

In the Supreme Court of the State of Nevada

CAPRIATI CONSTRUCTION
CORP., INC., a Nevada Corporation,

Appellant,

v.

BAHRAM YAHYAVI, an individual,

Respondent.

Electronically Filed
Nov 25 2020 04:14 p.m.
Case No. 80107/Case No. 80821
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court
Clark County, Nevada
The Honorable Ronald J. Israel, District Judge
District Court Case No. A-15-718689-C

**RESPONDENT BAHRAM YAHYAVI'S APPENDIX
VOLUME 4
PAGES 631-691**

DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
PRINCE LAW GROUP
10801 W. Charleston Boulevard, Suite 560
Las Vegas, Nevada 89135
Attorneys for Respondent
Bahram Yahyavi

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Supreme Court of Nevada on the 25th day of November, 2020. Electronic service of the foregoing document entitled **RESPONDENT BAHRAM YAHYAVI'S APPENDIX** shall be made in accordance with the Master Service List as follows:

Michael K. Wall
HUTCHISON & STEFFEN, PLLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorney for Appellant
Capriati Construction Corp., Inc.

/s/ Kevin T. Strong
An Employee of PRINCE LAW GROUP



(117) 582 1588
DANK ASSURANCE, LLC

09/25/2019 4:37PM 02
00000#0320 ANTHONY

PARKING 11 \$28.00

ITEMS 1Q
CASH \$28.00
+ 5.00 tip
SPECIAL EVENT VALET & 331
MONTHLY RATES AVAILABLE



(117) 582 1588
DANK ASSURANCE, LLC

09/26/2019 10:44AM 02
00000#0357 ANTHONY

PARKING 11 \$16.00

ITEMS 1Q
CASH \$16.00
+ 5.00 tip
SPECIAL EVENT VALET & 331
MONTHLY RATES AVAILABLE

DOUGLAS PARKING LV10
330 S 3RD ST
LAS VEGAS, NV 89101
(510) 444-7412

SALE

MID: 9364 Store: 4981 Term: 5491
Batch #: 030 REF#: 00000020
09/27/19 RRN: 927022603567
Trans ID: 4692708273484 1534633
APPR CODE: 036414
VISA *****0658 Chip
12/16

AMOUNT \$28.00
TIP \$ 5.00
TOTAL \$ 33.00

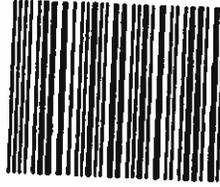
APPROVED

VISA DEBIT
AID: A000000031010
TVR: 80 80 00 80 00
TSE 68 00

THANK YOU
NO REFUNDS

CUSTOMER COPY

PLEASE TAKE TO EXIT
CREDIT OR EXACT
CHANGE ONLY AT EXIT



Issue # 1-007072
08:49 27 Aug 19

\$12.00

Yahyavi
1000.046

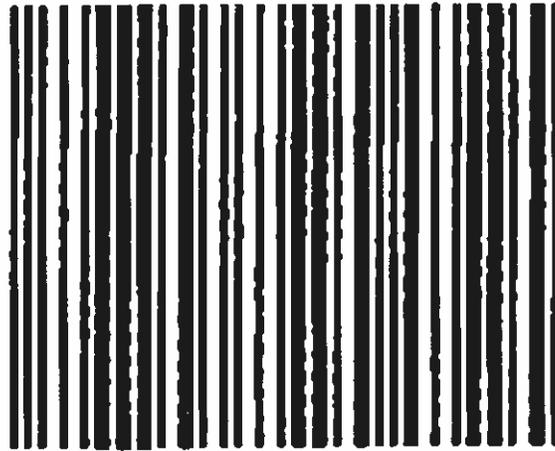
#24

PLEASE TAKE TO EXIT

CREDIT OR EXACT

CHANGE ONLY AT EXIT

Brandon



Issue # 1-001358

08:08 13 Sep 19

Law Office of Malik W. Ahmad

Attorney at Law
8072 West Sahara Ave., Suite A
Las Vegas, Nevada 89117
(702) 270-9100 (Phone)
(702) 233-9103 (Fax)

INVOICE

**DISTRICT COURT
CLARK COUNTY, NEVADA
BAHRAM YAHYAVI, an individual
Plaintiff,**

vs.

**CAPRIATI CONSTRUCTION CORP, INC.
a Nevada Corporation
Defendant,
Case No.: A-15-718689-C
Dept. No.: XXVIII**

Detailed itemization (Cost)	Total
5/20/2016 complaint filed	\$270.00
6/20/15 Service and Summons upon the party	\$110.00
Miscellaneous electronic filing	\$130.00
5/7/16 Set up deposition of Ramsey Khouri, did not show up for deposition paid for deposition	\$200.00
5/24/2016 Deposition of Kevin Mckey, Travel to Arizona, deposition, tour, travel stay, mileage, gasoline, record of copies from Court Reporter	\$1750.00
10/15/16 Defendant Capriatti bankruptcy paperwork, court ecf copies	\$80.00
11/8/2017 Proposed deposition of Joshua Arbuscke, did not show up, paid for the deposition	\$300.00
Photo copies of accident distributed and kept for various files 50x1.00	\$100.00
Deposition of Jay Gutstein proposes deposition did not show up., lost advanced payment	\$200/00
Photo copies 3500 x 10 c, stationary, binders, staples	\$350.00
Miscellaneous files covers, 25 x 5	\$125.00
Postage and mailing	\$35.00
EC Filing 3.70/35	131.25
Court parking,	35.00
Various medical record from medical providers fee	\$150.00
TOTAL	3,966.25

/s/Malik W. Ahmad

Office DEPOT
OfficeMax

OFF

G4/17/2011
STR 6642

SALE
Product
102574 PF
102582 P

Sales Tax

MALIK W AHMED
Please
Shop online at www.officedepot.com

WE WANT TO HEAR FROM YOU!

Participate in our online customer survey and receive a coupon for \$10 off your next qualifying purchase of \$50 or more on office supplies, furniture and more. (Excludes Technology. Limit 1 coupon per household/business.)

Visit www.officemaxfeedback.com and enter the survey code below

Survey Code
6642-02-6233-4



VT930PTV 488C

Office DEPOT
OfficeMax

OFFICE DEPOT STORE 6642
8720 W Charleston
Las Vegas NV 89117

05/23/2011 16 3 2 5 21 PM
STR 6642 Reb 4 TR: 4467 EMP 31585E

SALE
Product ID Description Total
166962 Color SS Lette
4 @ 0 69 2.76
You Pay 2.76SS
Subtotal 2.76
Sales Tax 0.22
Total 2.98
Debit Card 94EB 2.98

IDS Chip Read
AID A0000000980840 US DEBIT
TVR 8000048000
CVS PIN Verified

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Participate in our online customer survey and receive a coupon for \$10 off your next qualifying purchase of \$50 or more on office supplies, furniture and more. (Excludes Technology. Limit 1 coupon per household/business.)

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Survey Code
14JT PUVZ KHKS



2PVTA33PKY5484MBC

Office DEPOT OfficeMax

OFFICE DEPOT STORE 6642
8720 W Charleston
Las Vegas, NV 89117

04/15/2016 16 2 2 6:09 PM
STR 6642 REG 4 TRN 927 EMP 289213

Product ID	Description	Total
156962	Color SS Lette	86.94
126 @ 0.69		-13.85
Coupon - 94241822		73.0855
You Pay		
156962	Color SS Lette	4.14
6 @ 0.69		-0.66
Coupon - 94241822		3.4855
You Pay		
156962	Color SS Lette	2.76
4 @ 0.69		-0.48
Coupon - 94241822		2.2855
You Pay		
Coupon Number - 94241822		

Subtotal: 78.84
Sales Tax: 6.43
Total: 85.27
Debit Card 9458

CVS Chip Read
AID A0000000980840 US DEBIT
TVR 8000048000
CVS PIN Verified

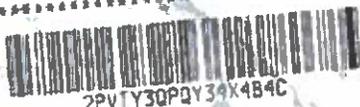
Total Savings:
\$15.00

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Participate in our online customer survey and receive a coupon for \$10 off your next qualifying purchase of \$50 or more on office supplies, furniture and more. (Excludes Technology. Limit 1 coupon per household/business.)
Visit www.officemaxfeedback.com and enter the survey code below

Survey Code:

6642-04-0922-6



2PVTY3QPQY34X4B4C

Sale

VISA
Total: \$ 47.00

Office DEPOT OfficeMax

LAS VEGAS - (702) 951-4000
02/04/2018 11:03 AM



2PVTY3APMYQ4M4RBF

SALE 6642-4-1995-894123-17 9 2
224744 RECYCLING PROG
4 @ 0.01 0.04
You Pay 0.0055
695769 TNR 1450.HY,B
2 @ 49.98 99.96
Override - Competitor Price Match
You Pay 99.9655
Subtotal 99.96
Sales Tax 8.25
Total 108.21
Rewards Cert 148 28.89
Debit Card 7127 79.32

CVS Chip Read
AID A0000000980840 US DEBIT
TVR 8000048000
CVS PIN Verified

MALIK AHMAD 637761293

Please create your online rewards account at officedepot.com/

RA0637

Sale total: 1 8 834.00
 Total: 1 8 834.00

07/14/14 11:15:52

TOTALS REPORT
OPERATING ACCOUNT
FDNS

Card	Cnt	Sale	Total
03	1	834.00	834.00
Sale total		8	834.00
Total		8	834.00

LAW OFFICE OF MALIK AHMAD
 8072 WEST SAMARA AVE STE A
 LAS VEGAS NV 89117
 702 270 9100

Card ID: 4520

07/14/14 11:16:06

SETTLEMENT REPORT

Batch Num: 7
 Host Name: FDNS
 Merchant: 1

Sales : 1 8 834.00
 Refunds : 0 0 0.00
 Total : 1 8 834.00

Settlement Successful
 DEBIT 834.00

OfficeMax

OfficeMax #1105
 8720 W CHARLESTON BLVD
 LAS VEGAS, NV 89117
 (702) 951-4000

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 to enter and to view the terms and
 conditions of the survey.

012502620655
 6"hr Lsr OCP-7040 3-Jr-1 \$149.99 +
 011491393962
 OMX Mail (b1 1/2" x 1-3/4" \$11.78
 011491993962
 OMX Mail Lb1 1/2" x 1-3/4" \$11.78
 5001491440164
 OMX Laser 8" Gas \$29.99
 036000114904
 Facial Tissue Mnt 2pk 400s \$3.99
 400216569711
 OMX Ink Recycle \$0.01
 Promo Discount (\$0.01)
 400216569771
 OMX Ink Recycle \$0.01
 Promo Discount (\$0.01)
 400216569711
 OMX Ink Recycle \$0.01
 Promo Discount (\$0.01)

OfficeMax

SubTotal \$207.55
 Tax 8.100% \$16.61
TOTAL \$224.36

Debit \$224.36
 Card number: XXXXX XXXXX3614
 Authorization

MaxPerks Number 789497334

For MaxPerks questions or
 concerns call 1-866-805-9095

1105 00001 0497E 12642516
 9/07/08/10
 03:54:12 PM

Office DEPOT OfficeMax

LAS VEGAS - (702) 951-4000
06/10/2018 11:13 AM



2PVT835PYY3454XCF

SALE 6642 4-7450-289213-18 5 2

166962 Color SS Lette	7.81	
11 @ 0.71	-1.54	
Coupon - 38871155		6.27SS
You Pay		
166962 Color SS Lette	2.13	
3 @ 0.71	-0.45	
Coupon - 38871155		1.68SS
You Pay		
Coupon Number - 38871155		

Subtotal:	7.95
Sales Tax:	0.66
Total:	8.61

Rewards Cert 2611:

OD Rewards 1-800-562-3872

MALIK AHMAD 637761293
Please create your online rewards account at officedepot.com/rewards. You must complete your account to claim your rewards and view your status.

Total Savings:
\$1.99

OfficeMax

OfficeMax #1105
8720 W. CHARLESTON BLVD.
LAS VEGAS, NV 89117
(702) 951-4000

SALE

012502612346	\$72.99
BRTH Toner TH350 BIK	
011491975644	\$14.29
Folders File Tr Size Gree	
Deal # 214 savings	(\$2.65)
YOU PAY	\$11.43

Transaction Savings

-\$0.01 gff
25932064107806 (\$0.01)
\$10 off \$50 purchase
2593

TOTAL SAVINGS (\$12.87)

Total	\$74.41
8.100%	\$6.02
	\$70.43

Card number: XXXXXXXXXXXX3611
Authorization

MaxPerks Number XXXX1293

MaxPerks Qualified Purchase Balance as of (3/7/2014): **\$273.02**

10080333007

Office DEPOT OfficeMax

LAS VEGAS - (702) 951-4000
10/06/2017 9:09 AM



SALE	6642-3-7330-863479-17.6 1	
696769	TNR, IN450, HY, B	74.99 SS
	Subtotal	74.99
	Sales Tax	6.19
	Total	81.18
	Gift Card 5031	53.03

Available Balance: 0.00
Debit Card 7127 28.15

TDS Chip Read
AID A0500000980840 US DEBIT
TVR 8000045000
CVS PIN Verified

MALIK AHMED 637761293

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Visit www.officedepot.com/feedback and enter the survey code below
14X5 1E7F 3JJH

Office DEPOT OfficeMax

OfficeMax
1000 S. Westbank
Las Vegas, NV 89107

10/24/2016 16:7:2 1:10 PM
6642 PLS 4 TR 25 EMP 263845

SALE		
150921	Color 50 2110	
	4 10 07	2.76
	You Pay	2.76SS
	Subtotal	2.76
	Tax	0.22
	Total	2.98
	Cash	5.00
	CHANGE	0.21

Shop online at www.officedepot.com

WE WANT TO HEAR FROM YOU!

Participate in our online customer survey and receive a coupon for \$10 off your next qualifying purchase of \$50 or more on office supplies, furniture and more. (Excludes Technology. Limit 1 coupon per household/business)

Visit www.officedepot.com/feedback and enter the survey code below

Survey Code
14M7 H4EE 2JF9



Phoenix Deposition Services

365 East Coronado Road
Suite 210
Phoenix, AZ 85004
Ph 602 889-0332 FX 602 230-8884

Date	Invoice #
6/13/2016	2426
Tax ID 90-0643193	

Bill To

Malik W. Ahmad, Esq.
OFFICE OF MALIK W. AHMAD
8072 West Sahara Avenue
Suite A
Las Vegas, NV 89117

Caption

Scheduled Reporter
5/24/2016 Mark Miller

Description	Amount
Deposition Transcript of Kevin Mackey O/1 - 32 Pages	128.00
Reporting Services	80.00
Exhibits	4.00
Binding & Delivery	25.00

Thank you!

Payment due upon receipt.

Total	\$237.00
Payments/Credits	\$0.00
Balance Due	\$237.00

RA0642



Junes Legal Service, Inc.

630 South Tenth St. Suite B
Las Vegas, NV 89101
Federal ID#27-0626741

PROCESS INVOICE

7/27/2016

EP169351

INVOICE DATE

INVOICE #

CLIENT
MAIK W. AHMAD, ESQ 8072 W. SAHARA AVE STE A LAS VEGAS, NV 89117

BILLING INFO
MAIK W. AHMAD 8072 W. SAHARA AVE STE A LAS VEGAS, NV 89117

STATUS	Rep	SERVER ID	DATE COMPLETE	TIME	INTERNAL FILE #
PERSONAL		JH	7/16/2016	1906	
Description				Qty	Amount
PERSONAL SERVICE ON JOSHUA ARBUCKLE ADD: 7324 WANDERING ST LAS VEGAS, NV 89131 DOCUMENT TYPE SUBPOENA RE: BAHRAM YAHYAVI V. CAPRIATI CONSTRUCTION CORP. CASE# A-15-718689-C					43.00 0.00 0.00

Paid in full

GET 24/7 STATUS ON-LINE
SIGNED AFFIDAVIT READY FOR FILING

Subtotal
Sales Tax (8.1%)
Total
Payments/Credits
Balance Due

NV - Process Servers License # 1068

www.JunesLegal.com

Phone #	Fax #	E-mail	Web Site
(702) 259-6300	(702) 259-6249	Deborah@JunesLegal.com	RA0643

AOS

**DISTRICT COURT , CLARK COUNTY
CLARK COUNTY, NEVADA**

BAHRAM YAHYAVI

Plaintiff

VS

CAPRIATI CONSTRUCTION CORP

Defendant

CASE NO: A-15-718689-C

HEARING DATE/TIME:

DEPT NO: XXVIII

AFFIDAVIT OF SERVICE

Julien Howard being duly sworn says That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceedings in which this affidavit is made. That affiant received 1 copy(ies) of the SUBPOENA, on the 13th day of July, 2016 and served the same on the 16th day of July, 2016, at 19:06 by

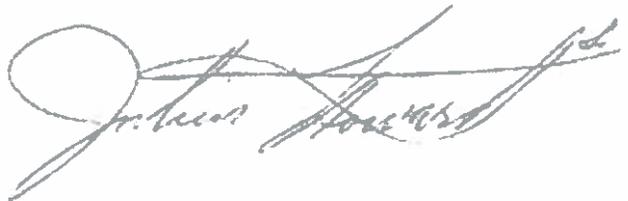
delivering and leaving a copy with the servee JOSHUA ARBUCKLE at (address) 7324 WANDERING ST, LAS VEGAS NV 89131

5'9 237LBS BALD HEAD BRO EYES WHT MALE 41 YEARS OLD

Raid \$200

Pursuant to NRS 53.045

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



EXECUTED this 16 day of Jul, 2016.

Julien Howard

COMPEX LEGAL SERVICES

325 Maple Avenue, Torrance, California 90503

(888) 685-4411

RECORD REQUEST FORM

Compex Order: G93504

MALIK W. AHMAD
8072 WEST SAHARA AVENUE, SUITE A
LAS VEGAS, NV 89117

August 18, 2016

RE: BAHRAMYAHYAVI V. CAPRIATI CONSTRUCTION CORP., INC.
Case No.: A-15-718689-C
Record Subject: YAHYAVI, BAHRAM
Records requested by: LAW OFFICES OF ERIC R. LARSEN

DEAR MALIK W. AHMAD:

Compex Legal Services has been requested by the firm named above to obtain records from the locations listed below.

If you require copies of any of these records, please indicate by checking the box next to the appropriate location(s) and sign and return the form(s) to Compex Legal Services. If no boxes are checked, we will assume you are requesting records from all locations.

Please note:

By placing a check mark in the box next to a location, you have indicated your desire to receive a copy of the records received by Compex Legal Services from that location. Should you desire a copy of any original item(s) listed below the location, please indicate by checking the box before the item description. If you check "Films" and/or "Other" which may include copies of original items such as photos, blueprints, video or audio tapes, you must place your order within (2) business days of receipt of this notice to assure proper delivery.

If a location provides a Certificate of No Records, you will receive a copy UNLESS this box is checked

Please select preferred mode of delivery

Electronic **CD** **Paper** *If nothing is checked, you will receive a **CD**

Records Films Other
 (If requested)

C. VALLEY HEALTH SYSTEMS, LAS VEGAS (BILLING)

Furthermore, on behalf of the consumer, and in accordance with CCP 2020(d)(4), I stipulate to an early release of all documents and items listed above, from all locations listed herein, waiving all time for statutory holds. The documents and other items may be copied and released prior to the deposition date listed on the subpoena(s).

If your firm has an account with Compex Legal Services, normal billing will apply. If you represent an insurance carrier and prefer that we bill them directly, please provide the following information:

Carrier _____ Adjuster _____

Address _____ Phone _____

City, St _____ Zip _____

Claim _____ Insured _____

Your signature below confirms that you are ordering these records and agree to the terms and conditions(attached)

Authorized Signature _____ Date _____
(Required)

Print Name _____ Title _____

E-mail _____ Phone _____ Fax _____
(Mandatory field if Electronic records are being requested)

Paid \$75.00



COMPEX
Legal Services, Inc.

MALIK W. AHMAD
8072 WEST SAHARA AVENUE, SUITE A
LAS VEGAS, NV 89117
ATTN: MALIK W. AHMAD

RE : BAHRAM YAHYAVLY, CAPRIATI CONSTRUCTION CORP., INC.
OrderNo. : G82931
Ordered By : LAW OFFICE OF ERIC R. LARSEN

Dear Sir or Madam:

Enclosed you will find your Subpoena copies and Notice of Deposition for the specific records being sought by counsel in the aforementioned case. We have been retained as their records retrieval service and will be pursuing these records on their behalf.

In the event you have not already supplied the ordering counsel with an authorization to obtain records, we have provided one for you. Please have your client sign the enclosed authorization and return it to COMPEX Legal Services at your earliest convenience.

Sincerely,

COMPEX Legal Services

enclosure

paid \$ 45.00

COMPEX LEGAL SERVICES

2820 W. Charleston Blvd, #29

Las Vegas, NV 89102

Tel: 702.383.9500 Fax: 702.383.9505

ORDER FORM

MALIK W. AHMAD
8072 WEST SAHARA AVENUE, SUITE A
LAS VEGAS, NV 89117

RE : BAHRAM YAHYAVI v. CAPRIATI CONSTRUCTION CORP. INC.

Order No: G82931

If counsel of any party wants copies of any of the below listed providers, please mark appropriate box.
Please change the above address if it is incorrect.

LOCATION

AT: STEINBERG DIAGNOSTIC MEDICAL IMAGING, LAS
VEGAS

Records of: YAHYAVI, BAHRAM

RECORDS

CERT. NO REC

Paid \$50

Orders will not be accepted without a signature.

Requested By: _____

Name(Please Print)

Signature

Date

Telephone Number

RA0647

Evolve Deposition, LLC
10080 Alta Drive
Suite 100
Las Vegas, NV 89145
(702) 421-3376



STATEMENT

THE LAW OFFICES OF MALIK W. AHMAD
8072 West Sahara Ave.
Suite A
Las Vegas, NV 89117

PAID

Statement Date: 01/19/2017

Phone: 702-270-9100

Malik W. Ahmad, Esq.

Invoice Date	Reference	Amount	Due
204627 07/14/2016	Joshua Arbuckle - Bahram Yahyavi vs. Capriati Construction Corp. - Attendance Date: 08/11/2016	90.00	90.00
Subtotal:			90.00
Total Amount Due:			90.00

Tax ID: 47-1990584

*This charge was
paid by the
client
1/30/17*

January 28, 2014

Malik W. Ahmad, Esq.
8072 W. Sahara Ave. #A
Las Vegas, NV 89117

Re: Claimant : Bahram Yahyavi
D.O.B : 6/19/13
Employer : Chapman's LV Dodge
Claim No. : 5003-0202-2013-0371

Dear Mr. Ahmad:

Pursuant to your e-mail dated January 27, 2014, advising us of your representation of our former client Mr. Yahyavi. In your e-mail you are requesting a copy of Mr. Yahyavi's file, our copy service is \$0.60 a page and total pages are 265. Please remit payment of \$159.00, once we have received the payment we will send you the file.

Please note there is an Appeal scheduled for April 3, 2014 that we will be withdrawing from. Mr. Yahyavi will need to attend along with his representation.

Thank you in for your prompt attention to this matter. If you should have any questions please do not hesitate to contact us.

Sincerely,

BENSON, BERTOLDO, BAKER & CARTER

JAVIER A. ARGUELLO, ESQ.

JAA:es

\$159.00

BY 096

INVOICE

Associated Risk Management Inc.
P.O. Box 4930
Carson City, NV 89702-4930

Make check payable to:
Nevada Auto Network

Date	Invoice #
August 5, 2013	16279

BILL TO
Javier A. Arguello, Esq. 7408 W Sahara Ave Las Vegas NV 89117

TERMS	DUE DATE
N/A	N/A

DATE	DESCRIPTION	QTY	RATE	AMOUNT
August 5, 2013	PHOTOCOPIES CLAIMANT: Bahram Yahyavi CLAIM NO: 5003-0202-2013-0371 DATE OF INJURY: June 19, 2013 EMPLOYER: Chapman's LV Dodge	26	\$0.30	\$7.80
	Postage			\$1.92
TOTAL				\$9.72

BY 0132

RA0650

CASH ONLY IF ALL CheckLock™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPYING

EGLET PRINCE
COST ACCOUNT
400 S. 7TH STREET SUITE 400
LAS VEGAS, NV 89101
702-450-5400

BANK OF NEVADA
94-1771224

32

3/22/2019

PAY TO THE ORDER OF Clark County Treasurer \$ **60.00

Sixty and 00/100*****

DOLLAR

PROTECTED AGAINST FRAUD



Clark County Treasurer
Fiscal Services
Attn: Jennifer Garcia
200 Lewis Ave.
Las Vegas, NV 89155
3-22-19Yahyavi/Transcript



Kathryn D Hardie

MEMO

⑈032423⑈ ⑆122401778⑆ 7502280804⑈

EGLET PRINCE/COST ACCOUNT			32
Clark County Treasurer			
	3-22-19Yahyavi/Transcript	3/22/2019	60.0

Cost Acct-Eglet Law	3-22-19Yahyavi/Transcript		60.00
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EGLET PRINCE/COST ACCOUNT			32
Clark County Treasurer			
	3-22-19Yahyavi/Transcript	3/22/2019	60.00

PAYMENT RECORD

Cost Acct-Eglet Law	3-22-19Yahyavi/Transcript		60.0
		RA0651	

EGLET PRINCE
COST ACCOUNT
400 S. 7TH STREET SUITE 400
LAS VEGAS, NV 89101
702-450-5400

BANK OF NEVADA
94-17711224

33485

5/24/2019

PAY TO THE ORDER OF Clark County Treasurer

\$ **40.00

Forty and 00/100***** DOLLARS

PROTECTED AGAINST FRAUD

Clark County Treasurer
Fiscal Services
Attn: Jennifer Garcia
200 Lewis Ave.
Las Vegas, NV 89155
5/24/19RecordingFee/Yahya

Kathryn D Hardisty

⑈033485⑈ ⑆122401778⑆ 7502280804⑈

EGLET PRINCE

Clark County Treasurer

5/24/19RecordingFee/Yahya

5/24/2019

33485

40.00

Cost Acct-Eglet Law 5/24/19RecordingFee/Yahya

40.00

EGLET PRINCE

Clark County Treasurer

5/24/19RecordingFee/Yahya

5/24/2019

33485

40.00

Cost Acct-Eglet Law 5/24/19RecordingFee/Yahya

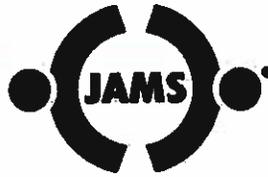
40.00

PAYMENT
RECORD



TRANSCRIBER'S BILLING INFORMATION

CASE #	A718689		
CASE NAME:	Bahram Yahyavi v. Capriati Construction		
HEARING DATE:	Trial Dates: Sept 9 – 27, 2019		
DEPARTMENT #	XXVIII		
COURT RECORDER/ EXTENSION	Judy Chappell 671-0886		
ORDERED BY: FIRM: EMAIL:	Dennis Prince//Paralegal: Lisa Lee Prince Law Group llee@thedplg.com		
PAYABLE TO:	<p>Make check payable to: Clark County Treasurer County Tax ID#: 88-6000028 Include case number on check</p> <p>Mailing Address: Regional Justice Center Fiscal Services Attn: Jennifer Garcia 200 Lewis Ave. Las Vegas, NV 89155</p>		
BILL AMOUNT:		CDs @ \$25 each =	\$
	59	hours @ \$40 an hour recording fee =	\$2,360
		pages @ \$3.80 per page of trans.	\$
	Total (*Fee split between opposing counsel)		\$1,180*
PAYABLE TO OUTSIDE TRANSCRIBER:	Make check payable to:		
BILL AMOUNT:		pages @	\$
		per page of trans	\$
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INVOICE

Invoice Date
01/08/19

Invoice Number
0004675706-100

To: Tracy A. Eglet, Esq.
Eglet Prince
400 South 7th Street
Suite 400
Las Vegas, NV 89101

Reference #: 1100104730 DC
Billing Specialist: Glenn Mason
Email: gmason@jamsadr.com
Telephone: (949) 224-4654
Employer ID: 68-0542699

RE: Yahyavi, Bahram vs. Capriati Construction Corp., Inc.

Representing: Bahram Yahyavi

Neutral(s): Bruce Edwards Esq.

Hearing Type: Mediation

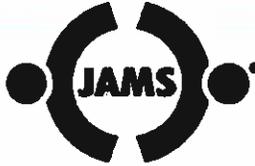
Rep# 1

Date/Time	Description	Hours	Rate/Hr.	Total Billed	Parties Billed	Your Share
01/17/19 9:30:00AM	Bruce Edwards Esq. Session Time	8.00	850.00	6,800.00	2	3,400.00
01/08/19	Initial Non-Refundable Fee					300.00
				Fees		3,700.00
01/17/19	Bruce Edwards Esq. Estimated Travel Expenses - Note: At the conclusion of the case, any unused portion of this retainer fee will be refunded.			800.00	2	400.00
01/17/19	Bruce Edwards Esq. Retainer Fees. To be applied to reading, research, preparation, etc. NOTE: At the conclusion of the case, any unused portion of this retainer will be refunded.			1,700.00	2	850.00
						Expenses/Retainers
						1,250.00
						Total
						\$ 4,950.00
						Outstanding Balance as of 01/08/19
						\$ 4,950.00

Invoice total is based on the fee split agreed upon by all parties. If the case cancels or continues, fees are due per our cancellation and continuance policy. Please make checks payable to JAMS, Inc. Payment is due upon receipt.

Standard mail:
P.O. Box 845402
Los Angeles, CA 90084

Overnight mail:
18891 Von Karman Ave. Suite 350
Irvine, CA 92612



INVOICE

Invoice Date
01/31/19

Invoice Number
0004694908-100

To: **Tracy A. Eglet, Esq.**
Eglet Prince
400 South 7th Street
Suite 400
Las Vegas, NV 89101

Reference #: **1100104730** DC
Billing Specialist: **Glenn Mason**
Email: **gmason@jamsadr.com**
Telephone: **(949) 224-4864**
Employer ID: **68-0642699**

RE: **Yahyavi, Bahram vs. Capriati Construction Corp., Inc.**

Representing: **Bahram Yahyavi**
Hearing Type: **Mediation**

Neutral(s): **Bruce Edwards Esq.**

Rep# 1

Date/Time	Description	Hours	Rate/Hr.	Total Billed	Parties Billed	Your Share
01/17/19	Bruce Edwards Esq.	2.00	850.00	1,700.00	2	850.00
9:30:00AM	Additional Session Time including preparation					
				Fees		850.00
01/17/19	Bruce Edwards Esq. Air Travel			349.99	2	175.00
01/17/19	Bruce Edwards Esq. Ground Transportation			46.50	2	23.25
01/17/19	Bruce Edwards Esq. Hotel			61.33	2	30.67
				Expenses/Retainers		228.92
				Total		\$ 1,078.92
				Outstanding Balance as of 02/01/19		\$ 0.00

Invoice total is based on the fee split agreed upon by all parties. If the case cancels or continues, fees are due per our cancellation and continuance policy. Please make checks payable to JAMS, Inc. Payment is due upon receipt.

Standard mail:
P.O. Box 846402
Los Angeles, CA 90084

Overnight mail:
18881 Von Karman Ave. Suite 360
Irvine, CA 92612

EGLET PRINCE

December 17, 2018
VIA HAND DELIVERY

John Baker, Ph.D., P.E.
John E. Baker, Ph.D., P.E., LLC
7380 S. Eastern Avenue, Suite 124-142
Las Vegas, NV 89123

Re: *Yahyavi v Capriati Construction. (Case No.: A-15-718689-C)*

Dear Dr. Baker:

Enclosed please find payment in the form of check no. 30902 for the amount of \$1,000.00 for your scheduled 2-hour videotaped deposition on December 20, 2018 at 10:00 a.m. at 7380 S. Eastern Avenue, Suite 124-142, Las Vegas, NV 89123.

Thank you for your assistance in this matter.

Sincerely,

EGLET PRINCE



Nicole Littlejohn, Paralegal to
Jack F. DeGree, Esq. and
James A. Trummell, Esq.

Enclosure: as stated

cc: Mark J. Brown, Esq. (via *Odyssey eservice*)
David Kahn, Esq. (via *Odyssey eservice*)

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EGLET PRINCE
COST ACCOUNT
400 S. 7TH STREET SUITE 400
LAS VEGAS, NV 89101
702-400-1900

BANK OF NEVADA
91-177/1224

30902

12/17/2018

PAY TO THE ORDER OF John E. Baker, Ph.D. \$ **1,000.00**

One Thousand and 00/100 DOLLARS

PROTECTED AGAINST FRAUD

John E. Baker, Ph.D.
7380 S. Eastern Ave., Suite 124-142
Las Vegas, NV 89123

Kathryn D. Hardesty

MEMO
181217 YahyaviBakerFee

⑆030902⑆ ⑆122401778⑆ 7502280804⑆

EGLET PRINCE/COST ACCOUNT

30902

John E. Baker, Ph.D.

12/17/2018

181217 YahyaviBakerFee

1,000.00

Cost Acct-Eglet Law 181217 YahyaviBakerFee

1,000.00

EGLET PRINCE/COST ACCOUNT

30902

John E. Baker, Ph.D.

12/17/2018

181217 YahyaviBakerFee

1,000.00

PAYMENT
RECORD

Cost Acct-Eglet Law 181217 YahyaviBakerFee

1,000.00



1 **ATLN**
2 **ROBERT T. EGLET, ESQ.**
3 Nevada Bar No. 3402
4 **TRACY A. EGLET, ESQ.**
5 Nevada Bar No. 6419
6 **ROBERT M. ADAMS, ESQ.**
7 Nevada Bar No. 6551
8 **EGLET ADAMS**
9 400 South 7th Street, 4th Floor
10 Las Vegas, Nevada 89101
11 *Lien Claimant*

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **BAHRAM YAHYAVI, an individual,**
15 **Plaintiff,**

16 **CASE NO.: A-15-718689-C**
17 **DEPT. NO.: XXVIII**

18 **vs.**

19 **NOTICE OF ATTORNEY LIEN**

20 **CAPRIATI CONSTRUCTION CORP., INC., a**
21 **Nevada Corporation,**
22 **Defendants.**

- 23 **TO: BAHRAM YAHYAVI, Plaintiff;**
- 24 **TO: DENNIS M. PRINCE, ESQ., Attorney for Plaintiff;**
- 25 **TO: Defendants above named; and**
- 26 **TO: DAVID KAHN, ESQ., Attorneys for Defendant CAPRIATI CONSTRUCTION CORP,**
- 27 **INC.**

28 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the law firm of
EGLET ADAMS has and hereby asserts a lien upon any money, claim, property, attorney's
demand, settlement, verdict or judgment in favor of the Plaintiffs from the above-named
Defendants, their agents, insurers, attorneys or representatives for costs advanced attached hereto
as "Exhibit 1" in the sum of One Hundred Eight Thousand One Hundred Thirteen and 71/100
Dollars (\$108,113.71), which accrues interest pursuant to the retainer agreements dated April 2,
2018, until paid in full. No part of the foregoing sum has been paid, and the total amount remains

...

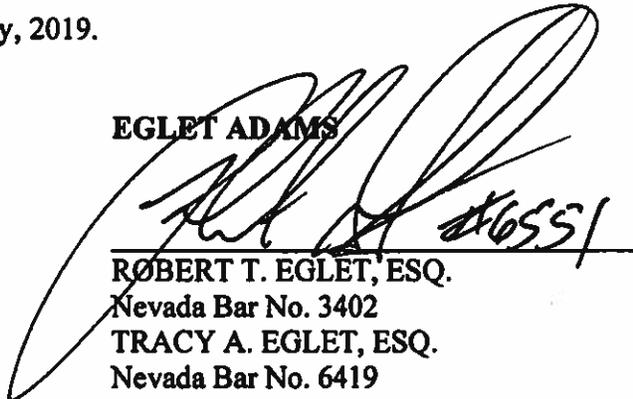
EGLET ADAMS

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due, owing and unpaid, for which amount said lien is claimed.

DATED this 15th day of July, 2019.

EGLET ADAMS



ROBERT T. EGLET, ESQ.
Nevada Bar No. 3402
TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
ROBERT M. ADAMS, ESQ.
Nevada Bar No. 6551
400 South 7th Street, 4th Floor
Las Vegas, Nevada 89101
Lien Claimant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET ADAMS, and that on July 15, 2019, I caused a true and correct copy of the foregoing document entitled **NOTICE OF ATTORNEY LIEN** to be served by depositing a copy of the same in the U.S. Mail, certified return receipt requested and postage prepaid, and upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

Mr. Bahram Yahyavi
112 Quail Run
Henderson, NV 89014
*Plaintiff via US Certified Mail/Return
Receipt Requested
701210100001209687381*

David Kahn, Esq.
WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
300 South Fourth Street, Eleventh Floor
Las Vegas, NV 89101
Attorneys for Capriati Construction Corp.

Dennis M. Prince, Esq.
PRINCE LAW GROUP
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
*Attorney for Plaintiff James Nalder
via eservice and Hand Delivery – Receipt
of Copy*

Malik W. Ahmad, Esq.
LAW OFFICE OF MALIK W. AHMAD,
ESQ.
8072 W. Sahara Avenue, Suite A
Las Vegas, NV 117
Co-Counsel for Plaintiff

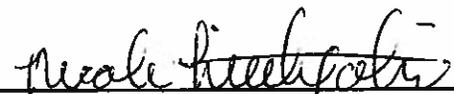

An Employee of EGLET ADAMS

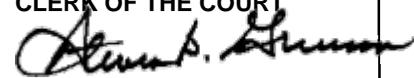
EXHIBIT 1

RA0661

EGLET ADAMS COSTS ADVANCED - YAHYAVI, BAHRAM:

Baker, Ph.D., John E.	\$1,000.00
Certified Vocational Services	\$9,375.00
Clark County Public Works	\$60.00
Clark County Treasurer	\$100.00
Clauretie, Ph.D., Terrence M.	\$2,450.00
Copies	\$360.80
Desert Orthopaedic Center	\$2,500.00
E-Copy, LLC	\$1,455.45
Esquire Deposition Solutions, LLC	\$2,546.20
Exact Lien Resolution	\$500.00
Fax/Phone/Postage	\$250.00
Forensic Dynamics Inc.	\$21,577.59
Interest on Costs	\$4,683.43
JAMS	\$4,950.00
Kaplan, MD, Ltd., Stuart S.	\$12,500.00
KC Investigations, LLC	\$951.00
Las Vegas Metropolitan Police Department	\$63.00
Las Vegas Neurosurgery, Orthopaedics & Rehabilitation	\$400.00
Legal Copy Cats & Printing	\$128.02
Legal Retrieval Services	\$8,311.17
Litigation Services & Technologies	\$1,548.40
Lunkwitz, Kristen	\$562.34
MRO	\$1.86
Oasis Reporting Services, LLC	\$10,837.45
Oliveri, M.D., David J.	\$18,000.00
Record Reform	\$1,960.00
Runs	\$579.00
Social Security Administration	\$148.00
Wiznet, Inc.	\$315.00
TOTAL EGLET ADAMS COSTS ADVANCED:	\$108,113.71

9



1 **RIS**
DENNIS M. PRINCE
2 Nevada Bar No. 5092
KEVIN T. STRONG
3 Nevada Bar No. 12107
PRINCE LAW GROUP
4 8816 Spanish Ridge Ave.
Las Vegas, NV 89148
5 P: (702) 534-7600
F: (702) 534-7601
6 Email: eservice@thedplg.com
Attorneys for Plaintiff
7 *Bahram Yahyavi*

8 **DISTRICT COURT**
9
10 **CLARK COUNTY, NEVADA**

11 **BAHRAM YAHYAVI, an Individual,**
12 **Plaintiff,**

13 vs.

14 **CAPRIATI CONSTRUCTION CORP., INC., a**
Nevada Corporation,
15 **Defendant**

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**PLAINTIFF'S REPLY IN SUPPORT
OF MOTION FOR ATTORNEY'S
FEES, COSTS, AND INTEREST**

Hearing Date: December 5, 2019
Hearing Time: In Chambers

17 Plaintiff BAHRAM YAHYAVI, by and through his attorneys of record, Dennis M. Prince and
18 Kevin T. Strong of PRINCE LAW GROUP, hereby submits his Reply in Support of Plaintiff's Motion
19 for Attorney's Fees, Costs, and Interest.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 Defendant Capriati Construction Corp., Inc. (“Defendant”) argues that Plaintiff Bahram
5 Yahyavi (“Plaintiff”) fails to properly support his requested attorney’s fee award in the amount of
6 \$2,510,779.30. These arguments are based on factual inaccuracies, baseless assumptions, and a
7 complete disregard of Nevada law. Defendant never formally withdrew the baseless affirmative
8 defenses outlined in Plaintiff’s Motion even though Defendant incorrectly insinuates that it did.
9 Defendant also assumes that the fees Plaintiff seeks to recover is for work that was performed before
10 the January 18, 2019 Offer of Judgment was served even though Plaintiff clearly outlines the
11 substantial work performed after that date to justify his requested fee award. Finally, Defendant
12 incessantly argues that the fee award is unreasonable and should be supported by proof of hourly
13 amounts even though Nevada law no longer requires hourly bills to recover a fee award. Plaintiff
14 adequately supports his requested fee award pursuant to the factors outlined in *Beattie v. Thomas*, 99
15 Nev. 579 (1983), *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349-50 (1969) and *O’Connell v.*
16 *Wynn Las Vegas, LLC*, 429 P.3d 664, 670 (Nev. Ct. App. 2018). Defendant simply wishes to hold
17 Plaintiff to a legal standard that is no longer controlling in this jurisdiction.

18 As to Plaintiff’s requested recovery of costs, Defendant overlooks the distinction between
19 NRS 18.020(3), which is not limited by a timeframe for the amount of costs a prevailing party can
20 recover, and NRCP 68(f)(2), which only allows the recovery of costs after an offer of judgment is
21 made. This distinction justifies Plaintiff’s double recovery of costs incurred after the January 18,
22 2019 Offer of Judgment expired. Assuming *arguendo* that Plaintiff is not entitled to double the
23 recovery of costs incurred after the January 18, 2019 Offer of Judgment, he is still entitled to recover
24 all costs incurred in the prosecution of this action pursuant to NRS 18.020(3), which includes all fees
25 incurred to retain experts in this matter.

26 **II.**

27 **LEGAL ARGUMENT**

28 A district court’s award of attorneys’ fees and costs pursuant to NRCP 68 is reviewed for an
abuse of discretion. *Wynn v. Smith*, 117 Nev. 6, 13 (2001). A clear disregard of the governing legal



1 principles to award attorneys' fees may constitute an abuse of discretion. *Allianz Ins. Co. v. Gagnon*,
2 109 Nev. 990, 993 (1993). The purpose of NRCP 68 is to "promote settlement of suits by rewarding
3 [those] who make reasonable offers and penalizing [those] who refuse to accept them. *John J. Muije*,
4 *Ltd. v. North Las Vegas Cab Co.*, 106 Nev. 664, 667 (1990).¹

5 **A. Plaintiff's Requested Attorney's Fee Award is Reasonable Given the Substantial Amount**
6 **of Work Plaintiff's Counsel Performed After the January 18, 2019 Offer of Judgment**

7 Defendant argues that Plaintiff's requested attorney's fee award in the amount of
8 \$2,510,779.30 is excessive. Throughout its Opposition, Defendant continually suggests that Plaintiff
9 seeks to recover fees for worked performed by his other attorneys before the January 18, 2019 Offer
10 of Judgment. Defendant refers to Plaintiff's retention of four (4) different law firms to handle his case
11 as though this is somehow indicative of duplicative work for which Plaintiff now seeks to recover
12 attorney's fees. The number of law firms who represented Plaintiff throughout the entirety of this
13 litigation is inconsequential because Plaintiff does not seek to recover fees from before the January
14 18, 2019 Offer of Judgment. In fact, prior counsel conducted very limited work that consisted of
15 noticing one (1) deposition, defending three (3) depositions that Defendant noticed, propounding
16 written discovery, and disclosing Plaintiff's NRCP 16.1 disclosures and four (4) supplements thereto
17 before Plaintiff's counsel's representation began.² One point of clarification is that Mr. Prince has
18 served as lead counsel for Plaintiff since his former firm, Eglet Prince, filed a notice of appearance on
19 February 21, 2018. As a result, there is no reason to somehow discount Plaintiff's requested attorney's
20 fee award merely because Mr. Prince formed his own law practice in approximately June of 2018.

21 Defendant overlooks that Plaintiff has provided this Court with a thorough description of the
22 work his counsel performed after January 18, 2019. Leading up to the trial, Plaintiff's counsel drafted
23 numerous briefs on a whole host of evidentiary issues. Specifically, Plaintiff's counsel authored
24 fourteen (14) opposition briefs to Defendant's Motions in Limine and fourteen (14) reply briefs in

25 ¹ Although *John J. Muije, Ltd.* refers to former NRS 17.115 throughout the case, the rationale equally applies to NRCP
26 68 given the substantial similarities between former NRS 17.115 and NRCP 68.

27 ² The limited amount of work performed by prior counsel is further supported by Plaintiff's Memorandum of Costs, which
28 states that prior counsel, Malik Ahmad incurred costs of only \$3,586.25. See Memorandum of Costs, at p. 4. David
Sampson, Plaintiff's other prior counsel, incurred no costs. Thus, the limited amount of work performed before Mr.
Prince's involvement in this matter undermines Defendant's request for this Court to review time records from Plaintiff's
prior counsel should they even exist. See Defendant's Opposition, at 15:18-23.

1 support of Plaintiff's Motions in Limine. On March 19, 2019, Plaintiff's counsel attended a hearing
2 on the parties' respective motions in limine that lasted for over two (2) hours. Plaintiff's counsel filed
3 two (2) additional motions in limine and reply briefs in support of those motions and attended a second
4 hearing for those motions on July 30, 2019. Plaintiff's counsel filed a motion to pre-instruct the jury
5 and a reply brief in support of that motion, which was also heard before trial commenced.

6 Aside from the substantial motion practice that took place before trial, Plaintiff's counsel was
7 tasked to prepare for trial by reviewing and evaluating thousands of pages of Plaintiff's medical
8 records. Plaintiff's counsel also had to review voluminous expert reports from the parties' respective
9 experts. The review of these documents was comprehensive because these documents made up the
10 trial exhibits that were used during trial. It was ultimately the responsibility of trial counsel to review
11 each and every trial exhibit to ensure each exhibit was complete, accurate, and complied with the
12 Court's pre-trial orders before providing them to the Court and admitting them into evidence. By
13 carefully and deliberately reviewing the voluminous medical records, Plaintiff's counsel was able to
14 identify important exhibits for direct and cross-examination. The complexities of Plaintiff's medical
15 presentation further justifies the requested fee award particularly because Plaintiff underwent medical
16 treatment from multiple doctors in multiple specialties.

17 Defendant cannot reasonably dispute that Plaintiff's counsel devoted a substantial amount of
18 time and effort during trial. This trial lasted three weeks and required eight (8) witnesses to testify.
19 Aside from preparing to conduct direct examinations and cross-examinations of these witnesses,
20 Plaintiff's counsel drafted four (4) trial briefs and a motion for sanctions. Plaintiff's counsel also had
21 to spend substantial time and effort preparing his opening statement and closing argument. The
22 substantial amount of time worked on this trial was not just confined to the weekdays as Plaintiff's
23 counsel worked during the weekends and after business hours on trial days. Specifically, Plaintiff's
24 counsel had to prepare for trial in the morning, attend trial, and then meet with witnesses and prepare
25 examinations for the following day. None of this work was duplicative of any other work performed
26 by prior counsel, which directly undermines Defendant's baseless argument. All of the evidence
27 outlined above allows this Court to award a 40% contingency fee award in this matter because the
28 evidence establishes the reasonableness of this fee award.

27 ...
28 ...

1 **B. This Court Does Not Need to Consider an Hourly Billing Rate to Award Plaintiff's**
2 **Requested 40% Contingency Fee Award Under Nevada Law**

3 Rather than analyze the reasonableness of the 40% contingency fee rate, Defendant devotes
4 substantial time analyzing hourly rates to support attorneys' fee awards. This argument is flawed
5 because the district court is not limited to awarding attorney's fees on the basis of hourly billing
6 records. *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. ___, 429 P.3d 664, 671 (2018) (“[T]he district
7 court is not confined to authorizing an award of attorney fees exclusively from billing records or
8 hourly statements”). As a result, Defendant fails to appreciate the factors a district court is to consider
9 in lieu of hourly billing records to determine whether the contingency fee award requested is
10 reasonable. *O'Connell*, 429 P.3d at 671. “[D]istrict courts can look at the facts before them, such as
11 what occurred at trial and the record a party produced in litigating a matter,” to determine whether the
12 requested fee amount is reasonable. *O'Connell*, 429 P.3d at 672. This Court presided over a lengthy
13 trial in this case. This Court observed Defendant's counsel deliberately engage in willful misconduct
14 near the conclusion of the presentation of evidence. This Court also observed Plaintiff's counsel's
15 substantial efforts to defeat baseless liability defenses and neutralize the effect of a lone prior medical
16 record that documented Plaintiff's alleged complaint of neck pain for years. These efforts culminated
17 in a jury verdict that exceeded Plaintiff's January 18, 2019 Offer of Judgment by nearly
18 \$2,000,000.00. All of the efforts Plaintiff's counsel made during trial provides the requisite factual
19 basis necessary for this Court to deem the 40% contingency fee award reasonable.

20 Defendant simply wants this Court to award Plaintiff's attorney's fees based on an arbitrary
21 hourly rate that is not reflective of the quality of work performed in this matter. “Ultimately, a party
22 seeking attorney fees based on a contingency fee agreement must provide or point to substantial
23 evidence of counsel's efforts to satisfy the *Beattie* and *Brunzell* factors. *O'Connell*, 429 P.3d at 673.
24 The evidence Plaintiff outlines in his Motion satisfies the *Beattie* and *Brunzell* factors necessary for
25 this Court to award a 40% contingency fee award in this case. This Court no longer needs to consider
26 an accounting of the hours that Plaintiff's counsel spent on this case to order a contingency fee award
27 recovery. *Id.* Plaintiff's Retainer Agreement with counsel specifically outlines how attorneys' fees
28 will be paid:

ATTORNEYS' FEE shall be either Thirty Three and One-Third
Percent (33 1/3%), Forty Percent (40%), or Fifty Percent (50%) of
all amounts recovered. The fee shall be Thirty Three and One-Third

1 Percent (33 1/3%) of all amounts recovered for the Claim by
2 settlement **before** filing “suit” (defined as filing a complaint in any
3 court, or entering into an agreement for arbitration). The fee shall
4 be Forty Percent (40%) of all amounts recovered for the claim by
5 settlement, judgment or award **after** suit, as defined above. The fee
6 shall be Fifty Percent (50%) of all amounts recovered after an
7 appeal is filed (defined by filing notice of appeal of verdict by either
8 the Defendant or the Client). Attorneys’ fee is calculated on the
9 **gross** recovery **before** deducting costs, medical bills, third party
10 loans or liens of any kind.

11 *See* Retainer Agreement, attached as **Exhibit “1.”**³

12 The language in this Retainer Agreement establishes that Plaintiff’s counsel shall receive 40%
13 of any judgment awarded after suit is filed. This language reflects the standard contingency fee rate
14 for personal injury cases in Las Vegas, Nevada. *See* Plaintiff’s Motion, Exhibit “8,” at p. 3, ¶ 11.
15 Defendant’s apparent belief that the 40% contingency fee rate is unreasonable is ostensibly based on
16 the judgment amount, not on the quality or amount of work performed. For example, if the judgment
17 amount was \$1,000,000.00 and exceeded an offer of judgment amount that was rejected, Defendant
18 would certainly argue that Plaintiff’s counsel should be limited to a fee award of \$400,000.00 even if
19 the reasonable value of the work spent on the litigation exceeded that amount. Defendant also knew
20 in advance that Plaintiff’s counsel sought a 40% contingency fee because its insurer is a professional
21 litigant who that uniquely understands the risks associated with defending claims at trial. *See Ripepi*
22 *v. American Ins. Cos.*, 234 F. Supp. 156, 158 (W.D. Pa. 1964) (An insurance company is a professional
23 litigant “which is in the business of litigation . . .”). This is precisely why insurers retain complete
24 control over litigation management and decision making. *Allstate Ins. Co. v. Miller*, 125 Nev. 300,
25 309 (2009). This underscores why Defendant’s arguments are not meritorious and that it simply wants
26 to avoid responsibility for an attorney’s fee award that it could have avoided if it accepted Plaintiff’s
27 reasonable January 18, 2019 Offer of Judgment.

28 **C. Plaintiff’s Oral Offer Made During Trial is Not Relevant to this Court’s Inquiry Pursuant to NRCP 68**

Defendant accurately states to this Court that Plaintiff made a demand for \$10,000,000.00 during trial. However, this offer is inconsequential in relation to a party’s recovery of attorney’s fees under NRCP 68 because the purpose of NRCP 68 is to “encourage settlement of lawsuits *before* trial.”

³ Plaintiff redacts all other portions of the Retainer Agreement as they are irrelevant to the contested matter before this Court.

1 *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 995 (1993). Defendant's reliance on *Parodi v. Budetti*, 115
2 Nev. 236, 242 n.2 (1999) is not persuasive as the Nevada Supreme Court's determination that oral
3 settlement offers may be considered by the district court was limited to an award of fees pursuant to
4 NRS 18.010. Once again, had Defendant accepted Plaintiff's reasonable January 18, 2019 Offer of
5 Judgment for \$4,000,000.00, a trial would not have commenced, and a \$10,000,000.00 offer would
6 not have even been made.

7 **D. The *Beattie* and *Brunzell* Factors Support a 40% Contingency Fee Award in this Case**

8 Defendant confusingly argues that Plaintiff fails to properly analyze the factors outlined in
9 *Beattie* and *Brunzell* to justify his requested attorneys' fee amount. Once again, this argument is based
10 on the legal fallacy that Plaintiff did not provide an hourly rate or estimate of the number of hours
11 worked since Defendant's rejection of the January 18, 2019 Offer of Judgment. It bears repeating
12 that a trial court "*can award attorney fees to the prevailing party who was represented under a*
13 *contingency fee agreement, even if there are not hourly billing records to support the request.*"
14 *O'Connell*, 429 P.3d at 671 (emphasis added). Defendant conveniently ignores this language in
15 *O'Connell*, which nullifies its arguments against awarding Plaintiff's reasonable attorneys' fees.
16 However, Defendant also makes arguments regarding certain *Beattie* and *Brunzell* factors that are
17 factually inaccurate and therefore, invalid. Plaintiff addresses those arguments below.⁴

18 ***1. Defendant's affirmative defenses were not brought in good faith – Beattie factor***

19 Defendant incorrectly characterizes Plaintiff's argument that Defendant was forbidden from
20 presenting any defenses to Plaintiff's claims. This is not the basis of Plaintiff's argument. Plaintiff
21 contends that Defendant maintained specific affirmative defenses that were not supported by the
22 evidence in this case to justify his requested attorneys' fee award.

23 **SECOND AFFIRMATIVE DEFENSE**

24 The liability, if any, of this answering Defendant must be reduced
25 by the percentage of fault of others, including Plaintiff herein.

26 **SIXTH AFFIRMATIVE DEFENSE**

27 This answering Defendant alleges that the occurrence referred to in
28 the Complaint, and all injuries and damages, if any, resulting
therefrom, were caused by the acts or omissions of a third party over

⁴ As to the *Brunzell* factors concerning the character of the work to be done and the work actually performed by the lawyer, Plaintiff adequately addresses those points on pages 3-4 of this Reply.

1 whom this answering Defendant had no control, nor the right, duty
2 or obligation to control.

3 *See* Plaintiff's Motion, Exhibit "5," at p. 2

4 Defendant did not withdraw these affirmative defenses prior to the trial as it seemingly
5 suggests in its Opposition. *See* Defendant's Opposition, at 2:13-14. Rather, Defendant withdrew
6 three affirmative defenses that have absolutely nothing to do with the issue of liability:

7 NINTH AFFIRMATIVE DEFENSE

8 This matter is subject to Nevada's mandatory Arbitration Program.

9 ELEVENTH AFFIRMATIVE DEFENSE

10 Plaintiff has failed to properly and timely effectuate service and this
11 Complaint therefore must be dismissed.

12 TWELFTH AFFIRMATIVE DEFENSE

13 Plaintiff's actions against this answering Defendant are moot
14 because Plaintiff's actions are barred by the applicable Statute of
15 Limitations.

16 *See* Plaintiff's Motion, Exhibit "5," at p. 3.

17 Defendant offers no argument to support that it had a legitimate factual basis to assert the
18 affirmative defense that a third-party caused the subject collision. Instead, Defendant relies on the
19 testimony from its forklift operator, Joshua Arbuckle, that he observed Plaintiff driving without a
20 signal. Once again, Defendant fails to recall that Mr. Arbuckle acknowledged that his vision was
21 obstructed and that he was unable to actually see if Plaintiff's signal was activated before he drove
22 the forklift into Plaintiff's vehicle:

23 Q. Yeah. My point is, is that before that, after you see him 3, 400
24 plus feet up, then you start to move forward. Then it starts to
25 become an obstruction, right?

26 A. Correct.

27 Q. And then as you're moving forward, it remains an obstruction,
28 correct?

Q. Correct.

Q. So you're not saying that Mr. Yahyavi didn't turn a turn signal
on before he turned, you're just saying, I don't know. I didn't see it
when he was 400 feet away and then I had an obstruction. So I never
saw if he turned it on or not, right? That's really what the situation
is, isn't it?



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A. I'm saying I never saw one on. Yes, sir.

Q. Doesn't mean he never turned it on, correct?

A. Correct.

Q. Right. And you're not blaming him in any way for causing this, are you?

A. No, not at all.

See Day 6 Trial Testimony excerpt, at 183:4-21, attached as **Exhibit "2."**

Even if this Court did not strike Defendant's Answer as to liability for its counsel's willful misconduct, a jury would not have found Plaintiff comparatively at fault because both Joshua Arbuckle and Defendant's corporate representative, Clifford Goodrich, admitted fault. See Plaintiff's Motion, Exhibit "3," at 43:23 – 44:4; Exhibit "4," at 169:20-25. Dr. Baker's testimony would not have made a difference as his expected testimony only related to the speeds at which the impact occurred, not who caused the subject collision, because he is an accident reconstructionist. Mr. Kirkendall's testimony would have related to the extent of damages Plaintiff suffered as a result of the subject collision, not who caused the subject collision, because he is an economist. Defendant simply fails to realize that it presented liability defenses to Plaintiff's claims that were not viable given the testimony from Arbuckle and Goodrich. However, Plaintiff's arguments in no way seek to punish Defendant for pursuing its various defenses as to causation and damages. Plaintiff's arguments do not unfairly seek to deprive Defendant of its due process rights as its causation and damages defenses were viable and presented to the jury until Defendant's counsel was properly sanctioned by this Court for engaging in willful misconduct. Defendant was deprived of its ability to present expert testimony as to causation and damages *solely* because of its counsel's deliberate actions. This in no way undermines the point that Defendant's liability defenses were brought in bad faith and support Plaintiff's requested award of attorney's fees pursuant to *Beattie*, 99 Nev. at 588.

2. The result – Brunzell factor

Defendant fails to reasonably dispute the successful outcome Plaintiff achieved. Although Plaintiff did not receive the damages amount that he requested the jury to award, this is not the standard by which this Court should assess the outcome of trial. Rather, the standard upon which this Court should determine the success of the outcome for Plaintiff is the January 18, 2019 Offer of Judgment. Plaintiff beat the January 18, 2019 Offer of Judgment amount by nearly \$2,000,000.00.

1 By all accounts, the outcome of trial for Plaintiff was successful and a direct result of the substantial
2 time, effort, and skill of Plaintiff's trial counsel. Defendant's reference to Plaintiff's alleged prior
3 neck pain complaints does not undermine the successful outcome Plaintiff obtained because such
4 evidence was inconsequential. Defendant never possessed any additional prior medical records that
5 documented ongoing treatment for Plaintiff's alleged prior neck pain. Plaintiff's counsel was able to
6 exploit this weakness by specifically comparing the extensive treatment to Plaintiff's neck following
7 the subject collision in comparison to the lone record outlining a complaint of neck pain before the
8 subject collision. The jury clearly agreed that the lone prior medical record was inconsequential,
9 which is precisely why it rendered a verdict of nearly \$6,000,000.00. Therefore, this factor weighs in
10 favor of awarding Plaintiff a 40% contingency fee award of \$2,510,779.30.

11 **E. The Risk Associated with Taking a Contingency Fee Case are Relevant to this Court's
12 Inquiry Regarding the Reasonableness of Plaintiff's Requested Attorneys' Fee Award**

13 A trial court's decision to award attorney's fees based on a contingency fee agreement, in the
14 absence of hourly billing records, is governed by a variety of factors, including "the amount of money
15 at stake." *O'Connell*, 429 P.3d at 672 (citing *Hsu v. County of Clark*, 123 Nev. 625, 637 (2007)).
16 Subsumed within this factor is the risk of accepting a contingency fee case because, under a
17 contingency fee agreement, the attorney bears the risk that he will not be able to recover attorney's
18 fees, litigation expenses, and costs incurred in prosecuting the action. *See O'Keefe v. Mercedes-Benz
19 United States, LLC*, 214 F.R.D. 266, 309 (E.D. Pa. 2003) ("Any contingency fee includes a risk of
20 non-payment"); *see also, Zubia v. Shamrock Foods Co.*, No. CV 16-03128-AB (AGRx), 2017 U.S.
21 Dist. LEXIS 223446, at *48, 2017 WL 10541431 (C.D. Cal. Dec. 21, 2017) (Litigating a case on a
22 contingency fee requires incurring attorneys' fees and paying litigation expenses and costs with no
23 guarantee of recovery).

24 The amount of money at stake for Plaintiff's counsel in this case was substantial, particularly
25 in light of the risk. At the time Mr. Prince began to represent Plaintiff, Defendant's bankruptcy was
26 ongoing, which meant that Plaintiff's potential recovery was limited to Defendant's insurance policy
27 limits. At that time, however, Defendant had yet to inform Plaintiff that it carried excess liability
28 insurance of \$10,000,000.00 at the time of the subject collision in violation of its obligation to produce
such information pursuant to the former NRCP 16.1(a). In fact, Defendant never informed Plaintiff
that it carried excess coverage until April 23, 2018, over two (2) months after Mr. Prince began to

1 represent Plaintiff. *See* Defendant’s Seventh Supplement to Early Case Conference Production of
2 Documents and Witnesses, pleading portion only, at p. 3, attached as **Exhibit “3.”** Mr. Prince
3 incurred nearly \$200,000.00 in costs to retain expert witnesses and proceed to trial. *See* Plaintiff’s
4 Memorandum of Costs. Had Plaintiff lost at trial or received a jury award below his past medical
5 expenses of \$491,023.24, Mr. Prince would not have recovered a fee, nor the costs incurred in
6 prosecuting this action. As such, this factor weighs in favor of awarding Plaintiff his full 40%
7 contingency fee.

8 **F. NRCP 68, When Read Together with NRS 18.020(3), Allows Plaintiff to Double the**
9 **Recovery of the Costs Incurred After the January 18, 2019 Offer of Judgment**

10 As an initial matter, Defendant provides the same arguments regarding specific expert witness
11 fees included in his Motion to Re-tax Costs. For purposes of efficiency, Plaintiff hereby incorporates
12 the arguments set forth in his Opposition to Defendant’s Motion to Re-tax Costs as though fully set
13 forth herein.

14 Defendant’s secondary argument is that Plaintiff is not entitled to double payment of costs
15 under any Nevada statute or rule. Defendant incorrectly asserts that Plaintiff fails to cite to any statute
16 or rule to support his argument. In his Motion, Plaintiff specifically refers to the language of both
17 NRS 18.020(3) and former NRCP 68(f)(2) to argue that a Defendant is required to pay any costs
18 incurred after the expiration of an offer of judgment twice. Defendant ignores this argument and
19 simply contends that because NRCP 68(f)(2) does not specifically state that Plaintiff is entitled to a
20 double recovery of costs incurred after an offer of judgment expires, Plaintiff’s argument fails. As a
21 practical matter, Defendant’s contention is not persuasive because Defendant ignores that Plaintiff
22 possesses two distinct avenues to collect costs incurred in an action as the prevailing party. For
23 example, NRS 18.020(3) does not limit a prevailing party’s ability to recover any costs incurred to
24 NRCP 68 when an offer of judgment is made and beaten at trial. Similarly, the current and former
25 versions of NRCP 68 do not state that a prevailing party is not entitled to recover the total amount of
26 costs incurred in an action under NRS 18.020(3) merely because an offer of judgment was made.
27 Although Defendant cites to cases that prohibit double recovery, those cases are limited to a double
28 recovery for damages or injuries sustained by a plaintiff, not costs incurred in prosecuting an action.
Litigation costs are not part of the damages Plaintiff incurred for the personal injuries suffered as a
result of Defendant’s negligence. Therefore, Plaintiff is entitled to a double recovery of the costs



1 incurred after the January 18, 2019 Offer of Judgment expired. Alternatively, NRS 18.020(3) allows
2 Plaintiff to recovery *all* costs incurred in the prosecution of this action.

3 **III.**

4 **CONCLUSION**

5 Based on the foregoing facts, law, and analysis, Plaintiff respectfully requests that this Court
6 **GRANT** his Motion for Attorney’s Fees, Costs, and Interest as follows:

- 7 1. Plaintiff’s attorney’s fees in the amount of **\$2,510,779.30** (40% contingency fee on the
8 Judgment amount of \$6,276,948.24);
9 2. Taxable penalty costs, separate and apart from the costs accounted for in Plaintiff’s
10 Memorandum of Costs, incurred from January 18, 2019 to October 18, 2019 in the amount of
11 **\$105,716.82**; and
12 3. Applicable penalty interest in the amount of **\$312,968.45**.

13 DATED this 26th day of November, 2019.

14 Respectfully Submitted,

15 **PRINCE LAW GROUP**

16 

17 DENNIS M. PRINCE
18 Nevada Bar No. 5092
19 KEVIN T. STRONG
20 Nevada Bar No. 12107
21 8816 Spanish Ridge Avenue
22 Las Vegas, Nevada 89148
23 Attorneys for Plaintiff
24 *Bahram Yahyavi*



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of **PRINCE LAW GROUP**, and that on the ____ day of November, 2019, I caused the foregoing document entitled **PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

David S, Kahn, Esq.
Mark Severino, Esq.
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
300 S. Fourth Street, 11th Floor
Las Vegas, Nevada 89101

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
750 E. Warm Springs Road, Suite 320, Box 19
Attorneys for Defendant
Capriati Construction Corp., Inc.

An Employee of PRINCE LAW GROUP

EXHIBIT 1

RETAINER AGREEMENT (CONTINGENCY FEE)

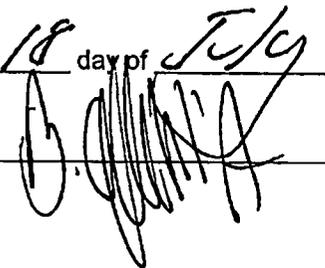
I/We ("Client") hereby retain Prince Law Group ("the Firm") to prosecute a claim on behalf of Bahraini Yahyavi against _____ and any person/entity or insurance company who may be liable for damages as a result of an incident occurring on 6/19/2013 at _____ ("the Claim"), and agree as follows:

ATTORNEYS' FEE shall be either Thirty Three and One-Third Percent (**33 1/3%**), Forty Percent (**40%**), or Fifty Percent (**50%**) of all amounts recovered. The fee shall be Thirty Three and One-Third Percent (**33 1/3%**) of all amounts recovered for the Claim by settlement **before** filing "suit" (defined as filing a complaint in any court, or entering into an agreement for arbitration). The fee shall be Forty Percent (**40%**) of all amounts recovered for the Claim by settlement, judgment or award **after** suit, as defined above. The fee shall be Fifty Percent (**50%**) of all amounts recovered after an appeal is filed (defined by filing notice of appeal of verdict by either the Defendant or the Client). Attorneys' fee is calculated on the **gross** recovery **before** deducting costs, medical bills, third party loans or liens of any kind.

8-2



PRINCE LAW GROUP

Dated this 18 day of July, 2019.


CLIENT

EXHIBIT 2

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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

BAHRAM YAHYAVI,
Plaintiff,

vs.

CAPRIATI CONSTRUCTION CORP
INC.
Defendant.

CASE#: A-15-718689-C
DEPT. XXVIII

BEFORE THE HONORABLE RONALD J. ISRAEL
DISTRICT COURT JUDGE
MONDAY, SEPTEMBER 16, 2019

RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 6

APPEARANCES:

For the Plaintiff:

DENNIS M. PRINCE, ESQ.
KEVIN T. STRONG, ESQ.

For the Defendant:

MARK JAMES BROWN, ESQ.
DAVID S. KAHN, ESQ.

RECORDED BY: JUDY CHAPPELL, COURT RECORDER

1 car if it has a turn signal on or not, right? Because you're obstructed.

2 A Once you're at the obstruction. But I started way before the
3 obstruction, my view.

4 Q Yeah. My point is, is that before that, after you see him 3,
5 400 plus feet up, then you start to move forward. Then it starts to
6 become an obstruction, right?

7 A Correct.

8 Q And then as you're moving forward, it remains an
9 obstruction, correct?

10 A Correct.

11 Q So you're not saying that Mr. Yahyavi didn't turn a turn
12 signal on before he turned, you're just saying, I don't know. I didn't see
13 it when he was 400 feet away and then I had an obstruction. So I never
14 saw if he turned it on or not, right? That's really what the situation is,
15 isn't it?

16 A I'm saying I never saw one on. Yes, sir.

17 Q Doesn't mean he never turned it on, correct?

18 A Correct.

19 Q Right. And you're not here blaming him in any way for
20 causing this, are you?

21 A No, not at all.

22 Q He's not at fault, is he?

23 A I believe an accident, there's always two at fault.

24 Q Are you blaming it on him, part on him?

25 A I'm not blaming it on him.

1 We're in recess.

2 THE MARSHAL: Please leave your notebooks and pens. Rise
3 for the jury.

4 [Jury out at 5:27 p.m.]

5 [Outside the presence of the jury.]

6 THE COURT: All right. Anything?

7 MR. KAHN: Not on my part.

8 THE COURT: Okay.

9 MR. PRINCE: No.

10 MR. KAHN: 10:15, Your Honor.

11 THE COURT: Yup.

12 [Proceedings concluded at 5:28 p.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
best of my ability.

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25



Maukele Transcribers, LLC
Jessica B. Cahill, Transcriber, CER/CET-708

EXHIBIT 3

1 **SUPP**
Law Offices of ERIC R. LARSEN
2 Mark J. Brown, Esq.
Nevada Bar No.: 003687
3 750 E. Warm Springs Road
Suite 320, Box 19
4 Las Vegas, Nevada 89119
Telephone: (702) 387-8070
5 Facsimile: (877) 369-5819
Mark.Brown@thehartford.com
6 Attorney for Defendant
CAPRIATI CONSTRUCTION CORP., INC.

7
8 **DISTRICT COURT**
CLARK COUNTY, NEVADA

9 BAHRAM YAHYAVI, an individual
10
11 Plaintiffs,

Case No.: A-15-718689-C
Dept. No.: XXVIII

12 —vs—

13 CAPRIATI CONSTRUCTION CORP., INC., a
Nevada Corporation

**DEFENDANT'S SEVENTH
SUPPLEMENT TO EARLY CASE
CONFERENCE PRODUCTION OF
DOCUMENTS AND WITNESS LIST**

14 Defendants.

15 COMES NOW the Defendant, CAPRIATI CONSTRUCTION CORP., INC. by and
16 through its counsel of record, Mark J. Brown, Esq. of Law Offices of ERIC R. LARSEN, and
17 hereby supplements the following documents and witness list pursuant to Rule 16.1 of the
18 Nevada Rules of Civil Procedure (**supplements are bolded**):

19 **DOCUMENTS**

- 20 1. Defendant's Answer to Plaintiff's Complaint;
- 21 2. Authorizations to be executed by Plaintiff;
- 22 3. Copy of insurance policy pursuant to NRCP 16.1 (a)(1)(D);
- 23 4. Claim file of Chynoweth, Hill & Leavitt, LLC;
- 24 5. Medical and billing records and affidavit of no films of Clinical Neurology
25 Specialists;
- 26 6. Medical and billing records of Desert Orthopedic Center;
- 27 7. Medical and billing records of Dipti Shah, MD;
- 28 8. Medical and billing records of Downtown Neck & Back Clinic;

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Las Vegas, NV 89119
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Facsimile: (877) 369-5819

- 1 9. Medical and billing records of Joseph Schifini, MD
- 2 10. Medical and billing records and affidavit of no films of Kelly Hawkins Physical
- 3 Therapy;
- 4 11. Medical and billing records and affidavit of no Films of Kinex Medical
- 5 Company;
- 6 12. Medical and billing records and affidavit of no films of Matt Smith Physical
- 7 Therapy;
- 8 13. Medical records and affidavit of no films of Nevada Spine Clinic;
- 9 14. Medical and billing records of PBS Anesthesia;
- 10 15. Medical records of Smoke Ranch Surgery Center;
- 11 16. Billing records of University Medical Center;
- 12 17. Claims file of Associated Risk Management;
- 13 18. Medical and billing records and affidavit of no films of Center for Occupational
- 14 Health & Wellness;
- 15 19. Billing records of CVS Pharmacy;
- 16 20. Medical and billing records and affidavit of no films of David Oliveri, MD;
- 17 21. Medical and billing records of Desert Radiologists;
- 18 22. Medical records and affidavit of no films of Heart Center of Nevada;
- 19 23. Billing records of Nevada Spine Clinic;
- 20 24. Films of University Medical Center;
- 21 25. Billing records of Zotec Partners;
- 22 26. Police report;
- 23 27. Forty-three (43) color and black & white photographs of the accident scene;
- 24 28. Films of Desert Radiologists;
- 25 29. Affidavit of no records of Healthcare Partners;
- 26 30. Medical and billing records and affidavit of no films of Matt Smith Physical
- 27 Therapy;
- 28 31. Medical and billing records of National Pharmaceutical Services;

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Las Vegas, NV 89119
Telephone: (702) 387-8070
Facsimile: (877) 369-5819

- 1 32. Affidavit of no records of Medschool-South Department of Surgery;
2 33. Medical and billing records and affidavit of no films of Shadow Emergency
3 Physicians;
4 34. Medical records of University Medical Center;
5 35. Affidavit of no records of Medschool Associates;
6 36. Medical and billing records and films of Steinberg Diagnostic Medical Imaging;
7 and
8 37. **Excess insurance policy.**

9 Defendant reserves the right to supplement this production of documents as information
10 becomes known during the course of discovery.

11 Defendant reserves the right to object to the authenticity of any document produced
12 herein.

13 **WITNESSES**

14 The following individuals are those persons currently known to Defendant as having
15 knowledge of relevant facts in this matter.

16 1. Plaintiff, BAHRAM YAHYAVI, c/o Mailk W Ahmad, Esq., LAW OFFICE OF
17 MALIK W. AHMAD, 8072 W. Sahara Ave., Ste A, Las Vegas, NV 89117. Plaintiff is
18 expected to testify as to the facts and circumstances surrounding the accident in question, as
19 well as the alleged injuries and medical treatment alleged in the Complaint.

20 2. Defendant, CAPRIATI CONSTRUCTION CORP., INC., c/o Mark J. Brown,
21 Esq., Law Offices of ERIC R. LARSEN, 750 E. Warm Springs Road, Suite 320, Las Vegas,
22 NV 89119. Defendant is expected to testify regarding the allegations of the Complaint.

23 3. Howard Tung, MD, 4510 Executive Dr., Ste. 125, San Diego, MD. Dr. Tung is
24 expected to testify regarding his opinion regarding the appropriateness of Plaintiff's treatment,
25 his findings obtained in both a review of Plaintiff's medical records, and an Independent
26 Medical Examination of Plaintiff, as well as the reasonable and necessary nature of Plaintiff's
27 treatment as it relates to the subject accident and causation for the same.

28 ///

Law Offices of
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Suite 320, Box 19
Las Vegas, NV 89119
Telephone: (702) 387-8070
Facsimile: (877) 369-5819

1 4. John E. Herr, 4425 S. Pecos Rd., Ste. 1, Las Vegas, NV 89121. Dr. Herr is
2 expected to testify regarding his opinion regarding the appropriateness of Plaintiff's treatment,
3 his findings obtained in both a review of Plaintiff's medical records, as well as the reasonable
4 and necessary nature of Plaintiff's treatment as it relates to the subject accident and causation
5 for the same.

6 5. Arbuckle Joshua Adom, address unknown Witness is expected to testify
7 regarding circumstances surrounding the accident.

8 6. Kevin MacKey, c/o Mailk W Ahmad, Esq., LAW OFFICE OF MALIK W.
9 AHMAD, 8072 W. Sahara Ave., Ste A, Las Vegas, NV 89117. The Witness is expected to
10 testify about facts and circumstances surrounding this litigation.

11 7. Ramy Khoury, c/o Mailk W Ahmad, Esq., LAW OFFICE OF MALIK W.
12 AHMAD, 8072 W. Sahara Ave., Ste A, Las Vegas, NV 89117. The Witness is expected to
13 testify about facts and circumstances surrounding this litigation.

14 8. AGHA RAZA c/o LAW OFFICE OF MALIK W. AHMAD and THE LAW
15 OFFICE OF DAVID SAMPSON, LLC, 630 5. 3 Street, Las Vegas, NV 89101, is expected to
16 testify as to facts and circumstances surrounding this litigation.

17 9. SALEEM ZAIDI c/o LAW OFFICE OF MALIK W. AHMAD and THE LAW
18 OFFICE OF DAVID SAMPSON, LLC, 630 5. 3 Street, Las Vegas, NV 89101, is expected to
19 testify as to facts and circumstances surrounding this litigation.

20 10. ANA HERNANDEZ c/o Jeffrey Gronich, Attorney at Law, P.C. 1810 E Sahara
21 Ave., Suite 109, Las Vegas, NV 89104 is expected to testify as to facts and circumstances
22 surrounding this litigation.

23 11. Joseph P. Schifini, MD, 600 south Tonopah Drive, Suite 240, Las Vegas, NV
24 89106, is expected to testify as a treating physician

25 12. Archie Perry, MD, 2800 E Desert Inn Rd Ste. 10, Las Vegas Nevada 89121, is
26 expected to testify as a treating physician.

27 13. Michael Miao, MD, 2930 W. Horizon Ridge Ste. 100, Henderson, NV 89052, is
28 expected to testify as a treating physician..

1 14. LEO GERM1N, M.D., FAANEM, at CLINICAL NEUROLOGY
2 SPECIALISTS, Henderson 1691 Horizon Ridge parkway, Suite 100, Henderson, NV 89012 is
3 expected to testify as a treating physician. PMK and/or COR at CLINICAL NEUROLOGY
4 SPECIALISTS, Henderson 1691 Horizon Ridge parkway, Suite 100, Henderson, NV 89012.

5 15. Gregory L. Goetz, DO, 536 Summer Mesa Drive, Las Vegas, NV 89144 is
6 expected to testify as a treating physician.

7 16. Cliff Goodrich, Safety Manager Capriatti Construction, 1020 Wigwam
8 Parkway, Henderson, NV 89074 is expected to testify regarding safety circumstances and
9 issues surrounding the accident.

10 17. Doug Ellis PT, MATT SMITH/ATI Physical Therapy, 3233 W. Charleston
11 Blvd. Ste. 107, Las Vegas, Nevada 89102 is expected to testify at physical therapist who
12 treated plaintiff.

13 18. JARED MORASCO, PT at MATT SMITH, PHYSICAL THERAPY 9499 West
14 Charleston Boulevard, Suite 220, Las Vegas NV 89117 is expected to testify as a treating
15 physician.

16 19. Christopher Fisher MD, Nevada Spine Clinic, 8930 w. Sunset Rd Ste. 350, Las
17 Vegas, Nevada 89148 is expected to testify as a treating physician.

18 20. David Oliveri MD, 851 5. Rampart Blvd, Ste. 115, Las Vegas, Nevada 89145, is
19 expected to testify as a treating physician.

20 21. Michael Miao MD, Desert Orthopaedic Center, 2930 W. Horizon Ridge
21 Parkway, Suite 100, Henderson, NV 89052, is expected to testify as a treating physician.

22 22. JASWINDER GROVER, M.D. at NEVADA SPINE CLINIC, 7140 Smoke
23 Ranch Road, Suite 150, Las Vegas, Nevada 89128, is expected to testify as a treating
24 physician.

25 23. JOSHUA PARKER, M.D. at UNIVERSITY MEDICAL CENTER 1800 W.
26 Charleston Blvd., Las Vegas, Nevada 89102 is expected to testify as a treating physician.

27 24. PETER SU, M.D. at SOUTHERN NEVADA PAIN CENTER, 6950 W. Desert
28 Inn Rd., Suite 110, Las Vegas, NV 89117, is expected to testify as a treating physician.

1 25. All of Plaintiff's medical providers.

2 26. Yet to be identified physician to review Plaintiff's medical records and/or
3 conduct appropriate Independent Medical Examination of Plaintiff, to be identified pursuant to
4 N.R.C.P. 16.1(a)(2).

5 27. Yet to be identified accident reconstructionist and/or human factor expert to
6 conduct investigation and/or analysis of incident sued upon, to be identified pursuant to
7 N.R.C.P. 16.1(a)(2).

8 28. Any and all persons identified in other parties' Early Case Conference
9 statements.

10 29. All persons identified in any report produced by Defendant may be called as
11 witnesses.

12 30. All persons identified in Early Case Conference Production and/or discovery
13 answers, by any party, may be called as witnesses.

14 31. Any or all Custodian of Records for any facility of records produced during
15 discovery.

16 32. The following witness(es) testimony is expected to be presented by deposition
17 transcript, pursuant to N.R.C.P. 16.1(a)(3)(B): None as of this date.

18 Defendant reserves the right to supplement this list as discovery and investigation
19 continues.

20 **DISCOVERY REQUESTED**

21 In accordance with Nevada Rules of Civil Procedure, Defendant requests permission to
22 (1) propound written discovery to each adverse party in the form of interrogatories, requests to
23 produce, and requests for admission; (2) conduct a deposition of each adverse party; (3) reserve
24 the right to take a deposition of each witness having knowledge regarding the subject incident
25 and/or damages and a deposition of any and all experts; (4) have Plaintiff submit to an
26 independent medical examination if residual injuries are claimed. Discovery shall involve the
27 nature and extent of Plaintiff's past and future medical issues and income issues.

28 ///

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1 Defendant would further request that, at the time of the Early Case Conference,
2 Plaintiff state whether residual injuries are being claimed, and state whether lost wages are
3 being claimed and, if so, the amount in controversy.

4 Defendant would further request that Plaintiff produce executed consents for medical
5 and employment records within seven (7) calendar days of the Early Case Conference and that
6 Plaintiff execute a consent if there is a wage loss claim, and produce a consent for worker
7 compensation records if applicable, also within seven (7) days of the Early Case Conference.

8 DATED this 23 day of April, 2018.

9 Law Offices of ERIC R. LARSEN

10
11 /s/ Mark J. Brown
12 Mark J. Brown, Esq.
13 Nevada Bar No.: 003687
14 750 E. Warm Springs Road, Suite 320
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17 Attorney for Defendant
18 CAPRIATI CONSTRUCTION CORP., INC.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Law Offices of ERIC R. LARSEN and that
3 service of a true and correct copy of the above and foregoing was submitted on the 23 day of
4 April, 2018, to the following addressed parties by:

- 5 First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
- 6 Facsimile, pursuant to EDCR 7.26 (as amended)
- 7 Electronic Mail / Electronic Transmission
- 8 Hand Delivered to the addressee(s) indicated
- 9 Receipt of Copy of the foregoing on this _____ day of _____, 2018,
acknowledged by, _____.

9 Mailk W Ahmad, Esq.
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13 Telephone: (702) 270-9100
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16 BAHRAM YAHYAVI

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BAHRAM YAHYAVI

17 _____
18 */s/ Joshua A. Montoya*
19 An employee of Law Offices of
20 ERIC R. LARSEN

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