

BRENOCH WIRTHLIN, ESQ. (NV SBN 10282)
HUTCHISON & STEFFEN
10080 W. Alta Dr., Suite 200
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Attorneys for Non-party Edward Detwiler

Electronically Filed
Apr 16 2020 01:08 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

BAKER BOYER NATIONAL BANK, a
Washington corporation,

CASE NO.: A-17-760779-F

DEPT NO.: II

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,
individually,

NOTICE OF APPEAL

Defendant.

Notice is hereby given that Edward N. Detwiler ("Mr. Detwiler"), a non-party¹ to the underlying action, hereby appeals to the Supreme Court of Nevada from the following: (1) Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager entered in this action on the 30th day of January, 2020; (2) Order Awarding Sanctions Against Edward N. Detwiler and Harry Hildibrand, LLC entered in this action on the 12th day of March, 2020; (3) Order and Judgment entered in this action on the 30th day of March, 2020; and (4) Order and Judgment entered in this action on April 1, 2020.

DATED: April 8, 2020.

HUTCHISON & STEFFEN

By /s/ Brenoch Wirthlin, Esq.

BRENOCH WIRTHLIN, ESQ.
(NV SBN 10282)
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145
Attorneys for Non-party Edward Detwiler

¹ As will be further addressed in Mr. Detwiler's appellate briefs, motions and related papers, Mr. Detwiler maintains his non-party status in the underlying action and further reserves any and all of his defenses and arguments related thereto which were raised before the District Court. Regardless, Mr. Detwiler has standing to bring this appeal as the Orders, to which he seeks an appeal from, were improperly entered against him.

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PROOF OF SERVICE

I, the undersigned, hereby certify that, pursuant to NRAP Rule 25(d), I served the foregoing
NOTICE OF APPEAL on the following parties, via the manner of service indicated below, on
April 8, 2020:

***Via Electronic Service through Odyssey
E-filing System:***

John Bragonje (JBragonje@lrrc.com)
Attorney for Plaintiff

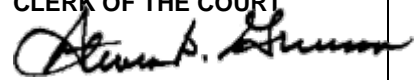
Via US Mail:

James Foust
8175 Arville St.
Las Vegas, Nevada 89139
Phone No.: 310-490-4499
Defendant

Harry Hildibrand, LLC
3011 American Way
Missoula, Montana 59808
Phone No.: 406-327-0401
Third Party

Dated: April 8, 2020.

By: /s/ Danielle Kelley
An Employee of
Hutchison & Steffen



BRENOCH WIRTHLIN, ESQ. (NV SBN 10282)
HUTCHISON & STEFFEN
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385-2500
Facsimile: (702) 385-2086
Email: bwirthlin@hutchlegal.com
Attorneys for Non-party Edward Detwiler

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK**

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,
individually,

Defendant.

CASE NO.: A-17-760779-F

DEPT NO.: II

**EDWARD N. DETWILER'S NOTICE OF
FILING COST BOND ON APPEAL**

NOTICE IS HEREBY GIVEN that pursuant to Nevada Rules of Appellate Procedure Rule 7, Non-Party Edward N. Detwiler ("Mr. Detwiler")¹ is posting a bond with the Clark County District Court in the amount of \$500.00 for costs on appeal. A true and correct copy of the \$500.00 check for costs on appeal is attached hereto as **Exhibit A**. Given the Court's Administrative Order (20-10), concurrently with the filing of this Notice, the \$500.00 check and this Notice is being mailed to the Clerk's office for posting of Mr. Detwiler's \$500 cost bond.

DATED: April 13, 2020.

HUTCHISON & STEFFEN

By /s/ Brenoch Wirthlin, Esq.

BRENOCH WIRTHLIN, ESQ.
(NV SBN 10282)
10080 W. Alta Dr., Suite 200
Las Vegas, Nevada 89145
Attorneys for Edward Detwiler

¹ As will be further addressed in Mr. Detwiler's appellate briefs, motions and related papers, Mr. Detwiler maintains his non-party status in the underlying action and further reserves any and all of his defenses and arguments related thereto which were raised before the District Court. Regardless, Mr. Detwiler has standing to bring this appeal as the Orders, to which he seeks an appeal from, were entered against him.

1 **PROOF OF SERVICE**

2 I, the undersigned, hereby certify that, pursuant to NRAP Rule 25(d), I served the foregoing
3 **EDWARD N. DETWILER'S NOTICE OF FILING COST BOND ON APPEAL** on the
4 following parties, via the manner of service indicated below, on April 13, 2020:

5 ***Via Electronic Service through Odyssey***
6 ***E-filing System:***

7 John Bragonje (JBragonje@lrrc.com)
8 *Attorney for Plaintiff*

9 ***Via US Mail (along with \$500 check):***

10 District Court Civil Division
11 Attn: Clerk's Office / Finance Dept.
12 Regional Justice Court
200 Lewis Avenue
Las Vegas, NV 89155

13 Dated: April 13, 2020.

Via US Mail:

James Foust
8175 Arville St.
Las Vegas, Nevada 89139
Phone No.: 310-490-4499
Defendant

Harry Hildibrand, LLC
3011 American Way
Missoula, Montana 59808
Phone No.: 406-327-0401
Third Party

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15 By: /s/ Danielle Kelley
16 An Employee of
Hutchison & Steffen
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EXHIBIT PAGE ONLY

EXHIBIT A

HUTCHISON & STEFFEN
A PROFESSIONAL LLC

ORIGINAL DOCUMENT PRINTED ON CHEMICALLY REACTIVE PAPER WITH MICROPRINTED BORDER

27117

HUTCHISON & STEFFEN PLLC

GENERAL ACCOUNT
10080 W. ALTA DR., STE 200
LAS VEGAS, NV 89145



3985 S. DURANGO DRIVE
LAS VEGAS, NV 89147

94-177/1224

4/3/20

PAY TO THE
ORDER OF

Clark County District Court Clerk

\$ **500.00

Five Hundred and 00/100

DOLLARS

Clark County District Court Clerk

MEMO

8838-001

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK - TOUCH FOR PRESSURE - RED IMAGE DISAPPEARS WITH HEAT

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SAFEGUARD SECURITY
SAFEGUARD SECURITY

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-17-760779-F****Baker Boyer National Bank, Plaintiff(s)**
vs. James Foust, Jr., Defendant(s)§
§
§
§
§Location: **Department 2**
Judicial Officer: **Scotti, Richard F.**
Filed on: **08/31/2017**
Cross-Reference Case Number: **A760779****CASE INFORMATION****Statistical Closures**04/01/2020 Judgment Reached (bench trial)
08/31/2017 Default JudgmentCase Type: **Foreign Judgment**Case Status: **04/01/2020 Closed****Warrants**

Arrest Warrant - Foust, James Patterson, Jr. (Judicial Officer: Scotti, Richard F.)

09/20/2019 10:31 AM Active





Fine: \$0

Bond: \$0

DATE**CASE ASSIGNMENT****Current Case Assignment**Case Number A-17-760779-F
Court Department 2
Date Assigned 08/31/2017
Judicial Officer Scotti, Richard F.**PARTY INFORMATION**

		<i>Lead Attorneys</i>
Plaintiff	Baker Boyer National Bank	Bragonje, John E. <i>Retained</i> 702-949-8200(W)
Defendant	Foust, James Patterson, Jr.	Mazur, Michael D., ESQ <i>Retained</i> 702-564-3128(W)

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

08/31/2017	 Application of Foreign Judgment - NRS 17 Filed By: Plaintiff Baker Boyer National Bank <i>Application for Enforcement of Foreign Judgment Pursuant to NRS 17.330 Et Seq.</i>
08/31/2017	 Initial Appearance Fee Disclosure Filed By: Plaintiff Baker Boyer National Bank <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
08/31/2017	 Affidavit Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit in Support of Application for Enforcement of Foreign Judgment Pursuant to NRS 17.360(1)</i>
08/31/2017	 Affidavit Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit of Mailing In Support Of Application for Enforcement of Foreign Judgment Pursuant to NRS 17.360(2)</i>

CASE SUMMARY

CASE NO. A-17-760779-F

08/31/2017	 Notice of Filing Application of Foreign Judgment & Affidavit Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Filing of Foreign Judgment and Affidavit Pursuant to NRS 17-360(2)</i>
09/01/2017	 Addendum Filed By: Plaintiff Baker Boyer National Bank <i>Amended Affidavit In Support Of Application For Enforcement Of Foreign Judgment Pursuant To NRS 17.360(1) To Reflect Tracking Of Certified Mail Receipt</i>
09/01/2017	 Addendum Filed By: Plaintiff Baker Boyer National Bank <i>Amended Affidavit Of Mailing In Support Of Application For Enforcement Of Foreign Judgment Pursuant To NRS 17.360(2) To Reflect Tracking Of Certified Mail Receipt</i>
11/15/2017	 Ex Parte Application Party: Plaintiff Baker Boyer National Bank <i>Ex Parte Application for Order Allowing Examination of Judgment Debtor</i>
11/15/2017	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order for Examination of the Judgment Debtor/Defendant James Patterson Foust, Jr.</i>
11/15/2017	 Ex Parte Application Party: Plaintiff Baker Boyer National Bank <i>Ex Parte Application for Charging Order</i>
11/15/2017	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Charging Order</i>
11/15/2017	 Notice of Entry <i>Notice of Entry of Order for Examination of Judgment Debtor/Defendant James Patterson Foust, Jr.</i>
11/15/2017	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Charging Order</i>
11/29/2017	 Affidavit of Service Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit of Service</i>
12/08/2017	 Affidavit of Service Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit of Service - Foust Philion Capital Group</i>
12/20/2017	 Motion Filed By: Plaintiff Baker Boyer National Bank <i>Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
12/21/2017	 Affidavit of Due Diligence Filed By: Plaintiff Baker Boyer National Bank

CASE SUMMARY

CASE NO. A-17-760779-F

Affidavit of Due Diligence - James P. Foust Jr.

12/21/2017	 Affidavit of Due Diligence Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit of Due Diligence - JPF Enterprises, LLC</i>
12/21/2017	 Notice of Hearing Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Hearing</i>
01/05/2018	 Opposition to Motion Filed By: Defendant Foust, James Patterson, Jr. <i>Opposition to Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
01/08/2018	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
01/16/2018	 Reply in Support <i>Reply In Support of Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
02/12/2018	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>Writ of Execution</i>
02/23/2018	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>Writ of Execution</i>
03/01/2018	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order Regarding Hearing on Classic Car Collection</i>
03/02/2018	 Application <i>Application for Hearing Withing 10 Days on Third Party's Claim of Interest In Property Levied Upon</i>
03/06/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Order Regarding Hearing on Classic Car Collection</i>
03/08/2018	 Findings of Fact, Conclusions of Law and Judgment Filed by: Plaintiff Baker Boyer National Bank <i>Findings of Fact, Conclusions of Law, and Final Judgment</i>
03/09/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Findings of Fact, Conclusions of Law and Final Judgment</i>
03/09/2018	 Notice of Posting Bond Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Posting Bond Pursuant to NRS 31.070</i>

CASE SUMMARY

CASE NO. A-17-760779-F

03/12/2018	 Response Filed by: Plaintiff Baker Boyer National Bank <i>Response to Edward Detwiler's Application for Hearing Within 10 Days of Third Party's Claim of Interest in Property Levied Upon and Plaintiff's Independent Request for a Hearing Under NRS 31.070(5)</i>
03/13/2018	 Reply in Support Filed By: Other Harry Hildibrand LLC <i>Reply in Support of the Application for Hearing Within 10 Days on Third Party's Claim of Interest in Property Levied Upon and Opposition to Plaintiff's Independent Request for Hearing Under NRS 31.070(5)</i>
03/15/2018	 Motion Filed By: Other Harry Hildibrand LLC <i>Motion to Intervene</i>
03/19/2018	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>Opposition to Third Party's Motion to Intervene</i>
03/21/2018	 Motion Filed By: Defendant Foust, James Patterson, Jr. <i>Motion For Reconsideration of Order Re: Findings of Facts and Conclusions of Law and Final Judgment Re: Bentar Development, Inc.'s Motion for Partial Summary Judgment Against Plaintiffs' Fourth Case of Action</i>
03/22/2018	 Errata Filed By: Defendant Foust, James Patterson, Jr. <i>Errata to Revise Title of Motion to: "Motion for Reconsideration of Order Re: Findings of Fact, Conclusions of Law, and Final Judgment"</i>
04/11/2018	 Opposition Filed By: Plaintiff Baker Boyer National Bank <i>Opposition to Motion for Reconsideration of Order Re: Findings of Fact and Conclusions of Law and Final Judgment</i>
04/12/2018	 Motion for Clarification Filed By: Other Harry Hildibrand LLC <i>Motion for Clarification on Order Shortening Time</i>
04/13/2018	 Reply in Support Filed By: Defendant Foust, James Patterson, Jr. <i>Reply in Support of Motion for Reconsideration of Order re Findings of Facts, Conclusions of Law, and Final Judgment</i>
04/16/2018	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order Denying Harry Hildibrand, LLC's Third Party Claim Under NRS 31.070 and Order Denying Harry Hildibrand, LLC's Motion to Intervene</i>
04/16/2018	 Response Filed by: Plaintiff Baker Boyer National Bank <i>Response to Motion for Clarification</i>
04/17/2018	 Notice of Entry

CASE SUMMARY

CASE NO. A-17-760779-F

Filed By: Plaintiff Baker Boyer National Bank
Notice of Entry of Order Denying Harry Hildibrand, LLC's Third Party Claim Under NRS 31.070 and Order Denying Harry Hildibrand, LLC's Motion to Intervene

04/25/2018



Recorders Transcript of Hearing

Recorder's Transcript of Hearing: Evidentiary Hearing 2-15-18

05/22/2018



Order

Filed By: Plaintiff Baker Boyer National Bank
Order Setting Future Hearing

05/24/2018



Notice of Entry

Filed By: Plaintiff Baker Boyer National Bank
Notice Of Entry Of Order Setting Future Hearing

05/30/2018



Stipulation and Order

Filed by: Defendant Foust, James Patterson, Jr.
Stipulation and Order to Continue Evidentiary Hearing

05/31/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Foust, James Patterson, Jr.
Notice of Entry of Stipulation and Order

06/21/2018



Motion to Compel

Filed By: Plaintiff Baker Boyer National Bank
Motion to Compel Related to Evidentiary Hearing Set for June 29, 2018 (On Order Shortening Time)

06/26/2018



Opposition to Motion to Compel

Filed By: Other Harry Hildibrand LLC
Opposition to Motion to Compel Related to Evidentiary Hearing Set for June 29, 2019

06/28/2018



Reply in Support

Filed By: Plaintiff Baker Boyer National Bank
Reply In Support of Motion to Compel Related to Evidentiary Hearing Set for June 29, 2018.

07/27/2018



Order

Filed By: Plaintiff Baker Boyer National Bank
Order Resolving Motion to Compel and Order Setting Future Hearing

07/27/2018



Notice of Entry

Filed By: Plaintiff Baker Boyer National Bank
Notice of Entry of Order Resolving Motion to Compel and Order Setting Future Hearing

07/30/2018



Notice

Notice of Filing Bankruptcy

10/29/2018



Brief

Filed By: Defendant Foust, James Patterson, Jr.
Defendant/Judgment Debtor's Evidentiary Hearing Brief

10/29/2018



Brief

Third Party Claimant Harry Hildibrand, LLC's Evidentiary Hearing Brief













CASE SUMMARY

CASE NO. A-17-760779-F

10/30/2018	 Trial Brief Filed By: Plaintiff Baker Boyer National Bank <i>Trial Brief</i>
11/01/2018	 Motion <i>Holland & Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC Ex Parte Application for Order Shortening Time</i>
11/13/2018	 Recorders Transcript of Hearing <i>Transcript of Proceedings RE: Evidentiary Hearing 11.5.18</i>
11/16/2018	 Appendix Filed By: Defendant Foust, James Patterson, Jr. <i>Appendix of Exhibits to Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/16/2018	 Brief Filed By: Defendant Foust, James Patterson, Jr. <i>Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/16/2018	 Brief Filed By: Plaintiff Baker Boyer National Bank <i>Plaintiff's Post-Hearing Brief</i>
11/20/2018	 Objection Filed By: Plaintiff Baker Boyer National Bank <i>Objection to Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/20/2018	 Objection Filed By: Defendant Foust, James Patterson, Jr. <i>Defendant's Objection to Plaintiff's Post-Hearing Brief</i>
01/09/2019	 Findings of Fact, Conclusions of Law and Judgment Filed by: Plaintiff Baker Boyer National Bank <i>Findings of Fact, Conclusions of Law, and Final Judgment</i>
01/10/2019	 Notice of Entry of Judgment Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Findings of Fact, Conclusions of Law and Final Judgment</i>
01/18/2019	 Order <i>Order Granting Holland & Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC</i>
01/22/2019	 Notice of Entry of Order <i>Notice of Entry of Order Granting Holland & Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC</i>
02/21/2019	 Application Filed By: Plaintiff Baker Boyer National Bank <i>Application for Order to Show Cause Why Defendants Should Not be Held in Civil Contempt</i>
02/21/2019	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order to Appear and Show Cause Why Defendants Should Not Be Held In Civil Contempt</i>

CASE SUMMARY

CASE NO. A-17-760779-F

02/25/2019	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>Notice Of Entry Of Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt</i>
02/25/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>Writ of Execution</i>
02/27/2019	 Motion to Withdraw As Counsel Filed By: Defendant Foust, James Patterson, Jr. <i>Motion to Withdraw as Counsel for Defendant James Patterson Foust Jr. on an Order Shortening Time</i>
02/28/2019	 Affidavit of Service Filed By: Plaintiff Baker Boyer National Bank <i>Affidavit of Service</i>
03/19/2019	 Order Granting Motion Filed By: Defendant Foust, James Patterson, Jr. <i>Order Granting Motion to Withdraw as Counsel</i>
03/19/2019	 Notice of Entry of Order Filed By: Defendant Foust, James Patterson, Jr. <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel</i>
03/22/2019	 Affidavit of Service <i>Affidavit of Service - Edward Detwiler</i>
04/01/2019	 Motion Filed By: Defendant Foust, James Patterson, Jr. <i>Motion to Discharge Attachment Pursuant To NRS 31.200</i>
04/04/2019	 List of Witnesses Filed By: Plaintiff Baker Boyer National Bank <i>Evidentiary Hearing Disclosures</i>
04/08/2019	 Declaration Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>Declaration of James Patterson Foust, Jr.</i>
04/11/2019	 Writ Electronically Issued <i>Writ of Execution</i>
04/11/2019	 Writ Electronically Issued <i>Writ of Execution</i>
04/12/2019	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>Opposition to Judgment Debtor's So-Called "Motion to Discharge Attachment Pursuant to NRS 31.200"</i>

CASE SUMMARY

CASE NO. A-17-760779-F

04/29/2019	 Motion Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>Motion to Discharge Attachment Pursuant to NRS 31.200</i>
04/30/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/16/2019	 Declaration Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>Declaration of James Patterson Foust, Jr.</i>
05/28/2019	 Brief Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>Defendant's Closing Arguments</i>
05/28/2019	 Certificate Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>Certificate of Service</i>
06/12/2019	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Evidentiary Hearing Volume I; 5.17.19</i>
06/12/2019	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Evidentiary Hearing Volume I; 5.21.19</i>
06/12/2019	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Evidentiary Hearing Volume II; 5.21.19</i>
06/21/2019	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order for Punishment of Contempt</i>
06/24/2019	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Order for Punishment of Contempt</i>
07/25/2019	 Status Report Filed By: Plaintiff Baker Boyer National Bank <i>Status Report</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>Writ of Execution - US Bank</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>Writ of Execution - Chase Bank</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank

CASE SUMMARY

CASE NO. A-17-760779-F

Writ of Execution - Capital One Bank

08/12/2019



Writ Electronically Issued

Party: Plaintiff Baker Boyer National Bank

Writ of Execution - Bank of America

09/10/2019



Affidavit in Support

Filed By: Plaintiff Baker Boyer National Bank

Affidavit of John E. Bragonje In Support of Lewis and Roca Attorney Fees and Costs Incurred In Connection With All of the Proceedings to Seek Enforcement of the Court's January 9, 2019 Order

09/17/2019



Motion

Filed By: Plaintiff Baker Boyer National Bank

Motion Requesting Hearing on Status

09/17/2019



Clerk's Notice of Hearing

Notice of Hearing

09/19/2019



Warrant

Filed by: Plaintiff Baker Boyer National Bank

Warrant of Arrest and Commitment of James Patterson Foust, Jr.

11/19/2019



Order

Filed By: Plaintiff Baker Boyer National Bank

Order Awarding Attorney Fees and Costs Incurred in Connection with all of the Proceedings to Seek Enforcement of the Court's January 9, 2019 Order

11/20/2019



Notice of Entry of Order

Filed By: Plaintiff Baker Boyer National Bank

Notice of Entry of Order Awarding Attorney Fees and Costs Incurred in Connection with all of the Proceedings to Seek Enforcement of the Court's January 9, 2019 Order

12/11/2019



Reporters Transcript

Transcript of Proceedings - Show Cause Hearing 4.1.19

12/11/2019



Reporters Transcript

Transcript of Proceedings - Evidentiary Hearing 4.24.19

01/22/2020



Status Report

Filed By: Plaintiff Baker Boyer National Bank

Notice of Serving Subpoena on Edward Newlin Detwiler

01/22/2020



Status Report

Filed By: Plaintiff Baker Boyer National Bank

Errata (re Serve Date) Notice of Serving Subpoena on Edward Newlin Detwiler

01/24/2020



Affidavit of Service

Filed By: Plaintiff Baker Boyer National Bank

Affidavit of Service - Edward N. Detwiler

01/24/2020



Brief

Filed By: Plaintiff Baker Boyer National Bank

Brief in Support of Continuing Request to Hold Edward N. Detwiler in Civil Contempt of

CASE SUMMARY

CASE NO. A-17-760779-F

	<i>Court</i>
01/28/2020	 Notice of Appearance Party: Other Detwiler, Edward <i>Notice of Appearance for Edward Detwiler</i>
01/28/2020	 Notice of Appearance Party: Other Detwiler, Edward <i>Notice of Appearance for Edward Detwiler</i>
01/28/2020	 Records Transcript of Hearing Party: Plaintiff Baker Boyer National Bank <i>Records Transcript of Hearing: Status Check</i>
01/29/2020	 Motion for Protective Order <i>Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time</i>
01/29/2020	 Opposition Filed By: Plaintiff Baker Boyer National Bank <i>Opposition to Non-PARTY Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on OST and Erratum Providing Correct Affidavit of Service Upon Edward Detwiler</i>
01/30/2020	 Objection <i>Non-Party Edward Detwiler's Notice of Objection Pursuant to NRS 22.030</i>
01/30/2020	 Reply in Support <i>Non-Party Edward Detwiler's Reply in Support of Motion for Entry of a Protective ORDER and Continuance of Hearing</i>
01/30/2020	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager</i>
01/30/2020	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager</i>
02/05/2020	 Motion for Relief Filed By: Other Detwiler, Edward <i>Non-Party Edward Detwiler's Motion for Relief from Contempt Order Pursuant to NRCP 60 (b)</i>
02/06/2020	 Appendix Filed By: Other Detwiler, Edward <i>Appendix of Exhibits to Motion for Relief from Contempt</i>
02/10/2020	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>Plaintiff's Opposition to Non-Party Edward Detwiler's: (1) Motion for Relief From Contempt Order Pursuant To NRCP 60(B); (2) Motion for New Trial Pursuant To NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant To NRCP 52 and 59 (4) Motion for Reconsideration of</i>

CASE SUMMARY

CASE NO. A-17-760779-F

The Court's Contempt Order (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court

02/11/2020



Reply

Filed by: Other Detwiler, Edward

Non-Party Edward Detwiler's Reply in Support of: (1) Motion for Relief from Contempt Order Pursuant to NRCP 60(b); (2) Motion for New Trial Pursuant to NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court

02/25/2020



Affidavit

Filed By: Plaintiff Baker Boyer National Bank

Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC

02/25/2020



Motion to Seal/Redact Records

Filed By: Plaintiff Baker Boyer National Bank

Motion to Seal Supporting Documents to Affidavit of John E. Bragonje in Support of Lewis and Roca Attorneys Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC

02/25/2020



Filed Under Seal

Supporting Documents to Affidavit of John E Bragonje in Support of Lewis and Roca Attorney Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand LLC

02/26/2020



Clerk's Notice of Hearing

Notice of Hearing

02/28/2020



Notice of Change

Filed By: Other Detwiler, Edward

Notice of Change of Address/Change of Law Firm

03/03/2020



Response

Filed by: Other Detwiler, Edward

Non-Party Edward Detwiler's Response to the Affidavit of John E. Bragonje in Support of Lewis and Roca Attorney Fees and Costs incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC and Reservation of Right to File a Motion to Request Stay of Execution and Waive Supersedeas Bond

03/04/2020



Substitution of Attorney

Filed by: Other Detwiler, Edward

Substitution of Counsel

03/09/2020



Writ Electronically Issued

Party: Plaintiff Baker Boyer National Bank

Writ of Execution

03/12/2020



Order

Filed By: Plaintiff Baker Boyer National Bank

Order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC

03/12/2020

















Notice of Entry of Order

Filed By: Plaintiff Baker Boyer National Bank

Notice of entry of order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC

CASE SUMMARY

CASE NO. A-17-760779-F

03/24/2020	 Motion to Stay Filed By: Other Detwiler, Edward <i>Non-Party Edward Detwiler's Motion to Stay Execution of Order For Sanctions Pending Appeal and to Waive Supersedeas Bond; and Order Shortening Time</i>
03/27/2020	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>Opposition to Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond</i>
03/27/2020	 Notice Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Filing Edward N. Detwiler's Deposition Transcript</i>
03/30/2020	 Order <i>Order and Judgment</i>
04/01/2020	 Order Filed By: Plaintiff Baker Boyer National Bank <i>Order and Judgment</i>
04/01/2020	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Entry of Order and Judgment</i>
04/03/2020	 Recorders Transcript of Hearing Party: Other Detwiler, Edward <i>Recorders Transcript of Telephonic Hearing: All Pending Motions 3.30.20</i>
04/03/2020	 Recorders Transcript of Hearing Party: Other Detwiler, Edward <i>Recorders Transcript of Hearing: All Pending Motions 2.20.20</i>
04/03/2020	 Notice Filed By: Plaintiff Baker Boyer National Bank <i>Notice of Response to Mr. Detwiler's Arguments</i>
04/08/2020	 Response <i>Non-Party Edward Detwiler s Response to Notice of Response to Mr. Detwiler s Arguments</i>
04/08/2020	 Notice of Appeal Filed By: Other Detwiler, Edward <i>Notice of Appeal</i>
04/09/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
04/13/2020	 Notice of Filing Cost Bond <i>Edward N. Detwiler s Notice of Filing Cost Bond On Appeal</i>
04/13/2020	 Order Denying Motion <i>Order Denying Edward N. Detwiler's Motion to Stay Execution of Order For Sanctions Pending Appeal and to WAive Supersedeas Bond</i>

CASE SUMMARY

CASE NO. A-17-760779-F

04/13/2020



Notice of Entry of Order

Filed By: Plaintiff Baker Boyer National Bank

Notice of Entry of Order Denying Edward N. Detwilder s Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond

DISPOSITIONS

08/31/2017

Foreign Judgment (Judicial Officer: Scotti, Richard F.)

Debtors: James Patterson Foust, JR. (Defendant)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 08/31/2017, Docketed: 09/07/2017

Total Judgment: 941,880.21

04/16/2018

Order (Judicial Officer: Scotti, Richard F.)

Debtors: Harry Hildibrand LLC (Other)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 04/16/2018, Docketed: 04/17/2018

01/09/2019

Judgment (Judicial Officer: Scotti, Richard F.)

Debtors: James Patterson Foust, JR. (Defendant), Harry Hildibrand LLC (Other)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 01/09/2019, Docketed: 01/10/2019

11/19/2019

Order (Judicial Officer: Scotti, Richard F.)

Debtors: James Patterson Foust, JR. (Defendant)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 11/19/2019, Docketed: 11/20/2019

Total Judgment: 48,385.56

03/12/2020

Sanctions (Judicial Officer: Scotti, Richard F.)

Debtors: Harry Hildibrand LLC (Other), Edward Detwiler (Other)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 03/12/2020, Docketed: 03/12/2020

Total Judgment: 100,000.00

04/01/2020

Judgment Plus Interest (Judicial Officer: Scotti, Richard F.)

