

For the year Jan. 1-Dec. 31, 2016, or other tax year beginning		2016, ending		20		See separate instructions.			
Your first name and initial <b>L. LANCE</b>		Last name <b>GILMAN</b>				Your social security number <b>[REDACTED]</b>			
If a joint return, spouse's first name and initial		Last name				Spouse's social security number			
Home address (number and street). If you have a P.O. box, see instructions. <b>5 WILD HORSE CANYON DRIVE</b>				Apt. no.		▲ Make sure the SSN(s) above and on line 6c are correct.			
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). <b>SPARKS NV 89434</b>				Foreign country name		Foreign province/state/country			
				Foreign postal code		Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse			
Filing Status		1 <input checked="" type="checkbox"/> Single 2 <input type="checkbox"/> Married filing jointly (even if only one had income) 3 <input type="checkbox"/> Married filing separately. Enter spouse's SSN above and full name here. ▶		4 <input type="checkbox"/> Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶ 5 <input type="checkbox"/> Qualifying widow(er) with dependent child					
Exemptions		6a <input checked="" type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a b <input type="checkbox"/> Spouse c Dependents:		Boxes checked on 6a and 6b No. of children on 6c who: • lived with you • did not live with you due to divorce or separation (see instructions) Dependents on 6c not entered above Add numbers on lines above ▶		1 1			
		(1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) <input checked="" type="checkbox"/> If child under age 17 qualifies for child tax credit (see instr.)							
Income		7 Wages, salaries, tips, etc. Attach Form(s) W-2 8a Taxable interest. Attach Schedule B if required b Tax-exempt interest. Do not include on line 8a 9a Ordinary dividends. Attach Schedule B if required b Qualified dividends 10 Taxable refunds, credits, or offsets of state and local income taxes 11 Alimony received 12 Business income or (loss). Attach Schedule C or C-EZ 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ 14 Other gains or (losses). Attach Form 4797 15a IRA distributions 15a Taxable amount 16a Pensions and annuities 16a Taxable amount 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 18 Farm income or (loss). Attach Schedule F 19 Unemployment compensation 20a Social security benefits 20a 43,648 b Taxable amount 21 Other income. List type and amount 22 Combine the amounts in the far right column for lines 7 through 21. This is your total income ▶		7 8a 9a 10 11 12 13 14 15b 16b 17 18 19 20b 21 22					
Adjusted Gross Income		23 Educator expenses 24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 25 Health savings account deduction. Attach Form 8889 26 Moving expenses. Attach Form 3903 27 Deductible part of self-employment tax. Attach Schedule SE 28 Self-employed SEP, SIMPLE, and qualified plans 29 Self-employed health insurance deduction 30 Penalty on early withdrawal of savings 31a Alimony paid b Recipient's SSN ▶ 32 IRA deduction 33 Student loan interest deduction 34 Tuition and fees. Attach Form 8917 35 Domestic production activities deduction. Attach Form 8903 36 Add lines 23 through 35 37 Subtract line 36 from line 22. This is your adjusted gross income ▶		23 24 25 26 27 28 29 30 31a 32 33 34 35 36 37					







# DMV

# DEALER, REBUILDER, OR LESSOR'S REPORT OF SALE OR LEASE

**This form must be completed in full**

Control # **E 819204**

**Vehicle Identification Number**

[illegible]

Year	2012	Body Type	PU	Model	RAM 2500	Make	DODGE
Fuel	DSL	MSRP	46,910.00	Unladen Weight	7114		Axles 2
Cylinders/Rotors	LC	Gross Weight	11000	Length	171A	County Based In	WYOMING
Date of Transaction	07/31/2012			Placard Number	1657802		
Full Sale Price	442,250.00			Placard Expiration Date	08-30-12		
Sales Tax Collected	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	This transaction is a	<input checked="" type="checkbox"/> Sale <input type="checkbox"/> Lease	Rebuilt Vehicle?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Odometer Reading (as shown on apparatus): 4951 NO TENTHS

- ☒ 1. Actual Miles  
☐ 2. The mileage stated is in excess of its mechanical limits.  
☐ 3. The odometer reading is not the actual mileage. **WARNING - ODOMETER DISCREPANCY**  
☐ 4. Exempt - Model year over 9 years old

**Sold to:**

**Full Legal Name** CASH PROCESSING SERVICES LLC

Nevada Driver's License, Identification Card Number, or FEIN for businesses

Full Legal Name: LANCE Leonard GILMAN

Nevada Driver's License, Identification Card Number, or FEIN for businesses 0800486479

Physical Address: 5 Wild Horse Canyon Dr Sparks, NV 89434

Mailing Address 5 WILD HORSE CANYON DR SPARKS NV 89434  
Address City State Zip Code

**Lienholder/Lessor Name** JPMORGAN CHASE BANK, N A

Nevada Driver's License, Identification Card Number, or FEIN for businesses 13-4994650

Address PO BOX 901098 FORT WORTH TX 76101-2098

**Seller's Business Name** RENO DODGE SALES, INC.

DMV Business License Number W219

Mailing Address 700 KIEITZKE LANE RENO NV 89502  
Address City State Zip Code

Authorized Representative Printed Name

**Authorized Representative Signature**

**Purchaser:** This form is required to obtain registration and license plates. You must maintain either motor

**Toll - Appx. - 002525**

or qualified self-insurer for a motor vehicle, in the registered owner's name, for the entire time the vehicle is registered or Nevada. THE VEHICLE MUST BE INSURED BY AN INSURANCE COMPANY LICENSED IN THE STATE OF NEVADA. Out-of-state vehicles are exempt from insurance requirements.

- suspension and reinstatement fees and fines, you must cancel your registration certificate and license plates prior to canceling your vehicle.
- remove your plates if you sell this vehicle. If you do not officially transfer these plates to another vehicle owned by you, you must surrender the plates to the Department within 60 days.
- if this certificate, or a legible copy, in the vehicle. Immediately apply for a duplicate if your registration certificate or license plates/decals are lost, mutilated, or illegible. Keep evidence of Nevada Insurance in the motor vehicle at all times.
- Notify the Department of Motor Vehicles within 30 days of moving to a new address.
- Reinstatement fees for an insurance lapse range from \$250 to \$750 and fines ranging from \$250 to \$1,000 are assessed on a tiered system based on the length of the lapse and the history of previous violations.

Fold Here



Issue Date : 05/25/2012 OP : 2726  
 Plate Style : SUNSET  
 Plate Background : SUNSET

Expires : 05/25/2013  
 Decal Number : S45609

License Number	Year	Make	Type	Model Name	Cyl	MSRP	Fuel	Axle	Decl Weight	Unltn Weight
586PUC	1989	CADILLAC	PCP	ELDORADO	08	\$27,288.00	G	2	0	3335
Vehicle Identification Number					County Based					
					STOREY					

GILMAN, LEONARD LANCE  
 5 WILD HORSE DR  
 SPARKS NV 89434-9701





4. Firmly rub decal with heavy press

only. Legal ownership is shown on the certificate of title.

or qualified self-insurer) for a motor vehicle, in the registered owner's name, for the entire time the vehicle is registered/or Nevada. THE VEHICLE MUST BE INSURED BY AN INSURANCE COMPANY LICENSED IN THE STATE OF NEVADA. Out-of-state insurance will not be accepted. Trailers are exempt from insurance requirements. If you are suspended and reinstatement fees and fines, you must cancel your registration certificate and license plates prior to canceling your registration. **Remove your plates if you sell this vehicle.** If you do not officially transfer these plates to another vehicle owned by you, you must surrender your license plates to the Department within 60 days.

Carry this certificate, or a legible copy, in the vehicle. Immediately apply for a duplicate if your registration certificate or license plates/decals are lost, mutilated, or illegible. Keep evidence of Nevada insurance in the motor vehicle at all times.

Notify the Department of Motor Vehicles within 30 days of moving to a new address.

**Reinstatement fees for an Insurance lapse range from \$250 to \$750 and fines ranging from \$250 to \$1,000 are assessed on a tiered system based on the length of the lapse and the history of previous violation(s).**

Fold Here

# DMV

Nevada Department of Motor Vehicles

Issue Date : 05/25/2012 OP : 2726

Plate Style : SUNSET

Plate Background : SUNSET

Expires : 05/25/2013

Decal Number : S45610

License Number	Year	Make	Type	Model Name	Cyl	MSRP	Fuel	Axle	Decl	Weight	Unltn Weight
970YCS	1957	CHEVROLPRD		CORVET	08	\$1,800.00	G		0		0
Vehicle Identification Number				County Based STOREY							

GILMAN, LEONARD LANCE  
5 WILD HORSE DR  
SPARKS NV 89434-9701



VP1 (Rev. 5/2011)

(O) 5135



This certificate shows registered ownership only. Legal ownership is shown on the certificate of title.

**You Must:**

- Maintain security (insurance or qualified self-insurer) for a motor vehicle, in the registered owner's name, for the entire time the vehicle is registered/or should be registered in Nevada. The vehicle must be insured by an insurance company licensed in the State of Nevada. Out-of-state insurance will not be accepted. Keep evidence of Nevada insurance in the motor vehicle at all times. Trailers are exempt from insurance requirements.
- In order to avoid suspension and reinstatement fees and fines, you must cancel your registration certificate and license plates prior to canceling your insurance. Remove your plates if you sell this vehicle. If you do not officially transfer these plates to another vehicle owned by you, you must surrender the license plates to the Department within 60 days.
- Carry this certificate, or a legible copy, in the vehicle. Immediately apply for a duplicate if your registration certificate or license plates/decals are lost, mutilated, or illegible. If your plates are stolen report to the DMV and law enforcement immediately.
- Notify the Department of Motor Vehicles within 30 days of moving to a new address.
- Reinstatement fees for an insurance lapse range from \$250 to \$750, and fines ranging from \$250 to \$1,000 are assessed on a tiered system based on the length of the lapse and the history of previous violation(s). Fold Here

# DMV

Nevada Department of Motor Vehicles

Issue Date : 12/05/2012 OP : 1282

Plate Style : SUNSET

Plate Background : SUNSET

Expires : 12/05/2013

Decal Number : 45662A

License Number	Year	Make	Type	Model Name	Cyl	MSRP	Fuel	Axle	Decl Weight	Unltdn Weight
613YNZ	2005	CHEVROLET	TES	EXPRESS G3500	8	\$31,159.00	G	2	8500	0

Vehicle Identification Number

County Based  
STOREY

GILMAN, LEONARD LANCE  
5 WILD HORSE DR  
SPARKS NV 89434-9701



VP1 (Rev. 9/2011)



STATE OF NEVADA DEPARTMENT OF MOTOR VEHICLES  
REGISTRATION RENEWAL BY MAIL  
PO BOX 6900  
CARSON CITY, NEVADA 89702-6900

FIRST - CLASS MAIL  
AUTO  
U.S. POSTAGE PAID  
CARSON CITY, NV  
PERMIT NO. 15

icles



PLATE NO: 315VCH YEAR: 2005 MAKE: LINC  
LAST 4 VIN: 6056 EXPIRES: 02-14-2012  
ACCESS CODE: 43930268859570 SMOG - NOT REQUIRED  
REG FEE \$33.00 GOV SVCS TAX \$206.00

TOTAL FEES \$239.00

GILMAN LEONARD LANCE  
5 WILD HORSE DR  
SPARKS NV 89434-9701

LUX0001 89434

VP250 (Rev 07/2011)

Emissions test results are indicated on any documents or enter this information online.

### Confirmation

ly renewed:

CUTIVE

There is no need to mail

Print this page for your records. Your Certificate of Registration and license plate decal will arrive by mail at the address of record within 7-10 days. If you elected to receive a confirmation notice by e-mail, you should receive your e-mail notice within 24 hours.

Thank you for using DMV Online Services.

**Note: We welcome your comments or suggestions to improve the vehicle renewal system. If you need to make changes to your vehicle registration, please check our web site for the appropriate forms and instructions.**

How would you rate the ease of use of our internet renewal system?

May we use your email address to send further DMV-related correspondence? (your email address will not be given to any other entity)

If so, at which email address would you like to be contacted?

If you have additional comments on the Internet renewal system, please enter them below:





# ANNUAL LIST OF MANAGERS OR MANAGING MEMBERS AND REGISTERED AGENT AND STATE BUSINESS LICENSE APPLICATION OF:

CASH PROCESSING SERVICES, LLC

NAME OF LIMITED-LIABILITY COMPANY

FILE NUMBER

LLC1096-2004

FOR THE FILING PERIOD OF

JAN, 2013

TO

JAN, 2014

**\*\*YOU MAY FILE THIS FORM ONLINE AT [www.nvsos.gov](http://www.nvsos.gov)\*\***

The entity's duly appointed registered agent in the State of Nevada upon whom process can be served is:

\*110405\*

L. LANCE GILMAN  
5 WILD HORSE CANYON DRIVE  
SPARKS, NV 89434

A FORM TO CHANGE REGISTERED AGENT INFORMATION IS FOUND AT: [www.nvsos.gov](http://www.nvsos.gov)

Filed in the office of

Ross Miller  
Secretary of State  
State of Nevada

Document Number

20130061421-60

Filing Date and Time

01/29/2013 7:33 PM

Entity Number

LLC1096-2004

ABOVE SPACE IS FOR OFFICE USE ONLY

USE BLACK INK ONLY - DO NOT HIGHLIGHT

☐ Return one file stamped copy. (If filing not accompanied by order instructions, file stamped copy will be sent to registered agent.)

**IMPORTANT:** Read instructions before completing and returning this form.

1. Print or type names and addresses, either residence or business, for all manager or managing members. A Manager, or if none, a Managing Member of the LLC must sign the form. **FORM WILL BE RETURNED IF UNSIGNED.**
2. If there are additional managers or managing members, attach a list of them to this form.
3. Return completed form with the fee of \$125.00. A \$75.00 penalty must be added for failure to file this form by the deadline. An annual list received more than 90 days before its due date shall be deemed an amended list for the previous year.
4. State business license fee is \$200.00. Effective 2/1/2010, \$100.00 must be added for failure to file form by deadline.
5. Make your check payable to the Secretary of State.
6. **Ordering Copies:** If requested above, one file stamped copy will be returned at no additional charge. To receive a certified copy, enclose an additional \$30.00 per certification. A copy fee of \$2.00 per page is required for each additional copy generated when ordering 2 or more file stamped or certified copies. Appropriate instructions must accompany your order.
7. Return the completed form to: Secretary of State, 202 North Carson Street, Carson City, Nevada 89701-4201, (775) 684-5708.
8. Form must be in the possession of the Secretary of State on or before the last day of the month in which it is due. (Postmark date is not accepted as receipt date.) Forms received after due date will be returned for additional fees and penalties. Failure to include annual list and business license fees will result in rejection of filing.

ANNUAL LIST FILING FEE: \$125.00

LATE PENALTY: \$75.00

BUSINESS LICENSE FEE: \$200.00

LATE PENALTY: \$100.00

## CHECK ONLY IF APPLICABLE AND ENTER EXEMPTION CODE IN BOX BELOW

☐ Pursuant to NRS Chapter 76, this entity is exempt from the business license fee. Exemption code:

### NRS 76.020 Exemption Codes

001 - Governmental Entity

005 - Motion Picture Company

006 - NRS 680B.020 Insurance Co.

**NOTE:** If claiming an exemption, a notarized Declaration of Eligibility form must be attached. Failure to attach the Declaration of Eligibility form will result in rejection, which could result in late fees.

NAME  
L. LANCE GILMAN

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☒ MANAGING MEMBER

ADDRESS  
5 WILD HORSE CANYON DRIVE, USA

CITY

SPARKS

STATE

NV

ZIP CODE

89434

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

I declare, to the best of my knowledge under penalty of perjury, that the above mentioned entity has complied with the provisions of NRS Chapter 76 and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

X TERRI TAYLOR

Signature of Manager or Managing Member

Title

CONTROLLER

Date

1/29/2013 7:33:29 PM

Nevada Secretary of State Annual List ManOrMem  
Revised: 8-9-12

Toll - Appx. - 002530



# ANNUAL LIST OF MANAGERS OR MANAGING MEMBERS AND REGISTERED AGENT AND STATE BUSINESS LICENSE APPLICATION OF:

WILD HORSE SALOON, LLC, A NEVADA LIMITED LIABILITY COMPANY

NAME OF LIMITED-LIABILITY COMPANY

FILE NUMBER

LLC4967-2003

FOR THE FILING PERIOD OF APR, 2013 TO APR, 2014

**\*\*YOU MAY FILE THIS FORM ONLINE AT [www.nvsos.gov](http://www.nvsos.gov)\*\***

The entity's duly appointed registered agent in the State of Nevada upon whom process can be served is

L. LANCE GILMAN  
5 WILD HORSE CANYON DRIVE  
SPARKS, NV 89434

A FORM TO CHANGE REGISTERED AGENT INFORMATION IS FOUND AT: [www.nvsos.gov](http://www.nvsos.gov)

Filed in the office of

Ross Miller  
Secretary of State  
State of Nevada

Document Number

20130293163-40

Filing Date and Time

04/30/2013 6:31 PM

Entity Number

LLC4967-2003

\*110405\*

USE BLACK INK ONLY - DO NOT HIGHLIGHT

☐ Return one file stamped copy. (If filing not accompanied by order instructions, file stamped copy will be sent to registered agent.)

**IMPORTANT:** Read instructions before completing and returning this form.

1. Print or type names and addresses, either residence or business, for all manager or managing members. A Manager, or if none, a Managing Member of the LLC must sign the form. **FORM WILL BE RETURNED IF UNSIGNED.**

2. If there are additional managers or managing members, attach a list of them to this form.

3. Return completed form with the fee of \$125.00. A \$75.00 penalty must be added for failure to file this form by the deadline. An annual list received more than 90 days before its due date shall be deemed an amended list for the previous year.

4. State business license fee is \$200.00. Effective 2/1/2010, \$100.00 must be added for failure to file form by deadline.

5. Make your check payable to the Secretary of State.

6. **Ordering Copies:** If requested above, one file stamped copy will be returned at no additional charge. To receive a certified copy, enclose an additional \$30.00 per certification. A copy fee of \$2.00 per page is required for each additional copy generated when ordering 2 or more file stamped or certified copies. Appropriate instructions must accompany your order.

7. Return the completed form to: Secretary of State, 202 North Carson Street, Carson City, Nevada 89701-4201, (775) 684-5708.

8. Form must be in the possession of the Secretary of State on or before the last day of the month in which it is due. (Postmark date is not accepted as receipt date.) Forms received after due date will be returned for additional fees and penalties. Failure to include annual list and business license fees will result in rejection of filing.

ANNUAL LIST FILING FEE: \$125.00 LATE PENALTY: \$75.00 BUSINESS LICENSE FEE: \$200.00 LATE PENALTY: \$100.00

## CHECK ONLY IF APPLICABLE AND ENTER EXEMPTION CODE IN BOX BELOW

☐ Pursuant to NRS Chapter 76, this entity is exempt from the business license fee. Exemption code:

### NRS 76.020 Exemption Codes

001 - Governmental Entity

005 - Motion Picture Company

006 - NRS 680B.020 Insurance Co.

**NOTE:** If claiming an exemption, a notarized Declaration of Eligibility form must be attached. Failure to attach the Declaration of Eligibility form will result in rejection, which could result in late fees.

NAME

L. LANCE GILMAN

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☒ MANAGER

☐ MANAGING MEMBER

ADDRESS

5 WILD HORSE CANYON DRIVE, USA

CITY

SPARKS

STATE

NV

ZIP CODE

89434

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

NAME

(DOCUMENT WILL BE REJECTED IF TITLE NOT INDICATED)

☐ MANAGER

☐ MANAGING MEMBER

ADDRESS

CITY

STATE

ZIP CODE

I declare, to the best of my knowledge under penalty of perjury, that the above mentioned entity has complied with the provisions of NRS Chapter 76 and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

**X** TERRI TAYLOR

Title

CONTROLLER

Date

4/30/2013 6:30:48 PM

Signature of Manager or Managing Member

Nevada Secretary of State Annual List Man/Mem

Revised: 3-9-12

Toll - Appx. - 002531

# Wells Fargo Combined Statement of Accounts

Primary account number: 9473350990 ■ December 8, 2011 - January 9, 2012 ■ Page 1 of 5

WELLS  
FARGO

L LANCE GILMAN  
5 WILD HORSE DR  
SPARKS NV 89434-9701

## Questions?

Available by phone 24 hours a day, 7 days a week:

**1-800-TO-WELLS** (1-800-860-3557)

TTY: 1-800-877-4833

En español: 1-877-727-2832

華語 1-800-268-2288 (6 am to 7 pm PT, M-F)

Online: [wellsfargo.com](http://wellsfargo.com)

Write: Wells Fargo Bank, N.A. (825)  
P.O. Box 6995  
Portland, OR 97228-6995

## You and Wells Fargo

Move money easily between your Wells Fargo accounts anytime via Wells Fargo Online Banking. Send money to another Wells Fargo customer's account. Even transfer money to or from your account at another U.S. bank\*. Go to [wellsfargo.com](http://wellsfargo.com) to sign up for Online Banking or sign on today.

\*Transfer subject to daily dollar limits. Fees may apply for transfers of funds from Wells Fargo to other financial institutions.

## Account options

A check mark in the box indicates you have these convenient services with your account. Go to [wellsfargo.com](http://wellsfargo.com) or call the number above if you have questions or if you would like to add new services.

Online Banking	<input checked="" type="checkbox"/>	Direct Deposit	<input type="checkbox"/>
Online Bill Pay	<input type="checkbox"/>	Rewards Program	<input type="checkbox"/>
Online Statements	<input checked="" type="checkbox"/>	Auto Transfer/Payment	<input type="checkbox"/>
Mobile Banking	<input type="checkbox"/>	Overdraft Protection	<input type="checkbox"/>
My Spending Report	<input checked="" type="checkbox"/>	Debit Card	<input type="checkbox"/>
		Overdraft Service	<input type="checkbox"/>

## Summary of accounts

### Checking and Savings

Account	Page	Account number	Ending balance last statement	Ending balance this statement
Wells Fargo® Basic Checking	2	██████████	██████████	██████████
Wells Fargo® Basic Checking	3	██████████	██████████	██████████
Wells Fargo Value™ Checking	3	██████████	██████████	██████████
Total deposit accounts			██████████	██████████



# Wells Fargo Combined Statement of Accounts

Primary account number: 9473350990 ■ April 7, 2012 - May 7, 2012 ■ Page 1 of 5

WELLS  
FARGO

L LANCE GILMAN  
5 WILD HORSE DR  
SPARKS NV 89434-9701

## Questions?

Available by phone 24 hours a day, 7 days a week:

**1-800-TO-WELLS** (1-800-869-3557)

TTY: 1-800-877-4833

En español: 1-877-727-2932

華語 1-800-288-2288 (6 am to 7 pm PT, M-F)

Online: wells Fargo.com

Write: Wells Fargo Bank, N.A. (825)

P.O. Box 6995

Portland, OR 97228-6995

## You and Wells Fargo

Thank you for being a Wells Fargo customer. We appreciate your business and understand that you are entrusting us with your banking needs. Let us assist you in finding the right accounts and services to help you reach your financial goals. Please visit us online at wells Fargo.com, call us at the number at the top of your statement, or visit any Wells Fargo store - we'd love to hear from you!

## Account options

A check mark in the box indicates you have these convenient services with your account. Go to wells Fargo.com or call the number above if you have questions or if you would like to add new services.

Online Banking	<input checked="" type="checkbox"/>	Direct Deposit	<input type="checkbox"/>
Online Bill Pay	<input type="checkbox"/>	Rewards Program	<input type="checkbox"/>
Online Statements	<input checked="" type="checkbox"/>	Auto Transfer/Payment	<input type="checkbox"/>
Mobile Banking	<input type="checkbox"/>	Overdraft Protection	<input type="checkbox"/>
My Spending Report	<input checked="" type="checkbox"/>	Debit Card	<input type="checkbox"/>
		Overdraft Service	<input type="checkbox"/>

## Summary of accounts

### Checking and Savings

Account	Pago	Account number	Ending balance last statement	Ending balance this statement
Wells Fargo® Basic Checking	2	██████████	██████████	██████████
Wells Fargo® Basic Checking	3	██████████	██████████	██████████
Wells Fargo Value™ Checking	4	██████████	██████████	██████████
Total deposit accounts			██████████	██████████

# NEVADA STATE BANK

THE DOOR TO YOUR FUTURE

P.O. Box 990 - Las Vegas, NV 89125-0990 | www.nsbank.com



PD4316 05-0200-NSB-PC0023-00000

0004312 01 AT 0.371 \*\*AUTO T3 0 2296 89434-970105

L LANCE GILMAN  
5 WILD HORSE DR  
SPARKS NV 89434-9701



## Statement of Accounts

Page 1 of 4

This Statement: April 4, 2012

Last Statement: March 5, 2012

### DIRECT INQUIRIES TO:

Reddi Response

24-hour Account Information:

Las Vegas: 471-5800

Reno: 337-2811

1 (800) 462-3555 (outside local areas)

### Loan By Phone

Las Vegas: 399-Loan (5626)

Reno: 851-8811

1 (800) 789-4671 (outside local areas)

Fee Change Notice Effective 03/01/2012: Paper Statement fee: \$2.50 for each account not opted out of paper; ATM transaction fee for using an ATM other than a Nevada State Bank ATM: \$2.50; Deposited Item Return fee: \$12.00; Telephone Transfer fee for transfers made by phone with a representative: \$5.00. Please visit a branch for more details.

## SUMMARY OF ACCOUNT BALANCES

Account Type	Account Number	Checking/Savings Ending Balance	Outstanding Balances Owed
Money Market Account			
Silver Advantage			
Total			

## MONEY MARKET ACCOUNT 540047308

902 0

Previous Balance	Deposits/Credits	Charges/Debits	Checks Processed	Ending Balance

### 2 DEPOSITS/CREDITS

Date	Amount	Description
03/12		
04/02		

### 3 CHARGES/DEBITS

Date	Amount	Description
03/12		
04/02		
04/04		

### 0 CHECKS PROCESSED

There were no transactions this period.

## AGGREGATE OVERDRAFT AND RETURNED ITEM FEES

	Total for This Period	Total Year-to-Date
Total Overdraft Fees		
Total Returned Item Fees		

To learn more about our other products and services that may lower the cost of managing account overdrafts or to discuss removing overdraft coverage from your account, please contact Customer Service or visit your local branch.

0004312-0000002-0008599

Toll - Appx. - 002534





# Wells Fargo Value<sup>SM</sup> Checking

Account number: **7319984972** ■ July 9, 2013 - August 7, 2013 ■ Page 1 of 3

WELLS  
FARGO

000334 1 AV 0.360 732948



L LANCE GILMAN  
5 WILD HORSE DR  
SPARKS NV 89434-9701

## Questions?

Available by phone 24 hours a day, 7 days a week:

**1-800-TO-WELLS** (1-800-869-3557)

TTY: 1-800-877-4833

En español: 1-877-727-2932

華語 1-800-288-2288 (6 am to 7 pm PT, M-F)

Online: [wellsfargo.com](http://wellsfargo.com)

Write: Wells Fargo Bank, N.A. (825)  
P.O. Box 6995  
Portland, OR 97228-6995

## You and Wells Fargo

Thank you for being a loyal Wells Fargo customer. We value your trust in our company and look forward to continuing to serve you with your financial needs.

## Account options

A check mark in the box indicates you have these convenient services with your account. Go to [wellsfargo.com](http://wellsfargo.com) or call the number above if you have questions or if you would like to add new services.

Online Banking	<input checked="" type="checkbox"/>	Direct Deposit	<input type="checkbox"/>
Online Bill Pay	<input checked="" type="checkbox"/>	Auto Transfer/Payment	<input type="checkbox"/>
Online Statements	<input type="checkbox"/>	Overdraft Protection	<input type="checkbox"/>
Mobile Banking	<input type="checkbox"/>	Debit Card	<input type="checkbox"/>
My Spending Report	<input checked="" type="checkbox"/>	Overdraft Service	<input type="checkbox"/>

## Activity summary

Beginning balance on 7/9  
Deposits/Additions  
Withdrawals/Subtractions  
Closing balance on 8/6



Account number: [REDACTED]

**L LANCE GILMAN**

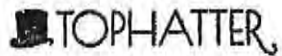
Nevada account terms and conditions apply

For Direct Deposit and Automatic Payments use  
Routing Number (RTN) [REDACTED]

## Overdraft Protection

This account is not currently covered by Overdraft Protection. If you would like more information regarding Overdraft Protection and eligibility requirements please call the number listed on your statement or visit your Wells Fargo store.

DDDA11UTFT 000334 NNNNNNNNNN NNN 001 022 825 001765 10641497.2



**Order Details:**

**Order #:** 18675800

**Unique ID:** AT-CF-DALA-PPL-K

**Payment Date:** November 20, 2016

**Estimated Shipping Date:** November 22, 2016

**Order Summary:**



**Item #:** 26031352

**Item:** 7 Piece Dala Tree Branch Print &

Embroidery Purple/Grey Comforter Set

**Size:** King, **Color:** Purple

**Customer #:** [REDACTED]

**Customer:** lance gilman

**Price:** [REDACTED]

**Shipping:** [REDACTED]

**Total:** [REDACTED]

**Shipping Information:**

lance Gilman

5 Wild Horse Canyon Drive

Sparks, NV 89434, USA

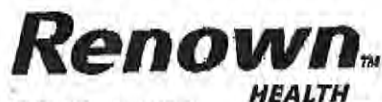
Your feedback is greatly appreciated!

Please review this product after you receive it here: <https://tophatter.com/invoices/18675800>.

Thanks again for your purchase,

Jimmy





P.O. Box 30006  
Reno, NV. 89520

RETURN SERVICE REQUESTED

Stmt Date: 08/15/18  
Admit Date: 08/06/18  
Discharge Date: 08/06/18

Responsible Party's Name: Leonard Lance Gilman  
Responsible Party's Phone: [REDACTED]

Patient Name: Gilman, Leonard Lance  
Medical Record #: [REDACTED]  
Patient Type: Outpatient  
Insurance: HOMETOWN HEALTH



114988-398

Account #: [REDACTED]  
Total Charges: [REDACTED]



LEONARD LANCE GILMAN  
5 WILD HORSE CYN  
SPARKS NV 89434-9701

**INFORMATIONAL ONLY - THIS IS NOT A BILL**

~~—Thank you for choosing Renown Regional Medical Center for your healthcare services.~~

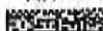
A summary of charges for your recent service at Renown Regional Medical Center is noted below. You do not need to pay anything at this time on these charges.

Please validate the information listed in the top right corner of this letter. If corrections are needed, contact our business office at (775) 982-4130 or toll-free at (866) 691-0284 as soon as possible.

Important information to guide you through the billing process is noted on the back of this page.

**SUMMARY OF CURRENT CHARGES**

	Quantity	Charges
[REDACTED]	1	[REDACTED]
Total Charges		[REDACTED]





# Hawaiian Airlines® World Elite™ Mastercard® Statement

LEONARD L GILMAN

| Account Ending [REDACTED] | Statement Period 11/17/18-12/16/18 Page 1 of 6

## Account Activity

Previous Balance as of 11/17/18 [REDACTED]

Payments [REDACTED]

Fees Charged + [REDACTED]

Interest Charged + [REDACTED]

Statement Balance as of 12/16/18 = [REDACTED]

▶ APR Details begin on page 3 in the Interest Charge Calculation section.

▶ Transaction details begin on page 3.

## Credit Line

Total Revolving Credit Line [REDACTED]

Includes \$600.00 cash advance line

Available Revolving Credit Line as of 12/16/18 [REDACTED]

Available for cash advances \$600.00

## HawaiianMiles Summary

Total HawaiianMiles Sent to Hawaiian Airlines 0

▶ For details see page 5

## Payment Information

Statement Balance: [REDACTED]

Minimum Payment Due: [REDACTED]

None

Payment Due Date: [REDACTED]

01/13/19

**Late Payment Warning:** If we do not receive your minimum payment by the date listed above, you may have to pay a late fee of up to \$37.00.

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay...	You will pay off the balance shown on this statement in about...	And you will end up paying an estimated total of...
Only the minimum payment	0 months	[REDACTED]

▶ If you would like information about credit counseling services, please call 800-570-1392.

Repayment Information based on activity and APR's on your account as of the closing date.

**SEE INSIDE:** You may have additional important messages inside.

NOTICE: SEE REVERSE SIDE OR END OF STATEMENT FOR IMPORTANT INFORMATION.

## Payment Coupon

Ways to pay:

HawaiianCreditCard.com

Barclays Mobile App

866-250-2878

7 PM PAYMENT DUE BY PHONE & ONLINE



Statement Balance as of 12/16/18: (account ending [REDACTED])

Minimum Payment Due: [REDACTED]

Payment Due Date: [REDACTED]

01/13/19

Amount Enclosed: \$ [REDACTED]

Make check payable to Barclays. Allow 7-10 days for USPS delivery.

MB 01 007122 89481 B 31 B  
LEONARD L GILMAN  
5 WILD HORSE CYN  
SPARKS NV 89434-9701

Barclays  
P.O. Box 60517  
City of Industry, CA 91716-0517



☐ Check for address, email and phone changes. Complete form on the back.

53780000005337140000000000000000

Toll - Appx. - 002538





000365

DEAR LANCE GILMAN

# JCPenney

## Order Summary

LANCE GILMAN  
5 WILD HORSE CYN  
SPARKS NV 89434

jcp.com  
1-800-322-1189

Thank you for shopping JCPenney.

Invoice No. [REDACTED] Date Invoiced July 11, 2018 Shipped via UPS JCPenney Store 0478-8

Qty	Item Number	Item Description	Price	Tax	For Office Use Only:
		Merchandise total	[REDACTED]		
		Tax on mdse 8.26%	[REDACTED]		
		Invoice total	[REDACTED]		

PAGE 2

\$378.87 has been charged to your VISA account.

## Exchanges & Returns

We hope everything is 100% satisfactory. If something is not right, please use this form for Exchanges or Returns. Instructions and Reason Codes are on the other side.

Invoice No. [REDACTED] Date Invoiced July 11, 2018 Shipped via UPS JCPenney Store 0478-8

Return Code	Qty	Item Number	Item Description	Price	Tax	For Office Use Only:
			Merchandise total	[REDACTED]		
			Tax on mdse 8.26%	[REDACTED]		
			Invoice total	[REDACTED]		

775-412-5999  
Terms VISA 3208 1Z8861540362763089 PAGE 2

Americas Auction Channel is now on Fios Channel 179



**AACTV**  
2560 5th Ave N  
Saint Petersburg, FL 33713

**Dish Network**  
paid [REDACTED] Visa  
[REDACTED]  
**Print**

**FREE  
SHIPPING**

REPRINT (3)

**Shipping Address**

LANCE L GILMAN  
5 WILD HORSE CANYON DR  
SPARKS NV 89434  
US

**Billing Address**

LANCE L GILMAN  
5 WILD HORSE CANYON DR  
SPARKS NV 89434  
US

1 727-220-2205

Items are attached to the invoice



#18182719811244\*

Invoice Number [REDACTED]

Invoice Date Saturday Oct-27-2018

Customer ID [REDACTED]

\*\*\*\*\* Please include gift boxes for all purchases \*\*\*\*\*

Itemnumber	Item Detail (Summary Only Full Descriptions on subsequent pages)	Qty	Price	Premium	Total
<u>317447</u>	<u>18KY Estate Tiffany &amp; Company Cuff Links</u>	1	[REDACTED]	0.00	[REDACTED]

**Payment History** (Jeremiahs International Merchant #434836517889)

2018-10-31 VISA \$1,405.20 APPROVED Successful. The street address and postal code matched. [Y] ☐  
AU\_00863D

**Order Subtotal:** [REDACTED]  
**Shipping/Handling:** \$4.70  
**FL Sales Tax** \$0.00  
**Coupons** -\$0.00  
**Grand Total** [REDACTED]  
**Payments** [REDACTED]





Dan Dexter Ins Agcy  
1111 Steamboat #450  
Reno NV 89521

Information as of November 21, 2018

Policyholder(s)

Page 1 of 2

**Lance Gilman**

Policy number

[REDACTED]

Your Allstate agency is

[REDACTED]

(775) 851-0101

DanDexter@allstate.com



LANCE GILMAN  
5 WILD HORSE CANYON DR  
SPARKS NV 89434-9701

## Thank you for being a loyal Allstate customer—we're happy to have you with us!

Here's your Landlords Package insurance renewal offer for the next 12 months. We've also included a guide to what's in this package and answers to some common questions.

### Renewing your policy is easy

Keep an eye out for your bill, which should arrive in a couple of weeks. Just send your payment by the due date on your bill. If you're enrolled in the Allstate® Easy Pay Plan, you won't receive a bill—we'll send you a statement with your payment withdrawal schedule. You also won't receive a bill if a mortgage company or lienholder pays your insurance premium for you.

### How to contact us

Give your Allstate Agent a call at (775) 851-0101 if you have any questions. It's our job to make sure you're in good hands.

Sincerely,

Julie Parsons  
President, Allstate Indemnity Company

RP378-4



Form **872**  
(Rev. July 2014)

Department of the Treasury-Internal Revenue Service

**Consent to Extend the Time to Assess Tax**

In reply refer to:  
**SBSE**

TIN  
[REDACTED]

**L LANCE GILMAN**

(Name(s))

taxpayer(s) of **5 WILD HORSE CANYON DRIVE, SPARKS NV 89434-9701**

(Address)

and the Commissioner of Internal Revenue consent and agree to the following:

(1) The amount of any Federal **INCOME** tax due on any return(s) made by or  
(Kind of tax)

for the above taxpayer(s) for the period(s) ended

**DECEMBER 31, 2014**

may be assessed at any time on or before **February 28, 2019** If a provision  
(Expiration date)

of the Internal Revenue Code suspends the running of the period of limitations to assess such tax, then, when, under the Internal Revenue Code, the running of the period resumes, the extended period to assess will include the number of days remaining in the extended period immediately before the suspension began.

(2) The taxpayer(s) may file a claim for credit or refund and the Service may credit or refund the tax within 6 months after this agreement ends, except with respect to the items in paragraph (4).

(3) Paragraph (4) applies only to any taxpayer who holds an interest, either directly or indirectly, in any partnership subject to subchapter C of chapter 63 of the Internal Revenue Code.

(4) Without otherwise limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including penalties, additions to tax and interest) attributable to any partnership items (see section 6231 (a)(3)), affected items (see section 6231(a)(5)), computational adjustments (see section 6231(a)(6)), and partnership items converted to nonpartnership items (see section 6231(b)). Additionally, this agreement extends the period of limitations for assessing any tax (including penalties, additions to tax, and interest) relating to any amounts carried over from the taxable year specified in paragraph (1) to any other taxable year(s). This agreement extends the period for filing a petition for adjustment under section 6228(b) but only if a timely request for administrative adjustment is filed under section 6227. For partnership items which have converted to nonpartnership items, this agreement extends the period for filing a suit for refund or credit under section 6532, but only if a timely claim for refund is filed for such items.

(5) This Form contains the entire terms of the Consent to Extend the Time to Assess Tax. There are no representations, promises, or agreements between the parties except those found or referenced on this Form.

**INTERNAL REVENUE SERVICE  
RECEIVED**

**JUL 09 2018**

**SB/SE WESTERN AREA EXAMINATION  
RENO NEVADA**

**Your Rights as a Taxpayer**

You have the right to refuse to extend the period of limitations or limit this extension to a mutually agreed-upon issue(s) or mutually agreed-upon period of time. **Publication 1035, Extending the Tax Assessment Period**, provides a more detailed explanation of your rights and the consequences of the choices you may make. If you have not already received a Publication 1035, the publication can be obtained, free of charge, from the IRS official who requested that you sign this consent or from the IRS' web site at [www.irs.gov](http://www.irs.gov) or by calling toll free at 1-800-TAX-FORM (1-800-829-3676). Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled.

(Space for signature is on the back of this form and signature instructions are attached)





Department of the Treasury  
Internal Revenue Service  
Small Business and Self-Employed  
300 Booth St  
Reno NV 89509

L LANCE GILMAN  
5 WILD HORSE CANYON DRIVE  
SPARKS NV 89434-9701

Date: FEB 13 2019

Taxpayer ID number (last 4 digits):

Tax year:

December 31, 2014

December 31, 2015

December 31, 2016

Form number:

1040

Person to contact:

### Statement

Date	4/1/2012
------	----------

To:  
LANCE L. GILMAN  
5 WILD HORSE CANYON DR.  
SPARKS, NV. 89434

		Amount Due	Amount Enc.
		\$133.00	
Date	Transaction	Amount	Balance
02/29/2012	Balance forward		0.00
03/01/2012	Due 03/01/2012. --- 99214 \$66.50		
03/12/2012	Due 03/12/2012. --- 99214 \$66.50		
			</



Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL

SBN 6733

570 Marsh Avenue

Reno, Nevada 89509

Telephone: (775) 303-4882

johnladuemarshall@gmail.com

Luke Andrew Busby, Ltd.

Nevada State Bar No. 10319

316 California Ave #82

Reno, NV 89509

775-453-0112

luke@lukeandrewbusbyltd.com

*Attorneys for the Defendant*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE: The Court has entered an Order on Plaintiff's Motion to Compel, for Sanctions, to Extend Discovery Period, and for Summary Judgment and Order

**FILED**

2019 MAR 11 AM 8:27

STOREY COUNTY CLERK

BY ADuke  
DEPUTY

1  
2 Vacating Hearing in the above captioned matter, a true and correct copy of which is attached  
3 hereto as Exhibit 1.  
4

5  
6 **NRS 239B.030(4) AFFIRMATION**

7 I certify that the attached filing includes no social security numbers or other personal  
8 information.  
9

10 Respectfully submitted this March 11, 2019:

11  
12 By: 

13 JOHN L. MARSHALL

14 SBN 6733

15 570 Marsh Avenue

16 Reno, Nevada 89509

17 Telephone: (775) 303-4882

18 ~~johnmarshall@charter.net~~

19 ~~JOHN L. MARSHALL@ynva-b.com~~

20 Luke Andrew Busby, Ltd.

21 Nevada State Bar No. 10319

22 316 California Ave #82

23 Reno, NV 89509

24 775-453-0112

25 luke@lukeandrewbusbyltd.com

26  
27 *Attorneys for the Defendant*  
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the date indicated below, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

☒ delivery via Reno/Carson Messenger Service;

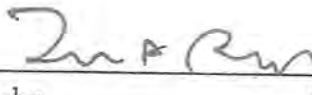
\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

By:   
Luke Busby

Dated: 3-11-19



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Exhibit List

1. Order

**Exhibit 1**

**Exhibit 1**



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY

-o0o-

LANCE GILMAN, an individual,  
Plaintiff

vs.

SAM TOLL, an individual; DOES I-  
V, inclusive; and ROE ENTITIES VI-  
X, inclusive,

Defendants.

CASE NO.: 18 TRT 00001 1E

DEPT. NO.: 2

ORDER ON PLAINTIFF'S MOTION  
TO COMPEL, FOR SANCTIONS, TO  
EXTEND DISCOVERY PERIOD, AND FOR  
SUMMARY JUDGMENT  
AND  
ORDER VACATING HEARING

PROCEDURAL BACKGROUND

Sam Toll authors articles he publishes on a website under the domain storeyteller.online (the Storey Teller). Lance Gilman sued Toll for defamation based upon several articles Toll published on the Storey Teller. Toll filed an Anti-SLAPP motion to dismiss. The Court entered an order allowing Gilman to conduct discovery limited solely to information as to whether Toll knew the "resident communications," (specifically described in the Order Granting Anti-SLAPP Special Motion to Dismiss in Part and Allowing Limited Discovery beginning at page 7 of the order), were false or whether Toll acted with a high degree of awareness of the probable falsity of the statement or had serious doubts as to the publication's truth.

Before the Court is Plaintiff's Motion to Compel, Motion for Sanctions, Motion to Extend the Time Period for Discovery, and in the Alternative, Motion for Partial Summary Judgment. Toll opposed the motion and Gilman filed a reply. The Court



1 issued an Order for Evidentiary Hearing on Motion to Compel. Upon further review it  
2 appears an evidentiary hearing is not necessary as the facts necessary to decide the  
3 motion are not contested. The issues for the Court to decide are legal issues.

#### ISSUES

6 Is Toll a reporter of a newspaper or press association?

7 If Toll is a reporter of a newspaper or press association, should the news media  
8 privilege yield to Gilman's need for the sources of information to obtain evidence which  
9 is essential to Gilman's ability to prove actual malice.

10 If Toll is not a reporter of a newspaper or press association, should the Court  
11 impose sanctions for Toll's refusal to answer the deposition questions?

12 If Toll is not a reporter of a newspaper or press association, should the Court  
13 grant Gilman's request to extend the discovery deadline?

14 Has Gilman demonstrated he is entitled to summary judgment?

#### FACTS

17 Toll publishes articles on his Storey Teller blog.

18 The articles Toll publishes contain facts or alleged facts, opinions, commentary,  
19 and/or satire related to events in Storey County.

20 Toll's articles contain reports and comments on events in Storey County.

21 The Storey Teller is published electronically only. The Storey Teller is not printed.

22 The articles at issue were published by Toll on April 7, 2017, April 18, 2017, May  
23 20, 2017, October 16, 2017, and December 3, 2017.

24 Toll has been a member of the Nevada Press Association since August of 2017.

25 Gilman deposed Toll and asked questions about Toll's sources of information  
26 related to the "resident communications." The deposition questions about sources that  
27 Gilman included in his motion did not specify any specific time frame.

1 Toll asserted the news media privilege in response to several questions as set out  
2 in Gilman's motion.

### 4 LEGAL PRINCIPLES

5 NRS 49.275, the news media privilege, provides in relevant part:

6 No reporter, former reporter or editorial employee of any  
7 newspaper, periodical or press association ... may be required to disclose ...  
8 the source of any information procured or obtained by such person, in any  
legal proceedings, trial or investigation:

1. Before any court ....

9 A party asserting a privilege has the burden of proving that the privilege applies.  
10 *McNair v. Eighth Judicial Dist. Ct.*, 1285, 1289, 885 P.3d 576, 579 (1994) (the burden is  
11 on the party asserting a privilege to establish that the requested information comes  
12 within the privilege).

### 14 ANALYSIS

#### 15 *Arguments of counsel*

16 Gilman argued there is nothing in the four corners of NRS 49.275 that applies to  
17 Toll or his Storey Teller. Gilman pointed out that the "About Section" of the Storey  
18 Teller states, "the [Storey Teller] was created to provide a source of irritation to the  
19 Good Old Boys who operate The Biggest Little County in the World with selfish impunity  
20 forever." Gilman argued "the Storey Teller by its own admission was not created for the  
21 purpose of disseminating news to the general public," "the Storey Teller is not news,"  
22 and therefore, "the Defendant is not a reporter." Gilman further argued that "there is  
23 nothing providing for a blogger such as the Defendant in the statute." Gilman asserted  
24 Toll "has never made a showing how he qualifies for the protections afforded by NRS  
25 49.275, and therefore, "the Defendant is not entitled to the protections set forth in NRS  
26 49.275."

27 In opposition Toll argued he is a reporter because he started the Storey Teller as  
28 an alternative to the Comstock Chronicle, a newspaper published in Virginia City; the

1 articles Toll published "relate to news events and/or opinion and/or satire about news  
2 events in Storey County." Toll points out he is and has been a member of the Nevada  
3 Press Association since August of 2017, and that Association lists on its website the  
4 Storey Teller as a "specialized publication." Toll also has a Nevada Legislative Counsel  
5 Bureau (LCB) identification. The Court received no evidence of when Toll received the  
6 LCB identification. Toll provided a dictionary definition of "reporter" that includes a  
7 person who is employed by a newspaper, magazine, or television company to gather and  
8 report news, and a person who broadcasts news. Toll cites to a Ninth Circuit decision  
9 that indicated "with the advent of the Internet and the decline of print and broadcast  
10 media ... the line between the media and others who wish to comment on political and  
11 social issues become far more blurred."

12 In reply Gilman essentially repeated arguments he made in his motion.  
13

14 *Is Toll a reporter of a newspaper or press association?*

15 Under NRS 49.275, as applicable to this case, a reporter of any newspaper,  
16 periodical or press association has a privilege refuse to disclose any source of  
17 information procured or obtained by such person in any legal proceeding before a court.

18 A party asserting a privilege has the burden of proving that the privilege applies.  
19 Because Toll is asserting the news media privilege he has the burden of proving the  
20 privilege applies. Toll did not provide facts, legal authority, or argument that the Storey  
21 Teller is a periodical and therefore the Court will not address whether the Storey Teller  
22 is a periodical. Therefore, Toll has the burden of proving he is a reporter of a newspaper,  
23 or of a press association.

24 The Court will first address whether Toll is a reporter.

25 Toll's articles at issue contain reports of facts or alleged facts, opinions,  
26 commentary, and/or satire related to events in Storey County. A "reporter" is defined as  
27 one that reports; one who reports news events; a commentator. Webster's Third New  
28 International Dictionary 1926 (2002). Because Tolls' articles at issue contain reports of



1 facts or alleged facts, opinions, commentary, and/or satire related to events in Storey  
2 County, Toll fits the definition of a reporter. The Court concludes Toll is a reporter.

3 The Court next turns to whether the Storey Teller is a newspaper.

4 Toll publishes his articles on the internet and not in any other format. He does  
5 not print his articles. The Legislature did not define "Newspaper" in NRS 49.275 or  
6 elsewhere in Chapter 49. The Legislature has defined "newspaper" in several other  
7 chapters of the NRS. It appears that under all of the statutory definitions a newspaper  
8 must be printed. For example, NRS Chapter 238, which relates to legal notices and  
9 advertisements, in 238.020, defines daily, triweekly, semiweekly, weekly and  
10 semimonthly newspapers. All of the definitions in NRS 238.020, and apparently  
11 throughout the Nevada Revised Statutes, include that a newspaper is printed. The  
12 Legislature's definition of "newspaper" in NRS 238.020 is particularly relevant and  
13 significant because if a blog is a newspaper, then legal notices "or other written matter  
14 whatsoever, required to be published in a newspaper by any law of this State, or by the  
15 order of any court of record in this state" (NRS 238.010) could be published on a blog.

16 The statutory definitions are consistent with the usual and natural meaning of  
17 "newspaper." Webster defined "newspaper" as a paper that is printed and distributed.  
18 Webster's Third New International Dictionary 1524 (2002). Toll did not offer any  
19 definition of "newspaper" that would cover a blog. Whether a blog should be covered by  
20 the news media privilege is a matter for the legislature, not the courts.

21 Toll argued the Nevada Press Association's website includes the Storey Teller as a  
22 "specialized publication." That is true. The website also contains information regarding  
23 "daily newspapers." That heading includes the Las Vegas Review Journal, the Reno  
24 Gazette Journal, the Elko Daily Free Press, the Nevada Appeal, and Nevada Legal News.  
25 The Court takes judicial notice that all of those publications are printed. The website  
26 also contains information concerning "non-daily newspapers." The Court is not familiar  
27 with the publications listed as non-daily newspapers. The point is, the Nevada Press  
28 Association recognizes a number of publications as newspapers, but the Storey Teller is

1 not one of them. Toll submitted an affidavit of Barry Smith, Executive Director of the  
2 Nevada Press Association. Mr. Smith did not say the Storey Teller is a newspaper. In fact  
3 he distinguishes between daily and weekly news publications on the one hand and  
4 online news services, magazines, and others, on the other hand.

5 The Court concludes that because Toll does not print the Storey Teller the Storey  
6 Teller is not a newspaper and, therefore the news media privilege is not available to Toll  
7 under the "reporter of a newspaper" provision of NRS 49.275.

8 The Court turns now to whether Toll is a reporter of a of a press association. Toll  
9 is and has been a member of the Nevada Press Association since August of 2017. Gilman  
10 did not present any facts, legal authority, or argument that the Nevada Press Association  
11 is not a press association. The Court finds and concludes the Nevada Press Association is  
12 a press association. Because Toll is a member of a press association the Court concludes  
13 he is reporter of a press association and therefore the news media privilege may apply.

14 Because Toll has been a reporter of a press association since August of 2017 he is  
15 and has been covered by the NRS 49.275 news media privilege since August of 2017.  
16 But, because he was not a reporter for a newspaper or press association before August of  
17 2017 he was not covered by the news media privilege before August of 2017. Therefore,  
18 the news media privilege does not cover sources of any information procured or  
19 obtained by Toll before August of 2017, and therefore, the motion to compel must be  
20 granted as to any sources of information procured or obtained by Toll for the articles at  
21 issue before August of 2017.

22  
23 *Should the news media privilege yield to Gilman's need for the sources of information*  
24 *to obtain evidence which is essential to Gilman's ability to prove actual malice?*

25 The United States District Court for the District of Nevada has addressed this  
26 issue. In *Newton v. National Broadcasting Co.*, 109 F.R.D. 522 (1985) the singer and  
27 actor, Wayne Newton, sued NBC for defamation allegedly contained in news broadcasts.  
28 Newton was a public figure and so, like Gilman, had to prove actual malice to prove

1 defamation. Newton sought discovery of NBC's sources and NBC invoked the NRS  
2 49.275 news media privilege. The court acknowledged that the information about  
3 sources was critically important to Newton's ability to meet his burden of proof. The  
4 court noted the tension between a defamation plaintiff's legitimate interest in  
5 attempting to meet his burden of proof on actual malice and the equally legitimate  
6 interests of a media defendant's interests in protecting the confidentiality of its sources  
7 and thereby presumably promote the viability of a free press. The court came to the  
8 "inescapable conclusion" that NBC could not be forced to disclose its sources because of  
9 Nevada's statutory news media privilege. The court noted "the Nevada legislature, in  
10 granting almost absolute protection to a journalist from disclosure of his confidential  
11 sources, has made a decision to favor the public's interest in access to information over  
12 an individual's interest in vindicating his reputation in a defamation action." *Id.* 530.

13 For the same reasons the same result is required in this case. This Court  
14 acknowledges that the information about sources is critically important to Gilman's  
15 ability to meet his burden of proof on the actual malice issue. The Court concludes the  
16 news media privilege does not yield to Gilman's need for the sources of information to  
17 obtain evidence which is essential to Gilman's ability to prove actual malice. The  
18 privilege does not yield because the Nevada Legislature, in granting almost absolute  
19 protection to a journalist from disclosure of his confidential sources, has made a  
20 decision to favor the public's interest in access to information over an individual's  
21 interest in vindicating his reputation in a defamation action and thereby presumably  
22 promoting the viability of a free press.

23  
24 *Should the Court impose sanctions for Toll's refusal to answer the deposition*  
25 *questions?*

26 Gilman has not, in his points and authorities, shown that any of the deposition  
27 questions in issue were about any specific time frame. The Court concludes that because  
28



1 the deposition questions were not limited to sources of information Toll procured or  
2 obtained before August of 2017 the motion for sanctions will be denied.

3  
4 *Should the Court grant Gilman's request to extend the discovery deadline?*

5 Because the motion to compel must be granted in part, the Court concludes  
6 Gilman's motion to extend the time for discovery must also be granted so he can obtain  
7 discovery of sources of information procured or obtained by Toll before August of 2017.

8  
9 *Should the Court grant Gilman's motion for partial summary judgment?*

10 The Court concludes Gilman has failed to show that he is entitled to partial  
11 summary judgment. Therefore his motion for partial summary judgment must be  
12 denied.

#### 13 14 **CONCLUSIONS OF LAW**

15 Because Toll was not a reporter for a newspaper or press association before  
16 August of 2017 he was not covered by the news media privilege before August of 2017,  
17 and therefore, the motion to compel must be granted as to any source of information  
18 obtained or procured by Toll before August of 2017.

19 Because Toll has been and is a reporter of a press association since August of 2017  
20 he is and has been covered by the news media privilege since August of 2017, and  
21 therefore the motion to compel must be denied as to any source of information procured  
22 or obtained by Toll during or after August of 2017.

23 The news media privilege does not yield to Gilman's need for the sources of  
24 information to obtain evidence which is essential to Gilman's ability to prove actual  
25 malice.

26 Because the deposition questions were not limited to sources of information Toll  
27 procured or obtained before August of 2017 the motion for sanctions will be denied.

1 Gilman's motion to extend the time for discovery must be granted so he can  
2 obtain discovery of sources of information procured or obtained by Toll during or before  
3 August of 2017.

4 Gilman failed to show he is entitled to partial summary judgment.  
5

6 **ORDER**

7 Gilman's motion to compel is granted as to sources of information procured or  
8 obtained by Toll before August of 2017.

9 Gilman's motion to compel is denied as to sources of information procured or  
10 obtained by Toll during and after August of 2017.

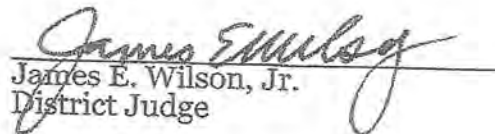
11 Toll will not be allowed to rely on the privileged information as a defense under  
12 *Diaz v. Dist. Ct.*, 116 Nev. 88, 101993 P.2d 50 (2000), citing *Las Vegas Sun*, 104 Nev.  
13 508, 514, 761 P.2d at 853-54 (1988).

14 Gilman's motion for sanctions is denied.

15 Gilman's motion to extend the time for discovery is granted. Discovery must be  
16 completed by April 12, 2019.

17 Gilman's motion for partial summary judgment is denied.

18 March 4, 2019.

19   
20 James E. Wilson, Jr.  
21 District Judge  
22  
23  
24  
25  
26  
27  
28





1 Case No. 18-trt-00001-1e

2 Dept. No. II

3  
4 JOHN L. MARSHALL  
5 SBN 6733  
6 570 Marsh Avenue  
7 Reno, Nevada 89509  
8 Telephone: (775) 303-4882  
9 johnladuemarshall@gmail.com

10 Luke Andrew Busby, Ltd.  
11 Nevada State Bar No. 10319  
12 316 California Ave #82  
13 Reno, NV 89509  
14 775-453-0112  
15 luke@lukeandrewbusbyltd.com

16 *Attorneys for the Defendant*

17 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
18 **IN AND FOR STOREY COUNTY**

19 LANCE GILMAN,

20 Plaintiff(s),

21 vs.

22 SAM TOLL,

23 Defendant(s).  
24 \_\_\_\_\_/

25 **MOTION FOR STAY OF DISCOVERY PENDING PETITION FOR WRIT**  
26 **OF PROHIBITION OR MANDAMUS TO THE NEVADA SUPREME**  
27 **COURT ON ORDER SHORTENING TIME**  
28

**FILED**

2019 MAR 11 AM 8:26 AD

STOREY COUNTY CLERK

BY ADuke  
DEPUTY

1 COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the  
2 undersigned counsel, and hereby files the following Motion for Stay of Discovery Pending  
3 Petition for Writ of Prohibition or Mandamus to Supreme Court on Order Shortening  
4 Time against by Plaintiff LANCE GILMAN ("Plaintiff" or "Gilman") as described below.  
5

6 This Motion is based upon the following Memorandum of Points and Authorities,  
7 the pleadings and papers filed herein, and any oral argument on this matter that the Court  
8 should require.  
9

## 10 MEMORANDUM OF POINTS AND AUTHORITIES

### 11 *Background*

12 On April 9, 2018, almost a year ago, the Court entered an Order Granting  
13 Anti-SLAPP Special Motion to Dismiss in Part, Allowing Limited Discovery, and Staying  
14 Further Proceedings (hereinafter "Court's Order"). The Court's Order found in favor of  
15 the Defendant on seven out of the eight alleged defamatory statements alleged in the  
16 Plaintiff's Complaint. On the remaining claim, the Court concluded that: (1) Toll's  
17 statements regarding Gilman not residing in Storey County (the "resident  
18 communications") were made to procure an electoral action, result, or outcome (Court's  
19 Order at 10:16); (2) were made in direct connection with an issue of public concern (Court  
20 Order at 13:20); (3) were made in a place open to the public or on a public forum. (Court's  
21 Order at 14:9); and (4) were made in furtherance of the right to free speech in direct  
22 connection with an issue of public concern. Court's Order at 15:19. Nevertheless, the  
23  
24  
25  
26  
27  
28

1 Court granted leave to the Defendant to conduct discovery, "limited solely to information  
2 as to whether Toll knew the resident statements were false or whether he acted with a high  
3 degree of awareness of the probable falsity of the statement or had serious doubts as to the  
4 publication's truth." Court's Order at 21:8.  
5

6  
7 During the deposition of Defendant Sam Toll, Toll refused to disclose the sources for  
8 his news stories and invoked the News Shield Privilege codified in NRS 49.275. Plaintiff  
9 Gilman thereafter filed a Motion to Compel; Motion for Sanctions; Motion to Extend the  
10 Time Period for Discovery; and In the Alternative, Motion for Summary Judgment, to  
11 which the Defendant filed an opposition.  
12

13  
14 On June 26, 2018, the Court entered an Order for Evidentiary Hearing on the  
15 Motion to Compel, finding that an evidentiary hearing is necessary to determine whether  
16 Toll may invoke the News Shield Privilege to protect his sources and directing the parties to  
17 submit a joint hearing statement.  
18

19 On July 13, 2018, the parties filed a Joint Hearing Statement with the Court, which  
20 contained a list of witnesses to be called at the evidentiary hearing, a list of exhibits, and  
21 additional points and authorities - as requested by the Court.  
22

23 On August 8, 2018, the Court issued an Order Re Evidentiary Hearing on Motion to  
24 Compel, outlining the hearing schedule for the proposed evidentiary hearing, ordering that  
25 certain witnesses would be precluded from testifying, and permitting the parties to file  
26 supplemental points and authorities regarding whether the Storey Teller is a newspaper or  
27  
28



1 periodical and whether Toll is a reporter.

2  
3 On August 22, 2018, Defendant Toll filed Supplemental Points and Authorities  
4 Pursuant to the Court's August 8, 2018 Order, citing cases finding that online news outlets  
5 in California and Pennsylvania qualified for protections under similar news shield laws.  
6

7 On March 4, 2019, the Court issued an Order on Plaintiff's Motion to Compel, for  
8 Sanctions, to Extend Discovery Period, and for Summary Judgment and Order Vacating  
9 Hearing ("Order on Motion to Compel") finding that: (1) Toll was a reporter and published  
10 news stories on his online news site, the "Storeyteller" but that since the news site was not  
11 physically printed he was not covered by the news media privilege under NRS 47.275; and  
12 (2) Gilman's motion to extend the time for discovery must be granted so he can obtain  
13 discovery of sources of information procured or obtained by Toll before August of 2017.  
14 *Id.* Plaintiff Gilman has noticed Toll's deposition to provide the compelled testimony on  
15 March 25, 2019.  
16  
17  
18

19 Defendant Toll files this Motion to Stay and requests an order shortening time in  
20 order to petition the Nevada Supreme Court to review the Court's Order on Motion to  
21 Compel disclosure of confidential sources he believes to be privileged under the Nevada  
22 Press Shield. Without the stay, Toll will be placed in the untenable position of either  
23 disclosing his confidential sources or facing contempt of this Court. Due to the complexity  
24 of preparing such a petition, the undersigned attorneys for Toll expect to file the petition by  
25 March 18, 2019.  
26  
27  
28

1 **Argument**

2  
3 An application for stay is required to be first made to the District Court rather than  
4 the Supreme Court. *Nelson v. Heer*, 121 Nev. 832, 122 P.3d 1252, 2005 WL 3212435 (2005).  
5 Under NRPC 8(c), a stay may be granted where: (1) the object of the appeal or writ petition  
6 will be defeated if the stay or injunction is denied; (2) whether petitioner will suffer  
7 irreparable or serious injury if the stay or injunction is denied; (3) whether respondent/real  
8 party in interest will suffer irreparable or serious injury if the stay or injunction is granted;  
9 and (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ  
10 petition. These factors are met here as argued below:  
11  
12

13  
14 First, the object of Mr. Toll's appeal, the application of Nevada's Press Shield statute,  
15 codified in NRS 49.275, to his confidential sources, will be lost he is forced to disclose them  
16 in the scheduled deposition thereby defeating the objective of his appeal.  
17

18 Second, if a stay is not granted Mr. Toll will be forced to either disclose his  
19 confidential sources or be in contempt of the Court's Order on Motion to Compel. This  
20 legal jeopardy qualifies as an irreparable injury - i.e. once disclosed, the identities of Toll's  
21 confidential news sources for his stories may not be un-disclosed.  
22

23 Third, Plaintiff Gilman will suffer no irreparable injury by the delay necessary to seek  
24 Supreme Court review. Once the Supreme Court completes its review of the matter by  
25 either declining to accept Toll's writ petition or ultimately denying the merits of it, Plaintiff  
26 will be able to recommence discovery. Indeed, Plaintiff has sought and received multiple  
27  
28

1 delays in resolving this lawsuit already.

2  
3 Fourth, while Defendant realizes even if he may not convince this Court that its  
4 ruling on the validity of Toll's assertion of the New Shield privilege was erroneous, the  
5 Court should recognize the importance of this issue as a matter of public policy to reporters  
6 for online news sites and the lack of Supreme Court precedent on the question at issue.  
7 The Court's ruling that all reporters for online news sites must now either "print" copies of  
8 their publication or be compelled to join the Nevada Press Association to insure  
9 confidentiality to their news sources is an issue of first impression of statewide importance,  
10 i.e. no other Court in Nevada has made this same determination. It is very likely that the  
11 Supreme Court will accept review of Toll's petition because it involves an order compelling  
12 Toll do disclose information that may be subject to a privilege under law, and as such, it is  
13 eligible extraordinary writ review. (see, e.g., *Las Vegas Sands v. Eighth Jud. Dist. Ct.*, 130 Nev.  
14 118 (2014); *Aspen Fin. Services v. Dist. Ct.*, 128 Nev. 635, 639, 289 P.3d 201, 204 (2012); *Diaz*  
15 *v. Dist. Ct.*, 116 Nev. 88 (2000). Because no judgment has been rendered by the Court, no  
16 bond should be required under NRCP 62 as the purpose of security for a stay pending  
17 appeal is to protect the judgment creditor's ability to collect. *Nelson v. Heer*, 121 Nev. 832,  
18 122 P.3d 1252, 2005 WL 3212435 (2005)

19  
20 Considering all of the factors above, a stay is necessary to preserve the issue for  
21 Supreme Court review and avoid irreparable harm to Mr. Toll and his confidential sources.  
22 Mr. Gilman will suffer no irreparable harm and the privilege at issue is, at a minimum, of  
23  
24  
25  
26  
27  
28



1 high public policy and statewide importance.

2  
3 WHEREFORE, the Defendant respectfully requests that this Court stay discovery in  
4 this matter pending the outcome of proceedings on the Defendant's Writ of Prohibition or  
5 Mandamus to the Supreme Court.  
6

7 **NRS 239B.030(4) AFFIRMATION**

8 I certify that the attached filing includes no social security numbers or other personal  
9 information.  
10

11 Respectfully submitted this March 11, 2019:

12  
13 By: 

14 JOHN L. MARSHALL

15 SBN 6733

16 570 Marsh Avenue

17 Reno, Nevada 89509

18 Telephone: (775) 303-4882

19 johnladuemarshall@gmail.com

20 Luke Andrew Busby, Ltd.

21 Nevada State Bar No. 10319

22 316 California Ave #82

23 Reno, NV 89509

24 775-453-0112

25 luke@lukeandrewbusbyltd.com

26 *Attorneys for the Defendant*  
27  
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the date indicated below, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

☒ delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

By: \_\_\_\_\_

Luke Busby

Dated: \_\_\_\_\_

3-11-19

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Exhibit List

1. Draft Order



## **Exhibit 1**

## **Exhibit 1**

1 Case No. 18-trt-00001-1e

2  
3 Dept. No. II

4  
5  
6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
7 **IN AND FOR STOREY COUNTY**  
8

9 LANCE GILMAN,

10 Plaintiff(s),

11 vs.

12 SAM TOLL,

13 Defendant(s).  
14 \_\_\_\_\_/

15  
16 **ORDER GRANTING STAY**

17  
18 Presently before the Court is Defendant's MOTION FOR STAY OF DISCOVERY  
19 PENDING PETITION FOR WRIT OF PROHIBITION OR MANDAMUS TO THE  
20 NEVADA SUPREME COURT ("the Motion") filed on March 11, 2019.

21 The Defendant intends to file a petition for writ of prohibition or mandamus to the  
22 Nevada Supreme Court to review the Court's March 4, 2019, Order on Plaintiff's Motion to  
23 Compel, for Sanctions, to Extend Discovery Period, and for Summary Judgment and Order  
24 Vacating Hearing Order ("the Order"), which compels disclosure of confidential sources he  
25 believes to be privileged under the Nevada Press Shield statute in NRS 49.275. Without the  
26 stay, the Defendant argues he will be placed in the untenable position of disclosing his  
confidential sources for his news stories.

27 As the Court's Order ruled on a novel issue of law, the Court agrees that it is likely that  
28 the Supreme Court may accept review of the Defendant's petition because it involves an

1 order compelling the Defendant to disclose information that the Defendant argues is subject  
2 to a privilege under law. (see, e.g., *Las Vegas Sands v. Eighth Jud. Dist. Ct.*, 130 Nev. 118 (2014);  
3 *Aspen Fin. Services v. Dist. Ct.*, 128 Nev. 635, 639, 289 P.3d 201, 204 (2012); *Diaz v. Dist. Ct.*,  
4 116 Nev. 88 (2000).

5 NOW THEREFORE, good cause appearing,

6 IT IS HEREBY ORDERED if the Defendant's Petition for Writ is filed by March 18,  
7 2019, the request for a stay of discovery is GRANTED pending review of the Defendant's  
8 petition by the Nevada Supreme Court. Discovery in this matter is stayed until the Nevada  
9 Supreme Court makes a dispositive ruling on the Defendant's petition.

10 Dated this \_\_\_\_ of March 2019.

11  
12  
13  
14 \_\_\_\_\_  
DISTRICT COURT JUDGE  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnmarshall@charter.net](mailto:johnmarshall@charter.net)

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

*Attorneys for the Defendant*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

**MOTION FOR ORDER SHORTENING TIME TO RESPOND TO  
MOTION FOR STAY OF DISCOVERY PENDING PETITION FOR WRIT  
OF PROHIBITION OR MANDAMUS TO THE NEVADA SUPREME  
COURT**

COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the

**FILED**

2019 MAR 11 AM 8:27

STOREY COUNTY CLERK

BY

DEPUTY



undersigned counsel, and hereby files the following Motion for Order Shortening Time against by Plaintiff LANCE GILMAN ("Plaintiff" or "Gilman") seeking an order from Court shortening the time for the Plaintiff to respond to the Defendants underlying Motion for Stay of Discovery Pending Petition for Writ of Prohibition or Mandamus to the Nevada Supreme Court.

This Motion is based upon the following Memorandum of Points and Authorities, the pleadings and papers filed herein, and any oral argument on this matter that the Court should require.

#### **MEMORANDUM OF POINTS AND AUTHORITIES**

Contemporaneous with this Motion, the Defendant has filed a Motion for Stay of Discovery Pending Petition for Writ of Prohibition or Mandamus to the Nevada Supreme Court. The Defendant requests that the Court require the Plaintiff to file and serve an opposition to the underlying Motion by March 18, 2019 and that the Defendant file and serve a response by March 20, 2019, and submit the Motion that same date.

Defendant submits that good cause exists under FJDCR 9 to shorten the time for the Plaintiff to respond to the Motion so that the Court may have adequate time to consider the Motion on the merits before the scheduled deposition of Sam Toll, which the Plaintiff's counsel scheduled without the prior consent of counsel for the Defendants for March 25, 2019. As argued in the associated Motion for Stay, the Defendant will suffer irreparable harm if he is compelled to reveal the sources for his news stories.

1 In accordance with DCR 17, this Motion for an Order Shortening time is being  
2  
3 Served on counsel for the Plaintiff by same day via personal service.

4 WHEREFORE, the Plaintiff respectfully requests that the Court issue the Order  
5  
6 Shortening time, a draft of which is attached hereto as Exhibit 1.

7 **NRS 239B.030(4) AFFIRMATION**

8 I certify that the attached filing includes no social security numbers or other personal  
9  
10 information.

11 Respectfully submitted this March 11, 2019:

12  
13 By: 

14 JOHN L. MARSHALL

15 SBN 6733

16 570 Marsh Avenue

17 Reno, Nevada 89509

18 Telephone: (775) 303-4882

19 johnladuemarshall@gmail.com

20 Luke Andrew Busby, Ltd.

21 Nevada State Bar No. 10319

22 316 California Ave #82

23 Reno, NV 89509

24 775-453-0112

25 luke@lukeandrewbusbyltd.com

26 *Attorneys for the Defendant*  
27  
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the date indicated below, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

☒ delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89164  
702-307-9500  
F - 702-382-9452

By: \_\_\_\_\_

Luke Busby

Dated: 3-11-19

## Exhibit List

1. Draft Order

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **Exhibit 1**

## **Exhibit 1**



1 Case No. 18-trt-00001-1e

2  
3 Dept. No. II

4  
5  
6 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
7 **IN AND FOR STOREY COUNTY**  
8

9 LANCE GILMAN,

10 Plaintiff(s),

11 vs.

12 SAM TOLL,

13 Defendant(s).  
14 \_\_\_\_\_/

15  
16 **ORDER SHORTENING TIME**

17  
18 Presently before the Court is Defendant's MOTION FOR ORDER SHORTENING  
19 TIME TO RESPOND TO MOTION FOR STAY OF DISCOVERY PENDING  
20 PETITION FOR WRIT OF PROHIBITION OR MANDAMUS TO THE NEVADA  
21 SUPREME COURT ("the Motion") filed on March 11, 2019.

22 IT IS ORDERED that the Motion is GRANTED. The Plaintiff shall have until 5:00  
23 p.m. on March 18, 2019, to file and serve any opposition to Plaintiff's Motion. The  
24 Defendant shall file any Reply and file a Request for Submission of the Motion by 5:00 p.m.  
25 on March 20, 2019.

26 Dated this \_\_\_\_ of March 2019.

27  
28 \_\_\_\_\_  
DISTRICT COURT JUDGE

**FILED**

AUG -8 2018

Storey Co. Clerk

Deputy

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

**LANCE GILMAN, an individual,  
Plaintiff**

**CASE NO. 18 TRT 00001 1E  
DEPT. 2**

**vs.**

**SAM TOLL, an individual; DOES I-V,  
inclusive; and ROE ENITIES VI-X,  
inclusive,**

**Defendant**

**ORDER RE EVIDENTIARY HEARING ON MOTION TO COMPEL**

The Court entered an Order for Evidentiary Hearing on Motion to Compel. The purpose of the evidentiary hearing is for the Court to receive evidence to determine whether Mr. Toll was a reporter at the time the "residence and perjury" publications we made, and whether the Storey Teller is a newspaper or periodical. The Court ordered the parties to file a joint hearing statement that: (1) identifies all witnesses each side intends to call at the hearing and a description of the testimony the witness is expected to provide; (2) a list of exhibits each side intends to use and attach a copy of any exhibits that have not already been provided to the Court; (3) any new points and authorities on the issues – the parties are not to restate what they have already provided; and (4) estimate of time each party believes is necessary for examination of his own and the other party's witnesses, and closing argument.

The parties filed a Joint Hearing Statement. Plaintiff provided a list of witnesses but failed to include a description of the testimony the witnesses are expected to

1 provide. Because Plaintiff failed to comply with the order he will not be allowed to call  
2 witnesses at the hearing.

3 Defendant included on his witness list David Thomas who is a lay witness and  
4 long-time resident of Storey County and would testify as to his knowledge of whether  
5 the Storey Teller is a newspaper or periodical and whether Mr. Toll is a reporter. It does  
6 not appear that Mr. Thomas's testimony will assist the Court in deciding the issues.  
7 Therefore Plaintiff will not be allowed to call Mr. Thomas.

8 Defendant will have four hours to present his case and Plaintiff will have three  
9 hours to present his case. Presenting his "case" means all witness examination, waiting  
10 for witnesses, objections, closing arguments, and any other time used by the party.  
11 When a party has reached his time limit the Court will not allow that party any further  
12 witness examination, objections, or argument.


13 The hearing schedule will be:

14	8:30 to 10:30	Evidence
15	10:30 to 10:40	Break
16	10:40 to 12:00	Evidence
17	12:00 to 12:45	Lunch
18	12:45 to 1:45	Evidence
19	1:45 to to 1:55	Break
20	1:55 to 3:25	Evidence
21	3:25 to 3:35	Break
22	3:35 to 4:45	Evidence
23	4:45 to 5:00	Oral ruling

24 If a party feels any law relevant to the issues of whether Mr. Toll was a reporter at  
25 the time the "residence and perjury" publications were made, and whether the Storey  
26 Teller is a newspaper or periodical were not presented in the Joint Hearing Statement,  
27 the party may file, by August 22, 2018, a supplemental points and authorities which may  
28 not exceed ten pages. At the hearing the Court will not consider any statutes or cases

1 that were not cited in the Joint Hearing Statement or in a timely filed supplemental  
2 points and authorities.

3 August 8, 2018.

4   
5 District Judge

6  
7  
8  
9 **CERTIFICATE OF SERVICE**

10 I certify that I am an employee of the First Judicial District Court of Nevada; that  
11 on the 8 day of August, 2018 I served a copy of this document by placing a true  
12 copy in an envelope addressed to:

13 John L. Marshall, Esq.  
14 570 Marsh Ave.  
15 Reno, NV 89509

Gus W. Flangas, Esq.  
Jessica K. Peterson, Esq.  
3275 South Jones Blvd., Suite 105  
Las Vegas, NV 89164

15 Luke Busby, Esq.  
16 316 California Ave., #82  
17 Reno, NV 89509

17 the envelope sealed and then deposited in the Court's central mailing basket in the  
18 court clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City,  
19 Nevada, for mailing.

20   
21 Susan Greenburg  
22 Judicial Assistant  
23  
24  
25  
26  
27  
28

FILED

2018 AUG 22 PM 3: 04

STOREY COUNTY CLERK

BY

VS

Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnmarshall@charter.net](mailto:johnmarshall@charter.net)

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

*Attorneys for the Defendant*

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

SUPPLEMENTAL POINTS AND AUTHORITIES PURSUANT THE COURT'S AUGUST 8,  
2018, ORDER



1 Case No. 18-trt-00001-1e

2  
3 Dept. No. II

4 JOHN L. MARSHALL  
5 SBN 6733  
6 570 Marsh Avenue  
7 Reno, Nevada 89509  
8 Telephone: (775) 303-4882  
9 johnmarshall@charter.net

10 Luke Andrew Busby, Ltd.  
11 Nevada State Bar No. 10319  
12 316 California Ave #82  
13 Reno, NV 89509  
14 775-453-0112  
15 luke@lukeandrewbusbyltd.com

16 *Attorneys for the Defendant*

17  
18  
19 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
20 **IN AND FOR STOREY COUNTY**

21 LANCE GILMAN,

22 Plaintiff(s),

23 vs.

24 SAM TOLL,

25 Defendant(s).  
26 \_\_\_\_\_/

27  
28 **SUPPLEMENTAL POINTS AND AUTHORITIES PURSUANT THE COURT'S AUGUST 8,  
2018, ORDER**

1 COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the undersigned  
2  
3 counsel, and hereby files the following Supplemental Points and Authorities pursuant to  
4 the Court's August 8, 2018 Order re Evidentiary Hearing on Motion to Compel, the  
5 subject of which is the Motion to Compel filed by Plaintiff LANCE GILMAN ("Plaintiff" or  
6 "Gilman").  
7

#### 8 SUPPLEMENTAL POINTS AND AUTHORITIES

9 In *O'Grady v. Superior Court*, 139 Cal. App. 4th 1423, 44 Cal. Rptr. 3d 72, 79  
10 (2006), the Court held that under California's shield law, the phrase "newspaper,  
11 magazine, or other periodical publication," was applicable to a news-oriented website  
12 that gathered news for that purpose and that such sites differ from traditional  
13 periodicals only in their tendency, which flows directly from the advanced technology  
14 they employ, to continuously update their content.  
15  
16  
17

18 In *Connie Javens et al v. John Does 1-6*, Case No. 10550-2016 Court of Common  
19 Pleas of Beaver County, PA, a trial Court issued a March 9, 2017 Opinion and Order,  
20 attached hereto as Exhibit 1, finding that a subpoena served on a web-only news source  
21 should be quashed under Pennsylvania's shield law, codified in 42 Pa.C.S.A. 5942.  
22 Pennsylvania's shield law is substantially similar to Nevada's shield law in NRS 49.275.  
23  
24

25 No person engaged on, connected with, or employed by any newspaper of  
26 general circulation or any press association or any radio or television  
27 station, or any magazine of general circulation, for the purpose of  
28 gathering, procuring, compiling, editing or publishing news, shall be  
required to disclose the source of any information procured or obtained by  
such person, in any legal proceeding, trial or investigation before any  
government unit. 42 Pa.C.S.A. 5942(a)

1  
2 **NRS 239B.030(4) AFFIRMATION**

3 I certify that the attached filing includes no social security numbers or other  
4 personal information.  
5

6 Respectfully submitted this August 21, 2018:

7  
8 By: 

9 JOHN L. MARSHALL

10 SBN 6733

11 570 Marsh Avenue

12 Reno, Nevada 89509

13 Telephone: (775) 303-4882

14 johnmarshall@charter.net

15 Luke Andrew Busby, Ltd.

16 Nevada State Bar No. 10319

17 316 California Ave #82

18 Reno, NV 89509

19 775-453-0112

20 luke@lukeandrewbusbyltd.com

21 *Attorneys for the Defendant*  
22  
23  
24  
25  
26  
27  
28

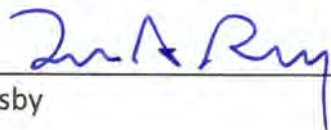
CERTIFICATE OF SERVICE

I certify that on the date indicated below I served the foregoing document on the following parties via US Mail, postage prepaid, and/or electronic service.

