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IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 19 2021 09:58 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

PIERRE A. HASCHEFF,

Supreme Court No. 82626

District Court Case No. DV13-00656

Appellant/Cross-
Respondent,

vs.

LYNDA HASCHEFF,

Respondent/Cross-
Appellant.

APPELLANT'S APPENDIX

(Volume 4)

(591-749)

STEPHEN S. KENT, ESQ.
Nevada State Bar No. 1251
GORDON REES SCULLY
MANSUKHANI
201 W. Liberty St., Suite 320
Reno, Nevada 89501
Telephone: (775) 324-9800
Email: skent@grsm.com
Attorneys for Appellant/
Cross-Respondent

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28.	Notice of Entry of Order Filed February 10, 2021	726-744 (Vol. 4)
29.	Notice of Appeal Filed March 10, 2021	745-746 (Vol. 4)
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18.	Order After Status Hearing Entered December 9, 2020	287-291 (Vol. 2)
27.	Order Granting Motion for Clarification or Declaratory Relief; Order Denying Motion for Order to Enforce and/or for an Order to Show Cause; Order Denying Request for Attorney's Fees and Costs Entered February 1, 2021	555-569 (Vol. 3)
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20.	Pierre Hascheff's Hearing Statement Filed December 17, 2020	294-325 (Vol. 2)
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25.	Transcript of Proceedings Evidentiary Hearing Held December 21, 2020	435-546 (Vol. 4)
1.	Verified Complaint for Divorce - No Property, No Children Filed April 15, 2013	001-004 (Vol. 1)

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By placing the document(s) in a sealed envelope with first-class US. Postage prepaid, and depositing for mailing at Reno, Nevada, addressed to the person at the last known address as set forth below.

X

Debbie A. Leonard, Esq.
Nevada State Bar No. 8260
Leonard Law, PC
955 S. Virginia Street, Suite 220
Reno, Nevada 89502
Attorneys for Respondent/
Cross-Appellant

DATED this 19th day of November, 2021.

Holly Mitchell



Second Judicial District Court
State of Nevada
Washoe County

Electronic Filing

Case Summary for Case: DV13-00656

SEALED PIERRE A. HASCHEFF VS LYNDIA HASCHEFF (D12)

Case Number	DV13-00656	Plaintiff	PIERRE A HASCHEFF
Case Type	DIVORCE - WITHOUT CHILDREN	Defendant	LYNDIA L HASCHEFF
Opened	04-15-2013	Judge	HONORABLE SANDRA UNSWORTH - Division D12
Status	DISPOSED		

Show/Hide Participants

File Date

Case History

04-20-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8403089 - Approved By: NOREVIEW : 04-20-2021:09:52:00</p> <p>Transcript - Sealed Filed Document withheld. Document Security Level Exceeded</p>
03-29-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8365701 - Approved By: NOREVIEW : 03-29-2021:13:52:58</p> <p>Supreme Court Receipt for Doc Filed Supreme Court Receipt for Doc SUPREME COURT NO. 82626 / RECEIPT FOR DOCUMENTS - Transaction 8365691 - Approved By: NOREVIEW : 03-29-2021:13:52:01</p>
03-19-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8352529 - Approved By: NOREVIEW : 03-19-2021:16:31:51</p> <p>District Ct Deficiency Notice Filed District Ct Deficiency Notice NOTICE OF APPEAL DEFICIENCY - SUPREME COURT FILING FEES (DUE TO PUBLIC CLOSURE OF COURTHOUSE AND APPEALS CLERK UNABLE TO RECEIVE FEE) SUPREME COURT WILL SEND A NOTICE TO PAY ONCE APPEAL IS RECEIVED - Transaction 8352527 - Approved By: NOREVIEW : 03-19-2021:16:30:51</p>
03-19-2021	<p>Certificate of Clerk Filed Certificate of Clerk CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8352527 - Approved By: NOREVIEW : 03-19-2021:16:30:51</p>
03-19-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8351062 - Approved By: NOREVIEW : 03-19-2021:09:47:36</p>
03-17-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8348228 - Approved By: NOREVIEW : 03-17-2021:15:38:37</p>
03-17-2021	<p>Supreme Court Receipt for Doc Filed Supreme Court Receipt for Doc SUPREME COURT NO. 82626 / RECEIPT FOR DOCUMENTS - Transaction 8348222 - Approved By: NOREVIEW : 03-17-2021:15:37:33</p>
03-17-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8346375 - Approved By: NOREVIEW : 03-17-2021:08:09:38</p>
03-17-2021	<p>Notice/Appeal Supreme Court Filed by: SHAWN B MEADOR, ESQ. Notice/Appeal Supreme Court Notice of Appeal - Transaction 8345986 - Approved By: YVILORIA : 03-17-2021:08:08:36</p>
03-17-2021	<p>Case Appeal Statement Filed by: SHAWN B MEADOR, ESQ. Case Appeal Statement Case Appeal Statement Transaction 8345986 Approved By: YVILORIA : 03-17-2021:08:08:36 Confidential Exhibit 1</p>
03-11-2021	<p>Notice of Electronic Filing Filed Proof of Electronic Service Transaction 8336968 - Approved By: NOREVIEW : 03-11-2021:08:40:03</p>

District Ct Deficiency Notice

Filed

District Ct Deficiency Notice NOTICE OF APPEAL DEFICIENCY - SUPREME COURT FILING FEES (DUE TO PUBLIC CLOSURE OF COURTHOUSE AND APPEALS CLERK UNABLE TO RECEIVE FEE) SUPREME COURT WILL SEND A NOTICE TO PAY ONCE APPEAL IS RECEIVED - Transaction 8336962 - Approved By: NOREVIEW : 03-11-2021:08:39:14

Certificate of Clerk

Filed

Certificate of Clerk CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8336962 - Approved By: NOREVIEW : 03-11-2021:08:39:14

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8336284 - Approved By: NOREVIEW : 03-10-2021:15:37:38

Request

Filed by: STEPHEN SMILEY KENT, ESQ.

Request REQUEST FOR TRANSCRIPT OF PROCEEDINGS - Transaction 8336182 - Approved By: CSULEZIC : 03-10-2021:15:36:54

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8335533 - Approved By: NOREVIEW : 03-10-2021:12:28:14

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8335420 - Approved By: NOREVIEW : 03-10-2021:12:11:24

Notice/Appeal Supreme Court

Filed by: STEPHEN SMILEY KENT, ESQ.

\$Notice/Appeal Supreme Court Transaction 8335431 - Approved By: YVILORIA : 03-10-2021:12:27:08

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8335392 - Approved By: NOREVIEW : 03-10-2021:12:05:10

Case Appeal Statement

Filed by: STEPHEN SMILEY KENT, ESQ.

Case Appeal Statement Transaction 8335386 - Approved By: NOREVIEW : 03-10-2021:12:03:52

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8332348 - Approved By: NOREVIEW : 03-09-2021:10:29:34

Substitution of Counsel

Filed

Substitution of Counsel STEPHEN KENT, ESQ IN PLACE OF TODD TORVINEN, ESQ FOR PLTF - Transaction 8332340 - Approved By: NOREVIEW : 03-09-2021:10:28:36

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8313912 - Approved By: NOREVIEW : 02-25-2021:13:46:38

Transcript - Sealed

Filed

Document withheld. Document Security Level Exceeded

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8290116 - Approved By: NOREVIEW : 02-10-2021:15:36:07

Notice of Entry of Ord

Filed by: SHAWN B MEADOR, ESQ.

Notice of Entry of Ord Transaction 8290110 - Approved By: NOREVIEW : 02-10-2021:15:34:58
- Continuation

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8273415 - Approved By: NOREVIEW : 02-01-2021:16:07:03

Ord Granting

Filed

Ord Granting ORDER GRANTING MOTION FOR CLARIFICATION OR DECLARATORY RELIEF; ORDER DENYING MOTION FOR ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE; ORDER DENYING REQUEST FOR ATTORNEY'S FEES AND COSTS - Transaction 8273408 - Approved By: NOREVIEW : 02-01-2021:16:06:02

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8229337 - Approved By: NOREVIEW : 01-04-2021:17:05:04

****Confidential Minutes**

Filed

01-04-2021

****Confidential Minutes 12-21 HEARING CC - Transaction 8229137 - Approved By: NOREVIEW : 01-04-2021:17:03:20**
 - Exhibit List

Notice of Electronic Filing

12-18-2020

Filed

Proof of Electronic Service Transaction 8211881 - Approved By: NOREVIEW : 12-18-2020:12:32:01

Statement

Filed by: SHAWN B MEADOR, ESQ.

12-18-2020
Court

Statement ... Defendant's Lynda Hascheff's Hearing Statement - Transaction 8211811 - Approved By: SACORDAG : 12-18-2020:12:29:45
 - Confidential Exhibit 1
 - Confidential Exhibit 2
 - Confidential Exhibit 3

Notice of Electronic Filing

12-17-2020

Filed

Proof of Electronic Service Transaction 8209932 - Approved By: NOREVIEW : 12-17-2020:11:58:00

Errata12-17-2020
Court

Filed

Errata... ERRATA TO PIERRE HASCHEFF'S HEARING STATEMENT - Transaction 8209879 - Approved By: YVILORIA : 12-17-2020:11:56:47
 - Confidential Exhibit 2

Notice

Filed

12-17-2020
Court

Notice ... NOTICE OF EXHIBITS - Transaction 8209879 - Approved By: YVILORIA : 12-17-2020:11:56:47
 - Confidential Exhibit A
 - Confidential Exhibit B
 - Confidential Exhibit C
 - Confidential Exhibit D
 - Confidential Exhibit E
 - Confidential Exhibit F
 - Confidential Exhibit G
 - Confidential Exhibit H
 - Confidential Exhibit I
 - Confidential Exhibit J

Notice of Electronic Filing

12-17-2020

Filed

Proof of Electronic Service Transaction 8209574 - Approved By: NOREVIEW : 12-17-2020:09:56:34

Notice12-17-2020
Court

Filed by: SHAWN B MEADOR, ESQ.

Notice ... DFX: EXHIBITS FILED INCORRECTLY - LYNDA L. HASCHEFF NOTICE OF HEARING WITNESSES AND EXHIBITS - Transaction 8209518 - Approved By: CSULEZIC : 12-17-2020:09:55:30

Notice of Electronic Filing

12-17-2020

Filed

Proof of Electronic Service Transaction 8209473 - Approved By: NOREVIEW : 12-17-2020:09:32:52

Trial Statement

Filed

Trial Statement... PIERRE HASCHEFF'S HEARING STATEMENT Transaction 8209469 - Approved By: NOREVIEW : 12-17-2020:09:31:54
 - EX1
 - EX2
 - EX3
 - EX4
 - EX5
 - EX6

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8209048 - Approved By: NOREVIEW : 12-16-2020:17:02:37

Disclosure of Expert Witness

Filed

Disclosure of Expert Witness PIERRE HASCHEFF'S DISCLOSURE OF WITNESSES Transaction 8209045 - Approved By: NOREVIEW : 12-16-2020:17:01:46

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8196308 - Approved By: NOREVIEW : 12-09-2020:08:52:36

12-09-2020

Ord After Hearing

Filed

Ord After Hearing... ORDER AFTER STATUS CONFERENCE - Transaction 8196005 - Approved By: NOREVIEW : 12-09-2020:08:51:47

12-08-2020

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8194590 - Approved By: NOREVIEW : 12-08-2020:12:37:48

12-08-2020

**Confidential Minutes

Filed

**Confidential Minutes 12-7 HEARING CC - Transaction 8194585 - Approved By: NOREVIEW : 12-08-2020:12:36:56

12-01-2020

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8182955 - Approved By: NOREVIEW : 12-01-2020:09:08:43

12-01-2020

Ord Setting Hearing

Filed

Ord Setting Hearing ORDER SETTING STATUS HEARING - Transaction 8182950 - Approved By: NOREVIEW : 12-01-2020:09:07:34

09-17-2020

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8071684 - Approved By: NOREVIEW : 09-17-2020:09:35:49

09-17-2020
Court

Notice

Filed by: SHAWN B MEADOR, ESQ.

Notice ... NOTICE OF SETTING: DEC 21, 2020, 9:00 AM - Transaction 8071631 - Approved By: YVILORIA : 09-17-2020:09:34:48

09-09-2020

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 8058287 - Approved By: NOREVIEW : 09-09-2020:10:05:33

09-09-2020

Ord Setting Hearing

Filed

Ord Setting Hearing ORDER SETTING MTOION RE: MSA FOR HEARING; ORDER HOLDING IN ABEYANCE MOTION FOR ORDER TO ENFORCE AND OR FOR AN ORDER TO SHOW CAUSE - Transaction 8058279 - Approved By: NOREVIEW : 09-09-2020:10:04:34

07-27-2020

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7988458 - Approved By: NOREVIEW : 07-27-2020:08:02:52

07-27-2020
Court

Reply

Filed

Reply... REPLY TO OPPOSITION TO MOTION FOR ORDER TO SHOW CAUSE, OR IN THE ALTERNATIVE, TO ENFORCE THE COURT'S ORDERS - Transaction 7988178 - Approved By: SACORDAG : 07-27-2020:08:01:50

- Confidential Exhibit 1
- Confidential Exhibit 2
- Confidential Exhibit 3
- Confidential Exhibit 4
- Confidential Exhibit 5
- Confidential Exhibit 6
- Confidential Exhibit 7

Request for Submission

Filed

Request for Submission Transaction 7988178 - Approved By: SACORDAG : 07-27-2020:08:01:50 DOCUMENT TITLE: MOTION FOR ORDER TO SHOW CAUSE, OR IN THE ALTERNATIVE, TO ENFORCE THE COURT'S ORDERS PARTY SUBMITTING: TODD TORVINEN, ESQ DATE SUBMITTED: 07/24/2020 SUBMITTED BY: SJA DATE RECEIVED JUDGE OFFICE:

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7976327 - Approved By: NOREVIEW : 07-17-2020:11:21:15

Opposition to Mtn

Filed by: SHAWN B MEADOR, ESQ.

Opposition to Mtn ... OPPOSITION TO MOTION FOR ORDER TO SHOW CAUSE, OR IN THE ALTERNATIVE TO ENFORCE THE COURT'S ORDERS - Transaction 7976302 - Approved By: CSULEZIC : 07-17-2020:11:20:09

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7967051 - Approved By: NOREVIEW : 07-13-2020:11:10:23

Reply

Filed by: SHAWN B MEADOR, ESQ.

Reply... REPLY IN SUPPORT OF MOTION FOR CLARIFICATION OR FOR DECLARATORY RELIEF REGARDING TERMS OF MSA AND DECREE - Transaction 7966977 - Approved By: BBLOUGH : 07-13-2020:11:09:25

Confidential Exhibit 1

Request for Submission

Filed by: SHAWN B MEADOR, ESQ.

Request for Submission Transaction 7966977 - Approved By: BBLOUGH : 07-13-2020:11:09:25 DOCUMENT TITLE: MOTION FOR CLARIFICATION OR FOR DECLARATORY RELIEF REGARDING TERMS OF MSA AND DECREE (NO ORDER PROVIDED) PARTY SUBMITTING: SHAWN MEADOR, ESE DATE SUBMITTED: JULY 13, 2020 SUBMITTED BY: BBLOUGH DATE RECEIVED JUDGE OFFICE:

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7961157 - Approved By: NOREVIEW : 07-08-2020:15:01:34

Mtn Ord to Show Cause

Filed

Mtn Ord to Show Cause MOTION FOR ORDER TO SHOW CAUSE, OR IN THE ALTERNATIVE, TO ENFORCE THE COURT'S ORDERS - Transaction 7961095 - Approved By: SACORDAG : 07-08-2020:15:00:26

- Confidential Exhibit 1
- Confidential Exhibit 2
- Confidential Exhibit 3
- Confidential Exhibit 4

Errata

Filed

Errata... ERRATA TO OPPOSITION TO MOTION FOR CLARIFICATION OR DECLARATORY RELIEF REGARDING TERMS OF MSA AND DECREE - Transaction 7961095 - Approved By: SACORDAG : 07-08-2020:15:00:26

- Confidential Exhibit 1

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7956918 - Approved By: NOREVIEW : 07-06-2020:16:31:03

Opposition to Mtn

Filed

Opposition to Mtn ... OPPOSITION TO MOTION FOR CLARIFICATION OR DECLARATORY RELIEF REGARDING TERMS OF MSA AND DECREE - Transaction 7956749 - Approved By: YVILORIA : 07-06-2020:16:30:13

- Confidential Exhibit 1
- Confidential Exhibit 2
- Confidential Exhibit 3
- Confidential Exhibit 4

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7951420 - Approved By: NOREVIEW : 07-01-2020:11:46:04

Notice of Appearance

Filed

Notice of Appearance TODD TORVINEN, ESQ FOR PLAINTIFF - Transaction 7951384 - Approved By: SACORDAG : 07-01-2020:11:45:07

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 7928131 - Approved By: NOREVIEW : 06-16-2020:15:13:14

Notice of Appearance

Filed by: SHAWN B MEADOR, ESQ.

Notice of Appearance SHAWN MEADOR, ESQ. obo LYNDIA HASCHEFF - Transaction 7928035 - Approved By: MPURDY : 06-16-2020:15:11:57

Motion

Filed by: SHAWN B MEADOR, ESQ.

Motion ... MOTION FOR CLARIFICATION OR DECLARATORY RELIEF REGARDING TERMS OF MSA AND DECREE - Transaction 7928035 - Approved By: MPURDY : 06-16-2020:15:11:57

- Confidential Exhibit 1
- Confidential Exhibit 2
- Confidential Exhibit 3
- Confidential Exhibit 4
- Confidential Exhibit 5
- Confidential Exhibit 6
- Confidential Exhibit 7
- Confidential Exhibit 8
- Confidential Exhibit 9

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 5215270 - Approved By: NOREVIEW : 11-02-2015:14-02:51

Withdrawal of Counsel

Filed

Withdrawal of Counsel TODD L. TORVINEN, ESQ. & PLIFF HERRICK A. HASCHEFF - Transaction 5215048 - Approved By: YVILORIA : 11-

02-2015:14:01:52

Notice of Electronic Filing

09-15-2015

Filed

Proof of Electronic Service Transaction 5141048 - Approved By: NOREVIEW : 09-15-2015:09:54:00

Notice

09-14-2015

Filed

Notice ... ADDRESS SERVICE NOTIFICATION - Transaction 5140643 - Approved By: TBRITTON : 09-15-2015:09:51:54

Notice of Electronic Filing

07-21-2015

Filed

Proof of Electronic Service Transaction 5055876 - Approved By: NOREVIEW : 07-21-2015:17:06:04

Qualified Dom Relations Order

07-21-2015

Filed

Qualified Dom Relations Order Transaction 5055875 - Approved By: NOREVIEW : 07-21-2015:17:05:12

Notice of Electronic Filing

06-11-2015

Filed

Proof of Electronic Service Transaction 4994591 - Approved By: NOREVIEW : 06-11-2015:10:24:24

Request for Submission

06-10-2015

Court

Filed

Request for Submission QUALIFIED DOMESTIC RELATIONS ORDER RE: PUBLIC EMPLOYEES RETIREMENT SYSTEM OF NEVADA (ORDER ATTACHED AS EXHIBIT) - Transaction 4993667 - Approved By: MCHOLICO : 06-11-2015:10:23:12 PARTY SUBMITTING: TODD TORVINEN, ESQ. DATE SUBMITTED: 06/10/15 SUBMITTED BY: MCHOLICO DATE RECEIVED JUDGE OFFICE:

- Confidential Exhibit 1

Notice of Electronic Filing

02-27-2014

Filed

Proof of Electronic Service Transaction 4323233 - Approved By: NOREVIEW : 02-27-2014:16:34:31

Qualified Dom Relations Order

02-27-2014

Filed

Qualified Dom Relations Order Transaction 4323221 - Approved By: NOREVIEW : 02-27-2014:16:32:47

Notice of Electronic Filing

02-25-2014

Filed

Proof of Electronic Service Transaction 4318722 - Approved By: NOREVIEW : 02-25-2014:14:25:45

Request for Submission

02-25-2014

Court

Filed

Request for Submission QUALIFIED DOMESTIC RELATIONS ORDER (NO PAPER ORDER PROVIDED) - Transaction 4318668 - Approved By: MFERNAND : 02-25-2014:14:24:44 PARTY SUBMITTING: TODD L. TORVINEN, ESQ. DATE SUBMITTED: 02/25/14 SUBMITTED BY: M. FERNANDEZ DATE RECEIVED JUDGE OFFICE:

Notice of Electronic Filing

02-11-2014

Filed

Proof of Electronic Service Transaction 4300695 - Approved By: NOREVIEW : 02-11-2014:14:08:31

Notice

02-11-2014

Court

Filed

Notice ... Transaction 4300421 - Approved By: MELWOOD : 02-11-2014:14:06:55
- Confidential Exhibit 1

Notice of Electronic Filing

12-03-2013

Filed

Proof of Electronic Service Transaction 4170666 - Approved By: NOREVIEW : 12-03-2013:09:41:29

Notice

12-03-2013

Filed

Notice ... Transaction 4170530 - Approved By: ACROGHAN : 12-03-2013:09:32:36
- Confidential Exhibit 1

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4137161 - Approved By: NOREVIEW : 11-15-2013:13:30:18

Decree of Divorce

Filed

Decree of Divorce Transaction 4137157 - Approved By: NOREVIEW : 11-15-2013:13:29:13

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4133567 - Approved By: NOREVIEW : 11-14-2013:11:56:26

Notice Withdrawal of Attorney

Filed by: SHAWN B MEADOR, ESQ.

Notice Withdrawal of Attorney SHAWN MEADOR, ESQ. / LYNDIA HASCHEFF - Transaction 4133241 - Approved By: MCHOLICO : 11-14-2013:11:55:03

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4124489 - Approved By: NOREVIEW : 11-08-2013:14:04:18

Request for Submission

Filed

Request for Submission FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECREE OF DIVORCE (NO PAPER ORDER PROVIDED) - Transaction 4124088 - Approved By: AAKOPYAN : 11-08-2013:14:01:50 PARTY SUBMITTING: TODD TORVINEN, ESQ DATE SUBMITTED: 11/08/2013 SUBMITTED BY: AAKOPYAN DATE RECEIVED JUDGE OFFICE:

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4086083 - Approved By: NOREVIEW : 10-22-2013:16:34:48

Affidavit of Resident Witness

Filed

Affidavit of Resident Witness Transaction 4085149 - Approved By: TWHITE : 10-22-2013:16:22:18

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4062610 - Approved By: NOREVIEW : 10-14-2013:09:32:44

Ord Sealing

Filed

Ord Sealing ... FILE - Transaction 4062601 - Approved By: NOREVIEW : 10-14-2013:09:30:46

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4038865 - Approved By: NOREVIEW : 10-02-2013:16:07:21

Ex-Parte Mtn

Filed

Ex-Parte Mtn... EX PARTE REQUEST FOR ORDER DIRECTING SEALING OF RECORD - Transaction 4038492 - Approved By: MFERNAND : 10-02-2013:16:03:11

Request for Submission

Filed

Request for Submission EX PARTE REQUEST FOR ORDER DIRECTING SEALING OF FILE (NO PAPER ORDER PROVIDED) - Transaction 4038492 - Approved By: MFERNAND : 10-02-2013:16:03:11 PARTY SUBMITTING: TODD L. TORVINEN, ESQ. DATE SUBMITTED: 10/02/13 SUBMITTED BY: M. FERNANDEZ DATE RECEIVED JUDGE OFFICE:

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 4030536 - Approved By: NOREVIEW : 09-30-2013:11:34:43

Agreement

Filed

Agreement... MARITAL SETTLEMENT AGREEMENT - Transaction 4030260 - Approved By: YLLOYD : 09-30-2013:11:32:09 - Confidential Exhibit 1

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3995977 - Approved By: NOREVIEW : 09-13-2013:15:06:34

**Confidential Minutes

Filed

**Confidential Minutes 6/20/13 CASE MANAGEMENT CONFERENCE - Transaction 3995970 - Approved By: NOREVIEW : 09-13-2013:15:04:52

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3806959 - Approved By: NOREVIEW : 06-21-2013:16:39:59

Ord After Case Mgt Conference

Filed

Ord After Case Mgt Conference Transaction 3806949 - Approved By: NOREVIEW : 06-21-2013:16:37:03

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3788945 - Approved By: NOREVIEW : 06-14-2013:10:28:12

Case Mgt Conf Stmt/No Childrn

Filed

Document withheld. Document Security Level Exceeded

6/16/2021

Case Summary

- Confidential Document

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3788676 - Approved By: NOREVIEW : 06-14-2013:09:26:43

Divorce Case Mgt Conf Statmnt

Filed by: SHAWN B MEADOR, ESQ.

Divorce Case Mgt Conf Statmnt Transaction 3788624 - Approved By: HBROWN : 06-14-2013:09:22:50

Financial Declaration

Filed by: SHAWN B MEADOR, ESQ.

Financial Declaration ... Transaction 3788624 - Approved By: HBROWN : 06-14-2013:09:22:50

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3715141 - Approved By: NOREVIEW : 05-09-2013:12:10:28

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3715133 - Approved By: NOREVIEW : 05-09-2013:12:08:19

Notice of Case Mgt Conference

Filed by: SHAWN B MEADOR, ESQ.

Notice of Case Mgt Conference Transaction 3715051 - Approved By: LBARRAGA : 05-09-2013:12:06:35

Answer and Counterclaim

Filed by: SHAWN B MEADOR, ESQ.

Answer and Counterclaim LYNDIA L HASCHEFF - Transaction 3714850 - Approved By: YLLOYD : 05-09-2013:12:08:16

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3686465 - Approved By: NOREVIEW : 04-25-2013:14:47:16

Acceptance of Service

Filed

Acceptance of Service SHAWN MEADOR, ESQ. ACCEPTED SERVICE FOR LYNDIA HASCHEFF ON 04/24/13 - Transaction 3686362 - Approved By: MCHOLICO : 04-25-2013:14:43:13

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3671678 - Approved By: NOREVIEW : 04-18-2013:15:48:47

Notice of Entry of Ord

Filed

Notice of Entry of Ord Transaction 3671635 - Approved By: NOREVIEW : 04-18-2013:15:42:27

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3666597 - Approved By: NOREVIEW : 04-17-2013:11:55:09

Ex-Parte Ord

Filed

Ex-Parte Ord... MUTUAL FINANCIAL RESTRAINING - Transaction 3666561 - Approved By: NOREVIEW : 04-17-2013:11:50:15

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3665791 - Approved By: NOREVIEW : 04-17-2013:09:38:45

Family Court Info Sheet

Filed

Document withheld. Document Security Level Exceeded

Notice of Electronic Filing

Filed

Proof of Electronic Service Transaction 3661017 - Approved By: NOREVIEW : 04-15-2013:14:55:13

Ex-Parte Mtn

Filed

Ex-Parte Mtn... EX PARTE MOTION FOR MUTUAL FINANCIAL RESTRAINING ORDER - Transaction 3660991 - Approved By: LBARRAGA : 04-15-2013:14:52:19

Request for Submission

Filed

Request for Submission Transaction 3660991 - Approved By: LBARRAGA : 04-15-2013 14:52:19 DOCUMENT TITLE: EX PARTE MOTION FOR MUTUAL FINANCIAL RESTRAINING ORDER (PAPER ORDER PROVIDED) PARTY SUBMITTING: TODD L. TORVINEN, ESQ. DATE SUBMITTED: APRIL 15, 2013 SUBMITTED BY: LBARRAGA DATE RECEIVED JUDGE OFFICE:

6/16/2021

Case Summary

Court

Financial Declaration

Filed

Financial Declaration ... GENERAL FINANCIAL DISCLOSURE FORM

08-15-2013

Court

Complaint-Divorce No Children

Filed

\$Complaint-Divorce No Children

1 Code #4185

2 SUNSHINE REPORTING SERVICES
3 151 Country Estates Circle
4 Reno, Nevada 89511
5 775-323-3411

6 IN THE FAMILY DIVISION OF THE
7 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9 HONORABLE SANDRA UNSWORTH, DISTRICT JUDGE

10 -oOo-

11 PIERRE A. HASCHEFF,
12 Plaintiff,

Case No. DV13-00656

Dept. 12

13 vs.

14 LYNDIA HASCHEFF,
15 Defendant.

16
17
18 *** SEALED ***

19 TRANSCRIPT OF PROCEEDINGS

20 EVIDENTIARY HEARING

21 December 21, 2020

22 Reno, Nevada

23
24 REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

25 Job No. 702570

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22 Also present:

23 PIERRE HASCHEFF
24 LYNDA HASCHEFF
25

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I N D E X

WITNESS

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PIERRE HASCHEFF

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CROSS-EXAMINATION BY MR. MEADOR

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E X H I B I T S

PLAINTIFF'S

NUMBER DESCRIPTION

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EVD

A Letter and Lemons, Grundy & Eisenberg
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B Emails, Judge Hascheff and Lucy Mason

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C Email, Judge Hascheff to Shawn Meador

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D Email, Judge Hascheff to Shawn Meador,
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E Letter to Shawn Meador from Todd
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H Checks to Lemons, Grundy & Eisenberg

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I Billing records from Lemons, Grundy &
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J Declaration of Todd Alexander

1	DEFENDANT'S			
2	<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
3	1	Letter and accompanying invoice		6
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7				
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23				
24		*****		
25				

1 MONDAY, DECEMBER 21, 2020, RENO, NEVADA, 9:10 A.M.

2 -oOo-

3 THE COURT: Good morning. We are present on Case Number
4 DV13-00656 in the matter of Hascheff versus Hascheff. This is the
5 time and place set for oral argument related to two motions that
6 are currently pending before the Court.

7 One is a motion that had been filed by Ms. Hascheff
8 related to a motion for clarification or declaratory relief
9 regarding the terms of the MSA and the decree that had been filed
10 on June 16th of 2020.