Debtors: Harry Hildibrand LLC (Other), Edward Detwiler (Other)

Creditors: Baker Boyer National Bank (Plaintiff)

Judgment: 04/01/2020, Docketed: 04/02/2020

Total Judgment: 318,855.52

HEARINGS

01/22/2018



Motion for Order (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Plaintiff's Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment

Granted;

Journal Entry Details:

The Court GRANTS Plaintiff's Motion for Order Requiring Judgment Debtor, James Foust, Jr., to immediately deliver all of the classic cars identified in Exhibit 3 of the Motion, to Plaintiff, to the extent any such cars are found (by the Plaintiff, Sheriff, Constable, or any other peace officer) to be in the possession, custody, or control of the Judgment Debtor. Said cars should be held in the custody of Plaintiff (or its assignee, agent, or lawful authority). Plaintiff shall exercise reasonable and good faith care to safeguard and protect the cars from theft, vandalism, or the elements. Plaintiff must not sell, transfer, encumber, lease or otherwise dispose of possession of such cars until further Order of the Court. Any party claiming to own or hold any beneficial interest in the cars may come forward and present its claim for review to the Court. The Court hereby sets an Evidentiary Hearing on an Order to Show Cause why the cars should not be used to satisfy Judgment Debtor's debt to Plaintiff. This Evidentiary Hearing is set for Monday, February 5, 2018, at 11:00 a.m. Notwithstanding the forgoing, this Order to Deliver Possession is effective immediately, based upon this Minute Order.;

CASE SUMMARY**CASE NO. A-17-760779-F**

02/05/2018

**Evidentiary Hearing (11:00 AM)** (Judicial Officer: Scotti, Richard F.)**02/05/2018, 02/15/2018, 03/07/2018, 04/18/2018**

Matter Heard;

Matter Heard;

Matter Continued;

Journal Entry Details:

Upon Courts inquiry, Mr. Munteer stated Harry Hildibrand has retained counsel, and he thinks there are due process issues with the prior hearing and the vehicles that will be discussed today are owned by Mr. Hildibrand and requested the other hearing take place before this instant matter. Mr. Munteer stated Mr. Hildibrand is trying to intervene in this case as a party. Mr. Went indicated he was retained after the enforcement proceeding was heard regarding the Motorcoach and they filed a Third Party Claim, and Application, and stated his issue is the enforcement proceeding that occurred with the Motorcoach. Upon Court's inquiry, Mr. Bragonje stated he did not believe Mr. Hildibrand received notice of the prior proceeding, since the entity was not a party to the case, however Mr. Foust is a manager and owner of Harry Hildibrand LLC, and the Court through one of its hearings found Mr. Foust was a manger and owner and an LLC can only act through its agents. Mr. Munteer argued he has sworn testimony and declaration that says Mr. Foust was not a manager or owner of Harry Hildibrand LLC and requested additional time to work out the issues before proceeding today. Mr. Munteer indicated he is requesting to file a Motion for Reconsideration regarding the Court's prior findings regarding Mr. Foust being a managing partner of Harry Hildibrand LLC, and firmly stated he has never represented the LLC. Court advised there is not a signed Order from the hearing and would not go forward with today's hearing until an Order is signed. Mr. Bragonje stated the Motorcoach has been decided and stated Mr. Munteer can only file an appeal to that matter not a Motion for Reconsideration. Mr. Went indicated he has a pending Motion before the Court on Monday's Chambers calendar. Court directed Mr. Bragonje to file his Opposition thereto by Monday March 12; and further directed Mr. Went to file his Reply on or before Friday March 16; and the matter will be resolved in Chambers. COURT ORDERED, Application for Hearing with 10 days on Third Party's Claim of Interest in Property Levied Upon RESET. With regards to Mr. Munteer's request to file a Motion for Reconsideration, or a Rule 59 or 60 Motion, which ever is deemed appropriate, shall be filed on or before Wednesday March 21; and further directed Mr. Bragonje to file his Opposition on or before Wednesday April 11; Mr. Munteer's Reply shall be due on or before Friday April 13; COURT ORDERED, matter SET for in Chambers decision on April 13. Mr. Munteer requested the Motorcoach be held and not sold pending the Court's ruling on these Motions. COURT FURTHER ORDERED, and sale of the Motorcoach is STAYED UNTIL April 13, 2018. With regards to a Motion to Intervene, Court directed Mr. Went to file his Motion to Intervene on or before Thursday March 15; Mr. Bragonje's Response shall be due on or before Monday March 19 as well as any Joinders thereto; Mr. Went's Reply shall be due on or before Thursday March 22. COURT ORDERED, the matter will be resolved on the Chambers calendar March 23. COURT ADDITIONALLY ORDERED, Evidentiary Hearing RESET. 3/16/18 HEARING: APPLICATION FOR HEARING WITH 10 DAYS ON THIRD PARTY'S CLAIMS OF INTEREST IN PROPERTY LEVIED UPON (CHAMBERS) 3/23/18 DECISION RE; MOTION TO INTERVENE (CHAMBERS) 4/13/18 DECISION RE; MOTION TO RECONSIDER (CHAMBERS) 4/18/18 9:00 A.M. EVIDENTIARY HEARING;

Matter Heard;

Matter Heard;

Matter Continued;

Journal Entry Details:

Mr. Munteer noted that the purpose of today's hearing was to establish the ownership of the 1997 Prevoust Motorcoach Vin#2PCM3349XV1026183. That the certificate of title was not in Mr. Foust's name and was in Harry Hilebrand LLC name, therefore, the Motorcoach should be returned by Plaintiff. James Foust Jr sworn and testified. Opposition by Mr. Bragonje. Argument that the certificate of title was not certified or authenticated, therefore it was hearsay. That Mr. Foust was an operating manager of the Hilebrand LLC and was the owner of the motorcoach. Furthermore, there was no proof of payment or contract of the sale. Sergeant Devin Smith sworn and testified. Jessica Helm read Jessica Smukal's affidavit into the record. Court finds that the motorcoach was sold after the judgment was entered; that substantial personal property of Mr. Faust was inside the motorcoach; the title was in Montana but property was in Nevada and no parties from Hilebrand's LLC has come forward. Court finds the asset was sold or concealed to keep out of the reach of Plaintiff and was fraud on the creditors. Court determined that Mr. Faust was the owner of the motorcoach. COURT ORDERED, Plaintiff has authority to sale the motorcoach 15 days from the Notice of Entry of

CASE SUMMARY

CASE NO. A-17-760779-F

order. Mr. Bragonje to prepare the order;

Matter Heard;

Matter Heard;

Matter Continued;

Journal Entry Details:

Court noted the purpose of the hearing was to determine ownership of the vehicles. Mr. Mounter indicated that Plaintiff had a judgment out of the State of Washington against the Defendant that was domesticated in Nevada. Plaintiff was trying to repossess the Defendant's vehicles. Mr. Mounter argued that Mr. Foust did not legally own the vehicles and stated that a motorhome that was not his was just recently seized off his residence. Mr. Bragonje argued the application for a loan indicated the Defendant owned the vehicles and requested guidance from the Court to collect the cars. Court instructed the parties to participate in a debtor examination. The motor home may remain in the custody of Plaintiff but may not be sold at this time. COURT ORDERED, hearing CONTINUED to determine ownership of the motorhome 2/15/18 11am. If the Defendant's sold the vehicles, the Court wants the price and where the money went. COURT ORDERED, a following hearing to determine ownership of the remaining vehicles 3/7/18 9:00am. Mr. Bragonje to prepare the order.;

03/16/2018



Hearing (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Application for Hearing with 10 Days on Third Party's Claim of Interest in Property Levied Upon

Matter Heard;

Journal Entry Details:

The Court elects not to allow oral argument on Third-Party Harry Hildebrand, LLC's claim of interest in the subject property. The Court will resolve the claim based on the briefs submitted, during the Court's March 23, 2018 Chamber Calendar hearing on Harry Hildebrand, LLC's Motion to Intervene. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/3/16/18;

03/23/2018



Decision (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Decision Re: Motion to Intervene

Motion Denied;

Journal Entry Details:

The Court DENIES the Motion To Intervene by Harry Hildibrand, LLC. . (Hildibrand). Plaintiff Baker Boyer National Bank (Baker) opposed the motion. Hildibrand asserted an interest in the motorcoach and the cars that are the subject of this action. Hildibrand s rights are governed by NRS 31.070. That statute sets forth the procedure for Hildibrand to assert a Third Party Claim to the subject property. Pursuant to NRS 31.070, an entity asserting a claim to the property may pursue its claim after the Plaintiff has levied on the property. In this case, Hildibrand may assert a Third Party Claim after Baker Boyer has levied on the property. The term levied on means to take possession pursuant to a writ of attachment. NRS 31.070(1) (drawing distinction between a levy, where a sheriff has taken possession of the property, and a writ of attachment); NRS 31.070(1) (mentioning a levy of the writ of attachment). The Court entered judgment in favor of Baker granting Baker a writ of attachment to take possession of the property. Baker represents to this Court that it has not yet taken possession. If and when Baker takes possession of the motorcoach and the cars, then Hildibrand s rights under NRS 31.070 are triggered. The Court makes no ruling whether Hildibrand actually holds and right to the property, or whether Hildibrand would prevail upon implementing the procedures under NRS 31.070. The Court already held in this matter that Mr. Foust owns and controls Harry Hildibrand, LLC. This finding will guide the Court s manner of resolving Hildibrand s a claim made under NRS 31.070. The Court rejects Hildibrands arguments made under NRCP 24. Specifically, Hildibrand is not entitled to intervene as a matter of right under NRCP 24(a)(2), because the present action does not impair or impede its ability to protect its interest, if any exists, in the subject property. Hildibrand may pursue the procedure available under NRS 31.070. Moreover, the Court finds that Hildibrands interest was adequately represented by Defendant James Patterson. Also, the Court exercises its discretion not to permit Hildibrand to intervene pursuant to NRCP 24(b) because Hildibrand s rights, to the extent they exist, are protected under NRS 31.070. Finally, the Court questions whether the Findings of Fact, Conclusions of Law, and Final Judgment (filed March 8, 2018) actually constitutes a Final Judgment. The parties to this action (Plaintiff Baker, and Defendant James Patterson Foust Jr.) must be prepared to address this issue at the next hearing in this matter. Accordingly, the Court DENIES the Hildibrand s Motion to Intervene. Plaintiff Baker shall prepare the proposed Order consistent herewith, adding appropriate context is necessary, and correcting

CASE SUMMARY

CASE NO. A-17-760779-F

any scrivener error. Defendant need not countersign, but must be provided a copy of the proposed order at least two business days before it is submitted to the Court. CLERK'S NOTE: This Minute Order has been electronically served by Courtroom Clerk, Kory Schlitz, to all registered parties for Odyssey File & Serve. (3/23/18);

04/12/2018



Minute Order (4:30 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

Defendant James Foust s Motion for Reconsideration, currently scheduled for a 4/13/2018 Chambers hearing, is hereby CONTINUED to the 4/18/2018 Oral Calendar, 9:00 a.m. The briefing schedule currently assigned for this Motion will remain. Additionally, on 4/18/2018, 9:00 a.m., the Court will hear Oral Argument on Harry Hildebrand, LLC s Motion for Clarification and conduct the previously scheduled Evidentiary Hearing for this matter. The 4/18/2018, 9:00am Evidentiary Hearing, Hearing on the Motion for Clarification, and Hearing on the Motion for Reconsideration will be heard in Courtroom 15C. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/04/12/18;

04/18/2018

Decision (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Decision Re: Motion to Reconsider

Matter Heard;

04/18/2018

Motion for Clarification (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Third-Party Claimant, Harry Hildibrand, LLC's Motion for Clarification on OST

Matter Heard;

04/18/2018



All Pending Motions (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

DECISION RE: MOTION TO RECONSIDER ... THIRD-PARTY CLAIMANT, HARRY HILDIBRAND, LLC'S MOTION FOR CLARIFICATION ON OST Rachel Wise, Esq., present on behalf of Harry Hildibrand LLC. Following arguments by counsel, COURT ORDERED the following: At a future Evidentiary Hearing, the Court will decide whether Harry Hildebrand LLC (HH) is bound by the prior decision of this Court that Mr. Foust is the owner of the Motorcoach. At that future hearing, if the Court determines that HH is not bound by the prior decision by principles of issue of claim preclusion, then HH will be permitted to present evidence, at that same hearing, that it is the owner of the Motor coach, under NRS 31.070. At that same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars over which HH claims an interest. These are the so-called HH cars, for future point of reference, even though this Court has not yet decided who owns the cars. This is an Evidentiary hearing under NRS 31.070. The parties agreed that this Evidentiary Hearing may proceed before the Plaintiff has levied upon the subject cars. At the same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars that HH contends it purchased from Mr. Foust and then sold to third parties. These are the so-called HH Sold Cars, for future point of reference, even though this Court has not yet decided who owns the cars. cars that he contends were transferred directly to third parties. These are the so-called Third Party Cars, for future point of reference, even though this Court has not yet decided who owns the cars. Accordingly, any and all remaining claims by and between the Plaintiff, Mr. Foust, and/or HH shall be resolved at the next Evidentiary Hearing. The Court directs the parties to meet and confer, with themselves and this Court s JEA and/or Law Clerk, to determine the best possible date to conduct this future Evidentiary Hearing. The Court Orders that the Stay upon Plaintiff to not sell, encumber, or dispose of the Motorcoach shall remain in effect until the future Evidentiary Hearing. The Court Orders that Mr. Foust shall notify and advise HH not to sell, encumber, or dispose of any of the so-called HH Cars. To the extent any prior order of this Court, or Minutes of this Court, are inconsistent herewith, such Order or Minutes are deemed modified accordingly. The Court hereby sets a Status Check for Wednesday, May 9, 2018, at 9:00, which Status Check shall be vacated if the parties have reached an agreement on the date of the future Evidentiary Hearing. The Court directs counsel for the Plaintiff to prepare the proposed order in this matter, consistent herewith, adding any appropriate context, and correcting for any scrivener errors. CLERK'S NOTE: Subsequent to Court, COURT supplemented this Minute Order to clarify the Court's Order. hvp/4/18/18;

04/23/2018




CANCELED Motion to Intervene (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Vacated - Duplicate Entry

CASE SUMMARY

CASE NO. A-17-760779-F

Motion to Intervene

04/23/2018	<p>CANCELED Motion For Reconsideration (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - On in Error</i></p> <p><i>Motion For Reconsideration of Order Re: Findings of Facts and Conclusions of Law and Final Judgment Re: Bentar Development, Inc.'s Motion for Partial Summary Judgment Against Plaintiffs' Fourth Case of Action</i></p>
04/23/2018	<p>CANCELED Motion for Clarification (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated</i></p> <p><i>Motion for Clarification on Order Shortening Time</i></p>
05/09/2018	<p> Status Check (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Court requested the parties set a date for the Evidentiary Hearing. Upon Court's inquiry, Mr. Bragonje advised they are having settlement discussions; an offer made and it is not a done deal yet. Colloquy regarding schedule for the Evidentiary Hearing. COURT ORDERED, matter SET for Evidentiary Hearing. Court directed Mr. Bragonje to work out any protocol with counsel, including when documents are to disclosed, when witness are going to be designated and if opening remarks are needed for the Court. Court further directed counsel to place this matter on calendar if they can't work out protocol. 05/25/18 9:00 AM EVIDENTIARY HEARING;</i></p>
05/24/2018	<p> Minute Order (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>Pursuant to a stipulation between the parties, the Evidentiary Hearing currently scheduled for 5/25/2018 is hereby CONTINUED to 6/29/2018, 9:00 a.m. CONTINUED TO: 6/29/18 9:00 AM CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/24/18;</i></p>
05/25/2018	<p>CANCELED Evidentiary Hearing (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - per Judge</i></p>
05/29/2018	<p>CANCELED Evidentiary Hearing (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - Set in Error</i></p>
06/28/2018	<p>CANCELED Motion to Compel (1:30 PM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - Moot</i></p>
06/29/2018	<p>CANCELED Evidentiary Hearing (10:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - per OST</i></p>
06/29/2018	<p> Motion to Compel (10:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Granted in Part;</p> <p>Journal Entry Details:</p> <p><i>Argument by Mr. Bragonje in support of the motion, noting the witnesses availability, and that the documents were produced late in the day; therefore, requested to proceed with this matter as soon as possible. Upon Court's inquiry as to how much time counsel had put into filing the motion and reply, Mr. Bragonje stated it took him about ten hours at \$400.00 an hour. Mr. Went argued in opposition to the motion, noting the date the motion and subpoena were served, issues with the service, and that the sanction shouldn't issue, as a sanction would prohibit a Harry Hildibrand 30(b)(6) witness from appearing and testifying. Colloquy regarding the prior hearing, and whether Mr. Detwiler was always the person that was going to be produced for the deposition and to testify at the hearing. COURT ORDERED, motion GRANTED IN PART and DENIED IN PART; Harry Hildibrand (HH) is to appear for a deposition, at Mr. Bragonje's office on or before 7/9/18, and every day thereafter that Mr. Detwiler fails or refuses to appear, the company of HH will be sanctioned \$1,000.00 a day until the company of HH appears; ADDITIONALLY, if he does not appear by 7/19/18, all HH employees, officers, directories, managers, and members will be barred from testifying at the evidentiary hearing. COURT FURTHER ORDERED, matter SET for evidentiary hearing, and</i></p>

CASE SUMMARY

CASE NO. A-17-760779-F

the monetary sanction matter is CONTINUED, to be heard on the same date as the evidentiary hearing to determine how to proceed. COURT DIRECTED Mr. Bragonje to prepare the order, and provide it to opposing counsel, for review and approval of form and content, before submitting it for signature. 7/31/19 - 9:00 AM - EVIDENTIARY HEARING;

07/31/2018



Evidentiary Hearing (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

Court advised the hearing was two fold today, noting the Court would announce their decision on whether issue preclusion or claim preclusion was going to apply with respect to the Court's prior decision that the Motor home was subject to the lien of the Plaintiff. Court further noted there was going to hear evidence regarding the ownership of the cars that were reportedly transferred to Harry Hildibrand LLC, and then again transferred to third parties. Upon Court's inquiry, Mr. Mounter stated he does not believe anything can happen in this case until the Plaintiff goes to Bankruptcy Court and gets the stay lifted. Mr. Mounter further requested some type of comfort order from the Bankruptcy Court stating it is okay for parties to proceed in this instant matter, and stated his is not comfortable proceeding today. Mr. Bragonje stated the assets that were going to be discussed today had nothing to do with Harry Hildibrand. COURT RECOGNIZES it's obligation under the Federal Bankruptcy Automatic Stay, and the Court will not proceed with the hearing with any cars with respect to Harry Hildibrand LLC if they claim an interest since that is jurisdiction with the Bankruptcy Court. COURT ORDERED, status check SET. Court directed Mr. Bragonje to prepare and submit a proposed order to the Court which identifies the groups of cars to which Harry Hildibrand LLC has not claimed an interest in, and add appropriate language in that order, which includes that you now do have authority to sell, transfer, encumber, or release or otherwise dispose of the possession, custody or control or ownership of those cars. 10/2/18 9:00 A.M. STATUS CHECK: PROCEDURAL STATUS OF HARRY HILDIBRAND LLC CLAIM OF INTEREST TO CERTAIN AUTOMOBILES;

10/03/2018



Status Check (9:00 AM) (Judicial Officer: Scotti, Richard F.)

STATUS CHECK: PROCEDURAL STATUS OF HARRY HILDIBRAND LLC CLAIM OF INTEREST TO CERTAIN AUTOMOBILES

Hearing Set;

Journal Entry Details:

Mr. Stewart advised counsel for Harry Hildibrand, LLC was not present. Court noted there was still an issue identifying cars still in his possession. Mr. Stewart indicated a stay was imposed and a bankruptcy was filed in California. Mr. Bragonje noted in the last two weeks the bankruptcy was dismissed as he did not show up for a status check. Further, an Evidentiary Hearing would be required to determine who owns the vehicles. COURT ORDERED, Evidentiary Hearing SET for November 5, 2018 at 8:30 a.m. Mr. Bragonje anticipated a half day would be required to complete an evidentiary hearing. COURT NOTED if counsel needed to reschedule the evidentiary hearing then they must inform the Court by October 29, 2018. Additionally, counsel to provide a two or three page brief one week prior to the evidentiary hearing. 11/05/18 8:30 AM EVIDENTIARY HEARING;

11/05/2018



Evidentiary Hearing (8:30 AM) (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

Upon Court's inquiry, all parties advised they were ready to proceed. Evidentiary Hearing commenced. Testimony and exhibits presented. (See worksheets) Following testimony, COURT ORDERED, post-hearing briefs DUE November 16, 2018 and any objections DUE November 20, 2018. Court will issue a decision from Chambers. ;

11/13/2018



Motion to Withdraw as Counsel (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Holland & Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand LLC Ex Parte Application for Order Shortening Time and Order Thereon

Motion Granted;

Journal Entry Details:

The Court GRANTS Holland & Hart LLP's Motion to Withdraw pursuant to EDCR 2.20 and 7.40. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 11-14-18;

CASE SUMMARY

CASE NO. A-17-760779-F

11/27/2018



Minute Order (10:57 AM) (Judicial Officer: Scotti, Richard F.)

Minute Order Re: Pltf/Judgment Creditor's Objection to Deft/Judgment Debtor's Post-Hearing Submission of the Commercial Loan Report as Evidence

Minute Order - No Hearing Held; Minute Order Re: Pltf/Judgment Creditor's Objection to Deft/Judgment Debtor's Post-Hearing Submission of the Commercial Loan Report as Evidence
Journal Entry Details:

The Court SUSTAINS Plaintiff/Judgment Creditor s Objection to Defendant/Judgment Debtor s post-hearing submission of the Commercial Loan Report as evidence. CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw;

11/28/2018



Minute Order (2:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order Re.: Judgment

Minute Order - No Hearing Held; Minute Order Re.: Judgment

Journal Entry Details:

The Court enters Judgment in favor of Baker Boyer National Bank (Bank) and against Defendant/Judgment Debtor James Patterson Foust, Jr. and against Third-Party Claimant Harry Hildebrand, LLC, and all entities directly affiliated thereto (including all persons or entities claiming an ownership interest in Harry Hildebrand, LLC; all entities owned or controlled by Harry Hildebrand, LLC; all entities owned or controlled by Mr. Foust; and StarDust Classic) (all collectively referred to herein as HH), as set forth herein. The Court hereby rejects HH s claims of interest in the cars which claims were made by HH pursuant to NRS 31.070, and by way of intervention in this action. The Court finds that Mr. Foust and HH are and have been agents of each other with respect to any past action involving the cars, and notice of these proceedings. The Court finds that Mr. Foust is the owner of all of the cars over which HH claims an interest; Mr. Foust is the owner of all of the cars that HH contends or has contended that it obtained from Mr. Foust and transferred to some third parties; and Mr. Foust is the owner of all cars, believed to number 59, which he owned or claimed to own at the time he became indebted to Bank, and/or which he contends or has contended were transferred by him to some third parties or party. The Court further orders and adjudges that: (1) any sale or transfer of the cars over which HH asserted or asserts an interest, estimated to be about 20 cars, is void ab initio, and of no force or effect whatsoever; (2) Plaintiff Bank may enforce and satisfy its claim against Mr. Foust by levying, executing upon, and taking full possession of the cars, and taking any and all further actions involving the cars to satisfy the debt owed by Mr. Foust; (3) any attachment, garnishment, levy, and execution on the 20 cars is permitted, pursuant to NRS 112.210; (4) Mr. Foust and HH are enjoined from taking or attempting to take any action to interfere with the Bank s rights to take, keep, and/or sell the cars that Mr. Foust had owned or claimed to have owned at the time the Bank obtained its original judgment against Mr. Foust; and (5) a certified copy of the Order upon these Minutes shall constitute conclusive proof, to any person, entity, or governmental agency or other authority, that HH has been fully and completely divested of any and all title and interest in the cars, and such title and interest resides in Mr. Foust, subject to the rights of the Bank set forth herein. Nothing contained herein shall have the effect of precluding any innocent third party from exercising its rights, if any, under NRS 31.070, in a new proceeding. The Court denies the Bank's request for attorneys fees as such an award is not expressly authorized under NRS 31.070. Further, separate proceedings would be necessary to consider a sanction under NRCP 37 or EDCR 7.60, and the time and resources to conduct such proceedings would outweigh the amount of the award sought by the Bank. The Bank shall prepare the proposed Order and Judgment in this matter. Official Notice of Entry of Judgment shall be the responsibility of the Bank. Bank need not obtain countersignatures from opposing counsel as to form and/or substance; however opposing counsel may submit an alternate proposed Order if necessary. This matter is now to be administratively closed. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg ;

03/06/2019



Motion to Withdraw as Counsel (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Motion to Withdraw as Counsel for Defendant James Patterson Foust Jr. on an Order Shortening Time

Motion Granted; Motion to Withdraw as Counsel for Defendant James Patterson Foust Jr. on an Order Shortening Time

Journal Entry Details:

COURT ORDERED, Motion to Withdraw GRANTED as unopposed pursuant to EDCR 2.20 and 7.40. CLERK'S NOTE: The above minute order has been distributed to: Terry A. Coffing, Esq. [tcoffing@maclaw.com];

CASE SUMMARY

CASE NO. A-17-760779-F

04/01/2019



Show Cause Hearing (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Matter Continued;

Journal Entry Details:

Mr. Mazur advised he was just retained and filed his appearance. Mr. Bragonje stated there was an issue concerning whether certain assets belonged to Mr. Foust and could be seized to satisfy a judgment, and despite the Court's Order that Mr. Foust overturn four vehicles his family used, Mr. Foust failed to do so; argued regarding the Court's recent Order. Court noted Mr. Foust did not comply with the Court's Order. James Foust sworn and testified. Court inquired regarding need for an Evidentiary Hearing. Court requested argument as to why Mr. Foust should not be held in contempt. Arguments by counsel. Mr. Foust sworn and testified. Court directed Mr. Mazur to provide Mr. Bragonje with the Affidavit from Mr. Foust stating as to each of the cars: who has possession, where they are located, and if the company does not have the cars, where they are located, and where the sales were conducted by the LLC or by Mr. Foust. Discussion by Court and counsel regarding vehicles in the possession of Mr. Foust family members. COURT ORDERED, matter to be CONTINUED. Court inquired how much time would be needed for the Evidentiary Hearing. Court advised it would have the JEA contact counsel regarding availability for continuance of this matter. Court directed Mr. Mazur to provide an affidavit of Mr. Foust regarding location, possession, and transfer of vehicle subject to this proceeding, prior to April 8, 2019. ;

04/24/2019



Evidentiary Hearing (1:00 PM) (Judicial Officer: Scotti, Richard F.)

04/24/2019, 05/17/2019, 05/21/2019

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

Edward Detwiler also present. Exclusionary Rule INVOKED. Edward Detwiler sworn and testified. Court stated the evidentiary portion of Mr. Detwiler's contempt hearing was concluded. Trial on contempt charges of Mr. Foust commenced. James Foust, Jr., Edward Detwiler, and Thomas Larkin sworn and testified. Court stated the evidentiary portion of Mr. Foust's contempt hearing was concluded. Closing arguments by counsel. Court advised Mr. Bragonje and Mr. Mazur to submit further argument, if needed, prior to Tuesday. Mr. Bragonje stated he would rather not submit further briefing. Mr. Bragonje stated he would not be available to respond to Mr. Mazur's filings next week due to being out of the country. Court informed Mr. Bragonje a response to Mr. Mazur's closing argument would not be necessary. COURT ORDERED, ruling DEFERRED; a decision to be provided.;

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

Mr. Mazur present via Court Call and Edward Detwiler also present. Court noted Mr. Foust was not present. Mr. Mazur advised Mr. Foust attended a funeral in Texas yesterday, and a Declaration was filed affirming the facts regarding the funeral attendance. Mr. Bragonje stated this was a contempt hearing, and argued Mr. Foust's excuse for his absence today did not matter and there was sufficient record to make a decision. Mr. Mazur assured this was not another delay tactic by Mr. Foust and informed the Court that Mr. Foust was given a diagnosis of less than six months due to severe cancer. Mr. Mazur further stated Mr. Foust indicated he would make himself available as soon as he returns to Las Vegas from the funeral in Texas. Court noted Mr. Foust could have been here if he really wanted to by taking a late flight last night or early flight this morning. Mr. Bragonje stated he did not believe what Mr. Foust says. Court reviewed the Court's schedule for the next week. Court stated Mr. Foust would be required to pay costs and compensate Mr. Bragonje for his time showing up at Court. Mr. Mazur stated he would make sure Mr. Foust is present Tuesday, May 21 at 8:30 a.m. Mr. Bragonje requested to proceed with Mr. Detwiler's evidentiary portion today. Court stated the exclusionary rule would apply since it was a separate proceeding for Mr. Detwiler and Mr. Foust. Colloquy regarding testimony of Mr. Detwiler. Witness Edward Detwiler sworn and testified. COURT ORDERED, matter CONTINUED. Court directed Mr. Detwiler return on May 21. CONTINUED TO: 5/21/19 8:30 AM;

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

Mr. Mazur stated his client was confused about the time of the hearing, and requested a continuance. Court advised counsel of available dates. Mr. Bragonje stated he would like to

CASE SUMMARY

CASE NO. A-17-760779-F

proceed today. Court advised this was an Order to Show Cause against Mr. Foust and Harry Hildibrand LLC, and it was their burden to appear. Mr. Bragonje advised he had a subpoena he wished to submit to the Court. Court stated it viewed proof of service upon Mr. Foust and Mr. Detwiler. Mr. Bragonje submitted a copy of the demonstrative evidence and subpoena to the Court for review. Mr. Bragonje argued the paperwork showed Mr. Foust requesting insurance for the vehicles, proving his interest in the vehicles. Mr. Mazur argued assumptions were made about what the documents mean, and testimony would be needed. COURT ORDERED, matter CONTINUED. MATTER TRAILED. MATTER RECALLED. Mr. Mazur informed May 17 would be the best date for his client to appear. COURT ORDERED, Mr. Foust, Mr. Detwiler, and a representative of Harry Hildibrand must appear on May 17, 2019. CONTINUED TO : 5/17/19 9:00 AM;

05/09/2019



Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

As the parties already know, on May 17, 2019 9:00 A.M. the Court is conducting the Evidentiary Hearing on the Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt. The Court also notes that on the Chamber Calendar, on June 3, 2019, the Court will resolve Defendant Foust's Motion to Discharge Attachment Pursuant to NRS 31.200. Unless the Court Orders otherwise, the Court declares that all prior proceedings in this action were conducted in accordance with the proper procedure, that defendants have waived any irregularities, and all Orders of this Court are valid and binding on Defendants. At the Evidentiary Hearing, each side shall have one (1) hour to present opening statements, examine witnesses, and present closing arguments; noting that the facts and legal issues in this action have already been extensively submitted to this Court at the numerous prior hearings. Defendant shall present first at this Evidentiary Hearing, in accordance with the Order to Show Cause. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 5/9/19;

05/21/2019

CANCELED Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)

Vacated - Set in Error

06/03/2019



Motion (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Motion to Discharge Attachment Pursuant to NRS 31.200

Denied;

Journal Entry Details:

Defendants Motion to Discharge Attachment pursuant to NRS 31.200 is DENIED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 6/4/19;

06/03/2019



Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

An Evidentiary Hearing was conducted on the Court's Order to Appear and Show Cause Why Defendant James Foust, Jr. Should Not Be Held in Civil Contempt. The Court hereby Finds, Concludes, and Adjudges that Defendant James Patterson is in CIVIL CONTEMPT for violating this Court's Findings of Fact, Conclusion of Law, and Final Judgment (January 9, 2019) (hereinafter Order). That Order required Foust on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, all [twenty] classic cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust. . . . Id. at p. 22, para.29. Mr. Foust never challenged that Order with any motion for reconsideration, or motion pursuant to Rule 59 or 60 to alter or amend the Order. Indeed Mr. Foust waited until about three months later (April 1, 2009) to file a late and unmeritorious Motion to Discharge Attachment, which the Court Denies. Mr. Foust had acknowledged notice of these proceedings, and the Court's Order to Appear at the Evidentiary Hearing. Mr. Foust testified on his behalf, and presented Mr. Detwiler as a witness on his behalf. The Court finds that Mr. Foust fraudulently testified to this Court that he no longer had any ownership interest in the cars. He presented no valid excuse for violating the Court's Order. He presented no valid excuse for failing to turn over the subject cars. He presented no evidence of any effort to retrieve the subject cars from their present locations. He claimed that several of the cars were owned by Harry Hildebrand, LLC which the Court previously held was in privy with Mr. Foust. In fact, the evidence presented in these proceedings to date have proved that, at all times pertinent hereto, Mr. Foust directly and/or indirectly controlled Harry Hildebrand. Mr.

CASE SUMMARY**CASE NO. A-17-760779-F**

Foust was designated as the managing initial director through at least 2008. Filings with the Montana Secretary of State showed that Mr. Foust was the sole member and/or manager for HHLLC. Significant evidence reflects that even if Foust transferred the exotic cars to HHLLC, he never received any consideration. In numerous bankruptcy filings of Harry Hildebrand LLC, HHLLC represented that it was actually owned by an entity called StarDust Classic, LLC. Mr. Foust had and has such significant connection and interest in StarDust Classic, LLC, that HHLLC's supposed Manager, Mr. Detwiler, admitted that Mr. Foust ultimately owned HHLLC through StarDust Classic, LLC. The Court finds that, at all times relevant herein, Foust, Harry Hildebrand, LLC, and StarDust Classic, LLC were and are alter ego's of each other with respect to all of the exotic cars listed on Exhibit B. In Third Party Claimant Harry Hildebrand, LLC's Evidentiary Hearing brief (October 29, 2018), Harry Hildebrand represented to this Court that it held an interest in at least the following three vehicles: 2007 Mercedes S550, 2007 Mercedes M50SUV, and a 2007 Mercedes CLK550 (hereinafter the Mercedes Vehicles). Each of these Mercedes vehicles are listed in the Exhibit A, and are the subject of the Court's Order for Foust to surrender. Harry Hildebrand, LLC represented that the Mercedes Vehicles are in the possession of Mr. Foust's wife and daughters. Thus Mr. Foust and Harry Hildebrand knows where these cars are located, and has the right and ability and duty, under the Court Order, to surrender the Mercedes Vehicles to Baker Boyer. As a result of Mr. Foust's violation of the Court Order regarding the Mercedes Vehicles, Mr. Foust is in Civil Contempt of Court. In prior submissions to this Court, Mr. Foust represented that he drives a 2000 GMC Yukon (Yukon), which he supposedly sold to HHLLC, yet still holds pursuant to a Lease which he never provided. In any event, Mr. Foust has no valid reason to failing to surrender the Yukon, which he possesses, and which he owns either directly or indirectly through HHLLC. With respect to the 2017 Kawasaki, Mr. Foust represented to this Court by sworn Declaration on April 8, 2019, that such vehicle was in the possession of HHLLC. Mr. Foust has no valid reason to failing to surrender this vehicle, which he owns either directly or indirectly through HHLLC. In the bankruptcy schedules of Harry Hildebrand, LLC, HHLLC represented that it owned all of the twenty (20) cars that are listed in Exhibit B. In fact, Mr. Foust himself represented to the Court in a filing on April 1, 2019 (page 5, lines 13-15) that HHLLC owned the cars: Here, HHLLC claimed an interest in the classic cars that was adverse to Defendant's interest. HHLLC provided copies of certificates of title demonstrating its ownership. . . . Further, Mr. Foust represented to this Court that: HHLLC . . . is the registered owner of the vehicles. (Id. at p. 6, lines 2-3). Yet in other documents Mr. Foust continued to represent to the Bank that he owned the cars, through at least the end of 2015. Whether Mr. Foust claimed to own the cars in his name, or whether the cars were held indirectly by HHLLC the entity that Mr. Foust ultimately owned, Mr. Foust has no valid excuse for not surrendering all twenty cars over to Baker, Boyer. For several other cars, Mr. Foust represented under oath, in a Declaration on April 8, 2019, that the cars were in the control of HHLLC through at least 2018, but that they may have been repossessed by StarDust Classic, LLC recently. These cars included: with minor exception mentioned below, all of the remaining cars not mentioned above fall into this category of cars that might have been taken over by StarDust Classic, LLC. As noted above, StarDust Classic, LLC is an alter ego of Foust. Mr. Foust has no valid reason for failing to surrender these vehicles, which he either owns directly, or indirectly through HHLLC, and/or StarDust Classic, LLC. The cars supposedly not held by Foust, HHLLC, or StarDust, include: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy. What is perfectly clear, and supported by clear and convincing evidence, is that as of April 1, 2009, the twenty (20) exotic cars that are the subject of Exhibit B, were in the possession, custody, and control of, and owned by, either Mr. Foust directly, or by Mr. Foust indirectly through HHLLC. There is some mention by Foust, in various briefs filed on April 8, 2019, and April 1, 2019, that the vehicles had been subject to security interests by Santander and/or Ron Vega. However Mr. Foust did not know if any such other secured creditors had commenced any process to enforce their security interest; there was no proof provided by Foust about the existence of any such security interests; there was no mention to the Court of any amounts that remained due and owing by Foust and/or HHLLC to these supposed third party creditors; and there was no proof (only rank speculation) to the Court that Foust and/or HHLLC might have lost control over these vehicles. It is abundantly clear that all twenty (20) cars remain in the control of Mr. Foust, with the possible exception of: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy meaning Foust has control of the other 16 exotic cars on Exhibit B. The existence of any third party security interest in the vehicles is no excuse for Foust's disregard of this Court's Order. The Court finds that each act of Mr. Foust's failure to turn over one of the twenty (20) cars on Exhibit B, with the exception of 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy, is a separate act of Civil Contempt of Court. Pursuant to this Court's authority under NRS 22.100, the Court fines Mr. Foust \$8,000.00, to be paid to Plaintiff/Judgment Creditor Baker Boyer immediately. Further, this Court Orders Foust to pay Baker Boyer National Bank its reasonable attorneys fees and expenses in connection with all of the proceedings to seek enforcement of the Court's Order. Baker Boyer shall submit its Affidavit in support of such fees and expenses, for the Court to

CASE SUMMARY


CASE NO. A-17-760779-F


review, and then incorporate into an Order against Foust. Further, pursuant to NRS 22.100, this Court Orders that Mr. James Patterson Foust, Jr. shall be IMPRISONED until he turns over to Baker Boyer National Bank, and/or its attorneys, each of the cars identified in Exhibit B minus the four exceptions mentioned above. The Warrant of Commitment shall contain a precise listing of the cars to be surrendered, as well as the appropriate purge clause. Plaintiff Baker Boyer shall prepare the ORDER FOR PUNISHMENT OF CONTEMPT, for this Court to review and sign, as appropriate, containing the listing of the cars, and the purge clause. The Court hereby STAYS THE ENFORCEMENT of this ORDER FOR PUNISHMENT OF CONTEMPT for ten (10) calendar days from the date of execution by the Court. Also, Baker Boyer shall prepare a separate WARRANT OF ARREST AND COMMITMENT for this Court to review and sign, if appropriate. The Court hereby STAYS THE ENFORCEMENT of the WARRANT OF ARREST AND COMMITMENT for ten (10) calendar days from the date of execution of the same by this Court. During this period of STAY, the Court will not deliver the WARRANT to Baker Boyer of any law enforcement personnel for execution, and James Foust shall not be subject to arrest during this period of STAY. The purpose of these stays is to afford Foust a reasonable opportunity to comply with his obligations without fear of arrest for the stayed period of time. This Court will deal separately with the remaining cars, and the issue whether Mr. Detwiler and/or HLLC should also be held in Contempt of Court. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 6/3/19;

06/12/2019 CANCELED Pre Trial Conference (8:45 AM) (Judicial Officer: Scotti, Richard F.)
Vacated

06/26/2019 CANCELED Calendar Call (8:45 AM) (Judicial Officer: Scotti, Richard F.)
Vacated




07/01/2019 CANCELED Jury Trial (10:00 AM) (Judicial Officer: Scotti, Richard F.)
Vacated - Case Closed

09/18/2019  At Request of Court (3:00 AM) (Judicial Officer: Scotti, Richard F.)
Review Aff of Lewis and Roca re Atty Fees pursuant to June 3, 2019 Minute Order
Granted;
Journal Entry Details:
The Court GRANTS Plaintiff Baker Boyer National Bank's request for attorney s fees. Plaintiff presented its Affidavit in Support of Attorney's Fees as directed by this Court, at the Hearing on June 3, 2019. The Court awards attorney s fees and costs in the amount of \$48,385.56. The Court adopts as its findings the factual statements and legal analysis presented by Plaintiff in the Affidavit of Mr. Bragonje. Plaintiff to prepare the Order, adding appropriate context and authorities. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 9/23/19;

10/01/2019  Status Check (8:30 AM) (Judicial Officer: Scotti, Richard F.)
Motion For Status Check
Set Status Check;
Journal Entry Details:
Court noted Plaintiff's request for attorney's fees was granted. Court stated after reviewing the minute order and prior history, the four cars that had not yet been the subject of an order were a 1966 Ford Thunderbird, 1966 Plymouth, 2000 Plymouth and 1963 Chevy. Mr. Bragonje advised the Court had yet to rule on whether Mr. Detwiler and Harry Hildebrand LLC were in contempt. Court anticipated that Baker Boyer would be able to secure the cars so the Court would not have to rule on contempt of Mr. Detwiler, and also noted Mr. Detwiler did not have counsel. Mr. Mazur confirmed he did not represent Mr. Detwiler, and only represented him for the limited purpose of the Order to Show Cause. Mr. Mazur advised he would be filing a Motion to Withdraw as Counsel for Mr. Foust this week due to lack of communication. Court directed Mr. Mazur to provide the last known addresses for Harry Hildebrand, LLC and Mr. Detwiler in the Motion. Mr. Bragonje stated he had a warrant for Mr. Foust's arrest, however was seeking an Order of Contempt for Mr. Foust. COURT ORDERED, Status Check SET. Court stated it did not have enough evidence to link Mr. Foust to the four cars and would need to see titles. Mr. Bragonje stated at this point his client was content, and efforts now were focused on finding Mr. Foust and obtaining the cars. 12/30/19 9:30 AM STATUS CHECK: WARRANT ;

CASE SUMMARY

CASE NO. A-17-760779-F

10/21/2019	<p>CANCELED Motion (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated</i></p> <p><i>Motion Requesting Hearing on Status</i></p>
11/19/2019	<p> Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The Court GRANTS Plaintiff/Judgment Creditor s Motion to hold Mr. Detwiler and Harry Hildebrand in Civil Contempt of Court. At the Evidentiary Hearing on this matter Mr. Detwiler and Harry Hildebrand both had the ability to comply with this Court s prior Order to surrender and turnover the subject cars, but intentionally and knowingly failed to comply, without justification. Mr. Detwiler argued that he was merely a figure-head of Harry Hildebrand, LLC, but that argument was clearly negated by the evidence; at all relevant times Mr. Detwiler was the controlling Manager of Harry Hildebrand, LLC, and as such accepted and possessed the responsibility to control the assets of Harry Hildebrand, LLC, including its classic cars. The Court ORDERS that a Warrant of Commitment (Arrest) be issued as to Mr. Detwiler, commanding his confinement until such time as he surrenders that sub-set of the 20 cars that he swore were in the possession, custody, and/or control of Harry Hildebrand LLC at the time of the Court s turnover Order. Bond shall be required in the amount of \$100,000.00. Further, pursuant to NRS 22.100, the Court fines Harry Hildebrand LLC \$ 500.00, for its Contempt of Court, and further sanctions Harry Hildebrand and Orders it to pay the total amount of Plaintiff Baker Boyer s fees and costs incurred in connection with this matter. Baker Boyer shall prepare the Order herein, including appropriate context and authorities, consistent with this Minute Order and the evidence presented at the hearing. Plaintiff shall attach to such Order its Affidavit of Fees and Costs. Plaintiff shall also prepare the Warrant of Commitment against Mr. Detwiler. CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve and a copy was mailed to Harry Hildebrand, LLC. //ev11/19/19;</i></p>
12/19/2019	<p> Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The Court, sua sponte, hereby issues a temporary STAY on the execution and enforcement of the Warrant of Arrest and Commitment of Edward N. Detwiler until December 30, 2019 at 5PM (PST). This Stay is effective immediately. Further, a Status Check Hearing on the Warrant is hereby set for Monday, December 23, 2019 at 9AM. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 12/19/19;</i></p>
12/23/2019	<p> Status Check (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Status Check: Warrant</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Court expressed concern regarding whether a subpoena was ever served on Mr. Detwiler. Mr. Bragonje stated he did not believe Mr. Detwiler was served with a subpoena, however had been the subject of an Order to Show Cause. Court stated in the Order entered on November 20, 2019, James Foust was named the judgment debtor and reviewed prior findings. Mr. Bragonje reviewed the last Order of the Court. COURT ORDERED, warrant VACATED, and Order of Contempt VACATED. Court directed Mr. Bragonje to serve a subpoena on Mr. Detwiler to appear before the Court and to give deposition or explanation under oath as to the matters stated within NRS 31.100, to inquire whether Mr. Detwiler is the alter ego of Harry Hildebrand, and to possibly include the Court to include by reference all other testimony provided to the Court in the past, and any additional testimony he may want to give, and include if he fails to appear, the Court will hold him in civil contempt of court and issue a warrant. Mr. Bragonje stated he had not been able to locate Mr. Foust in Nevada, believed he was in Los Angeles, and requested the warrant extended beyond December 30. COURT FURTHER ORDERED, the warrant effective within any jurisdiction in the United States, for an additional six months; December 30, 2019 Status Check VACATED.;</i></p>
12/30/2019	<p>CANCELED Status Check (9:30 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated - per Law Clerk</i></p> <p>Status Check: Warrant</p>

CASE SUMMARY

CASE NO. A-17-760779-F

01/30/2020



Motion (1:30 PM) (Judicial Officer: Scotti, Richard F.)

Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time

Matter Heard;

Journal Entry Details:

Brenoch Wirthlin, Esq. present on behalf of Mr. Detwiler. Erik Foley, Esq. also present. Court reviewed the history of the case. Mr. Bragonje gave a quick summary of events. Mr. Wirthlin advised Mr. Detwiler was local, was willing to appear, and present evidence. Arguments by counsel regarding the Motion for Entry of a Protective Order. Upon the Court's inquiry, Mr. Bragonje stated he believed Mr. Foust was in Los Angeles and law enforcement there would not extradite him on a civil contempt warrant; stated he believed Mr. Foust and Mr. Detwiler were working together. Mr. Wirthlin argued regarding the Motion, and requested a week or two to conduct a trial. Court noted the trial was broken up into the Detwiler portion and the Foust portion. Mr. Bragonje argued regarding the resignation letter of Mr. Detwiler. COURT ORDERED, prior Contempt Order could be refiled and reissued by the Court and directed Mr. Bragonje to prepare and resubmit the Order. Court stated any motion Mr. Detwiler wished to file would not be precluded. COURT FURTHER ORDERED, hearing date SET. COURT ORDERED, Mr. Detwiler to surrender his passport to Mr. Wirthlin within 24 hours, and matter STAYED through the next hearing date. 2/12/20 9:00 AM HEARING;

02/05/2020



Status Check (3:00 AM) (Judicial Officer: Scotti, Richard F.)

ISC: 60b Motion filing

Matter Heard;

Journal Entry Details:

Matter heard;

02/12/2020



Hearing (8:30 AM) (Judicial Officer: Scotti, Richard F.)

Decision Pending;

Journal Entry Details:

Court noted this matter was set for hearing regarding contempt of Mr. Detwiler, as well as Non-Party Edward Detwiler's Reply in Support of: 1. Motion for Relief from Contempt Order Pursuant to NRCP 60(b); 2. Motion for New Trial Pursuant to NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court. Mr. Wirthlin argued regarding the merits of the Motion. Mr. Bragonje stated he believed Mr. Detwiler was controlling Stardust and the operating agreement and documents were never produced; requested Mr. Detwiler be imprisoned. Court inquired if the bank tried to utilize the Court Order to obtain the cars in the possession and owned by the Foust family. Mr. Wirthlin stated he did not dispute any findings against Mr. Foust, however that was unrelated to Mr. Detwiler. Court advised the Nevada Supreme Court found a Judge in contempt for putting a citizen in jail with no ability to comply with the Order. Court stated a decision would be given at the February 18, 2020 and any motion for stay would be entertained, however no further argument would be heard. 2/18/20 9:00 AM DECISION;

02/18/2020



Decision (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Decision on 2/12/20 Hearing

Matter Heard;



Journal Entry Details:

Court found up until the date Mr. Detwiler resigned, he had the ability to comply with the court order, and the court made that determination, and reviewed everything, accurate based on clear and convincing evidence standard, Court was not convinced that Mr. Detwiler had possession or control of the car, however there was a failure to comply with the Court's Order. COURT ORDERED, Mr. Detwiler pay the attorney's fees of Baker Boyer from the date he was officially a party to this matter through the time he gave notice of resignation. Court stated Baker Boyer would be provided until February 25, 2020 to prepare an affidavit regarding attorney's fees. Mr. Wirthlin to respond to the affidavit on or before March 3, 2020. Court found Mr. Detwiler was in control of the vehicles up until a certain date. COURT ORDERED, warrant EXPUNGED and RECALLED. COURT FURTHER ORDERED, Mr. Detwiler's passport to be returned however Mr. Detwiler to pay a \$100,000 fine for violation of the Court Order, in addition to the attorney's fees. Court directed Mr. Bragonje to prepare the Order. CLERK'S NOTE: During the proceeding, the Court stated Mr. Detwiler would pay the attorney's fees through today's date, however subsequent to the hearing Court determined Mr.

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-760779-F

	<i>Detwiler would pay the attorney's fees through the date he gave notice of resignation.;</i>
03/11/2020	 Status Check (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>ISC - Documents Under Seal - Aff of John Bragonje in Support of Atty Fees</i> Matter Heard; Journal Entry Details: <i>Matter heard.;</i>
03/17/2020	Motion to Seal/Redact Records (10:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Motion to Seal Supporting Documents to Affidavit of John E. Bragonje in Support of Lewis and Roca Attorneys Fees and Costs Incurred in Connection with Mr. Detwiler and Harry Hildibrand, LLC</i> Granted;
03/17/2020	Status Check (10:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Status Check: Order re Sanctions</i> Granted;
03/17/2020	 All Pending Motions (10:00 AM) (Judicial Officer: Scotti, Richard F.) Matter Heard; Journal Entry Details: STATUS CHECK: ORDER RE SANCTIONS MOTION TO SEAL SUPPORTING DOCUMENTS TO AFFIDAVIT OF JOHN E. BRAGONJE IN SUPPORT OF LEWIS AND ROCA ATTORNEYS FEES AND COSTS INCURRED IN CONNECTION WITH MR. DETWILER AND HARRY HILDIBRAND, LLC The Court GRANTS Plaintiff's Attorney's Fees and Costs in the amount of \$208,889 in fees, and \$9,966.52 in costs. The Court has considered the Brunzell factors as discussed in Plaintiff's brief. Mr. Detwiler had the actual ability to comply with this Court's Order of January 9, 2019. From that point forward, he certainly was a party. The Court GRANTS Plaintiff's Motion to Seal Supporting Documents. The Court also reviewed Mr. Detwiler's competing Order regarding the January 30, 2020 and February 18, 2020 hearings. The Court finds Plaintiff's proposed Order to more accurately reflect the referenced proceedings. According, the Court declines to strike, or otherwise invalidate, the signed Order filed on March 12, 2020 and VACATES the March 20, 2020 Status Check. Plaintiff to prepare the Order. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 3/17/20;
03/30/2020	 Motion to Stay (9:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond, and Order Shortening Time</i> Motion Denied; Journal Entry Details: <i>Arguments by counsel regarding the merits of Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond. COURT ORDERED, Motion for Stay DENIED. Court found, after three years of litigation, Mr. Detwiler appeared as a managing member of Harry Hildebrand and held himself out to be a representative of the business in some capacity. Court stated Mr. Detwiler actively violated the Court's orders and frustrated the Bank's efforts to collect. Court stated it would be prejudicial to the bank if there were a Stay, and Mr. Detwiler's inability to pay was not a valid basis for a Stay or waiver of the bond. COURT ORDERED, the supersedeas bond amount \$350,000 with a stay of 45 days of entry of the Order of today's hearing. Court directed Mr. Bragonje to provide a copy of the Order to Mr. Wirthlin for review prior to providing it to the Court, and if parties could not agree, an alternative Order could be provided.;</i>

DATE

FINANCIAL INFORMATION

Defendant Foust, James Patterson, Jr.	
Total Charges	284.00
Total Payments and Credits	284.00
Balance Due as of 4/13/2020	0.00
Other Detwiler, Edward	
Total Charges	48.00

CASE SUMMARY

CASE NO. A-17-760779-F

Total Payments and Credits	48.00
Balance Due as of 4/13/2020	0.00
Other Harry Hildibrand LLC	
Total Charges	35.00
Total Payments and Credits	35.00
Balance Due as of 4/13/2020	0.00
Plaintiff Baker Boyer National Bank	
Total Charges	678.50
Total Payments and Credits	678.50
Balance Due as of 4/13/2020	0.00

DISTRICT COURT CIVIL COVER SHEET

A-17-760779-F

County, Nevada

Case No. _____

Department 2

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): Baker Boyer National Bank, a Washington corporation	Defendant(s) (name/address/phone): James Patterson Foust, Jr., also known as James P. Foust, Jr., individually, and his marital community, if any,
Attorney (name/address/phone): John E. Bragonje LEWIS ROCA ROTHERGERBER LLP 3993 Howard Hughes Parkway, Suite 600 Las Vegas, NV 89169 (702) 949-8200	Attorney (name/address/phone):

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

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <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
Probate Probate (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 Estate Value <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	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <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	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <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		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input checked="" type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

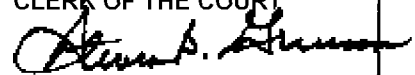
Business Court filings should be filed using the Business Court civil coversheet.

August 30, 2017

Date

Signature of initiating party or representative

See other side for family-related case filings.



ORDR

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*Attorneys for Plaintiff/Judgment Creditor
Baker Boyer National Bank*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff/Judgment Creditor,

vs.

JAMES PATTERSON FOUST, JR., also
known as James P. Foust, Jr., individually, and
his marital community, if any,

Defendant/Judgment Debtor.

Case No.: A-17-760779-F

Dept. No.: II

**ORDER FOR PUNISHMENT OF
CONTEMPT BY HARRY
HILDIBRAND, LLC AND EDWARD N.
DETWILER, ITS MANAGER**

This matter having come on for an evidentiary hearing before the Honorable Richard Scotti on April 1, April 24, May 17, and May 21, 2019 and pertaining to this Court's Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt for violating this Court's prior Findings of Fact, Conclusions of Law, and Final Judgment issued on January 9, 2019; this Court having previously entered an order of contempt against judgment debtor James P. Foust, Jr.; third party claimant Harry Hildibrand, LLC ("HH") having been represented by Holland & Hart LLP before its withdrawal; Edward Newlin Detwiler, the manager of HH having appeared and offered extensive testimony; defendant and judgement debtor Mr. Foust having been represented by Michael D. Mazur of Mazur & Brooks; plaintiff and judgment creditor Baker Boyer National Bank (the "Bank") having been represented by John E. Bragonje of Lewis Roca Rothgerber Christie LLP; the Court having read and considered all relevant pleadings and papers

1 on file in the above-captioned case, having reviewed the documents admitted into evidence and
2 briefs and points of authorities filed by the parties, and having heard and carefully considered the
3 testimony of the witnesses called to testify, the Court hereby enters the following facts and states
4 the following conclusions of law:

5 **INTRODUCTION**

6 Mr. Foust received a loan in the original amount of \$1,077,600 from the Bank. After his
7 refusal to repay the loan, the Bank obtained a judgment in the original amount of \$933,616.30,
8 including fees and costs, against Mr. Foust in the Superior Court of Washington in and for Walla
9 Walla County (the "Judgment"). The Bank domesticated the Judgment in the State of Nevada on
10 August 31, 2017.

11 When he applied for the loan that created the obligation that, when breached, led to the
12 Judgment, Mr. Foust represented that he owned a collection of 59 expensive, rare, and exotic
13 vehicles, including Corvettes, a Cadillac, Mercedes, Porsches, and Lamborghinis. On January 9,
14 2019, the Court issued a Findings of Fact, Conclusions of Law, and Final Judgment (the "Order"),
15 resolving a series of prior supplemental proceedings in favor of the Bank and against Mr. Foust
16 and third party claimant Harry Hildibrand, LLC ("HH"). The Order required "Mr. Foust and HH
17 and any of their respective agents, employees, or affiliates [] *including without limitation Mr.*
18 *Detwiler* . . . on penalty of contempt, to deliver up, surrender possession of, and turn over to the
19 Bank promptly, in a manner that protects the cars from any damage, all [twenty] cars identified in
20 [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust
21 and/or HH." (Order, Conclusion of Law ¶ 29 (emphasis supplied).)

22 However, as discussed herein, HH, acting through its manager, Edward Detwiler, has
23 refused to comply with the Order and has failed to deliver a single vehicle to the Bank. As further
24 discussed herein, HH and Mr. Detwiler presented no valid excuse for violating the Court's Order,
25 presented no evidence of any effort to retrieve the subject vehicles from their present locations,
26 and, instead, intentionally and knowingly failed to comply, without justification.

27 Based upon the testimony and documentary evidence presented during the hearing and for
28 good cause appearing, the Court hereby holds HH and its manager, Edward Detwiler in civil

1 contempt of this Court's January 9, 2019, Order and finds, concludes, orders, adjudges, and
2 decrees as follows:

3 **FINDINGS OF FACT**

4 1. On December 20, 2017, the Bank filed a motion seeking an order requiring Mr.
5 Foust to deliver possession of various exotic vehicles to satisfy the Judgment.

6 2. In his written opposition to the motion, Mr. Foust indicated that he no longer
7 owned a single one of the 59 vehicles that were the subject of the motion and which he pledged to
8 the Bank to secure the loan.

9 3. Throughout the proceedings, Mr. Foust claimed to have transferred many of these
10 vehicles to HH.

11 4. Mr. Detwiler, as he has affirmed in a vast array of papers and hearings before this
12 Court, is HH's manager. (*E.g.*, 3/2/18 Application for Hearing, Declaration of E. Detwiler, on file
13 herein ("I am the managing director of Harry Hildibrand, LLC . . .").)

14 5. The Court conducted two evidentiary hearings on February 15, 2018, and
15 November 5, 2018; the Court conducted standard hearings on about a dozen occasions; and the
16 parties have submitted over 30 papers in support of these activities.

17 6. On January 9, 2019, the Court issued the Order, ruling in favor of the Bank and
18 against Mr. Foust and HH in every respect.

19 7. The Order required "Mr. Foust and HH and any of their respective agents,
20 employees, or affiliates *[including without limitation Mr. Detwiler . . . on penalty of contempt,*
21 *to deliver up, surrender possession of, and turn over to the Bank promptly, in a manner that*
22 *protects the cars from any damage, all [twenty] cars identified in [Exhibit B] with any cost or*
23 *expense involved in delivery to the Bank to be borne by Mr. Foust and/or HH."* (Order,
24 Conclusion of Law ¶ 29 (emphasis supplied).) The list of 20 vehicles identified in Exhibit B to
25 this Court's January 9, 2019, Order, is attached hereto as **Exhibit B** also.

26 8. HH never challenged the Order with any motion for reconsideration, or motion
27 pursuant to NRCP 59 or 60 to alter or amend the Order, nor did HH appeal the order. It is final.

28 9. HH and Mr. Detwiler, as discussed below, were well aware of this Court's Order

1 and the Bank's requests for compliance.

2 10. The Bank gave notice of entry of the Order, which was served on HH's counsel,
3 Holland & Hart. (*See* 1/9/19 Notice of Entry of Order, on file herein.)

4 11. The Bank, through its counsel, also wrote to Mr. Detwiler on January 23, 2019,
5 nearly two weeks after the entry of the Order, to inform Mr. Detwiler that the Bank was ready to
6 take immediate possession of the vehicles identified in the Order. (*See* Exhibit 1 to 2/21/19
7 Application, on file herein.)

8 12. The Bank's counsel further telephoned Mr. Detwiler regarding the same. Despite
9 having signed all the bankruptcy filings identifying the subject vehicles and having testified at a
10 creditors' meeting about their locations (*see id.* ¶¶ 49, 76), Mr. Detwiler claimed to have no
11 knowledge of the vehicles' current whereabouts.

12 13. Despite the Bank's aforementioned attempts, HH and Mr. Detwiler have refused to
13 comply with this Court's Order.

14 14. On February 21, 2019, the Bank filed an Application for Order to Show Cause
15 Why Defendants Should Not Be Held in Civil Contempt ("Application"). (*See* 2/21/2019
16 Application, on file herein.)

17 15. The Court granted the Bank's Application, and held an evidentiary hearing on April
18 1, April 24, May 17, and May 21, 2019 regarding the same. (*See* 2/21/2019 Order to Appear, on
19 file herein.)

20 16. Mr. Detwiler and HH, through Mr. Detwiler, had notice of the contempt
21 proceedings, and at the May 17 and May 21, 2019 evidentiary hearing, Mr. Detwiler appeared and
22 testified on his own behalf and on behalf of HH. Mr. Foust and another associate, Thomas Larkin,
23 also offered testimony.

24 17. As discussed herein, the Court finds that Mr. Detwiler, as representative of HH,
25 presented no valid excuse for violating the Court's Order; he presented no valid excuse for failing
26 to turn over the subject vehicles; and he presented no evidence of any effort whatsoever to attempt
27 to retrieve the subject vehicles from their present locations. Mr. Detwiler and HH intentionally
28 and knowingly failed to comply, without justification.

1 18. Mr. Detwiler was not a credible witness. He gave self-serving testimony
2 concerning his role with HH: Mr. Detwiler repeatedly claimed he was a mere “figurehead” of HH
3 (5/17/19 Hr’g Trans. p. 19:12-16; 23:13-15; 5/21/19 Vol. I Hr’g Trans., p. 9:3-16) with “no day-
4 to-day operations knowledge” (*id.* at 20:9-16)—a manager in name only without any control over
5 the situation. Additional evidence received by the Court proved, in a clear and convincing
6 manner, just the opposite. Mr. Detwiler exercised completed control over HH.

7 19. Mr. Detwiler testified that HH has no employees and no payroll. (5/21/19 Vol. I
8 Hr’g Trans., p. 8:15-9:3; *see also id.* at p. 10:10-11 (same); 11/5/18 Hr’g Ex. 3, Control No. 119.)

9 20. Mr. Detwiler acted as HH’s manager. (*E.g.*, 5/17/19 Hr’g Trans., p. 19:12
10 (describing his role as “manager of Harry Hildibrand”); *id.* at p. 20: 11-12 (describing himself as a
11 manager); *id.* at p. 23:1 (same); *id.* at p. 26:22 (same); *id.* at p. 27:24-28 (same).)

12 21. In fact, Mr. Detwiler testified that he was the *only* manager of HH:

13 Q: And you’re the sole—

14 Mr. Detwiler: At least to my knowledge.

15 Q: —manager, correct?

16 Mr. Detwiler: I’m—I’m a manager.

17 Q: Who are the other managers?

18 Mr. Detwiler: I don’t know.

19 (5/21/19 Vol. I Hr’g Trans., p. 10:12-18.)

20 Q: You are the only manager of Harry Hildibrand, LLC, correct?

21 Mr. Detwiler: That I’m aware of, yes.

22 (5/17/19 Hr’g Trans., p. 28:6-7.)

23 22. Mr. Detwiler has acted as the manager since 2008. (11/5/18 Hr’g Ex. 3, Control
24 No. 100.) Mr. Detwiler claims to have contact with HH’s purported owners, the children of the
25 late Harry Hildibrand, Sr., HH’s name sake. (11/5/18 Hr’g Ex. 3, Control Nos. 84, 95, 98-99, 100,
26 108.) Mr. Detwiler claims that he works for free. (11/5/18 Hr’g Ex. 3, Control Nos. 103-04, 105.)

27 23. No one besides Mr. Detwiler claiming a connection with HH or purporting to
28 represent HH has ever appeared before this Court. No one besides Mr. Detwiler claimed to be
speaking with HH’s ownership. Mr. Detwiler was the sole agent and mouthpiece for HH during
the years this Court has presided over this lawsuit. While there were at times claims that others
controlled HH, such as a person named Harry Hildibrand, Jr., none of these alleged owners ever

1 appeared or gave an affidavit. Only Mr. Detwiler did these things.

2 24. During the pendency of the proceedings before this Court, HH petitioned for
3 bankruptcy relief in California. The bankruptcy was ultimately dismissed for HH's subsequent
4 failure to prosecute. *See In re: Harry Hildibrand, LLC*, 2:18-bk-18727-NB, ECF No. 20 (Bankr.
5 C.D. Cal. Sept. 7, 2018).

6 25. Mr. Detwiler signed the bankruptcy petition as HH's manager on June 19, 2018,
7 *See id.* at ECF No. 1, and the same signatures were submitted again for an addendum to the
8 petition filed on August 7, 2018, *see id.* at ECF No. 11. (*See also* Order, Finding of Fact 24
9 (noting that Mr. Detwiler signed the bankruptcy papers).)

10 26. The bankruptcy trustee conducted an 11 U.S.C. § 341 meeting of creditors in Los
11 Angeles on August 27, 2018. Mr. Detwiler flew from Las Vegas (at his own expense, he says) to
12 represent HH and give testimony. (5/17/19 Hr'g Trans. p. 37:16-38:1.)

13 27. During the Court's hearing on November 5, 2018, the Court received into evidence
14 a complete transcript of the Section 341 creditors meeting, where Mr. Detwiler testified under oath
15 after being sworn.

16 28. Mr. Detwiler's testimony in this setting further discredited his characterization of
17 his mere "figurehead" status and, instead, proved that he actively managed HH and that he had
18 specific knowledge of and control over the vehicles in question.

19 29. At the Section 341 hearing, Mr. Detwiler sketched HH's business plan. HH buys
20 cars, restores them, and finally sells them for a profit. (*See* 11/5/18 Hr'g Ex. 3, Control Nos. 91,
21 95, 98.) Mr. Detwiler had intimate knowledge of each step of this process.

22 30. First, Mr. Detwiler identified the location of the vehicles in question. The
23 bankruptcy papers Mr. Detwiler approved included a schedule of assets, which was a list of 20
24 vehicles, which is included herewith as Exhibit B. Mr. Detwiler testified that 10 of the vehicles
25 identified in the bankruptcy schedules, were located at a warehouse in Compton, California.
26 (5/17/19 Hr'g Trans., p. 38:18-23; 11/5/18 Hr'g Ex. 3, Control Nos. 116, 119.) Mr. Detwiler also
27 testified that HH paid rent to lease this warehouse on a month-to-month basis. (11/5/18 Hr'g Ex.
28 3, Control Nos. 83-84, 121.)

1 31. Mr. Detwiler further agreed that HH kept six additional vehicles in North Dakota,
2 one in Montana, and one (the Motorcoach, discussed below) in Nevada. (11/5/18 Hr'g Ex. 3,
3 Control No. 93.)

4 32. Second, Mr. Detwiler gave information concerning how HH maintained the
5 vehicles:

6 Trustee: Does anyone regularly use these vehicles? Any of them? Regularly
7 use them?

8 Mr. Detwiler: Some of them fairly regularly will drive, yeah.

9 Trustee: No, does someone regularly drive the vehicle, any of them, on a
10 routine basis?

11 Mr. Detwiler: Yeah the ones in Los Angeles will be, you know, alternated just to
12 keep them, you know, operational.

13 Trustee: Because the only reason I ask that is other than the comprehensive
14 collision type of insurance, the issue is bodily injury, personal
15 liability that kind of thing.

16 Mr. Detwiler: Sure.

17 (11/5/18 Hr'g Ex. 3, Control No. 93.)

18 33. When the trustee asked about whether the vehicles were drivable, Mr. Detwiler
19 offered that "some definitely are and some definitely are not." (11/5/18 Hr'g Ex. 3, Control No.
20 120.)

21 34. Mr. Detwiler also knew how to value the vehicles for resale because he had seen
22 and inspected them. When asked about how HH arrived at a cumulative value of \$521,575 for the
23 20 vehicles listed in the bankruptcy schedule (Exhibit B), Mr. Detwiler testified:

24 I think it's just purchase value because most – the vehicles that I've seen require
25 work, you know, I think that the purchase criteria was based on what they thought
26 that they could sell for if a certain amount was invested. It's like buying rehab real
27 estate. How much do you put into it and how much can you get out of it so there
28 would need to be an investment in all of those.

(11/5/18 Hr'g Ex. 3, Control No. 109, 111.)

35. Plainly, Mr. Detwiler had repeated access to the vehicles.

36. Caring for the vehicles before resale included, according to Mr. Detwiler, insuring
them all. (11/5/18 Hr'g Ex. 3, Control No. 92.)

37. Finally, when it came time to resell its investment cars, Mr. Detwiler testified that
HH sometimes hired a broker to resell the cars at times and at other times HH itself offers the cars
for sale directly to purchasers. (11/5/18 Hr'g Ex. 3, Control No. 91.)

1 38. All of these activities obviously require money, and Mr. Detwiler indicated in
2 several different ways that he knew about and controlled HH's finances.

3 39. HH's bankruptcy petition listed Mr. Detwiler as the person who "audited,
4 compiled, or reviewed the debtor's books of accounts and records" and as the person in possession
5 of the same. (11/5/18 Hr'g Ex. 3, Control No. 157.)

6 40. At his deposition, Mr. Detwiler affirmed that he had the authority to and in fact had
7 signed check's on HH's behalf. (7/6/18 Dep. E. Detwiler, p. 53-54.)

8 41. Consistent with these declarations, Mr. Detwiler testified during the bankruptcy
9 that HH had \$4,422 in its bank account. (11/5/18 Hr'g Ex. 3, Control Nos. 85-86, 98.)

10 42. In order to purchase the vehicles in the first place, HH received \$521,000 in
11 financing over time, Mr. Detwiler insisted, from StarDust Classic, LLC ("StarDust"). (11/5/18
12 Hr'g Ex. 3, Control Nos. 95, 107.)

13 43. In numerous HH bankruptcy filings, which papers Mr. Detwiler repeatedly signed
14 under penalty of perjury, and the testimony given during the 341 meeting of creditors, HH
15 contended that it is wholly owned by StarDust. (Order, Findings of Fact, ¶ 24.)

16 44. The official records of the Wyoming Secretary of State indicate that Mr. Foust and
17 his daughter have filed some of the annual reports and have paid the annual dues for StarDust
18 since its organization in 2016. (Order, Findings of Fact, ¶ 25.)

19 45. Mr. Detwiler's name also appears on StarDust's 2018 annual report filed with the
20 Montana Secretary of State. (11/5/18 Hr'g Ex. 3, Control No. 369.) Moreover, the address of
21 StarDust's principal office listed on the 2018 report—7854 West Sahara Avenue, #100—is the
22 same address that Mr. Detwiler used for himself in the bankruptcy petition. (*Compare* 11/5/18
23 Hr'g Ex. 3, Control Nos. 129, 157, 159, *with* No. 369.)

24 46. This Court previously found that, at all relevant times herein, Mr. Foust, HH, and
25 StarDust were and are alter egos of each other with respect to all of the subject vehicles listed in
26 Exhibit B. (Order, Finding of Fact ¶ 29.)

27 47. HH produced no evidence, such as a promissory note, of any arms-length dealings
28 between it and StarDust. Instead, the documents received into evidence by this Court reveal

1 StarDust to be *another* entity controlled by Mr. Detwiler and/or Mr. Foust and used to frustrate
2 creditors.

3 48. Mr. Detwiler also directed HH's high-level strategy in this litigation. This Court
4 approved the Bank's levy of a 1998 Prevost motorhome (the "Motorcoach"). (*See generally*
5 3/8/18 Findings of Fact, Conclusions of Law, and Final Judgment, on file herein.) Mr. Detwiler
6 and his associate Mr. Foust spun this lawful seizure as crime committed by the Bank. Mr.
7 Detwiler filed a police report after the levy in which he claimed to be HH's manager. (*See Exhibit*
8 4 to 3/2/18 NRS 31.070 Application, on file herein.)

9 49. Relatedly, at the Section 341 Hearing, Mr. Detwiler testified that he had
10 "tentatively" retained an attorney to assert a claim against the Bank for its levy against the
11 Motorhome, presumably for trespass to chattel. (11/5/18 Hr'g Ex. 3, Control Nos. 91-92.)

12 50. Mr. Detwiler also testified that StarDust was making financing payments on the
13 Motorcoach's purchase money loan, again demonstrating his intimate knowledge of HH's
14 finances. (11/5/18 Hr'g Ex. 3, Control Nos. 98, 112.) This testimony also reveals a false
15 statement from Mr. Detwiler because, based on documentary evidence actually subpoenaed and
16 offered into evidence by HH itself, Mr. Foust, not StarDust, was making these payments. (Order,
17 Findings of Fact ¶¶ 38-40.)

18 51. In a similar circumstance demonstrating his strategic oversight, Mr. Detwiler
19 signed (and presumably drafted) a July 25, 2018 "Minutes of Special Meeting," which authorized
20 and empowered HH "through its manager, Ed Detwiler . . . to prepare and file a Chapter 11
21 petition with the U.S. Bankruptcy Court" (11/5/18 Hr'g Ex. 3, Control Nos. 183-84; 328-29.)

22 52. This extensive testimony and documentary evidence proves that there was no
23 aspect of HH that Mr. Detwiler did not control or know about, especially with respect to the
24 vehicles at issue.

25 53. During the Section 341 Meeting, Mr. Detwiler summarized his duties in an
26 expansive fashion: "I'm head guy in charge of getting stuff done." (11/5/18 Hr'g Ex. 3, Control
27 No. 95.)

28 54. When faced with contempt charge, Mr. Detwiler retreated from this pronouncement

1 and claimed he was a mere “figurehead” with no authority or power generally and no knowledge
2 of the vehicles specifically.

3 55. Mr. Detwiler claimed during the contempt hearing that “I don’t know anything
4 about the cars. I was never involved with the cars.” (5/17/19 Hr’g Trans. p. 20:5-6.) His denials
5 during the contempt hearing came after strikingly specific, contrary testimony given just months
6 earlier during the bankruptcy.

7 56. During bankruptcy, he gave detailed information about the cars’ location; now he
8 claims ignorance on that subject. During bankruptcy he elaborated about the financing for the
9 vehicles, allegedly through StarDust providing \$521,000 to finance purchases over time, but now
10 he claims “I don’t know how they’re financed.” (5/17/19 Hr’g Trans. p. 19:21.) During
11 bankruptcy he described extensive and regular interactions with the purported owners of HH, but
12 now he claims no “relationship with any of the owners or people of [HH]. On the converse, I have
13 very little interacting with them.” (5/17/19 Hr’g Trans. p. 22:10-12.)

14 57. The Court finds persuasive the earlier statements Mr. Detwiler made during the
15 bankruptcy, when he had a motivation to be forthcoming. These earlier statements impeach Mr.
16 Detwiler’s credibility in this proceeding and reveal him as an untruthful witness before this Court.

17 58. In light the substantial and credible evidence of Mr. Detwiler’s pervasive control
18 over HH, the Court rejects Mr. Detwiler’s contempt defense as plainly not credible. On the other
19 hand, the Bank has proved by clear and convincing evidence that HH and Mr. Detwiler had the
20 ability to turn over the vehicles.

21 59. During his testimony, Mr. Detwiler did not claim that HH did not possess or own
22 the 20 vehicles HH claimed to own (Exhibit B) when it petitioned for bankruptcy in 2018.
23 Instead, he only claimed that he did not have the power to deliver the vehicles to the Bank. The
24 Court rejects this testimony.

25 60. The evidence clearly and convincingly demonstrates that Mr. Detwiler was
26 authorized and empowered to comply with this Court’s Order. Mr. Detwiler presented no valid
27 excuse for his and HH’s violating the Court’s Order, presented no evidence of any effort to
28 retrieve the subject vehicles from their present locations, and, instead, intentionally and knowingly

1 failed to comply, without justification.

2 61. This Court further incorporates herein any other evidentiary findings in the January
3 9, 2019 Order and the June 21, 2019 Order for Punishment of Contempt directed against Mr. Foust
4 to support Mr. Detwiler's control of HH and its assets and his cooperation with Mr. Foust to defy
5 the Order.

6 62. In the bankruptcy schedules of HH, HH represented that it owned all 20 of the
7 subject vehicles listed in Exhibit B.

8 **CONCLUSIONS OF LAW**

9 1. The Court has jurisdiction over the parties and venue is proper in this Court.

10 2. Mr. Foust, HH, and StarDust are and have been agents of one another with respect
11 to any past action involving the subject vehicles at issue in these proceedings (Exhibit B) and have
12 been agents of one another regarding notice of these proceedings.

13 3. The Bank offered clear and convincing evidence that Mr. Detwiler was the sole
14 manager of HH and the person in charge of its operations. Mr. Detwiler was the controlling
15 manager of HH, and as such accepted and possessed the responsibility to control the assets of HH,
16 including its classic cars (Exhibit B).

17 4. HH owns and possesses the 20 vehicles identified in Exhibit B, which list HH
18 prepared for its bankruptcy petition.

19 5. The Bank has proved by clear and convincing evidence that Mr. Detwiler and HH
20 had notice of the Order and had the ability to comply with the Order.

21 6. The Court maintains contempt power to address "[d]isobedience or resistance to
22 any lawful writ, order, rule or process issued by the court or judge at chambers." NRS 22.010(3);
23 *see also* NRS 1.210(2) (providing that the district court has the power to "enforce order in the
24 proceedings before it"); *see also In re Water Rights of the Humboldt River*, 118 Nev. 901, 906-07,
25 59 P.3d 1226, 1229-30 (2002) (explaining that the district court has "inherent power to protect
26 dignity and decency in its proceedings, and to enforce its decrees" and because it has particular
27 knowledge of whether contemptible conduct occurred, its contempt decisions are reviewed for an
28 abuse of discretion).

1 7. Contempt proceedings may be criminal or civil in nature. *Lewis v. Lewis*, 132
2 Nev., Adv. Op. 46, 373 P.3d 878, 880 (2016). A civil contempt action is remedial in nature
3 because it is meant to secure compliance with the court order. *Id.*; *see also* NRS 22.110.

4 8. As discussed herein, Mr. Detwiler and HH have violated two separate contempt
5 statutes: NRS 22.010 and NRS 21.340.

6 9. First, the Court may hold a person in contempt when the person has failed to
7 comply with a lawful order or rule. NRS 22.010(3). To be held in contempt for disobeying a
8 court order, the order must clearly put the person on notice of what is required. *Sw. Gas Corp. v.*
9 *Flintkote Co.*, 99 Nev. 127, 131, 659 P.2d 861, 864 (1983); *see also Cunningham v. Dist. Ct.*, 102
10 Nev. 551, 559-60, 729 P.2d 1328, 1333-34 (1986) (“An order on which a judgment of contempt is
11 based must be clear and unambiguous, and must spell out the details of compliance in clear,
12 specific and unambiguous terms so that the person will readily know exactly what duties or
13 obligations are imposed on him.”).

14 10. The Court’s January 9, 2019 Order is unmistakable. The Order required “Mr.
15 Foust and HH and any of their respective agents, employees, or affiliates [] including without
16 limitation Mr. Detwiler . . . on penalty of contempt, to deliver up, surrender possession of, and
17 turn over to the Bank promptly, in a manner that protects the cars from any damage, all [twenty]
18 cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne
19 by Mr. Foust and/or HH.” (Order, Conclusion of Law ¶ 29.) The Order further identifies the
20 subject vehicles by make, model, and VIN.

21 11. Second, this action is a supplemental proceeding. A “supplemental proceeding” is
22 “held in connection with the enforcement of a judgment, for the purpose of identifying and
23 locating the debtor’s assets available to satisfy the judgment.” *Supplemental Proceeding*,
24 BLACK’S LAW DICTIONARY (8th ed. 2004). In Nevada, a supplementary proceeding is “incident to
25 the original suit” and “is not an independent proceeding or the commencement of a new action.”
26 *See State ex rel. Groves v. Dist. Ct.*, 61 Nev. 269, 276, 125 P.2d 723, 726 (1942).

27 12. This Court is enforcing a Washington State judgment domesticated in Nevada.
28 NRS Chapter 21 propounds supplemental procedures. Under, this law, disobedience to a court’s

1 order in supplemental proceedings constitutes a contempt: "If any person, party or witness disobey
2 an order of the master, properly made in the proceedings before the master under this chapter, he
3 or she may be punished by the court or judge ordering the reference, for a contempt." NRS
4 21.340.

5 13. The Court's Order clearly and unambiguously directed Mr. Detwiler and HH to
6 deliver the subject vehicles identified in the Order. Counsel for the Bank also wrote to Mr.
7 Detwiler and HH, insisting on compliance with the Order.

8 14. Mr. Detwiler and HH have refused to respond to any communications by the Bank
9 regarding the Order, let alone deliver any of the vehicles that are the subject of the Order; thus,
10 Mr. Detwiler and HH stand in contempt of the Order.

11 15. Mr. Detwiler's and HH's demonstrated intransigence requires stringent treatment:
12 they will clearly refuse to comply with the Order and turn over the subject vehicles to the Bank
13 unless this Court exercises its power of incarceration to detain Mr. Detwiler until he complies.

14 16. Coercive incarceration is within the inherent power of the Court, insofar as it
15 depends on the contemnor's ability to comply, thereby purging himself of contempt, and is
16 designed to coerce, rather than punish and therefore the ordinary requirements of due process do
17 not attach. *Shillitani v. United States*, 384 U.S. 364, 369-70 (1966); *see also S.E.C. v. Solow*, 396
18 Fed. App'x 635 (11th Cir. 2010) (affirming the district court's adjudication of civil contempt and
19 ordering defendant's incarceration until he purged his contempt in compliance with the court's
20 directive). With civil contempt, "the contemnor is able to purge the contempt and obtain his
21 release by committing an affirmative act." *Int'l Union, United Mine Workers of Am. v. Bagwell*,
22 512 U.S. 821, 844 (1994) (internal quotation marks omitted).

23 17. Several Nevada statutes empower district courts to issue a bench warrant for the
24 arrest of a person guilty of contempt:

25 **NRS 22.040 Issuance of warrants of attachment and commitment.** When the
26 contempt is not committed in the immediate view and presence of the court or judge,
27 a warrant of attachment may be issued to bring the person charged to answer, or,
28 without a previous arrest, a warrant of commitment may, upon notice, or upon an
order to show cause, be granted; and no warrant of commitment shall be issued
without such previous attachment to answer, or such notice or order to show cause.

1 18. In addition to this Court's inherent authority, Nevada's statutes explicitly permit
2 imprisonment:

3 **NRS 22.100 Penalty for contempt.**

4 1. Upon the answer and evidence taken, the court or judge or jury, as the
5 case may be, shall determine whether the person proceeded against is guilty of the
6 contempt charged.

7 2. Except as otherwise provided in NRS 22.110, if a person is found guilty
8 of contempt, a fine may be imposed on the person not exceeding \$500 or the person
9 may be imprisoned not exceeding 25 days, or both.

10 3. In addition to the penalties provided in subsection 2, if a person is found
11 guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may require
12 the person to pay to the party seeking to enforce the writ, order, rule or process the
13 reasonable expenses, including, without limitation, attorney's fees, incurred by the
14 party as a result of the contempt.

15 19. Although NRS 22.100(2) sets a default rule prohibiting imprisonment for more
16 than 25 days, subsequent sections in the same statute provide for an indefinite term of
17 imprisonment. Specifically, where, as here, one has refused to perform an affirmative act required
18 by the provisions of an order, no limitation on the term exists:

19 **NRS 22.110 Imprisonment until performance if contempt is omission to**
20 **perform an act; penalty for failure or refusal to testify before grand jury.**

21 1. Except as otherwise provided in subsection 2, when the contempt consist
22 in the omission to perform an act which is yet in the power of the person to
23 perform, the person may be imprisoned until the person performs it. The required
24 act must be specified in the warrant of commitment.

25 *See also* TRACY DiFILLIPPO ET AL. EDS., NEVADA CIVIL PRACTICE MANUAL, Sixth Edition § 31.34
26 ([updated] 2016) ("The person guilty of contempt may be imprisoned until he or she perform the
27 ordered act, if it is within his or her power to perform."). Nevada's statute corresponds with the
28 general jurisprudence:

 Imprisonment for civil contempt may be ordered where a defendant has refused to
perform an affirmative act required by the provisions of an order that, either in form
or substance, is mandatory in character. A contemnor who has the ability to comply
with the underlying court order *can be imprisoned indefinitely* until the contemnor
complies with the underlying court order, even if it appears that the contemnor is
never going to comply.

17 C.J.S. CONTEMPT § 186 (West [updated] 2019) (emphasis added).

20. Imprisonment for civil contempt usually is not for a definite term, but the party in

1 contempt stands committed unless and until the affirmative act required by the order of the court is
2 performed. *See Lewis*, 373 P.3d at 881 (2016) (“A purge clause [in the contempt order] gives the
3 defendant the opportunity to purge himself of the contempt sentence by complying with the terms
4 of the contempt order.”). Thus contemnors carry the prison keys in their own pockets. *Shillitani*
5 *v. United States*, 384 U.S. 364, 368 (1966). A defendant has the choice to “pay or stay.” 17 C.J.S.
6 CONTEMPT § 183.

7 21. In Nevada, the cases treating the subject of imprisonment for failure to perform an
8 affirmative act typically arise in spousal- and child-support lawsuits. *Foley v. Foley*, 432 P.2d 736
9 (Nev. 2018) (unpublished) (observing that courts may imprison parents who refuse to pay child
10 support); *Hildahl v. Hildahl*, 95 Nev. 657, 662, 601 P.2d 58, 61 (1979) (“The use of the contempt
11 power to enforce the provisions of a divorce decree has been approved many times in this state.”).

12 22. However, in the judgment enforcement context, violating a “turn-over” order, such
13 as the Court’s Order, often prompts imprisonment until the contemnor agrees to turn over the
14 property. *See, e.g., S.E.C. v. Princeton Econ. Int’l Ltd.*, 152 F. Supp. 2d 456, 459-63 (S.D.N.Y.
15 2001) (committing the principal of a fraudulent investment scheme to jail for at least one year for
16 failing to honor the court’s orders to turn over \$14.9 million in assets, including 102 gold bars,
17 699 gold bullion coins, ancient coins, and a \$750,000 bust of Julius Caesar); *U.S. ex rel. Thom v.*
18 *Jenkins*, 760 F.2d 736, 737-38 (7th Cir. 1985) (committing a judgment debtor to indefinite custody
19 of the U.S. Marshall for failing to return confidential documents taken from an employer and
20 failure to disgorge profits made in conducting a forbidden, competing enterprise).

21 23. If the officers or agents of a company are guilty of a contempt, they may be
22 attached and punished therefore. *See generally* 17 C.J.S. CONTEMPT § 57. Thus, corporate
23 officers or company agents are punishable for contempt where they have knowledge or notice of
24 an order directed to the company and they are responsible for the company’s violation thereof.
25 *C.f. In re Waters of Humboldt River*, 118 Nev. at 903, 59 P.3d at 1227 (concluding that “the
26 district court has the power to sentence a government official to jail for criminal contempt
27 committed in an official capacity”); *see also United States v. Laurins*, 857 F.2d 529, 535 (9th
28 Cir.1988) (“A nonparty may be held liable for contempt if he or she either abets or is legally

1 identified with the named defendant An order to a corporation binds those who are legally
2 responsible for the conduct of its affairs.”); *Nikko Materials USA, Inc. v. R.E. Serv. Co.*, No. C 03-
3 2549 SBA, 2006 WL 1749550, at *4 (N.D. Cal. June 22, 2006) (“When a corporation refuses to
4 abide by an order directing the corporation to perform an act, and the corporation is under the
5 control of a single corporate officer or managing agent, the Ninth Circuit has held that a district
6 court may hold the corporate officer in contempt, as well as the corporation, even when the
7 corporate officer is not a party to the underlying action.”).

8 24. Because companies and corporations can only act through their agents, a contempt
9 order need not explicitly warn agents of potential liability for contumacious conduct. 17 C.J.S.
10 CONTEMPT § 57. More careful practice, however, dictates an explicit warning directed to named
11 agents:

12 It is usual, in an order directed against a corporation, to lay the restraint or
13 command, not only on the corporation itself, but also on its officers, agents, and
14 servants, so that in the case of its violation not only the corporation itself is
15 amenable to punishment, but also its officers, agents, and servants, whether or not
16 parties to the proceeding, provided they have knowledge of the terms of the order
17 and disobey it willfully.

16 Additionally, since a corporation is capable of violating a court order only if its
17 agents act or refrain from acting, it follows that the order directed at the corporation
18 is binding on agents authorized to act on its behalf, whether specifically named in
19 the order or not.

18 *Id.*

19 25. Here, the Court’s order explicitly commanded Mr. Detwiler by name, on penalty of
20 contempt, to turn over the 20 vehicles. (Order, Conclusion of Law ¶ 29.) Mr. Detwiler could have
21 had no reasonable doubt about how he would need to act to avoid punishment.

22 26. Mr. Detwiler’s and HH’s refusal to turn over each of the 20 subject vehicles
23 identified in Exhibit B and which are the subject of the Court’s January 9, 2019, Order, constitutes
24 a separate and distinct act of civil contempt of Court, for a total of 20 separate acts of civil
25 contempt.

26 27. Pursuant to this Court’s authority under NRS 22.100, the Court hereby fines HH
27 the sum of \$500 to be paid to the Bank immediately.

28 28. This Court further hereby orders HH to pay the Bank its reasonable attorney fees

1 and expenses incurred in connection with all of the proceedings to seek enforcement of the Court's
2 Order. The Bank shall submit an affidavit in support of such fees and expenses for the Court to
3 review.

4 29. Pursuant to NRS 22.100, this Court further hereby orders that Mr. Detwiler shall be
5 imprisoned until he complies with the Order and delivers up, surrenders possession of, and turns
6 over to the Bank, in a manner that protects the vehicles from any damage, all 20 vehicles
7 identified in Exhibit B, or pays to the Bank in immediately available funds the value of the
8 vehicles listed in Exhibit B, \$521,575.

9 30. The Bank shall prepare a separate Warrant of Arrest and Commitment accordingly
10 for this Court to review and sign, if appropriate.

11 31. Upon complying with the Order by delivering up, surrendering possession of, and
12 turning over to the Bank all 20 vehicles identified in Exhibit B, or paying to the Bank in
13 immediately available funds the value of the vehicles listed in Exhibit B, \$521,575, Mr. Detwiler
14 will be purged of his contempt sentence and, if imprisoned, shall be released from imprisonment
15 immediately thereafter. Alternatively, Mr. Detwiler may be released upon the posting of a One
16 Hundred Thousand Dollar (\$100,000.00) bond, after which a status check shall be promptly set to
17 establish a payment plan.

18 32. If any Conclusions of Law are properly Findings of Fact, they shall be treated as if
19 appropriately identified and designated.

20 Dated this 16th day of December, 2019

21
22
23 
24 DISTRICT COURT JUDGE
25 
26
27
28

1 Respectfully submitted,

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By: 

5 John E. Bragonje

6 State Bar No. 9519

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10 *Attorneys for Plaintiff/Judgment Creditor Baker Boyer National Bank*

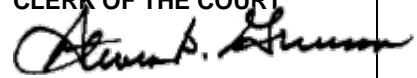
EXHIBIT B

EXHIBIT B

HARRY HILDBRAND

Titles as on BBB		7/26/2018 0:15		
YEAR	MAKE	Model	Value	VIN
2007	CHEV	Corvette Z06	\$ 35,000	1G1YY28E375121089
2007	Mercedes	M50 SUV	\$ 11,000	4JGBB75E07A222537
1940	FORD	Coupe	\$ 35,000	AZ162801
1957	CHEV	BEL AIR CONV. (FI)	\$ 25,000	VC570141640
1957	CHRYSLER	300 C CONV.	\$ 35,000	3N571810
1955	FORD	T-BIRD (CHEV)	\$ 5,000	P5FH240847
1957	FORD	FAIRLANE 500	\$ 15,000	D7LV162233
1966	FORD	THUNDERBIRD - red	\$ 15,000	6Y85Z104010
1971	FORD	PANTERIA	\$ 25,000	THPNLY01620
1973	FORD	PANTERIA -GT4	\$ 35,000	THPNU05291
1951	JAGUAR	XK 120 RACE CAR	\$ 20,000	S671986
1957	OLDSMOBILE	98 ROCKET	\$ 18,000	579M27885
1966	PLYMOUTH	BELVADIRE	\$ 15,000	RACE CAR BODY & SHELL - N
2000	PLYMOUTH	PROWLER	\$ 21,000	1P3EW65G1YV603597
2007	Mercedes	CLK 550	\$ 12,000	WDBTK72F27T081009
2000	GMC	Yukon	\$ 8,000	1GKEK13T9YJ1740142
2007	Mecedes	S550	\$ 25,000	WDDNG71X57A075880
1963	CHEV	425/409 S/S	\$ 25,000	31847L144086
1998	MARATHON	COACH	\$ 129,875	2PCM3349XV1026183
2016	KAWASAKA	kr10	\$ 11,700	JKAZX2A13FB505
Total			\$ 521,575	

SUPPORT FOR 206 A/B #46. PAGE 5



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Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff/Judgment Creditor,

vs.

JAMES PATTERSON FOUST, JR., also
known as James P. Foust, Jr., individually, and
his marital community, if any,

Defendant/Judgment Debtor.

Case No.: A-17-760779-F

Dept. No.: II

**NOTICE OF ENTRY OF ORDER FOR
PUNISHMENT OF CONTEMPT BY
HARRY HILDIBRAND, LLC AND
EDWARD N. DETWILER, ITS
MANAGER**

PLEASE TAKE NOTICE that an Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager was entered on January 30, 2020. A copy of the Order is attached hereto.

Dated this 30th day of January, 2020.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: /s/ John E. Bragonje

John E. Bragonje (SBN.: 9519)
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

Attorneys for Plaintiff Baker Boyer National Bank

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Rule 5(b), I hereby certify that on this date, I electronically filed and served the
3 foregoing document entitled “*Notice of Entry of Order for Punishment of Contempt by Harry*
4 *Hildibrand, LLC and Edward N. Detwiler, Its Manager*” through the Court’s electronic filing
5 system on all parties on the Court’s e-service list.

6
7 Michael D. Mazur, Esq.
8 **MAZUR & BROOKS**
9 **A PROFESSIONAL CORPORATION**
10 2355 Red Rock Street, Suite 100
11 Las Vegas, NV 89146
12 *Attorneys for Defendant James Patterson Foust, Jr.*

13
14 Brenoch Wirthlin
15 **KOLESAR & LEATHAM**
16 400 S. Rampart Blvd., Ste. 400
17 Las Vegas, NV 89145

18 **The Following Served via U.S. Mail:**

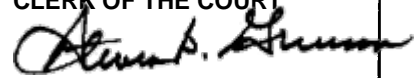
19 **HARRY HILDIBRAND, LLC**
20 c/o Registered Agent
21 Jared S. Heggen
22 3011 American Way
23 Missoula, MT 59808

24 **HARRY HILDIBRAND, LLC**
25 c/o Registered Agent
26 Jared S. Heggen
27 P.O. Box 16270
28 Missoula, MT 59808

DATED this 30th day of January, 2020.

/s/ Luz Horvath

An employee of Lewis Roca Rothgerber Christie LLP



ORDR

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*Attorneys for Plaintiff/Judgment Creditor
Baker Boyer National Bank*

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CLARK COUNTY, NEVADA**

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff/Judgment Creditor,

vs.

JAMES PATTERSON FOUST, JR., also
known as James P. Foust, Jr., individually, and
his marital community, if any,

Defendant/Judgment Debtor.

Case No.: A-17-760779-F

Dept. No.: II

**ORDER FOR PUNISHMENT OF
CONTEMPT BY HARRY
HILDIBRAND, LLC AND EDWARD N.
DETWILER, ITS MANAGER**

This matter having come on for an evidentiary hearing before the Honorable Richard Scotti on April 1, April 24, May 17, and May 21, 2019 and pertaining to this Court's Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt for violating this Court's prior Findings of Fact, Conclusions of Law, and Final Judgment issued on January 9, 2019; this Court having previously entered an order of contempt against judgment debtor James P. Foust, Jr.; third party claimant Harry Hildibrand, LLC ("HH") having been represented by Holland & Hart LLP before its withdrawal; Edward Newlin Detwiler, the manager of HH having appeared and offered extensive testimony; defendant and judgement debtor Mr. Foust having been represented by Michael D. Mazur of Mazur & Brooks; plaintiff and judgment creditor Baker Boyer National Bank (the "Bank") having been represented by John E. Bragonje of Lewis Roca Rothgerber Christie LLP; the Court having read and considered all relevant pleadings and papers

1 on file in the above-captioned case, having reviewed the documents admitted into evidence and
2 briefs and points of authorities filed by the parties, and having heard and carefully considered the
3 testimony of the witnesses called to testify, the Court hereby enters the following facts and states
4 the following conclusions of law:

5 **INTRODUCTION**

6 Mr. Foust received a loan in the original amount of \$1,077,600 from the Bank. After his
7 refusal to repay the loan, the Bank obtained a judgment in the original amount of \$933,616.30,
8 including fees and costs, against Mr. Foust in the Superior Court of Washington in and for Walla
9 Walla County (the "Judgment"). The Bank domesticated the Judgment in the State of Nevada on
10 August 31, 2017.

11 When he applied for the loan that created the obligation that, when breached, led to the
12 Judgment, Mr. Foust represented that he owned a collection of 59 expensive, rare, and exotic
13 vehicles, including Corvettes, a Cadillac, Mercedes, Porsches, and Lamborghinis. On January 9,
14 2019, the Court issued a Findings of Fact, Conclusions of Law, and Final Judgment (the "Order"),
15 resolving a series of prior supplemental proceedings in favor of the Bank and against Mr. Foust
16 and third party claimant Harry Hildibrand, LLC ("HH"). The Order required "Mr. Foust and HH
17 and any of their respective agents, employees, or affiliates [] *including without limitation Mr.*
18 *Detwiler* . . . on penalty of contempt, to deliver up, surrender possession of, and turn over to the
19 Bank promptly, in a manner that protects the cars from any damage, all [twenty] cars identified in
20 [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust
21 and/or HH." (Order, Conclusion of Law ¶ 29 (emphasis supplied).)

22 However, as discussed herein, HH, acting through its manager, Edward Detwiler, has
23 refused to comply with the Order and has failed to deliver a single vehicle to the Bank. As further
24 discussed herein, HH and Mr. Detwiler presented no valid excuse for violating the Court's Order,
25 presented no evidence of any effort to retrieve the subject vehicles from their present locations,
26 and, instead, intentionally and knowingly failed to comply, without justification.

27 Based upon the testimony and documentary evidence presented during the hearing and for
28 good cause appearing, the Court hereby holds HH and its manager, Edward Detwiler in civil

1 contempt of this Court's January 9, 2019, Order and finds, concludes, orders, adjudges, and
2 decrees as follows:

3 **FINDINGS OF FACT**

4 1. On December 20, 2017, the Bank filed a motion seeking an order requiring Mr.
5 Foust to deliver possession of various exotic vehicles to satisfy the Judgment.

6 2. In his written opposition to the motion, Mr. Foust indicated that he no longer
7 owned a single one of the 59 vehicles that were the subject of the motion and which he pledged to
8 the Bank to secure the loan.

9 3. Throughout the proceedings, Mr. Foust claimed to have transferred many of these
10 vehicles to HH.

11 4. Mr. Detwiler, as he has affirmed in a vast array of papers and hearings before this
12 Court, is HH's manager. (*E.g.*, 3/2/18 Application for Hearing, Declaration of E. Detwiler, on file
13 herein ("I am the managing director of Harry Hildibrand, LLC . . .").)

14 5. The Court conducted two evidentiary hearings on February 15, 2018, and
15 November 5, 2018; the Court conducted standard hearings on about a dozen occasions; and the
16 parties have submitted over 30 papers in support of these activities.

17 6. On January 9, 2019, the Court issued the Order, ruling in favor of the Bank and
18 against Mr. Foust and HH in every respect.

19 7. The Order required "Mr. Foust and HH and any of their respective agents,
20 employees, or affiliates *[including without limitation Mr. Detwiler . . . on penalty of contempt,*
21 *to deliver up, surrender possession of, and turn over to the Bank promptly, in a manner that*
22 *protects the cars from any damage, all [twenty] cars identified in [Exhibit B] with any cost or*
23 *expense involved in delivery to the Bank to be borne by Mr. Foust and/or HH."* (Order,
24 Conclusion of Law ¶ 29 (emphasis supplied).) The list of 20 vehicles identified in Exhibit B to
25 this Court's January 9, 2019, Order, is attached hereto as **Exhibit B** also.

26 8. HH never challenged the Order with any motion for reconsideration, or motion
27 pursuant to NRCP 59 or 60 to alter or amend the Order, nor did HH appeal the order. It is final.

28 9. HH and Mr. Detwiler, as discussed below, were well aware of this Court's Order

1 and the Bank's requests for compliance.

2 10. The Bank gave notice of entry of the Order, which was served on HH's counsel,
3 Holland & Hart. (*See* 1/9/19 Notice of Entry of Order, on file herein.)

4 11. The Bank, through its counsel, also wrote to Mr. Detwiler on January 23, 2019,
5 nearly two weeks after the entry of the Order, to inform Mr. Detwiler that the Bank was ready to
6 take immediate possession of the vehicles identified in the Order. (*See* Exhibit 1 to 2/21/19
7 Application, on file herein.)

8 12. The Bank's counsel further telephoned Mr. Detwiler regarding the same. Despite
9 having signed all the bankruptcy filings identifying the subject vehicles and having testified at a
10 creditors' meeting about their locations (*see id.* ¶¶ 49, 76), Mr. Detwiler claimed to have no
11 knowledge of the vehicles' current whereabouts.

12 13. Despite the Bank's aforementioned attempts, HH and Mr. Detwiler have refused to
13 comply with this Court's Order.

14 14. On February 21, 2019, the Bank filed an Application for Order to Show Cause
15 Why Defendants Should Not Be Held in Civil Contempt ("Application"). (*See* 2/21/2019
16 Application, on file herein.)

17 15. The Court granted the Bank's Application, and held an evidentiary hearing on April
18 1, April 24, May 17, and May 21, 2019 regarding the same. (*See* 2/21/2019 Order to Appear, on
19 file herein.)

20 16. Mr. Detwiler and HH, through Mr. Detwiler, had notice of the contempt
21 proceedings, and at the May 17 and May 21, 2019 evidentiary hearing, Mr. Detwiler appeared and
22 testified on his own behalf and on behalf of HH. Mr. Foust and another associate, Thomas Larkin,
23 also offered testimony.

24 17. As discussed herein, the Court finds that Mr. Detwiler, as representative of HH,
25 presented no valid excuse for violating the Court's Order; he presented no valid excuse for failing
26 to turn over the subject vehicles; and he presented no evidence of any effort whatsoever to attempt
27 to retrieve the subject vehicles from their present locations. Mr. Detwiler and HH intentionally
28 and knowingly failed to comply, without justification.

1 18. Mr. Detwiler was not a credible witness. He gave self-serving testimony
2 concerning his role with HH: Mr. Detwiler repeatedly claimed he was a mere “figurehead” of HH
3 (5/17/19 Hr’g Trans. p. 19:12-16; 23:13-15; 5/21/19 Vol. I Hr’g Trans., p. 9:3-16) with “no day-
4 to-day operations knowledge” (*id.* at 20:9-16)—a manager in name only without any control over
5 the situation. Additional evidence received by the Court proved, in a clear and convincing
6 manner, just the opposite. Mr. Detwiler exercised completed control over HH.

7 19. Mr. Detwiler testified that HH has no employees and no payroll. (5/21/19 Vol. I
8 Hr’g Trans., p. 8:15-9:3; *see also id.* at p. 10:10-11 (same); 11/5/18 Hr’g Ex. 3, Control No. 119.)

9 20. Mr. Detwiler acted as HH’s manager. (*E.g.*, 5/17/19 Hr’g Trans., p. 19:12
10 (describing his role as “manager of Harry Hildibrand”); *id.* at p. 20: 11-12 (describing himself as a
11 manager); *id.* at p. 23:1 (same); *id.* at p. 26:22 (same); *id.* at p. 27:24-28 (same).)

12 21. In fact, Mr. Detwiler testified that he was the *only* manager of HH:

13 Q: And you’re the sole—

14 Mr. Detwiler: At least to my knowledge.

15 Q: —manager, correct?

16 Mr. Detwiler: I’m—I’m a manager.

17 Q: Who are the other managers?

18 Mr. Detwiler: I don’t know.

19 (5/21/19 Vol. I Hr’g Trans., p. 10:12-18.)

20 Q: You are the only manager of Harry Hildibrand, LLC, correct?

21 Mr. Detwiler: That I’m aware of, yes.

22 (5/17/19 Hr’g Trans., p. 28:6-7.)

23 22. Mr. Detwiler has acted as the manager since 2008. (11/5/18 Hr’g Ex. 3, Control
24 No. 100.) Mr. Detwiler claims to have contact with HH’s purported owners, the children of the
25 late Harry Hildibrand, Sr., HH’s name sake. (11/5/18 Hr’g Ex. 3, Control Nos. 84, 95, 98-99, 100,
26 108.) Mr. Detwiler claims that he works for free. (11/5/18 Hr’g Ex. 3, Control Nos. 103-04, 105.)

27 23. No one besides Mr. Detwiler claiming a connection with HH or purporting to
28 represent HH has ever appeared before this Court. No one besides Mr. Detwiler claimed to be
speaking with HH’s ownership. Mr. Detwiler was the sole agent and mouthpiece for HH during
the years this Court has presided over this lawsuit. While there were at times claims that others
controlled HH, such as a person named Harry Hildibrand, Jr., none of these alleged owners ever

1 appeared or gave an affidavit. Only Mr. Detwiler did these things.

2 24. During the pendency of the proceedings before this Court, HH petitioned for
3 bankruptcy relief in California. The bankruptcy was ultimately dismissed for HH's subsequent
4 failure to prosecute. *See In re: Harry Hildibrand, LLC*, 2:18-bk-18727-NB, ECF No. 20 (Bankr.
5 C.D. Cal. Sept. 7, 2018).

6 25. Mr. Detwiler signed the bankruptcy petition as HH's manager on June 19, 2018,
7 *See id.* at ECF No. 1, and the same signatures were submitted again for an addendum to the
8 petition filed on August 7, 2018, *see id.* at ECF No. 11. (*See also* Order, Finding of Fact 24
9 (noting that Mr. Detwiler signed the bankruptcy papers).)

10 26. The bankruptcy trustee conducted an 11 U.S.C. § 341 meeting of creditors in Los
11 Angeles on August 27, 2018. Mr. Detwiler flew from Las Vegas (at his own expense, he says) to
12 represent HH and give testimony. (5/17/19 Hr'g Trans. p. 37:16-38:1.)

13 27. During the Court's hearing on November 5, 2018, the Court received into evidence
14 a complete transcript of the Section 341 creditors meeting, where Mr. Detwiler testified under oath
15 after being sworn.

16 28. Mr. Detwiler's testimony in this setting further discredited his characterization of
17 his mere "figurehead" status and, instead, proved that he actively managed HH and that he had
18 specific knowledge of and control over the vehicles in question.

19 29. At the Section 341 hearing, Mr. Detwiler sketched HH's business plan. HH buys
20 cars, restores them, and finally sells them for a profit. (*See* 11/5/18 Hr'g Ex. 3, Control Nos. 91,
21 95, 98.) Mr. Detwiler had intimate knowledge of each step of this process.

22 30. First, Mr. Detwiler identified the location of the vehicles in question. The
23 bankruptcy papers Mr. Detwiler approved included a schedule of assets, which was a list of 20
24 vehicles, which is included herewith as Exhibit B. Mr. Detwiler testified that 10 of the vehicles
25 identified in the bankruptcy schedules, were located at a warehouse in Compton, California.
26 (5/17/19 Hr'g Trans., p. 38:18-23; 11/5/18 Hr'g Ex. 3, Control Nos. 116, 119.) Mr. Detwiler also
27 testified that HH paid rent to lease this warehouse on a month-to-month basis. (11/5/18 Hr'g Ex.
28 3, Control Nos. 83-84, 121.)

1 31. Mr. Detwiler further agreed that HH kept six additional vehicles in North Dakota,
2 one in Montana, and one (the Motorcoach, discussed below) in Nevada. (11/5/18 Hr'g Ex. 3,
3 Control No. 93.)

4 32. Second, Mr. Detwiler gave information concerning how HH maintained the
5 vehicles:

6 Trustee: Does anyone regularly use these vehicles? Any of them? Regularly
7 use them?

8 Mr. Detwiler: Some of them fairly regularly will drive, yeah.

9 Trustee: No, does someone regularly drive the vehicle, any of them, on a
10 routine basis?

11 Mr. Detwiler: Yeah the ones in Los Angeles will be, you know, alternated just to
12 keep them, you know, operational.

13 Trustee: Because the only reason I ask that is other than the comprehensive
14 collision type of insurance, the issue is bodily injury, personal
15 liability that kind of thing.

16 Mr. Detwiler: Sure.

17 (11/5/18 Hr'g Ex. 3, Control No. 93.)

18 33. When the trustee asked about whether the vehicles were drivable, Mr. Detwiler
19 offered that "some definitely are and some definitely are not." (11/5/18 Hr'g Ex. 3, Control No.
20 120.)

21 34. Mr. Detwiler also knew how to value the vehicles for resale because he had seen
22 and inspected them. When asked about how HH arrived at a cumulative value of \$521,575 for the
23 20 vehicles listed in the bankruptcy schedule (Exhibit B), Mr. Detwiler testified:

24 I think it's just purchase value because most – the vehicles that I've seen require
25 work, you know, I think that the purchase criteria was based on what they thought
26 that they could sell for if a certain amount was invested. It's like buying rehab real
27 estate. How much do you put into it and how much can you get out of it so there
28 would need to be an investment in all of those.

(11/5/18 Hr'g Ex. 3, Control No. 109, 111.)

35. Plainly, Mr. Detwiler had repeated access to the vehicles.

36. Caring for the vehicles before resale included, according to Mr. Detwiler, insuring
them all. (11/5/18 Hr'g Ex. 3, Control No. 92.)

37. Finally, when it came time to resell its investment cars, Mr. Detwiler testified that
HH sometimes hired a broker to resell the cars at times and at other times HH itself offers the cars
for sale directly to purchasers. (11/5/18 Hr'g Ex. 3, Control No. 91.)

1 38. All of these activities obviously require money, and Mr. Detwiler indicated in
2 several different ways that he knew about and controlled HH's finances.

3 39. HH's bankruptcy petition listed Mr. Detwiler as the person who "audited,
4 compiled, or reviewed the debtor's books of accounts and records" and as the person in possession
5 of the same. (11/5/18 Hr'g Ex. 3, Control No. 157.)

6 40. At his deposition, Mr. Detwiler affirmed that he had the authority to and in fact had
7 signed check's on HH's behalf. (7/6/18 Dep. E. Detwiler, p. 53-54.)

8 41. Consistent with these declarations, Mr. Detwiler testified during the bankruptcy
9 that HH had \$4,422 in its bank account. (11/5/18 Hr'g Ex. 3, Control Nos. 85-86, 98.)

10 42. In order to purchase the vehicles in the first place, HH received \$521,000 in
11 financing over time, Mr. Detwiler insisted, from StarDust Classic, LLC ("StarDust"). (11/5/18
12 Hr'g Ex. 3, Control Nos. 95, 107.)

13 43. In numerous HH bankruptcy filings, which papers Mr. Detwiler repeatedly signed
14 under penalty of perjury, and the testimony given during the 341 meeting of creditors, HH
15 contended that it is wholly owned by StarDust. (Order, Findings of Fact, ¶ 24.)

16 44. The official records of the Wyoming Secretary of State indicate that Mr. Foust and
17 his daughter have filed some of the annual reports and have paid the annual dues for StarDust
18 since its organization in 2016. (Order, Findings of Fact, ¶ 25.)

19 45. Mr. Detwiler's name also appears on StarDust's 2018 annual report filed with the
20 Montana Secretary of State. (11/5/18 Hr'g Ex. 3, Control No. 369.) Moreover, the address of
21 StarDust's principal office listed on the 2018 report—7854 West Sahara Avenue, #100—is the
22 same address that Mr. Detwiler used for himself in the bankruptcy petition. (*Compare* 11/5/18
23 Hr'g Ex. 3, Control Nos. 129, 157, 159, *with* No. 369.)

24 46. This Court previously found that, at all relevant times herein, Mr. Foust, HH, and
25 StarDust were and are alter egos of each other with respect to all of the subject vehicles listed in
26 Exhibit B. (Order, Finding of Fact ¶ 29.)

27 47. HH produced no evidence, such as a promissory note, of any arms-length dealings
28 between it and StarDust. Instead, the documents received into evidence by this Court reveal

1 StarDust to be *another* entity controlled by Mr. Detwiler and/or Mr. Foust and used to frustrate
2 creditors.

3 48. Mr. Detwiler also directed HH's high-level strategy in this litigation. This Court
4 approved the Bank's levy of a 1998 Prevost motorhome (the "Motorcoach"). (*See generally*
5 3/8/18 Findings of Fact, Conclusions of Law, and Final Judgment, on file herein.) Mr. Detwiler
6 and his associate Mr. Foust spun this lawful seizure as crime committed by the Bank. Mr.
7 Detwiler filed a police report after the levy in which he claimed to be HH's manager. (*See Exhibit*
8 4 to 3/2/18 NRS 31.070 Application, on file herein.)

9 49. Relatedly, at the Section 341 Hearing, Mr. Detwiler testified that he had
10 "tentatively" retained an attorney to assert a claim against the Bank for its levy against the
11 Motorhome, presumably for trespass to chattel. (11/5/18 Hr'g Ex. 3, Control Nos. 91-92.)

12 50. Mr. Detwiler also testified that StarDust was making financing payments on the
13 Motorcoach's purchase money loan, again demonstrating his intimate knowledge of HH's
14 finances. (11/5/18 Hr'g Ex. 3, Control Nos. 98, 112.) This testimony also reveals a false
15 statement from Mr. Detwiler because, based on documentary evidence actually subpoenaed and
16 offered into evidence by HH itself, Mr. Foust, not StarDust, was making these payments. (Order,
17 Findings of Fact ¶¶ 38-40.)

18 51. In a similar circumstance demonstrating his strategic oversight, Mr. Detwiler
19 signed (and presumably drafted) a July 25, 2018 "Minutes of Special Meeting," which authorized
20 and empowered HH "through its manager, Ed Detwiler . . . to prepare and file a Chapter 11
21 petition with the U.S. Bankruptcy Court" (11/5/18 Hr'g Ex. 3, Control Nos. 183-84; 328-29.)

22 52. This extensive testimony and documentary evidence proves that there was no
23 aspect of HH that Mr. Detwiler did not control or know about, especially with respect to the
24 vehicles at issue.

25 53. During the Section 341 Meeting, Mr. Detwiler summarized his duties in an
26 expansive fashion: "I'm head guy in charge of getting stuff done." (11/5/18 Hr'g Ex. 3, Control
27 No. 95.)

28 54. When faced with contempt charge, Mr. Detwiler retreated from this pronouncement

1 and claimed he was a mere “figurehead” with no authority or power generally and no knowledge
2 of the vehicles specifically.

3 55. Mr. Detwiler claimed during the contempt hearing that “I don’t know anything
4 about the cars. I was never involved with the cars.” (5/17/19 Hr’g Trans. p. 20:5-6.) His denials
5 during the contempt hearing came after strikingly specific, contrary testimony given just months
6 earlier during the bankruptcy.

7 56. During bankruptcy, he gave detailed information about the cars’ location; now he
8 claims ignorance on that subject. During bankruptcy he elaborated about the financing for the
9 vehicles, allegedly through StarDust providing \$521,000 to finance purchases over time, but now
10 he claims “I don’t know how they’re financed.” (5/17/19 Hr’g Trans. p. 19:21.) During
11 bankruptcy he described extensive and regular interactions with the purported owners of HH, but
12 now he claims no “relationship with any of the owners or people of [HH]. On the converse, I have
13 very little interacting with them.” (5/17/19 Hr’g Trans. p. 22:10-12.)

14 57. The Court finds persuasive the earlier statements Mr. Detwiler made during the
15 bankruptcy, when he had a motivation to be forthcoming. These earlier statements impeach Mr.
16 Detwiler’s credibility in this proceeding and reveal him as an untruthful witness before this Court.

17 58. In light the substantial and credible evidence of Mr. Detwiler’s pervasive control
18 over HH, the Court rejects Mr. Detwiler’s contempt defense as plainly not credible. On the other
19 hand, the Bank has proved by clear and convincing evidence that HH and Mr. Detwiler had the
20 ability to turn over the vehicles.

21 59. During his testimony, Mr. Detwiler did not claim that HH did not possess or own
22 the 20 vehicles HH claimed to own (Exhibit B) when if petitioned for bankruptcy in 2018.
23 Instead, he only claimed that he did not have the power to deliver the vehicles to the Bank. The
24 Court rejects this testimony.

25 60. The evidence clearly and convincingly demonstrates that Mr. Detwiler was
26 authorized and empowered to comply with this Court’s Order. Mr. Detwiler presented no valid
27 excuse for his and HH’s violating the Court’s Order, presented no evidence of any effort to
28 retrieve the subject vehicles from their present locations, and, instead, intentionally and knowingly

1 failed to comply, without justification.

2 61. This Court further incorporates herein any other evidentiary findings in the January
3 9, 2019 Order and the June 21, 2019 Order for Punishment of Contempt directed against Mr. Foust
4 to support Mr. Detwiler's control of HH and its assets and his cooperation with Mr. Foust to defy
5 the Order.

6 62. In the bankruptcy schedules of HH, HH represented that it owned all 20 of the
7 subject vehicles listed in Exhibit B.

8 **CONCLUSIONS OF LAW**

9 1. The Court has jurisdiction over the parties and venue is proper in this Court.

10 2. Mr. Foust, HH, and StarDust are and have been agents of one another with respect
11 to any past action involving the subject vehicles at issue in these proceedings (Exhibit B) and have
12 been agents of one another regarding notice of these proceedings.

13 3. The Bank offered clear and convincing evidence that Mr. Detwiler was the sole
14 manager of HH and the person in charge of its operations. Mr. Detwiler was the controlling
15 manager of HH, and as such accepted and possessed the responsibility to control the assets of HH,
16 including its classic cars (Exhibit B).

17 4. HH owns and possesses the 20 vehicles identified in Exhibit B, which list HH
18 prepared for its bankruptcy petition.

19 5. The Bank has proved by clear and convincing evidence that Mr. Detwiler and HH
20 had notice of the Order and had the ability to comply with the Order.

21 6. The Court maintains contempt power to address "[d]isobedience or resistance to
22 any lawful writ, order, rule or process issued by the court or judge at chambers." NRS 22.010(3);
23 *see also* NRS 1.210(2) (providing that the district court has the power to "enforce order in the
24 proceedings before it"); *see also In re Water Rights of the Humboldt River*, 118 Nev. 901, 906-07,
25 59 P.3d 1226, 1229-30 (2002) (explaining that the district court has "inherent power to protect
26 dignity and decency in its proceedings, and to enforce its decrees" and because it has particular
27 knowledge of whether contemptible conduct occurred, its contempt decisions are reviewed for an
28 abuse of discretion).

1 7. Contempt proceedings may be criminal or civil in nature. *Lewis v. Lewis*, 132
2 Nev., Adv. Op. 46, 373 P.3d 878, 880 (2016). A civil contempt action is remedial in nature
3 because it is meant to secure compliance with the court order. *Id.*; *see also* NRS 22.110.

4 8. As discussed herein, Mr. Detwiler and HH have violated two separate contempt
5 statutes: NRS 22.010 and NRS 21.340.

6 9. First, the Court may hold a person in contempt when the person has failed to
7 comply with a lawful order or rule. NRS 22.010(3). To be held in contempt for disobeying a
8 court order, the order must clearly put the person on notice of what is required. *Sw. Gas Corp. v.*
9 *Flintkote Co.*, 99 Nev. 127, 131, 659 P.2d 861, 864 (1983); *see also Cunningham v. Dist. Ct.*, 102
10 Nev. 551, 559-60, 729 P.2d 1328, 1333-34 (1986) (“An order on which a judgment of contempt is
11 based must be clear and unambiguous, and must spell out the details of compliance in clear,
12 specific and unambiguous terms so that the person will readily know exactly what duties or
13 obligations are imposed on him.”).

14 10. The Court’s January 9, 2019 Order is unmistakable. The Order required “Mr.
15 Foust and HH and any of their respective agents, employees, or affiliates [] including without
16 limitation Mr. Detwiler . . . on penalty of contempt, to deliver up, surrender possession of, and
17 turn over to the Bank promptly, in a manner that protects the cars from any damage, all [twenty]
18 cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne
19 by Mr. Foust and/or HH.” (Order, Conclusion of Law ¶ 29.) The Order further identifies the
20 subject vehicles by make, model, and VIN.

21 11. Second, this action is a supplemental proceeding. A “supplemental proceeding” is
22 “held in connection with the enforcement of a judgment, for the purpose of identifying and
23 locating the debtor’s assets available to satisfy the judgment.” *Supplemental Proceeding*,
24 BLACK’S LAW DICTIONARY (8th ed. 2004). In Nevada, a supplementary proceeding is “incident to
25 the original suit” and “is not an independent proceeding or the commencement of a new action.”
26 *See State ex rel. Groves v. Dist. Ct.*, 61 Nev. 269, 276, 125 P.2d 723, 726 (1942).

27 12. This Court is enforcing a Washington State judgment domesticated in Nevada.
28 NRS Chapter 21 propounds supplemental procedures. Under, this law, disobedience to a court’s

1 order in supplemental proceedings constitutes a contempt: "If any person, party or witness disobey
2 an order of the master, properly made in the proceedings before the master under this chapter, he
3 or she may be punished by the court or judge ordering the reference, for a contempt." NRS
4 21.340.

5 13. The Court's Order clearly and unambiguously directed Mr. Detwiler and HH to
6 deliver the subject vehicles identified in the Order. Counsel for the Bank also wrote to Mr.
7 Detwiler and HH, insisting on compliance with the Order.

8 14. Mr. Detwiler and HH have refused to respond to any communications by the Bank
9 regarding the Order, let alone deliver any of the vehicles that are the subject of the Order; thus,
10 Mr. Detwiler and HH stand in contempt of the Order.

11 15. Mr. Detwiler's and HH's demonstrated intransigence requires stringent treatment:
12 they will clearly refuse to comply with the Order and turn over the subject vehicles to the Bank
13 unless this Court exercises its power of incarceration to detain Mr. Detwiler until he complies.

14 16. Coercive incarceration is within the inherent power of the Court, insofar as it
15 depends on the contemnor's ability to comply, thereby purging himself of contempt, and is
16 designed to coerce, rather than punish and therefore the ordinary requirements of due process do
17 not attach. *Shillitani v. United States*, 384 U.S. 364, 369-70 (1966); *see also S.E.C. v. Solow*, 396
18 Fed. App'x 635 (11th Cir. 2010) (affirming the district court's adjudication of civil contempt and
19 ordering defendant's incarceration until he purged his contempt in compliance with the court's
20 directive). With civil contempt, "the contemnor is able to purge the contempt and obtain his
21 release by committing an affirmative act." *Int'l Union, United Mine Workers of Am. v. Bagwell*,
22 512 U.S. 821, 844 (1994) (internal quotation marks omitted).

23 17. Several Nevada statutes empower district courts to issue a bench warrant for the
24 arrest of a person guilty of contempt:

25 **NRS 22.040 Issuance of warrants of attachment and commitment.** When the
26 contempt is not committed in the immediate view and presence of the court or judge,
27 a warrant of attachment may be issued to bring the person charged to answer, or,
28 without a previous arrest, a warrant of commitment may, upon notice, or upon an
order to show cause, be granted; and no warrant of commitment shall be issued
without such previous attachment to answer, or such notice or order to show cause.

18. In addition to this Court's inherent authority, Nevada's statutes explicitly permit imprisonment:

NRS 22.100 Penalty for contempt.

1. Upon the answer and evidence taken, the court or judge or jury, as the case may be, shall determine whether the person proceeded against is guilty of the contempt charged.

2. Except as otherwise provided in NRS 22.110, if a person is found guilty of contempt, a fine may be imposed on the person not exceeding \$500 or the person may be imprisoned not exceeding 25 days, or both.

3. In addition to the penalties provided in subsection 2, if a person is found guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.

19. Although NRS 22.100(2) sets a default rule prohibiting imprisonment for more than 25 days, subsequent sections in the same statute provide for an indefinite term of imprisonment. Specifically, where, as here, one has refused to perform an affirmative act required by the provisions of an order, no limitation on the term exists:

NRS 22.110 Imprisonment until performance if contempt is omission to perform an act; penalty for failure or refusal to testify before grand jury.

1. Except as otherwise provided in subsection 2, when the contempt consist in the omission to perform an act which is yet in the power of the person to perform, the person may be imprisoned until the person performs it. The required act must be specified in the warrant of commitment.

See also TRACY DiFILLIPPO ET AL. EDS., NEVADA CIVIL PRACTICE MANUAL, Sixth Edition § 31.34 ([updated] 2016) ("The person guilty of contempt may be imprisoned until he or she perform the ordered act, if it is within his or her power to perform."). Nevada's statute corresponds with the general jurisprudence:

Imprisonment for civil contempt may be ordered where a defendant has refused to perform an affirmative act required by the provisions of an order that, either in form or substance, is mandatory in character. A contemnor who has the ability to comply with the underlying court order *can be imprisoned indefinitely* until the contemnor complies with the underlying court order, even if it appears that the contemnor is never going to comply.

17 C.J.S. CONTEMPT § 186 (West [updated] 2019) (emphasis added).

20. Imprisonment for civil contempt usually is not for a definite term, but the party in

1 contempt stands committed unless and until the affirmative act required by the order of the court is
2 performed. *See Lewis*, 373 P.3d at 881 (2016) (“A purge clause [in the contempt order] gives the
3 defendant the opportunity to purge himself of the contempt sentence by complying with the terms
4 of the contempt order.”). Thus contemnors carry the prison keys in their own pockets. *Shillitani*
5 *v. United States*, 384 U.S. 364, 368 (1966). A defendant has the choice to “pay or stay.” 17 C.J.S.
6 CONTEMPT § 183.

7 21. In Nevada, the cases treating the subject of imprisonment for failure to perform an
8 affirmative act typically arise in spousal- and child-support lawsuits. *Foley v. Foley*, 432 P.2d 736
9 (Nev. 2018) (unpublished) (observing that courts may imprison parents who refuse to pay child
10 support); *Hildahl v. Hildahl*, 95 Nev. 657, 662, 601 P.2d 58, 61 (1979) (“The use of the contempt
11 power to enforce the provisions of a divorce decree has been approved many times in this state.”).

12 22. However, in the judgment enforcement context, violating a “turn-over” order, such
13 as the Court’s Order, often prompts imprisonment until the contemnor agrees to turn over the
14 property. *See, e.g., S.E.C. v. Princeton Econ. Int’l Ltd.*, 152 F. Supp. 2d 456, 459-63 (S.D.N.Y.
15 2001) (committing the principal of a fraudulent investment scheme to jail for at least one year for
16 failing to honor the court’s orders to turn over \$14.9 million in assets, including 102 gold bars,
17 699 gold bullion coins, ancient coins, and a \$750,000 bust of Julius Caesar); *U.S. ex rel. Thom v.*
18 *Jenkins*, 760 F.2d 736, 737-38 (7th Cir. 1985) (committing a judgment debtor to indefinite custody
19 of the U.S. Marshall for failing to return confidential documents taken from an employer and
20 failure to disgorge profits made in conducting a forbidden, competing enterprise).

21 23. If the officers or agents of a company are guilty of a contempt, they may be
22 attached and punished therefore. *See generally* 17 C.J.S. CONTEMPT § 57. Thus, corporate
23 officers or company agents are punishable for contempt where they have knowledge or notice of
24 an order directed to the company and they are responsible for the company’s violation thereof.
25 *C.f. In re Waters of Humboldt River*, 118 Nev. at 903, 59 P.3d at 1227 (concluding that “the
26 district court has the power to sentence a government official to jail for criminal contempt
27 committed in an official capacity”); *see also United States v. Laurins*, 857 F.2d 529, 535 (9th
28 Cir.1988) (“A nonparty may be held liable for contempt if he or she either abets or is legally

1 identified with the named defendant An order to a corporation binds those who are legally
2 responsible for the conduct of its affairs.”); *Nikko Materials USA, Inc. v. R.E. Serv. Co.*, No. C 03-
3 2549 SBA, 2006 WL 1749550, at *4 (N.D. Cal. June 22, 2006) (“When a corporation refuses to
4 abide by an order directing the corporation to perform an act, and the corporation is under the
5 control of a single corporate officer or managing agent, the Ninth Circuit has held that a district
6 court may hold the corporate officer in contempt, as well as the corporation, even when the
7 corporate officer is not a party to the underlying action.”).

8 24. Because companies and corporations can only act through their agents, a contempt
9 order need not explicitly warn agents of potential liability for contumacious conduct. 17 C.J.S.
10 CONTEMPT § 57. More careful practice, however, dictates an explicit warning directed to named
11 agents:

12 It is usual, in an order directed against a corporation, to lay the restraint or
13 command, not only on the corporation itself, but also on its officers, agents, and
14 servants, so that in the case of its violation not only the corporation itself is
15 amenable to punishment, but also its officers, agents, and servants, whether or not
16 parties to the proceeding, provided they have knowledge of the terms of the order
17 and disobey it willfully.

16 Additionally, since a corporation is capable of violating a court order only if its
17 agents act or refrain from acting, it follows that the order directed at the corporation
18 is binding on agents authorized to act on its behalf, whether specifically named in
19 the order or not.

18 *Id.*

19 25. Here, the Court’s order explicitly commanded Mr. Detwiler by name, on penalty of
20 contempt, to turn over the 20 vehicles. (Order, Conclusion of Law ¶ 29.) Mr. Detwiler could have
21 had no reasonable doubt about how he would need to act to avoid punishment.

22 26. Mr. Detwiler’s and HH’s refusal to turn over each of the 20 subject vehicles
23 identified in Exhibit B and which are the subject of the Court’s January 9, 2019, Order, constitutes
24 a separate and distinct act of civil contempt of Court, for a total of 20 separate acts of civil
25 contempt.

26 27. Pursuant to this Court’s authority under NRS 22.100, the Court hereby fines HH
27 the sum of \$500 to be paid to the Bank immediately.

28 28. This Court further hereby orders HH to pay the Bank its reasonable attorney fees

1 and expenses incurred in connection with all of the proceedings to seek enforcement of the Court's
2 Order. The Bank shall submit an affidavit in support of such fees and expenses for the Court to
3 review.

4 29. Pursuant to NRS 22.100, this Court further hereby orders that Mr. Detwiler shall be
5 imprisoned until he complies with the Order and delivers up, surrenders possession of, and turns
6 over to the Bank, in a manner that protects the vehicles from any damage, all 20 vehicles
7 identified in Exhibit B, or pays to the Bank in immediately available funds the value of the
8 vehicles listed in Exhibit B, \$521,575.

9 30. The Bank shall prepare a separate Warrant of Arrest and Commitment accordingly
10 for this Court to review and sign, if appropriate.

11 31. Upon complying with the Order by delivering up, surrendering possession of, and
12 turning over to the Bank all 20 vehicles identified in Exhibit B, or paying to the Bank in
13 immediately available funds the value of the vehicles listed in Exhibit B, \$521,575, Mr. Detwiler
14 will be purged of his contempt sentence and, if imprisoned, shall be released from imprisonment
15 immediately thereafter. Alternatively, Mr. Detwiler may be released upon the posting of a One
16 Hundred Thousand Dollar (\$100,000.00) bond, after which a status check shall be promptly set to
17 establish a payment plan.

18 32. If any Conclusions of Law are properly Findings of Fact, they shall be treated as if
19 appropriately identified and designated.

20 Dated this 16th day of December, 2019

21
22
23 
24 DISTRICT COURT JUDGE
25 

1 Respectfully submitted,

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By: 

5 John E. Bragonje

6 State Bar No. 9519

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9 Las Vegas, NV 89169

10 *Attorneys for Plaintiff/Judgment Creditor Baker Boyer National Bank*

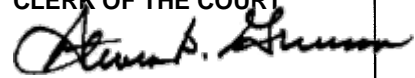
EXHIBIT B

EXHIBIT B

HARRY HILDBRAND

Titles as on BBB		7/26/2018 0:15		
YEAR	MAKE	Model	Value	VIN
2007	CHEV	Corvette Z06	\$ 35,000	1G1YY28E375121089
2007	Mercedes	M50 SUV	\$ 11,000	4JGBB75E07A222537
1940	FORD	Coupe	\$ 35,000	AZ162801
1957	CHEV	BEL AIR CONV. (FI)	\$ 25,000	VC570141640
1957	CHRYSLER	300 C CONV.	\$ 35,000	3N571810
1958	FORD	T-BIRD (CHEV)	\$ 5,000	P5FH240847
1957	FORD	FAIRLANE 500	\$ 15,000	D7LV162233
1966	FORD	THUNDERBIRD - red	\$ 15,000	6Y85Z104010
1971	FORD	PANTERIA	\$ 25,000	THPNLY01620
1973	FORD	PANTERIA -GT4	\$ 35,000	THPNU05291
1951	JAGUAR	XK 120 RACE CAR	\$ 20,000	S671986
1957	OLDSMOBILE	98 ROCKET	\$ 18,000	579M27885
1966	PLYMOUTH	BELVADIRE	\$ 15,000	RACE CAR BODY & SHELL - N
2000	PLYMOUTH	PROWLER	\$ 21,000	1P3EW85G1YV603597
2007	Mercedes	CLK 550	\$ 12,000	WDBTK72F27T081009
2000	GMC	Yukon	\$ 8,000	1GKEK13T9YJ1740142
2007	Mecedes	S550	\$ 25,000	WDDNG71X57A075880
1963	CHEV	425/409 S/S	\$ 25,000	31847L144086
1998	MARATHON	COACH	\$ 129,875	2PCM3349XV1026183
2016	KAWASAKA	kr10	\$ 11,700	JKAZX2A13FB505
Total			\$ 521,575	

SUPPORT FOR 206 A/B #46, PAGE 5



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Fax: 702.949.8398

Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff/Judgment Creditor,

vs.

JAMES PATTERSON FOUST, JR., also
known as James P. Foust, Jr., individually, and
his marital community, if any,

Defendant/Judgment Debtor.

Case No.: A-17-760779-F

Dept. No.: II

**ORDER AWARDING SANCTIONS
AGAINST EDWARD N. DETWILER
AND HARRY HILDBRAND, LLC**

Date: February 18, 2020

Time: 9:00 a.m.

Introduction

This Court held a contempt trial and found Harry Hildibrand, LLC ("HH"), an intervener and party to this lawsuit pursuant to NRS Chapter 31, and its manager, Edward N. Detwiler, in contempt of court. (See generally 1/30/20 Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager (hereinafter the "Contempt Order"), on file herein.) After that, Mr. Detwiler (but not HH) retained new counsel, Brenoch R. Wirthlin of Kolesar & Leatham, who filed a series of motions seeking to undo the Contempt Order as to Mr. Detwiler.

First, on January 29, 2020, Mr. Detwiler filed a Motion for Protective Order and Continuance of Hearing; plaintiff and judgment debtor Baker Boyer National Bank (the "Bank") filed an opposition on the same day; Mr. Detwiler filed a reply on January 30, 2020. This Court held a hearing on January 30, 2020.

1 Second, on February 5, 2020, Mr. Detwiler filed his “(1) Motion for Relief from Contempt
2 Order Pursuant to NRCP 60(b); (2) Motion for New Trial Pursuant to NRCP 59; (3) Motion to
3 Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the
4 Court’s Contempt Order; and (5) Opposition to Plaintiff’s Brief in Support of Request to Hold
5 MR. Detwiler in Civil Contempt of Court.” The Bank filed its opposition on February 10, 2020,
6 Mr. Detwiler filed his reply on February 11, 2020, and this Court held a hearing on February 12,
7 2020. At all points, Mr. Brenoch represented Mr. Detwiler, and John Bragonje of Lewis Roca
8 Rothgerber Christie LLP represented the Bank.

9 After considering the extensive pleadings and lengthy arguments of counsel, after
10 reviewing again the record, including re-reading transcripts of Mr. Detwiler’s testimony, the Court
11 denies both motions in their entirety. The Contempt Order stands, except that instead of ordering
12 the imprisonment of Mr. Detwiler, the Court sanctions him \$100,000 in his personal capacity and
13 orders him in his personal capacity to pay costs and fees incurred by the Bank since the time HH
14 intervened in this action. The Court imposes this same sanction upon HH. Both Mr. Detwiler and
15 HH are jointly and severally responsible to pay the sanction. The Court makes the following
16 findings and rulings.

17 **Additional Findings of Fact**

18 1. The Court rejects the new arguments in these two post-Contempt Order motions
19 brought by Mr. Detwiler. By in large, Mr. Detwiler offered no new evidence and no new
20 arguments. Mr. Detwiler did claim that he resigned his post as manager from HH by a letter dated
21 September 10, 2019, thus divesting himself of the ability to comply with this Court’s orders. Even
22 if the Court were to accept this resignation as valid when given, the resignation came long after the
23 events (explained in detail in the Contempt Order), that led to that ruling. The asserted resignation
24 letter even came long after the contempt trial concluded in May, 2019. If a company officer has
25 notice of a court order and fails to obey it, a resignation will not exempt the officer from
26 punishment for disobedience. The reported cases bear out the common sense of this conclusion:
27 “resignation does not immunize [the contemnor] from liability for contempt [for his conduct when
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1 he was director].” *Inst. of Cetacean Research v. Sea Shepherd Conservation Soc’y*, 774 F.3d 935,
2 956 (9th Cir. 2014).

3 2. Mr. Detwiler had notice of this Court’s rulings, which he disregarded, and which
4 ultimately justified this Court’s entry of the Contempt Order against him.

5 3. The resignation letter, furthermore, reinforces an aspect of the Court’s earlier
6 findings. This Court previously found that “Mr. Foust, HH, and StarDust Classic have been
7 agents of one another with respect to any past action involving the cars at issue in these
8 proceedings” (1/9/19 Findings of Fact, Conclusions of Law, and Final Judgment at
9 Conclusion ¶ 3.)

10 4. Mr. Detwiler testified three times under oath over a period of years that he took
11 direction in his role as HH’s manager from Harry Hildibrand, Jr. only—not Mr. Foust. (7/6/18
12 Dep. E. Detwiler, 18:7-14; 18:21-19:4; 11/5/18 Hr’g Trans., 22:1-12; 5/17/19 Hr’g Trans., 33:5-
13 24.) And yet, Mr. Detwiler directed the alleged resignation letter to Mr. Foust, Mr. Foust’s long-
14 time personal attorney, James Lezie,¹ and to StarDust Classic, an entity that was supposedly a
15 creditor to HH (as discussed *infra*)—not to Mr. Harry Hildibrand, Jr.

16 5. After the Bank pointed out this fact, Mr. Detwiler sent the resignation letter to
17 HH’s registered agent in Montana, but that was when the motions this order resolves were already
18 pending.

19 6. Mr. Detwiler’s sending the letter to Mr. Foust, his personal attorney, and an entity
20 that was supposedly an adversarial creditor of HH (StarDust Classic) tends to show a further
21 collaboration between Mr. Foust and Mr. Detwiler, who acted for HH, even though Mr. Foust and
22 HH were supposedly dealing at arm’s length.

23 7. Mr. Detwiler’s directing the letter to Mr. Foust and his lawyer also further indicates
24 Mr. Detwiler’s lack of candor, which has already been the subject of this Court’s prior orders,
25 including the Contempt Order. It is no small thing for Mr. Detwiler to have repeatedly sworn
26 under oath that HH’s affairs were conducted in one manner, only to take a totally contrary action

27
28 ¹ In a supporting declaration, Mr. Detwiler states that he sent the resignation letter to HH’s attorney “Jim Lizzei at the
address set forth on the Letter of Resignation.” (Exhibit 1 to 2/6/20 App’x of Exs. to Mot. for Relief of Contempt, at ¶
4, on file herein.)

1 when the critical question of his resignation arose. The Court believes Mr. Detwiler is hiding the
2 truth, and this is just one more circumstance in a significant accumulation of similar instances.

3 8. Mr. Detwiler has argued in these new motions that he could not comply with the
4 Court's order to turn over the vehicles because either Mr. Foust had them or an entity called
5 StarDust Classic, had already repossessed them. The Court rejects these arguments.

6 9. First, as to Mr. Foust, while the collaboration and conspiracy between Mr. Foust
7 and HH has been discussed in prior orders, the Court never meant to suggest that Mr. Foust had
8 sole, physical possession of the vehicles or the exclusive power to turn them over, as Mr. Detwiler
9 now argues. HH has possession of the vehicles; it said so in its bankruptcy filings. Mr. Detwiler
10 signed those bankruptcy filings under penalty of perjury. Mr. Detwiler gave detailed testimony
11 about his involvement with the vehicles and his general powers as manager of HH, which are the
12 subject of this Court's previous orders, including the Contempt Order. HH also held the titles to
13 the vehicles. HH, which acted through Mr. Detwiler as its manager, clearly has the ability to
14 surrender the vehicles to the Bank.

15 10. As for StarDust Classic, no credible evidence has ever been tendered to the effect
16 that this entity has possession of the vehicles or any involvement at all with the vehicles. An
17 alleged representative of StarDust Classic, Tom Larkin, did appear at the contempt trial, but he too
18 admitted on cross examination that he was a 15-year friend and business associate of James Foust
19 (5/21/29 Hr'g Trans., Vol. 2, 78-80.) and a long-time acquaintance and business associate of Mr.
20 Detwiler (*id.* at 90:18-91:23), not a person dealing at arm's length.

21 11. Mr. Larkin admitted he knew nothing of the vehicles' locations:

22 The Court: Okay. And each of these vehicles, the seven, are currently in the
control or possession of Mr. Vega, then?

23 Mr. Larkin: Yes.

24 The Court: Okay. Any of the vehicles, do you have a specific location where
they're --

25 Mr. Larkin: I don't have an address or location. I suspect they're in wherever
they were located or wherever he consolidated them to, whatever
storage facility.

26 The Court: Okay. And do you know who would have the knowledge of where
these vehicles are located?

27 Mr. Larkin: Mr. Vega or his agent, his repossession agent.

28 The Court: Okay. And do you know who Mr. Vega's repossession agent is?

Mr. Larkin: I don't. I don't know that.

(5/21/29 Hr'g Trans., Vol. 2, 71:5-14; *see also id.* at 86:24-87:2.)

12. Mr. Larkin introduced no documentary evidence at all. Were he a credible witness he would have adduced evidence showing that he was the attorney-in-fact for StarDust Classic, as he claimed; showing that StarDust Classic had a security interest in the vehicles; showing that the vehicles had been repossessed through lawful process arising from a security interest; or showing that he had the vehicle titles.

13. In fact, Mr. Larkin not only failed to bring documents to the trial, he further admitted when questioned by the Court that he personally had seen no documentation regarding repossession, nor had he personally observed the supposed repossessions. (*Id.* 69:17-70:23; 72:10-15) Most critically, this Court informed Mr. Larkin that StarDust Classic, if it had an alleged interest in the vehicles, had declined to intervene in these proceedings and assert that interest. (*Id.* 68:2-9.) Mr. Larkin was not a convincing witness. He seemed to simply be cooperating with Mr. Foust and Mr. Detwiler to frustrate the Court's efforts to locate the vehicles.

14. The only credible evidence this Court has concerning StarDust Classic are official corporate filings from the Wyoming Secretary of State, which this Court received into evidence when Mr. Detwiler's former counsel and Mr. Foust's attorney stipulated to their admission. (*See* 11/5/18 Hr'g Trans., 64:1-16.)

15. These corporate annual reports were signed by Mr. Foust and Mr. Detwiler before these proceedings began (*see* 11/5/18 Hr'g Ex. 3, control numbers 365-70) and before Mr. Detwiler had a motivation to change his testimony. Therefore, the only credible evidence this Court has received concerning StarDust Classic further reveals the involvement of Mr. Detwiler and Mr. Foust in that entity, which in turn further suggests HH's and Mr. Detwiler's ability to comply with this Court's orders.

16. Mr. Detwiler's arguments in these two motions are not even minimally persuasive in light of the extensive evidence this Court has received contrary to his arguments.

17. The Court, therefore, rejects the contention that HH lacked the ability to comply with the Court's orders. HH clearly did, and Mr. Detwiler is the only HH agent who has ever appeared or given testimony that he acted on behalf of HH. As a consequence, he personally had

1 the duty, responsibility, and power to carry out the Court's orders. For the reasons given in the
2 Contempt Order and further discussed in this order, there is clear and convincing evidence of Mr.
3 Detwiler's and HH's ability to perform this Court's orders, their notice of the Court's orders, and
4 their willful refusal to comply.

5 18. The Court, however, will give Mr. Detwiler the maximum benefit of the doubt.
6 The Court will regard the resignation letter as effective to terminate his service as HH's manager.
7 The Court will consider Mr. Detwiler's agency for HH terminated for purposes of the Contempt
8 Order from the time he tendered the letter to HH's registered agent on February 11, 2020.² The
9 Court cannot regard the original transmission of the letter as effective because it was sent to
10 persons (Mr. Foust, for example) that Mr. Detwiler previously said had no say whatsoever in HH's
11 ownership or management.

12 19. As a former manager, Mr. Detwiler lacks the current ability to comply with the
13 rulings that led to the Contempt Order, so the Court declines to incarcerate him. *See* NRS
14 22.110(1) (permitting imprisonment for contempt where "the omission to perform an act which is
15 yet in the power of the person to perform").

16 20. The Court cannot and will not, nevertheless, simply absolve Mr. Detwiler on the
17 extensive record of his personal misconduct and contempt, which the Court finds beyond a
18 reasonable doubt. For the reasons given in the Contempt Order and the further findings in this
19 order, the Court levies a sanction against Mr. Detwiler and HH, on a joint and several liability
20 basis, in the amount of \$100,000, to be paid to the Bank in immediately available funds upon
21 notice of entry of this order. The Court imposes this sanction pursuant to EDCR Rule 7.60 and its
22 inherent powers, *see* NRS 1.210(2) (providing that the district court has the power to "enforce
23 order in the proceedings before it"); *see also In re Water Rights of the Humboldt River*, 118 Nev.
24 901, 906-07, 59 P.3d 1226, 1229-30 (2002) (explaining that the district court has "inherent power
25 to protect dignity and decency in its proceedings, and to enforce its decrees" and because it has
26 particular knowledge of whether contemptible conduct occurred, its contempt decisions are
27 reviewed for an abuse of discretion).

28 _____
² (Exhibit 17 to 2/11/20 Reply Brief, on file herein.)

21. The Court also orders Mr. Detwiler and HH to pay the Bank's reasonable expenses, including attorney fees and costs, from the time that HH intervened as a party in this action pursuant to NRS Chapter 31, and the Court further orders that both Mr. Detwiler and HH be jointly and severally responsible for such. NRS 22.100(3) ("In addition to the penalties provided in subsection 2, if a person is found guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt."); EDCR 7.6(b) (allowing for the imposition of sanctions, including costs and attorney fees for multiplying proceedings in a case as to increase costs unreasonably and vexatiously and for failing or refusing to comply with any order).

Conclusions of Law

22. There is clear and convincing evidence of HH's Mr. Detwiler's contempt.

23. The Court hereby ORDERS that any aspect of the Contempt Order relating to imprisonment of Mr. Detwiler be and is vacated, but otherwise the Contempt Order remains in full force and effect.

24. The Court FURTHER ORDERS that Mr. Detwiler and HH be fined and sanctioned in the amount of \$100,000.00 and that both be jointly and severally liable for the same.

25. The Court FURTHER ORDERS that Mr. Detwiler and HH be assessed the Bank's costs, including attorney fees, from the time HH intervened as a party in this action, and that both Mr. Detwiler and HH be jointly and severally liable for the same.

26. HH's and Mr. Detwiler's actions in disobeying this Court's orders and withholding the vehicles were clearly calculated to harm the Bank; were done with the intent to harm the Bank's and the Court's integrity; and were committed without just cause or excuse.

27. If any Conclusions of Law are properly Findings of Fact, they shall be treated as if appropriately identified and designated.

...

...

...

IT IS SO ORDERED.

Dated this 6th day of March, 2020


DISTRICT COURT JUDGE

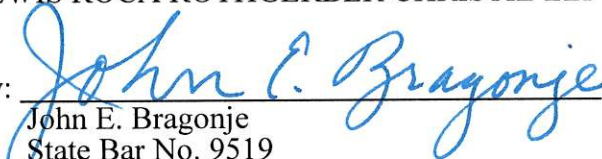
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A-17-760779-F

ORDER AWARDED SANCTIONS AGAINST
EDWARD "DETWILER AND HARRY
WILDERSON, LLC.

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

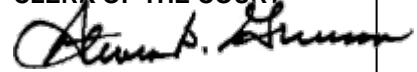
By: 

John E. Bragonje
State Bar No. 9519

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Attorneys for Plaintiff Baker Boyer National Bank



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2 State Bar No. 9519
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4 Las Vegas, NV 89169-5996
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5 Fax: 702.949.8398

6 *Attorneys for Plaintiff Baker Boyer National Bank*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **BAKER BOYER NATIONAL BANK, a**
Washington corporation,

10 Plaintiff/Judgment Creditor,

11 vs.

12 **JAMES PATTERSON FOUST, JR., also**
13 known as James P. Foust, Jr., individually, and
his marital community, if any,

14 Defendant/Judgment Debtor.
15

Case No.: A-17-760779-F

Dept. No.: II

**NOTICE OF ENTRY OF ORDER
AWARDING SANCTIONS AGAINST
EDWARD N. DETWILER AND HARRY
HILDBRAND, LLC**

16
17 **NOTICE IS HEREBY GIVEN** that an Order was entered on March 12, 2020, in the
18 above-entitled action, awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC.
19 A copy of said Order is attached hereto.

20 DATED this 12th day of March, 2020.

21 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

22
23 By: /s/ John E. Bragonje

John E. Bragonje

State Bar No. 9519

jbragonje@lrrc.com

3993 Howard Hughes Parkway, Suite 600

Las Vegas, NV 89169

24
25
26 *Attorneys for Plaintiff Baker Boyer National Bank*
27
28

1 CERTIFICATE OF SERVICE

2 Pursuant to Rule 5(b), I hereby certify that on this date, I electronically filed and served the
3 foregoing document entitled “*Notice of Entry of Order Awarding Sanctions Against Edward N.*
4 *Detwiler and Harry Hildibrand, LLC*” through the Court’s electronic filing system on all parties
5 on the Court’s e-service list.

6
7 Michael D. Mazur, Esq.
8 **MAZUR & BROOKS**
9 **A PROFESSIONAL CORPORATION**
10 2355 Red Rock Street, Suite 100
11 Las Vegas, NV 89146
12 *Attorneys for Defendant James Patterson Foust, Jr.*

13 Brenoch Wirthlin, Esq.
14 **HUTCHISON & STEFFEN, PLLC**
15 Peccole Professional Park
16 10080 W. Alta Drive, Suite 200
17 Las Vegas, NV 89145
18 *bwirthlin@hutchlegal.com*
19 *Attorneys for Edward Detwiler*

20 **The following served via U.S. Mail:**

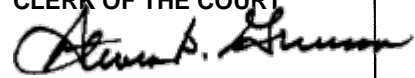
21 **HARRY HILDIBRAND, LLC**
22 c/o Registered Agent
23 Jared S. Heggen
24 3011 American Way
25 Missoula, MT 59808

26 **HARRY HILDIBRAND, LLC**
27 c/o Registered Agent
28 Jared S. Heggen
P.O. Box 16270
Missoula, MT 59808

29 DATED this 12th day of March, 2020.

30 /s/ Annette Jaramillo

31 An employee of Lewis Roca Rothgerber Christie LLP



ORDR

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14 time personal attorney, James Lezie,¹ and to StarDust Classic, an entity that was supposedly a
15 creditor to HH (as discussed *infra*)—not to Mr. Harry Hildibrand, Jr.

16 5. After the Bank pointed out this fact, Mr. Detwiler sent the resignation letter to
17 HH’s registered agent in Montana, but that was when the motions this order resolves were already
18 pending.

19 6. Mr. Detwiler’s sending the letter to Mr. Foust, his personal attorney, and an entity
20 that was supposedly an adversarial creditor of HH (StarDust Classic) tends to show a further
21 collaboration between Mr. Foust and Mr. Detwiler, who acted for HH, even though Mr. Foust and
22 HH were supposedly dealing at arm’s length.

23 7. Mr. Detwiler’s directing the letter to Mr. Foust and his lawyer also further indicates
24 Mr. Detwiler’s lack of candor, which has already been the subject of this Court’s prior orders,
25 including the Contempt Order. It is no small thing for Mr. Detwiler to have repeatedly sworn
26 under oath that HH’s affairs were conducted in one manner, only to take a totally contrary action

27
28 ¹ In a supporting declaration, Mr. Detwiler states that he sent the resignation letter to HH’s attorney “Jim Lizzei at the
address set forth on the Letter of Resignation.” (Exhibit 1 to 2/6/20 App’x of Exs. to Mot. for Relief of Contempt, at ¶
4, on file herein.)

1 when the critical question of his resignation arose. The Court believes Mr. Detwiler is hiding the
2 truth, and this is just one more circumstance in a significant accumulation of similar instances.

3 8. Mr. Detwiler has argued in these new motions that he could not comply with the
4 Court's order to turn over the vehicles because either Mr. Foust had them or an entity called
5 StarDust Classic, had already repossessed them. The Court rejects these arguments.

6 9. First, as to Mr. Foust, while the collaboration and conspiracy between Mr. Foust
7 and HH has been discussed in prior orders, the Court never meant to suggest that Mr. Foust had
8 sole, physical possession of the vehicles or the exclusive power to turn them over, as Mr. Detwiler
9 now argues. HH has possession of the vehicles; it said so in its bankruptcy filings. Mr. Detwiler
10 signed those bankruptcy filings under penalty of perjury. Mr. Detwiler gave detailed testimony
11 about his involvement with the vehicles and his general powers as manager of HH, which are the
12 subject of this Court's previous orders, including the Contempt Order. HH also held the titles to
13 the vehicles. HH, which acted through Mr. Detwiler as its manager, clearly has the ability to
14 surrender the vehicles to the Bank.

15 10. As for StarDust Classic, no credible evidence has ever been tendered to the effect
16 that this entity has possession of the vehicles or any involvement at all with the vehicles. An
17 alleged representative of StarDust Classic, Tom Larkin, did appear at the contempt trial, but he too
18 admitted on cross examination that he was a 15-year friend and business associate of James Foust
19 (5/21/29 Hr'g Trans., Vol. 2, 78-80.) and a long-time acquaintance and business associate of Mr.
20 Detwiler (*id.* at 90:18-91:23), not a person dealing at arm's length.

21 11. Mr. Larkin admitted he knew nothing of the vehicles' locations:

22 The Court: Okay. And each of these vehicles, the seven, are currently in the
23 control or possession of Mr. Vega, then?

24 Mr. Larkin: Yes.

25 The Court: Okay. Any of the vehicles, do you have a specific location where
26 they're --

27 Mr. Larkin: I don't have an address or location. I suspect they're in wherever
28 they were located or wherever he consolidated them to, whatever
storage facility.

The Court: Okay. And do you know who would have the knowledge of where
these vehicles are located?

Mr. Larkin: Mr. Vega or his agent, his repossession agent.

The Court: Okay. And do you know who Mr. Vega's repossession agent is?

Mr. Larkin: I don't. I don't know that.

1 (5/21/29 Hr'g Trans., Vol. 2, 71:5-14; *see also id.* at 86:24-87:2.)

2 12. Mr. Larkin introduced no documentary evidence at all. Were he a credible witness
3 he would have adduced evidence showing that he was the attorney-in-fact for StarDust Classic, as
4 he claimed; showing that StarDust Classic had a security interest in the vehicles; showing that the
5 vehicles had been repossessed through lawful process arising from a security interest; or showing
6 that he had the vehicle titles.

7 13. In fact, Mr. Larkin not only failed to bring documents to the trial, he further
8 admitted when questioned by the Court that he personally had seen no documentation regarding
9 repossession, nor had he personally observed the supposed repossessions. (*Id.* 69:17-70:23;
10 72:10-15) Most critically, this Court informed Mr. Larkin that StarDust Classic, if it had an
11 alleged interest in the vehicles, had declined to intervene in these proceedings and assert that
12 interest. (*Id.* 68:2-9.) Mr. Larkin was not a convincing witness. He seemed to simply be
13 cooperating with Mr. Foust and Mr. Detwiler to frustrate the Court's efforts to locate the vehicles.

14 14. The only credible evidence this Court has concerning StarDust Classic are official
15 corporate filings from the Wyoming Secretary of State, which this Court received into evidence
16 when Mr. Detwiler's former counsel and Mr. Foust's attorney stipulated to their admission. (*See*
17 11/5/18 Hr'g Trans., 64:1-16.)

18 15. These corporate annual reports were signed by Mr. Foust and Mr. Detwiler before
19 these proceedings began (*see* 11/5/18 Hr'g Ex. 3, control numbers 365-70) and before Mr.
20 Detwiler had a motivation to change his testimony. Therefore, the only credible evidence this
21 Court has received concerning StarDust Classic further reveals the involvement of Mr. Detwiler
22 and Mr. Foust in that entity, which in turn further suggests HH's and Mr. Detwiler's ability to
23 comply with this Court's orders.

24 16. Mr. Detwiler's arguments in these two motions are not even minimally persuasive
25 in light of the extensive evidence this Court has received contrary to his arguments.

26 17. The Court, therefore, rejects the contention that HH lacked the ability to comply
27 with the Court's orders. HH clearly did, and Mr. Detwiler is the only HH agent who has ever
28 appeared or given testimony that he acted on behalf of HH. As a consequence, he personally had

1 the duty, responsibility, and power to carry out the Court's orders. For the reasons given in the
2 Contempt Order and further discussed in this order, there is clear and convincing evidence of Mr.
3 Detwiler's and HH's ability to perform this Court's orders, their notice of the Court's orders, and
4 their willful refusal to comply.

5 18. The Court, however, will give Mr. Detwiler the maximum benefit of the doubt.
6 The Court will regard the resignation letter as effective to terminate his service as HH's manager.
7 The Court will consider Mr. Detwiler's agency for HH terminated for purposes of the Contempt
8 Order from the time he tendered the letter to HH's registered agent on February 11, 2020.² The
9 Court cannot regard the original transmission of the letter as effective because it was sent to
10 persons (Mr. Foust, for example) that Mr. Detwiler previously said had no say whatsoever in HH's
11 ownership or management.

12 19. As a former manager, Mr. Detwiler lacks the current ability to comply with the
13 rulings that led to the Contempt Order, so the Court declines to incarcerate him. *See* NRS
14 22.110(1) (permitting imprisonment for contempt where "the omission to perform an act which is
15 yet in the power of the person to perform").

16 20. The Court cannot and will not, nevertheless, simply absolve Mr. Detwiler on the
17 extensive record of his personal misconduct and contempt, which the Court finds beyond a
18 reasonable doubt. For the reasons given in the Contempt Order and the further findings in this
19 order, the Court levies a sanction against Mr. Detwiler and HH, on a joint and several liability
20 basis, in the amount of \$100,000, to be paid to the Bank in immediately available funds upon
21 notice of entry of this order. The Court imposes this sanction pursuant to EDCR Rule 7.60 and its
22 inherent powers, *see* NRS 1.210(2) (providing that the district court has the power to "enforce
23 order in the proceedings before it"); *see also In re Water Rights of the Humboldt River*, 118 Nev.
24 901, 906-07, 59 P.3d 1226, 1229-30 (2002) (explaining that the district court has "inherent power
25 to protect dignity and decency in its proceedings, and to enforce its decrees" and because it has
26 particular knowledge of whether contemptible conduct occurred, its contempt decisions are
27 reviewed for an abuse of discretion).

28 _____
² (Exhibit 17 to 2/11/20 Reply Brief, on file herein.)

21. The Court also orders Mr. Detwiler and HH to pay the Bank's reasonable expenses, including attorney fees and costs, from the time that HH intervened as a party in this action pursuant to NRS Chapter 31, and the Court further orders that both Mr. Detwiler and HH be jointly and severally responsible for such. NRS 22.100(3) ("In addition to the penalties provided in subsection 2, if a person is found guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may require the person to pay to the party seeking to enforce the writ, order, rule or process the reasonable expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt."); EDCR 7.6(b) (allowing for the imposition of sanctions, including costs and attorney fees for multiplying proceedings in a case as to increase costs unreasonably and vexatiously and for failing or refusing to comply with any order).

Conclusions of Law

22. There is clear and convincing evidence of HH's Mr. Detwiler's contempt.

23. The Court hereby ORDERS that any aspect of the Contempt Order relating to imprisonment of Mr. Detwiler be and is vacated, but otherwise the Contempt Order remains in full force and effect.

24. The Court FURTHER ORDERS that Mr. Detwiler and HH be fined and sanctioned in the amount of \$100,000.00 and that both be jointly and severally liable for the same.

25. The Court FURTHER ORDERS that Mr. Detwiler and HH be assessed the Bank's costs, including attorney fees, from the time HH intervened as a party in this action, and that both Mr. Detwiler and HH be jointly and severally liable for the same.

26. HH's and Mr. Detwiler's actions in disobeying this Court's orders and withholding the vehicles were clearly calculated to harm the Bank; were done with the intent to harm the Bank's and the Court's integrity; and were committed without just cause or excuse.

27. If any Conclusions of Law are properly Findings of Fact, they shall be treated as if appropriately identified and designated.

...

...

...

IT IS SO ORDERED.

Dated this 6th day of March, 2020


DISTRICT COURT JUDGE

Bm

A-17-760779-F

ORDER AWARDED SANCTIONS AGAINST
EDWARD "DETWILER AND HARRY
WILDERSON, LLC.

Respectfully submitted,

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: 

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State Bar No. 9519

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Steven D. Grierson

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Attorneys for Plaintiff Baker Boyer National Bank

DISTRICT COURT

CLARK COUNTY, NEVADA

BAKER BOYER NATIONAL BANK, a
Washington corporation,

Plaintiff/Judgment Creditor,

vs.

JAMES PATTERSON FOUST, JR., also
known as James P. Foust, Jr., individually, and
his marital community, if any,

Defendant/Judgment Debtor.

Case No.: A-17-760779-F

Dept. No.: II

ORDER AND JUDGMENT

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury Judgment Reached	<input type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other -

MH

ORDER AND JUDGMENT

On April 1 and 24, 2019, and May 17, 21, 2019, the cause of whether or not Edward N. Detwiler and Harry Hildibrand, LLC should be punished for contempt of Court came on for trial. Harry Hildibrand, LLC was represented at all times through its manager, Edward N. Detwiler. Witnesses on the part of Harry Hildibrand, LLC and Edward N. Detwiler, on the one hand, and on the part of the plaintiff and judgment creditor Baker Boyer National Bank (the "Bank"), on the other hand, were sworn and examined.

After hearing the evidence and the arguments of counsel, the Court retired to consider its decision. The Court has given due study and consideration to all of the above, and to the whole record and history in this litigation, including all hearings conducted on discovery questions throughout the period of this action's commencement to the present. The Court has further reviewed all relevant pleadings, papers, and other relevant and credible documents and materials in this case, as well as pleadings in other related court cases.

1 This Court concludes that Edward N. Detwiler and Harry Hildibrand, LLC have followed a
2 contumacious, conscious, willful, and deliberate policy throughout this litigation, which continues
3 to the present time, of cynical disregard and disdain of this Court's orders, particularly the order to
4 turnover and surrender certain vehicles to the Bank, as detailed in the Court's order and judgment
5 of January 9, 2019. Therefore, it is ORDERED, ADJUDGED, and DECREED that Edward N.
6 Detwiler and Harry Hildibrand, LLC stand in contempt of Court. The Court has made previously
7 findings of fact and conclusions of law that detail the contemptuous conduct and that resolved
8 certain post-trial motions and requests to tax costs and award attorney fees in its separate rulings
9 which issued on January 30, 2020, and March 12, 2020.

10 It is, therefore, CONSIDERED and ADJUDGED by the Court that the Bank, have and
11 recover of and from Edward N. Detwiler and Harry Hildibrand, LLC, on a joint and several
12 liability basis, the sum of \$100,000.00, and interest on that sum, from January 30, 2020, at the rate
13 established by Chapter 99 of the Nevada Revised Statutes, and the further sum of \$208,889.00, as
14 attorney's fees in this cause, together with costs, taxed at \$9,966.52, with interest on these
15 amounts to run from the notice of entry of this order and judgment, and let execution issue.

16 It is further CONSIDERED and ADJUDGED that this order and judgment shall be
17 enforced against the joint and/or separate property of Edward N. Detwiler and Harry Hildibrand,
18 LLC.

19 It is further CONSIDERED and ADJUDGED that this order and judgment shall in no way
20 affect the underlying judgment in this case against the judgment debtor, James P. Foust and his
21 marital community, which judgment remains unsatisfied at this time.

22 Dated this _____ day of March, 2020

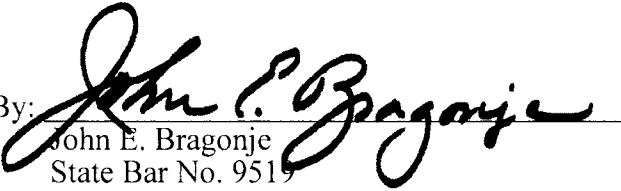
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DISTRICT COURT JUDGE

1 Respectfully submitted,

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By: 

5 John E. Bragonje

6 State Bar No. 9519

7 jbragonje@lrrc.com

8 3993 Howard Hughes Parkway, Suite 600

9 Las Vegas, NV 89169

10 *Attorneys for Plaintiff Baker Boyer National Bank*

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Attorneys for Plaintiff Baker Boyer National Bank

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vs.

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Defendant/Judgment Debtor.

Case No.: A-17-760779-F

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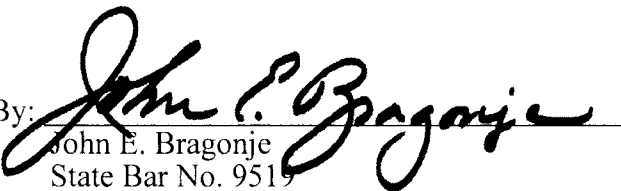
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DISTRICT COURT JUDGE

1 Respectfully submitted,

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By: 

5 John E. Bragonje

6 State Bar No. 9519

7 jbragonje@lrrc.com

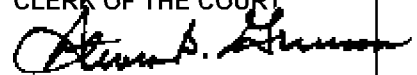
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9 Las Vegas, NV 89169

10 *Attorneys for Plaintiff Baker Boyer National Bank*

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6 *Attorneys for Plaintiff Baker Boyer National Bank*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **BAKER BOYER NATIONAL BANK, a**
Washington corporation,

10 Plaintiff/Judgment Creditor,

11 vs.

12 **JAMES PATTERSON FOUST, JR., also**
13 known as James P. Foust, Jr., individually, and
his marital community, if any,

14 Defendant/Judgment Debtor.
15

Case No.: A-17-760779-F

Dept. No.: II

**NOTICE OF ENTRY OF ORDER AND
JUDGMENT**

16
17 PLEASE TAKE NOTICE that an Order and Judgment was entered on April 1, 2020. A
18 copy of the Order is attached hereto.

19 Dated this 1st day of April, 2020.

20 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

21
22 By: /s/ John E. Bragonje

23 John E. Bragonje (SBN.: 9519)
3993 Howard Hughes Pkwy, Suite 600
24 Las Vegas, NV 89169-5996

25 *Attorneys for Plaintiff Baker Boyer National Bank*
26
27
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Rule 5(b), I hereby certify that on this date, I electronically filed and served the
3 foregoing document entitled “*Notice of Entry of Order and Judgment*” through the Court’s
4 electronic filing system on all parties on the Court’s e-service list.

5
6 Michael D. Mazur, Esq.
7 **MAZUR & BROOKS**
8 **A PROFESSIONAL CORPORATION**
9 2355 Red Rock Street, Suite 100
10 Las Vegas, NV 89146
11 *Attorneys for Defendant James Patterson Foust, Jr.*

12 Brenoch Wirthlin, Esq.
13 **HUTCHISON & STEFFEN, PLLC**
14 Peccole Professional Park
15 10080 W. Alta Drive, Suite 200
16 Las Vegas, NV 89145
17 bwirthlin@hutchlegal.com
18 *Attorneys for Edward Detwiler*

19 **The Following Served via U.S. Mail:**

20 **HARRY HILDIBRAND, LLC**
21 c/o Registered Agent
22 Jared S. Heggen
23 3011 American Way
24 Missoula, MT 59808

25 **HARRY HILDIBRAND, LLC**
26 c/o Registered Agent
27 Jared S. Heggen
28 P.O. Box 16270
Missoula, MT 59808

DATED this 1st day of April, 2020.

29 /s/ Luz Horvath
30 An employee of Lewis Roca Rothgerber Christie LLP

Steven D. Grierson

JUDG

John E. Bragonje
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Attorneys for Plaintiff Baker Boyer National Bank

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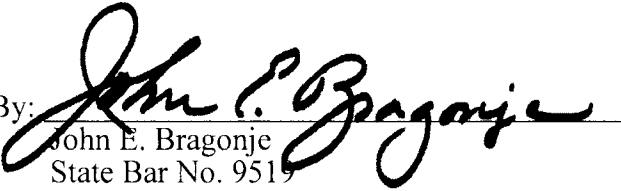
22 Dated this ____ day of March, 2020

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DISTRICT COURT JUDGE

1 Respectfully submitted,

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By: 

5 John E. Bragonje

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10 *Attorneys for Plaintiff Baker Boyer National Bank*

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Lewis Roca
ROTHGERBER CHRISTIE

**DISTRICT COURT
CLARK COUNTY, NEVADA****Foreign Judgment****COURT MINUTES****January 22, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

January 22, 2018 3:00 AM Motion for Order

HEARD BY: Scotti, Richard F. **COURTROOM:** No Location

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Plaintiff's Motion for Order Requiring Judgment Debtor, James Foust, Jr., to immediately deliver all of the classic cars identified in Exhibit 3 of the Motion, to Plaintiff, to the extent any such cars are found (by the Plaintiff, Sheriff, Constable, or any other peace officer) to be in the possession, custody, or control of the Judgment Debtor. Said cars should be held in the custody of Plaintiff (or its assignee, agent, or lawful authority).

Plaintiff shall exercise reasonable and good faith care to safeguard and protect the cars from theft, vandalism, or the elements. Plaintiff must not sell, transfer, encumber, lease or otherwise dispose of possession of such cars until further Order of the Court. Any party claiming to own or hold any beneficial interest in the cars may come forward and present its claim for review to the Court.

The Court hereby sets an Evidentiary Hearing on an Order to Show Cause why the cars should not be used to satisfy Judgment Debtor's debt to Plaintiff. This Evidentiary Hearing is set for Monday, February 5, 2018, at 11:00 a.m. Notwithstanding the forgoing, this Order to Deliver Possession is effective immediately, based upon this Minute Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

February 05, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

February 05, 2018 11:00 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Alice Jacobson

RECORDER: Dalayne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Foust, James Patterson, Jr. Defendant
 Munteer, Cody S. Attorney
 Stewart, Thomas W, Attorney

JOURNAL ENTRIES

- Court noted the purpose of the hearing was to determine ownership of the vehicles.

Mr. Munteer indicated that Plaintiff had a judgment out of the State of Washington against the Defendant that was domesticated in Nevada. Plaintiff was trying to repossess the Defendant's vehicles. Mr. Munteer argued that Mr. Foust did not legally own the vehicles and stated that a motorhome that was not his was just recently seized off his residence.

Mr. Bragonje argued the application for a loan indicated the Defendant owned the vehicles and requested guidance from the Court to collect the cars.

Court instructed the parties to participate in a debtor examination. The motor home may remain in the custody of Plaintiff but may not be sold at this time. COURT ORDERED, hearing CONTINUED to determine ownership of the motorhome 2/15/18 11am. If the Defendant's sold the vehicles, the Court wants the price and where the money went. COURT ORDERED, a following hearing to determine ownership of the remaining vehicles 3/7/18 9:00am. Mr. Bragonje to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****February 15, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

February 15, 2018 11:00 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Alice Jacobson

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT:	Bragonje, John E.	Attorney
	Foust, James Patterson, Jr.	Defendant
	Mounteer, Cody S.	Attorney
	Stewart, Thomas W,	Attorney

JOURNAL ENTRIES

- Mr. Mounteer noted that the purpose of today's hearing was to establish the ownership of the 1997 Prevoust Motorcoach Vin#2PCM3349XV1026183. That the certificate of title was not in Mr. Foust's name and was in Harry Hilebrand LLC name, therefore, the Motorcoach should be returned by Plaintiff. James Foust Jr sworn and testified.

Opposition by Mr. Bragonje. Argument that the certificate of title was not certified or authenticated, therefore it was hearsay. That Mr. Foust was an operating manager of the Hilebrand LLC and was the owner of the motorcoach. Furthermore, there was no proof of payment or contract of the sale. Sergeant Devin Smith sworn and testified. Jessica Helm read Jessica Smukal's affidavit into the record.

Court finds that the motorcoach was sold after the judgment was entered; that substantial personal property of Mr. Faust was inside the motorcoach; the title was in Montana but property was in Nevada and no parties from Hilebrand's LLC has come forward. Court finds the asset was sold or concealed to keep out of the reach of Plaintiff and was fraud on the creditors.

Court determined that Mr. Faust was the owner of the motorcoach. COURT ORDERED, Plaintiff has authority to sale the motorcoach 15 days from the Notice of Entry of order. Mr. Bragonje to prepare the order

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****March 07, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 07, 2018 9:00 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kory Schlitz

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT:	Bragonje, John E.	Attorney
	Mounteer, Cody S.	Attorney
	Stewart, Thomas W,	Attorney
	Went, Joseph G.	Attorney

JOURNAL ENTRIES

- Upon Courts inquiry, Mr. Mounteer stated Harry Hildibrand has retained counsel, and he thinks there are due process issues with the prior hearing and the vehicles that will be discussed today are owned by Mr. Hildibrand and requested the other hearing take place before this instant matter. Mr. Mounteer stated Mr. Hildibrand is trying to intervene in this case as a party. Mr. Went indicated he was retained after the enforcement proceeding was heard regarding the Motorcoach and they filed a Third Party Claim, and Application, and stated his issue is the enforcement proceeding that occurred with the Motorcoach. Upon Court's inquiry, Mr. Bragonje stated he did not believe Mr. Hildibrand received notice of the prior proceeding, since the entity was not a party to the case, however Mr. Foust is a manager and owner of Harry Hildibrand LLC, and the Court through one of its hearings found Mr. Foust was a manger and owner and an LLC can only act through its agents. Mr. Mounteer argued he has sworn testimony and declaration that says Mr. Foust was not a manager or owner of Harry Hildibrand LLC and requested additional time to work out the issues before proceeding today. Mr. Mounteer indicated he is requesting to file a Motion for Reconsideration regarding the Court's prior findings regarding Mr. Foust being a managing partner of Harry Hildibrand LLC, and firmly stated he has never represented the LLC. Court advised there is not a signed Order from the hearing and would not go forward with today's hearing until an Order is signed. Mr. Bragonje stated the

Motorcoach has been decided and stated Mr. Munteer can only file an appeal to that matter not a Motion for Reconsideration.

Mr. Went indicated he has a pending Motion before the Court on Monday's Chambers calendar. Court directed Mr. Bragonje to file his Opposition thereto by Monday March 12; and further directed Mr. Went to file his Reply on or before Friday March 16; and the matter will be resolved in Chambers. COURT ORDERED, Application for Hearing with 10 days on Third Party's Claim of Interest in Property Levied Upon RESET.

With regards to Mr. Munteer's request to file a Motion for Reconsideration, or a Rule 59 or 60 Motion, which ever is deemed appropriate, shall be filed on or before Wednesday March 21; and further directed Mr. Bragonje to file his Opposition on or before Wednesday April 11; Mr. Munteer's Reply shall be due on or before Friday April 13; COURT ORDERED, matter SET for in Chambers decision on April 13. Mr. Munteer requested the Motorcoach be held and not sold pending the Court's ruling on these Motions. COURT FURTHER ORDERED, and sale of the Motorcoach is STAYED UNTIL April 13, 2018.

With regards to a Motion to Intervene, Court directed Mr. Went to file his Motion to Intervene on or before Thursday March 15; Mr. Bragonje's Response shall be due on or before Monday March 19 as well as any Joinders thereto; Mr. Went's Reply shall be due on or before Thursday March 22. COURT ORDERED, the matter will be resolved on the Chambers calendar March 23.

COURT ADDITIONALLY ORDERED, Evidentiary Hearing RESET.

3/16/18 HEARING: APPLICATION FOR HEARING WITH 10 DAYS ON THIRD PARTY'S CLAIMS OF INTEREST IN PROPERTY LEVIED UPON (CHAMBERS)

3/23/18 DECISION RE; MOTION TO INTERVENE (CHAMBERS)

4/13/18 DECISION RE: MOTION TO RECONSIDER (CHAMBERS)

4/18/18 9:00 A.M. EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

March 16, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 16, 2018 3:00 AM Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Natalie Ortega

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court elects not to allow oral argument on Third-Party Harry Hildebrand, LLC's claim of interest in the subject property. The Court will resolve the claim based on the briefs submitted, during the Court's March 23, 2018 Chamber Calendar hearing on Harry Hildebrand, LLC's Motion to Intervene.

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/3/16/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****March 23, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 23, 2018 3:00 AM Decision

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Kory Schlitz

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court DENIES the Motion To Intervene by Harry Hildibrand, LLC. . (Hildibrand). Plaintiff Baker Boyer National Bank (Baker) opposed the motion. Hildibrand asserted an interest in the motorcoach and the cars that are the subject of this action. Hildibrand s rights are governed by NRS 31.070. That statute sets forth the procedure for Hildibrand to assert a Third Party Claim to the subject property. Pursuant to NRS 31.070, an entity asserting a claim to the property may pursue its claim after the Plaintiff has levied on the property. In this case, Hildibrand may assert a Third Party Claim after Baker Boyer has levied on the property. The term levied on means to take possession pursuant to a writ of attachment. NRS 31.070(1) (drawing distinction between a levy, where a sheriff has taken possession of the property, and a writ of attachment); NRS 31.070(1) (mentioning a levy of the writ of attachment).

The Court entered judgment in favor of Baker granting Baker a writ of attachment to take possession of the property. Baker represents to this Court that it has not yet taken possession. If and when Baker takes possession of the motorcoach and the cars, then Hildibrand s rights under NRS 31.070 are triggered. The Court makes no ruling whether Hildibrand actually holds and right to the property, or whether Hildibrand would prevail upon implementing the procedures under NRS 31.070. The Court already held in this matter that Mr. Foust owns and controls Harry Hildibrand, LLC. This finding will guide the Court s manner of resolving Hildibrand s a claim made under NRS 31.070. The Court rejects Hildibrands arguments made under NRCP 24. Specifically, Hildibrand is not entitled to intervene as a matter of right under NRCP 24(a)(2), because the present action does not

impair or impede its ability to protect its interest, if any exists, in the subject property. Hildibrand may pursue the procedure available under NRS 31.070. Moreover, the Court finds that Hildibrands interest was adequately represented by Defendant James Patterson. Also, the Court exercises its discretion not to permit Hildibrand to intervene pursuant to NRCP 24(b) because Hildibrand s rights, to the extent they exist, are protected under NRS 31.070.

Finally, the Court questions whether the Findings of Fact, Conclusions of Law, and Final Judgment (filed March 8, 2018) actually constitutes a Final Judgment. The parties to this action (Plaintiff Baker, and Defendant James Patterson Foust Jr.) must be prepared to address this issue at the next hearing in this matter.

Accordingly, the Court DENIES the Hildibrand s Motion to Intervene.

Plaintiff Baker shall prepare the proposed Order consistent herewith, adding appropriate context is necessary, and correcting any scrivener error. Defendant need not countersign, but must be provided a copy of the proposed order at least two business days before it is submitted to the Court.

CLERK'S NOTE: This Minute Order has been electronically served by Courtroom Clerk, Kory Schlitz, to all registered parties for Odyssey File & Serve. (3/23/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

April 12, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

April 12, 2018 4:30 PM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Haly Pannullo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant James Foust s Motion for Reconsideration, currently scheduled for a 4/13/2018 Chambers hearing, is hereby CONTINUED to the 4/18/2018 Oral Calendar, 9:00 a.m. The briefing schedule currently assigned for this Motion will remain.

Additionally, on 4/18/2018, 9:00 a.m., the Court will hear Oral Argument on Harry Hildebrand, LLC s Motion for Clarification and conduct the previously scheduled Evidentiary Hearing for this matter.

The 4/18/2018, 9:00am Evidentiary Hearing, Hearing on the Motion for Clarification, and Hearing on the Motion for Reconsideration will be heard in Courtroom 15C.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/04/12/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****April 18, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

April 18, 2018 9:00 AM All Pending Motions

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Haly Pannullo

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT:	Bragonje, John E.	Attorney
	Foust, James Patterson, Jr.	Defendant
	Mounteer, Cody S.	Attorney
	Stewart, Thomas W,	Attorney

JOURNAL ENTRIES

- DECISION RE: MOTION TO RECONSIDER ... THIRD-PARTY CLAIMANT, HARRY HILDIBRAND, LLC'S MOTION FOR CLARIFICATION ON OST

Rachel Wise, Esq., present on behalf of Harry Hildibrand LLC.

Following arguments by counsel, COURT ORDERED the following:

At a future Evidentiary Hearing, the Court will decide whether Harry Hildebrand LLC (HH) is bound by the prior decision of this Court that Mr. Foust is the owner of the Motorcoach. At that future hearing, if the Court determines that HH is not bound by the prior decision by principles of issue of claim preclusion, then HH will be permitted to present evidence, at that same hearing, that it is the owner of the Motor coach, under NRS 31.070.

At that same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars over which HH claims an interest. These are the so-called HH cars, for future point of reference, even though this Court has not yet decided who owns the cars. This is an Evidentiary

hearing under NRS 31.070. The parties agreed that this Evidentiary Hearing may proceed before the Plaintiff has levied upon the subject cars.

At the same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars that HH contends it purchased from Mr. Foust and then sold to third parties. These are the so-called HH Sold Cars, for future point of reference, even though this Court has not yet decided who owns the cars.

cars that he contends were transferred directly to third parties. These are the so-called Third Party Cars, for future point of reference, even though this Court has not yet decided who owns the cars.

Accordingly, any and all remaining claims by and between the Plaintiff, Mr. Foust, and/or HH shall be resolved at the next Evidentiary Hearing.

The Court directs the parties to meet and confer, with themselves and this Court's JEA and/or Law Clerk, to determine the best possible date to conduct this future Evidentiary Hearing.

The Court Orders that the Stay upon Plaintiff to not sell, encumber, or dispose of the Motorcoach shall remain in effect until the future Evidentiary Hearing.

The Court Orders that Mr. Foust shall notify and advise HH not to sell, encumber, or dispose of any of the so-called HH Cars.

To the extent any prior order of this Court, or Minutes of this Court, are inconsistent herewith, such Order or Minutes are deemed modified accordingly.

The Court hereby sets a Status Check for Wednesday, May 9, 2018, at 9:00, which Status Check shall be vacated if the parties have reached an agreement on the date of the future Evidentiary Hearing.

The Court directs counsel for the Plaintiff to prepare the proposed order in this matter, consistent herewith, adding any appropriate context, and correcting for any scrivener errors.

CLERK'S NOTE: Subsequent to Court, COURT supplemented this Minute Order to clarify the Court's Order. hvp/4/18/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****May 09, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

May 09, 2018 9:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Haly Pannullo

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney

JOURNAL ENTRIES

- Court requested the parties set a date for the Evidentiary Hearing. Upon Court's inquiry, Mr. Bragonje advised they are having settlement discussions; an offer made and it is not a done deal yet. Colloquy regarding schedule for the Evidentiary Hearing. COURT ORDERED, matter SET for Evidentiary Hearing. Court directed Mr. Bragonje to work out any protocol with counsel, including when documents are to disclosed, when witness are going to be designated and if opening remarks are needed for the Court. Court further directed counsel to place this matter on calendar if they can't work out protocol.

05/25/18 9:00 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

May 24, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

May 24, 2018 3:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Natalie Ortega

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to a stipulation between the parties, the Evidentiary Hearing currently scheduled for 5/25/2018 is hereby CONTINUED to 6/29/2018, 9:00 a.m.

CONTINUED TO: 6/29/18 9:00 AM

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/24/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****June 29, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

June 29, 2018 10:00 AM Motion to Compel

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Alice Jacobson

RECORDER: Elsa Amoroso

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Went, Joseph G. Attorney

JOURNAL ENTRIES

- Argument by Mr. Bragonje in support of the motion, noting the witnesses availability, and that the documents were produced late in the day; therefore, requested to proceed with this matter as soon as possible. Upon Court's inquiry as to how much time counsel had put into filing the motion and reply, Mr. Bragonje stated it took him about ten hours at \$400.00 an hour. Mr. Went argued in opposition to the motion, noting the date the motion and subpoena were served, issues with the service, and that the sanction shouldn't issue, as a sanction would prohibit a Harry Hildibrand 30(b)(6) witness from appearing and testifying. Colloquy regarding the prior hearing, and whether Mr. Detwiler was always the person that was going to be produced for the deposition and to testify at the hearing. COURT ORDERED, motion GRANTED IN PART and DENIED IN PART; Harry Hildibrand (HH) is to appear for a deposition, at Mr. Bragonje's office on or before 7/9/18, and every day thereafter that Mr. Detwiler fails or refuses to appear, the company of HH will be sanctioned \$1,000.00 a day until the company of HH appears; ADDITIONALLY, if he does not appear by 7/19/18, all HH employees, officers, directories, managers, and members will be barred from testifying at the evidentiary hearing. COURT FURTHER ORDERED, matter SET for evidentiary hearing, and the monetary sanction matter is CONTINUED, to be heard on the same date as the evidentiary hearing to determine how to proceed. COURT DIRECTED Mr. Bragonje to prepare the order, and provide it to opposing counsel, for review and approval of form and content, before submitting it for signature.

7/31/19 - 9:00 AM - EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****July 31, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

July 31, 2018 9:00 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Kory Schlitz
Lauren Kidd

RECORDER: Dalayne Easley

REPORTER:

PARTIES

PRESENT:	Bragonje, John E.	Attorney
	Foust, James Patterson, Jr.	Defendant
	Mounteer, Cody S.	Attorney
	Stewart, Thomas W,	Attorney
	Went, Joseph G.	Attorney

JOURNAL ENTRIES

- Court advised the hearing was two fold today, noting the Court would announce their decision on whether issue preclusion or claim preclusion was going to apply with respect to the Court's prior decision that the Motor home was subject to the lien of the Plaintiff. Court further noted there was going to hear evidence regarding the ownership of the cars that were reportedly transferred to Harry Hildibrand LLC, and then again transferred to third parties. Upon Court's inquiry, Mr. Mounteer stated he does not believe anything can happen in this case until the Plaintiff goes to Bankruptcy Court and gets the stay lifted. Mr. Mounteer further requested some type of comfort order from the Bankruptcy Court stating it is okay for parties to proceed in this instant matter, and stated his is not comfortable proceeding today. Mr. Bragonje stated the assets that were going to be discussed today had nothing to do with Harry Hildibrand. COURT RECOGNIZES it's obligation under the Federal Bankruptcy Automatic Stay, and the Court will not proceed with the hearing with any cars with respect to Harry Hildibrand LLC if they claim an interest since that is jurisdiction with the Bankruptcy Court. COURT ORDERED, status check SET. Court directed Mr. Bragonje to prepare and submit a proposed order to the Court which identifies the groups of cars to which Harry Hildibrand

LLC has not claimed an interest in, and add appropriate language in that order, which includes that you now do have authority to sell, transfer, encumber, or release or otherwise dispose of the possession, custody or control or ownership of those cars.

10/2/18 9:00 A.M. STATUS CHECK: PROCEDURAL STATUS OF HARRY HILDIBRAND LLC
CLAIM OF INTEREST TO CERTAIN AUTOMOBILES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****October 03, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

October 03, 2018 9:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Natalie Ortega

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Stewart, Thomas W, Attorney

JOURNAL ENTRIES

- Mr. Stewart advised counsel for Harry Hildibrand, LLC was not present. Court noted there was still an issue identifying cars still in his possession. Mr. Stewart indicated a stay was imposed and a bankruptcy was filed in California. Mr. Bragonje noted in the last two weeks the bankruptcy was dismissed as he did not show up for a status check. Further, an Evidentiary Hearing would be required to determine who owns the vehicles. COURT ORDERED, Evidentiary Hearing SET for November 5, 2018 at 8:30 a.m. Mr. Bragonje anticipated a half day would be required to complete an evidentiary hearing. COURT NOTED if counsel needed to reschedule the evidentiary hearing then they must inform the Court by October 29, 2018. Additionally, counsel to provide a two or three page brief one week prior to the evidentiary hearing.

11/05/18 8:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

November 05, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

November 05, 2018 8:30 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Dalayne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Foust, James Patterson, Jr. Defendant
 Munteer, Cody S. Attorney
 Went, Joseph G. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, all parties advised they were ready to proceed. Evidentiary Hearing commenced. Testimony and exhibits presented. (See worksheets) Following testimony, COURT ORDERED, post-hearing briefs DUE November 16, 2018 and any objections DUE November 20, 2018. Court will issue a decision from Chambers.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

November 13, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

**November 13, 2018 3:00 AM Motion to Withdraw as
Counsel**

HEARD BY: Scotti, Richard F.

COURTROOM: RJC Courtroom 03B

COURT CLERK:
Louisa Garcia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Holland & Hart LLP's Motion to Withdraw pursuant to EDCR 2.20 and 7.40.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 11-14-18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

November 27, 2018

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

November 27, 2018	10:57 AM	Minute Order	Minute Order Re: Pltf/Judgment Creditor's Objection to Deft/Judgment Debtor's Post- Hearing Submission of the Commercial Loan Report as Evidence
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HEARD BY: Scotti, Richard F.

COURTROOM: Chambers

COURT CLERK: April Watkins

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court SUSTAINS Plaintiff/Judgment Creditor s Objection to Defendant/Judgment Debtor s post-hearing submission of the Commercial Loan Report as evidence.

CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****November 28, 2018**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

**November 28, 2018 2:00 PM Minute Order Minute Order Re.:
Judgment**

HEARD BY: Scotti, Richard F.**COURTROOM:** Chambers**COURT CLERK:** Louisa Garcia**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- The Court enters Judgment in favor of Baker Boyer National Bank (Bank) and against Defendant/Judgment Debtor James Patterson Foust, Jr. and against Third-Party Claimant Harry Hildebrand, LLC, and all entities directly affiliated thereto (including all persons or entities claiming an ownership interest in Harry Hildebrand, LLC; all entities owned or controlled by Harry Hildebrand, LLC; all entities owned or controlled by Mr. Foust; and StarDust Classic) (all collectively referred to herein as HH), as set forth herein. The Court hereby rejects HH s claims of interest in the cars which claims were made by HH pursuant to NRS 31.070, and by way of intervention in this action. The Court finds that Mr. Foust and HH are and have been agents of each other with respect to any past action involving the cars, and notice of these proceedings. The Court finds that Mr. Foust is the owner of all of the cars over which HH claims an interest; Mr. Foust is the owner of all of the cars that HH contends or has contended that it obtained from Mr. Foust and transferred to some third parties; and Mr. Foust is the owner of all cars, believed to number 59, which he owned or claimed to own at the time he became indebted to Bank, and/or which he contends or has contended were transferred by him to some third parties or party. The Court further orders and adjudges that: (1) any sale or transfer of the cars over which HH asserted or asserts an interest, estimated to be about 20 cars, is void ab initio, and of no force or effect whatsoever; (2) Plaintiff Bank may enforce and satisfy its claim against Mr. Foust by levying, executing upon, and taking full possession of the cars, and taking any and all further actions involving the cars to satisfy the debt owed by Mr. Foust; (3) any

attachment, garnishment, levy, and execution on the 20 cars is permitted, pursuant to NRS 112.210; (4) Mr. Foust and HH are enjoined from taking or attempting to take any action to interfere with the Bank's rights to take, keep, and/or sell the cars that Mr. Foust had owned or claimed to have owned at the time the Bank obtained its original judgment against Mr. Foust; and (5) a certified copy of the Order upon these Minutes shall constitute conclusive proof, to any person, entity, or governmental agency or other authority, that HH has been fully and completely divested of any and all title and interest in the cars, and such title and interest resides in Mr. Foust, subject to the rights of the Bank set forth herein. Nothing contained herein shall have the effect of precluding any innocent third party from exercising its rights, if any, under NRS 31.070, in a new proceeding. The Court denies the Bank's request for attorneys fees as such an award is not expressly authorized under NRS 31.070. Further, separate proceedings would be necessary to consider a sanction under NRCP 37 or EDCR 7.60, and the time and resources to conduct such proceedings would outweigh the amount of the award sought by the Bank. The Bank shall prepare the proposed Order and Judgment in this matter. Official Notice of Entry of Judgment shall be the responsibility of the Bank. Bank need not obtain countersignatures from opposing counsel as to form and/or substance; however opposing counsel may submit an alternate proposed Order if necessary. This matter is now to be administratively closed.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

March 06, 2019

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 06, 2019	3:00 AM	Motion to Withdraw as Counsel	Motion to Withdraw as Counsel for Defendant James Patterson Foust Jr. on an Order Shortening Time
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HEARD BY: Scotti, Richard F.

COURTROOM: Chambers

COURT CLERK: Louisa Garcia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Motion to Withdraw GRANTED as unopposed pursuant to EDCR 2.20 and 7.40.

CLERK'S NOTE: The above minute order has been distributed to: Terry A. Coffing, Esq.
[tcoffing@maclaw.com]

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****April 01, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

April 01, 2019 9:00 AM Show Cause Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Mazur, Michael D., ESQ Attorney

JOURNAL ENTRIES

- Mr. Mazur advised he was just retained and filed his appearance. Mr. Bragonje stated there was an issue concerning whether certain assets belonged to Mr. Foust and could be seized to satisfy a judgment, and despite the Court's Order that Mr. Foust overturn four vehicles his family used, Mr. Foust failed to do so; argued regarding the Court's recent Order. Court noted Mr. Foust did not comply with the Court's Order. James Foust sworn and testified. Court inquired regarding need for an Evidentiary Hearing. Court requested argument as to why Mr. Foust should not be held in contempt. Arguments by counsel. Mr. Foust sworn and testified. Court directed Mr. Mazur to provide Mr. Bragonje with the Affidavit from Mr. Foust stating as to each of the cars: who has possession, where they are located, and if the company does not have the cars, where they are located, and were the sales were conducted by the LLC or by Mr. Foust. Discussion by Court and counsel regarding vehicles in the possession of Mr. Foust family members. COURT ORDERED, matter to be CONTINUED. Court inquired how much time would be needed for the Evidentiary Hearing. Court advised it would have the JEA contact counsel regarding availability for continuance of this matter. Court directed Mr. Mazur to provide an affidavit of Mr. Foust regarding location, possession, and transfer of vehicle subject to this proceeding, prior to April 8, 2019.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****April 24, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

April 24, 2019 1:00 PM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Mazur, Michael D., ESQ Attorney

JOURNAL ENTRIES

- Mr. Mazur stated his client was confused about the time of the hearing, and requested a continuance. Court advised counsel of available dates. Mr. Bragonje stated he would like to proceed today. Court advised this was an Order to Show Cause against Mr. Foust and Harry Hildibrand LLC, and it was their burden to appear. Mr. Bragonje advised he had a subpoena he wished to submit to the Court. Court stated it viewed proof of service upon Mr. Foust and Mr. Detwiler. Mr. Bragonje submitted a copy of the demonstrative evidence and subpoena to the Court for review. Mr. Bragonje argued the paperwork showed Mr. Foust requesting insurance for the vehicles, proving his interest in the vehicles. Mr. Mazur argued assumptions were made about what the documents mean, and testimony would be needed. COURT ORDERED, matter CONTINUED. MATTER TRAILED.

MATTER RECALLED. Mr. Mazur informed May 17 would be the best date for his client to appear. COURT ORDERED, Mr. Foust, Mr. Detwiler, and a representative of Harry Hildibrand must appear on May 17, 2019.

CONTINUED TO : 5/17/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****May 09, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

May 09, 2019 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- As the parties already know, on May 17, 2019 9:00 A.M. the Court is conducting the Evidentiary Hearing on the Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt. The Court also notes that on the Chamber Calendar, on June 3, 2019, the Court will resolve Defendant Foust s Motion to Discharge Attachment Pursuant to NRS 31.200. Unless the Court Orders otherwise, the Court declares that all prior proceedings in this action were conducted in accordance with the proper procedure, that defendants have waived any irregularities, and all Orders of this Court are valid and binding on Defendants. At the Evidentiary Hearing, each side shall have one (1) hour to present opening statements, examine witnesses, and present closing arguments; noting that the facts and legal issues in this action have already been extensively submitted to this Court at the numerous prior hearings. Defendant shall present first at this Evidentiary Hearing, in accordance with the Order to Show Cause.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 5/9/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****May 17, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

May 17, 2019 9:00 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
Mazur, Michael D., ESQ Attorney

JOURNAL ENTRIES

- Mr. Mazur present via Court Call and Edward Detwiler also present. Court noted Mr. Foust was not present. Mr. Mazur advised Mr. Foust attended a funeral in Texas yesterday, and a Declaration was filed affirming the facts regarding the funeral attendance. Mr. Bragonje stated this was a contempt hearing, and argued Mr. Foust's excuse for his absence today did not matter and there was sufficient record to make a decision. Mr. Mazur assured this was not another delay tactic by Mr. Foust and informed the Court that Mr. Foust was given a diagnosis of less than six months due to severe cancer. Mr. Mazur further stated Mr. Foust indicated he would make himself available as soon as he returns to Las Vegas from the funeral in Texas. Court noted Mr. Foust could have been here if he really wanted to by taking a late flight last night or early flight this morning. Mr. Bragonje stated he did not believe what Mr. Foust says. Court reviewed the Court's schedule for the next week. Court stated Mr. Foust would be required to pay costs and compensate Mr. Bragonje for his time showing up at Court. Mr. Mazur stated he would make sure Mr. Foust is present Tuesday, May 21 at 8:30 a.m. Mr. Bragonje requested to proceed with Mr. Detwiler's evidentiary portion today. Court stated the exclusionary rule would apply since it was a separate proceeding for Mr. Detwiler and Mr. Foust. Colloquy regarding testimony of Mr. Detwiler. Witness Edward Detwiler sworn and testified. COURT ORDERED, matter CONTINUED. Court directed Mr. Detwiler return on May 21.

CONTINUED TO: 5/21/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****May 21, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

May 21, 2019 8:30 AM Evidentiary Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Foust, James Patterson, Jr. Defendant
 Mazur, Michael D., ESQ Attorney

JOURNAL ENTRIES

- Edward Detwiler also present. Exclusionary Rule INVOKED. Edward Detwiler sworn and testified. Court stated the evidentiary portion of Mr. Detwiler's contempt hearing was concluded.

Trial on contempt charges of Mr. Foust commenced. James Foust, Jr., Edward Detwiler, and Thomas Larkin sworn and testified. Court stated the evidentiary portion of Mr. Foust's contempt hearing was concluded.

Closing arguments by counsel. Court advised Mr. Bragonje and Mr. Mazur to submit further argument, if needed, prior to Tuesday. Mr. Bragonje stated he would rather not submit further briefing. Mr. Bragonje stated he would not be available to respond to Mr. Mazur's filings next week due to being out of the country. Court informed Mr. Bragonje a response to Mr. Mazur's closing argument would not be necessary. COURT ORDERED, ruling DEFERRED; a decision to be provided.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

June 03, 2019

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

June 03, 2019

3:00 AM

Motion

HEARD BY: Scotti, Richard F.

COURTROOM: Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendants Motion to Discharge Attachment pursuant to NRS 31.200 is DENIED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 6/4/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****June 03, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

June 03, 2019 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- An Evidentiary Hearing was conducted on the Court's Order to Appear and Show Cause Why Defendant James Foust, Jr. Should Not Be Held in Civil Contempt. The Court hereby Finds, Concludes, and Adjudges that Defendant James Patterson is in CIVIL CONTEMPT for violating this Court's Findings of Fact, Conclusion of Law, and Final Judgment (January 9, 2019) (hereinafter Order). That Order required Foust on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, all [twenty] classic cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust Id. at p. 22, para.29.

Mr. Foust never challenged that Order with any motion for reconsideration, or motion pursuant to Rule 59 or 60 to alter or amend the Order. Indeed Mr. Foust waited until about three months later (April 1, 2009) to file a late and unmeritorious Motion to Discharge Attachment, which the Court Denies.

Mr. Foust had acknowledged notice of these proceedings, and the Court's Order to Appear at the Evidentiary Hearing. Mr. Foust testified on his behalf, and presented Mr. Detwiler as a witness on his behalf.

The Court finds that Mr. Foust fraudulently testified to this Court that he no longer had any ownership interest in the cars. He presented no valid excuse for violating the Court's Order. He presented no valid excuse for failing to turn over the subject cars. He presented no evidence of any effort to retrieve the subject cars from their present locations.

He claimed that several of the cars were owned by Harry Hildebrand, LLC which the Court

previously held was in privy with Mr. Foust. In fact, the evidence presented in these proceedings to date have proved that, at all times pertinent hereto, Mr. Foust directly and/or indirectly controlled Harry Hildebrand. Mr. Foust was designated as the managing initial director through at least 2008. Filings with the Montana Secretary of State showed that Mr. Foust was the sole member and/or manager for HHLLC. Significant evidence reflects that even if Foust transferred the exotic cars to HHLLC, he never received any consideration. In numerous bankruptcy filings of Harry Hildebrand LLC, HHLLC represented that it was actually owned by an entity called StarDust Classic, LLC. Mr. Foust had and has such significant connection and interest in StarDust Classic, LLC, that HHLLC's supposed Manager, Mr. Detwiler, admitted that Mr. Foust ultimately owned HHLLC through StarDust Classic, LLC. The Court finds that, at all times relevant herein, Foust, Harry Hildebrand, LLC, and StarDust Classic, LLC were and are alter ego's of each other with respect to all of the exotic cars listed on Exhibit B.

In Third Party Claimant Harry Hildebrand, LLC's Evidentiary Hearing brief (October 29, 2018), Harry Hildebrand represented to this Court that it held an interest in at least the following three vehicles: 2007 Mercedes S550, 2007 Mercedes M50SUV, and a 2007 Mercedes CLK550 (hereinafter the Mercedes Vehicles). Each of these Mercedes vehicles are listed in the Exhibit A, and are the subject of the Court's Order for Foust to surrender. Harry Hildebrand, LLC represented that the Mercedes Vehicles are in the possession of Mr. Foust's wife and daughters. Thus Mr. Foust and Harry Hildebrand knows where these cars are located, and has the right and ability and duty, under the Court Order, to surrender the Mercedes Vehicles to Baker Boyer. As a result of Mr. Foust's violation of the Court Order regarding the Mercedes Vehicles, Mr. Foust is in Civil Contempt of Court. In prior submissions to this Court, Mr. Foust represented that he drives a 2000 GMC Yukon (Yukon), which he supposedly sold to HHLLC, yet still holds pursuant to a Lease which he never provided. In any event, Mr. Foust has no valid reason for failing to surrender the Yukon, which he possesses, and which he owns either directly or indirectly through HHLLC.

With respect to the 2017 Kawasaki, Mr. Foust represented to this Court by sworn Declaration on April 8, 2019, that such vehicle was in the possession of HHLLC. Mr. Foust has no valid reason for failing to surrender this vehicle, which he owns either directly or indirectly through HHLLC.

In the bankruptcy schedules of Harry Hildebrand, LLC, HHLLC represented that it owned all of the twenty (20) cars that are listed in Exhibit B. In fact, Mr. Foust himself represented to the Court in a filing on April 1, 2019 (page 5, lines 13-15) that HHLLC owned the cars: Here, HHLLC claimed an interest in the classic cars that was adverse to Defendant's interest. HHLLC provided copies of certificates of title demonstrating its ownership Further, Mr. Foust represented to this Court that: HHLLC . . . is the registered owner of the vehicles. (Id. at p. 6, lines 2-3). Yet in other documents Mr. Foust continued to represent to the Bank that he owned the cars, through at least the end of 2015. Whether Mr. Foust claimed to own the cars in his name, or whether the cars were held indirectly by HHLLC the entity that Mr. Foust ultimately owned, Mr. Foust has no valid excuse for not surrendering all twenty cars over to Baker, Boyer.

For several other cars, Mr. Foust represented under oath, in a Declaration on April 8, 2019, that the cars were in the control of HHLLC through at least 2018, but that they may have been repossessed by StarDust Classic, LLC recently. These cars included: with minor exception mentioned below, all of the remaining cars not mentioned above fall into this category of cars that might have been taken over by StarDust Classic, LLC. As noted above, StarDust Classic, LLC is an alter ego of Foust. Mr.

Foust has no valid reason for failing to surrender these vehicles, which he either owns directly, or indirectly through HHLLC, and/or StarDust Classic, LLC.

The cars supposedly not held by Foust, HHLLC, or StarDust, include: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy.

What is perfectly clear, and supported by clear and convincing evidence, is that as of April 1, 2009, the twenty (20) exotic cars that are the subject of Exhibit B, were in the possession, custody, and control of, and owned by, either Mr. Foust directly, or by Mr. Foust indirectly through HHLLC.

There is some mention by Foust, in various briefs filed on April 8, 2019, and April 1, 2019, that the vehicles had been subject to security interests by Santander and/or Ron Vega. However Mr. Foust did not know if any such other secured creditors had commenced any process to enforce their security interest; there was no proof provided by Foust about the existence of any such security interests; there was no mention to the Court of any amounts that remained due and owing by Foust and/or HHLLC to these supposed third party creditors; and there was no proof (only rank speculation) to the Court that Foust and/or HHLLC might have lost control over these vehicles.

It is abundantly clear that all twenty (20) cars remain in the control of Mr. Foust, with the possible exception of: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy meaning Foust has control of the other 16 exotic cars on Exhibit 20.

The existence of any third party security interest in the vehicles is no excuse for Foust's disregard of this Court's Order.

The Court finds that each act of Mr. Foust's failure to turn over one of the twenty (20) cars on Exhibit B, with the exception of 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy, is a separate act of Civil Contempt of Court.

Pursuant to this Court's authority under NRS 22.100, the Court fines Mr. Foust \$8,000.00, to be paid to Plaintiff/Judgment Creditor Baker Boyer immediately.

Further, this Court Orders Foust to pay Baker Boyer National Bank its reasonable attorneys fees and expenses in connection with all of the proceedings to seek enforcement of the Court's Order. Baker Boyer shall submit its Affidavit in support of such fees and expenses, for the Court to review, and then incorporate into an Order against Foust.

Further, pursuant to NRS 22.100, this Court Orders that Mr. James Patterson Foust, Jr. shall be IMPRISONED until he turns over to Baker Boyer National Bank, and/or its attorneys, each of the cars identified in Exhibit B minus the four exceptions mentioned above. The Warrant of Commitment shall contain a precise listing of the cars to be surrendered, as well as the appropriate purge clause. Plaintiff Baker Boyer shall prepare the ORDER FOR PUNISHMENT OF CONTEMPT, for this Court to review and sign, as appropriate, containing the listing of the cars, and the purge clause. The Court hereby STAYS THE ENFORCEMENT of this ORDER FOR PUNISHMENT OF CONTEMPT for ten (10) calendar days from the date of execution by the Court.

Also, Baker Boyer shall prepare a separate WARRANT OF ARREST AND COMMITMENT for this Court to review and sign, if appropriate. The Court hereby STAYS THE ENFORCEMENT of the WARRANT OF ARREST AND COMMITMENT for ten (10) calendar days from the date of execution of the same by this Court. During this period of STAY, the Court will not deliver the WARRANT to Baker Boyer of any law enforcement personnel for execution, and James Foust shall not be subject to arrest during this period of STAY.

The purpose of these stays is to afford Foust a reasonable opportunity to comply with his obligations

without fear of arrest for the stayed period of time.

This Court will deal separately with the remaining cars, and the issue whether Mr. Detwiler and/or HHLLC should also be held in Contempt of Court.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 6/3/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

September 18, 2019

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

September 18, 2019 3:00 AM At Request of Court

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Plaintiff Baker Boyer National Bank's request for attorney s fees.

Plaintiff presented its Affidavit in Support of Attorney's Fees as directed by this Court, at the Hearing on June 3, 2019. The Court awards attorney s fees and costs in the amount of \$48,385.56. The Court adopts as its findings the factual statements and legal analysis presented by Plaintiff in the Affidavit of Mr. Bragonje. Plaintiff to prepare the Order, adding appropriate context and authorities.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 9/23/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****October 01, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

October 01, 2019 8:30 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Mazur, Michael D., ESQ Attorney

JOURNAL ENTRIES

- Court noted Plaintiff's request for attorney's fees was granted. Court stated after reviewing the minute order and prior history, the four cars that had not yet been the subject of an order were a 1966 Ford Thunderbird, 1966 Plymouth, 2000 Plymouth and 1963 Chevy. Mr. Bragonje advised the Court had yet to rule on whether Mr. Detwiler and Harry Hildibrand LLC were in contempt. Court anticipated that Baker Boyer would be able to secure the cars so the Court would not have to rule on contempt of Mr. Detwiler, and also noted Mr. Detwiler did not have counsel. Mr. Mazur confirmed he did not represent Mr. Detwiler, and only represented him for the limited purpose of the Order to Show Cause. Mr. Mazur advised he would be filing a Motion to Withdraw as Counsel for Mr. Foust this week due to lack of communication. Court directed Mr. Mazur to provide the last known addresses for Harry Hildebrand, LLC and Mr. Detwiler in the Motion. Mr. Bragonje stated he had a warrant for Mr. Foust's arrest, however was seeking an Order of Contempt for Mr. Foust. COURT ORDERED, Status Check SET. Court stated it did not have enough evidence to link Mr. Foust to the four cars and would need to see titles. Mr. Bragonje stated at this point his client was content, and efforts now were focused on finding Mr. Foust and obtaining the cars.

12/30/19 9:30 AM STATUS CHECK: WARRANT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****November 19, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

November 19, 2019 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Plaintiff/Judgment Creditor s Motion to hold Mr. Detwiler and Harry Hildebrand in Civil Contempt of Court.

At the Evidentiary Hearing on this matter Mr. Detwiler and Harry Hildebrand both had the ability to comply with this Court s prior Order to surrender and turnover the subject cars, but intentionally and knowingly failed to comply, without justification. Mr. Detwiler argued that he was merely a figure-head of Harry Hildebrand, LLC, but that argument was clearly negated by the evidence; at all relevant times Mr. Detwiler was the controlling Manager of Harry Hildebrand, LLC, and as such accepted and possessed the responsibility to control the assets of Harry Hildebrand, LLC, including its classic cars.

The Court ORDERS that a Warrant of Commitment (Arrest) be issued as to Mr. Detwiler, commanding his confinement until such time as he surrenders that sub-set of the 20 cars that he swore were in the possession, custody, and/or control of Harry Hildebrand LLC at the time of the Court s turnover Order. Bond shall be required in the amount of \$100,000.00. Further, pursuant to NRS 22.100, the Court fines Harry Hildebrand LLC \$ 500.00, for its Contempt of Court, and further sanctions Harry Hildebrand and Orders it to pay the total amount of Plaintiff Baker Boyer s fees and costs incurred in connection with this matter.

Baker Boyer shall prepare the Order herein, including appropriate context and authorities, consistent with this Minute Order and the evidence presented at the hearing. Plaintiff shall attach to such Order its Affidavit of Fees and Costs. Plaintiff shall also prepare the Warrant of Commitment against Mr. Detwiler.

CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve and a copy was mailed to Harry Hildebrand, LLC. //ev11/19/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

December 19, 2019

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

December 19, 2019 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court, sua sponte, hereby issues a temporary STAY on the execution and enforcement of the Warrant of Arrest and Commitment of Edward N. Detwiler until December 30, 2019 at 5PM (PST). This Stay is effective immediately. Further, a Status Check Hearing on the Warrant is hereby set for Monday, December 23, 2019 at 9AM.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 12/19/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****December 23, 2019**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

December 23, 2019 9:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Brittany Amoroso

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court expressed concern regarding whether a subpoena was ever served on Mr. Detwiler. Mr. Bragonje stated he did not believe Mr. Detwiler was served with a subpoena, however had been the subject of an Order to Show Cause. Court stated in the Order entered on November 20, 2019, James Foust was named the judgment debtor and reviewed prior findings. Mr. Bragonje reviewed the last Order of the Court. COURT ORDERED, warrant VACATED, and Order of Contempt VACATED. Court directed Mr. Bragonje to serve a subpoena on Mr. Detwiler to appear before the Court and to give deposition or explanation under oath as to the matters stated within NRS 31.100, to inquire whether Mr. Detwiler is the alter ego of Harry Hildibrand, and to possibly include the Court to include by reference all other testimony provided to the Court in the past, and any additional testimony he may want to give, and include if he fails to appear, the Court will hold him in civil contempt of court and issue a warrant. Mr. Bragonje stated he had not been able to locate Mr. Foust in Nevada, believed he was in Los Angeles, and requested the warrant extended beyond December 30. COURT FURTHER ORDERED, the warrant effective within any jurisdiction in the United States, for an additional six months; December 30, 2019 Status Check VACATED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****January 30, 2020**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

January 30, 2020 1:30 PM Motion

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK:

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney

JOURNAL ENTRIES

- Brenoch Wirthlin, Esq. present on behalf of Mr. Detwiler. Erik Foley, Esq. also present. Court reviewed the history of the case. Mr. Bragonje gave a quick summary of events. Mr. Wirthlin advised Mr. Detwiler was local, was willing to appear, and present evidence. Arguments by counsel regarding the Motion for Entry of a Protective Order. Upon the Court's inquiry, Mr. Bragonje stated he believed Mr. Foust was in Los Angeles and law enforcement there would not extradite him on a civil contempt warrant; stated he believed Mr. Foust and Mr. Detwiler were working together. Mr. Wirthlin argued regarding the Motion, and requested a week or two to conduct a trial. Court noted the trial was broken up into the Detwiler portion and the Foust portion. Mr. Bragonje argued regarding the resignation letter of Mr. Detwiler. COURT ORDERED, prior Contempt Order could be refiled and reissued by the Court and directed Mr. Bragonje to prepare and resubmit the Order. Court stated any motion Mr. Detwiler wished to file would not be precluded. COURT FURTHER ORDERED, hearing date SET. COURT ORDERED, Mr. Detwiler to surrender his passport to Mr. Wirthlin within 24 hours, and matter STAYED through the next hearing date.

2/12/20 9:00 AM HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

February 05, 2020

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

February 05, 2020 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK:
Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****February 12, 2020**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

February 12, 2020 8:30 AM Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT:	Bragonje, John E.	Attorney
	Detwiler, Edward	Other
	Wirthlin, Brenoch	Attorney

JOURNAL ENTRIES

- Court noted this matter was set for hearing regarding contempt of Mr. Detwiler, as well as Non-Party Edward Detwiler's Reply in Support of: 1. Motion for Relief from Contempt Order Pursuant to NRCP 60(b); 2. Motion for New Trial Pursuant to NRCP 59; (3) Motion to Alter or Amend Judgment Pursuant to NRCP 52 and 59; (4) Motion for Reconsideration of the Court's Contempt Order; and (5) Opposition to Plaintiff's Brief in Support of Request to Hold Mr. Detwiler in Civil Contempt of Court.

Mr. Wirthllin argued regarding the merits of the Motion. Mr. Bragonje stated he believed Mr. Detwiler was controlling Stardust and the operating agreement and documents were never produced; requested Mr. Detwiler be imprisoned. Court inquired if the bank tried to utilize the Court Order to obtain the cars in the possession and owned by the Foust family. Mr. Wirthlin stated he did not dispute any findings against Mr. Foust, however that was unrelated to Mr. Detwiler. Court advised the Nevada Supreme Court found a Judge in contempt for putting a citizen in jail with no ability to comply with the Order. Court stated a decision would be given at the February 18, 2020 and any motion for stay would be entertained, however no further argument would be heard.

2/18/20 9:00 AM DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****February 18, 2020**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

February 18, 2020 9:00 AM Decision

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Court found up until the date Mr. Detwiler resigned, he had the ability to comply with the court order, and the court made that determination, and reviewed everything, accurate based on clear and convincing evidence standard, Court was not convinced that Mr. Detwiler had possession or control of the car, however there was a failure to comply with the Court's Order. COURT ORDERED, Mr. Detwiler pay the attorney's fees of Baker Boyer from the date he was officially a party to this matter through the time he gave notice of resignation. Court stated Baker Boyer would be provided until February 25, 2020 to prepare an affidavit regarding attorney's fees. Mr. Wirthlin to respond to the affidavit on or before March 3, 2020. Court found Mr. Detwiler was in control of the vehicles up until a certain date. COURT ORDERED, warrant EXPUNGED and RECALLED. COURT FURTHER ORDERED, Mr. Detwiler's passport to be returned however Mr. Detwiler to pay a \$100,000 fine for violation of the Court Order, in addition to the attorney's fees. Court directed Mr. Bragonje to prepare the Order.

CLERK'S NOTE: During the proceeding, the Court stated Mr. Detwiler would pay the attorney's fees through today's date, however subsequent to the hearing Court determined Mr. Detwiler would pay the attorney's fees through the date he gave notice of resignation.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment

COURT MINUTES

March 11, 2020

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 11, 2020 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****March 17, 2020**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 17, 2020 10:00 AM All Pending Motions

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- STATUS CHECK: ORDER RE SANCTIONS MOTION TO SEAL SUPPORTING DOUCMENTS TO AFFIDAVIT OF JOHN E. BRAGONJE IN SUPPORT OF LEWIS AND ROCA ATTORNEYS FEES AND COSTS INCURRED IN CONNECTION WITH MR. DETWILER AND HARRY HILDIBRAND, LLC

The Court GRANTS Plaintiff s Attorney s Fees and Costs in the amount of \$208,889 in fees, and \$9,966.52 in costs. The Court has considered the Brunzell factors as discussed in Plaintiff s brief. Mr. Detwiler had the actual ability to comply with this Court s Order of January 9, 2019. From that point forward, he certainly was a party.

The Court GRANTS Plaintiff s Motion to Seal Supporting Documents.

The Court also reviewed Mr. Detwiler s competing Order regarding the January 30, 2020 and February 18, 2020 hearings. The Court finds Plaintiff s proposed Order to more accurately reflect the referenced proceedings. According, the Court declines to strike, or otherwise invalidate, the signed Order filed on March 12, 2020 and VACATES the March 20, 2020 Status Check. Plaintiff to prepare the Order.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas,

to all registered parties for Odyssey File & Serve. //ev 3/17/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Foreign Judgment**COURT MINUTES****March 30, 2020**

A-17-760779-F Baker Boyer National Bank, Plaintiff(s)
vs. James Foust, Jr., Defendant(s)

March 30, 2020 9:00 AM Motion to Stay

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Bragonje, John E. Attorney
 Wirthlin, Brenoch Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond. COURT ORDERED, Motion for Stay DENIED. Court found, after three years of litigation, Mr. Detwiler appeared as a managing member of Harry Hildebrand and held himself out to be a representative of the business in some capacity. Court stated Mr. Detwiler actively violated the Court's orders and frustrated the Bank's efforts to collect. Court stated it would be prejudicial to the bank if there were a Stay, and Mr. Detwiler's inability to pay was not a valid basis for a Stay or waiver of the bond. COURT ORDERED, the supersedeas bond amount \$350,000 with a stay of 45 days of entry of the Order of today's hearing. Court directed Mr. Bragonje to provide a copy of the Order to Mr. Wirthlin for review prior to providing it to the Court, and if parties could not agree, an alternative Order could be provided.

EXHIBIT(S) LIST

Case No.: **A760779**

Hearing Date:

Dept. No.: **2**

Judge:

PLAINTIFF'S: BAKER BOYER NATIONAL BANK

Court Clerk:

Recorder:

Counsel for Plaintiff:

VS.

DEFENDANT'S: JAMES FOUST

Counsel for Defendant:

HEARING BEFORE THE COURT

COURT'S EXHIBITS

[illegible]

PLAINTIFF'S EXHIBITS

CASE NO. A760779

[illegible]

Defendants Exhibits

unused Returns

HLLC Document Index

Exhibits
Admitted on
11/5/18

HLLC

A 76779

Admit

Tab	Date	Description	Bates Range
1	11/16/2006	Montana SOS Certificate of Filing Articles of Incorporation- Harry Hildibrand, LLC	HHLLC 000001 - HHLLC 000003
2	3/13/2007	Montana SOS LLC Annual Report- Harry Hildibrand, LLC	HHLLC 000004
3	8/27/2007	Montana SOS Certificate of Filing Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000005 - HHLLC 000006
4	10/9/2007	Montana SOS Certificate of Filing Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000007 - HHLLC 000008
5	2/25/2008	Montana SOS LLC 2008 Annual Report- Harry Hildibrand, LLC	HHLLC 000009
6	1/19/2009	Montana SOS LLC 2009 Annual Report- Harry Hildibrand, LLC	HHLLC 000010
7	1/26/2010	Montana SOS LLC 2010 Annual Report- Harry Hildibrand, LLC	HHLLC 000011
8	3/9/2011	Montana SOS LLC 2011 Annual Report- Harry Hildibrand, LLC	HHLLC 000012
9	1/19/2012	Montana SOS LLC 2012 Annual Report- Harry Hildibrand, LLC	HHLLC 000013
10	3/7/2013	Montana SOS LLC 2013 Annual Report- Harry Hildibrand, LLC	HHLLC 000014
11	3/7/2014	Montana SOS LLC 2014 Annual Report- Harry Hildibrand, LLC	HHLLC 000015
12	3/16/2015	Montana SOS LLC 2015 Annual Report- Harry Hildibrand, LLC	HHLLC 000016
13	8/18/2015	Montana SOS Statement of Change- Harry Hildibrand, LLC	HHLLC 000017
14	8/11/2016	Montana SOS LLC 2016 Annual Report- Harry Hildibrand, LLC	HHLLC 000018
15	9/27/2017	Montana SOS LLC 2017 Annual Report- Harry Hildibrand, LLC	HHLLC 000019 - HHLLC 000020
16	9/27/2017	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000021
17	11/30/2017	Montana SOS Involuntary Dissolution Intent Notice- Harry Hildibrand, LLC	HHLLC 000022 - HHLLC 000023
18	2/12/2018	Montana SOS LLC 2018 Annual Report- Harry Hildibrand, LLC	HHLLC 000024 - HHLLC 000025
19	2/12/2018	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000026
20	3/20/2018	Montana SOS Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000027 - HHLLC 000029
21	3/20/2018	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000030
22	11/12/2008	Minutes of Special Meeting of Harry Hildibrand, LLC	HHLLC 000031
23	2/9/2017	Montana Boat Title Certificate	HHLLC 000032
24	2/4/2018	Email from E.Detwiler to Jim re My Coach [FOUST 00122]	HHLLC 000033
25	2/4/2018	LVMPD Case Report	HHLLC 000034 - HHLLC 000036
26	2/4/2018	LVMPD Case Report with Exhibit D [FOUST 00127 - FOUST 00130]	HHLLC 000037 - HHLLC 000040
27	various	Title Certificates and Supporting Documents	HHLLC 000041 - HHLLC 000052
28	2/27/2018	Verified Third-Party Claim of Harry Hildibrand LLC in Response to Writ of Execution	HHLLC 000053 - HHLLC 000054

NOT Provided

NOT Provided

NOT Provided

certificate of title

HHLLC 000044

11-5-18

HLLC Document Index

29	3/1/2018	Declaration of Edward N. Detwiler in Support of Application for Hearing <u>Within 10 Days</u> on Third Party's claim of Interest in Property Levied Upon	HHLLC 000055 - HHLLC 000057	not provided
30	Undated	Harry Hildibrand Dates	HHLLC 000058	not provided
31	Undated	Vehicle Transfer Log	HHLLC 000059 - HHLLC 000060	not provided
32	Undated	Cash Flow	HHLLC 000061	11-5-15
33	12/29/2006	Operating Agreement of Harry Hildibrand, LLC	HHLLC 000062 - HHLLC 000065	not provided
34	1/1/2017	1997 Prevost Coach Sales Agreement between James Patterson Foust, Jr. and Harry Hildibrand, LLC	HHLLC 000066	11-5-15
35	3/20/2018	MT SOS Certification Letter with Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000067 - HHLLC 000070	not provided
36		Chase Bank Payment Activity Log for Business Account - 3988 [redacted]	HHLLC 000071 - HHLLC 000074	not provided
37	11/16/2006	Certification Letter	HHLLC 000075 - HHLLC 000081	11-5-15

unused exhibits

Returned
to counsel
11/5/15

EXHIBIT(S) LIST

Case No.: A760779

Hearing / Trial Date: 4/24/19

Dept. No.: 2

Judge: Richard Scotti

Plaintiff: Baker Boyer National Bank

Court Clerk: Elizabeth Vargas

Recorder / Reporter: Dalayne Easley

Counsel for Plaintiff: John Bragonje, Esq

vs.

Defendant: James Foust, Jr.

Counsel for Defendant: Michael Mazur, Esq.

HEARING / TRIAL BEFORE THE COURT

COURT'S EXHIBITS

[illegible]

EXHIBIT(S) LIST

Case No.: A760779

Hearing / Trial Date: 5/21/19

Dept. No.: 2

Judge: Richard Scotti

Plaintiff: Baker Boyer National Bank,

Court Clerk: Elizabeth Vargas

Recorder / Reporter: Dalyne Easley

Counsel for Plaintiff: John Bragonje, Esq.

vs.

Defendant: James Foust, Jr.

Counsel for Defendant: Michael Mazur, Esq.

HEARING / TRIAL BEFORE THE COURT

DEFENDANT'S EXHIBITS

[illegible]



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

BRENOCH WIRTHLIN, ESQ.
10080 W. ALTA DR., STE 200
LAS VEGAS, NV 89145

DATE: April 13, 2020
CASE: A-17-760779-F

RE CASE: BAKER BOYER NATIONAL BANK vs. JAMES PATTERSON FOUST, JR., AKA JAMES P, FOUST, JR,

NOTICE OF APPEAL FILED: April 8, 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 (*for Order filed 03/30/2020*)

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.

****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; EDWARD N. DETWILER'S NOTICE OF FILING COST BOND ON APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER FOR PUNISHMENT OF CONTEMPT BY HARRY HILDIBRAND, LLCS AND EDWARD N. DETWILER, ITS MANAGER; NOTICE OF ENTRY OF ORDER FOR PUNISHMENT OF CONTEMPT BY HARRY HILDIBRAND, LLC AND EDWARD N. DETWILER, ITS MANAGEMENT; ORDER AWARDDING SANCTIONS AGAINST EDWARD N. DETWILER AND HARRY HILDIBRAND, LLC; NOTICE OF ENTRY OF ORDER AWARDDING SANCTIONS AGAINST EDWARD N. DETWILER AND HARRY HILDIBRAND, LLC; ORDER AND JUDGMENT; ORDER AND JUDGMENT; NOTICE OF ENTRY OF ORDER AND JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

BAKER BOYER NATIONAL BANK,

Plaintiff(s),

vs.

JAMES PATTERSON FOUST, JR., AKA
JAMES P, FOUST, JR.,

Defendant(s),

Case No: A-17-760779-F

Dept No: II

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 13 day of April 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk