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Attorney for plaintiff

Electronically Filed  
Jan 10 2020 02:03 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GREGORY O. GARMONG,

Plaintiff,

vs.

**CASE NO. : CV12-01271**

WESPAC; GREG CHRISTIAN;  
DOES 1-10, inclusive,

**DEPT. NO. : 6**

Defendants.

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**NOTICE OF APPEAL**

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NOTICE IS GIVEN that plaintiff Gregory O. Garmong appeals to the Supreme Court of Nevada from the following orders entered in the District Court in the above-captioned case:

1. Order denying plaintiff's motion to disqualify arbitrator Pro and to vacate the arbitrator's denial of the plaintiff's motion for summary judgment and to appoint a new arbitrator, entered on November 29, 2018;

2. Order re Motions, entered on August 8, 2019 which:

a. Granted the defendants' petition for an order confirming arbitrator's final award and reduce award to judgment, including attorney's fees and costs;

b. Denied the plaintiff's motion to vacate arbitrator's final award;

c. Denied the plaintiff's motion to vacate arbitrator's award of attorney's fees;

d. Denied the plaintiff's motions to vacate arbitrator's award of denial of plaintiff's motion for partial summary judgment and for the court to decide and grant

1 plaintiff's motion for partial summary judgment.

2 3. Order denying plaintiff's motion to alter or amend judgment, entered on  
3 December 6, 2019.

4 DATED this 7<sup>th</sup> day of January, 2019.

5 **THE UNDERSIGNED DOES HEREBY AFFIRM THAT THIS DOCUMENT DOES NOT**  
6 **CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON.**

7  
8 /S/ Carl M. Hebert  
9 CARL M. HEBERT, ESQ.

10 Counsel for plaintiff/appellant  
Gregory O. Garmon

CARL M. HEBERT, ESQ.  
Nevada Bar #250  
202 California Avenue  
Reno, NV 89509  
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Attorney for plaintiff

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

GREGORY O. GARMONG,  
Plaintiff,

vs.

**CASE NO. : CV12-01271**

WESPAC; GREG CHRISTIAN;  
DOES 1-10, inclusive,

**DEPT. NO. : 6**

Defendants.

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**CASE APPEAL STATEMENT**

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**1. Name of appellant filing this case appeal statement:** Gregory O. Garmong.

**2. Identify the judge issuing the decision, judgment, or order appealed from:**

Honorable Lynne K. Simons.

**3. Identify each appellant and the name and address of counsel for each**

**appellant:** Carl M. Hebert, Esq., 202 California Ave., Reno, NV 89509, 775-323-5556,  
representing appellant Gregory O. Garmong.

**4. Identify each respondent and the name and address of appellate counsel,**

**if known, for each respondent:** Thomas C. Bradley, Esq., 435 Marsh Ave., Reno, NV  
89509, 775-323-5178, for respondents WESPAC and Greg Christian.

**5. Indicate whether any attorney identified above in response to questions**

**3 or 4 is not licensed to practice law in Nevada:** None.

**6. Indicate whether appellant was represented by appointed or retained**

**counsel in the district court:** Retained counsel.

1        **7. Indicate whether appellant is represented by appointed or retained**  
2 **counsel on appeal**: Retained.

3        **8. Indicate whether appellant was granted leave to proceed in forma**  
4 **pauperis**: No; not applicable.

5        **9. Indicate the date proceedings commenced in the district court (e.g. date**  
6 **complaint was filed)**: May 9, 2012.

7        **10. Provide a brief description of the nature of the action and result in the**  
8 **district court, including the type of judgment or order being appealed from and the**  
9 **relief granted by the district court**: This is an action for professional negligence by a  
10 financial adviser. The case was ordered to arbitration, where the defendants/respondents  
11 prevailed. The arbitrator's award was confirmed by the District Court in an order entered  
12 on August 8, 2019. The plaintiff brought a motion to alter or amend the judgment, which  
13 was denied on December 6, 2019. The plaintiff is appealing from these two orders and  
14 another entered on November 29, 2018 denying the plaintiff's motion to disqualify the  
15 arbitrator.

16        **11. Indicate whether the case has previously been the subject of an appeal**  
17 **to the Nevada Supreme Court and, if so, the caption and Supreme Court docket**  
18 **number of the prior proceeding**: There was a previous petition for a writ of prohibition  
19 following an order compelling arbitration. The docket number was 65899; the caption was  
20 "Gregory Garmon, petitioner, vs. The Second Judicial District Court of the State of  
21 Nevada, in and for the County of Washoe; and the Honorable Brent T. Adams, District  
22 Judge, respondents, and WESPAC and Greg Christian, real parties in interest."

23        **12. Indicate whether this appeal involves child custody or visitation**: Not  
24 applicable.

25        **13. If this is a civil case, indicate whether this appeal involves the possibility**  
26 **of settlement**: Highly doubtful, given the previous history of the parties and the result in  
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the District Court.

DATED this 7<sup>th</sup> day of January, 2019.

**THE UNDERSIGNED DOES HEREBY AFFIRM THAT THIS DOCUMENT DOES NOT  
CONTAIN THE SOCIAL SECURITY NUMBER OF ANY PERSON.**

/S/ Carl M. Hebert  
CARL M. HEBERT, ESQ.

Counsel for plaintiff/appellant  
Gregory O. Garmong

**SECOND JUDICIAL DISTRICT COURT****STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV12-01271****Case Description: GREGORY GARMONG VS WESPAC ET AL (D6)****Case Number: CV12-01271 Case Type: OTHER CIVIL MATTERS - Initially Filed On: 5/9/2012****Parties**

<u>Party Type &amp; Name</u>	<u>Party Status</u>
JUDG - LYNNE K. SIMONS - D6	Active
PLTF - GREGORY GARMONG - @1200326	Active
DEFT - WESPAC - @1223052	Active
DEFT - GREG CHRISTIAN - @1223053	Active
ATTY - Thomas Charles Bradley, Esq. - 1621	Active
ATTY - Carl Martin Hebert, Esq. - 250	Active

**Disposed Hearings**

- 1 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 12/5/2012 at 08:35:00  
Extra Event Text: DEFTS MOTION TO DISMISS AND TO COMPEL ARBITRATION (NO PAPER ORDER PROVIDED)  
Event Disposition: S200 - 12/13/2012
- 2 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 2/10/2014 at 15:52:00  
Extra Event Text: COMBINED MOTIONS FOR LEAVE TO REHEAR AND FOR REHEARING OF THE ORDER OF DECEMBER 13, 2012 COMPELLING ARBITRATI  
Event Disposition: S200 - 4/2/2014
- 3 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 7/7/2016 at 13:42:00  
Extra Event Text: MOTION FOR A COURT-APPOINTED ARBITRATOR (NO ORDER)  
Event Disposition: S200 - 7/12/2016
- 4 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 9/2/2016 at 10:09:00  
Extra Event Text: DEFENDANT'S WESPAC AND GREG CHRISTIAN'S SUBMISSION OF POTENTIAL ARBITRATORS (PAPER ORDER NOT PROVIDED)  
Event Disposition: S200 - 9/13/2016
- 5 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 10/18/2016 at 08:28:00  
Extra Event Text: STIPULATION TO SELECT ONE ARBITRATOR  
Event Disposition: S200 - 10/31/2016
- 6 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 2/8/2017 at 16:01:00  
Extra Event Text: STIPULATION TO APPOINT ONE OF TWO REMAINING ARBITRATOR CANDIDATES  
Event Disposition: S200 - 2/21/2017
- 7 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 6/7/2017 at 15:59:00  
Extra Event Text: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR WANT OF PROSECUTION UNDER NRCP 41(E) FILED 5/24/17  
Event Disposition: S200 - 6/30/2017
- 8 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 11/6/2017 at 14:56:00  
Extra Event Text: MOTION TO STRIKE FILED 10/11/17  
Event Disposition: S200 - 11/13/2017
- 9 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 4/9/2018 at 10:44:00  
Extra Event Text: PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER OF 11/13/17  
Event Disposition: S200 - 5/31/2018

**Report Does Not Contain Sealed Cases or Confidential Information**

- 10 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 9/17/2018 at 08:40:00  
Extra Event Text: PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT AND APPOINT  
Event Disposition: S200 - 11/29/2018
- 11 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 10/3/2018 at 12:03:00  
Extra Event Text: DEFENDANTS MOTION FOR LIMITED RELIEF FROM STAY TO FILE MOTION FOR ATTORNEY'S FEES AND SANCTIONS FILED 7-26-18  
Event Disposition: S200 - 12/10/2018
- 12 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 10/22/2018 at 13:44:00  
Extra Event Text: NOTICE OF COMPLETION OF ARBITRATION HEARING  
Event Disposition: S200 - 12/10/2018
- 13 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 5/20/2019 at 16:56:00  
Extra Event Text: PETITION FOR AN ORDER CONFIRMING ARBITRATORS FINAL AWARD AND REDUCE AWARD TO JUDGMENT, INCLUDING, ATTORNEYS F  
Event Disposition: S200 - 8/8/2019
- 14 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 5/22/2019 at 15:33:00  
Extra Event Text: PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AN  
Event Disposition: S200 - 8/8/2019
- 15 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 5/22/2019 at 16:16:00  
Extra Event Text: PLAINTIFFS MOTION TO VACATE ARBITRATORS FIANL AWARD FILED 5/22/19  
Event Disposition: S200 - 8/8/2019
- 16 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 5/22/2019 at 15:39:00  
Extra Event Text: PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S AWARD OF ATTORNEY'S FEES AND REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDA  
Event Disposition: S200 - 8/8/2019
- 17 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 6/3/2019 at 11:45:00  
Extra Event Text: DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL FILED 5-16-19, PLAINTIFF'S OPPOSITION TO DEFENDANT'S  
Event Disposition: S200 - 8/8/2019
- 18 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 8/21/2019 at 16:52:00  
Extra Event Text: STIPULATION ( ORDER ATTACHED AS EXHIBIT 1)  
Event Disposition: S200 - 8/27/2019
- 19 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 9/25/2019 at 13:29:00  
Extra Event Text: PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER RE MOTION ENTERED 8/8/19  
Event Disposition: S200 - 12/6/2019

### Actions

- |   | <u>Filing Date</u> | <u>-</u> | <u>Docket Code &amp; Description</u>   |
|---|--------------------|----------|--|
| 1 | 5/9/2012           | -        | COV - **Civil Cover Sheet<br><i>No additional text exists for this entry.</i>                          |
| 2 | 5/9/2012           | -        | 4090 - ** Summons Issued<br>Additional Text: X2  |
| 3 | 5/9/2012           | -        | \$1425 - \$Complaint - Civil<br><i>No additional text exists for this entry.</i>                       |
| 4 | 5/9/2012           | -        | PAYRC - **Payment Receipted<br>Additional Text: A Payment of -\$260.00 was made on receipt DCDC359217. |

- 5 8/29/2012 - 2520 - Notice of Appearance  
*No additional text exists for this entry.*
- 6 9/8/2012 - 1067 - Affidavit of Service  
Additional Text: WESPAC SERVED ON 9/4/12 - Transaction 3203348 - Approved By: MCHOLICO : 09-10-2012:08:17:11
- 7 9/8/2012 - 1067 - Affidavit of Service  
Additional Text: GREG CHRISTIAN SERVED ON 9/6/12 - Transaction 3203349 - Approved By: MCHOLICO : 09-10-2012:08:16:24
- 8 9/10/2012 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3203446 - Approved By: NOREVIEW : 09-10-2012:08:18:42
- 9 9/10/2012 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3203448 - Approved By: NOREVIEW : 09-10-2012:08:19:14
- 10 9/19/2012 - \$1560 - \$Def 1st Appearance - CV  
*No additional text exists for this entry.*
- 11 9/19/2012 - 2270 - Mtn to Compel...  
Additional Text: MOTION TO DISMISS AND TO COMPEL ARBITRATION
- 12 9/19/2012 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
*No additional text exists for this entry.*
- 13 9/19/2012 - 1046 - Affidavit of Plaintiff  
Additional Text: AFFIDAVIT OF GREG CHRISTIAN
- 14 9/19/2012 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of -\$243.00 was made on receipt DCDC377263.
- 15 10/29/2012 - 2645 - Opposition to Mtn ...  
Additional Text: Transaction 3309632 - Approved By: APOMA : 10-29-2012:14:02:10
- 16 10/29/2012 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3309672 - Approved By: NOREVIEW : 10-29-2012:14:04:01
- 17 12/3/2012 - 3795 - Reply...  
Additional Text: DEFTS REPLY TO PLTFS OPPOSITION TO DEFTS MOTION TO DISMISS AND TO COMPEL ARBITRATION
- 18 12/4/2012 - 3860 - Request for Submission  
Additional Text: DOCUMENT TITLE: DEFTS MOTION TO DISMISS AND TO COMPEL ARBITRATION (NO PAPER ORDER PROVIDED)  
PARTY SUBMITTING: BRADLEY, ESQ., THOMAS CHARLES  
DATE SUBMITTED: 12/4/12  
SUBMITTED BY: ACROGHAN  
DATE RECEIVED JUDGE OFFICE:
- 19 12/13/2012 - S200 - Request for Submission Complet  
Additional Text: order
- 20 12/13/2012 - 3370 - Order ...  
Additional Text: GRANTING MOTION TO COMPEL ARBITRATION AND DENYING MOTION TO DISMISS - Transaction 3404818 - Approved By: NOREVIEW : 12-13-2012:11:34:05
- 21 12/13/2012 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3404841 - Approved By: NOREVIEW : 12-13-2012:11:36:50



- 22 12/31/2012 - 2490 - Motion ...  
Additional Text: COMBINED MOTIONS FOR LEAVE TO REHEAR AND FOR REHEARING OF THE ORDER OF DECEMBER 13, 2012 COMPELLING ARBITRATION - Transaction 3435926 - Approved By: MCHOLICO : 01-02-2013:08:20:50
- 23 1/2/2013 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3436070 - Approved By: NOREVIEW : 01-02-2013:08:22:33
- 24 1/9/2013 - 2645 - Opposition to Mtn ...  
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S COMBINED MOTIONS FOR LEAVE TO REHEAR AND FOR REHEARING OF THE ORDER OF DECEMBER 13, 2012 COMPELLING ARBITRATION AND REQUEST FOR ATTORNEY'S FEES - Transaction 3452039 - Approved By: JYOST : 01-09-2013:11:18:34
- 25 1/9/2013 - NEF - Proof of Electronic Service  
Additional Text: Transaction 3452188 - Approved By: NOREVIEW : 01-09-2013:11:20:57
- 26 1/13/2014 - 3330 - Ord to Proceed ...  
Additional Text: Transaction 4251991 - Approved By: NOREVIEW : 01-13-2014:10:24:36
- 27 1/13/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4251998 - Approved By: NOREVIEW : 01-13-2014:10:26:18
- 28 2/3/2014 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO "DEFENDANT'S OPPOSITION TO PLAINTIFF'S COMBINED MOTION FOR LEAVE TO REHEAR AND FOR REHEARING OF THE ORDER OF DECEMBER 13, 2012, COMPELLING ARBITRATION AND REQUEST FOR ATTORNEY'S FEES" - Transaction 4287098 - Approved By: MELWOOD : 02-03-2014:15:46:45
- 29 2/3/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4287466 - Approved By: NOREVIEW : 02-03-2014:15:49:30
- 30 2/10/2014 - 3860 - Request for Submission  
Additional Text: COMBINED MOTIONS FOR LEAVE TO REHEAR AND FOR REHEARING OF THE ORDER OF DECEMBER 13, 2012 COMPELLING ARBITRATION (NO PAPER ORDER PROVIDED) - Transaction 4298026 - Approved By: PDBROWN : 02-10-2014:14:31:51  
PARTY SUBMITTING: CARL M. HEBERT, ESQ.  
DATE SUBMITTED: 02-10-14  
SUBMITTED BY: PDBROWN  
DATE RECEIVED JUDGE OFFICE:
- 31 2/10/2014 - 3880 - Response...  
Additional Text: RESPONSE TO ORDER OF JANUARY 13, 2014 - Transaction 4298093 - Approved By: MELWOOD : 02-10-2014:14:21:23
- 32 2/10/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4298399 - Approved By: NOREVIEW : 02-10-2014:14:24:30
- 33 2/10/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4298436 - Approved By: NOREVIEW : 02-10-2014:14:32:57
- 34 4/2/2014 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 35 4/2/2014 - 3370 - Order ...  
Additional Text: DENYING MOTION TO REHEAR AND REHEARING OF COURT'S 12/13/12 ORDER - Transaction 4370203 - Approved By: NOREVIEW : 04-02-2014:13:36:33
- 36 4/2/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4370205 - Approved By: NOREVIEW : 04-02-2014:13:37:33
- 37 7/16/2014 - 1188 - Supreme Court Receipt for Doc  
Additional Text: SUPREME COURT NO. 65899/RECEIPT FOR DOCUMENTS - Transaction 4518972 - Approved By: NOREVIEW : 07-16-2014:10:28:24

- 38 7/16/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4518975 - Approved By: NOREVIEW : 07-16-2014:10:29:25
- 39 12/18/2014 - 4128 - Supreme Court Order Denying  
Additional Text: SUPREME COURT NO. 65899/ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION - Transaction 4742321 - Approved By: NOREVIEW : 12-18-2014:10:19:51
- 40 12/18/2014 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4742324 - Approved By: NOREVIEW : 12-18-2014:10:20:52
- 41 3/18/2015 - 4128 - Supreme Court Order Denying  
Additional Text: SUPREME COURT NO. 65899/ORDER DENYING REHEARING - Transaction 4866324 - Approved By: NOREVIEW : 03-18-2015:11:36:00
- 42 3/18/2015 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4866332 - Approved By: NOREVIEW : 03-18-2015:11:37:04
- 43 5/1/2015 - 4128 - Supreme Court Order Denying  
Additional Text: SUPREME COURT NO. 65899/ORDER DENYING EN BANC RECONSIDERATION - Transaction 4932705 - Approved By: NOREVIEW : 05-01-2015:09:03:20
- 44 5/1/2015 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4932719 - Approved By: NOREVIEW : 05-01-2015:09:04:59
- 45 5/21/2015 - 4133 - Supreme Court Notice  
Additional Text: SUPREME COURT NO. 65899/NOTICE IN LIEU OF REMITTITUR - Transaction 4964996 - Approved By: NOREVIEW : 05-21-2015:14:23:41
- 46 5/21/2015 - NEF - Proof of Electronic Service  
Additional Text: Transaction 4965001 - Approved By: NOREVIEW : 05-21-2015:14:24:42
- 47 11/17/2015 - 3370 - Order ...  
Additional Text: Transaction 5238561 - Approved By: NOREVIEW : 11-17-2015:10:36:38
- 48 11/17/2015 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5238580 - Approved By: NOREVIEW : 11-17-2015:10:37:46
- 49 12/1/2015 - 2610 - Notice ...  
Additional Text: NOTICE OF STATUS REPORT - Transaction 5256972 - Approved By: YVILORIA : 12-01-2015:11:48:19
- 50 12/1/2015 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5257098 - Approved By: NOREVIEW : 12-01-2015:11:49:18
- 51 6/8/2016 - 2490 - Motion ...  
Additional Text: PLAINTIFF'S MOTION FOR A COURT-APPOINTED ARBITRATOR - Transaction 5552357 - Approved By: YVILORIA : 06-08-2016:12:13:20
- 52 6/8/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5552696 - Approved By: NOREVIEW : 06-08-2016:12:14:14
- 53 6/23/2016 - 2645 - Opposition to Mtn ...  
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR A COURT-APPOINTED ARBITRATOR - Transaction 5576662 - Approved By: CSULEZIC : 06-23-2016:13:35:18
- 54 6/23/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5576975 - Approved By: NOREVIEW : 06-23-2016:13:36:21
- 55 7/5/2016 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO "DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR A COURT-APPOINTED ARBITRATOR" - Transaction 5593653 - Approved By: RKWATKIN : 07-06-2016:11:04:07

- 56 7/6/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5594480 - Approved By: NOREVIEW : 07-06-2016:11:05:10
- 57 7/7/2016 - 3860 - Request for Submission  
Additional Text: Transaction 5597399 - Approved By: RKWATKIN : 07-07-2016:13:42:08  
DOCUMENT TITLE: MOTION FOR A COURT-APPOINTED ARBITRATOR (NO ORDER)  
PARTY SUBMITTING: THOMAS BRADLEY, ESQ  
DATE SUBMITTED: 7/7/16  
SUBMITTED BY: RKWATKIN  
DATE RECEIVED JUDGE OFFICE:
- 58 7/7/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5597872 - Approved By: NOREVIEW : 07-07-2016:13:43:06
- 59 7/12/2016 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 60 7/12/2016 - 3370 - Order ...  
Additional Text: RE: ARBITRATION - Transaction 5604778 - Approved By: NOREVIEW : 07-12-2016:15:42:10
- 61 7/12/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5604784 - Approved By: NOREVIEW : 07-12-2016:15:43:13
- 62 7/27/2016 - 1405 - Clarification of Ord  
Additional Text: STIPULATION REQUESTING CLARIFICATION - Transaction 5630799 - Approved By: TBRITTON :  
07-28-2016:08:50:44
- 63 7/28/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5631155 - Approved By: NOREVIEW : 07-28-2016:08:52:19
- 64 9/1/2016 - 2490 - Motion ...  
Additional Text: DEFENDANTS WESPAC AND GREG CHRISTIAN'S SUBMISSION OF POTENTIAL ARBITRATORS - Transaction  
5689679 - Approved By: TBRITTON : 09-02-2016:08:43:43
- 65 9/1/2016 - 3860 - Request for Submission  
Additional Text: DEFENDANT'S WESPAC AND GREG CHRISTIAN'S SUBMISSION OF POTENTIAL ARBITRATORS (PAPER ORDER  
NOT PROVIDED) - Transaction 5689701 - Approved By: TBRITTON : 09-02-2016:09:25:33  
PARTY SUBMITTING: THOMAS C. BRADLEY, ESQ.  
DATE SUBMITTED: SEPTEMBER 1, 2016  
SUBMITTED BY: TBRITTON  
DATE RECEIVED JUDGE OFFICE:
- 66 9/1/2016 - A600 - List of Stricken Arbitrators  
Additional Text: Plaintiff's List of Arbitration Candidates - Transaction 5690224 - Approved By: YVILORIA : 09-02-2016:11:07:42
- 67 9/2/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5690415 - Approved By: NOREVIEW : 09-02-2016:08:44:30
- 68 9/2/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5690556 - Approved By: NOREVIEW : 09-02-2016:09:26:26
- 69 9/2/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5690906 - Approved By: NOREVIEW : 09-02-2016:11:10:07
- 70 9/13/2016 - S200 - Request for Submission Complet  
Additional Text: order
- 71 9/13/2016 - 3370 - Order ...  
Additional Text: APPOINTING ARBITRATION PANEL - Transaction 5705056 - Approved By: NOREVIEW : 09-13-2016:15:24:00

- 72 9/13/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5705066 - Approved By: NOREVIEW : 09-13-2016:15:25:22
- 73 10/17/2016 - 4050 - Stipulation ...  
Additional Text: STIPULATION TO SELECT ONE ARBITRATOR - Transaction 5761303 - Approved By: YLLOYD : 10-18-2016:08:27:39
- 74 10/17/2016 - 3860 - Request for Submission  
Additional Text: Transaction 5761311 - Approved By: YLLOYD : 10-18-2016:08:28:08  
DOCUMENT TITLE: STIPULATION TO SELECT ONE ARBITRATOR (NO PAPER ORDER)  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 10/17/16  
SUBMITTED BY: YLLOYD  
DATE RECEIVED JUDGE OFFICE:
- 75 10/18/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5761789 - Approved By: NOREVIEW : 10-18-2016:08:28:41
- 76 10/18/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5761791 - Approved By: NOREVIEW : 10-18-2016:08:29:01
- 77 10/31/2016 - 2745 - Ord Appointing ...  
Additional Text: ARBITRATOR - Transaction 5781488 - Approved By: NOREVIEW : 10-31-2016:08:33:15
- 78 10/31/2016 - S200 - Request for Submission Complet  
Additional Text: order
- 79 10/31/2016 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5781490 - Approved By: NOREVIEW : 10-31-2016:08:34:25
- 80 2/8/2017 - 4050 - Stipulation ...  
Additional Text: STIPULATION TO APPOINT ONE OF TWO REMAINING ARBITRATOR CANDIDATES - Transaction 5940782 -  
Approved By: CSULEZIC : 02-08-2017:13:22:02
- 81 2/8/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5941102 - Approved By: NOREVIEW : 02-08-2017:13:23:04
- 82 2/8/2017 - 3860 - Request for Submission  
Additional Text: STIPULATION TO APPOINT ONE OF TWO REMAINING ARBITRATOR CANDIDATES - Transaction 5941184 -  
Approved By: CSULEZIC : 02-08-2017:14:46:06  
PARTY SUBMITTING: CARL HEBERT ESQ  
DATE SUBMITTED: 2/08/17  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 83 2/8/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5941538 - Approved By: NOREVIEW : 02-08-2017:14:47:13
- 84 2/21/2017 - 3370 - Order ...  
Additional Text: APPOINTING ARBITRATOR - Transaction 5960277 - Approved By: NOREVIEW : 02-21-2017:16:57:00
- 85 2/21/2017 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 86 2/21/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 5960280 - Approved By: NOREVIEW : 02-21-2017:16:57:50
- 87 3/27/2017 - 2630 - Objection to ...  
Additional Text: PLAINTIFF'S OBJECTION PURSUANT TO NRS 38.231.(3) AND 38.241(1)(E) THAT THERE IS NO AGREEMENT TO  
ARBITRATE; NOTIFICATION OF OBJECTION TO THE COURT - Transaction 6018228 - Approved By: PMSEWELL :  
03-27-2017:12:20:48

- 88 3/27/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6018254 - Approved By: NOREVIEW : 03-27-2017:12:23:25
- 89 5/23/2017 - 3355 - Ord to Show Cause  
Additional Text: WHY ACTION SHOULD NOT BE DISMISSED FOR WANT OF PROSECUTION - Transaction 6113144 - Approved By: NOREVIEW : 05-23-2017:09:29:01
- 90 5/23/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6113146 - Approved By: NOREVIEW : 05-23-2017:09:30:03
- 91 5/24/2017 - 3880 - Response...  
Additional Text: PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR WANT OF PROSECUTION UNDER NRCP 41(e) - Transaction 6116178 - Approved By: TBRITTON : 05-24-2017:13:01:42
- 92 5/24/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6116241 - Approved By: NOREVIEW : 05-24-2017:13:03:30
- 93 6/7/2017 - 3860 - Request for Submission  
Additional Text: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR WANT OF PROSECUTION UNDER NRCP 41(E) FILED 5/24/17 - Transaction 6136674 - Approved By: CSULEZIC : 06-07-2017:12:25:49  
PARTY SUBMITTING: CARL HEBERT ESQ  
DATE SUBMITTED: 6/07/17  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 94 6/7/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6136953 - Approved By: NOREVIEW : 06-07-2017:12:26:36
- 95 6/30/2017 - 3370 - Order ...  
Additional Text: Transaction 6176446 - Approved By: NOREVIEW : 06-30-2017:15:56:03
- 96 6/30/2017 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 97 6/30/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6176450 - Approved By: NOREVIEW : 06-30-2017:15:56:53
- 98 9/18/2017 - 1090 - Amended Complaint  
Additional Text: Transaction 6304598 - Approved By: SWILLIAM : 09-18-2017:15:17:53
- 99 9/18/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6304731 - Approved By: NOREVIEW : 09-18-2017:15:20:52
- 100 10/11/2017 - 2475 - Mtn to Strike...  
Additional Text: Transaction 6341419 - Approved By: PMSEWELL : 10-11-2017:11:18:43
- 101 10/11/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6341582 - Approved By: NOREVIEW : 10-11-2017:11:19:46
- 102 10/30/2017 - 2645 - Opposition to Mtn ...  
Additional Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO STRIKE - Transaction 6370693 - Approved By: MPURDY : 10-30-2017:16:45:00
- 103 10/30/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6370848 - Approved By: NOREVIEW : 10-30-2017:16:45:58
- 104 11/6/2017 - 3795 - Reply...  
Additional Text: DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO STRIKE - Transaction 6381324 - Approved By: CSULEZIC : 11-06-2017:14:14:08

- 105 11/6/2017 - 3860 - Request for Submission  
Additional Text: MOTION TO STRIKE FILED 10/11/17 - Transaction 6381331 - Approved By: CSULEZIC : 11-06-2017:14:18:25  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 11/06/17  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 106 11/6/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6381525 - Approved By: NOREVIEW : 11-06-2017:14:15:06
- 107 11/6/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6381540 - Approved By: NOREVIEW : 11-06-2017:14:19:28
- 108 11/13/2017 - 3060 - Ord Granting Mtn ...  
Additional Text: DEFENDANTS' MOTION TO STRIKE - Transaction 6392831 - Approved By: NOREVIEW : 11-13-2017:17:09:07
- 109 11/13/2017 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 110 11/13/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6392834 - Approved By: NOREVIEW : 11-13-2017:17:10:07
- 111 12/4/2017 - 2175 - Mtn for Reconsideration  
Additional Text: PLAINTIFF'S MOTION FOR LEAVE TO RECONSIDER AND MOTION FOR RECONSIDERATION OF ORDER OF NOVEMBER 13, 2017 GRANTING "DEFENDANTS' MOTIO TO STRIKE - Transaction 6422162 - Approved By: YVILORIA : 12-04-2017:16:47:58
- 112 12/4/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6422366 - Approved By: NOREVIEW : 12-04-2017:16:51:01
- 113 12/29/2017 - 2645 - Opposition to Mtn ...  
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO RECONSIDER AND MOTION FOR RECONSIDERATION OF ORDER GRANTING DEFENDANTS' MOTION TO STRIKE - Transaction 6458312 - Approved By: YVILORIA : 12-29-2017:09:56:20
- 114 12/29/2017 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6458327 - Approved By: NOREVIEW : 12-29-2017:09:57:19
- 115 4/9/2018 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO RECONSIDER AND MOTION FOR RECONSIDERATION TOF ORDER GRANTING DEFENDANTS' MOTION TO STRIKE - Transaction 6618053 - Approved By: YVILORIA : 04-09-2018:10:19:29
- 116 4/9/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6618083 - Approved By: NOREVIEW : 04-09-2018:10:20:21
- 117 4/9/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6618133 - Approved By: CVERA : 04-09-2018:10:42:36  
DOCUMENT TITLE: PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER OF 11/13/17  
PARTY SUBMITTING: CARL MARTIN HEBERT, ESQ.  
DATE SUBMITTED: 04/09/18  
SUBMITTED BY: CVERA  
DATE RECEIVED JUDGE OFFICE:
- 118 4/9/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6618180 - Approved By: NOREVIEW : 04-09-2018:10:43:22
- 119 5/31/2018 - S200 - Request for Submission Complet  
Additional Text: ORDER

- 120 5/31/2018 - 2842 - Ord Denying Motion  
Additional Text: PLAINTIFF'S MOTION FOR LEAVE TO RECONSIDER AND MOTION FOR RECONSIDERATION OF ORDER OF NOVEMBER 13, 2017 GRANTING "DEFENDANTS' MOTION TO STRIKE" - Transaction 6707193 - Approved By: NOREVIEW : 05-31-2018:16:17:39
- 121 5/31/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6707196 - Approved By: NOREVIEW : 05-31-2018:16:18:24
- 122 7/22/2018 - 2490 - Motion ...  
Additional Text: PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO, VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT AND APPOINT NEW ARBITRATOR - Transaction 6789215 - Approved By: CSULEZIC : 07-23-2018:08:37:33
- 123 7/23/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6789404 - Approved By: NOREVIEW : 07-23-2018:08:39:25
- 124 7/26/2018 - 2490 - Motion ...  
Additional Text: MOTION FOR LIMITED RELIEF FROM STAY TO FILE MOTION FOR ATTORNEY'S FEES AND SANCTIONS - Transaction 6797923 - Approved By: YVILORIA : 07-26-2018:14:50:06
- 125 7/26/2018 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO MOTION TO DISQUALIFY ARBITRATOR PRO, VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT AND APPOINT NET ARBITRATOR - Transaction 6797923 - Approved By: YVILORIA : 07-26-2018:14:50:06
- 126 7/26/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6798047 - Approved By: NOREVIEW : 07-26-2018:14:51:24
- 127 8/28/2018 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO OPPOSITION TO MOTION TO DISQUALIFY ARBITRATOR - Transaction 6851198 - Approved By: YVILORIA : 08-28-2018:09:05:41
- 128 8/28/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6851464 - Approved By: NOREVIEW : 08-28-2018:09:06:44
- 129 8/30/2018 - 2650 - Opposition to ...  
Additional Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' "MOTION FOR LIMITED RELIEF FROM STAY TO FILE MOTION FOR ATTORNEY'S FEES AND SANCTIONS" - Transaction 6856035 - Approved By: YVILORIA : 08-30-2018:08:53:01
- 130 8/30/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6856241 - Approved By: NOREVIEW : 08-30-2018:08:54:02
- 131 9/17/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6881758 - Approved By: YVILORIA : 09-17-2018:08:39:21  
DOCUMENT TITLE: PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT AND APPOINT NEW ARBITRATOR  
PARTY SUBMITTING: CARL HEBERT ESQ  
DATE SUBMITTED: SEPT 17, 2018  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 132 9/17/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6881801 - Approved By: NOREVIEW : 09-17-2018:08:40:25
- 133 10/3/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6909214 - Approved By: YVILORIA : 10-03-2018:12:01:46  
DOCUMENT TITLE: DEFENDANTS MOTION FOR LIMITED RELIEF FROM STAY TO FILE MOTION FOR ATTORNEY'S FEES AND SANCTIONS FILED 7-26-18  
PARTY SUBMITTING: THOMAS CHARLES BRADLEY ESQ  
DATE SUBMITTED: OCT 3, 2018  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 134 10/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6909323 - Approved By: NOREVIEW : 10-03-2018:12:03:15

- 135 10/22/2018 - 2610 - Notice ...  
Additional Text: NOTICE OF COMPLETION OF ARBITRATION HEARING - Transaction 6939329 - Approved By: YVILORIA : 10-22-2018:13:34:05
- 136 10/22/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6939335 - Approved By: YVILORIA : 10-22-2018:13:42:35  
DOCUMENT TITLE: NOTICE OF COMPLETION OF ARBITRATION HEARING  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: OCT 22, 2018  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 137 10/22/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6939553 - Approved By: NOREVIEW : 10-22-2018:13:34:58
- 138 10/22/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6939588 - Approved By: NOREVIEW : 10-22-2018:13:43:29
- 139 11/29/2018 - 2842 - Ord Denying Motion  
Additional Text: PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO; DENYING MOTION TO VACATE ORDER DENYING MOTION FOR SJ; ORDER DENYING MOTIOON TO APPOINT NEW ARBITRATOR - Transaction 6998027 - Approved By: NOREVIEW : 11-29-2018:11:59:56
- 140 11/29/2018 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 141 11/29/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6998028 - Approved By: NOREVIEW : 11-29-2018:12:00:52
- 142 12/10/2018 - 3370 - Order ...  
Additional Text: RE DEFENDANT - Transaction 7015067 - Approved By: NOREVIEW : 12-10-2018:09:57:38
- 143 12/10/2018 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 144 12/10/2018 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 145 12/10/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7015072 - Approved By: NOREVIEW : 12-10-2018:09:58:40
- 146 12/12/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Notice of Entry of Order for Order for Order RE Defendants' Motion for Limited Relief from Stay to File Motion for Attorney's Fees and Sanctions - Transaction 7020152 - Approved By: NOREVIEW : 12-12-2018:11:31:33
- 147 12/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7020156 - Approved By: NOREVIEW : 12-12-2018:11:32:33
- 148 12/12/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Notice of Entry of Order for Order Deny Plaintiff's Motion to Disqualify Arbitrator Pro; Order Deny Motion to Vacate Order Deny Motion for Summ Judgment; Order Deny Motion to Appoint New Arbitrator - Transaction 7020171 - Approved By: NOREVIEW : 12-12-2018:11:37:27
- 149 12/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7020180 - Approved By: NOREVIEW : 12-12-2018:11:38:59
- 150 2/28/2019 - 2525 - Notice of Change of Address  
Additional Text: Notice of Change of Address for Thomas C. Bradley, Esq. - Transaction 7141212 - Approved By: CSULEZIC : 02-28-2019:12:28:40



- 151 2/28/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7141226 - Approved By: NOREVIEW : 02-28-2019:12:29:42
- 152 4/15/2019 - 3645 - Petition ...  
Additional Text: DEFENDANTS' PETITION FOR AN ORDER CONFIRMING ARBITRATOR'S FINAL AWARD AND REDUCE AWARD TO JUDGMENT, INCLUDING, ATTORNEYS' FEES AND COSTS - Transaction 7218326 - Approved By: YVILORIA : 04-15-2019:11:38:50
- 153 4/15/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7218514 - Approved By: NOREVIEW : 04-15-2019:11:40:00
- 154 4/22/2019 - 2490 - Motion ...  
Additional Text: PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S FINAL AWARD - Transaction 7232416 - Approved By: CSULEZIC : 04-23-2019:10:16:07
- 155 4/22/2019 - 2610 - Notice ...  
Additional Text: NOTICE OF FILING OF CONTINUATION EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S FINAL AWARD - Transaction 7232445 - Approved By: CSULEZIC : 04-23-2019:10:20:27
- 156 4/22/2019 - 2610 - Notice ...  
Additional Text: SECOND NOTICE OF FILING OF CONTINUATION EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S FINAL AWARD - Transaction 7232448 - Approved By: CSULEZIC : 04-23-2019:10:26:15
- 157 4/22/2019 - 2490 - Motion ...  
Additional Text: Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees - Transaction 7232452 - Approved By: CSULEZIC : 04-23-2019:09:33:45
- 158 4/22/2019 - 2490 - Motion ...  
Additional Text: PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT - Transaction 7232457 - Approved By: CSULEZIC : 04-23-2019:09:34:30
- 159 4/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7232702 - Approved By: NOREVIEW : 04-23-2019:09:35:07
- 160 4/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7232710 - Approved By: NOREVIEW : 04-23-2019:09:35:53
- 161 4/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7232946 - Approved By: NOREVIEW : 04-23-2019:10:18:50
- 162 4/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7232965 - Approved By: NOREVIEW : 04-23-2019:10:22:46
- 163 4/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7232978 - Approved By: NOREVIEW : 04-23-2019:10:27:25
- 164 4/25/2019 - 2610 - Notice ...  
Additional Text: DFX: SUB-EXHIBITS ATTACHED INCORRECTLY - NOTICE OF FILING OF EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT-PART 1 - Transaction 7238227 - Approved By: YVILORIA : 04-25-2019:14:32:47
- 165 4/25/2019 - 2610 - Notice ...  
Additional Text: DFX: SUB-EXHIBITS ATTACHED INCORRECTLY - NOTICE OF FILING OF EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT- PART 2 - Transaction 7238461 - Approved By: YVILORIA : 04-25-2019:15:26:13
- 166 4/25/2019 - 2610 - Notice ...  
Additional Text: DFX: SUB-EXHIBITS PRESENTED INCORRECTLY - NOTICE OF FILING OF EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT-PART 3- Transaction 7238629 - Approved By: YVILORIA : 04-25-2019:16:28:23

- 167 4/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7238634 - Approved By: NOREVIEW : 04-25-2019:14:34:11
- 168 4/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7238869 - Approved By: NOREVIEW : 04-25-2019:15:30:50
- 169 4/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7239225 - Approved By: NOREVIEW : 04-25-2019:16:31:02
- 170 4/25/2019 - 2650 - Opposition to ...  
Additional Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO CONFIRM ARBITRATOR'S AWARD - Transaction 7239477 - Approved By: CSULEZIC : 04-26-2019:09:05:29
- 171 4/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7239706 - Approved By: NOREVIEW : 04-26-2019:09:10:29
- 172 5/6/2019 - 3790 - Reply to/in Opposition  
Additional Text: DFX: EX4 SET TO LEVEL 3 DUE TO PERSONAL INFO - DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO CONFIRM ARBITRATOR'S AWARD - Transaction 7255481 - Approved By: YVILORIA : 05-07-2019:08:21:00
- 173 5/7/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7256064 - Approved By: NOREVIEW : 05-07-2019:08:21:58
- 174 5/9/2019 - 2645 - Opposition to Mtn ...  
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S FINAL AWARD - Transaction 7261598 - Approved By: YVILORIA : 05-09-2019:10:35:50
- 175 5/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7261643 - Approved By: NOREVIEW : 05-09-2019:10:36:46
- 176 5/9/2019 - 2645 - Opposition to Mtn ...  
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT - Transaction 7261736 - Approved By: YVILORIA : 05-09-2019:11:26:33
- 177 5/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7261800 - Approved By: NOREVIEW : 05-09-2019:11:27:34
- 178 5/9/2019 - 2645 - Opposition to Mtn ...  
Additional Text: DEEFNDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S AWARD OF ATTORNEY'S FEES AND REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' PETITION FOR AN ORDER CONFIRMING ARBITRATOR'S FINAL AWARD AND REDUCE AWARD TO JUDGMENT, INCLUDING, ATTORNEYS - Transaction 7262680 - Approved By: YVILORIA : 05-09-2019:16:11:47
- 179 5/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7263025 - Approved By: NOREVIEW : 05-09-2019:16:12:59
- 180 5/16/2019 - 2490 - Motion ...  
Additional Text: MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL - Transaction 7274242 - Approved By: SWOLFE : 05-17-2019:07:44:22
- 181 5/17/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7275118 - Approved By: NOREVIEW : 05-17-2019:07:45:11
- 182 5/20/2019 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S AWARD OF ATTORNEY'S FEES & REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' PETITION FOR AN ORDER CONFIRMING ARBITRATOR'S FINAL AWARD & REDUCE AWARD TO JUDGMENT - Transaction 7277526 - Approved By: SWOLFE : 05-20-2019:09:31:05

- 183 5/20/2019 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT - Transaction 7277573 - Approved By: CSULEZIC : 05-20-2019:11:14:56
- 184 5/20/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7277638 - Approved By: NOREVIEW : 05-20-2019:09:32:25
- 185 5/20/2019 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S FINAL AWARD - Transaction 7277660 - Approved By: CSULEZIC : 05-20-2019:11:28:46
- 186 5/20/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7278102 - Approved By: NOREVIEW : 05-20-2019:11:16:12
- 187 5/20/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7278193 - Approved By: NOREVIEW : 05-20-2019:11:30:03
- 188 5/20/2019 - 3860 - Request for Submission  
Additional Text: PETITION FOR AN ORDER CONFIRMING ARBITRATORS FINAL AWARD AND REDUCE AWARD TO JUDGMENT, INCLUDING, ATTORNEYS FEES AND COSTS FILED 4/15/19 - Transaction 7279086 - Approved By: CSULEZIC : 05-20-2019:16:54:48  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 5/20/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 189 5/20/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7279573 - Approved By: NOREVIEW : 05-20-2019:16:56:03
- 190 5/21/2019 - 3980 - Stip and Order...  
Additional Text: Transaction 7280604 - Approved By: NOREVIEW : 05-21-2019:11:45:15
- 191 5/21/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7280623 - Approved By: NOREVIEW : 05-21-2019:11:47:42
- 192 5/22/2019 - 3860 - Request for Submission  
Additional Text: - Transaction 7283565 - Approved By: CSULEZIC : 05-22-2019:15:46:32  
DOCUMENT TITLE: PLAINTIFFS MOTION TO VACATE ARBITRATORS FINAL AWARD FILED 5/22/19  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 5/22/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 193 5/22/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION - Transaction 7283621 - Approved By: YVILORIA : 05-22-2019:15:31:25  
DOCUMENT TITLE: PLAINTIFF'S MOTIONS TO VACATE ARBITRATOR'S AWARD OF DENIAL OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND FOR THE COURT TO DECIDE AND GRANT PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 5-22-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 194 5/22/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION - Transaction 7283638 - Approved By: YVILORIA : 05-22-2019:15:38:07  
DOCUMENT TITLE: PLAINTIFF'S MOTION TO VACATE ARBITRATOR'S AWARD OF ATTORNEY'S FEES AND REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' PETITION FOR AN ORDER CONFIRMING ARBITRATOR'S FINAL AWARD AND REDUCE AWARD TO JUDGMENT, INCLUDING ATTORNEY'S FEES AND COSTS  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 5-22-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:

- 195 5/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7283829 - Approved By: NOREVIEW : 05-22-2019:15:33:33
- 196 5/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7283864 - Approved By: NOREVIEW : 05-22-2019:15:39:08
- 197 5/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7283944 - Approved By: NOREVIEW : 05-22-2019:15:48:47
- 198 5/28/2019 - 2650 - Opposition to ...  
Additional Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL - Transaction 7290594 - Approved By: YVILORIA : 05-28-2019:15:25:59
- 199 5/28/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7290992 - Approved By: NOREVIEW : 05-28-2019:15:26:58
- 200 6/3/2019 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL - Transaction 7299930 - Approved By: YVILORIA : 06-03-2019:11:41:01
- 201 6/3/2019 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL - Transaction 7299943 - Approved By: YVILORIA : 06-03-2019:11:44:03
- 202 6/3/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION - Transaction 7299943 - Approved By: YVILORIA : 06-03-2019:11:44:03  
DOCUMENT TITLE: DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL FILED 5-16-19, PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL, FILED 5-28-19; DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR AN ORDER TO FILE EXHIBIT AS CONFIDENTIAL FILED 6-3-19  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 6-3-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 203 6/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7300121 - Approved By: NOREVIEW : 06-03-2019:11:43:39
- 204 6/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7300132 - Approved By: NOREVIEW : 06-03-2019:11:45:05
- 205 6/14/2019 - 4050 - Stipulation ...  
Additional Text: DFX: CASE NUMBER ON DOCUMENT DOES NOT MATCH CASE FILING INTO.STIPULATION AND ORDER TO PERMIT TJ JESKY TO RESIGN AS CO-DERIVATIVE PLAINTIFF - Transaction 7321429 - Approved By: SWOLFE : 06-14-2019:10:33:03
- 206 6/14/2019 - 3860 - Request for Submission  
Additional Text: DFX: CASE NUMBER ON DOCUMENT DOES NOT MATCH CASE FILING INTO. NO S1 BUILT - Transaction 7321429 - Approved By: SWOLFE : 06-14-2019:10:33:03
- 207 6/14/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7321673 - Approved By: NOREVIEW : 06-14-2019:10:36:10
- 208 8/8/2019 - 2682 - Ord Addressing Motions  
Additional Text: Transaction 7418877 - Approved By: NOREVIEW : 08-08-2019:11:55:15
- 209 8/8/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 210 8/8/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER

- 211 8/8/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 212 8/8/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7418884 - Approved By: NOREVIEW : 08-08-2019:11:56:22
- 213 8/8/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 214 8/8/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 215 8/8/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7419104 - Approved By: NOREVIEW : 08-08-2019:13:05:29
- 216 8/8/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7419107 - Approved By: NOREVIEW : 08-08-2019:13:06:24
- 217 8/8/2019 - 2010 - Mtn for Attorney's Fee  
Additional Text: Transaction 7419708 - Approved By: NOREVIEW : 08-08-2019:15:24:18
- 218 8/8/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7419720 - Approved By: NOREVIEW : 08-08-2019:15:25:50
- 219 8/16/2019 - 4047 - Stip Extension of Time ...  
Additional Text: NOTICE ATTACHED - NOTICE OF STRICKEN DOCUMENT FILED AUGUST 16, 2019 STRIKING THE STIPULATION FOR THE FOLLOWING REASON: DOCUMENT IS AN UNSIGNED ORDER THAT IS NOT IDENTIFIED AS A PROPOSED ORDER – WDCR 10(c)(1)  
Transaction 7433073 - Approved By: NOREVIEW : 08-16-2019:12:26:10
- 220 8/16/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7433078 - Approved By: NOREVIEW : 08-16-2019:12:27:07
- 221 8/21/2019 - 4050 - Stipulation ...  
Additional Text: Transaction 7441955 - Approved By: NOREVIEW : 08-21-2019:12:17:09
- 222 8/21/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7441955 - Approved By: NOREVIEW : 08-21-2019:12:17:09  
DOCUMENT TITLE: STIPULATION ( ORDER ATTACHED AS EXHIBIT 1)  
PARTY SUBMITTING: THOMAS BRADLEY, ESQ  
DATE SUBMITTED: AUGUST 21, 2019  
SUBMITTED BY: BBLOUGH  
DATE RECEIVED JUDGE OFFICE:
- 223 8/21/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7441965 - Approved By: NOREVIEW : 08-21-2019:12:20:17
- 224 8/27/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 225 8/27/2019 - 3370 - Order ...  
Additional Text: Transaction 7453486 - Approved By: NOREVIEW : 08-27-2019:16:20:47
- 226 8/27/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7453491 - Approved By: NOREVIEW : 08-27-2019:16:21:51

- 227 9/5/2019 - 2250 - Mtn Alter or Amend Judgment  
Additional Text: PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER RE MOTIONS ENTERED AUGUST 8, 2019 - Transaction 7468273 - Approved By: YVILORIA : 09-05-2019:13:30:34
- 228 9/5/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7468379 - Approved By: NOREVIEW : 09-05-2019:13:31:33
- 229 9/12/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND "ORDER RE MOTIONS" ENTERED AUGUST 8, 2019 - Transaction 7480788 - Approved By: CSULEZIC : 09-12-2019:11:23:38
- 230 9/12/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7480894 - Approved By: NOREVIEW : 09-12-2019:11:24:45
- 231 9/24/2019 - 3795 - Reply...  
Additional Text: PLAINTIFF'S REPLY POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO ALTER OR AMEND "ORDER RE MOTIONS" ENTERED ON AUGUST 8, 2019 - Transaction 7502292 - Approved By: YVILORIA : 09-25-2019:09:12:30
- 232 9/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7502532 - Approved By: NOREVIEW : 09-25-2019:09:13:29
- 233 9/25/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7503018 - Approved By: NOREVIEW : 09-25-2019:10:46:52  
DOCUMENT TITLE: PLAINTIFF'S MOTION TO ALTER OR AMEND ORDER RE MOTION ENTERED 8/8/19  
PARTY SUBMITTING: THOMAS C BRADLEY, ESQ ATTY FOR DEFTS  
DATE SUBMITTED: 9/25/19  
SUBMITTED BY: MDIONICI  
DATE RECEIVED JUDGE OFFICE:
- 234 9/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7503031 - Approved By: NOREVIEW : 09-25-2019:10:48:26
- 235 12/6/2019 - 2842 - Ord Denying Motion  
Additional Text: TO ALTER OR AMEND JUDGMENT - Transaction 7625279 - Approved By: NOREVIEW : 12-06-2019:15:46:55
- 236 12/6/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 237 12/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7625333 - Approved By: NOREVIEW : 12-06-2019:15:53:58
- 238 12/9/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7626059 - Approved By: NOREVIEW : 12-09-2019:08:52:26
- 239 12/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7626060 - Approved By: NOREVIEW : 12-09-2019:08:53:20
- 240 12/9/2019 - 1120 - Amended ...  
Additional Text: DEFENDANTS' AMENDED MOTION FOR ATTORNEY'S FEES - Transaction 7627206 - Approved By: NOREVIEW : 12-09-2019:13:29:47
- 241 12/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7627212 - Approved By: NOREVIEW : 12-09-2019:13:30:49
- 242 12/23/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7652277 - Approved By: NOREVIEW : 12-23-2019:11:17:11  
DOCUMENT TITLE: DEFT'S AMENDED MOTION FOR ATTORNEY'S FEES FIELD 12-9-19  
PARTY SUBMITTING: THOMAS BRADLEY ESQ  
DATE SUBMITTED: 12-23-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:

- 243 12/23/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7652284 - Approved By: NOREVIEW : 12-23-2019:11:18:22
- 244 1/7/2020 - 1310 - Case Appeal Statement  
Additional Text: CASE APPEAL STATEMENT - Transaction 7671937 - Approved By: NOREVIEW : 01-07-2020:12:57:30
- 245 1/7/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7671944 - Approved By: NOREVIEW : 01-07-2020:12:58:46
- 246 1/7/2020 - 2515 - Notice of Appeal Supreme Court  
Additional Text: NOTICE OF APPEAL - Transaction 7671827 - Approved By: YVILORIA : 01-07-2020:13:12:13
- 247 1/7/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7671994 - Approved By: NOREVIEW : 01-07-2020:13:13:14
- 248 1/7/2020 - \$2515 - \$Notice/Appeal Supreme Court  
Additional Text: APPEAL PREVIOUSLY FILED
- 249 1/7/2020 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of -\$24.00 was made on receipt DCDC652663.
- 250 1/7/2020 - SAB - \*\*Supreme Court Appeal Bond  
Additional Text: Bond ID: SAB-20-00002; Total Bond Amount: \$500.00.  
  
Bond Code, SAB, Receipted for: SITE DEFINED TRUST DEPOSIT, on 07-JAN-2020 in the amount of \$500.00 on case ID CV12-01271.
- 251 1/7/2020 - 1350 - Certificate of Clerk  
Additional Text: CERTIFICIATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7673097 - Approved By:  
NOREVIEW : 01-07-2020:16:28:05

1 CODE NO. 3370

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE  
7

8 GREGORY O. GARMONG,  
9 Plaintiff,

Case No. CV12-01271  
Dept. No. 6

10 vs.  
11

12 WESPAC; GREG CHRISTIAN; DOES 1-10,  
13 inclusive,

14 Defendants.  
15 \_\_\_\_\_/

16 **ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO;**  
17 **ORDER DENYING MOTION TO VACATE ORDER DENYING**  
18 **MOTION FOR SUMMARY JUDGMENT;**  
**ORDER DENYING MOTION TO APPOINT NEW ARBITRATOR**

19 Before this Court is *Plaintiff's Motion to Disqualify Arbitrator Pro, Vacate Order*  
20 *Denying Motion for Summary Judgment and Appoint New Arbitrator* ("Motion") filed by  
21 Plaintiff GREGORY O. GARMONG ("Mr. Garmong"), by and through counsel, Carl M.  
22 Hebert, Esq. Defendants WESPAC and GREG CHRISTIAN (collectively "Defendants"  
23 unless individually referenced), by and through counsel, Thomas C. Bradley, filed their  
24 *Opposition to Motion to Disqualify Arbitrator Pro, Vacate Order Denying Motion for*  
25 *Summary Judgment and Appoint New Arbitrator* ("Opposition"). Mr. Garmong filed *Plaintiff's*  
26 *Reply to Opposition to Motion to Disqualify Arbitrator* ("Reply") and the matter was submitted  
27 for decision thereafter.  
28



1           **I.       FACTS AND PROCEDURAL HISTORY**

2           This is an action for breach of contract. Mr. Garmong filed his Complaint on May 9,  
3 2012. On September 19, 2012, Defendants WESPAC and Greg Christian filed their *Motion*  
4 *to Dismiss and Compel Arbitration*. On December 13, 2012, this Court<sup>1</sup> entered its *Order*  
5 granting Defendants' request to compel arbitration but denying the motion to dismiss. The  
6 Court found, "the arbitration agreement contained in paragraph 16 of the 'Investment  
7 Management Agreement' entered into by the parties is not unconscionable and is therefore  
8 enforceable." *Order*, p. 1. Mr. Garmong then filed a motion to reconsider the Court's  
9 December 13, 2012 Order. The motion was opposed by Defendants. However, Mr.  
10 Garmong did not file a reply and this case was stagnant for nearly a year until January 13,  
11 2014, when this Court entered its *Order to Proceed*. Mr. Garmong filed his reply on  
12 February 3, 2014. The motion for reconsideration was denied on April 2, 2014.

13           Mr. Garmong then sought writ relief from the Nevada Supreme Court. However, at  
14 the time there was no stay of this proceeding entered by this Court or by the Nevada  
15 Supreme Court.<sup>2</sup> On December 18, 2014, the Nevada Supreme Court entered its *Order*  
16 *Denying Petition for Writ of Mandamus or Prohibition*. The Supreme Court next entered its  
17 *Order Denying Rehearing* on March 18, 2015, and, subsequently, entered its *Order Denying*  
18 *En Banc Reconsideration* on May 1, 2015. During this time, no court-ordered stays tolled  
19 the time within which Mr. Garmong must bring this action to trial.<sup>3</sup>

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25           <sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his  
26 retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in  
Department 6.

27           <sup>2</sup> A court-ordered stay tolls the time for a plaintiff to bring a case to trial for purposes of NRCP 41.  
28           See D.R. Horton, Inc. v. Eighth Jud. Dist. Ct., 131 Nev. Adv. Op. 86, 358 P.3d 925, 929 (2015).

<sup>3</sup> This Court subsequently entered its *Order Granting Motion to Strike*, staying the proceedings  
pending the outcome of arbitration on November 13, 2017.

1 After the Nevada Supreme Court's orders were entered, this Court again entered an  
2 *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17,  
3 2015. In response, the parties indicated they had initiated an arbitration proceeding with  
4 JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.

6 On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*,  
7 arguing Defendants prejudiced the JAMS arbitrators against Mr. Garmong. This matter was  
8 fully briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration*. The *Order*  
9 *re: Arbitration* instructed the parties to submit three names each to this Court. The Court  
10 would then select an arbitrator. After the parties submitted names, the Court appointed a  
11 panel of arbitrators to hear this dispute consistent with the applicable JAMS rules and  
12 procedures and in consideration of overall fairness to all parties. *Order Appointing*  
14 *Arbitration Panel* entered September 13, 2016. The parties then stipulated to select one  
15 arbitrator, to reduce costs. *Stipulation to Select One Arbitrator*, October 17, 2016. In  
16 accordance, this Court entered its *Order Appointing Arbitrator* on October 31, 2016,  
17 appointing Michael G. Ornstil, Esq., as arbitrator. After it was determined Mr. Ornstil was  
18 unavailable, Mr. Garmong stipulated to the appointment of either retired Judge Phillip M.  
19 Pro,<sup>4</sup> or Lawrence R. Mills. Esq. Pursuant to the parties' stipulation, on February 21, 2017,  
21 this Court entered its *Order Appointing Arbitrator*, appointing Judge Phillip M. Pro ("Judge  
22 Pro").

24 //

25 //

26 //

28 <sup>4</sup> Mr. Garmong ironically stipulated to Judge Pro although he previously moved to preclude a judge from serving as an arbitrator.

1 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
2 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
3 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
4 objected to arbitration on the basis there was no agreement to arbitrate.<sup>5</sup>

6 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
7 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
8 Defendants have been ordered numerous times to participate in arbitration as early as  
9 December 13, 2012. There is no evidence before this Court the parties have proceeded to  
10 arbitration." *Order*, p. 4. Accordingly, the Court ordered the parties to show cause why the  
11 action should not be dismissed for want of prosecution. *Order*, p. 4.

13 The parties had their first arbitration conference in April 2017. *Arbitrator's Order Re:*  
14 *Summary Judgment* ("SJ Order"), p. 1. Seven months later, Mr. Garmong filed his *Motion*  
15 *for Partial Summary Judgment* ("MSJ") pursuant to NRCP 56. *SJ Order*, p. 1. On January  
16 25, 2018, Judge Pro entered an *Order Re Summary Judgment*, denying Mr. Garmong's  
17 MSJ. *SJ Order*, p. 1. On February 12, 2018, Mr. Garmong filed a *Motion for*  
18 *Reconsideration of the Order Denying Partial Summary Judgment* which was thereafter  
19 denied by Judge Pro.

21 On June 5, 2018, Mr. Garmong moved to disqualify Judge Pro by filing the instant  
22 *Motion* with the JAMS' National Arbitration Committee (the "Committee"), which oversees all  
23 appeals through JAMS. *Opposition*, Exhibit 4. The matter was fully briefed and on June 26,  
24 2018 the Committee denied Mr. Garmong's appeal, noting the Committee's decision is the  
25 final decision. *Opposition*, Exhibit 4.

28 <sup>5</sup> The Court will consider this objection as Mr. Garmong preserving his rights pursuant to NRS  
38.231(2) and NRS 38.241(1)(e).

1 Mr. Garmong thereafter filed the instant *Motion* requesting the Court disqualify Judge  
2 Pro, vacate the arbitration *Order Re Summary Judgment*, and appoint a new arbitrator.  
3 First, Mr. Garmong argues Judge Pro must be disqualified because he failed to “honor” the  
4 court’s decision in Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005). *Motion*, p.  
5 2. Specifically, Mr. Garmong argues Judge Pro denied the MSJ because “the summary  
6 judgment papers of the parties consumed ‘nearly 100 pages’” and there were “allegedly  
7 issues of fact and credibility.” *Motion*. p. 10. Mr. Garmong further contends Judge Pro’s  
8 Order was inconsistent with his previous rulings as a United States District Court Judge.  
9 *Motion*. p. 16. As such, Mr. Garmong argues, the Order must be both set aside and Judge  
10 Pro must be disqualified because “[t]here is no reason to believe. . . [Judge] Pro will not take  
11 the same approach of disregarding the established facts and disregarding Nevada law in  
12 subsequent proceedings in this arbitration.” *Motion*. p. 23.

15 Mr. Garmong further contends Judge Pro failed to disclose that he was “heavily  
16 involved in another, much larger arbitration of cigarette-industry cases,” and, therefore, he  
17 has an undisclosed conflict which “interferes with his conduct of the arbitration.” *Motion*. p.  
18 24. Moreover, Mr. Garmong maintains Judge Pro showed “partiality” to Defendants.  
19 *Motion*. p. 26. In support, Mr. Garmong asserts “[b]y refusing to decide plaintiff’s MSJ  
20 according to NRCP 56 . . . [Judge] Pro expressed partiality in favor of the [D]efendants.”  
21 *Motion*. P. 26.

24 In its *Opposition*, Defendants oppose the *Motion* on six grounds. First, Defendants  
25 maintain the Arbitration Committee’s decision that the instant *Motion* should be denied was  
26 final pursuant to JAMS Rule 15(i), which states in pertinent part, “JAMS shall make the final  
27 determination [of an appeal]. Such determination shall take into account the materiality of  
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1 the facts and any prejudice to the Parties. That decision will be final.” *Opposition*, p. 5.  
2 Accordingly, Defendants conclude Mr. Garmong’s *Motion* is improper because he seeks to  
3 appeal a final order rendered by the JAMS Appeals Panel. *Opposition*, p. 5.

4  
5 Second, Defendants argue Mr. Garmong blatantly disregarded this Court’s *Order*  
6 *Granting Motion to Strike and Order Denying Plaintiff’s Motion for Leave to Reconsider and*  
7 *Motion for Reconsideration of Order of November 13, 2017*, when he filed the instant *Motion*  
8 during the pendency of a stay “solely for the purpose of harassing Defendants and delaying  
9 the October 2018 arbitration hearing.” *Opposition*, p. 6. As such, Defendants argue the  
10 Court should *sua sponte* deny the *Motion*.

11  
12 Third, Defendants contend Mr. Garmong’s allegations that Judge Pro is impartial and  
13 has a conflict of interest is without merit. *Opposition*, p. 7. Defendants assert Mr.  
14 Garmong’s claim that Judge Pro did not follow Nevada law because he asserted certain  
15 facts were “undisputed” mischaracterizes his Order. *Opposition*, p. 7. Specifically, Judge  
16 Pro was referring to non-material facts which were not in dispute. *Opposition*, p. 7. Further,  
17 Judge Pro is not required to recite every single argument in his Order, as asserted by Mr.  
18 Garmong. *Opposition*, p. 9

19  
20 Next, Defendants maintain Judge Pro has no undisclosed conflict of interest.  
21 *Opposition*, p. 9. Defendants argue Judge Pro is not limited to presiding over only one  
22 arbitration at a time. *Opposition*, p. 9. Defendants assert any allegation that Judge Pro’s  
23 caseload was too voluminous to handle the instant arbitration is nothing more than  
24 speculation and, regardless, does not amount to a conflict. *Opposition*, p. 9.

25  
26 Additionally, Defendants maintain there is no actual evidence of bias. *Opposition*, p.  
27 10. Instead, Mr. Garmong is “simply unhappy with the ruling of Judge Pro. ‘However, ruling  
28

1 and actions of a judge during the course of official judicial proceedings do[es] not establish  
2 bias sufficient to disqualify a district court judge.” *Opposition*, p. 10; citing City of Las Vegas  
3 Downtown Redevelopment Agency v. Hecht, 113 Nev. 644, 940 P.2d 134 (1997).

4 Moreover, Defendants contend Judge Pro does not meet the requirements for  
5 disqualification pursuant to NCJC Canon 3E(1). *Opposition*, p. 12.

7 Defendants further assert Mr. Garmong’s *Motion* is untimely. *Opposition*, p. 12.  
8 Specifically, “[g]rounds for disqualifying a judge *can be waived by failure to timely assert*  
9 *such grounds.*” *Opposition*, p. 12; citing City of Las Vegas Downtown Redevelopment  
10 Agency v. Hecht, 113 Nev. at 651, 940 P.2d at 139. Because Mr. Garmong did not file his  
11 *Motion* for seven months after Judge Pro entered his Order denying Mr. Garmong’s *Motion*  
12 *for Summary Judgment*, he waived his right to now object. *Opposition*, p. 12. Should Judge  
13 Pro be disqualified, Defendants argue the purpose of arbitration would be defeated.  
14 *Opposition*, p. 12.

17 Lastly, Defendants assert Mr. Garmong “has a history of filing meritless motions to  
18 disqualify when judges do not rule in his favor.” *Opposition*, p. 13; citing *e.g.*, *Judge*  
19 *Flanagan’s Order Denying Motion to Disqualify Judge Freeman*, filed in Garmong v. Gary  
20 Silverman et al., CV11-00741; *Petition for Writ of Mandamus*, filed in Garmong v. Patrick  
21 Flanagan et al., NV S.Ct. Case 62565, Doc. 13-03795.

23 In his *Reply*, Mr. Garmong reiterates that Judge Pro “disregarded the law of Nevada  
24 in the arbitration.” *Reply*, p. 2. Specifically, the “technicality” of Rule 37 was disregarded.  
25 *Reply*, p. 5. Mr. Garmong further reiterates Judge Pro had a conflict of interest and asserts  
26 the *Motion* was not previously filed, argued, and denied as Defendant claims. *Reply*, p. 7.  
27 Moreover, Mr. Garmong denies he violated this Court’s Order by filing the instant *Motion*  
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1 because “the arbitration has continued” and the *Motion* “deals with the arbitrator’s disregard  
2 of the law of Nevada . . .” *Reply*, p. 7. Mr. Garmong further asserts “[m]uch of the  
3 Opposition’s argument approaches silliness, but that does not stop Defendants from making  
4 the arguments.” *Reply*, p. 10.

5  
6 Mr. Garmong further contends the *Motion* is timely because “Defendants have  
7 identified no prejudice to their case by any alleged delay.” *Reply*, p. 13. Mr. Garmong  
8 additionally contends Defendants have a history of “fraud and deception” including filing  
9 false affidavits. *Reply*, p. 14.

## 11 II. LAW AND ANALYSIS

12 JAMS Optional Appeal Procedure Rule (f) allows a party to appeal a *final arbitration*  
13 *award* rendered by a JAMS Arbitrator or appeals panel to a district court.<sup>6</sup> *JAMS Optional*  
14 *Appeal Procedure Rule (f)* (“upon service of the Appeal Panel decision, the [Arbitration]  
15 Award will be final for purposes of judicial review.”). However, the Court finds no supporting  
16 authority which allows this Court to consider appeals of an arbitrator’s decision on a motion  
17 for summary disposition of claims. See JAMS Comprehensive Rules & Procedures Rule 18.  
18 Further, this Court expressly lacks authority to consider a JAMS decision regarding a  
19 challenge to the continued service of an arbitrator. JAMS Comprehensive Rules &  
20 Procedures Rule 15(i).

21  
22  
23 Here, Mr. Garmong does not seek judicial review of a final arbitration award. Instead,  
24 Mr. Garmong is asking this Court to challenge the continued service of Judge Pro and  
25 vacate Judge Pro’s Order regarding summary judgment. Mr. Garmong makes this *Motion*  
26 after making an identical request to the JAMS Arbitration Appeals Committee, which was  
27 denied. As set forth, “[JAMS] will make the final determination as to whether an Arbitrator is  
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<sup>6</sup> Notice of Completion of Arbitration was filed on October 22, 2018.

1 unable to fulfill his or her duties, and that decision shall be final." JAMS Comprehensive  
2 Rules & Procedures Rule 15(i). Accordingly, this Court will not interfere to supersede the  
3 Committee's final determination regarding the continued service of an arbitrator and  
4 declines to consider an appeal of a motion for summary disposition of claims. Mr. Garmong  
5 will have the opportunity to appeal the final arbitration award to this Court in accordance  
6 with JAMS rules, should he wish to do so.

8 Accordingly, the Court denies Mr. Garmong's *Motion*.

9  
10 IT IS SO ORDERED *Plaintiff's Motion to Disqualify Arbitrator Pro, Vacate Order*  
11 *Denying Motion for Summary Judgment and Appoint New Arbitrator* is DENIED in its  
12 entirety.

13 DATED this 24<sup>th</sup> day of November, 2018.

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17 DISTRICT JUDGE  
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THOMAS BRADLEY, ESQ.  
CARL HEBERT, ESQ.

Hadi Bore

1 CODE: 2540  
2 Thomas C. Bradley, Esq.  
3 NV Bar. No. 1621  
4 448 Hill Street  
5 Reno, NV 89501-1814  
6 Telephone: (775) 323-5178  
7 Facsimile: (775) 323-0709  
8 Attorney for Defendants

9  
10  
11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
12  
13 **IN AND FOR THE COUNTY OF WASHOE**

14 GREGORY O. GARMONG,

15 Plaintiff,

Case No. CV12-01271

16 vs.

Dept. No. 6

17 WESPAC; GREG CHRISTIAN;  
18 DOES 1-10, inclusive

19 Defendants.  
20 \_\_\_\_\_/

21 **NOTICE OF ENTRY OF ORDER**

22 TO: Plaintiff, GREGORY O. GARMONG; through his counsel, CARL M.  
23 HERBERT, ESQ.:

24 YOU WILL PLEASE TAKE NOTICE that the above-entitled Court entered its  
25 *ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO; ORDER*  
26 *DENYING MOTION TO VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT;*  
27 *ORDER DENYING MOTION TO APPOINT NEW ARBITRATOR* herein on the 29<sup>TH</sup> day of  
28 November, 2018.

A copy of said *ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY*

THOMAS C. BRADLEY, ESQ.  
448 HILL STREET  
RENO, NEVADA 89501  
(775) 323-5178 • (775) 323-0709 FACSMILE

1 *ARBITRATOR PRO; ORDER DENYING MOTION TO VACATE ORDER DENYING MOTION*  
2 *FOR SUMMARY JUDGMENT; ORDER DENYING MOTION TO APPOINT NEW ARBITRATOR*  
3 *is attached hereto as Exhibit 1.*

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

5 *The foregoing document does not contain the Social Security number of any*  
6 *individual.*

7  
8 DATED this 12 day of December, 2018.

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11 By   
12 THOMAS C. BRADLEY, ESQ.  
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THOMAS C. BRADLEY, ESQ.  
448 HILL STREET  
RENO, NEVADA 89501  
(775) 323-5178 • (775) 323-0709 FACSMILE

CERTIFICATE OF SERVICE

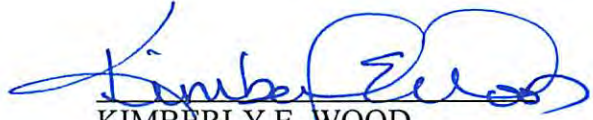
I certify that I am an employee of THOMAS C. BRADLEY, ESQ. and that on the 12<sup>th</sup> day of December, 2018, pursuant to I electronically filed the foregoing with the Clerk of the Court System, which will sent a notice of electronic filing to the following to:

THOMAS C. BRADLEY, ESQ.

CARL M. HERBERT, ESQ.

And, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy if the attached document addressed as follows to:

CARL M. HERBERT, ESQ.  
202 California Avenue  
Reno, Nevada 89509

  
KIMBERLY E. WOOD

THOMAS C. BRADLEY, ESQ.  
448 HILL STREET  
RENO, NEVADA 89501  
(775) 323-5178 • (775) 323-0709 FACSMILE

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INDEX OF EXHIBITS

Exhibit No.	Description	No. of Pages
1.	ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO; ORDER DENYING MOTION TO VACATE ORDER DENYING MOTION FOR SUMMARY JUDGMENT; ORDER DENYING MOTION TO APPOINT NEW ARBITRATOR	10

# EXHIBIT 1

THOMAS C. BRADLEY, ESQ.  
448 HILL STREET  
RENO, NEVADA 89501  
(775) 323-5178 • (775) 323-0709 FACSMILE

# EXHIBIT 1

1 CODE NO. 3370  
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4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE  
7

8 GREGORY O. GARMONG,  
9 Plaintiff,

Case No. CV12-01271  
Dept. No. 6

10 vs.  
11

12 WESPAC; GREG CHRISTIAN; DOES 1-10,  
13 inclusive,

14 Defendants.  
15

16 **ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY ARBITRATOR PRO;  
17 ORDER DENYING MOTION TO VACATE ORDER DENYING  
18 MOTION FOR SUMMARY JUDGMENT;  
19 ORDER DENYING MOTION TO APPOINT NEW ARBITRATOR**

20 Before this Court is *Plaintiff's Motion to Disqualify Arbitrator Pro, Vacate Order*  
21 *Denying Motion for Summary Judgment and Appoint New Arbitrator ("Motion")* filed by  
22 Plaintiff GREGORY O. GARMONG ("Mr. Garmong"), by and through counsel, Carl M.  
23 Hebert, Esq. Defendants WESPAC and GREG CHRISTIAN (collectively "Defendants"  
24 unless individually referenced), by and through counsel, Thomas C. Bradley, filed their  
25 *Opposition to Motion to Disqualify Arbitrator Pro, Vacate Order Denying Motion for*  
26 *Summary Judgment and Appoint New Arbitrator ("Opposition")*. Mr. Garmong filed *Plaintiff's*  
27 *Reply to Opposition to Motion to Disqualify Arbitrator ("Reply")* and the matter was submitted  
28 for decision thereafter.

1           **I.       FACTS AND PROCEDURAL HISTORY**

2           This is an action for breach of contract. Mr. Garmong filed his Complaint on May 9,  
3 2012. On September 19, 2012, Defendants WESPAC and Greg Christian filed their *Motion*  
4 *to Dismiss and Compel Arbitration*. On December 13, 2012, this Court<sup>1</sup> entered its *Order*  
5 granting Defendants' request to compel arbitration but denying the motion to dismiss. The  
6 Court found, "the arbitration agreement contained in paragraph 16 of the 'Investment  
7 Management Agreement' entered into by the parties is not unconscionable and is therefore  
8 enforceable." *Order*, p. 1. Mr. Garmong then filed a motion to reconsider the Court's  
9 December 13, 2012 Order. The motion was opposed by Defendants. However, Mr.  
10 Garmong did not file a reply and this case was stagnant for nearly a year until January 13,  
11 2014, when this Court entered its *Order to Proceed*. Mr. Garmong filed his reply on  
12 February 3, 2014. The motion for reconsideration was denied on April 2, 2014.

13           Mr. Garmong then sought writ relief from the Nevada Supreme Court. However, at  
14 the time there was no stay of this proceeding entered by this Court or by the Nevada  
15 Supreme Court.<sup>2</sup> On December 18, 2014, the Nevada Supreme Court entered its *Order*  
16 *Denying Petition for Writ of Mandamus or Prohibition*. The Supreme Court next entered its  
17 *Order Denying Rehearing* on March 18, 2015, and, subsequently, entered its *Order Denying*  
18 *En Banc Reconsideration* on May 1, 2015. During this time, no court-ordered stays tolled  
19 the time within which Mr. Garmong must bring this action to trial.<sup>3</sup>

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25           <sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his  
26 retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in  
Department 6.

27           <sup>2</sup> A court-ordered stay tolls the time for a plaintiff to bring a case to trial for purposes of NRCP 41.  
28           See D.R. Horton, Inc. v. Eighth Jud. Dist. Ct., 131 Nev. Adv. Op. 86, 358 P.3d 925, 929 (2015).

<sup>3</sup> This Court subsequently entered its *Order Granting Motion to Strike*, staying the proceedings  
pending the outcome of arbitration on November 13, 2017.



1 After the Nevada Supreme Court's orders were entered, this Court again entered an  
2 *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17,  
3 2015. In response, the parties indicated they had initiated an arbitration proceeding with  
4 JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.

5  
6 On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*,  
7 arguing Defendants prejudiced the JAMS arbitrators against Mr. Garmong. This matter was  
8 fully briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration*. The *Order*  
9 *re: Arbitration* instructed the parties to submit three names each to this Court. The Court  
10 would then select an arbitrator. After the parties submitted names, the Court appointed a  
11 panel of arbitrators to hear this dispute consistent with the applicable JAMS rules and  
12 procedures and in consideration of overall fairness to all parties. *Order Appointing*  
13 *Arbitration Panel* entered September 13, 2016. The parties then stipulated to select one  
14 arbitrator, to reduce costs. *Stipulation to Select One Arbitrator*, October 17, 2016. In  
15 accordance, this Court entered its *Order Appointing Arbitrator* on October 31, 2016,  
16 appointing Michael G. Ornstil, Esq., as arbitrator. After it was determined Mr. Ornstil was  
17 unavailable, Mr. Garmong stipulated to the appointment of either retired Judge Phillip M.  
18 Pro,<sup>4</sup> or Lawrence R. Mills. Esq. Pursuant to the parties' stipulation, on February 21, 2017,  
19 this Court entered its *Order Appointing Arbitrator*, appointing Judge Phillip M. Pro ("Judge  
20 Pro").  
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28 <sup>4</sup> Mr. Garmong ironically stipulated to Judge Pro although he previously moved to preclude a judge  
from serving as an arbitrator.

1 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
2 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
3 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
4 objected to arbitration on the basis there was no agreement to arbitrate.<sup>5</sup>

6 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
7 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
8 Defendants have been ordered numerous times to participate in arbitration as early as  
9 December 13, 2012. There is no evidence before this Court the parties have proceeded to  
10 arbitration." *Order*, p. 4. Accordingly, the Court ordered the parties to show cause why the  
11 action should not be dismissed for want of prosecution. *Order*, p. 4.

13 The parties had their first arbitration conference in April 2017. *Arbitrator's Order Re:*  
14 *Summary Judgment ("SJ Order")*, p. 1. Seven months later, Mr. Garmong filed his *Motion*  
15 *for Partial Summary Judgment ("MSJ")* pursuant to NRCP 56. *SJ Order*, p. 1. On January  
16 25, 2018, Judge Pro entered an *Order Re Summary Judgment*, denying Mr. Garmong's  
17 *MSJ*. *SJ Order*, p. 1. On February 12, 2018, Mr. Garmong filed a *Motion for*  
18 *Reconsideration of the Order Denying Partial Summary Judgment* which was thereafter  
19 denied by Judge Pro.

21 On June 5, 2018, Mr. Garmong moved to disqualify Judge Pro by filing the instant  
22 *Motion* with the JAMS' National Arbitration Committee (the "Committee"), which oversees all  
23 appeals through JAMS. *Opposition*, Exhibit 4. The matter was fully briefed and on June 26,  
24 2018 the Committee denied Mr. Garmong's appeal, noting the Committee's decision is the  
25 final decision. *Opposition*, Exhibit 4.

28 <sup>5</sup> The Court will consider this objection as Mr. Garmong preserving his rights pursuant to NRS  
38.231(2) and NRS 38.241(1)(e).

1 Mr. Garmong thereafter filed the instant *Motion* requesting the Court disqualify Judge  
2 Pro, vacate the arbitration *Order Re Summary Judgment*, and appoint a new arbitrator.  
3 First, Mr. Garmong argues Judge Pro must be disqualified because he failed to "honor" the  
4 court's decision in Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005). *Motion*, p.  
5 2. Specifically, Mr. Garmong argues Judge Pro denied the MSJ because "the summary  
6 judgment papers of the parties consumed 'nearly 100 pages'" and there were "allegedly  
7 issues of fact and credibility." *Motion*. p. 10. Mr. Garmong further contends Judge Pro's  
8 Order was inconsistent with his previous rulings as a United States District Court Judge.  
9 *Motion*. p. 16. As such, Mr. Garmong argues, the Order must be both set aside and Judge  
10 Pro must be disqualified because "[t]here is no reason to believe. . . [Judge] Pro will not take  
11 the same approach of disregarding the established facts and disregarding Nevada law in  
12 subsequent proceedings in this arbitration." *Motion*. p. 23.

15 Mr. Garmong further contends Judge Pro failed to disclose that he was "heavily  
16 involved in another, much larger arbitration of cigarette-industry cases," and, therefore, he  
17 has an undisclosed conflict which "interferes with his conduct of the arbitration." *Motion*. p.  
18 24. Moreover, Mr. Garmong maintains Judge Pro showed "partiality" to Defendants.  
19 *Motion*. p. 26. In support, Mr. Garmong asserts "[b]y refusing to decide plaintiff's MSJ  
20 according to NRCP 56 . . . [Judge] Pro expressed partiality in favor of the [D]efendants."  
21 *Motion*. P. 26.

22 In its *Opposition*, Defendants oppose the *Motion* on six grounds. First, Defendants  
23 maintain the Arbitration Committee's decision that the instant *Motion* should be denied was  
24 final pursuant to JAMS Rule 15(i), which states in pertinent part, "JAMS shall make the final  
25 determination [of an appeal]. Such determination shall take into account the materiality of  
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1 the facts and any prejudice to the Parties. That decision will be final.” *Opposition*, p. 5.

2 Accordingly, Defendants conclude Mr. Garmong’s *Motion* is improper because he seeks to  
3 appeal a final order rendered by the JAMS Appeals Panel. *Opposition*, p. 5.

4       Second, Defendants argue Mr. Garmong blatantly disregarded this Court’s *Order*  
5 *Granting Motion to Strike and Order Denying Plaintiff’s Motion for Leave to Reconsider and*  
6 *Motion for Reconsideration of Order of November 13, 2017*, when he filed the instant *Motion*  
7 during the pendency of a stay “solely for the purpose of harassing Defendants and delaying  
8 the October 2018 arbitration hearing.” *Opposition*, p. 6. As such, Defendants argue the  
9 Court should *sua sponte* deny the *Motion*.

10       Third, Defendants contend Mr. Garmong’s allegations that Judge Pro is impartial and  
11 has a conflict of interest is without merit. *Opposition*, p. 7. Defendants assert Mr.  
12 Garmong’s claim that Judge Pro did not follow Nevada law because he asserted certain  
13 facts were “undisputed” mischaracterizes his Order. *Opposition*, p. 7. Specifically, Judge  
14 Pro was referring to non-material facts which were not in dispute. *Opposition*, p. 7. Further,  
15 Judge Pro is not required to recite every single argument in his Order, as asserted by Mr.  
16 Garmong. *Opposition*, p. 9

17       Next, Defendants maintain Judge Pro has no undisclosed conflict of interest.  
18 *Opposition*, p. 9. Defendants argue Judge Pro is not limited to presiding over only one  
19 arbitration at a time. *Opposition*, p. 9. Defendants assert any allegation that Judge Pro’s  
20 caseload was too voluminous to handle the instant arbitration is nothing more than  
21 speculation and, regardless, does not amount to a conflict. *Opposition*, p. 9.

22       Additionally, Defendants maintain there is no actual evidence of bias. *Opposition*, p.  
23 10. Instead, Mr. Garmong is “simply unhappy with the ruling of Judge Pro. ‘However, ruling

1 and actions of a judge during the course of official judicial proceedings do[es] not establish  
2 bias sufficient to disqualify a district court judge.” *Opposition*, p. 10; citing City of Las Vegas  
3 Downtown Redevelopment Agency v. Hecht, 113 Nev. 644, 940 P.2d 134 (1997).

4 Moreover, Defendants contend Judge Pro does not meet the requirements for  
5 disqualification pursuant to NCJC Canon 3E(1). *Opposition*, p. 12.

7 Defendants further assert Mr. Garmong’s *Motion* is untimely. *Opposition*, p. 12.  
8 Specifically, “[g]rounds for disqualifying a judge *can be waived by failure to timely assert*  
9 *such grounds.*” *Opposition*, p. 12; citing City of Las Vegas Downtown Redevelopment  
10 Agency v. Hecht, 113 Nev. at 651, 940 P.2d at 139. Because Mr. Garmong did not file his  
11 *Motion* for seven months after Judge Pro entered his Order denying Mr. Garmong’s *Motion*  
12 *for Summary Judgment*, he waived his right to now object. *Opposition*, p. 12. Should Judge  
13 Pro be disqualified, Defendants argue the purpose of arbitration would be defeated.  
14 *Opposition*, p. 12.

17 Lastly, Defendants assert Mr. Garmong “has a history of filing meritless motions to  
18 disqualify when judges do not rule in his favor.” *Opposition*, p. 13; citing *e.g.*, Judge  
19 Flanagan’s Order Denying Motion to Disqualify Judge Freeman, filed in Garmong v. Gary  
20 Silverman et al., CV11-00741; *Petition for Writ of Mandamus*, filed in Garmong v. Patrick  
21 Flanagan et al., NV S.Ct. Case 62565, Doc. 13-03795.

23 In his *Reply*, Mr. Garmong reiterates that Judge Pro “disregarded the law of Nevada  
24 in the arbitration.” *Reply*, p. 2. Specifically, the “technicality” of Rule 37 was disregarded.  
25 *Reply*, p. 5. Mr. Garmong further reiterates Judge Pro had a conflict of interest and asserts  
26 the *Motion* was not previously filed, argued, and denied as Defendant claims. *Reply*, p. 7.  
27 Moreover, Mr. Garmong denies he violated this Court’s Order by filing the instant *Motion*  
28

1 because "the arbitration has continued" and the *Motion* "deals with the arbitrator's disregard  
2 of the law of Nevada . . ." *Reply*, p. 7. Mr. Garmong further asserts "[m]uch of the  
3 Opposition's argument approaches silliness, but that does not stop Defendants from making  
4 the arguments." *Reply*, p. 10.

5  
6 Mr. Garmong further contends the *Motion* is timely because "Defendants have  
7 identified no prejudice to their case by any alleged delay." *Reply*, p. 13. Mr. Garmong  
8 additionally contends Defendants have a history of "fraud and deception" including filing  
9 false affidavits. *Reply*, p. 14.

## 10 11 II. LAW AND ANALYSIS

12 JAMS Optional Appeal Procedure Rule (f) allows a party to appeal a *final arbitration*  
13 *award* rendered by a JAMS Arbitrator or appeals panel to a district court.<sup>6</sup> *JAMS Optional*  
14 *Appeal Procedure Rule (f)* ("upon service of the Appeal Panel decision, the [Arbitration]  
15 Award will be final for purposes of judicial review."). However, the Court finds no supporting  
16 authority which allows this Court to consider appeals of an arbitrator's decision on a motion  
17 for summary disposition of claims. See JAMS Comprehensive Rules & Procedures Rule 18.  
18 Further, this Court expressly lacks authority to consider a JAMS decision regarding a  
19 challenge to the continued service of an arbitrator. JAMS Comprehensive Rules &  
20 Procedures Rule 15(i).

21  
22 Here, Mr. Garmong does not seek judicial review of a final arbitration award. Instead,  
23 Mr. Garmong is asking this Court to challenge the continued service of Judge Pro and  
24 vacate Judge Pro's Order regarding summary judgment. Mr. Garmong makes this *Motion*  
25 after making an identical request to the JAMS Arbitration Appeals Committee, which was  
26 denied. As set forth, "[JAMS] will make the final determination as to whether an Arbitrator is  
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<sup>6</sup> Notice of Completion of Arbitration was filed on October 22, 2018.

1 unable to fulfill his or her duties, and that decision shall be final." JAMS Comprehensive  
2 Rules & Procedures Rule 15(i). Accordingly, this Court will not interfere to supersede the  
3 Committee's final determination regarding the continued service of an arbitrator and  
4 declines to consider an appeal of a motion for summary disposition of claims. Mr. Garmong  
5 will have the opportunity to appeal the final arbitration award to this Court in accordance  
6 with JAMS rules, should he wish to do so.

8 Accordingly, the Court denies Mr. Garmong's *Motion*.

9 IT IS SO ORDERED *Plaintiff's Motion to Disqualify Arbitrator Pro, Vacate Order*  
10 *Denying Motion for Summary Judgment and Appoint New Arbitrator* is DENIED in its  
11 entirety.  
12

13 DATED this 24<sup>th</sup> day of November, 2018.

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16 DISTRICT JUDGE  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 GREGORY O. GARMONG,  
10 Plaintiff,  
11

Case No. CV12-01271  
Dept. No. 6

12 vs.

13 WESPAC; GREG CHRISTIAN; DOES 1-10,  
14 inclusive,

15 Defendants.  
16

17 **ORDER RE MOTIONS**

18 Five related motions are pending before this Court.

19 **First pending is *Defendants' Petition for an Order Confirming Arbitrator's Final***  
20 ***Award and Reduce Award to Judgment, Including, Attorneys' Fees and Costs*** ("Motion  
21 *Confirm Final Award*"), filed by Defendant WESPAC and GREG CHRISTIAN (collectively  
22 "Defendants" unless individually referenced), by and through their attorney of record,  
23 Thomas C. Bradley, Esq. Plaintiff GREGORY GARMONG ("Mr. Garmong") filed *Plaintiff's*  
24 *Opposition to Defendants' Motion to Confirm Arbitrator's Award* ("Opposition to Motion to  
25 *Confirm Final Award*"), by and through his attorney of record, Carl M. Herbert, Esq.  
26 Defendants filed *Defendants' Reply to Plaintiff's Opposition to Defendants' Motion to*  
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1 Confirm Arbitrator's Award ("Reply to Motion to Confirm Final Award") and the matter was  
2 submitted for decision thereafter.

3 **Second pending is Plaintiff's Motion to Vacate Arbitrator's Final Award** ("Motion  
4 to Vacate Final Award"), filed by Mr. Garmong. Defendants filed *Defendants' Opposition to*  
5 *Plaintiff's Motion to Vacate Arbitrator's Final Award (Opposition to Motion to Vacate)*. Mr.  
6 Garmong filed *Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motion to Vacate*  
7 *Arbitrator's Final Award ("Reply to Motion to Vacate")* and the matter was submitted for  
8 decision thereafter.  
9

10 **Third pending is Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's**  
11 **Fees** ("Motion to Vacate Award of Fees"), filed by Mr. Garmong. Defendants filed  
12 *Defendants' Opposition to Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees*  
13 *and Reply to Plaintiff's Opposition to Defendants' Petition for Order Confirming Arbitrator's*  
14 *Final Award and Reduce Award to Judgment, Including, Attorneys' Fees and Costs*  
15 *("Opposition to Motion to Vacate Award of Fees")*. Mr. Garmong filed *Plaintiff's Reply to*  
16 *Defendants' Opposition to Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees*  
17 *and Reply to Plaintiff's Opposition to Defendants' Petition for an Order Confirming*  
18 *Arbitrator's Final Award and Reduce Award to Judgment, Including, Attorneys' Fees and*  
19 *Costs ("Reply to Motion to Vacate Award of Fees")* and the matter was submitted for  
20 decision thereafter.  
21

22 **Fourth pending is the combined Plaintiff's Motions to Vacate Arbitrator's**  
23 **Award of Denial of Plaintiff's Motion for Partial Summary Judgment and for the Court**  
24 **to Decide and Grant Plaintiff's Motion for Partial Summary Judgment** ("Motion to  
25 Vacate MSJ Decision"), filed by Mr. Garmong. Defendants filed *Defendants' Opposition to*  
26  
27  
28

1 *Plaintiff's Motions to Vacate Arbitrator's Award of Denial of Plaintiff's Motion for Partial*  
2 *Summary Judgment and for the Court to Decide and Grant Plaintiff's Motion for Partial*  
3 *Summary Judgment ("Opposition to Motion to Vacate MSJ Decision").* Mr. Garmong filed  
4 *Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motions to Vacate Arbitrator's Award*  
5 *of Denial of Plaintiff's Motion for Partial Summary Judgment and for the Court to Decide and*  
6 *Grant Plaintiff's Motion for Partial Summary Judgment ("Reply to Motion to Vacate MSJ*  
7 *Decision")* and the matter was submitted for decision thereafter.

9 **Fifth pending is Defendants' Motion for an Order to File Exhibit as Confidential**  
10 *("Motion to File Exhibit as Confidential"),* filed by Defendants. Mr. Garmong filed *Plaintiff's*  
11 *Opposition to Defendants' Motion for an Order to File Exhibit as Confidential ("Opposition to*  
12 *Motion to File Exhibit as Confidential").* Defendants filed their *Reply to Plaintiff's Opposition*  
13 *to Defendants' Motion for an Order to File Exhibit as Confidential ("Reply to Motion to File*  
14 *Exhibit as Confidential"),* and the matter was submitted for decision thereafter.

17 **I. FACTS AND PROCEDURAL HISTORY.**

18 This is an action for breach of contract. Mr. Garmong filed his Complaint on May 9,  
19 2012. On September 19, 2012, Defendants filed their *Motion to Dismiss and Compel*  
20 *Arbitration.* On December 13, 2012, this Court<sup>1</sup> entered its *Order* granting Defendants'  
21 request to compel arbitration but denying the motion to dismiss. Mr. Garmong then filed a  
22 motion to reconsider the Court's December 13, 2012 Order. The motion was opposed by  
23 Defendants. However, Mr. Garmong did not file a reply and this case was stagnant for  
24 nearly a year until January 13, 2014, when this Court entered its *Order to Proceed.* Mr.

27 <sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his  
28 retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in  
Department 6.

1 Garmong filed his reply on February 3, 2014. The motion for reconsideration was denied on  
2 April 2, 2014.

3 Mr. Garmong then sought writ relief from the Nevada Supreme Court. On December  
4 18, 2014, the Nevada Supreme Court entered its *Order Denying Petition for Writ of*  
5 *Mandamus or Prohibition*. The Supreme Court next entered its *Order Denying Rehearing*  
6 on March 18, 2015, and, subsequently, entered its *Order Denying En Banc Reconsideration*  
7 on May 1, 2015.

8  
9 After the Nevada Supreme Court's orders were entered, this Court again entered an  
10 *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17,  
11 2015. In response, the parties indicated they had initiated an arbitration proceeding with  
12 JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.

13  
14 On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*,  
15 arguing Defendants prejudiced the JAMS arbitrators against Mr. Garmong. This matter was  
16 fully briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration*. The parties  
17 then stipulated to select one arbitrator, to reduce costs. *Stipulation to Select One Arbitrator*,  
18 October 17, 2016. In accordance, this Court entered its *Order Appointing Arbitrator* on  
19 October 31, 2016, appointing Michael G. Ornstil, Esq., as arbitrator. After it was determined  
20 Mr. Ornstil was unavailable, Mr. Garmong stipulated to the appointment of either retired  
21 Judge Phillip M. Pro,<sup>2</sup> or Lawrence R. Mills. Esq.

22  
23  
24 On November 13, 2016, this Court entered its *Order Granting Motion to Strike*, which  
25 stayed the proceeding pending the outcome of the arbitration. *Order Granting Motion to*  
26

27  
28 <sup>2</sup> Mr. Garmong stipulated to Judge Pro although he previously moved to preclude a judge from  
serving as an arbitrator.

1 Strike, p. 2. On February 21, 2017, this Court entered its *Order Appointing Arbitrator*,  
2 appointing Judge Phillip M. Pro ("Judge Pro").

3 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
4 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
5 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
6 objected to arbitration on the basis there was no agreement to arbitrate.

7  
8 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
9 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
10 Defendants were ordered numerous times to participate in arbitration as early as December  
11 13, 2012. The Court held no evidence was presented establishing the parties had  
12 proceeded to arbitration as ordered. *Order*, p. 4. Accordingly, the Court ordered the parties  
13 to show cause why the action should not be dismissed for want of prosecution. *Order*, p. 4.

14  
15 The parties had their first arbitration conference in April 2017. On June 22, 2018,  
16 without asking for leave of Court, Mr. Garmong filed his *Motion to Disqualify Arbitrator Pro*,  
17 *Vacate Order Denying Motion for Summary Judgment and Appoint New Arbitrator* ("Motion  
18 to Disqualify").

19  
20 Defendants thereafter filed the *Defendants' Motion for Limited Relief From Stay to*  
21 *File Motion for Attorney's Fees and Sanctions* ("Motion for Sanctions") requesting limited  
22 relief from this Court's order staying the proceeding pending the outcome of arbitration.  
23 However, on October 22, 2018, Defendants filed their *Notice of Completion of Arbitration*  
24 *Hearing*. The Court held that, with completion of the arbitration, Defendants' *Motion for*  
25 *Sanctions* was moot. Additionally, the Court took notice of Defendants' *Notice of*

1 *Completion of Arbitration* and determined there are no additional decisions to be rendered  
2 regarding the *Notice*.

3 **II. PENDING MOTIONS.**

4 **A. Motion to Confirm Final Award**

5  
6 In its *Motion to Confirm Final Award*, Defendants petition the Court for an order  
7 confirming the arbitration award pursuant to Rule 38.239 of the Nevada Revised Statutes.  
8 *Motion to Confirm Final Award*, p. 5. Defendants assert the arbitration Final Award in JAMS  
9 Arbitration Case No. 1260003474 was entered April 11, 2019, in favor of Defendants and  
10 against Mr. Garmong in the total sum of \$111,649.96, including reasonable attorney's fees  
11 and costs. Defendants further request interest accrued on the total sum at the legal rate of  
12 7.5% per annum, from the date this Court enters judgment until the date judgment is  
13 satisfied in full. *Motion to Confirm Final Award*, p. 5.

14  
15 Mr. Garmong opposed the *Motion to Confirm Final Award* on the grounds he did not  
16 enter into a "binding contract including an agreement providing for arbitration" as required  
17 by NRS 38.221(1). *Opposition to Motion to Confirm Final Award*, p. 1. Mr. Garmong argues  
18 if Defendants "cannot identify one, and only one, true, complete, correct, certain,  
19 unambiguous, definite, verified and binding Contract in the record as it now exists, the  
20 arbitrator's Final Award cannot be confirmed because there was no agreement to arbitrate."  
21 *Opposition to Motion to Confirm Final Award*, p. 2. Mr. Garmong further argues Defendants'  
22 *Motion to Confirm Final Award* must be denied because Defendants perpetrated fraud upon  
23 the Court, arbitrator, and Plaintiff by falsely representing the first version of the Investment  
24 Management Agreement was correct.

25  
26 In their *Reply*, Defendants assert the parties entered into a valid and enforceable  
27  
28

1 Investment Management Agreement (the "Agreement"), the final version of which was  
2 executed on August 31, 2005. *Reply to Motion to Confirm Final Award*, p. 5. Defendants  
3 maintain the Arbitration Clause is included in the Agreement at paragraph 16, pages 17 and  
4 18. *Reply to Motion to Confirm Final Award*, p. 5. Moreover, the fully executed Agreement  
5 was submitted in support of Defendants' *Motion to Dismiss and to Compel Arbitration*, and is  
6 therefore part of the record. *Reply to Motion to Confirm Final Award*, p. 9.

8 **B. Plaintiff's Motion to Vacate Arbitrator's Final Award**

9 In his *Motion to Vacate Final Award*, Mr. Garmong first maintains the Final Award  
10 must be vacated pursuant to NRS 38.241(1) because there is no agreement to arbitrate.  
11 *Motion to Vacate Final Award*, p. 5. Second, Mr. Garmong contends the arbitration  
12 provision contained in the Agreement is void pursuant to NRS 597.995 because it has no  
13 "specific authorization." *Motion to Vacate Final Award*, p. 8. Mr. Garmong argues the  
14 arbitration provision is also void because it is not conspicuous and does not warn the  
15 consumer he is foregoing important rights under Nevada law. *Motion to Vacate Final*  
16 *Award*, p. 9.

17 Mr. Garmong further contends the award was procured by corruption, fraud or other  
18 undue means. *Motion to Vacate Final Award*, p. 10. Additionally, Mr. Garmong maintains  
19 the arbitrator refused to consider evidence material to the controversy and that the arbitrator  
20 showed partiality. *Motion to Vacate Final Award*, p. 15. Lastly, Mr. Garmong contends the  
21 Final Award may be vacated on nonstatutory grounds, such as disregard of facts or  
22 manifest disregard of legal authority. *Motion to Vacate Final Award*, p. 43.

23 **C. Motion to Vacate MSJ Decision**

24 In his *Motion to Vacate MSJ Decision*, Mr. Garmong requests an order from this  
25  
26  
27  
28

1 Court vacating Judge Pro's decision denying his *Motion for Partial Summary Judgment*, filed  
2 in the course of arbitration, and to further consider the *Motion for Partial Summary*  
3 *Judgment* and grant it *de novo*. *Motion to Vacate MSJ Decision*, p.1. In support, Mr.  
4 Garmong contends Judge Pro disregarded the applicable substantive legal principles.  
5  
6 *Motion to Vacate MSJ Decision*, generally.

7 Defendants oppose the *Motion to Vacate MSJ Decision* on the following grounds:

8 First, Defendants argue it is well established that an order denying summary judgment is not  
9 appealable after a hearing on the merits because it is not a final judgment. *Opposition to*  
10 *Motion to Vacate MSJ*, p. 2. Second, Defendants assert Judge Pro properly denied Mr.  
11 Garmong's *Motion for Partial Summary Judgment*. *Motion to Vacate MSJ Decision*, p. 5.  
12 Lastly, Defendants assert Judge Pro did not evaluate witness credibility when he ruled on  
13 the *MSJ*. *Opposition to Motion to Vacate MSJ*, p. 6.  
14

15 **D. Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees**

16 In his *Motion to Vacate Award of Fees*, Mr. Garmong argues Rule 68 of the Nevada  
17 Revised Statutes does not apply to this case because the parties did not agree it would  
18 apply. *Motion to Vacate Award of Fees*, p. 5. In support, Mr. Garmong argues JAMS Rule  
19 24 provides the award of the arbitrator may include attorney's fees if agreed to by the  
20 parties. *Motion to Vacate Award of Fees*, p. 6. Moreover, Mr. Garmong argues the award  
21 was procured by corruption, fraud, or other undue means.  
22

23 In their *Opposition to Motion to Vacate Fees*, Defendants maintains Judge Pro's  
24 award of attorney's fees and costs was proper pursuant to NRCP Rule 68 and JAMS Rule  
25 24(g). Defendants assert, Judge Pro set forth:  
26

27 There is no dispute that the issues in this case are governed by Nevada law,  
28 and procedurally by JAMS Rules and the provisions of the Nevada Rules of



1 Civil Procedure enumerated in the Stipulation for arbitration entered by the  
2 Parties on February 8, 2017. However, the agreement of the Parties to  
3 specific NRCP rules relating to discovery does not automatically exclude the  
4 applicability of others, particularly where the Arbitrator determines that  
5 necessary.

6 *Opposition to Motion to Vacate Award of Fees*, p. 3; citing *Arbitrator's Final Award*.

7 In addition to arguing the award is proper under NRCP Rule 68 and JAMS Rule  
8 24(g), Defendants argue the evidence supports Judge Pro's determination that the fees are  
9 reasonable. *Opposition to Motion to Vacate Award of Fees*, p. 14.

#### 10 **E. Motion to File Exhibit as Confidential**

11 Defendants filed their *Motion to File Exhibit as Confidential* asking this Court for an  
12 Order to File Exhibit "4" to Defendants' *Reply to Motion to Confirm Final Award*, filed May 6,  
13 2019, as confidential. Defendants assert after filing their *Reply to Motion to Confirm Final*  
14 *Award*, Mr. Garmong informed Defendants' counsel Exhibit 4 contained his social security  
15 number. *Motion to File Exhibit as Confidential*, p. 2. Defendants maintain they immediately  
16 apologized for the inadvertent error and hand delivered a Stipulation to file the Exhibit as  
17 confidential to Mr. Garmong's counsel. *Motion to File Exhibit as Confidential*, p. 2.  
18 Defendants additionally called the Second Judicial District Court Clerk's office and  
19 requested the Exhibit be marked and filed as confidential. However, Defendants assert Mr.  
20 Garmong refused to sign the Stipulation. *Motion to File Exhibit as Confidential*, p. 2.

21 Mr. Garmong opposed the *Motion to File Exhibit as Confidential* on the grounds that  
22 he "seeks protection from the exposure by the Defendants and their attorney to potential  
23 identity or financial theft, but opposes the requested relief as insufficient and having no  
24 basis in law." *Opposition to Motion to File Exhibit as Confidential*, p. 3. Mr. Garmong further  
25  
26  
27  
28

1 maintains he “needs the Court’s help in protecting his sensitive personal and financial  
2 information . . . .” *Opposition to Motion to File Exhibit as Confidential*, p. 3.

### 3 **III. APPLICABLE LAW AND ANALYSIS.**

#### 4 **A. Motion to Confirm Final Award**

5 Section 38.239 of the Nevada Revised Statutes provides,  
6

7 After a party to an arbitral proceeding receives notice of an award, the party  
8 may make a motion to the court for an order confirming the award at which  
9 time the court shall issue a confirming order unless the award is modified or  
10 corrected pursuant to NRS 38.237 or 38.242 or is vacated pursuant to NRS  
11 38.241.

12 NRS 38.239. “[T]he scope of judicial review of an arbitration award is limited and is nothing  
13 like the scope of an appellate court’s review of a trial court’s decision.” Health Plan of  
14 Nevada v. Rainbow Med., 120 Nev. 689, 695, 100 P.3d 172, 177 (2004). “A ‘reviewing court  
15 should not concern itself with the “correctness” of an arbitration award’ and thus does not  
16 review the merits of the dispute.” Bohlmann v. Byron John Printz, 120 Nev. at 547, 96 P.3d  
17 1158 (2004) (quoting Thompson v. Tega–Rand Intern., 740 F.2d 762, 763 (9th Cir.1984));  
18 see also Clark Ctv. Educ. Ass’n v. Clark Cty. Sch. Dist., 122 Nev. 337, 342, 131 P.3d 5, 8  
19 (2006). Thus, “[a] party seeking to vacate an arbitration award based on manifest disregard  
20 of the law may not merely object to the results of the arbitration.” Clark Ctv. Edu. Ass’n,  
21 122 Nev. at 342, 131 P.3d at 8 (quoting Bohlmann, 120 Nev. at 547, 96 P.3d at 1158).  
22 Rather, “[t]he party seeking to attack the validity of an arbitration award has the burden of  
23 proving, by clear and convincing evidence, the statutory or common-law ground relied upon  
24 for challenging the award.” Rainbow Med., 120 Nev. at 695, 100 P.3d at 176.

25  
26 Here, Mr. Garmong argues the arbitration award must be set aside pursuant to NRS  
27 38.221 because Defendants “cannot identify one, and only one, true, complete, correct,  
28

1 certain, unambiguous, definite, verified and binding Contract in the record as it now exists;  
2 and, therefore, "the arbitrator's Final Award cannot be confirmed because there was no  
3 agreement to arbitrate." *Opposition to Motion to Confirm Final Award*, p. 2.

4  
5 This Court has repeatedly ruled, unequivocally, that an enforceable agreement to  
6 arbitrate exists in the record and that the parties were properly ordered to arbitrate pursuant  
7 to NRS 38.221. See Order, December 13, 2012 (holding the arbitration agreement  
8 contained in paragraph 16 of the Agreement is not unconscionable and is enforceable);  
9 Order, April 2, 2014 (denying motion for reconsideration, and again holding arbitration  
10 agreement to be enforceable, based on identical arguments as raised in in Mr. Garmong's  
11 *Motion to Vacate Final Award*); *Order to Show Cause Why Action Should not be Dismissed*  
12 *for Want of Prosecution Pursuant to NRCP 41(E)*) (holding Mr. Garmong was ordered  
13 numerous times to participate in arbitration.  
14

15  
16 In accordance with this Court's prior Orders, the record in this case, and the pending  
17 *Motion*, the Court, again, holds a valid and enforceable agreement exists. As such, this  
18 Court grants Defendants *Motion to Confirm Final Award* pursuant to NRS 38.239.

19 **B. Motion to Vacate Final Award; Motion to Vacate MSJ Decision**

20 Rule 13 of the District Court Rules for the State of Nevada provides, "No motion once  
21 heard and disposed of shall be renewed in the same cause, nor shall the same matters  
22 therein embraced be reheard, unless by leave of the court granted upon motion therefor,  
23 after notice of such motion to the adverse parties." DCR 13(7).  
24

25 Well-established authority in this State governs reconsideration of previously-decided  
26 issues. In Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd., the  
27 Nevada Supreme Court held:  
28

1 A district court may reconsider a previously decided issue if substantially  
2 different evidence is subsequently introduced or the decision is clearly  
3 erroneous. See *Little Earth of United Tribes v. Department of Housing*, 807  
4 F.2d 1433, 1441 (8th Cir.1986); see also *Moore v. City of Las Vegas*, 92 Nev.  
5 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in which *new*  
6 *issues of fact or law* are raised supporting a ruling contrary to the ruling  
7 already reached should a motion for rehearing be granted.") (Emphasis  
8 added).

9 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (alterations and citations in original). In

10 Masonry & Tile Contractors Ass'n, the Nevada Supreme Court upheld a district court's  
11 reconsideration of a previously decided issue in light of new clarifying case law. Id.

12 Because of new case law, the decision by the prior district judge was properly determined to  
13 be "clearly erroneous." Id. When a motion for reconsideration raises "no new issues of law  
14 and [makes] reference to no new or additional facts," reconsideration is "superfluous" and  
15 constitutes an "abuse of discretion" by the district court to entertain such a motion. Moore v.  
16 City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). Such motions are granted  
17 in "rare instances." Id. Further, it is well settled the decision of whether to grant  
18 reconsideration is within "the sound discretion of the court." Navajo Nation v. Confederated  
19 Tribes & Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003); see also  
20 Riger v. Hometown Mortg., LLC, 104 F. Supp. 3d 1092, 1095 (D. Nev. 2015) (district court's  
21 decision to grant reconsideration after entry of an order is within its discretion).

22 Mr. Garmong filed two *Motions*, the subject of which have been previously decided by  
23 this Court and for which he does not raise new issues of law or fact. First, Mr. Garmong  
24 filed his *Motion to Vacate Final Award*, in which he argues the Final Award must be vacated  
25 pursuant to NRS 38.241(1) because there is no agreement to arbitrate. *Motion to Vacate*  
26 *Final Award*, p. 5. However, as stated, this Court has previously held a valid and  
27 enforceable arbitration agreement exists in the record pursuant to NRS 38.241. Moreover,  
28

1 Mr. Garmong does not raise new issues of law or fact. See Order, December 13, 2012  
2 (holding the arbitration agreement contained in paragraph 16 of the Agreement is not  
3 unconscionable and is enforceable); Order, April 2, 2014 (denying motion for  
4 reconsideration and again holding arbitration agreement to be enforceable based on  
5 identical arguments as raised in in Mr. Garmong's *Motion to Vacate Final Award*); Order to  
6 Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to  
7 NRCP 41(E) (holding Mr. Garmong was ordered numerous time to participate in arbitration).  
8

9 Second, Mr. Garmong filed his *Motion to Vacate MSJ Decision*, arguing the arbitrator  
10 disregarded the applicable substantive legal principles. Again, this Court previously  
11 considered and decided this issue. See Order Denying Plaintiff's Motion to Disqualify  
12 *Arbitrator Pro*; Order Denying Motion to Vacate Order Denying Motion for Summary  
13 Judgment; Order Denying Motion to Appoint New Arbitrator, entered September 29, 2018.  
14

15 Accordingly, Mr. Garmong did not properly move to renew the *Motions* pursuant to  
16 DCR 13(7). Moreover, Mr. Garmong does not present the Court with any new issues of law  
17 or fact; and as such, his *Motion to Vacate Final Award* based on a lack of enforceable  
18 agreement, and his *Motion to Vacate MSJ Decision* are meritless and should be denied.  
19

20 **C. Motion to Vacate Attorney's Fees**

21 Rule 24(g) of JAMS Comprehensive Arbitration Rules & Procedures (JAMS Rule)  
22 provides an arbitrator may award attorney's fees, expenses, and interest if provided by the  
23 Parties' Agreement or allowed by applicable law. JAMS Rule 24(g). Defendants made an  
24 Offer of Judgment in the amount of \$10,000 on February 12, 2017. *Final Award*, p. 10.  
25

26 //

27 //

1 Rule 68 of the Nevada Rules of Civil Procedure provides, in pertinent part:

2 (a) The Offer. At any time more than 10 days before trial, any party may  
3 serve an offer in writing to allow judgment to be taken in accordance with its  
4 terms and conditions.

\* \* \* \*

5 (e) Failure to Accept Offer...Any offeree who fails to accept the offer may be  
6 subject to the penalties of this rule.

7 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to  
8 obtain a more favorable judgment,

9 (1) the offeree cannot recover any costs or attorney's fees and shall  
10 not recover interest for the period after the service of the offer and before the  
11 judgment; and

12 (2) the offeree shall pay the offeror's post-offer costs, applicable  
13 interest on the judgment from the time of the offer to the time of entry of the  
14 judgment and reasonable attorney's fees, if any be allowed, actually incurred  
15 by the offeror from the time of the offer.

16 NRCP 68. An award of fees pursuant to NRCP 68 is discretionary with the Court and will  
17 not be disturbed absent clear abuse. Bidart v. American Title Ins. Co., 103 Nev. 175, 734  
18 P.2d 732 (1987).

19 Mr. Garmong argues Judge Pro's award of attorney's fees should be vacated  
20 because the Scheduling Order entered in Arbitration between the parties on August 11,  
21 2017 enumerated specific provisions of the Nevada Rules of Civil Procedure as applicable  
22 to discovery in Arbitration, but omitted any reference to NRCP 68.

23 However, as Judge Pro properly found, there is no dispute that the issues in this case  
24 are governed by Nevada law, and procedurally by JAMS Rules. The agreement of the  
25 Parties to specific NRCP rules relating to discovery does not automatically exclude the  
26 applicability of others to the matter, particularly where the Arbitrator determines it necessary.

27 Moreover, although Mr. Garmong argued the award was procured by corruption,  
28 fraud, or other undue means, no evidence exists to support this assertion. Accordingly, the

1 Court finds Judge Pro awarded attorney's fees, interest, and expenses in accordance with  
2 NRCP 68 and JAMS Rule 24(g).

3 **D. Motion to File Exhibit as Confidential**

4 Section 205.4605(1) of the Nevada Revised Statutes provides, a person shall not  
5 willfully and intentionally post or display in any public manner the social security number  
6 of another person unless the person is authorized or required to do so by law. NRS  
7 205.4605(1). Here, it is clear that Defendants filed Mr. Garmong's social security number in  
8 their moving papers and took immediate steps to remedy the disclosure.  
9

10 Mr. Garmong opposes the *Motion to File Exhibit as Confidential* on the grounds the  
11 request is insufficient to protect his identity and has no basis in law. However, Mr. Garmong  
12 refused to sign the Stipulation which would provide for protection of his personal  
13 information. The Court further notes Mr. Garmong has offered no remedy for a clearly  
14 inadvertent disclosure of his social security number. It is clear from the parties'  
15 communications that Defendants were not aware of the disclosure and took all necessary  
16 steps to remedy the disclosure at the time they gained knowledge of such. See Motion to  
17 File Exhibit as Confidential, Exhibit 1-3. The Court finds this was not a willful and intentional  
18 disclosure. Moreover, the Court finds the inadvertent disclosure is remedied by ordering the  
19 Exhibit filed as confidential.  
20

21 **IV. CONCLUSION AND ORDER**

22 Accordingly, and good cause appearing therefor,

23 IT IS HEREBY ORDERED:

24 1. *Defendants' Petition for an Order Confirming Arbitrator's Final Award and*  
25 *Reduce Award to Judgment, Including, Attorneys' Fees and Costs* is GRANTED;  
26  
27  
28

2. Defendants are directed to submit a proposed judgment within ten (14) days from the entry of this Order;

3. *Plaintiff's Motion to Vacate Arbitrator's Final Award* is DENIED;

4. *Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees* is DENIED;

5. *Plaintiff's Motions to Vacate Arbitrator's Award of Denial of Plaintiff's Motion for Partial Summary Judgment and for the Court to Decide and Grant Plaintiff's Motion for Partial Summary Judgment is DENIED;*

6. *Defendants' Motion for an Order to File Exhibit as Confidential* is GRANTED.

DATED this 17<sup>th</sup> day of August, 2019.

DISTRICT JUDGE



**CERTIFICATE OF SERVICE**

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
that on the 8th day of August, 2019, I electronically filed the foregoing with the Clerk of  
the Court system which will send a notice of electronic filing to the following:

CARL HEBERT, ESQ.

THOMAS BRADLEY, ESQ.

And, I deposited in the County mailing system for postage and mailing with the  
United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
document addressed as follows:

Hudi Bore

CV12-01271

1 CODE: 2540  
2 THOMAS C. BRADLEY, ESQ.  
3 NV Bar. No. 1621  
4 435 Marsh Avenue  
5 Reno, Nevada 89509  
6 Telephone: (775) 323-5178  
7 [Tom@TomBradleyLaw.com](mailto:Tom@TomBradleyLaw.com)  
8 Attorney for Defendants

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

11 GREGORY GARMONG, CASE NO. CV12-01271  
12 Plaintiff, DEPT. NO. 6  
13 v.  
14 WESPAC, GREG CHRISTIAN, and  
15 Does 1-10,  
16 Defendants.

17 **NOTICE OF ENTRY OF ORDER**

18 PLEASE TAKE NOTICE that an ORDER was entered in the above-referenced case on  
19 August 8, 2019, a copy of which is attached.

20 ***Affirmation:** The undersigned verifies that this document does not contain the personal*  
21 *information of any person.*

22 DATED this 8th day of August, 2019.

23 /s/ Thomas C. Bradley  
24 THOMAS C. BRADLEY, ESQ.  
25 Attorney for Defendants  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Thomas C. Bradley, Esq., and the  
3 date set forth below, I served a true copy of the foregoing document on the party(ies) identified  
4 herein, via the following means:

- 5 ☐ Personal Delivery  
6 ☐ Professional Courier  
7 ☐ Federal Express or Other Overnight Delivery Service  
8 ☐ US Mail with Sufficient Postage Affixed  
9 ☐ Facsimile to the Facsimile Number specified  
10 ☐ Electronic Mail to the e-mail address(es) specified  
11 ☒ Second Judicial District Court eFlex system

12 Carl Hebert, Esq.  
13 [carl@cmhebertlaw.com](mailto:carl@cmhebertlaw.com)  
14 202 California Avenue  
15 Reno, Nevada 89509  
16 Attorney for Plaintiff

17 Dated this 8th day of August, 2019.

18 By: /s/ Mehi Aonga  
19 Employee of Thomas C. Bradley, Esq.  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 CODE NO. 3370  
2  
3  
4  
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 GREGORY O. GARMONG,

Case No. CV12-01271

10 Plaintiff,

Dept. No. 6

11 vs.  
12

13 WESPAC; GREG CHRISTIAN; DOES 1-10,  
14 inclusive,

15 Defendants.  
16 \_\_\_\_\_/

17 **ORDER RE MOTIONS**

18 Five related motions are pending before this Court.

19 **First pending is *Defendants' Petition for an Order Confirming Arbitrator's Final***  
20 ***Award and Reduce Award to Judgment, Including, Attorneys' Fees and Costs*** ("Motion  
21 *Confirm Final Award*"), filed by Defendant WESPAC and GREG CHRISTIAN (collectively  
22 "Defendants" unless individually referenced), by and through their attorney of record,  
23 Thomas C. Bradley, Esq. Plaintiff GREGORY GARMONG ("Mr. Garmong") filed *Plaintiff's*  
24 *Opposition to Defendants' Motion to Confirm Arbitrator's Award* ("Opposition to Motion to  
25 *Confirm Final Award*"), by and through his attorney of record, Carl M. Herbert, Esq.  
26  
27 Defendants filed *Defendants' Reply to Plaintiff's Opposition to Defendants' Motion to*  
28

1 Confirm Arbitrator's Award ("Reply to Motion to Confirm Final Award") and the matter was  
2 submitted for decision thereafter.

3       **Second pending is Plaintiff's Motion to Vacate Arbitrator's Final Award** ("Motion  
4 to Vacate Final Award"), filed by Mr. Garmong. Defendants filed *Defendants' Opposition to*  
5 *Plaintiff's Motion to Vacate Arbitrator's Final Award (Opposition to Motion to Vacate)*. Mr.  
6 Garmong filed *Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motion to Vacate*  
7 *Arbitrator's Final Award ("Reply to Motion to Vacate")* and the matter was submitted for  
8 decision thereafter.  
9

10       **Third pending is Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's**  
11 **Fees** ("Motion to Vacate Award of Fees"), filed by Mr. Garmong. Defendants filed  
12 *Defendants' Opposition to Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees*  
13 *and Reply to Plaintiff's Opposition to Defendants' Petition for Order Confirming Arbitrator's*  
14 *Final Award and Reduce Award to Judgment, Including, Attorneys' Fees and Costs*  
15 *("Opposition to Motion to Vacate Award of Fees")*. Mr. Garmong filed *Plaintiff's Reply to*  
16 *Defendants' Opposition to Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees*  
17 *and Reply to Plaintiff's Opposition to Defendants' Petition for an Order Confirming*  
18 *Arbitrator's Final Award and Reduce Award to Judgment, Including, Attorneys' Fees and*  
19 *Costs ("Reply to Motion to Vacate Award of Fees")* and the matter was submitted for  
20 decision thereafter.  
21

22       **Fourth pending is the combined Plaintiff's Motions to Vacate Arbitrator's**  
23 **Award of Denial of Plaintiff's Motion for Partial Summary Judgment and for the Court**  
24 **to Decide and Grant Plaintiff's Motion for Partial Summary Judgment** ("Motion to  
25 Vacate MSJ Decision"), filed by Mr. Garmong. Defendants filed *Defendants' Opposition to*  
26  
27  
28

1 *Plaintiff's Motions to Vacate Arbitrator's Award of Denial of Plaintiff's Motion for Partial*  
2 *Summary Judgment and for the Court to Decide and Grant Plaintiff's Motion for Partial*  
3 *Summary Judgment ("Opposition to Motion to Vacate MSJ Decision").* Mr. Garmong filed  
4 *Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motions to Vacate Arbitrator's Award*  
5 *of Denial of Plaintiff's Motion for Partial Summary Judgment and for the Court to Decide and*  
6 *Grant Plaintiff's Motion for Partial Summary Judgment ("Reply to Motion to Vacate MSJ*  
7 *Decision")* and the matter was submitted for decision thereafter.

9 **Fifth pending is Defendants' Motion for an Order to File Exhibit as Confidential**  
10 *("Motion to File Exhibit as Confidential"),* filed by Defendants. Mr. Garmong filed *Plaintiff's*  
11 *Opposition to Defendants' Motion for an Order to File Exhibit as Confidential ("Opposition to*  
12 *Motion to File Exhibit as Confidential").* Defendants filed their *Reply to Plaintiff's Opposition*  
13 *to Defendants' Motion for an Order to File Exhibit as Confidential ("Reply to Motion to File*  
14 *Exhibit as Confidential"),* and the matter was submitted for decision thereafter.

16  
17 **I. FACTS AND PROCEDURAL HISTORY.**

18 This is an action for breach of contract. Mr. Garmong filed his Complaint on May 9,  
19 2012. On September 19, 2012, Defendants filed their *Motion to Dismiss and Compel*  
20 *Arbitration.* On December 13, 2012, this Court<sup>1</sup> entered its *Order* granting Defendants'  
21 request to compel arbitration but denying the motion to dismiss. Mr. Garmong then filed a  
22 motion to reconsider the Court's December 13, 2012 Order. The motion was opposed by  
23 Defendants. However, Mr. Garmong did not file a reply and this case was stagnant for  
24 nearly a year until January 13, 2014, when this Court entered its *Order to Proceed.* Mr.

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<sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his  
28 retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in  
Department 6.



1 Garmong filed his reply on February 3, 2014. The motion for reconsideration was denied on  
2 April 2, 2014.

3 Mr. Garmong then sought writ relief from the Nevada Supreme Court. On December  
4 18, 2014, the Nevada Supreme Court entered its *Order Denying Petition for Writ of*  
5 *Mandamus or Prohibition*. The Supreme Court next entered its *Order Denying Rehearing*  
6 on March 18, 2015, and, subsequently, entered its *Order Denying En Banc Reconsideration*  
7 on May 1, 2015.  
8

9 After the Nevada Supreme Court's orders were entered, this Court again entered an  
10 *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17,  
11 2015. In response, the parties indicated they had initiated an arbitration proceeding with  
12 JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.  
13

14 On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*,  
15 arguing Defendants prejudiced the JAMS arbitrators against Mr. Garmong. This matter was  
16 fully briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration*. The parties  
17 then stipulated to select one arbitrator, to reduce costs. *Stipulation to Select One Arbitrator*,  
18 October 17, 2016. In accordance, this Court entered its *Order Appointing Arbitrator* on  
19 October 31, 2016, appointing Michael G. Ornstil, Esq., as arbitrator. After it was determined  
20 Mr. Ornstil was unavailable, Mr. Garmong stipulated to the appointment of either retired  
21 Judge Phillip M. Pro,<sup>2</sup> or Lawrence R. Mills. Esq.  
22

23 On November 13, 2016, this Court entered its *Order Granting Motion to Strike*, which  
24 stayed the proceeding pending the outcome of the arbitration. *Order Granting Motion to*  
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27

28 <sup>2</sup> Mr. Garmong stipulated to Judge Pro although he previously moved to preclude a judge from  
serving as an arbitrator.

1 *Strike*, p. 2. On February 21, 2017, this Court entered its *Order Appointing Arbitrator*,  
2 appointing Judge Phillip M. Pro ("Judge Pro").

3 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
4 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
5 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
6 objected to arbitration on the basis there was no agreement to arbitrate.

7  
8 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
9 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
10 Defendants were ordered numerous times to participate in arbitration as early as December  
11 13, 2012. The Court held no evidence was presented establishing the parties had  
12 proceeded to arbitration as ordered. *Order*, p. 4. Accordingly, the Court ordered the parties  
13 to show cause why the action should not be dismissed for want of prosecution. *Order*, p. 4.

14  
15 The parties had their first arbitration conference in April 2017. On June 22, 2018,  
16 without asking for leave of Court, Mr. Garmong filed his *Motion to Disqualify Arbitrator Pro*,  
17 *Vacate Order Denying Motion for Summary Judgment and Appoint New Arbitrator ("Motion*  
18 *to Disqualify")*.

19  
20 Defendants thereafter filed the *Defendants' Motion for Limited Relief From Stay to*  
21 *File Motion for Attorney's Fees and Sanctions ("Motion for Sanctions")* requesting limited  
22 relief from this Court's order staying the proceeding pending the outcome of arbitration.  
23 However, on October 22, 2018, Defendants filed their *Notice of Completion of Arbitration*  
24 *Hearing*. The Court held that, with completion of the arbitration, Defendants' *Motion for*  
25 *Sanctions* was moot. Additionally, the Court took notice of Defendants' *Notice of*  
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1 *Completion of Arbitration* and determined there are no additional decisions to be rendered  
2 regarding the *Notice*.

3 **II. PENDING MOTIONS.**

4 **A. Motion to Confirm Final Award**

5  
6 In its *Motion to Confirm Final Award*, Defendants petition the Court for an order  
7 confirming the arbitration award pursuant to Rule 38.239 of the Nevada Revised Statutes.  
8 *Motion to Confirm Final Award*, p. 5. Defendants assert the arbitration Final Award in JAMS  
9 Arbitration Case No. 1260003474 was entered April 11, 2019, in favor of Defendants and  
10 against Mr. Garmong in the total sum of \$111,649.96, including reasonable attorney's fees  
11 and costs. Defendants further request interest accrued on the total sum at the legal rate of  
12 7.5% per annum, from the date this Court enters judgment until the date judgment is  
13 satisfied in full. *Motion to Confirm Final Award*, p. 5.

14  
15 Mr. Garmong opposed the *Motion to Confirm Final Award* on the grounds he did not  
16 enter into a "binding contract including an agreement providing for arbitration" as required  
17 by NRS 38.221(1). *Opposition to Motion to Confirm Final Award*, p. 1. Mr. Garmong argues  
18 if Defendants "cannot identify one, and only one, true, complete, correct, certain,  
19 unambiguous, definite, verified and binding Contract in the record as it now exists, the  
20 arbitrator's Final Award cannot be confirmed because there was no agreement to arbitrate."  
21 *Opposition to Motion to Confirm Final Award*, p. 2. Mr. Garmong further argues Defendants'  
22 *Motion to Confirm Final Award* must be denied because Defendants perpetrated fraud upon  
23 the Court, arbitrator, and Plaintiff by falsely representing the first version of the Investment  
24 Management Agreement was correct.

25  
26 In their *Reply*, Defendants assert the parties entered into a valid and enforceable  
27  
28

1 Investment Management Agreement (the "Agreement"), the final version of which was  
2 executed on August 31, 2005. *Reply to Motion to Confirm Final Award*, p. 5. Defendants  
3 maintain the Arbitration Clause is included in the Agreement at paragraph 16, pages 17 and  
4 18. *Reply to Motion to Confirm Final Award*, p. 5. Moreover, the fully executed Agreement  
5 was submitted in support of Defendants' *Motion to Dismiss and to Compel Arbitration*, and is  
6 therefore part of the record. *Reply to Motion to Confirm Final Award*, p. 9.

8 **B. Plaintiff's Motion to Vacate Arbitrator's Final Award**

9 In his *Motion to Vacate Final Award*, Mr. Garmong first maintains the Final Award  
10 must be vacated pursuant to NRS 38.241(1) because there is no agreement to arbitrate.  
11 *Motion to Vacate Final Award*, p. 5. Second, Mr. Garmong contends the arbitration  
12 provision contained in the Agreement is void pursuant to NRS 597.995 because it has no  
13 "specific authorization." *Motion to Vacate Final Award*, p. 8. Mr. Garmong argues the  
14 arbitration provision is also void because it is not conspicuous and does not warn the  
15 consumer he is foregoing important rights under Nevada law. *Motion to Vacate Final*  
16 *Award*, p. 9.

17 Mr. Garmong further contends the award was procured by corruption, fraud or other  
18 undue means. *Motion to Vacate Final Award*, p. 10. Additionally, Mr. Garmong maintains  
19 the arbitrator refused to consider evidence material to the controversy and that the arbitrator  
20 showed partiality. *Motion to Vacate Final Award*, p. 15. Lastly, Mr. Garmong contends the  
21 Final Award may be vacated on nonstatutory grounds, such as disregard of facts or  
22 manifest disregard of legal authority. *Motion to Vacate Final Award*, p. 43.

23 **C. Motion to Vacate MSJ Decision**

24 In his *Motion to Vacate MSJ Decision*, Mr. Garmong requests an order from this  
25

1 Court vacating Judge Pro's decision denying his *Motion for Partial Summary Judgment*, filed  
2 in the course of arbitration, and to further consider the *Motion for Partial Summary*  
3 *Judgment* and grant it *de novo*. *Motion to Vacate MSJ Decision*, p.1. In support, Mr.  
4 Garmong contends Judge Pro disregarded the applicable substantive legal principles.  
5 *Motion to Vacate MSJ Decision*, generally.

7 Defendants oppose the *Motion to Vacate MSJ Decision* on the following grounds:  
8 First, Defendants argue it is well established that an order denying summary judgment is not  
9 appealable after a hearing on the merits because it is not a final judgment. *Opposition to*  
10 *Motion to Vacate MSJ*, p. 2. Second, Defendants assert Judge Pro properly denied Mr.  
11 Garmong's *Motion for Partial Summary Judgment*. *Motion to Vacate MSJ Decision*, p. 5.  
12 Lastly, Defendants assert Judge Pro did not evaluate witness credibility when he ruled on  
13 the *MSJ*. *Opposition to Motion to Vacate MSJ*, p. 6.

15 **D. Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees**

16 In his *Motion to Vacate Award of Fees*, Mr. Garmong argues Rule 68 of the Nevada  
17 Revised Statutes does not apply to this case because the parties did not agree it would  
18 apply. *Motion to Vacate Award of Fees*, p. 5. In support, Mr. Garmong argues JAMS Rule  
19 24 provides the award of the arbitrator may include attorney's fees if agreed to by the  
20 parties. *Motion to Vacate Award of Fees*, p. 6. Moreover, Mr. Garmong argues the award  
21 was procured by corruption, fraud, or other undue means.

22 In their *Opposition to Motion to Vacate Fees*, Defendants maintains Judge Pro's  
23 award of attorney's fees and costs was proper pursuant to NRCP Rule 68 and JAMS Rule  
24 24(g). Defendants assert, Judge Pro set forth:

25 There is no dispute that the issues in this case are governed by Nevada law,  
26 and procedurally by JAMS Rules and the provisions of the Nevada Rules of  
27  
28

1 Civil Procedure enumerated in the Stipulation for arbitration entered by the  
2 Parties on February 8, 2017. However, the agreement of the Parties to  
3 specific NRCP rules relating to discovery does not automatically exclude the  
4 applicability of others, particularly where the Arbitrator determines that  
5 necessary.

6 *Opposition to Motion to Vacate Award of Fees*, p. 3; citing *Arbitrator's Final Award*.

7 In addition to arguing the award is proper under NRCP Rule 68 and JAMS Rule  
8 24(g), Defendants argue the evidence supports Judge Pro's determination that the fees are  
9 reasonable. *Opposition to Motion to Vacate Award of Fees*, p. 14.

#### 10 **E. Motion to File Exhibit as Confidential**

11 Defendants filed their *Motion to File Exhibit as Confidential* asking this Court for an  
12 Order to File Exhibit "4" to Defendants' *Reply to Motion to Confirm Final Award*, filed May 6,  
13 2019, as confidential. Defendants assert after filing their *Reply to Motion to Confirm Final*  
14 *Award*, Mr. Garmong informed Defendants' counsel Exhibit 4 contained his social security  
15 number. *Motion to File Exhibit as Confidential*, p. 2. Defendants maintain they immediately  
16 apologized for the inadvertent error and hand delivered a Stipulation to file the Exhibit as  
17 confidential to Mr. Garmong's counsel. *Motion to File Exhibit as Confidential*, p. 2.  
18 Defendants additionally called the Second Judicial District Court Clerk's office and  
19 requested the Exhibit be marked and filed as confidential. However, Defendants assert Mr.  
20 Garmong refused to sign the Stipulation. *Motion to File Exhibit as Confidential*, p. 2.

21 Mr. Garmong opposed the *Motion to File Exhibit as Confidential* on the grounds that  
22 he "seeks protection from the exposure by the Defendants and their attorney to potential  
23 identity or financial theft, but opposes the requested relief as insufficient and having no  
24 basis in law." *Opposition to Motion to File Exhibit as Confidential*, p. 3. Mr. Garmong further  
25  
26  
27  
28



1 maintains he “needs the Court’s help in protecting his sensitive personal and financial  
2 information . . . .” *Opposition to Motion to File Exhibit as Confidential*, p. 3.

3 **III. APPLICABLE LAW AND ANALYSIS.**

4 **A. Motion to Confirm Final Award**

5 Section 38.239 of the Nevada Revised Statutes provides,

6  
7 After a party to an arbitral proceeding receives notice of an award, the party  
8 may make a motion to the court for an order confirming the award at which  
9 time the court shall issue a confirming order unless the award is modified or  
10 corrected pursuant to NRS 38.237 or 38.242 or is vacated pursuant to NRS  
11 38.241.

12 NRS 38.239. “[T]he scope of judicial review of an arbitration award is limited and is nothing  
13 like the scope of an appellate court’s review of a trial court’s decision.” Health Plan of  
14 Nevada v. Rainbow Med., 120 Nev. 689, 695, 100 P.3d 172, 177 (2004). “A ‘reviewing court  
15 should not concern itself with the “correctness” of an arbitration award’ and thus does not  
16 review the merits of the dispute.” Bohlmann v. Byron John Printz, 120 Nev. at 547, 96 P.3d  
17 1158 (2004) (quoting Thompson v. Tega–Rand Intern., 740 F.2d 762, 763 (9th Cir.1984));  
18 see also Clark Ctv. Educ. Ass’n v. Clark Cty. Sch. Dist., 122 Nev. 337, 342, 131 P.3d 5, 8  
19 (2006). Thus, “[a] party seeking to vacate an arbitration award based on manifest disregard  
20 of the law may not merely object to the results of the arbitration.” Clark Ctv. Edu. Ass’n,  
21 122 Nev. at 342, 131 P.3d at 8 (quoting Bohlmann, 120 Nev. at 547, 96 P.3d at 1158).  
22 Rather, “[t]he party seeking to attack the validity of an arbitration award has the burden of  
23 proving, by clear and convincing evidence, the statutory or common-law ground relied upon  
24 for challenging the award.” Rainbow Med., 120 Nev. at 695, 100 P.3d at 176.

25  
26 Here, Mr. Garmong argues the arbitration award must be set aside pursuant to NRS  
27 38.221 because Defendants “cannot identify one, and only one, true, complete, correct,  
28

1 certain, unambiguous, definite, verified and binding Contract in the record as it now exists;"  
2 and, therefore, "the arbitrator's Final Award cannot be confirmed because there was no  
3 agreement to arbitrate." *Opposition to Motion to Confirm Final Award*, p. 2.

4  
5 This Court has repeatedly ruled, unequivocally, that an enforceable agreement to  
6 arbitrate exists in the record and that the parties were properly ordered to arbitrate pursuant  
7 to NRS 38.221. See Order, December 13, 2012 (holding the arbitration agreement  
8 contained in paragraph 16 of the Agreement is not unconscionable and is enforceable);  
9 Order, April 2, 2014 (denying motion for reconsideration, and again holding arbitration  
10 agreement to be enforceable, based on identical arguments as raised in in Mr. Garmong's  
11 *Motion to Vacate Final Award*); *Order to Show Cause Why Action Should not be Dismissed*  
12 *for Want of Prosecution Pursuant to NRCP 41(E)*) (holding Mr. Garmong was ordered  
13 numerous times to participate in arbitration.  
14

15  
16 In accordance with this Court's prior Orders, the record in this case, and the pending  
17 *Motion*, the Court, again, holds a valid and enforceable agreement exists. As such, this  
18 Court grants Defendants *Motion to Confirm Final Award* pursuant to NRS 38.239.

19 **B. Motion to Vacate Final Award; Motion to Vacate MSJ Decision**

20 Rule 13 of the District Court Rules for the State of Nevada provides, "No motion once  
21 heard and disposed of shall be renewed in the same cause, nor shall the same matters  
22 therein embraced be reheard, unless by leave of the court granted upon motion therefor,  
23 after notice of such motion to the adverse parties." DCR 13(7).  
24

25 Well-established authority in this State governs reconsideration of previously-decided  
26 issues. In Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd., the  
27 Nevada Supreme Court held:  
28

1 A district court may reconsider a previously decided issue if substantially  
2 different evidence is subsequently introduced or the decision is clearly  
3 erroneous. See *Little Earth of United Tribes v. Department of Housing*, 807  
4 F.2d 1433, 1441 (8th Cir.1986); see also *Moore v. City of Las Vegas*, 92 Nev.  
5 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in which *new*  
6 *issues of fact or law* are raised supporting a ruling contrary to the ruling  
7 already reached should a motion for rehearing be granted.") (Emphasis  
8 added).

9 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (alterations and citations in original). In

10 Masonry & Tile Contractors Ass'n, the Nevada Supreme Court upheld a district court's  
11 reconsideration of a previously decided issue in light of new clarifying case law. Id.

12 Because of new case law, the decision by the prior district judge was properly determined to  
13 be "clearly erroneous." Id. When a motion for reconsideration raises "no new issues of law  
14 and [makes] reference to no new or additional facts," reconsideration is "superfluous" and  
15 constitutes an "abuse of discretion" by the district court to entertain such a motion. Moore v.  
16 City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). Such motions are granted  
17 in "rare instances." Id. Further, it is well settled the decision of whether to grant  
18 reconsideration is within "the sound discretion of the court." Navajo Nation v. Confederated  
19 Tribes & Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003); see also  
20 Riger v. Hometown Mortg., LLC, 104 F. Supp. 3d 1092, 1095 (D. Nev. 2015) (district court's  
21 decision to grant reconsideration after entry of an order is within its discretion).

22 Mr. Garmong filed two *Motions*, the subject of which have been previously decided by  
23 this Court and for which he does not raise new issues of law or fact. First, Mr. Garmong  
24 filed his *Motion to Vacate Final Award*, in which he argues the Final Award must be vacated  
25 pursuant to NRS 38.241(1) because there is no agreement to arbitrate. *Motion to Vacate*  
26 *Final Award*, p. 5. However, as stated, this Court has previously held a valid and  
27 enforceable arbitration agreement exists in the record pursuant to NRS 38.241. Moreover,  
28

1 Mr. Garmong does not raise new issues of law or fact. See Order, December 13, 2012  
2 (holding the arbitration agreement contained in paragraph 16 of the Agreement is not  
3 unconscionable and is enforceable); Order, April 2, 2014 (denying motion for  
4 reconsideration and again holding arbitration agreement to be enforceable based on  
5 identical arguments as raised in in Mr. Garmong's *Motion to Vacate Final Award*); Order to  
6 Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to  
7 NRCP 41(E) (holding Mr. Garmong was ordered numerous time to participate in arbitration).

8  
9 Second, Mr. Garmong filed his *Motion to Vacate MSJ Decision*, arguing the arbitrator  
10 disregarded the applicable substantive legal principles. Again, this Court previously  
11 considered and decided this issue. See Order Denying Plaintiff's Motion to Disqualify  
12 *Arbitrator Pro*; Order Denying Motion to Vacate Order Denying Motion for Summary  
13 Judgment; Order Denying Motion to Appoint New Arbitrator, entered September 29, 2018.

14  
15 Accordingly, Mr. Garmong did not properly move to renew the *Motions* pursuant to  
16 DCR 13(7). Moreover, Mr. Garmong does not present the Court with any new issues of law  
17 or fact; and as such, his *Motion to Vacate Final Award* based on a lack of enforceable  
18 agreement, and his *Motion to Vacate MSJ Decision* are meritless and should be denied.

19  
20 **C. Motion to Vacate Attorney's Fees**

21  
22 Rule 24(g) of JAMS Comprehensive Arbitration Rules & Procedures (JAMS Rule)  
23 provides an arbitrator may award attorney's fees, expenses, and interest if provided by the  
24 Parties' Agreement or allowed by applicable law. JAMS Rule 24(g). Defendants made an  
25 Offer of Judgment in the amount of \$10,000 on February 12, 2017. *Final Award*, p. 10.

26 //

27 //



1 Rule 68 of the Nevada Rules of Civil Procedure provides, in pertinent part:

2 (a) The Offer. At any time more than 10 days before trial, any party may  
3 serve an offer in writing to allow judgment to be taken in accordance with its  
4 terms and conditions.

\* \* \* \*

5 (e) Failure to Accept Offer...Any offeree who fails to accept the offer may be  
6 subject to the penalties of this rule.

7 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to  
8 obtain a more favorable judgment,

9 (1) the offeree cannot recover any costs or attorney's fees and shall  
10 not recover interest for the period after the service of the offer and before the  
11 judgment; and

12 (2) the offeree shall pay the offeror's post-offer costs, applicable  
13 interest on the judgment from the time of the offer to the time of entry of the  
14 judgment and reasonable attorney's fees, if any be allowed, actually incurred  
15 by the offeror from the time of the offer.

16 NRCP 68. An award of fees pursuant to NRCP 68 is discretionary with the Court and will  
17 not be disturbed absent clear abuse. Bidart v. American Title Ins. Co., 103 Nev. 175, 734  
18 P.2d 732 (1987).

19 Mr. Garmong argues Judge Pro's award of attorney's fees should be vacated  
20 because the Scheduling Order entered in Arbitration between the parties on August 11,  
21 2017 enumerated specific provisions of the Nevada Rules of Civil Procedure as applicable  
22 to discovery in Arbitration, but omitted any reference to NRCP 68.

23 However, as Judge Pro properly found, there is no dispute that the issues in this case  
24 are governed by Nevada law, and procedurally by JAMS Rules. The agreement of the  
25 Parties to specific NRCP rules relating to discovery does not automatically exclude the  
26 applicability of others to the matter, particularly where the Arbitrator determines it necessary.

27 Moreover, although Mr. Garmong argued the award was procured by corruption,  
28 fraud, or other undue means, no evidence exists to support this assertion. Accordingly, the

1 Court finds Judge Pro awarded attorney's fees, interest, and expenses in accordance with  
2 NRCP 68 and JAMS Rule 24(g).

3 **D. Motion to File Exhibit as Confidential**  
4

5 Section 205.4605(1) of the Nevada Revised Statutes provides, a person shall not  
6 **willfully and intentionally** post or display in any public manner the social security number  
7 of another person unless the person is authorized or required to do so by law. NRS  
8 205.4605(1). Here, it is clear that Defendants filed Mr. Garmong's social security number in  
9 their moving papers and took immediate steps to remedy the disclosure.  
10

11 Mr. Garmong opposes the *Motion to File Exhibit as Confidential* on the grounds the  
12 request is insufficient to protect his identity and has no basis in law. However, Mr. Garmong  
13 refused to sign the Stipulation which would provide for protection of his personal  
14 information. The Court further notes Mr. Garmong has offered no remedy for a clearly  
15 inadvertent disclosure of his social security number. It is clear from the parties'  
16 communications that Defendants were not aware of the disclosure and took all necessary  
17 steps to remedy the disclosure at the time they gained knowledge of such. See Motion to  
18 File Exhibit as Confidential, Exhibit 1-3. The Court finds this was not a willful and intentional  
19 disclosure. Moreover, the Court finds the inadvertent disclosure is remedied by ordering the  
20 Exhibit filed as confidential.  
21

22  
23 **IV. CONCLUSION AND ORDER**

24 Accordingly, and good cause appearing therefor,

25 IT IS HEREBY ORDERED:

26 1. *Defendants' Petition for an Order Confirming Arbitrator's Final Award and*  
27 *Reduce Award to Judgment, Including, Attorneys' Fees and Costs* is GRANTED;  
28

1           2.       Defendants are directed to submit a proposed judgment within ten (14) days  
2 from the entry of this Order;

3           3.       *Plaintiff's Motion to Vacate Arbitrator's Final Award* is DENIED;

4           4.       *Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees* is DENIED;

5           5.       *Plaintiff's Motions to Vacate Arbitrator's Award of Denial of Plaintiff's Motion*  
6 *for Partial Summary Judgment and for the Court to Decide and Grant Plaintiff's Motion for*  
7 *Partial Summary Judgment* is DENIED;

8           6.       *Defendants' Motion for an Order to File Exhibit as Confidential* is GRANTED.

9           DATED this 14 day of August, 2019.

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DISTRICT JUDGE

1 CERTIFICATE OF SERVICE

2 I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
3 that on the 8th day of August, 2019, I electronically filed the foregoing with the Clerk of  
4 the Court system which will send a notice of electronic filing to the following:

5 CARL HEBERT, ESQ.

6 THOMAS BRADLEY, ESQ.

7  
8  
9  
10  
11  
12 And, I deposited in the County mailing system for postage and mailing with the  
13 United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
14 document addressed as follows:

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CV12-01271

1 CODE NO. 3060  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 GREGORY O. GARMONG,

Case No. CV12-01271

10 Plaintiff,

Dept. No. 6

11 vs.

12 WESPAC; GREG CHRISTIAN; DOES 1-10,  
13 inclusive,

14 Defendants.  
15 \_\_\_\_\_/

16 **ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT**

17 Before this Court is *Plaintiff's Motion to Alter or Amend "Order Re Motions" Entered*  
18 *August 8, 2019 ("Motion")* filed by Plaintiff GREGORY GARMONG ("Mr. Garmong") through  
19 his attorney of record, Carl M. Herbert, Esq. Defendants WESPAC and GREG CHRISTIAN  
20 (collectively "Defendants" unless individually referenced), through their attorney of record,  
21 Thomas C. Bradley, Esq., filed their *Opposition to Plaintiff's Motion to Alter or Amend "Order*  
22 *Re Motions" Entered August 8, 2019 ("Opposition")*. Thereafter, *Plaintiff's Reply Points and*  
23 *Authorities in Support of Motion to Alter or Amend "Order Re Motions" Entered on August 8,*  
24 *2019 ("Reply")* was filed and the matter was submitted for decision.  
25

26  
27 //

28 //

**I. FACTS AND PROCEDURAL HISTORY.**

This is an action for breach of contract. Mr. Garmong filed his *Complaint* on May 9, 2012. On September 19, 2012, Defendants filed their *Motion to Dismiss and Compel Arbitration*. On December 13, 2012, this Court<sup>1</sup> entered its *Order* granting Defendants' request to compel arbitration but denying the motion to dismiss. Mr. Garmong then filed his *Combined Motions for Leave to Rehear and for Rehearing of the Order of December 13, 2012 Compelling Arbitration ("Reconsider Motion")*. The motion was opposed by Defendants. Mr. Garmong did not file a reply and this case was stagnant for nearly a year until January 13, 2014, when this Court entered its *Order to Proceed*. Mr. Garmong filed his reply on February 3, 2014. The *Reconsider Motion* was denied on April 2, 2014.

Mr. Garmong then sought writ relief from the Nevada Supreme Court. On December 18, 2014, the Nevada Supreme Court entered its *Order Denying Petition for Writ of Mandamus or Prohibition*. The Supreme Court next entered its *Order Denying Rehearing* on March 18, 2015, and, subsequently, entered its *Order Denying En Banc Reconsideration* on May 1, 2015.

After the Nevada Supreme Court's orders were entered, this Court again entered an *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17, 2015. In response, the parties indicated they had initiated an arbitration proceeding with JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.

On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*, arguing the JAMS arbitrators were prejudiced against Mr. Garmong. This matter was fully

<sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in Department 6.

1 briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration* requiring three  
2 arbitrators. The parties then stipulated to select one arbitrator, to reduce costs. *Stipulation*  
3 *to Select One Arbitrator*, October 17, 2016. In accordance, this Court entered its *Order*  
4 *Appointing Arbitrator* on October 31, 2016, appointing Michael G. Ornstil, Esq., as arbitrator.  
5 After it was determined Mr. Ornstil was unavailable, Mr. Garmong stipulated to the  
6 appointment of either retired Judge Phillip M. Pro,<sup>2</sup> or Lawrence R. Mills. Esq.  
7

8 On November 13, 2017, this Court entered its *Order Granting Motion to Strike*, which  
9 stayed the proceeding pending the outcome of the arbitration, and directed the parties to file  
10 an amended complaint and other responsive papers at the direction of Judge Phillip M. Pro.  
11 *Order Granting Motion to Strike*, p. 2. On February 21, 2017, this Court entered its *Order*  
12 *Appointing Arbitrator*, appointing Judge Phillip M. Pro ("Judge Pro").  
13

14 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
15 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
16 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
17 objected to arbitration on the basis there was no agreement to arbitrate.  
18

19 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
20 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
21 Defendants were ordered numerous times to participate in arbitration as early as December  
22 13, 2012." The Court held the file did not contain any evidence the parties had proceeded  
23 to arbitration as ordered. *Order*, p. 4. Accordingly, the Court ordered the parties to show  
24 cause why the action should not be dismissed for want of prosecution. *Order*, p. 4.  
25  
26

27  
28 <sup>2</sup> Mr. Garmong stipulated to Judge Pro although he previously moved to preclude a judge from  
serving as an arbitrator.

1 The parties had their first arbitration conference in April, 2017. On June 22, 2018,  
2 without asking for leave of Court because the matter was stayed, Mr. Garmong filed his  
3 *Motion to Disqualify Arbitrator Pro, Vacate Order Denying Motion for Summary Judgment*  
4 *and Appoint New Arbitrator ("Motion to Disqualify")*.

5  
6 Defendants thereafter filed *Defendants' Motion for Limited Relief From Stay to File*  
7 *Motion for Attorney's Fees and Sanctions ("Motion for Sanctions")* requesting limited relief  
8 from this Court's order staying the proceeding pending the outcome of arbitration. While the  
9 *Motion for Sanctions* was under consideration, Defendants filed their *Notice of Completion*  
10 *of Arbitration Hearing* on October 22, 2018. The Court therefore held, with completion of  
11 the arbitration, Defendants' *Motion for Sanctions* was moot. Additionally, the Court took  
12 notice of Defendants' *Notice of Completion of Arbitration* and determined there were  
13 additional decisions to be rendered regarding the *Notice*.  
14

15 Judge Pro found Mr. Garmong's claims for (1) Breach of Contract; (2) Breach of  
16 Implied Warranty; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; (4)  
17 Nevada's Deceptive Trade Practices Act; (5) Breach of Fiduciary Duty of Full Disclosure; (6)  
18 Intentional Infliction of Emotional Distress; and, (7) Unjust Enrichment all failed as a matter  
19 of law because Mr. Garmong did not establish his claims by a preponderance of the  
20 evidence. *Final Award*, p. 8-9. Furthermore, after weighing the necessary factors required  
21 by Brunzell v. Golden Gate National Bank, 455 P.2d 31, 33 (1969), Judge Pro found  
22 Defendants were entitled to an award of reasonable attorneys' fees in the total sum of  
23 \$111,649.96. *Final Award*, p. 11.  
24

25  
26 The litigation proceeded with several filings. On August 8, 2019, this Court entered  
27 its *Order Re Motions ("ORM")*: (1) granting *Defendants' Petition for an Order Confirming*  
28



1 *Arbitrator's Final Award and Reducing Award to Judgment, Including, Attorneys' Fees and*  
2 *Costs; (2) denying Plaintiff's Motion to Vacate Arbitrator's Final Award; (3) denying Plaintiff's*  
3 *Motion to Vacate Arbitrator's Award of Attorneys' Fees; (4) denying Plaintiff's Motions to*  
4 *Vacate Arbitrator's Award of Denial of Plaintiff's Motion for Partial Summary Judgment and*  
5 *for the Court to Decide and Grant Plaintiff's Motion for Partial Summary Judgment ("Motion*  
6 *to Vacate MSJ Decision"); and, (5) granting Defendants' Motion for an Order to File Exhibit*  
7 *as Confidential. ORM, p. 15-16.*

9       On August 27, 2019, this Court entered its *Order* directing: (1) WESPAC to file an  
10 *Amended Motion for the Award of Attorneys' Fees; (2) allowing Mr. Garmong the standard*  
11 *response time to file and serve his opposition to Defendants' Amended Motion for the*  
12 *Award of Attorneys' Fees; and, (3) providing WESPAC would not be required to file a*  
13 *Proposed Final Judgment until ten (10) days following this Court's ruling on WESPAC's*  
14 *Amended Motion for the Award of Attorneys' Fees. Order, p. 1.*

16       In his present *Motion*, Mr. Garmong contends this Court has a duty to review Judge  
17 Pro's actions and rulings to determine whether he disregarded facts, or manifestly  
18 disregarded the law. *Motion*, p. 2-3. Further, Mr. Garmong claims Judge Adams allegedly  
19 relied on Version 1 of the Contract, instead of Version 2 of the Contract, which was  
20 fraudulently used to compel arbitration between the parties. *Motion*, p. 6-13. As a result,  
21 Version 2 of the Contract constitutes "previously unavailable evidence" which should, *inter*  
22 *alia*, be used to identify the validity of the arbitration agreement and the final award. *Motion*,  
23 p. 7-12. Additionally, Mr. Garmong argues DCR 13(7) does not apply to his precluded  
24 claims because the *Motion to Vacate MSJ Decision* was not decided on substantive merits.  
25 *Motion*, p. 14-15. Mr. Garmong also claims there was no valid offer of judgment for  
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1 attorneys' fees because, in short, NRCP 68 was not a governing rule of arbitration under  
2 Judge Pro's Discovery Plan. *Motion*, p. 20-26. Finally, Mr. Garmong claims his due process  
3 rights were violated after failing to receive proper notice regarding the offer of judgment and  
4 attorneys' fees award. *Motion*, p. 25-26.

5  
6 In their *Opposition*, Defendants contend Mr. Garmong fails to identify a clear error, or  
7 a fundamental miscarriage of justice, because Judge Pro provided an eleven (11) page  
8 explanation of his factual findings supported by law. *Opposition*, p. 3-4. Defendants also  
9 argue Mr. Garmong's *Motion* seeks to relitigate old matters which provide no basis for relief  
10 under NRCP 59. *Opposition*, p. 5. Defendants emphasize this Court is only obligated to  
11 "consider [and] not address" every argument posited by Mr. Garmong. *Opposition*, p. 2, 5.  
12 Moreover, Defendants maintain Judge Pro properly found they were entitled to attorneys'  
13 fees after weighing the necessary factors required by Brunzell, 455 P.2d at 33. *Opposition*,  
14 p. 6. More importantly, Defendants purport Mr. Garmong's allegations regarding the  
15 differing versions of the Contract does not constitute "new evidence" because Mr. Garmong  
16 raised the same arguments to Judge Pro before the final decision on the arbitration award,  
17 and to the Court through his previous papers. *Opposition*, p. 6 citing *Plaintiff's Opposition to*  
18 *Defendants' Motion to Confirm Arbitrator's Award*, p. 4:16-15:16; *Motion to Vacate*  
19 *Arbitrator's Final Award*, p. 3:3-4:21. Defendants contend Mr. Garmong continues to raise  
20 the same arguments in his *Motion to Vacate MSJ Decision*. *Opposition*, p. 7. Additionally,  
21 Defendants argue Mr. Garmong failed to timely raise his due process arguments because  
22 he could have raised them in any of the motions or oppositions filed during arbitration, or  
23 before this Court previously. *Opposition*, p. 7-8. Finally, Defendants state there is no  
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1 evidence Judge Pro was biased and agree the argument has been raised and rejected  
2 many times before. *Opposition*, p. 9.

3 In his *Reply*, Mr. Garmong re-asserts this Court failed to fulfill its obligation of  
4 reviewing the arbitrator's award because the Court did not consider the differing versions of  
5 the Contract. *Reply*, p. 5-10. In addition, Mr. Garmong re-emphasizes DCR 13(7) is  
6 inapplicable to the claims set forth in his *Motion to Vacate MSJ Decision* because the claims  
7 were not substantively addressed on the merits. *Reply*, p. 10-13. Finally, Mr. Garmong  
8 stresses there was no valid offer of judgment for attorneys' fees because, in short, NRCP 68  
9 was not a governing rule of arbitration under Judge Pro's Discovery Plan, and Judge Pro  
10 failed to address the factors mandated by Beattie v. Thomas, 99 Nev. 579, 668 P.2d 268  
11 (1983) and Brunzell, 455 P.2d at 33 to award attorneys' fees. *Reply*, p. 13-17.

## 14 **II. APPLICABLE LAW AND ANALYSIS.**

15 Pursuant to NRCP 59(e), a motion to alter or amend a judgment must be filed no  
16 later than twenty-eight (28) days after service of written notice of entry of judgment. A  
17 motion to alter or amend judgment may not be used to relitigate old matters, or to raise  
18 arguments or present evidence that could have been raised prior to the entry of judgment.  
19 Stevo Design, Inc. v. SBR Mktg. Ltd., 919 F. Supp. 2d 1112, 1117 (D. Nev. 2013). The  
20 basic grounds for granting a NRCP 59(e) motion include "correct[ing] manifest errors of law  
21 or fact," "newly discovered or previously unavailable evidence," the need "to prevent  
22 manifest injustice," or a "change in controlling law." AA Primo Builders, LLC v. Washington,  
23 126 Nev. 578, 582, 245 P.3d 1190, 1193 (2010). Nevada courts may consult federal law in  
24 interpreting NRCP 59(e) due to its similarity to the federal standard. Id.

1 The Nevada Supreme Court will not disturb a judgment sustained by substantial  
2 evidence when the moving party cannot specify, and when the court cannot find anything in  
3 the record from which the Court could conclude that it is clear that a wrong conclusion had  
4 been reached in judgment. Brechan v. Scott, 1976, 555 P.2d 1230, 92 Nev. 633  
5 (interpreting NRCP 52(b) and 59(e)). A motion to alter or amend judgment under Rule 59(e)  
6 is “an extraordinary remedy which should be used sparingly.” Stevo Design, Inc. v. SBR  
7 Mktg. Ltd., 919 F. Supp. 2d 1112, 1117 (D. Nev. 2013). Motions made under Rule 59(e)  
8 “should not be granted absent highly unusual circumstances.” 389 Orange St. Partners v.  
9 Arnold, 179 F.3d 656, 665 (9th Cir. 1999).

12 **A. Defendants’ Motion to Confirm Final Award.**

13 As discussed *supra*, Mr. Garmong claims Judge Adams relied on Version 1 of the  
14 Contract, which was fraudulently utilized to compel arbitration between the parties, instead  
15 of relying on Version 2 of the Contract. *Motion*, p. 6-13.

17 “[T]he scope of judicial review of an arbitration award is limited and is nothing like the  
18 scope of an appellate court’s review of a trial court’s decision.” Health Plan of Nevada v.  
19 Rainbow Med., 120 Nev. 689, 695, 100 P.3d 172, 177 (2004). “A ‘reviewing court should not  
20 concern itself with the ‘correctness’ of an arbitration award’ and thus does not review the  
21 merits of the dispute.” Bohlmann v. Byron John Printz, 120 Nev. at 547, 96 P.3d 1158  
22 (2004) (quoting Thompson v. Tega–Rand Intern., 740 F.2d 762, 763 (9th Cir.1984)); see  
23 also Clark Ctv. Educ. Ass’n v. Clark Cty. Sch. Dist., 122 Nev. 337, 342, 131 P.3d 5, 8  
24 (2006). Rather, “[t]he party seeking to attack the validity of an arbitration award has the  
25 burden of proving, **by clear and convincing evidence**, the statutory or common-law  
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1 ground relied upon for challenging the award.” Rainbow Med., 120 Nev. at 695, 100 P.3d at  
2 176 (emphasis added).

3 After considering this matter pursuant to the present papers filed, the Court finds Mr.  
4 Garmong has failed to provide clear and convincing evidence to challenge the award.  
5 Moreover, Mr. Garmong has failed to provide clear and convincing evidence Defendants  
6 fraudulently induced Judge Adams and the Nevada Supreme Court to compel arbitration.  
7

8 Notably, Mr. Garmong does not cite to anything in the record with specificity to  
9 substantiate his claims in the *Reconsider Motion*. Instead, Mr. Garmong rehashes his same  
10 argument, the Contract is not “true, complete and correct.” Compare Motion, p. 6, 7, 13,  
11 with Opposition to Motion to Confirm Final Award, p. 2. Despite this, the Court finds no  
12 grounds to change its prior ruling that an enforceable agreement to arbitrate exists in the  
13 record, and the parties were properly ordered to arbitrate. See ORM, p. 11; see also Order,  
14 December 13, 2012 (holding the arbitration agreement contained in paragraph 16 of the  
15 Agreement is not unconscionable and is enforceable); Order, April 2, 2014 (denying motion  
16 for reconsideration, and again holding arbitration agreement to be enforceable, based on  
17 identical arguments as raised in in Mr. Garmong’s *Motion to Vacate Final Award*); *Order to*  
18 *Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to*  
19 *NRCP 41(E)* (holding Mr. Garmong was ordered numerous times to participate in  
20 arbitration).  
21  
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24 Therefore, this Court rejects Mr. Garmong’s arguments and denies his request to  
25 amend the Court’s findings regarding the confirmation of the award.  
26

27 //

28 //

1           **B.     Plaintiff's Motion to Vacate Arbitrator's Final Award and**  
2           **Plaintiff's Motion to Vacate MSJ Decision.**

3           Rule 13 of the District Court Rules for the State of Nevada provides, "No motion once  
4 heard and disposed of shall be renewed in the same cause, **nor shall the same matters**  
5 **therein embraced be reheard**, unless by leave of the court granted upon motion therefor,  
6 after notice of such motion to the adverse parties." DCR 13(7) (emphasis supplied).  
7

8           Well-established authority in this state governs reconsideration of previously-decided  
9 issues. In Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd., the  
10 Nevada Supreme Court held:

11           A district court may reconsider a previously decided issue if substantially  
12 different evidence is subsequently introduced or the decision is clearly  
13 erroneous. *See Little Earth of United Tribes v. Department of Housing*, 807  
14 F.2d 1433, 1441 (8th Cir.1986); *see also Moore v. City of Las Vegas*, 92 Nev.  
15 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in which *new*  
16 *issues of fact or law* are raised supporting a ruling contrary to the ruling  
already reached should a motion for rehearing be granted.") (Emphasis  
added).

17           113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (alterations and citations in original). In  
18 Masonry & Tile Contractors Ass'n, the Nevada Supreme Court upheld a district court's  
19 reconsideration of a previously decided issue in light of new clarifying case law. Id.  
20 Because of new case law, the decision by the prior district judge was properly determined to  
21 be "clearly erroneous." Id. When a motion for reconsideration raises "no new issues of law  
22 and [makes] reference to no new or additional facts," reconsideration is "superfluous" and  
23 constitutes an "abuse of discretion" by the district court to entertain such a motion. Moore v.  
24 City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). Such motions are granted  
25 in "rare instances." Id. Further, it is well-settled the decision of whether to grant  
26 reconsideration is within "the sound discretion of the court." Navajo Nation v. Confederated  
27  
28

1 Tribes & Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003); see also  
2 Riger v. Hometown Mortg., LLC, 104 F. Supp. 3d 1092, 1095 (D. Nev. 2015) (district court's  
3 decision to grant reconsideration after entry of an order is within its discretion).

4         Mr. Garmong's *Motion to Vacate Final Award* argues the Final Award must be  
5 vacated pursuant to NRS 38.241(1) because there was no agreement to arbitrate, and even  
6 *arguendo* if there was an agreement to arbitrate, it is invalid based on statutory and non-  
7 statutory grounds. *Motion to Vacate Final Award*, p. 5-9. However, as stated, this Court  
8 has previously held a valid and enforceable arbitration agreement exists in the record  
9 pursuant to NRS 38.241 on numerous occasions. See *ORM*, p. 12; see also *Order*,  
10 December 13, 2012 (holding the arbitration agreement contained in paragraph 16 of the  
11 Agreement is not unconscionable and is enforceable); *Order*, April 2, 2014 (denying motion  
12 for reconsideration and again holding arbitration agreement to be enforceable based on  
13 identical arguments as raised in in Mr. Garmong's *Motion to Vacate Final Award*); *Order to*  
14 *Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to*  
15 *NRCP 41(E)* (holding Mr. Garmong was ordered numerous time to participate in arbitration).  
16

17         As such, Mr. Garmong's argument constitutes "similar matters" or matters  
18 "embraced" under DCR 13(7) requiring leave of court. Therefore, this Court declines to re-  
19 entertain Mr. Garmong's arguments in this *Motion*, and therefore, declines to amend its  
20 findings and confirmation of the award.  
21

22         Second, Mr. Garmong contends the Court's *Nov. Order* did not decide the *Motion to*  
23 *Vacate MSJ* on the substantive merits, thereby obviating application of DCR 13(7). *Motion*,  
24 p. 15. However, the Court again finds Mr. Garmong previously raised the same argument  
25 regarding Judge Pro disregarding applicable substantive legal principles. See *ORM*, p. 13;  
26  
27  
28

1 Compare Motion, p. 16-19, with Plaintiff's Opposition to Defendants' Motion to Confirm  
2 Arbitrator's Award, p. 4:16–15:16; Motion to Vacate Arbitrator's Final Award, p. 3:3–4:21;  
3 Plaintiff's Motions to Vacate MSJ Decision, p. 10:12–31:6. Thus, this Court has previously  
4 considered and decided this issue in accordance with JAMS Comprehensive Rules &  
5 Procedures Rule (JAMS Rules). See Nov. Order, p. 8-9.

7 Accordingly, Mr. Garmong did not properly move to reconsider *Plaintiff's Motion to*  
8 *Vacate MSJ Decision* as required by DCR 13(7). Therefore, this Court declines to amend  
9 its findings regarding Judge Pro's summary disposition of claims.

10 **C. Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees.**

11 Mr. Garmong asserts there was no valid offer of judgment for attorneys' fees  
12 because NRCP 68 was not a governing rule of arbitration under Judge Pro's Discovery  
13 Plan. *Motion*, p. 20-26.

15 JAMS Rule 24(g) provides an arbitrator may award attorney's fees, expenses, and  
16 interest if provided by the Parties' Agreement or allowed by applicable law. JAMS Rule  
17 24(g) (emphasis added). Defendants propounded an Offer of Judgment in the amount of  
18 \$10,000 on February 12, 2017 pursuant to applicable Nevada law. *Final Award*, p. 10.  
19 Rule 68 of the Nevada Rules of Civil Procedure provides, in pertinent part:  
20

21 (a) The Offer. At any time more than 10 days before trial, any party may  
22 serve an offer in writing to allow judgment to be taken in accordance with its  
23 terms and conditions.

\* \* \* \*

24 (e) Failure to Accept Offer...Any offeree who fails to accept the offer may be  
25 subject to the penalties of this rule.

26 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to  
27 obtain a more favorable judgment,  
28



1 (1) the offeree cannot recover any costs or attorney's fees and shall  
2 not recover interest for the period after the service of the offer and before the  
3 judgment; and

4 (2) the offeree shall pay the offeror's post-offer costs, applicable  
5 interest on the judgment from the time of the offer to the time of entry of the  
6 judgment and reasonable attorney's fees, if any be allowed, actually incurred  
7 by the offeror from the time of the offer.

8 NRCP 68. An award of fees pursuant to NRCP 68 is discretionary with the Court and will  
9 not be disturbed absent clear abuse. Bidart v. American Title Ins. Co., 103 Nev. 175, 734  
10 P.2d 732 (1987).

11 The Court does not change its conclusion Judge Pro properly found the issues in  
12 this case are governed by applicable Nevada law and JAMS Rules. *ORM*, p. 14. The  
13 application of NRCP rules relating to discovery does not automatically exclude or preclude  
14 the applicability of other NRCP rules to the matter, particularly where the Arbitrator  
15 determines it necessary to apply them. *ORM*, p. 14.

16 Accordingly, the Court finds Judge Pro awarded attorneys' fees, interest, and  
17 expenses in accordance with NRCP 68 and JAMS Rule 24(g). Therefore, this Court  
18 declines to amend its findings regarding Judge Pro's award of attorneys' fees.

19  
20 **D. Due Process Claim.**

21 Mr. Garmong claims his due process rights were violated because he did not receive  
22 proper notice regarding the offer of judgment and award of attorneys' fees. *Motion*, p. 25-  
23 26. A motion to alter or amend judgment may not be used to relitigate old matters, or to  
24 raise arguments or present evidence that could have been raised prior to the entry of  
25 judgment. Stevo Design, Inc., 919 F. Supp. 2d at 1117. Mr. Garmong's new claim  
26 regarding due process violations is not appropriate for NRCP 59(e) as it could have been  
27 raised prior to the entry of judgment. Therefore, this Court declines to consider Mr.  
28

1 Garmong's due process claim as it could have been raised before this Court or the arbitrator  
2 prior to the entry of judgment.

3 **D. Potential Sanctions.**

4 This Court notes Mr. Garmong's continued indifference to the previous orders issued  
5 by this Court. The Court will consider imposing sanctions in the future should Mr. Garmong  
6 continue to disregard this Court's orderst.

7  
8 **III. CONCLUSION AND ORDER.**

9 For the foregoing reasons, and good cause appearing therefor,

10 **IT IS HEREBY ORDERED** Mr. Garmong's *Motion to Alter or Amend "Order Re*  
11 *Motions" Entered August 8, 2019 ("Motion")* is **DENIED.**

12 Dated this 6th day of December, 2019.

13  
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16 DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
that on the 6<sup>th</sup> day of December, 2019, I electronically filed the foregoing with the  
Clerk of the Court system which will send a notice of electronic filing to the following:

CARL HEBERT, ESQ.

THOMAS BRADLEY, ESQ.

And, I deposited in the County mailing system for postage and mailing with the  
United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
document addressed as follows:

Heidi Bore

CV12-01271

1 CODE: 2540  
2 THOMAS C. BRADLEY, ESQ.  
3 NV Bar. No. 1621  
4 435 Marsh Avenue  
5 Reno, Nevada 89509  
6 Telephone: (775) 323-5178  
7 [Tom@TomBradleyLaw.com](mailto:Tom@TomBradleyLaw.com)  
8 Attorney for Defendants

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

11 GREGORY GARMONG, CASE NO. CV12-01271  
12 Plaintiff, DEPT. NO. 6  
13 v.  
14 WESPAC, GREG CHRISTIAN, and  
15 Does 1-10,  
16 Defendants.

17 **NOTICE OF ENTRY OF ORDER**

18 PLEASE TAKE NOTICE that an ORDER was entered in the above-referenced case on  
19 December 6, 2019, a copy of which is attached.

20 ***Affirmation:** The undersigned verifies that this document does not contain the personal*  
21 *information of any person.*

22 DATED this 9th day of December, 2019.

23 /s/ Thomas C. Bradley  
24 THOMAS C. BRADLEY, ESQ.  
25 Attorney for Defendants  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I certify that I am an employee of Thomas C. Bradley, Esq., and the  
3 date set forth below, I served a true copy of the foregoing document on the party(ies) identified  
4 herein, via the following means:

- 5 ☐ Personal Delivery  
6 ☐ Professional Courier  
7 ☐ Federal Express or Other Overnight Delivery Service  
8 ☐ US Mail with Sufficient Postage Affixed  
9 ☐ Facsimile to the Facsimile Number specified  
10 ☐ Electronic Mail to the e-mail address(es) specified  
11 ☒ Second Judicial District Court eFlex system

12 Carl Hebert, Esq.  
13 [carl@cmhebertlaw.com](mailto:carl@cmhebertlaw.com)  
14 202 California Avenue  
15 Reno, Nevada 89509  
16 Attorney for Plaintiff

17 Dated this 9th day of December, 2019.

18 By: /s/ Mehi Aonga  
19 Employee of Thomas C. Bradley, Esq.

1 CODE NO. 3060  
2  
3  
4  
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 GREGORY O. GARMONG,

Case No. CV12-01271

10 Plaintiff,

Dept. No. 6

11 vs.

12 WESPAC; GREG CHRISTIAN; DOES 1-10,  
13 inclusive,

14 Defendants.  
15 \_\_\_\_\_/

16 **ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT**

17 Before this Court is *Plaintiff's Motion to Alter or Amend "Order Re Motions" Entered*  
18 *August 8, 2019 ("Motion")* filed by Plaintiff GREGORY GARMONG ("Mr. Garmong") through  
19 his attorney of record, Carl M. Herbert, Esq. Defendants WESPAC and GREG CHRISTIAN  
20 (collectively "Defendants" unless individually referenced), through their attorney of record,  
21 Thomas C. Bradley, Esq., filed their *Opposition to Plaintiff's Motion to Alter or Amend "Order*  
22 *Re Motions" Entered August 8, 2019 ("Opposition")*. Thereafter, *Plaintiff's Reply Points and*  
23 *Authorities in Support of Motion to Alter or Amend "Order Re Motions" Entered on August 8,*  
24 *2019 ("Reply")* was filed and the matter was submitted for decision.  
25

26 //

27 //

**I. FACTS AND PROCEDURAL HISTORY.**

This is an action for breach of contract. Mr. Garmong filed his *Complaint* on May 9, 2012. On September 19, 2012, Defendants filed their *Motion to Dismiss and Compel Arbitration*. On December 13, 2012, this Court<sup>1</sup> entered its *Order* granting Defendants' request to compel arbitration but denying the motion to dismiss. Mr. Garmong then filed his *Combined Motions for Leave to Rehear and for Rehearing of the Order of December 13, 2012 Compelling Arbitration ("Reconsider Motion")*. The motion was opposed by Defendants. Mr. Garmong did not file a reply and this case was stagnant for nearly a year until January 13, 2014, when this Court entered its *Order to Proceed*. Mr. Garmong filed his reply on February 3, 2014. The *Reconsider Motion* was denied on April 2, 2014.

Mr. Garmong then sought writ relief from the Nevada Supreme Court. On December 18, 2014, the Nevada Supreme Court entered its *Order Denying Petition for Writ of Mandamus or Prohibition*. The Supreme Court next entered its *Order Denying Rehearing* on March 18, 2015, and, subsequently, entered its *Order Denying En Banc Reconsideration* on May 1, 2015.

After the Nevada Supreme Court's orders were entered, this Court again entered an *Order for Response*, instructing the parties to proceed with this case. *Order*, November 17, 2015. In response, the parties indicated they had initiated an arbitration proceeding with JAMS in Las Vegas. *Notice of Status Report*, December 1, 2015.

On June 8, 2016, Mr. Garmong filed his *Motion for a Court-Appointed Arbitrator*, arguing the JAMS arbitrators were prejudiced against Mr. Garmong. This matter was fully

<sup>1</sup> Judge Brent T. Adams originally presided over this proceeding in Department 6 before his retirement. Judge Lynne K. Simons was sworn in on January 5, 2015, and now presides in Department 6.

1 briefed; and, on July 12, 2016, this Court entered its *Order re: Arbitration* requiring three  
2 arbitrators. The parties then stipulated to select one arbitrator, to reduce costs. *Stipulation*  
3 *to Select One Arbitrator*, October 17, 2016. In accordance, this Court entered its *Order*  
4 *Appointing Arbitrator* on October 31, 2016, appointing Michael G. Ornstil, Esq., as arbitrator.  
5 After it was determined Mr. Ornstil was unavailable, Mr. Garmong stipulated to the  
6 appointment of either retired Judge Phillip M. Pro,<sup>2</sup> or Lawrence R. Mills. Esq.  
7

8 On November 13, 2017, this Court entered its *Order Granting Motion to Strike*, which  
9 stayed the proceeding pending the outcome of the arbitration, and directed the parties to file  
10 an amended complaint and other responsive papers at the direction of Judge Phillip M. Pro.  
11 *Order Granting Motion to Strike*, p. 2. On February 21, 2017, this Court entered its *Order*  
12 *Appointing Arbitrator*, appointing Judge Phillip M. Pro ("Judge Pro").  
13

14 On March 27, 2017, Mr. Garmong filed *Plaintiff's Objection Pursuant to NRS*  
15 *38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection*  
16 *to the Court*. Despite prior determinative orders from this Court, Mr. Garmong again  
17 objected to arbitration on the basis there was no agreement to arbitrate.  
18

19 On May 23, 2017, this Court entered its *Order to Show Cause Why Action Should not*  
20 *be Dismissed for Want of Prosecution Pursuant to NRCP 41(E)*, finding "Mr. Garmong and  
21 Defendants were ordered numerous times to participate in arbitration as early as December  
22 13, 2012." The Court held the file did not contain any evidence the parties had proceeded  
23 to arbitration as ordered. *Order*, p. 4. Accordingly, the Court ordered the parties to show  
24 cause why the action should not be dismissed for want of prosecution. *Order*, p. 4.  
25  
26

27  
28 <sup>2</sup> Mr. Garmong stipulated to Judge Pro although he previously moved to preclude a judge from  
serving as an arbitrator.



1 The parties had their first arbitration conference in April, 2017. On June 22, 2018,  
2 without asking for leave of Court because the matter was stayed, Mr. Garmong filed his  
3 *Motion to Disqualify Arbitrator Pro, Vacate Order Denying Motion for Summary Judgment*  
4 *and Appoint New Arbitrator ("Motion to Disqualify")*.

5  
6 Defendants thereafter filed *Defendants' Motion for Limited Relief From Stay to File*  
7 *Motion for Attorney's Fees and Sanctions ("Motion for Sanctions")* requesting limited relief  
8 from this Court's order staying the proceeding pending the outcome of arbitration. While the  
9 *Motion for Sanctions* was under consideration, Defendants filed their *Notice of Completion*  
10 *of Arbitration Hearing* on October 22, 2018. The Court therefore held, with completion of  
11 the arbitration, Defendants' *Motion for Sanctions* was moot. Additionally, the Court took  
12 notice of Defendants' *Notice of Completion of Arbitration* and determined there were  
13 additional decisions to be rendered regarding the *Notice*.  
14

15 Judge Pro found Mr. Garmong's claims for (1) Breach of Contract; (2) Breach of  
16 Implied Warranty; (3) Breach of the Implied Covenant of Good Faith and Fair Dealing; (4)  
17 Nevada's Deceptive Trade Practices Act; (5) Breach of Fiduciary Duty of Full Disclosure; (6)  
18 Intentional Infliction of Emotional Distress; and, (7) Unjust Enrichment all failed as a matter  
19 of law because Mr. Garmong did not establish his claims by a preponderance of the  
20 evidence. *Final Award*, p. 8-9. Furthermore, after weighing the necessary factors required  
21 by Brunzell v. Golden Gate National Bank, 455 P.2d 31, 33 (1969), Judge Pro found  
22 Defendants were entitled to an award of reasonable attorneys' fees in the total sum of  
23 \$111,649.96. *Final Award*, p. 11.  
24

25  
26 The litigation proceeded with several filings. On August 8, 2019, this Court entered  
27 its *Order Re Motions ("ORM")*: (1) granting *Defendants' Petition for an Order Confirming*  
28

1 *Arbitrator's Final Award and Reducing Award to Judgment, Including, Attorneys' Fees and*  
2 *Costs; (2) denying Plaintiff's Motion to Vacate Arbitrator's Final Award; (3) denying Plaintiff's*  
3 *Motion to Vacate Arbitrator's Award of Attorneys' Fees; (4) denying Plaintiff's Motions to*  
4 *Vacate Arbitrator's Award of Denial of Plaintiff's Motion for Partial Summary Judgment and*  
5 *for the Court to Decide and Grant Plaintiff's Motion for Partial Summary Judgment ("Motion*  
6 *to Vacate MSJ Decision"); and, (5) granting Defendants' Motion for an Order to File Exhibit*  
7 *as Confidential. ORM, p. 15-16.*

8  
9       On August 27, 2019, this Court entered its *Order* directing: (1) WESPAC to file an  
10 *Amended Motion for the Award of Attorneys' Fees; (2) allowing Mr. Garmong the standard*  
11 *response time to file and serve his opposition to Defendants' Amended Motion for the*  
12 *Award of Attorneys' Fees; and, (3) providing WESPAC would not be required to file a*  
13 *Proposed Final Judgment until ten (10) days following this Court's ruling on WESPAC's*  
14 *Amended Motion for the Award of Attorneys' Fees. Order, p. 1.*

15  
16       In his present *Motion*, Mr. Garmong contends this Court has a duty to review Judge  
17 Pro's actions and rulings to determine whether he disregarded facts, or manifestly  
18 disregarded the law. *Motion*, p. 2-3. Further, Mr. Garmong claims Judge Adams allegedly  
19 relied on Version 1 of the Contract, instead of Version 2 of the Contract, which was  
20 fraudulently used to compel arbitration between the parties. *Motion*, p. 6-13. As a result,  
21 Version 2 of the Contract constitutes "previously unavailable evidence" which should, *inter*  
22 *alia*, be used to identify the validity of the arbitration agreement and the final award. *Motion*,  
23 p. 7-12. Additionally, Mr. Garmong argues DCR 13(7) does not apply to his precluded  
24 claims because the *Motion to Vacate MSJ Decision* was not decided on substantive merits.  
25 *Motion*, p. 14-15. Mr. Garmong also claims there was no valid offer of judgment for  
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1 attorneys' fees because, in short, NRCP 68 was not a governing rule of arbitration under  
2 Judge Pro's Discovery Plan. *Motion*, p. 20-26. Finally, Mr. Garmong claims his due process  
3 rights were violated after failing to receive proper notice regarding the offer of judgment and  
4 attorneys' fees award. *Motion*, p. 25-26.

5  
6 In their *Opposition*, Defendants contend Mr. Garmong fails to identify a clear error, or  
7 a fundamental miscarriage of justice, because Judge Pro provided an eleven (11) page  
8 explanation of his factual findings supported by law. *Opposition*, p. 3-4. Defendants also  
9 argue Mr. Garmong's *Motion* seeks to relitigate old matters which provide no basis for relief  
10 under NRCP 59. *Opposition*, p. 5. Defendants emphasize this Court is only obligated to  
11 "consider [and] not address" every argument posited by Mr. Garmong. *Opposition*, p. 2, 5.  
12 Moreover, Defendants maintain Judge Pro properly found they were entitled to attorneys'  
13 fees after weighing the necessary factors required by Brunzell, 455 P.2d at 33. *Opposition*,  
14 p. 6. More importantly, Defendants purport Mr. Garmong's allegations regarding the  
15 differing versions of the Contract does not constitute "new evidence" because Mr. Garmong  
16 raised the same arguments to Judge Pro before the final decision on the arbitration award,  
17 and to the Court through his previous papers. *Opposition*, p. 6 citing *Plaintiff's Opposition to*  
18 *Defendants' Motion to Confirm Arbitrator's Award*, p. 4:16-15:16; *Motion to Vacate*  
19 *Arbitrator's Final Award*, p. 3:3-4:21. Defendants contend Mr. Garmong continues to raise  
20 the same arguments in his *Motion to Vacate MSJ Decision*. *Opposition*, p. 7. Additionally,  
21 Defendants argue Mr. Garmong failed to timely raise his due process arguments because  
22 he could have raised them in any of the motions or oppositions filed during arbitration, or  
23 before this Court previously. *Opposition*, p. 7-8. Finally, Defendants state there is no  
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//

1 evidence Judge Pro was biased and agree the argument has been raised and rejected  
2 many times before. *Opposition*, p. 9.

3 In his *Reply*, Mr. Garmong re-asserts this Court failed to fulfill its obligation of  
4 reviewing the arbitrator's award because the Court did not consider the differing versions of  
5 the Contract. *Reply*, p. 5-10. In addition, Mr. Garmong re-emphasizes DCR 13(7) is  
6 inapplicable to the claims set forth in his *Motion to Vacate MSJ Decision* because the claims  
7 were not substantively addressed on the merits. *Reply*, p. 10-13. Finally, Mr. Garmong  
8 stresses there was no valid offer of judgment for attorneys' fees because, in short, NRCP 68  
9 was not a governing rule of arbitration under Judge Pro's Discovery Plan, and Judge Pro  
10 failed to address the factors mandated by Beattie v. Thomas, 99 Nev. 579, 668 P.2d 268  
11 (1983) and Brunzell, 455 P.2d at 33 to award attorneys' fees. *Reply*, p. 13-17.

## 14 **II. APPLICABLE LAW AND ANALYSIS.**

15 Pursuant to NRCP 59(e), a motion to alter or amend a judgment must be filed no  
16 later than twenty-eight (28) days after service of written notice of entry of judgment. A  
17 motion to alter or amend judgment may not be used to relitigate old matters, or to raise  
18 arguments or present evidence that could have been raised prior to the entry of judgment.  
19 Stevo Design, Inc. v. SBR Mktg. Ltd., 919 F. Supp. 2d 1112, 1117 (D. Nev. 2013). The  
20 basic grounds for granting a NRCP 59(e) motion include "correct[ing] manifest errors of law  
21 or fact," "newly discovered or previously unavailable evidence," the need "to prevent  
22 manifest injustice," or a "change in controlling law." AA Primo Builders, LLC v. Washington,  
23 126 Nev. 578, 582, 245 P.3d 1190, 1193 (2010). Nevada courts may consult federal law in  
24 interpreting NRCP 59(e) due to its similarity to the federal standard. Id.

1 The Nevada Supreme Court will not disturb a judgment sustained by substantial  
2 evidence when the moving party cannot specify, and when the court cannot find anything in  
3 the record from which the Court could conclude that it is clear that a wrong conclusion had  
4 been reached in judgment. Brechan v. Scott, 1976, 555 P.2d 1230, 92 Nev. 633  
5 (interpreting NRCP 52(b) and 59(e)). A motion to alter or amend judgment under Rule 59(e)  
6 is “an extraordinary remedy which should be used sparingly.” Stevo Design, Inc. v. SBR  
7 Mktg. Ltd., 919 F. Supp. 2d 1112, 1117 (D. Nev. 2013). Motions made under Rule 59(e)  
8 “should not be granted absent highly unusual circumstances.” 389 Orange St. Partners v.  
9 Arnold, 179 F.3d 656, 665 (9th Cir. 1999).

12 **A. Defendants’ Motion to Confirm Final Award.**

13 As discussed *supra*, Mr. Garmong claims Judge Adams relied on Version 1 of the  
14 Contract, which was fraudulently utilized to compel arbitration between the parties, instead  
15 of relying on Version 2 of the Contract. *Motion*, p. 6-13.

17 “[T]he scope of judicial review of an arbitration award is limited and is nothing like the  
18 scope of an appellate court’s review of a trial court’s decision.” Health Plan of Nevada v.  
19 Rainbow Med., 120 Nev. 689, 695, 100 P.3d 172, 177 (2004). “A ‘reviewing court should not  
20 concern itself with the ‘correctness’ of an arbitration award’ and thus does not review the  
21 merits of the dispute.” Bohlmann v. Byron John Printz, 120 Nev. at 547, 96 P.3d 1158  
22 (2004) (quoting Thompson v. Tega–Rand Intern., 740 F.2d 762, 763 (9th Cir.1984)); see  
23 also Clark Ctv. Educ. Ass’n v. Clark Cty. Sch. Dist., 122 Nev. 337, 342, 131 P.3d 5, 8  
24 (2006). Rather, “[t]he party seeking to attack the validity of an arbitration award has the  
25 burden of proving, **by clear and convincing evidence**, the statutory or common-law  
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28

1 ground relied upon for challenging the award.” Rainbow Med., 120 Nev. at 695, 100 P.3d at  
2 176 (emphasis added).

3         After considering this matter pursuant to the present papers filed, the Court finds Mr.  
4 Garmong has failed to provide clear and convincing evidence to challenge the award.  
5 Moreover, Mr. Garmong has failed to provide clear and convincing evidence Defendants  
6 fraudulently induced Judge Adams and the Nevada Supreme Court to compel arbitration.  
7

8         Notably, Mr. Garmong does not cite to anything in the record with specificity to  
9 substantiate his claims in the *Reconsider Motion*. Instead, Mr. Garmong rehashes his same  
10 argument, the Contract is not “true, complete and correct.” Compare Motion, p. 6, 7, 13,  
11 with Opposition to Motion to Confirm Final Award, p. 2. Despite this, the Court finds no  
12 grounds to change its prior ruling that an enforceable agreement to arbitrate exists in the  
13 record, and the parties were properly ordered to arbitrate. See ORM, p. 11; see also Order,  
14 December 13, 2012 (holding the arbitration agreement contained in paragraph 16 of the  
15 Agreement is not unconscionable and is enforceable); Order, April 2, 2014 (denying motion  
16 for reconsideration, and again holding arbitration agreement to be enforceable, based on  
17 identical arguments as raised in in Mr. Garmong’s *Motion to Vacate Final Award*); *Order to*  
18 *Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to*  
19 *NRCP 41(E)* (holding Mr. Garmong was ordered numerous times to participate in  
20 arbitration).  
21  
22  
23

24         Therefore, this Court rejects Mr. Garmong’s arguments and denies his request to  
25 amend the Court’s findings regarding the confirmation of the award.  
26

27 //

28 //

1           **B.     Plaintiff's Motion to Vacate Arbitrator's Final Award and**  
2           **Plaintiff's Motion to Vacate MSJ Decision.**

3           Rule 13 of the District Court Rules for the State of Nevada provides, "No motion once  
4 heard and disposed of shall be renewed in the same cause, **nor shall the same matters**  
5 **therein embraced be reheard**, unless by leave of the court granted upon motion therefor,  
6 after notice of such motion to the adverse parties." DCR 13(7) (emphasis supplied).  
7

8           Well-established authority in this state governs reconsideration of previously-decided  
9 issues. In Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd., the  
10 Nevada Supreme Court held:

11           A district court may reconsider a previously decided issue if substantially  
12 different evidence is subsequently introduced or the decision is clearly  
13 erroneous. *See Little Earth of United Tribes v. Department of Housing*, 807  
14 F.2d 1433, 1441 (8th Cir.1986); *see also Moore v. City of Las Vegas*, 92 Nev.  
15 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in which *new*  
16 *issues of fact or law* are raised supporting a ruling contrary to the ruling  
already reached should a motion for rehearing be granted.") (Emphasis  
added).

17           113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (alterations and citations in original). In  
18 Masonry & Tile Contractors Ass'n, the Nevada Supreme Court upheld a district court's  
19 reconsideration of a previously decided issue in light of new clarifying case law. Id.  
20 Because of new case law, the decision by the prior district judge was properly determined to  
21 be "clearly erroneous." Id. When a motion for reconsideration raises "no new issues of law  
22 and [makes] reference to no new or additional facts," reconsideration is "superfluous" and  
23 constitutes an "abuse of discretion" by the district court to entertain such a motion. Moore v.  
24 City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). Such motions are granted  
25 in "rare instances." Id. Further, it is well-settled the decision of whether to grant  
26 reconsideration is within "the sound discretion of the court." Navajo Nation v. Confederated  
27  
28

1 Tribes & Bands of the Yakama Indian Nation, 331 F.3d 1041, 1046 (9th Cir. 2003); see also  
2 Riger v. Hometown Mortg., LLC, 104 F. Supp. 3d 1092, 1095 (D. Nev. 2015) (district court's  
3 decision to grant reconsideration after entry of an order is within its discretion).

4 Mr. Garmong's *Motion to Vacate Final Award* argues the Final Award must be  
5 vacated pursuant to NRS 38.241(1) because there was no agreement to arbitrate, and even  
6 *arguendo* if there was an agreement to arbitrate, it is invalid based on statutory and non-  
7 statutory grounds. *Motion to Vacate Final Award*, p. 5-9. However, as stated, this Court  
8 has previously held a valid and enforceable arbitration agreement exists in the record  
9 pursuant to NRS 38.241 on numerous occasions. See *ORM*, p. 12; see also *Order*,  
10 December 13, 2012 (holding the arbitration agreement contained in paragraph 16 of the  
11 Agreement is not unconscionable and is enforceable); *Order*, April 2, 2014 (denying motion  
12 for reconsideration and again holding arbitration agreement to be enforceable based on  
13 identical arguments as raised in in Mr. Garmong's *Motion to Vacate Final Award*); *Order to*  
14 *Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to*  
15 *NRCP 41(E)* (holding Mr. Garmong was ordered numerous time to participate in arbitration).

16 As such, Mr. Garmong's argument constitutes "similar matters" or matters  
17 "embraced" under DCR 13(7) requiring leave of court. Therefore, this Court declines to re-  
18 entertain Mr. Garmong's arguments in this *Motion*, and therefore, declines to amend its  
19 findings and confirmation of the award.

20 Second, Mr. Garmong contends the Court's *Nov. Order* did not decide the *Motion to*  
21 *Vacate MSJ* on the substantive merits, thereby obviating application of DCR 13(7). *Motion*,  
22 p. 15. However, the Court again finds Mr. Garmong previously raised the same argument  
23 regarding Judge Pro disregarding applicable substantive legal principles. See *ORM*, p. 13;  
24  
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1 Compare Motion, p. 16-19, with Plaintiff's Opposition to Defendants' Motion to Confirm  
2 Arbitrator's Award, p. 4:16–15:16; Motion to Vacate Arbitrator's Final Award, p. 3:3–4:21;  
3 Plaintiff's Motions to Vacate MSJ Decision, p. 10:12–31:6. Thus, this Court has previously  
4 considered and decided this issue in accordance with JAMS Comprehensive Rules &  
5 Procedures Rule (JAMS Rules). See Nov. Order, p. 8-9.

7 Accordingly, Mr. Garmong did not properly move to reconsider *Plaintiff's Motion to*  
8 *Vacate MSJ Decision* as required by DCR 13(7). Therefore, this Court declines to amend  
9 its findings regarding Judge Pro's summary disposition of claims.

10 **C. Plaintiff's Motion to Vacate Arbitrator's Award of Attorney's Fees.**

11 Mr. Garmong asserts there was no valid offer of judgment for attorneys' fees  
12 because NRCP 68 was not a governing rule of arbitration under Judge Pro's Discovery  
13 Plan. *Motion*, p. 20-26.

15 JAMS Rule 24(g) provides an arbitrator may award attorney's fees, expenses, and  
16 interest if provided by the Parties' Agreement or allowed by applicable law. JAMS Rule  
17 24(g) (emphasis added). Defendants propounded an Offer of Judgment in the amount of  
18 \$10,000 on February 12, 2017 pursuant to applicable Nevada law. *Final Award*, p. 10.  
19 Rule 68 of the Nevada Rules of Civil Procedure provides, in pertinent part:  
20

21 (a) The Offer. At any time more than 10 days before trial, any party may  
22 serve an offer in writing to allow judgment to be taken in accordance with its  
23 terms and conditions.

\* \* \* \*

24 (e) Failure to Accept Offer...Any offeree who fails to accept the offer may be  
25 subject to the penalties of this rule.

26 (f) Penalties for Rejection of Offer. If the offeree rejects an offer and fails to  
27 obtain a more favorable judgment,  
28

1 (1) the offeree cannot recover any costs or attorney's fees and shall  
2 not recover interest for the period after the service of the offer and before the  
3 judgment; and

4 (2) the offeree shall pay the offeror's post-offer costs, applicable  
5 interest on the judgment from the time of the offer to the time of entry of the  
6 judgment and reasonable attorney's fees, if any be allowed, actually incurred  
7 by the offeror from the time of the offer.

8 NRCP 68. An award of fees pursuant to NRCP 68 is discretionary with the Court and will  
9 not be disturbed absent clear abuse. Bidart v. American Title Ins. Co., 103 Nev. 175, 734  
10 P.2d 732 (1987).

11 The Court does not change its conclusion Judge Pro properly found the issues in  
12 this case are governed by applicable Nevada law and JAMS Rules. *ORM*, p. 14. The  
13 application of NRCP rules relating to discovery does not automatically exclude or preclude  
14 the applicability of other NRCP rules to the matter, particularly where the Arbitrator  
15 determines it necessary to apply them. *ORM*, p. 14.

16 Accordingly, the Court finds Judge Pro awarded attorneys' fees, interest, and  
17 expenses in accordance with NRCP 68 and JAMS Rule 24(g). Therefore, this Court  
18 declines to amend its findings regarding Judge Pro's award of attorneys' fees.

19  
20 **D. Due Process Claim.**

21 Mr. Garmong claims his due process rights were violated because he did not receive  
22 proper notice regarding the offer of judgment and award of attorneys' fees. *Motion*, p. 25-  
23 26. A motion to alter or amend judgment may not be used to relitigate old matters, or to  
24 raise arguments or present evidence that could have been raised prior to the entry of  
25 judgment. Stevo Design, Inc., 919 F. Supp. 2d at 1117. Mr. Garmong's new claim  
26 regarding due process violations is not appropriate for NRCP 59(e) as it could have been  
27 raised prior to the entry of judgment. Therefore, this Court declines to consider Mr.  
28

1 Garmong's due process claim as it could have been raised before this Court or the arbitrator  
2 prior to the entry of judgment.

3 **D. Potential Sanctions.**

4 This Court notes Mr. Garmong's continued indifference to the previous orders issued  
5 by this Court. The Court will consider imposing sanctions in the future should Mr. Garmong  
6 continue to disregard this Court's orderst.

7  
8 **III. CONCLUSION AND ORDER.**

9 For the foregoing reasons, and good cause appearing therefor,

10 **IT IS HEREBY ORDERED** Mr. Garmong's *Motion to Alter or Amend "Order Re*  
11 *Motions" Entered August 8, 2019 ("Motion")* is **DENIED**.

12 Dated this 6<sup>th</sup> day of December, 2019.

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16 DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
that on the 6<sup>th</sup> day of December, 2019, I electronically filed the foregoing with the  
Clerk of the Court system which will send a notice of electronic filing to the following:

CARL HEBERT, ESQ.

THOMAS BRADLEY, ESQ.

And, I deposited in the County mailing system for postage and mailing with the  
United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
document addressed as follows:

Heidi Bore

CV12-01271

Code 1350

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

GREGORY O. GARMONG,

Case No. CV12-01271

Plaintiff,

Dept. No. 6

vs.

WESPAC; GREG CHRISTIAN; DOES 1-10, inclusive,

Defendants.

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 7th day of January, 2020, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 7th day of January, 2020

Jacqueline Bryant  
Clerk of the Court

By /s/ YViloria  
YViloria  
Deputy Clerk

ORIGINAL

## CIVIL COVER SHEET

Washoe County, Nevada

Case No.

CV12 01271

(Assigned by Clerk's Office)

## I. Party Information

Plaintiff(s) (name/address/phone):

DOB: Gregory Garmong

11 Dee Court, Smith, NV 89430

775-465-2981

Attorney (name/address/phone):

In proper person

Defendant(s) (name/address/phone):

DOB: 1. Wespac

2. Greg Christian

10425 Double R Blvd., Reno, NV 89521

Attorney (name/address/phone):

ph. 888-695-2869

## II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

## Civil Cases

## Real Property

Landlord/Tenant - LT

Unlawful Detainer - UD

Lease to Property

Foreclosure - FC

Liens - LE

Quiet Title - QT

Specific Performance - SP

Condemnation/Eminent Domain - CD

Other Real Property - RO

Partition - PT

Planning/Zoning - PZ

## Negligence

☐ Negligence - Auto - VP☐ Negligence - Medical/Dental - MD☐ Negligence - Premises Liability - SF  
(Slip/Fall)☐ Negligence - Other - NO

## Torts

☐ Product Liability☐ Product Liability/Motor Vehicle - VH☐ Other Torts/Product Liability - PL☐ Intentional Misconduct☐ Torts/Defamation (Libel/Slander) - DF☐ Interfere with Contract Rights - IR☐ Employment Torts (Wrongful Term) - WT☐ Other Torts - TO☐ Anti-trust - AT☐ Fraud/Misrepresentation - FM☐ Insurance - IN☐ Legal Tort - LG☐ Unfair Competition - UC

## Probate

☐ Summary Administration - SU☐ General Administration - FA☐ Special Administration - SL☐ Set Aside Estates - SE☐ Trust/Conservatorships☐ Individual Trustee - TR☐ Corporate Trustee - TM☐ Other Probate - OP

## Other Civil Filing Types

☐ Construction Defect - CF☐ Chapter 40☐ General☐ Breach of Contract☐ Building & Construction - BC☐ Insurance Carrier - BF☐ Commercial Instrument - CI☐ Other Contracts/Acct/Judg. - CO☐ Collection of Actions - CT☐ Employment Contract - EC☐ Guarantee - GU☐ Sale Contract - SC☐ Uniform Commercial Code - UN☐ Civil Petition for Judicial Review☐ Foreclosure Mediation - FO☐ Other Administrative Law - AO☐ Department of Motor Vehicles - DM☐ Worker's Compensation Appeal - SI☐ Appeal from Lower Court☐ Transfer from Justice Court - TJ☐ Justice Court Civil Appeal - CA☐ Civil Writ☐ Other Special Proceeding - SS☐ Other Civil Filing☐ Compromise of Minor's Claim - CM☐ Conversion of Property - CN☐ Damage to Property - DG☐ Employment Security - ES☐ Enforcement of Judgment - EJ☐ Foreign Judgment - Civil - FJ☐ Other Personal Property - PO☐ Recovery of Property - RE☐ Stockholder Suit - ST☒ Other Civil Matters - GC☐ Confession of Judgment - CJ☐ Name Change - Adult - NC☐ Out of State Commission - OS☐ Petition to Seal Criminal Records - PS

## III. Business Court Requested (If you check a box below, you must check an additional box above to determine case type.)

☐ NRS Chapters 78-88☐ Commodities (NRS 90)☐ Securities (NRS 90)☐ Investments (NRS 104 Art. 8)☐ Deceptive Trade Practices (NRS 598)☐ Trademarks (NRS 600A)☐ Enhanced Case Mgmt/Business☐ Other Business Court Matters

May 8, 2012

Date

Signature of initiating party or representative

Gregory Garmong, In proper person

Form PA 201  
Rev. 2.4ECV12-01271  
DC-9900035035-056  
GREGORY GARMONG VS WESPAC ET AL Page  
District Court 05/09/2012 10:16 AM  
Washoe County  
CLERK'S OFFICE

**CARL M HEBERT**

202 CALIFORNIA AVE  
RENO, NV 89509-1621  
775-323-5556

1043

94-72/1224 NV  
61302

DATE

1/7/20

PAY  
TO THE  
ORDER OF

Clerk, Nevada Supreme Court

\$ 250<sup>00</sup>/<sub>100</sub>

Two Hundred Fifty Dollars and no

DOLLARS



Photo  
Safe  
Deposit®  
Details on back

**Bank of America**

ACH R/T 122400724

FOR

Barnaby N. Wagner - filing fee  
DC # CV 12-01271

Carl M. Hebert

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