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89164  
702-307-9500  
F - 702-382-9452

By:

Luke Busby



Dated:

8-21-18

Exhibit List

1. Connie Javens et al v. John Does 1-6, Case No. 10550-2016 Court of Common Pleas of Beaver County, PA, March 9, 2017 Opinion and Order.



## **Exhibit 1**

## **Exhibit 1**

**IN THE COURT OF COMMON PLEAS OF  
BEAVER COUNTY, PENNSYLVANIA**

CONNIE JAVENS and RENEE JAVENS, ZUK, )  
Plaintiffs )

CIVIL DIVISION

v. )

JOHN DOES (1) – (6), )  
Defendants )

JURY TRIAL DEMANDED  
NO. 10550 – 2016

**OPINION**

Bozza, John A., S.J.

**I. INTRODUCTION**

On May 2, 2016, the Plaintiffs, Connie Javens (“Ms. Javens”) and Renee Javens Zuk (“Ms. Zuk”), (“Plaintiffs”) filed a Motion for Issuance of a Subpoena individually verified by each plaintiff. It was directed to the BeaverCountian, a non-party in this litigation. The Motion alleged that the BeaverCountian had knowledge of the names and IP addresses of certain individuals the Plaintiffs claim posted defamatory comments about them on the BeaverCountian’s website. An individual by the name of John Paul Vranesevich (“Mr. Vranesevich”) is the owner/custodian of BeaverCountian.com. Specifically, the proposed subpoena sought the names of persons posting comments under the pseudonyms of “The Bigdigger”, the “EXECUTIONER”, “John Q Taxpayer”, “Slicer”, “Courthouseconvicts” and “ConnieintheSlammer.” The Motion was initially granted by the Honorable Deborah Kunselman, Judge of the Court of Common Pleas of Beaver County, and a subpoena was served accordingly.

FILED OR ISSUED  
2016-05-03 AM 11:40  
HARVEY WERME  
PROTHONOTARY  
BEAVER COUNTY, PA

The BeaverCountian, John Q Taxpayer and John Does (1), (2), (3), (4), (5) and (6) filed Motions to Quash. The matter was set for argument following the recusal of the judges of Beaver County on November 14, 2016, at which time limited testimony was presented on behalf of the BeaverCountian. The request of the Plaintiffs to file affidavits was granted by the Court.

Following argument, the Court granted the parties the opportunity to file supplemental briefs to address the core issues that became apparent during the argument. Following an extension of time granted to the parties, additional briefs were provided to the Court.

Two distinct legal conceptualizations are at the heart of this controversy. John Paul Vranesevich and the BeaverCountian have asserted that the subpoena must be quashed because of the provisions of 42 Pa.C.S. §5942, commonly known as the “Shield Law.” In addition and in concert with the John Does and John Q Taxpayer, the BeaverCountian asserts that the subpoenas should be quashed because the parties have a First Amendment right to anonymously post the comments in question and further arguing that the Plaintiffs have failed to meet their burden to establish their right to receive the requested information.

## **II. FACTS**

Given the procedural posture of the case, the factual nature of this dispute is set forth below and limited to allegations contained in the Motion for Issuance of a Subpoena, the Motions to Quash, the Affidavits and the testimony provided at the time of argument. The pertinent factual assertions can be summarized as follows:

1. The BeaverCountian.com ("BeaverCountian") is an independent, internet only news site that specializes in investigative journalism, focusing on public corruption and operated by John Paul Vranesevich who also uses the name "John Paul" when he writes articles posted on the site.

2. The BeaverCountian has a general readership of approximately 40,000 on a monthly basis and publishes as frequently as multiple times a day and numerous times a week.

3. The BeaverCountian website makes provisions for readers to post comments anonymously.

4. The BeaverCountian website has been a finalist for the "Golden Quill" award by the Western Pennsylvania Press Club on three (3) occasions and has covered the campaigns of both candidates in the most recent presidential election.

5. They have conducted various journalistic investigations of public officials in Beaver County, including the Beaver County sheriff. The BeaverCountian obtains information from various sources including tips and comments posted anonymously on the website.

6. John Q Taxpayer and one of the John Does have provided information by a way of comments on the website that have "informed" Mr. Vranesevich's reporting and were sources of information to the BeaverCountian.

7. John Q Taxpayer provided information used by Mr. Vranesevich and the BeaverCountian in reporting on Ms. Javens.

8. The bigdigger also provided information on stories published by the BeaverCountian and Mr. Vranesevich.

9. The content of the posts at issue are not confidential as they are accessible by anyone visiting the website.

10. The actual names of the posters of comments in this dispute are not known to the public because they were provided to the BeaverCountian anonymously.

11. Ms. Javens is the treasurer of Beaver County and mother of Plaintiff, Ms. Zuk.

12. Ms. Javens has alleged that the comments at issue have caused her “mental anguish, sleepless nights and humiliation.”

13. Ms. Javens has asserted in her pleading that the accusations regarding stealing money, embezzlement and bribes are defamatory and that she is an innocent victim.

14. Ms. Zuk has alleged that she has suffered “great mental suffering,” “sleepless nights and anger,” humiliation and embarrassment resulting in the loss of hair and doctor’s care and that she is an innocent victim.

15. In their Motion for Issuance of a Subpoena, while both Ms. Javens and Ms. Zuk have generally alleged that the statements that are the subject of the Motion were defamatory in nature, they did not specifically identify which provisions of the postings were false and they have not provided any evidence that particular portions of the statements are false.

16. They further allege that the information they seek is not available from any other source or means. They do not indicate any steps they have taken to learn the names of the posters, nor otherwise describe why there is no other source of the information they seek.



17. The BeaverCountian had published articles about Ms. Javens, about Ms. Javens' alleged inappropriate use of county funds in 2015 and 2016.

18. Ms. Zuk was the subject of articles about alleged favored treatment she received in obtaining work as a beautician. Such as, specific articles suggesting that Ms. Zuk obtained a job or got reinstated in a job with a government contractor as a result of her mother's intervention.

19. Many more comments about Ms. Javens and Ms. Zuk were published beyond those set forth in the Plaintiff's Motion.

20. The Motion for Issuance of a Subpoena alleges that "The bigdigger" published six (6) comments concerning Ms. Javens. Those comments contain various derogatory expressions of opinion about Ms. Javens; each in some manner asserting that she has been dishonest. Specifically, there are allegations that she has stolen money, taken bribes and reaped monetary benefits for her and her children while living a lavish lifestyle.

21. The "EXECUTIONER's" statements assert that Ms. Javens is stealing and embezzling.

22. "John Q Taxpayer" stated that she was stealing and tampering with evidence of crimes.

23. The "Slicer" stated that she is stealing.

24. The "Courthouseconvicts" has claimed that she is stealing.

25. Concerning Ms. Zuk, "Connieinthelammer" states that Ms. Zuk is getting taxpayer money from her mother.

26. With regard to Ms. Zuk, the “EXECUTIONER” says that she is stealing money.

27. “The bigdigger” alleges that she has a “STD” and that she is a “slut” and that she has cheated on her husband.

### **III. LEGAL ANALYSIS**

#### **A. Shield Law.**

Pennsylvania’s “Shield Law” set forth at 42 Pa.C.S.A. §5942(a) states as follows:

No person engaged in, connected with or employed by any newspaper of general circulation or any press association or any radio or television station, or any magazine of general circulation, for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person, in any legal proceeding, trial or investigation before any government unit.

Mr. Vranesevich, the owner/custodian of the BeaverCountian.com, was served with the subpoena described above. It is apparent Mr. Vranesevich is connected with and indeed publishes the BeaverCountian.com. The BeaverCountian.com is a website that posts articles that contain news concerning various matters of public interest. Mr. Vranesevich authors articles posted on the site. Further its publication online is available to anyone who wishes to access the website. In that sense, it constitutes a newspaper of general circulation. The fact that the content is published online rather than in a traditional format is inconsequential considering the clear intent of the statute. There is no indication in the language of the Shield Law that its provisions are limited to publications printed in a traditional “hard copy” print format. Further, it is apparent that Mr. Vranesevich operates the website for the

purpose of gathering, compiling and publishing news. Therefore the singular issue is whether the persons identified as targets in the subpoena are sources of information procured or obtained by Mr. Vranesevich.

In the analysis of the issue regarding the application of the Shield Law, one must begin with the recognition that it “must be liberally and broadly construed in order to carry out the clear objective and intent of the legislature. . .” *Castellani v. Scranton Times, L.P.*, 598 Pa. 283, 302, 956 A.2d 937 (Pa. 2008). In *Castellani* the Pennsylvania Supreme Court explicitly admonished that “any doubt as to the interpretation of the Shield Law must be liberally construed in favor of the news media. . .” because “they are the “watch dogs” and guardians of the general public welfare.” *Id.* The *Castellani* court in affirming the Superior Court’s decision determined that, notwithstanding a compelling concern for maintaining the secrecy of grand jury proceedings and ferreting out of crime and criminals, the intent of the Shield Law to protect a free press acting as “pro bono publico” must take precedence. *Id.* See, also, *In Re: Dauphin County Fourth Investigating Grand Jury*, 610 Pa. 296, 323, 19 A.3d 491, 505 (2011) (reiterating that the Shield Law provides absolute protection of a source’s identity from compelled disclosure).

Here the record establishes that at this stage of the proceedings the persons posting comments as “John Q Taxpayer” and “the bigdigger” were both sources of information provided to Mr. Vranesevich concerning his investigative reporting of Ms. Javens. The Plaintiffs have argued that the comments of the posters were not news information for Mr. Vranesevich and therefore not protected. Such a conclusion would require a narrow interpretation of the Shield Law which is an approach firmly rejected by our supreme court. The statute prohibits persons such as Mr. Vranesevich from being compelled to disclose “the

source of any information procured or obtained” by him so long as the information was obtained “for purposes of gathering, procuring, compiling, editing or publishing news”. 42 Pa.C.S.A. §5912(a).

Moreover, it is not the content per se that’s protected, but rather the source. *Commonwealth v. Bowden*, 576 Pa. 151, 838 A.2d 740 (2003). Nor are there any restrictions on the form of the content or where the content was disseminated and how it came to the attention of the person protected by the Shield Law. It is obvious that “John Q Taxpayer” and “the bigdigger” intended that their true identities be confidential to all but those operating BeaverCountian.com. Mr. Vranesevich used information provided by these two individuals to gather news to be published on the BeaverCountian.com. The Shield Law prohibits compelling disclosure of these two identities in this litigation. With regard to the remainder of the John Does, there is nothing in the record to indicate that they were sources of information to Mr. Vranesevich or anyone else associated with the BeaverCountian.com website. Therefore, the Shield Law is inapplicable to those commentators.

Finally there is no evidence before the court to indicate that “the bigdigger” and “John Q Taxpayer” were sources within the parameters of the Shield Law with regard to the comment posts concerning Ms. Zuk.

**B. Defamation: Requirements for Disclosure of Anonymous Commentators**

It is apparent that BeaverCountian.com had published a series of articles about the alleged misappropriation of Beaver County funds by County Treasurer Ms. Javens. Various articles alluded to funds being distributed to entities identified as Friendship Ridge and Comprehensive Healthcare Services. Articles also made reference to a criminal investigation being conducted by the Beaver County District Attorney’s office and the Pennsylvania State

Police. The BeaverCountian also published an article reporting that Ms. Zuk was hired to work at Friendship Ridge at the urging of her mother, Ms. Javens. It further noted that other members of the Javens family had a financial relationship with Friendship Ridge. Over that period of time, numerous persons posted comments in response to the news stories, some of whom are identified in this litigation only anonymously. The right to anonymously engage in activity constituting “speech” within the ambit of the First Amendment has been thoroughly established in constitutional jurisprudence. *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton, et al.*, 536 U.S. 150, 122 S. Ct. 2080 (2002); *Pilchesky v. Gatelli*, 12 A.3d (2011). This applies to communications on the internet. *Reno v. ACLU*, 521 U.S. 844, 117 S. Ct. 2329 (1997). In *Pilchesky*, the Superior Court set forth the circumstances under which a shield of anonymity can be pierced. Relying on cases from other jurisdictions, the court adopted and applied a four-part test to be utilized by trial courts in circumstances like those presented here. Under the test the court must be satisfied that the following requirements are met before disclosure of an anonymous speaker’s identity may be compelled:

- a. notification;
- b. sufficiency of the evidence;
- c. affidavit of good faith and necessity; and
- d. balancing strength of claims against First Amendment rights.

*Id.*

Here there is no apparent concern about notification issues as the anonymously identified parties before the Court are represented by their respective counsel. However,

there is a significant dispute whether the other requirements of the *Pilchesky* test had been met.

### 1. Sufficiency of the evidence

A person seeking the disclosure of the identity of an alleged defamer has the burden to “establish a *prima facie* case for all elements of a defamation claim within the plaintiff’s control” sufficient to survive a motion for summary judgment. *Pilchesky* at 442 - 443. With regard to Ms. Javens, a public figure, this requirement is without the need to provide evidence of actual malice. *Id.* This may be done by using all the tools normally utilized in responding to a motion for summary judgment, i.e., affidavits, depositions and exhibits. This evidence is to be interpreted in a light most favorable to the plaintiffs consistent with Pennsylvania’s clearly enunciated summary judgment standards.<sup>1</sup> Therefore, if the plaintiff establishes that there are material issues of fact in dispute, the motion for summary judgment must be denied. Importantly, however, reliance on factual allegations set forth in pleadings is not sufficient to defeat a summary judgment motion. Rather a non-moving party must present evidence in a manner acceptable in a summary judgment context, indicating the existence of a factual dispute with regard to a material issue in the case. *Id.*

---

<sup>1</sup> (a) Except as provided in subdivision (e), the adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response within thirty days after service of the motion identifying

(1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a

challenge to the credibility of one or more witnesses testifying in support of the motion, or

(2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.



In a defamation case, it is necessary for a plaintiff to establish each of the elements as set forth in Pennsylvania law. The threshold requirements of a defamation action are set forth in 42 Pa.C.S.A. §8343 although each may be more or less at issue depending on the factual setting of the case. These include

1. The defamatory character of the communication;
2. Its publication by the defendant;
3. Its application to the plaintiff;
4. The understanding of the recipient of its defamatory character;
5. The understanding of the recipient of it as intended to be applied to the plaintiff;
6. Special harm resulting to the plaintiff from its publication;
7. Abuse of a conditionally privileged occasion.

42 Pa.C.S.A. §8343; *Joseph v. Scranton Times L.P.*, 129 A.3d 404 (Pa. 2015). Notably, not included in the list of elements is a requirement for proving the falsity of the speech at issue. However Pennsylvania has long recognized that truth is an absolute defense to an action in libel. *Hepps, et al. v. Philadelphia Newspapers*, 506 Pa. 304; 485 A.2d 374 (1984); *Bobb v. Kraybill*, 354 Pa. Super. 361, 511 A.2d 1379 (1986). Consistent with this position 42 Pa.C.S.A. §8343(b) provides that a defendant has the burden of proving the truth of an alleged defamatory. This de facto and comprehensive presumption of falsity cutting across all plaintiffs was rejected by the United States Supreme Court in *Phila. Newspapers v. Hepps*, 475 U.S. 767; 106 S. Ct. 1558; 89 L. Ed. 2d 783(1986). In *Hepps* the U.S. Supreme Court held that a public figure plaintiff in a defamation action was required by the First Amendment to bear the burden of proving the falsity of alleged defamatory statements where

speech is of public concern. The same rule does not apply in circumstances where the speech is entirely of private concern and the plaintiff is a private figure. *Id* at 775.

A plaintiff whether a public or private figure most fundamentally has the burden proving the defamatory nature of the speech at issue. The Pennsylvania Supreme Court has reiterated that a plaintiff must demonstrate that a statement tends to so harm the reputation of another such that it lowers the person in the estimation of the community or that it deters third parties from associating or dealing with her. The person must show that he or she has suffered the kind of harm which has grievously fractured her standing in the community of respectable society. *Joseph* at 430.

With regard to any “Special harm resulting to the plaintiff from its publication” the Court in *Pilchesky* determined that in the context of a case such as the one presented here, the plaintiff, while having to show actual harm, does not have to demonstrate “special damages” or pecuniary loss. *Pilchesky* at 444. Special harm may include damage in the nature of mental anguish, embarrassment and humiliation. *Id*. The remaining elements set forth in 42 Pa.C.S.A. §8343 have not been contested at this stage of the litigation.

The factual record in this case is sparse. The only pleading of consequence filed by the Plaintiffs is a Motion for Issuance of a Subpoena. The Defendants have responded to that Motion by filing Motions to Quash and have included in the record references to numerous additional articles on the BeaverCountian web site posted in the recent past. The only evidence of the allegedly defamatory comments is contained in that Motion for Issuance of a Subpoena. The Plaintiffs’ have filed separate affidavits that largely address the question of

actual injury and do not add any additional information concerning the defamatory nature of comments. The affidavits allege in summary form the following:

1. Regarding Connie Javens that:

- The comments caused mental anguish, sleepless night and humiliation.
- Other people have questioned her conduct, inquiring why she is being accused of stealing and embezzling.

2. Regarding Renee Javens Zuk that:

- The comments caused great mental suffering, many sleepless nights and anger.
- The comments caused humiliation and embarrassment.
- She is under a doctor's care and losing her hair.

What is noticeably missing from the record is any evidence from either plaintiff that the comments and articles are not true. Indeed, there are neither assertions nor denials, anywhere in the motion or affidavits addressing the truthfulness of the myriad comments contained in the identified postings.<sup>2</sup>

A close reading of the comments make it clear that the posters set forth very specific facts and opinions about each Plaintiff. Concerning Ms. Javens they run the gamut from accusations of stealing and embezzling, to tampering with evidence. Regarding Ms. Zuk, the comments include allegations that she has stolen from taxpayers, has an "STD," that she has cheated on her husband and that she was a "slut." There is no evidence in the record that these assertions, as offensive as they may be, are not true. At most, there is a generalized

---

<sup>2</sup> Plaintiffs have seemed to suggest the Motion for Issuance of a Subpoena is in fact a form of affidavit.

allegation in the Motion for Issuance of a Subpoena that the Plaintiffs are “innocent victims of an offensive and scandalous attack on their reputation.” Motion for Issuance of a Subpoena at para.20.

*Pilchesky* specifically requires that a reviewing court apply the standard for summary judgment to determine whether the Plaintiffs have met their burden to prove each element of a cause of action in defamation before forcing the disclosure of an anonymous speaker. At trial the threshold issue for Ms. Javens, as a public figure, is whether the statements in question which almost entirely center on her mishandling of county funds, an issue of public concern, are false. There are multiple assertions of fact and opinion in the comments of different posters set forth in a particularized context. Even if it were to be assumed that the Motion for Issuance of a Subpoena constituted an affidavit rather than a mere pleading, it is apparent that Ms. Javens has not introduced evidence from which a fact finder could conclude that her burden of establishing the falsity of these statements has been met. At this stage of the proceedings there is no evidence in the record that raises an issue of fact regarding the alleged truth of the comments regarded by the Plaintiffs as defamatory. Plaintiffs cannot rely on the generalized assertions that they have been defamed in order to overcome a motion for summary judgment. Such an allegation is akin to an averment in a complaint and does not constitute evidence.<sup>3</sup>

With regard to Ms. Zuk the issue requires a closer analysis. She is not a public official and therefore not a public figure by virtue of her job alone. The question is whether she has attained public figure status through some other means. There are generally three ways in which a person may attain such status:

---

<sup>3</sup> This applies to all of the defendants including those whose identities are protected by virtue of the Shield Law.

1. Involuntarily through no purposeful action;
2. Pervasive fame or notoriety such that one becomes public figures for all purposes;
3. Voluntary entry into a particular public controversy thereby becoming "limited purpose public figures"

See, *Wells v. Liddy* 186 F.3d 505(1999); see also *Getz v Robert Welch Inc.* 418 U.S.323; 94 S.Ct 997; 41 L.Ed 2d 789 (1974).

Here the only conceivable basis for concluding that Ms. Zuk should be regarded as a public figure is that she somehow voluntarily injected herself into the controversy swirling around her mother's actions in her capacity as county treasurer. The question is whether she is a "limited purpose public figure" such that she must prove the falsity of the comments as a part of her burden to establish a prima facie case of defamation. With regard to this issue the record provides almost no support. The relevant allegations are that she benefitted from her mother's intervention in obtaining or retaining a position with Friendship Ridge. There is no indication that she took steps to place herself in the public light concerning this matter or any other matter touched on by the commentators. There is no factual basis for concluding that Ms. Zuk should be regarded as a limited purpose public figure and consequently she is acting as a private party seeking relief from private parties (at least to the extent that their real identities are not known at this time) and it is the defendants who are required to establish the truth of the comments they made. 42 Pa.C.S.A. §8343(b).<sup>4</sup>

Turning then to the defamatory character of the comments, the question is "whether the statement tends to so harm the reputation of another as to lower him in the estimation of

---

<sup>4</sup> b) *Burden of defendant.* —

In an action for defamation, the defendant has the burden of proving, when the issue is properly raised:

(1) The truth of the defamatory communication.

the community or to deter third parties from associating or dealing with him.” *Tucker v. Phila. Daily News*, 577 Pa. 598, 615, 848 A.2d 113, 124 (2004). Protection of an individual’s reputation is the essence of an action in defamation. *Joseph v. Scranton Times L.P.*, 129 A.3d 404 (2015). An accusation that a public official is abusing the authority of her office in some manner may constitute defamation. *MacElree v. Philadelphia Newspapers*, 544 Pa. 117; 674 A.2d 1050 (1996). (A jury could properly find that statements alleging that a district attorney acted in a racist manner constituted defamation).

Here the statements at issue all allege that Ms. Javens has abused her office in some manner and specifically accuse her of dishonesty while serving as a treasurer. It is beyond doubt that statements implicating criminal wrongdoing are capable of a defamatory meaning. Specifically comments of each of the posters that concern stealing, embezzlement and tampering with evidence are well within the gambit of communications that a fact finder could determine to be defamatory.

Concerning Ms. Zuk a similar conclusion must be reached. In addition to an allegation of stealing by “connieinthelammer” and “THE EXECUTIONER”, “thebigdigger” asserted that she had a “STD”, cheated on her husband and was a slut. These are statements that a jury could justifiably find that tend to so harm her reputation as to lower her in the estimation of the community.

This court disagrees with the John Does’ position that the word “slut” is too vague to be capable of defamatory meaning. When viewing the overall context of the statements posted by “the bigdigger” the defamatory character of the assertions are apparent and capable of proof of their veracity.



The defendants have argued that the overall news coverage of Ms. Javens' alleged involvement in the abuse of her office was so pervasive that the damage done by the posters could only be minimal and not independently caused sufficient actual harm to constitute actionable defamation. This claim is better addressed in the context of a subsequent analysis balancing the strength of her claims against the first amendment rights of the defendants.

## 2. Affidavit of good faith and necessity.

The court in *Pilchesky* concerned about the prospect that claimants would pursue the disclosure of anonymous speakers unnecessarily and perhaps for improper motives adopted the requirement that one must demonstrate that her request is being made in good faith. *Pilchesky* at 445. The plaintiffs must attest to the fact that the disclosure information is "sought in good faith, is unavailable by other means, is directly related to the claim and is fundamentally necessary to secure relief." *Id.* at 444 – 445.

The amended affidavits filed by both plaintiffs are insufficient to meet these requirements. Neither affidavit includes averments with regard to any of the *Pilchesky* requirements. Ostensibly it is plaintiffs' position that their Motion for Issuance of a Subpoena contains sufficient averments to meet the affidavit requirements. Obviously a motion, while in this case similar, even verified by a plaintiff, is not an affidavit. The motion in question contains numerous assertions of both fact and law in a form calculated to obtain relief in the form of a subpoena. An affidavit of the type contemplated by the *Pilchesky* court is intended for a specific purpose and required to address particular concerns. Accepting plaintiffs' position *arguendo*, the Motion is none the less insufficient to meet the requirements at hand. There is no statement that the plaintiffs are acting in good faith, the

very cornerstone of the affidavit requirement. Moreover they state that they need disclosure because without it they will be “unable to stop the defamatory attacks” suggesting that their intent is something other than pursuing a defamation action for damages but in taking some other action to silence their critics. At the very least their intent is ambiguous.

### 3. Balancing test

Finally, and of critical importance, it is necessary for the court to balance the strength of the plaintiffs prima facie case against the defendant’s first amendments rights. *Id.* at 445. Specifically the court is required to engage in an analysis that considers the defamatory nature of the comments, the quantity and quality of the evidence presented and whether the comments were privileged. In doing so it is important to note the appellate court’s admonition that comments on matters of public importance and those critical of public officials are entitled to robust protection. *Id.* at 445.

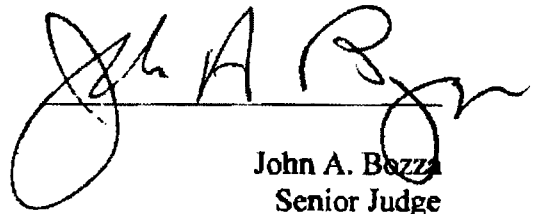
Ms. Javens is a public official whose actions as treasurer have been the target of extensive press coverage. There have been a number of online articles reporting on her allegedly dishonest or improper conduct including reports of official investigations into her conduct in office. There were numerous online comments posted at the BeaverCountian.com, while only a portion of which have been identified in this action. It is not possible to gage the extent to which the posts in question would have a defamatory impact or be responsible for the alleged injuries when compared to the entirety of media reports concerning much the same assertions of misconduct. The nexus between the statements at issue and the generalized assertion of harm is not strong. This diminishes the strength of her case.

Moreover Ms. Javens' factual record in support of her Motion seeking disclosure is thin at best. As noted above there are no specific evidence from which one could conclude that the allegedly defamatory statements are not true. The only factual averment in the record in this regard is the general statement in the plaintiff's Motion that they are "innocent victims of an offensive and scandalous attack on their reputation" without any delineation with regard to the contents of the numerous comments they cite. This greatly diminishes the strength Ms. Javens' case.

The online comments at issue center on matters of importance concerning illegal behavior and nepotism on behalf of the county's treasurer. The right to speak anonymously about matters of critical importance to the citizenry cannot be compromised without substantial justification. In the circumstances of this case that right must take precedence.

Concerning Ms. Zuk the comments implicating her sexual behavior have nothing to do with either her mother's government responsibilities or the allegation of nepotism. They are not directed to any matter of public concern. The notions that she is a slut, contracted a sexually transmitted disease and cheated on her husband certainly have the potential for harming her reputation in the community and deterring third parties from associating or dealing with her. However Ms. Zuk has not met the threshold requirements of *Pilchesky* as more fully discussed above. As a consequence her request for disclosure must also fail.

An appropriate order shall follow.



John A. Bozza  
Senior Judge

**JURY TRIAL DEMANDED**  
**NO. 10550 – 2016**

Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnmarshall@charter.net](mailto:johnmarshall@charter.net)

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

*Attorneys for the Defendant*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

**MOTION FOR SUBMISSION OF MOTION TO DISMISS AND  
TERMINATION OF PROCEEDINGS ON ORDER SHORTENING TIME**

COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the  
undersigned counsel, and hereby files the following Motion for Submission of Motion to

**FILED**

2019 FEB 25 AM 8:46

STOREY COUNTY CLERK

BY A. Duke  
DEPUTY

Dismiss and Termination of Proceedings by Plaintiff LANCE GILMAN (“Plaintiff” or “Gilman”) as described below.

This Motion is based upon the following Memorandum of Points and Authorities, the pleadings and papers filed herein, and any oral argument on this matter that the Court should require.

## MEMORANDUM OF POINTS AND AUTHORITIES

### *Background*

Defendant Toll filed his Anti-SLAPP Special Motion to Dismiss over a year ago. On April 9, 2018, the Court entered an Order Granting Anti-SLAPP Special Motion to Dismiss in Part, Allowing Limited Discovery, and Staying Further Proceedings (hereinafter “Court’s Order”). The Court’s Order found in favor of the Defendant on seven out of the eight alleged defamatory statements alleged in the Plaintiff’s Complaint. On the remaining claim, the Court concluded that: (1) Toll’s statements regarding Gilman not residing in Storey County (the “resident communications”) were made to procure an electoral action, result, or outcome (Court’s Order at 10:16); (2) were made in direct connection with an issue of public concern (Court Order at 13:20); (3) were made in a place open to the public or on a public forum. (Court’s Order at 14:9); and (4) were made in furtherance of the right to free speech in direct connection with an issue of public concern. Court’s Order at 15:19.

In its Order, the Court addressed the matter of the truth of the communications at issue regarding Gilman’s residency and concluded that Toll proved by a preponderance of



1 the evidence that Toll did not knowingly make a false statement when he published the  
2 resident communications. Court's Order at 15:15. The Court also concluded that, based on  
3 Gilman's testimony in his Affidavit attached hereto as Exhibit 1, "Gilman's testimony under  
4 oath that he lives in Storey County is sufficient prima facie evidence that he lives in Storey  
5 County." Court's Order at 17:3.  
6

7  
8 The Court granted leave to the Defendant to conduct discovery, "limited solely to  
9 information as to whether Toll knew the resident statements were false or whether he acted  
10 with a high degree of awareness of the probable falsity of the statement or had serious  
11 doubts as to the publication's truth." Court's Order at 21:8. Plaintiff took the deposition of  
12 Defendant Sam Toll, during which Toll refused to disclose the sources for his news stories  
13 and invoked the News Shield Privilege codified in NRS 49.275. On May 10, 2018, Plaintiff  
14 Gilman filed a Motion to Compel; Motion for Sanctions; Motion to Extend the Time  
15 Period for Discovery; and In the Alternative, Motion for Summary Judgment, to which the  
16 Defendant filed an opposition.  
17

18  
19 On May 24, 2018, Plaintiff filed his Supplemental Opposition to Defendant's  
20 Anti-SLAPP Motion. On June 4, 2018, Defendant Toll thereafter filed his Reply and  
21 Request for Submission of the matter. On June 26, 2018, the Court issued its Order  
22 Denying Request for Submission, stating that a "new Request for Submission will need to  
23 be filed after the Motion to Compel is resolved." *Id.* at 1.  
24  
25

26  
27 Also on June 26, 2018, over eight months ago, the Court entered a Order for  
28

1 Evidentiary Hearing on the Motion to Compel, finding that an evidentiary hearing is  
2 necessary to determine whether Toll may invoke the News Shield Privilege to protect the  
3 confidentiality of his sources.  
4

5 ***Argument***  
6

7 **a. This matter should be submitted and decided at scheduled March 15, 2019**  
8 **evidentiary hearing**  
9

10 Defendant Toll submits this Motion for Submission to expedite resolution of this  
11 matter consistent with the express intent of the Anti-SLAPP statute. As this matter is  
12 scheduled for an evidentiary hearing on March 15, 2019, the Defendant requests that the  
13 Court finally resolve his Special Anti-SLAPP Motion at that time.  
14

15 Pursuant to NRS 41.665, the purpose of the Anti-SLAPP statute is to protect persons  
16 against whom an action is brought, if the action is based upon a good faith communication  
17 in furtherance of the right to petition or the right to free speech in direct connection with  
18 an issue of public concern. The combined requirement in NRS 41.660 that SLAPP  
19 defendants file the special motion within 60 days of service of the complaint and that the  
20 Court rule on the motion within 20 judicial days after the motion is served upon the  
21 plaintiff, ensures that Anti-SLAPP proceedings should be swiftly disposed of by District  
22 Courts where First Amendment Rights to free speech are infringed upon by lawsuits  
23 seeking to stifle protected speech. To further expedite matters, the Legislature made the  
24 denial of a Special Anti-SLAPP motion to dismiss immediately appealable. NRS 41.670(4).  
25  
26  
27  
28

1 Here, Defendant's Special Motion to Dismiss has been pending for over a year, and  
2  
3 Defendant has been waiting for over eight months for an evidentiary hearing, all the while  
4 having to raise funds for his legal defense. In light of the delay associated with the final the  
5 setting of the evidentiary hearing and resolution of his Motion to Dismiss, Defendant Toll  
6 moves this Court to submit and decide the matter at the March 15, 2019 hearing.  
7

8 **b. This proceeding should be terminated as Gilman has independently claimed his**  
9 **primary residence was in Washoe County**  
10

11 This proceeding should be terminated because regardless of the outcome of the  
12 evidentiary hearing as Plaintiff Gilman cannot base a defamation action on a statement that  
13 mirrors a representation he himself has made.  
14

15 In the 2018 Affidavit of Lance Gilman, which was attached to Gilman's Opposition  
16 to Anti-SLAPP Motion to Dismiss per NRS 41.660, attached hereto as Exhibit 1, Gilman  
17 states in paragraph 42 that he had lived in Storey County since at least 2006:  
18

19 Contrary to the Defendant's assertions, *I do live in Storey County, Nevada.*  
20 My address is 5 Wild Horse Canyon and *I have lived there for around twelve*  
21 *years or more.* (Emphasis added.)

22 Gilman, however, has represented the exact opposite to Washoe County. Attached  
23 hereto as Exhibit 2 is a certified copy<sup>1</sup> of data from the Washoe County Assessor's webpage  
24 for a property located at 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02, dated  
25 May 17, 2018. The record in Exhibit 2 indicates that 199 Steptoe Ln. is owned by L. Lance  
26  
27

---

28 <sup>1</sup> Certified copies of public records are presumed to be authentic per NRS 52.125 and admissible per  
NRS 52.265.

1 Gilman, and that 199 Steptoe Ln. is also Mr. Gilman's mailing address. Under the "Tax Cap  
2 Status" box in Exhibit 2, it states that the property is a, "Low Cap Qualified Primary  
3 Residence." Exhibit 3 is also a certified copy of data from the Washoe County Assessor's  
4 webpage for a property located at 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02,  
5 but is dated February 22, 2019 - in other words, Gilman is still claiming that the 199 Steptoe  
6 Ln. property as a primary residence.<sup>2</sup>

7  
8  
9  
10 Attached hereto as Exhibit 4 is a certified copy of the July 1, 2008 Tax Cap statement  
11 for 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02 from the Washoe County  
12 Assessor, which was executed by Mr. Gilman. The document in Exhibit 4 indicates via a  
13 filled in bubble that states, "***This property will be occupied as my primary residence on July***  
14 ***1, 2008.***" (Emphasis added.) The signature box in Exhibit 4, signed by Gilman, states that  
15 Gilman affirms under penalties pursuant to law that the information in Exhibit 4 is true and  
16 accurate and that Gilman will notify the Washoe County Assessor if the property is no  
17 longer to be used as Gilman's primary residence. Gilman has not done so.<sup>3</sup>

18  
19  
20 In fact, other public records from Washoe County show that Gilman has continued  
21 as late as 2016 to affirmatively claim the 199 Steptoe Ln. property as his primary residence.  
22  
23

---

24 <sup>2</sup> After the filing of Defendant Toll's Reply to the Defendant's Supplemental Opposition to  
25 Defendant's Special Anti-SLAPP Motion, Gilman apparent transferred the Washoe County primary  
26 residence back from his individual capacity to a family trust. See Exhibit 3 hereto.

27 <sup>3</sup> At the time Exhibit 4 was provided by the Washoe County Assessor, the undersigned counsel for the  
28 Defendant requested any subsequent filing with the Washoe County Assessor where Gilman informed  
the Assessor that the 199 Steptoe Ln. property was no longer his primary residence, but was informed  
that no such subsequent record existed. NRS 361.4723 provides a partial abatement of taxes by  
applying a 3% cap on the tax bill of the owner's primary residence - and only one property may be  
selected in the State of Nevada as a primary residence.

1 Attached hereto as Exhibit 5 is a certified copy of a June 15, 2016 Grant, Bargain, and Sale  
2 Deed for APN No. 055-282-02 from the Washoe County Recorder, where Gilman  
3 transferred ownership of the 199 Steptoe Ln. property from a family trust into his own  
4 name. Exhibit 5 indicates that the recording and tax statements are to be mailed to Mr.  
5 Gilman at 199 Steptoe Ln. in Washoe Valley, which also shows that Gilman was  
6 affirmatively claiming the Steptoe Ln. property as his residence as late as 2016.  
7

8  
9 During the time Mr. Gilman alleges that he was living in Storey County in his  
10 Affidavit in Exhibit 1, Mr. Gilman executed at least one document (Exhibit 4) directly  
11 claiming that his primary residence was in Washoe County during the period in which  
12 Gilman's Affidavit says he was living in Storey County. Further, Gilman executed a deed in  
13 2016 which lists his mailing and tax address in Washoe County. See Exhibit 5. Thus,  
14 Gilman's claims that he was defamed by Toll for stating or inferring that Gilman does not  
15 reside in Storey County are not a false statement of fact and Gilman's claim should fail as a  
16 matter of law as under NRS 41.637 as Toll's statement that Gilman does not reside in Storey  
17 County is truthful or substantially truthful based on Gilman's own representations and  
18 signed statement in Exhibit 4.<sup>4</sup> In other words, Gilman cannot show a genuine issue of  
19 material fact as to whether Toll's statements about Gilman are defamatory - they cannot be  
20 because Gilman made these same statements about himself.  
21  
22  
23  
24  
25  
26

---

27 <sup>4</sup> "... we accept as true all evidence favorable to the plaintiff *and assess the defendant's evidence only*  
28 *to determine if it defeats the plaintiff's submission as a matter of law.*" *Cross v. Facebook, Inc.*, 14 Cal.  
App. 5th 190, 205, 222 Cal. Rptr. 3d 250, 262, 45 Media L. Rep. 2552, 17 Cal. Daily Op. Serv. 7719,  
2017 Daily Journal D.A.R. 7731, 2017 WL 3404767 (Ct. App. 2017) (*Emphasis added*)

1 **c. Gilman's own statements undermine his claim - the Defendant is entitled to**  
2  
3 **judgment under NRS 41.660(5) as a matter of law**

4 Defamation is a publication of a false statement of fact. *Pegasus v. Reno Newspapers,*  
5 *Inc.*, 118 Nev. 706, 714, 57 P.3d 82, 87, 31 Media L. Rep. 1353, 2002 WL 31487455 (2002) A  
6 statement is not defamatory if it is absolutely true, or substantially true. *Id.* at 715. A party  
7 cannot make a *prima facie* case for defamation as required by NRS 41.660(3)(b) based on a  
8 claim that a statement of fact is false and defamatory while having signed several legal  
9 documents indicating that the same statement of fact is true. Pursuant to NRS 41.637, a  
10 good faith communication is one which is "truthful or is made without knowledge of its  
11 falsehood."  
12  
13  
14

15 In the context of discovery proceedings being conducted when an Anti-SLAPP  
16 motion is pending under NRS 41.660(4), discovery should only be permitted for the  
17 purpose of ascertaining information required to meet the burden under NRS 41.660(3)(b),  
18 i.e. Gilman must show *prima facie* evidence a probability of prevailing on his claim. Gilman  
19 cannot make such a showing where Gilman signed documents showing that the allegedly  
20 defamatory statements by Toll are the truth.  
21  
22

23 The Court's inquiry and evidentiary hearing scheduled for March 15, 2019 focuses on  
24 the second prong of the inquiry required by NRS 41.637, i.e. whether Toll made the  
25 statements at issue without knowledge as to their truth or falsehood. However, such an  
26 inquiry is only appropriate if the truth of the underlying allegedly defamatory statement is  
27  
28

1 actually at issue. Toll's statement is no longer reasonably at issue as potentially defamatory  
2  
3 because of Gilman's own statements made in duly recorded records as described above.

4 Special motions to dismiss function like a summary judgment motions procedurally  
5  
6 *Coker v. Sassone*, 135 Nev. Adv. Op. 2, 432 P.3d 746, 748, 2019 WL 117467 (2019). As such,  
7 the Court should immediately terminate these proceedings and enter judgment in favor of  
8 Toll pursuant to NRS 41.660(5).

9  
10 ***Conclusion***

11 Based on the unequivocal evidence presented above, Gilman's claims that Toll  
12 defamed him by claiming that Gilman does not live in Storey County are belied by Gilman's  
13 own claims that his primary residence is in Washoe County, and as such Gilman's  
14 protestations do not provide any basis for restricting Toll's Free Speech rights under the  
15 First Amendment.  
16

17  
18 WHEREFORE, the Defendant respectfully requests that this Court submit this  
19 matter and grant the Defendant's Anti-SLAPP Special Motion, dismiss this suit, award the  
20 Defendant attorney's fees and costs associated with the Motion, and any further action the  
21 Court deems appropriate as permitted by NRS 41.670, including \$10,000 in statutory  
22 damages to the Defendant per NRS 41.670(3)(a).  
23

24 ///

25  
26 ///

27 ///  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NRS 239B.030(4) AFFIRMATION**

I certify that the attached filing includes no social security numbers or other personal information.

Respectfully submitted this February 25, 2019:

By: \_\_\_\_\_

JOHN L. MARSHALL

SBN 6733

570 Marsh Avenue

Reno, Nevada 89509

Telephone: (775) 303-4882

johnmarshall@charter.net

Luke Andrew Busby, Ltd.

Nevada State Bar No. 10319

316 California Ave #82

Reno, NV 89509

775-453-0112

luke@lukeandrewbusbyltd.com

*Attorneys for the Defendant*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the date indicated below, I caused service

to be completed by:

\_\_\_\_\_ personally delivering;

☒ delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89164  
702-307-9500  
F - 702-382-9452

By: Luke A Busby  
Luke Busby

Dated: 2-24-19

## Exhibit List

1. Affidavit of Lance Gilman
2. Certified copy of data from the Washoe County Assessor's webpage for a property located at 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02, dated May 17, 2018
3. Certified copy of data from the Washoe County Assessor's webpage for a property located at 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02, dated February 22, 2019
4. Certified copy of the July 1, 2008 Tax Cap statement for 199 Steptoe Ln. in Washoe Valley, APN No. 055-282-02 from the Washoe County Assessor, executed by Mr. Gilman.
5. Certified copy of a June 15, 2016 Grant, Bargain, and Sale Deed for APN No. 055-282-02 from the Washoe County Recorder.

## **Exhibit 1**

## **Exhibit 1**

1

2

3

4

5

7

**1**

3

5

7

9

1

3

6

1 11. I am well aware that I am a public official and public figure and I am used to suffering  
2 the "slings and arrows" from time to time in the public forum.

3 12. I have, perhaps more than any other public figure in Northern Nevada, withstood  
4 some fairly vicious public attacks by political opponents in the press at times over the past two  
5 decades and I fully understand that attacks against me "come with the territory."

6 13. The Defendant's attacks on me with false and defamatory statements have been  
7 continuous, unrelenting, and constantly targeting me personally.

8 14. The false statements made by the Defendant are far beyond acceptable and legal  
9 conduct, and I felt compelled to take action to protect my reputation.

10 15. Because of the false unending stream of defamatory statements published by the  
11 Defendant about me, I filed a Complaint against the Defendant for Defamation Per Se.

12 16. As stated above, the Defendant published and publishes the Storeyteller Website. I  
13 have seen that the Home page of the Storeyteller Website and every other section contained therein,  
14 including the "News," "Editorial," "Letters to the Editor," "About the Storey Teller," and  
15 "Community News," sections, all contain the statement: "Support the Teller and Keep Fact Based  
16 News about Storey County Ad Free." Since the filing of this suit, those words about the being Fact  
17 Based News no longer appear.

18 17. In writing about the instant matter, the Defendant mentions that I have a conflict of  
19 interest "as I wear hats on both sides of the negotiating table." This is completely false.

20 18. The Defendant further writes about me: "A conflict of interest that places the  
21 self-interest of the Marketing Manager and exclusive Real Estate Broker for TRIC above the  
22 interests of Storey County Taxpayers, voters, and citizens." This is completely false.

23 19. I am and was a member of the Board of Commissioners for Storey County, Nevada,  
24 an elected position, and I am a principal in and the Director of Marketing for the Tahoe Reno  
25 Industrial Center (hereinafter "TRI").

26 20. My company, Lance Gilman Commercial Real Estate Services, is and has been the  
27 exclusive broker for TRI, which is a massive 80,000 acre park that encompasses a 30,000 acre  
28 industrial complex approximately nine miles east of Reno, Nevada in Storey County, Nevada, and

1 is the largest industrial park of its kind in the United States.

2 21. TRI presently has over 16 million Square Feet of Industrial space in use by over 130  
3 different companies, with over 15,000 permanent and temporary jobs created in 15 years.

4 22. I have been instrumental in attracting such nationally recognized firms as  
5 Tesla/Panasonic, who is building a "gigafactory," a massive 6 million square foot manufacturing  
6 facility, SWITCH, who is building a huge data storage co-location campus comprised of a number  
7 of buildings totaling more than 7 million square feet under roof, GOOGLE, who just purchased 1200  
8 acres earlier in 2017, as well as other global companies such as eBay, Wal-Mart, Tire Rack, Jet.com,  
9 Petsmart, Blockchains, LLC, and US Ordinance, to name a few.

10 23. TRI has provided thousands of jobs for Northern Nevada and it is anticipated that  
11 Tesla/Panasonic and SWITCH alone will together generate 10,000 more jobs for Northern Nevada  
12 and over \$400 million in payroll annually at full build out.

13 24. I have received a number of awards such as the Reno Small Business Entrepreneur  
14 of the year in 2009, Reno Man of the Year in 2000 and the Development Award for Environmental  
15 Excellence in Development in 1997.

16 25. In or around 2015, Governor Brian Sandoval personally presented me and my two  
17 TRI partners, the EDAWN President's Award for completing what the Governor called the "The  
18 Deal of the Century" in landing and closing the Tesla deal.

19 26. I am the face of TRI.

20 27. I also have decades of good service to Northern Nevada.

21 28. Each year my businesses and I deliver and donate over \$100,000 in food donations  
22 and labor to needy seniors in Storey County and to a school "food in a backpack" program for  
23 children from families in need.

24 29. Beginning in 2017, the Defendant in an effort to embarrass, discredit and impugn me,  
25 published a huge number blatantly defamatory statements about me on the Storeyteller Website.

26 30. On the Storeyteller Website, the Defendant published a series of statements accusing  
27 me of not living in my actual residence and even accusing me of committing perjury about my  
28 residence on official documents.



1 31. On or around April 7, 2017, the Defendant published the following on the Storeyteller  
2 Website:

3 Team Gilman would have never subjected the citizens to the polarizing effect of the  
4 recall effort had it not been for the Washoe County resident who thinks he knows  
5 what is best for the taxpayers who shoulder the tax burden of Don Norman, Lance  
6 Gilman and the rest of the tax escapers at the Center. (Emphasis added).

6 32. The clear inference from the Defendant's statement is that I am not a resident of  
7 Storey County.

8 33. On or around April 18, 2017, the Defendant wrote on the Storey Teller Website, the  
9 following:

10 The debacle we emerged from a week ago today is not the kind of thing our county  
11 should be making the news with. Sadly, the most equal member of Storey County (if  
12 you believe he actually lives at 5 Wild Horse Canyon) cares more about himself  
13 than the county he represents. (Emphasis added).

13 34. The clear inference from the Defendant's statement is that I am not a resident of  
14 Storey County.

15 35. Then, on or around May 20, 2017, the Defendant wrote the following on the Storey  
16 Teller Website:

17 "I want the people of Storey County to know that I am a man of integrity and my  
18 word is more valuable than gold. This County has been very, very good to me and I  
19 want to deliver on promises I made over and over to the good people of Storey  
20 County regarding the cash that would be gushing around here. I want to thank them  
21 along with the entire Team Storey Team for helping Mr. Norman and me becoming  
22 the wealthiest people who do business in Storey County but don't actually live  
23 here" said Mr. Gilman. (Emphasis added).

21 36. The clear inference from the Defendant's statement is that I am not a resident of  
22 Storey County. Also, I never made that statement nor any statement to that effect.

23 37. On or about October 16, 2017, the Defendant published the following statements on  
24 the Storey Teller Website accusing me of perjury:

25 The purpose of this complaint is to hold accountable County Commissioner  
26 Gilman and Planning Commissioner Thompson for committing perjury when they  
27 filed paperwork claiming to live somewhere it is illegal to live. Since they took office  
28 illegally and since they don't actually live at Wild Horse Canyon Drive (or  
anywhere else in the county for that matter) and can't legally reside where they  
claimed they did, we conclude and insist they be prosecuted for perjury and  
removed from office. (Emphasis added).

1 38. In the same publication, the Defendant attaches what appears to be a letter to the  
2 Attorney General.

3 39. I have never been officially notified by any law enforcement or governmental  
4 organization about any investigation whatsoever challenging my residency in Storey County.

5 40. On or around December 3, 2017, the Defendant wrote the following on the Storey  
6 Teller Website:

7 Special Interests

8 The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
9 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
10 property and special consideration regarding rules and regulations.

11 Failing to require Mr. Gilman to reside in the district he represents within Storey  
12 County.

13 41. The clear inference from the Defendant's statement is that I am not a resident of  
14 Storey County. In addition, I do not have access to Storey County Checks, tax revenues or real  
15 property.

16 42. Contrary to the Defendant's assertions, I do live in Storey County, Nevada. My  
17 address is 5 Wild Horse Canyon and I have lived there for around twelve years or more.

18 43. I certainly never committed perjury as alleged by the Defendant. The Defendant's  
19 statements are not true.

20 44. On or about August 6, 2017, the Defendant published the following false and  
21 defamatory statements on the Storeyteller Website stating that I engaged in reverse graft:

22 Back to the Pipeline Hustle.

23 When this deal is approved by Marshall McBride and Jack McGuffey, TRIC will  
24 have accomplished another spectacular job of bamboozling Storey County officials.  
25 It will mean that Storey County and Nevada Taxpayers have dumped \$100 million  
26 dollars of what can only be described as "reverse graft" directly into the pockets of  
27 the band of merry TRICsters.

28 45. In addition to the foregoing quote, the article was replete with several other false  
references to reverse graft on my part and my business associates.

46. The article then alludes to include some feeble attempt at diligence on the part of the

1 Defendant to support his statements without any effort to really verify the truth.

2 47. First of all, there was and is no reverse graft as alleged by the Defendant and there  
3 is certainly no payment of \$100 million into my pockets and those of my business associates.

4 48. The Defendant's statements are not even remotely true.

5 49. The simple truth is that the TRI fronted the costs for the construction of certain  
6 infrastructure to the tune of around \$100 million free of charge and interest free.

7 50. The infrastructure included roads, drainage culverts, bridges, Interchanges, power  
8 lines, water, and sewer to name a few, all of which benefit Storey County.

9 51. Of this infrastructure, TRI dedicated at the time half to Storey County free of Charge.

10 52. Pursuant to certain formulas, Storey County is to reimburse TRI over a lengthy period  
11 of time for the portion of the infrastructure dedicated.

12 53. This payment is to come from any surplus that Storey County has from revenue  
13 generated by the TRI that includes revenues from Real and Personal Property Taxes, Room Taxes,  
14 Fuel Taxes, Franchise Fees and Business License Fees, among other types of reveunes.

15 54. The surplus or loss is calculated at the end of each year by an audit conducted by a  
16 licensed CPA.

17 55. After subtracting an agreed upon amount for expenses, which include the county  
18 payroll, maintenance costs, First Responders, and general administration, the surplus is divided with  
19 Storey County receiving approximately 65% of the surplus and TRI getting approximately 35% of  
20 the surplus as repayment for TRI's outlays for the infrastructure.

21 56. If there is no surplus, TRI eats the expense it fronted for the infrastructure.

22 57. There is no interest for TRI to carry the \$50 million.

23 58. As for the pipeline, Storey County is not paying anything upfront for it nor paying  
24 for the bond processing nor offering.

25 59. It is a new, separate \$60 million project funded by state bonds sold on Wall Street.

26 60. It is my understanding that the bond payments from the Pipeline will be funded by  
27 real and personal property taxes on new construction projects generated because of the pipeline.

28 61. In addition, the State of Nevada covers some of the cost of the bond repayments.

1       62. Of particular import, these taxes that will be generated on new construction would  
2 not be there but for the pipeline.

3       63. If there is no money generated from new construction, as is my understanding, TRI  
4 will have to cover the bond.

5       64. Contrary to the Defendant's assertion, in light of a massive recent deal where over  
6 64,000 acres was sold to a tech company called Blockchains, LLC, TRI is done selling at TRI (with  
7 the exception of a few hundred acres), there is no more money to be made by TRI from land sales  
8 generated by the pipeline water.

9       65. On or about February 2, 2017, the Defendant published the following false and  
10 defamatory statements on the Storeyteller Website stating that I didn't follow the law when the  
11 Mustang Ranch was relicensed after a related brothel was closed and then reopened as the Mustang  
12 Ranch. Specifically, the Defendant published the following statement on the Storeyteller Website:

13               . . . . Funny thing is, the courts didn't agree and the investor won. But, in the  
14 meantime, because Lance had shut down the Wildhorse and reopened it as the  
15 Mustang, he thought he didn't need to go through the investigation that the Nevada  
16 Revised Statutes require for the opening of a new brothel. He didn't want to follow  
17 the law. The County Commissioners even agreed with him. Why should Lance, the  
18 man who's been a virtual Santa Claus (at least he tries to convince people he is) for  
19 Storey County, have to follow the law? Sheriff Antinoro said the law had to be  
20 followed and that the Mustang had to be closed for the required number of days, per  
21 state statute, for the investigation with which ALL brothels must comply.

18       66. The Defendant's statement is not true.

19       67. I had a lender (a company called TG Investments) who lent money in the mid 2000's.

20       68. As part of the loan payment terms, the lender was entitled to a percentage cut of the  
21 revenue from the Wild Horse Brothel (Cash Asset Management, LLC, hereinafter "CAM").

22       69. Under the County Code, the lender was supposed to get licensed.

23       70. When it came time to do so, the lender was unable or unwilling to get licensed.

24       71. This in turn required me to disclose this unlicensed lender relating to Wild  
25 Horse/CAM, which I did indeed do to comply with the law.

26       72. The County Licensing Board rescinded the Wild Horse/CAM brothel License as it  
27 had a lender with an unlicensed financial interest, but then simultaneously granted an extension to  
28

1 the license of Cash Processing Services, LLC (Mustang Ranch) to operate out of that facility as the  
2 Mustang was not impacted by that lender.

3 73. I did follow the legal requirements precisely.

4 74. I self-reported that my lender failed to get a brothel license.

5 75. I went through a complete licensing process to include a full background check and  
6 financial review by a local CPA, all of which was supervised by my longstanding political opponent,  
7 the Sheriff, Gerald Antinoro.

8 76. In truth and fact, I disclosed in order to comply the applicable law contrary to the  
9 assertions contained in the Defendant's publication.

10 77. On or about December 3, 2017, the Defendant wrote that I am receiving land from  
11 Storey County with zero consideration. Specifically, the Defendant in the Storeyteller Website  
12 wrote:

13 Special Interests

14 The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
15 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
property and special consideration regarding rules and regulations.

16 Repeatedly reconveying Storey County property to TRIC with zero consideration  
17 or payment that TRIC has turned around and included the free property into lucrative  
18 land deals, including the one that gave a portion of the USA Parkway to TRIC (for  
19 free) which Mr. Gilman and TRIC turned around and sold to NDOT for \$43 Million  
Dollars (without giving us a single penny or paying down the \$47 Million Dollar  
Storey County Credit Card balance).

20 78. This is not true. I, Lance Gilman, have never received title to land from Storey  
21 County in any transaction, never-not once.

22 79. In the first place, TRI built the first 5 miles of USA Parkway and dedicated a part of  
23 the road and drainage facilities to the County.

24 80. In order to bring Tesla and its Gigafactory into Storey County, TRI agreed to give  
25 Tesla 1,000 acres of land free, and give the state of Nevada land for the right of way extension from  
26 the southern end of USA Parkway to Silver Springs.

27 81. TRI received payment from NDOT for that extension right of way, which was  
28 required by law. As part of the transaction, Storey County reconveyed a small segment (less than 2

1 mi) of USA Parkway which TRI transferred in turn transferred to NDOT. This was a massive benefit  
2 for Storey County as the County was getting the Tesla Gigafactory and the massive tax and fee  
3 revenue generated in the future after the abatements ended.

4 82. Storey County was also getting a new State Highway, maintained in perpetuity by  
5 NDOT, and huge positive press, which later drew Tesla, Switch, and Google in to the County.

6 83. Out of all four parties (Tesla, TRI, NDOT, Storey County) Storey County came out  
7 of the deal in a very good financial position - without paying a single cent out of pocket.

8 84. So TRI gave up 1,000 acres of prime industrial land for free and a 400 ft wide right  
9 of way for approximately 15 miles and only received compensation for the 15 miles of right of way.  
10 The concept was that both Storey County and TRI would give up some consideration in order to  
11 secure the Tesla deal.

12 85. TRI did not get the all of USA Parkway back from the County for free, as claimed  
13 by Defendant.

14 86. There have been a couple transactions over the last couple years where Storey County  
15 deeded very small segments of land back to TRI, but in each case the land was either exchanged with  
16 other land given to Storey County, or was part of a deal where a landowner took over maintenance  
17 responsibility for a drainage area.

18 87. Further, in each case these transfers were to facilitate a company moving into TRI  
19 which is of tremendous benefit to Storey County, which would collect future tax and fee revenue  
20 from that company. Thus, the County received substantial consideration in each and every instance.

21 88. This is not a matter of opinion or conjecture as tax and/or fee revenue to the county  
22 is a certainty whenever a private owner takes title to land in TRI, even if they don't build on site as  
23 they still have to pay property taxes.

24 89. For example, take the instance where the County has title to a drainage area, the  
25 county generates no revenue on that drainage area as it is County owned.

26 90. In order to facilitate a company coming in to TRI who desires a pad or site that  
27 slightly encroaches into the drainage area, the county deeds the small encroached area back to TRI  
28 (who initially dedicated it to the County in the first place) so that TRI can include it in the sale to the



1 incoming company.

2 91. The incoming company takes title, and has to maintain the portion of the drainage  
3 facility on their property, and pays property taxes starting immediately.

4 92. Then if the company builds a facility, it generates many different forms of substantial  
5 revenue for the county, including real and personal property taxes, permit fees, business license fees,  
6 power franchise fees, etc.

7 93. The economic benefit to the County is far, far in excess of the minimal fair market  
8 value of the portion of the drainage area transferred to TRI.

9 94. Notwithstanding the foregoing, the Defendant's statements that I as an individual,  
10 have received land for free from Storey County, is a blatant and utter falsehood.

11 95. In two different posts, on or about April 29, 2017, and May 1, 2017, the Defendant  
12 on the Storeyteller Website wrote that my trip to Washington, D.C. partly paid for by Storey County  
13 was not work related and was not a legitimate trip.

14 96. The Defendant also reiterated that the trip was not legitimate on the Storeyteller  
15 Website on or about May 2, 2017.

16 97. This is not true. The trip to Washington by me was on behalf of Storey County and  
17 was taken by me and former Storey County Commissioner and current Storey County Lobbyist, Bum  
18 Hess.

19 98. There was significant lobbying by Mr. Hess and I regarding the zip code bill in  
20 Congress and meetings with Nevada Senator Dean Heller and Congressional staff regarding the  
21 same.

22 99. This was and is an issue where millions of dollars are at issue for Storey County.

23 100. Moreover, the cost of the trip to the County was minimal compared to the potential  
24 gain.

25 101. In addition, Mr. Hess and I had a lengthy private lunch and meeting with retired  
26 Congressman Jon Porter, who is the Storey County lobbyist in Washington, along with his staff.

27 102. In this meeting, Mr. Hess and I covered all the major issues where action is wanted  
28 in Congress, including the zip code issue.



1       103. On or around April 18, 2017, the Defendant wrote on the Storeyteller Website that  
2 I receive special considerations regarding the rules and regulations; specifically, the Defendant  
3 wrote: "That's irked Gilman, who appears to believe that all citizens are created equal – but he  
4 should be treated more equal than others."

5       104. In addition, on or around December 3, 2017, the Defendant wrote on the Storeyteller  
6 Website:

7               Special Interests

8               The Commissioner Lance Gilman – TRIC Special Interest merry-go-round that gives  
9 Mr. Gilman and TRIC access to the Storey County check book, tax coffers, real  
property and special consideration regarding rules and regulations.

10       105. This is not true. I neither expect nor receive any special consideration regarding rules  
11 and regulations.

12       106. The Defendant in his papers failed to mention a single incident where this occurred.  
13 I also don't have "access" to Storey County Checks, tax revenue or property.

14       107. On or about May 20, 2017, the Defendant wrote that I represented to him that I would  
15 reimburse the expenses incurred by Storey County, Nevada for the recall election of the Sheriff of  
16 Storey County, held in 2017, and other expenses incurred by Storey County, Nevada for the ethics  
17 investigation into the Sheriff of Storey County.

18       108. Although the Defendant may argue that this is "satire," the statements are still false  
19 and defamatory. This supposed conversation never happened. I have never made such a statement.

20       109. It implies that I have directly and improperly caused Storey County much unwarranted  
21 expense and basically embezzled funds by filing a false claim for expenses.

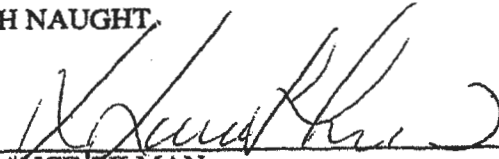
22       110. The Defendant's series of false and defamatory clearly impute that I am unethical and  
23 or criminally predisposed. They falsely accusing me of engaging in criminal behavior.

24       111. The Defendant's false and defamatory statements further impute my lack of fitness  
25 for trade, business or profession, falsely imputes my dishonesty, lack of fair dealing, want of fidelity,  
26 integrity or business ability, and or tend to injure me in my trade, business or profession.

27       112. Because I am the face of TRI and other business ventures, there is no telling how  
28 much damage has been caused by the Defendant to my reputation.

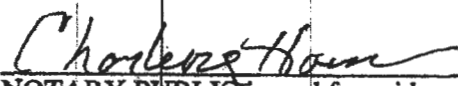
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

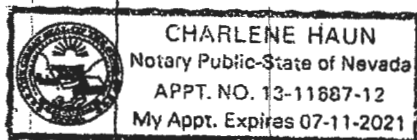
FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
LANCE GILMAN

SUBSCRIBED AND SWORN to before me

on this 21<sup>st</sup> day of February, 2018.

  
NOTARY PUBLIC in and for said  
County and State



## **Exhibit 2**

## **Exhibit 2**

**All data on this form is for use by the Washoe County Assessor for assessment purposes only.**

Owner Information & Legal Description			Building Information			
APN	055-282-02	Card 1 of 1	<b>Property Name:</b>			
<b>Situs</b>	199 STEPTOE LN		<b>Quality</b>	R30 Average	<b>Building Type</b>	Sgl Fam Res
<b>Owner 1</b>	GILMAN, L LANCE		<b>Stories</b>	SINGLE STORY		
<b>Owner 2 or Trustee</b>			<b>Year Built</b>	1977	<b>Square Feet</b>	1,620
<b>Owner 3 or Trustee</b>			<b>Weighted Average Year</b>	1977	Square Feet does not include Basement or Garage Conversion Area.	
<b>Mail Address</b> Copy to Clipboard	199 STEPTOE LN		<b>Bedrooms</b>	3	Click here for Improvement Details (building sq ft, Yard Items, etc).	
	WASHOE VALLEY NV 89704		<b>Full Baths</b>	2	<b>Finished Bsmt</b>	0
<b>Keyline Desc</b>	BAER LT 9 BLK B		<b>Half Baths</b>	0	<b>Unfin Bsmt</b>	0
<b>Subdivision</b>	BAER SUBDIVISION		<b>Fixtures</b>	9	<b>Bsmt Type</b>	
<b>Lot 9 Block 8</b>	<b>Section Township 16 Range 19</b>		<b>Fireplaces</b>	1	<b>Gar Conv Sq Feet</b>	0
<b>Record of Survey Map : Parcel Map# : Sub Map# 668</b>			<b>Heat Type</b>	FA	<b>Total Garage Area</b>	462
Special Property Code			<b>2nd Heat Type</b>		<b>Garage Type</b>	ATTACHED
<b>2018 Tax Dist</b>	4000	<b>Prior APN</b>	<b>Exterior Walls</b>	SIDING/FR	<b>Detached Garage</b>	2025
<b>2017 Tax Dist</b>	4000	<b>Additional Tax Info</b>	<b>2nd Ext Walls</b>		<b>Basement Gar Door</b>	0
<b>Tax Cap Status</b>	Low Cap Qualified Primary Residence		<b>Roof Cover</b>	WOOD SHAKE	<b>Sub Floor</b>	WOOD
<b>Last Activity/ Last Permit</b>			<b>% Complete</b>	100	<b>Frame</b>	FRAME
			<b>Obso/Bldg Adj</b>	0	<b>Units/Bldg</b>	1
			<b>Construction Modifier</b>	0	<b>Units/Parcel</b>	1

Up to 7 Sales/Transfer Records/Recorded Document (additional information/records)								
Grantor	Grantee	Doc #	Doc Date	DOR	Value/Sale Price	Adjusted Sale Price	Code	Notes
GILMAN FAMILY TRUST, LANCE	GILMAN, L LANCE	4599591	06/15/2016	200	0	0	3BGG	OUT OF TRUST
GILMAN, L LANCE	GILMAN FAMILY TRUST, LANCE	3667564	07/09/2008	200	0	0	3BGG	INTO TRUST
GILMAN, L LANCE & SHARON D	GILMAN, L LANCE	2925644	09/22/2003	200	0	0	3NTT	
	GILMAN, L LANCE & SHARON D	2128826	08/26/1997	200	200,000	0	2D	
		CHK	05/04/1993	200	153,000	0	2D	
		CHK	04/01/1977		40,000	0		

**To view sale/transfer/or other recorded documents use** EagleRecorder on the Recorder's web site.

Land Information (additional land information)			DOR Code	200	Close Code	0	1G Neighborhoods Map	
<b>Land Use</b>	200	<b>Sewer</b>	Septic	<b>Street</b>	Paved	<b>Zoning</b>	HDR	<b>2018 Neighborhood</b> IGBG AH
<b>Size</b>	2.744 Acre	<b>Water</b>	Well	<b>Value Year</b>	2018	<b>Zoning Maps</b>	Page 055-28   Book 055	<b>2017 Neighborhood</b> IGBG

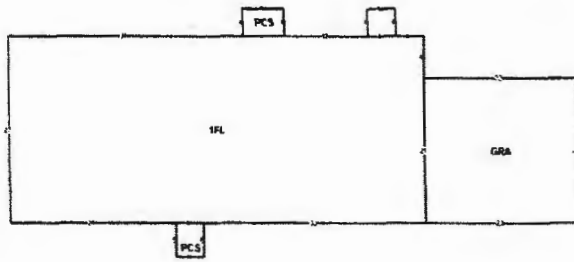
Zoning information should be verified with the appropriate planning agency.

Valuation Information (additional valuation information)									
2018 VN	Taxable Land	Taxable Improvement	Secured PP (rounded)	Taxable Total	Assessed Land	Assessed Improvement	Assessed Pers. Prop	Total Assessed	Supplemental New Const
2018/2019 NR	120,000	119,307	0	239,307	42,000	41,757	0	83,757	0
2017/2018 FV	110,000	121,121	0	231,121	38,500	42,392	0	80,892	0

The 2018/2019 Values are preliminary values and subject to change.

I, Cori Burke,  
Washoe Co. Assessor, do  
hereby certify that the above is a true and  
accurate copy of the records of the  
Washoe County Assessor's Office.  
Cori Burke 5/17/18  
Signature Date





sketch code descriptions

This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 05/16/2018.

## **Exhibit 3**

## **Exhibit 3**

WASHOE COUNTY QUICK INFO (Summary data may not be complete representation of property)				02/22/2019					
<b>All data on this form is for use by the Washoe County Assessor for assessment purposes only.</b>									
<b>Owner Information &amp; Legal Description</b>				<b>Building Information</b>					
APN: 055-282-02 Card 1 of 1				Property Name:					
Site: 199 STEPTOE LN				Quality: R30 Average		Building Type: Sgl Fam Res			
Owner 1: GILMAN FAMILY TRUST, LANCE				Stories: SINGLE STORY					
Owner 2 or Trustee: GILMAN TRUSTEE, LEONARD L				Year Built: 1977		Square Feet: 1,620			
Owner 3 or Trustee:				Weighted Average Year: 1977		Square Feet does not include Basement or Garage Conversion Area.			
Mail Address: 1000 WILD HORSE CANYON DR				Bedrooms: 3		Click here for Improvement Details (building sq ft, Yard Items, etc).			
Copy to Clipboard: SPARKS NV 89434				Full Baths: 2		Finished Bsmt: 0			
Keyline Desc: BAER LOT 9 BLOCK B				Half Baths: 0		Unfin Bsmt: 0			
Subdivision: BAER SUBDIVISION				Fixtures: 9		Bsmt Type:			
Lot 9 Block B Section 23 Township 16 Range 19				Fireplaces: 1		Gar Conv Sq Feet: 0			
Record of Survey Map: Parcel Map# : Sub Map# 668				Heat Type: FA		Total Garage Area: 462			
Special Property Code:				2nd Heat Type:		Garage Type: ATTACHED			
2019 Tax Dist: 4000 Prior APN: - -				Exterior Walls: SIDING/FR		Detached Garage: 2025			
2018 Tax Dist: 4000 Additional Tax Info:				2nd Ext Walls:		Basement Gar Door: 0			
Tax Cap Status: Low Cap Qualified Primary Residence				Roof Cover: WOOD SHAKE		Sub Floor: WOOD			
Last Activity/ Last Permit: AH 11/07/2018				% Complete: 100		Frame: FRAME			
				Obso/Bldg Adj: 0		Units/Bldg: 1			
				Construction Modifier: 0		Units/Parcel: 1			
<b>Up to 7 Sales/Transfer Records/Recorded Document (additional information/records)</b>									
Grantor	Grantee	Doc #	Doc Date	DOR	Value/Sale Price	Adjusted Sale Price	Code	Notes	
GILMAN, L LANCE	GILMAN FAMILY TRUST, LANCE	4842096	08/15/2018	200	0	0	3BGG		
GILMAN FAMILY TRUST, LANCE	GILMAN, L LANCE	4599591	06/15/2016	200	0	0	3BGG	OUT OF TRUST	
GILMAN, L LANCE	GILMAN FAMILY TRUST, LANCE	3667564	07/09/2008	200	0	0	3BGG	INTO TRUST	
GILMAN, L LANCE & SHARON D	GILMAN, L LANCE	2925644	09/22/2003	200	0	0	3NTT		
	GILMAN, L LANCE & SHARON D	2128826	08/26/1997	200	200,000	0	2D		
		CHK	05/04/1993	200	153,000	0	2D		
		CHK	04/01/1977		40,000	0			
<b>To view sale/transfer/or other recorded documents use EagleRecorder on the Recorder's web site.</b>									
<b>Land Information (additional land information)</b>				<b>IG Neighborhoods Map</b>					
Land Use: 200	Sewer: Septic	Street: Paved	Zoning: HDR	Zoning Info:		2019 Neighborhood: IGBG AH			
Size: 2.744 Acre	Water: Well	Value Year: 2019	Zoning Maps: Page 055-28   Book 055		2018 Neighborhood: IGBG				
<b>Zoning information should be verified with the appropriate planning agency.</b>									
<b>Valuation Information (additional valuation information)</b>									
2019 VN	Taxable Land	Taxable Improvement	Secured PP (rounded)	Taxable Total	Assessed Land	Assessed Improvement	Assessed Pers. Prop	Total Assessed	Supplemental New Const
2019/2020 VN	120,000	120,404	0	240,404	42,000	42,141	0	84,141	0
2018/2019 FV	120,000	119,307	0	239,307	42,000	41,757	0	83,757	0
<b>The 2019/2020 Values are preliminary values and subject to change.</b>									

Keirsten Beck

Washoe County Assessor, do hereby certify that this is a true and accurate copy of the records of the Washoe County Assessor's Office.

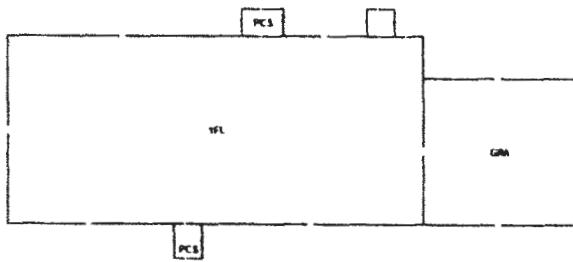
Keirsten Beck

2/22/19

Signature

Date





sketch code descriptions



This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 02/21/2019.

Keirsten Beck

County Clerk  
Washoe County  
Nevada  
2/22/19

Keirsten Beck 2/22/19

## **Exhibit 4**

## **Exhibit 4**

APN: 055-282-02

LOCATION: 199 STEPTOE LN

NAME: GILMAN, L LANCE

**FILING DEADLINE: JUNE 15, 2008**

Due to a change the 2008/2009 "tax cap" has been set to the "HIGH CAP" and may result in a higher tax bill. Please return this form to our office by JUNE 15, 2008 to ensure the correct abatement is applied to your tax bill.  
The High Cap for tax year 2008/2009 is 8.0%.

**FILL IN THE APPROPRIATE OVAL(S) (●) below regarding the status of the property as of July 1, 2008. The form will not be processed if oval(s) are not filled in. See instructions on reverse side.**

- This property will be occupied as my **primary residence** on July 1, 2008.  
(NOTE: Your mobile home that you occupy qualifies as your primary residence even if you do not own the land)
- This property is occupied as the **primary residence of a family member** that does not pay rent.
- This is a **vacation home** and I:  
○ Do not own another home in Nevada.  
○ Own another home in Nevada.  
○ Rent it out when I am not using it.
- I also own an additional parcel(s) of land that **connects or shares a boundary line** with this parcel.  
Please provide the parcel number(s) of the parcel(s) that connect or share a boundary line with this parcel: \_\_\_\_\_

(OR)

- **THIS PROPERTY IS A RENTAL**  
Provide the following information (see reverse side for further instructions)

# of Bedrooms	Number of Rental Units of this type on the parcel	Maximum monthly rent charged for this type of unit April 1, 2007 through March 31, 2008.	Mark an "X" if Heat & Electric are included in rent.
Studio (0)			
1 bedroom			
2 bedrooms			
3 bedrooms			
4 bedrooms			
5 bedrooms			
Mobile Home Space*			

\*Only complete information for Mobile Home Space if you own the land.

I, Cori Burke  
Washoe County Assessor, do hereby certify that the above is a true and accurate record of the Washoe County Assessor's Office.  
Cori Burke 5/17/18  
Signature Date

(OR)

- **NONE OF THE ABOVE APPLY**
- This property is under construction and will not be occupied until after July 1, 2008.
- This property is abandoned and no longer usable as a dwelling.
- I will not own this property as of July 1, 2008.
- This property is unoccupied and is being renovated or up for sale.
- Other. Please explain: \_\_\_\_\_

I affirm and certify under penalties pursuant to law that I am the owner of this property, the above information is true and accurate, and I will notify the Assessor's Office if this property is no longer used as described above.

SIGNED

Date 7-1-08

Daytime Phone # 775-412-7681

You will not receive the lower tax cap unless form is signed by the owner or their legal representative. You can verify your status at [www.washoecounty.us/assessor/came](http://www.washoecounty.us/assessor/came) or on your tax bill.

**DEADLINE TO APPEAL 2008/2009 ABATEMENT IS JANUARY 15, 2009.**

This section is for use by the Washoe County Assessor's Office only.

○ QLC    ○ QHC    ○ QLCR    ○ QHCR    ○ DNQ    ○ NS

Toll - Appx. - 002476

2ND REQUEST. Another form will NOT be mailed for this property unless there is a change in ownership or mailing address.

## **Exhibit 5**

## **Exhibit 5**

A.P.N.: 055-282-02  
File No: 121-2503321 (MLR)  
R.P.T.T.: \$0

DOC #4599591  
06/15/2016 11:04:02 AM  
Electronic Recording Requested By  
FIRST AMERICAN TITLE RENO  
Washoe County Recorder  
Lawrence R. Burtness  
Fee: \$18.00 RPTT: \$0  
Page 1 of 2

When Recorded Mail To: Mail Tax Statements To:  
L. Lance Gilman  
199 Steptoe Lane  
Washoe Valley, NV 89704

***GRANT, BARGAIN and SALE DEED***

*FOR A VALUABLE CONSIDERATION*, receipt of which is hereby acknowledged,

Leonard Lance Gilman, Trustee of the Lance Gilman Family Trust dated November 9, 2007

do(es) hereby *GRANT, BARGAIN and SELL* to

L. Lance Gilman, an unmarried man

the real property situate in the County of Washoe, State of Nevada, described as follows:

**LOT 9 IN BLOCK B, OF BAER SUBDIVISION, WASHOE COUNTY, NEVADA, ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER OF WASHOE COUNTY, STATE OF NEVADA, ON OCTOBER 24, 1960, AS TRACT MAP NO. 668.**

Subject to

1. All general and special taxes for the current fiscal year.
2. Covenants, Conditions, Restrictions, Reservations, Rights, Rights of Way and Easements now of record.

*TOGETHER* with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

Date: 05/31/2016

Leonard Lance Gilman, Trustee  
of the Lance Gilman Family Trust dated November 9, 2007

Leonard Lance Gilman, Trustee

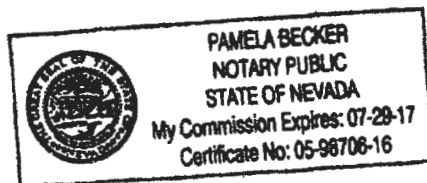
STATE OF NEVADA )  
COUNTY OF WASHOE ) ss.

This instrument was acknowledged before me on this: 13 day of JUNE, 2016

**By: Lance Gilman**

Paula Barker

Notary Public  
(My commission expires: 7/22/17)

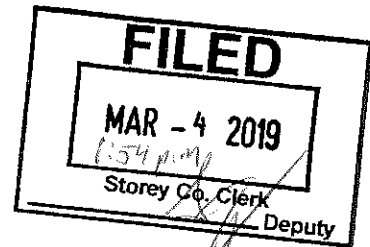


**CERTIFIED COPY**

THE FOREGOING DOCUMENT IS A FULL,  
TRUE AND CORRECT COPY OF THE  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER, WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS

WITNESSE MY HAND AND SEAL  
 DAY OF May, 20 19  
 LAWRENCE R. BURTNES, COUNTY RECORDER  
 BY Donna Miller DEPUTY

Per NRS 239B the SSN may be redacted, but in no way affects the legality of the document.



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY

-o0o-

LANCE GILMAN, an individual,  
Plaintiff

vs.

SAM TOLL, an individual; DOES I-  
V, inclusive; and ROE ENTITIES VI-  
X, inclusive,  
Defendants.

CASE NO.: 18 TRT 00001 1E

DEPT. NO.: 2

ORDER ON PLAINTIFF'S MOTION  
TO COMPEL, FOR SANCTIONS, TO  
EXTEND DISCOVERY PERIOD, AND FOR  
SUMMARY JUDGMENT  
AND  
ORDER VACATING HEARING

**PROCEDURAL BACKGROUND**

Sam Toll authors articles he publishes on a website under the domain storeyteller.online (the Storey Teller). Lance Gilman sued Toll for defamation based upon several articles Toll published on the Storey Teller. Toll filed an Anti-SLAPP motion to dismiss. The Court entered an order allowing Gilman to conduct discovery limited solely to information as to whether Toll knew the "resident communications," (specifically described in the Order Granting Anti-SLAPP Special Motion to Dismiss in Part and Allowing Limited Discovery beginning at page 7 of the order), were false or whether Toll acted with a high degree of awareness of the probable falsity of the statement or had serious doubts as to the publication's truth.

Before the Court is Plaintiff's Motion to Compel, Motion for Sanctions, Motion to Extend the Time Period for Discovery, and in the Alternative, Motion for Partial Summary Judgment. Toll opposed the motion and Gilman filed a reply. The Court



1 issued an Order for Evidentiary Hearing on Motion to Compel. Upon further review it  
2 appears an evidentiary hearing is not necessary as the facts necessary to decide the  
3 motion are not contested. The issues for the Court to decide are legal issues.

## 4 5 **ISSUES**

6 Is Toll a reporter of a newspaper or press association?

7 If Toll is a reporter of a newspaper or press association, should the news media  
8 privilege yield to Gilman's need for the sources of information to obtain evidence which  
9 is essential to Gilman's ability to prove actual malice.

10 If Toll is not a reporter of a newspaper or press association, should the Court  
11 impose sanctions for Toll's refusal to answer the deposition questions?

12 If Toll is not a reporter of a newspaper or press association, should the Court  
13 grant Gilman's request to extend the discovery deadline?

14 Has Gilman demonstrated he is entitled to summary judgment?

## 15 16 **FACTS**

17 Toll publishes articles on his Storey Teller blog.

18 The articles Toll publishes contain facts or alleged facts, opinions, commentary,  
19 and/or satire related to events in Storey County.

20 Toll's articles contain reports and comments on events in Storey County.

21 The Storey Teller is published electronically only. The Storey Teller is not printed.

22 The articles at issue were published by Toll on April 7, 2017, April 18, 2017, May  
23 20, 2017, October 16, 2017, and December 3, 2017.

24 Toll has been a member of the Nevada Press Association since August of 2017.

25 Gilman deposed Toll and asked questions about Toll's sources of information  
26 related to the "resident communications." The deposition questions about sources that  
27 Gilman included in his motion did not specify any specific time frame.

1 Toll asserted the news media privilege in response to several questions as set out  
2 in Gilman's motion.

### 4 LEGAL PRINCIPLES

5 NRS 49.275, the news media privilege, provides in relevant part:

6 No reporter, former reporter or editorial employee of any  
7 newspaper, periodical or press association ... may be required to disclose ...  
8 the source of any information procured or obtained by such person, in any  
9 legal proceedings, trial or investigation:

1. Before any court ....

9 A party asserting a privilege has the burden of proving that the privilege applies.  
10 *McNair v. Eighth Judicial Dist. Ct.*, 1285, 1289, 885 P.3d 576, 579 (1994) (the burden is  
11 on the party asserting a privilege to establish that the requested information comes  
12 within the privilege).

### 14 ANALYSIS

#### 15 *Arguments of counsel*

16 Gilman argued there is nothing in the four corners of NRS 49.275 that applies to  
17 Toll or his Storey Teller. Gilman pointed out that the "About Section" of the Storey  
18 Teller states, "the [Storey Teller] was created to provide a source of irritation to the  
19 Good Old Boys who operate The Biggest Little County in the World with selfish impunity  
20 forever." Gilman argued "the Storey Teller by its own admission was not created for the  
21 purpose of disseminating news to the general public," "the Storey Teller is not news,"  
22 and therefore, "the Defendant is not a reporter." Gilman further argued that "there is  
23 nothing providing for a blogger such as the Defendant in the statute." Gilman asserted  
24 Toll "has never made a showing how he qualifies for the protections afforded by NRS  
25 49.275, and therefore, "the Defendant is not entitled to the protections set forth in NRS  
26 49.275."

27 In opposition Toll argued he is a reporter because he started the Storey Teller as  
28 an alternative to the Comstock Chronicle, a newspaper published in Virginia City; the

1 articles Toll published “relate to news events and/or opinion and/or satire about news  
2 events in Storey County.” Toll points out he is and has been a member of the Nevada  
3 Press Association since August of 2017, and that Association lists on its website the  
4 Storey Teller as a “specialized publication.” Toll also has a Nevada Legislative Counsel  
5 Bureau (LCB) identification. The Court received no evidence of when Toll received the  
6 LCB identification. Toll provided a dictionary definition of “reporter” that includes a  
7 person who is employed by a newspaper, magazine, or television company to gather and  
8 report news, and a person who broadcasts news. Toll cites to a Ninth Circuit decision  
9 that indicated “with the advent of the Internet and the decline of print and broadcast  
10 media ... the line between the media and others who wish to comment on political and  
11 social issues become far more blurred.”

12 In reply Gilman essentially repeated arguments he made in his motion.  
13

14 *Is Toll a reporter of a newspaper or press association?*

15 Under NRS 49.275, as applicable to this case, a reporter of any newspaper,  
16 periodical or press association has a privilege refuse to disclose any source of  
17 information procured or obtained by such person in any legal proceeding before a court.

18 A party asserting a privilege has the burden of proving that the privilege applies.  
19 Because Toll is asserting the news media privilege he has the burden of proving the  
20 privilege applies. Toll did not provide facts, legal authority, or argument that the Storey  
21 Teller is a periodical and therefore the Court will not address whether the Storey Teller  
22 is a periodical. Therefore, Toll has the burden of proving he is a reporter of a newspaper,  
23 or of a press association.

24 The Court will first address whether Toll is a reporter.

25 Toll’s articles at issue contain reports of facts or alleged facts, opinions,  
26 commentary, and/or satire related to events in Storey County. A “reporter” is defined as  
27 one that reports; one who reports news events; a commentator. Webster’s Third New  
28 International Dictionary 1926 (2002). Because Tolls’ articles at issue contain reports of

1 facts or alleged facts, opinions, commentary, and/or satire related to events in Storey  
2 County, Toll fits the definition of a reporter. The Court concludes Toll is a reporter.

3 The Court next turns to whether the Storey Teller is a newspaper.

4 Toll publishes his articles on the internet and not in any other format. He does  
5 not print his articles. The Legislature did not define "Newspaper" in NRS 49.275 or  
6 elsewhere in Chapter 49. The Legislature has defined "newspaper" in several other  
7 chapters of the NRS. It appears that under all of the statutory definitions a newspaper  
8 must be printed. For example, NRS Chapter 238, which relates to legal notices and  
9 advertisements, in 238.020, defines daily, triweekly, semiweekly, weekly and  
10 semimonthly newspapers. All of the definitions in NRS 238.020, and apparently  
11 throughout the Nevada Revised Statutes, include that a newspaper is printed. The  
12 Legislature's definition of "newspaper" in NRS 238.020 is particularly relevant and  
13 significant because if a blog is a newspaper, then legal notices "or other written matter  
14 whatsoever, required to be published in a newspaper by any law of this State, or by the  
15 order of any court of record in this state" (NRS 238.010) could be published on a blog.

16 The statutory definitions are consistent with the usual and natural meaning of  
17 "newspaper." Webster defined "newspaper" as a paper that is printed and distributed.  
18 Webster's Third New International Dictionary 1524 (2002). Toll did not offer any  
19 definition of "newspaper" that would cover a blog. Whether a blog should be covered by  
20 the news media privilege is a matter for the legislature, not the courts.

21 Toll argued the Nevada Press Association's website includes the Storey Teller as a  
22 "specialized publication." That is true. The website also contains information regarding  
23 "daily newspapers." That heading includes the Las Vegas Review Journal, the Reno  
24 Gazette Journal, the Elko Daily Free Press, the Nevada Appeal, and Nevada Legal News.  
25 The Court takes judicial notice that all of those publications are printed. The website  
26 also contains information concerning "non-daily newspapers." The Court is not familiar  
27 with the publications listed as non-daily newspapers. The point is, the Nevada Press  
28 Association recognizes a number of publications as newspapers, but the Storey Teller is

1 not one of them. Toll submitted an affidavit of Barry Smith, Executive Director of the  
2 Nevada Press Association. Mr. Smith did not say the Storey Teller is a newspaper. In fact  
3 he distinguishes between daily and weekly news publications on the one hand and  
4 online news services, magazines, and others, on the other hand.

5 The Court concludes that because Toll does not print the Storey Teller the Storey  
6 Teller is not a newspaper and, therefore the news media privilege is not available to Toll  
7 under the "reporter of a newspaper" provision of NRS 49.275.

8 The Court turns now to whether Toll is a reporter of a of a press association. Toll  
9 is and has been a member of the Nevada Press Association since August of 2017. Gilman  
10 did not present any facts, legal authority, or argument that the Nevada Press Association  
11 is not a press association. The Court finds and concludes the Nevada Press Association is  
12 a press association. Because Toll is a member of a press association the Court concludes  
13 he is reporter of a press association and therefore the news media privilege may apply.

14 Because Toll has been a reporter of a press association since August of 2017 he is  
15 and has been covered by the NRS 49.275 news media privilege since August of 2017.  
16 But, because he was not a reporter for a newspaper or press association before August of  
17 2017 he was not covered by the news media privilege before August of 2017. Therefore,  
18 the news media privilege does not cover sources of any information procured or  
19 obtained by Toll before August of 2017, and therefore, the motion to compel must be  
20 granted as to any sources of information procured or obtained by Toll for the articles at  
21 issue before August of 2017.

22  
23 *Should the news media privilege yield to Gilman's need for the sources of information  
24 to obtain evidence which is essential to Gilman's ability to prove actual malice?*

25 The United States District Court for the District of Nevada has addressed this  
26 issue. In *Newton v. National Broadcasting Co.*, 109 F.R.D. 522 (1985) the singer and  
27 actor, Wayne Newton, sued NBC for defamation allegedly contained in news broadcasts.  
28 Newton was a public figure and so, like Gilman, had to prove actual malice to prove

1 defamation. Newton sought discovery of NBC's sources and NBC invoked the NRS  
2 49.275 news media privilege. The court acknowledged that the information about  
3 sources was critically important to Newton's ability to meet his burden of proof. The  
4 court noted the tension between a defamation plaintiff's legitimate interest in  
5 attempting to meet his burden of proof on actual malice and the equally legitimate  
6 interests of a media defendant's interests in protecting the confidentiality of its sources  
7 and thereby presumably promote the viability of a free press. The court came to the  
8 "inescapable conclusion" that NBC could not be forced to disclose its sources because of  
9 Nevada's statutory news media privilege. The court noted "the Nevada legislature, in  
10 granting almost absolute protection to a journalist from disclosure of his confidential  
11 sources, has made a decision to favor the public's interest in access to information over  
12 an individual's interest in vindicating his reputation in a defamation action." *Id.* 530.

13 For the same reasons the same result is required in this case. This Court  
14 acknowledges that the information about sources is critically important to Gilman's  
15 ability to meet his burden of proof on the actual malice issue. The Court concludes the  
16 news media privilege does not yield to Gilman's need for the sources of information to  
17 obtain evidence which is essential to Gilman's ability to prove actual malice. The  
18 privilege does not yield because the Nevada Legislature, in granting almost absolute  
19 protection to a journalist from disclosure of his confidential sources, has made a  
20 decision to favor the public's interest in access to information over an individual's  
21 interest in vindicating his reputation in a defamation action and thereby presumably  
22 promoting the viability of a free press.

23  
24 *Should the Court impose sanctions for Toll's refusal to answer the deposition*  
25 *questions?*

26 Gilman has not, in his points and authorities, shown that any of the deposition  
27 questions in issue were about any specific time frame. The Court concludes that because  
28

1 the deposition questions were not limited to sources of information Toll procured or  
2 obtained before August of 2017 the motion for sanctions will be denied.

3  
4 *Should the Court grant Gilman's request to extend the discovery deadline?*

5 Because the motion to compel must be granted in part, the Court concludes  
6 Gilman's motion to extend the time for discovery must also be granted so he can obtain  
7 discovery of sources of information procured or obtained by Toll before August of 2017.

8  
9 *Should the Court grant Gilman's motion for partial summary judgment?*

10 The Court concludes Gilman has failed to show that he is entitled to partial  
11 summary judgment. Therefore his motion for partial summary judgment must be  
12 denied.

#### 13 14 **CONCLUSIONS OF LAW**

15 Because Toll was not a reporter for a newspaper or press association before  
16 August of 2017 he was not covered by the news media privilege before August of 2017,  
17 and therefore, the motion to compel must be granted as to any source of information  
18 obtained or procured by Toll before August of 2017.

19 Because Toll has been and is a reporter of a press association since August of 2017  
20 he is and has been covered by the news media privilege since August of 2017, and  
21 therefore the motion to compel must be denied as to any source of information procured  
22 or obtained by Toll during or after August of 2017.

23 The news media privilege does not yield to Gilman's need for the sources of  
24 information to obtain evidence which is essential to Gilman's ability to prove actual  
25 malice.

26 Because the deposition questions were not limited to sources of information Toll  
27 procured or obtained before August of 2017 the motion for sanctions will be denied.

1 Gilman's motion to extend the time for discovery must be granted so he can  
2 obtain discovery of sources of information procured or obtained by Toll during or before  
3 August of 2017.

4 Gilman failed to show he is entitled to partial summary judgment.

5  
6 **ORDER**

7 Gilman's motion to compel is granted as to sources of information procured or  
8 obtained by Toll before August of 2017.

9 Gilman's motion to compel is denied as to sources of information procured or  
10 obtained by Toll during and after August of 2017.

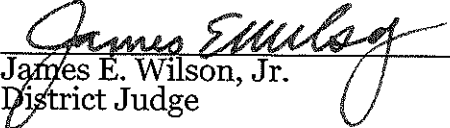
11 Toll will not be allowed to rely on the privileged information as a defense under  
12 *Diaz v. Dist. Ct.*, 116 Nev. 88, 101993 P.2d 50 (2000), citing *Las Vegas Sun*, 104 Nev.  
13 508, 514, 761 P.2d at 853-54 (1988).

14 Gilman's motion for sanctions is denied.

15 Gilman's motion to extend the time for discovery is granted. Discovery must be  
16 completed by April 12, 2019.

17 Gilman's motion for partial summary judgment is denied.

18 March 4, 2019.

19   
20 James E. Wilson, Jr.  
21 District Judge  
22  
23  
24  
25  
26  
27  
28





Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnmarshall@charter.net](mailto:johnmarshall@charter.net)

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

*Attorneys for the Defendant*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

**SECOND REQUEST FOR SUBMISSION  
OF  
SUPPLEMENTAL OPPOSITION AND SUPPLEMENTAL REPLY TO  
ANTI-SLAPP SPECIAL MOTION TO DISMISS**

**FILED**

2019 MAR -4 PM 4:01

STOREY COUNTY CLERK

BY

DEPUTY

COMES NOW, SAM TOLL, ("Defendant" or "Toll"), pursuant to the Court's June 25, 2018 Order Denying Request for Submission, by and through the undersigned counsel, and hereby requests that the Plaintiff's May 24, 2018 Supplemental Opposition to the Defendant's Anti-SLAPP Motion and the Defendant's June 4, 2018 Supplemental Reply thereto, be submitted to the Court for decision, as the Court has issued its Order resolving the Motion to Compel on March 4, 2019.

**NRS 239B.030(4) AFFIRMATION**

I certify that the attached filing includes no social security numbers or other personal information.

Respectfully submitted this March 4, 2019:

By: \_\_\_\_\_

JOHN L. MARSHALL  
SBN 6733

570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
johnmarshall@charter.net

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
luke@lukeandrewbusbyltd.com

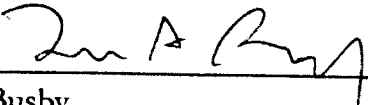
*Attorneys for the Defendant*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I certify that on the date indicated below I served the foregoing document on the following parties via US Mail, postage prepaid, and/or electronic service.

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

By:   
Luke Busby

Dated: 3-4-19

1 GUS W. FLANGAS, ESQ.  
Nevada Bar No. 004989  
2 Email: [gwf@fdlawlv.com](mailto:gwf@fdlawlv.com)  
JESSICA K. PETERSON, ESQ.  
3 Nevada Bar No. 10670  
Email: [jkp@fdlawlv.com](mailto:jkp@fdlawlv.com)  
4 FLANGAS DALACAS LAW GROUP  
3275 South Jones Boulevard, Suite 105  
5 Las Vegas, Nevada 89146  
Telephone: (702) 307-9500  
6 Facsimile: (702) 382-9452  
*Attorneys for Plaintiff*

7  
8  
9 **IN THE FIRST JUDICIAL DISTRICT COURT**

10 **IN AND FOR STOREY, COUNTY, NEVADA**

11  
12 LANCE GILMAN, an individual,  
13 Plaintiff,

Case No.: 18-TRT-00001-1e  
Dept No.: II

14 vs.

**OPPOSITION TO MOTION TO DISMISS  
AND TERMINATION OF PROCEEDINGS**

15 SAM TOLL, an individual; DOES I-V,  
16 inclusive; and ROE ENTITIES VI-X,  
inclusive,  
17 Defendants.

18 COMES NOW the Plaintiff, LANCE GILMAN, by and through his attorneys, GUS W.  
19 FLANGAS, ESQ. and JESSICA K. PETERSON, ESQ., of the FLANGAS DALACAS LAW  
20 GROUP, and hereby submits this Opposition to the "Motion to Dismiss and for Termination of  
21 Proceedings" filed by the Defendant in his action.

22 This Opposition is based upon the Pleadings and Papers on file herein, the attached Points

23 .....

24 .....

25 .....

26 .....

27 .....

28 .....

1 and Authorities and oral argument to made by Counsel at any Hearing of this matter.

2 Dated this 8th day of March, 2018.

3  
4  
5 GUS W. FLANGAS, ESQ.

Nevada Bar No. 04989

gwf@fdlawlv.com

6 JESSICA K. PETERSON, ESQ.

Nevada Bar No. 10670

7 jkp@fdlawlv.com

8 **FLANGAS DALACAS LAW GROUP**

3275 South Jones Blvd., Suite 105

9 Las Vegas, Nevada 89146

Telephone: (702) 307-9500

10 Facsimile: (702) 382-9452

*Attorneys for Plaintiff*

11  
12 **POINTS AND AUTHORITIES**

13 **I.**

14 **STATEMENT OF FACTS**

15 **A. INTRODUCTION.**

16 This Court is well aware of the facts in this case, having already partially deciding the  
17 Defendant's Motion on April 9, 2018. Pursuant to the Court's Order the issue remaining to be  
18 decided are the "resident communications". As the Court will remember, Gilman alleged that  
19 Toll's defamatory comments were premised in part on the allegation that Gilman committed  
20 perjury by stating that he lived in Storey County when he really lived in Washoe County. This  
21 Court defined the word "resident" and "live" and found that both of those words had specific  
22 meanings, i.e. resident is dwelling or having an abode for a continued length of time, "live" is to  
23 occupy a home; "reside" is to settle oneself into a place, to dwell permanently or continuously;  
24 have a settled abode for a time; have one's residence or domicile." Court's Order at pg. 9. The  
25 Court went on to examine whether the communications were truthful or made without  
26 knowledge of their falsehood. The Court examined the Affidavit produced by Gilman in which  
27 Gilman specifically attested that he lived in Storey County and found that Gilman's testimony  
28 under oath that he lives in Storey County is sufficient prima facie evidence that he lives in Storey

1 County. Pg. 16.

2 The Court then concluded that the “resident communications were defamatory and were  
3 published. The only remaining question was whether Toll had made the statements with actual  
4 malice, i.e. whether Toll knew that the statements were false or made them with a high degree of  
5 awareness of the probable falsity of the statements or had serious doubts as to the truth or falsity  
6 of the publication. The Court then granted Plaintiff’s request to conduct discovery finding that  
7 “information as to whether Toll knew the resident communications were false or whether he  
8 acted with a high degree of awareness of the probable falsity of the statement or had serious  
9 doubts as to the publication’s truth, is necessary for Gilman to meet or oppose the burden under  
10 NRS 41.660(3)(b), and that information is in the possession of Toll or a third party and is not  
11 reasonably available without discovery. The Court then ordered that Gilman would be allowed  
12 to conduct discovery limited solely to whether Toll knew the resident statements were false or  
13 whether he acted with a high degree of awareness of the probable falsity of the statement or had  
14 serious doubt’s as to the publication’s truth. The Court thus declined to rule on the Defendant’s  
15 Motion to Dismiss until such time as this Discovery could be completed.

16 Plaintiff then took the deposition of Toll who claimed the newspaper privilege and  
17 refused to provide Plaintiff with the information needed to establish Toll’s knowledge of the  
18 truth or falsity of the statements.<sup>1</sup>

19 The Plaintiff then filed a Motion to Compel and an Evidentiary Hearing was set to decide  
20 whether the Defendant could claim the privilege. On February 25, 2019, prior to the date set for  
21 the Evidentiary Hearing, the Defendant filed a Motion to Dismiss and Terminate the Proceedings  
22 and submitted various documents in an attempt to prove the statements made by Toll regarding  
23 the resident communications were true. Specifically, Defendant filed documents from the  
24 assessor’s office that show that Gilman owns property in Washoe County and another document  
25 which shows that Gilman indicated that the Steptoe property would be occupied as his primary  
26

---

27 <sup>1</sup>It should be noted that at the time Toll claimed the privilege he was actually running for  
28 office himself. Plaintiff is hard pressed to see how someone can be a public figure as one would  
be if running for office but then hide behind a privilege as to statements made about others.



1 residence.

2 On the basis of this evidence, the Defendant argues that there is no genuine issue of  
3 material fact that the “resident communications” made by Toll, that Plaintiff is not a resident of  
4 Storey County, are true and thus cannot form the basis of a defamation action.

5 Defendant’s Motion asked that the Court decide the Motion at the March 15, 2019  
6 Hearing. See Defendant’s Motion at pg. 5. On March 4, 2019 the Court issued an opinion  
7 indicating that Plaintiff would be permitted to engage in additional discovery on the issue of  
8 what Toll knew at the time that he made the resident communication publications.

9 Since the Order came after the Defendant’s Motion and the Court was still permitting the  
10 parties to engage in Discovery, it was reasonable for the Plaintiff to believe that the Defendant’s  
11 additional Motion to Dismiss would be held in abeyance until that additional discovery was  
12 completed.

13 Moreover, seeing as how the Motion was filed on February 25, 2019 and the Order  
14 shortening time was not received until Monday March 4, 2019, it is simply not reasonable to  
15 have an Opposition filed 2 days later, especially when Storey County does not have an e-filing  
16 system.<sup>2</sup>

17 Based on the foregoing, and as will be shown below, Plaintiff respectfully requests that  
18 this Court Deny Defendant’s Request for Submission of Motion for Submission of Motion to  
19 Dismiss and Terminate Proceedings until such time as the Discovery in this matter is completed.

---

22  
23 <sup>2</sup>Defendant argues that the failure of Plaintiff to file a Memorandum of Points and  
24 Authorities in opposition to any Motion within the time permitted shall constitute a consent to  
25 granting of the Motion. Plaintiff would note that originally the Defendant ask that the Motion be  
26 addressed at the Hearing on March 15, 2019 and then filed its Second Request for Submission on  
27 March 4, the same day the Court decided the Motion to Compel. The Court specifically  
28 provided Plaintiff with additional time to complete discovery, arguably had the Court felt that the  
Defendant’s Motion was dispositive the Court would not have granted the additional discovery.  
The Court has not issued an Order on the Defendant’s most recent Motion and at the very least,  
there is a factual issue that precludes the Court from granting the Motion. As the Court has not  
issued an Order there is no prejudice to the Defendant especially since the Defendant initially  
wanted this matter addressed at the hearing on March 15, 2019.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

II

LAW & ARGUMENT<sup>3</sup>

A. GILMAN LIVES IN STOREY COUNTY

Defendant's current Motion has provided this Court with four (4) documents from the Washoe County Assessor's Office in an effort to establish that Gilman lives in Washoe County and thus establish that the statements made by Toll are true and cannot be the subject of a defamation claim.

As this Court aptly noted in its prior Order "resident" has a specific meaning as it pertains to the eligibility of an individual for public office. While this Court relied on the dictionary definitions, as the issue in this matter revolves around Toll making allegations that Gilman committed perjury because he ran for office without meeting the eligibility requirements, a review of the statute regarding the eligibility requirements and the definition under that statute is warranted.

Moreover, NRS 281.050 establishes the residency requirements regarding elected positions and specifically states as follows:

"in determining whether a place of permanent habitation is the place where a person actually resides and is legally domiciled:

(a) It is the public policy of this State to avoid sham residences and to ensure that the person actually, as opposed to constructively, resides in the area prescribed by law for the office so the person has an actual connection with the constituents who reside in the area and has particular knowledge of their concerns.

(b) *The person may have more than one residence but only one legal domicile, and the person's legal domicile requires both the fact of actual living in the place and the intention to remain there as a permanent residence.* If the person temporarily leaves the person's legal domicile, or leaves for a particular purpose, and does not take up a permanent residence in another place, then the person's legal domicile has not changed. Once the person's legal domicile is fixed, the fact of actual living in another place, the intention to remain in the other place and the intention to abandon the former legal domicile must all exist before the person's legal domicile can change.

---

<sup>3</sup>As the Court is intimately familiar with the facts in this case, Plaintiff is only stating the facts that are necessary to address the Defendant's latest Motion.

1 (c) Evidence of the person's legal domicile includes, without limitation:

2 (1) The place where the person lives the majority of the time and the length of  
3 time the person has lived in that place.

4 (2) The place where the person lives with the person's spouse or domestic partner,  
5 if any.

6 (3) The place where the person lives with the person's children, dependents or  
7 relatives, if any.

8 (4) The place where the person lives with any other individual whose relationship  
9 with the person is substantially similar to a relationship with a spouse, domestic  
10 partner, child, dependent or relative.

11 (5) The place where the person's dogs, cats or other pets, if any, live.

12 (6) The place listed as the person's residential address on the voter  
13 registration card issued to the person pursuant to NRS 293.517.

14 (7) The place listed as the person's residential address on any  
15 driver's license or identification card issued to the person by the Department of  
16 Motor Vehicles, any passport or military identification card issued to the person  
17 by the United States or any other form of identification issued to the person by a  
18 governmental agency.

19 (8) The place listed as the person's residential address on any registration  
20 for a motor vehicle issued to the person by the Department of Motor Vehicles or  
21 any registration for another type of vehicle or mode of transportation, including,  
22 without limitation, any aircraft, vessels or watercraft, issued to the person by a  
23 governmental agency.

24 (9) The place listed as the person's residential address on any applications  
25 for issuance or renewal of any license, certificate, registration, permit or similar  
26 type of authorization issued to the person by a governmental agency which has the  
27 authority to regulate an occupation or profession.

28 (10) The place listed as the person's residential address on any document which  
the person is authorized or required by law to file or record with a governmental  
agency, including, without limitation, any deed, declaration of homestead or other  
record of real or personal property, any applications for services, privileges or  
benefits or any tax documents, forms or returns, but excluding the person's  
declaration of candidacy or acceptance of candidacy.

(11) The place listed as the person's residential address on any type of check,  
payment, benefit or reimbursement issued to the person by a governmental agency  
or by any type of company that provides insurance, workers' compensation, health  
care or medical benefits or any self-insured employer or third-party administrator.

(12) The place listed as the person's residential address on the person's paycheck,  
paystub or employment records.

1 (13) The place listed as the person's residential address on the person's bank  
2 statements, insurance statements, mortgage statements, loan statements, financial  
3 accounts, credit card accounts, utility accounts or other billing statements or  
4 accounts.

(14) The place where the person receives mail or deliveries from the United States  
Postal Service or commercial carriers.

5 (d) The evidence listed in paragraph (c) is intended to be illustrative and is not intended to  
6 be exhaustive or exclusive. The presence or absence of any particular type of evidence  
7 listed in paragraph (c) is not, by itself, determinative of the person's legal domicile, but  
8 such a determination must be based upon all the facts and circumstances of the person's  
9 particular case.

8 8. As used in this section:

9 (a) "Actual residence" means the place of permanent habitation where a person  
10 actually resides and is legally domiciled. If the person maintains more than one  
11 place of permanent habitation, the place the person declares to be the person's  
12 principal permanent habitation when filing a declaration of candidacy or  
13 acceptance of candidacy for any elective office must be the place where the person  
14 actually resides and is legally domiciled in order for the person to be eligible to  
15 the office."

13 Simply because a "tax cap assessment" states that Mr. Gilman "will occupy a property as  
14 his primary residence in 2008" does not establish where his actual residence or legal domicile  
15 was in 2012 when he ran for office. Furthermore, Mr. Gilman's daughter was living in the  
16 Steptoe property from 2009 - 2015.

17 Contrary to Defendant's allegations, the evidence establishes that Mr. Gilman's actual  
18 residence is in fact the 5 Wildhorse Canyon, Dr. Mr. Gilman lives at the 5 WildHorse Canyon  
19 with his girlfriend Jennifer Barnes and his two dogs. NRS 281.050(c)(4)(5). His vehicle  
20 registration lists this as his address. NRS 281.050(c)(8). His bills and tax return show that this is  
21 his address. NRS 281.050(c)(10)(13). His concealed weapons permit shows that this is his  
22 address. NRS 281.050(c)(9). His driver's license shows that this is his address. NRS  
23 281.050(8).<sup>4</sup>

24 As such, simply because Gilman owns another property, does not mean that property is  
25 his "legal domicile" or "actual residence" for purposes of his eligibility to run for office in Storey

---

26  
27 <sup>4</sup>Mr. Gilman was out of town until late Wednesday evening and was unavailable on  
28 Friday afternoon to sign an Affidavit. Additionally, his clerk who has all of the above documents  
was out of the office on Friday. The Plaintiff will file an Errata with an Affidavit and all of the  
foregoing documents on Monday.

1 County. Moreover, the fact that Gilman owns another property does not erase Toll's defamatory  
2 comment that Gilman committed perjury when he stated that he lived in Storey County.

3 Not only has Toll failed to establish that he performed any investigation into Mr.  
4 Gilman's actual residence or legal domicile, Toll has not even established that he looked at the  
5 legal requirements pursuant to the statute when he made the resident communications. Had he  
6 done so, Toll would know that simply because Mr. Gilman owns property in Washoe County,  
7 does not mean that is his actual "legal domicile". Moreover, Toll received this alleged  
8 information in *May of 2018*, after the "resident communications" were made. As such, Toll  
9 cannot show that he relied on this information as a defense to whether he acted with actual  
10 malice.

11 Based on the foregoing, Toll cannot establish that the statements he made regarding  
12 Gilman's residence are true, nor can he claim that the documents he submitted with the instant  
13 Motion were the documents he relied on when he made the "resident communications".  
14 Furthermore, Toll cannot establish that the statement he made accusing Gilman of perjury based  
15 on the alleged "resident communications" was true.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1           **WHEREFORE**, Plaintiff respectfully requests that the Defendant's Motion be denied  
2 and that the Plaintiff be permitted to continue with the Discovery as previously ordered by this  
3 Court.

4                                   **AFFIRMATION**  
5                                   **Pursuant to NRS 239B.030**

6           The undersigned hereby affirms that this document does not contain the social security  
7 number of any person.

8           DATED this 8<sup>th</sup> day of March, 2019.

9  
10  
11                                     
12                                   GUS W. FLANGAS, ESQ.  
13                                   Nevada Bar No. 004989  
14                                   Email: [gwf@fdlawlv.com](mailto:gwf@fdlawlv.com)  
15                                   JESSICA K. PETERSON, ESQ.  
16                                   Nevada Bar NO. 10670  
17                                   Email: [jkp@fdlawlv.com](mailto:jkp@fdlawlv.com)  
18                                   **FLANGAS DALACAS LAW GROUP**  
19                                   3275 South Jones Blvd., Suite 105  
20                                   Las Vegas, Nevada 89146  
21                                   Telephone: (702) 307-9500  
22                                   Facsimile: (702) 382-9452  
23                                   Attorneys for Plaintiff  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of FLANGAS DALACAS LAW GROUP, and that on this 8<sup>th</sup> day of March, 2019 served a true and correct copy of **OPPOSITION TO MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS** as indicated below:

- X   By depositing the same in the United States mail, first-class, postage prepaid, in a sealed envelope, at Las Vegas, Nevada pursuant to N.R.C.P. 5(b) addressed as follows
- X   By facsimile, pursuant to EDCR 7.26 (as amended)
- X   By Electronic Mail
- By receipt of copy as indicated below

John L. Marshall  
570 Marsh Avenue  
Reno, NV 89509  
Tel: 775-303-4882  
Fax: 775-684-1108  
[johnmarshall@charter.net](mailto:johnmarshall@charter.net)

Luke A. Busby  
Luke Andrew Busby, Ltd.  
316 California Ave. #82  
Reno, NV 89509  
Tel: 775-453-0112  
Fax: 775-403-2192  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

Attorneys for Defendant

  
an employee of Flangas Dalacas Law Group

# **EXHIBIT 1**







Case No. 18-trt-00001-1e

Dept. No. II

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnladucmarshall@gmail.com](mailto:johnladucmarshall@gmail.com)

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

*Attorneys for the Defendant*

**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR STOREY COUNTY**

LANCE GILMAN,

Plaintiff(s),

vs.

SAM TOLL,

Defendant(s).

**REPLY IN SUPPORT OF MOTION FOR SUBMISSION OF MOTION TO  
DISMISS AND TERMINATION OF PROCEEDINGS**

COMES NOW, SAM TOLL, ("Defendant" or "Toll"), by and through the  
undersigned counsel, and hereby files the following Reply in Support of Motion for

**FILED**

2019 MAR 11 AM 8:26  
~~7:26~~

STOREY COUNTY CLERK

BY ADuke  
DEPUTY

1 Submission of Motion to Dismiss and Termination of Proceedings in response to the  
2  
3 late-filed Opposition to Motion to Dismiss and Termination of Proceedings ("Opposition")  
4 by Plaintiff LANCE GILMAN ("Plaintiff" or "Gilman") filed on March 8, 2019.

5  
6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 ***The Undisputed Facts Show That Gilman Claimed that his Primary Residence is in***  
8 ***Washoe County***

9  
10 Defendant Toll's Motion for Dismissal and Termination incontrovertibly established  
11 the following fact: *Since 2008, Plaintiff Gilman claims as his primary residence is an*  
12 *address in Washoe County and continues to do so.* See Exhibits 2-5 to the underlying  
13 Motion. Gilman made this claim to Washoe County *during the time period* he swore to  
14 this Court that he lived in Storey County in his Affidavit in Exhibit 1 to the Motion.  
15

16 Given that Mr. Gilman has represented to Washoe County that his primary residence  
17 is in Washoe County and continues to affirmatively make this claim, he cannot, as a matter  
18 of law, continue to maintain a defamation action against Toll based on a statement that his  
19 residence is not in Storey County. NRS 41.637 states that a good faith communication in  
20 furtherance of the right to petition or the right to free speech in direct connection with an  
21 issue of public concern includes a statement which is truthful or is made without knowledge  
22 of its falsehood. Gilman's own actions show that Toll's statement is truthful.<sup>1</sup>  
23  
24  
25  
26

---

27 <sup>1</sup> 1. Accuracy in the recounting of events; conformity with actuality; factuality. 2. Defamation. An  
28 affirmative defense by which the defendant asserts that an alleged defamatory statement is  
substantially accurate. — truthful, adj. — truthfulness, n. TRUTH, Black's Law Dictionary (10th ed.  
2014).

1 This controlling and operative fact is now undisputed, as in his late-filed Opposition  
2 to Motion to Dismiss and Termination Gilman does not dispute that he claimed, and  
3 continues to claim, the Washoe County residence as his primary residence to reap the tax  
4 benefits therefrom. Mr. Gilman, instead, points to other evidence indicating that he also  
5 claims a residence in Storey County as his primary address (e.g., his driver's license,  
6 concealed carry permit, etc.). *Opp.* at 5-8 generally.

7  
8  
9 Gilman argues, "the fact that Gilman owns another property does not erase Toll's  
10 defamatory comment that Gilman committed perjury when he stated that he lived in Storey  
11 County." *Opp.* at 8:1. The issue raised in this Motion is not that Gilman owns other  
12 properties, or what Toll knew when. The issue is more fundamental: Gilman claimed a  
13 property he owns in Washoe County was his, "primary residence" and signed a document  
14 stating, "This property will be occupied as my primary residence on July 1, 2008" and has  
15 never disavowed it as he is required to do by Washoe County should he change it - and  
16 continues to claim that same property as his primary residence. *See* Exhibit 4 to the  
17 Motion. The question presented is whether Gilman, as a matter of law, may maintain a  
18 claim for defamation against Toll for claiming that Gilman does not reside in Storey County  
19 when Gilman himself claims his primary residence is in Washoe County.

20  
21  
22 Gilman also argues that the tax-cap assessment does not establish where Gilman's  
23 actual residence or legal domicile was in 2012 when he ran for office. *Opp.* at 7:14. This is a  
24 red-herring. Gilman is suing toll for claiming that Toll claimed that Gilman, "... lied about  
25  
26  
27  
28

1 his residency in Storey County, Nevada” and that this statement was malicious and false. *See*  
2  
3 Plaintiff’s December 7, 2017 Complaint at 5:9 and 5:20. Toll never specifically commented  
4 on where Gilman’s legal domicile was for purposes of NRS 281.050 in 2012, but stated on a  
5 number of occasions that Gilman’s residence was in Washoe County and that where Gilman  
6 claimed to live was not zoned as residential.<sup>2</sup> Toll’s argument was that Gilman could not  
7 claim to live at the Mustang Ranch in Storey County because that property is not zoned  
8 residential. *Id.* Court’s April 9, 2018 Order at 20:1.  
9  
10

11 Defamation is a publication of a false statement of fact. *Pegasus v. Reno Newspapers,*  
12 *Inc.*, 118 Nev. 706, 714, 57 P.3d 82, 87, 31 Media L. Rep. 1353, 2002 WL 31487455 (2002) A  
13 statement is not defamatory if it is absolutely true, or substantially true. *Id.* at 715. A party  
14 cannot make a *prima facie* case for defamation as required by NRS 41.660(3)(b) based on a  
15 claim that a statement of fact is false and defamatory while having signed several legal  
16 documents indicating that the same statement of fact is true. Pursuant to NRS 41.637, a  
17 good faith communication is one which is “truthful or is made without knowledge of its  
18 falsehood.” See also *Soto v. Aria Resort & Casino, LLC*, 216CV00064JADPAL, 2017 WL  
19 3667696, at \*4 (D. Nev. Aug. 23, 2017) where defendant established that allegedly  
20 defamatory statements were true or substantially true resulting in summary judgment for  
21 defendant; *Swan v. Bank of Am.*, 360 Fed. Appx. 903, 2009 WL 5184129 (9th Cir. 2009)  
22  
23  
24  
25  
26

---

27 <sup>2</sup> See the Court’s analysis of Toll’s allegedly defamatory statements at 9:15 of the April 9, 2019 Order  
28 Granting Anti-SLAPP Special Motion to Dismiss in Part, allowing Limited Discovery, and Staying  
Further Proceedings: “the Court will address the issue on the level presented by the parties which is  
the every day meaning of “resident,” “lives at,” “live here,” “live,” and “reside.”



1 where bank supervisor's statement to another branch's human resources department that  
2 employee was on "final written warning" status was substantially true, and thus was not  
3 defamatory; *Hussein v. Ersek*, 307CV-0056-LRH-VPC, 2010 WL 2176068, at \*3 (D. Nev.  
4 May 21, 2010) defamation claim fails as a matter of law where allegations of volatility and  
5 overworking students were true.  
6

7  
8 In his Opposition, Gilman argues at best that his own statements to Washoe County  
9 should be taken as false; that his actual primary residence is in Storey County as evidenced  
10 by his representations to other government officials. See *Opp.* at 8 generally. Thus, Gilman  
11 presents a novel question: can a public official maintain a defamation action based on a  
12 putatively untrue statement that he himself made? After substantial effort, the undersigned  
13 counsel was unable to locate any case where a claimant in a defamation action made a  
14 statement about himself that was then claimed to be defamatory when made by someone  
15 else. It is reasonable to conclude that such a claim is not warranted under law. Gilman's  
16 own statements about Washoe County being his primary residence are either true or untrue.  
17 In either case, he cannot base a defamation claim based on Mr. Toll's statements that mirror  
18 his own.  
19  
20  
21  
22

23 ***Under Nevada's Anti-SLAPP statute, Gilman's claim must be dismissed***  
24

25 Because Gilman has failed to show a minimum level of legal sufficiency and triability,  
26 this case must be dismissed pursuant to NRS 41.660. See *Cross v. Facebook, Inc.*, 14 Cal. App.  
27 5th 190, 205, 222 Cal. Rptr. 3d 250, 263, (Ct. App. 2017) citing *Linder v. Thrifty Oil Co.* (2000)  
28

1 23 Cal.4th 429, 438, fn. 5 [97 Cal.Rptr.2d 179, 2 P.3d 27]. Gilman's statements and the  
2  
3 evidence showing that his primary residence is in Washoe County show that his defamation  
4 claim against Toll for making the same statement does not have "minimal merit," and  
5 should be forthwith dismissed. *Id.* at 263 citing *Peregrine Funding, Inc. v. Sheppard Mullin*  
6 *Richter & Hampton LLP* (2005) 133 Cal.App.4th 658, 675 [35 Cal.Rptr.3d 31], quoting  
7 *Navellier v. Sletten* (2002) 29 Cal.4th 82, 88, 124 Cal.Rptr.2d 530, 52 P.3d 703.  
8

9  
10 WHEREFORE, the Defendant respectfully requests that this Court grant the  
11 Defendant's Anti-SLAPP Special Motion, dismiss this suit, award the Defendant attorney's  
12 fees and costs associated with the Motion, and any further action the Court deems  
13 appropriate as permitted by NRS 41.670, including \$10,000 in statutory damages to the  
14 Defendant per NRS 41.670(3)(a).  
15

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

NRS 239B.030(4) AFFIRMATION

I certify that the attached filing includes no social security numbers or other personal information.

Respectfully submitted this March 11, 2019:

By: \_\_\_\_\_

JOHN L. MARSHALL

SBN 6733

570 Marsh Avenue

Reno, Nevada 89509

Telephone: (775) 303-4882

johnmarshall@charter.net

Luke Andrew Busby, Ltd.

Nevada State Bar No. 10319

316 California Ave #82

Reno, NV 89509

775-453-0112

luke@lukeandrewbusbyltd.com

*Attorneys for the Defendant*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the date indicated below, I caused service to be completed by:

\_\_\_\_\_ personally delivering;

☒ delivery via Reno/Carson Messenger Service;

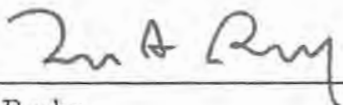
\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

By:   
Luke Busby

Dated: 3-11-19



1 GUS W. FLANGAS, ESQ.  
Nevada Bar No. 004989  
2 Email: [gwf@fdlawlv.com](mailto:gwf@fdlawlv.com)  
JESSICA K. PETERSON, ESQ.  
3 Nevada Bar No. 10670  
Email: [jkp@fdlawlv.com](mailto:jkp@fdlawlv.com)  
4 FLANGAS DALACAS LAW GROUP  
3275 South Jones Boulevard, Suite 105  
5 Las Vegas, Nevada 89146  
Telephone: (702) 307-9500  
6 Facsimile: (702) 382-9452  
*Attorneys for Plaintiff*  
7  
8

9 **IN THE FIRST JUDICIAL DISTRICT COURT**

10 IN AND FOR STOREY, COUNTY, NEVADA  
11

12 LANCE GILMAN, an individual,  
13 Plaintiff,

14 vs.

15 SAM TOLL, an individual; DOES I-V,  
16 inclusive; and ROE ENTITIES VI-X,  
inclusive,  
17 Defendants.

Case No.: 18-TRT-00001-1e  
Dept No.: II

**ERRATA TO OPPOSITION TO  
MOTION TO DISMISS &  
TERMINATION OF PROCEEDINGS**

18 COMES NOW the Plaintiff, LANCE GILMAN, by and through his attorneys, GUS W.  
19 FLANGAS, ESQ. and JESSICA K. PETERSON, ESQ., of the FLANGAS DALACAS LAW  
20 GROUP, and hereby submits this Errata to Opposition to "Motion to Dismiss and for  
21 Termination of Proceedings" filed by the Defendant in his action.  
22  
23  
24  
25  
26  
27  
28

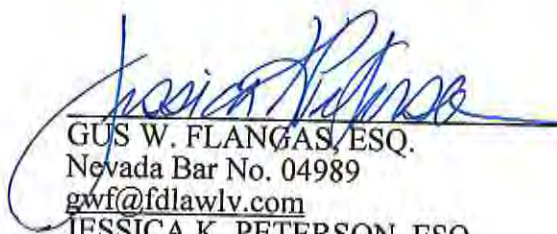
1 This Errata is being submitted to include the Affidavit of Lance Gilman and Exhibits in  
2 Support of Motion that were unavailable on Friday when the Opposition was mailed and sent to  
3 opposing counsel. See fn4 of the Opposition. The Exhibits are attached hereto as **Exhibit 2**.

4 **AFFIRMATION**

5 **Pursuant to NRS 239B.030**

6 The undersigned hereby affirms that this document does not contain the social security  
7 number of any person.

8 Dated this 11<sup>th</sup> day of March, 2019.

9  
10  
11   
GUS W. FLANGAS, ESQ.

Nevada Bar No. 04989

[gwf@fdlawlv.com](mailto:gwf@fdlawlv.com)

JESSICA K. PETERSON, ESQ.

Nevada Bar No. 10670

[jkp@fdlawlv.com](mailto:jkp@fdlawlv.com)

**FLANGAS DALACAS LAW GROUP**

3275 South Jones Blvd., Suite 105

Las Vegas, Nevada 89146

Telephone: (702) 307-9500

Facsimile: (702) 382-9452

*Attorneys for Plaintiff*

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of FLANGAS DALACAS LAW GROUP, and  
3 that on this 11<sup>th</sup> day of March, 2019 served a true and correct copy of **ERRATA TO**  
4 **OPPOSITION TO MOTION TO DISMISS AND MOTION TO TERMINATE**  
5 **PROCEEDINGS** as indicated below:

6  X  By depositing the same in the United States mail, first-class, postage  
7 prepaid, in a sealed envelope, at Las Vegas, Nevada pursuant to N.R.C.P.  
8 5(b) addressed as follows  
9  X  By facsimile, pursuant to EDCR 7.26 (as amended)  
10  X  By electronic mail.

11  
12 John L. Marshall  
13 570 Marsh Avenue  
14 Reno, NV 89509  
15 Tel: 775-303-4882  
16 [johnmarshall@charter.net](mailto:johnmarshall@charter.net)

17 Luke A. Busby  
18 Luke Andrew Busby, Ltd.  
19 216 East Liberty Street  
20 Reno, NV 89501  
21 Tel: 775-453-0112  
22 [luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)  
23 Attorneys for Defendant  
24  
25  
26  
27  
28

  
an employee of Flangas Dalacas Law Group

# **EXHIBIT 2**

AFFIDAVIT OF LANCE GILMAN

STATE OF NEVADA }  
COUNTY OF STOREY } ss:

LANCE GILMAN, being first duly sworn, deposes and says:

1. I have personal knowledge of all matters set forth herein except for those stated upon information and belief and am competent to testify thereon.

2. I am the Plaintiff in the action entitled, LANCE GILMAN v. SAM TOLL, in Department II of the First Judicial District Court, Storey County, Nevada, Case Number: 18-TRT-00001-1e, and I make this Affidavit in support of the "Opposition to Motion to Dismiss and Terminate Proceedings.

3. I have read the contents of the Opposition and the facts contained therein are true as written to the best of my knowledge as though set forth in full in this Affidavit.

4. I have reviewed the Plaintiff's Motion and the Exhibits attached to Plaintiff's Motion as Exhibits "1" through "5".

5. Plaintiff's allegations that the Exhibits establish that I live at 199 Steptoe Ln. constitute a legal conclusion and in any event are completely untrue.

6. It is true that I own property at 199 Steptoe Ln., as a rental property, however, as I previously averred my permanent residence is and has been 5 Wildhorse Canyon Drive.

7. I have lived at the Mustang Resort since 2002.

8. I have four exotic birds that live at this address with me.

9. My Driver's license lists my address as 5 Wildhorse Canyon.

10. My Vehicle Registration lists my address as 5 WildHorse Canyon.

11. My bank statements, concealed weapons permit, credit card accounts, and other billing statements list my address as 5 Wildhorse Canyon.

12. I receive my personal mail at 5 WildHorse Canyon.

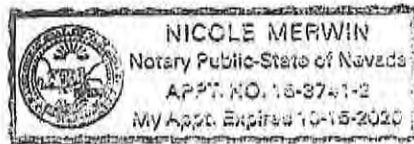
13. My tax returns list my residence as 5 WildHorse Canyon.

1 14. The Keller family resided at the Steptoe address from 2009 - 2015.  
2 FURTHER YOUR AFFIANT SAYETH NAUGHT.  
3

4 Lance Gilman  
5 LANCE GILMAN  
6

7 SUBSCRIBED AND SWORN to before me  
8 on this 11 day of March, 2019.  
9

10 Nicole Merwin  
11 NOTARY PUBLIC in and for said  
County and State  
12





AFFIDAVIT OF DEAN HAYMORE

STATE OF NEVADA }  
COUNTY OF Lyon } ss:

Dean Haymore, first being duly sworn, deposes, and says:

1. I have personal knowledge of all matters set forth herein except for those stated on information and belief and am competent to testify thereon.

2. Between 1998 and 2016 I worked as the head of the Storey County Building Department, and Community Development Department. My department was in charge of grading and building permits and zoning checks on new construction and land use in the County.

3. During the early years of TRI, I would perform the onsite work and permit inspections personally.

4. In the early 2000's, the Storey County Licensing Board approved Lance Gilman's request for the location for a brothel at the end of Wild Horse Canyon Drive to serve as a legal brothel. Lance brought on site a manufactured home which was referred to as the "mini-house" to serve as the brothel facility. I inspected and approved the structure from a code and safety standpoint.

5. Then around 2003 or 2004 the Wild Horse facility was built by Lance and approved by the County as a brothel. Around that time, I then gave approval to Lance for him to use the mini-house for residential use and/or office use. Either myself or an inspector from the state approved the mini house for residential use under the safety regulations. He and Susan Austin moved into the structure and lived there. In Storey County, I was aware that legal brothels were considered to be and sometimes referred to as "boarding houses" since the time of Joe Conforte's ownership of the Mustang as well as the other brothels which operated in the County during my employment at Storey County.

6. In 2012, I became aware of Lance Gilman running for a seat on the County Commission. Early in the campaign season, both Sheriff Antinoro and the County Clerk called

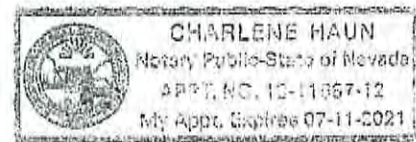


1 me and inquired whether Lance's residence at the resort was legal. I reviewed the matter and  
2 replied that his residence was legal in the mini house.

3 FURTHER YOUR AFFIANT SAYETH NAUGHT.

4  
5   
6 DEAN HAYMORE

7  
8 SUBSCRIBED AND SWORN to before me  
9 on this 27 day of February, 2018.



10  
11 Lyon Nevada NV  
12 NOTARY PUBLIC in and for said  
County and State

13  
14 Charlene Haun  
15 Notary Public in and for said  
16 County and State  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



**STOREY COUNTY SHERIFF'S OFFICE  
NEVADA**

**CONCEALED FIREARM PERMIT**

#1128



**Issued: 01/14/2014**

**Expires: 01/14/2019**

**Lance L Gilman**

**5 Wild Horse Canyon Dr**

**Sparks, Nevada 89434**



Date of Birth: 11/21/44

Height: 6'2" Weight: 260

Semi-automatic firearms authorized: Yes

Revolvers authorized: Yes

Issued by:



Sheriff Gerald Antinoro

P.O. Box 498

Virginia City NV 89440

775-847-0950 Dispatch

775-847-0959 Business

sheriff@storeycounty.or

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
[johnladuemarshall@gmail.com](mailto:johnladuemarshall@gmail.com)

Electronically Filed  
Mar 18 2019 10:40 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Luke Andrew Busby, Ltd.  
Nevada State Bar No. 10319  
316 California Ave #82  
Reno, NV 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SAM TOLL,

Petitioner,

vs.

THE FIRST JUDICIAL DISTRICT COURT  
FOR THE STATE OF NEVADA, IN AND FOR  
STOREY COUNTY, AND THE HONORABLE  
JAMES WILSON JR., DISTRICT JUDGE,

Respondents,

and

LANCE GILMAN,

Real Party in Interest,

\_\_\_\_\_ /

Case No. 78333

D.C. Case No.  
18-trt-00001

## **PETITIONER'S APPENDIX**

### **VOLUME 12**

1. Order Re Evidentiary Hearing - 8-8-2018: Nos. 2414-2416
2. Supplemental Points and Authorities - 8-22-2018: Nos. 2417-2443
3. Motion for Submission of Motion to Dismiss and Termination of Proceedings - 2-25-2019: Nos. 2444-2479
4. Order on Plaintiff's Motion to Compel, for Sanctions, to Extend Discovery Period, and for Summary Judgment and Order Vacating Hearing - 3-4-2019: Nos. 2480-2489
5. Second Request for Submission - 3-4-2019: Nos. 2490-2492
6. Opposition to Motion to Dismiss and Termination of Proceedings - 3-8-2019: Nos. 2493-2504
7. Reply in Support of Motion for Submission of Motion to Dismiss and Termination of Proceedings - 3-11-2019: Nos. 2505-2512
8. Errata to Opposition to Motion to Dismiss and Termination of Proceedings - 3-11-2019: Nos. 2513-2544
9. Notice of Entry of Order of Motion to Compel - 3-11-2019: Nos. 2545-2559
10. Motion to Stay Discovery Pending Petition for Writ of Prohibition or Mandamus to the Nevada Supreme Court - 3-11-2019: Nos. 2560-2571
11. Motion for Order Shortening Time for Motion to Stay - 3-11-2019: Nos. 2572-2578



Respectfully submitted March 18, 2019:

By: 

JOHN L. MARSHALL

SBN 6733

570 Marsh Avenue

Reno, Nevada 89509

Telephone: (775) 303-4882

johnladuemarshall@gmail.com

Luke Andrew Busby, Ltd.

Nevada State Bar No. 10319

316 California Ave #82

Reno, NV 89509

775-453-0112

luke@lukeandrewbusbyltd.com

## CERTIFICATE OF SERVICE

I certify that on the date indicated below, I caused service of the foregoing documents to be completed by:

\_\_\_\_\_ personally delivering;

\_\_\_\_\_ delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

xxxx depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,

\_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.)

a true and correct copy of the foregoing pleading addressed to:

GUS W. FLANGAS  
JESSICA K. PETERSON  
Flangas Dalacas Law Group  
3275 South Jones Blvd. Suite 105  
Las Vegas, NV 89146  
702-307-9500  
F - 702-382-9452

The First Jud. Dist. Ct. - Storey County  
Honorable James E Wilson Jr.  
26 S. B St.  
Virginia City, NV 89440  
775-847-0969

By:   
Luke Busby

Dated: 3/18/2019