Davidson*, completely inapplicable. They're
20 interpreting it to -- *Davidson* only had to do with a final divorce decree
21 wherein the divorce decree set up a status or relationship between the
22 former spouses of a judgment creditor.

23 *Davidson* was extremely clear on that with respect to that.
24 They talk about judgment creditor in 17.214, which is the judgment
25 creditor renewal statute. If the judgment creditor has a judgment, they

1 must renew it. Was the Deer Springs property, in any way, did it set up
2 a judgment creditor situation? Did Mr. Blinkinsop, after it was all said
3 and done in the final divorce decree, in any way owe any monies to his
4 former wife after the property, the Deer Springs property, was awarded
5 to him in the divorce? The answer's no.

6 If my client, Mr. Blinkinsop, owed money, like in *Davidson*,
7 where the husband was supposed to pay the former spouse 50 percent
8 of the marital home upon her deeding it over, that is a money judgment.
9 Money judgments have to get renewed.

10 But for the -- but for Plaintiff to suggest when you have an
11 adjudication by a judgment that adjudicates a property, the sole and
12 separate property of one spouse after that other spouse voluntarily
13 relinquishes, waives, and knows that she is severing and otherwise
14 giving up all interest in that property, they can't come back nine and a
15 half years later either under a res judicata, estoppel generally is an issue
16 of fact. Opposing counsel is right. Waiver is generally an issue of fact.

17 But it can be decided as a pure issue of law before this Court
18 when the documents that support those defenses otherwise are
19 undisputed. But res judicata shuts this case down. And my client is not
20 seeking to establish an interest in the property, as they say, somehow
21 applicable to the statute of frauds. He's trying to sever his former wife
22 off the deed. That deed is the operative document. The 2005 deed,
23 that's what gives her the only ability to try and seek.

24 Her interest in that deed was severed and terminated
25 voluntarily and relinquished by her through that summary uncontested

1 divorce. They have no basis, no interest in that property. Therefore, my
2 client's entitled to summary judgment on his two claims for relief.

3 THE COURT: Okay. Anything further?

4 MR. CHILDS: Yeah. Equitable issues always require factual
5 findings, Judge. So we have established factual issues concerning the
6 equitable defenses that they're raising, which again, I believe benefit my
7 client. And there is a factual issue about what happened, unless they're
8 just denying it, that he didn't pay the mortgage on Serene, and then it
9 was foreclosed and she had to file a bankruptcy to receive a discharge.

10 But the part they're leaving out --

11 THE COURT: Really, that's not part of this.

12 MR. CHILDS: Well, it's an equitable defense.

13 THE COURT: No.

14 MR. CHILDS: They're the ones raising it. They're raising an
15 equitable defense. And so we're simply --

16 MR. WEST: Only as to Deer Springs.

17 MR. CHILDS: -- responding to their equitable defense which
18 requires a factual finding.

19 THE COURT: Okay.

20 MR. CHILDS: And if they -- if you read the divorce decree,
21 which is Exhibit 2 on page 4, where it talks about the incident property:

22 Plaintiff shall execute a Quit Claim Deed to remove Plaintiff's
23 name from the title within 10 days of the entry of the decree.

24 They never enforced it. We're entitled to do it.

25 And here's the key point, I think. They can't -- because I've

1 dealt with this a couple of times in family court -- they can't go down to
2 family court in this divorce decree and enforce this. Because the family
3 court judge will say that *Davidson* precludes them because it wasn't
4 renewed and it wasn't brought within six years under 11.190.

5 THE COURT: Okay.

6 MR. CHILDS: So that's -- and *Davidson* specifically says that
7 they can't enforce it under motion practice or independent action, which
8 is what they're trying to do. They're trying to reform the divorce decree.

9 THE COURT: Thank you.

10 Anything further?

11 MR. WEST: Submitted, Your Honor.

12 THE COURT: All right. The divorce decree between the
13 parties says that the defendant shall receive, as a sole and separate
14 property, the real property which we're arguing about here. It goes on to
15 say that the plaintiff shall execute a Quit Claim Deed to remove the
16 plaintiff's name from the title, and she has 10 days to do that. She never
17 did it. She's now claiming that by waiting over six years she's still an
18 owner of the property. That's not right.

19 It's true that the defendant could no longer require the plaintiff
20 to execute the Quit Claim Deed because of *Davidson*. But that doesn't
21 mean that I can't Quiet Title in the defendant's name, the defendant
22 owns the property. Got the property in the divorce decree and that's res
23 judicata.

24 I'm going to grant the defendant's Motion for Summary
25 Judgment and deny the plaintiff's Motion for Declaratory Relief. Ask

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counsel to prepare an appropriate order and submit it to --

MR. CHILDS: And I ask to sign off it and --

MR. WEST: Absolutely.

MR. CHILDS: -- it needs to be factual.

THE COURT: Please sign off on it.

MR. CHILDS: There needs to be factual findings in there.

MR. WEST: I'll put those in there, Your Honor.

MR. CHILDS: Thank you.

THE COURT: All right.

[Proceeding concluded at 9:05 a.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Shawna Ortega, CET*562