

IN THE SUPREME COURT OF THE STATE OF NEVADA

BETSY L. WHIPPLE, AN INDIVIDUAL AND
AS MAJORITY SHAREHOLDER OF
WHIPPLE CATTLE COMPANY, INC., A
NEVADA CORPORATION,

Plaintiff/Respondent,

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,

Defendants/Appellants.

CASE NO. 82964

Related to: 82994

DISTRICT COURT NO. A-19-790929-B

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Jan 31 2022 10:46 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**RESPONDENT'S MOTION TO
DISMISS APPEAL FOR LACK OF
JURISDICTION**

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Plaintiff/Respondent Betsy Whipple (“Respondent”) submits this Motion to dismiss appeal for lack of jurisdiction. In support thereof, Respondent states as follows.

I. INTRODUCTION

The jurisdiction of this Court to adjudicate matters is strictly limited by statutes and court rules; in most instances, a failure of a litigant to timely invoke the jurisdiction of the Court precludes the exercise of jurisdiction. This is one of those instances.

Unfortunately, Appellants have created added and unnecessary confusion with this case. This case is related to case number 82994, where a renewed motion to dismiss is already pending. This case was docketed before this Court on June 1, 2021; case number 82994 was docketed on June 3, 2021. There is no real difference between the two cases. In this appeal, Appellants purport to challenge a May 5, 2021 District Court Order denying reconsideration of a January 27, 2021, Order granting reconsideration; in the 82994 appeal, Appellants seek to directly challenge the January 27, 2021 Order granting reconsideration. Since Appellants did not file their 82994 appeal until May of 2021, they clearly did not raise a challenge to the January 27, 2021 order within 30 days. *See* NRAP 3A(b)(6). On its face, the 82994 appeal is meritless.

As it relates to this appeal, the appeal is also improper where Appellants seek to appeal from an order denying reconsideration of an order granting reconsideration. The motion for reconsideration of an order granting reconsideration does not toll the time to appeal; further, Appellants purport to challenge a decision of the District Court to transfer the case to business court, which is not appealable on an interlocutory basis.

Appellants have appealed to this Court pursuant to NRAP 3A(b)(6), contending that they are challenging an order refusing to change the place of trial. In reality, however, Appellants are

appealing an order denying reconsideration of an order granting reconsideration. This is improper and precludes the exercise of jurisdiction by this Court.

At first blush, the facts of this case appear complicated. As to the jurisdictional issue, however, the facts are quite simple. The district court entered an initial order granting a change of venue. Under NRAP 3A(b)(6), that order was immediately appealable, provided a notice of appeal was filed within 30 days. Rather than appeal, Respondent filed a timely motion for reconsideration, identifying clear errors made by the district court. Under relevant precedent, that timely motion for reconsideration was itself directed at an *appealable* order and tolled the time to appeal. Eventually, the district court granted reconsideration, reversing its prior order granting a change of venue. At that point, the appellate clock again commenced ticking, permitting an appeal under NRAP 3A(b)(6) within 30 days.

Rather than appeal, however, Appellants moved for reconsideration of an order granting reconsideration. In other words, Appellants sought reconsideration of a *non-appealable* order. Upon denial of their motion for reconsideration of the non-appealable reconsideration order, Appellants then filed multiple notices of appeal. The notices were untimely. Under applicable precedent, this Court lacks jurisdiction to hear this appeal, and the appeal must be dismissed.

II. STATEMENT OF FACTS

By way of background, on August 27, 2019, Appellants filed a motion renewed to change venue based on forum non conveniens, which Respondent opposed. Initially, the district court granted the motion. (**Ex. A**, Order Granting Motion to Change Venue, hereinafter, the “Venue Order”). Respondent timely moved for reconsideration of the Venue Order.

On reconsideration, by order entered January 27, 2021, the district court granted reconsideration and denied Appellants’ motion to change venue. (**Ex. B**, Order granting

Respondent’s Motion for Reconsideration). Appellants did not appeal that decision, which finally determined that venue would not be changed.

Instead, Appellants moved for reconsideration of the order granting reconsideration. (**Ex. C**, Appellants’ Motion for Reconsideration). Specifically, Appellants’ motion was entitled a “motion to reconsider” and provided a general standard governing motions for reconsideration. (**Ex. C**, pp. 1, 9). Appellants’ motion neither cited to nor relied upon any other court rules. The district court denied reconsideration of the order granting reconsideration. (**Ex. D**, May 5, 2021 Order Denying Reconsideration of Order Granting Reconsideration). The district court found that Appellants merely tried to supply information that was always available as opposed to “new evidence” or a change in law justifying reconsideration and found that Appellants failed to establish clear error. Thereafter, Appellants filed multiple notices of appeal. This renewed motion to dismiss now follows.

III. LEGAL ARGUMENT

This Court is a court of limited jurisdiction, and unless a litigant timely and properly invokes its jurisdiction, this Court cannot adjudicate a matter. As previously held based on case law spanning over a century:

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. . . . “No order of the lower court, no sanction, or permit, can authorize this court to take cognizance of a matter on appeal unless the right of appeal clearly appears as a matter of law.”

Nelson v. Nelson, 136 Nev. Adv. Op. 36, 466 P.3d 1249, 1251 (2020) (quoting *State v. State Bank & Tr. Co.*, 36 Nev. 526, 538, 137 P. 400, 403 (1913)).

A. An order denying reconsideration of an order granting reconsideration does not extend the time to appeal.

In this case, Appellants did not seek leave to appeal from a final judgment; instead, Appellants have sought leave to appeal an interlocutory order regarding venue. “Although appellate review is generally appropriate at the conclusion of a district court case, to promote judicial efficiency, . . . other types of orders have been designated by the Legislature and this court as independently appealable, before entry of a final judgment.” *Sicor, Inc. v. Sacks*, 127 Nev. 896, 899, 266 P.3d 618, 620 (2011). Specifically, under NRAP 3A(b)(6), “[a]n appeal may be taken from the following judgments and orders of a district court in a civil action: . . . An order changing or refusing to change the place of trial only when a notice of appeal from the order is filed within 30 days.” Thus, the key issue is whether Appellants filed an appeal within 30 days of “the order.” They did not.

In this case, the district court initially entered the Venue Order granting a change of venue at Appellant’s request. Under NRAP 3A(b)(6), as a party aggrieved by that order, Respondent clearly could have sought an immediate appeal to this Court within 30 days. Instead of burdening this Court, Respondent noted clear errors in the district court’s decision, and timely moved for reconsideration of the Venue Order. Upon review, the district court reversed the Venue Order by order dated January 27, 2021. Under this Court’s precedent, Appellants then had the right to appeal under NRAP 3A(b)(6) because “a motion to alter or amend any appealable order will generally toll the time to appeal from that order.” *Lytle v. Rosemere Estates Prop. Owners*, 129 Nev. 923, 314 P.3d 946 (2013). Appellants, however, did not seek leave to appeal within 30 days of the January 27, 2021 Order.

Instead, Appellants moved for reconsideration of the order granting reconsideration of the prior appealable Venue Order. However, “an order denying a motion for reconsideration is not independently appealable.” *Shivak v. Houston*, 133 Nev. 1073, 397 P.3d 20 (2017) (citing *Arnold*

v. Kip, 123 Nev. 410, 417, 168 P.3d 1050, 1054 (2007), *as amended* (Nov. 21, 2007)). In other words, Appellants moved for reconsideration of a non-appealable order granting reconsideration. In so doing, Appellants did not toll the 30-day period for appealing the Venue Order.

The Court's decision in *Ditech Fin. LLC v. JJND Enterprises, LLC*, 471 P.3d 751 (Nev. 2020) is informative. In that case, the appellant sought to challenge an order granting summary judgment. A question arose whether the appellant timely appealed. Appellant contended that a timely filed motion for reconsideration of an order denying a motion for leave to amend an answer tolled the time to appeal. *Id.* The Court rejected that argument:

A timely motion for reconsideration may toll [sic] the time to appeal an *appealable* judgment. . . . Here, however, the motion for reconsideration was as to a non-appealable order - the order denying the motion for leave to amend the answer. Accordingly, the motion for reconsideration did not toll the time to appeal the final order granting summary judgment, and the notice of appeal from that order is untimely.

Id. (citing *Lytle*, 314 P.3d at 946) (emphasis in original).

In this case, the district court issued the Venue Order, granting a change of venue. That Order was instantly appealable, provided a notice of appeal was filed within 30 days. However, a timely motion for reconsideration was filed, challenging that appealable order, and thus extending the time to appeal. The motion for reconsideration was granted. At that time, Appellants had 30 days to appeal under NRAP 3A(b)(6). Appellants did not, however, appeal within 30 days of that order. Instead, Appellants moved for reconsideration of the order granting reconsideration. As stated above, an order on reconsideration is not independently appealable; it merely tolls the time to appeal an otherwise appealable order. The Appellants' motion for reconsideration sought reconsideration of a non-appealable order. Just as in *Ditech*, because the motion for reconsideration was directed at a non-appealable order, it did not serve to toll the time for taking

an appeal of the appealable order. Accordingly, this Court lacks jurisdiction over this appeal, and the appeal must be dismissed.

B. Appellants cannot appeal a transfer to business court at this time because it is not a venue challenge.

It is uncontested that transfer of a case within the same District Court to the business court division is not a final order. Additionally, it is not a venue issue subject to appeal under NRAP 3A(b)(6). First, this case was in one particular venue and assigned to the business court *in that same venue*. Second, Appellants filed two motions to resume briefing (one in this case and one in case number 82994). In both cases, Appellants argued that their appeal does not just involve venue decisions but other matters (the other matter involving assignment to business court). (**Ex. E**, Appellants' Motion to resume briefing schedule). This concession makes clear that the challenge to the business court assignment is not appealable. Finally, NRAP 17 provides a division between cases that go to the COA and those that go to the Supreme Court; appeals from the business court go to the Supreme Court; venue appeals go to the COA. That the Rules make a distinction between business court and venue in that way is further support that simply having a case assigned to the business court does not permit appeal of such an order on an interlocutory basis.

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IV. CONCLUSION

WHEREFORE, Plaintiff/Respondent respectfully requests this Honorable Court DISMISS this appeal for lack of jurisdiction.

DATED: January 31, 2022.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Cami M. Perkins

Cami M Perkins, Esq.

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Las Vegas, NV 89169

Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of **RESPONDENT'S MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION** was served by electronic filing via the Supreme Court's eFlex electronic filing system.

DATED: January 31, 2022.

/s/ Joshua Daor
An employee of **Howard & Howard Attorneys, PLLC**

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EXHIBIT A

ORDR

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Case No.: A-19-790929-c

Dept No.: ~~XVI~~ XIV

**ORDER GRANTING DEFENDANTS'
MOTION RENEWED TO CHANGE
VENUE**

PLEASE NOTE
DEPARTMENT CHANGE

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,

Defendant.

ORDER GRANTING DEFENDANTS' MOTION RENEWED TO CHANGE VENUE

This matter, concerning Defendants' Motion Renewed to Change Venue, filed on August 27, 2019, came on for hearing at 9:30 am on this 1st day of October 2019 before Department XVI of the Eighth Judicial District Court, in and for Clark County, Nevada with the honorable JUDGE ADRIANA ESCOBAR presiding. PLAINTIFF BETSY L. WHIPPLE appeared by and through her attorneys, MICHAEL C. VAN, ESQ., and GARRETT C. CHASE, ESQ. of the law firm SHUMWAY VAN; and DEFENDANTS appeared by and their counsel, BRET O. WHIPPLE, ESQ. of JUSTICE LAW CENTER. Having reviewed the papers and pleadings on file therein, and hear oral arguments of the attorneys, the Court makes the following Findings of Fact, and Conclusions of Law:

I. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Where the Court having entered a Minute Order on October 22, 2019 at 3:30pm found and contained in the register of actions in this matter as follows:

A. PREFACE

Defendants, collectively, filed a Motion Renewed to Change Venue, hereinafter referred to as (the "Motion"), where after Plaintiff opposed Defendants' Motion.

The Court held a hearing on the Motion on October 1, 2019 at 9:30am.

After considering the pleadings and arguments, the Court GRANTS Defendants' Motion Renewed to Change Venue and GRANTS Defendants' Motion to Vacate the Early Case Conference.

B. FINDINGS OF FACTS

1. The facts and issues in dispute concerning the real property, conversion and trespass claims are exclusive to Lincoln County, Nevada. NRS 13.050(2)(c).

2. Plaintiff, Betsy Whipple, lives in Lincoln County, Nevada. NRS 13.050(2)(c).

3. Defendant, WCC, is located and doing business at 4004 Whipple Ranch Road, Hiko, Lincoln County, Nevada 89017. NRS 13.050(2)(c).

...

...

1 4. Defendant, Cody Whipple, is a part-time resident of Lincoln County, Nevada and he votes
2 in Lincoln County, Nevada and is the Treasurer of the WHIPPLE CATTLE COMPANY, INC.
3 NRS 13.050(2)(c).

4 5. Kathryn Wetzel, is now residing in Lincoln County, Nevada. NRS 13.050(2)(c).

5 6. Defendant, Jane Whipple, is a resident of Lincoln County, Nevada. NRS 13.050(2)(c).

6 7. Defendant, Kirt (Blu) Whipple, is a resident of Harris County, Texas and for the
7 convenience of all parties agrees to Lincoln County, Nevada for the convenience of the witnesses
8 and the ends of justice in this matter. NRS 13.050(2)(c).

9 8. All witnesses Defendants anticipate calling either worked and/or lived during the relevant
10 period of time in Lincoln County, Nevada.

11
12 **C. CONCLUSIONS OF LAW**

13 The Court finds that Change of venue is proper for the following reasons:

14 The Court recognizes that proper venue is either the county in which one or more defendants
15 reside at the commencement of the action. NRS 13.040; citing Washoe County v. Wildeveld, 103
16 Nev. 380 (1987).

17 However, under NRS 13.050(c), the Court may change the place of the proceeding [w]hen
18 the convenience of the witnesses and the ends of justice would be promoted by the change. Citing
19 Lyon Cty. v. Washoe Med. Ctr., 766 P.2d 902, 904 (Nev. 1988). Note, [a]n action in any form to
20 determine a right or interest in real property must be tried where the property is situated. Price v.
21 Ward, 25 Nev. 203, 58 P. 849 (Oct. 1899).

22 Plaintiff's request is for injunctive relief on various grounds, breach of fiduciary duty on
23 various grounds, and other claims.

24 All of Plaintiff's claims directly connect to and arise from conduct of Defendant WHIPPLE
25 CATTLE COMPANY, INC. (WCC), which is located and doing business at 4004 Whipple Ranch
26 Road, Hiko, Lincoln County, Nevada 89017.

27 ...

28 ...

Moreover, motions brought pursuant to NRS 13.050 subsection (2) need not be preceded by a timely demand and are addressed to the discretion of the court. Kenning Car Rental v. Desert Rent-A-Car, 105 Nev. 118, 771 P.2d 150 (Nev. 1989).

II. ORDER

Based exclusively on the foregoing reasons and the connected filed pleadings without taking judicial notice of the prior cases in Lincoln County, Nevada the Court hereby GRANTS Defendants' Motion Renewed to Change Venue and GRANTS Defendants' Motion to Vacate the Early Case Conference.

IT IS HEREBY ORDERED that Defendants' Motion Renewed to Change Venue is hereby GRANTED.

IT IS FURTHER ORDERED that Defendants' Motion to Vacate the Early Case Conference is hereby GRANTED.

DATED this 3rd day of January, 2020.



DISTRICT COURT JUDGE

Respectfully submitted by:

SHUMWAY VAN

Approved as to form and Content:

JUSTICE LAW CENTER

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EXHIBIT 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.

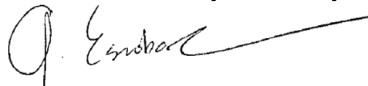
9 **III. ORDER**

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**
4 **CLARK COUNTY, NEVADA**

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

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

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Bret Whipple

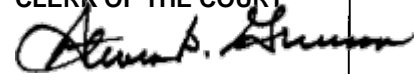
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EXHIBIT PAGE ONLY

EXHIBIT C



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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 5th 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.

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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
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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.
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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 impairment¹. 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
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27 ¹ "Prader-Willi Syndrome" <https://medlineplus.gov/genetics/condition/prader-willi-syndrome/#expand-collapse-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.
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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
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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).
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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).
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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.² 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.³ 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.⁴ Lincoln County has had less than 10 total cases
17 during that same period.⁵
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22 ² **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 ³ "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 ⁴ Exhibit I – retrieved via <https://covid.cdc.gov/covid-data-tracker/#county-view>

27 ⁵ Exhibit J – retrieved via <https://covid.cdc.gov/covid-data-tracker/#county-view>
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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.
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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
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1 "the partition of real property," does not mean that NRS 13.010⁶ 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.
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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 5th day of February, 2021.

14 **JUSTICE LAW CENTER**

15 /s/ Bret O. Whipple, Esq.
16 Bret O. Whipple, Esq.
17 Nevada Bar No. 6168
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19
20 ⁶ "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).
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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 5th 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.
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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.
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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..
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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
26
27
28

our cattle herd. After the sale of the public rangeland, the Whipple Ranch only ran approximately fifty (50) mother cows.

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

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

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

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

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

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

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

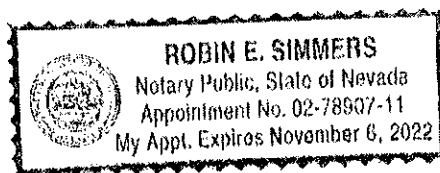








EXHIBIT B

AFFT

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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)
through X; and ROE CORPORATIONS)
through X,)

Defendants.

AFFIDAVIT OF KATHRYN WETZEL

STATE OF NEVADA)
COUNTY OF LINCOLN) ss:

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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
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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
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- 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
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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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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
Phone (702) 731-0000 • Fax (702) 974-4008

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

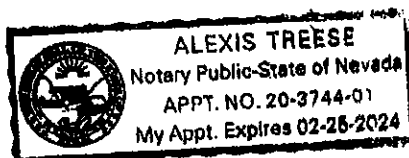


EXHIBIT D

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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

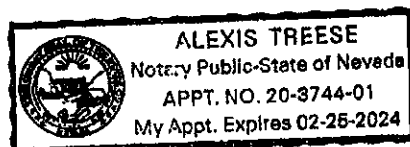




EXHIBIT E

JUSTICE LAW CENTER

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

1 **AFFT**

2 **BRET O. WHIPPLE, ESQ.**
Nevada State Bar No. 6168

3 **C. BENJAMIN SCROGGINS, ESQ.**

Nevada State Bar No. 7902

4 1100 South 10th Street

5 Las Vegas, Nevada 89104

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6 (702) 974-4008 Facsimile

admin@justice-law-center.com

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:**

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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 
23 MIKE WADSWORTH

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

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

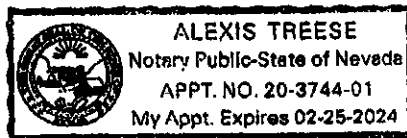


EXHIBIT F

JUSTICE LAW CENTER

1100 South 10th Street, Las Vegas, Nevada 89104

Phone (702) 731 - 0000 • Fax (702) 974 - 4008

1 **AFFT**

2 **BRET O. WHIPPLE, ESQ.**

Nevada State Bar No. 6168

3 **C. BENJAMIN SCROGGINS, ESQ.**

Nevada State Bar No. 7902

4 1100 South 10th Street

Las Vegas, Nevada 89104

5 (702) 731-0000 Telephone

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admin@justice-law-center.com

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.**

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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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

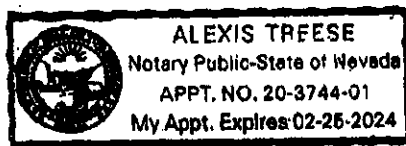


EXHIBIT G

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AFFT
BRET O. WHIPPLE, ESQ.
Nevada State Bar No. 6168
C. BENJAMIN SCROGGINS, ESQ.
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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)	
15	CATTLE COMPANY, INC., a Nevada)	
16	Corporation; CODY K. WHIPPLE,)	
16	individually and as a Treasurer of WHIPPLE)	
17	CATTLE COMPANY, INC. a Nevada)	
17	Corporation; KIRT R. WHIPPLE,)	
18	individually and as Secretary of WHIPPLE)	
18	CATTLE COMPANY, INC., a Nevada)	
19	Corporation; JANE E. WHIPPLE, trustee of)	
19	JANE WHIPPLE FAMILY TRUST and as)	
20	managing member of KENT WHIPPLE)	
20	RANCH, LLC; JANE WHIPPLE FAMILY)	
21	TRUST; KENT WHIPPLE RANCH LLC.;)	
21	KATHRYN WETZEL, individually,)	
22	WHIPPLE CATTLE COMPANY, INC., a)	
22	Nevada Corporation; DOE INDIVIDUALS I)	
23	through X; and ROE CORPORATIONS I)	
23	through X,)	
24	Defendants.)	

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

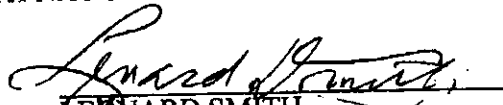
AFFIDAVIT OF LEONARD SMITH

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

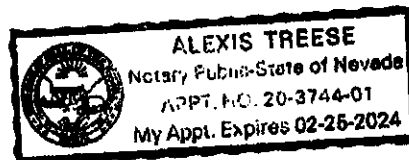
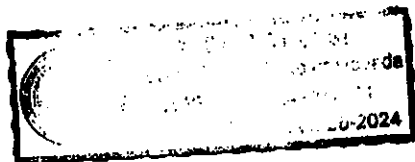




EXHIBIT H

AFFT
BRET O. WHIPPLE, ESQ.
Nevada State Bar No. 6168
C. BENJAMIN SCROGGINS, ESQ.
Nevada State Bar No. 7902
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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 4. That I am aware, from my review of plat maps and other public records, that the same
- 13 type of survey/plat map that I performed for Cody Whipple was previously prepared and
- 14 approved by the Lincoln County Planning Commission on behalf of Betsy Whipple.
- 15 5. That I have also previously surveyed small pieces of land and prepared the plat maps
- 16 associated with those, at the request of the officers of the Whipple Cattle Company Inc.,
- 17 for the purpose of selling those particular pieces of land.
- 18
- 19 6. That on each occasion land was split from the Whipple Cattle Company, Inc., I had to
- 20 appear in front of the Lincoln County Planning Commission and testify and authenticate
- 21 the plat map/survey for those pieces of property. On most of the occasions before the
- 22 Lincoln County Planning Commission, Betsy Whipple appeared and opposed the
- 23 approval of the plat map/survey. Further, on each occasion that Betsy opposed the
- 24 approval of the plat map, the Lincoln County Planning Commission approved the plat
- 25 map and survey, allowing the property to be sold.
- 26
- 27 7. That the twenty (20) acres that I surveyed for Cody Whipple contains several cabins and
- 28 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

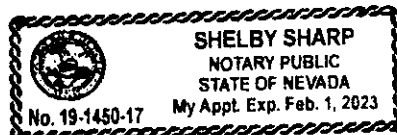


EXHIBIT I

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

COVID-19 Integrated County View

Data Tracker Home

Your Community



Maps, charts, and data provided by the CDC, updated daily by 8 pm ET[†]

Vaccinations



Select state and county to populate
county-specific data:

State:

Nevada



Cases & Deaths



County or metro area:

Clark



Demographic Trends



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.

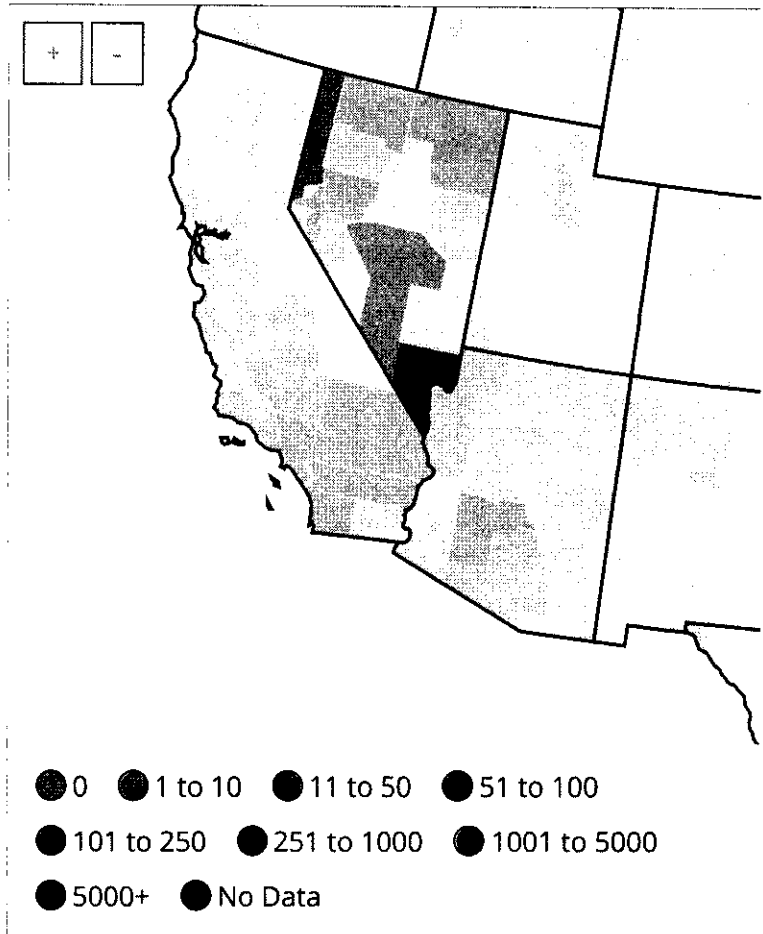
Map Data:

Cases

Back to U.S. Map

Reported cases

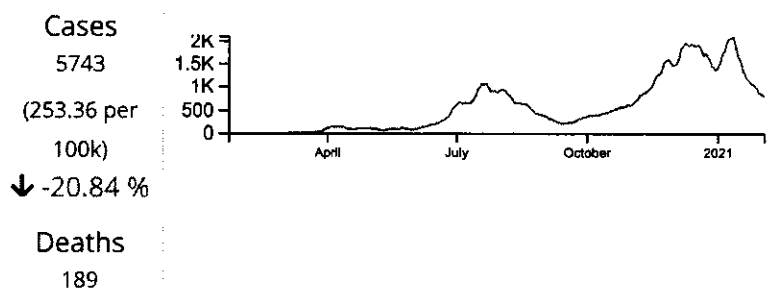
Time Period: Thu Jan 28 2021 - Wed Feb 03 2021



7 Day Average

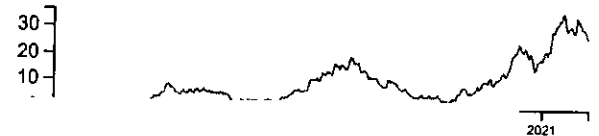
Wed Jan 22 2020 - Wed

7 Day total



(8.34 per 100k)

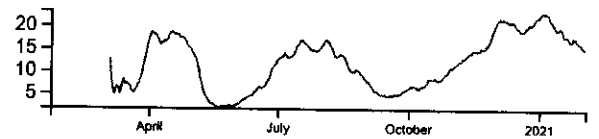
↓ -24.7 %



Percent
Positivity

16.08

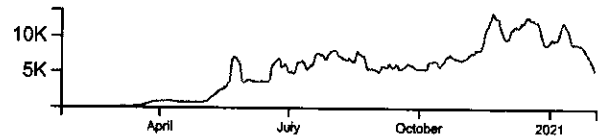
↓ -2.2 %
change



Testing
Volume

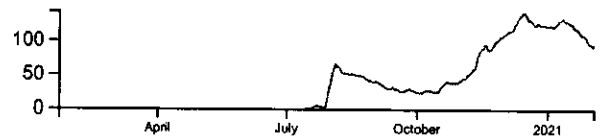
42623

(1880.39 per
100k)



New
Hospital
Admissions
(COVID)

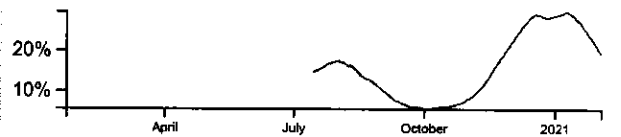
638



Percent
Beds Used
(COVID)

19.70 %

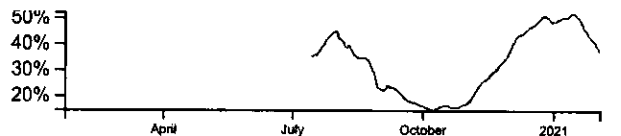
↓ -3.70 %



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

[†]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[†]

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

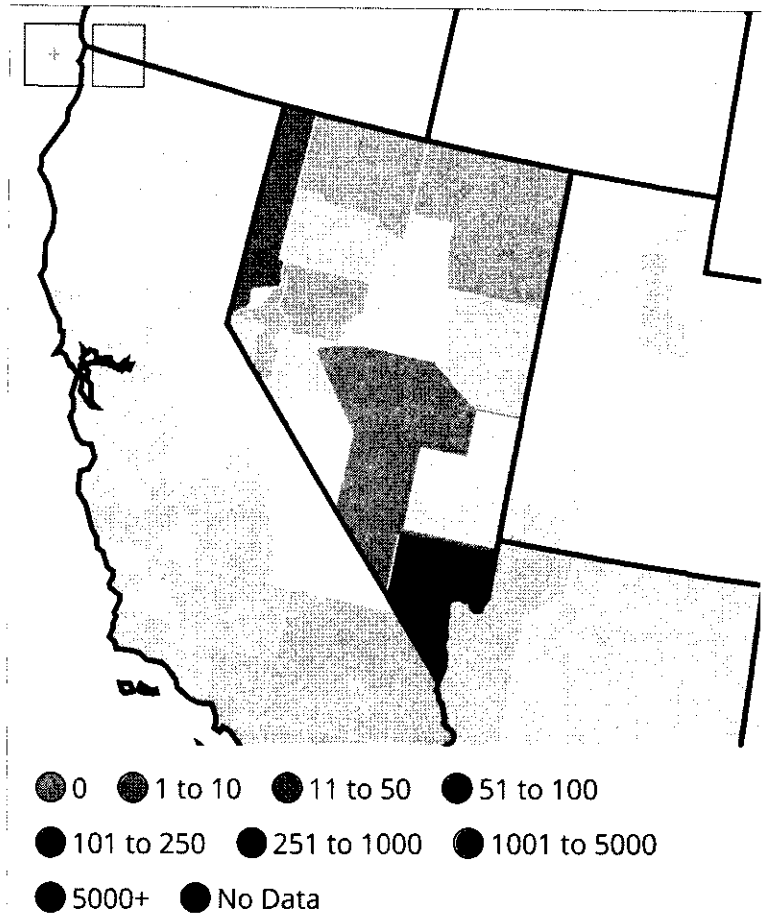
Reported cases

Back to U.S. Map

↺

↻

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

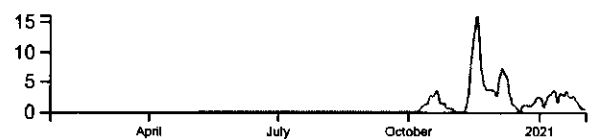


7 Day Average

Wed Jan 22 2020 - Wed

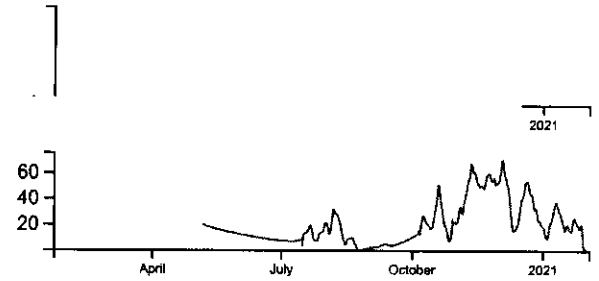
7 Day total

Cases
 <10
 *

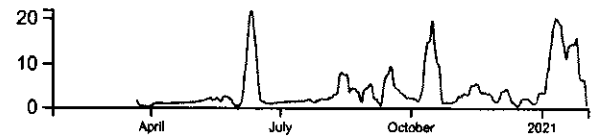


Deaths
 <10

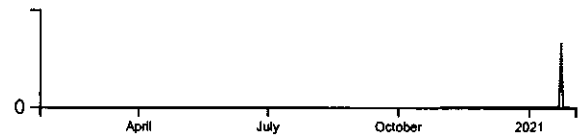
*
 Percent
 Positivity
 4.26
 ↓ -10.3 %
 change



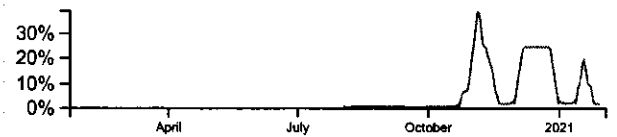
Testing
 Volume
 47
 (906.81 per
 100k)



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

[†]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 hypogonadotrophic 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.

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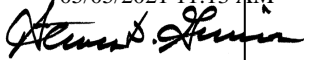
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EXHIBIT PAGE ONLY

EXHIBIT D


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 9th 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)
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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.

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/s/

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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

jeannem@justice-law-center.com

16 Bret Whipple

admin@justice-law-center.com

17 Michael Mee

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18 Cami Perkins

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19 L. Christopher Rose

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EXHIBIT PAGE ONLY

EXHIBIT E

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Fax: 702-974-4008
Attorney for Non-WCC Defendants

Electronically Filed
Jan 17 2022 01:33 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF 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 I thru X
inclusive, and ROE I thru X
inclusive.

Defendants.

SUPREME COURT CASE NO.:
82994 / 82964

DISTRICT COURT CASE NO.:
A-19-790929-B

**MOTION TO RESUME BRIEFING
SCHEDULE AND/OR FOR FULL
BRIEFING OF ISSUES ON APPEAL**

APPELLANTS' MOTION TO RESUME BRIEFING SCHEDULE

COMES NOW, the Non-WCC Defendants by and through his attorney, BRET O. WHIPPLE, ESQ., of JUSTICE LAW CENTER and moves this Honorable Court that the Full Briefing Schedule in this matter be reinstated and/or resumed by Order of this Court.

This Court previously set a Briefing Schedule for these two appeals, which set an Opening Brief deadline of 90 days following December 14, 2021. *See* Docket No. 21-35635. However, subsequently, this Court entered an Order Correcting that previous Order, indicating that "because this is a venue appeal, the directive to file briefs was entered in error and the briefing schedule set forth in that order is vacated. No further documents are due from the parties at this time." *See* Docket No. 22-00448.

However, this latter Order rested upon the incorrect premise that the only issue appealed in these two cases numbers is the issue of venue. In the combined Notices of Appeal filed, however, the parties appealing to this Court challenged three order: (1) The Order denying change of venue; (2) the Order denying reconsideration of the Order denying change of venue; and (3) the Order transferring the case to Business Court.

Therefore, although this Court indicates that briefing is not appropriate for a mere appeal of venue, as the pending appeals from the District Court in this case challenge more issues than just the Order pertaining to venue, the Appellants respectfully request an opportunity to fully brief the remaining issues on appeal.

Dated this 17th day of January, 2022.

/s/ Bret O. Whipple, Esq.
BRET O. WHIPPLE, ESQ.
Nevada Bar No. 6168

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CERTIFICATE OF SERVICE

I hereby Certify that on this 17th day of January, 2022, I served the foregoing Motion upon all parties registered to receive electronic service in the above-captioned matter.

/s/ Michael Mee
On behalf of Justice Law Center