

Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

**NOTC**

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*Attorneys for Defendant*  
*The Korte Company*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

UPA 1, LLC, a Delaware limited liability  
company,

Plaintiff,

vs.

THE KORTE COMPANY, a Missouri  
corporation,

Defendant.

**Consolidated Case No. A-17-763262-B**  
Consolidated with, A-18-768969-B

Dept. No. 16

**NOTICE OF APPEAL**

KORTE CONSTRUCTION COMPANY dba  
THE KORTE COMPANY, a Missouri  
corporation,

Plaintiff,

v.

UPA1 LLC, a Delaware limited liability  
company; BRIDGEWAY ADVISORS, a  
California corporation; STATE OF  
NEVADA ON RELATION OF THE  
BOARD OF REGENTS OF THE NEVADA  
SYSTEM OF HIGHER EDUCATION, ON  
BEHALF OF THE UNIVERSITY OF  
NEVADA, LAS VEGAS, a Constitutional  
entity of the State of Nevada; WELLS  
FARGO BANK NORTHWEST, N.A., AS  
TRUSTEE OF THE UNLV STUDENT  
HOUSING PHASE I PASS THROUGH  
TRUST AGREEMENT AND  
DECLARATION OF TRUST, a federal bank

Consolidated Case No. A-18-767674-C

1 institution, and DOES 1 through 100,  
2 inclusive,

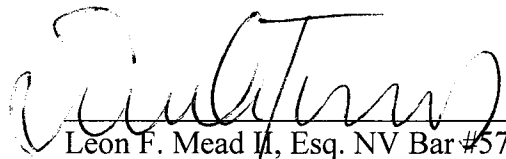
3 Defendants.

4 Notice is hereby given that The Korte Company ("Korte") appeals to the Supreme Court  
5 of Nevada from the Order Granting State of Nevada on Relation of the Board of Regents of the  
6 Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Motion  
7 for Summary Judgment, which sought summary judgment on Korte's unjust enrichment claim  
8 based on the fact that a contract exists between Korte and UPA, and that UPA posted a bond  
9 exceeding the amount claimed by Korte.

10 The Order was entered by the Court on January 31, 2020 and filed on February 6, 2020.  
11 The Notice of Entry of Order was filed and served in this action on the 6th day of February 2020.

12 Dated: March 2, 2020

MEAD LAW GROUP LLP

13  
14 

15 Leon F. Mead II, Esq. NV Bar #5719  
16 Sarah M. Thomas, Esq. NV Bar #13725  
17 Attorneys for Korte Construction Company  
18 dba The Korte Company  
19  
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21  
22  
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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under the penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF APPEAL** by method indicated below:

- ☐ BY FAX: by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.
- ☐ BY OVERNIGHT MAIL: by causing the document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ BY PERSONAL DELIVERY: by causing the above listed document(s) to be personally delivered by [name of messenger service], a messenger person(s) at the address(es) set forth below.
- ☒ BY ELECTRONIC SUBMISSION: submitted to the above entitled Court for electronic filing and service upon the Court's Service List for the above referenced case.
- ☐ BY ELECTRONIC MAIL:

**Parties Served:**

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Taylor Anello, Esq.  
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Las Vegas, NV 89113

*Attorneys for Wells Fargo Bank Northwest  
N.A., as Trustee of the UNLV Student  
Housing Phase 1 Pass-Through Trust  
Agreement and Declaration of Trust*

*Attorneys for State of Nevada ex rel Board of  
Regents of the Nevada System of Higher  
Education, on behalf of University of  
Nevada, Las Vegas*

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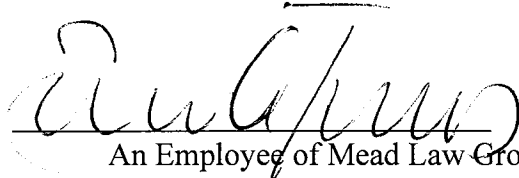
1 J. Steven Peek, Esq.  
2 Greg S. Gilbert, Esq.  
3 David J. Freeman, Esq.  
4 HOLLAND & HART LLP  
5 9555 Hillwood Drive, 2<sup>nd</sup> Floor  
6 Las Vegas, NV 89134

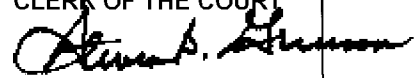
7 *Attorneys for UPA 1, LLC*

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PUZEY & THOMPSON  
400 South 4<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Las Vegas, NV 89101

*Attorneys for Bridgeway Advisors*

8 Dated: March 2, 2020

  
An Employee of Mead Law Group



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Sarah M. Thomas, Esq.  
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*Attorneys for Defendant*  
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**DISTRICT COURT**  
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UPA1 LLC, a Delaware limited liability  
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NEVADA ON RELATION OF THE  
BOARD OF REGENTS OF THE NEVADA  
SYSTEM OF HIGHER EDUCATION, ON  
BEHALF OF THE UNIVERSITY OF  
NEVADA, LAS VEGAS, a Constitutional  
entity of the State of Nevada; WELLS  
FARGO BANK NORTHWEST, N.A., AS  
TRUSTEE OF THE UNLV STUDENT  
HOUSING PHASE I PASS THROUGH  
TRUST AGREEMENT AND  
DECLARATION OF TRUST, a federal bank

institution, and DOES 1 through 100,

**Consolidated Case No. A-17-763262-B**  
Consolidated with, A-18-767674-C and A-  
18-768969-B

Dept. No. 16

**CASE APPEAL STATEMENT**

Consolidated Case No. A-18-767674-C

1 inclusive,

2 Defendants.

3 UPA 1, LLC, a Delaware limited liability  
4 company,

5 Crossclaimant,

6 v.

7 TRAVELERS CASUALTY & SURETY  
8 COMPANY OF AMERICA, a surety,

9 Cross-defendant.

- 10 1. Korte Construction Company dba The Korte Company ("Korte") submits this case  
11 appeal statement.  
12 2. The Honorable Judge Timothy Williams, Department 16 of the Eighth Judicial District  
13 Court issued the Order appealed from.  
14 3. Appellant The Korte Company is represented by Leon F. Mead II, Esq. and Sarah M.  
15 Thomas, Esq. of Mead Law Group LLP, 7201 W Lake Mead Blvd., Suite 550, Las Vegas,  
16 Nevada 89128.  
17 4. Respondent is State of Nevada on Relation of the Board of Regents of the Nevada System  
18 of Higher Education, on Behalf of the University of Nevada, Las Vegas ("UNLV"),  
19 represented by Cynthia Alexander, Esq. and Taylor Anello, Esq. of Dickinson Wright  
20 PLLC, 8363 West Sunset Road, Suite 200, Las Vegas, Nevada 89113.  
21 5. All attorneys referenced above are currently licensed to practice law in Nevada and in  
22 good standing.  
23 6. Appellant is not represented by appointed or retained counsel in the district court.  
24 7. Appellant is not represented by appointed or retained counsel on appeal.  
25 8. Appellant was not granted leave to proceed in forma pauperis.  
26 9. The proceedings in this action began on October 18, 2017, when UPA 1, LLC filed its  
27 Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1) to declare  
28 Korte's mechanic's lien excessive, frivolous, and made without reasonable cause, which

1 was assigned case number A-17-763262-B. Korte opposed this Motion and hearings were  
2 set regarding the same. On January 11, 2018 when Korte filed its Complaint against UPA  
3 1, LLC, UNLV, Bridgeway Advisors, Wells Fargo Bank Northwest, N.A., as Trustee of  
4 the UNLV Student Housing Phase I Pass Through Trust Under the Pass-Through Trust  
5 Agreement and Declaration of Trust (“Wells Fargo”), which was assigned case number  
6 A-18-767674-C. Builder Services Group, Inc. dba Central Valley Insulation filed its  
7 Statement of Facts Constituting a Notice of Lien and Complaint in Intervention into A-  
8 18-767674-C. Helix Electric of Nevada, LLC dba Helix Electric filed a Complaint  
9 against Korte, University Park, LLC, UPA 1, LLC, and Travelers Casualty & Surety  
10 Company of America, which was assigned case number A-18-768969-B. These cases  
11 were consolidated. Helix Electric of Nevada, LLC and Builder Services Group, Inc. dba  
12 Central Valley Insulation have dismissed their claims. Since the time of filing initial  
13 pleadings filed in these consolidated cases, there have been counterclaims and  
14 crossclaims filed by UPA 1, LLC. The most recent pleadings are: Korte’s Second  
15 Amended Complaint filed on October 9, 2018; Bridgeway Advisors’ Answer to Second  
16 Amended Complaint of Korte Construction Company dba The Korte Company filed on  
17 October 18, 2018; UNLV’s Answer to Korte Construction Company dba The Korte  
18 Company’s Second Amended Complaint filed on October 29, 2018; UPA 1, LLC’s  
19 Answer to the Korte Company’s Second Amended Complaint, Amended Counterclaim  
20 against The Korte Company, and First Amended Cross Claim Against Travelers Casualty  
21 & Surety Company of America filed on October 30, 2018; Korte’s Answer to UPA 1,  
22 LLC’s Second [Sic] Amended Counterclaim filed on January 7, 2019; and Travelers  
23 Casualty & Surety Company of America’s Answer to UPA 1, LLC’s First Amended  
24 Cross Claim.

25 UNLV filed its Motion for Summary Judgment on August 1, 2019, requesting  
26 judgment on Korte’s unjust enrichment claim against it (the only claim Korte made  
27 against UNLV in its Second Amended Complaint). UPA 1, LLC (“UPA”) filed a Limited  
28 Joinder to UNLV’s Motion on August 6, 2019. Korte filed its Opposition to both the

1 Motion and Limited Joinder on August 19, 2019. UNLV filed its Reply in Support of its  
2 Motion on October 9, 2019. The Motion was heard on October 16, 2019.

3 10. This action is the result of a dispute between the general contractor (Korte) on a tenant  
4 improvement pursuant to a contract with the lessee of real property (UPA) owned by  
5 UNLV for construction of the University Park Project (now known as The Degree),  
6 which is described in relevant purchasing and lease documents as “student housing and  
7 certain commercial establishments.” The dispute is as to whether proper payment has  
8 been made to Korte by UPA pursuant to the construction contract between Korte and  
9 UPA. Korte has also made claims against the mechanic’s lien release bond recorded by  
10 UPA as principal and Hartford Fire Insurance Company as surety, against UNLV as the  
11 owner of the property under unjust enrichment principles as an alternate theory to Korte’s  
12 claims against UPA, and for payment from Wells Fargo as the holder of a purported  
13 construction disbursement account as an alternate theory to Korte’s claims against UPA.  
14 Korte has also alleged tortious interference with its construction contract with UPA  
15 against Bridgeway Advisors and other claims against UPA under NRS 108.2403 and  
16 NRS 624.610. UPA claims that Korte breached the construction contract by, including  
17 but not limited to, unlawfully terminating the construction contract, causing UPA delay  
18 and disruption damages, and claims that Korte is not entitled to additional funds. UPA  
19 has made a claim against Korte as principal and Travelers as surety on payment and  
20 performance bonds for its alleged damages, as well as breach of contract against Korte,  
21 breach of the implied covenant of good faith and fair dealing against Korte, and  
22 inappropriate exercise of NRS 624 against Korte.

23 This appeal involves only Korte’s unjust enrichment claim against UNLV. UNLV  
24 claimed, and the district court agreed, that Korte’s unjust enrichment claim is barred by  
25 Korte’s contract with UPA and the fact that a mechanic’s lien release bond has been  
26 recorded against the Property, to which Korte’s mechanic’s lien has attached. Appellant  
27 believes that the *Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12, 1975*,  
28 113 Nev. 747, 942 P.2d 182, 187 (1997) is directly in contravention of the Order granting



1 UNLV's Motion for Summary Judgment and that it otherwise should not have been  
2 granted for the reasons described in Korte's Opposition thereto. The Order Granting  
3 UNLV's Motion for Summary Judgment is a final and appealable order as to UNLV, as  
4 it adjudicates all pending claims against UNLV.

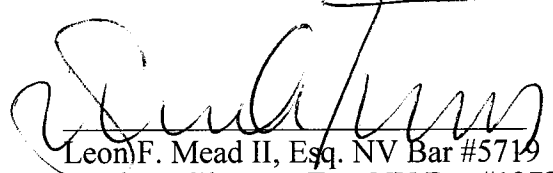
5 11. This case has not been previously subject to an appeal or original writ proceeding in the  
6 Supreme Court or Court of Appeals.

7 12. This case does not involve child custody or visitation.

8 13. This appeal does not involve the possibility of settlement.

9 Dated: March 2, 2020

MEAD LAW GROUP LLP

10  
11 

12 Leon F. Mead II, Esq. NV Bar #5719

13 Sarah M. Thomas, Esq. NV Bar #13725

14 7201 W Lake Mead Blvd., Suite 550  
15 Las Vegas, Nevada 89128

16 *Attorneys for Korte Construction Company*  
17 *dba The Korte Company*  
18  
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1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under the penalty of perjury, that I am over the age of eighteen  
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be  
4 served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** by method  
indicated below:

- 5 ☐ BY FAX: by transmitting via facsimile the document(s) listed above to the fax number(s)  
6 set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed  
7 transmission record is attached to the file copy of this document(s).
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14 delivered by [name of messenger service], a messenger person(s) at the address(es) set  
15 forth below.
- 16 ☒ BY ELECTRONIC SUBMISSION: submitted to the above entitled Court for electronic  
filing and service upon the Court's Service List for the above referenced case.
- 17 ☐ BY ELECTRONIC MAIL:

18 **Parties Served:**

19 Joshua H. Reisman, Esq.  
20 Glenn Machado, Esq.  
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Taylor Anello, Esq.  
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22 *Attorneys for Wells Fargo Bank Northwest*  
23 *N.A., as Trustee of the UNLV Student*  
24 *Housing Phase 1 Pass-Through Trust*  
25 *Agreement and Declaration of Trust*

*Attorneys for State of Nevada ex rel Board of*  
*Regents of the Nevada System of Higher*  
*Education, on behalf of University of*  
*Nevada, Las Vegas*

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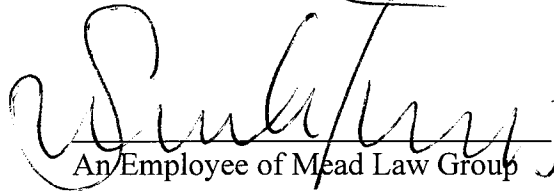
1 J. Steven Peek, Esq.  
2 Greg S. Gilbert, Esq.  
3 David J. Freeman, Esq.  
4 HOLLAND & HART LLP  
5 9555 Hillwood Drive, 2<sup>nd</sup> Floor  
6 Las Vegas, NV 89134

7 *Attorneys for UPA 1, LLC*

8 Dated: March 2, 2020

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PUZEY & THOMPSON  
400 South 4<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Las Vegas, NV 89101

*Attorneys for Bridgeway Advisors*

  
An Employee of Mead Law Group

**CASE SUMMARY****CASE NO. A-17-763262-B**

**UPA 1 LLC, Plaintiff(s)**  
**vs.**  
**Korte Company, Defendant(s)**

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§

Location: **Department 16**  
 Judicial Officer: **Williams, Timothy C.**  
 Filed on: **10/18/2017**  
 Case Number History:  
 Cross-Reference Case Number: **A763262**

**CASE INFORMATION****Related Cases**

A-18-767674-C (Consolidated)  
 A-18-768969-B (Consolidated)

Case Type: **Other Business Court Matters**

Case Status: **10/18/2017 Open**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-17-763262-B  
 Court Department 16  
 Date Assigned 07/05/2018  
 Judicial Officer Williams, Timothy C.

**PARTY INFORMATION**

<b>Plaintiff</b>	<b>UPA 1 LLC</b>	<i>Lead Attorneys</i>
		<b>Rodarti, Josef M.</b> <i>Retained</i> 949-831-0303(W)
<b>Defendant</b>	<b>Korte Company</b>	<b>Mead, Leon L.F, II</b> <i>Retained</i> 702-745-4800(W)
	<b>Travelers Casualty and Surety Company of America</b>	<b>Mead, Leon L.F, II</b> <i>Retained</i> 702-745-4800(W)
<b>Counter Defendant</b>	<b>Korte Company</b> Removed: 01/07/2019 Data Entry Error	<b>Mead, Leon L.F, II</b> <i>Retained</i> 702-745-4800(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

10/18/2017	 Initial Appearance Fee Disclosure Filed By: Plaintiff UPA 1 LLC <i>Initial Appearance Fee Disclosure</i>
10/18/2017	 Motion for Frivolous Lien Filed By: Plaintiff UPA 1 LLC <i>Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)</i>
10/31/2017	 Proof of Service Filed by: Plaintiff UPA 1 LLC <i>Proof of Service of The Korte Company</i>
11/01/2017	 Order Shortening Time Filed By: Plaintiff UPA 1 LLC

# CASE SUMMARY













CASE NO. A-17-763262-B

*Ex Parte Application to Shorten Time to Hear Plaintiff's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

11/07/2017	 Notice of Appearance Party: Defendant Korte Company <i>Notice of Appearance for The Korte Company</i>
11/07/2017	 Initial Appearance Fee Disclosure Filed By: Defendant Korte Company <i>Initial Appearance Fee Disclosure</i>
11/08/2017	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
11/09/2017	 Affidavit Filed By: Defendant Korte Company <i>Affidavit of Greg Korte in Support of Opposition to Motion Requesting Court to Show Cause Pursuant to NRS 108.2275(1) and Exhibits A through F</i>
11/09/2017	 Opposition to Motion Filed By: Defendant Korte Company <i>Opposition to Motion Requesting Order to Show Cause Pursuant to NRS108.2275(1)</i>
11/13/2017	 Exhibits Filed By: Defendant Korte Company <i>Exhibit G to Affidavit of Greg Korte</i>
11/15/2017	 Reply to Opposition Filed by: Plaintiff UPA 1 LLC <i>Plaintiff's Reply to Defendant The Korte Company's Opposition to Motion Requesting Court to Show Cause Pursuant to NRS 108.2275(1)</i>
11/21/2017	 Motion to Associate Counsel Filed By: Plaintiff UPA 1 LLC <i>Motion to Associate Counsel</i>
11/30/2017	 Proof of Service Filed by: Plaintiff UPA 1 LLC <i>Proof of Service of Order Shortening Time to Hear Plaintiff's Motion to Associate Counsel</i>
11/30/2017	 Order Filed By: Plaintiff UPA 1 LLC <i>Ex Parte Application to Shorten Time to Hear Plaintiff's Motion to associate Counsel</i>
12/07/2017	 Stipulation and Order Filed by: Defendant Korte Company <i>Stipulation and Order to Move Hearing Date on Motion to Associate Counsel and Motion to Expunge</i>
12/07/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant Korte Company <i>Notice of Entry of Stipulation and Order to Move Hearing Date on Motion to Associate Counsel and Motion to Expunge</i>
01/09/2018	

**CASE SUMMARY**

**CASE NO. A-17-763262-B**

	 Stipulation and Order Filed by: Defendant Korte Company <i>Stipulation and Order to Continue Hearing Date on Motion to Associate Counsel and Motion to Expunge Lien</i>
01/10/2018	 Notice of Entry of Stipulation and Order Filed By: Defendant Korte Company <i>Notice of Entry of Stipulation and Order to Continue Hearing Date on Motion to Associate Counsel and Motion to Expunge Lien</i>
01/23/2018	 Reply in Support Filed By: Plaintiff UPA 1 LLC <i>Reply in Support of Motion to Associate Counsel</i>
01/23/2018	 Motion to Intervene Party: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>State of Nevada Ex. Rel. Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Motion to Intervene on Order Shortening Time</i>
01/24/2018	 Notice of Non Opposition Filed By: Defendant Korte Company <i>Notice of Conditional Non-Opposition to Motion to Intervene on Order Shortening Time</i>
01/24/2018	 Notice of Appearance Party: Plaintiff UPA 1 LLC <i>Notice of Appearance</i>
01/25/2018	 Request for Judicial Notice Filed By: Defendant Korte Company <i>Request for Judicial Notice</i>
01/29/2018	 Proof of Service Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Proof of Service-Mead Law Group</i>
01/29/2018	 Proof of Service Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Proof of Service-Grant Morris Dodds</i>
01/29/2018	 Proof of Service Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Proof of Service-Reisman Sorokac</i>
02/02/2018	 Order Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Order Granting Motion to Intervene</i>
02/02/2018	 Notice of Entry Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

**CASE SUMMARY**

**CASE NO. A-17-763262-B**

*Notice of Entry of Order Granting Motion to Intervene*

02/05/2018



Order to Show Cause

Filed by: Plaintiff UPA 1 LLC

*Order to Show Cause*

02/05/2018



Stipulation and Order

Filed by: Defendant Korte Company

*Stipulation and Order to Move Hearing Date on Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

02/06/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Korte Company

*Notice of Entry of Stipulation and Order to Move Hearing Date*

02/07/2018



Notice of Entry of Order

Filed By: Plaintiff UPA 1 LLC

*Notice of Entry of Order*

02/09/2018



Response

Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

*The Board of Regents of the Nevada System of Higher Education, On Behalf of the University of Nevada, Las Vegas' Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

02/09/2018



Appendix

Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

*Appendix To: The Board of Regents of the Nevada System of Higher Education, On Behalf of the University of Nevada, Las Vegas' Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

02/09/2018



Exhibits

Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

*Exhibit 1 Through 5 : Appendix To: The Board of Regents of the Nevada System of Higher Education, On Behalf of the University of Nevada, Las Vegas' Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

02/09/2018



Declaration

Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

*Declaration of David Frommer In Support of The Board of Regents of the Nevada System of Higher Education, On Behalf of the University of Nevada, Las Vegas' Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

02/13/2018



Response

Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

*Supplement to Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause*

02/14/2018



Order Granting Motion

Filed By: Plaintiff UPA 1 LLC

*Order Granting Motion to Associate Counsel*

02/14/2018

# CASE SUMMARY

CASE NO. A-17-763262-B

	 Initial Appearance Fee Disclosure Filed By: Plaintiff UPA 1 LLC <i>Initial Appearance Fee Disclosure</i>
02/15/2018	 Receipt of Copy <i>Receipt of Copy</i>
02/15/2018	 Notice of Entry of Order Filed By: Plaintiff UPA 1 LLC <i>Notice of Entry of Order</i>
02/15/2018	 Motion Filed By: Defendant Korte Company <i>Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, And A-17-763262-B</i>
02/15/2018	 Response Filed by: Plaintiff UPA 1 LLC; Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Supplemental response to UPA 1's Motion Requesting Court Order to Show Cause</i>
02/15/2018	 Ex Parte Application Party: Defendant Korte Company <i>Ex Parte Application to Shorten Time to Hear Motion to Consolidate; Declaration of Sarah Mead, Esq. in Support Thereof</i>
02/16/2018	 Reply Filed by: Defendant Korte Company <i>Reply in Response to Position of UNLV on Motion to Expunge Lien of The Korte Company</i>
02/16/2018	 Joinder Filed By: Plaintiff UPA 1 LLC <i>Limited Joinder to the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Response to UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)</i>
02/19/2018	 Notice of Appearance <i>Notice of Appearance of Counsel</i>
02/20/2018	 Affidavit of Service Filed By: Defendant Korte Company <i>Affidavit of Service of Order Shortening Time on Motion to Consolidate upon Central Valley Insulation</i>
02/20/2018	 Affidavit of Service Filed By: Defendant Korte Company <i>Affidavit of Service of Order Shortening Time on Motion to Consolidate upon Helix Electric</i>
02/20/2018	 Affidavit of Service Filed By: Defendant Korte Company <i>Affidavit of Service of Order Shortening Time on Motion to Consolidate upon UPA 1</i>
02/20/2018	 Affidavit of Service Filed By: Defendant Korte Company <i>Affidavit of Service of Order Shortening Time on Motion to Consolidate upon UNLV</i>



# CASE SUMMARY

CASE NO. A-17-763262-B

02/21/2018	 Substitution of Attorney <i>Substitution of Counsel</i>
02/23/2018	 Request for Special Notice <i>Notice of Special Appearance</i>
02/23/2018	 Opposition <i>Opposition to Korte's Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, and A-17-763262-B</i>
02/25/2018	 Reply in Support Filed By: Defendant Korte Company <i>Reply in Support of Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, and A-17-763262-B</i>
02/26/2018	 Notice Filed By: Other Dobberstein, Eric <i>Notice of Special Appearance</i>
02/26/2018	 Notice <i>Notice of Limited Opposition and Joinder to Helix's Opposition to Korte's Motion to Consolidate</i>
02/28/2018	 Joinder To Motion Filed By: Intervenor Dobberstein, Eric <i>Builder Services Group dba Central Valley Insulations's Joinder in Support of Korte's Opposition to UPAL's Motin Requesting Court Order to Show Cause</i>
03/02/2018	 Proof of Service Filed by: Other Builder Services Group <i>Proof of Service on Board of Regents</i>
03/05/2018	 Proof of Service Filed by: Other Builder Services Group <i>Proof of Service Wells Fargo Bank as trustee of UNLV Student Housing Phase 1</i>
03/05/2018	 Opposition Filed By: Other Helix Electric of Nevada, LLc dba Helix Electric <i>Helix's Reply and Joinder to Korte's Reply to UNLV's Response and Position on UPAL's Motion to Expunge Lien</i>
03/05/2018	 Appendix Filed By: Other Helix Electric of Nevada, LLc dba Helix Electric <i>Appendix A to: Helix's Reply and Joinder to Korte's Reply to UNLV's Response and Position on UPAL's Motion to Expunge Lien</i>
03/05/2018	 Exhibits Filed By: Other Helix Electric of Nevada, LLc dba Helix Electric <i>Exhibits 1-11 to: Helix's Reply and Joinder to Korte's Reply to UNLV's Response and Position on UPAL's Motion to Expunge Lien</i>
03/08/2018	 Reply in Support Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education

# CASE SUMMARY

CASE NO. A-17-763262-B

*The Board of Regent's Sur-Reply In Support Of Its Response to UPA's Motion Requesting Court Order to Show Cause*

03/08/2018



Reply

Filed by: Plaintiff UPA 1 LLC  
*UPA 1, LLC's Reply to the Korte Company's Reply In Response to Position of UNLV On Motion to Expunge Lien of the Korte Company*

03/15/2018



Order

Filed By: Defendant Korte Company  
*Order Granting Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, and A-17-763262-B*

03/15/2018



Order

*Order on Plaintiff UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

03/16/2018



Notice of Entry of Order

*Notice of Entry of Order on Plaintiff UPA 1, LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

03/16/2018



Notice of Entry

Filed By: Defendant Korte Company  
*Notice of Entry of Order Granting Motion to Consolidate*

04/02/2018



Media Request and Order

*Media Request And Order Allowing Camera Access To Court Proceedings*

04/03/2018



Answer to Amended Complaint

Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education  
*(A767674) State of Nevada on Relation of the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Answer to Korte Construction Company dba The Korte Company's Amended Complaint*

04/05/2018



Answer to Amended Complaint

Filed By: Other Wells Fargo Bank Northwest, N.A.  
*(A767674) Defendant Wells Fargo Bank Northwest, N.A., as Trustee of the UNLV Student Housing Phase I Pass Through Trust Under the Pass-Through Trust Agreement and Declaration of Trust's Answer to Korte Construction Company dba The Korte Company's Amended Complaint Filed in A-18-767674-C*

04/06/2018



Answer

Filed By: Plaintiff UPA 1 LLC  
*(A763262, A767674, A768969) UPA 1, LLC's Answer to The Korte Company and Helix Electric of Nevada, LLC's Complaints and Cross Claim Against Travelers Casualty & Surety Company of America and Counterclaim Against The Korte Company*

04/12/2018



Stipulation and Order

Filed by: Defendant Korte Company  
*Stipulation and Order to Move Status Check Currently Scheduled for April 10, 2018*

04/12/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Korte Company  
*Notice of Entry of Stipulation and Order to Move Status Check Currently Scheduled for April 10, 2018*

# CASE SUMMARY

CASE NO. A-17-763262-B

04/23/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Korte Company <i>Findings of Fact and Conclusions of Law Regarding UNLV's Joinder in Petition and Order to Show Cause Why Korte Construction Company's Lien Should Not Be Expunged and Order Denying the Same</i>
04/23/2018	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Korte Company <i>Notice of Entry of Findings of Fact and Conclusions of Law Regarding UNLV's Joinder in Petition and Order to Show Cause Why Korte Construction Company's Lien Should Not Be Expunged and Order Denying Same</i>
04/24/2018	 Crossclaim (A767674, A768969) UPA 1, LLC's Amended Cross Claim Against Travelers Casualty & Surety Company of America and Counterclaim Against the Korte Company
04/25/2018	 Business Court Order <i>Business Court Order</i>
05/01/2018	 Order <i>Order Regarding March 13, 2018 Evidentiary Hearing and All Pending MOTions</i>
05/01/2018	 Notice of Entry of Order <i>Notice of Entry of Order Regarding March 13, 2018 Evidentiary Hearing and All Pending Motions</i>
05/03/2018	 Errata Filed By: Plaintiff UPA 1 LLC <i>UPA 1, LLC's Notice of Errata to the Amended Cross Claim Against Travelers Casualty &amp; Surety Company of America and Counterclaim Against the Korte Company Filed on April 24, 2018</i>
05/03/2018	 Amended Answer Filed By: Plaintiff UPA 1 LLC <i>Errata UPA 1, LLC's Answer to the Korte Company's Amended Complaint and Counterclaim Against the Korte Company and UPA 1, LLC's Answer to the Helix Electric of Nevada, LLC's Complaint and First Amended Cross Claim Against Travelers Casualty &amp; Surety Company of America</i>
05/08/2018	 Stipulation and Order <i>Stipulation and Order to Move Status Check Currently Scheduled for April 24, 2018</i>
05/11/2018	 Stipulation and Order <i>Stipulation and Order to Move Status Check Currently Scheduled for May 8, 2018</i>
05/14/2018	 Answer to Crossclaim (A768969) Travelers Casualty and Surety Company of America's Answer to UPA 1, LLC's First Amended Cross Claim
05/17/2018	 Motion to Dismiss Filed By: Defendant Korte Company <i>The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim</i>
06/01/2018	 Notice

# CASE SUMMARY

CASE NO. A-17-763262-B

*Notice of Recording of Mechanic's Release of Lien Bonds*

06/04/2018	 Opposition to Motion Filed By: Other Wells Fargo Bank Northwest, N.A. <i>Limited Opposition to The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim</i>
06/04/2018	 Opposition to Motion to Dismiss Filed By: Plaintiff UPA 1 LLC <i>UPA 1, LLC's Opposition to The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim</i>
06/12/2018	 Reply in Support Filed By: Defendant Korte Company <i>The Korte Company's Reply in Support of Motion to Dismiss UPA 1, LLC's Counterclaim</i>
06/12/2018	 Notice <i>Notice of Rescheduled Early Case Conference Pursuant to NRCP 16.1</i>
06/13/2018	 Stipulation and Order Filed by: Other Helix Electric of Nevada, LLc dba Helix Electric <i>(A768969) Stipulation and Order for Dismissal with Prejudice Certain Claims and Cuases of Action</i>
06/13/2018	 Notice of Entry of Stipulation & Order for Dismissal Filed By: Other Helix Electric of Nevada, LLc dba Helix Electric <i>Notice of Entry of Order</i>
06/15/2018	 Stipulation and Order for Dismissal With Prejudice Filed By: Other Builder Services Group <i>(A763262, A767674)Stipulation and Order for Dismissal With Prejudice</i>
06/18/2018	 Notice of Entry of Order Filed By: Other Dobberstein, Eric <i>Notice of Entry of Order</i>
06/21/2018	 Order Setting Settlement Conference <i>Order Setting Settlement Conference</i>
06/26/2018	 Order Setting Civil Non-Jury Trial and Calendar Call <i>Business Court Scheduling Order Setting Civil Non-Jury Trial and Pre-Trial/Calendar Call</i>
06/29/2018	 Amended Order Setting Civil Non-Jury Trial <i>Amended Order Setting Civil Non-Jury Trial and Calendar Call</i>
08/01/2018	 Order Filed By: Defendant Korte Company <i>(A767674) Order Granting in Part and Denying in Part The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim</i>
08/01/2018	 Notice of Entry of Order Filed By: Defendant Korte Company <i>(A767674)Notice of Entry of Order Granting in Part and Denying in Part The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim</i>

# CASE SUMMARY







CASE NO. A-17-763262-B

09/07/2018	 Amended Order Setting Civil Non-Jury Trial <i>Amended Order Setting Civil Non-Jury Trial</i>
09/12/2018	 Order <i>Order Setting Deadline to Submit Pre-Trial Memorandum</i>
10/03/2018	 Stipulation and Order <i>Stipulation and Order to Extend Settlement Conference, Discovery Deadline Dates and Continue Trial (Second Request)</i>
10/09/2018	 Amended Order Setting Civil Non-Jury Trial <i>3rd Amended Order Setting Civil Non-Jury Trial Trial, Calendar Call, and Deadlines for Motions</i>
10/09/2018	 Stipulation and Order Filed by: Defendant Korte Company <i>Stipulation and Order to Permit The Korte Company to File Second Amended Complaint</i>
10/09/2018	 Notice of Entry of Stipulation and Order Filed By: Defendant Korte Company <i>Notice of Entry of Stipulation and Order to Permit The Korte Company to File Second Amended Complaint</i>
10/09/2018	 Amended Complaint Filed By: Defendant Korte Company <i>The Korte Company's Second Amended Complaint</i>
10/18/2018	 Answer to Amended Complaint Filed By: Consolidated Case Party Bridgeway Advisors <i>Defendant Bridgeway Advisors' Answer to Second Amended Complaint of Korte Construction Company dba the Korte Company</i>
10/29/2018	 Answer to Amended Complaint Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>State Of Nevada On Relation of The Board Of Regents of The Nevada System of Higher Education, On Behalf Of The University Of Nevada, Las Vegas Answer to Korte Construction Company DBA The Korte Company s Second Amended Complaint</i>
10/30/2018	 Answer <i>UPA 1, LLC's Answer to the Korte Company's Second Amended Complaint, Amended Counterclaim Against The Korte Company, and First Amended Cross Claim Against Travelers Casualty &amp; Surety Company of America</i>
11/06/2018	 Answer Filed By: Other Wells Fargo Bank Northwest, N.A. <i>Defendant Wells Fargo Bank Northwest, N.A. as Trustee of the UNLV Student Housing Phase I Pass Through Trust Under the Pass-Through Trust Agreement and Delcaration of trust's answer to Korte Construction Company dba the Korte Company's Second Amended Complaint</i>
11/08/2018	 Notice <i>(A763262 , A768969, A767674) Notice of Disassociation of Consel</i>
01/07/2019	 Answer Filed By: Defendant Korte Company

# CASE SUMMARY

CASE NO. A-17-763262-B

*Counter-Defendant The Korte Company's Answer to UPA 1, LLC's Second (sic) Amended Counterclaim*

01/07/2019	 Answer Filed By: Defendant Travelers Casualty and Surety Company of America <i>Travelers Casualty and Surety Company of America's Answer to UPA 1, LLC's First Amended Crossclaim</i>
01/24/2019	 Amended Order Setting Civil Non-Jury Trial <i>4th Amended Order Setting Civil Non-Jury Trial, Calendar Call, and Deadlines for Motions</i>
01/25/2019	 Stipulation and Order Filed by: Defendant Korte Company <i>Stipulation and Order to Extend Discovery Deadlines</i>
01/25/2019	 Notice of Entry Filed By: Defendant Korte Company <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadlines</i>
03/15/2019	 Stipulation and Order Filed by: Plaintiff UPA 1 LLC <i>Stipulation and Order to Extend Discovery Deadline Dates (Fourth Request)</i>
03/15/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff UPA 1 LLC <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadline Dates</i>
03/18/2019	 Notice of Change of Address Filed By: Defendant Korte Company <i>Notice of Firm Address Change</i>
06/04/2019	 Stipulation and Order Filed by: Plaintiff UPA 1 LLC <i>Stipulation and Order to Extend Discovery Deadline Dates and Continue Trial</i>
06/04/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff UPA 1 LLC <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadline Dates and Continue Trial</i>
06/05/2019	 Amended Order Setting Civil Non-Jury Trial <i>Amended Order Setting Civil Non-Jury Trial</i>
08/01/2019	 Motion for Summary Judgment Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>State of Nevada on Relation of the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Motion for Summary Judgment</i>
08/01/2019	 Declaration Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Declaration of David Frommer in Support of The State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University Of Nevada, Las Vegas Motion for Summary Judgment</i>

**CASE SUMMARY**

**CASE NO. A-17-763262-B**

08/01/2019	 Request for Judicial Notice Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Request for Judicial Notice</i>
08/02/2019	 Request Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Request for Hearing on State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Motion for Summary Judgment</i>
08/05/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/06/2019	 Joinder Filed By: Plaintiff UPA 1 LLC <i>UPA 1, LLC's Limited Joinder to UNLV's Motion for Summary Judgment</i>
08/15/2019	 Stipulation and Order Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Stipulation and Order to Move Hearing Date on State of Nevada on Relation of the Board of Regents of The Nevada System of Higher Education, on behalf of The University of Nevada, Las Vegas Motion for Summary Judgment</i>
08/16/2019	 Notice of Entry of Stipulation and Order Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Notice of Entry of Stipulation and Order to Move Hearing Date on State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Motion for Summary Judgment</i>
08/19/2019	 Opposition to Motion Filed By: Defendant Korte Company <i>The Korte Company's Opposition to Motion for Summary Judgment and Joinder thereto</i>
08/19/2019	 Affidavit Filed By: Defendant Korte Company <i>Affidavit of Todd Korte in Support of Opposition to Motion for Summary Judgment</i>
08/19/2019	 Affidavit Filed By: Defendant Korte Company <i>Affidavit of Greg Korte in Support of Opposition to Motion for Summary Judgment</i>
08/19/2019	 Declaration Filed By: Defendant Korte Company <i>Declaration of Sarah Thomas, Esq. in Support of Motion for Summary Judgment</i>
10/09/2019	 Reply in Support Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Reply in Support of Motion for</i>



# CASE SUMMARY

CASE NO. A-17-763262-B

## Summary Judgment

12/13/2019	 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Defendant Korte Company <i>Korte Company's 10th Supplement to Initial Disclosure of Documents and Witnesses</i>
12/18/2019	 Stipulation and Order Filed by: Plaintiff UPA 1 LLC <i>Stipulation and Order to Continue Rebuttal Expert Date</i>
12/19/2019	 Notice of Entry Filed By: Plaintiff UPA 1 LLC <i>Notice of Entry of Stipulation and Order to Continue to Rebuttal Expert Date</i>
01/14/2020	 Stipulation and Order Filed by: Defendant Korte Company <i>Stipulation and Order</i>
01/14/2020	 Notice of Entry of Stipulation and Order Filed By: Defendant Korte Company <i>Notice of Entry of Stipulation and Order</i>
01/27/2020	 Motion to Extend Discovery Filed By: Defendant Korte Company <i>Motion to Extend Discovery Deadlines and Trial Setting</i>
01/28/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/06/2020	 Findings of Fact, Conclusions of Law and Judgment Filed by: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Order Granting State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Motion for Summary Judgment and UPA1, LLC s Joinder Thereto, Findings of Fact, and Conclusions of Law</i>
02/06/2020	 Notice of Entry of Order Filed By: Intervenor State of Nevada Board of Regents of the Nevada System of Higher Education <i>Notice of Entry of Order Granting State of Nevada on Relation of the Board of Regents of the Nevada System of Higher Education, on behalf of the University of Nevada, Las Vegas Motion for Summary Judgment and UPA1, LLC s Joinder Thereto, Findings of Fact, and Conclusions of Law</i>
02/07/2020	 Notice of Hearing <i>Notice of Hearing</i>
02/20/2020	 Amended Order Setting Civil Non-Jury Trial <i>6th Amended Order Setting Civil Non-Jury Trial, Calendar Call, and Deadlines for Motions</i>
03/02/2020	 Notice of Appeal Filed By: Defendant Korte Company <i>Notice of Appeal</i>
03/02/2020	 Case Appeal Statement



# CASE SUMMARY

CASE NO. A-17-763262-B

Filed By: Defendant Korte Company  
Case Appeal Statement

## DISPOSITIONS

06/15/2018


**Order of Dismissal With Prejudice** (Judicial Officer: Delaney, Kathleen E.)  
Debtors: State of Nevada Board of Regents of the Nevada System of Higher Education (Intervenor), Eric Dobberstein (Intervenor)  
Creditors: Builder Services Group (Other)  
Judgment: 06/15/2018, Docketed: 06/18/2018

02/06/2020

**Summary Judgment** (Judicial Officer: Williams, Timothy C.)  
Debtors: Korte Company (Defendant)  
Creditors: UPA 1 LLC (Plaintiff), State of Nevada Board of Regents of the Nevada System of Higher Education (Intervenor)  
Judgment: 02/06/2020, Docketed: 02/06/2020

## HEARINGS

11/21/2017

 **Motion** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)  
**11/21/2017, 12/07/2017, 01/30/2018, 02/20/2018, 03/13/2018**  
*Plaintiff's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*  
Business Court Request in filed Notice of Appearance filed 11/7/17  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Motion Denied;  
Business Court Request in filed Notice of Appearance filed 11/7/17  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Motion Denied;  
Business Court Request in filed Notice of Appearance filed 11/7/17  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Motion Denied;  
Business Court Request in filed Notice of Appearance filed 11/7/17  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Motion Denied;  
Business Court Request in filed Notice of Appearance filed 11/7/17  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Motion Denied;  
Journal Entry Details:

*Also present, Ryan Heydon and Amanda Manahan, Esq. on behalf of Pltf. Mr. Mead stated an Order to Show Cause has not been issued, only an Order to Appear on Order Shortening Time was issued. COURT NOTED, this case was inherited by this department; the Court could hear argument if the parties felt there was something to flesh out. Each side has procedural qualms. Mr. Morris stated the matter is not as complicated as it would appear; this was properly noticed. Further arguing, procedurally Pltf. is within the bounds of this Court hearing this matter today, it has been properly briefed. Argument by Mr. Morris regarding service and perfection of the lien. COURT ADVISED, it needs time to do the matter justice, the brief was received very late the previous day; the Court has not had time to truly digest all of the parties*

# CASE SUMMARY

CASE NO. A-17-763262-B

concerns. Following colloquy regarding scheduling, COURT ORDERED, matter CONTINUED. CONTINUED TO: 12/07/17 9:00 A.M.;

12/07/2017

**Motion to Associate Counsel** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)  
**12/07/2017, 01/30/2018**

*Plaintiff's Motion to Associate Counsel*

Matter Continued;

Motion Granted;

Matter Continued;

Motion Granted;

12/07/2017



**All Pending Motions** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

Journal Entry Details:

*PLTF'S. MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275 (1)...PLTF'S. MOTION TO ASSOCIATE COUNSEL Ms. Mead provided the Stipulation and Order to Move the Show Cause Hearing and Motion to Associate Counsel. COURT SIGNED the Stipulation and Order IN OPEN COURT, and ORDERED, matters CONTINUED. CONTINUED TO: 01/02/18 9:00 A.M. (BOTH);*

01/30/2018

**Motion to Intervene** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Events: 01/23/2018 Motion to Intervene

*State of Nevada Ex. Rel. Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas' Motion to Intervene on Order Shortening Time*  
Motion Granted;

01/30/2018



**All Pending Motions** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

Journal Entry Details:

*Amanda Manahan, Esq. and Josef Rodarti, Esq. present on behalf of Pltf. PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275 (1)...PLTF'S MOTION TO ASSOCIATE COUNSEL...STATE OF NEVADA EX. REL. BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION TO INTERVENE ON ORDER SHORTENING TIME STATE OF NEVADA EX. REL. BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION TO INTERVENE ON ORDER SHORTENING TIME COURT ORDERED, Motion GRANTED. Ms. Alexander stated she will provide the Order. PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1) COURT NOTED there is a STIPULATION to CONTINUE the Motion. Ms. Mead stated the parties have agreed upon a date. COURT ORDERED, matter CONTINUED. Colloquy regarding how the Hearing would proceed. COURT ADVISED, Ms. Alexander's Response DUE 02/09/18, Deft's Reply DUE 02/16/18. PLTF'S MOTION TO ASSOCIATE COUNSEL Extensive argument by counsel regarding Mr. Rodarti's involvement, knowledge of and relationship with the company, if he could be called as a witness, the need for counsel to be able to speak with their client, the likelihood of cases being consolidated, and the expertise Mr. Rodarti and Ms. Manahan would offer. COURT ORDERED, Motion to Associate Counsel GRANTED, and STATED ITS FINDINGS; under Rule 42 the requirements have been met. The Motion to Disqualify is DENIED WITHOUT PREJUDICE. COURT NOTED, if Mr. Rodarti is a key witness he and his office could be excluded as counsel in Court. Pltf's. counsel is to prepare the Order, provide a copy to opposing counsel for review as to form and content and return it back to the Court within 10 days. Colloquy regarding the letter the Court received and considered as the opposition to the Motion. COURT INSTRUCTED Ms. Alexander to caption the letter as the opposition and note that the Court requested it be FILED as a housekeeping matter. 02/20/18 9:00 A.M. PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1);*

02/20/2018

**Show Cause Hearing** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

02/20/2018



**All Pending Motions** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

Matter Continued;

# CASE SUMMARY

CASE NO. A-17-763262-B

Journal Entry Details:

*PLAINTIFF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275 (1) ... SHOW CAUSE HEARING Gregg Albert, Esq., present on behalf of UPA 1 LLC. Cary Domina, Esq., present on behalf of Helix Electric and Zitting Brothers. Eric Dobberstein, Esq., present on behalf of Central Valley Installation. Colloquy regarding, briefing schedule and Motion to Consolidate. COURT ORDERED, responses for Motion to Consolidate due Friday; Subcontractor's filings are to be done by March 5th and last replies due by March 8th. COURT FURTHER ORDERED, matters CONTINUED. Colloquy regarding issues and arguments. CONTINUED TO: 03/13/18 1:30 PM;*

02/27/2018



**Motion to Consolidate** (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)

*Defendant's Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, And A-17-763262-B*

Granted;

Journal Entry Details:

*Parties present: Leon L. F. Mead, II, Esq. on behalf of Korte Company Cary Domina, Esq. on behalf of Helix Electric of Nevada, LLC Greg Gilbert, Esq. on behalf of UPA1 LLC Eric Dobberstein, Esq. on behalf of Central Valley Insulation Arguments by counsel regarding the merits of and opposition to the pending motion. Court stated its findings and ORDERED Defendant's Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, And A-17-763262-B GRANTED, evidentiary hearing on March 13, 2018 STANDS. Mr. Mead to prepare the order and provide it to all other counsel. -----CONSOLIDATED WITH A767674 & A768969-----  
LEAD CASE-----;*

03/13/2018

**Evidentiary Hearing** (1:30 PM) (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

03/13/2018

**Joinder** (1:30 PM) (Judicial Officer: Delaney, Kathleen E.)

*Builder Services Group Inc dba Central Valley Insulation's Joinder in Support of Korte's Opposition to UpA1 LLC's Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275(1)*

Matter Heard;

03/13/2018



**All Pending Motions** (1:30 PM) (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

Journal Entry Details:

*PLTFS' UPA 1, LLC'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1)...EVIDENTIARY HEARING...BUILDER SERVICES GROUP, INC DBA CENTRAL VALLEY INSULATION'S JOINDER IN SUPPORT OF KORTE'S OPPOSITION TO UPA 1, LLC'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2775(1) Eric Midby, representative for Pltf. and Greg Korte, President of Korte Construction, present. Court was presented with a Media Request by KTNV this morning, stated Supreme Court Rule 230 to the parties and inquired if the parties are objecting. All parties advised they have no objection. Court stated FINDINGS and ORDERED, request GRANTED. Mr. Gilbert stated there are three issues he and counsel will be discussing today. Further, UPA 1, developer, and Korte, former builder, moved sub-contractors from Korte to UPA 1 who will be completing project. As to the lien for approximately 20 millions dollars and has now been amended to \$8,499,308.66 which is the correct lien recorded. Counsel and counsel for Korte, reached the following agreement that the evidentiary hearing does not need to go forward today, every sub-contractors lien resolved will reduce Korte lien, will have lien releases in place, sub-contractors who resolve with UPA 1 will be signed, recorded and Korte will reduce lien. Mr. Mead stated lien made up what is owed to Korte as well as the sub-contractors to the extent they can be removed and Korte not responsible, lien number will come down. Court agrees evidentiary hearing will not go forward for at least 30 days. Ms. Alexander argued mechanics lien cannot attach to public land. Further, the land is for student housing, building be constructed and overall purpose does not change here. The University must provide to the students, land owned by private entity who developed apartments which falls under private use. On campus, there is land to market and use for student, requested lien be expunged and does not oppose a new lien being posted and attached to lease hold interest. Mr. Mead argued land being used for private project access. Further, as to work improvement, Mr. Mead argued all parcels are included in this project, need to look at scheme, noted no discovery yet and counsel would like to look at entire scheme. Additionally, entire center one project, includes taking down structures and*

**CASE SUMMARY****CASE NO. A-17-763262-B**

putting up new ones. Korte not here to encumber property, Korte will do analysis and may release parcels if not part of work. Mr. Dobberstein argued need to weigh whether public or private project, should be allowed to be liened and argued private project. Further, Mr. Dobberstein advised UNLV and UPA 1 did not follow public work statute. Mr. Zimbelman argued private project and further argued right to lien. Argument by Mr. Gilbert. Ms. Alexander argued intent of lease is to support UNLV and the students. Further, Ms. Alexander stated apartments fall under the jurisdiction of UNLV Police, argued clearly a partnership, have sovereign immunity, Korte did not follow the rules, no pre-lien notice filed that is required and UNLV sent permit to Korte. Korte new all along this was a UNLV project, advised Korte and UPA 1 agreed to hold off on evidentiary hearing, but UNLV did not, have witnesses here today to testify. Additionally, Ms. Alexander argued parcels one through four, Korte had nothing to do with, only did work on parcels five through nine. Court stated evidentiary hearing is being held off to see where parties are going. As to UNLV's argument as to the lien being successive because it goes beyond the scope of work Korte is doing, **COURT ORDERED, DENIED WITHOUT PREJUDICE**. As to issue of public land, **COURT ORDERED, UNLV'S request to find lien cannot attach to it's public property DENIED**. The Court is persuaded primarily by the arguments that there is a requirement under the current statutory scheme to understand what type of project this is and this does appear squarely a dominantly private project for the commercial benefit of UPA to some degree having some public benefit. Mr. Mead to produce an order that addresses this as denial of UNLV's show cause request that the lien does not attach to their aspect of ownership of this land and **DENIED WITHOUT PREJUDICE** as to the excessiveness of the lien. Mr. Gilbert stated with regard to what was constructed and what will be finished is without question a apartment complex for residential purposes and the commercial aspects that relate to the student housing facility some how changes it into what the statute intended as commercial. This is primarily and majority to be used for student housing and residential housing. Further, Mr. Gilbert argued 15 day notice required to UNLV and UPA 1. Remedy counsel suggests, Korte re-file mechanic lien and do so pursuant to the notice requirement. Colloquy. Additionally, Mr. Gilbert stated UPA 1 and Korte have agreed to amend current lien that is clouding title. Mr. Mead argued lease actually contemplates commercial tenants and commercial businesses. Further, this is also not a project that would be rented out to a family that my come along, the purpose of the 15 day notice to lien is not to address a situation like this where there is an ongoing dispute between UPA 1 and Korte over payment. It should come as no shock to UPA 1 that the mechanics lien was going to be recorded. Further, the purpose of 15 day notice is in a residential facility that is going to close a sale and that is not the problem here. There is no sale of this building, recording of the lien has done nothing to harm anyone and no change would of occurred had 15 day notice been given. Additionally, Mr. Mead argued substantial compliance is all that is necessary when the party who was to receive notice cannot show prejudice. There has been no demonstration of prejudice in this circumstance at all and the requirement to give 15 day notice would serve no actual purpose. Therefore, counsel believes notice does not need to be recorded because it is not a residential project and also think no harm, no fall. Mr. Zimbelman stated the prior argument was not made against Helix and did not address. Further, counsel advised 15 day notice already done. Mr. Dobberstein stated did not do 15 day notice, same reason Korte did not do one, never thought it was a residential property as it falls under the statute and counsel believes lien amount is being discussed as part of work out between UPA 1 and Korte. Mr. Gilbert argued not being put on notice does have tangible harm to UPA, did create problems with UPA 1's lender. UPA will demonstrate failure to provide notice created harm and reserves right to do that at trial. Court **FINDS** project is enough of an apartment situation that the 15 day notice applies and is preserved. Further, remedy will be allowed to be sought at time of trial. **COURT ORDERED, ultimate DENIAL of Pltf's Order to Show Cause**. Mr. Gilbert to prepare order. **FURTHER ORDERED, matter SET for status check. 4/10/18 9:00 AM STATUS CHECK: RESETTING OF EVIDENTIARY HEARING / NEGOTIATIONS AS TO MECHANIC'S LIEN;**

04/10/2018

**Status Check (9:00 AM)** (Judicial Officer: Delaney, Kathleen E.)**04/10/2018, 04/24/2018, 05/08/2018, 05/22/2018**Status Check Re: *Resetting of Evidentiary Hearing / Negotiations as to Mechanic's Liens*

Off Calendar;

Matter Continued;

Matter Continued;

Off Calendar;

Journal Entry Details:

Also present, Donna Dimaggio, Esq. on behalf of Bridgeway Advisors and Glenn Machado, Esq. on behalf of Wells Fargo Bank. Upon Court's inquiry, Mr. Gilbert stated the parties are making good progress; he and Mr. Mead have gone through the Korte lien and tried to focus on how that is functioning. An amended lien is to be filed today; today's matter can be taken

# CASE SUMMARY

CASE NO. A-17-763262-B

off calendar. Mr. Gilbert clarified, an Amended Motion will be filed if necessary if the numbers change significantly. Mr. Mead stated there is still a dispute; there is a Second Amended Lien that was recorded and will be served today. Adding he concurs with Mr. Gilbert the matter can be taken off calendar. Mr. Gilbert noted to the degree he re-files something Pltf. would have the same rights and remedies; Pltf. is not waiving anything. Mr. Mead stated this is without prejudice. With there being no objection from any of the parties present, COURT ORDERED, matter OFF CALENDAR, and following colloquy regarding scheduling, FURTHER ORDERED, the Mandatory Rule 16 Conference RESET. 06.19.18 10:30 A.M. MANDATORY RULE 16 CONFERENCE;

Off Calendar;

Matter Continued;

Matter Continued;

Off Calendar;

Journal Entry Details:

COURT NOTED a Stipulation and Order was received, the matter has been RESET to 05/22/18 at the request of the parties. Mr. Mead stated the parties are speaking, they need to complete the Mandatory 16.1 Conference and need a status conference for all parties to get the matter going forward with regard to discovery. COURT ADVISED, the parties want the matter continued they are to be specific as to what they want for and provide a date where all parties can appear, and ORDERED, matter OFF CALENDAR as CONTINUED through a Stipulation and Order. CONTINUED TO: 05/22/18 9:00 A.M.;

Off Calendar;

Matter Continued;

Matter Continued;

Off Calendar;

Journal Entry Details:

No Parties Present. COURT ADVISED there was that some of the parties, but not all of the parties, participated in a Stipulation and Order (S&O) to Continue today's matter. Not all parties were included, the counter argument was all the relevant parties were included in the S&O. COURT ORDERED, matter CONTINUED. CONTINUED TO: 05/08/18 9:00 A.M. CLERK'S NOTE: A copy of this minute order was electronically served on all registered parties. /sb 05/24/18;

Off Calendar;

Matter Continued;

Matter Continued;

Off Calendar;

Journal Entry Details:

No Parties Present. COURT ADVISED a Stipulation and Order to Continue was received, therefore, matter OFF CALENDAR; to be reset to a future date agreeable upon by the parties. CLERK'S NOTE: A copy of this minute order was electronically served on all registered counsel. / sb 04/13/18 ;

05/29/2018

**CANCELED Motion for Summary Judgment (9:00 AM)** (Judicial Officer: Delaney, Kathleen E.)

*Vacated - On in Error*

*Plaintiff's Motion for Summary Judgment*

06/19/2018

**Motion to Dismiss (9:00 AM)** (Judicial Officer: Delaney, Kathleen E.)

*The Korte Company's Motion to Dismiss UPA 1, LLC's Counterclaim*

Granted in Part;

06/19/2018



**All Pending Motions (9:00 AM)** (Judicial Officer: Delaney, Kathleen E.)

Matter Heard;

Journal Entry Details:

THE KORTE COMPANY'S MOTION TO DISMISS UPA 1, LLC'S COUNTERCLAIM...MANDATORY RULE 16 CONFERENCE Also present, Ms. Donna DiMaggio on behalf of Bridgeway Advisors. THE KORTE COMPANY'S MOTION TO DISMISS UPA 1, LLC'S COUNTERCLAIM Argument on the merits of the motion, the negligence claims, who would do the work if their truly is water damage and the extent of the damage, allegations of a breach of contract, the contract provisions, and the economic loss doctrine. COURT STATED FINDINGS and ORDERED, Motion GRANTED as to the Negligence claim as pled, Motion DENIED as to the 5th Cause of Action. Ms. Mead is to prepare the Order, provide a copy to opposing counsel for review as to form and content and return it back to the Court within 10 days. MANDATORY RULE 16 CONFERENCE Ms. Mead



# CASE SUMMARY

CASE NO. A-17-763262-B

*stated the parties meet yesterday and completed the Early Case Conference Report (ECCR). There is an agreement between the parties for a SIX (6) month discovery period, 14 days from today there will be an exchange of initial disclosures. They will leave UNLV Student Housing Phase I (Las Vegas, NV) claim for unjust enrichment, the parties do not believe a Special Master is required for the case; the parties agree to electronic discovery. Additionally, the parties agree to speak about a protective order and if it would necessary; they need to speak with their clients. Following colloquy regarding the benefits of setting a Settlement Conference and scheduling, COURT FURTHER ORDERED, the discovery cut-off date will be 12/28/18, a Settlement Conference and Trial date SET; the Court will ISSUE a scheduling order. 09/24/18 10:30 A.M. SETTLEMENT CONFERENCE (DC 11) 03/05/19 10:30 A.M. PRETRIAL / CALENDAR CALL 03/11/19 10:30 A.M. BENCH TRIAL;*

06/19/2018	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) see 05/22/18 mo Settlement Conference Ordered;
09/24/2018	<b>CANCELED Settlement Conference</b> (10:30 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated</i>
03/05/2019	<b>CANCELED Pretrial/Calendar Call</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - Superseding Order</i>
03/11/2019	<b>CANCELED Bench Trial</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - Superseding Order</i>
03/21/2019	<b>CANCELED Status Check</b> (9:00 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
05/14/2019	<b>CANCELED Calendar Call</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - Case Reassigned</i>
05/15/2019	<b>CANCELED Status Check: Trial Readiness</b> (9:00 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
05/16/2019	<b>CANCELED Pretrial/Calendar Call</b> (10:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
05/20/2019	<b>CANCELED Bench Trial</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Vacated - Case Reassigned</i>
06/03/2019	<b>CANCELED Bench Trial</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
07/31/2019	<b>CANCELED Status Check</b> (9:00 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i> <i>Status Check re Trial Readiness</i>
10/01/2019	<b>CANCELED Pretrial/Calendar Call</b> (10:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
10/14/2019	<b>CANCELED Bench Trial</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated - per Stipulation and Order</i>
10/16/2019	<b>Motion</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) Events: 08/02/2019 Request <i>State of Nevada on Relation of The Board of Regents of The Nevada System of Higher Education, on Behalf of The University of Nevada, Las Vegas Motion for Summary Judgment</i> Motion Granted; See 12/13/19 Minute Order
10/16/2019	<b>Joinder</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) <i>UPA 1 LLC's Limited Joinder to The State of Nevada Ex. Rel. The Board of Regents of The</i>

# CASE SUMMARY

CASE NO. A-17-763262-B

*Nevada System of Higher Education on Behalf of The University of Nevada Las Vegas' Motion for Summary Judgment*

Motion Granted; See 12/13/19 Minute Order

10/16/2019



**All Pending Motions** (9:30 AM) (Judicial Officer: Williams, Timothy C.)

Matter Heard;

Journal Entry Details:

*APPEARANCES CONTINUED: Mikkaela Vellis, present for Bridgeway Advisors. Glenn Machado, present for Wells Fargo. Greg Gilbert, Esq. present for UPA 1. REQUEST FOR HEARING ON STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS MOTION FOR SUMMARY JUDGMENT...UPA 1 LLC'S LIMITED JOINDER TO THE STATE OF NEVADA EX. REL. THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ON BEHALF OF THE UNIVERSITY OF NEVADA LAS VEGAS' MOTION FOR SUMMARY JUDGMENT Arguments by Ms. Alexander, Mr. Gilbert, and Mr. Mead. Court stated will deliberate and issue decision.;*

12/13/2019



**Minute Order** (3:46 PM) (Judicial Officer: Williams, Timothy C.)

*Motion for Summary Judgment and Joinder*

Minute Order - No Hearing Held;

Journal Entry Details:

*After review and consideration of the points and authorities on file herein, and the oral argument of counsel, the Court determined as follows: It is apparent based upon the undisputed material facts in this case, that Korte Construction Company's (Korte) claim for unjust enrichment is, (1) barred given that the contract at issue is between Korte and UPA 1, LLC; and (2) the bond posted by State of Nevada on Relation of the Board of Regents of the Nevada System of higher Education, on Behalf of the University of Nevada, Las Vegas (UNLV) which exceeds the amount allegedly owed to Korte for its services. Based on the foregoing, UNLV's Motion for Summary Judgment shall be GRANTED. Additionally, UPA 1, LLC's Joinder is GRANTED. Counsel for Defendant UNLV shall prepare a detailed Order, Findings of Facts, and Conclusions of Law, based not only on the foregoing Minute Order, but also on the record on file herein. This is to be submitted to adverse counsel for review and approval and/or submission of a competing Order or objections, prior to submitting to the Court for review and signature. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt CLERK'S NOTE: Court hereby corrects the above Minute Order to replace Motion referenced as Motion for Summary Judgment and adding decision to Joinder thereto. This Minute Order has been electronically served to the parties through Odyssey File & Serve. /cd 12-16-19/;*

02/19/2020



**Status Check** (10:30 AM) (Judicial Officer: Williams, Timothy C.)

*Status Check re Discovery and Status of Case*

Stipulation;

Journal Entry Details:

*APPEARANCES CONTINUED: Lars Evensen, Esq. and David Freeman, Esq. present for Pltf. Matthew Thomas, Esq. present for Defts. Glenn Machado, Esq. present for Wells Fargo Bank Northwest. Court noted receipt of draft stipulation as to bifurcation of trial and extension of discovery. Mr. Evensen advised the parties are in agreement for same and will finalize. Colloquy regarding trial phase with respect to liability issues and remaining matters on calendar. There being agreement, COURT ORDERED, case schedule RESET as follows: Close of Discovery 6/1/20; Dispositive Motions 7/1/20; Trial 8/31/20. Court stated will address phases of trial and inquire as to duration at time of Calendar Call. COURT FURTHER ORDERED, 3/4/20 Motion to Extend VACATED; 7/27/20 Trial VACATED. Department to issue amended trial order.;*

03/04/2020

**CANCELED Motion to Extend Discovery** (9:00 AM) (Judicial Officer: Williams, Timothy C.)

*Vacated*

*Defendant's Motion to Extend Discovery Deadlines and Trial Setting*

04/15/2020

**CANCELED Status Check: Trial Readiness** (9:00 AM) (Judicial Officer: Williams, Timothy C.)

*Vacated*

05/20/2020

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-17-763262-B**

	<b>Status Check</b> (9:00 AM) (Judicial Officer: Williams, Timothy C.) <i>Status Check: Discovery/Trial Readiness</i>	
07/09/2020	<b>CANCELED Pretrial/Calendar Call</b> (10:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated</i>	
07/27/2020	<b>CANCELED Bench Trial</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) <i>Vacated</i>	
08/13/2020	<b>Pretrial/Calendar Call</b> (10:30 AM) (Judicial Officer: Williams, Timothy C.)	
08/31/2020	<b>Bench Trial</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.)	

**DATE**

**FINANCIAL INFORMATION**

<b>Defendant</b> Korte Company	
Total Charges	2,990.00
Total Payments and Credits	2,990.00
<b>Balance Due as of 3/4/2020</b>	<b>0.00</b>
<b>Intervenor</b> State of Nevada Board of Regents of the Nevada System of Higher Education	
Total Charges	1,713.00
Total Payments and Credits	1,713.00
<b>Balance Due as of 3/4/2020</b>	<b>0.00</b>
<b>Plaintiff</b> UPA 1 LLC	
Total Charges	586.50
Total Payments and Credits	386.50
<b>Balance Due as of 3/4/2020</b>	<b>200.00</b>



## DISTRICT COURT CIVIL COVER SHEET

Department 24

County, Nevada

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): UPA 1, LLC, a Delaware Limited Liability Company 8275 S. Eastern, Suite 200-279 Las Vegas, NV 89123-2545	Defendant(s) (name/address/phone): THE KORTE COMPANY, a Missouri Corporation, 9225 W. Flamingo Road, Suite 100 Las Vegas, NV 89147
Attorney (name/address/phone): Steve L. Morris, Esq. GRANT, MORRIS, DODDS 2520 St. Rose Pkwy., Suite 319 Henderson, NV 89074; (702) 938-2244	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input checked="" type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

October 18, 2017

Date



Signature of initiating party or representative

See other side for family-related case filings.

# BUSINESS COURT CIVIL COVER SHEET

Clark County, Nevada  
 Case No. **A-17-763262-C**  
*(Assigned by Clerk's Office)*

## I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): <p style="text-align: center;">UPA1 LLC</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">The Korte Company</p>
Attorney (name/address/phone): <p style="text-align: center;">Steven L Morris, Esq.                      Grant Morris Dodds                      2520 St Rose Parkway, Suite 319                      Henderson, Nevada 891074</p>	Attorney (name/address/phone): <p style="text-align: center;">Leon F Mead II, Esq. NSB# 5719                      Mead Law Group                      10161 Park Run Drive, Suite 150                      Las Vegas, NV 89145</p>

## II. Nature of Controversy *(Please check the applicable boxes for both the civil case type and business court case type)*

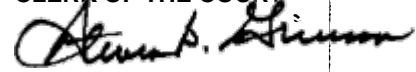
☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types		
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input checked="" type="checkbox"/> Other Business Court Matters		
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input checked="" type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art.8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters		
<b>Judicial Review/Appeal/Other Civil Filing</b> <table style="width: 100%;"> <tr> <td style="width: 50%;"> <b>Judicial Review</b>  <input type="checkbox"/> Foreclosure Mediation Case  <b>Appeal Other</b>  <input type="checkbox"/> Appeal from Lower Court                         </td> <td style="width: 50%;"> <b>Other Civil Filing</b>  <input type="checkbox"/> Foreign Judgment  <input type="checkbox"/> Other Civil Matters                         </td> </tr> </table>		<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters			

**November 7, 2017**

Date

Signature of initiating party or representative



1 **FFCO**  
2 DICKINSON WRIGHT PLLC  
3 Cynthia L. Alexander, Esq.  
4 Nevada Bar No. 6718  
5 Email: calexander@dickinson-wright.com  
6 Taylor Anello, Esq.  
7 Nevada Bar No. 12881  
8 Email: tanello@dickinson-wright.com  
9 8363 West Sunset Road, Suite 200  
10 Las Vegas, Nevada 89113-2210  
11 Tel: (702) 550-4400  
12 Fax: (844) 670-6009  
13 *Attorneys State of Nevada ex rel. the*  
14 *Board of Regents of the Nevada System*  
15 *of Higher Education, on behalf of the*  
16 *University of Nevada, Las Vegas*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 UPA 1, LLC, a Delaware limited liability  
14 company,

15 Plaintiff,

16 vs.

17 THE KORTE COMPANY, a Missouri  
18 corporation,

19 Defendant.

20 KORTE CONSTRUCTION COMPANY dba  
21 THE KORTE COMPANY, a Missouri  
22 corporation,

23 Plaintiff,

24 vs.

25 UPA 1 LLC, a Delaware limited liability  
26 company, BRIDGEWAY ADVISORS, a  
27 California corporation; STATE OF NEVADA  
28 ON RELATION OF THE BOARD OF  
REGENTS OF THE NEVADA SYSTEM OF  
HIGHER EDUCATION, ON BEHALF OF  
THE UNIVERSITY OF NEVADA, LAS  
VEGAS, a Constitutional entity of the State of  
Nevada; WELLS FARGO BANK

CASE NO. A-17-763262-B, A-18-767674-C,  
A-18-768969-B (consolidated)

DEPT. XVI

**ORDER GRANTING STATE OF  
NEVADA ON RELATION OF THE  
BOARD OF REGENTS OF THE NEVADA  
SYSTEM OF HIGHER EDUCATION, ON  
BEHALF OF THE UNIVERSITY OF  
NEVADA, LAS VEGAS' MOTION FOR  
SUMMARY JUDGMENT AND UP1,  
LLC'S JOINDER THERETO, FINDINGS  
OF FACT, AND CONCLUSIONS OF LAW**

DICKINSON WRIGHT PLLC

8363 West Sunset Road, Suite 200  
Las Vegas, Nevada 89113-2210

NORTHWEST, N.A., AS TRUSTEE OF THE UNLV STUDENT HOUSING PHASE I PASS THROUGH TRUST UNDER THE PASS-THROUGH TRUST AGREEMENT AND DECLARATION OF TRUST, a federal bank institution, and DOES 1 through 100, inclusive,

Defendants,

HELIX ELECTRIC OF NEVADA, LLC dba HELIX ELECTRIC, a Nevada limited liability company,

Plaintiff,

vs.

KORTE CONSTRUCTION COMPANY dba THE KORTE COMPANY, a Missouri corporation, UNIVERSITY PARK, LLC, a Delaware limited liability company, UNIVERSITY BOARD OF REGENTS; UPA 1, LLC, a Delaware limited liability company, TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA, a surety; DOES I through X; BOE BONDING COMPANIES I through X; LOE LENDERS I through X; TOE TENANTS I through X, inclusive,

Defendants.

**ORDER GRANTING STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

Defendant, the State of Nevada *ex rel.* the Board of Regents of the Nevada System of Higher Education, on behalf of the University of Nevada, Las Vegas' ("UNLV") Motion for Summary Judgment and Defendant UPA1, LLC's ("UPA") Limited Joinder thereto came before this Court on October 16, 2019. Having reviewed the matter, as well as all pleadings, points and authorities, and exhibits submitted by counsel, this Court hereby grants UNLV's Motion for Summary Judgment and UPA's Joinder and makes the following findings of fact and conclusions of law:

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**I. FINDINGS OF FACT**

1. UNLV and UPA entered into a Project Development Agreement dated May 15, 2015 ("PDA").

2. The PDA contemplated UNLV purchasing the real property at Maryland Parkway and Cottage Grove (the "Property") and leasing it to UPA under a long-term lease pursuant to which, UPA, and possibly other third party developers, would "fund, construct, maintain, and operate student housing and certain commercial establishments" on that real property as part of University Park (the "Project").

3. UNLV purchased the Property, and its ownership interest was recorded with the Clark county Recorder's Office on May 29, 2015.

4. UNLV and UPA also entered into a written Lease Agreement for University Park Phase One (the "Lease") on May 15, 2015, which was recorded against the Property on February 2, 2016.

5. In order to complete its obligations under the Lease, UPA entered into a written contract with Korte titled, "Cost Plus Agreement Between Owner and Contractor with a Guaranteed Maximum Price" (the "Construction Contract") dated February 5, 2016, whereby UPA hired Korte to act as the general contractor to construct the Project.

6. The Construction Contract was entered into after UNLV had recorded its ownership interest in the Project and UPA had recorded its leasehold interest related to the Project.

7. Subsequently, a dispute between UPA and Korte arose regarding the work performed under the Construction Contract, which resulted in Korte recording a mechanics' lien against the entire Property on October 9, 2017 in the amount of \$20,366,490.22 (the "Mechanics' Lien").

8. On October 18, 2017, UPA filed a Motion Requesting Court Order to Show Cause Pursuant to NRS 108.2275, seeking a declaration from this court that the underlying Mechanics' Lien recorded by Korte is excessive, frivolous, and made without reasonable cause and praying for release of the same (the "Expungement Action").

9. On January 24, 2018, Korte filed a Complaint seeking foreclosure of the

1 Mechanics' Lien (the "Foreclosure Action"). The Expungement Action and Foreclosure Action  
2 have subsequently been consolidated into the case at bar.

3 10. Also on January 24, 2018, Korte recorded a first amended mechanics' lien against  
4 the Project on in the amount of \$8,499,308.66.

5 11. Korte recorded a second amended mechanics lien against the Project on May 22,  
6 2018 in the amount of \$3,632,395.21.

7 12. On May 29, 2018, UPA, as principal, and Hartford Fire Insurance Company  
8 ("Hartford"), as surety, executed a surety bond in the amount of Five Million Four Hundred and  
9 Forty-Eight Thousand Five Hundred Ninety-Two Dollars and Eighty-Two Cents (\$5,448,592.82)  
10 for the benefit of Korte (the "Bond").

11 13. On October 9, 2018, Korte filed its Second Amended Complaint (the "SAC") that  
12 set forth a single cause of action against UNLV for unjust enrichment. The SAC set forth other  
13 causes of action against UPA, Hartford, Wells Fargo Bank Northwest, N.A., as Trustee of the  
14 UNLV Student Housing Phase I (Las Vegas, NV) Pass Through Trust Under the Pass-Through  
15 Trust Agreement and Declaration of Trust ("Wells Fargo"), and Bridgeway Advisors.

16 14. Paragraph 68 of the SAC states "[p]ursuant to NRS 108.2415(6)(a), the surety bond  
17 releases the property described in the surety bond from the lien and the surety bond is deemed to  
18 replace the property as security for the lien."

19 15. On December 11, 2018, Korte recorded its Third Amended Notice of Lien against  
20 the Project, reducing the amount of its mechanics' lien to \$2,899,988.72 (the "Amended Lien").

## 21 **II. CONCLUSIONS OF LAW**

22 1. "The phrase 'unjust enrichment' is used in law to characterize the result or effect  
23 of a failure to make restitution of, or for, property or benefits received under such circumstances as  
24 to give rise to a legal or equitable obligation to account therefor." 66 Am.Jur.2d Restitution § 3  
25 (1973).

26 2. Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the  
27 defendant appreciates such benefit, and there is 'acceptance and retention by the defendant of such  
28 benefit under circumstances such that it would be inequitable for him to retain the benefit without

1 payment of the value thereof.” *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381,  
2 283 P.3d 250, 257 (2012) (citing *Unionamerica Mtg. v. McDonald*, 97 Nev. 210, 212, 626 P.2d  
3 1272, 1273 (1981) (internal quotations omitted) (quoting *Dass v. Epplen*, 162 Colo. 60, 424 P.2d  
4 779, 780 (1967))).

5         3. It is generally accepted that “unjust enrichment is not available when there is an  
6 express, written contract. . . .” *Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12,*  
7 *1975*, 113 Nev. 747, 942 P.2d 182, 187 (1997) (citing 66 Am.Jur.2d Restitution § 6 (1973) (stating  
8 that, generally, an action based on a theory of unjust enrichment is not available when there is an  
9 express, written contract, because no agreement can be implied when there is an express  
10 agreement)); *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 440 F. Supp. 2d 1184,  
11 1197 (D. Nev. 2006), aff’d, 583 F.3d 1232 (9th Cir. 2009) (holding that claim for unjust enrichment  
12 was barred because there was an express, written contract); *Wilson v. Stratosphere Corp.*, 371 F.  
13 App’x 810, 811–12 (9th Cir. 2010).

14         4. Instead, “[t]he doctrine of unjust enrichment or recovery in quasi contract applies  
15 to situations where there is no legal contract but where the person sought to be charged is in  
16 possession of money or property which in good conscience and justice he should not retain but  
17 should deliver to another [or should pay for].” 66 Am.Jur.2d Restitution § 11 (1973); see *Lipshie v.*  
18 *Tracy Investment Co.*, 93 Nev. 370, 379, 566 P.2d 819, 824 (1977) (“To permit recovery by quasi-  
19 contract where a written agreement exists would constitute a subversion of contractual principles.”).

20         5. The Construction Contract is an express, written contract exists between Korte and  
21 UPA, which is the subject of this dispute.

22         6. The work and services for which Korte is alleging it is entitled to payment are  
23 subject to the Construction Contract.

24         7. Korte’s claim for unjust enrichment is barred given that the contract at issue is  
25 between Korte and UPA.

26         8. Korte’s claim of unjust enrichment is barred given that the Bond posted by UPA  
27 exceeds the amount claimed by Korte for its services.

28         9. The Bond provides Korte an adequate remedy at law.

10. The Court directs entry of final judgment as to UNLV, as judgment in its favor on Korte's unjust enrichment claim leaves no other claims against or made by UNLV in this action.

11. The Court finds there is no just reason for delay in entering this Order.

**ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that UNLV's Motion for Summary Judgment and UPA's Joinder are GRANTED.

DATED this 31 day of January, 2020.

  
DISTRICT COURT JUDGE

**RESPECTFULLY SUBMITTED BY:**

DICKINSON WRIGHT PLLC

  
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*Attorneys for State of Nevada ex rel. the  
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Higher Education, on behalf of the  
University of Nevada, Las Vegas*

**APPROVED AS TO FORM AND CONTENT:**

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2 Korte's unjust enrichment claim leaves no other claims against or made by UNLV in this action.

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4 **ORDER**

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6 Summary Judgment and UPA's Joinder are GRANTED.

7 DATED this \_\_\_\_ day of January, 2020.

8  
9  
10 DISTRICT COURT JUDGE

11 **RESPECTFULLY SUBMITTED BY:**

12 DICKINSON WRIGHT PLLC

13 See 6A

14 Cynthia L. Alexander, Esq.  
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21 **APPROVED AS TO FORM AND CONTENT:**

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**ORDER**

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DATED this \_\_\_\_ day of January, 2020.

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DISTRICT COURT JUDGE

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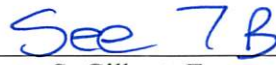
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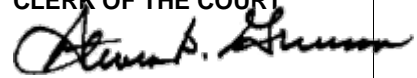
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Board of Regents of the Nevada System  
of Higher Education, on behalf of the  
University of Nevada, Las Vegas*

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

UPA 1, LLC, a Delaware limited liability  
company,

Plaintiff,

vs.

THE KORTE COMPANY, a Missouri  
corporation,

Defendant.

AND ALL RELATED CLAIMS.

CASE NO. A-17-763262-B, A-18-767674-C,  
A-18-768969-B (consolidated)

DEPT. XVI

**NOTICE OF ENTRY OF ORDER GRANTING STATE OF NEVADA ON RELATION  
OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER  
EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS'  
MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO,  
FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

PLEASE TAKE NOTICE that an Order Granting State of Nevada on Relation of the Board  
of Regents of the Nevada System of Higher Education, on behalf of the University of Nevada, Las  
Vegas' Motion for Summary Judgment and UPA1, LLC's Joinder Thereto, Findings of Fact, and

1 Conclusions of Law was entered by the Clerk of the Court on February 6, 2020, a copy of which  
2 is attached hereto.

3 DATED this 6<sup>th</sup> day of February, 2020.

4 DICKINSON WRIGHT PLLC

6 /s/ Cynthia L. Alexander

7 Cynthia L. Alexander, Esq.

8 Nevada Bar No. 6718

9 Taylor A. Anello, Esq.

10 Nevada Bar No. 12881

11 8363 West Sunset Road, Suite 200

12 Las Vegas, Nevada 89113-2210

13 *Attorneys for State of Nevada on Relation*  
14 *of the Board of Regents of the Nevada*  
15 *System of Higher Education, on behalf of*  
16 *the University of Nevada, Las Vegas*

**CERTIFICATE OF SERVICE**

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on the 6<sup>th</sup> day of February, 2020, he caused a copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO, FINDINGS OF FACT, AND CONCLUSIONS OF LAW** to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system addressed to:

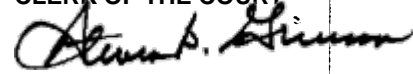
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/s/ Mark A. Mangiaracina  
An employee of Dickinson Wright PLLC



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13 *Attorneys State of Nevada ex rel. the*  
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11 **DISTRICT COURT**

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26 company, BRIDGEWAY ADVISORS, a  
27 California corporation; STATE OF NEVADA  
28 ON RELATION OF THE BOARD OF  
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**ORDER GRANTING STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

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**I. FINDINGS OF FACT**

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20 the Project, reducing the amount of its mechanics' lien to \$2,899,988.72 (the "Amended Lien").

## 21 II. CONCLUSIONS OF LAW

22 1. "The phrase 'unjust enrichment' is used in law to characterize the result or effect  
23 of a failure to make restitution of, or for, property or benefits received under such circumstances as  
24 to give rise to a legal or equitable obligation to account therefor." 66 Am.Jur.2d Restitution § 3  
25 (1973).

26 2. Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the  
27 defendant appreciates such benefit, and there is 'acceptance and retention by the defendant of such  
28 benefit under circumstances such that it would be inequitable for him to retain the benefit without

1 payment of the value thereof.” *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381,  
2 283 P.3d 250, 257 (2012) (citing *Unionamerica Mtg. v. McDonald*, 97 Nev. 210, 212, 626 P.2d  
3 1272, 1273 (1981) (internal quotations omitted) (quoting *Dass v. Epplen*, 162 Colo. 60, 424 P.2d  
4 779, 780 (1967))).

5 3. It is generally accepted that “unjust enrichment is not available when there is an  
6 express, written contract. . . .” *Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12,*  
7 *1975*, 113 Nev. 747, 942 P.2d 182, 187 (1997) (citing 66 Am.Jur.2d Restitution § 6 (1973) (stating  
8 that, generally, an action based on a theory of unjust enrichment is not available when there is an  
9 express, written contract, because no agreement can be implied when there is an express  
10 agreement)); *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 440 F. Supp. 2d 1184,  
11 1197 (D. Nev. 2006), aff’d, 583 F.3d 1232 (9th Cir. 2009) (holding that claim for unjust enrichment  
12 was barred because there was an express, written contract); *Wilson v. Stratosphere Corp.*, 371 F.  
13 App’x 810, 811–12 (9th Cir. 2010).

14 4. Instead, “[t]he doctrine of unjust enrichment or recovery in quasi contract applies  
15 to situations where there is no legal contract but where the person sought to be charged is in  
16 possession of money or property which in good conscience and justice he should not retain but  
17 should deliver to another [or should pay for].” 66 Am.Jur.2d Restitution § 11 (1973); see *Lipshie v.*  
18 *Tracy Investment Co.*, 93 Nev. 370, 379, 566 P.2d 819, 824 (1977) (“To permit recovery by quasi-  
19 contract where a written agreement exists would constitute a subversion of contractual principles.”).

20 5. The Construction Contract is an express, written contract exists between Korte and  
21 UPA, which is the subject of this dispute.

22 6. The work and services for which Korte is alleging it is entitled to payment are  
23 subject to the Construction Contract.

24 7. Korte’s claim for unjust enrichment is barred given that the contract at issue is  
25 between Korte and UPA.

26 8. Korte’s claim of unjust enrichment is barred given that the Bond posted by UPA  
27 exceeds the amount claimed by Korte for its services.

28 9. The Bond provides Korte an adequate remedy at law.

10. The Court directs entry of final judgment as to UNLV, as judgment in its favor on Korte's unjust enrichment claim leaves no other claims against or made by UNLV in this action.

11. The Court finds there is no just reason for delay in entering this Order.

**ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that UNLV's Motion for Summary Judgment and UPA's Joinder are GRANTED.

DATED this 31 day of January, 2020.

  
DISTRICT COURT JUDGE

**RESPECTFULLY SUBMITTED BY:**

DICKINSON WRIGHT PLLC

  
Cynthia L. Alexander, Esq.

Nevada Bar No. 6718

Taylor A. Anello, Esq.

Nevada Bar No. 12881

8363 West Sunset Road, Suite 200

Las Vegas, Nevada 89113

*Attorneys for State of Nevada ex rel. the  
Board of Regents of the Nevada System of  
Higher Education, on behalf of the  
University of Nevada, Las Vegas*

**APPROVED AS TO FORM AND CONTENT:**

MEAD LAW GROUP LLP

REISMAN-SOROKAC

By: See 6 B

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Nevada Bar No. 5719

Sarah Mead Thomas, Esq.

Nevada Bar No. 13725

7201 W. Lake Mead Blvd., Suite 550

Las Vegas, Nevada 89128

*Attorneys for The Korte Company*

By: See 6 C

Joshua H. Reisman, Esq.

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Glenn Machado, Esq.

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Las Vegas, Nevada 89123

*Attorneys for Wells Fargo Northwest, N.A*

10. The Court directs entry of final judgment as to UNLV, as judgment in its favor on Korte's unjust enrichment claim leaves no other claims against or made by UNLV in this action.

11. The Court finds there is no just reason for delay in entering this Order.

**ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that UNLV's Motion for Summary Judgment and UPA's Joinder are GRANTED.

DATED this \_\_\_\_ day of January, 2020.

\_\_\_\_\_  
DISTRICT COURT JUDGE

**RESPECTFULLY SUBMITTED BY:**

DICKINSON WRIGHT PLLC

See 6A  
Cynthia L. Alexander, Esq.  
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Higher Education, on behalf of the  
University of Nevada, Las Vegas*

**APPROVED AS TO FORM AND CONTENT:**

MEAD LAW GROUP LLP

By: [Signature]  
Leon F. Mead II, Esq.  
Nevada Bar No. 5719  
Sarah Mead Thomas, Esq.  
Nevada Bar No. 13725  
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*Attorneys for The Korte Company*

REISMAN SOROKAC

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Las Vegas, Nevada 89123  
*Attorneys for Wells Fargo Northwest, N.A*



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11. The Court finds there is no just reason for delay in entering this Order.

**ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that UNLV's Motion for Summary Judgment and UPA's Joinder are GRANTED.

DATED this \_\_\_\_ day of January, 2020.

\_\_\_\_\_  
DISTRICT COURT JUDGE

**RESPECTFULLY SUBMITTED BY:**

DICKINSON WRIGHT PLLC

See 6A  
Cynthia L. Alexander, Esq.  
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**APPROVED AS TO FORM AND CONTENT:**


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Leon F. Mead II, Esq.  
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*Attorneys for The Korte Company*


REISMAN SOROKAC

By: [Signature]  
Joshua H. Reisman, Esq.  
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HOLLEY DRIGGS WALCH FINE WRAY  
PUZEY & THOMPSON

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400 S. 4<sup>th</sup> Street, 3<sup>rd</sup> Floor  
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*Attorneys for Bridgeway Advisors*

HOLLAND AND HART, LLP

By:   
Gregory S. Gilbert, Esq.  
Nevada Bar No. 6310  
Joseph G. Went, Esq.  
Nevada Bar No. 9220  
David J. Freeman, Esq.  
Nevada Bar No. 10045  
9555 Hillwood Drive, 2<sup>nd</sup> Floor  
Las Vegas, NV 89134  
*Attorneys for UPA 1, LLC*




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HOLLEY DRIGGS WALCH FINE WRAY  
PUZEY & THOMPSON

By: See 7A  
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*Attorneys for UPA 1, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**November 21, 2017**

---

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

---

**November 21, 2017      9:00 AM      Motion**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

<b>PRESENT:</b>	Mead, Leon L.F., II	Attorney
	Morris, Steven L.	Attorney

**JOURNAL ENTRIES**

- Also present, Ryan Heydon and Amanda Manahan, Esq. on behalf of Pltf.

Mr. Mead stated an Order to Show Cause has not been issued, only an Order to Appear on Order Shortening Time was issued. COURT NOTED, this case was inherited by this department; the Court could hear argument if the parties felt there was something to flesh out. Each side has procedural qualms. Mr. Morris stated the matter is not as complicated as it would appear; this was properly noticed. Further arguing, procedurally Pltf. is within the bounds of this Court hearing this matter today, it has been properly briefed. Argument by Mr. Morris regarding service and perfection of the lien. COURT ADVISED, it needs time to do the matter justice, the brief was received very late the previous day; the Court has not had time to truly digest all of the parties concerns. Following colloquy regarding scheduling, COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/07/17 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**December 07, 2017**

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A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

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**December 07, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

**PRESENT:** Mead, Sarah A.      Attorney

**JOURNAL ENTRIES**

- PLTF'S. MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS  
108.2275 (1)...PLTF'S. MOTION TO ASSOCIATE COUNSEL

Ms. Mead provided the Stipulation and Order to Move the Show Cause Hearing and Motion to Associate Counsel. COURT SIGNED the Stipulation and Order IN OPEN COURT, and ORDERED, matters CONTINUED.

CONTINUED TO: 01/02/18 9:00 A.M. (BOTH)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**January 30, 2018**

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A-17-763262-B	UPA 1 LLC, Plaintiff(s) vs. Korte Company, Defendant(s)
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**January 30, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

<b>PRESENT:</b>	Alexander, Cynthia L., ESQ	Attorney
	Machado, Glenn M.	Attorney
	Mead, Sarah A.	Attorney
	Reisman, Joshua H.	Attorney

**JOURNAL ENTRIES**

- Amanda Manahan, Esq. and Josef Rodarti, Esq. present on behalf of Pltf.

PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1)...PLTF'S MOTION TO ASSOCIATE COUNSEL...STATE OF NEVADA EX. REL. BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION TO INTERVENE ON ORDER SHORTENING TIME

STATE OF NEVADA EX. REL. BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION TO INTERVENE ON ORDER SHORTENING TIME

COURT ORDERED, Motion GRANTED. Ms. Alexander stated she will provide the Order.

PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1)

COURT NOTED there is a STIPULATION to CONTINUE the Motion. Ms. Mead stated the parties have agreed upon a date. COURT ORDERED, matter CONTINUED. Colloquy regarding how the Hearing would proceed. COURT ADVISED, Ms. Alexander's Response DUE 02/09/18, Deft's Reply DUE 02/16/18.

**PLTF'S MOTION TO ASSOCIATE COUNSEL**

Extensive argument by counsel regarding Mr. Rodarti's involvement, knowledge of and relationship with the company, if he could be called as a witness, the need for counsel to be able to speak with their client, the likelihood of cases being consolidated, and the expertise Mr. Rodarti and Ms. Manahan would offer. COURT ORDERED, Motion to Associate Counsel GRANTED, and STATED ITS FINDINGS; under Rule 42 the requirements have been met. The Motion to Disqualify is DENIED WITHOUT PREJUDICE. COURT NOTED, if Mr. Rodarti is a key witness he and his office could be excluded as counsel in Court. Pltf's. counsel is to prepare the Order, provide a copy to opposing counsel for review as to form and content and return it back to the Court within 10 days. Colloquy regarding the letter the Court received and considered as the opposition to the Motion. COURT INSTRUCTED Ms. Alexander to caption the letter as the opposition and note that the Court requested it be FILED as a housekeeping matter.

02/20/18 9:00 A.M. PLTF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE  
PURSUANT TO NRS 108.2275(1)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**February 20, 2018**

---

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

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**February 20, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

**PRESENT:**      Alexander, Cynthia L., ESQ      Attorney  
                         Manahan, Amanda E.      Attorney  
                         Mead, Leon L.F., II      Attorney  
                         Mead, Sarah A.      Attorney

**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275 (1) ... SHOW CAUSE HEARING

Gregg Albert, Esq., present on behalf of UPA 1 LLC. Cary Domina, Esq., present on behalf of Helix Electric and Zitting Brothers. Eric Dobberstein, Esq., present on behalf of Central Valley Installation.

Colloquy regarding, briefing schedule and Motion to Consolidate. COURT ORDERED, responses for Motion to Consolidate due Friday; Subcontractor's filings are to be done by March 5th and last replies due by March 8th. COURT FURTHER ORDERED, matters CONTINUED. Colloquy regarding issues and arguments.

CONTINUED TO: 03/13/18 1:30 PM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**February 27, 2018**

---

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

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**February 27, 2018      9:00 AM      Motion to Consolidate**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

**PRESENT:**      Dobberstein, Eric      Attorney  
                 Domina, Cary      Attorney  
                 Gilbert, Greg S.      Attorney  
                 Mead, Leon L.F., II      Attorney

**JOURNAL ENTRIES**

- Parties present:

Leon L. F. Mead, II, Esq. on behalf of Korte Company  
Cary Domina, Esq. on behalf of Helix Electric of Nevada, LLC  
Greg Gilbert, Esq. on behalf of UPA1 LLC  
Eric Dobberstein, Esq. on behalf of Central Valley Insulation

Arguments by counsel regarding the merits of and opposition to the pending motion. Court stated its findings and ORDERED

Defendant's Motion to Consolidate Case Nos. A-18-767674-C, A-18-768969-B, And A-17-763262-B GRANTED, evidentiary hearing on March 13, 2018 STANDS. Mr. Mead to prepare the order and provide it to all other counsel.

-----CONSOLIDATED WITH A767674 & A768969-----

-----LEAD CASE-----

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**March 13, 2018**

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A-17-763262-B	UPA 1 LLC, Plaintiff(s) vs. Korte Company, Defendant(s)
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**March 13, 2018                      1:30 PM                      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.                      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:** Renee Silvaggio

**PARTIES**

<b>PRESENT:</b>	Alexander, Cynthia L., ESQ	Attorney
	Dobberstein, Eric	Attorney
	Gilbert, Greg S.	Attorney
	Mead, Leon L.F., II	Attorney
	Peel, Richard L.	Attorney
	Zimbelman, Eric B.	Attorney

**JOURNAL ENTRIES**

- PLTFS' UPA 1, LLC'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2275(1)...EVIDENTIARY HEARING...BUILDER SERVICES GROUP, INC DBA CENTRAL VALLEY INSULATION'S JOINDER IN SUPPORT OF KORTE'S OPPOSITION TO UPA 1, LLC'S MOTION REQUESTING COURT ORDER TO SHOW CAUSE PURSUANT TO NRS 108.2775(1)

Eric Midby, representative for Pltf. and Greg Korte, President of Korte Construction, present.

Court was presented with a Media Request by KTNV this morning, stated Supreme Court Rule 230 to the parties and inquired if the parties are objecting. All parties advised they have no objection. Court stated FINDINGS and ORDERED, request GRANTED.

Mr. Gilbert stated there are three issues he and counsel will be discussing today. Further, UPA 1,



developer, and Korte, former builder, moved sub-contractors from Korte to UPA 1 who will be completing project. As to the lien for approximately 20 millions dollars and has now been amended to \$8,499,308.66 which is the correct lien recorded. Counsel and counsel for Korte, reached the following agreement that the evidentiary hearing does not need to go forward today, every sub-contractors lien resolved will reduce Korte lien, will have lien releases in place, sub-contractors who resolve with UPA 1 will be signed, recorded and Korte will reduce lien. Mr. Mead stated lien made up what is owed to Korte as well as the sub-contractors to the extent they can be removed and Korte not responsible, lien number will come down. Court agrees evidentiary hearing will not go forward for at least 30 days. Ms. Alexander argued mechanics lien cannot attach to public land. Further, the land is for student housing, building be constructed and overall purpose does not change here. The University must provide to the students, land owned by private entity who developed apartments which falls under private use. On campus, there is land to market and use for student, requested lien be expunged and does not oppose a new lien being posted and attached to lease hold interest. Mr. Mead argued land being used for private project access. Further, as to work improvement, Mr. Mead argued all parcels are included in this project, need to look at scheme, noted no discovery yet and counsel would like to look at entire scheme. Additionally, entire center one project, includes taking down structures and putting up new ones. Korte not here to encumber property, Korte will do analysis and may release parcels if not part of work. Mr. Dobberstein argued need to weigh whether public or private project, should be allowed to be liened and argued private project. Further, Mr. Dobberstein advised UNLV and UPA 1 did not follow public work statute. Mr. Zimbelman argued private project and further argued right to lien. Argument by Mr. Gilbert. Ms. Alexander argued intent of lease is to support UNLV and the students. Further, Ms. Alexander stated apartments fall under the jurisdiction of UNLV Police, argued clearly a partnership, have sovereign immunity, Korte did not follow the rules, no pre-lien notice filed that is required and UNLV sent permit to Korte. Korte new all along this was a UNLV project, advised Korte and UPA 1 agreed to hold off on evidentiary hearing, but UNLV did not, have witnesses here today to testify. Additionally, Ms. Alexander argued parcels one through four, Korte had nothing to do with, only did work on parcels five through nine. Court stated evidentiary hearing is being held off to see where parties are going. As to UNLV's argument as to the lien being successive because it goes beyond the scope of work Korte is doing, COURT ORDERED, DENIED WITHOUT PREJUDICE. As to issue of public land, COURT ORDERED, UNLV'S request to find lien cannot attach to it's public property DENIED. The Court is persuaded primarily by the arguments that there is a requirement under the current statutory scheme to understand what type of project this is and this does appear squarely a dominantly private project for the commercial benefit of UPA to some degree having some public benefit. Mr. Mead to produce an order that addresses this as denial of UNLV's show cause request that the lien does not attach to their aspect of ownership of this land and DENIED WITHOUT PREJUDICE as to the excessiveness of the lien.

Mr. Gilbert stated with regard to what was constructed and what will be finished is without question a apartment complex for residential purposes and the commercial aspects that relate to the student housing facility some how changes it into what the statute intended as commercial. This is primarily and majority to be used for student housing and residential housing. Further, Mr. Gilbert argued 15 day notice required to UNLV and UPA 1. Remedy counsel suggests, Korte re-file mechanic lien and

do so pursuant to the notice requirement. Colloquy. Additionally, Mr. Gilbert stated UPA 1 and Korte have agreed to amend current lien that is clouding title. Mr. Mead argued lease actually contemplates commercial tenants and commercial businesses. Further, this is also not a project that would be rented out to a family that my come along. the purpose of the 15 day notice to lien is not to address a situation like this where there is an ongoing dispute between UPA 1 and Korte over payment. It should come as no shock to UPA 1 that the mechanics lien was going to be recorded. Further, the purpose of 15 day notice is in a residential facility that is going to close a sale and that is not the problem here. There is no sale of this building, recording of the lien has done nothing to harm anyone and no change would of occurred had 15 day notice been given. Additionally, Mr. Mead argued substantial compliance is all that is necessary when the party who was to receive notice cannot show prejudice. There has been no demonstration of prejudice in this circumstance at all and the requirement to give 15 day notice would serve no actual purpose. Therefore, counsel believes notice does not need to be recorded because it is not a residential project and also think no harm, no fall. Mr. Zimbelman stated the prior argument was not made against Helix and did not address. Further, counsel advised 15 day notice already done. Mr. Dobberstein stated did not do 15 day notice, same reason Korte did not do one, never thought it was a residential property as it falls under the statute and counsel believes lien amount is being discussed as part of work out between UPA 1 and Korte. Mr. Gilbert argued not being put on notice does have tangible harm to UPA, did create problems with UPA 1's lender. UPA will demonstrate failure to provide notice created harm and reserves right to do that at trial. Court FINDS project is enough of an apartment situation that the 15 day notice applies and is preserved. Further, remedy will be allowed to be sought at time of trial. COURT ORDERED, ultimate DENIAL of Pltf's Order to Show Cause. Mr. Gilbert to prepare order.

FURTHER ORDERED, matter SET for status check.

4/10/18 9:00 AM STATUS CHECK: RESETTING OF EVIDENTIARY HEARING / NEGOTIATIONS AS TO MECHANIC'S LIEN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**April 10, 2018**

---

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

---

**April 10, 2018      9:00 AM      Status Check**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- No Parties Present.

COURT ADVISED a Stipulation and Order to Continue was received, therefore, matter OFF CALENDAR; to be reset to a future date agreeable upon by the parties.

CLERK'S NOTE: A copy of this minute order was electronically served on all registered counsel. / sb  
04/13/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**April 24, 2018**

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A-17-763262-B	UPA 1 LLC, Plaintiff(s) vs. Korte Company, Defendant(s)
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<b>April 24, 2018</b>	<b>9:00 AM</b>	<b>Status Check</b>
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<b>HEARD BY:</b> Delaney, Kathleen E.	<b>COURTROOM:</b> RJC Courtroom 03F
---------------------------------------	-------------------------------------

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- No Parties Present.

COURT ADVISED there was that some of the parties, but not all of the parties, participated in a Stipulation and Order (S&O) to Continue today's matter. Not all parties were included, the counter argument was all the relevant parties were included in the S&O. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 05/08/18 9:00 A.M.

CLERK'S NOTE: A copy of this minute order was electronically served on all registered parties. /sb  
05/24/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**May 08, 2018**

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A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

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**May 08, 2018      9:00 AM      Status Check**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Sharon Howard

**PARTIES**

**PRESENT:** Mead, Leon L.F., II      Attorney

**JOURNAL ENTRIES**

- COURT NOTED a Stipulation and Order was received, the matter has been RESET to 05/22/18 at the request of the parties. Mr. Mead stated the parties are speaking, they need to complete the Mandatory 16.1 Conference and need a status conference for all parties to get the matter going forward with regard to discovery. COURT ADVISED, the parties want the matter continued they are to be specific as to what they want for and provide a date where all parties can appear, and ORDERED, matter OFF CALENDAR as CONTINUED through a Stipulation and Order.

CONTINUED TO: 05/22/18 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

May 22, 2018

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

May 22, 2018      9:00 AM      Status Check

HEARD BY: Delaney, Kathleen E.

COURTROOM: RJC Courtroom 03F

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Sharon Howard

**PARTIES**

<b>PRESENT:</b>	Anello, Taylor	Attorney
	Gilbert, Greg S.	Attorney
	Mead, Leon L.F., II	Attorney

**JOURNAL ENTRIES**

- Also present, Donna Dimaggio, Esq. on behalf of Bridgeway Advisors and Glenn Machado, Esq. on behalf of Wells Fargo Bank.

Upon Court's inquiry, Mr. Gilbert stated the parties are making good progress; he and Mr. Mead have gone through the Korte lien and tried to focus on how that is functioning. An amended lien is to be filed today; today's matter can be taken off calendar. Mr. Gilbert clarified, an Amended Motion will be filed if necessary if the numbers change significantly. Mr. Mead stated there is still a dispute; there is a Second Amended Lien that was recorded and will be served today. Adding he concurs with Mr. Gilbert the matter can be taken off calendar. Mr. Gilbert noted to the degree he re-files something Pltf. would have the same rights and remedies; Pltf. is not waiving anything. Mr. Mead stated this is without prejudice. With there being no objection from any of the parties present, COURT ORDERED, matter OFF CALENDAR, and following colloquy regarding scheduling, FURTHER ORDERED, the Mandatory Rule 16 Conference RESET.

06.19.18 10:30 A.M. MANDATORY RULE 16 CONFERENCE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**June 19, 2018**

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A-17-763262-B	UPA 1 LLC, Plaintiff(s) vs. Korte Company, Defendant(s)
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**June 19, 2018**

**9:00 AM**

**All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Renee Silvaggio

**PARTIES**

<b>PRESENT:</b>	Alexander, Cynthia L., ESQ	Attorney
	Gilbert, Greg S.	Attorney
	Mead, Sarah A.	Attorney
	Reisman, Joshua H.	Attorney
	Wise, Rachel	Attorney

**JOURNAL ENTRIES**

- THE KORTE COMPANY'S MOTION TO DISMISS UPA 1, LLC'S COUNTERCLAIM...MANDATORY RULE 16 CONFERENCE

Also present, Ms. Donna DiMaggio on behalf of Bridgeway Advisors.

THE KORTE COMPANY'S MOTION TO DISMISS UPA 1, LLC'S COUNTERCLAIM  
Argument on the merits of the motion, the negligence claims, who would do the work if their truly is water damage and the extent of the damage, allegations of a breach of contract, the contract provisions, and the economic loss doctrine. COURT STATED FINDINGS and ORDERED, Motion GRANTED as to the Negligence claim as pled, Motion DENIED as to the 5th Cause of Action. Ms. Mead is to prepare the Order, provide a copy to opposing counsel for review as to form and content and return it back to the Court within 10 days.

MANDATORY RULE 16 CONFERENCE

Ms. Mead stated the parties meet yesterday and completed the Early Case Conference Report (ECCR). There is an agreement between the parties for a SIX (6) month discovery period, 14 days from today there will be an exchange of initial disclosures. They will leave UNLV Student Housing Phase I (Las Vegas, NV) claim for unjust enrichment, the parties do not believe a Special Master is required for the case; the parties agree to electronic discovery. Additionally, the parties agree to speak about a protective order and if it would necessary; they need to speak with their clients. Following colloquy regarding the benefits of setting a Settlement Conference and scheduling, COURT FURTHER ORDERED, the discovery cut-off date will be 12/28/18, a Settlement Conference and Trial date SET; the Court will ISSUE a scheduling order.

09/24/18 10:30 A.M. SETTLEMENT CONFERENCE (DC 11)

03/05/19 10:30 A.M. PRETRIAL / CALENDAR CALL

03/11/19 10:30 A.M. BENCH TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**October 16, 2019**

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A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

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**October 16, 2019      9:30 AM      All Pending Motions**

**HEARD BY:** Williams, Timothy C.      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:** Peggy Isom

**PARTIES**

**PRESENT:** Alexander, Cynthia L., ESQ      Attorney  
Mead, Leon L.F, II      Attorney

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Mikkaela Vellis, present for Bridgeway Advisors. Glenn Machado, present for Wells Fargo. Greg Gilbert, Esq. present for UPA 1.

REQUEST FOR HEARING ON STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS MOTION FOR SUMMARY JUDGMENT...UPA 1 LLC'S LIMITED JOINDER TO THE STATE OF NEVADA EX. REL. THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ON BEHALF OF THE UNIVERSITY OF NEVADA LAS VEGAS' MOTION FOR SUMMARY JUDGMENT

Arguments by Ms. Alexander, Mr. Gilbert, and Mr. Mead. Court stated will deliberate and issue decision.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**December 13, 2019**

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A-17-763262-B	UPA 1 LLC, Plaintiff(s)
	vs.
	Korte Company, Defendant(s)

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**December 13, 2019      3:46 PM      Minute Order**

**HEARD BY:** Williams, Timothy C.      **COURTROOM:** Chambers

**COURT CLERK:** Michaela Tapia  
Christopher Darling

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- After review and consideration of the points and authorities on file herein, and the oral argument of counsel, the Court determined as follows:

It is apparent based upon the undisputed material facts in this case, that Korte Construction Company's (Korte) claim for unjust enrichment is, (1) barred given that the contract at issue is between Korte and UPA 1, LLC; and (2) the bond posted by State of Nevada on Relation of the Board of Regents of the Nevada System of higher Education, on Behalf of the University of Nevada, Las Vegas (UNLV) which exceeds the amount allegedly owed to Korte for its services.

Based on the foregoing, UNLV's Motion for Summary Judgment shall be GRANTED. Additionally, UPA 1, LLC s Joinder is GRANTED.

Counsel for Defendant UNLV shall prepare a detailed Order, Findings of Facts, and Conclusions of Law, based not only on the foregoing Minute Order, but also on the record on file herein. This is to be submitted to adverse counsel for review and approval and/or submission of a competing Order or objections, prior to submitting to the Court for review and signature.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt

CLERK'S NOTE: Court hereby corrects the above Minute Order to replace Motion referenced as Motion for Summary Judgment and adding decision to Joinder thereto. This Minute Order has been electronically served to the parties through Odyssey File & Serve. /cd 12-16-19/

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Other Business Court Matters

## COURT MINUTES

February 19, 2020

A-17-763262-B      UPA 1 LLC, Plaintiff(s)  
vs.  
Korte Company, Defendant(s)

**February 19, 2020      10:30 AM      Status Check**

**HEARD BY:** Williams, Timothy C. **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:**

## PARTIES

**PRESENT:** Boschee, Brian W. Attorney  
Mead, Sarah A. Attorney

## JOURNAL ENTRIES

- APPEARANCES CONTINUED: Lars Evensen, Esq. and David Freeman, Esq. present for Pltf. Matthew Thomas, Esq. present for Defts. Glenn Machado, Esq. present for Wells Fargo Bank Northwest.

Court noted receipt of draft stipulation as to bifurcation of trial and extension of discovery. Mr. Evensen advised the parties are in agreement for same and will finalize. Colloquy regarding trial phase with respect to liability issues and remaining matters on calendar. There being agreement, COURT ORDERED, case schedule RESET as follows: Close of Discovery 6/1/20; Dispositive Motions 7/1/20; Trial 8/31/20. Court stated will address phases of trial and inquire as to duration at time of Calendar Call. COURT FURTHER ORDERED, 3/4/20 Motion to Extend VACATED; 7/27/20 Trial VACATED. Department to issue amended trial order.



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**LEON F. MEAD, II, ESQ.**  
**7201 W. LAKE MEAD BLVD., SUITE 550**  
**LAS VEGAS, NV 89128**

**DATE: March 4, 2020**  
**CASE: A-17-763262-B**  
**C/W A-18-767674-C & A-18-768969-B**

**RE CASE:** UPA 1, LLC vs. THE KORTE COMPANY

**NOTICE OF APPEAL FILED:** March 2, 2020

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

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***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; BUSINESS CIVIL COURT SHEET; ORDER GRANTING STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO, FINDINGS OF FACT, AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF ORDER GRANTING STATE OF NEVADA ON RELATION OF THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, LAS VEGAS' MOTION FOR SUMMARY JUDGMENT AND UPA1, LLC'S JOINDER THERETO, FINDINGS OF FACT, AND CONCLUSIONS OF LAW; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

UPA 1, LLC,

Plaintiff(s),

vs.

THE KORTE COMPANY,

Defendant(s),

Case No: A-17-763262-B

*Consolidated with A-18-767674-C  
& A-18-768969-B*

Dept No: XVI

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 4 day of March 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk