

Electronically Filed  
Oct 12 2021 01:45 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

BRENOCH WIRTHLIN, ESQ. (10282)  
SCOT L. SHIRLEY (15326)  
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*Attorneys for Non-party Edward Detwiler*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

\* \* \*

BAKER BOYER NATIONAL BANK, a  
Washington corporation,

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,  
individually,

Defendants.

CASE NO.: A-17-760779-F  
DEPT NO.: 4

**NOTICE OF APPEAL**

Notice is hereby given that Edward N. Detwiler ("Mr. Detwiler"), a non-party to the underlying action, hereby appeals to the Supreme Court of Nevada from the District Court's Order Granting Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount *and* Granting in Part and Denying in Part Edward N. Detwiler's Counter-motion,

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1 entered on August 31, 2021.<sup>1</sup>

2 DATED: September 30, 2021.

3 **HUTCHISON & STEFFEN**

4 /s/Brenoch Wirthlin

5 BRENOCH WIRTHLIN, ESQ.

6 (NV SBN 10282)

7 10080 W. Alta Dr., Suite 200

8 Las Vegas, Nevada 89145

9 *Attorneys for Non-party Edward Detwiler*

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

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, hereby certify that, pursuant to NRCP 5, I served the foregoing  
3 **NOTICE OF APPEAL** on the following parties, via the manner of service indicated below, on  
4 this 30<sup>th</sup> day of September, 2021:

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

7 John Bragonje ([JBragonje@lrrc.com](mailto:JBragonje@lrrc.com))  
8 *Attorney for Plaintiff*

***Via US Mail:***

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

9  
10 Harry Hildibrand, LLC  
3011 American Way  
Missoula, Montana 59808  
Phone No.: 406-327-0401  
*Third Party*


11  
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14 /s/Danielle Kelley


15 An Employee of Hutchison & Steffen  
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**CASE SUMMARY****CASE NO. A-17-760779-F****Baker Boyer National Bank, Plaintiff(s)**  
**vs. James Foust, Jr., Defendant(s)**§  
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§  
§Location: **Department 4**  
Judicial Officer: **Krall, Nadia**  
Filed on: **08/31/2017**  
Case Number History:  
Cross-Reference Case Number: **A760779**  
Supreme Court No.: **81017**  
**81594****CASE INFORMATION****Statistical Closures**04/01/2020 Judgment Reached (bench trial)  
08/31/2017 Default JudgmentCase Type: **Foreign Judgment**Case Status: **05/24/2021 Reopened****Warrants**Arrest Warrant - Foust, James Patterson, Jr. (Judicial Officer: Scotti, Richard F. )  
09/20/2019 10:31 AM Active  
Fine: \$0  
Bond: \$0**DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number A-17-760779-F  
Court Department 4  
Date Assigned 03/01/2021  
Judicial Officer Krall, Nadia**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Baker Boyer National Bank</b>	<b>Bragonje, John E.</b> <i>Retained</i> 702-949-8200(W)
<b>Defendant</b>	<b>Foust, James Patterson, Jr.</b>	<b>Mazur, Michael D., ESQ</b> <i>Retained</i> 702-564-3128(W)
<b>Other</b>	<b>Detwiler, Edward</b>	<b>Wirthlin, Brenoch</b> <i>Retained</i> 702-385-2500(W)
	<b>Harry Hildibrand LLC</b>	

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

08/31/2017  Application of Foreign Judgment - NRS 17  
Filed By: Plaintiff Baker Boyer National Bank  
[1] Application for Enforcement of Foreign Judgment Pursuant to NRS 17.330 Et Seq.

08/31/2017  Initial Appearance Fee Disclosure  
Filed By: Plaintiff Baker Boyer National Bank  
[2] Initial Appearance Fee Disclosure (NRS Chapter 19)

08/31/2017  Affidavit  
Filed By: Plaintiff Baker Boyer National Bank

# CASE SUMMARY

CASE NO. A-17-760779-F

[3] Affidavit in Support of Application for Enforcement of Foreign Judgment Pursuant to NRS 17.360(1)

08/31/2017



Affidavit

Filed By: Plaintiff Baker Boyer National Bank

[4] Affidavit of Mailing In Support Of Application for Enforcement of Foreign Judgment Pursuant to NRS 17.360(2)

08/31/2017



Notice of Filing Application of Foreign Judgment & Affidavit

Filed By: Plaintiff Baker Boyer National Bank

[5] Notice of Filing of Foreign Judgment and Affidavit Pursuant to NRS 17-360(2)

09/01/2017



Addendum

Filed By: Plaintiff Baker Boyer National Bank

[6] Amended Affidavit In Support Of Application For Enforcement Of Foreign Judgment Pursuant To NRS 17.360(1) To Reflect Tracking Of Certified Mail Receipt

09/01/2017



Addendum

Filed By: Plaintiff Baker Boyer National Bank

[7] Amended Affidavit Of Mailing In Support Of Application For Enforcement Of Foreign Judgment Pursuant To NRS 17.360(2) To Reflect Tracking Of Certified Mail Receipt

11/15/2017



Ex Parte Application

Party: Plaintiff Baker Boyer National Bank

[8] Ex Parte Application for Order Allowing Examination of Judgment Debtor

11/15/2017



Order

Filed By: Plaintiff Baker Boyer National Bank

[9] Order for Examination of the Judgment Debtor/Defendant James Patterson Foust, Jr.

11/15/2017



Ex Parte Application

Party: Plaintiff Baker Boyer National Bank

[10] Ex Parte Application for Charging Order

11/15/2017



Order

Filed By: Plaintiff Baker Boyer National Bank

[11] Charging Order

11/15/2017



Notice of Entry

[12] Notice of Entry of Order for Examination of Judgment Debtor/Defendant James Patterson Foust, Jr.

11/15/2017



Notice of Entry

Filed By: Plaintiff Baker Boyer National Bank

[13] Notice of Entry of Charging Order

11/29/2017



Affidavit of Service

Filed By: Plaintiff Baker Boyer National Bank

[14] Affidavit of Service

12/08/2017



Affidavit of Service







Filed By: Plaintiff Baker Boyer National Bank

[15] Affidavit of Service - Foust Philion Capital Group

12/20/2017

# CASE SUMMARY

CASE NO. A-17-760779-F

	 Motion Filed By: Plaintiff Baker Boyer National Bank <i>[16] Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
12/21/2017	 Affidavit of Due Diligence Filed By: Plaintiff Baker Boyer National Bank <i>[17] Affidavit of Due Diligence - James P. Foust Jr.</i>
12/21/2017	 Affidavit of Due Diligence Filed By: Plaintiff Baker Boyer National Bank <i>[18] Affidavit of Due Diligence - JPF Enterprises, LLC</i>
12/21/2017	 Notice of Hearing Filed By: Plaintiff Baker Boyer National Bank <i>[19] Notice of Hearing</i>
01/05/2018	 Opposition to Motion Filed By: Defendant Foust, James Patterson, Jr. <i>[20] Opposition to Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
01/08/2018	 Initial Appearance Fee Disclosure <i>[21] Initial Appearance Fee Disclosure</i>
01/16/2018	 Reply in Support <i>[22] Reply In Support of Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment</i>
02/12/2018	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[23] Writ of Execution</i>
02/23/2018	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[24] Writ of Execution</i>
03/01/2018	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[25] Order Regarding Hearing on Classic Car Collection</i>
03/02/2018	 Application <i>[26] Application for Hearing Withing 10 Days on Third Party's Claim of Interest In Property Levied Upon</i>
03/06/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[27] Notice of Entry of Order Regarding Hearing on Classic Car Collection</i>
03/08/2018	 Findings of Fact, Conclusions of Law and Judgment Filed by: Plaintiff Baker Boyer National Bank <i>[28] Findings of Fact, Conclusions of Law, and Final Judgment</i>
03/09/2018	 Notice of Entry














**CASE SUMMARY**

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

	<p>Filed By: Plaintiff Baker Boyer National Bank <i>[29] Notice of Entry of Findings of Fact, Conclusions of Law and Final Judgment</i></p>
03/09/2018	<p> Notice of Posting Bond Filed By: Plaintiff Baker Boyer National Bank <i>[30] Notice of Posting Bond Pursuant to NRS 31.070</i></p>
03/12/2018	<p> Response Filed by: Plaintiff Baker Boyer National Bank <i>[31] Response to Edward Detwiler's Application for Hearing Within 10 Days of Third Party's Claim of Interest in Property Levied Upon and Plaintiff's Independent Request for a Hearing Under NRS 31.070(5)</i></p>
03/13/2018	<p> Reply in Support Filed By: Other Harry Hildibrand LLC <i>[32] Reply in Support of the Application for Hearing Within 10 Days on Third Party's Claim of Interest in Property Levied Upon and Opposition to Plaintiff's Independent Request for Hearing Under NRS 31.070(5)</i></p>
03/15/2018	<p> Motion Filed By: Other Harry Hildibrand LLC <i>[33] Motion to Intervene</i></p>
03/19/2018	<p> Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>[34] Opposition to Third Party's Motion to Intervene</i></p>
03/21/2018	<p> Motion Filed By: Defendant Foust, James Patterson, Jr. <i>[35] Motion For Reconsideration of Order Re: Findings of Facts and Conclusions of Law and Final Judgment Re: Bentar Development, Inc.'s Motion for Partial Summary Judgment Against Plaintiffs' Fourth Case of Action</i></p>
03/22/2018	<p> Errata Filed By: Defendant Foust, James Patterson, Jr. <i>[36] Errata to Revise Title of Motion to: "Motion for Reconsideration of Order Re: Findings of Fact, Conclusions of Law, and Final Judgment"</i></p>
04/11/2018	<p> Opposition Filed By: Plaintiff Baker Boyer National Bank <i>[37] Opposition to Motion for Reconsideration of Order Re: Findings of Fact and Conclusions of Law and Final Judgment</i></p>
04/12/2018	<p> Motion for Clarification Filed By: Other Harry Hildibrand LLC <i>[38] Motion for Clarification on Order Shortening Time</i></p>
04/13/2018	<p> Reply in Support Filed By: Defendant Foust, James Patterson, Jr. <i>[39] Reply in Support of Motion for Reconsideration of Order re Findings of Facts, Conclusions of Law, and Final Judgment</i></p>
04/16/2018	<p> Order Filed By: Plaintiff Baker Boyer National Bank <i>[40] Order Denying Harry Hildibrand, LLC's Third Party Claim Under NRS 31.070 and Order Denying Harry Hildibrand, LLC's Motion to Intervene</i></p>

# CASE SUMMARY















CASE NO. A-17-760779-F

04/16/2018	 Response Filed by: Plaintiff Baker Boyer National Bank <i>[41] Response to Motion for Clarification</i>
04/17/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[42] Notice of Entry of Order Denying Harry Hildibrand, LLC's Third Party Claim Under NRS 31.070 and Order Denying Harry Hildibrand, LLC's Motion to Intervene</i>
04/25/2018	 Recorders Transcript of Hearing <i>[43] Recorder's Transcript of Hearing: Evidentiary Hearing 2-15-18</i>
05/22/2018	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[44] Order Setting Future Hearing</i>
05/24/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[45] Notice Of Entry Of Order Setting Future Hearing</i>
05/30/2018	 Stipulation and Order Filed by: Defendant Foust, James Patterson, Jr. <i>[46] Stipulation and Order to Continue Evidentiary Hearing</i>
05/31/2018	 Notice of Entry of Stipulation and Order Filed By: Defendant Foust, James Patterson, Jr. <i>[47] Notice of Entry of Stipulation and Order</i>
06/21/2018	 Motion to Compel Filed By: Plaintiff Baker Boyer National Bank <i>[48] Motion to Compel Related to Evidentiary Hearing Set for June 29, 2018 (On Order Shortening Time)</i>
06/26/2018	 Opposition to Motion to Compel Filed By: Other Harry Hildibrand LLC <i>[49] Opposition to Motion to Compel Related to Evidentiary Hearing Set for June 29, 2019</i>
06/28/2018	 Reply in Support Filed By: Plaintiff Baker Boyer National Bank <i>[50] Reply In Support of Motion to Compel Related to Evidentiary Hearing Set for June 29, 2018.</i>
07/27/2018	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[51] Order Resolving Motion to Compel and Order Setting Future Hearing</i>
07/27/2018	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[52] Notice of Entry of Order Resolving Motion to Compel and Order Setting Future Hearing</i>
07/30/2018	 Notice <i>[53] Notice of Filing Bankruptcy</i>
















# CASE SUMMARY

CASE NO. A-17-760779-F

10/29/2018	 Brief Filed By: Defendant Foust, James Patterson, Jr. <i>[54] Defendant/Judgment Debtor's Evidentiary Hearing Brief</i>
10/29/2018	 Brief <i>[55] Third Party Claimant Harry Hildibrand, LLC's Evidentiary Hearing Brief</i>
10/30/2018	 Trial Brief Filed By: Plaintiff Baker Boyer National Bank <i>[56] Trial Brief</i>
11/01/2018	 Motion <i>[57] Holland &amp; Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC Ex Parte Application for Order Shortening Time</i>
11/13/2018	 Recorders Transcript of Hearing <i>[58] Transcript of Proceedings RE: Evidentiary Hearing 11.5.18</i>
11/16/2018	 Appendix Filed By: Defendant Foust, James Patterson, Jr. <i>[59] Appendix of Exhibits to Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/16/2018	 Brief Filed By: Defendant Foust, James Patterson, Jr. <i>[60] Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/16/2018	 Brief Filed By: Plaintiff Baker Boyer National Bank <i>[61] Plaintiff's Post-Hearing Brief</i>
11/20/2018	 Objection Filed By: Plaintiff Baker Boyer National Bank <i>[62] Objection to Defendant/Judgment Debtor's Post-Evidentiary Hearing Brief</i>
11/20/2018	 Objection Filed By: Defendant Foust, James Patterson, Jr. <i>[63] Defendant's Objection to Plaintiff's Post-Hearing Brief</i>
01/09/2019	 Findings of Fact, Conclusions of Law and Judgment Filed by: Plaintiff Baker Boyer National Bank <i>[64] Findings of Fact, Conclusions of Law, and Final Judgment</i>
01/10/2019	 Notice of Entry of Judgment Filed By: Plaintiff Baker Boyer National Bank <i>[65] Notice of Entry of Findings of Fact, Conclusions of Law and Final Judgment</i>
01/18/2019	 Order <i>[66] Order Granting Holland &amp; Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC</i>
01/22/2019	 Notice of Entry of Order <i>[67] Notice of Entry of Order Granting Holland &amp; Hart LLP's Motion to Withdraw as Counsel of Record for Third Party Harry Hildibrand, LLC</i>















**CASE SUMMARY**

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

02/21/2019	 Application Filed By: Plaintiff Baker Boyer National Bank <i>[68] Application for Order to Show Cause Why Defendants Should Not be Held in Civil Contempt</i>
02/21/2019	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[69] Order to Appear and Show Cause Why Defendants Should Not Be Held In Civil Contempt</i>
02/25/2019	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>[70] Notice Of Entry Of Order to Appear and Show Cause Why Defendants Should Not Be Held in Civil Contempt</i>
02/25/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[71] Writ of Execution</i>
02/27/2019	 Motion to Withdraw As Counsel Filed By: Defendant Foust, James Patterson, Jr. <i>[72] Motion to Withdraw as Counsel for Defendant James Patterson Foust Jr. on an Order Shortening Time</i>
02/28/2019	 Affidavit of Service Filed By: Plaintiff Baker Boyer National Bank <i>[73] Affidavit of Service</i>
03/19/2019	 Order Granting Motion Filed By: Defendant Foust, James Patterson, Jr. <i>[74] Order Granting Motion to Withdraw as Counsel</i>
03/19/2019	 Notice of Entry of Order Filed By: Defendant Foust, James Patterson, Jr. <i>[75] Notice of Entry of Order Granting Motion to Withdraw as Counsel</i>
03/22/2019	 Affidavit of Service <i>[76] Affidavit of Service - Edward Detwiler</i>
04/01/2019	 Motion Filed By: Defendant Foust, James Patterson, Jr. <i>[77] Motion to Discharge Attachment Pursuant To NRS 31.200</i>
04/04/2019	 List of Witnesses Filed By: Plaintiff Baker Boyer National Bank <i>[78] Evidentiary Hearing Disclosures</i>
04/08/2019	 Declaration Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>[79] Declaration of James Patterson Foust, Jr.</i>
04/11/2019	 Writ Electronically Issued <i>[80] Writ of Execution</i>














# CASE SUMMARY

CASE NO. A-17-760779-F

04/11/2019	 Writ Electronically Issued <i>[81] Writ of Execution</i>
04/12/2019	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>[82] Opposition to Judgment Debtor's So-Called "Motion to Discharge Attachment Pursuant to NRS 31.200"</i>
04/29/2019	 Motion Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>[83] Motion to Discharge Attachment Pursuant to NRS 31.200</i>
04/30/2019	 Clerk's Notice of Hearing <i>[84] Notice of Hearing</i>
05/16/2019	 Declaration Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>[85] Declaration of James Patterson Foust, Jr.</i>
05/28/2019	 Brief Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>[86] Defendant's Closing Arguments</i>
05/28/2019	 Certificate Filed By: Plaintiff Baker Boyer National Bank; Defendant Foust, James Patterson, Jr.; Other Harry Hildibrand LLC <i>[87] Certificate of Service</i>
06/12/2019	 Recorders Transcript of Hearing <i>[88] Transcript of Proceedings Re: Evidentiary Hearing Volume 1; 5.17.19</i>
06/12/2019	 Recorders Transcript of Hearing <i>[89] Transcript of Proceedings Re: Evidentiary Hearing Volume 1; 5.21.19</i>
06/12/2019	 Recorders Transcript of Hearing <i>[90] Transcript of Proceedings Re: Evidentiary Hearing Volume II; 5.21.19</i>
06/21/2019	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[91] Order for Punishment of Contempt</i>
06/24/2019	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[92] Notice of Entry of Order for Punishment of Contempt</i>
07/25/2019	 Status Report Filed By: Plaintiff Baker Boyer National Bank <i>[93] Status Report</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank



# CASE SUMMARY

CASE NO. A-17-760779-F

	<i>[94] Writ of Execution - US Bank</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[95] Writ of Execution - Chase Bank</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[96] Writ of Execution - Capital One Bank</i>
08/12/2019	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[97] Writ of Execution - Bank of America</i>
09/10/2019	 Affidavit in Support Filed By: Plaintiff Baker Boyer National Bank <i>[98] Affidavit of John E. Bragonje In Support of Lewis and Roca Attorney Fees and Costs Incurred In Connection With All of the Proceedings to Seek Enforcement of the Court's January 9, 2019 Order</i>
09/17/2019	 Motion Filed By: Plaintiff Baker Boyer National Bank <i>[99] Motion Requesting Hearing on Status</i>
09/17/2019	 Clerk's Notice of Hearing <i>[100] Notice of Hearing</i>
09/19/2019	 Warrant Filed by: Plaintiff Baker Boyer National Bank <i>[101] Warrant of Arrest and Commitment of James Patterson Foust, Jr.</i>
11/19/2019	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[102] Order Awarding Attorney Fees and Costs Incurred in Connection with all of the Proceedings to Seek Enforcement of the Court's January 9, 2019 Order</i>
11/20/2019	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>[103] Notice of Entry of Order Awarding Attorney Fees and Costs Incurred in Connection with all of the Proceedings to Seek Enforcement of the Court s January 9, 2019 Order</i>
12/11/2019	 Reporters Transcript <i>[104] Transcript of Proceedings - Show Cause Hearing 4.1.19</i>
12/11/2019	 Reporters Transcript <i>[105] Transcript of Proceedings - Evidentiary Hearing 4.24.19</i>
01/22/2020	 Status Report Filed By: Plaintiff Baker Boyer National Bank <i>[106] Notice of Serving Subpoena on Edward Newlin Detwiler</i>
01/22/2020	 Status Report Filed By: Plaintiff Baker Boyer National Bank <i>[107] Errata (re Serve Date) Notice of Serving Subpoena on Edward Newlin Detwiler</i>

# CASE SUMMARY

CASE NO. A-17-760779-F

01/24/2020	 Affidavit of Service Filed By: Plaintiff Baker Boyer National Bank <i>[108] Affidavit of Service - Edward N. Detwiler</i>
01/24/2020	 Brief Filed By: Plaintiff Baker Boyer National Bank <i>[109] Brief in Support of Continuing Request to Hold Edward N. Detwiler in Civil Contempt of Court</i>
01/28/2020	 Notice of Appearance Party: Other Detwiler, Edward <i>[110] Notice of Appearance for Edward Detwiler</i>
01/28/2020	 Notice of Appearance Party: Other Detwiler, Edward <i>[111] Notice of Appearance for Edward Detwiler</i>
01/28/2020	 Recorders Transcript of Hearing Party: Plaintiff Baker Boyer National Bank <i>[112] Recorders Transcript of Hearing: Status Check</i>
01/29/2020	 Motion for Protective Order <i>[113] Non-Party Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on Order Shortening Time</i>
01/29/2020	 Opposition Filed By: Plaintiff Baker Boyer National Bank <i>[114] Opposition to Non-PARTY Edward Detwiler's Motion for Entry of a Protective Order and Continuance of Hearing on OST and Erratum Providing Correct Affidavit of Service Upon Edward Detwiler</i>
01/30/2020	 Objection <i>[115] Non-Party Edward Detwiler's Notice of Objection Pursuant to NRS 22.030</i>
01/30/2020	 Reply in Support <i>[116] Non-Party Edward Detwiler's Reply in Support of Motion for Entry of a Protective ORder and Continuance of Hearing</i>
01/30/2020	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[117] Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager</i>
01/30/2020	 Notice of Entry Filed By: Plaintiff Baker Boyer National Bank <i>[118] Notice of Entry of Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward N. Detwiler, Its Manager</i>
02/05/2020	 Motion for Relief Filed By: Other Detwiler, Edward <i>[119] Non-Party Edward Detwiler's Motion for Relief from Contempt Order Pursuant to NRCP 60(b)</i>
02/06/2020	 Appendix

# CASE SUMMARY

CASE NO. A-17-760779-F

Filed By: Other Detwiler, Edward

[120] Appendix of Exhibits to Motion for Relief from Contempt

02/10/2020



Opposition to Motion

Filed By: Plaintiff Baker Boyer National Bank

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

02/11/2020



Reply

Filed by: Other Detwiler, Edward

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

02/25/2020



Affidavit

Filed By: Plaintiff Baker Boyer National Bank

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

02/25/2020



Motion to Seal/Redact Records

Filed By: Plaintiff Baker Boyer National Bank

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

02/25/2020



Filed Under Seal

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

02/26/2020



Clerk's Notice of Hearing

[126] Notice of Hearing

02/28/2020



Notice of Change

Filed By: Other Detwiler, Edward

[127] Notice of Change of Address/Change of Law Firm

03/03/2020



Response

Filed by: Other Detwiler, Edward

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

03/04/2020



Substitution of Attorney

Filed by: Other Detwiler, Edward

[129] Substitution of Counsel

03/09/2020



Writ Electronically Issued










Party: Plaintiff Baker Boyer National Bank

[130] Writ of Execution

03/12/2020















# CASE SUMMARY

CASE NO. A-17-760779-F

	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[131] Order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC</i>
03/12/2020	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>[132] Notice of entry of order awarding sanctions against Edward N. Detwiler and Harry Hildibrand, LLC</i>
03/24/2020	 Motion to Stay Filed By: Other Detwiler, Edward <i>[133] Non-Party Edward Detwiler's Motion to Stay Execution of Order For Sanctions Pending Appeal and to Waive Supersedeas Bond; and Order Shortening Time</i>
03/27/2020	 Opposition to Motion Filed By: Plaintiff Baker Boyer National Bank <i>[134] Opposition to Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond</i>
03/27/2020	 Notice Filed By: Plaintiff Baker Boyer National Bank <i>[135] Notice of Filing Edward N. Detwiler's Deposition Transcript</i>
03/30/2020	 Order <i>[136] (6/21/21 Temporarily Vacated) Order and Judgment</i>
04/01/2020	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[137] (6/21/21 Temporarily Vacated) (Duplicate) Order and Judgment</i>
04/01/2020	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>[138] Notice of Entry of Order and Judgment</i>
04/03/2020	 Recorders Transcript of Hearing Party: Other Detwiler, Edward <i>[139] Recorders Transcript of Telephonic Hearing: All Pending Motions 3.30.20</i>
04/03/2020	 Recorders Transcript of Hearing Party: Other Detwiler, Edward <i>[140] Recorders Transcript of Hearing: All Pending Motions 2.20.20</i>
04/03/2020	 Notice Filed By: Plaintiff Baker Boyer National Bank <i>[141] Notice of Response to Mr. Detwiler's Arguments</i>
04/08/2020	 Response <i>[142] Non-Party Edward Detwiler s Response to Notice of Response to Mr. Detwiler s Arguments</i>
04/08/2020	 Notice of Appeal Filed By: Other Detwiler, Edward <i>[143] Notice of Appeal</i>

# CASE SUMMARY













CASE NO. A-17-760779-F

04/09/2020	 Clerk's Notice of Nonconforming Document <i>[144] Clerk's Notice of Nonconforming Document</i>
04/13/2020	 Notice of Filing Cost Bond <i>[145] Edward N. Detwiler s Notice of Filing Cost Bond On Appeal</i>
04/13/2020	 Order Denying Motion <i>[146] Order Denying Edward N. Detwiler's Motion to Stay Execution of Order For Sanctions Pending Appeal and to Waive Supersedeas Bond</i>
04/13/2020	 Notice of Entry of Order Filed By: Plaintiff Baker Boyer National Bank <i>[147] Notice of Entry of Order Denying Edward N. Detwiler s Motion to Stay Execution of Order for Sanctions Pending Appeal and to Waive Supersedeas Bond</i>
04/16/2020	 Case Appeal Statement <i>[148] Case Appeal Statement</i>
05/06/2020	 Recorders Transcript of Hearing Party: Other Detwiler, Edward <i>[149] Recorder's Transcript of Decision on 2/12/20 Hearing 2.18.2020</i>
05/15/2020	 Application Filed By: Plaintiff Baker Boyer National Bank <i>[150] Application for Charging Order Against All Nevada Limited Company Membership Interests of Edward N. Detwiler</i>
05/18/2020	 Clerk's Notice of Hearing <i>[151] Notice of Hearing</i>
05/29/2020	 Opposition and Countermotion Filed By: Other Detwiler, Edward <i>[152] Non-Party Edward Detwiler's Opposition to Application for Charging Order; and Countermotion to Confirm Stay of Execution Based Upon Covid-19 Orders and Directives</i>
06/02/2020	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[153] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
06/15/2020	 Reply in Support Filed By: Plaintiff Baker Boyer National Bank <i>[154] Reply in Support of Application for Charging Order Against All Nevada Limited Liability Company Membership Interests of Edward N. Detwiler and Opposition to Countermotion</i>
06/17/2020	 Reply in Support <i>[155] Non-Party Edward Detwiler s Reply in Support of Countermotion to Confirm Stay of Execution Based Upon Covid-19 Orders And Directives</i>
07/06/2020	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[156] Order Granting Application For Charging Order Against All Nevada Limited Liability Company Membership Interests of Edward N. Detwiler and Denying Countermotion</i>
07/06/2020	 Notice of Entry of Order



# CASE SUMMARY

CASE NO. A-17-760779-F

	<p>Filed By: Plaintiff Baker Boyer National Bank  <i>[157] Notice of Entry of Order Granting Applciation for Charging Order Against All Nevada Limited Liability Company Membership Intrests of Edward N. Detwiler and Denying CounterMotion</i></p>
07/06/2020	<p> Order            Filed By: Plaintiff Baker Boyer National Bank  <i>[158] Charging Order Against All Nevada Limited Liability Company Membership Interests of Edward N. Detwiler</i></p>
07/06/2020	<p> Notice of Entry of Order            Filed By: Plaintiff Baker Boyer National Bank  <i>[159] Notice of Entry of Charging Order Against All Nevada Limited Liability Company Membership Interests of Edward N. Detwiler</i></p>
07/06/2020	<p> Order            Filed By: Plaintiff Baker Boyer National Bank  <i>[160] Charging Order Against All Nevada Limited Liability Company Membership Interests of Edward N. Detwiler</i></p>
08/05/2020	<p> Notice of Appeal            Filed By: Other Detwiler, Edward  <i>[161] Notice of Appeal</i></p>
08/05/2020	<p> Notice of Filing Cost Bond            Filed By: Other Detwiler, Edward  <i>[162] Eward N Detwiler's Notice of Filing Cost Bond on Appeal</i></p>
08/05/2020	<p> Case Appeal Statement            Filed By: Other Detwiler, Edward  <i>[163] Case Appeal Statement</i></p>
08/18/2020	<p> Ex Parte Motion  <i>[164] Ex Parte Motion for Order Transferring \$500.00 Cost Bond on Appeal</i></p>
08/19/2020	<p> Writ Electronically Issued            Party: Plaintiff Baker Boyer National Bank  <i>[166] Writ of Execution - Bank Account</i></p>
08/24/2020	<p> Order  <i>[165] Ex Parte Order Transferring \$500 Cost Bond on Appeal</i></p>
08/26/2020	<p> Writ Electronically Issued            Party: Plaintiff Baker Boyer National Bank  <i>[167] Writ of Execution</i></p>
10/13/2020	<p> Memorandum            Filed By: Plaintiff Baker Boyer National Bank  <i>[168] Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest Pursuant to NRS 21.025</i></p>
11/05/2020	<p> Affidavit of Service            Filed By: Plaintiff Baker Boyer National Bank  <i>[169] Affidavit of Service</i></p>








# CASE SUMMARY

CASE NO. A-17-760779-F

11/05/2020	 Affidavit of Service <i>[170] Affidavit of Service</i>
01/04/2021	Case Reassigned to Department 19 <i>Judicial Reassignment to Judge Crystal Eller</i>
02/08/2021	 Writ Electronically Issued Party: Plaintiff Baker Boyer National Bank <i>[171] Writ of Execution</i>
02/25/2021	 Peremptory Challenge <i>[172] Peremptory Challenge</i>
03/01/2021	 Notice of Department Reassignment <i>[173] Notice of Department Reassignment</i>
03/19/2021	 Objection Filed By: Other Detwiler, Edward <i>[174] Objection to Subpoena and Motion to Quash</i>
03/22/2021	 Motion to Quash Filed By: Other Detwiler, Edward <i>[175] Objection to Subpoena and Motion to Quash</i>
03/31/2021	 Errata Filed By: Other Detwiler, Edward <i>[176] Errata to Objection to Subpoena and Motion to Quash</i>
04/06/2021	 Stipulation and Order Filed by: Plaintiff Baker Boyer National Bank <i>[177] Stipulation and Order Regarding Briefing Schedule for Motion to Quash Subpoena Directed to R &amp; M Realty, Inc., d/b/a Caldwell Banker Premier Realty</i>
04/06/2021	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Baker Boyer National Bank <i>[178] Stipulation and Order Regarding Briefing Schedule for Motion to Quash Subpoena Directed to R &amp; M Realty, Inc., d/b/a Caldwell Banker Premier Realty</i>
04/23/2021	 Opposition Filed By: Plaintiff Baker Boyer National Bank <i>[179] Opposition to Detwiler's "Objection to Subpoena and Motion to Quash"</i>
05/25/2021	 Reply in Support <i>[180] Omnibus Reply in Support of Objection to Subpoenas and Motions to Quash</i>
06/03/2021	 Recorders Transcript of Hearing <i>[181] Transcript Re: Objection to Subpoena and Motion to Quash, June 1, 2021</i>
06/21/2021	 Order Filed By: Plaintiff Baker Boyer National Bank <i>[182] Order Overruling and Denying Detwiler's Objection to Subpoena and Motion to Quash and Order Setting Briefing Schedule Following Remand From Nevada Supreme Court</i>
06/21/2021	 Notice of Entry

# CASE SUMMARY

CASE NO. A-17-760779-F

	<p>Filed By: Plaintiff Baker Boyer National Bank  <i>[183] Notice of Entry of Order Overruling and Denying Detwiler's "Objection to Subpoena and Motion to Quash" and Order Setting Briefing Schedule Following Remand from Nevada Supreme Court</i></p>
06/25/2021	<p> Motion            Filed By: Plaintiff Baker Boyer National Bank  <i>[184] Motion to Calculate New Judgment Amount</i></p>
07/16/2021	<p> Opposition to Motion            Filed By: Other Detwiler, Edward  <i>[185] Opposition to Motion to Calculate New Judgment Amount and Countermotion to Stay Execution of Award Pending Outcome of Baker Boyer National Bank's Collection Efforts Against Defendant Foust's Estate</i></p>
07/18/2021	<p> Stipulation and Order            Filed by: Other Detwiler, Edward  <i>[186] Stipulation and Order Regarding Briefing Schedule Following Remand From Nevada Supreme Court</i></p>
07/23/2021	<p> Supplement            Filed by: Other Detwiler, Edward  <i>[187] SUPPLEMENT TO OPPOSITION TO MOTION TO CALCULATE NEW JUDGMENT AMOUNT AND COUNTERMOTION TO STAY EXECUTION OF AWARD PENDING OUTCOME OF BAKER BOYER NATIONAL BANK S COLLECTION EFFORTS AGAINST DEFENDANT FOUST S ESTATE</i></p>
08/25/2021	<p> Recorders Transcript of Hearing  <i>[188] Recorders Transcript of Hearing Re: Miscellaneous Motions - August 5, 2021</i></p>
08/26/2021	<p> Affidavit            Filed By: Plaintiff Baker Boyer National Bank  <i>[189] Affidavit in Support of Motion to Calculate New Judgment Amount</i></p>
08/27/2021	<p> Request  <i>[190] REQUEST FOR TRANSCRIPT OF PROCEEDINGS</i></p>
08/30/2021	<p> Order Granting            Filed By: Other Detwiler, Edward  <i>[191] Order Granting Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount and Granting in Part and Denyig in Part Edward N Detwiler's Countermotion</i></p>
08/31/2021	<p> Notice of Entry            Filed By: Other Detwiler, Edward  <i>[192] Notice of Entry of Order</i></p>
09/02/2021	<p> Notice            Filed By: Plaintiff Baker Boyer National Bank  <i>[193] Notice of Objection to Order and Record of Submission of Competing Order</i></p>
09/08/2021	<p> Motion to Reconsider            Filed By: Plaintiff Baker Boyer National Bank  <i>[194] Motion for Reconsideration of Competing Order Submitted Following Entry of Non-Prevailing Party's Order Resolving Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount Resolved at the August 5, 2021 Hearing</i></p>

# CASE SUMMARY

CASE NO. A-17-760779-F

09/09/2021



Clerk's Notice of Hearing  
*[195] Notice of Hearing*

09/23/2021



Stipulation and Order  
Filed by: Other Detwiler, Edward  
*[196] Stipulation and Order Regarding Motion for Reconsideration of Competing Order Submitted Following of Non-Prevailing Party's Order Resolving Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount Resolved at the August 5, 2021 Hearing*

09/30/2021



Notice of Appeal  
*[197] Notice of Appeal*

## **DISPOSITIONS**

08/31/2017

**Foreign Judgment** (Judicial Officer: Scotti, Richard F.)  
Debtors: James Patterson Foust, JR. (Defendant)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 08/31/2017, Docketed: 09/07/2017  
Total Judgment: 941,880.21

04/16/2018

**Order** (Judicial Officer: Scotti, Richard F.)  
Debtors: Harry Hildibrand LLC (Other)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 04/16/2018, Docketed: 04/17/2018

01/09/2019

**Judgment** (Judicial Officer: Scotti, Richard F.)  
Debtors: James Patterson Foust, JR. (Defendant), Harry Hildibrand LLC (Other)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 01/09/2019, Docketed: 01/10/2019

11/19/2019

**Order** (Judicial Officer: Scotti, Richard F.)  
Debtors: James Patterson Foust, JR. (Defendant)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 11/19/2019, Docketed: 11/20/2019  
Total Judgment: 48,385.56

03/12/2020

**Sanctions** (Judicial Officer: Scotti, Richard F.)  
Debtors: Harry Hildibrand LLC (Other), Edward Detwiler (Other)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 03/12/2020, Docketed: 03/12/2020  
Total Judgment: 100,000.00

06/02/2020

**Clerk's Certificate** (Judicial Officer: Scotti, Richard F.)  
Debtors: Edward Detwiler (Other)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 06/02/2020, Docketed: 06/09/2020  
Comment: Supreme Court No. 81017 Appeal Dismissed

06/21/2021

**Amended Judgment Vacated** (Judicial Officer: Scotti, Richard F.)  
Debtors: Harry Hildibrand LLC (Other), Edward Detwiler (Other)  
Creditors: Baker Boyer National Bank (Plaintiff)  
Judgment: 06/21/2021, Docketed: 04/23/2020  
Comment: Temporarily vacated

## **HEARINGS**

01/22/2018



**Motion for Order** (3:00 AM) (Judicial Officer: Scotti, Richard F.)  
*Plaintiff's Motion for an Order Requiring Judgment Debtor to Deliver Possession of Classic Car Collection to Satisfy Nearly \$1 Million Judgment*

# CASE SUMMARY

CASE NO. A-17-760779-F

Granted;

Journal Entry Details:

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

02/05/2018



**Evidentiary Hearing (11:00 AM)** (Judicial Officer: Scotti, Richard F.)

**02/05/2018, 02/15/2018, 03/07/2018, 04/18/2018**

Matter Heard;

Matter Heard;

Matter Continued;

Journal Entry Details:

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

Matter Heard;

Matter Heard;

Matter Continued;

# CASE SUMMARY

CASE NO. A-17-760779-F

Journal Entry Details:

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

Matter Heard;

Matter Heard;

Matter Continued;

Journal Entry Details:

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

03/16/2018



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

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

Matter Heard;

Journal Entry Details:

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

03/23/2018



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

*Decision Re: Motion to Intervene*

Motion Denied;

Journal Entry Details:

*The Court DENIES the Motion To Intervene by Harry Hildibrand, LLC. . (Hildibrand ). Plaintiff Baker Boyer National Bank ( Baker ) opposed the motion. Hildibrand asserted an interest in the motorcoach and the cars that are the subject of this action. Hildibrand s rights are governed by NRS 31.070. That statute sets forth the procedure for Hildibrand to assert a Third Party Claim to the subject property. Pursuant to NRS 31.070, an entity asserting a claim to the property may pursue its claim after the Plaintiff has levied on the property. In this case, Hildibrand may assert a Third Party Claim after Baker Boyer has levied on the property. The term levied on means to take possession pursuant to a writ of attachment. NRS 31.070(1) (drawing distinction between a levy, where a sheriff has taken possession of the property, and a writ of attachment); NRS 31.070(1) (mentioning a levy of the writ of attachment ). The Court entered judgment in favor of Baker granting Baker a writ of attachment to take possession of the property. Baker represents to this Court that it has not yet taken possession. If and when Baker takes possession of the motorcoach and the cars, then Hildibrand s rights under NRS 31.070 are triggered. The Court makes no ruling whether Hildibrand actually holds and right to the property, or whether Hildibrand would prevail upon implementing the procedures under*

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

*NRS 31.070. The Court already held in this matter that Mr. Foust owns and controls Harry Hildibrand, LLC. This finding will guide the Court's manner of resolving Hildibrand's claim made under NRS 31.070. The Court rejects Hildibrand's arguments made under NRCP 24. Specifically, Hildibrand is not entitled to intervene as a matter of right under NRCP 24(a)(2), because the present action does not impair or impede its ability to protect its interest, if any exists, in the subject property. Hildibrand may pursue the procedure available under NRS 31.070. Moreover, the Court finds that Hildibrand's interest was adequately represented by Defendant James Patterson. Also, the Court exercises its discretion not to permit Hildibrand to intervene pursuant to NRCP 24(b) because Hildibrand's rights, to the extent they exist, are protected under NRS 31.070. Finally, the Court questions whether the Findings of Fact, Conclusions of Law, and Final Judgment (filed March 8, 2018) actually constitutes a Final Judgment. The parties to this action (Plaintiff Baker, and Defendant James Patterson Foust Jr.) must be prepared to address this issue at the next hearing in this matter. Accordingly, the Court DENIES the Hildibrand's Motion to Intervene. Plaintiff Baker shall prepare the proposed Order consistent herewith, adding appropriate context is necessary, and correcting any scrivener error. Defendant need not countersign, but must be provided a copy of the proposed order at least two business days before it is submitted to the Court. CLERK'S NOTE: This Minute Order has been electronically served by Courtroom Clerk, Kory Schlitz, to all registered parties for Odyssey File & Serve. (3/23/18);*

04/12/2018

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

Minute Order - No Hearing Held;

Journal Entry Details:

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

04/18/2018

**Decision (9:00 AM)** (Judicial Officer: Scotti, Richard F.)*Decision Re: Motion to Reconsider*

Matter Heard;

04/18/2018

**Motion for Clarification (9:00 AM)** (Judicial Officer: Scotti, Richard F.)*Third-Party Claimant, Harry Hildibrand, LLC's Motion for Clarification on OST*

Matter Heard;

04/18/2018

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

Matter Heard;




Journal Entry Details:

*DECISION RE: MOTION TO RECONSIDER ... THIRD-PARTY CLAIMANT, HARRY HILDIBRAND, LLC'S MOTION FOR CLARIFICATION ON OST Rachel Wise, Esq., present on behalf of Harry Hildibrand LLC. Following arguments by counsel, COURT ORDERED the following: At a future Evidentiary Hearing, the Court will decide whether Harry Hildebrand LLC ( HH ) is bound by the prior decision of this Court that Mr. Foust is the owner of the Motorcoach. At that future hearing, if the Court determines that HH is not bound by the prior decision by principles of issue of claim preclusion, then HH will be permitted to present evidence, at that same hearing, that it is the owner of the Motor coach, under NRS 31.070. At that same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars over which HH claims an interest. These are the so-called HH cars, for future point of reference, even though this Court has not yet decided who owns the cars. This is an Evidentiary hearing under NRS 31.070. The parties agreed that this Evidentiary Hearing may proceed before the Plaintiff has levied upon the subject cars. At the same Evidentiary Hearing, the Court will determine whether Mr. Foust is the owner of those certain cars that HH contends it purchased from Mr. Foust and then sold to third parties. These are the so-called HH Sold Cars, for future point of reference, even though this Court has not yet decided who owns the cars. cars that he contends were transferred directly to third parties. These are the so-called Third Party Cars, for future point of reference, even though this Court has not yet decided who owns the cars. Accordingly, any and all remaining claims by and between the Plaintiff, Mr. Foust, and/or HH shall be resolved at the next Evidentiary Hearing. The Court*

# CASE SUMMARY

CASE NO. A-17-760779-F

*directs the parties to meet and confer, with themselves and this Court's JEA and/or Law Clerk, to determine the best possible date to conduct this future Evidentiary Hearing. The Court Orders that the Stay upon Plaintiff to not sell, encumber, or dispose of the Motorcoach shall remain in effect until the future Evidentiary Hearing. The Court Orders that Mr. Foust shall notify and advise HH not to sell, encumber, or dispose of any of the so-called HH Cars. To the extent any prior order of this Court, or Minutes of this Court, are inconsistent herewith, such Order or Minutes are deemed modified accordingly. The Court hereby sets a Status Check for Wednesday, May 9, 2018, at 9:00, which Status Check shall be vacated if the parties have reached an agreement on the date of the future Evidentiary Hearing. The Court directs counsel for the Plaintiff to prepare the proposed order in this matter, consistent herewith, adding any appropriate context, and correcting for any scrivener errors. CLERK'S NOTE: Subsequent to Court, COURT supplemented this Minute Order to clarify the Court's Order. hvp/4/18/18;*

- |            |  |
|------------|--|
| 04/23/2018 | <b>CANCELED Motion to Intervene</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - Duplicate Entry<br/>Motion to Intervene</i>   |
| 04/23/2018 | <b>CANCELED Motion For Reconsideration</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - On in Error<br/>Motion For Reconsideration of Order Re: Findings of Facts and Conclusions of Law and Final Judgment Re: Bentar Development, Inc.'s Motion for Partial Summary Judgment Against Plaintiffs' Fourth Case of Action</i>   |
| 04/23/2018 | <b>CANCELED Motion for Clarification</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated<br/>Motion for Clarification on Order Shortening Time</i>  |
| 05/09/2018 |  <b>Status Check</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.)<br>Matter Heard;<br>Journal Entry Details:<br><i>Court requested the parties set a date for the Evidentiary Hearing. Upon Court's inquiry, Mr. Bragonje advised they are having settlement discussions; an offer made and it is not a done deal yet. Colloquy regarding schedule for the Evidentiary Hearing. COURT ORDERED, matter SET for Evidentiary Hearing. Court directed Mr. Bragonje to work out any protocol with counsel, including when documents are to be disclosed, when witnesses are going to be designated and if opening remarks are needed for the Court. Court further directed counsel to place this matter on calendar if they can't work out protocol. 05/25/18 9:00 AM EVIDENTIARY HEARING;</i> |
| 05/24/2018 |  <b>Minute Order</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.)<br>Minute Order - No Hearing Held;<br>Journal Entry Details:<br><i>Pursuant to a stipulation between the parties, the Evidentiary Hearing currently scheduled for 5/25/2018 is hereby CONTINUED to 6/29/2018, 9:00 a.m. CONTINUED TO: 6/29/18 9:00 AM CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File &amp; Serve. ndo/5/24/18;</i>  |
| 05/25/2018 | <b>CANCELED Evidentiary Hearing</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - per Judge</i>   |
| 05/29/2018 | <b>CANCELED Evidentiary Hearing</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - Set in Error</i>  |
| 06/28/2018 | <b>CANCELED Motion to Compel</b> (1:30 PM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - Moot</i>   |
| 06/29/2018 | <b>CANCELED Evidentiary Hearing</b> (10:00 AM) (Judicial Officer: Scotti, Richard F.)<br><i>Vacated - per OST</i>  |
| 06/29/2018 |  <b>Motion to Compel</b> (10:00 AM) (Judicial Officer: Scotti, Richard F.)<br>Granted in Part;  |



# CASE SUMMARY

CASE NO. A-17-760779-F

## Journal Entry Details:

Argument by Mr. Bragonje in support of the motion, noting the witnesses availability, and that the documents were produced late in the day; therefore, requested to proceed with this matter as soon as possible. Upon Court's inquiry as to how much time counsel had put into filing the motion and reply, Mr. Bragonje stated it took him about ten hours at \$400.00 an hour. Mr. Went argued in opposition to the motion, noting the date the motion and subpoena were served, issues with the service, and that the sanction shouldn't issue, as a sanction would prohibit a Harry Hildibrand 30(b)(6) witness from appearing and testifying. Colloquy regarding the prior hearing, and whether Mr. Detwiler was always the person that was going to be produced for the deposition and to testify at the hearing. COURT ORDERED, motion GRANTED IN PART and DENIED IN PART; Harry Hildibrand (HH) is to appear for a deposition, at Mr. Bragonje's office on or before 7/9/18, and every day thereafter that Mr. Detwiler fails or refuses to appear, the company of HH will be sanctioned \$1,000.00 a day until the company of HH appears; ADDITIONALLY, if he does not appear by 7/19/18, all HH employees, officers, directories, managers, and members will be barred from testifying at the evidentiary hearing. COURT FURTHER ORDERED, matter SET for evidentiary hearing, and the monetary sanction matter is CONTINUED, to be heard on the same date as the evidentiary hearing to determine how to proceed. COURT DIRECTED Mr. Bragonje to prepare the order, and provide it to opposing counsel, for review and approval of form and content, before submitting it for signature. 7/31/19 - 9:00 AM - EVIDENTIARY HEARING;

07/31/2018



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

Matter Heard;

## Journal Entry Details:

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

10/03/2018



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

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

Hearing Set;

## Journal Entry Details:

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

11/05/2018



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

Matter Heard;

## Journal Entry Details:

# CASE SUMMARY

CASE NO. A-17-760779-F

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

11/13/2018



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

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

Motion Granted;

Journal Entry Details:

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

11/27/2018



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

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

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

Journal Entry Details:

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

11/28/2018



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

*Minute Order Re.: Judgment*

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

Journal Entry Details:

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

# CASE SUMMARY

CASE NO. A-17-760779-F

*need not obtain countersignatures from opposing counsel as to form and/or substance; however opposing counsel may submit an alternate proposed Order if necessary. This matter is now to be administratively closed. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg ;*

03/06/2019



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

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

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

Journal Entry Details:

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

04/01/2019



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

Matter Continued;

Journal Entry Details:

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

04/24/2019



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

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

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

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

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

*Mr. Mazur present via Court Call and Edward Detwiler also present. Court noted Mr. Foust was not present. Mr. Mazur advised Mr. Foust attended a funeral in Texas yesterday, and a Declaration was filed affirming the facts regarding the funeral attendance. Mr. Bragonje stated this was a contempt hearing, and argued Mr. Foust's excuse for his absence today did not matter and there was sufficient record to make a decision. Mr. Mazur assured this was not another delay tactic by Mr. Foust and informed the Court that Mr. Foust was given a diagnosis of less than six months due to severe cancer. Mr. Mazur further stated Mr. Foust indicated he would make himself available as soon as he returns to Las Vegas from the funeral in Texas.*

# CASE SUMMARY

CASE NO. A-17-760779-F

Court noted Mr. Foust could have been here if he really wanted to by taking a late flight last night or early flight this morning. Mr. Bragonje stated he did not believe what Mr. Foust says. Court reviewed the Court's schedule for the next week. Court stated Mr. Foust would be required to pay costs and compensate Mr. Bragonje for his time showing up at Court. Mr. Mazur stated he would make sure Mr. Foust is present Tuesday, May 21 at 8:30 a.m. Mr. Bragonje requested to proceed with Mr. Detwiler's evidentiary portion today. Court stated the exclusionary rule would apply since it was a separate proceeding for Mr. Detwiler and Mr. Foust. Colloquy regarding testimony of Mr. Detwiler. Witness Edward Detwiler sworn and testified. COURT ORDERED, matter CONTINUED. Court directed Mr. Detwiler return on May 21. CONTINUED TO: 5/21/19 8:30 AM;

Matter Heard;

Matter Continued;

Deferred Ruling;

Journal Entry Details:

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

05/09/2019



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

Minute Order - No Hearing Held;

Journal Entry Details:

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

05/21/2019

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

Vacated - Set in Error

06/03/2019



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

Motion to Discharge Attachment Pursuant to NRS 31.200

Denied;

Journal Entry Details:

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

06/03/2019



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

Minute Order - No Hearing Held;

Journal Entry Details:

An Evidentiary Hearing was conducted on the Court's Order to Appear and Show Cause Why Defendant James Foust, Jr. Should Not Be Held in Civil Contempt. The Court hereby Finds, Concludes, and Adjudges that Defendant James Patterson is in CIVIL CONTEMPT for violating this Court's Findings of Fact, Conclusion of Law, and Final Judgment (January 9,

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

2019) (hereinafter Order ). That Order required Foust on penalty of contempt, to deliver up, surrender possession of, and turn over to the Bank promptly, all [twenty] classic cars identified in [Exhibit B] with any cost or expense involved in delivery to the Bank to be borne by Mr. Foust . . . Id. at p. 22, para.29. Mr. Foust never challenged that Order with any motion for reconsideration, or motion pursuant to Rule 59 or 60 to alter or amend the Order. Indeed Mr. Foust waited until about three months later (April 1, 2009) to file a late and unmeritorious Motion to Discharge Attachment, which the Court Denies. Mr. Foust had acknowledged notice of these proceedings, and the Court s Order to Appear at the Evidentiary Hearing. Mr. Foust testified on his behalf, and presented Mr. Detwiler as a witness on his behalf. The Court finds that Mr. Foust fraudulently testified to this Court that he no longer had any ownership interest in the cars. He presented no valid excuse for violating the Court s Order. He presented no valid excuse for failing to turn over the subject cars. He presented no evidence of any effort to retrieve the subject cars from their present locations. He claimed that several of the cars were owned by Harry Hildebrand, LLC which the Court previously held was in privy with Mr. Foust. In fact, the evidence presented in these proceedings to date have proved that, at all times pertinent hereto, Mr. Foust directly and/or indirectly controlled Harry Hildebrand. Mr. Foust was designated as the managing initial director through at least 2008. Filings with the Montana Secretary of State showed that Mr. Foust was the sole member and/or manager for HHLLC. Significant evidence reflects that even if Foust transferred the exotic cars to HHLLC, he never received any consideration. In numerous bankruptcy filings of Harry Hildebrand LLC, HHLLC represented that it was actually owned by an entity called StarDust Classic, LLC. Mr. Foust had and has such significant connection and interest in StarDust Classic, LLC, that HHLLC s supposed Manager, Mr. Detwiler, admitted that Mr. Foust ultimately owned HHLLC through StarDust Classic, LLC. The Court finds that, at all times relevant herein, Foust, Harry Hildebrand, LLC, and StarDust Classic, LLC were and are alter ego s of each other with respect to all of the exotic cars listed on Exhibit B. In Third Party Claimant Harry Hildebrand, LLC s Evidentiary Hearing brief (October 29, 2018), Harry Hildebrand represented to this Court that it held an interest in at least the following three vehicles: 2007 Mercedes S550, 2007 Mercedes M50SUV, and a 2007 Mercedes CLK550 (hereinafter the Mercedes Vehicles ). Each of these Mercedes vehicles are listed I the Exhibit A, and are the subject of the Court s Order for Foust to surrender. Harry Hildebrand, LLC represented that the Mercedes Vehicles are in the possession of Mr. Foust s wife and daughters. Thus Mr. Foust and Harry Hildebrand knows where these cars are located, and has the right and ability and duty, under the Court Order, to surrender the Mercedes Vehicles to Baker Boyer. As a result of Mr. Foust s violation of the Court Order regarding the Mercedes Vehicles, Mr. Foust is in Civil Contempt of Court. In prior submissions to this Court, Mr. Foust represented that he drives a 2000 GMC Yukon ( Yukon ), which he supposedly sold to HHLLC, yet still holds pursuant to a Lease which he never provided. In any event, Mr. Foust has no valid reason to failing to surrender the Yukon, which he possesses, and which he owns either directly or indirectly through HHLLC. With respect to the 2017 Kawasaki, Mr. Foust represented to this Court by sworn Declaration on April 8, 2019, that such vehicle was in the possession of HHLLC. Mr. Foust has no valid reason to failing to surrender this vehicle, which he owns either directly or indirectly through HHLLC. In the bankruptcy schedules of Harry Hildebrand, LLC, HHLLC represented that it owned all of the twenty (20) cars that are listed in Exhibit B. In fact, Mr. Foust himself represented to the Court in a filing on April 1, 2019 (page 5, lines 13-15) that HHLLC owned the cars: Here, HHLLC claimed an interest in the classic cars that was adverse to Defendant s interest. HHLLC provided copies of certificates of title demonstrating its ownership . . . Further, Mr. Foust represented to this Court that: HHLLC . . . is the registered owner of the vehicles. (Id. at p. 6, lines 2-3). Yet in other documents Mr. Foust continued to represent to the Bank that he owned the cars, through at least the end of 2015. Whether Mr. Foust claimed to own the cars in his name, or whether the cars were held indirectly by HHLLC the entity that Mr. Foust ultimately owned, Mr. Foust has no valid excuse for not surrendering all twenty cars over to Baker, Boyer. For several other cars, Mr. Foust represented under oath, in a Declaration on April 8, 2019, that the cars were in the control of HHLLC through at least 2018, but that they may have been repossessed by StarDust Classic, LLC recently. These cars included: with minor exception mentioned below, all of the remaining cars not mentioned above fall into this category of cars that might have been taken over by StarDust Classic, LLC. As noted above, StarDust Classic, LLC is an alter ego of Foust. Mr. Foust has no valid reason for failing to surrender these vehicles, which he either owns directly, or indirectly through HHLLC, and/or StarDust Classic, LLC. The cars supposedly not held by Foust, HHLLC, or StarDust, include: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy. What is perfectly clear, and supported by clear and convincing evidence, is that as of April 1, 2009, the twenty (20) exotic cars that are the subject of Exhibit B, were in the possession, custody, and control of, and owned by, either Mr. Foust directly, or by Mr. Foust indirectly through HHLLC. There is some mention by Foust, in various briefs filed on April 8, 2019, and April 1, 2019, that the vehicles had been subject to security interests by Santander and/or Ron Vega. However Mr. Foust did not know if any such other secured creditors had commenced


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any process to enforce their security interest; there was no proof provided by Foust about the existence of any such security interests; there was no mention to the Court of any amounts that remained due and owing by Foust and/or HHLLC to these supposed third party creditors; and there was no proof (only rank speculation) to the Court that Foust and/or HHLLC might have lost control over these vehicles. It is abundantly clear that all twenty (20) cars remain in the control of Mr. Foust, with the possible exception of: 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy meaning Foust has control of the other 16 exotic cars on Exhibit 20. The existence of any third party security interest in the vehicles is no excuse for Foust's disregard of this Court's Order. The Court finds that each act of Mr. Foust's failure to turn over one of the twenty (20) cars on Exhibit B, with the exception of 1966 Ford Thunderbird; 1966 Plymouth; 2000 Plymouth; and 1963 Chevy, is a separate act of Civil Contempt of Court. Pursuant to this Court's authority under NRS 22.100, the Court fines Mr. Foust \$8,000.00, to be paid to Plaintiff/Judgment Creditor Baker Boyer immediately. Further, this Court Orders Foust to pay Baker Boyer National Bank its reasonable attorneys fees and expenses in connection with all of the proceedings to seek enforcement of the Court's Order. Baker Boyer shall submit its Affidavit in support of such fees and expenses, for the Court to review, and then incorporate into an Order against Foust. Further, pursuant to NRS 22.100, this Court Orders that Mr. James Patterson Foust, Jr. shall be IMPRISONED until he turns over to Baker Boyer National Bank, and/or its attorneys, each of the cars identified in Exhibit B minus the four exceptions mentioned above. The Warrant of Commitment shall contain a precise listing of the cars to be surrendered, as well as the appropriate purge clause. Plaintiff Baker Boyer shall prepare the ORDER FOR PUNISHMENT OF CONTEMPT, for this Court to review and sign, as appropriate, containing the listing of the cars, and the purge clause. The Court hereby STAYS THE ENFORCEMENT of this ORDER FOR PUNISHMENT OF CONTEMPT for ten (10) calendar days from the date of execution by the Court. Also, Baker Boyer shall prepare a separate WARRANT OF ARREST AND COMMITMENT for this Court to review and sign, if appropriate. The Court hereby STAYS THE ENFORCEMENT of the WARRANT OF ARREST AND COMMITMENT for ten (10) calendar days from the date of execution of the same by this Court. During this period of STAY, the Court will not deliver the WARRANT to Baker Boyer or any law enforcement personnel for execution, and James Foust shall not be subject to arrest during this period of STAY. The purpose of these stays is to afford Foust a reasonable opportunity to comply with his obligations without fear of arrest for the stayed period of time. This Court will deal separately with the remaining cars, and the issue whether Mr. Detwiler and/or HHLLC should also be held in Contempt of Court. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 6/3/19;

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

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

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


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


10/01/2019  **Status Check** (8:30 AM) (Judicial Officer: Scotti, Richard F.)  
Motion For Status Check  
Set Status Check;  
Journal Entry Details:  
Court noted Plaintiff's request for attorney's fees was granted. Court stated after reviewing the minute order and prior history, the four cars that had not yet been the subject of an order were


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a 1966 Ford Thunderbird, 1966 Plymouth, 2000 Plymouth and 1963 Chevy. Mr. Bragonje advised the Court had yet to rule on whether Mr. Detwiler and Harry Hildebrand LLC were in contempt. Court anticipated that Baker Boyer would be able to secure the cars so the Court would not have to rule on contempt of Mr. Detwiler, and also noted Mr. Detwiler did not have counsel. Mr. Mazur confirmed he did not represent Mr. Detwiler, and only represented him for the limited purpose of the Order to Show Cause. Mr. Mazur advised he would be filing a Motion to Withdraw as Counsel for Mr. Foust this week due to lack of communication. Court directed Mr. Mazur to provide the last known addresses for Harry Hildebrand, LLC and Mr. Detwiler in the Motion. Mr. Bragonje stated he had a warrant for Mr. Foust's arrest, however was seeking an Order of Contempt for Mr. Foust. **COURT ORDERED, Status Check SET.** Court stated it did not have enough evidence to link Mr. Foust to the four cars and would need to see titles. Mr. Bragonje stated at this point his client was content, and efforts now were focused on finding Mr. Foust and obtaining the cars. 12/30/19 9:30 AM STATUS CHECK: **WARRANT ;**

10/21/2019 **CANCELED Motion** (3:00 AM) (Judicial Officer: Scotti, Richard F.)  
*Vacated*  
*Motion Requesting Hearing on Status*

11/19/2019  **Minute Order** (10:00 AM) (Judicial Officer: Scotti, Richard F.)  
 Minute Order - No Hearing Held;  
 Journal Entry Details:  
*The Court GRANTS Plaintiff/Judgment Creditor's Motion to hold Mr. Detwiler and Harry Hildebrand in Civil Contempt of Court. At the Evidentiary Hearing on this matter Mr. Detwiler and Harry Hildebrand both had the ability to comply with this Court's prior Order to surrender and turnover the subject cars, but intentionally and knowingly failed to comply, without justification. Mr. Detwiler argued that he was merely a figure-head of Harry Hildebrand, LLC, but that argument was clearly negated by the evidence; at all relevant times Mr. Detwiler was the controlling Manager of Harry Hildebrand, LLC, and as such accepted and possessed the responsibility to control the assets of Harry Hildebrand, LLC, including its classic cars. The Court ORDERS that a Warrant of Commitment (Arrest) be issued as to Mr. Detwiler, commanding his confinement until such time as he surrenders that sub-set of the 20 cars that he swore were in the possession, custody, and/or control of Harry Hildebrand LLC at the time of the Court's turnover Order. Bond shall be required in the amount of \$100,000.00. Further, pursuant to NRS 22.100, the Court fines Harry Hildebrand LLC \$ 500.00, for its Contempt of Court, and further sanctions Harry Hildebrand and Orders it to pay the total amount of Plaintiff Baker Boyer's fees and costs incurred in connection with this matter. Baker Boyer shall prepare the Order herein, including appropriate context and authorities, consistent with this Minute Order and the evidence presented at the hearing. Plaintiff shall attach to such Order its Affidavit of Fees and Costs. Plaintiff shall also prepare the Warrant of Commitment against Mr. Detwiler. CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve and a copy was mailed to Harry Hildebrand, LLC. //ev11/19/19;*

12/19/2019  **Minute Order** (10:00 AM) (Judicial Officer: Scotti, Richard F.)  
 Minute Order - No Hearing Held;  
 Journal Entry Details:  
*The Court, sua sponte, hereby issues a temporary STAY on the execution and enforcement of the Warrant of Arrest and Commitment of Edward N. Detwiler until December 30, 2019 at 5PM (PST). This Stay is effective immediately. Further, a Status Check Hearing on the Warrant is hereby set for Monday, December 23, 2019 at 9AM. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 12/19/19;*

12/23/2019  **Status Check** (9:00 AM) (Judicial Officer: Scotti, Richard F.)  
*Status Check: Warrant*  
*Matter Heard;*  
 Journal Entry Details:  
*Court expressed concern regarding whether a subpoena was ever served on Mr. Detwiler. Mr. Bragonje stated he did not believe Mr. Detwiler was served with a subpoena, however had been the subject of an Order to Show Cause. Court stated in the Order entered on November 20, 2019, James Foust was named the judgment debtor and reviewed prior findings. Mr. Bragonje reviewed the last Order of the Court. **COURT ORDERED, warrant VACATED, and***

# CASE SUMMARY

CASE NO. A-17-760779-F

*Order of Contempt VACATED. Court directed Mr. Bragonje to serve a subpoena on Mr. Detwiler to appear before the Court and to give deposition or explanation under oath as to the matters stated within NRS 31.100, to inquire whether Mr. Detwiler is the alter ego of Harry Hildibrand, and to possibly include the Court to include by reference all other testimony provided to the Court in the past, and any additional testimony he may want to give, and include if he fails to appear, the Court will hold him in civil contempt of court and issue a warrant. Mr. Bragonje stated he had not been able to locate Mr. Foust in Nevada, believed he was in Los Angeles, and requested the warrant extended beyond December 30. COURT FURTHER ORDERED, the warrant effective within any jurisdiction in the United States, for an additional six months; December 30, 2019 Status Check VACATED.;*

12/30/2019

**CANCELED Status Check** (9:30 AM) (Judicial Officer: Scotti, Richard F.)

*Vacated - per Law Clerk*

*Status Check: Warrant*

01/30/2020



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

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

*Matter Heard;*

*Journal Entry Details:*

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

02/05/2020



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

*ISC: 60b Motion filing*

*Matter Heard;*

*Journal Entry Details:*

*Matter heard.;*

02/12/2020



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

*Decision Pending;*

*Journal Entry Details:*

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

02/18/2020



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

*Decision on 2/12/20 Hearing*



# CASE SUMMARY

CASE NO. A-17-760779-F

Matter Heard;

Journal Entry Details:

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

03/11/2020



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

*ISC - Documents Under Seal - Aff of John Bragonje in Support of Atty Fees*

Matter Heard;

Journal Entry Details:

*Matter heard.;*

03/17/2020

**Motion to Seal/Redact Records (10:00 AM)** (Judicial Officer: Scotti, Richard F.)

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

Granted;

03/17/2020

**Status Check (10:00 AM)** (Judicial Officer: Scotti, Richard F.)

*Status Check: Order re Sanctions*

Granted;

03/17/2020



**All Pending Motions (10:00 AM)** (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

*STATUS CHECK: ORDER RE SANCTIONS MOTION TO SEAL SUPPORTING DOCUMENTS TO AFFIDAVIT OF JOHN E. BRAGONJE IN SUPPORT OF LEWIS AND ROCA ATTORNEYS FEES AND COSTS INCURRED IN CONNECTION WITH MR. DETWILER AND HARRY HILDIBRAND, LLC The Court GRANTS Plaintiff's Attorney's Fees and Costs in the amount of \$208,889 in fees, and \$9,966.52 in costs. The Court has considered the Brunzell factors as discussed in Plaintiff's brief. Mr. Detwiler had the actual ability to comply with this Court's Order of January 9, 2019. From that point forward, he certainly was a party. The Court GRANTS Plaintiff's Motion to Seal Supporting Documents. The Court also reviewed Mr. Detwiler's competing Order regarding the January 30, 2020 and February 18, 2020 hearings. The Court finds Plaintiff's proposed Order to more accurately reflect the referenced proceedings. According, the Court declines to strike, or otherwise invalidate, the signed Order filed on March 12, 2020 and VACATES the March 20, 2020 Status Check. Plaintiff to prepare the Order. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 3/17/20;*

03/30/2020



**Motion to Stay (9:00 AM)** (Judicial Officer: Scotti, Richard F.)

*Non-Party Edward Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond, and Order Shortening Time*

Motion Denied;

Journal Entry Details:

*Arguments by counsel regarding the merits of Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond. COURT ORDERED, Motion for Stay DENIED. Court found, after three years of litigation, Mr. Detwiler appeared as a managing member of Harry Hildebrand and held himself out to be a representative of the business in some capacity. Court stated Mr. Detwiler actively violated the Court's orders and*

# CASE SUMMARY

CASE NO. A-17-760779-F

*frustrated the Bank's efforts to collect. Court stated it would be prejudicial to the bank if there were a Stay, and Mr. Detwiler's inability to pay was not a valid basis for a Stay or waiver of the bond. COURT ORDERED, the supersedeas bond amount \$350,000 with a stay of 45 days of entry of the Order of today's hearing. Court directed Mr. Bragonje to provide a copy of the Order to Mr. Wirthlin for review prior to providing it to the Court, and if parties could not agree, an alternative Order could be provided.;*

06/22/2020

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

*Application for Charging Order Against All Nevada Limited Company Membership Interests of Edward N. Detwiler*

Motion Granted; Application for Charging Order Against All Nevada Limited Company Membership Interests of Edward N. Detwiler

06/22/2020

**Opposition and Countermotion** (3:00 AM) (Judicial Officer: Scotti, Richard F.)

*Non-Party Edward Detwiler's Opposition to Application for Charging Order; and Countermotion to Confirm Stay of Execution Based Upon Covid-19 Orders and Directives*

Motion Denied; Non-Party Edward Detwiler's Opposition to Application for Charging Order; and Countermotion to Confirm Stay of Execution Based Upon Covid-19 Orders and Directives

06/29/2020



**Minute Order** (3:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

*APPLICATION FOR CHARGING ORDER AGAINST ALL NEVADA LIMITED COMPANY MEMBERSHIP INTERESTS OF EDWARD N. DETWILER...NON-PARTY EDWARD DETWILER'S OPPOSITION TO APPLICATION FOR CHARGING ORDER; AND COUNTERMOTION TO CONFIRM STAY OF EXECUTION BASED UPON COVID-19 ORDERS AND DIRECTIVES The Court GRANTS Plaintiff/Judgment Creditor's Application for Charging Order. Baker Boyer National Bank (the Bank ), did not violate this Court's Stay Order. The Application for a Charging Order did not violate any emergency declaration by the Governor pertaining to Covid-19. The Bank can only charge or lien Detwiler's ownership interests and receive his distributions. Detwiler has presented no persuasive or credible evidence that the Bank's counsel violated any rule of professional conduct. The Court permits the removal of the designation "a Washington corporation" from the name of the Bank, as that reflects the true identity of the creditor, and the undisputed facts. The name of the Bank in the captions in this case are hereby amended to conform to the proof. The Court overrules Detwiler's peremptory challenge as untimely. The Court DENIES Detwiler's Countermotion to Confirm Stay. The Governor's Emergency Directives stayed certain actions and proceedings, but did not stay charging orders arising from NRS Chapter 86. The Bank shall prepare and submit the Order, pursuant to AO 20-17. \*\*CLERK'S NOTE: A copy of this minute order was distributed via electronic mail. ;*

06/01/2021



**Motion to Quash** (9:00 AM) (Judicial Officer: Krall, Nadia)

## MINUTES

Matter Heard;

Journal Entry Details:

*Court noted it reviewed everything and stated its preliminary ruling was to overrule the objection to the subpoena and Motion to Quash. COURT STATED ITS FINDINGS and allowed arguments by counsel. Arguments by Mr. Wirthlin and Mr. Bragonje regarding the merits of and opposition to the Motion to Quash. COURT ORDERED objection to subpoenas and Motion to Quash OVERRULED; subpoenas allowed to move forward, however, subpoenas need to be limited to April 1, 2020 to present. Court Advised and FURTHER ORDERED based on the instruction of the Supreme Court current judgment VACATED; parties allowed to submit additional documentation regarding the correct amount of judgment consistent with the Supreme Court opinion. COURT ADDITIONALLY ORDERED discovery allowed pursuant to N.R.C.P 69 and CLARIFIED no collection at this point and time. COURT ORDERED Mr. Bragonje to submit their Memorandum of Costs and Disbursements by June 25, 2021 and Mr. Wirthlin to submit response by July 17, 2021; hearing SET for August 5, 2021 at 09:00 a.m. Mr. Bragonje DIRECTED to prepare the order and run it by Mr. Wirthlin. 08-05-2021 09:00 AM HEARING RE: CORRECT AMOUNT OF JUDGMENT ;*

## SCHEDULED HEARINGS


**Hearing** (08/05/2021 at 9:00 AM) (Judicial Officer: Krall, Nadia)

*Hearing RE: Correct Amount of Judgment*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

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

08/05/2021	<b>Hearing (9:00 AM)</b> (Judicial Officer: Krall, Nadia) <i>Hearing RE: Correct Amount of Judgment</i> Matter Heard;
08/05/2021	<b>Opposition and Countermotion (9:00 AM)</b> (Judicial Officer: Krall, Nadia) <i>[185] Opposition to Motion to Calculate New Judgment Amount and Countermotion to Stay Execution of Award Pending Outcome of Baker Boyer National Bank's Collection Efforts Against Defendant Foust's Estate</i> Matter Heard;
08/05/2021	 <b>All Pending Motions (9:00 AM)</b> (Judicial Officer: Krall, Nadia) Matter Heard; Journal Entry Details: <i>HEARING RE: CORRECT AMOUNT OF JUDGMENT...[185] OPPOSITION TO MOTION TO CALCULATE NEW JUDGMENT AMOUNT AND COUNTERMOTION TO STAY EXECUTION OF AWARD PENDING OUTCOME OF BAKER BOYER NATIONAL BANK'S COLLECTION EFFORTS AGAINST DEFENDANT FOUST'S ESTATE Scot Shirley, Esq., present on behalf of Edward Detwiler. COURT ADVISED parties of it's INCLINATION and noted it's concerns in regards to the Motions. Arguments by counsel in regards to the judgment amount. COURT ORDERED, Plaintiff's Motion to recalculate fees, recalculate new charging Order, and request for joint several liability GRANTED; Defendant's request for stay DENIED; Defendant s request for evidentiary hearing DENIED; Defendant s request for an offset amount GRANTED; if any monies have been collected by the estate, the Plaintiff will need to provide the information in the Order that is submitted and an affidavit with what monies have been collected from the estate and the efforts made to collect from the estate. COURT FURTHER ORDERED, Defendant s request regarding fees incurred after 04/20/2020 DENIED. Mr. Bragonje to prepare the Order with the affidavit and provide to opposing counsel for review.;</i>
10/26/2021	<b>Motion For Reconsideration (9:00 AM)</b> (Judicial Officer: Krall, Nadia) Events: 09/08/2021 Motion to Reconsider <i>Motion for Reconsideration of Competing Order Submitted Following Entry of Non-Prevailing Party's Order Resolving Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount Resolved at the August 5, 2021 Hearing</i>

**DATE**

**FINANCIAL INFORMATION**

<b>Attorney</b> Bragonje, John E.	
Total Charges	21.00
Total Payments and Credits	21.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Defendant</b> Foust, James Patterson, Jr.	
Total Charges	294.00
Total Payments and Credits	294.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Other</b> Detwiler, Edward	
Total Charges	546.00
Total Payments and Credits	546.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Other</b> Harry Hildibrand LLC	
Total Charges	35.00
Total Payments and Credits	35.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Plaintiff</b> Baker Boyer National Bank	
Total Charges	764.50
Total Payments and Credits	764.50
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Other</b> Detwiler, Edward	

**CASE SUMMARY**

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

Appeal Bond Balance as of 10/5/2021

**500.00**

## DISTRICT COURT CIVIL COVER SHEET

A-17-760779-F

County, Nevada

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

Department 2

(Assigned by Clerk's Office)

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

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

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

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

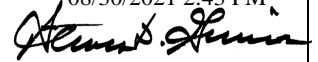
Business Court filings should be filed using the Business Court civil coversheet.

August 30, 2017

Date

Signature of initiating party or representative

See other side for family-related case filings.

  
CLERK OF THE COURT

BRENOCH WIRTHLIN, ESQ.  
NV SBN 10282  
**HUTCHISON & STEFFEN**  
10080 W. Alta Dr., Suite 200  
Las Vegas, Nevada 89145  
Telephone: (702) 385-2500  
Facsimile: (702) 385-2086  
Email: [bwirthlin@hutchlegal.com](mailto:bwirthlin@hutchlegal.com)

*Attorneys for Non-party Edward Detwiler*

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

\* \* \*

BAKER BOYER NATIONAL BANK,

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,  
individually,

Defendants.

CASE NO.: A-17-760779-F  
DEPT NO.: 4

**Order Granting Plaintiff's Request for a  
New Judgment Amount and Amended  
Charging Order Amount**

*and*

**Granting in Part and Denying In Part  
Edward N. Detwiler's Countermotion**

**Hearing Date: August 5, 2021**

After resolving a writ petition in favor of Edward N. Detwiler ("Detwiler") and against judgment creditor Baker Boyer National Bank (the "Bank"), the Nevada Supreme Court remanded this matter for the purposes of recalculating the amount of a contempt judgment. *See generally Detwiler v. Dist. Ct.*, 137 Nev. Adv. Op. 18, p. 11, 486 P.3d 710 (2021). Specifically, the Nevada Supreme Court vacated the \$100,000 compensatory award portion of the original contempt judgment against Detwiler and remanded the matter to this Court to issue an updated judgment with a recalculation of the attorney fees and court costs award.

To this end, the Bank filed its Motion to Calculate New Judgment Amount on June 25, 2021 (the "Motion"). Detwiler filed his Opposition to Motion to Calculate New Judgment

1 Amount and Countermotion to Stay Execution of Award Pending Outcome of Baker Boyer  
2 National Bank's Collection Efforts Against Defendant Foust's Estate on July 16, 2021, and a  
3 supplement thereto on July 23, 2021. The matter came on for a hearing on August 5, 2021,  
4 before the Honorable Nadia Krall, Department 4, Eighth Judicial District Court, with John E.  
5 Bragonje of the Lewis Roca Rothgerber Christie LLP law firm appearing on behalf of the Bank  
6 and Scot L. Shirley of the Hutchinson & Steffen PLLC law firm appearing on behalf of Detwiler.  
7 The Court, having reviewed the moving papers and pleadings on file herein, hearing oral  
8 argument, being fully advised in the premises, and for good cause appearing, the Court calculates  
9 the new judgment amount as \$250,546.89, consisting of \$237,714.25 in attorney fees and  
10 \$12,832.64 in costs, and authorizes a new judgment to issue in this amount and grants in part, and  
11 denies in part, Detwiler's countermotion the for the following reasons:

12 **FINDINGS**

13 1. The Nevada Supreme Court directed this Court to "recalculate the attorney fee  
14 award consistent with this opinion." *Detwiler*, Nev. Adv. Op. 18, p. 23. Specifically,

15 Here, the district court ordered Detwiler to pay all of the Bank's  
16 attorney fees from "the time that HH [i.e., the Fraudulent  
17 Transferee] intervened as a party in this action pursuant to NRS  
18 Chapter 31," which was on March 2, 2018. The Bank calculated  
19 its fees based on this date. However, the district court found  
20 Detwiler and HH in contempt for violating a specific court order—  
21 the January turnover order. *See* NRS 22.010(3). We hold that the  
22 fees incurred prior to January 9, 2019, were improperly awarded.

23 *Detwiler*, Nev. Adv. Op. 18, p. 21. In other words, the relevant period for calculating attorney  
24 fees begins on January 9, 2019. The Court did not provide a specific cut-off time for the fees and  
25 has allowed fees beyond the April 2020 contempt order, despite the Nevada Supreme Court  
26 mandating recalculation, not addition of any fees.

27 **The Court's New Judgment Amount Takes Into Account the *Brunzell* Factors, But Does**

28 **Not Take into Account the Heightened Standard Under NRS 22.100(3)**

1. This Court normally has great discretion regarding its decision to award fees and  
regarding the amount of fees granted, but this discretion is limited when awarding contempt

1 sanctions. “The fees must not only be ‘reasonable,’ . . . but must also be incurred as a result of  
2 the contempt.” *Detwiler v. Dist. Ct.*, 137 Nev. Adv. Op. 18, 19 (2021) (quoting NRS 22.100(3)).

3 2. Thus, there are two questions that the Court must answer: (1) whether the fees  
4 were reasonable under the *Brunzell* factors, and (2) whether they were incurred as a result of the  
5 contempt under NRS 22.100(3).

6 3. This Court cannot follow the traditional method of calculation when awarding  
7 contempt sanctions – the party seeking fees bears a heightened burden to show that the causation  
8 element is met under NRS 22.100(3). The Court reviewed the billing statements demonstrating  
9 the Bank’s attorneys’ fees and costs, but declined to allow Detwiler to examine the same.

10 4. On June 25, 2021, the Bank’s counsel submitted an affidavit of fees and costs,  
11 along with supporting documentation, as part of its Motion, but did not submit any billing  
12 statements or any breakdown of attorneys’ fees. (*See* 6/25/21 Affidavit of John E. Bragonje in  
13 Support of Lewis Roca Updated Attorney Fees and Costs Figures (the “Affidavit”) included in  
14 the body of the Motion, on file herein.)

15 5. The Affidavit did not describe how the work performed was incurred because of,  
16 or as a result of, Detwiler’s contempt. Rather, the Court accepted the Bank’s general oral  
17 assertion at the hearing on this matter that the Court should just find that all fees were incurred as  
18 a result of the contempt without any further briefing on the matter.

19 6. Exhibit 3 to the affidavit was submitted for *in camera* review, despite the option  
20 of providing redacted records to Detwiler, which the Bank could have done. Again, the Court  
21 determined that Detwiler was not entitled to see any evidence of whether the fees and costs were  
22 incurred because of Detwiler’s contempt.

23 7. The Court orders a new judgment amount of \$250,546.89, which exceeds the  
24 original fee and cost award of \$218,855.52. The Court did not explicitly state the reasons why  
25 the fees incurred after the original contempt order were awarded, but merely used the January 9,  
26 2019 date as a starting date.

27 8. Since this Court entered its Turn-Over Order on January 9, 2019, Lewis Roca  
28 proved that it has advanced costs for the total amount of \$12,832.64, which are itemized with



1 back-up for these costs and included as Exhibit 2 to the Motion. The Court finds that these costs  
2 were reasonable and necessary.

3 **The Fees Relate Exclusively to the Enforcement of the Turn-Over Order**

4 9. The Court reviewed Exhibit 3 in chambers and did not provide Detwiler's counsel  
5 with the opportunity to review these records. Because Detwiler cannot review these records, he  
6 cannot adequately determine whether these fees were incurred as a result of the contempt.

7 **Evidence that the Bank has not**

8 10. Parties may not collect on a judgment twice. Pursuant to Detwiler's  
9 countermotion, the Court directs the Bank's counsel to submit evidence of what fees and costs it  
10 has already collected from Foust's estate.

11 **A New Charging Order Should Issue**

12 11. This Court grants the request that a new charging order issue to reflect the updated  
13 judgment amount of \$250,546.89.

14 ///

**ORDER**

12. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Bank's motion to calculate a new judgment amount is GRANTED and Detwiler's opposition thereto is denied.

13. IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Detwiler's counter-motion is GRANTED IN PART and DENIED IN PART. Detwiler's counter-motion is granted in that the Bank is required to submit evidence of any fees and costs it has received from Foust's estate.

14. IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Bank shall prepare a separate judgment and charging order against Detwiler for the Court's signature.

**IT IS SO ORDERED.**

Dated this 30th day of August, 2021



**C48 A99 D8AB 1140  
Nadia Krall  
District Court Judge**

Respectfully submitted by:

HUTCHISON & STEFFEN

Approved as to Form and Content:

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: /s/Brenoch Wirthlin  
Brenoch R. Worthlin (SBN 10282)  
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Las Vegas, NV 89145  
Tel.: 702.385.2500  
bwirthlin@hutchlegal.com

*Attorneys for Edward N. Detwiler*

By: Declined to Sign  
John E. Bragonje (SBN 9159)  
3993 Howard Hughes Pkwy., Suite 600  
Las Vegas, NV 89169  
Tel.: 702.949.8200  
jbragonje@lewisroca.com

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

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Baker Boyer National Bank,  
Plaintiff(s)

CASE NO: A-17-760779-F

7  
8 vs. James Foust, Jr., Defendant(s)

DEPT. NO. Department 4

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 8/30/2021

14 Michael Mazur Esq. complaint@mazurbrooks.com

15 Danielle Kelley dkelley@hutchlegal.com

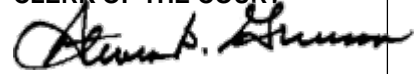
16 John Bragonje JBragonje@lewisroca.com

17 Luz Horvath LHorvath@lewisroca.com

18 Brenoch Wirthlin bwirthlin@hutchlegal.com

19 Jon Linder jlinder@hutchlegal.com

20  
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28



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

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

\* \* \*

BAKER BOYER NATIONAL BANK, a  
Washington corporation,

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,  
individually,

Defendants.

CASE NO.: A-17-760779-F

DEPT NO.: 4

**NOTICE OF ENTRY OF ORDER**

Please take notice that an Order Granting Plaintiff's Request for a New Judgment Amount and Amended Charging Order Amount *and* Granting in Part and Denying in Part Edward N. Detwiler's Countermotion was entered on the 30<sup>th</sup> day of August, 2021, a copy of which is attached hereto.

DATED: August 31, 2021.

**HUTCHISON & STEFFEN**

By /s/ Brenoch Wirthlin

BRENOCH WIRTHLIN, ESQ.

(NV SBN 10282)

10080 W. Alta Dr., Suite 200

Las Vegas, Nevada 89145

*Attorneys for Non-party Edward Detwiler*

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, hereby certify that, pursuant to NRCP 5, I served the foregoing  
3 **NOTICE OF ENTRY OF ORDER** on the following parties, via the manner of service indicated  
4 below, on August 31, 2021:

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

7 John Bragonje ([JBragonje@lrrc.com](mailto:JBragonje@lrrc.com))  
8 *Attorney for Plaintiff*

9 ***Via US Mail:***

10 James Foust  
11 8175 Arville St.  
12 Las Vegas, Nevada 89139  
13 Phone No.: 310-490-4499  
14 *Defendant*

15 Harry Hildibrand, LLC  
16 3011 American Way  
17 Missoula, Montana 59808  
18 Phone No.: 406-327-0401  
19 *Third Party*

20 Dated: August 31, 2021.

21 By: /s/ Danielle Kelley  
22 An Employee of  
23 Hutchison & Steffen  
24  
25  
26  
27  
28

BRENOCH WIRTHLIN, ESQ.  
NV SBN 10282  
**HUTCHISON & STEFFEN**  
10080 W. Alta Dr., Suite 200  
Las Vegas, Nevada 89145  
Telephone: (702) 385-2500  
Facsimile: (702) 385-2086  
Email: [bwirthlin@hutchlegal.com](mailto:bwirthlin@hutchlegal.com)

*Attorneys for Non-party Edward Detwiler*

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

\* \* \*

BAKER BOYER NATIONAL BANK,

Plaintiff,

v.

JAMES PATTERSON FOUST, JR.,  
individually,

Defendants.

CASE NO.: A-17-760779-F  
DEPT NO.: 4

**Order Granting Plaintiff's Request for a  
New Judgment Amount and Amended  
Charging Order Amount**

*and*

**Granting in Part and Denying In Part  
Edward N. Detwiler's Countermotion**

**Hearing Date: August 5, 2021**

After resolving a writ petition in favor of Edward N. Detwiler ("Detwiler") and against judgment creditor Baker Boyer National Bank (the "Bank"), the Nevada Supreme Court remanded this matter for the purposes of recalculating the amount of a contempt judgment. *See generally Detwiler v. Dist. Ct.*, 137 Nev. Adv. Op. 18, p. 11, 486 P.3d 710 (2021). Specifically, the Nevada Supreme Court vacated the \$100,000 compensatory award portion of the original contempt judgment against Detwiler and remanded the matter to this Court to issue an updated judgment with a recalculation of the attorney fees and court costs award.

To this end, the Bank filed its Motion to Calculate New Judgment Amount on June 25, 2021 (the "Motion"). Detwiler filed his Opposition to Motion to Calculate New Judgment

1 Amount and Countermotion to Stay Execution of Award Pending Outcome of Baker Boyer  
2 National Bank's Collection Efforts Against Defendant Foust's Estate on July 16, 2021, and a  
3 supplement thereto on July 23, 2021. The matter came on for a hearing on August 5, 2021,  
4 before the Honorable Nadia Krall, Department 4, Eighth Judicial District Court, with John E.  
5 Bragonje of the Lewis Roca Rothgerber Christie LLP law firm appearing on behalf of the Bank  
6 and Scot L. Shirley of the Hutchinson & Steffen PLLC law firm appearing on behalf of Detwiler.  
7 The Court, having reviewed the moving papers and pleadings on file herein, hearing oral  
8 argument, being fully advised in the premises, and for good cause appearing, the Court calculates  
9 the new judgment amount as \$250,546.89, consisting of \$237,714.25 in attorney fees and  
10 \$12,832.64 in costs, and authorizes a new judgment to issue in this amount and grants in part, and  
11 denies in part, Detwiler's countermotion the for the following reasons:

#### 12 **FINDINGS**

13 1. The Nevada Supreme Court directed this Court to "recalculate the attorney fee  
14 award consistent with this opinion." *Detwiler*, Nev. Adv. Op. 18, p. 23. Specifically,

15 Here, the district court ordered Detwiler to pay all of the Bank's  
16 attorney fees from "the time that HH [i.e., the Fraudulent  
17 Transferee] intervened as a party in this action pursuant to NRS  
18 Chapter 31," which was on March 2, 2018. The Bank calculated  
19 its fees based on this date. However, the district court found  
20 Detwiler and HH in contempt for violating a specific court order—  
21 the January turnover order. *See* NRS 22.010(3). We hold that the  
22 fees incurred prior to January 9, 2019, were improperly awarded.

23 *Detwiler*, Nev. Adv. Op. 18, p. 21. In other words, the relevant period for calculating attorney  
24 fees begins on January 9, 2019. The Court did not provide a specific cut-off time for the fees and  
25 has allowed fees beyond the April 2020 contempt order, despite the Nevada Supreme Court  
26 mandating recalculation, not addition of any fees.

#### 27 **The Court's New Judgment Amount Takes Into Account the *Brunzell* Factors, But Does**

#### 28 **Not Take into Account the Heightened Standard Under NRS 22.100(3)**

1. This Court normally has great discretion regarding its decision to award fees and  
regarding the amount of fees granted, but this discretion is limited when awarding contempt

1 sanctions. “The fees must not only be ‘reasonable,’ . . . but must also be incurred as a result of  
2 the contempt.” *Detwiler v. Dist. Ct.*, 137 Nev. Adv. Op. 18, 19 (2021) (quoting NRS 22.100(3)).

3 2. Thus, there are two questions that the Court must answer: (1) whether the fees  
4 were reasonable under the *Brunzell* factors, and (2) whether they were incurred as a result of the  
5 contempt under NRS 22.100(3).

6 3. This Court cannot follow the traditional method of calculation when awarding  
7 contempt sanctions – the party seeking fees bears a heightened burden to show that the causation  
8 element is met under NRS 22.100(3). The Court reviewed the billing statements demonstrating  
9 the Bank’s attorneys’ fees and costs, but declined to allow Detwiler to examine the same.

10 4. On June 25, 2021, the Bank’s counsel submitted an affidavit of fees and costs,  
11 along with supporting documentation, as part of its Motion, but did not submit any billing  
12 statements or any breakdown of attorneys’ fees. (*See* 6/25/21 Affidavit of John E. Bragonje in  
13 Support of Lewis Roca Updated Attorney Fees and Costs Figures (the “Affidavit”) included in  
14 the body of the Motion, on file herein.)

15 5. The Affidavit did not describe how the work performed was incurred because of,  
16 or as a result of, Detwiler’s contempt. Rather, the Court accepted the Bank’s general oral  
17 assertion at the hearing on this matter that the Court should just find that all fees were incurred as  
18 a result of the contempt without any further briefing on the matter.

19 6. Exhibit 3 to the affidavit was submitted for *in camera* review, despite the option  
20 of providing redacted records to Detwiler, which the Bank could have done. Again, the Court  
21 determined that Detwiler was not entitled to see any evidence of whether the fees and costs were  
22 incurred because of Detwiler’s contempt.

23 7. The Court orders a new judgment amount of \$250,546.89, which exceeds the  
24 original fee and cost award of \$218,855.52. The Court did not explicitly state the reasons why  
25 the fees incurred after the original contempt order were awarded, but merely used the January 9,  
26 2019 date as a starting date.

27 8. Since this Court entered its Turn-Over Order on January 9, 2019, Lewis Roca  
28 proved that it has advanced costs for the total amount of \$12,832.64, which are itemized with



1 back-up for these costs and included as Exhibit 2 to the Motion. The Court finds that these costs  
2 were reasonable and necessary.

3 **The Fees Relate Exclusively to the Enforcement of the Turn-Over Order**

4 9. The Court reviewed Exhibit 3 in chambers and did not provide Detwiler's counsel  
5 with the opportunity to review these records. Because Detwiler cannot review these records, he  
6 cannot adequately determine whether these fees were incurred as a result of the contempt.

7 **Evidence that the Bank has not**

8 10. Parties may not collect on a judgment twice. Pursuant to Detwiler's  
9 countermotion, the Court directs the Bank's counsel to submit evidence of what fees and costs it  
10 has already collected from Foust's estate.

11 **A New Charging Order Should Issue**

12 11. This Court grants the request that a new charging order issue to reflect the updated  
13 judgment amount of \$250,546.89.

14 ///

**ORDER**

12. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Bank's motion to calculate a new judgment amount is GRANTED and Detwiler's opposition thereto is denied.

13. IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Detwiler's counter-motion is GRANTED IN PART and DENIED IN PART. Detwiler's counter-motion is granted in that the Bank is required to submit evidence of any fees and costs it has received from Foust's estate.

14. IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Bank shall prepare a separate judgment and charging order against Detwiler for the Court's signature.

**IT IS SO ORDERED.**

Dated this 30th day of August, 2021



**C48 A99 D8AB 1140**  
**Nadia Krall**  
**District Court Judge**

Respectfully submitted by:

HUTCHISON & STEFFEN

Approved as to Form and Content:

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: /s/Brenoch Wirthlin  
Brenoch R. Wirthlin (SBN 10282)  
10080 W. Alta Drive, Suite 200  
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*Attorneys for Edward N. Detwiler*

By: Declined to Sign  
John E. Bragonje (SBN 9159)  
3993 Howard Hughes Pkwy., Suite 600  
Las Vegas, NV 89169  
Tel.: 702.949.8200  
jbragonje@lewisroca.com

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

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Baker Boyer National Bank,  
Plaintiff(s)

CASE NO: A-17-760779-F

7  
8 vs. James Foust, Jr., Defendant(s)

DEPT. NO. Department 4

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 8/30/2021

14 Michael Mazur Esq. complaint@mazurbrooks.com

15 Danielle Kelley dkelley@hutchlegal.com

16 John Bragonje JBragonje@lewisroca.com

17 Luz Horvath LHorvath@lewisroca.com

18 Brenoch Wirthlin bwirthlin@hutchlegal.com

19 Jon Linder jlinder@hutchlegal.com

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**January 22, 2018**

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A-17-760779-F	Baker Boyer National Bank, Plaintiff(s) vs. James Foust, Jr., Defendant(s)
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January 22, 2018	3:00 AM	Motion for Order
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HEARD BY: Scotti, Richard F.	COURTROOM: No Location
------------------------------	------------------------

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER:

PARTIES  
PRESENT:

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**February 05, 2018**

---

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

---

**February 05, 2018      11:00 AM      Evidentiary Hearing**

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

**COURT CLERK:** Alice Jacobson

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**February 15, 2018      11:00 AM      Evidentiary Hearing**

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

**COURT CLERK:** Alice Jacobson

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**March 07, 2018      9:00 AM      Evidentiary Hearing**

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

**COURT CLERK:** Kory Schlitz

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

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

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

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

COURT ADDITIONALLY ORDERED, Evidentiary Hearing RESET.

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

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**March 16, 2018**

---

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

---

**March 16, 2018      3:00 AM      Hearing**

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

**COURT CLERK:** Natalie Ortega

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**March 23, 2018      3:00 AM      Decision**

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

**COURT CLERK:** Kory Schlitz

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

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

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

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**April 12, 2018**

---

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

---

**April 12, 2018      4:30 PM      Minute Order**

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

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**April 18, 2018**

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A-17-760779-F	Baker Boyer National Bank, Plaintiff(s) vs. James Foust, Jr., Defendant(s)
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<b>April 18, 2018</b>	<b>9:00 AM</b>	<b>All Pending Motions</b>
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**HEARD BY:** Scotti, Richard F. **COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Haly Pannullo

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

Following arguments by counsel, COURT ORDERED the following:

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

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

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

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

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

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

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

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

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

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

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

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**May 09, 2018      9:00 AM      Status Check**

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

**COURT CLERK:** Haly Pannullo

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

**PRESENT:**      Bragonje, John E.      Attorney

**JOURNAL ENTRIES**

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

05/25/18 9:00 AM EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**May 24, 2018**

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

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**May 24, 2018      3:00 AM      Minute Order**

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

**COURT CLERK:** Natalie Ortega

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**June 29, 2018      10:00 AM      Motion to Compel**

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

**COURT CLERK:** Alice Jacobson

**RECORDER:** Elsa Amoroso

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**July 31, 2018      9:00 AM      Evidentiary Hearing**

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

**COURT CLERK:** Kory Schlitz  
Lauren Kidd

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**October 03, 2018      9:00 AM      Status Check**

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

**COURT CLERK:** Natalie Ortega

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

11/05/18 8:30 AM EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**November 05, 2018**

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

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**November 05, 2018      8:30 AM      Evidentiary Hearing**

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

**COURT CLERK:** Louisa Garcia

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**November 13, 2018**

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

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

**HEARD BY:**   Scotti, Richard F.

**COURTROOM:**   RJC Courtroom 03B

**COURT CLERK:**  
Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**November 27, 2018**

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

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**November 27, 2018      10:57 AM      Minute Order**

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

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

**COURTROOM:** Chambers

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

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

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

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**March 06, 2019**

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

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

**COURTROOM:** Chambers

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**April 01, 2019      9:00 AM      Show Cause Hearing**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Sandra Pruchnic

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**April 24, 2019**

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A-17-760779-F	Baker Boyer National Bank, Plaintiff(s) vs. James Foust, Jr., Defendant(s)
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April 24, 2019	1:00 PM	Evidentiary Hearing
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**HEARD BY:** Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Bragonje, John E.	Attorney
	Mazur, Michael D., ESQ	Attorney

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**May 09, 2019      10:00 AM      Minute Order**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**May 17, 2019      9:00 AM      Evidentiary Hearing**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**May 21, 2019**

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A-17-760779-F	Baker Boyer National Bank, Plaintiff(s) vs. James Foust, Jr., Defendant(s)
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<b>May 21, 2019</b>	<b>8:30 AM</b>	<b>Evidentiary Hearing</b>
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<b>HEARD BY:</b> Scotti, Richard F.	<b>COURTROOM:</b> RJC Courtroom 03B
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**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Dalyne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**June 03, 2019**

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

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**June 03, 2019      3:00 AM      Motion**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**June 03, 2019      10:00 AM      Minute Order**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

without fear of arrest for the stayed period of time.

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

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



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**September 18, 2019**

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

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

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**October 01, 2019      8:30 AM      Status Check**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Foreign Judgment

# COURT MINUTES

November 19, 2019

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

**November 19, 2019      10:00 AM      Minute Order**

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

**COURTROOM:** Chambers

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

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

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

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**December 19, 2019**

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

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**December 19, 2019      10:00 AM      Minute Order**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**December 23, 2019      9:00 AM      Status Check**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**January 30, 2020      1:30 PM      Motion**

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

**COURT CLERK:**

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

**PRESENT:** Bragonje, John E.      Attorney

**JOURNAL ENTRIES**

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

2/12/20 9:00 AM HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**February 05, 2020**

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

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**February 05, 2020      3:00 AM      Status Check**

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

**COURT CLERK:**  
Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**February 12, 2020      8:30 AM      Hearing**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Bragonje, John E.	Attorney
	Detwiler, Edward	Other
	Wirthlin, Brenoch	Attorney

**JOURNAL ENTRIES**

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

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

2/18/20 9:00 AM DECISION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**February 18, 2020      9:00 AM      Decision**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**March 11, 2020**

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

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**March 11, 2020      3:00 AM      Status Check**

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

**COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**March 17, 2020**

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

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**March 17, 2020      10:00 AM      All Pending Motions**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

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

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

The Court GRANTS Plaintiff s Motion to Seal Supporting Documents.

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

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

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

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

**March 30, 2020      9:00 AM      Motion to Stay**

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

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

- Arguments by counsel regarding the merits of Detwiler's Motion to Stay Execution of Order for Sanctions Pending Appeal to Waive Supersedeas Bond. COURT ORDERED, Motion for Stay DENIED. Court found, after three years of litigation, Mr. Detwiler appeared as a managing member of Harry Hildebrand and held himself out to be a representative of the business in some capacity. Court stated Mr. Detwiler actively violated the Court's orders and frustrated the Bank's efforts to collect. Court stated it would be prejudicial to the bank if there were a Stay, and Mr. Detwiler's inability to pay was not a valid basis for a Stay or waiver of the bond. COURT ORDERED, the supersedeas bond amount \$350,000 with a stay of 45 days of entry of the Order of today's hearing. Court directed Mr. Bragonje to provide a copy of the Order to Mr. Wirthlin for review prior to providing it to the Court, and if parties could not agree, an alternative Order could be provided.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment****COURT MINUTES****June 29, 2020**

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

**June 29, 2020      3:00 PM      Minute Order**

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

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- APPLICATION FOR CHARGING ORDER AGAINST ALL NEVADA LIMITED COMPANY MEMBERSHIP INTERESTS OF EDWARD N. DETWILER...NON-PARTY EDWARD DETWILER'S OPPOSITION TO APPLICATION FOR CHARGING ORDER; AND COUNTERMOTION TO CONFIRM STAY OF EXECUTION BASED UPON COVID-19 ORDERS AND DIRECTIVES

The Court GRANTS Plaintiff/Judgment Creditor's Application for Charging Order. Baker Boyer National Bank (the Bank ), did not violate this Court's Stay Order. The Application for a Charging Order did not violate any emergency declaration by the Governor pertaining to Covid-19. The Bank can only charge or lien Detwiler's ownership interests and receive his distributions. Detwiler has presented no persuasive or credible evidence that the Bank's counsel violated any rule of professional conduct. The Court permits the removal of the designation "a Washington corporation" from the name of the Bank, as that reflects the true identity of the creditor, and the undisputed facts. The name of the Bank in the captions in this case are hereby amended to conform to the proof. The Court overrules Detwiler's peremptory challenge as untimely.

The Court DENIES Detwiler's Countermotion to Confirm Stay. The Governor's Emergency Directives stayed certain actions and proceedings, but did not stay charging orders arising from NRS Chapter 86.

The Bank shall prepare and submit the Order, pursuant to AO 20-17.

**\*\*CLERK'S NOTE:** A copy of this minute order was distributed via electronic mail.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment****COURT MINUTES****June 01, 2021**

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

**June 01, 2021      9:00 AM      Motion to Quash**

**HEARD BY:** Krall, Nadia      **COURTROOM:** RJC Courtroom 03C

**COURT CLERK:** Carina Bracamontez-Munguia

**RECORDER:** Deloris Scott

**REPORTER:**

**PARTIES**

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

**JOURNAL ENTRIES**

- Court noted it reviewed everything and stated its preliminary ruling was to overrule the objection to the subpoena and Motion to Quash. COURT STATED ITS FINDINGS and allowed arguments by counsel. Arguments by Mr. Wirthlin and Mr. Bragonje regarding the merits of and opposition to the Motion to Quash. COURT ORDERED objection to subpoenas and Motion to Quash OVERRULED; subpoenas allowed to move forward, however, subpoenas need to be limited to April 1, 2020 to present. Court Advised and FURTHER ORDERED based on the instruction of the Supreme Court current judgment VACATED; parties allowed to submit additional documentation regarding the correct amount of judgment consistent with the Supreme Court opinion. COURT ADDITIONALLY ORDERED discovery allowed pursuant to N.R.C.P 69 and CLARIFIED no collection at this point and time. COURT ORDERED Mr. Bragonje to submit their Memorandum of Costs and Disbursements by June 25, 2021 and Mr. Wirthlin to submit response by July 17, 2021; hearing SET for August 5, 2021 at 09:00 a.m. Mr. Bragonje DIRECTED to prepare the order and run it by Mr. Wirthlin.

08-05-2021 09:00 AM HEARING RE: CORRECT AMOUNT OF JUDGMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Foreign Judgment**

**COURT MINUTES**

**August 05, 2021**

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

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**August 05, 2021      9:00 AM      All Pending Motions**

**HEARD BY:** Krall, Nadia      **COURTROOM:** RJC Courtroom 03C

**COURT CLERK:** Sandra Matute

**RECORDER:** Melissa Burgener

**REPORTER:**

**PARTIES**

**PRESENT:** Bragonje, John E.      Attorney

**JOURNAL ENTRIES**

- HEARING RE: CORRECT AMOUNT OF JUDGMENT...[185] OPPOSITION TO MOTION TO CALCULATE NEW JUDGMENT AMOUNT AND COUNTERMOTION TO STAY EXECUTION OF AWARD PENDING OUTCOME OF BAKER BOYER NATIONAL BANK'S COLLECTION EFFORTS AGAINST DEFENDANT FOUST'S ESTATE

Scot Shirley, Esq., present on behalf of Edward Detwiler.

COURT ADVISED parties of it's INCLINATION and noted it's concerns in regards to the Motions. Arguments by counsel in regards to the judgment amount. COURT ORDERED, Plaintiff's Motion to recalculate fees, recalculate new charging Order, and request for joint several liability GRANTED; Defendant's request for stay DENIED; Defendant s request for evidentiary hearing DENIED; Defendant s request for an offset amount GRANTED; if any monies have been collected by the estate, the Plaintiff will need to provide the information in the Order that is submitted and an affidavit with what monies have been collected from the estate and the efforts made to collect from the estate. COURT FURTHER ORDERED, Defendant s request regarding fees incurred after 04/20/2020 DENIED. Mr. Bragonje to prepare the Order with the affidavit and provide to opposing counsel for review.

## EXHIBIT(S) LIST

Case No.: **A760779**

Hearing Date:

Dept. No.: **2**

Judge:

Court Clerk:

Recorder:

Counsel for Plaintiff:

PLAINTIFF'S: **BAKER BOYER NATIONAL BANK**

**VS.**

DEFENDANT'S: JAMES FOUST

Counsel for Defendant:

## HEARING BEFORE THE COURT

## COURT'S EXHIBITS

[illegible]

## PLAINTIFF'S EXHIBITS

CASE NO. A760779

[illegible]

Defendants Exhibits

unused Returns

HLLC Document Index

Exhibits Admitted on 11/5/18

HLLC

A 760719

Admit

Tab	Date	Description	Bates Range
1	11/16/2006	Montana SOS Certificate of Filing Articles of Incorporation- Harry Hildibrand, LLC	HHLLC 000001 - HHLLC 000003
2	3/13/2007	Montana SOS LLC Annual Report- Harry Hildibrand, LLC	HHLLC 000004
3	8/27/2007	Montana SOS Certificate of Filing Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000005 - HHLLC 000006
4	10/9/2007	Montana SOS Certificate of Filing Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000007 - HHLLC 000008
5	2/25/2008	Montana SOS LLC 2008 Annual Report- Harry Hildibrand, LLC	HHLLC 000009
6	1/19/2009	Montana SOS LLC 2009 Annual Report- Harry Hildibrand, LLC	HHLLC 000010
7	1/26/2010	Montana SOS LLC 2010 Annual Report- Harry Hildibrand, LLC	HHLLC 000011
8	3/9/2011	Montana SOS LLC 2011 Annual Report- Harry Hildibrand, LLC	HHLLC 000012
9	1/19/2012	Montana SOS LLC 2012 Annual Report- Harry Hildibrand, LLC	HHLLC 000013
10	3/7/2013	Montana SOS LLC 2013 Annual Report- Harry Hildibrand, LLC	HHLLC 000014
11	3/7/2014	Montana SOS LLC 2014 Annual Report- Harry Hildibrand, LLC	HHLLC 000015
12	3/16/2015	Montana SOS LLC 2015 Annual Report- Harry Hildibrand, LLC	HHLLC 000016
13	8/18/2015	Montana SOS Statement of Change- Harry Hildibrand, LLC	HHLLC 000017
14	8/11/2016	Montana SOS LLC 2016 Annual Report- Harry Hildibrand, LLC	HHLLC 000018
15	9/27/2017	Montana SOS LLC 2017 Annual Report- Harry Hildibrand, LLC	HHLLC 000019 - HHLLC 000020
16	9/27/2017	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000021
17	11/30/2017	Montana SOS Involuntary Dissolution Intent Notice- Harry Hildibrand, LLC	HHLLC 000022 - HHLLC 000023
18	2/12/2018	Montana SOS LLC 2018 Annual Report- Harry Hildibrand, LLC	HHLLC 000024 - HHLLC 000025
19	2/12/2018	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000026
20	3/20/2018	Montana SOS Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000027 - HHLLC 000029
21	3/20/2018	Montana SOS Certification Letter- Harry Hildibrand, LLC	HHLLC 000030
22	11/12/2008	Minutes of Special Meeting of Harry Hildibrand, LLC	HHLLC 000031
23	2/9/2017	Montana Boat Title Certificate	HHLLC 000032
24	2/4/2018	Email from E.Detwiler to Jim re My Coach [FOUST 00122]	HHLLC 000033
25	2/4/2018	LVMPD Case Report	HHLLC 000034 - HHLLC 000036
26	2/4/2018	LVMPD Case Report with Exhibit D [FOUST 00127 - FOUST 00130]	HHLLC 000037 - HHLLC 000040
27	various	Title Certificates and Supporting Documents	HHLLC 000041 - HHLLC 000052
28	2/27/2018	Verified Third-Party Claim of Harry Hildibrand LLC in Response to Writ of Execution	HHLLC 000053 - HHLLC 000054

NOT Provided

NOT Provided

NOT Provided

certificate of title

HHLLC 000044

11-5-18

# HHLLC Document Index

objected  
admitted

29	3/1/2018	Declaration of Edward N. Detwiler in Support of Application for Hearing <u>Within 10 Days</u> on Third Party's claim of Interest in Property Levied Upon	HHLLC 000055 - HHLLC 000057	not provided
30	Undated	Harry Hildibrand Dates	HHLLC 000058	
31	Undated	Vehicle Transfer Log	HHLLC 000059 - HHLLC 000060	
32	Undated	Cash Flow	HHLLC 000061	11-5-18
33	12/29/2006	Operating Agreement of Harry Hildibrand, LLC	HHLLC 000062 - HHLLC 000065	not provided
34	1/1/2017	1997 Prevost Coach Sales Agreement between James Patterson Foust, Jr. and Harry Hildibrand, LLC	HHLLC 000066	11-5-18
35	3/20/2018	MT SOS Certification Letter with Articles of Amendment- Harry Hildibrand, LLC	HHLLC 000067 - HHLLC 000070	not provided
36		Chase Bank Payment Activity Log for Business Account - 3988 [redacted]	HHLLC 000071 - HHLLC 000074	not provided
37	11/16/2006	Certification Letter	HHLLC 000075 - HHLLC 000081	11-5-18

unused Exhibits

Returned  
to counsel  
11/5/18

## EXHIBIT(S) LIST

**Case No.: A760779**

Hearing / Trial Date: 4/24/19

**Dept. No.: 2**

**Judge: Richard Scotti**

**Plaintiff:** Baker Boyer National Bank

**Court Clerk: Elizabeth Vargas**

**Recorder / Reporter:** Dalyne Easley

**Counsel for Plaintiff: John Bragonje, Esq**

**VS.**

**Defendant:** James Foust, Jr.

**Counsel for Defendant: Michael Mazur, Esq.**

## HEARING / TRIAL BEFORE THE COURT

COURT'S	EXHIBITS
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[illegible]

## EXHIBIT(S) LIST

**Case No.: A760779**

Hearing / Trial Date: 5/21/19

**Dept. No.: 2**

**Judge: Richard Scotti**

**Plaintiff:** Baker Boyer National Bank,

**Court Clerk: Elizabeth Vargas**

**Recorder / Reporter: Dalyne Easley**

**Counsel for Plaintiff: John Bragonje, Esq.**

**VS.**

**Defendant:** James Foust, Jr.

**Counsel for Defendant: Michael Mazur, Esq.**

## HEARING / TRIAL BEFORE THE COURT

## DEFENDANT'S EXHIBITS

[illegible]





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

**BRENOCH WIRTHLIN, ESQ.**  
**10080 W. ALTA DR., SUITE 200**  
**LAS VEGAS, NV 89145**

**DATE: October 5, 2021**  
**CASE: A-17-760779-F**

**RE CASE:** BAKER BOYER NATIONAL BANK vs. JAMES PATTERSON FOUST, JR. aka JAMES P. FOUST, JR.

NOTICE OF APPEAL FILED: September 30, 2021

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

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

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PLAINTIFF'S REQUEST FOR A NEW JUDGMENT AMOUNT AND AMENDED CHARGING ORDER AMOUNT AND GRANTING IN PART AND DENYING IN PART EDWARD N. DETWILER'S COUNTERMOTION; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

BAKER BOYER NATIONAL BANK,

Plaintiff(s),

vs.

JAMES PATTERSON FOUST, JR. aka JAMES  
P. FOUST, JR.,

Defendant(s),

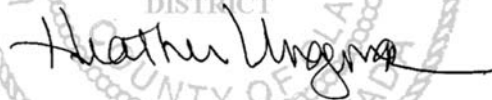
Case No: A-17-760779-F

Dept No: IV

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 5 day of October 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk