

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

BRET WHIPPLE, et al, Appellants

v.

BETSY L. WHIPPLE, et al, Respondent.

No. 82964

Electronically Filed  
Jul 02 2021 04:25 p.m.

DOCKETING STATEMENT  
CIVIL APPEALS  
Elizabeth A. Brown  
Clerk of Supreme Court

## GENERAL INFORMATION

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

## WARNING

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

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

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

1. Judicial District Eighth Department 27  
County Clark Judge Nancy Allf  
District Ct. Case No. A-19-790929-B

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

Attorney BRET WHIPPLE Telephone 702-731-0000  
Firm JUSTICE LAW CENTER  
Address 1100 South 10th Street, Las Vegas NV 89104

Client(s) All Defendants/Appellants, other than Whipple Cattle Company

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

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

Attorney Cami Perkins Telephone 702-667-4855  
Firm Howard & Howard  
Address 3800 Howard Hughes Parkway, Suite 1000  
Las Vegas, NV 89169

Client(s) Betsy Whipple

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

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

Case 82994 (Pending)

Case 80558/80588-COA (Dismissed)

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

A-19-790929-B - Eighth Judicial District Court

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

Plaintiff (Betsy Whipple) sued the Defendants, alleging numerous causes of action.

Essentially her claims are that she has rights as a shareholder of a corporation which have been denied. The Defendants have denied these claims and filed counter-claims.

The crux of the present appeal relates to the Court's denial of Defendants' Motion to Change Venue to Lincoln County.

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

Whether the District Court improperly denied Defendants Motion to Change Venue to Lincoln County?

Whether the District Court improperly overruled Defendants ' Objection to Transfer to Business Court?

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

Case 82994

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

Pursuant to NRAP 17(a)(9), the Supreme Court shall hear cases "originating in business court." Although this was not a business court case at the outset, it is one now, and thus for the purposes of NRAP 17, Appellant's position is that the Supreme Court retains jurisdiction.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

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

No

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** 5/5/2021

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

January 27, 2021 Order Granting Plaintiff's Motion for Reconsideratio

**17. Date written notice of entry of judgment or order was served** 5/5/2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing Reconsideration 2/5/2021

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

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

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

(b) Date of entry of written order resolving tolling motion 5/5/2021

(c) Date written notice of entry of order resolving tolling motion was served 5/5/2021

Was service by:

☐ Delivery

☒ Mail

**19. Date notice of appeal filed** 5/19/2021

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

Benjamin Scroggins, Esq. Notice of Appeal 5/24/2021 for Whipple Cattle Company

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

NRAP 4(a)

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**SUBSTANTIVE APPEALABILITY**

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

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☒ Other (specify) NRAP 3A(b)(6)

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

NRAP 3A(b)(6) makes " [a]n order changing or refusing to change the place of trial " an appealable determination. Further, NRAP 17(b)(11) grants the Court of Appeals with jurisdiction to hear " [a]ppeals challenging venue. "



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

Bret Whipple, Jane Whipple, Cody Whipple, Kirt Whipple, Betsy Whipple, Whipple Cattle Company, Kent Whipple Ranch LLC, Kathy Wetzel, Jane Whipple Family Trust.

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

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

Defendants were denied change of venue by final order on May 5, 2021.

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

☐ Yes

☒ No

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

(a) Specify the claims remaining pending below:

All claims in the Complaint and Counter-claims remain pending, the only issues on appeal are change of venue and transfer to business court.

(b) Specify the parties remaining below:

Bret Whipple, Jane Whipple, Cody Whipple, Kirt Whipple, Betsy Whipple, Whipple Cattle Company, Kent Whipple Ranch LLC, Kathy Wetzel, Jane Whipple Family Trust.

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

NRAP 3A(b)(6) makes the denial of change of venue directly reviewable (and in fact is not reviewable by any other method, including after resolution of the case).

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

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

## VERIFICATION

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

Bret Whipple

Name of appellant

Bret Whipple

Name of counsel of record

7/2/2021

Date

/s/ Bret O. Whipple, Esq.

Signature of counsel of record

Clark County

State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 2 day of July, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☒ By personally serving it upon him/her; or

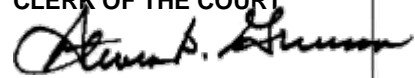
☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

This document was served via electronic service to which Respondent is registered to receive service.

Dated this 2nd day of July, 2021

/s/ Bret O. Whipple, Esq.

Signature



1 **INJ**  
2 **MICHAEL C. VAN, ESQ.**  
3 Nevada Bar No. 3876  
4 **CATHERINE K. RAMSEY, ESQ.**  
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12 cathy@shumwayvan.com  
13 Attorneys for **BETSY L. WHIPPLE**

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **BETSY L. WHIPPLE**, an individually and as  
11 majority shareholder of **WHIPPLE CATTLE**  
12 **COMPANY, Inc.**, a Nevada Corporation,

12 Plaintiff,

13 vs.

14 **BRET O. WHIPPLE**, individually AND as  
15 President and Director of **WHIPPLE CATTLE**  
16 **COMPANY, INC.**, a Nevada Corporation;  
17 **CODY K. WHIPPLE**, individually and as  
18 Treasurer of **WHIPPLE CATTLE COMPANY,**  
19 **INC.**, a Nevada Corporation; **KIRT R.**  
20 **WHIPPLE**, individually and as Secretary of  
21 **WHIPPLE CATTLE COMPANY, INC.**, a  
22 Nevada Corporation; **JANE E. WHIPPLE**,  
23 individually and as Director of **WHIPPLE**  
24 **CATTLE COMPANY, INC.**, a Nevada  
25 Corporation; **JANE WHIPPLE**, trustee of  
26 **JANE WHIPPLE FAMILY TRUST** and as  
27 managing member of **KENT WHIPPLE**  
28 **RANCH LLC**; **JANE WHIPPLE FAMILY**  
**TRUST**; **KENT WHIPPLE RANCH LLC**;  
**KATHRYN WETZEL**, individually,  
**WHIPPLE CATTLE COMPANY, INC.**, a  
Nevada Corporation; **DOE INDIVIDUALS I**  
through **X**; and **ROE CORPORATIONS I**  
through **X**,

Defendants,

Case No.: A-19-790929-C

Dept. No.: 14

**VERIFIED COMPLAINT**

**Automatic Exemption from Arbitration:**  
**Equitable Relief Requested**

Plaintiff, **BETSY L. WHIPPLE**, individually and as majority shareholder of **WHIPPLE**  
**CATTLE COMPANY, Inc.**, a Nevada Corporation, (hereinafter "WCC") by and through their

1 attorneys of record, the law firm of SHUMWAY VAN, and for its causes of action against  
2 Defendants, and each of them, complains and alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff BETSY L. WHIPPLE is and was, at all times relevant to these proceedings, a  
5 resident of Lincoln County, Nevada.

6 2. Defendant BRET O. WHIPPLE is and was, at all times relevant to these proceedings, a  
7 resident of Clark County, Nevada.

8 3. Defendant BRET O. WHIPPLE, is and was, at all times relevant to these proceedings,  
9 acting as President and Director of WHIPPLE CATTLE COMPANY, INC., a Nevada  
10 Corporation.

11 4. Defendant CODY K. WHIPPLE is and was, at all times relevant to these proceedings, a  
12 resident of Clark County, Nevada.

13 5. Defendant CODY K. WHIPPLE, is and was at all times relevant to these proceedings,  
14 acting as Treasurer of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation;

15 6. Defendant KIRT R. WHIPPLE is and was, at all times relevant to these proceedings, a  
16 resident of Harris County, Texas.

17 7. Defendant KIRT R. WHIPPLE, is and was at all times relevant to these proceedings,  
18 acting as Secretary of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation.

19 8. Defendant JANE E. WHIPPLE is and was, at all times relevant to these proceedings, a  
20 resident of Lincoln County, Nevada.

21 9. Defendant JANE E. WHIPPLE, is and was at all times relevant to these proceedings,  
22 acting as Director of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation.

23 10. Defendant JANE E. WHIPPLE, trustee of JANE WHIPPLE FAMILY TRUST, is and  
24 was at all times relevant to these proceedings, acting as Managing Member of JANE WHIPPLE  
25 FAMILY TRUST and as managing member of KENT WHIPPLE RANCH LLC;

26 11. Defendant JANE WHIPPLE FAMILY TRUST, is or was at all times relevant herein,  
27 doing business in the State of Nevada.  
28

1 12. Defendant KENT WHIPPLE RANCH LLC, is or was at all times relevant herein, doing  
2 business in the State of Nevada.

3 13. KATHRYN WETZEL, individually, is and was, at all times relevant to these  
4 proceedings, a resident of Clark County, Nevada.

5 14. Defendant WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation, is or was at  
6 all times relevant herein, a Nevada Corporation doing business in the State of Nevada.

7 15. Defendants DOE INDIVIDUALS I through X and ROE CORPORATIONS I through X  
8 are set forth herein pursuant to Rule 10 of the Nevada Rules of Civil Procedure as all persons or  
9 business entities currently unknown to Plaintiff who have a claim to any interest in the subject  
10 matter of this action, whose true name(s) is (are) unknown to Plaintiff, and who are believed to  
11 be responsible for the events and happenings referred to in this Complaint, causing injuries and  
12 damages to Plaintiff, or who are otherwise interested in the subject matter of this Complaint. At  
13 such time when the names of said DOE INDIVIDUALS I through X and/or ROE  
14 CORPORATIONS I through X have been ascertained, Plaintiff will request leave from the Court  
15 to amend this Complaint and insert their true names and capacities and adjoin them in this action.

16 **JURISDICTION AND VENUE**

17 16. The Court has jurisdiction over this matter as the claim involve requests for injunctive  
18 relief.

19 17. Jurisdiction is also proper as the amount in controversy exceeds Fifteen Thousand Dollars  
20 (\$15,000).

21 18. Venue is proper in Clark County because some of Defendants do not reside in the State of  
22 Nevada. Some of the Defendants live in Clark County, Nevada. Pursuant to NRS 13.040, this  
23 cause of action may be tried in any county designated by Plaintiff.

24 **FACTUAL ALLEGATIONS**

25 19. BRET O. WHIPPLE is or was the President and Director of WCC, and, at all relevant  
26 times, was acting on behalf of himself in addition to WCC.

1       20. CODY K. WHIPPLE is or was the Treasurer of WCC, and, at all relevant times, was  
2 acting on behalf of himself in addition to WCC.

3       21. KIRT R. WHIPPLE is or was the Secretary of WCC, and, at all relevant times, was  
4 acting on behalf of himself in addition to WCC.

5       22. JANE E. WHIPPLE, is or was the Secretary of WCC, and, at all relevant times, was  
6 acting on behalf of herself in addition to WCC.

7       23. JANE E. WHIPPLE, is or was trustee of JANE WHIPPLE FAMILY TRUST, is and was  
8 at all times relevant to these proceedings, acting on behalf of herself and as Managing Member  
9 of JANE WHIPPLE FAMILY TRUST.

10       24. JANE E. WHIPPLE is the mother of Plaintiff, BETSY L. WHIPPLE, PEGGY REGGIO  
11 (WHIPPLE); and DEFENDANT(S) BRET O. WHIPPLE, CODY K. WHIPPLE, and KIRT R.  
12 WHIPPLE. (collectively, "siblings").

13       25. KENT O. WHIPPLE was the father of the siblings.

14       26. JANE E. WHIPPLE and KENT O. WHIPPLE were married. During their marriage,  
15 THE KENT AND JANE WHIPPLE TRUST ("THE WHIPPLE TRUST") was created on or  
16 about March 17, 1969.

17       27. An amendment to THE WHIPPLE TRUST was created on January 30, 1977.

18       28. The amendment reaffirmed the March 17, 1969 trust, amended certain articles to divide  
19 and allocate assets upon death of a trustee into two sub-trusts, Sub-trust A and Sub-trust B, and  
20 create a survivor's trust.

21       29. Sub-trust A was to be funded with Jane's share of the trustors' community property.

22       30. Sub-trust B was to be funded with all Trust property not transferred into Sub-Trust A and  
23 was to provide for the trustor's children (The siblings, as identified above).

24       31. KENT O. WHIPPLE passed away on February 5, 1977. He was a rancher and cattle  
25 buyer by trade, and bred horses.

1 32. Upon KENT O. WHIPPLE's death, the family ranch consisted of 200,000 acres of range  
2 land and 500 acres of ranch with a home, approximately 500 head of cows, and other  
3 miscellaneous cattle, feed and property.

4 33. JANE WHIPPLE was a co-trustee of THE WHIPPLE TRUST.

5 34. KEITH WHIPPLE was a co-trustee of THE WHIPPLE TRUST.

6 35. JANE WHIPPLE sold the 200,000 acres, known as the range, in 1986 or 1987, leaving  
7 approximately 500 acres of ranch with the family home, now known as the Kent Whipple Ranch.

8 36. WARNER WHIPPLE was named a successor trustee to THE WHIPPLE TRUST on  
9 November 17, 1987.

10 37. KEITH WHIPPLE resigned as co-trustee on or about August 28, 2015.

11 38. WARNER WHIPPLE confirmed acceptance of appointment as successor co-trustee.

12 39. A ranch identified as the River Ranch, just north of the Kent Whipple Ranch, became  
13 available for purchase in 1993.

14 40. In 1993, the siblings met and discussed forming a partnership to manage their assets in  
15 WCC to keep them separate from the trust.

16 41. BRET O. WHIPPLE is a certified public accountant and an attorney licensed to practice  
17 in Nevada.

18 42. At BRET O. WHIPPLE'S insistence, an S-Corporation was created instead of a partnership  
19 of the siblings.

20 43. The corporation that was formed was named THE WHIPPLE CATTLE COMPANY, INC,  
21 a Nevada Corporation. (WCC).

22 44. BRET O. WHIPPLE, individually or as the President and Director of WCC was responsible  
23 for incorporating WCC.

24 45. BRET O. WHIPPLE individually or as the President and Director of WCC created the  
25 WCC Bylaws.

26 46. Defendants, and each of them, are identified as officers, agents, or directors of WCC.

27 47. BRET O. WHIPPLE is a 20% shareholder in WCC.  
28



- 1 48. CODY K. WHIPPLE is a 20% shareholder in WCC.
- 2 49. KIRT R. WHIPPLE is a 20% shareholder in WCC.
- 3 50. BETSY L. WHIPPLE was a 20% shareholder in WCC until 2012.
- 4 51. PEGGY REGGIO (WHIPPLE) was a 20% shareholder and sold her interest to sibling
- 5 BETSY L. WHIPPLE in 2012.
- 6 52. BETSY L. WHIPPLE is a 40% shareholder in WCC since 2012.
- 7 53. BETSY L. WHIPPLE has a majority of the voting power of the shares.
- 8 54. JANE WHIPPLE'S brother, BILL RANDALL, and his partner JOHN CABE were
- 9 interested in investing in the River Ranch. (hereinafter "RANDALL/CABE")
- 10 55. WCC, as equal partners with RANDALL/CABE purchased the River Ranch on October
- 11 19, 1993.
- 12 56. The River Ranch was later the subject of litigation between WCC and RANDALL/CABE.
- 13 57. As a result of the litigation, WCC received the first right of purchase of the River Ranch
- 14 from partners RANDALL/CABE.
- 15 58. Sibling BETSY L. WHIPPLE secured financing pledging her individual stock portfolio
- 16 and income to personally guarantee said financing of River Ranch on behalf of WCC to purchase
- 17 RANDALL/CABE'S interest.
- 18 59. WCC purchased the RANDALL/CABE'S interest in River Ranch and thus WCC became
- 19 100% owner of River Ranch.
- 20 60. While managing WCC, sibling BETSY L. WHIPPLE secured a contract with a dairy cow
- 21 operation for several years out of Chino County, California for WCC which produced WCC a
- 22 positive cash flow from 1996 to 2006.
- 23 61. Siblings BRET O. WHIPPLE, CODY WHIPPLE and KIRT WHIPPLE took over
- 24 management and operation of WCC in 2006.
- 25 62. Plaintiff has made repeated requests for corporate documents, assets, balance sheets,
- 26 banking records.
- 27
- 28

63. Defendants have refused to provide corporate documents, assets, balance sheets, banking records to WCC shareholders.

**FIRST CAUSE OF ACTION**  
**INJUNCTION TO PREVENT TRANSFER OF CATTLE AND FOR RETURN OF CATTLE (against all Defendants)**

64. Plaintiff repeats and realleges paragraphs 1 through 63, inclusive, of this complaint and incorporates them herein by reference as though fully set forth in full.

65. The siblings agreed WCC would use the Kent Whipple Brand (7V) in honor of KENT O. WHIPPLE, the sibling's father, who had passed away.

66. Since October 18, 1993, the Kent Whipple Brand (7V) was used for branding cattle that were bought, managed and sold by WCC.

67. The cattle held by THE WHIPPLE TRUST with the 7V brand were eventually sold.

68. Assets from the sale of THE WHIPPLE TRUST 7V brand were retained by The Whipple Trust.

69. After the sale of the Trust cattle, the 7V branded cattle remaining were all owned by WCC.

70. On September 17, 2002, BETSY L. WHIPPLE purchased 20 acres of land from the WCC for \$280,000 with the consent of the shareholders.

71. The proceeds from the sale of 20 acres of WCC land were used to purchase cattle from the Atkins Family for WCC.

72. In September, 2018, BRET O. WHIPPLE individually or as the President and Director of WCC took steps or actions that transferred WCC assets [cattle with the 7V brand] to the KENT WHIPPLE RANCH, LLC.

73. KENT WHIPPLE RANCH, LLC is Nevada Corporation whose registered agent is Justice Law Center.

74. The Justice Law Center only has one officer, BRET WHIPPLE.

75. Defendants' actions have caused an award of fees in outside litigation against WCC.

1 76. Defendant's management of the WCC has resulted in loss of business, shifting of assets,  
2 increased debt and/or a fraudulent transfer of assets all of which are depleting WCC and  
3 shareholders of property. If Defendant(s) are allowed to continue with management of WCC,  
4 Plaintiff will have no plain, speedy or adequate remedy at law to protect its interest in WCC from  
5 future damage. WCC's assets are unique and irreplaceable, for which money damages would be  
6 inadequate if the waste and mismanagement of WCC continues.

7 77. No sale, lease or exchange of assets have been approved or otherwise authorized by the  
8 affirmative vote of stockholders.

9 78. Defendants have failed to provide an accounting of WCC assets to Plaintiff as requested.

10 79. Cattle purchased using the WCC assets and the 7V brand cattle have been transferred to  
11 the KENT WHIPPLE RANCH, LLC., thereby depleting WCC shareholders from participating or  
12 receiving profit from the sale of the herd at its true value and also eliminated WCC's future revenue  
13 stream from the breeding of the cattle. An Injunction is necessary to prevent cattle and other WCC  
14 assets from being transferred and compel Defendant(s) to transfer the cattle back to WCC.

15 80. It has become necessary for Plaintiff to retain the services of counsel to prosecute these  
16 claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

17 **SECOND CAUSE OF ACTION**  
18 **INJUNCTION TO PREVENT BUILDING OF CABINS ON WCC PROPERTY**  
19 **WITHOUT SHAREHOLDER CONSENT AS REQUIRED IN THE BYLAWS**  
20 **(against all Defendants)**

21 81. Plaintiff repeats and realleges paragraphs 1 through 80, inclusive, of this complaint and  
22 incorporates them herein by reference as though fully set forth in full.

23 82. Defendants have obtained a special use permit for placement of three (3) cabins on WCC  
24 property.

25 83. The special use permit was not properly noticed or obtained through the articles set for the  
26 in the WCC Bylaws.

27 84. No waivers were authorized, nor consent given by Plaintiff pursuant to the WCC Bylaws.

28 85. WCC Bylaws require a 75% vote of the shareholders for such an act.

1 86. Defendants have either built, contracted, or constructed three (3) cabins or otherwise have  
2 caused to be built three (3) cabins on WCC property in violation of WCC Bylaws.

3 87. Defendants unauthorized development and management of the WCC has resulted in loss  
4 of land to harvest and cultivate, loss of grazing land and/or decreased the previously successful  
5 WCC dairy and/or heifer business.

6 88. Defendants' management of the WCC has resulted in loss of business, shifting of assets,  
7 unauthorized development, increased debt all of which are depleting WCC and shareholders of  
8 property. If Defendants are allowed to continue with management of WCC, Plaintiff will have no  
9 plain, speedy or adequate remedy at law to protect its interest in WCC from future damage. WCC's  
10 assets are unique and irreplaceable, for which money damages would be inadequate if the waste  
11 and mismanagement of WCC continues.

12 89. Development of the property has restricted use of the land and thereby prevented WCC  
13 shareholders from participating or receiving profit from heifer, dairy and/or grazing contracts and  
14 eliminated WCC's future revenue. An Injunction is necessary to prevent improper development  
15 of the WCC property without proper shareholder consent, authorization and approval, and to  
16 remove the cabins and restore the property to its pre-development condition.

17 90. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of  
18 Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the time of the  
19 trial of this matter.

20 91. It has become necessary for Plaintiff to retain the services of counsel to prosecute these  
21 claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

22 **THIRD CAUSE OF ACTION**  
23 **INJUNCTION TO PREVENT MOBILE HOME DEVELOPMENT ON WCC**  
24 **PROPERTY WITHOUT SHAREHOLDER CONSENT AS REQUIRED IN THE**  
25 **BYLAWS (against all Defendants)**

26 92. Plaintiff repeats and realleges paragraphs 1 through 91, inclusive, of this complaint and  
27 incorporates them herein by reference as though fully set forth in full.  
28

1 93. Defendants are attempting to alter, change or add terms and conditions to the limited  
2 special use permit issued for WCC property.

3 94. Defendants are adding cabins, concrete slab, plumbing and electrical service for a mobile  
4 home on the property without obtaining shareholder approval.

5 95. Defendants are in the process of permitting non-shareholder family members to reside on  
6 the property and use WCC property without compensation and without obtaining shareholder  
7 approval.

8 96. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of  
9 Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the time of the  
10 trial of this matter.

11 97. Plaintiff is entitled to an injunction requiring the permanent removal of development on  
12 the property which was performed without proper authorization and/or shareholder consent;

13 98. Plaintiff is entitled to an injunction preventing any further development on WCC property  
14 without proper authorization and/or shareholder consent.

15 99. It has become necessary for Plaintiff to retain the services of counsel to prosecute these  
16 claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

17  
18 **FOURTH CAUSE OF ACTION**  
19 **INJUNCTION TO PREVENT DEFENDANT KATHRYN WETZEL FROM**  
20 **DEVELOPING AND/OR MOVING ONTO WCC PROPERTY (against all Defendants)**

21 100. Plaintiff repeats and realleges paragraphs 1 through 99, inclusive, of this complaint  
22 and incorporates them herein by reference as though fully set forth in full.

23 101. Defendants have permitted non-shareholder family members to reside on the  
24 property without shareholder consent as required in the WCC Bylaws.

25 102. Defendants have permitted non-shareholder family members to use WCC property  
26 without compensation and without obtaining shareholder approval.

27 103. Defendant KATHRYN WETZEL has caused development on WCC property for a  
28 mobile home without proper authorization and/or shareholder consent.

1 104. Defendant KATHRYN WETZEL has caused damage to WCC property by her  
2 actions.

3 105. As a result of Defendants' actions, Plaintiff has been damaged in an amount in  
4 excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the  
5 time of the trial of this matter.

6 106. Plaintiff is entitled to an injunction requiring the permanent removal of  
7 development on the property which was performed without proper authorization and/or  
8 shareholder consent.

9 107. Plaintiff is entitled to an injunction preventing KATHRYN WETZEL from  
10 developing or otherwise moving a mobile home, herself or her belongings onto WCC property.

11 108. It has become necessary for Plaintiff to retain the services of counsel to prosecute  
12 these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

13 **FIFTH CAUSE OF ACTION**  
14 **BREACH OF FIDUCIARY DUTY - ANNUAL DOCUMENTS (against all Defendants)**

15 109. Plaintiff repeats and realleges paragraphs 1 through 108, inclusive, of this  
16 complaint and incorporates them herein by reference as though fully set forth in full

17 110. Defendants, and each of them, owed a fiduciary duty to Plaintiff.

18 111. Defendants have a continuing duty to file annual paperwork on behalf of WCC.

19 112. Defendants breached their respective fiduciary duties owed to Plaintiff

20 113. Defendants failed to file the annual list of officers on 10-26-18 causing WCC to go  
21 into default status.

22 114. On January 12, 2019, sibling BETSY L. WHIPPLE requested the directors of WCC  
23 to file the annual paperwork and/or corporate list of officers on behalf of the WCC.

24 115. The Directors of WCC have neglected, failed or otherwise refused this request.

25 116. As a result of Defendants actions, lack thereof, or breach of fiduciary duty, WCC  
26 went into default status with the Secretary of State;  
27  
28

1 117. Plaintiff had to have WCC reinstated so it could lawfully conduct business in the  
2 State of Nevada.

3 118. Plaintiff sustained damages as a proximate cause of the breach

4 119. On December 21, 2018, sibling BETSY L. WHIPPLE paid the required fees and  
5 late charges to file the required corporate documents to bring WCC out of default status with the  
6 Nevada Secretary of State.

7 120. As a result of Defendants' actions, Plaintiff has been damaged in an amount in  
8 excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the  
9 time of the trial of this matter.

10 121. It has become necessary for Plaintiff to retain the services of counsel to prosecute  
11 these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

12 **SIXTH CAUSE OF ACTION**  
13 **BREACH OF FIDUCIARY DUTY – CORPORATE DOCUMENTS (against all Defendants)**

14 122. Plaintiff repeats and realleges paragraphs 1 through 121, inclusive, of this  
15 complaint and incorporates them herein by reference as though fully set forth in full

16 123. Defendants, and each of them, owed a fiduciary duty to Plaintiff.

17 124. Defendants failed to maintain the books of account and all financial records as  
18 required under the applicable Nevada statutes.

19 125. Defendants have a duty to permit shareholder access to books of account and all  
20 financial records of the corporation as required in NRS.78.257.

21 126. On January 12, 2019, sibling BETSY L. WHIPPLE requested to view the corporate  
22 books and/or documents from the directors of WCC.

23 127. The Directors of WCC have neglected, failed or otherwise refused access for  
24 shareholder BETSY L. WHIPPLE to view the books of account and all financial records.

25 128. Defendants breached their respective fiduciary duties owed to Plaintiff.  
26  
27  
28

1       129.       As a proximate cause and result of Defendants' actions, Plaintiff has sustained  
2 damages in an amount in excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which  
3 shall be proved at the time of the trial of this matter.

4       130.       It has become necessary for Plaintiff to retain the services of counsel to prosecute  
5 these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

6       131.       Pursuant to NRS 78.257(4), Plaintiff is entitled to the sum of \$100 per day for the  
7 such neglect or refusal from the corporation, Defendants are jointly and severable liable for all  
8 damages.

9  
10                   **SEVENTH CAUSE OF ACTION**  
11                   **BREACH OF FIDUCIARY DUTY – CERTIFICATES FOR SHARES (against all**  
12                   **Defendants)**

13       132.       Plaintiff repeats and realleges paragraphs 1 through 131, inclusive, of this  
14 complaint and incorporates them herein by reference as though fully set forth in full.

15       133.       Defendants, and each of them, owed a fiduciary duty to Plaintiff regarding  
16 Certificates for Shares under Article VI of the WCC Bylaws.

17       134.       Defendants have a duty and are required to issue certificates for shares to the  
18 stockholders of WCC.

19       135.       Defendants failed to said certificates as required and in accordance with the terms  
20 of the WCC Bylaws.

21       136.       Sibling BETSY L. WHIPPLE requested the directors of WCC to issue certificates  
22 in her name.

23       137.       The Directors of WCC have neglected, failed or otherwise refused to issue  
24 certificates to BETSY L. WHIPPLE as requested and required.

25       138.       Defendants breached their respective fiduciary duties owed to Plaintiff.

26       139.       As a proximate cause and result of Defendants' actions, Plaintiff has sustained  
27 damages in an amount in excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which  
28 shall be proved at the time of the trial of this matter.



140. It has become necessary for Plaintiff to retain the services of counsel to prosecute these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

**EIGHTH CAUSE OF ACTION**  
**BREACH OF FIDUCIARY DUTY - K1s (against all Defendants)**

141. Plaintiff repeats and realleges paragraphs 1 through 140, inclusive, of this complaint and incorporates them herein by reference as though fully set forth in full.

142. Defendants, and each of them, owed a fiduciary duty to Plaintiff

143. Defendants have duty and are required to issue K1 tax forms to the shareholders.

144. Defendants failed to issue or otherwise provide K1 tax forms to the WCC shareholders.

145. On January 12, 2019, sibling BETSY L. WHIPPLE requested K1 tax forms from the directors of WCC.

146. The Directors of WCC have neglected, failed or otherwise refused to provide the K1 forms.

147. Defendants breached their respective fiduciary duties to Plaintiff.

148. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the time of the trial of this matter.

149. It has become necessary for Plaintiff to retain the services of counsel to prosecute these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

**NINTH CAUSE OF ACTION**  
**CONVERSION**

150. Plaintiff repeats and realleges paragraphs 1 through 149, inclusive, of this complaint and incorporates them herein by reference as though fully set forth in full.

151. Defendants have committed a distinct act of dominion wrongfully exerted over WCC property.

1 152. Defendants have transferred cattle and/or other assets out of WCC without proper  
2 authority.

3 153. Defendants have transferred cattle and/or other assets out of WCC without  
4 notifying Shareholders as required.

5 154. Defendants have transferred cattle and/or other assets out of WCC without received  
6 proper consideration.

7 155. Defendants actions regarding the transfer of cattle and/or other assets of WCC  
8 constitutes conversion and theft from shareholders of WCC.

9 156. Defendants act was in denial of, or inconsistent with Plaintiff's title or rights therein  
10 as a shareholder of WCC.

11 157. Defendants act was in derogation, exclusion, or defiance of Plaintiff's title or rights  
12 in WCC property.

13 158. As a result of Defendants' actions, Plaintiff has been damaged in an amount in  
14 excess of Fifteen Thousand Dollars (\$15,000), the exact amount of which shall be proved at the  
15 time of the trial of this matter.

16 159. It has become necessary for Plaintiff to retain the services of counsel to prosecute  
17 these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

18 **TENTH CAUSE OF ACTION**  
19 **FRAUD - BYLAW SIGNATURE PAGE**

20 160. Plaintiff repeats and realleges paragraphs 1 through 159, inclusive, of this  
21 complaint and incorporates them herein by reference as though fully set forth in full.

22 161. Defendants have a duty to abide by the rules when incorporating a business and  
23 preparing the Bylaws.

24 162. Defendants have fraudulently used another signed document in place of one  
25 needing signatures on the WCC Bylaws.

26 163. Defendants have filed the WCC Bylaws with fraudulent signatures.  
27  
28

167. It has become necessary for Plaintiff to retain the services of counsel to prosecute these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

172. It has become necessary for Plaintiff to retain the services of counsel to prosecute these claims and Plaintiff is entitled to an award of reasonable attorney's fees and costs.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, expressly reserves the right to amend this Complaint prior to or at the time of trial to insert those items of damage not yet fully ascertainable, and prays that judgment be entered against the Defendants, and each of them as follows:

1. Damages against Defendants, jointly and severally, in excess of Fifteen Thousand Dollars (\$15,000), the amount to be determined at trial;
2. An injunction against Defendants, jointly and severally, preliminary and permanently restraining Defendants, including its officers, directors, agents and representatives from transferring assets without the required shareholder vote;
3. An injunction against Defendants, jointly and severally, requiring Defendants, including its officers, directors, agents and representatives to return assets to WCC, cattle and any offspring, that were transferred without the required shareholder vote;
4. An injunction against Defendants, jointly and severally, preliminary and permanently requiring Defendants, including its officers, directors, agents and representatives to cease construction and remove unauthorized cabins constructed without the required shareholder vote and to restore the land to its pre-development condition;
5. For injunctions against Defendants and WCC preliminary and permanently restraining Defendants, including its officers, directors, agents and representatives from expanding any permits or special use permits obtained in without the required shareholder vote; and/or an injunction prevent KATHRYN WETZEL from moving onto WCC property and requiring KATHRYN WETZEL to remove herself and her personal property from WCC;
6. Immediate appointment of BETSY L. WHIPPLE as a temporary representative on behalf of WCC to protect shareholder interest and prevent future waste of WCC assets during litigation;
7. Reimbursement for Plaintiff filing annual documents;
8. Order permitting parties to view corporate documents as required by Statute;
9. Order requiring K1 tax forms from 2012 to present;
10. For reasonable attorney fees;

11. For cost of suit incurred; and

12. For such other and further relief as this Court may deem just and proper.

DATED this 11<sup>th</sup> day of March, 2019.

SHUMWAY VAN

By: Catherine K. Ramsey

MICHAEL C. VAN, ESQ., #3876

CATHERINE K. RAMSEY, ESQ., #8109

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

*Attorneys for Plaintiffs*

**VERIFICATION**

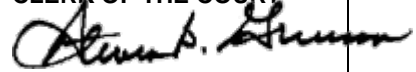
I, BETSY L. WHIPPLE, have read the foregoing VERIFIED COMPLAINT and now the contents thereof. The matters and things set forth are true to the best of my knowledge, except as to those matters set forth upon information and belief and, as to those, I believe them to be true; however, in compiling this information, information has been supplied by others and I am relying in party on their representations.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 11<sup>th</sup> day of March, 2019.

By: Betsy L. Whipple

BETSY L. WHIPPLE



**CRAACC**

Bret O. Whipple, Esq.  
Nevada Bar No. 6168  
C. Benjamin Scroggins, Esq.  
Nevada Bar No. 7902

**JUSTICE LAW CENTER**

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*Attorneys for Defendants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, an individual and as  
majority shareholder of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation,

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND AS  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation;  
CODY K. WHIPPLE, individually and as a  
Treasurer of WHIPPLE CATTLE COMPANY,  
INC. a Nevada Corporation; KIRT R.  
WHIPPLE, individually and as Secretary of  
WHIPPLE CATTLE COMPANY, INC., a  
Nevada Corporation; JANE E. WHIPPLE,  
trustee of JANE WHIPPLE FAMILY TRUST  
and as managing member of KENT WHIPPLE  
RANCH, LLC; JANE WHIPPLE FAMILY  
TRUST; KENT WHIPPLE RANCH LLC.;  
KATHRYN WETZEL, individually,  
WHIPPLE CATTLE COMPANY, INC., a  
Nevada Corporation; DOE INDIVIDUALS I  
through X; and ROE CORPORATIONS I  
through X,

Defendants.

CASE NO.: A-19-790929-C

DEPT. NO.: 14

**DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

COMES NOW, the above named Defendants, by and through their attorney of record C. BENJAMIN SCROGGINS, ESQ., of JUSTICE LAW CENTER, and hereby submits its Answer, Affirmative Defenses and Counterclaim, as follows.

DATED this 23<sup>rd</sup> day of July, 2019.

**JUSTICE LAW CENTER**

Submitted By: /s/ C. Benjamin Scroggins, Esq.

BRET O. WHIPPLE, ESQ.

Nevada State Bar No. 6168

C. BENJAMIN SCROGGINS, ESQ.

Nevada State Bar No. 7902

1100 South 10<sup>th</sup> Street

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[admin@justice-law-center.com](mailto:admin@justice-law-center.com)

*Attorneys for Defendants*

**ANSWER**

1. Answering the allegations in Paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 14, 19, 20, 21, 25, 26, 27, 31, 33, 34, 35, 37, 38, 39, 41, 43, 44, 45, 47, 48, 49, 50, 54, 55, 56, 57, 59, 66, 73, 74, 82, 111, 123, 125, and 126 of the Complaint, Defendants ADMIT the allegations contained therein.
2. Answering the allegations in Paragraphs 16, 18, 22, 23, 24, 28, 29, 30, 32, 42, 53, 60, 61, 62, 63, 67, 69, 71, 72, 76, 77, 78, 79, 80, 83, 84, 86, 87, 88, 89, 91, 94, 95, 97, 98, 99, 101, 102, 103, 104, 105, 106, 107, 108, 112, 114, 115, 116, 117, 118, 120, 121, 124, 127, 128, 129, 130, 131, 133, 134, 135, 137, 138, 139, 140, 142, 143, 144, 146, 147, 148, 149, 151, 152, 153, 154, 155, 156, 157, 158, 159, 163, 166, 167, 169, 170, 171, and 172 of the Complaint, Defendants DENY the allegations contained therein.
3. Answering the allegations in Paragraphs 4, 10, 13, 15, 17, 36, 40, 46, 51, 52, 58, 64, 65, 68, 70, 75, 81, 85, 90, 92, 93, 96, 100, 109, 110, 113, 119, 122, 132, 136, 141, 145, 150, 160, 161, 162, 164, 165, and 168 of the Complaint, Defendant are without

1 knowledge or information to form a sufficient belief as to the trust or falsity of the  
2 allegations contained in Paragraphs 4, 10, 13, 15, 17, 36, 40, 46, 51, 52, 58, 64, 65, 68,  
3 70, 75, 81, 85, 90, 92, 93, 96, 100, 109, 110, 113, 119, 122, 132, 136, 141, 145, 150,  
4 160, 161, 162, 164, 165, and 168 of the Complaint and therefore DENIES each and  
5 every allegation contained therein.

- 6 4. Defendants DENY each and every material allegation not heretofore controverted and  
7 demand strict proof thereof.

8 **AFFIRMATIVE DEFENSES**

- 9 5. Defendants, and each of them, relied on the fact, Plaintiff, BETSY L. WHIPPLE,  
10 (not the majority shareholder), hereinafter ('Betsy'), would act in "good faith", more  
11 specifically that Betsy would not in bad faith, cause the pecuniary damages, arising  
12 from Betsy's pro-rata ownership interest in Defendant Whipple Cattle Company,  
13 hereinafter ('WCC), whereby as a direct result of Betsy's own actions, which continues  
14 to be the contributing and underlying causes for the claims in the instant complaint as  
15 well as Defendants' counterclaims. If not for the actions and/or inactions of Betsy, this  
16 matter would not be before this Court.

17 **FIRST AFFIRMATIVE DEFENSE**

18 This First Affirmative Defense shall be deemed part and parcel to Defendants' Answer.  
19 The Court lacks subject matter jurisdiction over this case. The Eighth Judicial District Court  
20 lacks jurisdiction in this matter and this case should be rightful before the District Court in  
21 Lincoln County, Nevada. Citing Price v. Ward, 25 Nev. 203 \*; 58 P. 849 \*\*; 1899 Nev. LEXIS  
22 22 (Oct. 1899). An action in any form to determine a right or interest in real property must be  
23 tried where the property is situated. (Drinkhouse v. Spring Valley Water Works, 80 Cal. 308, 22  
24 Pac. 252; Sloss v. De Toro, 77 Cal. 132, 19 Pac. 233; Baker v. Fireman's Fund Ins. Co., 73 Cal.  
25 182, 14 Pac. 686; Marysville v. North Bloomfield Gravel M. Co., 66 Cal. 343, 5 Pac. 507.)

26 ///

27 ///



**SECOND AFFIRMATIVE DEFENSE**

All of the damages claimed by Betsy, occurred due to Betsy's own negligence. Plaintiff, BETSY L. WHIPPLE, has failed to state a claim upon which relief can be granted and therefore should be dismissed. NRCP 12(b)5 *"to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56."* (Emphasis Added)

**THIRD AFFIRMATIVE DEFENSE**

Defendants affirmatively assert that the injuries allegedly sustained by Betsy, were caused by the sole, concurring, and/or contributory negligence of Betsy alone.

**FOURTH AFFIRMATIVE DEFENSE**

The conduct of Betsy, failed to do or cause to be done all things reasonable and customary in Shareholderships among sibling Shareholders, more specifically Betsy (a.) entered into a pro-rata agreement with her siblings; (b.) at some point in 2009, Betsy stopped and/or failed to attend annual WCC meetings and stopped and/or failed to make pro-rata maintenance payments as she had previously done since 1993; and (c.) as a result of Betsy actions and/or inactions as the case may be, Betsy caused the pecuniary damages to WCC, which gives rise to Betsy's own negligence; and as such, was an independent, intervening and superseding cause, which was not and could not have been reasonably foreseen by the Defendants, and therefore these answering Defendants have no liability or limited liability in Betsy's Claims.

**FIFTH AFFIRMATIVE DEFENSE**

Defendants hereby aver and allege the injuries, if any, suffered by Betsy, as set forth in her Complaint, were caused in whole or in part by Betsy's own negligence over whom Defendants had no control.

**SIXTH AFFIRMATIVE DEFENSE**

The Defendants affirmatively assert that Betsy assumed the risk of its injuries.

**SEVENTH AFFIRMATIVE DEFENSE**

Betsy's complaint fails to join a party(ies) in whose absence complete relief cannot be accorded among those already parties.

**EIGHTH AFFIRMATIVE DEFENSE**

Assuming negligence or other wrongdoing on the part of these Defendants, which these Defendants expressly deny, they were not the proximate cause of Betsy's alleged injuries, but the alleged injuries were a result of Betsy's own negligence and superseding and/or intervening causes.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred for failure of consideration.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims, and each of them, are barred by res judicata.

**ELEVENTH AFFIRMATIVE DEFENSE**

The claims, and each of them, are barred as a result of the failure of the Plaintiff to timely make those claims as against these answering Defendants and allow these answering Defendants to collect evidence sufficient to establish its nonliability. These answering Defendants relied upon the failure to allege claims by the Plaintiff and as a result are barred by the doctrine of laches.

**TWELFTH AFFIRMATIVE DEFENSE**

The claims of Plaintiff have been waived as a result of the acts and the conduct of the Plaintiff.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Pursuant to Rule 11 of JCRCP as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts are not available after reasonable inquiry from the filing of Plaintiff's Complaint, and therefore, Defendants reserve the right to amend their Answer to allege additional affirmative defenses, delete or change the same as subsequent investigation warrants.

**WHEREFORE**, Defendants pray for the following relief:

1. Plaintiff shall take nothing from this matter.
2. The Court Order this Case be assigned to District Court, Lincoln County
3. Defendants pray for an Order directing the Alamo Justice of the peace to issue a Writ of Execution against Betsy L. Whipple, directing the Sheriff and/or Constable within 24 hours of the issuance of the Writ, for the removal from WCC property, including but not limited to, any and all corals, fixtures and animals, being the estimated eight (8) horses trespassing on WCC property;
4. There are material facts in dispute and therefore the Court should allow this matter to move forward to discovery;
5. For such other and further relief that this Court deems just and equitable.

DATED this 23<sup>rd</sup> day of July, 2019.

**JUSTICE LAW CENTER**

Submitted By: /s/ C. Benjamin Scroggins, Esq.

BRET O. WHIPPLE, ESQ.

Nevada State Bar No. 6168

C. BENJAMIN SCROGGINS, ESQ.

Nevada State Bar No. 7902

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*Attorneys for Defendants*

**CERTIFICATION OF SERVICE**

I hereby certify that I am an employee of Justice Law Center and that on this day I caused a true and correct copy of the foregoing document, **DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM**, to be served upon the hereinbelow parties via E-SERVE through the Odyssey File and Serve platform:

Michael C. Van, Esq.  
Catherine K. Ramsey, Esq.  
Shumway Van  
8985 South Eastern Ave, Suite 100  
Las Vegas, NV 89123

Dated this 24<sup>th</sup> day of July, 2019.

/s/ Steve Primak  
An Employee of Justice Law Center

**0001**

Bret O. Whipple, Esq.  
Nevada Bar No. 6168  
C. Benjamin Scroggins, Esq.  
Nevada Bar No. 7902  
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admin@justice-law-center.com  
*Attorneys for Counterclaimants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, an individual and (not majority shareholder) of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation,  
  
Counterdefendant / Plaintiff,

vs.

BRET O. WHIPPLE, individually AND AS President and Director of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation; CODY K. WHIPPLE, individually and as a Treasurer of WHIPPLE CATTLE COMPANY, INC. a Nevada Corporation; KIRT R. WHIPPLE, individually and as Secretary of WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation; JANE E. WHIPPLE, trustee of JANE WHIPPLE FAMILY TRUST and as managing member of KENT WHIPPLE RANCH, LLC; JANE WHIPPLE FAMILY TRUST; KENT WHIPPLE RANCH LLC.; KATHRYN WETZEL, individually, WHIPPLE CATTLE COMPANY, INC., a Nevada Corporation; DOE INDIVIDUALS I through X; and ROE CORPORATIONS I through X,

Counterclaimants / Defendants.

CASE NO.: A-19-790929-C

DEPT. NO.: 14

**COUNTERCLAIM**

COMES NOW, the above named Defendants, by and through their attorney of record C. BENJAMIN SCROGGINS, ESQ., of JUSTICE LAW CENTER, and hereby submits its Counterclaim as follows.

DATED this 23<sup>rd</sup> day of July, 2019.

**JUSTICE LAW CENTER**

Submitted By: /s/ C. Benjamin Scroggins, Esq.

BRET O. WHIPPLE, ESQ.

Nevada State Bar No. 6168

C. BENJAMIN SCROGGINS, ESQ.

Nevada State Bar No. 7902

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[admin@justice-law-center.com](mailto:admin@justice-law-center.com)

*Attorneys for Defendants*

**I.**

**THE PARTIES**

1. Counterdefendant, BETSY L. WHIPPLE, (not the majority shareholder), hereinafter ('Betsy'), is and was at all times relevant to these proceedings, a citizen and resident of Lincoln County, Nevada hereinafter referred to as ("Betsy").

2. Counterclaimant, BRET O. WHIPPLE, is and was at all times relevant to these proceedings, a citizen and resident of Clark County, Nevada and is and was at all times relevant to these proceedings acting as President and Director of the WHIPPLE CATTLE COMPANY INCORPORATED, a Nevada Corporation, hereinafter referred to as ("Bret").

3. Counterclaimant, CODY K. WHIPPLE, is and was at all times relevant to these proceedings, a citizen and resident of both Clark County and Lincoln County, Nevada and is and was at all times relevant to these proceedings acting as Treasurer of the WHIPPLE CATTLE COMPANY INCORPORATED, a Nevada Corporation, hereinafter referred to as ("Cody").

1           4.       Counterclaimant, KIRT R. WHIPPLE, is and was at all times relevant to these  
2 proceedings, a citizen and resident of Harris County, Texas and is and was at all times relevant  
3 to these proceedings acting as Secretary of the WHIPPLE CATTLE COMPANY  
4 INCORPORATED, a Nevada Corporation, hereinafter referred to as (“Blu”).

5           5.       Counterclaimant, JANE E. WHIPPLE, is and was at all times relevant to these  
6 proceedings, a citizen and resident of Lincoln County, Nevada and is and was at all times  
7 relevant to these proceedings acting as Director of the WHIPPLE CATTLE COMPANY  
8 INCORPORATED, a Nevada Corporation, hereinafter referred to as (“Jane”).

9           6.       Counterclaimant, JANE E. WHIPPLE, is and was at all times relevant to these  
10 proceedings, a Trustee of the JANE WHIPPLE FAMILY TRUST and is and was at all times  
11 relevant to these proceedings acting as Managing Member of the KENT WHIPPLE RANCH  
12 LLC, a Nevada Limited Liability Company.

13           7.       Counterclaimant, KATHRYN WETZEL, is and was at all times relevant to these  
14 proceedings, a citizen and resident of both Clark County and Lincoln County, Nevada,  
15 hereinafter referred to as (“Kathy”).

16           8.       PEGGY REGGIO (WHIPPLE), is and was at all times relevant to these  
17 proceedings, a citizen and resident of Maricopa County, Arizona, hereinafter referred to as  
18 (“Peggy”). Counterclaimants do not seek money damages from Peggy; however, Peggy is  
19 named herein as a third party and witness, in whose absence complete relief cannot be accorded.

20           9.       Defendant, WHIPPLE CATTLE COMPANY INCORPORATED, is and was at  
21 all times relevant to these proceedings, a Nevada Corporation organized and existing under the  
22 laws of the State of Nevada, and doing business in Lincoln County, State of Nevada, hereinafter  
23 referred to as (“WCC”).

24           10.      Counterdefendant, DOES, is/are individual(s), and is/are resident(s) of Clark  
25 County for all times relevant herein, hereinafter referred to as (“DOES”).

26           11.      Counterdefendant, ROES, is/are individual(s), and is/are resident(s) of Clark  
27 County for all times relevant herein, hereinafter referred to as (“ROES”).  
28

13. That the true names and capacities, whether corporate, associate or otherwise, of the Counterdefendants not named herein as ROE CORPORATIONS I through X, inclusive, are unknown to Counterclaimants at this time, and therefore, Counterclaimants sue said Counterdefendants by such fictitious names. Counterclaimants are informed and believes and therefore alleges, that each of the Counterdefendants designated herein as either ROE CORPORATIONS are responsible in some manner for the events and happening referred to and caused damages proximately to Counterclaimants as herein alleged, and Counterclaimants will ask leave of this court to amend their complaint to insert the true names and capacities of said ROE CORPORATIONS when the same become ascertained, and join said Counterdefendants in this action.

## FACTUAL BACKGROUND

15. Sometime during the calendar year 1993, an adjacent property situated in Lincoln County, Nevada, commonly known as the RIVER RANCH, (located just North of the Kent Whipple Ranch), became available for sale.

11 of 25



16. Jane and five (5) of Jane's children, (i.) Bret, (ii.) Blu, (iii.) Cody, (iv.) Peggy and (v.) Besty (collectively hereinafter referred to as the 'Shareholders') entered into an agreement to acquire the River Ranch and formed on or about October 18, 1993 the WHIPPLE CATTLE COMPANY INCORPORATED, referred to as ('WCC').

17. Five (5) Shareholders (Jane's children) each initially owned a ten (10%) percent interest in WCC, with Jane owning the other fifty (50%) percent interest.

18. Jane's brother, BILL RANDALL, and his partner JOHN CABE, hereinafter are referred to as ('Randall/Cabe'), were then interested in investing in the River Ranch.

19. On or about October 1993, as equal (50/50) Shareholders WCC and Randall/Cabe acquired the River Ranch.

20. Subsequently, WCC purchased Randall/Cabe's interest in the River Ranch.

21. Sometime thereafter, Jane gifted to each of her five (5) children her fifty (50%) percent interest in WCC, which was equally divided into ten (10%) percent interests, resulting in (1.) Bret holding twenty (20%), (2.) Blu holding twenty (20%), (3.) Cody holding twenty (20%), (4.) Peggy holding twenty (20%), and (5.) Betsy holding twenty (20%) of WCC.

22. As part and parcel to the Shareholders' agreement, each party was to contribute annually toward the maintenance of WCC and the River Ranch.

23. Commencing in 1993 and continuing through 2008, Betsy made regular annual payments to WCC, as required under the agreement between the five (5) Shareholders, including, but not limited to Betsy.

24. However, Betsy's ceased making her annual payments in 2009. **See Exhibit A**

25. On or about the year 2011 or perhaps 2012, Betsy entered into an agreement to acquire Peggy's twenty (20%) interest in WCC.

26. In 2012, after Betsy acquired Peggy's twenty (20%) interest in WCC, Betsy stopped making the annual contribution payments to WCC, as originally agreed to by the Shareholders.

///



1 payment shortfall of \$110,836.00; by reason of the Counterdefendant, Betsy Whipple's Breach  
2 of Contract, Counterclaimants have suffered and continue to suffer financially.

3 37. Counterclaimants have suffered damages in an amount in excess of \$15,000.00.

4 38. As a direct and proximate result of the Breach of Contract by Counterdefendant,  
5 Betsy Whipple, Counterclaimants have suffered actual injuries and mental anguish, emotional  
6 and financial distress. Counterclaimants have unnecessarily incurred costs in connection  
7 herewith in amounts presently unknown. Counterclaimants will pray leave to amend this  
8 Counterclaim when said amounts have been ascertained and insert the same herein with  
9 appropriate allegations. All the above damages were directly and proximately caused by the  
10 aforementioned Breach of Contract by Betsy Whipple, and were incurred without contributory  
11 negligence or assumption of the risk on the part of the Counterclaimants. Counterclaimants did  
12 not have the opportunity to avoid this incident.

## 13 SECOND CLAIM FOR RELIEF

### 14 **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

#### 15 **(AGAINST COUNTERDEFENDANT BETSY WHIPPLE)**

16 39. Counterclaimants hereby repeat and reallege and hereby incorporate by reference  
17 each and every allegation of paragraphs 1 through 38 as though fully set forth herein.

18 40. It was the duty of Betsy to act in good faith and to perform in accordance with  
19 the terms and conditions of the agreement between the Shareholders; more specifically to [in  
20 good faith] and in accordance with the agreement, make regular annual contribution payments.

21 41. Counterclaimants assert in Nevada for every contract and/or agreement there is  
22 an expectation of "Good Faith and Fair Dealing."

23 42. Betsy breached the Implied Covenant of Good Faith and Fair Dealing, whereby  
24 Counterclaimants relied on the Betsy to honor the terms of the agreement reached in 1993 to  
25 make annual contribution payments to WCC, however, Betsy has willfully, intentionally and in  
26 bad faith breached the agreement among the Shareholders.

27  
28 ///

1           43.     Betsy was then and is now in an entrusted position and engaged in grievous  
2 and/or perfidious misconduct; and in so doing breached the duty of fair dealing and good faith;  
3 which is the nexus and proximate cause of the Counterclaimants' injuries and damages.

4           44.     As a result of Betsy's, breach of implied covenant of good faith and fair dealing,  
5 Counterclaimants have suffered financial and emotional distress, and general damages in an  
6 amount in excess of \$15,000.00.

7           45.     As a direct and proximate result of the Breach of Contract and the Breach of the  
8 Implied Covenant of Good Faith and Fair Dealing by Counterdefendant, Betsy Whipple,  
9 Counterclaimants have suffered actual injuries and mental anguish, emotional and financial  
10 distress. Counterclaimants have unnecessarily incurred costs in connection herewith in amounts  
11 presently unknown. Counterclaimants will pray leave to amend this Counterclaim when said  
12 amounts have been ascertained and insert the same herein with appropriate allegations. All the  
13 above damages were directly and proximately caused by the aforementioned Breach of Contract  
14 and the Breach of the Implied Covenant of Good Faith and Fair Dealing by Counterdefendant,  
15 Betsy Whipple, and were incurred without contributory negligence or assumption of the risk on  
16 the part of the Counterclaimants. Counterclaimants did not have the opportunity to avoid this  
17 incident.

18  
19                   **THIRD CLAIM FOR RELIEF**

20                   **INJUNCTION AND TRESPASS**

21                   **(AGAINST COUNTERDEFENDANT BETSY WHIPPLE)**

22           46.     Counterclaimants hereby repeat and reallege and hereby incorporate by reference  
23 each and every allegation of paragraphs 1 through 45 as though fully set forth herein.

24           47.     On or about 2012, Counterclaimant, WCC, was in possession of certain real  
25 property situated in Lincoln County, Nevada herein referred to as the RIVER RANCH is  
26 described hereinafter referred to as (the "River Ranch").

27           48.     Betsy put up corrals and fixtures and has been allowing approximately eight (8)  
28 horses to feed on River Ranch land without the authority of WCC since 2012.

1           49.     Betsy has been repeatedly asked to remove the corrals and fixtures and restrict  
2 her horses to grazing on her own property.

3           50.     According to *EquineNews*, whenever horses are allowed free access to pasture  
4 said horses graze more or less continuously, with peak grazing periods occurring just after  
5 dawn and just before dark. The horses spend about 70% of daylight hours and about 50% of  
6 night hours grazing. See <https://ker.com/equine/grazing-behavior-horses/>

7           51.     *EquineNews*, further estimates in their article that a horse spends about 10 to  
8 17 hours each day grazing, and this is broken up into about 15 to 20 grazing periods.

9           52.     According to another article, the cost to feed a healthy 1,100-pound horse will  
10 range from \$100 to more than \$250 per month on average.

11                     See <https://animals.mom.me/average-monthly-cost-owning-horse-5504.html>

12           53.     Since 2012, Betsy has ignored requests from Counterclaimant and has continued  
13 to trespass the eight (8) horses allowing them to graze on WCC property, whereby said use is  
14 relevant to the value of property resulting in Counterclaimant's damages.

15           54.     Counterclaimants state that for a period of not less than six (6) years, Betsy has  
16 been using the River Ranch for her own benefit, assuming \$800.00 (grazing 8 horses) a month  
17 for six (6) years equates to \$57,600.00.

18           55.     Ever since 2012, Betsy, without the consent or authority of the Counterclaimants  
19 and against the will of the Counterclaimants, entered onto the River Ranch property putting up  
20 corrals and fixtures and allowing her eight (8) horses to graze, displacing WCC cattle from  
21 grazing and all to the financial detriment of WCC and for the benefit of Betsy Whipple.

22           56.     Counterclaimants state they have advised Betsy on numerous occasions, whether  
23 in writing or verbally since 2012, to stop grazing her horses on WCC property.

24           57.     Betsy has been aware of the trespassing on WCC land without any right or  
25 authority to do so, and without Counterclaimants' consent.

26           58.     Counterclaimants have over the years repeatedly demanded Betsy remove her  
27 horses from WCC property and refrain from any further entry and/or grazing on the property.  
28

1 This 'demand' has included the removal of the corrals and fixtures installed by Betsy on WCC  
2 property without the foreknowledge and/or consent of WCC.

3 59. Betsy continues to use WCC property to corral and graze her 8 horses, displacing  
4 WCC cattle and all without authority to do so and without any exchange of consideration.

5 60. Betsy continues to trespass and therefore continues to deprive Counterclaimants  
6 right to exclusive possession of the property.

7 61. Counterclaimants is informed and believes, and on the basis of that information  
8 and belief alleges, that unless restrained by this court, Betsy will continue to trespass against  
9 WCC's property. Such trespassory conduct by Betsy will result in irreparable harm, in so far as  
10 WCC land has been and continues to be used for the sole benefit of Betsy, and to the detriment  
11 of Counterclaimants by depriving access to the land, and if left unrestrained, will result in the  
12 imposition of a 'servient easement' in favor of Betsy across the property, thereby posing a threat  
13 to Counterclaimants good and marketable title to the property.

14 62. Counterclaimants aver injunction by the Court against Betsy's trespassing on  
15 WCC land, to wit: the unauthorized installation of corrals and fixtures and the unauthorized  
16 grazing of an estimated eight (8) horses is needed to prevent further injustice.

17 63. Counterclaimants further aver the Court should issue an Order directing the  
18 Alamo Justice of the peace to issue a Writ of Execution against Betsy L. Whipple, directing the  
19 Sheriff and/or Constable for Lincoln County, Nevada, for the removal of any and all animals,  
20 including but not limited to, the eight (8) horses trespassing on WCC property within 24 hours  
21 of the issuance of the writ, from WCC property.

22 64. The potential damages that could proximately result from Betsy's continued  
23 trespass would be extremely difficult, if not impossible, to assess accurately.

24 65. Counterclaimants state Betsy's continuing trespassory conduct, as alleged in this  
25 Counterclaim, will require Counterclaimants to bring a multiplicity of actions to further protect  
26 property interests, thereby rendering Counterclaimants' remedy at law inadequate.

27 ///



1           73. At all times herein mentioned, and in particular ever since 2012,  
2 Counterclaimants were, and still are entitled to the possession of WCC (River Ranch) Property,  
3 namely, the right to be compensated by Betsy for corralling and grazing her eight (8) horses.

4           74. Counterclaimants state the River Ranch property situated in Lincoln County,  
5 Nevada, had a 'grazing' value per horse of not less than \$100.00 per horse per month, which for  
6 a period of not less than six (6) years, Betsy has been using River Ranch land for grazing her  
7 eight (8) horses each month for six (6) years consecutively, equates to \$57,600.00.

8           75. Ever since 2012, Betsy's horses were corralled and grazed on WCC property ----  
9 thereby exerting possession of the land and converted the same to Betsy's own use.

10           76. As a result of Betsy's conversion, Counterclaimants have suffered financial and  
11 emotional distress, and general damages in an amount in excess of \$15,000.00.

12           77. As a direct and proximate result of the Breach of Contract, Breach of the Implied  
13 Covenant of Good Faith and Fair Dealing, Trespass and Conversion by Counterdefendant,  
14 Betsy Whipple, Counterclaimants have suffered actual injuries and mental anguish, emotional  
15 and financial distress. Counterclaimants have unnecessarily incurred costs in connection  
16 herewith in amounts presently unknown. Counterclaimants will pray leave to amend this  
17 Counterclaim when said amounts have been ascertained and insert the same herein with  
18 appropriate allegations. All the above damages were directly and proximately caused by the  
19 aforementioned Breach of Contract, Breach of the Implied Covenant of Good Faith and Fair  
20 Dealing, Trespass and Conversion by Counterdefendant, Betsy Whipple, and were incurred  
21 without contributory negligence or assumption of the risk on the part of the Counterclaimants.  
22 Counterclaimants did not have the opportunity to avoid this incident.

23  
24                           **FIFTH CLAIM FOR RELIEF**

25                                   **UNJUST ENRICHMENT**

26   **(AGAINST COUNTERDEFENDANT BETSY WHIPPLE)**

27           78. Counterclaimants hereby repeat and reallege and hereby incorporate by reference  
28 each and every allegation of paragraphs 1 through 77 as though fully set forth herein.



1           79.     Counterclaimants assert Betsy has had a benefit conferred.

2           80.     Betsy has appreciated and retained the hereinabove benefits.

3           81.     Counterclaimants assert it is unjust to allow Betsy to retain the benefit without  
4 payment for the grazing and corralling of her estimated eight (8) horses.

5           82.     Counterclaimants have exhausted their time and energy trying to resolve these  
6 issues and have had to sort to legal remedies to try to rectify these issues.

7           83.     Counterclaimants further allege that, but for the actions of Betsy, this matter  
8 would not be before this Court.

9           84.     Counterclaimants further allege that they did not have the opportunity to avoid  
10 this matter.

11           85.     As a result of Betsy's Unjust Enrichment, Counterclaimants have suffered  
12 financial and emotional distress, and general damages in an amount in excess of \$15,000.00.

13           86.     As a direct and proximate result of the Breach of Contract, Breach of the Implied  
14 Covenant of Good Faith and Fair Dealing, Trespass, Conversion and Unjust Enrichment by  
15 Counterdefendant, Betsy Whipple, Counterclaimants have suffered actual injuries and mental  
16 anguish, emotional and financial distress. Counterclaimants have unnecessarily incurred costs in  
17 connection herewith in amounts presently unknown. Counterclaimants will pray leave to amend  
18 this Counterclaim when said amounts have been ascertained and insert the same herein with  
19 appropriate allegations. All the above damages were directly and proximately caused by the  
20 aforementioned Breach of Contract, Breach of the Implied Covenant of Good Faith and Fair  
21 Dealing, Trespass, Conversion and Unjust Enrichment by Counterdefendant, Betsy Whipple,  
22 and were incurred without contributory negligence or assumption of the risk on the part of the  
23 Counterclaimants. Counterclaimants did not have the opportunity to avoid this incident.

24  
25                   **SIXTH CLAIM FOR RELIEF**

26                   **PER SE VIOLATION OF NRS 239.330**

27                   **(AGAINST COUNTERDEFENDANT BETSY WHIPPLE)**

28     ///

87. Counterclaimants hereby repeat and reallege and hereby incorporate by reference each and every allegation of paragraphs 1 through 86 as though fully set forth herein.

88. Counterclaimants state that on or about January 2019 Betsy, (without the requisite approval and authority of WCC officers), change by way of filing with the Nevada Secretary of State, the annual list of officers and directors, naming herself, BETSY L. WHIPPLE, as holding all offices and as Director of the Corporation.

89. Counterclaimants state **NRS 239.330** reads as follows:

**Offering false instrument for filing or record.** A person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in a public office under any law of this State or of the United States, is guilty of a **category C felony** and shall be punished as provided in NRS 193.130. (emphasis added)

90. Counterclaimants state that upon Betsy's submission to and filing with the Nevada Secretary of State, the 2019 annual list of WCC officers and directors, Betsy did, in fact, violate the declaration propounded by the Nevada Secretary of State, which states: "I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to Nev. Rev. Stat. § 239.330, it is a category C felony to **knowingly offer any false** or forged instrument for filing in the Office of the Secretary of State." (emphasis added)

91. Counterclaimants state that upon learning about the felonious filing, WCC officers were compelled to file an amended list correcting the felonious filing made by Betsy.

92. Counterclaimants request upon evidence of this claim, this matter be referred to the Nevada Attorney General's Office for criminal prosecution for Betsy's per se violation of Nev. Rev. Stat. § 239.330.

93. As a result of Betsy's per se violation of Nev. Rev. Stat. § 239.330, Counterclaimants have suffered financial and emotional distress, and general damages in an amount in excess of \$15,000.00.

///



1           6. For pre-judgment interest according to the Court's award as well as post-judgment  
2 interest on the Court's award, in the maximum amount allowed under Nevada law, commencing  
3 upon the entry of judgment;

4           7. Counterdefendant, Betsy L. Whipple, shall take nothing from this matter;

5           8. The Court Order this Eighth Judicial District Court case, Case No.: A-19-790929-C,  
6 be assigned to the Seventh Judicial District Court, Lincoln County, Nevada. The Eighth  
7 Judicial District Court lacks jurisdiction in this matter and this case should be rightful before the  
8 District Court in Lincoln County, Nevada. Citing Price v. Ward, 25 Nev. 203 \*; 58 P. 849 \*\*;  
9 1899 Nev. LEXIS 22 (Oct. 1899). "An action in any form to determine a right or interest in real  
10 property must be tried where the property is situated.";

11           9. For the Court's referral of Betsy L. Whipple to the Nevada Attorney General's Office  
12 for Betsy's per se violation of NRS 239.330;

13           10. For costs of this Counterclaim herein incurred;

14           11. For reasonable Attorney's Fees; and

15           12. For such other and further relief as the court may deem just and proper.  
16

17  
18 DATED this 23<sup>rd</sup> day of July, 2019.

**JUSTICE LAW CENTER**

19  
20 Submitted By: /s/ C. Benjamin Scroggins, Esq.

BRET O. WHIPPLE, ESQ.

Nevada State Bar No. 6168

C. BENJAMIN SCROGGINS, ESQ.

Nevada State Bar No. 7902

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**EXHIBIT A**

**JUSTICE LAW CENTER**

1100 S. Tenth Street, Las Vegas, Nevada 89104  
702-731-0000 Phone | (702) 974-4008 Fax

YEAR	JANE	BRET	BETSY	BLU	PEGGY	CODY
1993	\$322		\$322	\$288	\$0	\$0
1994	\$3,300	\$3,800	\$4,025	\$4,150	\$0	\$0
1995	\$4,200	\$4,200	\$3,625	\$4,200	\$800	\$0
1996	\$3,400	\$3,500	\$3,750	\$2,000	\$1,200	\$0
1997	\$1,250	\$2,500	\$3,000	\$2,912	\$3,700	\$0
1998	\$0	\$3,100	\$1,000	\$3,000	\$3,000	\$700
1999	\$0	\$2,900	\$3,750	\$2,778	\$3,000	\$2,250
2000	\$0	\$3,000	\$2,500	\$2,500	\$3,000	\$3,520
2001	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$6,000
2002	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$6,000
2003	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$6,000
2004	\$3,000	\$4,000	\$3,500	\$4,000	\$3,000	\$17,000
2005	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$14,000
2006	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$6,000
2007	\$0	\$6,000	\$6,000	\$6,000	\$3,000	\$6,000
2008	\$1,294	\$6,000	\$1,000	\$6,000	\$28,000	\$7,000
2009	\$12,290	\$20,000	\$0	\$25,000	\$0	\$80,000
2010	\$5,849	\$62,000	\$0	\$30,000	\$0	\$15,000
2011	-\$2,649	\$0	\$0	\$0	\$25,618	\$6,000
2012	\$8,442	\$6,000	\$0	\$6,000	\$0	\$18,000
2013	\$21,721	\$20,462	\$0	\$10,000	\$0	\$21,000
2014	-\$10,736	\$1,500	\$0	\$8,000	\$0	\$12,000
2015	\$34,817	\$0	\$0	\$6,000	\$0	\$8,000
2016	\$6,027	\$0	\$0	\$6,000	\$0	\$3,000
2017	\$21,373	-\$20,000	\$0	\$6,000	\$0	\$20,000
2018	\$0	\$5,360	\$0	\$6,000	\$0	\$32,786
2019		\$0	\$0	\$6,000	\$0	\$27,786
	<b><u>\$113,900</u></b>	<b><u>\$164,322</u></b>	<b><u>\$62,472</u></b>	<b><u>\$176,828</u></b>	<b><u>\$89,318</u></b>	<b><u>\$318,042</u></b>
Minimum Contribution Amount = \$125318 (This amount is the total amount of Peggy & John cont						
Then adding \$6000 per year for six years.) (2012,2013,2014,2015,2016,2017,2018)						
Betsy Whipple is \$68846 for her shares and \$42,000 for Peggy's shares short of meeting						
the voted and agreed upon minimum contribution. Total Owed to date = <b><u>\$110,846</u></b> .						

1 **ORDG**

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 BETSY L. WHIPPLE, individually and as  
5 shareholder of WHIPPLE CATTLE  
6 COMPANY, Inc., a Nevada Corporation,

7 Plaintiff,

8 vs.

9 BRET O. WHIPPLE, individually AND as President  
10 and Director of WHIPPLE CATTLE COMPANY,  
11 INC., a Nevada Corporation; CODY K. WHIPPLE,  
12 individually and as Treasurer of WHIPPLE CATTLE  
13 COMPANY, INC., a Nevada Corporation; KIRT R.  
14 WHIPPLE,  
15 individually and as Secretary of WHIPPLE CATTLE  
16 COMPANY, INC., a Nevada Corporation; JANE E.  
17 WHIPPLE, individually and as Director of WHIPPLE  
18 CATTLE COMPANY, INC., a Nevada Corporation;  
19 JANE WHIPPLE, trustee of JANE WHIPPLE  
20 FAMILY TRUST and as managing member of KENT  
21 WHIPPLE RANCH LLC; JANE WHIPPLE FAMILY  
22 TRUST; KENT WHIPPLE RANCH LLC.; KATHRYN  
23 WETZEL, individually, WHIPPLE CATTLE  
24 COMPANY, INC., a Nevada Corporation; DOE  
25 INDIVIDUALS I through X; and ROE  
26 CORPORATIONS I through X,

27 Defendants.

CASE NO.: A-19-790929-B  
DEPT NO.: 27

DEPT NO.: 14 (only for limited  
purpose of this Order)

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
RECONSIDERATION**

19 The matter of Plaintiff's Motion for Reconsideration ("Motion") came on for  
20 hearing before Department 14 of the Eighth Judicial District Court, the Honorable  
21 Adriana Escobar presiding, on January 14, 2021. Plaintiff Betsy Whipple ("Betsy")  
22 appeared by and through her counsel of record, Cami Perkins, Esq. Defendants  
23 appeared by and through their counsel of record, Bret O. Whipple ("Defendants"). All  
24 parties appeared via Blue Jeans. Upon further review, this Court, having considered  
25 the Motion, opposition, reply brief, and supplemental briefing, and being fully apprised  
26 of the issues, issues the following findings of fact, conclusions of law, and order:

1       **I. FINDINGS OF FACT**

2           1.       On August 27, 2019, Defendants filed a Motion Renewed to Change  
3 Venue ( "Motion to Change Venue" ), which Plaintiff opposed.

4           2.       On January 6, 2020, this Court entered an Order Granting Defendants'  
5 Motion Renewed to Change Venue ( "Venue Order" ).

6           3.       This Court, in part, based is Venue Order on several declarations from  
7 Defendants which all stated, in relevant part, that (i) this matter concerns real  
8 property situated in Lincoln County, Nevada; (ii) this matter is best heard in Lincoln  
9 County based on prior litigation involving the same facts and defendants; (iii) they  
10 wish the matter to be heard in Lincoln County, Nevada for the convenience of the  
11 witnesses and the fact the ends of justice will be promoted by the change  
12 (collectively, the "Declarations"). The Declarations also set forth the county of  
13 residency of each of the Defendants.

14          4.       Upon further review of the Declarations, the Declarations do not present  
15 any factors that would establish exceptional circumstances sufficient to permit a  
16 transfer of venue from Clark County, Nevada to Lincoln County, Nevada. Defendants  
17 relied on general allegations concerning inconvenience. The Declarations did not  
18 provide specific information as to the number of witnesses and did not state any  
19 specific hardship as to accessing evidence.

20          5. Because the Declarations and the pleadings relied on general allegations  
21 regarding inconvenience and hardship, Defendants failed to make a specific factual  
22 showing to support venue transfer.

23       **II. CONCLUSIONS OF LAW**

24          1. "A district court may reconsider a previously decided issue if substantially  
25 different evidence is subsequently introduced or the decision is clearly erroneous."  
26 *Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997).

27



1       2. In cases other than those set forth in NRS 13.010, an “action shall be tried in  
2 the county in which the defendants, or any one of them, may reside at the  
3 commencement of the action.” NRS 13.040.

4       3. The Court may, on motion or stipulation, change the place of the proceeding  
5 when the convenience of the witnesses and the ends of justice would be promoted by  
6 the change. NRS 13.050(2)(c).

7       4. “[A] plaintiff’s selected forum choice may only be denied under **exceptional**  
8 **circumstances strongly supporting another forum.**” *Mt. View Rec., Inc., v.*  
9 *Imperial Commercial Cooking Equip. Co.*, 129 Nev 413, 419 (2013) (emphasis  
10 added). Furthermore, “[a] motion for change of venue based on forum non  
11 conveniens must be supported by affidavits so that the district court can assess  
12 whether there are any factors present that would establish such exceptional  
13 circumstances.” *Id.* General allegations regarding inconvenience or hardship are  
14 insufficient because a specific factual showing must be made. *Id.*

15       5. “The doctrine [of non conveniens] involves a balancing approach using several  
16 other factors, including public and private interests, access to sources of proof, and  
17 the availability of a view of the premises, if necessary. Additional factors include the  
18 availability of compulsory process for unwilling witnesses, the cost of obtaining  
19 testimony from willing witnesses, and the enforceability of a judgment.” *Eaton v.*  
20 *Second Judicial Dist. Court*, 96 Nev. 773, 774 (1980), *overruled on other grounds by*  
21 *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222 (2004). “[A]ffidavits in support of a  
22 forum non conveniens motion must be carefully examined to determine the existence  
23 of the factors mentioned above. The moving party may not rely on general allegations  
24 concerning inconvenience, a view of the premises, or hardship. A specific factual  
25 showing must be made.” *Eaton*, 96 Nev. 773, 775.

26       6. This action is a business dispute specifically relating to the rights and interests  
27 of Plaintiff with regard to WCC, a corporation, versus a dispute over the real property

1 owned by WCC located in Lincoln County, Nevada. Therefore, the grounds set forth  
2 in NRS 13.010 do not apply. Instead, NRS 13.040 applies. At least one Defendant  
3 resided in Clark County when this action commenced. Therefore, venue was proper  
4 in Clark County under NRS 13.040.

5 7. In the Motion to Change Venue, Defendant did not provide affidavits (or  
6 declarations) that established exceptional circumstances sufficient to warrant a  
7 change of venue from Clark County, Nevada to Lincoln County, Nevada.

8 8. Accordingly, the Venue Order was clearly erroneous.

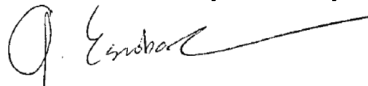
9 **III. ORDER**

10 **IT IS HEREBY ORDERED**, that Plaintiff's Motion for Reconsideration is  
11 **GRANTED**.

12 **IT IS FURTHER ORDERED THAT** Defendants' Renewed Motion to Change  
13 Venue is **DENIED**.

14 **IT IS FURTHER ORDERED THAT** this Court's January 6, 2020, Order  
15 Granting Defendants' Renewed Motion to Change Venue is **VOID**.

16  
17 Dated this 27th day of January, 2021

18 

19 THE HON. ADRIANA ESCOBAR  
20 DISTRICT COURT JUDGE

21 988 867 DA51 ACD6  
22 Adriana Escobar  
23 District Court Judge  
24  
25  
26  
27

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Betsy Whipple, Plaintiff(s)

CASE NO: A-19-790929-B

7 vs.

DEPT. NO. Department 27

8 Bret Whipple, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/27/2021

15 Jeanne Metzger

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16 Bret Whipple

admin@justice-law-center.com

17 Michael Mee

michaelm@justice-law-center.com

18 Cami Perkins

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19 L. Christopher Rose

lcr@h2law.com

20 Dianna Simeone

dsimeone@howardandhoward.com

21 Kirill Mikhaylov

kvm@h2law.com

22 C. Scroggins

CBS@cbscrogginslaw.com

23  
24 If indicated below, a copy of the above mentioned filings were also served by mail  
25 via United States Postal Service, postage prepaid, to the parties listed below at their last  
26 known addresses on 1/28/2021  
27  
28

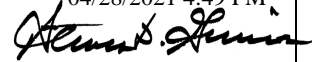
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Bret Whipple

Justice Law Center  
Attn: Bret O. Whipple  
1100 South 10th Street  
Las Vegas, NV, 89104

C. Scroggins

552 E Charleston BLVD  
Las Vegas, NV, 89104

  
CLERK OF THE COURT

**ORDR**

L. Christopher Rose, Esq. Nevada Bar No. 7500  
Cami M. Perkins, Esq., Nevada Bar No. 9149  
Kirill V. Mikhaylov, Esq., Nevada Bar No. 13538

**Howard & Howard Attorneys PLLC**

3800 Howard Hughes Parkway, Suite 1000  
Las Vegas, NV 89169

Telephone: (702) 257-1483

Facsimile: (702) 567-1568

E-Mail: [lcr@h2law.com](mailto:lcr@h2law.com); [cp@h2law.com](mailto:cp@h2law.com); [kdb@h2law.com](mailto:kdb@h2law.com)

*Attorneys for Plaintiff Betsy Whipple*

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

BETSY L. WHIPPLE, individually and as  
shareholder of WHIPPLE CATTLE  
COMPANY, Inc., a Nevada Corporation,

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND as  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation;  
CODY K. WHIPPLE, individually and as  
Treasurer of WHIPPLE CATTLE COMPANY,  
INC., a Nevada Corporation; KIRT R.  
WHIPPLE,  
individually and as Secretary of WHIPPLE  
CATTLE COMPANY, INC., a Nevada  
Corporation; JANE E. WHIPPLE, individually  
and as Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; JANE  
WHIPPLE, trustee of JANE WHIPPLE  
FAMILY TRUST and as managing member of  
KENT WHIPPLE RANCH LLC; JANE  
WHIPPLE FAMILY TRUST; KENT WHIPPLE  
RANCH LLC.; KATHRYN WETZEL,  
individually, WHIPPLE CATTLE COMPANY,  
INC., a Nevada Corporation; DOE  
INDIVIDUALS I through X; and ROE  
CORPORATIONS I through X,

Defendants.

CASE NO.: A-19-790929-B  
DEPT NO.: 27

**ORDER DENYING DEFENDANTS'  
MOTION TO STRIKE REQUEST TO  
TRANSFER TO BUSINESS COURT**

**Howard & Howard Attorneys PLLC**  
3800 Howard Hughes Pkwy., Ste. 1000  
Las Vegas, NV 89169  
(702) 257-1483

1 Defendants' Motion to Strike Plaintiff's Request to Transfer to Business Court, (the "Motion to  
2 Strike") came on for hearing before the Honorable Nancy L. Alf on the 27<sup>th</sup> day of January 2021  
3 at 9:30 a.m. Defendants appeared through their attorneys, Bret O. Whipple, Esq., of Justice Law  
4 Center and Benjamin C. Scroggins, Esq., of the Law Firm of Benjamin C. Scroggins, and Plaintiff  
5 Betsy L. Whipple ("Plaintiff") appeared through her attorney, Cami M. Perkins, Esq., of Howard  
6 & Howard Attorneys PLLC. The Court, having considered the Motion to Strike, the respective  
7 oppositions and replies thereto, having considered the oral arguments by counsel, and having  
8 reviewed the other pleadings and papers on file herein, finds, concludes, and orders as follows:

9 **I. FINDINGS OF FACT**

10 **A. Procedural Background**

11 1. On March 12, 2019, Plaintiff filed her Complaint against Defendants. For reasons  
12 unknown, Plaintiff's former counsel inadvertently did not file this matter in business court.

13 2. Defaults were entered against Defendants for failing to answer Plaintiff's  
14 Complaint. The Defaults were later set aside after Defendants prevailed on their Motion to Set  
15 Aside the Default Judgments filed on May 1, 2019.

16 3. On April 17, 2019, Defendants filed their Motion to Change Venue seeking to  
17 have this matter transferred to Lincoln County, Nevada.

18 4. On January 6, 2020, the Court granted the Motion to Change Venue. *See* Order  
19 Granting Motion, on file herein.

20 5. Plaintiff respectfully disagreed with the Court's decision on the Motion to Change  
21 Venue and filed a Motion to Reconsider the Court's Order on January 16, 2020. *See* Motion to  
22 Reconsider, on file herein. Plaintiff also simultaneously filed a Motion to Stay Venue Change  
23 Pending Motion for Reconsideration. *See* Motion to Stay, on file herein.

24 6. After filing the Motion for Reconsideration and the Motion to Stay, but before  
25 either were heard, on February 12, 2020, former counsel for Plaintiff filed a Notice of Appeal,  
26 which caused the Court to vacate the hearings on the Motion for Reconsideration and the Motion  
27 to Stay Venue.

1           7.       Approximately four (4) months later, the Nevada Supreme Court assigned the  
2 appeal to the Nevada Court of Appeals. *See* Nevada Supreme Court docket, Case No. 80558.  
3 Almost four (4) months after the appeal was assigned to the Nevada Court of Appeals, the Nevada  
4 Court of Appeals ordered Plaintiff/Appellant to show cause why the appeal should not be  
5 dismissed for lack of jurisdiction due to the pending Motion for Reconsideration before the Court,  
6 which the filing of may have tolled the time-frame in which to file a Notice of Appeal. *See*  
7 Nevada Court of Appeals docket, Case No. 80558-COA.

8           8.       On November 25, 2020, new counsel for Plaintiff substituted as counsel for  
9 Plaintiff's former counsel in this case. Upon review of Plaintiff's Complaint and Defendants'  
10 Answer and Counterclaim, and the issues presented therein, it was clear that the primary claims  
11 and issues in this matter will require decisions under NRS 78 or will relate to business torts.

12           9.       On November 25, 2020, Plaintiff filed a request that this matter be assigned as a  
13 business matter in a business court setting. *See* Request to Transfer to Business Court, on file  
14 herein. In response, Defendants filed a Motion to Strike on November 30, 2020.

15           10.      On December 8, 2020, this matter was transferred by the Clerk of the Court from  
16 Department 14 to business court Department 27. *See* Notice of Department Reassignment, on  
17 file herein.

18           11.      Plaintiff filed her Opposition to the Motion to Strike on December 14, 2020 and  
19 the Motion to Strike came on before the Court for oral argument on January 27, 2021 at 9:30 a.m.

20           **B.       Substantive Findings**

21           12.      This is a shareholder dispute involving a Nevada corporation requiring numerous  
22 decisions under NRS Chapter 78 and the claims at issue arise from business torts. *See* Complaint,  
23 filed herein on March 12, 2019.

24           13.      In the Complaint, Plaintiff alleges the following causes of action/requests for  
25 relief against Defendants: (1) injunctive relief to prevent transfer of cattle and for return of cattle;  
26 (2) injunctive relief to prevent building of cabins on WCC property without shareholder consent  
27 as required by the bylaws; (3) injunctive relief to prevent mobile home development on WCC

property without shareholder consent as required by the bylaws; (4) injunctive relief to prevent Defendant Kathryn Wetzel from developing and/or moving on to WCC property; (5) breach of fiduciary duty as to annual documents; (6) breach of fiduciary duty as to corporate documents; (7) breach of fiduciary duty as to certificates for shares; (8) breach of fiduciary duty as to K-1 statements; (9) conversion; (10) fraud; and (11) unjust enrichment. *See* Complaint, filed herein on March 12, 2019.

14. The matters at issue therefore fall directly under the purview of EDCR 1.61(a)(1), 1.61(a)(2)(ii) and (iii).

## II. CONCLUSIONS OF LAW

15. EDCR 1.6(c)(3) is unambiguous, and provides:

(3) Any party aggrieved by designation of a case as a business matter may seek review by the business court judge within ten (10) days of receipt of the assignment of the case to a business court judge or within ten (10) days of filing a responsive pleading, whichever is later.

(4) The business court judge shall decide whether a case is or is not a business matter and that decision shall not be appealable or reviewable by writ. Any matter not deemed a business matter shall be randomly reassigned if it was originally assigned to the business court judge. If a case was submitted to the business court judge to determine whether it is a business matter and the business court judge rules that it is not, that case will be remanded to the department from which it came.

16. EDCR 1.61 is similarly unambiguous, and provides:

(a) **Business matters defined.** "Business matters" shall be:

(1) Matters in which the primary claims or issues are based on, or will require decision under NRS Chapters 78-92A or other similar statutes from other jurisdictions, without regard to the amount in controversy;

(2) Any of the following:

(i) Claims or cases arising under the Uniform Commercial Code, or as to which the Code will supply the rule of decision;

(ii) Claims arising from business torts;

(iii) Claims arising from the purchase or sale of (A) the stock of a business, (B) all or substantially all of the assets of a business, or (C) commercial real estate; or



(iv) Business franchise transactions and relationships.

17. Neither EDCR 1.6 nor 1.61 place any deadline when a matter can be transferred to business court.

18. The Court rejects Defendants' argument that this Court does not have jurisdiction to hear this matter.

19. As set forth in EDCR 1.61(a)(1), 1.61(a)(2)(ii) and (iii) and demonstrated by the pleadings on file, this case is a business matter and this matter was properly transferred to business court in accordance with the applicable rules.

20. Based on the causes of action contained in Plaintiff's Complaint, this matter deals primarily with business matters, as defined in EDCR 1.61. *See* Complaint, filed herein on March 12, 2019.

21. If any conclusion of law is more properly a finding of fact, it shall be so deemed.

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**III. ORDER**

**IT IS HEREBY ORDERED THAT** Defendants' Motion to Strike Plaintiff's Request to Transfer to Business Court be, and hereby is, denied.

ISSUED this 28 day of April, 2021.  
Dated this 28th day of April, 2021

Nancy L Allf  
DISTRICT COURT JUDGE

NB

74A 75D 1ED2 FFD9  
Nancy Allf  
District Court Judge

**Respectfully submitted by:**

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Cami M. Perkins  
L. Christopher Rose (#7500)  
Cami M. Perkins (#9149)  
Kirill V. Mikhaylov (#13538)  
3800 Howard Hughes Pkwy., Suite 1000  
Las Vegas, NV 89169  
*Attorneys for Plaintiff*

**Approved as to form and content:**

**JUSTICE LAW CENTER**

**LAW OFFICE OF BENJAMIN C. SCROGGINS**

/s/ Bret O. Whipple  
Bret O. Whipple, Esq., Nevada Bar No. 6168  
1100 South Tenth Street  
Las Vegas, Nevada 89104  
*Attorneys for Defendants Bret O. Whipple,  
Cody K. Whipple, Kirt R. Whipple, Jane E.  
Whipple, Jane Whipple Family Trust, Kent  
Whipple Ranch, LLC, and Kathryn Wetzel*

/s/  
Benjamin C. Scroggins, Esq., Nevada Bar No. 7902  
629 S. Casino Center Blvd., Suite 5  
Las Vegas, Nevada 89101  
*Attorney for Defendant Whipple Cattle  
Company Incorporated*



# JUSTICE LAW CENTER

1100 S. 10th Street, Las Vegas, Nevada 89104  
T: (702) 731-0000 F: (702) 974-4008  
bretwhipple@gmail.com

---

April 28, 2021

To: Cami Perkins, Esq.  
Counsel for Betsy Whipple

Ben Sroggins, Esq.  
Counsel for Whipple Cattle Company

**Re: Proposed Orders E-mailed on April 26, 2021.**

In regards to the Proposed Order Denying Defendants' Motion to Strike Request to Transfer to Business Court, the non-Corporation Defendants have no objection.

In regards to the Proposed Order Denying the Motion to Reconsider Order Denying Change of Venue, the non-Corporation Defendants have one objection as follows: Paragraph 3 under Conclusions of Law, we believe the first sentence should be stricken, such that Paragraph 3 begins with "Therefore, the Court's ruling." Our review of the minutes does not indicate that the court made any finding that "this action is a business dispute" as it relates to NRS 13.040 and/or NRS 13.010 and we object on that basis.

SINCERELY,

A handwritten signature in black ink, appearing to read "Bret O. Whipple".

BRET O. WHIPPLE, ESQ.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Betsy Whipple, Plaintiff(s)

CASE NO: A-19-790929-B

7 vs.

DEPT. NO. Department 27

8 Bret Whipple, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/28/2021

15 Jeanne Metzger

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17 Michael Mee

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18 Cami Perkins

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19 L. Christopher Rose

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20 Kirill Mikhaylov

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21 C. Scroggins

CBS@cbscrogginslaw.com

22 Morganne Westover

mwestover@howardandhoward.com

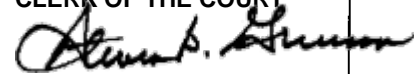
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28



Bret O. Whipple, Esq.  
Nevada Bar No. 6168  
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Tel: (702) 731-0000  
Fax: (702) 974-4008  
*Attorneys for Defendants Bret O. Whipple,  
Cody K. Whipple, Kirt R. Whipple,  
Jane E. Whipple, Jane Whipple Family Trust,  
Kent Whipple Ranch LLC, Kathryn Wetzel*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, an individual and as  
majority shareholder of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation,

Case No.: A-19-790929-B

Dept. No.: 27

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND AS  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation;  
CODY K. WHIPPLE, individually and as a  
Treasurer of WHIPPLE CATTLE COMPANY,  
INC. a Nevada Corporation; KIRT R.  
WHIPPLE, individually and as Secretary of  
WHIPPLE CATTLE COMPANY, INC., a  
Nevada Corporation; JANE E. WHIPPLE,  
trustee of JANE WHIPPLE FAMILY TRUST  
and as managing member of KENT WHIPPLE  
RANCH, LLC; JANE WHIPPLE FAMILY  
TRUST; KENT WHIPPLE RANCH LLC.;  
KATHRYN WETZEL, individually, WHIPPLE  
CATTLE COMPANY, INC., a Nevada  
Corporation; DOE INDIVIDUALS I through X;  
and ROE CORPORATIONS I through X,

**HEARING REQUESTED**

**DATE OF HEARING:**

**TIME OF HEARING:**

Defendants.

**DEFENDANTS' MOTION TO RECONSIDER ORDER DENYING RENEWED  
MOTION TO CHANGE VENUE TO LINCOLN COUNTY**

COMES NOW, the above named Defendants, by and through BRET O WHIPPLE, Esq., of Justice Law Center, and hereby files this MOTION TO RECONSIDER ORDER DENYING RENEWED MOTION TO CHANGE VENUE TO LINCOLN COUNTY. This Motion is made and based upon the affidavit attached hereto and the following memorandum of points and authorities.

DATED this 5<sup>th</sup> day of February, 2021.

JUSTICE LAW CENTER  
/S/ Bret O. Whipple  
BRET O. WHIPPLE, ESQ.  
Nevada Bar No. 6168

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Procedural History.**

This Court is familiar with the general procedural history of this case. As it relates to the issue of venue, Defendants jointly filed a Motion to Change Venue on April 17, 2019; this motion was not ruled upon because defaults had been entered. On July 8, 2019, the defaults against several of the Defendants were set aside.

A Renewed Motion to Change Venue was subsequently filed on August 27, 2019. In that motion, Defendants made several arguments. The three main arguments were: (1) that venue should be changed pursuant to 13.050, based upon the convenience of the witness and the ends of justice; (2) that venue should be changed pursuant to NRS 13.010, because the action pertained to the determination in any form of such right or interest in real property, and for injury to real property; and (3) because the case involved real property disputes involving trespass onto real property in Lincoln County, that this venue lacked subject matter jurisdiction.

1 Ultimately the District Court granted the order changing, relying upon the grounds of  
2 NRS 13.050, the convenience of the witnesses and the ends of justice. The written Order was  
3 entered on January 6, 2020, and the Plaintiff filed a timely Motion to Reconsider on January 16,  
4 2020.

5  
6 Plaintiff filed an initial Motion to Reconsider the Order Granting Change of Venue on  
7 January 16, 2020. Defendants filed an Opposition to that Motion on January 30, 2020. This was  
8 filed by Plaintiff's prior counsel. Plaintiff's prior counsel also filed a premature Notice of Appeal,  
9 which removed the matter to the Supreme Court of Nevada, and later the Court of appeals.

10  
11 Eventually, because it became clear that the District Court in fact retained jurisdiction  
12 despite the premature Notice of Appeal, the Court was called to rule upon the pending motion.  
13 In the meantime, Plaintiff had retained new counsel, and the case was transferred to business  
14 court upon the request of Plaintiff. The case was then sent back to Judge Escobar to rule upon  
15 the pending Motion to Reconsider.

16  
17 A hearing was held, and Judge Escobar issued an order granting the motion to reconsider  
18 change of venue. A written Order was filed on January 27, 2020. The Court cited the fact that  
19 change of venue based upon NRS 13.050 (2)(c) should only be granted under "exceptional  
20 circumstances." *See* Order at 3.

21  
22 The court also cited the fact that convenience and hardship issues must be shown by  
23 affidavits, and that mere "general allegations" are insufficient where they do not make a "specific  
24 factual showing" of inconvenience or hardship. *See* Order at 2-3. The Court further notes that a  
25 moving party "may not rely on general allegations concerning inconvenience, a view of the  
26 premises, or hardship." *Id.* The Court also held that the case pertained to a corporation (Whipple  
27  
28

1 Cattle Company), specifically “the rights and interests of Plaintiff with regard to WCC” as  
2 compared to a “dispute over the real property owned by WCC located in Lincoln County,  
3 Nevada.” *Id* at 3-4.

4 Finally, the Court based its ruling upon the fact that the Defendants “did not provide  
5 affidavits (or declarations) that established exceptional circumstance sufficient to warrant”  
6 change of venue to Lincoln County. *Id* at 4.  
7

8 **II. New Factual Information and Evidence.**

9 Based upon the Court’s ruling, and based upon factual developments and new evidence  
10 which has developed since the initial Motion to Change Venue was filed in 2019, the Defendants  
11 have obtained additional, and more specific, evidence, which shows that the change of venue is  
12 in fact warranted. These predominantly come in the form of detailed affidavits from numerous  
13 witnesses the defense expects to testify in this case, attached hereto as Exhibit A through Exhibit  
14 H – Affidavits of Witnesses.  
15

16 **a. Jane Whipple**

17 Jane Whipple has submitted an additional affidavit which details her life history and  
18 matters relevant for the present motion. *See* Exhibit A at 2-8. She details her marriage to Kent  
19 Whipple, and the fact that Kent Whipple died as a downwind victim of nuclear testing, leading  
20 to his developing cancer. *Id*.  
21

22 She then married Daryl Bradshaw, who was verbally and physically abusive to Jane  
23 during her marriage. *Id* at 3. She had one child with Bradshaw, named Dalton Bradshaw Whipple.  
24 *Id*. Dalton is a brother to Bret Whipple, Cody Whipple, Kirt Whipple, and Betsy Whipple, each  
25 of whom is a party in this case.  
26  
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1 Dalton was born with heart issues, an eating disorder, and was diagnosed with Prader-Willi  
2 Syndrome. *Id.* This syndrome causes weak muscles, poor feeding habits, and impaired  
3 development. It also causes varying degrees of intellectual impairment<sup>1</sup>. Dalton's IQ is unknown  
4 (and untestable) however he is severely impaired physically, as well as mentally. *See* Exhibit A  
5 at 3-4. Jane has raised Dalton as a single parent from his birth in 1984 and has been his 24/7  
6 caretaker. *Id.*

8 Dalton is 4 foot 10 and weighs approximately 220 pounds. Due to his disorder, he will  
9 compulsively eat any available food, even to the point of immediate death from over-eating. *Id.*  
10 As such he must be constantly monitored, and all food locked away. *Id.* This level of supervision  
11 must be provided constantly by Jane, as it has been for Dalton's entire life. *Id.*

13 Jane affirms that she cannot attend trial in Las Vegas due to the fact that she has no help  
14 with Dalton and simply cannot be away from him for more than an hour or two at a time. A trial  
15 in Pioche, closer to Hiko, is more feasible, because Jane can leave Dalton in the car, outside the  
16 Courthouse and periodically check on him. This would be impossible in Las Vegas. In Pioche,  
17 Jane could drive home and be back in the comfort of our home with Dalton in a short period of  
18 time, without the stress of traffic and the demands of life in Las Vegas, Nevada. *Id.*

20 Furthermore, she affirms that her support staff and personal friends all reside in Lincoln  
21 County, meaning they would be able to help with Dalton if the trial and court hearings are held  
22 closer to home in Lincoln County than in Las Vegas, Nevada. *Id.* at 8-9. Jane is very concerned  
23 about Betsy's constant complaints, numerous lawsuits against herself and her family, and  
24

26  
27 <sup>1</sup> "Prader-Willi Syndrome" [https://medlineplus.gov/genetics/condition/prader-willi-syndrome/#expand-collapse-](https://medlineplus.gov/genetics/condition/prader-willi-syndrome/#expand-collapse-start)  
28 start. Retrieved February 5, 2021.

1 behavior which appears to Jane to be paranoid behavior. *Id* at 9. The stress this causes on Jane  
2 Whipple, who is 82 and the 24/7 caretaker of her disabled son Dalton, will be exponentially  
3 magnified by holding this case in Las Vegas, Nevada. *Id*.

4                   **b.     Kathy Wetzel.**

5           Kathy Wetzel also details the family history, and in particular a historical agreement that she  
6 and her sister, Jane Whipple, would eventually live on the ranch together. Kathy described who the  
7 family members had all agreed they could designate and purchase 20 acres of land off the Whipple  
8 ranch for their own homesteads. Betsy used this provision previously, Cody Whipple is in the process  
9 of doing it for himself, and Kathy Wetzel has her own 20-acre parcel there so she can live out her  
10 golden years with her sister Jane, as they had always planned. *See* Exhibit B - Affidavit of Kathy  
11 Wetzel.  
12

13           Kathy Wetzel is for these reasons a witness in this case (as well as a defendant). Kathy is 84  
14 years old. *Id* at 5. She lives on a fixed budget from Social Security and has invested her entire life  
15 savings into relocating to the ranch. She has had a recent hospitalization and the stress from this case  
16 has impacted the state of her health. *Id*. She is now on medication for anxiety and panic attacks due  
17 to this level of stress. *Id*. In May 2020 she was hospitalized with acute hepatic failure and chronic  
18 illnesses and she is currently under a doctor's supervise care. *Id* at 6. Due to her age, during the  
19 COVID-19 pandemic, she has been self-isolating and only traveling to Las Vegas when necessary  
20 for medical appointments or treatment. *Id*. She affirms that she can manage travel to Pioche for a  
21 potential trial in this case, but Las Vegas is too difficult due to increased stress from traffic, parking,  
22 crowds, and other matters which threaten her health. *Id*.  
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1                   c.     Oscar Hereda.

2             The defense expects to call Oscar Hereda as a witness in this case. Mr. Hereda works part  
3 time on the Whipple Ranch, with the Whipple Cattle Company, for eight (8) years, in Lincoln  
4 County. Mr. Hereda has material testimony to provide in this dispute, including pertaining to his  
5 interactions with Betsy Whipple, Betsy Whipple's attitude towards the Whipple Ranch, the fact  
6 that she believes the ranch is "her" ranch, and other relevant facts. *See* Exhibit C. Furthermore,  
7 Mr. Hereda can testify as to the usage of the "7V" cattle brand which is an issue raised by Betsy  
8 in her Complaint. *Id.*

9             Mr. Hereda lives in Ash Springs, Nevada which is closer to the Lincoln County courthouse  
10 than Las Vegas. *Id.* Mr. Hereda indicates he would experience extreme hardship if forced to testify  
11 in Clark County due to the fact he is self-employed full, time in Lincoln county and much of his  
12 income is derived from being available in Lincoln County for drop-in clients, which he would be  
13 unavailable for if forced to travel back-and-forth to Las Vegas for potential court testimony. *Id.*

14                   d.     Vaughn Higbee

15             The defense expects to call Vaughn Higbee at trial. Mr. Higbee lives in Lincoln County  
16 and is a retired school teacher after 31 years in the Pahrnagat Valley School District. *See* Exhibit  
17 D at 2. As a teacher he taught Bret Whipple, Betsy Whipple, and Kirt Whipple. *Id.* Furthermore,  
18 as a brancher, he shares BLM grazing permits with the Whipple family and has, on several  
19 occasions, gathered cattle on the open range with the Whipple family. *Id.* On multiple occasions  
20 he has spoken with Whipple Family member's including Jane Whipple, Bret Whipple, Betsy  
21 Whipple, Kirt Whipple, and Cody Whipple. Mr. Higbee has attempted in intervene in the family  
22 lawsuit and prevent future family litigation that he fears will tear the family apart.  
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1 Mr. Higbee is 73 years old and lives in Alamo, Nevada, which is located closer to the  
2 Lincoln County Courthouse than it is to Las Vegas. *Id* at 3. Mr. Higbee affirms that it will be an  
3 extreme hardship to be forced to testify in Clark County, due to his age, and due to the fact that in  
4 July 2019 he suffered a heart attack which left him disabled with “a reduced use of [his] heart.”  
5 *Id.* Because of this disability, Mr. Higbee has not traveled to Las Vegas since his heart attack as  
6 he is fearful and that stress caused by traveling to Vegas could end his life. *Id.*

7  
8 e. Mike Wadsworth.

9 Another witness, Mike Wadsworth, is an expert as it pertains to cattle and specifically managed  
10 the Whipple ranch cattle herd for 3 years, from 2005 through 2018. He would testify about the 7V  
11 brand which is the subject of this lawsuit. *See* Exhibit E – Affidavit of Mike Wadsworth. He is 68 years  
12 of age and has not traveled to Las Vegas for four years. *Id.* He affirms he will not travel to Las Vegas  
13 for trial but will testify in Lincoln County if permitted. *Id.*

14  
15 f. Gary Wade.

16 Gary Wade is a material witness in this case. *See* Exhibit F – Affidavit of Gary Wade. He  
17 has lived in Lincoln County for 35 years. *Id.* He will provide testimony about the “7V” brand  
18 which is at issue in this case. *Id.* He inspected Whipple Ranch cattle for approximately ten (10)  
19 years. *Id.* He will testify that it is common and custom for a family brand to be used by multiple  
20 family members. *Id.* He will testify that he has confirmed via WCC minutes that the 7V ranch  
21 brand used in this instance is consistent with custom and practice. *Id.* He is employed as a brand  
22 inspector and Water Commissioner for Ash Springs, Nevada. It would be extreme hardship due to  
23 his age and local employment to be forced to travel to Las Vegas to testify. *Id.*

1                   g.     **Leonard Smith**

2             Leonard Smith is a surveyor in Lincoln County. *See* Exhibit G – Affidavit of Leonard  
3     Smith. He was the surveyor of the ranch known as the Whipple Cattle Company ranch. *Id.* He was  
4     also the surveyor who surveyed acres for Betsy Whipple's residence. *Id.* He is as such a material  
5     witness in regards to Betsy's claims. Mr. Smith is 95 years old. Due to his age, travel to Las Vegas  
6     would be an extreme hardship. *Id.* at 3.

7  
8                   h.     **Greg Rivero.**

9             Greg Rivero is also a Lincoln County surveyor that surveyed land at Whipple Ranch. *See*  
10    Exhibit H. He has personal knowledge of past uses of the 20 acre parcels at issue in this case for  
11    various members of the Whipple family, including Betsy Whipple, Cody Whipple, and Kathy  
12    Wetzel. *Id.* at 2.

13  
14            Mr. Rivero lives in White Pine county, which is significantly closer to Pioche, Nevada than  
15    it is to Las Vegas, Nevada. *Id.* It would be 250 miles for Mr. Rivero to travel to Las Vegas, Nevada  
16    to testify. As such due to this fact, it would be an extreme hardship for him to testify in Las Vegas,  
17    Nevada. *Id.*

18  
19            **III.    Legal Argument.**

20            **A.     Standard for Reconsideration.**

21            A district court may reconsider a previously decided issue if substantially different  
22    evidence is subsequently introduced or the decision is clearly erroneous. *See Little Earth of*  
23    *United Tribes v. Department of Housing*, 807 F.2d 1433, 1441 (8th Cir. 1986); *see also Moore*  
24    *v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances  
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1 in which *new issues of fact or law* are raised supporting a ruling contrary to the ruling already  
2 reached should a motion for rehearing be granted.")

3 This Court felt that it had previously erred and was required to reverse course on whether  
4 to grant the order to change venue primarily because of *Mountain View Recreation, Inc. v.*  
5 *Imperial Commercial Cooking Equip. Co.*, 305 P.3d 881 (Nev. 2013).  
6

7 In *Mountain View*, the District Court initially granted a motion to change venue upon two  
8 grounds. First, it found that the courtroom facilities in the initial venue were inadequate. *Id* at  
9 886. Second, the Court relied upon *forum non conveniens*. *Id* at 886-887.

10 On appeal, the Supreme Court of Nevada reversed, finding that the Court only "made  
11 generalized statements regarding the existing courtroom facilities and rejected out of hand the  
12 feasibility of alternative facilities in Pahrump" and, on the second issue, that:

13 "affidavits in support of a *forum non conveniens* motion must be carefully  
14 examined to determine the existence of the factors mentioned above. The  
15 moving party may not rely on general allegations concerning inconvenience,  
16 a view of the premises, or hardship. A specific factual showing must be  
17 made. [...] The record before us in the present case reveals that defendant is a  
18 Nevada corporation. Defendant's *forum non conveniens* motion was similar to  
the insufficient showing made in *Swisco*.

19 There was no information given as to the number of witnesses, the substance of  
20 testimony, or the necessity for their presence. There was no showing as to why  
21 a view of the properties in Montana might be necessary. Nothing was shown  
22 with reference to hardship in bringing documentary evidence to Nevada, or as  
23 to why testimony could not be presented in depositions. Overall, defendant made  
no factual showing whatsoever upon which a *forum non conveniens* dismissal  
could be supported. The motion to dismiss should not have been granted  
on *forum non conveniens* grounds." *Id*.

24 The *Mountain View* court was itself relying upon two prior decisions for guidance, one  
25 being *Eaton v. District Court*. In that case, the Supreme Court held that: "[i]n balancing these  
26 factors [forum choice vs. convenience], the mere fact that another court is more convenient for one  
27

1 party is not sufficient to justify a dismissal. A plaintiff may be denied his choice of forum only in  
2 exceptional circumstances when the factors weigh strongly in favor of another forum.” The  
3 Court went to observe that movant must meet this burden by more than “general allegations  
4 concerning convenience, a view of the premises, or hardship,” and that a “specific factual showing  
5 must be made.” *Id.*  
6

7 Applying these standards to the facts of Eaton, the court held that: “The record before us  
8 in the present case reveals that defendant is a Nevada corporation. Defendant's *forum non*  
9 *conveniens* motion was similar to the insufficient showing made in *Swisco*. There was no  
10 information given as to the number of witnesses, the substance of testimony, or the necessity for  
11 their presence. There was no showing as to why a view of the properties in Montana might be  
12 necessary. Nothing was shown with reference to hardship in bringing documentary evidence to  
13 Nevada, or as to why testimony could not be presented in depositions. Overall, defendant made no  
14 factual showing whatsoever upon which a *forum non conveniens* dismissal could be supported.  
15 The motion to dismiss should not have been granted on *forum non conveniens* grounds.” *Eaton v.*  
16 *District Court*, 96 Nev. 773, 774-75 (Nev. 1980).  
17  
18

19 As such a change of venue may still be established where affidavits show the number of  
20 witnesses, the substance of their testimony, the necessity for their presence, and specific  
21 explanations of their hardship (rather than general conclusory statements).  
22

23 a. **Substantially Different Evidence Warrants Reconsideration**

24 Here, reconsideration is based primarily upon substantially different evidence which  
25 requires reconsideration. This new evidence, which provides substance with more specifics and  
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1 factual details, addresses the Court's finding that the previously-submitted declarations were  
2 insufficiently detailed to meet the requirements of *Mountain View*.

3 Specifically, these declarations provide sufficient factual information to make findings  
4 about the ends of justice, about the convenience of the witnesses, about the materiality of witness  
5 testimony, and about witness hardship. Most importantly, the advanced age and health of  
6 numerous witnesses is at issue. Two defendant witnesses, Jane Whipple and Kathy Wetzel, are 82  
7 and 83 years old respectively. Jane and Kathy have provided information about their medical  
8 conditions which impact their ability to travel. Another central witness in this case is 95 years old.  
9 Several other witnesses are beyond 60 years of age.  
10

11 As this Court is aware, COVID-19 is significantly more dangerous for elderly people than  
12 any other age group. COVID-19 mortality rate is **more than 62 times higher** for people over the  
13 age of 65 compared to people ages 54 years or younger.<sup>2</sup> While travel over distances in a car is  
14 safer than air travel, greater distances requiring more frequent stops increases the risk of COVID-  
15 19 transmission.<sup>3</sup> Pursuant to CDC's statistics, Clark County has most recently had a 7 day total  
16 of 253.6 COVID-19 cases per 100,000 residents.<sup>4</sup> Lincoln County has had less than 10 total cases  
17 during that same period.<sup>5</sup>  
18  
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22 <sup>2</sup> **COVID-19 mortality risk for older men and** woman BMC Public Health 20, Article number:  
23 1742 (2020) retrieved from <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-020-09826-8>

24 <sup>3</sup> "10 ways to avoid Covid-19 during your holiday road trip" published by CNN retrieved via  
25 <https://www.cnn.com/travel/article/covid-road-trip-holidays-wellness/index.html>

26 <sup>4</sup> Exhibit I – retrieved via <https://covid.cdc.gov/covid-data-tracker/#county-view>

27 <sup>5</sup> Exhibit J – retrieved via <https://covid.cdc.gov/covid-data-tracker/#county-view>  
28



1 Given the age and health problems suffered by these witnesses, especially in light of the  
2 COVID-19 pandemic, convenience and hardship justify changing venue to the more local county,  
3 which is Lincoln County.

4 Likewise, as discussed above, Jane Whipple is the primary caretaker of her permanently  
5 disabled son, Dalton Whipple. Dalton is severely intellectually impaired and has numerous other  
6 health conditions, as detailed by Jane in her affidavit. Beyond hardship for Jane's own health and  
7 age, hearing this case in Clark County will place an extreme burden on Jane in her capacity as  
8 primary caretaker for Dalton. See Exhibit K for more information.

9 In addition to these health and age issues, each witness identified by the defense resides  
10 closer to Lincoln County's courthouse than to Las Vegas, and as such convenience indicates that  
11 Lincoln County would reduce the burden on these witnesses. The defense anticipates discovering  
12 and presenting additional witnesses, where those witnesses are also more local to Lincoln County.  
13 This is because the corporation, the land, and all the relevant government officials, are not located  
14 in Clark County, Nevada. For example, in attempting to get a business loan which Betsy Whipple  
15 obstructed, the Defendants worked with an official from White Pine County, and although she has  
16 not submitted an affidavit at this time, she is expected to be a witness.

17 In sum, there will be far greater hardship for witnesses, and for the parties, if the trial takes  
18 place in Las Vegas rather than in Lincoln County. The most extreme hardship would be felt by 82-  
19 year-old Jane Whipple because of her need to care for Dalton Whipple. This problem can be  
20 remedied by changing venue to Lincoln County.

21 There are several additional reasons, beyond witness convenience and hardship, which  
22 justify change of venue. The Defendants will need to have the finder of fact inspect the premises  
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1 as they relate to the numerous causes of actions and counter-claims which center on the use (or  
2 alleged misuse) of real property located in Lincoln County. Second, witnesses will be more easily  
3 secured in Lincoln County, not only for their own convenience but that so a full presentation of  
4 facts is more readily accessible to the Court. Third, any judgment resulting from this case  
5 pertaining to real property located in Lincoln County is more directly enforceable via a court order  
6 from a court of that venue. If a judgment impacts the real property in this case, it should be issued  
7 by the Seventh Judicial District Court to ensure easier enforceability in that county.  
8

9 For all of these reasons, venue should be changed to Lincoln County based upon a  
10 reconsideration of this Court's order for substantially different evidence.  
11

12 **b. Clear Error.**

13 The Court also committed clear error based upon the existing record in one aspect of this  
14 Order. The Court found that: "This action is a business dispute specifically relating to the rights  
15 and interests of Plaintiff with regard to WCC, a corporation, versus a dispute over the real property  
16 owned by WCC located in Lincoln County, Nevada. Therefore, the grounds set forth in NRS  
17 13.010 do not apply. Instead, NRS 13.040 applies." *See* Order at 3-4.  
18

19 The Court is correct that this suit would resolve the rights and interests of Plaintiff with  
20 respect to WCC, but ultimately her rights and interests in WCC are about her rights and interests,  
21 personally, in the real property located in Lincoln County. The Complaint itself references  
22 numerous issues of potential trespass and conversion of real property, such as Kathy Wetzel's  
23 rights to live on the property, Cody Whipple's rights to build a cabin on the property, and Betsy  
24 Whipple herself has complained of being trespassed on the property.  
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1 Betsy Whipple has previously testified that her frustration comes from the fact she believes  
2 this is "her" ranch, as other witnesses mentioned above will testify to. Betsy Whipple ultimately  
3 has designs on partitioning the ranch, which is why she has sued the family several times and  
4 continues to manufacture these controversies, despite the fact that this portioning is against the  
5 wishes of Jane Whipple (and her deceased husband, Kent Whipple) and the other members of the  
6 Whipple family (including 60% of the shareholders in WCC, plus potentially Peggy Whipple,  
7 whose rights as a shareholder are yet to be determined in a separate lawsuit between Peggy and  
8 Betsy).

10 In sum, despite this being a case involving claims of rights of the shareholders in WCC,  
11 the actual *content and substance* of those disputed rights are which individuals or group of  
12 individuals have the right to determine what happens to particular pieces of real property. NRS  
13 13.010 states that actions "shall be tried in the county which is the subject of the action, or some  
14 part thereof, is situated, subject to the power of the court to change the place of trial as provided  
15 in this chapter." The statute goes on to identify the relevant types of actions as those being "for the  
16 recovery of real property, or an estate, or interest therein, or for determination in any form of such  
17 right or interest, and for injuries to real property" as well as actions "for the partition of real  
18 property."

21 There is no exception within NRS 13.010 where the resolution of these rights in real  
22 property, or to partition real property, no longer require local jurisdiction *if the rights pertain to a*  
23 *corporation*. The fact that this case involves corporate law as a prerequisite to resolving disputed  
24 claims over "any form of such right or interest" in real property, "injuries to real property," and  
25  
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1 "the partition of real property," does not mean that NRS 13.010<sup>6</sup> does not apply. The statute is  
2 non-discretionary, and so long as this case contains actions aimed at resolving these property-  
3 related interests, the action *must* be tried in Lincoln county.

4 To the extent this Court has now found that this is not a dispute within the scope of NRS  
5 13.010, or that because this is a corporate business case NRS 13.010 somehow does not apply,  
6 such findings of fact and/or law are clearly erroneous and warrant reconsideration.  
7

8  
9 **CONCLUSION**

10 For these reasons, Defendants collectively ask this Court to grant this Motion reconsidering  
11 the Order denying change of venue.  
12

13 DATED this 5<sup>th</sup> day of February, 2021.

14 **JUSTICE LAW CENTER**

15 /s/ Bret O. Whipple, Esq.  
16 Bret O. Whipple, Esq.  
17 Nevada Bar No. 6168  
18

19  
20 <sup>6</sup> "2. Actions for the following causes shall be tried in the county in which the subject of the  
21 action, or some part thereof, is situated, subject to the power of the court to change the place of  
22 trial as provided in this chapter

23 (a) For the recovery of real property, or an estate, or interest therein, or for the determination in  
24 any form of such right or interest, and for injuries to real property.

25 (b) For the partition of real property." NRS 13.010(2).  
26  
27  
28

**CERTIFICATION OF SERVICE**

I hereby certify that I am an employee of Justice Law Center and that on this day I caused a true and correct copy of the foregoing document, MOTION TO RECONSIDER ORDER DENYING MOTION TO CHANGE VENUE, to be served upon the following, via e-mail, TO ALL PARTIES registered to receive service in this action.

Dated this 5<sup>th</sup> day of February, 2021.

/S/ Michael Mee  
An Employee of Justice Law Center

# EXHIBIT A

**AFFT**  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, an individual and as ) Case No.: A-19-790929-C  
majority shareholder of WHIPPLE CATTLE )  
COMPANY, INC., a Nevada Corporation, ) Dept. No.: 14  
Plaintiff, )  
vs. )  
BRET O. WHIPPLE, individually and as )  
President and Director of WHIPPLE )  
CATTLE COMPANY, INC., a Nevada )  
Corporation; CODY K. WHIPPLE, )  
individually and as a Treasurer of WHIPPLE )  
CATTLE COMPANY, INC. a Nevada )  
Corporation; KIRT R. WHIPPLE, )  
individually and as Secretary of WHIPPLE )  
CATTLE COMPANY, INC., a Nevada )  
Corporation; JANE E. WHIPPLE, trustee of )  
JANE WHIPPLE FAMILY TRUST and as )  
managing member of KENT WHIPPLE )  
RANCH, LLC; JANE WHIPPLE FAMILY )  
TRUST; KENT WHIPPLE RANCH LLC.; )  
KATHRYN WETZEL, individually, )  
WHIPPLE CATTLE COMPANY, INC., a )  
Nevada Corporation; DOE INDIVIDUALS 1 )  
through X; and ROE CORPORATIONS 1 )  
through X, )  
Defendants. )

**AFFIDAVIT OF JANE WHIPPLE**

STATE OF NEVADA )  
COUNTY OF LINCOLN ) ss:

1 I, JANE WHIPPLE, being first duly sworn, deposes and says:

- 2 1. That I am a defendant in the above entitled action, that I am over the age of 18 years of  
3 age and am competent to testify, and testify as follows:

4 EARLY LIFE

- 5 2. That I was born in Long Beach, California on July 3, 1938.  
6  
7 3. That I am the second of three (3) children namely my older sister Kathryn Wetzel and  
8 my younger brother William Randall Jr.  
9  
10 4. That as a child, I always dreamed of living on a farm or ranch.  
11  
12 5. That with this dream in mind, in 1957, I enrolled as a freshman at California  
13 Polytechnic State University in San Luis Obispo, California..  
14  
15 6. That I graduated from Cal Poly, in 1960, with a Bachelor of Science degree in  
16 Education.  
17  
18 7. That during my time at Cal Poly, I met my future husband, Kent Whipple.

19 CAREER

- 20 8. That in August 1960, I married Kent Whipple  
21  
22 9. That I began my teaching career in Bakersfield, California in 1960 teaching in an  
23 elementary school.  
24  
25 10. That in 1961, Kent and I moved to Pahrnagat Valley, Nevada to live on my  
26 husband's family ranch in Hiko, NV..  
27  
28 11. My first teaching job in Nevada was in the fall of 1961, teaching first and second  
grade at the Pahrnagat Valley Elementary School.  
12. That I retired from teaching at the Pahrnagat Valley Elementary School in 2004,  
finishing my career as a Kindergarter teacher.



MOTHERHOOD

13. That I have five children with Kent Whipple; Bret Whipple born in 1963, Betsy Whipple born in 1965, Kirt (Blu) Whipple born in 1968, Peggy Whipple born in 1970, and Cody Whipple born in 1974.

14. That my husband Kent Whipple, after a year of fighting cancer, died in February 1977, as an original downwind victim of the Nevada Test Site.

15. That after Kent's death, I was encouraged by my family to return to California, where I would have their support.

16. That I chose to remain in Hiko, Nevada, and raise the children on our family ranch.

17. That in 1980, I married Daryl Bradshaw, recently widowed with four young children who were brought into my family of five children.

18. That Daryl Bradshaw was verbally and physically abusive to me, during our marriage.

19. That in 1983, I separated from Daryl Bradshaw and in 1984, Dalton Bradshaw hereinafter Dalton Whipple was born. I was divorced from Daryl Bradshaw shortly after Dalton's birth.

20. That Dalton Bradshaw Whipple was born with multiple heart issues, and an eating disorder. Dalton was eventually diagnosed with the Prader-Willi Syndrome. Dalton's IQ is un-testable, and he will forever need 24/7 care. Since birth, as a single parent, Dalton's basic daily care has been handled solely by me. Dalton can only be left on his own for about an hour without supervision. Today Dalton is approximately four (4) foot, ten (10) inches tall and his weight varies around two hundred and twenty (220) pounds. Due to Dalton's eating disorder, all locations where food can be stored must be physically locked and closely monitored. Due to the Prader-Willi Syndrome, if Dalton were to come into contact with a large amount of food, he could eat himself

1 to death in a short period of time.

2 21. That since Dalton was five (5) years old, I have traveled every Monday more than one  
3 hundred twenty five (125) miles (one way) to Las Vegas Nevada, for approximately  
4 six (6) hours so that Dalton can attend one-on-one language instruction.

5 22. That my son Dalton is a Special Needs child, and the heart of my soul. Dalton's health  
6 and well being has been a constant priority for me for the last thirty-seven (37) years.

7  
8 WHIPPLE RANCH

9 23. That I purchased the Whipple Ranch in 1963 with my husband Kent Whipple. That  
10 today, I still reside in the original family home that I moved into in 1963. That our  
11 original ranch purchase was approximately three hundred (300) acres. That when  
12 Kent died in 1977, the Whipple Ranch was five hundred (500) acres.

13 24. That Kent and I registered the family cattle brand of 7V, and continue to use it to this  
14 day.

15 25. When Kent died, we also had a large family range where we ran approximately five  
16 hundred (500) cattle on public rangeland.

17 26. That during the 15 years Kent and I worked together on the ranch, there were times  
18 when I stopped teaching school full time, and worked part time, so that I could spend  
19 more time with my husband and our children.

20 27. That after Kent died, I had an extremely challenging time, keeping the ranch together,  
21 and providing for my five (5) children. Eventually, I returned to my full time job as an  
22 elementary teacher to create more monthly cash flow and continue funding for my  
23 children's future college educations..

24 28. Despite my best efforts, due to cash flow issues, in approximately 1984 I had to sell  
25 the majority of our cattle herd and the public rangeland where we ran the majority of  
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1           our cattle herd. After the sale of the public rangeland, the Whipple Ranch only ran  
2           approximately fifty (50) mother cows.

3           29. That before Kent died, as a young couple, Kent and I had a goal to own a family ranch  
4           where our children and grandchildren would have the heritage of a Nevada rancher;  
5           and although their father was not here to watch that process, that goal was realized as  
6           "all" of our children have been heavily involved with agriculture and livestock.  
7

8           30. As a teacher, education has "also" been very important to me. I am proud to say that  
9           every one of my children is a college graduate, even though I often borrowed money  
10          against the family ranch, such that all of my children could attend college.  
11

12          31. In 1993, the adjoining 1,050 ranch became available for purchase. My eldest son,  
13          Bret Whipple, had contacted the owner of the ranch while he was in High School  
14          (1979) and eventually put together the purchase of this adjoining ranch.

15          32. With the purchase of the adjoining ranch, the existing Whipple Ranch became much  
16          more economically feasible. Today, by consolidating the two ranches, the Whipple  
17          Ranch run's approximately three hundred and fifty (350) mother cows.

18          33. The purchase of the adjoining 1,050 acres was a "new start" for our family. As a  
19          family we worked together to make the financing possible, and to make the day to day  
20          operations function positively as an ongoing business.  
21

22          34. My eldest son, Bret Whipple led the way, so that each of my children could share in  
23          the ranch equally. Together, as a family we created the Whipple Cattle Company,  
24          Inc., with a total of 1,000 shares. Originally each of my five (5) children were to have  
25          100 shares, and I would hold the remaining 500 shares. While I used my original 500  
26          acre Whipple Ranch as a mortgage for the purchase, my children all agreed that each  
27          of the children would pay \$500 per month for their respective share.  
28

1 35. It was my dream that this consolidated Whipple Ranch of approximately 1,500 acres  
2 would be a Heritage which would honor my late husband, and also forever provide a  
3 home for my children and grandchildren.  
4

5 GIFT TO MY CHILDREN

6 36. As a business, agriculture can be very challenging. As an industry the percentage  
7 return on assets can, at times, be less than the interest rate required to buy the farm.  
8 In other words, in some years, not enough money was made in order to pay for the  
9 interest required to buy an agricultural business. As a consequence agriculture  
10 businesses often report a loss.

11 37. Eventually, for tax purposes, it made sense for me to transfer my half interest (500  
12 shares) in the Whipple Ranch to my children. At this point, most if not all of my  
13 children were earning income and any loss from the Whipple Ranch would be much  
14 more beneficial to them, than it would to me as a retired school teacher.  
15

16 38. I had a number of discussions with my children, expressing my desire to help them  
17 financially, and also explaining that in my opinion, my gifted shares were to be held as  
18 a legacy for my grandchildren. I also verbally requested that I have a final say in any  
19 matters related to the shares.  
20

21 BETSY WHIPPLE

22 39. I have different relationships with all of my children; however, I love every one of  
23 them, equally.

24 40. This is the second time that my daughter Betsy Whipple has sued me and the family.

25 41. Betsy Whipple has never gotten over the fact that I ever married again; and to this day,  
26 Betsy continually raises the issue that I married a man that verbally and physically  
27 abused me.  
28

1 42. To a degree, I understand my daughter's resentment. The time after Kent's death was  
2 truly the most challenging time in my life. I never expected my life partner to die at  
3 38 years of age. However, life does go on!

4  
5 43. Following Kent's death, I supported each of my children to the best of my ability. For  
6 Betsy, rodeo was her dream. Throughout High School, I always provided Betsy with a  
7 horse a truck and trailer to compete at various rodeos throughout the state. In college,  
8 I again provided Betsy with a horse, a truck and a trailer so that she could continue to  
9 rodeo at a higher level. Betsy's college path required tuition for four (4) colleges and  
10 (7) years. The ranch and I provided and supported her, the entire time.

11 BETSY WHIPPLE ALLEGATIONS

12 44. Attached is a list of allegations that Betsy Whipple recently made. (See Exhibit "A")

13  
14 45. Until 2006, I managed the River Ranch (See line 23): The consolidated Whipple  
15 Ranchs have always been managed as a family. The Whipple Ranch is run through  
16 annual meetings, where the agenda is provided in advance, and the family votes.  
17 Unfortunately, Betsy Whipple has simply chosen not to attend our posted family  
18 meetings. An example is the 2019 annual meeting that was held on Christmas day.  
19 Christmas day has often been a time for the annual meetings, because as a family we  
20 are normally together. In 2019, Betsy simply refused to attend the meeting, even  
21 though she was walking distance from the meeting. Had Betsy attended, many of the  
22 items she is now suing me on, were addressed and resolved.

23  
24 46. That although we meet (at least) annually in a formal meeting, over the years I have  
25 met with Betsy individually and personally, in an attempt to resolve her issues with the  
26 family. Betsy has personally stated to me several times, that she doesn't show up to  
27 the family meetings, because "she wants nothing to do with the ranch."  
28

LOCATION OF THE TRIAL

47. I am eighty-two (82) years old.

48. Today, Dalton Whipple's health, needs, and well being remains my first priority.

49. Today, however, it is increasingly difficult to drive at night. I still take Dalton every Monday to his Language appointments, for a six (6) hour round trip to help Dalton with his speech, leaving and returning in the light of the day. However, now, after these weekly trips, I require a full day of rest, just to be able to work with Dalton the remainder of the week.

50. I can not attend trial in Las Vegas due to the fact that I have "no" help with Dalton and simply cannot be away from him for more then an hour or two at a time. A trial in Pioche, closer to Hiko, is feasible, because I can leave Dalton in the car, outside the Courthouse and periodically check on him. This would be impossible in Las Vegas. In Pioche, I could drive home and be back in the comfort of our home with Dalton in a short period of time, without the stress of traffic and the demands of life in Las Vegas, Nevada.

51. My personal support staff is located in Lincoln County, Nevada. I have personal friends here in Lincoln County that would also assist me in a multi week trial.

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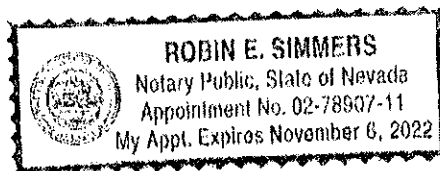
1 52. Today, the family is exhausted from Betsy's constant complaints, lawsuits and  
2 unhappiness. Betsy Whipple in her statements and actions toward me, has been very  
3 disrespectful and very paranoid in her thinking and behavior.

4 FURTHER, YOUR AFFIANT SAYETH NAUGHT.

5  
6   
JANE WHIPPLE

7  
8 SUBSCRIBED and SWORN to before me  
on this 25 day of January, 2021.

9   
10 NOTARY PUBLIC in and for said  
County and State











# EXHIBIT B

1 **AFFT**

2 BRET O. WHIPPLE, ESQ.

3 Nevada State Bar No. 6168

4 C. BENJAMIN SCROGGINS, ESQ.

5 Nevada State Bar No. 7902

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10 admin@justice-law-center.com

11 *Attorneys for Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 BETSY L. WHIPPLE, an individual and as ) Case No.: A-19-790929-C  
11 majority shareholder of WHIPPLE CATTLE )  
12 COMPANY, INC., a Nevada Corporation, ) Dept. No.: 14

12 Plaintiff,

13 vs.

14 BRET O. WHIPPLE, individually and as )  
15 President and Director of WHIPPLE )  
16 CATTLE COMPANY, INC., a Nevada )  
17 Corporation; CODY K. WHIPPLE, )  
18 individually and as a Treasurer of WHIPPLE )  
19 CATTLE COMPANY, INC. a Nevada )  
20 Corporation; KIRT R. WHIPPLE, )  
21 individually and as Secretary of WHIPPLE )  
22 CATTLE COMPANY, INC., a Nevada )  
23 Corporation; JANE E. WHIPPLE, trustee of )  
24 JANE WHIPPLE FAMILY TRUST and as )  
25 managing member of KENT WHIPPLE )  
26 RANCH, LLC; JANE WHIPPLE FAMILY )  
27 TRUST; KENT WHIPPLE RANCH LLC; )  
28 KATHRYN WETZEL, individually, )  
WHIPPLE CATTLE COMPANY, INC., a )  
Nevada Corporation; DOE INDIVIDUALS )  
through X; and ROE CORPORATIONS )  
through X, )

24 Defendants. )

25 **AFFIDAVIT OF KATHRYN WETZEL**

26 STATE OF NEVADA )  
27 ) ss:  
28 COUNTY OF LINCOLN )



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I, KATHRYN WETZEL, being first duly sworn, deposes and says:

1. That I am a defendant in the above entitled action, that I am over the age of 18 years of age and competent to testify, and anticipate testifying as follows:
2. That I was born in Long Beach, California on December 9, 1936.
3. That I am the eldest of three (3) children namely my younger sister Jane Whipple and my younger brother William Randall Jr.
4. That I was raised in Southern California with my siblings; and in 1962 helped my sister Jane Whipple move onto a ranch in Lincoln County Nevada, eventually moving into the home in which she continues to reside today. The Ranch Jane Whipple moved onto, eventually became known as the Kent Whipple Ranch, or simply the Whipple Ranch. Over time, the Whipple Ranch grew to five hundred (500) acres.
5. That over the last sixty (60) years, I have remained "very close" to my only sister, and consider her my closest friend.
6. That I am the mother of five (5) children.
7. That Jane Whipple is the mother of (6) children, five of the children are the biological children of Kent Whipple. Jane Whipple's youngest child Dalton Whipple (age 37) is learning-disabled (Prador-Willy syndrome) and the biological child of Daryl Bradshaw.
8. That, due to the fact that my sister Jane Whipple and I have always maintained a close, relationship my children and Jane Whipple's children were raised together; and over the years some of my children actually lived on the Whipple Ranch in Jane Whipple's household with her children.
9. That amongst our two (2) families, it was common knowledge and often discussed that the Randall sister's (Jane Whipple and Kathryn Wetzel) would spend their golden years, together, on the ranch.

- 1 10. That in February 1977, Kent Whipple passed away as one of the original downwind  
2 victims of the Nevada Test Site.
- 3 11. That in 1980, I was present when Jane Whipple married widower, Daryl Bradshaw, who  
4 brought four young children to the marriage.
- 5 12. That my sister's marriage to Daryl Bradshaw lasted only a few years, as Daryl Bradshaw  
6 was verbally and physically abusive to my sister Jane Whipple. I personally observed  
7 some of the abuse suffered by Jane Whipple and her family.
- 8 13. That after Jane Whipple was divorced from Daryl Bradshaw, I personally spent time  
9 with my sister's children in an attempt to help them work through various issues within  
10 the family resulting from that abusive relationship.
- 11 14. That in the early 1990's my nephew Bret Whipple purchased the adjoining ranch.
- 12 15. This adjoining ranch was approximately 1.050 acres.
- 13 16. Originally, the 1,050 acres was owned 50% by the Jane Whipple family in a corporation  
14 known as the Whipple Cattle Company, Inc., and the second 50% was owned by my  
15 brother William Randall and his partner.
- 16 17. After several years, including an "action in partition" the Whipple Cattle Company, Inc.,  
17 purchased the remaining 50% from my brother and his partner, such that the Whipple  
18 Cattle Company, Inc., owned the full 1,050 acres.
- 19 18. That I have always considered myself close to all of Jane Whipple's children.
- 20 19. That in approximately 2000 Betsy Whipple purchased the 20 acre homestead located on  
21 the 1.050 acres.
- 22 20. That prior to 2014, when I visited my sister Jane Whipple, I would often stay with Betsy  
23 Whipple in her home; and because I was very fond of Betsy it was always my intention  
24 to stay neutral during those visits and perhaps glean the background as to why she had  
25  
26  
27  
28

1 so much hostility toward her mother, my sister; and perhaps in some way, contribute to a  
2 family healing.

3 21. That during my visits with Betsy, she often expressed her anger toward the family and  
4 more specifically toward her mother who she felt was a "very weak woman"

5 22. At the time, I reasoned that Betsy's anger toward her mother was related to the abuse  
6 she observed her mother suffer during her marriage to Daryl Bradshaw.

7 23. That in my private discussions with Betsy Whipple, she often stated, and I observed that  
8 her animosity regarding the Whipple Ranch was solely a family issue that had been  
9 building for years.

10 24. That ultimately, the tone and rhetoric of Betsy's complaints against her family have  
11 escalated to the point where she is thoughtlessly committed to her own misguided  
12 allegations, a "victim" of her own irresponsible narrative. It is this same victim rationale  
13 that Betsy has relentlessly and destructively pursued against her entire family for years.

14 25. Further, Betsy also implied, in so many words, that she would destroy her brothers in the  
15 process.

16 26. Further, I realize that victim justification is a pattern which includes multiple lawsuits  
17 from Betsy against former employers. It is my understanding that Betsy sued three (3)  
18 former employers.

19 27. My relationship with Betsy came to an end when she fraudulently retained monies from  
20 my oldest son Tom Wetzel who was forced to sue Betsy in Idaho and Lincoln County  
21 Nevada, to have those monies returned.

22 28. Two years ago, my daughter sold her home where I was living, and my sister, Jane  
23 Whipple suggested that it would be a good time for me to move to the ranch, as we had  
24 always planned; and I was overjoyed when my nephew Cody Whipple picked out a  
25  
26  
27  
28

- 1 beautiful spot for me to install a small mobile home.
- 2
- 3 29. When the 1050 acre ranch was originally purchased, all shareholders agreed that each
- 4 shareholder would have the right to purchase twenty (20) acres of the 1050 acre ranch.
- 5 30. Betsy Whipple was the first of the shareholders to take advantage of this agreement.
- 6 31. Cody Whipple is now in the process of surveying and purchasing his twenty (20) acres.
- 7 32. Surveyor Greg Rivero is in the process of providing a survey and plat map whereby
- 8 Cody can obtain fee simple for his twenty (20) acres.
- 9 33. I have put my entire life savings into infrastructure and a mobile home which is located
- 10 on Cody Whipple's proposed twenty (20) acres.
- 11 34. To summarize my years of knowledge and experience of my niece, Betsy Whipple, for
- 12 what it is worth, I offer the following:
- 13 35. That the addictive "victim personality" has to blame something or someone for the ills in
- 14 their lives to justify their thoughts and beliefs, and until that personality is willing to take
- 15 responsibility for their part in the "stories" they have convinced themselves are true, and
- 16 consider walking in their perceived adversary's shoes for resolution, the victim
- 17 personality is forever stuck from evolving and growing as a whole and healthy human
- 18 being.
- 19 36. That Betsy has an established pattern of using the courts to resolve conflict in her life.
- 20 37. I am currently 84 years old and live on a fixed budget which is approximately \$2,100.00
- 21 per month from Social Security; and after investing my entire savings into relocating to
- 22 the ranch, and "now" being sued by my niece, the unease of what lies ahead for me,
- 23 along with recent hospitalization, has greatly impacted the state of my health.
- 24 38. For the first time in my life, I am on medication for anxiety and panic attacks for which I
- 25 am proactively, and responsibly, addressing.
- 26
- 27
- 28



39. In May 2020, I was hospitalized for toxic poisoning resulting in acute hepatic failure and chronic illnesses; and I'm currently under my doctor's care to rebuild my health.

40. Further, since the beginning of the pandemic, I have been self-isolating in my home in Hiko, Nevada, traveling to Vegas only for doctor, lab and diagnostic testing appointments related to recent hospitalization.

41. The stress of having to travel to Las Vegas, for a trial, being away from my home for any period of time, the pandemic, and managing the stress that comes with traffic, parking, and crowds would adversely challenge all that I have accomplished these past months to regain my health. (Please see letter attached.)

42. Physically, I can "manage" the travel and low key environment of a trial in Pioche, Nevada where there are no issues of traffic, parking, or stress, and be able to return to my home in Hiko, Nevada every evening. Conversely, a trial in Las Vegas would simply be impossible in my current state of health.

43. Emotionally, the state of my health, and Betsy Whipple's lawsuit have greatly impacted my life and well-being. I can't even fathom the thought of being uprooted at this very vulnerable time in my life.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

Kathryn Wetzel  
KATHERYN WETZEL

SUBSCRIBED and SWORN to before me  
on this 25 day of January, 2021.

Robin E. Simmers  
NOTARY PUBLIC in and for said  
County and State





# EXHIBIT C

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**AFFT**  
**BRET O. WHIPPLE, ESQ.**  
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**C. BENJAMIN SCROGGINS, ESQ.**  
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***Attorneys for Defendants***

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**BETSY L. WHIPPLE, an individual and as ) Case No.: A-19-790929-C**  
**majority shareholder of WHIPPLE CATTLE )**  
**COMPANY, INC., a Nevada Corporation, ) Dept. No.: 14**

**Plaintiff,**

**vs.**

**BRET O. WHIPPLE, individually and as )**  
**President and Director of WHIPPLE )**  
**CATTLE COMPANY, INC., a Nevada )**  
**Corporation; CODY K. WHIPPLE, )**  
**individually and as a Treasurer of WHIPPLE )**  
**CATTLE COMPANY, INC. a Nevada )**  
**Corporation; KIRT R. WHIPPLE, )**  
**individually and as Secretary of WHIPPLE )**  
**CATTLE COMPANY, INC., a Nevada )**  
**Corporation; JANE E. WHIPPLE, trustee of )**  
**JANE WHIPPLE FAMILY TRUST and as )**  
**managing member of KENT WHIPPLE )**  
**RANCH, LLC; JANE WHIPPLE FAMILY )**  
**TRUST; KENT WHIPPLE RANCH LLC.; )**  
**KATHRYN WETZEL, individually, )**  
**WHIPPLE CATTLE COMPANY, INC., a )**  
**Nevada Corporation; DOE INDIVIDUALS I )**  
**through X; and ROE CORPORATIONS I )**  
**through X, )**

**Defendants.**

AFFIDAVIT OF OSCAR HEREDA

STATE OF NEVADA        )  
COUNTY OF LINCOLN    ) ss:

I, OSCAR HEREDA, being first sworn, deposes and says:

1. That if I am a designated witness in the action above entitled, I am over the age of 18 years of age and am competent to testify as a witness if called to do so.
2. That I am a resident of Lincoln County Nevada, located at Ash Springs, Nevada.
3. That I am self-employed with a repair shop.
4. That I have resided in Lincoln, Nevada for twelve (12) years.
5. That I work part time on the Whipple Ranch and with the Whipple Cattle Company for eight (8) years.
6. That over eight (8) years, I have come in contact with Betsy Whipple on multiple occasions. That Betsy Whipple has only referred to the Whipple Cattle Company as "her" ranch. That on multiple occasions I have used the river on the Whipple Cattle Company property, but "not" on Betsy Whipple's property that is physically located behind Betsy Whipple residence. That Betsy Whipple has demanded that I have her personal permission to use the river behind her ranch for recreational purposes. That Betsy Whipple has "never" referred to any corporate ownership when discussing the ranch with me.
7. That as a part time employee on the Whipple Cattle Company, I am familiar with the use of the 7V brand.
8. That as a part time employee I am familiar with the use of the family brand and willing to testify accordingly.

JUSTICE LAW CENTER  
1100 South 10th Street, Las Vegas, Nevada 89104  
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1 9. That I am forty-eight years of age.

2 10. That I live in Ash Springs, Nevada, approximately fifteen seventy (70) miles from the  
3 Lincoln County Courthouse. That I am willing to testify in Lincoln County, Nevada.

4 11. That it would be an extreme hardship to testify in Clark County, Nevada.

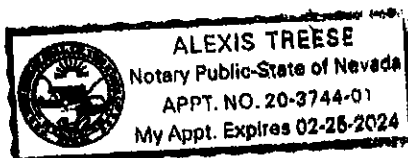
5 12. That the extreme hardship of testifying in Clark County would be due to the fact that I  
6 am self employed, full time here in Lincoln County, and that my income and the income  
7 I provide for my family is derived from being available for drop-in clients, here in  
8 Lincoln County, Nevada.

9  
10 FURTHER, YOUR AFFIANT SAYETH NAUGHT.

11  
12   
13 OSCAR HEREDA

14 SUBSCRIBED and SWORN to before me  
15 on this 18 day of January, 2021.

16   
17 NOTARY PUBLIC in and for said  
18 County and State



# EXHIBIT D

**JUSTICE LAW CENTER**

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**AFFT**  
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Nevada State Bar No. 6168  
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**Attorneys for Defendants**

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, an individual and as )	Case No.: A-19-790929-C
majority shareholder of WHIPPLE CATTLE )	
COMPANY, INC., a Nevada Corporation, )	Dept. No.: 14
Plaintiff,	
vs.	
BRET O. WHIPPLE, individually and as )	
President and Director of WHIPPLE )	
CATTLE COMPANY, INC., a Nevada )	
Corporation; CODY K. WHIPPLE, )	
individually and as a Treasurer of WHIPPLE )	
CATTLE COMPANY, INC. a Nevada )	
Corporation; KIRT R. WHIPPLE, )	
individually and as Secretary of WHIPPLE )	
CATTLE COMPANY, INC., a Nevada )	
Corporation; JANE E. WHIPPLE, trustee of )	
JANE WHIPPLE FAMILY TRUST and as )	
managing member of KENT WHIPPLE )	
RANCH, LLC; JANE WHIPPLE FAMILY )	
TRUST; KENT WHIPPLE RANCH LLC.; )	
KATHRYN WETZEL, individually, )	
WHIPPLE CATTLE COMPANY, INC., a )	
Nevada Corporation; DOE INDIVIDUALS 1 )	
through X; and ROE CORPORATIONS 1 )	
through X,	
Defendants.	



**AFFIDAVIT OF VAUGHN HIGBEE**

STATE OF NEVADA        }  
COUNTY OF LINCOLN    } ss:

I, VAUGHN HIGBEE, being first sworn, deposes and says:

1. That if I am a designated witness in the action above entitled, I am over the age of 18 years of age and am competent to testify as a witness if called to do so.
2. That I am a resident of Lincoln County Nevada, located in Alamo, Nevada.
3. That I am a rancher and retired school teacher of thirty-one (31) years with the Pahrnagat Valley School District.
4. That when I retired from the Pahrnagat Valley School District, I was the Pahrnagat Valley School District Superintendent.
5. That as a teacher I have taught Bret Whipple, Betsy Whipple and Kirt Whipple.
6. That as a rancher, I share common grazing Bureau of Land Management (BLM) grazing permits with the Whipple family. That on multiple occasions I have gathered cattle on the open range with the Whipple family, including Bret Whipple, Betsy Whipple, Kirt Whipple and Cody Whipple.
7. That I am familure with the 7V brand, and can testify with the common useage of family brands.
8. That I am "very" familure with this lawsuit involving the Whipple Family. That on multiple occasions I have spoke with Whipple Family member's including Jane Whipple, Bret Whipple, Betsy Whipple, Kirt Whipple, and Cody Whipple. That I have attempted in intervene in the family lawsuit and prevent future family litigation that I fear will potentially tear the family apart.
9. That this lawsuit has absolutely "nothing" to do with the Whipple Cattle Company,

1 corporation, corporate shares, corporate ownership or corporate governance. That this  
2 lawsuit involving the Whipple Family, is very simply a family matter. That Betsy  
3 Whipple desires to take part of the Whipple Cattle Company land, water and cattle, and  
4 separate herself from the Whipple family. That Jane Whipple as the mother to the  
5 Whipple children desires to keep the Whipple Cattle Company ranch together for a  
6 legacy for the entire family.  
7

8 10. That I am seventy-three (73) years of age.

9 11. That I live in Alamo, Nevada, approximately fifteen seventy (7)5 miles from the Lincoln  
10 County Courthouse. That I am willing to testify in Lincoln County, Nevada.  
11

12 12. That it would be an extreme hardship to testify in Clark County, Nevada.

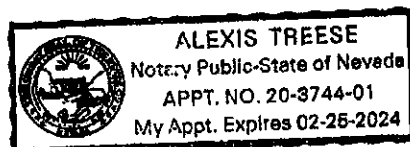
13 13. That the extreme hardship of testifying in Clark County would be due to the fact that I  
14 am seventy-three years of age, and in July of 2019 I suffered a heart attack that has left  
15 me disabled, with three stints in my heart, and with a reduced use of my heart. I have  
16 not traveled to Las Vegas since July of 2019, and simply refuse to travel to Las Vegas  
17 today. The stress and anxiety of traveling to Las Vegas, could simply take my life.  
18

19 FURTHER, YOUR AFFIANT SAYETH NAUGHT.

20   
21 VAUGHN HIGBEE

22 SUBSCRIBED and SWORN to before me  
23 on this 16 day of January, 2021.

24   
25 NOTARY PUBLIC in and for said  
26 County and State





# EXHIBIT E

JUSTICE LAW CENTER

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7 **Attorneys for Defendants**

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **BETSY L. WHIPPLE, an individual and as ) Case No.: A-19-790929-C**  
majority shareholder of WHIPPLE CATTLE )  
11 **COMPANY, INC., a Nevada Corporation, ) Dept. No.: 14**

12 **Plaintiff,**

13 **vs.**

14 **BRET O. WHIPPLE, individually and as )**  
President and Director of WHIPPLE )  
15 **CATTLE COMPANY, INC., a Nevada )**  
Corporation; CODY K. WHIPPLE, )  
16 **individually and as a Treasurer of WHIPPLE )**  
CATTLE COMPANY, INC. a Nevada )  
17 **Corporation; KIRT R. WHIPPLE, )**  
individually and as Secretary of WHIPPLE )  
18 **CATTLE COMPANY, INC., a Nevada )**  
Corporation; JANE E. WHIPPLE, trustee of )  
19 **JANE WHIPPLE FAMILY TRUST and as )**  
managing member of KENT WHIPPLE )  
20 **RANCH, LLC; JANE WHIPPLE FAMILY )**  
TRUST; KENT WHIPPLE RANCH LLC.; )  
21 **KATHRYN WETZEL, individually, )**  
WHIPPLE CATTLE COMPANY, INC., a )  
22 **Nevada Corporation; DOE INDIVIDUALS I )**  
through X; and ROE CORPORATIONS I )  
23 **through X,**

24 **Defendants.**

25 **AFFIDAVIT OF MIKE WADSWORTH**

26 **STATE OF NEVADA )**  
27 **COUNTY OF LINCOLN ) ss:**

JUSTICE LAW CENTER  
1100 South 10th Street, Las Vegas, Nevada 89104  
Phone (702) 731 - 0000 • Fax (702) 974 - 4008

1 I, MIKE WADSWORTH, being first duly sworn, deposes and says:

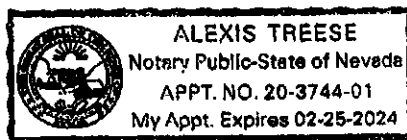
- 2 1. That if I am a designated witness in the action above entitled, I am over the age of 18  
3 years of age and am competent to testify as a witness if called to do so.  
4  
5 2. That I was employed as the herd manager for Whipple Cattle Company, a ranch located  
6 in Lincoln County, Nevada, for approximately thirteen years, from 2005 to 2018  
7  
8 3. That during my tenure as herd manager, all cattle associated with Whipple Cattle  
9 Company, and Whipple Ranch bore the brand of "7V".  
10  
11 4. That I can and will testify as to the customary use of the 7V brand.  
12  
13 5. That I am 68 years old years of age and not been to Las Vegas Nevada for four years.  
14  
15 6. That I live in Lincoln County, approximately fifteen (15) miles from the Lincoln County  
16 Courthouse. That I am willing to testify in Lincoln County, Nevada.  
17  
18 7. That I will not go to Vegas for any circumstance.  
19  
20 8. That I will not travel to Las Vegas, Nevada, to testify in this case.

21 FURTHER, YOUR AFFIANT SAYETH NAUGHT.

22   
MIKE WADSWORTH

23 SUBSCRIBED and SWORN to before me  
24 on this 18 day of January, 2021.

25   
26 NOTARY PUBLIC in and for said  
27 County and State  
28



# EXHIBIT F

JUSTICE LAW CENTER  
1100 South 10th Street, Las Vegas, Nevada 89104  
Phone (702) 731 - 0000 • Fax (702) 974 - 4008

**AFFT**  
**BRET O. WHIPPLE, ESQ.**  
Nevada State Bar No. 6168  
**C. BENJAMIN SCROGGINS, ESQ.**  
Nevada State Bar No. 7902  
1100 South 10<sup>th</sup> Street  
Las Vegas, Nevada 89104  
(702) 731-0000 Telephone  
(702) 974-4008 Facsimile  
admin@justice-law-center.com  
**Attorneys for Defendants**

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**BETSY L. WHIPPLE, an individual and as ) Case No.: A-19-790929-C**  
**majority shareholder of WHIPPLE CATTLE )**  
**COMPANY, INC., a Nevada Corporation, ) Dept. No.: 14**

**Plaintiff,**

**vs.**

**BRET O. WHIPPLE, individually and as )**  
**President and Director of WHIPPLE )**  
**CATTLE COMPANY, INC., a Nevada )**  
**Corporation; CODY K. WHIPPLE, )**  
**individually and as a Treasurer of WHIPPLE )**  
**CATTLE COMPANY, INC. a Nevada )**  
**Corporation; KIRT R. WHIPPLE, )**  
**individually and as Secretary of WHIPPLE )**  
**CATTLE COMPANY, INC., a Nevada )**  
**Corporation; JANE E. WHIPPLE, trustee of )**  
**JANE WHIPPLE FAMILY TRUST and as )**  
**managing member of KENT WHIPPLE )**  
**RANCH, LLC; JANE WHIPPLE FAMILY )**  
**TRUST; KENT WHIPPLE RANCH LLC.; )**  
**KATHRYN WETZEL, individually, )**  
**WHIPPLE CATTLE COMPANY, INC., a )**  
**Nevada Corporation; DOE INDIVIDUALS I )**  
**through X; and ROE CORPORATIONS I )**  
**through X, )**

**Defendants.**



**AFFIDAVIT OF GARY WADE**

STATE OF NEVADA        }  
COUNTY OF LINCOLN    } ss:

I, GARY WADE, being first duly sworn, deposes and says:

1. That if I am a designated witness in the action above entitled, I am over the age of 18 years of age and am competent to testify as a witness if called to do so.
2. That I am a brand inspector authorized by the State of Nevada for approximately ten (10) years.
3. That my primary practice is in Lincoln County Nevada.
4. That I have resided in Lincoln Nevada for thirty-five (35) years.
5. That I am familure with the 7V brand as the brand for the Whipple family.
6. That I have inspected Whipple Ranch cattle for approximately ten (10) years.
7. That as the brand inspector for the State of Nevada for approximately (10) years, I am familure with the custom and usage of family brands.
8. That it is common and custom for a family brand to be used by multiple family members.
9. That I have reviewed the minutes of the Whipple Cattle Company for December 25, 2019.
10. That item number 3. (Use of the Kent Whipple Ranch LLC 7V brand) is consistent with the custom and use of Ranching families in Nevada.
11. That I am sixty-six years of age and employed not only as the Lincoln County brand inspector but also as the Water Commissioner for Ash Springs water, which also irrigates the Whipple Cattle Company land and acerage.
12. That I live in Lincoln County; approximately fifteen seventy-five (75) miles from the

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1100 South 10th Street, Las Vegas, Nevada 89104  
Phone (702) 731 - 0000 • Fax (702) 974 - 4008

Lincoln County Courthouse. That I am willing to testify in Lincoln County, Nevada.

13. That it would be an extreme hardship to testify in Clark County Nevada.

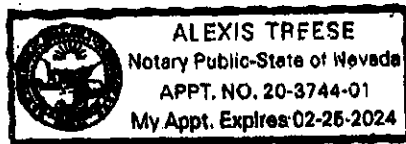
14. That the extreme hardship of testifying in Clark County would be due to the fact that I am fully employed here in Lincoln County, and that I have "no" additional time to travel to Clark County.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

Gary Wade  
GARY WADE

SUBSCRIBED and SWORN to before me  
on this 18 day of January, 2021.

[Signature]  
NOTARY PUBLIC in and for said  
County and State



# EXHIBIT G

JUSTICE LAW CENTER  
1100 South 10th Street, Las Vegas, Nevada 89104  
Phone (702) 731-0000 • Fax (702) 974-4008

**AFFT**  
**BRET O. WHIPPLE, ESQ.**  
Nevada State Bar No. 6168  
**C. BENJAMIN SCROGGINS, ESQ.**  
Nevada State Bar No. 7902  
1100 South 10<sup>th</sup> Street  
Las Vegas, Nevada 89104  
(702) 731-0000 Telephone  
(702) 974-4008 Facsimile  
[admin@justice-law-center.com](mailto:admin@justice-law-center.com)  
**Attorneys for Defendants**

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

10	BETSY L. WHIPPLE, an individual and as )	Case No.: A-19-790929-C
11	majority shareholder of WHIPPLE CATTLE )	
11	COMPANY, INC., a Nevada Corporation, )	Dept. No.: 14
12	Plaintiff, )	
13	vs. )	
14	BRET O. WHIPPLE, individually and as )	
15	President and Director of WHIPPLE )	
16	CATTLE COMPANY, INC., a Nevada )	
17	Corporation; CODY K. WHIPPLE, )	
18	individually and as a Treasurer of WHIPPLE )	
19	CATTLE COMPANY, INC. a Nevada )	
20	Corporation; KIRT R. WHIPPLE, )	
21	individually and as Secretary of WHIPPLE )	
22	CATTLE COMPANY, INC., a Nevada )	
23	Corporation; JANE E. WHIPPLE, trustee of )	
24	JANE WHIPPLE FAMILY TRUST and as )	
25	managing member of KENT WHIPPLE )	
26	RANCH, LLC; JANE WHIPPLE FAMILY )	
27	TRUST; KENT WHIPPLE RANCH LLC.; )	
28	KATHRYN WETZEL, individually, )	
	WHIPPLE CATTLE COMPANY, INC., a )	
	Nevada Corporation; DOE INDIVIDUALS I )	
	through X; and ROE CORPORATIONS I )	
	through X, )	
	Defendants. )	

JUSTICE LAW CENTER  
1100 South 10th Street, Las Vegas, Nevada 89104  
Phone (702) 731 - 0000 • Fax (702) 974 - 4008

AFFIDAVIT OF LEONARD SMITH

STATE OF NEVADA }  
COUNTY OF LINCOLN } ss:

I, LEONARD SMITH, being first duly sworn, deposes and says:

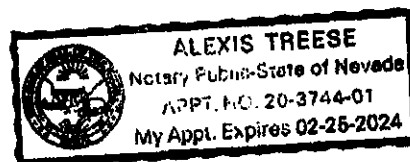
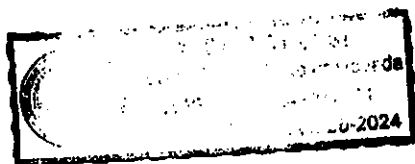
1. That if I am a designated witness in the action above entitled, that I am over the age of 18 years of age and that I am competent to testify as a witness if called to do so.
2. That I was the surveyor that surveyed the ~~Whipple~~ ranch known as the Whipple Cattle Company.
3. That I was also the surveyor that surveyed the 20 acres where Betsy Whipple residence is located and also prepared the map where her 20 acres be delineated.
4. That I can and will testify that the 20 acre survey was prepared so that Betsy Whipple could own in fee simple the 20 acres where her residence is located.
5. That I can and will testify as to the boundaries of the 20 acre survey.
6. That I am 95 years of age and retired.
7. That I reside in Caliente, Lincoln County, Nevada, which is approximately 20 miles from the Lincoln County Courthouse.
8. That to travel to Las Vegas, Nevada, to testify in this case, would be an extreme hardship.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

  
LEONARD SMITH

SUBSCRIBED and SWORN to before me  
on this 18 day of January, 2021.

  
NOTARY PUBLIC in and for said  
County and State





# EXHIBIT H

**AFFT**  
**BRET O. WHIPPLE, ESQ.**  
Nevada State Bar No. 6168  
**C. BENJAMIN SCROGGINS, ESQ.**  
Nevada State Bar No. 7902  
1100 South 10<sup>th</sup> Street  
Las Vegas, Nevada 89104  
(702) 731-0000 Telephone  
(702) 974-4008 Facsimile  
[admin@justice-law-center.com](mailto:admin@justice-law-center.com)  
*Attorneys for Defendants*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

10	BETSY L. WHIPPLE, an individual and as )	Case No.: A-19-790929-C
11	majority shareholder of WHIPPLE CATTLE )	
11	COMPANY, INC., a Nevada Corporation, )	Dept. No.: 14
12	Plaintiff, )	
13	vs. )	
14	BRET O. WHIPPLE, individually and as )	
15	President and Director of WHIPPLE )	
16	CATTLE COMPANY, INC., a Nevada )	
17	Corporation; CODY K. WHIPPLE, )	
18	individually and as a Treasurer of WHIPPLE )	
19	CATTLE COMPANY, INC. a Nevada )	
20	Corporation; KIRT R. WHIPPLE, )	
21	individually and as Secretary of WHIPPLE )	
22	CATTLE COMPANY, INC., a Nevada )	
23	Corporation; JANE E. WHIPPLE, trustee of )	
24	JANE WHIPPLE FAMILY TRUST and as )	
25	managing member of KENT WHIPPLE )	
26	RANCH, LLC; JANE WHIPPLE FAMILY )	
27	TRUST; KENT WHIPPLE RANCH LLC.; )	
28	KATHRYN WETZEL, individually, )	
	WHIPPLE CATTLE COMPANY, INC., a )	
	Nevada Corporation; DOE INDIVIDUALS I )	
	through X; and ROE CORPORATIONS I )	
	through X, )	
	Defendants. )	

**AFFIDAVIT OF GREG RIVERO**

STATE OF NEVADA )  
COUNTY OF WHITE PINE ) ss:



1 I, GREGORY D. RIVERO, being first duly sworn, deposes and says:

- 2 1. That if I am a designated witness in the action above entitled, that I am over the age of 18
- 3 years of age and am competent to testify as a witness if called to do so.
- 4
- 5 2. That I have surveyed property on the Whipple Ranch owned by the Whipple Cattle
- 6 Company, Inc.
- 7
- 8 3. That Cody Whipple has shared with me that he, like his sister Betsy Whipple before him,
- 9 intends to build a house/homestead on Whipple Cattle Company Inc. property, as agreed
- 10 to by all shareholders of the Whipple Cattle Company pursuant to previous shareholder
- 11 meetings.
- 12
- 13 4. That I am aware, from my review of plat maps and other public records, that the same
- 14 type of survey/plat map that I performed for Cody Whipple was previously prepared and
- 15 approved by the Lincoln County Planning Commission on behalf of Betsy Whipple.
- 16
- 17 5. That I have also previously surveyed small pieces of land and prepared the plat maps
- 18 associated with those, at the request of the officers of the Whipple Cattle Company Inc.,
- 19 for the purpose of selling those particular pieces of land.
- 20
- 21 6. That on each occasion land was split from the Whipple Cattle Company, Inc., I had to
- 22 appear in front of the Lincoln County Planning Commission and testify and authenticate
- 23 the plat map/survey for those pieces of property. On most of the occasions before the
- 24 Lincoln County Planning Commission, Betsy Whipple appeared and opposed the
- 25 approval of the plat map/survey. Further, on each occasion that Betsy opposed the
- 26 approval of the plat map, the Lincoln County Planning Commission approved the plat
- 27 map and survey, allowing the property to be sold.
- 28
7. That the twenty (20) acres that I surveyed for Cody Whipple contains several cabins and
- a trailer presently inhabited by Kathy Wetzel, sister of Jane Whipple.

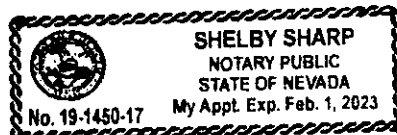
- 1 8. That Whipple Cattle Company Inc., property is located solely in Lincoln County Nevada.  
2  
3 9. That in order for the twenty (20) acre survey to be completed; it must go before the  
4 Lincoln County Planning Commission for approval.  
5 10. That the plat map and twenty (20) acre survey would have "no" or very little value  
6 unless it is approved by the Lincoln County Planning Commission.  
7 11. That I reside in White Pine County, Nevada, which is approximately one hundred (100)  
8 miles from the Lincoln County Courthouse.  
9 12. That it would be an extreme hardship for me to travel approximately two hundred and  
10 fifty (250) miles to Las Vegas, Nevada, to testify in this case due to the distance to Las  
11 Vegas, and due to my full schedule in White Pine County, Nevada.  
12

13 FURTHER, YOUR AFFIANT SAYETH NAUGHT.

14  
15   
16 GREGORY D. RIVERO

17 SUBSCRIBED and SWORN to before me  
18 on this 4th day of February 2021.

19   
20 NOTARY PUBLIC in and for said  
21 County and State



# EXHIBIT I

# COVID Data Tracker

## United States at a Glance

Collapse —

**Cases**  
in US **26,523,297**

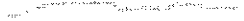
**Total Vaccines**  
Administered **36.8M**

**Cases in US**  
Last 30 Days



**Deaths**  
in US **454,209**

**Deaths in US**  
Last 30 Days



Data Tracker Home

## COVID-19 Integrated County View

Your Community



Maps, charts, and data provided by the CDC, updated daily by 8 pm ET<sup>†</sup>

Vaccinations



Select state and county to populate  
county-specific data:

State:

Cases & Deaths



Nevada



Demographic Trends



County or metro area:

Clark



Healthcare Systems



Testing and Seroprevalence



People at Increased Risk



COVID-19 Home

This site provides an integrated, county view of key data for monitoring the COVID-19 pandemic in the United States. It allows for the exploration of standardized data across the country. The footnotes describe each data source and the methods used for calculating the metrics. For the most complete and up-to-date data for any particular county or state, visit the relevant health department website. Additional data and features are forthcoming.

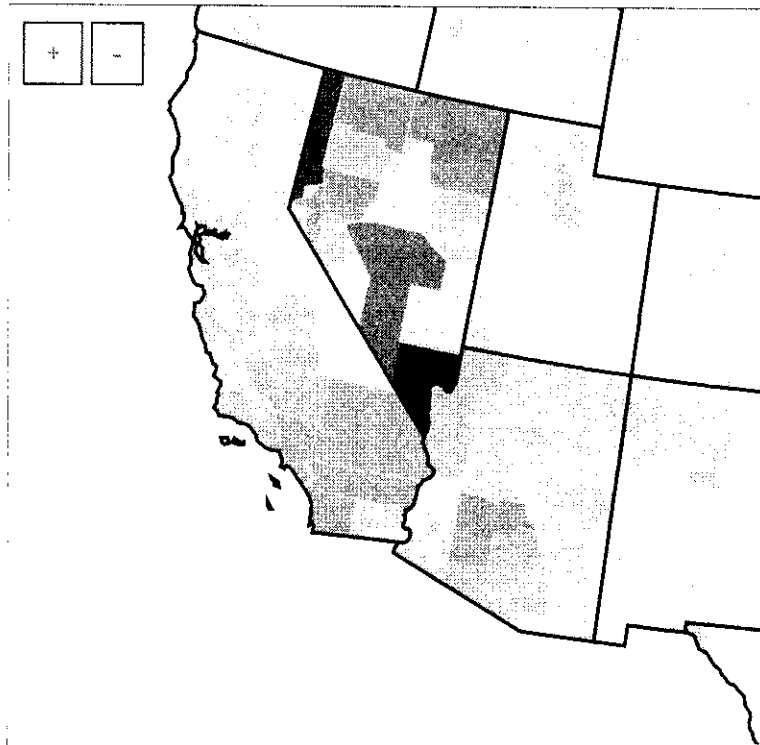
Map Data:

Cases

Back to U.S. Map

Reported cases

Time Period: Thu Jan 28 2021 - Wed Feb 03 2021



- 0

1 to 10

11 to 50

51 to 100

101 to 250

251 to 1000

1001 to 5000

5000+

No Data

## 7 Day Average

Wed Jan 22 2020 - Wed

## 7 Day total

Cases

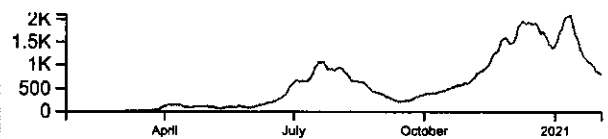
5743

(253.36 per 100k)

↓ -20.84 %

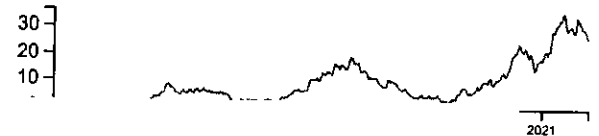
Deaths

189



(8.34 per 100k)

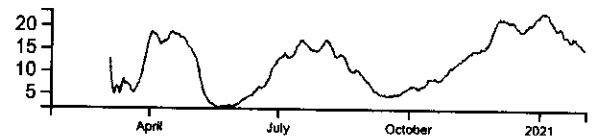
↓ -24.7 %



Percent  
Positivity

16.08

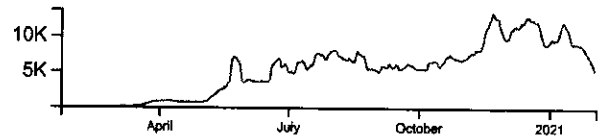
↓ -2.2 %  
change



Testing  
Volume

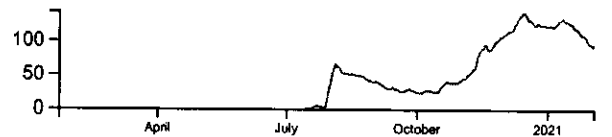
42623

(1880.39 per  
100k)



New  
Hospital  
Admissions  
(COVID)

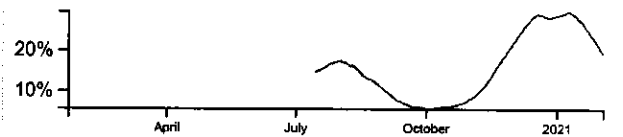
638



Percent  
Beds Used  
(COVID)

19.70 %

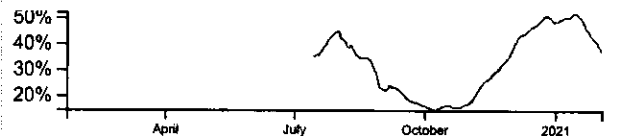
↓ -3.70 %



Percent ICU  
Beds Used  
(COVID)

38.15 %

↓ -5.57 %  
change



## Community Characteristics

**Population density:** 287.23 people per sq. mile

**Household size:** 2.76

**Percent uninsured:** 12.5%

**Percent living in  
poverty:** 14.1%

**Percent population  
65yrs and over:** 15.12%

**Social Vulnerability Index (SVI):** 0.74

**COVID-19 Community Vulnerability Index (CCVI):** 0.63

## How does this data compare to states?

Find case and death counts [by state](#)

[View and Download](#) COVID-19 Case Surveillance Public Use

### Data

<sup>†</sup>Data will update as soon as they are reviewed and verified, oftentimes before 8 pm ET. However, daily updates might be delayed due to delays in reported data.

\*Data suppressed for confidentiality and stability

Data presented here may differ from data on state and local websites. This may be due to differences in how data were collected (e.g., date specimen obtained, or date reported for cases) or how the metrics are calculated. Data presented here use standard metrics across all counties in the United States. For the most accurate and up-to-date data for a specific county or state, visit the relevant state or local health department website.

The map can be modified to show various metrics for reported COVID-19 cases, deaths, and RT-PCR tests in U.S. states. Data for U.S. territories will be added as available. Reported metrics include total counts in last 7 days, total counts in last 7 days per 100,000 people, and percent change in counts from the previous 7 days. Totals per 100,000 people in last 7 days are calculated as the number of new COVID (cases or deaths) per 100k people in the last 7 days using the U.S. Census Bureau, 2019 [American Community Survey county-level 1-year estimates](#). Additional RT-PCR metrics include overall percent positivity and absolute change in weekly percent positivity. [Learn more about How CDC calculates percent positivity.](#)

When a state and county is selected, the accompanying figures show 7-day totals and percent change for cases, deaths, percent positivity and testing volume. Total counts per 100,000 in last 7 days are also presented for cases, deaths and testing volume. At the bottom of the page, community characteristics are displayed for the selected county. 2019 Vintage Census Population Estimates and American Community Survey data were used to calculate county-level population density, household size, insurance status, poverty level, and percent of population ages 65 and over. Social Vulnerability Index (SVI) scores, which range from 0 to 1, are from [CDC/ASTDR's Geospatial Research, Analysis & Service Program](#). COVID-19 Community Vulnerability Index (CCVI) scores, which also range from 0 to 1, are from [the Surgo Foundation](#).

**Cases and Deaths:** As of December 12, the COVID-19 case and death metrics are generated using a dataset managed by the CDC which is compiled from state and local health departments. Historical data were also updated with this dataset. To ensure data quality, daily data alerts are monitored for deviations in the data (e.g., decreases in cumulative values, no change in values, abnormal increases in values). These alerts are manually reviewed every day by checking the data against local government websites, state websites, and news sources, and the raw values are corrected as needed to reflect local government reports. Cases are based on date of report and not on date of symptom onset. Rates are calculated using the U.S. Census Bureau, 2019 [American Community Survey county-level 1-year estimates](#).

**Testing:** The data represent results from United States laboratories on reverse transcription polymerase chain reaction (RT-PCR) tests for SARS-CoV-2, the virus that causes COVID-19. The data do not include results from all testing sites in a jurisdiction (e.g., point-of-care test sites are usually not included) and therefore reflect the majority of, but not all, COVID-19 tests in the United States. The majority of tests are from commercial

# EXHIBIT J



# COVID Data Tracker

## United States at a Glance

Collapse —

Cases  
in US **26,523,297**

Total Vaccines  
Administered **36.8M**

Cases in US  
Last 30 Days

Deaths  
in US **454,209**

Deaths in US  
Last 30 Days



Data Tracker Home

Your Community

Vaccinations

Cases & Deaths

Demographic Trends

Healthcare Systems

Testing and Seroprevalence

People at Increased Risk

COVID-19 Home

## COVID-19 Integrated County View

Maps, charts, and data provided by the CDC, updated daily by 8 pm ET<sup>†</sup>

Select state and county to populate  
county-specific data:

State:

Nevada

County or metro area:

Lincoln

This site provides an integrated, county view of key data for monitoring the COVID-19 pandemic in the United States. It allows for the exploration of standardized data across the country. The footnotes describe each data source and the methods used for calculating the metrics. For the most complete and up-to-date data for any particular county or state, visit the relevant health department website. Additional data and features are forthcoming.

Map Data:

Cases

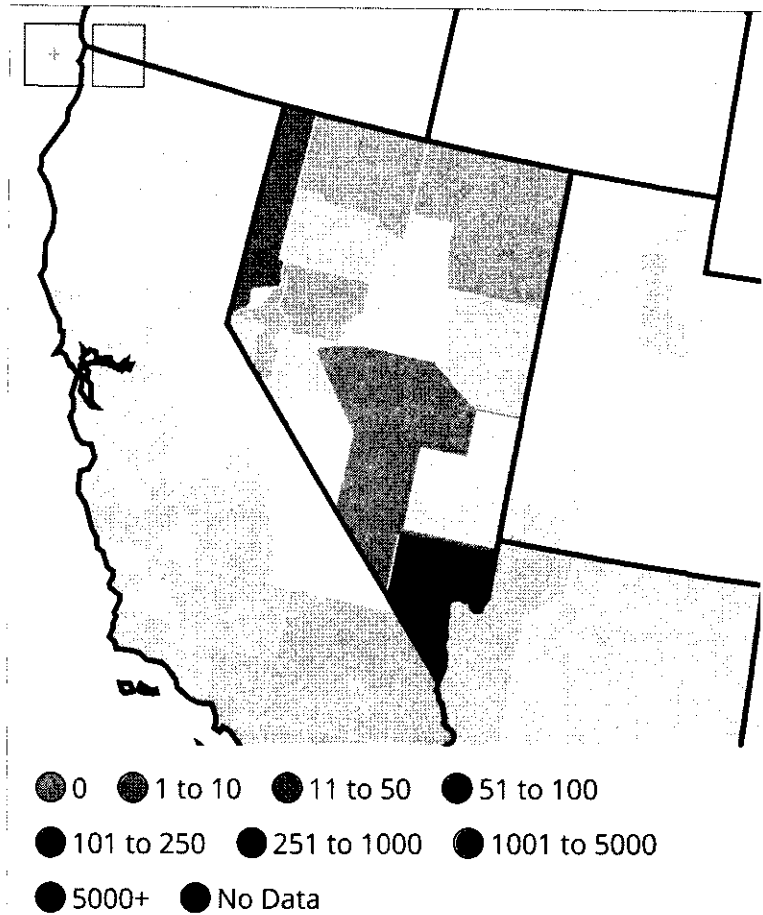
Reported cases

Back to U.S. Map

↺

↻

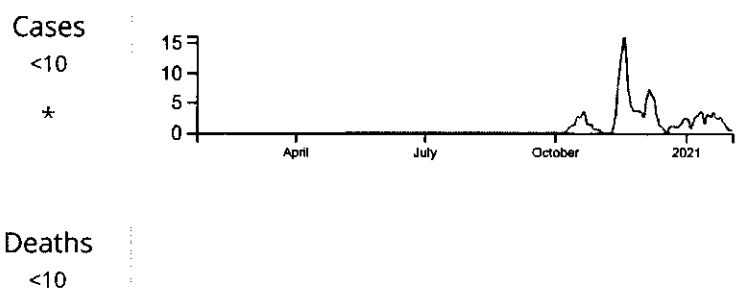
Time Period: Thu Jan 28 2021 - Wed Feb 03 2021



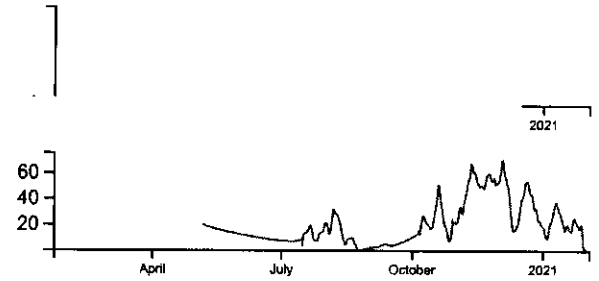
## 7 Day Average

Wed Jan 22 2020 - Wed

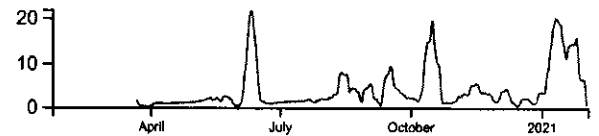
### 7 Day total



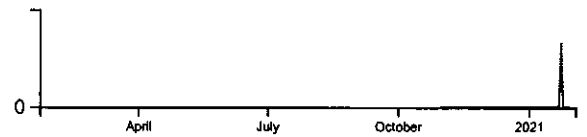
\*  
 Percent  
 Positivity  
 4.26  
 ↓ -10.3 %  
 change



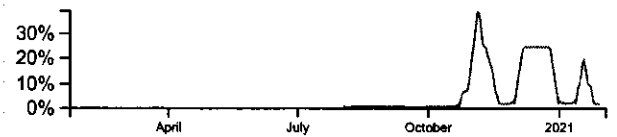
Testing  
 Volume  
 47  
 (906.81 per  
 100k)



New  
 Hospital  
 Admissions  
 (COVID)  
 0



Percent  
 Beds Used  
 (COVID)  
 0.00 %  
 ↓ -3.57 %



Percent ICU  
 Beds Used  
 (COVID)  
 0.00 %  
 0.00 %  
 change



## Community Characteristics

**Population density:** 0.49 people per sq. mile

**Household size:** 2.27

**Percent uninsured:** 7.2%

**Percent living in poverty:** 6.8%

**Percent population 65yrs and over:** 25.29%

**Social Vulnerability Index (SVI):** 0.42

**COVID-19 Community Vulnerability Index (CCVI):** 0.51

## How does this data compare to states?

Find case and death counts [by state](#)

[View and Download](#) COVID-19 Case Surveillance Public Use

Data

<sup>†</sup>Data will update as soon as they are reviewed and verified, oftentimes before 8 pm ET. However, daily updates might be delayed due to delays in reported data.

\*Data suppressed for confidentiality and stability

Data presented here may differ from data on state and local websites. This may be due to differences in how data were collected (e.g., date specimen obtained, or date reported for cases) or how the metrics are calculated. Data presented here use standard metrics across all counties in the United States. For the most accurate and up-to-date data for a specific county or state, visit the relevant state or local health department website.

The map can be modified to show various metrics for reported COVID-19 cases, deaths, and RT-PCR tests in U.S. states. Data for U.S. territories will be added as available. Reported metrics include total counts in last 7 days, total counts in last 7 days per 100,000 people, and percent change in counts from the previous 7 days. Totals per 100,000 people in last 7 days are calculated as the number of new COVID (cases or deaths) per 100k people in the last 7 days using the U.S. Census Bureau, 2019 [American Community Survey county-level 1-year estimates](#). Additional RT-PCR metrics include overall percent positivity and absolute change in weekly percent positivity. [Learn more about How CDC calculates percent positivity.](#)

When a state and county is selected, the accompanying figures show 7-day totals and percent change for cases, deaths, percent positivity and testing volume. Total counts per 100,000 in last 7 days are also presented for cases, deaths and testing volume. At the bottom of the page, community characteristics are displayed for the selected county. 2019 Vintage Census Population Estimates and American Community Survey data were used to calculate county-level population density, household size, insurance status, poverty level, and percent of population ages 65 and over. Social Vulnerability Index (SVI) scores, which range from 0 to 1, are from [CDC/ASTDR's Geospatial Research, Analysis & Service Program](#). COVID-19 Community Vulnerability Index (CCVI) scores, which also range from 0 to 1, are from [the Surgo Foundation](#).

Cases and Deaths: As of December 12, the COVID-19 case and death metrics are generated using a dataset managed by the CDC which is compiled from state and local health departments. Historical data were also updated with this dataset. To ensure data quality, daily data alerts are monitored for deviations in the data (e.g., decreases in cumulative values, no change in values, abnormal increases in values). These alerts are manually reviewed every day by checking the data against local government websites, state websites, and news sources, and the raw values are corrected as needed to reflect local government reports. Cases are based on date of report and not on date of symptom onset. Rates are calculated using the U.S. Census Bureau, 2019 [American Community Survey county-level 1-year estimates](#).

Testing: The data represent results from United States laboratories on reverse transcription polymerase chain reaction (RT-PCR) tests for SARS-CoV-2, the virus that causes COVID-19. The data do not include results from all testing sites in a jurisdiction (e.g., point-of-care test sites are usually not included) and therefore reflect the majority of, but not all, COVID-19 tests in the United States. The majority of tests are from commercial

# EXHIBIT K



**Prader-Willi California Foundation**

*An Affiliate of Prader-Willi Syndrome Association (USA)*

3655 Torrance Boulevard, Suite 360, Torrance, California 90503

(310) 316-3339 • (800) 400-9994 (Within CA) • Fax (310) 316-3730

Email: PWCF1@aol.com • Web: www.PWCF.org

June 19, 2006

Re: Mr. Dalton Bradshaw  
DOB: 2-24-84  
ICD-9: 759.81, Prader-Willi syndrome

To Whom It May Concern:

I write on behalf of Mrs. Jane Bradshaw, mother of Mr. Dalton Bradshaw, to provide information about Prader-Willi syndrome to assist in your review of Mrs. Bradshaw's request for respite services.

Dalton has Prader-Willi syndrome (PWS), a genetic disorder characterized by obesity, hyperphagia, hypotonia, short stature, low lean tissue mass, intellectual disability and behavioral problems (Burman 2001). The prevalence of PWS is approximately 1/15,000 (Butler 1990; Ehara 1995). Patients have hypothalamic-pituitary dysfunction, with abnormal growth hormone secretion and hypogonadotropic hypogonadism. Affected individuals also have reduced bone mineral density and often develop scoliosis. Glucose homeostasis is abnormal (Shuster 1996) and obese individuals with PWS are at risk of developing type 2 diabetes (Zipf 1999).

The genetic basis of Prader-Willi syndrome is a deletion on the long arm of the paternally derived chromosome at (15q11-q13), which is found in approximately 70% of affected individuals (Cassidy 1997). Other abnormalities have been identified, including maternal isodisomy involving the same region which occurs in approximately 25% of affected individuals, as well as imprinting mutations and translocations (5%).

The hallmark symptoms of Prader-Willi syndrome include hyperphagia, a hypothalamic disorder that causes the individual to always feel a physiological, overwhelming, constant drive to eat. Individuals with the syndrome cannot control their appetite because the signals in the brain never register satiety (feelings of fullness). Thus, without external food controls individuals with PWS will literally eat themselves into premature death. Regrettably, individuals with PWS have died as a result of choking while quickly eating forbidden food, eating rotten food taken from a trash receptacle, ingesting non-food items, some have died from stomach rupture or tissue necrosis following a gorge eating episode, and others have died as a result of complications due to morbid obesity. Like most families who have a child or an adult with Prader-Willi syndrome, Mrs. Bradshaw locks away all food items including the refrigerator and food cupboards.

Concurrent with hyperphagia is a slowed metabolic rate. Individuals with PWS burn calories at about half the normal rate and can gain massive amounts of weight very quickly on very few calories. Other major symptoms of PWS include hypotonia characterized as low, weak muscle tone; behavioral and psychiatric issues including problems with self-regulation, temper outbursts, anxiety and obsessive-compulsive disorders which contribute to skin picking and other self-injurious behaviors; motor skills deficits and sensory-related deficits caused in-part by the underlying hypotonia; and cognitive deficits and/or learning disabilities.

*Our vision is that people with Prader-Willi Syndrome may pursue their individual hopes and dreams to the full extent of their talents and capabilities... and that we will help them achieve their goals.*

June 19, 2006  
Re: Dalton Bradshaw  
Page 2

A significant number of people with PWS exhibit major behavioral problems. The same part of the brain that helps regulate appetite and satiety (the hypothalamus) also controls affect. Much of the inappropriate behavior manifested by individuals with PWS is a result of the brain's chemistry, the result of which is often having an extremely low tolerance to frustration. Frustration can result from food-related incidents or any other situation which appears to prevent the individual with PWS from obtaining what they want. It is also not unusual for a person with PWS to get inordinately anxious or upset and "stuck" on an issue, then not be able to get him or herself under control.

This list of symptoms is by no means exhaustive -- it is intended to provide you with an overview of the most salient and serious symptoms associated with the syndrome, as well as underscore the neurological and endocrine aspects of the syndrome and the reasonableness of the family's request for respite services. Mrs. Bradshaw physically cannot provide the attention to Dalton that is required to keep him safe when she needs to leave the home, for example, to grocery shop or run other errands. Dalton is not able to manage entering a grocery food store, and his anxiety and subsequent behavioral outbursts become problematic when leaving the home to run any errand with his mother. Dalton requires 100% supervision, every hour of the day, every day of his life. Without this supervision, Dalton's physical health and well-being is jeopardized.

Prader-Willi syndrome is a very unique and difficult syndrome to deal with, thus individuals with the syndrome need very specialized care. Individuals with PWS are developmentally, medically, and socially handicapped in a variety of ways. They *must* have 24-hour a day supervision, every day, throughout the duration of their lives or they will die prematurely of complications related to morbid obesity. Of the thousands of adults identified with PWS, not one has ever achieved true independent living.

Dalton's mother is doing all she can to provide Dalton with the care he requires. I can assure you she needs respite services to help her continue to provide this care. I hope this information is helpful to your review and will expedite your authorization of respite services for Dalton. Please do not hesitate to contact me if you have any questions or if I may provide you with additional information.

Sincerely,

Lisa Graziano, M.A.  
Executive Director

cc: Jane Bradshaw  
HC 61 Box 27  
Hiko, NV 89017  
775-725-3555

***Our vision is that people with Prader-Willi Syndrome may pursue their individual hopes and dreams to the full extent of their talents and capabilities... and that we will help them achieve their goals.***

## References

### **Burman 2001**

Burman P, Ritzen EM, Lingren AC. Endocrine dysfunction in Prader-Willi syndrome: a review with special reference to GH. [Review] [119 refs]. Endocrine Reviews 2001; 22:6:787-99 [Library Holdings](#) [\[Context Link\]](#)

### **Butler 1990**

Butler MG. Prader-Willi syndrome: current understanding of cause and diagnosis. American Journal of Medical Genetics 1990;35:3:319-32 [Library Holdings](#) [\[Context Link\]](#)

### **Cassidy 1997**

Cassidy SB, Forsythe M, Heeger S, Nichols RD, Schnork N, Benn P. Comparison of phenotype between patients with Prader-Willi syndrome due to deletion 15q and uniparental disomy 15. American Journal of Medical Genetics 1997;68:4:433-40 [Library Holdings](#) [\[Context Link\]](#)

### **Davies 1998**

Davies PS, Evans S, Broomhead S, Clough H, Day JM, Laidlaw A, Barnes ND. Effect of growth hormone on height, weight, and body composition in Prader-Willi syndrome. Archives of Diseases in Childhood 1998;78:5:474-6 [Library Holdings](#) [\[Context Link\]](#)

### **Ehara 1995**

Ehara H, Ohno K, Takeshita K. Frequency of the Prader-Willi syndrome in the San-in district, Japan. Brain & Development 1995;17:5:324-6 [\[Context Link\]](#)

### **Eiholzer 1998**

Eiholzer U, Gisin R, Weinmann C, Kriemler S, Steinert H, Torresani T. Treatment with human growth hormone in patients with Prader-Labhart-Willi syndrome reduces body fat and increases muscle mass and physical performance. European Journal of Pediatrics 1998;157:5:368-77 [Library Holdings](#) [\[Context Link\]](#)

### **Schuster 1996**

Schuster DP, Osei K, Zipf WB. Characterization of alterations in glucose and insulin metabolism in Prader-Willi subjects. Metabolism: Clinical & Experimental 1996;45:12:1514-20 [\[Context Link\]](#)

### **Zipf 1999**

Zipf WB. Glucose homeostasis in Prader-Willi syndrome and potential implications of growth hormone therapy. Acta Paediatrica 1999;Supp 88:433:115-7 [\[Context Link\]](#)



*Howard & Howard Attorneys PLLC*  
CLERK OF THE COURT

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*Attorneys for Plaintiff Betsy Whipple*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, individually and as  
shareholder of WHIPPLE CATTLE  
COMPANY, Inc., a Nevada Corporation,

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND as  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; CODY  
K. WHIPPLE, individually and as Treasurer of  
WHIPPLE CATTLE COMPANY, INC., a Nevada  
Corporation; KIRT R. WHIPPLE,  
individually and as Secretary of WHIPPLE  
CATTLE COMPANY, INC., a Nevada  
Corporation; JANE E. WHIPPLE, individually  
and as Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; JANE  
WHIPPLE, trustee of JANE WHIPPLE FAMILY  
TRUST and as managing member of KENT  
WHIPPLE RANCH LLC; JANE WHIPPLE  
FAMILY TRUST; KENT WHIPPLE RANCH  
LLC.; KATHRYN WETZEL, individually,  
WHIPPLE CATTLE COMPANY, INC., a Nevada  
Corporation; DOE INDIVIDUALS I through X;  
and ROE CORPORATIONS I through X,

Defendants.

CASE NO.: A-19-790929-B  
DEPT NO.: 27

DEPT NO.: 14 (only for limited purpose of  
this Order)

**ORDER DENYING DEFENDANTS'  
MOTION TO RECONSIDER ORDER  
DENYING MOTION TO CHANGE  
VENUE**

The matter of Defendants' BRET O. WHIPPLE, CODY K. WHIPPLE, KIRT R. WHIPPLE, JANE E. WHIPPLE, JANE WHIPPLE FAMILY TRUST, KENT WHIPPLE RANCH LLC and KATHRYN WETZEL's (the "Non-Corporate Defendants") Motion to Reconsider Order Denying Renewed Motion to Change Venue to Lincoln County (the "Motion"), which Motion was joined pursuant to a Joinder (the "Joinder") filed by Defendant WHIPPLE

1 CATTLE COMPANY (“WCC”) was scheduled for a hearing before Department 14 of the Eighth  
2 Judicial District Court, the Honorable Adriana Escobar presiding, on April 15, 2021. Pursuant to  
3 Administrative Order 21-03 and preceding administrative orders, the Motion may be decided after  
4 a hearing, decided on the pleadings, or continued. In an effort to comply with Covid-19  
5 restrictions, and to avoid the need for hearings when possible, the Court determined that it would  
6 be appropriate to decide the Motion based on the pleadings submitted.

7 Upon review, the Court, having considered the Motion, the Joinder, the opposition, and  
8 the reply brief, and being fully apprised of the issues and good cause appearing, makes the  
9 following findings of fact, conclusions of law, and order:

10 **I. FINDINGS OF FACT**

11 ***The Motion to Change Venue and the Venue Order***

12 1. On August 27, 2019, Defendants filed a Motion Renewed to Change Venue (the  
13 “Motion to Change Venue”), which Plaintiff Betsy Whipple (“Betsy” or “Plaintiff”) opposed.

14 2. On January 6, 2020, the Court entered an Order Granting Defendants’ Motion  
15 Renewed to Change Venue (the “Venue Order”).

16 3. The Court, in part, based the Venue Order on several declarations from Defendants  
17 which all stated, in relevant part, that (i) this matter concerns real property situated in Lincoln  
18 County, Nevada; (ii) this matter is best heard in Lincoln County based on prior litigation involving  
19 the same facts and defendants; and (iii) they wish the matter to be heard in Lincoln County,  
20 Nevada for the convenience of the witnesses and the fact the ends of justice will be promoted by  
21 the change (collectively, the “Declarations”). The Declarations also set forth the county of  
22 residency of each of the Defendants.

23 ***Plaintiff’s Motion for Reconsideration and Granting of Same***

24 4. Plaintiff filed a Motion for Reconsideration of the Venue Order (“Plaintiff’s  
25 Motion for Reconsideration”), which came on for hearing before Department 14 of the Eighth  
26 Judicial District Court on January 14, 2021.

27 5. The Court considered Plaintiff’s Motion for Reconsideration, the opposition, reply  
28 brief, and supplemental briefing, and being fully apprised of the issues, made the following

findings of fact:

a. that upon further review of the Declarations, the Declarations did not present any factors that would establish exceptional circumstances sufficient to permit a transfer of venue from Clark County, Nevada to Lincoln County, Nevada;

b. Defendants relied on general allegations concerning inconvenience;

c. the Declarations did not provide specific information as to the number of witnesses and did not state any specific hardship as to accessing evidence; and

d. Because the Declarations and the pleadings relied on general allegations regarding inconvenience and hardship, Defendants failed to make a specific factual showing to support venue transfer. *See* Order Granting Plaintiff’s Motion for Reconsideration dated January 27, 2021 (“Order Granting Plaintiff’s Motion for Reconsideration”).

6. In the Order Granting Plaintiff’s Motion for Reconsideration, the Court made the following Conclusions of Law:

a. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Id.*

b. In cases other than those set forth in NRS 13.010, an “action shall be tried in the county in which the defendants, or any one of them, may reside at the commencement of the action.” NRS 13.040. *Id.*

c. The Court may, on motion or stipulation, change the place of the proceeding when the convenience of the witnesses and the ends of justice would be promoted by the change. NRS 13.050(2)(c). *Id.*

d. “[A] plaintiff’s selected forum choice may only be denied under **exceptional circumstances strongly supporting another forum.**” *Mt. View Rec., Inc., v. Imperial Commercial Cooking Equip. Co.*, 129 Nev 413, 419 (2013) (emphasis added). Furthermore, “[a] motion for change of venue based on forum non conveniens must be supported by affidavits so that the district court can assess whether there are any factors present that would establish such exceptional circumstances.” *Id.* General allegations regarding inconvenience or hardship are insufficient because a specific factual showing must be made. *Id. Masonry & Tile*

1 *Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997). *Id.*

2 e. “The doctrine [of non conveniens] involves a balancing approach using  
3 several other factors, including public and private interests, access to sources of proof, and the  
4 availability of a view of the premises, if necessary. Additional factors include the availability of  
5 compulsory process for unwilling witnesses, the cost of obtaining testimony from willing  
6 witnesses, and the enforceability of a judgment.” *Eaton v. Second Judicial Dist. Court*, 96 Nev.  
7 773, 774 (1980), *overruled on other grounds by Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222  
8 (2004). “[A]ffidavits in support of a forum non conveniens motion must be carefully examined to  
9 determine the existence of the factors mentioned above. The moving party may not rely on general  
10 allegations concerning inconvenience, a view of the premises, or hardship. A specific factual  
11 showing must be made.” *Eaton*, 96 Nev. 773, 775. *Id.*

12 f. This action is a business dispute specifically relating to the rights and  
13 interests of Plaintiff with regard to WCC, a corporation, versus a dispute over the real property  
14 owned by WCC located in Lincoln County, Nevada. Therefore, the grounds set forth in NRS  
15 13.010 do not apply. Instead, NRS 13.040 applies. At least one Defendant resided in Clark County  
16 when this action commenced. Therefore, venue was proper in Clark County under NRS 13.040.  
17 *Id.*

18 g. In the Motion to Change Venue, Defendant did not provide affidavits (or  
19 declarations) that established exceptional circumstances sufficient to warrant a change of venue  
20 from Clark County, Nevada to Lincoln County, Nevada. *Id.*

21 7. Accordingly, the Court concluded that the Venue Order was clearly erroneous and  
22 granted Plaintiff’s Motion for Reconsideration, denied Defendants’ original Renewed Motion to  
23 Change Venue, and ordered its January 6, 2020 Order Granting Defendants’ Motion to Change  
24 Venue Void. *Id.*

25 ***The Instant Motion***

26 8. The Non-Corporate Defendants filed the Motion, seeking reconsideration of the  
27 Order Granting Plaintiff’s Motion for Reconsideration, which maintains venue in Clark County,  
28 Nevada. WCC filed the Joinder.

1           9. Defendants primarily seek reconsideration of the Order Granting Plaintiff's  
2 Motion for Reconsideration on the grounds of alleged new factual information and evidence.  
3 Specifically, Defendants argue that they have obtained additional and more specific evidence,  
4 which shows that the change of venue to Lincoln County, Nevada is warranted. This "new  
5 information and evidence" is primarily in the form of detailed affidavits from numerous witnesses  
6 Defendants expect to testify in this case (the "New Affidavits").

7           10. The information and evidence set forth in the New Affidavits was available when  
8 Defendants filed their Renewed Motion to Change Venue on August 27, 2019. The information  
9 and evidence set forth in the New Affidavits was available to Defendants prior to the Court ruling  
10 on Plaintiff's Motion for Reconsideration in January of 2021. At no time prior to the Court's  
11 determination of Plaintiff's Motion for Reconsideration did Defendants seek to file an amended  
12 or supplemental pleading to include this additional information or evidence.

13           11. Defendants also seek reconsideration of the Order Granting Plaintiff's Motion for  
14 Reconsideration on the ground that they believe this action is a dispute over the real property  
15 owned by WCC located in Lincoln County and therefore NRS 13.010 applies over NRS 13.040.

## 16       **II. CONCLUSIONS OF LAW**

17           1. "A district court may reconsider a previously decided issue if substantially  
18 different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile*  
19 *Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997).

20           2. Evidence is not "newly discovered" if it was in a party's possession at the time the  
21 Court ruled on a matter. *See Bank of New York Mellon as Tr. Of Registered Holders of Alternative*  
22 *Loan Tr. 2006-OC6, Mortg. Pass-through Certificates Series 2006-OC6 v. Holm Int'l Properties,*  
23 *LLC*, 2021 WL 977698 at \*3 (Nev. App. 2021); *Pitzel v. Softward Dev. & Inv. Of Nevada*, 2008  
24 WL 6124816 at \*3 (Nev. 2008). Therefore, Defendants have not introduced substantially  
25 different evidence.

26           3. The Court's ruling that NRS 13.040 applies over NRS 13.010 was not clearly  
27 erroneous.  
28

**III. ORDER**

**IT IS HEREBY ORDERED**, that the Motion and Joinder are **DENIED**.

Dated this 9<sup>th</sup> day of April, 2021. Dated this 5th day of May, 2021

Adriana Escobar  
**DISTRICT COURT JUDGE**

**Respectfully submitted by:**

**B38 A16 D494 56BC  
Adriana Escobar  
District Court Judge**

HOWARD & HOWARD ATTORNEYS PLLC

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*Attorneys for Plaintiff*

**Approved as to form and content:**

**JUSTICE LAW CENTER**

**LAW OFFICE OF BENJAMIN C.  
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*Attorney for Defendant Whipple Cattle  
Company Incorporated*

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Betsy Whipple, Plaintiff(s)

CASE NO: A-19-790929-B

7 vs.

DEPT. NO. Department 27

8 Bret Whipple, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/5/2021

15 Jeanne Metzger

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17 Michael Mee

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18 Cami Perkins

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21 C. Scroggins

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22 Morganne Westover

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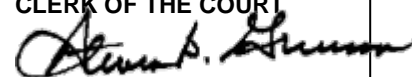
24

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1 **NEOJ**

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11 *Attorneys for Plaintiff Betsy Whipple*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 **BETSY L. WHIPPLE**, individually and as  
15 shareholder of **WHIPPLE CATTLE**  
16 **COMPANY, Inc.**, a Nevada Corporation,

17 Plaintiff,

18 vs.

19 **BRET O. WHIPPLE**, individually AND as  
20 President and Director of **WHIPPLE CATTLE**  
21 **COMPANY, INC.**, a Nevada Corporation;  
22 **CODY K. WHIPPLE**, individually and as  
23 Treasurer of **WHIPPLE CATTLE COMPANY,**  
24 **INC.**, a Nevada Corporation; **KIRT R. WHIPPLE**,  
25 individually and as Secretary of **WHIPPLE**  
26 **CATTLE COMPANY, INC.**, a Nevada  
27 Corporation; **JANE E. WHIPPLE**, individually  
and as Director of **WHIPPLE CATTLE**  
**COMPANY, INC.**, a Nevada Corporation; **JANE**  
**WHIPPLE**, trustee of **JANE WHIPPLE FAMILY**  
**TRUST** and as managing member of **KENT**  
**WHIPPLE RANCH LLC**; **JANE WHIPPLE**  
**FAMILY TRUST**; **KENT WHIPPLE RANCH**  
**LLC.**; **KATHRYN WETZEL**, individually,  
**WHIPPLE CATTLE COMPANY, INC.**, a  
Nevada Corporation; **DOE INDIVIDUALS I**  
through **X**; and **ROE CORPORATIONS I** through  
**X**,

Defendants.

CASE NO.: A-19-790929-B

DEPT NO.: 27

**NOTICE OF ENTRY OF ORDER**



1 PLEASE TAKE NOTICE that an Order Denying Defendants' Motion to Reconsider  
2 Order Denying Motion to Change Venue was filed in the above-captioned matter on the 5<sup>th</sup> day  
3 of May 2021, a copy of which is attached hereto.

4 DATED: May 5, 2021.

5 HOWARD & HOWARD ATTORNEYS PLLC

6  
7 By: /s/ Cami M. Perkins  
8 L. Chris Rose, Nevada Bar No. 7500  
9 Cami M. Perkins, Nevada Bar No. 9149  
10 Kirill V. Mikhaylov, Nevada Bar No. 13538

11 *Attorneys for Plaintiff Betsy Whipple*  
12  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **NOTICE OF ENTRY OF ORDER** in this action electronically via the Odyssey E-File and Serve System, which will cause this document to be served upon the following counsel of record:

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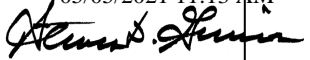
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Whipple, Jane Whipple Family Trust, Kent  
Whipple Ranch, LLC, and Kathryn Wetzel*

*Attorney for Defendant Whipple Cattle  
Company Incorporated*

DATED: May 5, 2021.

/s/ Morganne Westover

An employee of Howard & Howard Attorneys PLLC

  
CLERK OF THE COURT

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*Attorneys for Plaintiff Betsy Whipple*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BETSY L. WHIPPLE, individually and as  
shareholder of WHIPPLE CATTLE  
COMPANY, Inc., a Nevada Corporation,

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND as  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; CODY  
K. WHIPPLE, individually and as Treasurer of  
WHIPPLE CATTLE COMPANY, INC., a Nevada  
Corporation; KIRT R. WHIPPLE,  
individually and as Secretary of WHIPPLE  
CATTLE COMPANY, INC., a Nevada  
Corporation; JANE E. WHIPPLE, individually  
and as Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; JANE  
WHIPPLE, trustee of JANE WHIPPLE FAMILY  
TRUST and as managing member of KENT  
WHIPPLE RANCH LLC; JANE WHIPPLE  
FAMILY TRUST; KENT WHIPPLE RANCH  
LLC.; KATHRYN WETZEL, individually,  
WHIPPLE CATTLE COMPANY, INC., a Nevada  
Corporation; DOE INDIVIDUALS I through X;  
and ROE CORPORATIONS I through X,

Defendants.

CASE NO.: A-19-790929-B  
DEPT NO.: 27

DEPT NO.: 14 (only for limited purpose of  
this Order)

**ORDER DENYING DEFENDANTS'  
MOTION TO RECONSIDER ORDER  
DENYING MOTION TO CHANGE  
VENUE**

The matter of Defendants' BRET O. WHIPPLE, CODY K. WHIPPLE, KIRT R. WHIPPLE, JANE E. WHIPPLE, JANE WHIPPLE FAMILY TRUST, KENT WHIPPLE RANCH LLC and KATHRYN WETZEL's (the "Non-Corporate Defendants") Motion to Reconsider Order Denying Renewed Motion to Change Venue to Lincoln County (the "Motion"), which Motion was joined pursuant to a Joinder (the "Joinder") filed by Defendant WHIPPLE

CATTLE COMPANY (“WCC”) was scheduled for a hearing before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on April 15, 2021. Pursuant to Administrative Order 21-03 and preceding administrative orders, the Motion may be decided after a hearing, decided on the pleadings, or continued. In an effort to comply with Covid-19 restrictions, and to avoid the need for hearings when possible, the Court determined that it would be appropriate to decide the Motion based on the pleadings submitted.

Upon review, the Court, having considered the Motion, the Joinder, the opposition, and the reply brief, and being fully apprised of the issues and good cause appearing, makes the following findings of fact, conclusions of law, and order:

# **I. FINDINGS OF FACT**

## ***The Motion to Change Venue and the Venue Order***

1. On August 27, 2019, Defendants filed a Motion Renewed to Change Venue (the “Motion to Change Venue”), which Plaintiff Betsy Whipple (“Betsy” or “Plaintiff”) opposed.

2. On January 6, 2020, the Court entered an Order Granting Defendants’ Motion Renewed to Change Venue (the “Venue Order”).

3. The Court, in part, based the Venue Order on several declarations from Defendants which all stated, in relevant part, that (i) this matter concerns real property situated in Lincoln County, Nevada; (ii) this matter is best heard in Lincoln County based on prior litigation involving the same facts and defendants; and (iii) they wish the matter to be heard in Lincoln County, Nevada for the convenience of the witnesses and the fact the ends of justice will be promoted by the change (collectively, the “Declarations”). The Declarations also set forth the county of residency of each of the Defendants.

## ***Plaintiff’s Motion for Reconsideration and Granting of Same***

4. Plaintiff filed a Motion for Reconsideration of the Venue Order (“Plaintiff’s Motion for Reconsideration”), which came on for hearing before Department 14 of the Eighth Judicial District Court on January 14, 2021.

5. The Court considered Plaintiff’s Motion for Reconsideration, the opposition, reply brief, and supplemental briefing, and being fully apprised of the issues, made the following

findings of fact:

a. that upon further review of the Declarations, the Declarations did not present any factors that would establish exceptional circumstances sufficient to permit a transfer of venue from Clark County, Nevada to Lincoln County, Nevada;

b. Defendants relied on general allegations concerning inconvenience;

c. the Declarations did not provide specific information as to the number of witnesses and did not state any specific hardship as to accessing evidence; and

d. Because the Declarations and the pleadings relied on general allegations regarding inconvenience and hardship, Defendants failed to make a specific factual showing to support venue transfer. *See* Order Granting Plaintiff’s Motion for Reconsideration dated January 27, 2021 (“Order Granting Plaintiff’s Motion for Reconsideration”).

6. In the Order Granting Plaintiff’s Motion for Reconsideration, the Court made the following Conclusions of Law:

a. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Id.*

b. In cases other than those set forth in NRS 13.010, an “action shall be tried in the county in which the defendants, or any one of them, may reside at the commencement of the action.” NRS 13.040. *Id.*

c. The Court may, on motion or stipulation, change the place of the proceeding when the convenience of the witnesses and the ends of justice would be promoted by the change. NRS 13.050(2)(c). *Id.*

d. “[A] plaintiff’s selected forum choice may only be denied under **exceptional circumstances strongly supporting another forum.**” *Mt. View Rec., Inc., v. Imperial Commercial Cooking Equip. Co.*, 129 Nev 413, 419 (2013) (emphasis added). Furthermore, “[a] motion for change of venue based on forum non conveniens must be supported by affidavits so that the district court can assess whether there are any factors present that would establish such exceptional circumstances.” *Id.* General allegations regarding inconvenience or hardship are insufficient because a specific factual showing must be made. *Id. Masonry & Tile*

1 *Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997). *Id.*

2 e. “The doctrine [of non conveniens] involves a balancing approach using  
3 several other factors, including public and private interests, access to sources of proof, and the  
4 availability of a view of the premises, if necessary. Additional factors include the availability of  
5 compulsory process for unwilling witnesses, the cost of obtaining testimony from willing  
6 witnesses, and the enforceability of a judgment.” *Eaton v. Second Judicial Dist. Court*, 96 Nev.  
7 773, 774 (1980), *overruled on other grounds by Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222  
8 (2004). “[A]ffidavits in support of a forum non conveniens motion must be carefully examined to  
9 determine the existence of the factors mentioned above. The moving party may not rely on general  
10 allegations concerning inconvenience, a view of the premises, or hardship. A specific factual  
11 showing must be made.” *Eaton*, 96 Nev. 773, 775. *Id.*

12 f. This action is a business dispute specifically relating to the rights and  
13 interests of Plaintiff with regard to WCC, a corporation, versus a dispute over the real property  
14 owned by WCC located in Lincoln County, Nevada. Therefore, the grounds set forth in NRS  
15 13.010 do not apply. Instead, NRS 13.040 applies. At least one Defendant resided in Clark County  
16 when this action commenced. Therefore, venue was proper in Clark County under NRS 13.040.  
17 *Id.*

18 g. In the Motion to Change Venue, Defendant did not provide affidavits (or  
19 declarations) that established exceptional circumstances sufficient to warrant a change of venue  
20 from Clark County, Nevada to Lincoln County, Nevada. *Id.*

21 7. Accordingly, the Court concluded that the Venue Order was clearly erroneous and  
22 granted Plaintiff’s Motion for Reconsideration, denied Defendants’ original Renewed Motion to  
23 Change Venue, and ordered its January 6, 2020 Order Granting Defendants’ Motion to Change  
24 Venue Void. *Id.*

25 ***The Instant Motion***

26 8. The Non-Corporate Defendants filed the Motion, seeking reconsideration of the  
27 Order Granting Plaintiff’s Motion for Reconsideration, which maintains venue in Clark County,  
28 Nevada. WCC filed the Joinder.

1           9. Defendants primarily seek reconsideration of the Order Granting Plaintiff's  
2 Motion for Reconsideration on the grounds of alleged new factual information and evidence.  
3 Specifically, Defendants argue that they have obtained additional and more specific evidence,  
4 which shows that the change of venue to Lincoln County, Nevada is warranted. This "new  
5 information and evidence" is primarily in the form of detailed affidavits from numerous witnesses  
6 Defendants expect to testify in this case (the "New Affidavits").

7           10. The information and evidence set forth in the New Affidavits was available when  
8 Defendants filed their Renewed Motion to Change Venue on August 27, 2019. The information  
9 and evidence set forth in the New Affidavits was available to Defendants prior to the Court ruling  
10 on Plaintiff's Motion for Reconsideration in January of 2021. At no time prior to the Court's  
11 determination of Plaintiff's Motion for Reconsideration did Defendants seek to file an amended  
12 or supplemental pleading to include this additional information or evidence.

13           11. Defendants also seek reconsideration of the Order Granting Plaintiff's Motion for  
14 Reconsideration on the ground that they believe this action is a dispute over the real property  
15 owned by WCC located in Lincoln County and therefore NRS 13.010 applies over NRS 13.040.

## 16       **II. CONCLUSIONS OF LAW**

17           1. "A district court may reconsider a previously decided issue if substantially  
18 different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile*  
19 *Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997).

20           2. Evidence is not "newly discovered" if it was in a party's possession at the time the  
21 Court ruled on a matter. *See Bank of New York Mellon as Tr. Of Registered Holders of Alternative*  
22 *Loan Tr. 2006-OC6, Mortg. Pass-through Certificates Series 2006-OC6 v. Holm Int'l Properties,*  
23 *LLC*, 2021 WL 977698 at \*3 (Nev. App. 2021); *Pitzel v. Softward Dev. & Inv. Of Nevada*, 2008  
24 WL 6124816 at \*3 (Nev. 2008). Therefore, Defendants have not introduced substantially  
25 different evidence.

26           3. The Court's ruling that NRS 13.040 applies over NRS 13.010 was not clearly  
27 erroneous.  
28

**III. ORDER**

**IT IS HEREBY ORDERED**, that the Motion and Joinder are **DENIED**.

Dated this 9<sup>th</sup> day of April, 2021. Dated this 5th day of May, 2021

Adriana Escobar  
**DISTRICT COURT JUDGE**

**Respectfully submitted by:**

**B38 A16 D494 56BC  
Adriana Escobar  
District Court Judge**

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Cami M. Perkins

L. Christopher Rose (#7500)  
Cami M. Perkins (#9149)  
Kirill V. Mikhaylov (#13538)  
3800 Howard Hughes Pkwy., Suite 1000  
Las Vegas, NV 89169

*Attorneys for Plaintiff*

**Approved as to form and content:**

**JUSTICE LAW CENTER**

**LAW OFFICE OF BENJAMIN C.  
SCROGGINS**

/s/ Bret O. Whipple, Esq.

Bret O. Whipple, Esq., Nevada Bar No. 6168  
1100 South Tenth Street  
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/s/

Benjamin C. Scroggins, Esq., Nevada Bar No.  
7902  
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*Attorneys for Defendants Bret O. Whipple,  
Cody K. Whipple, Kirt R. Whipple, Jane E.  
Whipple, Jane Whipple Family Trust, Kent  
Whipple Ranch, LLC, and Kathryn Wetzel*

*Attorney for Defendant Whipple Cattle  
Company Incorporated*



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Betsy Whipple, Plaintiff(s)

CASE NO: A-19-790929-B

7 vs.

DEPT. NO. Department 27

8 Bret Whipple, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/5/2021

15 Jeanne Metzger

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16 Bret Whipple

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17 Michael Mee

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18 Cami Perkins

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19 L. Christopher Rose

lcr@h2law.com

20 Kirill Mikhaylov

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21 C. Scroggins

CBS@cbscrogginslaw.com

22 Morganne Westover

mwestover@howardandhoward.com

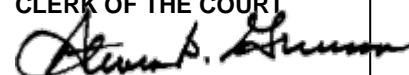
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1 **NEOJ**

2 L. Christopher Rose, Esq. Nevada Bar No. 7500  
3 Cami M. Perkins, Esq., Nevada Bar No. 9149  
4 Kirill V. Mikhaylov, Esq., Nevada Bar No. 13538

5 **Howard & Howard Attorneys PLLC**  
6 3800 Howard Hughes Parkway, Suite 1000

7 Las Vegas, NV 89169

8 Telephone: (702) 257-1483

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11 *Attorneys for Plaintiff Betsy Whipple*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 **BETSY L. WHIPPLE**, individually and as  
15 shareholder of **WHIPPLE CATTLE**  
16 **COMPANY, Inc.**, a Nevada Corporation,

17 Plaintiff,

18 vs.

19 **BRET O. WHIPPLE**, individually AND as  
20 President and Director of **WHIPPLE CATTLE**  
21 **COMPANY, INC.**, a Nevada Corporation;  
22 **CODY K. WHIPPLE**, individually and as  
23 Treasurer of **WHIPPLE CATTLE COMPANY,**  
24 **INC.**, a Nevada Corporation; **KIRT R. WHIPPLE**,  
25 individually and as Secretary of **WHIPPLE**  
26 **CATTLE COMPANY, INC.**, a Nevada  
27 Corporation; **JANE E. WHIPPLE**, individually  
and as Director of **WHIPPLE CATTLE**  
**COMPANY, INC.**, a Nevada Corporation; **JANE**  
**WHIPPLE**, trustee of **JANE WHIPPLE FAMILY**  
**TRUST** and as managing member of **KENT**  
**WHIPPLE RANCH LLC**; **JANE WHIPPLE**  
**FAMILY TRUST**; **KENT WHIPPLE RANCH**  
**LLC.**; **KATHRYN WETZEL**, individually,  
**WHIPPLE CATTLE COMPANY, INC.**, a  
Nevada Corporation; **DOE INDIVIDUALS I**  
through **X**; and **ROE CORPORATIONS I** through  
**X**,

Defendants.

CASE NO.: A-19-790929-B

DEPT NO.: 27

**NOTICE OF ENTRY OF ORDER**

1 PLEASE TAKE NOTICE that an Order Denying Defendants' Motion to Strike Request  
2 to Transfer to Business Court was filed in the above-captioned matter on the 28<sup>th</sup> day of April  
3 2021, a copy of which is attached hereto.

4 DATED: April 29, 2021

5 HOWARD & HOWARD ATTORNEYS PLLC

6  
7 By: /s/ Cami M. Perkins  
8 L. Chris Rose, Nevada Bar No. 7500  
9 Cami M. Perkins, Nevada Bar No. 9149  
10 Kirill V. Mikhaylov, Nevada Bar No. 13538

11 *Attorneys for Plaintiff Betsy Whipple*  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **NOTICE OF ENTRY OF ORDER** in this action electronically via the Odyssey E-File and Serve System, which will cause this document to be served upon the following counsel of record:

Bret O. Whipple, Esq.  
1100 South Tenth Street  
Las Vegas, Nevada 89104

Benjamin C. Scroggins, Esq.  
629 S. Casino Center Blvd., Suite 5  
Las Vegas, Nevada 89101

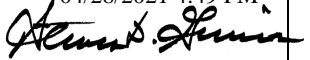
*Attorneys for Defendants Bret O. Whipple,  
Cody K. Whipple, Kirt R. Whipple, Jane E.  
Whipple, Jane Whipple Family Trust, Kent  
Whipple Ranch, LLC, and Kathryn Wetzel*

*Attorney for Defendant Whipple Cattle  
Company Incorporated*

DATED: April 29, 2021.

/s/ Morganne Westover

An employee of Howard & Howard Attorneys PLLC

  
CLERK OF THE COURT

**ORDR**

L. Christopher Rose, Esq. Nevada Bar No. 7500  
Cami M. Perkins, Esq., Nevada Bar No. 9149  
Kirill V. Mikhaylov, Esq., Nevada Bar No. 13538  
**Howard & Howard Attorneys PLLC**  
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*Attorneys for Plaintiff Betsy Whipple*

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

BETSY L. WHIPPLE, individually and as  
shareholder of WHIPPLE CATTLE  
COMPANY, Inc., a Nevada Corporation,

Plaintiff,

vs.

BRET O. WHIPPLE, individually AND as  
President and Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation;  
CODY K. WHIPPLE, individually and as  
Treasurer of WHIPPLE CATTLE COMPANY,  
INC., a Nevada Corporation; KIRT R.  
WHIPPLE,  
individually and as Secretary of WHIPPLE  
CATTLE COMPANY, INC., a Nevada  
Corporation; JANE E. WHIPPLE, individually  
and as Director of WHIPPLE CATTLE  
COMPANY, INC., a Nevada Corporation; JANE  
WHIPPLE, trustee of JANE WHIPPLE  
FAMILY TRUST and as managing member of  
KENT WHIPPLE RANCH LLC; JANE  
WHIPPLE FAMILY TRUST; KENT WHIPPLE  
RANCH LLC.; KATHRYN WETZEL,  
individually, WHIPPLE CATTLE COMPANY,  
INC., a Nevada Corporation; DOE  
INDIVIDUALS I through X; and ROE  
CORPORATIONS I through X,

Defendants.

CASE NO.: A-19-790929-B  
DEPT NO.: 27

**ORDER DENYING DEFENDANTS'  
MOTION TO STRIKE REQUEST TO  
TRANSFER TO BUSINESS COURT**

Defendants’ Motion to Strike Plaintiff’s Request to Transfer to Business Court, (the “Motion to Strike”) came on for hearing before the Honorable Nancy L. Alf on the 27<sup>th</sup> day of January 2021 at 9:30 a.m. Defendants appeared through their attorneys, Bret O. Whipple, Esq., of Justice Law Center and Benjamin C. Scroggins, Esq., of the Law Firm of Benjamin C. Scroggins, and Plaintiff Betsy L. Whipple (“Plaintiff”) appeared through her attorney, Cami M. Perkins, Esq., of Howard & Howard Attorneys PLLC. The Court, having considered the Motion to Strike, the respective oppositions and replies thereto, having considered the oral arguments by counsel, and having reviewed the other pleadings and papers on file herein, finds, concludes, and orders as follows:

**I. FINDINGS OF FACT**

**A. Procedural Background**

1. On March 12, 2019, Plaintiff filed her Complaint against Defendants. For reasons unknown, Plaintiff’s former counsel inadvertently did not file this matter in business court.

2. Defaults were entered against Defendants for failing to answer Plaintiff’s Complaint. The Defaults were later set aside after Defendants prevailed on their Motion to Set Aside the Default Judgments filed on May 1, 2019.

3. On April 17, 2019, Defendants filed their Motion to Change Venue seeking to have this matter transferred to Lincoln County, Nevada.

4. On January 6, 2020, the Court granted the Motion to Change Venue. *See* Order Granting Motion, on file herein.

5. Plaintiff respectfully disagreed with the Court’s decision on the Motion to Change Venue and filed a Motion to Reconsider the Court’s Order on January 16, 2020. *See* Motion to Reconsider, on file herein. Plaintiff also simultaneously filed a Motion to Stay Venue Change Pending Motion for Reconsideration. *See* Motion to Stay, on file herein.

6. After filing the Motion for Reconsideration and the Motion to Stay, but before either were heard, on February 12, 2020, former counsel for Plaintiff filed a Notice of Appeal, which caused the Court to vacate the hearings on the Motion for Reconsideration and the Motion to Stay Venue.

1           7.       Approximately four (4) months later, the Nevada Supreme Court assigned the  
2 appeal to the Nevada Court of Appeals. *See* Nevada Supreme Court docket, Case No. 80558.  
3 Almost four (4) months after the appeal was assigned to the Nevada Court of Appeals, the Nevada  
4 Court of Appeals ordered Plaintiff/Appellant to show cause why the appeal should not be  
5 dismissed for lack of jurisdiction due to the pending Motion for Reconsideration before the Court,  
6 which the filing of may have tolled the time-frame in which to file a Notice of Appeal. *See*  
7 Nevada Court of Appeals docket, Case No. 80558-COA.

8           8.       On November 25, 2020, new counsel for Plaintiff substituted as counsel for  
9 Plaintiff's former counsel in this case. Upon review of Plaintiff's Complaint and Defendants'  
10 Answer and Counterclaim, and the issues presented therein, it was clear that the primary claims  
11 and issues in this matter will require decisions under NRS 78 or will relate to business torts.

12           9.       On November 25, 2020, Plaintiff filed a request that this matter be assigned as a  
13 business matter in a business court setting. *See* Request to Transfer to Business Court, on file  
14 herein. In response, Defendants filed a Motion to Strike on November 30, 2020.

15           10.      On December 8, 2020, this matter was transferred by the Clerk of the Court from  
16 Department 14 to business court Department 27. *See* Notice of Department Reassignment, on  
17 file herein.

18           11.      Plaintiff filed her Opposition to the Motion to Strike on December 14, 2020 and  
19 the Motion to Strike came on before the Court for oral argument on January 27, 2021 at 9:30 a.m.

20           **B.       Substantive Findings**

21           12.      This is a shareholder dispute involving a Nevada corporation requiring numerous  
22 decisions under NRS Chapter 78 and the claims at issue arise from business torts. *See* Complaint,  
23 filed herein on March 12, 2019.

24           13.      In the Complaint, Plaintiff alleges the following causes of action/requests for  
25 relief against Defendants: (1) injunctive relief to prevent transfer of cattle and for return of cattle;  
26 (2) injunctive relief to prevent building of cabins on WCC property without shareholder consent  
27 as required by the bylaws; (3) injunctive relief to prevent mobile home development on WCC

property without shareholder consent as required by the bylaws; (4) injunctive relief to prevent Defendant Kathryn Wetzel from developing and/or moving on to WCC property; (5) breach of fiduciary duty as to annual documents; (6) breach of fiduciary duty as to corporate documents; (7) breach of fiduciary duty as to certificates for shares; (8) breach of fiduciary duty as to K-1 statements; (9) conversion; (10) fraud; and (11) unjust enrichment. *See* Complaint, filed herein on March 12, 2019.

14. The matters at issue therefore fall directly under the purview of EDCR 1.61(a)(1), 1.61(a)(2)(ii) and (iii).

## II. CONCLUSIONS OF LAW

15. EDCR 1.6(c)(3) is unambiguous, and provides:

(3) Any party aggrieved by designation of a case as a business matter may seek review by the business court judge within ten (10) days of receipt of the assignment of the case to a business court judge or within ten (10) days of filing a responsive pleading, whichever is later.

(4) The business court judge shall decide whether a case is or is not a business matter and that decision shall not be appealable or reviewable by writ. Any matter not deemed a business matter shall be randomly reassigned if it was originally assigned to the business court judge. If a case was submitted to the business court judge to determine whether it is a business matter and the business court judge rules that it is not, that case will be remanded to the department from which it came.

16. EDCR 1.61 is similarly unambiguous, and provides:

(a) **Business matters defined.** “Business matters” shall be:

(1) Matters in which the primary claims or issues are based on, or will require decision under NRS Chapters 78-92A or other similar statutes from other jurisdictions, without regard to the amount in controversy;

(2) Any of the following:

(i) Claims or cases arising under the Uniform Commercial Code, or as to which the Code will supply the rule of decision;

(ii) Claims arising from business torts;

(iii) Claims arising from the purchase or sale of (A) the stock of a business, (B) all or substantially all of the assets of a business, or (C) commercial real estate; or



(iv) Business franchise transactions and relationships.

17. Neither EDCR 1.6 nor 1.61 place any deadline when a matter can be transferred to business court.

18. The Court rejects Defendants' argument that this Court does not have jurisdiction to hear this matter.

19. As set forth in EDCR 1.61(a)(1), 1.61(a)(2)(ii) and (iii) and demonstrated by the pleadings on file, this case is a business matter and this matter was properly transferred to business court in accordance with the applicable rules.

20. Based on the causes of action contained in Plaintiff's Complaint, this matter deals primarily with business matters, as defined in EDCR 1.61. *See* Complaint, filed herein on March 12, 2019.

21. If any conclusion of law is more properly a finding of fact, it shall be so deemed.

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**III. ORDER**

**IT IS HEREBY ORDERED THAT** Defendants' Motion to Strike Plaintiff's Request to Transfer to Business Court be, and hereby is, denied.

ISSUED this 28 day of April, 2021.  
Dated this 28th day of April, 2021

Nancy L Allf  
DISTRICT COURT JUDGE

NB

**Respectfully submitted by:**

**74A 75D 1ED2 FFD9  
Nancy Allf  
District Court Judge**

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Cami M. Perkins  
L. Christopher Rose (#7500)  
Cami M. Perkins (#9149)  
Kirill V. Mikhaylov (#13538)  
3800 Howard Hughes Pkwy., Suite 1000  
Las Vegas, NV 89169  
*Attorneys for Plaintiff*

**Approved as to form and content:**

**JUSTICE LAW CENTER**

**LAW OFFICE OF BENJAMIN C. SCROGGINS**

/s/ Bret O. Whipple  
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1100 South Tenth Street  
Las Vegas, Nevada 89104  
*Attorneys for Defendants Bret O. Whipple,  
Cody K. Whipple, Kirt R. Whipple, Jane E.  
Whipple, Jane Whipple Family Trust, Kent  
Whipple Ranch, LLC, and Kathryn Wetzel*

/s/  
Benjamin C. Scroggins, Esq., Nevada Bar No. 7902  
629 S. Casino Center Blvd., Suite 5  
Las Vegas, Nevada 89101  
*Attorney for Defendant Whipple Cattle  
Company Incorporated*



# JUSTICE LAW CENTER

1100 S. 10th Street, Las Vegas, Nevada 89104  
T: (702) 731-0000 F: (702) 974-4008  
bretwhipple@gmail.com

---

April 28, 2021

To: Cami Perkins, Esq.  
Counsel for Betsy Whipple

Ben Sroggins, Esq.  
Counsel for Whipple Cattle Company

**Re: Proposed Orders E-mailed on April 26, 2021.**

In regards to the Proposed Order Denying Defendants' Motion to Strike Request to Transfer to Business Court, the non-Corporation Defendants have no objection.

In regards to the Proposed Order Denying the Motion to Reconsider Order Denying Change of Venue, the non-Corporation Defendants have one objection as follows: Paragraph 3 under Conclusions of Law, we believe the first sentence should be stricken, such that Paragraph 3 begins with "Therefore, the Court's ruling." Our review of the minutes does not indicate that the court made any finding that "this action is a business dispute" as it relates to NRS 13.040 and/or NRS 13.010 and we object on that basis.

SINCERELY,

A handwritten signature in black ink, appearing to read "Bret O. Whipple", with a long horizontal flourish extending to the right.

BRET O. WHIPPLE, ESQ.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Betsy Whipple, Plaintiff(s)

CASE NO: A-19-790929-B

7 vs.

DEPT. NO. Department 27

8 Bret Whipple, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/28/2021

15 Jeanne Metzger

jeannem@justice-law-center.com

16 Bret Whipple

admin@justice-law-center.com

17 Michael Mee

michaelm@justice-law-center.com

18 Cami Perkins

cperkins@howardandhoward.com

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