

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

JOSHUA RAMOS, an individual;  
Appellant,

-vs-

DANA WHITE, AN INDIVIDUAL; UFC  
Holdings, LLC; ZUFFA, LLC, dba Ultimate  
Fighting Championship, a NV LLC; DOES  
I-X, inclusive, ROE Corp I-V, inclusive;  
Respondent

No. 82102

Electronically Filed  
Jan 08 2021 08:48 p.m.

DOCKETING Elizabeth N. Brown  
CIVIL APPEALS Clerk of Supreme Court

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 29  
County Clark Judge David M. Jones  
District Ct. Case No. A-20-813230-C

**2. Attorney filing this docketing statement:**

Attorney Ian Christopherson Telephone 702-372-9649  
Firm Christopherson Law Office  
Address 600 South Third Street  
Las Vegas, NV 89101

Client(s) Joshua Ramos

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Donald J. Campbell Telephone 702-382-5222  
Firm Campbell & Williams  
Address 700 South Seventh Street  
Las Vegas, NV 89101

Client(s) DANA WHITE; UFC Holdings LLC, ZUFFA, LLC

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

Client(s) DOES I through X; ROE CORPORATIONS I through V

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:                          |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                           |
| <input type="checkbox"/> Summary judgment                   | <input checked="" type="checkbox"/> Failure to state a claim            |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                           |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____             |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

N/A

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

N/A

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

Action for breach of contract, bad faith in contract and unjust enrichment.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Did the court err in granting a motion to dismiss where:
  1. There was a failure to mediate in good faith.
  2. Where the argreement to mediate was breached.
  3. Where the respondent was unjustly enriched by its wrongful actions.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

see Lathigee v British Columbia Securities 136 Nevada Adv Opp 79 (2020) regarding unjust enrichment and disgorgement thereunder per Section 51 (also 39) which the district court failed to accept.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This case involves the issue of good faith participation in mediation.

The District Court indicated there is absolutely no duty or obligation to participate and mediate in good faith, referencing the District Courts Settlement Conferences.

There is both statutory and a body of law and procedures which set forth requirements and standards in contractually agreed on this point regarding mediation.

In *Lathigee v British Columbia Securities* 136 Nev. Adv Opp. 79 (2020) the Court followed the Restatement of Restitution (Third) on disgorgement

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Pursuant to Nevada Rule of Appellate Procedure 17(a) 11 and 12, this matter is presumptively retained by the Supreme Court.

Under 17(b)(6) the amount in cotroversy exceeds \$75,000.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

Justic Silver has previously recognized the appearance of bias regarding Appellants counsel in the District Court and her continuing recusal is appropriate.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** October 20, 2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** October 21, 2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** November 10, 2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

4(a)

### **SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

(b) Explain how each authority provides a basis for appeal from the judgment or order:



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Josh Ramos  
Dana White  
Zuffa LLC  
UFC Holdings LLC

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

n/a

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Ramos sued for breach of contract to mediate and contractually and tortious bad faith.  
Ramos also sued for unjust enrichment.  
On October 20, 2020, the court granted defendants motion to dismiss all claims.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Joshua Ramos

\_\_\_\_\_  
Name of appellant

Ian Christopherson

\_\_\_\_\_  
Name of counsel of record

December 28, 2020

\_\_\_\_\_  
Date

/s/Ian Christopherson

\_\_\_\_\_  
Signature of counsel of record

NV, Clark

\_\_\_\_\_  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 8th day of January, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

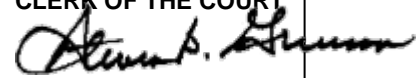
☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

CAMPBELL & WILLIAMS  
DONALD J. CAMPBELL, ESQ.  
J. COLBY WILLIAMS, ESQ.  
700 South Seventh Street  
Las Vegas, Nevada 89101

Dated this 8th day of January, 2021

/s/Ian Christopherson

\_\_\_\_\_  
Signature



**COMP**  
IAN CHRISTOPHERSON, ESQ.  
Nevada Bar No.: 3701  
LAW OFFICE OF IAN CHRISTOPHERSON  
600 South Third Street  
Las Vegas, Nevada 89101  
Telephone: (702) 372-9649  
Email: Iclaw44@gmail.com  
*Attorney for Plaintiff, Joshua Ramos*

CASE NO: A-20-813230-C  
Department 29

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSHUA RAMOS, aka ERNESTO  
JOSHUA RAMOS, an individual;

Plaintiff,

vs.

DANA WHITE, an individual; UFC  
Holdings LLC, ZUFFA, LLC., doing  
business as the ULTIMATE FIGHTING  
CHAMPIONSHIP, a Nevada limited  
liability company; DOES I through X,  
inclusive; and ROE CORPORATIONS I  
through V, inclusive;

Defendants.

CASE NO.:  
DEPT. NO.:

**EXEMPT FROM ARBITRATION**  
**[Arbitration Exempt Claimed:**  
**Amount in Controversy Exceeds**  
**\$50,000.00**

**DEMAND FOR JURY TRIAL**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

COME NOW, Plaintiff, JOSHUA RAMOS, by and through Plaintiff's attorney of record,  
IAN CHRISTOPHERSON, ESQ., of the LAW OFFICE OF IAN CHRISTOPHERSON, and  
hereby complains, alleges and avers as follows:

**I.**  
**PARTIES**

1. At all times herein relevant, Plaintiff, JOSHUA RAMOS (hereinafter "RAMOS"),  
was and is a resident of Clark County, Nevada.

2. Upon information and belief, at all times herein relevant, Defendant, DANA WHITE (hereinafter “WHITE”), was and is a resident of Clark County, Nevada and the president, manager and face of the ULTIMATE FIGHTING CHAMPIONSHIP and is the managing member of its business entity UFC Holdings LLC.

3. Upon information and belief, at all times herein relevant, Defendant, ZUFFA, L.L.C., is a Nevada limited liability company which was doing business as the ULTIMATE FIGHTING CHAMPIONSHIP (hereinafter the “UFC”) which later sold the UFC to William Morris Endeavor.

4. Defendants DOES I through X, and ROE CORPORATIONS I through X, are unknown to Plaintiff who thereon sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated as DOES I through X, and ROE CORPORATIONS I through X, are responsible in some manner for the events and happenings herein alleged. Plaintiff will ask leave of Court to amend this Complaint to insert the true names and capacities of DOES I through X, and ROE CORPORATIONS I through X when the names have been ascertained by Plaintiff.

5. The acts, events and circumstances complained of and asserted in the instant Complaint occurred in Clark County, Nevada.

## II. FACTS COMMON TO ALL COUNTS

6. That Plaintiff 's girlfriend (hereinafter Jane Doe) and with whom he resided and had a child with was solicited or enticed to travel with Dana White in late October 2014 to Brazil concurrent with a UFC event involving the Conor McGregor's fight.

1           7.       That White and Doe had no personal dating relationship prior to the trip, with their  
2 contact limited to interactions at her place of employment, the Spearmint Rhino (hereinafter the  
3 Rhino).

4           8.       That White was accustomed to frequenting strip clubs including the Rhino and  
5 interacting with the performers including Doe.  
6

7           9.       That Doe met White through her work as an entertainer at the Rhino strip club in  
8 Las Vegas, Nevada and had paid Doe as much as \$200,000 for “entertainment” prior to the trip.  
9

10          10.       That Doe separately traveled to Brazil on a first-class ticket and expedited passport  
11 provided by the UFC to meet with White with the expectation she would be expected to engage in  
12 sexual activity with White.

13          11.       That also on the same trip, Whites in laws and co-owners of the UFC were  
14 accompanied by other eye candy to whom they were not married.  
15

16          12.       That before taking the trip Doe was paid \$5,000 or more.

17          13.       On return Doe an additional \$10,000 was delivered to the Spearmint Rhino for her  
18 taking the trip with White, with only \$8,000 reaching Doe.

19          14.       That Doe recorded the sexual conduct in Brazil with White on her cellphone.  
20

21          15.       That Ramos downloaded a copy of the recording from Doe.  
22

23          16.       That Ramos, who was in a domestic relationship with Doe, became upset with Doe  
24 and White and contacted White.

25          17.       That after White denied any involvement with Doe, Ramos forwarded a video clip  
26 of White on or about December 7, 2014 to establish that Ramos had grounds to confirm that white  
27 had been involved with Doe.  
28

1           18.     That after that information/clip was sent to White, White, the UFC or their attorneys  
2 contacted either the FBI or the US Attorney to allege White was being extorted.

3           19     That on December 11, 2014 White, UFC counsel Lawrence Epstein, Whites lawyer  
4 Colby Williams and White met at the Campbell law office with AUSA Charles LaBella.  
5

6           20.     That White claimed he was a victim of extortion while at the same time stating that  
7 he had arranged for Doe to travel to Brazil and given her a total of \$15,000 or more for the trip.

8           21.     There is no record of contact concurrent with that December 11<sup>th</sup> meeting of contact  
9 with law enforcement from Nevada which would have had primary jurisdiction over extortion  
10 committed in Nevada.  
11

12          22.     White and his in-laws had earlier purchased the UFC when it was having existential  
13 issues with licensing and succeeded in getting licensed in Nevada under their ownership.

14          23.     In 2015, after building the UFC into a business generating millions in revenue  
15 White and his in-laws were considering or in the process of selling their interests in the UFC,  
16 eventually selling it for nearly a four-billion-dollar profit in mid-2016.  
17

18          24.     That White was the face and front of the UFC.

19          25.     That negative publicity could or would affect business and the sale if made public.

20          26.     That White personally and/or his or UFC attorneys made contact with federal law  
21 enforcement and prosecutors alleging that White was the target of extortion by Ramos.  
22

23          27.     That the purpose of that meeting to silence Ramos.

24          28.     That White or his counsel expressed at the December 11<sup>th</sup> meeting that the  
25 allegations if exposed could harm White and the UFC, a business they indicated was then valued  
26 at over a billion dollars.  
27  
28

1           29.     At that same meeting both White and his lawyers falsely represented to LaBella  
2 and FBI Special Agent Mollica that Ramos was then a convicted felon on probation in Nevada, a  
3 member of the Hells Angels and a pimp.

4           30.     The same day the FBI (December 11, 2014) obtained records of Ramos's criminal  
5 record which rebutted that allegation.

6           31.     That Whites attorneys made specific allegations referencing a specific criminal case  
7 in Clark County Nevada for a Joshua Ramos (not Ernesto).

8           32.     The statements by White, the UFC and their attorneys were false and reckless and  
9 intend to influence the US Government to commence a process of criminal investigation and  
10 prosecution.

11           33.     That in seeking to have Ramos subject to criminal prosecution White made  
12 statements that placed law enforcement on notice that he and/or the UFC had transported Doe out  
13 of this country, engaged in sexual conduct and given Doe money, a prima facie Mann Act  
14 violation.

15           34.     That the information provided to LaBella on December 11<sup>th</sup> failed to provide or  
16 establish a case for federal prosecution of Ramos.

17           35.     That following said meeting on December 11<sup>th</sup> FBI Agent Mollica began to  
18 monitor contacts and create a case upon which Ramos could be prosecuted in US District Court.

19           36.     Though the White and his attorneys provided no evidence there had been a demand  
20 for money or threat to publish the recording before December 11<sup>th</sup>, only texts indicating Ramos  
21 was personally upset with White having had sex with Doe in Brazil, Agent Mollica began  
22 quarterbacking the "investigation" to what arguably could be prosecuted as use of a cellphone to  
23 aid an extortion plot.



1           37.     That as of December 11<sup>th</sup>, 2014 the only criminal case the US Government had  
2 probable cause to investigate was a potential self-reported violation of the Mann Act by White.

3           38.     Instead the FBI sought to create a basis to prosecute the upset live in boyfriend of  
4 Doe apparently without restriction and with the approval of the US Attorney's office.

5           39.     That White and his counsel sought thereby to silence Ramos and prevent  
6 publication of the recording by having Ramos criminally prosecuted.

7           40.     That despite indicating the recording having been made in Brazil and White's  
8 admission and later having an offer of proof from Doe that upon her return from White she was  
9 paid \$10,000 by White; no charges were brought against White.  
10

11           41.     Despite the fact that White had likely violated the Mann Act by taking Doe to Brazil  
12 for compensated sex, White and his attorneys succeeded in White being labeled a victim and  
13 having the FBI set up a sting/orchestrated payoff to Ramos for the tape.  
14

15           42.     That agent Mollica noted in his December 11,2014 report the position and  
16 prominence of White.  
17

18           43.     That on January 7<sup>th</sup> and 8<sup>th</sup>, 2015 Agent Mollica created a sting, having Ramos meet  
19 White in person so he could be videotaped.

20           44.     At the first meeting White insisted that Ramos provide a figure for all copies of the  
21 recording.  
22

23           45.     Ramos and White negotiated for a payment of \$200,000 to be delivered the next  
24 day.

25           46.     That again on the 8th, of January 2015 Ramos met White and was given \$200,000  
26 in exchange for the recording.  
27  
28

1           47.     That in his application for a search warrant filed before 2 pm January 8<sup>th</sup> 2015 Agent  
2 Mollica detailed his active participation in creating and controlling the events and that he was  
3 waiting for the payment he had essentially orchestrated that day to arrest Ramos.

4           48.     That in the charging complaint and during the subsequent proceedings Whites  
5 identity was not revealed by the US Attorney.  
6

7           49.     The US Attorney drafted and had counsel for Ramos execute a protective order  
8 effective only during the prosecution which prevented disclosure of the name of White and also  
9 provided for the ultimate destruction of the written discovery and video at the close of the case.  
10

11           50.     The stipulation for the protective order was dated September 30, 2015.

12           51.     The following day disclosure of the tape was officially decriminalized in Nevada  
13 on October 1, 2015 in NRS 200.770, which excluded sexual activity of a public figure as from  
14 application of that statute.

15           52.     After the court entered a protective order which was only effective during the  
16 pendency of the criminal proceedings did White through his counsel contact counsel for Ramos to  
17 offer to pay Ramos for a NDA after Ramos pled guilty.  
18

19           53.     Ramos was charged under the name Ernesto Joshua Ramos.

20           54.     Nevada did not investigate the claimed extortion nor prosecute the extortion.

21           55.     The US Attorney charged Ramos by indictment with using a phone in the aid of  
22 extortion.  
23

24           56.     The US Attorney concealed White's name.

25           57.     Pursuant to the stipulation for a protective Order Whites identity was only  
26 concealed through the close of the case after which Ramos was free to talk.  
27  
28

1           58.     Ramos's original private counsel was an acquaintance of White, Pete Christiansen.

2           59.     Christiansen then represented Doe relative to this matter.

3           60.     After Christiansen ceased to be his counsel, Ramos's new counsel received a plea  
4 agreement Ramos was considering in October 2015.

5           61.     Unsolicited, White's counsel called Ramos's new counsel Gabriel Grasso and  
6 advised that after Ramos entered his guilty plea White would pay Ramos for a nondisclosure  
7 agreement to prevent any disclosure of White's actions.

8           62.     The protective order by its terms expired at the close of the prosecution, then set  
9 for early 2016.

10          63.     It was the US Attorney's office, not Judge Navarro, who sought to and conceal  
11 White's identity and Judge Navarro later confirmed that White and Ramos could enter a NDA  
12 separate of the criminal process through counsel.

13          64.     After the sentencing closing the case the protective order would no longer bind  
14 Ramos and White offered to pay Ramos for his silence as after sentencing Ramos he would be  
15 freed from the protective order.

16          65.     That Ramos accepted this offer and agreed to mediation to determine the amount  
17 of compensation he and Doe were to receive.

18          66.     That the parties White, the UFC, Doe and Ramos set a mediation for April 5, 2016.

19          67.     The parties strangely agreed that Pete Christiansen who knew White personally and  
20 had represented both Ramos and Doe related to the case was to act as mediator.

21          68.     Ramos understood through his attorney Grasso that the amount could or would  
22 approach or exceed one million dollars, whether that understanding was correct or not, Ramos  
23 understood a reasonable figure would be paid to him.

1           69.     That the mediation occurred on April 5, 2016 with the parties at different locations.

2           70.     That by agreeing to the mediation White and the UFC acknowledged and agreed  
3 Ramos was entitled to compensation for his silence.

4           71.     That White and the UFC were at their offices for the mediation.

5           72.     Previously White had agreed to pay \$200,000 for the recording setting the baseline  
6 for the mediation.

7           73.     Ramos had reluctantly agreed to the guilty plea agreement prodded by the offer and  
8 his counsel that he would be generously compensated for his silence after the plea, if he pled.

9           74.     That the plea agreement and protective order both required forfeiture of the  
10 recording.

11           75.     By entering the plea agreement Ramos agreed the recording would be destroyed.

12           76.     That nothing in the plea agreement or, the protective order or the terms of  
13 supervised release as directed by the court constrained in any way Ramos from disclosing the  
14 events at issue or Whites activities subsequent to completion of his sentence or earlier.

15           77.     On April 5<sup>th</sup>, 2016 White and Ramos participated in a mediation to determine the  
16 amount of compensation for the NDA agreement with Doe and Ramos.

17           78.     White failed to offer Ramos a cent and only offered to double the amount already  
18 paid to Doe to date, \$15,000.

19           79.     Despite his efforts to withdraw his plea the court denied the request, holding that  
20 the offer to pay Ramos was independent from the criminal proceedings and affirming the effect of  
21 the protective order not prohibiting disclosure by Ramos of the underlying events and action of  
22 White.

1           80.     Ramos was sentenced to a year and a day in prison with supervised release and has  
2 now completed that sentence.

3  
4                               **III.**  
5                               **FIRST CAUSE OF ACTION**  
6                               **(Breach of Contract)**

7           81.     Plaintiff, JOSHUA RAMOS, incorporates paragraphs 1 through 80 of the instant  
8 complaint above as though set forth fully herein.

9           82.     White and the UFC through counsel offered to pay Ramos for a nondisclosure  
10 agreement subsequent to his entry of a guilty plea.

11          83.     That the NDA was designed to protect the UFC and White.

12          84.     Ramos agreed to what he understood was a precondition to the contract and his  
13 mode of acceptance and pled guilty.

14          85.     That the guilty plea's ultimate effect would be to free Ramos from the terms of the  
15 protective order after sentencing (the close of the case).

16          86.     That after the plea the parties and Doe set a mediation to determine the amount of  
17 compensation to be paid pursuant to the agreement.

18          87.     That all parties understood the amount of compensation would be substantial.

19          88.     That as expressed to the US Attorney on December 11<sup>th</sup>, 2014 disclosure could  
20 affect the value of the UFC and White's interest therein ( 9%) of a company they then valued at  
21 over a billion dollars.  
22

23          89.     That as a result of the silence obtained from Ramos pursuant to their agreement  
24 White and the UFC was sold in a sale which closed in June or July 2016 for an amount claimed to  
25 be over four Billion dollars.  
26  
27  
28

1           90.     That the reasonable value of an NDA must reflect the value to White and the UFC  
2 of concealing the negative information regarding White and Doe.

3           91.     That on the date of the mediation White breached the agreement by not offering to  
4 pay Ramos anything.

5           92.     That Ramos has been damaged in excess of 15,000 thereby.

6           93.     That the actions of White were fraudulent, oppressive and designed to encourage  
7 Ramos to plead guilty so he could negotiate a substantial settlement which would prevent the  
8 disclosure of his actions at trial for the personal benefit of White and his related businesses and  
9 interests.  
10

11           94.     That punitive damages are appropriate.  
12

13                               **SECOND CAUSE OF ACTION**  
14                               **(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing)**

15           95.     Plaintiff, JOSHUA RAMOS, incorporates paragraphs 1 through 80 of the instant  
16 complaint above as though set forth fully herein.

17           96.     That White and the UFC owed the duty of good faith and fair dealing pursuant to  
18 the covenant found in every contract.  
19

20           97.     That White and the UFC did not engage in fair dealing by their actions noted above.

21           98.     That White and the UFC were motivated in part or in whole for this to conceal  
22 White's conduct during negotiations for the sale of the UFC.

23           99.     That the failure to offer any payment to Ramos in April 2016 was in bad faith and  
24 an abuse of his financial ability compared with Ramos.  
25

26           100.    That the precondition expressed to Ramos that the agreement was to be made after  
27 entry of the plea was intended and had the affect of leading Ramos to believe he only would be  
28 paid for a NDA if he pled guilty.

1           101. That subsequent to the April 2016 breach White confirmed the substantial value of  
2 a NDA and offered to pay a combined total amount of \$450,000 to Doe and Ramos.

3           102. That defendant's action are outrageous and punitive damages are appropriate.  
4

5                           **THIRD CAUSE OF ACTION**

6                   **(Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing)**

7           103. For Plaintiff's third cause of action Plaintiff hereby realleges the factual allegations set forth  
8 in paragraphs 1-102.

9           104. Plaintiff and defendants entered into a contractual arrangement for a NDA with the amount  
10 to be determined at a mediation set for April 5, 2016.

11           105. That the contractual arrangements began in October 2015 or early November 2015 with a  
12 precondition that Ramos to have entered a guilty plea before the NDA negotiations would begin.  
13

14           106. That Defendants breached their duty of good faith as set forth herein.

15           107. That Plaintiff suffered damages as a result of Defendants misconduct as a result thereof in  
16 excess of \$15,000dollars.  
17

18                           **FOURTH CAUSE OF ACTION**  
19                           **(Unjust Enrichment)**

20           103. For Plaintiff's fourth cause of action Plaintiff hereby realleges the factual  
21 allegations set forth in paragraphs 1 through 107.

22           104. That beginning at an unknow date and through the date of sale, White, the UFC and  
23 the various owners of the UFC were privately entertaining offers to sell their ownership interest in  
24 the UFC.

25           105. That White was an asset of the UFC as its manager and frontman.  
26  
27  
28

1           106. That disclosure of not only the events in Brazil herein, but the subsequent events  
2 resulting in and continuing through the date of sale and beyond would adversely affect the  
3 marketability or sale price of the UFC.

4           107. That under the terms of the protective order as approved by judge Navarro  
5 disclosure of White's activities would be subject to disclosure as early as late February or early  
6 March 2016 if Ramos pled guilty and was sentenced.

7           108. That White and the UFC recognized the short- and long-term benefit of reaching a  
8 nondisclosure agreement with Ramos for the benefit of both White and the UFC.

9           109. This was recognized by White and the UFC when the protective order was entered  
10 in October 2015.

11           110. That prior to the scheduled plea hearing in early November 2015 White's counsel  
12 contacted Gabriel Grasso advising that upon entry of a guilty plea by Ramos White wanted to  
13 obtain a NDA from Ramos.

14           111. Though no figure was agreed upon it was mutually understood the compensation  
15 for such agreement would be substantial.

16           112. As the sale was pending White and the UFC's attorneys agreed to a mediation to  
17 determine the amount of compensation on April 5, 2016.

18           113. At that meeting White and the UFC offered Ramos nothing.

19           114. That in early July 2016 the UFC was sold for a sum reported to be in excess of 4  
20 Billion dollars.

21           115. That to this date White remains as manager and the face of the UFC, receiving a  
22 reported annual salary of 20 million dollars.



1           116. That White and the UFC obtained the silence of Ramos by their actions and were  
2 unjustly enriched both by the sale or its price not being affected by potential negative publicity,  
3 lack of criminal investigation or charges and White's continued employment with the UFC.

4  
5           117. That White and the UFC have enjoyed and retained the benefit of Ramos's silence  
6 and were enriched thereby.

7           118. That the value of the benefits conferred on White and the UFC exceed \$15,000.

8           119. That Whites actions are outrageous and punitive damages are appropriate.

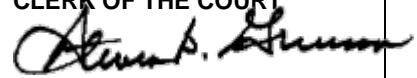
9  
10                                   **IV.**  
                                  **DEMAND**

11       Wherefore Plaintiff prays for the following relief:

- 12           1. Damages for breach of contract as determined by the court in excess of 15,000.  
13           2. Damages in excess of 15,000 for breach of the covenant of good faith and fair dealing.  
14           3. Damages for Defendants unjust enrichment based of the value of the UFC at the time of  
15           sale enhanced by the non-disclosure of Whites conduct, an amount in excess of \$15,000  
16           dollars.  
17           4. For punitive damages and attorney's fees as allowed by law.

18       DATED this \_\_3\_\_ day of April, 2020.

19  
20  
21                                   /s/Ian Christopherson  
                                  IAN CHRISTOPHERSON, ESQ.  
22                                   Nevada Bar No.: 3701  
                                  600 South Third Street  
23                                   Las Vegas, Nevada 89101  
                                  Telephone: (702) 372-9649  
24                                   Email: Iclaw44@gmail.com  
25                                   Attorney for Plaintiff, Joshua Ramos  
26  
27  
28



CAMPBELL & WILLIAMS  
DONALD J. CAMPBELL, ESQ. (1216)  
djc@cwlawlv.com  
J. COLBY WILLIAMS, ESQ. (5549)  
jcw@cwlawlv.com  
700 South Seventh Street  
Las Vegas, Nevada 89101  
Telephone: (702) 382-5222  
Facsimile: (702) 382-0540

*Attorneys for Defendants  
Dana White, Zuffa, LLC  
and UFC Holdings, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSHUA RAMOS, aka ERNESTO  
JOSHUA RAMOS, an individual

Plaintiff,

vs.

DANA WHITE, an individual; UFC  
HOLDINGS LLC, ZUFFA, LLC, a Nevada  
limited liability company, dba ULTIMATE  
FIGHTING CHAMPIONSHIP; DOES I  
through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive

Defendants.

CASE NO.: A-20-813230-C  
DEPT. NO.: XXIX

**DEFENDANTS' MOTION TO DISMISS  
COMPLAINT PURSUANT TO NRCP  
12(b)(5)**

**HEARING REQUESTED**

Defendants, through their undersigned counsel, hereby submit their Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5). This Motion is based on the papers and pleadings on file herein, the exhibits attached hereto, the following Points and Authorities, and any oral argument permitted at the time of hearing.

**POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Some parties never learn. After pleading guilty to a felony of attempting to extort Defendant Dana White ("Mr. White") and spending nearly a year in federal prison, Plaintiff Joshua Ramos

1 (“Ramos”) now seeks this Court’s assistance to complete what he could not finish the first time—  
2 separating Mr. White (and, now, his employer) from a “substantial” amount of money. Just  
3 because Ramos is carrying out his latest scheme through the artifice of a civil lawsuit does not  
4 make it any less improper. Fortunately for the Court and Defendants, Ramos’ attempts at civil  
5 extortion are just as inept as his prior criminal endeavors.

6 As an initial matter, the Complaint fails to state a claim under NRCP 12(b)(5) given Ramos’  
7 inability to plead the most basic element of a claim for breach of contract—the existence of an  
8 enforceable agreement. The lack of a valid contract likewise dooms Ramos’ derivative claims for  
9 contractual and tortious breach of the implied covenant of good faith and fair dealing. Finally,  
10 Ramos’ claim for unjust enrichment fails because, *inter alia*, it is premised on an alleged “benefit”  
11 that Ramos was legally obligated to perform as a result of a pre-existing court order entered in his  
12 criminal case. We address these and the Complaint’s other defects in more detail below.

## 13 II. BACKGROUND

14 Though Ramos’ Complaint is designed to smear Mr. White and hurt his family, Defendants  
15 recognize the Court must accept any well-pleaded factual allegations as true for purposes of this  
16 Motion. Thus, while Defendants reserve the right to dispute Ramos’ allegations if that ever  
17 becomes necessary, the material “facts” at issue here are as follows.

### 18 A. The Parties.

19 Ramos is an individual residing in Clark County, Nevada. *See* Compl. ¶ 1. Mr. White is  
20 the President of Defendant Zuffa, LLC (“Zuffa”), which does business as the Ultimate Fighting  
21 Championship® (“UFC”). *Id.* ¶ 2. Zuffa is a Nevada limited liability company, *id.* ¶ 3, and UFC  
22 is the leading promoter of professional mixed martial arts contests in the world. Ramos has also  
23 named UFC Holdings, LLC as a defendant. *Id.* ¶ 2. UFC Holdings, LLC is a Delaware limited  
24 liability company that was not even formed until July 27, 2016, well after the events alleged in the  
25  
26  
27  
28

Complaint.<sup>1</sup> As such, it is improperly named herein. The same is true for Zuffa as the Complaint is devoid of any allegations that White, during the events alleged therein, was acting as the company's authorized agent as opposed to in his individual capacity.

**B. White Reports Ramos' Criminal Conduct to Law Enforcement, the FBI Investigates, and Ramos Pleads Guilty to a Felony.**

Beginning in or about November 2014 and continuing into early 2015, Ramos contacted Mr. White on multiple occasions using the parties' cellular telephones. *See* Compl. ¶¶ 16-17. During these communications, Ramos conveyed information to Mr. White both in writing and in video format that caused Mr. White to contact legal counsel. *Id.* ¶¶ 16-18. Mr. White and his counsel thereafter arranged a meeting with federal law enforcement officials for the purpose of reporting what they believed was potential criminal conduct by Ramos, namely his attempted extortion of Mr. White by threatening to release information designed to expose secrets and/or impute disgrace to Mr. White. *Id.* ¶¶ 18-20; 26. Special agents from the Federal Bureau of Investigation opened a case file and proceeded to monitor Ramos' continued contacts with Mr. White. *Id.* ¶¶ 35-36.

In or about early January 2015, Ramos ultimately demanded that Mr. White pay him \$200,000 in cash in exchange for Ramos' agreement not to release the subject videotape and to provide Mr. White with all copies thereof. *See* Compl. ¶¶ 43-47. FBI agents continued to monitor Ramos' communications with Mr. White, and received court-approval to conduct electronic surveillance of scheduled in-person meetings between Ramos and Mr. White. *See id.* Ramos and

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<sup>1</sup> *See* Delaware Secretary of State "Entity Details" for UFC Holdings, LLC, a true and correct copy of which is attached hereto as Exhibit 1. The Court may take judicial notice of this Secretary of State filing when ruling on a Rule 12(b)(5) motion. *See Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) ("the court may take into account matters of public record . . . when ruling on a motion to dismiss for failure to state a claim upon which relief can be granted.").

Mr. White met in early January 2015 during which Ramos accepted \$200,000 in cash per his prior demands, and provided Mr. White with a copy of the videotape. *See id.* Special Agent James Mollica arrested Ramos shortly after he left the meeting with Mr. White. *Id.*

The United States Attorney's Office for the District of Nevada, through the sitting grand jury, indicted Ramos on September 22, 2015 for use of an interstate facility (*i.e.*, a cellular telephone) with the intent to carry on extortion. *See* Compl. ¶ 55.<sup>2</sup> Ramos, through criminal defense counsel, and Assistant United States Attorney (now Magistrate Judge) Carla Higginbotham entered into a stipulated protective order whereby the parties agreed to keep the victim's name and related information confidential. *Id.* ¶¶ 49-50; 52; 57.<sup>3</sup> Former Magistrate Judge Hoffman entered the order on October 5, 2015. *See* Ex. 2 (ECF No. 40). According to Ramos, the protective order was only for the duration of the criminal proceedings (*i.e.*, through sentencing), after which he would be free to speak publicly. *See* Compl. ¶¶ 57; 62; 64; 76. Less than one month later, on October 27, 2015, Ramos and the United States Attorney's Office notified the district court that they had reached a plea agreement. *See* Ex. 2 (ECF No. 41). On November 3, 2015, Ramos—after being sworn and thoroughly canvassed by United States District Court

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<sup>2</sup> *See also* Criminal Docket Sheet for *United States v. Ramos*, Case No. 2:15-cr-00267-GMN-CWH, a true and correct copy of which is attached hereto as Exhibit 2. Again, the Court is free to take judicial notice of and can consider this public record in the context of a Rule 12(b)(5) motion. *See Breliant, supra*. The Court is further permitted to consider this record because Ramos' related criminal proceedings are central to his Complaint in this action. *See Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) ("A court may consider a document outside the pleadings if (1) the complaint refers to the document, (2) the document is central to the complainant's claim, and (3) no party questions the authenticity of the document."); *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009) (court can take judicial notice of related criminal proceedings in appropriate circumstances, especially where the matters are closely related).

<sup>3</sup> A true and correct copy of the Stipulation and Order for Protective Order Pursuant to Fed. R. Crim. Pro. 16(d)(1) and 18 U.S.C. § 3771 is attached hereto as Exhibit 3. The Court may take judicial notice of this document for the same reasons set forth in footnote 2, *supra*.

Judge Gloria Navarro—plead guilty to Count 1 in the Indictment. *Id.* ¶¶ 74-75; *see also* Ex. 2 (ECF Nos. 43; 67).

**C. Mr. White and Ramos Participate in an Unsuccessful Mediation**

After Ramos’ case was referred to the United States Probation Office to prepare an investigation and report in anticipation of Ramos’ sentencing, Mr. White and Ramos, through counsel, agreed to participate in a mediation to determine whether the parties could reach agreement on a potential non-disclosure agreement whereby Ramos would continue to maintain confidentiality regarding White’s identity as the victim of Ramos’ criminal conduct after the conclusion of the criminal proceedings. *See* Compl. ¶¶ 61; 63-65. Ramos alleges he had a subjective understanding from his counsel—which admittedly may have been incorrect—that White would pay him an amount approaching or exceeding one million dollars for a non-disclosure agreement. *Id.* ¶ 68. The mediation occurred on April 5, 2016. *Id.* ¶¶ 66; 69; 77. Mr. White failed to offer Ramos any amount of money at the mediation. *Id.* ¶¶ 78; 91; 113. The mediation, thus, ended unsuccessfully as “*no figure was agreed upon.*” *Id.* ¶ 111 (emphasis added).

**D. Ramos Unsuccessfully Attempts to Withdraw His Guilty Plea, and is Sentenced to Approximately One Year in Federal Prison.**

In late June 2016, Ramos filed an emergency motion to continue his sentencing so that he could substitute in new counsel and withdraw his guilty plea. *See* Compl. ¶ 79; Ex. 2 (ECF Nos. 53-54). Chief Judge Navarro denied Ramos’ motion, and sentenced him to twelve months and one day in prison. *Id.*; *see also* Ex. 2 (ECF Nos. 56-60; 62). According to Ramos, Judge Navarro’s ruling confirmed that the parties’ negotiations regarding a potential non-disclosure agreement were independent from the criminal proceedings. *Id.* Ramos filed an appeal challenging the denial of his desire to change his plea, which was ultimately dismissed by the United States Court of Appeals for the Ninth Circuit in early-March 2017. *See* Ex. 2 (ECF Nos. 65, 72; 77-79). Ramos self-surrendered to start serving his sentence on March 28, 2017. *Id.* (ECF No. 76). After completing

1 a period of supervised release, Ramos filed this action on April 3, 2020—nearly four years from  
2 the date of the parties’ failed mediation.

### 3 III. ARGUMENT

#### 4 A. Governing Standards Under NRCP 12(b)(5).

5 As this Court is well aware, dismissal under NRCP 12(b)(5) is appropriate where “it appears  
6 beyond a doubt that [plaintiff] could not prove a set of facts which, if true, would entitle [plaintiff]  
7 to relief.” *Torres v. Nevada Direct Ins. Co.*, 131 Nev. 531, 541, 353 P.3d 1203, 1210 (2015) (citing  
8 *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008)). When  
9 assessing a motion to dismiss for failure to state a claim upon which relief may be granted, the  
10 court construes the pleadings liberally, draws every reasonable inference in favor of the non-  
11 moving party, *see Lubin v. Kunin*, 117 Nev. 107, 110 n.1, 17 P.3d 422, 425 n.1 (2001), and treats  
12 all well-plead factual allegations as true. *Vacation Village v. Hitachi Am.*, 110 Nev. 481, 484, 874  
13 P.2d 744, 746 (1994) (citing *Capital Mortgage Holding v. Hahn*, 101 Nev. 314, 315, 705 P.2d  
14 126, 126 (1985)).<sup>4</sup>

#### 15 B. Ramos’ Complaint Fails to State a Claim Upon Which Relief Can Be Granted.

16 Ramos has asserted the following four causes of action against all Defendants: (1) breach  
17 of contract; (2) contractual breach of the implied covenant of good faith and fair dealing; (3)  
18 tortious breach of the implied covenant of good faith and fair dealing; and (4) unjust enrichment.  
19 All fail to state a claim.

20  
21  
22  
23  
24  
25 <sup>4</sup> The principle that a complainant’s allegations be accepted as true is not without limitations. For  
26 example, courts are not required to “accept as true [ ] allegations that (1) contradict matters properly  
27 subject to judicial notice; (2) are conclusory allegations of law, mere legal conclusions, unwarranted  
28 deductions of fact, or unreasonable inferences; (3) are contradicted by documents referred to in the  
complaint; or (4) are internally inconsistent.” *Western Lands Project v. United States Bureau of Land  
Mgmt.*, 2007 WL 9734511, at \*3 (D. Nev. Sept. 25, 2007) (interpreting federal counterpart to NRCP  
12(b)(5) prior to *Twombly* and *Iqbal*) (listing cases); *Hamilton v. Aubrey*, 2008 WL 1774469, at \*1  
(D. Nev. Apr. 15, 2008) (same).

## 1. Breach of Contract

Ramos alleges that he and Mr. White orally agreed to attend a mediation, that all parties “understood” White would pay Ramos a “substantial” amount of compensation in exchange for a non-disclosure agreement, and that White breached the parties’ agreement by not offering to pay Ramos anything at the mediation. *See* Compl. ¶¶ 81-93. Even treating Ramos’ factual allegations as true and drawing every reasonable inference in Ramos’ favor, he comes nowhere close to pleading a claim for breach of contract. Indeed, the allegations of the Complaint expressly plead Ramos out of any viable contract claim. *See Sprewell v. Golden State Warriors*, 266 F.3d 979, 988-89 (9th Cir. 2001) (a plaintiff “can . . . plead himself out of a claim[.]”).

“Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration.” *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). A meeting of the minds exists when the parties have agreed upon the contract’s essential terms. *Roth v. Scott*, 112 Nev. 1078, 1083, 921 P.2d 1262, 1265 (1996). “With respect to contract formation, preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms.” *May*, 121 Nev. at 672, 119 P.3d at 1257. “A valid contract cannot exist when material terms are lacking or are insufficiently certain and definite” as “[t]he court must be able to ascertain what is required of the respective parties.” *Id.* “A breach of contract claim that fails to allege facts sufficient to show that an enforceable contract existed between the parties is subject to dismissal.” *Abu Dhabi Commercial Bank v. Morgan Stanley & Co., Inc.*, 651 F. Supp. 2d 155, 173 (S.D.N.Y. 2009).

Ramos’ Complaint correctly acknowledges multiple times that Mr. White never offered him any amount of money at the mediation in exchange for a potential non-disclosure agreement. *See* Compl. ¶¶ 78; 91; 113. The mediation, thus, ended unsuccessfully as “***no figure was agreed upon.***” *Id.* ¶ 111 (emphasis added). These allegations constitute binding judicial admissions, *see Reyburn Lawn & Landscape Designers, Inc. v. Plaster Dev. Co., Inc.*, 127 Nev. 331, 343, 255 P.3d 268,



278 (2011) (“concessions in pleadings are judicial admissions”) (quotation omitted), and unequivocally establish that the parties never had a meeting of the minds on the essential contract term of price. *See, e.g., Nevada Power Co. v. Public Util. Comm’n*, 122 Nev. 821, 839-40, 138 P.3d 486, 489-90 (2006) (“When essential terms such as [price] have yet to be agreed upon by the parties, a contract cannot be formed”); *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 378-79, 283 P.3d 250, 255 (2012) (affirming district court’s conclusion that no enforceable contract existed where the parties had not agreed to price and scope of work terms); *Roth*, 112 Nev. at 1083, 921 P.2d at 1265 (where parties had not agreed to essential terms of the high-low bracket amounts, there was no contract for binding arbitration).<sup>5</sup>

The lack of material terms in Ramos’ alleged contract renders it impossible for this Court “to ascertain what is required of the respective parties.” *May*, 121 Nev. at 672, 119 P.3d at 1257. To begin, Ramos repeatedly acknowledges the parties never agreed on a payment amount. That Ramos had a subjective belief the payment would be “substantial” is, frankly, meaningless. “Contractual intent is determined by the objective meaning of the words and conduct of the parties under the circumstances, not any secret or unexpressed intention or understanding of one or more parties to the contract.” Nev. J.I. 13.7 (Formation; Contractual Intent). Nor is there any way to ascertain what is meant by “substantial” as this word obviously can have different meanings to different people.

Assuming, *arguendo*, Mr. White had offered a payment amount at the mediation, it is pure guesswork as to whether Ramos would have accepted any such offer. Indeed, in the context of his

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<sup>5</sup> *See also Raymond G. Schreiber Revocable Tr. v. Estate of Kneivel*, 984 F. Supp. 2d 1099, 1106 (D. Nev. 2013) (“The essential terms of a contract include the identity of the parties, the subject matter consideration, a quantity term and a price term.”); *Hannon v. Wells Fargo Home Mortg.*, 2012 WL 2499290, at \* 3 (D. Nev. June 26, 2012) (“the essential terms of a loan contract are who the parties are, the amount of the loan, and the repayment terms.”).

claim for contractual breach of the implied covenant, Ramos (inconsistently) alleges that White offered Ramos and Jane Doe a combined \$450,000 for a nondisclosure agreement. *See* Compl. ¶ 101. Tellingly, though, the Complaint lacks any allegation that Ramos accepted such an offer, thus confirming the parties never had a meeting of the minds on this essential contract term. Nor is there any way to ascertain other essential elements of Ramos’ would-be contract such as the timing of the payment, its form (*e.g.*, lump sum or paid in installments over time), the terms of Ramos non-disclosure obligations, *et cetera*. The speculation and uncertainty are endless.

At best, Ramos has alleged the parties had an agreement to agree—*i.e.*, the parties agreed to attend a mediation at which they would try to reach agreement on the price for and terms of a non-disclosure agreement. Unfortunately for Ramos, such agreements are likewise unenforceable in Nevada. *See City of Reno v. Silver State Flying Service, Inc.*, 84 Nev. 170, 176, 438 P.2d 257, 261 (1968) (“An agreement to agree at a future time is nothing and will not support an action for damages.”). Ramos, thus, cannot state a claim for breach of contract, and this cause of action must be dismissed.<sup>6</sup>

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<sup>6</sup> *Weinstein v. Meritor, Inc.*, 2017 WL 4397947, at \*4 (D. Nev. Sept. 29, 2017) (dismissing breach of contract claim where plaintiff failed to allege parties agreed on essential terms of the contract); *Hannon v. Wells Fargo Home Mortg.*, *supra*, 2012 WL 2499290, at \*3 (“the Hannons failed to form a contract at the mediation because the Mediation Agreement lacked essential terms.”); *Wyatt v. Wilson Sporting Goods Co.*, 2016 WL 10749160, at \*2 (N.D. Cal. June 29, 2016) (granting motion to dismiss where party had not plead “sufficient facts to set forth the essential terms of a contract, written, oral or implied.”); *TCC Air Servs. Inc. v. Schlesinger*, 2006 WL 3694639, at \*4 (S.D. Fla. Dec. 13, 2006) (granting motion to dismiss because the plaintiff failed to specify an essential element of the agreement: “An agreement on price is an essential term. If an essential term has not been agreed to by the parties, the contract cannot be enforced.”); *MGM Auto Grp., LLC v. Genuine Parts Co.*, 2013 WL 967956, at \*3 (W.D. Pa. Mar. 12, 2013) (granting motion to dismiss breach of contract claim where “[p]arties have failed to set forth sufficient facts of the essential elements of a contractual agreement between them and Defendant.”).

2. Breach of the Implied Covenant of Good Faith and Fair Dealing  
(Contractual and Tortious).

Ramos' second and third causes of action for contractual and tortious breach of the implied covenant of good faith and fair dealing cannot survive in the absence of a viable contract. *See Nev. J.I. 13.43* (requiring "[t]hat the plaintiff and the defendant entered into a valid contract" as the first element of a claim for contractual breach of the implied covenant); *Nev. J.I. 13.44* (same requirement for tortious breach of the implied covenant). Without a valid contract, which Ramos has failed to plead here for reasons addressed above, Ramos' derivative claims for breach of the implied covenant likewise fail and must likewise be dismissed. *See, e.g., Greenstein v. Wells Fargo Bank, N.A.*, 2017 WL 1173916, at \*1 (D. Nev. Mar. 29, 2017) ("[w]ithout a contract, Greenstein's claims for breach of contract and breach of the implied covenant fail."); *Walker v. Venetian Casino Resort, LLC*, 2012 WL 4794149, at \*11 (D. Nev. Oct. 9, 2012) ("[s]ince Plaintiffs have not demonstrated that an enforceable [ ] contract existed . . . [they] cannot maintain their claim for breach of the implied covenant of good faith and fair dealing.").

Ramos' claim for tortious breach of the implied covenant must be dismissed for the independent reason that he has nowhere plead "there was a special element of reliance or trust between [Ramos and Mr. White], such that, [Mr. White] was in a superior position or entrusted position of knowledge." *See Nev. J.I. 13.44* (recounting second element of claim for tortious breach of the implied covenant). A claim for tortious breach of the implied covenant has been recognized in very limited circumstances such as in the insurer-insured context or in fiduciary relationships. *See, e.g., Shannon v. ReconTrust Co.*, 2012 WL 1695664, at \*4 (D. Nev. May 11, 2012) (dismissing claim for tortious breach of the implied covenant where there was no underlying contract and, in any event, no fiduciary relationship existed between the parties). Ramos' Complaint is devoid of any allegations that a special relationship of trust existed between Ramos and Mr. White. Given that this entire

episode arises from Ramos’ attempt to extort Mr. White for monetary gain, the absence of such allegations is hardly surprising.<sup>7</sup>

### 3. Unjust Enrichment

Magnifying his place on the world stage, Ramos alleges his purported “silence” regarding the events surrounding his criminal conduct enabled the UFC to be sold in July 2016 for more than \$4 billion. *See* Compl. ¶¶ 114-18. Ramos specifically contends Defendants were unjustly enriched because they “obtained” his silence and “enjoyed and retained” the benefit thereof by virtue of the company’s sale or the sale price not being affected by potential negative publicity. *Id.* Incredibly, Ramos seeks damages in an amount attributable to “the value of the UFC at the time of the sale enhanced by the non-disclosure.” *Id.* at 14:14-16. This claim fails for multiple reasons.

“Unjust enrichment is the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience.” *Topaz Mut. Co. v. Marsh*, 108 Nev. 845, 856, 839 P.2d 606, 613 (1992) (quoting *Nevada Industrial Dev. v. Benedetti*, 103 Nev. 360, 363 n.2, 741 P.2d 802, 804 n.2 (1987)). The essential elements of unjust enrichment “are a benefit conferred on the defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance and retention by the defendant of such benefit.” *Id.* (quoting *Unionamerica Mtg. v. McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981)). Unjust enrichment is an equitable claim that implies a “quasi-contract.” *Hunt v. Zuffa, LLC*, 361 F. Supp. 3d 992, 1008 (D. Nev. 2019).

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<sup>7</sup> For similar reasons, Ramos’ claim for punitive damages based on breach of contract, contractual breach of the implied covenant, and unjust enrichment should likewise be dismissed or stricken. *See* Compl. ¶¶ 93-94; 102; and 119. Punitive damages can only be awarded in actions “not arising from contract.” By definition, claims for breach of contract and contractual breach of the implied covenant “arise from contract.” Likewise, as explained below, unjust enrichment is a form of implied contract. *See* Point III(B)(3), *infra*. As such, Ramos cannot recover punitive damages for these claims. Ironically, while Ramos’ claim for tortious breach of the implied covenant is defective for a host of other reasons, he does not seek punitive damages for that alleged tort. *See* Compl. ¶¶ 103-07.

As a threshold matter, Ramos does not (and cannot) allege that any Defendant retained “money or property *of another* against the fundamental principles of equity and good conscience.” *Topaz, supra* (emphasis added). After all, the value of the UFC—regardless of any allegation about an “enhanced” sales price due to non-disclosure—has never belonged to Ramos. *See State, Dep’t of Taxation v. Chrysler Grp. LLC*, 129 Nev. 274, 281 n.4, 300 P.3d 713, 717 n.4 (2013) (“We also reject Chrysler’s unjust enrichment argument because the sales tax paid to the State never belonged to Chrysler.”). Thus, insofar as Ramos seeks unjust enrichment damages “based on the value of the UFC at the time of sale,” his request is both outlandish and legally untenable.

That leaves Ramos trying to plead a claim for unjust enrichment based on Mr. White’s alleged “unjust retention of a benefit to the loss of another.” *Topaz, supra*. Here, the alleged benefit is Ramos’ purported silence. *See* Compl. ¶ 117. But Ramos’ allegations indisputably establish that his silence during the criminal proceedings—from October 5, 2015 through at least June 30, 2016 when he was sentenced (if not through March 2017 when his appeal was dismissed)—stemmed directly from a protective order entered by Magistrate Judge Hoffman in that case, not from any services or benefits requested by Mr. White (or any other Defendant). *Id.* ¶¶ 49-50; 52; 57; 62; 64; and 76; *see also* Ex. 2 (ECF Nos. 40; 60; and 72); Ex. 3. It has been settled law for more than eight decades that a person is not entitled to restitution through unjust enrichment by simply performing acts the law requires of him. *See* Restatement (First) of Restitution § 60 cmt. a (1937) (“If a person does an act which it is his legal duty to do, whether such duty is enforceable at law or in equity, he is not entitled to restitution, irrespective of the cause of the act.”) (updated through June 2020).

To the extent Ramos alleges the parties attended a mediation in April 2016 to negotiate a price for a non-disclosure agreement that would extend *after* the conclusion of the criminal proceedings, the Complaint’s allegations establish that no contract was ever reached. *See* Point III(B)(1), *supra*. In the absence of an independent non-disclosure agreement, Ramos has alleged

1 “[t]hat nothing in the plea agreement or, [sic] the protective order or the terms of supervised release  
2 as directed by the court constrained in any way Ramos from disclosing the events at issue or Whites  
3 [sic] activities subsequent to completion of his sentence or earlier.” Compl. ¶ 76. Fair enough—  
4 Ramos has now publicly disclosed his version of events through the filing of this lawsuit. Of  
5 course, that also means Ramos cannot show he conferred any benefit on Defendants (*i.e.*, no post-  
6 criminal proceedings silence) or that Defendants appreciated, accepted, and retained this non-  
7 existent benefit. As such, his unjust enrichment claims fails for this reason as well. *See*  
8 *Unionamerica Mtg., supra* (stating basic elements of unjust enrichment claim).

9  
10 **C. The Complaint Lacks any Allegations of Corporate Liability.**

11 Ramos’ Complaint, though unclear, appears to lump the corporate entities in with Mr. White  
12 as targets of all four causes of action. While Ramos’ claims all fail for reasons explained above, they  
13 additionally fail against the corporate entities because UFC Holdings, LLC did not even exist at the  
14 time of the events alleged herein, and the Complaint lacks any allegations that Mr. White was acting  
15 in the course and scope of his employment with Zuffa at the time he was being victimized by Ramos’  
16 criminal conduct and/or when subsequently exploring the never-realized non-disclosure agreement.

17  
18 The time period alleged in Ramos’ Complaint spans from October 2014 to “June or July 2016,”  
19 *see* Compl. ¶¶ 6; 89, with the crux being that Mr. White breached a purported contract when he failed  
20 to offer Ramos any money at the April 5, 2016 mediation. *Id.* ¶¶ 77-78. Judicially noticeable facts  
21 confirm, however, that Defendant UFC Holdings, LLC was not formed until July 27, 2016. *See* Ex.  
22 1. It is axiomatic that a “non-existent corporation does not have the legal capacity to contract.” *Silver*  
23 *State Broadcasting, LLC v. Beasley FM Acquisition*, 148 F. Supp. 3d 1132, 1140 (D. Nev. 2015)  
24 (quotation omitted). While a pre-incorporation contract can be ratified by a subsequently-formed  
25 company, *see id.*, Ramos’ Complaint contains no allegation that ever occurred. Indeed, given the  
26 indisputable evidence that no enforceable contract exists here, there was obviously nothing for UFC  
27 Holdings, LLC to ratify.  
28

Finally, while an existing corporate entity may have capacity to enter contracts, it can only act through its authorized agents. *See Edwards v. Carson Water Co.*, 21 Nev. 469, 34 P. 381, 383-86 (1893). The Complaint, though, lacks any allegations that Ramos was interacting with Mr. White in his capacity as an authorized agent of Zuffa as opposed to in his individual capacity. Indeed, simply because Mr. White is Zuffa's president, that does not mean everything he does in life is on behalf of the company. *See Milks v. Eighth Judicial Dist. Ct.*, 2020 WL 4283289, at \*1 (Nev. July 24, 2020) ("Milks, in his individual capacity, is a distinct legal person from Milks as manager of [limited liability company]."). While the lack of an enforceable contract renders it a moot point anyway, Zuffa has been improperly named as a defendant given the dearth of any allegations that Mr. White was acting as an agent of the company during his dealings with Ramos.

#### IV. CONCLUSION

Based on the foregoing, Defendants respectfully submit that Ramos' Complaint must be dismissed in its entirety. Moreover, given the judicial admissions contained in Ramos' original pleading, it is clear he cannot state any viable claims against Defendants. Accordingly, the Complaint should be dismissed with prejudice.

DATED this 31st day of August, 2020.

CAMPBELL & WILLIAMS

By: /s/ J. Colby Williams  
DONALD J. CAMPBELL, ESQ. (1216)  
J. COLBY WILLIAMS, ESQ. (5549)  
700 South Seventh Street  
Las Vegas, Nevada 89101

*Attorneys for Defendants  
Dana White, Zuffa, LLC  
and UFC Holdings, LLC*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of Campbell & Williams and that I did, on the 31st day of August, 2020, serve the foregoing **Defendants' Motion to Dismiss Complaint Pursuant to NRC**  
**12(b)(5)** by e-mailing and sending via United States Mail, first class postage pre-paid, a copy thereof to the following attorneys of record for Complainant:

LAW OFFICE OF IAN CHRISTOPHERSON

Ian Christopherson, Esq.

600 South Third Street

Las Vegas, Nevada 89101

Tel: (702)372-9649

Email: [Iclaw44@gmail.com](mailto:Iclaw44@gmail.com)

*Attorney for Plaintiff, Joshua Ramos*

By: /s/ John Y. Chong

An employee of Campbell & Williams



DECLARATION OF  
J. COLBY WILLIAMS

## DECLARATION OF J. COLBY WILLIAMS

I, J. COLBY WILLIAMS, declare as follows:

1. I am a resident of Las Vegas, Nevada. I am over the age of eighteen and am competent to make this Declaration. This Declaration is based upon my personal knowledge unless otherwise so stated, and if called upon to testify, I would testify as set forth herein.

2. I am a licensed attorney in the State of Nevada, Bar Number 5549, and am one of the attorneys representing Defendants in the above-captioned matter (*i.e.*, Eighth Judicial District Court Case No. A-20-813230-C).

3. I make this Declaration in support of Defendants' Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5).

4. Attached hereto as Exhibit 1 is a true and correct copy of the Delaware Secretary of State "Entity Details" for UFC Holdings, LLC. My office obtained a copy of this publicly-available document from the following government website:  
<https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx> (last visited August 24, 2020).

5. Attached hereto as Exhibit 2 is a true and correct copy of the Criminal Docket Sheet for *United States v. Ramos*, Case No. 2:15-cr-00267-GMN-CWH. My office obtained a copy of this publicly-available document from the following government website:  
[https://ecf.nvd.uscourts.gov/cgi-bin/DktRpt.pl?417614966919002-L\\_1\\_0-1](https://ecf.nvd.uscourts.gov/cgi-bin/DktRpt.pl?417614966919002-L_1_0-1) (last visited August 24, 2020).

6. Attached hereto as Exhibit 3 is a true and correct copy of the Stipulation and Order for Protective Order Pursuant to Fed. R. Crim. Pro. 16(d)(1) and 18 U.S.C. § 3771. My office obtained a copy of this publicly-available document from the following government website:  
<https://ecf.nvd.uscourts.gov/doc1/11515503251> (last visited August 24, 2020).

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
2 knowledge.

3 Dated this 31st day of August, 2020.

4 /s/ J. Colby Williams  
5 J. COLBY WILLIAMS  
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# EXHIBIT 1

Department of State: Division of Corporations

[Allowable Characters](#)

HOME

About Agency  
Secretary's Letter  
Newsroom  
Frequent Questions  
Related Links  
Contact Us  
Office Location

SERVICES

Pay Taxes  
File UCC's  
Delaware Laws Online  
Name Reservation  
Entity Search  
Status  
Validate Certificate  
Customer Service Survey

INFORMATION

Corporate Forms  
Corporate Fees  
UCC Forms and Fees  
Taxes  
Expedited Services  
Service of Process  
Registered Agents  
GetCorporate Status  
Submitting a Request  
How to Form a New Business Entity  
Certifications, Apostilles & Authentication of Documents

Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

**File Number:** 6103234      **Incorporation Date / Formation Date:** 7/27/2016 (mm/dd/yyyy)  
**Entity Name:** UFC HOLDINGS, LLC  
**Entity Kind:** Limited Liability Company      **Entity Type:** General  
**Residency:** Domestic      **State:** DELAWARE

REGISTERED AGENT INFORMATION

**Name:** CORPORATION SERVICE COMPANY  
**Address:** 251 LITTLE FALLS DRIVE  
**City:** WILMINGTON      **County:** New Castle  
**State:** DE      **Postal Code:** 19808  
**Phone:** 302-636-5401

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

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# EXHIBIT 2

CLOSED

**United States District Court  
District of Nevada (Las Vegas)  
CRIMINAL DOCKET FOR CASE #: 2:15-cr-00267-GMN-CWH-1**

Case title: USA v. Ramos  
Magistrate judge case number: 2:15-mj-00008-CWH

Date Filed: 09/22/2015  
Date Terminated: 07/08/2016

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Assigned to: Chief Judge Gloria M.  
Navarro  
Referred to: Magistrate Judge Carl W.  
Hoffman  
Appeals court case number: 16-10321  
Ninth Circuit

**Defendant (1)**

**Ernesto Joshua Ramos**  
*TERMINATED: 07/08/2016*

represented by **Kathleen Bliss**  
Kathleen Bliss Law PLLC  
1070 West Horizon Ridge Parkway  
Suite 202  
Henderson, NV 89012  
702-463-9074  
Email: kb@kathleenblisslaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Gabriel L. Grasso**  
Gabriel L. Grasso, P.C.  
411 South 6th Street  
Las Vegas, NV 89101  
702-868-8866  
Fax: 702-868-5778  
Email: gabriel@grassodefense.com  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Kendele L. Works**  
Christiansen Law Offices  
810 S. Casino Center Boulevard  
Suite 104  
Las Vegas, NV 89101  
702-240-7979  
Fax: 866-412-6992

Email: kworks@christiansenlaw.com  
*TERMINATED: 06/03/2015*  
*Designation: Retained*

**Peter S. Christiansen**  
Christiansen Law Offices  
810 S. Casino Center Boulevard  
Suite 104  
Las Vegas, NV 89101  
702-240-7979  
Fax: 866-412-6992  
Email: pete@christiansenlaw.com  
*TERMINATED: 06/03/2015*  
*Designation: Retained*

**Ryan Norwood**  
Federal Public Defenders  
411 E. Bonneville Avenue  
Las Vegas, NV 89101  
702-388-6577  
Email: Ryan\_Norwood@fd.org  
*TERMINATED: 01/13/2015*  
*Designation: FPD*

**Shari L. Kaufman**  
Federal Public Defender  
411 E Bonneville  
Suite 250  
Las Vegas, NV 89101-  
Email: Shari\_Kaufman@fd.org  
*TERMINATED: 01/20/2015*  
*Designation: FPD*

**Pending Counts**

18:1952(a)(3) - Use of a Facility of  
Interstate Communication to Promote  
Extortion  
(1)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

Sentenced 6/30/2016

**Disposition**



**Highest Offense Level (Terminated)**

None

**Complaints**

**Count 1** - 18:1952(a)(3) - Use of a  
Facility of Interstate Commerce to  
Promote Extortion

**Disposition****Plaintiff**

USA

represented by **Carla B. Carry**  
U.S. Attorney's Office  
400 South Virginia Street  
Suite 900  
Reno, NV 89501  
775-784-5438  
Email: carla.higginbotham@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
01/08/2015		Case assigned to Magistrate Judge Carl W. Hoffman. (MW) [2:15-mj-00008-CWH] (Entered: 01/08/2015)
01/08/2015	<u>1</u>	<b>SEALED COMPLAINT</b> as to Ernesto Joshua Ramos (1), Count 1. (MMM) (Main Document 1 replaced on 1/9/2015) (SLD). [2:15-mj-00008-CWH] (Entered: 01/08/2015)
01/09/2015	3	<p>MINUTES OF PROCEEDINGS - Initial Appearance as to Ernesto Joshua Ramos held on 1/9/2015 before Magistrate Judge Carl W. Hoffman. Crtrm Administrator: <i>Donna Smith</i>; AUSA: <i>Nicholas Dickinson</i>; Def Counsel: <i>Ryan Norwood</i>; PTS: <i>Zack Bowen</i>; Court Reporter/FTR #: 3:45-3:59; Time of Hearing: 3:45-3:59 PM; Courtroom: 3C;</p> <p>Defendant is present. Financial Affidavit filed. The Federal Public Defenders Office is appointed as defense counsel. Attorney Ryan Norwood for Ernesto Joshua Ramos added. ORDERED that the complanint and case are unsealed. Defendant advised of rights/charges. The government is not seeking detention. Parties heard regarding conditions of release. Defendant is released on a PR bond with supervision and conditions. Bond form executed.</p> <p>Bond Status Hearing set for 1/12/2015 01:30 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman.</p> <p>Preliminary Examination set for 1/23/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman.</p>

		(no image attached) (Copies have been distributed pursuant to the NEF - DES) [2:15-mj-00008-CWH] (Entered: 01/09/2015)
01/09/2015	<u>5</u>	ORDER APPOINTING COUNSEL as to Ernesto Joshua Ramos. FPD appointed as counsel for Defendant, subpoenas issued upon request with exception to out of state subpoenas which will require court approval. Signed by Magistrate Judge Carl W. Hoffman on 1/9/2015. (Copies have been distributed pursuant to the NEF - DKJ) [2:15-mj-00008-CWH] (Entered: 01/12/2015)
01/09/2015	<u>6</u>	PR BOND Entered as to Ernesto Joshua Ramos. (DKJ) [2:15-mj-00008-CWH] (Entered: 01/12/2015)
01/12/2015	<u>7</u>	MINUTES OF PROCEEDINGS - Bond Hearing as to Ernesto Joshua Ramos held on 1/12/2015 before Magistrate Judge Carl W. Hoffman. Crtrm Administrator: <i>Donna Smith</i> ; AUSA: <i>Nicholas Dickinson</i> ; Def Counsel: <i>Shari Kaufman</i> ; PTS: <i>Erin Oliver</i> ; Court Reporter/FTR #: <i>1:30-1:43</i> ; Time of Hearing: <i>1:30-1:43 PM</i> ; Courtroom: <i>3C</i> ; Defendant is present. Parties are heard regarding the conditions of release. <b>It is ordered</b> that the following additional condition of release is made part of the appearance bond <u>6</u> : The defendant shall not travel within 100 yards of the victim's residence or place of employment. All other conditions of release previously imposed remain in full effect. (no image attached) (Copies have been distributed pursuant to the NEF - DES) [2:15-mj-00008-CWH] (Entered: 01/12/2015)
01/12/2015	<u>9</u>	Arrest Warrant Returned Executed on 1/9/2015 in case as to Ernesto Joshua Ramos re 2 Warrant Issued. (DKJ) [2:15-mj-00008-CWH] (Entered: 01/13/2015)
01/13/2015	<u>8</u>	NOTICE OF ATTORNEY APPEARANCE: Shari L. Kaufman appearing for Ernesto Joshua Ramos (Kaufman, Shari) [2:15-mj-00008-CWH] (Entered: 01/13/2015)
01/16/2015	<u>10</u>	MOTION to Substitute Attorney by Ernesto Joshua Ramos. Motion ripe 1/16/2015. (Christiansen, Peter) [2:15-mj-00008-CWH] (Entered: 01/16/2015)
01/20/2015	<u>11</u>	ORDER granting <u>10</u> Motion to Substitute Attorney. Attorney Peter S. Christiansen and Kendelea Leascher-Works are substituted as attorney of record for Defendant Ernesto Joshua Ramos in the place and stead of Attorney Shari L. Kaufman and the Federal Public Defender's Office as to Ernesto Joshua Ramos (1). Signed by Magistrate Judge Carl W. Hoffman on 1/20/2015. (Copies have been distributed pursuant to the NEF - DKJ) [2:15-mj-00008-CWH] (Entered: 01/20/2015)
01/20/2015	<u>12</u>	DESIGNATION of Retained Counsel by Peter S. Christiansen on behalf of Ernesto Joshua Ramos. (Christiansen, Peter) [2:15-mj-00008-CWH] (Entered: 01/20/2015)
01/20/2015	<u>13</u>	FIRST STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 01/20/2015)

01/21/2015	<u>14</u>	ORDER granting <u>13</u> Stipulation to continue preliminary hearing as to Ernesto Joshua Ramos (1). Preliminary hearing reset for 2/19/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman. (Copies have been distributed pursuant to the NEF - DKJ) [2:15-mj-00008-CWH] (Entered: 01/22/2015)
02/05/2015	<u>15</u>	ORDER modifying <u>6</u> Bond as to Defendant Ernesto Joshua Ramos. Signed by Magistrate Judge Carl W. Hoffman on 1/12/2015. (Copies have been distributed pursuant to the NEF - DC) [2:15-mj-00008-CWH] (Entered: 02/05/2015)
02/18/2015	<u>16</u>	SECOND STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 02/18/2015)
02/18/2015	<u>17</u>	ORDER granting <u>16</u> Stipulation to continue preliminary hearing as to Ernesto Joshua Ramos (1). Preliminary Examination reset for 3/24/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman on 2/18/2015. (Copies have been distributed pursuant to the NEF - DKJ) [2:15-mj-00008-CWH] (Entered: 02/18/2015)
03/23/2015	<u>18</u>	THIRD STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 03/23/2015)
03/24/2015	<u>19</u>	ORDER Granting <u>18</u> STIPULATION to Continue Preliminary Hearing by USA as to Ernesto Joshua Ramos. Preliminary Examination reset for 4/23/2015 at 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman on 3/24/2015. (Copies have been distributed pursuant to the NEF - DC) [2:15-mj-00008-CWH] (Entered: 03/24/2015)
04/23/2015	<u>20</u>	STIPULATION to Continue filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 04/23/2015)
04/24/2015	<u>21</u>	ORDER ON STIPULATION granting <u>20</u> STIPULATION to Continue Preliminary Hearing as to Ernesto Joshua Ramos. Preliminary Examination reset for 6/3/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman. (Copies have been distributed pursuant to the NEF - DKJ) [2:15-mj-00008-CWH] (Entered: 04/24/2015)
06/02/2015	<u>22</u>	STIPULATION for substitution of counsel; filed by Ernesto Joshua Ramos. (Grasso, Gabriel) [2:15-mj-00008-CWH] (Entered: 06/02/2015)
06/02/2015	<u>23</u>	DESIGNATION of Retained Counsel by Gabriel L Grasso on behalf of Ernesto Joshua Ramos. (Grasso, Gabriel) [2:15-mj-00008-CWH] (Entered: 06/02/2015)
06/02/2015	<u>24</u>	STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 06/02/2015)
06/03/2015	<u>25</u>	ORDER ON STIPULATION Granting <u>24</u> STIPULATION to Continue Preliminary Hearing as to Ernesto Joshua Ramos. Preliminary Examination continued to 7/1/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge

		Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman on 6/3/15. (Copies have been distributed pursuant to the NEF - MMM) [2:15-mj-00008-CWH] (Entered: 06/03/2015)
06/03/2015	<u>26</u>	ORDER ON STIPULATION Granting <u>22</u> STIPULATION for substitution of counsel filed as to Ernesto Joshua Ramos. Gabriel L. Grasso is substituted in place and stead of Peter S. Christiansen and Kendele Leascher-Works. Signed by Magistrate Judge Carl W. Hoffman on 6/3/15. (Copies have been distributed pursuant to the NEF - MMM) [2:15-mj-00008-CWH] (Entered: 06/03/2015)
06/29/2015	<u>27</u>	STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Dickinson, Nicholas) [2:15-mj-00008-CWH] (Entered: 06/29/2015)
07/01/2015	<u>28</u>	ORDER ON STIPULATION Granting <u>27</u> STIPULATION to Continue Preliminary Hearing as to Ernesto Joshua Ramos. Preliminary Examination reset for 8/10/2015 04:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman on 7/1/15. (Copies have been distributed pursuant to the NEF - MMM) [2:15-mj-00008-CWH] (Entered: 07/01/2015)
07/31/2015	<u>29</u>	SEVENTH STIPULATION to Continue Preliminary Hearing; filed by USA as to Ernesto Joshua Ramos. (Silva, Cristina) [2:15-mj-00008-CWH] (Entered: 07/31/2015)
08/03/2015	<u>30</u>	ORDER Granting <u>29</u> Stipulation to Continue Preliminary Hearing (7th Request) as to Ernesto Joshua Ramos (1). Preliminary Examination reset for 9/24/2015 4:00 PM in LV Courtroom 3C before Magistrate Judge Carl W. Hoffman. Signed by Magistrate Judge Carl W. Hoffman on 8/3/15. (Copies have been distributed pursuant to the NEF - PS) [2:15-mj-00008-CWH] (Entered: 08/03/2015)
09/22/2015	31	MINUTE ORDER IN CHAMBERS of the Honorable Magistrate Judge Carl W. Hoffman, as to Ernesto Joshua Ramos on 9/22/2015. By Deputy Clerk: Danielle Cacciabauda. Magistrate Judge case, pending deadlines, motions, hearings, and excludables terminated in case as to Ernesto Joshua Ramos. Preliminary Hearing set for 9/24/2015 at 4:00 pm is vacated and converted to Arraignment & Plea on 9/30/2015 at 3:00 pm in criminal case number <b>2:15-cr-00267-GMN-CWH</b> . For all further proceedings, please see the criminal case. ( <b>no image attached</b> ) (Copies have been distributed pursuant to the NEF - DC) [2:15-mj-00008-CWH] (Entered: 09/22/2015)
09/22/2015		Case assigned to Chief Judge Gloria M. Navarro and Magistrate Judge Carl W. Hoffman. (DC) (Entered: 09/22/2015)
09/22/2015	<u>32</u>	INDICTMENT as to Ernesto Joshua Ramos (1) count 1. (DC) (Entered: 09/22/2015)
09/22/2015	<u>33</u>	AO 257 to <u>32</u> Indictment as to Ernesto Joshua Ramos. (DC) (Entered: 09/22/2015)
09/22/2015	<u>34</u>	MINUTES OF PROCEEDINGS - Grand Jury Return as to Ernesto Joshua Ramos held on 9/22/2015 before Magistrate Judge Peggy A. Leen. Crtrm Administrator: <i>Araceli Bareng</i> ; AUSA: <i>Robert Knief</i> ; Court Reporter/FTR #: <i>Bonnie Terry</i> ; Time

		of Hearing: 1:35 PM - 1:37 PM; Courtroom: 3B; Summons to issue. Arraignment/Plea set for 9/30/2015 at 03:00 PM in LV Courtroom 3D before Magistrate Judge Cam Ferenbach. (Copies have been distributed pursuant to the NEF - DC) (Entered: 09/22/2015)
09/30/2015	<u>36</u>	MINUTES OF PROCEEDINGS - Arraignment/Plea as to Ernesto Joshua Ramos held on 9/30/2015 before Magistrate Judge Cam Ferenbach. Crtrm Administrator: <i>J. Ries</i> ; AUSA: <i>Nicholas Dickinson</i> ; Def Counsel: <i>Gabriel Grasso</i> ; Court Reporter/FTR #: 3:12 - 3:15; Courtroom: 3D; Defendant is present on bond. Defendant is arraigned on Indictment. Defendant pleads NOT GUILTY to the single count. Order regarding Pretrial Procedure is entered and copies will be served on counsel via CM/ECF. The U.S. Probation Office is directed to prepare a report detailing the defendant's criminal history, if any. Defendant is continued on present terms of release. Calendar Call set for 11/23/2015 09:00 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro. Jury Trial set for 11/30/2015 08:30 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro.(no image attached) (Copies have been distributed pursuant to the NEF - JAR) (Entered: 09/30/2015)
09/30/2015	<u>37</u>	ORDER REGARDING PRETRIAL PROCEDURE as to Ernesto Joshua Ramos. Responses to motions to be filed and served within fourteen (14) calendar days from the date of service of the motion; and reply brief to be served within seven (7) calendar days from the date of service of the response. Motions due by 10/30/2015. Signed by Magistrate Judge Cam Ferenbach on 9/30/15. (Copies have been distributed pursuant to the NEF - MMM) (Entered: 10/01/2015)
10/01/2015	<u>38</u>	Government's Disclosure Statement filed by USA as to Ernesto Joshua Ramos.. (Higginbotham, Carla) (Entered: 10/01/2015)
10/02/2015	<u>39</u>	STIPULATION and Proposed Order for Protective Order Pursuant to Fed.R.Crim.Pro. 16(d)(1) and 18 U.S.C. Section 3771 by USA as to Ernesto Joshua Ramos. (Higginbotham, Carla) (Entered: 10/02/2015)
10/05/2015	<u>40</u>	ORDER Granting <u>39</u> Stipulation for Protective Order. Signed by Magistrate Judge Carl W. Hoffman on 10/5/15. (Copies have been distributed pursuant to the NEF - TR) (Entered: 10/05/2015)
10/27/2015	<u>41</u>	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Gloria M. Navarro, as to Ernesto Joshua Ramos on 10/27/2015. By Deputy Clerk: Aaron Blazeovich.  The Court is in receipt of a plea agreement. IT IS THEREFORE ORDERED that a Change of Plea Hearing is set for 11/3/2015 at 11:00 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro.  (no image attached) (Copies have been distributed pursuant to the NEF - ASB) (Entered: 10/27/2015)
11/03/2015	<u>42</u>	PLEA AGREEMENT/MEMORANDUM as to Ernesto Joshua Ramos. (EW) (Entered: 11/03/2015)

11/03/2015	<u>43</u>	MINUTES OF PROCEEDINGS - Change of Plea as to Ernesto Joshua Ramos held on 11/3/2015 before Chief Judge Gloria M. Navarro. Crtrm Administrator: <i>Eileen Wood</i> ; AUSA: <i>Carla Higginbotham</i> ; Def Counsel: <i>Gabriel Grasso</i> ; Court Reporter/FTR #: <i>Araceli Bareng</i> ; Time of Hearing: <i>11:00-11:33 AM</i> ; Courtroom: <i>7D</i> . Defendant is present on terms of release. Defendant is sworn. The terms of the proposed plea agreement are read into the record. The Court canvasses the Defendant. Defendant pleads GUILTY to Count 1 of the Indictment. Plea Agreement filed. Court conditionally accepts the guilty plea. This matter is referred to the probation department for investigation and report. Trial setting as to this defendant is vacated. Defendant is continued on present terms of release with the modification that Defendant will no longer be required to submit to location (GPS) monitoring equipment. Sentencing and disposition set for 2/4/2016 at 10:30 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro.( <b>no image attached</b> ) (Copies have been distributed pursuant to the NEF - EW) (Entered: 11/03/2015)
11/03/2015	<u>44</u>	NOTICE to Contact the U. S. Probation Office as to Ernesto Joshua Ramos. (NEV) (Entered: 11/03/2015)
01/25/2016	<u>45</u>	STIPULATION to Continue Sentencing Hearing (First Request) by Ernesto Joshua Ramos. (Grasso, Gabriel) (Entered: 01/25/2016)
01/25/2016	<u>46</u>	ORDER ON STIPULATION Granting <u>45</u> STIPULATION to Continue Sentencing Hearing (First Request) as to Ernesto Joshua Ramos. Sentencing and disposition continued to 5/5/2016 at 9:00 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro. Signed by Chief Judge Gloria M. Navarro on 1/25/16. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 01/25/2016)
02/03/2016	<u>47</u>	MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Gloria M. Navarro, as to Ernesto Joshua Ramos on 2/3/2016. By Deputy Clerk: Aaron Blazeovich.  Due to a conflict in the Court's schedule, the Sentencing and disposition currently set for 5/5/2016 at 9:00 AM is hereby <b>CONTINUED</b> to <u>5/19/2016 at 9:00 AM</u> in LV Courtroom 7D before Chief Judge Gloria M. Navarro.  ( <b>no image attached</b> ) (Copies have been distributed pursuant to the NEF - ASB) (Entered: 02/03/2016)
04/08/2016	<u>48</u>	STIPULATION to Continue Sentencing Hearing (Second Request) by USA as to Ernesto Joshua Ramos. (Higginbotham, Carla) (Entered: 04/08/2016)
04/12/2016	<u>49</u>	ORDER GRANTING <u>48</u> STIPULATION to Continue Sentencing Hearing (Second Request) as to Ernesto Joshua Ramos. Sentencing and disposition reset for 5/26/2016 at 10:30 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro. Signed by Chief Judge Gloria M. Navarro on 4/12/16. (Copies have been distributed pursuant to the NEF - EW) (Entered: 04/12/2016)
05/23/2016	<u>50</u>	STIPULATION to Continue Sentencing Hearing (Third Request) by Ernesto Joshua Ramos. (Grasso, Gabriel) (Entered: 05/23/2016)

05/25/2016	<u>51</u>	ORDER ON STIPULATION Granting <u>50</u> STIPULATION to Continue Sentencing Hearing (Third Request) as to Ernesto Joshua Ramos. Sentencing and disposition continued to 6/30/2016 at 9:00 AM in LV Courtroom 7D before Chief Judge Gloria M. Navarro. Signed by Chief Judge Gloria M. Navarro on 5/25/16. (Copies have been distributed pursuant to the NEF - ASB) (Entered: 05/25/2016)
06/20/2016	<u>52</u>	SENTENCING MEMORANDUM by Ernesto Joshua Ramos. (Grasso, Gabriel) (Entered: 06/20/2016)
06/27/2016	<u>53</u>	Emergency MOTION to Continue District Judge Hearing; filed by Ernesto Joshua Ramos. (Bliss, Kathleen) (Entered: 06/27/2016)
06/27/2016	54	<p>MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Gloria M. Navarro, as to Ernesto Joshua Ramos on 6/27/2016.</p> <p>Pending before the Court is <u>53</u> Emergency Motion to Continue Sentencing filed by Defendant Ernesto Joshua Ramos. <b>IT IS HEREBY ORDERED</b> that the Government shall file a Response by Tuesday, June 28, 2016, at 12:00 PM.</p> <p>(Copies have been distributed pursuant to the NEF - SP) (Entered: 06/27/2016)</p>
06/28/2016	<u>55</u>	RESPONSE to <u>53</u> Motion to Continue District Judge Hearing ; filed by USA as to Ernesto Joshua Ramos. Replies due by 7/4/2016. (Higginbotham, Carla) (Entered: 06/28/2016)
06/28/2016	56	<p>MINUTE ORDER IN CHAMBERS of the Honorable Chief Judge Gloria M. Navarro, as to Ernesto Joshua Ramos on 6/28/2016.</p> <p>Pending before the Court is the <u>53</u> Emergency Motion to Continue Sentencing filed by Defendant Ernesto Joshua Ramos. The Court is not persuaded at this time that there is good cause for the substitution of counsel and continuance of the sentencing hearing. Accordingly, <b>IT IS HEREBY ORDERED</b> that Defendant's <u>53</u> Emergency Motion to Continue Sentencing is <b>DENIED without prejudice</b>. However, the Court will entertain further argument regarding these issues at the currently scheduled hearing and determine if sentencing should proceed as scheduled.</p> <p>(Copies have been distributed pursuant to the NEF - SP) (Entered: 06/28/2016)</p>
06/29/2016	<u>57</u>	SUPPLEMENT re <u>50</u> Motion to Continue Sentencing by Ernesto Joshua Ramos . (Bliss, Kathleen) (Entered: 06/29/2016)
06/30/2016	60	<p>MINUTES OF PROCEEDINGS - Sentencing and Disposition as to Ernesto Joshua Ramos held on 6/30/2016 before Chief Judge Gloria M. Navarro. Crtrm Administrator: <i>Aaron Blazeovich</i>; AUSA: <i>Carla Higginbotham with FBI Agent James Mollica</i>; Def Counsel: <i>Gabriel Grasso, Kathleen Bliss, and Jason Hicks</i>; USPO: <i>Brian Blevins and Wendy Beckner</i>; Court Reporter/FTR #: <i>Araceli Bareng</i>; Time of Hearing: <i>9:22 a.m. - 10:27 a.m.</i>; Courtroom: <i>7D</i>;</p> <p>Defendant is present on current terms of release. The Court makes preliminary statements and hears representations from counsel. Attorney Kathleen Bliss argues</p>

		<p>for the continuance of this hearing and to be allowed to substitute in place of Gabriel Grasso. Counsel also makes arguments to allow the defendant to withdraw his guilty plea. The Court denies the oral motion for substitution, denies the oral request to continue this hearing, and finds no fair and just reason for the defendant to withdraw his plea of guilty.</p> <p>The Court proceeds with the sentencing hearing. The defendant addresses the Court on his own behalf. Sentence is imposed as to count 1 of the Indictment. Probation provides a copy of the conditions of supervised release to the defendant. Defendant is advised of right to file an appeal. Defendant is allowed to self surrender by 2:00 PM on 9/28/2016. Bond to be automatically exonerated upon written notification by the U.S. Marshal that the defendant has self surrendered as ordered. The Court stands at recess.</p> <p><b>(no image attached)</b> (Copies have been distributed pursuant to the NEF - ASB) (Entered: 07/01/2016)</p>
07/01/2016	<u>61</u>	LETTER to the Court from Margaret McLetchie, Attorney for the Las Vegas Review-Journal re: 60 Sentencing Hearing. (ASB) (Entered: 07/01/2016)
07/08/2016	<u>62</u>	JUDGMENT as to Ernesto Joshua Ramos (1), Count 1, Sentenced 6/30/2016. Imprisonment 12 months 1 day; Defendant to self surrender by 2pm on 9/28/2016; Supervised Release one (1) year with special conditions; \$100.00 Assessment. Signed by Chief Judge Gloria M. Navarro on 7/8/2016. (Copies have been distributed pursuant to the NEF - DL) (Entered: 07/08/2016)
07/14/2016	<u>63</u>	NOTICE OF APPEAL by Ernesto Joshua Ramos re <u>62</u> Judgment, E-mail notice (NEF) sent to the US Court of Appeals, Ninth Circuit. (Bliss, Kathleen) (Entered: 07/14/2016)
07/15/2016	<u>64</u>	Designation of Transcripts and Transcript Order forms and instructions for <u>63</u> Notice of Appeal as to Ernesto Joshua Ramos. The forms may also be obtained on the Court's website at <a href="http://www.nvd.uscourts.gov/Forms.aspx">www.nvd.uscourts.gov/Forms.aspx</a> . (Attachments: # <u>1</u> Transcript Order Form)(EDS) (Entered: 07/15/2016)
07/15/2016	<u>65</u>	USCA ORDER for Time Schedule as to <u>63</u> Notice of Appeal filed by Ernesto Joshua Ramos. <b>USCA Case Number 16-10321</b> . (MMM) (Entered: 07/18/2016)
08/04/2016	<u>66</u>	TRANSCRIPT DESIGNATION by Ernesto Joshua Ramos re <u>63</u> Notice of Appeal, 60 Sentencing,,,,, 43 Change of Plea,,,,. (Bliss, Kathleen) (Entered: 08/04/2016)
08/17/2016	<u>67</u>	TRANSCRIPT of Proceedings, 43 Change of Plea, as to Ernesto Joshua Ramos held on 11/3/15 before Chief Judge Gloria M. Navarro. Court Reporter/Transcriber: Donna Davidson, 775-329-0132. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber using the court's Transcript Order form available on our website, at <a href="http://www.nvd.uscourts.gov">www.nvd.uscourts.gov</a> , before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/7/2016. Redacted Transcript Deadline set for 9/17/2016. Release of Transcript Restriction set for 11/15/2016. (DD) (Entered: 08/17/2016)



08/17/2016	<u>68</u>	TRANSCRIPT of Proceedings, 60 Sentencing, as to Ernesto Joshua Ramos held on 6/30/16 before Chief Judge Gloria M. Navarro. Court Reporter/Transcriber: Donna Davidson, 775-329-0132. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber using the court's Transcript Order form available on our website, at www.nvd.uscourts.gov, before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/7/2016. Redacted Transcript Deadline set for 9/17/2016. Release of Transcript Restriction set for 11/15/2016. (DD) (Entered: 08/17/2016)
09/02/2016	<u>69</u>	MOTION for Release on Personal Recognizance Bond Pending Appeal; Expedited Treatment Requested by Ernesto Joshua Ramos. Responses due by 9/19/2016. (Bliss, Kathleen) (Entered: 09/02/2016)
09/09/2016	<u>70</u>	RESPONSE to <u>69</u> Motion for Release on Personal Recognizance Bond Pending Appeal filed by USA as to Ernesto Joshua Ramos. Replies due by 9/15/2016. (Higginbotham, Carla) (Entered: 09/09/2016)
09/13/2016	<u>71</u>	ORDER Denying <u>69</u> Motion for Release on Personal Recognizance Bond Pending Appeal as to Ernesto Joshua Ramos (1) as moot. IT IS FURTHER ORDERED that Defendant's self-surrender date shall be extended to 2:00 PM on 3/28/17. All conditions on Defendant's current Personal Recognizance Bond shall remain the same. Signed by Chief Judge Gloria M. Navarro on 9/13/16. (Copies have been distributed pursuant to the NEF - ADR) (Entered: 09/13/2016)
03/08/2017	<u>72</u>	ORDER of USCA as to Ernesto Joshua Ramos re <u>63</u> Notice of Appeal. DISMISSED. (MMM) (Entered: 03/20/2017)
03/22/2017	<u>73</u>	Emergency MOTION to stay/extend self-surrender date by Ernesto Joshua Ramos. Responses due by 4/5/2017. (Attachments: # <u>1</u> Exhibit Motion to reconsider) (Bliss, Kathleen) (Entered: 03/22/2017)
03/23/2017	<u>74</u>	RESPONSE to <u>73</u> Motion ; filed by USA as to Ernesto Joshua Ramos. Replies due by 3/30/2017. (Higginbotham, Carla) (Entered: 03/23/2017)
03/23/2017	<u>75</u>	REPLY to Response to <u>73</u> Motion filed by Ernesto Joshua Ramos. (Bliss, Kathleen) (Entered: 03/23/2017)
03/23/2017	<u>76</u>	ORDER, as to Ernesto Joshua Ramos (1), that <u>73</u> Emergency Motion to Stay/Extend Self-Surrender Date is DENIED. Defendant's self-surrender date is 2:00 PM on March 28, 2017. Signed by Chief Judge Gloria M. Navarro on 3/23/17. (Copies have been distributed pursuant to the NEF - MMM) (Entered: 03/24/2017)
12/07/2017	<u>77</u>	MANDATE of USCA as to Ernesto Joshua Ramos re <u>72</u> USCA Order DISMISSING <u>63</u> Notice of Appeal. (MMM) (Entered: 12/08/2017)
12/21/2017	<u>79</u>	ORDER ON MANDATE as to Ernesto Joshua Ramos re <u>63</u> Notice of Appeal, <u>72</u> USCA Order. DISMISSED Signed by Chief Judge Gloria M. Navarro on 12/21/2017. (Copies have been distributed pursuant to the NEF - JM) (Entered: 12/21/2017)

PACER Service Center			
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08/24/2020 15:00:11			
PACER Login:	joncolby:2739217:0	Client Code:	
Description:	Docket Report	Search Criteria:	2:15-cr-00267-GMN-CWH
Billable Pages:	8	Cost:	0.80

# EXHIBIT 3

1 DANIEL G. BOGDEN  
United States Attorney  
2 CARLA B. HIGGINBOTHAM (NSBN 8495)  
Assistant United States Attorney  
3 100 W. Liberty Street, Ste. 600  
Reno, NV 89501  
4 Telephone: (775) 784-5438  
Facsimile: (775) 784-5181  
5 Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\*\*\*\*\*

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 ERNESTO JOSHUA RAMOS,

12 Defendant.

Case No. 2:15-cr-00267-GMN-CWH

STIPULATION AND ORDER FOR  
PROTECTIVE ORDER PURSUANT TO  
FED. R. CRIM. PRO. 16(d)(1) AND 18  
U.S.C. § 3771

13  
14 It is hereby stipulated and agreed, by and between DANIEL G. BOGDEN, United  
15 States Attorney, and CARLA B. HIGGINBOTHAM, Assistant United States Attorney, counsel  
16 for the United States, and GABRIEL L. GRASSO, counsel for the defendant, ERNESTO  
17 JOSHUA RAMOS, that a protective order pursuant to Federal Rule of Criminal Procedure  
18 16(d)(1), should be entered that will appropriately set guidelines for defense's use and  
19 treatment of certain sensitive information and documents that the government may disclose  
20 related to the victim in this matter. This stipulation is based upon the following:

21 1. Defendant is charged in a one-count indictment with the a violation of 18,  
22 United States Code, Section 1952(a)(3), which makes it a crime to use a facility of interstate  
23 commerce to promote the crime of extortion. The case involves the alleged extortion by  
24 Defendant of the victim related to personal sexual activities that were secretly recorded by a  
25 third party and provided to Defendant.

26 ///

27 ///

1           2.     In order to protect the victim's privacy and to avoid subjecting the victim to  
2 unnecessary psychological harm and emotional distress, which would arise from the disclosure  
3 of certain information related to this case, the parties stipulate to the entry of an order to protect  
4 the confidentiality of documents disclosed by the government, to prohibit use of the victim's  
5 full name or personally identifiable information, including information related to his  
6 employment, in papers and documents not sealed by Order of this Court, and to limit all  
7 references to the victim at public hearings to the pseudonym, "Victim 1."

8           3.     The Crime Victims' Rights Act of 2004 provides specific rights to victims of  
9 crime. Specifically, the Act states that a crime victim has "the right to be reasonably protected  
10 from the accused," and "the right to be treated with fairness and with respect for the victim's  
11 *dignity and privacy*" throughout the court proceedings. 18 U.S.C. § 3771(a)(1) & (8) (emphasis  
12 added). A court may enter a protective order related to criminal discovery based on a showing  
13 of good cause. Fed. R. Crim. Pro. 16(d)(1). District courts in the Ninth Circuit have held that  
14 the need to protect a victim's dignity and privacy during a pending criminal prosecution is  
15 sufficient to establish good cause for the entry of a protective order. *See e.g., United States v.*  
16 *Patkar*, 2008 WL 233062, \*3 (D. Haw., Jan. 28, 2008) (holding that protection of victim's  
17 dignity and privacy provided good cause to support protective order in extortion case)  
18 (unpublished opinion provided for demonstrative purposes). Although the defense stipulates to  
19 the entry of this protective order, it does not specifically stipulate to the applicability of the  
20 above-described legal basis and reserves the right to challenge said law in any future motions  
21 regarding this order.

22           4.     Based on the nature and circumstances of the alleged extortion in this case,  
23 there is good cause to support the entry of the protective order in order to protect the dignity  
24 and privacy of the victim, as well as his family. Specifically, without the entry of the stipulated  
25 protective order, the materials that comprise the basis of the alleged extortion could be revealed  
26 violating Victim 1's privacy and causing harm to Victim 1's reputation, privacy, and dignity  
27 and causing substantial harm to Victim 1's family.

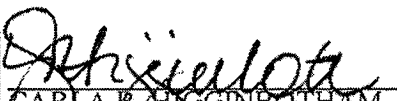
1           5.       The parties agree that either party may move to modify this protective order at  
2 any time if circumstances in this case change.


3           6.       Defendant knows who Victim 1 is and the protective order requested will not  
4 hinder his ability to adequately investigate the charge or present his defense.

5  
6 Dated this 30<sup>th</sup> day of September, 2015

Dated this 30<sup>th</sup> day of September, 2015

7  
8 DANIEL G. BOGDEN  
9 United States Attorney

10   
11 CARLA B. HIGGINBOTHAM  
12 Assistant United States Attorney  
Counsel for Plaintiff

  
GABRIEL L. GRASSO  
Counsel for Defendant

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ERNESTO JOSHUA RAMOS,

Defendant.

Case No. 2:15-cr-00267-GMN-CWH

[PROPOSED] ORDER FOR PROTECTIVE  
ORDER PURSUANT TO FED. R. CRIM.  
PRO. 16(d)(1) AND 18 U.S.C. § 3771

Based on the Stipulation of the parties, and good cause appearing, IT IS HEREBY ORDERED, pursuant to Federal Rule of Criminal Procedure 16(d)(1) and 18 U.S.C. §§ 3771(a)(1) & (8), that:

1. Defense Counsel of Record shall maintain all discovery materials in this case in a secure place to which no person who does not have reason to know their contents has access and shall restrict viewing of discovery in this case only to Defendant, Defense Counsel of Record, Counsel for any additional targets or unindicated co-conspirators working on a joint defense with Defendant or Defendant's Counsel of Record, investigators of Defense Counsel of Record, staff working directly with Defense Counsel of Record, and expert witnesses retained by Defense Counsel of Record. Prior to providing access to these discovery materials to investigators, experts or staff, Defense Counsel of Record shall inform them of the contents of this Order and protections placed on these materials by the Court.

2. Defendant shall not be permitted to have or view discovery materials outside the presence of Defense Counsel of Record.

3. Defense Counsel of Record shall treat the contact information of the victim, including the victim's street addresses, telephone numbers, e-mail addresses, and employment information, whether obtained through discovery materials provided by the government or information independently acquired by the defense team, as "attorneys' eyes only." "Attorneys' eyes" may include a criminal investigator or a staff person working directly with

1 Defense Counsel of Record. This information shall not be disseminated to any person that is  
2 not identified in paragraph one above and shall be used only to investigate this case and to  
3 prepare the defense and for no other purpose.

4 4. During all proceedings in this case, all parties and witnesses shall refer to the  
5 victim by the pseudonym, "Victim 1."

6 5. In all papers filed with the Court, all parties shall refer to the victim by the  
7 pseudonym, "Victim 1."

8 6. In all papers filed with the Court that by necessity require disclosure of the  
9 name or other information concerning the victim, all parties shall file the papers under seal,  
10 while submitting to opposing counsel the unredacted pleading (provided that such pleading is  
11 not filed in camera) and submitting to the clerk of the Court:

12 a. The complete paper clearly labeled "UNREDACTED" to be kept under  
13 seal; and,

14 b. The paper with the portions of it that disclose the name of or other  
15 information concerning the victim redacted, and in the case of names, replaced by the  
16 pseudonym "Victim 1", for placement in the public record.

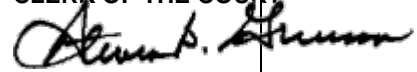
17 7. Either party may move to modify this order at any time, if the circumstances of  
18 this case change.

19 8. At the conclusion of the case, including any appeals, Defense Counsel of  
20 Record shall securely destroy the originals and all copies of discovery materials and any other  
21 information containing the victim's personally identifiable information and notify the  
22 government of their compliance with this Order.

23 Dated this 5 day of October, 2015.

24  
25  
26   
27 United States Magistrate Judge  
28





**OMD**

IAN CHRISTOPHERSON, ESQ.  
Nevada Bar No.: 003701  
CHRISTOPHERSON LAW OFFICES  
600 South Third Street  
Las Vegas, Nevada 89101-6602  
Phone: (702) 372-9649  
*Attorney for Plaintiff, Joshua Ramos*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSHUA RAMOS, AKA ERNESTO  
JOSHUA RAMOS, an individual:

Case #: A-20-813230-C

Dept. No. 29

Plaintiff,

**OPPOSITION TO MOTION TO DISMISS**

vs.

DANA WHITE, an individual; UFC  
HOLDINGS LLC., ZUFFA, LLC., doing  
business as the ULTIMATE FIGHTING  
CHAMPIONSHIP, a Nevada limited  
liability company; DOES I through X  
inclusive; and ROE CORPORATIONS I  
through V, inclusive;

Defendants

**OPPOSITION TO MOTION TO DISMISS**

**FACT CHECK**

Defendants' Motion is based on false, incorrect, and misleading statements of "facts," which are central to their Motion. The facts set forth in the Complaint and which will be proven at trial not only serve as the basis to deny the Motion but will support a verdict at trial.

1. *This is a lawsuit stemming from Defendants' failed coverup of their improper actions and their solicitation of an NDA so as to conceal those improper actions from potential and subsequent buyers of the UFC and not, as Defendants assert in their Motion, continuation of a failed extortion.*

1 In their Motion, Defendants seek to prejudice the Court, the public, and  
2 ultimately a jury by alleging this Civil Action is a continuation of a failed effort to  
3 extort Defendants and is "civil extortion" See Motion p.2, l. 4-5.

4 From the initial offer/ request by Hunter Campbell, Esq. in October of 2015  
5 until he called Gabe Grasso, Esq. in July of 2016, it was the Defendants who  
6 were soliciting silence by Ramos, not Ramos continuing to "extort" Defendants, if  
7 he ever did.

8 On the record at the sentencing hearing of Ramos Judge Navarro  
9 recognized these negotiations and discussion as legal and permitted, see exhibit  
10 1 (excerpt of the sentencing transcript) p 49, l. 1-8.

11 As with any litigation, there can be collateral consequences of litigation,  
12 and Defendants can and should consider them before proceeding to litigate and  
13 proceed to trial. Our legal system is there for parties to litigate their disputes.

14 Despite his public protests and disparagement White has not publicly  
15 disputed the underlying facts of this case or that after July 5<sup>th</sup>, 2016, he was  
16 apparently no longer concerned with their public disclosure.

17  
18 2. *A breached Mediation Contract is a Contract.*

19 Central to their Motion is that there was no contract between the parties  
20 hence no breach or bad faith (if so then Count IV Unjust Enrichment provides  
21 Ramos a remedy).

22 Mediation and arbitration agreements are contracts. Central and inherent  
23 in that contract is the covenant of good faith The agreement to resolve  
24 differences in good faith is the core of a mediation agreement

25 The facts in the Complaint establish that there was a mediation agreement  
26 between the parties and Ramos appeared for mediation with the defendants on  
27 April 5<sup>th</sup>, 2016 (Complaint para 69-72).

1 A mediation agreement is not an agreement to agree but rather an  
2 agreement to meet with a third party in good faith to resolve a dispute. The  
3 outcome of the mediation, including whether an agreement will be reached, is not  
4 an element of a mediation agreement. The parties agree to the time, manner,  
5 mediator, location and payment of the cost prior to the mediation. They also  
6 agree that they will cease continuing the dispute pending the mediation or, as in  
7 this case, preserving the status quo in exchange and in consideration for the  
8 agreement.

9 All those considerations are factual issues precluding granting a Motion to  
10 Dismiss as Plaintiff's fact are taken as true.

11  
12 3. *The only Crime reported by White was his own.*

13 As the Complaint indicates, on December 11<sup>th</sup>, 2014, White, UFC counsel  
14 Epstein, and Colby Williams, Esq. met with AUSA LaBella and the FBI at  
15 Campbell's office.

16 Not only was the meeting with the wrong authority, (If in fact White was  
17 being extorted, extortion is a state offense), White volunteered that both he  
18 and/or the UFC had arranged for the transport of Doe to Brazil, obtained a  
19 passport for her, and UFC personnel paid her upon her return for "services?".  
20 That is both pandering and a criminal violation of the Mann act.

21 It took another month to lead Ramos into an agreement (not to remain  
22 silent, but rather to sell White the video) so there was a plausible basis to arrest  
23 Ramos. Before he pled guilty, Nevada specifically recognized that the tape was  
24 an exception to NRS 200.770 and legal for Ramos to posses and publish  
25 (Complaint para 51).

26 White is hardly an innocent victim who reported a crime; he is a sexual  
27 predator who used his "juice" to silence a victim, co-opt both the FBI and the  
28 Department of Justice, and intimidate his other victims and their potential counsel

1 from having the audacity to question his well-known and admitted behavior  
2 whose disclosure he was no longer concerned with once the sale of the UFC was  
3 done.

4 "Juice" is a Nevada euphemism for what is recognized elsewhere as  
5 corruption, though in Nevada, it is not express quid pro quo but rather a mutual  
6 exchange of favors on request and thus difficult to prove.

7  
8 *4. Zuffa and the UFC and their principals are parties herein*

9 This is a "Doe" complainant, as the public records do not contain all  
10 information as to the structures of ownership at the relevant times.

11 Under the principles of Agency, when a legal entity participates in through  
12 its staff, employees, and with its legal counsel present as set forth in the  
13 Complaint, it need not "ratify" its own conduct and its actions by its officers  
14 and employees can be imputed to the company. The presence of Epstein at the  
15 December 11<sup>th</sup> meeting at Campbell's office on behalf of the UFC/Zuffa indicates  
16 that alter ego, imputation or ratification apply herein as White's statements to the  
17 FBI on December 11, 2014 were an indication that White was using the company  
18 as his own and likely violating 42 USC 1983.

19 It may be found in discovery that the UFC and Zuffa took appropriate  
20 steps to rectify the improper conduct in violation of 42 USC 1983 after Epstein  
21 had knowledge thereof but the record is devoid of the same, and the response of  
22 White and his continued employment suggest that White and his co-owners of  
23 the UFC thought it appropriate that their consorts at fights be arranged (and at  
24 least in this instance) be paid through the business.

25 Discovery into whether White and the Fertitta's (Zuffa's principal owners)  
26 are subject to alter ego liability will proceed. The proffer by Doe, and the  
27 participation of counsel for the UFC, Epstein, are a clear indication that the UFC  
28 allowed its then owners to utilize business resources for their personal soirees.

1  
2 **PREFACE:**

3 The actions of the Defendants, in this case, are explained by economics.

4 Defendants' motivation to silence Ramos so as not to interfere with or diminish  
5 the price of the UFC is clear when they ceased to have any interest to suppress the  
6 story coincident with their windfall sale of the UFC in July 2016.

7 In late October 2015, days before Ramos was set to enter a plea in Federal  
8 District Court, Hunter Campbell, Esq., contacted Gabriel Grasso, Esq. and advised that  
9 after Ramos entered a guilty plea that his client would seek a non-disclosure agreement  
10 from Ramos to ensure the matter would remain private after sentencing and the  
11 expiration of the protective order (Complaint para 52).

12 After Ramos reluctantly pled guilty, an agreement to mediate was made for  
13 April 5<sup>th</sup>, 2016 to, follow his scheduled sentencing with the understanding that it was for  
14 the purpose of determining the amount of compensation for the NDA.

15 Ramos sentencing date, originally set before the mediation date, was continued  
16 and finally occurred on June 30<sup>th</sup>, 2016.

17 On April 5<sup>th</sup>, 2016, Defendants performed pursuant to the mediation agreement in  
18 all respect except they did not mediate and unequivocally offered nothing to Ramos. In  
19 the next three months Defendants offered as much as \$450,000.00 to Ramos and Ms.  
20 Doe.

21 On June 30<sup>th</sup>, 2016, Ramos was sentenced.

22 On July 5<sup>th</sup>, 2016 Hunter Campbell called Grasso and told him there would be no  
23 settlement, which was then conveyed to Ramos by letter by Grasso, nor would there be  
24 any further discussion/negotiations.

25 On or about July 9<sup>th</sup> or 11<sup>th</sup>, 2016, the sale of the UFC was publicly announced  
26 for 4.025 Billion Dollars.

27 Shortly thereafter, WME\_IMG and its spinoff Endeavor reportedly sold roughly  
28 300 million of the company to a group mostly its clients, including Guy Fieri, Ben Affleck

1 Donnie Wahlberg, Sylvester Stallone, Serena Williams, and others and two notable non-  
2 clients Tom Brady and Robert Kraft.

3 Whatever concerns White alleged to have had with disclosure of his infidelities  
4 and pandering by the UFC/ Zuffa apparently evaporated with the sale of the UFC.

5 Did White and the UFC lie to the FBI as to their motivation behind preserving his  
6 anonymity?

7 When viewed in the context of Defendants' financial interests, their actions are  
8 only explained by their financial motives to prevent their actions from being public  
9 before the sale of the UFC, whose sale was announced nine days after Ramos was  
10 sentenced.

11 This case is also about the flagrant corrupting of the Federal Justice system in  
12 Nevada for the personal benefit of White and his associates. Rather than taking the  
13 appropriate steps to report a possible extortion attempt as White allegedly believed was  
14 occurring(long before there was any arguable case), White or his counsel called in  
15 favors from somewhere and arranged a meeting with both the FBI and the same US  
16 Attorney known for vigorously prosecuting the HOA corruption cases, Charles LaBella.  
17 The "untouchable" FBI apparently is a thing of the past.

18 Extortion is a state offense over which neither the FBI nor the US Attorney would  
19 have had any jurisdiction over on December 11, 2014. The US Attorney and the FBI  
20 ignored White's possible criminal activity and commenced to build a Federal case  
21 against Ramos as a personal favor and outside of any normal DOJ procedures.

22 Defendants, by soliciting Ramos to enter a non-disclosure agreement during the  
23 pending sale of the UFC, breaching and then subsequently repudiating the contract  
24 while enjoying the benefits of Ramos's silence by the windfall sale to the tune of  
25 hundreds of millions of dollars is outrageous.

26 The facetious claim of White that he was seeking to prevent disclosure of his  
27 name for the protection of his wife and kids apparently evaporated when the UFC sale  
28 closed.

## STATEMENT OF FACTS

The following summary of facts as set forth in the complaint suffice to give notice of Plaintiff's claims and if true would support liability against defendants.

Defendants agreed to formal mediation, conducted on an agreed time and date, with an agreed-on mediator at the agreed location(s) and appeared with counsel for both White and the UFC pursuant to that agreement (para 66-70).

Ramos also agreed to mediate, remained silent, did not seek to withdraw his guilty plea and appeared in good faith with counsel at the scheduled mediation.

Defendants did not mediate and stated they would pay him nothing.

Since Defendants had initiated the discussion and were to be the beneficiaries of the agreement, this was clearly bad faith.

The complaint alleges that it was "White's counsel" who unsolicited called Grasso with the offer to pay Ramos for a NDA (para 61) which then led to the April 5 2016 mediation.

On April 5<sup>th</sup>, 2016, Defendant breached the agreement by failing to offer or discuss any payment to Ramos (para 78).

Defendants continued to negotiate after that date, and eventually offered a total amount to Ramos and Doe of \$450,000.00 and only four days before announcing the sale of the UFC stated they would not pay Ramos anything (para 101).

In addition to the statements made in the Complaint, hereby incorporated by reference, Plaintiff makes the following offer of proof as to what facts it intends to prove that support claims as follows:

Defendants through Hunter Campbell days before Ramos was to enter a plea solicited Ramos to enter a NDA *if and after* he pled guilty.

With that offer out there as a factor to consider Ramos reluctantly pled guilty with the advice of counsel.

The case against Ramos commenced in December 2014, when White, Epstein, Williams, Charles LaBella, and FBI agent Mollica met at Campbell's office. At that time

1 there was no demand from Ramos other than to talk to White. This was after White  
2 failed to acknowledge Ramos when he called on White on his "secretaries" phone he  
3 used for his private soirées.

4 At that meeting, memorialized by the FBI in its report, White acknowledged that  
5 the UFC had at a minimum purchased a ticket for Doe to Brazil, obtained an expedited  
6 passport, had sex with her in Brazil and paid her through the Spearmint Rhino on her  
7 return (para 10).

8 This not only implicated the UFC/Zuffa itself through knowledge of its counsel  
9 Epstein who was present at the meeting White had stated the elements of a Mann Act  
10 violation by White and the UFC.

11 Though prostitution is legal in Brazil and Nevada can only criminalizes activities  
12 in Nevada, it does not change the nature of the actions of the UFC – pandering.

13 These actions (the ticket, the passport, and the payoff) were all done by UFC  
14 employees as part of their jobs, not Dana White, and concealments of those activities  
15 were for the direct benefit of Zuffa and the owners of UFC (para 25).

16 Despite his confession of felonious activity by White with the aid of the UFC, the  
17 juice of White and his counsel, Campbell, and Williams, succeeded in having the FBI  
18 commence what was essentially the entrapment of Ramos.

19 It was White who brought up payment at a meeting he set up with the FBI a  
20 month after White met with the FBI and LaBella to report the alleged extortion.

21 Ramos, having pled guilty and having exhausted his appeals, does not intend to  
22 re-litigate his guilt, as it is not relevant having exhausted his 9<sup>th</sup> Circuit appeals.

23 Upon his arrest, a gag order was a condition of Ramos' release by the  
24 Magistrate. This order was the only operative until the indictment when a stipulation for  
25 a protective order was entered.

26 That protective order only was effective through the close of the case.

27 Judge Navarro, after earlier pondering whether discussions of an NDA was  
28 extortion, Judge Navarro expressly stated that the parties' counsel could freely discuss



1 an NDA. See exhibit 1 p. 49, I. 1-8. In doing so, Judge Navarro correctly recognized  
2 both that Ramos could openly discuss the events herein and that if White wished to  
3 prevent the same negotiating, an NDA was not, as Defendants now allege, an effort to  
4 continue a failed extortion.

5 Defendants contention that a suit based on Defendants' request for an NDA from  
6 Ramos sanctioned by Judge Navarro can be transmuted into extortion is clearly  
7 meritless and should cease.

8 It was the defendants that, in October 2015, unsolicited had called Grasso  
9 beginning the discussions of Ramos entering an NDA. This action is independent of any  
10 asserted "extortion", and Defendants characterization of the same as such will be the  
11 subject of a motion in limine before trial.

12 Ramos was sentenced after his attempt to withdraw his plea was rejected.

13 On July 5<sup>th</sup>, 2016, Hunter Campbell advised telephonically that there was no offer  
14 to pay Ramos.

15 On July 9<sup>th</sup>, 2016, the sale was announced of the UFC for four billion dollars, with  
16 White continuing on as its president.

17 In September 2016, WME-IMG/Endeavor announced it had sold three hundred  
18 million dollar of its ownership to a list of its clients, including Guy Fieri, Ben Affleck,  
19 Sylvester Stallone, Donnie Wahlberg, Serena Williams, and two non-clients, Tom Brady  
20 and Robert Kraft.

21 It is apparent that after the sale, the Defendant had no economic need for the  
22 NDA.

23 Economics explains everything.

24 **I. The Complaint Supports the Causes of Action**

25 **(A) This is a Motion to Dismiss**

26 (1) *The standards for a Motion to Dismiss is well settled and was*  
27 *stated by Defendants in their Motion.*  
28

1 To prevail on a motion to dismiss under NRCP 12 (b)(5), as stated by  
2 Defendants in their Motion at page 6 lines 5-15, Defendants must show beyond a doubt,  
3 construing the pleadings liberally, drawing every reasonable inference in favor of the  
4 nonmoving party, taking well pled factual allegations as true Plaintiff could not prove  
5 facts which would entitle the plaintiff to relief.

6 In summary the Court must determine that the Plaintiffs' claims, all assertions in  
7 the Complaint being taken as true, could not prove their case.

8 There is no issue of notice here as Defendants have recognized the substance of  
9 Plaintiff's claims though they do seek to alter the facts as indicated above to support  
10 their Motion. Under 12(b)(5) the court considers Plaintiff's facts as true.

11 The standard recognizes that further discovery will produce additional evidence  
12 to support or rebut the claim which accounts for the high threshold required to grant a  
13 motion.

14 The Complaint clearly asserts a contract to mediate and a breach thereof, which  
15 also precludes dismissal of the bad faith claims. Without the details of that agreement  
16 and mediation, Defendants cannot meet the standards necessary for a motion to  
17 dismiss.

18 Count IV is an alternative remedy for unjust enrichment which is a quasi-contract  
19 action if this Court ultimately found there was no contract.

20 The Complaint states facts which if true upon which a plaintiff could prevail.

21 (2) UFC Holdings as a defendant

22 Plaintiff does not possess yet or have access to the corporate/business records  
23 of the defendants and accepts the representation of counsel that UFC Holdings was  
24 formed after the events herein and not a proper party to this case and consents to its  
25 dismissal without prejudice and reserves the right to amend to name any correct  
26 defendant when and if identified.

1 UFC Holdings appeared by this motion after waiving service. The court is  
2 directed to the Caption of the case. Plaintiff does not seek relief against any improper  
3 party but the structure of ownership remains unclear.

4  
5 Clearly there was an entity known as the UFC at the relevant times which  
6 defendants sold to WME-IMG in 2016 and upon discovery of the appropriate entity  
7 amendment will be sought.

8  
9 **B. The Complaint states facts which the causes of Action**

10 **I Breach of Contract/Bad Faith**

11 Defendants erroneously argue that since there was no agreement as to the  
12 amount of payment for an NDA, there was no agreement or contract between the parties.

13 A cursory internet search confirms that mediation agreements are commonplace  
14 and the general terms thereof.

15 A mediation agreement is not "an agreement to agree", it is a contract that is  
16 enforceable and carries with it the covenant of good faith.

17 The consideration for the agreement is itself essentially one of good faith, "we will  
18 suspend our contentious dispute and proceed to attempt to resolve it amicably in good  
19 faith with the use of a mediator".

20  
21 **II Unjust Enrichment**

22  
23 In the Certified Fire Protection, Inc. v Precision Construction, Inc. 128 Nev. Adv.  
24 Op 35, 283 P.3d 257 (2012), the Nevada Supreme Court stated:

25  
26 Unjust enrichment exists when the plaintiff confers a  
27 benefit on the defendant, the defendant appreciates such  
28 benefit, and there is 'acceptance and retention by the  
defendant of such benefit under the circumstances such  
that it would be inequitable for him to retain the benefit

1 without payment of the value thereof.' *Unionamerica Mtg. v*  
2 *McDonald*, 97 Nev. 210, 212, 626 P.2d, 1272, 1273 (1981)  
3 (quoting *Dass v Epplen*, 162, Colo. 60, 424, P.2d 779, 780  
4 (1967)).

5 Unjust enrichment is an equitable remedy which is designed to prevent precisely  
6 what Defendants allege here, that a party without a valid binding contract induces  
7 another to provide a benefit which the recipient retains and is unjustly enriched thereby,  
8 see generally, *Certified*, supra at p.257, see also *Unionamerica Mtg. v McDonald* 97 Nev  
9 210, 212 (1981). *Unionamerica* clarified that unjust enrichment is quasi contract and a  
10 remedy where no express or implied contract exist or is found.

11 If this court eventually finds the contract was limited or does not exist then the  
12 unjust enrichment remedy would apply.

13 Defendant obtained Plaintiff's silence by offering payment for his silence and not  
14 contesting its trumped-up claimed charges.

15 Unjust enrichment is an equitable remedy which applies to situations such as this  
16 if the Court were to find there is no contract specifically to prevent the type of conduct  
17 by defendants where, in the context of a failed contract, a party realizes a benefit from  
18 the actions of another.

19 This equitable action is discussed in the *Restatement of Restitution (Third 2011)*  
20 which in Section 49 explains that in situations like this case the benefit conferred is not  
21 measured by the action of the giver (Ramos) but rather the gain realized by the  
22 recipient (White and Zuffa). *Certified* cited with approval a different subsection of the  
23 same *Restatement* subsection at page 257.

24 Those benefits are the gain realized by defendants from the sale of the UFC, a  
25 gross gain of 4 billion dollars without disclosure, less the value with disclosure.

26 Defendants clearly recognized the benefits of silencing Ramos as demonstrated  
27 by their actions, silencing him with the enticement of payments until they succeeded in  
28 their sale of the UFC.

1 Here the benefit conferred is gain realized by the recipient as opposed to  
2 property given. The recipients gain is the amount of increased value the recipient  
3 obtained resulting from the conduct of the giver and is discussed in the *Restatement of*  
4 *Remedies* (Third) Section 49(4) and note 4.

5 The Court can take judicial notice of the extensive inquiry and due diligence,  
6 which would occur before a 4 billion dollar sale would occur. The Court need not  
7 speculate that the Defendants' conduct herein would potentially have affected that sale  
8 because Defendants already recognized that potential effect and silenced Ramos until  
9 the sale was made.

10 Plaintiff states a Cause of Action for unjust enrichment in the Complaint but will  
11 be able to show at trial not only that the claim is valid against White and Zuffa in  
12 particular but all defendants.

13 No disclosure by Ramos was made before the repudiation of the contract by  
14 Hunter Campbell on July 5<sup>th</sup>, 2016 or the announced sale of the UFC and by that  
15 silence Ramos conferred a benefit on Defendants.

16 Defendant's argument that he was constrained from doing so fails both because  
17 Judge Navarro permitted the discussion but also because Defendants were seeking the  
18 same at a point they now claim Ramos was muzzled. Defendants having received the  
19 benefit of Ramos's silence cannot it actively solicited cannot now claim he could not  
20 have spoken and that he therefore is not entitled to compensation.

21 Ramos never sought relief from the protective order even while seeking to  
22 withdraw his guilty plea thus honoring his agreement for the NDA.

23 Unjust enrichment is equity.

24 Plaintiff did not seek relief from the protective order or name White in his Motion  
25 to withdraw his plea.

26 The sale of the UFC by Zuffa occurred without White and the UFC's actions  
27 being publicized or provided to the buyers.

1 The benefit of the agreement, an NDA so as not to interfere or affect the sale  
2 price or sale of the UFC, was conferred by the Plaintiff. In expressly stating they had no  
3 further interest in an NDA to Grasso on July 5<sup>th</sup>, 2016, Defendants exposed the real  
4 party in interest in non-disclosure of White's actions and behind, Zuffa and its principal  
5 owners, the Fertitta's.

6 Or are we to believe that on July 5<sup>th</sup>, White, who had allegedly been extremely  
7 concerned that neither his wife nor kids learn of his actions, woke up and said I don't  
8 care anymore.

9 The stipulation for a protective order, exhibit 2 to the Defendants' Motion,  
10 restates White's alleged reason for continuing his anonymity. The July 5<sup>th</sup> loss of  
11 interest in the same indicates otherwise.

12 Defendants' have realized the benefit of the silence of Ramos, a sale for 4 billion  
13 dollars of a company they bought for 2 million dollars.

14 The value of the NDA is the benefit conferred. An NDA is valued relative to the  
15 gain realized by the Defendants resulting from the silence of Ramos.

16 The value of an NDA is thus directly related to the parties and the economic  
17 effect of (non)disclosure.

18 The full benefit of the NDA was received by the defendants.

19 On July 5<sup>th</sup>, 2016, as the sale of the UFC was finalized, Hunter Campbell called  
20 Plaintiff's attorney and told him there would be no payment for an NDA or discussions of  
21 payment for an NDA thereafter.

22 Strange in light of the fact that between the mediation and sentencing, an offer of  
23 \$450,000.00 dollars had been made.

24 Plaintiff will be able to prove unjust enrichment.

25 //

26 //

27 //

28 //

### III Bad Faith in Contract

Defendants correctly point out that bad faith is dependent on there being a contract.

Nevada recognized that in every contract, there is a covenant of good faith and fair dealing; see *Hilton Hotels v. Butch Lewis Productions*, 107 Nev 226, 234 (1991).

Despite their denials, there was a contract to enter mediation on April 5, 2016.

That was not as defendants assert an agreement to agree.

Though mediation agreements vary, the essential elements of a mediation agreement contain or encompass the following essential elements.

The covenant of good faith as it applies to mediation is that it be in good faith, and the parties mediate in good faith.

Consideration for mediation is found in the implicit agreement that pending mediation, the status quo will be preserved, and acrimony and negotiations are suspended.

The facts here exemplify a clear violation of that covenant. Notice of tortious bad faith is given and Plaintiff may be able to prove a case thereon. Dismissal at this point is premature.

Here the contractual relationship was commenced when Hunter Campbell called Plaintiff's with an offer to enter a non-disclosure agreement if Plaintiff pled guilty.

The timing of this call, on the eve of Plaintiff's plea hearing and the vagueness of the solicitation, was clearly calculated to induce and encourage and entice Plaintiff into entering a guilty plea, though it also was phrased in a manner in which the guilty plea was only a stated precondition to entering an NDA.

The timing of the solicitation to enter an NDA was a factor Defendants intended Plaintiff to consider in entering his guilty plea. The timing was not coincidental.

The mediation date was set five months after the plea was entered while the Defendants were marketing their business.

During that time, Plaintiff remained silent.

1 Plaintiff's sentencing was set for late February 2016 but was continued to  
2 June 30<sup>th</sup>, 2016.

3 Plaintiff is confident that discovery will establish that the sale process was  
4 proceeding in early April and the anticipated closing date intended to be no later than  
5 June or at the latest July 2016.

6 Not fearing that disclosure of the Defendants' Action would interfere with or  
7 devalue the sale price in April, Defendants in bad faith offered Plaintiff nothing at the  
8 mediation.

9 While the closing of the sale was continued into April, May, and June, and  
10 Plaintiff indicated he would seek to withdraw his plea, Defendants dangled payment for  
11 an NDA before him.

12 At one point, \$450,000.00 was offered to Plaintiff and Doe, with Plaintiff to  
13 receive \$300,000.00 (para 101).

14 The fact that the "Mediator" Peter Christianson, ESQ. had been both Plaintiff and  
15 Doe's attorney and professed to personally know the Defendant raises ethical issues,  
16 issues as to his neutrality and his acting as a "neutral" mediator.

17 Christianson, during the case, represented Doe in a proffer to the FBI.

18 After this mediation and continuing offers to Plaintiff and Doe and Plaintiff's  
19 sentencing on June 30, 2016, on July 5, 2016, Hunter Campbell called again.

20 This time the message was that there would be no payment or future discussions  
21 of payment.

22 On July 9<sup>th</sup>, 2016, the four billion dollar sale of the UFC was announced.

#### 23 **IV ZUFFA AS A DEFENDANT**

24 In their Motion to dismiss Defendants Zuffa/UFC holdings assert that there are  
25 no claims against them alleging corporate or entity liability.

26 In *Americo Derivative Litigation v. Dodds v. Shoen* 252 P 3d. 681,694 (2011) the  
27 court said " Under basic corporate agency law, the actions of corporate agents are  
28 imputed to the corporation." *Americo* continues and expands on that principal and it is



1 clear that White's actions (and the UFC actions) with the knowledge of UFC's counsel  
2 are sufficient to impose liability as acts of Zuffa.

3 The complaint clearly makes allegations, if not of direct action by White as an  
4 officer(manager) of the entities then of ratification or imputation of those actions through  
5 the presence and direct knowledge of Defendant entities attorney Epstein who was  
6 present on December 11, 2014.

7 Apparently not cognizant of or remembering White's statements, with defendants  
8 counsel present, that the "UFC" had not only bought the ticket for Doe to travel to Brazil  
9 it had also arranged and expedited one day passport for her, and on her return White  
10 had the UFC chief of security deliver \$10,000.00 in "chips" for Doe at the Spearmint  
11 Rhino.

12 The mediation on April 5<sup>th</sup>, 2016 occurred with Defendants participation at the  
13 UFC offices.

14 Before discovery issues of whether there was corporate activity, either actual,  
15 imputed or ratified and whether the UFC through Zuffa was an alter ego of White and  
16 the Fertitiats remain a matter of speculation, not subject to a motion to dismiss.

17 If the travel arrangements, payoff, and participation in the coverup and  
18 subsequent mediation were not themselves actual acts by the UFC/Zuffa, they can still  
19 be viewed as ratified by the non action when Epstein had knowledge thereof.

20 Beyond the other crimes White's statements to the FBI on December 11, 2014  
21 meet all the requirements for pandering prostitution by the legal entity, the UFC, and its  
22 owner, the Zuffa company. It arranged for travel for Doe to Brazil and understood that  
23 she was entitled to payment for her services on return and paid her through its chief of  
24 security. Those acts may have been at the direction of White but they were performed  
25 by the UFC/Zuffa.

26 The casual admission of those events evidence they were not an extraordinary  
27 occurrence at the UFC. It also, along with other facts not in the pleadings, indicates that  
28 the UFC, through its management, was a sexually hostile environment run by White.

1 That the UFC's counsel Epstein was in attendance and said nothing at this  
2 damning admission constitute ratification as the duty of Epstein was not to White but the  
3 UFC.

4 Ratification and imputation of actions by employees or agents of an entity are  
5 discussed in Amerco Derivative litigation Dodds v Shoen 127 Nev. 252 P 3d. 681  
6 (2011). The Complaint clearly alleges that the officers (White) directed actions, had  
7 knowledge of those actions (Epstein), failed to repudiate those action and that the  
8 actions, if improper, were not adverse to the UFC. Zuffa and the UFCs time to have  
9 disavowed White's action has long since passed and discovery will establish, as the  
10 casual and accepting reaction to the statement to the FBI by White on December 11,  
11 2014 indicates, that this was not an isolated event but normal procedure at the UFC.

12 For the purposes of a Motion to Dismiss under notice pleading Zuffa and a UFC  
13 entity were proper defendants.

14 Until discovery is made as to the corporate structure of the entities and the sale  
15 mechanisms, it is premature to dismiss Zuffa as Zuffa is believed to have been the  
16 owner of the UFC at all relevant times herein.

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b) and NEFCR 9. I certify that I am an employee of IAN CHRISTOPHERSON, ESQ., and that on the of 15th day of September 2020, I served the foregoing Motion to Dismiss Counterclaim by e-service by electronic service with the Eight Judicial District Court Wiznet filing systems to the parties on the Electronic Service List as follows:

Campbell & Williams  
Donald J Campbell, ESQ.  
700 South Seventh Street  
Las Vegas, Nevada  
89101-6908

DATED this 15<sup>th</sup> day of September 2020.

/s/ Amber Robertson  
An employee of  
IAN CHRISTOPHERSON, ESQ. OF  
CHRISTOPHERSON LAW OFFICES  
600 South Third Street  
Las Vegas, Nevada 89101-6602

## EXHIBIT 1

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3 BEFORE THE HONORABLE GLORIA M. NAVARRO  
4 CHIEF DISTRICT COURT JUDGE

5 UNITED STATES OF AMERICA, :  
6 Plaintiff, :  
7 vs. : No. 2:15-cr-00267-GMN-CWH  
8 ERNESTO JOSHUA RAMOS, :  
9 Defendant. :  
:

10  
11 TRANSCRIPT OF IMPOSITION OF SENTENCE  
12

13 June 30, 2016

14 Las Vegas, Nevada  
15

16  
17  
18 FTR No. 7D/20160630 @ 9:22 a.m.  
19

20 Transcribed by: Donna Davidson, CCR, RDR, CRR  
21 (775) 329-0132  
22 dodavidson@att.net  
23

24  
25 (Proceedings recorded by electronic sound recording,  
transcript produced by mechanical stenography and computer.)

1 I understand that there might still be some  
2 communication with the victim through counsel. And so I'll  
3 permit that. Although, again, it's not my responsibility  
4 to try to negotiate any kind of civil issues. So that's up  
5 to you.

6 But there won't be any direct or indirect victim  
7 witness contact. Through counsel is fine. But other than  
8 that, no other contact.

9 You shall have -- you shall not possess or have  
10 under your control, have access to any firearm, explosive  
11 device, or any other dangerous weapon as defined by  
12 federal, state, or local law.

13 And, number 5, you shall report in person to the  
14 probation office in the district in which you are released  
15 within 72 hours of discharge.

16 There weren't any remaining counts to be  
17 dismissed; is that right?

18 MS. HIGGINBOTHAM: That's correct, Your Honor.

19 MR. GRASSO: That's correct.

20 THE COURT: All right. Is he requesting a  
21 geographical area or a specific facility? I'm willing to  
22 give him a 90-day self-surrender.

23 MR. GRASSO: I would think, Your Honor, the  
24 only -- obviously Nevada, there's nothing here. So the  
25 only -- the closest location would be somewhere like in

CAMPBELL & WILLIAMS  
DONALD J. CAMPBELL, ESQ. (1216)  
djc@cwlawlv.com  
J. COLBY WILLIAMS, ESQ. (5549)  
jcw@cwlawlv.com  
700 South Seventh Street  
Las Vegas, Nevada 89101  
Telephone: (702) 382-5222  
Facsimile: (702) 382-0540

*Attorneys for Defendants  
Dana White, Zuffa, LLC  
and UFC Holdings, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSHUA RAMOS, aka ERNESTO  
JOSHUA RAMOS, an individual

Plaintiff,

vs.

DANA WHITE, an individual; UFC  
HOLDINGS LLC, ZUFFA, LLC, a Nevada  
limited liability company, dba ULTIMATE  
FIGHTING CHAMPIONSHIP; DOES I  
through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive

Defendants.

CASE NO.: A-20-813230-C  
DEPT. NO.: XXIX

**DEFENDANTS' REPLY IN SUPPORT  
OF MOTION TO DISMISS  
COMPLAINT PURSUANT TO NRCP  
12(b)(5)**

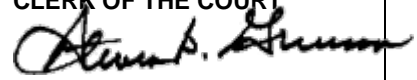
Hearing Date: October 7, 2020  
Hearing Time: 9:00 a.m.

Defendants, through their undersigned counsel, hereby submit their Reply in Support of Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5).

**POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Perhaps recognizing that the allegations in his complaint are woefully deficient to establish claims for breach of contract, breach of the implied covenant and unjust enrichment, Ramos seeks to misdirect the Court with twenty pages of false narratives, revisionist history, and baseless attacks against Defendants, their counsel, the FBI, and the United States Attorney's Office.





Denials, deflection, and blame-shifting cannot undo Ramos’ status as a convicted felon based upon his attempted extortion of Mr. White. Nor can they save Ramos’ complaint from dismissal.<sup>1</sup>

When Ramos does get around to addressing his causes of action, the propriety of dismissal becomes even more compelling. Regarding his breach of contract claim, Ramos clings to the notion that he has properly alleged breach of an agreement to mediate. But when he identifies the purported elements of such a contract (which he says can be found on the internet), the allegations in the complaint establish that Defendants fully performed. Ramos instead appears to be arguing that Defendants breached the alleged agreement because they failed to negotiate in good faith on the day of the mediation. This theory, however, would mean that an independent breach claim would exist every time two parties agree to mediate but one party does not like how the other party negotiated. That, of course, is absurd for multiple reasons. Even if Ramos’ bad faith allegations are accepted as true—and setting aside his contradictory allegation that White later offered him and Jane Doe \$450,000, which Ramos did not accept—Nevada courts have repeatedly refused to recognize a purported contract to negotiate in good faith as it is nothing more than an unenforceable agreement to agree.

To his credit, Ramos seemingly acknowledges that his claims for contractual and tortious breach of the implied covenant cannot exist in the absence of a valid contract. Thus, dismissing his contract claim disposes of these claims as well.

For his unjust enrichment claim, Ramos continues to argue that his purported silence during the pendency of his criminal proceedings enabled the UFC to be sold for the “windfall” amount of \$4.2 billion and that he is therefore entitled to the difference between this amount and the alleged

---

<sup>1</sup> Ramos gratuitously claims that “White has not publicly disputed the underlying facts of this case.” Opp’n at 2:14-16. Such a statement purposefully disregards the standard on a Rule 12(b)(5) motion, which requires the Court and the parties to accept any well-pleaded factual allegations as true. Defendants have previously stated, and reaffirm here, they absolutely dispute Ramos’ slanted, self-serving and revisionist version of the “facts.”

1 lesser amount the company would have sold for had he spoken up at the time. Notwithstanding  
2 Ramos' delusions of grandeur about his impact on the UFC's valuation, the salient point is that  
3 Ramos' so-called silence during the time period surrounding the sale of the UFC was indisputably  
4 a court-ordered obligation. The Restatement of Restitution and other authorities teach that simply  
5 performing legally-required acts will not support an unjust enrichment claim.

6 Finally, Ramos agrees that UFC Holdings, LLC may be dismissed without prejudice given  
7 the uncontradicted evidence it was formed after the events at issue in the complaint. As for Zuffa,  
8 LLC, Ramos attempts to supply additional "facts" in his opposition to support its status as a  
9 defendant herein. But the alleged "facts" either have nothing to do with the claims in the case or  
10 were supplied for the first time in Ramos' opposition brief and, thus, cannot be considered.

## 11 II. ARGUMENT

### 12 A. The Additional "Facts" Supplied in Ramos' Opposition Are Irrelevant.

13 As alluded to above, Ramos' opposition takes the Court and the parties on a nearly-20 page  
14 frolic and detour into events and allegations nowhere mentioned in or completely irrelevant to the  
15 claims at issue in the complaint. A nonexhaustive list of examples include, alleged violations of  
16 federal civil rights statutes (*i.e.*, 42 U.S.C. § 1983) (*see* Opp'n at 4:9-28), alleged alter ego liability  
17 (*id.*), alleged corruption of the federal justice system in Nevada (*id.* at 6:11-28), a list of purported  
18 WME clients and celebrity owners of the UFC (*id.* at 5:27-6:2), a proposed "offer of proof" that,  
19 Ramos admits, is "[i]n addition to the statements made in the Complaint" (*id.* at 7:20-8:20), topics  
20 for future motions in limine (*id.* at 9:8-11), and so on.

21 Needless to say, none of these items can forestall dismissal. "In deciding a motion to  
22 dismiss, courts may not take into account additional facts asserted in a memorandum opposing the  
23 motion to dismiss, because such memoranda do not constitute pleadings under Rule 7(a)." *In re*  
24 *Turbodyne Techs., Inc. Sec. Litig.*, 2000 WL 33961193, at \*10 (C.D. Cal. Mar. 15, 2000)  
25 (quotations omitted); *see also* *Schneider v. California Dep't of Corr.*, 151 F.3d 1194, 1197 (9th  
26  
27  
28

1 Cir. 1998) (“[t]he ‘new’ allegations contained in the inmates’ opposition motion, however, are  
2 irrelevant for Rule 12(b)(6) purposes.”) (citing 2 *Moore’s Federal Practice*, § 12.34[2] (Matthew  
3 Bender 3d ed.)); *Arizona Civil Constructors, Inc. v. Colony Ins. Co.*, No. 2:20-cv-00010-JAD-  
4 DJA, 2020 WL 5042778, at \*3 (D. Nev. Aug. 25, 2020) (“a deficient pleading cannot be cured by  
5 new allegations raised in a plaintiff’s response to a motion to dismiss.”). While Defendants submit  
6 the new material supplied in Ramos’ opposition would not impact the dismissal calculus in any  
7 event, the foregoing authorities make clear the Court need not waste its time with these sideshows.  
8

9 **B. Nevada Courts Do Not Recognize Contracts to Negotiate in Good Faith.**

10 Defendants previously set forth the elements for breach of contract, and established the  
11 complaint failed to state such a claim as there had been no meeting of the minds on all essential  
12 contract terms as required under Nevada law. *See* Mot. at 7:1-9:7. Ramos failed to address  
13 Defendants’ arguments or any of the legal authorities set forth therein. He instead repeats the  
14 allegation that the parties entered a mediation agreement. *See* Opp’n at 11:11-19. Rather than cite  
15 any legal authorities to support his arguments, Ramos simply tells us that “[a] cursory internet  
16 search confirms that mediation agreements are commonplace and the general terms thereof.” *Id.*  
17 Obviously, parties can enter into agreements to mediate or arbitrate, but there still has to be a  
18 meeting of the minds on all essential contractual elements. *See Roth v. Scott*, 112 Nev. 1078, 1083,  
19 921 P.2d 1262, 1265 (1996) (where parties had not agreed to essential terms of the high-low bracket  
20 amounts, there was no contract for binding arbitration).  
21

22 According to Ramos, the elements of a mediation agreement are “[t]he parties agree to the  
23 time, manner, mediator, location and payment of the cost of the mediation.” Opp’n at 3:4-5.  
24 Ramos further argues that “[t]he outcome of the mediation, including whether an agreement will  
25 be reached, is not an element of the mediation agreement.” *Id.* at 3:2-4. Assuming *arguendo*  
26 Ramos is correct, the allegations in the complaint show that Defendants fully-performed. The  
27 parties agreed (i) on a time for the mediation (*i.e.* April 5, 2016) (*see* Compl. ¶ 66), (ii) the manner  
28

1 of the mediation (*i.e.*, the parties would participate from different locations) (*see id.* ¶ 69), (iii) the  
2 identity of a mediator (*i.e.*, Mr. Christiansen) (*see id.* ¶ 67), and the location (*i.e.*, White  
3 participated from UFC’s offices) (*see id.* ¶ 71). Ramos nowhere alleges that Defendants breached  
4 the purported final element of a mediation agreement by failing to pay the costs of the mediation,  
5 thus confirming that is a non-issue here. *See* Opp’n at 5:17-20; 7:4-6 (agreeing that Defendants  
6 performed the foregoing elements of a mediation agreement).

7  
8 Ramos’ claim is instead premised entirely on the allegation that Defendants breached the  
9 mediation agreement not because the parties failed to reach a resolution but, rather, because  
10 Defendants did not offer Ramos any money on the day of the mediation. *See* Compl. ¶ 91. Ramos,  
11 in other words, now contends (repeatedly) that Defendants had a duty to negotiate in good faith,  
12 and breached the same by offering Ramos nothing (at least on that day). *See, e.g.*, Opp’n at 2:23-  
13 24; 3:1-2; 7:9-11; 11:17-19. Whether Ramos is reformulating or simply clarifying the basis for  
14 his breach claim, it is still subject to dismissal.

15  
16 That is because Nevada courts have repeatedly refused to recognize purported contracts to  
17 negotiate in good faith. In *Verifone, Inc. v. A Cab, L.L.C.*, for example, the federal district court  
18 dismissed a breach of contract claim premised on a written contract providing that the parties “shall  
19 negotiate in good faith to enter into [a subsequent] agreement” upon the expiration of the  
20 underlying written agreement. 2017 WL 2960519, at \*3 (D. Nev. July 7, 2017). The court found  
21 that the language requiring the parties to negotiate in good faith was simply an agreement to agree  
22 and, thus, unenforceable under Nevada law in an action for damages. *Id.* at \*4 (citing *Kohlmoos*  
23 *Enterprises v. Pines, LLC*, 129 Nev. 1131, 2013 WL 5476860, at \*1 (Nev. Sept. 26, 2013)  
24 (“Nevada abides by traditional jurisprudence that agreements to agree are generally too indefinite  
25 to enforce as final agreements” and declining to recognize “the enforceability of a preliminary  
26 agreement that requires the parties to negotiate in good faith.”)). Chief Judge Navarro concluded  
27 with the observation that “[s]eemingly, A Cab’s [ ] breach of contract claim is motivated by A Cab  
28

not receiving its desired result from negotiations rather than the negotiations themselves.”  
*Verifone*, 2017 WL 2960519, at \*4. So, too, here.

Also instructive is *Bond Mfg. Co., Inc. v. Ashley Furniture Indus., Inc.*, which involved a breach of contract claim asserted by a furniture manufacturer against a retailer regarding the failure to agree on the price for an exclusive line of furniture products. 2018 WL 1511717 (D. Nev. Mar. 27, 2018). The subject agreement provided “that the parties would negotiate in good faith over the price to [defendant] for such products.” *Id.* at \*1; 5. After the parties could not agree on price, the retailer began making the furniture products itself, and the manufacturer sued. *Id.* at \*2. Like Defendants here, the retailer moved to dismiss the contract claim on grounds there had been no meeting of the minds on price, and the manufacturer (like Ramos) argued that price was not an essential term because the contract only governed “the pre-sale negotiation process.” *Id.* at \*6. The Honorable James Mahan relied on *Verifone*, *Kohlmoos*, and *City of Reno v. Silver State Flying Serv.*, 84 Nev. 170, 438 P.2d 257 (1968) (cited in Defendants’ motion at 9:9-15) when determining the agreement to negotiate in good faith was nothing more than an unenforceable agreement to agree. *Id.* This Court, respectfully, should do the same.

At best, Ramos and Defendants had a preliminary agreement to attend a mediation at which they would negotiate over the price to be paid for a post-criminal proceeding non-disclosure agreement. The parties performed the preliminary agreement by attending the mediation, but it ended without a resolution. Obviously disappointed he did not achieve his desired result, Ramos now seeks to manufacture a breach claim premised on the way Defendants negotiated during the mediation. Nevada, however, does not recognize the enforceability of preliminary agreements requiring the parties to negotiate in good faith, and for good reason. While Ramos may be disappointed that Defendants did not offer him anything during the mediation on April 5, 2016, parties in Defendants’ shoes could be just as disappointed with what they view to be unreasonably high monetary demands of a plaintiff. Extreme positions taken by parties on the opposite sides of

issues occur in mediations every day in Nevada and around the country. If such differences in viewpoint and negotiating style gave rise to independent causes of action for breaching a mediation agreement, no one would ever agree to mediate which would undermine the entire purpose of alternative dispute resolution and overburden an already-taxed judicial system. Moreover, the reality is that many initial mediations are unsuccessful and require the parties to engage in subsequent negotiations. Ramos alleges that is exactly what happened here: “Defendants continued to negotiate after that [mediation] date, and eventually offered a total amount to Ramos and Doe of \$450,000.” Opp’n at 7:17-18; Compl. ¶ 101. That Ramos did not accept this offer only reinforces there was no meeting of the minds between him and Defendants and, accordingly, no breach of any contract.

**C. Dismissal of Ramos’ Claim for Breach of Contract Requires Dismissal of His Implied Covenant Claims.**

Ramos appears to agree that a viable contract is required in order to pursue claims for contractual or tortious breach of the implied covenant of good faith and fair dealing. *See* Opp’n at 15:2-5. Thus, the dismissal of Ramos’ contract claim would dispose of his claims for breach of the implied covenant. *See* Mot. at 10:1-15. Nevertheless, Ramos contends he has provided “notice of tortious bad faith” and that he “may be able to prove a case thereon.” Opp’n at 15:15-17. This is wishful thinking. Claims for tortious breach of the implied covenant require a special relationship of trust between the parties. *See* Mot. at 10:16-11:2. Ramos has alleged no such special relationship with Defendants in his Complaint, and his opposition utterly fails to address the point. As such, he concedes the merit of Defendants’ arguments on this issue. *See* EDCR 2.20(e); *Benjamin v. Frias Transportation Mgmt. Sys., Inc.*, 433 P.3d 1257 (Nev. 2019) (“when a party fails to set forth specific arguments as to why a motion to dismiss should not be granted,

EDCR 2.20(e) gives the district court the discretion to dismiss the complaint based solely on that failure.”) (unpublished disposition).<sup>2</sup>

**D. Ramos Cannot Pursue an Unjust Enrichment Claim Against Defendants Because He Had an Independent Legal Obligation to Maintain Confidentiality During His Criminal Proceedings.**

Ramos continues to speculate the UFC would have sold for less than \$4.2 billion dollars had he disclosed that Mr. White was the victim of his extortion scheme in advance of the sale. Building upon this speculation, Ramos claims he benefitted the Defendants by maintaining his silence and, thus, is entitled to the difference between the UFC’s actual sale price and what it would have sold for had he spoken out. *See* Opp’n at 12:23-24. While Ramos’ theory succeeds in terms of “chutzpa,” it fails miserably insofar as stating a claim for unjust enrichment.

As alleged in Ramos’ complaint (*see, e.g.,* Compl. ¶ 57), as repeatedly acknowledged in his opposition (*see, e.g.,* Opp’n at 8:23-26), and as confirmed by the judicially noticeable facts (*see* Mot. at 4:6-13 and Exs. 2-3), Ramos was subject to a court order from October 5, 2015 through the duration of his criminal proceedings (*i.e.,* at least March 8, 2017 (appeal dismissed)) that required him to maintain the confidentiality of his victim’s identity and related matters. As Defendants have previously established, where a party has an independent legal obligation to perform in a certain way, he does not unjustly enrich another party even though the latter may experience an incidental benefit therefrom. *See* Mot. at 12:10-24 (citing the Restatement (First) of Restitution § 60 (1937)); *see also id.* § 106 (instructing that “[a] person who, incidentally to the performance of his own duty or to the protection or the improvement of his own things, has conferred a benefit upon another, is not thereby entitled to contribution.”).

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<sup>2</sup> Ramos also failed to address Defendants’ arguments that he cannot recover punitive damages for his contract-based claims, *see* Mot. at 11:24-28, and should be deemed to concede this issue as well.

Multiple courts have relied on the foregoing principles when granting dispositive motions on unjust enrichment claims. *See, e.g., Allegheny Gen. Hosp. v. Philip Morris, Inc.*, 228 F.3d 429, 446-48 (3d Cir. 2000) (affirming dismissal of unjust enrichment claim where plaintiff hospitals had an independent legal obligation to provide healthcare to nonpaying patients such that any benefit to defendant tobacco companies was incidental to the hospitals' own duty); *Oregon Laborers-Employers Health & Welfare Tr. Fund v. Philip Morris, Inc.*, 185 F.3d 957, 968-69 (9th Cir. 1999) ("because plaintiffs had an independent obligation to pay the smokers' medical expenses, they cannot maintain an action for unjust enrichment against defendants just because defendants were incidentally benefitted."); *Chem-Nuclear Sys., Inc. v. Arivee Chemicals, Inc.*, 978 F. Supp. 1105, 1110-11 (N.D. Ga. 1997) (plaintiff under an administrative order to remediate property could not pursue unjust enrichment claim against defendant who would incidentally benefit from the clean-up); *Hobart Corp. v. Waste Mgmt. of Ohio, Inc.*, 840 F. Supp. 1013, 1036-37 (S.D. Ohio 2011) (dismissing unjust enrichment claim where settlement agreement imposed obligation on plaintiff to remediate site such that any benefit to defendant accrued by virtue of plaintiff's performance of its own legal duty). The principles at issue in these authorities apply equally here.

During the time leading up to the announcement of UFC's sale in early-July 2016, Ramos was subject to a court order that required him to maintain confidentiality regarding the identity of his victim. Because he had an independent obligation not to disclose this information, any alleged benefit to Defendants was incidental to Ramos' performance of his own legal duty. The parties' failed negotiations over a non-disclosure agreement that would have applied *after* the criminal proceedings concluded has no impact on this issue as it never came to fruition, and Ramos has now told his "story" to the world, thus rendering any alleged benefit nonexistent. The unjust enrichment claim, accordingly, fails as a matter of law.



**E. The Corporate Entities Are Not Proper Defendants.**

Defendants maintain that all of Ramos' claims should be dismissed for the reasons set forth above. Additional reasons exist to dismiss the corporate defendants. First, Ramos agrees that UFC Holdings, LLC can be dismissed without prejudice as the company was not even formed until after the events alleged in the complaint. *See* Opp'n at 10:22-26. Next, Zuffa, LLC argued it should be dismissed based on the lack of any allegations suggesting that Mr. White was acting on behalf of the company at the time of his interactions with Ramos. *See* Mot. at 14:1-11. In response, Ramos points to allegations he believes demonstrate the participation of UFC agents in various acts and meetings that preceded the commencement of his criminal proceedings. *See* Opp'n at 17:3-11. Even if treated as true for purposes of this motion, those allegations relate to matters in 2014 that pre-date and had nothing to do with the alleged events giving rise to Ramos' (defective) claims for breach of contract, breach of the implied covenant and unjust enrichment in spring 2016. That Mr. White participated in the April 2016 mediation from UFC's offices with his personal counsel does not mean he was acting on behalf of the company. Neither corporate entity should be a defendant herein.

**III. CONCLUSION**

Based on the foregoing, Defendants respectfully submit that Ramos' Complaint must be dismissed with prejudice.

DATED this 30th day of September, 2020.

CAMPBELL & WILLIAMS

By: /s/ J. Colby Williams  
DONALD J. CAMPBELL, ESQ. (1216)  
J. COLBY WILLIAMS, ESQ. (5549)

*Attorneys for Defendants  
Dana White, Zuffa, LLC  
and UFC Holdings, LLC*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of Campbell & Williams and that I did, on the 30th day of September, 2020, serve the foregoing **Defendants' Reply in Support of Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5)** by the Court's ECF System through Wiznet:

By: /s/ John Y. Chong  
An employee of Campbell & Williams

CAMPBELL & WILLIAMS  
DONALD J. CAMPBELL, ESQ. (1216)  
dj@cwlawlv.com  
J. COLBY WILLIAMS, ESQ. (5549)  
jcw@cwlawlv.com  
700 South Seventh Street  
Las Vegas, Nevada 89101  
Telephone: (702) 382-5222  
Facsimile: (702) 382-0540

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

JOSHUA RAMOS, aka ERNESTO  
JOSHUA RAMOS, an individual

Plaintiff,

vs.

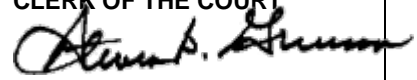
DANA WHITE, an individual; UFC  
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FIGHTING CHAMPIONSHIP; DOES I  
through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive

Defendants.

CASE NO.: A-20-813230-C  
DEPT. NO.: XXIX

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANTS' MOTION  
TO DISMISS COMPLAINT  
PURSUANT TO NRCP 12(b)(5)**

Electronically Filed  
10/20/2020 9:15 AM  
Steven D. Grierson  
CLERK OF THE COURT



PLEASE TAKE NOTICE that an Order Granting Defendants' Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5) was entered in the above-captioned matter on October 19, 2020, a true and correct copy of which is attached hereto.

DATED this 20th day of October, 2020.

CAMPBELL & WILLIAMS

By: /s/ J. Colby Williams

DONALD J. CAMPBELL, ESQ. (1216)

J. COLBY WILLIAMS, ESQ. (5549)

700 South Seventh Street

Las Vegas, Nevada 89101

*Attorneys for Defendants*

*Dana White, Zuffa, LLC*

*and UFC Holdings, LLC*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Campbell & Williams, and that on this 20th day of October, 2020 I caused the foregoing document entitled **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT PURSUANT TO NRCP 12(b)(5)** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

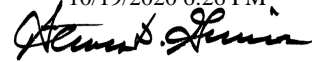
LAW OFFICE OF IAN CHRISTOPHERSON

Ian Christopherson, Esq.  
600 South Third Street  
Las Vegas, Nevada 89101  
Tel: (702)372-9649  
Email: [icl原因44@gmail.com](mailto:icl原因44@gmail.com)

*Attorney for Plaintiff, Joshua Ramos*

By: /s/ John Y. Chong  
An employee of Campbell & Williams



  
CLERK OF THE COURT

CAMPBELL & WILLIAMS  
DONALD J. CAMPBELL, ESQ. (1216)  
dj@cwlawlv.com  
J. COLBY WILLIAMS, ESQ. (5549)  
jcw@cwlawlv.com  
700 South Seventh Street  
Las Vegas, Nevada 89101  
Telephone: (702) 382-5222  
Facsimile: (702) 382-0540

*Attorneys for Defendants  
Dana White, Zuffa, LLC  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSHUA RAMOS, aka ERNESTO  
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Defendants.

CASE NO.: A-20-813230-C  
DEPT. NO.: XXIX

**ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS COMPLAINT  
PURSUANT TO NRCP 12(b)(5)**

Defendants' Motion to Dismiss Complaint Pursuant to NRCP 12(b)(5) came on for hearing on October 7, 2020. Defendants were represented by Donald J. Campbell and J. Colby Williams of Campbell & Williams. Plaintiff was represented by Ian Christopherson of Christopherson Law Offices. Having considered Defendants' motion, Plaintiff's opposition, Defendants' reply, and oral argument presented at the time of hearing; with good cause appearing therefore, the Court hereby enters the following order granting the motion.

**A. Governing Standards Under NRCP 12(b)(5).**

Dismissal under NRCP 12(b)(5) is only appropriate where “it appears beyond a doubt that [plaintiff] could not prove a set of facts which, if true, would entitle [plaintiff] to relief.” *Torres v. Nevada Direct Ins. Co.*, 131 Nev. 531, 541, 353 P.3d 1203, 1210 (2015) (citing *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008)). When assessing a motion to dismiss for failure to state a claim upon which relief may be granted, the Court construes the pleadings liberally, draws every reasonable inference in favor of the non-moving party, *see Lubin v. Kunin*, 117 Nev. 107, 110 n.1, 17 P.3d 422, 425 n.1 (2001), and treats all well-pleaded factual allegations as true. *Vacation Village v. Hitachi Am.*, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994) (citing *Capital Mortgage Holding v. Hahn*, 101 Nev. 314, 315, 705 P.2d 126, 126 (1985)).

In addition to the foregoing standards, “the court may take into account matters of public record . . . when ruling on a motion to dismiss for failure to state a claim upon which relief can be granted,” *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993), and can likewise “consider a document outside the pleadings if (1) the complaint refers to the document, (2) the document is central to the complainant’s claim, and (3) no party questions the authenticity of the document.” *Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015).

**B. Facts Alleged in the Complaint, Incorporated by Reference, and Subject to Judicial Notice.**

1. Plaintiff Joshua Ramos (“Mr. Ramos”) is an individual residing in Clark County, Nevada. *See* Compl. ¶ 1. Defendant Dana White (“Mr. White”) is the President of Defendant Zuffa, LLC (“Zuffa”), which does business as the Ultimate Fighting Championship® (“UFC”). *Id.* ¶ 2. Zuffa is a Nevada limited liability company, *id.* ¶ 3, and UFC is the leading promoter of professional mixed martial arts contests in the world. Mr. Ramos has also named UFC Holdings, LLC as a defendant. *Id.* ¶ 2. Defendants have provided records as part of their motion suggesting



that UFC Holdings, LLC is a Delaware limited liability company that was formed on July 27, 2016, which is after the events alleged in the complaint. The Court need not take judicial notice on this issue in light of the other bases for its ruling herein.

2. Beginning in or about November 2014 and continuing into early 2015, Mr. Ramos contacted Mr. White on multiple occasions using the parties' cellular telephones. *See* Compl. ¶¶ 16-17. During these communications, Mr. Ramos conveyed information to Mr. White both in writing and in video format that caused Mr. White to contact legal counsel. *Id.* ¶¶ 16-18. Mr. White and his counsel thereafter arranged a meeting with federal law enforcement officials to report Mr. Ramos' conduct. *Id.* ¶¶ 18-20; 26. Special agents from the Federal Bureau of Investigation opened a case file and proceeded to monitor Mr. Ramos' continued contacts with Mr. White. *Id.* ¶¶ 35-36.

3. In or about early January 2015, Mr. Ramos ultimately demanded that Mr. White pay him \$200,000 in cash in exchange for Mr. Ramos' agreement not to release a videotape and to provide Mr. White with all copies thereof. *See* Compl. ¶¶ 43-47. FBI agents continued to monitor Ramos' communications with Mr. White, and received court-approval to conduct electronic surveillance of scheduled in-person meetings between Ramos and Mr. White. *See id.* Ramos and Mr. White met in early January 2015 during which Ramos accepted \$200,000 in cash per his prior demands, and provided Mr. White with a copy of the videotape. *See id.* Special Agent James Mollica arrested Ramos shortly after he left the meeting with Mr. White. *Id.*

4. The United States Attorney's Office for the District of Nevada, through the sitting grand jury, indicted Mr. Ramos on September 22, 2015 for use of an interstate facility (*i.e.*, a cellular telephone) with the intent to carry on extortion. *See* Compl. ¶ 55.<sup>1</sup> Mr. Ramos, through

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<sup>1</sup> *See also* Criminal Docket Sheet for *United States v. Ramos*, Case No. 2:15-cr-00267-GMN-CWH, a true and correct copy of which was attached to the motion as Exhibit 2. The Court takes judicial notice of this record and Mr. Ramos' criminal proceedings. *See Breliant; Baxter, supra*;

1 criminal defense counsel, and Assistant United States Attorney (now Magistrate Judge) Carla  
2 Higginbotham entered into a stipulated protective order whereby the parties agreed to keep the  
3 victim's name and related information confidential. *Id.* ¶¶ 49-50; 52; 57.<sup>2</sup> Former Magistrate  
4 Judge Hoffman entered the order on October 5, 2015. *See* Mot., Ex. 2 (ECF No. 40). According  
5 to Mr. Ramos, the protective order was effective only for the duration of the criminal proceedings,  
6 after which he would be free to speak publicly. *See* Compl. ¶¶ 57; 62; 64; 76. On October 27,  
7 2015, Mr. Ramos and the United States Attorney's Office notified the district court that they had  
8 reached a plea agreement. *See* Mot., Ex. 2 (ECF No. 41). On November 3, 2015, Mr. Ramos—  
9 after being sworn and canvassed by United States District Court Judge Gloria Navarro—plead  
10 guilty to Count 1 in the Indictment. *See* Compl. ¶¶ 74-75; *see also* Mot., Ex. 2 (ECF Nos. 43; 67).

11  
12 5. During the pendency of Mr. Ramos' criminal proceedings, Mr. White and Mr.  
13 Ramos, through counsel, agreed to participate in a mediation to determine whether the parties  
14 could reach agreement on a potential non-disclosure agreement whereby Mr. Ramos would  
15 continue to maintain confidentiality regarding Mr. White's identity as the victim of Mr. Ramos'  
16 criminal conduct after the conclusion of the criminal proceedings. *See* Compl. ¶¶ 61; 63-65. Mr.  
17 Ramos alleges he had a subjective understanding from his counsel—which admittedly may have  
18 been incorrect—that Mr. White would pay him an amount approaching or exceeding one million  
19 dollars for a non-disclosure agreement. *Id.* ¶ 68. The mediation occurred on April 5, 2016. *Id.* ¶¶  
20 66; 69; 77. Mr. White failed to offer Mr. Ramos any amount of money at the mediation, although  
21 he allegedly did make an offer to Jane Doe (Mr. Ramos' then-girlfriend) who was also  
22  
23  
24

25 *see also Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009) (court can take judicial  
26 notice of related criminal proceedings in appropriate circumstances, especially where the matters  
are closely related).

27 <sup>2</sup> A true and correct copy of the Stipulation and Order for Protective Order Pursuant to Fed. R.  
28 Crim. Pro. 16(d)(1) and 18 U.S.C. § 3771 was attached to the motion as Exhibit 3. The Court  
takes judicial notice of this document based on the same authorities identified in footnote 1, *supra*.

1 participating in the mediation. *Id.* ¶¶ 6; 78; 91; 113. The mediation, thus, ended unsuccessfully  
2 as “no figure was agreed upon.” *Id.* ¶ 111.

3 6. In the months following the April 5 mediation, Mr. Ramos alleges that Mr. White  
4 eventually offered him and Jane Doe a combined amount of \$450,000 for a post-criminal  
5 proceedings non-disclosure agreement. *See* Compl. ¶ 101. Mr. Ramos did not accept the offer.

6 7. In late June 2016, Mr. Ramos filed an emergency motion to continue his sentencing  
7 so that he could substitute in new counsel and withdraw his guilty plea. *See* Compl. ¶ 79; Mot.,  
8 Ex. 2 (ECF Nos. 53-54). Chief Judge Navarro denied Mr. Ramos’ motion, and sentenced him to  
9 366 days in prison. *Id.*; *see also* Mot., Ex. 2 (ECF Nos. 56-60; 62). According to Mr. Ramos,  
10 Judge Navarro’s ruling confirmed that the parties’ negotiations regarding a potential non-  
11 disclosure agreement were independent from the criminal proceedings. *Id.* Ramos filed an appeal  
12 challenging the denial of his desire to change his plea, which was ultimately dismissed by the  
13 United States Court of Appeals for the Ninth Circuit in early-March 2017. *See* Mot., Ex. 2 (ECF  
14 Nos. 65, 72; 77-79). Mr. Ramos self-surrendered to start serving his sentence on March 28, 2017.  
15 *Id.* (ECF No. 76). After completing a period of supervised release, Mr. Ramos filed this action on  
16 April 3, 2020—nearly four years from the date of the parties’ failed mediation.

17  
18  
19 **C. Mr. Ramos’ Complaint Fails to State a Claim Upon Which Relief Can Be Granted.**

20 Mr. Ramos has asserted the following four causes of action against all Defendants: (1)  
21 breach of contract; (2) contractual breach of the implied covenant of good faith and fair dealing;  
22 (3) tortious breach of the implied covenant of good faith and fair dealing; and (4) unjust  
23 enrichment. The Court addresses each in turn.

24  
25 **1. Breach of Contract**

26 Mr. Ramos alleges that he and Mr. White orally agreed to attend a mediation, that all parties  
27 “understood” White would pay Ramos a “substantial” amount of compensation in exchange for a  
28 non-disclosure agreement, and that Mr. White breached the parties’ agreement by not offering to

1 pay Mr. Ramos anything at the mediation. *See* Compl. ¶¶ 81-93. Even treating Mr. Ramos’ factual  
2 allegations as true and drawing every reasonable inference in Mr. Ramos’ favor, he has not stated  
3 a claim for breach of contract. Indeed, the allegations of the complaint expressly plead Ramos out  
4 of any viable contract claim. *See Sprewell v. Golden State Warriors*, 266 F.3d 979, 988-89 (9th Cir.  
5 2001) (a plaintiff “can . . . plead himself out of a claim[.]”).

6 “Basic contract principles require, for an enforceable contract, an offer and acceptance,  
7 meeting of the minds, and consideration.” *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257  
8 (2005). A meeting of the minds exists when the parties have agreed upon the contract’s essential  
9 terms. *Roth v. Scott*, 112 Nev. 1078, 1083, 921 P.2d 1262, 1265 (1996). “With respect to contract  
10 formation, preliminary negotiations do not constitute a binding contract unless the parties have agreed  
11 to all material terms.” *May*, 121 Nev. at 672, 119 P.3d at 1257. “A valid contract cannot exist when  
12 material terms are lacking or are insufficiently certain and definite” as “[t]he court must be able to  
13 ascertain what is required of the respective parties.” *Id.* “A breach of contract claim that fails to  
14 allege facts sufficient to show that an enforceable contract existed between the parties is subject to  
15 dismissal.” *Abu Dhabi Commercial Bank v. Morgan Stanley & Co., Inc.*, 651 F. Supp. 2d 155, 173  
16 (S.D.N.Y. 2009).

17 Mr. Ramos alleges multiple times that Mr. White never offered him any amount of money at  
18 the mediation in exchange for a potential non-disclosure agreement. *See* Compl. ¶¶ 78; 91; 113. The  
19 mediation, thus, ended unsuccessfully as “no figure was agreed upon.” *Id.* ¶ 111. These  
20 allegations constitute binding judicial admissions, *see Reyburn Lawn & Landscape Designers, Inc.*  
21 *v. Plaster Dev. Co., Inc.*, 127 Nev. 331, 343, 255 P.3d 268, 278 (2011) (“concessions in pleadings  
22 are judicial admissions”) (quotation omitted), and unequivocally establish that the parties never  
23 had a meeting of the minds on the essential contract term of price. *See, e.g., Nevada Power Co. v.*  
24 *Public Util. Comm’n*, 122 Nev. 821, 839-40, 138 P.3d 486, 489-90 (2006) (“When essential terms  
25 such as [price] have yet to be agreed upon by the parties, a contract cannot be formed”); *Certified*  
26  
27  
28

1 *Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 378-79, 283 P.3d 250, 255 (2012) (affirming  
2 district court’s conclusion that no enforceable contract existed where the parties had not agreed to  
3 price and scope of work terms); *Roth*, 112 Nev. at 1083, 921 P.2d at 1265 (where parties had not  
4 agreed to essential terms of the high-low bracket amounts, there was no contract for binding  
5 arbitration).

6 The lack of material terms in Mr. Ramos’ alleged contract renders it impossible for this  
7 Court “to ascertain what is required of the respective parties.” *May*, 121 Nev. at 672, 119 P.3d at  
8 1257. To begin, Mr. Ramos repeatedly acknowledges the parties never agreed on a payment amount.  
9 That Mr. Ramos had a subjective belief the payment would be “substantial” does not constitute a  
10 meeting of the minds. “Contractual intent is determined by the objective meaning of the words and  
11 conduct of the parties under the circumstances, not any secret or unexpressed intention or  
12 understanding of one or more parties to the contract.” Nev. J.I. 13.7 (Formation; Contractual Intent).  
13 Nor is there any way to ascertain what is meant by “substantial” as this word obviously can have  
14 different meanings to different people.  
15

16 Mr. Ramos argues in his opposition that Defendants breached an agreement to mediate by  
17 failing to offer him anything on the day of the mediation, which Mr. Ramos contends is “bad faith.”  
18 Nevada law, however, does not recognize an alleged agreement to negotiate in good faith as it  
19 constitutes an unenforceable agreement to agree. *See, e.g., Verifone, Inc. v. A Cab, L.L.C.*, 2017 WL  
20 2960519, at \*3 (D. Nev. July 7, 2017) (citing *Kohlmoos Enterprises v. Pines, LLC*, 129 Nev. 1131,  
21 2013 WL 5476860, at \*1 (Nev. Sept. 26, 2013) (“Nevada abides by traditional jurisprudence that  
22 agreements to agree are generally too indefinite to enforce as final agreements” and declining to  
23 recognize “the enforceability of a preliminary agreement that requires the parties to negotiate in  
24 good faith.”); *Bond Mfg. Co., Inc. v. Ashley Furniture Indus., Inc.*, 2018 WL 1511717 (D. Nev.  
25 Mar. 27, 2018); *City of Reno v. Silver State Flying Serv.*, 84 Nev. 170, 438 P.2d 257 (1968) (“An  
26 agreement to agree at a future time is nothing and will not support an action for damages.”).  
27  
28

At best, Mr. Ramos and Defendants had a preliminary agreement to attend a mediation at which they would negotiate over the price to be paid for a post-criminal proceeding non-disclosure agreement. According to the complaint and Mr. Ramos' opposition, the parties performed the preliminary agreement by attending the mediation, *see* Opp'n at 5:17-20; 7:4-6, but it ended without a resolution. Obviously disappointed he did not achieve his desired result, Mr. Ramos now asserts a breach claim based on the way Defendants negotiated during the mediation. Nevada, however, does not recognize the enforceability of preliminary agreements requiring the parties to negotiate in good faith, and for good reason.

While Mr. Ramos may be disappointed that Defendants did not offer him anything during the mediation on April 5, 2016, parties in Defendants' shoes could be just as disappointed with what they view to be unreasonably high monetary demands of a plaintiff. Extreme positions taken by parties on the opposite sides of issues occur in mediations every day in Nevada and around the country. If such differences in viewpoint and negotiating style gave rise to independent causes of action for breaching a mediation agreement, no one would ever agree to mediate which would undermine the entire purpose of alternative dispute resolution and overburden an already-taxed judicial system. Moreover, the reality is that many initial mediations are unsuccessful and require the parties to engage in subsequent negotiations. Mr. Ramos alleges that is exactly what happened here: "Defendants continued to negotiate after that [mediation] date, and eventually offered a total amount to Ramos and Doe of \$450,000." Opp'n at 7:17-18; Compl. ¶ 101. That Ramos did not accept this offer only reinforces there was no meeting of the minds between him and Defendants and, accordingly, no enforceable contract. With no enforceable contract, the breach of contract claim fails.

2. Breach of the Implied Covenant of Good Faith and Fair Dealing  
(Contractual and Tortious).

Mr. Ramos' second and third causes of action for contractual and tortious breach of the implied covenant of good faith and fair dealing cannot survive in the absence of a viable contract. *See Nev. J.I. 13.43* (requiring "[t]hat the plaintiff and the defendant entered into a valid contract" as the first element of a claim for contractual breach of the implied covenant); *Nev. J.I. 13.44* (same requirement for tortious breach of the implied covenant). Without a valid contract, which Mr. Ramos has failed to plead here for reasons addressed above, his derivative claims for breach of the implied covenant likewise fail and must likewise be dismissed. *See, e.g., Greenstein v. Wells Fargo Bank, N.A.*, 2017 WL 1173916, at \*1 (D. Nev. Mar. 29, 2017) ("[w]ithout a contract, Greenstein's claims for breach of contract and breach of the implied covenant fail."); *Walker v. Venetian Casino Resort, LLC*, 2012 WL 4794149, at \*11 (D. Nev. Oct. 9, 2012) ("[s]ince Plaintiffs have not demonstrated that an enforceable [ ] contract existed . . . [they] cannot maintain their claim for breach of the implied covenant of good faith and fair dealing.").

Mr. Ramos' claim for tortious breach of the implied covenant must be dismissed for the independent reason that he has nowhere plead "there was a special element of reliance or trust between [Mr. Ramos and Mr. White], such that, [Mr. White] was in a superior position or entrusted position of knowledge." *See Nev. J.I. 13.44* (recounting second element of claim for tortious breach of the implied covenant). A claim for tortious breach of the implied covenant has been recognized in limited circumstances such as in the insurer-insured context or in fiduciary relationships. *See, e.g., Shannon v. ReconTrust Co.*, 2012 WL 1695664, at \*4 (D. Nev. May 11, 2012) (dismissing claim for tortious breach of the implied covenant where there was no underlying contract and, in any event, no fiduciary relationship existed between the parties). No such special relationship has been alleged here.

### 3. Unjust Enrichment

Lastly, Mr. Ramos alleges his “silence” regarding the events surrounding his criminal conduct enabled the UFC to be sold in July 2016 for more than \$4 billion. *See* Compl. ¶¶ 114-18. Mr. Ramos specifically contends Defendants were unjustly enriched because they “obtained” his silence and “enjoyed and retained” the benefit thereof by virtue of the company’s sale or the sale price not being affected by potential negative publicity. *Id.* Mr. Ramos seeks damages in an amount attributable to “the value of the UFC at the time of the sale enhanced by the non-disclosure.” *Id.* at 14:14-16. This claim fails for several reasons.

“Unjust enrichment is the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience.” *Topaz Mut. Co. v. Marsh*, 108 Nev. 845, 856, 839 P.2d 606, 613 (1992) (quoting *Nevada Industrial Dev. v. Benedetti*, 103 Nev. 360, 363 n.2, 741 P.2d 802, 804 n.2 (1987)). The essential elements of unjust enrichment “are a benefit conferred on the defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance and retention by the defendant of such benefit.” *Id.* (quoting *Unionamerica Mtg. v. McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981)). Unjust enrichment is an equitable claim that implies a “quasi-contract.” *Hunt v. Zuffa, LLC*, 361 F. Supp. 3d 992, 1008 (D. Nev. 2019).

As a threshold matter, Ramos does not allege that any Defendant retained “money or property *of another* against the fundamental principles of equity and good conscience.” *Topaz, supra* (emphasis added). After all, the value of the UFC—regardless of any allegation about an “enhanced” sales price due to non-disclosure—has never belonged to Mr. Ramos. *See State, Dep’t of Taxation v. Chrysler Grp. LLC*, 129 Nev. 274, 281 n.4, 300 P.3d 713, 717 n.4 (2013) (“We also reject Chrysler’s unjust enrichment argument because the sales tax paid to the State never belonged to Chrysler.”). Thus, insofar as Mr. Ramos seeks unjust enrichment damages “based on the value of the UFC at the time of sale,” his request is legally untenable.



That leaves Mr. Ramos trying to plead a claim for unjust enrichment based on Defendants’ alleged “unjust retention of a benefit to the loss of another.” *Topaz, supra*. Here, the alleged benefit is Mr. Ramos’ silence. *See* Compl. ¶ 117. But Mr. Ramos’ allegations in the complaint (and as also acknowledged in his opposition and confirmed by the judicially noticeable facts) indisputably establish that Mr. Ramos’ silence during the criminal proceedings—from at least October 5, 2015 through March 2017 when his appeal was dismissed—stemmed directly from a protective order entered by Magistrate Judge Hoffman in that case. *Id.* ¶¶ 49-50; 52; 57; 62; 64; and 76; *see also* Mot., Ex. 2 (ECF Nos. 40; 60; and 72) and Ex. 3. It has been settled law for more than eight decades that a person is not entitled to restitution through unjust enrichment by simply performing an independent legal obligation. *See* Restatement (First) of Restitution § 60 cmt. a (1937) (“If a person does an act which it is his legal duty to do, whether such duty is enforceable at law or in equity, he is not entitled to restitution, irrespective of the cause of the act.”) (updated through June 2020); *see also id.* § 106 (instructing that “[a] person who, incidentally to the performance of his own duty or to the protection or the improvement of his own things, has conferred a benefit upon another, is not thereby entitled to contribution.”).

Multiple courts have relied on the foregoing principles when granting dispositive motions on unjust enrichment claims. *See, e.g., Allegheny Gen. Hosp. v. Philip Morris, Inc.*, 228 F.3d 429, 446-48 (3d Cir. 2000) (affirming dismissal of unjust enrichment claim where plaintiff hospitals had an independent legal obligation to provide healthcare to nonpaying patients such that any benefit to defendant tobacco companies was incidental to the hospitals’ own duty); *Oregon Laborers-Employers Health & Welfare Tr. Fund v. Philip Morris, Inc.*, 185 F.3d 957, 968-69 (9th Cir. 1999) (“because plaintiffs had an independent obligation to pay the smokers’ medical expenses, they cannot maintain an action for unjust enrichment against defendants just because defendants were incidentally benefitted.”); *Chem-Nuclear Sys., Inc. v. Arivee Chemicals, Inc.*, 978 F. Supp. 1105, 1110-11 (N.D. Ga. 1997) (plaintiff under an administrative order to remediate

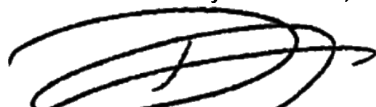
property could not pursue unjust enrichment claim against defendant who would incidentally benefit from the clean-up); *Hobart Corp. v. Waste Mgmt. of Ohio, Inc.*, 840 F. Supp. 2d 1013, 1036-37 (S.D. Ohio 2011) (dismissing unjust enrichment claim where settlement agreement imposed obligation on plaintiff to remediate site such that any benefit to defendant accrued by virtue of plaintiff's performance of its own legal duty).

During the time leading up to the announcement of UFC's sale in early-July 2016 (and continuing through the Ninth Circuit's dismissal of his appeal in March 2017), Mr. Ramos was subject to a court order that required him to maintain confidentiality regarding the identity of his victim. Because he had an independent obligation not to disclose this information, any alleged benefit to Defendants was incidental to Mr. Ramos' performance of his own legal duty. The parties' failed negotiations over a non-disclosure agreement that would have applied *after* the criminal proceedings concluded has no impact on this issue as it never came to fruition, and Mr. Ramos has now disclosed the subject information through this lawsuit, thus rendering any alleged benefit nonexistent. The unjust enrichment claim, accordingly, fails as a matter of law.

THEREFORE, IT IS HEREBY ORDERED that Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5) is GRANTED. Given the concessions made in the complaint and the judicially noticeable facts identified herein, the dismissal is with prejudice.

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

Dated this 19th day of October, 2020



DISTRICT COURT JUDGE  
THE HONORABLE DAVID M. JONES

Submitted by:  
CAMPBELL & WILLIAMS

FD8 1B8 5BC1 CF74  
David M Jones  
District Court Judge

By: /s/ J. Colby Williams  
DONALD J. CAMPBELL, ESQ. (1216)  
J. COLBY WILLIAMS, ESQ. (5549)  
*Attorneys for Defendants*  
*Dana White, Zuffa, LLC*  
*and UFC Holdings, LLC*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Joshua Ramos, Plaintiff(s)

CASE NO: A-20-813230-C

7 vs.

DEPT. NO. Department 29

8 Dana White, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 10/19/2020

15 Donald Campbell	djc@cwlawlv.com
16 Jon Williams	jcw@cwlawlv.com
17 Philip Erwin	pre@cwlawlv.com
18 Samuel Mirkovich	srm@cwlawlv.com
19 Matthew Wagner	maw@cwlawlv.com
20 John Chong	jyc@cwlawlv.com
21 Natasha Smith	natasha@flangaslawfirm.com
22 Crystal Balaoro	cbb@cwlawlv.com
23 AMBER ROBERTSON	AMBERR1@MAC.COM
24 ian christopherson	iclaw44@gmail.com
25	
26	
27	
28	