11 And the second is for a motion for an order to show
12 cause or in the alternative to enforce the court orders that were
13 filed on July 8th of 2020.

14 Counsel, may I have the appearances, please?

15 Mr. Meador, you are muted.

16 MR. MEADOR: I apologize, Your Honor.

17 THE COURT: Please don't.

18 MR. MEADOR: Shawn Meador on behalf of the moving party,
19 Lynda Hascheff, who is present with us this morning as well.

20 THE COURT: Thank you.

21 MR. TORVINEN: Todd Torvinen here on behalf of Pierre
22 Hascheff, seated to my left. He should be in the picture. Yes.

23 THE COURT: He is. He is.

24 As you are all aware, this matter is proceeding by means
25 of simultaneous audio/video transmission due to the continued

1 closure of the courthouses in Washoe County.

2 I'm located in Washoe County which makes up the site of
3 today's court session.

4 Ms. Eisenberg is our court reporter. And if either
5 party should desire a copy of the transcript or a portion thereof
6 they would make arrangements with her directly through Sunshine
7 Court Reporting, arrange for and pay for the transcript or a
8 portion thereof.

9 Seeing as we have competing motions through counsel, how
10 would you like to proceed?

11 MR. TORVINEN: Your Honor, we have a couple of
12 preliminary matters. May I be heard?

13 First off all, I should apologize to Mr. Meador. I find
14 this time extraordinarily challenging and it's difficult for me,
15 but that's all I'll say.

16 Mr. Meador previously asked me about his exhibits. I
17 have no objection to any of the exhibits, and -- of his exhibits,
18 save and except for the last one, which I believe is 16.

19 The 1 through 15 are in, as far as I'm concerned.

20 THE COURT: All right. Madam Clerk 1 through 15 will be
21 admitted.

22 (Exhibits 1 through 15 admitted into evidence.)

23 THE COURT: Exhibit 16, do we want to talk about that at
24 this point in time?

25 MR. TORVINEN: I don't know. I don't -- Mr. Meador is

1 muted again, I think.

2 There we go.

3 MR. MEADOR: Fine. But if we don't mute ourselves, we
4 start getting feedback, through our computers, to one another.

5 Your Honor, perhaps I'm a little confused about what
6 Your Honor expects today. I had read your original motion as
7 being a hearing with respect to the motion that my client filed
8 because that motion has to be determined before a contempt motion
9 could be heard.

10 THE COURT: I would concur.

11 MR. MEADOR: At the status call a couple of weeks ago, I
12 understood that you anticipated an evidentiary hearing rather than
13 oral argument.

14 I had been anticipating oral argument. At that status
15 conference I understood you to be requesting an evidentiary
16 hearing. So I'm prepared to either examine witnesses and do it
17 that way or to make oral argument, whichever you prefer.

18 I believe that Ms. Hascheff's motion was first filed and
19 is necessary to determine before Judge Hascheff's motion could be
20 determined.

21 THE COURT: I would concur that Ms. Hascheff's motion is
22 first in line.

23 I would also say that the Court specifically stated to
24 you at the status hearing that if we did proceed forward with the
25 contempt motion after the other motion, that that would have to be

1 by an evidentiary aspect.

2 So if I wasn't clear enough at the status conference, my
3 apologies. You are not incorrect. We ordered this to talk about
4 how do we mesh and meld the issues related with the MSA, with the
5 notice requirements contained in other portions of it, 35.2,
6 versus what transpired in Section -- at 30 point -- Section 37, as
7 compared to the indemnity portions that are contained within
8 Section 40.

9 Whether or not you'd agree that that was important for
10 us to have other information, as you encircle it, we cannot take
11 parole evidence, so we should be discussing the notice aspect
12 related -- contained in the totality of the agreement.

13 Mr. Torvinen appears to be arguing that these sections
14 need to be interpreted separate, completely separate and apart
15 from the others; whereas you're arguing that there's some basic
16 notice requirements in this.

17 So I would like to proceed, counsel. And I delineated
18 specifically what I'm looking for in my order, so please -- and
19 Mr. Torvinen, I appreciate your hearing statement did address
20 those issues, so I appreciate that as well.

21 So, Mr. Meador.

22 MR. MEADOR: Yes, Your Honor. Thank you.

23 So, Your Honor, the language of the indemnity agreement,
24 that Judge Hascheff has argued in his brief must be interpreted
25 strictly, states that my client -- that if Judge Hascheff is sued

1 for malpractice my client is obligated to pay -- to indemnify him
2 for half the cost of any defense of that action.

3 And so the issue is what, what bills, what expenses did
4 Judge Hascheff incur in the defense of the malpractice action that
5 was sued -- filed against him.

6 Now he tells us that in July of 2018 he received a
7 41-page subpoena that led him to believe that he could be sued for
8 malpractice.

9 If you review the 41-page subpoena, which is my
10 Exhibit 14, you will see that what was requested were
11 Mr. Hascheff's entire files related to the work he did for the
12 Jaksick family, for Todd Jaksick, for Sam Jaksick, the estate
13 planning and for certain business work.

14 They set it -- they used 41 pages to ask for his entire
15 file. But as I review it, I don't see a single document that was
16 requested that he would not have been obligated to produce if they
17 had simply asked him for his entire file on these matters.

18 So from my perspective, reading that exhibit, I cannot
19 see anything that would lead me to believe that a malpractice
20 threat was made against Pierre Hascheff.

21 To the contrary, the reality is that the Jaksick
22 children were in litigation regarding their father's estate.

23 It strikes me as completely absolutely normal and to be
24 expected that the lawyers in that litigation would request the
25 lawyer's file.

1 The request for that file does not suggest that they're
2 going to sue the lawyer.

3 Judge Hascheff then hired counsel to represent him. He
4 met with his counsel. And the first thing his counsel did after
5 meeting with Judge Hascheff was call Kent Robison, who was Todd
6 Jaksick's lawyer. And I get this from the billing statements,
7 from Todd Alexander's billing statements that were admitted as
8 Exhibit 15.

9 Now I've repeatedly requested information about
10 communications with Mr. Robison and about Mr. Jaksick's -- or I
11 mean Mr. -- Judge Hascheff's communications with his lawyer and
12 their communications with Todd Jaksick's lawyer.

13 I was repeatedly told that it was confidential or
14 protected by the attorney-client privilege.

15 Todd Alexander, Judge Hascheff's lawyer, specifically
16 stated that their communications with Todd Jaksick's lawyer were
17 protected by the attorney-client privilege, or were confidential.

18 I'm unaware of any bases on which they could claim it
19 was protected by the attorney-client privilege or that they were
20 confidential; but we're being asked, my client is being asked to
21 pay those charges without having any idea what was discussed in
22 that joint meeting, and without this Court knowing whether there
23 was anything -- what was discussed at that meeting, or whether
24 what was discussed at that meeting was a defense of a malpractice
25 action that had not been filed or threatened.

1 Then the major charges reflected on the bill are for
2 Judge Hascheff's deposition. The billings reflect that Pierre
3 Hascheff's lawyer and Todd Jaksick's lawyers communicated about
4 preparing Judge Hascheff for that deposition, two days of
5 deposition. It's undisputed my client was not aware of any of
6 this, was not advised of this, her opinion was not sought.

7 Then in December of 2018, Todd Jaksick files a lawsuit,
8 a malpractice claim against Judge Hascheff.

9 In his complaint he said that he did not discover facts
10 that would lead him to believe there was a potential malpractice
11 action until December of 2018.

12 So Judge Hascheff claims he knew it in July when he got
13 subpoenaed. Todd Hascheff says he didn't know it until December,
14 and yet they were having all these communications in the meantime.

15 In his complaint he did not say that anything in Judge
16 Hascheff's testimony at deposition made him aware of a potential
17 malpractice claim. He didn't say any of the documents produced
18 pursuant to the subpoena made him believe that there was a
19 potential malpractice claim.

20 Rather, he said there was some expert report that he
21 thought was full of errors and inaccuracies and mistakes that he
22 received in December that led him to believe there might be
23 malpractice.

24 But in his complaint, Todd Jaksick, in suing Pierre
25 Hascheff, stated that the plaintiffs were aware of the defendant

1 Pierre Hascheff's substantial efforts to protect Sam Jaksick and
2 his heirs and beneficiaries and believes that Pierre Hascheff
3 proceeded at all times in good faith and with best interest of the
4 plaintiffs and Sam Jaksick as his first priority.

5 It clearly was not a threatening complaint.

6 It was simply if, if something happens in the underlying
7 litigation and I get stuck, I may come after you, Lyn.

8 That action was then immediately stayed. No work was
9 done in the malpractice action.

10 Now it's also interesting to note that the 41-page
11 subpoena that was served on Pierre Hascheff that he claims put him
12 on notice that he would be sued for malpractice, was not served on
13 him by Todd Jaksick. It was served on him by Wendy Jaksick. And
14 to the best of my knowledge, from the limited records that have
15 been produced, I don't see any evidence that Pierre Hascheff ever
16 represented Wendy Jaksick. Therefore, under the Charleson
17 v. Hardesty case, Wendy Jaksick would not even have standing to
18 sue Pierre Hascheff for malpractice.

19 So Judge Hascheff's claim necessarily has to be that
20 when Wendy Jaksick, who was unhappy with the estate plan and
21 alleged that her brother mishandled his duties as trustee after
22 her father's death, served a subpoena on Pierre Hascheff, Judge
23 Hascheff knew that at some unknown point in the future Todd
24 Jaksick would sue him for malpractice.

25 After they immediately stayed the malpractice action so

1 that no fees are incurred whatsoever, they start getting prepared
2 for trial. And to get prepared for trial, Judge Hascheff and his
3 lawyer meet with Kent Robison, Todd Jaksick's lawyer. They spent
4 a lot of time with the very lawyer suing him for malpractice to
5 prepare him for his testimony. And yet we're not allowed to know
6 what they spoke about.

7 And in those bills there are about -- one bill like for
8 875, another for a thousand bucks, that are completely redacted.
9 Neither my client nor this Court are allowed to know what those
10 fees were even incurred for, and yet my client is expected to pay
11 half of them.

12 It strikes me that under Judge Hascheff's interpretation
13 of the indemnity language, a dishonest husband could seek legal
14 advice on a real estate transaction and write the letter -- write
15 the lawyer a check for a thousand bucks, and send that check to
16 his former wife and say this falls within the indemnity clause and
17 you owe me five hundred bucks.

18 And under the argument that Judge Hascheff has made in
19 correspondence to me that are in the exhibits that counsel
20 stipulated to and that are in the briefs that Judge Hascheff
21 filed, the wife would have absolutely no right to any information
22 whatsoever, that all she's entitled to is a copy of the check that
23 he paid a bill.

24 And that can't possibly be, because the language of the
25 indemnity clause is that it has to be in the defense of a

1 malpractice action, that if Pierre is sued, excuse me, if Judge
2 Hascheff is sued, any defense of that action is covered.

3 So there has to be at a minimum some proof that the fees
4 for which Judge Hascheff seeks indemnity were actually defense of
5 that action.

6 Now there's a lot of correspondence from -- from Judge
7 Hascheff, from his -- and from both of his lawyers, that talk
8 about bills related to a malpractice action, and yet that's not
9 the language of the indemnity agreement.

10 The language of the indemnity agreement is that it has
11 to be the defense of that action, not related to that action.

12 And we don't know, we don't know at all whether any of
13 the bills for which Judge Hascheff seeks indemnity were actually
14 in defense of the malpractice action filed by Todd Jaksick.

15 Now Judge Hascheff insists that my client is simply
16 obligated to rely on him; at the same time, however, he insists
17 that he has no fiduciary duty to her.

18 If my client is obligated to rely on him, he necessarily
19 must have some corresponding duty to protect her. He doesn't
20 protect her by keeping all of this secret.

21 She cannot possibly know, based on the information that
22 he provided, whether these fees were incurred in the defense of a
23 malpractice action or to help his client, Todd Jaksick. She can't
24 know that nor can this Court.

25 I repeatedly requested the information on behalf of my

1 client and was told repeatedly we were not entitled to the
2 information, that there was nothing my client could do, even if
3 she was given the information.

4 And it strikes me that, among other possible things, one
5 thing she could have done if the information had been provided at
6 the time when Judge Hascheff decided to retain counsel, was to
7 evaluate the underlying facts and circumstances and make an
8 agreement with her former husband that, yes, it's reasonable to
9 incur these fees even though you haven't been sued.

10 Even after I became involved and requested information,
11 if Judge Hascheff had elected to provide the information, I would
12 have been able to evaluate that information with my client. And
13 if that information provided reflected that the bills for which
14 Judge Hascheff seeks indemnity were in the defense of a
15 malpractice action, none of these fees and none of this motion
16 practice would have been necessary.

17 My client acted in complete good faith to come to this
18 Court to say what are my obligations under this contract?

19 In correspondence directly with Judge Hascheff and in
20 correspondence with his lawyer, I specifically and repeatedly
21 noted that my client would pay, would honor her obligation to pay
22 half of the fees incurred in any defense of the action.

23 The dispute was just simply what fees fell within
24 that -- that definition, within the language of the indemnity
25 clause.

1 Now in his trial statement Judge Hascheff insists that
2 it is my client's obligation to prove that he acted in bad faith,
3 or in some other nefarious way.

4 And while I disagree with that analysis, if his analysis
5 is true, it would make it even more imperative that he produce the
6 documents under 37 that we requested because those would be the
7 very documents she would need to honor her obligation that he
8 insists that she has.

9 He comes to this Court and says she is not entitled to
10 any information about what happened, but it's her burden to prove
11 what happened, a fundamental denial of due process at a minimum
12 but direct violation of paragraph 37.

13 So in my correspondence with Mr. Torvinen, dated
14 June 2nd, 2020, which is my Exhibit 8, I outlined what my client's
15 position was and what it would take to resolve the issue; and that
16 if the issue was not resolved we would file the motion to --
17 motion for declaratory relief. So I believe that we have complied
18 with the 10-day written notice requirement of 35.2.

19 In Mr. Torvinen's letter to me, and I'll have to find
20 the date of it, I believe 5/29/30, Exhibit 7 -- but I'll have to
21 clarify that -- he told me that Judge Hascheff had complied with
22 the 10-day notice requirements in his email of March -- now I've
23 lost the date. I'll get it for you in the exhibit.

24 But in that email, what Judge Hascheff said was that if
25 she did not pay up, he would enforce the agreement. He didn't

1 threaten in that email, that Todd Torvinen referred to, he did not
2 state that he would file -- seek to hold her in contempt of court.

3 So I believe we complied with the language and he did
4 not. And I apologize, I've got in my examination outline, I have
5 the exact exhibits and pages, and I don't have that off the top of
6 my head.

7 So it's our position that it is true that my client has
8 an obligation to indemnify Pierre Hascheff for the expenses he
9 incurred in defense of malpractice action. I just simply have no
10 evidence that any of the fees for which he seeks indemnity were in
11 defense of that action, and it would be unreasonable to require my
12 client to simply, and this Court, to simply rely on Judge Hascheff
13 to be the sole determiner of whether they do or do not fall within
14 an indemnity.

15 Thank you, Your Honor.

16 THE REPORTER: Excuse me, Judge.

17 (The reporter made a disclosure pursuant to subsection 2
18 of NAC 656.310 regarding Todd Alexander.)

19 MR. MEADOR: It is your husband's partner.

20 And I have no objection, Your Honor.

21 THE COURT: Mr. Torvinen?

22 Mr. Torvinen, let's first deal with Ms. Eisenberg's
23 issue here that she has.

24 You are not on mute, but we can't hear you.

25 MR. MEADOR: Judge, if I may, while counsel is working

1 on his technical issue, may I give you the citations on the 10-day
2 notice?

3 THE COURT: Yes.

4 MR. MEADOR: Mr. Torvinen's letter is his Exhibit E, his
5 letter of May --

6 MR. TORVINEN: The rain in Spain falls mainly on the
7 plain.

8 I don't know, it got turned down. Okay.

9 THE COURT: Here you are. There you are.

10 MR. TORVINEN: I'm sorry, Your Honor. Somehow it
11 automatically shut down the volume. I apologize for that.

12 THE COURT: So do you have any objection to
13 Ms. Eisenberg being our reporter?

14 MR. TORVINEN: No. And we're not going to call
15 Mr. Alexander as a witness anyway. His affidavit is in evidence.

16 THE COURT: All right.

17 And you were relating back, Mr. Meador.

18 MR. MEADOR: Yes, Your Honor. Mr. Torvinen's letter is
19 Exhibit E, which is my Exhibit 7, in which he stated that Judge
20 Hascheff's email dated March 1, 2020, is his 10-day notice.

21 In Judge Hascheff's email of March 1, which is his
22 Exhibit D and in my Exhibit 4, he states we can avoid this action
23 by her simply making the payment referenced above within 10 days,
24 if the payment is not made within this 10 day, "I will proceed
25 accordingly."

1 I don't think "I will proceed accordingly" complies with
2 the obligation to specifically indicate the nature of the action
3 would be a contempt motion.

4 Thank you, Your Honor.

5 THE COURT: Before we proceed over to Mr. Torvinen,
6 hence the reason I wasn't as clear as you may have liked, is it
7 not necessary for us to hear from Judge Hascheff about why he
8 perceived the 41-page subpoena to be the threat of malpractice?

9 MR. MEADOR: I believe it would have been at the
10 appropriate time. I don't -- I think it would be a complete
11 denial of due process for him to come in and share information
12 today that he refused to share when I requested it.

13 MR. TORVINEN: Your Honor, may I be heard?

14 THE COURT: Yes.

15 MR. TORVINEN: Should I start my argument? What do you
16 want me to do, Your Honor?

17 THE COURT: Well, I will let you be heard, sir, but you
18 can hear what my question is, is why is that not in fact important
19 in this particular case?

20 So please recognize --

21 MR. TORVINEN: Well, it is, Your Honor.

22 THE COURT: Let me ask a couple more questions of
23 Mr. Meador at this point in time.

24 Mr. Meador, you alluded to the fact that this billing
25 was redacted. And it is. It is clearly redacted to the point we

1 don't even know -- it doesn't even -- telephone call with, and the
2 rest of it redacted, the entire section of that is redacted. I
3 mean everything from that, whatever it is that we look to, for
4 example LH 96 on 9/18 of 2018, we have two things that are
5 redacted out in totality.

6 We don't know whether or not it's telephone call,
7 whether it was an appearance, whether it was a review, whether it
8 was a draft, we don't even know the simplistic aspect of what the
9 work was.

10 But isn't this different in that you can clearly see
11 from the work that was done above on that page and the work that
12 is referenced in the other pages, that it is all related to the
13 issues that arose from the 41-page subpoena?

14 MR. MEADOR: I don't know that.

15 THE COURT: Well, you know it's not a real estate
16 transaction that he called up and asked about, don't you?

17 MR. MEADOR: I -- I'm not going to speculate and I don't
18 believe this Court can speculate either.

19 THE COURT: But the bills themselves relate to what was
20 occurring related with the 41 pages and him being a witness,
21 correct?

22 MR. MEADOR: I don't know that because I don't know what
23 he was asked in his deposition. And I don't know what they talked
24 about in preparation for his deposition.

25 THE COURT: What part of Rule 40 or Subsection 40 states

1 that you are entitled to every aspect of the malpractice claim?

2 MR. MEADOR: I'm entitled to know that the fees for
3 which my client is being asked to indemnify him are in the defense
4 of a malpractice action.

5 Wendy Jaksick did not sue him for malpractice. She
6 wouldn't even have standing to sue him for malpractice. So her
7 asking him questions about the estate planning and business
8 transactions does not to me demonstrate that it was the defense of
9 a malpractice action.

10 Part of her claims were that Todd Jaksick in his role as
11 successor trustee breached his fiduciary duty to her.

12 Now, I don't know -- by that time Judge Hascheff was on
13 the bench. I don't know if he continued to engage in private
14 practice of law after he took the bench.

15 The second amendment to the trust about which Wendy
16 Jaksick specifically complained was executed after Judge Hascheff
17 took the bench. And I don't know -- again, I don't know if he
18 continued to engage in private practice of law in the execution of
19 that second amendment that Wendy claimed her father either didn't
20 sign or that he lacked capacity.

21 But those are not allegations that Judge Hascheff
22 committed -- either of those -- are allegations that Judge
23 Hascheff committed malpractice.

24 Just because a lawyer is asked for his file does not
25 suggest that he committed malpractice.

1 And we don't know what allegation of malpractice has
2 been asserted. What are we told that he allegedly did wrong?

3 THE COURT: The report that you referenced, do you have
4 any clue whether it was contained within his file?

5 MR. MEADOR: No, the report that I referenced, if we're
6 talking about the same report that put Todd Jaksick on notice, was
7 produced by someone, I don't know who -- I assume Wendy -- in
8 December of 2018, but was not prepared by -- it was not part of
9 the file, no. It was a litigation document.

10 THE COURT: Thank you.

11 Ms. Hascheff, this is still a courtroom. Please remove
12 the gum from your mouth.

13 Mr. Torvinen?

14 MR. TORVINEN: All right, Your Honor. I guess, first of
15 all, I don't have any objection to Exhibit 16, because therein
16 lies the answer to Mr. Meador's rhetorical question, essentially,
17 "Where's the beef?"

18 And the beef is here. And this was in -- there's a
19 pleading he has here, it's the first document under Exhibit 16,
20 and it's Wendy Jaksick's opposition to some accounting filed by
21 Todd Jaksick, I guess, but it goes way beyond that.

22 And on the second page, they are talking about setting
23 aside the second amendment and restatement of the trust agreement
24 of Sam Jaksick which was prepared and executed in the year of
25 2012.

1 It was prepared by my client, Pierre Jaksick. It was
2 prepared by my client and executed by my client, Pierre Jaksick,
3 prior to him taking the bench in 2013.

4 And so in this -- let's see. It's paragraph 4. I guess
5 the bottom is LH 000113.

6 So Wendy disputes the validity of the second amendment
7 restatement.

8 She goes on to say that Sam Jaksick didn't possess the
9 requisite mental capacity and, further, that he was subject to
10 undue influence.

11 And that -- you know, I can't necessarily disagree with
12 Mr. Meador about the subpoena, but you combine this in 17 with the
13 subpoena, they are trying to set aside the estate plan that was
14 drafted by Mr. Hascheff. And if you're going to set aside the
15 estate plan, then you are talking about malpractice issues.

16 And so this was known early on and, in fact, answered by
17 the document that's provided by opposing counsel, so I guess all
18 these exhibits are in evidence now.

19 So Mr. Alexander's affidavit is now in evidence also,
20 and I think in the admitted evidence that would be -- have you
21 seen that affidavit, Your Honor?

22 THE COURT: I have.

23 MR. TORVINEN: It's under Exhibit 2 in opposing
24 counsel's exhibits.

25 THE COURT: Okay.

1 MR. MEADOR: Your Honor, I haven't offered it for the
2 entire exhibit, I think there are parts of it that are
3 inadmissible.

4 MR. TORVINEN: I thought it was in. We can call him.

5 MR. MEADOR: You didn't ask. I offered to speak to you
6 about it, Counsel. You didn't offer to take me up about that
7 offer.

8 MR. TORVINEN: I'm sorry.

9 THE COURT: Well, we admitted the document, Mr. Meador.
10 So now do you --

11 MR. MEADOR: There are parts of document I believe are
12 completely inadmissible. I had to offer it because I didn't know
13 how you would rule on it and there were parts of it I may need
14 because I thought we were having an evidentiary hearing.

15 MR. TORVINEN: Your Honor, you can't have it both ways.
16 Either it's in or it's not. I mean, I don't understand this.

17 It came over in the exhibit book and it's offered.
18 There's no -- there's no, in any of the correspondence from
19 Mr. Meador --

20 THE COURT: Well, Mr. Alexander is in the waiting room,
21 so do we want to just clear this up at this moment?

22 MR. MEADOR: The parts, Your Honor, of his affidavit
23 that I believe are inadmissible and inappropriate are where he
24 offers broad general conclusions and characterizations without
25 providing any factual backup for those; that it's fundamentally

1 unfair and unreasonable to require my client simply to turn over
2 your job to Todd Alexander.

3 MR. TORVINEN: Your Honor -- and this goes to -- I'm
4 sorry, either it's in or it's not. And I'm not planning on
5 calling him as a witness because it's in.

6 We had this discussion at the status conference. But
7 this goes back to my client's main complaint here is that he did
8 back flips to try to comply with the request. And it was a basic
9 rope-a-dope defense designed to never pay a cent.

10 So they raised the bar and they asked him for, you know,
11 his payments and a copy of the policy and other documents. And he
12 got them to, in this particular case, Ms. Hascheff's sister, the
13 next day, February 5, 2020.

14 And then she asked for some additional documents. He
15 got those to her. And then the bar got raised again, and now
16 was -- and in all fairness to her, she asked for -- both she and
17 Mr. Meador asked for redacted billing statements.

18 So they got those on May 29th along with the affidavit.
19 And the idea behind the affidavit is to address their concerns
20 about the nexus between the underlying trust action and
21 malpractice, and to address their concerns about this not being in
22 good faith.

23 Well, this is Mr. Hascheff's lawyer. And so I guess
24 what they are saying is he's lying in the affidavit and it's not
25 in good faith. And my client's seeking indemnity of, by the way,

1 \$11,008 total. So it's 5504, which is shocking, by -- by June 2,
2 I think Mr. Meador referred to a letter that is now in evidence,
3 somewhere in his exhibit binder -- without filing a pleading.
4 They already incurred \$5,600 in attorney's fees for a \$5500 claim
5 at max, in which both of these parties' interests were aligned,
6 because she doesn't want to pay. I can't imagine Ms. Hascheff
7 would want to pay any more than she had to, and neither did my
8 client.

9 And it turns out the retention was 10,000 bucks. And
10 then the adjuster agreed to some payment of -- and I think it's in
11 the pleadings -- there's \$2500 that Allied provided for the
12 subpoena.

13 But all told, out of pocket, my client paid 11,008
14 bucks.

15 And prior to all the billings being done he first
16 requested 4600 bucks. It hasn't changed very much from that, Your
17 Honor.

18 And I might add, as the law indicates, in the absence of
19 a specific notice provision or indemnity, all you've got to do, if
20 you are the indemnitee, is give the indemnitor notice of the
21 claim.

22 And further, as pointed out in the case law that I gave
23 you, particularly in Transamerica case, which in essence says hey,
24 indemnitee, if you got to go sue the indemnitor for your
25 indemnification, well, it's not much of an indemnification, is it?

1 You are entitled to attorney's fees. But you shouldn't have to do
2 this.

3 And frankly, and you can hear from my client if you
4 want, but Mrs. Hascheff specifically agreed to this provision and
5 specifically agreed to purchase the tail malpractice policy for
6 this purpose.

7 And to sit here and argue that there's no nexus or we
8 don't know what the nexus is, is just more rope-a-dope, because
9 when, after I sent this letter, which is in exhibit -- which is an
10 exhibit dated May 29, 2020, to Mr. Meador, and included the
11 affidavit for Mr. Alexander and included the redacted billing
12 records which they requested before, then the bar went up again.

13 And they wanted to know if there were conflict waivers
14 that he got all the family members to sign. I mean that has
15 nothing to do with the price of tea in China.

16 And so it's clear, and I think you were spot on, if you
17 look back at the bills and the stuff that's not redacted, it's
18 clear that this matter is related to the risk created by the
19 underlying trust matter. And we all know -- I'm not a malpractice
20 lawyer, it's out of my pay grade -- but goodness gracious, the
21 underlying matter has to be determined first, but that doesn't
22 mean there's not malpractice risk. And that's exactly what
23 happened here.

24 And in fact, as an officer of the court, I'll just let
25 you know, it's my understanding that -- I think it's Stan Jaksick

1 took this matter up on appeal to Supreme Court -- Judge Hardy made
2 decisions with regard to the equitable claims. There were legal
3 claims that were decided by the jury and then the equitable claims
4 were later decided fairly recently because the pleadings we filed
5 last, what, June and July, Judge Hardy still had not made
6 decisions. You can hear from my client if you want about this,
7 but Judge Hardy still had not made decisions on the equitable
8 claims. But he did. And now apparently it has been appealed to
9 the Nevada Supreme Court. So my client still has risk in those
10 underlying matters.

11 And if you would like to hear from him about this, I
12 think that paragraph 40 is simple. I looked at this MSA last
13 night, did an electronic search. There is no requirement or
14 notice for indemnification. Why? Because it's a classic
15 indemnification clause. You deserve indemnification for one-half.
16 It has nothing to do with any fiduciary duties.

17 And frankly, if you look at -- and counsel was fair in
18 his criticism here -- every contract carries a general duty of
19 good faith and fair dealing. But in this context, as we pointed
20 out to you in the case law, good faith and fair dealing simply
21 means that you are not going to be dishonest and try to collect
22 for a slip and fall, right? Let's say my client was sued for a
23 slip and fall that happened in 2019. That's the duty of good
24 faith and fair dealing, is you can't try to do that. That's a
25 dishonest act if you try to get indemnification for that.

1 Well, this is clearly not related to that and nor was it
2 ever. And every time that my client tried to address concerns
3 either through me or directly, the bar was raised again; hence,
4 rope-a-dope.

5 And I don't think -- what the crazy part about this is,
6 economically, is this direct evidence relevant? I don't know.
7 Marginally. But goodness gracious, it was always between 4600 and
8 5500 bucks. It was never more than that, half. And Ms. Hascheff
9 had to have spent 15- or \$20,000 in attorney's fees at this point,
10 but my client is not in to me that deep.

11 But my goodness, it's the tail wagging the dog. And
12 Mr. Meador also addressed fiduciary duty of -- I happen to read
13 the footnote in William versus Walden, last night. Footnote four,
14 which says, in general, the fiduciary duty of one spouse towards
15 the other ends when the complaint is filed. There are exceptions.

