

1 **NOA**

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Electronically Filed  
Jun 22 2020 11:13 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.)

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **NOTICE OF APPEAL**

22 Notice is hereby given that CLEMENT MUNNEY and CHEF EXEC SUPPLIERS,  
23 LLC, Defendant(s) above named, hereby appeal to the Supreme Court of Nevada from the  
24 Order, which is a final order, entered and served in this action on the 8<sup>th</sup> day of June, 2020.

25 DATED this 15<sup>th</sup> day of June, 2020.

26 KERN LAW

27 By: /s/ Robert Kern

28 Robert Kern Esq.

601 S. 6<sup>th</sup> Street

Las Vegas, NV 89101

(702) 518-4529

Attorney for Defendants

**CASE SUMMARY****CASE NO. A-19-803488-B**

**Dominique Arnould, Plaintiff(s)**  
**vs.**  
**Clement Mune, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 27**  
 Judicial Officer: **Allf, Nancy**  
 Filed on: **10/11/2019**  
 Cross-Reference Case Number: **A803488**

**CASE INFORMATION**Case Type: **NRS Chapters 78-89**

Case  
Status: **10/11/2019 Open**

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

Case Number A-19-803488-B  
 Court Department 27  
 Date Assigned 10/11/2019  
 Judicial Officer Allf, Nancy

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)
<b>Defendant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Claimant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Defendant</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)

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

10/11/2019



Complaint (Business Court)

Filed By: Counter Defendant Arnould, Dominique  
*Complaint for Appointment of a Receiver or Dissolution of LLC; Declaratory Relief; Breach of Fiduciary Duty; and Damages*

10/11/2019









Initial Appearance Fee Disclosure

Filed By: Counter Defendant Arnould, Dominique  
*Initial Appearance Fee Disclosure*

# CASE SUMMARY

CASE NO. A-19-803488-B

10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/14/2019	 Disclosure Statement Party: Counter Defendant Arnould, Dominique <i>NRCP Rule 7.1 Disclosure Statement</i>
10/15/2019	 Acceptance of Service Filed By: Counter Defendant Arnould, Dominique <i>Acceptance of Service</i>
11/07/2019	 Answer and Counterclaim Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Answer and Counterclaims</i>
11/07/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Initial Appearance Fee Disclosure</i>
12/02/2019	 Answer to Counterclaim Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Answer to Defendants' Counterclaim</i>
12/06/2019	 Mandatory Rule 16 Conference Order <i>Mandatory Rule 16 Conference</i>
12/09/2019	 Motion for Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Motion for Partial Summary Judgment</i>
12/09/2019	 Affidavit Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Affidavit in Support of Defendants Motion for Partial Summary Judgment</i>
12/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion for Appointment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
12/10/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/19/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Opposition to Defendants Motion for Partial Summary Judgment</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

12/20/2019	 Errata Filed By: Counter Defendant Arnould, Dominique <i>Errata to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment</i>
12/23/2019	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Opposition To Motion For Appointment Of Trustee</i>
12/27/2019	 Reply in Support Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendant's Reply in Support of Summary Judgment</i>
12/31/2019	 Supplement to Opposition Filed By: Counter Defendant Arnould, Dominique <i>Supplement to Plaintiff Dominique Arnould's Opposition to Motion for Partial Summary Judgment</i>
01/03/2020	 Notice of Compliance Party: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Notice of Compliance</i>
01/03/2020	 Notice of Compliance Party: Counter Defendant Arnould, Dominique <i>Notice of Compliance</i>
01/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Appointment of Trustee</i>
01/17/2020	 Order Denying Motion Filed By: Counter Defendant Arnould, Dominique <i>Order Denying Defendant's Motion for Summary Judgment</i>
01/17/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order Denying Defendant's Motion for Summary Judgment</i>
03/09/2020	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>Stipulation and Order to Continue Hearing</i>
03/13/2020	 Motion for Partial Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
03/13/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/20/2020	 Opposition and Countermotion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Opposition to motion for summary judgment and counter-motion for enforcement of settlement agreement</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

03/23/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
04/06/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
04/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Partial Summary Judgment</i>
04/13/2020	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Reply in Support of Countermotion for Enforcement Agreement, and Opposition to Motion to Strike</i>
05/13/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply In Support of Counter-Motion to Strike Documents Related to Settlement</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/20/2020	 Amended <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Temporary Restraining Order Filed by: Counter Claimant Muney, Clement <i>Temporary Restraining Order</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/21/2020	 Certificate of Mailing Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Certificate of Mailing</i>
05/21/2020	 Notice of Entry of Order <i>Notice of Entry of Order</i>
05/21/2020	 Mandatory Rule 16 Conference Order <i>Business Court Order to Appear for Mandatory 16. Conference</i>
05/22/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique

# CASE SUMMARY

CASE NO. A-19-803488-B

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*




05/22/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/22/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
05/29/2020	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Motions, Heard on May 22, 2020</i>
06/05/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Motion to Select Receiver</i>
06/08/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/08/2020	 Order <i>Order</i>
06/08/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order</i>
06/10/2020	 Request Filed by: Counter Defendant Arnould, Dominique <i>Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access</i>
06/10/2020	 Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants Response to Arnould's Request for Emergency Hearing</i>
06/10/2020	 Reply Filed by: Counter Defendant Arnould, Dominique <i>Reply Declaration of Phil Aurbach in Support of Telephone Conference and Access to Warehouse</i>
06/12/2020	 Order
06/12/2020	 Order
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal

# CASE SUMMARY

CASE NO. A-19-803488-B

Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC  
Notice of Appeal

## HEARINGS

01/09/2020	<p><b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>Matter Continued; case settled</p>
01/09/2020	<p><b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Defendants' Motion for Partial Summary Judgment</i> Denied;</p>
01/09/2020	<p> <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>Matter Heard; Journal Entry Details: <i>MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval. ;</i></p>
02/07/2020	<p> <b>Settlement Conference</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.)</p> <p>Matter Settled; Journal Entry Details: <i>The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Mune, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Mune and Jeremy Mune, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims. The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney's fees and costs. The case is now referred back to the originating department for further handling and closure.;</i></p>
02/20/2020	<p><b>CANCELED Motion for Appointment</b> (10:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Vacated</i> <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i></p>
03/27/2020	<p> <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</i> Minute Order - No Hearing Held; Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020</i></p>

# CASE SUMMARY

CASE NO. A-19-803488-B

shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020;

03/30/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS* after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. *COURT FURTHER FINDS* after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. *THEREFORE, COURT ORDERS* for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar. *CLERK S NOTE:* A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20;

04/01/2020

**CANCELED Motion for Appointment of Receiver** (9:30 AM) (Judicial Officer: Allf, Nancy)  
Vacated

04/01/2020

**CANCELED Mandatory Rule 16 Conference** (9:30 AM) (Judicial Officer: Allf, Nancy)  
Vacated

04/14/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS* after review Plaintiff's Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant's Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated. *COURT FURTHER FINDS* after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. *THEREFORE, COURT ORDERS* for good cause appearing and after review Plaintiff's Motion for Partial Summary Judgment, together with Defendant's Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m. *CLERK'S NOTE:* This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;

04/21/2020

**CANCELED Status Check: Settlement Documents** (3:00 AM) (Judicial Officer: Allf, Nancy)  
Vacated - On in Error

04/28/2020



**Status Check: Settlement Documents** (3:00 AM) (Judicial Officer: Allf, Nancy)

Matter Continued;

Journal Entry Details:

*COURT FINDS* after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020. *COURT ORDERS* for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CONTINUED TO 5/20/2020 10:30 AM *CLERK'S NOTE:* This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020;

04/30/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020

Minute Order - No Hearing Held; Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020

Journal Entry Details:

*COURT FINDS* after review Plaintiff's Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement. *THEREFORE, COURT ORDERS* for good cause appearing and after Plaintiff's Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m. *CLERK'S NOTE:* This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm



# CASE SUMMARY

CASE NO. A-19-803488-B

4/30/2020;

05/18/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020*

Minute Order - No Hearing Held; Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020

Journal Entry Details:

*COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020 ;*

05/22/2020

**Motion for Temporary Restraining Order** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction*

05/22/2020

**Opposition and Countermotion** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*

05/22/2020



**All Pending Motions** (1:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order All appearances made via BlueJeans teleconferencing software. Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company, Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.;*

06/10/2020

**Hearing** (1:30 PM) (Judicial Officer: Allf, Nancy)


**06/10/2020, 06/12/2020**

*Request for Emergency hearing*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-803488-B**

06/11/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Requested for Emergency Hearing set 6/10/2020 CONTINUED to 6/12/2020</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review on June 5, 2020, Plaintiff's Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m. COURT FURTHER FINDS after review on June 10, 2020, Plaintiff's Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff's Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File &amp; Serve. /nm 6/11/2020;</i>
06/12/2020	<b>Motion</b> (12:30 PM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Select Receiver</i>
06/24/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement</i>
06/24/2020	<b>Motion for Appointment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
06/24/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy)

DATE	FINANCIAL INFORMATION
	<b>Counter Claimant</b> Muney, Clement Total Charges 1,761.00 Total Payments and Credits 1,761.00 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Defendant</b> Arnould, Dominique Total Charges 1,834.50 Total Payments and Credits 1,834.50 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Claimant</b> Chef Exec Suppliers, LLC Temporary Restraining Order Balance as of 6/16/2020 100.00

**BUSINESS COURT CIVIL COVER SHEET** CASE NO: A-19-803488-B  
Clark County, Nevada  
 Case No. \_\_\_\_\_ Department 27

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): DOMINIQUE ARNOULD  Attorney (name/address/phone): Phillip S. Aurbach, Esq. (NV Bar No. 1501) Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711	Defendant(s) (name/address/phone): CLEMENT MUNY; CHEF EXEC SUPPLIERS, LLC; and DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive  Attorney (name/address/phone):
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**II. Nature of Controversy** (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

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

10/11/2019

Date

/s/ Phillip S. Aurbach

Signature of initiating party or representative

**ORDR****Marquis Aurbach Coffing**

Phillip S. Aurbach, Esq.

Nevada Bar No. 1501

Alexander K. Calaway, Esq.

Nevada Bar No. 15188

10001 Park Run Dr.

Las Vegas, NV 89145

Telephone: (702) 382-0711

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paurbach@maclaw.com

acalaway@maclaw.com

*Attorneys for Plaintiff***DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B

Dept. No.: 27

**ORDER**

This matter came before the Court on May 22, 2020 at 1:00pm, regarding the Defendants' Amended Application for Temporary Restraining Order, Plaintiff's Counter-Motion to Vacate Temporary Restraining Order, Plaintiff's Motion for Appointment of Trustee, and Defendants' Counter-Motion for Enforcement of Settlement Agreement.

Having reviewed the papers and pleadings on file herein, arguments of counsel at the time of the above identified hearing, being fully advised on the matter, and with good cause appearing therefore the Court finds and decides the following:

**FINDINGS OF FACT**

1. Chef Exec Suppliers LLC (the "Company") is owned in equal shares by Plaintiff Dominique Arnould ("Arnould") and Defendant Clement Muney ("Muney") (hereinafter collectively referred to as the "Parities").

2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others (“Customers”).

3. On December 10, 2020, Arnould filed a Motion for Appointment of Trustee (“Motion for Receiver”) requesting that a receiver be appointed to wind down the Company.

4. On February 7, 2020, Arnould and Munev attended a settlement conference held by Judge Williams, wherein the Parties entered into a Memorandum of Material Terms of Agreement (“Memo”).

5. The terms of the Memo were, among other things, that:

a. Arnould would buy-out Munev’s interest in the Company for a purchase price of \$700,000 (“Purchase Price”);

b. a “final agreement [would] be drafted at a later time;”

c. the entire Memo “shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;”

d. that Arnould would “be required to use good faith towards seeking to obtain such financing from all reasonable sources” sufficient for him to pay the entire purchase price.

6. After February 7, 2020, Arnould made reasonable efforts to obtain financing from multiple lenders, but he was formally and informally denied and rejected by the lenders for the financing unless he offered outside collateral, which was not required by the express terms set forth in the Memo.<sup>1</sup>

7. Whether Arnould’s financing efforts were reasonable would ordinarily be a question of fact but for the intervening COVID-19 pandemic (“Pandemic”). However, the Court takes Judicial Notice that on March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency in response to the Pandemic and required the closure of non-essential businesses, many of which included the Company’s Customers.

---

<sup>1</sup> Declaration in Support of Opposition to Defendants’ Counter-Motion to Enforce Settlement Agreement, at ¶¶6-16, on file herein.

1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
2 detrimental impact on the value of the Company and the ability of either Party to perform and  
3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement (“Motion for Enforcement”), requesting this Court “reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation.”

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
11 Restraining Order and Preliminary Injunction (“Application”) under NRCP 65, alleging among  
12 other things, that injunctive relief is necessary to avoid irreparable harm to the Company.

13          12.      The Application renewed the issues set forth in Defendants’ Motion for  
14 Enforcement.

15          13.      The Application included an affidavit of Clement Muney that averred, among other  
16 things, that irreparable harm and immediate injury to the Company was imminent.

17          14.      The Application did not, however, include a certification by the movant’s attorney  
18 in writing of the efforts made to give notice and the reasons why it should not be required as set  
19 forth in NRCP 65(b)(1)(B). While there is evidence of some communications between counsel  
20 regarding the threat of an injunction, there was no certification by counsel in its Application per  
21 the NRCP 65(b)(1)(B).

22          15.      Based on Defendant’s Application, the Court issued a Temporary Restraining  
23 Order and set a hearing for May 22, 2020 to consider fully consider the Application’s merits.

24          16.      Plaintiff opposed the Application and disputed the Application’s claims of  
25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).  
28

19. Neither Party trusts the other to with the assets or operations of the Company. Thus, a receiver with limited powers would allow the expenditures and dealings of the Company to be overseen by a neutral third-party without impeding the Company's ability to carry on its business.

5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate injury is not present because damages are an adequate remedy; (2) the party seeking injunctive

1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
2 of the parties weights against injunctive relief; and (4) public policy does not favor injunctive  
3 relief.

4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
17 GRANTED to the extent that a receiver ("Receiver") with limited powers as defined  
18 below ("Limited Powers").
- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
20 Company in consultation with Arnould and Muney, to allow them to continue  
21 operations of the Company, and prepare a report about the viability of the Company.
- 22 6. Pursuant to these Limited Powers, it is further ordered:
- 23 a. The Parties shall grant the Receiver full access to bank accounts, accounts  
24 receivable and payable, customers' orders and suppliers' purchases, as well as  
25 agreeing to respond in good faith to provide truthful answers and responses to  
26 any questioning or requests for information from the receiver;
- 27 b. The Receiver shall obtain agreement from the Parties with respect to all  
28 payments to landlords, suppliers, employees, and independent contractors;



- 1 c. The Parties shall consult with the Receiver regarding all purchases of new  
2 inventory to ensure there is a need for the products, bearing in mind the  
3 downturn in business and the restriction on Company funds;  
4 d. The Receiver will attempt to obtain agreement of the Parties in respect of the  
5 operation of the business;  
6 e. In the event of a disagreement between the Parties, the Receiver will note any  
7 disagreement between the Parties in his report;  
8 f. The Receiver will have authority to communicate directly with the Court if  
9 necessary, after which such communications with the Court will be disclosed  
10 to the parties via minute order;  
11 g. Either Party or their attorney may communicate with the Receiver directly;  
12 h. The Receiver will have the power to recommend the transfer funds between  
13 accounts for legitimate company purposes; and  
14 i. The Parties will be required to report to the Receiver any removal of Company  
15 inventory or other Company items or individual items from the Company  
16 warehouses. If the removal is to fulfill sales, copies of the documents showing  
17 which customer ordered what product and the terms of payment will suffice.  
18 The Parties will also be required to justify any charges on Company credit cards  
19 or accounts;

- 20 7. It is further ordered that the Receiver will be a person either stipulated to by Arnould  
21 and Muney, or if no agreement can be reached, then a person chosen by this Court.  
22 8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated  
23 by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of  
24 the Receiver's request.

25 //

26 //

27 //

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar. No. 15188  
10001 Park Run Drive  
Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-  
Defendants*

Approved as to form

Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6th St.  
Las Vegas, Nevada 89101

DISTRICT COURT  
CLARK COUNTY, NEVADA

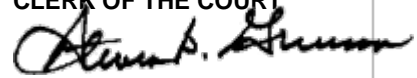
Dominique Arnould, Plaintiff(s)	CASE NO: A-19-803488-B
vs.	DEPT. NO. Department 27
Clement Munev, Defendant(s)	

**AUTOMATED CERTIFICATE OF SERVICE**

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Envelope ID: 6151842  
Service Date: 6/8/2020

Jennifer Case	jcase@maclaw.com
Robert Kern	Robert@Kernlawoffices.com
Melissa Milroy	Admin@KernLawOffices.com
Phillip Aurbach	PSA@maclaw.com
Javie-Anne Bauer	jbauer@maclaw.com
Alexander Calaway	acalaway@maclaw.com



1 **Marquis Aurbach Coffing**  
Phillip S. Aurbach, Esq.  
2 Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
3 Nevada Bar No. 15188  
10001 Park Run Dr.  
4 Las Vegas, NV 89145  
Telephone: (702) 382-0711  
5 Facsimile: (702) 382-5816  
paurbach@maclaw.com  
6 acalaway@maclaw.com  
*Attorneys for Plaintiff*

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

DOMINIQUE ARNOULD,

Plaintiff,

vs.

Case No.: A-19-803488-B  
Dept. No.: 27CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that the Order was entered on the 8<sup>th</sup> day of June, 2020. A true  
18 and correct copy of which is attached hereto.

Dated this 8th day of June, 2020.

MARQUIS AURBACH COFFING

21 By /s/ Alexander K. Calaway  
Phillip S. Aurbach, Esq.  
22 Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
23 Nevada Bar No. 15188  
*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

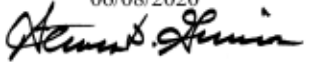
I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 8th day of June, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/J. Case  
An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

  
CLERK OF THE COURT

**ORDR**  
**Marquis Aurbach Coffing**  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
paurbach@maclaw.com  
acalaway@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
Dept. No.: 27

**ORDER**

This matter came before the Court on May 22, 2020 at 1:00pm, regarding the Defendants' Amended Application for Temporary Restraining Order, Plaintiff's Counter-Motion to Vacate Temporary Restraining Order, Plaintiff's Motion for Appointment of Trustee, and Defendants' Counter-Motion for Enforcement of Settlement Agreement.

Having reviewed the papers and pleadings on file herein, arguments of counsel at the time of the above identified hearing, being fully advised on the matter, and with good cause appearing therefore the Court finds and decides the following:

**FINDINGS OF FACT**

1. Chef Exec Suppliers LLC (the "Company") is owned in equal shares by Plaintiff Dominique Arnould ("Arnould") and Defendant Clement Muney ("Muney") (hereinafter collectively referred to as the "Parities").

2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others (“Customers”).

3. On December 10, 2020, Arnould filed a Motion for Appointment of Trustee (“Motion for Receiver”) requesting that a receiver be appointed to wind down the Company.

4. On February 7, 2020, Arnould and Munev attended a settlement conference held by Judge Williams, wherein the Parties entered into a Memorandum of Material Terms of Agreement (“Memo”).

5. The terms of the Memo were, among other things, that:

a. Arnould would buy-out Munev’s interest in the Company for a purchase price of \$700,000 (“Purchase Price”);

b. a “final agreement [would] be drafted at a later time;”

c. the entire Memo “shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;”

d. that Arnould would “be required to use good faith towards seeking to obtain such financing from all reasonable sources” sufficient for him to pay the entire purchase price.

6. After February 7, 2020, Arnould made reasonable efforts to obtain financing from multiple lenders, but he was formally and informally denied and rejected by the lenders for the financing unless he offered outside collateral, which was not required by the express terms set forth in the Memo.<sup>1</sup>

7. Whether Arnould’s financing efforts were reasonable would ordinarily be a question of fact but for the intervening COVID-19 pandemic (“Pandemic”). However, the Court takes Judicial Notice that on March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency in response to the Pandemic and required the closure of non-essential businesses, many of which included the Company’s Customers.

---

<sup>1</sup> Declaration in Support of Opposition to Defendants’ Counter-Motion to Enforce Settlement Agreement, at ¶¶6-16, on file herein.



1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
2 detrimental impact on the value of the Company and the ability of either Party to perform and  
3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement ("Motion for Enforcement"), requesting this Court "reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation."

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
11 Restraining Order and Preliminary Injunction ("Application") under NRCP 65, alleging among  
12 other things, that injunctive relief is necessary to avoid irreparable harm to the Company.

13          12.      The Application renewed the issues set forth in Defendants' Motion for  
14 Enforcement.

15          13.      The Application included an affidavit of Clement Muney that averred, among other  
16 things, that irreparable harm and immediate injury to the Company was imminent.

17          14.      The Application did not, however, include a certification by the movant's attorney  
18 in writing of the efforts made to give notice and the reasons why it should not be required as set  
19 forth in NRCP 65(b)(1)(B). While there is evidence of some communications between counsel  
20 regarding the threat of an injunction, there was no certification by counsel in its Application per  
21 the NRCP 65(b)(1)(B).

22          15.      Based on Defendant's Application, the Court issued a Temporary Restraining  
23 Order and set a hearing for May 22, 2020 to consider fully consider the Application's merits.

24          16.      Plaintiff opposed the Application and disputed the Application's claims of  
25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).

28



19. Neither Party trusts the other to with the assets or operations of the Company. Thus, a receiver with limited powers would allow the expenditures and dealings of the Company to be overseen by a neutral third-party without impeding the Company's ability to carry on its business.

5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate injury is not present because damages are an adequate remedy; (2) the party seeking injunctive

1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
2 of the parties weights against injunctive relief; and (4) public policy does not favor injunctive  
3 relief.

4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
17 GRANTED to the extent that a receiver ("Receiver") with limited powers as defined  
18 below ("Limited Powers").
- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
20 Company in consultation with Arnould and Muney, to allow them to continue  
21 operations of the Company, and prepare a report about the viability of the Company.
- 22 6. Pursuant to these Limited Powers, it is further ordered:
  - 23 a. The Parties shall grant the Receiver full access to bank accounts, accounts  
24 receivable and payable, customers' orders and suppliers' purchases, as well as  
25 agreeing to respond in good faith to provide truthful answers and responses to  
26 any questioning or requests for information from the receiver;
  - 27 b. The Receiver shall obtain agreement from the Parties with respect to all  
28 payments to landlords, suppliers, employees, and independent contractors;



- c. The Parties shall consult with the Receiver regarding all purchases of new inventory to ensure there is a need for the products, bearing in mind the downturn in business and the restriction on Company funds;
- d. The Receiver will attempt to obtain agreement of the Parties in respect of the operation of the business;
- e. In the event of a disagreement between the Parties, the Receiver will note any disagreement between the Parties in his report;
- f. The Receiver will have authority to communicate directly with the Court if necessary, after which such communications with the Court will be disclosed to the parties via minute order;
- g. Either Party or their attorney may communicate with the Receiver directly;
- h. The Receiver will have the power to recommend the transfer funds between accounts for legitimate company purposes; and
- i. The Parties will be required to report to the Receiver any removal of Company inventory or other Company items or individual items from the Company warehouses. If the removal is to fulfill sales, copies of the documents showing which customer ordered what product and the terms of payment will suffice. The Parties will also be required to justify any charges on Company credit cards or accounts;

7. It is further ordered that the Receiver will be a person either stipulated to by Arnould and Muney, or if no agreement can be reached, then a person chosen by this Court.
8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of the Receiver's request.

//

//

//

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar. No. 15188  
10001 Park Run Drive  
Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-Defendants*

Approved as to form

Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6th St.  
Las Vegas, Nevada 89101

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**January 09, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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**January 09, 2020      10:30 AM      All Pending Motions**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Aurbach, Phillip S. Kern, Robert J.	Attorney Attorney
-----------------	--	----------------------

**JOURNAL ENTRIES**

**- MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**February 07, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

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**February 07, 2020      9:30 AM      Settlement Conference**

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

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:** Peggy Isom

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 27, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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<b>March 27, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</b>
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**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 30, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

---

**March 30, 2020      3:00 AM      Minute Order**

**HEARD BY:** Alf, Nancy      **COURTROOM:** Chambers

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 14, 2020**

---

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

---

**April 14, 2020      3:00 AM      Minute Order**

**HEARD BY:** Allf, Nancy      **COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant s Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion for Partial Summary Judgment, together with Defendant s Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 28, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

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**April 28, 2020      3:00 AM      Status Check: Settlement  
Documents**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020.

COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CONTINUED TO 5/20/2020 10:30 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 30, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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**April 30, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
Plaintiff's MOtion for  
Appointment of  
Trustee RESET to  
5/20/2020**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement.

THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff s Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 18, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 18, 2020

3:00 AM

Minute Order

**Minute Order:**  
**Matters set 5/20/2020**  
**CONTINUED to**  
**6/24/2020**

**HEARD BY:** Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 22, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 22, 2020

1:00 PM

All Pending Motions

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Aurbach, Phillip S.	Attorney
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney

**JOURNAL ENTRIES**

- Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

All appearances made via BlueJeans teleconferencing software.

Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company,

Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 11, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>June 11, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Allf, Nancy	<b>COURTROOM:</b> No Location
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**COURT CLERK:** Carolyn Jackson

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review on June 5, 2020, Plaintiff s Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m.

COURT FURTHER FINDS after review on June 10, 2020, Plaintiff s Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff s Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020



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

**ROBERT KERN, ESQ.**  
**601 S. 6<sup>TH</sup> ST.**  
**LAS VEGAS, NV 89101**

**DATE: June 16, 2020**  
**CASE: A-19-803488-B**

**RE CASE:** DOMINIQUE ARNOULD vs. CLEMENT MUNNEY; CHEF EXEC SUPPLIERS, LLC

NOTICE OF APPEAL FILED: June 15, 2020 (4:01 pm)

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

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

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

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC,

Defendant(s),

Case No: A-19-803488-B

Dept No: XXVII

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 16 day of June 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk