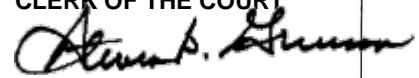


**NOAS
BLACK & WADHAMS**
Rusty Graf, Esq.
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rgraf@blackwadhams.law
*Attorney for Defendants/Counterclaimants
Bour Enterprises, LLC, Mulugeta Bour and
Hilena Mengesha*

Electronically Filed
3/24/2021 3:50 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Mar 31 2021 02:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general partnership;
MCKINLEY MANOR, an Idaho general
partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Counterclaimants

v.

4520 ARVILLE, a California general partnership;
MCKINLEY MANOR, an Idaho general
partnership, DOES I-X; and ROE
CORPORATIONS I-X;

Counter Defendants,

Case No.: A-19-794864-C
Dept. No.: 8

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha, by and through their attorney of record, Rusty Graf, Esq. of the law firm Black & Wadhams, appeals to the Supreme Court of the State of Nevada from the Order granting Plaintiffs/Counterdefendants' Motion for Entry of Judgment filed in the above-captioned matter on March 9, 2021 with Notice of Entry filed March 9, 2021, and from the Judgment entered March 9, 2021 with Notice of Entry of Judgment filed March 9, 2021.

Dated this 24 day of March 2021.

BLACK & WADHAMS

RUSTY GRAF, ESQ.

Nevada Bar No. 6322

10777 W. Twain Ave., 3rd Fl.

Las Vegas, Nevada 89135

(702) 869-8801

(702) 869-2669 (fax)

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Attorney for Defendants/Counterclaimants

BLACK & WADHAMS

10777 W. Twain Avenue, 3rd Floor

Las Vegas, Nevada 89135

(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF E-SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 24th day of March 2021, the above and foregoing document entitled

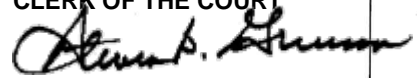
DEFENDANTS/COUNTERCLAIMANTS' NOTICE OF APPEAL was served as follows:

- [] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- [X] by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;
- [] pursuant to EDCR 7.26, to be sent via facsimile;
- [] hand delivered to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

F. Thomas Edwards, Esq.
Jessica M. Lujan, Esq.
HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.


An Employee of Black & Wadhams



ASTA
BLACK & WADHAMS
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Attorney for Defendants/Counterclaimants
Bour Enterprises, LLC, Mulugeta Bour and
Hilena Mengesha

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general partnership;
MCKINLEY MANOR, an Idaho general
partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Counterclaimants

v.

4520 ARVILLE, a California general partnership;
MCKINLEY MANOR, an Idaho general
partnership, DOES I-X; and ROE
CORPORATIONS I-X;

Counter Defendants,

Case No.: A-19-794864-C

Dept. No.: 8

CASE APPEAL STATEMENT

BLACK & WADHAMS
10777 W. Twain Avenue, 3rd Floor
Las Vegas, Nevada 89135
(702) 869-8801 FAX: (702) 869-2669

Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha, by and through their attorney of record, Rusty Graf, Esq. of the law firm Black & Wadhams, hereby submits their Case Appeal Statement pursuant to Nevada Rule of Appellate Procedure 3(f) as follows:

CASE APPEAL STATEMENT

(A) The district court case number and caption showing the names of all parties to the proceedings below:

The district court case number is A-19-794864-C and caption is correctly stated above. The parties to the proceedings below are Plaintiffs/Counterdefendants 4520 Arville and McKinley Manor ("Plaintiffs") and Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha ("Defendants").

(B) The name of the judge who entered the order or judgment being appealed:

The Honorable Veronica M. Barisich, Department 8 of the Eighth Judicial District Court of the State of Nevada issued the order/judgment being appealed.

(C) The name of each appellant and the name and address of counsel for each appellant:

Defendant/Appellant:

Bour Enterprises, LLC.

Counsel for the Defendant/Appellant:

Rusty Graf, Esq.
BLACK & WADHAMS
10777 W. Twain Ave., 3rd Fl.
Las Vegas, Nevada 89135

Defendant/Appellant:

Mulugeta Bour

Counsel for the Defendant/Appellant:

Rusty Graf, Esq.
BLACK & WADHAMS
10777 W. Twain Ave., 3rd Fl.
Las Vegas, Nevada 89135

Defendant/Appellant:
Hilena Mengesha

Counsel for the Defendant/Appellant:
Rusty Graf, Esq.
BLACK & WADHAMS
10777 W. Twain Ave., 3rd Fl.
Las Vegas, Nevada 89135

(D) The name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel:

Plaintiff/Respondent:
4520 Arville

Counsel for the Respondent:
F. Thomas Edwards, Esq.
Nevada Bar No. 9549
Jessica M. Lujan, Esq. 14913
Nevada Bar No.
Holly Driggs
400 S 4th St.
Las Vegas, NV 89101
(702) 791-0308

Defendant/Respondent:
McKinley Manor

Counsel for the Respondent:
F. Thomas Edwards, Esq.
Nevada Bar No. 9549
Jessica M. Lujan, Esq. 14913
Nevada Bar No.
Holly Driggs
400 S 4th St.
Las Vegas, NV 89101
(702) 791-0308

(E) Whether an attorney identified in response to subparagraph (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission:

1 N/A

2 **(F) Whether the appellant was represented by appointed counsel in the district court, and**
3 **whether the appellant is represented by appointed counsel on appeal:**

4 Appellants were represented by Rusty Graf, Esq. of the firm Black & Wadhams in the
5 district court and on appeal.

6 **(G) Whether the district court granted the appellant leave to proceed in forma pauperis,**
7 **and if so, the date of the district court's order granting that leave:**

8 N/A

9 **(H) The date that the proceedings commenced in the district court:**

10 Plaintiffs initiated the proceedings when they filed their Complaint on May 15, 2019.

11 **(I) A brief description of the nature of the action and result in the district court, including**
12 **the type of judgment or order being appealed and the relief granted by the district**
13 **court:**

14 This action stems from the Appellants' lease of 4560 S. Arville St., C-10, 23, 24, and 29,
15 Las Vegas, NV 89103 (hereinafter the "Premises") from Respondents. Appellants were unable to
16 continue operations at the Premises due to the presence of hazardous conditions and ultimately
17 were forced to terminate their lease. Respondents subsequently filed a Complaint against
18 Appellants on May 15, 2019, wherein they asserted claims of: (1) Breach of Leases against Lessee;
(2) Breach of Guaranties against the Guarantors; (3) Breach of Implied Covenant of Good Faith
and Fair Dealing; (4) Unjust Enrichment; and (5) Declaratory Relief.

19 Appellants subsequently filed their Answer and Counterclaims on July 16, 2019, wherein
20 they asserted Counterclaims for: (1) Constructive Eviction; (2) Breach of Contract; (3) Breach of
the Covenant of Good Faith and Fair Dealing; and (4) Declaratory Relief. Appellants' also asserted
21 affirmative defenses to Respondents' claims which included: (1) that the Respondents' actions
were the proximate cause of their own damages; (2) that Respondents had failed to mitigate their
22 damages; that any damages Respondents incurred were caused, in whole or in part, by their own
negligence; and (4) that the doctrines of novation, accord and satisfaction, and recoupment either
23 bar the Respondents from recovery or, in the alternative, require the amount of damages to be
reduced accordingly.

24 Respondents then filed a Motion to Dismiss on August 1, 2019. Appellants filed an
25 Opposition to that Motion to Dismiss and a Countermotion for Summary Judgment on their
Counterclaims on August 12, 2019. A hearing was held on September 3, 2019 and the district court
26 subsequently entered an Order on September 12, 2019 denying Respondents' Motion to Dismiss
and denying Appellants' Countermotion for Summary Judgment. Respondents' filed their Answer
27 to Appellants' Counterclaims on October 14, 2019.

Subsequently, Respondents filed a Motion for Summary Judgment regarding Counterclaim damages on November 10, 2019 and a Motion for Summary Judgment regarding the Respondents' Breach of Contract Claims on December 1, 2020. Appellants filed their Opposition to the Motion for Summary Judgment regarding Counterclaim damages on November 25, 2020 and filed their Opposition to the Motion for Summary Judgment regarding Breach of Contract Claims on December 17, 2020. A hearing was held on Respondents' Motion for Summary Judgment regarding Counterclaim damages on December 15, 2020, with the Appellants' Counterclaims ultimately being dismissed. A hearing was held on Respondents' Motion for Summary Judgment regarding Breach of Contract Claims on January 12, 2021 and the district court entered an Order granting Respondents' Motion for Summary Judgment on January 28, 2021.

The district court's January 28, 2021 Order contained the Conclusions of Law which included the following: (1) "[a]lthough the Nevada Supreme Court has not squarely addressed the issue, the weight of authority on the issue leads this Court to conclude that Nevada does not recognize an implied warranty of habitability in commercial leases"; (2) "[e]ven if Nevada did recognize an implied warranty of habitability in commercial leases, any implied warranty of habitability was waived by the 'as-is' clauses in the Leases"; and (3) "because the implied warranty of habitability is not recognized in commercial leases in Nevada, Defendants cannot prevail and Plaintiffs are entitled to judgment as a matter of law."

After Summary Judgment was granted, the Respondents' filed a Motion for Entry of Judgment on February 10, 2021. Appellants filed an Opposition to the Motion for Entry of Judgment on February 24, 2021, arguing, in pertinent part, that a judgment should not be entered because Appellants' affirmative defenses had not been adjudicated and the determination of the validity of those defenses would impact the sum to be entered as a judgment against Appellants. A hearing was held on March 2, 2021 and the district court entered an Order granting the Motion on March 9, 2021. That Order stated, in pertinent part, that "[i]n response to Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims, Defendants did not challenge the appropriateness of the amounts and did not raise the applicable affirmative defenses with regard to the damages sought.... arguments that were not raised in response to the original motion must be deemed to have been waived and cannot be subsequently considered." The district court entered a Judgment against the Appellants on March 9, 2021 and Notice of Entry of that Judgment was also filed on March 9, 2021.

(J) Whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number of the prior proceeding:

N/A

(K) Whether the appeal involves child custody or visitation:

No.

///

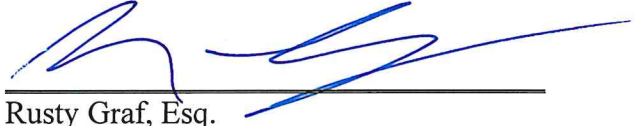
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(L) Whether the appeal involves the possibility of settlement:

Defendants do not believe there is the possibility of settlement.

BLACK & WADHAMS

#15271 

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Las Vegas, Nevada 89135
Ph. (702) 869-8801
Fax (702) 869-2669
rgraf@blackwadhamslaw
Attorney for Defendants/Counterclaimants

CERTIFICATE OF E-SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 24th day of March 2021, the above and foregoing document entitled **DEFENDANTS/COUNTERCLAIMANTS' CASE APPEAL STATEMENT** was served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☐ hand delivered to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

F. Thomas Edwards, Esq.
Jessica M. Lujan, Esq.
HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

and that there is regular communication by mail between the place of mailing and the place(s) so addressed.



An Employee of Black & Wadham

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-19-794864-C****4520 Arville, Plaintiff(s)****vs.****Bour Enterprises LLC, Defendant(s)**§
§
§
§
§

Location: **Department 5**
 Judicial Officer: **Barisich, Veronica M.**
 Filed on: **05/15/2019**
 Case Number History:
 Cross-Reference Case Number: **A794864**

CASE INFORMATION**Statistical Closures**

03/09/2021 Summary Judgment

Case Type: **Other Landlord Tenant**Case Status: **03/09/2021 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-794864-C
 Court Department 5
 Date Assigned 01/04/2021
 Judicial Officer Barisich, Veronica M.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	4520 Arville	Edwards, F. Thomas <i>Retained</i> 702-791-0308(W)
	McKinley Manor	Edwards, F. Thomas <i>Retained</i> 702-791-0308(W)
Defendant	Bour Enterprises LLC	Carson, Brent A <i>Retained</i> 7024711111(W)
	Bour, Mulugeta	Carson, Brent A <i>Retained</i> 7024711111(W)
	Mengesha, Hilena	Carson, Brent A <i>Retained</i> 7024711111(W)
Counter Claimant	Bour Enterprises LLC	Carson, Brent A <i>Retained</i> 7024711111(W)
	Bour, Mulugeta	Carson, Brent A <i>Retained</i> 7024711111(W)
	Mengesha, Hilena	Carson, Brent A <i>Retained</i> 7024711111(W)
Counter Defendant	4520 Arville	Edwards, F. Thomas <i>Retained</i> 702-791-0308(W)
	McKinley Manor	Edwards, F. Thomas <i>Retained</i>

CASE SUMMARY**CASE NO. A-19-794864-C**

702-791-0308(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
05/15/2019	 Complaint Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Complaint</i>	
05/15/2019	 Peremptory Challenge Filed by: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Peremptory Challenge of Judge</i>	
05/15/2019	 Initial Appearance Fee Disclosure Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Initial Appearance Fee Disclosure</i>	
05/16/2019	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>	
05/16/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Summons</i>	
05/16/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Summons</i>	
05/16/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Summons</i>	
06/20/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Initial Appearance Fee Disclosure</i>	
06/20/2019	 Demand for Security of Costs Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Demand for Security Costs 4520 Arville</i>	
06/20/2019	 Demand for Security of Costs Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Demand for Security Costs McKinley Manor</i>	
06/26/2019	 Notice of Posting of Cost Bond Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Posting of Cost Bond</i>	
06/26/2019	 Notice of Posting of Cost Bond Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Posting of Cost Bond</i>	

CASE SUMMARY













CASE NO. A-19-794864-C

07/09/2019	 Notice of Intent to Take Default Party: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Seven Day Notice of Intent to Take Default</i>
07/16/2019	 Answer and Counterclaim Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants' Answer and Counterclaim</i>
07/16/2019	 Exhibits Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Exhibit 1 - 6</i>
07/16/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Initial Appearance Fee Disclosures</i>
08/01/2019	 Motion to Dismiss Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiff/Counterdefendants' Motion to Dismiss Counterclaims</i>
08/01/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/12/2019	 Opposition to Motion Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants and Counterclaimants Opposition to Motion to Dismiss Counterclaims and Defendants and Counterclaimants Motion for Summary Judgment</i>
08/16/2019	 Errata Filed By: Counter Claimant Bour Enterprises LLC <i>Notice of Errata Re Declaration of Anthony Bour</i>
08/22/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Opposition to Defendants' Countermotion for Summary Judgment</i>
08/27/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/27/2019	 Reply in Support Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs/Counterdefendants' Reply In Support Of Motion To Dismiss Counterclaims</i>
08/29/2019	 Reply in Support Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants/CounterClaimant's Reply In Support of Countermotion for Summary Judgment</i>
09/04/2019	 Joint Case Conference Report Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor

CASE SUMMARY

CASE NO. A-19-794864-C

Joint Case Conference Report

09/06/2019	 Order <i>Order to Appear for Scheduling Conference</i>
09/12/2019	 Order Denying Motion Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Order Denying Without Prejudice Plaintiffs/Counterdefendants' Motion to Dismiss Counterclaims and Defendants/Counterclaimants' Countermotion for Summary Judgment</i>
09/13/2019	 Notice of Entry of Order Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Entry of Order</i>
09/30/2019	Administrative Reassignment - Judicial Officer Change <i>From Vacant DC8 to Judge Trevor L. Atkin</i>
10/14/2019	 Answer to Counterclaim Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Answer to Counterclaim</i>
10/18/2019	 Scheduling and Trial Order <i>Scheduling Order and Order Setting Civil Bench Trial</i>
10/22/2019	 Scheduling and Trial Order <i>Amended Scheduling Order and Order Setting Civil Bench Trial</i>
10/30/2019	 Offer of Judgment Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants/Counterclaimants Offer of Judgment</i>
12/05/2019	 Motion to Compel Filed By: Counter Defendant 4520 Arville <i>Plaintiffs/Counterdefendants' Motion to Compel Discovery</i>
12/06/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/20/2019	 Opposition and Countermotion Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Opposition to Motion to Compel Discovery And Counter-Motion to Extend The Time To Disclose Expert Witnesses</i>
01/07/2020	 Reply in Support Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Reply in Support of Plaintiffs' Motion to Compel Discovery and Opposition to Defendants' Counter-Motion to Extend Time to Disclose Expert Witnesses</i>
01/17/2020	 Notice of Hearing Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Motion to Continue Expert Disclosure Deadline on an Order Shortening Time</i>

CASE SUMMARY

CASE NO. A-19-794864-C

01/24/2020	 Order Shortening Time Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants / Counter Claimants' Motion to Continue Expert Disclosure on Order Shortening Time</i>
01/28/2020	 Response Filed by: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Response to Defendants' Motion to Continue on Order Shortening Time</i>
01/28/2020	 Reply Filed by: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Reply to Plaintiffs' Response to Defendants' Motion to Continue on Order Shortening Time</i>
01/30/2020	 Discovery Commissioners Report and Recommendations Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Discovery Commissioner s Report and Recommendations</i>
02/20/2020	 Order Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Order from January 30, 2020 Hearing</i>
02/20/2020	 Notice of Entry of Order Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Notice of Entry of Order from January 30, 2020 Hearing</i>
02/21/2020	 Miscellaneous Filing Filed by: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendant's Production - 2nd Supp to NRCP 16.1</i>
02/21/2020	 Supplement Filed by: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendant's Second Supplement To NRCP 16.1 Initial List of Witnesses And Documents</i>
02/21/2020	 Miscellaneous Filing Filed by: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Log of Priveleged Documents</i>
02/21/2020	 Designation of Expert Witness Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants' Designation of Expert Witnesses</i>
02/27/2020	 Stipulation and Order Filed by: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Stipulation and Order to Continue Deadlines</i>
02/28/2020	 Notice of Entry of Stipulation and Order

CASE SUMMARY

CASE NO. A-19-794864-C

Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena
Notice of Entry of Stipulation and Order to Continue Deadlines

03/16/2020



Addendum

Filed By: Counter Claimant Bour Enterprises LLC
Defendants Addendum to Designation of Expert Witnesses

04/06/2020



Order Setting Civil Bench Trial

Order Setting Civil Bench Trial

04/07/2020



Order

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Order Re: Discovery Commissioner's Report and Recommendations

04/09/2020



Notice of Entry of Order

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Notice of Entry of Order

04/27/2020



Stipulation and Order

Filed by: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Stipulation and Order to Continue Deadlines (Second Request)

04/28/2020



Notice of Entry of Order

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Notice of Entry of Order

07/13/2020



Filing Fee Remittance

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Filing Fee Remittance

07/29/2020



Stipulation and Order to Extend Discovery Deadlines

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Stipulation And Order to Continue Deadlines (Third Request)

07/29/2020



Order Setting Civil Bench Trial

Order Setting Civil Bench Trial

07/29/2020



Notice of Entry of Order

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Notice of Entry of Order

11/10/2020



Motion for Summary Judgment

Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor
Plaintiffs' Motion for Summary Judgment Regarding Counterclaim Damages

11/10/2020



Clerk's Notice of Hearing

Notice of Hearing

11/19/2020



Amended Order Setting Jury Trial

Amended Order Setting Civil Jury Trial

11/20/2020





Amended Order Setting Civil Non-Jury Trial

CASE SUMMARY

CASE NO. A-19-794864-C

2nd Amended Order Setting Civil Bench Trial

11/25/2020	 Opposition to Motion For Summary Judgment Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Opposition to Plaintiffs' Motion for Summary Judgment Regarding Countereclaim Damages</i>
12/01/2020	 Motion for Summary Judgment Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Motion for Summary Judgment Regarding Their Breach of Contract Claims</i>
12/02/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/08/2020	 Reply in Support Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Reply In Support Of Motion For Summary Judgment Regarding Counterclaim Damages</i>
12/17/2020	 Opposition to Motion For Summary Judgment Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Opposition to Plaintiffs' Motion for Summary Judgment Regarding Breach of Contract Claims</i>
01/04/2021	Case Reassigned to Department 5 <i>Judicial Reassignment to Judge Veronica M. Barisich</i>
01/05/2021	 Reply in Support Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Reply In Support Of Motion for Summary Judgment Regarding Breach of Contract Claims</i>
01/28/2021	 Order Granting Motion Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Order Granting Plaintiffs' Motion for Summary Judgment on Breach of Contract Claims</i>
01/28/2021	 Notice of Entry of Order Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Entry of Order</i>
02/09/2021	 Motion to Adjudicate Attorney's Lien Filed by: Counter Claimant Bour Enterprises LLC <i>Black & LoBello's Motion to Adjudicate Attorneys' Lien for Plaintiff's Failure to Pay Fees and Costs</i>
02/09/2021	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/10/2021	 Motion for Entry of Judgment Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Motion for Entry of Judgment</i>
02/11/2021	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>

CASE SUMMARY

CASE NO. A-19-794864-C

02/11/2021	 Order Setting Civil Bench Trial <i>Order Setting Civil Bench Trial, Pretrial, and Calendar Call</i>
02/17/2021	 Order Shortening Time Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiff's Ex Parte Motion for Order Shortening Time on Plaintiff's Motion for entry of Judgment Pursuant to EDCR 2.26</i>
02/18/2021	 Notice of Entry of Order Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Entry of Order Shortening Time and Notice of Hearing</i>
02/22/2021	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
02/24/2021	 Opposition to Motion Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Opposition to Plaintiffs' Motion For Entry of Judgment on OST</i>
02/26/2021	 Reply in Support Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Reply In Support Of Motion For Entry of Judgment</i>
03/02/2021	 Notice of Non Opposition Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Notice of Non-Opposition to Black & Lobello Notice of Motion; Notice of Attorneys' Lien and Motion to Adjudicate Attorneys' Lien for Defendants' Failure to Pay Fees and Costs, to Perfect Attorneys' Lien and Foreclosure on Attorneys' Lien</i>
03/04/2021	 Order Filed By: Counter Claimant Bour, Mulugeta <i>Order Granting Black and Lobello Notice of Attorney's Lien and Motion to Adjudicate Attorneys' Lien for Client's Failure to Pay Fees and Costs to Perfect Attorneys' Lien and Foreclose on Attorney's Lien</i>
03/08/2021	 Notice of Entry of Order Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Notice of Entry of Order Granting Black and Lobello Notice of Attorneys' Lien' and Motion to Adjudicate Attorneys' Lien for Client's Failure to Pay Fees and Costs, to Perfect Attorneys' Lien and Foreclose on Attorney's Lien</i>
03/09/2021	 Order Granting Motion <i>Order Granting Motion for Entry of Judgment</i>
03/09/2021	 Judgment Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Judgment Against Defendants Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha</i>
03/09/2021	 Notice of Entry of Order Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Entry of Order</i>

CASE SUMMARY

CASE NO. A-19-794864-C

03/09/2021	 Notice of Entry of Judgment Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Notice of Entry of Judgment</i>
03/15/2021	 Memorandum of Costs and Disbursements Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Memorandum of Costs and Disbursements</i>
03/18/2021	 Motion to Retax Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants' Motion to Retax</i>
03/18/2021	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/18/2021	 Motion to Retax Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Defendants' Amended Motion to Retax</i>
03/24/2021	 Notice of Appeal Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Notice of Appeal</i>
03/24/2021	 Case Appeal Statement Filed By: Counter Claimant Bour Enterprises LLC; Counter Claimant Bour, Mulugeta; Counter Claimant Mengesha, Hilena <i>Case Appeal Statement</i>
03/26/2021	 Opposition to Motion Filed By: Counter Defendant 4520 Arville; Counter Defendant McKinley Manor <i>Plaintiffs' Opposition to Defendants' Motion to Retax Costs</i>




DISPOSITIONS

01/28/2021	Summary Judgment (Judicial Officer: Barisich, Veronica M.) Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant), Hilena Mengesha (Defendant) Creditors: 4520 Arville (Plaintiff), McKinley Manor (Plaintiff) Judgment: 01/28/2021, Docketed: 01/29/2021 Comment: Certain Claims
03/04/2021	Judgment (Judicial Officer: Barisich, Veronica M.) Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant), Hilena Mengesha (Defendant) Creditors: Black & Lobello (Other) Judgment: 03/04/2021, Docketed: 03/05/2021 Total Judgment: 27,517.72
03/09/2021	Judgment Plus Interest (Judicial Officer: Barisich, Veronica M.) Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant), Hilena Mengesha (Defendant) Creditors: 4520 Arville (Plaintiff), McKinley Manor (Plaintiff) Judgment: 03/09/2021, Docketed: 03/10/2021 Total Judgment: 162,756.77

CASE SUMMARY

CASE NO. A-19-794864-C

HEARINGS

09/03/2019	Motion to Dismiss (8:30 AM) (Judicial Officer: Vacant, DC 8) <i>Plaintiffs/Counterdefendants' Motion to Dismiss Counterclaims</i>
09/03/2019	Opposition and Countermotion (8:30 AM) (Judicial Officer: Vacant, DC 8) <i>Defendants and Counterclaimants Opposition to Motion to Dismiss Counterclaims and Defendants and Counterclaimants Motion for Summary Judgment</i>
09/03/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Bixler, James) Matter Heard; Journal Entry Details: <i>PLAINTIFFS/COUNTERDEFENDANTS' MOTION TO DISMISS COUNTERCLAIMS...DEFENDANTS AND COUNTERCLAIMANTS OPPOSITION TO MOTION TO DISMISS COUNTERCLAIMS AND DEFENDANTS AND COUNTERCLAIMANTS MOTION FOR SUMMARY JUDGMENT COURT NOTED this case was not ripe for Summary Judgment, it was premature, as there were too many matters to be examined. Moreover, summary judgment could be continued until after discovery or the matter could be denied without prejudice and allow for discovery. Furthermore, the Court suggested a settlement conference. COURT ORDERED, Motion to Dismiss and Motion for Summary Judgment DENIED WITHOUT PREJUDICE. Counsel indicated they submitted a Joint Case Conference Report.;</i>
10/11/2019	 Mandatory Rule 16 Conference (8:30 AM) (Judicial Officer: Bixler, James) Scheduling Order Will Issue; Journal Entry Details: <i>COURT FINDS, discovery CLOSES ON 03/02/2020; dispositive motions TO BE FILED BY 04/02/2020; and, case will be trial ready on or after 08/03/2020. Deadlines will commence from the close of discovery or the Case Conference report unless otherwise designated. TRIAL ORDER WILL ISSUE.;</i>
01/14/2020	Motion to Compel (9:00 AM) (Judicial Officer: Truman, Erin) <i>Plaintiffs/Counterdefendants' Motion to Compel Discovery</i> Granted in Part;
01/14/2020	Opposition and Countermotion (9:00 AM) (Judicial Officer: Truman, Erin) <i>Deft's Opposition to Motion to Compel Discovery and Counter-Motion to Extend The Time To Disclose Expert Witnesses</i> Off Calendar;
01/14/2020	 All Pending Motions (9:00 AM) (Judicial Officer: Truman, Erin) Matter Heard; Journal Entry Details: <i>Plaintiffs/Counterdefendants' Motion to Compel Discovery Deft's Opposition to Motion to Compel Discovery and Counter-Motion to Extend The Time To Disclose Expert Witnesses MATTER TRAILED AND RECALLED: COMMISSIONER RECOMMENDED, Deft's Counter-Motion to Extend The Time To Disclose Expert Witnesses is OFF CALENDAR as discovery deadlines are addressed with the Judge pursuant to the Rules change on 3-1-19. Commissioner stated discovery for Hilena Mengesha was not included in the body of the Motion. However, counsel can work out the discovery based on Commissioner's Recommendations today. Arguments by counsel. COMMISSIONER RECOMMENDED, Plaintiffs/Counterdefendants' Motion to Compel Discovery is GRANTED IN PART and DENIED IN PART; Request for Production 1 is PROTECTED, but a copy of Defts' new Lease is allowed, and where the alleged breaching entity went including size of location; if Defts have information in their possession, custody, or control, or Defts can obtain it without burden or undue expense, the information must be provided; RFP 2 PROTECTED as written, but alternative relief was provided, and any documents/communications in Defts' possession, custody, or control must be provided (or provide an explanation); RFP 16 is PROTECTED; RFP 17 alternative relief provided, and re-write #17; RFP 19 produce any and all documents or correspondence for sub-Leasing or taking over the Lease; RFP 20 re-write as Directed on the record; RFP 4 PROTECTED as written; colloquy; RFP 4 as Directed on the record. Mr. Edwards to prepare the Report and Recommendations, and Mr. Graf to approve as to form and content. A proper</i>

CASE SUMMARY

CASE NO. A-19-794864-C

report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution. If a dispute arises on language in the Report and Recommendations, do not submit competing DCRRs. Commissioner advised counsel to contact the Discovery office to set up a conference call with the Commissioner. ;

01/30/2020



Motion to Continue (10:00 AM) (Judicial Officer: Atkin, Trevor)

Motion to Continue Expert Disclosure Deadlines on Order Shortening Time

Granted; Motion to Continue Expert Disclosure Deadlines on Order Shortening Time

Journal Entry Details:

Arguments by counsel. Court Finds no bad faith, motion having been duly filed and served, for good cause shown, COURT ORDERED, Defendants' Motion to Continue Expert Disclosure Deadlines is GRANTED. FURTHER, trial date STANDS. Mr. Graf to prepare the Stipulation and Order within 10 days and distribute a filed copy to all parties involved in this matter.;

02/20/2020

CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Truman, Erin)

Vacated

Status Check: Compliance / 1-14-2020

10/13/2020

CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - Superseding Order

11/09/2020

CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - Superseding Order

11/16/2020

CANCELED Bench Trial (9:00 AM) (Judicial Officer: Atkin, Trevor)

Vacated - Superseding Order

12/09/2020



At Request of Court (3:00 AM) (Judicial Officer: Atkin, Trevor)

BlueJeans Notice for Department 8 on December 15, 2020

Hearing Set;

Journal Entry Details:

BLUEJEANS NOTICE for DEPT. 8 SHOW CAUSE HRGs/ STATUS CHECKS on - DEC 15, 2020, AT 9:00 AM and LAW AND MOTION CALENDAR DEC 15, 2020, AT 9:30 AM Department 8 Request to Appear Telephonically Pursuant to Administrative Order 20-10. Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 875 455 541 (NOTE: The meeting number will be different for each day's court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;

12/15/2020



Motion for Summary Judgment (9:30 AM) (Judicial Officer: Atkin, Trevor)

Plaintiffs' Motion for Summary Judgment Regarding Counterclaim Damages

Dismissed;

Journal Entry Details:

COURT ORDERED, Plaintiff's Motion for Summary Judgment Regarding Counterclaim Damages is DENIED. Mr. Graf to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.;

01/05/2021

CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated - per Order

01/08/2021



Minute Order (11:50 AM) (Judicial Officer: Barisich, Veronica M.)

Minute Order - No Hearing Held;

Journal Entry Details:

Department 5 Formal Request to Appear REMOTELY for the January 12, 2021 Hearing Calendar. Please double check the docket for your start time. Please be advised that due to the

CASE SUMMARY

CASE NO. A-19-794864-C

COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 160 402 357 Meeting URL: <https://bluejeans.com/160402357> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. 1/08/21/ds;

01/12/2021



Motion for Summary Judgment (9:30 AM) (Judicial Officer: Cherry, Michael A.)

Plaintiffs' Motion for Summary Judgment Regarding Their Breach of Contract Claims Granted;

Journal Entry Details:

Counsel appearing via BlueJeans. Arguments by Mr. Edwards regarding the merits of and by Mr. Graf in the opposition to the motion. COURT stated its findings and ORDERED, motion for summary judgment GRANTED. Mr. Edwards to prepare the order.;

02/01/2021

CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor)

Vacated

02/04/2021



Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.)

Minute Order - No Hearing Held;

Journal Entry Details:

Department 5 s Formal Request to Appear REMOTELY for the February 9, 2021, Pretrial Conference Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Meeting ID: 491 458 660 Meeting URL: <https://bluejeans.com/491458660> To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERKS NOTE: This Minute Order was electronically served by Courtroom Clerk, Grecia Snow, to all registered parties for Odyssey File & Serve. 2/4/21 gs CLERK'S NOTE: The above minute order has been updated to include the hearing date and has been redistributed to counsel by the Court Clerk via electronic service. kc/02-08-21;

02/08/2021

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Atkin, Trevor)

CASE SUMMARY

CASE NO. A-19-794864-C

Vacated - per Order

02/09/2021



Pre Trial Conference (8:30 AM) (Judicial Officer: Barisich, Veronica M.)

Matter Heard;

Journal Entry Details:

Counsel agreed to reset the trial pending the outcome of the Motion for Summary Judgment.

Trial dates RESET. 3/16/21 8:30 AM PRETRIAL CONFERENCE 4/12/21 8:30 AM

CALENDAR CALL 4/19/21 9:00 AM BENCH TRIAL ;

02/25/2021



Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.)

Minute Order - No Hearing Held;

Journal Entry Details:

Department 5 Formal Request to Appear REMOTELY for the March 2, 2021, hearing calendar. Please double check the docket for your start time. Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Meeting ID: 979 802 354 Meeting URL: <https://bluejeans.com/979802354> To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. ;

03/02/2021



Motion for Judgment (9:00 AM) (Judicial Officer: Barisich, Veronica M.)

Plaintiffs' Motion for Entry of Judgment

Granted;

Journal Entry Details:

Arguments by counsel regarding whether or not Defendant breach its contract and the damages incurred by the Plaintiff due to the breach. Further arguments by counsel regarding and whether there were material issue of fact as to the counterclaim as to the constructive eviction and the failure of Plaintiffs to mitigate its damages. Following arguments of counsel, COURT ORDERED, matter taken UNDER ADVISEMENT. A written Order will ISSUE.;

03/03/2021



Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.)

Plaintiff's Motion for Entry of Judgment

Minute Order - No Hearing Held;

Journal Entry Details:

The Court notes that Plaintiff's Motion for Entry of Judgment was heard on March 2, 2021. After hearing the oral arguments, the Court took the matter UNDER ADVISEMENT. After carefully considering the evidence and arguments submitted, COURT ORDERS that Plaintiff's Motion shall be GRANTED. Per January 28, 2021 order, the Court granted summary judgment on Plaintiff's breach of contract claims. Per this order, the Court concluded that there was sufficient evidence that Defendants breached the leases and personal guaranties. The Court rejected Defendant's argument as to constructive eviction as the implied warranty of habitability was deemed inapplicable in commercial leases and that even if such warranty is applicable, it was specifically waived by the Defendants in the lease. The Court FINDS and CONCLUDES that the only remaining dispute is whether a trial is necessary to prove Plaintiff's damages. Plaintiff's damages sought were set forth in the exhibits 5 and 6 of the motion for summary judgment, wherein Plaintiff sought \$62,223.08 for lot C23 and \$77,231.42 for lot C10, for total of \$139,454.50. Defendants did not challenge the appropriateness of the

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-794864-C

	<p><i>amounts when the Plaintiff filed its motion for summary judgment and they did not raise the applicable affirmative defenses with regards to the damages sought. Under Shuck v. Signature Flight Support of Nevada, Inc., 126 Nev. 434, 245 P.3d 542 (2010), the argument that was not raised in the original motion must be deemed to have been waived and cannot be subsequently considered. Thus, the motion should be granted. The Court ORDERS that Plaintiff's Motion shall be GRANTED. The Pre Trial Conference, Calendar Call and the Bench Trial shall be VACATED. Counsel for Plaintiff is directed to submit a proposed Order and Judgment consistent with this Minute Order and the submitted briefing. Counsel may add language to further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. Defendants counsel is to review and countersign as to form and content. Counsel is directed to have the proposed Order submitted to chambers within 10 days consistent with AO 20-17. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;</i></p>
03/08/2021	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated</i></p>
03/15/2021	<p>CANCELED Bench Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Order</i></p>
03/16/2021	<p>CANCELED Motion (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i> <i>Black & LoBello's Motion to Adjudicate Attorneys' Lien for Plaintiff's Failure to Pay Fees and Costs</i></p>
03/16/2021	<p>CANCELED Pre Trial Conference (11:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i></p>
04/12/2021	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i></p>
04/19/2021	<p>CANCELED Bench Trial (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i></p>
04/20/2021	<p>Motion to Retax (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Defendants' Motion to Retax</i></p>

DATE	FINANCIAL INFORMATION																						
	<p>Counter Claimant Bour Enterprises LLC</p> <table> <tr> <td>Total Charges</td><td>560.00</td></tr> <tr> <td>Total Payments and Credits</td><td>560.00</td></tr> <tr> <td>Balance Due as of 3/29/2021</td><td>0.00</td></tr> </table> <p>Counter Defendant 4520 Arville</p> <table> <tr> <td>Total Charges</td><td>1,150.00</td></tr> <tr> <td>Total Payments and Credits</td><td>1,150.00</td></tr> <tr> <td>Balance Due as of 3/29/2021</td><td>0.00</td></tr> </table> <p>Counter Defendant McKinley Manor</p> <table> <tr> <td>Total Charges</td><td>0.00</td></tr> <tr> <td>Total Payments and Credits</td><td>0.00</td></tr> <tr> <td>Balance Due as of 3/29/2021</td><td>0.00</td></tr> </table> <p>Counter Defendant 4520 Arville</p> <table> <tr> <td>Security Cost Bond Balance as of 3/29/2021</td><td>500.00</td></tr> </table> <p>Counter Defendant McKinley Manor</p> <table> <tr> <td>Security Cost Bond Balance as of 3/29/2021</td><td>500.00</td></tr> </table>	Total Charges	560.00	Total Payments and Credits	560.00	Balance Due as of 3/29/2021	0.00	Total Charges	1,150.00	Total Payments and Credits	1,150.00	Balance Due as of 3/29/2021	0.00	Total Charges	0.00	Total Payments and Credits	0.00	Balance Due as of 3/29/2021	0.00	Security Cost Bond Balance as of 3/29/2021	500.00	Security Cost Bond Balance as of 3/29/2021	500.00
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Balance Due as of 3/29/2021	0.00																						
Security Cost Bond Balance as of 3/29/2021	500.00																						
Security Cost Bond Balance as of 3/29/2021	500.00																						

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada
 Case No. _____
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): 4520 Arville, a California general partnership; MCKINLEY MANOR, an Idaho general partnership	Defendant(s) (name/address/phone): BOUR ENTERPRISES, LLC, a Nevada limited liability company; MULUGETA BOUR, an individual; HILENA MENGESHA, an individual
Attorney (name/address/phone): Holley Driggs Walch Fine Puzey Stein & Thompson 400 S. Fourth Street, 3rd Floor Las Vegas NV 89101 (702) -791-0308	Attorney (name/address/phone):

CASE NO: A-19-794864-C
Department 1

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


Civil Case Filing Types

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

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

05/15/19

Date


 Signature of initiating party or representative

See other side for family-related case filings.

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
JESSICA M. LUJAN, ESQ.
Nevada Bar No. 14913
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HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Counterclaimants.

v.

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership, DOES I-X; and ROE
CORPORATIONS I-X,

Counterdefendants,

Case No: A-19-794864-C
Dept. No.: 5

**ORDER GRANTING PLAINTIFFS'
MOTION FOR ENTRY OF JUDGMENT**

Date of Hearing: March 2, 2021
Time of Hearing: 9:00 a.m.

///

///

This matter came before the Court upon Plaintiffs' Motion for Entry of Judgment on March 2, 2021 at 9:00 a.m. F. Thomas Edwards, Esq., appeared on behalf of Plaintiffs. Rusty Graf, Esq., appeared on behalf of Defendants. The Court carefully reviewed and considered the relevant briefs and documents on file in this case and considered the oral arguments of counsel. After taking the matter under advisement, the Court FINDS and CONCLUDES as follows:

Per the Court's order entered January 28, 2021, the Court granted Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims. Per that order, the Court concluded that the undisputed material facts established that Defendants breached the leases and personal guaranties. The Court rejected Defendant's argument as to constructive eviction as the implied warranty of habitability was deemed inapplicable in commercial leases and that even if such warranty is applicable, it was specifically waived by the Defendants in the subject leases.

Therefore, the only remaining issue is whether a trial is necessary to prove Plaintiffs' damages. The damages Plaintiffs sought were set forth in the Exhibits 5 and 6 of the Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims, wherein Plaintiffs sought \$62,223.08 for Units C-23/24 and \$77,231.42 for Units C-10/29, for a total of \$139,454.50. In response to Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims, Defendants did not challenge the appropriateness of the amounts and did not raise the applicable affirmative defenses with regard to the damages sought. Under *Shuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. 434, 436, 245 P.3d 542, 544 (2010), the arguments that were not raised in response to the original motion must be deemed to have been waived and cannot be subsequently considered. Thus, there are no issues of material fact with regard to Plaintiffs' damages and Plaintiffs' Motion for Entry of Judgment should be granted.

Good cause appearing, the Court ORDERS as follows:

1. IT IS HEREBY ORDERED that Plaintiffs' Motion for Entry of Judgment is hereby GRANTED in its entirety;

2. IT IS FURTHER ORDERED that a separate judgment shall issue in favor of Plaintiffs and against Defendants, jointly and severally, in the amount of \$139,454.50, plus pre- and post-judgment interest at the rate provided for in the subject leases; and

HOLLEY DRIGGS

3. IT IS FURTHER ORDERED that the Pre-Trial Conference, Calendar Call and Bench Trial shall be VACATED.

IT IS SO ORDERED.

Dated this 9th day of March, 2021



99B 7B4 1827 0BBB
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

HOLLEY DRIGGS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

Attorneys for Plaintiffs/Counter-defendants

Approved as to form and content by:

BLACK & WADHAMS

/s/ Rusty Graf
RUSTY GRAF, ESQ. (NBN 6322)
10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

Attorneys for Defendants/Counterclaimants

Sandy Sell

Subject: FW: Bour

From: Rusty Graf <rgraf@blackwadhams.law>

Sent: Monday, March 8, 2021 8:07:15 AM

To: Tom Edwards <tedwards@nevadafirm.com>

Cc: Jessica M. Lujan <jlujan@nevadafirm.com>; Diane Meeter <dmeeter@blackwadhams.law>; Mark Lounsbury <mlounsbury@blacklobello.law>

Subject: RE: Bour

No changes to either.

Thank you and Stay safe!

Rusty Graf, Esq.

Partner



p: (702)869-8801

f: (702)869-2669

a: 10777 W. Twain Ave., Suite 300
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W: www.blackwadhams.law

E: rgraf@blacklobello.law (Effective until August 1, 2020)

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

10
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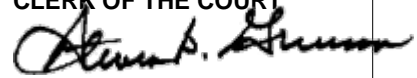
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HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
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Counterdefendants,

Case No: A-19-794864-C
Dept. No.: 5

NOTICE OF ENTRY OF ORDER

YOU, and each of you, will please take notice that an Order Granting Plaintiffs' Motion
for Entry of Judgment in the above-entitled matter was filed and entered by the Clerk of the above-

///

HOLLEY DRIGGS

entitled Court on the 9th day of March, 2021, a copy of which is attached hereto.

Dated this 9thth day of March, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

F. Thomas Edwards, Esq. (NBN 9549)

Jessica M. Lujan, Esq. (NBN 14913)

400 S. Fourth Street, Third Floor

Las Vegas, NV 89101

Attorney for Plaintiffs/Counter-defendants

CERTIFICATE OF SERVICE

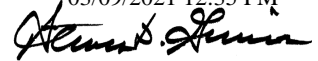
Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 9th day of March, 2021, I did cause a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

Rusty Graf, Esq.
BLACK & LOBELLO
10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

Brent Carson, Esq.
WINNER & CARSON
7935 W. Sahara Ave., Suite 101
Las Vegas, NV 89117

/s/ Sandy Sell

An employee of HOLLEY DRIGGS



CLERK OF THE COURT

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
JESSICA M. LUJAN, ESQ.
Nevada Bar No. 14913
E-mail: jlujan@nevadafirm.com
HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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Date of Hearing: March 2, 2021
Time of Hearing: 9:00 a.m.

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Per the Court's order entered January 28, 2021, the Court granted Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims. Per that order, the Court concluded that the undisputed material facts established that Defendants breached the leases and personal guaranties. The Court rejected Defendant's argument as to constructive eviction as the implied warranty of habitability was deemed inapplicable in commercial leases and that even if such warranty is applicable, it was specifically waived by the Defendants in the subject leases.

Therefore, the only remaining issue is whether a trial is necessary to prove Plaintiffs' damages. The damages Plaintiffs sought were set forth in the Exhibits 5 and 6 of the Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims, wherein Plaintiffs sought \$62,223.08 for Units C-23/24 and \$77,231.42 for Units C-10/29, for a total of \$139,454.50. In response to Plaintiffs' Motion For Summary Judgment Regarding Their Breach of Contract Claims, Defendants did not challenge the appropriateness of the amounts and did not raise the applicable affirmative defenses with regard to the damages sought. Under *Shuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. 434, 436, 245 P.3d 542, 544 (2010), the arguments that were not raised in response to the original motion must be deemed to have been waived and cannot be subsequently considered. Thus, there are no issues of material fact with regard to Plaintiffs' damages and Plaintiffs' Motion for Entry of Judgment should be granted.

Good cause appearing, the Court ORDERS as follows:

1. IT IS HEREBY ORDERED that Plaintiffs' Motion for Entry of Judgment is hereby GRANTED in its entirety;

2. IT IS FURTHER ORDERED that a separate judgment shall issue in favor of Plaintiffs and against Defendants, jointly and severally, in the amount of \$139,454.50, plus pre- and post-judgment interest at the rate provided for in the subject leases; and

HOLLEY DRIGGS

3. IT IS FURTHER ORDERED that the Pre-Trial Conference, Calendar Call and Bench Trial shall be VACATED.

IT IS SO ORDERED.

Dated this 9th day of March, 2021



99B 7B4 1827 0BBB
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

HOLLEY DRIGGS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

Attorneys for Plaintiffs/Counter-defendants

Approved as to form and content by:

BLACK & WADHAMS

/s/ Rusty Graf
RUSTY GRAF, ESQ. (NBN 6322)
10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

Attorneys for Defendants/Counterclaimants

Sandy Sell

Subject: FW: Bour

From: Rusty Graf <rgraf@blackwadhams.law>

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To: Tom Edwards <tedwards@nevadafirm.com>

Cc: Jessica M. Lujan <jlujan@nevadafirm.com>; Diane Meeter <dmeeter@blackwadhams.law>; Mark Lounsbury <mlounsbury@blacklobello.law>

Subject: RE: Bour

No changes to either.

Thank you and Stay safe!

Rusty Graf, Esq.

Partner



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1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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tedwards@nevadafirm.com

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bac@winnercarson.com

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400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counter-defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
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CORPORATIONS I-X,

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Case No: A-19-794864-C
Dept. No.: 5

**JUDGMENT AGAINST DEFENDANTS
BOUR ENTERPRISES, LLC,
MULUGETA BOUR, AND HILENA
MENGESHA**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Judgment is entered in
favor of Plaintiffs 4520 Arville, a California general partnership, and McKinley Manor, an Idaho
general partnership (together, "Plaintiffs") and against Defendants Bour Enterprises, LLC, a

Nevada limited liability company, Mulugeta Bour, and Hilena Mengesha (together, “Defendants”), jointly and severally, as follows:

1. As to the Lease of Units C-23/24, the principal sum of \$62,223.08 in outstanding rent, CAM charges and late fees (*see* Tenant Ledger, attached as Exhibit 5 to Plaintiffs’ Motion for Summary Judgment, filed 12/1/20 (the “Motion”));
2. As to the Lease of Units C-10/29, the principal sum of \$77,231.42 in outstanding rent, CAM charges and late fees (*see* Tenant Ledger, attached as Exhibit 6 to the Motion);
3. Pre-judgment interest at 9.5% (Wall Street Journal prime rate of 5.5% published on 12/20/18 plus 4%, per Section 13.5 of the Leases, attached as Exhibits 2 and 3 to the Motion) since the expiration of the Leases on May 31, 2019 through March 2, 2021 in the amount of \$23,302.27;
4. Post-judgment interest at 9.5% (Wall Street Journal prime rate of 5.5% published on 12/20/18 plus 4%, per Section 13.5 of the Leases, attached as Exhibits 2 and 3 to the Motion) in the amount of \$36.30 per day from March 3, 2021, until satisfied in full;
5. **For a total amount of \$162,756.77, plus post-judgment interest at \$36.30 per day from March 3, 2021, until satisfied in full.**

Dated this 9th day of March, 2021

IT IS SO ORDERED.



A0B B87 1ECA 45B5
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

/s/ Rusty Graf
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Partner



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6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

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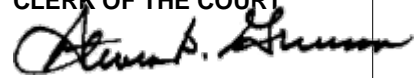
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Dept. No.: 5

NOTICE OF ENTRY OF JUDGMENT

YOU, and each of you, will please take notice that a Judgment Against Defendants Bour
Enterprises, LLC, Mulugeta Bour and Hilena Mengesha in the above-entitled matter was filed and

///

entered by the Clerk of the above-entitled Court on the 9th day of March, 2021, a copy of which is attached hereto.

Dated this 9thth day of March, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards
F. Thomas Edwards, Esq. (NBN 9549)
Jessica M. Lujan, Esq. (NBN 14913)
400 S. Fourth Street, Third Floor
Las Vegas, NV 89101

Attorney for Plaintiffs/Counter-defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 9th day of March, 2021, I did cause a true and correct copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT**, to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

Rusty Graf, Esq.
BLACK & LOBELLO
10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

Brent Carson, Esq.
WINNER & CARSON
7935 W. Sahara Ave., Suite 101
Las Vegas, NV 89117

/s/ Sandy Sell
An employee of HOLLEY DRIGGS

F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
E-mail: tedwards@nevadafirm.com
JESSICA M. LUJAN, ESQ.
Nevada Bar No. 14913
E-mail: jlujan@nevadafirm.com
HOLLEY DRIGGS
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counter-defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership,

Plaintiffs,

v.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Counterclaimants.

v.

4520 ARVILLE, a California general
partnership; MCKINLEY MANOR, an Idaho
general partnership, DOES I-X; and ROE
CORPORATIONS I-X,

Counter-defendants,

Case No: A-19-794864-C
Dept. No.: 5

**JUDGMENT AGAINST DEFENDANTS
BOUR ENTERPRISES, LLC,
MULUGETA BOUR, AND HILENA
MENGESHA**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Judgment is entered in
favor of Plaintiffs 4520 Arville, a California general partnership, and McKinley Manor, an Idaho
general partnership (together, "Plaintiffs") and against Defendants Bour Enterprises, LLC, a

Nevada limited liability company, Mulugeta Bour, and Hilena Mengesha (together, “Defendants”), jointly and severally, as follows:

1. As to the Lease of Units C-23/24, the principal sum of \$62,223.08 in outstanding rent, CAM charges and late fees (*see* Tenant Ledger, attached as Exhibit 5 to Plaintiffs’ Motion for Summary Judgment, filed 12/1/20 (the “Motion”));
2. As to the Lease of Units C-10/29, the principal sum of \$77,231.42 in outstanding rent, CAM charges and late fees (*see* Tenant Ledger, attached as Exhibit 6 to the Motion);
3. Pre-judgment interest at 9.5% (Wall Street Journal prime rate of 5.5% published on 12/20/18 plus 4%, per Section 13.5 of the Leases, attached as Exhibits 2 and 3 to the Motion) since the expiration of the Leases on May 31, 2019 through March 2, 2021 in the amount of \$23,302.27;
4. Post-judgment interest at 9.5% (Wall Street Journal prime rate of 5.5% published on 12/20/18 plus 4%, per Section 13.5 of the Leases, attached as Exhibits 2 and 3 to the Motion) in the amount of \$36.30 per day from March 3, 2021, until satisfied in full;
5. **For a total amount of \$162,756.77, plus post-judgment interest at \$36.30 per day from March 3, 2021, until satisfied in full.**

Dated this 9th day of March, 2021

IT IS SO ORDERED.



A0B B87 1ECA 45B5
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

/s/ Rusty Graf
RUSTY GRAF, ESQ. (NBN 6322)
10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

Attorneys for Plaintiffs/Counter-defendants

Attorneys for Defendants/Counterclaimants

Sandy Sell

Subject: FW: Bour

From: Rusty Graf <rgraf@blackwadhams.law>

Sent: Monday, March 8, 2021 8:07:15 AM

To: Tom Edwards <tedwards@nevadafirm.com>

Cc: Jessica M. Lujan <jlujan@nevadafirm.com>; Diane Meeter <dmeeter@blackwadhams.law>; Mark Lounsbury <mlounsbury@blacklobello.law>

Subject: RE: Bour

No changes to either.

Thank you and Stay safe!

Rusty Graf, Esq.

Partner



p: (702)869-8801

f: (702)869-2669

a: 10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135

W: www.blackwadhams.law

E: rgraf@blacklobello.law (Effective until August 1, 2020)

E: rgraf@blackwadhams.law (Effective August 1, 2020)



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From: Tom Edwards <tedwards@nevadafirm.com>

Sent: Friday, March 5, 2021 12:44 PM

To: Rusty Graf <rgraf@blackwadhams.law>

Cc: Jessica M. Lujan <jlujan@nevadafirm.com>

Subject: Bour

Rusty,

Attached for your review are the order and judgment. The only change to the judgement from the last one you saw is that we updated the prejudgment interest amount. Please let me know if we can affix your electronic signature and submit.

Thanks
Tom

F. Thomas Edwards
Shareholder
Las Vegas Office

HOLLEY DRIGGS

Tel: 702.791.0308 | Fax: 702.791.1912
400 S. 4th Street, Suite 300, Las Vegas NV 89101

Tel: 775.851.8700 | Fax: 775.851.7681
800 S. Meadows Parkway, Suite 800, Reno NV 89521

www.nevadafirm.com

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/9/2021

15 Tom Edwards, Esq.

tedwards@nevadafirm.com

16 BRENT CARSON

bac@winnercarson.com

17 Diane Meeter

dmeeter@blacklobello.law

18 J. Graf

Rgraf@blacklobello.law

19 Sandra Sell

ssell@nevadafirm.com

20 Jessica Lujan

jlujan@nevadafirm.com

21 Marsha Stallsworth

mstallsworth@blackwadhams.law

22 Marsha Stallsworth

mstallsworth@blackwadhams.law

23
24
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

September 03, 2019

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

September 03, 2019 8:30 AM All Pending Motions

HEARD BY: Vacant, DC 8; Bixler, James **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Natalie Ortega

RECORDER: Gail Reiger

REPORTER:

PARTIES

PRESENT: Edwards, F. Thomas Attorney
 Graf, J. Rusty Attorney

JOURNAL ENTRIES

- PLAINTIFFS/COUNTERDEFENDANTS' MOTION TO DISMISS
COUNTERCLAIMS...DEFENDANTS AND COUNTERCLAIMANTS OPPOSITION TO MOTION TO
DISMISS COUNTERCLAIMS AND DEFENDANTS AND COUNTERCLAIMANTS MOTION FOR
SUMMARY JUDGMENT

COURT NOTED this case was not ripe for Summary Judgment, it was premature, as there were too many matters to be examined. Moreover, summary judgment could be continued until after discovery or the matter could be denied without prejudice and allow for discovery. Furthermore, the Court suggested a settlement conference. COURT ORDERED, Motion to Dismiss and Motion for Summary Judgment DENIED WITHOUT PREJUDICE. Counsel indicated they submitted a Joint Case Conference Report.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

October 11, 2019

A-19-794864-C	4520 Arville, Plaintiff(s) vs. Bour Enterprises LLC, Defendant(s)
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October 11, 2019	8:30 AM	Mandatory Rule 16 Conference
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HEARD BY: Bixler, James

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:	Carson, Brent A Edwards, F. Thomas Graf, J. Rusty	Attorney Attorney Attorney
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JOURNAL ENTRIES

- COURT FINDS, discovery CLOSES ON 03/02/2020; dispositive motions TO BE FILED BY 04/02/2020; and, case will be trial ready on or after 08/03/2020. Deadlines will commence from the close of discovery or the Case Conference report unless otherwise designated. TRIAL ORDER WILL ISSUE.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

January 14, 2020

A-19-794864-C	4520 Arville, Plaintiff(s)
	vs.
	Bour Enterprises LLC, Defendant(s)

January 14, 2020 9:00 AM All Pending Motions

HEARD BY: Truman, Erin

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Edwards, F. Thomas	Attorney
	Graf, J. Rusty	Attorney
	Lujan, Jessica M	Attorney

JOURNAL ENTRIES

- Plaintiffs/Counterdefendants' Motion to Compel Discovery

Deft's Opposition to Motion to Compel Discovery and Counter-Motion to Extend The Time To Disclose Expert Witnesses

MATTER TRAILED AND RECALLED: COMMISSIONER RECOMMENDED, Deft's Counter-Motion to Extend The Time To Disclose Expert Witnesses is OFF CALENDAR as discovery deadlines are addressed with the Judge pursuant to the Rules change on 3-1-19. Commissioner stated discovery for Hilena Mengesha was not included in the body of the Motion. However, counsel can work out the discovery based on Commissioner's Recommendations today.

Arguments by counsel. COMMISSIONER RECOMMENDED, Plaintiffs/Counterdefendants' Motion to Compel Discovery is GRANTED IN PART and DENIED IN PART; Request for Production 1 is PROTECTED, but a copy of Defts' new Lease is allowed, and where the alleged breaching entity went

including size of location; if Defts have information in their possession, custody, or control, or Defts can obtain it without burden or undue expense, the information must be provided; RFP 2 PROTECTED as written, but alternative relief was provided, and any documents/communications in Defts' possession, custody, or control must be provided (or provide an explanation); RFP 16 is PROTECTED; RFP 17 alternative relief provided, and re-write #17; RFP 19 produce any and all documents or correspondence for sub-Leasing or taking over the Lease; RFP 20 re-write as Directed on the record; RFP 4 PROTECTED as written; colloquy; RFP 4 as Directed on the record. Mr. Edwards to prepare the Report and Recommendations, and Mr. Graf to approve as to form and content. A proper report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution. If a dispute arises on language in the Report and Recommendations, do not submit competing DCRRs. Commissioner advised counsel to contact the Discovery office to set up a conference call with the Commissioner.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

January 30, 2020

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

January 30, 2020

10:00 AM

Motion to Continue

**Motion to Continue
Expert Disclosure
Deadlines on Order
Shortening Time**

HEARD BY: Atkin, Trevor

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Edwards, F. Thomas Attorney
 Graf, J. Rusty Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court Finds no bad faith, motion having been duly filed and served, for good cause shown, COURT ORDERED, Defendants' Motion to Continue Expert Disclosure Deadlines is GRANTED. FURTHER, trial date STANDS. Mr. Graf to prepare the Stipulation and Order within 10 days and distribute a filed copy to all parties involved in this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

December 09, 2020

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

December 09, 2020 3:00 AM At Request of Court

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- BLUEJEANS NOTICE for DEPT. 8 SHOW CAUSE HRGs/ STATUS CHECKS on - DEC 15, 2020,
AT 9:00 AM
and

LAW AND MOTION CALENDAR DEC 15, 2020, AT 9:30 AM

Department 8 Request to Appear Telephonically

Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants.

To use BlueJeans, please call in prior to the hearing at 1-888-748-9073.

To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #.

Your Meeting ID: 875 455 541 (NOTE: The meeting number will be different for each day's court session.)

PRINT DATE: 03/29/2021

Page 6 of 19

Minutes Date: September 03, 2019

For your hearing, PLEASE observe the following protocol:

Place your telephone on mute while waiting for your matter/case to be called.
Do not place the conference on hold as it may play wait/hold music to others.
Identify yourself before speaking each time as a record is being made.
Please be mindful of sounds of rustling of papers or coughing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

December 15, 2020

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

**December 15, 2020 9:30 AM Motion for Summary
Judgment**

HEARD BY: Atkin, Trevor

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Edwards, F. Thomas Attorney
 Graf, J. Rusty Attorney

JOURNAL ENTRIES

- COURT ORDERED, Plaintiff's Motion for Summary Judgment Regarding Counterclaim Damages is DENIED. Mr. Graf to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

January 08, 2021

A-19-794864-C	4520 Arville, Plaintiff(s)
	vs.
	Bour Enterprises LLC, Defendant(s)

January 08, 2021 11:50 AM Minute Order

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Dauriana Simpson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 5 Formal Request to Appear REMOTELY for the January 12, 2021 Hearing Calendar.
Please double check the docket for your start time.

Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715
Meeting ID: 160 402 357
Meeting URL: <https://bluejeans.com/160402357>

To connect by phone dial the number provided and enter the meeting ID followed by #
To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. 1/08/21/ds

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

January 12, 2021

A-19-794864-C	4520 Arville, Plaintiff(s) vs. Bour Enterprises LLC, Defendant(s)
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January 12, 2021	9:30 AM	Motion for Summary Judgment
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HEARD BY: Cherry, Michael A.

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Cynthia Moleres

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Edwards, F. Thomas Graf, J. Rusty	Attorney Attorney
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JOURNAL ENTRIES

- Counsel appearing via BlueJeans.

Arguments by Mr. Edwards regarding the merits of and by Mr. Graf in the opposition to the motion. COURT stated its findings and ORDERED, motion for summary judgment GRANTED. Mr. Edwards to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

February 04, 2021

A-19-794864-C	4520 Arville, Plaintiff(s)
	vs.
	Bour Enterprises LLC, Defendant(s)

February 04, 2021 3:00 AM Minute Order

HEARD BY: Barisich, Veronica M. **COURTROOM:** Chambers

COURT CLERK: Grecia Snow

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 5 s Formal Request to Appear REMOTELY for the February 9, 2021, Pretrial Conference

Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Meeting ID: 491 458 660

Meeting URL: <https://bluejeans.com/491458660>

To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:
Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERKS NOTE: This Minute Order was electronically served by Courtroom Clerk, Grecia Snow, to all registered parties for Odyssey File & Serve. 2/4/21 gs

CLERK'S NOTE: The above minute order has been updated to include the hearing date and has been redistributed to counsel by the Court Clerk via electronic service. kc//02-08-21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

February 09, 2021

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

February 09, 2021 8:30 AM Pre Trial Conference

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Alice Jacobson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Edwards, F. Thomas Attorney
 Graf, J. Rusty Attorney

JOURNAL ENTRIES

- Counsel agreed to reset the trial pending the outcome of the Motion for Summary Judgment. Trial dates RESET.

3/16/21 8:30 AM PRETRIAL CONFERENCE

4/12/21 8:30 AM CALENDAR CALL

4/19/21 9:00 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

February 25, 2021

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

February 25, 2021 3:00 AM Minute Order

HEARD BY: Barisich, Veronica M.

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alice Jacobson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Department 5 Formal Request to Appear REMOTELY for the March 2, 2021, hearing calendar.
Please double check the docket for your start time.

Please be advised that due to the COVID-19 pandemic, Department 5 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Meeting ID: 979 802 354

Meeting URL: <https://bluejeans.com/979802354>

To connect by phone dial 1-408-419-1715 and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

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Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant

COURT MINUTES

March 02, 2021

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

March 02, 2021 9:00 AM Motion for Judgment

HEARD BY: Barisich, Veronica M. **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Edwards, F. Thomas Attorney
 Graf, J. Rusty Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding whether or not Defendant breach its contract and the damages incurred by the Plaintiff due to the breach. Further arguments by counsel regarding and whether there were material issue of fact as to the counterclaim as to the constructive eviction and the failure of Plaintiffs to mitigate its damages.

Following arguments of counsel, COURT ORDERED, matter taken UNDER ADVISEMENT. A written Order will ISSUE.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Landlord Tenant**COURT MINUTES****March 03, 2021**

A-19-794864-C 4520 Arville, Plaintiff(s)
vs.
Bour Enterprises LLC, Defendant(s)

March 03, 2021 3:00 AM Minute Order

HEARD BY: Barisich, Veronica M.**COURTROOM:** Phoenix Building 11th Floor
110**COURT CLERK:** Jennifer Lott**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court notes that Plaintiff s Motion for Entry of Judgment was heard on March 2, 2021. After hearing the oral arguments, the Court took the matter UNDER ADVISEMENT. After carefully considering the evidence and arguments submitted, COURT ORDERS that Plaintiff s Motion shall be GRANTED.

Per January 28, 2021 order, the Court granted summary judgment on Plaintiff s breach of contract claims. Per this order, the Court concluded that there was sufficient evidence that Defendants breached the leases and personal guaranties. The Court rejected Defendant s argument as to constructive eviction as the implied warranty of habitability was deemed inapplicable in commercial leases and that even if such warranty is applicable, it was specifically waived by the Defendants in the lease.

The Court FINDS and CONCLUDES that the only remaining dispute is whether a trial is necessary to prove Plaintiff s damages. Plaintiff s damages sought were set forth in the exhibits 5 and 6 of the motion for summary judgment, wherein Plaintiff sought \$62,223.08 for lot C23 and \$77,231.42 for lot C10, for total of \$139,454.50. Defendants did not challenge the appropriateness of the amounts when the Plaintiff filed its motion for summary judgment and they did not raise the applicable affirmative

defenses with regards to the damages sought. Under *Shuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. 434, 245 P.3d 542 (2010), the argument that was not raised in the original motion must be deemed to have been waived and cannot be subsequently considered. Thus, the motion should be granted.

The Court ORDERS that Plaintiff's Motion shall be GRANTED. The Pre Trial Conference, Calendar Call and the Bench Trial shall be VACATED.

Counsel for Plaintiff is directed to submit a proposed Order and Judgment consistent with this Minute Order and the submitted briefing. Counsel may add language to further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. Defendant's counsel is to review and countersign as to form and content. Counsel is directed to have the proposed Order submitted to chambers within 10 days consistent with AO 20-17.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl



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

RUSTY GRAF, ESQ.
10777 W. TWAIN AVE., STE 300
LAS VEGAS, NV 89135

DATE: March 29, 2021
CASE: A-19-794864-C

RE CASE: 4520 ARVILLE; MCKINLEY MANOR vs. BOUR ENTERPRISES, LLC; MULUGETA BOUR; HILENA MENGESHA

NOTICE OF APPEAL FILED: March 24, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PLAINTIFFS' MOTION FOR ENTRY OF JUDGMENT; NOTICE OF ENTRY OF ORDER; JUDGMENT AGAINST DEFENDANTS BOUR ENTERPRISES, LLC, MULUGETA BOUR, AND HILENA MENGESHA; NOTICE OF ENTRY OF JUDGMENT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

4520 ARVILLE; MCKINLEY MANOR ,

Plaintiff(s),

vs.

BOUR ENTERPRISES, LLC; MULUGETA
BOUR; HILENA MENGESHA,

Defendant(s),

Case No: A-19-794864-C

Dept No: V

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 29 day of March 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

