

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SUPERPUMPER, INC., an Arizona corporation; EDWARD BAYUK, individually and as Trustee of the EDWARD BAYUK LIVING TRUST; SALVATORE MORABITO, an individual; and SNOWSHOE PETROLEUM, INC., a New York corporation,

Appellants,

vs.

WILLIAM A. LEONARD, Trustee for the Bankruptcy Estate of Paul Anthony Morabito,

Respondent.

Case No. 79355

Electronically Filed  
Jun 02 2020 06:12 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from the Second Judicial District Court, the Honorable Connie J. Steinheimer Presiding

**APPELLANTS' APPENDIX, VOLUME 49**  
**(Nos. 8488–8657)**

Micah S. Echols, Esq.  
Nevada Bar No. 8437  
CLAGGETT & SYKES LAW FIRM  
4101 Meadows Lane, Suite 100  
Las Vegas, Nevada 89107  
Telephone: (702) 655-2346  
Facsimile: (702) 655-3763  
[micah@claggettlaw.com](mailto:micah@claggettlaw.com)

Jeffrey L. Hartman, Esq.  
Nevada Bar No. 1607  
HARTMAN & HARTMAN  
510 West Plumb Lane, Suite B  
Reno, Nevada 89509  
Telephone: (775) 324-2800  
Facsimile: (775) 324-1818  
[jlh@bankruptcyreno.com](mailto:jlh@bankruptcyreno.com)

*Attorneys for Appellants, Superpumper, Inc.; Edward Bayuk, individually and as Trustee of the Edward Bayuk Living Trust; Salvatore Morabito; and Snowshoe Petroleum, Inc.*

**INDEX TO APPELLANTS' APPENDIX**

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Complaint (filed 12/17/2013)		Vol. 1, 1–17
Declaration of Salvatore Morabito in Support of Snowshoe Capital’s Motion to Dismiss for Lack of Personal Jurisdiction (filed 05/12/2014)		Vol. 1, 18–21
Defendant Snowshoe Petroleum, Inc.’s Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCP 12(b)(2) (filed 05/12/2014)		Vol. 1, 22–30
JH, Inc., Jerry Herbst, and Berry Hinckley Industries Opposition to Motion to Dismiss (filed 05/29/2014)		Vol. 1, 31–43
<b>Exhibits to Opposition to Motion to Dismiss</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Affidavit of John P. Desmond (filed 05/29/2014)	Vol. 1, 44–48
2	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/2010)	Vol. 1, 49–88
3	Unanimous Written Consent of the Directors and Shareholders of CWC (dated 09/28/2010)	Vol. 1, 89–92
4	Unanimous Written Consent of the Board of Directors and Sole Shareholder of Superpumper (dated 09/28/2010)	Vol. 1, 93–102
5	Plan of Merger of Consolidated Western Corporation with and into Superpumper, Inc. (dated 09/28/2010)	Vol. 1, 103–107

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
6	Articles of Merger of Consolidated Western Corporation with and into Superpumper, Inc. (dated 09/29/2010)	Vol. 1, 108–110
7	2009 Federal Income Tax Return for P. Morabito	Vol. 1, 111–153
8	May 21, 2014 printout from New York Secretary of State	Vol. 1, 154–156
9	May 9, 2008 Letter from Garrett Gordon to John Desmond	Vol. 1, 157–158
10	Shareholder Interest Purchase Agreement (dated 09/30/2010)	Vol. 1, 159–164
11	Relevant portions of the January 22, 2010 Deposition of Edward Bayuk	Vol. 1, 165–176
13	Relevant portions of the January 11, 2010 Deposition of Salvatore Morabito	Vol. 1, 177–180
14	October 1, 2010 Grant, Bargain and Sale Deed	Vol. 1, 181–187
15	Order admitting Dennis Vacco (filed 02/16/2011)	Vol. 1, 188–190
JH, Inc., Jerry Herbst, and Berry Hinckley Industries, Errata to Opposition to Motion to Dismiss (filed 05/30/2014)		Vol. 2, 191–194
<b>Exhibit to Errata to Opposition to Motion to Dismiss</b>		
<b>Exhibit</b>	<b>Document Description</b>	
12	Grant, Bargain and Sale Deed for APN: 040-620-09, dated November 10, 2005	Vol. 2, 195–198
Answer to Complaint of P. Morabito, individually and as trustee of the Arcadia Living Trust (filed 06/02/2014)		Vol. 2, 199–208

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Defendant, Snowshow Petroleum, Inc.'s Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCP 12(b)(2) (filed 06/06/2014)		Vol. 2, 209–216
<b>Exhibit to Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCP 12(b)(2)</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Salvatore Morabito in Support of Snowshow Petroleum, Inc.'s Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction (filed 06/06/2014)	Vol. 2, 217–219
Defendant, Superpumper, Inc.'s Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCP 12(b)(2) (filed 06/19/2014)		Vol. 2, 220–231
<b>Exhibit to Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCP 12(b)(2)</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Salvatore Morabito in Support of Superpumper, Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction (filed 06/19/2014)	Vol. 2, 232–234
JH, Inc., Jerry Herbst, and Berry Hinckley Industries, Opposition to Motion to Dismiss (filed 07/07/2014)		Vol. 2, 235–247
<b>Exhibits to Opposition to Motion to Dismiss</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Affidavit of Brian R. Irvine (filed 07/07/2014)	Vol. 2, 248–252

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
2	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/2010)	Vol. 2, 253–292
3	BHI Electronic Funds Transfers, January 1, 2006 to December 31, 2006	Vol. 2, 293–294
4	Legal and accounting fees paid by BHI on behalf of Superpumper; JH78636-JH78639; JH78653-JH78662; JH78703-JH78719	Vol. 2, 295–328
5	Unanimous Written Consent of the Directors and Shareholders of CWC (dated 09/28/2010)	Vol. 2, 329–332
6	Unanimous Written Consent of the Board of Directors and Sole Shareholders of Superpumper (dated 09/28/2010)	Vol. 2, 333–336
7	Plan of Merger of Consolidated Western Corporation with and into Superpumper, Inc. (dated 09/28/2010)	Vol. 2, 337–341
8	Articles of Merger of Consolidated Western Corporation with and into Superpumper, Inc. (dated 09/29/2010)	Vol. 2, 342–344
9	2009 Federal Income Tax Return for P. Morabito	Vol. 2, 345–388
10	Relevant portions of the January 22, 2010 Deposition of Edward Bayuk	Vol. 2, 389–400
11	Grant, Bargain and Sale Deed for APN: 040-620-09, dated November 10, 2005	Vol. 2, 401–404
12	Relevant portions of the January 11, 2010 Deposition of Salvatore Morabito	Vol. 2, 405–408

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
13	Printout of Arizona Corporation Commission corporate listing for Superpumper, Inc.	Vol. 2, 409–414
Defendant, Superpumper, Inc.’s Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCPP 12(b)(2) (filed 07/15/2014)		Vol. 3, 415–421
Order Denying Motion to Dismiss as to Snowshoe Petroleum, Inc.’s (filed 07/17/2014)		Vol. 3, 422–431
Notice of Entry of Order Denying Motion to Dismiss as to Snowshoe Petroleum, Inc.’s (filed 07/17/2014)		Vol. 3, 432–435
<b>Exhibit to Notice of Entry of Order Denying Motion to Dismiss as to Snowshoe Petroleum, Inc.’s</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Motion to Dismiss as to Snowshoe Petroleum, Inc.’s	Vol. 3, 436–446
Order Denying Superpumper, Inc.’s Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCPP 12(b)(2) (filed 07/22/2014)		Vol. 3, 447–457
Notice of Entry of Order Denying Superpumper, Inc.’s Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCPP 12(b)(2) (filed 07/22/2014)		Vol. 3, 458–461
<b>Exhibit to Notice of Entry of Order Denying Superpumper, Inc.’s Motion to Dismiss Complaint</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Superpumper, Inc.’s Motion to Dismiss Complaint for Lack of Personal Jurisdiction NRCPP 12(b)(2) (filed 07/22/2014)	Vol. 3, 462–473

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Answer to Complaint of Superpumper, Inc., and Snowshoe Petroleum, Inc. (filed 07/28/2014)		Vol. 3, 474–483
Answer to Complaint of Defendants, Edward Bayuk, individually and as trustee of the Edward William Bayuk Living Trust, and Salvatore Morabito (filed 09/29/2014)		Vol. 3, 484–494
Notice of Bankruptcy of Consolidated Nevada Corporation and P. Morabito (filed 2/11/2015)		Vol. 3, 495–498
Supplemental Notice of Bankruptcy of Consolidated Nevada Corporation and P. Morabito (filed 02/17/2015)		Vol. 3, 499–502
<b>Exhibits to Supplemental Notice of Bankruptcy of Consolidated Nevada Corporation and P. Morabito</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Involuntary Petition; Case No. BK-N-13-51236 (filed 06/20/2013)	Vol. 3, 503–534
2	Involuntary Petition; Case No. BK-N-13-51237 (06/20/2013)	Vol. 3, 535–566
3	Order for Relief Under Chapter 7; Case No. BK-N-13-51236 (filed 12/17/2014)	Vol. 3, 567–570
4	Order for Relief Under Chapter 7; Case No. BK-N-13-51237 (filed 12/17/2014)	Vol. 3, 571–574
Stipulation and Order to File Amended Complaint (filed 05/15/2015)		Vol. 4, 575–579
<b>Exhibit to Stipulation and Order to File Amended Complaint</b>		
<b>Exhibit</b>	<b>Document Description</b>	

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
1	First Amended Complaint	Vol. 4, 580–593
William A. Leonard, Trustee for the Bankruptcy Estate of P. Morabito, First Amended Complaint (filed 05/15/2015)		Vol. 4, 594–607
Stipulation and Order to Substitute a Party Pursuant to NRCP 17(a) (filed 05/15/2015)		Vol. 4, 608–611
Substitution of Counsel (filed 05/26/2015)		Vol. 4, 612–615
Defendants’ Answer to First Amended Complaint (filed 06/02/2015)		Vol. 4, 616–623
Amended Stipulation and Order to Substitute a Party Pursuant to NRCP 17(a) (filed 06/16/2015)		Vol. 4, 624–627
Motion to Partially Quash, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery Protected by the Attorney-Client Privilege (filed 03/10/2016)		Vol. 4, 628–635
<b>Exhibits to Motion to Partially Quash, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery Protected by the Attorney-Client Privilege</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	March 9, 2016 Letter from Lippes	Vol. 4, 636–638
2	Affidavit of Frank C. Gilmore, Esq., (dated 03/10/2016)	Vol. 4, 639–641
3	Notice of Issuance of Subpoena to Dennis Vacco (dated 01/29/2015)	Vol. 4, 642–656
4	March 10, 2016 email chain	Vol. 4, 657–659



<u><b>DOCUMENT DESCRIPTION</b></u>		<u><b>LOCATION</b></u>
Minutes of February 24, 2016 Pre-trial Conference (filed 03/17/2016)		Vol. 4, 660–661
Transcript of February 24, 2016 Pre-trial Conference		Vol. 4, 662–725
Plaintiff’s (Leonard) Opposition to Defendants’ Motion to Partially Quash, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery Protected by the Attorney-Client Privilege (filed 03/25/2016)		Vol. 5, 726–746
<b>Exhibits to Opposition to Motion to Partially Quash or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery Protected by the Attorney-Client Privilege</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Teresa M. Pilatowicz in Support of Plaintiff’s Opposition to Defendants’ Motion to Partially Quash (filed 03/25/2016)	Vol. 5, 747–750
2	Application for Commission to take Deposition of Dennis Vacco (filed 09/17/2015)	Vol. 5, 751–759
3	Commission to take Deposition of Dennis Vacco (filed 09/21/2015)	Vol. 5, 760–763
4	Subpoena/Subpoena Duces Tecum to Dennis Vacco (09/29/2015)	Vol. 5, 764–776
5	Notice of Issuance of Subpoena to Dennis Vacco (dated 09/29/2015)	Vol. 5, 777–791
6	Dennis C. Vacco and Lippes Mathias Wexler Friedman LLP, Response to Subpoena (dated 10/15/2015)	Vol. 5, 792–801

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
7	Condensed Transcript of October 21, 2015 Deposition of Dennis Vacco	Vol. 5, 802–851
8	Transcript of the Bankruptcy Court’s December 22, 2015, oral ruling; Case No. BK-N-13-51237	Vol. 5, 852–897
9	Order Granting Motion to Compel Responses to Deposition Questions; Case No. BK-N-13-51237 (filed 02/03/2016)	Vol. 5, 898–903
10	Notice of Continued Deposition of Dennis Vacco (filed 02/18/2016)	Vol. 5, 904–907
11	Debtor’s Objection to Proposed Order Granting Motion to Compel Responses to Deposition Questions; Case No. BK-N-13-51237 (filed 01/22/2016)	Vol. 5, 908–925
Reply in Support of Motion to Modify Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery Protected by the Attorney-Client Privilege (filed 04/06/2016)		Vol. 6, 926–932
Plaintiff’s Motion to Compel Production of Documents (filed 04/08/2016)		Vol. 6, 933–944
<b>Exhibits to Plaintiff’s Motion to Compel Production of Documents</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Teresa M. Pilatowicz in Support of Plaintiff’s Motion to Compel (filed 04/08/2016)	Vol. 6, 945–948
2	Bill of Sale – 1254 Mary Fleming Circle (dated 10/01/2010)	Vol. 6, 949–953

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
3	Bill of Sale – 371 El Camino Del Mar (dated 10/01/2010)	Vol. 6, 954–958
4	Bill of Sale – 370 Los Olivos (dated 10/01/2010)	Vol. 6, 959–963
5	Personal financial statement of P. Morabito as of May 5, 2009	Vol. 6, 964–965
6	Plaintiff’s First Set of Requests for Production of Documents to Edward Bayuk (dated 08/14/2015)	Vol. 6, 966–977
7	Edward Bayuk’s Responses to Plaintiff’s First Set of Requests for Production (dated 09/23/2014)	Vol. 6, 978–987
8	Plaintiff’s First Set of Requests for Production of Documents to Edward Bayuk, as trustee of the Edward William Bayuk Living Trust (dated 08/14/2015)	Vol. 6, 988–997
9	Edward Bayuk, as trustee of the Edward William Bayuk Living Trust’s Responses to Plaintiff’s First Set of Requests for Production (dated 09/23/2014)	Vol. 6, 998–1007
10	Plaintiff’s Second Set of Requests for Production of Documents to Edward Bayuk (dated 01/29/2016)	Vol. 6, 1008–1015
11	Edward Bayuk’s Responses to Plaintiff’s Second Set of Requests for Production (dated 03/08/2016)	Vol. 6, 1016–1020

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
12	Plaintiff's Second Set of Requests for Production of Documents to Edward Bayuk, as trustee of the Edward William Bayuk Living Trust (dated 01/29/2016)	Vol. 6, 1021–1028
13	Edward Bayuk, as trustee of the Edward William Bayuk Living Trust's Responses to Plaintiff's Second Set of Requests for Production (dated 03/08/2016)	Vol. 6, 1029–1033
14	Correspondences between Teresa M. Pilatowicz, Esq., and Frank Gilmore, Esq. (dated 03/25/2016)	Vol. 6, 1034–1037
Opposition to Plaintiff's Motion to Compel Production of Documents (filed 04/25/2016)		Vol. 7, 1038–1044
Reply in Support of Plaintiff's Motion to Compel Production of Documents (filed 05/09/2016)		Vol. 7, 1045–1057
<b>Exhibits to Reply in Support of Plaintiff's Motion to Compel Production of Documents</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Gabrielle A. Hamm, Esq., in Support of Reply in Support of Plaintiff's Motion to Compel (filed 05/09/2016)	Vol. 7, 1058–1060
2	Amended Findings, of Fact and Conclusion of Law in Support of Order Granting Motion for Summary Judgment; Case No. BK-N-13-51237 (filed 12/22/2014)	Vol. 7, 1061–1070

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
3	Order Compelling Deposition of P. Morabito dated March 13, 2014, in <i>Consolidated Nevada Corp., et al v. JH. et al.</i> ; Case No. CV07-02764 (filed 03/13/2014)	Vol. 7, 1071–1074
4	Emergency Motion Under NRCP 27(e); Petition for Writ of Prohibition, <i>P. Morabito v. The Second Judicial District Court of the State of Nevada in and for the County of Washoe</i> ; Case No. 65319 (filed 04/01/2014)	Vol. 7, 1075–1104
5	Order Denying Petition for Writ of Prohibition; Case No. 65319 (filed 04/18/2014)	Vol. 7, 1105–1108
6	Order Granting Summary Judgment; Case No. BK-N-13-51237 (filed 12/17/2014)	Vol. 7, 1109–1112
Recommendation for Order RE: <i>Defendants’ Motion to Partially Quash</i> , filed on March 10, 2016 (filed 06/13/2016)		Vol. 7, 1113–1124
Confirming Recommendation Order from June 13, 2016 (filed 07/06/2016)		Vol. 7, 1125–1126
Recommendation for Order RE: <i>Plaintiff’s Motion to Compel Production of Documents</i> , filed on April 8, 2016 (filed 09/01/2016)		Vol. 7, 1127–1133
Confirming Recommendation Order from September 1, 2016 (filed 09/16/2016)		Vol. 7, 1134–1135
Plaintiff’s Application for Order to Show Cause Why Defendant, Edward Bayuk Should Not Be Held in Contempt of Court Order (filed 11/21/2016)		Vol. 8, 1136–1145

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Plaintiff's Application for Order to Show Cause Why Defendant, Edward Bayuk Should Not Be Held in Contempt of Court Order</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order to Show Cause Why Defendant, Edward Bayuk Should Not Be Held in Contempt of Court Order (filed 11/21/2016)	Vol. 8, 1146–1148
2	Confirming Recommendation Order from September 1, 2016 (filed 09/16/2016)	Vol. 8, 1149–1151
3	Recommendation for Order RE: <i>Plaintiff's Motion to Compel Production of Documents</i> , filed on April 8, 2016 (filed 09/01/2016)	Vol. 8, 1152–1159
4	Plaintiff's Motion to Compel Production of Documents (filed 04/08/2016)	Vol. 8, 1160–1265
5	Opposition to Plaintiff's Motion to Compel Production of Documents (filed 04/25/2016)	Vol. 8, 1266–1273
6	Reply in Support of Plaintiff's Motion to Compel Production of Documents (filed 05/09/2016)	Vol. 8, 1274–1342
7	Correspondences between Teresa M. Pilatowicz, Esq., and Frank Gilmore, Esq. (dated 09/22/2016)	Vol. 8, 1343–1346
8	Edward Bayuk's Supplemental Responses to Plaintiff's Second Set of Requests for Production (dated 10/25/2016)	Vol. 8, 1347–1352

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Opposition to Plaintiff's Application for Order to Show Cause Why Defendant Should Not Be Held in Contempt of Court Order (filed 12/19/2016)		Vol. 9, 1353–1363
<b>Exhibits to Opposition to Plaintiff's Application for Order to Show Cause Why Defendant Should Not Be Held in Contempt of Court Order</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Edward Bayuk in Support of Opposition to Plaintiff's Application for Order to Show Cause (filed 12/19/2016)	Vol. 9, 1364–1367
2	Declaration of Frank C. Gilmore, Esq., in Support of Opposition to Plaintiff's Application for Order to Show Cause (filed 12/19/2016)	Vol. 9, 1368–1370
3	Redacted copy of the September 6, 2016, correspondence of Frank C. Gilmore, Esq.	Vol. 9, 1371–1372
Order to Show Cause Why Defendant, Edward Bayuk Should Not Be Held in Contempt of Court Order (filed 12/23/2016)		Vol. 9, 1373–1375
Response: (1) to Opposition to Application for Order to Show Cause Why Defendant Should Not Be Held in Contempt of Court Order and (2) in Support of Order to Show Cause (filed 12/30/2016)		Vol. 9, 1376–1387
Minutes of January 19, 2017 Deposition of Edward Bayuk in RE: insurance policies (filed 01/19/2017)		Vol. 9, 1388
Minutes of January 19, 2017 hearing on Order to Show Cause (filed 01/30/2017)		Vol. 9, 1389

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP (filed 07/18/2017)		Vol. 9, 1390–1404
<b>Exhibits to Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Correspondence between Teresa M. Pilatowicz, Esq., and Frank Gilmore, Esq., dated March 8, 2016	Vol. 9, 1405–1406
2	Correspondence between Teresa M. Pilatowicz, Esq., and Frank Gilmore, Esq., dated March 8, 2016, with attached redlined discovery extension stipulation	Vol. 9, 1407–1414
3	Jan. 3 – Jan. 4, 2017, email chain from Teresa M. Pilatowicz, Esq., and Frank Gilmore, Esq.	Vol. 9, 1415–1416
4	Declaration of Frank C. Gilmore, Esq., in Support of Motion to Quash (filed 07/18/2017)	Vol. 9, 1417–1420
5	January 24, 2017 email from Teresa M. Pilatowicz, Esq.,	Vol. 9, 1421–1422
6	Jones Vargas letter to HR and P. Morabito, dated August 16, 2010	Vol. 9, 1423–1425
7	Excerpted Transcript of July 26, 2011 Deposition of Sujata Yalamanchili, Esq.	Vol. 9, 1426–1431
8	Letter dated June 17, 2011, from Hodgson Russ (“HR”) to John Desmond and Brian Irvine on Morabito related issues	Vol. 9, 1432–1434



<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
9	August 9, 2013, transmitted letter to HR	Vol. 9, 1435–1436
10	Excerpted Transcript of July 23, 2014 Deposition of P. Morabito	Vol. 9, 1437–1441
11	Lippes Mathias Wexler Friedman LLP, April 3, 2015 letter	Vol. 9, 1442–1444
12	Lippes Mathias Wexler Friedman LLP, October 20, 2010 letter RE: Balance forward as of bill dated 09/19/2010 and 09/16/2010	Vol. 9, 1445–1454
13	Excerpted Transcript of June 25, 2015 Deposition of 341 Meeting of Creditors	Vol. 9, 1455–1460
(1) Opposition to Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP; and (2) Countermotion for Sanctions and to Compel Resetting of 30(b)(3) Deposition of Hodgson Russ LLP (filed 07/24/2017)		Vol. 10, 1461–1485
<b>Exhibits to (1) Opposition to Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP; and (2) Countermotion for Sanctions and to Compel Resetting of 30(b)(3) Deposition of Hodgson Russ LLP</b>		

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<b>Exhibit</b>	<b>Document Description</b>	
A	Declaration of Teresa M. Pilatowicz, Esq., in Support of (1) Opposition to Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP (filed 07/24/2017)	Vol. 10, 1486–1494
A-1	Defendants’ NRCP Disclosure of Witnesses and Documents (dated 12/01/2014)	Vol. 10, 1495–1598
A-2	Order Granting Motion to Compel Responses to Deposition Questions; Case No. BK-N-13-51237 (filed 02/03/2016)	Vol. 10, 1599–1604
A-3	Recommendation for Order RE: <i>Defendants’ Motion to Partially Quash</i> , filed on March 10, 2016 (filed 06/13/2016)	Vol. 10, 1605–1617
A-4	Confirming Recommendation Order from September 1, 2016 (filed 09/16/2016)	Vol. 10, 1618–1620
A-5	Subpoena – Civil (dated 01/03/2017)	Vol. 10, 1621–1634
A-6	Notice of Deposition of Person Most Knowledgeable of Hodgson Russ LLP (filed 01/03/2017)	Vol. 10, 1635–1639
A-7	January 25, 2017 Letter to Hodgson Russ LLP	Vol. 10, 1640–1649
A-8	Stipulation Regarding Continued Discovery Dates (Sixth Request) (filed 01/30/2017)	Vol. 10, 1650–1659
A-9	Stipulation Regarding Continued Discovery Dates (Seventh Request) (filed 05/25/2017)	Vol. 10, 1660–1669

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
A-10	Defendants' Sixteenth Supplement to NRCP Disclosure of Witnesses and Documents (dated 05/03/2017)	Vol. 10, 1670–1682
A-11	Rough Draft Transcript of Garry M. Graber, Dated July 12, 2017 (Job Number 394849)	Vol. 10, 1683–1719
A-12	Sept. 15-Sept. 23, 2010 emails by and between Hodgson Russ LLP and Other Parties	Vol. 10, 1720–1723
	Reply in Support of Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP, and Opposition to Motion for Sanctions (filed 08/03/2017)	Vol. 11, 1724–1734
	Reply in Support of Countermotion for Sanctions and to Compel Resetting of 30(b)(6) Deposition of Hodgson Russ LLP (filed 08/09/2017)	Vol. 11, 1735–1740
	Minutes of August 10, 2017 hearing on Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP, and Opposition to Motion for Sanctions (filed 08/11/2017)	Vol. 11, 1741–1742
	Recommendation for Order RE: <i>Defendants' Motion to Quash Subpoena, or, in the Alternative, for a Protective Order Precluding Trustee from Seeking Discovery from Hodgson Russ LLP</i> , filed on July 18, 2017 (filed 08/17/2017)	Vol. 11, 1743–1753
	Motion for Partial Summary Judgment (filed 08/17/2017)	Vol. 11, 1754–1796
	Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment (filed 08/17/2017)	Vol. 11, 1797–1825

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Timothy P. Herbst in Support of Separate Statement of Undisputed Facts in Support of Motion for Partial Summary Judgment	Vol. 12, 1826–1829
2	Findings of Fact, Conclusions of Law, and Judgment in <i>Consolidated Nevada Corp., et al v. JH. et al.</i> ; Case No. CV07-02764 (filed 10/12/2010)	Vol. 12, 1830–1846
3	Judgment in <i>Consolidated Nevada Corp., et al v. JH. et al.</i> ; Case No. CV07-02764 (filed 08/23/2011)	Vol. 12, 1847–1849
4	Excerpted Transcript of July 12, 2017 Deposition of Garry M. Graber	Vol. 12, 1850–1852
5	September 15, 2015 email from Yalamanchili RE: Follow Up Thoughts	Vol. 12, 1853–1854
6	September 23, 2010 email between Garry M. Graber and P. Morabito	Vol. 12, 1855–1857
7	September 20, 2010 email between Yalamanchili and Eileen Crotty RE: Morabito Wire	Vol. 12, 1858–1861
8	September 20, 2010 email between Yalamanchili and Garry M. Graber RE: All Mortgage Balances as of 9/20/2010	Vol. 12, 1862–1863
9	September 20, 2010 email from Garry M. Graber RE: Call	Vol. 12, 1864–1867

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
10	September 20, 2010 email from P. Morabito to Dennis and Yalamanchili RE: Attorney client privileged communication	Vol. 12, 1868–1870
11	September 20, 2010 email string RE: Attorney client privileged communication	Vol. 12, 1871–1875
12	Appraisal of Real Property: 370 Los Olivos, Laguna Beach, CA, as of Sept. 24, 2010	Vol. 12, 1876–1903
13	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 12, 1904–1919
14	P. Morabito Redacted Investment and Bank Report from Sept. 1 to Sept. 30, 2010	Vol. 12, 1920–1922
15	Excerpted Transcript of June 25, 2015 Deposition of 341 Meeting of Creditors	Vol. 12, 1923–1927
16	Excerpted Transcript of December 5, 2015 Deposition of P. Morabito	Vol. 12, 1928–1952
17	Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 27, 2010	Vol. 12, 1953–1961
18	First Amendment to Purchase and Sale Agreement between Arcadia Trust and Bayuk Trust entered effective as of Sept. 28, 2010	Vol. 12, 1962–1964
19	Appraisal Report providing market value estimate of real property located at 8355 Panorama Drive, Reno, NV as of Dec. 7, 2011	Vol. 12, 1965–1995

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
20	An Appraisal of a vacant .977± Acre Parcel of Industrial Land Located at 49 Clayton Place West of the Pyramid Highway (State Route 445) Sparks, Washoe County, Nevada and a single-family residence located at 8355 Panorama Drive Reno, Washoe County, Nevada 89511 as of October 1, 2010 a retrospective date	Vol. 13, 1996–2073
21	APN: 040-620-09 Declaration of Value (dated 12/31/2012)	Vol. 14, 2074–2075
22	Sellers Closing Statement for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2076–2077
23	Bill of Sale for real property located at 8355 Panorama Drive, Reno, NV 89511	Vol. 14, 2078–2082
24	Operating Agreement of Baruk Properties LLC	Vol. 14, 2083–2093
25	Edward Bayuk, as trustee of the Edward William Bayuk Living Trust’s Answer to Plaintiff’s First Set of Interrogatories (dated 09/14/2014)	Vol. 14, 2094–2104
26	Summary Appraisal Report of real property located at 1461 Glenneyre Street, Laguna Beach, CA 92651, as of Sept. 25, 2010	Vol. 14, 2105–2155
27	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2156–2185
28	Appraisal of Real Property as of Sept. 23, 2010: 1254 Mary Fleming Circle, Palm Springs, CA 92262	Vol. 15, 2186–2216

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
29	Membership Interest Transfer Agreement between Arcadia Trust and Bayuk Trust entered effective as of Oct. 1, 2010	Vol. 15, 2217–2224
30	PROMISSORY NOTE [Edward William Bayuk Living Trust (“Borrower”) promises to pay Arcadia Living Trust (“Lender”) the principal sum of \$1,617,050.00, plus applicable interest] (dated 10/01/2010)	Vol. 15, 2225–2228
31	Certificate of Merger dated Oct. 4, 2010	Vol. 15, 2229–2230
32	Articles of Merger Document No. 20100746864-78 (recorded date 10/04/2010)	Vol. 15, 2231–2241
33	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 15, 2242–2256
34	Grant Deed for real property 1254 Mary Fleming Circle, Palm Springs, CA 92262; APN: 507-520-015 (recorded 11/04/2010)	Vol. 15, 2257–2258
35	General Conveyance made as of Oct. 31, 2010 between Woodland Heights Limited (“Vendor”) and Arcadia Living Trust (“Purchaser”)	Vol. 15, 2259–2265
36	Appraisal of Real Property as of Sept. 24, 2010: 371 El Camino Del Mar, Laguna Beach, CA 92651	Vol. 15, 2266–2292
37	Excerpted Transcript of December 6, 2016 Deposition of P. Morabito	Vol. 15, 2293–2295
38	Page intentionally left blank	Vol. 15, 2296–2297
39	Ledger of Edward Bayuk to P. Morabito	Vol. 15, 2298–2300

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
40	Loan Calculator: Payment Amount (Standard Loan Amortization)	Vol. 15, 2301–2304
41	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 15, 2305–2308
42	November 10, 2011 email from Vacco RE: Baruk Properties, LLC/P. Morabito/Bank of America, N.A.	Vol. 15, 2309–2312
43	May 23, 2012 email from Vacco to Steve Peek RE: Formal Settlement Proposal to resolve the Morabito matter	Vol. 15, 2313–2319
44	Excerpted Transcript of March 12, 2015 Deposition of 341 Meeting of Creditors	Vol. 15, 2320–2326
45	Shareholder Interest Purchase Agreement between P. Morabito and Snowshoe Petroleum, Inc. (dated 09/30/2010)	Vol. 15, 2327–2332
46	P. Morabito Statement of Assets & Liabilities as of May 5, 2009	Vol. 15, 2333–2334
47	March 10, 2010 email from Naz Afshar, CPA to Darren Takemoto, CPA RE: Current Personal Financial Statement	Vol. 15, 2335–2337
48	March 10, 2010 email from P. Morabito to Jon RE: ExxonMobil CIM for Florida and associated maps	Vol. 15, 2338–2339
49	March 20, 2010 email from P. Morabito to Vacco RE: proceed with placing binding bid on June 22nd with ExxonMobil	Vol. 15, 2340–2341



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
50	P. Morabito Statement of Assets & Liabilities as of May 30, 2010	Vol. 15, 2342–2343
51	June 28, 2010 email from P. Morabito to George R. Garner RE: ExxonMobil Chicago Market Business Plan Review	Vol. 15, 2344–2345
52	Plan of Merger of Consolidated Western Corp. with and into Superpumper, Inc. (dated 09/28/2010)	Vol. 15, 2346–2364
53	Page intentionally left blank	Vol. 15, 2365–2366
54	BBVA Compass Proposed Request on behalf of Superpumper, Inc. (dated 12/15/2010)	Vol. 15, 2367–2397
55	Business Valuation Agreement between Matrix Capital Markets Group, Inc. and Superpumper, Inc. (dated 09/30/2010)	Vol. 15, 2398–2434
56	Expert report of James L. McGovern, CPA/CFF, CVA (dated 01/25/2016)	Vol. 16, 2435–2509
57	June 18, 2014 email from Sam Morabito to Michael Vanek RE: SPI Analysis	Vol. 17, 2510–2511
58	Declaration of P. Morabito in Support of Opposition to Motion of JH, Inc., Jerry Herbst, and Berry-Hinckley Industries for Order Prohibiting Debtor from Using, Acquiring, or Disposing of or Transferring Assets Pursuant to 11 U.S.C. §§ 105 and 303(f) Pending Appointment of Trustee; Case No. BK-N-13-51237 (filed 07/01/2013)	Vol. 17, 2512–2516

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
59	State of California Secretary of State Limited Liability Company – Snowshoe Properties, LLC; File No. 201027310002 (filed 09/29/2010)	Vol. 17, 2517–2518
60	PROMISSORY NOTE [Snowshoe Petroleum (“Maker”) promises to pay P. Morabito (“Holder”) the principal sum of \$1,462,213.00] (dated 11/01/2010)	Vol. 17, 2519–2529
61	PROMISSORY NOTE [Superpumper, Inc. (“Maker”) promises to pay Compass Bank (the “Bank” and/or “Holder”) the principal sum of \$3,000,000.00] (dated 08/13/2010)	Vol. 17, 2530–2538
62	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 17, 2539–2541
63	Page intentionally left blank	Vol. 17, 2542–2543
64	Edward Bayuk’s Answers to Plaintiff’s First Set of Interrogatories (dated 09/14/2014)	Vol. 17, 2544–2557
65	October 12, 2012 email from Stan Bernstein to P. Morabito RE: 2011 return	Vol. 17, 2558–2559
66	Page intentionally left blank	Vol. 17, 2560–2561
67	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 17, 2562–2564
68	Snowshoe Petroleum, Inc.’s letter of intent to set out the framework of the contemplated transaction between: Snowshoe Petroleum, Inc.; David Dwelle, LP; Eclipse Investments, LP; Speedy Investments; and TAD Limited Partnership (dated 04/21/2011)	Vol. 17, 2565–2572

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
69	Excerpted Transcript of July 10, 2017 Deposition of Dennis C. Vacco	Vol. 17, 2573–2579
70	April 15, 2011 email from P. Morabito to Christian Lovelace; Gregory Ivancic; Vacco RE: \$65 million loan offer from Cerberus	Vol. 17, 2580–2582
71	Email from Vacco to P. Morabito RE: \$2 million second mortgage on the Reno house	Vol. 17, 2583–2584
72	Email from Vacco to P. Morabito RE: Tim Haves	Vol. 17, 2585–2586
73	Settlement Agreement, Loan Agreement Modification & Release dated as of Sept. 7, 2012, entered into by Bank of America and P. Morabito	Vol. 17, 2587–2595
74	Page intentionally left blank	Vol. 17, 2596–2597
75	February 10, 2012 email from Vacco to Paul Wells and Timothy Haves RE: 1461 Glenneyre Street, Laguna Beach – Sale	Vol. 17, 2598–2602
76	May 8, 2012 email from P. Morabito to Vacco RE: Proceed with the corporate set-up with Ray, Edward and P. Morabito	Vol. 17, 2603–2604
77	September 4, 2012 email from Vacco to Edward Bayuk RE: Second Deed of Trust documents	Vol. 17, 2605–2606
78	September 18, 2012 email from P. Morabito to Edward Bayuk RE: Deed of Trust	Vol. 17, 2607–2611
79	October 3, 2012 email from Vacco to P. Morabito RE: Term Sheet on both real estate deal and option	Vol. 17, 2612–2614

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
80	March 14, 2013 email from P. Morabito to Vacco RE: BHI Hinckley	Vol. 17, 2615–2616
81	Page intentionally left blank	Vol. 17, 2617–2618
82	November 11, 2011 email from Vacco to P. Morabito RE: Trevor’s commitment to sign	Vol. 17, 2619–2620
83	November 28, 2011 email string RE: Wiring \$560,000 to Lippes Mathias	Vol. 17, 2621–2623
84	Page intentionally left blank	Vol. 17, 2624–2625
85	Page intentionally left blank	Vol. 17, 2626–2627
86	Order for Relief Under Chapter 7; Case No. BK-N-13-51236 (filed 12/22/2014)	Vol. 17, 2628–2634
87	Report of Undisputed Election (11 U.S.C § 702); Case No. BK-N-13-51237 (filed 01/23/2015)	Vol. 17, 2635–2637
88	Amended Stipulation and Order to Substitute a Party to NRCP 17(a) (filed 06/11/2015)	Vol. 17, 2638–2642
89	Membership Interest Purchase Agreement, entered into as of Oct. 6, 2010 between P. Morabito and Edward Bayuk	Vol. 17, 2643–2648
90	Complaint; Case No. BK-N-13-51237 (filed 10/15/2015)	Vol. 17, 2649–2686
91	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/2010)	Vol. 17, 2687–2726

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Objection to Recommendation for Order filed August 17, 2017 (filed 08/28/2017)		Vol. 18, 2727–2734
<b>Exhibit to Objection to Recommendation for Order</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff’s counsel’s Jan. 24, 2017, email memorializing the discovery dispute agreement	Vol. 18, 2735–2736
Opposition to Objection to Recommendation for Order filed August 17, 2017 (filed 09/05/2017)		Vol. 18, 2737–2748
<b>Exhibit to Opposition to Objection to Recommendation for Order</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Declaration of Teresa M. Pilatowicz, Esq., in Support of Opposition to Objection to Recommendation for Order (filed 09/05/2017)	Vol. 18, 2749–2752
Reply to Opposition to Objection to Recommendation for Order filed August 17, 2017 (dated 09/15/2017)		Vol. 18, 2753–2758
Defendants’ Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)		Vol. 18, 2759–2774
Defendants’ Separate Statement of Disputed Facts in Support of Opposition to Plaintiff’s Motion for Partial Summary Judgment (filed 09/22/2017)		Vol. 18, 2775–2790

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Defendants' Separate Statement of Disputed Facts in Support of Opposition to Plaintiff's Motion for Partial Summary Judgment</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Judgment in <i>Consolidated Nevada Corp., et al v. JH. et al.</i> ; Case No. CV07-02764 (filed 08/23/2011)	Vol. 18, 2791–2793
2	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 18, 2794–2810
3	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings Pursuant to 11 U.S.C §305(a)(1); Case No. BK-N-13-51237 (filed 12/17/2013)	Vol. 18, 2811–2814
4	Excerpted Transcript of March 21, 2016 Deposition of P. Morabito	Vol. 18, 2815–2826
5	Excerpted Transcript of September 28, 2015 Deposition of Edward William Bayuk	Vol. 18, 2827–2857
6	Appraisal	Vol. 18, 2858–2859
7	Budget Summary as of Jan. 7, 2016	Vol. 18, 2860–2862
8	Excerpted Transcript of March 24, 2016 Deposition of Dennis Banks	Vol. 18, 2863–2871
9	Excerpted Transcript of March 22, 2016 Deposition of Michael Sewitz	Vol. 18, 2872–2879
10	Excerpted Transcript of April 27, 2011 Deposition of Darryl Noble	Vol. 18, 2880–2883

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
11	Copies of cancelled checks from Edward Bayuk made payable to P. Morabito	Vol. 18, 2884–2892
12	CBRE Appraisal of 14th Street Card Lock Facility (dated 02/26/2010)	Vol. 18, 2893–2906
13	Bank of America wire transfer from P. Morabito to Salvatore Morabito in the amount of \$146,127.00; and a wire transfer from P. Morabito to Lippes for \$25.00 (date 10/01/2010)	Vol. 18, 2907–2908
14	Excerpted Transcript of October 21, 2015 Deposition of Christian Mark Lovelace	Vol. 18, 2909–2918
15	June 18, 2014 email from Sam Morabito to Michael Vanek RE: Analysis of the Superpumper transaction in 2010	Vol. 18, 2919–2920
16	Excerpted Transcript of October 21, 2015 Deposition of Salvatore R. Morabito	Vol. 18, 2921–2929
17	PROMISSORY NOTE [Snowshoe Petroleum (“Maker”) promises to pay P. Morabito (“Holder”) the principal sum of \$1,462,213.00] (dated 11/01/2010)	Vol. 18, 2930–2932
18	TERM NOTE [P. Morabito (“Borrower”) promises to pay Consolidated Western Corp. (“Lender”) the principal sum of \$939,000.00, plus interest] (dated 09/01/2010)	Vol. 18, 2933–2934
19	SUCCESSOR PROMISSORY NOTE [Snowshoe Petroleum (“Maker”) promises to pay P. Morabito (“Holder”) the principal sum of \$492,937.30, plus interest] (dated 02/01/2011)	Vol. 18, 2935–2937

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
20	Edward Bayuk's wire transfer to Lippes in the amount of \$517,547.20 (dated 09/29/2010)	Vol. 18, 2938–2940
21	Salvatore Morabito Bank of Montreal September 2011 Wire Transfer	Vol. 18, 2941–2942
22	Declaration of Salvatore Morabito (dated 09/21/2017)	Vol. 18, 2943–2944
23	Edward Bayuk bank wire transfer to Superpumper, Inc., in the amount of \$659,000.00 (dated 09/30/2010)	Vol. 18, 2945–2947
24	Edward Bayuk checking account statements between 2010 and 2011 funding the company with transfers totaling \$500,000	Vol. 18, 2948–2953
25	Salvatore Morabito's wire transfer statement between 2010 and 2011, funding the company with \$750,000	Vol. 18, 2954–2957
26	Payment Schedule of Edward Bayuk Note in Favor of P. Morabito	Vol. 18, 2958–2961
27	September 15, 2010 email from Vacco to Yalamanchili and P. Morabito RE: Follow Up Thoughts	Vol. 18, 2962–2964
Reply in Support of Motion for Partial Summary Judgment (dated 10/10/2017)		Vol. 19, 2965–2973
Order Regarding Discovery Commissioner's Recommendation for Order dated August 17, 2017 (filed 12/07/2017)		Vol. 19, 2974–2981



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Order Denying Motion for Partial Summary Judgment (filed 12/11/2017)		Vol. 19, 2982–2997
Defendants’ Motions in Limine (filed 09/12/2018)		Vol. 19, 2998–3006
<b>Exhibits to Defendants’ Motions in Limine</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff’s Second Supplement to Amended Disclosures Pursuant to NRCP 16.1(A)(1) (dated 04/28/2016)	Vol. 19, 3007–3016
2	Excerpted Transcript of March 25, 2016 Deposition of William A. Leonard	Vol. 19, 3017–3023
3	Plaintiff, Jerry Herbst’s Responses to Defendant Snowshoe Petroleum, Inc.’s Set of Interrogatories (dated 02/11/2015); and Plaintiff, Jerry Herbst’s Responses to Defendant, Salvatore Morabito’s Set of Interrogatories (dated 02/12/2015)	Vol. 19, 3024–3044
Motion in Limine to Exclude Testimony of Jan Friederich (filed 09/20/2018)		Vol. 19, 3045–3056
<b>Exhibits to Motion in Limine to Exclude Testimony of Jan Friederich</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Defendants’ Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 19, 3057–3071
2	Condensed Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 19, 3072–3086

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Opposition to Defendants' Motions in Limine (filed 09/28/2018)		Vol. 19, 3087–3102
<b>Exhibits to Opposition to Defendants' Motions in Limine</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Declaration of Teresa M. Pilatowicz, Esq. in Support of Opposition to Defendants' Motions in Limine (filed 09/28/2018)	Vol. 19, 3103–3107
A-1	Plaintiff's February 19, 2016, Amended Disclosures Pursuant to NRCP 16.1(A)(1)	Vol. 19, 3108–3115
A-2	Plaintiff's January 26, 2016, Expert Witnesses Disclosures (without exhibits)	Vol. 19, 3116–3122
A-3	Defendants' January 26, 2016, and February 29, 2016, Expert Witness Disclosures (without exhibits)	Vol. 19, 3123–3131
A-4	Plaintiff's August 17, 2017, Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3132–3175
A-5	Plaintiff's August 17, 2017, Statement of Undisputed Facts in Support of his Motion for Partial Summary Judgment (without exhibits)	Vol. 19, 3176–3205
Defendants' Reply in Support of Motions in Limine (filed 10/08/2018)		Vol. 20, 3206–3217
<b>Exhibit to Defendants' Reply in Support of Motions in Limine</b>		
<b>Exhibit</b>	<b>Document Description</b>	

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
1	Chapter 7 Trustee, William A. Leonard's Responses to Defendants' First Set of Interrogatories (dated 05/28/2015)	Vol. 20, 3218–3236
Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich (filed 10/08/2018)		Vol. 20, 3237–3250
<b>Exhibits to Defendants' Opposition to Plaintiff's Motions in Limine to Exclude the Testimony of Jan Friederich</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Excerpt of Matrix Report (dated 10/13/2010)	Vol. 20, 3251–3255
2	Defendants' Rebuttal Expert Witness Disclosure (dated 02/29/2016)	Vol. 20, 3256–3270
3	November 9, 2009 email from P. Morabito to Daniel Fletcher; Jim Benbrook; Don Whitehead; Sam Morabito, etc. RE: Jan Friederich entered consulting agreement with Superpumper	Vol. 20, 3271–3272
4	Excerpted Transcript of March 29, 2016 Deposition of Jan Friederich	Vol. 20, 3273–3296
Defendants' Objections to Plaintiff's Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3297–3299
Objections to Defendants' Pretrial Disclosures (filed 10/12/2018)		Vol. 20, 3300–3303
Reply to Defendants' Opposition to Plaintiff's Motion in Limine to Exclude the Testimony of Jan Friederich (filed 10/12/2018)		Vol. 20, 3304–3311

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Minutes of September 11, 2018, Pre-trial Conference (filed 10/19/2018)		Vol. 20, 3312
Stipulated Facts (filed 10/29/2018)		Vol. 20, 3313–3321
Defendants’ Points and Authorities RE: Objection to Admission of Documents in Conjunction with the Depositions of P. Morabito and Dennis Vacco (filed 10/30/2018)		Vol. 20, 3322–3325
Plaintiff’s Points and Authorities Regarding Authenticity and Hearsay Issues (filed 10/31/2018)		Vol. 20, 3326–3334
Clerk’s Trial Exhibit List (filed 02/28/2019)		Vol. 21, 3335–3413
<b>Exhibits to Clerk’s Trial Exhibit List</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Certified copy of the Transcript of September 13, 2010 Judge’s Ruling; Case No. CV07-02764	Vol. 21, 3414–3438
2	Findings of Fact, Conclusions of Law, and Judgment; Case No. CV07-02764 (filed 10/12/2010)	Vol. 21, 3439–3454
3	Judgment; Case No. CV07-0767 (filed 08/23/2011)	Vol. 21, 3455–3456
4	Confession of Judgment; Case No. CV07-02764 (filed 06/18/2013)	Vol. 21, 3457–3481
5	November 30, 2011 Settlement Agreement and Mutual Release	Vol. 22, 3482–3613
6	March 1, 2013 Forbearance Agreement	Vol. 22, 3614–3622

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
8	Order Denying Motion to Dismiss Involuntary Chapter 7 Petition and Suspending Proceedings, Case 13-51237. ECF No. 94, (filed 12/17/2013)	Vol. 22, 3623–3625
19	Report of Undisputed Election– Appointment of Trustee, Case No. 13-51237, ECF No. 220	Vol. 22, 3626–3627
20	Stipulation and Order to Substitute a Party Pursuant to NRCP 17(a), Case No. CV13-02663, May 15, 2015	Vol. 22, 3628–3632
21	Non-Dischargeable Judgment Regarding Plaintiff’s First and Second Causes of Action, Case No. 15-05019-GWZ, ECF No. 123, April 30, 2018	Vol. 22, 3633–3634
22	Memorandum & Decision; Case No. 15-05019-GWZ, ECF No. 124, April 30, 2018	Vol. 22, 3635–3654
23	Amended Findings of Fact, Conclusions of Law in Support of Judgment Regarding Plaintiff’s First and Second Causes of Action; Case 15-05019-GWZ, ECF No. 122, April 30, 2018	Vol. 22, 3655–3679
25	September 15, 2010 email from Yalamanchili to Vacco and P. Morabito RE: Follow Up Thoughts	Vol. 22, 3680–3681
26	September 18, 2010 email from P. Morabito to Vacco	Vol. 22, 3682–3683
27	September 20, 2010 email from Vacco to P. Morabito RE: Spirit	Vol. 22, 3684–3684
28	September 20, 2010 email between Yalamanchili and Crotty RE: Morabito -Wire	Vol. 22, 3685–3687

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
29	September 20, 2010 email from Yalamanchili to Graber RE: Attorney Client Privileged Communication	Vol. 22, 3688–3689
30	September 21, 2010 email from P. Morabito to Vacco and Cross RE: Attorney Client Privileged Communication	Vol. 22, 3690–3692
31	September 23, 2010 email chain between Graber and P. Morabito RE: Change of Primary Residence from Reno to Laguna Beach	Vol. 22, 3693–3694
32	September 23, 2010 email from Yalamanchili to Graber RE: Change of Primary Residence from Reno to Laguna Beach	Vol. 22, 3695–3696
33	September 24, 2010 email from P. Morabito to Vacco RE: Superpumper, Inc.	Vol. 22, 3697–3697
34	September 26, 2010 email from Vacco to P. Morabito RE: Judgment for a fixed debt	Vol. 22, 3698–3698
35	September 27, 2010 email from P. Morabito to Vacco RE: First Amendment to Residential Lease executed 9/27/2010	Vol. 22, 3699–3701
36	November 7, 2012 emails between Vacco, P. Morabito, C. Lovelace RE: Attorney Client Privileged Communication	Vol. 22, 3702–3703
37	Morabito BMO Bank Statement – September 2010	Vol. 22, 3704–3710
38	Lippes Mathias Trust Ledger History	Vol. 23, 3711–3716

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
39	Fifth Amendment & Restatement of the Trust Agreement for the Arcadia Living Trust dated September 30, 2010	Vol. 23, 3717–3755
42	P. Morabito Statement of Assets & Liabilities as of May 5, 2009	Vol. 23, 3756–3756
43	March 10, 2010 email chain between Afshar and Takemoto RE: Current Personal Financial Statement	Vol. 23, 3757–3758
44	Salazar Net Worth Report (dated 03/15/2011)	Vol. 23, 3759–3772
45	Purchase and Sale Agreement	Vol. 23, 3773–3780
46	First Amendment to Purchase and Sale Agreement	Vol. 23, 3781–3782
47	Panorama – Estimated Settlement Statement	Vol. 23, 3783–3792
48	El Camino – Final Settlement Statement	Vol. 23, 3793–3793
49	Los Olivos – Final Settlement Statement	Vol. 23, 3794–3794
50	Deed for Transfer of Panorama Property	Vol. 23, 3795–3804
51	Deed for Transfer for Los Olivos	Vol. 23, 3805–3806
52	Deed for Transfer of El Camino	Vol. 23, 3807–3808
53	Kimmel Appraisal Report for Panorama and Clayton	Vol. 23, 3809–3886
54	Bill of Sale – Panorama	Vol. 23, 3887–3890
55	Bill of Sale – Mary Fleming	Vol. 23, 3891–3894
56	Bill of Sale – El Camino	Vol. 23, 3895–3898

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
57	Bill of Sale – Los Olivos	Vol. 23, 3899–3902
58	Declaration of Value and Transfer Deed of 8355 Panorama (recorded 12/31/2012)	Vol. 23, 3903–3904
60	Baruk Properties Operating Agreement	Vol. 23, 3905–3914
61	Baruk Membership Transfer Agreement	Vol. 24, 3915–3921
62	Promissory Note for \$1,617,050 (dated 10/01/2010)	Vol. 24, 3922–3924
63	Baruk Properties/Snowshoe Properties, Certificate of Merger (filed 10/04/2010)	Vol. 24, 3925–3926
64	Baruk Properties/Snowshoe Properties, Articles of Merger	Vol. 24, 3927–3937
65	Grant Deed from Snowshoe to Bayuk Living Trust; Doc No. 2010-0531071 (recorded 11/04/2010)	Vol. 24, 3938–3939
66	Grant Deed – 1461 Glenneyre; Doc No. 2010000511045 (recorded 10/08/2010)	Vol. 24, 3940–3941
67	Grant Deed – 570 Glenneyre; Doc No. 2010000508587 (recorded 10/08/2010)	Vol. 24, 3942–3944
68	Attorney File re: Conveyance between Woodland Heights and Arcadia Living Trust	Vol. 24, 3945–3980
69	October 24, 2011 email from P. Morabito to Vacco RE: Attorney Client Privileged Communication	Vol. 24, 3981–3982



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
70	November 10, 2011 email chain between Vacco and P. Morabito RE: Baruk Properties, LLC/Paul Morabito/Bank of America, N.A.	Vol. 24, 3983–3985
71	Bayuk First Ledger	Vol. 24, 3986–3987
72	Amortization Schedule	Vol. 24, 3988–3990
73	Bayuk Second Ledger	Vol. 24, 3991–3993
74	Opposition to Motion for Summary Judgment and Declaration of Edward Bayuk; Case No. 13-51237, ECF No. 146 (filed 10/03/2014)	Vol. 24, 3994–4053
75	March 30, 2012 email from Vacco to Bayuk RE: Letter to BOA	Vol. 24, 4054–4055
76	March 10, 2010 email chain between P. Morabito and <a href="mailto:jon@aim13.com">jon@aim13.com</a> RE: Strictly Confidential	Vol. 24, 4056–4056
77	May 20, 2010 email chain between P. Morabito, Vacco and Michael Pace RE: Proceed with placing a Binding Bid on June 22nd with ExxonMobil	Vol. 24, 4057–4057
78	Morabito Personal Financial Statement May 2010	Vol. 24, 4058–4059
79	June 28, 2010 email from P. Morabito to George Garner RE: ExxonMobil Chicago Market Business Plan Review	Vol. 24, 4060–4066
80	Shareholder Interest Purchase Agreement	Vol. 24, 4067–4071
81	Plan of Merger of Consolidated Western Corporation with and Into Superpumper, Inc.	Vol. 24, 4072–4075

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
82	Articles of Merger of Consolidated Western Corporation with and Into Superpumper, Inc.	Vol. 24, 4076–4077
83	Unanimous Written Consent of the Board of Directors and Sole Shareholder of Superpumper, Inc.	Vol. 24, 4078–4080
84	Unanimous Written Consent of the Directors and Shareholders of Consolidated Western Corporation	Vol. 24, 4081–4083
85	Arizona Corporation Commission Letter dated October 21, 2010	Vol. 24, 4084–4091
86	Nevada Articles of Merger	Vol. 24, 4092–4098
87	New York Creation of Snowshoe	Vol. 24, 4099–4103
88	April 26, 2012 email from Vacco to Afshar RE: Ownership Structure of SPI	Vol. 24, 4104–4106
90	September 30, 2010 Matrix Retention Agreement	Vol. 24, 4107–4110
91	McGovern Expert Report	Vol. 25, 4111–4189
92	Appendix B to McGovern Report – Source 4 – Budgets	Vol. 25, 4190–4191
103	Superpumper Note in the amount of \$1,462,213.00 (dated 11/01/2010)	Vol. 25, 4192–4193
104	Superpumper Successor Note in the amount of \$492,937.30 (dated 02/01/2011)	Vol. 25, 4194–4195
105	Superpumper Successor Note in the amount of \$939,000 (dated 02/01/2011)	Vol. 25, 4196–4197

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
106	Superpumper Stock Power transfers to S. Morabito and Bayuk (dated 01/01/2011)	Vol. 25, 4198–4199
107	<i>Declaration of P. Morabito in Support of Opposition to Motion of JH, Inc., Jerry Herbst, and Berry- Hinckley Industries for Order Prohibiting Debtor from Using, Acquiring or Transferring Assets Pursuant to 11 U.S.C. §§ 105 and 303(f) Pending Appointment of Trustee, Case 13-51237, ECF No. 22 (filed 07/01/2013)</i>	Vol. 25, 4200–4203
108	October 12, 2012 email between P. Morabito and Bernstein RE: 2011 Return	Vol. 25, 4204–4204
109	Compass Term Loan (dated 12/21/2016)	Vol. 25, 4205–4213
110	P. Morabito – Term Note in the amount of \$939,000.000 (dated 09/01/2010)	Vol. 25, 4214–4214
111	Loan Agreement between Compass Bank and Superpumper (dated 12/21/2016)	Vol. 25, 4215–4244
112	Consent Agreement (dated 12/28/2010)	Vol. 25, 4245–4249
113	Superpumper Financial Statement (dated 12/31/2007)	Vol. 25, 4250–4263
114	Superpumper Financial Statement (dated 12/31/2009)	Vol. 25, 4264–4276
115	Notes Receivable Interest Income Calculation (dated 12/31/2009)	Vol. 25, 4277–4278
116	Superpumper Inc. Audit Conclusions Memo (dated 12/31/2010)	Vol. 25, 4279–4284

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
117	Superpumper 2010 YTD Income Statement and Balance Sheets	Vol. 25, 4285–4299
118	March 12, 2010 Management Letter	Vol. 25, 4300–4302
119	Superpumper Unaudited August 2010 Balance Sheet	Vol. 25, 4303–4307
120	Superpumper Financial Statements (dated 12/31/2010)	Vol. 25, 4308–4322
121	Notes Receivable Balance as of September 30, 2010	Vol. 26, 4323
122	Salvatore Morabito Term Note \$2,563,542.00 as of December 31, 2010	Vol. 26, 4324–4325
123	Edward Bayuk Term Note \$2,580,500.00 as of December 31, 2010	Vol. 26, 4326–4327
125	April 21, 2011 Management letter	Vol. 26, 4328–4330
126	Bayuk and S. Morabito Statements of Assets & Liabilities as of February 1, 2011	Vol. 26, 4331–4332
127	January 6, 2012 email from Bayuk to Lovelace RE: Letter of Credit	Vol. 26, 4333–4335
128	January 6, 2012 email from Vacco to Bernstein	Vol. 26, 4336–4338
129	January 7, 2012 email from Bernstein to Lovelace	Vol. 26, 4339–4343
130	March 18, 2012 email from P. Morabito to Vacco	Vol. 26, 4344–4344
131	April 21, 2011 Proposed Acquisition of Nella Oil	Vol. 26, 4345–4351
132	April 15, 2011 email chain between P. Morabito and Vacco	Vol. 26, 4352

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
133	April 5, 2011 email from P. Morabito to Vacco	Vol. 26, 4353
134	April 16, 2012 email from Vacco to Morabito	Vol. 26, 4354–4359
135	August 7, 2011 email exchange between Vacco and P. Morabito	Vol. 26, 4360
136	August 2011 Lovelace letter to Timothy Halves	Vol. 26, 4361–4365
137	August 24, 2011 email from Vacco to P. Morabito RE: Tim Haves	Vol. 26, 4366
138	November 11, 2011 email from Vacco to P. Morabito RE: Getting Trevor's commitment to sign	Vol. 26, 4367
139	November 16, 2011 email from P. Morabito to Vacco RE: Vacco's litigation letter	Vol. 26, 4368
140	November 28, 2011 email chain between Vacco, S. Morabito, and P. Morabito RE: \$560,000 wire to Lippes Mathias	Vol. 26, 4369–4370
141	December 7, 2011 email from Vacco to P. Morabito RE: Moreno	Vol. 26, 4371
142	February 10, 2012 email chain between P. Morabito Wells, and Vacco RE: 1461 Glenneyre Street - Sale	Vol. 26, 4372–4375
143	April 20, 2012 email from P. Morabito to Bayuk RE: BofA	Vol. 26, 4376
144	April 24, 2012 email from P. Morabito to Vacco RE: SPI Loan Detail	Vol. 26, 4377–4378

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
145	September 4, 2012 email chain between Vacco and Bayuk RE: Second Deed of Trust documents	Vol. 26, 4379–4418
147	September 4, 2012 email from P. Morabito to Vacco RE: Wire	Vol. 26, 4419–4422
148	September 4, 2012 email from Bayuk to Vacco RE: Wire	Vol. 26, 4423–4426
149	December 6, 2012 email from Vacco to P. Morabito RE: BOA and the path of money	Vol. 26, 4427–4428
150	September 18, 2012 email chain between P. Morabito and Bayuk	Vol. 26, 4429–4432
151	October 3, 2012 email chain between Vacco and P. Morabito RE: Snowshoe Properties, LLC	Vol. 26, 4433–4434
152	September 3, 2012 email from P. Morabito to Vacco RE: Wire	Vol. 26, 4435
153	March 14, 2013 email chain between P. Morabito and Vacco RE: BHI Hinckley	Vol. 26, 4436
154	Paul Morabito 2009 Tax Return	Vol. 26, 4437–4463
155	Superpumper Form 8879-S tax year ended December 31, 2010	Vol. 26, 4464–4484
156	2010 U.S. S Corporation Tax Return for Consolidated Western Corporation	Vol. 27, 4485–4556
157	Snowshoe form 8879-S for year ended December 31, 2010	Vol. 27, 4557–4577
158	Snowshoe Form 1120S 2011 Amended Tax Return	Vol. 27, 4578–4655

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
159	September 14, 2012 email from Vacco to P. Morabito	Vol. 27, 4656–4657
160	October 1, 2012 email from P. Morabito to Vacco RE: Monday work for Dennis and Christian	Vol. 27, 4658
161	December 18, 2012 email from Vacco to P. Morabito RE: Attorney Client Privileged Communication	Vol. 27, 4659
162	April 24, 2013 email from P. Morabito to Vacco RE: BHI Trust	Vol. 27, 4660
163	Membership Interest Purchases, Agreement – Watch My Block (dated 10/06/2010)	Vol. 27, 4661–4665
164	Watch My Block organizational documents	Vol. 27, 4666–4669
174	October 15, 2015 Certificate of Service of copy of Lippes Mathias Wexler Friedman’s Response to Subpoena	Vol. 27, 4670
175	Order Granting Motion to Compel Responses to Deposition Questions ECF No. 502; Case No. 13- 51237-gwz (filed 02/03/2016)	Vol. 27, 4671–4675
179	Gursey Schneider LLP Subpoena	Vol. 28, 4676–4697
180	Summary Appraisal of 570 Glenneyre	Vol. 28, 4698–4728
181	Appraisal of 1461 Glenneyre Street	Vol. 28, 4729–4777
182	Appraisal of 370 Los Olivos	Vol. 28, 4778–4804
183	Appraisal of 371 El Camino Del Mar	Vol. 28, 4805–4830
184	Appraisal of 1254 Mary Fleming Circle	Vol. 28, 4831–4859

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
185	Mortgage – Panorama	Vol. 28, 4860–4860
186	Mortgage – El Camino	Vol. 28, 4861
187	Mortgage – Los Olivos	Vol. 28, 4862
188	Mortgage – Glenneyre	Vol. 28, 4863
189	Mortgage – Mary Fleming	Vol. 28, 4864
190	Settlement Statement – 371 El Camino Del Mar	Vol. 28, 4865
191	Settlement Statement – 370 Los Olivos	Vol. 28, 4866
192	2010 Declaration of Value of 8355 Panorama Dr	Vol. 28, 4867–4868
193	Mortgage – 8355 Panorama Drive	Vol. 28, 4869–4870
194	Compass – Certificate of Custodian of Records (dated 12/21/2016)	Vol. 28, 4871–4871
196	June 6, 2014 Declaration of Sam Morabito – Exhibit 1 to Snowshoe Reply in Support of Motion to Dismiss Complaint for Lack of Personal Jurisdiction – filed in Case No. CV13-02663	Vol. 28, 4872–4874
197	June 19, 2014 Declaration of Sam Morabito – Exhibit 1 to Superpumper Motion to Dismiss Complaint for Lack of Personal Jurisdiction – filed in Case No. CV13-02663	Vol. 28, 4875–4877
198	September 22, 2017 Declaration of Sam Morabito – Exhibit 22 to Defendants’ SSOF in Support of Opposition to Plaintiff’s MSJ – filed in Case No. CV13-02663	Vol. 28, 4878–4879



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
222	Kimmel – January 21, 2016, Comment on Alves Appraisal	Vol. 28, 4880–4883
223	September 20, 2010 email from Yalamanchili to Morabito	Vol. 28, 4884
224	March 24, 2011 email from Naz Afshar RE: telephone call regarding CWC	Vol. 28, 4885–4886
225	Bank of America Records for Edward Bayuk (dated 09/05/2012)	Vol. 28, 4887–4897
226	June 11, 2007 Wholesale Marketer Agreement	Vol. 29, 4898–4921
227	May 25, 2006 Wholesale Marketer Facility Development Incentive Program Agreement	Vol. 29, 4922–4928
228	June 2007 Master Lease Agreement – Spirit SPE Portfolio and Superpumper, Inc.	Vol. 29, 4929–4983
229	Superpumper Inc 2008 Financial Statement (dated 12/31/2008)	Vol. 29, 4984–4996
230	November 9, 2009 email from P. Morabito to Bernstein, Yalaman RE: Jan Friederich – entered into Consulting Agreement	Vol. 29, 4997
231	September 30, 2010, Letter from Compass to Superpumper, Morabito, CWC RE: reducing face amount of the revolving note	Vol. 29, 4998–5001
232	October 15, 2010, letter from Quarles & Brady to Vacco RE: Revolving Loan Documents and Term Loan Documents between Superpumper and Compass Bank	Vol. 29, 5002–5006

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
233	BMO Account Tracker Banking Report October 1 to October 31, 2010	Vol. 29, 5007–5013
235	August 31, 2010 Superpumper Inc., Valuation of 100 percent of the common equity in Superpumper, Inc on a controlling marketable basis	Vol. 29, 5014–5059
236	June 18, 2014 email from S. Morabito to Vanek (WF) RE: Analysis of Superpumper Acquisition in 2010	Vol. 29, 5060–5061
241	Superpumper March 2010 YTD Income Statement	Vol. 29, 5062–5076
244	Assignment Agreement for \$939,000 Morabito Note	Vol. 29, 5077–5079
247	July 1, 2011 Third Amendment to Forbearance Agreement Superpumper and Compass Bank	Vol. 29, 5080–5088
248	Superpumper Cash Contributions January 2010 thru September 2015 – Bayuk and S. Morabito	Vol. 29, 5089–5096
252	October 15, 2010 Letter from Quarles & Brady to Vacco RE: Revolving Loan documents and Term Loan documents between Superpumper Prop. and Compass Bank	Vol. 29, 5097–5099
254	Bank of America – S. Morabito SP Properties Sale, SP Purchase Balance	Vol. 29, 5100
255	Superpumper Prop. Final Closing Statement for 920 Mountain City Hwy, Elko, NV	Vol. 29, 5101
256	September 30, 2010 Raffles Insurance Limited Member Summary	Vol. 29, 5102

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
257	Equalization Spreadsheet	Vol. 30, 5103
258	November 9, 2005 Grant, Bargain and Sale Deed; Doc #3306300 for Property Washoe County	Vol. 30, 5104–5105
260	January 7, 2016 Budget Summary – Panorama Drive	Vol. 30, 5106–5107
261	Mary 22, 2006 Compilation of Quotes and Invoices Quote of Valley Drapery	Vol. 30, 5108–5116
262	Photos of 8355 Panorama Home	Vol. 30, 5117–5151
263	Water Rights Deed (Document #4190152) between P. Morabito, E. Bayuk, Grantors, RCA Trust One Grantee (recorded 12/31/2012)	Vol. 30, 5152–5155
265	October 1, 2010 Bank of America Wire Transfer –Bayuk – Morabito \$60,117	Vol. 30, 5156
266	October 1, 2010 Check #2354 from Bayuk to P. Morabito for \$29,383 for 8355 Panorama funding	Vol. 30, 5157–5158
268	October 1, 2010 Check #2356 from Bayuk to P. Morabito for \$12,763 for 370 Los Olivos Funding	Vol. 30, 5159–5160
269	October 1, 2010 Check #2357 from Bayuk to P. Morabito for \$31,284 for 371 El Camino Del Mar Funding	Vol. 30, 5161–5162
270	Bayuk Payment Ledger Support Documents Checks and Bank Statements	Vol. 31, 5163–5352
271	Bayuk Superpumper Contributions	Vol. 31, 5353–5358

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
272	May 14, 2012 email string between P. Morabito, Vacco, Bayuk, and S. Bernstein RE: Info for Laguna purchase	Vol. 31, 5359–5363
276	September 21, 2010 Appraisal of 8355 Panorama Drive Reno, NV by Alves Appraisal	Vol. 32, 5364–5400
277	Assessor’s Map/Home Comparisons for 8355 Panorama Drive, Reno, NV	Vol. 32, 5401–5437
278	December 3, 2007 Case Docket for CV07-02764	Vol. 32, 5438–5564
280	May 25, 2011 Stipulation Regarding the Imposition of Punitive Damages; Case No. CV07-02764 (filed 05/25/2011)	Vol. 33, 5565–5570
281	Work File for September 24, 2010 Appraisal of 8355 Panorama Drive, Reno, NV	Vol. 33, 5571–5628
283	January 25, 2016 Expert Witness Report Leonard v. Superpumper Snowshoe	Vol. 33, 5629–5652
284	February 29, 2016 Defendants’ Rebuttal Expert Witness Disclosure	Vol. 33, 5653–5666
294	October 5, 2010 Lippes, Mathias Wexler Friedman, LLP, Invoices to P. Morabito	Vol. 33, 5667–5680
295	P. Morabito 2010 Tax Return (dated 10/16/2011)	Vol. 33, 5681–5739
296	December 31, 2010 Superpumper Inc. Note to Financial Statements	Vol. 33, 5740–5743
297	December 31, 2010 Superpumper Consultations	Vol. 33, 5744

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
300	September 20, 2010 email chain between Yalmanchili and Graber RE: Attorney Client Privileged Communication	Vol. 33, 5745–5748
301	September 15, 2010 email from Vacco to P. Morabito RE: Tomorrow	Vol. 33, 5749–5752
303	Bankruptcy Court District of Nevada Claims Register Case No. 13-51237	Vol. 33, 5753–5755
304	April 14, 2018 email from Allen to Krausz RE: Superpumper	Vol. 33, 5756–5757
305	Subpoena in a Case Under the Bankruptcy Code to Robison, Sharp, Sullivan & Brust issued in Case No. BK-N-13-51237-GWZ	Vol. 33, 5758–5768
306	August 30, 2018 letter to Mark Weisenmiller, Esq., from Frank Gilmore, Esq.,	Vol. 34, 5769
307	Order Granting Motion to Compel Compliance with the Subpoena to Robison, Sharp, Sullivan & Brust filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5770–5772
308	Response of Robison, Sharp, Sullivan & Brust's to Subpoena filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5773–5797
309	Declaration of Frank C. Gilmore in support of Robison, Sharp, Sullivan & Brust's Opposition to Motion for Order Holding Robison in Contempt filed in Case No. BK-N-13-51237-GWZ	Vol. 34, 5798–5801
Minutes of October 29, 2018, Non-Jury Trial, Day 1 (filed 11/08/2018)		Vol. 35, 5802–6041
Transcript of October 29, 2018, Non-Jury Trial, Day 1		Vol. 35, 6042–6045

<b><u>DOCUMENT DESCRIPTION</u></b>	<b><u>LOCATION</u></b>
Minutes of October 30, 2018, Non-Jury Trial, Day 2 (filed 11/08/2018)	Vol. 36, 6046–6283
Transcript of October 30, 2018, Non-Jury Trial, Day 2	Vol. 36, 6284–6286
Minutes of October 31, 2018, Non-Jury Trial, Day 3 (filed 11/08/2018)	Vol. 37, 6287–6548
Transcript of October 31, 2018, Non-Jury Trial, Day 3	Vol. 37, 6549–6552
Minutes of November 1, 2018, Non-Jury Trial, Day 4 (filed 11/08/2018)	Vol. 38, 6553–6814
Transcript of November 1, 2018, Non-Jury Trial, Day 4	Vol. 38, 6815–6817
Minutes of November 2, 2018, Non-Jury Trial, Day 5 (filed 11/08/2018)	Vol. 39, 6818–7007
Transcript of November 2, 2018, Non-Jury Trial, Day 5	Vol. 39, 7008–7011
Minutes of November 5, 2018, Non-Jury Trial, Day 6 (filed 11/08/2018)	Vol. 40, 7012–7167
Transcript of November 5, 2018, Non-Jury Trial, Day 6	Vol. 40, 7168–7169
Minutes of November 6, 2018, Non-Jury Trial, Day 7 (filed 11/08/2018)	Vol. 41, 7170–7269
Transcript of November 6, 2018, Non-Jury Trial, Day 7	Vol. 41, 7270–7272 Vol. 42, 7273–7474
Minutes of November 7, 2018, Non-Jury Trial, Day 8 (filed 11/08/2018)	Vol. 43, 7475–7476
Transcript of November 7, 2018, Non-Jury Trial, Day 8	Vol. 43, 7477–7615

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Minutes of November 26, 2018, Non-Jury Trial, Day 9 (filed 11/26/2018)		Vol. 44, 7616
Transcript of November 26, 2018, Non-Jury Trial – Closing Arguments, Day 9		Vol. 44, 7617–7666 Vol. 45, 7667–7893
Plaintiff’s Motion to Reopen Evidence (filed 01/30/2019)		Vol. 46, 7894–7908
<b>Exhibits to Plaintiff’s Motion to Reopen Evidence</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Gabrielle A. Hamm, Esq. in Support of Plaintiff’s Motion to Reopen	Vol. 46, 7909–7913
1-A	September 21, 2017 Declaration of Salvatore Morabito	Vol. 46, 7914–7916
1-B	Defendants’ Proposed Findings of Fact, Conclusions of Law, and Judgment (Nov. 26, 2018)	Vol. 46, 7917–7957
1-C	Judgment on the First and Second Causes of Action; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 123 (April 30, 2018)	Vol. 46, 7958–7962
1-D	Amended Findings of Fact and Conclusions of Law in Support of Judgment Regarding Plaintiffs’ First and Second Causes of Action; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 126 (April 30, 2018)	Vol. 46, 7963–7994
1-E	Motion to Compel Compliance with the Subpoena to Robison Sharp Sullivan Brust; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 191 (Sept. 10, 2018)	Vol. 46, 7995–8035

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
1-F	Order Granting Motion to Compel Compliance with the Subpoena to Robison Sharp Sullivan Brust; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 229 (Jan. 3, 2019)	Vol. 46, 8036–8039
1-G	Response of Robison, Sharp, Sullivan & Brust[] To Subpoena (including RSSB_000001 – RSSB_000031) (Jan. 18, 2019)	Vol. 46, 8040–8067
1-H	Excerpts of Deposition Transcript of Sam Morabito as PMK of Snowshoe Petroleum, Inc. (Oct. 1, 2015)	Vol. 46, 8068–8076
Errata to: Plaintiff’s Motion to Reopen Evidence (filed 01/30/2019)		Vol. 47, 8077–8080
<b>Exhibit to Errata to: Plaintiff’s Motion to Reopen Evidence</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff’s Motion to Reopen Evidence	Vol. 47, 8081–8096
Ex Parte Motion for Order Shortening Time on Plaintiff’s Motion to Reopen Evidence and for Expedited Hearing (filed 01/31/2019)		Vol. 47, 8097–8102
Order Shortening Time on Plaintiff’s Motion to Reopen Evidence and for Expedited Hearing (filed 02/04/2019)		Vol. 47, 8103–8105
Supplement to Plaintiff’s Motion to Reopen Evidence (filed 02/04/2019)		Vol. 47, 8106–8110



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Supplement to Plaintiff's Motion to Reopen Evidence</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Supplemental Declaration of Gabrielle A. Hamm, Esq. in Support of Plaintiff's Motion to Reopen Evidence (filed 02/04/2019)	Vol. 47, 8111–8113
1-I	Declaration of Frank C. Gilmore in Support of Robison, Sharp Sullivan & Brust's Opposition to Motion for Order Holding Robison in Contempt; Case No. 15-05019-GWZ (Bankr. D. Nev.), ECF No. 259 (Jan. 30, 2019)	Vol. 47, 8114–8128
Defendants' Response to Motion to Reopen Evidence (02/06/2019)		Vol. 47, 8129–8135
Plaintiff's Reply to Defendants' Response to Motion to Reopen Evidence (filed 02/07/2019)		Vol. 47, 8136–8143
Minutes of February 7, 2019 hearing on Motion to Reopen Evidence (filed 02/28/2019)		Vol. 47, 8144
Rough Draft Transcript of February 8, 2019 hearing on Motion to Reopen Evidence		Vol. 47, 8145–8158
[Plaintiff's Proposed] Findings of Fact, Conclusions of Law, and Judgment (filed 03/06/2019)		Vol. 47, 8159–8224
[Defendants' Proposed Amended] Findings of Fact, Conclusions of Law, and Judgment (filed 03/08/2019)		Vol. 47, 8225–8268
Minutes of February 26, 2019 hearing on Motion to Continue ongoing Non-Jury Trial (Telephonic) (filed 03/11/2019)		Vol. 47, 8269

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)		Vol. 48, 8270–8333
Notice of Entry of Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)		Vol. 48, 8334–8340
Memorandum of Costs and Disbursements (filed 04/11/2019)		Vol. 48, 8341–8347
<b>Exhibit to Memorandum of Costs and Disbursements</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Ledger of Costs	Vol. 48, 8348–8370
Application for Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)		Vol. 48, 8371–8384
<b>Exhibits to Application for Attorneys’ Fees and Costs Pursuant to NRCP 68</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Teresa M. Pilatowicz In Support of Plaintiff’s Application for Attorney’s Fees and Costs Pursuant to NRCP 68 (filed 04/12/2019)	Vol. 48, 8385–8390
2	Plaintiff’s Offer of Judgment to Defendants (dated 05/31/2016)	Vol. 48, 8391–8397
3	Defendant’s Rejection of Offer of Judgment by Plaintiff (dated 06/15/2016)	Vol. 48, 8398–8399
4	Log of time entries from June 1, 2016 to March 28, 2019	Vol. 48, 8400–8456

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
5	Plaintiff's Memorandum of Costs and Disbursements (filed 04/11/2019)	Vol. 48, 8457–8487
Motion to Retax Costs (filed 04/15/2019)		Vol. 49, 8488–8495
Plaintiff's Opposition to Motion to Retax Costs (filed 04/17/2019)		Vol. 49, 8496–8507
<b>Exhibits to Plaintiff's Opposition to Motion to Retax Costs</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Teresa M. Pilatowicz In Support of Opposition to Motion to Retax Costs (filed 04/17/2019)	Vol. 49, 8508–8510
2	Summary of Photocopy Charges	Vol. 49, 8511–8523
3	James L. McGovern Curriculum Vitae	Vol. 49, 8524–8530
4	McGovern & Greene LLP Invoices	Vol. 49, 8531–8552
5	Buss-Shelger Associates Invoices	Vol. 49, 8553–8555
Reply in Support of Motion to Retax Costs (filed 04/22/2019)		Vol. 49, 8556–8562
Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 04/25/2019)		Vol. 49, 8563–8578
<b>Exhibit to Opposition to Application for Attorneys' Fees and Costs Pursuant to NRCP 68</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff's Bill Dispute Ledger	Vol. 49, 8579–8637

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.’s Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/25/2019)		Vol. 49, 8638–8657
Defendant, Edward Bayuk’s Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 04/26/2019)		Vol. 50, 8658–8676
<b>Exhibits to Edward Bayuk’s Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	February 27, 2019 email with attachments	Vol. 50, 8677–8768
2	Declaration of Frank C. Gilmore in Support of Edward Bayuk’s Motion for New Trial (filed 04/26/2019)	Vol. 50, 8769–8771
3	February 27, 2019 email from Marcy Trabert	Vol. 50, 8772–8775
4	February 27, 2019 email from Frank Gilmore to <a href="mailto:eturner@Gtg.legal">eturner@Gtg.legal</a> RE: Friday Trial	Vol. 50, 8776–8777
Plaintiff’s Reply in Support of Application of Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 04/30/2019)		Vol. 50, 8778–8790
<b>Exhibit to Plaintiff’s Reply in Support of Application of Attorneys’ Fees and Costs Pursuant to NRCP 68</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Case No. BK-13-51237-GWZ, ECF Nos. 280, 282, and 321	Vol. 50, 8791–8835

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Plaintiff's Opposition to Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 05/07/2019)		Vol. 51, 8836–8858
Defendants, Salvatore Morabito, Snowshoe Petroleum, Inc., and Superpumper, Inc.'s Reply in Support of Motion for New Trial and/or to Alter or Amend Judgment Pursuant to NRCP 52, 59, and 60 (filed 05/14/2019)		Vol. 51, 8859–8864
Declaration of Edward Bayuk Claiming Exemption from Execution (filed 06/28/2019)		Vol. 51, 8865–8870
<b>Exhibits to Declaration of Edward Bayuk Claiming Exemption from Execution</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Copy of June 22, 2019 Notice of Execution and two Write of Executions	Vol. 51, 8871–8896
2	Declaration of James Arthur Gibbons Regarding his Attestation, Witness and Certification on November 12, 2005 of the Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 06/25/2019)	Vol. 51, 8897–8942
Notice of Claim of Exemption from Execution (filed 06/28/2019)		Vol. 51, 8943–8949
Edward Bayuk's Declaration of Salvatore Morabito Claiming Exemption from Execution (filed 07/02/2019)		Vol. 51, 8950–8954
<b>Exhibits to Declaration of Salvatore Morabito Claiming Exemption from Execution</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Las Vegas June 22, 2019 letter	Vol. 51, 8955–8956

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
2	Writs of execution and the notice of execution	Vol. 51, 8957–8970
	Minutes of June 24, 2019 telephonic hearing on Decision on Submitted Motions (filed 07/02/2019)	Vol. 51, 8971–8972
	Salvatore Morabito’s Notice of Claim of Exemption from Execution (filed 07/02/2019)	Vol. 51, 8973–8976
	Edward Bayuk’s Third Party Claim to Property Levied Upon NRS 31.070 (filed 07/03/2019)	Vol. 51, 8977–8982
	Order Granting Plaintiff’s Application for an Award of Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)	Vol. 51, 8983–8985
	Order Granting in part and Denying in part Motion to Retax Costs (filed 07/10/2019)	Vol. 51, 8986–8988
	Plaintiff’s Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5) (filed 07/11/2019)	Vol. 52, 8989–9003
	<b>Exhibits to Plaintiff’s Objection to (1) Claim of Exemption from Execution and (2) Third Party Claim to Property Levied Upon, and Request for Hearing Pursuant to NRS 21.112 and 31.070(5)</b>	
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Gabrielle A. Hamm, Esq.	Vol. 52, 9004–9007
2	11/30/2011 Tolling Agreement – Edward Bayuk	Vol. 52, 9008–9023
3	11/30/2011 Tolling Agreement – Edward William Bayuk Living Trust	Vol. 52, 9024–9035

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
4	Excerpts of 9/28/2015 Deposition of Edward Bayuk	Vol. 52, 9036–9041
5	Edward Bayuk, as Trustee of the Edward William Bayuk Living Trust’s Responses to Plaintiff’s First Set of Requests for Production, served 9/24/2015	Vol. 52, 9042–9051
6	8/26/2009 Grant Deed (Los Olivos)	Vol. 52, 9052–9056
7	8/17/2018 Grant Deed (El Camino)	Vol. 52, 9057–9062
8	Trial Ex. 4 (Confession of Judgment)	Vol. 52, 9063–9088
9	Trial Ex. 45 (Purchase and Sale Agreement, dated 9/28/2010)	Vol. 52, 9089–9097
10	Trial Ex. 46 (First Amendment to Purchase and Sale Agreement, dated 9/29/2010)	Vol. 52, 9098–9100
11	Trial Ex. 51 (Los Olivos Grant Deed recorded 10/8/2010)	Vol. 52, 9101–9103
12	Trial Ex. 52 (El Camino Grant Deed recorded 10/8/2010)	Vol. 52, 9104–9106
13	Trial Ex. 61 (Membership Interest Transfer Agreement, dated 10/1/2010)	Vol. 52, 9107–9114
14	Trial Ex. 62 (\$1,617,050.00 Promissory Note)	Vol. 52, 9115–9118
15	Trial Ex. 65 (Mary Fleming Grant Deed recorded 11/4/2010)	Vol. 52, 9119–9121
Notice of Entry of Order Denying Defendants’ Motions for New Trial and/or to Alter or Amend Judgment (filed 07/16/2019)		Vol. 52, 9122–9124

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibit to Notice of Entry of Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Defendants' Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)	Vol. 52, 9125–9127
Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/16/2019)		Vol. 52, 9128–9130
<b>Exhibit to Notice of Entry of Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Granting Plaintiff's Application for an Award of Attorneys' Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)	Vol. 52, 9131–9134
Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/16/2019)		Vol. 52, 9135–9137
<b>Exhibit to Notice of Entry of Order Granting in Part and Denying in Part Motion to Retax Costs</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)	Vol. 52, 9138–9141



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Plaintiff's Objection to Notice of Claim of Exemption from Execution Filed by Salvatore Morabito and Request for Hearing (filed 07/16/2019)		Vol. 52, 9142–9146
Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon (filed 07/17/2019)		Vol. 52, 9147–9162
<b>Exhibits to Reply to Objection to Claim of Exemption and Third Party Claim to Property Levied Upon</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	March 3, 2011 Deposition Transcript of P. Morabito	Vol. 52, 9163–9174
2	Mr. Bayuk's September 23, 2014 responses to Plaintiff's first set of requests for production	Vol. 52, 9175–9180
3	September 28, 2015 Deposition Transcript of Edward Bayuk	Vol. 52, 9181–9190
Reply to Plaintiff's Objection to Notice of Claim of Exemption from Execution (filed 07/18/2019)		Vol. 52, 9191–9194
Declaration of Service of Till Tap, Notice of Attachment and Levy Upon Property (filed 07/29/2019)		Vol. 52, 9195
Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 52, 9196–9199
<b>Exhibits to Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9200–9204

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
2	Bayuk and the Bayuk Trust's proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 52, 9205–9210
3	July 30, 2019 email evidencing Bayuk, through counsel Jeffrey Hartman, Esq., requesting until noon on July 31, 2019 to provide comments.	Vol. 52, 9211–9212
4	July 31, 2019 email from Teresa M. Pilatowicz, Esq. Bayuk failed to provide comments at noon on July 31, 2019, instead waiting until 1:43 p.m. to send a redline version with proposed changes after multiple follow ups from Plaintiff's counsel on July 31, 2019	Vol. 52, 9213–9219
5	A true and correct copy of the original Order and Bayuk Changes	Vol. 52, 9220–9224
6	A true and correct copy of the redline run by Plaintiff accurately reflecting Bayuk's proposed changes	Vol. 52, 9225–9229
7	Email evidencing that after review of the proposed revisions, Plaintiff advised Bayuk, through counsel, that Plaintiff agree to certain proposed revisions, but the majority of the changes were unacceptable as they did not reflect the Court's findings or evidence before the Court.	Vol. 52, 9230–9236
Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/2019)		Vol. 53, 9237–9240

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Objection to Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Plaintiff's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 53, 9241–9245
2	Defendant's comments on Findings of Fact	Vol. 53, 9246–9247
3	Defendant's Proposed Order Denying Claim of Exemption and Third-Party Claim	Vol. 53, 9248–9252
Minutes of July 22, 2019 hearing on Objection to Claim for Exemption (filed 08/02/2019)		Vol. 53, 9253
Order Denying Claim of Exemption (filed 08/02/2019)		Vol. 53, 9254–9255
Bayuk's Case Appeal Statement (filed 08/05/2019)		Vol. 53, 9256–9260
Bayuk's Notice of Appeal (filed 08/05/2019)		Vol. 53, 9261–9263
Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.'s, Case Appeal Statement (filed 08/05/2019)		Vol. 53, 9264–9269
Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.'s, Notice of Appeal (filed 08/05/2019)		Vol. 53, 9270–9273

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Defendants, Superpumper, Inc., Edward Bayuk, Salvatore Morabito; and Snowshoe Petroleum, Inc.'s, Notice of Appeal</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Findings of Fact, Conclusions of Law, and Judgment (filed 03/29/2019)	Vol. 53, 9274–9338
2	Order Denying Defendants’ Motions for New Trial and/or to Alter or Amend Judgment (filed 07/10/2019)	Vol. 53, 9339–9341
3	Order Granting in Part and Denying in Part Motion to Retax Costs (filed 07/10/2019)	Vol. 53, 9342–9345
4	Order Granting Plaintiff’s Application for an Award of Attorneys’ Fees and Costs Pursuant to NRCP 68 (filed 07/10/2019)	Vol. 53, 9346–9349
Plaintiff’s Reply to Defendants’ Objection to Plaintiff’s Proposed Order Denying Claim of Exemption and Third-Party Claim		Vol. 53, 9350–9356
Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)		Vol. 53, 9357–9360
Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim (filed 08/09/2019)		Vol. 53, 9361–9364
<b>Exhibit to Notice of Entry of Order Denying Claim of Exemption and Third-Party Claim</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Claim of Exemption and Third-Party Claim (08/09/2019)	Vol. 53, 9365–9369

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
Notice of Entry of Order Denying Claim of Exemption (filed 08/12/2019)		Vol. 53, 9370–9373
<b>Exhibit to Notice of Entry of Order Denying Claim of Exemption</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Claim of Exemption (08/02/2019)	Vol. 53, 9374–9376
Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/19/2019)		Vol. 54, 9377–9401
<b>Exhibits to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying Claim of Exemption and Third Party Claim (filed 08/09/19)	Vol. 54, 9402–9406
2	Spendthrift Trust Amendment to the Edward William Bayuk Living Trust (dated 11/12/05)	Vol. 54, 9407–9447
3	Spendthrift Trust Agreement for the Arcadia Living Trust (dated 10/14/05)	Vol. 54, 9448–9484
4	Fifth Amendment and Restatement of the Trust Agreement for the Arcadia Living Trust (dated 09/30/10)	Vol. 54, 9485–9524
5	P. Morabito's Supplement to NRCP 16.1 Disclosures (dated 03/01/11)	Vol. 54, 9525–9529

<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
6	Transcript of March 3, 2011 Deposition of P. Morabito	Vol. 55, 9530–9765
7	Documents Conveying Real Property	Vol. 56, 9766–9774
8	Transcript of July 22, 2019 Hearing	Vol. 56, 9775–9835
9	Tolling Agreement JH and P. Morabito (partially executed 11/30/11)	Vol. 56, 9836–9840
10	Tolling Agreement JH and Arcadia Living Trust (partially executed 11/30/11)	Vol. 56, 9841–9845
11	Excerpted Pages 8–9 of Superpumper Judgment (filed 03/29/19)	Vol. 56, 9846–9848
12	Petitioners' First Set of Interrogatories to Debtor (dated 08/13/13)	Vol. 56, 9849–9853
13	Tolling Agreement JH and Edward Bayuk (partially executed 11/30/11)	Vol. 56, 9854–9858
14	Tolling Agreement JH and Bayuk Trust (partially executed 11/30/11)	Vol. 56, 9859–9863
15	Declaration of Mark E. Lehman, Esq. (dated 03/21/11)	Vol. 56, 9864–9867
16	Excerpted Transcript of October 20, 2015 Deposition of Dennis C. Vacco	Vol. 56, 9868–9871
17	Assignment and Assumption Agreement (dated 07/03/07)	Vol. 56, 9872–9887
18	Order Denying Morabito's Claim of Exemption (filed 08/02/19)	Vol. 56, 9888–9890

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Errata to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration (filed 08/20/2019)		Vol. 57, 9891–9893
Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)		Vol. 57, 9894–9910
Errata to Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 08/30/2019)		Vol. 57, 9911–9914
<b>Exhibits to Errata to Plaintiff’s Opposition to Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs Pursuant to NRS 7.085</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Declaration of Gabrielle A. Hamm, Esq.	Vol. 57, 9915–9918
2	Plaintiff’s Amended NRCP 16.1 Disclosures (February 19, 2016)	Vol. 57, 9919–9926
3	Plaintiff’s Fourth Supplemental NRCP 16.1 Disclosures (November 15, 2016)	Vol. 57, 9927–9930
4	Plaintiff’s Fifth Supplemental NRCP 16.1 Disclosures (December 21, 2016)	Vol. 57, 9931–9934
5	Plaintiff’s Sixth Supplemental NRCP 16.1 Disclosures (March 20, 2017)	Vol. 57, 9935–9938

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs (filed 09/04/2019)		Vol. 57, 9939–9951
<b>Exhibits to Reply in Support of Motion to Make Amended or Additional Findings Under NRCP 52(b), or, In the Alternative, Motion for Reconsideration, and Countermotion for Fees and Costs</b>		
<b>Exhibit</b>	<b>Document Description</b>	
19	Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)	Vol. 57, 9952–9993
20	Notice of Submission of Disputed Order Denying Claim of Exemption and Third Party Claim (filed 08/01/19)	Vol. 57, 9994–10010
Order Denying Defendants’ Motion to Make Amended or Additional Findings Under NRCP 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff’s Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/2019)		Vol. 57, 10011–10019
Bayuk’s Case Appeal Statement (filed 12/06/2019)		Vol. 57, 10020–10026
Bayuk’s Notice of Appeal (filed 12/06/2019)		Vol. 57, 10027–10030



<b><u>DOCUMENT DESCRIPTION</u></b>		<b><u>LOCATION</u></b>
<b>Exhibits to Bayuk's Notice of Appeal</b>		
<b>Exhibit</b>	<b>Document Description</b>	
1	Order Denying [Morabito's] Claim of Exemption (filed 08/02/19)	Vol. 57, 10031–10033
2	Order Denying [Bayuk's] Claim of Exemption and Third Party Claim (filed 08/09/19)	Vol. 57, 10034–10038
3	Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCPC 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)	Vol. 57, 10039–10048
Notice of Entry of Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCPC 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 12/23/2019)		Vol. 57, 10049–10052
<b>Exhibit to Notice of Entry of Order</b>		
<b>Exhibit</b>	<b>Document Description</b>	
A	Order Denying Defendants' Motion to Make Amended or Additional Findings Under NRCPC 52(b), or, in the Alternative, Motion for Reconsideration and Denying Plaintiff's Countermotion for Fees and Costs Pursuant to NRS 7.085 (filed 11/08/19)	Vol. 57, 10053–10062
Docket Case No. CV13-02663		Vol. 57, 10063–10111

1 **2430**  
2 **FRANK C. GILMORE, ESQ. - NSB #10052**  
3 fgilmore@rbsllaw.com  
4 **Robison, Sharp, Sullivan & Brust**  
5 71 Washington Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 329-3151  
8 Facsimile: (775) 329-7169

9 Attorneys for Defendants

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

12 WILLIAM A. LEONARD, Trustee for the  
13 Bankruptcy Estate of Paul Anthony Morabito

CASE NO.: CV13-02663

DEPT. NO.: 4

14 Plaintiffs,

15 vs.

16 SUPERPUMPER, INC., an Arizona corporation;  
17 EDWARD BAYUK, individually and as Trustee  
18 of the EDWARD WILLIAM BAYUK LIVING  
19 TRUST; SALVATORE MORABITO, an  
20 individual; and SNOWSHOE PETROLEUM,  
21 INC., a New York corporation,

22 Defendants. /

23 **MOTION TO RETAX COSTS**

24 Defendants SUPERPUMPER, INC., EDWARD BAYUK, individually and as Trustee of  
25 the EDWARD WILLIAM BAYUK LIVING TRUST, SALVATORE MORABITO, and  
26 SNOWSHOE PETROLEUM, INC. (collectively, "Defendants") hereby bring their Motion to  
27 Retax the Memorandum of Costs and Disbursements filed by Plaintiff on April 11, 2019. This  
28 Motion is made and supporting by the following Memorandum of Points and Authorities and the  
pleadings and papers on file herein.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The Memorandum of Costs and Disbursements ("Memorandum") was untimely filed and

1 should be retaxed in its entirety. NRS 18.110 provides that “[t]he party in whose favor judgment is  
2 rendered, and who claims costs, must file with the clerk, and serve a copy upon the adverse party,  
3 within 5 days after the entry of judgment, or such further time as the court or judge may grant, a  
4 memorandum of the items of the costs in the action or proceeding . . . .” Judgment was entered on  
5 March 29, 2019. The Memorandum was filed on April 11, 2019, nine days after entry of the  
6 judgment. Accordingly, the Memorandum is untimely filed and must be retaxed in its entirety.

7           Additionally, the Memorandum seeks costs in excess of what the law provides. Plaintiff  
8 seeks to recover expert costs in excess of \$1,500 each. Plaintiff also seeks to recover expert costs  
9 for Ronald Buss, who was not presented at trial. Plaintiff seeks to recover a substantial amount for  
10 photocopies without presenting the court with evidence enabling the court to determine that those  
11 costs were reasonable, necessary, and actually incurred. *Cadle Co. v. Woods & Erickson, LLP*, 345  
12 P.3d 1049 (Nev. 2015).

13           Finally, Plaintiff seeks to recover costs for travel between Las Vegas (or Phoenix) and  
14 Reno, and lodging while Plaintiff’s counsel was in Reno. Plaintiff further seeks to recover postage  
15 costs for shipping trial materials between Las Vegas and Reno. There was no reason why Plaintiff  
16 could not have retained counsel in Washoe County; thus, the extra travel and shipping costs  
17 associated with Plaintiff’s choice to retain counsel in Las Vegas and Phoenix instead of Washoe  
18 County was not reasonable nor necessary and should be borne by Plaintiff and not by Defendants.

19 **II. LAW**

20           A memorandum of costs must be filed within five days after entry of the judgment, unless  
21 this Court has granted an extension of the time to bring the memorandum. NRS 18.110(1).  
22 Although the timing requirement is not jurisdictional, and this court has discretion to allow an  
23 untimely memorandum, the Plaintiff should show some cause or reason for the failure to file within  
24 the statutory time period. *Valladares v. DMJ, Inc.*, 110 Nev. 1291, 1293-94 (1994).

25           Pursuant to NRS 18.005, recoverable costs are defined only as: (1) Clerks’ fees, (2)  
26 Reporters’ fees for depositions, including a reporter’s fee for one copy of each deposition, (3)  
27 Jurors’ fees and expenses, together with reasonable compensation of an officer appointed to act in  
28 accordance with NRS 16.120, (4) Fees for witnesses at trial, pretrial hearings and deposing

1 witnesses, unless the court finds that the witness was called at the instance of the prevailing party  
2 without reason or necessity, (5) Reasonable fees of not more than five expert witnesses in an  
3 amount of not more than \$1,500 for each witness, unless the court allows a larger fee after  
4 determining that the circumstances surrounding the expert's testimony were of such necessity as to  
5 require the larger fee, (6) Reasonable fees of necessary interpreters, (7) The fee of any sheriff or  
6 licensed process server for the delivery or service of any summons or subpoena used in the action,  
7 unless the court determines that the service was not necessary, (8) Compensation for the official  
8 reporter or reporter pro tempore, (9) Reasonable costs for any bond or undertaking required as part  
9 of the action, (10) Fees of a court bailiff or deputy marshal who was required to work overtime,  
10 (11) Reasonable costs for telecopies, (12) Reasonable costs for photocopies, (13) Reasonable costs  
11 for long distance telephone calls, (14) Reasonable costs for postage, (15) Reasonable costs for  
12 travel and lodging incurred taking depositions and conducting discovery, (16) Fees charged  
13 pursuant to NRS 19.0335, (17) Any other reasonable and necessary expense incurred in connection  
14 with the action, including reasonable and necessary expenses for computerized services for legal  
15 research.

16 In order to award costs, this court must have before it evidence that the costs were  
17 reasonable, necessary, and actually incurred. *Cadle Co. v. Woods & Erickson, LLP*, 2015, 345  
18 P.3d 1049. "To support an award of costs, justifying documentation must be provided to the  
19 district court to 'demonstrate how such claimed costs were necessary to and incurred in the present  
20 action.'" *Matter of DISH Network Derivative Litig.*, 401 P.3d 1081, 1093 (citing *Bobby Berosini,*  
21 *Ltd. v. PETA*, 114 Nev. 1348, 1352-53, 971 P.2d 383, 386 (1998)). "Justifying documentation  
22 means "something more than a memorandum of costs." *Id.* (citing *Cadle Co. v. Woods & Erickson,*  
23 *LLP*, 345 P.3d 1049, 1054 (Nev. 2015).

24 **III. ARGUMENT**

25 **A. Plaintiff Filed an Untimely Memorandum and Has No Legitimate Justification**  
26 **nor Excuse for Doing So.**

27 Plaintiff filed an untimely Memorandum. NRS 18.110(1). The Memorandum should have  
28 been filed no later than April 5, 2019, which was five days after entry of the judgment (and notice

1 of entry of the judgment). Plaintiff has made no effort in its Memorandum to explain, justify, nor  
2 excuse the untimely filing. The Memorandum should be retaxed in its entirety.

3 Although the 5-day deadline is not jurisdictional, this court should not permit an untimely  
4 Memorandum where the lateness was caused by nothing more than lack of diligence. *Valladares v.*  
5 *DMJ, Inc.*, 110 Nev. 1291, 1294, 885 P.2d 580, 582 (1994). Plaintiff has not provided any reason  
6 in the Memorandum why he could not have filed a timely Memorandum. This Court should grant  
7 Defendants' Motion to Retax in its entirety.

8 **B. Plaintiff's Request for Expert Fees Were Not Reasonable Nor Supported By**  
9 **Sufficient Evidence.**

10 NRS 18.005(5) permits for recovery of "Reasonable fees of not more than five expert  
11 witnesses in an amount of not more than \$1,500 for each witness, unless the court allows a larger  
12 fee after determining that the circumstances surrounding the expert's testimony were of such  
13 necessity as to require the larger fee." Plaintiff seeks recovery of costs paid to three experts.  
14 Defendants move to retax the costs sought for only James McGovern and Ronald Buss.

15 The decision to award costs in excess of the allowed statutory amount must be supported by  
16 an "express, careful, and preferably written explanation of the courts' analysis of the factors  
17 pertinent to determining the reasonableness of the requested fees and whether 'the circumstances  
18 surrounding the experts' testimony were of such necessity to require the larger fee.'" See *Frazier*  
19 *v. Drake*, 131 Nev. Adv. Op. 64, 357 P.3d 365, 377-78 (Nev. App. 2015).

20 The factors set forth in *Frazier* include: (1) the importance of the expert's testimony to  
21 the party's case; (2) the degree to which the expert's opinion aided the trier of fact in deciding  
22 the case; (3) whether the expert's reports or testimony were repetitive of other expert witnesses;  
23 (4) the extent and nature of the work performed by the expert; (5) whether the expert had to  
24 conduct independent investigations or testing; (6) the amount of time the expert spent in court,  
25 preparing a report, and preparing for trial; (7) the expert's area of expertise; (8) the expert's  
26 education and training; (9) the fee actually charged to the party who retained the expert; (10) the  
27 fees traditionally charged by the expert on related matters; (11) comparable experts' fees charged  
28 in similar cases; and, (12) if an expert is retained from outside the area where the trial is held, the

1 fees and costs that would have been incurred to hire a comparable expert where the trial was  
2 held. *Id.*, 357 P.3d at 377-78.

3 *I. James McGovern*

4 Nevada law does not require a party to include additional documentation in the  
5 Memorandum to support “ordinarily incurred costs,” because of the trial court’s typical familiarity  
6 with the proceedings. *Brochu v. Foote Enterprises, Inc.*, 128 Nev. 884, 381 P.3d 596 (2012).  
7 However, when it comes to extraordinary costs, like a request for \$64,076.80 related to one expert,  
8 the Memorandum must include more specific evidence establishing that the request is reasonable,  
9 and the costs incurred were necessary. *Id.* “Determining such circumstances require[s] additional  
10 documentation beyond the memorandum and affidavit.” *Id.* (“the district court abused its  
11 discretion in awarding costs for UPS services, outside reproduction, lodging, air travel, parking,  
12 taxi services, and rental car expenses, and that it appropriately denied the costs for long distance  
13 phone calls, postage, and photocopies, because the reasonable value of these costs required  
14 documentation beyond the memorandum and accompanying affidavit.”).

15 Plaintiff has provided no detailed evidence to support a request for an increase in the  
16 standard \$1,500 cost for McGovern. Plaintiff merely verifies the amount sought for McGovern  
17 based on the invoices Plaintiff paid to McGovern. This is insufficient evidence to support an  
18 increase in the standard fee, and provides the court insufficient information to support a conclusion  
19 that circumstances surrounding McGovern’s fee was “of such necessity as to require the larger  
20 fee.” NRS 18.005(5).

21 Defendants have no way to evaluate whether McGovern had other tasks that he was asked  
22 to complete for Plaintiff which were not ultimately utilized in the Plaintiff’s case. Defendants  
23 should not be taxed with costs that were neither necessary to Plaintiff’s case, nor actually utilized.

24 Because Plaintiff has not provided sufficient evidence from which this Court could  
25 ascertain whether everything McGovern did was “reasonable, necessary, and actually incurred,”  
26 *Cadle*, 345 P.3d at 1049, this Court should retax the amounts sought related to James McGovern.

27 *2. Ronald Buss*

28 Ronald Buss was Plaintiff’s California real estate appraiser. Although the parties spent time

1 in discovery addressing the values of the various California real properties at issue, Plaintiff  
2 ultimately stipulated to Defendants' values of the properties before trial. See Stipulated Facts, ¶¶  
3 25, 27, filed October 29, 2018. Accordingly, Ronald Buss was not called as a witness at trial, and  
4 his opinions played no role in the trial nor the outcome of the case. Thus, the costs incurred for  
5 Ronald Buss were not necessary, and provided no benefit to the case. "Nevada law establishes that  
6 an expert must testify to recover more than \$1,500 in expert fees." *Pub. Employees' Ret. Sys. of*  
7 *Nevada v. Gitter*, 393 P.3d 673, 681 (Nev. 2017). Defendants request that the Court retax Mr.  
8 Buss' fee entirely as not being necessary to the action; or, at a minimum, this court must retax the  
9 amount sought to be no more than the standard \$1,500 for expert witnesses because Mr. Buss did  
10 not testify at trial.

11 **C. Plaintiff Seeks \$17,961.67 in Photocopy Costs Without Any Detailed Evidence**  
12 **to Support the Request.**

13 Plaintiff's Memorandum, which seeks \$17,961.67 in photocopy costs, requires "additional  
14 documentation beyond the memorandum and affidavit." *Brochu v. Foote Enterprises, Inc.*, 128  
15 Nev. 884, 381 P.3d 596 (2012). Defendants have been provided nothing except an undetailed  
16 ledger for photocopies which provides dates and the amounts incurred. No information is provided  
17 as to the per-page price, whether the copies were made in-house or out-sourced, or as to whether  
18 they were *actually* incurred. Plaintiff had no apparent constraints on its litigation budget, and  
19 undoubtedly pursued discovery and other strategies which were not actually and necessarily utilized  
20 in the trial. Without more evidence as to the basis for the \$17,961.67 in photocopy costs, this Court  
21 cannot determine whether each of those copies were actually, necessarily, and reasonably incurred.

22 **D. Plaintiff Chose to Employ Out-of-Town Counsel and Should be Responsible for**  
23 **Paying the Extra Costs Associated Therewith.**

24 Of the \$5,184.05 that Plaintiff seeks in costs related to the "reasonable costs of postage"  
25 (NRS 18.005(14)), at least \$4,152.17 represents costs associated with shipping boxes and  
26 documents to and from Reno from Plaintiff's counsel's offices in Las Vegas or Phoenix.

27 Of the \$15,059.78 in travel, lodging, and *per diem* sought pursuant to "other reasonable and  
28 necessary expense incurred in connection with the action" (NRS 18.005(17)), the *entire* amount

1 arises from costs incurred only because Plaintiff retained out-of-town counsel. For example,  
2 counsel located in Northern Nevada would not be required to incur \$711.96 in airfare to attend a  
3 single hearing, nor would local counsel incur \$1,591 in hotel costs for trial. The costs associated  
4 with Plaintiff's choice to retain out-of-town counsel should be borne exclusively by Plaintiff and  
5 not by Defendants. Moreover, Plaintiff seeks costs associated with the travel, lodging, and meals  
6 for three attorneys that traveled to Reno for the trial, despite the fact that the case could have been  
7 tried by one attorney, and Plaintiff's other two attorneys were only passively involved.

8 While Plaintiff surely had the right to select counsel of its choice, the \$19,211.95 in travel  
9 and postage costs sought by Plaintiff were not necessarily nor reasonably incurred, because those  
10 costs would have been avoided had Plaintiff retained local counsel to litigate the case.

11 Accordingly, Defendants request the Court retax the Memorandum in the amount of  
12 \$19,211.95, which were costs associated with Plaintiff's out-of-town counsel.

#### 13 **IV. CONCLUSION**

14 The Memorandum is untimely. It should be retaxed in its entirety. Plaintiff cannot excuse  
15 the untimeliness except through his own dilatory conduct.

16 Even if the Court does not grant this Motion based on the untimeliness of the  
17 Memorandum, the Memorandum should be retaxed to reduce: (1) James McGovern to \$1,500; (2)  
18 Ronald Buss to \$0; (3) all of the \$17,961.67 in photocopy costs; (4) \$5,184.05 in postage, and (5)  
19 all of the \$15,059.78 in out-of-town counsel's travel, lodging, and *per diem* costs.

#### 20 **AFFIRMATION** 21 **Pursuant to NRS 239B.030**

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

24 DATED this 15<sup>th</sup> day of April, 2019.

25 ROBISON, SHARP, SULLIVAN & BRUST  
26 71 Washington Street  
27 Reno, Nevada 89503

28 /s/ Frank C. Gilmore  
FRANK C. GILMORE, ESQ.  
Attorneys for Defendants



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCPC 5(b), I certify that I am an employee of Robison, Sharp, Sullivan &  
3 Brust, and that on this date I caused to be served a true copy of the **MOTION TO RETAX**  
4 **COSTS** all parties to this action by the method(s) indicated below:

5  by placing an original or true copy thereof in a sealed envelope, with  
6 sufficient postage affixed thereto, in the United States mail at Reno,  
7 Nevada, addressed to:

8 Edward Bayuk  
9 668 North Coast Hwy, #517  
10 Laguna Beach, CA 92651

11  by using the Court's CM/ECF Electronic Notification System addressed to:

12 Gerald Gordon, Esq.  
13 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
14 Mark M. Weisenmiller, Esq.  
15 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
16 Teresa M. Pilatowicz, Esq.  
17 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
18 Erika Pike Turner, Esq.  
19 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

20 \_\_\_\_\_ by email addressed to:

21 Gerald Gordon, Esq.  
22 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
23 Mark M. Weisenmiller, Esq.  
24 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
25 Teresa M. Pilatowicz, Esq.  
26 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
27 Erika Pike Turner, Esq.  
28 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

DATED: This 15<sup>th</sup> day of April, 2019.



1 **2645**  
2 GARMAN TURNER GORDON LLP  
3 ERIKA PIKE TURNER, ESQ.  
4 Nevada Bar No. 6454  
5 E-mail: eturner@gtg.legal  
6 TERESA M. PILATOWICZ, ESQ.  
7 Nevada Bar No. 9605  
8 E-mail: tpilatowicz@gtg.legal  
9 GABRIELLE A. HAMM, ESQ.  
10 Nevada Bar No. 11588  
11 E-mail: ghamm@gtg.legal  
12 650 White Drive, Ste. 100  
13 Las Vegas, Nevada 89119  
14 Telephone 725-777-3000  
15 *Counsel to Plaintiff*

16 **IN THE SECOND JUDICIAL DISTRICT COURT OF**  
17 **THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**

18 WILLIAM A. LEONARD, Trustee for the  
19 Bankruptcy Estate of Paul Anthony  
20 Morabito,

21 Plaintiff,

22 vs.

23 SUPERPUMPER, INC., an Arizona  
24 corporation; EDWARD BAYUK,  
25 individually and as Trustee of the EDWARD  
26 WILLIAM BAYUK LIVING TRUST;  
27 SALVATORE MORABITO, and individual;  
28 and SNOWSHOE PETROLEUM, INC., a  
New York corporation,

Defendants.

CASE NO.: CV13-02663

DEPT. NO.: 4

**PLAINTIFF'S OPPOSITION TO MOTION  
TO RETAX COSTS**

Plaintiff William A. Leonard ("Plaintiff") by and through counsel, the law firm of Garman Turner Gordon LLP ("GTG"), hereby files his opposition (the "Opposition") to the *Motion to Retax Costs* (the "Motion") filed by Defendants Salvatore Morabito, Superpumper, Inc. (Superpumper") and Snowshoe Petroleum, Inc. (collectively, the "Defendants").

This Application is made and based on the following Memorandum of Points and Authorities and supporting exhibits, including the declaration of Teresa M. Pilatowicz (the "Pilatowicz Declaration") attached hereto as **Exhibit 1** and supporting exhibits; Plaintiff's

1 Memorandum of Costs (the “Memorandum”), a copy of which was filed with the court on April  
2 11, 2019; the other papers and pleadings already on file herein; and any oral argument of counsel  
3 that may be permitted at the hearing of this matter.

4 Dated this 17th day of April, 2019.

5 GARMAN TURNER GORDON LLP

6 /s/ Teresa M. Pilatowicz  
7 ERIKA PIKE TURNER, ESQ.  
8 TERESA M. PILATOWICZ, ESQ.  
9 GABRIELLE A. HAMM, ESQ.  
650 White Drive, Ste. 100  
Las Vegas, Nevada 89119  
Telephone 725-777-3000  
10 *Special Counsel for Trustee*  
11

12  
13 **I.**  
**INTRODUCTION**

14 The litigation in this matter spanned five years and ultimately resulted in a judgment in  
15 excess of \$13 million against Defendants. The road to the judgment was long, requiring years of  
16 discovery, multiple discovery-related motions filed as a result of Defendants’ bad acts, an eight-  
17 day bench trial, and post-trial matters, again necessitated by Defendants’ bad acts. Defendants  
18 now object to the reasonable costs necessarily incurred by Plaintiff in pursuing Defendants.  
19 Defendants’ objections can be separated into four categories: (1) the timing of the filing of the  
20 Memorandum; (2) the costs incurred for two of Plaintiff’s valuation experts; (3) the costs incurred  
21 for photocopying; and (4) the costs associated with retaining non-Reno counsel. However, at no  
22 point do Defendants actually seek to demonstrate, by affidavit, declaration, or otherwise, that the  
23 costs were unreasonable or that they were not actually and necessarily incurred by Plaintiff in his  
24 prosecution of the case, which is the review the statute requires. Instead, Defendants essentially  
25 seek additional documentation which, although Plaintiff believes is in excess of what is required,  
26 Plaintiff is providing herewith. Based on all information on file the Court, Defendants have not  
27 and cannot rebut Defendants’ statutory entitlement to costs as the prevailing party. Plaintiff’s  
28 requests for costs must be granted.

**II.**  
**ARGUMENT AND ANALYSIS**

**A. ALL OF PLAINTIFF’S COSTS ARE REASONABLE, NECESSARY, AND ACTUALLY INCURRED.**

Pursuant to NRS 18.005, costs must be reasonable. “Reasonable costs” must be actual, “rather than a reasonable estimate or calculation of such costs. . .” *Bobby Berosini, Ltd v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383, 386 (1998)(quoting *Gibellini v. Klindt*, 110 Nev. 1201, 1206, 885 P.2d 40, 543; see also *Village Builders 96, L.P. v. U.S. Laboratories, Inc.*, 121 Nev. 261, 112 P.3d 1082, 1093 (2005) (recognizing that costs must be actually incurred by the prevailing party). While the district court has broad discretion in determining the reasonableness of the amounts and the items of costs to be awarded, the party seeking to retax costs bears the burden of showing that the claimed costs are not authorized and/or an unreasonable amount; otherwise, the Nevada Supreme Court will not presume error in the exercise of discretion in awarding costs. *Schwartz v. Estate of Greenspun*, 110 Nev. 1042, 1048-49, 881 P.2d 638, 643-44 (1994).

Plaintiff has provided support to show that the costs incurred were actually incurred and were reasonable and necessary in the prosecution of the case. Specifically, Plaintiff provided a ledger of costs providing a breakdown of all costs with dates incurred, amounts incurred, and a description of the purpose of the cost. Plaintiff further submitted a declaration of counsel confirming that the costs listed were necessarily incurred in the action. With this Opposition, Plaintiff provides even further documentation. By contrast, Defendants have not met their burden to show that Plaintiff’s requested costs were unauthorized, unreasonable, or not necessarily incurred. Therefore, the Motion should be denied.

**B. PLAINTIFF’S MEMORANDUM, EVEN IN FILED UNTIMELY, SHOULD NOT BE SUMMARILY RETAXED BECAUSE NO UNDUE PREJUDICE IS ALLEGED.**

Plaintiff filed the Memorandum on April 11, 2018. Defendants contend that the Memorandum is four business day late. However, as Defendants acknowledge, even if they are correct, the 5-day time period established in NRS 18.110 is not jurisdictional and there was no undue delay in the filing. See Motion, at p. 4, ll. 3-7; see also *Eberle v. State ex rel. Nell J. Redfield*

1 *Trust*, 108 Nev. 587, 836 P.2d 67 (1992), *Franchise Tax Bd. of Cal. V. Hyatt*, 130 Nev. 662, 335  
2 P.3d 125 (2014), *vacated on other grounds at* 136 S. Ct. 1277 (2016). Furthermore, as the Nevada  
3 Supreme Court noted in *Eberle* and pursuant to NRS 18.110, the Court has discretion, which will  
4 not be disturbed absent a showing of abuse, to extend the five-day deadline, even after the  
5 Memorandum has been filed. *Eberle v. State ex rel. Nell J. Redfield Trust*, 108 Nev. at 590, 836  
6 P.2d at 69 (“the district court either considered the motion to be timely, or impliedly granted  
7 respondents additional time within which to move for expert witness fees and costs. In either case,  
8 the district court’s exercise of discretion to reach the merits of the motion will not be disturbed on  
9 appeal.”).

10 Even if untimely, the delay in filing was for good cause. Plaintiff filed the Memorandum  
11 in conjunction with Plaintiff’s timely application for an award of fees and costs under Nevada Rule  
12 of Civil Procedure (“Rule”) 68 (the “Rule 68 Motion”), which was filed on April 12, 2019 (one  
13 week ahead of the deadline pursuant to the Rule 68). Plaintiff believed (perhaps erroneously) that  
14 the five days under NRS 18.110 for a Memorandum was not applicable because, in order to  
15 determine Plaintiff’s entitlement to fees and costs, the Court needed to first review the Rule 68  
16 Motion. Specifically, given that the parties propounded offers of judgment on one another during  
17 the course of the litigation, it was believed the determination of whether Plaintiff is entitled to  
18 costs under NRS 18.020 as the “prevailing party” is properly determined in a proceeding under  
19 Rule 68. Specifically, Rule 68(3) provides that evidence of an offer of judgment is not admissible  
20 except in “a proceeding to determine costs, expenses and fees.” Rule 68(g) then provides that the  
21 penalty for rejection of Plaintiff’s prior offer requires the Court to compare the amount of the  
22 Plaintiff’s prior offer of judgment that was rejected by Defendants, together with pre-offer taxable  
23 costs, expenses, interest and fees with the amount of the judgment in determining the extent of the  
24 penalty. Thus, as a condition of establishing a right to costs under NRS 18.020, Plaintiff believed  
25 that he was required to both lodge the offer of judgment with the Court and discuss pre-offer  
26 taxable costs.

27 Furthermore, the case on which Defendants rely, *Valladares v. DJM, Inc.*, 110 Nev. 1291,  
28 885 P.2d 580 (1994), differs substantially from the facts of this case. In *Valladares*, the prevailing

1 party sought to amend their memorandum of costs to include an expert bill received after the  
2 deadline. *See id.* at 582, 885 P.2d at 1293. The Court ultimately found that the district court did  
3 not abuse its discretion in denying a motion to amend the memorandum of costs because the party  
4 seeking to amend did not seek to do so until twenty-nine days after receiving the bill. *See id.*, 885  
5 P.2d at 1294. Here, the short delay of four business days, even if erroneous, caused no prejudice  
6 to Defendants and is not a basis to deny Plaintiff’s costs in their entirety

7 Under any circumstance, if Plaintiff mis-calculated the deadline, Plaintiff apologizes for  
8 the error and respectfully requests that the Court extend the five-day deadline through and  
9 including April 11, 2019 pursuant to NRS 18.110 and excuse the nominal four business day  
10 delay, especially as it was not shown to have caused any prejudice to Defendants

11 **C. DEFENDANTS’ PHOTOCOPY CHARGES WERE REASONABLY INCURRED**  
12 **IN CONNECTION WITH THE PROSECUTION OF THE CASE.**

13 NRS 18.005(12) permits reasonable costs for photocopies. Defendants contend that they  
14 were unable to determine whether the photocopy costs were actual and necessary. Initially,  
15 attached as Exhibit “1” to the Memorandum was a breakdown of the photocopies incurred. As  
16 indicted in the Memorandum, unless otherwise indicated, the photocopies were incurred at .25 per  
17 page which is standard in the legal industry for in-house copying. Furthermore, in addition to the  
18 breakdown by charge, undersigned counsel attested that the fees were necessarily incurred.

19 For the avoidance of any doubt, however, attached hereto as **Exhibit 2** is a further  
20 explanation of the items for which the charges were incurred, including copies of the third party  
21 invoices for such costs if they were not done in-house.<sup>1</sup> As demonstrated in **Exhibit 2**, the costs  
22 were primarily incurred in preparing working binders with the substantial discovery produced in  
23 this matter, pleadings, documents for depositions, and trial binders and exhibits. As such, they  
24 were necessarily incurred in the prosecution of the case. Although Plaintiff submits that its initial  
25 breakdown was sufficient for approval of the photocopy costs incurred, with the further  
26 information included in **Exhibit 2**, there is no question that Defendants’ request to retax costs

27 <sup>1</sup> The total requested costs for photocopying has been reduced by \$189.50 based on the removal of two entries.  
28 Furthermore, as Plaintiff’s records omit detailed descriptions for \$108.25 in photocopying costs as noted on Exhibit  
2, Plaintiff will further agree to a voluntary reduction of \$108.25.

1 relating to photocopying should be denied.

2 **D. THE FEES INCURRED FOR PLAINTIFF'S EXPERTS WERE REASONABLY**  
3 **INCURRED AND ARE REASONABLE UNDER THE CIRCUMSTANCES OF**  
4 **THIS CASE.**

5 Defendants object to the fees associated with two experts: James McGovern and Ronald  
6 Buss. This case focused heavily on the valuations associated with certain assets. Both experts  
7 were critical in aiding in determination of the proper values. Here, given the complexity of this  
8 matter and the over \$13 million in dispute, and the facts that both experts were necessary in  
9 prosecuting the case and reimbursement is sought for actual fees incurred and paid, the  
10 circumstances justify a fee of more than \$1,500 for each expert witness.

11 **1. James McGovern**

12 As set forth in the Motion, the Nevada Supreme Court case of *Frazier v. Drake*, sets  
13 forth the following factors for the Court to consider when determining whether an expert's  
14 fees can be in excess of \$1,500:

- 15 (1) the importance of the expert's testimony to the party's case; (2)  
16 the degree to which the expert's opinion aided the trier of fact in  
17 deciding the case; (3) whether the expert's reports or testimony were  
18 repetitive of other expert witnesses; (4) the extent and nature of the  
19 work performed by the expert; (5) whether the expert had to conduct  
20 independent investigations or testing; (6) the amount of time the  
21 expert spent in court, preparing a report, and preparing for trial; (7)  
22 the expert's area of expertise; (8) the expert's education and training;  
23 (9) the fee actually charged to the party who retained the expert; (10)  
24 the fees traditionally charged by the expert on related matters; (11)  
25 comparable experts' fees charged in similar cases; and, (12) if an  
26 expert is retained from outside the area where the trial is held, the  
27 fees and costs that would have been incurred to hire a comparable  
28 expert where the trial was held

29 See Rule 68 Motion, at 4-5 (citing *Frazier v. Drake*, 131 Nev. Adv. Op. 64, 357 P.3d 365, 377-78  
30 (Nev. App. 2015)).

31 Mr. McGovern graduated with a degree in accounting in 1985 from Marquette University.  
32 He is a certified public accountant (since 1987), certified in financial forensics (since 2008), and a  
33 certified valuation analyst (since 2008). Mr. McGovern has worked as both a consultant and expert  
34 witness for law firms, corporations, governmental and law enforcement agencies on matters

1 involving complex financial and economic damage issue. Mr. McGovern's CV is attached hereto  
2 as **Exhibit 3**. Mr. McGovern charged his normal hourly rate in connection with this case. As set  
3 forth in the Pilatowicz affidavit filed with the Memorandum, Mr. McGovern's fees are typical of  
4 an expert with his education and experience, and consistent with hourly rates charged for valuation  
5 experts.

6 Mr. McGovern was a critical expert in the prosecution of this case. He was the sole expert  
7 for Plaintiff to opine on the valuation of Superpumper, and countered Defendants' expert who  
8 contended that the value of Superpumper was less than 1/5<sup>th</sup> of Mr. McGovern's conclusion. The  
9 valuation of Superpumper at the time of the fraudulent transfer was an essential issue in this matter.  
10 Ultimately, the Court relied on the testimony of Mr. McGovern, so it cannot be disputed that it  
11 was of significant help to the trier of fact. As Plaintiff's only expert on the Superpumper valuation,  
12 his testimony was not repetitive. As evidenced by his invoices, McGovern spent significant time  
13 preparing the report preparing for trial. The time was appropriate as, particularly given that the  
14 valuation was a retrospective analysis, preparation of Mr. McGovern's opinion required reviewing  
15 substantial financial documents, other information on Superpumper's assets, and testimony.

16 Mr. McGovern's fees were absolutely necessary in order to provide this Court appropriate  
17 evidence relating to the value of Superpumper at the time of the transfer. To the extent that there  
18 is any doubt that the fees incurred by Mr. McGovern were reasonable and necessary, Plaintiff has  
19 attached hereto as **Exhibit 4** Mr. McGovern's invoices for this matter.<sup>2</sup> As Mr. McGovern's fees  
20 were necessarily incurred in connection with completing a valuation of Superpumper and  
21 providing testimony on the same, they should be allowed in excess of \$1,500.

## 22 **2. Ronald Buss**

23 Defendants seek disallowance of Ronald Buss' fees, relying on *PERS of Nevada v. Gitter*,  
24 133 Nev. 126, 393 P.3d 673 (Nev. 2017), solely based on the fact that he did not testify. However,  
25

26 <sup>2</sup> The total amount of invoices reflect a total billed of \$65,180.91. However, \$2,800 was previously paid by Defendants  
27 as it was incurred in deposing Mr. McGovern. Therefore, the total expert fees on behalf of Mr. McGovern is  
28 \$62,380.91. There appears to have been a \$1,695.89 discrepancy in the invoices and the amounts included in the  
Memorandum. For the avoidance of doubt, the total amount for Mr. McGovern is \$62,380.91, which makes the total  
sought for the three experts \$75,505.90.



1 In *Gitter*, the expert was a non-testifying consultant who was never disclosed and never filed  
2 an expert report. 393 P.3d at 680-81. Even there, the Court there held that “[w]ith respect to  
3 cases in which the expert acts only as a consultant and does not testify, however, district courts  
4 may award \$1,500 or less, so long as the district court finds such costs constitute ‘reasonable  
5 fees.’” *Id.* at 681. Here, Mr. Buss completed an appraisal, was disclosed as an expert, and was  
6 deposed by Defendants. Therefore, *Gitter* is inapplicable and does not provide a basis for the court  
7 to disallow costs actually and necessarily incurred in excess of \$1,500.

8 Ultimately, as a result of the work performed by Buss, the parties stipulated to value on the  
9 four subject California properties, narrowing the disputed issues before trial. Plaintiff could not  
10 have done that without hiring his own expert witness to evaluate the valuations provided by  
11 Defendants. The cost of obtaining his opinion was therefore necessarily and actually incurred. For  
12 the avoidance of any doubt that the costs were necessarily incurred and reasonable, Mr. Buss’s  
13 invoices are attached hereto as **Exhibit 5**.

14 **E. PLAINTIFF WAS ENTITLED TO RETAIN NON-LOCAL COUNSEL AND THE**  
15 **COSTS ASSOCIATED THEREWITH WERE REASONABLE AND**  
16 **NECESSARILY INCURRED.**

17 Pursuant to NRS 18.110(1), the relevant inquiry for approval of costs, and required  
18 verification from counsel, is whether the items are correct, and that the costs have necessarily been  
19 incurred in the action or proceeding. NRS 18.110(1). Here, that inquiry requires the conclusion  
20 that the costs associated related to travel and shipping should be approved.

21 When the case commenced, the plaintiffs were comprised of judgment creditors, JH Inc.,  
22 Jerry Herbst, and Berry Hinckley Industries (the “Judgment Creditors”). Garman Turner Gordon’s  
23 (“GTG”) predecessor law firm of Gordon Silver represented the Judgment Creditors. Subsequent  
24 to the bankruptcy of judgment debtor Paul Morabito, Plaintiff retained Gordon Silver as his special  
25 counsel in order to avoid duplication of efforts by different counsel. Gordon Silver initially had  
26 offices in Reno. However, upon the closing of Gordon Silver, Plaintiff opted to keep the case with  
27 Gerald Gordon, who had opened the law firm of GTG. GTG is and was Plaintiff’s choice of  
28 counsel. While Plaintiff could have sought new and different counsel in Reno or prosecuted the

1 case with his primary bankruptcy counsel of John Murtha of Woodburn & Wedge, located in Reno,  
2 Plaintiff believes that doing so would have resulted in significantly more in fees in bringing new  
3 counsel up to speed on the voluminous documents and testimony than retaining prior counsel. This  
4 savings is believed to be significantly greater than the costs of travel for hearings and trial that were  
5 necessarily incurred. Relatedly, the fact that GTG was the correct choice as counsel is evidenced  
6 by GTG's ability to ultimately prevail against Defendants on Plaintiff's claims.

7 Similarly, the costs associated with shipping were, in large part, a result of Plaintiff's  
8 delivery of trial binders to and from trial. As this Court is aware, there were significant amounts  
9 of documentary evidence in this case. The costs incurred to present such evidence at trial were  
10 obviously necessary in the prosecution of the claims during trial and reasonably and actually  
11 incurred. As such, the expenses are properly requested in the Memorandum and should be taxed.

12 **IV.**  
13 **CONCLUSION**

14 Based on the foregoing, Plaintiff respectfully requests that Defendants' Motion be denied  
15 and that Plaintiff be awarded its reasonable and necessary costs incurred as set forth in the  
16 Memorandum. Plaintiff further requests such other relief as the Court deems just and proper.

17 Dated this 17th day of April, 2019.

18 GARMAN TURNER GORDON LLP

19 /s/ Teresa Pilatowicz  
20 ERIKA PIKE TURNER, ESQ.  
21 TERESA M. PILATOWICZ, ESQ.  
22 GABRIELLE A. HAMM, ESQ.  
23 650 White Drive, Ste. 100  
24 Las Vegas, Nevada 89119  
25 Telephone 725-777-3000  
26 *Counsel for Plaintiff*

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**AFFIRMATION**

**Pursuant to NRS 239B.030**

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

Dated this 17th day of April, 2019.

GARMAN TURNER GORDON LLP

/s/ Teresa Pilatowicz  
ERIKA PIKE TURNER, ESQ.  
TERESA M. PILATOWICZ, ESQ.  
GABRIELLE A. HAMM, ESQ.  
650 White Drive, Ste. 100  
Las Vegas, Nevada 89119  
Telephone 725-777-3000  
*Counsel for Plaintiff*

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## INDEX OF EXHIBITS

<b>Exhibit</b>	<b>Description</b>	<b>Pages<sup>3</sup></b>
1	Declaration of Teresa M. Pilatowicz In Support of Opposition to Motion to Retax Costs	2
2	Summary of Photocopy Charges	12
3	McGovern CV	6
4	McGovern Invoices	21
5	Buss Invoices	2

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<sup>3</sup> Exhibit pagination excludes exhibit slip sheets.

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of GARMAN TURNER GORDON LLP, and that on this  
3 date, pursuant to NRCP 5(b), I am serving a true and correct copy of the foregoing **PLAINTIFF’S**  
4 **OPPOSITION TO MOTION TO RETAX COSTS** on the parties as set forth below:

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

7 Edward Bayuk, individually and as Trustee for the  
8 Edward William Bayuk Living Trust dated August 13, 2009  
668 N. Pacific Coast Highway, #517  
9 Laguna Beach, CA 92651

10 Edward Bayuk, individually and as Trustee for the  
11 Edward William Bayuk Living Trust dated August 13, 2009  
12 371 El Camino Del Mar  
13 Laguna Beach, CA 92651

14  Certified Mail, Return Receipt Requested

15  Via Facsimile (Fax)

16  Via E-Mail

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

19  Federal Express (or other overnight delivery)

20  By using the Court’s CM/ECF Electronic Notification System addressed to:

21 Frank C. Gilmore, Esq.  
22 E-mail: [fgilmore@rssblaw.com](mailto:fgilmore@rssblaw.com)

23 Dated this 17th day of April, 2019.

24 /s/ Kelli Wightman  
25 An Employee of GARMAN TURNER  
26 GORDON LLP  
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# Exhibit 1

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**1520**  
GARMAN TURNER GORDON LLP  
ERIKA PIKE TURNER, ESQ.  
Nevada Bar No. 6454  
E-mail: eturner@gtg.legal  
TERESA M. PILATOWICZ, ESQ.  
Nevada Bar No. 9605  
E-mail: tpilatowicz@gtg.legal  
GABRIELLE A. HAMM, ESQ.  
Nevada Bar No. 11588  
E-mail: ghamm@gtg.legal  
650 White Drive, Ste. 100  
Las Vegas, Nevada 89119  
Telephone 725-777-3000  
*Counsel to Plaintiff*

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

WILLIAM A. LEONARD, Trustee for the  
Bankruptcy Estate of Paul Anthony  
Morabito,

Plaintiff,

vs.

SUPERPUMPER, INC., an Arizona  
corporation; EDWARD BAYUK,  
individually and as Trustee of the EDWARD  
WILLIAM BAYUK LIVING TRUST;  
SALVATORE MORABITO, and individual;  
and SNOWSHOE PETROLEUM, INC., a  
New York corporation,

Defendants.

**CASE NO.: CV13-02663**

**DEPT. NO.: 4**

**DECLARATION OF TERESA M.  
PILATOWICZ IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO MOTION  
TO RETAX COSTS**

I, Teresa M. Pilatowicz, state that:

1. I am over the age of eighteen (18) years and competent to testify on the matters set forth herein.
2. At all relevant times, I have been of counsel with the law firm of Garman Turner Gordon LLP ("GTG"), counsel for Plaintiff William A. Leonard ("Plaintiff"). In such capacity, I have direct and personal knowledge of the matters set forth herein and know them to be true.

1           3. I am submitting this Declaration in support of *Plaintiff's Opposition to Motion to*  
2 *Retax Costs* (the "Motion").

3           4. Except as otherwise indicated, all of the facts set forth in this Declaration are based  
4 upon my personal knowledge of GTG's operations and finances, information learned from my  
5 review of relevant documents, and information supplied to me by other employees of the firm. If  
6 called upon to testify as to the content of this Declaration, I could and would do so.

7           5. Attached to the Opposition **Exhibit "2"** is a further explanation of the items for  
8 which the charges were incurred, including copies of the third party invoices for such costs if they  
9 were not done in-house.

10           6. The total requested costs for photocopying has been reduced by \$189.50 based on  
11 the removal of two entries. Furthermore, as Plaintiff's records omit detailed descriptions for  
12 \$108.25 in photocopying costs as noted on Exhibit "2," Plaintiff will further agree to a voluntary  
13 reduction of \$108.25.

14           7. As demonstrated in **Exhibit "2,"** the costs were primarily incurred in copying  
15 working binders with the substantial discovery produced in this matter, pleadings, documents for  
16 depositions, and trial binders and exhibits. As such, they were necessarily incurred in the  
17 prosecution of the case.

18           8. Attached to the Motion as **Exhibit "4"** are Mr. McGovern's invoices for this matter.

19           9. Attached to the Motion as **Exhibit "5"** are Mr. Buss's invoices for this matter. The  
20 \$1,750 invoice amount reflected on the March 23, 2016 invoice was separately billed to  
21 Defendants for fees incurred for the expert deposition. The amount is not being sought through  
22 the Memorandum.

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

25                       Executed this 17th day of April, 2019.

26                                                                       /s/ Teresa Pilatowicz  
27                                                                       TERESA M. PILATOWICZ



# Exhibit 2

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
Reasonable costs for photocopies.				
	12/31/2015	Photocopies	\$ 11.25	45
	1/31/2016	Photocopies	\$ 11.25	45
	2/29/2016	Photocopies	\$ 21.50	86
	3/29/2016	Photocopies	\$ 47.25	189
	4/5/2016	BBVA Compass - Invoice #03-16-0512 - Copies of Bank records	\$ 435.00	N/A
	4/29/2016	Photocopies - Copies of Discovery Documents for Binders	\$ 1,189.47	4758
	5/31/2016	Photocopies - Copies of Discovery Documents for Binders	\$ 19.00	76
	6/30/2016	Photocopies - Copies of Discovery Documents for Binders	\$ 28.75	115
	7/15/2016	Photocopies -Copies of Discovery Documents for Binders	\$ 4.50	18
	7/22/2016	Chapman, Glucksman, Dean, Roeb & Barger - copies of documents produced by Stanton Bernstein pursuant to the Trustee's discovery	\$ 2,896.24	N/A
	9/12/2016	Photocopies - Second Stipulation Motion to Continue Trial	\$ 3.00	12
	11/8/2016	The Litigation Document Group - Invoice #16-11036 - Blowbacks, 3-Hole Drill, Slip Sheets, 3" 3-ring binders	\$ 424.33	N/A
	11/10/2016	Photocopies - Copies of Discovery Documents for Binders	\$ 77.50	310
	11/15/2016	Photocopies - mailing labels - Fourth Supplemental Disclosure	\$ 1.00	4
	11/21/2016	Photocopies - Copies for Discovery Working Binders	\$ 604.50	2418
	11/21/2016	Photocopies - Copies for Discovery Working Binders	\$ 536.75	2147
	11/28/2016	Photocopies - RBSL Discovery Docs	\$ 18.50	74
	11/29/2016	Photocopies - Bayuk Discovery Docs	\$ 7.00	28
	11/30/2016	Photocopies - Deposition Docs - Dennis Vacco	\$ 7.50	30
	11/30/2016	Litigation Document Group - Invoice #16-11168 - Copies, Tabs, Binders	\$ 666.15	N/A
	12/8/2016	Photocopies - Discovery Working Binders	\$ 7.50	30
	12/14/2016	Photocopies -Discovery Working Binders	\$ 3.75	15

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
	12/16/2016	Photocopies - GTG 2nd Interim Fee Application & Exhibits	\$ 12.75	51
	12/22/2016	Photocopies - GTG 2nd Interim Fee Application & Exhibits	\$ 41.50	166
	12/23/2016	Photocopies - Mailing Labels	\$ 1.50	6
	12/27/2016	Photocopies - Discovery Working Binders	\$ 165.75	663
	12/28/2016	Photocopies - Discovery Working Binders	\$ 115.75	463
	12/29/2016	Photocopies - Shipping Labels	\$ 0.50	2
	12/30/2016	Photocopies - Response to Opp for App for Order to Show Cause	\$ 3.50	14
	1/3/2017	Photocopies - Deposition Notices & Subpoena to PMK Hodgson Russ LLP	\$ 9.25	37
	1/23/2017	Photocopies - Mailing Labels	\$ 4.25	17
	1/24/2017	Photocopies - Notice of Taking Deposition of Stanton Bernstein	\$ 1.00	4
	1/27/2017	Photocopies - Notice of Continued Depo of PMK of Hodgson Russ & mailing labels	\$ 1.75	7
	1/30/2017	Photocopies - Order Granting Motion to Compel, Letter to Kevin Kearney	\$ 5.00	20
	1/31/2017	Photocopies - Stipulation re Discovery Dates	\$ 2.75	11
	2/3/2017	Photocopies - Notice of Issuance of Subpoena to AIG Property Casualty Insurance Co and mailing labels	\$ 4.00	16
	2/6/2017	Photocopies - Memorandum of Fees and Costs re Order to Show Cause and mailing labels	\$ 2.75	11
	2/21/2017	Photocopies - Reply in Support of Memorandum of Costs and mailing labels	\$ 15.00	60
	3/7/2017	Photocopies - Deposition exhibits - Edward Bayuk	\$ 44.50	178
	3/8/2017	Photocopies - Deposition of Gary L. Krausz, C.P.A- Cond w. exhibits	\$ 17.50	70
	3/9/2017	Photocopies - Deposition prep exhibits for Gary L. Krausz; James L. McGovern	\$ 234.50	938
	3/10/2017	Photocopies - Deposition prep exhibits for Sal Morabito as PMK of Snowshoe	\$ 251.25	1005

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
	3/14/2017	Photocopies - Ltr to Murtha re Document Production and shipping labels	\$ 1.50	6
	3/15/2017	Photocopies - Deposition prep exhibits for Sal Morabito as PMK of Snowshoe	\$ 5.50	22
	3/16/2017	Photocopies - Discovery Working Binders	\$ 270.25	1081
	3/20/2017	Photocopies - Sixth Supplemental Disclsoure & mailing labels	\$ 2.00	8
	3/28/2017	Photocopies - Amended Notice of Continued Deposition of Dennis Vacco	\$ 1.50	6
	3/29/2017	Photocopies - Amended Notice of Depo of PMK Hodgson Russ LLP	\$ 7.25	29
	3/30/2017	Photocopies - Deposition of William Bayuk - cond transcript w. exhibits	\$ 47.25	189
	4/17/2017	Photocopies - Amended Notice of Deposition of Dennis Vacco and envelope	\$ 1.00	4
	4/27/2017	Photocopies - Amended Notice of Deposition of Dennis Vacco for July & mailing labels	\$ 2.00	8
	5/15/2017	Photocopies - Deposition prep copies for Depo of Stanton Bernstein	\$ 523.75	2095
	5/24/2017	Photocopies - Third Request for Production of Documents Snowshoe Petroleum Inc & mailing labels	\$ 8.50	34
	5/25/2017	Photocopies - Stipulation Regarding Continued Discovery Dates (Seventh Request) & mailing labels	\$ 3.00	12
	6/8/2017	Photocopies - NOH on Third Interim Appl for GTG as Special Counsel for Trustee for Approval of Payment of Expenses and mailing lables	\$ 39.75	159
	6/29/2017	Photocopies - mailing label	\$ 0.25	1
	7/6/2017	Photocopies - Discovery Working Binders	\$ 150.00	600
	7/7/2017	Photocopies - Deposition prep copies for Amended Notice of Deposition of Dennis Vacco	\$ 242.00	968
	7/13/2017	Photocopies - Documents for Discovery Binders	\$ 23.00	92
	7/13/2017	Photocopies - mailing labels	\$ 2.75	11

<b>(12)</b>	<b>Date</b>	<b>Description</b>	<b>Amount</b>	<b>Pages</b>
	7/18/2017	Photocopies - 394849 Rough Draft_full Deposition Transcript	\$ 9.00	36
	7/19/2017	Photocopies - Motion to Quash 7-18-17	\$ 3.75	15
	7/20/2017	Photocopies - mailing labels	\$ 1.00	4
	7/25/2017	Photocopies	\$ 3.25	13
	8/4/2017	Photocopies - Def Reply ISO Motion to Quash Subpoena Or For A Protective Order Precluding Trustee from Seeking Discovery From Hodgson Russ LLP	\$ 2.75	11
	8/9/2017	Photocopies - Request for Submission - Discovery Motions	\$ 15.25	61
	8/16/2017	Photocopies - JW Hunt Assoc. re Transcript for Superpumper with exhibits	\$ 71.25	285
	8/18/2017	Photocopies - 8-17-17 Statement of Undisputed Facts in Support of MSJ	\$ 432.50	1730
	8/21/2017	Photocopies - Copies of Westlaw Research Documents	\$ 274.25	1097
	8/22/2017	Photocopies - - Copies of Westlaw Research Documents and shipping labels	\$ 127.00	508
	8/25/2017	Photocopies - Binders for 8-17-17 Statement of Undisputed Facts in Support of MSJ and shipping labels	\$ 234.25	937
	8/28/2017	Photocopies - 8-17-17 Recommendation for Order	\$ 5.25	21
	8/31/2017	Photocopies - 8-28-17 Objection to Recommendation for Order	\$ 2.50	10
	9/6/2017	Photocopies - 9-5-17 Opposition to Objection to Recommendation for Order	\$ 8.75	35
	9/13/2017	Photocopies - mailing labels	\$ 2.25	9
	10/11/2017	Photocopies - run slip	\$ 0.25	1
	10/23/2017	Photocopies	\$ 2.25	9
	11/10/2017	Photocopies	\$ 6.25	25
	12/22/2017	Photocopies - Microsoft Word - Letter with Envelope	\$ 4.00	16
	1/23/2018	Photocopies - mailing labels	\$ 0.25	1
	7/6/2018	Photocopies - mailing labels	\$ 2.00	8
	7/31/2018	Photocopies - run slips	\$ 2.00	8
	8/9/2018	Photocopies - Binders containing Motion for Partial Summary Judgment and Statement of Undisputed Facts in Support of MSJ	\$ 254.50	1018

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
	8/17/2018	Photocopies	\$ 8.50	34
		Photocopies - .10/page - Trial prep. Deposition transcripts - Sujata Yalamanchili; Garry Graber; William Bayuk; Dennis C. Vacco; Christian Lovelace; Sal Morabito; Gary L. Krausz CPA; Michael Sewitz; Ronald Buss; Dennis Banks; James L. McGovern; Jan Friederich; Stanton Bernstein; Paul		
	8/23/2018	Morabito	\$ 244.60	2446
	8/24/2018	Photocopies - shipping labels	\$ 0.75	3
	8/28/2018	Photocopies - Fourth Interim Fee App of GTG	\$ 9.50	38
	8/28/2018	Photocopies - mailing labels	\$ 24.50	98
	9/4/2018	Photocopies - Trial Working Binders	\$ 23.75	95
		Photocopies - Trial Working Binders - Deposition Transcripts & Exhibits Index		
	9/6/2018		\$ 38.75	155
		Photocopies - Trial Working Binders - Deposition Transcripts & Exhibits Index		
	9/7/2018		\$ 52.75	211
		Photocopies - Fourth Interim Fee App of GTG		
	9/20/2018		\$ 3.00	12
		Photocopies - Motion in Limine or Motion to Strike		
	9/24/2018		\$ 11.75	47
		Photocopies - Trial Working Binder - Pleadings Binder - Operable Pleadings		
	9/25/2018		\$ 21.00	84
		Photocopies - - Trial Working Binder - Pleadings Binder - Operable Pleadings		
	9/25/2018		\$ 25.25	101
		Photocopies - Memorandum on Damages		
	9/26/2018		\$ 1.50	6
		Photocopies - .10/page - Trial Exhibits		
	9/28/2018		\$ 190.00	1900
		Photocopies (12) - - Trial Exhibits Binders		
	10/1/2018		\$ 564.50	2258
	10/2/2018	Photocopies - Shipping Labels	\$ 5.25	21
	10/3/2018	Photocopies - Shipping Labels	\$ 0.50	2
	10/4/2018	Photocopies - Trial Witness Binders	\$ 105.50	422
		Photocopies - Trial - Deposition Designations		
	10/5/2018		\$ 72.25	289
		Photocopies - Defendants Trial Exhibits		
	10/9/2018		\$ 145.50	582
		Photocopies - Defendants Trial Exhibits		
	10/10/2018		\$ 17.25	69

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
	10/11/2018	Photocopies - - Defendants Trial Exhibits	\$ 8.25	33
	10/12/2018	Photocopies - NOH Application for Order Approving Contingency Fee and Reimbursement of Expenses & mailing labels	\$ 205.75	823
	10/15/2018	Photocopies - .10/page - Trial Deposition Binders	\$ 243.80	2438
	10/16/2018	Photocopies - Trial Deposition Binders	\$ 54.50	218
	10/17/2018	Photocopies - Trial Deposition Binders	\$ 405.25	1621
	10/18/2018	Photocopies - Non-designated Depos binder for Trial	\$ 15.75	63
	10/19/2018	Photocopies - Trial Binders & shipping labels	\$ 794.50	3178
	10/22/2018	Photocopies - Trial Binders & shipping labels	\$ 177.00	708
	10/23/2018	Photocopies - .10/page - - Trial Binders & shipping labels	\$ 210.70	2107
	10/24/2018	Photocopies - Defs' Pretrial Disclosures	\$ 19.50	78
	10/25/2018	Photocopies - Final Approved Trial exhibit Copies	\$ 244.50	978
	10/31/2018	Photocopies - shipping labels	\$ 4.00	16
	11/19/2018	Photocopies - Trial Binders - Working Docs, Marked Depos - Vol. I & Marked Depositions - Vol. II	\$ 399.00	1596
	11/20/2018	Photocopies - Defendants Merged Final Exhibit List.FCG No Objections.10.25.18	\$ 35.25	141
	11/27/2018	Photocopies - Defendnats Merged Final Exhibit List	\$ 15.00	60
	11/28/2018	Photocopies - Deeds of Trust & Limited Guaranty	\$ 8.25	33
	11/29/2018	Photocopies - expense report	\$ 5.50	22
	11/30/2018	Robison, Sharp, Sullivan & Brust - Invoice for share of costs for trial binders	\$ 682.63	N/A
	12/10/2018	Photocopies - mailing label	\$ 1.00	4
	1/25/2019	Photocopies - Decl of Sam Morabito	\$ 0.50	2
	1/30/2019	Photocopies - 2019 0130 Plaintiffs Motion to Reopen Evidence	\$ 55.25	221

<u>(12)</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Pages</u>
	2/1/2019	Photocopies - Ex Parte Mtn for OST re Mtn to Reopen	\$ 2.00	8
	2/4/2019	Photocopies - Exhibits for Plaintiffs Motion to Reopen Evidence	\$ 269.25	1077
	2/6/2019	Photocopies - Defendants' Response to Motion to Reopen Evidence	\$ 26.50	106
	2/7/2019	Photocopies (12) - Trial Trans. Excerpts	\$ 146.50	586
	2/7/2019	Photocopies - Reply to Defs' Resp to Mtn to Reopen	\$ 146.50	586
	2/15/2019	Photocopies - Mailing Labels	\$ 1.25	5
	2/21/2019	Photocopies - Defendants Motion to Continue Hearing	\$ 6.50	26
	2/22/2019	Photocopies - Opposition to Defendants Motion to Continue Hearing	\$ 3.00	12
	2/25/2019	Photocopies - Hearing Binders Plaintiffs Motion to Reopen Evidence	\$ 486.50	1946
	2/26/2019	Photocopies - Final Exhibit List	\$ 17.75	71
	2/27/2019	Photocopies - Hearing Binders Plaintiffs Motion to Reopen Evidence	\$ 72.75	291
	2/28/2019	Photocopies - Stipulation to Vacate March 1 hearing.2.28.19 final amended & mailing labels	\$ 0.75	3
	3/2/2019	Photocopies - Defs - Non-Stipulated Facts	\$ 9.75	39
	3/4/2019	Photocopies - Draft of Plt's Revised Proposed Amended FFCL	\$ 16.25	65
	3/11/2019	Photocopies - 2019 0311 GMG letter to Gilmore re Supplemental Response	\$ 1.75	7
	3/14/2019	Photocopies - 371 El Camino Del Mar Combined Report	\$ 0.25	1
	3/20/2019	Photocopies - 370 Los Olivos Combined Report	\$ 5.50	22
	3/29/2019	Photocopies -Notice of Entry of FFCLJ & Mailing Labels for Notice of Entry of Judgment	\$ 655.00	2620
		<b><u>TOTAL</u></b>	<b><u>\$ 17,772.17</u></b>	



00282  
(Leonard)

4-21-16

please pay



BBVA Compass  
AL-BI-SC-RCH  
P.O. Box 10566  
Birmingham, AL 35296

April 5, 2016

INVOICE

# 03-16-0512

Teresa M Pilatowicz  
650 White Drive, Suite 100  
Las Vegas, Nevada 89119  
725-777-3000

RE: 03-16-0512 / Superpumper Inc.

Dear Sir:

Please find attached copies of the bank records requested. If you should have any questions or need further information, please call me at (205) 558-6413.

Our charges are as follows:

Clerical	17 hrs	@	\$ 25.00	per hour	425.00
Statements	pgs	@	\$	per copy	0.00
Copies	pgs	@	\$	per copy	0.00
Signature Cards	pgs	@	\$	per copy	0.00
Loan Documents	955 pgs	@	\$	per copy	0.00
					0.00
					0.00
					0.00
					0.00
DVD	1		\$ 10.00		10.00
<b>Total</b>					<b>\$ 435.00</b>

Please remit to the above address to the attention of the Research Department c/o Janice White at your earliest convenience.

Sincerely,

Janice White  
Item Processor  
Tax ID# 63-0476286

Phone #: (205)-297-6676



The Litigation Document Group  
7650 S Dean Martin Drive, Ste 101  
Las Vegas, Nevada 89139

LDG Production: 509 S 6th Street  
Las Vegas NV 89101  
Phone: (702) 380-4283 Fax # (702) 380-4286

TAX ID# 88-0504363

# Invoice

Date	Invoice #
11/8/2016	16-11036
Terms:	Due on receipt

Ordered By:
Garman Turner Gordon LLP 650 White Drive, Suite 100 Las Vegas, Nevada 89119 (725) 777-3000

Bill To:
Garman Turner Gordon LLP 650 White Drive, Suite 100 Las Vegas, Nevada 89119 (725) 777-3000

LDG reserves the right to charge interest at a rate of 1.5% per month (18% per annum) on all balances still owing 30 days past the payment due date. See reverse for General Terms & Conditions.

Client Matter	Order Due Date	Rep	Due Time	Ordered By
00282	11/8/2016	H	10am	Vicki

Description	Quantity	Amount
Blowbacks (B/W)	5,230	261.50T
3-Hole Drill (Side)	5,393	53.93T
Slip Sheets	163	6.52T
3" 3- ring binder	4	70.40T

By signing below, authorized representative agrees that the above described has been received by ordering party.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Subtotal	\$392.35
Sales Tax	\$31.98
<b>Total</b>	<b>\$424.33</b>
Payments/Credits	\$0.00

All Major Credit Cards Accepted

Please mail checks to:  
The Litigation Document Group  
7650 S Dean Martin Drive  
Suite 101  
Las Vegas NV 89139



**Balance Due**  
**\$424.33**



**The Litigation Document Group**  
**7660 S Dean Martin Drive, Ste 202**  
**Las Vegas, Nevada 89139**  
**Phone: (702) 380-4283 Fax # (702) 380-4286**

# Invoice

Date	Invoice #
11/30/2016	16-11168
Terms: Due on receipt	

TAX ID: 88-050-363

**PAID**  
**12-19-2016**

Ordered By:  
 Garman Turner Gordon LLP  
 650 White Drive, Suite 100  
 Las Vegas, Nevada 89119  
 (725) 777-3000

Bill To:  
 Garman Turner Gordon LLP  
 650 White Drive, Suite 100  
 Las Vegas, Nevada 89119  
 (725) 777-3000

LDG reserves the right to charge interest at a rate of 1.5% per month (18% per annum) on all balances still owing 30 days past the payment due date. See reverse for General Terms & Conditions.

Client Matter	Order Due Date	Rep	Due Time	Ordered By
00282	11/30/2016	H	am	Ricky
Description			Quantity	Amount
Light Litigation - Copying from bound and/or tabbed documents			2,885	403.90T
3-Hole Drill (Side)			3,060	30.60T
Numbered Tabs (supplied and inserted)			175	96.25T
1" 3 - ring binder			6	39.60T
1 1/2" 3-ring binder			2	17.00T
2" 3-ring binder			1	11.00T
3" 3- ring binder			1	17.60T

By signing below, authorized representative agrees that the above described has been received by ordering party.

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

"Access to case data on a hosted site will be suspended/frozen for any invoice outstanding more than 60 days."

Subtotal	\$615.95
Sales Tax (8.15%)	\$50.20
<b>Total</b>	<b>\$666.15</b>
Payments/Credits	-\$666.15

All Major Credit Cards Accepted

Please mail checks to:  
 The Litigation Document Group  
 7650 S Dean Martin Drive  
 Suite 101  
 Las Vegas NV 89139



**Balance Due**  
**\$0.00**



Robison | Sharp | Sullivan | Brust

November 30, 2018

Kent R. Robison  
Thomas L. Belaustegui  
(Co-Founder Of Counsel)  
F. DeArmond Sharp  
Michael E. Sullivan  
Clayton P. Brust  
Stefanie T. Sharp  
Frank C. Gilmore  
Michael A. Burke  
Therese M. Shanks  
Lindsay L. Liddell  
Hannah E. Fuetsch

**VIA EMAIL: [tpilatowicz@gtg.legal](mailto:tpilatowicz@gtg.legal)**

Teresa M. Pilatowicz, Esq.  
Garman Turner Gordon  
2415 E. Camelback Road, Suite 700  
Phoenix, AZ 85016

Re: *Leonard v. Superpumper, Inc., et al.*; Case No.: CV13-02663

Dear Teresa:

Please find attached this firm's invoice for ½ of the copy costs relating to the exhibit binders. This invoice does not include the cost of the actual binders, which bill has not yet been received. We will send that bill once we have received it.

Please remit your payment to our office at your earliest convenience. Please contact me if you would like to discuss further.

Sincerely,

FRANK C. GILMORE

FCG/mcd  
Attachment  
cc: Client

71 Washington St  
Reno, Nevada 89503

RSSBLAW.COM

P: 775.329.3151

F: 775.329.7941

LAW OFFICES OF  
ROBISON, SHARP, SULLIVAN & BRUST

TAX ID #88-0173763  
71 WASHINGTON STREET  
RENO, NEVADA 89503  
TELEPHONE (775) 329-3151  
FACSIMILE (775) 329-7941

November 30, 2018

Teresa M. Pilatowicz, Esq.  
Garman Turner Gordon  
2415 E. Camelback Road, Suite 700  
Phoenix, AZ 85016

Re: *Leonard v. Superpumper, Inc., et al.*; Case No.: CV13-02663

---

FOR LEGAL COSTS:

Pro-rata share of copy costs for trial binders  
(1/2 of \$1,325.26) ..... \$682.63

# Exhibit 3

**PROFESSIONAL  
EXPERIENCE**

Over 25 years of forensic accounting and litigation support experience including testimony as an expert witness. Mr. McGovern regularly consults with clients and their attorneys on economic damages, valuations, contract accounting, and cost recovery issues. Includes extensive experience with commercial economic damages stemming from business devastation, intellectual property infringement, fraud, breach of contract, and construction disputes. Mr. McGovern also has extensive experience in the areas of federal contract accounting, termination settlements, and requests for equitable adjustment as well as claims for lost personal earnings. He also serves as a commercial arbitrator for the American Arbitration Association.

**PROFESSIONAL  
HISTORY**

***MCGOVERN & GREENE LLP***

Founding Partner, 2003 to present

Responsible for the litigation support, economic damages, business valuation and contract accounting practices.

***ROME ASSOCIATES LLP***

Partner, 2000 to 2002

Responsible for the construction, government, and commercial contractor consulting practice.

***MCGOVERN & MCGOVERN, CPAS AND CONSULTANTS***

Partner, 1992 to 2000

Senior Accountant, 1987 to 1992

Responsible for the litigation support, contractor consulting, tax and small business practices.

***WASTE MANAGEMENT, INC.***

Division Controller, 1985-1987

Served as controller for waste hauling and disposal division. Also responsible for financial reporting, cost accounting, and supervision of accounting staff. Assisted in negotiation of municipal contracts.

**ACADEMIC  
CREDENTIALS**

***BACHELOR OF ARTS, ACCOUNTING***

Marquette University

Milwaukee, Wisconsin 1981-1985

**PROFESSIONAL  
CERTIFICATIONS**

***CERTIFIED PUBLIC ACCOUNTANT***

University of Illinois

Urbana, Illinois 1986

***LICENSED CERTIFIED PUBLIC ACCOUNTANT***

State of Illinois, License No. 065.019043

State of Nevada, License No. CPA-5682R

***CERTIFIED IN FINANCIAL FORENSICS***

American Institute of Certified Public Accountants

Durham, North Carolina 2008

***CERTIFIED VALUATION ANALYST***

National Association of Certified Valuation Analysts

Salt Lake City, Utah 2008

**PROFESSIONAL  
AWARDS**

***NCMA FELLOW***

This award recognizes significant contributions to the field of contracting and to the NCMA

***NCMA NATIONAL ACHIEVEMENT AWARD FOR OUTSTANDING SERVICE AND COMMITMENT TO PROFESSIONAL EXCELLENCE, 1998***

***DELEGATION LEADER, 2000 PEOPLE TO PEOPLE AMBASSADOR PROGRAMS CONTRACT MANAGEMENT DELEGATION TO CHINA***

**PROFESSIONAL  
AFFILIATIONS**

***AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS***

***ILLINOIS CPA SOCIETY***

***NATIONAL ASSOCIATION OF CERTIFIED VALUATION ANALYSTS***

***LICENSING EXECUTIVES SOCIETY***

***NATIONAL CONTRACT MANAGEMENT ASSOCIATION (NCMA)  
NATIONAL PRESIDENT 2000 – 2001***

***AMERICAN ARBITRATION ASSOCIATION  
COMMERCIAL ARBITRATOR***

***INTELLECTUAL PROPERTY OWNERS ASSOCIATION  
DAMAGES & INJUNCTIONS COMMITTEE***

***ATTORNEY AT LAW MAGAZINE – CHICAGO EDITION  
EXCLUSIVE CONTRIBUTING EDITOR***

***VILLAGE OF OAK LAWN  
TREASURER 2006 TO 2013***

**ADDRESSES  
& ARTICLES**

***CUMULATIVE IMPACT OF CHANGE ORDERS***

ATTORNEY AT LAW MAGAZINE – CHICAGO EDITION JAN 2016

***ANTI-HUMAN TRAFFICKING: FINAL RULES***

CONTRACT MANAGEMENT MAGAZINE, NOVEMBER 2015

***SETTLEMENT AGREEMENTS SUPPORT REASONABLE ROYALTY ANALYSIS***

Attorney at Law Magazine – Chicago Edition, Premier 2014

***ASSESSING DAMAGES IN INTELLECTUAL PROPERTY CASES***

Chicago Bar Association IP Committee, 2012

***FORENSIC ACCOUNTING***

Chicago –Kent College of Law, 2011

***CONSTRUCTION FRAUD***

Indiana CPA Society, 2008

***LOST PERSONAL EARNINGS***

Carolina Casualty Insurance Co., 2008



**ARTICLES  
& ADDRESSES (CON'T)**

**CONSTRUCTION SERVICES – HOW TO MINIMIZE RISK**  
National Indian Gaming Association, 2007

**ANALYZING AND PROVING CONSTRUCTION DAMAGES IN ILLINOIS**  
Lorman Seminars, 2005

**MEASURING IMPACT DAMAGES**  
AACE Spring Symposium, 2004

**PROTECTING INTELLECTUAL PROPERTY RIGHTS**  
NCMA Commercial Contracting Conference, 2003

**TRANSFORMING CONTRACT TECHNIQUES – FINANCIAL ISSUES**  
**NCMA COMMERCIAL CONTRACTING CONFERENCE, 2001**

**REVENUE RECOGNITION FOR LONG-TERM CONTRACTS**  
Contract Management Magazine, February 2002

**TERMINATIONS FOR CONVENIENCE OR BY DEFAULT**  
Contract Management Magazine, April 1999

**SIGNIFICANT COST RECOVERY ISSUES IN TERMINATION**  
**FOR CONVENIENCE CASES**  
Contract Management Magazine, April 1997

**FINANCIAL MANAGERS ESSENTIAL COGS IN THE CONTRACTING WHEEL**  
Contract Management Magazine, August 1996

**EQUITABLY ADJUSTING PARTIALLY TERMINATED CONTRACTS**  
Contract Management Magazine, January 1995

**REPRESENTATIVE  
CONSULTING AND  
LITIGATION  
ENGAGEMENTS**

Consultant to start-up biopharmaceutical company contracted with DHHS. Assisted with preparation of incurred cost proposals and advised client on government contract accounting requirements.

Consultant and expert witness for plaintiff in patent infringement cases involving patent pertaining to systems and methods for activating gift cards at the point of sale in retail stores. Prepared reasonable royalty analysis and testified as a damages expert in two trials.

Consultant to Afghani Construction Company performing USACE contracts. Assisted with preparation and negotiation of REAs and termination settlement proposals and provided direct interface with government auditors and contract reps.

Forensic Accountant/Damages expert retained by counsel for plaintiff in international forestry and road building contract dispute. Prepared lost earning analysis for presentation in International Court of Arbitration.

Forensic accountant engaged by US Dept. of Justice to evaluate financial condition of a corporate target of a fraud investigation.

Served as forensic accountant/damages expert regarding damages on numerous personal injury cases involving claims for lost earnings and business devastation.

**REPRESENTATIVE  
CONSULTING AND  
LITIGATION  
ENGAGEMENTS (CON'T)**

Prepared and settled more than 200 terminations for convenience claims for Federal Contractors including manufacturers, construction contractors, and R&D companies. Proposals and settlements ranged from a few thousand to several million dollars and covered the spectrum of issues faced by contractors terminated for convenience.

Consultant to billion dollar building controls and security systems contractor on major construction contract disputes since 1987. Regularly assist client with analysis of contract disputes, preparation of damage claims, and negotiations. Also, provide expert witness testimony. Forensic accountant/damages expert retained by counsel for plaintiff in a trucking industry business interruption case. Prepared an analysis of economic losses and provided expert testimony at trial.

Forensic accountant/damages expert retained by seller of protective sports apparel alleging patent infringement by a Fortune 100 company. Conducted an extensive analysis of the impact of the alleged infringement, prepared a report identifying lost profits and reasonable royalties due and testified at deposition.

Forensic accountant/valuation analysts retained by major subcontractor on DOD shipbuilding program. Conducted investigation of costs incurred and potential consequential damages stemming from improper termination of the subcontract. Prepared report to be used for settlement negotiations.

Forensic accountant/valuation analyst retained by counsel for plaintiff in shareholder dispute. Conducted analysis of available financial data, identified adjustment required due to improper accounting and questionable business practices and prepared estimate of value for the business entity.

Forensic accountant/damages expert retained by purchaser of a large business concern alleging that the purchaser had been fraudulently induced to purchase the business through material misrepresentations of the financial condition of the business including the condition of multiple commercial real estate developments. Performed an extensive examination of records concerning the real estate developments and provided a report and expert witness testimony to the Court. The Court found that the client had been fraudulently induced into the purchase and awarded \$85 million in damages, as well as punitive damages.

Forensic accountant/damages expert retained by manufacturer of high-tech weapons guiding device. Conducted thorough analysis of excess costs incurred due to program delays and defective specifications. Prepared claims and settlement proposal of \$70 million and assisted client's staff with responding to audit by the defense contract audit agency.

Consultant and expert witness for plaintiff in trademark and trade dress infringement case. Prepared analysis of plaintiff's lost profits, price erosion, and cost of corrective actions. Also prepared an accounting of defendant's sales and incremental profits. Case settled.

**REPRESENTATIVE  
CONSULTING AND  
LITIGATION  
ENGAGEMENTS (CON'T)**

Consultant and expert witness for plaintiff in patent infringement case involving patent for handling waste water slurries. Prepared lost profits and reasonable royalty analysis and testified at deposition and trial. Jury verdict in favor of plaintiff for approximately \$1.2 million.

Served as expert witness for a contractor on government contract accounting issues in a matter before the ASBCA. Board ruled in favor of the contractor.

Auditor and consultant for owner of national theater chain. Performed audit of incurred costs and billings on GMP contract for theater construction. Findings resulted in significant reduction of amount owed to the general contractor.

Consultant and expert witness for plaintiff in patent infringement case involving patents for high-tech medical research equipment. Prepared lost profits and reasonable royalty analysis. Case settled.

Engaged by the Bureau of Indian Affairs to perform a forensic audit of financial activity on a government-funded school construction project. Audit revealed numerous instances of mismanagement of funds and resulted in the government recouping significant funds.

Consultant and expert witness for an international disaster recovery company, defending against an alleged breach of contract claim. Services include analysis of plaintiff's claims for under payment and lost profits. Case settled.

Performed audit of contractor billings on multi-million dollar resort hotel and golf course construction project in New Mexico. Verified compliance with billing requirements and terms of GMP contract.

Consultant and expert witness for plaintiff service contractor in a breach of contract case against a municipal utility board. Calculated present value of profits lost due to alleged improper termination of contract. Case pending.

Consultant and expert witness for plaintiff landlord seeking damages from a tenant for lost rental income. Calculated present value of lost income net of mitigation. Verdict in favor of plaintiff.

Consultant to national retail chain on licensee contract violation case. Investigation resulted in \$1+ million settlement and significant compliance changes.

Consultant to numerous construction contractors on contract damage claims including delay claims, defective specification claims, and constructive changes claims.

Consultant to law firm for defense of copyright infringement cases. Analyzed plaintiffs' damages and issued expert reports. Both cases settled before trial.

Consultant and forensic accountant retained by a large federal contractor to provide assistance with contract accounting, proposal pricing and claim preparation relating to a @ \$500M multi-year contract.

**REPRESENTATIVE  
CONSULTING AND  
LITIGATION  
ENGAGEMENTS (CON'T)**

Consultant to auto parts manufacturer in theft of intellectual property case. Engagement identified in excess of \$2 million of economic damages. Prepared expert's report and testified at deposition and trial. Case settled.

Consultant to national retail chain on telecommunications "cramming" and "slamming" audits.

Consultant to major aircraft manufacturer on contract damages case against US Navy. Suit ended with multi-million dollar award.

Consultant to law firm on copyright infringement case. Assisted attorneys with review of cost and accounting records. Prepared expert report on damages and testified at deposition. Case settled.

Consultant to law firm on health care fraud Qui Tam case. Assisted attorneys with analysis of case, review of financial records, discovery requests, and interviews of potential witnesses.

Consultant to law firm on false statements and defective pricing Qui Tam case. Assisted attorneys with analysis of case review of accounting and inventory records, discovery requests, and drafting of deposition questions.

Consultant to environmental testing lab performing a multi-million dollar cost reimbursement type contract for the Environmental Protection Agency. Assist client with preparing and negotiating incurred cost proposals. Also, advise on contract management and compliance issues and the company's cost accounting system. Frequently act as the lead interface with government auditors and contracting officers.

Consultant to aircraft parts manufacturer on commercial contract damages case against major aircraft manufacturer. Prepared claim and negotiated an approximately \$450,000 settlement.

Consultant to aircraft parts manufacturer in contract damages case against prime contractor. Prepared damage analysis and provided expert testimony at deposition. Case settled before trial. Also, provided assistance by analyzing damages sought in counter claim.

Consultant to major retailer on vendor fraud scheme involving excess billings. Provided audit assistance, analysis of records, and damage computations. Investigation resulted in significant recovery for the client.

Consultant to individual in divorce case. Created database and analyzed financial transactions to identify under-reported income.

Consultant to research and development consortium formed to design a state of the art machine tool controller. When federal cost sharing contract was terminated, assisted client with audit and negotiation of numerous subcontractor claims and assisted in the preparation and settlement of the client's termination proposal.

# Exhibit 4

05 Post 12-21-18



McGOVERN & GREENE LLP  
200 WEST JACKSON BLVD., SUITE 1300  
CHICAGO, IL 60606

✓  
INVOICE

Invoice Date: 12/04/18  
Total Amount: \$120.00  
Number: 02-18-0242  
Invoice Period: 11/01/18 - 11/30/18  
Terms: Due upon receipt  
Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
Teresa Pilatowicz  
650 White Drive, Suite 100  
Las Vegas, NV 89119

INVOICE SUMMARY

Description	Amount
Professional Fees	\$120.00
<b>TOTAL AMOUNT DUE</b>	<b>\$120.00</b>

200 W. Jackson Blvd. • Suite 1300 • Chicago IL 60606  
Ph: 312.692.1000  
www.mcgovernandgreene.com  
FEIN: 16-1649180



McGOVERN & GREENE LLP  
 200 WEST JACKSON BLVD., SUITE 1300  
 CHICAGO, IL 60606

**INVOICE**

Invoice Date: 12/04/18  
 Total Amount: \$120.00  
 Number: 02-18-0242  
 Invoice Period: 11/01/18 - 11/30/18  
 Terms: Due upon receipt  
 Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
 Teresa Pilatowicz  
 650 White Drive, Suite 100  
 Las Vegas, NV 89119

**INVOICE DETAILS**

Source	Date	Description	Hrs / Qnt	Rate	Amount
<b>Professional Fees</b>					
James McGovern	11/04/18	Advice re "Size Adjustment" Factor in Duff & Phelps calculator	0.30	\$400.00	\$120.00
		Professional Fees	0.30		\$120.00
		<b>TOTAL FEES/EXPENSES</b>	--		<b>\$120.00</b>

200 W. Jackson Blvd. • Suite 1300 • Chicago IL 60606  
 Ph: 312.692.1000  
[www.mcgovernandgreene.com](http://www.mcgovernandgreene.com)  
 FEIN: 16-1649180



McGOVERN & GREENE LLP  
200 WEST JACKSON BLVD, SUITE 1300  
CHICAGO, IL 60606

8534-11-18

**INVOICE**

Invoice Date: 11/05/18  
Total Amount: \$11,796.80  
Number: 02-18-0216  
Invoice Period: 10/01/18 - 11/05/18  
Terms: Due upon receipt  
Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
Teresa Pilatowicz  
650 White Drive, Suite 100  
Las Vegas, NV 89119

**INVOICE SUMMARY**

Description	Amount
Professional Fees	\$10,380.00
Reimbursable Expenses	\$1,416.80
<b>TOTAL AMOUNT DUE</b>	<b>\$11,796.80</b>

200 W. Jackson Blvd. • Suite 1300 • Chicago IL 60606  
Ph: 312.692.1000  
www.mcgovernngreene.com  
FEIN: 16-1649180





McGOVERN & GREENE LLP  
 200 WEST JACKSON BLVD., SUITE 1300  
 CHICAGO, IL 60606

**INVOICE**

Invoice Date: 11/05/18  
 Total Amount: \$11,796.80  
 Number: 02-18-0216  
 Invoice Period: 10/01/18 - 11/05/18  
 Terms: Due upon receipt  
 Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
 Teresa Pilatowicz  
 650 White Drive, Suite 100  
 Las Vegas, NV 89119

**INVOICE DETAILS**

Source	Date	Description	Hrs / Qnt	Rate	Amount
<b>Professional Fees</b>					
James McGovern	10/14/18	Review Dep. Prep for Trial	1.20	\$400.00	\$480.00
James McGovern	10/15/18	Prep for trial, review depts and rebuttal reports, Conference w/alltys	7.60	\$400.00	\$3,040.00
James McGovern	10/22/18	Prep for trial and conf w/alltys	2.30	\$400.00	\$920.00
James McGovern	10/28/18	Review additional production of bank statements	2.10	\$400.00	\$840.00
James McGovern	10/31/18	Prep for Trial	4.00	\$400.00	\$1,600.00
James McGovern	11/01/18	Prep for and attend trial		Flat Fee	\$3,500.00
		<b>Professional Fees</b>	<b>17.20</b>		<b>\$10,380.00</b>
<b>Reimbursable Expenses</b>					
James McGovern	10/31/18	Airfare	--	\$0.00	\$869.88
James McGovern	10/31/18	Hotel	--	\$0.00	\$364.21
James McGovern	10/31/18	Ground Transportation	--	\$0.00	\$49.24
James McGovern	10/31/18	Meals	--	\$0.00	\$133.47
		<b>Reimbursable Expenses</b>	<b>--</b>		<b>\$1,416.80</b>
		<b>TOTAL FEES/EXPENSES</b>	<b>--</b>		<b>\$11,796.80</b>

200 W Jackson Blvd. • Suite 1300 • Chicago IL 60606  
 Ph: 312.692.1000  
 www.mcgovernngreene.com  
 FEIN: 16-1649180

*OK Part 10 8-18*



McGOVERN & GREENE LLP  
200 WEST JACKSON BLVD., SUITE 1300  
CHICAGO, IL 60606

**INVOICE**

Invoice Date: 10/04/18  
Total Amount: \$1,160.00  
Number: 02-18-0206  
Invoice Period: 09/01/18 - 09/30/18  
Terms: Due upon receipt  
Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
Teresa Pilatowicz  
650 White Drive, Suite 100  
Las Vegas, NV 89119

**INVOICE SUMMARY**

Description	Amount
Professional fees	\$1,160.00
<b>TOTAL AMOUNT DUE</b>	<b>\$1,160.00</b>

200 W. Jackson Blvd. • Suite 1300 • Chicago IL 60606  
Ph. 312.692.1000  
www.mcgovernandgreene.com  
FEIN: 16-1649180



McGOVERN & GREENE LLP  
 200 WEST JACKSON BLVD., SUITE 1300  
 CHICAGO, IL 60606

**INVOICE**

Invoice Date: 10/04/18  
 Total Amount: \$1,160.00  
 Number: 02-18-0206  
 Invoice Period: 09/01/18 - 09/30/18  
 Terms: Due upon receipt  
 Engagement: Valuation of Superpumper

Garman Turner Gordon LLP  
 Ieresa Pilatowicz  
 650 White Drive, Suite 100  
 Las Vegas, NV 89119

**INVOICE DETAILS**

Source	Date	Description	Hrs / Qnt	Rate	Amount
<b>Professional Fees</b>					
James McGovern	09/25/18	Review file in preparation for trial, Conf w/T Pilatowicz	1.50	\$400.00	\$750.00
James McGovern	09/26/18	Produce documents for trial	0.70	\$400.00	\$280.00
James McGovern	09/27/18	Provide additional docs for trial	0.30	\$400.00	\$120.00
<b>Professional Fees</b>			<b>2.90</b>		<b>\$1,160.00</b>
<b>TOTAL FEES/EXPENSES</b>			<b>--</b>		<b>\$1,160.00</b>

200 W. Jackson Blvd. • Suite 1300 • Chicago IL 60606  
 Ph: 312.692.1000  
 www.mcgovernandgreene.com  
 FEIN: 16-1649180

08 11 3 5 6

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper



Invoice to:
Teresa M. Pilatowicz Garman Turner Gordon LLP 650 White Dr Ste 100 Las Vegas, NV 89119

Invoice #	Date	Amount Due
02-16-0157	05/04/16	\$944.21

Terms: Due upon receipt

Summary of Charges	Period	Amount
Time Charges	Apr, 2016	\$875.00
Expenses	Apr, 2016	\$69.21
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$944.21</b>

Detailed fee and expense information is attached.

200 W. Jackson Blvd. • Suite 2325 • Chicago • IL • 60606  
Ph 312.692.1000 • Fax 312.692.0128 • www.mcgovernandgreene.com  
FEIN No. 16-1649180

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd. Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)**

James McGovern

Date	Staff Member	Description	Hours	Charges
04/18/16	James McGovern	Review deposition transcript; Conf. w/G Hamm	2.50	875.00
Total Fees for James McGovern:			2.50	875.00

**Expenses (detail)**

James McGovern

Date	Category	Description	N/C	Charges
03/28/16	FIS Billed Ex:FIS Tran	Taxi		14.57
03/28/16	FIS Billed Ex:FIS Meal	Meals		54.64
Total expenses for James McGovern:				69.21

200 W. Jackson Blvd • Suite 2325 • Chicago • IL • 60606  
Ph 312.692.1000 • Fax 312.692.0128 • www.mcgovernandgreene.com  
FEIN No. 16-1649180

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd, Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

<b>Invoice to:</b>
Teresa M. Pilatowicz Garman Turner Gordon LLP 650 White Dr Ste 100 Las Vegas, NV 89119

Invoice #	Date	Amount Due
02-16-0120	04/07/16	\$5,326.40

Terms: Due upon receipt

**Summary of Charges**

	Period	Amount
Time Charges	Apr, 2016	\$5,315.00
Expenses	Apr, 2016	\$11.40
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$5,326.40</b>

Detailed fee and expense information is attached.

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
 200 W. Jackson Blvd. Suite 2325  
 Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)****Brandon Byczynski**

Date	Staff Member	Description	Hours	Charges
03/24/16	Brandon Byczynski	Uploaded files to Citrix Sharefile for document production as directed.	1.70	255.00
<b>Total Fees for Brandon Byczynski:</b>			<b>1.70</b>	<b>255.00</b>

**Jacek Lazarczyk**

Date	Staff Member	Description	Hours	Charges
03/24/16	Jacek Lazarczyk	Prepare documents for production	0.50	125.00
03/23/16	Jacek Lazarczyk	Review rebuttal reports	6.50	1,625.00
03/22/16	Jacek Lazarczyk	Review rebuttal reports	2.60	650.00
<b>Total Fees for Jacek Lazarczyk:</b>			<b>9.60</b>	<b>2,400.00</b>

**James McGovern**

Date	Staff Member	Description	Hours	Charges
03/29/16	James McGovern	Review interrogatory response re budgets/forecasts	0.50	175.00
03/27/16	James McGovern	Prepare for deposition	2.00	700.00
03/24/16	James McGovern	Prep for deposition; Produce file	1.60	560.00
03/14/16	James McGovern	Review opposing expert reports; Conf w/altys; Prep for deposition	3.50	1,225.00
<b>Total Fees for James McGovern:</b>			<b>7.60</b>	<b>2,660.00</b>

**Expenses (detail)****James McGovern**

Date	Category	Description	N/C	Charges
03/31/16	FIS Billed Ex:FIS Tran	Taxi		10.00
03/31/16	FIS Billed Ex:FIS Copy	Copy services		1.40
<b>Total expenses for James McGovern:</b>				<b>11.40</b>

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 FEIN No. 16-1649180

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd. Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper  
Invoice# 02-16-120a

<b>Invoice to:</b>
Teresa M. Pilatowicz Garman Turner Gordon LLP 650 White Drive Ste. 100 Las Vegas, NV 89119

Date	Amount Due
04/07/2016	\$2,800.00

Terms: Due upon receipt

**Summary of Charges**

	Period	Amount
3/28/16 James McGovern Attend Deposition- 8.0 Hours @ \$350/hr	Mar 2016	\$2,800.00
<b>Total Amount Due for this Invoice:</b>		<b>\$2,800.00</b>

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FEIN No. 16-1649180



**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd. Suite 2325  
Chicago, IL 60606

23 10-9-16

**INVOICE**

Valuation of Superpumper

Invoice to:
Teresa M. Pilatowicz Garman Turner Gordon LLP 650 White Dr Ste 100 Las Vegas, NV 89119

Invoice #	Date	Amount Due
02-16-0074	03/07/16	\$910.00

Terms: Due upon receipt

Summary of Charges	Period	Amount
Time Charges	Feb, 2016	\$910.00
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$910.00</b>

Detailed fee and expense information is attached.

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
200 W. Jackson Blvd Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)**

**James McGovern**

<u>Date</u>	<u>Staff Member</u>	<u>Description</u>	<u>Hours</u>	<u>Charges</u>
02/23/16	James McGovern	Review opposing expert report; conf w/atty	2.60	910.00
<b>Total Fees for James McGovern:</b>			<b>2.60</b>	<b>910.00</b>

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Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

Invoice to:
<p><b>Teresa M. Pilatowicz</b></p> <p>650 White Dr Ste 100 Las Vegas, NV 89119</p>

Invoice #	Date	Amount Due
02-16-0025	02/02/16	<b>\$29,475.00</b>

Terms: Due upon receipt

**Summary of Charges**

	Period	Amount
Time Charges	Jan, 2016	\$29,475.00
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$29,475.00</b>

Detailed fee and expense information is attached.

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 Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)****Jacek Lazarczyk**

Date	Staff Member	Description	Hours	Charges
01/25/16	Jacek Lazarczyk	Finalized valuation report.	2.50	625.00
01/24/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	1.80	450.00
01/22/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	4.00	1,000.00
01/21/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.50	1,375.00
01/20/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.20	1,300.00
01/19/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	6.80	1,700.00
01/18/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	4.50	1,125.00
01/15/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.20	1,300.00
01/14/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.00	1,250.00
01/13/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	6.20	1,550.00
01/12/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.50	1,375.00
01/11/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	6.00	1,500.00
01/08/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.00	1,250.00
01/07/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	6.00	1,500.00
01/06/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.20	1,300.00
01/05/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	5.00	1,250.00
01/04/16	Jacek Lazarczyk	Continued analysis, drafting report and accompanying schedules.	4.20	1,050.00
<b>Total Fees for Jacek Lazarczyk:</b>			<b>83.60</b>	<b>20,900.00</b>

**James McGovern**

Date	Staff Member	Description	Hours	Charges
01/25/16	James McGovern	Prepare report; Conf w/Atty	2.30	805.00
01/22/16	James McGovern	Continue valuation analysis	4.50	1,575.00
01/21/16	James McGovern	Continue valuation analysis	5.10	1,785.00
01/20/16	James McGovern	Continue valuation analysis	4.10	1,435.00
01/19/16	James McGovern	Continue valuation analysis	3.10	1,085.00
01/18/16	James McGovern	Continue valuation	5.00	1,750.00
01/07/16	James McGovern	Discuss analysis w/JAL; Conf w/Atty	0.40	140.00
<b>Total Fees for James McGovern:</b>			<b>24.50</b>	<b>8,575.00</b>

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**McGovern & Greene LLP**

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200 W. Jackson Blvd. Suite 2325  
Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

Invoice to:
<p><b>Teresa M. Pilatowicz</b></p> <p>650 White Dr Ste 100 Las Vegas, NV 89119</p>

Invoice #	Date	Amount Due
02-16-0002	01/05/16	<b>\$2,648.50</b>

Terms: Due upon receipt

**Summary of Charges**

	Period	Amount
Time Charges	Dec, 2015	\$4,367.50
Expenses	Dec, 2015	\$11.00
Less Remainder of Retainer	Dec, 2015	-\$1,730.00
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$2,648.50</b>

Detailed fee and expense information is attached.

**McGovern & Greene LLP**

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 Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)****Jacek Lazarczyk**

Date	Staff Member	Description	Hours	Charges
12/30/15	Jacek Lazarczyk	Began drafting report sections.	5.20	1,300.00
12/29/15	Jacek Lazarczyk	Updated financial analysis worksheets; identified missing information.	6.25	1,562.50
12/28/15	Jacek Lazarczyk	Began reviewing set of provided documents.	2.80	700.00
<b>Total Fees for Jacek Lazarczyk:</b>			<b>14.25</b>	<b>3,562.50</b>

**James McGovern**

Date	Staff Member	Description	Hours	Charges
12/29/15	James McGovern	Continue analysis of additional docs produced	0.80	280.00
12/28/15	James McGovern	Review additional document production	1.50	525.00
<b>Total Fees for James McGovern:</b>			<b>2.30</b>	<b>805.00</b>

**Expenses (detail)****Jacek Lazarczyk**

Date	Category	Description	N/C	Charges
12/31/15	FIS Billed Ex:FIS Copy	Copy services		11.00
<b>Total expenses for Jacek Lazarczyk:</b>				<b>11.00</b>

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**INVOICE**

Valuation of Superpumper

Invoice to:
<p><b>Teresa M. Pilatowicz</b></p> <p>650 White Dr Ste 100 Las Vegas, NV 89119</p>

Invoice #	Date	Amount Due
02-16-0002	01/05/16	<b>\$2,648.50</b>

Terms: Due upon receipt

**Summary of Charges**

	Period	Amount
Time Charges	Dec, 2015	\$4,367.50
Expenses	Dec, 2015	\$11.00
Less Remainder of Retainer	Dec, 2015	-\$1,730.00
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$2,648.50</b>

Detailed fee and expense information is attached.

**McGovern & Greene LLP**

CPAs and Forensic Accountants  
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 Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)****Jacek Lazarczyk**

Date	Staff Member	Description	Hours	Charges
12/30/15	Jacek Lazarczyk	Began drafting report sections.	5.20	1,300.00
12/29/15	Jacek Lazarczyk	Updated financial analysis worksheets; identified missing information.	6.25	1,562.50
12/28/15	Jacek Lazarczyk	Began reviewing set of provided documents.	2.80	700.00
<b>Total Fees for Jacek Lazarczyk:</b>			<b>14.25</b>	<b>3,562.50</b>

**James McGovern**

Date	Staff Member	Description	Hours	Charges
12/29/15	James McGovern	Continue analysis of additional docs produced	0.80	280.00
12/28/15	James McGovern	Review additional document production	1.50	525.00
<b>Total Fees for James McGovern:</b>			<b>2.30</b>	<b>805.00</b>

**Expenses (detail)****Jacek Lazarczyk**

Date	Category	Description	N/C	Charges
12/31/15	FIS Billed Ex:FIS Copy	Copy services		11.00
<b>Total expenses for Jacek Lazarczyk:</b>				<b>11.00</b>

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8550



0.0 Post 12/25 ✓

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Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

Invoice to:
Teresa M. Pilatowicz
650 White Dr Ste 100 Las Vegas, NV 89119

Invoice #	Date	Amount Due
02-15-0238	12/07/15	\$0.00

Terms: Due upon receipt

Summary of Charges	Period	Amount
Time Charges	Nov, 2015	\$8,270.00
Less Retainer	Nov, 2015	-\$8,270.00
<b>AMOUNT DUE (THIS INVOICE)</b>		<b>\$0.00</b>

*Detailed fee and expense information is attached.  
\$1,730 of original \$10,000.00 retainer remaining*

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 Chicago, IL 60606

**INVOICE**

Valuation of Superpumper

**Professional Fees (detail)****Brandon Byczynski**

Date	Staff Member	Description	Hours	Charges
11/18/15	Brandon Byczynski	Entered Superpumper, Inc. financial statements for analysis.	2.30	345.00
<b>Total Fees for Brandon Byczynski:</b>			<b>2.30</b>	<b>345.00</b>

**Jacek Lazarczyk**

Date	Staff Member	Description	Hours	Charges
11/23/15	Jacek Lazarczyk	Review and comment on second request for production of documents	1.00	250.00
11/18/15	Jacek Lazarczyk	Coordinate preparation of financial analysis w/ Brandon B	0.50	125.00
11/13/15	Jacek Lazarczyk	Researched market and industry data	5.40	1,350.00
11/12/15	Jacek Lazarczyk	Researched market and industry data	1.80	450.00
11/11/15	Jacek Lazarczyk	Researched market and industry data	6.50	1,625.00
11/10/15	Jacek Lazarczyk	Continued reviewing Superpumper documents	3.40	850.00
11/09/15	Jacek Lazarczyk	Began reviewing Superpumper documents	6.90	1,700.00
<b>Total Fees for Jacek Lazarczyk:</b>			<b>25.40</b>	<b>6,350.00</b>

**James McGovern**

Date	Staff Member	Description	Hours	Charges
11/23/15	James McGovern	Review and advise re Interrogatories and requests for docs	0.50	175.00
11/06/15	James McGovern	Identify additional docs to request; Conf w/T Pilatowicz	1.50	525.00
11/05/15	James McGovern	Continue file review and prepare for valuation analysis	1.30	455.00
11/04/15	James McGovern	Document review	1.20	420.00
<b>Total Fees for James McGovern:</b>			<b>4.50</b>	<b>1,575.00</b>

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 FEIN No. 16-1649180

# Exhibit 5

**BUSS-SHELGER ASSOCIATES**  
Real Estate Consultants

970 W. 190th Street, Suite 350  
Los Angeles, California 90502  
Telephone: (213) 388-7272  
Facsimile: (213) 254-9032  
E-Mail: [bussshelger@pacbell.net](mailto:bussshelger@pacbell.net)

Employer ID No. 95-3922266

Garman Turner Gordon LLP  
650 White Drive, Suite 100  
Las Vegas, Nevada 89119

Attention: Ms. Teresa Pilatowicz  
Attorney-at-Law

---

For Appraisal Services Rendered In Connection With:

Retrospective Market Valuation  
Five Real Estate Assets  
Laguna Beach/Palm Springs

Our Job No.: 5043-16

Total Fee .....	\$9,000
Less Retainer Received .....	<u>4,500</u>
Balance Due .....	\$4,500

**AMOUNT NOW DUE .....** **\$4,500.00**

**BUSS-SHELGER ASSOCIATES**  
Real Estate Consultants

970 W. 190th Street, Suite 350  
Torrance, California 90502  
Telephone: (213) 388-7272  
Facsimile: (213) 254-9032  
E-Mail: [bussshelger@pacbell.net](mailto:bussshelger@pacbell.net)

Employer ID No. 95-3922266

Garman Turner Gordon LLP  
650 White Drive, Suite 100  
Las Vegas, Nevada 89119

Attention: Ms. Teresa Pilatowicz  
Attorney-at-Law

---

For Preparation/Deposition Rendered in Connection With:

Retrospective Market Valuation  
Five Real Estate Assets  
Laguna Beach/Palm Springs

Our File No. 5043-16

Preparation – 15.5 Hours @ \$350/Hr... \$5,425  
Deposition – 5.0 Hours @ \$350/Hr..... 1,750  
Total ..... \$7,175

**AMOUNT NOW DUE ..... \$7,175.00**

1 **3795**  
2 **FRANK C. GILMORE, ESQ. - NSB #10052**  
3 fgilmore@rbsllaw.com  
4 **Robison, Sharp, Sullivan & Brust**  
5 71 Washington Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 329-3151  
8 Facsimile: (775) 329-7169

9 Attorneys for Defendants

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

12 WILLIAM A. LEONARD, Trustee for the  
13 Bankruptcy Estate of Paul Anthony Morabito

CASE NO.: CV13-02663

DEPT. NO.: 4

14 Plaintiffs,

15 vs.

16 SUPERPUMPER, INC., an Arizona corporation;  
17 EDWARD BAYUK, individually and as Trustee  
18 of the EDWARD WILLIAM BAYUK LIVING  
19 TRUST; SALVATORE MORABITO, an  
20 individual; and SNOWSHOE PETROLEUM,  
21 INC., a New York corporation,

22 \_\_\_\_\_  
23 Defendants. /

24 **REPLY IN SUPPORT OF MOTION TO RETAX COSTS**

25 Defendants SUPERPUMPER, INC., EDWARD BAYUK, individually and as Trustee of  
26 the EDWARD WILLIAM BAYUK LIVING TRUST, SALVATORE MORABITO, and  
27 SNOWSHOE PETROLEUM, INC. (collectively, "Defendants") hereby reply in support of their  
28 Motion to Retax the Memorandum of Costs and Disbursements. This Reply is made and  
supporting by the following Memorandum of Points and Authorities and the pleadings and papers  
on file herein.

**MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY**

**I. INTRODUCTION**

Plaintiff acknowledges that he was not aware of the statutory timing requirements of the

1 Memorandum of Costs and Disbursements (“Memorandum”), and that he mis-construed the  
2 applicable statute (NRS 18.110). Plaintiff does not give any other good cause for his failure to  
3 timely file the Memorandum. The Memorandum should be retaxed in its entirety.

4 As to Plaintiff’s request for expert fees associated with Ronald Buss, the Memorandum  
5 should be retaxed to no more than \$1,500. Ronald Buss did not testify and his work provided zero  
6 benefit to the trial. Accordingly, his work was not necessary. Plaintiff cannot recover costs of an  
7 expert who was not necessary to the proceedings, even if he was retained and prepared a report.

8 As to Plaintiff’s request for expert fees associated with James McGovern, his fee is  
9 unreasonable on its face. James McGovern reviewed Defendants’ contemporaneous valuation of  
10 Superpumper, prepared a report, sat for a deposition, and attended trial. Plaintiff paid him  
11 \$64,076.80, which was neither reasonable nor necessary.

12 Defendants defer to the Court’s discretion as to the reasonable and necessary amount  
13 applicable to photocopies.

14 **II. ARGUMENT**

15 **A. The Applicable Statute Is Clear; Plaintiff Had Five Days to File Its Verified**  
16 **Memorandum of Costs under NRS 18.110.**

17 Plaintiff’s only excuse for failing to timely file the Memorandum of Costs was ignorance of  
18 the application of the statute. Ignorance of the law is never good cause to excuse an admittedly  
19 untimely filing. See *Pratt v. Baker*, No. 66488, 2015 WL 828547, at \*1 (Nev. App. Feb. 4,  
20 2015)(“ignorance of the law did not constitute good cause to excuse the delay); *Sipes v. Galaxy*  
21 *Airlines, Inc.*, 119 F.R.D. 691, 693 (D. Nev. 1988)(“inadvertence or more specifically, ignorance of  
22 the law, is not good cause for failure to serve in a timely manner”); *Townsel v. County of Contra*  
23 *Costa*, 820 F.2d 319, 320 (9th Cir. 1987) (holding that counsel’s ignorance of Federal Rules of  
24 Civil Procedure does not constitute good cause for untimely service of complaint).

25 Moreover, Plaintiff’s explanation for his ignorance of the law is not compelling. Plaintiff  
26 contends that he was confused by the association of Rule 68 to the time frames of NRS 18.110.  
27 This makes no sense. Plaintiff was clearly the prevailing party under NRS 18.020, which provides  
28 that “Costs must be allowed of course to the prevailing party against any adverse party against

1 whom judgment is rendered.” NRS 18.020 has no bearing on Rule 68 or offers of judgment.

2 Plaintiff’s contention that no prejudice has been shown is no excuse for his failures. The  
3 time frame established in NRS 18.110 may not be jurisdictional, but it is not intended to be merely  
4 advisory either. No case has held that in order for this Court to deem a Memorandum untimely, the  
5 opponent must show prejudice. Rather, the cases that speak on this issue hold that in order to have  
6 the timeframe extended, the prevailing party should establish just cause for the delay other than  
7 simply being dilatory. *Valladares v. DMJ, Inc.*, 110 Nev. 1291, 1294, 885 P.2d 580, 582 (1994).  
8 Plaintiff can offer no cause for the failure to file within the 5-day requirement. The Memorandum  
9 should be entirely retaxed.

10 **B. Ronald Buss Was Not Necessary and He Added Nothing to the Trial.**

11 Plaintiff seeks to recover the full \$9,925 paid to Ronald Buss who neither testified nor  
12 provided necessary services. Plaintiff attempts to distinguish the current Nevada law on this issue  
13 by challenging the facts of *Pub. Employees’ Ret. Sys. of Nevada v. Gitter*, 393 P.3d 673, 681 (Nev.  
14 2017), that “Nevada law establishes that an expert must testify to recover more than \$1,500 in  
15 expert fees.” Plaintiff confuses the two issues presented in that case. First, in *Gitter*, the losing  
16 party sought to entirely retax the cost associated with the prevailing party’s *consulting* expert. The  
17 Supreme Court rejected the argument that the consultant’s fee should be entirely retaxed. *Id.* at  
18 680. Rather, the Supreme Court clarified that the prevailing party is entitled to recover for its  
19 experts up to \$1,500, even if the expert was merely consulting and did not testify. *Id.* at 681.

20 The Supreme Court took the opportunity “to clarify the law with respect to expert witness  
21 fees under NRS 18.005(5)” by concluding that, in the case of experts who do not testify – and  
22 therefore add no value to the trial – “an expert witness who does not testify may recover costs equal  
23 to or under \$1,500, and consistent with Khoury, ‘[w]hen a district court awards expert fees in  
24 excess of \$1,500 per expert, it must state the basis for its decision.’ With respect to cases in which  
25 the expert acts only as a consultant and does not testify, however, district courts may award \$1,500  
26 or less, so long as the district court finds such costs constitute “[r]easonable fees.” *Id.*

27 Defendants seek to have Buss’ fee entirely retaxed because he was not necessary to the  
28 action; alternatively, this Court can award no more than \$1,500 for Buss. Plaintiff identified Buss



1 as an expert to prepare retroactive appraisals. He prepared a report at Plaintiff's request. Based on  
2 that report, Defendants deposed him. His deposition resulted in his concession that with one  
3 exception, he could not quarrel with Defendants' contemporaneous appraisals of the values of the  
4 California properties. Accordingly, Plaintiff wisely decided not to introduce his opinions at trial,  
5 and he was not presented as a witness. As argued in the Motion, Plaintiff had an unlimited  
6 litigation budget and had the flexibility to engage in any number of discovery strategies. Indeed,  
7 Plaintiff is entitled to spend his money however he sees fit. However, when it comes to requesting  
8 Defendants pay for Plaintiff's strategies, the law requires that a Memorandum be retaxed to only  
9 those costs which were necessary and reasonable. Plaintiff has not established that Buss was  
10 necessary to the case. Even if he was necessary, because he did not testify, Plaintiff can recover no  
11 more than \$1,500 for him.

12 **C. McGovern's Fee Was Facially Unreasonable and Unnecessary.**

13 As explained in the Motion, the decision to award costs in excess of the allowed statutory  
14 amount must be supported by an "express, careful, and preferably written explanation of the courts'  
15 analysis of the factors pertinent to determining the reasonableness of the requested fees and  
16 whether 'the circumstances surrounding the experts' testimony were of such necessity to require  
17 the larger fee.'" See *Frazier v. Drake*, 131 Nev. Adv. Op. 64, 357 P.3d 365, 377-78 (Nev. App.  
18 2015). It is Plaintiff's obligation to establish the factors supporting James McGovern's excess fee.  
19 Plaintiff did not adequately do so. Plaintiff established that McGovern's opinions on the valuation  
20 of Superpumper were accepted by the Court, but Plaintiff did not establish why his astounding fee  
21 of \$64,076.80 was reasonable.

22 McGovern admitted he was not a gas station or convenience store expert. He conceded that  
23 he had never valued a gas station or convenience store. In that way, McGovern added nothing  
24 more than what the typical valuation expert would add. Yet, his fee of \$64,076.80 is far in excess  
25 of what a reasonable expert fee would include for nothing more than a valuation report and trial  
26 testimony.

27 Further, the support Plaintiff provided in its opposition confirms only that Plaintiff agreed  
28 to pay McGovern \$64,076.80 for his services. This does not support a conclusion that it was

1 necessary to pay over \$64,000 to obtain a straightforward valuation report. Again, just because  
2 Plaintiff had an unlimited litigation budget to pay his experts whatever they asked to be paid does  
3 not establish that the fee was reasonable nor necessary. This Court has sufficient experience to  
4 exercise discretion to award a reasonable amount attributed to McGovern. \$64,076.80 is facially  
5 excessive.

6 **D. Plaintiff's Excuse for Retaining Out-Of-Town Counsel Is Misleading and**  
7 **Disingenuous.**

8 Plaintiff contends that it was reasonable and necessary to retain out of town counsel to  
9 prosecute this case because (1) Gordon Silver (the predecessor to Plaintiff's current firm) no longer  
10 has an office in Reno, and because of that, (2) he opted not to seek "*new and different* counsel in  
11 Reno" when Gordon Silver dissolved. (Opposition, p.8:27)(emphasis added).

12 These arguments are premised on false facts and are meant to mislead the Court as to what  
13 really happened. First, back in 2007, Herbst retained John Desmond and Brian Irvine to represent  
14 him in the initial *Morabito v. Herbst* action, CV07-2764. John Desmond and Brian Irvine from  
15 Jones Vargas – and NOT Gerald Gordon – represented Herbst through that action. It was Desmond  
16 that handled the appeal and appeared at the settlement conference that resulted in the Confession of  
17 Judgment. Gordon was not involved. It was only when Jones Vargas dissolved, and John  
18 Desmond and Brian Irvine's Reno office joined Gordon Silver in July 2012, did Gerald Gordon  
19 have any involvement in the *Morabito* matters. It was John Desmond who signed the Complaint in  
20 this action, and who prepared and filed the initial motions and oppositions. It was Brian Irvine who  
21 participated in the Joint Case Conference. It was Brian Irvine who filed the Status Report on May  
22 13, 2015, in advance of the Pre-Trial Conference.

23 Gerald Gordon only became directly involved in this case after Gordon Silver dissolved.  
24 When that happened, John Desmond admitted to the Bankruptcy Court that he was not sure  
25 whether Plaintiff would retain him, or whether Plaintiff would choose to retain Gordon. Plaintiff  
26 knowingly and intentionally chose to hire Gerald Gordon and Garman Turner Gordon in Las Vegas  
27 over Brian Irvine and John Desmond in Reno, despite their more than eight years of institutional  
28 knowledge of the *Morabito v. Herbst* disputes. Gerald Gordon filed a substitution of counsel

1 replacing himself and Garman Turner Gordon in place of John Desmond and Brian Irvine in this  
2 action on May 26, 2015. Plaintiff chose his current counsel knowing they were located in Las  
3 Vegas. Plaintiff further acquiesced to his counsel Ms. Pilatowicz working from Garman Turner  
4 Gordon's office in Phoenix, Arizona.

5 Thus, it is misleading and disingenuous for Plaintiff to contend that they opted to stay with  
6 Gordon in Las Vegas in preference over "new and different counsel in Reno." Plaintiff could have  
7 retained Desmond and Irvine in Reno. Plaintiff chose – as is his right to do – to retain out of town  
8 counsel. However, contrary to Plaintiff's contentions, doing so was not necessary. Accordingly, it  
9 is not reasonable for Defendants to be taxed with the additional expense of Plaintiff's voluntary  
10 choice to retain Gordon in Las Vegas over Desmond in Reno.

11 **III. CONCLUSION**

12 The Memorandum is untimely. It should be retaxed in its entirety. Plaintiff cannot excuse  
13 the untimeliness except through ignorance of the law.

14 Even if the Court does not grant this Motion based on the untimeliness of the  
15 Memorandum, the Memorandum should be retaxed to reduce: (1) James McGovern to \$1,500; (2)  
16 Ronald Buss to \$0; (3) the Court's discretion as to the reasonable amount of photocopy costs; (4)  
17 \$5,184.05 in postage, and (5) all of the \$15,059.78 in out-of-town counsel's travel, lodging, and *per*  
18 *diem* costs.

19 **AFFIRMATION**  
20 **Pursuant to NRS 239B.030**

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

23 DATED this 22nd day of April, 2019.

24 ROBISON, SHARP, SULLIVAN & BRUST  
25 71 Washington Street  
26 Reno, Nevada 89503

27         /s/ Frank C. Gilmore          
28 FRANK C. GILMORE, ESQ.  
Attorneys for Defendants

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCF 5(b), I certify that I am an employee of Robison, Sharp, Sullivan &  
3 Brust, and that on this date I caused to be served a true copy of the **REPLY IN SUPPORT OF**  
4 **MOTION TO RETAX COSTS** all parties to this action by the method(s) indicated below:

5  by placing an original or true copy thereof in a sealed envelope, with  
6 sufficient postage affixed thereto, in the United States mail at Reno,  
7 Nevada, addressed to:

8 Edward Bayuk  
668 North Coast Hwy, #517  
Laguna Beach, CA 92651


9  by using the Court's CM/ECF Electronic Notification System addressed to:

10 Gerald Gordon, Esq.  
11 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
12 Mark M. Weisenmiller, Esq.  
13 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
14 Teresa M. Pilatowicz, Esq.  
15 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
16 Erika Pike Turner, Esq.  
17 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

18 \_\_\_\_\_ by email addressed to:

19 Gerald Gordon, Esq.  
20 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
21 Mark M. Weisenmiller, Esq.  
22 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
23 Teresa M. Pilatowicz, Esq.  
24 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
25 Erika Pike Turner, Esq.  
26 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

27 DATED: This 22nd day of April, 2019.

28 

1 **2645**  
2 **FRANK C. GILMORE, ESQ. - NSB #10052**  
3 fgilmore@rbsllaw.com  
4 **Robison, Sharp, Sullivan & Brust**  
5 71 Washington Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 329-3151  
8 Facsimile: (775) 329-7169

9 Attorneys for Defendants

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

12 WILLIAM A. LEONARD, Trustee for the  
13 Bankruptcy Estate of Paul Anthony Morabito

CASE NO.: CV13-02663

DEPT. NO.: 4

14 Plaintiffs,

15 vs.

16 SUPERPUMPER, INC., an Arizona corporation;  
17 EDWARD BAYUK, individually and as Trustee  
18 of the EDWARD WILLIAM BAYUK LIVING  
19 TRUST; SALVATORE MORABITO, an  
20 individual; and SNOWSHOE PETROLEUM,  
21 INC., a New York corporation,

22 \_\_\_\_\_  
23 Defendants. /

24 **OPPOSITION TO APPLICATION FOR ATTORNEYS' FEES AND COSTS**  
25 **PURSUANT TO NRCP 68**

26 Defendants SUPERPUMPER, INC., SALVATORE MORABITO, and SNOWSHOE  
27 PETROLEUM, INC. (collectively, "Defendants") hereby bring their Opposition to Plaintiff's  
28 Application for Attorneys' Fees and Costs Pursuant to NRCP 68 ("Motion"). This Opposition is  
made and supported by the following Memorandum of Points and Authorities, the attached Exhibit,  
the Declaration of Salvatore Morabito, and the pleadings and papers on file herein.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiff seeks recovery of his attorneys' fees under NRCP 68, pursuant to an Offer of  
Judgment ("Offer") served on Defendants on May 31, 2016. However, Plaintiff is not entitled to an

1 award of attorneys' fees. The Offer upon which Plaintiff relies cannot be used to seek the fee-  
2 shifting penalty of NRCP 68 because the Offer was not reasonable and in good faith in both timing  
3 and amount. The Offer was conditioned on acceptance by *all* Defendants, and therefore cannot be  
4 reasonably expected to induce a settlement. For the same reasons why NRCP 68(c)(2), requires  
5 that "the same entity, person, or group is authorized to decide whether to settle the claims against  
6 the offerees," Plaintiff's conditional offer was not reasonable. For the same reasons, Defendants  
7 rejection of the Apportioned Conditional Offer was not grossly unreasonable nor in bad faith.

8 Further, even if the Offer were effective to invoke the penalties of Rule 68, the *Beattie*  
9 factors do not support an award of fees. Based on the information available to them on May 16,  
10 2016, Defendants did not unreasonably reject Plaintiff's Offer. At the time the Offer was made, the  
11 majority of the third-party discovery Plaintiff utilized at trial had not been obtained, and  
12 Defendants could not have anticipated how impactful that post-offer discovery might have been at  
13 trial. Based on what Defendants perceived the material facts to be as of May 2016, rejecting the  
14 offer of \$3,000,000 was not grossly unreasonable or in bad faith.

## 15 II. LAW

### 16 A. Rule 68.

17 Rule 68 of the Nevada Rules of Civil Procedure applicable at the time the offer was made  
18 (May 31, 2015), contained the following applicable provisions:

- 19 (b) **Apportioned Conditional Offers.** An apportioned offer of  
20 judgment to more than one party may be conditioned upon the  
21 acceptance by all parties to whom the offer is directed.
- 22 (c) **Joint Unapportioned Offers.**
- 23 (2) Offers to Multiple Defendants. An offer made to multiple  
24 defendants will invoke the penalties of this rule only if:
- 25 (A) there is a single common theory of liability against  
26 all the offeree defendants, such as where the  
27 liability of some is entirely derivative of the others  
28 or where the liability of all is derivative of common  
acts by another; and
- (B) the same entity, person, or group is authorized to  
decide whether to settle the claims against the  
offerees.

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**B. The Beattie Factors**

In *Beattie v. Thomas*, 99 Nev. 579, 588–89, 668 P.2d 268, 274 (1983), the Nevada Supreme Court held that, when determining whether to award attorney fees based on a rejected offer of judgment, the district court is to evaluate:

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

See *Frazier v. Drake*, 131 Nev. Adv. Op. 64, 357 P.3d 365, 372 (Nev. App. 2015). “None of these factors are outcome determinative, however, and thus, each should be given appropriate consideration.” *Id.* However, where the district court “determines that the three good-faith *Beattie* factors weigh in favor of the party that rejected the offer of judgment, the reasonableness of the fees requested by the offeror becomes irrelevant, and cannot, by itself, support a decision to award attorney fees to the offeror.” *Id.* at 373.

**II. ARGUMENT**

**A. Plaintiff’s Offer of Judgment Was Not Reasonable in Amount Because the Defendants Are Not “the Same Entity, Person, or Group” Authorized to Decide Whether to Settle the Claims.**

While the “designed the purpose of NRCP 68 is to encourage settlement, it is not to force [parties] unfairly to forego legitimate claims.” *Beattie*, 99 Nev. at 588. Because of this, Rule 68 is very specific about when offers to multiple defendants can be used to “invoke the penalties” of the Rule. While prior versions of Rule 68 did not permit apportioned conditional offers, the current version of the Rule does permit an apportioned offer to “be conditioned upon the acceptance by all parties to whom the offer is directed.” NRCP 68(b). There is no dispute that Plaintiff’s Offer is an apportioned conditional offer under NRCP 68(b). The Offer apportions equal \$600,000 shares to each of the five Defendants, for a total of \$3,000,000. The Offer is an apportioned conditional offer because the Offer expressly provides that:

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No partial acceptance of this offer will be accepted. This offer must be accepted in its entirety, in the total collective amount of Three Million Dollars (\$3,000,000), to be enforceable.

(See Motion, Exhibit 2, p. 2:21-22). Where, as here, conditional apportioned offers have been made to multiple defendants, the Offer must still be shown to be reasonable in timing and amount. Where, as here, the Offer is presented in such a way that “the same entity, person or group is [not] authorized to decide whether to settle the claims against the offerees,” then the Offer cannot be reasonable because it cannot possibly promote the early settlement of cases in accordance with the designs of NRC 68.

***1. There Is No Single Entity, Person, or Group Among the Defendants Who Was Authorized to Decide Whether to Accept the Conditional Offer.***

Plaintiff sued five Defendants, which includes two entities and two individuals. Although it could be argued that the theory of liability amongst the Defendants was common, the incentive for settlement between the respective parties was clearly not.

The factual allegations contained in the First Amended Complaint which supported the claims asserted against the parties as of the Offer date was limited to:

- (a) the \$6,000,000 transfer to Sefton Trustees in New Zealand.
- (b) the September 21, 2010 transfer of \$355,000 to Salvatore Morabito, and \$420,250 to Bayuk;
- (c) transfer of the Panorama Drive Reno Property to the Debtor;
- (d) the September 28, 2010, merger and sale of Superpumper;
- (e) the transfer of 50% interest Baruk Properties (and its real property assets) to Bayuk for a promissory note with a principal amount of \$1,617,050; and
- (g) the transfer of 371 El Camino Del Mar and 371 Los Olivos, Laguna Beach, California to Bayuk as trustee for Edward William Bayuk Living Trust.

(First Amended Complaint, ¶30)

Plaintiff elected to name and sue each of the Defendants collectively, and then Plaintiff elected to serve an apportioned conditional offer of judgment on the Defendants. Based on the factual and procedural posture of the case at the time of the Offer, there was no possible scenario in



1 which the same person, entity, or group had sole authority to accept the Offer, and therefore the  
2 Offer was not reasonable. Defendants' counsel explained this to Plaintiff's counsel in  
3 correspondence responding to the Offer. (Motion, Exh. 3). Defendants explained that the method  
4 of allocating the settlement amounts and the conditions placed on acceptance were inherently  
5 unreasonable. *Id.* As explained in that letter, the Defendants did give serious and due  
6 consideration to the Offer, but for the same reasons as set forth in this brief, the Defendants simply  
7 could not accept it, even if some of them wanted to.

8 Salvatore "Sam" Morabito, individually, had been accused only of receiving a \$355,000  
9 payment from Paul Morabito. Aside from his interest in Snowshoe, Sam had no other liability  
10 exposure to Plaintiff. Sam had no specific knowledge nor involvement in Paul's transfers of the  
11 Reno Property, the Laguna Beach properties, and the assignment of the interests in Baruk  
12 Properties. (See Declaration of Sam Morabito, ¶4). Even if Sam wanted to accept the Offer related  
13 to his own personal exposure, he had no more authority to authorize settlement of Bayuk's  
14 individual claims than Bayuk had authority to settle Sam's individual claims. *Id.* at ¶5. Moreover,  
15 it was a distinct possibility as of May 31, 2016, that this Court could have found in favor of  
16 Plaintiff against Bayuk as to the real property transfers, but concurrently entered a defense verdict  
17 in favor of Sam on his personal liability. *Id.* at ¶6. Just because Sam and Bayuk were sued  
18 together and tried the case together does not mean that there was any such unity of interest or unity  
19 of settlement authority. *Id.* In such cases, an apportioned conditional offer is an ineffective  
20 settlement tool and provides no motive for settlement between the disparate individual defendants.

21 This type of lack of unity of interest and authority presents the conundrum the Rule is  
22 designed to avoid. This lack of unity and authority presents the reason why the Rule expressly  
23 requires joint unapportioned offers to have unity of offeree authority to accept. While it is true that  
24 apportioned conditional offers are now allowed by the Rule, where, as here, the offerees have their  
25 own respective motives, interests, and exposure, a conditional offer does not – and cannot – “help  
26 to accomplish the purpose of both the statute and the rule, which is to encourage settlement.”  
27 *RTTC Commc'ns, LLC v. Saratoga Flier, Inc.*, 121 Nev. 34, 42, 110 P.3d 24, 29 (2005). It was this  
28 precise scenario that resulted in the requirements of Rule 68(c)(2), in order to “assuage the

1 concerns that joint unapportioned offers of judgment do not encourage settlement, since such offers  
2 are only allowed in circumstances where that purpose can be served.” *Id.*

3           Importantly, when evaluating joint unapportioned offers, the burden of establishing the  
4 unity of interest and settlement authority lies with the Plaintiff offeror. *Albios v. Horizon*  
5 *Communities, Inc.*, 122 Nev. 409, 422, 132 P.3d 1022, 1031 (2006)(“[Offeror] was also required to  
6 demonstrate that the same person was authorized to decide whether to settle the claims of all  
7 plaintiffs.”). That same burden should apply here for the Plaintiff’s conditional apportioned offer.  
8 Plaintiff’s Motion does not even acknowledge the fact that the Offer was an apportioned  
9 conditional offer, let alone establish why such a condition was reasonable under these  
10 circumstances. Plaintiff has not explained why a conditional offer of \$600,000 to each of the  
11 Defendants was reasonable, nor does Plaintiff explain why it was unreasonable for any one of the  
12 Defendants to elect not to accept it. Plaintiff’s Motion merely states that the amount was  
13 reasonable because the ultimate judgment obtained was larger than the amount of the Offer.  
14 However, comparing the result to the amount of the offer is only one of the types of considerations  
15 this Court must evaluate in determining if the Offer was reasonable.

16                           **2.       The Conditional Apportionment of the Offer Was Not Reasonable.**

17           The manner in which the Offer was apportioned between the Defendants was not a  
18 reasonable settlement offer. As set forth above, each of the parties faced their own respective  
19 exposure. Bayuk’s maximum exposure was far greater than Sam’s. Indeed, the final Judgment  
20 entered against Bayuk was more than \$2.6 million larger than the Judgment entered against Sam.  
21 Why would it be reasonable for Sam to agree to accept a settlement offer where all Defendants pay  
22 equally, when his total exposure was a fraction of Bayuk’s? Indeed, why would it be reasonable  
23 for Superpumper to agree to settle for \$300,000 when it had effectively zero *actual* exposure, as  
24 borne out by the trial and the Judgment in which no relief is awarded against Superpumper?

25           Put simply, if the stated intent of Rule 68 is to encourage settlement, then an offer under the  
26 Rule must be designed to accomplish that task. *Yada v. Simpson*, 112 Nev. 254, 258, 913 P.2d  
27 1261, 1263 (1996)(“*The rule and its rationale apply also to the instant case, where a single*  
28 *plaintiff’s offer of judgment was not apportioned among multiple defendants. Such an offer of*

1 judgment does not serve to encourage settlement since the individual defendants are unable to  
2 determine their share of a joint offer and make a meaningful choice between accepting the offer or  
3 continuing to litigate.”) Where, as here, the offer is conditioned on each of the discrete parties  
4 agreeing to accept an equal 1/5<sup>th</sup> of the total amount of the Offer, notwithstanding the clear  
5 distinctions in each of their respective exposure, then the Offer is no different than a joint  
6 unportioned offer where lack of unity prevents the offeror from invoking the penalties of the Rule.  
7 The allocation, combined with the condition of joint acceptance, was not reasonable.

8 **A. Defendants’ Rejection of the Offer Was Not Grossly Unreasonable Nor in Bad**  
9 **Faith.**

10 Even if one of the Defendants had wanted to accept the Offer, the Offer could not be  
11 accepted without unanimity of all Defendants. For the reasons set forth above, related to the  
12 conditional nature of the Offer, there was simply no realistic possibility that an Offer conditioned  
13 on 1/5<sup>th</sup> equal payments could reasonably be accepted in light of the disparate potential exposure  
14 the Defendants faced. Moreover, contrary to Plaintiff’s contention, when the Offer was served,  
15 very little of the actual substantive discovery had been done, most of the depositions had not yet  
16 occurred, and very few of the Plaintiff’s actual trial exhibits had been produced in discovery.  
17 When the Offer was received, based on what Defendants knew at the time, the Defendants’  
18 decision to reject the Offer was not grossly unreasonable nor in bad faith.

19 **1. *The Majority of the Discovery in this Case Occurred After the Offer.***

20 Although Plaintiff rests his entire Motion on the amount of the Judgment relative to the  
21 Offer, the Supreme Court has made it clear that the timing and amount of the offer – and the  
22 rejection thereof – must be considered. *Frazier v. Drake*, 131 Nev. Adv. Op. 64, 357 P.3d 365, 372  
23 (Nev. App. 2015)(offer must be “reasonable and in good faith in both timing and amount”).  
24 Timing of an offer can often be more critical than the amount of the offer in determining  
25 reasonableness, depending on the circumstance of when the offer was made. For example, an offer  
26 made the day after a complaint is filed could be unreasonable based in timing alone, irrespective of  
27 the amount of the offer, simply because the parties had not yet been given an opportunity to  
28 objectively evaluate how the case might play out.

1 Plaintiff contends, without support, that Defendants’ rejection of the offer was grossly  
2 unreasonable because “Defendants had the benefit of discovery and the disclosure of experts and  
3 the time the Offer” was made. (Motion, p.6). Defendants disagree with this contention. First, this  
4 factual assertion is not substantively accurate. Second, because this case focused almost  
5 exclusively on the intent of Paul Morabito – a non-party – Defendants had no ability to predict the  
6 breadth and content of the post-Offer discovery that Plaintiff would acquire that was ultimately  
7 presented at trial. Indeed, the vast majority of Plaintiff’s trial exhibits were emails from Paul  
8 Morabito which were (a) produced after the Offer, and (b) communications in which Bayuk and  
9 Sam were not involved. Additionally, the majority of the depositions taken which were read into  
10 the record were taken after the Offer, not before.

11 Fifty-one of Plaintiff’s most relied-upon exhibits were all produced after the Offer. That  
12 includes nearly all the emails which this Court relied on in the Judgment to find actual fraudulent  
13 intent.<sup>1</sup> Neither Sam nor Bayuk were parties to the vast majority of those emails. Plaintiff’s  
14 favorite “home court, good old boy advantage” email (Exhibit 29), was produced well after the  
15 Offer (Judgment, p.10), as were the emails Paul sent to his lawyers regarding his “intention to be  
16 active in the business of Superpumper” (Exhibit 30)(Judgment p.11) and the emails regarding the  
17 potential venture with Nella Oil (Exhibit 79)(Judgment, p.11).

18 Defendants were not privy to these emails when the Offer was received and had no ability  
19 to predict the impact the emails might have had on the trial. Critically, the Court repeatedly  
20 acknowledged that the Court is to examine the transferor’s intent, not the *Defendants* intent (See  
21 Judgment p. 36 (“Defendants’ intent is not relevant to the analysis of whether the transfers were  
22 made with actual intent to hinder, delay, or defraud, or were constructively fraudulent”). What  
23 Defendants knew and did not know at the time of the Offer is the most critical element in  
24 determining whether the rejection of the Offer was grossly unreasonable or in bad faith.

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26 ///

27 <sup>1</sup> See Exhibits 1, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 68, 69, 70, 75, 76, 77, 79, 127, 128,  
28 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 147, 148, 149, 140,  
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i. *Five of Plaintiff's Seven Deposition Witnesses Were Examined After the Offer.*

Of the seven deposition witnesses presented by Plaintiff at trial, five of them were taken after the Offer, including Sujata Yalamanchili, Gary Graber, and Dennis Vacco. Only Paul Morabito and Dennis Vacco's first deposition occurred prior to the Offer. Indeed, when the Offer was received, the notice of deposition for Yalamanchili, Graber, Lovelace, and Vacco (2<sup>nd</sup>) had not even been served. Accordingly, in evaluating the Offer, Defendants could not have conceived of what these witnesses were going to testify to. Neither Graber nor Yalamanchili – who were Paul Morabito's lawyers who initiated the Superpumper property exchange concept – were even disclosed as potential witnesses by either side when the Offer was made. Defendants had no ability to predict what these witnesses would say, or what documents they might have produced which could have impacted the trial.

2. ***Defendants Had Anticipated at the Time of the Offer that Their Primary Witness Would Make Himself Available for Trial.***

This Court did not have the benefit of live testimony from Dennis Vacco, the former United States Attorney for the Western District of New York, and the former New York Attorney General, who previously represented Defendants and Paul Morabito, and was the architect and engineer of the property division. As explained in Defendants' counsel's response to the Plaintiff's Offer (Motion, Exh. 3), it was anticipated that Mr. Vacco and his partner Christian Lovelace would make themselves available for trial. Accordingly, Defendants prepared their case as though Mr. Vacco and Mr. Lovelace would be present to testify and be cross-examined. This Court is well aware that many of Plaintiff's emphasized trial exhibits were emails between Mr. Vacco and other non-parties, to which no witness was available to explain the context, subtleties, or tone. Without Mr. Vacco, Defendants had no witness to explain how Paul Morabito's emails and other comments were taken out of context by Plaintiff's counsel, or the ways in which Plaintiff's counsel intentionally confused the manner and timing of how the transfers were intended and accomplished. When Defendants refused the Offer, they anticipated the assistance of Mr. Vacco, which, as the Court knows, they did not ultimately receive. Mr. Vacco's participation at trial would have resulted in a decidedly

1 different trial, if not an entirely different result.

2 **3. Based on the Appraisals the Defendants Had Obtained, Defendants’**  
3 **Reliance on the Valuations of the Properties They Received Was Not**  
4 **Grossly Unreasonable nor in Bad Faith.**

5 The test to determine whether a debtor received reasonably fair consideration for a transfer  
6 is “whether the disparity between the true value of the property transferred and the price paid is so  
7 great as to shock the conscience and strike the understanding at once with the conviction that such  
8 transfer could never have been made in good faith.” *Matusik v. Large*, 85 Nev. 202, 208, 452 P.2d  
9 457, 460 (1969) (emphasis added). Prior to the Offer, Defendants had acquired the pre-litigation  
10 valuation of Superpumper done by Spencer Cavalier, an expert who specializes in gas station and  
11 convenience store appraisals. Defendants had also acquired the pre-litigation MAI appraisals for  
12 the Reno Property and the Laguna Properties from qualified professionals. Defendants justifiably  
13 believed that their percipient expert witness Jan Friederich would be able to explain why Plaintiff’s  
14 valuation expert was ill-qualified and ignorant of how gas stations are supposed to be valued.  
15 Defendants justifiably believed these value estimates could not be so faulty as to “shock the  
16 conscience.” Since they possessed their valuation appraisals, and the Lippes and Hodgson  
17 document productions which made up the vast majority of the Plaintiff’s evidence had not yet been  
18 produced, Defendants justifiably believed that their plan to separate their co-owned assets with  
19 Paul Morabito was appropriate. Most of the compelling documentary evidence and testimony, and  
20 *all* of the evidentiary rulings, occurred post-Offer. Defendants’ rejection of the Offer based on the  
21 status of the case and the contents of discovery at the time rendered the decision justifiable and  
22 certainly not in bad faith or grossly unreasonable.

23 **4. Plaintiff’s Amount of Attorneys’ Fees Requested Is Unreasonably**  
24 **Excessive.**

25 The fourth *Beattie* factor requires that this Court consider whether the amount of fees  
26 sought by the Plaintiff are reasonable and justified. The Court is to apply the *Brunzell* factors to  
27 the amount sought. Defendants agree with Plaintiff’s statement of the law as it applies to the  
28 factors this Court is to consider. However, Defendants contend that the request for fees, as with  
the Memorandum of Costs, reflects the Plaintiff’s unlimited litigation budget, but does not reflect

1 that the amount of \$731,166 in post-offer fees is reasonable.

2 *i. Plaintiff's Counsel's Hourly Rates Are Excessive.*

3 This Court is aware of the hourly rates that civil litigators in this County can reasonably  
4 charge. Each of Plaintiff's four trial lawyers seeks an excessive hourly rate under *Brunzell*.  
5 Plaintiff has presented its out-of-town counsel and the applicable out-of-town billing rates, which  
6 are not reasonable in this jurisdiction.

7 Gerald Gordon, a bankruptcy specialist who had no apparent active role in this case, billed  
8 the file at \$775 per hour. (See Motion, Exhibit 4). There is no lawyer in this County, irrespective  
9 of his alleged experience and prowess, that can reasonably command \$775 per hour.

10 Erika Pike Turner, who participated in this case only at the trial phase, billed the file at  
11 \$495 per hour. This, too, is excessive in this market. This County's most experienced and  
12 qualified trial counsel do not command \$495 per hour.

13 Gabrielle Hamm, who participated on the periphery of the case, but who was present and  
14 billing for the entire trial, has billed the file at \$385, which is excessive for the clerical and  
15 administrative function that she performed, according to the billing statements. It was not clear if  
16 Ms. Hamm had ever tried a civil case to verdict in her career.

17 Teresa Pilatowicz, who specializes primarily in bankruptcy in Arizona, and who performed  
18 the role of a typical litigation associate, billed the file at \$365 per hour, which is excessive in this  
19 market for the types of tasks she performed.

20 Because the vast majority of the work performed in the file was by Ms. Pilatowicz, the  
21 blended rate of \$356.49 is unreasonably high. The blended rate should be adjusted to reflect an  
22 associate rate of \$250 per hour for 1500 of the post-offer fees, and a senior litigator at \$350 for the  
23 remaining 500 hours for an appropriate blended rate of \$275 per hour.

24 *ii. The Billing Statements Evidence the Fact that Plaintiff Paid Three*  
25 *Lawyers to Do the Tasks that One Lawyer Could Have*  
26 *Accomplished.*

27 Plaintiff paid three full-time lawyers to travel to Reno to attend an 8-day trial, when the  
28 case could have been adequately handled by one lawyer. In fact, Plaintiff paid as many as 6  
lawyers to simultaneously attend the trial, when considering the three "trial counsel," plus Mr.

1 Gordon, Mr. Murtha (Plaintiff's bankruptcy counsel), and the lawyer billing to read deposition  
2 transcripts onto the record. This practice is routine and accepted in Phoenix or Las Vegas, but not  
3 in Washoe County. The billing statements evidence the fact that Plaintiff paid three lawyers to  
4 have regular "conferences" with each other to discuss and strategize the case.

5 In addition to these other examples of unreasonableness, Plaintiff has submitted fees for  
6 travel to and from Reno, which is neither necessary nor reasonable. Defendants request the Court  
7 reduce Plaintiff's fee request, pursuant to *Brunzell*, by at least **\$126,442.50**, as set forth in Exhibit  
8 1. Plaintiff seeks recovery of fees associated with duplication of efforts, redundant billing and out-  
9 of-town travel. Exhibit 1 has been highlighted in yellow to evidence the duplication, redundant,  
10 and out-of-town billing.

11 Exhibit 1 has been highlighted in pink to give examples of clearly excessive and  
12 unreasonably large bills for discrete tasks. For example, in preparing just the 13-page Motion to  
13 Reopen Evidence (not even the Reply), **one lawyer billed the file 29.8 hours, for a total of**  
14 **\$11,473**. Plaintiff may conclude that he obtained value for the effort, but this type of clearly  
15 excessive billing is neither reasonable nor necessary, and *Brunzell* does not require Defendants be  
16 responsible for such excess.

17 Exhibit 1 is highlighted in purple to give examples of billing entries which had no  
18 relationship to this case. In one example, Plaintiff was billed 8.9 hours to prepare the ledgers that  
19 were submitted to the bankruptcy court as part of the firm fee applications, at the cost of  
20 \$1,888.50. Plaintiff cannot reasonably request payment of these fees from Defendants.

21 **5. Defendants Incorporate the Arguments Set Forth in the Motion to Retax**  
22 **Costs.**

23 Defendants filed a Motion to Retax Costs, challenging the amount of costs sought by  
24 Plaintiff. Defendants incorporate that Motion herein to address the cost issues raised by the  
25 Plaintiff.

26 **IV. CONCLUSION**

27 For the reasons set forth above, the Defendants respectfully request this Court deny  
28 Plaintiff's Application for Attorneys' Fees.



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**AFFIRMATION**  
**Pursuant to NRS 239B.030**

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

DATED this 25th day of April, 2019.

ROBISON, SHARP, SULLIVAN & BRUST  
71 Washington Street  
Reno, Nevada 89503

        /s/ Frank C. Gilmore          
FRANK C. GILMORE, ESQ.  
Attorneys for Defendants

1                    **DECLARATION OF SALVATORE MORABITO IN SUPPORT OF OPPOSITION TO**  
2                    **APPLICATION FOR ATTORNEYS' FEES.**

3                    I, SALVATORE MORABITO, being first duly sworn under penalty of perjury, depose and  
4 say:

5                    1.        I am an individual above the age of 18 and make the following statements on my  
6 own personal knowledge, except where stated to be on my information and belief.

7                    2.        I am one of the Defendants in this action.

8                    3.        Prior to the Judgment, I had been accused by Plaintiff of receiving a \$355,000  
9 payment from Paul Morabito. Aside from my interest in Snowshoe, I understood that I had no  
10 other personal liability exposure to Plaintiff.

11                    4.        I had no specific knowledge nor involvement in Paul's transfers of the Reno  
12 Property, the Laguna Beach properties, and the assignment of the interests in Baruk Properties.

13                    5.        I gave the Offer careful consideration and discussed it extensively with Edward  
14 Bayuk and counsel. Even if I wanted to accept the Offer related to my own personal exposure, I  
15 had no authority to authorize settlement of Bayuk's individual claims, and I certainly did not give  
16 Bayuk authority to settle my claims.

17                    6.        Moreover, I believed at the time that it was a distinct possibility as of May 31,  
18 2016, that this Court could have found in favor of Plaintiff against Bayuk as to the real property  
19 transfers, but concurrently entered a defense verdict in favor of me on my personal liability. Just  
20 because Edward and I were sued together and tried the case together did not mean that there was  
21 any such unity of interest or unity of settlement authority that one of us could have had the  
22 authority to settle for the other.

23                    Dated this 24 day of April, 2019.

24  
25                      
26                    SALVATORE MORABITO

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCF 5(b), I certify that I am an employee of Robison, Sharp, Sullivan &  
3 Brust, and that on this date I caused to be served a true copy of the **OPPOSITION TO**  
4 **APPLICATION FOR ATTORNEYS' FEES AND COSTS PURSUANT TO NRCF 68** all  
5 parties to this action by the method(s) indicated below:

6  by placing an original or true copy thereof in a sealed envelope, with  
7 sufficient postage affixed thereto, in the United States mail at Reno,  
8 Nevada, addressed to:

9 Edward Bayuk  
668 North Coast Hwy, #517  
Laguna Beach, CA 92651

10  by using the Court's CM/ECF Electronic Notification System addressed to:

11 Gerald Gordon, Esq.  
12 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
13 Mark M. Weisenmiller, Esq.  
14 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
15 Teresa M. Pilatowicz, Esq.  
16 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
17 Erika Pike Turner, Esq.  
18 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

19 \_\_\_\_\_ by email addressed to:

20 Gerald Gordon, Esq.  
21 Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
22 Mark M. Weisenmiller, Esq.  
23 Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
24 Teresa M. Pilatowicz, Esq.  
25 Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
26 Erika Pike Turner, Esq.  
27 Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

28 DATED: This 25th day of April, 2019.



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**LIST OF EXHIBITS**

**EXHIBIT NO.**                      **DESCRIPTION**                                              **NO. OF PAGES**

1                                      Plaintiff's Bill Dispute Ledger                                              58

Robison, Sharp  
Sullivan & Brust  
71 Washington St.  
Reno, NV 89503  
(775) 329-3151

# EXHIBIT 1

# EXHIBIT 1

<u>REASON</u>	<u>HOURS BILLED</u>	<u>\$ BILLED</u>
Duplicate/Redundant/Out-of-Town	301.30	\$113,081.00
Unreasonably High/Excessive	29.80	\$11,473.00
Not Applicable to Own Case	<u>8.9</u>	<u>\$1,888.50</u>
<b>TOTAL</b>	<b>340</b>	<b>\$126,442.50</b>

# Exhibit 4

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
6/1/2016	0.1	\$365.00	Correspondence to client regarding deposition.	\$36.50	Teresa Pilatowicz
6/1/2016	0.3	\$365.00	Multiple correspondence to W. Leonard (.1), F. Gilmore (.1), and A. Wright regarding Bernstein deposition (.1)	\$109.50	Teresa Pilatowicz
6/6/2016	0.2	\$365.00	Call to A. Wright regarding Bernstein deposition; Correspondence regarding same.	\$73.00	Teresa Pilatowicz
6/7/2016	0.6	\$365.00	Analysis of discovery status and remaining discovery; Correspondence to F. Gilmore regarding same.	\$219.00	Teresa Pilatowicz
6/7/2016	0.1	\$365.00	Draft notice of continued deposition of Stanton Bernstein.	\$36.50	Teresa Pilatowicz
6/7/2016	0.8	\$365.00	Commence reviewing documents produced in adversary.	\$292.00	Teresa Pilatowicz
6/8/2016	0.4	\$365.00	Analysis of discovery deadlines and remaining depositions.	\$146.00	Teresa Pilatowicz
6/9/2016	1	\$365.00	Review documents disclosed by Bayuk and Meadows Trust in adversary proceeding.	\$365.00	Teresa Pilatowicz
6/13/2016	0.6	\$365.00	Review and analysis of order denying motion to quash (.5); Correspondence to client regarding same (.1)	\$219.00	Teresa Pilatowicz
6/13/2016	0.4	\$365.00	Strategize regarding ██████████	\$146.00	Teresa Pilatowicz
6/13/2016	0.2	\$365.00	Correspondence to A. Wright and F. Gilmore regarding Bernstein deposition.	\$73.00	Teresa Pilatowicz
6/14/2016	1.7	\$365.00	Further analysis of additional documents produced in bankruptcy case.	\$620.50	Teresa Pilatowicz
6/15/2016	0.1	\$365.00	Amended notice of Bernstein depo.	\$36.50	Teresa Pilatowicz
6/15/2016	0.2	\$365.00	Review and analysis of letter rejecting offer of judgment.	\$73.00	Teresa Pilatowicz
6/15/2016	0.1	\$365.00	Review status of expert payment.	\$36.50	Teresa Pilatowicz
6/20/2016	0.4	\$365.00	Review status of Vacco documents.	\$146.00	Teresa Pilatowicz
6/20/2016	0.2	\$365.00	Multiple correspondence to A. Wright regarding Bernstein depo and payment of expenses.	\$73.00	Teresa Pilatowicz
6/20/2016	0.6	\$365.00	Further review Bernstein docs.	\$219.00	Teresa Pilatowicz
6/21/2016	0.3	\$365.00	Review status of Vacco production; Correspondence to Murtha regarding same.	\$109.50	Teresa Pilatowicz
6/21/2016	0.1	\$365.00	Correspondence to K. Burke regarding Vacco deposition.	\$36.50	Teresa Pilatowicz
6/21/2016	0.3	\$365.00	Strategize regarding ██████████	\$109.50	Teresa Pilatowicz
6/22/2016	0.2	\$365.00	Conference with J. McGovern regarding status.	\$73.00	Teresa Pilatowicz
6/22/2016	0.7	\$365.00	Review recent bankruptcy filings regarding ██████████	\$255.50	Teresa Pilatowicz
6/23/2016	0.2	\$365.00	Review and analysis from J. Murtha regarding ██████████	\$73.00	Teresa Pilatowicz
6/24/2016	0.7	\$365.00	Draft fifth stipulation to extend discovery.	\$255.50	Teresa Pilatowicz



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
6/24/2016	0.4	\$365.00	Research regarding procedures for discovery commissioner recommendations.	\$146.00	Teresa Pilatowicz
6/24/2016	0.2	\$365.00	Review Bernstein privilege log and correspondence to F. Gilmore regarding same.	\$73.00	Teresa Pilatowicz
6/24/2016	1.2	\$365.00	Further research regarding [REDACTED]	\$438.00	Teresa Pilatowicz
6/27/2016	0.2	\$365.00	Attention to expert payment issues.	\$73.00	Teresa Pilatowicz
6/27/2016	0.4	\$365.00	Review and analysis of [REDACTED]	\$146.00	Teresa Pilatowicz
6/27/2016	0.2	\$365.00	Correspondence to K. Burke regarding Vacco deposition.	\$73.00	Teresa Pilatowicz
6/28/2016	0.6	\$365.00	Review revisions to stipulation to extend discovery (.2); Review and analysis of withheld documents (.5)	\$219.00	Teresa Pilatowicz
6/29/2016	0.1	\$365.00	Correspondence to J. Murtha regarding Vacco documents.	\$36.50	Teresa Pilatowicz
6/30/2016	0.2	\$385.00	Conference with T. Pilatowicz regarding [REDACTED]	\$77.00	Gabby Hamm
6/30/2016	0.2	\$365.00	Strategize with G. Hamm regarding [REDACTED]	\$73.00	Teresa Pilatowicz
6/30/2016	0.3	\$365.00	Review and analysis of multiple correspondence from J. Murtha regarding [REDACTED]	\$109.50	Teresa Pilatowicz
7/1/2016	0.1	\$365.00	Review and respond to correspondence from J. McGovern regarding status.	\$36.50	Teresa Pilatowicz
7/1/2016	1.2	\$365.00	Commence review of Vacco documents.	\$438.00	Teresa Pilatowicz
7/1/2016	0.4	\$365.00	Review and analysis of Bernstein e-mails (.3); Correspondence to A. Wright regarding same (.1)	\$146.00	Teresa Pilatowicz
7/5/2016	0.1	\$365.00	Attention to payment to professionals.	\$36.50	Teresa Pilatowicz
7/5/2016	0.4	\$365.00	Call with Kevin Burke regarding Vacco deposition and documents.	\$146.00	Teresa Pilatowicz
7/5/2016	1.9	\$365.00	Review and analysis of [REDACTED]	\$693.50	Teresa Pilatowicz
7/6/2016	4.3	\$365.00	Further review and analysis of [REDACTED]	\$1,569.50	Teresa Pilatowicz
7/7/2016	0.1	\$365.00	Correspondence to K. Burke regarding Vacco order.	\$36.50	Teresa Pilatowicz
7/7/2016	0.1	\$365.00	Correspondence to A. Wright regarding document production.	\$36.50	Teresa Pilatowicz
7/7/2016	0.1	\$365.00	Review order on discovery commissioner recommendations.	\$36.50	Teresa Pilatowicz
7/7/2016	0.6	\$365.00	Further review Vacco documents.	\$219.00	Teresa Pilatowicz
7/8/2016	0.1	\$365.00	Call to Kevin Burke regarding Vacco documents.	\$36.50	Teresa Pilatowicz
7/8/2016	2.7	\$365.00	Further review of Vacco documents and summary and analysis of same.	\$985.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
7/11/2016	0.3	\$365.00	Draft correspondence to client regarding [REDACTED]	\$109.50	Teresa Pilatowicz
7/11/2016	0.1	\$365.00	Correspondence to K. Burke regarding Vacco deposition.	\$36.50	Teresa Pilatowicz
7/13/2016	3.1	\$365.00	Review and analyze documents produced from Vacco produced by Gilmore.	\$1,131.50	Teresa Pilatowicz
7/13/2016	0.4	\$365.00	Call with Frank Gilmore regarding trial continuance.	\$146.00	Teresa Pilatowicz
7/14/2016	0.8	\$365.00	Correspondence to/from J. Murtha regarding deposition scheduling (.1); Correspondence with same regarding [REDACTED]	\$292.00	Teresa Pilatowicz
7/15/2016	0.2	\$365.00	Correspondence with F. Gilmore regarding trial continuance.	\$73.00	Teresa Pilatowicz
7/15/2016	0.3	\$365.00	Correspondence to J. Murtha regarding [REDACTED]	\$109.50	Teresa Pilatowicz
7/18/2016	1.1	\$365.00	Draft Stipulated Motion to Continue Trial.	\$401.50	Teresa Pilatowicz
7/18/2016	0.1	\$365.00	Correspondence with A. Wright regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
7/19/2016	0.6	\$365.00	Finalize Stipulated Motion to Continue; Draft Notice of Submissions; Correspondence to F. Gilmore regarding same.	\$219.00	Teresa Pilatowicz
7/20/2016	0.2	\$365.00	Draft order on stipulated motion to continue.	\$73.00	Teresa Pilatowicz
7/21/2016	0.4	\$365.00	Address payment of professionals.	\$146.00	Teresa Pilatowicz
7/21/2016	0.1	\$365.00	Correspondence to A. Wright regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
7/21/2016	0.3	\$365.00	Commence review of [REDACTED]	\$109.50	Teresa Pilatowicz
7/22/2016	0.7	\$365.00	Review Murtha letter regarding [REDACTED]	\$255.50	Teresa Pilatowicz
7/22/2016	0.1	\$365.00	Review and respond to correspondence from Court regarding stipulation for continuance.	\$36.50	Teresa Pilatowicz
7/22/2016	1.3	\$365.00	Further review Vacco documents.	\$474.50	Teresa Pilatowicz
7/26/2016	0.2	\$365.00	Draft trial setting application; Correspondence with F. Gilmore regarding same.	\$73.00	Teresa Pilatowicz
7/27/2016	0.2	\$365.00	Call with J. Murtha regarding Vacco production.	\$73.00	Teresa Pilatowicz
7/27/2016	1.6	\$365.00	Review and analysis of [REDACTED]	\$584.00	Teresa Pilatowicz
7/29/2016	0.3	\$365.00	Review and analysis of [REDACTED]	\$109.50	Teresa Pilatowicz
8/4/2016	1.3	\$365.00	Review and analysis of SPI NO PAM production.	\$474.50	Teresa Pilatowicz
8/10/2016	0.2	\$365.00	Review and respond to correspondence from J. Murtha regarding [REDACTED]	\$73.00	Teresa Pilatowicz
8/10/2016	0.2	\$365.00	Correspondence to/from Kevin Burke regarding status of production.	\$73.00	Teresa Pilatowicz
8/12/2016	0.2	\$365.00	Review documents regarding Vacco for deposition.	\$73.00	Teresa Pilatowicz
8/18/2016	0.6	\$365.00	Telephonic trial setting (.4);	\$219.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
			Correspondence to client and witnesses regarding same (.2)		
8/29/2016	0.2	\$365.00	Review and respond to correspondence from J. Murtha regarding [REDACTED]	\$73.00	Teresa Pilatowicz
9/1/2016	0.2	\$385.00	Review discovery decision regarding insurance policies.	\$77.00	Gabby Hamm
9/7/2016	0.7	\$365.00	Draft motion to continue trial and order thereon.	\$255.50	Teresa Pilatowicz
9/8/2016	0.3	\$365.00	Finalize stipulation motion to continue.	\$109.50	Teresa Pilatowicz
9/9/2016	0.2	\$365.00	Correspondence to and from J. Murtha regarding [REDACTED]	\$73.00	Teresa Pilatowicz
9/14/2016	5.4	\$365.00	Commence preparing summary of [REDACTED]	\$1,971.00	Teresa Pilatowicz
9/16/2016	0.2	\$365.00	Review and analysis of correspondence from F. Gilmore regarding insurance documents.	\$73.00	Teresa Pilatowicz
9/16/2016	1.1	\$365.00	Further prepare summary of [REDACTED]	\$401.50	Teresa Pilatowicz
9/16/2016	0.1	\$385.00	Review of emails regarding Bayuk insurance documents.	\$38.50	Gabby Hamm
9/19/2016	0.2	\$365.00	Correspondence to/from Court regarding resetting trial date.	\$73.00	Teresa Pilatowicz
9/19/2016	0.8	\$365.00	Prepare trial setting form (.2); participate in trial setting (.2); Multiple correspondence to client and witnesses regarding trial date (.3); Correspondence to F. Gilmore regarding conflicts (.1)	\$292.00	Teresa Pilatowicz
9/19/2016	0.5	\$365.00	Review and respond to correspondence from F. Gilmore regarding Bayuk insurance documents.	\$182.50	Teresa Pilatowicz
9/19/2016	3	\$365.00	Further review discovery to create [REDACTED]	\$1,095.00	Teresa Pilatowicz
9/20/2016	0.2	\$365.00	Correspondence from F. Gilmore; Correspondence to T. Clements regarding trial date.	\$73.00	Teresa Pilatowicz
9/20/2016	0.2	\$365.00	Review and analysis of correspondence from F. Gilmore regarding insurance documents.	\$73.00	Teresa Pilatowicz
9/20/2016	0.1	\$385.00	Review of response by T. Pilatowicz to Frank Gilmore regarding insurance documents.	\$38.50	Gabby Hamm
9/21/2016	4.2	\$365.00	Further review discovery to create [REDACTED]	\$1,533.00	Teresa Pilatowicz
9/22/2016	0.3	\$365.00	Correspondence to Trustee and witnesses regarding trial date.	\$109.50	Teresa Pilatowicz
9/22/2016	0.3	\$365.00	Correspondence to F. Gilmore regarding insurance documents.	\$109.50	Teresa Pilatowicz
9/22/2016	4.3	\$365.00	Further review [REDACTED]	\$1,569.50	Teresa Pilatowicz
9/23/2016	0.2	\$365.00	Conference with Tim Herbst regarding trial date.	\$73.00	Teresa Pilatowicz
9/23/2016	0.9	\$365.00	Further review discovery regarding [REDACTED]	\$328.50	Teresa Pilatowicz
9/27/2016	3.9	\$365.00	Further review [REDACTED]	\$1,423.50	Teresa Pilatowicz
9/27/2016	0.4	\$365.00	Review and analysis of correspondence from J. Murtha regarding [REDACTED]	\$146.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/28/2016	2.7	\$365.00	Commence reviewing [REDACTED]	\$985.50	Teresa Pilatowicz
9/29/2016	0.8	\$365.00	Further review discovery.	\$292.00	Teresa Pilatowicz
9/30/2016	0.3	\$365.00	Review notices of deposition for October.	\$109.50	Teresa Pilatowicz
10/3/2016	2.8	\$365.00	Review [REDACTED]	\$1,022.00	Teresa Pilatowicz
10/4/2016	0.3	\$365.00	Review and analysis of correspondence from F. Gilmore regarding insurance claims.	\$109.50	Teresa Pilatowicz
10/4/2016	0.2	\$365.00	Research and respond to correspondence from G. Gordon regarding [REDACTED]	\$73.00	Teresa Pilatowicz
10/5/2016	0.2	\$365.00	Correspondence to A. Wright regarding Bernstein documents and deposition.	\$73.00	Teresa Pilatowicz
10/5/2016	1.2	\$365.00	Further review [REDACTED]	\$438.00	Teresa Pilatowicz
10/6/2016	2.7	\$365.00	Review [REDACTED]	\$985.50	Teresa Pilatowicz
10/6/2016	0.6	\$365.00	Analysis of insurance policy responses and court intervention for same.	\$219.00	Teresa Pilatowicz
10/7/2016	3.9	\$365.00	Commence reviewing [REDACTED]	\$1,423.50	Teresa Pilatowicz
10/10/2016	0.6	\$365.00	Further research and analysis regarding [REDACTED]	\$219.00	Teresa Pilatowicz
10/12/2016	1	\$155.00	Produce out pdf format from Logikcull of all documents bates stamped Gursey00001 - Gursey023414. Upload to Box platform and send link to T. Pilatowicz.	\$155.00	Michele Pori
10/13/2016	1.2	\$365.00	Commence reviewing additional documents provided from Dennis Vacco.	\$438.00	Teresa Pilatowicz
10/17/2016	2.3	\$365.00	Further review additional document production for Vacco.	\$839.50	Teresa Pilatowicz
10/18/2016	3.6	\$365.00	Review [REDACTED]	\$1,314.00	Teresa Pilatowicz
10/18/2016	6	\$365.00	Further review and analysis of additional documents produced by Vacco.	\$2,190.00	Teresa Pilatowicz
10/18/2016	0.4	\$365.00	Correspondence to F. Gilmore regarding Bayuk insurance documents.	\$146.00	Teresa Pilatowicz
10/19/2016	0.8	\$365.00	Further attention to insurance issues.	\$292.00	Teresa Pilatowicz
10/24/2016	1.1	\$365.00	Analysis of deadlines as a result of change in trial date and strategize for same.	\$401.50	Teresa Pilatowicz
10/24/2016	4.4	\$365.00	Further review documents produced regarding updating disclosures (3.3); Commence drafting fourth disclosures (1.1)	\$1,606.00	Teresa Pilatowicz
10/25/2016	0.5	\$365.00	Prepare for (.2) and participate in (.3) call with F. Gilmore regarding insurance documents.	\$182.50	Teresa Pilatowicz
10/25/2016	7	\$365.00	Further review and analysis of [REDACTED]	\$2,555.00	Teresa Pilatowicz
10/26/2016	1	\$365.00	Further prepare fourth supplemental disclosure.	\$365.00	Teresa Pilatowicz
10/26/2016	3.6	\$365.00	Review [REDACTED] additional discovery needed.	\$1,314.00	Teresa Pilatowicz
10/26/2016	2.7	\$365.00	Research regarding [REDACTED]	\$985.50	Teresa Pilatowicz
11/2/2016	1.1	\$155.00	Produce out all Lippes documents from the Logikcull platform for production.	\$170.50	Michele Pori

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/4/2016	0.3	\$155.00	Review docket for GTG's First Interim Fee Application and supporting documents in order to prepare for GTG's Second Interim Fee Application.	\$46.50	Michele Pori
11/4/2016	0.2	\$365.00	Commence preparation of second fee application.	\$73.00	Teresa Pilatowicz
11/7/2016	0.1	\$365.00	Correspondence to A. Wright regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
11/7/2016	0.1	\$365.00	Correspondence to K. Burke regarding Vacco deposition.	\$36.50	Teresa Pilatowicz
11/9/2016	0.9	\$365.00	Review time entries for second fee application.	\$328.50	Teresa Pilatowicz
11/9/2016	0.1	\$365.00	Correspondence to Wright regarding Bernstein production.	\$36.50	Teresa Pilatowicz
11/9/2016	0.1	\$365.00	Correspondence to F. Gilmore regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
11/10/2016	1.2	\$290.00	Research in connection with Bayuk OSC application.	\$348.00	Erick Gjerdingen
11/10/2016	3.6	\$290.00	Drafting application for order to show cause re Bayuk discovery dispute.	\$1,044.00	Erick Gjerdingen
11/10/2016	7.4	\$365.00	Commence preparing discovery analysis and completion strategy.	\$2,701.00	Teresa Pilatowicz
11/10/2016	0.3	\$365.00	Confer with E. Gjerdingen regarding discovery motions.	\$109.50	Teresa Pilatowicz
11/10/2016	1	\$385.00	Meeting with T. Pilatowicz regarding outstanding discovery issues and strategy.	\$385.00	Gabby Hamm
11/11/2016	1.6	\$290.00	Review and analysis of Vacco production.	\$464.00	Erick Gjerdingen
11/11/2016	4.2	\$290.00	Research and analysis ██████████	\$1,218.00	Erick Gjerdingen
11/11/2016	1.3	\$290.00	Drafting NY show cause action application.	\$377.00	Erick Gjerdingen
11/11/2016	6.5	\$365.00	Further prepare discovery analysis and completion strategy.	\$2,372.50	Teresa Pilatowicz
11/13/2016	0.6	\$290.00	Revise Pilatowicz Dec re Bayuk app for order to show cause.	\$174.00	Erick Gjerdingen
11/13/2016	0.5	\$290.00	Revise order to show cause re Bayuk.	\$145.00	Erick Gjerdingen
11/14/2016	0.1	\$365.00	Call and correspondence to K. Burke regarding Vacco production.	\$36.50	Teresa Pilatowicz
11/14/2016	0.1	\$365.00	Correspondence to A. Wright regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
11/14/2016	0.2	\$365.00	Correspondence to F. Gilmore regarding discovery schedule.	\$73.00	Teresa Pilatowicz
11/14/2016	3.7	\$290.00	Drafting petition re Vacco compel action.	\$1,073.00	Erick Gjerdingen
11/14/2016	2.2	\$290.00	Drafting application for order to show cause re Vacco.	\$638.00	Erick Gjerdingen
11/14/2016	1.8	\$290.00	Drafting affidavit re application for Vacco order to show cause.	\$522.00	Erick Gjerdingen

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/14/2016	1.1	\$290.00	Drafting order to show cause re Vacco compel hearing.	\$319.00	Erick Gjerdingen
11/14/2016	1.7	\$365.00	Draft and finalize fourth supplemental disclosure.	\$620.50	Teresa Pilatowicz
11/14/2016	2.1	\$365.00	Further analysis of final discovery schedule; Draft correspondence to F. Gilmore regarding same.	\$766.50	Teresa Pilatowicz
11/14/2016	2	\$ -	Organization of documents for final discovery review (NO CHARGE).	\$ -	Teresa Pilatowicz
11/15/2016	1.6	\$290.00	Revise Vacco compel documents.	\$464.00	Erick Gjerdingen
11/15/2016	1.8	\$365.00	Further review documents provided by Gursej regarding final discovery.	\$657.00	Teresa Pilatowicz
11/15/2016	1.2	\$365.00	Review and revise motion to compel regarding insurance documents.	\$438.00	Teresa Pilatowicz
11/15/2016	1.8	\$365.00	Review and revise application to show cause/compel in New York regarding Vacco documents (1.6); Correspondence to client regarding status (.2).	\$657.00	Teresa Pilatowicz
11/15/2016	1	\$ -	Attention to status of outstanding discovery items (NO CHARGE).	\$ -	Teresa Pilatowicz
11/16/2016	0.3	\$290.00	Correspondence exchange with NY counsel re Vacco docs.	\$87.00	Erick Gjerdingen
11/16/2016	0.2	\$365.00	Confer with R. Ayala regarding exhibit binders.	\$73.00	Teresa Pilatowicz
11/16/2016	0.5	\$365.00	Initial review of supplemental Bernstein production in bankruptcy matter.	\$182.50	Teresa Pilatowicz
11/16/2016	0.4	\$290.00	Call with NY counsel.	\$116.00	Erick Gjerdingen
11/16/2016	0.9	\$290.00	Prepare correspondence to NY counsel re compel proceedings.	\$261.00	Erick Gjerdingen
11/16/2016	0.7	\$290.00	Research re Bayuk compel matter.	\$203.00	Erick Gjerdingen
11/16/2016	0.5	\$290.00	Revise Bayuk compel motion.	\$145.00	Erick Gjerdingen
11/16/2016	0.1	\$290.00	Draft correspondence to NY counsel re retention issues.	\$29.00	Erick Gjerdingen
11/16/2016	0.4	\$365.00	Analysis of ██████████	\$146.00	Teresa Pilatowicz
11/17/2016	0.4	\$365.00	Draft subpoena documents for Compass person most knowledge.	\$146.00	Teresa Pilatowicz
11/17/2016	0.1	\$290.00	Review Bayuk exhibits.	\$29.00	Erick Gjerdingen
11/17/2016	0.4	\$365.00	Final review of order to show cause regarding Bayuk insurance documents.	\$146.00	Teresa Pilatowicz
11/17/2016	0.2	\$365.00	Correspondence to K. Burke regarding intent to file motion to compel/OSC in New York.	\$73.00	Teresa Pilatowicz
11/17/2016	0.2	\$290.00	Final revisions to Bayuk Motion for OSC.	\$58.00	Erick Gjerdingen
11/17/2016	0.1	\$290.00	Correspondence to NY counsel re final demand on Mr. Burke re Vacco deposition.	\$29.00	Erick Gjerdingen
11/17/2016	0.1	\$290.00	Additional correspondence to NY counsel re compel motion status.	\$29.00	Erick Gjerdingen

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/17/2016	0.2	\$290.00	Call with Vacco's counsel re compel.	\$58.00	Erick Gjerdingen
11/17/2016	0.1	\$290.00	Correspondence to NY counsel re Vacco status.	\$29.00	Erick Gjerdingen
11/17/2016	0.3	\$365.00	Review and analysis response from K. Burke; Call to K. Burke regarding same.	\$109.50	Teresa Pilatowicz
11/17/2016	0.4	\$155.00	Receive CD of Bernstein documents. Upload same to Logikcull platform for review of same.	\$62.00	Michele Pori
11/17/2016	3.5	\$155.00	Receive final culled costs and fees for GTG's Second Interim Fee Application. Begin and complete drafting GTG's 2nd Interim Fee Application pleading with all supporting exhibits and declarations. Draft proposed Order Approving GTG's Second Interim Fee. Application.	\$542.50	Michele Pori
11/18/2016	0.8	\$290.00	Revise OSC app re Bayuk.	\$232.00	Erick Gjerdingen
11/18/2016	0.1	\$290.00	Draft correspondence to NY counsel re status of Vacco compel motion.	\$29.00	Erick Gjerdingen
11/18/2016	0.7	\$365.00	Call with Kevin Burke regarding documents missing from Superpumper production.	\$255.50	Teresa Pilatowicz
11/18/2016	0.1	\$365.00	Call with J. Murtha regarding [REDACTED]	\$36.50	Teresa Pilatowicz
11/18/2016	0.4	\$365.00	Research regarding [REDACTED]	\$146.00	Teresa Pilatowicz
11/21/2016	0.2	\$ -	Finalize Bayuk order to show cause motion (NO CHARGE).	\$ -	Teresa Pilatowicz
11/21/2016	0.9	\$365.00	Finalize Nevada subpoena, Arizona subpoena, and Notice of Deposition for Compass.	\$328.50	Teresa Pilatowicz
11/21/2016	0.1	\$365.00	Finalize Bernstein amended notice of deposition.	\$36.50	Teresa Pilatowicz
11/22/2016	0.3	\$365.00	Multiple correspondence to and from F. Gilmore regarding Compass subpoena.	\$109.50	Teresa Pilatowicz
11/22/2016	0.1	\$365.00	Call with G. Gordon regarding [REDACTED].	\$36.50	Teresa Pilatowicz
11/23/2016	0.1	\$365.00	Review correspondence from F. Gilmore regarding Compass subpoena.	\$36.50	Teresa Pilatowicz
11/23/2016	0.1	\$ -	Correspondence to/from J., Murtha regarding [REDACTED] (NO CHARGE).	\$ -	Teresa Pilatowicz
11/28/2016	0.1	\$365.00	Correspondence to F. Gilmore regarding meet and confer re: Compass subpoena.	\$36.50	Teresa Pilatowicz
11/28/2016	0.2	\$290.00	Review status of Vacco discovery.	\$58.00	Erick Gjerdingen
11/28/2016	0.1	\$290.00	Review correspondence from Burke re Vacco discovery production.	\$29.00	Erick Gjerdingen
11/28/2016	0.2	\$365.00	Attention to Compass subpoena service issues and deposition scheduling issues.	\$73.00	Teresa Pilatowicz
11/28/2016	0.2	\$365.00	Correspondence to and from K. Burke regarding Vacco documents.	\$73.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/28/2016	0.2	\$365.00	Conference with G. Gordon regarding [REDACTED]	\$73.00	Teresa Pilatowicz
11/28/2016	0.3	\$365.00	Research regarding pending deposition.	\$109.50	Teresa Pilatowicz
11/28/2016	0.4	\$365.00	Review Bayuk documents for exhibit binders.	\$146.00	Teresa Pilatowicz
11/29/2016	0.2	\$365.00	Telephone call with F. Gilmore for meet and confer on Compass subpoena.	\$73.00	Teresa Pilatowicz
11/29/2016	1.6	\$365.00	Review and analysis of [REDACTED]	\$584.00	Teresa Pilatowicz
11/29/2016	0.2	\$365.00	Further research regarding pending deposition.	\$73.00	Teresa Pilatowicz
11/30/2016	0.4	\$365.00	Correspondence to F. Gilmore regarding Compass deposition (.2); Conference with Compass rep regarding deposition (.2).	\$146.00	Teresa Pilatowicz
12/1/2016	0.1	\$365.00	Correspondence to A. Wright confirming Bernstein deposition with notice.	\$36.50	Teresa Pilatowicz
12/1/2016	0.1	\$365.00	Correspondence to K. Burke confirming Vacco deposition with notice and reviewing status of additional production.	\$36.50	Teresa Pilatowicz
12/1/2016	0.1	\$365.00	Review [REDACTED]	\$36.50	Teresa Pilatowicz
12/5/2016	1.1	\$365.00	Review [REDACTED]	\$401.50	Teresa Pilatowicz
12/5/2016	0.3	\$365.00	Phone call with Lisa at Compass Bank regarding subpoena.	\$109.50	Teresa Pilatowicz
12/7/2016	0.1	\$365.00	Review and respond to correspondence from F. Gilmore regarding Compass documents.	\$36.50	Teresa Pilatowicz
12/7/2016	2.9	\$365.00	Revise second interim fee application and declarations.	\$1,058.50	Teresa Pilatowicz
12/7/2016	0.3	\$365.00	Receive and analysis of [REDACTED]	\$109.50	Teresa Pilatowicz
12/7/2016	2.4	\$365.00	Revise exhibits for fee applications (1.1); Redact work-product privileged entries as necessary (.9); Research regarding redaction of fee applications (.4).	\$876.00	Teresa Pilatowicz
12/7/2016	0.3	\$365.00	Review Compass documents and correspondence to L. Rios regarding documents for authentication.	\$109.50	Teresa Pilatowicz
12/8/2016	1.8	\$155.00	Receive marked up Exhibit 2 fees and Exhibit 3 expenses. Revise accordingly and redact all detailed fees as noted.	\$279.00	Michele Pori
12/8/2016	7.2	\$365.00	Commence reviewing and analysis of [REDACTED]	\$2,628.00	Teresa Pilatowicz
12/8/2016	0.6	\$385.00	Review of [REDACTED]	\$231.00	Gabby Hamm
12/9/2016	0.9	\$155.00	Revise GTG's 2nd Interim Fee Application and all supporting exhibits and declarations based on revised invoicing.	\$139.50	Michele Pori
12/9/2016	4.5	\$365.00	Further review and analysis of [REDACTED]	\$1,642.50	Teresa Pilatowicz
12/9/2016	0.1	\$365.00	Correspondence to client regarding [REDACTED]	\$36.50	Teresa Pilatowicz
12/12/2016	0.1	\$365.00	Correspondence to J. Murtha [REDACTED]	\$36.50	Teresa Pilatowicz



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
12/12/2016	0.1	\$365.00	Correspondence to F. Gilmore and L. Rios regarding Compass deposition.	\$36.50	Teresa Pilatowicz
12/12/2016	0.1	\$365.00	Review and respond to correspondence from M. Weisenmiller [REDACTED]	\$36.50	Teresa Pilatowicz
12/12/2016	7.2	\$365.00	Further review and analysis of [REDACTED]	\$2,628.00	Teresa Pilatowicz
12/13/2016	8	\$365.00	Further review and analysis of [REDACTED]	\$2,920.00	Teresa Pilatowicz
12/14/2016	5.4	\$365.00	Further review and analysis of [REDACTED]	\$1,971.00	Teresa Pilatowicz
12/15/2016	1	\$365.00	Call with Trustee, W. Leonard, G. Gordon, and J. Murtha regarding [REDACTED]	\$365.00	Teresa Pilatowicz
12/15/2016	4.7	\$365.00	Further review and analysis of [REDACTED]	\$1,715.50	Teresa Pilatowicz
12/15/2016	1	\$365.00	Call with J. Murtha, G. Gordon, and M. Weisenmiller regarding [REDACTED]	\$365.00	Teresa Pilatowicz
12/16/2016	3.9	\$365.00	Further analysis of final discovery schedule; Draft correspondence to F. Gilmore regarding same. [REDACTED]	\$1,423.50	Teresa Pilatowicz
12/16/2016	0.2	\$365.00	Finalize fee application and related documents.	\$73.00	Teresa Pilatowicz
12/19/2016	3	\$365.00	Further review and analysis of [REDACTED]	\$1,095.00	Teresa Pilatowicz
12/20/2016	3.1	\$365.00	Research and analysis regarding [REDACTED]	\$1,131.50	Teresa Pilatowicz
12/20/2016	0.3	\$365.00	Multiple correspondence with F. Gilmore and Lisa Rios (Compass) regarding Compass deposition.	\$109.50	Teresa Pilatowicz
12/20/2016	0.6	\$365.00	Review and analysis of [REDACTED]	\$219.00	Teresa Pilatowicz
12/20/2016	1	\$365.00	Further analysis of [REDACTED]	\$365.00	Teresa Pilatowicz
12/21/2016	0.2	\$365.00	Correspondence to telephone call with L. Rios Carroll regarding Compass deposition and COR affidavit.	\$73.00	Teresa Pilatowicz
12/21/2016	0.3	\$365.00	Draft and finalize Fifth Supplemental Disclosure.	\$109.50	Teresa Pilatowicz
12/21/2016	2.1	\$365.00	Further review of documents for trial in light of e-mails received and reviewed.	\$766.50	Teresa Pilatowicz
12/21/2016	3.5	\$155.00	Remove all emails from 6/20/2013 forward from Vacco email upload in Logikcull. Tag emails being produced and save. Being production of 14,000 native emails and attachments in to pdf format with bates numbers. Download production and save to flash drive for delivery to opposing counsel.	\$542.50	Michele Pori
12/21/2016	2	\$155.00	Produce out all separated emails from 6/20/2013 forward from Vacco email upload in Logikcull for use in an "In Camera" submission to the court.	\$310.00	Michele Pori
12/21/2016	3	\$365.00	Further review and analysis of [REDACTED]	\$1,095.00	Teresa Pilatowicz
12/22/2016	0.1	\$365.00	Call with Court and to F. Gilmore regarding setting OSC for hearing.	\$36.50	Teresa Pilatowicz
12/22/2016	0.3	\$365.00	Commence drafting subpoena to Hodkins Russ.	\$109.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
12/23/2016	0.9	\$365.00	Correspondence to and call with Court regarding setting Order to Show Cause (.3); Review order on same (.1); Analysis of procedure and status following same (.4); Correspondence to Trustee regarding same (.1).	\$328.50	Teresa Pilatowicz
12/23/2016	0.1	\$365.00	Review motion for in camera review of e-mails; Correspondence to J. Murtha regarding same.	\$36.50	Teresa Pilatowicz
12/27/2016	0.3	\$365.00	Commence drafting subpoena to Hodgson Russ.	\$109.50	Teresa Pilatowicz
12/28/2016	1.7	\$365.00	Commence researching and drafting reply in support of Order to Show Cause.	\$620.50	Teresa Pilatowicz
12/28/2016	2.7	\$365.00	Further draft and finalize all documents (subpoenas, notices, commission and application) for Hodgson Russ subpoena.	\$985.50	Teresa Pilatowicz
12/28/2016	0.1	\$365.00	E-mail to Kevin Burke regarding status of additional documents.	\$36.50	Teresa Pilatowicz
12/29/2016	4.8	\$365.00	Further draft and revise reply in support of Order to Show Cause.	\$1,752.00	Teresa Pilatowicz
12/29/2016	0.6	\$290.00	Revisions to reply re Order to Show Cause.	\$174.00	Erick Gjerdingen
12/30/2016	1.5	\$365.00	Finalize reply in support of Order to Show Cause.	\$547.50	Teresa Pilatowicz
12/30/2016	0.2	\$365.00	Review status of Hodson Russ subpoena and service.	\$73.00	Teresa Pilatowicz
1/3/2017	0.2	\$365.00	Multiple calls with Ryan Hanna regarding service of subpoena.	\$73.00	Teresa Pilatowicz
1/3/2017	0.1	\$365.00	Correspondence from/to F. Gilmore and A. Wright regarding Bernstein deposition.	\$36.50	Teresa Pilatowicz
1/3/2017	0.2	\$365.00	Correspondence to/from J. Murtha regarding [REDACTED].	\$73.00	Teresa Pilatowicz
1/3/2017	0.3	\$155.00	Burn Lippes Supplemental production to flash drive for transmittal to counsel.	\$46.50	Michele Pori
1/4/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding meet and confer request.	\$36.50	Teresa Pilatowicz
1/4/2017	0.1	\$365.00	Correspondence to K. Burke regarding status; Review response to same.	\$36.50	Teresa Pilatowicz
1/5/2017	0.1	\$365.00	Review bankruptcy case filings re: [REDACTED]	\$36.50	Teresa Pilatowicz
1/9/2017	0.1	\$365.00	Correspondence to R. Hanna regarding Hodgson service; Call with R. Hanna regarding same.	\$36.50	Teresa Pilatowicz
1/9/2017	0.1	\$365.00	Correspondence to F. Gilmore and A. Wright regarding outstanding depositions.	\$36.50	Teresa Pilatowicz
1/9/2017	0.1	\$365.00	Review [REDACTED]	\$36.50	Teresa Pilatowicz
1/9/2017	0.1	\$365.00	Correspondence to K. Burke regarding discovery status.	\$36.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
1/9/2017	0.3	\$365.00	Call with F. Gilmore regarding meet and confer for Hodgson Russ and other deposition issues.	\$109.50	Teresa Pilatowicz
1/10/2017	0.6	\$365.00	Review ██████████	\$219.00	Teresa Pilatowicz
1/11/2017	0.2	\$365.00	Correspondence to S. Yalamchili regarding subpoena to Hodgson Russ (.1); Call from/to G. Graeber regarding same (.1).	\$73.00	Teresa Pilatowicz
1/11/2017	0.3	\$365.00	Call with G. Graeber of Hodgson Russ regarding subpoena.	\$109.50	Teresa Pilatowicz
1/12/2017	0.1	\$365.00	Call to Kevin Carney at Hogsun Ross regarding subpoena.	\$36.50	Teresa Pilatowicz
1/12/2017	0.1	\$365.00	Correspondence to/from J. Murtha regarding ██████████	\$36.50	Teresa Pilatowicz
1/12/2017	0.1	\$365.00	Attention to correspondence from T. Monsour regarding production of disclosed e-mails.	\$36.50	Teresa Pilatowicz
1/16/2017	0.2	\$365.00	Call with A. Wright regarding Bernstein deposition (.1); Correspondence to F. Gilmore regarding same (.1).	\$73.00	Teresa Pilatowicz
1/17/2017	0.1	\$365.00	Call with K. Burke regarding invoices; Draft	\$36.50	Teresa Pilatowicz
1/17/2017	0.4	\$365.00	Review and respond to correspondence from F. Gilmore regarding e-mails produced by Vacco.	\$146.00	Teresa Pilatowicz
1/17/2017	0.1	\$365.00	Correspondence to and from Court regarding OSC hearing.	\$36.50	Teresa Pilatowicz
1/17/2017	0.2	\$365.00	Review settlement offer from F. Gilmore regarding OSC; Draft correspondence to client regarding same.	\$73.00	Teresa Pilatowicz
1/18/2017	0.1	\$365.00	Strategy regarding settlement of pending matters.	\$36.50	Teresa Pilatowicz
1/18/2017	0.9	\$365.00	Review reply pleadings in support of in camera review (.2) Draft and finalize declaration in support for reply for motion for in camera review (.7).	\$328.50	Teresa Pilatowicz
1/18/2017	0.1	\$365.00	Correspondence to Hodgson Russ counsel regarding subpoena status.	\$36.50	Teresa Pilatowicz
1/18/2017	1	\$365.00	Commence preparing for OSC re: Bayuk discovery order.	\$365.00	Teresa Pilatowicz
1/18/2017	1	\$170.00	Upload all 29070 images from Lippes Supplemental production for use in sending to opposing counsel.	\$170.00	Michele Pori
1/19/2017	0.4	\$775.00	conf with TP re ██████████	\$310.00	Gerald Gordon
1/19/2017	2.8	\$365.00	Working Flight, further prepare for hearing on OSC.	\$1,022.00	Teresa Pilatowicz
1/19/2017	3.8	\$182.50	Travel from Reno to Phoenix (Half Rate).	\$693.50	Teresa Pilatowicz
1/19/2017	2.7	\$365.00	Hearing on Order to Show Cause.	\$985.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
1/19/2017	0.6	\$365.00	Summarize outcome of hearing on OSC for Trustee.	\$219.00	Teresa Pilatowicz
1/20/2017	0.2	\$365.00	Coordinate collection of Hodgson Russ correspondence.	\$73.00	Teresa Pilatowicz
1/23/2017	1.3	\$365.00	Further review ██████████	\$474.50	Teresa Pilatowicz
1/24/2017	0.3	\$365.00	Finalize review of Sujata emails (.2); Correspondence to F. Gilmore regarding Hodgson Russ emails (.1).	\$109.50	Teresa Pilatowicz
1/24/2017	0.1	\$365.00	Draft Notice of Continued Bernstein deposition.	\$36.50	Teresa Pilatowicz
1/24/2017	0.1	\$365.00	Correspondence to A. Wright regarding continued Bernstein deposition date.	\$36.50	Teresa Pilatowicz
1/25/2017	0.4	\$365.00	Commence drafting letter to Hodgson Russ regarding waiver of privilege.	\$146.00	Teresa Pilatowicz
1/25/2017	0.1	\$365.00	Review and respond to correspondence from F. Gilmore regarding Hodgson Russ deposition.	\$36.50	Teresa Pilatowicz
1/25/2017	0.2	\$365.00	Call with W. Leonard regarding ██████████	\$73.00	Teresa Pilatowicz
1/26/2017	3.7	\$365.00	Draft and finalize letter regarding privilege waiver to Hodgson Russ.	\$1,350.50	Teresa Pilatowicz
1/27/2017	1.1	\$290.00	Drafting AIG subpoena.	\$319.00	Erick Gjerdingen
1/27/2017	0.7	\$365.00	Draft stipulation and order for extension of discovery.	\$255.50	Teresa Pilatowicz
1/27/2017	0.2	\$365.00	Draft notices of continued depositions for Vacco and Hodgson Russ.	\$73.00	Teresa Pilatowicz
1/27/2017	0.2	\$365.00	Strategize regarding AIG subpoenas.	\$73.00	Teresa Pilatowicz
1/27/2017	0.3	\$365.00	Revise letter to Hogsun Russ regarding privilege waiver (.2); Correspondence to client regarding same (.1).	\$109.50	Teresa Pilatowicz
1/27/2017	0.4	\$365.00	Review OSC hearing transcripts.	\$146.00	Teresa Pilatowicz
1/30/2017	0.1	\$365.00	Finalize letter to Hodgsun Russ regarding attorney-client privilege.	\$36.50	Teresa Pilatowicz
1/30/2017	0.1	\$365.00	Finalize stipulation and order to extend discovery; Draft correspondence to G. Gilmore regarding same.	\$36.50	Teresa Pilatowicz
1/30/2017	1.6	\$290.00	Research and analysis re ██████████	\$464.00	Erick Gjerdingen
1/30/2017	0.1	\$290.00	Correspondence to S. Adams re ██████████	\$29.00	Erick Gjerdingen
1/30/2017	1.4	\$290.00	Drafting AIG subpoena.	\$406.00	Erick Gjerdingen
1/30/2017	1.2	\$290.00	Analysis re AIG successor/merger for purpose of subpoena service.	\$348.00	Erick Gjerdingen
1/30/2017	0.1	\$290.00	Review correspondence from S. Adams re ██████████	\$29.00	Erick Gjerdingen
1/31/2017	0.7	\$290.00	Revise AIG subpoena.	\$203.00	Erick Gjerdingen
1/31/2017	0.2	\$290.00	Draft notice of subpoena to AIG.	\$58.00	Erick Gjerdingen
1/31/2017	0.3	\$365.00	Review and revise AIG subpoena.	\$109.50	Teresa Pilatowicz
1/31/2017	0.2	\$365.00	Commence drafting memorandum of costs for OSC hearing.	\$73.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/1/2017	0.2	\$365.00	Review and an analysis of correspondence from F. Gilmore regarding insurance policies.	\$73.00	Teresa Pilatowicz
2/1/2017	0.2	\$365.00	Call with Kevin Burke regarding unredacted invoices.	\$73.00	Teresa Pilatowicz
2/1/2017	0.3	\$365.00	Call with K. Burke and J. Murtha regarding status of additional production and Vacco deposition.	\$109.50	Teresa Pilatowicz
2/2/2017	1.8	\$290.00	Drafting memorandum of costs for OSC and related research.	\$522.00	Erick Gjerdingen
2/2/2017	0.2	\$365.00	Correspondence to K. Burke regarding unredacted invoice (.1); Review response to same (.1).	\$73.00	Teresa Pilatowicz
2/2/2017	0.1	\$365.00	Review correspondence from J. Murtha to F. Gilmore regarding letter re: insurance policies.	\$36.50	Teresa Pilatowicz
2/3/2017	0.3	\$290.00	Revise and finalize AIG subpoena.	\$87.00	Erick Gjerdingen
2/6/2017	0.6	\$290.00	Review and revise correspondence regarding discovery dispute to Bayuk counsel.	\$174.00	Erick Gjerdingen
2/6/2017	0.7	\$290.00	Revise memorandum of fees and costs following TMP comments.	\$203.00	Erick Gjerdingen
2/6/2017	0.7	\$290.00	Drafting order approving fees and costs.	\$203.00	Erick Gjerdingen
2/6/2017	1.3	\$365.00	Draft and finalize response to F. Gilmore regarding insurance policies.	\$474.50	Teresa Pilatowicz
2/6/2017	0.3	\$365.00	Review and revise memorandum of costs in support of OSC.	\$109.50	Teresa Pilatowicz
2/6/2017	1.6	\$365.00	Review unredacted invoices from Lippes Mathias.	\$584.00	Teresa Pilatowicz
2/7/2017	0.3	\$365.00	Call with Barry Breslow regarding memorandum of fees and costs and offer (.1); Confer with Trustee regarding same.	\$109.50	Teresa Pilatowicz
2/7/2017	0.1	\$365.00	Correspondence to K. Kearney regarding Hodgson Russ subpoena.	\$36.50	Teresa Pilatowicz
2/9/2017	0.4	\$365.00	██████████	\$146.00	Teresa Pilatowicz
2/9/2017	0.2	\$365.00	Draft response to offer regarding on OSC fees.	\$73.00	Teresa Pilatowicz
2/10/2017	0.2	\$365.00	Draft supplement disclosure regarding representation of Biff in Mega-C.	\$73.00	Teresa Pilatowicz
2/14/2017	0.2	\$365.00	Finalize supplemental declaration for G. Gordon regarding special counsel employment application.	\$73.00	Teresa Pilatowicz
2/15/2017	0.2	\$365.00	Review pre-trial scheduling order and strategize regarding ██████████	\$73.00	Teresa Pilatowicz
2/20/2017	0.9	\$365.00	Commence drafting reply in support of memorandum of fees.	\$328.50	Teresa Pilatowicz
2/21/2017	3.1	\$290.00	Draft reply in support of memorandum of fees.	\$899.00	Erick Gjerdingen
2/21/2017	2.3	\$290.00	Research in connection with fee memorandum reply.	\$667.00	Erick Gjerdingen

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/21/2017	1.2	\$290.00	Revisions to fee memorandum reply.	\$348.00	Erick Gjerdingen
2/21/2017	0.6	\$290.00	Draft Pilatowicz Dec re reply to fee memorandum.	\$174.00	Erick Gjerdingen
2/21/2017	0.4	\$290.00	Prepare Pilatowicz Dec exhibits.	\$116.00	Erick Gjerdingen
2/21/2017	1.3	\$365.00	Finalize reply in support of memorandum of fees and costs.	\$474.50	Teresa Pilatowicz
2/22/2017	0.3	\$365.00	Review unredacted invoices provided by K. Burke.	\$109.50	Teresa Pilatowicz
2/24/2017	1.2	\$365.00	Review and analysis of [REDACTED]	\$438.00	Teresa Pilatowicz
2/27/2017	0.5	\$290.00	Draft and circulate order approving gtg second interim fee application.	\$145.00	Mark Weisenmiller
2/27/2017	0.2	\$365.00	Call with J. Murtha regarding Lippex documents.	\$73.00	Teresa Pilatowicz
2/27/2017	0.1	\$365.00	Correspondence to K. Kearney regarding status of production.	\$36.50	Teresa Pilatowicz
2/28/2017	3.8	\$365.00	Further review correspondence from Vacco's office regarding 2010 transfers.	\$1,387.00	Teresa Pilatowicz
3/1/2017	0.5	\$290.00	Review correspondence from chambers on gtg fee order, revise order, and email trustee and USTs office regarding approval of the GTG fee order.	\$145.00	Mark Weisenmiller
3/1/2017	2.6	\$365.00	Review and analysis of new discovery production from Vacco.	\$949.00	Teresa Pilatowicz
3/1/2017	4	\$365.00	Review [REDACTED]	\$1,460.00	Teresa Pilatowicz
3/2/2017	0.8	\$290.00	Follow up re AIG subpoena.	\$232.00	Erick Gjerdingen
3/2/2017	4.9	\$365.00	Further review Vacco correspondence regarding exhibits for case.	\$1,788.50	Teresa Pilatowicz
3/3/2017	0.1	\$365.00	Correspondence from and to K. Kearney regarding Hodgsun Russ subpoena responses.	\$36.50	Teresa Pilatowicz
3/6/2017	0.2	\$365.00	Call with G. Gordon regarding [REDACTED]	\$73.00	Teresa Pilatowicz
3/8/2017	0.2	\$290.00	Correspondence exchange with S. Adams re [REDACTED]	\$58.00	Erick Gjerdingen
3/8/2017	4.2	\$365.00	Review and analysis of documents produced by Hodgson Russ.	\$1,533.00	Teresa Pilatowicz
3/8/2017	0.5	\$170.00	Locate bates stamped versions of specific emails from 2012. Transmit bates stamped versions to T. Pilatowicz.	\$85.00	Michele Pori
3/9/2017	0.1	\$365.00	Correspondence to and from K. Kearney regarding document production.	\$36.50	Teresa Pilatowicz
3/13/2017	0.4	\$290.00	Call to AIG re subpoena.	\$116.00	Erick Gjerdingen
3/13/2017	0.3	\$290.00	Call from AIG re subpoena.	\$87.00	Erick Gjerdingen
3/13/2017	0.2	\$290.00	Draft follow up e-mail to AIG re subpoena.	\$58.00	Erick Gjerdingen
3/13/2017	0.4	\$290.00	Call with TMP re [REDACTED]	\$116.00	Erick Gjerdingen
3/13/2017	0.9	\$290.00	Follow up research re [REDACTED]	\$261.00	Erick Gjerdingen
3/13/2017	0.4	\$775.00	review Superpumper document re [REDACTED]	\$310.00	Gerald Gordon

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
3/13/2017	0.2	\$365.00	Call with J. Murtha regarding [REDACTED]	\$73.00	Teresa Pilatowicz
3/13/2017	0.7	\$365.00	Review and analysis of [REDACTED]	\$255.50	Teresa Pilatowicz
3/14/2017	1.1	\$170.00	Produce out from Logikcull platform additional Lippes documents bates stamped LMWF_SUPP109096 - 109835.	\$187.00	Michele Pori
3/14/2017	0.7	\$365.00	Review and analysis of [REDACTED]	\$255.50	Teresa Pilatowicz
3/16/2017	0.5	\$365.00	Call with acct regarding [REDACTED]	\$182.50	Teresa Pilatowicz
3/16/2017	0.3	\$365.00	Draft correspondence to F. Gilmore regarding discovery issues.	\$109.50	Teresa Pilatowicz
3/16/2017	0.2	\$365.00	Attention to correspondence from J. Murtha regarding [REDACTED]	\$73.00	Teresa Pilatowicz
3/17/2017	0.2	\$290.00	Review subpoena response.	\$58.00	Erick Gjerdingen
3/17/2017	1	\$365.00	Review and analysis of Nineteenth Supplemental	\$365.00	Teresa Pilatowicz
3/17/2017	0.7	\$365.00	Research regarding trial scheduled upon judge retirement [REDACTED]	\$255.50	Teresa Pilatowicz
3/17/2017	0.1	\$365.00	Review response from K. Kearney regarding additional discovery from Hodgsun Russ.	\$36.50	Teresa Pilatowicz
3/20/2017	1.3	\$290.00	Draft letter regarding insufficiency of Fourteenth Supplemental Disclosure.	\$377.00	Erick Gjerdingen
3/20/2017	0.1	\$365.00	Correspondence to J. Murtha regarding [REDACTED]	\$36.50	Teresa Pilatowicz
3/20/2017	0.3	\$365.00	Finalize letter to F. Gilmore regarding insurance production and deficiencies in same, as well as Hopkins appraisal.	\$109.50	Teresa Pilatowicz
3/20/2017	0.2	\$365.00	Draft and finalize Sixth Supplemental production.	\$73.00	Teresa Pilatowicz
3/20/2017	1	\$365.00	Gather and analysis of documents for review.	\$365.00	Teresa Pilatowicz
3/20/2017	0.6	\$365.00	Commence reviewing [REDACTED]	\$219.00	Teresa Pilatowicz
3/21/2017	2	\$365.00	Review v(.6). [REDACTED]	\$730.00	Teresa Pilatowicz
3/22/2017	0.2	\$365.00	Multiple correspondence with F. Gilmore and K. Kearney regarding Hodson depositions.	\$73.00	Teresa Pilatowicz
3/23/2017	0.1	\$365.00	Correspondence to and from F. Gilmore and K. Kearney regarding Hodgsun Russ deposition.	\$36.50	Teresa Pilatowicz
3/24/2017	3.2	\$365.00	Review [REDACTED]	\$1,168.00	Teresa Pilatowicz
3/26/2017	0.1	\$365.00	Correspondence to K. Kearney and J. Murtha regarding Hodgsun deposition.	\$36.50	Teresa Pilatowicz
3/27/2017	1.3	\$365.00	Commence reviewing [REDACTED]	\$474.50	Teresa Pilatowicz
3/27/2017	0.1	\$ -	Correspondence from and to F. Gilmore regarding sanction payment (NO CHARGE).	\$ -	Teresa Pilatowicz
3/28/2017	0.2	\$365.00	Draft deposition notices' of Vacco and Hodgsun Russ.	\$73.00	Teresa Pilatowicz
3/30/2017	2	\$365.00	Commence reviewing [REDACTED]	\$730.00	Teresa Pilatowicz
3/30/2017	0.3	\$365.00	Briefly review additional production of insurance documents from Bayuk.	\$109.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
3/30/2017	0.8	\$365.00	Additional research regarding [REDACTED]	\$292.00	Teresa Pilatowicz
3/31/2017	2.1	\$290.00	Review additional insurance documents produced by Bayuk.	\$609.00	Erick Gjerdingen
3/31/2017	1	\$365.00	Various conferences with G. Gordon and W. Weisenmiller regarding [REDACTED]	\$365.00	Teresa Pilatowicz
4/3/2017	1.7	\$365.00	Further review Vacco correspondence regarding Morabito e mails (.6); Commence reviewing bankruptcy court transcript of hearing regarding same (1.1).	\$620.50	Teresa Pilatowicz
4/5/2017	0.6	\$290.00	Conference and analysis re discovery and insurance issues.	\$174.00	Erick Gjerdingen
4/5/2017	0.1	\$365.00	Correspondence to K. Kearney regarding notice of deposition.	\$36.50	Teresa Pilatowicz
4/5/2017	0.3	\$365.00	Analysis of service requirements for Vacco; Correspondence to C. Valentino regarding same.	\$109.50	Teresa Pilatowicz
4/5/2017	0.2	\$365.00	Correspondence to F. Gilmore regarding insurance documents and Hopkins appraisal.	\$73.00	Teresa Pilatowicz
4/5/2017	0.1	\$365.00	Correspondence regrading analysis of documents.	\$36.50	Teresa Pilatowicz
4/6/2017	0.1	\$290.00	E-mail to Seth Adams re [REDACTED]	\$29.00	Erick Gjerdingen
4/6/2017	0.1	\$290.00	Review response from Seth Adams re [REDACTED]	\$29.00	Erick Gjerdingen
4/6/2017	0.4	\$290.00	Conference re [REDACTED]	\$116.00	Erick Gjerdingen
4/6/2017	0.8	\$290.00	Drafting correspondence to Scott Miller at AIG re subpoena non-response.	\$232.00	Erick Gjerdingen
4/6/2017	0.3	\$365.00	Review and analysis of [REDACTED]	\$109.50	Teresa Pilatowicz
4/7/2017	0.4	\$290.00	Review Miller (AIG) response and return correspondence.	\$116.00	Erick Gjerdingen
4/7/2017	1.9	\$290.00	Research re s [REDACTED]	\$551.00	Erick Gjerdingen
4/7/2017	0.4	\$290.00	Review orders re insurance production.	\$116.00	Erick Gjerdingen
4/7/2017	0.5	\$290.00	Drafting letter to Gilmore re supplemental production.	\$145.00	Erick Gjerdingen
4/7/2017	0.3	\$290.00	Conference call with Scott Miller AIG counsel re subpoena.	\$87.00	Erick Gjerdingen
4/7/2017	2.6	\$365.00	Review deposition testimony of S. Morabito in light of recent state court discovery and analysis of same.	\$949.00	Teresa Pilatowicz
4/7/2017	0.3	\$365.00	Attention to [REDACTED]	\$109.50	Teresa Pilatowicz
4/7/2017	0.6	\$365.00	Review research regarding (.4); Conference with AIG attorney regarding same (.2). [REDACTED]	\$219.00	Teresa Pilatowicz
4/10/2017	0.4	\$365.00	Draft Nevada subpoena for continued Vacco deposition (.2); Correspondence to Trustee and C. Valentio regarding (.2). [REDACTED]	\$146.00	Teresa Pilatowicz



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
4/10/2017	0.8	\$365.00	Review a [REDACTED]	\$292.00	Teresa Pilatowicz
4/10/2017	0.2	\$365.00	Attention to scheduling issues with Vacco and Bernstein deposition.	\$73.00	Teresa Pilatowicz
4/11/2017	0.3	\$365.00	Finalize Vacco amended subpoenas and notice of deposition.	\$109.50	Teresa Pilatowicz
4/17/2017	0.1	\$365.00	Review and respond to correspondence from J. Murtha [REDACTED]	\$36.50	Teresa Pilatowicz
4/18/2017	0.9	\$365.00	Call regarding review of transactions (.4); Prepare correspondence regarding follow up and additional documents (.5).	\$328.50	Teresa Pilatowicz
4/18/2017	1.7	\$365.00	Review [REDACTED]	\$620.50	Teresa Pilatowicz
4/20/2017	0.2	\$365.00	Correspondence to and from J. Murtha regarding ; Correspondence to and from K. Kearney regarding same.	\$73.00	Teresa Pilatowicz
4/21/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding Hodgson depo and references to Hopkins appraisal.	\$36.50	Teresa Pilatowicz
4/24/2017	0.6	\$365.00	Review [REDACTED]	\$219.00	Teresa Pilatowicz
4/27/2017	0.1	\$365.00	Review correspondence from Hodgson regarding deposition; Correspondence to F. Gilmore regarding Hogson Depo and Hopkins appraisal.	\$36.50	Teresa Pilatowicz
5/2/2017	0.4	\$365.00	Review correspondence from F. Gilmore regarding insurance documents and draft response to same.	\$146.00	Teresa Pilatowicz
5/9/2017	0.1	\$290.00	Review correspondence from S. Miller at AIG re subpoena.	\$29.00	Erick Gjerdingen
5/11/2017	1.9	\$365.00	Commence preparing for Bernstein deposition.	\$693.50	Teresa Pilatowicz
5/12/2017	0.4	\$365.00	Call with F. Gilmore regarding outstanding discovery issues.	\$146.00	Teresa Pilatowicz
5/12/2017	2.8	\$365.00	Further prepare for Bernstein deposition.	\$1,022.00	Teresa Pilatowicz
5/12/2017	0.3	\$365.00	Call regarding . [REDACTED]	\$109.50	Teresa Pilatowicz
5/15/2017	1.1	\$365.00	Further review documents in preparation for Bernstein deposition.	\$401.50	Teresa Pilatowicz
5/15/2017	0.4	\$365.00	Review exhibits from prior Bernstein depositions.	\$146.00	Teresa Pilatowicz
5/15/2017	1.4	\$365.00	Commence drafting Bernstein deposition outline.	\$511.00	Teresa Pilatowicz
5/16/2017	8.6	\$365.00	Further prepare for Bernstein deposition (6.6); Working travel to L.A. for deposition (2.0).	\$3,139.00	Teresa Pilatowicz
5/17/2017	6.5	\$365.00	Conduct Bernstein deposition.	\$2,372.50	Teresa Pilatowicz
5/17/2017	1.8	\$365.00	Further prepare for Bernstein deposition.	\$657.00	Teresa Pilatowicz
5/17/2017	1.5	\$182.50	Travel from Bernstein deposition (HALF RATE).	\$273.75	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
5/18/2017	0.3	\$365.00	Draft summary of Bernstein deposition and related issues for G. Gordon.	\$109.50	Teresa Pilatowicz
5/23/2017	0.4	\$365.00	Draft discovery requests to Snowshoe and Superpumper regarding sale of assets/stock.	\$146.00	Teresa Pilatowicz
5/24/2017	0.2	\$365.00	Draft seventh stipulation and order to extend discovery.	\$73.00	Teresa Pilatowicz
5/24/2017	1.2	\$365.00	Research regarding ; Draft correspondence to G. Gordon regarding same. Research and analysis regarding ██████████	\$438.00	Teresa Pilatowicz
5/24/2017	0.4	\$365.00	Correspondence to J. Murtha regarding same.	\$146.00	Teresa Pilatowicz
5/25/2017	0.1	\$365.00	Correspondence from and to F. Gilmore regarding stipulation to extend discovery.	\$36.50	Teresa Pilatowicz
5/25/2017	0.1	\$365.00	Revise stipulation to extend discovery.	\$36.50	Teresa Pilatowicz
5/26/2017	0.4	\$365.00	Draft summary of Bernstein deposition.	\$146.00	Teresa Pilatowicz
5/26/2017	0.3	\$365.00	Attention to issues related to ██████████	\$109.50	Teresa Pilatowicz
5/26/2017	0.3	\$775.00	T/C with Trustee re ██████████	\$232.50	Gerald Gordon
5/26/2017	1.2	\$ -	Review NO CHARGE.	\$ -	Gerald Gordon
5/30/2017	0.4	\$775.00	Report to Trustee re ██████████	\$310.00	Gerald Gordon
5/30/2017	0.2	\$775.00	T/C with John Murtha ██████████	\$155.00	Gerald Gordon
6/2/2017	0.4	\$365.00	Briefly review and analyze v ██████████	\$146.00	Teresa Pilatowicz
6/5/2017	0.1	\$365.00	Call with W. Leonard's office regarding ██████████	\$36.50	Teresa Pilatowicz
6/5/2017	1.5	\$290.00	Review correspondence and documents on McGovern fee application (.5); and conduct research on (.9). ██████████	\$435.00	Mark Weisenmiller
6/5/2017	0.1	\$365.00	Follow up on status of Buffalo depositions.	\$36.50	Teresa Pilatowicz
6/5/2017	0.2	\$365.00	Briefly review ██████████	\$73.00	Teresa Pilatowicz
6/6/2017	1.1	\$290.00	Draft third interim application for reimbursement of expenses.	\$319.00	Mark Weisenmiller
6/6/2017	0.4	\$290.00	Continue drafting third interim application.	\$116.00	Mark Weisenmiller
6/6/2017	0.3	\$365.00	Attention to ██████████	\$109.50	Teresa Pilatowicz
6/6/2017	0.2	\$365.00	Provide status update to G. Gordon.	\$73.00	Teresa Pilatowicz
6/6/2017	0.4	\$365.00	Commence outlining motion for summary judgment.	\$146.00	Teresa Pilatowicz
6/7/2017	2.9	\$290.00	Revise and finalize GTG third application for approval of payment of expenses (1.9); draft declarations of attorney and trustee in support of same and circulate via email for approval (.9).	\$841.00	Mark Weisenmiller
6/7/2017	0.2	\$365.00	Conference with M. Weisenmiller regarding third application for expenses in bankruptcy case (.1); Review and execute declaration in support thereof(.1).	\$73.00	Teresa Pilatowicz
6/20/2017	0.2	\$365.00	Court call for trial setting regarding pre-trial conferences.	\$73.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
6/20/2017	0.2	\$365.00	Correspondence to client regarding status of trial.	\$73.00	Teresa Pilatowicz
6/24/2017	0.8	\$365.00	Review Superpumper Sale documents produced in 16th supplement.	\$292.00	Teresa Pilatowicz
6/26/2017	0.1	\$365.00	Review documents in Eighteenth supplement.	\$36.50	Teresa Pilatowicz
6/26/2017	1.2	\$365.00	Commence research for Motion for Summary Judgment.	\$438.00	Teresa Pilatowicz
6/27/2017	3.1	\$365.00	Commence researching and drafting Motion for Summary Judgment.	\$1,131.50	Teresa Pilatowicz
6/28/2017	5	\$365.00	Further research and draft motion for summary judgment.	\$1,825.00	Teresa Pilatowicz
6/29/2017	2.7	\$365.00	Further draft Motion for Summary Judgment.	\$985.50	Teresa Pilatowicz
6/30/2017	0.1	\$365.00	Correspondence to K. Kearney regarding Hodgson Russ depositions.	\$36.50	Teresa Pilatowicz
6/30/2017	0.1	\$365.00	Correspondence to J. Murtha regarding ██████████	\$36.50	Teresa Pilatowicz
7/5/2017	4.2	\$365.00	Commence reviewing and pulling documents for Vacco supplemental productions for Vacco deposition.	\$1,533.00	Teresa Pilatowicz
7/5/2017	3.1	\$365.00	Further review and revise Motion for Summary Judgment.	\$1,131.50	Teresa Pilatowicz
7/5/2017	0.1	\$365.00	Review and respond to correspondence from R. Buss	\$36.50	Teresa Pilatowicz
7/5/2017	0.1	\$365.00	Review bill from Pullman & Farrow and address payment of same.	\$36.50	Teresa Pilatowicz
7/6/2017	3	\$365.00	Review Hodgson Russ documents for deposition preparation.	\$1,095.00	Teresa Pilatowicz
7/6/2017	1.2	\$365.00	Commence preparing for D. Vacco deposition.	\$438.00	Teresa Pilatowicz
7/6/2017	0.7	\$365.00	Commence preparing for Hodgson Russ deposition.	\$255.50	Teresa Pilatowicz
7/6/2017	8.2	\$170.00	Assist with deposition preparation for Dennis Vacco. Begin pulling all identified native emails to extract all bates stamped versions from Logikcull productions.	\$1,394.00	Michele Pori
7/7/2017	5.3	\$170.00	Continue and complete assistance with deposition preparation for Dennis Vacco. Begin pulling all identified native emails to extract all bates stamped versions from Logikcull productions.	\$901.00	Michele Pori
7/9/2017	4	\$365.00	Working travel to Buffalo.	\$1,460.00	Teresa Pilatowicz
7/9/2017	1.5	\$182.50	Travel to Buffalo for Vacco and HR depositions (non- working) - HALF RATE.	\$273.75	Teresa Pilatowicz
7/9/2017	2	\$365.00	Further prepare for Vacco continued deposition.	\$730.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
7/10/2017	3.8	\$365.00	Further prepare for (1.0) and take (2.8) deposition of Dennis Vacco.	\$1,387.00	Teresa Pilatowicz
7/10/2017	6.5	\$365.00	Attend Vacco 2004 exam.	\$2,372.50	Teresa Pilatowicz
7/11/2017	0.5	\$365.00	Prepare for and take continued depositions of Dennis Vacco.	\$182.50	Teresa Pilatowicz
7/11/2017	3.7	\$365.00	Attend deposition of Dennis Vacco in related adversary case.	\$1,350.50	Teresa Pilatowicz
7/11/2017	2.9	\$365.00	Attend deposition of Christian Lovelace.	\$1,058.50	Teresa Pilatowicz
7/11/2017	1.2	\$365.00	Further prepare for Hodgson Russ Depo.	\$438.00	Teresa Pilatowicz
7/12/2017	0.2	\$775.00	Conference with Teresa P re [REDACTED]	\$155.00	Gerald Gordon
7/12/2017	5.6	\$182.50	Travel from Buffalo for depositions (HALF RATE).	\$1,022.00	Teresa Pilatowicz
7/12/2017	2	\$365.00	Further prepare for and conduct deposition of Hodgson Russ (1.8); Draft summary of same (.2).	\$730.00	Teresa Pilatowicz
7/13/2017	0.3	\$365.00	Attention to [REDACTED]	\$109.50	Teresa Pilatowicz
7/13/2017	0.1	\$365.00	Correspondence with J. McGovern regarding case.	\$36.50	Teresa Pilatowicz
7/18/2017	4.3	\$250.00	Begin drafting motion for sanctions and to compel deposition.	\$1,075.00	Michael Esposito
7/18/2017	0.7	\$250.00	Review transcript and email communications for purpose of motion to compel.	\$175.00	Michael Esposito
7/18/2017	0.2	\$365.00	Conference with M. Esposito regarding motion to compel and sanctions motion.	\$73.00	Teresa Pilatowicz
7/19/2017	0.2	\$250.00	Confer with Teresa re: filed Motion to Quash.	\$50.00	Michael Esposito
7/19/2017	0.9	\$250.00	Review Motion to Quash.	\$225.00	Michael Esposito
7/19/2017	0.5	\$250.00	Draft opposition to Motion to quash.	\$125.00	Michael Esposito
7/19/2017	0.8	\$365.00	Review motion to quash (.3); Draft comments to same for incorporation into opposition (.5).	\$292.00	Teresa Pilatowicz
7/20/2017	3.9	\$250.00	Revise and supplement opposition to motion to quash and countermotion.	\$975.00	Michael Esposito
7/21/2017	1	\$365.00	Commence review and revisions to opposition to motion to quash/countermotion for sanctions.	\$365.00	Teresa Pilatowicz
7/24/2017	4.8	\$365.00	Further revisions to Opposition to Motion to Quash and countermotion for sanctions; Revise declaration in support of motion; Revise request for OST.	\$1,752.00	Teresa Pilatowicz
7/24/2017	4.6	\$250.00	Revise and finalize Reply brief. Draft ex parte application for OST. Draft Teresa declaration.	\$1,150.00	Michael Esposito
7/24/2017	0.3	\$250.00	Follow up on additional inquiries from Teresa regarding final filing of opposition and countermotion.	\$75.00	Michael Esposito
7/24/2017	0.3	\$250.00	Review and revise declaration according to TMP changes.	\$75.00	Michael Esposito
7/26/2017	0.1	\$250.00	Contact court re: discovery ost.	\$25.00	Michael Esposito

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
7/26/2017	0.2	\$250.00	Confer with Teresa re: ex parte application for ost.	\$50.00	Michael Esposito
7/26/2017	1	\$250.00	Finalize ex parte application for OST and submit to court.	\$250.00	Michael Esposito
7/26/2017	0.1	\$365.00	Call with Discovery Commissioner regarding OST request.	\$36.50	Teresa Pilatowicz
7/26/2017	0.3	\$365.00	Attention to OST issues for motion for sanctions.	\$109.50	Teresa Pilatowicz
7/27/2017	0.2	\$250.00	Emails with Teresa re: OST questions.	\$50.00	Michael Esposito
7/27/2017	0.7	\$365.00	Multiple calls with DC chambers regarding OST request (.2); Correspondence to/from F. Gilmore regarding same (.2); Multiple conferences with M. Esposito regarding completion of same (.3).	\$255.50	Teresa Pilatowicz
7/31/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding OST request.	\$36.50	Teresa Pilatowicz
7/31/2017	0.3	\$365.00	Multiple calls with discovery commissioners office regarding OST; Call with F. Gilmore to D/C regarding same.	\$109.50	Teresa Pilatowicz
7/31/2017	0.3	\$365.00	Correspondence to/from K. Kearney regarding HR rescheduled deposition dates; Review response to same; Correspondence to F. Gilmore regarding same.	\$109.50	Teresa Pilatowicz
8/1/2017	6.5	\$365.00	Further draft Motion for Summary Judgment.	\$2,372.50	Teresa Pilatowicz
8/1/2017	0.2	\$365.00	Correspondence to W. Kimmel and J. McGovern regarding status.	\$73.00	Teresa Pilatowicz
8/2/2017	4.6	\$365.00	Further draft motion for summary judgment.	\$1,679.00	Teresa Pilatowicz
8/2/2017	0.3	\$365.00	Correspondence to F. Gilmore regarding discovery hearing (.2); Call to Discovery Commissioner regarding scheduling of hearing (.1).	\$109.50	Teresa Pilatowicz
8/3/2017	4.1	\$365.00	Further draft motion for summary judgment.	\$1,496.50	Teresa Pilatowicz
8/4/2017	0.4	\$250.00	Receipt and review of reply and opposition.	\$100.00	Michael Esposito
8/4/2017	0.2	\$365.00	Review and analysis of reply in support of motion to quash.	\$73.00	Teresa Pilatowicz
8/4/2017	0.9	\$365.00	Research regarding [REDACTED]	\$328.50	Teresa Pilatowicz
8/4/2017	1.3	\$365.00	Further draft motion for summary judgment.	\$474.50	Teresa Pilatowicz
8/6/2017	4.4	\$365.00	Further draft Motion for Summary Judgment.	\$1,606.00	Teresa Pilatowicz
8/7/2017	2	\$250.00	Draft reply to opposition to countermotion for sanctions.	\$500.00	Michael Esposito
8/7/2017	9	\$365.00	Further research and draft motion for summary judgment.	\$3,285.00	Teresa Pilatowicz
8/8/2017	5.5	\$365.00	Further research and draft Motion for Summary Judgment.	\$2,007.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
8/8/2017	1.6	\$250.00	Revise and supplement reply iso counter motions for sanctions.	\$400.00	Michael Esposito
8/8/2017	4.9	\$365.00	Further research, draft, and revise Motion for Summary Judgment.	\$1,788.50	Teresa Pilatowicz
8/8/2017	0.6	\$365.00	Revise reply in support of counter motion or sanctions.	\$219.00	Teresa Pilatowicz
8/8/2017	0.1	\$385.00	Emails with T. Pilatowicz regarding MSJ.	\$38.50	Gabby Hamm
8/9/2017	1.7	\$250.00	Revise Reply iso counter motion and circulate to Teresa for final approval. Prepare related request for submission.	\$425.00	Michael Esposito
8/9/2017	4.1	\$365.00	Further revisions to motion for summary judgment.	\$1,496.50	Teresa Pilatowicz
8/9/2017	0.3	\$365.00	Further revisions to reply in support of counter motion for sanctions.	\$109.50	Teresa Pilatowicz
8/9/2017	3.7	\$385.00	Review and revise summary judgment motion.	\$1,424.50	Gabby Hamm
8/10/2017	1.2	\$365.00	Further revise Motion for Summary Judgment.	\$438.00	Teresa Pilatowicz
8/10/2017	2.2	\$365.00	Prepare for hearing on motion to compel (1.4); Participate in hearing (.8).	\$803.00	Teresa Pilatowicz
8/10/2017	6.5	\$385.00	Continue reviewing and editing MSJ.	\$2,502.50	Gabby Hamm
8/11/2017	3.2	\$775.00	Review and revise draft s/j motion.	\$2,480.00	Gerald Gordon
8/11/2017	0.9	\$365.00	Call with G. Hamm regarding revisions to Motion for Summary Judgment.	\$328.50	Teresa Pilatowicz
8/11/2017	1	\$365.00	Attention to status of case and scheduled trial; Deadlines for same.	\$365.00	Teresa Pilatowicz
8/11/2017	0.9	\$365.00	Further attention to motion for summary judgment and revisions thereto.	\$328.50	Teresa Pilatowicz
8/11/2017	4.7	\$385.00	Edit summary judgment motion (3.8); telephone conference with T. Pilatowicz regarding same (.9).	\$1,809.50	Gabby Hamm
8/12/2017	3.1	\$385.00	Legal research on issues raised in MSJ; revise legal argument in MSJ.	\$1,193.50	Gabby Hamm
8/13/2017	4.6	\$385.00	Research regarding arguments raised in MSJ; continue revising legal argument.	\$1,771.00	Gabby Hamm
8/14/2017	1.2	\$290.00	Revise MTD.	\$348.00	Erick Gjerdingen
8/14/2017	0.7	\$170.00	Search Logikcull platform for specific Vacco emails.	\$119.00	Michele Pori
8/14/2017	2.6	\$365.00	Further revise Motion for Summary Judgment.	\$949.00	Teresa Pilatowicz
8/15/2017	1.5	\$365.00	Further revise motion for summary judgment (1.3); Correspondence to client regarding same (.1); Correspondence to Herbst regarding same (.1).	\$547.50	Teresa Pilatowicz
8/15/2017	0.5	\$290.00	Draft Motion to exceed page limits re MTD.	\$145.00	Erick Gjerdingen
8/15/2017	0.4	\$290.00	Draft order to exceed page limits re MTD.	\$116.00	Erick Gjerdingen
8/15/2017	1.3	\$290.00	Review and revise Motion to Dismiss.	\$377.00	Erick Gjerdingen
8/15/2017	0.3	\$290.00	Revise motion to exceed page limits.	\$87.00	Erick Gjerdingen

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
8/15/2017	0.4	\$365.00	Draft and circulate Herbst declaration.	\$146.00	Teresa Pilatowicz
8/15/2017	2.1	\$365.00	Draft separate statement of facts.	\$766.50	Teresa Pilatowicz
8/15/2017	0.2	\$290.00	Draft request for submission.	\$58.00	Erick Gjerdingen
8/16/2017	0.2	\$290.00	Revise motion to exceed page limit.	\$58.00	Erick Gjerdingen
8/16/2017	5	\$365.00	Revise SSOF with cites to exhibits; Further review exhibits.	\$1,825.00	Teresa Pilatowicz
8/16/2017	1.4	\$365.00	Further revise motion for summary judgment.	\$511.00	Teresa Pilatowicz
8/16/2017	0.5	\$385.00	Conference with T. Pilatowicz regarding trial evidence.	\$192.50	Gabby Hamm
8/17/2017	0.3	\$775.00	Review discovery sanctions order.	\$232.50	Gerald Gordon
8/17/2017	3	\$365.00	Further revise and finalize Motion for Partial Summary Judgment.	\$1,095.00	Teresa Pilatowicz
8/17/2017	3	\$365.00	Further revise and finalize Separate Statement of Facts and Exhibits.	\$1,095.00	Teresa Pilatowicz
8/17/2017	0.4	\$365.00	Review and analysis of recommendation for order re: motion to quash/counter-motion for sanctions (.3); Correspondence to client regarding same (.1).	\$146.00	Teresa Pilatowicz
8/18/2017	0.4	\$365.00	Analysis of [REDACTED]	\$146.00	Teresa Pilatowicz
8/21/2017	0.1	\$365.00	Correspondence to J. McGovern regarding trial scheduling.	\$36.50	Teresa Pilatowicz
8/21/2017	0.2	\$365.00	Correspondence to K. Kearney regarding discovery recommendation and deposition scheduling.	\$73.00	Teresa Pilatowicz
8/22/2017	0.1	\$365.00	Review notice of recusal.	\$36.50	Teresa Pilatowicz
8/25/2017	0.2	\$365.00	Correspondence to F. Gilmore regarding summary judgment and HR deposition.	\$73.00	Teresa Pilatowicz
8/25/2017	0.2	\$365.00	Correspondence to J. McGovern and Bill Kimmel regarding trial scheduling.	\$73.00	Teresa Pilatowicz
8/28/2017	0.6	\$250.00	Review Objection to Report and Recommendation for Order and related Recommendation for Order.	\$150.00	Michael Esposito
8/28/2017	0.2	\$250.00	Confer with TMP re: objection.	\$50.00	Michael Esposito
8/28/2017	0.2	\$250.00	Review response to objection deadline.	\$50.00	Michael Esposito
8/28/2017	2.6	\$250.00	Draft Opposition to Objection to Recommendation for Order.	\$650.00	Michael Esposito
8/28/2017	0.3	\$365.00	Review and analysis of objection to recommendation.	\$109.50	Teresa Pilatowicz
8/29/2017	0.1	\$365.00	Commence analysis of Ninth Circuit precedent regarding fraudulent transfer damages.	\$36.50	Teresa Pilatowicz
8/30/2017	0.2	\$365.00	Email to Kevin Kearney regarding Superpumper status.	\$73.00	Teresa Pilatowicz
8/31/2017	0.3	\$365.00	Correspondence to client regarding status.	\$109.50	Teresa Pilatowicz
8/31/2017	1	\$365.00	Further revisions to opposition to objection to recommendation for order.	\$365.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
8/31/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding status of HR deposition.	\$36.50	Teresa Pilatowicz
9/1/2017	0.3	\$365.00	Review standard of review for objection to discovery commissioner recommendations.	\$109.50	Teresa Pilatowicz
9/5/2017	2.5	\$250.00	Review and revise objection to recommendation for order.	\$625.00	Michael Esposito
9/5/2017	0.8	\$250.00	Final Opposition to Objection and submit for filing.	\$200.00	Michael Esposito
9/5/2017	0.8	\$365.00	Revise and finalize opposition to objection to recommendation.	\$292.00	Teresa Pilatowicz
9/6/2017	0.3	\$385.00	Brief review of opposition to objection to recommendation for order.	\$115.50	Gabby Hamm
9/7/2017	0.2	\$365.00	Call court regarding trial setting (.1); Correspondence to F. Gilmore regarding same (.1).	\$73.00	Teresa Pilatowicz
9/9/2017	0.1	\$365.00	Correspondence to Audrey regarding trial setting.	\$36.50	Teresa Pilatowicz
9/10/2017	0.2	\$365.00	Commence review of Vacco deposition to supplement separate statement of facts.	\$73.00	Teresa Pilatowicz
9/12/2017	0.1	\$365.00	Finalize application for setting; Correspondence to A. Austin regarding same.	\$36.50	Teresa Pilatowicz
9/13/2017	0.1	\$365.00	Correspondence to C. Kemper regarding trial setting.	\$36.50	Teresa Pilatowicz
9/13/2017	0.1	\$365.00	Multiple correspondence to and from A. Austin and F. Gilmore regarding trial setting.	\$36.50	Teresa Pilatowicz
9/16/2017	0.1	\$365.00	Review reply in response to discovery commissioner order objection.	\$36.50	Teresa Pilatowicz
9/20/2017	0.7	\$365.00	Call with court for trial setting (.4); Correspondence to and from client regarding same (.3).	\$255.50	Teresa Pilatowicz
9/22/2017	0.1	\$365.00	Correspondence to Herbsts regarding trial date.	\$36.50	Teresa Pilatowicz
9/22/2017	0.4	\$365.00	Review and analysis of Opposition to Motion for Summary Judgment.	\$146.00	Teresa Pilatowicz
9/25/2017	0.1	\$365.00	Correspondence with F. Gilmore and Court regarding trial setting; Review trial setting filed by Court.	\$36.50	Teresa Pilatowicz
10/9/2017	1	\$365.00	Review cases cited in Opposition to Summary Judgment.	\$365.00	Teresa Pilatowicz
10/9/2017	1.2	\$365.00	Review Defendants' separate statement of facts and exhibits thereto.	\$438.00	Teresa Pilatowicz
10/9/2017	2.5	\$365.00	Commence researching and drafting reply in support of summary judgment.	\$912.50	Teresa Pilatowicz
10/10/2017	0.5	\$290.00	Revise reply re MSJ.	\$145.00	Erick Gjerdingen
10/10/2017	6	\$365.00	Further draft, revise, and finalize reply in support of motion for summary judgment.	\$2,190.00	Teresa Pilatowicz



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/11/2017	0.1	\$365.00	Draft and finalize Request for Submission or Motion for Summary Judgment.	\$36.50	Teresa Pilatowicz
10/19/2017	0.4	\$365.00	Research regarding [REDACTED]	\$146.00	Teresa Pilatowicz
10/19/2017	0.3	\$365.00	Review Vacco transcript regarding supplementing Motion for Summary Judgment.	\$109.50	Teresa Pilatowicz
10/24/2017	2	\$200.00	Conduct legal research into [REDACTED]	\$400.00	Stephen Davis
10/25/2017	0.1	\$365.00	Review and respond to correspondence from J. Murtha regarding [REDACTED]	\$36.50	Teresa Pilatowicz
10/26/2017	0.2	\$365.00	Review and revision to proposed stipulation regarding settlement briefs.	\$73.00	Teresa Pilatowicz
11/7/2017	0.5	\$365.00	Research local rules regarding ; Analysis of same. [REDACTED]	\$182.50	Teresa Pilatowicz
11/10/2017	1.3	\$365.00	Commence reviewing Murtha's draft of settlement statement and revisions to same (.5); Commence drafting Superpumper specific section (.8).	\$474.50	Teresa Pilatowicz
11/16/2017	1.2	\$365.00	Review prior offers and analysis of (.6); Conference with J. Murtha, G. Gordon, and M. Weisenmiller (.6). [REDACTED]	\$438.00	Teresa Pilatowicz
11/19/2017	2.4	\$365.00	Further work on settlement statement.	\$876.00	Teresa Pilatowicz
11/20/2017	1.8	\$365.00	Further revise settlement statement for Superpumper.	\$657.00	Teresa Pilatowicz
11/21/2017	0.3	\$365.00	Review proposed settlement offer and comments regarding same.	\$109.50	Teresa Pilatowicz
11/21/2017	0.1	\$365.00	Review settlement offer from defendants.	\$36.50	Teresa Pilatowicz
11/27/2017	1	\$365.00	Review and comments to settlement conference statement.	\$365.00	Teresa Pilatowicz
11/29/2017	0.2	\$365.00	Strategize regarding settlement conference.	\$73.00	Teresa Pilatowicz
11/30/2017	0.4	\$365.00	Review final settlement brief.	\$146.00	Teresa Pilatowicz
12/6/2017	3	\$365.00	Prepare for settlement conference; Review and analysis of [REDACTED]	\$1,095.00	Teresa Pilatowicz
12/7/2017	6	\$365.00	Further prepare for (1.0) and attend (5.0) settlement conference.	\$2,190.00	Teresa Pilatowicz
12/7/2017	0.3	\$365.00	Review and analysis of order from state court regarding objection to discovery commissioners recommendations.	\$109.50	Teresa Pilatowicz
12/8/2017	0.2	\$365.00	Correspondence to and from K. Kearney regarding continued deposition of HR.	\$73.00	Teresa Pilatowicz
12/12/2017	0.3	\$200.00	Review file to perform requested legal research by TMP.	\$60.00	Stephen Davis
12/12/2017	0.7	\$200.00	Conduct legal research regarding [REDACTED]	\$140.00	Stephen Davis
12/12/2017	1.6	\$200.00	Further research regarding [REDACTED]	\$320.00	Stephen Davis
12/12/2017	0.1	\$365.00	Review and respond to correspondence from B. Hemmila regarding remanded hearing.	\$36.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
12/12/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding rescheduled depositions; Review response to same.	\$36.50	Teresa Pilatowicz
12/12/2017	0.3	\$365.00	Correspondence to S. Davis with research requirements; Review and analysis of response to same.	\$109.50	Teresa Pilatowicz
12/13/2017	0.4	\$365.00	Prepare summary of fees for disclosure to Defendants in advance of sanctions hearing.	\$146.00	Teresa Pilatowicz
12/13/2017	0.5	\$365.00	Review and analysis of order denying summary judgment (.4); Correspondence to client regarding same (.1).	\$182.50	Teresa Pilatowicz
12/14/2017	0.1	\$365.00	Correspondence to F. Gilmore regarding Superpumper fees.	\$36.50	Teresa Pilatowicz
12/15/2017	0.2	\$365.00	Correspondence to F. Gilmore regarding expenses incurred in initial deposition.	\$73.00	Teresa Pilatowicz
12/16/2017	0.8	\$365.00	Draft letter to discovery commissioner regarding fees incurred.	\$292.00	Teresa Pilatowicz
12/18/2017	0.6	\$365.00	Finalize letter to Discovery Commissioner regarding fees; Correspondence to B. Hemmilla regarding same.	\$219.00	Teresa Pilatowicz
12/19/2017	0.2	\$250.00	Post hearing follow up with TMP.	\$50.00	Michael Esposito
12/19/2017	1	\$365.00	Prepare for (.5) and participate (.5) in hearing on amount of sanctions.	\$365.00	Teresa Pilatowicz
12/20/2017	0.1	\$365.00	Review and analysis of order on sanctions.	\$36.50	Teresa Pilatowicz
12/21/2017	0.2	\$365.00	Review recommendation for order re: sanction amount; Correspondence to client regarding same.	\$73.00	Teresa Pilatowicz
1/5/2018	0.1	\$365.00	Review order confirming discovery commissioner's recommendation regarding amount of sanctions.	\$36.50	Teresa Pilatowicz
1/9/2018	0.1	\$365.00	Draft amended notice of deposition of PMK of HR.	\$36.50	Teresa Pilatowicz
1/9/2018	0.1	\$365.00	Review and respond to correspondence from F. Gilmore regarding HR deposition.	\$36.50	Teresa Pilatowicz
1/11/2018	0.1	\$365.00	Correspondence from and to F. Gilmore regarding HR deposition.	\$36.50	Teresa Pilatowicz
1/12/2018	0.1	\$365.00	Correspondence to K. Kearney regarding HR deposition.	\$36.50	Teresa Pilatowicz
1/19/2018	0.1	\$365.00	Correspondence to/from F. Gilmore and K. Kearney re: HR continued deposition.	\$36.50	Teresa Pilatowicz
1/22/2018	0.1	\$365.00	Correspondence to F. Gilmore regarding sanctions payment status.	\$36.50	Teresa Pilatowicz
1/22/2018	0.1	\$365.00	Draft amended notice of deposition of HR.	\$36.50	Teresa Pilatowicz
1/29/2018	0.1	\$365.00	Correspondence to K. Kearney regarding amended notice of deposition.	\$36.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/5/2018	0.1	\$365.00	Correspondence to W. Leonard regarding (REDACT)	\$36.50	Teresa Pilatowicz
3/15/2018	0.1	\$365.00	Correspondence to K. Kearney regarding HR depositions.	\$36.50	Teresa Pilatowicz
4/12/2018	0.8	\$365.00	Draft summary of status and timeline for trial and related events.	\$292.00	Teresa Pilatowicz
4/18/2018	0.2	\$365.00	Review calculation of trial related to deadlines.	\$73.00	Teresa Pilatowicz
4/30/2018	4.5	\$365.00	Working travel to Buffalo for HR continued deposition.	\$1,642.50	Teresa Pilatowicz
4/30/2018	2	\$365.00	Further review documents in preparation for HR deposition.	\$730.00	Teresa Pilatowicz
5/1/2018	8	\$365.00	Further prepare for and attend deposition of PMK of Hodgson Russ.	\$2,920.00	Teresa Pilatowicz
5/1/2018	3.1	\$365.00	Travel from Buffalo Deposition (HALF RATE).	\$1,131.50	Teresa Pilatowicz
5/8/2018	0.2	\$365.00	Correspondence to F. Gilmore regarding sanction/fees and expenses.	\$73.00	Teresa Pilatowicz
7/30/2018	1.3	\$365.00	Review status of pending deadlines and draft summary of outstanding items.	\$474.50	Teresa Pilatowicz
7/31/2018	0.5	\$365.00	Review Superpumper fee issues; Correspondence to G. Gordon regarding same.	\$182.50	Teresa Pilatowicz
7/31/2018	0.1	\$365.00	Correspondence to F. Gilmore regarding pre-trial order.	\$36.50	Teresa Pilatowicz
8/1/2018	5.1	\$ 185.00	Receive accounting fees and costs from 11/1/16 through 7/31/2018. Begin and complete creation of excel spreadsheet exhibits for Professional Fees, Fees by Task Code and Expenses. Draft GTG 4th Interim Fee Application and corresponding declarations.	\$ 943.50	Michele Pori
8/1/2018	0.6	\$ 365.00	Attention to fee application issues	\$ 219.00	Teresa Pilatowicz
8/1/2018	0.4	\$ 365.00	Research re: Morabito's current address	\$ 146.00	Teresa Pilatowicz
8/2/2018	0.1	\$ 365.00	Correspondence to court regarding request for pre-trial conference	\$ 36.50	Teresa Pilatowicz
8/6/2018	0.2	\$ 365.00	Call to court clerk re: pre-trial conference;		
8/7/2018	0.1	\$ 365.00	Correspondence to opposing counsel regarding same	\$ 73.00	Teresa Pilatowicz
8/7/2018	0.1	\$ 365.00	Contact court re: pre-trial conference	\$ 36.50	Teresa Pilatowicz
8/7/2018	0.1	\$ 365.00	Conferences with court regarding scheduling on pre-trial conference	\$ 36.50	Teresa Pilatowicz
8/8/2018	1.9	\$ 365.00	Prepare for meeting with E. Turner and G. Hamm regarding trial preparation and strategy	\$ 693.50	Teresa Pilatowicz
8/9/2018	3	\$ 365.00	Further attention to trial strategy and trial preparation; Review MSJ and order on same regarding additional documents needed for trial	\$ 1,095.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
8/10/2018	0.2	\$ 365.00	Correspondence to and from court clerk re: pre-trial issues	\$ 73.00	Teresa Pilatowicz
8/16/2018	0.8	\$ 365.00	Commence developing trial theme and further prepare strategy	\$ 292.00	Teresa Pilatowicz
8/16/2018	0.7	\$ 365.00	Review time entries for 4th interim app	\$ 255.50	Teresa Pilatowicz
8/17/2018	0.3	\$ 365.00	Attention to fee application issues	\$ 109.50	Teresa Pilatowicz
8/20/2018	0.8	\$ 365.00	Review time entries for fourth interim fee application	\$ 292.00	Teresa Pilatowicz
8/20/2018	0.9	\$ 365.00	Review time entries for 4th fee application	\$ 328.50	Teresa Pilatowicz
8/27/2018	5.2	\$ 365.00	Revise 4th interim fee application including summary of status of application of sanctions payments and finalize exhibits in support of same	\$ 1,898.00	Teresa Pilatowicz
8/28/2018	2.1	\$ 365.00	Finalize 4th interim fee application (.9), declarations in support of same (.4), Draft and finalize OST documents (.5); Correspondence to/from client regarding approval (.1); Correspondence to/from opposing counsel regarding OST request (.2)	\$ 766.50	Teresa Pilatowicz
8/28/2018	3	\$ 365.00	Commence trial strategy preparation for theme development and opening/closing statements	\$ 1,095.00	Teresa Pilatowicz
8/29/2018	0.6	\$ -	Analysis of trial strategy and comments re same - No Charge	\$ -	Erick Gjerdingen
8/29/2018	5	\$ 365.00	Analysis of trial strategy and documents supporting same	\$ 1,825.00	Teresa Pilatowicz
8/30/2018	0.4	\$ -	Additional analysis re trial strategy - No Charge	\$ -	Erick Gjerdingen
8/30/2018	4.9	\$ 365.00	Further analysis of trial strategy and documents supporting same	\$ 1,788.50	Teresa Pilatowicz
9/4/2018	6.5	\$ 185.00	Trial preparation. Begin culling all operative pleadings, all written responses to Interrogatories and all deposition transcript with exhibits.	\$ 1,202.50	Michele Pori
9/4/2018	1	\$ 365.00	Further review documents for trial preparation	\$ 365.00	Teresa Pilatowicz
9/4/2018	0.1	\$ 365.00	Correspondence to Bill Kimmel regarding trial dates	\$ 36.50	Teresa Pilatowicz
9/4/2018	0.1	\$ 365.00	Correspondence to F. Gilmore regarding pre-trial conference	\$ 36.50	Teresa Pilatowicz
9/4/2018	0.1	\$ 365.00	Correspondence to client regarding trial scheduling and pre-trial conference	\$ 36.50	Teresa Pilatowicz
9/5/2018	5.5	\$ 185.00	Trial preparation. Continue and complete culling all operative pleadings, all written responses to Interrogatories and all deposition transcript with exhibits.	\$ 1,017.50	Michele Pori
9/5/2018	1	\$ 365.00	Commence drafting pre-trial statement	\$ 365.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/6/2018	0.3	\$ 495.00	Review of scheduling order + follow up re same	\$ 148.50	Erika Turner
9/6/2018	1.4	\$ 365.00	Prepare for and participate in pre-trial conference all with F. Gilmore; Draft summary of same	\$ 511.00	Teresa Pilatowicz
9/6/2018	0.2	\$ 365.00	Correspondence to court regarding pre-trial conference issues	\$ 73.00	Teresa Pilatowicz
9/6/2018	0.2	\$ 365.00	Start exhibit list	\$ 73.00	Teresa Pilatowicz
9/6/2018	0.4	\$ 365.00	Call with M. Pori regarding trial preparation strategy and items needed	\$ 146.00	Teresa Pilatowicz
9/6/2018	0.1	\$ 365.00	Correspondence to J. Murtha regarding Vacco depositions	\$ 36.50	Teresa Pilatowicz
9/6/2018	1.7	\$ 365.00	Attention to trial statement and stipulated facts	\$ 620.50	Teresa Pilatowicz
9/6/2018	2.5	\$ 365.00	Review Morabito deposition transcript	\$ 912.50	Teresa Pilatowicz
9/7/2018	1.6	\$ 310.00	Research and analysis re evidence issues for trial	\$ 496.00	Erick Gjerdingen
9/7/2018	2	\$ 365.00	Review files and identify trial issues to address	\$ 730.00	Teresa Pilatowicz
9/7/2018	0.1	\$ 365.00	Correspondence to J. McGovern regarding trial status	\$ 36.50	Teresa Pilatowicz
9/7/2018	1.8	\$ 365.00	Further work on trial statement	\$ 657.00	Teresa Pilatowicz
9/10/2018	1.6	\$ 495.00	Communications re pretrial matters + review pleadings for Trial preparation	\$ 792.00	Erika Turner
9/10/2018	0.6	\$ -	Telephone conference with E. Turner and T. Pilatowicz regarding pretrial hearing. No Charge.	\$ -	Gabby Hamm
9/10/2018	1.5	\$ 365.00	Research and analysis regarding potential evidentiary issues to raise at pre-trial conference	\$ 547.50	Teresa Pilatowicz
9/10/2018	3.5	\$ 365.00	Further attention to trial statement and issues to address for trial	\$ 1,277.50	Teresa Pilatowicz
9/10/2018	0.2	\$ 365.00	Draft notice of intent to use audio-visual equipment	\$ 73.00	Teresa Pilatowicz
9/10/2018	1.4	\$ 365.00	Prepare for and participate in call regarding pre-trial conference	\$ 511.00	Teresa Pilatowicz
9/11/2018	0.1	\$ -	Review of email from T. Pilatowicz regarding pretrial conference. No Charge.	\$ -	Gabby Hamm
9/11/2018	3.9	\$ 365.00	Work on Bernstein and Morabito designations of deposition transcript	\$ 1,423.50	Teresa Pilatowicz
9/11/2018	1.1	\$ 365.00	Prepare for and attend pre-trial conference	\$ 401.50	Teresa Pilatowicz
9/11/2018	0.7	\$ 365.00	Draft summary of pre-trial conference and strategy based on same	\$ 255.50	Teresa Pilatowicz
9/11/2018	0.3	\$ 365.00	Review requirements and analysis for audio visual needs and communicate with Court re same	\$ 109.50	Teresa Pilatowicz
9/11/2018	1	\$ 365.00	Designations regarding Cavalier deposition	\$ 365.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/11/2018	0.6	\$ 365.00	Research re: Moreno matter and relation to trial	\$ 219.00	Teresa Pilatowicz
9/12/2018	4	\$ 365.00	work on designations of Gurse, Graeber, and Sevtz depositions	\$ 1,460.00	Teresa Pilatowicz
9/12/2018	0.5	\$ 365.00	Review and analysis of defendants' motion in limine	\$ 182.50	Teresa Pilatowicz
9/12/2018	1	\$ 365.00	Attention to status of initial and supplemental disclosures	\$ 365.00	Teresa Pilatowicz
9/13/2018	2.6	\$ 495.00	Review Motion for SJ and other docs in file in preparation for Trial	\$ 1,287.00	Erika Turner
9/13/2018	0.4	\$ 495.00	Review Motion in Limine recd from opposing counsel + follow up re same	\$ 198.00	Erika Turner
9/13/2018	0.2	\$ 365.00	Review and respond to correspondence from EPT regarding ██████████	\$ 73.00	Teresa Pilatowicz
9/13/2018	0.8	\$ 365.00	Deposition designations for Yalamachili deposition	\$ 292.00	Teresa Pilatowicz
9/17/2018	0.5	\$ 495.00	Attend to resolving pre-Trial issues	\$ 247.50	Erika Turner
9/17/2018	1.2	\$ 365.00	Attention to arguments in opposition to damages Motion in Limine and in support of Friederich MIL; Conference with A. Dunning regarding same	\$ 438.00	Teresa Pilatowicz
9/17/2018	2.3	\$ 365.00	Further attention to general trial issues	\$ 839.50	Teresa Pilatowicz
9/18/2018	0.2	\$ 365.00	Finalize notice and request for technology use for trial	\$ 73.00	Teresa Pilatowicz
9/18/2018	1.1	\$ 365.00	Reviewing documents for exhibit list	\$ 401.50	Teresa Pilatowicz
9/18/2018	4.8	\$ 365.00	Draft summary of trial strategy, issues, and evidence	\$ 1,752.00	Teresa Pilatowicz
9/19/2018	7.4	\$ 385.00	Review of Jan Friedrich deposition transcript and draft motion in limine; related research regarding designation of non-retained expert witness.	\$ 2,849.00	Gabby Hamm
9/19/2018	6	\$ 365.00	Document review to further create exhibit list	\$ 2,190.00	Teresa Pilatowicz
9/19/2018	0.8	\$ 365.00	Review and comment on motion in limine	\$ 292.00	Teresa Pilatowicz
9/20/2018	4.7	\$ -	Continue research regarding non-retained expert witnesses and revise motion in limine. No Charge.	\$ -	Gabby Hamm
9/20/2018	3	\$ 185.00	Trial preparation. Receive zip file of emails without bates numbers. Begin search through Logikcull platform to identify bates stamped versions. Download same for use as trial exhibits.	\$ 555.00	Michele Pori
9/20/2018	1.1	\$ 365.00	Attention to finalizing Friederich MIL	\$ 401.50	Teresa Pilatowicz
9/20/2018	2.9	\$ 365.00	Further supplement exhibit list	\$ 1,058.50	Teresa Pilatowicz
9/20/2018	1.3	\$ 365.00	Further draft working summary for trial prep identifying factual summary and additional items needed for trial	\$ 474.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/21/2018	2.8	\$ 775.00	review and revise internal trial memorandum	\$ 2,170.00	Gerald Gordon
9/21/2018	2.6	\$ 185.00	Trial preparation. Receive zip file of emails without bates numbers. Continue and complete search through Logikcull platform to identify bates stamped versions. Download same for use as trial exhibits.	\$ 481.00	Michele Pori
9/21/2018	4.8	\$ 365.00	Further draft working trial summary regarding evidence needed and issues to address	\$ 1,752.00	Teresa Pilatowicz
9/21/2018	1.2	\$ 365.00	Review additional documents to supplement exhibits for trial	\$ 438.00	Teresa Pilatowicz
9/24/2018	6.9	\$ 235.00	Continue drafting opposition to motion in limine	\$ 1,621.50	Andrew Dunning
9/24/2018	3	\$ 495.00	Meeting with TP re status and strategy on how to proceed at Trial + follow up re same with review of docs/pleadings	\$ 1,485.00	Erika Turner
9/24/2018	3.5	\$ 385.00	Review memoranda for trial preparation (2.4); meet with T. Pilatowicz regarding trial preparation (1.1).	\$ 1,347.50	Gabby Hamm
9/24/2018	2.5	\$ 185.00	Trial preparation. Begin Summary of Voluminous Documents Index for all documents for all 23,000 documents & emails received from Vacco/Lippes Mathias bates stamped LMWF_SUPP_000001 - 106280.	\$ 462.50	Michele Pori
9/24/2018	0.2	\$ 365.00	Correspondence with expert witnesses regarding appearance at trial	\$ 73.00	Teresa Pilatowicz
9/24/2018	0.5	\$ 365.00	Review and revisions to opposition to motion in limine	\$ 182.50	Teresa Pilatowicz
9/24/2018	3.5	\$ 365.00	Further review exhibits in preparation for trial and additional information needed	\$ 1,277.50	Teresa Pilatowicz
9/24/2018	1.6	\$ 365.00	Further prepare trial strategy	\$ 584.00	Teresa Pilatowicz
9/25/2018	2.2	\$ 235.00	Review and revise draft opposition to motion in limine; conduct supplemental research	\$ 517.00	Andrew Dunning
9/25/2018	0.7	\$ 495.00	Analysis re standing of liquidation trustee for trial strategy + related conference with Bk Co-counsel	\$ 346.50	Erika Turner
9/25/2018	1	\$ 495.00	Attend to pretrial issues with co-counsel + research re same	\$ 495.00	Erika Turner
9/25/2018	2.7	\$ 495.00	Review transcripts and other papers in preparation for trial	\$ 1,336.50	Erika Turner
9/25/2018	0.7	\$ 775.00	conferences with Erika T re UFTA and interplay with bk	\$ 542.50	Gerald Gordon
9/25/2018	2	\$ 185.00	Trial preparation. Cull & compile all motions to dismiss and corresponding orders and all discovery commissioner recommendations for order and corresponding court orders. Add all to trial binder Operable Pleadings.	\$ 370.00	Michele Pori

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/25/2018	6	\$ 185.00	Trial preparation. Continue Summary of Voluminous Documents Index for all documents for all 23,000 documents & emails received from Vacco/Lippes Mathias bates stamped LMWF_SUPP_000001 - 106280.	\$ 1,110.00	Michele Pori
9/25/2018	0.3	\$ 365.00	Call with Jim McGovern regarding trial	\$ 109.50	Teresa Pilatowicz
9/25/2018	0.2	\$ 365.00	Call with Tim Herbst regarding trial	\$ 73.00	Teresa Pilatowicz
9/25/2018	0.9	\$ 365.00	Prepare for and attend hearing on fourth interim fee application	\$ 328.50	Teresa Pilatowicz
9/25/2018	0.2	\$ 365.00	Finalize order on fee application; Correspondence to N. Strozza regarding same	\$ 73.00	Teresa Pilatowicz
9/25/2018	1.6	\$ 365.00	Further review and revisions to opposition to motion in limine	\$ 584.00	Teresa Pilatowicz
9/25/2018	0.2	\$ 365.00	Correspondence to F. Gilmore regarding request for stipulation re Noble testimony	\$ 73.00	Teresa Pilatowicz
9/25/2018	1.3	\$ 365.00	Review Nobel deposition in response to Defendants' request for use of deposition transcript in lieu of live testimony	\$ 474.50	Teresa Pilatowicz
9/25/2018	1.5	\$ 365.00	Further review of documents regarding exhibits for trial	\$ 547.50	Teresa Pilatowicz
9/26/2018	3.6	\$ 235.00	Review and revise opposition to motion in limine	\$ 846.00	Andrew Dunning
9/26/2018	0.2	\$ 495.00	Review trust docs for use at trial	\$ 99.00	Erika Turner
9/26/2018	0.2	\$ 495.00	Communication with BLeonard re trial prep/trial + follow up re meeting with THerst and McGovern	\$ 99.00	Erika Turner
9/26/2018	0.2	\$ 495.00	Attend to witness list	\$ 99.00	Erika Turner
9/26/2018	0.3	\$ 775.00	conf with EPT re insiders under UFTA (NRS 112)	\$ 232.50	Gerald Gordon
9/26/2018	2.6	\$ 300.00	trial prep: Attend to preparation of exhibits for super pumper trial	\$ 780.00	Mark Weisenmiller
9/26/2018	6.5	\$ 185.00	Trial preparation. Continue Summary of Voluminous Documents Index for all documents for all 23,000 documents & emails received from Vacco/Lippes Mathias bates stamped LMWF_SUPP_000001 - 106280.	\$ 1,202.50	Michele Pori
9/26/2018	5.8	\$ 365.00	Further revise exhibit list	\$ 2,117.00	Teresa Pilatowicz
9/26/2018	0.8	\$ 365.00	Further revise opposition to motion in limine	\$ 292.00	Teresa Pilatowicz
9/26/2018	0.3	\$ 365.00	Revise witness list	\$ 109.50	Teresa Pilatowicz
9/27/2018	2.3	\$ 235.00	Review EPT revisions to opposition to motion in limine; review and revise draft opposition for approval	\$ 540.50	Andrew Dunning
9/27/2018	0.6	\$ 495.00	Review and revise witness list and follow up re deposition transcripts	\$ 297.00	Erika Turner
9/27/2018	2.1	\$ 495.00	Review and revise Opposition to Motion in Limine	\$ 1,039.50	Erika Turner



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
9/27/2018	4.7	\$ 385.00	Research regarding [REDACTED] (3.8); research regarding [REDACTED] (.9).	\$ 1,809.50	Gabby Hamm
9/27/2018	1.4	\$ 385.00	Draft proposed findings and conclusions.	\$ 539.00	Gabby Hamm
9/27/2018	0.3	\$ 775.00	conf with Teresa P re [REDACTED]	\$ 232.50	Gerald Gordon
9/27/2018	7.2	\$ 185.00	Trial preparation. Continue Summary of Voluminous Documents Index for all documents for all 23,000 documents & emails received from Vacco/Lippes Mathias bates stamped LMWF_SUPP_000001 - 106280.	\$ 1,332.00	Michele Pori
9/27/2018	0.3	\$ 365.00	Further attention to exhibit list issues	\$ 109.50	Teresa Pilatowicz
9/27/2018	0.3	\$ 365.00	Review Salazar expert report	\$ 109.50	Teresa Pilatowicz
9/27/2018	1.3	\$ 365.00	Legal analysis and summary regarding [REDACTED] [REDACTED]	\$ 474.50	Teresa Pilatowicz
9/27/2018	0.6	\$ 365.00	Further revisions to Opposition to Motion in Limine	\$ 219.00	Teresa Pilatowicz
9/27/2018	0.2	\$ 365.00	Correspondence to F. Gilmore regarding witness availability	\$ 73.00	Teresa Pilatowicz
9/27/2018	0.8	\$ 365.00	Update working summary of trial issues	\$ 292.00	Teresa Pilatowicz
9/28/2018	4.2	\$ 385.00	Review discovery and prepare proposed findings and conclusions.	\$ 1,617.00	Gabby Hamm
9/28/2018	0.4	\$ 775.00	t/c with Trustee re trial	\$ 310.00	Gerald Gordon
9/28/2018	0.4	\$ 775.00	further analysis of [REDACTED]	\$ 310.00	Gerald Gordon
9/28/2018	4.1	\$ 185.00	Trial preparation. Continue and complete Summary of Voluminous Documents Index for all documents for all 23,000 documents & emails received from Vacco/Lippes Mathias bates stamped LMWF_SUPP_000001 - 106280.	\$ 758.50	Michele Pori
9/28/2018	2.4	\$ 365.00	Further work on exhibit list and documents for trial	\$ 876.00	Teresa Pilatowicz
9/28/2018	0.7	\$ 365.00	Finalize pre-trial disclosures	\$ 255.50	Teresa Pilatowicz
9/28/2018	0.3	\$ 365.00	Review and analysis of pre-trial disclosures from Defendants	\$ 109.50	Teresa Pilatowicz
9/28/2018	1	\$ 365.00	Further revisions to opposition to motion in limine	\$ 365.00	Teresa Pilatowicz
9/28/2018	0.8	\$ 365.00	Strategize regarding case presentation and items needed for trial	\$ 292.00	Teresa Pilatowicz
10/1/2018	0.3	\$ 235.00	Review correspondence from counsel and prospective research tasks	\$ 70.50	Andrew Dunning
10/1/2018	0.7	\$ 235.00	Attend trial strategy meeting; review correspondence from counsel regarding research tasks	\$ 164.50	Andrew Dunning

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/1/2018	0.1	\$ -	Review of email from G. Gordon regarding insider status of Ed Bayuk. No Charge.	\$ -	Gabby Hamm
10/1/2018	5.3	\$ 385.00	Review of discovery produced by Defendants and disclosures.	\$ 2,040.50	Gabby Hamm
10/1/2018	2.8	\$ -	Review of dockets and discovery file; identify further documents to be reviewed. No Charge.	\$ -	Gabby Hamm
10/1/2018	0.4	\$ -	Analysis of research issues for trial and discussion with A. Dunning regarding same. No Charge.	\$ -	Gabby Hamm
10/1/2018	0.4	\$ 385.00	Review of current draft of exhibit list and identify additional certified copies needed.	\$ 154.00	Gabby Hamm
10/1/2018	1.4	\$ 365.00	Review McGovern Deposition	\$ 511.00	Teresa Pilatowicz
10/1/2018	2.6	\$ 365.00	Review Bayuk Deposition	\$ 949.00	Teresa Pilatowicz
10/1/2018	1.9	\$ 365.00	Review Sam Morabito Deposition	\$ 693.50	Teresa Pilatowicz
10/1/2018	0.8	\$ 365.00	Designations of Lovelace Deposition	\$ 292.00	Teresa Pilatowicz
10/1/2018	2.4	\$ 365.00	Designations of Vacco depositions	\$ 876.00	Teresa Pilatowicz
10/1/2018	0.5	\$ 365.00	Further draft proposed stipulated facts	\$ 182.50	Teresa Pilatowicz
10/2/2018	0.4	\$ -	Attend strategy meeting regarding trial preparation - No Charge	\$ -	Andrew Dunning
10/2/2018	2.4	\$ -	Discovery and deposition management. No Charge.	\$ -	Gabby Hamm
10/2/2018	2.1	\$ 365.00	Revise and proposed final of Vacco depo designations and summary of testimony	\$ 766.50	Teresa Pilatowicz
10/2/2018	0.9	\$ 365.00	Revise and proposed final of Bernstein depo designations and summary of testimony; Analysis of Bernstein as a witness	\$ 328.50	Teresa Pilatowicz
10/2/2018	0.3	\$ 365.00	Revise and proposed final of Lovelace depo designations and summary of testimony; Analysis of Bernstein as a witness	\$ 109.50	Teresa Pilatowicz
10/2/2018	1.3	\$ 365.00	Revise and proposed final of Graber depo designations and summary of testimony	\$ 474.50	Teresa Pilatowicz
10/2/2018	1.1	\$ 365.00	Revise and proposed final of Yalamanchili depo designations and summary of testimony	\$ 401.50	Teresa Pilatowicz
10/2/2018	2	\$ 365.00	Revise and proposed final of Morabito depo designations and summary of testimony	\$ 730.00	Teresa Pilatowicz
10/2/2018	1.2	\$ 365.00	Revise and proposed final of Kraus depo designations and summary of testimony	\$ 438.00	Teresa Pilatowicz
10/2/2018	0.4	\$ 365.00	Further attention to research items needed for trial	\$ 146.00	Teresa Pilatowicz
10/3/2018	0.6	\$ -	Continue file review - No Charge	\$ -	Andrew Dunning
10/3/2018	3.5	\$ 495.00	Prepare outline for determination of witnesses, arguments and presentation of deposition/exhibits	\$ 1,732.50	Erika Turner
10/3/2018	7.9	\$ 385.00	Further review of discovery and deposition exhibits for determination of evidence of trial.	\$ 3,041.50	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/3/2018	0.3	\$ 365.00	Call with and correspondence to J. McGovern regarding prep	\$ 109.50	Teresa Pilatowicz
10/3/2018	1.5	\$ 365.00	Review and analysis of McGovern documents in preparation for call	\$ 547.50	Teresa Pilatowicz
10/3/2018	0.9	\$ 365.00	Further analysis of exhibits	\$ 328.50	Teresa Pilatowicz
10/4/2018	2.4	\$ 495.00	Trial preparation including review papers and pleadings in file	\$ 1,188.00	Erika Turner
10/4/2018	5.1	\$ 385.00	Research in preparation for trial, including regarding anticipated evidentiary objections and standing evidence.	\$ 1,963.50	Gabby Hamm
10/4/2018	3.2	\$ 385.00	Review of proposed exhibits.	\$ 1,232.00	Gabby Hamm
10/4/2018	2.2	\$ 365.00	Further attention and revisions to Kraus designation	\$ 803.00	Teresa Pilatowicz
10/4/2018	2	\$ 365.00	Further attention and revisions to Vacco designation	\$ 730.00	Teresa Pilatowicz
10/4/2018	0.8	\$ 365.00	Further attention and revisions to Bernstein designation	\$ 292.00	Teresa Pilatowicz
10/4/2018	0.7	\$ 365.00	Further attention and revisions to Morabito designation	\$ 255.50	Teresa Pilatowicz
10/4/2018	4.6	\$ 365.00	Review proposed exhibit list and revisions to same	\$ 1,679.00	Teresa Pilatowicz
10/5/2018	1.5	\$ 235.00	Continue research regarding [REDACTED]	\$ 352.50	Andrew Dunning
10/5/2018	2.9	\$ 235.00	Continue research regarding evidentiary matters	\$ 681.50	Andrew Dunning
10/5/2018	0.1	\$ 385.00	Brief review of memo regarding [REDACTED].	\$ 38.50	Gabby Hamm
10/5/2018	3.3	\$ 385.00	Continue review of potential trial exhibits and other documents produced in discovery to determine if needed as exhibits.	\$ 1,270.50	Gabby Hamm
10/5/2018	0.2	\$ -	Email to A. Dunning regarding [REDACTED] No Charge.	\$ -	Gabby Hamm
10/5/2018	3.1	\$ 385.00	Continue drafting proposed findings of fact and conclusions of law.	\$ 1,193.50	Gabby Hamm
10/5/2018	4.6	\$ 365.00	Finalize deposition designations	\$ 1,679.00	Teresa Pilatowicz
10/6/2018	9.8	\$ 385.00	Continue drafting proposed findings and conclusions.	\$ 3,773.00	Gabby Hamm
10/7/2018	0.8	\$ 385.00	Emails regarding damages issues and Vacco and Lovelace not appearing for trial (.4); review of statute regarding damages (.4).	\$ 308.00	Gabby Hamm
10/7/2018	2.2	\$ 385.00	Review of depositions and exhibits for FFCL and exhibits.	\$ 847.00	Gabby Hamm
10/7/2018	1.9	\$ 365.00	Review and analysis of Gilmore correspondence regarding request for dismissal of Salvatore Morabito	\$ 693.50	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/8/2018	0.6	\$ -	Review correspondence from counsel regarding trial preparation; prepare and upload research memorandum to file - No Charge	\$ -	Andrew Dunning
10/8/2018	0.3	\$ 495.00	Review correspondence from FGilmore + review and revise proposed response	\$ 148.50	Erika Turner
10/8/2018	3.9	\$ 495.00	Analysis and revisions to proposed FFCL + further trial preparation	\$ 1,930.50	Erika Turner
10/8/2018	0.2	\$ 385.00	Review of draft correspondence regarding Sam Morabito claims and related emails.	\$ 77.00	Gabby Hamm
10/8/2018	0.4	\$ -	Review of comments by E. Turner to proposed findings and conclusions. No Charge.	\$ -	Gabby Hamm
10/8/2018	4.9	\$ 385.00	Further analysis of claims and continued review of documents for evidence.	\$ 1,886.50	Gabby Hamm
10/8/2018	1.3	\$ -	Review of designated deposition testimony. No Charge.	\$ -	Gabby Hamm
10/8/2018	0.7	\$ 365.00	Draft response to Gilmore correspondence re: Salvatore Morabito; Multiple additional correspondence regarding same	\$ 255.50	Teresa Pilatowicz
10/8/2018	0.6	\$ 365.00	Commence analysis of Defendants' deposition designations	\$ 219.00	Teresa Pilatowicz
10/8/2018	1.5	\$ 365.00	Further attention to trial exhibits	\$ 547.50	Teresa Pilatowicz
10/8/2018	0.5	\$ 365.00	Review and analysis of reply in support of motion in limine re: damages	\$ 182.50	Teresa Pilatowicz
10/8/2018	0.4	\$ 365.00	Review and analysis of opposition to motion in limine re: Freiderich	\$ 146.00	Teresa Pilatowicz
10/8/2018	0.5	\$ 365.00	Commence review and revision to findings of fact and conclusions of law	\$ 182.50	Teresa Pilatowicz
10/8/2018	0.2	\$ 365.00	Correspondence to/from Bill Kimmel regarding testimony	\$ 73.00	Teresa Pilatowicz
10/9/2018	0.2	\$ 235.00	Review and analyze Defendants' reply in support of their motions in limine	\$ 47.00	Andrew Dunning
10/9/2018	2.4	\$ 235.00	Review and analyze Defendants' opposition to motion in limine; prepare to draft reply in support	\$ 564.00	Andrew Dunning
10/9/2018	0.6	\$ 495.00	Review Defendants' Opposition to Motion in Limine + follow up re strategy on same	\$ 297.00	Erika Turner
10/9/2018	2.8	\$ 495.00	Review file documents incl court's orders and declarations in preparation for trial	\$ 1,386.00	Erika Turner
10/9/2018	1.5	\$ 385.00	General trial preparation, including review pretrial filings (including disclosure and deposition designations); determine outstanding pretrial matters and dates due.	\$ 577.50	Gabby Hamm
10/9/2018	3.9	\$ -	Continue review of depositions, exhibits, and disclosures, and general analysis of trial presentation. No Charge.	\$ -	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/9/2018	3.1	\$ -	Further research regarding evidentiary issues. No Charge.	\$ -	Gabby Hamm
10/9/2018	4	\$ 365.00	Attend to exhibits/exhibit list	\$ 1,460.00	Teresa Pilatowicz
10/9/2018	1	\$ 365.00	Revisions to proposed findings of fact and conclusions of law	\$ 365.00	Teresa Pilatowicz
10/10/2018	1.7	\$ 235.00	Finalize research/memorandum on admissibility of docs.	\$ 399.50	Andrew Dunning
10/10/2018	2.6	\$ 235.00	Continue trial preparation research	\$ 611.00	Andrew Dunning
10/10/2018	0.2	\$ 235.00	Continue drafting reply in support of Motion in Limine re Friederich	\$ 47.00	Andrew Dunning
10/10/2018	4.8	\$ 495.00	Review docs incl depos and discovery responses in preparation for trial	\$ 2,376.00	Erika Turner
10/10/2018	0.1	\$ 385.00	Review of memo regarding evidence.	\$ 38.50	Gabby Hamm
10/10/2018	4.3	\$ 385.00	Continue gathering/reviewing depositions and deposition exhibits for trial prep.	\$ 1,655.50	Gabby Hamm
10/10/2018	4.3	\$ 365.00	Further revise Defendants' designations and commence preparing counter-designations	\$ 1,569.50	Teresa Pilatowicz
10/10/2018	0.9	\$ 365.00	Further revise proposed findings of facts and conclusions of law	\$ 328.50	Teresa Pilatowicz
10/10/2018	0.1	\$ 365.00	Draft notice of appearance for EPT and GAH	\$ 36.50	Teresa Pilatowicz
10/10/2018	0.9	\$ 365.00	Review and edit proposed final exhibit list	\$ 328.50	Teresa Pilatowicz
10/11/2018	4.3	\$ 235.00	Draft, review, and finalize reply in support of motion in limine re expert witness	\$ 1,010.50	Andrew Dunning
10/11/2018	3.8	\$ 385.00	Review of Sewitz and Justmann deposition transcripts for counter-designation of deposition testimony; further review of deposition designations of professionals.	\$ 1,463.00	Gabby Hamm
10/11/2018	3.8	\$ 365.00	Revisions to exhibit list for proposed final draft	\$ 1,387.00	Teresa Pilatowicz
10/11/2018	3	\$ 365.00	Revisions to counter-designations	\$ 1,095.00	Teresa Pilatowicz
10/11/2018	1	\$ 365.00	Revisions to reply in support of Friederich MIL	\$ 365.00	Teresa Pilatowicz
10/11/2018	0.7	\$ 365.00	Draft objection to pre-trial disclosures	\$ 255.50	Teresa Pilatowicz
10/12/2018	0.6	\$ -	Continue trial preparation research - No Charge	\$ -	Andrew Dunning
10/12/2018	0.7	\$ -	Continue trial preparation research - No Charge	\$ -	Andrew Dunning
10/12/2018	2.2	\$ 310.00	Research re defendants' failure to disclose deposition designations	\$ 682.00	Erick Gjerdingen
10/12/2018	3.2	\$ 385.00	Further review of discovery in connection with identification of trial exhibits (3.1); email to team regarding same (.1).	\$ 1,232.00	Gabby Hamm
10/12/2018	1.4	\$ 385.00	Review and revise draft reply in support of motion in limine regarding Jan Friederich.	\$ 539.00	Gabby Hamm
10/12/2018	1.4	\$ 385.00	Review of proposed designated deposition testimony of Dennis Vacco and comment regarding same.	\$ 539.00	Gabby Hamm
10/12/2018	1.6	\$ -	Further research regarding anticipated evidentiary objections. No Charge.	\$ -	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/12/2018	0.4	\$ 385.00	Review and provide comments to draft objection to Defendants' pretrial disclosures.	\$ 154.00	Gabby Hamm
10/12/2018	3.5	\$ 185.00	Trial preparation. Continue work on finding bates stamped versions of identified trial exhibits.	\$ 647.50	Michele Pori
10/12/2018	4	\$ 365.00	Further revisions to exhibit lists	\$ 1,460.00	Teresa Pilatowicz
10/12/2018	1.7	\$ 365.00	Further revise and finalize counter-designations	\$ 620.50	Teresa Pilatowicz
10/12/2018	0.6	\$ 365.00	Finalize pre-trial objections	\$ 219.00	Teresa Pilatowicz
10/12/2018	0.4	\$ 365.00	Review and analysis of Defendants' pre-trial objections	\$ 146.00	Teresa Pilatowicz
10/13/2018	8.2	\$ 385.00	Trial preparation, including review of deposition transcripts and exhibits, review of bankruptcy docket and declarations; review of summary judgment motion papers.	\$ 3,157.00	Gabby Hamm
10/14/2018	1.5	\$ 365.00	Commence trial witness preparation (Herbst and McGovern)	\$ 547.50	Teresa Pilatowicz
10/15/2018	3.6	\$ 235.00	Trial preparation regarding beneficiary liability	\$ 846.00	Andrew Dunning
10/15/2018	5.8	\$ 495.00	Trial preparation - review of exhibits and prep. of testimony outline	\$ 2,871.00	Erika Turner
10/15/2018	0.7	\$ 385.00	Meeting with T. Pilatowicz regarding trial preparation and presentation.	\$ 269.50	Gabby Hamm
10/15/2018	2.2	\$ -	Prepare for and participate in meeting with Tim Herbst. No Charge.	\$ -	Gabby Hamm
10/15/2018	2	\$ 385.00	Prepare for and participate in telephone conference with Jim McGovern.	\$ 770.00	Gabby Hamm
10/15/2018	0.4	\$ 385.00	Locate prior expert report; email to Jim McGovern with Friederich documents, rebuttal expert disclosure, and prior report.	\$ 154.00	Gabby Hamm
10/15/2018	1.5	\$ 185.00	Trial preparation. Receive additional documents to be used as trial exhibits without bates stamp. Research and locate all bates stamped versions or unredacted versions. Transmit same to TMP for use in creation of Trial Exhibits.	\$ 277.50	Michele Pori
10/15/2018	3.5	\$ 365.00	Prepare for and participate in pre-trial prep meeting with J. McGovern	\$ 1,277.50	Teresa Pilatowicz
10/15/2018	4	\$ 365.00	Prepare for and participate in pre-trial prep meeting with T. Herbst	\$ 1,460.00	Teresa Pilatowicz
10/15/2018	2	\$ 365.00	Attention to trial strategy	\$ 730.00	Teresa Pilatowicz
10/15/2018	0.3	\$ 365.00	Call with F. Gilmore regarding trial procedural issues	\$ 109.50	Teresa Pilatowicz
10/16/2018	0.3	\$ 495.00	Review and revise power point slides	\$ 148.50	Erika Turner
10/16/2018	3.3	\$ -	Review of pleadings and written discovery and prepare case map. No Charge.	\$ -	Gabby Hamm
10/16/2018	2.2	\$ -	Review and analysis of summary judgment documents. No Charge.	\$ -	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/16/2018	1.3	\$ 385.00	Continue review of depositions of Defendants'™ witnesses.	\$ 500.50	Gabby Hamm
10/16/2018	0.7	\$ 385.00	Review and analysis of demonstrative exhibit and provide comments to same.	\$ 269.50	Gabby Hamm
10/16/2018	4.5	\$ 185.00	Trial preparation. Receive trial exhibit list without bates stamped versions. Research and locate all documents with the appropriate bates stamp for use during trial.	\$ 832.50	Michele Pori
10/16/2018	1.4	\$ 185.00	Trial preparation. Receive list of 15 additional trial exhibits which need to be certified. Track down agencies and court's and request certified copies for use during trial.	\$ 259.00	Michele Pori
10/16/2018	4	\$ 365.00	Draft power-point presentation slides for trial	\$ 1,460.00	Teresa Pilatowicz
10/16/2018	2.5	\$ 365.00	Further revisions to exhibit list	\$ 912.50	Teresa Pilatowicz
10/16/2018	1.3	\$ 365.00	Further strategize regarding presentation of Superpumper transfer for trial	\$ 474.50	Teresa Pilatowicz
10/17/2018	6.2	\$ 385.00	Doc review for proposed FFCL	\$ 2,387.00	Gabby Hamm
10/17/2018	1.8	\$ 385.00	Research regarding valuation issues.	\$ 693.00	Gabby Hamm
10/17/2018	4	\$ 250.00	Video editing for Morabito depo - Video I	\$ 1,000.00	Michael Esposito
10/17/2018	0.3	\$ 365.00	Review correspondence from Court regarding Superpumper exhibits; Call with Marci regarding same	\$ 109.50	Teresa Pilatowicz
10/17/2018	1.3	\$ 365.00	Revise proposed slides	\$ 474.50	Teresa Pilatowicz
10/17/2018	1.3	\$ 365.00	Revisions to proposed findings of fact and conclusions of law	\$ 474.50	Teresa Pilatowicz
10/17/2018	2	\$ 365.00	Review documents referenced by opposing counsel in discovery responses	\$ 730.00	Teresa Pilatowicz
10/18/2018	1.5	\$ 495.00	Prepare for trial	\$ 742.50	Erika Turner
10/18/2018	4.9	\$ 385.00	Trial preparation, including trial exhibits and proposed findings and conclusions.	\$ 1,886.50	Gabby Hamm
10/18/2018	2.8	\$ 250.00	Morabito video Designation Video 2.	\$ 700.00	Michael Esposito
10/18/2018	1.8	\$ 250.00	Morabito Video Designation - Video 3.	\$ 450.00	Michael Esposito
10/18/2018	1.2	\$ 250.00	Finalize full Morabito designation video.	\$ 300.00	Michael Esposito
10/18/2018	7.7	\$ 365.00	Further attention to exhibits and exhibit list	\$ 2,810.50	Teresa Pilatowicz
10/18/2018	3	\$ 365.00	Revisions to proposed findings of fact and conclusions of law	\$ 1,095.00	Teresa Pilatowicz
10/18/2018	0.7	\$ 365.00	Draft proposed stipulated findings of fact and conclusions of law	\$ 255.50	Teresa Pilatowicz
10/18/2018	0.8	\$ 365.00	Review transcript from non-discharge hearing	\$ 292.00	Teresa Pilatowicz
10/19/2018	0.2	\$ 235.00	Review correspondence from counsel regarding trial; supplemental legal research	\$ 47.00	Andrew Dunning
10/19/2018	2.3	\$ 310.00	Research re evidentiary issues for trial, including record sealing	\$ 713.00	Erick Gjerdingen
10/19/2018	2.8	\$ 495.00	Trial preparation	\$ 1,386.00	Erika Turner

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/19/2018	1.9	\$ 385.00	Review and analysis of revised exhibit list/exhibits; emails regarding same; revise exhibit list.	\$ 731.50	Gabby Hamm
10/19/2018	1.1	\$ 385.00	Review and revise proposed stipulated facts.	\$ 423.50	Gabby Hamm
10/19/2018	7.7	\$ 365.00	Further revisions to and finalize exhibit list; Review Plaintiff's exhibits;	\$ 2,810.50	Teresa Pilatowicz
10/20/2018	0.4	\$ 495.00	Telephone conference with co-counsel re strategy on how to proceed	\$ 198.00	Erika Turner
10/20/2018	1.3	\$ 385.00	Further revise proposed stipulated facts, incorporating comments from E. Turner and revisions by T. Pilatowicz, and revise proposed findings and conclusions.	\$ 500.50	Gabby Hamm
10/20/2018	2.5	\$ 385.00	Review of original case files in prep for trial.	\$ 962.50	Gabby Hamm
10/21/2018	1	\$ 235.00	Continue trial preparation legal research	\$ 235.00	Andrew Dunning
10/21/2018	3.6	\$ 385.00	Review and revise proposed findings of fact and conclusions of law; incorporate changes by E. Turner, T. Pilatowicz.	\$ 1,386.00	Gabby Hamm
10/21/2018	5.4	\$ 385.00	Further research regarding evidentiary issues (2.8); review of motion to compel and supporting documents in connection with Lippes Mathias and Hodgson Russ productions (2.6).	\$ 2,079.00	Gabby Hamm
10/21/2018	0.1	\$ 385.00	Email regarding meeting with Bill Kimmel.	\$ 38.50	Gabby Hamm
10/21/2018	0.4	\$ 385.00	Review and analysis of proposed order of witnesses and email to T. Pilatowicz and E. Turner regarding same.	\$ 154.00	Gabby Hamm
10/21/2018	0.6	\$ 365.00	Prepare proposed order of witnesses as required by Court	\$ 219.00	Teresa Pilatowicz
10/21/2018	2.2	\$ 365.00	Revisions to proposed stipulated facts	\$ 803.00	Teresa Pilatowicz
10/22/2018	0.9	\$ -	Continue trial preparation legal research - No Charge	\$ -	Andrew Dunning
10/22/2018	2.3	\$ 310.00	Review and revise proposed FFCL	\$ 713.00	Erick Gjerdingen
10/22/2018	1.1	\$ -	Analysis re evidentiary issues for trial - No Charge	\$ -	Erick Gjerdingen
10/22/2018	2.3	\$ 310.00	Continue research and analysis re introduction of sealed and vacated judgment	\$ 713.00	Erick Gjerdingen
10/22/2018	1.5	\$ 310.00	Draft memo re sealed and vacated judgment	\$ 465.00	Erick Gjerdingen
10/22/2018	0.7	\$ 495.00	Review exhibit list and proposed FFCL in preparation for trial	\$ 346.50	Erika Turner
10/22/2018	1	\$ 495.00	Trial preparation	\$ 495.00	Erika Turner



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/22/2018	13	\$ 385.00	Trial preparation, including further review of documents relating to real property transfers. Email with T. Pilatowicz regarding exhibits. Emails with T. Pilatowicz and E. Turner regarding admissibility of exhibits; discuss same with E. Turner. Further revise proposed findings of fact and conclusions of law; synthesize revisions by T. Pilatowicz. Review and analysis of appraisals and related documents.	\$ 5,005.00	Gabby Hamm
10/22/2018	3	\$ 365.00	Finalize proposed findings of fact and conclusions of law	\$ 1,095.00	Teresa Pilatowicz
10/22/2018	1.8	\$ 365.00	Review and analysis of Defendant's proposed findings of facts and conclusions of law	\$ 657.00	Teresa Pilatowicz
10/22/2018	3	\$ 365.00	Analysis of trial evidentiary issues and solutions for same	\$ 1,095.00	Teresa Pilatowicz
10/22/2018	0.8	\$ 365.00	Call with Tim Herbst re: trial	\$ 292.00	Teresa Pilatowicz
10/22/2018	1.1	\$ 365.00	Call with J. McGovern regarding trial	\$ 401.50	Teresa Pilatowicz
10/23/2018	5.7	\$ 495.00	Review depositions/docs and further preparation for trial	\$ 2,821.50	Erika Turner
10/23/2018	4.3	\$ -	Continue general trial preparation, including preparation and review of personal working binders. No Charge.	\$ -	Gabby Hamm
10/23/2018	4.2	\$ 385.00	Review and analysis of expert disclosures, reports, and related document productions in prep for trial.	\$ 1,617.00	Gabby Hamm
10/23/2018	2.1	\$ -	Continue review of deposition transcripts, including Morabito deposition. No Charge.	\$ -	Gabby Hamm
10/23/2018	0.4	\$ 365.00	Prepare Herbst testimony outline	\$ 146.00	Teresa Pilatowicz
10/23/2018	1	\$ 365.00	Prepare for McGovern testimony	\$ 365.00	Teresa Pilatowicz
10/23/2018	0.8	\$ 365.00	Prepare Bayuk outline of needed testimony	\$ 292.00	Teresa Pilatowicz
10/23/2018	1.3	\$ 365.00	Review Morabito deposition video	\$ 474.50	Teresa Pilatowicz
10/23/2018	0.7	\$ 365.00	review combined exhibit list and correspondence with F. Gilmore regarding same	\$ 255.50	Teresa Pilatowicz
10/23/2018	1.6	\$ 365.00	Strategize regarding presentation of Superpumper receivables evidence	\$ 584.00	Teresa Pilatowicz
10/24/2018	5.8	\$ 495.00	Trial preparation re strategy on how to proceed with evidentiary matters	\$ 2,871.00	Erika Turner
10/24/2018	1.8	\$ -	Gather materials needed for trial, including working binders, key exhibits, notes, deposition comments and expert report notes. No Charge.	\$ -	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/24/2018	1.5	\$ 385.00	Review of Defendants' revised proposed findings of fact and conclusions of law, and email to T. Pilatowicz and E. Turner regarding same.	\$ 577.50	Gabby Hamm
10/24/2018	1.7	\$ -	Review of motions in limine, oppositions, and replies. No Charge.	\$ -	Gabby Hamm
10/24/2018	1	\$ -	Coordinate shipping/delivery of trial materials. No Charge.	\$ -	Gabby Hamm
10/24/2018	0.2	\$ -	Conference call re deposition exhibits. No Charge	\$ -	Michael Esposito
10/24/2018	3	\$ 365.00	Review deposition excerpt exhibits and revisions to deposition transcripts	\$ 1,095.00	Teresa Pilatowicz
10/24/2018	1.8	\$ 365.00	Review exhibits from Defendants	\$ 657.00	Teresa Pilatowicz
10/24/2018	0.7	\$ 365.00	Finalize revisions to exhibits list	\$ 255.50	Teresa Pilatowicz
10/24/2018	0.3	\$ 365.00	Multiple correspondence with opposing counsel regarding exhibits, depositions designations	\$ 109.50	Teresa Pilatowicz
10/24/2018	1.5	\$ 365.00	Further general trial strategy preparation	\$ 547.50	Teresa Pilatowicz
10/25/2018	10.5	\$ 495.00	Trial preparation re party examination	\$ 5,197.50	Erika Turner
10/25/2018	0.8	\$ 495.00	Meet with client BLeonard in preparation for trial	\$ 396.00	Erika Turner
10/25/2018	1.6	\$ 385.00	Travel from Las Vegas to Reno. (3.2 hrs. billed at 1/2 time)	\$ 616.00	Gabby Hamm
10/25/2018	2.8	\$ 385.00	Exhibit marking and audio visual testing with clerk at 2nd Judicial District Court; meeting with opposing counsel and Judge Steinheimer in chambers regarding trial schedule.	\$ 1,078.00	Gabby Hamm
10/25/2018	3.5	\$ -	Review and organization of materials shipped from Las Vegas, including exhibits, working binders, and other trial materials (1.4); review of exhibit list and exhibits (2.1). No Charge.	\$ -	Gabby Hamm
10/25/2018	1.3	\$ 385.00	Review of Kimmel appraisal, notes/questions regarding same, and Defendants' exhibits regarding Panorama property.	\$ 500.50	Gabby Hamm
10/25/2018	0.5	\$ 365.00	Further revise Herbst questions	\$ 182.50	Teresa Pilatowicz
10/25/2018	2	\$ 365.00	Review and finalize exhibit list re: documents to admit; Review Defendants' stipulated admitted exhibits	\$ 730.00	Teresa Pilatowicz
10/25/2018	0.3	\$ 365.00	Further revise McGovern questioning	\$ 109.50	Teresa Pilatowicz
10/25/2018	2.5	\$ 365.00	Further strategize regarding exhibit admissions and presentation of case facts	\$ 912.50	Teresa Pilatowicz
10/25/2018	1	\$ 365.00	Further review and analysis of proposed revisions to stipulated facts	\$ 365.00	Teresa Pilatowicz
10/25/2018	2.8	\$ 365.00	Meeting with Court Clerk regarding exhibit marking and meeting with judge regarding trial scheduling issues	\$ 1,022.00	Teresa Pilatowicz

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/26/2018	0.3	\$ 310.00	Assist in trial prep re evidentiary strategy	\$ 93.00	Erick Gjerdingen
10/26/2018	2.3	\$ 495.00	Prepare for trial- witness exam and opening outlines	\$ 1,138.50	Erika Turner
10/26/2018	4.6	\$ -	Review of exhibit binders and further analysis of evidentiary issues. No Charge.	\$ -	Gabby Hamm
10/26/2018	2.2	\$ 385.00	Meeting with Bill Kimmel and visit to property on Panorama.	\$ 847.00	Gabby Hamm
10/26/2018	1.4	\$ 385.00	Prepare witness outline for Bill Kimmel, begin analysis of Noble cross-exam.	\$ 539.00	Gabby Hamm
10/26/2018	0.8	\$ 365.00	Commence draft of Salazar cross	\$ 292.00	Teresa Pilatowicz
10/26/2018	0.8	\$ 365.00	Further revise McGovern question	\$ 292.00	Teresa Pilatowicz
10/26/2018	1	\$ 365.00	Review exhibit binders for further trial prep	\$ 365.00	Teresa Pilatowicz
10/26/2018	2.2	\$ -	Meeting with Bill Kimmel; View Panorama property - No Charge	\$ -	Teresa Pilatowicz
10/26/2018	0.7	\$ 365.00	Attend to stipulated facts	\$ 255.50	Teresa Pilatowicz
10/26/2018	1.8	\$ 365.00	Further prepare strategy regarding presentation of Superpumper evidence	\$ 657.00	Teresa Pilatowicz
10/27/2018	9	\$ 495.00	Trial preparation- witness exam outlines/opening	\$ 4,455.00	Erika Turner
10/27/2018	7.1	\$ 385.00	General trial preparation, including review of Defendants' trial exhibits and analysis of evidentiary issues regarding same.	\$ 2,733.50	Gabby Hamm
10/27/2018	0.6	\$ 385.00	Review and analysis of revised stipulated facts.	\$ 231.00	Gabby Hamm
10/27/2018	1.8	\$ 385.00	Review of Sewitz and Justmann deposition designations and mark objections to same.	\$ 693.00	Gabby Hamm
10/27/2018	10.5	\$ 365.00	Trial preparation including reviewing and revising evidentiary issue summaries, reviewing and revising stipulated facts, supplementing outline for Bayuk and Morabito	\$ 3,832.50	Teresa Pilatowicz
10/28/2018	1.5	\$ 495.00	Travel to Reno for trial (Billed half time)	\$ 742.50	Erika Turner
10/28/2018	7.8	\$ 495.00	Prepare for trial with exhibit/witness analysis and preparation of witness exam detail	\$ 3,861.00	Erika Turner
10/28/2018	7.3	\$ 385.00	General trial preparation, including review of Defendants' exhibits and proposed findings; analysis of admissibility objections.	\$ 2,810.50	Gabby Hamm
10/28/2018	1	\$ 385.00	Meeting with E. Turner and T. Pilatowicz regarding outstanding issues with exhibits, key issues, and trial presentation.	\$ 385.00	Gabby Hamm
10/28/2018	0.6	\$ 385.00	Review of evidentiary objections memo and supplement same.	\$ 231.00	Gabby Hamm
10/28/2018	11	\$ 365.00	Trial preparation including, refining Herbst questions, preparing motion in limine arguments, reviewing evidence for admissibility objections,	\$ 4,015.00	Teresa Pilatowicz
10/29/2018	11.5	\$ 495.00	Prepare for and attend trial	\$ 5,692.50	Erika Turner
10/29/2018	7.8	\$ 385.00	Attend trial, day 1.	\$ 3,003.00	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
10/29/2018	1.4	\$ 385.00	Draft proposed statement of non-stipulated facts per Court directive.	\$ 539.00	Gabby Hamm
10/29/2018	11.3	\$ 365.00	Trial Day, prep (2.0); in trial (7.5); revise FF&CL consistent with judge's request (.8); review evidentiary issues from trial (1.0)	\$ 4,124.50	Teresa Pilatowicz
10/30/2018	14	\$ 495.00	Prepare for and attend trial	\$ 6,930.00	Erika Turner
10/30/2018	3.5	\$ 385.00	Attend morning portion of trial, day 2.	\$ 1,347.50	Gabby Hamm
10/30/2018	9.6	\$ 385.00	Review of defendants' trial brief regarding hearsay and authenticity issues (.3); further research regarding various evidentiary objections, including cases cited by defendants, and research regarding dates of relevant document productions (4.0); draft trial brief regarding evidentiary objections (5.3).	\$ 3,696.00	Gabby Hamm
10/30/2018	0.6	\$ 385.00	Review document production regarding Glenneyre lease.	\$ 231.00	Gabby Hamm
10/30/2018	8.5	\$ 365.00	Trial day 2 - Further prep and attendance	\$ 3,102.50	Teresa Pilatowicz
10/30/2018	2	\$ 365.00	Commence review of designated transcripts in anticipation of objections and responses to same	\$ 730.00	Teresa Pilatowicz
10/30/2018	0.9	\$ 365.00	Attention to exhibit evidentiary issues raised at trial and response to same	\$ 328.50	Teresa Pilatowicz
10/30/2018	1.4	\$ 365.00	Analysis of items required for Bayuk's testimony for FF&CL	\$ 511.00	Teresa Pilatowicz
10/31/2018	2.4	\$ 310.00	Research re evidentiary issues for trial per TMP	\$ 744.00	Erick Gjerdingen
10/31/2018	14	\$ 495.00	Prepare for and attend trial	\$ 6,930.00	Erika Turner
10/31/2018	3.1	\$ 385.00	Attend afternoon portion of trial, day 3.	\$ 1,193.50	Gabby Hamm
10/31/2018	2.5	\$ 385.00	Review of document production vis-a-vis potential rebuttal exhibits.	\$ 962.50	Gabby Hamm
10/31/2018	2.6	\$ 385.00	Finalize and file trial brief regarding evidentiary objections.	\$ 1,001.00	Gabby Hamm
10/31/2018	1.4	\$ 385.00	Redact Paul Morabito deposition transcript per Court directive.	\$ 539.00	Gabby Hamm
10/31/2018	14.5	\$ 365.00	Further prepare for trial and trial day; Prepare for Thursday (McGovern, deposition changes)	\$ 5,292.50	Teresa Pilatowicz
11/1/2018	0.7	\$ 310.00	Drafting brief memo re offset issues in BK with fraudulent transfers	\$ 217.00	Erick Gjerdingen
11/1/2018	12	\$ 495.00	Prepare for and attend trial	\$ 5,940.00	Erika Turner
11/1/2018	9.5	\$ 385.00	Attend trial, day 4.	\$ 3,657.50	Gabby Hamm
11/1/2018	2.8	\$ 385.00	Review appraisal and notes, and revise direct exam outline for Bill Kimmel.	\$ 1,078.00	Gabby Hamm
11/1/2018	1.2	\$ 385.00	Discuss client direct exam with E. Turner and client (.6); review of LMWF document production issues (.4); telephone call with J. Murtha regarding same (.2).	\$ 462.00	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/1/2018	11.5	\$ 365.00	Further prepare for and trial day	\$ 4,197.50	Teresa Pilatowicz
11/2/2018	11.5	\$ 495.00	Prepare for and attend trial	\$ 5,692.50	Erika Turner
11/2/2018	1.5	\$ -	Travel re trial (billed half time)	\$ -	Erika Turner
11/2/2018	6.7	\$ 385.00	Attend trial, day 5.	\$ 2,579.50	Gabby Hamm
11/2/2018	1	\$ 385.00	Meet with Bill Kimmel.	\$ 385.00	Gabby Hamm
11/2/2018	6.7	\$ 365.00	Further prepare for and attend trial day 5	\$ 2,445.50	Teresa Pilatowicz
11/3/2018	2	\$ 495.00	Prepare for trial re Salazar expected testimony and cross	\$ 990.00	Erika Turner
11/3/2018	1.8	\$ 385.00	Research regarding Darryl Noble appraisal.	\$ 693.00	Gabby Hamm
11/4/2018	1.5	\$ -	Travel re trial (billed half time)	\$ -	Erika Turner
11/4/2018	2.8	\$ 385.00	Review of designated deposition testimony of defense witnesses (Dennis Vacco, Christian Lovelace, Stanton Bernstein, Spencer Cavalier).	\$ 1,078.00	Gabby Hamm
11/4/2018	4.8	\$ 385.00	Review of deposition testimony of Darryl Noble, appraisal, work file, and related exhibits, and prepare cross-examination outline of Darryl Noble.	\$ 1,848.00	Gabby Hamm
11/4/2018	0.7	\$ 385.00	Brief review of Dennis Banks deposition testimony and outline cross-examination.	\$ 269.50	Gabby Hamm
11/4/2018	0.4	\$ -	Brief review of proposed findings of fact and conclusions of law. No Charge.	\$ -	Gabby Hamm
11/4/2018	4.3	\$ 365.00	Prepare for Frederich testimony	\$ 1,569.50	Teresa Pilatowicz
11/5/2018	11.5	\$ 495.00	Prepare for and attend trial	\$ 5,692.50	Erika Turner
11/5/2018	2.2	\$ 385.00	Prepare for trial day 7, including witnesses Dennis Banks and Darryl Noble.	\$ 847.00	Gabby Hamm
11/5/2018	1.4	\$ 385.00	Coordinate copies of revised deposition designations for court, witness, opposing counsel.	\$ 539.00	Gabby Hamm
11/5/2018	5.1	\$ 385.00	Attend trial, day 6.	\$ 1,963.50	Gabby Hamm
11/5/2018	8	\$ 365.00	Further prepare for and attend trial day 6	\$ 2,920.00	Teresa Pilatowicz
11/6/2018	9.5	\$ 495.00	Prepare for and attend trial	\$ 4,702.50	Erika Turner
11/6/2018	9.5	\$ 385.00	Prepare for and attend trial, day 7.	\$ 3,657.50	Gabby Hamm
11/6/2018	0.6	\$ -	Discussion and analysis of trial testimony with E. Turner, T. Pilatowicz, and client. No Charge.	\$ -	Gabby Hamm
11/6/2018	9.5	\$ 365.00	Further prepare for and attend trial day 7	\$ 3,467.50	Teresa Pilatowicz
11/7/2018	4.9	\$ 310.00	Research re judgment offset treatment in BK	\$ 1,519.00	Erick Gjerdingen
11/7/2018	2.5	\$ 495.00	Attend trial	\$ 1,237.50	Erika Turner
11/7/2018	1	\$ 495.00	Attend to preparation of closing argument	\$ 495.00	Erika Turner
11/7/2018	1.5	\$ 495.00	Travel from trial (billed half time)	\$ 742.50	Erika Turner
11/7/2018	0.4	\$ 385.00	Telephone call with G. Gordon regarding trial and bankruptcy case issues/Virsenet litigation.	\$ 154.00	Gabby Hamm
11/7/2018	1.6	\$ 385.00	Travel from Reno to Las Vegas. (3 hrs. billed at 1/2 time)	\$ 616.00	Gabby Hamm
11/7/2018	3.2	\$ 385.00	Attend trial, day 8.	\$ 1,232.00	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/7/2018	2.6	\$ 365.00	Final trial day	\$ 949.00	Teresa Pilatowicz
11/7/2018	0.3	\$ 365.00	Conference with G. Gordon regarding trial summary	\$ 109.50	Teresa Pilatowicz
11/7/2018	1.5	\$ 365.00	Travel from Reno (this is half time)	\$ 547.50	Teresa Pilatowicz
11/8/2018	0.5	\$ 310.00	Follow up research re treatment of setoff in BK	\$ 155.00	Erick Gjerdingen
11/8/2018	2.5	\$ 385.00	Analysis of trial notes in preparation for revision of proposed findings.	\$ 962.50	Gabby Hamm
11/9/2018	0.1	\$ 365.00	Review court minutes	\$ 36.50	Teresa Pilatowicz
11/11/2018	0.5	\$ 495.00	Telephone conference with team re status and strategy on how to proceed	\$ 247.50	Erika Turner
11/13/2018	0.4	\$ -	(NO CHARGE) Coordinate all hands call	\$ -	Teresa Pilatowicz
11/13/2018	0.8	\$ 365.00	Commence review and revisions to FF&CL	\$ 292.00	Teresa Pilatowicz
11/14/2018	4.2	\$ 495.00	Attend to preparation of amended FFCL to reflect evidence at trial	\$ 2,079.00	Erika Turner
11/14/2018	0.1	\$ 385.00	Review of email and invoice from Bill Kimmel + follow-up	\$ 38.50	Gabby Hamm
11/14/2018	1.3	\$ 385.00	Analysis of [REDACTED]	\$ 500.50	Gabby Hamm
11/14/2018	0.2	\$ -	Attention to status of court documents - No Charge	\$ -	Teresa Pilatowicz
11/15/2018	3.3	\$ 495.00	Attend to FFCL	\$ 1,633.50	Erika Turner
11/15/2018	0.4	\$ -	Meet with A. Dunning regarding further research on value issue. No Charge.	\$ -	Gabby Hamm
11/15/2018	3.8	\$ 385.00	Research regarding [REDACTED]	\$ 1,463.00	Gabby Hamm
11/15/2018	0.1	\$ 365.00	Correspondence from and to Bill Kimmel	\$ 36.50	Teresa Pilatowicz
11/15/2018	0.8	\$ 365.00	Review and attention to notes re: points for amended FFCL	\$ 292.00	Teresa Pilatowicz
11/15/2018	0.1	\$ 365.00	Further communications with all interested parties regarding strategy for remedies	\$ 36.50	Teresa Pilatowicz
11/16/2018	0.3	\$ 235.00	Conduct supplemental research regarding [REDACTED]	\$ 70.50	Andrew Dunning
11/16/2018	6.2	\$ 385.00	Research regarding [REDACTED]	\$ 2,387.00	Gabby Hamm
11/16/2018	0.6	\$ 775.00	conf with G Hamm re finding and conclusions	\$ 465.00	Gerald Gordon
11/18/2018	0.4	\$ 365.00	Review and analysis of memorandum regarding [REDACTED]	\$ 146.00	Teresa Pilatowicz
11/19/2018	2.5	\$ 235.00	Continue supplemental research regarding [REDACTED]	\$ 587.50	Andrew Dunning
11/19/2018	3.9	\$ 495.00	Attend to preparation of amended FFCL	\$ 1,930.50	Erika Turner

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/19/2018	3.9	\$ 385.00	Review of trial minutes and final exhibit list (.6); review of proposed findings and stipulated facts (.7); gather and begin reviewing marked deposition transcripts (and validate to changes during trial) in light of trial transcripts not being received (2.6).	\$ 1,501.50	Gabby Hamm
11/19/2018	0.4	\$ -	Receipt and brief overview of trial transcript (first 5 days). No Charge.	\$ -	Gabby Hamm
11/19/2018	0.5	\$ 365.00	All hands call regarding remedy request	\$ 182.50	Teresa Pilatowicz
11/19/2018	3.6	\$ 365.00	Review transcripts for trial days 1 and 2 for closing citations	\$ 1,314.00	Teresa Pilatowicz
11/20/2018	11.5	\$ 495.00	Prepare for closing arguments	\$ 5,692.50	Erika Turner
11/20/2018	3.5	\$ 365.00	Review and mark transcripts for trials days 3 and 4	\$ 1,277.50	Teresa Pilatowicz
11/21/2018	7.6	\$ 495.00	Review transcripts for evidence to include in proposed FFCL + research re same	\$ 3,762.00	Erika Turner
11/21/2018	3.5	\$ 385.00	Review of admitted exhibits (1.7); research regarding miscellaneous legal issues for proposed conclusions of law (1.8).	\$ 1,347.50	Gabby Hamm
11/21/2018	4.3	\$ 365.00	Commence review and revisions to amended proposed FF&CL	\$ 1,569.50	Teresa Pilatowicz
11/23/2018	8.2	\$ 385.00	Review of admitted exhibits and trial testimony in connection with proposed findings (4.4); review of research from A. Dunning regarding value issue (.2); research in connection with proposed conclusions (3.6).	\$ 3,157.00	Gabby Hamm
11/23/2018	0.8	\$ 775.00	assist with [REDACTED]	\$ 620.00	Gerald Gordon
11/23/2018	1.9	\$ 365.00	Further review and revisions to FF&CL	\$ 693.50	Teresa Pilatowicz
11/24/2018	6.5	\$ 495.00	Review evidence and attend to FFCL	\$ 3,217.50	Erika Turner
11/24/2018	7.4	\$ 385.00	Continue working on proposed findings and conclusions.	\$ 2,849.00	Gabby Hamm
11/25/2018	14.8	\$ 495.00	Attend to amended FFCL and preparation of closing arguments	\$ 7,326.00	Erika Turner
11/25/2018	1.5	\$ 495.00	Travel to Reno for closing arguments (billed at half time)	\$ 742.50	Erika Turner
11/25/2018	10.4	\$ 385.00	Continue working on proposed findings and conclusions.	\$ 4,004.00	Gabby Hamm
11/25/2018	14	\$ 365.00	Further review and revisions to FF&CL, including working travel to Reno	\$ 5,110.00	Teresa Pilatowicz
11/26/2018	1.9	\$ 310.00	Research re FFCL issues	\$ 589.00	Erick Gjerdingen
11/26/2018	11	\$ 495.00	Prepare for and attend trial closing arguments	\$ 5,445.00	Erika Turner
11/26/2018	1.5	\$ 495.00	Travel from trial (billed at half time)	\$ 742.50	Erika Turner
11/26/2018	4.3	\$ -	Continue revising and finalizing proposed findings and conclusions. No Charge.	\$ -	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
11/26/2018	0.5	\$ 775.00	conf with assoc attys re bk issues	\$ 387.50	Gerald Gordon
11/26/2018	7	\$ 365.00	Further revise and finalize FF&CL	\$ 2,555.00	Teresa Pilatowicz
11/26/2018	7	\$ 365.00	Attend closing arguments	\$ 2,555.00	Teresa Pilatowicz
11/26/2018	2.8	\$ 365.00	Travel from Reno (this is half time)	\$ 1,022.00	Teresa Pilatowicz
11/27/2018	0.1	\$ 365.00	Call with C. Kemper regarding closing arguments	\$ 36.50	Teresa Pilatowicz
11/27/2018	0.8	\$ 365.00	Analysis of remaining issues raised in closing and method to address same	\$ 292.00	Teresa Pilatowicz
11/30/2018	1.3	\$ 365.00	Review Vacco e-mails regarding additional evidence of off-shore trusts in light of evidence from Superpumper trial	\$ 474.50	Teresa Pilatowicz
11/30/2018	1	\$ 365.00	Call with J. Murtha and G. Gordon regarding Superpumper trial and evidence resulting therefrom	\$ 365.00	Teresa Pilatowicz
12/9/2018	0.2	\$ 495.00	Review and finalize declaration in support of Motion to Compel	\$ 99.00	Erika Turner
1/4/2019	0.3	\$ 365.00	Correspondence to W. Leonard regarding expert payment; Call with J. McGovern regarding same; Correspondence from and to W. Kimmel regarding same	\$ 109.50	Teresa Pilatowicz
1/11/2019	0.1	\$ 365.00	Follow up re: expert payment issues	\$ 36.50	Teresa Pilatowicz
1/12/2019	0.2	\$ 365.00	Review status of proceedings and recent updates regarding bankruptcy case	\$ 73.00	Teresa Pilatowicz
1/16/2019	0.3	\$ 365.00	Attention to fee application	\$ 109.50	Teresa Pilatowicz
1/16/2019	0.1	\$ 495.00	Email communication with creditor rep re status	\$ 49.50	Erika Turner
1/17/2019	4.5	\$ 195.00	Receive accounting fees and costs for 8/1/2018 - 12/31/2018. Create excel spreadsheet of Fees by Professional, Fees by Task Code and Expenses. Draft GTG Fifth Interim Fee Application and corresponding declarations and order.	\$ 877.50	Michele Pori
1/21/2019	0.9	\$ 365.00	Review and revisions to fee application exhibits	\$ 328.50	Teresa Pilatowicz
1/23/2019	0.5	\$ 775.00	conf with assoc atty Erika T re [REDACTED]	\$ 387.50	Gerald Gordon
1/23/2019	3.5	\$ 195.00	Receive revised accounting fees and costs for 8/1/2018 - 12/31/2018. Revise excel spreadsheet of Fees by Professional, Fees by Task Code and Expenses.	\$ 682.50	Michele Pori
1/23/2019	1	\$ 495.00	Review Frank Gilmore response to post-Judgment subpoena requests for production + conference/analysis re strategy on how to proceed to address same	\$ 495.00	Erika Turner



FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
1/23/2019	0.2	\$ 385.00	Discuss RSSB subpoena response with E. Turner and G. Gordon, and motion to reopen Superpumper matter in connection with same.	\$ 77.00	Gabby Hamm
1/24/2019	0.5	\$ 365.00	Further revise fourth interim fee application	\$ 182.50	Teresa Pilatowicz
1/24/2019	0.2	\$ 775.00	t/c with client Leonard re [REDACTED]	\$ 155.00	Gerald Gordon
1/24/2019	1.5	\$ 195.00	Receive accounting fees and costs for 8/1/2018 - 12/31/2018. Continue and complete creation of excel spreadsheet of Fees by Professional, Fees by Task Code and Expenses. Continue and complete revised GTG Fifth Interim Fee Application with corresponding declarations and order.	\$ 292.50	Michele Pori
1/24/2019	0.2	\$ 495.00	Analysis with GHamm re [REDACTED]	\$ 99.00	Erika Turner
1/24/2019	6	\$ 385.00	Research regarding motion to reopen (2.9); review of discovery and trial transcript in connection with motion to reopen (2.8); discussions with E. Turner and G. Gordon regarding reopening (.3).	\$ 2,310.00	Gabby Hamm
1/25/2019	0.1	\$ 495.00	Follow up analysis re motion to reopen evidence	\$ 49.50	Erika Turner
1/25/2019	6.6	\$ 385.00	Review trial transcript and discovery in connection with motion to reopen (5.4); email T. Pilatowicz regarding same (.1); begin drafting motion to reopen (1.1)	\$ 2,541.00	Gabby Hamm
1/26/2019	1.3	\$ 365.00	Review and summarize trial testimony regarding cites for motion to reopen	\$ 474.50	Teresa Pilatowicz
1/27/2019	1.6	\$ 385.00	Review trial transcript in connection with motion to reopen.	\$ 616.00	Gabby Hamm
1/28/2019	5.1	\$ 385.00	Continue drafting motion to reopen and related review of trial transcript and proposed findings and conclusions.	\$ 1,963.50	Gabby Hamm
1/29/2019	0.7	\$ 775.00	review and revise motion to reopen evidence	\$ 542.50	Gerald Gordon
1/29/2019	1	\$ 365.00	Further research deposition testimony to support motion to reopen; Review motion to reopen	\$ 365.00	Teresa Pilatowicz
1/29/2019	0.7	\$ 365.00	Finalize fifth interim fee application and supporting documents	\$ 255.50	Teresa Pilatowicz
1/29/2019	1.9	\$ 495.00	Review and revise Motion to Reopen Evidence	\$ 940.50	Erika Turner
1/29/2019	8.7	\$ 385.00	Continue drafting motion to reopen evidence, including review of trial transcript, trial exhibits, and discovery.	\$ 3,349.50	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
1/30/2019	0.3	\$ 365.00	Review OST requests for motion to reopen and respond re: same	\$ 109.50	Teresa Pilatowicz
1/30/2019	0.5	\$ 495.00	Conference with GMG re status and strategy [REDACTED]	\$ 247.50	Erika Turner
1/30/2019	3.4	\$ 385.00	Finalize motion to reopen; prepare declaration in support thereof; gather exhibits; coordinate filing.	\$ 1,309.00	Gabby Hamm
1/30/2019	0.2	\$ -	Coordinate filing of errata to motion to reopen due to technical issue with pdf conversion. No Charge.	\$ -	Gabby Hamm
1/30/2019	3.5	\$ 385.00	Prepare motion for order shortening time on motion to reopen.	\$ 1,347.50	Gabby Hamm
1/31/2019	0.2	\$ 365.00	Review and analysis for ex parte request for expedited hearing	\$ 73.00	Teresa Pilatowicz
1/31/2019	1.8	\$ -	Revise motion for order shortening time; draft declaration in support of same; coordinate filing. No Charge.	\$ -	Gabby Hamm
2/4/2019	2.1	\$ 195.00	Preparation for OST Hearing on Motion to Re-Open Discovery. Pull all cited references to trial transcripts and highlight all cited lines for use in hearing.	\$ 409.50	Michele Pori
2/4/2019	0.2	\$ 365.00	Review OST re: motion to reopen evidence (.1); Correspondence to J. Murtha and client regarding same (.1)	\$ 73.00	Teresa Pilatowicz
2/4/2019	0.1	\$ 495.00	Review order from court setting hearing on Motion to Reopen	\$ 49.50	Erika Turner
2/4/2019	0.2	\$ 495.00	Review FGilmore declaration filed in BK + attend to preparation of supplement to Motion to Reopen re same	\$ 99.00	Erika Turner
2/4/2019	0.3	\$ 495.00	Review closing re [REDACTED]	\$ 148.50	Erika Turner
2/4/2019	0.1	\$ 495.00	Review Gilmore motion to withdraw filed in other actions	\$ 49.50	Erika Turner
2/4/2019	3.7	\$ 385.00	Receipt and review of Court's OST and discuss same with E. Turner (.2); plan for hearing, exhibits, demonstratives, etc., and begin review/compilation of same (1.8); discuss same with E. Turner (.2); review of F. Gilmore declaration regarding RSSB transaction ledger, and prepare supplement to motion to reopen and declaration in support of same to submit declaration (1.5).	\$ 1,424.50	Gabby Hamm
2/4/2019	1.1	\$ 385.00	Review of closing argument transcript.	\$ 423.50	Gabby Hamm
2/4/2019	0.2	\$ 775.00	review ost and email with analysis of various Gilmore withdrawals and impact on hearing	\$ 155.00	Gerald Gordon

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/5/2019	0.4	\$ 365.00	Review and analysis of multiple correspondence from F. Gilmore related to motion to reopen	\$ 146.00	Teresa Pilatowicz
2/5/2019	2.4	\$ 495.00	Multiple communications re Gilmore withdrawal, emails with a Gilmore re his request to continue hearing -+ follow up re strategy on [REDACTED]	\$ 1,188.00	Erika Turner
2/5/2019	0.5	\$ -	Emails (3) regarding continuance of hearing. No Charge.	\$ -	Gabby Hamm
2/5/2019	0.4	\$ 385.00	Further correspondence between E. Turner and opposing counsel regarding his travel and hearing date, and analysis of response regarding same.	\$ 154.00	Gabby Hamm
2/6/2019	0.7	\$ 365.00	Review and analysis of response re: motion to reopen; Review closing arguments regarding cites for use in reply	\$ 255.50	Teresa Pilatowicz
2/6/2019	0.9	\$ 495.00	review FGilmore response to Motion to Reopen Evidence + Research re reopening evidence in preparation for hearing	\$ 445.50	Erika Turner
2/6/2019	2.8	\$ 385.00	Analysis of Defendants' opposition to motion to reopen and discuss same with E. Turner and G. Gordon (.5); research regarding issues raised in defendants' response and use of depositions for trial (2.3).	\$ 1,078.00	Gabby Hamm
2/7/2019	0.4	\$ 365.00	Review and revisions to reply in support of motion to reopen	\$ 146.00	Teresa Pilatowicz
2/7/2019	1	\$ 495.00	Revise and finalize Reply in support of Motion to Reopen Evidence	\$ 495.00	Erika Turner
2/7/2019	2.8	\$ 495.00	Travel to hearing on Motion to Reopen Evidence, preparing for hearing at airport and during flight	\$ 1,386.00	Erika Turner
2/7/2019	6.3	\$ 385.00	Draft reply in support of motion to reopen and related research (5.1); incorporate revisions by T. Pilatowicz and E. Turner, edit and finalize same for filing (1.2).	\$ 2,425.50	Gabby Hamm
2/7/2019	0.4	\$ -	Hearing prep, including identifying and gathering trial exhibits and transcript excerpts needed for hearing on motion to reopen. No Charge.	\$ -	Gabby Hamm
2/8/2019	0.1	\$ 495.00	Review correspondence from opposing counsel FGilmore re EBayuk attendance at hearing + court's response	\$ 49.50	Erika Turner
2/8/2019	1.7	\$ 495.00	Attend hearing on Motion to Reopen Evidence	\$ 841.50	Erika Turner

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/8/2019	2.5	\$ -	Travel from hearing - no charge	\$ -	Erika Turner
2/8/2019	1.4	\$ 385.00	Brief research regarding attendance/testimony by remote transmission in light of Bayuk request to appear telephonically; email to E. Turner re same.	\$ 539.00	Gabby Hamm
2/8/2019	0.3	\$ 385.00	Telephone call with E. Turner regarding outcome of hearing on motion to reopen, and discussion with G. Gordon regarding rebuttal testimony.	\$ 115.50	Gabby Hamm
2/12/2019	0.1	\$ 495.00	Review FGilmore motion to withdraw in Superpumper case	\$ 49.50	Erika Turner
2/13/2019	0.2	\$ -	Review Gilmore motion to withdraw (no charge)	\$ -	Andrew Dunning
2/13/2019	0.2	\$ 365.00	Attention to March 1 continued trial matters	\$ 73.00	Teresa Pilatowicz
2/13/2019	0.4	\$ 495.00	Review correspondence from opposing counsel FGilmore + prepare response and follow up	\$ 198.00	Erika Turner
2/13/2019	0.1	\$ 385.00	Review of emails regarding Bayuk attendance at March 1 hearing.	\$ 38.50	Gabby Hamm
2/14/2019	0.6	\$ 365.00	Conference with G. Gordon regarding impact of various documents on Superpumper litigation (.2); review recent pleadings from Bayuk and Morabito regarding same (.4)	\$ 219.00	Teresa Pilatowicz
2/14/2019	0.2	\$ 495.00	Email communications with opposing counsel FGilmore re his request for continuation of hearing	\$ 99.00	Erika Turner
2/15/2019	0.1	\$ 495.00	Review Shemano invoice to [REDACTED]	\$ 49.50	Erika Turner
2/15/2019	3.1	\$ 385.00	Draft response to motion to withdraw and related research.	\$ 1,193.50	Gabby Hamm
2/20/2019	0.8	\$ 495.00	Review Motion to Continue March 1 trial and OST request on the Motion + follow up to address same	\$ 396.00	Erika Turner
2/20/2019	0.4	\$ 385.00	Brief review of defendants' motion to continue and discuss with E. Turner vis-a-vis strategy.	\$ 154.00	Gabby Hamm
2/20/2019	0.4	\$ 385.00	Review of email from D. Shemano (counsel for Morabito/Bayuk) regarding Snowshoe checks; discuss with G. Gordon and M. Weisenmiller vis-a-vis defendants' positions for March 1 trial date.	\$ 154.00	Gabby Hamm
2/21/2019	0.1	\$ 495.00	Email communications with Court re briefing and hearing on Motion to Continue March 1 Trial	\$ 49.50	Erika Turner

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/21/2019	8.2	\$ 385.00	Analysis of motion to continue and related declarations and exhibits, and review of bankruptcy court filings relevant to same (1.5); draft opposition to motion to continue and contemporaneous research regarding same (6.7).	\$ 3,157.00	Gabby Hamm
2/22/2019	0.3	\$ 365.00	Review and proposed edits to opposition to motion to continue	\$ 109.50	Teresa Pilatowicz
2/22/2019	0.2	\$ 365.00	Review and revise response to motion to withdraw	\$ 73.00	Teresa Pilatowicz
2/22/2019	1	\$ 495.00	Revise Opposition to Motion to Continue	\$ 495.00	Erika Turner
2/22/2019	2.2	\$ 385.00	Revise opposition to motion to continue hearing and draft declaration in support of same; identify exhibits in support of same.	\$ 847.00	Gabby Hamm
2/22/2019	0.4	\$ 385.00	Revise opposition to motion to withdraw and circulate same for review and comment.	\$ 154.00	Gabby Hamm
2/22/2019	0.2	\$ 385.00	Email to M. Trabert and opposing counsel with courtesy copy of filing.	\$ 77.00	Gabby Hamm
2/25/2019	0.8	\$ 495.00	Prepare for hearing on Motion to Continue Trial	\$ 396.00	Erika Turner
2/25/2019	0.5	\$ 495.00	Review Chemano/Bayuk productions in the BK case and analysis re use in cross exam on March 1	\$ 247.50	Erika Turner
2/25/2019	0.3	\$ 495.00	Review and analyze Reply on Motion to Continue	\$ 148.50	Erika Turner
2/25/2019	0.7	\$ 385.00	Review of Defendants' reply in support of motion to continue and declaration and exhibits in support of same; analysis of response and discuss same with E. Turner.	\$ 269.50	Gabby Hamm
2/26/2019	0.2	\$ 365.00	Review and analysis of additional documents and checks produced by Morabito as they relate to Superpumper action	\$ 73.00	Teresa Pilatowicz
2/26/2019	0.3	\$ 775.00	conf with EPT re Friday hearing and new snowshoe petroleum production of checks	\$ 232.50	Gerald Gordon
2/26/2019	0.5	\$ 495.00	Attend telephonic hearing on Motion to Continue Trial + follow up communications with opposing counsel FGilmore and with Court re same	\$ 247.50	Erika Turner
2/26/2019	4.6	\$ 495.00	Prepare for trial cross-examination of Sam and Ed and analysis of FGilmore as surrebuttal witness + analysis of exhibits to be used in crossexam and surrebuttal	\$ 2,277.00	Erika Turner
2/26/2019	0.3	\$ 385.00	Prepare for and attend telephonic hearing on defendants' motion to continue.	\$ 115.50	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
2/26/2019	0.2	\$ 385.00	Review of Supreme Court rules on simultaneous audiovisual transmission, and forward same to E. Turner in connection with Bayuk remote appearance.	\$ 77.00	Gabby Hamm
2/26/2019	0.3	\$ 385.00	Review and analysis of correspondence regarding additional Snowshoe checks and Sam Morabito travel to the Caribbean.	\$ 115.50	Gabby Hamm
2/26/2019	4.1	\$ 385.00	Identify and gather potential exhibits for hearing, including review of trial exhibits (admitted and not offered), including for impeachment or rebuttal.	\$ 1,578.50	Gabby Hamm
2/26/2019	0.4	\$ 385.00	Email to opposing counsel identifying exhibits and potential exhibits to be provided to defendants in advance of hearing.	\$ 154.00	Gabby Hamm
2/27/2019	1	\$ 495.00	Multiple email communications with opposing counsel and Court re FGilmore as witness on surrebuttal	\$ 495.00	Erika Turner
2/27/2019	0.5	\$ 495.00	Multiple email communications with opposing counsel re defendants' waiver of rebuttal + follow up re same	\$ 247.50	Erika Turner
2/27/2019	1.5	\$ 385.00	Review of emails regarding designation of potential exhibits and rebuttal/sur-rebuttal testimony by Frank Gilmore, and analysis of [REDACTED].	\$ 577.50	Gabby Hamm
2/27/2019	3.2	\$ 385.00	Preparation for continued trial date, including examination of exhibits, review of trial transcript and exhibits for impeachment and rebuttal, review of papers on motion to reopen, and review of defendants' declarations.	\$ 1,232.00	Gabby Hamm
2/27/2019	0.2	\$ 385.00	Discussion with T. Pilatowicz regarding planning for hearing and issues to address.	\$ 77.00	Gabby Hamm
2/27/2019	0.1	\$ 385.00	Discussion with E. Turner regarding defendants' waiver of rebuttal.	\$ 38.50	Gabby Hamm
2/28/2019	0.6	\$ 495.00	Review and revise proposed stipulation and order + related communications with opposing counsel	\$ 297.00	Erika Turner
2/28/2019	0.2	\$ 495.00	Multiple communications with court re vacating hearing and amending the proposed FFCL + follow up with JMurtha and CKemper re status in light of Defendants' waiver of rebuttal	\$ 99.00	Erika Turner
3/1/2019	0.1	\$ 365.00	Finalize fifth interim fee order; Correspondence to N. Strozza regarding same	\$ 36.50	Teresa Pilatowicz
3/1/2019	0.3	\$ 385.00	Brief review of findings and conclusions and judgment.	\$ 115.50	Gabby Hamm

FEES  
June 1, 2016 - March 28, 2019

DATE	HOURS	RATE	DESCRIPTION	AMOUNT	PROFESSIONAL
3/4/2019	0.1	\$ 365.00	Review and comment on revisions re: FF&CL to address new evidence	\$ 36.50	Teresa Pilatowicz
3/4/2019	0.1	\$ 495.00	Attend to amended FFCL in light of new evidence	\$ 49.50	Erika Turner
3/4/2019	2.5	\$ 385.00	Revise proposed findings and conclusions to add findings regarding Snowshoe payments pursuant to motion to reopen.	\$ 962.50	Gabby Hamm
3/6/2019	0.5	\$ -	Conferences with co-counsel on how to proceed - no charge	\$ -	Erika Turner
3/6/2019	1.1	\$ 385.00	Revise and finalize proposed findings and submit to clerk.	\$ 423.50	Gabby Hamm
3/11/2019	0.3	\$ 775.00	reply to Gilmore re treatment of Snowshoe Petroleum payments to firm on behalf of Morabito	\$ 232.50	Gerald Gordon
3/11/2019	0.1	\$ -	Review request for submission re: motion to withdraw (NO CHARGE)	\$ -	Teresa Pilatowicz
3/11/2019	0.1	\$ 495.00	Review correspondence re RSSB law firm subpoena response	\$ 49.50	Erika Turner
3/11/2019	0.1	\$ 495.00	Review correspondence from opposing counsel FGilmore	\$ 49.50	Erika Turner
3/12/2019	0.1	\$ 365.00	Correspondence to B. Leonard regarding fee order and payment of Kimmel invoice	\$ 36.50	Teresa Pilatowicz
	<b><u>2050.9</u></b>		<b><u>TOTAL</u></b>	<b><u>\$731,166.00</u></b>	

1 **2120**  
2 **FRANK C. GILMORE, ESQ. - NSB #10052**  
3 fgilmore@rbsllaw.com  
4 **Robison, Sharp, Sullivan & Brust**  
5 71 Washington Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 329-3151  
8 Facsimile: (775) 329-7169

9 Attorneys for Defendants Salvatore Morabito,  
10 Snowshoe Petroleum, Inc.,  
11 Superpumper, Inc.

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

14 WILLIAM A. LEONARD, Trustee for the  
15 Bankruptcy Estate of Paul Anthony Morabito

CASE NO.: CV13-02663

DEPT. NO.: 4

16 Plaintiffs,

17 vs.

18 SUPERPUMPER, INC., an Arizona corporation;  
19 EDWARD BAYUK, individually and as Trustee  
20 of the EDWARD WILLIAM BAYUK LIVING  
21 TRUST; SALVATORE MORABITO, an  
22 individual; and SNOWSHOE PETROLEUM,  
23 INC., a New York corporation,

24 \_\_\_\_\_ Defendants. \_\_\_\_\_/

25 **MOTION FOR NEW TRIAL AND/OR TO ALTER OR AMEND JUDGMENT PURSUANT**  
26 **TO NRCP 52, 59, AND 60**

27 Defendants SUPERPUMPER, INC., SALVATORE MORABITO, and SNOWSHOE  
28 PETROLEUM, INC. (collectively, "Defendants") moves for a new trial, pursuant to Rule 59(a) of  
the Nevada Rules of Civil Procedures, and/or to Alter or Amend the Judgment pursuant to Rules  
52, 59, and 60, and seek reversal of the judgment entered against them. This motion is made and  
based upon pleadings and other papers on file, the evidence and argument presented at trial, the  
following Memorandum of Points and Authorities, as well as the arguments and evidence presented  
at any hearing convened to consider these motions. Defendants also join the Motion for New Trial  
filed by Edward Bayuk, and incorporate those arguments and exhibits into this Motion as though



1 set forth fully herein.

2 DATED this 25th day of April, 2019.

3 ROBISON, SHARP, SULLIVAN & BRUST  
4 71 Washington Street  
5 Reno, Nevada 89503

6 /s/ Frank C. Gilmore  
7 FRANK C. GILMORE, ESQ.  
8 Attorneys for Attorneys for Defendants Salvatore  
9 Morabito, Snowshoe Petroleum, Inc., Superpumper,  
10 Inc.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. INTRODUCTION**

13 Defendants Salvatore Morabito and Snowshoe, Inc., did not obtain a fair trial due to legal  
14 error compounded by abuse of discretion. Defendants seek a new trial, or alternatively, amendment  
15 or alteration of the Judgment. The specific errors that entitle Defendants to a new trial and/or  
16 amended Judgment include:

17 A. The Court abused its discretion in denying Defendants' Motion in Limine regarding  
18 Plaintiff's failure to properly disclose its damages. This Court awarded money judgments in favor  
19 of Plaintiff and against Sam Morabito and Snowshoe based on the presentation of damages  
20 evidence by Plaintiff which was not adequately nor properly disclosed in Plaintiff's pre-trial  
21 disclosures.

22 B. The Court abused its discretion in excluding Defendants' non-retained expert Jan  
23 Friederich from offering testimony as to his personal knowledge of Superpumper's operations. Jan  
24 Friederich was a percipient witness to the inner-workings of Superpumper, and had personal  
25 knowledge, combined with independent expertise, to offer opinion testimony as to industry-specific  
26 factors that showed McGovern's valuation was flawed.

27 C. The Court abused its discretion in admitting hearsay emails into evidence. The  
28 Court admitted, against Defendants' objections, dozens of hearsay emails into evidence for which  
no appropriate exception was available.

D. The Court abused its discretion in excluding Plaintiff's expert report of Craig

1 Greene. The Court incorrectly sustained Plaintiff's hearsay objection to the admission of the expert  
2 report of Craig Greene, which was prepared and filed by Plaintiff's counsel in the original  
3 *Morabito v. Herbst* action, which was not hearsay and should have been a judicial admission that  
4 estopped Plaintiff's insolvency argument.

5 E. The Court abused its discretion in admitting, against Defendants' objection, email  
6 exhibits which lacked foundation. The Court incorrectly admitted emails into evidence which  
7 lacked the proper foundation because no witness was available to lay the necessary foundation for  
8 admission.

9 F. The Court erred in allowing inadmissible character evidence. This Court permitted  
10 Timothy Herbst and William Leonard to offer testimony evidence of character in order to prove  
11 that Paul Morabito committed fraud in violation of NRS 48.045.

12 These errors deprived Defendants of their right to a fair trial under NRCP 59(a). A new  
13 trial is warranted to permit admission of evidence in conformity with Nevada law.

## 14 **II. LAW**

15 In actions tried without a jury, the district court is required to make specific findings of fact,  
16 which must be sufficient to indicate the factual basis for the court's ultimate conclusions. See *Bing*  
17 *Constr. v. Vasey-Scott Eng'r*, 100 Nev. 72,674 P.2d 1107-08 (1984); See also *Robison v. Robison*,  
18 100 Nev. 668, 691 P.2d 451 (1984). A motion to amend the trial court's findings invests the Court  
19 with discretion to review and amend its findings where they do not hold up to that standard. Such a  
20 motion is appropriate to remedy plain error and avoid manifest injustice. See NRCP 52(b); see also  
21 *Kroeger Properties & Dev., Inc. v. Silver State Title Co.*, 102 Nev. 112, 715 P.2d 1328 (1986).

22 Similarly, a motion to alter or amend a judgment pursuant to NRCP 52 is the appropriate  
23 vehicle by which a party can seek review the Court's findings and question the sufficiency of the  
24 factual bases on which the court's ultimate conclusion rests. See *Bing Constr.*, 100 Nev. at 73,674  
25 P.2d at 1108NRCP 52(a). Rule 52(b) specifically provides that:

26 When findings of fact are made in actions tried without a jury, the  
27 sufficiency of the evidence supporting the findings may later be  
28 questioned whether or not in the district court the party raising the  
questions objected to the findings[ or] moved to amend them.

1 The Nevada Supreme Court has held that "[a] motion to alter or amend a judgment  
2 "provides an opportunity, within a severely limited time, to seek correction at the trial level of an  
3 erroneous order or judgment, thereby initially avoiding the time and expense of appeal." *Chiara v.*  
4 *Belaustegui*, 86 Nev. 856, 859,477 P.2d 857 (1970); NRCPC 52(b). Rule 52(b) provides the basis for  
5 this Court to re-examine its findings and conclusions. Careful review of the Court's Ruling  
6 Transcript and the resulting Judgment demonstrates here that the Court committed legal error and  
7 abuse of discretion which substantially prejudiced the Defendants and prevented them from  
8 obtaining a fair trial. Accordingly, Defendants move this Court for a new trial.

9 NRCPC 59(a)(1) provides for a new trial where:

10 (A) irregularity in the proceedings of the court, jury, master, or adverse party or in  
11 any order of the court or master, or any abuse of discretion by which either party  
was prevented from having a fair trial; and

12 (G) error in law occurring at the trial and objected to by the party making the  
13 motion.

14 Pursuant to NRCPC 59(a), "[o]n motion for a new trial in an action tried without a jury, the  
15 court may open the judgment if one has been entered, take additional testimony, amend findings of  
16 fact and conclusions of law or make new findings and conclusions, and direct the entry of a new  
17 judgment." NRCPC 59 (emphasis added).

### 18 **III. ARGUMENT**

#### 19 **A. The Court Abused Its Discretion in Denying Defendants' Motion in Limine** 20 **Regarding Plaintiff's Failure to Properly Disclose its Damages.**

21 On September 12, 2018, Defendants filed their Motions in Limine, seeking to exclude  
22 Plaintiff's evidence of damages due to Plaintiff's repeated failure to comply with NRCPC 16.1 in  
23 providing "a computation of any category of damages claimed by the disclosing party, making  
24 available for inspection and copying as under Rule 34 the documents or other evidentiary matter,  
25 not privileged or protected from disclosure, on which such computation is based, including  
26 materials bearing on the nature and extent of injuries suffered."

27 On October 29, 2018, the Court denied the Motion, in part, because the issue "could have  
28 been raised sooner rather than in a Motion in Limine." (Trial Trans. 10/29/19, p.21-22). The Court

1 then admitted all evidence of damages presented by the Plaintiff, which resulted in money damages  
2 agaisnt Sam in the amount of \$355,000 related to the Raffles asset, and \$4,949,000 related to  
3 Superpumper. The Court entered a money judgment against Bayuk in the amount of \$884,999.95  
4 related to the Panorama and Laguna Beach Properties, \$1,654,550 related to the Baruk Properties  
5 exchange, \$420,250 related to the Raffles asset, and \$4,949,000 associated with Superpumper.  
6 (Judgment, p. 62).

7 The computation of Plaintiff's requested damages – which was presented at trial and in  
8 Plaintiff's proposed Finding of Fact -- should have been included in the mandatory pretrial  
9 discovery, pursuant to Rule 16.1, but was not. Plaintiff's last version of the 16.1 Amended  
10 Disclosures provided only:

11 Plaintiff is entitled to recover assets transferred or the value thereof  
12 pursuant to Nev. Rev. Stat. §§ 112.210 and 112.220, which Plaintiff  
believes to be no less than \$8,500,000.

13 (See Exhibit 1 to Motion in Limine). This disclosure was insufficient under the Rules, and the  
14 Court erred by admitting Plaintiff's evidence of damages which were not included in the pretrial  
15 disclosures.

16 The Rules provide that a party must disclose “[a] computation of any category of damages”  
17 it seeks to recover, NRCPP 16.1(a)(1)(C). NRCPP 37(c)(1) provides that “[a] party that without  
18 substantial justification fails to disclose information required by Rule 16.1 ... is not, unless such  
19 failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness  
20 or information not so disclosed.”

21 Because Plaintiff failed to properly disclose its computation of damages, Defendants faced  
22 trial by ambush. They did not know precisely what assets Plaintiff was alleging were transferred;  
23 they did not know exactly what values Plaintiff intended to prove as to each asset; Defendants did  
24 not know if Plaintiff was seeking the current value of the assets or the value at the time of the  
25 alleged transfer. “[T]he purpose of providing a computation of damages is not necessarily to  
26 pinpoint an exact dollar figure but to ‘enable the defendants to understand the contours of their  
27 potential exposure and make informed decisions regarding settlement and discovery’” *Pizarro-*  
28 *Ortega v. Cervantes-Lopez*, 396 P.3d 783, 787 (Nev. 2017)(citing *Calvert v. Ellis*, No. 2:13-cv-

1 00464-APG-NJK, 2015 WL 631284, at \*1–2 (D. Nev. Feb. 12, 2015)).

2 In *Pizarro-Ortega v. Cervantes-Lopez*, 396 P.3d 783, 787 (Nev. 2017), the court clarified  
3 “that when a party has failed to abide by NRCPC 16.1’s disclosure requirements, NRCPC 37(c)(1)  
4 provides the appropriate analytical framework for district courts to employ in determining the  
5 consequence of that failure. Under NRCPC 37(c)(1), a party is prohibited from ‘us[ing] as evidence  
6 at trial ... any witness or information not so disclosed’ unless the party can show there was  
7 ‘substantial justification’ for the failure to disclose or ‘unless such failure is harmless.’” *Id.* at 787.

8 This Court admitted Plaintiff’s damages evidence notwithstanding the fact that the  
9 computation had not been previously provided. This was error. “A party seeking damages has the  
10 burden of providing the court with an evidentiary basis upon which it may properly determine the  
11 amount of damages.” *Frantz v. Johnson*, 116 Nev. 455, 469, 999 P.2d 351, 360 (2000). If the  
12 computation of damages has not been produced in discovery, then the Rules require that the evidence  
13 supporting any damages claim should have been excluded.

14 1. *The Court’s Conclusion that the Motion in Limine Should Not Be Granted*  
15 *Because It “Could Have Been Raised Sooner” Was Error.*

16 A Motion in Limine is the appropriate request to limit the admission of evidence. See  
17 *Renown Health v. Holland & Hart, LLP*, No. 72039, 2019 WL 1530161, at \*3 (Nev. Apr. 5, 2019);  
18 WDCR 5(2) provides that the appropriate timing of a Motion in Limine is to be concurrent with the  
19 Trial Statement, which is to be filed no later than five (5) days before the commencement of the  
20 trial. However, in this case, during the Court’s September 11, 2018, pre-trial conference, it was  
21 acknowledged that the parties were operating under an out-dated Pre-Trial Order, and so the Court  
22 ordered that motions in limine be submitted to the Court no later than October 12, 2018. (See  
23 Minutes, 10/19/18). Defendants timely filed and submitted their Motions in Limine seeking to  
24 have Plaintiff’s damages evidence excluded pursuant to NRCPC 37. Accordingly, it was error for  
25 the Court to deny the Motions in Limine on the basis that it “could have been raised sooner.”

26 ///

27 ///

28 ///

1           **The Court Abused Its Discretion in Excluding the Bulk of Defendants' Non-**  
2           **Retained Expert Jan Friederich's Testimony as to His Personal Knowledge of**  
3           **Superpumper's Operations; This Error Resulted in the Court Accepting**  
4           **McGovern's Faulty Fair Market Value Construct, which Substantial Evidence**  
5           **Did Not Support.**

6           A primary dispute in the case was the valuation of the equity of Superpumper, Inc. Plaintiff  
7           contended that Bayuk and Sam did not pay reasonably equivalent value, because, according to  
8           Plaintiff, the shareholder loans carried on the books of Superpumper should have been included in  
9           the "fair market value" appraisal of the equity. This single issue presented a \$6mm valuation  
10          disparity at trial. The Court accepted Plaintiff's argument that the shareholder loans should be  
11          included in the value of the equity without substantial evidence to support it.

12          No witness testified that under the fair market value standard of value, a rational  
13          hypothetical buyer interested in buying gas stations would buy shareholder receivables from the gas  
14          station seller's shareholders at face value. Indeed, the premise of this argument is patently absurd  
15          on its face; even Plaintiff's expert James McGovern was forced to concede that rational gas station  
16          buyers would not be interested in paying face value for the seller's shareholder notes because gas  
17          station buyers would only want to buy gas station assets. The Court's conclusion to the contrary  
18          was error.

19          "[T]he majority of cases addressing the issue have held that *fair market value* is the  
20          appropriate starting point for determining liability in a fraudulent transfer case." *In re JTS Corp.*,  
21          No. C 05-4709 JF, 2006 WL 2844581, at \*6 (N.D. Cal. Sept. 29, 2006) (emphasis added); *Joseph*  
22          *v. Madray (In re Brun)*, 360 B.R. 669, 674 (Bankr. C.D. Cal. 2007); see also, *Riske v. The David*  
23          *Austin Seitz Irrevocable Tr. (In re Seitz)*, 400 B.R. 707, 722 (Bankr. E.D. Mo. 2008) (noting that,  
24          typically, "courts equate 'value' with the fair market value of the subject property at the time of the  
25          transfer.").

26          Fair market value has been defined as "the price at which property would change hands  
27          between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell  
28          and both and having reasonable knowledge of relevant facts." *United States v. Cartwright*, 411  
29          U.S. 546, 551, 93 S.Ct. 1713, 36 L.Ed.2d 528 (1973). The "willing buyer and seller are  
30          *hypothetical persons* rather than specific individuals or entities, and their characteristics are not

1 necessarily shared by the actual seller or particular buyer.” *Caracci v. Comm'r*, 456 F.3d 444, 456  
2 (5th Cir.2006).

3           McGovern admitted under cross-examination that fair market value was the appropriate  
4 standard of value for the Superpumper equity valuation, and he acknowledged the definition of fair  
5 market value is consistent with the cases cited above. Trial Transcript, 11/1/2019 pp. 142, 182-  
6 184. McGovern opined under cross-examination that a rational hypothetical buyer interested in  
7 buying gas stations would be interested in paying face value for a shareholder note carried on the  
8 books of the company. *Id.* at 183-184. However, then McGovern admitted that a rational gas  
9 station buyer would not be interested in acquiring non-performing receivables; rather, he opined  
10 that, “I think it is likely if somebody wanted to just buy the gas station, they would just buy the gas  
11 station.” *Id.* at p. 184. This testimony should have ended the conversation. No rational buyer  
12 seeking to acquire gas stations – which was the sole purpose of Superpumper’s business endeavors  
13 -- would acquire, *at face value no less*, the bulk of the *seller’s* shareholder notes which were not  
14 even evidenced by written notes at the time of the evaluation.

15           Indeed, even a rational *receivables buyer* would not purchase the Superpumper shareholder  
16 notes at face value without significant diligence proving that they were (a) actually collectable, and  
17 (b) the obligor had the means to repay them.

18           The Court excluded the bulk of Jan Friederich’s intended testimony on this issue on the  
19 basis that he had not been properly disclosed and the scope of his proposed opinions went beyond  
20 the scope of his expertise. (Trial Transcript, 11/5/2019 pp. 24-29). This was error. Friederich was  
21 disclosed to address four discreet factual issues associated with Superpumper’s financial  
22 performance and conditions that, according to the opinions of Mr. Friederich, Plaintiff’s expert  
23 James McGovern missed or incorrectly stated. He was offered to testify, among other things, on  
24 his experience as to what types of assets a potential buyer in the gas station/convenience store  
25 market would actually be willing to pay for. Friederich had substantial experience in buying and  
26 selling gas stations and convenience stores. (*Id.* at pp.10-11). Friederich had personal experience  
27 in operating Superpumper and other gas stations and convenience stores previously. The Court  
28 excluded Friederich’s testimony on that issue on the basis that Friederich “did not have any

1 expertise to support that opinion.” *Id.* at p. 25. This was error.

2           Friederich’s testimony was intended to elucidate McGovern’s concession that a rational  
3 potential gas station buyer would be interested in buying gas stations and not in financing  
4 shareholder receivables. Friederich was well qualified to offer such opinions, having had personal  
5 experience doing so. Excluding Friederich deprived Defendants of the opportunity for a fair trial  
6 because the Defendants would have established that McGovern’s inclusion of the shareholder notes  
7 in the value of the equity of Superpumper was a ridiculous proposition that simply could not be  
8 logically supported.

9           Further, the Court concluded that it gave Friederich’s testimony “no weight,” because an  
10 entity affiliated with Mr. Friederich acquired the Superpumper assets in 2016, and “he stood to  
11 benefit from a lower valuation” of Superpumper’s equity. (Judgment, p.17:12). Substantial  
12 evidence did not support this finding. There was no evidence presented that Friederich stood to  
13 gain from a low valuation. Friederich’s testimony centered around his personal involvement as  
14 supervisor and director of operations of Superpumper in 2009, and the value of Superpumper’s  
15 equity in September 2010. (Trial Transcript, 11/5/2019 pp. 15). Giving no weight to Friederich’s  
16 testimony as a result of events that occurred six years after the time in question was clearly an  
17 abuse of discretion.

18           **C. The Court Abused its Discretion in Admitting Hearsay Emails Into Evidence.**

19           Throughout the trial, Plaintiff offered email exhibits into evidence which were drafted by  
20 witnesses who were not available for trial and who were not deposed as to the content of the  
21 emails. Indeed, the Court admitted 25 emails drafted by Paul Morabito which were produced after  
22 discovery had closed and after Morabito’s deposition.<sup>1</sup>

23           For example, the Court admitted Exhibit 29 against Defendant’s hearsay objection. Exhibit  
24 29 is Plaintiff’s favorite “home court advantage” email that the Court cited at paragraphs 25 and 43  
25 of the Judgment to support the finding of actual fraud. Defendants objected that the substance of  
26 the email was hearsay because it was drafted by an out-of-court declarant and was offered for the  
27

28 <sup>1</sup> See Exhibits 26, 30, 31, 33, 35, 69, 70, 76, 77, 79, 130, 132, 133, 139, 142, 143, 144, 147, 150,  
152, 153, 160, 162.



1 truth of the matters asserted. (Trial Transcript, 11/1/2019, pp. 47-48). Plaintiff contended that the  
2 email was not hearsay because it was a “present sense impression.” *Id.* The Court overruled the  
3 objection and admitted the exhibit. This was error. NRS 51.085 explains the hearsay exception  
4 for “present sense impressions.” The exception requires “a statement describing or explaining an  
5 event or condition made while the declarant was perceiving the event or condition, or immediately  
6 thereafter.” The content of the email contained no present sense impressions. The September 20,  
7 2010, email included commentary on past events – not current or immediately thereafter -- like the  
8 exoneration of Bayuk and Sam, which occurred on September 13, 2010, the week earlier. There  
9 was no appropriate hearsay exception to admit the document.

10 Further, the Court relied on Exhibit 144 to support the critical (but erroneous) conclusions  
11 that (a) Paul Morabito continued to control Superpumper after the merger (Judgment ¶¶37, 72), and  
12 (b) the Superpumper merger was used as a ploy to diminish Superpumper’s book value (Judgment,  
13 ¶28(C)). However, Exhibit 144 is an email hearsay document, authored by two witnesses who  
14 were not available for trial and neither of whom testified to the document in a deposition. The  
15 Court admitted the document under Plaintiff’s theory of the “business record exception” to hearsay.  
16 (Trial Transcript, 10/29/2018, pp. 216-219).

17 Nevada has no “business record exception” to hearsay. Rather, Nevada has NRS 52.260,  
18 which permits the admission of a record made in the course of a regularly conducted activity.  
19 However, to be admissible, the record must be supported by an affidavit of the custodian of record  
20 who must “verify in the affidavit that the record was made: (a) At or near the time of the act, event,  
21 condition, opinion or diagnosis concerning which the information was recorded, by or from  
22 information transmitted by a person with knowledge of the act or event; and (b) In the course of the  
23 regularly conducted activity.” NRS 52.260(2). Plaintiff claimed to be the “owner” of the file and  
24 testified that he owns the files, in an attempt to establish the requirements of the statute. Plaintiff  
25 did not, and could not, establish (a) that Gary Kraus’s email in Exhibit 144 consisted of statements  
26 that occurred at or near the time of an “act, event, condition, opinion, or diagnosis” nor that the  
27 communication was made in the course of regularly conducted activity. Only Gary Kraus or a  
28 representative of his office could give such an affidavit. Accordingly, Exhibit 144 was erroneously

1 admitted under the non-existent “business records exception,” and Defendants were deprived of  
2 their right to a fair trial as a result.

3 **D. The Court Erred in Excluding the Expert Report of Craig Greene; The Report**  
4 **Should Have Been Admitted as a Judicial Admission that Paul Morabito Was**  
5 **Not Rendered Insolvent as a Result of the Transfers.**

6 This Court found that Paul Morabito was rendered insolvent due to the asset transfers  
7 because he “effectively transferred all or substantially all of his assets.” (Judgment, ¶86, p. 31).  
8 The Court concluded that “Within days after Judge Adams announced the Oral Ruling, Paul  
9 Morabito divested himself of almost all, if not all, of his assets.” (Judgment, ¶46, p. 48). This  
10 finding and conclusion of insolvency was directly contradicted by the expert report of Craig  
11 Greene, which was delivered at the request of the Herbst Parties on May 12, 2011, eight months  
12 after the Oral Ruling. The Report was filed in the *Morabito v. Herbst* case, CV07-02764, and was  
13 presented to Judge Adams for the explicit purpose of showing Paul Morabito’s 9-figure net worth.  
14 This Greene Report was a primary factor in the punitive damage award entered against Paul by  
15 Judge Adams. (Exhibit 280).

16 Defendants offered the admission of the Greene Report, and the Court sustained an  
17 objection to its admission on the basis of “the hearsay quality of an expert report.” (Trial  
18 Transcript, 10/30/18, p. 92). The Court then concluded that “An expert report is not an adopted  
19 admission.” (*Id.* at p. 93). This was error.

20 The Herbst Parties filed this action in 2013, before being substituted out by Mr. Leonard. In  
21 the original 2013 complaint, the Herbst Parties alleged that “Paul Morabito was insolvent or was  
22 rendered insolvent by the transfers.” (Complaint, ¶46).

23 During Timothy Herbst’s cross-examination, Defendants elicited testimony from Mr.  
24 Herbst in which he acknowledged that he had hired Craig Greene to examine Paul Morabito’s  
25 net worth. (Trial Transcript, 10/30/18, p. 89). Mr. Herbst then admitted, contrary to the  
26 allegations contained in the Complaint in this case, that Mr. Greene concluded that Paul Morabito’s  
27 post-transfer net worth was “Somewhere around 90 million dollars.” (Trial Transcript, 10/30/18, p.  
28 91). Herbst admitted that the Herbst Parties had done post-judgment discovery and were aware of  
the transfers. *Id.* To further illuminate the prior inconsistent statement by the Herbst Parties that

1 Paul Morabito was insolvent after the transfers, Defendants offered the Greene Report. The Court  
2 sustained the objection on the basis that an expert report is a hearsay statement, and an expert  
3 report is not an adoptive admission. (Trial Transcript, 10/30/18, p. 93).

4 The Greene Report should have been admitted. First, the Report was filed in CV07- 02764,  
5 and the Court was authorized to take judicial notice of it, just as the Court did with the Judge Zive  
6 filings in the United States Bankruptcy Court. (Trial Transcript, 11/2/18, p. 98).

7 Second, the Report was being offered against the Herbst Parties and contained statements in  
8 which the Herbst Parties not only authorized Greene to make in his capacity as their expert (NRS  
9 51.035(3)(c)), but also expressly adopted by filing the Report in CV07- 02764, and utilized it as a  
10 basis for finding punitive damages against Paul Morabito (NRS 51.035(3)(b)). Indeed, the Herbst  
11 Parties filed a Stipulation on May 25, 2011, in which the Greene Report was attached as an exhibit,  
12 and presented as the Herbst Parties “respective position on the net worth of [Paul Morabito] [as]  
13 outlined in these reports.” (See Exhibit 278, the docket for Case No. CV07- 02764, Stipulation  
14 filed May 25, 2011, p. 3.). The Herbst Parties expressly “manifested adoption” and belief in the  
15 truth of the Report, and it should have been admitted because it was being offered against the  
16 Herbst Parties and the Herbst Parties clearly manifested adoption of the Report.

17 Third, the Greene Report, having been filed and relied upon by Judge Adams, had strong  
18 assurances of accuracy, and, Mr. Greene not being available for trial, should have qualified for the  
19 catch-all exception to hearsay. NRS 51.315.

20 Fourth, Defendants were also offering the Report not for the truth of the matter asserted, but  
21 to establish that the Herbst Parties had presented an irreconcilable and inconsistent position related  
22 to Paul’s insolvency, for the purposes of estoppel and judicial admission. “Judicial admissions are  
23 defined as deliberate, clear, unequivocal statements by a party about a concrete fact within that  
24 party's knowledge.” *Reyburn Lawn & Landscape Designers, Inc. v. Plaster Dev. Co.*, 127 Nev.  
25 331, 343, 255 P.3d 268, 276 (2011). The Herbst Parties presented the Greene Report to Judge  
26 Adams as their position on Paul Morabito’s net worth as of May 2011. That presentation qualifies  
27 as a judicial admission that binds the Herbsts and parties in privity therewith, including Plaintiff.  
28 Plaintiff should not have been able to take a contrary position to the judicially binding admission

1 they made to Judge Adams in 2011.

2 The Court excluded the Greene Report and in doing so, deprived Defendants of the  
3 opportunity to establish that the Herbst Parties, and by extension the Plaintiff, were estopped by  
4 judicial admission from contending that Paul Morabito was rendered insolvent as a result of the  
5 transfers. Defendants were deprived of their right to a fair trial.

6 E. **The Court Erred in Admitting, Against Defendants' Objection, Email Exhibits**  
7 **Which Lacked Foundation.**

8 Plaintiff offered dozens of emails into evidence which were drafted by witnesses who were  
9 not available for trial. These exhibits included various and wide-ranging emails, which contained  
10 opinions of value, proposed business transactions, and other matters. Defendants objected to the  
11 admission of these exhibits because they lacked foundation, could not be authenticated, and were  
12 prejudicial. The Court overruled the objections. (Trial Transcript, 11/2/18, p.108).

13 Dennis Vacco was deposed three times and Paul Morabito was deposed once. The  
14 objectionable documents at issue were produced by Plaintiff well after the respective author's  
15 deposition.<sup>2</sup> Plaintiff's counsel conceded that the Paul Morabito emails contained in Exhibits 76,  
16 77, and 79 were produced after Paul Morabito's deposition (Trial Transcript, 10/29/2019, pp. 172).  
17 Therefore, the documents were not shown to the witnesses at their depositions, and they could not,  
18 and did not, provide *any* testimony about them.

19 Because the documents were not available at the depositions, no foundation whatsoever has  
20 been established, including authenticity. See *Mishler v. McNally*, 102 Nev. 625, 628, 730 P.2d  
21 432, 435 (1986) (finding inadmissible for lack of foundation as to authenticity and identity a memo  
22 prepared by an unavailable witness regarding the defendant's reputation where the document was  
23 "an unsigned typewritten photocopy").

24 The emails in question contain statements concerning opinions of value, business  
25 information, future intentions, observations or opinions, but no foundation has been or can be  
26 established regarding the sources of the information, how it was compiled, why it was compiled, or  
27

28 <sup>2</sup> See emails drafted by Paul Morabito which were produced after his deposition: Exhibits 26, 30,  
31, 33, 35, 69, 70, 76, 77, 79, 130, 132, 133, 139, 142, 143, 144, 147, 150, 152, 153, 160, 162.

1 how it is to be interpreted. See, e.g., Exhibits 25, 26, 29, 30, 42, 45, 46, 61, 76, 77, 79, 80. Thus,  
2 no foundation could properly be laid. See *Mishler*, 102 Nev. at 628, 730 P.2d at 435 (concluding  
3 that even a “recital of authorship on the face of [a] writing was insufficient proof of authenticity to  
4 secure its admission for unlimited purposes” when the author was unavailable to testify). In the  
5 complete absence of the circumstances surrounding the creation of the documents there is no  
6 foundation, and it was unfairly prejudicial to admit these documents without adequate foundation  
7 and the ability to cross-examine a live witness as to the context and background of the emails. See  
8 *id.* (deeming opinions of an unavailable witness inadmissible when the declarant was not available  
9 to testify about the basis of his opinion).

10 Moreover, many of these exhibitis included statements or opinions of value. See Exhibits  
11 76, 77, 79, relied on by the Court in the Judgment, ¶27 p. 11). There was no foundation laid as to  
12 the declarant’s expertise or competence to make these conclusions, nor was there any evidence of  
13 the methodology of the appraisals that took place. See, e.g., *Frias v. Valle*, 101 Nev. 219, 221, 698  
14 P.2d 875, 876 (1985) (concluding that a report called a thermogram was inadmissible because there  
15 was no evidence demonstrating “how or when the thermograms were taken, how they could be  
16 identified,” and “[n]o one with personal knowledge testified as to how, when and in what manner  
17 the thermograms were taken”). NRS 50.275 requires that opinions as to “scientific, technical or  
18 other specialized knowledge” must be offered by a qualified expert. There was no foundation that  
19 the declarant, in most instances, Paul Morabito, had such expertise.

20 Further, because the documents were not available at the depositions, Defendants had no  
21 opportunity to cross examine Mr. Morabito or Mr. Vacco about them, and they were both  
22 unavailable for trial. It was unfairly prejudicial to allow a one-sided interpretation of documents  
23 with no opportunity for Defendants to cross-examine the author to further explain them, and it was  
24 unfairly prejudicial to admit these documents with no foundation, and then permit the Plaintiff to  
25 mischaracterize them. Moreover, the trial showed that it clearly confused the facts of this case to  
26 admit documents that purported to show the value of property without having the ability to show  
27 weaknesses in the documents or the credibility of the author delivering the opinions. See *Mishler*,  
28 102 Nev. at 629, 730 P.2d at 435 (holding that it would confuse the jury and prejudice the opposing

1 party to admit opinions of an unavailable witness for the truth of the matter asserted where the  
2 opinion was admitted for unlimited purposes); *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 485, 851  
3 P.2d 459, 463 (1993) (“where evidence is marginally relevant and could inject collateral issues  
4 which would divert the jury from the real issues in the case, exclusion is proper.”) (internal  
5 quotation marks omitted).

6 Finally, a federal court confronting almost this identical issue excluded hearsay statements  
7 like the ones in question here. See *Adams v. United States*, No. CIV. 03-0049-E-BLW, 2009 WL  
8 2207690 (D. Idaho July 15, 2009). In *Adams*, the witness testified in his deposition that he had  
9 reviewed “inspection reports” prior to giving his deposition. *Id.* at \*1. However, those inspection  
10 reports, like the documents in this case, were neither identified nor marked as an exhibit during the  
11 deposition. At trial, the party who took the deposition tried to introduce the four inspection reports  
12 through the deponent who, like Mr. Morabito and Mr. Vacco, was unavailable. *Id.* The court first  
13 determined that there was no foundation to admit the documents because the exhibits were not  
14 shown to the deponent or opposing counsel during the deposition, even though the party claimed  
15 the deponent authored the reports. *Id.* Next, the court explained that even if the exhibits could  
16 overcome the issues concerning foundation, the exhibits may be barred as hearsay. *Id.* Finally, the  
17 court determined that “another party’s inability to cross-examine a witness about a particular  
18 document is not only potentially unfair, but also may very well contribute to jury confusion  
19 under FRE 403<sup>3</sup> without the benefit of a complete exchange of contextual questions, independent of  
20 the exhibits’ separate admission.” *Id.*

21 Although only persuasive authority, *Adams* has an almost identical fact pattern to this case,  
22 and Defendants contend that this reasoning established abuse of discretion that resulted in  
23 Defendants being deprived of a fair trial. The admission of these exhibits was more prejudicial  
24 than probative. *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002)  
25 (“Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority,  
26 because the Nevada Rules of Civil Procedure are based in large part upon their federal

27  
28 <sup>3</sup>FRE 403 is the federal version of NRS 48.035, which provides that “[a]lthough relevant, evidence  
is not admissible if its probative value is substantially outweighed by the danger of unfair  
prejudice, of confusion of the issues or of misleading the jury.”

1 counterparts.”) (internal quotation marks omitted).

2 **F. The Court Abused its Discretion in Allowing the Character Evidence Offered**  
3 **By Timothy Herbst and William Leonard.**

4 Plaintiff offered Timothy Herbst and William Leonard as *de facto* character witnesses to  
5 smear the character of Paul Morabito. In permitting the character assassination, the Court was  
6 unduly influenced by the irrelevant and inadmissible personal opinions of Paul Morabito’s enemies,  
7 and thereby depriving Defendants of a fair trial.

8 The parties had stipulated to myriad facts, including the existence of a transaction between  
9 the Herbst Parties and Paul Morabito that led to litigation between them. (Stipulated Facts, October  
10 28, 2019, ¶1). Despite that Stipulation, Plaintiff endeavored to elicit testimony from Timothy  
11 Herbst to the effect that he believed he had been defrauded by Paul Morabito. (Trial Transcript,  
12 10/29/18, p.56). When Defendants’ counsel objected, Plaintiff’s counsel admitted that she was  
13 seeking to introduce character evidence under NRS 48.045 to prove motive and intent. *Id.* at p. 57.  
14 The Court, in addressing Defendants’ objection, explained that:

15 It is my understanding Mr. Morabito was at one point a party to this case  
16 before everyone stipulated to his removal from the case, so your argument  
17 implied he's being precluded from participating, and I don't think that was  
18 really the circumstances. Now beyond that, his character and his  
motivation could be relevant to show what your client's motivations were.  
It is not definitive proof of your client's motivation, but it could be part of  
the circumstances of evidence, so I am going to allow some inquiry.

19 *Id.* at pp.57-58. This ruling was error for two reasons.

20 First, whether or not Paul Morabito used to be a party to the case is irrelevant for the  
21 purposes of the admission of character evidence. The undisputed fact was that Paul Morabito was  
22 not a party at the time of trial, had not been a party since 2015, was a California resident and could  
23 not be compelled to attend the trial. Accordingly, he qualified as a non-party and an unavailable  
24 witness for purposes of the Rules (including hearsay and admissions of party opponents).

25 Second, the Court’s finding that Paul Morabito’s motivation in dealing with the Herbst  
26 Parties in 2007 could be relevant to establish Defendants’ motivations, and therefore character  
27 evidence as to Paul was admissible, is an abuse of discretion. This Court concluded that  
28 “Defendants' intent is not relevant to the analysis of whether the transfers were made with actual

1 intent to hinder, delay, or defraud, or were constructively fraudulent.” (Judgment, ¶15, p. 36).  
2 Accordingly, admitting character evidence of Paul Morabito in order to establish Defendants  
3 motivations was error.

4 Third, the Court admitted evidence of character offered by William Leonard. It was  
5 undisputed that William Leonard had no involvement with this case, or the CV07-02764 case until  
6 approximately after the Involuntary Petitions were filed in June 2013. No evidence was presented  
7 in which Leonard established personal knowledge as to any fact relevant to the claims and defenses  
8 in this case, which all related to the 2010-2011 asset transfers. When Plaintiff offered his  
9 testimony as to his personal beliefs and opinions related to the facts of this case, the Court  
10 overruled Defendants’ objection on the basis of relevance. (Trial Transcript, 11/2/18, p. 93). This  
11 was an abuse of discretion.

12 NRS 48.025 provides that irrelevant evidence is inadmissible. Relevant evidence is  
13 “evidence having any tendency to make the existence of any fact that is of consequence to the  
14 determination of the action more or less probable than it would be without the evidence.”  
15 Leonard’s personal opinions as to Paul Morabito’s character, his behavior in the bankruptcy action,  
16 and all the other things Leonard was so keen to testify to were all irrelevant. Worse yet, Leonard  
17 was not competent to testify as to any relevant fact because he lacked personal knowledge as to any  
18 of the events that led to the transfers that were the subject of the case. NRS 50.025 provides that  
19 “A witness may not testify to a matter unless: Evidence is introduced sufficient to support a finding  
20 that the witness has personal knowledge of the matter; or (b) The witness states his or her opinion  
21 or inference as an expert.” Leonard’s opinions as to Paul Morabito’s character were not presented  
22 as expert opinions that would satisfy NRS 50.285.

23 Plaintiff offered Leonard’s opinion as to the contents of an order from Judge Zive. *Id.* at p.  
24 98. The Court overruled Defendants’ objection, and permitted Leonard to characterize his  
25 assessment of a written order. *Id.* This violated the best evidence rule, NRS 52.235, which  
26 requires that writings be proven by the original or a copy, and not by testimony where an exception  
27 applies. “[W]here the witness has knowledge only of the contents of [a writing], testimony may be  
28 excluded under [the best evidence rule].” *Stephans v. State*, 127 Nev. 712, 719, 262 P.3d 727, 733



1 (2011).

2 Plaintiff's counsel offered the testimony of Leonard to give opinions as to Paul Morabito's  
3 character by asking, "Have you seen indicia of the debtor hiding information from you?" *Id.* at  
4 101. The Court overruled the objection on relevance and on the basis that the prejudice is  
5 substantially outweighed probative weight of the testimony. *Id.* This was error. Whether Leonard  
6 had an opinion as to whether Paul Morabito was "hiding information" was irrelevant to any fact in  
7 dispute in this case. Indeed, Plaintiff all but conceded that the question was being asked to attempt  
8 to show Paul Morabito's propensity to do (or not do) a certain act based on Leonard's opinion of  
9 Morabito's character. *Id.* at p. 102. Plaintiff's counsel argued:

10 It is a pattern of behavior that shows the intent and motive of Paul  
11 Morabito to avoid his obligations to the Herbsts. And this evidence is  
12 **probative of this continued conduct for the purpose of avoiding**  
**disclosure**, a badge of fraud, as well as making misrepresentations,  
another badge of fraud.

13 *Id.* (emphasis added). This is thinly veiled attempt to admit character evidence in order to show  
14 Morabito's propensity to act, in clear and blatant violation of NRS 48.045, which explains that  
15 "Evidence of a person's character or a trait of his or her character is not admissible for the purpose  
16 of proving that the person acted in conformity therewith on a particular occasion." In other words,  
17 Plaintiff offered character evidence to establish that Paul Morabito's alleged conduct in avoiding  
18 requests of the Plaintiff/trustee in 2015-2018 was probative of Morabito's intent to defraud the  
19 Herbsts in 2010 by way of the transfers. Leonard then proceeded to testify as to his opinions on  
20 Paul Morabito's character. He said:

21 I was very frustrated having to deal with Mr. Morabito. Every question I  
22 asked was answered in a roundabout circuitous manner that had no indicia  
23 of truth to it. I would ask him questions about income, and I'd here stories  
24 about somebody owed me some money. I don't know where it came from,  
and people just keep giving me money. That is not how we conduct our  
hearings in 341 in bankruptcy. I questioned everything he said. I still  
question everything he said.

25 *Id.* at p. 103. The Court overruled an objection that permitted Leonard to offer his opinion that  
26 Morabito had committed bank fraud, tax fraud, bankruptcy fraud, and he testified that he forwarded  
27 a recommendation to the department of justice that Morabito be prosecuted. *Id.* at p. 105. This  
28 testimony was irrelevant and an improper admission of character evidence; yet, the Court allowed it

1 and was swayed by his testimony. Admitting Leonard's character attacks on Paul Morabito was an  
2 abuse of discretion and prevented Defendants from obtaining a fair trial.

3 **IV. CONCLUSION**

4 For the reasons set forth above, the Defendants respectfully request this Court grant the  
5 motion for a new trial or amend the judgment to conform to the evidence.

6 **AFFIRMATION**  
7 **Pursuant to NRS 239B.030**

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

10 DATED this 25th day of April, 2019.

11 ROBISON, SHARP, SULLIVAN & BRUST  
12 71 Washington Street  
13 Reno, Nevada 89503

14 /s/ Frank C. Gilmore  
15 FRANK C. GILMORE, ESQ.  
16 Attorneys for Attorneys for Defendants Salvatore  
17 Morabito, Snowshoe Petroleum, Inc., Superpumper,  
18 Inc.  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCF 5(b), I certify that I am an employee of Robison, Sharp, Sullivan & Brust, and that on this date I caused to be served a true copy of the **Motion for New Trial** all parties to this action by the method(s) indicated below:

✓  
by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

Edward Bayuk  
668 North Coast Hwy, #517  
Laguna Beach, CA 92651

✓  
by using the Court's CM/ECF Electronic Notification System addressed to:

Gerald Gordon, Esq.  
Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
Mark M. Weisenmiller, Esq.  
Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
Teresa M. Pilatowicz, Esq.  
Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
Erika Pike Turner, Esq.  
Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

by email addressed to:

Gerald Gordon, Esq.  
Email: [ggordon@Gtg.legal](mailto:ggordon@Gtg.legal)  
Mark M. Weisenmiller, Esq.  
Email: [mweisenmiller@Gtg.legal](mailto:mweisenmiller@Gtg.legal)  
Teresa M. Pilatowicz, Esq.  
Email: [tpilatowicz@Gtg.legal](mailto:tpilatowicz@Gtg.legal)  
Erika Pike Turner, Esq.  
Email: [eturner@gtg.legal](mailto:eturner@gtg.legal)

DATED: This 25th day of April, 2019.

