

**CODE: \$2515**  
Michael L. Matuska, Esq. SBN 5711  
MATUSKA LAW OFFICES, LTD.  
2310 South Carson Street, Suite 6  
Carson City, NV 89701  
Attorneys for Plaintiff

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Elizabeth A. Brown  
Clerk of Supreme Court

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

JAY KVAM,

Plaintiff,

v.

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. May Street, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

Case No. CV18-00764

Dept. No. 6

**NOTICE OF APPEAL**

Notice is hereby given that Plaintiff, JAY KVAM, hereby appeals to the Supreme Court of Nevada from the *Order Granting, In Part, and Denying, In Part Defendants' Motion for Summary Judgment; Order Granting Summary Judgment on Claim Pursuant to Court's NRCP 56 Notice* entered in this action on the 5<sup>th</sup> day of June, 2020.

**AFFIRMATION**

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Respectfully submitted,

Dated this 29<sup>th</sup> day of June, 2020.

MATUSKA LAW OFFICES, LTD.

By:

MICHAEL L. MATUSKA, SBN 5711  
Attorneys for Plaintiff, JAY KVAM,

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices, Ltd. and that on the 29<sup>th</sup> day of June, 2020, I served a true and correct copy of the preceding document entitled **NOTICE OF APPEAL** as follows:

Austin K. Sweet, Esq.  
GUNDERSON LAW FIRM  
3895 Warren Way  
Reno, NV 89509  
[asweet@gundersonlaw.com](mailto:asweet@gundersonlaw.com)

☐ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I electronically filed a true and correct copy of the above-identified document with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the person named above.

☐ **BY PERSONAL SERVICE:** I personally delivered the above-identified document(s) by hand delivery to the office(s) of the person(s) named above.

☐ **BY FACSIMILE:**

☐ **BY FEDERAL EXPRESS ONE-DAY DELIVERY.**

☐ **BY MESSENGER SERVICE:** I delivered the above-identified document(s) to Reno-Carson Messenger Service for delivery.

/S/ SUZETTE TURLEY  
SUZETTE TURLEY

**CODE: 1310**

Michael L. Matuska, Esq. SBN 5711  
MATUSKA LAW OFFICES, LTD.  
2310 South Carson Street, Suite 6  
Carson City, NV 89701  
Attorneys for Plaintiff

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

JAY KVAM,

Plaintiff,

v.

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. May Street, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

Case No. CV18-00764

Dept. No. 6

**CASE APPEAL STATEMENT**

COMES NOW Plaintiff, JAY KVAM, by and through his counsel of record, Matuska Law  
Offices, Ltd., Michael L. Matuska, Esq., and hereby files this Case Appeal Statement as follows:

1. Name of Appellant filing this Case Appeal Statement:

Plaintiff, JAY KVAM.

2. Name of the judge issuing the decision, judgment, or order appealed from:

Hon. Lynne K. Simons.

3. Name of each Appellant and counsel for each Appellant:

JAY KVAM

Counsel: Matuska Law Offices, Ltd., Michael L. Matuska, 2310 S. Carson Street, Suite 6,  
Carson City, Nevada 89701

4. Name of each Respondent and counsel for each Respondent:

BRIAN MINEAU; LEGION INVESTMENTS, LLC

Counsel: Gunderson Law Firm, Austin Sweet, 3895 Warren Way, Reno, NV 89509

5. Name of Any Attorney Not Licensed to Practice Law in Nevada and Whether the Attorney has Been Granted Permission to Appear under SCR 42:

None.

6. Whether Appellant's Counsel in the District Court was Appointed or Retained:

Retained

7. Whether Appellant's Counsel on Appeal was Appointed or Retained:

Retained.

8. In Forma Pauperis:

None of the parties requested or were granted leave to proceed *in forma pauperis*.

9. The Date the Proceedings Commenced in the District Court:

Complaint – April 11, 2018.

10. Brief Description of the Nature of the Action and Result in District Court:

In 2017 Kvam invested \$93,781.31 to purchase and renovate a house located at 7747 S. May Street in Chicago, Illinois. Kvam did so after meeting with Brian Mineau ("Mineau") and upon the representations that Mineau had success and experience flipping houses in Chicago and that Mineau would put up one-third of the project financing and manage the project. Mineau acquired the property in the name of his limited liability company, Legion Investments, LLC on February 13, 2017.

The parties did not have a detailed writing, but rather, their understanding is reflected in notes taken at the initial meeting, a subsequent Terms of Agreement and various oral communications. Pursuant to the Terms of Agreement, Kvam was to receive "7% annual return on any funds provided" together with "33.33% of net profit." Kvam has therefore described the agreement as a hybrid loan agreement and joint venture/profit sharing agreement.

1 The project was never completed and Kvam eventually filed suit in the court below on  
2 April 11, 2018. The Complaint included causes of action as follows: 1. Declaration of Joint  
3 Venture; 2. Rescission or Reformation of Agreement; 3. Breach of Contract – Loan; 4. Breach of  
4 Contract and Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing – Joint  
5 Venture Agreement; 4. Accounting; 5. Court Supervision of Dissolution and Winding Up, and  
6 Appointment of Receiver; 6. Temporary and Permanent Injunction; 7. Derivative Claim (on behalf  
7 of the unincorporated joint venture referred to as 7747 S. May Street).  
8

9 Mineau/Legion filed various counterclaims all of which were dismissed by Hon. Jerome  
10 Polaha, who was originally assigned the case, except for Mineau/Legion’s third counterclaim for  
11 declaratory relief which was largely (but not entirely) repetitive of Kvam’s first cause of action.  
12 During these early proceedings, Kvam discovered that Mineau did not provide funding for the  
13 project and that he had sold the house for a loss. Kvam therefore requested and was granted relief  
14 to file a First Amended Complaint (“FAC”) which included an additional cause of action for  
15 Fraud, Fraudulent Inducement and Fraudulent Concealment. The FAC was filed on January 31,  
16 2019. Mineau/Legion did not file any counterclaims in response to the FAC.  
17

18 Kvam later discovered that Mineau/Legion had various other projects underway in  
19 Chicago at the same time, that the same contractor was working on these other projects and that  
20 Kvam’s project funds were co-mingled with funds for these other projects and possibly used on  
21 the other projects. Kvam therefore requested and was granted relief to file a Second Amended  
22 Complaint (“SAC”) that added claims for conversion and RICO claims. The SAC was filed on  
23 September 11, 2019. Mineau/Legion did not file any counterclaims in response to the SAC.  
24

25 Discovery closed on December 6, 2019, trial was scheduled to commence March 2, 2020  
26 and Mineau/Legion filed a *Motion for Summary Judgment* on January 6, 2020 in which they  
27 sought summary judgment on all Kvam’s causes of action. In their motion, Mineau/Legion  
28

1 conceded that the investment at 7747 S. May Street should be considered a joint venture and  
2 admitted to Mineau's corresponding fiduciary duties. Mineau/Legion included a declaration in  
3 which Mineau disavowed his previous discovery responses and declarations wherein he testified  
4 that his funding share was paid through Criterion NV, LLC and now claimed that he borrowed  
5 \$20,000 from Bradley Tammen.  
6

7 25. On or about May 26, 2017, Mr. Cole called me and requested the next  
8 \$20,000.00 progress payment for the project. I was travelling at the time and was  
9 unable to promptly make direct payment; however, at my request, Spinola agreed  
10 to arrange to have the funds wired to TNT on my behalf. I have previously testified  
11 in this action that Spinola retrieved these funds from my personal safe. However,  
12 upon further reflection and consideration in preparing this Declaration and  
13 preparing for trial, I believe my previous testimony was mistaken. I now recall that  
14 I borrowed the \$20,000 from Bradley Tammen . . . . In exchange for the short-term  
15 loan of \$20,000, I agreed to repay Mr. Tammen a flat amount of \$28,000 (which  
16 has since been repaid in full).

17 (See January 6, 2020 Declaration in support of *Motion for Summary Judgment*)  
18 (emphasis added).

19 This was a sham declaration that was submitted after the close of discovery and was not supported  
20 by any evidence of a loan or repayment thereof.

21 Kvam's opposition was supported by lengthy points and authorities, a detailed declaration  
22 from Jay Kvam and forty-eight (48) exhibits. Kvam also requested that the court defer ruling on  
23 the motion until after it ruled on the Discovery Commissioner's January 10, 2020  
24 *Recommendation for Order* and he had the benefit of the discovery anticipated thereunder. He  
25 also objected to the admission of Mineau's sham declaration and filed a corresponding *Motion for*  
26 *Reconsideration of Order Affirming Discovery Commissioner's Recommendation, Entered May*  
27 *16, 2019; for Discovery Sanction; and for Other Relief* ("Motion for Reconsideration"). In the  
28 *Motion for Reconsideration*, he renewed the request for tax information in order to determine if  
Mineau ever reported a loan or the repayment thereof, for an order to show cause why Mineau  
should not be held in contempt for perjury, and for related sanctions. Judge Simons never ruled on

1 Kvam's *Motion for Reconsideration*.

2 Judge Simons proceeded to grant Mineau/Legion's *Motion for Summary Judgment* in large  
3 part, despite the fact that she never ruled on the Discovery Commissioner's *Report and*  
4 *Recommendation* or Kvam's *Motion for Reconsideration* and Kvam never received the discovery  
5 to which he is entitled. To make matters worse, she largely, if not completely ignored Kvam's  
6 declaration and extensive evidentiary record in favor of Mineau's sham declaration and sua sponte  
7 granted summary judgment on Mineau/Legion's superseded counterclaim for declaratory relief.  
8 Mineau/Legion's counterclaims were almost completely dismissed and were not restated in  
9 response to Kvam's FAC or SAC. Despite this obvious point, most of the findings in Judge  
10 Simons' order are supported by a citation to "DA" which, according to her, means "Deemed  
11 Admitted" by not filing an answer to the non-existent counterclaim. Judge Simons basically  
12 granted summary judgment by default against a plaintiff who had prosecuted the case to the eve of  
13 trial, based on her sua sponte ruling that he failed to respond to an earlier pleading that had long  
14 since been superseded.  
15

16  
17 As for Kvam's Sixth Cause of Action for Temporary and Permanent Injunction, Judge  
18 Simons ruled that cause of action to be "legally ineffectual."

19 11. Prior or Related Proceedings in the Supreme Court:

20 None.

21 12. Whether the Appeal Involves Child Custody or Visitation

22 None.

23 13. Possibility of a Settlement:

24 Judge Simons already ordered the parties to attend two settlement conferences and  
25 settlement seems unlikely unless/until the posture of the case changes.  
26  
27  
28

**AFFIRMATION**

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Respectfully submitted,

Dated this 29<sup>th</sup> day of June, 2020.

MATUSKA LAW OFFICES, LTD.



By:

MICHAEL L. MATUSKA, SBN 5711  
Attorneys for Plaintiff, JAY KVAM,



**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices, Ltd. and that on the 29<sup>th</sup> day of June, 2020, I served a true and correct copy of the preceding document entitled **CASE APPEAL STATEMENT** as follows:

Austin K. Sweet, Esq.  
GUNDERSON LAW FIRM  
3895 Warren Way  
Reno, NV 89509  
[asweet@gundersonlaw.com](mailto:asweet@gundersonlaw.com)

☐ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I electronically filed a true and correct copy of the above-identified document with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the person named above.

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☐ **BY FACSIMILE:**

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/S/ SUZETTE TURLEY  
SUZETTE TURLEY

**SECOND JUDICIAL DISTRICT COURT****STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV18-00764****Case Description: JAY KVAM VS BRIAN MINEAU, ET AL (D6)**

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**Case Number: CV18-00764 Case Type: OTHER CIVIL MATTERS - Initially Filed On: 4/11/2018**

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**Parties**

<u>Party Type &amp; Name</u>	<u>Party Status</u>
JUDG - LYNNE K. SIMONS - D6	Active
JUDG - JEROME M. POLAHA - D3	Party ended on: 6/6/2019 3:14:50PM
PLTF - JAY KVAM - @1322514	Active
DEFT - LEGION INVESTMENTS, LLC - @1322512	Active
DEFT - 7747 S. MAY STREET - @1322513	Active
DEFT - BRIAN MINEAU - @1322511	Active
ATTY - Michael L. Matuska, Esq. - 5711	Active
ATTY - Austin K. Sweet, Esq. - 11725	Active
ATTY - Mark Harlan Gunderson, Esq. - 2134	Active

**Disposed Hearings**

- 1 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 8/1/2018 at 16:40:00  
Extra Event Text: PLAINTIFF'S MOTION FOR DISSOLUTION  
Event Disposition: S200 - 9/4/2018
- 2 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 8/1/2018 at 16:41:00  
Extra Event Text: PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS  
Event Disposition: S200 - 9/5/2018
- 3 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 11/19/2018 at 15:55:00  
Extra Event Text: MOTION TO DISMISS COUNTERCLAIM AND FOR SUMMARY JUDGMENT FILED 10/25/18  
Event Disposition: D845 - 12/6/2018
- 4 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 11/30/2018 at 13:11:00  
Extra Event Text: PLAINTIFF'S TEMPORARY RESTRAINING ORDER  
Event Disposition: S200 - 12/6/2018
- 5 Department: D3 -- Event: MOTION ... -- Scheduled Date & Time: 12/17/2018 at 13:30:00  
Extra Event Text: ON MSJ AND MOTION TO DISMISS  
Event Disposition: D840 - 12/17/2018
- 6 Department: D3 -- Event: PRELIMINARY INJUNCTION -- Scheduled Date & Time: 12/17/2018 at 13:30:00  
  
Event Disposition: D870 - 12/12/2018
- 7 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 1/22/2019 at 10:20:00  
Extra Event Text: PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT FILED 12-24-18  
Event Disposition: S200 - 1/29/2019
- 8 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 1/22/2019 at 09:36:00  
Extra Event Text: MOTION FOR LEAVE TO FILE AMENDED COMPLAINT  
Event Disposition: S200 - 1/29/2019

- 9 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 2/26/2019 at 10:41:00  
Extra Event Text: MOTION FOR PROTECTIVE ORDER FILED 1/29/19  
Event Disposition: S200 - 3/5/2019
- 10 Department: DISC -- Event: Request for Submission -- Scheduled Date & Time: 3/27/2019 at 14:37:00  
Extra Event Text: FIRST MOTION TO COMPEL FILED 3/15/19 (PAPER PROVIDED)  
Event Disposition: S200 - 4/10/2019
- 11 Department: D3 -- Event: Request for Submission -- Scheduled Date & Time: 4/30/2019 at 16:03:00  
Extra Event Text: PLAINTIFFS OBJECTIONS TO REPORT OF COMMISSIONER FILED 4/16/19  
Event Disposition: S200 - 5/16/2019
- 12 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 7/8/2019 at 10:31:00  
Extra Event Text: PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT FILED 6-19-19  
Event Disposition: S200 - 9/9/2019
- 13 Department: DISC -- Event: Request for Submission -- Scheduled Date & Time: 7/29/2019 at 15:38:00  
Extra Event Text: DEFENDANTS/ COUNTERCLAIMANTS BRIAN MINEAU AND LEGION INVESTMENTS LLC'S MOTION TO COMPEL FILED 7-11-19  
Event Disposition: S200 - 10/2/2019
- 14 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 8/2/2019 at 08:57:00  
Extra Event Text: STIPULATION TO MODIFY SCHEDULING ORDER (ORDER PROVIDED)  
Event Disposition: S200 - 8/5/2019
- 15 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 12/2/2019 at 16:57:00  
Extra Event Text: BRIAN MINEAU & LEGION INVESTMENTS LLC EX PARTE APPLICATION FOR ORDER SHORTENING TIME CONCERNING MOTION TO EXT  
Event Disposition: S200 - 12/5/2019
- 16 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 12/11/2019 at 15:56:00  
Extra Event Text: BRIAN MINEAU AND LEGION INVESTMENTS LLC MOTION TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JA  
Event Disposition: S200 - 12/30/2019
- 17 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 12/18/2019 at 12:59:00  
Extra Event Text: CROSS-MOTION FOR PROTECTIVE ORDER FILED 12-6-19 AND OPPOSITION AND REPLY - PTC 1/14; TRIAL - 3/2/19  
Event Disposition: S200 - 1/24/2020
- 18 Department: DISC -- Event: Request for Submission -- Scheduled Date & Time: 12/30/2019 at 12:25:00  
Extra Event Text: SECOND MOTION TO COMPEL FILED 11/26/19  
Event Disposition: S200 - 1/10/2020
- 19 Department: D6 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 1/14/2020 at 09:30:00  
Extra Event Text: TRIAL - 3/2/20; NO 2, JURY, 5 DAYS  
Event Disposition: D435 - 1/14/2020
- 20 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 1/14/2020 at 07:00:00  
Extra Event Text: DEFENDANTS' OBJECTION TO DISCOVERY COMMISSIONER'S RECOMMENDATION FOR ORDER  
Event Disposition: S200 - 2/6/2020
- 21 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 1/23/2020 at 16:15:00  
Extra Event Text: MOTION FOR SUMMARY JUDGMENT FILED 1/06/2020  
Event Disposition: S200 - 4/9/2020
- 22 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 1/30/2020 at 16:41:00  
Extra Event Text: MOTION IN LIMINE TO EXCLUDE EXPERT OPINION (DEFENDANTS MOTION IN LIMINE #1) FILED 1/10/2020  
Event Disposition: S200 - 4/9/2020

- 23 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 1/30/2020 at 16:37:00  
Extra Event Text: OBJECTION TO RECOMMENDATION FOR ORDER FILED 1/13/2020  
Event Disposition: S200 - 4/9/2020
- 24 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 1/31/2020 at 14:51:00  
Extra Event Text: MOTION FOR LEAVE TO EXCEED PAGE LIMIT FILED 1/16/2020  
Event Disposition: S200 - 4/9/2020
- 25 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 2/10/2020 at 12:04:00  
Extra Event Text: REQUEST FOR SUBMISSION OF MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION  
Event Disposition: S200 - 4/9/2020
- 26 Department: D6 -- Event: ORAL ARGUMENTS -- Scheduled Date & Time: 2/11/2020 at 09:30:00  
Extra Event Text: (MOTION FOR SUMMARY JUDGMENT)  
Event Disposition: D840 - 2/11/2020
- 27 Department: D6 -- Event: PRE-TRIAL MOTIONS -- Scheduled Date & Time: 2/21/2020 at 09:30:00  
Extra Event Text: (/PRE-TRIAL CONFERENCE)  
Event Disposition: D270 - 2/20/2020
- 28 Department: D10 -- Event: SETTLEMENT CONFERENCE -- Scheduled Date & Time: 2/24/2020 at 09:00:00  
Extra Event Text: SETTLEMENT CONFERENCE FOR DEPT. 6 (9:00-5:00, IF NEEDED)(BRIEFS DUE BY FEBRUARY 18, 2020, AT NOON)  
Event Disposition: D480 - 2/24/2020
- 29 Department: D6 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 2/27/2020 at 09:30:00  
Extra Event Text: AND PRETRIAL MOTIONS  
Event Disposition: D430 - 2/27/2020
- 30 Department: D6 -- Event: EXHIBITS TO BE MARKED W/CLERK -- Scheduled Date & Time: 2/27/2020 at 15:30:00  
  
Event Disposition: D845 - 2/27/2020
- 31 Department: D10 -- Event: SETTLEMENT CONFERENCE -- Scheduled Date & Time: 3/2/2020 at 09:00:00  
Extra Event Text: CONTINUATION OF SETTLEMENT CONFERENCE  
Event Disposition: D480 - 3/2/2020
- 32 Department: D6 -- Event: TRIAL - NON JURY -- Scheduled Date & Time: 3/2/2020 at 09:00:00  
Extra Event Text: 5 DAYS  
Event Disposition: D870 - 2/28/2020
- 33 Department: D6 -- Event: TRIAL - JURY -- Scheduled Date & Time: 3/2/2020 at 09:00:00  
Extra Event Text: NO 2, JURY, 5 DAYS  
Event Disposition: D844 - 2/5/2020
- 34 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 3/5/2020 at 11:44:00  
Extra Event Text: PLAINTIFF'S FIRST MOTION IN LIMINE FILED 2-14-2020  
Event Disposition: S200 - 4/9/2020
- 35 Department: D6 -- Event: Request for Submission -- Scheduled Date & Time: 4/22/2020 at 14:03:00  
Extra Event Text: MOTION TO DISQUALIFY JUDGE (NO ORDER ATTACHED)  
Event Disposition: S200 - 4/23/2020

### Actions

Filing Date - Docket Code & Description

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

- 1 4/11/2018 - \$1425 - \$Complaint - Civil  
Additional Text: Transaction 6624468 - Approved By: CSULEZIC : 04-11-2018:16:08:39
- 2 4/11/2018 - PAYRC - \*\*Payment Received  
Additional Text: A Payment of \$260.00 was made on receipt DCDC606090.
- 3 4/16/2018 - 4090 - \*\* Summons Issued  
*No additional text exists for this entry.*
- 4 5/31/2018 - 1067 - Affidavit of Service  
Additional Text: LEGION INVESTMENTS - 5/10/2018 - Transaction 6706908 - Approved By: KTOMBOW : 05-31-2018:15:36:44
- 5 5/31/2018 - 1067 - Affidavit of Service  
Additional Text: BRIAN MINEAU - 5/10/2018 - Transaction 6706908 - Approved By: KTOMBOW : 05-31-2018:15:36:44
- 6 5/31/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6706982 - Approved By: NOREVIEW : 05-31-2018:15:37:49
- 7 6/5/2018 - 1137 - Answer and Counterclaim  
Additional Text: Transaction 6713233 - Approved By: CSULEZIC : 06-05-2018:16:09:46
- 8 6/5/2018 - \$1560 - \$Def 1st Appearance - CV  
Additional Text: BRIAN MINEAU - Transaction 6713233 - Approved By: CSULEZIC : 06-05-2018:16:09:46
- 9 6/5/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: LEGION INVESTMENTS LLC - Transaction 6713233 - Approved By: CSULEZIC : 06-05-2018:16:09:46
- 10 6/5/2018 - PAYRC - \*\*Payment Received  
Additional Text: A Payment of \$243.00 was made on receipt DCDC611106.
- 11 6/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6713731 - Approved By: NOREVIEW : 06-05-2018:16:10:56
- 12 6/25/2018 - 2315 - Mtn to Dismiss ...  
Additional Text: MOTION TO DISMISS COUNTERCLAIM, OR ALTERNATIVELY, FOR A MORE DEFINITE STATEMENT - Transaction 6746240 - Approved By: PMSEWELL : 06-26-2018:08:36:00
- 13 6/26/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6746478 - Approved By: NOREVIEW : 06-26-2018:08:37:44
- 14 7/3/2018 - A190 - Exempt from Arb (over \$50,000)  
Additional Text: Transaction 6758903 - Approved By: NOREVIEW : 07-03-2018:10:56:02
- 15 7/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6758922 - Approved By: NOREVIEW : 07-03-2018:10:57:45
- 16 7/11/2018 - 2490 - Motion ...  
Additional Text: Motion for Dissolution - Transaction 6771073 - Approved By: CSULEZIC : 07-11-2018:14:02:31
- 17 7/11/2018 - 1030 - Affidavit in Support...  
Additional Text: Affidavit in Support of Motion for Dissolution - Transaction 6771116 - Approved By: CSULEZIC : 07-11-2018:14:05:29
- 18 7/11/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6771123 - Approved By: NOREVIEW : 07-11-2018:14:05:53

- 19 7/11/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6771146 - Approved By: NOREVIEW : 07-11-2018:14:07:51
- 20 7/12/2018 - 2645 - Opposition to Mtn ...  
Additional Text: Opposition to Motion to Dismiss Counterclaim, or Alternatively, for a More Definite Statement - Transaction 6773855 - Approved By: CSULEZIC : 07-13-2018:08:58:50
- 21 7/13/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6774660 - Approved By: NOREVIEW : 07-13-2018:08:59:54
- 22 7/17/2018 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO MOTION TO DISMISS COUNTERCLAIM, OR ALTERNATIVELY, FOR A MORE DEFINITE STATEMENT - Transaction 6780140 - Approved By: YVILORIA : 07-17-2018:13:15:21
- 23 7/17/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6780435 - Approved By: NOREVIEW : 07-17-2018:13:16:24
- 24 7/26/2018 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO MOTION FOR DISSOLUTION - Transaction 6798200 - Approved By: YVILORIA : 07-26-2018:16:32:02
- 25 7/26/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6798576 - Approved By: NOREVIEW : 07-26-2018:16:33:13
- 26 8/1/2018 - 3795 - Reply...  
Additional Text: REPLY TO OPPOSITION TO MOTION FOR DISSOLUTION - Transaction 6807229 - Approved By: YVILORIA : 08-01-2018:14:49:39
- 27 8/1/2018 - 1030 - Affidavit in Support...  
Additional Text: DFX: NO EXHIBIT COVER PAGES - AFFIDAVIT IN SUPPORT OF REPLY TO OPPOSITION TO MOTION FOR DISSOLUTION - Transaction 6807270 - Approved By: YVILORIA : 08-01-2018:14:55:46
- 28 8/1/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6807351 - Approved By: NOREVIEW : 08-01-2018:14:50:35
- 29 8/1/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6807386 - Approved By: NOREVIEW : 08-01-2018:14:59:25
- 30 8/1/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6807623 - Approved By: CVERA : 08-01-2018:16:36:25  
DOCUMENT TITLE: PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS  
PARTY SUBMITTING: MICHAEL MATUSKA, ESQ.  
DATE SUBMITTED: 08/01/18  
SUBMITTED BY: CVERA  
DATE RECEIVED JUDGE OFFICE:
- 31 8/1/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6807628 - Approved By: CVERA : 08-01-2018:16:36:58  
DOCUMENT TITLE: PLAINTIFF'S MOTION FOR DISSOLUTION  
PARTY SUBMITTING: MICHAEL L. MATUSKA, ESQ.  
DATE SUBMITTED: 08/01/18  
SUBMITTED BY: CVERA  
DATE RECEIVED JUDGE OFFICE:
- 32 8/1/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6808008 - Approved By: NOREVIEW : 08-01-2018:16:38:23
- 33 8/1/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6808010 - Approved By: NOREVIEW : 08-01-2018:16:38:24
- 34 8/6/2018 - 1835 - Joint Case Conference Report  
Additional Text: Transaction 6813392 - Approved By: CVERA : 08-06-2018:10:11:31

- 35 8/6/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6813448 - Approved By: NOREVIEW : 08-06-2018:10:12:25
- 36 9/4/2018 - 2842 - Ord Denying Motion  
Additional Text: ORDER DENYING MOTION FOR DISSOLUTION - Transaction 6862110 - Approved By: NOREVIEW : 09-04-2018:14:41:33
- 37 9/4/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6862116 - Approved By: NOREVIEW : 09-04-2018:14:42:33
- 38 9/4/2018 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 39 9/5/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 6864685 - Approved By: NOREVIEW : 09-05-2018:14:50:01
- 40 9/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6864690 - Approved By: NOREVIEW : 09-05-2018:14:51:27
- 41 9/5/2018 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 42 9/5/2018 - 3370 - Order ...  
Additional Text: ORDER RE: MOTION TO DISMISS.... - Transaction 6864914 - Approved By: NOREVIEW : 09-05-2018:15:47:10
- 43 9/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6864926 - Approved By: NOREVIEW : 09-05-2018:15:48:16
- 44 9/6/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 6866198 - Approved By: NOREVIEW : 09-06-2018:11:48:07
- 45 9/6/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6866207 - Approved By: NOREVIEW : 09-06-2018:11:49:09
- 46 10/5/2018 - 1120 - Amended ...  
Additional Text: First Amended Counterclaim - Transaction 6914700 - Approved By: CSULEZIC : 10-05-2018:16:25:43
- 47 10/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6914812 - Approved By: NOREVIEW : 10-05-2018:16:29:29
- 48 10/25/2018 - \$2200 - \$Mtn for Summary Judgment  
Additional Text: MOTION TO DISMISS COUNTERCLAIM AND FOR SUMMARY JUDGMENT - Transaction 6948019 - Approved By: YVILORIA : 10-25-2018:15:42:21
- 49 10/25/2018 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$200.00 was made on receipt DCDC623469.
- 50 10/25/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6948179 - Approved By: NOREVIEW : 10-25-2018:15:43:39
- 51 11/13/2018 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO MOTION TO DISMISS COUNTERCLAIM, AND FOR SUMMARY JUDGMENT - Transaction 6974711 - Approved By: YVILORIA : 11-14-2018:08:21:53
- 52 11/14/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6975165 - Approved By: NOREVIEW : 11-14-2018:08:22:47

- 53 11/19/2018 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO MOTION TO DISMISS COUNTERCLAIM, AND FOR SUMMARY JUDGMENT - Transaction 6983489 - Approved By: CSULEZIC : 11-19-2018:15:33:54
- 54 11/19/2018 - 1030 - Affidavit in Support...  
Additional Text: AFFIDAVIT OF JAY KV AM IN SUPPORT OF REPLY TO OPPOSITION TO MOTION TO DISMISS AND FOR SUMMARY JUDGMENT - Transaction 6983487 - Approved By: CSULEZIC : 11-19-2018:15:35:01
- 55 11/19/2018 - 3860 - Request for Submission  
Additional Text: MOTION TO DISMISS COUNTERCLAIM AND FOR SUMMARY JUDGMENT FILED 10/25/18 - Transaction 6983490 - Approved By: CSULEZIC : 11-19-2018:15:36:15  
PARTY SUBMITTING: MICHAEL MATUSKA, ESQ  
DATE SUBMITTED: 11/19/18  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 56 11/19/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6983888 - Approved By: NOREVIEW : 11-19-2018:15:34:55
- 57 11/19/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6983892 - Approved By: NOREVIEW : 11-19-2018:15:35:57
- 58 11/19/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6983898 - Approved By: NOREVIEW : 11-19-2018:15:37:19
- 59 11/30/2018 - 2222 - Mtn for TRO  
Additional Text: MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION - Transaction 7000744 - Approved By: CSULEZIC : 11-30-2018:13:01:06
- 60 11/30/2018 - 3860 - Request for Submission  
Additional Text: Transaction 7000753 - Approved By: YVILORIA : 11-30-2018:13:03:55  
DOCUMENT TITLE: PLAINTIFF'S TEMPORARY RESTRAINING ORDER  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 11-30-18  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 61 11/30/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7000768 - Approved By: NOREVIEW : 11-30-2018:13:02:12
- 62 11/30/2018 - BOND - \*\*Cash Bond Posted -Civil/Prob  
Additional Text: Transaction 7000777 - Approved By: YVILORIA : 11-30-2018:13:09:16
- 63 11/30/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7000779 - Approved By: NOREVIEW : 11-30-2018:13:04:53
- 64 11/30/2018 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$100.00 was made on receipt DCDC625935.
- 65 11/30/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7000808 - Approved By: NOREVIEW : 11-30-2018:13:10:32
- 66 12/3/2018 - 3060 - Ord Granting Mtn ...  
Additional Text: MOTION FOR TRO GRANTED - Transaction 7002881 - Approved By: NOREVIEW : 12-03-2018:12:09:05
- 67 12/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7002883 - Approved By: NOREVIEW : 12-03-2018:12:10:06
- 68 12/3/2018 - BOND - \*\*Cash Bond Posted -Civil/Prob  
Additional Text: JAY KHAM - Transaction 7003283 - Approved By: SWILLIAM : 12-03-2018:15:10:05



- 69 12/3/2018 - 2610 - Notice ...  
Additional Text: OF POSTING OF ADDITIONAL CASH BOND - Transaction 7003283 - Approved By: SWILLIAM : 12-03-2018:15:10:05
- 70 12/3/2018 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$400.00 was made on receipt DCDC626050.
- 71 12/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7003718 - Approved By: NOREVIEW : 12-03-2018:15:12:34
- 72 12/6/2018 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 73 12/6/2018 - 3370 - Order ...  
Additional Text: ORDER FOR HEARING - Transaction 7011365 - Approved By: NOREVIEW : 12-06-2018:14:14:34
- 74 12/6/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7011373 - Approved By: NOREVIEW : 12-06-2018:14:15:59
- 75 12/11/2018 - 3975 - Statement ...  
Additional Text: Plaintiff's Statement Regarding Pending Motions - Transaction 7017630 - Approved By: PMSEWELL : 12-11-2018:12:40:44
- 76 12/11/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7018080 - Approved By: NOREVIEW : 12-11-2018:12:41:41
- 77 12/12/2018 - 3980 - Stip and Order...  
Additional Text: TO DEPOSIT FUNDS - Transaction 7021308 - Approved By: NOREVIEW : 12-12-2018:16:03:45
- 78 12/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7021309 - Approved By: NOREVIEW : 12-12-2018:16:04:37
- 79 12/12/2018 - 2540 - Notice of Entry of Ord  
Additional Text: re Stipulation to Deposit Funds; Order - Transaction 7021429 - Approved By: NOREVIEW : 12-12-2018:16:41:47
- 80 12/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7021439 - Approved By: NOREVIEW : 12-12-2018:16:43:12
- 81 12/13/2018 - TRO - \*\*TRO Cash Bond  
Additional Text: Bond ID: TRO-18-00011; Total Bond Amount: \$24,473.77.  
  
Bond Code, TRO, Receipted for: SITE DEFINED TRUST DEPOSIT, on 13-DEC-2018 in the amount of \$24,473.77 on case ID CV18-00764.
- 82 12/13/2018 - 2610 - Notice ...  
Additional Text: NOTICE OF DEPOSIT OF PROPERTY PROCEEDS BY BRIAN MINEAU AND LEGION INVESTMENTS LLC - Transaction 7022929 - Approved By: YVILORIA : 12-13-2018:13:41:23
- 83 12/13/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7022943 - Approved By: NOREVIEW : 12-13-2018:13:42:27
- 84 12/20/2018 - CHECK - \*\*Trust Disbursement  
Additional Text: A Disbursement of \$500.00 on Check Number 34666
- 85 12/24/2018 - 2490 - Motion ...  
Additional Text: Motion for Leave to File Amended Complaint - Transaction 7037918 - Approved By: KTOMBOW : 12-24-2018:11:53:11

- 86 12/24/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7038210 - Approved By: NOREVIEW : 12-24-2018:11:54:07
- 87 1/9/2019 - 3370 - Order ...  
Additional Text: ORDER RE: MOTION TO DISMISS COUNTERCLAIM AND FOR SUMMARY JUDGMENT - Transaction 7059540 - Approved By: NOREVIEW : 01-09-2019:15:15:29
- 88 1/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7059543 - Approved By: NOREVIEW : 01-09-2019:15:16:31
- 89 1/10/2019 - 2545 - Notice of Entry ...  
Additional Text: Transaction 7061883 - Approved By: NOREVIEW : 01-10-2019:14:21:48
- 90 1/10/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7061897 - Approved By: NOREVIEW : 01-10-2019:14:22:57
- 91 1/14/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO MOTION FOR LEAVE TO FILE AMENDED COMPLAINT - Transaction 7067328 - Approved By: YVILORIA : 01-15-2019:08:44:33
- 92 1/15/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7067606 - Approved By: NOREVIEW : 01-15-2019:08:45:35
- 93 1/21/2019 - 3790 - Reply to/in Opposition  
Additional Text: DFX: EXHIBITS LABELED INCORRECTLY  
REPLY TO OPPOSITION TO MOTION FOR LEAVE TO FILE AMENDED COMPLAINT - Transaction 7077237 - Approved By: KTOMBOW : 01-22-2019:09:01:02
- 94 1/21/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7077236 - Approved By: KTOMBOW : 01-22-2019:09:35:55  
DOCUMENT TITLE: MOTION FOR LEAVE TO FILE AMENDED COMPLAINT  
PARTY SUBMITTING: MICHAEL MATUSKA  
DATE SUBMITTED: 1/22/19  
SUBMITTED BY: KTOMBOW  
DATE RECEIVED JUDGE OFFICE:
- 95 1/22/2019 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO MOTION FOR LEAVE TO FILE AMENDED COMPLAINT - Transaction 7077447 - Approved By: YVILORIA : 01-22-2019:10:16:29
- 96 1/22/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION - Transaction 7077495 - Approved By: YVILORIA : 01-22-2019:10:18:11  
DOCUMENT TITLE: PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT FILED 12-24-18  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 1-22-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 97 1/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7077516 - Approved By: NOREVIEW : 01-22-2019:09:02:19
- 98 1/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7077683 - Approved By: NOREVIEW : 01-22-2019:09:36:53
- 99 1/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7077801 - Approved By: NOREVIEW : 01-22-2019:10:17:15
- 100 1/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7077806 - Approved By: NOREVIEW : 01-22-2019:10:19:00
- 101 1/29/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*

- 102 1/29/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 103 1/29/2019 - 2165 - Mtn for Protective Ord  
Additional Text: MOTION FOR PROTECTIVE ORDER - Transaction 7090699 - Approved By: YVILORIA : 01-29-2019:13:26:32
- 104 1/29/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7090971 - Approved By: NOREVIEW : 01-29-2019:13:28:18
- 105 1/29/2019 - 1665 - Ex-Parte Application...  
Additional Text: EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND STAYING DISCOVERY PENDING RESOLUTION OF MOTION FOR PROTECTIVE ORDER - Transaction 7091039 - Approved By: CSULEZIC : 01-29-2019:14:36:27
- 106 1/29/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7091341 - Approved By: NOREVIEW : 01-29-2019:14:37:27
- 107 1/29/2019 - 3060 - Ord Granting Mtn ...  
Additional Text: PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT IS GRANTED - Transaction 7091712 - Approved By: NOREVIEW : 01-29-2019:15:56:30
- 108 1/29/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7091726 - Approved By: NOREVIEW : 01-29-2019:15:58:17
- 109 1/30/2019 - 3370 - Order ...  
Additional Text: ORDER STAYING DISCOVERY - Transaction 7092991 - Approved By: NOREVIEW : 01-30-2019:11:24:45
- 110 1/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7093007 - Approved By: NOREVIEW : 01-30-2019:11:26:22
- 111 1/30/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7093305 - Approved By: NOREVIEW : 01-30-2019:13:13:00
- 112 1/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7093307 - Approved By: NOREVIEW : 01-30-2019:13:13:57
- 113 1/31/2019 - 1090 - Amended Complaint  
Additional Text: FIRST AMENDED VERIFIED COMPLAINT - Transaction 7095466 - Approved By: CSULEZIC : 01-31-2019:12:12:27
- 114 1/31/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7095699 - Approved By: NOREVIEW : 01-31-2019:12:13:23
- 115 2/1/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7099149 - Approved By: NOREVIEW : 02-01-2019:16:24:34
- 116 2/1/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7099153 - Approved By: NOREVIEW : 02-01-2019:16:25:31
- 117 2/12/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER - Transaction 7115603 - Approved By: YVILORIA : 02-13-2019:08:27:12
- 118 2/13/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7115906 - Approved By: NOREVIEW : 02-13-2019:08:28:17
- 119 2/19/2019 - 1140 - Answer to Amended Complaint  
Additional Text: Transaction 7124345 - Approved By: CSULEZIC : 02-19-2019:14:59:13

- 120 2/19/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7124626 - Approved By: NOREVIEW : 02-19-2019:15:00:34
- 121 2/22/2019 - 4105 - Supplemental ...  
Additional Text: SUPPLEMENT TO OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER - Transaction 7131413 - Approved By: YVILORIA : 02-22-2019:14:37:14
- 122 2/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7131444 - Approved By: NOREVIEW : 02-22-2019:14:38:21
- 123 2/25/2019 - 3795 - Reply...  
Additional Text: Reply in Support of Motion for Protective Order - Transaction 7134280 - Approved By: JAPARICI : 02-26-2019:09:00:32
- 124 2/25/2019 - 3860 - Request for Submission  
Additional Text: MOTION FOR PROTECTIVE ORDER FILED 1/29/19 - Transaction 7134781 - Approved By: CSULEZIC : 02-26-2019:09:01:33  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 2/26/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 125 2/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7135570 - Approved By: NOREVIEW : 02-26-2019:09:05:17
- 126 2/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7135580 - Approved By: NOREVIEW : 02-26-2019:09:06:35
- 127 3/5/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 128 3/6/2019 - 3370 - Order ...  
Additional Text: DEFENDANTS' MOTION FOR PROTECTIVE ORDER IS DENIED; SANCTIONS SHALL BE AWARDED IN FAVOR OF PLAINTIFF IN THE AMOUNT OF \$5,616.50 - Transaction 7151158 - Approved By: NOREVIEW : 03-06-2019:11:43:01
- 129 3/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7151175 - Approved By: NOREVIEW : 03-06-2019:11:44:29
- 130 3/15/2019 - 2490 - Motion ...  
Additional Text: PLAINTIFFS FIRST MOTION TO COMPEL - Transaction 7168868 - Approved By: CSULEZIC : 03-15-2019:14:00:12
- 131 3/15/2019 - 1520 - Declaration  
Additional Text: DECLARATION OF MICHAEL L. MATUSKA, ESQ. IN SUPPORT OF PLAINTIFF'S FIRST MOTION TO COMPEL - Transaction 7168868 - Approved By: CSULEZIC : 03-15-2019:14:00:12
- 132 3/15/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7169043 - Approved By: NOREVIEW : 03-15-2019:14:03:37
- 133 3/25/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO PLAINTIFF'S FIRST MOTION TO COMPEL - Transaction 7183966 - Approved By: YVILORIA : 03-26-2019:08:18:46
- 134 3/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7184374 - Approved By: NOREVIEW : 03-26-2019:08:19:49
- 135 3/27/2019 - 3790 - Reply to/in Opposition  
Additional Text: PLAINTIFF'S REPLY TO OPPOSITON TO FIRST MOTION TO COMPEL - Transaction 7188141 - Approved By: CSULEZIC : 03-27-2019:13:43:46
- 136 3/27/2019 - 1520 - Declaration  
Additional Text: DECLARATION OF MICHAEL L. MATUSKA, ESQ. IN SUPPORT OF PLAINTIFF'S FIRST MOTION TO COMPEL - Transaction 7188153 - Approved By: CSULEZIC : 03-27-2019:13:55:57

- 137 3/27/2019 - 3860 - Request for Submission  
Additional Text: FIRST MOTION TO COMPEL FILED 3/15/19 (PAPER PROVIDED) - Transaction 7188179 - Approved By: CSULEZIC : 03-27-2019:14:01:13  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 3/27/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 138 3/27/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7188228 - Approved By: NOREVIEW : 03-27-2019:13:47:10
- 139 3/27/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7188320 - Approved By: NOREVIEW : 03-27-2019:13:57:18
- 140 3/27/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7188342 - Approved By: NOREVIEW : 03-27-2019:14:02:13
- 141 4/9/2019 - 1945 - Master's Recommendation/Ord  
Additional Text: RECOMMENDATION FOR ORDER - Transaction 7210304 - Approved By: NOREVIEW : 04-09-2019:16:56:07
- 142 4/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7210307 - Approved By: NOREVIEW : 04-09-2019:16:59:06
- 143 4/10/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 144 4/16/2019 - 2630 - Objection to ...  
Additional Text: PLAINTIFF'S OBJECTIONS TO REPORT OF COMMISSIONER - Transaction 7221281 - Approved By: YVILORIA : 04-16-2019:13:05:27
- 145 4/16/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7221347 - Approved By: NOREVIEW : 04-16-2019:13:07:15
- 146 4/18/2019 - JF - \*\*First Day Jury Fees Deposit  
Additional Text: Transaction 7225918 - Approved By: YVILORIA : 04-18-2019:11:49:27
- 147 4/18/2019 - 1580 - Demand for Jury  
Additional Text: DEMAND FOR JURY: BRIAN MINEAU AND LEGION INVESTMENTS LLC - Transaction 7225918 - Approved By: YVILORIA : 04-18-2019:11:49:27
- 148 4/18/2019 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$320.00 was made on receipt DCDC635908.
- 149 4/18/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7225998 - Approved By: NOREVIEW : 04-18-2019:11:52:10
- 150 4/25/2019 - 3880 - Response...  
Additional Text: RESPONSE TO PLAINTIFFS OBJECTION TO REPORT OF COMMISSIONER - Transaction 7239238 - Approved By: CSULEZIC : 04-26-2019:08:30:28
- 151 4/25/2019 - 2075 - Mtn for Extension of Time  
Additional Text: MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO PLAINTIFF'S OBJECTION TO REPORT OF COMMISSIONER OR, ALTERNATIVELY, LEAVE TO FILE RESPONSE AFTER DEADLINE - Transaction 7239238 - Approved By: CSULEZIC : 04-26-2019:08:30:28
- 152 4/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7239585 - Approved By: NOREVIEW : 04-26-2019:08:31:34
- 153 4/30/2019 - 3790 - Reply to/in Opposition  
Additional Text: PLAINTIFF'S REPLY TO DEFENDANTS' RESPONSE TO OBJECTION TO REPORT OF COMMISSIONER - Transaction 7245659 - Approved By: CSULEZIC : 04-30-2019:15:50:02

- 154 4/30/2019 - 3860 - Request for Submission  
Additional Text: PLAINTIFFS OBJECTIONS TO REPORT OF COMMISSIONER FILED 4/16/19 - Transaction 7245663 - Approved By: CSULEZIC : 04-30-2019:15:50:43  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 4/30/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 155 4/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7245904 - Approved By: NOREVIEW : 04-30-2019:15:53:15
- 156 4/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7245903 - Approved By: NOREVIEW : 04-30-2019:15:53:16
- 157 5/16/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 158 5/16/2019 - 2690 - Ord Affirming Master Recommend  
Additional Text: Transaction 7273388 - Approved By: NOREVIEW : 05-16-2019:11:31:04
- 159 5/16/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7273403 - Approved By: NOREVIEW : 05-16-2019:11:32:49
- 160 6/3/2019 - 3696 - Pre-Trial Order  
Additional Text: Transaction 7301399 - Approved By: NOREVIEW : 06-03-2019:16:31:21
- 161 6/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7301401 - Approved By: NOREVIEW : 06-03-2019:16:32:18
- 162 6/6/2019 - 2610 - Notice ...  
Additional Text: NOTICE OF TRIAL SETTING: JUNE 11, 2019, 10 AM - Transaction 7307092 - Approved By: YVILORIA : 06-06-2019:10:35:54
- 163 6/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7307166 - Approved By: NOREVIEW : 06-06-2019:10:37:01
- 164 6/6/2019 - 2665 - Ord Accepting Reassignment  
Additional Text: Transaction 7308883 - Approved By: NOREVIEW : 06-06-2019:17:32:45
- 165 6/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7308884 - Approved By: NOREVIEW : 06-06-2019:17:33:45
- 166 6/11/2019 - 1250E - Application for Setting eFile  
Additional Text: Transaction 7314833 - Approved By: NOREVIEW : 06-11-2019:13:24:38
- 167 6/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7314835 - Approved By: NOREVIEW : 06-11-2019:13:27:33
- 168 6/12/2019 - 2610 - Notice ...  
Additional Text: NOTICE OF TRIAL AND PRETRIAL CONFERENCE - Transaction 7317646 - Approved By: YVILORIA : 06-12-2019:15:07:15
- 169 6/12/2019 - 3696 - Pre-Trial Order  
Additional Text: Transaction 7317747 - Approved By: NOREVIEW : 06-12-2019:14:48:16
- 170 6/12/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7317756 - Approved By: NOREVIEW : 06-12-2019:14:49:41

- 171 6/12/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7317908 - Approved By: NOREVIEW : 06-12-2019:15:08:23
- 172 6/19/2019 - 2490 - Motion ...  
Additional Text: Motion for Leave to File Second Amended Complaint - Transaction 7330147 - Approved By: CSULEZIC : 06-19-2019:16:09:12
- 173 6/19/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7330482 - Approved By: NOREVIEW : 06-19-2019:16:10:20
- 174 7/1/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT - Transaction 7350241 - Approved By: MPURDY : 07-01-2019:15:36:27
- 175 7/1/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7350340 - Approved By: NOREVIEW : 07-01-2019:15:37:23
- 176 7/3/2019 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO SECOND MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT - Transaction 7354819 - Approved By: CSULEZIC : 07-03-2019:12:08:31
- 177 7/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7354872 - Approved By: NOREVIEW : 07-03-2019:12:11:04
- 178 7/8/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION - Transaction 7359030 - Approved By: NOREVIEW : 07-08-2019:10:12:55  
DOCUMENT TITLE: PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT FILED 6-19-19  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 7-8-19  
SUBMITTED BY: YVE  
DATE RECEIVED JUDGE OFFICE:
- 179 7/8/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7359034 - Approved By: NOREVIEW : 07-08-2019:10:13:55
- 180 7/11/2019 - 2270 - Mtn to Compel...  
Additional Text: Transaction 7367937 - Approved By: CSULEZIC : 07-11-2019:13:38:54
- 181 7/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7368010 - Approved By: NOREVIEW : 07-11-2019:13:39:53
- 182 7/22/2019 - 2645 - Opposition to Mtn ...  
Additional Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO COMPEL - Transaction 7386903 - Approved By: YVILORIA : 07-22-2019:16:55:54
- 183 7/22/2019 - 1523 - Declaration in Supp/Fee Waiver  
Additional Text: Transaction 7386912 - Approved By: NOREVIEW : 07-22-2019:16:42:38
- 184 7/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7386921 - Approved By: NOREVIEW : 07-22-2019:16:43:54
- 185 7/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7387003 - Approved By: NOREVIEW : 07-22-2019:16:57:47
- 186 7/29/2019 - 3795 - Reply...  
Additional Text: REPLY IN SUPPORT OF MOTION TO COMPEL - Transaction 7399733 - Approved By: YVILORIA : 07-29-2019:15:36:47
- 187 7/29/2019 - 3860 - Request for Submission

Additional Text: REQUEST FOR SUBMISSION - Transaction 7399733 - Approved By: YVILORIA : 07-29-2019:15:36:47  
DOCUMENT TITLE: DEFENDANTS/ COUNTERCLAIMANTS BRIAN MINEAU AND LEGION INVESTMENTS LLC'S MOTION TO COMPEL FILED 7-11-19  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 7-29-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:

188 7/29/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7399859 - Approved By: NOREVIEW : 07-29-2019:15:38:51

189 7/30/2019 - 3370 - Order ...

Additional Text: REFERRING DISCOVERY MOTION TO COMMISSIONER FOR RECOMMENDATION - Transaction 7401496 -  
Approved By: NOREVIEW : 07-30-2019:11:41:53

190 7/30/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7401504 - Approved By: NOREVIEW : 07-30-2019:11:43:15

191 8/1/2019 - 4050 - Stipulation ...

Additional Text: Transaction 7407201 - Approved By: NOREVIEW : 08-01-2019:14:48:28

192 8/1/2019 - 3860 - Request for Submission

Additional Text: Transaction 7407202 - Approved By: NOREVIEW : 08-01-2019:14:49:00  
DOCUMENT TITLE: STIPULATION TO MODIFY SCHEDULING ORDER (ORDER PROVIDED)  
PARTY SUBMITTING: MICHAEL MATUSKA, ESQ  
DATE SUBMITTED: AUGUST 1, 2019  
SUBMITTED BY: BBLOUGH  
DATE RECEIVED JUDGE OFFICE:

193 8/1/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7407204 - Approved By: NOREVIEW : 08-01-2019:14:49:30

194 8/1/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7407206 - Approved By: NOREVIEW : 08-01-2019:14:50:00

195 8/5/2019 - 2777 - Ord Approving ...

Additional Text: STIPULATION MODIFYING SCHEDULING ORDER - Transaction 7411389 - Approved By: NOREVIEW :  
08-05-2019:12:09:31

196 8/5/2019 - S200 - Request for Submission Complet

Additional Text: ORDER

197 8/5/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7411393 - Approved By: NOREVIEW : 08-05-2019:12:10:31

198 8/5/2019 - 2540 - Notice of Entry of Ord

Additional Text: Transaction 7411773 - Approved By: NOREVIEW : 08-05-2019:13:55:29

199 8/5/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7411776 - Approved By: NOREVIEW : 08-05-2019:13:56:41

200 9/9/2019 - 3060 - Ord Granting Mtn ...

Additional Text: FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT - Transaction 7474629 - Approved By: NOREVIEW :  
09-09-2019:15:57:52

201 9/9/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7474656 - Approved By: NOREVIEW : 09-09-2019:16:00:55

202 9/9/2019 - S200 - Request for Submission Complet

Additional Text: ORDER



- 203 9/11/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7478565 - Approved By: NOREVIEW : 09-11-2019:11:59:19
- 204 9/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7478571 - Approved By: NOREVIEW : 09-11-2019:12:00:26
- 205 9/11/2019 - 1090 - Amended Complaint  
Additional Text: SECOND AMENDED VERIFIED COMPLAINT - Transaction 7478580 - Approved By: CSULEZIC : 09-11-2019:12:12:36
- 206 9/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7478609 - Approved By: NOREVIEW : 09-11-2019:12:13:36
- 207 9/25/2019 - 1140 - Answer to Amended Complaint  
Additional Text: ANSWER TO SECOND AMENDED VERIFIED COMPLAINT - Transaction 7504329 - Approved By: CSULEZIC : 09-25-2019:15:22:21
- 208 9/25/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7504406 - Approved By: NOREVIEW : 09-25-2019:15:23:52
- 209 10/2/2019 - 1945 - Master's Recommendation/Ord  
Additional Text: RECOMMENDATION FOR ORDER - Transaction 7516657 - Approved By: NOREVIEW : 10-02-2019:14:33:45
- 210 10/2/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7516663 - Approved By: NOREVIEW : 10-02-2019:14:34:49
- 211 10/2/2019 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 212 10/21/2019 - 2777 - Ord Approving ...  
Additional Text: CONFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION SERVED 10/2/19 - Transaction 7549275 - Approved By: NOREVIEW : 10-21-2019:15:25:51
- 213 10/21/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7549278 - Approved By: NOREVIEW : 10-21-2019:15:26:48
- 214 10/22/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7552467 - Approved By: NOREVIEW : 10-22-2019:17:04:31
- 215 10/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7552469 - Approved By: NOREVIEW : 10-22-2019:17:05:31
- 216 11/26/2019 - 2270 - Mtn to Compel...  
Additional Text: PLAINTIFF'S SECOND MOTION TO COMPEL - Transaction 7610271 - Approved By: CSULEZIC : 11-26-2019:15:44:24
- 217 11/26/2019 - 1520 - Declaration  
Additional Text: "NOTICE ATTACHED - NOTICE OF STRICKEN DOCUMENT FILED NOVEMBER 26, 2019 STRIKING THE DECLARATION OF MICHAEL L. MATUSKA, ESQ. IN SUPPORT OF PLAINTIFF'S SECOND MOTION TO COMPEL FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1) Transaction 7610279 - Approved By: NOREVIEW : 11-26-2019:15:39:43
- 218 11/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7610284 - Approved By: NOREVIEW : 11-26-2019:15:40:43
- 219 11/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7610295 - Approved By: NOREVIEW : 11-26-2019:15:46:04

- 220 11/26/2019 - 1520 - Declaration  
Additional Text: DECLARATION OF MICHAEL L. MATUSKA, ESQ. IN SUPPORT OF PLAINTIFF'S SECOND MOTION TO COMPEL - Transaction 7610336 - Approved By: NOREVIEW : 11-26-2019:15:52:30
- 221 11/26/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7610346 - Approved By: NOREVIEW : 11-26-2019:15:54:10
- 222 12/2/2019 - 2075 - Mtn for Extension of Time  
Additional Text: MOTION TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JAY KV AM - Transaction 7614727 - Approved By: CSULEZIC : 12-02-2019:16:54:53
- 223 12/2/2019 - 2140 - Mtn Ord Shortening Time  
Additional Text: Ex Parte Application for Order Shortening Time Concerning Motion to Extend Discovery Deadline for Limited Purposes of Deposing Jay Kvam - Transaction 7614795 - Approved By: NOREVIEW : 12-02-2019:15:25:58
- 224 12/2/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7614809 - Approved By: NOREVIEW : 12-02-2019:15:27:39
- 225 12/2/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7615276 - Approved By: NOREVIEW : 12-02-2019:16:56:22
- 226 12/2/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7615291 - Approved By: NOREVIEW : 12-02-2019:16:58:22  
DOCUMENT TITLE: BRIAN MINEAU & LEGION INVESTMENTS LLC EX PARTE APPLICATION FOR ORDER SHORTENING TIME CONCERNING MOTION TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JAY KVAM  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 12-2-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 227 12/2/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7615307 - Approved By: NOREVIEW : 12-02-2019:17:00:13
- 228 12/5/2019 - 3245 - Ord Shortening Time  
Additional Text: AND STAYING DISCOVERY PENDING RESOLUTION OF MOTION FOR PROTECTIVE ORDER - Transaction 7622052 - Approved By: NOREVIEW : 12-05-2019:13:08:10
- 229 12/5/2019 - S200 - Request for Submission Complet  
Additional Text: OST
- 230 12/5/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7622053 - Approved By: NOREVIEW : 12-05-2019:13:09:20
- 231 12/5/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Shortening Time and Staying Discovery Pending Resolution of Motion for Protective Order - Transaction 7622336 - Approved By: NOREVIEW : 12-05-2019:14:07:58
- 232 12/5/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7622339 - Approved By: NOREVIEW : 12-05-2019:14:08:58
- 233 12/6/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO DEFENDANTS' MOTION TO EXTEND DISCOVERY DEADLINE; AND (IN THE ALTERNATIVE) CROSS-MOTION FOR PROTECTIVE ORDER; MOTION FOR ATTORNEY'S FEES - Transaction 7625230 - Approved By: YVILORIA : 12-06-2019:15:57:34
- 234 12/6/2019 - 1520 - Declaration  
Additional Text: DECLARATION OF MICHAEL L. MATUSKA, ESQ. IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION TO EXTEND DISCOVERY DEADLINE - Transaction 7625277 - Approved By: NOREVIEW : 12-06-2019:15:46:22
- 235 12/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7625332 - Approved By: NOREVIEW : 12-06-2019:15:51:16

- 236 12/6/2019 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO PLAINTIFF'S SECOND MOTION TO COMPEL - Transaction 7625341 - Approved By: YVILORIA : 12-06-2019:15:58:10
- 237 12/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7625417 - Approved By: NOREVIEW : 12-06-2019:16:02:02
- 238 12/6/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7625420 - Approved By: NOREVIEW : 12-06-2019:16:02:40
- 239 12/11/2019 - 3795 - Reply...  
Additional Text: REPLY IN SUPPORT OF MOTION TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JAY KVAM - Transaction 7632959 - Approved By: CSULEZIC : 12-11-2019:15:06:30
- 240 12/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7632990 - Approved By: NOREVIEW : 12-11-2019:15:07:49
- 241 12/11/2019 - 3790 - Reply to/in Opposition  
Additional Text: PLAINTIFF'S REPLY TO OPPOSITION TO PLAINTIFF'S SECOND MOTION TO COMPEL - Transaction 7633267 - Approved By: CSULEZIC : 12-11-2019:16:10:01
- 242 12/11/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7633330 - Approved By: NOREVIEW : 12-11-2019:15:57:20  
DOCUMENT TITLE: BRIAN MINEAU AND LEGION INVESTMENTS LLC MOTION TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JAY KVAN FILED 12-2-19  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 12-11-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 243 12/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7633338 - Approved By: NOREVIEW : 12-11-2019:15:58:40
- 244 12/11/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7633416 - Approved By: NOREVIEW : 12-11-2019:16:11:28
- 245 12/12/2019 - 3860 - Request for Submission  
Additional Text: SECOND MOTION TO COMPEL FILED 11/26/19 - Transaction 7634645 - Approved By: NOREVIEW : 12-12-2019:10:36:42  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 12/12/19  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 246 12/12/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7634650 - Approved By: NOREVIEW : 12-12-2019:10:37:42
- 247 12/12/2019 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO CROSS-MOTION FOR PROTECTIVE ORDER - Transaction 7634784 - Approved By: CSULEZIC : 12-12-2019:11:30:51
- 248 12/12/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7634917 - Approved By: NOREVIEW : 12-12-2019:11:31:56
- 249 12/18/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7645063 - Approved By: NOREVIEW : 12-18-2019:13:00:07  
DOCUMENT TITLE: CROSS-MOTION FOR PROTECTIVE ORDER FILED 12-6-19 AND OPPOSITION AND REPLY  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 12-18-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 250 12/18/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7645068 - Approved By: NOREVIEW : 12-18-2019:13:01:07

- 251 12/18/2019 - 3370 - Order ...  
Additional Text: REFERRING DISCOVERY MOTION TO COMMISSIONER FOR RECOMMENDATION - Transaction 7645926 -  
Approved By: NOREVIEW : 12-18-2019:15:16:29
- 252 12/18/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7645933 - Approved By: NOREVIEW : 12-18-2019:15:17:59
- 253 12/30/2019 - 3060 - Ord Granting Mtn ...  
Additional Text: TO EXTEND DISCOVERY DEADLINE FOR LIMITED PURPOSE OF DEPOSING JAY KVAM - Transaction 7659276 -  
Approved By: NOREVIEW : 12-30-2019:13:48:23
- 254 12/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7659305 - Approved By: NOREVIEW : 12-30-2019:13:51:19
- 255 12/30/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER
- 256 1/2/2020 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7663191 - Approved By: NOREVIEW : 01-02-2020:09:49:26
- 257 1/2/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7663207 - Approved By: NOREVIEW : 01-02-2020:09:51:32
- 258 1/6/2020 - \$2200 - \$Mtn for Summary Judgment  
Additional Text: Transaction 7669936 - Approved By: CSULEZIC : 01-06-2020:16:11:08
- 259 1/6/2020 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$200.00 was made on receipt DCDC652543.
- 260 1/6/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7670237 - Approved By: NOREVIEW : 01-06-2020:16:17:34
- 261 1/10/2020 - S200 - Request for Submission Complet  
Additional Text: PLAINTIFF SECOND MOTION TO COMPEL submitted 12/30/19  
D. SPINELLA
- 262 1/10/2020 - 1945 - Master's Recommendation/Ord  
Additional Text: RECOMMENDATION FOR ORDER - Transaction 7679790 - Approved By: NOREVIEW : 01-10-2020:13:01:41
- 263 1/10/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7679791 - Approved By: NOREVIEW : 01-10-2020:13:02:40
- 264 1/10/2020 - 2245 - Mtn in Limine  
Additional Text: MOTION IN LIMINE TO EXCLUDE EXPERT OPINION - Transaction 7680310 - Approved By: NOREVIEW :  
01-10-2020:15:08:00
- 265 1/10/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7680330 - Approved By: NOREVIEW : 01-10-2020:15:10:20
- 266 1/13/2020 - 2630 - Objection to ...  
Additional Text: OBJECTION TO RECOMMENDATION FOR ORDER - Transaction 7683168 - Approved By: CSULEZIC :  
01-13-2020:16:46:48
- 267 1/13/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7683274 - Approved By: NOREVIEW : 01-13-2020:16:48:16
- 268 1/14/2020 - MIN - \*\*\*Minutes  
Additional Text: 1-14-20 PRE-TRIAL CONFERENCE - Transaction 7684278 - Approved By: NOREVIEW : 01-14-2020:11:04:22

- 269 1/14/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7684288 - Approved By: NOREVIEW : 01-14-2020:11:05:53
- 270 1/15/2020 - 2700 - Ord After Hearing...  
Additional Text: PRETRIAL CONFERENCE - Transaction 7686456 - Approved By: NOREVIEW : 01-15-2020:09:23:16
- 271 1/15/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7686460 - Approved By: NOREVIEW : 01-15-2020:09:24:19
- 272 1/16/2020 - 2490 - Motion ...  
Additional Text: MOTION FOR LEAVE TO EXCEED PAGE LIMIT - Transaction 7691094 - Approved By: CSULEZIC : 01-16-2020:15:51:38
- 273 1/16/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7691200 - Approved By: NOREVIEW : 01-16-2020:15:52:58
- 274 1/16/2020 - \$2160 - \$Mtn Partial Sum Judgment  
Additional Text: Opposition to Defendant's Motion for Summary Judgment; and Cross Motion for Partial Summary Judgment - Transaction 7691235 - Approved By: CSULEZIC : 01-16-2020:16:09:00
- 275 1/16/2020 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$200.00 was made on receipt DCDC653329.
- 276 1/16/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7691259 - Approved By: NOREVIEW : 01-16-2020:16:12:07
- 277 1/21/2020 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO DEFENDANTS MOTION IN LIMINE - Transaction 7695504 - Approved By: CSULEZIC : 01-21-2020:14:17:24
- 278 1/21/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7695802 - Approved By: NOREVIEW : 01-21-2020:14:18:47
- 279 1/21/2020 - 3880 - Response...  
Additional Text: RESPONSE TO OBJECTION TO RECOMMENDATION FOR ORDER - Transaction 7696576 - Approved By: CSULEZIC : 01-22-2020:08:50:02
- 280 1/22/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7696954 - Approved By: NOREVIEW : 01-22-2020:08:51:14
- 281 1/22/2020 - 4105 - Supplemental ...  
Additional Text: SUPPLEMENT TO OPPOSITION TO DEFENDANTS MOTION IN LIMINE - Transaction 7698085 - Approved By: NOREVIEW : 01-22-2020:13:20:44
- 282 1/22/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7698098 - Approved By: NOREVIEW : 01-22-2020:13:22:45
- 283 1/23/2020 - 3795 - Reply...  
Additional Text: Reply in Support of Motion for Summary Judgment - Transaction 7701404 - Approved By: CSULEZIC : 01-23-2020:15:50:36
- 284 1/23/2020 - 3860 - Request for Submission  
Additional Text: MOTION FOR SUMMARY JUDGMENT FILED 1/06/2020 - Transaction 7701404 - Approved By: CSULEZIC : 01-23-2020:15:50:36  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 1/23/2020  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 285 1/23/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7701675 - Approved By: NOREVIEW : 01-23-2020:15:51:36

- 286 1/24/2020 - 4302 - Withdrawal ...  
Additional Text: Withdrawal of Jury Demand - Transaction 7703268 - Approved By: NOREVIEW : 01-24-2020:13:01:12
- 287 1/24/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7703271 - Approved By: NOREVIEW : 01-24-2020:13:02:10
- 288 1/24/2020 - S200 - Request for Submission Complet  
Additional Text: MOTION DENIED FROM THE BENCH AT PRETRIAL CONFERENCE SET ON 1/14/20
- 289 1/24/2020 - 2175 - Mtn for Reconsideration  
Additional Text: PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION, ENTERED MAY 16, 2019; FOR DISCOVERY SANCTIONS; AND FOR OTHER RELIEF - Transaction 7704237 - Approved By: CSULEZIC : 01-24-2020:16:47:49
- 290 1/24/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7704337 - Approved By: NOREVIEW : 01-24-2020:16:48:54
- 291 1/28/2020 - 3795 - Reply...  
Additional Text: REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EXPERT OPINION - Transaction 7708107 - Approved By: YVILORIA : 01-28-2020:11:34:12
- 292 1/28/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7708208 - Approved By: NOREVIEW : 01-28-2020:11:35:14
- 293 1/30/2020 - 3370 - Order ...  
Additional Text: ORDER SCHEDULING SETTLEMENT CONFERENCE FOR FEBRUARY 24, 2020, AT 9:00 A.M. - Transaction 7712813 - Approved By: NOREVIEW : 01-30-2020:11:25:36
- 294 1/30/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7712816 - Approved By: NOREVIEW : 01-30-2020:11:26:47
- 295 1/30/2020 - 3860 - Request for Submission  
Additional Text: MOTION IN LIMINE TO EXCLUDE EXPERT OPINION (DEFENDANTS MOTION IN LIMINE #1) FILED 1/10/2020 - Transaction 7713988 - Approved By: NOREVIEW : 01-30-2020:15:51:41  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 1/30/2020  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 296 1/30/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7714004 - Approved By: NOREVIEW : 01-30-2020:15:54:00
- 297 1/30/2020 - 3860 - Request for Submission  
Additional Text: OBJECTION TO RECOMMENDATION FOR ORDER FILED 1/13/2020 - Transaction 7714013 - Approved By: NOREVIEW : 01-30-2020:15:55:16  
PARTY SUBMITTING: AUSTIN SWEET ESQ  
DATE SUBMITTED: 1/30/2020  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 298 1/30/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7714019 - Approved By: NOREVIEW : 01-30-2020:15:56:26
- 299 1/31/2020 - 3695 - Pre-Trial Memorandum  
Additional Text: Legion and Mineau's NRCP 16.1 Pretrial Disclosures - Transaction 7715749 - Approved By: NOREVIEW : 01-31-2020:14:15:57
- 300 1/31/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7715755 - Approved By: NOREVIEW : 01-31-2020:14:17:08
- 301 1/31/2020 - 3860 - Request for Submission

Additional Text: MOTION FOR LEAVE TO EXCEED PAGE LIMIT FILED 1/16/2020- Transaction 7715811 - Approved By: NOREVIEW : 01-31-2020:14:28:01  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 1/31/2020  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:

302 1/31/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7715816 - Approved By: NOREVIEW : 01-31-2020:14:29:03

303 1/31/2020 - 3695 - Pre-Trial Memorandum

Additional Text: PLAINTIFF'S PRETRIAL DISCLOSURES PURSUANT TO NRCP 16.1(a)(3) Transaction 7716299 - Approved By: NOREVIEW : 01-31-2020:16:04:32

304 1/31/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7716304 - Approved By: NOREVIEW : 01-31-2020:16:05:41

305 2/3/2020 - 3695 - Pre-Trial Memorandum

Additional Text: PLAINTIFF'S AMENDED PRETRIAL DISCLOSURES PURSUANT TO NRCP 16.1(a)(3) - Transaction 7717684 - Approved By: NOREVIEW : 02-03-2020:12:14:23

306 2/3/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7717686 - Approved By: NOREVIEW : 02-03-2020:12:15:24

307 2/6/2020 - S200 - Request for Submission Complet

Additional Text: RFS FILED AFTER ALL OBJECTIONS/RESPONSES FILED.

308 2/7/2020 - 2645 - Opposition to Mtn ...

Additional Text: OPPOSITION TO MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION, ENTERED MAY 16, 2019; FOR DISCOVERY SANCTIONS; AND FOR OTHER RELIEF - Transaction 7729098 - Approved By: CSULEZIC : 02-07-2020:14:33:39

309 2/7/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7729194 - Approved By: NOREVIEW : 02-07-2020:14:34:37

310 2/9/2020 - 3795 - Reply...

Additional Text: PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION, ENTERED MAY 16, 2019; FOR DISCOVERY SANCTIONS; AND FOR OTHER RELIEF - Transaction 7730082 - Approved By: CSULEZIC : 02-10-2020:09:06:30

311 2/10/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7730379 - Approved By: NOREVIEW : 02-10-2020:09:09:43

312 2/10/2020 - 3860 - Request for Submission

Additional Text: REQUEST FOR SUBMISSION OF MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION ENTERED MAY 16, 2019 - Transaction 7731076 - Approved By: NOREVIEW : 02-10-2020:11:42:28  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 2/10/2020  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:

313 2/10/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7731084 - Approved By: NOREVIEW : 02-10-2020:11:43:37

314 2/14/2020 - 2245 - Mtn in Limine

Additional Text: Plaintiff's First Motion in Limine - Transaction 7742278 - Approved By: NOREVIEW : 02-14-2020:13:44:08

315 2/14/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7742287 - Approved By: NOREVIEW : 02-14-2020:13:45:27

316 2/14/2020 - 2630 - Objection to ...

Additional Text: PLAINTIFF'S OBJECTIONS TO "LEGION AND MINEAUS' 16.1 PRETRIAL DISCLOSURES" - Transaction 7742977 - Approved By: CSULEZIC : 02-14-2020:16:53:38

- 317 2/14/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7743106 - Approved By: NOREVIEW : 02-14-2020:16:54:42
- 318 2/17/2020 - 2630 - Objection to ...  
Additional Text: DEFENDANTS' OBJECTIONS TO PLAINTIFF'S AMENDED PRETRIAL DISCLOSURES PURSUANT TO NRCP 16.1 - Transaction 7743364 - Approved By: CSULEZIC : 02-18-2020: 11:13:12
- 319 2/18/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7744226 - Approved By: NOREVIEW : 02-18-2020:11:14:23
- 320 2/24/2020 - 4205 - Trial Statement...  
Additional Text: DEFENDANTS' TRIAL STATEMENT - Transaction 7756484 - Approved By: NOREVIEW : 02-24-2020:15:43:00
- 321 2/24/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7756491 - Approved By: NOREVIEW : 02-24-2020:15:44:12
- 322 2/24/2020 - MIN - \*\*\*Minutes  
Additional Text: 2/24/2020 - SETTLEMENT CONFERENCE - Transaction 7756799 - Approved By: NOREVIEW : 02-24-2020:16:34:28
- 323 2/24/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7756809 - Approved By: NOREVIEW : 02-24-2020:16:36:13
- 324 2/26/2020 - 4220 - Trial Statement - Plaintiff  
Additional Text: PLAINTIFF JAY KVAM'S TRIAL STATEMENT 3/02/2020 @9:00 Transaction 7760675 - Approved By: NOREVIEW : 02-26-2020:11:07:52
- 325 2/26/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7760682 - Approved By: NOREVIEW : 02-26-2020:11:08:52
- 326 2/27/2020 - 4050 - Stipulation ...  
Additional Text: STIPULATION TO VACATE TRIAL - Transaction 7764148 - Approved By: NOREVIEW : 02-27-2020:14:06:39
- 327 2/27/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7764155 - Approved By: NOREVIEW : 02-27-2020:14:08:26
- 328 2/27/2020 - 4185 - Transcript  
Additional Text: Transaction 7764792 - Approved By: NOREVIEW : 02-27-2020:15:48:54
- 329 2/27/2020 - 4105 - Supplemental ...  
Additional Text: SUPPLEMENT TO PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER AFFIRMING DISCOVERY COMMISSIONER'S RECOMMENDATION, ENTERED MAY 16, 2019; FOR DISCOVERY SANCTIONS; AND FOR OTHER RELIEF - Transaction 7764825 - Approved By: NOREVIEW : 02-27-2020:15:53:46
- 330 2/27/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7764830 - Approved By: NOREVIEW : 02-27-2020:15:53:06
- 331 2/27/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7764873 - Approved By: NOREVIEW : 02-27-2020:15:59:12
- 332 2/28/2020 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO PLAINTIFF'S FIRST MOTION IN LIMINE - Transaction 7767206 - Approved By: YVILORIA : 02-28-2020:16:24:23
- 333 2/28/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7767425 - Approved By: NOREVIEW : 02-28-2020:16:25:23
- 334 3/4/2020 - 3790 - Reply to/in Opposition  
Additional Text: PLAINTIFF'S REPLY TO OPPOSITION TO FIRST MOTION IN LIMINE - Transaction 7774210 - Approved By: CSULEZIC : 03-04-2020:14:14:45



- 335 3/4/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7774364 - Approved By: NOREVIEW : 03-04-2020:14:16:59
- 336 3/5/2020 - 3860 - Request for Submission  
Additional Text: Transaction 7776680 - Approved By: NOREVIEW : 03-05-2020:11:45:06  
DOCUMENT TITLE: PLAINTIFF'S FIRST MOTION IN LIMINE FILED 2-14-2020  
PARTY SUBMITTING: MICHAEL MATUSKA ESQ  
DATE SUBMITTED: 3-5-2020  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 337 3/5/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7776684 - Approved By: NOREVIEW : 03-05-2020:11:46:08
- 338 3/8/2020 - 4185 - Transcript  
Additional Text: oral arguments - Transaction 7780650 - Approved By: NOREVIEW : 03-08-2020:19:26:34
- 339 3/8/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7780651 - Approved By: NOREVIEW : 03-08-2020:19:27:24
- 340 3/21/2020 - 4185 - Transcript  
Additional Text: pretrialconference - Transaction 7803128 - Approved By: NOREVIEW : 03-21-2020:11:26:52
- 341 3/21/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7803130 - Approved By: NOREVIEW : 03-21-2020:11:27:49
- 342 4/7/2020 - 2490 - Motion ...  
Additional Text: Motion to Disqualify Judge - Transaction 7824985 - Approved By: NMASON : 04-07-2020:12:04:04
- 343 4/7/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7824996 - Approved By: NOREVIEW : 04-07-2020:12:06:11
- 344 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 345 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 346 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 347 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 348 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 349 4/9/2020 - S200 - Request for Submission Complet  
Additional Text: PRECLUDED FROM ENTERING ORDER DUE TO DISQUALIFICATION MOTION
- 350 4/14/2020 - 3880 - Response...  
Additional Text: ANSWER TO PLAINTIFF'S MOTION TO DISQUALIFY JUDGE - Transaction 7835218 - Approved By: MPURDY : 04-15-2020:07:48:58
- 351 4/15/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7835395 - Approved By: NOREVIEW : 04-15-2020:07:51:48

- 352 4/22/2020 - 3795 - Reply...  
Additional Text: REPLY TO ANSWER TO MOTION TO DISQUALIFY JUDGE - Transaction 7845023 - Approved By: CSULEZIC : 04-22-2020:09:57:43
- 353 4/22/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7845284 - Approved By: NOREVIEW : 04-22-2020:10:00:40
- 354 4/22/2020 - 3860 - Request for Submission  
Additional Text: Request for Submission - Transaction 7845889 - Approved By: NOREVIEW : 04-22-2020:12:56:01  
DOCUMENT TITLE: MOTION TO DISQUALIFY JUDGE (NO ORDER ATTACHED)  
PARTY SUBMITTING: MICHAEL L MATUSKA ESQ  
DATE SUBMITTED: 4/7/20  
SUBMITTED BY: JBYE  
DATE RECEIVED JUDGE OFFICE:
- 355 4/22/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7845891 - Approved By: NOREVIEW : 04-22-2020:12:57:03
- 356 4/23/2020 - 2840 - Ord Denying ...  
Additional Text: ORDER DENYING MOTION TO DISQUALIFY THE PRESIDING JUDGE - Transaction 7847417 - Approved By: NOREVIEW : 04-23-2020:11:26:04
- 357 4/23/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7847424 - Approved By: NOREVIEW : 04-23-2020:11:27:25
- 358 4/23/2020 - S200 - Request for Submission Complet  
Additional Text: order
- 359 4/27/2020 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7851883 - Approved By: NOREVIEW : 04-27-2020:16:02:23
- 360 4/27/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7851886 - Approved By: NOREVIEW : 04-27-2020:16:03:23
- 361 6/5/2020 - 3025 - Ord Granting/Denying in Part  
Additional Text: DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; ORDER GRANTING SUMMARY JUDGMENT ON CLAIM PURSUANT TO COURT'S NRCP 56 NOTICE - Transaction 7910613 - Approved By: NOREVIEW : 06-05-2020:09:22:49
- 362 6/5/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7910620 - Approved By: NOREVIEW : 06-05-2020:09:24:04
- 363 6/5/2020 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7911496 - Approved By: NOREVIEW : 06-05-2020:14:00:36
- 364 6/5/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7911499 - Approved By: NOREVIEW : 06-05-2020:14:01:36
- 365 6/29/2020 - \$2515 - \$Notice/Appeal Supreme Court  
Additional Text: NOTICE OF APPEAL - Transaction 7946779 - Approved By: YVILORIA : 06-29-2020:11:27:35
- 366 6/29/2020 - 1310 - Case Appeal Statement  
Additional Text: Transaction 7946795 - Approved By: NOREVIEW : 06-29-2020:11:19:19
- 367 6/29/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7946798 - Approved By: NOREVIEW : 06-29-2020:11:20:21
- 368 6/29/2020 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$24.00 was made on receipt DCDC660365.

- 369 6/29/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7946831 - Approved By: NOREVIEW : 06-29-2020:11:28:50
- 370 6/29/2020 - SAB - \*\*Supreme Court Appeal Bond  
Additional Text: JAY KVAM - Transaction 7946904 - Approved By: YVILORIA : 06-29-2020:11:45:58
- 371 6/29/2020 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$500.00 was made on receipt DCDC660366.
- 372 6/29/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7946911 - Approved By: NOREVIEW : 06-29-2020:11:46:58
- 373 6/30/2020 - 1350 - Certificate of Clerk  
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7948939 - Approved By: NOREVIEW : 06-30-2020:10:43:03
- 374 6/30/2020 - 4113 - District Ct Deficiency Notice  
Additional Text: NOTICE OF APPEAL DEFICIENCY - SUPREME COURT FILING FEES (DEFICIENCY REQUIRED TO BE FILED PER SUPREME COURT) - Transaction 7948939 - Approved By: NOREVIEW : 06-30-2020:10:43:03
- 375 6/30/2020 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7948951 - Approved By: NOREVIEW : 06-30-2020:10:44:21

Code:

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JAY KVAM,

Plaintiff,

Case No.: CV18-00764

vs.

Dept. No: 6

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. May Street, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

BRIAN MINEAU and LEGION  
INVESTMENTS, LLC,

Counterclaimant,

vs,

JAY KVAM,

Counterdefendant

**ORDER GRANTING, IN PART, AND DENYING, IN PART  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT;  
ORDER GRANTING SUMMARY JUDGMENT  
ON CLAIM PURSUANT TO COURT'S NRCP 56 NOTICE**

Before this Court is a *Motion for Summary Judgment* ("Motion") filed by  
Defendants/Counterclaimants BRIAN MINEAU ("Mr. Mineau") and LEGION

1 INVESTMENTS, LLC (“Legion”) (hereinafter “Mineau/Legion” unless individually  
2 referenced), by and through their attorney of record, Gunderson Law Firm.  
3 Plaintiff/Counterdefendant JAY KVAM (“Mr. Kvam”) filed his *Opposition to Defendants’*  
4 *Motion for Summary Judgment; and Cross Motion for Partial Summary Judgment*<sup>1</sup>  
5 (“*Opposition*”), by and through his attorney of record, Matuska Law Offices. Mineau and  
6 Legion filed a *Reply in Support of Motion for Summary Judgment* (“*Reply*”). The *Reply*  
7 does not address the merits of the countermotion portion of the *Opposition* but does  
8 request that the Court strike it. Thereafter, the matter was submitted for decision.  
9

10 The Court heard oral arguments on the *Motion* (“Hearing”), requested counsel to  
11 provide proposed orders, and the matter was taken under advisement. As a result of oral  
12 arguments, this Court conducted further review of the pleadings and papers filed,  
13 conducted additional research and gave notice under NRCP 56 of its intention to grant  
14 summary judgment on one of Mineau/Legion’s claims that was not subject of their *Motion*.  
15 The Court heard additional argument in this regard. This Order follows.

16 **I. FACTUAL AND PROCEDURAL BACKGROUND.**

17 This action involves an agreement to purchase, restore, and resell a house in  
18 Chicago (“the Property”). *Second Amended Verified Complaint* (“SAC”), ¶ 8. Mr. Kvam  
19 provided funding for the Property. SAC, ¶ 8a. Mineau/Legion were designated to manage  
20 the operation. SAC, ¶ 8c.

21  
22 Mr. Kvam asserts he demanded his money back because he did not receive any  
23 interest payments and because renovation activity on the Property ceased. SAC, ¶¶

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24  
25 <sup>1</sup>The Court admonished counsel in a pretrial conference on January 14, 2020, that cross motions  
26 are not allowed under applicable court rules. WDCR 10(3)(“Any motion, opposition, reply, etc.,  
must be filed as a separate document . . .”). It appears Mr. Kvam has disregarded the Court’s  
admonishment. At the February 11, 2010, hearing on the *Motion* and *Opposition*, the Court  
again admonished counsel of the same.

1 8a,17. Mr. Kvam also asserts that he is entitled to receive a return of his investment, plus  
2 interest, prior to the sale of the Property. SAC, ¶¶ 12-17. In addition, Mr. Kvam alleges  
3 Mineau/Legion sold the Property at a loss and concealed the sale. SAC, ¶ 16.

4 Terms were provided for return on Mr. Kvam's investment if investment was  
5 profitable and in the event if was not. Mr. Kvam anticipated an approximate \$13,000  
6 profit. When the project failed, Mr. Kvam filed an action.

7 The original *Complaint* was filed by Mr. Kvam on April, 2018, asserting claims of  
8 relief for: (1) Declaration of Joint Venture; (2) Rescission or Reformation of Agreement;  
9 (3) Breach of Contract - Loan; (4) Breach of Contract and Tortious Breach of Implied  
10 Covenant of Good Faith and Fair Dealing; (5) Accounting; (6) Court Supervision of  
11 Dissolution and Winding Up, and Appointment of Receiver; (7) Temporary and Permanent  
12 Injunction; and, (11) Derivative Claim. *Complaint*.

13 The original *Answer and Counterclaim* (filed as one document) was filed on June  
14 5, 2018 and alleges eleven claims for relief for: (1) Breach of Contract; (2) Breach of the  
15 Covenant of Good Faith and Fair Dealing; (3) Declaratory Relief; (4) Intentional  
16 Interference with Prospective Economic Advantage; (5) Deceptive Trade Practices; (6)  
17 Abuse of Process; (7) Trespass; (8) Trespass to Chattels; (9) Conversion; (10) Fraud;  
18 and (11) Negligence.<sup>2</sup>

19 On September 4, 2018, the Court<sup>3</sup> entered its *Order* on Mr. Kvam's *Motion for*  
20 *Dissolution*. The Court declined to enter the order requested, finding the record did not  
21  
22  
23  
24

---

25 <sup>2</sup> The Tenth Claim for Relief (Fraud) and the Eleventh Claim for Relief (Negligence) are  
26 identified as "Tenth Claim for Relief."

<sup>3</sup> This matter was proceeding in Department 3 before Judge Jerome M. Polaha until June 6, 2019.

1 support an adjudication of the issues at that time and was premature due to lack of  
2 discovery. *Order*, p. 2.

3 On September 5, 2018, the Court dismissed Mineau/Legion's claims: (8) Trespass  
4 to Chattels and (9) Conversion. The Court granted Mr. Kvam's *Motion for a More Definite*  
5 *Statement* on claims: (5) Deceptive Trade Practices; (10) Fraud; and (11) Negligence.

6 Mineau/Legion filed their *First Amended Counterclaim ("FACC")* on October 5,  
7 2018 (The *Answer* was not restate; the *FACC* was filed as a separate document)  
8 asserting the same claims for relief set forth in the original *Answer and Counterclaim* for:  
9 (1) Breach of Contract; (2) Breach of the Covenant of Good Faith and Fair Dealing; (3)  
10 Declaratory Relief; (4) Intentional Interference with Prospective Economic Advantage; (5)  
11 Deceptive Trade Practices; (6) Abuse of Process; (7) Trespass; (8) Trespass to Chattels;  
12 (9) Conversion; (10) Fraud; and (11) Negligence.

13 In response, Mr. Kvam filed his *Motion to Dismiss and for Summary Judgment* on  
14 October 25, 2018. Mr. Kvam requested that the Court dismiss the *FACC's* Fifth  
15 (Deceptive Trade Practices), Tenth (Fraud), and Eleventh Claims for Relief (Negligence),  
16 dismiss any remaining claims dependent on allegations regarding the Atlas Investors  
17 Southside LLC, and grant summary judgment on all *FACC* claims for relief. *Motion to*  
18 *Dismiss and for Summary Judgment*, p. 1.

19 On January 9, 2019, the Court entered summary judgment in favor of Mr. Kvam on  
20 Mineau/Legion's counterclaims for: (1) Breach of Contract; (2) Breach of Covenant of  
21 Good Faith and Fair Dealing; (4) Intentional Interference with Prospective Economic  
22 Advantage; (5) Deceptive Trade Practice (indicated as dismissed); (6) Abuse of Process;  
23 (7) Trespass; (10) Fraud; and (11) Negligence (indicated as dismissed). Mineau/Legion's  
24 *FACC* Third Claim for Relief for Declaratory Relief remained viable.  
25  
26

1 Mr. Kvam did not file an answer to the *FACC* Third Claim for Relief for Declaratory  
2 Relief and has not done so to date.

3 On January 31, 2019, Mr. Kvam filed his *First Amended Verified Complaint*  
4 (*"FAC"*), asserting: (1) Declaration of Joint Venture; (2) Rescission or Reformation of  
5 Agreement; (3) Breach of Contract - Loan; (4) Breach of Contract and Tortious Breach of  
6 Implied Covenant of Good Faith and Fair Dealing; (5) Accounting; (6) Court Supervision  
7 of Dissolution and Winding Up, and Appointment of Receiver; (7) Temporary and  
8 Permanent Injunction; (8) Fraud, Fraudulent Inducement and Fraudulent Concealment;  
9 and, (9) Derivative Claim.

10  
11 On February 19, 2019, Mineau/Legion filed their *Answer to First Amended Verified*  
12 *Complaint*.

13 On September 11, 2019, Mr. Kvam filed his *SAC* asserting claims of relief for: (1)  
14 Declaration of Joint Venture; (2) Rescission or Reformation of Agreement; (3) Breach of  
15 Contract - Loan; (4) Breach of Contract and Tortious Breach of Implied Covenant of Good  
16 Faith and Fair Dealing; (5) Accounting; (6) Court Supervision of Dissolution and Winding  
17 Up, and Appointment of Receiver; (7) Temporary and Permanent Injunction; (8) Fraud,  
18 Fraudulent Inducement and Fraudulent Concealment; (9) Conversion; (10) RICO; and,  
19 (11) Derivative Claim. *SAC*, p. 4-10. The *SAC* is the operative complaint.

20  
21 On September 25, 2019, Mineau/Legion filed their *Answer to Second Amended*  
22 *Verified Complaint*.

23 The claims that remain viable at this time are Mr. Kvam's First through Eleventh  
24 Causes of Action set forth in the *SAC* and Mineau/Legion's *FACC* Third Claim for Relief  
25 for Declaratory Relief.



1 The SAC's First Cause of Action for Declaration of Joint Venture and  
2 Mineau/Legion's Third Claim for Relief for Declaratory Relief in the *FACC* compare as  
3 follows:

<b><u>MR. KVAM'S FIRST CAUSE OF ACTION</u></b> <b>(Declaration of Joint Venture)</b>	<b><u>MINEAU/LEGION'S THIRD CLAIM FOR RELIEF</u></b> <b>(Declaratory Relief)</b>
20. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.	32. Mineau and Legion reallege the allegations contained in the other paragraphs of this Counterclaim and incorporate them by reference as if fully set forth here.
21. There is an actual, justifiable, present controversy between KVAM, MINEAU, and LEGION on the question of whether the Agreement identified in Par. 8 constitutes a joint venture agreement, an agreement for MINEAU to transfer his membership interest in LEGION, or some other type of agreement.	33. A justiciable controversy has arisen between the parties regarding their respective rights, restriction, duties, and obligations pursuant to the Agreement and the House.
22. KVAM therefore requests a declaration on the legal rights created by the Agreement, the status of the unincorporated joint venture referred to herein as 7747 and the respective interests of the joint venturers.	34. Mineau's and Legion's interests in the controversy are adverse to Kvam's.
23. KVAM further requests a declaration on the amount of loans and contributions made to the 7747 by each of the joint venturers.	35. Mineau's and Legion's interests in the controversy are legally protectable.
24. KVAM further requests a declaration that 7747, MINEAU, and LEGION were required to assign the entire interest in the 7747 to KVAM in the event it failed in any way.	36. The controversy is ripe for judicial determination.

25 SAC, generally; *FACC*, generally. During argument, Mineau/Legion concurred the  
26 legal entity was a joint venture. *Transcript of Proceedings, Oral Arguments (Motion for*

1 *Summary Judgment*), February 11, 2020 (“TOP, MSJ”). The joint venture/partnership  
2 was created for acquisition of the Property.

3 At the Pre-trial Conference and Pre-trial Motions hearing, the Court rendered its  
4 oral ruling on the *MSJ*, including giving NRCP 56(f) notice that it intended to grant  
5 summary judgment on Mineau/Legion’s *FACC* Third Claim for Relief for Declaratory  
6 Relief. The Court further rendered its oral ruling on the claims on which it was denying  
7 summary judgment, such as SAC’s Fifth Claim for Relief for Accounting and the claims  
8 it was holding a ruling in abeyance, i.e. the dissolution claim and request for  
9 appointment of a receiver. *Transcript of Proceedings, Pre-trial Conference & Pretrial*  
10 *Motions, 2/27/2020 (“Tr.”)*, p. 9-13.

11  
12 **A. Motion for Summary Judgment**

13 In their *Motion*, Mineau/Legion seek summary judgment on the SAC’s eleven (11)  
14 causes of action. *Motion*, p. 11. Mineau/Legion did not seek summary judgment on  
15 *FACC*’s Third Claim for Relief for Declaratory Relief. *Motion*, p. 11.

16 On the SAC’s first claim (Declaration of Joint Venture), Mineau/Legion request a  
17 judicial declaration in Mineau/Legion’s favor regarding the parties’ respective rights and  
18 interests as there are no genuine dispute of material facts. *Motion*, p. 11-13.

19 On the SAC’s Mr. Kvam’s second claim (Rescission or Reformation of Agreement)  
20 Mineau/Legion seek summary judgment on the grounds Mr. Kvam has not produced any  
21 evidence to establish that the parties, at the time of contracting, shared a misconception  
22 about a vital fact upon which they based their bargain. *Motion*, p. 13-14.

23 On the SAC’s third claim (Breach of Contract – Loan), Mineau/Legion contend the  
24 Terms of Agreement establish the terms of a joint venture which lacks critical elements of  
25 a loan, including a defined borrower or a maturity date. *Motion*, p. 14-15.  
26

1 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
2 Covenant of Good Faith and Fair Dealing), Mineau/Legion assert they owed Mr. Kvam no  
3 affirmative duty to properly manage and complete the renovation, and the duty of loyalty  
4 only requires a partner to account to the partnership for any partnership property held by  
5 that partner. *Motion*, p. 16-19.

6 On the SAC's fifth claim, (Accounting), Mineau/Legion claim Nevada law only  
7 requires a partner to account to the partnership for any partnership property held by that  
8 partner which, in this case, was the Property itself, the proceeds from its sale of the  
9 Property, and the disposition of those assets which are entirely accounted for and not  
10 subject to genuine dispute. *Motion*, 19-20.

11 On the SAC's sixth claim (Court Supervision of Dissolution and Winding Up, and  
12 Appointment of Receiver), Mineau/Legion maintain the partnership only has two  
13 remaining assets: (1) its claims against TNT and (2) the proceeds from the sale of the  
14 Property in the amount of \$26,337.91 which are to be assigned to Mr. Kvam pursuant to  
15 the Terms of the Agreement. *Motion*, p. 20.

16 On the SAC's seventh claim (Temporary and Permanent Injunction),  
17 Mineau/Legion claim upon dissolution of the partnership and assignment of its assets to  
18 Mr. Kvam, the partnership will cease to exist thereby rendering this cause of action moot.  
19 *Motion*, p. 20.

20 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
21 Concealment), Mineau/Legion posit Mr. Kvam has not produced any admissible evidence  
22 to establish any of the elements of fraud because Mr. Mineau's statements, either  
23 personally or on behalf of Legion, were made in good faith and were true to the best of  
24 Mr. Mineau's knowledge. *Motion*, p. 21-22.

1 On the SAC's ninth claim, (Conversion), Mineau/Legion assert conversion only  
2 applies to personal property, and Mr. Kvam has not produced any admissible evidence to  
3 establish any of the other elements of conversion regarding the Property. *Motion*, p. 22.

4 On the SAC's tenth claim (RICO), Mineau/Legion argue Mr. Kvam has not  
5 produced any admissible evidence, and none exists, to establish any of the elements of a  
6 RICO claim. *Motion*, p. 23.

7 Finally, on the SAC's eleventh claim (Derivative Claim), Mineau/Legion state Mr.  
8 Kvam has not produced any admissible evidence to establish the partnership holds any  
9 independent claim for relief against Mineau/Legion. *Motion*, p. 24.

10  
11 **A. Opposition to Mineau/Legion's Motion for Summary Judgment;  
12 and Cross Motion for Partial Summary Judgment<sup>4</sup>.**

13 In his *Opposition*, Mr. Kvam claims, regarding his first claim (Declaration of Joint  
14 Venture), Mineau/Legion have changed their position, and conceded the parties formed a  
15 partnership pursuant to NRS 87.4322. *Opposition*, p. 16-19.

16 On the SAC's second claim (Rescission or Reformation of Agreement), Mr. Kvam  
17 asserts the Terms of Agreement does not purport to be a complete integration of the  
18 entire agreement between the parties, and it is not the entire agreement because Mr.  
19 Mineau induced Mr. Kvam to believe he was in charge of project, and he proceeded to  
20 sign the purchase agreement and escrow papers, procure the contractor, prepare and  
21 sign the Contractor Agreement, and instruct Mr. Kvam when to make payments.  
22 *Opposition*, p. 19-20.

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<sup>4</sup>It is notable that, although improperly filed, the cross motion contained in the *Opposition*, must  
assert there are no genuine issues of material fact on the SAC's claims. *Opposition*, generally.

1 On the SAC's third claim (Breach of Contract – Loan), Mr. Kvam contends the  
2 Terms of Agreement contain both a profit-sharing agreement and a loan agreement.  
3 *Opposition*, p. 20-21.

4 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
5 Covenant of Good Faith and Fair Dealing), Mr. Kvam states Mr. Mineau was in a superior  
6 and entrusted position in which Mr. Kvam imposed a special element of reliance due to  
7 Mr. Mineau's extensive handling of the Property project. *Opposition*, p. 21-23.

8 On the SAC's fifth claim (Accounting), Mr. Kvam argues Mr. Mineau failed to  
9 account, for the loans, capital contributions, and expenses despite holding title to the  
10 Property "as trustee." *Opposition*, p. 23-24.

11 On the SAC's sixth claim (Court Supervision of Dissolution and Winding Up, and  
12 Appointment of Receiver), Mr. Kvam posits winding up is incomplete because Mr. Mineau  
13 refuses to release funds to Mr. Kvam due to other claims to the funds. *Opposition*, p. 24.

14 On the SAC's seventh claim (Temporary and Permanent Injunction), Mr. Kvam  
15 maintains once the remaining funds are distributed and the joint venture finally wound up,  
16 this cause of action will be complete. *Opposition*, p. 25.

17 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
18 Concealment), Mr. Kvam incorporates broad arguments, but does not identify specific  
19 facts, regarding various types of fraud and deceit at issue: (1) fraudulent or intentional  
20 misrepresentation; (2) false promise; (3) Concealment; (4) Fraud by Nondisclosure  
21 (Silence); (5) Negligent Misrepresentation; and, (6) Constructive Fraud. *Opposition*, p.  
22 25-29.

23 On the SAC's ninth claim (Conversion), Mr. Kvam contends the conversion was  
24 diverting project funds and holding the proceeds of sale. *Opposition*, p. 29-31.

1 On the SAC's tenth claim (RICO), Mr. Kvam asserts the predicate act, for example,  
2 to establish a RICO claim derives from Mr. Mineau obtaining a signature from Mr. Kvam  
3 to obtain his money under false pretenses including the misrepresentation the money  
4 would be placed in a separate account. *Opposition*, p. 31-34.

5 Lastly, on the SAC's eleventh claim (Derivative Claim), Mr. Kvam stresses all of his  
6 claims are asserted on his own behalf and on behalf of the joint venture, which is  
7 permissible under applicable law. *Opposition*, p. 34.

#### 8 **A. Reply in Support of Motion for Summary Judgment**

9  
10 In their *Reply* on the SAC's first claim (Declaration of Joint Venture),  
11 Mineau/Legion assert all parties agree the Court should enter a judicial declaration the  
12 parties formed a partnership pursuant to NRS 87.4322; however, Mineau/Legion maintain  
13 there is simply no legal or factual basis upon which a jury could decide Mr. Kvam's  
14 investment of \$93,784.31 was a loan. *Reply*, p. 5-6.

15 On the SAC's second claim (Rescission or Reformation of Agreement),  
16 Mineau/Legion contend Mr. Kvam fails to offer any admissible evidence to establish he  
17 believed Mr. Mineau agreed to be "in charge of the project," or that the parties ever  
18 agreed upon any terms other than those set forth in the Terms of Agreement. *Reply*, p. 6-  
19 7.

20  
21 On the SAC's third claim (Breach of Contract – Loan), Mineau/Legion claim Mr.  
22 Kvam argues the Property was purchased not with a loan or borrowed funds, but with  
23 joint venture funding, which is consistent with the terms of a joint venture, not a loan.  
24 *Reply*, p. 7-8.

25 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
26 Covenant of Good Faith and Fair Dealing), Mineau/Legion maintain Mr. Kvam's

1 allegations fall well short of the "grievous and perfidious misconduct" standard as a matter  
2 of law. *Reply*, p. 8.

3 On the SAC's fifth claim (Accounting), Mineau/Legion state they prepared  
4 spreadsheets and delivered them to Mr. Kvam to provide the requested accounting.  
5 *Reply*, p. 9.

6 On the SAC's sixth and seventh claims (Court Supervision of Dissolution and  
7 Winding Up, and Appointment of Receiver and Temporary and Permanent Injunction),  
8 Mineau/Legion note Mr. Kvam does not appear to dispute the relief sought by  
9 Mineau/Legion. *Reply*, p. 9.

10 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
11 Concealment), Mineau/Legion posit Mr. Kvam's incorporated claims are very broadly pled  
12 and fail to contain any specific allegations. *Reply*, p. 9-12.

13 On the SAC's ninth claim (Conversion), Mineau/Legion assert Mr. Kvam has not  
14 presented evidence they exerted a distinct act of dominion over Mr. Kvam's personal  
15 property, rather Mr. Kvam merely alleges Mr. Mineau allowed TNT to commingle project  
16 funds with TNT's other funds. *Reply*, p. 12-13.

17 On the SAC's tenth claim (RICO), Mineau/Legion note Mr. Kvam fails his burden of  
18 establishing Mineau/Legion violated Nevada's RICO Act. *Reply*, p. 13-14.

19 On the SAC's eleventh claim (Derivative Claim), Mineau/Legion claim Mr. Kvam  
20 has conceded the partnership does not hold any independent claim for relief against  
21 Mineau/Legion other than the claims discussed above. *Reply*, p. 14.

22 Finally, Mineau/Legion request this Court strike Mr. Kvam's cross-motion contained  
23 within his *Opposition*. *Reply*, p. 15.

1 The Court finds it appropriate to strike the relief requested in the cross-motion and  
2 considers the document filed as an opposition only.

3 **II. STANDARD OF REVIEW.**

4 Summary judgment is appropriate under Rule 56 of the Nevada Rules of Civil  
5 Procedure "when the pleadings, depositions, answers to interrogatories, admissions, and  
6 affidavits, if any, that are properly before the court demonstrate that no genuine issue of  
7 material fact exists, and the moving party is entitled to judgment as a matter of law."  
8 Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada, 123 Nev. 598, 602, 172 P.3d 131, 134  
9 (2007). A factual dispute is genuine when the evidence is such that a rational trier of fact  
10 could return a verdict for the nonmoving party. Wood v. Safeway, Inc., 121 Nev. 724,  
11 731, 121 P.3d 1026, 1031 (2005). Further, a fact is material if the fact "might affect the  
12 outcome of the suit under the governing law." Anderson v. Liberty Lobby, Inc., 477 U.S.  
13 242, 248, 106 S.Ct. 2505, 2510 (1986). The pleadings and other proof "must be  
14 construed in a light most favorable to the nonmoving party," who bears the burden to "do  
15 more than simply show that there is some metaphysical doubt as to the operative facts in  
16 order to avoid summary judgment" in favor of the moving party. Id., 121 Nev. at 732, 121  
17 P.3d at 1031. The substantive law controls which factual disputes are material and will  
18 preclude summary judgment; other factual disputes are irrelevant. Id., 121 Nev. at 731,  
19 121 P.3d at 1031.

20  
21  
22 The manner in which each party may satisfy its burden of production depends on  
23 which party will bear the burden of persuasion on the challenged claim at trial. Cuzze,  
24 123 Nev. at 602, 172 P.3d at 134. If the moving party will bear the burden of persuasion  
25 (Mineau/Legion on *FACC*), that party must present evidence that would entitle it to a  
26 judgment as a matter of law in the absence of contrary evidence. Id. If the nonmoving



1 party will bear the burden of persuasion at trial (Mr. Kvam on SAC), the party moving for  
2 summary judgment (Mineau/Legion) may satisfy the burden of production in two ways: (1)  
3 the moving party may submit evidence which negates an essential element of the  
4 nonmoving party's claim, or (2) the moving party may merely point out the absence of  
5 evidence to support the nonmoving party's case. Id. Therefore, in such instances, in  
6 order to defeat summary judgment, the nonmoving party must transcend the pleadings  
7 and, by affidavit or other admissible evidence, **introduce specific facts** that show a  
8 genuine issue of material fact. Id. "The non-moving party must not simply rely on the  
9 pleadings and must do more than make 'conclusory allegations [in] an affidavit.'" Choi v.  
10 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020 (C.D. Cal.), citing, Lujan  
11 v. Nat'l Wildlife Fed'n, 497 U.S. 871, 888, 110 S.Ct. 3177, 3188 (1990); see also, Celotex  
12 Corp. v. Catreet, 477 U.S. 317, 324, 106 S.Ct. 2548, 2553 (1986). "Summary judgment  
13 must be granted for the moving party if the nonmoving party 'fails to make showing  
14 sufficient to establish an element essential to that party's case, and on which that party  
15 bears the burden of proof at trial.'" Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip  
16 Copy, March 25, 2020 (citing same).

17  
18 "Effect of Failing to Deny. An allegation—other than one relating to the amount  
19 of damages – is admitted if a responsive pleading is required and the allegation is not  
20 denied." NRCP 8(b)(6). An answer to counterclaim is a required responsive pleading.  
21 Bowers v. Edwards, 79 Nev 834, 389, 385 P.2d 783, 785 (1963).

22  
23 By way of the stricken cross-motion relief, Mr. Kvam on the one hand asserts  
24 there is no genuine issue of fact but in argument contends there is. The *Opposition*  
25 without citation to specific facts and after admitting facts by failing to file an answer to  
26 the FACC. He also attaches forty (48) exhibits without pointing to specific facts even

1 upon inquiry at the hearing. *TOP, MSJ*, passim. Even Mr. Kvam's Declaration offered in  
2 support of the *Opposition* and his purported cross motion includes conclusionary facts  
3 with regard to material facts asserted by Mineau/Legion as not in dispute or claims for  
4 which Mineau/Legion assert there is no evidence.

5 This Court is not obligated to search for facts. "[A] district court is not obligated  
6 to wade through and search the entire record for some facts which might support the  
7 nonmoving party's claim." Jauregui v. Carter Mfg. Co., Inc., 173 F.3d 1076, 1084 (8<sup>th</sup>  
8 Cir. 1999) (quotation omitted). "[R]equiring the district court to search the entire record,  
9 even though the adverse party's response does not set out the specific facts or disclose  
10 where in the record the evidence for them can be found, is unfair. Carmen v. San  
11 Francisco Unified School Dist., 237 F. 3d 1026, 1031 (9<sup>th</sup> Cir. 2001). "We refuse to do  
12 this work for it. See Indep. Towers of Wash. v. Washington, 350 F.3d 925, 929 (9<sup>th</sup> Cir.  
13 2003) ('[J]udges are not like pigs, hunting for truffles.') (quoting United States v. Dunkel,  
14 927 F.2d 955, 956 (7<sup>th</sup> Cir. 1991))." Freeman Inv. Mgmt. Co., LLC v. Frank Russell  
15 Co., 729 F. App'x 590, 591 (9<sup>th</sup> Cir. 2018) (considering summary judgment).

16 This Court has considered the properly filed papers and the other papers and  
17 pleadings on file and makes the following findings of undisputed material facts and  
18 conclusions of law.  
19  
20

### 21 **III. STATEMENT OF UNDISPUTED MATERIAL FACTS.**

22 The Court finds the following material facts are undisputed:

23 1. In early 2017, Mr. Mineau, Mr. Kvam, and Michael J. Spinola ("Mr.  
24 Spinola") began formulating a plan to purchase the property located at 7747 S. May  
25 Street, Chicago, Illinois ("Property"), renovate it, and sell it for a profit. *Motion*, Ex. 1,  
26

¶ 5; *Opposition*, Ex. 1, ¶ 2; *FACC* allegations deemed admitted due to failure to answer<sup>5</sup> (“DA”).

2. Mr. Mineau serves as sole member/manager of Legion Investments, LLC (“Legion”), a Nevada limited liability company. SAC, ¶ 2, ¶ 13; *Answer to SAC*, ¶ 1, ¶ 8.

3. On January 3, 2017, Legion entered into a *Residential Real Estate Purchase and Sale Contract* to purchase the Property for \$44,000.00. *Motion*, Ex. 1, ¶ 6; DA ¶ 4.

4. On February 13, 2017, Mr. Kvam wired \$44,000.00 to Citywide Title Corp, Escrow No. 719630, for the purchase of the Property. *Motion*, Ex. 3; *Opposition*, Ex. 7; DA ¶ 5 (“paid the seller directly”).

5. Mr. Kvam later wired an additional \$784.31 to the title company to cover the buyer’s portions of the closing costs. *Motion*, Ex. 4; *Opposition*, Ex. 8.

6. Legion took title to the Property on February 13, 2017. *Motion*, Ex. 1, ¶ 10; *Opposition*, Ex. 10.

7. On February 13, 2017, Mr. Mineau, and Mr. Spinola executed a document entitled “*Terms of Agreement between Legion Investments LLC (its Members) And Jay Kvam (Initial Funding Member of Same) RE: 7747 S. May Street, Chicago Illinois*” (“Terms of Agreement”). *Motion*, Ex. 2; *Opposition*, Ex. 11; DA, ¶ 2.

8. Mr. Kvam drafted the Terms of Agreement. DA, ¶ 3.

9. On February 14, 2017, Mr. Kvam executed the Terms of Agreement with Mr. Mineau and Mr. Spinola. *Motion*, Ex. 2; *Opposition*, Ex. 11; DA ¶ 2.

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<sup>5</sup> As discussed herein, Mr. Kvam did not file an answer to the *FACC*. The Court identifies the allegations deemed admitted as “DA” in addition to its other citations to the record.

1           10.    The Terms of Agreement reads, in its entirety, as follows:

2           Terms of Agreement between Legion Investments LLC (its Members)

3                   And Jay Kvam (Initial Funding Member of Same)

4                           RE:

5                                   7747 S. May Street, Chicago, Illinois

6           With Regards to acquisition of the aforementioned property [sic], it is  
7           understood that the membership of Legion Investments LLC for this  
8           acquisition is Brian Mineau, Jay Kvam, and Michael J. Spinola. All parties  
9           are entitled to 33.33% of net profit, after all expenses are accounted for, to  
10          include interest due on funds dispersed. Initial purchase is being funded by  
11          Jay Kvam, who is there by [sic] assigned any remedies due should the  
12          transaction fail in anyway. Initial funder [sic] will be due a 7% annual return  
13          on any funds provided due from date of disbursement. There is expected  
14          to be 3 renovation draws necessary on this project. First draw to be funded  
15          by Mr. Kvam, [sic] Due to present and ongoing business dealings between  
16          Jay and Michael, Michael has agreed to allot %50 [sic] of his 1/3 profit to  
17          Mr. Kvam for both initial funding's [sic].

18                   *Motion*, Ex. 2; *Opposition*, Ex. 11.<sup>6</sup>

19           11.    Mr. Kvam admits the Terms of Agreement constitutes a binding legal  
20           contract. DA ¶ 27.

21           12.    All parties to the Terms of Agreement knew this was a high-risk  
22           investment. DA ¶ 9.

23           13.    The Property was located the south side of Chicago. DA ¶ 10.

24           14.    Mr. Kvam acceded to Mr. Spinola's interest. SAC, ¶ 11; *Motion*, p. 4,  
25           n. 1.<sup>7</sup>

26                   

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<sup>6</sup> The Terms of Agreement can cause confusion on the actual name of the joint  
venture/partnership discussed herein. It does not change the legal conclusions and is referred  
to herein generically rather than by name.

<sup>7</sup> The specific interest Mr. Kvam acceded to is not a material fact as the remedy is the same.

1           15.     On March 16, 2017, Colleen Burke, Legion's property manager in  
2 Chicago, texted to Mr. Mineau stating, "I have the other contractor I told you about  
3 going to May Street. I'm really liking this guy. He seems very fair and hard worker. I  
4 would like to set up a conference call with him this weekend." *Motion*, Ex. 5;  
5 *Opposition*, Ex. 13.

6           16.     Ms. Burke identified the subject contractor as TNT Complete Facility Care  
7 Inc. ("TNT"). *Motion*, Ex. 1, ¶ 11; *Opposition*, Ex. 1, ¶ 9.

8           17.     On March 19, 2017, Ms. Burke emailed Mr. Mineau the contact  
9 information for TNT's principals, Derek Cole and Todd Hartwell, along with TNT's  
10 references and Certificate of Insurance. *Motion*, Ex. 6; *Opposition*, Ex. 14-15.

11           18.     On March 23, 2017, Mr. Mineau, on behalf of Legion, entered into a  
12 Contractor Agreement with TNT ("Contractor Agreement"). *Motion*, Ex. 7; *Opposition*,  
13 Ex. 17-18.

14           19.     Mr. Kvam paid TNT directly to fund the renovations. DA ¶ 7.

15           20.     Mr. Kvam knew TNT was the contractor.

16           21.     The Contractor Agreement identified Todd Hartwell as TNT's CEO and  
17 Derek Cole as TNT's Field Operations VP. *Motion*, Ex. 7, p. LEG0012; *Opposition*, Ex.  
18 17-18.

19           22.     Pursuant to the Contractor Agreement, TNT agreed to fully renovate the  
20 Property for a flat fee of \$80,000.00. *Motion*, Ex. 7, p. LEG0013; *Opposition*, Ex. 1, ¶  
21 10, Ex. 24.

22           23.     Progress payments were to be made pursuant to a defined schedule.  
23 *Motion*, Ex. 7, p. LEG0013; *Opposition*, Ex. 1, ¶ 10.

1           24.    TNT agreed to complete the project by June 1, 2017. *Motion*, Ex. 7, p.  
2   LEG0013; *Opposition*, Ex. 1, ¶ 10.

3           25.    On February 17, 2017, Mr. Kvam texted Mr. Mineau to ask for wiring  
4   details to forward the first payment. *Opposition*, Ex. 12.

5           26.    Mr. Mineau responded, “Not yet, he was getting the wiring info for a  
6   separate account so he could keep May Street funds separate from other projects.”  
7   *Opposition*, Ex. 1, ¶ 9, Ex. 12.

8           27.    On March 23, 2017, Mr. Kvam wired \$20,000.00 directly to TNT with the  
9   reference “7747 South May Street – Legion Investments – Jay Kvam.” *Motion*, Ex. 8;  
10   *Opposition*, Ex. 18.

11           28.    On April 9, 2017, TNT emailed proposed floor plans to Mr. Mineau, who  
12   forwarded them to Mr. Kvam and Mr. Spinola for review and input. *Motion*, Ex. 9-10.

13           29.    On April 14, 2017, Kvam emailed Todd Hartwell (TNT’s CEO) to inquire  
14   whether Legion had an assigned account number with TNT and the preferred way for  
15   Mr. Kvam to send TNT the next progress payment. *Motion*, Ex. 11.

16           30.    Mr. Kvam wrote Todd Hartwell again, indicating that he had just spoken  
17   with Mr. Hartwell and he was “heading to the bank now to set up the wire.” *Motion*, Ex.  
18   11.  
19

20           31.    Mr. Kvam wired another \$20,000.00 directly to TNT with the reference  
21   “Second Draw Legion Investments Jay Kvam.” *Motion*, Ex. 12; *Opposition*, Ex. 20.

22           32.    On and around May 5, 2017, Derek Cole (TNT’s Field Operations VP)  
23   came to Reno to visit with Mr. Mineau, Mr. Kvam, and others. *Motion*, Ex. 13.  
24  
25  
26

1           33.     Mr. Kvam's notes indicate Mr. Kvam and Mr. Cole specifically discussed  
2 the renovation of the Property, and Mr. Cole represented to Mr. Kvam that the project  
3 would be "done in early June." *Motion*, Ex. 13, p. KVAM0423.

4           34.     On May 9, 2017, Mr. Mineau texted Mr. Kvam and Mr. Spinola  
5 approximately nine (9) photographs of the Property which he had received from Mr.  
6 Cole. *Motion*, Ex. 14.

7           35.     Mr. Mineau informed Mr. Kvam and Mr. Spinola that he "just got this from  
8 Derek [Cole] roof is all done at May street." *Motion*, Ex. 14.

9           36.     On May 15, 2017, Mr. Kvam texted Derek Cole to check on him after an  
10 apparent car accident and to give Mr. Kvam's mobile telephone number to Mr. Cole.  
11 *Motion*, Ex. 15.

12           37.     Mr. Cole responded by sending Mr. Kvam forty-six (46) photographs of  
13 the interior and exterior of the Property, purportedly showing the work TNT had  
14 completed to date and the current status of the project. *Motion*, Ex. 15.

15           38.     Mr. Cole's pictures included the nine (9) pictures of the roof which Mr.  
16 Mineau had forwarded to Mr. Kvam on May 9, 2017. Compare *Motion*, Ex. 14, with  
17 *Motion*, Ex. 15.

18           39.     On May 17, 2017, Mr. Kvam sent Mr. Cole a message on Slack  
19 indicating, "first half of the third draw on May to go out tomorrow." *Motion*, Ex. 16.

20           40.     On May 18, 2017, Mr. Kvam wired \$9,000.00 directly to TNT with the  
21 reference "Half of Third Installment." *Motion*, Ex. 17; *Opposition*, Ex. 21.

22           41.     On May 21, 2017, Mr. Cole informed Mr. Mineau that TNT would be  
23 "installing floors this week and should be finishing very soon." *Motion*, Ex. 1, ¶ 24, Ex.  
24 18; *Opposition*, Ex. 22.

1           42.     Mr. Mineau forwarded this information on to Mr. Kvam. *Motion*, Ex. 18;  
2 *Opposition*, Ex. 22.

3           43.     On May 26, 2017, Criterion NV LLC, acting on Mr. Mineau's behalf, wired  
4 \$20,000.00 directly to TNT with the reference "May Street." *Motion*, Ex. 1, ¶ 25, Ex. 19.

5           44.     Over the course of the next month, Mr. Kvam and Mr. Cole texted  
6 regularly concerning the Property. *Motion*, Ex. 20, Ex. 22.

7           45.     Mr. Cole sent Mr. Kvam and Mr. Mineau dozens of pictures of the work  
8 being performed at the Property. *Motion*, Ex. 22, p. KVAM0106-KVAM0123.

9           46.     Mr. Cole also notified Mr. Kvam that "I got all the permits and paperwork  
10 back from the city last week file from [sic] my inspections as soon as they come do  
11 those I'm two weeks after that." *Motion*, Ex. 22, p. KVAM0129.

12           47.     In response to Mr. Kvam's inquiry, Mr. Cole explained that the  
13 inspections were "for the rough plumbing and electrical." *Motion*, Ex. 22, p.  
14 KVAM0129.

15           48.     Mr. Kvam had independent and direct communications with TNT. *Motion*,  
16 Ex. 20, Ex. 22. 38.

17           49.     Mr. Kvam acquired information directly from TNT and did not rely on Mr.  
18 Mineau's representations.

19           50.     After June 20, 2017, TNT started becoming increasingly unresponsive.  
20 *Motion*, Ex. 1, ¶ 29.

21           51.     Mr. Mineau stayed in contact with Mr. Cole and Mr. Hartwell in an effort to  
22 compel TNT to finish the project. *Motion*, Ex. 1, ¶ 29.



1           52.    TNT communicated inconsistently. TNT did respond with excuses for  
2 delays and promised that the project would be completed within a matter of days or  
3 weeks. *Motion*, Ex. 1, ¶ 29.

4           53.    Mr. Hartwell confirmed that TNT was working to replace Mr. Cole and that  
5 TNT would finish the project as soon as possible. *Motion*, Ex. 1, ¶ 29.

6           54.    In late August 2017, TNT explained Mr. Cole had been absent because  
7 he had suffered a heart attack but recovered and was returning to work. *Motion*, Ex.  
8 1, ¶ 29.

9           55.    In late September 2017, Mr. Cole informed Mr. Mineau the Property  
10 needed a few more inspections but was nearly complete. *Motion*, Ex. 1, ¶ 29.

11           56.    In mid-October 2017, Mr. Cole informed Mr. Mineau that TNT was “doing  
12 the final touches” and would then be ready for occupancy inspections. *Motion*, Ex. 1, ¶  
13 29.

14           57.    In early November 2017, Mr. Cole advised some of the plumbing work did  
15 not pass inspection and would need more work. *Motion*, Ex. 1, ¶ 29.

16           58.    In mid-November 2017, Mr. Cole represented to Mr. Mineau that the  
17 project would be done in 14-17 days and would cost an additional \$2,000.00, but that  
18 TNT would “eat that cost” due to the delay. *Motion*, Ex. 1, ¶ 29.

19           59.    Mr. Mineau relayed each status update from TNT to Mr. Kvam.  
20  
21 *Opposition*, Ex. 25-31.

22           60.    By December 2017, Mr. Kvam had become frustrated with TNT’s excuses  
23 and delays and indicated his fear that TNT had defrauded them. *Motion*, Ex. 24

24           61.    Mr. Mineau notified Mr. Kvam that he had asked his attorney in Chicago  
25 to draft a demand letter to TNT. *Motion*, Ex. 24  
26

1           62.     Alternatively, Mr. Mineau offered to “sign the property over.” *Motion*, Ex.  
2 24.

3           63.     On December 31, 2017, Mr. Kvam delivered a letter to Mr. Mineau  
4 concerning the Property. *Motion*, Ex. 25

5           64.     In his letter, Mr. Kvam expressly rejected Mr. Mineau’s offer to transfer  
6 the Property, stating he did not want to assume the role of managing the project and  
7 expressing concern that TNT had done little construction work for the money it had  
8 been paid. *Motion*, Ex. 25

9           65.     For reasons beyond any of the parties’ knowledge, control or expectation,  
10 the contractor hired to perform the renovations did not or was not able to complete the  
11 job. DA ¶ 11.

12           66.     Mr. Kvam stated, “...I deem the project a failure....” *Motion*, Ex. 25.

13           67.     On November 16, 2018, Legion sold the Property for \$41,000.00. *Motion*,  
14 Ex. 30; *Opposition*, Ex. 35.

15           68.     Legion’s share of prorated property taxes, closing costs, and the  
16 commission owed to the real estate brokers equaled \$16,526.23. *Motion*, Ex. 30;  
17 *Opposition*, Ex. 35.

18           69.     The net proceeds from the closing were \$24,473.77. *Motion*, Ex. 30;  
19 *Opposition*, Ex. 35.

20           70.     On December 19, 2018, Legion received an additional \$1,864.14 from  
21 the sale of the Property as a result of a refund on a tax bill and a water bill. *Motion*, Ex.  
22 1. ¶ 39.

23           71.     The total net proceeds from the sale of the Property are \$26,337.91.  
24 *Motion*, Ex. 1. ¶ 39.

1           72. Mineau and Legion fulfilled all of their obligations under the Terms of  
2 Agreement. DA ¶ 22.

3           73. The assets remaining after the project failed are claims against TNT and  
4 \$26,337.91.

5           74. To the extent any of the contents in Sections I and II, supra, and/or the  
6 following conclusions of law contain or constitute, or may be construed to contain or  
7 constitute findings of fact, they are incorporated here.

8  
9 **IV. CONCLUSIONS OF LAW.**

10           1. To the extent any of the contents of Sections I, II and III, supra, contain or  
11 constitute, or may be construed to contain or constitute conclusions of law, they are  
12 incorporated here.

13           **A. Declaratory Relief.**

14           2. The SAC's First Cause of Action is for Declaration of Joint Venture,  
15 thereby seeking declaratory relief.

16           3. The FACC's Third Cause of Action is for Declaratory Relief.

17           4. The Court gave reasonable proper notice under NRCP 56 that it intended  
18 to grant Declaratory Relief on Mineau/Legions FACC Third Cause of Action for  
19 Declaratory Relief and was not granting summary judgment the SAC's First Cause of  
20 Action is Declaration of Joint Venture.

21           5. "A statement in a pleading may be adopted by reference elsewhere in the  
22 same pleading or in any other pleading or motion." NRCP 10(c). The FACC's Third  
23 Claim for Relief for Declaratory Relief includes Paragraph 32, "Mineau and Legion  
24 reallege the allegations contained in the other paragraphs of this Counterclaim and  
25  
26

1 incorporate them by reference as if fully set forth here.” *FACC*, p.4. The incorporation  
2 of the allegations contained in other paragraphs was appropriate under applicable law.

3 6. Mr. Kvam failed to file an answer to the *FACC* Third Claim for Relief for  
4 Declaratory Relief.

5 7. As stated, “*Effect of Failing to Deny*. An allegation—other than one  
6 relating to the amount of damages – is admitted if a responsive pleading is required  
7 and the allegation is not denied.” NRCP 8(b)(6). An answer to counterclaim is a  
8 required responsive pleading. Bowers v. Edwards, 79 Nev 834, 389, 385 P.2d 783,  
9 785 (1963).

10 8. The effect of Mr. Kvam’s failure to answer the allegations of the *FACC*  
11 Third Claim for Relief for Declaratory relief is the allegations, including the incorporated  
12 allegations, were admitted. Id. (citing NRCP 8(d) (NRCP 8(d), which, as enacted at the  
13 time the *FACC*, was filed provided, “[a]verments in a pleading to which a responsive  
14 pleading is required ... are admitted when not denied in the responsive pleading.”).  
15 NRCP 8(d) was deleted by amendment effective March 1, 2019); Breliant v. Preferred  
16 Equities Corp., 109 Nev. 842, 848–49, 858 P.2d 1258, 1262 (1993) (holding plaintiff  
17 stated sufficient facts to assert a claim, in part, because defendant admitted to  
18 allegations in complaint when it did not deny the allegations in plaintiff’s amended  
19 complaint that made averments in its pleading where a responsive pleading was  
20 required by defendant).

21 9. A party must meet four elements before declaratory relief can be granted:  
22 (1) there must exist a justiciable controversy; that is to say, a controversy in which a  
23 claim of right is asserted against one who has an interest in contesting it; (2) the  
24 controversy must be between persons whose interests are adverse; (3) the party  
25  
26

1 seeking declaratory relief must have a legal interest in the controversy, that is to say, a  
2 legally protectable interest; and (4) the issue involved in the controversy must be ripe  
3 for judicial determination. MB Am., Inc. v. Alaska Pac. Leasing, 132 Nev. Adv. Op. 8,  
4 367 P.3d 1286, 1291 (2016).

5 10. A justiciable controversy initially existed in this case regarding whether  
6 there was a joint venture/partnership.

7 11. Any person whose rights, status, or other legal relations "are affected by  
8 a statute . . . may have determined any question of construction" of that statute. NRS  
9 30.040(1); Prudential Ins. Co. of Am. v. Ins. Comm'r, 82 Nev. 1, 5, 409 P.2d 248, 250  
10 (1966) (declaratory relief is available when a controversy concerning the meaning of a  
11 statute arises).

12 12. Formation of joint ventures is governed by NRS 87.4322 which states, in  
13 part, "the association of two or more persons to carry on as co-owners of a business  
14 for profit forms a partnership, whether or not the persons intend to form a partnership."

15 13. Mr. Kvam, Mr. Meneau and Mr. Spinola formed a joint  
16 venture/partnership pursuant to NRS 87.4322. *Motion*, Ex. 2; *Opposition*, Ex. 11.

17 14. The justiciable controversy regarding creation of a joint  
18 venture/partnership was resolved during the litigation and the parties agree a joint  
19 venture/partnership was created.

20 15. A justiciable controversy exists regarding the parties' rights under the  
21 Terms of Agreement.

22 16. Mr. Kvam's and Mineau/Legion's interests are adverse.

23 17. Mr. Kvam, Mr. Mineau and Legion have a legal interest in the  
24 controversy.  
25  
26

1           18.    For declaratory relief, "Person" is "construed to mean any person,  
2 partnership . . . or other corporation of any character whatsoever." NRS 30.020.

3           19.    "Whether a determination is proper in an action for declaratory relief is a  
4 matter within the trial judge's discretion that will not be disturbed on appeal unless  
5 abused." El Capitan Club v. Fireman's Fund Ins. Co., 89 Nev. 65, 68, 506 P.2d 426,  
6 428 (1973).

7           20.    Declaratory relief should be granted on Mineau/Legion's *FACC* Third  
8 Claim for Relief for Declaratory Relief.

9           21.    The Court should declare with respect to the parties' respective rights  
10 and interests:

11                   a.    Mr. Kvam, Mr. Spinola, and Mr. Mineau were the member partners  
12 for the acquisition of the Property, 7747 S. May Street, Chicago, Illinois.

13                   b.    Mr. Kvam was the initial funding member.

14                   c.    The parties formed a joint venture/partnership pursuant to NRS  
15 87.4322.

16                   d.    The Terms of Agreement and NRS Chapter 87 governed the  
17 partnership.

18                   e.    The Terms of Agreement did not constitute a loan agreement.

19                   f.    There was no meeting of the minds regarding any other provisions  
20 to the Terms of the Agreement except those written and contained in the Terms  
21 of Agreement.

22                   g.    Mr. Kvam acceded to Mr. Spinola's interest.

23                   h.    No party made any loans to the partnership.

24                   i.    Mr. Kvam acceded to Mr. Spinola interest.

1           j.       Mr. Spinola's does not have an interest adverse to the interests of  
2 Mr. Kvam and Mineau/Legion. Based on the accession of Mr. Spinola's interest  
3 to Mr. Kvam and the remedy of assignment, Mr. Spinola has no legal interest in  
4 the Terms of Agreement. Only those who enjoy a legal interest in the Terms of  
5 Agreement should be joined in this action. Wells v. Bank of Nevada, 90 Nev.  
6 192, 198, 522 P.2d 1014, 1018 (1974).

7           k.       The project failed.

8           l.       All remedies due to the partnership are assigned to Kvam because  
9 the project failed.

10           m.      The parties agreed all interests in the partnership and any  
11 remedies due to the partnership, including the proceeds from the sale of the  
12 Property in the amount of \$26,337.71, should be assigned to Mr. Kvam and the  
13 partnership dissolved. *Motion*, Ex. 1, ¶ 38-39; *Opposition*, p. 20; *Stipulation to*  
14 *Deposit Funds*, December 12, 2018.

15           22.     Based on the Court's findings and conclusions on Mineau/Legion's *FACC*  
16 Third Claim for Relief and its findings and conclusions on the SAC's remaining claims  
17 for relief, *infra*, summary judgment is denied on the SAC's First Claim for Declaration of  
18 Joint Venture.

19           **B.       Rescission or Reformation of Agreement.**

20           23.     The SAC's Second Cause of Action is for Recission or Reformation of  
21 Agreement.

22           24.     "A contract may be rescinded on the basis of mutual mistake when both  
23 parties, at the time of contracting, share a misconception about a vital fact upon which  
24 they based their bargain." Land Baron Inv. v. Bonnie Springs Family LP, 131 Nev. 686,  
25  
26

694, 356 P.3d 511, 517 (2015) (internal citations omitted). “However, mutual mistake will not provide grounds for rescission where a party bears the risk of mistake.” Id. (citing Restatement (Second) of Contracts §§ 152(1), 154(b), (c) (1981)). “[I]f the risk is reasonably foreseeable and yet the contract fails to account for that risk, a court may infer that the party assumed that risk.” Id.

25. Alternatively, “courts in this state will reform contracts ... in accordance with the true intention of the parties when their intentions have been frustrated by a mutual mistake.” Seyden v. Frade, 88 Nev. 174, 178, 494 P.2d 1281, 1284 (1972).

26. “Reformation is based upon equitable principles, applied when a written instrument fails to conform to the parties’ previous understanding or agreement.” Grappo v. Mauch, 110 Nev. 1396, 1398, 887 P.2d 740, 741 (1994).

27. The parties accounted for the risks inherent in the investment by agreeing all remedies in the partnership would be assigned to Mr. Kvam if the joint venture failed in any way. *Motion*, Ex. 2; *Opposition*, Ex. 11.

28. Even viewing all evidence raised by Mineau/Legion in a light most favorable to Mr. Kvam, Mr. Kvam has failed to bring forth specific evidence that the parties, at the time of contracting, shared a misconception about a vital fact upon which they based their bargain, or that the Terms of Agreement fail to conform to the true intention of the parties or the parties’ previous understanding or agreement.

29. Mr. Kvam fails to make a showing sufficient to establish an element essential to his claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020. Accordingly, Mineau/Legion are entitled to judgment as a matter of law on this claim.



1           **C.     Breach of Contract - Loan.**

2           30.     Mr. Kvam's Third Cause of Action in his SAC is for Breach of Contract –  
3     Loan (breach of the Terms of Agreement's loan agreement).

4           31.     The elements of a breach of contract claim are (1) existence of a valid  
5     contract, (2) breach, and (3) damages. See Contrearras v. Am. Family Mut. Ins. Co.,  
6     135 F.Supp.3dc 1208, 1227 (D. Nev. 2015)

7           32.     Generally, when a contract is clear on its face, it will be construed from  
8     the written language and enforced as written. Canfora v. Coast Hotels & Casinos, Inc.,  
9     121 Nev. 771, 776, 121 P.3d 599, 603 (2005). The court has no authority to alter the  
10    terms of an unambiguous contract. Id. Furthermore, the court cannot force upon  
11    parties contractual obligations, terms or conditions which are not contained in the  
12    contract. McCall v. Carlson, 63 Nev. 390, 424, 172 P.2d 171, 187 (1946); Harrison v.  
13    Harrison, 132 Nev. 564, 376 P.3d 173 (2016); Golden Rd. Motor Inn, Inc. v. Islam, 132  
14    Nev. 476, 376 P.3d 151 (2016); Reno Club, Inc. v. Young Inv. Co., 64 Nev. 312, 323,  
15    182 P.2d 1011, 1016 (1947).

16           33.     A loan is the delivery of a sum of money to another under a contract to  
17     return at some future time an equivalent amount with or without an additional sum  
18     agreed upon for its use; and if such be the intent of the parties the transaction will be  
19     deemed a loan regardless of its form. Kline v. Robinson, 83 Nev. 244, 249, 428 P.2d  
20     190, 194 (1967), *overruled in part by* Pease v. Taylor, 88 Nev. 287, 496 P.2d 757  
21     (1972).

22           34.     Kvam has not identified any evidence of a loan agreement and thus  
23     cannot establish a breach.  
24  
25  
26

1           35.     The Terms of Agreement provide Mr. Kvam will receive 7% annual return  
2 on any funds provided if the project was profitable. The project failed. Mr. Kvam's  
3 remedy is assignment of all interests and remedies of the partnership to him. *Motion*,  
4 Ex. 2; *Opposition*, Ex. 11.

5           36.     Based on the Court's findings and conclusions on the *FACC's* Third  
6 Claim for Relief for Declaratory Relief, even viewing all evidence raised by  
7 Mineau/Legion in a light most favorable to Mr. Kvam, Mr. Kvam has not established  
8 that a loan agreement existed and cannot establish a breach.  
9

10          37.     Mr. Kvam has not identified with specificity evidence to establish all  
11 elements of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge  
12 Capital, 2020 WL1446700, Slip Copy, March 25, 2020. Accordingly, Mineau/Legion  
13 are entitled to judgment as a matter of law on the *SAC's* Third Cause of Action for  
14 Breach of Contract -Loan.

15           **D.     Breach of Contract and Tortious Breach of Implied Covenant of**  
16           **Good Faith and Fair Dealing.**

17          37.     The *SAC's* Fourth Cause of Action is for Breach of Contract and Tortious  
18 Breach of Implied Covenant of Good Faith and Fair Dealing.

19          38.     Every contract imposes upon the contracting parties the duty of good faith  
20 and fair dealing. See A.C. Shaw Construction v. Washoe County, 105 Nev. 913, 914,  
21 784 P.2d 9, 9-10 (1984).

22          39.     The remedy for breach of the implied covenant of good faith and fair  
23 dealing generally is on the contract itself. In certain circumstances breach of contract,  
24 including breach of the covenant of good faith and fair dealing, may provide the basis  
25 for a tort claim. Hilton Hotels Corp. v. Butch Lewis Productions, Inc., 109 Nev. 1043,  
26 1046-47, 862 P.2d 1207, 1209 (1993) (citations omitted).

1           40. To prevail upon a claim for tortious breach of the covenant of good faith  
2 and fair dealing, the plaintiff must prove that: (1) plaintiff and defendant entered into a  
3 contract; (2) defendant owed a duty of good faith to plaintiff arising from the contract;  
4 (3) a special element of reliance or fiduciary duty existed between plaintiff and  
5 defendant where defendant was in a superior or entrusted position; (4) defendant  
6 breached the duty of good faith by engaging in grievous and perfidious misconduct;  
7 and (5) plaintiff suffered damages as a result of the breach. Great Amer. Ins. Co. v.  
8 Gen. Builders, Inc., 113 Nev. 346, 355, 934 P.2d 257, 263 (1997); see also State, Univ.  
9 & Cmty. Coll. Sys. v. Sutton, 120 Nev. 972, 989, 103 P.3d 8, 19 (2004).

10  
11           41. Summary judgment has been affirmed on claims involving a partnership  
12 and claims for breach of contract and breach of the implied covenant of good faith and  
13 fair dealing. See e.g. Phelps v. Frampton, 170 P.3d 474 (Mont. 2007) (not tortious  
14 claim).

15           42. “The only fiduciary duties a partner owes to the partnership and the other  
16 partners are the duty of loyalty and the duty of care.” NRS 87.4336(1).

17           43. The statutory duty of loyalty requires each partner to, *inter alia*, “to  
18 account to the partnership and hold as trustee for it any property, profit or benefit  
19 derived by the partner in the conduct and winding up of the partnership business or  
20 derived from a use by the partner of partnership property, including the appropriation of  
21 a partnership opportunity.” NRS 87.4336(2)(a).

22  
23           44. The statutory duty of care is limited to “refraining from engaging in grossly  
24 negligent or reckless conduct, egregious or perfidious conduct, intentional misconduct  
25 or a knowing violation of law by Mr. Mineau or Mr. Mineau on behalf of Legion. To the  
26 contrary, the evidence supports that the contractor delayed the work, Mr. Kvam

1 conveyed information he received about the progress of the project and/or Mr. Kvam  
2 communicated about the project.

3 45. Mineau/Legion kept Mr. Kvam reasonably informed of the Project with the  
4 information available to Mineau/Legion and Mr. Kvam had independent  
5 communications with the contractor, thereby negating the fourth element required to  
6 establish summary judgment on this claim. *Motion*, Ex. 1, ¶ 29, Ex. 14, Ex. 18, Ex. 24.

7 46. Even viewing all evidence raised by Mineau/Legion in a light most  
8 favorable to Mr. Kvam, Mr. Kvam has failed to set forth evidence supporting each  
9 element of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge  
10 Capital, 2020 WL1446700, Slip Copy, March 25, 2020.

11 47. Accordingly , Mineau/Legion are entitled to judgment as a matter of law  
12 on the SAC's Fourth Cause of Action for Breach of Contract and Tortious Breach of  
13 Implied Covenant of Good Faith and Fair Dealing.

14  
15 **E. Accounting.**

16 48. The SAC's Fifth Cause of Action is for Accounting.

17 49. As state, pursuant to NRS 87.4336(2)(a), a partner must account to the  
18 partnership for any property, profit or benefit derived by the partner from a use by the  
19 partner of partnership property, including the appropriation of a partnership opportunity.

20 50. The only partnership property over which Mineau/Legion had custody  
21 was the Property itself, and the proceeds from the sale of the Property. *Motion*, Ex. 1,  
22 ¶ 10, ¶ 37-40, Ex. 2; *Opposition*, Ex. 10, Ex. 11.

23 51. Mineau/Legion contends they provided Mr. Kvam with all information  
24 necessary for an accounting.  
25  
26

1           52.    Mr. Kvam asserts Mineau/Legon have not provided a complete  
2 accounting.

3           53.    An accounting will verify the accuracy of the amount net proceeds.

4           54.    A genuine issue of material fact exists regarding whether the accounting  
5 provided by Mineau/Legion is factually and legally sufficient under applicable law.

6           55.    Accordingly, summary judgment on the SAC's Fifth Cause of Action is not  
7 warranted under NRCP 56.

8           **F.    Court Supervision of Dissolution and Winding Up, and Appointment**  
9           **of Receiver.**

10          56.    The SAC's Sixth Cause of Action is for Court Supervision of Dissolution  
11 and Winding up, and Appointment of Receiver.

12          57.    A partnership continues after dissolution only for the purpose of winding  
13 up its business. The partnership is terminated when the winding up of its business is  
14 completed. NRS 87.4352(1).

15          58.    A receiver may be appointed by the court in which an action is pending,  
16 or by the judge thereof between partners or others jointly owning or interested in any  
17 property or fund. NRS 32.010.

18          59.    The winding up by the partners themselves or by a receiver does not  
19 affect the personal liability of the partners for unsatisfied claims, absent specific  
20 agreement. NRS 87.360.

21          60.    The parties agreed all interests in the partnership and any remedies due  
22 to the partnership, including the proceeds from the sale of the Property in the amount  
23 of \$26,337.71, should be assigned to Mr. Kvam and the partnership dissolved. *Motion*,  
24 Ex. 1, ¶ 38-39; *Opposition*, p. 20; *Stipulation to Deposit Funds*, Dec. 12, 2018.  
25  
26

1           61.    A ruling on this claim is held in abeyance pending resolution of the SAC's  
2 Fifth Cause of Action for Accounting.

3           62.    **Temporary and Permanent Injunction.**

4           63.    The SAC's Seventh Cause of Action is for Temporary and Permanent  
5 Injunction.

6           64.    Based on the findings and conclusions on the SAC's Second, Third,  
7 Fourth, Fifth and Sixth Causes of Action, and on the FACC's Third Claim for Relief for  
8 Declaratory Relief, and the deposit of the funds with the Court, the SAC's Seventh  
9 Cause of Action for Temporary and Permanent Injunction is legally ineffectual and  
10 summary judgment should be denied.  
11

12           **H.    Fraud, Fraudulent Inducement, and Fraudulent Concealment.**

13           65.    The SAC's Eighth Cause of Action is for Fraud, Fraudulent Inducement,  
14 and Fraudulent Concealment.

15               **i.    Fraud.**

16           66.    Under Nevada law, the elements of a fraud claim are as follows: (1) a  
17 false representation made by the defendant; (2) defendant's knowledge or belief that  
18 the representation is false or insufficient basis for making the representation; (3)  
19 defendant's intention to induce the plaintiff to act or to refrain from acting in reliance  
20 upon the misrepresentation; (4) plaintiff's justifiable reliance upon the  
21 misrepresentation; and (5) damage to the plaintiff resulting from such reliance. Starr  
22 Indem. & Liab. Co. v. Young, 379 F. Supp. 3d 1103, 1110 (D. Nev. 2019) (citing  
23 Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 825 P.2d 588, 592 (1992)).  
24

25           67.    To establish a claim for intentional misrepresentation, a plaintiff must  
26 show that the defendant supplied plaintiff with false information, and summary

1 judgment is appropriate if plaintiff has not provided evidence of this essential element.  
2 Land Baron Inv. v. Bonnie Springs Family LP, 131 Nev. 686, 695-96, 356 P.3d 511,  
3 518 (2015); Moore v. Prudential Residential Services Ltd. Partnership, 849 So.2d  
4 914, 926 (Ala. 2002) (affirming summary judgment in favor of defendants because  
5 plaintiffs presented no evidence indicating that defendants knew real estate had any  
6 defects, or evidence demonstrating reliance on misrepresentations.)

7  
8 **ii. Fraudulent Inducement.**

9 68. To prove fraudulent inducement, plaintiff must show: (1) defendant's false  
10 representation; (2) that defendant knew or believed statement was false, or defendant  
11 had an insufficient basis for making statement; (3) defendant intended to induce  
12 plaintiff to act or refrain from acting upon the misrepresentation; and (4) plaintiff was  
13 damaged as a result of relying on the misrepresentation. Hernandez v. Creative  
14 Concepts, Inc., 862 F. Supp. 2d 1073, 1092–93 (D. Nev. 2012).

15 69. Where a plaintiff fails to provide any evidence of defendant's intent when  
16 defendant entered into agreement, summary judgment is appropriate. Argonaut  
17 Development Group, Inc. v. SWH Funding Corp., 150 F.Supp.2d 1357, 1364 (S.D. Fla.  
18 2001).

19  
20 **iii. Fraudulent Concealment.**

21 70. To establish fraudulent concealment, a plaintiff must prove five elements:  
22 (1) the defendant concealed or suppressed a material fact; (2) the defendant was  
23 under a duty to disclose the fact to the plaintiff; (3) the defendant intentionally  
24 concealed or suppressed the fact with the intent to defraud the plaintiff; (4) the plaintiff  
25 was unaware of the fact and would have acted differently if she had known of the  
26 concealed or suppressed fact; and (5) the plaintiff sustained damages as a result of the

1 concealment or suppression. Nevada Power Co. v. Monsanto Co., 891 F. Supp. 1406,  
2 1415 (D. Nev. 1995).

3 71. Mr. Mineau conveyed the information he was provided and kept Mr.  
4 Kvam reasonably informed of the Project with the information available to  
5 Mineau/Legion. *Motion*, Ex. 1, ¶ 29, Ex. 14, Ex. 18, Ex. 24.

6 72. Mr. Kvam had independent and direct communications with the  
7 contractor and therefore was aware of the progress on the project.

8 73. Mr. Kvam did not rely upon Mineau/Legion's representations as Mr. Kvam  
9 communicated directly with TNT concerning the status of the project. *Motion*, Ex. 9-11,  
10 Ex. 13-16, Ex. 20.

11 74. Mr. Kvam identifies no specific evidence that Mr. Mineau made any  
12 affirmative misrepresentations during the Project.

13 75. Mr. Kvam cites not evidence that Mr. Mineau supplied false information to  
14 him.

15 76. Mr. Kvam has not established that he relied on any false information to his  
16 detriment.

17 77. Even viewing all evidence raised by Mineau/Legion in a light most  
18 favorable to Mr. Kvam, Mineau/Legion have demonstrated that Mr. Kvam has failed to  
19 identify specific evidence for all of the elements of this claim. Cuzze, 123 Nev. at 602,  
20 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25,  
21 2020.

22 78. Accordingly, Mineau/Legion are entitled to judgment as a matter of law on  
23 the SAC's Eighth Cause of Action for Fraud, Fraudulent Inducement, and Fraudulent  
24 Concealment.  
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1           **I.     Conversion.**

2           79.     The SAC's Ninth Cause of Action is for Conversion.

3           80.     "Conversion is a distinct act of dominion wrongfully exerted over  
4 another's personal property in denial of, or inconsistent with his title or rights therein or  
5 in derogation, exclusion, or defiance of such title or rights." M.C. Multi-Family Dev.,  
6 L.L.C. v. Crestdale Assocs., Ltd., 124 Nev. 901, 910, 193 P.3d 536, 542 (2008).

7           81.     "Conversion generally is limited to those severe, major, and important  
8 interferences with the right to control personal property that justify requiring the actor to  
9 pay the property's full value." Edwards v. Emperor's Garden Rest., 122 Nev. 317, 328–  
10 29, 130 P.3d 1280, 1287 (2006).

11           82.     Mr. Kvam has not identified disputed facts regarding any distinct act of  
12 dominion that Mineau or Legion wrongfully exerted over Kvam's personal property, or  
13 the funds delivered to the title company and TNT.

14           83.     Mr. Kvam delivered all project funds either directly to the title company to  
15 purchase the Property or directly to TNT to fund the renovation. *Motion*, Ex. 3-4, Ex. 8,  
16 Ex. 12; *Opposition*, Ex. 7-8, Ex. 18, Ex. 20.

17           84.     Even viewing all evidence raised by Mineau/Legion in a light most  
18 favorable to Mr. Kvam, Mineau/Legion have demonstrated Mr. Kvam has failed to  
19 identify evidence for each element of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at  
20 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020.

21           85.     Accordingly, Mineau/Legion are entitled to judgment as a matter of law on  
22 the SAC's Ninth Cause of Action for Conversion.  
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1           **J.     RICO.**

2           86.     The SAC's Tenth Cause of Action SAC is for civil RICO.

3           87.     In Nevada, the elements for a claim of civil RICO violations (Racketeering  
4 Influenced and Corrupt Organizations Act) are: (a) defendants engaged in racketeering  
5 activities as defined in NRS 207.390 and a racketeering enterprise as is defined in  
6 NRS 207.380; (b) defendants acting directly, and in conspiracy with one another or  
7 through their syndicate, participated directly in racketeering activity by engaging in at  
8 least two crimes related to racketeering; (c) defendants' activities have the same or  
9 similar pattern, intent, results, accomplices, victims, or methods of commission, or  
10 otherwise interrelated by distinguishing characteristics and are not isolated events; (d)  
11 defendants acquired or maintained directly or indirectly an interest in, or control of, any  
12 enterprise, or defendants are employed by or associated with any enterprise to conduct  
13 or participate directly or indirectly in the affairs of the enterprise through a racketeering  
14 activity; (e) plaintiff's injuries flow from the defendants' violation of a predicate Nevada  
15 RICO act; (f) plaintiff's injury was be proximately caused by the defendants' violation of  
16 the predicate act; (g) plaintiff did not participate in the commission of the predicate act;  
17 and, plaintiff is entitled to institute a civil action for recovery of treble damages  
18 proximately caused by the RICO violations. NRS 207.470(1). NRS 207.470; Stoddart  
19 v. Miller, 2008 WL 6070835 (Nev. 2008 ); Siragusa v. Brown, 114 Nev. 1384, 971 P.2d  
20 801 (1999); Gordon v. Eighth Judicial Dist. Ct., 12 Nev. 216, 231, 913 P.2d 240, 250-  
21 51 (1996); Cummings v. Charter Hosp. of Las Vegas, Inc., 111 Nev. 639, 896 P.2d  
22 1137 (1995); Allum v. Valley Bank of Nevada, 109 Nev. 280, 849 P.2d 297  
23 (1993); Hale v. Burkhardt, 104 Nev. 632, 634, 764 P.2d 866, 867 (1988).

1           88. Any person who is injured in his business or property by reason of any  
2 violation of NRS 207.400 has a cause of action against a person causing such injury for  
3 three times the actual damages sustained. NRS 207.470

4           89. "'Racketeering activity' means engaging in at least two crimes related to  
5 racketeering that have the same or similar pattern, intents, results, accomplices,  
6 victims, or methods of commission, or are otherwise interrelated by distinguishing  
7 characteristics and are not isolated incidents...." NRS 207.390.

8           90. Criminal syndicate means any combination of persons, so structured that  
9 the organization will continue its operation even if individual members enter or leave  
10 the organization, which engages in or has the purpose of engaging in racketeering  
11 activity. NRS 207.370.

12           91. Mr. Kvam has not identified specific evidence of racketeering activity, or  
13 any activities between Mineau/Legion that resemble the type of activities required to  
14 support the elements of this claim.

15           92. Summary judgment has been affirmed on civil RICO claims. See e.g.,  
16 Agency Holding Corp. v. Malley-Duff & Associates, Inc., 483 U.S. 143, 107 S.Ct. 2759  
17 (1987); In re Southwest Exchange, Inc., 128 Nev. 907, 381 P.3d 626 (2012).

18           93. Even viewing the evidence in a light most favorable to Mr. Kvam, Mr.  
19 Kvam has not identified with specificity evidence to establish any of the elements of a  
20 civil RICO claim which warrants entry of summary judgment on this claim. Cuzze, 123  
21 Nev. at 602, 172 P.3d at 134; Knutson v. County of Barnes, 642 N.W.2d 910 (N.D.  
22 2002) (holding defendants were entitled to summary judgment on RICO claim because  
23 plaintiffs failed to plead with specificity as required, and failed to present any evidence  
24 to support their claim).

1           94.     Mineau/Legion are entitled to judgment as a matter of law on the SAC's  
2 Tenth Cause of Action for RICO.

3       **K.   Derivative Claim.**

4           95.     The SAC's Eleventh Cause of Action is a Derivative claim on behalf of  
5 the joint venture.

6           96.     Mr. Kvam conceded the partnership does not hold any independent  
7 claims for relief against Mineau/Legion.

8           97.     Based on the Courts findings and conclusions on the SAC's Second,  
9 Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Causes of Action, and Mr.  
10 Kvam's concession, the Court finds and concludes no genuine issue of material fact  
11 exists for trial on the SAC's Eleventh Cause of Action for a Derivative Claim and  
12 Mineau/Legion are entitled to judgment as a matter of law.

13  
14       **V.   ORDER.**

15           Based on the foregoing findings of undisputed facts and conclusions of law, and  
16 good cause appearing therefor,

17           **IT IS HEREBY ORDERED SUMMARY ADJUDICATION IS GRANTED,**  
18 **DENIED, AND HELD IN ABEYANCE AS FOLLOWS:**

19           1.     Notice was reasonably given to the parties of the Court's intent to grant  
20 summary judgment on Mineau/Legion's *FACC* Third Cause of Action for Declaratory  
21 Relief.

22           2.     Summary adjudication is granted on Mineau/Legion's *FACC* Third Cause  
23 of Action for Declaratory Relief and the Court declares:

24           a.     Mr. Kvam, Mr. Spinola, and Mr. Mineau were the member partners  
25 in Legion for the acquisition of 7747 S. May Street, Chicago, Illinois.  
26

- 1           b.     Mr. Kvam was the initial funding member.
- 2           c.     The parties formed a joint venture/partnership pursuant to NRS
- 3           87.4322.
- 4           d.     The Terms of Agreement and NRS Chapter 87 governed the
- 5           partnership.
- 6           e.     The Terms of Agreement did not constitute a loan agreement.
- 7           f.     There was no meeting of the minds regarding any other provisions
- 8           to the Terms of the Agreement except those written and contained in the
- 9           Terms of Agreement.
- 10          g.     Mr. Kvam acceded to Mr. Spinola's interest.
- 11          h.     No party made any loans to the partnership.
- 12          i.     Mr. Kvam acceded to Mr. Spinola interest.
- 13          j.     Mr. Spinola's does not have an interest adverse to the interests of
- 14          Mr. Kvam and Mineau/Legion. Based on the accession of Mr. Spinola's
- 15          interest to Mr. Kvam and the remedy of assignment, Mr. Spinola has no
- 16          legal interest in the Terms of Agreement.
- 17          k.     The project failed.
- 18          l.     All remedies due to the partnership are assigned to Kvam because
- 19          the project failed.
- 20          m.     The parties stipulated all interests in the partnership and any
- 21          remedies due to the partnership, including the proceeds from the
- 22          sale of the Property in the amount of \$26,337.71, should be
- 23          assigned to Mr. Kvam and the partnership dissolved.
- 24
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1           3.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
2 against Mr. Kvam on the SAC's Second Cause of Action for Recission or Reformation  
3 of Agreement.

4           4.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
5 against Mr. Kvam on the SAC's Third Cause of Action for Breach of Contract - Loan.

6           5.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
7 against Mr. Kvam on the SAC's Fourth Cause of Action for Breach of Contract and  
8 Tortious Breach of Implied Covenant of Good Faith and Fair Dealing.

9           6.       Summary adjudication is DENIED on the SAC's Fifth Cause of Action for  
10 Accounting.

11           7.       The Court's ruling on Motion is held in abeyance on the SAC's Sixth  
12 Cause of Action for Court Supervision of Dissolution and Winding up, and Appointment  
13 of Receiver until resolution of Mr. Kvam's Fifth Cause of Action  
14

15           8.       Based on the Court's foregoing findings of fact and conclusions of law,  
16 summary adjudication is DENIED on the SAC's Seventh Cause of Action for  
17 Temporary and Permanent Injunction as the claim is legally ineffectual based on the  
18 deposit of the funds.

19           9.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
20 against Mr. Kvam on the SAC's Eighth Cause of Action for Fraud, Fraudulent  
21 Inducement, and Fraudulent Concealment.

22           10.      Summary adjudication is GRANTED in favor of Mineau/Legion and  
23 against Mr. Kvam on the SAC's Ninth Cause of Action for Conversion.

24           11.      Summary adjudication is GRANTED in favor of Mineau/Legion and  
25 against Mr. Kvam on the SAC's Tenth Cause of Action for civil RICO.  
26

12. Summary adjudication is GRANTED in favor of Mineau/Legion and against Mr. Kvam on the SAC's Eleventh Cause of Action for Derivative Claim.

13. Based on the Court's foregoing findings of fact and conclusions of law, summary adjudication is DENIED on the SAC's First Claim for Relief for Declaration of Joint Venture.

14. The claims remaining at issue in this action for is Mr. Kvam's Fifth Cause of Action and Sixth Cause of Action, and any declaratory relief requested under Mr. Kvam's First Cause of Action which was not resolved by the declarations or findings of fact and conclusions of law made herein, and claims remaining against Defendant 7747 S. May Street, if any.

15. The parties are directed to contact the Judicial Assistant in Department 6 within thirty (30) days to set this matter for trial on these claims.

16. The parties are further directed to resubmit any motions previously submitted which are not made moot by reason of this Order.

DATED this 4th day of June, 2020.

  
LYNNE K. SIMONS  
DISTRICT JUDGE

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MICHAEL MATUSKA, ESQ.  
AUSTIN SWEET, ESQ.  
MARK GUNDESON, ESQ.

Hadi Bre



1 **CODE 2540**

2 **GUNDERSON LAW FIRM**

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10 Reno, Nevada 89509

11 Telephone: 775.829.1222

12 *Attorneys for Brian Mineau and Legion Investments*

13  
14 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
15 **IN AND FOR THE COUNTY OF WASHOE**

16 JAY KVAM,

Case No. CV18-00764

17 Plaintiff / Counterdefendant,

Dept. No. 6

18 vs.

19 BRIAN MINEAU; LEGION INVESTMENTS,  
20 LLC; 7747 S. May Street, an Unincorporated  
21 Joint Venture; and DOES I-X, inclusive,

22 Defendants / Counterclaimants.  
23 \_\_\_\_\_/

24 **NOTICE OF ENTRY OF ORDER**

25 PLEASE TAKE NOTICE that an *Order Granting, in Part, and Denying, in Part Defendants'*  
26 *Motion for Summary Judgment; Order Granting Summary Judgment in Claim Pursuant to Court's*  
27 *NRCP 56 Notice*, was entered on June 5, 2020, a copy of which is attached as Exhibit "1."

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**AFFIRMATION**

The undersigned does hereby affirm that the preceding document, **NOTICE OF ENTRY OF ORDER**, filed in the Second Judicial District Court of the State of Nevada, County of Washoe, does not contain the social security number of any person.

DATED this 5th day of June, 2020.

GUNDERSON LAW FIRM

By: /s/ Austin Sweet  
Austin K. Sweet, Esq.  
Nevada State Bar No. 11725  
Mark H. Gunderson, Esq.  
Nevada State Bar No. 2134  
3895 Warren Way  
Reno, Nevada 89509  
Telephone: 775.829.1222  
*Attorneys for Brian Mineau and Legion Investments*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I certify that I am an employee of the law office of Gunderson Law  
3 Firm, and that on the 5th day of June, 2020, I electronically filed a true and correct copy of the  
4 **NOTICE OF ENTRY OF ORDER**, with the Clerk of the Court by using the electronic filing system  
5 which will send a notice of electronic filing to the following:

6  
7 Michael Matuska, Esq.  
8 Matuska Law Offices, Ltd.  
9 2310 South Carson Street, Suite 6  
10 Carson City, Nevada 89701  
11 *Attorney for Jay Kvam*

12 /s/ Kelly Gunderson  
13 Kelly Gunderson  
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**EXHIBIT LIST**

<b>Exhibit #</b>	<b>Description</b>	<b>Pages</b>
Exhibit "1"	Order Granting, in Part, and Denying, in Part Defendants' Motion for Summary Judgment; Order Granting Summary Judgment in Claim Pursuant to Court's NRCP 56 Notice	45

FILED  
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CV18-00764  
2020-06-05 01:59:32 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7911496

# Exhibit “1”

# Exhibit “1”

Code:

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JAY KVAM,

Plaintiff,

Case No.: CV18-00764

vs.

Dept. No: 6

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. May Street, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

BRIAN MINEAU and LEGION  
INVESTMENTS, LLC,

Counterclaimant,

vs,

JAY KVAM,

Counterdefendant

**ORDER GRANTING, IN PART, AND DENYING, IN PART  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT;  
ORDER GRANTING SUMMARY JUDGMENT  
ON CLAIM PURSUANT TO COURT'S NRCP 56 NOTICE**

Before this Court is a *Motion for Summary Judgment* ("Motion") filed by  
Defendants/Counterclaimants BRIAN MINEAU ("Mr. Mineau") and LEGION

1 INVESTMENTS, LLC (“Legion”) (hereinafter “Mineau/Legion” unless individually  
2 referenced), by and through their attorney of record, Gunderson Law Firm.  
3 Plaintiff/Counterdefendant JAY KVAM (“Mr. Kvam”) filed his *Opposition to Defendants’*  
4 *Motion for Summary Judgment; and Cross Motion for Partial Summary Judgment*<sup>1</sup>  
5 (“*Opposition*”), by and through his attorney of record, Matuska Law Offices. Mineau and  
6 Legion filed a *Reply in Support of Motion for Summary Judgment* (“*Reply*”). The *Reply*  
7 does not address the merits of the countermotion portion of the *Opposition* but does  
8 request that the Court strike it. Thereafter, the matter was submitted for decision.  
9

10 The Court heard oral arguments on the *Motion* (“Hearing”), requested counsel to  
11 provide proposed orders, and the matter was taken under advisement. As a result of oral  
12 arguments, this Court conducted further review of the pleadings and papers filed,  
13 conducted additional research and gave notice under NRCP 56 of its intention to grant  
14 summary judgment on one of Mineau/Legion’s claims that was not subject of their *Motion*.  
15 The Court heard additional argument in this regard. This Order follows.

16 **I. FACTUAL AND PROCEDURAL BACKGROUND.**

17 This action involves an agreement to purchase, restore, and resell a house in  
18 Chicago (“the Property”). *Second Amended Verified Complaint* (“SAC”), ¶ 8. Mr. Kvam  
19 provided funding for the Property. SAC, ¶ 8a. Mineau/Legion were designated to manage  
20 the operation. SAC, ¶ 8c.

21  
22 Mr. Kvam asserts he demanded his money back because he did not receive any  
23 interest payments and because renovation activity on the Property ceased. SAC, ¶¶

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24  
25 <sup>1</sup>The Court admonished counsel in a pretrial conference on January 14, 2020, that cross motions  
26 are not allowed under applicable court rules. WDCR 10(3)(“Any motion, opposition, reply, etc.,  
must be filed as a separate document . . .”). It appears Mr. Kvam has disregarded the Court’s  
admonishment. At the February 11, 2010, hearing on the *Motion* and *Opposition*, the Court  
again admonished counsel of the same.

1 8a,17. Mr. Kvam also asserts that he is entitled to receive a return of his investment, plus  
2 interest, prior to the sale of the Property. SAC, ¶¶ 12-17. In addition, Mr. Kvam alleges  
3 Mineau/Legion sold the Property at a loss and concealed the sale. SAC, ¶ 16.

4 Terms were provided for return on Mr. Kvam's investment if investment was  
5 profitable and in the event if was not. Mr. Kvam anticipated an approximate \$13,000  
6 profit. When the project failed, Mr. Kvam filed an action.

7 The original *Complaint* was filed by Mr. Kvam on April, 2018, asserting claims of  
8 relief for: (1) Declaration of Joint Venture; (2) Rescission or Reformation of Agreement;  
9 (3) Breach of Contract - Loan; (4) Breach of Contract and Tortious Breach of Implied  
10 Covenant of Good Faith and Fair Dealing; (5) Accounting; (6) Court Supervision of  
11 Dissolution and Winding Up, and Appointment of Receiver; (7) Temporary and Permanent  
12 Injunction; and, (11) Derivative Claim. *Complaint*.

13 The original *Answer and Counterclaim* (filed as one document) was filed on June  
14 5, 2018 and alleges eleven claims for relief for: (1) Breach of Contract; (2) Breach of the  
15 Covenant of Good Faith and Fair Dealing; (3) Declaratory Relief; (4) Intentional  
16 Interference with Prospective Economic Advantage; (5) Deceptive Trade Practices; (6)  
17 Abuse of Process; (7) Trespass; (8) Trespass to Chattels; (9) Conversion; (10) Fraud;  
18 and (11) Negligence.<sup>2</sup>

19 On September 4, 2018, the Court<sup>3</sup> entered its *Order* on Mr. Kvam's *Motion for*  
20 *Dissolution*. The Court declined to enter the order requested, finding the record did not  
21  
22  
23  
24

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25 <sup>2</sup> The Tenth Claim for Relief (Fraud) and the Eleventh Claim for Relief (Negligence) are  
26 identified as "Tenth Claim for Relief."

<sup>3</sup> This matter was proceeding in Department 3 before Judge Jerome M. Polaha until June 6, 2019.



1 support an adjudication of the issues at that time and was premature due to lack of  
2 discovery. *Order*, p. 2.

3 On September 5, 2018, the Court dismissed Mineau/Legion's claims: (8) Trespass  
4 to Chattels and (9) Conversion. The Court granted Mr. Kvam's *Motion for a More Definite*  
5 *Statement* on claims: (5) Deceptive Trade Practices; (10) Fraud; and (11) Negligence.

6 Mineau/Legion filed their *First Amended Counterclaim ("FACC")* on October 5,  
7 2018 (The *Answer* was not restate; the *FACC* was filed as a separate document)  
8 asserting the same claims for relief set forth in the original *Answer and Counterclaim* for:  
9 (1) Breach of Contract; (2) Breach of the Covenant of Good Faith and Fair Dealing; (3)  
10 Declaratory Relief; (4) Intentional Interference with Prospective Economic Advantage; (5)  
11 Deceptive Trade Practices; (6) Abuse of Process; (7) Trespass; (8) Trespass to Chattels;  
12 (9) Conversion; (10) Fraud; and (11) Negligence.

13 In response, Mr. Kvam filed his *Motion to Dismiss and for Summary Judgment* on  
14 October 25, 2018. Mr. Kvam requested that the Court dismiss the *FACC's* Fifth  
15 (Deceptive Trade Practices), Tenth (Fraud), and Eleventh Claims for Relief (Negligence),  
16 dismiss any remaining claims dependent on allegations regarding the Atlas Investors  
17 Southside LLC, and grant summary judgment on all *FACC* claims for relief. *Motion to*  
18 *Dismiss and for Summary Judgment*, p. 1.

19 On January 9, 2019, the Court entered summary judgment in favor of Mr. Kvam on  
20 Mineau/Legion's counterclaims for: (1) Breach of Contract; (2) Breach of Covenant of  
21 Good Faith and Fair Dealing; (4) Intentional Interference with Prospective Economic  
22 Advantage; (5) Deceptive Trade Practice (indicated as dismissed); (6) Abuse of Process;  
23 (7) Trespass; (10) Fraud; and (11) Negligence (indicated as dismissed). Mineau/Legion's  
24 *FACC* Third Claim for Relief for Declaratory Relief remained viable.  
25  
26

1 Mr. Kvam did not file an answer to the *FACC* Third Claim for Relief for Declaratory  
2 Relief and has not done so to date.

3 On January 31, 2019, Mr. Kvam filed his *First Amended Verified Complaint*  
4 (*"FAC"*), asserting: (1) Declaration of Joint Venture; (2) Rescission or Reformation of  
5 Agreement; (3) Breach of Contract - Loan; (4) Breach of Contract and Tortious Breach of  
6 Implied Covenant of Good Faith and Fair Dealing; (5) Accounting; (6) Court Supervision  
7 of Dissolution and Winding Up, and Appointment of Receiver; (7) Temporary and  
8 Permanent Injunction; (8) Fraud, Fraudulent Inducement and Fraudulent Concealment;  
9 and, (9) Derivative Claim.

10  
11 On February 19, 2019, Mineau/Legion filed their *Answer to First Amended Verified*  
12 *Complaint*.

13 On September 11, 2019, Mr. Kvam filed his *SAC* asserting claims of relief for: (1)  
14 Declaration of Joint Venture; (2) Rescission or Reformation of Agreement; (3) Breach of  
15 Contract - Loan; (4) Breach of Contract and Tortious Breach of Implied Covenant of Good  
16 Faith and Fair Dealing; (5) Accounting; (6) Court Supervision of Dissolution and Winding  
17 Up, and Appointment of Receiver; (7) Temporary and Permanent Injunction; (8) Fraud,  
18 Fraudulent Inducement and Fraudulent Concealment; (9) Conversion; (10) RICO; and,  
19 (11) Derivative Claim. *SAC*, p. 4-10. The *SAC* is the operative complaint.

20  
21 On September 25, 2019, Mineau/Legion filed their *Answer to Second Amended*  
22 *Verified Complaint*.

23 The claims that remain viable at this time are Mr. Kvam's First through Eleventh  
24 Causes of Action set forth in the *SAC* and Mineau/Legion's *FACC* Third Claim for Relief  
25 for Declaratory Relief.

1 The SAC's First Cause of Action for Declaration of Joint Venture and  
2 Mineau/Legion's Third Claim for Relief for Declaratory Relief in the *FACC* compare as  
3 follows:

<b><u>MR. KVAM'S FIRST CAUSE OF ACTION</u></b> <b>(Declaration of Joint Venture)</b>	<b><u>MINEAU/LEGION'S THIRD CLAIM FOR RELIEF</u></b> <b>(Declaratory Relief)</b>
20. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.	32. Mineau and Legion reallege the allegations contained in the other paragraphs of this Counterclaim and incorporate them by reference as if fully set forth here.
21. There is an actual, justifiable, present controversy between KVAM, MINEAU, and LEGION on the question of whether the Agreement identified in Par. 8 constitutes a joint venture agreement, an agreement for MINEAU to transfer his membership interest in LEGION, or some other type of agreement.	33. A justiciable controversy has arisen between the parties regarding their respective rights, restriction, duties, and obligations pursuant to the Agreement and the House.
22. KVAM therefore requests a declaration on the legal rights created by the Agreement, the status of the unincorporated joint venture referred to herein as 7747 and the respective interests of the joint venturers.	34. Mineau's and Legion's interests in the controversy are adverse to Kvam's.
23. KVAM further requests a declaration on the amount of loans and contributions made to the 7747 by each of the joint venturers.	35. Mineau's and Legion's interests in the controversy are legally protectable.
24. KVAM further requests a declaration that 7747, MINEAU, and LEGION were required to assign the entire interest in the 7747 to KVAM in the event it failed in any way.	36. The controversy is ripe for judicial determination.

25 SAC, generally; *FACC*, generally. During argument, Mineau/Legion concurred the  
26 legal entity was a joint venture. *Transcript of Proceedings, Oral Arguments (Motion for*

1 *Summary Judgment*), February 11, 2020 (“TOP, MSJ”). The joint venture/partnership  
2 was created for acquisition of the Property.

3 At the Pre-trial Conference and Pre-trial Motions hearing, the Court rendered its  
4 oral ruling on the *MSJ*, including giving NRCP 56(f) notice that it intended to grant  
5 summary judgment on Mineau/Legion’s *FACC* Third Claim for Relief for Declaratory  
6 Relief. The Court further rendered its oral ruling on the claims on which it was denying  
7 summary judgment, such as SAC’s Fifth Claim for Relief for Accounting and the claims  
8 it was holding a ruling in abeyance, i.e. the dissolution claim and request for  
9 appointment of a receiver. *Transcript of Proceedings, Pre-trial Conference & Pretrial*  
10 *Motions, 2/27/2020 (“Tr.”)*, p. 9-13.

12 **A. Motion for Summary Judgment**

13 In their *Motion*, Mineau/Legion seek summary judgment on the SAC’s eleven (11)  
14 causes of action. *Motion*, p. 11. Mineau/Legion did not seek summary judgment on  
15 *FACC*’s Third Claim for Relief for Declaratory Relief. *Motion*, p. 11.

16 On the SAC’s first claim (Declaration of Joint Venture), Mineau/Legion request a  
17 judicial declaration in Mineau/Legion’s favor regarding the parties’ respective rights and  
18 interests as there are no genuine dispute of material facts. *Motion*, p. 11-13.

19 On the SAC’s Mr. Kvam’s second claim (Rescission or Reformation of Agreement)  
20 Mineau/Legion seek summary judgment on the grounds Mr. Kvam has not produced any  
21 evidence to establish that the parties, at the time of contracting, shared a misconception  
22 about a vital fact upon which they based their bargain. *Motion*, p. 13-14.

23 On the SAC’s third claim (Breach of Contract – Loan), Mineau/Legion contend the  
24 Terms of Agreement establish the terms of a joint venture which lacks critical elements of  
25 a loan, including a defined borrower or a maturity date. *Motion*, p. 14-15.

1 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
2 Covenant of Good Faith and Fair Dealing), Mineau/Legion assert they owed Mr. Kvam no  
3 affirmative duty to properly manage and complete the renovation, and the duty of loyalty  
4 only requires a partner to account to the partnership for any partnership property held by  
5 that partner. *Motion*, p. 16-19.

6 On the SAC's fifth claim, (Accounting), Mineau/Legion claim Nevada law only  
7 requires a partner to account to the partnership for any partnership property held by that  
8 partner which, in this case, was the Property itself, the proceeds from its sale of the  
9 Property, and the disposition of those assets which are entirely accounted for and not  
10 subject to genuine dispute. *Motion*, 19-20.

11 On the SAC's sixth claim (Court Supervision of Dissolution and Winding Up, and  
12 Appointment of Receiver), Mineau/Legion maintain the partnership only has two  
13 remaining assets: (1) its claims against TNT and (2) the proceeds from the sale of the  
14 Property in the amount of \$26,337.91 which are to be assigned to Mr. Kvam pursuant to  
15 the Terms of the Agreement. *Motion*, p. 20.

16 On the SAC's seventh claim (Temporary and Permanent Injunction),  
17 Mineau/Legion claim upon dissolution of the partnership and assignment of its assets to  
18 Mr. Kvam, the partnership will cease to exist thereby rendering this cause of action moot.  
19 *Motion*, p. 20.

20 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
21 Concealment), Mineau/Legion posit Mr. Kvam has not produced any admissible evidence  
22 to establish any of the elements of fraud because Mr. Mineau's statements, either  
23 personally or on behalf of Legion, were made in good faith and were true to the best of  
24 Mr. Mineau's knowledge. *Motion*, p. 21-22.

1 On the SAC's ninth claim, (Conversion), Mineau/Legion assert conversion only  
2 applies to personal property, and Mr. Kvam has not produced any admissible evidence to  
3 establish any of the other elements of conversion regarding the Property. *Motion*, p. 22.

4 On the SAC's tenth claim (RICO), Mineau/Legion argue Mr. Kvam has not  
5 produced any admissible evidence, and none exists, to establish any of the elements of a  
6 RICO claim. *Motion*, p. 23.

7 Finally, on the SAC's eleventh claim (Derivative Claim), Mineau/Legion state Mr.  
8 Kvam has not produced any admissible evidence to establish the partnership holds any  
9 independent claim for relief against Mineau/Legion. *Motion*, p. 24.

10  
11 **A. Opposition to Mineau/Legion's Motion for Summary Judgment;  
12 and Cross Motion for Partial Summary Judgment<sup>4</sup>.**

13 In his *Opposition*, Mr. Kvam claims, regarding his first claim (Declaration of Joint  
14 Venture), Mineau/Legion have changed their position, and conceded the parties formed a  
15 partnership pursuant to NRS 87.4322. *Opposition*, p. 16-19.

16 On the SAC's second claim (Rescission or Reformation of Agreement), Mr. Kvam  
17 asserts the Terms of Agreement does not purport to be a complete integration of the  
18 entire agreement between the parties, and it is not the entire agreement because Mr.  
19 Mineau induced Mr. Kvam to believe he was in charge of project, and he proceeded to  
20 sign the purchase agreement and escrow papers, procure the contractor, prepare and  
21 sign the Contractor Agreement, and instruct Mr. Kvam when to make payments.  
22 *Opposition*, p. 19-20.

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<sup>4</sup>It is notable that, although improperly filed, the cross motion contained in the *Opposition*, must  
assert there are no genuine issues of material fact on the SAC's claims. *Opposition*, generally.

1 On the SAC's third claim (Breach of Contract – Loan), Mr. Kvam contends the  
2 Terms of Agreement contain both a profit-sharing agreement and a loan agreement.  
3 *Opposition*, p. 20-21.

4 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
5 Covenant of Good Faith and Fair Dealing), Mr. Kvam states Mr. Mineau was in a superior  
6 and entrusted position in which Mr. Kvam imposed a special element of reliance due to  
7 Mr. Mineau's extensive handling of the Property project. *Opposition*, p. 21-23.

8 On the SAC's fifth claim (Accounting), Mr. Kvam argues Mr. Mineau failed to  
9 account, for the loans, capital contributions, and expenses despite holding title to the  
10 Property "as trustee." *Opposition*, p. 23-24.

11 On the SAC's sixth claim (Court Supervision of Dissolution and Winding Up, and  
12 Appointment of Receiver), Mr. Kvam posits winding up is incomplete because Mr. Mineau  
13 refuses to release funds to Mr. Kvam due to other claims to the funds. *Opposition*, p. 24.

14 On the SAC's seventh claim (Temporary and Permanent Injunction), Mr. Kvam  
15 maintains once the remaining funds are distributed and the joint venture finally wound up,  
16 this cause of action will be complete. *Opposition*, p. 25.

17 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
18 Concealment), Mr. Kvam incorporates broad arguments, but does not identify specific  
19 facts, regarding various types of fraud and deceit at issue: (1) fraudulent or intentional  
20 misrepresentation; (2) false promise; (3) Concealment; (4) Fraud by Nondisclosure  
21 (Silence); (5) Negligent Misrepresentation; and, (6) Constructive Fraud. *Opposition*, p.  
22 25-29.

23 On the SAC's ninth claim (Conversion), Mr. Kvam contends the conversion was  
24 diverting project funds and holding the proceeds of sale. *Opposition*, p. 29-31.

1 On the SAC's tenth claim (RICO), Mr. Kvam asserts the predicate act, for example,  
2 to establish a RICO claim derives from Mr. Mineau obtaining a signature from Mr. Kvam  
3 to obtain his money under false pretenses including the misrepresentation the money  
4 would be placed in a separate account. *Opposition*, p. 31-34.

5 Lastly, on the SAC's eleventh claim (Derivative Claim), Mr. Kvam stresses all of his  
6 claims are asserted on his own behalf and on behalf of the joint venture, which is  
7 permissible under applicable law. *Opposition*, p. 34.

#### 8 **A. Reply in Support of Motion for Summary Judgment**

9  
10 In their *Reply* on the SAC's first claim (Declaration of Joint Venture),  
11 Mineau/Legion assert all parties agree the Court should enter a judicial declaration the  
12 parties formed a partnership pursuant to NRS 87.4322; however, Mineau/Legion maintain  
13 there is simply no legal or factual basis upon which a jury could decide Mr. Kvam's  
14 investment of \$93,784.31 was a loan. *Reply*, p. 5-6.

15 On the SAC's second claim (Rescission or Reformation of Agreement),  
16 Mineau/Legion contend Mr. Kvam fails to offer any admissible evidence to establish he  
17 believed Mr. Mineau agreed to be "in charge of the project," or that the parties ever  
18 agreed upon any terms other than those set forth in the Terms of Agreement. *Reply*, p. 6-  
19 7.

20  
21 On the SAC's third claim (Breach of Contract – Loan), Mineau/Legion claim Mr.  
22 Kvam argues the Property was purchased not with a loan or borrowed funds, but with  
23 joint venture funding, which is consistent with the terms of a joint venture, not a loan.  
24 *Reply*, p. 7-8.

25 On the SAC's fourth claim (Breach of Contract and Tortious Breach of Implied  
26 Covenant of Good Faith and Fair Dealing), Mineau/Legion maintain Mr. Kvam's



1 allegations fall well short of the "grievous and perfidious misconduct" standard as a matter  
2 of law. *Reply*, p. 8.

3 On the SAC's fifth claim (Accounting), Mineau/Legion state they prepared  
4 spreadsheets and delivered them to Mr. Kvam to provide the requested accounting.  
5 *Reply*, p. 9.

6 On the SAC's sixth and seventh claims (Court Supervision of Dissolution and  
7 Winding Up, and Appointment of Receiver and Temporary and Permanent Injunction),  
8 Mineau/Legion note Mr. Kvam does not appear to dispute the relief sought by  
9 Mineau/Legion. *Reply*, p. 9.

10 On the SAC's eighth claim (Fraud, Fraudulent Inducement and Fraudulent  
11 Concealment), Mineau/Legion posit Mr. Kvam's incorporated claims are very broadly pled  
12 and fail to contain any specific allegations. *Reply*, p. 9-12.

13 On the SAC's ninth claim (Conversion), Mineau/Legion assert Mr. Kvam has not  
14 presented evidence they exerted a distinct act of dominion over Mr. Kvam's personal  
15 property, rather Mr. Kvam merely alleges Mr. Mineau allowed TNT to commingle project  
16 funds with TNT's other funds. *Reply*, p. 12-13.

17 On the SAC's tenth claim (RICO), Mineau/Legion note Mr. Kvam fails his burden of  
18 establishing Mineau/Legion violated Nevada's RICO Act. *Reply*, p. 13-14.

19 On the SAC's eleventh claim (Derivative Claim), Mineau/Legion claim Mr. Kvam  
20 has conceded the partnership does not hold any independent claim for relief against  
21 Mineau/Legion other than the claims discussed above. *Reply*, p. 14.

22 Finally, Mineau/Legion request this Court strike Mr. Kvam's cross-motion contained  
23 within his *Opposition*. *Reply*, p. 15.

1 The Court finds it appropriate to strike the relief requested in the cross-motion and  
2 considers the document filed as an opposition only.

3 **II. STANDARD OF REVIEW.**

4 Summary judgment is appropriate under Rule 56 of the Nevada Rules of Civil  
5 Procedure "when the pleadings, depositions, answers to interrogatories, admissions, and  
6 affidavits, if any, that are properly before the court demonstrate that no genuine issue of  
7 material fact exists, and the moving party is entitled to judgment as a matter of law."  
8 Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada, 123 Nev. 598, 602, 172 P.3d 131, 134  
9 (2007). A factual dispute is genuine when the evidence is such that a rational trier of fact  
10 could return a verdict for the nonmoving party. Wood v. Safeway, Inc., 121 Nev. 724,  
11 731, 121 P.3d 1026, 1031 (2005). Further, a fact is material if the fact "might affect the  
12 outcome of the suit under the governing law." Anderson v. Liberty Lobby, Inc., 477 U.S.  
13 242, 248, 106 S.Ct. 2505, 2510 (1986). The pleadings and other proof "must be  
14 construed in a light most favorable to the nonmoving party," who bears the burden to "do  
15 more than simply show that there is some metaphysical doubt as to the operative facts in  
16 order to avoid summary judgment" in favor of the moving party. Id., 121 Nev. at 732, 121  
17 P.3d at 1031. The substantive law controls which factual disputes are material and will  
18 preclude summary judgment; other factual disputes are irrelevant. Id., 121 Nev. at 731,  
19 121 P.3d at 1031.

20  
21  
22 The manner in which each party may satisfy its burden of production depends on  
23 which party will bear the burden of persuasion on the challenged claim at trial. Cuzze,  
24 123 Nev. at 602, 172 P.3d at 134. If the moving party will bear the burden of persuasion  
25 (Mineau/Legion on *FACC*), that party must present evidence that would entitle it to a  
26 judgment as a matter of law in the absence of contrary evidence. Id. If the nonmoving

1 party will bear the burden of persuasion at trial (Mr. Kvam on SAC), the party moving for  
2 summary judgment (Mineau/Legion) may satisfy the burden of production in two ways: (1)  
3 the moving party may submit evidence which negates an essential element of the  
4 nonmoving party's claim, or (2) the moving party may merely point out the absence of  
5 evidence to support the nonmoving party's case. Id. Therefore, in such instances, in  
6 order to defeat summary judgment, the nonmoving party must transcend the pleadings  
7 and, by affidavit or other admissible evidence, **introduce specific facts** that show a  
8 genuine issue of material fact. Id. "The non-moving party must not simply rely on the  
9 pleadings and must do more than make 'conclusory allegations [in] an affidavit.'" Choi v.  
10 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020 (C.D. Cal.), citing, Lujan  
11 v. Nat'l Wildlife Fed'n, 497 U.S. 871, 888, 110 S.Ct. 3177, 3188 (1990); see also, Celotex  
12 Corp. v. Catreet, 477 U.S. 317, 324, 106 S.Ct. 2548, 2553 (1986). "Summary judgment  
13 must be granted for the moving party if the nonmoving party 'fails to make showing  
14 sufficient to establish an element essential to that party's case, and on which that party  
15 bears the burden of proof at trial.'" Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip  
16 Copy, March 25, 2020 (citing same).

17  
18 "Effect of Failing to Deny. An allegation—other than one relating to the amount  
19 of damages – is admitted if a responsive pleading is required and the allegation is not  
20 denied." NRCP 8(b)(6). An answer to counterclaim is a required responsive pleading.  
21 Bowers v. Edwards, 79 Nev 834, 389, 385 P.2d 783, 785 (1963).

22  
23 By way of the stricken cross-motion relief, Mr. Kvam on the one hand asserts  
24 there is no genuine issue of fact but in argument contends there is. The *Opposition*  
25 without citation to specific facts and after admitting facts by failing to file an answer to  
26 the FACC. He also attaches forty (48) exhibits without pointing to specific facts even

1 upon inquiry at the hearing. *TOP, MSJ*, passim. Even Mr. Kvam's Declaration offered in  
2 support of the *Opposition* and his purported cross motion includes conclusionary facts  
3 with regard to material facts asserted by Mineau/Legion as not in dispute or claims for  
4 which Mineau/Legion assert there is no evidence.

5 This Court is not obligated to search for facts. "[A] district court is not obligated  
6 to wade through and search the entire record for some facts which might support the  
7 nonmoving party's claim." Jauregui v. Carter Mfg. Co., Inc., 173 F.3d 1076, 1084 (8<sup>th</sup>  
8 Cir. 1999) (quotation omitted). "[R]equiring the district court to search the entire record,  
9 even though the adverse party's response does not set out the specific facts or disclose  
10 where in the record the evidence for them can be found, is unfair. Carmen v. San  
11 Francisco Unified School Dist., 237 F. 3d 1026, 1031 (9<sup>th</sup> Cir. 2001). "We refuse to do  
12 this work for it. See Indep. Towers of Wash. v. Washington, 350 F.3d 925, 929 (9th Cir.  
13 2003) ('[J]udges are not like pigs, hunting for truffles.') (quoting United States v. Dunkel,  
14 927 F.2d 955, 956 (7th Cir. 1991))." Freeman Inv. Mgmt. Co., LLC v. Frank Russell  
15 Co., 729 F. App'x 590, 591 (9th Cir. 2018) (considering summary judgment).

16 This Court has considered the properly filed papers and the other papers and  
17 pleadings on file and makes the following findings of undisputed material facts and  
18 conclusions of law.  
19  
20

### 21 **III. STATEMENT OF UNDISPUTED MATERIAL FACTS.**

22 The Court finds the following material facts are undisputed:

23 1. In early 2017, Mr. Mineau, Mr. Kvam, and Michael J. Spinola ("Mr.  
24 Spinola") began formulating a plan to purchase the property located at 7747 S. May  
25 Street, Chicago, Illinois ("Property"), renovate it, and sell it for a profit. *Motion*, Ex. 1,  
26

¶ 5; *Opposition*, Ex. 1, ¶ 2; *FACC* allegations deemed admitted due to failure to answer<sup>5</sup> (“DA”).

2. Mr. Mineau serves as sole member/manager of Legion Investments, LLC (“Legion”), a Nevada limited liability company. SAC, ¶ 2, ¶ 13; *Answer to SAC*, ¶ 1, ¶ 8.

3. On January 3, 2017, Legion entered into a *Residential Real Estate Purchase and Sale Contract* to purchase the Property for \$44,000.00. *Motion*, Ex. 1, ¶ 6; DA ¶ 4.

4. On February 13, 2017, Mr. Kvam wired \$44,000.00 to Citywide Title Corp, Escrow No. 719630, for the purchase of the Property. *Motion*, Ex. 3; *Opposition*, Ex. 7; DA ¶ 5 (“paid the seller directly”).

5. Mr. Kvam later wired an additional \$784.31 to the title company to cover the buyer’s portions of the closing costs. *Motion*, Ex. 4; *Opposition*, Ex. 8.

6. Legion took title to the Property on February 13, 2017. *Motion*, Ex. 1, ¶ 10; *Opposition*, Ex. 10.

7. On February 13, 2017, Mr. Mineau, and Mr. Spinola executed a document entitled “*Terms of Agreement between Legion Investments LLC (its Members) And Jay Kvam (Initial Funding Member of Same) RE: 7747 S. May Street, Chicago Illinois*” (“Terms of Agreement”). *Motion*, Ex. 2; *Opposition*, Ex. 11; DA, ¶ 2.

8. Mr. Kvam drafted the Terms of Agreement. DA, ¶ 3.

9. On February 14, 2017, Mr. Kvam executed the Terms of Agreement with Mr. Mineau and Mr. Spinola. *Motion*, Ex. 2; *Opposition*, Ex. 11; DA ¶ 2.

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<sup>5</sup> As discussed herein, Mr. Kvam did not file an answer to the *FACC*. The Court identifies the allegations deemed admitted as “DA” in addition to its other citations to the record.

1           10.    The Terms of Agreement reads, in its entirety, as follows:

2           Terms of Agreement between Legion Investments LLC (its Members)

3                   And Jay Kvam (Initial Funding Member of Same)

4                               RE:

5                               7747 S. May Street, Chicago, Illinois

6           With Regards to acquisition of the aforementioned property [sic], it is  
7           understood that the membership of Legion Investments LLC for this  
8           acquisition is Brian Mineau, Jay Kvam, and Michael J. Spinola. All parties  
9           are entitled to 33.33% of net profit, after all expenses are accounted for, to  
10          include interest due on funds dispersed. Initial purchase is being funded by  
11          Jay Kvam, who is there by [sic] assigned any remedies due should the  
12          transaction fail in anyway. Initial funder [sic] will be due a 7% annual return  
13          on any funds provided due from date of disbursement. There is expected  
14          to be 3 renovation draws necessary on this project. First draw to be funded  
15          by Mr. Kvam, [sic] Due to present and ongoing business dealings between  
16          Jay and Michael, Michael has agreed to allot %50 [sic] of his 1/3 profit to  
17          Mr. Kvam for both initial funding's [sic].

18          *Motion*, Ex. 2; *Opposition*, Ex. 11.<sup>6</sup>

19          11.    Mr. Kvam admits the Terms of Agreement constitutes a binding legal  
20          contract. DA ¶ 27.

21          12.    All parties to the Terms of Agreement knew this was a high-risk  
22          investment. DA ¶ 9.

23          13.    The Property was located the south side of Chicago. DA ¶ 10.

24          14.    Mr. Kvam acceded to Mr. Spinola's interest. SAC, ¶ 11; *Motion*, p. 4,  
25          n. 1.<sup>7</sup>

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26          <sup>6</sup> The Terms of Agreement can cause confusion on the actual name of the joint  
venture/partnership discussed herein. It does not change the legal conclusions and is referred  
to herein generically rather than by name.

<sup>7</sup> The specific interest Mr. Kvam acceded to is not a material fact as the remedy is the same.

1           15.     On March 16, 2017, Colleen Burke, Legion's property manager in  
2 Chicago, texted to Mr. Mineau stating, "I have the other contractor I told you about  
3 going to May Street. I'm really liking this guy. He seems very fair and hard worker. I  
4 would like to set up a conference call with him this weekend." *Motion*, Ex. 5;  
5 *Opposition*, Ex. 13.

6           16.     Ms. Burke identified the subject contractor as TNT Complete Facility Care  
7 Inc. ("TNT"). *Motion*, Ex. 1, ¶ 11; *Opposition*, Ex. 1, ¶ 9.

8           17.     On March 19, 2017, Ms. Burke emailed Mr. Mineau the contact  
9 information for TNT's principals, Derek Cole and Todd Hartwell, along with TNT's  
10 references and Certificate of Insurance. *Motion*, Ex. 6; *Opposition*, Ex. 14-15.

11           18.     On March 23, 2017, Mr. Mineau, on behalf of Legion, entered into a  
12 Contractor Agreement with TNT ("Contractor Agreement"). *Motion*, Ex. 7; *Opposition*,  
13 Ex. 17-18.

14           19.     Mr. Kvam paid TNT directly to fund the renovations. DA ¶ 7.

15           20.     Mr. Kvam knew TNT was the contractor.

16           21.     The Contractor Agreement identified Todd Hartwell as TNT's CEO and  
17 Derek Cole as TNT's Field Operations VP. *Motion*, Ex. 7, p. LEG0012; *Opposition*, Ex.  
18 17-18.

19           22.     Pursuant to the Contractor Agreement, TNT agreed to fully renovate the  
20 Property for a flat fee of \$80,000.00. *Motion*, Ex. 7, p. LEG0013; *Opposition*, Ex. 1, ¶  
21 10, Ex. 24.

22           23.     Progress payments were to be made pursuant to a defined schedule.  
23 *Motion*, Ex. 7, p. LEG0013; *Opposition*, Ex. 1, ¶ 10.

1           24.    TNT agreed to complete the project by June 1, 2017. *Motion*, Ex. 7, p.  
2   LEG0013; *Opposition*, Ex. 1, ¶ 10.

3           25.    On February 17, 2017, Mr. Kvam texted Mr. Mineau to ask for wiring  
4   details to forward the first payment. *Opposition*, Ex. 12.

5           26.    Mr. Mineau responded, “Not yet, he was getting the wiring info for a  
6   separate account so he could keep May Street funds separate from other projects.”  
7   *Opposition*, Ex. 1, ¶ 9, Ex. 12.

8           27.    On March 23, 2017, Mr. Kvam wired \$20,000.00 directly to TNT with the  
9   reference “7747 South May Street – Legion Investments – Jay Kvam.” *Motion*, Ex. 8;  
10   *Opposition*, Ex. 18.

11           28.    On April 9, 2017, TNT emailed proposed floor plans to Mr. Mineau, who  
12   forwarded them to Mr. Kvam and Mr. Spinola for review and input. *Motion*, Ex. 9-10.

13           29.    On April 14, 2017, Kvam emailed Todd Hartwell (TNT’s CEO) to inquire  
14   whether Legion had an assigned account number with TNT and the preferred way for  
15   Mr. Kvam to send TNT the next progress payment. *Motion*, Ex. 11.

16           30.    Mr. Kvam wrote Todd Hartwell again, indicating that he had just spoken  
17   with Mr. Hartwell and he was “heading to the bank now to set up the wire.” *Motion*, Ex.  
18   11.  
19

20           31.    Mr. Kvam wired another \$20,000.00 directly to TNT with the reference  
21   “Second Draw Legion Investments Jay Kvam.” *Motion*, Ex. 12; *Opposition*, Ex. 20.

22           32.    On and around May 5, 2017, Derek Cole (TNT’s Field Operations VP)  
23   came to Reno to visit with Mr. Mineau, Mr. Kvam, and others. *Motion*, Ex. 13.  
24  
25  
26



1           33.     Mr. Kvam's notes indicate Mr. Kvam and Mr. Cole specifically discussed  
2 the renovation of the Property, and Mr. Cole represented to Mr. Kvam that the project  
3 would be "done in early June." *Motion*, Ex. 13, p. KVAM0423.

4           34.     On May 9, 2017, Mr. Mineau texted Mr. Kvam and Mr. Spinola  
5 approximately nine (9) photographs of the Property which he had received from Mr.  
6 Cole. *Motion*, Ex. 14.

7           35.     Mr. Mineau informed Mr. Kvam and Mr. Spinola that he "just got this from  
8 Derek [Cole] roof is all done at May street." *Motion*, Ex. 14.

9           36.     On May 15, 2017, Mr. Kvam texted Derek Cole to check on him after an  
10 apparent car accident and to give Mr. Kvam's mobile telephone number to Mr. Cole.  
11 *Motion*, Ex. 15.

12           37.     Mr. Cole responded by sending Mr. Kvam forty-six (46) photographs of  
13 the interior and exterior of the Property, purportedly showing the work TNT had  
14 completed to date and the current status of the project. *Motion*, Ex. 15.

15           38.     Mr. Cole's pictures included the nine (9) pictures of the roof which Mr.  
16 Mineau had forwarded to Mr. Kvam on May 9, 2017. Compare *Motion*, Ex. 14, with  
17 *Motion*, Ex. 15.

18           39.     On May 17, 2017, Mr. Kvam sent Mr. Cole a message on Slack  
19 indicating, "first half of the third draw on May to go out tomorrow." *Motion*, Ex. 16.

20           40.     On May 18, 2017, Mr. Kvam wired \$9,000.00 directly to TNT with the  
21 reference "Half of Third Installment." *Motion*, Ex. 17; *Opposition*, Ex. 21.

22           41.     On May 21, 2017, Mr. Cole informed Mr. Mineau that TNT would be  
23 "installing floors this week and should be finishing very soon." *Motion*, Ex. 1, ¶ 24, Ex.  
24 18; *Opposition*, Ex. 22.

1           42.     Mr. Mineau forwarded this information on to Mr. Kvam. *Motion*, Ex. 18;  
2 *Opposition*, Ex. 22.

3           43.     On May 26, 2017, Criterion NV LLC, acting on Mr. Mineau's behalf, wired  
4 \$20,000.00 directly to TNT with the reference "May Street." *Motion*, Ex. 1, ¶ 25, Ex. 19.

5           44.     Over the course of the next month, Mr. Kvam and Mr. Cole texted  
6 regularly concerning the Property. *Motion*, Ex. 20, Ex. 22.

7           45.     Mr. Cole sent Mr. Kvam and Mr. Mineau dozens of pictures of the work  
8 being performed at the Property. *Motion*, Ex. 22, p. KVAM0106-KVAM0123.

9           46.     Mr. Cole also notified Mr. Kvam that "I got all the permits and paperwork  
10 back from the city last week file from [sic] my inspections as soon as they come do  
11 those I'm two weeks after that." *Motion*, Ex. 22, p. KVAM0129.

12           47.     In response to Mr. Kvam's inquiry, Mr. Cole explained that the  
13 inspections were "for the rough plumbing and electrical." *Motion*, Ex. 22, p.  
14 KVAM0129.

15           48.     Mr. Kvam had independent and direct communications with TNT. *Motion*,  
16 Ex. 20, Ex. 22. 38.

17           49.     Mr. Kvam acquired information directly from TNT and did not rely on Mr.  
18 Mineau's representations.

19           50.     After June 20, 2017, TNT started becoming increasingly unresponsive.  
20 *Motion*, Ex. 1, ¶ 29.

21           51.     Mr. Mineau stayed in contact with Mr. Cole and Mr. Hartwell in an effort to  
22 compel TNT to finish the project. *Motion*, Ex. 1, ¶ 29.

1           52.    TNT communicated inconsistently. TNT did respond with excuses for  
2 delays and promised that the project would be completed within a matter of days or  
3 weeks. *Motion*, Ex. 1, ¶ 29.

4           53.    Mr. Hartwell confirmed that TNT was working to replace Mr. Cole and that  
5 TNT would finish the project as soon as possible. *Motion*, Ex. 1, ¶ 29.

6           54.    In late August 2017, TNT explained Mr. Cole had been absent because  
7 he had suffered a heart attack but recovered and was returning to work. *Motion*, Ex.  
8 1, ¶ 29.

9           55.    In late September 2017, Mr. Cole informed Mr. Mineau the Property  
10 needed a few more inspections but was nearly complete. *Motion*, Ex. 1, ¶ 29.

11           56.    In mid-October 2017, Mr. Cole informed Mr. Mineau that TNT was “doing  
12 the final touches” and would then be ready for occupancy inspections. *Motion*, Ex. 1, ¶  
13 29.

14           57.    In early November 2017, Mr. Cole advised some of the plumbing work did  
15 not pass inspection and would need more work. *Motion*, Ex. 1, ¶ 29.

16           58.    In mid-November 2017, Mr. Cole represented to Mr. Mineau that the  
17 project would be done in 14-17 days and would cost an additional \$2,000.00, but that  
18 TNT would “eat that cost” due to the delay. *Motion*, Ex. 1, ¶ 29.

19           59.    Mr. Mineau relayed each status update from TNT to Mr. Kvam.  
20  
21 *Opposition*, Ex. 25-31.

22           60.    By December 2017, Mr. Kvam had become frustrated with TNT’s excuses  
23 and delays and indicated his fear that TNT had defrauded them. *Motion*, Ex. 24

24           61.    Mr. Mineau notified Mr. Kvam that he had asked his attorney in Chicago  
25 to draft a demand letter to TNT. *Motion*, Ex. 24  
26

1           62.     Alternatively, Mr. Mineau offered to “sign the property over.” *Motion*, Ex.  
2 24.

3           63.     On December 31, 2017, Mr. Kvam delivered a letter to Mr. Mineau  
4 concerning the Property. *Motion*, Ex. 25

5           64.     In his letter, Mr. Kvam expressly rejected Mr. Mineau’s offer to transfer  
6 the Property, stating he did not want to assume the role of managing the project and  
7 expressing concern that TNT had done little construction work for the money it had  
8 been paid. *Motion*, Ex. 25

9           65.     For reasons beyond any of the parties’ knowledge, control or expectation,  
10 the contractor hired to perform the renovations did not or was not able to complete the  
11 job. DA ¶ 11.

12           66.     Mr. Kvam stated, “...I deem the project a failure....” *Motion*, Ex. 25.

13           67.     On November 16, 2018, Legion sold the Property for \$41,000.00. *Motion*,  
14 Ex. 30; *Opposition*, Ex. 35.

15           68.     Legion’s share of prorated property taxes, closing costs, and the  
16 commission owed to the real estate brokers equaled \$16,526.23. *Motion*, Ex. 30;  
17 *Opposition*, Ex. 35.

18           69.     The net proceeds from the closing were \$24,473.77. *Motion*, Ex. 30;  
19 *Opposition*, Ex. 35.

20           70.     On December 19, 2018, Legion received an additional \$1,864.14 from  
21 the sale of the Property as a result of a refund on a tax bill and a water bill. *Motion*, Ex.  
22 1. ¶ 39.

23           71.     The total net proceeds from the sale of the Property are \$26,337.91.  
24 *Motion*, Ex. 1. ¶ 39.

1           72.     Mineau and Legion fulfilled all of their obligations under the Terms of  
2 Agreement. DA ¶ 22.

3           73.     The assets remaining after the project failed are claims against TNT and  
4 \$26,337.91.

5           74.     To the extent any of the contents in Sections I and II, supra, and/or the  
6 following conclusions of law contain or constitute, or may be construed to contain or  
7 constitute findings of fact, they are incorporated here.

8  
9 **IV.     CONCLUSIONS OF LAW.**

10          1.     To the extent any of the contents of Sections I, II and III, supra, contain or  
11 constitute, or may be construed to contain or constitute conclusions of law, they are  
12 incorporated here.

13           **A.     Declaratory Relief.**

14          2.     The SAC's First Cause of Action is for Declaration of Joint Venture,  
15 thereby seeking declaratory relief.

16          3.     The FACC's Third Cause of Action is for Declaratory Relief.

17          4.     The Court gave reasonable proper notice under NRCP 56 that it intended  
18 to grant Declaratory Relief on Mineau/Legions FACC Third Cause of Action for  
19 Declaratory Relief and was not granting summary judgment the SAC's First Cause of  
20 Action is Declaration of Joint Venture.

21          5.     "A statement in a pleading may be adopted by reference elsewhere in the  
22 same pleading or in any other pleading or motion." NRCP 10(c). The FACC's Third  
23 Claim for Relief for Declaratory Relief includes Paragraph 32, "Mineau and Legion  
24 reallege the allegations contained in the other paragraphs of this Counterclaim and  
25  
26

1 incorporate them by reference as if fully set forth here.” *FACC*, p.4. The incorporation  
2 of the allegations contained in other paragraphs was appropriate under applicable law.

3 6. Mr. Kvam failed to file an answer to the *FACC* Third Claim for Relief for  
4 Declaratory Relief.

5 7. As stated, “*Effect of Failing to Deny*. An allegation—other than one  
6 relating to the amount of damages – is admitted if a responsive pleading is required  
7 and the allegation is not denied.” NRCP 8(b)(6). An answer to counterclaim is a  
8 required responsive pleading. Bowers v. Edwards, 79 Nev 834, 389, 385 P.2d 783,  
9 785 (1963).

10 8. The effect of Mr. Kvam’s failure to answer the allegations of the *FACC*  
11 Third Claim for Relief for Declaratory relief is the allegations, including the incorporated  
12 allegations, were admitted. Id. (citing NRCP 8(d) (NRCP 8(d), which, as enacted at the  
13 time the *FACC*, was filed provided, “[a]verments in a pleading to which a responsive  
14 pleading is required ... are admitted when not denied in the responsive pleading.”).  
15 NRCP 8(d) was deleted by amendment effective March 1, 2019); Breliant v. Preferred  
16 Equities Corp., 109 Nev. 842, 848–49, 858 P.2d 1258, 1262 (1993) (holding plaintiff  
17 stated sufficient facts to assert a claim, in part, because defendant admitted to  
18 allegations in complaint when it did not deny the allegations in plaintiff’s amended  
19 complaint that made averments in its pleading where a responsive pleading was  
20 required by defendant).

21 9. A party must meet four elements before declaratory relief can be granted:  
22 (1) there must exist a justiciable controversy; that is to say, a controversy in which a  
23 claim of right is asserted against one who has an interest in contesting it; (2) the  
24 controversy must be between persons whose interests are adverse; (3) the party  
25  
26

1 seeking declaratory relief must have a legal interest in the controversy, that is to say, a  
2 legally protectable interest; and (4) the issue involved in the controversy must be ripe  
3 for judicial determination. MB Am., Inc. v. Alaska Pac. Leasing, 132 Nev. Adv. Op. 8,  
4 367 P.3d 1286, 1291 (2016).

5 10. A justiciable controversy initially existed in this case regarding whether  
6 there was a joint venture/partnership.

7 11. Any person whose rights, status, or other legal relations "are affected by  
8 a statute . . . may have determined any question of construction" of that statute. NRS  
9 30.040(1); Prudential Ins. Co. of Am. v. Ins. Comm'r, 82 Nev. 1, 5, 409 P.2d 248, 250  
10 (1966) (declaratory relief is available when a controversy concerning the meaning of a  
11 statute arises).

12 12. Formation of joint ventures is governed by NRS 87.4322 which states, in  
13 part, "the association of two or more persons to carry on as co-owners of a business  
14 for profit forms a partnership, whether or not the persons intend to form a partnership."

15 13. Mr. Kvam, Mr. Meneau and Mr. Spinola formed a joint  
16 venture/partnership pursuant to NRS 87.4322. *Motion*, Ex. 2; *Opposition*, Ex. 11.

17 14. The justiciable controversy regarding creation of a joint  
18 venture/partnership was resolved during the litigation and the parties agree a joint  
19 venture/partnership was created.

20 15. A justiciable controversy exists regarding the parties' rights under the  
21 Terms of Agreement.

22 16. Mr. Kvam's and Mineau/Legion's interests are adverse.

23 17. Mr. Kvam, Mr. Mineau and Legion have a legal interest in the  
24 controversy.  
25  
26

1           18.    For declaratory relief, "Person" is "construed to mean any person,  
2 partnership . . . or other corporation of any character whatsoever." NRS 30.020.

3           19.    "Whether a determination is proper in an action for declaratory relief is a  
4 matter within the trial judge's discretion that will not be disturbed on appeal unless  
5 abused." El Capitan Club v. Fireman's Fund Ins. Co., 89 Nev. 65, 68, 506 P.2d 426,  
6 428 (1973).

7           20.    Declaratory relief should be granted on Mineau/Legion's *FACC* Third  
8 Claim for Relief for Declaratory Relief.

9           21.    The Court should declare with respect to the parties' respective rights  
10 and interests:

11                   a.    Mr. Kvam, Mr. Spinola, and Mr. Mineau were the member partners  
12 for the acquisition of the Property, 7747 S. May Street, Chicago, Illinois.

13                   b.    Mr. Kvam was the initial funding member.

14                   c.    The parties formed a joint venture/partnership pursuant to NRS  
15 87.4322.

16                   d.    The Terms of Agreement and NRS Chapter 87 governed the  
17 partnership.

18                   e.    The Terms of Agreement did not constitute a loan agreement.

19                   f.    There was no meeting of the minds regarding any other provisions  
20 to the Terms of the Agreement except those written and contained in the Terms  
21 of Agreement.

22                   g.    Mr. Kvam acceded to Mr. Spinola's interest.

23                   h.    No party made any loans to the partnership.

24                   i.    Mr. Kvam acceded to Mr. Spinola interest.



1           j.       Mr. Spinola's does not have an interest adverse to the interests of  
2 Mr. Kvam and Mineau/Legion. Based on the accession of Mr. Spinola's interest  
3 to Mr. Kvam and the remedy of assignment, Mr. Spinola has no legal interest in  
4 the Terms of Agreement. Only those who enjoy a legal interest in the Terms of  
5 Agreement should be joined in this action. Wells v. Bank of Nevada, 90 Nev.  
6 192, 198, 522 P.2d 1014, 1018 (1974).

7           k.       The project failed.

8           l.       All remedies due to the partnership are assigned to Kvam because  
9 the project failed.

10           m.      The parties agreed all interests in the partnership and any  
11 remedies due to the partnership, including the proceeds from the sale of the  
12 Property in the amount of \$26,337.71, should be assigned to Mr. Kvam and the  
13 partnership dissolved. *Motion*, Ex. 1, ¶ 38-39; *Opposition*, p. 20; *Stipulation to*  
14 *Deposit Funds*, December 12, 2018.

15           22.     Based on the Court's findings and conclusions on Mineau/Legion's *FACC*  
16 Third Claim for Relief and its findings and conclusions on the SAC's remaining claims  
17 for relief, *infra*, summary judgment is denied on the SAC's First Claim for Declaration of  
18 Joint Venture.

19           **B.       Rescission or Reformation of Agreement.**

20           23.     The SAC's Second Cause of Action is for Recission or Reformation of  
21 Agreement.

22           24.     "A contract may be rescinded on the basis of mutual mistake when both  
23 parties, at the time of contracting, share a misconception about a vital fact upon which  
24 they based their bargain." Land Baron Inv. v. Bonnie Springs Family LP, 131 Nev. 686,  
25  
26

694, 356 P.3d 511, 517 (2015) (internal citations omitted). “However, mutual mistake will not provide grounds for rescission where a party bears the risk of mistake.” Id. (citing Restatement (Second) of Contracts §§ 152(1), 154(b), (c) (1981)). “[I]f the risk is reasonably foreseeable and yet the contract fails to account for that risk, a court may infer that the party assumed that risk.” Id.

25. Alternatively, “courts in this state will reform contracts ... in accordance with the true intention of the parties when their intentions have been frustrated by a mutual mistake.” Seyden v. Frade, 88 Nev. 174, 178, 494 P.2d 1281, 1284 (1972).

26. “Reformation is based upon equitable principles, applied when a written instrument fails to conform to the parties' previous understanding or agreement.” Grappo v. Mauch, 110 Nev. 1396, 1398, 887 P.2d 740, 741 (1994).

27. The parties accounted for the risks inherent in the investment by agreeing all remedies in the partnership would be assigned to Mr. Kvam if the joint venture failed in any way. *Motion*, Ex. 2; *Opposition*, Ex. 11.

28. Even viewing all evidence raised by Mineau/Legion in a light most favorable to Mr. Kvam, Mr. Kvam has failed to bring forth specific evidence that the parties, at the time of contracting, shared a misconception about a vital fact upon which they based their bargain, or that the Terms of Agreement fail to conform to the true intention of the parties or the parties' previous understanding or agreement.

29. Mr. Kvam fails to make a showing sufficient to establish an element essential to his claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020. Accordingly, Mineau/Legion are entitled to judgment as a matter of law on this claim.

1           **C.     Breach of Contract - Loan.**

2           30.     Mr. Kvam's Third Cause of Action in his SAC is for Breach of Contract –  
3     Loan (breach of the Terms of Agreement's loan agreement).

4           31.     The elements of a breach of contract claim are (1) existence of a valid  
5     contract, (2) breach, and (3) damages. See Contrearras v. Am. Family Mut. Ins. Co.,  
6     135 F.Supp.3dc 1208, 1227 (D. Nev. 2015)

7           32.     Generally, when a contract is clear on its face, it will be construed from  
8     the written language and enforced as written. Canfora v. Coast Hotels & Casinos, Inc.,  
9     121 Nev. 771, 776, 121 P.3d 599, 603 (2005). The court has no authority to alter the  
10    terms of an unambiguous contract. Id. Furthermore, the court cannot force upon  
11    parties contractual obligations, terms or conditions which are not contained in the  
12    contract. McCall v. Carlson, 63 Nev. 390, 424, 172 P.2d 171, 187 (1946); Harrison v.  
13    Harrison, 132 Nev. 564, 376 P.3d 173 (2016); Golden Rd. Motor Inn, Inc. v. Islam, 132  
14    Nev. 476, 376 P.3d 151 (2016); Reno Club, Inc. v. Young Inv. Co., 64 Nev. 312, 323,  
15    182 P.2d 1011, 1016 (1947).

16           33.     A loan is the delivery of a sum of money to another under a contract to  
17     return at some future time an equivalent amount with or without an additional sum  
18     agreed upon for its use; and if such be the intent of the parties the transaction will be  
19     deemed a loan regardless of its form. Kline v. Robinson, 83 Nev. 244, 249, 428 P.2d  
20     190, 194 (1967), *overruled in part by* Pease v. Taylor, 88 Nev. 287, 496 P.2d 757  
21     (1972).

22           34.     Kvam has not identified any evidence of a loan agreement and thus  
23     cannot establish a breach.  
24  
25  
26

1           35.     The Terms of Agreement provide Mr. Kvam will receive 7% annual return  
2 on any funds provided if the project was profitable. The project failed. Mr. Kvam's  
3 remedy is assignment of all interests and remedies of the partnership to him. *Motion*,  
4 Ex. 2; *Opposition*, Ex. 11.

5           36.     Based on the Court's findings and conclusions on the *FACC's* Third  
6 Claim for Relief for Declaratory Relief, even viewing all evidence raised by  
7 Mineau/Legion in a light most favorable to Mr. Kvam, Mr. Kvam has not established  
8 that a loan agreement existed and cannot establish a breach.  
9

10          37.     Mr. Kvam has not identified with specificity evidence to establish all  
11 elements of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge  
12 Capital, 2020 WL1446700, Slip Copy, March 25, 2020. Accordingly, Mineau/Legion  
13 are entitled to judgment as a matter of law on the *SAC's* Third Cause of Action for  
14 Breach of Contract -Loan.

15           **D.     Breach of Contract and Tortious Breach of Implied Covenant of**  
16           **Good Faith and Fair Dealing.**

17          37.     The *SAC's* Fourth Cause of Action is for Breach of Contract and Tortious  
18 Breach of Implied Covenant of Good Faith and Fair Dealing.

19          38.     Every contract imposes upon the contracting parties the duty of good faith  
20 and fair dealing. See A.C. Shaw Construction v. Washoe County, 105 Nev. 913, 914,  
21 784 P.2d 9, 9-10 (1984).

22          39.     The remedy for breach of the implied covenant of good faith and fair  
23 dealing generally is on the contract itself. In certain circumstances breach of contract,  
24 including breach of the covenant of good faith and fair dealing, may provide the basis  
25 for a tort claim. Hilton Hotels Corp. v. Butch Lewis Productions, Inc., 109 Nev. 1043,  
26 1046-47, 862 P.2d 1207, 1209 (1993) (citations omitted).

1           40. To prevail upon a claim for tortious breach of the covenant of good faith  
2 and fair dealing, the plaintiff must prove that: (1) plaintiff and defendant entered into a  
3 contract; (2) defendant owed a duty of good faith to plaintiff arising from the contract;  
4 (3) a special element of reliance or fiduciary duty existed between plaintiff and  
5 defendant where defendant was in a superior or entrusted position; (4) defendant  
6 breached the duty of good faith by engaging in grievous and perfidious misconduct;  
7 and (5) plaintiff suffered damages as a result of the breach. Great Amer. Ins. Co. v.  
8 Gen. Builders, Inc., 113 Nev. 346, 355, 934 P.2d 257, 263 (1997); see also State, Univ.  
9 & Cmty. Coll. Sys. v. Sutton, 120 Nev. 972, 989, 103 P.3d 8, 19 (2004).

10  
11           41. Summary judgment has been affirmed on claims involving a partnership  
12 and claims for breach of contract and breach of the implied covenant of good faith and  
13 fair dealing. See e.g. Phelps v. Frampton, 170 P.3d 474 (Mont. 2007) (not tortious  
14 claim).

15           42. “The only fiduciary duties a partner owes to the partnership and the other  
16 partners are the duty of loyalty and the duty of care.” NRS 87.4336(1).

17           43. The statutory duty of loyalty requires each partner to, *inter alia*, “to  
18 account to the partnership and hold as trustee for it any property, profit or benefit  
19 derived by the partner in the conduct and winding up of the partnership business or  
20 derived from a use by the partner of partnership property, including the appropriation of  
21 a partnership opportunity.” NRS 87.4336(2)(a).

22  
23           44. The statutory duty of care is limited to “refraining from engaging in grossly  
24 negligent or reckless conduct, egregious or perfidious conduct, intentional misconduct  
25 or a knowing violation of law by Mr. Mineau or Mr. Mineau on behalf of Legion. To the  
26 contrary, the evidence supports that the contractor delayed the work, Mr. Kvam

1 conveyed information he received about the progress of the project and/or Mr. Kvam  
2 communicated about the project.

3 45. Mineau/Legion kept Mr. Kvam reasonably informed of the Project with the  
4 information available to Mineau/Legion and Mr. Kvam had independent  
5 communications with the contractor, thereby negating the fourth element required to  
6 establish summary judgment on this claim. *Motion*, Ex. 1, ¶ 29, Ex. 14, Ex. 18, Ex. 24.

7 46. Even viewing all evidence raised by Mineau/Legion in a light most  
8 favorable to Mr. Kvam, Mr. Kvam has failed to set forth evidence supporting each  
9 element of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge  
10 Capital, 2020 WL1446700, Slip Copy, March 25, 2020.

11 47. Accordingly , Mineau/Legion are entitled to judgment as a matter of law  
12 on the SAC's Fourth Cause of Action for Breach of Contract and Tortious Breach of  
13 Implied Covenant of Good Faith and Fair Dealing.

14  
15 **E. Accounting.**

16 48. The SAC's Fifth Cause of Action is for Accounting.

17 49. As state, pursuant to NRS 87.4336(2)(a), a partner must account to the  
18 partnership for any property, profit or benefit derived by the partner from a use by the  
19 partner of partnership property, including the appropriation of a partnership opportunity.

20 50. The only partnership property over which Mineau/Legion had custody  
21 was the Property itself, and the proceeds from the sale of the Property. *Motion*, Ex. 1,  
22 ¶ 10, ¶ 37-40, Ex. 2; *Opposition*, Ex. 10, Ex. 11.

23 51. Mineau/Legion contends they provided Mr. Kvam with all information  
24 necessary for an accounting.  
25  
26

1           52.    Mr. Kvam asserts Mineau/Legon have not provided a complete  
2 accounting.

3           53.    An accounting will verify the accuracy of the amount net proceeds.

4           54.    A genuine issue of material fact exists regarding whether the accounting  
5 provided by Mineau/Legion is factually and legally sufficient under applicable law.

6           55.    Accordingly, summary judgment on the SAC's Fifth Cause of Action is not  
7 warranted under NRCP 56.

8           **F.    Court Supervision of Dissolution and Winding Up, and Appointment**  
9           **of Receiver.**

10          56.    The SAC's Sixth Cause of Action is for Court Supervision of Dissolution  
11 and Winding up, and Appointment of Receiver.

12          57.    A partnership continues after dissolution only for the purpose of winding  
13 up its business. The partnership is terminated when the winding up of its business is  
14 completed. NRS 87.4352(1).

15          58.    A receiver may be appointed by the court in which an action is pending,  
16 or by the judge thereof between partners or others jointly owning or interested in any  
17 property or fund. NRS 32.010.

18          59.    The winding up by the partners themselves or by a receiver does not  
19 affect the personal liability of the partners for unsatisfied claims, absent specific  
20 agreement. NRS 87.360.

21          60.    The parties agreed all interests in the partnership and any remedies due  
22 to the partnership, including the proceeds from the sale of the Property in the amount  
23 of \$26,337.71, should be assigned to Mr. Kvam and the partnership dissolved. *Motion*,  
24 Ex. 1, ¶ 38-39; *Opposition*, p. 20; *Stipulation to Deposit Funds*, Dec. 12, 2018.  
25  
26

1           61.    A ruling on this claim is held in abeyance pending resolution of the SAC's  
2 Fifth Cause of Action for Accounting.

3           62.    **Temporary and Permanent Injunction.**

4           63.    The SAC's Seventh Cause of Action is for Temporary and Permanent  
5 Injunction.

6           64.    Based on the findings and conclusions on the SAC's Second, Third,  
7 Fourth, Fifth and Sixth Causes of Action, and on the FACC's Third Claim for Relief for  
8 Declaratory Relief, and the deposit of the funds with the Court, the SAC's Seventh  
9 Cause of Action for Temporary and Permanent Injunction is legally ineffectual and  
10 summary judgment should be denied.  
11

12           **H.    Fraud, Fraudulent Inducement, and Fraudulent Concealment.**

13           65.    The SAC's Eighth Cause of Action is for Fraud, Fraudulent Inducement,  
14 and Fraudulent Concealment.

15               **i.    Fraud.**

16           66.    Under Nevada law, the elements of a fraud claim are as follows: (1) a  
17 false representation made by the defendant; (2) defendant's knowledge or belief that  
18 the representation is false or insufficient basis for making the representation; (3)  
19 defendant's intention to induce the plaintiff to act or to refrain from acting in reliance  
20 upon the misrepresentation; (4) plaintiff's justifiable reliance upon the  
21 misrepresentation; and (5) damage to the plaintiff resulting from such reliance. Starr  
22 Indem. & Liab. Co. v. Young, 379 F. Supp. 3d 1103, 1110 (D. Nev. 2019) (citing  
23 Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 825 P.2d 588, 592 (1992)).  
24

25           67.    To establish a claim for intentional misrepresentation, a plaintiff must  
26 show that the defendant supplied plaintiff with false information, and summary



1 judgment is appropriate if plaintiff has not provided evidence of this essential element.  
2 Land Baron Inv. v. Bonnie Springs Family LP, 131 Nev. 686, 695-96, 356 P.3d 511,  
3 518 (2015); Moore v. Prudential Residential Services Ltd. Partnership, 849 So.2d  
4 914, 926 (Ala. 2002) (affirming summary judgment in favor of defendants because  
5 plaintiffs presented no evidence indicating that defendants knew real estate had any  
6 defects, or evidence demonstrating reliance on misrepresentations.)

7  
8 **ii. Fraudulent Inducement.**

9 68. To prove fraudulent inducement, plaintiff must show: (1) defendant's false  
10 representation; (2) that defendant knew or believed statement was false, or defendant  
11 had an insufficient basis for making statement; (3) defendant intended to induce  
12 plaintiff to act or refrain from acting upon the misrepresentation; and (4) plaintiff was  
13 damaged as a result of relying on the misrepresentation. Hernandez v. Creative  
14 Concepts, Inc., 862 F. Supp. 2d 1073, 1092–93 (D. Nev. 2012).

15 69. Where a plaintiff fails to provide any evidence of defendant's intent when  
16 defendant entered into agreement, summary judgment is appropriate. Argonaut  
17 Development Group, Inc. v. SWH Funding Corp., 150 F.Supp.2d 1357, 1364 (S.D. Fla.  
18 2001).

19  
20 **iii. Fraudulent Concealment.**

21 70. To establish fraudulent concealment, a plaintiff must prove five elements:  
22 (1) the defendant concealed or suppressed a material fact; (2) the defendant was  
23 under a duty to disclose the fact to the plaintiff; (3) the defendant intentionally  
24 concealed or suppressed the fact with the intent to defraud the plaintiff; (4) the plaintiff  
25 was unaware of the fact and would have acted differently if she had known of the  
26 concealed or suppressed fact; and (5) the plaintiff sustained damages as a result of the

1 concealment or suppression. Nevada Power Co. v. Monsanto Co., 891 F. Supp. 1406,  
2 1415 (D. Nev. 1995).

3 71. Mr. Mineau conveyed the information he was provided and kept Mr.  
4 Kvam reasonably informed of the Project with the information available to  
5 Mineau/Legion. *Motion*, Ex. 1, ¶ 29, Ex. 14, Ex. 18, Ex. 24.

6 72. Mr. Kvam had independent and direct communications with the  
7 contractor and therefore was aware of the progress on the project.

8 73. Mr. Kvam did not rely upon Mineau/Legion's representations as Mr. Kvam  
9 communicated directly with TNT concerning the status of the project. *Motion*, Ex. 9-11,  
10 Ex. 13-16, Ex. 20.

11 74. Mr. Kvam identifies no specific evidence that Mr. Mineau made any  
12 affirmative misrepresentations during the Project.

13 75. Mr. Kvam cites not evidence that Mr. Mineau supplied false information to  
14 him.

15 76. Mr. Kvam has not established that he relied on any false information to his  
16 detriment.

17 77. Even viewing all evidence raised by Mineau/Legion in a light most  
18 favorable to Mr. Kvam, Mineau/Legion have demonstrated that Mr. Kvam has failed to  
19 identify specific evidence for all of the elements of this claim. Cuzze, 123 Nev. at 602,  
20 172 P.3d at 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25,  
21 2020.

22 78. Accordingly, Mineau/Legion are entitled to judgment as a matter of law on  
23 the SAC's Eighth Cause of Action for Fraud, Fraudulent Inducement, and Fraudulent  
24 Concealment.  
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1           **I.     Conversion.**

2           79.     The SAC's Ninth Cause of Action is for Conversion.

3           80.     "Conversion is a distinct act of dominion wrongfully exerted over  
4 another's personal property in denial of, or inconsistent with his title or rights therein or  
5 in derogation, exclusion, or defiance of such title or rights." M.C. Multi-Family Dev.,  
6 L.L.C. v. Crestdale Assocs., Ltd., 124 Nev. 901, 910, 193 P.3d 536, 542 (2008).

7           81.     "Conversion generally is limited to those severe, major, and important  
8 interferences with the right to control personal property that justify requiring the actor to  
9 pay the property's full value." Edwards v. Emperor's Garden Rest., 122 Nev. 317, 328–  
10 29, 130 P.3d 1280, 1287 (2006).

11           82.     Mr. Kvam has not identified disputed facts regarding any distinct act of  
12 dominion that Mineau or Legion wrongfully exerted over Kvam's personal property, or  
13 the funds delivered to the title company and TNT.

14           83.     Mr. Kvam delivered all project funds either directly to the title company to  
15 purchase the Property or directly to TNT to fund the renovation. *Motion*, Ex. 3-4, Ex. 8,  
16 Ex. 12; *Opposition*, Ex. 7-8, Ex. 18, Ex. 20.

17           84.     Even viewing all evidence raised by Mineau/Legion in a light most  
18 favorable to Mr. Kvam, Mineau/Legion have demonstrated Mr. Kvam has failed to  
19 identify evidence for each element of this claim. Cuzze, 123 Nev. at 602, 172 P.3d at  
20 134; Choi v. 8<sup>th</sup> Bridge Capital, 2020 WL1446700, Slip Copy, March 25, 2020.

21           85.     Accordingly, Mineau/Legion are entitled to judgment as a matter of law on  
22 the SAC's Ninth Cause of Action for Conversion.  
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1           **J.     RICO.**

2           86.     The SAC's Tenth Cause of Action SAC is for civil RICO.

3           87.     In Nevada, the elements for a claim of civil RICO violations (Racketeering  
4 Influenced and Corrupt Organizations Act) are: (a) defendants engaged in racketeering  
5 activities as defined in NRS 207.390 and a racketeering enterprise as is defined in  
6 NRS 207.380; (b) defendants acting directly, and in conspiracy with one another or  
7 through their syndicate, participated directly in racketeering activity by engaging in at  
8 least two crimes related to racketeering; (c) defendants' activities have the same or  
9 similar pattern, intent, results, accomplices, victims, or methods of commission, or  
10 otherwise interrelated by distinguishing characteristics and are not isolated events; (d)  
11 defendants acquired or maintained directly or indirectly an interest in, or control of, any  
12 enterprise, or defendants are employed by or associated with any enterprise to conduct  
13 or participate directly or indirectly in the affairs of the enterprise through a racketeering  
14 activity; (e) plaintiff's injuries flow from the defendants' violation of a predicate Nevada  
15 RICO act; (f) plaintiff's injury was be proximately caused by the defendants' violation of  
16 the predicate act; (g) plaintiff did not participate in the commission of the predicate act;  
17 and, plaintiff is entitled to institute a civil action for recovery of treble damages  
18 proximately caused by the RICO violations. NRS 207.470(1). NRS 207.470; Stoddart  
19 v. Miller, 2008 WL 6070835 (Nev. 2008 ); Siragusa v. Brown, 114 Nev. 1384, 971 P.2d  
20 801 (1999); Gordon v. Eighth Judicial Dist. Ct., 12 Nev. 216, 231, 913 P.2d 240, 250-  
21 51 (1996); Cummings v. Charter Hosp. of Las Vegas, Inc., 111 Nev. 639, 896 P.2d  
22 1137 (1995); Allum v. Valley Bank of Nevada, 109 Nev. 280, 849 P.2d 297  
23 (1993); Hale v. Burkhardt, 104 Nev. 632, 634, 764 P.2d 866, 867 (1988).

1           88. Any person who is injured in his business or property by reason of any  
2 violation of NRS 207.400 has a cause of action against a person causing such injury for  
3 three times the actual damages sustained. NRS 207.470

4           89. "'Racketeering activity' means engaging in at least two crimes related to  
5 racketeering that have the same or similar pattern, intents, results, accomplices,  
6 victims, or methods of commission, or are otherwise interrelated by distinguishing  
7 characteristics and are not isolated incidents...." NRS 207.390.

8           90. Criminal syndicate means any combination of persons, so structured that  
9 the organization will continue its operation even if individual members enter or leave  
10 the organization, which engages in or has the purpose of engaging in racketeering  
11 activity. NRS 207.370.

12           91. Mr. Kvam has not identified specific evidence of racketeering activity, or  
13 any activities between Mineau/Legion that resemble the type of activities required to  
14 support the elements of this claim.

15           92. Summary judgment has been affirmed on civil RICO claims. See e.g.,  
16 Agency Holding Corp. v. Malley-Duff & Associates, Inc., 483 U.S. 143, 107 S.Ct. 2759  
17 (1987); In re Southwest Exchange, Inc., 128 Nev. 907, 381 P.3d 626 (2012).

18           93. Even viewing the evidence in a light most favorable to Mr. Kvam, Mr.  
19 Kvam has not identified with specificity evidence to establish any of the elements of a  
20 civil RICO claim which warrants entry of summary judgment on this claim. Cuzze, 123  
21 Nev. at 602, 172 P.3d at 134; Knutson v. County of Barnes, 642 N.W.2d 910 (N.D.  
22 2002) (holding defendants were entitled to summary judgment on RICO claim because  
23 plaintiffs failed to plead with specificity as required, and failed to present any evidence  
24 to support their claim).

1           94.     Mineau/Legion are entitled to judgment as a matter of law on the SAC's  
2 Tenth Cause of Action for RICO.

3       **K.   Derivative Claim.**

4           95.     The SAC's Eleventh Cause of Action is a Derivative claim on behalf of  
5 the joint venture.

6           96.     Mr. Kvam conceded the partnership does not hold any independent  
7 claims for relief against Mineau/Legion.

8           97.     Based on the Courts findings and conclusions on the SAC's Second,  
9 Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Causes of Action, and Mr.  
10 Kvam's concession, the Court finds and concludes no genuine issue of material fact  
11 exists for trial on the SAC's Eleventh Cause of Action for a Derivative Claim and  
12 Mineau/Legion are entitled to judgment as a matter of law.

13  
14       **V.   ORDER.**

15           Based on the foregoing findings of undisputed facts and conclusions of law, and  
16 good cause appearing therefor,

17           **IT IS HEREBY ORDERED SUMMARY ADJUDICATION IS GRANTED,**  
18 **DENIED, AND HELD IN ABEYANCE AS FOLLOWS:**

19           1.     Notice was reasonably given to the parties of the Court's intent to grant  
20 summary judgment on Mineau/Legion's *FACC* Third Cause of Action for Declaratory  
21 Relief.

22           2.     Summary adjudication is granted on Mineau/Legion's *FACC* Third Cause  
23 of Action for Declaratory Relief and the Court declares:

24           a.     Mr. Kvam, Mr. Spinola, and Mr. Mineau were the member partners  
25 in Legion for the acquisition of 7747 S. May Street, Chicago, Illinois.  
26

- 1           b.     Mr. Kvam was the initial funding member.
- 2           c.     The parties formed a joint venture/partnership pursuant to NRS
- 3           87.4322.
- 4           d.     The Terms of Agreement and NRS Chapter 87 governed the
- 5           partnership.
- 6           e.     The Terms of Agreement did not constitute a loan agreement.
- 7           f.     There was no meeting of the minds regarding any other provisions
- 8           to the Terms of the Agreement except those written and contained in the
- 9           Terms of Agreement.
- 10          g.     Mr. Kvam acceded to Mr. Spinola's interest.
- 11          h.     No party made any loans to the partnership.
- 12          i.     Mr. Kvam acceded to Mr. Spinola interest.
- 13          j.     Mr. Spinola's does not have an interest adverse to the interests of
- 14          Mr. Kvam and Mineau/Legion. Based on the accession of Mr. Spinola's
- 15          interest to Mr. Kvam and the remedy of assignment, Mr. Spinola has no
- 16          legal interest in the Terms of Agreement.
- 17          k.     The project failed.
- 18          l.     All remedies due to the partnership are assigned to Kvam because
- 19          the project failed.
- 20          m.     The parties stipulated all interests in the partnership and any
- 21          remedies due to the partnership, including the proceeds from the
- 22          sale of the Property in the amount of \$26,337.71, should be
- 23          assigned to Mr. Kvam and the partnership dissolved.
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1           3.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
2 against Mr. Kvam on the SAC's Second Cause of Action for Recission or Reformation  
3 of Agreement.

4           4.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
5 against Mr. Kvam on the SAC's Third Cause of Action for Breach of Contract - Loan.

6           5.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
7 against Mr. Kvam on the SAC's Fourth Cause of Action for Breach of Contract and  
8 Tortious Breach of Implied Covenant of Good Faith and Fair Dealing.

9           6.       Summary adjudication is DENIED on the SAC's Fifth Cause of Action for  
10 Accounting.

11           7.       The Court's ruling on Motion is held in abeyance on the SAC's Sixth  
12 Cause of Action for Court Supervision of Dissolution and Winding up, and Appointment  
13 of Receiver until resolution of Mr. Kvam's Fifth Cause of Action

14           8.       Based on the Court's foregoing findings of fact and conclusions of law,  
15 summary adjudication is DENIED on the SAC's Seventh Cause of Action for  
16 Temporary and Permanent Injunction as the claim is legally ineffectual based on the  
17 deposit of the funds.

18           9.       Summary adjudication is GRANTED in favor of Mineau/Legion and  
19 against Mr. Kvam on the SAC's Eighth Cause of Action for Fraud, Fraudulent  
20 Inducement, and Fraudulent Concealment.

21           10.      Summary adjudication is GRANTED in favor of Mineau/Legion and  
22 against Mr. Kvam on the SAC's Ninth Cause of Action for Conversion.

23           11.      Summary adjudication is GRANTED in favor of Mineau/Legion and  
24 against Mr. Kvam on the SAC's Tenth Cause of Action for civil RICO.



12. Summary adjudication is GRANTED in favor of Mineau/Legion and against Mr. Kvam on the SAC's Eleventh Cause of Action for Derivative Claim.

13. Based on the Court's foregoing findings of fact and conclusions of law, summary adjudication is DENIED on the SAC's First Claim for Relief for Declaration of Joint Venture.

14. The claims remaining at issue in this action for is Mr. Kvam's Fifth Cause of Action and Sixth Cause of Action, and any declaratory relief requested under Mr. Kvam's First Cause of Action which was not resolved by the declarations or findings of fact and conclusions of law made herein, and claims remaining against Defendant 7747 S. May Street, if any.

15. The parties are directed to contact the Judicial Assistant in Department 6 within thirty (30) days to set this matter for trial on these claims.

16. The parties are further directed to resubmit any motions previously submitted which are not made moot by reason of this Order.

DATED this 4th day of June, 2020.

  
LYNNE K. SIMONS  
DISTRICT JUDGE

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MICHAEL MATUSKA, ESQ.  
AUSTIN SWEET, ESQ.  
MARK GUNDESON, ESQ.

Hadi Bre

**DATE, JUDGE  
OFFICERS OF  
COURT PRESENT****APPEARANCES-HEARING****CONT'D TO**

1/14/2020  
HONORABLE  
LYNNE K. SIMONS  
DEPT. NO. 6  
J. Martin  
(Clerk)  
C. Hummel  
(Reporter)

**PRE-TRIAL CONFERENCE**

Plaintiff Jay Kvam was present with counsel Michael Matuska, Esq. Defendant Brian Mineau was present with counsel Austin Sweet, Esq.

**COURT** reviewed the procedural history of the matter and indicated it would like to set a hearing on Pre-Trial Motions.

Counsel Sweet stated the only remaining claim included in the Counterclaim is declaratory relief.

Counsel Matuska stated the Defendants have conceded the first cause of action, declaration of joint venture, in the Motion for Summary Judgment. Counsel Matuska further stated that the joint venture property has been sold and the winding up would be limited to the cash assets and would possibly be resolved prior to Trial. Counsel Matuska stated the cash assets have been deposited with the Clerk of the Court.

**COURT** directed the parties to be prepared to identify which defenses would not be proceeding at the subsequent Pre-Trial Conference.

Counsel Sweet requested the defenses be discussed after the Court renders its decision on the Motion for Summary Judgment.

Counsel Matuska argued the declaratory relief sought in the counterclaim is a mirror of the Plaintiffs relief and therefore does not add or distract from what is at issue in the matter.

Discussion ensued regarding discovery.

Counsel Sweet stated the deposition of Mr. Kvam is scheduled for January 21, 2020, and that is the only remaining discovery. Counsel Sweet indicated he has filed an objection to the Discovery Commissioner's recommendation and argued the documents subject to that recommendation are not relevant.

Respective counsel indicated they have disclosed their expert witnesses and rebuttal expert witnesses.

**COURT** indicated the pre-trial discovery cut off would be February 1, 2020, all objections cut off is February 17, 2020, submissions deadline is February 1, 2020, and the deadline for submissions of Motions in Limine is February 16, 2020; Trial Statements due no later than seven (7) days prior to Trial.

Counsel Matuska stated he anticipates using a video deposition of an out of state witness.

**COURT** directed the parties to meet and confer regarding video depositions no later than February 1, 2020; any objections remaining to the video depositions should be presented to the Court no later than February 16, 2020; Counsel shall provide transcripts of video depositions and clearing notate the objections to the Court; Respective counsel will review any edited videos no later than February 26, 2020.

Discussion ensued regarding Jury selection.

**COURT** directed Respective counsel to meet and confer regarding Jury Instruction no later than five (5) days prior to Trial; Jury Instructions should include any deviation in authority and be presented to the Court in Word format and Arial 12 point font.

Discussion ensued regarding the use of technology during Trial.

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES-HEARING	CONT'D TO
1/14/2020 HONORABLE LYNNE K. SIMONS DEPT. NO. 6 J. Martin (Clerk) C. Hummel (Reporter)	<p>Counsel Sweet stated the parties had retained a mediator however, after review of the matter the mediator determined the matter would not benefit from mediation and canceled the scheduled mediation.</p> <p>Counsel Matuska stated he intends to play the majority of the video deposition. Further discussion ensued regarding technology and Jury Instructions.</p> <p><b>COURT</b> directed Respective counsel to avoid filing countermotions and requested separate motion work for issues arising; Court admonished Respective counsel regarding the tone of their communications with each other.</p> <p><b>COURT ORDERED</b> Motion for Summary Judgment set for hearing on February 11, 2020, at 9:30 a.m.; final Pre-Trial Conference and Pre-Trial Motions to be heard February 21, 2020, at 9:30 a.m.; Parties shall participate in a Settlement Conference with a mediator or a Judicial Officer prior to Trial and all parties are ordered to be present and participate in the Settlement Conference.</p>	

CASE NO. CV18-00764      **JAY KVAM VS. BRIAN MINEAU, ETAL**

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

---

2/24/2020  
HONORABLE  
ELLIOTT A.  
SATTLER  
DEPT. NO. 10  
M. Merkouris  
(Clerk)  
Not reported

**SETTLEMENT CONFERENCE**

9:00 a.m. – Court convened in chambers.

Michael Matuska, Esq., was present on behalf of the Plaintiff, Jay Kvam. *(Mr. Kvam was present for the settlement conference, however he was not present in chambers during the Court's initial conversation with respective counsel.)*

Austin Sweet, Esq., was present on behalf of the Defendants. *(Defendant Brian Mineau was present for the settlement conference, however he was not present in chambers during the Court's initial conversation with respective counsel.)*

**COURT** reviewed the procedural history of the case, noting that a bench trial is set to begin in Dept. 6 next Monday, March 2, 2020, and there is also a pending Motion for Summary Judgment, which should be decided in the next two (2) business days.

**COURT** further advised respective counsel that he has reviewed the settlement briefs, noting that the parties' first settlement conference in November 2019 with Mr.

Enzenberger was unsuccessful, and the parties have been ordered by Judge Simons to participate in another settlement conference today.

Upon questioning by the Court, counsel Sweet stated none of the circumstances present during the last settlement conference have changed.

Discussion ensued between the Court and respective counsel regarding the case, the settlement conference, and the pending Motion for Summary Judgment.

**COURT** noted that a decision on the Motion for Summary Judgment is imminent, and spending today working on settling this case, knowing that an order will be filed in the very near future that could drastically change things, would not be an efficient use of everyone's time. **COURT** recommended that the attorneys vacate the upcoming trial, and continue this settlement conference to next Monday, March 2, 2020, if necessary. Counsel Sweet concurred with the Court's recommendation.

Counsel Matuska indicated that he still had some issues he wanted to discuss privately with the Court.

9:21 a.m. – Court adjourned.

*At this point, counsel Sweet and the Clerk left chambers, and the Court spoke with counsel Matuska. Court then conducted a settlement conference with respective counsel and the parties until approximately noon.*

**COURT** directed the Clerk to continue the settlement conference to next Monday, March 2, 2020.

Code 1350

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

JAY KVAM,

Case No. CV18-00764

Plaintiff,

Dept. No. 6

vs.

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. MAY STREET, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

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

I certify that I am an employee of the Second Judicial District Court of the State of Nevada,  
County of Washoe; that on the 30th day of June, 2020, I electronically filed the Notice of Appeal in  
the above entitled matter to the Nevada Supreme Court.

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

Dated this 30th day of June, 2020.

Jacqueline Bryant  
Clerk of the Court  
By /s/YViloria  
YViloria  
Deputy Clerk

Code 4132

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

JAY KVAM,

Case No. CV18-00764

Plaintiff,

Dept. No. 6

vs.

BRIAN MINEAU; LEGION INVESTMENTS,  
LLC; 7747 S. MAY STREET, an Unincorporated  
Joint Venture; and DOES I-X, inclusive,

Defendants.

**NOTICE OF APPEAL DEFICIENCY**

TO: Clerk of the Court, Nevada Supreme Court,  
and All Parties or their Respective Counsel Of Record:

On June 29<sup>th</sup>, 2020, Attorney Michael Matuska, Esq. for Plaintiff Jay Kvam, filed a Notice of Appeal with the Court. Attorney Michael Matuska, Esq was unable to include the Two Hundred Fifty Dollar (\$250.00) Supreme Court filing fee due to the public closure of the Second Judicial District Court Administrative Order 2020-02 and 2020-05.

Pursuant to NRAP 3(a)(3), on June 30<sup>th</sup>, 2020, the Notice of Appeal was filed with the Nevada Supreme Court. By copy of this notice. Attorney Michael Matuska, Esq will be notified by electronic filing of the deficiency.

Dated this 30th day of June, 2020.

Jacqueline Bryant  
Clerk of the Court  
By: /s/YViloria  
YViloria  
Deputy Clerk

CERTIFICATE OF SERVICE

CASE NO. CV18-00764

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County Of Washoe; that on the 30th day of June, 2020, I electronically filed the Notice of Appeal Deficiency with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

MICHAEL MATUSKA, ESQ. for JAY KVAM

MARK GUNDERSON, ESQ. for BRIAN MINEAU, LEGION INVESTMENTS, LLC

AUSTIN SWEET, ESQ. for BRIAN MINEAU, LEGION INVESTMENTS, LLC

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:

/s/YViloria  
YViloria  
Deputy Clerk