

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

DAVID J. MITCHELL; ET AL.;

Appellants,

vs.

RUSSELL L. NYPE; REVENUE  
PLUS, LLC; AND SHELLEY D.  
KROHN,

Respondents.

Supreme Court Case No. 80693

District Court No. A-16-740689-B

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**APPELLANTS' APPENDIX – VOLUME VIII OF XXIX**

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Aquarius Owner, LLC, LVLP Holdings,  
LLC, and Live Works Tic Successor, LLC*

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7/6/17	Defendants' Reply to Motion to Dismiss	II	AA 269-292
4/25/17	Defendants' Reply to Motion to Strike; Opposition to Counter-Motion for Advisory Jury	I	AA 152-162
11/19/19	Errata to Complaint in Intervention	VI	AA 1083-1088
2/20/20	Joinder to Mitchell Defendants' Motion to Alter/Amend Judgment [Lieberman and Casino Coolidge]	VII	AA 1392-1394
4/26/18	Joinder to Mitchell Defendants' Motion to Compel Discovery [Lieberman and 305 Las Vegas]	IV	AA 726-728
5/30/18	Joinder to Mitchell Defendants' Reply to Motion to Compel Discovery	V	AA 829-831
10/24/17	Joint Case Conference Report [Partial Document Only]	III	AA 362-470
12/27/19	Joint Pre-Trial Memorandum [Partial Document Only]	VI	AA 1183-1202



<u><b>Date</b></u>	<u><b>Description</b></u>	<u><b>Vol.</b></u>	<u><b>Bates No.</b></u>
2/14/20	Mitchell Defendants' Motion to Alter/Amend Judgment	VII	AA 1371-1391
4/19/18	Mitchell Defendants' Motion to Compel Discovery	IV	AA 490-725
11/21/19	Mitchell Defendants' Motion to Dismiss or, in the alternative, Motion for Summary Judgment	VI	AA 1095-1123
11/16/19	Mitchell Defendants' Opposition to Motion to Intervene	VI	AA 1037-1045
2/20/20	Mitchell Defendants' Opposition to Plaintiffs' Motion for Attorney's Fees	VII	AA 1402-1408
2/27/20	Mitchell Defendants' Opposition to Plaintiffs' Motion to Correct Minor Errors and Incorporate Pre-Judgment Interest	VIII	AA 1461-1467
5/30/18	Mitchell Defendants' Reply to Motion to Compel Discovery	V	AA 796-828
12/19/19	Mitchell Defendants' Reply to Motion to Dismiss or, in the alternative, Motion for Summary Judgment	VI	AA 1161-1170
Undated	Mitchell's <b>Trial Exhibit 90001</b> [Forest City Agreement] [Sealed]	XXIX	SAA 1715-1807
Undated	Mitchell's <b>Trial Exhibit 90052</b> [Casino Coolidge Title Documents] [Sealed]	XXIX	SAA 1808-1820
Undated	Mitchell's <b>Trial Exhibit 90054</b> [Surrender/Termination Agreement]	XX	AA 3512-3516

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Mitchell's <b>Trial Exhibit 90069</b> [Release of Lease Guaranty]	XX	AA 3517-3521
Undated	Mitchell's <b>Trial Exhibit 90075</b> [FC/LW - Entity Details]	XX	AA 3522-3524
Undated	Mitchell's <b>Trial Exhibit 90079</b> [10th NRCP 16.1 Disclosures: Underlying Action]	XX	AA 3525-3543
2/14/20	Motion to Alter/Amend Judgment [Lieberman and Casino Coolidge]	VII	AA 1325-1352
1/27/20	Motion to Alter/Amend Judgment [Casino Coolidge] [ <b>Sealed</b> ]	XXII	SAA 73-323
1/27/20	Motion to Alter/Amend Judgment [Casino Coolidge] [Continued][ <b>Sealed</b> ]	XXIII	SAA 324-513
11/12/19	Motion to Intervene	VI	AA 994-1036
11/20/18	NEO re: Continue Discovery (Second)	V	AA 888-894
2/15/18	NEO re: Continue Discovery [First]	III	AA 471-478
8/9/17	NEO re: Defendants' Motion to Dismiss	II	AA 298-306
5/24/17	NEO re: Defendants' Motion to Strike and Counter-Motion for Advisory Jury	I	AA 163-169
2/24/20	NEO re: Directed Verdict and Judgment for Defendant, 305 Las Vegas	VII	AA 1435-1439
9/23/19	NEO re: Discovery Sanctions	V	AA 940-952

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
11/30/18	NEO re: Dismissal of Defendant, Liberman Holdings	V	AA 895-902
6/19/18	NEO re: Mitchell Defendants' Motion to Compel Discovery and Plaintiffs' Counter-Motion	V	AA 862-868
3/30/20	NEO re: Motion to Alter/Amend Judgment [Casino Coolidge]	VIII	AA 1483-1488
3/30/20	NEO re: Motion to Alter/Amend Judgment [Mitchell Defendants]	VIII	AA 1489-1494
3/30/20	NEO re: Motion to Alter/Amend Judgment [Liberman and Casino Coolidge]	VIII	AA 1492-1500
11/18/19	NEO re: Motion to Intervene	VI	AA 1046-1051
5/14/20	NEO re: Motion to Retax and Settle Costs	VIII	AA 1518-1524
7/3/18	NEO re: Plaintiffs' Ex Parte Application for OSC	V	AA 869-878
5/13/20	NEO re: Plaintiffs' Motion for Attorney's Fees	VIII	AA 1501-1510
5/30/19	NEO re: Plaintiffs' Motion to Compel Discovery	V	AA 903-914
5/13/20	NEO re: Plaintiffs' Motion to Correct Minor Errors and Incorporate Pre-Judgment Interest	VIII	AA 1511-1517

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
11/21/19	NEO re: Redactions and Sealing	VI	AA 1089-1094
2/21/18	NEO re: Stipulated Protective Order	III	AA 482-489
1/16/20	NOE Findings of Fact, Conclusions of Law and Judgment [Original]	VII	AA 1203-1220
1/17/19	NOE Findings of Fact, Conclusions of Law and Judgment [Amended]	VII	AA 1221-1238
2/25/20	Notice of Appeal [Lieberman and Casino Coolidge]	VII	AA 1440-1442
2/26/20	Notice of Appeal [Mitchell Defendants]	VIII	AA 1443-1460
8/28/19	Notice of Filing Bankruptcy	V	AA 937-939
1/19/18	Plaintiffs' First Supplemental NRCP 16.1 Disclosure <b>[Sealed]</b>	XXI	SAA 1-72
2/6/20	Plaintiffs' Motion for Attorney's Fees	VII	AA 1239-1289
2/13/20	Plaintiffs' Motion to Correct Minor Errors and Incorporate Pre-Judgment Interest	VII	AA 1290-1324
10/7/19	Plaintiffs' Opposition to Defendant's, 305 Las Vegas, Motion for Summary Judgment	VI	AA 953-980
6/14/17	Plaintiffs' Opposition to Defendants' Motion to Dismiss	II	AA 170-268

<u><b>Date</b></u>	<u><b>Description</b></u>	<u><b>Vol.</b></u>	<u><b>Bates No.</b></u>
4/17/17	Plaintiffs' Opposition to Defendants' Motion to Strike Jury Demand; Counter-Motion for Advisory Jury	I	AA 89-151
5/11/18	Plaintiffs' Opposition to Mitchell Defendants' Motion to Compel Discovery; Counter-Motion for Disclosure of Un-Redacted Emails [Partial Document Only]	V	AA 729-795
12/12/19	Plaintiffs' Opposition to Mitchell Defendants' Motion to Dismiss or, in the alternative, Motion for Summary Judgment	VI	AA 1134-1155
2/14/20	Plaintiffs' Opposition to Motion to Alter/Amend Judgment [Lieberman and Casino Coolidge]	VII	AA 1353-1370
2/20/20	Plaintiffs' Opposition to Motions to Alter/Amend Judgment [All Parties]	VII	AA 1409-1434
3/6/20	Plaintiffs' Reply to Motion for Attorney's Fees	VIII	AA 1468-1475
3/13/20	Plaintiffs' Reply to Motion to Correct Minor Errors and Incorporate Pre-Judgment Interest	VIII	AA 1476-1482
6/5/18	Plaintiffs' Supplement to Opposition to Mitchell Defendants' Motion to Compel Discovery and Counter-Motion for Disclosure of Un-Redacted Emails	V	AA 832-861
Undated	Plaintiffs' <b>Trial Exhibit 1</b> [Ownerships Interests]	XV	AA 2457

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 2</b> [Aquarius Owner/LVLP] [Sealed]	XXIII	SAA 514-547
Undated	Plaintiffs' <b>Trial Exhibit 3</b> [LVLP Organization Documents]	XV	AA 2458-2502
Undated	Plaintiffs' <b>Trial Exhibit 9</b> [Live Work, LLC - Nevada SOS]	XV	AA 2503-2505
Undated	Plaintiffs' <b>Trial Exhibit 10</b> [Live Work Organization Documents]	XV	AA 2506-2558
Undated	Plaintiffs' <b>Trial Exhibit 12</b> [Term Restructure - Forest City]	XV	AA 2559-2563
Undated	Plaintiffs' <b>Trial Exhibit 17</b> [305 Las Vegas Entity Details]	XV	AA 2564-2566
Undated	Plaintiffs' <b>Trial Exhibit 18</b> [305 Las Vegas Organization Documents]	XV	AA 2567-2570
Undated	Plaintiffs' <b>Trial Exhibit 19</b> [305 Second Avenue Associates - Entity Details]	XV	AA 2571-2572
Undated	Plaintiffs' <b>Trial Exhibit 20</b> [305 Las Vegas - Certificate of Formation]	XV	AA 2573-2574
Undated	Plaintiffs' <b>Trial Exhibit 21</b> [305 Las Vegas - Operating Agreement]	XV	AA 2575-2597
Undated	Plaintiffs' <b>Trial Exhibit 23</b> [List Managers - 305 Las Vegas]	XV	AA 2598

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 27</b> [Meadows Bank Statement] [Partial Document Only] [ <b>Sealed</b> ]	XXIII	SAA 548
Undated	Plaintiffs' <b>Trial Exhibit 30</b> [Casino Coolidge - Articles of Organization]	XV	AA 2599-2603
Undated	Plaintiffs' <b>Trial Exhibit 32</b> [Casino Coolidge Operating Agreement] [ <b>Sealed</b> ]	XXIV	SAA 549-578
Undated	Plaintiffs' <b>Trial Exhibit 34</b> [Live Work - Organization Documents]	XV	AA 2604-2657
Undated	Plaintiffs' <b>Trial Exhibit 35</b> [Live Work Manager Company Documents] [ <b>Sealed</b> ]	XXIV	SAA 579-582
Undated	Plaintiffs' <b>Trial Exhibit 38</b> [Wink One - Organization Documents]	XV	AA 2658-2660
Undated	Plaintiffs' <b>Trial Exhibit 40</b> [Wink One Company Documents] [ <b>Sealed</b> ]	XXIV	SAA 583-588
Undated	Plaintiffs' <b>Trial Exhibit 43</b> [L/W TIC Successor - Operating Agreement]	XVI	AA 2661-2672
Undated	Plaintiffs' <b>Trial Exhibit 44</b> [Meyer Property - Operating Agreement]	XVI	AA 2673-2677
Undated	Plaintiffs' <b>Trial Exhibit 45</b> [Leah Property - Consents]	XVI	AA 2678-2693

<u><b>Date</b></u>	<u><b>Description</b></u>	<u><b>Vol.</b></u>	<u><b>Bates No.</b></u>
Undated	Plaintiffs' <b>Trial Exhibit 52</b> [FC Live Work Company Documents] [Sealed]	XXIV	SAA 589-659
Undated	Plaintiffs' <b>Trial Exhibit 10002</b> [LVLP Holdings 2007 Tax Return] [Sealed]	XXIV	SAA 660-677
Undated	Plaintiffs' <b>Trial Exhibit 10003</b> [LVLP Holdings 2008 Tax Return] [Sealed]	XXIV	SAA 678-692
Undated	Plaintiffs' <b>Trial Exhibit 10004</b> [LVLP Holdings 2009 Tax Return] [Sealed]	XXIV	SAA 693-709
Undated	Plaintiffs' <b>Trial Exhibit 20024</b> [Signature Bank 2015-2016] [Sealed]	XXIV	SAA 710-742
Undated	Plaintiffs' <b>Trial Exhibit 20026</b> [Signature Bank April 2015] [Sealed]	XXIV	SAA 743
Undated	Plaintiffs' <b>Trial Exhibit 30002</b> [LVLP G/L 2007] [Sealed]	XXIV	SAA 744
Undated	Plaintiffs' <b>Trial Exhibit 30031</b> [LVLP G/L 2008] [Sealed]	XXIV	SAA 745-764
Undated	Plaintiffs' <b>Trial Exhibit 30062</b> [Mitchell Contributions] [Sealed]	XXIV	SAA 765-770
Undated	Plaintiffs' <b>Trial Exhibit 30063</b> [Capital Contributions] [Sealed]	XXIV	SAA 771-774
Undated	Plaintiffs' <b>Trial Exhibit 30066</b> [Unallocated Contributions] [Sealed]	XXIV	SAA 775



<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 30067</b> [Mitchell Amounts Paid] <b>[Sealed]</b>	XXIV	SAA 776-780
Undated	Plaintiffs' <b>Trial Exhibit 30086</b> [Mitchell Loan Balances] <b>[Sealed]</b>	XXIV	SAA 781-783
Undated	Plaintiffs' <b>Trial Exhibit 30087</b> [Lieberman Loan Balances] <b>[Sealed]</b>	XXIV	SAA 784-786
Undated	Plaintiffs' <b>Trial Exhibit 40001</b> [Settlement Statement - Casino Coolidge]	XVI	AA 2694
Undated	Plaintiffs' <b>Trial Exhibit 40002</b> [Aquarius Settlement Statement]	XVI	AA 2695-2702
Undated	Plaintiffs' <b>Trial Exhibit 40006</b> [Live Work Settlement Statement]	XVI	AA 2703-2704
Undated	Plaintiffs' <b>Trial Exhibit 40007</b> [Final Settlement Statement - Forest City]	XVI	AA 2705-2707
Undated	Plaintiffs' <b>Trial Exhibit 40040</b> [Deed - Casino Coolidge]	XVI	AA 2708-2709
Undated	Plaintiffs' <b>Trial Exhibit 40041</b> [Deeds - Casino Coolidge]	XVI	AA 2710-2714
Undated	Plaintiffs' <b>Trial Exhibit 40042</b> [Deeds - Casino Coolidge]	XVI	AA 2715-2730
Undated	Plaintiffs' <b>Trial Exhibit 40043</b> [Release of Lease Guaranty] <b>[Sealed]</b>	XXIV	SAA 787-789
Undated	Plaintiffs' <b>Trial Exhibit 40046</b> [Personal Guaranty - Lease]	XVI	AA 2731-2739

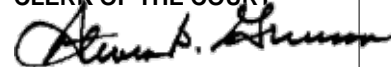
<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 40047</b> [Personal Guaranty - Lease]	XVI	AA 2740-2747
Undated	Plaintiffs' <b>Trial Exhibit 50001</b> [Underlying Complaint: A-07-551073]	XVI	AA 2748-2752
Undated	Plaintiffs' <b>Trial Exhibit 50002</b> [Underlying First Amended Complaint and Counter-Claim: A-07-551073]	XVI	AA 2753-2766
Undated	Plaintiffs' <b>Trial Exhibit 50006</b> [Underlying Action: FFCL]	XVI	AA 2767-2791
Undated	Plaintiffs' <b>Trial Exhibit 50007</b> [Underlying Judgment: A-07-551073]	XVI	AA 2792-2794
Undated	Plaintiffs' <b>Trial Exhibit 50008</b> [Underlying Amended Judgment]	XVI	AA 2795-2797
Undated	Plaintiffs' <b>Trial Exhibit 50037</b> [Rich Supplemental Expert Report]	XVI	AA 2798-2825
Undated	Plaintiffs' <b>Trial Exhibit 50038</b> [Wall Street Settlement Agreement] [Sealed]	XXV	SAA 790-820
Undated	Plaintiffs' <b>Trial Exhibit 50040</b> [Settlement Agreement - Heartland]	XVI	AA 2826-2878
Undated	Plaintiffs' <b>Trial Exhibit 50042</b> [Mitchell Response - Bar Fee Dispute]	XVI	AA 2879-2900
Undated	Plaintiffs' <b>Trial Exhibit 60001</b> [Wall Street Engagement Letter] [Sealed]	XXV	SAA 821-825

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 60002</b> [Emails]	XVI	AA 2901
Undated	Plaintiffs' <b>Trial Exhibit 60005</b> [Emails]	XVI	AA 2902-2904
Undated	Plaintiffs' <b>Trial Exhibit 60053</b> [Rich Working Papers] [Partial Document Only] [ <b>Sealed</b> ]	XXV	SAA 826-1039
Undated	Plaintiffs' <b>Trial Exhibit 60053</b> [Rich Working Papers] [Partial Document Only] [Continued][ <b>Sealed</b> ]	XXVI	SAA 1040-1289
Undated	Plaintiffs' <b>Trial Exhibit 60053</b> [Rich Working Papers] [Partial Document Only] [Continued][ <b>Sealed</b> ]	XXVII	SAA 1290-1414
Undated	Plaintiffs' <b>Trial Exhibit 70003</b> [Disregarded Entities]	XVI	AA 2905-2906
Undated	Plaintiffs' <b>Trial Exhibit 70009</b> [Lieberman Contributions] [ <b>Sealed</b> ]	XXVII	SAA 1415-1418
Undated	Plaintiffs' <b>Trial Exhibit 70015</b> [Mitchell Contributions] [ <b>Sealed</b> ]	XXVII	SAA 1419-1422
Undated	Plaintiffs' <b>Trial Exhibit 70021</b> [LVLP Balance Sheet - 2015] [ <b>Sealed</b> ]	XXVII	SAA 1423
Undated	Plaintiffs' <b>Trial Exhibit 70023</b> [LVLP Holdings Entities]	XVI	AA 2907
Undated	Plaintiffs' <b>Trial Exhibit 70030</b> [Underlying Action - Discovery Request]	XVII	AA 2908-2917

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 70036</b> [Reisman Attorney's Fees]	XVII	AA 2918-2943
Undated	Plaintiffs' <b>Trial Exhibit 70037</b> [Reisman Attorney's Fees]	XVII	AA 2944-2950
Undated	Plaintiffs' <b>Trial Exhibit 70038</b> [Reisman Attorney's Fees]	XVII	AA 2951-2954
Undated	Plaintiffs' <b>Trial Exhibit 70042</b> [New Jersey Fees/Costs]	XVII	AA 2955-2968
Undated	Plaintiffs' <b>Trial Exhibit 70043</b> [Rich Initial Expert Report] <b>[Sealed]</b>	XXVIII	SAA 1424-1673
Undated	Plaintiffs' <b>Trial Exhibit 70043</b> [Rich Initial Expert Report] [Continued] <b>[Sealed]</b>	XXIX	SAA 1674-1704
Undated	Plaintiffs' <b>Trial Exhibit 70045</b> [Rich's Fees]	XVII	AA 2969-3033
Undated	Plaintiffs' <b>Trial Exhibit 70052</b> [Document List - LVLP]	XVII	AA 3034-3037
Undated	Plaintiffs' <b>Trial Exhibit 70053</b> [Rich's Fees]	XVII	AA 3038-3044
Undated	Plaintiffs' <b>Trial Exhibit 70054</b> [Rich's Fees]	XVII	AA 3045
Undated	Plaintiffs' <b>Trial Exhibit 70055</b> [Muije Attorney's Fees]	XVIII	AA 3046-3220
Undated	Plaintiffs' <b>Trial Exhibit 70056</b> [Muije Attorney's Fees]	XVIII	AA 3221-3228

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Vol.</u></b>	<b><u>Bates No.</u></b>
Undated	Plaintiffs' <b>Trial Exhibit 70060</b> [Underlying Judgment & Interest]	XVIII	AA 3229-3230
Undated	Plaintiffs' <b>Trial Exhibit 70062</b> [Attorney's Fees/Costs]	XVIII	AA 3231
Undated	Plaintiffs' <b>Trial Exhibit 70063</b> [Rich's Fees]	XVIII	AA 3232-3237
Undated	Plaintiffs' <b>Trial Exhibit 70064</b> [Reisman Attorney's Fees]	XVIII	AA 3238-3240
Undated	Plaintiffs' <b>Trial Exhibit 70065</b> [Reisman Attorney's Fees]	XVIII	AA 3241-3243
Undated	Plaintiffs' <b>Trial Exhibit 70067</b> [Muije Attorney's Fees]	XVIII	AA 3244-3263
Undated	Plaintiffs' <b>Trial Exhibit 70072</b> [LVLP G/L 2011] [Sealed]	XXIX	SAA 1705-1712
Undated	Plaintiffs' <b>Trial Exhibit 70074</b> [LVLP Adjusted Entries 2012] [Sealed]	XXIX	SAA 1713-1714
Undated	Plaintiffs' <b>Trial Exhibit 70075</b> [Attorney's Fees/Costs]	XIX	AA 3264-3359
Undated	Plaintiffs' <b>Trial Exhibit 70076</b> [Reisman Attorney's Fees]	XIX	AA 3360-3375
Undated	Plaintiffs' <b>Trial Exhibit 70077</b> [Reisman Attorney's Fees]	XIX	AA 3376
Undated	Plaintiffs' <b>Trial Exhibit 70078</b> [Rich's Fees]	XIX	AA 3377-3463

<u><b>Date</b></u>	<u><b>Description</b></u>	<u><b>Vol.</b></u>	<u><b>Bates No.</b></u>
Undated	Plaintiffs' <b>Trial Exhibit 70079</b> [Muije Attorney's Fees]	XIX	AA 3464-3511
2/27/17	Proofs of Service	I	AA 20-48
11/12/19	Receipt of Copy	VI	AA 992-993
2/20/20	Reply to Motion to Alter/Amend Judgment [Lieberman and Casino Coolidge]	VII	AA 1395-1401
12/26/19	Satisfaction of Judgment	VI	AA 1180-1182
7/30/18	Second Amended Business Court Order	V	AA 883-885
12/30/19	<b>Trial Transcript - Day 1</b> [December 30, 2019]	IX	AA 1533-1697
12/31/19	<b>Trial Transcript - Day 2</b> [December 31, 2019]	X	AA 1698-1785
1/2/20	<b>Trial Transcript - Day 3</b> [January 2, 2020]	XI	AA 1786-1987
1/3/20	<b>Trial Transcript - Day 4</b> [January 3, 2020]	XII	AA 1988-2163
1/6/20	<b>Trial Transcript - Day 5</b> [January 6, 2020]	XIII	AA 2164-2303
1/7/20	<b>Trial Transcript - Day 6</b> [January 7, 2020]	XIV	AA 2304-2421



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**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

RUSSELL L. NYPE; REVENUE PLUS, LLC,  
 DOES I through X; DOE CORPORATIONS I  
 through X; and DOE PARTNERSHIPS I  
 through X;

Case No.: A-16-740689-B  
 Dept. No.: XI

**NOTICE OF APPEAL**

Plaintiffs,

vs.

DAVID J. MITCHELL; BARNET  
 LIBERMAN; LAS VEGAS LAND  
 PARTNERS, LLC; MEYER PROPERTY  
 LTD.; ZOE PROPERTY, LLC; LEAH  
 PROPERTY, LLC; WINK ONE, LLC;  
 AQUARIUS OWNER, LLC; LVLP  
 HOLDINGS, LLC; MITCHELL HOLDINGS,  
 LLC; LIBERMAN HOLDINGS, LLC; 305  
 LAS VEGAS, LLC; LIVE WORKS TIC  
 SUCCESSOR, LLC; CASINO COOLIDGE  
 LLC; DOES I THROUGH III, inclusive; and  
 ROE CORPORATIONS I THROUGH III,  
 inclusive,

Defendants

1 Notice is hereby given that Defendants DAVID J. MITCHELL, LAS VEGAS LAND  
2 PARTNERS, LLC, MEYER PROPERTY LTD, ZOE PROPERTY, LLC, LEAH PROPERTY,  
3 LLC, WINK ONE, LLC, AQUARIUS OWNER, LLC, LVLP HOLDINGS, LLC, LIBERMAN  
4 HOLDINGS, LLC, and LIVE WORKS TIC SUCCESSOR, LLC, by and through their counsel,  
5 H. Stan Johnson, Esq., of the law firm of Cohen|Johnson|Parker|Edwards, hereby appeals to the  
6 Supreme Court of Nevada from the following:

- 7 1. "Amended Findings of Fact and Conclusions of Law" filed on January 17<sup>th</sup>, 2020,  
8 with notice of entry of which was served electronically on January 17<sup>th</sup>, 2020, as well as  
9 any and all orders, decisions, judgments, findings, conclusions and, or recommendations  
10 relating thereto. *Attached as Exhibit A.*
- 11 2. All judgments and orders in this case; and
- 12 3. All rulings and interlocutory orders made appealable by any of the foregoing.

13 Dated this 26<sup>th</sup> of February 2020.

14 **COHEN|JOHNSON|PARKER|EDWARDS**

15 /s/ H. Stan Johnson

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**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that on the 26<sup>th</sup> day of February 2020, I caused a true and correct copy of **NOTICE OF APPEAL** to be served via the Court's Wiznet E-Filing system on all registered and active parties.

/s/ Sarah Gondek  
AN EMPLOYEE OF COHEN|JOHNSON|PARKER|EDWARDS

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# EXHIBIT A

*Steven D. Grierson*

FFCL

DISTRICT COURT

CLARK COUNTY, NEVADA

RUSSELL L. NYPE; REVENUE PLUS, LLC,  
DOES I through X; DOES I through X; DOE  
CORPORATIONS CASE NO: A-16-740689-  
C I through X; and DOES PARTNERSHIPS I  
through X,

Plaintiffs,

v.

DAVID J. MITCHELL; BARNET  
LIBERMAN; LAS VEGAS LAND  
PARTNERS, LLC; MEYER PROPERTY,  
LTD.; ZOE PROPERTY, LLC; LEAH  
PROPERTY, LLC; WINK ONE, LLC; LNE  
WORK, LLC; LNE WORK MANAGER,  
LLC; AQUARIUS OWNER, LLC; L VLP  
HOLDINGS, LLC; MITCHELL HOLDINGS,  
LLC; LIBERMAN HOLDINGS, LLC; 305  
LAS VEGAS, LLC; LIVE WORKS TIC  
SUCCESSOR, LLC; CASINO COOLIDGE  
LLC; DOES I through ill, and ROE  
CORPORATIONS I through ill, inclusive,

Defendants.

Case No.: A-16-740689-C

Dept.: XI

**AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter having come on for non-jury trial before the Honorable Elizabeth Gonzalez beginning on December 30, 2019, and continuing day to day, until its completion on January 7, 2020; John W. Muije of John W. Muije & Associates appeared on behalf of Russell L. Nype and Revenue Plus, LLC ("Plaintiffs") and Shelley D. Krohn, U.S. Bankruptcy Trustee ("Plaintiff Trustee"); H. Stan Johnson, James L. Edwards and Kevin M. Johnson of the law firm of Cohen, Johnson, Parker & Edwards appeared on behalf of David J. Mitchell, Las Vegas Land Partners, LLC, Meyer Property Ltd., Zoe Property LLC, Leah Property LLC, Wink One LLC, LiveWork LLC, LiveWork Manager LLC, Aquarius Owner LLC, LVLP Holdings LLC, Mitchell Holdings

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CLERK OF THE COURT

1 LLC, Live Works TIC Successor LLC, FC/Live Work Vegas LLC, ("Mitchell Defendants");<sup>1</sup>  
2 Brian W. Boschee of the law firm of Holley Driggs Walch Fine Puzey Stein & Thompson  
3 appeared on behalf of Defendant 305 Las Vegas, LLC<sup>2</sup>; and, Elliott S. Blut appeared on behalf of  
4 Defendants Barnett Liberman and Casino Coolidge; the Court having read and considered the  
5 pleadings filed by the parties; having reviewed the evidence admitted during the trial; having  
6 heard and carefully considered the testimony of the witnesses called to testify and weighing their  
7 credibility; having considered the oral and written arguments of counsel, and with the intent of  
8 rendering a decision on all claims before the Court,<sup>3</sup> pursuant to NRCP 52(a) and 58; the Court  
9 makes the following findings of fact and conclusions of law:  
10

### 11 FINDINGS OF FACT

12  
13 1. This action arises from a judgment that Plaintiffs obtained on or about April 10,  
14 2015, against Las Vegas Land Partners, LLC ("LVLP") in Case No. A551073. Plaintiff filed this  
15 suit on July 26, 2016. The complaint was amended by the filing of an amended complaint on  
16 August 21, 2017.

17 2. Plaintiff Trustee was duly appointed to act as the Trustee in the Bankruptcy Case  
18 of *Las Vegas Land Partners, LLC*, Case No. BK-19-15333-mkn and moved to intervene in the  
19 instant action, which motion was granted on November 18, 2019. Plaintiff Trustee filed the  
20 complaint in intervention on November 18, 2019.

21 3. Plaintiff Russell L. Nype ("Nype") is an adult resident of New York.  
22

23  
24 <sup>1</sup> Given the filing of *Las Vegas Land Partners, LLC*, Case No. BK-19-15333-mkn in  
August 2019, the Court takes no action against Las Vegas Land Partners, LLC.

25 <sup>2</sup> The Court granted the Rule 50(a) motion by 305 Las Vegas, LLC at the close of the  
26 Plaintiffs' case as no damages against that entity were established given the nature of its conduct.

27 <sup>3</sup> Plaintiff asserted five claims for relief against the Defendants: 1) Constructive Trust;  
28 2) Fraudulent Transfer; 3) Civil Conspiracy; 4) Declaratory Relief; and 5) Alter Ego.

- 1           4.     Plaintiff Revenue Plus, LLC (collectively with Nype, "Plaintiffs") is a Florida
- 2     limited liability company.
- 3           5.     Defendant, David J. Mitchell ("Mitchell"), is an adult resident of New York.
- 4           6.     Defendant, Barnett Liberman ("Liberman"), is an adult resident of New York.
- 5           7.     Defendant Mitchell Holdings, LLC ("Mitchell Holdings") is a Delaware limited
- 6     liability company.
- 7           8.     Defendant LVLP Holdings, LLC ("LVLP Holdings") is a Delaware limited
- 8     liability company that was formed on or about November 4, 2004 by Mitchell and Liberman.
- 9           9.     Defendant Las Vegas Land Partners ("LVLP") is a Delaware limited liability
- 10    company.
- 11          10.    Mitchell and Liberman are managers of LVLP.
- 12          11.    At all relevant times, Mitchell and Liberman were the sole owners (50/50) and
- 13    managers of LVLP Holdings.
- 14          12.    At all relevant times, LVLP was owned (50/50) and managed by Mitchell and
- 15    Liberman.
- 16          13.    Defendant Casino Coolidge LLC is a Nevada limited liability company. ("Casino
- 17    Coolidge").
- 18          14.    Liberman is the managing member of Casino Coolidge.
- 19          15.    Defendant Aquarius Owner, LLC ("Aquarius") is a Delaware limited liability
- 20    company.
- 21          16.    Defendant Leah Property, LLC ("Leah") is a Delaware limited liability company.
- 22          17.    Defendant Livework, LLC ("Livework") is a Delaware limited liability company.
- 23          18.    Defendant Livework Manager, LLC ("Livework Manager"), is a Delaware limited
- 24    liability company.
- 25          19.    Defendant Zoe Property, LLC ("Zoe") is a Delaware limited liability company.
- 26          20.    Defendant Wink One, LLC ("Wink") is a Delaware limited liability company.
- 27
- 28

1           21. Defendant Meyer Property, LLC ("Meyer") is a Delaware limited liability  
2 company.

3           22. Non-party Charleston Casino Partners, LLC ("Casino Partners") is a Delaware  
4 limited liability company.

5           23. Defendant FC/LW Vegas, LLC ("FC/LW") is a Delaware limited liability  
6 company.

7           24. Defendant LiveWorks TIC Successor, LLC ("TIC Successor") is a Delaware  
8 limited liability company.

9           25. These entities are collectively referred to as the Related Entities.<sup>4</sup>

10          26. 305 Las Vegas, LLC ("305 Las Vegas") was created in April of 2007 for the  
11 purpose through a 1031 exchange of purchasing real property located around 300 East  
12 Charleston.

13          27. In 2005, Mitchell and Liberman requested Nype's assistance with finding a  
14 development partner to assist them in developing certain real property in Downtown Las Vegas.

15          28. Prior to closing the transaction with Forest City, a dispute arose between LVLP  
16 and Nype in late 2006/early 2007 over the amount Nype was entitled to be paid related to the  
17 transaction with Forest City.

18          29. Mitchell and Liberman were fully aware that Nype was expecting to receive at  
19 least two million dollars for his efforts.

20          30. Despite understanding Nype's expectations, Mitchell and Liberman only set aside  
21 \$430,000.

22          31. Shortly after setting aside that amount, Mitchell and Liberman took personal  
23 distributions from LVLP in excess of thirteen million dollars.  
24

25  
26 <sup>4</sup> For purposes of the term "Related Entity" the following are included: Las Vegas Land  
27 Partners, LLC, Meyer Property Ltd., Zoe Property LLC, Leah Property LLC, Wink One LLC,  
28 LiveWork LLC, LiveWork Manager LLC, Aquarius Owner LLC, LVLP Holdings LLC,  
LiveWorks TIC Successor LLC, FC/LiveWork Vegas LLC and Casino Coolidge LLC.

1           32.     On November 2, 2007, LVLP and two other entities<sup>5</sup> sued Nype seeking primarily  
2 a declaratory judgment that they did not owe Nype any fee, Nype counterclaimed seeking  
3 compensation for services rendered.

4           33.     In December 2014, Leah sold certain real property to Casino Coolidge for  
5 \$1,000,000. Mitchell and Liberman caused Leah to distribute sales proceeds in the amount of  
6 \$341,934.47 directly to themselves, rather than Leah's parent company, LVLP. Plaintiff has not  
7 established that given the market conditions at the time that Mitchell and Liberman sold the Leah  
8 Property without obtaining reasonably equivalent value in exchange.

9           34.     After obtaining judgment on the counterclaim in 2015, Nype engaged in  
10 significant attempts to collect on the Judgment from LVLP.

11           35.     Those efforts resulted in recovery of approximately \$10,000.

12           36.     Between 2007 and 2016, Mitchell and Liberman distributed to themselves a total  
13 of \$15,148,339 from the Related Entities.

14           37.     These distributions were at times that Mitchell and Liberman were fully aware of  
15 Nype's claims.

16           38.     The distributions caused and/or contributed to the Related Entities' insolvency  
17 and/or inability to pay their debts as they became due.

18           39.     The evidence also demonstrates that Mitchell, Liberman and the Related Entities  
19 engaged in conscious, concerted and ongoing efforts to conceal, hide, convey, keep secret and/or  
20 divert millions of dollars in assets away from Nype and/or other creditors.

21           40.     The evidence also demonstrates that Mitchell, Liberman and the Related Entities  
22 engaged in conscious, concerted and ongoing efforts to ensure that funds and/or assets that would  
23 otherwise be available to Nype to satisfy his claims (and Judgment) were kept away from Nype.  
24

25  
26  
27 <sup>5</sup>     The other plaintiffs in that case were LiveWork LLC and Zoe Properties, LLC, neither of  
28 which were named as counterdefendants.

1           41.     The evidence demonstrates that Mitchell, Liberman and the Related Entities  
2 distributed in excess of \$15,000,000 in funds that should have been available to satisfy Nype's  
3 claims/Judgment.

4           42.     Nype's disclosure of the tax returns and its own consultant's report<sup>6</sup> on or about  
5 April 25, 2014, in A551073, are the latest date of discovery for purposes of NRS 112.230(1)(a).<sup>7</sup>  
6

7           43.     David Mitchell was not credible.<sup>8</sup> The failure of Mitchell to meaningfully  
8 participate in discovery until the eve of trial and the failure to produce documents which should  
9 have been in his possession leads the Court to conclude that if those documents had been  
10 produced they would have been adverse to Mitchell.

11           44.     At all relevant times, each of the Related Entities was wholly owned and managed  
12 by LVLP or LVLP Holdings.

13           45.     At all relevant times, each of the Related Entities was beneficially owned,  
14 controlled, and managed by Mitchell and Liberman.

15           46.     One or more of the Related Entities was formed with an initial capitalization of  
16 just \$10.  
17  
18  
19

---

20 <sup>6</sup>       The report is a part of Exhibit 90079.

21 <sup>7</sup>       That statute provides in pertinent part:

22  
23 1. A claim for relief with respect to a fraudulent transfer or obligation under this chapter is  
extinguished unless action is brought:

24       (a) Under paragraph (a) of subsection 1 of NRS 112.180, within 4 years after the transfer was  
25 made or the obligation was incurred or, if later, within 1 year after the transfer or obligation was  
or could reasonably have been discovered by the claimant;

26 <sup>8</sup>       The explanation by Mitchell surrounding the creation of retention agreements with the  
27 CPA Sam Spitz signed in different styles and ink is additional information which leads the Court  
28 to believe Mitchell is not credible. (Exhibits 60032-60036).



1           47.     At all relevant times, each of the Related Entities was treated by Mitchell and  
2     Liberman as a disregarded entity of LVLP Holdings for tax purposes and all of the Related  
3     Entities filed one combined tax return.

4           48.     Except with respect to Livework Manager and Casino Coolidge, none of these  
5     entities had its own bank account. Mitchell caused each of the Related Entities to use the same  
6     bank accounts to deposit and disburse funds, including distributions to Mitchell and Liberman.

7           49.     At all relevant times, Mitchell and Liberman caused each of the Related Entities to  
8     use the same financial and accounting records, which are not distinguishable by entity. Each of  
9     the Related Entities' financial and accounting records are not distinguishable by entity.

10          50.     The LVLP accounting records include a few Mitchell and Liberman personal  
11     transactions and postings commingled from multiple entities.

12          51.     Mitchell and Liberman caused each of the Related Entities to use the same general  
13     ledger to post all entries under the name of "Las Vegas Land Partners".

14          52.     Mitchell, Liberman and the Related Entities commingled funds, including personal  
15     loans from various banks which are included in the LVLP accounting records and general ledger.

16          53.     Mitchell and Liberman also used journal entries to post commingled transactions  
17     for themselves and the Related Entities.

18          54.     In 2016, the Related Entities stopped using bank accounts and instead began using  
19     journal entries to post entries apparently transacted personally by Mitchell.

20          55.     As a result of Mitchell and Liberman's domination, influence and control over the  
21     Related Entities, the individuality and separateness of the Related Entities—vis-à-vis themselves  
22     and Mitchell and Liberman—was and remains nonexistent as evidenced by the commingling of  
23     funds, transactions, revenues, expenses, assets, liabilities and contributed capital.

24          56.     The manner in which Mitchell and Liberman operated the Related Entities makes  
25     it virtually impossible to identify transactions by purpose and/or entity.

26          57.     The evidence demonstrates that: (a) Mitchell, Liberman and the Related Entities  
27     commingled funds, transactions and assets; (b) the Related Entities were and are undercapitalized;  
28

1 (c) Mitchell, Liberman and the Related Entities distributed funds to Mitchell and Liberman as  
2 individuals without regard to parent entities; (d) Mitchell, Liberman and the Related Entities  
3 treated assets of the other entities as their own; and (e) the Related Entities failed to observe  
4 corporate or LLC formalities.

5 58. The evidence demonstrates that the Related Entities: (a) are and were influenced  
6 and governed by Mitchell and Liberman; (b) there is such unity of interest and/or ownership that  
7 Mitchell, Liberman and the Related Entities are inseparable from the other; and (c) the facts are  
8 such that adherence to the fiction of separate entities would, under the circumstances, sanction a  
9 fraud or promote injustice.

10 59. Mitchell, Liberman and the Related Entities have made distributions to avoid  
11 satisfying Nype's claims and Judgment.

12 a. When Leah Property sold certain real property to Casino Coolidge on or  
13 about December 17, 2014, and did not transfer the funds to LVLP;

14 b. When Mitchell and Liberman took personal distributions from the Related  
15 Entities, between 2007 and 2016, totaling \$15,148.339.

16 60. In determining that these distributions were made with the actual intent to hinder,  
17 delay or defraud creditors and Nype, the Court notes, among other things, the following:

18 a. They were made to "insiders" or other entities of which Mitchell and  
19 Liberman own or control (in whole or in part);

20 b. They were made at times when Mitchell and Liberman were fully aware of  
21 Nype's claims, Judgment and/or Nype's intent to sue for the amounts owed to him.

22 c. The distributions rendered or contributed to LVLP's and/or the Related  
23 Entities' insolvency, and left LVLP and/or the Related Entities unable to pay their debts as they  
24 became due;  
25  
26  
27  
28

1 d. Mitchell, Liberman and the Related Entities attempted to conceal the  
2 distributions and their assets, through their discovery misconduct in this matter, which required  
3 enormous and expensive effort on Nype's part to attempt to obtain full and proper disclosure; and

4 e. Mitchell, Liberman and the Related Entities removed or concealed assets.

5  
6 61. If any findings of fact are properly conclusions of law, they shall be treated as if  
7 appropriately identified and designated.

## 8 CONCLUSIONS OF LAW

9 1. In Nevada, there are three general requirements for application of the alter ego  
10 doctrine: (1) the corporation must be influenced and governed by the person asserted to be the  
11 alter ego; (2) there must be such unity of interest and ownership that one is inseparable from the  
12 other; and (3) the facts must be such that adherence to the corporate fiction of a separate entity  
13 would, under the circumstances, sanction fraud or promote injustice." *Polaris Indus. Corp. v.*  
14 *Kaplan*, 103 Nev. 598, 601, 747 P.2d 884, 886 (1987).

15  
16 2. Nevada recognizes application of the alter ego doctrine in reverse, in which a  
17 creditor is permitted to reach "the assets of a corporation to satisfy the debt of a corporate insider  
18 based on a showing that the corporate entity is really the alter ego of the individual." *Loomis*,  
19 116 Nev. at 903, 8 P.3d at 846.

20  
21 3. Application of the alter ego doctrine in reverse "is appropriate where the particular  
22 facts and equities show the existence of an alter ego relationship and require that the corporate  
23 fiction be ignored so that justice may be promoted." *Id.*, at 904, 8 P.3d at 846.

24 4. The Court, concludes that: (a) Mitchell, Liberman and the Related Entities  
25 commingled funds, transactions and assets; (b) the Related Entities were and are undercapitalized;  
26 (c) Mitchell, Liberman and the Related Entities committed unauthorized diversion of funds; (d)  
27  
28

1 Mitchell, Liberman and the Related Entities treated assets of the other entities as their own; and  
2 (e) the Related Entities failed to observe corporate and LLC formalities.

3 5. The Court further concludes the evidence demonstrates that the Related Entities:  
4 (a) are and were influenced and governed by Mitchell and Liberman; (b) there is such unity of  
5 interest and/or ownership that Mitchell, Liberman and the Related Entities are inseparable from  
6 the other; and (c) the facts are such that adherence to the fiction of separate entities would, under  
7 the circumstances, sanction a fraud or promote injustice.  
8

9 6. Justice and equity require that the Court impose alter ego liability on Mitchell,  
10 Liberman and the Related Entities.

11 7. Nype has proven, by a preponderance of the evidence his claim for alter ego,  
12 establishing that Mitchell, Liberman, and each of the Related Entities, is the alter ego of LVLP  
13 and each other.  
14

15 8. Nype has not proven, by a preponderance of the evidence, his claim for alter ego  
16 that Mitchell Holdings is the alter ego of Mitchell.

17 9. Mitchell, Liberman and each of the Related Entities are jointly and severally liable  
18 on Nype's Judgment and the damages, attorney's fees and costs awarded in this action.  
19

20 10. Prior to September of 2015, Nype had reason to know that the limited transfers  
21 were transfers made by debtors under the UFTA, that the transfers rendered debtors insolvent (or  
22 contributed thereto) or the facts and circumstances upon which this Court utilized in determining  
23 that the transfers were made with the actual intent to hinder, delay or defraud creditors (including  
24 Nype).  
25  
26  
27  
28

1           11.     Nype has proven, by a preponderance of the evidence his claims for fraudulent  
2 transfer, including that certain of the distributions constitute fraudulent transfers within the  
3 meaning of NRS 112.180(1)(a).<sup>9</sup>

4           12.     Certain of those distributions were made outside the limitations period under NRS  
5 112.230(1).  
6

7           13.     Nevada's Uniform Fraudulent Transfer Act provides an equitable remedy for  
8 creditors affected by a fraudulent transfer, but nothing more. *Cadle Co. v. Woods & Erickson,*  
9 *LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049 (2015).

10          14.     Nype has proven by a preponderance of the evidence that he suffered damages in  
11 the amount of \$341,934.47 as a result of the fraudulent transfer of the proceeds of the Leah  
12 transaction with Casino Coolidge directly to Liberman and Mitchell, rather than to Leah's parent  
13 LVLP.  
14

15          15.     The earlier transfers are barred by the limitations period for purposes of the  
16 fraudulent transfer claim, only.

17          16.     Nype has proven by a preponderance of the evidence that he suffered special  
18 damages in the form of attorney's fees, costs and expert expenses related to the transfers in the  
19 total amount of \$4,493,176.90.<sup>10</sup>  
20

21          17.     Plaintiff cannot recover on a civil conspiracy claim (or accessory liability) for  
22 allegations arising out of NRS Chapter 112 against a nontransferor. *Cadle Co. v. Woods &*  
23 *Erickson, LLP*, 131 Nev. 114 at 120, 345 P.3d 1049 (2015).  
24

---

25 <sup>9</sup>     The Court is cognizant of the possibility of duplicative awards given the various claims  
26 for relief.

27 <sup>10</sup>    The Court has previously evaluated the *Brunzell* factors in connection with the sanctions  
28 order which has now been satisfied. See 12/26/19 filing. That evaluation is incorporated by  
reference.

18. Independent of NRS Chapter 112, to prove a civil conspiracy, Plaintiff must prove “a combination of two or more persons who, by some concerted action, intend to accomplish a lawful objective for the purpose of harming another, and damage results from the act or acts.”

*Hilton Hotels vs. Butch Lewis Productions*, 109 Nev. 1043, 148, 862 P.2d 1207, 1210 (1993).

19. The Court concludes that the evidence demonstrates that:

a. Mitchell and Liberman, engaged in conscious, concerted and ongoing efforts to conceal, hide, convey, keep secret and/or distribute millions of dollars in assets away from Nype;

b. Mitchell and Liberman received distributions from LVLP and the Related entities;

c. Mitchell, fabricated and backdated evidence to facilitate the destruction and/or concealment of material financial evidence by his agent that would have greatly assisted Nype's case.

d. But for Nype's pretrial discovery,<sup>11</sup> the fabrication of evidence would not have been uncovered.

20. Nype has proven his claim of civil conspiracy, by a preponderance of the evidence against Mitchell and Liberman.

21. Plaintiff has not established by a preponderance of the evidence the elements of civil conspiracy separate and apart from the distributions and fabrication of evidence.

22. Plaintiff has established damages on the civil conspiracy claim in the amount of \$15,148.339.

23. Nype has not demonstrated that punitive damages are appropriate in this matter.

<sup>11</sup> The limitations for a civil conspiracy claim is not limited by NRS 112.230(1)(a) but is instead governed by NRS 11.220 and the discovery rule. *Siragusa v. Brown*, 114 Nev. 1384 at 1391-3 (1998).

1           24.     Nype is entitled to recover his attorney's fees as special damages as he was  
2 successful on his claim for civil conspiracy in the total amount of \$4,493,176.90.

3           25.     Nype has not established a claim for constructive trust given the current state of  
4 title of the remaining parcels in which the Related Entities hold their interest.

5           26.     Mitchell, Liberman, and the Related Entities' actions and inactions have caused  
6 Nype damages in the total amount of \$19,641,515.90.<sup>12</sup>

7           27.     Nype may also file a post-trial motion if appropriate, for fees and costs not proven  
8 during the trial as special damages.

9           28.     Given the findings and conclusion no further relief on the Declaratory Relief claim  
10 is appropriate.

11           29.     If any conclusions of law are properly findings of fact, they shall be treated as if  
12 appropriately identified and designated.

13           Based upon the foregoing Findings of Fact and Conclusions of Law:

14           **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that JUDGMENT is  
15 hereby entered in favor of Plaintiffs and jointly and severally against Mitchell, Liberman, Meyer  
16 Property Ltd., Zoe Property LLC, Leah Property LLC, Wink One LLC, LiveWork LLC,  
17 LiveWork Manager LLC, Aquarius Owner LLC, LVLP Holdings LLC, LiveWorks TIC  
18 Successor LLC, FC/LiveWork Vegas LLC and Casino Coolidge LLC on the fraudulent  
19 conveyance claim in the amount of \$4,835,111.37.<sup>13</sup>

20           **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that JUDGMENT is  
21 hereby entered in favor of Plaintiffs and jointly and severally against Mitchell and Liberman on  
22

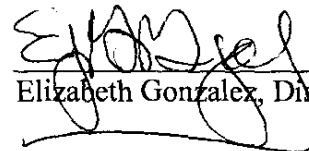
23  
24  
25  
26 <sup>12</sup>     This is the total amount of damages which is not duplicated among the various claims for  
27 which the Court has made an award.

28 <sup>13</sup>     These damages are duplicated in the civil conspiracy judgment.

1 the civil conspiracy claim in the amount of \$19,641,515.90.

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that JUDGMENT is  
3 hereby entered in favor of Plaintiffs and jointly and severally against Mitchell, Liberman, Meyer  
4 Property Ltd., Zoe Property LLC, Leah Property LLC, Wink One LLC, LiveWork LLC,  
5 LiveWork Manager LLC, Aquarius Owner LLC, LVLP Holdings LLC, LiveWorks TIC  
6 Successor LLC, FC/LiveWork Vegas LLC and Casino Coolidge LLC on the alter ego claim in  
7 the amount of the underlying judgment in A551073.  
8

9 DATED this 17<sup>th</sup> day of January, 2020.

10  
11   
12 Elizabeth Gonzalez, District Court Judge  
13

14 **Certificate of Service**

15 I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of  
16 Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth  
17 Judicial District Court Electronic Filing Program.

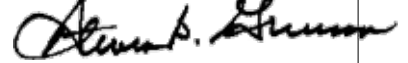
*If indicated below, a copy of the foregoing Scheduling Order was also:*

18 ☐ Placed in the Attorney(s) Folder on the 1<sup>st</sup> Floor of the RJC for;

19  
20 ☐ Mailed by United States Postal Service, Postage prepaid, to the proper parties listed below at  
21 their last known address(es):  
22

23   
24 Dan Kutinac  
25  
26  
27  
28





1 **COHEN JOHNSON PARKER EDWARDS**  
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12 *Attorneys for Mitchell Defendants*

13 **EIGHTH JUDICIAL DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 RUSSELL L. NYPE; REVENUE PLUS,  
16 LLC; DOES I-X; DOE CORPORATIONS I-X;  
17 and DOE PARTNERSHIPS I-X,

18 Plaintiffs,

19 v.

20 DAVID J. MITCHELL; BARNET LIBERMAN;  
21 LAS VEGAS LAND PARTNERS, LLC;  
22 MEYER  
23 PROPERTY, LTD.; ZOE PROPERTY, LLC;  
24 LEAH PROPERTY, LLC; WINK ONE, LLC;  
25 LIVE WORK, LLC; LIVE WORK MANAGER,  
26 LLC; AQUARIUS OWNER, LLC; LVLP  
27 HOLDINGS, LLC; MITCHELL HOLDINGS,  
28 LLC; LIBERMAN HOLDINGS, LLC; 305 LAS  
VEGAS LLC; LIVE WORKS TIC  
SUCCESSOR,  
LLC; CASINO COOLIDGE LLC; DOES 1-  
111; and ROE CORPORATIONS 1-111,  
inclusive,

Defendants.

Case No.: A-16-740689-B

Dept No.: XI

**MITCHELL DEFENDANTS**  
**OPPOSITION TO PLAINTIFFS'**  
**MOTION OF FINDINGS OF FACT**  
**AND CONCLUSIONS OF LAW**  
**AND JUDGMENT TO CORRECT**  
**MINOR ERRORS AND**  
**INCORPORATE PRE-**  
**JUDGMENT INTEREST**

COHEN JOHNSON PARKER EDWARDS

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Defendants, David J. Mitchell; Las Vegas Land Partners, LLC; Meyer Property, LLC.; Zoe Property, LLC; Leah Property, LLC; Wink One, LLC; Live Work, LLC; Live Work Manager, LLC; Aquarius Owner, LLC; LVLP Holdings, LLC; Mitchell Holdings, LLC; Live Works Tic Successor, LLC, (Collectively as the "Mitchell Defendants"), by and through their counsel of record, H. Stan Johnson, Esq. and James L. Edwards, Esq., of the law firm of Cohen Johnson Parker Edwards, files this Opposition to Plaintiffs' Motion of Findings of Fact and Conclusions of Law and Judgment to Correct Minor Errors and Incorporate Prejudgment Interest. (Hereafter as "Opposition"). This Opposition is based upon the following Memorandum of Points and Authorities, the proceedings, papers, and pleadings on file herein, and any evidence or oral argument which is allowed at the time of hearing on this Motion.

Dated this 27th day of February 2020.

COHEN JOHNSON PARKER EDWARDS

By: /s/ H. Stan Johnson  
H. Stan Johnson, Esq.  
Nevada Bar No. 00265  
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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

In this matter, the Court awarded \$15,148,339.00 on Plaintiffs' Civil Conspiracy claim, using as measure of damages the total amount of the Defendants allegedly fraudulent transfers. Plaintiffs are now seeking to recover prejudgment interest on this amount. However, the Court incorrectly used the full amount of the fraudulent transfers as the measure of damages but should have limited its award to an amount "necessary to satisfy the creditor's claim". The Court should not grant Plaintiffs Motion to Incorporate Prejudgment Interest in regard to Plaintiffs' civil conspiracy judgment because the judgment amount was based on an incorrect measure of damages.

### II. ARGUMENT

#### A. The Court Applied an Incorrect Measure of Damages to Plaintiffs' Civil Conspiracy Claim

In Nevada, a claim for civil conspiracy requires: (1) two or more parties; (2) acting in concert; (3) with an intent to accomplish an unlawful objective for the purpose of harming another; and (4) damages. *Consolidated Generator-Nevada Inc. v. Cummins Engine Co., Inc.*, 114 Nev. 1304, 1311, 917 P.2d 1251, 1256 (1998). In some States civil conspiracy must be tied to an underlying tort. Though not required in Nevada, this Court has tied its award of damages to Defendants' fraudulent transfers by awarding Plaintiff a judgment equal to the amount of the fraudulent transfers. However, NRS 112.220(2) limits the measure of damages of a fraudulent transfer judgment to the "value of the asset transferred, ... or the amount necessary to satisfy the creditor's claim, *whichever is less.*" Emphasis added. In this case, the

1 Court awarded Plaintiff the “value of the asset transferred” when it should have  
2 awarded “the amount necessary to satisfy the creditor’s claim” because it is less.  
3 Therefore, Plaintiff should only have been awarded them an amount equal to its  
4 underlying claim in this matter, which would be the amount of the award from the  
5 previous trial.  
6

7 This being the case, the Court must not grant Plaintiffs’ Motion to Incorporate  
8 Prejudgment Interest because Plaintiff is seeking interest on an amount many times  
9 more than they are entitled. In the alternative, this Court should only grant  
10 prejudgment interest on an amount equal to the Plaintiffs’ underlying claim, that  
11 being the judgment amount from the original case.  
12

13 **B. Prejudgment Interest Should Not Be Awarded on a Judgment**  
14 **that Goes Beyond Compensatory Damages**

15 “The court’s decision to award prejudgment interest is discretionary.” See  
16 *Wickham Contracting Co. v. Local Union No. 3*, 955 F.2d 831, 834 (2d Cir. 1992).  
17 “The main function of an award of prejudgment interest is to fully compensate a  
18 plaintiff for damages suffered.” See *Rolf v. Blyth, Eastman Dillon & Co., Inc.*, 637  
19 F.2d 77 (2d Cir. 1980) (“An award of prejudgment interest is in the first instance,  
20 compensatory.”). “...prejudgment interest should not be awarded if the statutory  
21 obligation on which interest is sought is punitive in nature.” *Wickham Contracting*  
22 *Co.*, 955 F.2d at 834. “Interest runs from the time the cause of action accrues, ...  
23 until the date of judgment.” See *Ramada Inns, Inc. v. Sharp*, 101 Nev. 824, 711 P.2d  
24 1, 2 (Nev. 1985) “Prejudgment interest is viewed as compensation for use by  
25 defendant of money to which plaintiff is entitled from the time the cause of action  
26 accrues until the time of judgment; it is not designed as a penalty.” *Haskins v.*  
27  
28

1 *Sheldon*, 558 P.2d 487, 494 (Alaska 1976). “A plaintiff is never entitled to punitive  
2 damages as a matter of right; their allowance or denial rests entirely in the  
3 discretion of the trier of fact.” *Nevada Cement Co. v. Lemler*, 89 Nev. 447, 451, 514  
4 P.2d 1180 (1973). “...we hold that prejudgment interest may not be granted by a trial  
5 court on punitive damage awards.” *See Ramada Inns v. Sharp*, 101 Nev. 824, 826,  
6 711 P.2d 1, 2 (1985).

7  
8 In this case, Plaintiffs were seeking to enforce the judgment which they  
9 won in the underlying case. While they waited to enforce said judgment, that money  
10 could have been collecting interest. To compensate the Plaintiffs, the Court has the  
11 discretion to award pre-judgment interest. This compensatory interest is justly  
12 granted in such situations. However, the award for Civil Conspiracy in this case  
13 cannot be considered compensatory because Plaintiff was awarded a fifteen-million-  
14 dollar judgment while its underlying claim was much smaller and likely granted due  
15 to Defendants misdeeds during the pendency of this case. *See Amended Findings of*  
16 *Fact and Conclusions of Law* at 12:19(c). Granting prejudgment interest on a likely  
17 punitive judgment which was much larger than the underlying claim does not  
18 compensate the Plaintiffs but grants them an additional windfall and further  
19 punishes the Defendants. As prejudgment interest cannot be granted on judgments  
20 which are punitive in nature, the Court should not grant Plaintiffs’ Motion seeking  
21 incorporation of prejudgment interest on these judgments.  
22  
23  
24

### 25 26 **III. CONCLUSION**

27 Plaintiffs’ Motion to Incorporate Prejudgment Interest should be denied  
28 because the Court applied an incorrect measure of damages to Plaintiffs’ civil

1 conspiracy claim. Therefore, prejudgment interest should not be granted based upon  
2 an incorrect judgment amount. Furthermore, this Court cannot grant prejudgment  
3 interest on a judgment which is not compensatory in nature but is likely punitive.  
4  
5 Therefore, this Court should deny Plaintiffs' Motion.

6 DATED this 27th day of February 2020

7 **COHEN JOHNSON PARKER EDWARDS**

8 /s/ H. Stan Johnson

9 H. STAN JOHNSON, ESQ.

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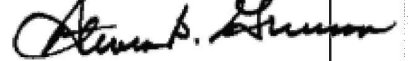
18 Facsimile: (702) 823-3400

19 *Attorneys for Mitchell Defendants*

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b)(2)(D) and E.D.C.R. 8.05, I hereby certify that on the 27th day of February 2020, I caused a true and correct copy of **MITCHELL DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY FEES** to be served via the Court's Wiznet E-Filing system on all registered and active parties.

/s/ Sarah Gondek  
An employee of Cohen|Johnson|Parker|Edwards



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10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

CASE NO: A-16-740689-B

11 Plaintiffs,

DEPT NO: XI

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

Date of Hearing: March 13, 2020

Time of Hearing: IN CHAMBERS

24 Mitchell Defendants.

25 **REPLY POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS'**  
26 **MOTION FOR AWARD OF ATTORNEY'S FEES**

27 The Court is fully familiar with the background, history, and facts proven at trial in this  
28 matter. As noted, in Plaintiff's Motion for Award of Attorney's Fees, as filed on February 6,  
2020, the Court expressly entered a Conclusion of Law, Conclusion No. 27 found on page 13,  
which stated Nype may also file a post-trial motion if appropriate for fees and costs not proven  
during the trial as special damages.



1 Plaintiffs (hereinafter collectively referred to as "Nype") also reference the Court's  
2 express pronouncement during trial that there had to be a reasonable and practicable cutoff date  
3 as regards the evidence presented at trial regarding attorney's fees and costs. As noted, that  
4 cutoff date was December 31, 2019. In fact, four trial days occurred subsequent to the accounting  
5 cutoff noted by the Court. Even a cursory review of Nype's exhibits in support of the motion for  
6 award of attorneys fees discloses that the bulk of the additional fees claimed relate to time spent  
7 completing the trial on the one hand, and doing necessary and appropriate work during the  
8 approximate thirty (30) days subsequent to trial to wrap up loose ends. Notably, Plaintiff's  
9 motion at present seeks only the attorneys fees and non-taxed costs accruing through  
10 approximately one month after trial, and does not even take into account the many thousands of  
11 dollars of additional fees and costs that have accrued between early February and the present, in  
12 dealing with motions to alter or amend, motions to strike, motions for stay, etc.

13  
14  
15 The Court further found and expressly held, on the record, that Nype incurred special  
16 damages derivative of both the fraudulent transfers that were litigated, as well as such damages  
17 being the direct consequence of the civil conspiracy pled and proven. The Court and the parties  
18 will also recall the oral motion for a directed verdict by the Mitchell Defendants at the conclusion  
19 of Plaintiff's case-in-chief, wherein the Court expressly considered defendants' arguments that  
20 Plaintiff had not sufficiently pled the attorneys fees in question as special damages. The Court in  
21 fact took time, reviewed the allegations contained in the amended complaint, and expressly ruled  
22 from the bench, on the record, that Plaintiffs' pleading was sufficient and that the defendants  
23 were on notice as to Plaintiffs' claim for special damages.

24  
25  
26 The alternative basis sought by Plaintiff as justification and an appropriate basis for an  
27 award of attorney's fees is best illustrated by one exhibit perhaps best summarizing defendants  
28 intentions and strategy at trial, i.e. Exhibit 50042 at pages 5 and 6, true and correct copies of

1 which are attached hereto as Exhibit "1". As noted on page 6 of the exhibit, the defendants and  
2 their counsel acknowledge an express strategy "to keep kicking the ball down field to delay trial  
3 and aggravate Nype. . . ." Exhibit 50042 also suggests that defendants make a strong push for a  
4 settlement conference, knowing that such settlement conference had virtually no sense of success,  
5 but would necessarily result in a trial continuance.  
6

7 Finally, the Court is well aware of the many months of delay and the significant expense  
8 imposed on Nype by the ongoing continuous discovery defalcations, perhaps most blatantly  
9 illustrated by the fabrication of fraudulent and false evidence suggesting that relevant financial  
10 records were destroyed as a matter of policy.  
11

12 Stated another way, as correctly noted by the Court, the standards of NRS 18.010(2)(b)  
13 expressly provide for the liberal construction and the award of attorney's fees in appropriate  
14 situations to punish and deter frivolous and vexatious defenses as amply documented in the  
15 record of this case.  
16

17 Finally, although not addressed by either defense opposition, Exhibit "5" to Nype's  
18 Motion for Additional Attorney's Fees carefully parses through the specific factors enumerated in  
19 Brunzell vs. Golden Gate National Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). The Sworn  
20 Declaration of Mr. Muje regarding the *Brunzell* factors, coupled by the Court's specific focus  
21 and attention during multiple days of trial, multiple evidentiary hearing days, and multiple  
22 contested motions provide an undisputable foundation that as regards calculating and determining  
23 attorney's fees, under the *Brunzell* factor, Plaintiffs have provided ample evidence and authority  
24 that such fees are reasonable, appropriate, and justified.  
25

26 ....

27 ....  
28

CONCLUSION

The Court expressly found that special damages were properly pled and awarded over \$4 million in such special damages as documented at trial. The Court also noted that there had to be a practical cutoff date, and that Plaintiffs could supplement trial evidence regarding special damages subsequent to the cut-off date in a post-trial motion. That is exactly the matter pending before the Court.

The defense arguments that special damages were not adequately pled or not adequately proven have already been discredited and rejected by the Court. Furthermore, the Court has also seen ample evidence and specific proof that the defendants conduct throughout the entire history of this litigation has been replete with bad faith, delay, and the failure and refusal of the defendants to fairly and appropriately litigate this matter on its merits. That, in and of itself, fully justifies an award of all attorney's fees sought by Plaintiffs.

**WHEREFORE**, Plaintiffs Russell L. Nype and Revenue Plus, LLC respectfully urge the Court to grant their motion for award of attorney's fees, as explained and documented in the source motion as well as these reply points and authorities.

DATED this 6<sup>th</sup> day of March, 2020

JOHN W. MUIJE & ASSOCIATES

By: 

JOHN W. MUIJE, ESQ.

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*Attorneys for Plaintiffs*

**CERTIFICATE OF MAILING**

I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the 6th day of March, 2020, I caused the foregoing document, **REPLY POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY'S FEES**, to be served as follows:

- ☐ By placing a copy of the same for mailing in the United States mail, with first-class postage prepaid addressed as follows; and/or
- ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and Serve System;
- ☐ By placing a copy of the same for mailing in the United States mail, with first-class postage prepaid marked certified return receipt requested addressed as follows:

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**BLUT LAW GROUP, P.C.**  
300 South Fourth Street, Suite 701  
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\_\_\_\_\_  
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# **EXHIBIT “1”**

**Zev E. Kaplan**

---

**From:** Zev Kaplan <zevkaplan@aol.com>  
**Sent:** Thursday, November 06, 2014 9:40 AM  
**To:** Zev E. Kaplan  
**Subject:** Fwd: LVLP v. Nype

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Zev Kaplan  
Zev E. Kaplan, Ltd.  
PO Box 370836  
Las Vegas, NV 89137  
702-324-8454  
888-314-0396 Fax

Begin forwarded message:

**From:** David Mitchell <djm@mitchellholdings.com>  
**Date:** November 2, 2014 at 7:38:19 AM PST  
**To:** Zev Kaplan <zevkaplan@aol.com>  
**Cc:** Doug Arnaudin <DArnaudin@mitchellholdings.com>  
**Subject:** FW: LVLP v. Nype

He said the mediation was my idea ,well not true see below  
Call me if you are up I am at the office

DAVID MITCHELL  
Mitchell Holdings LLC  
801 MADISON AVENUE  
New York NY 10065  
USA  
1212-486-4444 o  
1212-320-0474 f  
djm@mitchellholdings.com

From: Richard Haskin <rhaskin@ggltsw.com>  
Date: Tuesday, June 3, 2014 at 7:16 PM  
To: "djm@mitchellholdings.com" <djm@mitchellholdings.com>, Barnet Liberman  
<barnetlib1@gmail.com>  
Cc: Victor Luke <vluke@ggltsw.com>  
Subject: LVLP v. Nype

Gentlemen

In an effort to keep kicking the ball downfield to delay trial and aggravate Nype, a thought occurred to me at about 2 am last night. The parties have consistently maintained, of recent, that settlement is not possible given the monetary divide. Also, Nype's attorney stated that he would be willing to sit down with a settlement judge, but he is unwilling to do so if it means extending the trial date.

Here is my thought. Let's approach Nype about a settlement conference and/or use of a private mediator sometime during the week of July 14, when all parties and counsel are available. Nype will, of course, refuse because doing so would delay trial. Once we get that refusal, we can file a motion, on shortened time, to get an order from the court that we attend a settlement conference during the week of July 14. Knowing what I have heard about our judge, Judge Israels, he is fairly lazy and would rather punt this case himself if he can. I think we would have a great shot at getting a settlement conference set for the week of July 14. We can then attend the settlement conference which likely would not result in a settlement, but it would likely result in the delay of the trial by a month or more. Another benefit of the conference is we can get another judge's take on this case.

If you green light my idea, I will approach opposing counsel about the settlement conference for the week of July 14 and get our "no" response ASAP so we can then file our motion. Let me know.



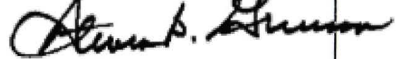
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10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUS PLUS,  
10 LLC,

11 Plaintiffs,

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: March 20, 2020

Time of Hearing: IN CHAMBERS

22 **PLAINTIFFS' REPLY POINTS AND AUTHORITIES AS TO ITS**  
23 **MOTION TO CORRECT JUDGMENT AND INCORPORATE**  
24 **PRE-JUDGMENT INTEREST**

25 COMES NOW Plaintiffs, RUSSELL L. NYPE AND REVENUE PLUS, LLC (hereinafter  
26 collectively "Nype"), by and through their attorney of record, JOHN W. MUIJE, ESQ., of the  
27 Law Offices of JOHN W. MUIJE & ASSOCIATES, and hereby submits their formal Reply to  
28 the Opposition filed by the Mitchell Defendants on or about February 27, 2020.



1 These Reply Points and Authorities are based upon the points and authorities that follow,  
2 the pleadings and documents on file herein, and arguments to be adduced at the time of hearing  
3 hereon, if any.

4  
5 DATED this 13th day of March, 2020.

6 JOHN W. MUIJE & ASSOCIATES

7  
8 By: /s/ JOHN W. MUIJE, ESQ.  
9 JOHN W. MUIJE, ESQ.  
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11 1840 E. Sahara Ave #106  
12 Las Vegas, NV 89104  
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16 *Attorneys for Plaintiffs*

17  
18 **POINTS AND AUTHORITIES**

19 Nype filed their Motion for Correction of the Findings of Fact and Conclusions of Law  
20 and to incorporate pre-judgment interest on February 13, 2020. That motion sought to correct a  
21 typographical error and to correct a misconception regarding Nype's permanent residence.

22 The Mitchell Defendants in turn opposed said motion on February 27, 2020. Said  
23 opposition only challenged the imposition of pre-judgment interest on the civil conspiracy claim.  
24 Notably, no defendant has challenged or opposed Plaintiff's request for clerical correction of the  
25 typographical error as to the amount of the civil conspiracy award, or for correction as to Nype's  
26 permanent State of residence. Nor has there been any challenge to the award of pre-judgment  
27 interest on the joint and several award against all defendants regarding fraudulent conveyances  
28 and special damages awarded incident to the same.

1 In preparing this Reply, Nype also notes that there is a second typographical error  
2 regarding the civil damage award, contained at paragraph 59(b) on page 8, and respectfully  
3 suggests that the second clerical error is similar to the one first noted, and should also be  
4 corrected at the time of the entry of an amended and final judgment.  
5

6 While citing several cases from outside the jurisdiction to attempt to persuade the Court to  
7 override Nevada law, only one Nevada case is cited. *Ramada Inns, Inc. vs. Sharp*, 101 Nev. 824,  
8 711 P.2d 1 (Nev. 1985).  
9

10 As the Defendants correctly noted, the *Ramada Inns* decision directly holds that interest  
11 accrues from the time the cause of action accrues until the date of judgment. A slightly different  
12 result is codified at NRS 17.130, which expressly provides that the judgment awarded draws  
13 interest from the time of service of the summons and complaint until satisfied, except for any  
14 amount representing future damages. The other proposition for which the *Ramada Inns* decision  
15 is cited is that pre-judgment interest should not accrue on punitive damages awards.  
16

17 Defendants have conveniently overlooked the Court's express finding, however, at page  
18 12, Conclusion of Law No. 23, that Nype has not demonstrated that punitive damages are  
19 appropriate in the matter. Hence no component of the judgment represents punitive damages.  
20

21 It would appear that in drafting their opposition, the Mitchell Defendants also failed to  
22 recognize that they were merely regurgitating and repeating arguments made in support of their  
23 motion to alter or amend, which the court expressly and explicitly denied at the hearing of  
24 February 24, 2020. As noted by the Court at the time of that hearing, there was sufficient  
25 evidence to justify its finding as to the existence of civil conspiracy, and the damages awarded as  
26 to that claim by the Court.  
27

28 ••••



1 The Court will also recall that this long saga dates back to 2007. Much of the  
2 conspiratorial misconduct and wrongful conduct *vis a vis* Nype occurred during the early years.  
3 Indeed, in furtherance of the conspiratorial conduct, the Court will recall the fraudulent fabricated  
4 engagement letters, admittedly done in January 2018, but done for the purpose of concealing key  
5 financial evidence from 2007 through 2012. As noted by the Court in Finding of Fact 43, page 6,  
6 the failure to produce documents which should have existed and should have been in his  
7 possession (which absence the defendants attempted to justify through their fabricated evidence)  
8 led to the Court to conclude that had those documents been produced, they would have disclosed  
9 evidence adverse to Mitchell (and necessarily against Liberman as well). Intentional spoliation of  
10 relevant evidence spanning 2007 through and including at least 2012 all arose prior to the  
11 commencement of the present action.  
12

14 Likewise, the bulk of the attorneys fees and costs, the specific fraudulent conveyance  
15 expressly found by the Court, the emotional distress and disruption to his life as sustained by  
16 Nype, virtually all accrued prior to the filing of the present litigation in July, 2016.  
17

18 There is absolutely no finding or suggestion in the Court's Findings of Fact, Conclusions  
19 of Law, or Judgment that any component of the civil conspiracy award represents future  
20 damages. In actuality, the evidence presented demonstrated that the vast bulk of those damages  
21 accrued overtime, and all of the percipient facts (with the exception of the fabrication of  
22 fraudulent evidence by Defendants) pre-dated the initiation of this lawsuit.  
23

24 ....

25 ....

26 ....

1 NRS 17.135 is clear and unambiguous on its face. Plaintiffs are entitled to pre-judgment  
2 interest on the entirety of their judgment from the date of service of process, i.e., February 24,  
3 2017, through the date of the entry of judgment.  
4

5 **CONCLUSION**

6 Defendants have not challenged Plaintiff's request for clerical corrections and to  
7 correcting the Finding regarding Nype's permanent residence. Nor have they challenged the  
8 award of pre-judgment interest on the fraudulent conveyance claim and the special damages  
9 awarded thereunder.  
10

11 Defendants' sole opposition to Plaintiffs' pending motion challenges the award of pre-  
12 judgment interest on the civil conspiracy claim. That opposition, however, fails to note that there  
13 is no finding or award of punitive damages, and hence no basis to disallow interest on the civil  
14 conspiracy claim predicated upon the uncorroborated assertion that such damages are punitive in  
15 nature. The balance of the opposition is merely a repetitive and redundant recital of the  
16 defendant's disagreement with the facts proven at trial, and the Court's express findings of fact,  
17 that the civil conspiracy occurred, and the amount of damages sustained by that civil conspiracy.  
18

19 ....

20 ....

21 ....

22 ....

23 ....

24 ....

25 ....

26 ....

27 ....

28 ....

Pursuant to Nevada statutory law, as well as the Nevada case law decided thereunder, Plaintiffs are entitled to an award of pre-judgment interest as to the fraudulent conveyance component of the claim in the amount of \$945,131.80. As to pre-judgment interest against Defendants Barnet Liberman and David J. Mitchell, recognizing that such pre-judgment interest is inclusive of the amount awarded on the fraudulent conveyance claim, Plaintiffs are entitled to an award of accrued pre-judgment interest as of January 16, 2020, in the total sum of \$2,961,085.24.

**WHEREFORE**, Plaintiffs' request that the Court grant their motion in its entirety.

DATED this 13th day of March, 2020.

JOHN W. MUIJE & ASSOCIATES

By: /s/ JOHN W. MUIJE, ESQ.  
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Fax No: (702) 386-9135  
Email: Jmuije@mujelawoffice.com  
*Attorneys for Plaintiffs*



1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 13th day of March, 2020, I caused the foregoing document, **PLAINTIFFS' REPLY POINTS**  
4 **AND AUTHORITIES AS TO ITS MOTION TO CORRECT JUDGMENT AND**  
5 **INCORPORATE PRE-JUDGMENT INTEREST**, to be served as follows:  
6

- 7 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
8 class postage prepaid addressed as follows; and/or  
9 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
10 Serve System;  
11 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
12 class postage prepaid marked certified return receipt requested addressed as  
13 follows:

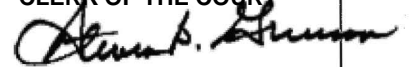
13 Elliot S. Blut, Esq.  
14 **BLUT LAW GROUP, P.C.**  
15 300 South Fourth Street, Suite 701  
16 Las Vegas, Nevada 89101  
17 Telephone: (702) 384-1050  
18 Facsimile: (702) 384-8565  
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21 *Barnet Liberman and Casino Coolidge,*  
22 *LLC*

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*305 Las Vegas, LLC*

20 H. Stan Johnson, Esq.  
21 James L. Edwards, Esq.  
22 **COHEN JOHNSON PARKER &**  
23 **EDWARDS**  
24 375 E. Warm Springs Road, #104  
25 Las Vegas, Nevada 89119  
26 *Attorneys for Mitchell Defendants*

27   
28 An Employee of JOHN W. MUIJE & ASSOCIATES

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Telephone: 702-386-7002  
Email: [jmujelawoffice.com](mailto:jmujelawoffice.com)



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2 JOHN W. MUIJE & ASSOCIATES  
3 JOHN W. MUIJE, ESQ.  
4 Nevada Bar No: 2419  
5 1840 E. Sahara Ave #106  
6 Las Vegas, NV 89104  
7 Phone No: (702) 386-7002  
8 Fax No: (702) 386-9135  
9 Email: [Jmuije@muijelawoffice.com](mailto:Jmuije@muijelawoffice.com)  
10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

CASE NO: A-16-740689-B

11 Plaintiffs,

DEPT NO: XI

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

25 **NOTICE OF ENTRY OF ORDER DENYING CASINO**  
26 **COOLIDGE, LLC'S MOTION TO ALTER OR AMEND JUDGMENT**

27 TO: ELLIOT S. BLUT, ESQ., of BLUT LAW GROUP, P.C., Attorneys for Defendants  
28 Barnet Liberman and Casino Coolidge, LLC

TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of  
COHEN, JOHNSON, PARKER & EDWARDS, Attorneys for Mitchell Defendants

JOHN W. MUIJE & ASSOCIATES  
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Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: Jmuije@muijelawoffice.com

1 PLEASE TAKE NOTICE that the ORDER DENYING CASINO COOLIDGE,  
2 LLC'S MOTION TO ALTER OR AMEND JUDGMENT, was entered with the Court on the  
3 30<sup>th</sup> day of March, 2020, a copy of which is attached hereto as Exhibit "1".

4 DATED this 30<sup>TH</sup> day of March, 2020.

5 JOHN W. MUIJE & ASSOCIATES

6  
7  
8 By: /s/ JOHN W. MUIJE, ESQ.

9 JOHN W. MUIJE, ESQ.

10 Nevada Bar No: 2419

11 1840 E. Sahara Ave #106

12 Las Vegas, NV 89104

13 Phone No: (702) 386-7002

14 Fax No: (702) 386-9135

15 Email: Jmuije@muijelawoffice.com

16 Attorneys for Plaintiffs



1 CERTIFICATE OF MAILING

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 30<sup>TH</sup> day of March, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF ORDER**  
4 **DENYING CASINO COOLIDGE, LLC'S MOTION TO ALTER OR AMEND**  
5 **JUDGMENT**, to be served as follows:

- 7 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
8 class postage prepaid addressed as follows; and/or
- 9 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
10 Serve System;
- 11 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
12 class postage prepaid marked certified return receipt requested addressed as  
13 follows:

14 Elliot S. Blut, Esq.  
15 **BLUT LAW GROUP, P.C.**  
16 300 South Fourth Street, Suite 701  
17 Las Vegas, Nevada 89101  
18 *Attorneys for Defendants*  
19 *Barnet Liberman and Casino Coolidge,*  
20 *LLC*

21 H. Stan Johnson, Esq.  
22 James L. Edwards, Esq.  
23 **COHEN JOHNSON PARKER &**  
24 **EDWARDS**  
25 375 E. Warm Springs Road, #104  
26 Las Vegas, Nevada 89119  
27 *Attorneys for Mitchell Defendants*

28 *Fern M. Vitman*  
An Employee of JOHN W. MUIJE & ASSOCIATES

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Las Vegas, Nevada 89104  
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Email: Jmujje@muijelawoffice.com

# **EXHIBIT “1”**



1 **ORDER**

2 JOHN W. MUIJE & ASSOCIATES

3 JOHN W. MUIJE, ESQ.

4 Nevada Bar No: 2419

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6 Las Vegas, NV 89104

7 Phone No: (702) 386-7002

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9 Email: [Jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

10 Attorneys for Plaintiffs

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DISTRICT COURT

CLARK COUNTY, NEVADA

RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
through X; DOES I through X; DOE  
CORPORATIONS I through X; and DOES  
PARTNERSHIPS I through X,

Plaintiffs,

vs.

DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
VEGAS LAND PARTNERS, LLC; MEYER  
PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
OWNER, LLC; LVLP HOLDINGS, LLC;  
MITCHELL HOLDINGS, LLC; LIBERMAN  
HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
WORKS TIC SUCCESSOR, LLC; CASINO  
COOLIDGE LLC; DOES I through III, and ROE  
CORPORATIONS I through III, inclusive,

Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: February 24, 2020

Time of Hearing: 9:00 a.m.

**ORDER DENYING CASINO COOLIDGE, LLC'S  
MOTION TO ALTER OR AMEND JUDGMENT**

This matter coming on for hearing on February 24, 2020 at the hour of 9:00 a.m.,  
Plaintiffs, RUSSELL L. NYPE AND REVENUE PLUS, LLC, being represented by JOHN W.  
MUIJE, ESQ., of the Law Firm of JOHN W. MUIJE & ASSOCIATES, ELLIOT S. BLUT,  
ESQ., of the Law Firm of BLUT LAW GROUP, P.C., Attorneys for Defendants BARNET

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Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 LIBERMAN and CASINO COOLIDGE, LLC, and David J. Mitchell and the Mitchell  
2 Defendants, being represented by H. Stan Johnson, Esq. and James L. Edwards, Esq., of the Law  
3 Firm of COHEN JOHNSON PARKER & EDWARDS, the Court having reviewed and  
4 considered the points and authorities, the exhibits in support thereof, and the various pleadings  
5 and documents on file herein and having considered oral argument and good cause appearing.  
6

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendant Casino  
8 Coolidge, LLC's Motion to Alter or Amend Judgment be and the same hereby is **DENIED**.

9 March  
10 DATED this 30th day of ~~February~~, 2020.

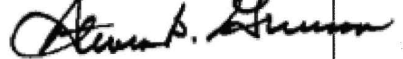
11  
12   
13 DISTRICT COURT JUDGE

14 Submitted by:

15 JOHN W. MUIJE & ASSOCIATES  
16

17  
18 By: /s/ JOHN W. MUIJE, ESQ.

19 JOHN W. MUIJE, ESQ.  
20 Nevada Bar No: 2419  
21 1840 East Sahara Avenue, Suite 106  
22 Las Vegas, Nevada 89104  
23 Telephone No: (702) 386-7002  
24 Facsimile No: (702) 386-9135  
25 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
26 *Attorneys for Plaintiffs*  
27  
28



1 NEOJ  
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3 JOHN W. MUIJE, ESQ.  
4 Nevada Bar No: 2419  
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8 Fax No: (702) 386-9135  
9 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

CASE NO: A-16-740689-B

11 Plaintiffs,

DEPT NO: XI

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

22 **NOTICE OF ENTRY OF ORDER DENYING THE MITCHELL DEFENDANTS'**  
23 **MOTION TO ALTER OR AMEND JUDGMENT**

24 TO: ELLIOT S. BLUT, ESQ., of BLUT LAW GROUP, P.C., Attorneys for Defendants  
25 Barnet Liberman and Casino Coolidge, LLC

26 TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of  
27 COHEN, JOHNSON, PARKER & EDWARDS, Attorneys for Mitchell Defendants  
28

JOHN W. MUIJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: Jmuije@muijelawoffice.com

1 PLEASE TAKE NOTICE that the ORDER DENYING THE MITCHELL  
2 DEFENDANTS' MOTION TO ALTER OR AMEND JUDGMENT, was entered with the  
3 Court on the 30th day of March, 2020, a copy of which is attached hereto as Exhibit "1".  
4

5 DATED this 30<sup>th</sup> day of March, 2020.

6 JOHN W. MUIJE & ASSOCIATES

7  
8 By: /s/ JOHN W. MUIJE, ESQ.

9 JOHN W. MUIJE, ESQ.

10 Nevada Bar No: 2419

11 1840 E. Sahara Ave #106

12 Las Vegas, NV 89104

13 Phone No: (702) 386-7002

14 Fax No: (702) 386-9135

15 Email: Jmuije@muijelawoffice.com

16 *Attorneys for Plaintiffs*  
17  
18  
19  
20  
21  
22  
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24  
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28



1 **CERTIFICATE OF MAILING**

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 30<sup>TH</sup> day of March, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF**  
4 **ORDER DENYING THE MITCHELL DEFENDANTS' MOTION TO ALTER OR**  
5 **AMEND JUDGMENT**, to be served as follows:  
6

- 7 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
8 class postage prepaid addressed as follows; and/or  
9 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
10 Serve System;  
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13 follows:

14 Elliot S. Blut, Esq.  
15 **BLUT LAW GROUP, P.C.**  
16 300 South Fourth Street, Suite 701  
17 Las Vegas, Nevada 89101  
18 *Attorneys for Defendants*  
19 *Barnet Liberman and Casino Coolidge,*  
20 *LLC*

21 H. Stan Johnson, Esq.  
22 James L. Edwards, Esq.  
23 **COHEN JOHNSON PARKER &**  
24 **EDWARDS**  
25 375 E. Warm Springs Road, #104  
26 Las Vegas, Nevada 89119  
27 *Attorneys for Mitchell Defendants*  
28

29 *Fern M. Vitman*  
30 An Employee of JOHN W. MUIJE & ASSOCIATES

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# EXHIBIT “1”



ORIGINAL

Electronically Filed  
3/30/2020 9:05 AM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

1 **ORDER**

2 JOHN W. MUIJE & ASSOCIATES

3 JOHN W. MUIJE, ESQ.

4 Nevada Bar No: 2419

5 1840 E. Sahara Ave #106

6 Las Vegas, NV 89104

7 Phone No: (702) 386-7002

8 Fax No: (702) 386-9135

9 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

10 *Attorneys for Plaintiffs*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
14 through X; DOES I through X; DOE  
15 CORPORATIONS I through X; and DOES  
16 PARTNERSHIPS I through X,

17 Plaintiffs,

18 vs.

19 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
20 VEGAS LAND PARTNERS, LLC; MEYER  
21 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
22 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
23 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
24 OWNER, LLC; LVLP HOLDINGS, LLC;  
25 MITCHELL HOLDINGS, LLC; LIBERMAN  
26 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
27 WORKS TIC SUCCESSOR, LLC; CASINO  
28 COOLIDGE LLC; DOES I through III, and ROE  
CORPORATIONS I through III, inclusive,

Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: February 24, 2020

Time of Hearing: 9:00 a.m.

23 **ORDER DENYING THE MITCHELL DEFENDANTS'**  
24 **MOTION TO ALTER OR AMEND JUDGMENT**

25 This matter coming on for hearing on February 24, 2020 at the hour of 9:00 a.m.,  
26 Plaintiffs, RUSSELL L. NYPE AND REVENUE PLUS, LLC, being represented by JOHN W.  
27 MUIJE, ESQ., of the Law Firm of JOHN W. MUIJE & ASSOCIATES, David J. Mitchell and the  
28 Mitchell Defendants, being represented by H. Stan Johnson, Esq. and James L. Edwards, Esq., of

02-28-20A05:39 RCVD

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Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 the Law Firm of COHEN JOHNSON PARKER & EDWARDS, the Court having reviewed and  
2 considered the points and authorities, the exhibits in support thereof, and the various pleadings  
3 and documents on file herein and having considered oral argument and good cause appearing.  
4

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Mitchell  
6 Defendants Motion to Alter or Amend Judgment be and the same hereby is **DENIED**.

7 DATED this 30th day of ~~February~~ <sup>March</sup>, 2020.  
8

9  
10   
11 DISTRICT COURT JUDGE

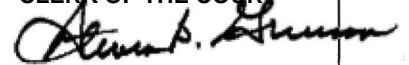
12 Submitted by:

13 JOHN W. MUIJE & ASSOCIATES  
14

15 By: /s/ JOHN W. MUIJE, ESQ.

16 JOHN W. MUIJE, ESQ.  
17 Nevada Bar No: 2419  
18 1840 East Sahara Avenue, Suite 106  
19 Las Vegas, Nevada 89104  
20 Telephone No: (702) 386-7002  
21 Facsimile No: (702) 386-9135  
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23 *Attorneys for Plaintiffs*  
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8 Fax No: (702) 386-9135  
9 Email: [Jmuije@muijelawoffice.com](mailto:Jmuije@muijelawoffice.com)  
10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

CASE NO: A-16-740689-B

11 Plaintiffs,

DEPT NO: XI

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
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19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

25 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS' CASINO**  
26 **COOLIDGE, LLC'S AND BARNET LIBERMAN'S MOTION TO ALTER**  
27 **OR AMEND JUDGMENT AS FILED ON FEBRUARY 14, 2020**  
28

TO: ELLIOT S. BLUT, ESQ., of BLUT LAW GROUP, P.C., Attorneys for Defendants  
Barnet Liberman and Casino Coolidge, LLC

TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of  
COHEN, JOHNSON, PARKER & EDWARDS, Attorneys for Mitchell Defendants

JOHN W. MUIJE & ASSOCIATES  
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Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 PLEASE TAKE NOTICE that the ORDER DENYING DEFENDANTS' CASINO  
2 COOLIDGE, LLC'S AND BARNET LIBERMAN'S MOTION TO ALTER OR AMEND  
3 JUDGMENT AS FILED ON FEBRUARY 14, 2020, was entered with the Court on the 30<sup>th</sup>  
4 day of March, 2020, a copy of which is attached hereto as Exhibit "1".  
5

6 DATED this 30<sup>TH</sup> day of March, 2020.

7 JOHN W. MUIJE & ASSOCIATES  
8  
9

10 By: /s/ JOHN W. MUIJE, ESQ.  
11 JOHN W. MUIJE, ESQ.  
12 Nevada Bar No: 2419  
13 1840 E. Sahara Ave #106  
14 Las Vegas, NV 89104  
15 Phone No: (702) 386-7002  
16 Fax No: (702) 386-9135  
17 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
18 Attorneys for Plaintiffs  
19  
20  
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1 **CERTIFICATE OF MAILING**

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 30<sup>TH</sup> day of March, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF ORDER**  
4 **DENYING DEFENDANTS' CASINO COOLIDGE, LLC'S AND BARNET LIBERMAN'S**  
5 **MOTION TO ALTER OR AMEND JUDGMENT AS FILED ON FEBRUARY 14, 2020**, to  
6 be served as follows:

- 7
- 8 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
9 class postage prepaid addressed as follows; and/or
- 10 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
11 Serve System;
- 12 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
13 class postage prepaid marked certified return receipt requested addressed as  
14 follows:

15 Elliot S. Blut, Esq.  
16 **BLUT LAW GROUP, P.C.**  
17 300 South Fourth Street, Suite 701  
18 Las Vegas, Nevada 89101  
19 *Attorneys for Defendants*  
20 *Barnet Liberman and Casino Coolidge,*  
21 *LLC*

22 H. Stan Johnson, Esq.  
23 James L. Edwards, Esq.  
24 **COHEN JOHNSON PARKER &**  
25 **EDWARDS**  
26 375 E. Warm Springs Road, #104  
27 Las Vegas, Nevada 89119  
28 *Attorneys for Mitchell Defendants*

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*John M. Vitman*  
An Employee of JOHN W. MUIJE & ASSOCIATES

# EXHIBIT “1”

ORIGINAL

Electronically Filed  
3/30/2020 9:05 AM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

1 **ORDR**

2 JOHN W. MUIJE & ASSOCIATES

3 JOHN W. MUIJE, ESQ.

4 Nevada Bar No: 2419

5 1840 E. Sahara Ave #106

6 Las Vegas, NV 89104

7 Phone No: (702) 386-7002

8 Fax No: (702) 386-9135

9 Email: [Jmuije@muijelawoffice.com](mailto:Jmuije@muijelawoffice.com)

10 *Attorneys for Plaintiffs*

11  
12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14  
15 RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
16 through X; DOES I through X; DOE  
17 CORPORATIONS I through X; and DOES  
18 PARTNERSHIPS I through X,

19 Plaintiffs,

20 vs.

CASE NO: A-16-740689-B

DEPT NO: XI

21 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
22 VEGAS LAND PARTNERS, LLC; MEYER  
23 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
24 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
25 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
26 OWNER, LLC; LVL P HOLDINGS, LLC;  
27 MITCHELL HOLDINGS, LLC; LIBERMAN  
28 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
WORKS TIC SUCCESSOR, LLC; CASINO  
COOLIDGE LLC; DOES I through III, and ROE  
CORPORATIONS I through III, inclusive,

Mitchell Defendants.

Date of Hearing: February 24, 2020

Time of Hearing: 9:00 a.m.

23 **ORDER DENYING DEFENDANTS CASINO COOLIDGE, LLC'S**  
24 **AND BARNET LIBERMAN'S MOTION TO ALTER OR AMEND JUDGMENT**  
25 **AS FILED ON FEBRUARY 14, 2020**

26 This matter coming on for hearing on February 24, 2020 at the hour of 9:00 a.m.,  
27 Plaintiffs, RUSSELL L. NYPE AND REVENUE PLUS, LLC, being represented by JOHN W.  
28 MUIJE, ESQ., of the Law Firm of JOHN W. MUIJE & ASSOCIATES, ELLIOT S. BLUT,  
ESQ., of the Law Firm of BLUT LAW GROUP, P.C., Attorneys for Defendants BARNET

02-28-20A05:40 RCV0

Case Number: A-16-740689-B


JOHN W. MUIJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
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Email: [Jmuije@muijelawoffice.com](mailto:Jmuije@muijelawoffice.com)

AA 1499

1 LIBERMAN and CASINO COOLIDGE, LLC, and David J. Mitchell and the Mitchell  
2 Defendants, being represented by H. Stan Johnson, Esq. and James L. Edwards, Esq., of the Law  
3 Firm of COHEN JOHNSON PARKER & EDWARDS, the Court having reviewed and  
4 considered the points and authorities, the exhibits in support thereof, and the various pleadings  
5 and documents on file herein and having considered oral argument and good cause appearing.  
6

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendants Casino  
8 Coolidge, LLC's and Barnet Liberman's Motion to Alter or Amend Judgment as filed on  
9 February 14, 2020, be and the same hereby is **DENIED**.

10 ~~March~~  
11 DATED this 30th day of ~~February~~, 2020.

12  
13   
14 DISTRICT COURT JUDGE

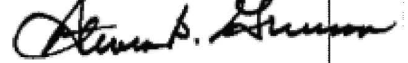
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16 Submitted by:

17 JOHN W. MUIJE & ASSOCIATES  
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19  
20 By: /s/ JOHN W. MUIJE, ESQ.  
21 JOHN W. MUIJE, ESQ.  
22 Nevada Bar No: 2419  
23 1840 East Sahara Avenue, Suite 106  
24 Las Vegas, Nevada 89104  
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28 *Attorneys for Plaintiffs*

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1 NEOJ  
2 JOHN W. MUIJE & ASSOCIATES  
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10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

11 Plaintiffs,

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: March 13, 2020

Time of Hearing: IN CHAMBERS

**NOTICE OF ENTRY OF ORDER AWARDING ADDITIONAL  
DOCUMENTED ATTORNEYS FEES**

24 TO: ELLIOT S. BLUT, ESQ., of **BLUT LAW GROUP, P.C.**, Attorneys for Defendants  
25 Barnet Liberman and Casino Coolidge, LLC

26 TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of  
27 **COHEN, JOHNSON, PARKER & EDWARDS**, Attorneys for Mitchell Defendants  
28

1 PLEASE TAKE NOTICE that the ORDER AWARDING ADDITIONAL  
2 DOCUMENTED ATTORNEYS FEES, was entered with the Court on the 12<sup>th</sup> day of May  
3 2020, a copy of which is attached hereto as Exhibit "1".

4 DATED this 13<sup>th</sup> day of May, 2020.

6 JOHN W. MUIJE & ASSOCIATES

8 By: 

9 JOHN W. MUIJE, ESQ.

10 Nevada Bar No: 2419

11 1840 E. Sahara Ave #106

12 Las Vegas, NV 89104

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15 Email: [Jmujje@muijelawoffice.com](mailto:Jmujje@muijelawoffice.com)

16 Attorneys for Plaintiffs

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21 Email: [Jmujje@muijelawoffice.com](mailto:Jmujje@muijelawoffice.com)  
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1 **CERTIFICATE OF MAILING**

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 13<sup>TH</sup> day of May, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF ORDER**  
4 **DENYING AWARDING ADDITIONAL DOCUMENTED ATTORNEYS FEES**, to be  
5 served as follows:  
6

- 7 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
8 class postage prepaid addressed as follows; and/or  
9 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
10 Serve System;  
11 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
12 class postage prepaid marked certified return receipt requested addressed as  
13 follows:

14 Elliot S. Blut, Esq.  
15 **BLUT LAW GROUP, P.C.**  
16 300 South Fourth Street, Suite 701  
17 Las Vegas, Nevada 89101  
18 *Attorneys for Defendants*  
19 *Barnet Liberman and Casino Coolidge,*  
20 *LLC*

21 H. Stan Johnson, Esq.  
22 James L. Edwards, Esq.  
23 **COHEN JOHNSON PARKER &**  
24 **EDWARDS**  
25 375 E. Warm Springs Road, #104  
26 Las Vegas, Nevada 89119  
27 *Attorneys for Mitchell Defendants*

28 *Fern M. Vitman*  
An Employee of JOHN W. MUIJE & ASSOCIATES

JOHN W. MUIJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: jmuije@mujelawoffice.com

# **EXHIBIT "1"**



1 **ORDR**

2 JOHN W. MUIJE & ASSOCIATES

3 JOHN W. MUIJE, ESQ.

4 Nevada Bar No: 2419

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10 *Attorneys for Plaintiffs*

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DISTRICT COURT

CLARK COUNTY, NEVADA

RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
through X; DOES I through X; DOE  
CORPORATIONS I through X; and DOES  
PARTNERSHIPS I through X,

Plaintiffs,

vs.

DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
VEGAS LAND PARTNERS, LLC; MEYER  
PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
OWNER, LLC; LVLP HOLDINGS, LLC;  
MITCHELL HOLDINGS, LLC; LIBERMAN  
HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
WORKS TIC SUCCESSOR, LLC; CASINO  
COOLIDGE LLC; DOES I through III, and ROE  
CORPORATIONS I through III, inclusive,

Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: March 13, 2020

Time of Hearing: IN CHAMBERS

**ORDER AWARDING ADDITIONAL DOCUMENTED**  
**ATTORNEYS FEES**

The Court having considered Plaintiff's moving papers, and the Mitchell Defendants' Opposition thereto and the facts and legal issues duly raised, as well as the other pleadings and documents on file herein and good cause appearing,

1           **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court grants  
2 Plaintiffs' Motion as to additional attorneys fees as detailed more fully hereinafter;

3           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the additional costs  
4 requested pursuant to Plaintiff's Motion for Award of Attorneys Fees are not awarded by way of  
5 this motion, and shall be separately dealt with and accounted for pursuant to the provisions of  
6 NRS 18.110 at the appropriate future time;

7           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court noted on  
8 the record, during trial, that as a practical matter there had to be some reasonable cut-off date,  
9 which reasonable cut-off date was in fact December 31, 2019;

10           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court  
11 specifically found at page 13 in its Conclusions of Law, paragraph 27, that "Nype may also file a  
12 post-judgment motion if appropriate for fees and costs not proven during the trial as special  
13 damages."

14           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court finds that  
15 the exhibits attached to Plaintiff's Motion for Attorneys Fees accurately and reasonably set forth  
16 the additional fees and costs not proven at time of trial, and that the Court, after considering the  
17 *Brunzell* factors and other items set forth hereinafter, finds that the amounts accounted for and  
18 detailed in the motion are accurate, correct, and appropriate.

19           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Mitchell  
20 Defendants raised the issue as to whether or not special damages had been adequately plead or  
21 were awardable during trial, at the conclusion of Plaintiff's case in chief, and that the Court  
22 expressly considered the arguments, and reviewed Plaintiff's Amended Complaint on the record,  
23 in open court, during the trial, specifically considering the Plaintiff's operative allegations, and  
24 expressly ruled, from the bench, that given the totality of the pleading and the items of  
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1 misconduct alleged, Plaintiffs' request for attorneys fees as special damages under both  
2 fraudulent conveyance theories, as well as the civil conspiracy theories, was adequately plead,  
3 and the allegations were sufficient to put the defendants on notice that Plaintiff was in fact  
4 seeking recovery of the attorneys fees proximately caused by defendants' ongoing and  
5 continuing misconduct;  
6

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiffs point as  
8 to the bad faith conduct of litigation by the defendants was also amply proven at trial, perhaps  
9 with the best illustration being Exhibit 50042 at pages 5 and 6, where predecessor defense  
10 counsel noted and acknowledged an express strategy "to keep kicking the ball down field to delay  
11 trial and aggravate Nype...";  
12

13 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court further  
14 notes that the many many months of delay and significant expense imposed on Nype by the  
15 continuous discovery defalcations of defendants, perhaps most blatantly illustrated by the  
16 fabrication of fraudulent and false evidence suggesting that relevant financial records were  
17 destroyed as a matter of policy;  
18

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that the Court is well  
20 aware of the standards set forth by the Nevada Supreme Court in Brunzell vs. Golden Gate  
21 National Bank, 85 Nev. 345, 349-350, 455 P.2d 31 (1969);  
22

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that the Court in fact  
24 considered the Brunzell factors in awarding discovery sanctions on or about September 24, 2019,  
25 and in fact bore that evaluation, as well as the subsequent conduct of residual discovery and  
26 Plaintiffs' preparation for and presentation at trial in mind , in evaluating the *Brunzell* factors as it  
27 applies to this case;  
28

....

1       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiffs' counsel  
2 is a long-standing well-respected member of the bar, having graduated from the University of  
3 Chicago, and having litigated actively before various departments of the Eighth Judicial District  
4 Court for almost four decades, and that his training, education, experience, and professional  
5 standing weigh heavily in favor of awarding all fees requested;  
6

7       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the training,  
8 education, experience and professional standing of the Reisman Sorokac firm also amply weigh  
9 in favor of Plaintiffs' request for fees;  
10

11       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this particular  
12 litigation was very difficult, intricate, and of substantial magnitude, requiring substantial time and  
13 extraordinary and un-common skills, which factor was further emphasized by the fact that the  
14 real estate projects in question involved *inter alia* the development of the Regional Transportation  
15 Center and Las Vegas City Hall, making not only the dollar amounts, but the underlying subject  
16 matter, prominent and important, all of such factors favoring the award of the attorney fees  
17 requested;  
18

19       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the work actually  
20 performed by Plaintiffs' lawyers, as well as the skill, time and attention given to the work, amply  
21 justify the requested award. In fact the fees requested by Plaintiffs' counsel and his litigation  
22 team were detailed in specific itemized billings at reasonable hourly rates, reflecting the fee  
23 agreements between Plaintiffs and the various counsel, and that as such, the work actually  
24 performed and the attention given to the work also justifies an award of the full fees requested;  
25

26       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** finally, that the result  
27 was exemplary and positive, given that Plaintiff prevailed on virtually all major disputed issues in  
28



JOHN W. MUIJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: jmuije@muijelawoffice.com

1 the litigation, after many years and millions of dollars of expenses devoted to seeking ultimate  
2 justice in this matter.

3       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that based upon all of  
4 the above and foregoing, additional attorneys fees, over and above the amount already and  
5 previously awarded to Plaintiff incident to the Court's Findings of Fact and Conclusions of Law  
6 and Judgment of January 16, 2020 (as modestly amended on January 17, 2020) in the amount of  
7 \$36,360.00 constituting the additional documented attorneys fees charge by John W. Muije &  
8 Associates between January 1, 2020 and February 6, 2020 be and the same hereby are awarded;  
9

10       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that in a similar vein,  
11 the additional attorney's fees charged by the Reisman Sorokac law firm between the same dates,  
12 totaling \$22,716.00, are also hereby awarded in favor of and to the benefit of the Plaintiffs;  
13

14       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that these additional  
15 fees, together with the Court's separately considered award of pre-judgment interest and  
16 separately considered award of taxable costs, may be incorporated by Plaintiffs into an Amended  
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1 and Final Judgment so as to facilitate the calculation of the total amounts owed, and assist the  
2 judicial and clerical processing of future legal documents relating to the amounts awarded by this  
3 Court.

4  
5 DATED this 12th day of May, 2020.

6  
7   
8 DISTRICT COURT JUDGE

9 Submitted by:

10 JOHN W. MUIJE & ASSOCIATES

11 By: /s/ JOHN W. MUIJE, ESQ.

12 JOHN W. MUIJE, ESQ.

13 Nevada Bar No: 2419

14 1840 East Sahara Avenue, Suite 106

15 Las Vegas, Nevada 89104

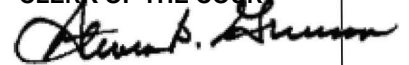
16 Telephone No: (702) 386-7002

17 Facsimile No: (702) 386-9135

18 Email: Jmuije@muijelawoffice.com

19 Attorneys for Plaintiffs

20  
21  
22  
23  
24  
25  
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2 JOHN W. MUIJE & ASSOCIATES  
3 JOHN W. MUIJE, ESQ.  
4 Nevada Bar No: 2419  
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6 Las Vegas, NV 89104  
7 Phone No: (702) 386-7002  
8 Fax No: (702) 386-9135  
9 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
10 Attorneys for Plaintiffs

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 RUSSELL L. NYPE AND REVENUE PLUS,  
10 LLC

11 Plaintiffs,

12 vs.

13 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
14 VEGAS LAND PARTNERS, LLC; MEYER  
15 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
16 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
17 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
18 OWNER, LLC; LVLP HOLDINGS, LLC;  
19 MITCHELL HOLDINGS, LLC; LIBERMAN  
20 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
21 WORKS TIC SUCCESSOR, LLC; CASINO  
22 COOLIDGE LLC; DOES I through III, and ROE  
23 CORPORATIONS I through III, inclusive,

24 Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: March 20, 2020

Time of Hearing: IN CHAMBERS

**NOTICE OF ENTRY OF ORDER GRANTING IN PART**  
**PLAINTIFF'S MOTION TO CORRECT MINOR ERRORS**  
**AND INCORPORATE PRE-JUDGMENT INTEREST IN THE**  
**FINAL JUDGMENT**

25 TO: ELLIOT S. BLUT, ESQ., of BLUT LAW GROUP, P.C., Attorneys for Defendants  
26 Barnet Liberman and Casino Coolidge, LLC

27 TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of  
28 COHEN, JOHNSON, PARKER & EDWARDS, Attorneys for Mitchell Defendants

PLEASE TAKE NOTICE that the ORDER GRANTING IN PART PLAINTIFF'S

JOHN W. MUIJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 MOTION TO CORRECT MINOR ERRORS AND INCORPORATE PRE-JUDGMENT  
2 INTEREST IN THE FINAL JUDGMENT, was entered with the Court on the 12<sup>th</sup> day of May  
3 2020, a copy of which is attached hereto as Exhibit "1".

4 DATED this 13<sup>th</sup> day of May, 2020.

6 JOHN W. MUIJE & ASSOCIATES

7  
8 By: 

9 JOHN W. MUIJE, ESQ.

10 Nevada Bar No: 2419

11 1840 E. Sahara Ave #106

12 Las Vegas, NV 89104

13 Phone No: (702) 386-7002

14 Fax No: (702) 386-9135

15 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

16 Attorneys for Plaintiffs

1 **CERTIFICATE OF MAILING**

2 I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the  
3 13<sup>TH</sup> day of May, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF ORDER**  
4 **GRANTING IN PART PLAINTFF'S MOTION TO CORRECT MINOR ERRORS AND**  
5 **INCORPORATE PRE-JUDGMENT INTEREST IN THE FINAL JUDGMENT**, to be  
6 served as follows:  
7

- 8 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
9 class postage prepaid addressed as follows; and/or  
10 ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and  
11 Serve System;  
12 ☐ By placing a copy of the same for mailing in the United States mail, with first-  
13 class postage prepaid marked certified return receipt requested addressed as  
14 follows:

15 Elliot S. Blut, Esq.  
16 **BLUT LAW GROUP, P.C.**  
17 300 South Fourth Street, Suite 701  
18 Las Vegas, Nevada 89101  
19 *Attorneys for Defendants*  
20 *Barnet Liberman and Casino Coolidge,*  
21 *LLC*

H. Stan Johnson, Esq.  
James L. Edwards, Esq.  
**COHEN JOHNSON PARKER &**  
**EDWARDS**  
375 E. Warm Springs Road, #104  
Las Vegas, Nevada 89119  
*Attorneys for Mitchell Defendants*

22   
23 \_\_\_\_\_  
24 An Employee of JOHN W. MUIJE & ASSOCIATES  
25  
26  
27  
28

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# **EXHIBIT “1”**



1 **ORDR**  
2 JOHN W. MUIJE & ASSOCIATES  
3 JOHN W. MUIJE, ESQ.  
4 Nevada Bar No: 2419  
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8 Fax No: (702) 386-9135  
9 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
10 *Attorneys for Plaintiffs*

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

11 RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
12 through X; DOES I through X; DOE  
13 CORPORATIONS I through X; and DOES  
14 PARTNERSHIPS I through X,

Plaintiffs,

14 vs.

15 DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
16 VEGAS LAND PARTNERS, LLC; MEYER  
17 PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
18 PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
19 LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
20 OWNER, LLC; LVLV HOLDINGS, LLC;  
21 MITCHELL HOLDINGS, LLC; LIBERMAN  
22 HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
23 WORKS TIC SUCCESSOR, LLC; CASINO  
24 COOLIDGE LLC; DOES I through III, and ROE  
25 CORPORATIONS I through III, inclusive,

21 Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: March 20, 2020

Time of Hearing: IN CHAMBERS

23 **ORDER GRANTING IN PART PLAINTIFF'S MOTION TO**  
24 **CORRECT MINOR ERRORS AND INCORPORATE**  
25 **PRE-JUDGMENT INTEREST IN THE FINAL JUDGMENT**

26 The Court having considered Plaintiff's moving papers, and the Mitchell Defendants'  
27 Opposition thereto and having considered the information provided, as well as the other pleadings  
28 and documents on file herein and good cause appearing,

JOHN W. MUIJE & ASSOCIATES  
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JOHN W. MULJE & ASSOCIATES  
1840 E. Sahara Ave., #106  
Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: jmulje@muljelawoffice.com

1           **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Plaintiffs' Motion to  
2 Correct Minor Errors and Incorporate Pre-Judgment Interest and Final Judgment be and  
3 the same hereby is GRANTED in part;

4           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the clerical  
5 correction of substituting a comma for a period at page 12, paragraph 22 in the Court's original  
6 Findings of Fact and Conclusions of Law be and the same hereby is GRANTED, and the  
7 monetary amounts set forth in the Final Judgment shall properly follow correct numerical format  
8 and remove the typographical error noted;

9           **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court expressly  
10 grants Plaintiffs' Motion for an award of pre-judgment interest at the statutory rate, and  
11 accordingly the sum of \$945,131.80 in accrued pre-judgment interest shall be awarded as to the  
12 fraudulent conveyance damages, and the sum of \$2,961,085.24 in accrued pre-judgment interest  
13 shall be awarded as to the civil conspiracy damages award, both amounts accrued through and  
14 including January 16, 2020.

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the balance of the  
2 requests contained in Plaintiffs' motion be and the same is hereby DENIED.

3 DATED this 12th day of May, 2020.

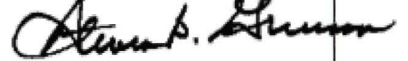
4  
5   
6 DISTRICT COURT JUDGE

7  
8 Submitted by:

9 JOHN W. MUIJE & ASSOCIATES

10  
11  
12 By: /s/ JOHN W. MUIJE, ESQ.  
13 JOHN W. MUIJE, ESQ.  
14 Nevada Bar No: 2419  
15 1840 East Sahara Avenue, Suite 106  
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17 Telephone No: (702) 386-7002  
18 Facsimile No: (702) 386-9135  
19 Email: Jmuije@muijelawoffice.com  
20 *Attorneys for Plaintiffs*

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1 **NEOJ**  
2 **JOHN W. MUIJE & ASSOCIATES**  
3 **JOHN W. MUIJE, ESQ.**  
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9 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)  
10 *Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 **RUSSELL L. NYPE AND REVENUE PLUS,**  
10 **LLC**

11 Plaintiffs,

12 vs.

13 **DAVID J. MITCHELL; BARNET LIBERMAN; LAS**  
14 **VEGAS LAND PARTNERS, LLC; MEYER**  
15 **PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH**  
16 **PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,**  
17 **LLC; LIVE WORK MANAGER, LLC; AQUARIUS**  
18 **OWNER, LLC; LVLP HOLDINGS, LLC;**  
19 **MITCHELL HOLDINGS, LLC; LIBERMAN**  
20 **HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE**  
21 **WORKS TIC SUCCESSOR, LLC; CASINO**  
22 **COOLIDGE LLC; DOES I through III, and ROE**  
23 **CORPORATIONS I through III, inclusive,**

24 Mitchell Defendants.

CASE NO: A-16-740689-B

DEPT NO: XI

Date of Hearing: February 24, 2020

Time of Hearing: 9:00 a.m.

**NOTICE OF ENTRY OF ORDER GRANTING IN PART, MOTION**  
**TO RETAX AND SETTLE COSTS**

24 **TO: ELLIOT S. BLUT, ESQ., of BLUT LAW GROUP, P.C., Attorneys for Defendants**  
25 **Barnet Liberman and Casino Coolidge, LLC**

26 **TO: H. STAN JOHNSON, ESQ., and JAMES L. EDWARDS, ESQ., of the Law Offices of**  
27 **COHEN, JOHNSON, PARKER & EDWARDS, Attorneys for Mitchell Defendants**  
28

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Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 PLEASE TAKE NOTICE that the ORDER GRANTING IN PART, MOTION TO  
2 RETAX AND SETTLE COSTS, was entered with the Court on the 14<sup>th</sup> day of May 2020, a  
3 copy of which is attached hereto as Exhibit "1".

4 DATED this 14<sup>th</sup> day of May, 2020.

6 JOHN W. MUIJE & ASSOCIATES

7  
8 By: 

9 JOHN W. MUIJE, ESQ.

10 Nevada Bar No: 2419

11 1840 E. Sahara Ave #106

12 Las Vegas, NV 89104

13 Phone No: (702) 386-7002

14 Fax No: (702) 386-9135

15 Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

16 Attorneys for Plaintiffs

**CERTIFICATE OF MAILING**

I certify that I am an employee of JOHN W. MUIJE & ASSOCIATES and that on the 14<sup>th</sup> day of May, 2020, I caused the foregoing document, **NOTICE OF ENTRY OF ORDER GRANTING IN PART, MOTION TO RETAX AND SETTLE COSTS**, to be served as follows:

- ☐ By placing a copy of the same for mailing in the United States mail, with first-class postage prepaid addressed as follows; and/or
- ☒ By electronically filing with the Clerk of the Court via the Odyssey E-File and Serve System;
- ☐ By placing a copy of the same for mailing in the United States mail, with first-class postage prepaid marked certified return receipt requested addressed as follows:

Elliot S. Blut, Esq.  
**BLUT LAW GROUP, P.C.**  
300 South Fourth Street, Suite 701  
Las Vegas, Nevada 89101  
*Attorneys for Defendants*  
*Barnet Liberman and Casino Coolidge,*  
*LLC*

H. Stan Johnson, Esq.  
James L. Edwards, Esq.  
**COHEN JOHNSON PARKER &  
EDWARDS**  
375 E. Warm Springs Road, #104  
Las Vegas, Nevada 89119  
*Attorneys for Mitchell Defendants*

*Fern M. Vitman*

\_\_\_\_\_  
An Employee of JOHN W. MUIJE & ASSOCIATES

# **EXHIBIT “1”**





**ORDR**

JOHN W. MUIJE & ASSOCIATES

JOHN W. MUIJE, ESQ.

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*Attorneys for Plaintiffs*

DISTRICT COURT

CLARK COUNTY, NEVADA

RUSSELL L. NYPE; REVENUE PLUS, LLC, DOES I  
through X; DOES I through X; DOE  
CORPORATIONS I through X; and DOES  
PARTNERSHIPS I through X,

Plaintiffs,

vs.

DAVID J. MITCHELL; BARNET LIBERMAN; LAS  
VEGAS LAND PARTNERS, LLC; MEYER  
PROPERTY, LTD.; ZOE PROPERTY, LLC; LEAH  
PROPERTY, LLC; WINK ONE, LLC; LIVE WORK,  
LLC; LIVE WORK MANAGER, LLC; AQUARIUS  
OWNER, LLC; LVLP HOLDINGS, LLC;  
MITCHELL HOLDINGS, LLC; LIBERMAN  
HOLDINGS, LLC; 305 LAS VEGAS, LLC; LIVE  
WORKS TIC SUCCESSOR, LLC; CASINO  
COOLIDGE LLC; DOES I through III, and ROE  
CORPORATIONS I through III, inclusive,

Mitchell Defendants.

**CASE NO:** A-16-740689-B

**DEPT NO:** XI

**Date of Hearing:** February 24, 2020

**Time of Hearing:** 9:00 a.m.

**ORDER GRANTING, IN PART, MOTION TO RETAX  
AND SETTLE COSTS**

This matter coming on for hearing on February 24, 2020 at the hour of 9:00 a.m.,  
Plaintiffs, RUSSELL L. NYPE AND REVENUE PLUS, LLC, being represented by JOHN W.  
MUIJE, ESQ., of the Law Firm of JOHN W. MUIJE & ASSOCIATES, ELLIOT S. BLUT,  
ESQ., of the Law Firm of BLUT LAW GROUP, P.C., Attorneys for Defendants BARNET

1 LIBERMAN and CASINO COOLIDGE, LLC, and David J. Mitchell and the Mitchell  
2 Defendants, being represented by H. Stan Johnson, Esq. and James L. Edwards, Esq., of the Law  
3 Firm of COHEN JOHNSON PARKER & EDWARDS, the Court having reviewed and  
4 considered the points and authorities, the exhibits in support thereof, and the various pleadings  
5 and documents on file herein and having considered oral argument and good cause appearing.

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Court has  
8 reviewed the disputed items of costs in question and hereby orders that the sum of THIRTEEN  
9 THOUSAND THREE HUNDRED EIGHTY-SEVEN DOLLARS AND FIFTY CENTS  
10 (\$13,387.50), part of the totals charged by Litigation Services, Inc., shall be disallowed and not  
11 recoverable;

13 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the balance of the  
14 Litigation Services, Inc.'s invoices and charges, i.e., THIRTY-TWO THOUSAND SEVEN  
15 HUNDRED TEN DOLLARS AND FIFTY-TWO CENTS (\$32,710.52) shall be allowed and  
16 awardable to Plaintiffs as taxable costs;

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as regards the  
19 service of process expenses questioned by the defendants, the monthly service charge assessed by  
20 Legal Wings in the sum of TWO HUNDRED FIFTY DOLLARS AND NO CENTS (\$250.00)  
21 shall be disallowed and not be recoverable;

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, however, that the  
24 actual service of process costs, as documented by Plaintiffs and the itemized invoices rendered by  
25 Legal Wings, Inc., totaling ONE THOUSAND ONE HUNDRED SIXTY-ONE DOLLARS AND  
26 NO CENTS (\$1,161.00) shall be allowed and awardable to Plaintiff's as taxable costs;

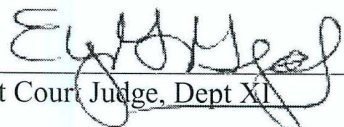
JOHN W. MUIJE & ASSOCIATES  
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Las Vegas, Nevada 89104  
Telephone: 702-386-7002  
Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the two other items  
2 claimed in Plaintiffs' Memo of Costs as filed on January 21, 2020, totaling \$11,831.22 were not  
3 disputed and are therefore allowed and awarded as taxable costs;

4  
5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, Defendants not  
6 having challenged Plaintiffs' Supplemental Memorandum of Costs as filed on January 29, 2020,  
7 totaling NINE HUNDRED SIXTY-TWO DOLLARS AND FIFTY CENTS (\$962.50) as regards  
8 the deposition transcript of Mark Rich, shall be allowed and awardable as a taxable cost;

9  
10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, taking account of all of  
11 the specific rulings set forth above, that Plaintiffs' are allowed taxable and recoverable costs as  
12 documented and filed in accordance with NRS Chapter 18 as of January 31, 2020, in the total  
13 amount of FORTY-SIX THOUSAND SIX HUNDRED FIFTY-FIVE DOLLARS AND  
14 TWENTY-FOUR CENTS (\$46,655.24).

15 DATED this 14<sup>th</sup> day of May, 2020.

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28  
  
District Court Judge, Dept XI

Submitted by:

JOHN W. MUIJE & ASSOCIATES

By: /s/ JOHN W. MUIJE, ESQ.

JOHN W. MUIJE, ESQ.

Nevada Bar No: 2419

1840 East Sahara Avenue, Suite 106

Las Vegas, Nevada 89104

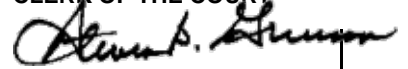
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Email: [jmuije@muijelawoffice.com](mailto:jmuije@muijelawoffice.com)

*Attorneys for Plaintiffs*





TRAN

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

RUSSELL NYPE, et al.	.	
	.	
Plaintiffs	.	CASE NO. A-16-749689-B
	.	
vs.	.	
	.	DEPT. NO. XI
DAVID MITCHELL, et al.	.	
	.	
Defendants	.	<b>Transcript of</b>
	.	<b>Proceedings</b>
. . . . .	.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**HEARING ON MOTION TO INTERVENE**

MONDAY, NOVEMBER 18, 2019

APPEARANCES:

FOR THE PLAINTIFFS: JOHN W. MUIJE, ESQ.

FOR THE DEFENDANTS: H. STANLEY JOHNSON, ESQ.  
EDGAR SMITH, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1 LAS VEGAS, NEVADA, MONDAY, NOVEMBER 18, 2019, 9:04 A.M.

2 (Court was called to order)

3 THE COURT: If I could go to Nype versus Mitchell.

4 MR. MUIJE: Good morning, Judge. John Muije  
5 appearing on behalf of the plaintiffs and proposed plaintiff  
6 in intervention Shelly Crone, U.S. Bankruptcy Trustee for the  
7 Estate --

8 THE COURT: Did you get the opposition?

9 MR. MUIJE: I did see the opposition this morning at  
10 8:00 o'clock, Your Honor.

11 THE COURT: Okay. All right.

12 MR. JOHNSON: Stan Johnson on behalf of the  
13 defendants.

14 THE COURT: Mr. Muije, it's your motion.

15 MR. SMITH: Good morning, Your Honor. Edward Smith  
16 of counsel to Eliot Blut's office for Barnet Liberman and  
17 Casino Coolidge LLC.

18 THE COURT: Good morning.

19 MR. SMITH: Good morning.

20 MR. MUIJE: 'Morning, Judge. The point with Mr.  
21 Johnson's opposition is it's just too little too late. The  
22 Court will recall that on September 4th the Court chose to  
23 entertain an emergency motion to stay these proceedings. At  
24 that time Mr. Schwartzer, our bankruptcy counsel, Mr. Nype's  
25 bankruptcy counsel, was present with me. The Court heard

1 argument from both Mr. Johnson and Mr. Schwartz. These  
2 concerns were addressed. The Court ordered that the matter  
3 was stayed as to Las Vegas Land Partners, LLC, but not to  
4 anybody else.

5           On the record -- and, unfortunately, I don't have a  
6 transcript of it, but I do have notes which I reviewed this  
7 morning. On the record the Court expressly ruled that the  
8 fraudulent conveyance claims belong to the bankruptcy estate,  
9 the other claims all belonged to Mr. Nype and Revenue Plus and  
10 could proceed in this court.

11           So strike on, Mr. Johnson. He had an opportunity to  
12 argue, the Court heard it, the Court ruled. Basically it's  
13 issue preclusion.

14           But there's a second step, Your Honor. Before we  
15 even came here today, back in -- about a month ago Ms. Crone  
16 filed an application that was filed on October 24th to inform  
17 employ me as her special counsel for purposes of representing  
18 Las Vegas Land Partners' interest in the fraudulent conveyance  
19 action. Part of that declaration and part of that motion  
20 included the proposed fee agreement and the proposed contract  
21 between Mr. Nype and Revenue Plus on the one hand and the  
22 trustee and the estate on the other, which expressly discussed  
23 the various claims, the allocation of those claims, and the  
24 ultimate distribution of any recoveries on those claims. A  
25 copy of that contract and fee agreement was attached to the

1 application, it was duly served on Mr. Johnson. No objection  
2 was raised, and the bankruptcy judge says, great, we approve  
3 it, you're welcome to represent the trustee, and the trustee I  
4 believe -- I haven't had a chance to read the whole 40-,  
5 50-page application -- represented to the court it was her  
6 intention to come here and pursue these claims in the pending  
7 action. Judicial economy, efficiency, this case is ready for  
8 trial in six weeks. And that is the bankruptcy law, Your  
9 Honor. The bankruptcy judge can choose to proceed where she  
10 wants. So even if Mr. Johnson were right that the alter ego  
11 claims somehow belong to the bankruptcy estate, the trustee  
12 still gets to come over here. But he's wrong. And,  
13 unfortunately, having seen his opposition only an hour ago and  
14 having had two prior opportunities, two bites at the apple  
15 which he chose not to exercise, I didn't have an opportunity  
16 to alert Mr. Schwartzer, I didn't have an opportunity to pull  
17 my one-inch research file on alter ego not belonging to the  
18 bankruptcy estate, but it doesn't.

19           So clearly the trustee has an interest in the  
20 outcome of these proceedings. Court's already been alerted to  
21 that and approved that proceeding. Clearly the bankruptcy  
22 trustee has hired me and would like to proceed here. So we  
23 would ask that the motion to intervene be granted.

24           THE COURT: Thank you.

25           Mr. Johnson.

1 MR. JOHNSON: Yes, Your Honor.

2 It's true the trustee can come to State Court under  
3 State Court law if the trustee chooses to do that. However,  
4 as was pointed out in our brief, it's very clear in the Ninth  
5 Circuit and with our Bankruptcy Court and also the BAP, which  
6 we've cited in our brief, it's clear that this is an exclusive  
7 right to the trustee. When the cause of action belongs to the  
8 estate, it's exclusive. And the Ninth Circuit has said other  
9 creditors cannot bring an action at the same time or in place  
10 of what the trustee does, because it is exclusive.

11 What they're trying to do here is basically have two  
12 complaints at the same time, one for Mr. Nype. A complaint in  
13 intervention by the trustee is going to cause confusion.  
14 There's different issues with each --

15 THE COURT: It's a bench trial. Who is it going to  
16 confuse?

17 MR. JOHNSON: Well, it's different issues of law,  
18 though.

19 THE COURT: I got that part.

20 MR. JOHNSON: And I understand the Court can handle  
21 that. I'm sure you can handle that. But it's confusing to  
22 us, let's put it that way.

23 THE COURT: Okay.

24 MR. JOHNSON: Because there are different statutes  
25 in play, depending on which one. And alter ego is clearly

1 part of the causes of action that belong to the trustee.  
2 We've cited numerous cases that have said that. It's very  
3 clear. It's as clear as fraudulent conveyance. They always  
4 go together. Whenever there's actions for fraudulent  
5 conveyance, usually alter ego, it's uniform throughout the  
6 Ninth Circuit that that cause of action belongs to the estate.  
7           The other causes of action are really derivative  
8 from that that Mr. Nype has brought. So that's why we feel  
9 Mr. Nype no longer has standing to pursue those causes of  
10 action. And the reason the court -- to address one of the  
11 issues Mr. Muije raised, the reason the court went ahead with  
12 that hearing was because the court said that was more in lines  
13 of a contempt motion, which there is an exception for the  
14 automatic stay. But that's really it. The court didn't make  
15 any type of other ruling other than the court did specifically  
16 rule that that cause of action does belong -- fraudulent  
17 conveyance does belong to the trustee.  
18           THE COURT: Because you're seeking of the assets of  
19 the estate.  
20           MR. JOHNSON: Correct.  
21           THE COURT: Okay. Anything else?  
22           MR. JOHNSON: That's it.  
23           THE COURT: Okay. Anything, Mr. Smith?  
24           MR. SMITH: Nothing, Your Honor.  
25           THE COURT: Thank you.

1           Mr. Muije, anything else?

2           MR. MUIJE: Just one point, Your Honor. Again, I

3 didn't take the liberty of ordering a transcript of that

4 emergency hearing. We had ordered the transcript of the

5 evidentiary hearing, but apparently your staff had bifurcated

6 them. I can happily get the bankruptcy --

7           THE COURT: Mr. Muije, I don't need it.

8           MR. MUIJE: Okay.

9           THE COURT: Thank you.

10          MR. MUIJE: Thank you.

11          THE COURT: The motion is granted. That does not

12 preclude Mr. Mitchell and/or any other defendant from moving

13 to dismiss the complaint in intervention that is filed by the

14 trustee.

15          Mr. Muije, can you make sure that gets filed today.

16          MR. MUIJE: I had an order with me, Your Honor. I'm

17 making a copy available to Mr. Johnson and to distinguished

18 counsel for Mr. Liberman. May I approach?

19          THE COURT: You may. And I've executed this in open

20 court so you can get it all filed.

21          Have a great day. 'Bye.

22          MR. MUIJE: Thank you, Your Honor.

23          THE PROCEEDINGS CONCLUDED AT 9:11 A.M.

24                   \* \* \* \* \*

25

**CERTIFICATION**

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT  
Las Vegas, Nevada 89146**

*Florence M. Hoyt*  
\_\_\_\_\_  
FLORENCE HOYT, TRANSCRIBER

11/20/19  
\_\_\_\_\_  
DATE