16 What are the exceptions? Well, if you have a boomer.
17 Well, what's a boomer? In estate planning circles a boomer is a
18 big old asset or big ol' claim that is not disclosed.

19 Well, that's not what this is. In both Cook, cited by
20 Mr. Meador, and Williams versus Walden, you had a husband with a
21 law practice who either didn't put it on the schedule or
22 arm-twisted his soon to be former spouse by accepting a zero for
23 it, clearly a violation of fiduciary duty that would extend beyond
24 the date of the filing complaint.

25 That is not the deal here. These parties were

1 essentially limited to the retention policy which Lynda Hascheff
2 agreed should be put in place, because my client did high end
3 estate planning and, you know, if there is a boomer, he needed
4 protection. They both needed protection for that.

5 Did they know what the claim was? No. No idea when
6 this agreement was done.

7 So, again, you can hear from my client if you want. I
8 don't know if we need to call Mr. Alexander, but -- one thing I
9 did forget to say to you is this. Some of the things -- and you
10 can hear from my client about this, the redactions for
11 confidentiality were concerns for my client because the matter is
12 still up and it's on appeal now.

13 If one of the opposing parties or one of the Jaksicks
14 that took this thing up on appeal got ahold of some of that stuff,
15 it could be detrimental to my client. And I know that's shooting
16 yourself in the foot but it's a valid concern.

17 And frankly, if you look at the tone of the pleadings,
18 and certainly the emails, they accuse my client of being a bully,
19 of violating fiduciary duty, of not dealing in good faith with
20 regard to this claim.

21 THE COURT: Wait a minute. Whose pleadings -- wait.

22 MR. TORVINEN: Certainly the motion for clarification
23 accuses my client of being a bully.

24 THE COURT: All right.

25 MR. TORVINEN: It does. I think it's the second or

1 third page.

2 THE COURT: Okay.

3 MR. TORVINEN: And I might add --

4 THE COURT: Wait just -- I'm getting lost between
5 whether we must have --

6 MR. TORVINEN: No, no --

7 THE COURT: -- the other action with this action. So
8 okay.

9 MR. TORVINEN: Yeah. And then the correspondence from
10 Ms. Hascheff's sister accused my client of being a bully. And I'm
11 trying to remember, I'm not sure whether Mr. Meador did or not,
12 but, you know, but be that as it may, my client has done
13 everything he can within reason to answer the questions here, and
14 this clause is clear and the law is clear about indemnity.

15 And this is not a boomer, Your Honor. There was no
16 funny business that went on here, no trying to hide the ball, none
17 of the stuff that would trigger an analysis under Williams versus
18 Walden or Cook versus Cook. That's not this case. It's a simple
19 indemnity clause.

20 And the reason it was done that way and drafted that way
21 and is -- you know, there are other clauses later in the marital
22 settlement agreement that talk about undiscovered debts or omitted
23 debts and omitted assets of being community obligations. This was
24 not written that way on purpose. It's a simple indemnity clause,
25 and it doesn't require the same amount of notice for that very

1 reason.

2 And so we're sitting here now incurring these
3 extraordinary attorney's fees for a \$5500 claim that should have
4 been paid a long time ago, and for which my client was willing to
5 accept terms, you know, payment over a period of time to make it
6 easier for Ms. Hascheff. It's just ridiculous that we're still
7 sitting here doing this.

8 So if you want to hear from my client I'm more than
9 happy to call him as a witness.

10 THE COURT: Well, when we get to the cost benefit
11 analysis the Court can tend to agree with you the cost benefit of
12 this case isn't in place; but that's not the reality. The issue
13 that we have to deal with is the issue related to the claims that
14 are before me. Whether or not they were reasonably brought is
15 another question, and reasonable under whether or not the cost
16 benefit analysis made it appropriate for them to bring the claims.

17 That's your entire -- that's a personal decision.
18 That's a decision that Ms. Hascheff made, a decision to bring this
19 case in order not to pay the \$5500. It was important enough to
20 her to go that direction. I find no flaw in that.

21 Do I find a flaw in the thinking that potentially she
22 spent more to avoid this, that's her choice. That gets to be her
23 choice.

24 Can you please tell me why your client did not have an
25 obligation to provide some notice in this case when it was a

1 collateral matter. It wasn't -- it wasn't a malpractice. He
2 hadn't been sued for malpractice. He had been served a subpoena,
3 and that started this train rolling.

4 Why did he feel that he didn't have to provide any
5 notice of that?

6 MR. TORVINEN: Well, I'll answer it this way, Your
7 Honor. And Mr. Meador hasn't indicated what of my exhibits are in
8 or not, but we provided the statements which talk about the
9 billings and the payments. I think they are under H and I in my
10 exhibit book.

11 But here's -- if you just look at the dates. My client
12 made the largest payment to Lemons Grundy in, in or about, or I
13 know the exact date, on December 18, 2019, he paid almost 6400
14 bucks. Before that he paid up several small payments that total
15 4,000 bucks. So that's December of 19th.

16 He makes a \$6400 payment. Less than 30 days later --
17 now this is indemnity. It's indemnity, Your Honor. Less than 30
18 days later, on January 15th --

19 THE COURT: Hold for one. Wait. Wait. Wait.

20 MR. TORVINEN: I'm sorry.

21 THE COURT: No, I wanted to find out where Ms. Hascheff
22 went.

23 Thank you. Please proceed.

24 MS. HASCHEFF: I'm sorry, I had to grab a tissue for my
25 allergies. My apologies.

1 THE COURT: Please proceed.

2 MR. TORVINEN: Okay. So he makes the big payment of the
3 bulk of the bill on December 18th, 2019.

4 Less than 30 days later, on January 15, 2020, there's a
5 handwritten note, I think it's in Mr. -- in opposing counsel's
6 exhibit binder at -- yeah, it's 1.

7 Less than 30 days later he writes the handwritten note,
8 you know, you owe me this much as part of the indemnification,
9 right? A friendly note, just try to resolve this.

10 And so my client, I would tell you, is following the
11 letter exactly of the terms of the indemnification clause in the
12 MSA.

13 Now, no, perhaps he could have notified a few months
14 earlier when he was making the smaller payments, but
15 indemnification is indemnification. Indemnification means you
16 indemnify me. And when he made the biggest payment he pretty much
17 gave almost immediate notice to -- after he made that payment.

18 And so I hope that answers your question, because it
19 follows the agreement to a T. And the economics makes sense. And
20 the economics of that payment reflect when he gave notice.

21 And that's his position, Your Honor.

22 THE COURT: He was served with the subpoena when?

23 MR. TORVINEN: June of -- July of '18, I believe.

24 THE COURT: And he provided notice in January of '20?

25 MR. TORVINEN: Correct.

1 THE COURT: He was sued for malpractice when?

2 MR. TORVINEN: December -- if I recall correctly, I
3 believe it was December 30th, 2018.

4 THE COURT: And he provided notice in January of 2020.

5 MR. TORVINEN: Correct.

6 THE COURT: What fees were extended related to the
7 malpractice itself?

8 MR. TORVINEN: Pardon? I didn't hear that.

9 THE COURT: What fees did he extend related to the
10 malpractice action?

11 MR. TORVINEN: Well, my client informs me about \$600.

12 However, most of the \$11,000, if I recall correctly from
13 the bills, was incurred after the date of the filing of the
14 complaint. I think. Most of it.

15 I haven't -- I did a schedule at one point. Most of
16 the -- the vast majority of it is, after the filing of the
17 complaint by Todd Jaksick on December 30, 2018.

18 THE COURT: So most of the money was incurred after the
19 filing of the complaint?

20 MR. TORVINEN: Correct.

21 THE COURT: And the complaint was immediately stayed.

22 MR. TORVINEN: As it would have to be, reason being the
23 underlying action has to be resolved, like in any malpractice
24 action.

25 THE COURT: Okay. And --

1 MR. TORVINEN: I mean this is -- Your Honor, may I? You
2 know, again, it's out of my pay grade, I don't do any of this
3 stuff. But from my examination of this case, it's not rocket
4 science to appreciate the fact that the underlying action has to
5 be resolved prior to any, you know, going forward on a malpractice
6 action. Because the facts -- the facts and the findings in the
7 underlying actions drive that.

8 THE COURT: And the report that led to the filing of the
9 malpractice action, was it contained within the file?

10 MR. TORVINEN: I don't know. You mean produced? Or you
11 mean my client's file?

12 THE COURT: Yes. Was it in the file that was the
13 subject of the 41-page subpoena?

14 MR. TORVINEN: It shouldn't have been because that came
15 in later.

16 My client took the bench in '13.

17 THE COURT: So you concur with Mr. Meador that the
18 report came from a collateral third party?

19 MR. TORVINEN: It did. It appears that that's the case.

20 THE COURT: Okay.

21 MR. TORVINEN: But, you know, Your Honor, any -- any --
22 I mean, look, Stan Jaksick or Todd Jaksick is not a lawyer. But
23 anybody standing in my client's shoes -- and, again, this is
24 proven by the 2017 pleading filed by, which is Mr. Meador's
25 exhibit. I agree, it should come in evidence, 16, they're trying

1 to set aside the second amendment restatement that my client did
2 in 2012.

3 You combine that with the 41-page subpoena and you know
4 there's malpractice issues brewing. It's not rocket science.

5 THE COURT: Well, Mr. Alexander is present. I
6 understand Mr. Meador's concerns related to this declaration.

7 I also understand Mr. Torvinen's concerns that when you
8 say that at exhibits submitted and admitted into Court, I don't
9 know why we should be limiting it. So I think I want to hear from
10 Mr. Alexander, and I may also want to hear from Judge Hascheff.

11 I know you are not going to be happy with that,
12 Mr. Meador, but that's just the reality. I'm going to flesh out
13 this file as best I can. So I --

14 MR. MEADOR: May I make a few comments in response
15 first?

16 THE COURT: Yes.

17 MR. MEADOR: Okay. The first, I would ask you to look
18 at Exhibit 1, which was Judge Hascheff's notice.

19 THE COURT: Uh-huh.

20 MR. MEADOR: You will note first that he doesn't say
21 when he was sued, by whom he was sued, for what he was sued; nor
22 does he indicate -- he states that the bills are ongoing, but
23 doesn't state that the action was stayed and the ongoing bills are
24 in the collateral matter, doesn't even refer to a collateral
25 matter.

1 If you then turn over to, a couple of pages, to the bill
2 he sent from Lemons, Grundy & Eisenberg, it does not make any
3 sense whatsoever. He demands payment of 50 -- \$5,200.90. And yet
4 if you look at the bills, they reflect two payments by
5 Mr. Hascheff totaling \$2,000. And nowhere -- you know, it's
6 difficult for me to understand that.

7 Then if you look at --

8 THE COURT: Which -- you were on what would be marked as
9 LH 3?

10 MR. TORVINEN: Your Honor, it's Exhibit 15, I think
11 Mr. Meador is referring to.

12 MR. MEADOR: LH 2 and 3.

13 THE COURT: Okay. Thank you.

14 MR. MEADOR: I see two payments from PAH Limited. I
15 don't see \$10,000 of payments reflected.

16 If you look at -- Judge Hascheff's argument is that all
17 he has to do is provide proof of payment, that's it. That's his
18 only obligation.

19 I got copies of those checks showing proof of payment on
20 December 9th, 2020. And it's not --

21 THE COURT: Who is Allied World? Is that the
22 malpractice carrier?

23 MR. TORVINEN: Yes.

24 Your Honor, may I refer you to Exhibit 15?

25 THE COURT: So in the statement from Lemons and Grundy,

1 it shows that there was a payment made in the amount of a thousand
2 dollars on 10/18. And then in 003 it shows a payment made in the
3 amount of a thousand dollars from Pierre Hascheff on 4/8 of '19,
4 and then on 5/16. So \$3,000 total seems to have been paid by
5 Mr. Hascheff according to the billing statement he sent in
6 January. Is that what you are referring to, Mr. Meador?

7 MR. MEADOR: Yes, and that I actually got those checks.
8 His argument is, all I'm entitled to is proof of a payment. I got
9 that proof December 9th, 2020. That's when I got copies of those
10 checks.

11 MR. TORVINEN: Your Honor, I take exception to that. If
12 you turn to Mr. Meador's Exhibit 15, this was produced on
13 May 29th.

14 THE COURT: Okay. I'm looking at 15.

15 MR. TORVINEN: The first page is LH 000091.

16 THE COURT: Yes.

17 MR. TORVINEN: The payment record. There's the Allied
18 payment that shows all of the payments, except for one \$653
19 payment that's later back there, but that totals the 11,008 bucks.
20 If you look at those, total number is four, there are four \$1,000
21 payments, and then this nearly \$6400 payment that he made on
22 December 18th, 2019.

23 And then later there's a -- he made a later, sometime
24 last spring, another \$653 payment.

25 THE COURT: If you look at that final billing that you

1 say says 6,000, it says "Thank you Pierre Hascheff, Allied World
2 Insurance Company." So who paid that bill?

3 MR. TORVINEN: What exhibit are you under, Your Honor?

4 THE COURT: I'm under 91.

5 MR. TORVINEN: Okay.

6 THE COURT: So this statement again says that your
7 client paid \$3,000, which is the same thing that it says that he
8 paid back in January when he sent his little handwritten note.

9 And the last payment is 6,000 whatever, I can't quite
10 read it, 6351, I think -- that that says "Thank you Pierre
11 Hascheff, Allied World Insurance Company."

12 MR. TORVINEN: Yeah, that's miscoded, because there's
13 proof -- if you look back, I think it's back at -- it's just
14 miscoded.

15 So if you look back -- hang on. Can you bear with me a
16 moment, Your Honor?

17 THE COURT: I sure can.

18 MR. TORVINEN: Hang on. Hang on. I'll find it.

19 THE COURT: Let's take a couple-minute break right here
20 so Mr. Torvinen can find that and we'll come back. Be back in
21 10 minutes.

22 MR. TORVINEN: Okay. All right.

23 (A recess was taken.)

24 THE COURT: We are back on the record in DV13-00656.

25 So Mr. Torvinen --

1 MR. MEADOR: Your Honor, may I interrupt?

2 THE COURT: Yes.

3 MR. MEADOR: I just noticed and thought it might be
4 worth commenting on that your law clerk is participating today.

5 THE COURT: Yes.

6 MR. MEADOR: I didn't really notice that, and it might
7 be appropriate to advise people that our firm has made an offer of
8 employment to your law clerk to start, I believe, in the fall of
9 this -- well, the upcoming year, next year.

10 THE COURT: Thank you for noting that, yes. And be
11 aware that we're very conscientious and very careful about that,
12 and the work in this case will be done by the Court, not by the
13 law clerk. He'll help me but the final decision will be written
14 by the Court, he'll be assisting, but we are very careful and
15 conscientious in that regard.

16 Mr. Torvinen, are you aware -- is that acceptable to
17 you?

18 MR. TORVINEN: I was not aware of that. Yes, Your
19 Honor. I was not aware.

20 THE COURT: And is that acceptable, that the Court will
21 be making the final determinations in this case?

22 MR. TORVINEN: Yes, Your Honor.

23 THE COURT: Thank you.

24 MR. MEADOR: At the appropriate time I would like to
25 finish my response to Mr. Torvinen's argument, Your Honor.

1 MR. TORVINEN: Well, I got stuck, didn't I?
2 You were asking me to find something for you and I found
3 it.
4 THE COURT: Okay. Thank you. So tell me where it's at,
5 sir.
6 MR. TORVINEN: Well, I guess we should explore --
7 Mr. Meador, do you have any objection to any of our exhibits?
8 MR. MEADOR: I'm not stipulating to any of them since
9 you wouldn't communicate with me about the issue.
10 MR. TORVINEN: Well, I'm sorry, I'm just not in a good
11 place so I apologize for that, but I'm trying to move the process
12 along now, so please help me.
13 THE COURT: So Mr. Meador is not stipulating. What
14 exhibit did you want to deal with?
15 MR. TORVINEN: Okay. It's our H.
16 THE COURT: Okay. Mr. Meador, please take a look at H
17 and see whether or not you can agree to H.
18 MR. MEADOR: These are the bills I got December 9th,
19 Your Honor.
20 MR. TORVINEN: Your Honor, I tried to see if there was
21 going to be any issue with this at the status conference. And so
22 now apparently there is.
23 Mr. Meador told you he didn't think there would be, at
24 the status conference.
25 THE COURT: Okay. Here's my question, is -- Mr. Meador,

1 do you have an objection to this exhibit coming in as long as
2 Mr. Torvinen agrees that you didn't receive it until December 9th?

3 MR. MEADOR: No, Your Honor, I don't.

4 THE COURT: Mr. Torvinen, do you agree that he received
5 it December 9th?

6 MR. TORVINEN: The checks, yes. That's under Exhibit H,
7 yes.

8 THE COURT: Okay. Then Exhibit H will be admitted with
9 the acknowledgment that it was received by opposing counsel on
10 December 9th.

11 (Exhibit H was admitted into evidence.)

12 THE COURT: All right. And that check does reveal that
13 there had been a payment, and that payment was made in the amount
14 of 6351.80, and that was paid by Mr. Hascheff, or Judge Hascheff.

15 MR. TORVINEN: Then if you go to the next page, Your
16 Honor, there's the follow-up. In fact, I told you, I think I said
17 it was \$654, it's actually \$648, is check number 2493. Do you see
18 that?

19 THE COURT: Yes.

20 MR. TORVINEN: And so just to reiterate, this billing
21 statement, though, that's under I, and I think Mr. Meador put this
22 in, it was in his exhibits too, that was received on May 29th.

23 THE COURT: Your Exhibit I?

24 MR. TORVINEN: Correct.

25 THE COURT: Okay. And which is --

1 MR. TORVINEN: This is the same thing that Mr. Meador, I
2 think -- I didn't look at it in great detail -- but he also put
3 this in evidence, the billing statements, along with the billing
4 summary sheet, which is the first piece of paper under Exhibit I.
5 I think. Let me go back and look at it.

6 THE COURT: Mr. Meador, is this Exhibit I the same as
7 your Exhibit 15?

8 MR. MEADOR: I believe so, Your Honor, unless there's
9 been some change that I didn't notice.

10 MR. TORVINEN: No, it's the same. It's the same. It
11 sure looks like to me. I can count the number of pages.

12 THE COURT: Well, I mean, I can see the first page is
13 the same, but the question becomes is -- and I went to the last
14 page, and it's the same as your last page.

15 MR. TORVINEN: All right.

16 THE COURT: So this is already in, in 15. So it's
17 already in on one side. I have no problem with it coming in on
18 the other, so I is in.

19 (Exhibit I was admitted into evidence.)

20 THE COURT: And it reflects the payments through the
21 648.10, but doesn't reflect the \$648; correct?

22 MR. TORVINEN: It does not.

23 THE COURT: Thank you.

24 MR. MEADOR: And I can't tell who it reflects made the
25 6351 payment.

1 MR. TORVINEN: I'm sorry, I didn't hear that.

2 MR. MEADOR: From the billing statement I can't tell who
3 made the payment.

4 MR. TORVINEN: Which one?

5 MR. MEADOR: The one that's --

6 THE COURT: There's a large payment here that's unclear
7 to the Court as it is -- I think Mr. Meador is saying this -- if
8 you go back to page 1 of this exhibit, which is 91 or the
9 beginning of the first page of your exhibit, sir, when it talks
10 about the total payments that had been made, the final payment is
11 a transaction that occurred in December of 2019, and said there
12 was a payment for 6,000 -- and, again, I should have reading
13 glasses on -- something, 351.80, that that was made. It says
14 "Thank You Pierre Hascheff Allied World Insurance Company."

15 So I don't know from this document, and that's why I had
16 asked you, from this document it looks more that the insurance
17 carrier paid the 6300, as compared to Judge Hascheff paying the
18 6300. And that's the difference, but that's just looking at it.

19 So Mr. Meador's comment is he didn't have proof until
20 December 9th of this year that your client is the one who made the
21 payment as compared to a DNB insurance carrier that made the
22 payment.

23 MR. TORVINEN: Well, it says on the bottom, at the
24 bottom of each of those coding entries, it says if Allied made it
25 or -- so, for instance, three of them say PAH Limited. If you

1 look at -- I think it's under I.

2 THE COURT: And what -- what page are you looking at,
3 sir?

4 MR. TORVINEN: I'm looking at I -- if you go to our I or
5 their, let's see, their, opposing party's 15, they are both tiny.

6 THE COURT: Okay. And you are asking me to look at --
7 you're expecting everyone to look at the billing code to see
8 whether or not the code was different?

9 MR. TORVINEN: Well, no, not the code. It says -- so,
10 for instance, the first payment that Mr. Hascheff made on -- shit,
11 that -- shoot, excuse the French -- shoot, the copy is small. I
12 think it's 4/8 of '19 and it's a thousand dollars. It says "Thank
13 You PAH Limited." Do you see that, Your Honor?

14 THE COURT: Yes.

15 MR. TORVINEN: Right. So that --

16 THE COURT: Do you see on the last transaction? Do you
17 see on the last transaction where --

18 MR. TORVINEN: Yeah, but it says Pierre Hascheff not
19 Allied World, so it was made by him personally.

20 THE COURT: But it also says Allied World Insurance
21 Company.

22 MR. TORVINEN: Well, do you want to hear from my client
23 about this, Your Honor? Again, I tried to bring this up so we
24 weren't going to have an issue with it, and here we are having an
25 issue with it.

1 THE COURT: I get it, but I can see what Mr. Meador is
2 saying is he asked you for the cancelled checks, and he got them
3 on December 9th.

4 MR. TORVINEN: He didn't ask -- I'm not sure he asked
5 for the cancelled checks. I thought that was proof of payment. I
6 don't remember. And that's why I brought that up so we wouldn't
7 have this issue, and I got him the cancelled checks.

8 THE COURT: Can I even ask --

9 MR. TORVINEN: And I got them in December.

10 THE COURT: That's okay. I'm going to ask this
11 question.

12 Your client makes a request with his handwritten note,
13 your Exhibit 1, for 5290.

14 MR. TORVINEN: Right.

15 THE COURT: That's \$5,200.90. Okay?

16 It lists there that there's \$11,851.80 less 1400, which
17 I don't know what the less 1400 is for, to get to \$10,401.80. So
18 she should pay \$5,200.90.

19 The exhibits that you've produced without the \$650, show
20 that your client made \$3,000 worth of payments. And now you've
21 shown that he's actually made a payment in the amount of -- what,
22 again, was that third check?

23 MR. TORVINEN: It was 6,351 bucks but I'll double-check
24 it.

25 THE COURT: Okay.

1 MR. TORVINEN: \$6351.80.

2 THE COURT: Okay. So that means that the total that
3 your client paid was \$9,351.80. Okay?

4 And if I divide that by two, that would be 4675.50. How
5 do you get that exhibit number in this handwritten note to be
6 \$5,200 that you are --

7 MR. TORVINEN: My client made an error. Later on, I
8 think Mr. Meador would admit this, when we started doing this,
9 exchanging emails, and then my letter of, I think it's May 29th,
10 asked for the 4651 or thereabouts, the number you just mentioned.

11 There was a mistake.

12 THE COURT: Do you have any other preliminary comments
13 to make, Mr. Meador, before we hear from Mr. -- current Judge
14 Hascheff?

15 MR. MEADOR: Yes, Your Honor, a couple. The first, just
16 trying to respond to the arguments that Mr. Torvinen made in his
17 response to my opening argument.

18 The first is that the Wendy Jaksick document, which I
19 believe is Exhibit 16, reflects that she's trying to set aside the
20 estate plan and, therefore, that somehow tells us there's an
21 allegation of malpractice. And yet, her specific allegation was
22 that her father lacked testamentary capacity, not that there was
23 malpractice.

24 We don't even have evidence before us that Judge
25 Hascheff prepared the second amendment or that he was present when

1 it was signed, or that there was any actual evidence that
2 Mr. Jaksick lacked competence.

3 Then Mr. Torvinen argued that the parties' interests are
4 aligned, and yet insists that my client isn't entitled to the
5 information because of the attorney-client privilege.

6 And, you know, the fundamental obligation here, the
7 obligation we're talking about, is: Is Mr. Hascheff, is Judge
8 Hascheff liable for conduct that happened during the marriage, a
9 community debt.

10 So he says she's liable for this community obligation.
11 We're divorced now, but the event that we're talking about took
12 place during the marriage, and our interests about that are
13 present, existing and equal, and our interests are aligned, but I
14 get to keep that confidential from her, all the facts about it.

15 And there's no authority for that position I'm aware of,
16 and yet it's in all of the emails from Judge Hascheff, all of the
17 correspondence from Mr. Torvinen and from Mr. Alexander, that
18 she's not -- she's expected to pay the bill but she's not entitled
19 to know what the bill is for.

20 Mr. Alexander's bills reflect over \$3,000 of
21 analysis/strategy that my client is expected to pay for that she
22 has absolutely no clue what it was for.

23 I would say -- I would note that --

24 THE COURT: By what authority is she supposed to be
25 provided with notice of the nature of the claim?

1 MR. MEADOR: Excuse me, Your Honor?

2 THE COURT: Well, you're saying she had no notice of
3 what they are talking about, she had no notice of what the
4 strategy was.

5 Where is the authority that, if this is in preparation
6 for a malpractice claim; because let's be frank, it says "or
7 related claim." I mean, let's be clear --

8 MR. MEADOR: It doesn't, Your Honor. That was my next
9 point. They keep arguing that she's responsible for bills
10 related to a malpractice claim. That is not the language.

11 They've insisted that the language has to be strictly
12 interpreted. It does not other us the word "related" anywhere.
13 It says "in defense of." She's entitled --

14 THE COURT: Well, "the warranting party" -- "the
15 warranting party shall also indemnify the other and hold him or
16 her harmless against any loss or liability that he or she may
17 incur as the result of the claim, action or proceeding, including
18 attorney's fees and costs and expenses incurred in defending or
19 responding to such action."

20 MR. MEADOR: Right. And we have no proof that these
21 bills were for that purpose.

22 I don't know if this was actually Judge Hascheff
23 defending a malpractice action, particularly when it had not even
24 been filed or threatened, or whether it was about helping Todd
25 Jaksick, his client, against Todd's sister, Wendy. I don't know

1 that and we don't have evidence in this file to reflect that.

2 And we don't have it because Judge Hascheff insists
3 we're not entitled to it. We just have to silently accept what he
4 says and pay the bill.

5 It's that, the issue of the dishonest husband saying
6 here's the check, you have no right to follow up to get underlying
7 information to see if this check is really within the indemnity or
8 not.

9 THE COURT: Well, when were you provided with
10 Mr. Alexander's affidavit?

11 MR. MEADOR: And so Mr. Alexander then has become the
12 judge and jury in this case and he's allowed to do broad general
13 characterizations.

14 THE COURT: That's not the question I asked you,
15 Mr. Meador. You received Mr. Alexander's affidavit sometime after
16 April 10th of 2020.

17 MR. MEADOR: And if you look at my Exhibit 9, I asked
18 for the specific basis on which he made those conclusions and
19 characterizations, and I was told it was none of my business.

20 THE COURT: Clarifying timelines here.

21 MR. MEADOR: Right. So my Exhibit 9 --

22 THE COURT: I see it. I looked at it, it's been
23 admitted, and you do ask for that.

24 MR. MEADOR: And I had also asked that in other
25 correspondence with Mr. Torvinen, was told I'm not allowed to know

1 the basis of Mr. Alexander's statement.

2 And I have good reason to question Mr. Alexander since
3 he claims that his discussions with Kent Robison, Todd Jaksick's
4 lawyer who sued Judge Hascheff, are protected by the
5 attorney-client privilege. How could that be, that your
6 communications with opposing counsel, who sued you?

7 Now he hadn't sued the time of some of them, but he had
8 at times -- the January, February conversations with Mr. Robison
9 were all after Mr. Robison had sued Judge Hascheff for
10 malpractice. On what basis could that possibly be covered by,
11 protected by attorney-client privilege? And yet that's what I'm
12 told. That's what I had to deal with.

13 THE COURT: Mr. Torvinen, that's a good question. How
14 does the conversation between opposing counsel -- I mean if there
15 is bills to --

16 MR. TORVINEN: Your Honor, I did address this. And, you
17 know, they asked for redacted bills, they got redacted bills.
18 Right?

19 So first it was the policy and the payments, then
20 redacted bills that were produced. And then the recurring theme
21 was there's no nexus between this underlying action of
22 malpractice. So then my client obtained the affidavit from
23 Mr. Alexander. And then the rope-a-dope started again and they
24 changed the bar one more time.

25 THE COURT: You are not answering my question, sir.

1 MR. TORVINEN: Okay. Ask again, Your Honor.

2 THE COURT: My question is, how are conversations
3 between opposing counsel attorney-client privilege?

4 MR. TORVINEN: Well, they may be confidential, they may
5 not be attorney-client privilege. And I did address this
6 directly, is because the matter is still up on appeal and
7 pending -- and this goes back -- they may be confidential.

8 This goes back to the issue -- and Mr. Meador keeps
9 saying, well, it's a community debt, blah-blah-blah. Well, Your
10 Honor, if I may point you to Exhibit 13. I briefly mentioned this
11 before, that's the MSA. And Mr. Meador, opposing counsel, put
12 this into the record. It's in as an exhibit.

13 Are you there, Your Honor?

14 THE COURT: Yes.

15 MR. TORVINEN: Would you go to page 39.

16 THE COURT: Yes.

17 MR. TORVINEN: Those are omitted debts. That is not
18 what this provision is being operated under. It's not under 24.
19 It just isn't, right? That's not what it's under. It's not under
20 omitted debts. It's not saying it's a community obligation. It's
21 an indemnity clause for this very reason.

22 And, frankly, as part of -- you know, there's retention
23 of 10,000 bucks here plus a little more exposure because Allied
24 agreed to pay part of the subpoena costs.

25 That's why it's drafted as an indemnity clause and not

1 under omitted debts or treated that way, so we don't have to have
2 this discussion about notice and delving into the underlying claim
3 and all that stuff.

4 It's simply an indemnity clause, which actually
5 ironically protects Ms. Hascheff. It protects her, which is
6 maddening here. It's 5500 bucks. It's not a boomer, Your Honor.

7 It protects her. The agreement to buy this tail policy
8 and the retention is part of that policy to which she agreed and
9 is part the indemnity clause protects her.

10 And my client, frankly, has done back flips to try to
11 address their concerns.

12 Pardon?

13 THE COURT: "In the event husband is sued for
14 malpractice, wife agrees to defend and indemnify husband for
15 one-half of the costs of any defense and judgment."

16 Now, how does that get us back to he gets served a
17 subpoena and he runs to an attorney because he believes that the
18 Jaksicks are ultimately going to serve him, or that Todd Jaksick
19 is ultimately going to sue him for malpractice?

20 MR. TORVINEN: Because in no malpractice action where
21 there's -- where there are a collateral case going on that will be
22 determinative of whether or not there's a malpractice claim, in
23 none of those cases would a claim necessarily be filed until the
24 underlying action is resolved.

25 And that's -- we put this in many of our pleadings, Your

1 Honor. It defies common sense. It's just there's no way,
2 although they --

3 THE COURT: Does the actual language of your indemnity
4 clause say that in the event that the husband is sued or may be
5 sued for malpractice, is there anywhere that says that there's a
6 collateral action that she's supposed to defend him against?

7 MR. TORVINEN: Not directly, no, but -- but I would say
8 that, again, the malpractice action was dependent upon the
9 underlying trust litigation.

10 That's where the exposure came from. The exposure
11 didn't come from just a malpractice complaint. The exposure came
12 from Wendy Jaksick saying this estate plan is all botched up,
13 Pierre.

14 MR. MEADOR: That's not what she said.

15 MR. TORVINEN: Well, that's what she's essentially --
16 I'm paraphrasing.

17 MR. MEADOR: She said her father lacked testamentary
18 capacity.

19 THE COURT: Whoa, whoa, whoa. Stop, Mr. Meador.

20 MR. TORVINEN: Do you want to hear from my client?

21 THE COURT: Wendy Jaksick is not the client; correct?

22 MR. TORVINEN: Correct.

23 THE COURT: Thank you.

24 I did tell you I would hear from your client, so yes.

25 MR. TORVINEN: You want him sworn?

1 THE COURT: Of course.

2 MR. TORVINEN: Okay. Do you want to the swear him in?

3

4

PIERRE HASCHEFF

5

called as a witness, having been duly sworn,

6

testified as follows:

7

8 MR. MEADOR: Your Honor, may I make an objection to
9 Judge Hascheff offering any facts or testimony that he refused to
10 share in response to my multiple requests for information.

11 THE COURT: You may object because I don't know what he
12 has refused to share, so you may object as we go along.

13 MR. MEADOR: Thank you, Your Honor.

14 MR. TORVINEN: So -- go ahead.

15 THE COURT: Go ahead.

16 THE WITNESS: So, Your Honor, is there any particular
17 place you want me to start? Or do you want me to kind of start
18 from the beginning and try to address each one of these concerns?

19 MR. MEADOR: I object to a narrative, Your Honor.

20 MR. TORVINEN: And we won't do a narrative.

21 Your Honor. My client is asking you what you want him
22 to focus on. I can start at beginning of the exhibit book with
23 the emails and get them into evidence. What would you like to
24 hear?

25 THE COURT: I've explained to you that I want to hear

1 why there was no notice provided, that if he believed that the
2 subpoena itself in 2018 was going to result in a malpractice
3 action being filed and he expected to be indemnified, how come he
4 didn't provide notice.

5 MR. TORVINEN: Okay.

6

7 DIRECT EXAMINATION

8 BY MR. TORVINEN:

9 Q You have the judge's question. Yes.

10 A And I will address that. We actually mentioned this in
11 some of the pleadings.

12 So here comes the subpoena in July. So we don't know
13 what to expect, but it's a blanket request for all of my files,
14 basically.

15 But the thrust of it was that Wendy Jaksick was accusing
16 Todd Jaksick of manipulating the estate, to the point -- I mean
17 that's one of the allegations -- to the point that somehow in my
18 conversations and advice with Sam Jaksick, that somehow I was
19 taking advantage of Sam, and that Wendy --

20 MR. MEADOR: Your Honor, I object and move to strike. I
21 requested the basis on which the affidavit gave notice and was not
22 provided with this information.

23 THE COURT: Is that true, Mr. Torvinen?

24 MR. TORVINEN: Your Honor, no -- that's correct, except
25 that it's part of the additional raising the bar every time we

1 tried to address an issue, and we just threw up our hands. I'm
2 sorry.

3 MR. MEADOR: Your Honor, that representation that
4 counsel repeatedly makes is not accurate, as you'll be able to see
5 from the exhibits, particularly the early emails that I sent and
6 that Mr. Alexander's affidavit was obtained long before I had sent
7 Mr. Torvinen an email outlining the information I needed. So it
8 was not a response to any alleged raising of the bar.

9 MR. TORVINEN: Well, Your Honor, I can address that.
10 There was a letter that came back a few days later after that
11 affidavit and the bills went over there. There was more -- it
12 raised the bar again. It was only a few days. It's in
13 Mr. Meador's exhibit binder. You can draw your own conclusions.

14 THE COURT: I want to hear from Judge Hascheff over
15 objection of Mr. Meador.

16 Mr. Meador, I note your objection. I recognize your
17 objection. And the Court will weigh the testimony accordingly.

18 Judge, please proceed.

19 THE WITNESS: All right. So there was a concern at the
20 time the subpoena came in, and proof of that ultimately is that
21 malpractice action was filed.

22 THE COURT: It was a concern by you, sir?

23 THE WITNESS: Me, personally?

24 THE COURT: Yes.

25 THE WITNESS: Yes. There's a lot of dynamics in this

1 family, and as proof, they mentioned eventually a complaint was
2 filed.

3 The testimony that I gave in the deposition and at trial
4 was primarily my advice to Sam Jaksick, Wendy Jaksick's attempt to
5 invalidate the second amendment that I prepared, that I did not
6 provide correct advice to Sam that somehow cost Wendy Jaksick, for
7 her to receive less.

8 With respect to Todd Jaksick, especially since this case
9 is on appeal, to the extent that I would have provided him with
10 wrong advice and Wendy was able to prove that, whether it be Todd
11 or Sam -- and these are all allegations of course, that -- that
12 then he relying on my advice may have caused him some exposure.
13 That's why I think he filed the complaint. All right?

14 MR. MEADOR: Your Honor, do I have a continuing
15 objection?

16 THE COURT: You have a continuing objection, especially
17 related to statements by Judge Hascheff that this is why he thinks
18 the complaint was filed.

19 THE WITNESS: All right. So yes, there was a concern.
20 And as I mentioned in the pleadings, I was just going to eat it,
21 you know. I wasn't -- I just thought, you know, it's probably
22 going to be more trouble than it's worth.

23 And then as the bills started to pile up, I thought at
24 that point it would be appropriate to provide the notice. Keeping
25 in mind, the subpoena came in, in July, and nothing really

1 happened for months, months and months. It really did not heat up
2 until January of the following year.

3 And so when it became apparent to me that it was going
4 to be -- we were going to exhaust the money before the deductible,
5 we're going to exhaust the deductible, then I thought in fairness,
6 as I indicated in my letter in July, that -- that in fairness, I
7 thought we should split it.

8 And that's why.

9 THE COURT: So you felt that in 2019, in fairness, you
10 should split it?

11 THE WITNESS: In February, when I got the bill, yes.
12 Sometime in March or April, and February -- I mean March or April,
13 I thought, yeah, at that time I've gotten bills now, I think we
14 should split it.

15 THE COURT: Were you not provided with the bills on a
16 monthly basis from Lemons, Grundy & Eisenberg?

17 THE WITNESS: No. No. In fact, that's why you see the
18 payments of a thousand dollars from my LLCs, because I wasn't
19 getting a bill. So that's why I started just paying it because I
20 knew I owed something. And then ultimately I got the bill, the
21 large bill, the 6351.80. And I did pay that.

22 If you note, all of the -- all of the invoices refer to
23 Allied World Insurance, because they're the insurance company.
24 Whether they made the payment or whether I made the payment, they
25 all refer to Allied World Insurance.

1 So when you see "Thank you PAH Limited," or "Thank you
2 Pierre Hascheff," they all have the same Allied World designation
3 under it, the same thing with Allied, but I paid those bills.

4 THE COURT: And the report that Todd Jaksick refers to
5 in the malpractice claim was not contained within your file?

6 THE WITNESS: I can't tell you for sure what that is all
7 referring to. There were several expert reports in the underlying
8 litigation. I don't know what they're referring -- I don't
9 believe it's in my file. Very seldom -- the only expert reports
10 we would have would be appraisers, so I don't think it was in my
11 file.

12 THE COURT: Okay. And when were you deposed?

13 THE WITNESS: I believe I was deposed in January -- let
14 me look at the bills. I think I was deposed in January and
15 February.

16 MR. TORVINEN: Of what year?

17 THE WITNESS: In 2019.

18 THE COURT: And did you testify at the trial?

19 THE WITNESS: Yes.

20 THE COURT: Were you represented during your testimony?

21 THE WITNESS: Yes.

22 My concern, obviously, Judge, was you just don't know
23 how these things are going to turn.

24 I mean, we're having conversations with Mr. Jaksick's
25 lawyer. I don't know if he's going to sue me. Or the real

1 threat, I think, is from Wendy.

2 So ultimately I needed counsel to make sure that I would
3 have the right guidance, we would not do anything that created a
4 problem in a mal- -- in a malpractice action.

5 Obviously, the underlying case, in my opinion, the
6 collateral case, was extremely important. We were able to --
7 which I believe we did, in the underlying trust litigation --
8 close down any of those allegations, the collateral estoppel and
9 res judicata in any subsequent malpractice actions. That was
10 really the litmus test for us to put up our defense, not for me to
11 go in blind and without counsel.

12 THE COURT: You were sued for malpractice in December
13 of 2018.

14 THE WITNESS: Correct.

15 THE COURT: And you provided notice of that suit in
16 January of 2020.

17 THE WITNESS: Correct.

18 THE COURT: Okay. Mr. Torvinen, do you have questions
19 for your client?

20 MR. TORVINEN: I don't, Your Honor, except to point out
21 to you, I think in a broad and general sense, the affidavit of
22 Mr. Alexander is entirely consistent with what my client just told
23 you. There's more detail, no question, but it's completely
24 consistent.

25 THE COURT: Okay. Well, we're talking about -- we're

1 not in argument. I asked you had if you had any questions.

2 MR. TORVINEN: I understand. I don't have any further
3 questions.

4 THE COURT: Mr. Meador, do you have questions?

5 MR. MEADOR: Yes, I do. Thank you.

6

7 CROSS-EXAMINATION

8 BY MR. MEADOR:

9 Q Judge Hascheff, you just testified that there were
10 really no bills until 2019 and your deposition was in 2019.

11 Will you please turn to Exhibit 15, and your bill for
12 September of 2018?

13 MR. TORVINEN: Counsel, can you point him to a page
14 number?

15 MR. MEADOR: LH 96.

16 THE WITNESS: So I don't recall that being my testimony
17 but, 96, did you say?

18 BY MR. MEADOR:

19 Q LH 96. The entry for September 14th, 2018.

20 A Okay. September 14, 2018.

21 I have it.

22 Q Does that refresh your recollection that the first day
23 of your deposition was in September of '18, before you were sued?

24 A Looks like it, yes.

25 Q And then what was my client charged for, that you

1 redacted?

2 A I couldn't tell you.

3 Q And then turn to LH 100. The entry for November 17th of
4 2018. Does that refresh your recollection that your deposition
5 was in November of 2018, before you were sued for malpractice?

6 A That's what the entry indicates, yes.

7 Q And if you turn to 103, there's a bill for \$825 on
8 January 24th, 2019. What was that for?

9 A I can't recall what it was for, but everything that was
10 redacted we believe were privileged, should not be disclosed.

11 Q And you and you alone get to make that decision?

12 A No.

13 Q And turn to 104. Or, excuse me, 105. On February 20th,
14 a bill for \$1,175. What was that for?

15 A Again, it was a privileged communication, I couldn't
16 tell you.

17 Q What's the basis of the privilege?

18 A This was something I had in conversation with my
19 attorney.

20 Q And do you contend that this is, that your interests are
21 identical to my client's interests?

22 A Yes, they are.

23 Q And that they arise out of the same potential liability
24 for your action during the marriage?

25 A We're both responsible in the indemnity agreement, so

1 yes, if a judgment is entered against me, she's going to have to
2 pay half.

3 Q Turn to page 106. On February 22nd there's an entry for
4 \$775. What was that for?

5 A It was a privileged communication.

6 Q And what's the nature of the privilege?

7 A All I can tell you is we looked at that entry, we
8 determined it to be privileged and confidential. As you notice,
9 all of the --

10 Q I didn't ask you any other question. I asked you the
11 basis of the privilege. We don't even know if you were talking to
12 your counsel.

13 So what's the basis of the privilege for that one?

14 A I believe I've told you that Mr. Torvinen and I looked
15 at these entries and made a determination those were privileged
16 communications.

17 Q And did you provide a privilege log?

18 A Excuse me?

19 Q Did you provide a privilege log?

20 MR. TORVINEN: Your Honor, I object. That's -- it's
21 irrelevant. Attorney-client communications are privileged.
22 Everybody knows that.

23 MR. MEADOR: We don't even know if it's an attorney
24 client privilege -- client communication, Your Honor.

25 BY MR. MEADOR:

1 Q Judge Hascheff, if you look at the entries for 2/24,
2 your lawyer was meeting with Kent Robison, Todd Jaksick's lawyer,
3 to prepare for your testimony; correct?

4 A That's correct.

5 Q And this is after he sued you?

6 A Correct.

7 Q And yet your lawyer tells me I'm not entitled to know
8 what you spoke with Mr. Robison about, doesn't he?

9 A Well, there were a lot of things that were discussed, a
10 lot of --

11 Q Turn to 107.

12 A Okay.

13 Q Do you see an entry L 120, analysis/strategy?

14 A Yes.

15 Q How much were you charged for analysis/strategy?

16 A In total?

17 Q Yeah. What does it say?

18 A \$3,350.

19 Q And it's your position my client has absolutely no right
20 to know what that analysis or strategy were, she just has to write
21 a check for half the bill?

22 A Well, we produced -- you asked me --

23 Q Would you please answer my question, sir.

24 A Yes, we provided the information.

25 Q Now, please turn to Exhibit 3.

1 THE COURT: Could you hold for one second.

2 MR. MEADOR: Sure.

3 THE COURT: Judge, you and Mr. Torvinen decided what
4 would be redacted?

5 THE WITNESS: Yes.

6 THE COURT: So it wasn't decided between you and
7 Mr. Alexander what would be redacted?

8 THE WITNESS: Well, Mr. -- if I recall correctly, he may
9 have been involved in part. Based on my discussions with him --
10 again, I don't want to do anything to waive the privilege -- based
11 on my many discussions with him, we knew what was sensible, what
12 could be disclosed.

13 THE COURT: From -- these billing records relate that
14 someone sat in for the trial, that didn't even relate to your
15 testimony?

16 THE WITNESS: Sorry, Judge?

17 MR. TORVINEN: Can you be specific, Your Honor?

18 THE COURT: At 105, or at 106.

19 MR. TORVINEN: Okay. Would you ask my client the
20 question again?

21 THE COURT: Review and analyze trial testimony of other
22 witnesses in the Jaksick trial in preparation of that trial.

23 So they're reviewing other people's testimony and you're
24 being charged for that, as part of a malpractice suit?

25 THE WITNESS: Are you talking about the entry that's

1 dated February 5th, 2019?

2 THE COURT: It would have been February 21st, and it's
3 on 106. Review and analyze testimony of other witnesses in
4 Jaksick trial in preparation of your trial testimony.

5 THE WITNESS: Correct.

6 That's my understanding, that Mr. Alexander looked at
7 the testimony of some of the other witnesses and how that may
8 impact my testimony, the questions I might be asked.

9 THE COURT: Okay. Thank you. Please proceed.

10 BY MR. MEADOR:

11 Q And on that same February 22nd, Judge Hascheff, your
12 lawyer appeared to sit through your testimony, even though he
13 would have no ability to ask you questions or object to questions;
14 correct?

15 A I don't know about that, but he would have no --

16 Q Well, you weren't a party to that action, were you?

17 A I was a witness.

18 Q Are witnesses' lawyers allowed to ask them questions at
19 a trial that they're not a party to?

20 A No, but he can converse with the other parties.

21 Q Thank you.

22 A He can converse with the other parties.

23 Q Now please turn to Exhibit 3, and the page LH 8.

24 A All right.

25 Q And please read paragraph 18 to yourself and let us know

1 when you've had a chance to do so.

2 A I've read it.

3 Q So does that refresh your recollection that the expert
4 report that gave -- that Todd Jaksick claimed gave him notice was
5 not part of your file?

6 A I do not believe that expert report was part of my file.

7 Q Thank you.

8 And would you please turn to Exhibit 14?

9 A Okay.

10 Q Show me, identify for me the paragraph in which Wendy
11 Jaksick accused you of malpractice.

12 MR. TORVINEN: Your Honor, that was never my client's
13 testimony, nor was it my argument.

14 It was actually under Exhibit 16. That misstates what I
15 said. It was under 16. He's pointing my client to the subpoena.

16 MR. MEADOR: Yes, I want to know what paragraph of the
17 subpoena --

18 THE COURT: It's cross-examination and I'm going to
19 allow the question.

20 THE WITNESS: And you can appreciate, Mr. Meador, when
21 you look at the documents, that they were --

22 MR. MEADOR: Would you please just answer my question,
23 please. I want the paragraph number.

24 THE WITNESS: You want me to read the whole thing all
25 over again?

1 BY MR. MEADOR:

2 Q I want you to tell me which paragraph reflects that
3 Wendy Jaksick was accusing you of malpractice. I believe that is
4 what --

5 MR. TORVINEN: Your Honor, that's --

6 MR. MEADOR: -- you just testified to.

7 MR. TORVINEN: Your Honor, my client testified or he
8 said, I think, if I recall correctly, that it was the totality of
9 this thing, not a specific --

10 MR. MEADOR: I would ask that counsel not testify for
11 his client.

12 MR. TORVINEN: I'm not. It's mischaracterizing.

13 THE COURT: Okay. Whoa. Whoa.

14 Judge Hascheff, you answer his question if you know the
15 answer.

16 THE WITNESS: I do know the answer.

17 All of these entities are intertwined with the estate
18 plan. The SS LTD was a subject of concern. Jaksick family
19 entities, same thing, all part of the estate planning. Entities
20 were set up. There's a big picture here, about how we structured.
21 The big picture was the estate plan, and all of these entities fit
22 into that estate plan. All right?

23 It was also -- part of the estate planning was Jaksicks
24 were in trouble because of the recession, and they had a huge
25 amount of real estate holdings, all of which were subject to that.

1 So in order to do credit protection as part of the
2 estate plan, many of these entities were set up, specifically the
3 Tahoe property which we referred to on page 16, the
4 indemnification agreement, part of the estate plan, SSJ part of
5 the estate plan.

6 They wouldn't be asking for these unless, and as it
7 proved up in Exhibit 16, where she was making this claim that the
8 second amendment was invalid, and my advice was right in the
9 middle of that. And also --

10 BY MR. MEADOR:

11 Q Let's go there.

12 What document did Wendy Jaksick's lawyers ask for as
13 part of their 41-page exhibit that you would not have produced,
14 you would not have been required to produce if they had simply
15 asked you in one page to produce your entire file?

16 MR. TORVINEN: Objection. Why is this relevant? It's
17 not relevant.

18 MR. MEADOR: It is relevant.

19 MR. TORVINEN: What -- it's not relevant.

20 THE COURT: Mr. Torvinen, it was his argument that this
21 was, the subpoena itself, was a request for Judge Hascheff's file,
22 and that that did not in itself raise the red flag that this was
23 subjecting Judge Hascheff to malpractice.

24 MR. TORVINEN: Okay. Well, my --

25 THE COURT: I would like to hear the answer,

1 Mr. Torvinen.

2 MR. TORVINEN: Okay.

3 THE WITNESS: Mr. Meador, do you want to repeat the
4 question?

5 BY MR. MEADOR:

6 Q What document did Wendy Jaksick's lawyers request in
7 this 41-page subpoena that you would not have been required to
8 produce if she had simply asked you to produce all of your files
9 related to the Jaksicks?

10 A So presumably in -- we didn't produce these documents,
11 the Jaksicks did, because the Jaksicks had the documents, I did
12 not.

13 So I don't know which ones they produced and which ones
14 they put on a privilege log.

15 Q Well, that was not responsive to my question, Your
16 Honor.

17 A When you look at -- when you look at all of these
18 requests about how they didn't share assets equally, on page 17,
19 how they wanted all of those documents, there are some documents
20 in here --

21 MR. TORVINEN: Well, just specifically read that.

22 THE WITNESS: Pardon?

23 MR. TORVINEN: Read that.

24 THE COURT: Okay. So, Mr. Torvinen, you don't get to
25 advise your client --

1 MR. TORVINEN: I understand.

2 THE COURT: -- how to testify when he's on the witness
3 stand.

4 MR. TORVINEN: I'll come back to it.

5 THE COURT: You can go back to it.

6 The question was, is what would not have been -- you
7 would have had to produce, but you said the Jaksicks produced
8 this, Judge.

9 THE WITNESS: Correct. They did.

10 THE COURT: You said you didn't have any of these
11 documents.

12 So if you didn't have any of these documents, why did
13 the subpoena itself make you believe that you were going to be
14 sued for malpractice?

15 THE WITNESS: For the things or the matters that I just
16 mentioned. All right? All of these documents, the majority of
17 this documents define the estate plan.

18 The dispute in the underlying litigation was about the
19 second amendment primarily. That's what I was deposed on and
20 that's what I've testified.

21 All of these documents, the thrust of all of these
22 documents would show, as indicated on page 17, about why she did
23 not share equally in many of the assets that were subject to the
24 estate plan, the Tahoe property for one, LLCs for others, that she
25 was not -- she was not in any of the business entities, including

1 the Tahoe property, all of which were part of my estate plan.

2 So she would not be asking for these documents and
3 asking for the second amendment to be set aside unless she was
4 coming after me or one of the --

5 MR. MEADOR: Objection, move to strike. It's
6 speculation.

7 THE WITNESS: Well, you asked me. This was the
8 testimony.

9 BY MR. MEADOR:

10 Q No, I asked what document you would be required to
11 produce that would be different than if she had served a simpler
12 subpoena.

13 A And I told you --

14 THE COURT: All right. All right. Move on, Mr. Meador.

15 THE WITNESS: -- they were --

16 MR. MEADOR: Thank you.

17 THE COURT: Judge -- Judge, we're just going to move on.

18 THE WITNESS: Okay.

19 BY MR. MEADOR:

20 Q Please turn to Exhibit 16, and identify for me the
21 paragraph in which Wendy Jaksick accused you of malpractice.

22 A I don't believe you're going to find any specific
23 reference to malpractice. However, this is what the whole purpose
24 of the underlying litigation was.

25 MR. MEADOR: Objection. Move to strike.

1 THE WITNESS: I advised the client -- I was
2 cross-examined --

3 MR. TORVINEN: My client answered the question. He's
4 answering.

5 THE WITNESS: I was cross-examined on this over and
6 over.

7 THE COURT: And he doesn't -- stop, because there's an
8 objection pending. And he knows the rules. He doesn't get to
9 keep talking when there's an objection pending.

10 He says that this was nonresponsive and at this point in
11 time the Court is inclined to strike that as being nonresponsive.

12 All right.

13 BY MR. MEADOR:

14 Q Would you please look at paragraph 4 on page 113. Read
15 it to yourself.

16 A All right.

17 Q And what was Wendy Jaksick's specific complaint about
18 the second amendment?

19 A There were many. It was invalid. He didn't have the
20 requisite mental capacity, among others.

21 Q Well, would you read it out loud then since we seem to
22 disagree.

23 A All right.

24 MR. TORVINEN: Objection, Your Honor. There's no reason
25 to read it out loud. You can read it. It's in evidence.

1 MR. MEADOR: Thank you.

2 THE COURT: It is in evidence.

3 MR. MEADOR: I was just confused by the answer, "a lot
4 of things," when there didn't seem to be a lot of things.

5 MR. TORVINEN: Well, I'd move to strike that. My client
6 answered that about the subpoena, all the other entities.

7 THE COURT: Well, first of all, that didn't make sense
8 to me, Mr. Torvinen.

9 Paragraph 4 states that he challenges the validity based
10 upon the fact that he did not possess the requisite mental
11 capacity, or that it was executed as a result of undue influence.

12 MR. TORVINEN: Right.

13 THE COURT: It doesn't state that subsection, or the new
14 2, the third amendment that was dated, that it was improperly
15 drafted, it doesn't say that.

16 MR. TORVINEN: Right.

17 THE COURT: What it says is that they didn't lack the
18 capacity or that he was unduly influenced. That's what it says.

19 MR. TORVINEN: Correct.

20 THE COURT: That's what --

21 MR. TORVINEN: And -- but to answer your question, Your
22 Honor --

23 THE COURT: No, no, no, you don't get to answer my
24 question, Mr. Torvinen.

25 MR. TORVINEN: Well, I'm trying to point you to the

1 documents.

2 THE COURT: Mr. Torvinen, during your redirect of your
3 client --

4 MR. TORVINEN: Okay. Fair enough.

5 THE COURT: -- or in your first questioning, because you
6 chose to let the Court question him instead of you questioning
7 him, I'll let you flesh that out --

8 MR. TORVINEN: Okay.

9 THE COURT: -- but you're not going to testify for him.

10 MR. TORVINEN: Fair enough.

11 BY MR. MEADOR:

12 Q Judge Hascheff, would you turn to page -- or to
13 Exhibit 9.

14 A All right.

15 Q Just read it to yourself and let me know when you've had
16 an opportunity to do so.

17 A All right.

18 Q And you took the position that you had no obligation to
19 provide me with this information, correct?

20 A No, that's not correct.

21 Q When did you provide me with information about the
22 current status of the malpractice action?

23 A It was in an email. We told you it was stayed.

24 Q Well, it was stayed in December of 2018. This is a
25 letter, June 11th, 2020. Did you respond to my request of June

1 11th to tell me the status of that action?

2 A The status of the action did not change.

3 Q And did you respond to paragraph 2?

4 A We didn't know at the time. I think Mr. Torvinen had
5 told you in May that the equitable claims were stayed, excuse me,
6 the equitable claims were pending.

7 THE COURT: Mr. Torvinen, could you quit talking to your
8 client while he's --

9 MR. TORVINEN: I didn't. I wasn't. I didn't say a word
10 to him. I was just looking at the -- at the exhibit. I was not
11 -- I didn't say a word.

12 THE COURT: Thank you.

13 BY MR. MEADOR:

14 Q Look at paragraph 4. You would agree that you never
15 provided me with this information, wouldn't you?

16 A That's correct, we did not provide you with that
17 information.

18 Q And the same is true with respect to paragraph 5?

19 A Again, having that discussion, there was a concern that
20 that would lead to --

21 Q I just asked you if you responded to my request.

22 A No, because it was privileged.

23 Q And paragraph 6, you didn't respond to that either?

24 A Privileged.

25 Q And 7, you didn't respond to that either?

1 A Privileged.

2 Q Turn to paragraph 8 -- or Exhibit 8.

3 A All right.

4 Q You've seen this letter before, haven't you?

5 A Yes.

6 Q And, again, it was me requesting the very same
7 information, isn't it?

8 A What specific information are you referring to?

9 Q Well, for example, if you look at the first full
10 paragraph on the second page, the basis on which your lawyer made
11 broad general characterizations and conclusions.

12 A Okay. Again, we had pending equitable claims. You have
13 to understand when he -- we did this affidavit, this was early on.
14 Early on, we did not know. We suspected, based on Wendy's claims,
15 when she asked for \$70 million in the lawsuit, that that would
16 morph into a malpractice claim.

17 Q When was the lawsuit tried?

18 A If I recall correctly it was in February of 2019.

19 Q It was actually -- right. And when was the decision
20 rendered?

21 A That -- well, the jury came back on the legal claims, I
22 think, within two weeks.

23 Q And the date of Todd Alexander's affidavit about which
24 I'm asking you questions is dated what?

25 A What exhibit is that?

1 THE COURT: April of 2020. Come on, let's move along.

2 MR. MEADOR: Thank you.

3 BY MR. MEADOR:

4 Q Now, I notified you in an email and I notified your
5 lawyer in this letter that my client was prepared to pay her half
6 of the costs of defense, correct?

7 A Are you talking about the underlying malpractice action?

8 Q Yes. She said she would pay her half of that. Our
9 dispute was what was covered and what was not covered, right?

10 A No, it was more than that.

11 Q Well, look at the second page of paragraph -- of
12 Exhibit 9, the last paragraph.

13 MR. TORVINEN: Are you referring to Exhibit 8, Counsel?

14 MR. MEADOR: Yes, I'm sorry, I'm still on 8. I
15 apologize, LH 22.

16 BY MR. MEADOR:

17 Q And that's the same thing I told you in an email when we
18 were emailing each other directly, isn't it?

19 A Yeah, among other things.

20 Q Now turn to the last page of Exhibit 8.

21 A We just had a dispute as to what the indemnity covered.

22 Q I agree.

23 A I thought everything and you thought it was a couple of
24 hundred dollars.

25 Q And turn to the last paragraph of Exhibit 8 and tell me

1 what part, what information you did not receive pursuant to 35.2
2 that you needed to receive in order to respond.

3 Can you share with the Court what you are looking at.

4 A It's section 35.2. I understand the question, you want
5 to know what information --

6 Q I understood your argument to be that I didn't comply
7 with 35.2. I want to know what information you believe you didn't
8 receive that you needed.

9 A 35.2 indicates that if a party wants their attorney's
10 fees they're going to have provide the other party at least 10
11 days prior notice, then meet the requirements which are one, two,
12 three, four.

13 So we did that multiple times, I believe a total of five
14 or six times, we kept -- as you kept asking for more information,
15 we kept providing it. And I can give you the dates when we gave
16 you 10 days notice.

17 Q She actually kept asking for the same information,
18 didn't she?

19 A Pardon me?

20 Q What she did was continue to ask for the same
21 information because you continued to refuse to produce it.

22 A That's not true.

23 Q Okay. Well, the judge will read the exhibits and I'll
24 trust her judgment.

25 But I'm asking you about if you claim that my client did

1 not comply with paragraph 35.2.

2 A I don't -- if you are asking me, I believe collectively
3 the answer is no. You may have sent something and we missed it
4 but I don't recall you ever sending a letter providing 10 days
5 notice to cure.

6 Q Are you looking at Exhibit 8?

7 A Yes.

8 Q Page 4?

9 A Yes.

10 Q Where it says pursuant to paragraph 35.2?

11 A Correct.

12 Q Okay. I'll move on.

13 Now, look at Exhibit 7. This is a letter from your
14 lawyer, correct?

15 A Correct.

16 Q You've seen this letter before?

17 A Correct.

18 Q And he insists that you sent me an email on March 1,
19 2020. Correct?

20 A Sent you an email?

21 Q The bottom of the first page. He refers to your email
22 of March 1st, correct?

23 A Correct.

24 Q And then turn over to the next page, the last paragraph.
25 What remedy does your lawyer on your behalf state that he will

1 seek?

2 A Is he will seek enforcement of the MSA.

3 Q Does he say that he'll sue my client for contempt or
4 file a contempt motion against her?

5 MR. TORVINEN: Your Honor, that statement is misleading.
6 It's pled in the alternative.

7 MR. MEADOR: Your Honor, I would ask that counsel either
8 make an objection or not.

9 MR. TORVINEN: It's misleading. It's pled in the
10 alternative, Your Honor. It's misleading. Go back and look at
11 the pleading. It's pled in the alternative.

12 BY MR. MEADOR:

13 Q My question is whether your lawyer told me that he would
14 be filing a motion to hold my client in contempt in this letter.

15 I'll move on since it's admitted.

16 Will you turn to Exhibit D.

17 THE COURT: This would be in Mr. Torvinen's exhibits?

18 MR. MEADOR: Yes, thank you.

19 THE COURT: Are you stipulating to the admission of D?

20 MR. MEADOR: I'll stipulate to the admission of D.

21 THE COURT: Okay. Thank you.

22 (Exhibit D admitted into evidence.)

23 BY MR. MEADOR:

24 Q Judge Hascheff, this is the email to which your lawyer
25 referred in Exhibit 7; correct?

1 A I believe so.

2 Q And, again, you state in your email, "I intend to
3 enforce," correct?

4 A You want to direct me to what paragraph?

5 Q Well, it's all one paragraph.

6 THE COURT: It's a single paragraph document.

7 BY MR. MEADOR:

8 Q It's about one, two, three, four, five -- five or six
9 lines down. "I intend to enforce the settlement agreement." That
10 was your language?

11 A Yes, that's what I said.

12 Q And can you show me where you gave her notice that you
13 were going to seek to have her held in contempt of court?

14 MR. TORVINEN: Objection, it's irrelevant, Your Honor.
15 It's irrelevant. It was pled in the alternative. It's
16 irrelevant. What difference does it make?

17 THE COURT: You have notice requirements. You were
18 trying to have the decree enforced.

19 MR. TORVINEN: Correct.

20 THE COURT: What's good for the goose is good for the
21 gander. It's not irrelevant.

22 MR. TORVINEN: The objection is it's in compliance with
23 35.2, which says he gets attorney's fees if he's got to enforce.
24 It's irrelevant. The contempt is irrelevant.

25 THE COURT: Most people who are found in contempt, sir,

1 do not find it irrelevant.

2 MR. TORVINEN: But it's pled in the alternative, Your
3 Honor.

4 THE COURT: So are you acknowledging at this moment,
5 sir, that you do not have a basis to bring contempt because you
6 didn't provide notice?

7 MR. TORVINEN: No, I am not.

8 THE COURT: All right. Then I'm going to allow the
9 question to be asked, Mr. Torvinen.

10 MR. TORVINEN: Okay.

11 THE COURT: And I don't find it irrelevant.

12 If you have a requirement for notice and you didn't
13 provide notice of contempt, then you do have a basis to enforce
14 but not to have her held in contempt.

15 MR. TORVINEN: And it's pled in the alternative.

16 THE COURT: And it is still part of what it has --
17 you're not understanding.

18 MR. TORVINEN: I am understanding.

19 THE COURT: There are differences between contempt and
20 enforcement, sir.

21 Please proceed, Mr. Meador.

22 MR. MEADOR: Court's indulgence, Your Honor.

23 THE COURT: Of course.

24 MR. MEADOR: Your Honor, I won't ask him about that.

25 It's in the file and you can review it in terms of documents that

1 I had requested and information I had requested, to move things
2 on.

3 BY MR. MEADOR:

4 Q And finally, Judge, will you please look at Exhibit 5.

5 A Okay.

6 Q This email is in response to my email of about March 4th
7 or 3rd, isn't it?

8 A It is in response to an email, yes.

9 Q And if you turn to LH 16, you advise me that your only
10 duty was to advise my client that you had been sued and to provide
11 proof of payment. That's all you had to do?

12 A Could you repeat the question?

13 Q I'll move on.

14 Would you look at -- actually, Your Honor, I'll just ask
15 you to look at 4 in terms of being able to see that we
16 consistently --

17 MR. TORVINEN: Objection, this is argument.

18 BY MR. MEADOR:

19 Q -- asked for the same information.

20 MR. TORVINEN: Objection, argument.

21 BY MR. MEADOR:

22 Q Then, Judge, please turn to Exhibit 4. Specifically,
23 LH 13. Do you recall receiving this email?

24 A Yes, I do.

25 Q And then if you look at Exhibit 5, this is your

1 response.

2 Excuse me. That's not true.

3 Then look at the next page, March 3rd, my response to
4 you. You received this email?

5 MR. TORVINEN: Under exhibit -- under Exhibit 5, or 4?

6 THE COURT: Exhibit 4.

7 BY MR. MEADOR:

8 Q Under 4, LH 14.

9 MR. TORVINEN: I got it.

10 BY MR. MEADOR:

11 Q You received this email from me, Judge?

12 A Yes.

13 Q Thank you.

14 MR. MEADOR: I have no other questions, Your Honor.

15 THE COURT: Mr. Torvinen.

16 MR. TORVINEN: Your Honor, may I proceed? I just need
17 to get our exhibits into evidence.

18 THE COURT: Mr. Torvinen, what is on your desk that
19 moves and it looks more like a flag, as if you were expecting food
20 to be delivered?

21 MR. TORVINEN: Oh, that's a -- it's Christmas card and
22 it has nasty words about the Christmas of 2020 because of the
23 corona virus.

24 THE COURT: Okay. Well, it's really --

25 MR. TORVINEN: Is it bugging you?

1 THE COURT: Yes, it's impeding my ability to --

2 MR. TORVINEN: I'm sorry, Your Honor. It's gone now.

3 THE COURT: Thank you. At times, when you talk to your
4 client, it looked like you would duck behind it, and I didn't know
5 what was happening.

6 MR. TORVINEN: I can assure you it wasn't intentional
7 hide the lawyer, talk to the client.

8 THE COURT: All right. Thank you very much.

9

10 REDIRECT EXAMINATION

11 BY MR. TORVINEN:

12 Q Okay. Mr. Hascheff, would you go to Exhibit A. Thank
13 you.

14 What's Exhibit A?

15 A Exhibit A is the initial communication I had with
16 Ms. Hascheff.

17 Q And is it different than the exhibit, the corresponding
18 exhibit placed by Ms. Hascheff?

19 A It's just missing two pages.

20 Q What pages?

21 A One, the letter, a copy of the letter which was
22 addressed to her, as well as Mr. Alexander's letter dated October
23 23rd. Those were included in with the cover letter that I sent
24 you.

25 Q And you sent this. This is your handwriting?

1 A Yes.

2 MR. TORVINEN: Move to admit, Your Honor.

3 MR. MEADOR: No objection.

4 THE COURT: It's admitted.

5 (Exhibit A was admitted into evidence.)

6 BY MR. TORVINEN:

7 Q What's under B, what is this?

8 A Okay. B. Okay. That is the email I sent to Lucy
9 Mason. She had made -- on January 24 or 26, I had provided her
10 some information concerning the claim. She followed up with a
11 letter on February 4th, which is part of this exhibit. And then
12 what exhibit -- this first page shows that I delivered everything
13 she requested except --

14 MR. MEADOR: Objection, testifying from a document
15 that's not admitted.

16 BY MR. TORVINEN:

17 Q Well, what does the email say?

18 A The email says --

19 MR. MEADOR: Object. Prior consistent statement is
20 hearsay and inadmissible.

21 MR. TORVINEN: He can testify to what he told -- is this
22 your statement?

23 THE WITNESS: Yes.

24 MR. TORVINEN: It's your statement.

25 MR. MEADOR: He can't offer that statement for the truth

1 of that statement. It's hearsay. It's a prior consistent
2 statement.

3 BY MR. TORVINEN:

4 Q Then I'll follow up.

5 What did you send, what, to your recollection, what did
6 you send Lucy Mason?

7 A Everything that she asked for in her email to me on
8 February 4th, which included correspondence with the adjuster,
9 endorsement number five, correspondence, copy of the policy,
10 correspondence, subpoena -- I don't even think she asked for that
11 but I sent it anyway -- complaint, copy of the cancelled check.

12 Q What cancelled check?

13 A The amount of \$6,351.80.

14 Q And where was that in this exhibit? It's not -- they're
15 not numbered. It's about halfway through it, isn't it?

16 A Correct, it's not.

17 MR. TORVINEN: Your Honor, you were asking about that
18 earlier.

19 THE WITNESS: And then the Jaksick complaint.

20 BY MR. TORVINEN:

21 Q Well, wait, wait. Let's back up.

22 How much is the check for?

23 A \$6,351.80.

24 Q And you provided Ms. Mason a copy of that?

25 A Correct, plus the Lemons Grundy invoice that showed

1 payments that we provided.

2 Q And so you sent this email on February 5 in response to
3 a request from Ms. Mason?

4 A Yeah, everything she asked for on February 4th, I had to
5 her by February 5th.

6 Q You responded within the next day?

7 A Correct, in January.

8 Q And go a few pages back. Did she respond to your email
9 on February 11th?

10 MR. MEADOR: My objection still stands, Your Honor.

11 THE COURT: I don't even know where we're at and what
12 we're talking about. The first one was his own -- so
13 February 11th appears to be --

14 MR. TORVINEN: That's further back, Your Honor.

15 THE COURT: So you're asserting this is an email string
16 between --

17 MR. TORVINEN: Correct.

18 THE COURT: -- and Mr. Hascheff, and Judge Hascheff.

19 MR. TORVINEN: Correct. And you can see the reliability
20 which gets at the hearsay rule, that my client responded to the
21 first email asking for X number of documents, and it's in the
22 email from Ms. Mason. It's the chain.

23 BY MR. TORVINEN:

24 Q What is this set of emails, what are these?

25 A These emails show that whenever they provided or asked

1 me for information I provided it. The only thing I didn't provide
2 were what we perceived to be attorney-client narratives, and then
3 eventually those were redacted and sent to Mr. Meador.

4 Q Did, in this chain, did Ms. Mason ask you to provide
5 redacted bills, do you recall?

6 A She said we could resolve any concern about
7 attorney-client privilege by redacting the narratives, which we
8 did.

9 Q Would you go back to the part of this chain, the email
10 from her dated February 11, 2020?

11 A Yes.

12 Q Would you look at the second paragraph?

13 A Yes.

14 Q Read that, please.

15 A As you acknowledge, no fees are being incurred.

16 Q Well, doesn't she ask you for redacted bills in this
17 paragraph? About 10 lines down, the "I am entirely" -- do you see
18 that?

19 MR. MEADOR: Your Honor, it either has to be admitted or
20 not before he can ask questions --

21 THE COURT: Yes.

22 MR. MEADOR: -- about an email from --

23 THE COURT: I'm just going to admit it over objection.

24 MR. TORVINEN: Okay. Let's just admit it. Fine.

25 THE COURT: I'm admitting it over objection. And I'm

1 also admitting it even though it isn't complete.

2 (Exhibit B was admitted into evidence.)

3 THE COURT: Let's be realistic. On several of the pages,
4 there are "tap to download information." I have no clue what
5 information was included in the "tap to download."

6 MR. TORVINEN: Where are you referring, Your Honor?
7 Just so I understand what you're saying.

8 THE COURT: Okay. Because the pages aren't numbered, it
9 makes it difficult.

10 All right. Let's go. Exhibit B, page 1, 2, 3, 4. It
11 says February 5th, to Lucy Mason from Pierre Hascheff. And
12 there's a PDF and it's there. I don't know what's in that PDF. I
13 have no clue.

14 THE WITNESS: That was the subpoena.

15 THE COURT: I have no clue what it is. You could tell
16 me what you want to tell me. I have no clue.

17 BY MR. TORVINEN:

18 Q Okay. Well, let us back up. What was in -- it says
19 PDF --

20 THE COURT: No. No. No. No. No. No. You either
21 have to give me it to me -- you go to the next one, the next one
22 that says PDF, it says Jaksick complaint. I don't know whose
23 handwriting that is, I don't have a clue about that. So I don't
24 know what's been submitted or given back to her from this.

25 You state that it is everything that's of importance.

1 The only thing that I can tell is that these -- it's an email
2 string between them, but what was actually provided, I have no
3 clue.

4 MR. TORVINEN: Well, my client testified to that, Your
5 Honor.

6 THE COURT: Okay. I still have no clue. It's not part
7 of that email. The email doesn't tell me that.

8 THE WITNESS: Although, Judge, I said on February 3rd,
9 do you have everything that you need? She did not object, saying
10 I didn't get all the things that I requested. The only thing she
11 objected to was the fact that I did not want to provide
12 attorney-client privileged narrative. There was no objection that
13 she did not --

14 THE COURT: Okay. Okay. I'm not here to argue with
15 you. I've admitted Exhibit B over objection and I'll read to it
16 figure out what it is.

17 BY MR. TORVINEN:

18 Q Okay. Did you later provide redacted bills?

19 A Yes.

20 Q To whom?

21 A You did. I provided them to you. You provided them to
22 Mr. Meador.

23 Q Okay. So let's go to Exhibit C. What is C?

24 A This is my, I believe, my first communication with
25 Mr. Meador. This is where I correct the original amount that I

1 had in January.

2 Q To what?

3 A To 4675.90, which there was an error in January. I also
4 corrected it to Lucy, in my emails with her.

5 MR. TORVINEN: I move to admit this one Your Honor.
6 This is C.

7 THE COURT: I believe C is already in.

8 MR. TORVINEN: I thought it was D. It's C?

9 THE COURT: It's in now, if there's no objection,
10 Mr. Meador.

11 MR. TORVINEN: Okay. D is in I think, right? D is in?

12 THE COURT: Mr. Meador, do you have any objection
13 related to C?

14 MR. MEADOR: I have no objection to C.

15 THE COURT: Thank you. It's in.

16 (Exhibit C was admitted into evidence.)

17 MR. TORVINEN: Okay. Sorry, Your Honor. D is in?

18 THE COURT: Ms. Covington, is D in?

19 THE CLERK: Yes, Your Honor. D is in with no objection.

20 THE COURT: Thank you.

21 MR. TORVINEN: This is also in Mr. Meador's binder.

22 I -- just to keep it clean -- I offer E.

23 THE COURT: Mr. Meador?

24 MR. MEADOR: I believe E is the same as my 7, so no
25 objection.

1 THE COURT: It's in.

2 (Exhibit E was admitted into evidence.)

3 BY MR. TORVINEN:

4 Q What's F, Mr. Hascheff?

5 A That was the complaint that I sent on the 24th.

6 Q To whom?

7 A Lucy Mason. She wanted a copy.

8 Q Is this an email string with Lucy?

9 A Yes.

10 Q What -- between what dates?

11 A January 24th, and then on January 29th, I sent her a
12 copy of a page, the MSA, requiring -- it was based on Section 40.

13 MR. TORVINEN: I move to admit this.

14 THE COURT: Mr. Meador?

15 MR. MEADOR: I don't know -- "Here you go, please let me
16 know when I expect payment. Hope all is well." I have no way of
17 knowing what that's about at all. So I do not stipulate. I
18 object, that it's a prior consistent statement, according to his
19 statement.

20 MR. TORVINEN: Prior consistent statement?

21 MR. MEADOR: Yeah.

22 BY MR. TORVINEN:

23 Q What are you asking Ms. Mason in this email?

24 A So what I provided her was -- I didn't know if she had a
25 copy of the MSA so I provided her with a copy of the relevant

1 page.

2 THE COURT: Okay. I'm not going to admit this one
3 because in this particular case it says -- it says that he sent
4 the complaint again, and that's what he just testified to, that he
5 sent the complaint --

6 MR. TORVINEN: Well, this is a repeat of the email
7 that's already in.

8 THE COURT: Whoa. No, it is not, sir.

9 MR. TORVINEN: I'll go back and look at it.

10 THE COURT: Because they repeat that there's no reason
11 and there's no -- he says he's attached the MSA, and there's no
12 attachment from the MSA. So it's not even consistent with what
13 he's testifying to.

14 MR. TORVINEN: Well, if you go to the second page of
15 this email, go under -- it's under F.

16 THE WITNESS: Okay.

17 BY MR. TORVINEN:

18 Q Okay. What did you write to Ms. Mason on the bottom of
19 this page? It's under -- right here. I think it's the next page.
20 That's missing a page. Oh, there it is right there. You've got
21 it.

22 A So I told her --

23 THE COURT: No, I'd like to get the "here you go" in.
24 Now you're telling me this is part of a string and the string is
25 different than you've got it in B. It's a completely different

1 string. How do I know which is right?

2 MR. TORVINEN: Well, I can ask my client. Let me look.

3 THE COURT: Because the first page is already in as part
4 of B and the second is "Please let Lynda know I dropped your check
5 in the mail," so --

6 MR. TORVINEN: Right, but this has the two additional
7 January entries. That's it, Your Honor. They aren't in the other
8 string. That's all.

9 Are they?

10 THE WITNESS: Yeah, so --

11 THE COURT: So now you're telling me that the first
12 string that you gave me is not consistent, and this is an
13 inaccurate string, that it's interrupted.

14 MR. TORVINEN: Hang on. Let me look.

15 THE COURT: I mean, you don't piecemeal the -- are you
16 cherry picking?

17 MR. TORVINEN: I hope not.

18 THE COURT: Well, it sure feels that way, because if you
19 weren't and this required the other string, it should have been
20 part of Exhibit B.

21 MR. TORVINEN: Bear with me.

22 Yeah, Your Honor, my client will address that.

23 THE WITNESS: So this is offered really for two
24 different purposes. In B, that was to try to show that we timely
25 provided all information she requested, except the narrative.

1 This should be, I believe, our Exhibit 6 to the hearing.
2 So this was offered to show the additional information that was
3 going to her, that we had previously provided information to Lucy
4 Mason.

5 That's why you see the 24th email in F as well as you
6 see the --

7 MR. TORVINEN: Does that answer your question, Your
8 Honor?

9 THE COURT: I'm going to admit it over Mr. Meador's
10 objection. But I'm going to advise you, Counsel, that it shows me
11 that Exhibit B is an incomplete document.

12 Move on.

13 (Exhibit F was admitted into evidence.)

14 MR. TORVINEN: All right.

15 BY MR. TORVINEN:

16 Q G?

17 MR. MEADOR: Is it already admitted as 3, Your Honor?

18 MR. TORVINEN: Is G already in? I know -- I think H, I
19 and J are in, I think.

20 THE COURT: Ms. Covington, can you confirm that?

21 THE CLERK: Your Honor, I do not show -- G is not
22 admitted yet. I just show that H and I are admitted.

23 MR. TORVINEN: Okay. So I move to admit G.

24 THE COURT: And it's the same document you have, isn't
25 that, Mr. Meador?

1 MR. MEADOR: Yes, Your Honor. No objection.

2 (Exhibit G was admitted into evidence.)

3 MR. TORVINEN: And then move to admit J.

4 MR. MEADOR: I object to J being offered for the truth.

5 MR. TORVINEN: I don't know what Your Honor already
6 objected -- I already objected to the objection, because it's a
7 piecemeal job after offering the whole thing.

8 MR. MEADOR: I never offered it once. I put in it my
9 exhibit binder at a time when I thought we were going to have an
10 evidentiary hearing, in case the Court ruled against my motion in
11 limine and found that it's appropriate for Mr. Alexander to offer
12 conclusions and characterizations while keeping the basis --

13 MR. TORVINEN: Well, I think it's in evidence, isn't it?

14 MR. MEADOR: -- of those conclusions secret.

15 MR. TORVINEN: Well, it's in evidence, right?

16 THE COURT: It has been admitted --

17 MR. TORVINEN: Forget it.

18 THE COURT: -- by stipulation.

19 And the Court recognizes that Mr. Alexander had been in
20 the waiting room -- he is no longer in our waiting room, which I
21 don't blame him. He has not been called to discuss it and he does
22 have -- the objection has been stated repeatedly that
23 Mr. Alexander's affidavit is, one, after the fact, and two, has
24 broad-based statements contained within it.

25 The Court is smart enough to analyze this particular

1 situation.

2 MR. TORVINEN: Do you want me to call Mr. Alexander,
3 Your Honor? We can get him on the phone. Do you want to hear
4 from him?

5 THE COURT: You're going to be done in about 5 minutes.

6 MR. TORVINEN: Okay. Well --

7 THE COURT: Because I have a judges' meeting at noon
8 that I can't miss.

9 BY MR. TORVINEN:

10 Q Okay. Would you go to Exhibit 15? Mr. Meador examined
11 you about this. I think that's the subpoena, isn't it?

12 THE COURT: No.

13 MR. TORVINEN: See what's 15.

14 No, go to 14. Go to 14.

15 Sorry, Your Honor, I miss -- I wrote down the wrong
16 exhibit.

17 BY MR. TORVINEN:

18 Q And go to page 17.

19 A Okay.

20 Q Now, you started to answer this. What about the
21 specificity on page 17 alerted you to malpractice risk?

22 A Well, again, all of these files are under the umbrella
23 of estate planning. Tahoe property, the LLC, all creditor
24 protections, estate planning advice --

25 Q But isn't she asking you specifically on there for

1 changes in the percentages of the beneficiary interests?

2 MR. MEADOR: Objection, leading, Your Honor.

3 THE COURT: It is leading.

4 BY MR. TORVINEN:

5 Q Is she asking for changes, information about changes in
6 the beneficial distribution interests?

7 MR. MEADOR: It's still leading.

8 BY MR. TORVINEN:

9 Q I said, is she asking -- or, what on there, is there any
10 information on there where there's a request for beneficial
11 changes?

12 A She indicates that they --

13 MR. MEADOR: Leading.

14 THE WITNESS: -- want all documents relating to Sam
15 Jaksick's intentions, that they would not be treated or benefit
16 equally in relation to the Tahoe property.

17 And then throughout the subpoena she talks about other
18 investments, other LLCs, all of which were owned by the trust.

19 BY MR. TORVINEN:

20 Q Okay. Go to Exhibit 16.

21 THE COURT: Mr. Meador, I recognize your objection. And
22 I allowed the answer in this particular case even though it was
23 leading.

24 MR. MEADOR: And nonresponsive.

25 MR. TORVINEN: In the interest of time, Your Honor, I

1 apologize. In interest of time --

2 THE COURT: It was nonresponsive as well. It was
3 nonresponsive as well, so yes, you're correct.

4 MR. TORVINEN: Okay.

5 THE COURT: And it was also speculative. So if you want
6 to get all the way in, I recognize all the flaws with the answer
7 that I received.

8 BY MR. TORVINEN:

9 Q Let's see.

10 Oh, go to page two of that, Exhibit 16.

11 A Yes.

12 Q Mr. Meador questioned you about that. Remember, he had
13 you read photograph four of this, right?

14 A Yes. Yes.

15 Q Why did that mean there was malpractice exposure?

16 A Well, that means that my advice --

17 THE COURT: Whoa. Whoa. Whoa. Whoa. That's, even
18 without the -- that calls for complete speculation.

19 BY MR. TORVINEN:

20 Q Okay. That paragraph talks about setting aside the
21 second amendment restatement, does it not?

22 A It does.

23 MR. MEADOR: Leading, move to strike.

24 BY MR. TORVINEN:

25 Q Okay. What does that paragraph do?

1 A Wendy attacks the validity of the second amendment.

2 Q And how was she attacking that validity?

3 A Because in that document particularly she did not get as
4 much of the estate that she thought she should get.

5 Q What document are you talking about?

6 A The second amendment.

7 MR. MEADOR: I object and move to strike. That's
8 nonresponsive to his question about paragraph 4.

9 THE COURT: It was nonresponsive, so I sustain the
10 objection.

11 BY MR. TORVINEN:

12 Q Okay. What caused you concern about paragraph 4?

13 A Well, if I'm the author of the second amendment, I
14 prepared it, and I did it in a way where Sam Jaksick was not
15 competent, then I shouldn't have allowed him to execute the
16 document. These are just a few of her complaints. There were
17 many more.

18 Q Can you think of any off the top of your head?

19 MR. MEADOR: I object. I object, Your Honor.

20 MR. TORVINEN: What's wrong with that, Your Honor?

21 MR. MEADOR: I specifically, repeatedly requested for
22 this information over and over again. And it's absolutely a
23 denial of due process to allow him to testify here today about
24 information he refused to give me.

25 MR. TORVINEN: You asked about this paragraph.

1 MR. MEADOR: Yes. And you can ask him about Sam
2 Jaksick's competence.

3 THE COURT: No, you can ask about anything that is
4 contained within this document, because that's what's been
5 submitted to me. That's what's --

6 MR. MEADOR: Well, he's on redirect, and I only asked
7 him about one paragraph.

8 MR. TORVINEN: Paragraph 4.

9 BY MR. TORVINEN:

10 Q Okay. Go ahead.

11 A So Wendy disputed the validity of the second amendment
12 because she argued that his signature was fraudulent. Fraud -- he
13 didn't execute the second amendment; therefore, it was invalid.

14 THE COURT: Where does it say in there that the
15 signature was fraudulent?

16 THE WITNESS: He did not execute the document.

17 MR. TORVINEN: It says that, Your Honor.

18 THE COURT: All right.

19 THE WITNESS: Obviously, my knowledge of the underlying
20 litigation and also that the grantor executed the document at a
21 time when he did not possess the requisite mental capacity, and
22 based on the three grounds that she put here, executed the
23 documents as a result of undue influence.

24 So if I'm part of this process, I'm the author of the
25 second amendment, then this is being laid right at my doorstep.

1 because if these things are true, then I would be sued for
2 malpractice.

3 THE COURT: Let me ask you one question, Judge.
4 When did you first learn that this lawsuit had been
5 filed?

6 THE WITNESS: Which one?

7 THE COURT: The lawsuit that's subject in 16, PR17-0446.

8 THE WITNESS: You mean the underlying litigation?

9 THE COURT: The underlying litigation, sir. When did
10 you first learn of it?

11 THE WITNESS: Yeah, I can't recall. I mean, obviously,
12 I received the subpoena so I was aware that there was some
13 litigation. I know it was early on in the litigation, but I had a
14 receiver -- I received the subpoena, there's a caption, there's a
15 case number, it was sometime in July.

16 THE COURT: So you didn't know about the underlying
17 action from October of '17 until you received the subpoena?

18 THE WITNESS: No.

19 THE COURT: No knowledge at all?

20 THE WITNESS: I don't recall. It was the subpoena that
21 came out of nowhere.

22 THE COURT: Okay. And you have testified to this Court
23 that the subpoena is what led you to believe that you were going
24 to be sued for malpractice, correct?

25 THE WITNESS: I thought there was a possibility, yes.

1 THE COURT: You have not testified that the underlying
2 complaint, which is where the subpoena came from, was the basis
3 for why you believed you were going to be sued for malpractice; is
4 that correct?

5 THE WITNESS: The underlying complaint?

6 THE COURT: Well, when you got served with the subpoena,
7 didn't you go look for the complaint or find out what was going
8 on?

9 THE DEFENDANT: No.

10 THE COURT: No.

11 THE WITNESS: I turned it over to -- I retained counsel
12 after I reviewed the subpoena. I did not have the documents that
13 were in Jaksick's possession. So then I immediately went to
14 counsel to basically respond on my behalf.

15 THE COURT: So you're testifying here today that when
16 you saw this, this document, and you've been asked to look at
17 paragraph 4 repeatedly of this document, that this document led
18 you to believe that you were going to be sued for malpractice?

19 THE WITNESS: No. I didn't even -- I didn't know this
20 document existed.

21 THE COURT: All right.

22 THE WITNESS: This is well after.

23 THE COURT: It was the subpoena that led you to believe
24 that you were being sued for malpractice?

25 THE WITNESS: I'm sorry, could you repeat that, Judge.

1 THE COURT: It was the subpoena that led you to believe
2 that you were being sued for malpractice?

3 THE WITNESS: I thought, yes, it would be a possibility.

4 THE COURT: And you retained counsel immediately.

5 THE WITNESS: Shortly thereafter.

6 THE COURT: Where's the document that says you notified
7 your malpractice carrier immediately?

8 THE WITNESS: That's how I got my attorney.

9 THE COURT: Where's the document that said you notified
10 your malpractice counsel -- carrier immediately?

11 THE WITNESS: I called them up.

12 THE COURT: Okay. And what day did you call them up on,
13 sir?

14 THE WITNESS: Probably shortly after I got the subpoena.

15 THE COURT: And you well knew that your deductible was
16 \$10,000.

17 THE WITNESS: I came to learn that later, yes.

18 THE COURT: You didn't look at your malpractice each and
19 every year when you signed up for it, about what your deductible
20 was going to be?

21 THE WITNESS: This was tail coverage so I didn't look at
22 it. I just knew I had protection for five years.

23 THE COURT: Right. So you've now purchased a tail
24 coverage. It's \$10,000. You've called your malpractice carrier.
25 They've directed you to Lemons, but you didn't think that it was

1 appropriate to notify your wife, your ex-wife?

2 THE WITNESS: Like I said, Judge, I was --

3 THE REPORTER: I didn't hear the answer.

4 THE WITNESS: I said I -- my initial intent was, for
5 one, I have a subpoena, I'm obviously concerned. I then had
6 several discussions with my lawyer about the possible exposure to
7 a malpractice claim. I thought I would just take care of it.

8 MR. MEADOR: Objection and move to strike. He can't
9 tell what he had discussions with his counsel about after
10 insisting that I'm not allowed to know what he had discussions
11 about.

12 MR. TORVINEN: Your Honor, that's not inconsistent. He
13 said there was risk. That's all he testified to.

14 THE COURT: I'm going to allow it.

15 MR. TORVINEN: Consistent with what he testified to
16 before.

17 THE COURT: Hush.

18 MR. TORVINEN: Okay. I will.

19 THE COURT: So you had conversations with your attorney
20 that there's risk.

21 THE WITNESS: Potential risk.

22 THE COURT: And you still didn't notify your ex-wife?

23 MR. TORVINEN: Your Honor, may I object to the Court? I
24 mean, that's not what the indemnity clause is there for, it's a
25 different clause.

1 THE COURT: My question isn't about the indemnity clause
2 and I don't want to hear from you.

3 I want to confirm that he didn't think it was necessary
4 to provide notice until January of 2020.

5 THE WITNESS: And part of that, Judge, was -- which you
6 can appreciate, this is kind of a moving -- yes, I was concerned.
7 Any lawyer would be concerned whether any allegation of
8 malpractice has merit or not.

9 It was the process proceeded that it became apparent
10 that there may -- it could turn out to be a reality. I was just
11 cautious and obtained counsel to make sure someone would be
12 representing my interest in the event that I would have to have
13 conversation with Todd Jaksick's lawyer, or any other lawyer.

14 THE COURT: You were deposed in '18 and you testified in
15 '19, and you waited almost a year later before you provided notice
16 and a demand for payment.

17 THE WITNESS: The timeline is correct.

18 THE COURT: Thank you.

19 THE WITNESS: I didn't notify her until January when I
20 made the decision that it would be fair for us to split it.

21 THE COURT: Unless I have something specific at this
22 point in time, counsel, I am late for a judges' meeting.

23 MR. TORVINEN: Okay. I'm done, Your Honor.

24 THE COURT: Mr. Meador?

25 MR. MEADOR: Nothing more, Your Honor.

1 MR. TORVINEN: My client wants me to ask you about a
2 continuance.

3 We need more time for what? They're all in.

4 THE COURT: Well, all but --

5 MR. TORVINEN: Well, it's in under Mr. Meador's package.
6 That's the affidavit.

7 THE COURT: It's in, but it's in under a different
8 fashion, yes. Yes.

9 MR. TORVINEN: No, we're done.

10 THE COURT: Okay. All right. Thank you. You'll have
11 my decision early January. We'll be in recess.

12 (The proceedings concluded at 12:08 p.m.)

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1 STATE OF NEVADA)
) ss.
2 WASHOE COUNTY)

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I, CONSTANCE S. EISENBERG, an Official Reporter of the
Second Judicial District Court of the State of Nevada, in and for
the County of Washoe, DO HEREBY CERTIFY:

That I appeared via Zoom videoconference in Department
12 of the above-entitled Court on December 21, 2020, and took
verbatim stenotype notes of the proceedings had upon the matter
captioned within, and thereafter transcribed them into typewriting
as herein appears;

That I am not a relative nor an employee of any of the
parties, nor am I financially or otherwise interested in this
action;

That the foregoing transcript, consisting of pages 1
through 112, is a full, true and correct transcription of my
stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 23rd day of February,
2021.

/s/Constance S. Eisenberg

CONSTANCE S. EISENBERG
CCR #142, RMR, CRR

EVIDENTIARY HEARING**DECEMBER 21,
2020****HONORABLE
SANDRA A.
UNSWORTH
DEPT. NO. 12
C. COVINGTON
(Clerk)
C. EISENBERG
SUNSHINE
REPORTING
(Recording)***Hearing conducted by Zoom video conferencing.*

Plaintiff, Pierre Hascheff, was present represented by Todd L. Torvinen, Esq.
Defendant, Lynda Hascheff, was present represented by Shawn B. Meador, Esq.
Dept. 12 Court Law Clerk, J. Asmar, was present.

This hearing was held remotely because of the closure of the courthouse at 1 South Sierra Street, Reno, Washoe County, Nevada due to the National and Local emergency caused by COVID-19. The Court and all the participants appeared by simultaneous audiovisual transmission. The Court was physically located in Reno, Washoe County, Nevada, which was the site of the court session.

The Court noted there are two motions currently pending before the Court. Ms. Hascheff filed a motion related to a motion for clarification or a declaratory relief regarding the terms of the MSA or Decree filed June 16, 2020 and Judge Hascheff filed a motion for an order to show cause filed July 8, 2020.

*Pltf. Exhibit A was marked and admitted with no objection.
Pltf. Exhibit B was marked and admitted over objection.
Pltf. Exhibits C-E were marked and admitted with no objection.
Pltf. Exhibit F was marked and admitted over objection.
Pltf. Exhibits G and H were marked and admitted with no objection.
Pltf. Exhibit I was marked and admitted.
Pltf. Exhibit J was marked and objected to.*

Def. Exhibits 1-16 were marked and admitted with no objections.

*Pltf. Exhibits A-J were filed on December 17, 2020 as Notice of Exhibits.
Def. Exhibits 1-16 were filed on December 17, 2020 as Lynda L. Hascheff Notice of Hearing Witnesses and Exhibits.*

Counsel Torvinen stated he has no objections with Def. Exhibits 1-15.

Counsel Meador stated the language of the indemnity agreement states that if Judge Hascheff is sued for malpractice, Ms. Hascheff is obligated to indemnify him of half the cost of any defense of that action. The issue is what expenses did Judge Hascheff incur in the defense of the malpractice action filed against him. Judge Hascheff states he received a 41 page subpoena that led him to believe he was going to be sued for malpractice. Def. Exhibit 14 discussed. He cannot see anything that would lead him to believe that a malpractice threat was made against Judge Hascheff. Discussed the Jakisick lawsuit. A request for Judge Hascheff's file does not mean he was being sued. Def. Exhibit 15 discussed. Ms. Hascheff is being asked to pay for expenses without knowing if it was for a defense for a malpractice action. Discussed the Jakisick lawsuit further. The language of the indemnity agreement states it has to be a defense of that action and not related to that action. They don't know if any of the bills for which Judge Hascheff seeks indemnity were actually in defense of the malpractice action filed by Todd Jakisick. Judge Hascheff insists Ms. Hascheff not rely on him and at the same time he says he has no fiduciary duty to her. If Ms. Hascheff is to rely on him he must have some corresponding duty to protect

EVIDENTIARY HEARING

her. He does not protect her by keeping all of this a secret. He asked for information and was told they were not entitled to the information. Discussed Deft. Exhibit 8.

Court Reporter, C. Eisenberg, disclosed that Todd Alexander who was mentioned by Mr. Meador is her husband's partner. (Neither counsel had any objections).

Counsel Meador discussed Pltf. Exhibit E which is his Deft. Exhibit 7. Pltf. Exhibit D and Deft. Exhibit 4 are the same. Discussed bill which was redacted. He is entitled to know that the fees that his client is being asked to indemnify him are in defense of a malpractice action. Discussed the Jaksick lawsuit further. He doesn't know if Judge Hascheff continued practice in his private practice after he took the bench. The report that he referenced that put Todd Jaksick on notice was produced by someone he doesn't know in December 2018 but was not part of the file. It was a litigation document.

Counsel Torvinen stated he doesn't have an objection to Deft. Exhibit 16. Discussed Deft. Exhibit 16. Discussed Deft. Exhibit 2. Judge Hascheff tried to comply. Judge Hascheff was seeking indemnity for a total of \$11,008 so \$5504 by June 2 without filing a pleading. Both parties' interests were aligned. If you look back at the bills, this matter is related to the risk related to the underlying matter. The underlying matter has to be determined first. Discussed why some of the stuff is redacted for confidentiality. Judge Hascheff has done everything that he can to answer questions. It's a simple indemnity clause. Judge Hascheff was willing to accept terms for payment by Ms. Hascheff. Pltf. Exhibits H and I discussed. Judge Hascheff made a payment to Lemons Grundy on December 18, 2019 of \$6400. Less than 30 days later, on January 15, 2020 Judge Hascheff wrote a handwritten note to Ms. Hascheff saying she owes him money (Deft. Exhibit 1). Judge Hascheff is following the agreement exactly. Judge Hascheff was served with the subpoena in July 2018. Judge Hascheff provided Ms. Hascheff notice in January 2020. Judge Hascheff was sued for malpractice December 30, 2018 and he provided notice in January 2020. About \$600 were the fees related to the malpractice action, however most of the \$11,000 from the bills were incurred after the filing of the complaint. The complaint was immediately stayed. Judge Hascheff took the bench in 2013. Deft. Exhibit 16 discussed.

Counsel Meador discussed Deft. Exhibit 1. Judge Hascheff does not say when he was sued, by whom he was sued, or for what he was sued. He also does not state that the action was stayed and the ongoing bills are in the collateral matter. The bill does not make any sense at all. He demands payment of \$5200.90. The bills reflect two payments paid by Judge Hascheff for a total of \$2000. Deft. Exhibit 15 discussed. Judge Hascheff states all he has to do is show proof of payment. He received copies of those checks showing proof of payment on December 9, 2020.

Counsel Torvinen discussed Deft. Exhibit 15 Allied World is the malpractice carrier. The Allied payment shows all of the payments except for one totaling \$11,008. Discussed payments.

(Recess taken from 10:13 a.m. until 10:23 a.m.)

Counsel Meador disclosed that his law firm has offered employment to the Dept. 12 Law Clerk (Mr. Torvinen did not object) He is not stipulating to any of Pltf. Exhibits Pltf. Exhibit 1 discussed.

EVIDENTIARY HEARING

Counsel Torvinen discussed Pltf. Exhibit H. (Mr. Torvinen agrees that Mr. Meador did not receive the checks until December 9, 2020). Discussed Pltf. Exhibit I. It is the same as Deft. Exhibit 15.

Counsel Meador discussed Deft. Exhibit 16. There is no evidence that Judge Hascheff prepared the second amendment or that he was present when it was signed or that Mr. Jaksick lacked competence. Judge Hascheff keeps arguing that Ms. Hascheff is responsible for bills related to a malpractice claim. They have no proof that the bills were for a malpractice action. Judge Hascheff says they are not entitled to know and are expected to just pay the bill. Mr. Alexander's affidavit was received after April 10, 2020. Deft. Exhibit 9 discussed. He was told he was not allowed to know the basis of Mr. Alexander's statement. He is also being told that Mr. Alexander's communication with opposing counsel who sued Judge Hascheff are all attorney client privilege.

Counsel Torvinen stated they asked for redacted bills and that is what Ms. Hascheff got. Conversations with opposing counsel may be confidential and not attorney client privilege. Deft. Exhibit 13 discussed.

(Judge Hascheff was sworn to testify).

Judge Hascheff stated the subpoena came in July and it was a blanket request for all of his files. Discussed the Jaksick case (Mr. Meador objected. *The Court stated it will weigh the testimony accordingly*). The malpractice action was filed. Testified to why he thinks the complaint was filed. As the bills started to pile up, he then decided it was appropriate to provide notice. The case did not heat up until January the following year. At first he was going to just eat the bills and then in March or April 2019 he thought it was fair to split it with Ms. Hascheff. He was not provided the bill from Lemons Grundy and Eisenberg on a monthly basis. Ultimately he got the large bill of \$6351.80. All the bills refer to Allied World Insurance but he paid those bills. He was deposed in January and February 2019. He did testify at the trial and was represented during his testimony. His concern was that he didn't know how it was going to turn. He didn't know who was going to sue him. Ultimately he needed counsel. He was sued in December 2018 for malpractice. He provided notice of the suit in January 2020. Counsel Meador questioned Judge Hascheff. Deft. Exhibit 15 discussed. The first day of his deposition was in September 2018 before he was sued. The entry for November 17, 2018 reflects his deposition of November 2018 before he was sued for malpractice. The January 24, 2019 bill discussed. Everything that was redacted was privilege and should not be disclosed. His interests are the same as Ms. Hascheff's interests. Both of them are responsible under the indemnity agreement. He and Mr. Torvinen looked at them and decided what should be redacted. Based on his discussions with Mr. Alexander they knew what could be disclosed and what shouldn't. Mr. Alexander looked at other people's testimony to see what he might be asked. Deft. Exhibits 3 and 14 discussed. Testified to why he thought he was going to be sued for malpractice. He did not produce the documents, the Jaksicks did because they had the documents and he did not. He doesn't know which ones they produced and which ones they put under privilege law. Deft. Exhibits 16, 9, and 8 discussed. The lawsuit was tried in February 2019. The jury came back on legal claims within a week. The date of Todd Alexander's affidavit was April 2020. Deft. Exhibits 7, 5 and 4 discussed. Pltf. Exhibit D discussed. Counsel Torvinen questioned Judge Hascheff. Pltf. Exhibits A, B, C, E, F, G, and J discussed. Deft. Exhibits 14 and 16 discussed. The Court questioned Judge Hascheff. He received the subpoena sometime in July of the underlying litigation. The subpoena led him to believe that there was a possibility of the malpractice lawsuit. When he was served, he retained

EVIDENTIARY HEARING

counsel. He called his malpractice insurance carrier shortly after getting the subpoena. He later found out his deductible was \$10,000. At first, he was going to absorb the cost himself so that is why he didn't provide notice until January 2020 when he decided they should split the cost. As the process proceeded he realized the lawsuit could turn into a reality.

THE COURT ORDERED: This matter is taken under submission.

Court shall prepare the order.

The clerk's minutes are not an order of the Court. They may be altered, amended or superseded by a written order. If the matter was recorded via JAVS, a copy of the proceeding may be request through the Second Judicial District Court Filing Office located at 75 Court Street, Reno, NV 89501. If the matter was reported via Court Reporter, a transcript must be requested directly from the Court Reporter.

Exhibits

Hearing: **EVIDENTIARY HEARING**

Title: ***SEALED* PIERRE A. HASCHEFF V. LYNDA HASCHEFF**

PLTF: **PIERRE A. HASCHEFF**

PATY: **TODD L. TORVINEN, ESQ.**

DEFT: **LYNDA HASCHEFF**

DATY: **SHAWN B. MEADOR, ESQ.**

Case No: **DV13-00656** Dept. No: **12** Clerk: **CCOVINGTON** Date: **12/21/2020**

Exhibit No.	Party	Description	Marked	Offered	Admitted
A	PLTF	LETTER AND LEMONS, GRUNDY & EISENBERG STATEMENTS	12/21/20	NO OBJ	12/21/20
B	PLTF	EMAILS BETWEEN JUDGE HASCHEFF AND LUCY MASON	12/21/20	OBJ	12/21/20
C	PLTF	EMAIL FROM JUDGE HASCHEFF TO SHAWN MEADOR DATED APRIL 20, 2020	12/21/20	NO OBJ	12/21/20
D	PLTF	EMAIL FROM JUDGE HASCHEFF TO SHAWN MEADOR DATED MARCH 1, 2020 AND MARCH 2, 2020	12/21/20	NO OBJ	12/21/20
E	PLTF	LETTER TO SHAWN MEADOR FROM TODD TORVINEN DATED MAY 29, 2020	12/21/20	NO OBJ	12/21/20
F	PLTF	EMAILS BETWEEN JUDGE HASCHEFF AND LUCY MASON	12/21/20	OBJ	12/21/20
G	PLTF	COMPLAINT FILED DECEMBER 26, 2018	12/21/20	NO OBJ	12/21/20
H	PLTF	CHECKS TO LEMONS, GRUNDY & EISENBERG	12/21/20	NO OBJ	12/21/20

Exhibits

Hearing: **EVIDENTIARY HEARING**

Title: ***SEALED* PIERRE A. HASCHEFF V. LYNDA HASCHEFF**

PLTF: **PIERRE A. HASCHEFF**

PATY: **TODD L. TORVINEN, ESQ.**

DEFT: **LYNDA HASCHEFF**

DATY: **SHAWN B. MEADOR, ESQ.**

Case No: **DV13-00656** Dept. No: **12** Clerk: **CCOVINGTON** Date: **12/21/2020**

Exhibit No.	Party	Description	Marked	Offered	Admitted
I	PLTF	BILLING RECORDS FROM LEMONS, GRUNDY & EISENBERG	12/21/20		12/21/20
J	PLTF	DECLARATION OF TODD ALEXANDER, ESQ.	12/21/20	OBJ	
1	DEFT	LETTER AND ACCOMPANYING SUMMARY INVOICE	12/21/20	NO OBJ	12/21/20
2	DEFT	DECLARATION OF TODD R. ALEXANDER, ESQ.	12/21/20	NO OBJ	12/21/20
3	DEFT	COMPLAINT FILED DECEMBER 26, 2018	12/21/20	NO OBJ	12/21/20
4	DEFT	EMAILS BETWEEN SHAWN MEADOR AND JUDGE HASCHEFF	12/21/20	NO OBJ	12/21/20
5	DEFT	EMAIL FROM JUDGE HASCHEFF DATED APRIL 20, 2020	12/21/20	NO OBJ	12/21/20
6	DEFT	EMAIL FROM SHAWN MEADOR DATED APRIL 20, 2020	12/21/20	NO OBJ	12/21/20
7	DEFT	LETTER FROM TODD TORVINEN DATED MAY 29, 2020	12/21/20	NO OBJ	12/21/20

Exhibits

Hearing: **EVIDENTIARY HEARING**

Title: ***SEALED* PIERRE A. HASCHEFF V. LYND A HASCHEFF**

PLTF: **PIERRE A. HASCHEFF**

PATY: **TODD L. TORVINEN, ESQ.**

DEFT: **LYND A HASCHEFF**

DATY: **SHAWN B. MEADOR, ESQ.**

Case No: **DV13-00656** Dept. No: **12** Clerk: **CCOVINGTON** Date: **12/21/2020**

Exhibit No.	Party	Description	Marked	Offered	Admitted
8	DEFT	LETTER TO TODD TORVINEN FROM SHAWN MEADOR DATED JUNE 2, 2020	12/21/20	NO OBJ	12/21/20
9	DEFT	LETTER TO TODD TORVINEN FROM SHAWN MEADOR DATED JUNE 11, 2020	12/21/20	NO OBJ	12/21/20
10	DEFT	EMAIL BETWEEN JUDGE HASCHEFF AND LUCY MASON DATED FEBRUARY 5, 2020	12/21/20	NO OBJ	12/21/20
11	DEFT	EMAIL BETWEEN JUDGE HASCHEFF AND SHAWN MEADOR DATED MARCH 2, 2020	12/21/20	NO OBJ	12/21/20
12	DEFT	EMAILS BETWEEN JUDGE HASCHEFF AND LUCY MASON	12/21/20	NO OBJ	12/21/20
13	DEFT	MARITAL SETTLEMENT AGREEMENT	12/21/20	NO OBJ	12/21/20
14	DEFT	SUBPOENA DUCES TECUM	12/21/20	NO OBJ	12/21/20
15	DEFT	BILLING STATEMENTS FROM LEMONS, GRUNDY & EISENBERG	12/21/20	NO OBJ	12/21/20

Exhibits

Hearing: EVIDENTIARY HEARING

Title: *SEALED* PIERRE A. HASCHEFF V. LYND A HASCHEFF

PLTF: PIERRE A. HASCHEFF

PATY: TODD L. TORVINEN, ESQ.

DEFT: LYND A HASCHEFF

DATY: SHAWN B. MEADOR, ESQ.

Case No: DV13-00656 Dept. No: 12 Clerk: CCOVINGTON Date: 12/21/2020

Exhibit No.	Party	Description	Marked	Offered	Admitted
16	DEFT	VARIOUS PLEADINGS FROM JAKSICK CASE NO. PR17-0446 & PR17- 00445	12/21/20	NO OBJ	12/21/20

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

PIERRE A. HASCHEFF,

Plaintiff,

vs.

LYNDA HASCHEFF,

Defendant.

Case No. DV13-00656

Dept. No. 12

**ORDER GRANTING MOTION FOR CLARIFICATION OR DECLARATORY RELIEF;
ORDER DENYING MOTION FOR
ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE;
ORDER DENYING REQUEST FOR ATTORNEYS' FEES AND COSTS**

The Court considers two motions for purposes of this Order.

First, before this Court is Defendant Lynda Hascheff's ("Ms. Hascheff") Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("MSA Motion") filed on June 16, 2020. Plaintiff Pierre A. Hascheff filed an Opposition to Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("Opposition to MSA Motion") on July 6, 2020. Ms. Hascheff then filed a Reply in Support of Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("Reply to MSA Motion") on July 13, 2020, and the matter was submitted thereafter.

Second, before this Court is Judge Hascheff's ("Judge Hascheff") Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders ("OSC Motion") filed on July 8, 2020. Ms. Hascheff filed an Opposition to Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders ("Opposition to OSC Motion") filed on July 17, 2020. Judge Hascheff

1 then filed a Reply to Opposition to Motion for Order to Show Cause, or in the Alternative, to
2 Enforce the Court's Orders ("Reply to OSC Motion"), and the matter was submitted thereafter. On
3 December 21, 2020, the Court heard argument from the parties regarding the MSA Motion and
4 OSC Motion.

5 On September 30, 2013, Ms. Hascheff and Judge Hascheff entered into a Marital Settlement
6 Agreement ("MSA") that was approved, adopted, merged and incorporated into the Decree of
7 Divorce ("Decree") on November 15, 2013. Specifically, the MSA contains an indemnification
8 clause in the event of a malpractice claim against Judge Hascheff ("MSA § 40").

9 **A. Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree**

10 In her MSA Motion, Ms. Hascheff asks this Court to enter an Order clarifying MSA § 40
11 that she is only responsible for fees incurred in a malpractice action against Judge Hascheff, and
12 that she is not responsible for the fees or costs he chose to incur to have personal counsel protect his
13 interests in connection with his role as a percipient witness in a collateral trust action. Moreover,
14 Ms. Hascheff asks that Judge Hascheff be obligated to pay the fees and costs Ms. Hascheff incurred
15 in connection with her attempts to obtain information, respond to his demands and engage in
16 motion practice to establish her rights and obligations.

17 Ms. Hascheff contends on January 15, 2020, Judge Hascheff sent her an undated letter
18 demanding that she indemnify him for legal fees and costs incurred in connection with him being
19 sued by a client in an on-going malpractice action. Judge Hascheff warned Ms. Hascheff that he
20 would be sending additional invoices he received. Upon investigation Ms. Hascheff learned that in
21 January 2020, the malpractice action had been stayed and that Judge Hascheff incurred limited fees
22 related to the malpractice action. Judge Hascheff sought indemnification from Ms. Hascheff for
23 fees and costs incurred in his role as a percipient witness in a collateral trust action to which he was
24 not a named party. Ms. Hascheff asserts the language in MSA § 40, by its clear, express, and
25 unambiguous terms, does not require Ms. Hascheff to indemnify Judge Hascheff's legal fees and
26 costs he elected to incur as a percipient witness. Ms. Hascheff contends Judge Hascheff did not
27 have the right to make the decision to protect his interests as a percipient witness, and then demand
28 that she finance his decision, without fully advising her of the circumstances and gaining her
agreement and consent in advance.

1 Ms. Hascheff alleges on December 26, 2018, Judge Hascheff was sued for malpractice by
2 his former client, Todd Jaksick, individually and as trustee of two trusts. Ms. Hascheff claims
3 Judge Hascheff made the deliberate decision not to notify her despite the potential financial risk to
4 her pursuant to MSA § 40, but rather waited for over a year, until January 15, 2020, to inform her of
5 this suit. Ms. Hascheff asserts Judge Hascheff and his former client eventually entered an
6 agreement to stay the malpractice action until the collateral trust action was resolved.

7 Ms. Hascheff posits MSA § 40 does not require her to finance Judge Hascheff's
8 litigation choices to become a percipient witness in a lawsuit to which he was not a
9 party. Ms. Hascheff states if Judge Hascheff believed it would be "helpful" or "prudent"
10 for him to have counsel to assist him as a percipient witness, he had an obligation to
11 consult with her before incurring the expenses and to advise her of the underlying facts
12 of the collateral trust action, along with the litigation risks and why retention of counsel
13 would be appropriate so that she could make an informed decision about whether to
14 share in the costs.

15 In his Opposition to MSA Motion, Judge Hascheff highlights MSA § 40 must be read in
16 conjunction with the entire section, and MSA § 40 unambiguously indicates that if any claim,
17 action, or proceeding, whether or not well-founded shall later be brought seeking to hold one party
18 liable on account of any alleged debt, liability, act, or omission the other party at his or her sole
19 expense must defend the other against said claim, action or proceeding. Judge Hascheff asserts
20 MSA § 40 requires a party must also indemnify the other and hold him or her harmless against any
21 loss or liability that he or she may incur as a result of the claim, action or proceeding including
22 attorney's fees, costs and expenses incurred in defending or responding to such action. Judge
23 Hascheff also notes as a subset and part of that all-encompassing language providing a full defense
24 and complete unconditional indemnification a provision was added that in the event said claim,
25 action or proceeding, involved a malpractice action whether or not well-founded, it obligated the
26 other party to pay only one-half the defense costs and indemnify only one-half of any judgment if
27 any, entered against said party.

28 Judge Hascheff maintains MSA § 40 does not include a notice provision. Judge Hascheff
maintains it was critical to defend the claims in the collateral trust action as these claims would

1 likely become res judicata and collateral estoppel defenses in the malpractice action and his efforts
2 in the collateral trust action could eliminate Ms. Hascheff being required to pay one-half of the
3 likely much higher defense costs and the judgment in the malpractice action. Judge Hascheff claims
4 he needed to engage counsel early to address and cut off any possible claims arising out of or
5 determined in the collateral trust litigation. Judge Hascheff contends his decision should not be
6 subject to question by Ms. Hascheff under the circumstances. Judge Hascheff alleges he did not
7 keep the potential for a malpractice claim secret from Ms. Hascheff. Yet, he did not notify her of
8 the malpractice filing as he believed that the collateral trust action would be resolved, and the
9 malpractice action filed in December 2018 would eventually be dismissed.

10 Judge Hascheff contends the fact that Allied World insurance company picked up the
11 defense and paid defense fees of \$2,500 in the collateral trust action, although not required under
12 his insurance policy, conclusively shows that Judge Hascheff's involvement in the collateral trust
13 action primarily involved potential malpractice claims.

14 Judge Hascheff asserts it is not uncommon for an indemnitee to remain involved for several
15 years in the underlying trust litigation and then once litigation is concluded and the damages are
16 ascertained; then and only then will the indemnitee notify the indemnitor of the obligation to pay
17 said damages. Therefore, Judge Hascheff claims he did not breach his fiduciary duty, if any, by
18 waiting to inform Ms. Hascheff of the malpractice action until after the jury decided the legal
19 claims in the underlying trust litigation.

20 Judge Hascheff also argues Ms. Hascheff has violated Section 35 ("MSA § 35") which
21 clearly provides that any party intending to bring an action or proceeding to enforce the MSA shall
22 not be entitled to recover attorney's fees and costs unless she first gives the other party at least 10
23 days written notice before filing the action or proceeding.

24 In her Reply to MSA Motion, Ms. Hascheff emphasizes a strict interpretation of MSA § 40
25 does not cover Judge Hascheff's incurred legal expenses. Ms. Hascheff states the indemnity
26 language could have been written to say that she will indemnify Judge Hascheff for any fees and
27 costs that he, in his sole and unilateral discretion, believe are reasonable, necessary, and related in
28 any way to any potential malpractice action, but that is not the language his lawyer drafted, nor is it
the agreement the parties signed. As a result, Ms. Hascheff states she contractually agreed to pay

1 half the costs of defense of the malpractice action, which in this case was immediately stayed with
2 no fees incurred.

3 Ms. Hascheff asserts had Judge Hascheff given her the common courtesy of promptly
4 informing her of the circumstances, sharing with her the underlying facts and risks they faced, and
5 consulting with her about the most appropriate way for them to jointly approach the problem, they
6 may have been able to reach agreement to avoid this dispute and all of these fees.

7 **B. Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders**

8 In his OSC Motion, Judge Hascheff moves this Court: (1) To issue an order for Ms.
9 Hascheff to show cause as to why she intentionally disobeyed the Decree; (2) To enforce the terms
10 of the parties' incorporated MSA, and order the payment of the indemnification; and, (3) Order Ms.
11 Hascheff pay Judge Hascheff's attorney fees and costs whether this matter proceeds as contempt, or
12 as an order for enforcement upon affidavit from counsel.

13 Judge Hascheff asserts Ms. Hascheff chooses to willfully disobey the Decree and MSA by
14 making "ill-advised and even nonsensical arguments" in her MSA Motion as a course of conduct to
15 "gain leverage and delay payment."

16 Judge Hascheff states in the event the Court determines Ms. Hascheff's actions do not rise
17 to the level of contempt, the Court should enforce its orders by requiring Ms. Hascheff to pay the
18 required one half indemnification amount to Judge Hascheff in the sum of \$4,924.05 (plus a
19 percentage of any later accrued and accruing fees and costs) pursuant to MSA § 40. Judge Hascheff
20 further seeks an award of attorney's fees for this contempt motion pursuant to MSA § 35.

21 In her Opposition to OSC Motion, Ms. Hascheff contends there are no clear and
22 unambiguous Orders of this Court that she has allegedly refused to honor. Ms. Hascheff
23 emphasizes the dispute is whether the simple and unambiguous language of the parties' MSA and
24 Decree requires Ms. Hascheff to pay the fees Judge Hascheff demands.

25 Ms. Hascheff asserts since the Decree does not clearly and unambiguously require her to
26 pay those fees, Ms. Hascheff could not be held in contempt as a matter of law. Ms. Hascheff
27 asserts if interpretation is required to obtain the result Judge Hascheff seeks, the language on which
28 he relies cannot be so clear and unambiguous as to support a contempt motion - no matter how
reasonable the requested interpretation. Ms. Hascheff claims since there is a dispute about the

1 meaning of their contract and the parties' respective rights and obligations, Ms. Hascheff, in good
2 faith, sought clarification through her MSA Motion so that she would know exactly what her legal
3 obligations are.

4 In his Reply to OSC Motion, Judge Hascheff maintains rather than resolving a dispute of
5 approximately \$5,000, Ms. Hascheff has embarked on an unfortunate litigation track where she
6 undoubtedly already incurred fees in excess of \$5,000, and likely will incur attorney's fees. Judge
7 Hascheff contends Ms. Hascheff also unnecessarily caused him to incur substantial legal fees even
8 though he had offered to accept minimal payments on his indemnification claim without interest
9 and without incurring any legal fees.

10 Judge Hascheff posits Ms. Hascheff fails to cite any case where a court would distinguish
11 between a contractual indemnity in an MSA from any other indemnity obligation, and a settlement
12 agreement is construed as any other contract and governed by the principles of contract law. Judge
13 Hascheff maintains Ms. Hascheff's assertion that she has no obligation to pay half the defense costs
14 and/or indemnify until her conditions are met are not expressed in the MSA, and Ms. Hascheff's
15 position that she has some "implied" right or "conditions precedent" to her obligation to pay is
16 entirely inconsistent with the MSA or existing caselaw.

16 Law

17 **A. Declaratory Relief Standard**

18 A party must meet four elements before declaratory relief can be granted:

- 19 1) there must exist a justiciable controversy; that is to say, a
20 controversy in which a claim of right is asserted against one who
21 has an interest in contesting it; (2) the controversy must be
22 between persons whose interests are adverse; (3) the party seeking
23 declaratory relief must have a legal interest in the controversy,
that is to say, a legally protectable interest; and (4) the issue
involved in the controversy must be ripe for judicial
determination.

24 *MB Am., Inc. v Alaska Pac. Leasing*, 132 Nev. Adv. Op. 8, 367 P.3d 1286, 1291 (2016).
25 Moreover, any person whose rights, status, or other legal relations "are affected by a statute may
26 have determined any question of construction" of that statute. NRS 30.040(1); *Prudential Ins. Co.*
27 *of Am. v Ins. Comm'r.* 82 Nev. 1, 5, 409 P.2d 248, 250 (1966) (declaratory relief is available when
28

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

5 **B. Interpretation of MSA Standard.**

6 A settlement agreement, which is a contract, is governed by principles of contract law.
7 *Mack v. Estate of Mack*, 125 Nev. 80, 95, 206 P.3d 98, 108 (2009). As such, a settlement
8 agreement will not be an enforceable contract unless there is "an offer and acceptance, meeting of
9 the minds, and consideration." *Id.* Generally, when a contract is clear on its face, it "will be
10 construed from the written language and enforced as written." *Buzz Stew, LLC v. City of N. Las*
11 *Vegas*, 131 Nev. 1, 7, 341 P.3d 646, 650 (2015) (citing *Canfora v. Coast Hotels & Casinos, Inc.*,
12 121 Nev. 771, 776, 121 P.3d 599, 603 (2005)). The court has no authority to alter the terms of an
13 unambiguous contract. *Canfora*, 121 Nev. at 776, 121 P.3d at 603.

14 Whether a contract is ambiguous likewise presents a question of law. *Galardi v. Naples*
15 *Polaris, LLC*, 129 Nev. 306, 309, 301 P.3d 364, 366 (2013) (citing *Margrave v. Dermody Props.*,
16 110 Nev. 824, 827, 878 P.2d 291, 293 (1994)). A contract is ambiguous if its terms may reasonably
17 be interpreted in more than one way, but ambiguity does not arise simply because the parties
18 disagree on how to interpret their contract. *Id.* (citing *Anvui, L.L.C. v. G.L. Dragon, L.L.C.*, 123
19 Nev. 212, 215, 163 P.3d 405, 407 (2007); *Parman v. Petricciani*, 70 Nev. 427, 430-32, 272 P.2d
20 492, 493-94 (1954)).

21 Marital agreements are "enforceable unless unconscionable, obtained through fraud,
22 misrepresentation, material nondisclosure or duress." *Furer v. Furer*, 126 Nev. 712, 367 P.3d 770
23 (2010) (citing *Sogg v. Nevada State Bank*, 108 Nev. 308, 312, 832 P.2d 781, 783-84 (1992)).

24 After merger, the district court may enforce the provisions of the divorce decree by using its
25 contempt power. *Friedman v. Friedman*, 128 Nev. 897, 381 P.3d 613 (2012) (citing *Hildahl v.*
26 *Hildahl*, 95 Nev. 657, 662-63, 601 P.2d 58, 61-62 (1979)). The district court may interpret the
27 language of the divorce decree in order to resolve ambiguity *Id.* (citing *Kishner v. Kishner*, 93 Nev.
28 220, 225, 562 P.2d 493, 496 (1977)).

1 //

2 **C. Interpretation of Indemnification Standard.**

3 The scope of a contractual indemnity clause is determined by the contract and is generally
4 interpreted like any contract. *George L. Brown Ins. v. Star Ins. Co.*, 126 Nev. 316, 323, 237 P.3d
5 92, 96 (2010).

6 Contractual indemnity is where, pursuant to a contractual provision, two parties agree one
7 party will reimburse the other party for liability resulting from the former's work. *United Rentals*
8 *Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 673, 289 P.3d 221, 226 (2012). Contracts purporting to
9 indemnify a party against its own negligence will only be enforced if they clearly express such an
10 intent, and a general provision indemnifying the indemnitee against "any and all claims" standing
11 alone, is not sufficient. *Reyburn Lawn & Landscape Designers, Inc. v. Plaster Dev. Co., Inc.*, 127
12 Nev. 331, 339, 255 P.3d 268, 274 (2011).

13 When the duty to indemnify arises from contractual language, it generally is not subject to
14 equitable considerations; rather, it is enforced in accordance with the terms of the contracting
15 parties' agreement. *United Rentals Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 673, 289 P.3d 221,
16 226 (2012).

17 An indemnity clause imposing a duty to defend is construed under the same rules that
18 govern other contracts. *United Rentals Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 676, 289 P.3d
19 221, 228 (2012). The duty to defend is broader than the duty to indemnify because it covers not
20 just claims under which the indemnitor is liable, but also claims under which the indemnitor could
21 be found liable. *Id.* Generally, a contractual promise to defend another against specified claims
22 clearly connotes an obligation of active responsibility, from the outset, for the promisee's defense
23 against such claims. *Id.* While the duty to defend is broad, it is not limitless. *Id.*

24 An indemnitee's duty, if any, to provide notice to an indemnitor arises from the express and
25 unambiguous language of the indemnity agreement. *Fontenot v. Mesa Petroleum Co.*, 791 F.2d
26 1207, 1221 (5th Cir. 1986) (holding where an indemnity agreement does not require notice courts
27 will not infer or insert a notice requirement as a condition precedent to a right to recover on the
28 indemnitee contract); *Premier Corp. v. Economic Research and Analysis, Inc.*, 578 F.2d 551, 554
(4th Cir. 1978) (holding notice is unnecessary unless the indemnity contract requires it).

1
2 **D. Laches Standard.**

3 Laches, an equitable doctrine, may be invoked when delay by one party prejudices the other
4 party such that granting relief to the delaying party would be inequitable. *Besnilian v. Wilkinson*,
5 117 Nev. 519, 522, 25 P.3d 187, 189 (2001). However, to invoke laches, the party must show that
6 the delay caused actual prejudice. *Id.*

7 Laches is more than mere delay in seeking to enforce one's rights; it is delay that works a
8 disadvantage to another. *Home Sav. Ass'n v. Bigelow*, 105 Nev. 494, 496, 779 P.2d 85, 86 (1989).
9 The condition of party asserting laches must become so changed that the party cannot be restored to
10 their former state. *Id.* The applicability of the doctrine of laches turns upon peculiar facts of each
11 case. *Id.*

12 If the elements of a laches defense are met, a court may dismiss an entire case, dismiss
13 certain claims, or restrict the damages available to the plaintiff. *Morgan Hill Concerned Parents*
14 *Ass'n v. California Dep't of Educ.*, 258 F. Supp. 3d 1114, 1132–33 (E.D. Cal. 2017) (citing
15 *E.E.O.C. v. Timeless Investments, Inc.*, 734 F.Supp.2d 1035, 1067 (E.D. Cal. 2010)).

16 The Ninth Circuit has implicitly recognized a court's ability to raise the doctrine of laches
17 *sua sponte*. *Id.* (citing *Sw. Voter Registration Educ. Project v. Shelley*, 344 F.3d 914 (9th Cir. 2003)
18 (en banc)). A limitation on the *sua sponte* application of laches is in circumstances in which parties
19 lack notice about an issue and are not given an opportunity to address it. *Morgan Hill Concerned*
20 *Parents Ass'n*, 258 F. Supp. 3d at 1133.

21 **E. Order to Show Cause for Contempt of Court Standard.**

22 Pursuant to NRS 22.030(2), if a contempt is not committed in the immediate view and
23 presence of the court or judge at chambers, an affidavit must be presented to the court or judge of
24 the facts constituting the contempt, or a statement of the facts by the masters or arbitrators. The
25 requirement of an affidavit is confirmed by case law, specifically requiring an affidavit must state
26 facts specific enough to allow the Court to proceed to be submitted at the Contempt proceeding,
27 which is necessary to give the court subject matter jurisdiction. *See Awad v. Wright*, 106 Nev. 407,
28 794 P.2d 713 (1990) (overruled on other grounds); *Philips v. Welch*, 12 Nev. 158 (1887); *Strait v.*
Williams, 18 Nev. 430 (1884). Contempt statutes are to be strictly construed based upon the

1 criminal nature of a contempt proceeding. *Ex Parte Sweeney*, 18 Nev. 71 (1883).

2 The penalties for contempt include a monetary fine, not to exceed \$500.00, or
3 imprisonment, not to exceed 25 days, or both. *See* NRS 22.100(2). In addition to the penalties set
4 forth above the Court may require the person to pay to the party seeking to enforce the writ, order,
5 rule or process the reasonable expenses incurred by the party as a result of the contempt. *See* NRS
6 22.100(3).

7 The moving party must make a *prima facie* showing that the non-moving had the ability to
8 comply with the Court order and that the violation of the order was willful. *Rodriguez v. District*
9 *Court*, 120 Nev. 798, 809, 102 P.3d 41, 49 (2004). In order for contempt to be found, the Court
10 order "must be clear and unambiguous, and must spell out the details of compliance in clear,
11 specific, and unambiguous terms so that the person will readily know exactly what duties or
12 obligations are imposed on him." *Cunningham v. District Court*, 102 Nev. 551, 559-60, 729 P.2d
13 1328, 1333-34 (1986).

14 **F. Attorneys' Fees & Costs Award Standard.**

15 NRS 18.010(2)(b) and NRCP 11 authorize the district court to grant an award of attorney
16 fees as sanctions against a party who pursues a claim without reasonable ground. We have
17 consistently recognized that "[t]he decision to award attorney fees is within the [district court's]
18 sound discretion ... and will not be overturned absent a 'manifest abuse of discretion.'" *Edwards v.*
19 *Emperor's Garden Rest.*, 122 Nev. 317, 330, 130 P.3d 1280, 1288 (2006).

20 NRS 18.010 also governs the instances in which attorney fees are awarded, and states the
21 following:

22 Without regard to the recovery sought, when the court finds that the claim,
23 counterclaim, cross-claim or third-party complaint or defense of the opposing party
24 was brought or maintained without reasonable ground or to harass the prevailing
25 party. The court shall liberally construe the provisions of this paragraph in favor of
26 awarding attorney's fees in all appropriate situations. It is the intent of the
27 Legislature that the court award attorney's fees pursuant to this paragraph and
28 impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all
appropriate situations to punish for and deter frivolous or vexatious claims and
defenses because such claims and defenses overburden limited judicial resources,
hinder the timely resolution of meritorious claims and increase the costs of engaging
in business and providing professional services to the public

NRS 18.010(2)(b); *Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018)

1 In making an award of fees, the Court also examines the reasonableness of attorneys' fees
2 under the factors set forth in *Brunzell*:

3 (1) the qualities of the advocate: his ability, his training, education, experience,
4 professional standing and skill; (2) the character of the work to be done: its
5 difficulty, its intricacy, its importance, time and skill required, the responsibility
6 imposed and the prominence and character of the parties where they affect the
7 importance of the litigation; (3) the work actually performed by the lawyer: the skill,
8 time and attention given to the work; (4) the result: whether the attorney was
9 successful and what benefits were derived.

10 85 Nev. at 349, 455 P.2d at 33. Each of these factors must be given consideration. *Id.* 85 Nev. at
11 350, 455 P.2d at 33.

12 The district court's decision to award attorney fees is within its discretion and will not be
13 disturbed on appeal absent a manifest abuse of discretion. *Capanna*, 134 Nev. at 895, 432 P.3d at
14 734 (2018).

15 NRS 18.020(3) provides costs must be allowed to a prevailing party against any adverse
16 party against whom judgment is rendered in an action for the recovery of money or damages, where
17 the plaintiff seeks to recover more than \$2,500.

18 Order

19 The Court **GRANTS** Ms. Hascheff's MSA Motion. The Court is satisfied the legal fees
20 incurred by Judge Hascheff as a witness in the collateral trust action and the stayed malpractice
21 lawsuit where he is sued individually are encompassed by MSA § 40. The Court finds, as a matter
22 of law, MSA § 40 does not contain express and unambiguous language requiring Judge Hascheff to
23 have provided immediate notice of either the collateral trust action or the malpractice action to Ms.
24 Hascheff. *Fontenot*, 791 F.2d at 1221; *Premier Corp.*, 578 F.2d at 554. Furthermore, this Court is
25 barred from undertaking equitable considerations regarding MSA § 40's contractual language.
26 *United Rentals Hwy. Techs.*, 128 Nev. at 673, 289 P.3d at 226.

27 However, Judge Hascheff was not transparent about his request for indemnification. In
28 January 2020, Judge Hascheff notified Ms. Hascheff he had been sued by a client for malpractice.
He stated that the malpractice action was on-going and he inferred that he had incurred all of fees
and costs he was requesting from Ms. Hascheff directly related to this malpractice suit. He was not
transparent that he was seeking indemnification for fees and costs related to a collateral trust action.

1 When asked for an accounting of the fees and costs, Judge Hascheff failed to provide a
2 complete and transparent accounting. In his email of March 1, 2020, Judge Hascheff changed
3 the sum he was asking Ms. Hascheff to pay from \$5,200.90, as previously demanded, to
4 \$4,675.90. Compare *MSA Motion*, Ex. 1 with *MSA Motion*, Ex. 4. This Court further notes
5 Judge Hascheff's malpractice insurance company reimbursed only up to \$2,500 indicating not
6 all the expenses demanded by Judge Hascheff are related to the defense of the stayed
7 malpractice action. Judge Hascheff and his counsel also noted on the record they unilaterally
8 imposed redactions on the billing statements provided by Judge Hascheff's attorneys, thereby
9 obfuscating the true amount owed by Ms. Hascheff.¹ Ms. Hascheff was told that these
10 redactions, which resulted in fees in the amount \$3,300, were privileged.

11 Judge Hascheff presumably authorized his counsel to attend portions of the collateral
12 trust trial at times when he was not on the witness stand. Significant time was billed to prepare
13 for meetings with attorneys in the collateral trust action, but efforts by Ms. Hascheff's counsel
14 to communicate with counsel for the parties in the collateral trust action were ignored.

15 The only reference to the malpractice action are found in a billing statement dated
16 December 10, 2019 and reflect that on July 1, 2019 Judge Hascheff was billed one tenth of an
17 hour related to the review/analysis of correspondence regarding the state of action against
18 Judge Hascheff. And on September 25, 2019, Judge Hascheff was billed three tenths of an
19 hour for the review/analysis of a draft joint motion and stipulation to stay the malpractice
20 proceedings. *Confidential Exhibit I*. As a result, this Court cannot in good conscience require
21 Ms. Hascheff to pay the full amount demanded by Judge Hascheff based on Judge Hascheff's
22 inconsistent and secretive criteria.

23 Most troubling to this Court is Judge Hascheff's response to this Court's question as to
24 why he waited over a year to notify Ms. Hascheff of the potential malpractice claims against
25 him. Judge Hascheff testified he had not notified Ms. Hascheff of the malpractice action or the

26 Further issues of transparency revolve around the sum of money Judge Hascheff for his fees and costs as compared to
27 what his malpractice carrier paid. The Court notes that the malpractice policy held by Judge Hascheff had a \$10,000
28 deductible, yet in this case Judge Hascheff demanded that Ms. Hascheff pay a sum of less than one-half of the
deductible. If Judge Hascheff's claim is correct that the malpractice carrier felt that defense of claims in the collateral
trust action was actually defense of the malpractice action, why was his share of the defense a figure other than
\$10,000, the amount of the deductible?

1 collateral trust action as he planned on being solely responsible for the legal fees and costs
2 associated therewith, without indemnification from Ms. Hascheff, until the fees and costs
3 became too great.

4 The Court finds Judge Hascheff's conscious disregard and selective enforcement of MSA §
5 40 is comparable to a claim for laches. *Besnilian*, 117 Nev. 519, at 522, 25 P.3d at 189; *Bigelow*,
6 105 Nev. at 496, 779 P.2d at 86. This Court cautiously raises the doctrine of laches *sua sponte* as
7 this Court provided notice to the parties it intended to inquire into the timeliness of Judge
8 Hascheff's claims as one of the specific areas the Court wanted addressed at the hearing. *See*
9 *Morgan Hill Concerned Parents Ass'n*, 258 F. Supp. 3d 1114, 1132-33.

10 Based on Judge Hascheff's testimony, the Court finds Ms. Hascheff has been prejudiced by
11 Judge Hascheff's actions due to his deliberate delay in invoking his rights under MSA § 40.
12 Although immediate notice is not explicitly required in MSA § 40, Judge Hascheff's delay
13 prejudiced Ms. Hascheff. Ms. Hascheff was given no say in the fees and costs expended by Judge
14 Hascheff in the collateral trust action. She was led to believe that the fee demand from Judge
15 Hascheff was related solely to the malpractice claim and only after expending fees and costs for her
16 own counsel did she learn that the lion's share of the demand was related to a collateral trust action.
17 She was thwarted in her efforts to receive a complete bill for the services provided and at the
18 hearing the Court learned that it was Judge Hascheff and his divorce counsel who decided the
19 redacted portions of the bill statement she was provided. As such it is clear that Ms. Hascheff has
20 been prejudiced by Judge Hascheff's actions to the point where granting Judge Hascheff's
21 requested relief would be inequitable. *See Besnilian*, 117 Nev. 519, at 522, 25 P.3d at 189; *see also*
22 *Bigelow*, 105 Nev. at 496, 779 P.2d at 86. The Court is convinced had Judge Hascheff exercised
23 his rights and obligations under the MSA in a timely fashion and without obfuscation, Ms. Hascheff
24 would not have been prejudiced and she would have been liable for her share of the fees and costs
25 incurred for both the malpractice action and the collateral trust action.

26 This Court DENIES Judge Hascheff's OSC Motion. This Court finds Judge Hascheff was
27 unable to make a *prima facie* showing Ms. Hascheff had the ability to comply with the parties'
28 MSA, yet willfully violated her obligations. As discussed *supra*, Ms. Hascheff was not provided a
clear accounting of her indemnification obligations, and Judge Hascheff chose to arbitrarily enforce

1 his rights under the MSA, thereby having his claims limited by laches. As a result, this Court
2 denies the OSC Motion.

3 The Court **DENIES** the parties' respective requests for attorneys' fees and costs associated
4 with the MSA Motion and OSC Motion. The Court notes MSA § 35 addresses the payment of
5 future attorneys' fees and costs to a prevailing party upon providing, *inter alia*, at least 10-day
6 written notice before filing an action or proceeding. This Court is assured both parties have
7 satisfied their obligations under MSA § 35. *See MSA Motion*, Ex. 4-8. For example, counsel for
8 Judge Hascheff and Ms. Hascheff undisputedly provided their MSA § 35 notices on May 29, 2020
9 and June 2, 2020, more than 10-days prior to the filing of the MSA Motion and OSC Motion. *MSA*
10 *Motion*, Ex. 7-8. Further, the Court finds there was a reasonable basis for litigating the arguments
11 presented by both parties in their respective motions. Therefore, the Court declines to award
12 attorneys' fees and costs.

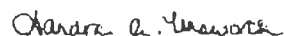
13 **GOOD CAUSE APPEARING, IT IS SO ORDERED**

14 **The MSA Motion is GRANTED.**

15 **The OSC Motion is DENIED.**

16 **IT IS FURTHER ORDERED** an award for attorneys' fees and costs are **DENIED**.

17 **DATED** this 1st day of February, 2021.

18 

19 Sandra A. Unsworth
20 District Judge

21 DV13-00656
22
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court in and for the County of Washoe, and that on February 1, 2021, I deposited in the county mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, or via e-filing, a true copy of the foregoing document addressed as follows:

ELECTRONIC FILING:

SHAWN MEADOR, ESQ., for LYNDAS HASCHEFF
TODD TORVINEN, ESQ., for PIERRE HASCHEFF



Judicial Assistant

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10
11 IN THE FAMILY DIVISION
12
13 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
14
15 IN AND FOR THE COUNTY OF WASHOE
16

17 PIERRE A. HASCHEFF ,

18 Plaintiff,

19 v.

20 LYNDAL HASCHEFF ,

21 Defendant .

CASE NO. DV13-00656

DEPT. NO. 12

22 NOTICE OF ENTRY OF ORDER

23 PLEASE TAKE NOTICE that on February 1, 2021, an Order Granting Motion for
24 Clarification or Declaratory Relief; Order Denying Motion for Order to Enforce and/or For
25 an Order to Show Cause; Order Denying Request for Attorneys' Fees and Costs entered in
26 the above-entitled matter, a copy of which is attached hereto as Exhibit 1.

27 Affirmation Pursuant to NRS 239B.030

28 The undersigned affirms that this document does not contain the personal information
of any party.

DATED this 10th day of February, 2021.

WOODBURN AND WEDGE

By: Shawn B Meador
Shawn B Meador Esq

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Woodburn and Wedge, 6100 Neil Rd., Suite 500, Reno, Nevada 89511, that I am over the age of 18 years, and that I served the foregoing document(s) described as:

Notice of Entry of Order

on the party set forth below by:

_____ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

_____ Personal delivery.

 X Second Judicial E flex

_____ Federal Express or other overnight delivery.

addressed as follows:

X Todd L. Torvinen, Esq.
232 Court Street
Reno, NV 89501

The undersigned affirms that this document contains no social security numbers

Dated this 10 day of February, 2021.



Kelly Albright

EXHIBIT LIST

<u>Exhibit #</u>	<u>Description</u>	<u>No. of Pages</u>
1	Order	16

FILED
Electronically
DV13-00656
2021-02-10 03:29:32 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8290110

EXHIBIT 1

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

PIERRE A. HASCHEFF,

Plaintiff,

vs.

LYNDA HASCHEFF,

Defendant.

Case No. DV13-00656

Dept. No. 12

**ORDER GRANTING MOTION FOR CLARIFICATION OR DECLARATORY RELIEF;
ORDER DENYING MOTION FOR
ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE;
ORDER DENYING REQUEST FOR ATTORNEYS' FEES AND COSTS**

The Court considers two motions for purposes of this Order.

First, before this Court is Defendant Lynda Hascheff's ("Ms. Hascheff") Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("MSA Motion") filed on June 16, 2020. Plaintiff Pierre A. Hascheff filed an Opposition to Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("Opposition to MSA Motion") on July 6, 2020. Ms. Hascheff then filed a Reply in Support of Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree ("Reply to MSA Motion") on July 13, 2020, and the matter was submitted thereafter.

Second, before this Court is Judge Hascheff's ("Judge Hascheff") Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders ("OSC Motion") filed on July 8, 2020. Ms. Hascheff filed an Opposition to Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders ("Opposition to OSC Motion") filed on July 17, 2020. Judge Hascheff

1 then filed a Reply to Opposition to Motion for Order to Show Cause, or in the Alternative, to
2 Enforce the Court's Orders ("Reply to OSC Motion"), and the matter was submitted thereafter. On
3 December 21, 2020, the Court heard argument from the parties regarding the MSA Motion and
4 OSC Motion.

5 On September 30, 2013, Ms. Hascheff and Judge Hascheff entered into a Marital Settlement
6 Agreement ("MSA") that was approved, adopted, merged and incorporated into the Decree of
7 Divorce ("Decree") on November 15, 2013. Specifically, the MSA contains an indemnification
8 clause in the event of a malpractice claim against Judge Hascheff ("MSA § 40").

9 A. Motion for Clarification or Declaratory Relief Regarding Terms of MSA and Decree.

10 In her MSA Motion, Ms. Hascheff asks this Court to enter an Order clarifying MSA § 40
11 that she is only responsible for fees incurred in a malpractice action against Judge Hascheff, and
12 that she is not responsible for the fees or costs he chose to incur to have personal counsel protect his
13 interests in connection with his role as a percipient witness in a collateral trust action. Moreover,
14 Ms. Hascheff asks that Judge Hascheff be obligated to pay the fees and costs Ms. Hascheff incurred
15 in connection with her attempts to obtain information, respond to his demands and engage in
16 motion practice to establish her rights and obligations.

17 Ms. Hascheff contends on January 15, 2020, Judge Hascheff sent her an undated letter
18 demanding that she indemnify him for legal fees and costs incurred in connection with him being
19 sued by a client in an on-going malpractice action. Judge Hascheff warned Ms. Hascheff that he
20 would be sending additional invoices he received. Upon investigation Ms. Hascheff learned that in
21 January 2020, the malpractice action had been stayed and that Judge Hascheff incurred limited fees
22 related to the malpractice action. Judge Hascheff sought indemnification from Ms. Hascheff for
23 fees and costs incurred in his role as a percipient witness in a collateral trust action to which he was
24 not a named party. Ms. Hascheff asserts the language in MSA § 40, by its clear, express, and
25 unambiguous terms, does not require Ms. Hascheff to indemnify Judge Hascheff's legal fees and
26 costs he elected to incur as a percipient witness. Ms. Hascheff contends Judge Hascheff did not
27 have the right to make the decision to protect his interests as a percipient witness, and then demand
28 that she finance his decision, without fully advising her of the circumstances and gaining her
agreement and consent in advance.

1 Ms. Hascheff alleges on December 26, 2018, Judge Hascheff was sued for malpractice by
2 his former client, Todd Jaksick, individually and as trustee of two trusts. Ms. Hascheff claims
3 Judge Hascheff made the deliberate decision not to notify her despite the potential financial risk to
4 her pursuant to MSA § 40, but rather waited for over a year, until January 15, 2020, to inform her of
5 this suit. Ms. Hascheff asserts Judge Hascheff and his former client eventually entered an
6 agreement to stay the malpractice action until the collateral trust action was resolved.

7 Ms. Hascheff posits MSA § 40 does not require her to finance Judge Hascheff's
8 litigation choices to become a percipient witness in a lawsuit to which he was not a
9 party. Ms. Hascheff states if Judge Hascheff believed it would be "helpful" or "prudent"
10 for him to have counsel to assist him as a percipient witness, he had an obligation to
11 consult with her before incurring the expenses and to advise her of the underlying facts
12 of the collateral trust action, along with the litigation risks and why retention of counsel
13 would be appropriate so that she could make an informed decision about whether to
14 share in the costs.

15 In his Opposition to MSA Motion, Judge Hascheff highlights MSA § 40 must be read in
16 conjunction with the entire section, and MSA § 40 unambiguously indicates that if any claim,
17 action, or proceeding, whether or not well-founded shall later be brought seeking to hold one party
18 liable on account of any alleged debt, liability, act, or omission the other party at his or her sole
19 expense must defend the other against said claim, action or proceeding. Judge Hascheff asserts
20 MSA § 40 requires a party must also indemnify the other and hold him or her harmless against any
21 loss or liability that he or she may incur as a result of the claim, action or proceeding including
22 attorney's fees, costs and expenses incurred in defending or responding to such action. Judge
23 Hascheff also notes as a subset and part of that all-encompassing language providing a full defense
24 and complete unconditional indemnification a provision was added that in the event said claim,
25 action or proceeding, involved a malpractice action whether or not well-founded, it obligated the
26 other party to pay only one-half the defense costs and indemnify only one-half of any judgment if
27 any, entered against said party.

28 Judge Hascheff maintains MSA § 40 does not include a notice provision. Judge Hascheff
maintains it was critical to defend the claims in the collateral trust action as these claims would

1 likely become res judicata and collateral estoppel defenses in the malpractice action and his efforts
2 in the collateral trust action could eliminate Ms. Hascheff being required to pay one-half of the
3 likely much higher defense costs and the judgment in the malpractice action. Judge Hascheff claims
4 he needed to engage counsel early to address and cut off any possible claims arising out of or
5 determined in the collateral trust litigation. Judge Hascheff contends his decision should not be
6 subject to question by Ms. Hascheff under the circumstances. Judge Hascheff alleges he did not
7 keep the potential for a malpractice claim secret from Ms. Hascheff. Yet, he did not notify her of
8 the malpractice filing as he believed that the collateral trust action would be resolved, and the
9 malpractice action filed in December 2018 would eventually be dismissed.

10 Judge Hascheff contends the fact that Allied World insurance company picked up the
11 defense and paid defense fees of \$2,500 in the collateral trust action, although not required under
12 his insurance policy, conclusively shows that Judge Hascheff's involvement in the collateral trust
13 action primarily involved potential malpractice claims.

14 Judge Hascheff asserts it is not uncommon for an indemnitee to remain involved for several
15 years in the underlying trust litigation and then once litigation is concluded and the damages are
16 ascertained; then and only then will the indemnitee notify the indemnitor of the obligation to pay
17 said damages. Therefore, Judge Hascheff claims he did not breach his fiduciary duty, if any, by
18 waiting to inform Ms. Hascheff of the malpractice action until after the jury decided the legal
19 claims in the underlying trust litigation.

20 Judge Hascheff also argues Ms. Hascheff has violated Section 35 ("MSA § 35") which
21 clearly provides that any party intending to bring an action or proceeding to enforce the MSA shall
22 not be entitled to recover attorney's fees and costs unless she first gives the other party at least 10
23 days written notice before filing the action or proceeding.

24 In her Reply to MSA Motion, Ms. Hascheff emphasizes a strict interpretation of MSA § 40
25 does not cover Judge Hascheff's incurred legal expenses. Ms. Hascheff states the indemnity
26 language could have been written to say that she will indemnify Judge Hascheff for any fees and
27 costs that he, in his sole and unilateral discretion, believe are reasonable, necessary, and related in
28 any way to any potential malpractice action, but that is not the language his lawyer drafted, nor is it
the agreement the parties signed. As a result, Ms. Hascheff states she contractually agreed to pay

1 half the costs of defense of the malpractice action, which in this case was immediately stayed with
2 no fees incurred.

3 Ms. Hascheff asserts had Judge Hascheff given her the common courtesy of promptly
4 informing her of the circumstances, sharing with her the underlying facts and risks they faced, and
5 consulting with her about the most appropriate way for them to jointly approach the problem, they
6 may have been able to reach agreement to avoid this dispute and all of these fees.

7 **B. Motion for Order to Show Cause, or in the Alternative, to Enforce the Court's Orders**

8 In his OSC Motion, Judge Hascheff moves this Court: (1) To issue an order for Ms.
9 Hascheff to show cause as to why she intentionally disobeyed the Decree; (2) To enforce the terms
10 of the parties' incorporated MSA, and order the payment of the indemnification; and, (3) Order Ms.
11 Hascheff pay Judge Hascheff's attorney fees and costs whether this matter proceeds as contempt, or
12 as an order for enforcement upon affidavit from counsel.

13 Judge Hascheff asserts Ms. Hascheff chooses to willfully disobey the Decree and MSA by
14 making "ill-advised and even nonsensical arguments" in her MSA Motion as a course of conduct to
15 "gain leverage and delay payment."

16 Judge Hascheff states in the event the Court determines Ms. Hascheff's actions do not rise
17 to the level of contempt, the Court should enforce its orders by requiring Ms. Hascheff to pay the
18 required one half indemnification amount to Judge Hascheff in the sum of \$4,924.05 (plus a
19 percentage of any later accrued and accruing fees and costs) pursuant to MSA § 40. Judge Hascheff
20 further seeks an award of attorney's fees for this contempt motion pursuant to MSA § 35.

21 In her Opposition to OSC Motion, Ms. Hascheff contends there are no clear and
22 unambiguous Orders of this Court that she has allegedly refused to honor. Ms. Hascheff
23 emphasizes the dispute is whether the simple and unambiguous language of the parties' MSA and
24 Decree requires Ms. Hascheff to pay the fees Judge Hascheff demands.

25 Ms. Hascheff asserts since the Decree does not clearly and unambiguously require her to
26 pay those fees, Ms. Hascheff could not be held in contempt as a matter of law. Ms. Hascheff
27 asserts if interpretation is required to obtain the result Judge Hascheff seeks, the language on which
28 he relies cannot be so clear and unambiguous as to support a contempt motion - no matter how
reasonable the requested interpretation. Ms. Hascheff claims since there is a dispute about the

1 meaning of their contract and the parties' respective rights and obligations, Ms. Hascheff, in good
2 faith, sought clarification through her MSA Motion so that she would know exactly what her legal
3 obligations are.

4 In his Reply to OSC Motion, Judge Hascheff maintains rather than resolving a dispute of
5 approximately \$5,000, Ms. Hascheff has embarked on an unfortunate litigation track where she
6 undoubtedly already incurred fees in excess of \$5,000, and likely will incur attorney's fees. Judge
7 Hascheff contends Ms. Hascheff also unnecessarily caused him to incur substantial legal fees even
8 though he had offered to accept minimal payments on his indemnification claim without interest
9 and without incurring any legal fees.

10 Judge Hascheff posits Ms. Hascheff fails to cite any case where a court would distinguish
11 between a contractual indemnity in an MSA from any other indemnity obligation, and a settlement
12 agreement is construed as any other contract and governed by the principles of contract law. Judge
13 Hascheff maintains Ms. Hascheff's assertion that she has no obligation to pay half the defense costs
14 and/or indemnify until her conditions are met are not expressed in the MSA, and Ms. Hascheff's
15 position that she has some "implied" right or "conditions precedent" to her obligation to pay is
16 entirely inconsistent with the MSA or existing caselaw.

17 Law

18 **A. Declaratory Relief Standard**

19 A party must meet four elements before declaratory relief can be granted:

- 20 1) there must exist a justiciable controversy; that is to say, a
21 controversy in which a claim of right is asserted against one who
22 has an interest in contesting it; (2) the controversy must be
23 between persons whose interests are adverse; (3) the party seeking
24 declaratory relief must have a legal interest in the controversy,
25 that is to say, a legally protectable interest; and (4) the issue
26 involved in the controversy must be ripe for judicial
27 determination.

28 *MB Am., Inc. v. Alaska Pac. Leasing*, 132 Nev. Adv. Op. 8, 367 P.3d 1286, 1291 (2016).
Moreover, any person whose rights, status, or other legal relations "are affected by a statute . . . may
have determined any question of construction" of that statute. NRS 30.040(1); *Prudential Ins. Co*
of Am. v. Ins. Comm'r, 82 Nev. 1, 5, 409 P.2d 248, 250 (1966) (declaratory relief is available when

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

5 **B. Interpretation of MSA Standard.**

6 A settlement agreement, which is a contract, is governed by principles of contract law.
7 *Mack v. Estate of Mack*, 125 Nev. 80, 95, 206 P.3d 98, 108 (2009). As such, a settlement
8 agreement will not be an enforceable contract unless there is "an offer and acceptance, meeting of
9 the minds, and consideration." *Id.* Generally, when a contract is clear on its face, it 'will be
10 construed from the written language and enforced as written.'" *Buzz Stew, LLC v. City of N. Las*
11 *Vegas*, 131 Nev. 1, 7, 341 P.3d 646, 650 (2015) (citing *Canfora v. Coast Hotels & Casinos, Inc.*,
12 121 Nev. 771, 776, 121 P.3d 599, 603 (2005)). The court has no authority to alter the terms of an
13 unambiguous contract. *Canfora*, 121 Nev. at 776, 121 P.3d at 603.

14 Whether a contract is ambiguous likewise presents a question of law. *Galardi v. Naples*
15 *Polaris, LLC*, 129 Nev. 306, 309, 301 P.3d 364, 366 (2013) (citing *Margrave v. Dermody Props.*,
16 110 Nev. 824, 827, 878 P.2d 291, 293 (1994)). A contract is ambiguous if its terms may reasonably
17 be interpreted in more than one way, but ambiguity does not arise simply because the parties
18 disagree on how to interpret their contract. *Id.* (citing *Anvui, L.L.C. v. G.L. Dragon, L.L.C.*, 123
19 Nev. 212, 215, 163 P.3d 405, 407 (2007); *Parman v. Petricciani*, 70 Nev. 427, 430-32, 272 P.2d
20 492, 493-94 (1954)).

21 Marital agreements are "enforceable unless unconscionable, obtained through fraud,
22 misrepresentation, material nondisclosure or duress." *Furer v. Furer*, 126 Nev. 712, 367 P.3d 770
23 (2010) (citing *Sogg v. Nevada State Bank*, 108 Nev. 308, 312, 832 P.2d 781, 783-84 (1992)).

24 After merger, the district court may enforce the provisions of the divorce decree by using its
25 contempt power. *Friedman v. Friedman*, 128 Nev. 897, 381 P.3d 613 (2012) (citing *Hildahl v.*
26 *Hildahl*, 95 Nev. 657, 662-63, 601 P.2d 58, 61-62 (1979)). The district court may interpret the
27 language of the divorce decree in order to resolve ambiguity. *Id.* (citing *Kishner v. Kishner*, 93 Nev.
28 220, 225, 562 P.2d 493, 496 (1977)).

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2 **C. Interpretation of Indemnification Standard.**

3 The scope of a contractual indemnity clause is determined by the contract and is generally
4 interpreted like any contract. *George L. Brown Ins. v. Star Ins. Co.*, 126 Nev. 316, 323, 237 P.3d
5 92, 96 (2010).

6 Contractual indemnity is where, pursuant to a contractual provision, two parties agree one
7 party will reimburse the other party for liability resulting from the former's work. *United Rentals*
8 *Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 673, 289 P.3d 221, 226 (2012). Contracts purporting to
9 indemnify a party against its own negligence will only be enforced if they clearly express such an
10 intent, and a general provision indemnifying the indemnitee against "any and all claims" standing
11 alone, is not sufficient. *Reyburn Lawn & Landscape Designers, Inc. v. Plaster Dev. Co., Inc.*, 127
12 Nev. 331, 339, 255 P.3d 268, 274 (2011).

13 When the duty to indemnify arises from contractual language, it generally is not subject to
14 equitable considerations; rather, it is enforced in accordance with the terms of the contracting
15 parties' agreement. *United Rentals Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 673, 289 P.3d 221,
16 226 (2012).

17 An indemnity clause imposing a duty to defend is construed under the same rules that
18 govern other contracts. *United Rentals Hwy. Techs. v. Wells Cargo*, 128 Nev. 666, 676, 289 P.3d
19 221, 228 (2012). The duty to defend is broader than the duty to indemnify because it covers not
20 just claims under which the indemnitor is liable, but also claims under which the indemnitor could
21 be found liable. *Id.* Generally, a contractual promise to defend another against specified claims
22 clearly connotes an obligation of active responsibility, from the outset, for the promisee's defense
23 against such claims. *Id.* While the duty to defend is broad, it is not limitless. *Id.*

24 An indemnitee's duty, if any, to provide notice to an indemnitor arises from the express and
25 unambiguous language of the indemnity agreement. *Fontenot v. Mesa Petroleum Co.*, 791 F.2d
26 1207, 1221 (5th Cir. 1986) (holding where an indemnity agreement does not require notice courts
27 will not infer or insert a notice requirement as a condition precedent to a right to recover on the
28 indemnitee contract); *Premier Corp. v. Economic Research and Analysts, Inc.*, 578 F. 2d 551, 554
(4th Cir. 1978) (holding notice is unnecessary unless the indemnity contract requires it).

1
2 **D. Laches Standard.**

3 Laches, an equitable doctrine, may be invoked when delay by one party prejudices the other
4 party such that granting relief to the delaying party would be inequitable. *Besnilian v. Wilkinson*,
5 117 Nev. 519, 522, 25 P.3d 187, 189 (2001). However, to invoke laches, the party must show that
6 the delay caused actual prejudice. *Id.*

7 Laches is more than mere delay in seeking to enforce one's rights; it is delay that works a
8 disadvantage to another. *Home Sav. Ass'n v. Bigelow*, 105 Nev. 494, 496, 779 P.2d 85, 86 (1989).
9 The condition of party asserting laches must become so changed that the party cannot be restored to
10 their former state. *Id.* The applicability of the doctrine of laches turns upon peculiar facts of each
11 case. *Id.*

12 If the elements of a laches defense are met, a court may dismiss an entire case, dismiss
13 certain claims, or restrict the damages available to the plaintiff. *Morgan Hill Concerned Parents*
14 *Ass'n v. California Dep't of Educ.*, 258 F. Supp. 3d 1114, 1132-33 (E.D. Cal. 2017) (citing
15 *E.E.O.C. v. Timeless Investments, Inc.*, 734 F.Supp.2d 1035, 1067 (E.D. Cal. 2010)).

16 The Ninth Circuit has implicitly recognized a court's ability to raise the doctrine of laches
17 *sua sponte*. *Id.* (citing *Sw. Voter Registration Educ. Project v. Shelley*, 344 F.3d 914 (9th Cir. 2003)
18 (en banc)). A limitation on the *sua sponte* application of laches is in circumstances in which parties
19 lack notice about an issue and are not given an opportunity to address it. *Morgan Hill Concerned*
20 *Parents Ass'n*, 258 F. Supp. 3d at 1133.

21 **E. Order to Show Cause for Contempt of Court Standard.**

22 Pursuant to NRS 22.030(2), if a contempt is not committed in the immediate view and
23 presence of the court or judge at chambers, an affidavit must be presented to the court or judge of
24 the facts constituting the contempt, or a statement of the facts by the masters or arbitrators. The
25 requirement of an affidavit is confirmed by case law, specifically requiring an affidavit must state
26 facts specific enough to allow the Court to proceed to be submitted at the Contempt proceeding,
27 which is necessary to give the court subject matter jurisdiction. *See Awad v Wright*, 106 Nev. 407,
28 794 P.2d 713 (1990) (overruled on other grounds); *Philips v. Welch*, 12 Nev. 158 (1887); *Strait v*
Williams, 18 Nev. 430 (1884). Contempt statutes are to be strictly construed based upon the

1 criminal nature of a contempt proceeding. *Ex Parte Sweeney*, 18 Nev. 71 (1883).

2 The penalties for contempt include a monetary fine, not to exceed \$500.00, or
3 imprisonment, not to exceed 25 days, or both. *See* NRS 22.100(2). In addition to the penalties set
4 forth above the Court may require the person to pay to the party seeking to enforce the writ, order,
5 rule or process the reasonable expenses incurred by the party as a result of the contempt. *See* NRS
6 22.100(3).

7 The moving party must make a *prima facie* showing that the non-moving had the ability to
8 comply with the Court order and that the violation of the order was willful. *Rodriguez v. District*
9 *Court*, 120 Nev. 798, 809, 102 P.3d 41, 49 (2004). In order for contempt to be found, the Court
10 order "must be clear and unambiguous, and must spell out the details of compliance in clear,
11 specific, and unambiguous terms so that the person will readily know exactly what duties or
12 obligations are imposed on him." *Cunningham v. District Court*, 102 Nev. 551, 559-60, 729 P.2d
13 1328, 1333-34 (1986).

14 **F. Attorneys' Fees & Costs Award Standard.**

15 NRS 18.010(2)(b) and NRCP 11 authorize the district court to grant an award of attorney
16 fees as sanctions against a party who pursues a claim without reasonable ground. We have
17 consistently recognized that "[t]he decision to award attorney fees is within the [district court's]
18 sound discretion ... and will not be overturned absent a 'manifest abuse of discretion.'" *Edwards v.*
Emperor's Garden Rest., 122 Nev. 317, 330, 130 P.3d 1280, 1288 (2006).

19 NRS 18.010 also governs the instances in which attorney fees are awarded, and states the
20 following:

21 Without regard to the recovery sought, when the court finds that the claim,
22 counterclaim, cross-claim or third-party complaint or defense of the opposing party
23 was brought or maintained without reasonable ground or to harass the prevailing
24 party. The court shall liberally construe the provisions of this paragraph in favor of
25 awarding attorney's fees in all appropriate situations. It is the intent of the
26 Legislature that the court award attorney's fees pursuant to this paragraph and
27 impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all
28 appropriate situations to punish for and deter frivolous or vexatious claims and
defenses because such claims and defenses overburden limited judicial resources,
hinder the timely resolution of meritorious claims and increase the costs of engaging
in business and providing professional services to the public.

NRS 18.010(2)(b); *Capanna v. Orth*, 134 Nev. 888, 895, 432 P.3d 726, 734 (2018).

1 In making an award of fees, the Court also examines the reasonableness of attorneys' fees
2 under the factors set forth in *Brunzell*:

3 (1) the qualities of the advocate: his ability, his training, education, experience,
4 professional standing and skill; (2) the character of the work to be done: its
5 difficulty, its intricacy, its importance, time and skill required, the responsibility
6 imposed and the prominence and character of the parties where they affect the
7 importance of the litigation; (3) the work actually performed by the lawyer: the skill,
8 time and attention given to the work; (4) the result: whether the attorney was
9 successful and what benefits were derived.

10 85 Nev. at 349, 455 P.2d at 33. Each of these factors must be given consideration. *Id.* 85 Nev. at
11 350, 455 P.2d at 33.

12 The district court's decision to award attorney fees is within its discretion and will not be
13 disturbed on appeal absent a manifest abuse of discretion. *Capanna*, 134 Nev. at 895, 432 P.3d at
14 734 (2018).

15 NRS 18.020(3) provides costs must be allowed to a prevailing party against any adverse
16 party against whom judgment is rendered in an action for the recovery of money or damages, where
17 the plaintiff seeks to recover more than \$2,500.

18 Order

19 The Court GRANTS Ms. Hascheff's MSA Motion. The Court is satisfied the legal fees
20 incurred by Judge Hascheff as a witness in the collateral trust action and the stayed malpractice
21 lawsuit where he is sued individually are encompassed by MSA § 40. The Court finds, as a matter
22 of law, MSA § 40 does not contain express and unambiguous language requiring Judge Hascheff to
23 have provided immediate notice of either the collateral trust action or the malpractice action to Ms.
24 Hascheff. *Fontenot*, 791 F.2d at 1221; *Premier Corp.*, 578 F. 2d at 554. Furthermore, this Court is
25 barred from undertaking equitable considerations regarding MSA § 40's contractual language.
26 *United Rentals Hwy. Techs.*, 128 Nev. at 673, 289 P.3d at 226.

27 However, Judge Hascheff was not transparent about his request for indemnification. In
28 January 2020, Judge Hascheff notified Ms. Hascheff he had been sued by a client for malpractice.
He stated that the malpractice action was on-going and he inferred that he had incurred all of fees
and costs he was requesting from Ms. Hascheff directly related to this malpractice suit. He was not
transparent that he was seeking indemnification for fees and costs related to a collateral trust action.

1 When asked for an accounting of the fees and costs, Judge Hascheff failed to provide a
2 complete and transparent accounting. In his email of March 1, 2020, Judge Hascheff changed
3 the sum he was asking Ms. Hascheff to pay from \$5,200.90, as previously demanded, to
4 \$4,675.90. *Compare MSA Motion, Ex. 1 with MSA Motion, Ex. 4.* This Court further notes
5 Judge Hascheff's malpractice insurance company reimbursed only up to \$2,500 indicating not
6 all the expenses demanded by Judge Hascheff are related to the defense of the stayed
7 malpractice action. Judge Hascheff and his counsel also noted on the record they unilaterally
8 imposed redactions on the billing statements provided by Judge Hascheff's attorneys, thereby
9 obfuscating the true amount owed by Ms. Hascheff.¹ Ms. Hascheff was told that these
10 redactions, which resulted in fees in the amount \$3,300, were privileged.

11 Judge Hascheff presumably authorized his counsel to attend portions of the collateral
12 trust trial at times when he was not on the witness stand. Significant time was billed to prepare
13 for meetings with attorneys in the collateral trust action, but efforts by Ms. Hascheff's counsel
14 to communicate with counsel for the parties in the collateral trust action were ignored.

15 The only reference to the malpractice action are found in a billing statement dated
16 December 10, 2019 and reflect that on July 1, 2019 Judge Hascheff was billed one tenth of an
17 hour related to the review/analysis of correspondence regarding the state of action against
18 Judge Hascheff. And on September 25, 2019, Judge Hascheff was billed three tenths of an
19 hour for the review/analysis of a draft joint motion and stipulation to stay the malpractice
20 proceedings. *Confidential Exhibit I.* As a result, this Court cannot in good conscience require
21 Ms. Hascheff to pay the full amount demanded by Judge Hascheff based on Judge Hascheff's
22 inconsistent and secretive criteria.

23 Most troubling to this Court is Judge Hascheff's response to this Court's question as to
24 why he waited over a year to notify Ms. Hascheff of the potential malpractice claims against
25 him. Judge Hascheff testified he had not notified Ms. Hascheff of the malpractice action or the

26 ¹ Further issues of transparency revolve around the sum of money Judge Hascheff for his fees and costs as compared to
27 what his malpractice carrier paid. The Court notes that the malpractice policy held by Judge Hascheff had a \$10,000
28 deductible, yet in this case Judge Hascheff demanded that Ms. Hascheff pay a sum of less than one-half of the
deductible. If Judge Hascheff's claim is correct that the malpractice carrier felt that defense of claims in the collateral
trust action was actually defense of the malpractice action, why was his share of the defense a figure other than
\$10,000, the amount of the deductible?

1 collateral trust action as he planned on being solely responsible for the legal fees and costs
2 associated therewith, without indemnification from Ms. Hascheff, until the fees and costs
3 became too great.

4 The Court finds Judge Hascheff's conscious disregard and selective enforcement of MSA §
5 40 is comparable to a claim for laches. *Besnilian*, 117 Nev. 519, at 522, 25 P.3d at 189; *Bigelow*,
6 105 Nev. at 496, 779 P.2d at 86. This Court cautiously raises the doctrine of laches *sua sponte* as
7 this Court provided notice to the parties it intended to inquire into the timeliness of Judge
8 Hascheff's claims as one of the specific areas the Court wanted addressed at the hearing. *See*
9 *Morgan Hill Concerned Parents Ass'n*, 258 F. Supp. 3d 1114, 1132-33.

10 Based on Judge Hascheff's testimony, the Court finds Ms. Hascheff has been prejudiced by
11 Judge Hascheff's actions due to his deliberate delay in invoking his rights under MSA § 40.
12 Although immediate notice is not explicitly required in MSA § 40, Judge Hascheff's delay
13 prejudiced Ms. Hascheff. Ms. Hascheff was given no say in the fees and costs expended by Judge
14 Hascheff in the collateral trust action. She was led to believe that the fee demand from Judge
15 Hascheff was related solely to the malpractice claim and only after expending fees and costs for her
16 own counsel did she learn that the lion's share of the demand was related to a collateral trust action.
17 She was thwarted in her efforts to receive a complete bill for the services provided and at the
18 hearing the Court learned that it was Judge Hascheff and his divorce counsel who decided the
19 redacted portions of the bill statement she was provided. As such it is clear that Ms. Hascheff has
20 been prejudiced by Judge Hascheff's actions to the point where granting Judge Hascheff's
21 requested relief would be inequitable. *See Besnilian*, 117 Nev. 519, at 522, 25 P.3d at 189; *see also*
22 *Bigelow*, 105 Nev. at 496, 779 P.2d at 86. The Court is convinced had Judge Hascheff exercised
23 his rights and obligations under the MSA in a timely fashion and without obfuscation, Ms. Hascheff
24 would not have been prejudiced and she would have been liable for her share of the fees and costs
25 incurred for both the malpractice action and the collateral trust action.

26 This Court DENIES Judge Hascheff's OSC Motion. This Court finds Judge Hascheff was
27 unable to make a *prima facie* showing Ms. Hascheff had the ability to comply with the parties'
28 MSA, yet willfully violated her obligations. As discussed *supra*, Ms. Hascheff was not provided a
clear accounting of her indemnification obligations, and Judge Hascheff chose to arbitrarily enforce

1 his rights under the MSA, thereby having his claims limited by laches. As a result, this Court
2 denies the OSC Motion.

3 The Court **DENIES** the parties' respective requests for attorneys' fees and costs associated
4 with the MSA Motion and OSC Motion. The Court notes MSA § 35 addresses the payment of
5 future attorneys' fees and costs to a prevailing party upon providing, *inter alia*, at least 10-day
6 written notice before filing an action or proceeding. This Court is assured both parties have
7 satisfied their obligations under MSA § 35. *See MSA Motion*, Ex. 4-8. For example, counsel for
8 Judge Hascheff and Ms. Hascheff undisputedly provided their MSA § 35 notices on May 29, 2020
9 and June 2, 2020, more than 10-days prior to the filing of the MSA Motion and OSC Motion. *MSA*
10 *Motion*, Ex. 7-8. Further, the Court finds there was a reasonable basis for litigating the arguments
11 presented by both parties in their respective motions. Therefore, the Court declines to award
12 attorneys' fees and costs.

13 **GOOD CAUSE APPEARING, IT IS SO ORDERED**

14 **The MSA Motion is GRANTED.**

15 **The OSC Motion is DENIED.**

16 **IT IS FURTHER ORDERED** an award for attorneys' fees and costs are **DENIED**.

17 **DATED** this 1st day of February, 2021.

18 *Sandra A. Unsworth*

19 Sandra A. Unsworth
20 District Judge

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court in and for the County of Washoe, and that on February 1, 2021, I deposited in the county mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, or via e-filing, a true copy of the foregoing document addressed as follows:

ELECTRONIC FILING:

SHAWN MEADOR, ESQ., for LYNDAS HASCHEFF
TODD TORVINEN, ESQ., for PIERRE HASCHEFF



Judicial Assistant

1 2515
2 STEPHEN S. KENT, ESQ.
3 Nevada State Bar No. 1251
4 KENT LAW, PLLC
5 201 W. Liberty St., Ste. 320
6 Reno, Nevada 89501
7 Telephone: (775) 324-9800
8 Facsimile: (775) 324-9803
9 Email: skent@skentlaw.com
10 Attorneys for Plaintiff,
11 PIERRE HASCHEFF

7 IN THE FAMILY DIVISION
8 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE

10 PIERRE A. HASCHEFF, Case No.: DV13-00656
11 Plaintiff, Dept. No.: 12
12 vs. NOTICE OF APPEAL
13 LYNDIA HASCHEFF,
14 Defendant,
15

16 Notice is hereby given that Plaintiff, PIERRE A. HASCHEFF, hereby appeals to the Supreme
17 Court of Nevada from the Order Granting Motion for Clarification or Declaratory Relief; Order
18 Denying Motion for Order to Enforce and/or for an Order to Show Cause; Order Denying Request for
19 Attorney's Fees and Costs, entered in this action on February 1, 2021.

20 AFFIRMATION

21 The undersigned hereby declares that the within document does not contain the Social Security
22 Number of any person.

23 DATED this 10th day of March, 2021

24 KENT LAW, PLLC
25 BY Stephen S. Kent
26 STEPHEN S. KENT, ESQ.
27 Nevada State Bar No. 1251
28 201 W. Liberty St., Ste. 320
Reno, Nevada 89501
Telephone: (775) 324-9800
Facsimile: (775) 324-9803

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify that I am an employee of Kent Law, PLLC, and that on this date, I served a true and correct copy of the attached document as follows:

By placing the document(s) in a sealed envelope with first-class US. Postage prepaid, and depositing for mailing at Reno, Nevada, addressed to the person at the last known address as set forth below.

X Electronic Filing states that the attached document will be electronically mailed; otherwise, an alternative method will be used.

By personally delivering the document(s) listed above, addressed to the person at the last known address as set forth below.

By causing delivery via Federal Express.

By facsimile.

Shawn B. Meador, Esq.
Woodburn and Wedge
6100 Neil Road, Suite 500
Post Office Box 2311
Reno, Nevada 89515

DATED this 10 day of March, 2020;

Holly Mitchell
Holly Mitchell

FILED

Electronically

10-14-2013:09:30:15 AM

Joey Orduna Hastings

Clerk of the Court

Transaction # 4062601

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IN THE FAMILY DIVISION

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF WASHOE

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10 PIERRE A. HASCHEFF,

11 Plaintiff,

Case No. DV13-00656

12 Vs.

Dept. No. 12

13

14 LYNDA L. HASCHEFF,

15

Defendant.

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ORDER SEALING FILE

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On October 2, 2013 Plaintiff filed his Ex Parte Request for Order Directing Sealing of File pursuant to Nevada Revised Statute ("NRS") 125.110 seeking to seal the underlying divorce case. After reviewing said Motion, the Court finds and orders as follows:

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Pursuant to NRS 125.110, Plaintiff's request is GRANTED. The Court shall seal the case from public inspection. The pleadings, the findings of the Court, any order made on motion as provided in Nevada Rules of Civil Procedure, and the judgment shall remain open for review. All other papers, records, proceedings and evidence, including exhibits

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1 and transcript of the testimony, shall be sealed and shall not be open to inspection except
2 to the Parties or their attorneys, or when required as evidence in another action or
3 proceeding.

4 IT IS SO ORDERED.

5 Dated: October 11th, 2013.

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8 Frances M. Doherty
District Court Judge
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on the ____ day of October, 2013, I deposited for mailing, first class postage pre-paid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 14 day of October, 2013, I electronically filed the foregoing with the Clerk of Court by using the ECF system which will send a notice to:

Todd L. Torvienen, Esq.

Shawn B. Meador, Esq.


Judicial Assistant