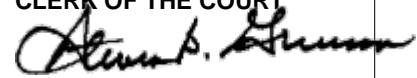


Electronically Filed
Jul 06 2021 02:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

EXHIBIT 19



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

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

MEMORANDUM OF COSTS AND DISBURSEMENTS

Clerk's fees (NRS 18.005(1)) \$ 1,323.90

1 Reporters' fees for depositions/copies (NRS 18.005(2)) \$ 2,216.81
2 Service of process/summons (NRS 18.005(7)) \$ 1,126.72
3 Photocopies and postage (NRS 18.005(12)-(14)) \$ 203.64
4 Legal Research/other "necessary expenses" (NRS 18.005(17)) \$ 3,665.22
5 **TOTAL** \$ **8,536.29**

6
7
8 Dated this 15th day of March, 2021.

9
10 **HOLLEY DRIGGS**

11 Jessica M. Lujan
12 F. THOMAS EDWARDS, ESQ.
13 Nevada Bar No. 9549
14 JESSICA M. LUJAN, ESQ.
15 Nevada Bar No. 14913
16 400 South Fourth Street, Third Floor
17 Las Vegas, Nevada 89101

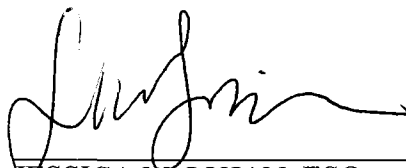
18 *Attorneys for Plaintiffs/Counterdefendants*
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HOLLEY DRIGGS

Affidavit

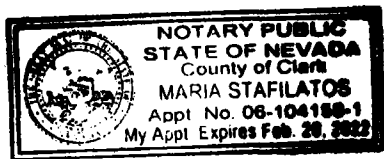
STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

Jessica M. Lujan, Esq. being duly sworn, states: that affiant is the attorney for the Plaintiffs/Counter-defendants and has personal knowledge of the above costs and disbursements expended; that the items contained in the above memorandum are true and correct to the best of this affiant's knowledge and belief; and that the said disbursements have been necessarily incurred and paid in this action.



JESSICA M. LUJAN, ESQ.
Attorney for Plaintiffs/Counterdefendants

SIGNED AND SWORN to before me this
15 day of March, 2021.


NOTARY PUBLIC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 15th day of March, 2021, and pursuant to EDCR 8.05 and NRCP 5(b), I caused to be served electronically using the Court’s E-Filing E-Service System, a true and correct copy of the foregoing **MEMORANDUM OF COSTS AND DISBURSEMENTS** to all parties in this case registered with the E-Service System.

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

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

/s/ Sandy Sell
An employee of Holley Driggs

COSTS



Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
6/5/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Service of process	sp	1.00 1.00	199.00 199.00	199.00 199.00
3/1/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	22.00 22.00	0.15 0.15	3.30 3.30
3/9/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
9/6/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
10/29/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	395.00 395.00	0.15 0.15	59.25 59.25
3/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	3.00 3.00	0.15 0.15	0.45 0.45
12/15/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	15.00 15.00	0.15 0.15	2.25 2.25

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
11/5/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
3/11/2021		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
2/27/2020		03827-59 / Commercial Specialists	pc	4.00	0.15	0.60
		Bour Enterprises, LLC		4.00	0.15	0.60
		Photocopies				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
12/14/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
10/10/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
6/6/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
12/14/2020		03827-59 / Commercial Specialists	pc	114.00	0.15	17.10
		Bour Enterprises, LLC		114.00	0.15	17.10
		Photocopies				
3/1/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
10/29/2020		03827-59 / Commercial Specialists	pc	35.00	0.15	5.25
		Bour Enterprises, LLC		35.00	0.15	5.25
		Photocopies				
6/25/2019		03827-59 / Commercial Specialists	bon	1.00	500.00	500.00
		Bour Enterprises, LLC		1.00	500.00	500.00
		Bond fee				
3/9/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
2/27/2020		03827-59 / Commercial Specialists	pc	8.00	0.15	1.20
		Bour Enterprises, LLC		8.00	0.15	1.20
		Photocopies				
10/13/2020		03827-59 / Commercial Specialists	pc	17.00	0.15	2.55
		Bour Enterprises, LLC		17.00	0.15	2.55
		Photocopies				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
2/27/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
2/6/2020		03827-59 / Commercial Specialists	wr	1.00	446.55	446.55
		Bour Enterprises, LLC		1.00	446.55	446.55
		Westlaw online research				
1/11/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/31/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	3.00 3.00	0.15 0.15	0.45 0.45
5/1/2018		03827-59 / Commercial Specialists Bour Enterprises, LLC Postage E109	po	1.00 1.00	0.94 0.94	0.94 0.94
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	13.00 13.00	0.15 0.15	1.95 1.95
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	4.40 4.40	4.40 4.40
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65
12/18/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
7/9/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
9/3/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		Matter Description Narrative				
5/16/2019		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
5/26/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
9/25/2019		03827-59 / Commercial Specialists	po	1.00	0.50	0.50
		Bour Enterprises, LLC		1.00	0.50	0.50
		Postage E109				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	9.50	9.50
		Bour Enterprises, LLC		1.00	9.50	9.50
		Filing fee				
1/10/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	112.00	0.15	16.80
		Bour Enterprises, LLC		112.00	0.15	16.80
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	200.00	200.00
		Bour Enterprises, LLC		1.00	200.00	200.00
		Filing fee				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort	Component Task Code	Units		Price		Value	
		Matter Description Narrative		Stm	Units	Stm	Price	Ext	Amount
9/3/2019	RC	03827-59 / Commercial Specialists	de		1.00		15.00		15.00
		Bour Enterprises, LLC			1.00		15.00		15.00
		Delivery Charges							
11/5/2020		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
8/12/2020		03827-59 / Commercial Specialists	ff		1.00		30.00		30.00
		Bour Enterprises, LLC			1.00		30.00		30.00
		Filing fee							
7/1/2020		03827-59 / Commercial Specialists	cr		1.00		379.83		379.83
		Bour Enterprises, LLC			1.00		379.83		379.83
		Court reporter							
5/15/2019		03827-59 / Commercial Specialists	pc		6.00		0.15		0.90
		Bour Enterprises, LLC			6.00		0.15		0.90
		Photocopies							
1/11/2021		03827-59 / Commercial Specialists	pc		6.00		0.15		0.90
		Bour Enterprises, LLC			6.00		0.15		0.90
		Photocopies							
9/30/2019		03827-59 / Commercial Specialists	wr		1.00		17.55		17.55
		Bour Enterprises, LLC			1.00		17.55		17.55
		Westlaw online research							
2/16/2021		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
3/5/2021		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
5/15/2019		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort					
		Matter Description	Component	Units	Price	Value	
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext	Amount
10/13/2020		03827-59 / Commercial Specialists	pc	14.00	0.15		2.10
		Bour Enterprises, LLC		14.00	0.15		2.10
		Photocopies					
1/11/2021		03827-59 / Commercial Specialists	pc	15.00	0.15		2.25
		Bour Enterprises, LLC		15.00	0.15		2.25
		Photocopies					
6/25/2019		03827-59 / Commercial Specialists	bon	1.00	500.00		500.00
		Bour Enterprises, LLC		1.00	500.00		500.00
		Bond fee					
6/28/2019		03827-59 / Commercial Specialists	sp	1.00	90.00		90.00
		Bour Enterprises, LLC		1.00	90.00		90.00
		Service of process					
10/13/2020		03827-59 / Commercial Specialists	pc	14.00	0.15		2.10
		Bour Enterprises, LLC		14.00	0.15		2.10
		Photocopies					
11/15/2019		03827-59 / Commercial Specialists	ff	1.00	3.50		3.50
		Bour Enterprises, LLC		1.00	3.50		3.50
		Filing fee					
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	3.50		3.50
		Bour Enterprises, LLC		1.00	3.50		3.50
		Filing fee					
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	3.50		3.50
		Bour Enterprises, LLC		1.00	3.50		3.50
		Filing fee					
6/21/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00		15.00
		Bour Enterprises, LLC		1.00	15.00		15.00
		Delivery Charges					
1/28/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00		15.00
		Bour Enterprises, LLC		1.00	15.00		15.00
		Delivery Charges					

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/21/2020		03827-59 / Commercial Specialists	pc	21.00	0.15	3.15
		Bour Enterprises, LLC		21.00	0.15	3.15
		Photocopies				
10/30/2020		03827-59 / Commercial Specialists	pc	25.00	0.15	3.75
		Bour Enterprises, LLC		25.00	0.15	3.75
		Photocopies				
2/14/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
3/1/2021		03827-59 / Commercial Specialists	pc	6.00	0.15	0.90
		Bour Enterprises, LLC		6.00	0.15	0.90
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	75.00	0.15	11.25
		Bour Enterprises, LLC		75.00	0.15	11.25
		Photocopies				
8/29/2019		03827-59 / Commercial Specialists	wr	1.00	204.44	204.44
		Bour Enterprises, LLC		1.00	204.44	204.44
		Westlaw online research				
1/31/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	112.36	112.36
		Bour Enterprises, LLC		1.00	112.36	112.36
		Service of process				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	7.00	7.00
		Bour Enterprises, LLC		1.00	7.00	7.00
		Filing fee				
2/26/2021		03827-59 / Commercial Specialists	wr	1.00	224.89	224.89
		Bour Enterprises, LLC		1.00	224.89	224.89
		Westlaw online research				
8/16/2019		03827-59 / Commercial Specialists	wr	1.00	9.84	9.84
		Bour Enterprises, LLC		1.00	9.84	9.84
		Westlaw online research				
1/14/2021		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
10/10/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	4.40	4.40
		Bour Enterprises, LLC		1.00	4.40	4.40
		Filing fee				
2/24/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
6/6/2019		03827-59 / Commercial Specialists	ff	1.00	748.60	748.60
		Bour Enterprises, LLC		1.00	748.60	748.60
		Filing fee				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Component	Units	Price	Value
Date	Prof	Matter Description	Task Code	Stm	Units	Stm	Price	Ext Amount
9/4/2019	RC	03827-59 / Commercial Specialists	de		1.00		15.00	15.00
		Bour Enterprises, LLC			1.00		15.00	15.00
		Delivery Charges						
1/11/2021		03827-59 / Commercial Specialists	pc		27.00		0.15	4.05
		Bour Enterprises, LLC			27.00		0.15	4.05
1/11/2021		03827-59 / Commercial Specialists	pc		112.00		0.15	16.80
		Bour Enterprises, LLC			112.00		0.15	16.80
2/8/2021		03827-59 / Commercial Specialists	ff		1.00		3.50	3.50
		Bour Enterprises, LLC			1.00		3.50	3.50
1/11/2021		03827-59 / Commercial Specialists	pc		14.00		0.15	2.10
		Bour Enterprises, LLC			14.00		0.15	2.10
4/9/2020		03827-59 / Commercial Specialists	wr		1.00		316.67	316.67
		Bour Enterprises, LLC			1.00		316.67	316.67
10/13/2020		03827-59 / Commercial Specialists	pc		1.00		0.15	0.15
		Bour Enterprises, LLC			1.00		0.15	0.15
2/27/2020		03827-59 / Commercial Specialists	pc		3.00		0.15	0.45
		Bour Enterprises, LLC			3.00		0.15	0.45
12/14/2020		03827-59 / Commercial Specialists	pc		1.00		0.15	0.15
		Bour Enterprises, LLC			1.00		0.15	0.15
1/28/2020	RC	03827-59 / Commercial Specialists	de		1.00		15.00	15.00
		Bour Enterprises, LLC			1.00		15.00	15.00
		Delivery Charges						

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort						
		Matter Description	Component	Units	Price	Value		
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext	Amount	
12/18/2020		03827-59 / Commercial Specialists	pc	2.00	0.15		0.30	
		Bour Enterprises, LLC		2.00	0.15		0.30	
		Photocopies						
12/21/2020		03827-59 / Commercial Specialists	pc	21.00	0.15		3.15	
		Bour Enterprises, LLC		21.00	0.15		3.15	
		Photocopies						
12/31/2020		03827-59 / Commercial Specialists	pc	3.00	0.15		0.45	
		Bour Enterprises, LLC		3.00	0.15		0.45	
		Photocopies						
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15	
		Bour Enterprises, LLC		1.00	0.15		0.15	
		Photocopies						
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15	
		Bour Enterprises, LLC		1.00	0.15		0.15	
		Photocopies						
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15	
		Bour Enterprises, LLC		1.00	0.15		0.15	
		Photocopies						
12/31/2020		03827-59 / Commercial Specialists	wr	1.00	1,459.60		1,459.60	
		Bour Enterprises, LLC		1.00	1,459.60		1,459.60	
		Westlaw						
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	200.00		200.00	
		Bour Enterprises, LLC		1.00	200.00		200.00	
		Filing fee						
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	9.50		9.50	
		Bour Enterprises, LLC		1.00	9.50		9.50	
		Filing fee						
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	3.50		3.50	
		Bour Enterprises, LLC		1.00	3.50		3.50	
		Filing fee						

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
9/4/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	200.00 200.00	200.00 200.00
1/8/2020	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00
3/1/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	47.00 47.00	0.15 0.15	7.05 7.05
5/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	10.00 10.00	0.15 0.15	1.50 1.50
5/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
3/26/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	9.50 9.50	9.50 9.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	5.00 5.00	0.15 0.15	0.75 0.75
3/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
9/4/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00
2/10/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	10.00 10.00	0.15 0.15	1.50 1.50
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
11/30/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	63.11 63.11	63.11 63.11
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	79.00 79.00	0.15 0.15	11.85 11.85
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65
3/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
8/9/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
11/18/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
11/20/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	16.00 16.00	0.15 0.15	2.40 2.40
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	7.00 7.00	0.15 0.15	1.05 1.05
5/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	3.00 3.00	0.15 0.15	0.45 0.45
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
12/13/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	75.51 75.51	75.51 75.51
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	30.00 30.00	30.00 30.00
1/29/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	69.00 69.00	69.00 69.00
11/29/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	7.00 7.00	0.15 0.15	1.05 1.05
8/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	222.11 222.11	222.11 222.11

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Component	Units	Price	Value
Date	Prof	Matter Description			Task Code	Stm Units	Stm Price	Ext Amount
		Narrative						
			Grand Total		Worked:	1,440.00		7,139.70
					Billed:	1,440.00		7,139.70

INVOICES



Veritext, LLC
Western Region

707 Wilshire Boulevard, Suite 3500
Los Angeles CA 90017
Tel. 877-955-3855 Fax. 949-608-3438
Fed. Tax ID: 20-3132569



03827-59

Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: CA4280671
Invoice Date: 4/1/2020
Balance Due: \$379.83

Case: 4520 Arville v. Bour Enterprises, LLC
Job #: 4038755 | Job Date: 3/26/2020 | Delivery: Normal
Case #: A19794864C
Billing Atty: F. Thomas Edwards Esq
Location: Holley Driggs
400 South Fourth Street | Suite 300
Las Vegas, NV 89101
Sched Atty: F. Thomas Edwards Esq | Holley Driggs

Third Party:

Witness	Description	Units	Quantity	Amount
Mahteme Zewdie	Certificate of Non Appearance (CNA)	1	1.00	\$335.00
	Electronic Delivery and Handling	Package	1.00	\$28.00
Notes:				Invoice Total: \$363.00
				Payment: \$0.00
				Credit: \$0.00
				Interest: \$16.83
				Balance Due: \$379.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 90 DAYS PAST DUE, PLEASE REMIT - THANK YOU

To pay online, go to
www.veritext.com

Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303

Invoice #: CA4280671
Job #: 4038755
Invoice Date: 4/1/2020
Balance: \$379.83

Veritext, LLC - Western Region

Tel. 877-955-3855 Email: lvdepo@veritext.com
Fed. Tax ID: 20-3132569



Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Case: 4520 Arville v. Bour Enterprises, LLC (A19794864C)

Proceeding Type: Depositions

Job #: 4300753 | Job Date: 11/2/2020 | Delivery: Expedited

Location: Las Vegas, NV

Billing Atty: F. Thomas Edwards Esq

Scheduling Atty: F. Thomas Edwards Esq | Holley Driggs

Witness: 30b6 Bour Enterprises	Quantity	Amount
Original with 1 Certified Transcript	171.00	\$1,496.25
Attendance	1.00	\$300.00
Waiting Time (Reporter/Videographer Standby Fee)	0.50	\$47.50
Exhibits	100.00	\$65.00
Exhibits - Color	2.00	\$1.90
Exhibits - Multimedia Duplication	1.00	\$25.00
Surcharge - Expert/Medical/Technical	171.00	\$85.50
Litigation Package-Secure File Suite	1.00	\$55.00
Production & Processing	1.00	\$50.00
Electronic Delivery and Handling	1.00	\$35.00

Notes:

Invoice Total: \$2,161.15
Payment: \$0.00
Credit: \$0.00
Interest: \$135.68
Balance Due: \$2,296.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 120 DAYS PAST DUE, PLEASE REMIT - THANK YOU

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303
Fed. Tax ID: 20-3132569

To pay online, go to www.veritext.com

Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Tom Edwards

Subject: FW: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02
Attachments: 4645329.pdf

From: Noemi Sandoval <collections-west@veritext.com>
Sent: Monday, March 15, 2021 9:23 AM
To: Marsha Palrose <mpalrose@nevadafirm.com>
Subject: Re: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02

Good morning, Ms. Palrose. I hope you are having a wonderful morning. I would like to follow up with you regarding your last email.

I have reviewed your concerns further with our management team. Management would like to extend a discount of 15% on this invoice. The total amount due for Invoice 4645329 is \$1,836.98 if paid within the next 30days.

Please let me know if you have any additional questions or concerns regarding this invoice. Thank you very much for your help with this. Wishing you an amazing day.

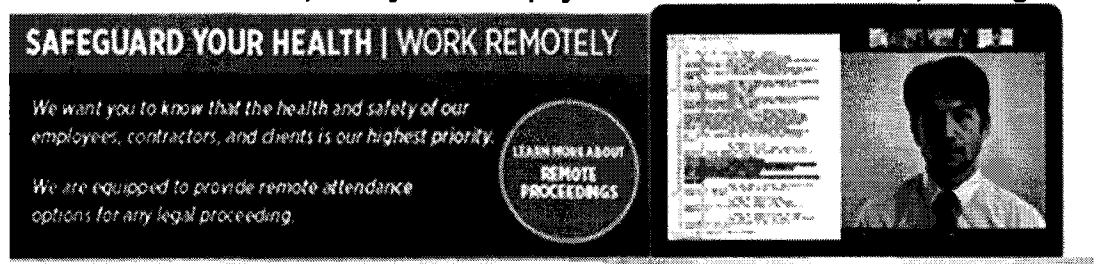
Best regards,

Noemi Sandoval
Finance Representative

VERITEXT

611 Anton Blvd. 5th Floor | Costa Mesa, CA 92626
Direct: 949.777.9311 || **Main** 714.549.3700
collections-west@veritext.com
www.veritext.com

Want to pay your bill online? Go to our website, www.veritext.com and click on the "Pay by Credit Card" link. Otherwise, kindly forward payments to P.O. Box 71303, Chicago IL 60694.



SAFEGUARD YOUR HEALTH | WORK REMOTELY

We want you to know that the health and safety of our employees, contractors, and clients is our highest priority.

We are equipped to provide remote attendance options for any legal proceeding.

LEARN MORE ABOUT
REMOTE
PROCEEDINGS

The image shows a laptop screen displaying a video call with a man in a suit and tie. To the left of the screen is a circular graphic with the text 'LEARN MORE ABOUT REMOTE PROCEEDINGS'. Above the screen, the text 'SAFEGUARD YOUR HEALTH | WORK REMOTELY' is displayed. Below the screen, there are two lines of italicized text: 'We want you to know that the health and safety of our employees, contractors, and clients is our highest priority.' and 'We are equipped to provide remote attendance options for any legal proceeding.'

RUN SLIPS

HD
HOLLEY DRIGGS

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

6/25/17
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 4pm

Client Name: Court Specialist Client No: 03827-59

Type of Item: Check

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Posting Cost Bond - take

to court for posting. Bring back

receipt

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

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RUNNER INSTRUCTIONS

8/28/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Carmen Sprague Client No: 63827-57

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. 8 Phx Bldg 11th Floor Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy to Dept. 8

Phx Bldg 11th Floor, THX

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/3/19
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 run

Client Name: Comm Specialists Client No: 03827-59

Type of Item: Order + JCCR

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Black + Lobello

Address: 10777 W. Tropic Ave #300 Phone: 702-869-8801

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ Family Court Clerk

☐ County Clerk

☐ Bankruptcy Clerk

☐ Master Calendar

☐ Federal Court Clerk

☐ Discovery Commissioner

☐ Justice Court Clerk

☐ Arbitration

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up signed Order + JCCR

from Reception @ Black + Lobello - 10777

W. Tropic Ave. Ste 300 LV NV 89135

Thx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/3/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Comm Specialists Client No: 03827-59

Type of Item: JCC R

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Winnick & Carlson 7935 W. Sahara Ave

Address: Ste 101 LV NV 89117 Phone: 702-471-1111

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up JCCR from

Winnick & Carlson @ 7935 W. Sahara Ave #101

Las Vegas NV 89117 THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/4/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 10 am

Client Name: Cigna Specialists Client No: 03827-59

Type of Item: Order

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ Family Court Clerk

☐ County Clerk

☐ Bankruptcy Clerk

☐ Master Calendar

☐ Federal Court Clerk

☐ Discovery Commissioner

☐ Justice Court Clerk

☐ Arbitration

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☒ Leave in Dept. 8 Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: please deliver to Dept. 8

Judge's box, Phx Bldg 11th Floor.

THx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

7/9/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Coma Specialists Client No: 03627 59

Type of Item: JCC 12

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ Family Court Clerk

☐ County Clerk

☐ Bankruptcy Clerk

☐ Master Calendar

☐ Federal Court Clerk

☒ Discovery Commissioner

☐ Justice Court Clerk

☐ Arbitration

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please deliver courtesy copy to

Discovery Commissioner. Thx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/16/19
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5:00

Client Name: Conn Specialists Client No: 03527-59

Type of Item: Deed

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept 8 Phx Bldg 11th Floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up signed Order
from Dept. 8 in Phx Bldg 11th Floor
Thx

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

11/8/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Comm Specialists Client No: U3017-59

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. Discovery Commissioner Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy binder to the
Discovery Commissioner's Office. THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

1/28/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Comm Spec List Client No: 03827-59

Type of Item: Disc Comm Report & Recommendations

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☒ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver to Discovery Commissioner's
Office for ~~the~~ filing. Thx

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

2/14/2001
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: _____

Client Name: Condominium Client No: 11-0000-55

Type of Item: Deed

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept. 85 PM, Bldg. 11th Floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: Not Here ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

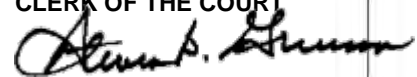
☐ Special Instructions: _____

Secretary: [Signature] Runner: [Signature]

Date Completed: 2/14/2001 Date Billed: 2/14/2001

Received by _____

EXHIBIT 20



MRTX
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Hilena Mengesha

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants,

Case No.: A-19-794864-C

Dept. No.: 8

DEFENDANTS' MOTION TO RETAX

HEARING REQUESTED

v.

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

Counter Defendants.

Defendants and Counterclaimants BOUR ENTERPRISES, LLC, a Nevada limited liability company, MULUGETA BOUR, an individual, and HILENA MENGESHA, an individual, by and through their attorney of record, Rusty Graf, Esq. of Black & Wadhams, hereby file their MOTION TO RETAX. This Motion is made and based on the papers and pleadings on file herein, the following Memorandum of Points and Authorities, any exhibits attached hereto, and any argument at hearing on this matter.

Dated this 18 day of March 2021.

BLACK & WADHAMS

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Attorneys for Defendants

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I.**

3 **INTRODUCTION & BACKGROUND**

4 On December 1, 2020, the Plaintiffs' filed a Motion for Summary Judgment regarding their
5 breach of contract claims. A hearing was held on January 12, 2021 and, subsequently, the Court
6 entered an Order granting that Motion on January 28, 2021. The Plaintiffs then filed a Motion for
7 Entry of Judgment on February 10, 2021 and a hearing was held on March 2, 2021. The Court
8 ultimately granted Plaintiffs' Motion for Entry of Judgment and filed an Order entering Judgments
9 against the Defendants on March 9, 2021. The Judgment was then entered March ____, 2021.

10 **A. PLAINTIFFS' MEMORANDUM OF FEES & COSTS**

11 On March 15, 2021, Plaintiffs filed their Memorandum of Costs and Disbursements
12 (hereinafter the "Memo"). *See attached Exhibit 1.* The Memo states that the Plaintiffs' Costs and
13 Disbursements were as follows:

14 Clerk's fees (NRS 18.005(1)) \$1,323.90
15 Reporters' fees for depositions/copies (NRS 18.005(2)) \$ 2,216.81
16 Service of process/summons (NRS 18.005(7)) \$ 1,126.72
17 Photocopies and postage (NRS 18.005(12)-(14)) \$ 203.64
18 Legal Research/other "necessary expenses" (NRS 18.005(17)) \$ 3,665.22

19 *Id. at 1-2.* As detailed below, these Costs and Disbursements and improper, inaccurate and/or not
20 compensable under NRS 18.005 and, therefore, the Defendants respectfully request that the Court
21 retax the same.

22 ///

23 ///

24 ///

II.

LEGAL ARGUMENTA. LEGAL STANDARD FOR MOTION TO RETAX

A party who disputes the costs contained in an adverse party's verified memorandum may request the court determine the costs pursuant to NRS 18.110(4), which provides:

Within 3 days after service of a copy of the memorandum, the adverse party may move the court, upon 2 days' notice, to retax and settle the costs, notice of which motion shall be filed and served on the prevailing party claiming costs. Upon the hearing of the motion the court or judge shall settle the costs. *See NRS 18.110(4).*

B. LEGAL STANDARD FOR AWARDING COSTS

Pursuant to NRS 18.020, Costs may properly be recovered to a prevailing party in the following cases:

1. In an action for the recovery of real property or a possessory right thereto.
2. In an action to recover the possession of personal property, where the value of the property amounts to more than \$2,500. The value must be determined by the jury, court or master by whom the action is tried.
3. In an action for the recovery of money or damages, where the plaintiff seeks to recover more than \$2,500.
4. In a special proceeding, except a special proceeding conducted pursuant to NRS 306.040.
5. In an action which involves the title or boundaries of real estate, or the legality of any tax, impost, assessment, toll or municipal fine, including the costs accrued in the action if originally commenced in a Justice Court.

See NRS 18.020.

Neither costs nor attorney fees incurred incident to litigation may be recovered unless authorized by statute or rule. *Sun Realty v. Eighth Judicial Dist. Ct.*, 91 Nev. 774, 776, 542 P.2d 1072, 1074 (1975). Even in instances where a party is entitled to request its costs, the trial court still retains discretion when determining the reasonableness of the individual costs to be awarded. *See U.S. Design & Const. Corp. v. International Broth. of Elec. Workers*, 118 Nev. 458, 50 P.3d

170 (2002); See also *Bergmann v. Boyce*, 109 Nev. 670, 856 P.2d 560 (1993). Discretion should be "sparingly exercised" when considering "expenses not specifically allowed by statute and precedent" because "statutes permitting recovery of costs, being in derogation of the common law, must be strictly construed." See *Bergmann v. Boyce*, 109 Nev. at 679. A strict construction of the statute "requires that the phrase 'reasonable costs' be interpreted to mean actual costs that are reasonable, rather than a reasonable estimate or calculation of such costs based upon administrative convenience." *Gibellini v. Klindt*, 110 Nev. 1201, 1206, 885 P.2d 540 (1994).

NRS 18.005 enumerates compensable costs as follows:

1. Clerks' fees.
2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.
3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.
4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.
5. Reasonable fees of not more than five expert witnesses in an amount of not more than \$1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.
6. Reasonable fees of necessary interpreters.
7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
8. Compensation for the official reporter or reporter pro tempore.
9. Reasonable costs for any bond or undertaking required as part of the action.
10. Fees of a court bailiff or deputy marshal who was required to work overtime.
11. Reasonable costs for telecopies.
12. Reasonable costs for photocopies.
13. Reasonable costs for long distance telephone calls.
14. Reasonable costs for postage.
15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.
16. Fees charged pursuant to NRS 19.0335.
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

See NRS 18.005.

1 The Nevada Supreme Court has held that this statute must be strictly construed to allow
2 only the costs specifically enumerated therein, and only under the circumstances provided for in
3 the statute. *See Bobby Berosini, Ltd v. People for the Ethical Treatment of Animals*, 114 Nev. 1348,
4 1352-53, 971 P.2d 383 (1998). Applying these principles to the instant matter, Plaintiffs
5 respectfully submit that this Court should grant the Motion to Retax, as some of the costs
6 delineated in Defendants' Memorandum of Costs and Disbursements are not recoverable under
7 applicable and relevant authority.

9 **C. PLAINTIFFS' ASSERTED LEGAL RESEARCH COSTS ARE UNREASONABLE**
10 **AND UNNECESSARY AND MUST BE RETAXED**

11 As stated above, costs incurred in litigation can only be recovered if authorized by statute
12 or rule and, even if such costs are so authorized, the Court has the discretion to determine the
13 reasonableness of the costs to be award. *See Sun Realty v. Eighth Judicial Dist. Ct.*, 91 Nev. 774,
14 542 P.2d 1072 (1975); *see also U.S. Design & Const. Corp. v. International Broth. of Elec.*
15 *Workers*, 118 Nev. 458, 50 P.3d 170 (2002). Here, Plaintiffs' Memo asserts costs of "\$3,665.22"
16 for "Legal Research/other necessary expenses" and cites to NRS 18.005(17) as the authorizing
17 statute. *See Plaintiffs' Memorandum*, Pg. 2. NRS 18.005(17) authorized the award of "other
18 reasonable and necessary expense incurred in connection with the action, including **reasonable**
19 **and necessary expenses for computerized services for legal research.**" (*Emphasis added*) *See*
20 *NRS 18.005(17)*. However, while computerized services for legal research is authorized by the
21 statute, review of the bills attached to Plaintiffs' Memo demonstrates that a significant portion of
22 the costs asserted under this category was for research on Westlaw which was neither reasonable
23 nor necessary. The unreasonable and unnecessary costs, which should thus be retaxed, are as
24 follows:
25
26

27 ///
28

1 **1. \$1,459.60 - Westlaw Research on December 31, 2020:**

2 The first unreasonable and unnecessary Westlaw cost stated in Plaintiffs' Memo is a charge
3 for \$1,459.60 for research conducted on December 31, 2020. *See Plaintiffs' Memorandum of*
4 *Costs, Pg. 11.* The procedural history of this case demonstrates that: (1) the only pending motion
5 on December 31, 2020 was the Plaintiffs' Motion for Summary Judgment Regarding Their Breach
6 of Contract Claims; and (2) that Defendants filed their Opposition to that Motion on December 17,
7 2020 and Defendants filed their Reply on January 5, 2021. *See attached Exhibit 1, Pg. 16-18.*
8 Therefore, the January 5, 2021 Reply is the only pleading which could reasonably have
9 necessitated the December 31, 2020 legal research costs asserted by Plaintiffs. *Id.* However,
10 examination of that Reply demonstrates that there was no reasonable or necessary basis for
11 Plaintiffs to have incurred \$1,459.60 in legal research expenses.
12

13 The Reply's legal argument section begins by discussing the argument of Defendants' that
14 Summary Judgment was inappropriate on a matter of law that had not yet been settled. *See attached*
15 *Exhibit 2, Pg. 4.* After just a brief discussion, Plaintiffs cited to a Nevada federal court case,
16 Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n, in support of the
17 assertion that the Court may look to persuasive authority of other jurisdictions in considering a
18 Motion for Summary Judgment. *See attached Exhibit 2, Pg. 5.* Though research on the case
19 Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n may have been
20 necessary, however, Plaintiffs then proceeded to cite to case law from nine (9) other jurisdictions
21 (Louisiana, Tennessee, Mississippi, California, Pennsylvania, Oklahoma, Connecticut, the Fourth
22 Circuit, and the Fifth Circuit) and these were all simply offered as persuasive authority for the
23 assertion that the Court "may consider persuasive authority in the absence of controlling law at
24 summary judgment". *See attached Exhibit 2, Pg. 6.*
25

26 It is clear and unambiguous that citing to case law from nine (9) other jurisdictions as
27
28

persuasive authority for the argument that the Court may consider persuasive authority was extremely excessive and, thus, both unreasonable and unnecessary. *Id.* Further, Defendants would re-emphasize that, immediately prior to this extensive discussion of case law from across the country, the Plaintiffs cited to persuasive case law from within Nevada (*Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n*) which established the point being argued. Finally, \$1500.00 for legal research is not only unreasonable it is incredible. Therefore, the additional research expenses were unquestionably not necessary and non-compensable under NRS 18.005(17) and Defendants' respectfully request the Court retax these asserted costs.

2. **\$316.67 - Westlaw Research on April 9, 2020:**

The next unreasonable and unnecessary Westlaw cost is a charge for \$316.67 for research conducted on April 9, 2020. *See Plaintiffs' Memorandum of Costs, Pg. 3.* The cost of this research was not reasonable or necessary because it was not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. This is evidenced in the procedural history by: (1) the only action taken or pleading filed in the preceding month (March 2020) was the Defendants' Addendum to Designation of Expert Witnesses filed March 16, 2020; (2) the only actions taken or pleadings filed in April of 2020 were the filing of an Order Setting Civil Bench Trial (4/6/20), the filing of an Order regarding the Discovery Commissioner's Report and Recommendations (4/9/20), the filing of a Notice of Entry of Order (4/9/20), the filing of a Stipulation and Order to Continue Deadlines (4/27/20) and the filing of another Notice of Entry of Order (4/28/20); (3) there were no pending motions on April 9, 2020; and (4) following the filing of the April 28, 2020 Notice of Entry of Order, no further actions were taken until July 13, 2019 and that action was merely the remittance of a filing fee. *See attached Exhibit 1, Pg. 14-15.* Therefore, it is again clear that this legal research cost was not a "reasonable and **necessary expense** incurred **in connection with the action**", as required by NRS 18.005(17) and pertinent

case law cited above, and it too must be retaxed. *See NRS 18.005(17)*.

3. \$446.55 - Westlaw Research on February 6, 2020:

The next unreasonable and unnecessary legal research cost is a charge for \$446.55 for Westlaw research conducted on February 6, 2020. *See Plaintiffs' Memorandum of Costs, Pg. 3*. Again, this was not reasonable or necessary because it was not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. Briefly, examination of the procedural history demonstrates that: (1) in December of 2019 Plaintiffs filed a Motion to Compel Discovery and Defendants' filed an Opposition and Countermotion to Extend Time to Disclose Expert Witnesses; (2) both parties filed Replies and hearings were held on January 14, 2020 and January 30, 2020; (3) the Discovery Commissioner's Report & Recommendations were also filed on January 30, 2020; (4) there were no further actions that took place in the case until February 20, 2020, when a status check was held and an Order was entered from the January 30, 2020 hearing; (5) there were no pending motions on February 6, 2020; and (6) there were no other actions taken or pleadings filed which would have necessitated legal research on Westlaw for at least the six months following February 6, 2020. *See attached Exhibit 1, Pg. 11-15*. Thus, it is unambiguous that the Westlaw research costs incurred on February 6, 2020 were not a "reasonable and necessary expense incurred in connection with the action", as required by NRS 18.005(17) and pertinent case law cited above, and this cost must be retaxed. *See NRS 18.005(17)*.

4. \$17.55 - Westlaw Research on September 30, 2019:

The final unreasonable and unnecessary legal research cost is a charge for \$17.55 for Westlaw research conducted on September 30, 2019. *See Plaintiffs' Memorandum of Costs, Pg. 6*. This Westlaw research was not reasonable or necessary because it too was clearly not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. Examination of the procedural history demonstrates that, prior to September 30, 2019, the only

recent actions which had occurred in the case had been an Order filed September 12, 2019 (denying Plaintiffs' Motion to Dismiss Counterclaims and Defendants' Countermotion for Summary Judgment), and Notice of Entry of that Order filed September 30, 2019. *See attached Exhibit 1, Case Docket, Pg. 9.* Further, the procedural history demonstrates: (1) the only action taken on September 30, 2019 was an administrative reassignment by the Court; (2) there were no pending motions or other pleadings on September 30, 2019; and (3) there were not any subsequent actions in the case until the October 11, 2019 Mandatory Rule 16 Conference. *Id. at 9-10.* Therefore, as it was unconnected to the actions taken in this case and/or any pleadings filed by Plaintiffs or Defendants, the September 30, 2019 Westlaw research was not a "reasonable and necessary expense incurred in connection with the action", as required by NRS 18.005(17) and pertinent case law cited above, and this cost must also be retaxed. *See NRS 18.005(17).*

D. THE REQUESTED COSTS, RUNNER FEES, ARE NOT COMPENSABLE UNDER NRS 18.005

Plaintiff's Memo also includes ten "delivery" charges amounting to \$150.00 and has attached runner slips for these deliveries. *See Plaintiffs' Memorandum of Costs, Pg. 6-20 & Pg. 27-36.* First, Defendants would emphasize that runner costs are not specifically enumerated under NRS 18.005. *See NRS 18.005.* Further, Plaintiffs do not cite any legal authority authorizing the taxing of such costs, and Court applies its discretion sparingly "when considering whether or not to allow expenses not specifically allowed by statute and precedent". *See Bergmann, 109 Nev. at 679, 856 P.2d at 565-566.* Additionally, it must be noted that there is persuasive legal authority which suggests that such costs are not compensable.

Specifically, federal courts have consistently held that overhead costs, such as administrative fees, supplies and the use of runners are not properly taxable. *See, e.g., Warner Chilcott Labs. Ireland Ltd. v. Impax Labs., Inc., 2013 WL 1876441, at *12 (D. N.J. April 18, 2013)*

(holding costs slip sheets, tabs, binders, folders, red weld file pockets and labels. . . .constitute[d] attorney's overhead and as such, [was] not taxable"); *N.J. Mfrs. Ins. Group v. Electrolux, Inc.*, 2013 WL 5817161, at *12 (D. N.J. Oct. 21, 2013) (holding costs "for labels and binders, which constitute attorney's overhead and as such, are not taxable"); *J-Way Leasing, Ltd. v. Am. Bridge Co.*, 2010 WL 816439, at *4 (N.D. Ohio March 4, 2010) ("[C]osts for marking exhibits are overhead expenses and not taxable"); *Butler v. Wright*, 2010 WL 599387, at *8 (M.D. Fl. Feb 16, 2010) (holding "operating overhead is not taxable"); *Osorio v. Dole Food Co.*, 2010 WL 3212065, at *7 (S.D. Fl. July 7, 2010) ("Courts have held that costs for tabs and binders are not taxable costs because they are subsumed within operating overhead."); *Van Voorhis v. Hillsborough Bd. of County Comm'rs*, 2008 WL 2790244, at *5 (M.D. Fl. July 18, 2008) (finding cost of supplies movant purchased from Staples was "subsumed within operating overhead and . . . not taxable.").

Again, as runner costs are not specifically mentioned under any of the provisions of NRS 18.005, Plaintiffs' only reasonable argument regarding these costs is that they fall under NRS 18.005(17). It is implicit in both the language of the statute and its application in relevant case law, that the Court analyzes whether non-specifically enumerated costs and fees are compensable under NRS 18.005(17) by putting the burden on the party seeking to tax the costs to demonstrate that those costs are reasonable and necessary (in addition to being incurred in connection with the action). See *Bergmann v. Boyce*, 109 Nev. at 679; See *U.S. Design & Const. Corp. v. International Broth. of Elec. Workers*, 118 Nev. 458, 50 P.3d 170 (2002); See *Bobby Berosini, Ltd v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352-53, 971 P.2d 383 (1998); See also NRS 18.005(17). The demonstration that unenumerated costs are reasonable and necessary must be sufficiently compelling as to persuade the Court that it is appropriate to exercise discretion that the Nevada Supreme Court has directly stated should only be used "sparingly" and deem the costs compensable. *Id.* Here, runner fees are an unenumerated cost and Plaintiffs do not cite any legal

1 authority which would either compel or reasonably persuade the Court to exercise discretion meant
2 to be used “sparingly”. Thus, the costs are not compensable and should be retaxed.

3 **E. PLAINTIFFS HAVE EITHER MISSTATED THEIR SERVICE OF PROCESS**
4 **COSTS OR FAILED TO INCLUDE AN ACCURATE ACCOUNTING OF THEIR**
5 **SERVICE OF PROCESS COSTS**

6
7 Per NRS 18.005(7), “[t]he fee of any sheriff or licensed process server for the delivery or
8 service of any summons or subpoena used in the action, unless the court determines that the service
9 was not necessary” is a compensable expense. *See NRS 18.005(7)*. Plaintiffs’ Memo asserts that
10 the total compensable costs under NRS 18.005(7) incurred for “Service of process/summons” were
11 “\$1,126.72”. *See Plaintiffs’ Memorandum of Costs, Pg. 2*. However, the transactions listings
12 included with Plaintiffs’ Memo only lists the following for service of process costs:

- 13 1. June 5, 2019 - \$199.00. *See Plaintiffs’ Memorandum of Costs, Pg. 6.*
- 14 2. June 28, 2019 - \$90.00. *Id. at Pg. 12.*
- 15 3. May 4, 2020 - \$54.00. *Id. at 7.*
- 16 4. May 4, 2020 - \$54.00. *Id. at 7.*
- 17 5. May 4, 2020 - \$54.00. *Id. at 13.*
- 18 6. May 4, 2020 - \$112.35. *Id. at 13.*

19
20 The total of these six (6) services of process transactions stated in Plaintiffs’ Memo is
21 \$563.35, not “\$1,126.72” as asserted by Plaintiffs. *See Plaintiffs’ Memorandum of Costs, Pg. 2*.
22 Therefore, Defendants respectfully request that the Court retax Plaintiffs’ asserted Service of
23 Process/Summons costs.
24

25 ///

26 ///

27 ///

III.

CONCLUSION

Based on the foregoing, the Defendants respectfully request that the Court grant their Motion to Retax and: (1) retax the legal research costs asserted by Plaintiffs by \$2240.37 as outlined above; (2) retax the runner/delivery costs asserted by Plaintiffs by \$150.00 as outlined above; and (3) retax the service of process/summons costs asserted by Plaintiffs by 563.37 as outlined above.

Dated this 18th day of March 2021.

BLACK & WADHAMS

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

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 1st day of March 2021, I caused the above and foregoing document entitled

DEFENDANTS' MOTION TO RETAX to be served as follows:

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and

☒ by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;

☐ pursuant to EDCR 7.26, to be sent via facsimile;

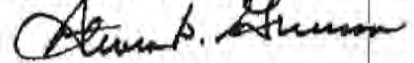
☐ hand delivered to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

F. Thomas Edwards, Esq.
HOLLEY DRIGGS WALCH FINE
PUZEY STEIN & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

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

/s/ Diane Meeter
An Employee of Black & Wadham

EXHIBIT 1



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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

BOUR ENTERPRISES, LLC, a Nevada limited
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Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

MEMORANDUM OF COSTS AND DISBURSEMENTS

Clerk's fees (NRS 18.005(1)) \$ 1,323.90

HOLLEY DRIGGS

Reporters' fees for depositions/copies (NRS 18.005(2))	\$ 2,216.81
Service of process/summons (NRS 18.005(7))	\$ 1,126.72
Photocopies and postage (NRS 18.005(12)-(14))	\$ 203.64
Legal Research/other "necessary expenses" (NRS 18.005(17))	\$ 3,665.22
TOTAL	\$ 8,536.29

Dated this 15th day of March, 2021.

HOLLEY DRIGGS

Jessica M. Lujan
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
JESSICA M. LUJAN, ESQ.
Nevada Bar No. 14913
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiffs/Counterdefendants

HOLLEY DRIGGS

Affidavit

STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

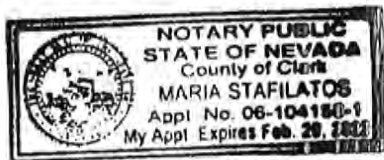
Jessica M. Lujan, Esq. being duly sworn, states: that affiant is the attorney for the Plaintiffs/Counter-defendants and has personal knowledge of the above costs and disbursements expended; that the items contained in the above memorandum are true and correct to the best of this affiant's knowledge and belief; and that the said disbursements have been necessarily incurred and paid in this action.



JESSICA M. LUJAN, ESQ.
Attorney for Plaintiffs/Counterdefendants

SIGNED AND SWORN to before me this
15 day of March, 2021.



NOTARY PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 15th day of March, 2021, and pursuant to EDCR 8.05 and NRCP 5(b), I caused to be served electronically using the Court's E-Filing E-Service System, a true and correct copy of the foregoing **MEMORANDUM OF COSTS AND DISBURSEMENTS** to all parties in this case registered with the E-Service System.

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

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

/s/ Sandy Sell
An employee of Holley Driggs

HOLLEY DRIGGS

COSTS

HD
HOLLEY DRIGGS

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
6/5/2019		03827-59 / Commercial Specialists	sp	1.00	199.00	199.00
		Bour Enterprises, LLC		1.00	199.00	199.00
		Service of process				
3/1/2021		03827-59 / Commercial Specialists	pc	22.00	0.15	3.30
		Bour Enterprises, LLC		22.00	0.15	3.30
		Photocopies				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
9/6/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
1/11/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	395.00	0.15	59.25
		Bour Enterprises, LLC		395.00	0.15	59.25
		Photocopies				
3/9/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
12/15/2020		03827-59 / Commercial Specialists	pc	15.00	0.15	2.25
		Bour Enterprises, LLC		15.00	0.15	2.25
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
11/5/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
3/11/2021		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
2/27/2020		03827-59 / Commercial Specialists	pc	4.00	0.15	0.60
		Bour Enterprises, LLC		4.00	0.15	0.60
		Photocopies				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
12/14/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
10/10/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
6/6/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
12/14/2020		03827-59 / Commercial Specialists	pc	114.00	0.15	17.10
		Bour Enterprises, LLC		114.00	0.15	17.10
		Photocopies				
3/1/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/4/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Service of process	sp	1.00 1.00	54.00 54.00	54.00 54.00
10/29/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	35.00 35.00	0.15 0.15	5.25 5.25
6/25/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Bond fee	bon	1.00 1.00	500.00 500.00	500.00 500.00
3/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	3.00 3.00	0.15 0.15	0.45 0.45
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	8.00 8.00	0.15 0.15	1.20 1.20
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	17.00 17.00	0.15 0.15	2.55 2.55
5/4/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Service of process	sp	1.00 1.00	54.00 54.00	54.00 54.00
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
2/6/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	446.55 446.55	446.55 446.55
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/31/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	3.00 3.00	0.15 0.15	0.45 0.45
5/1/2018		03827-59 / Commercial Specialists Bour Enterprises, LLC Postage E109	po	1.00 1.00	0.94 0.94	0.94 0.94
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	13.00 13.00	0.15 0.15	1.95 1.95
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	4.40 4.40	4.40 4.40
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65
12/18/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
7/9/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
9/3/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC DeliveryCharges	de	1.00 1.00	15.00 15.00	15.00 15.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/16/2019		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
5/26/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
9/25/2019		03827-59 / Commercial Specialists	po	1.00	0.50	0.50
		Bour Enterprises, LLC		1.00	0.50	0.50
		Postage E109				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	9.50	9.50
		Bour Enterprises, LLC		1.00	9.50	9.50
		Filing fee				
1/10/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	112.00	0.15	16.80
		Bour Enterprises, LLC		112.00	0.15	16.80
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	200.00	200.00
		Bour Enterprises, LLC		1.00	200.00	200.00
		Filing fee				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
9/3/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
11/5/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	30.00	30.00
		Bour Enterprises, LLC		1.00	30.00	30.00
		Filing fee				
7/1/2020		03827-59 / Commercial Specialists	cr	1.00	379.83	379.83
		Bour Enterprises, LLC		1.00	379.83	379.83
		Court reporter				
5/15/2019		03827-59 / Commercial Specialists	pc	6.00	0.15	0.90
		Bour Enterprises, LLC		6.00	0.15	0.90
		Photocopies				
1/11/2021		03827-59 / Commercial Specialists	pc	6.00	0.15	0.90
		Bour Enterprises, LLC		6.00	0.15	0.90
		Photocopies				
9/30/2019		03827-59 / Commercial Specialists	wr	1.00	17.55	17.55
		Bour Enterprises, LLC		1.00	17.55	17.55
		Westlaw online research				
2/16/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
3/5/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort					
		Matter Description	Component	Units	Price	Value	
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext	Amount
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	14.00 14.00	0.15 0.15		2.10 2.10
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	15.00 15.00	0.15 0.15		2.25 2.25
6/25/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Bond fee	bon	1.00 1.00	500.00 500.00		500.00 500.00
6/28/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Service of process	sp	1.00 1.00	90.00 90.00		90.00 90.00
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	14.00 14.00	0.15 0.15		2.10 2.10
11/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50		3.50 3.50
9/4/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50		3.50 3.50
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50		3.50 3.50
6/21/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00		15.00 15.00
1/28/2020	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00		15.00 15.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/21/2020		03827-59 / Commercial Specialists	pc	21.00	0.15	3.15
		Bour Enterprises, LLC		21.00	0.15	3.15
		Photocopies				
10/30/2020		03827-59 / Commercial Specialists	pc	25.00	0.15	3.75
		Bour Enterprises, LLC		25.00	0.15	3.75
		Photocopies				
2/14/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
3/1/2021		03827-59 / Commercial Specialists	pc	6.00	0.15	0.90
		Bour Enterprises, LLC		6.00	0.15	0.90
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	75.00	0.15	11.25
		Bour Enterprises, LLC		75.00	0.15	11.25
		Photocopies				
8/29/2019		03827-59 / Commercial Specialists	wr	1.00	204.44	204.44
		Bour Enterprises, LLC		1.00	204.44	204.44
		Westlaw online research				
1/31/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	112.36	112.36
		Bour Enterprises, LLC		1.00	112.36	112.36
		Service of process				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	7.00	7.00
		Bour Enterprises, LLC		1.00	7.00	7.00
		Filing fee				
2/26/2021		03827-59 / Commercial Specialists	wr	1.00	224.89	224.89
		Bour Enterprises, LLC		1.00	224.89	224.89
		Westlaw online research				
8/16/2019		03827-59 / Commercial Specialists	wr	1.00	9.84	9.84
		Bour Enterprises, LLC		1.00	9.84	9.84
		Westlaw online research				
1/14/2021		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
10/10/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	4.40	4.40
		Bour Enterprises, LLC		1.00	4.40	4.40
		Filing fee				
2/24/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
6/6/2019		03827-59 / Commercial Specialists	ff	1.00	748.60	748.60
		Bour Enterprises, LLC		1.00	748.60	748.60
		Filing fee				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Units	Price	Value
Date	Prof	Matter Description Narrative	Component Task Code	Stm	Units	Price	Ext Amount
9/4/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de		1.00	15.00	15.00
					1.00	15.00	15.00
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		27.00	0.15	4.05
					27.00	0.15	4.05
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		112.00	0.15	16.80
					112.00	0.15	16.80
2/8/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00	3.50	3.50
					1.00	3.50	3.50
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		14.00	0.15	2.10
					14.00	0.15	2.10
4/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr		1.00	316.67	316.67
					1.00	316.67	316.67
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		3.00	0.15	0.45
					3.00	0.15	0.45
12/14/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
1/28/2020	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de		1.00	15.00	15.00
					1.00	15.00	15.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units		Price		Value	
				Stm	Units	Stm	Price	Ext	Amount
12/18/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		2.00		0.15		0.30
					2.00		0.15		0.30
12/21/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		21.00		0.15		3.15
					21.00		0.15		3.15
12/31/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		3.00		0.15		0.45
					3.00		0.15		0.45
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00		0.15		0.15
					1.00		0.15		0.15
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00		0.15		0.15
					1.00		0.15		0.15
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00		0.15		0.15
					1.00		0.15		0.15
12/31/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw	wr		1.00		1,459.60		1,459.60
					1.00		1,459.60		1,459.60
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00		200.00		200.00
					1.00		200.00		200.00
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00		9.50		9.50
					1.00		9.50		9.50
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00		3.50		3.50
					1.00		3.50		3.50

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/16/2019		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	200.00	200.00
		Bour Enterprises, LLC		1.00	200.00	200.00
		Filing fee				
1/8/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
3/1/2021		03827-59 / Commercial Specialists	pc	47.00	0.15	7.05
		Bour Enterprises, LLC		47.00	0.15	7.05
		Photocopies				
5/12/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/12/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
2/27/2020		03827-59 / Commercial Specialists	pc	10.00	0.15	1.50
		Bour Enterprises, LLC		10.00	0.15	1.50
		Photocopies				
5/16/2019		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
3/26/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	9.50 9.50	9.50 9.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	5.00 5.00	0.15 0.15	0.75 0.75
3/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
9/4/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00
2/10/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	10.00 10.00	0.15 0.15	1.50 1.50
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
11/30/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	63.11 63.11	63.11 63.11
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	79.00 79.00	0.15 0.15	11.85 11.85
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65
3/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
8/9/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description	Component	Units	Price	Value
		Narrative	Task Code	Stm Units	Stm Price	Ext Amount
11/18/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
11/20/2020		03827-59 / Commercial Specialists	pc	16.00	0.15	2.40
		Bour Enterprises, LLC		16.00	0.15	2.40
12/3/2020		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
5/16/2019		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
12/13/2019		03827-59 / Commercial Specialists	wr	1.00	75.51	75.51
		Bour Enterprises, LLC		1.00	75.51	75.51
		Westlaw online research				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	30.00	30.00
		Bour Enterprises, LLC		1.00	30.00	30.00
1/29/2021		03827-59 / Commercial Specialists	wr	1.00	69.00	69.00
		Bour Enterprises, LLC		1.00	69.00	69.00
		Westlaw online research				
11/29/2020		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
8/16/2019		03827-59 / Commercial Specialists	wr	1.00	222.11	222.11
		Bour Enterprises, LLC		1.00	222.11	222.11
		Westlaw online research				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Component	Units	Price	Value
Date	Prof	Matter Description			Task Code	Stm Units	Stm Price	Ext Amount
		Narrative						
			Grand Total		Worked:	1,440.00		7,139.70
					Billed:	1,440.00		7,139.70

INVOICES

HD
HOLLEY DRIGGS

Veritext, LLC
Western Region

707 Wilshire Boulevard, Suite 3500
Los Angeles CA 90017
Tel. 877-955-3855 Fax. 949-608-3438
Fed. Tax ID: 20-3132569



03827-59

Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: CA4280671
Invoice Date: 4/1/2020
Balance Due: \$379.83

Case: 4520 Arville v. Bour Enterprises, LLC
Job #: 4038755 | Job Date: 3/26/2020 | Delivery: Normal
Case #: A19794864C
Billing Atty: F. Thomas Edwards Esq
Location: Holley Driggs
400 South Fourth Street | Suite 300
Las Vegas, NV 89101
Sched Atty: F. Thomas Edwards Esq | Holley Driggs

Third Party:

Client	Description	Units	Quantity	Amount
Mahteme Zewdie	Certificate of Non Appearance (CNA)	1	1.00	\$335.00
	Electronic Delivery and Handling	Package	1.00	\$28.00
Notes:				
Invoice Total:				\$363.00
Prepaid:				\$0.00
Credit:				\$0.00
Interest:				\$16.83
Balance Due:				\$379.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 90 DAYS PAST DUE, PLEASE REMIT - THANK YOU

To pay online, go to
www.veritext.com

Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303

Invoice #: CA4280671
Job #: 4038755
Invoice Date: 4/1/2020
Balance: \$379.83

Veritext, LLC - Western Region

Tel. 877-955-3855 Email: lvdepo@veritext.com
Fed. Tax ID: 20-3132569



Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Case: 4520 Arville v. Bour Enterprises, LLC (A19794864C)

Proceeding Type: Depositions

Job #: 4300753 | Job Date: 11/2/2020 | Delivery: Expedited

Location: Las Vegas, NV

Billing Atty: F. Thomas Edwards Esq

Scheduling Atty: F. Thomas Edwards Esq | Holley Driggs

Witness: 30b6 Bour Enterprises	Quantity	Amount
Original with 1 Certified Transcript	171.00	\$1,496.25
Attendance	1.00	\$300.00
Waiting Time (Reporter/Videographer Standby Fee)	0.50	\$47.50
Exhibits	100.00	\$65.00
Exhibits - Color	2.00	\$1.90
Exhibits - Multimedia Duplication	1.00	\$25.00
Surcharge - Expert/Medical/Technical	171.00	\$85.50
Litigation Package-Secure File Suite	1.00	\$55.00
Production & Processing	1.00	\$50.00
Electronic Delivery and Handling	1.00	\$35.00

Notes:

Invoice Total: \$2,161.15
Payment: \$0.00
Credit: \$0.00
Interest: \$135.68
Balance Due: \$2,296.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 120 DAYS PAST DUE, PLEASE REMIT - THANK YOU

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303
Fed. Tax ID: 20-3132569

To pay online, go to www.veritext.com
Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Tom Edwards

Subject: FW: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02
Attachments: 4645329.pdf

From: Noemi Sandoval <collections-west@veritext.com>
Sent: Monday, March 15, 2021 9:23 AM
To: Marsha Palrose <mpalrose@nevadafirm.com>
Subject: Re: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02

Good morning, Ms. Palrose. I hope you are having a wonderful morning. I would like to follow up with you regarding your last email.

I have reviewed your concerns further with our management team. Management would like to extend a discount of 15% on this invoice. The total amount due for Invoice 4645329 is \$1,836.98 if paid within the next 30days.

Please let me know if you have any additional questions or concerns regarding this invoice. Thank you very much for your help with this. Wishing you an amazing day.


Best regards,

Noemi Sandoval
Finance Representative

VERITEXT

611 Anton Blvd. 5th Floor | Costa Mesa, CA 92626
Direct: 949.777.9311 || Main 714.549.3700
collections-west@veritext.com
www.veritext.com

Want to pay your bill online? Go to our website, www.veritext.com and click on the "Pay by Credit Card" link. Otherwise, kindly forward payments to P.O. Box 71303, Chicago IL 60694.



RUN SLIPS

HD
HOLLEY DRIGGS

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

12/25/17
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 4:30 PM

Client Name: County of Clark Client No: 038x7-57

Type of Item: Check

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Paying Cost Bond. take

to court for posting. Bring back

receipt

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

8/28/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Carm Sprague Client No: 63827-57

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. 8 Phx Bldg 11th Floor Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy to Dept. 8

Phx Bldg 11th Floor. THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/3/19
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 run

Client Name: Comm Specialists Client No: 03827-59

Type of Item: Order + JCCR

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Black + Lobello

Address: 10777 W. Twain Ave #300 Phone: 702-869-8801

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up signed Order + JCCR

from Reception @ Black + Lobello - 10777

W. Twain Ave. Ste 300 LV NV 89135

Thx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/3/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Comm Specialists Client No: 23827-59

Type of Item: JCC R

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Winn & Carson 7935 W. Sahara Ave

Address: Ste 101 LV NV 89117 Phone: 702-471-1111

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up JCC R from

Winn & Carson @ 7935 W. Sahara Ave #101

Las Vegas NV 89117 THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/4/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 10 am run

Client Name: Cugin Specialists Client No: 03827-59

Type of Item: Order

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ Family Court Clerk

☐ County Clerk

☐ Bankruptcy Clerk

☐ Master Calendar

☐ Federal Court Clerk

☐ Discovery Commissioner

☐ Justice Court Clerk

☐ Arbitration

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☒ Leave in Dept. 8 Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Please deliver to Dept. 8

Judge's box, Phx Bldg 11th Floor.

THx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

1/4/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Coma Specialists Client No: 03027 59

Type of Item: JCC 12

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ Family Court Clerk

☐ County Clerk

☐ Bankruptcy Clerk

☐ Master Calendar

☐ Federal Court Clerk

☒ Discovery Commissioner

☐ Justice Court Clerk

☐ Arbitration

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please deliver courtesy copy to

Discovery Commissioner Thy

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/16/19
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5:10

Client Name: Conn Specialists Client No: 23-27-59

Type of Item: Deed

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept 8 Phx Bldg 11th Floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up Signed Order

from Dept 8 in Phx Bldg 11th Floor

Th

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

11/3/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Cornn Specialists Client No: U3027 59

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. Discovery Commissioner Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy binder to the
Discovery Commissioner's office. Thx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

1/28/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Comm Specialist Client No: 03827-59

Type of Item: Disc Comm Report & Recommendations

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☒ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver to Discovery Commissioner's
Office for ~~the~~ filing. Thx

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

2/14/2012
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: _____

Client Name: Anna M. Smith Client No: 11-0001-37

Type of Item: Deed

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept. 3, Ph. Bldg. 11th floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

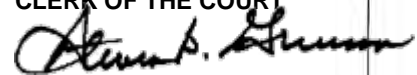
☐ Special Instructions: _____

Secretary: [Signature] Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

EXHIBIT 21



MRTX
BLACK & WADHAMS
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Hilena Mengesha

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants,

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

**DEFENDANTS' AMENDED MOTION
TO RETAX**

1
2 v.

3 4520 ARVILLE, a California general partnership;
4 MCKINLEY MANOR, an Idaho general
partnership, DOES I-X; and ROE
5 CORPORATIONS I-X;

6 Counter Defendants.

7
8 Defendants and Counterclaimants BOUR ENTERPRISES, LLC, a Nevada limited liability
9 company, MULUGETA BOUR, an individual, and HILENA MENGESHA, an individual, by and
10 through their attorney of record, Rusty Graf, Esq. of Black & Wadhams, hereby file their
11 AMENDED MOTION TO RETAX. This Motion is made and based on the papers and pleadings
12 on file herein, the following Memorandum of Points and Authorities, any exhibits attached hereto,
and any argument at hearing on this matter.

13 Dated this 18 day of March 2021.

14 **BLACK & WADHAMS**

15
16
17 Rusty Graf, Esq.
18 Nevada Bar No. 6322
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20 Las Vegas, Nevada 89135
21 Ph. (702) 869-8801
22 Fax (702) 869-2669
23 rgraf@blackwadhams.law
24 Attorneys for Defendants
25
26
27
28

BLACK & WADHAMS

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1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I.**

3 **INTRODUCTION & BACKGROUND**

4 On December 1, 2020, the Plaintiffs' filed a Motion for Summary Judgment regarding their
5 breach of contract claims. A hearing was held on January 12, 2021 and, subsequently, the Court
6 entered an Order granting that Motion on January 28, 2021. The Plaintiffs then filed a Motion for
7 Entry of Judgment on February 10, 2021 and a hearing was held on March 2, 2021. The Court
8 ultimately granted Plaintiffs' Motion for Entry of Judgment and filed an Order entering Judgments
9 against the Defendants on March 9, 2021. The Judgment was then entered March 9th, 2021.

10 **A. PLAINTIFFS' MEMORANDUM OF FEES & COSTS**

11 On March 15, 2021, Plaintiffs filed their Memorandum of Costs and Disbursements
12 (hereinafter the "Memo"). *See attached Exhibit 1.* The Memo states that the Plaintiffs' Costs and
13 Disbursements were as follows:

14 Clerk's fees (NRS 18.005(1)) \$1,323.90
15 Reporters' fees for depositions/copies (NRS 18.005(2)) \$ 2,216.81
16 Service of process/summons (NRS 18.005(7)) \$ 1,126.72
17 Photocopies and postage (NRS 18.005(12)-(14)) \$ 203.64
18 Legal Research/other "necessary expenses" (NRS 18.005(17)) \$ 3,665.22

19 *Id. at 1-2.* As detailed below, these Costs and Disbursements and improper, inaccurate and/or not
20 compensable under NRS 18.005 and, therefore, the Defendants respectfully request that the Court
21 retax the same.

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II.

LEGAL ARGUMENT

A. LEGAL STANDARD FOR MOTION TO RETAX

A party who disputes the costs contained in an adverse party's verified memorandum may request the court determine the costs pursuant to NRS 18.110(4), which provides:

Within 3 days after service of a copy of the memorandum, the adverse party may move the court, upon 2 days' notice, to retax and settle the costs, notice of which motion shall be filed and served on the prevailing party claiming costs. Upon the hearing of the motion the court or judge shall settle the costs. *See NRS 18.110(4).*

B. LEGAL STANDARD FOR AWARDING COSTS

Pursuant to NRS 18.020, Costs may properly be recovered to a prevailing party in the following cases:

1. In an action for the recovery of real property or a possessory right thereto.
2. In an action to recover the possession of personal property, where the value of the property amounts to more than \$2,500. The value must be determined by the jury, court or master by whom the action is tried.
3. In an action for the recovery of money or damages, where the plaintiff seeks to recover more than \$2,500.
4. In a special proceeding, except a special proceeding conducted pursuant to NRS 306.040.
5. In an action which involves the title or boundaries of real estate, or the legality of any tax, impost, assessment, toll or municipal fine, including the costs accrued in the action if originally commenced in a Justice Court.

See NRS 18.020.

Neither costs nor attorney fees incurred incident to litigation may be recovered unless authorized by statute or rule. *Sun Realty v. Eighth Judicial Dist. Ct.*, 91 Nev. 774, 776, 542 P.2d 1072, 1074 (1975). Even in instances where a party is entitled to request its costs, the trial court still retains discretion when determining the reasonableness of the individual costs to be awarded. *See U.S. Design & Const. Corp. v. International Broth. of Elec. Workers*, 118 Nev. 458, 50 P.3d

170 (2002); See also *Bergmann v. Boyce*, 109 Nev. 670, 856 P.2d 560 (1993). Discretion should be "sparingly exercised" when considering "expenses not specifically allowed by statute and precedent" because "statutes permitting recovery of costs, being in derogation of the common law, must be strictly construed." See *Bergmann v. Boyce*, 109 Nev. at 679. A strict construction of the statute "requires that the phrase 'reasonable costs' be interpreted to mean actual costs that are reasonable, rather than a reasonable estimate or calculation of such costs based upon administrative convenience." *Gibellini v. Klindt*, 110 Nev. 1201, 1206, 885 P.2d 540 (1994).

NRS 18.005 enumerates compensable costs as follows:

1. Clerks' fees.
2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.
3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.
4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.
5. Reasonable fees of not more than five expert witnesses in an amount of not more than \$1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.
6. Reasonable fees of necessary interpreters.
7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
8. Compensation for the official reporter or reporter pro tempore.
9. Reasonable costs for any bond or undertaking required as part of the action.
10. Fees of a court bailiff or deputy marshal who was required to work overtime.
11. Reasonable costs for telecopies.
12. Reasonable costs for photocopies.
13. Reasonable costs for long distance telephone calls.
14. Reasonable costs for postage.
15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.
16. Fees charged pursuant to NRS 19.0335.
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

See NRS 18.005.

1 The Nevada Supreme Court has held that this statute must be strictly construed to allow
2 only the costs specifically enumerated therein, and only under the circumstances provided for in
3 the statute. *See Bobby Berosini, Ltd v. People for the Ethical Treatment of Animals*, 114 Nev. 1348,
4 1352-53, 971 P.2d 383 (1998). Applying these principles to the instant matter, Plaintiffs
5 respectfully submit that this Court should grant the Motion to Retax, as some of the costs
6 delineated in Defendants' Memorandum of Costs and Disbursements are not recoverable under
7 applicable and relevant authority.

9 **C. PLAINTIFFS' ASSERTED LEGAL RESEARCH COSTS ARE UNREASONABLE**
10 **AND UNNECESSARY AND MUST BE RETAXED**

11 As stated above, costs incurred in litigation can only be recovered if authorized by statute
12 or rule and, even if such costs are so authorized, the Court has the discretion to determine the
13 reasonableness of the costs to be award. *See Sun Realty v. Eighth Judicial Dist. Ct.*, 91 Nev. 774,
14 542 P.2d 1072 (1975); *see also U.S. Design & Const. Corp. v. International Broth. of Elec.*
15 *Workers*, 118 Nev. 458, 50 P.3d 170 (2002). Here, Plaintiffs' Memo asserts costs of "\$3,665.22"
16 for "Legal Research/other necessary expenses" and cites to NRS 18.005(17) as the authorizing
17 statute. *See Plaintiffs' Memorandum*, Pg. 2. NRS 18.005(17) authorized the award of "other
18 reasonable and necessary expense incurred in connection with the action, including **reasonable**
19 **and necessary expenses for computerized services for legal research.**" (*Emphasis added*) *See*
20 *NRS 18.005(17)*. However, while computerized services for legal research is authorized by the
21 statute, review of the bills attached to Plaintiffs' Memo demonstrates that a significant portion of
22 the costs asserted under this category was for research on Westlaw which was neither reasonable
23 nor necessary. The unreasonable and unnecessary costs, which should thus be retaxed, are as
24 follows:
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1 **1. \$1,459.60 - Westlaw Research on December 31, 2020:**

2 The first unreasonable and unnecessary Westlaw cost stated in Plaintiffs' Memo is a charge
3 for \$1,459.60 for research conducted on December 31, 2020. *See Plaintiffs' Memorandum of*
4 *Costs, Pg. 11.* The procedural history of this case demonstrates that: (1) the only pending motion
5 on December 31, 2020 was the Plaintiffs' Motion for Summary Judgment Regarding Their Breach
6 of Contract Claims; and (2) that Defendants filed their Opposition to that Motion on December 17,
7 2020 and Defendants filed their Reply on January 5, 2021. *See attached Exhibit 2, Pg. 16-18.*
8 Therefore, the January 5, 2021 Reply is the only pleading which could reasonably have
9 necessitated the December 31, 2020 legal research costs asserted by Plaintiffs. *Id.* However,
10 examination of that Reply demonstrates that there was no reasonable or necessary basis for
11 Plaintiffs to have incurred \$1,459.60 in legal research expenses.

12 The Reply's legal argument section begins by discussing the argument of Defendants' that
13 Summary Judgment was inappropriate on a matter of law that had not yet been settled. *See attached*
14 *Exhibit 3, Pg. 4.* After just a brief discussion, Plaintiffs cited to a Nevada federal court case,
15 *Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n*, in support of the
16 assertion that the Court may look to persuasive authority of other jurisdictions in considering a
17 Motion for Summary Judgment. *See attached Exhibit 3, Pg. 5.* Though research on the case
18 *Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n* may have been
19 necessary, however, Plaintiffs then proceeded to cite to case law from nine (9) other jurisdictions
20 (Louisiana, Tennessee, Mississippi, California, Pennsylvania, Oklahoma, Connecticut, the Fourth
21 Circuit, and the Fifth Circuit) and these were all simply offered as persuasive authority for the
22 assertion that the Court "may consider persuasive authority in the absence of controlling law at
23 summary judgment". *See attached Exhibit 3, Pg. 6.*

24 It is clear and unambiguous that citing to case law from nine (9) other jurisdictions as
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persuasive authority for the argument that the Court may consider persuasive authority was extremely excessive and, thus, both unreasonable and unnecessary. *Id.* Further, Defendants would re-emphasize that, immediately prior to this extensive discussion of case law from across the country, the Plaintiffs cited to persuasive case law from within Nevada (*Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n*) which established the point being argued. Finally, \$1500.00 for legal research is not only unreasonable it is incredible. Therefore, the additional research expenses were unquestionably not necessary and non-compensable under NRS 18.005(17) and Defendants' respectfully request the Court relax these asserted costs.

2. \$316.67 - Westlaw Research on April 9, 2020:

The next unreasonable and unnecessary Westlaw cost is a charge for \$316.67 for research conducted on April 9, 2020. *See Plaintiffs' Memorandum of Costs, Pg. 3.* The cost of this research was not reasonable or necessary because it was not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. This is evidenced in the procedural history by: (1) the only action taken or pleading filed in the preceding month (March 2020) was the Defendants' Addendum to Designation of Expert Witnesses filed March 16, 2020; (2) the only actions taken or pleadings filed in April of 2020 were the filing of an Order Setting Civil Bench Trial (4/6/20), the filing of an Order regarding the Discovery Commissioner's Report and Recommendations (4/9/20), the filing of a Notice of Entry of Order (4/9/20), the filing of a Stipulation and Order to Continue Deadlines (4/27/20) and the filing of another Notice of Entry of Order (4/28/20); (3) there were no pending motions on April 9, 2020; and (4) following the filing of the April 28, 2020 Notice of Entry of Order, no further actions were taken until July 13, 2019 and that action was merely the remittance of a filing fee. *See attached Exhibit 2, Pg. 14-15.* Therefore, it is again clear that this legal research cost was not a "reasonable and necessary expense incurred in connection with the action", as required by NRS 18.005(17) and pertinent

case law cited above, and it too must be retaxed. *See NRS 18.005(17)*.

3. \$446.55 - Westlaw Research on February 6, 2020:

The next unreasonable and unnecessary legal research cost is a charge for \$446.55 for Westlaw research conducted on February 6, 2020. *See Plaintiffs' Memorandum of Costs, Pg. 3*. Again, this was not reasonable or necessary because it was not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. Briefly, examination of the procedural history demonstrates that: (1) in December of 2019 Plaintiffs filed a Motion to Compel Discovery and Defendants' filed an Opposition and Countermotion to Extend Time to Disclose Expert Witnesses; (2) both parties filed Replies and hearings were held on January 14, 2020 and January 30, 2020; (3) the Discovery Commissioner's Report & Recommendations were also filed on January 30, 2020; (4) there were no further actions that took place in the case until February 20, 2020, when a status check was held and an Order was entered from the January 30, 2020 hearing; (5) there were no pending motions on February 6, 2020; and (6) there were no other actions taken or pleadings filed which would have necessitated legal research on Westlaw for at least the six months following February 6, 2020. *See attached Exhibit 2, Pg. 11-15*. Thus, it is unambiguous that the Westlaw research costs incurred on February 6, 2020 were not a "reasonable and necessary expense incurred in connection with the action", as required by NRS 18.005(17) and pertinent case law cited above, and this cost must be retaxed. *See NRS 18.005(17)*.

4. \$17.55 - Westlaw Research on September 30, 2019:

The final unreasonable and unnecessary legal research cost is a charge for \$17.55 for Westlaw research conducted on September 30, 2019. *See Plaintiffs' Memorandum of Costs, Pg. 6*. This Westlaw research was not reasonable or necessary because it too was clearly not connected with actions taken or pleadings filed in this litigation by either the Plaintiffs or Defendants. Examination of the procedural history demonstrates that, prior to September 30, 2019, the only

recent actions which had occurred in the case had been an Order filed September 12, 2019 (denying Plaintiffs' Motion to Dismiss Counterclaims and Defendants' Countermotion for Summary Judgment), and Notice of Entry of that Order filed September 30, 2019. *See attached Exhibit 3, Case Docket, Pg. 9.* Further, the procedural history demonstrates: (1) the only action taken on September 30, 2019 was an administrative reassignment by the Court; (2) there were no pending motions or other pleadings on September 30, 2019; and (3) there were not any subsequent actions in the case until the October 11, 2019 Mandatory Rule 16 Conference. *Id. at 9-10.* Therefore, as it was unconnected to the actions taken in this case and/or any pleadings filed by Plaintiffs or Defendants, the September 30, 2019 Westlaw research was not a "reasonable and necessary expense incurred in connection with the action", as required by NRS 18.005(17) and pertinent case law cited above, and this cost must also be retaxed. *See NRS 18.005(17).*

D. THE REQUESTED COSTS, RUNNER FEES, ARE NOT COMPENSABLE UNDER NRS 18.005

Plaintiff's Memo also includes ten "delivery" charges amounting to \$150.00 and has attached runner slips for these deliveries. *See Plaintiffs' Memorandum of Costs, Pg. 6-20 & Pg. 27-36.* First, Defendants would emphasize that runner costs are not specifically enumerated under NRS 18.005. *See NRS 18.005.* Further, Plaintiffs do not cite any legal authority authorizing the taxing of such costs, and Court applies its discretion sparingly "when considering whether or not to allow expenses not specifically allowed by statute and precedent". *See Bergmann, 109 Nev. at 679, 856 P.2d at 565-566.* Additionally, it must be noted that there is persuasive legal authority which suggests that such costs are not compensable.

Specifically, federal courts have consistently held that overhead costs, such as administrative fees, supplies and the use of runners are not properly taxable. *See, e.g., Warner Chilcott Labs. Ireland Ltd. v. Impax Labs., Inc., 2013 WL 1876441, at *12 (D. N.J. April 18, 2013)*

(holding costs slip sheets, tabs, binders, folders, red weld file pockets and labels. . . .constitute[d] attorney's overhead and as such, [was] not taxable"); *N.J. Mfrs. Ins. Group v. Electrolux, Inc.*, 2013 WL 5817161, at *12 (D. N.J. Oct. 21, 2013) (holding costs "for labels and binders, which constitute attorney's overhead and as such, are not taxable"); *J-Way Leasing, Ltd. v. Am. Bridge Co.*, 2010 WL 816439, at *4 (N.D. Ohio March 4, 2010) ("[C]osts for marking exhibits are overhead expenses and not taxable"); *Butler v. Wright*, 2010 WL 599387, at *8 (M.D. Fl. Feb 16, 2010) (holding "operating overhead is not taxable"); *Osorio v. Dole Food Co.*, 2010 WL 3212065, at *7 (S.D. Fl. July 7, 2010) ("Courts have held that costs for tabs and binders are not taxable costs because they are subsumed within operating overhead."); *Van Voorhis v. Hillsborough Bd. of County Comm'rs*, 2008 WL 2790244, at *5 (M.D. Fl. July 18, 2008) (finding cost of supplies movant purchased from Staples was "subsumed within operating overhead and . . . not taxable.").

Again, as runner costs are not specifically mentioned under any of the provisions of NRS 18.005, Plaintiffs' only reasonable argument regarding these costs is that they fall under NRS 18.005(17). It is implicit in both the language of the statute and its application in relevant case law, that the Court analyzes whether non-specifically enumerated costs and fees are compensable under NRS 18.005(17) by putting the burden on the party seeking to tax the costs to demonstrate that those costs are reasonable and necessary (in addition to being incurred in connection with the action). See *Bergmann v. Boyce*, 109 Nev. at 679; See *U.S. Design & Const. Corp. v. International Broth. of Elec. Workers*, 118 Nev. 458, 50 P.3d 170 (2002); See *Bobby Berosini, Ltd v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352-53, 971 P.2d 383 (1998); See also NRS 18.005(17). The demonstration that unenumerated costs are reasonable and necessary must be sufficiently compelling as to persuade the Court that it is appropriate to exercise discretion that the Nevada Supreme Court has directly stated should only be used "sparingly" and deem the costs compensable. *Id.* Here, runner fees are an unenumerated cost and Plaintiffs do not cite any legal

1 authority which would either compel or reasonably persuade the Court to exercise discretion meant
2 to be used "sparingly". Thus, the costs are not compensable and should be retaxed.

3 **E. PLAINTIFFS HAVE EITHER MISSTATED THEIR SERVICE OF PROCESS**
4 **COSTS OR FAILED TO INCLUDE AN ACCURATE ACCOUNTING OF THEIR**
5 **SERVICE OF PROCESS COSTS**

6
7 Per NRS 18.005(7), "[t]he fee of any sheriff or licensed process server for the delivery or
8 service of any summons or subpoena used in the action, unless the court determines that the service
9 was not necessary" is a compensable expense. *See NRS 18.005(7)*. Plaintiffs' Memo asserts that
10 the total compensable costs under NRS 18.005(7) incurred for "Service of process/summons" were
11 "\$1,126.72". *See Plaintiffs' Memorandum of Costs, Pg. 2*. However, the transactions listings
12 included with Plaintiffs' Memo only lists the following for service of process costs:

- 13 1. June 5, 2019 - \$199.00. *See Plaintiffs' Memorandum of Costs, Pg. 6.*
- 14 2. June 28, 2019 - \$90.00. *Id. at Pg. 12.*
- 15 3. May 4, 2020 - \$54.00. *Id. at 7.*
- 16 4. May 4, 2020 - \$54.00. *Id. at 7.*
- 17 5. May 4, 2020 - \$54.00. *Id. at 13.*
- 18 6. May 4, 2020 - \$112.35. *Id. at 13.*

19
20 The total of these six (6) services of process transactions stated in Plaintiffs' Memo is
21 \$563.35, not "\$1,126.72" as asserted by Plaintiffs. *See Plaintiffs' Memorandum of Costs, Pg. 2*.
22 Therefore, Defendants respectfully request that the Court retax Plaintiffs' asserted Service of
23 Process/Summons costs.
24

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III.

CONCLUSION

Based on the foregoing, the Defendants respectfully request that the Court grant their Motion to Retax and: (1) retax the legal research costs asserted by Plaintiffs by \$2240.37 as outlined above; (2) retax the runner/delivery costs asserted by Plaintiffs by \$150.00 as outlined above; and (3) retax the service of process/summons costs asserted by Plaintiffs by 563.37 as outlined above.

Dated this 15 day of March 2021.

BLACK & WADHAMS

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rgraf@blackwadhamslaw
Attorneys for Defendants

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 18th day of March 2021, I caused the above and foregoing document entitled **DEFENDANTS' AMENDED MOTION TO RETAX** to be served as follows:

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and

☒ by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;

☐ pursuant to EDCR 7.26, to be sent via facsimile;

☐ hand delivered to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

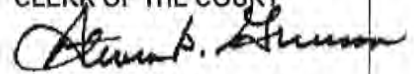
F. Thomas Edwards, Esq.
HOLLEY DRIGGS WALCH FINE
PUZEY STEIN & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

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

/s/ Diane Meeter

An Employee of Black & Wadhams

EXHIBIT “1”



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JESSICA M. LUJAN, ESQ.
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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

MEMORANDUM OF COSTS AND DISBURSEMENTS

Clerk's fees (NRS 18.005(1)) \$ 1,323.90

1	Reporters' fees for depositions/copies (NRS 18.005(2))	\$ 2,216.81
2	Service of process/summons (NRS 18.005(7))	\$ 1,126.72
3	Photocopies and postage (NRS 18.005(12)-(14))	\$ 203.64
4	Legal Research/other "necessary expenses" (NRS 18.005(17))	\$ 3,665.22
5	TOTAL	\$ 8,536.29

6
7
8 Dated this 15th day of March, 2021.

9
10 **HOLLEY DRIGGS**

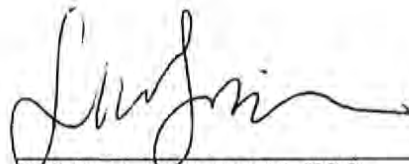
11 Jessica M. Lujan
 12 F. THOMAS EDWARDS, ESQ.
 13 Nevada Bar No. 9549
 14 JESSICA M. LUJAN, ESQ.
 15 Nevada Bar No. 14913
 16 400 South Fourth Street, Third Floor
 17 Las Vegas, Nevada 89101
 18 *Attorneys for Plaintiffs/Counterdefendants*
 19
 20
 21
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 23
 24
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 27
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HOLLEY DRIGGS

Affidavit

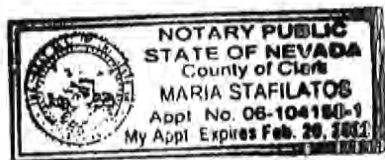
STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

Jessica M. Lujan, Esq. being duly sworn, states: that affiant is the attorney for the Plaintiffs/Counter-defendants and has personal knowledge of the above costs and disbursements expended; that the items contained in the above memorandum are true and correct to the best of this affiant's knowledge and belief; and that the said disbursements have been necessarily incurred and paid in this action.



JESSICA M. LUJAN, ESQ.
Attorney for Plaintiffs/Counterdefendants

SIGNED AND SWORN to before me this
15 day of March, 2021.


NOTARY PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 15th day of March, 2021, and pursuant to EDCR 8.05 and NRCP 5(b), I caused to be served electronically using the Court's E-Filing E-Service System, a true and correct copy of the foregoing **MEMORANDUM OF COSTS AND DISBURSEMENTS** to all parties in this case registered with the E-Service System.

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/s/ Sandy Sell
An employee of Holley Driggs

COSTS

HD
HOLLEY DRIGGS

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort					
		Matter Description	Component	Units	Price	Value	
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext	Amount
6/5/2019		03827-59 / Commercial Specialists	sp	1.00	199.00		199.00
		Bour Enterprises, LLC		1.00	199.00		199.00
		Service of process					
3/1/2021		03827-59 / Commercial Specialists	pc	22.00	0.15		3.30
		Bour Enterprises, LLC		22.00	0.15		3.30
		Photocopies					
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50		3.50
		Bour Enterprises, LLC		1.00	3.50		3.50
		Filing fee					
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15
		Bour Enterprises, LLC		1.00	0.15		0.15
		Photocopies					
12/14/2020		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15
		Bour Enterprises, LLC		1.00	0.15		0.15
		Photocopies					
9/6/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00		15.00
		Bour Enterprises, LLC		1.00	15.00		15.00
		Delivery Charges					
1/11/2021		03827-59 / Commercial Specialists	pc	1.00	0.15		0.15
		Bour Enterprises, LLC		1.00	0.15		0.15
		Photocopies					
10/29/2020		03827-59 / Commercial Specialists	pc	395.00	0.15		59.25
		Bour Enterprises, LLC		395.00	0.15		59.25
		Photocopies					
3/9/2020		03827-59 / Commercial Specialists	pc	3.00	0.15		0.45
		Bour Enterprises, LLC		3.00	0.15		0.45
		Photocopies					
12/15/2020		03827-59 / Commercial Specialists	pc	15.00	0.15		2.25
		Bour Enterprises, LLC		15.00	0.15		2.25
		Photocopies					

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Units	Price	Value
Date	Prof	Matter Description Narrative	Component Task Code	Stm	Units	Price	Ext Amount
11/5/2020		03827-59 / Commercial Specialists	pc		1.00	0.15	0.15
		Bour Enterprises, LLC			1.00	0.15	0.15
		Photocopies					
3/11/2021		03827-59 / Commercial Specialists	pc		2.00	0.15	0.30
		Bour Enterprises, LLC			2.00	0.15	0.30
		Photocopies					
10/29/2020		03827-59 / Commercial Specialists	pc		5.00	0.15	0.75
		Bour Enterprises, LLC			5.00	0.15	0.75
		Photocopies					
2/27/2020		03827-59 / Commercial Specialists	pc		4.00	0.15	0.60
		Bour Enterprises, LLC			4.00	0.15	0.60
		Photocopies					
3/9/2021		03827-59 / Commercial Specialists	ff		1.00	3.50	3.50
		Bour Enterprises, LLC			1.00	3.50	3.50
		Filing fee					
12/14/2020		03827-59 / Commercial Specialists	pc		1.00	0.15	0.15
		Bour Enterprises, LLC			1.00	0.15	0.15
		Photocopies					
10/10/2019		03827-59 / Commercial Specialists	ff		1.00	3.50	3.50
		Bour Enterprises, LLC			1.00	3.50	3.50
		Filing fee					
6/6/2019		03827-59 / Commercial Specialists	ff		1.00	3.50	3.50
		Bour Enterprises, LLC			1.00	3.50	3.50
		Filing fee					
12/14/2020		03827-59 / Commercial Specialists	pc		114.00	0.15	17.10
		Bour Enterprises, LLC			114.00	0.15	17.10
		Photocopies					
3/1/2021		03827-59 / Commercial Specialists	pc		1.00	0.15	0.15
		Bour Enterprises, LLC			1.00	0.15	0.15
		Photocopies					

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
10/29/2020		03827-59 / Commercial Specialists	pc	35.00	0.15	5.25
		Bour Enterprises, LLC		35.00	0.15	5.25
		Photocopies				
6/25/2019		03827-59 / Commercial Specialists	bon	1.00	500.00	500.00
		Bour Enterprises, LLC		1.00	500.00	500.00
		Bond fee				
3/9/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
2/27/2020		03827-59 / Commercial Specialists	pc	8.00	0.15	1.20
		Bour Enterprises, LLC		8.00	0.15	1.20
		Photocopies				
10/13/2020		03827-59 / Commercial Specialists	pc	17.00	0.15	2.55
		Bour Enterprises, LLC		17.00	0.15	2.55
		Photocopies				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
2/27/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
2/6/2020		03827-59 / Commercial Specialists	wr	1.00	446.55	446.55
		Bour Enterprises, LLC		1.00	446.55	446.55
		Westlaw online research				
1/11/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/31/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
5/1/2018		03827-59 / Commercial Specialists	po	1.00	0.94	0.94
		Bour Enterprises, LLC		1.00	0.94	0.94
		Postage E109				
2/27/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	pc	13.00	0.15	1.95
		Bour Enterprises, LLC		13.00	0.15	1.95
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	4.40	4.40
		Bour Enterprises, LLC		1.00	4.40	4.40
		Filing fee				
12/14/2020		03827-59 / Commercial Specialists	pc	11.00	0.15	1.65
		Bour Enterprises, LLC		11.00	0.15	1.65
		Photocopies				
12/18/2020		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
7/9/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
9/3/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		DeliveryCharges				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/16/2019		03827-59 / Commercial Specialists	pc	2.00	0.15	0.30
		Bour Enterprises, LLC		2.00	0.15	0.30
		Photocopies				
1/4/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
5/26/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
5/15/2019		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
9/25/2019		03827-59 / Commercial Specialists	po	1.00	0.50	0.50
		Bour Enterprises, LLC		1.00	0.50	0.50
		Postage E109				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	9.50	9.50
		Bour Enterprises, LLC		1.00	9.50	9.50
		Filing fee				
1/10/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	112.00	0.15	16.80
		Bour Enterprises, LLC		112.00	0.15	16.80
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	ff	1.00	200.00	200.00
		Bour Enterprises, LLC		1.00	200.00	200.00
		Filing fee				
3/9/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Units	Price	Value
Date	Prof	Matter Description Narrative	Component Task Code	Stm	Units	Stm Price	Ext Amount
9/3/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de		1.00	15.00	15.00
					1.00	15.00	15.00
11/5/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00	30.00	30.00
					1.00	30.00	30.00
7/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Court reporter	cr		1.00	379.83	379.83
					1.00	379.83	379.83
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		6.00	0.15	0.90
					6.00	0.15	0.90
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		6.00	0.15	0.90
					6.00	0.15	0.90
9/30/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr		1.00	17.55	17.55
					1.00	17.55	17.55
2/16/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
3/5/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
10/13/2020		03827-59 / Commercial Specialists	pc	14.00	0.15	2.10
		Bour Enterprises, LLC		14.00	0.15	2.10
		Photocopies				
1/11/2021		03827-59 / Commercial Specialists	pc	15.00	0.15	2.25
		Bour Enterprises, LLC		15.00	0.15	2.25
		Photocopies				
6/25/2019		03827-59 / Commercial Specialists	bon	1.00	500.00	500.00
		Bour Enterprises, LLC		1.00	500.00	500.00
		Bond fee				
6/28/2019		03827-59 / Commercial Specialists	sp	1.00	90.00	90.00
		Bour Enterprises, LLC		1.00	90.00	90.00
		Service of process				
10/13/2020		03827-59 / Commercial Specialists	pc	14.00	0.15	2.10
		Bour Enterprises, LLC		14.00	0.15	2.10
		Photocopies				
11/15/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
1/7/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
6/21/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
1/28/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/21/2020		03827-59 / Commercial Specialists	pc	21.00	0.15	3.15
		Bour Enterprises, LLC		21.00	0.15	3.15
		Photocopies				
10/30/2020		03827-59 / Commercial Specialists	pc	25.00	0.15	3.75
		Bour Enterprises, LLC		25.00	0.15	3.75
		Photocopies				
2/14/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	54.00	54.00
		Bour Enterprises, LLC		1.00	54.00	54.00
		Service of process				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
3/1/2021		03827-59 / Commercial Specialists	pc	6.00	0.15	0.90
		Bour Enterprises, LLC		6.00	0.15	0.90
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	75.00	0.15	11.25
		Bour Enterprises, LLC		75.00	0.15	11.25
		Photocopies				
8/29/2019		03827-59 / Commercial Specialists	wr	1.00	204.44	204.44
		Bour Enterprises, LLC		1.00	204.44	204.44
		Westlaw online research				
1/31/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
5/4/2020		03827-59 / Commercial Specialists	sp	1.00	112.36	112.36
		Bour Enterprises, LLC		1.00	112.36	112.36
		Service of process				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
9/4/2019		03827-59 / Commercial Specialists	ff	1.00	7.00	7.00
		Bour Enterprises, LLC		1.00	7.00	7.00
		Filing fee				
2/26/2021		03827-59 / Commercial Specialists	wr	1.00	224.89	224.89
		Bour Enterprises, LLC		1.00	224.89	224.89
		Westlaw online research				
8/16/2019		03827-59 / Commercial Specialists	wr	1.00	9.84	9.84
		Bour Enterprises, LLC		1.00	9.84	9.84
		Westlaw online research				
1/14/2021		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
10/29/2020		03827-59 / Commercial Specialists	pc	5.00	0.15	0.75
		Bour Enterprises, LLC		5.00	0.15	0.75
		Photocopies				
10/10/2019		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
3/1/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	4.40	4.40
		Bour Enterprises, LLC		1.00	4.40	4.40
		Filing fee				
2/24/2021		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
6/6/2019		03827-59 / Commercial Specialists	ff	1.00	748.60	748.60
		Bour Enterprises, LLC		1.00	748.60	748.60
		Filing fee				

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		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
9/4/2019	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				
1/11/2021		03827-59 / Commercial Specialists	pc	27.00	0.15	4.05
		Bour Enterprises, LLC		27.00	0.15	4.05
		Photocopies				
1/11/2021		03827-59 / Commercial Specialists	pc	112.00	0.15	16.80
		Bour Enterprises, LLC		112.00	0.15	16.80
		Photocopies				
2/8/2021		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
1/11/2021		03827-59 / Commercial Specialists	pc	14.00	0.15	2.10
		Bour Enterprises, LLC		14.00	0.15	2.10
		Photocopies				
4/9/2020		03827-59 / Commercial Specialists	wr	1.00	316.67	316.67
		Bour Enterprises, LLC		1.00	316.67	316.67
		Westlaw online research				
10/13/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
2/27/2020		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
12/14/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
1/28/2020	RC	03827-59 / Commercial Specialists	de	1.00	15.00	15.00
		Bour Enterprises, LLC		1.00	15.00	15.00
		Delivery Charges				

Transactions Listing with billed amounts

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Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units		Price		Value	
				Stm	Units	Stm	Price	Ext	Amount
12/18/2020		03827-59 / Commercial Specialists	pc		2.00		0.15		0.30
		Bour Enterprises, LLC			2.00		0.15		0.30
		Photocopies							
12/21/2020		03827-59 / Commercial Specialists	pc		21.00		0.15		3.15
		Bour Enterprises, LLC			21.00		0.15		3.15
		Photocopies							
12/31/2020		03827-59 / Commercial Specialists	pc		3.00		0.15		0.45
		Bour Enterprises, LLC			3.00		0.15		0.45
		Photocopies							
1/4/2021		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
1/4/2021		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
1/4/2021		03827-59 / Commercial Specialists	pc		1.00		0.15		0.15
		Bour Enterprises, LLC			1.00		0.15		0.15
		Photocopies							
12/31/2020		03827-59 / Commercial Specialists	wr		1.00		1,459.60		1,459.60
		Bour Enterprises, LLC			1.00		1,459.60		1,459.60
		Westlaw							
1/7/2021		03827-59 / Commercial Specialists	ff		1.00		200.00		200.00
		Bour Enterprises, LLC			1.00		200.00		200.00
		Filing fee							
1/7/2021		03827-59 / Commercial Specialists	ff		1.00		9.50		9.50
		Bour Enterprises, LLC			1.00		9.50		9.50
		Filing fee							
1/7/2021		03827-59 / Commercial Specialists	ff		1.00		3.50		3.50
		Bour Enterprises, LLC			1.00		3.50		3.50
		Filing fee							

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
9/4/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	200.00 200.00	200.00 200.00
1/8/2020	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de	1.00 1.00	15.00 15.00	15.00 15.00
3/1/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	47.00 47.00	0.15 0.15	7.05 7.05
5/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
2/27/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	10.00 10.00	0.15 0.15	1.50 1.50
5/16/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	2.00 2.00	0.15 0.15	0.30 0.30

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Units	Price	Value
Date	Prof	Matter Description Narrative	Component Task Code	Stm	Units	Stm Price	Ext Amount
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		2.00	0.15	0.30
					2.00	0.15	0.30
3/26/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
1/7/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00	9.50	9.50
					1.00	9.50	9.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		5.00	0.15	0.75
					5.00	0.15	0.75
3/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff		1.00	3.50	3.50
					1.00	3.50	3.50
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		1.00	0.15	0.15
					1.00	0.15	0.15
9/4/2019	RC	03827-59 / Commercial Specialists Bour Enterprises, LLC Delivery Charges	de		1.00	15.00	15.00
					1.00	15.00	15.00
2/10/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		10.00	0.15	1.50
					10.00	0.15	1.50
12/3/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc		11.00	0.15	1.65
					11.00	0.15	1.65

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
11/30/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Westlaw online research	wr	1.00 1.00	63.11 63.11	63.11 63.11
1/11/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	79.00 79.00	0.15 0.15	11.85 11.85
8/12/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
1/4/2021		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
12/1/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
10/13/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	11.00 11.00	0.15 0.15	1.65 1.65
3/9/2020		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15
8/9/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Filing fee	ff	1.00 1.00	3.50 3.50	3.50 3.50
5/15/2019		03827-59 / Commercial Specialists Bour Enterprises, LLC Photocopies	pc	1.00 1.00	0.15 0.15	0.15 0.15

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
11/18/2020		03827-59 / Commercial Specialists	pc	1.00	0.15	0.15
		Bour Enterprises, LLC		1.00	0.15	0.15
		Photocopies				
11/20/2020		03827-59 / Commercial Specialists	pc	16.00	0.15	2.40
		Bour Enterprises, LLC		16.00	0.15	2.40
		Photocopies				
12/3/2020		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
5/16/2019		03827-59 / Commercial Specialists	pc	3.00	0.15	0.45
		Bour Enterprises, LLC		3.00	0.15	0.45
		Photocopies				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	3.50	3.50
		Bour Enterprises, LLC		1.00	3.50	3.50
		Filing fee				
12/13/2019		03827-59 / Commercial Specialists	wr	1.00	75.51	75.51
		Bour Enterprises, LLC		1.00	75.51	75.51
		Westlaw online research				
8/12/2020		03827-59 / Commercial Specialists	ff	1.00	30.00	30.00
		Bour Enterprises, LLC		1.00	30.00	30.00
		Filing fee				
1/29/2021		03827-59 / Commercial Specialists	wr	1.00	69.00	69.00
		Bour Enterprises, LLC		1.00	69.00	69.00
		Westlaw online research				
11/29/2020		03827-59 / Commercial Specialists	pc	7.00	0.15	1.05
		Bour Enterprises, LLC		7.00	0.15	1.05
		Photocopies				
8/16/2019		03827-59 / Commercial Specialists	wr	1.00	222.11	222.11
		Bour Enterprises, LLC		1.00	222.11	222.11
		Westlaw online research				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: All costs

		MatterID/Client Sort			Component	Units	Price	Value
Date	Prof	Matter Description			Task Code	Stm Units	Stm Price	Ext Amount
		Narrative						
			Grand Total		Worked:	1,440.00		7,139.70
					Billed:	1,440.00		7,139.70

INVOICES

HD
HOLLEY DRIGGS

Veritext, LLC
Western Region

707 Wilshire Boulevard, Suite 3500
Los Angeles CA 90017
Tel. 877-955-3855 Fax. 949-608-3438
Fed. Tax ID: 20-3132569



03827-59

Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: CA4280671
Invoice Date: 4/1/2020
Balance Due: \$379.83

Case: 4520 Arville v. Bour Enterprises, LLC
Job #: 4038755 | **Job Date:** 3/26/2020 | **Delivery:** Normal
Case #: A19794864C
Billing Atty: F. Thomas Edwards Esq
Location: Holley Driggs
400 South Fourth Street | Suite 300
Las Vegas, NV 89101
Sched Atty: F. Thomas Edwards Esq | Holley Driggs

Third Party:

Business	Description	Units	Quantity	Amount
Mahteme Zewdie	Certificate of Non Appearance (CNA)	1	1.00	\$335.00
	Electronic Delivery and Handling	Package	1.00	\$28.00
Notes:				Invoice Total: \$363.00
				Payment: \$0.00
				Credit: \$0.00
				Interest: \$16.83
				Balance Due: \$379.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 90 DAYS PAST DUE, PLEASE REMIT - THANK YOU

To pay online, go to
www.veritext.com

Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303

Invoice #: CA4280671
Job #: 4038755
Invoice Date: 4/1/2020
Balance: \$379.83

Veritext, LLC - Western Region

Tel. 877-955-3855 Email: lvdepo@veritext.com
Fed. Tax ID: 20-3132569



Bill To: F. Thomas Edwards Esq
Marsha Palrose
400 South Fourth Street
Suite 300
Las Vegas, NV, 89101

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Case: 4520 Arville v. Bour Enterprises, LLC (A19794864C)

Proceeding Type: Depositions

Job #: 4300753 | Job Date: 11/2/2020 | Delivery: Expedited

Location: Las Vegas, NV

Billing Atty: F. Thomas Edwards Esq

Scheduling Atty: F. Thomas Edwards Esq | Holley Driggs

Witness: 30b6 Bour Enterprises**Quantity****Amount**

Original with 1 Certified Transcript	171.00	\$1,496.25
Attendance	1.00	\$300.00
Waiting Time (Reporter/Videographer Standby Fee)	0.50	\$47.50
Exhibits	100.00	\$65.00
Exhibits - Color	2.00	\$1.90
Exhibits - Multimedia Duplication	1.00	\$25.00
Surcharge - Expert/Medical/Technical	171.00	\$85.50
Litigation Package-Secure File Suite	1.00	\$55.00
Production & Processing	1.00	\$50.00
Electronic Delivery and Handling	1.00	\$35.00

Notes:

Invoice Total: \$2,161.15
Payment: \$0.00
Credit: \$0.00
Interest: \$135.68
Balance Due: \$2,296.83

TERMS: Payable upon receipt. Accounts 30 days past due will bear a finance charge of 1.5% per month. Accounts unpaid after 90 days agree to pay all collection costs, including reasonable attorney's fees. Contact us to correct payment errors. No adjustments will be made after 90 days. For more information on charges related to our services please consult <http://www.veritext.com/services/all-services/services-information>

THIS INVOICE IS 120 DAYS PAST DUE, PLEASE REMIT - THANK YOU

Please remit payment to:
Veritext
P.O. Box 71303
Chicago IL 60694-1303
Fed. Tax ID: 20-3132569

To pay online, go to www.veritext.com
Veritext accepts all major credit cards
(American Express, Mastercard, Visa, Discover)

Invoice #: 4645329
Invoice Date: 11/11/2020
Balance Due: \$2,296.83

Tom Edwards

Subject: FW: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02
Attachments: 4645329.pdf

From: Noemi Sandoval <collections-west@veritext.com>
Sent: Monday, March 15, 2021 9:23 AM
To: Marsha Palrose <mpalrose@nevadafirm.com>
Subject: Re: Veritext West - 4645329 - 4520 Arville v. Bour Enterprises, LLC - 2020-11-02

Good morning, Ms. Palrose. I hope you are having a wonderful morning. I would like to follow up with you regarding your last email.

I have reviewed your concerns further with our management team. Management would like to extend a discount of 15% on this invoice. The total amount due for Invoice 4645329 is \$1,836.98 if paid within the next 30days.

Please let me know if you have any additional questions or concerns regarding this invoice. Thank you very much for your help with this. Wishing you an amazing day.

Best regards,

Noemi Sandoval
Finance Representative

VERITEXT

611 Anton Blvd. 5th Floor | Costa Mesa, CA 92626
Direct: 949.777.9311 || Main 714.549.3700
collections-west@veritext.com
www.veritext.com

Want to pay your bill online? Go to our website, www.veritext.com and click on the "Pay by Credit Card" link. Otherwise, kindly forward payments to P.O. Box 71303, Chicago IL 60694.



RUN SLIPS

HD
HOLLEY DRIGGS

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

4/25/17
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 4:30 PM

Client Name: Courtesy Service Client No: 03827-57

Type of Item: Check

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Paying Cost Bond - take

to court for posting. Bring back

receipt

Secretary: Sandy

Runner: [Signature]

Date Completed: _____

Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

8/28/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Carm Sprague Client No: 63827-57

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. 8 Phx Bldg 11th Floor Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy to Dept. 8

Phx Bldg 11th Floor. THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

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400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/3/19
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 run

Client Name: Comm Specialists Client No: 03827-59

Type of Item: Order + JCCR

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Black + Lobello

Address: 10777 W. Twain Ave #300 Phone: 702-869-8801

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up signed Order + JCCR

from Reception @ Black + Lobello - 10777

W. Twain Ave. Ste 300 LV NV 89135

Thx

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

7/3/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Comm Specialists Client No: 0302757

Type of Item: JCC R

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Winner & Carson 7935 W. Sahara Ave

Address: Ste 101 LV NV 89117 Phone: 702-471-1111

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up JCCR from

Winner & Carson @ 7935 W. Sahara Ave #101

Las Vegas NV 89117 THX

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/4/19

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 10 am run

Client Name: Cogan Specialists Client No: 03827-59

Type of Item: Order

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☒ Leave in Dept. 8 Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Please deliver to Dept. 8

Judge's box, Phx Bldg 11th Floor.

Thx

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

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400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

7/9/99

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Coma Specialists Client No: 13627 59

Type of Item: JCC 12

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☒ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☒ Deliver to Probate Commissioner

☒ Special Instructions: Please deliver courtesy copy to

Discovery Commissioner THX

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

9/16/99

Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5:10

Client Name: Conn Spectator Client No: 03-27-59

Type of Item: Deed

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept. 8 Phx Bldg 11th Floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder

☐ Deliver to Probate Commissioner

☒ Special Instructions: Please pick up Signed Order

from Dept. 8 to Phx Bldg 11th Floor

Thy

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

11/3/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 2:30 pm

Client Name: Comm Specialists Client No: 113027 59

Type of Item: Hearing Binder

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With: ☐ Family Court Clerk

☐ County Clerk ☐ Bankruptcy Clerk

☐ Master Calendar ☐ Federal Court Clerk

☐ Discovery Commissioner ☐ Justice Court Clerk

☐ Arbitration ☐ Justice Court Henderson

☒ Leave Courtesy Copy in Dept. Discovery Commissioner Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions: _____

Please deliver courtesy copy binder to the
Discovery Commissioner's office. THX

Secretary: Sandy Runner: [Signature]

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY • DRIGGS • WALCH • FINE • WRAY • PUZEY • THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

1/28/2020
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: 5pm

Client Name: Comm Spec List Client No: 03827-59

Type of Item: Disc Comm Report & Recommendations

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☐ Pick Up From: _____

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☒ File With:

☐ County Clerk

☐ Master Calendar

☒ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☒ Special Instructions:

Please deliver to Discovery Commissioner's
Office for ~~the~~ filing. Thx

Secretary: Sandy Runner: _____

Date Completed: _____ Date Billed: _____

Received by _____

HOLLEY•DRIGGS•WALCH•FINE•WRAY•PUZEY•THOMPSON

400 South Fourth Street, Third Floor, Las Vegas, NV 89101

Tel (702) 791-0308 • Fax (702) 791-1912

RUNNER INSTRUCTIONS

2/1/12
Date

Due By: ☐ Immediately ☒ Today ☐ Tomorrow

Time Deadline: _____

Client Name: Anna M. Wells Client No: 11-22-11-51

Type of Item: Debt

☐ Check/Cash in the Amount of \$ _____ is Attached

☐ Hand Deliver To: _____

Address: _____

Person Receiving: _____ Phone: _____

☐ Wait for Person to Sign and Return ☐ Okay to Leave

☒ Pick Up From: Dept. 3, Ph. Rm. 11th Floor

Address: _____ Phone: _____

☐ Receipt of Copy

To: _____ At: _____

To: _____ At: _____

To: _____ At: _____

☐ File With:

☐ County Clerk

☐ Master Calendar

☐ Discovery Commissioner

☐ Arbitration

☐ Family Court Clerk

☐ Bankruptcy Clerk

☐ Federal Court Clerk

☐ Justice Court Clerk

☐ Justice Court Henderson

☐ Leave Courtesy Copy in Dept. _____ Slot/Chambers.

☐ Leave in Dept. _____ Slot/Chambers for Judge's Signature.

☐ Issued By: _____ ☐ Certified By: _____

☐ Record at County Recorder ☐ Deliver to Probate Commissioner

☐ Special Instructions: _____

Secretary: [Signature] Runner: [Signature]

Date Completed: 2/1/12 Date Billed: 2/1/12

Received by _____

EXHIBIT “2”

Case Information

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

Case Number	Court	Judicial Officer
A-19-794864-C	Department 5	Barisich, Veronica M.
File Date	Case Type	Case Status
05/15/2019	Other Landlord Tenant	Closed

Party

Plaintiff
4520 Arville

Active Attorneys ▼
Lead Attorney
Edwards, F. Thomas
Retained

Attorney
Story, Sean E.
Retained

Attorney
Lujan, Jessica M
Retained

Counter Defendant
4520 Arville

Active Attorneys ▼
Lead Attorney
Edwards, F. Thomas
Retained

Attorney
Story, Sean E.
Retained

	<p>Attorney Lujan, Jessica M Retained</p>
<p>Plaintiff McKinley Manor</p>	<p>Active Attorneys ▼ Lead Attorney Edwards, F. Thomas Retained</p> <p>Attorney Story, Sean E. Retained</p> <p>Attorney Lujan, Jessica M Retained</p>
<p>Counter Defendant McKinley Manor</p>	<p>Active Attorneys ▼ Lead Attorney Edwards, F. Thomas Retained</p> <p>Attorney Story, Sean E. Retained</p> <p>Attorney Lujan, Jessica M Retained</p>
<p>Other (Participant) Black & Lobello</p>	
<p>Defendant Bour Enterprises LLC</p>	<p>Active Attorneys ▼ Lead Attorney Carson, Brent A Retained</p>

	Attorney Graf, J. Rusty Retained
Counter Claimant Bour Enterprises LLC	Active Attorneys ▼ Lead Attorney Carson, Brent A Retained
	Attorney Graf, J. Rusty Retained
Defendant Bour, Mulugeta	Active Attorneys ▼ Lead Attorney Carson, Brent A Retained
	Attorney Graf, J. Rusty Retained
Counter Claimant Bour, Mulugeta	Active Attorneys ▼ Lead Attorney Carson, Brent A Retained
	Attorney Graf, J. Rusty Retained
Defendant Mengesha, Hilena	Active Attorneys ▼ Lead Attorney Carson, Brent A Retained
	Attorney

Graf, J. Rusty
Retained

Counter Claimant
Mengesha, Hilena

Active Attorneys ▼
Lead Attorney
Carson, Brent A
Retained

Attorney
Graf, J. Rusty
Retained

Disposition Events

01/28/2021 Judgment ▼

Judicial Officer
Barisich, Veronica M.

Judgment Type
Summary Judgment

Monetary Judgment

Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant),
Hilena Mengesha (Defendant)

Creditors: 4520 Arville (Plaintiff), McKinley Manor (Plaintiff)

Judgment: 01/28/2021 Docketed: 01/29/2021

Comment: Certain Claims

03/04/2021 Judgment ▼

Judicial Officer
Barisich, Veronica M.

Judgment Type
Judgment

Monetary Judgment

Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant),
Hilena Mengesha (Defendant)

Creditors: Black & Lobello (Other)

Judgment: 03/04/2021 Docketed: 03/05/2021

Total Judgment: \$27,517.72

03/09/2021 Judgment ▼

Judicial Officer
Barisich, Veronica M.

Judgment Type
Judgment Plus Interest

Monetary Judgment

Debtors: Bour Enterprises LLC (Defendant), Mulugeta Bour (Defendant),
Hilena Mengesha (Defendant)

Creditors: 4520 Arville (Plaintiff), McKinley Manor (Plaintiff)

Judgment: 03/09/2021 Docketed: 03/10/2021

Total Judgment: \$162,756.77

Events and Hearings

05/15/2019 Complaint ▼

Comment
Complaint

05/15/2019 Peremptory Challenge ▼

Comment
Peremptory Challenge of Judge

05/15/2019 Initial Appearance Fee Disclosure ▼

Comment
Initial Appearance Fee Disclosure

05/16/2019 Notice of Department Reassignment ▼

Comment
Notice of Department Reassignment

05/16/2019 Summons Electronically Issued - Service Pending ▼

Comment
Summons

05/16/2019 Summons Electronically Issued - Service Pending ▼

Comment
Summons

05/16/2019 Summons Electronically Issued - Service Pending ▼

Comment
Summons

06/20/2019 Initial Appearance Fee Disclosure ▼

Comment
Initial Appearance Fee Disclosure

06/20/2019 Demand for Security of Costs ▼

Comment
Demand for Security Costs 4520 Arville

06/20/2019 Demand for Security of Costs ▼

Comment
Demand for Security Costs McKinley Manor

06/26/2019 Notice of Posting of Cost Bond ▼

Comment
Notice of Posting of Cost Bond

06/26/2019 Notice of Posting of Cost Bond ▼

Comment
Notice of Posting of Cost Bond

07/09/2019 Notice of Intent to Take Default ▼

Comment
Seven Day Notice of Intent to Take Default

07/16/2019 Answer and Counterclaim ▼

Comment
Defendants' Answer and Counterclaim

07/16/2019 Exhibits ▼

Comment
Exhibit 1 - 6

07/16/2019 Initial Appearance Fee Disclosure ▼

Comment
Initial Appearance Fee Disclosures

08/01/2019 Motion to Dismiss ▼

Comment
Plaintiff/Counterdefendants' Motion to Dismiss Counterclaims

08/01/2019 Clerk's Notice of Hearing ▼

Comment
Notice of Hearing

08/12/2019 Opposition to Motion ▼

Comment
Defendants and Counterclaimants Opposition to Motion to Dismiss
Counterclaims and Defendants and Counterclaimants Motion for
Summary Judgment

08/16/2019 Errata ▼

Comment
Notice of Errata Re Declaration of Anthony Bourl

08/22/2019 Opposition to Motion For Summary Judgment ▼

Comment
Plaintiffs' Opposition to Defendants' Countermotion for Summary Judgment

08/27/2019 Clerk's Notice of Hearing ▼

Comment
Notice of Hearing

08/27/2019 Reply in Support ▼

Comment
Plaintiffs/Counterdefendants' Reply In Support Of Motion To Dismiss Counterclaims

08/29/2019 Reply in Support ▼

Comment
Defendants/CounterClaimant's Reply In Support of Countermotion for Summary Judgment

09/03/2019 Motion to Dismiss ▼

Judicial Officer(s)
Vacant, DC 8, Bixler, James

Hearing Time
8:30 AM

Comment
Plaintiffs/Counterdefendants' Motion to Dismiss Counterclaims

09/03/2019 Opposition and Countermotion ▼

Judicial Officer(s)
Vacant, DC 8, Bixler, James

Hearing Time
8:30 AM

Comment
Defendants and Counterclaimants Opposition to Motion to Dismiss Counterclaims and Defendants and Counterclaimants Motion for Summary Judgment

09/03/2019 All Pending Motions ▼

Judicial Officer(s)
Vacant, DC 8, Bixler, James

Hearing Time
8:30 AM

Result
Matter Heard

Parties Present ▲
Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

09/04/2019 Joint Case Conference Report ▼

Comment
Joint Case Conference Report

09/06/2019 Order ▼

Comment
Order to Appear for Scheduling Conference

09/12/2019 Order Denying Motion ▼

Comment
Order Denying Without Prejudice Plaintiffs/Counterdefendants'
Motion to Dismiss Counterclaims and Defendants/Counterclaimants'
Countermotion for Summary Judgment

09/13/2019 Notice of Entry of Order ▼

Comment
Notice of Entry of Order

09/30/2019 Administrative Reassignment - Judicial Officer Change ▼

Comment
From Vacant DC8 to Judge Trevor L. Atkin

10/11/2019 Mandatory Rule 16 Conference ▼

Original Type
Mandatory Rule 16 Conference

Judicial Officer
Bixler, James

Hearing Time

8:30 AM

Result

Scheduling Order Will Issue

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Carson, Brent A

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Carson, Brent A

Attorney: Graf, J. Rusty

Defendant

Attorney: Carson, Brent A

Attorney: Graf, J. Rusty

10/14/2019 Answer to Counterclaim ▼

Comment

Answer to Counterclaim

10/18/2019 Scheduling and Trial Order ▼

Comment

Scheduling Order and Order Setting Civil Bench Trial

10/22/2019 Scheduling and Trial Order ▼

Comment

Amended Scheduling Order and Order Setting Civil Bench Trial

10/30/2019 Offer of Judgment ▼

Comment

Defendants/Counterclaimants Offer of Judgment

12/05/2019 Motion to Compel ▼

Comment

Plaintiffs/Counterdefendants' Motion to Compel Discovery

12/06/2019 Clerk's Notice of Hearing ▼

Comment
Notice of Hearing

12/20/2019 Opposition and Countermotion ▼

Comment
Opposition to Motion to Compel Discovery And Counter-Motion to
Extend The Time To Disclose Expert Witnesses

01/07/2020 Reply in Support ▼

Comment
Reply in Support of Plaintiffs' Motion to Compel Discovery and
Opposition to Defendants' Counter-Motion to Extend Time to
Disclose Expert Witnesses

01/14/2020 Motion to Compel ▼

Judicial Officer
Truman, Erin

Hearing Time
9:00 AM

Result
Granted in Part

Comment
Plaintiffs/Counterdefendants' Motion to Compel Discovery

01/14/2020 Opposition and Countermotion ▼

Judicial Officer
Truman, Erin

Hearing Time
9:00 AM

Result
Off Calendar

Comment
Def't's Opposition to Motion to Compel Discovery and Counter-Motion to
Extend The Time To Disclose Expert Witnesses

01/14/2020 All Pending Motions ▼

Judicial Officer
Truman, Erin

Hearing Time
9:00 AM

Result
Matter Heard

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Attorney: Lujan, Jessica M

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Attorney: Lujan, Jessica M

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

01/17/2020 Notice of Hearing ▼

Comment

Motion to Continue Expert Disclosure Deadline on an Order Shortening Time

01/24/2020 Order Shortening Time ▼

Comment

Defendants / Counter Claimants' Motion to Continue Expert Disclosure on Order Shortening Time

01/28/2020 Response ▼

Comment

Plaintiffs' Response to Defendants' Motion to Continue on Order Shortening Time

01/28/2020 Reply ▼

Comment

Reply to Plaintiffs' Response to Defendants' Motion to Continue on Order Shortening Time

01/30/2020 Motion to Continue ▼

Judicial Officer

Atkin, Trevor

Hearing Time

10:00 AM

Result

Granted

Comment

Motion to Continue Expert Disclosure Deadlines on Order Shortening Time

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

01/30/2020 Discovery Commissioners Report and Recommendations ▼

Comment

Discovery Commissioner s Report and Recommendations

02/20/2020 Status Check: Compliance ▼

Judicial Officer

Truman, Erin

Hearing Time

3:00 AM

Cancel Reason

Vacated

Comment

Status Check: Compliance / 1-14-2020

02/20/2020 Order ▼

Comment

Order from January 30, 2020 Hearing

02/20/2020 Notice of Entry of Order ▼

Comment

Notice of Entry of Order from January 30, 2020 Hearing

02/21/2020 Miscellaneous Filing ▼

Comment

Defendant's Production - 2nd Supp to NRCP 16.1

02/21/2020 Supplement ▼

Comment
Defendant's Second Supplement To NRCP 16.1 Initial List of
Witnesses And Documents

02/21/2020 Miscellaneous Filing ▼

Comment
Log of Priveleged Documents

02/21/2020 Designation of Expert Witness ▼

Comment
Defendants' Designation of Expert Witnesses

02/27/2020 Stipulation and Order ▼

Comment
Stipulation and Order to Continue Deadlines

02/28/2020 Notice of Entry of Stipulation and Order ▼

Comment
Notice of Entry of Stipulation and Order to Continue Deadlines

03/16/2020 Addendum ▼

Comment
Defendants Addendum to Designation of Expert Witnesses

04/06/2020 Order Setting Civil Bench Trial ▼

Comment
Order Setting Civil Bench Trial

04/07/2020 Order ▼

Comment
Order Re: Discovery Commissioner's Report and Recommendations

04/09/2020 Notice of Entry of Order ▼

Comment
Notice of Entry of Order

04/27/2020 Stipulation and Order ▼

Comment
Stipulation and Order to Continue Deadlines (Second Request)

04/28/2020 Notice of Entry of Order ▼

Comment
Notice of Entry of Order

07/13/2020 Filing Fee Remittance ▼

Comment
Filing Fee Remittance

07/29/2020 Stipulation and Order to Extend Discovery Deadlines ▼

Comment
Stipulation And Order to Continue Deadlines (Third Request)

07/29/2020 Order Setting Civil Bench Trial ▼

Comment
Order Setting Civil Bench Trial

07/29/2020 Notice of Entry of Order ▼

Comment
Notice of Entry of Order

10/13/2020 Pre Trial Conference ▼

Judicial Officer
Atkin, Trevor

Hearing Time
8:30 AM

Cancel Reason
Vacated - Superseding Order

11/09/2020 Calendar Call ▼

Judicial Officer
Atkin, Trevor

Hearing Time
8:30 AM

Cancel Reason
Vacated - Superseding Order

11/10/2020 Motion for Summary Judgment ▼

Comment
Plaintiffs' Motion for Summary Judgment Regarding Counterclaim
Damages

11/10/2020 Clerk's Notice of Hearing ▼

Comment
Notice of Hearing

11/16/2020 Bench Trial ▼

Judicial Officer
Atkin, Trevor

Hearing Time
9:00 AM

Cancel Reason
Vacated - Superseding Order

11/19/2020 Amended Order Setting Jury Trial ▼

Comment
Amended Order Setting Civil Jury Trial

11/20/2020 Amended Order Setting Civil Non-Jury Trial ▼

Comment
2nd Amended Order Setting Civil Bench Trial

11/25/2020 Opposition to Motion For Summary Judgment ▼

Comment
Opposition to Plaintiffs' Motion for Summary Judgment Regarding
Countereclaim Damages

12/01/2020 Motion for Summary Judgment ▼

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

12/02/2020 Clerk's Notice of Hearing ▼

Comment
Notice of Hearing

12/08/2020 Reply in Support ▼

Comment
Plaintiffs' Reply In Support Of Motion For Summary Judgment
Regarding Counterclaim Damages

12/09/2020 At Request of Court ▼

Original Type
At Request of Court

Judicial Officer
Atkin, Trevor

Hearing Time
3:00 AM

Result
Hearing Set

Comment
BlueJeans Notice for Department 8 on December 15, 2020

12/15/2020 Motion for Summary Judgment ▼

Judicial Officer
Atkin, Trevor

Hearing Time
9:30 AM

Result
Dismissed

Comment
Plaintiffs' Motion for Summary Judgment Regarding Counterclaim
Damages

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

12/17/2020 Opposition to Motion For Summary Judgment ▼

Comment
Opposition to Plaintiffs' Motion for Summary Judgment Regarding
Breach of Contract Claimis

01/04/2021 Case Reassigned to Department 5 ▼

Comment
Judicial Reassignment to Judge Veronica M. Barisich

01/05/2021 Pre Trial Conference ▼

Judicial Officer

Atkin, Trevor

Hearing Time

8:30 AM

Cancel Reason

Vacated - per Order

01/05/2021 Reply in Support ▼

Comment

Plaintiffs' Reply In Support Of Motion for Summary Judgment
Regarding Breach of Contract Claims

01/08/2021 Minute Order ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

11:50 AM

Result

Minute Order - No Hearing Held

01/12/2021 Motion for Summary Judgment ▼

Judicial Officer

Cherry, Michael A.

Hearing Time

9:30 AM

Result

Granted

Comment

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

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

01/28/2021 Order Granting Motion ▼

Comment

Order Granting Plaintiffs' Motion for Summary Judgment on Breach
of Contract Claims

01/28/2021 Notice of Entry of Order ▼

Comment

Notice of Entry of Order

02/01/2021 Calendar Call ▼

Judicial Officer

Atkin, Trevor

Hearing Time

8:30 AM

Cancel Reason

Vacated

02/04/2021 Minute Order ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

02/08/2021 Jury Trial ▼

Judicial Officer

Atkin, Trevor

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Order

02/09/2021 Pre Trial Conference ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

8:30 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

02/09/2021 Motion to Adjudicate Attorney's Lien ▼

Comment

Black & LoBello's Motion to Adjudicate Attorneys' Lien for Plaintiff's Failure to Pay Fees and Costs

02/09/2021 Clerk's Notice of Hearing ▼

Comment

Notice of Hearing

02/10/2021 Motion for Entry of Judgment ▼

Comment

Plaintiffs' Motion for Entry of Judgment

02/11/2021 Clerk's Notice of Hearing ▼

Comment

Clerk's Notice of Hearing

02/11/2021 Order Setting Civil Bench Trial ▼

Comment

Order Setting Civil Bench Trial, Pretrial, and Calendar Call

02/17/2021 Order Shortening Time ▼

Comment

Plaintiff's Ex Parte Motion for Order Shortening Time on Plaintiff's Motion for entry of Judgment Pursuant to EDCR 2.26

02/18/2021 Notice of Entry of Order ▼

Comment

Notice of Entry of Order Shortening Time and Notice of Hearing

02/22/2021 Notice of Change of Hearing ▼

Comment

Notice of Change of Hearing

02/24/2021 Opposition to Motion ▼

Comment

Opposition to Plaintiffs' Motion For Entry of Judgment on OST

02/25/2021 Minute Order ▼

Original Type

Minute Order

Judicial Officer

Barisich, Veronica M.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

02/26/2021 Reply in Support ▼

Comment

Plaintiffs' Reply In Support Of Motion For Entry of Judgment

03/02/2021 Motion for Judgment ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

9:00 AM

Result

Granted

Comment

Plaintiffs' Motion for Entry of Judgment

Parties Present ▲

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Plaintiff

Attorney: Edwards, F. Thomas

Defendant

Attorney: Graf, J. Rusty

Defendant

Attorney: Graf, J. Rusty

03/02/2021 Notice of Non Opposition ▼

Comment

Notice of Non-Opposition to Black & Lobello Notice of Motion; Notice of Attorneys' Lien and Motion to Adjudicate Attorneys' Lien for Defendants' Failure to Pay Fees and Costs, to Perfect Attorneys' Lien and Foreclosure on Attorneys' Lien

03/03/2021 Minute Order ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

Comment

Plaintiff's Motion for Entry of Judgment

03/04/2021 Order ▼

Comment

Order Granting Black and Lobello Notice of Attorney's Lien and Motion to Adjudicate Attorneys' Lien for Client's Failure to Pay Fees and Costs to Perfect Attorneys' Lien and Foreclose on Attorney's Lien

03/08/2021 Calendar Call ▼

Judicial Officer

Barisich, Veronica M.

Hearing Time

8:30 AM

Cancel Reason

Vacated

03/08/2021 Notice of Entry of Order ▼

Comment

Notice of Entry of Order Granting Black and Lobello Notice of Attorneys' Lien' and Motion to Adjudicate Attorneys' Lien for Client's Failure to Pay Fees and Costs, to Perfect Attorneys' Lien and Foreclose on Attorney's Lien

03/09/2021 Order Granting Motion ▼

Comment
Order Granting Motion for Entry of Judgment

03/09/2021 Judgment ▼

Comment
Judgment Against Defendants Bour Enterprises, LLC, Mulugeta Bour
and Hilena Mengesha

03/09/2021 Notice of Entry of Order ▼

Comment
Notice of Entry of Order

03/09/2021 Notice of Entry of Judgment ▼

Comment
Notice of Entry of Judgment

03/15/2021 Bench Trial ▼

Judicial Officer
Barisich, Veronica M.

Hearing Time
9:00 AM

Cancel Reason
Vacated - per Order

03/15/2021 Memorandum of Costs and Disbursements ▼

Comment
Memorandum of Costs and Disbursements

03/16/2021 Motion ▼

Judicial Officer
Barisich, Veronica M.

Hearing Time
9:00 AM

Cancel Reason
Vacated - per Order

Comment
Black & LoBello's Motion to Adjudicate Attorneys' Lien for Plaintiff's Failure
to Pay Fees and Costs

03/16/2021 Pre Trial Conference ▼

Judicial Officer
Barisich, Veronica M.

Hearing Time
11:00 AM

Cancel Reason
Vacated - per Order

04/12/2021 Calendar Call ▼

Judicial Officer
Barisich, Veronica M.

Hearing Time
8:30 AM

Cancel Reason
Vacated - per Order

04/19/2021 Bench Trial ▼

Judicial Officer
Barisich, Veronica M.

Hearing Time
9:00 AM

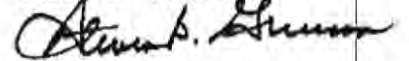
Cancel Reason
Vacated - per Order

Financial

4520 Arville				
	Total Financial Assessment			\$1,150.00
	Total Payments and Credits			\$1,150.00
5/15/2019	Transaction Assessment			\$270.00
5/15/2019	Efile Payment	Receipt # 2019-29814-CCCLK	4520 ARVILLE	(\$270.00)
5/15/2019	Transaction Assessment			\$450.00

5/15/2019	Efile Payment	Receipt # 2019-29971- CCCLK	4520 ARVILLE	(\$450.00)
7/13/2020	Transaction Assessment			\$30.00
7/13/2020	Efile Payment	Receipt # 2020-37277- CCCLK	4520 Arville	(\$30.00)
11/10/2020	Transaction Assessment			\$200.00
11/10/2020	Efile Payment	Receipt # 2020-63634- CCCLK	4520 Arville	(\$200.00)
12/1/2020	Transaction Assessment			\$200.00
12/1/2020	Efile Payment	Receipt # 2020-67712- CCCLK	4520 Arville	(\$200.00)
Bour Enterprises LLC				
	Total Financial Assessment			\$536.00
	Total Payments and Credits			\$536.00
6/20/2019	Transaction Assessment			\$446.00
6/20/2019	Efile Payment	Receipt # 2019-37811- CCCLK	Bour Enterprises LLC	(\$446.00)
7/16/2019	Transaction Assessment			\$90.00
7/16/2019	Efile Payment	Receipt # 2019-43384- CCCLK	Bour Enterprises LLC	(\$90.00)
McKinley Manor				
	Total Financial Assessment			\$0.00
	Total Payments and Credits			\$0.00

EXHIBIT “3”



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

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

**PLAINTIFFS' REPLY IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
REGARDING BREACH OF CONTRACT
CLAIMS**

**Date of Hearing: January 12, 2021
Time of Hearing: 9:30 a.m.**

Plaintiffs/Counterdefendants, 4520 Arville, a California general partnership; and
McKinley Manor, an Idaho general partnership (collectively "Plaintiffs"), by and through their

attorneys of record, the law firm of Holley Driggs, hereby submit this reply in support of their Motion for Summary Judgment Regarding Contract Claims.

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Defendants do not dispute that they abandoned their leases (“Leases”) of Plaintiffs’ commercial premises (the “Premises”) early and without authorization, causing Plaintiffs’ damages. Absent any legal justification for doing so, Defendants are unquestionably liable for breaching the Leases. Thus, as their *only* argument in defense of Plaintiffs’ claims, Defendants have proffered the unsupportable argument that they were constructively evicted as a result of Plaintiffs’ alleged breach of implied warranty of habitability for failing to clean up the “dust and debris” at the Premises. *Id.* Defendants assert that this “constructive eviction” excused their performance under the Leases.

Because of the “as-is” provisions found in the Leases, however, the only way Defendants can show that they were constructively evicted based upon Plaintiffs’ alleged failure to clean up the Premises is to show that such action or inaction on the part of Plaintiffs breached an *implied* warranty of habitability that somehow overcame Defendants’ express agreement to accept the Premises in an “as-is” condition.¹ Despite Defendants’ hollow arguments to the contrary, Plaintiffs have demonstrated that there is no implied warranty of habitability in the commercial context under Nevada law.

Thus, with no implied warranty of habitability imposed in commercial leases under Nevada law, and signed Leases which expressly place the responsibility of custodial upkeep on the Defendants, Defendants are foreclosed from demonstrating—as a matter of fact or law—that a constructive eviction has occurred such that Defendants are relieved from liability for their unauthorized early abandonment of their Leases.

¹ Notably, Defendants were well aware of the condition of the Premises when they signed the Leases, as they had operated out of the Premises pursuant to a sub-lease for almost two (2) years before they signed the leases that are at issue in this lawsuit.

Myth #1: “[I]t is impossible for a party to demonstrate that they are entitled to judgment as a matter of law when the only authority available in support of their position is persuasive case law.” Opposition at 14, on file herein.

Myth #2: Plaintiffs' presentation of Nevada landlord/tenant statutes, Nevada Supreme Court case law, and persuasive case law from various districts is insufficient to support Plaintiffs' argument that there is no implied warranty of habitability in the commercial context in Nevada.

Myth #3: The “as-is” clauses of the leases are invalid pursuant to NRS 104—the UCC statute.

Once these easily refuted myths are set aside, the remaining issues are determinative: Defendants failed to set forth any admissible evidence to overcome Plaintiffs' Motion for Summary Judgment and create a genuine dispute of fact for trial, and therefore the Court must enter summary judgment in Plaintiffs' favor on their breach of contract claims.

I. LEGAL ARGUMENT

Defendants' Opposition fails to set forth any authority supporting their argument that the implied warranty of habitability applies in the commercial context in Nevada, and similarly fails to dispute any facts or present any evidence demonstrating that Defendants did not breach their Leases with Plaintiffs. *See* Opposition. Thus, with none of the facts in dispute, the Court is left with *only* two issues to resolve—both of which are *legal* questions that may be resolved by the Court at summary judgment: (1) does the implied warranty of habitability apply in the commercial context?; and (2) if it does, is such implied warranty enforceable despite the “as-is” clauses in the Leases? Because the answer to both of these legal questions is “no,” this Court should grant the instant Motion and enter summary judgment in favor of Plaintiffs on their breach of contract claims.

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A. DEFENDANTS' ENTIRE OPPOSITION TO SUMMARY JUDGMENT RESTS ON THREE EASILY REFUTABLE MYTHS, THUS REQUIRING ENTRY OF SUMMARY JUDGMENT IN PLAINTIFFS' FAVOR

1. **Myth #1:** "*[I]t is impossible for a party to demonstrate that they are entitled to judgment as a matter of law when the only authority available in support of their position is persuasive case law.*"

Reality: *This Court can—and must—rely on persuasive authority in the absence of controlling authority at summary judgment.*

Plaintiffs moved for summary judgment on the grounds that, *inter alia*, Defendants could not have been constructively evicted based on any breach of an implied warranty, as there is no implied warranty of habitability in commercial leases in Nevada (and thus Defendants have no viable defense to their clear breach thereof). At the crux of Defendants' Opposition is the false notion that the Court cannot rely on persuasive authority in ruling on issues of law at summary judgment. This argument is absurd, however, as it is axiomatic that it is the sole province of the Court to decide issues of law and of the fact-finder to decide issues of fact. *See Lee v. GNLV Corp.*, 117 Nev. 291, 295, 22 P.3d 209, 211 (2001) (acknowledging that it is the district court's function to perceive and apply the law); *Branda v. Sanford*, 97 Nev. 643, 646, 637 P.2d 1223, 1225 (1981) (questions of law are "within the province of the court").

Thus, when faced with a legal issue that has not already been decided by crystal clear statutory or case law (as here²), it is the exclusive function of the *Court* to say what the law is. Allowing Defendants to proceed to a costly trial on the grounds that certain legal issues remain undecided would therefore be pointless, as going to trial would not change the fact that the Court must ultimately determine how the law should be applied (because the jury is tasked only with fact-finding, not drawing legal conclusions). *See Zamora v. Price*, 125 Nev. 388, 394, 213 P.3d 490, 494 (2009) (discussing the jury's duty as fact-finder).

² As the parties have pointed out, despite the weight of statutory and persuasive authority in support, the Nevada Supreme Court has never explicitly held that there is no implied warranty of habitability in the commercial context in Nevada.

Moreover, it is the overwhelming consensus of courts across the country—including in Nevada—that a trial court may consider and rely upon persuasive authority in determining whether to grant summary judgment:

Nevada

- In the absence of controlling law, “the Court will look to Nevada law or persuasive authority from other jurisdictions to dispose of Bank of America's Motion for Summary Judgment.” *Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass’n*, 23 F. Supp. 2d 1166, 1171–72 (D. Nev. 1998).

Louisiana

- “Based on the generally persuasive authority of two circuit courts and the highest court of a sister state . . . defendants’ motion for summary judgment solely on the survival claim should be granted. . .” *Carter v. R.J. Reynolds Tobacco Co.*, No. CIV.A. 03-330, 2004 WL 1497770, at *4 (E.D. La. July 1, 2004).

Tennessee

- “Given that there are no disputes of material fact, the Court finds that, on the basis of persuasive authority, Trane has established that it is entitled to summary judgment.” *Trane U.S. Inc. v. Neblett*, 291 F. Supp. 3d 848, 855 (M.D. Tenn. 2018).

Mississippi

- “[B]ased on the foregoing persuasive authorities, the Court is of the view that Defendants are entitled to summary judgment . . .” *Lashley v. Pfizer, Inc.*, 877 F. Supp. 2d 466, 473 (S.D. Miss. 2012), *aff’d*, 750 F.3d 470 (5th Cir. 2014).

California

- “The court finds *White v. Cooper* [] a persuasive authority favoring summary judgment for defendants.” *Foqua v. Presley*, No. S 00-1319 LKK PAN P, 2005 WL 1865500, at *5 (E.D. Cal. Aug. 4, 2005), *report and recommendation adopted sub nom. Fuqua v. Presely*, No. CVS001319 LKK PAN P, 2005 WL 2271925 (E.D. Cal. Sept. 16, 2005).

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Pennsylvania

- “These decisions provide persuasive authority for the trial court’s decision in the present case to enter summary judgment against Appellant.” *Albert v. Sheeley’s Drug Store, Inc.*, 2020 PA Super 154, 234 A.3d 820, 823–24 (2020).

Oklahoma

- “In light of this persuasive authority on the same subject matter, the Court finds summary judgment appropriate on this narrow ground.” *Am. Fid. Assurance Co. v. Bank of New York Mellon*, No. CV-11-1284-D, 2018 WL 6582381, at *5 (W.D. Okla. Oct. 31, 2018), *aff’d*, 820 F. App’x 684 (10th Cir. 2020).

Connecticut

- “Both *Davis* and *McCarthy* are persuasive authority in evaluating the propriety of granting summary judgment in the case at hand.” *Lewis v. CIL Realty, Inc.*, No. CV166029825S, 2017 WL 3881040, at *3 (Conn. Super. Ct. July 26, 2017).

Fourth Circuit

- Entry of summary judgment affirmed where “the district court examined the law of North Carolina and persuasive authority from other States” in making its summary judgment ruling. *Dunlap v. Great-W. Life Assur. Co.*, 81 F.3d 149 (4th Cir. 1996).

Fifth Circuit

- “[B]ased on persuasive authority, the district court’s decision to grant summary judgment was correct.” *Trumble Steel Erectors, Inc. v. Moss*, 304 F. App’x 236, 242 (5th Cir. 2008).

The overwhelming weight of the foregoing authority suggests not only that this Court *may* consider persuasive authority in the absence of controlling law at summary judgment, but that it *must* do so. Thus, in considering whether the implied warranty of habitability applies in the commercial lease context, the Court is free to consider *all* the authority presented by Plaintiffs in their Motion—authoritative and persuasive alike.

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1 2. *Myth #2: Plaintiffs' presentation of Nevada landlord/tenant statutes, Nevada*
2 *Supreme Court case law, and persuasive case law from various districts is insufficient*
3 *to support Plaintiffs' argument that there is no implied warranty of habitability in the*
4 *commercial context in Nevada.*

5 *Reality: The various authorities presented by Plaintiffs, when read together, confirm*
6 *that there is no implied warranty of habitability in the commercial context in Nevada,*
7 *and Defendants have presented no authority to the contrary.*

8 Defendants take issue with the Nevada case law presented by Plaintiffs' in support of their
9 Motion because the Court did not explicitly hold in any of those cases that the implied warranty
10 of habitability does not apply in the commercial context. *See* Opposition at 6–8, 18–20. While this
11 is true (as the Nevada Supreme Court has never addressed this issue one way or the other), this
12 Court should not be misled by Defendants' attempts to misconstrue these authorities.

13 The key point illustrated by the Nevada case law cited by Plaintiffs is the simple reality
14 that the Nevada Supreme Court has *never* found a constructive eviction occurred in the commercial
15 context based on a breach of the implied warranty of habitability where the commercial lease did
16 not *expressly* require the action and/or inaction of the landlord. *See* Motion at 10–11 (collecting
17 cases/authority). Rather, in all the Nevada cases discussing constructive eviction from a
18 commercial property, the Nevada Supreme Court found that the constructive eviction occurred
19 based on the landlord's breach of a specific lease provision. *Id.* Defendants have not presented,
20 and Plaintiffs are not aware of, any Nevada case in which a constructive eviction was found to
21 have occurred based solely on the commercial landlord's breach of any *implied* warranty of
22 habitability. *See* Opposition. Thus, it stands to reason that the Nevada Supreme Court has
23 purposely declined to apply the doctrine in the commercial context.

24 Contrary to Defendants' position, then, this Court would not "expand[] the legal
25 protections in place for landlords" by declining to apply the implied warranty of habitability
26 doctrine to a scenario in which it has *never before been applied*. *See* Opposition at 14–15. Rather,
27 the greater act of "judicial activism" would be for this Court to expand the applicability of the
28 implied warranty of habitability to the commercial arena, where neither the Nevada statute (NRS
118C) nor the Nevada case law supports such expansion.

Indeed, Plaintiffs cited various authorities that, when read together, confirm that there is no implied warranty of habitability in the commercial context in Nevada:

- **Nevada Statutes.** NRS 118A (residential landlord/tenant statute) contains a habitability provision³, whereas NRS 118C (commercial landlord/tenant statute) does not. Under the rules of statutory construction, the legislature's failure to include a habitability provision from NRS 118C implies the *purposeful exclusion* of the same. *In re Estate of Prestie*, 122 Nev. 807, 814, 138 P.3d 520, 524 (2006) ("We have previously recognized the fundamental rule of statutory construction that the mention of one thing implies the exclusion of another.") (internal alterations and quotation marks omitted). *See* Motion at 10.
- **Persuasive Authority.** Persuasive case law from various jurisdictions which confirm that the implied warranty of habitability is not typically applied in the commercial context. *See* Motion at 10–11 (citing *B.W.S. Investments v. Mid-Am Restaurants, Inc.*, 1990 WL 108794 (N.D. 1990) (citing 3A *Thompson on Real Property*, § 1230 (1981); 2 *Powell on Real Property*, § 233(2)(b) (1990); 49 *Am.Jur.2d Landlord and Tenant* § 768 (1970); Annotation, *Modern Status of Rules as to Existence to Implied Warranty of Habitability or Fitness for use of Leased Premises*, 40 A.L.R. 3d 646, 650 (1971); Restatement (Second) of Property, Landlord and Tenant, § 5.1 Caveat and Comment (1977); *Teller v. McCoy*, 162 W. Va. 367, 380 (1978)).⁴

³ NRS 118A, relating to residential leases, expressly states that "[t]he landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition." NRS 118A.290. There is no such provision in NRS 118C.

⁴ Plaintiffs also cited persuasive case law holding that, even in districts where the implied warranty of habitability *does* apply in the commercial context, those implied warranties do not apply if the commercial tenant accepts the property in an "as-is" condition, as here. *See* Motion at 11–12 (citing *Coulston v. Telescope Productions, Ltd.*, 378 N.Y.S.2d 553, 554 (App. Term 1975); *Davidow v. Inwood N. Profl Group--Phase I*, 747 S.W.2d 373, 376 (Tex. 1988); *Gym-N-I Playgrounds, Inc. v. Snider*, 220 S.W.3d 905, 914 (Tex. 2007). The applicability of the "as-is" provisions in the Leases will be discussed in greater detail below.

- 1 ➤ **Nevada Case Law.** Nevada case law regarding constructive eviction, demonstrating that
 2 the Nevada Supreme Court follows the majority rule and does *not* apply the implied
 3 warranty of habitability in the commercial context. *See* Motion at 12–13.

4 Thus, while this Court may consider the ample persuasive authority presented by Plaintiffs,
 5 as demonstrated above, there is also considerable Nevada authority supporting Plaintiffs' argument
 6 that the implied warranty of habitability does not apply in the commercial context, and thus cannot
 7 shield Defendants from liability for their breaches of the Leases under their constructive eviction
 8 theory.

9 3. **Myth #3: The "as-is" clauses of the leases are invalid pursuant to NRS 104—the UCC**
 10 **statute.**

11 ***Reality: The Nevada statute governing UCC law is inapplicable to commercial leases***
 12 ***of real property, and therefore Defendants have presented no authority to suggest that***
 13 ***the "as-is" clauses are invalid.***

14 Defendants dedicate several pages of their summary judgment opposition to their failed
 15 argument that the "as-is" clauses in the Leases are invalid because they are allegedly not
 16 "conspicuous," as defined under NRS 104.1201—the UCC statute. *See* Opposition at 15–18. First,
 17 NRS 104 (Uniform Commercial Code – Original Articles) unquestionably applies only to sale of
 18 goods transactions, and not to leases of real property. *See generally* NRS 104.1101 *et seq.*
 19 Therefore, the provisions of NRS 104 have no bearing on the validity of the "as-is" clauses in the
 20 Leases. "The U.C.C. thus not only clearly limits the application of implied warranties of
 21 merchantability and fitness for purpose to sales of goods, but it defines a sale of goods in a manner
 22 which precludes a residential lease agreement from being considered as such since the residential
 23 lease agreement contains neither a sale nor a good." *Miley v. Harmony Mill Ltd. P'ship*, 803 F.
 24 Supp. 965, 969 (D. Del. 1992). *See also, Ritchey v. Patt*, 431 Pa. Super. 219, 222, 636 A.2d 208,
 25 210 (1994) (holding that Article 2 of the UCC did not apply to an action for the alleged breach of
 26 lease of real property).

27 Nonetheless, in this case, the "as-is" provisions are found on the very first page (as the very
 28 first term!) of the concurrently signed Lease Addendums that Defendants signed when they leased

the Premises. *See* Motion Ex. 2 at ARV000026; Ex. 3 at ARV000059. Just following the opening recitals on the first page of the Lease Addendums, the "as-is" provisions appear exactly as follows:

TERMS:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the Lease, and this Lease Addendum, the parties agree as follows:

1. Condition of Premises. Lessee hereby accepts the Premises in "as-is" condition with any additional alterations and improvements to be completed at Lessee's expense and in accordance with Section 7 of Lease.

See Motion Ex. 2 at ARV000026.

TERMS:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the Lease, and this Lease Addendum, the parties agree as follows:

1. Condition of Premises. Lessor, at Lessor's cost, shall make sure that the overhead florescent light fixtures, electrical outlets, plumbing, and doors are in proper working order at the commencement of the Lease; otherwise, Lessee hereby accepts the Premises in "as-is" condition with any additional alterations and improvements to be completed at Lessee's expense and in accordance with Section 7 of Lease.

See Motion Ex. 3 at ARV000059.

As shown, the "as-is" clause is the very first term of the Lease Addendums, and attention is called to the clause by the underlined phrase reading "Condition of Premises." Moreover, Defendants initialed the bottom of *every page* of the Lease Addendums, indicating their understanding and acceptance of the terms therein. *See* Motion Ex. 2 at ARV000026; Ex. 3 at ARV000059.

Additionally, just above Defendants' signatures on the Leases, in bold and capitalized text, Defendants confirm that they:

HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND

VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

See Exs. 2 at ARV000020 and 3 at ARV000053 (emphasis in original).

There is simply no support for the notion that the “as-is” clauses are invalid for any reason. Even the two cases cited by Defendants in support of their argument, *Bill Stremmel Motors, Inc. v. IDS Leasing Corp.*, 89 Nev. 414 (1973) and *Sierra Diesel Injection Service, Inc. v. Burroughs Corp.*, 890 F.2d 108 (9th Cir. 1989), relate to goods transactions—not real property transactions, as here. See *Bill Stremmel Motors, Inc. v. IDS Leasing Corp.*, 89 Nev. 414 (1973) (concerning a transaction relating to a “Centrum Communications system” that malfunctioned); *Sierra Diesel Injection Service, Inc. v. Burroughs Corp.*, 890 F.2d 108 (9th Cir. 1989) (concerning the purchase of a malfunctioned accounting hardware and software system).

Based on the foregoing, there are no grounds to invalidate the “as-is” clauses of the Leases. Nevertheless, even if the “as-is” clauses were found to be invalid (they are not), this would not change the fact that the Leases contain *zero* provisions that require Plaintiffs to maintain the cleanliness of the Premises. See Motion Exhs. 2–3. Thus, with no implied warranty of habitability and no lease terms requiring Plaintiffs to clean the “dust and debris” at the Premises, there can be no constructive eviction based thereon, as demonstrated above. Accordingly, Plaintiffs’ Motion must be granted and summary judgment entered in Plaintiffs’ favor.

B. PUTTING ASIDE DEFENDANTS’ FAILED CONSTRUCTIVE EVICTION DEFENSE, PLAINTIFFS HAVE SET FORTH SUFFICIENT, UNDISPUTED EVIDENCE TO SHOW THAT DEFENDANTS ARE LIABLE FOR BREACH OF CONTRACT

At the outset of this Motion, the central questions to be resolved by the Court were (1) have Plaintiffs set forth sufficient law and evidence to show that Defendants are liable for breach of contract?, and (2) have Defendants set forth sufficient law and/or evidence to support their only defense against Plaintiffs’ claims and create a genuine issue of material fact for trial? As demonstrated above, the second question can be answered in the negative by resolving three legal issues which Plaintiffs have discussed in detail *supra* (none of which create a genuine dispute of

1 material fact for trial). Now that Plaintiffs have debunked Defendants' constructive eviction
2 defense as a matter of law (their *sole* defense to Plaintiffs' breach of contract claims), the only
3 question remaining is whether Plaintiffs satisfied their burden at summary judgment to show that
4 Defendants are liable for breach of the Leases. They unquestionably have.

5 In their Motion, Plaintiffs presented sufficient evidence to satisfy all the elements of a
6 breach of contract claim based on Defendants' early, unauthorized abandonment of their Leases.
7 Indeed, among other things, Plaintiffs presented (1) signed copies of the Leases (and the guaranties
8 and addendums thereto), which explicitly state that abandoning the Premises and failing to pay
9 rent are breaches thereof; (2) Plaintiffs' Declaration affirming that Defendants vacated the
10 Premises on or about May 8, 2018 (prior to the end of the Leases' term); and (3) ledgers denoting
11 the unpaid rent owed by Defendants under the Leases. *See* Motion at 3–7.

12 This presentation satisfies Plaintiffs' initial burden under NRCP 56 to set forth evidence
13 demonstrating that no genuine dispute of material fact exists for trial on Plaintiffs' breach of
14 contract claims. *See Wood v. Safeway, Inc.*, 121 P.3d 1026, 1029, 1031 (Nev. 2005) (*quoting*
15 NRCP 56(c)). "When a motion for summary judgment is made and supported as required by NRCP
16 56, the non-moving party may not rest upon general allegations and conclusions, but must, by
17 affidavit or otherwise, set forth *specific facts* demonstrating the existence of a genuine factual
18 issue." *Wood*, 121 Nev. at 731, 121 P.3d at 1030–31 (internal quotations and citations omitted)
19 (emphasis added). If the nonmoving party fails to introduce admissible evidence showing a
20 genuine issue of material fact, the entry of summary judgment is appropriate. *Choy v. Ameristar*
21 *Casinos, Inc.*, 127 Nev. 870, 872–73, 265 P.3d 698, 700 (2011) ("Choy did not present any specific
22 facts or affidavits demonstrating the existence of a genuine issue supporting his claim that
23 Ameristar owned or operated the Ameristar Casino Hotel Kansas City. The district court, therefore,
24 properly granted Ameristar's motion for summary judgment."); *Francis v. Wynn Las Vegas, LLC*,
25 127 Nev. 657, 671, 262 P.3d 705, 715 (2011) ("Francis submitted no affidavits or admissible
26 evidence to rebut Wynn's motion for summary judgment. Accordingly, Francis provided no
27 'contrary evidence' that created genuine material issues of fact on Wynn's claims."); *Cuzze v.*
28 *Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 604, 172 P.3d 131, 135 (2007) (Because the

“opposition failed to introduce admissible evidence of specific facts showing that a genuine factual issue exists for trial,” the Nevada Supreme Court “affirm[ed] the district court’s order granting summary judgment.”).

Critically, in their Opposition, Defendants make *no* argument and cite *no* evidence disputing the fact that they abandoned their leases early and without authorization, and failed to pay rent payments due and owing under the Leases.⁵ *See* Opposition. Defendants’ failure to direct the Court to *any* evidence demonstrating that they did not breach their Leases of the Premises means that Defendants have failed to create a genuine dispute of material fact for trial.⁶ Accordingly, this Court must grant the instant Motion and enter summary judgment in Plaintiffs’ favor on their breach of contract claims. *See Wood*, 121 Nev. at 731, 121 P.3d at 1030–31.

II. CONCLUSION

For these reasons, Plaintiffs respectfully request that this Court grant the instant motion and enter summary judgment in Plaintiffs’ favor on their breach of contract claims.

Dated this 5th day of January, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

F. THOMAS EDWARDS, ESQ.

Nevada Bar No. 9549

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Attorneys for Plaintiffs/Counterdefendants

⁵ Defendants also did not address Plaintiffs’ argument with respect to the additional parking spots Defendants requested prior to abandoning the Premises. *See* Opposition. Therefore, Defendants concede any points related to this argument. *See* NRCP 56(e)(2) (the Court may consider facts undisputed where a party fails to properly address an opposing party’s assertion of fact).

⁶ Defendants cite one Nevada case for the proposition that “whether a constructive eviction has occurred is a factual determination to be made by the trier of fact.” *See* Opposition at 5 (emphasis omitted). However, Defendants’ constructive eviction defense relies on the implied warranty of habitability, which Plaintiffs have demonstrated does not apply in the commercial lease context. Therefore, Defendants cannot demonstrate that they have been constructively evicted as a matter of law, and thus there are no factual issues left to be determined by a jury.

CERTIFICATE OF SERVICE

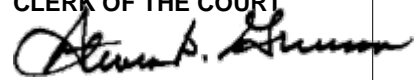
Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 5th day of January, 2021, I did cause a true and correct copy of the foregoing **PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT REGARDING BREACH OF CONTRACT CLAIMS** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

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/s/ Sandy Sell
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EXHIBIT 22



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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

Date of Hearing: April 20, 2021
Time of Hearing: 9:00 AM

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO RETAX COSTS

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Plaintiffs/Counterdefendants, 4520 Arville and McKinley Manor (collectively “Plaintiffs”), by and through their attorneys of record, the law firm of Holley Driggs, hereby submits this Opposition to Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour, and Hilena Mengesha (together “Defendants”) Motion to Retax Costs.

This Opposition is made and based upon the papers and pleadings on file herein, the following memorandum of points and authorities, and any oral argument at the hearing on this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Aside from one mathematical error correctly noted by Defendants in their Motion to Retax Costs, Defendants’ objections to Plaintiffs’ Memo of Costs are without merit. Indeed, Defendants assert that Plaintiffs’ delivery charges (which total just \$150) are non-compensable under NRS 18.005, despite Nevada case law expressly holding that such costs are recoverable. Additionally, Defendants take issue with a portion of the biggest ticket item asserted—legal research—claiming that such costs are excessive and “unrelated” to the litigation. This argument ignores the reality that Plaintiffs were forced to incur legal research costs throughout the litigation in order to refute Defendants’ baseless counterclaims and affirmative defenses (upon which Plaintiffs ultimately prevailed and obtained Judgment in their favor).

The Court has been provided sufficient information to determine that Plaintiffs incurred costs in the amount of \$7,972.93. Such costs are eminently reasonable for a case that was litigated for nearly two years prior to resolution, and which required adjudication not only of Plaintiffs’ claims, but also of Defendants’ meritless counterclaims and affirmative defenses.

II. LEGAL ARGUMENT

A. Legal Research Costs

Defendants take issue with several of Plaintiffs’ legal research charges based on the dates of such charges and the pending motions in the litigation at the time. *See* Motion to Retax Costs at 6–10, dated 3/18/2021, on file herein. Defendants also object to the amount of certain legal research charges. *Id.* at 7–8. Defendants’ argument misses the mark for several reasons.

First, the dates of the Westlaw charges in the transactions listing attached to the Memo of Costs are not the dates the research was conducted. Rather, the dates listed represent the dates upon which such accumulated costs were billed by Westlaw to Holley Driggs.

Second, a review of the Westlaw research reports during certain timeframes referenced by Defendants demonstrates the propriety of the research charges. For example, Defendants dispute a \$1,459.60 research charge on December 31, 2020. *See* Motion to Retax Costs at 7–8. As Defendants correctly point out, this was around the time that Plaintiffs were researching and drafting the Reply in support of their Motion for Summary Judgment Regarding Their Breach of Contract Claims. *See* Plaintiffs’ Reply, dated 1/5/2021, on file herein. Notably, Plaintiffs were forced to reply to a slew of meritless arguments presented in Defendants’ Opposition to the Motion for Summary Judgment, including the assertions that: (1) this Court is not entitled to rely on persuasive authority when deciding a motion for summary judgment (Opposition at 14); (2) a jury must decide whether a constructive eviction occurred (*Id.* at 5); (3) the “as-is” clauses in the subject Leases of real property were invalid under the UCC statute (*Id.* at 15–18); and (4) the implied warranty of habitability applies in the commercial context in Nevada (*Id.* at 18–19).

The following is just a sampling of the Westlaw searches that Plaintiffs’ counsel ran in preparing to draft the Reply, consistent with the above arguments set forth by Defendants:

<p>persuasive authority can support motion for summary judgment (22) Search Type: Plain Language Content: Cases Jurisdiction: Nevada</p>	12/01/2020 3:40 PM
<p>adv: "summary judgment" /s "persuasive authority" (285) Search Type: Boolean T&C Content: Cases</p>	12/29/2020 2:54 PM
<p>court decides the applicable rules of law (16) Search Type: Plain Language Content: Overview Jurisdiction: Nevada</p>	12/03/2020 10:37 AM
<p>jury does not make conclusions of law (277) Search Type: Plain Language Content: Cases Jurisdiction: Nevada</p>	12/03/2020 10:43 AM

nevada rules of civil procedure are authoritative (30) Search Type: Plain Language Content: Cases Jurisdiction: Nevada	12/03/2020 1:21 PM
constructive eviction damages (43) Search Type: Plain Language Content: Cases Jurisdiction: Nevada (State & Fed.)	12/21/2020 10:39 AM
adv: "as-is" /5 "lease" (25) Search Type: Boolean T&C Content: Cases Jurisdiction: Nevada (State & Fed.)	12/30/2020 4:05 PM
UCC does not apply to real property transactions (31) Search Type: Plain Language Content: Cases Jurisdiction: Nevada (State & Fed.)	12/31/2020 11:23 AM

As shown in the above sampling of entries, these searches returned as many as 285 results to sift through, read, and evaluate. Many additional searches were necessary to address the finer points articulated in Plaintiffs' briefing at summary judgment. However, it is important to note that the research examples mentioned above were only necessary to refute Defendants' baseless arguments, which should not have been asserted in the first place. Indeed, had Defendants run these searches prior to asserting their counterclaims and affirmative defenses, they would have realized that such claims and defenses lacked merit under Nevada law. This would have, in turn, saved Plaintiffs the costs they incurred refuting the same.

Unfortunately, the Westlaw report does not extend far enough back in time to reveal the searches made during the remaining timeframes discussed by Defendants in their Motion to Retax Costs. However, the song remains the same. Plaintiffs were forced to conduct a great deal of research refuting Defendants' arguments throughout this litigation, all of which were eventually deemed to lack any merit. Plaintiffs were aware of Defendants' constructive eviction defense/counterclaim (based on the implied warranty of habitability) early on in the case, and conducted research from time to time to prepare for forthcoming motion practice, discovery, and other landmarks throughout the litigation. There is no rule that dictates when such research is allowed to be performed, and certainly no rule stating that legal research may only be performed when a motion is pending. Plaintiffs therefore respectfully submit that the Westlaw charges listed

1 in their Memo of Costs were necessarily and reasonably incurred, and thus they are entitled to
2 recover the full amount thereof.

3 **B. Delivery Costs**

4 Defendants incorrectly argue that delivery charges are non-compensable under NRS
5 18.005. *See* Motion to Retax Costs at 10–12, dated 3/18/2021, on file herein. The Nevada Supreme
6 Court has expressly held that “[t]he trial court may award courier expenses to the extent that the
7 court determines that the expenses incurred were reasonable and necessary.” *Bergmann v. Boyce*,
8 109 Nev. 670, 682, 856 P.2d 560, 568 (1993), *abrogated on other grounds, as recognized by*
9 *Matter of DISH Network Derivative Litig.*, 133 Nev. 438, 451, 401 P.3d 1081, 1093 (2017). The
10 delivery charges are appropriately backed up with the run slips that detail the date and reason for
11 the deliveries. *See* Memo of Costs, dated 3/15/2021, on file herein. The Court therefore has
12 sufficient information to determine that the delivery charges were reasonable and necessary, such
13 that Plaintiffs are entitled to recover the full \$150.00 in delivery charges.

14 **C. Service of Process Costs**

15 Plaintiffs inadvertently doubled their service of process costs when they were tallying and
16 calculating these costs as set forth in the transactions listing. The costs associated with service of
17 process set forth in the Memo of Costs total \$563.36, not \$1,126.72 (a difference of exactly
18 \$563.36). Therefore, Plaintiffs concede that their total amount of costs should be reduced by
19 \$563.36, for a total costs award of \$7,972.93.

20 **III. CONCLUSION**

21 Defendants’ Motion to Retax Costs should be denied in part, consistent with the foregoing.
22 Plaintiffs are entitled to recover the full amount of their delivery and legal research costs, as such
23

24 ///

25
26 ///

costs were actually and reasonably incurred. However, Plaintiffs' service of process costs should be reduced by \$536.36, such that Plaintiffs are entitled to an award of costs in the *total* amount of \$7,972.93.

Dated this 26th day of March, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

F. THOMAS EDWARDS, ESQ.

Nevada Bar No. 9549

JESSICA M. LUJAN, ESQ.

Nevada Bar No. 14913

400 South Fourth Street, Third Floor

Las Vegas, Nevada 89101

Attorneys for Plaintiffs/Counterdefendants

HOLLEY DRIGGS

CERTIFICATE OF SERVICE

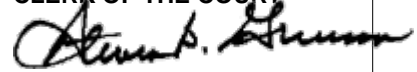
Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 26th day of March, 2021, I did cause a true and correct copy of the foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO RETAX COSTS** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

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

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

/s/ Sandy Sell
An employee of HOLLEY DRIGGS

EXHIBIT 23



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JESSICA M. LUJAN, ESQ.
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HOLLEY DRIGGS
400 South Fourth Street, Third Floor
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Telephone: 702/791-0308
Facsimile: 702/791-1912

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

HEARING REQUESTED

**PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES**

Plaintiffs/Counterdefendants, 4520 Arville, a California general partnership; and
McKinley Manor, an Idaho general partnership (collectively "Plaintiffs"), by and through their
attorneys of record, the law firm of Holley Driggs, hereby move, pursuant to NRS 18.010 for an

award of attorneys’ fees against Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour, and Hilena Mengesha (together “Defendants”). The attorney fees incurred to date total \$88,145.00.

This Motion for Attorneys’ Fees (the “Motion”) is made and based upon the papers and pleadings on file herein, the following memorandum of points and authorities, the Declaration of F. Thomas Edwards, Esq., attached hereto at **Exhibit 1**, and any oral argument at the hearing on this matter.

Dated this 29th day of March, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ.
Nevada Bar No. 9549
JESSICA M. LUJAN, ESQ.
Nevada Bar No. 14913
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

Attorneys for Plaintiffs/Counterdefendants

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND BACKGROUND

This case should have been a straightforward action for breach of contract related to Defendants’ early, unauthorized abandonment of their commercial leases (the “Leases”) of Plaintiffs’ warehouse space (the “Premises”). However, instead of dealing with the cut and dry claims against them, Defendants unnecessarily complicated this matter by asserting baseless counterclaims and affirmative defenses, asserting that they had been constructively evicted from the Premises in light of Plaintiffs’ alleged breach of the implied warranty of habitability related to “dust and debris” at the Premises.

While their constructive eviction claim was a *superficially* attractive excuse for Defendants’ non-performance under the Leases, Defendants knew or should have known that this defense/counterclaim was meritless from the start: First, Defendants’ commercial Leases expressly state that Defendants accepted the Premises in an “as-is” condition. Second, Defendants’ commercial Leases expressly state that Defendants were responsible for any maintenance of the interior of the Premises, such that if there was an issue with the “dust and debris,” it was Defendants’ contractual obligation to remedy that issue. Third, Defendants could not claim they were unaware of the condition of the Premises because Defendants operated out of the premises pursuant to a sub-lease for almost two (2) years before they signed the Leases at issue in this lawsuit. Fourth, as Plaintiffs pointed out in their Motion to Dismiss Defendants’ counterclaims (filed less than *three (3) months* after Plaintiffs initiated this suit), the implied warranty of habitability does not apply to commercial leases in Nevada. *See* Motion to Dismiss Counterclaims at 7–8, dated 8/1/2019, on file herein.

Despite these clear bases warranting dismissal of Defendants’ counterclaims, Defendants opposed the Motion to Dismiss and filed a Countermotion for Summary Judgment on these same issues. *See* Defendants’ Opposition to Motion to Dismiss and Countermotion for Summary Judgment, dated 8/12/2019, on file herein. Presumably out of an abundance of caution, the

presiding Judge at the time, the Hon. Judge James Bixler¹, found that it was premature to rule on either the Motion to Dismiss or the Countermotion for Summary Judgment, and denied both without prejudice. *See* Order Denying Motion to Dismiss and Countermotion for Summary Judgment, dated 9/12/2019, on file herein.

Accordingly, Plaintiffs had no choice but to participate in a lengthy and expensive discovery process primarily concerning Defendants' counterclaims, which ultimately resulted in the same conclusion Plaintiffs had reached at the outset: Defendants' constructive eviction claim lacked merit, and Plaintiffs were entitled to a full recovery on their claims. On December 1, 2020, over a year after they filed their Motion to Dismiss Defendants' counterclaims, Plaintiffs filed their Motion for Summary Judgment, which set forth essentially the same arguments regarding the lack of warranty of habitability in the commercial lease context in Nevada, and the "as-is" clauses in the Leases. *See* Plaintiffs' Motion for Summary Judgment on Their Breach of Contract Claims, dated 12/1/2020, on file herein.

Because Defendants failed to set forth any authority in their briefing or at the hearing before the Hon. Justice Michael Cherry refuting the arguments set forth in Plaintiffs' Motion for Summary Judgment, the Court granted Plaintiffs' Motion for Summary Judgment at the hearing on January 12, 2021. This event should have marked the end of these proceedings. However, despite the Court's granting summary judgment in favor of Plaintiffs, Defendants adamantly opposed entry of Judgment against them. This resulted in Plaintiffs' having to draft a Motion for Entry of Judgment (which Defendants also opposed) to convince the Court that entry of Judgment in favor of Plaintiffs was appropriate. Following a hearing, the Court granted Plaintiffs' Motion for Entry of Judgment on March 9, 2021 and entered Judgment on the same day. *See* Order Granting Plaintiffs' Motion for Entry of Judgment; Judgment, both dated 3/9/2021, on file herein.

Now, Defendants have filed a Notice of Appeal, indicating that they intend to force Plaintiffs to expend even more time and resources following Defendants' inexcusable breaches of the Leases. *See* Notice of Appeal, dated 3/24/2021, on file herein. Plaintiffs therefore respectfully

¹ This case was also assigned to the Hon. Judge Trevor Atkin.

1 request an award of their reasonably and necessarily incurred attorneys' fees, so that they may gear
2 up to fight the next portion of this senseless battle. Accordingly, Plaintiffs request an award of fees
3 in the amount of \$88,145.00 incurred over almost two (2) years of litigation, requiring 373.6 hours
4 of work at an effective hourly rate of just \$235.93.

5 II. LEGAL ARGUMENT

6 A. Plaintiffs Timely Seek Their Attorneys' Fees

7 NRCp 54(d)(2)(B) requires the prevailing party to file a motion for attorney fees within 21
8 days after the Notice of Entry of Judgment. Notice of Entry of Judgment was submitted on March
9 9, 2021. Plaintiffs bring this Motion within 21 days of the Notice of Entry of Judgment. Therefore,
10 Plaintiffs' request for attorneys' fees is timely.

11 B. Plaintiffs are Entitled to Recover Their Fees pursuant to the Lease Agreements

12 Plaintiffs are entitled to recover the entirety of their attorneys' fees incurred in successfully
13 prosecuting this action and defending against the counterclaims lodged by Defendants pursuant to
14 fee-shifting provisions in the Leases, which entitle the prevailing party in any suit involving the
15 Premises to recover its attorneys' fees from the non-prevailing party. "Attorney fees are . . .
16 available when authorized by rule, statute, or contract." *Henry Prods. Inc. v. Tarmu*, 114 Nev.
17 1017, 1020, 967 P.2d 444, 446 (1998). "The compensation of an attorney and counselor for his
18 services is governed by agreement, express or implied, which is not restrained by law." NRS
19 18.010(1). The Supreme Court of Nevada noted, with respect to the language above, "[i]t is the
20 rule that provisions in contracts for the payment of attorney's fees in the event it is necessary to
21 resort to aid of counsel for enforcement or collection are valid and enforceable." *Bates v.*
22 *Chronister*, 100 Nev. 675, 683, 691 P.2d 865, 871 (1984).

23 The Leases contain identical fee-shifting provisions, which state, in pertinent part:

24 **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving
25 the Premises whether founded in tort, contract or equity, or to declare rights
26 hereunder, the Prevailing Party (as hereafter defined) in any such proceeding,
27 action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees
28 may be awarded in the same suit or recovered in a separate suit, whether or not such
action or proceeding is pursued to decision or judgment. The term, "Prevailing
Party" shall include, without limitation, a Party or Broker who substantially obtains
or defeats the relief sought, as the case may be, whether by compromise, settlement,

judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. . .

See Leases, attached hereto as **Exhibits 3 and 4** at 18 (Section 31).

Because Plaintiffs obtained a judgment against Defendants in this action for their breach of the Leases, and also successfully defended the counterclaims lodged by Defendants, Plaintiffs are entitled to recover their reasonably and necessarily incurred attorneys' fees.

C. The Fees Sought by Plaintiffs are Reasonable

A court deciding a motion for attorneys' fees must consider the following four factors when determining their reasonableness: (1) the qualities of the advocate (ability, training, experience, professional standing, and skill); (2) the character of the work to be done (difficulty, intricacy, importance, time and skill required); (3) the work actually performed by the lawyer (skill, time and attention given to the work); and (4) the results (success and benefits derived). *Hornwood v. Smith's Food King No. 1*, 107 Nev. 80, 87, 807 P.2d 208, 213 (1991); *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

1. The Qualities of the Advocates

This Court had the opportunity to assess the quality of the advocacy of Holley Driggs in its written and oral advocacy that resulted in Plaintiffs successfully prosecuting this action and obtaining a significant monetary judgment in their favor. In doing so, Plaintiffs also successfully defended against Defendants' counterclaims and affirmative defenses. Moreover, Holley Driggs is "AV" rated by Martindale-Hubbell and has practiced in the Nevada courts for more than two decades.

The quality of Holley Driggs' work is evidenced by, among other things, its successful prosecution of this action. Further, the qualities of the individual attorneys working on this matter support the reasonableness of the fees. See Edwards Decl. ¶¶ 7-10. This factor weighs heavily in favor of awarding Plaintiffs the full amount of \$88,145.00 in fees.

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///

2. *The Character of the Work to Be Done*

Although this should have been a straightforward breach of contract action, Defendants complicated this matter exponentially by asserting meritless counterclaims and affirmative defenses alleging Defendants’ constructive eviction based on the implied warranty of habitability—which does not exist for commercial leases in Nevada. *See* Edwards Decl. ¶ 11. Refuting these baseless counterclaims required in-depth legal research (on a novel issue never before considered by the Nevada Supreme Court), expert witness reports and in-person walkthroughs of the Premises, and excess motion practice that would not have otherwise been necessary. *Id.* Thus, the character of the work to be done was dictated by Defendants’ unrelenting attempts to fight Plaintiffs’ legitimate claims against them throughout the litigation. Ultimately, Defendants’ efforts failed, and Plaintiffs obtained Judgment in their favor. This factor thus weighs in favor of awarding Plaintiffs the full amount of \$88,145.00 in fees.

3. *The Work Actually Performed*

As evidence of the work performed by Holley Driggs in the instant lawsuit, Plaintiffs attach to this Motion as **Exhibit 2** partially redacted time entries of Holley Driggs. *See* Edwards Decl. ¶ 12. In summary, these time entries include, but are not limited to, work performed for the following:

- a. Analysis of the Leases and case facts, and correspondence with Defendants and their counsel regarding the same;
- b. Drafting the Complaint;
- c. Drafting the Notice of Intent to Take Default and correspondence with opposing counsel regarding the same;
- d. Reviewing and responding to Defendants’ counterclaims and affirmative defenses;
- e. Legal research and drafting of the Motion to Dismiss Defendants’ counterclaims (and reply in support);
- f. Opposing Defendants’ countermotion for summary judgment;
- g. Preparing for and attending the hearings on the above motions;

- h. Preparing disclosures and conducting full discovery, including written discovery and depositions;
- i. Reviewing discovery exchanged between the parties;
- j. Drafting a meet and confer letter and subsequent motion to compel;
- k. Correspondence with potential experts and review of Defendants' expert report;
- l. Preparing for and attending the hearing on the motion to compel;
- m. Preparing various proposed orders and stipulations;
- n. Legal research and drafting of the Motion for Sanctions against Defendants (and reply in support);
- o. Engaging in settlement discussions;
- p. Legal research and drafting of the Motions for Summary Judgment (and replies in support);
- q. Preparing for and attending the hearings on the Motions for Summary Judgment;
- r. Drafting the Motion for Entry of Judgment (and reply in support);
- s. Preparing for and attending the hearing on the Motion for Entry of Judgment;
- t. Drafting the proposed orders on the above motions and final Judgment.

As a result of the aforementioned work (and other work not mentioned) performed on this matter, Plaintiffs successfully prosecuted this action and ultimately obtained a judgment in their favor. This factor weighs in favor of awarding Plaintiffs the full amount of \$88,145.00 incurred over almost two (2) years of litigation, requiring 373.6 hours of work at an effective hourly rate of just \$235.93.

4. *The Result*

Here, the result favors a finding that the fees were reasonable. Plaintiffs commenced this straightforward action to collect unpaid Lease payments from Defendants as a result of their early and unauthorized abandonment of Plaintiffs' Premises under the Leases. *See* Edwards Decl. ¶ 13. Defendants complicated this matter by asserting baseless affirmative defenses and counterclaims, which Plaintiffs successfully defeated at summary judgment. *Id.* As a result, Plaintiffs obtained a

1 significant monetary judgment in their favor. Accordingly, the result favors a finding that
2 Plaintiffs' fees were reasonable.

3 **III. CONCLUSION**

4 Based on the foregoing, Plaintiffs respectfully request that this Court grant the instant
5 Motion and grant Plaintiffs an award of attorneys' fees in the amount of \$88,145.00.

6 Dated this 29th day of March, 2021.

7 **HOLLEY DRIGGS**

8 /s/ F. Thomas Edwards

9 F. THOMAS EDWARDS, ESQ.

10 Nevada Bar No. 9549

11 JESSICA M. LUJAN, ESQ.

12 Nevada Bar No. 14913

13 400 South Fourth Street, Third Floor

14 Las Vegas, Nevada 89101

15 *Attorneys for Plaintiffs/Counterdefendants*

HOLLEY DRIGGS

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 29th day of March, 2021, I did cause a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR ATTORNEYS' FEES** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

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

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

/s/ Sandy Sell
An employee of HOLLEY DRIGGS

EXHIBIT 1



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

Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

**DECLARATION OF F. THOMAS
EDWARDS, ESQ. IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES**

I, F. Thomas Edwards, declare as follows:

1. I am an attorney with the law firm Holley Driggs (the "Firm"), counsel of record
for Plaintiffs 4520 Arville, a California general partnership; and McKinley Manor, an Idaho

1 general partnership (collectively “Plaintiffs”), in the above-captioned case.

2 2. I have personal knowledge of the matters set forth herein and if called to do so, I
3 could and would testify competently to the following.

4 3. I make this declaration in support of Plaintiffs’ Motion for Attorneys’ Fees (the
5 “Motion”).

6 4. The total amount of attorneys’ fees actually and necessarily incurred by Plaintiffs
7 through the Firm in prosecuting this action is \$88,145.00, representing 373.6 hours of work at an
8 effective hourly rate of \$235.93, which are more fully set forth in the partially redacted
9 Transactions Listing of amounts billed to Plaintiffs, a true and accurate copy of which is attached
10 to the Motion as Exhibit 2.

11 5. Pursuant to the factors articulated in *Barney v. Mt. Rose Heating & Air*
12 *Conditioning*, 124 Nev. 821, 829, 192 P.3d 730, 736 (2008) and *Brunzell v. Golden Gate Nat’l*
13 *Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969), the time expended by the Firm on this matter
14 was reasonable and necessary. The fees were actually incurred in defending this action and
15 conform to the usual practice and standards of the Las Vegas area. Specifically, the following
16 *Brunzell* factors all support the reasonableness of the fees actually and necessarily incurred:
17 1) *quality of the advocate*: ability, training, education, experience, professional standing and skill
18 (§§ 6-12); 2) *the character of the work to be done*: its difficulty, its intricacy, its importance, time
19 and skill required, the responsibility imposed and the prominence and character of the parties
20 where they affect the importance of the litigation (§ 13); 3) *the work actually performed by the*
21 *lawyer*, the skill, time and attention given to the work (§ 14); and 4) *the result*: whether the attorney
22 was successful and what benefits were derived (§ 15). *Brunzell v. Golden Gate Nat’l Bank*, 85
23 Nev. 345, 349-50, 455 P.2d 31, 33 (1969).

24 6. The ability, training, education, experience, professional standing and skill of the
25 attorneys working on Plaintiffs’ case justify the full amount of attorneys’ fees incurred this action.

26 7. I am the lead attorney for Plaintiffs on this case and a shareholder at the Firm. I
27 received my Juris Doctorate from the University of Arizona James E. Rogers College of Law in
28 2005 and was admitted to the Nevada State Bar in 2005. I have practiced law continuously since

that time specializing in litigation and received the AV Preeminent Rating by Martindale-Hubbell. My hourly rate for the matter was \$360.00.

8. Sean E. Story, Esq. was an associate at the Firm and was a working attorney on this case. He received his Juris Doctorate from the University of Arizona James E. Rogers College of Law in 2015 and was admitted to the Nevada State Bar in 2015. His hourly rate for the matter was \$260.00.

9. Jessica M. Lujan, Esq. is an associate at Holley Driggs and was a working attorney on this case. She received her Juris Doctorate from Boston University School of Law and was admitted to the Nevada State Bar in 2018. She clerked for the Honorable Judge James C. Mahan of the United States District Court for the District of Nevada and has been practicing law since that time, specializing in litigation. Her hourly rate for this matter ranged from \$240.00 to \$250.00.

10. Kandy Halsey is a paralegal at Holley Driggs provided assistance with recording certain documents with the Clark County Recorder's Office. Ms. Halsey has been employed with Holley Driggs as a paralegal since 2018. Her hourly rate for this matter was \$220.00.

11. The character of the work performed in this case supports the reasonableness of the fees actually and necessarily incurred. Although this should have been a straightforward breach of contract action, Defendants complicated this matter exponentially by asserting meritless counterclaims and affirmative defenses alleging Defendants' constructive eviction based on the implied warranty of habitability—which does not exist for commercial leases in Nevada. Refuting these baseless counterclaims required in-depth legal research, expert witness reports and in-person walkthroughs of the Premises, and excess motion practice that would not have otherwise been necessary.

12. The actual work performed by the Firm supports the reasonableness of the fees actually and necessarily incurred by Plaintiffs. The Transactions Listing attached to the Motion as Exhibit 2 reflects the actual amount of time expended by the Firm on the tasks described therein.

13. Finally, the result of the work supports the reasonableness of the fees incurred by Plaintiffs. Plaintiffs commenced this straightforward action to collect unpaid Lease payments from Defendants as a result of their early and unauthorized abandonment of Plaintiffs' Premises under

the Leases. Defendants complicated this matter by asserting baseless affirmative defenses and counterclaims, which Plaintiffs successfully defeated at summary judgment.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

Dated this 29th day of March, 2021.

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ.

EXHIBIT 2



Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
4/24/2018	FTE	03827-59 / Commercial Specialists	T	2.40	360.00	864.00
		Bour Enterprises, LLC		2.40	360.00	864.00
		Review correspondence from Mr. Bour; review leases; draft response to Mr. Bour; correspond with client regarding same; revise and finalize letter				
5/7/2018	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review correspondence from client and Attorney Connell; correspond with Attorney Connell regarding same				
5/8/2018	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Review correspondence between partis; correspond with opposing counsel regarding same; teleconference with opposing counsel; send status report to client				
5/11/2018	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Correspond with opposing counsel; correspond with client				
5/15/2019	FTE	03827-59 / Commercial Specialists	T	2.20	360.00	792.00
		Bour Enterprises, LLC		2.20	360.00	792.00
		Review documents from client; review prior demand letter; correspond with client regarding same; draft complaint; correspond with client regarding same; consider judicial assignment; teleconference with client regarding same; draft peremptory challenge				
5/16/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Send status report to client				
6/4/2019	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Teleconference with opposing counsel; send status report to client				
6/13/2019	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Teleconference Attorney Carson; correspond with				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		Attorney Carson				
6/17/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Correspond with opposing counsel regarding response deadline				
6/24/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Prepare three day notice of intent to take default against guarantors; review demand for cost bond; prepare notices of posting cost bond; send status report to client; teleconference with opposing counsel				
7/8/2019	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Send status report to client and consdier next steps; teleconference with opposing counsel				
7/10/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Send status report to client				
7/16/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Correspond with opposing counsel regarding response to complaint				
7/22/2019	FTE	03827-59 / Commercial Specialists	T	1.30	360.00	468.00
		Bour Enterprises, LLC		1.30	360.00	468.00
		Reveiw and analyze answer and counterclaim and consider response thereto; correspond with client regarding same				
7/22/2019	SES	03827-59 / Commercial Specialists	T	1.20	260.00	312.00
		Bour Enterprises, LLC		1.20	0.00	0.00
		Review and analyze Defendants' answer and counterclaim				
7/23/2019	SES	03827-59 / Commercial Specialists	T	2.10	260.00	546.00
		Bour Enterprises, LLC		2.10	260.00	546.00
		Review and analyze case law regarding [REDACTED]				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		[REDACTED]; continue drafting motion to dismiss				
7/24/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting motion to dismiss section regarding maintenance obligations	T	2.10 2.10	260.00 260.00	546.00 546.00
7/25/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise draft of motion to dismiss	T	0.30 0.30	260.00 260.00	78.00 78.00
7/26/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise motion to dismiss	T	0.60 0.60	360.00 360.00	216.00 216.00
7/26/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and analyze case law regarding [REDACTED] [REDACTED] [REDACTED]; revise motion to dismiss counterclaims	T	2.40 2.40	260.00 0.00	624.00 0.00
7/29/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise motion to dismiss; review and analyze case law regarding [REDACTED] [REDACTED]	T	1.20 1.20	260.00 260.00	312.00 312.00
7/29/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise motion to dismiss	T	3.40 3.40	360.00 360.00	1,224.00 1,224.00
7/31/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise motion to dismiss counterclaims; correspond with client regarding same; teeconference with client	T	0.70 0.70	360.00 360.00	252.00 252.00
8/1/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Finalize and file motion to dismiss; send status report to client	T	0.30 0.30	360.00 360.00	108.00 108.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
8/12/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review opposition to motion to dismiss and countermotion for summary judgment	T	0.60 0.60	360.00 360.00	216.00 216.00
8/13/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft reply to opposition to motion to dismiss	T	4.70 4.70	360.00 360.00	1,692.00 1,692.00
8/13/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Preliminary review of Defendants' opposition to motion to dismiss and countermotion for summary judgment; review and analyze case law regarding [REDACTED] [REDACTED]	T	0.90 0.90	0.00 0.00	0.00 0.00
8/14/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft opposition to countermotion for summary judgment	T	1.40 1.40	360.00 360.00	504.00 504.00
8/15/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft opposition to countermotion for summary judgment; correspond with client regarding [REDACTED]	T	2.70 2.70	360.00 360.00	972.00 972.00
8/16/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client; revise opposition to countermotion for summary judgment	T	0.80 0.80	360.00 360.00	288.00 288.00
8/20/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise opposition to countermotion for summary judgment; correspond with client regarding [REDACTED]	T	0.60 0.60	360.00 360.00	216.00 216.00
8/21/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise opposition to countermotion for summary judgment; correspond with client regarding [REDACTED] draft declaration of Mr Burns in support of	T	1.40 1.40	360.00 360.00	504.00 504.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		opposition; draft declaration of Mr. Edwards in support of opposition				
8/22/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client; revise and finalize opposition to counter motion for summary judgment	T	0.60 0.60	360.00 360.00	216.00 216.00
8/23/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding [REDACTED] prepare notice of early case conference	T	0.40 0.40	360.00 360.00	144.00 144.00
8/29/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and attend early case conference; prepare joint case conference report	T	1.10 1.10	360.00 360.00	396.00 396.00
8/30/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review defendants' reply in support of counter motion for summary judgment and consider response thereto	T	0.90 0.90	360.00 360.00	324.00 324.00
9/2/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for hearing	T	0.60 0.60	360.00 360.00	216.00 216.00
9/3/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and attend hearing; correspond with chambers regarding joint case conference report; draft order on the pending motions; draft joint case conference report; correspond with opposing counsel; send status report to client	T	2.70 2.70	360.00 360.00	972.00 972.00
8/30/2019	SES	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and analyze case law regarding duty arising from lease as applied to constructive eviction (no charge)	T	0.60 0.60	0.00 0.00	0.00 0.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
9/12/2019	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Prepare initial disclosures				
9/13/2019	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Review correspondence from opposing counsel; send status report to client				
9/16/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review correspondence and documents from client; correspond with client regarding [REDACTED]; follow up with opposing counsel regarding initial disclosures and inspection				
9/17/2019	FTE	03827-59 / Commercial Specialists	T	0.50	360.00	180.00
		Bour Enterprises, LLC		0.50	360.00	180.00
		Correspond with client; correspond with opposing counsel				
9/18/2019	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Correspond with client; prepare for and attend site inspection				
9/19/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Correspond with opposing counsel regarding disclosures; review initial disclosures from defendants				
9/20/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review videos and photos produced by Defendants; correspond with opposing counsel; send status report to client				
9/24/2019	FTE	03827-59 / Commercial Specialists	T	2.70	360.00	972.00
		Bour Enterprises, LLC		2.70	360.00	972.00
		Draft discovery requests to defendants; prepare deposition topics for defendants				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
9/25/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Revise discovery requests and correspond with client regarding [REDACTED]				
9/26/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review correspondence and documents from client; revise and finalize requests for production of documents; send status report to client				
10/11/2019	FTE	03827-59 / Commercial Specialists	T	1.60	360.00	576.00
		Bour Enterprises, LLC		1.60	360.00	576.00
		Prepare for and attend scheduling conference; draft answer to counterclaims				
10/14/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Revise and finalize answer to counterclaim				
10/16/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Send status report to client				
10/22/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Teleconference with opposing counsel regarding deadlines				
10/28/2019	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Review defendants' responses to discovery requests				
10/30/2019	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Review offer of judgment and consider response thereto; send status report to client regarding offer of judgment and discovery responses				
10/30/2019	JML	03827-59 / Commercial Specialists	T	0.30	240.00	72.00
		Bour Enterprises, LLC		0.30	240.00	72.00
		Review discovery responses and T. Edwards' email to client; discuss and strategize with T. Edwards				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		regarding [REDACTED]				
11/1/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review defendant responses to requests for discovery; identify responses warranting discussion at Rule 16.1 hearing	T	1.90 1.90	240.00 240.00	456.00 456.00
11/4/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review discovery responses; categorize various objections by type; formulate responses to various objections in preparation of Rule 16.1 Meet and Confer letter to opposing counsel	T	2.80 2.80	240.00 240.00	672.00 672.00
11/5/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting Rule 16.1 meet and confer letter; correspond with T. Edwards regarding [REDACTED] (no charge)	T	5.50 5.50	0.00 0.00	0.00 0.00
11/7/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise correspondence to opposing counsel regarding discovery disputes	T	0.70 0.70	360.00 360.00	252.00 252.00
11/8/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review S. Sell's proposed revisions and discuss mailing options regarding Rule 16.1 Meet and Confer letter	T	0.30 0.30	240.00 240.00	72.00 72.00
11/8/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding discovery disputes	T	0.30 0.30	360.00 360.00	108.00 108.00
11/15/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and conduct meet and confer with opposing counsel regarding discovery disputes	T	0.90 0.90	360.00 360.00	324.00 324.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
11/15/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Attend telephonic meet and confer conference regarding discovery disputes; take detailed notes regarding discussion, additional disputes, and proposed resolutions	T	0.70	240.00	168.00
				0.70	240.00	168.00
11/19/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and analyze client documents and notes from 16.1 conference; begin compiling documents in support of Motion to Compel Discovery	T	0.50	240.00	120.00
				0.50	240.00	120.00
11/20/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Begin drafting outline of Motion to Compel	T	1.80	240.00	432.00
				1.80	240.00	432.00
11/20/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Send status report to client; correspond with opposing counsel regarding discovery disputes and expert inspection; search for and correspond with potential experts; correspond with client regarding [REDACTED]; teleconference with potential expert	T	1.80	360.00	648.00
				1.80	360.00	648.00
11/21/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding [REDACTED]	T	0.40	360.00	144.00
				0.40	360.00	144.00
11/22/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Begin drafting Declaration of T. Edwards in support of Motion to Compel	T	1.30	240.00	312.00
				1.30	240.00	312.00
11/25/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Research applicable rules and case law; begin drafting Motion to Compel Discovery (no charge)	T	5.60	0.00	0.00
				5.60	0.00	0.00
11/25/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Consider arguments for discovery motion	T	0.40	360.00	144.00
				0.40	360.00	144.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
11/26/2019	JML	03827-59 / Commercial Specialists	T	2.60	240.00	624.00
		Bour Enterprises, LLC		2.60	240.00	624.00
		Continue drafting Motion to Compel Discovery				
11/26/2019	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Correspond with opposing counsel regarding inspection				
11/27/2019	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Correspond with opposing counsel; corresond with client; correspond with potential experts				
11/27/2019	JML	03827-59 / Commercial Specialists	T	0.40	240.00	96.00
		Bour Enterprises, LLC		0.40	240.00	96.00
		Create spreadsheet of defendants' discovery request responses for review and comparison in support of Motion to Compel				
12/1/2019	JML	03827-59 / Commercial Specialists	T	3.00	240.00	720.00
		Bour Enterprises, LLC		3.00	240.00	720.00
		Continue drafting Motion to Compel Discovery				
12/2/2019	JML	03827-59 / Commercial Specialists	T	4.30	240.00	1,032.00
		Bour Enterprises, LLC		4.30	240.00	1,032.00
		Continue drafting Motion to Compel; create appendix of discovery requests and responses to attach to the motion to compel; strategize with T. Edwards regarding [REDACTED]				
12/2/2019	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Correspond with potential expert; review expert CV, rate schedule and testifying expereince; correspond with client regarding [REDACTED]				
12/3/2019	JML	03827-59 / Commercial Specialists	T	4.80	0.00	0.00
		Bour Enterprises, LLC		4.80	0.00	0.00
		Finish drafting motion to compel; cite all relevant exhibits and ensure all citations are properly formatted; finalize supporting declaration of T. Edwards; conduct final review and make necessary edits				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/3/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise motion to compel	T	1.70 1.70	360.00 360.00	612.00 612.00
12/4/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Teleconference with opposing counsel regarding deadlines; review and revise motion to compel; correspond with client; correspond with opposing counsel	T	2.20 2.20	360.00 360.00	792.00 792.00
12/4/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review T. Edwards' revisions to the motion to compel; make additional revisions according to T. Edwards' notes; conduct research regarding formatting rules, routing to the discovery commissioner, and consequences of improper objections	T	2.30 2.30	0.00 0.00	0.00 0.00
12/5/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue revising motion to compel; conduct additional legal research in support; contact the court to clarify motion routing instructions; amend Declaration of T. Edwards	T	4.30 4.30	240.00 240.00	1,032.00 1,032.00
12/5/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise and finalize motion to compel; send status report to client	T	1.60 1.60	360.00 360.00	576.00 576.00
12/17/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Research local court rules regarding time to file reply briefs; strategize with T. Edwards regarding [REDACTED] [REDACTED] [REDACTED]	T	0.20 0.20	0.00 0.00	0.00 0.00
12/20/2019	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review opposition to motion to compel and consdier response thereto	T	0.60 0.60	360.00 360.00	216.00 216.00

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Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/20/2019	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review defendants' response to motion to compel and counter-motion for extension of time for disclosure of expert witnesses; make notes regarding arguments on reply and opposition thereto	T	0.50 0.50	240.00 240.00	120.00 120.00
1/1/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Begin drafting reply to motion to compel and response to Defendants' counter-motion to extend time to disclose expert witnesses; conduct legal research in support of the reply/response (No Charge)	T	3.40 3.40	0.00 0.00	0.00 0.00
1/2/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Finish drafting reply/response to motion to compel and counter-motion to extend time; draft declaration of T. Edwards in support of the same; review T. Edwards' suggested revisions; strategize with T. Edwards regarding suggested revisions (No Charge)	T	2.40 2.40	0.00 0.00	0.00 0.00
1/2/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise reply brief	T	1.40 1.40	360.00 360.00	504.00 504.00
1/3/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare fact timeline	T	1.60 1.60	360.00 360.00	576.00 576.00
1/5/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise reply to motion to compel and opposition to counter-motion to extend time+	T	1.50 1.50	240.00 240.00	360.00 360.00
1/6/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Finish revising reply to motion to compel and response to counter-motion to extend time (No Charge)	T	3.20 3.20	0.00 0.00	0.00 0.00

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Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
1/6/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review and revise reply in support of motion to compel				
1/7/2020	JML	03827-59 / Commercial Specialists	T	0.70	240.00	168.00
		Bour Enterprises, LLC		0.70	240.00	168.00
		Finalize T. Edwards' declaration in support of reply/opposition to motion to compel and counter-motion to extend time; send to T. Edwards for final review and S. Sell to finalize and file; forward emails to S. Sell for inclusion as an exhibit to the reply				
1/7/2020	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Revise declaration; finalize and file reply brief				
1/13/2020	FTE	03827-59 / Commercial Specialists	T	1.20	360.00	432.00
		Bour Enterprises, LLC		1.20	360.00	432.00
		Prepare for hearing				
1/14/2020	FTE	03827-59 / Commercial Specialists	T	2.30	360.00	828.00
		Bour Enterprises, LLC		2.30	360.00	828.00
		Prepare for and attend hearing and discovery				
1/14/2020	JML	03827-59 / Commercial Specialists	T	3.50	240.00	840.00
		Bour Enterprises, LLC		3.50	240.00	840.00
		Attend hearing on motion to compel before discovery commissioner				
1/15/2020	JML	03827-59 / Commercial Specialists	T	5.30	0.00	0.00
		Bour Enterprises, LLC		5.30	0.00	0.00
		Draft the discovery commissioner's report and recommendation regarding plaintiffs' motion to compel; correspond with T. Edwards regarding the same; review T. Edwards' suggested edits and make revisions accordingly; research case law in support of arguments for summary judgment (No Charge)				
1/15/2020	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Review and revise discovery commissioner's report and recommendation; correspond with opposing				

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Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		counsel regarding same				
1/16/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue research in support of Motion for Summary Judgment	T	5.80 5.80	240.00 240.00	1,392.00 1,392.00
1/16/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel	T	0.10 0.10	360.00 360.00	36.00 36.00
1/21/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Send status report to client	T	0.30 0.30	360.00 360.00	108.00 108.00
1/22/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Follow up with opposing counsel regarding order and depositions	T	0.20 0.20	360.00 360.00	72.00 72.00
1/23/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review Attorney Graf's proposed changes to the proposed order regarding the motion to compel; correspond with T. Edwards regarding [REDACTED]	T	0.20 0.20	240.00 240.00	48.00 48.00
1/26/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft response to defendants' Motion to Extend Expert Disclosure Deadline	T	2.20 2.20	240.00 240.00	528.00 528.00
1/27/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Research local rules of practice in support of response to defendants' motion to extend time	T	0.20 0.20	240.00 240.00	48.00 48.00
1/27/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise opposition to motion to extend expert deadline; teleconference with opposing counsel's office; send status report to client; prepare supplemental disclosures of property listings	T	1.70 1.70	360.00 360.00	612.00 612.00

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Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
1/28/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Follow up with opposing counsel regarding regarding discovery order; teleconference with opposing counsel regarding discovery order				
1/28/2020	JML	03827-59 / Commercial Specialists	T	0.40	240.00	96.00
		Bour Enterprises, LLC		0.40	240.00	96.00
		Participate in teleconference with Attorney Graf regarding the draft discovery commissioner report and recommendation; make revisions as discussed; forward final draft to Attorney Graf for review and signature				
1/29/2020	JML	03827-59 / Commercial Specialists	T	0.90	240.00	216.00
		Bour Enterprises, LLC		0.90	240.00	216.00
		Continue drafting motion for summary judgment on habitability issue				
1/29/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Prepare for hearing on motion to continue trial				
1/30/2020	FTE	03827-59 / Commercial Specialists	T	1.90	360.00	684.00
		Bour Enterprises, LLC		1.90	360.00	684.00
		Prepare for and attend hearing on motion to continue trial; review informaiton for [REDACTED]; send status report to client; review and revise proposed order				
1/31/2020	FTE	03827-59 / Commercial Specialists	T	0.50	360.00	180.00
		Bour Enterprises, LLC		0.50	360.00	180.00
		Teleconference with expert				
2/3/2020	JML	03827-59 / Commercial Specialists	T	5.10	240.00	1,224.00
		Bour Enterprises, LLC		5.10	0.00	0.00
		Continue drafting motion for summary judgment on habitability issue				
2/4/2020	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Follow up expert; follow up with opposing counsel regarding documents				

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Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
2/5/2020	FTE	03827-59 / Commercial Specialists	T	0.50	360.00	180.00
		Bour Enterprises, LLC		0.50	360.00	180.00
		Review expert engagement letter and correspond with client regarding same; correspond with expert; correspond with opposing counsel regarding inspection				
2/6/2020	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Teleconference with opposing counsel; correspond with client [REDACTED]				
2/7/2020	FTE	03827-59 / Commercial Specialists	T	1.60	360.00	576.00
		Bour Enterprises, LLC		1.60	360.00	576.00
		Correspond with opposing counsel; attend site visit				
2/10/2020	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Correspond with opposing counsel regarding discovery issues				
2/12/2020	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Follow up with opposing counsel regarding discovery issues				
2/12/2020	JML	03827-59 / Commercial Specialists	T	0.20	240.00	48.00
		Bour Enterprises, LLC		0.20	240.00	48.00
		Check status of discovery commissioner's report and recommendation				
2/17/2020	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Review correspondence from opposing counsel; calculate new discovery deadlines and correspond with opposing counsel regarding same				
2/18/2020	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Review disclosure from defendants; correspond with opposing counsel regarding same; teleconference with opposing counsel regarding same				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client	Sort					
Date	Prof	Matter Description	Component	Units	Price	Value		
		Narrative	Task Code	Stm Units	Stm Price	Ext Amount		
2/19/2020	FTE	03827-59 / Commercial Specialists	T	1.60	360.00	576.00		
		Bour Enterprises, LLC		1.60	360.00	576.00		
		Send status report to client; prepare notice of depositions and subpoenas; draft discovery requests to Bour; correspond with expert						
2/19/2020	JML	03827-59 / Commercial Specialists	T	0.20	240.00	48.00		
		Bour Enterprises, LLC		0.20	240.00	48.00		
		Review Bour's supplemental disclosure of documents and witnesses						
2/24/2020	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00		
		Bour Enterprises, LLC		0.40	360.00	144.00		
		Review defendant's expert report and correspond with our expert regarding same						
2/25/2020	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00		
		Bour Enterprises, LLC		0.90	360.00	324.00		
		Correspond with expert regarding rebuttal report; send status report to client; consider motion for sanctions; follow up on status of subpoenas to employees						
2/28/2020	JML	03827-59 / Commercial Specialists	T	6.80	240.00	1,632.00		
		Bour Enterprises, LLC		6.80	240.00	1,632.00		
		Begin drafting motion for sanctions						
3/2/2020	JML	03827-59 / Commercial Specialists	T	1.80	240.00	432.00		
		Bour Enterprises, LLC		1.80	240.00	432.00		
		Continue drafting motion for sanctions						
3/3/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00		
		Bour Enterprises, LLC		0.80	360.00	288.00		
		Correspond with opposing counsel regarding inspection; teleconference with opposing counsel regarding inspection						
3/3/2020	JML	03827-59 / Commercial Specialists	T	3.80	240.00	912.00		
		Bour Enterprises, LLC		3.80	240.00	912.00		
		Continue drafting motion for sanctions; consider additional arguments and conduct legal research						

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/4/2020	JML	03827-59 / Commercial Specialists	T	5.00	0.00	0.00
		Bour Enterprises, LLC		5.00	0.00	0.00
		Finish drafting motion for sanctions (no charge)				
3/4/2020	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Review depositions topics from opposing counsel and consider response thereto; correspond with opposing counsel regarding discovery issues				
3/6/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Coordinate inspection				
3/8/2020	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Correspond with opposing counsel				
3/9/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Teleconference with expert; consider response to deposition notice; send status report to client; revise and finalize subpoena to employee				
3/9/2020	RVG	03827-59 / Commercial Specialists	T	4.20	0.00	0.00
		Bour Enterprises, LLC		4.20	0.00	0.00
		Research and drafting memo regarding [REDACTED]				
3/10/2020	RVG	03827-59 / Commercial Specialists	T	0.30	0.00	0.00
		Bour Enterprises, LLC		0.30	0.00	0.00
		Research and drafting memo regarding [REDACTED]				
3/10/2020	FTE	03827-59 / Commercial Specialists	T	1.90	360.00	684.00
		Bour Enterprises, LLC		1.90	360.00	684.00
		Review and revise motion for sanctions				
3/11/2020	JML	03827-59 / Commercial Specialists	T	3.50	240.00	840.00
		Bour Enterprises, LLC		3.50	240.00	840.00
		Revise Motion for Sanctions; conduct legal research [REDACTED]				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/11/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Teleconference with expert; revise deposition topics and correspond with client regarding same; review research regarding [REDACTED]				
3/11/2020	RVG	03827-59 / Commercial Specialists	T	2.60	0.00	0.00
		Bour Enterprises, LLC		2.60	0.00	0.00
		Research and drafting email regarding [REDACTED] [REDACTED] [REDACTED]				
3/11/2020	RVG	03827-59 / Commercial Specialists	T	1.24	0.00	0.00
		Bour Enterprises, LLC		1.24	0.00	0.00
		Research regarding [REDACTED] [REDACTED]				
3/13/2020	RVG	03827-59 / Commercial Specialists	T	4.90	0.00	0.00
		Bour Enterprises, LLC		4.90	0.00	0.00
		Research and Drafting Memo Regarding [REDACTED] [REDACTED] [REDACTED]				
3/13/2020	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Correspond with expert				
3/16/2020	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Review research regarding [REDACTED]; review status of depositions				
3/16/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review and revise motion for sanctions				
3/16/2020	JML	03827-59 / Commercial Specialists	T	0.30	240.00	72.00
		Bour Enterprises, LLC		0.30	240.00	72.00
		Consider appropriate time to file Motion for Sanctions				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/16/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review Bour's supplemental expert report and correspond [REDACTED]				
3/19/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Review deposition notices and interrogatories; consider deposition strategy; correspond with client regarding [REDACTED] teleconference with client				
3/20/2020	JML	03827-59 / Commercial Specialists	T	0.20	240.00	48.00
		Bour Enterprises, LLC		0.20	240.00	48.00
		Revise and finalize motion for sanctions				
3/20/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Correspond with expert; correspond with opposing counsel				
3/22/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review supplemental disclosure from defendants; review interrogatory responses; consider response to deficient interrogatory responses				
3/22/2020	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Consider sanctions for motion for sanctions				
3/23/2020	FTE	03827-59 / Commercial Specialists	T	1.90	360.00	684.00
		Bour Enterprises, LLC		1.90	360.00	684.00
		Correspond with expert; teleconference with opposing counsel; correspond with opposing counsel; prepare expert witness disclosure; review expert report				
3/24/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Analyze expert reports and send status report to client regarding [REDACTED]				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/24/2020	JML	03827-59 / Commercial Specialists	T	0.30	240.00	72.00
		Bour Enterprises, LLC		0.30	240.00	72.00
		Consider strategy for [REDACTED]				
3/25/2020	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Correspond with opposing counsel regarding deposition; consider [REDACTED]				
3/25/2020	JML	03827-59 / Commercial Specialists	T	1.90	240.00	456.00
		Bour Enterprises, LLC		1.90	240.00	456.00
		Draft second stipulation to continue discovery deadlines				
3/26/2020	FTE	03827-59 / Commercial Specialists	T	1.40	360.00	504.00
		Bour Enterprises, LLC		1.40	360.00	504.00
		Teleconference with opposing counsel regarding deposition; prepare for and make record of non-appearance of Mr. Zewdie; revise stipulation and order to extend deadlines				
3/26/2020	JML	03827-59 / Commercial Specialists	T	0.50	240.00	120.00
		Bour Enterprises, LLC		0.50	240.00	120.00
		Finalize stipulation to continue deadlines; review email from Attorney Graf regarding the same; consider the appropriate length of the extension				
3/27/2020	FTE	03827-59 / Commercial Specialists	T	0.50	360.00	180.00
		Bour Enterprises, LLC		0.50	360.00	180.00
		Consider length of extension of deadlines; correspond with opposing counsel regarding same				
3/27/2020	JML	03827-59 / Commercial Specialists	T	0.30	240.00	72.00
		Bour Enterprises, LLC		0.30	240.00	72.00
		Revise stipulation to extend deadlines with dates agreed upon by Attorney Graf				
3/30/2020	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Correspond with opposing counsel regarding HIPAA release and stipulation to extend deadline; teleconference with opposing counsel regarding same; finalie and submit stipulation to extend time				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
4/1/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding medical records and case deadlines	T	0.40 0.40	360.00 360.00	144.00 144.00
4/2/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding discovery and deadlines	T	0.10 0.10	360.00 360.00	36.00 36.00
4/3/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review deadline for discovery responses	T	0.30 0.30	360.00 360.00	108.00 108.00
4/6/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding medical providers of employee	T	0.10 0.10	360.00 360.00	36.00 36.00
4/9/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare notice of entry of order; prepare objections to and redlines of Rule 30(b)(6) deposition notices; correspond with opposing counsel regarding same	T	1.90 1.90	360.00 360.00	684.00 684.00
4/13/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding depositions; draft responses to interrogatory responses	T	3.20 3.20	360.00 360.00	1,152.00 1,152.00
4/14/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise discovery responses and correspond with client regarding [REDACTED] prepare response for McKinley Manor; correspond with opposing counsel regarding depositions	T	1.20 1.20	360.00 360.00	432.00 432.00
4/17/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Finalize interrogatory responses for 4520 Arville; finalize interrogatory responses for McKinley Manor;	T	0.80 0.80	360.00 360.00	288.00 288.00

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Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		send status report to client				
4/28/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare notice of entry of stipulation and order to extend case	T	0.20 0.20	360.00 360.00	72.00 72.00
4/30/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft response to opposing counsel regarding discovery issues; send status report to client	T	0.90 0.90	360.00 360.00	324.00 324.00
4/30/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review correspondence from Attorney Graf and proposed response thereto	T	0.30 0.30	240.00 0.00	72.00 0.00
5/12/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with expert	T	0.10 0.10	360.00 360.00	36.00 36.00
5/19/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review discovery deadlines and trial schedule	T	0.10 0.10	360.00 360.00	36.00 36.00
5/26/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review invoice from expert; correspond with expert regarding same	T	0.40 0.40	360.00 360.00	144.00 144.00
5/29/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review documents from expert; correspond with client regarding same	T	0.30 0.30	360.00 360.00	108.00 108.00
6/1/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client; execute change order	T	0.20 0.20	360.00 360.00	72.00 72.00
6/9/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review latest correspondence from opposing counsel and consider strategies for [REDACTED]	T	0.30 0.30	240.00 240.00	72.00 72.00

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Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
7/27/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review current discovery deadlines; draft stipulation and order to extend the same	T	0.50 0.50	240.00 240.00	120.00 120.00
7/27/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review stipulation to extend discovery; correspond with opposing counsel regarding same	T	0.40 0.40	360.00 360.00	144.00 144.00
8/19/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review status of discovery; correspond with opposing counsel regarding deposition	T	0.40 0.40	360.00 360.00	144.00 144.00
8/25/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding depositions	T	0.10 0.10	360.00 360.00	36.00 36.00
8/27/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Teleconference with opposing counsel regarding settlement and strategy	T	0.40 0.40	360.00 360.00	144.00 144.00
8/31/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding	T	0.40 0.40	360.00 360.00	144.00 144.00
9/23/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Send status report to client; prepare settlement proposal and correspond with client regarding propose settlement to opposing counsel	T	0.80 0.80	360.00 360.00	288.00 288.00
10/1/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding	T	0.20 0.20	360.00 360.00	72.00 72.00

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		MatterID/Client	Sort					
Date	Prof	Matter Description	Component	Units	Price	Value		
		Narrative	Task Code	Stm Units	Stm Price	Ext Amount		
10/2/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding settlement and deposition; prepare deposition notice; teleconference with opposing counsel; consider settlement strategy; correspond with client regarding [REDACTED] send counteroffer to opposing counsel	T	0.90 0.90	360.00 360.00	324.00 324.00		
10/2/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise 30(b)(6) deposition notice as to Bour Enterprises	T	0.40 0.40	250.00 250.00	100.00 100.00		
10/16/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Teleconference with opposing counsel regarding settlement	T	0.20 0.20	360.00 360.00	72.00 72.00		
10/19/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Teleconference with opposing counsel's office regarding settlement	T	0.20 0.20	360.00 360.00	72.00 72.00		
10/27/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding [REDACTED] [REDACTED]	T	0.30 0.30	360.00 360.00	108.00 108.00		
10/29/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for deposition	T	1.70 1.70	360.00 360.00	612.00 612.00		
10/30/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for deposition	T	2.60 2.60	360.00 360.00	936.00 936.00		
11/2/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and take deposition of defendant	T	5.30 5.30	360.00 360.00	1,908.00 1,908.00		
11/4/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft motion for summary judgment regarding	T	1.90 1.90	360.00 360.00	684.00 684.00		

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Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		damages				
11/5/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft motion for summary judgment regarding damages	T	1.20 1.20	360.00 360.00	432.00 432.00
11/5/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review draft motion for summary judgment on defendant's damages; make suggested revisions(no charge)	T	0.60 0.60	250.00 0.00	150.00 0.00
11/9/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review deposition transcript; update motion for summary judgment; correspond with client regarding same	T	1.00 1.00	360.00 360.00	360.00 360.00
11/10/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise and finalize motion for summary judgment regarding damages; send status report to client	T	0.70 0.70	360.00 360.00	252.00 252.00
11/18/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare motion for summary judgment	T	3.30 3.30	360.00 360.00	1,188.00 1,188.00
11/19/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft motion for summary judgment	T	3.20 3.20	360.00 360.00	1,152.00 1,152.00
11/19/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and make suggested revisions to the motion for summary judgment on Plaintiffs' breach of contract claims (no charge)	T	0.50 0.50	250.00 0.00	125.00 0.00
11/20/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise motion for summary judgment	T	0.20 0.20	360.00 360.00	72.00 72.00

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		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
11/25/2020	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review oppositon to motion for summary judgment; send status report to client				
11/27/2020	JML	03827-59 / Commercial Specialists	T	1.00	250.00	250.00
		Bour Enterprises, LLC		1.00	250.00	250.00
		Research additional case law on [REDACTED]				
11/30/2020	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Draft client declaration in support of motion for summary judgment; correspondw ith client regarding same				
11/30/2020	JML	03827-59 / Commercial Specialists	T	2.00	250.00	500.00
		Bour Enterprises, LLC		2.00	0.00	0.00
		Finalize motion for summary judgment; compile exhibits in support thereof (no charge)				
12/1/2020	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Finalize and file motion for summary judgment				
12/1/2020	JML	03827-59 / Commercial Specialists	T	1.50	250.00	375.00
		Bour Enterprises, LLC		1.50	250.00	375.00
		Review Defendants' opposition to the motion for summary judgment on counterclaim damages; begin drafting reply to the same				
12/2/2020	JML	03827-59 / Commercial Specialists	T	3.30	250.00	825.00
		Bour Enterprises, LLC		3.30	250.00	825.00
		Continue drafting reply brief in support of motion for summary judgment regarding counterclaim damages				
12/3/2020	FTE	03827-59 / Commercial Specialists	T	0.20	360.00	72.00
		Bour Enterprises, LLC		0.20	360.00	72.00
		Send status report to client				
12/3/2020	JML	03827-59 / Commercial Specialists	T	4.90	250.00	1,225.00
		Bour Enterprises, LLC		4.90	0.00	0.00
		Continue drafting reply in support of motion for				

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Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		summary judgment on counterclaim damages				
12/4/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise reply in support of motion for summary judgment regarding damages; correspond with client regarding [REDACTED]	T	0.80 0.80	360.00 360.00	288.00 288.00
12/4/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Finish drafting reply in support of motion for summary judgment on counterclaim damages	T	0.20 0.20	250.00 250.00	50.00 50.00
12/14/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for hearing on summary judgment regarding damages	T	1.40 1.40	360.00 360.00	504.00 504.00
12/15/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and attend hearing on damages; consider strategy; send status report to client	T	1.90 1.90	360.00 360.00	684.00 684.00
12/17/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Conduct legal research regarding [REDACTED] [REDACTED] [REDACTED]	T	2.00 2.00	250.00 250.00	500.00 500.00
12/17/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review opposition to motion for summary judgment and consider response thereto; consider [REDACTED] strategy	T	0.40 0.40	360.00 360.00	144.00 144.00
12/18/2020	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Consider [REDACTED] research; correspond with opposing counsel; have meet and confer with opposing counsel	T	0.80 0.80	360.00 360.00	288.00 288.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
12/18/2020	JML	03827-59 / Commercial Specialists	T	4.10	250.00	1,025.00
		Bour Enterprises, LLC		4.10	0.00	0.00
		Draft memorandum regarding [REDACTED] [REDACTED] begin drafting motion in limine				
12/20/2020	JML	03827-59 / Commercial Specialists	T	2.80	250.00	700.00
		Bour Enterprises, LLC		2.80	250.00	700.00
		Continue drafting motion in limine; research additional case law [REDACTED]				
12/21/2020	FTE	03827-59 / Commercial Specialists	T	0.70	360.00	252.00
		Bour Enterprises, LLC		0.70	360.00	252.00
		Revise motion in limine				
12/21/2020	JML	03827-59 / Commercial Specialists	T	2.00	250.00	500.00
		Bour Enterprises, LLC		2.00	250.00	500.00
		Continue drafting the motion in limine regarding Defendants' damages; review Bour's opposition to the motion for summary judgment on Plaintiffs' claims				
12/22/2020	JML	03827-59 / Commercial Specialists	T	1.10	250.00	275.00
		Bour Enterprises, LLC		1.10	250.00	275.00
		Finish drafting the motion in limine to exclude evidence of damages				
12/22/2020	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Revise motion in limine				
12/23/2020	FTE	03827-59 / Commercial Specialists	T	0.10	360.00	36.00
		Bour Enterprises, LLC		0.10	360.00	36.00
		Correspond with client regarding [REDACTED]				
12/23/2020	JML	03827-59 / Commercial Specialists	T	2.60	250.00	650.00
		Bour Enterprises, LLC		2.60	250.00	650.00
		Review Defendants' opposition to the motion for summary judgment on breach of contract claims; begin outlining arguments for reply brief; legal research [REDACTED]				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
12/29/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Begin drafting reply in support of motion for summary judgment on breach of contract claims	T	6.00 6.00	250.00 0.00	1,500.00 0.00
12/30/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting reply brief in support of motion for summary judgment on breach of contract claims	T	3.50 3.50	250.00 250.00	875.00 875.00
12/31/2020	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting reply in support of motion for summary judgment on breach of contract claims	T	2.90 2.90	250.00 250.00	725.00 725.00
1/4/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise reply brief; correspond with client regarding [REDACTED]	T	0.80 0.80	360.00 360.00	288.00 288.00
1/4/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting reply in support of motion for summary judgment on breach of contract claims	T	0.70 0.70	250.00 250.00	175.00 175.00
1/5/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Finalize and filed reply brief; send status report to client	T	0.40 0.40	360.00 360.00	144.00 144.00
1/11/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Teleconferences with opposing counsel; correspond with opposing counsel; correspond with client; prepare for hearing	T	2.70 2.70	360.00 360.00	972.00 972.00
1/11/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Consider potential questions that may arise at summary judgment hearing and draft proposed answers to the same	T	2.00 2.00	250.00 250.00	500.00 500.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
1/12/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Prepare for and attend summary judgment hearing; send status report to client; correspond with opposing counsel regarding settlement and financials	T	2.40 2.40	360.00 360.00	864.00 864.00
1/12/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Attend motion for summary judgment hearing via teleconference	T	0.30 0.30	250.00 0.00	75.00 0.00
1/14/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting Order on Motion for Summary Judgment on Breach of Contract Claims	T	5.40 5.40	250.00 0.00	1,350.00 0.00
1/19/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review and revise proposed order on summary judgment	T	0.60 0.60	360.00 360.00	216.00 216.00
1/19/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting order granting motion for summary judgment and judgment; research statutory pre- and post-judgment interest requirements	T	2.50 2.50	250.00 0.00	625.00 0.00
1/20/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting Order Granting Summary Judgment and Judgment	T	2.40 2.40	250.00 0.00	600.00 0.00
1/20/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise order and judgment	T	0.60 0.60	360.00 360.00	216.00 216.00
1/21/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding the order and judgment	T	0.40 0.40	360.00 360.00	144.00 144.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
1/22/2021	JML	03827-59 / Commercial Specialists	T	0.30	250.00	75.00
		Bour Enterprises, LLC		0.30	250.00	75.00
		Finalize proposed order granting summary judgment and judgment				
1/22/2021	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Review revised order; correspond with opposing counsel regarding same				
1/25/2021	JML	03827-59 / Commercial Specialists	T	0.50	250.00	125.00
		Bour Enterprises, LLC		0.50	250.00	125.00
		Review Attorney Graf's proposed revisions to the Order granting summary judgment; make recommendation as to which proposed revisions should be accepted and rejected; contact court regarding whether Judgment should be submitted simultaneously with Order granting summary judgment				
1/25/2021	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review proposed revisions to order from opposing counsel; correspond with opposing counsel regarding same; teleconference with opposing counsel's office regarding submission of orders				
1/28/2021	JML	03827-59 / Commercial Specialists	T	0.60	250.00	150.00
		Bour Enterprises, LLC		0.60	250.00	150.00
		Revise proposed judgment to reflect date of entry of order granting summary judgment; research [REDACTED]; consider arguments in reply				
1/28/2021	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Review order entered by court; prepare notice of entry of order; send status report to client; correspond with opposing counsel regarding judgment; consider deadlines to request fees and costs; teleconference with opposing counsel regarding settlement; send status report to client				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
2/1/2021	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Review scheduled hearing dates and consider strategy				
2/2/2021	FTE	03827-59 / Commercial Specialists	T	0.60	360.00	216.00
		Bour Enterprises, LLC		0.60	360.00	216.00
		Review feedback from court on judgment; revise judgment				
2/8/2021	JML	03827-59 / Commercial Specialists	T	0.20	250.00	50.00
		Bour Enterprises, LLC		0.20	250.00	50.00
		Call Court to confirm status of proposed judgment and forthcoming pre-trial conference				
2/8/2021	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Correspond with client; prepare for pre-trial hearing				
2/9/2021	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Prepare for and attend pre-hearing conference; review motion for attorney lien; send status report to client				
2/9/2021	JML	03827-59 / Commercial Specialists	T	7.00	250.00	1,750.00
		Bour Enterprises, LLC		7.00	250.00	1,750.00
		Draft the motion for entry of judgment				
2/10/2021	FTE	03827-59 / Commercial Specialists	T	1.40	360.00	504.00
		Bour Enterprises, LLC		1.40	360.00	504.00
		Review and revise motion for entry of judgment; research [REDACTED]; send status report to client				
2/10/2021	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Correspond with opposing counsel regarding lien motion				
2/10/2021	JML	03827-59 / Commercial Specialists	T	1.70	250.00	425.00
		Bour Enterprises, LLC		1.70	0.00	0.00
		Continue drafting motion for entry of judgment;				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
		compile exhibits in support thereof; research [REDACTED] [REDACTED] [REDACTED]				
2/11/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review notice of hearing and order setting trial; consdier strategy; send status report to client	T	0.60 0.60	360.00 360.00	216.00 216.00
2/15/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Draft ex parte motion for order shortening time	T	0.90 0.90	250.00 250.00	225.00 225.00
2/16/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise and finalize requeust for order shortening time	T	0.20 0.20	360.00 360.00	72.00 72.00
2/18/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review order shortening time; prepare notice of entry of order; send status report to client	T	0.30 0.30	360.00 360.00	108.00 108.00
2/23/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding briefing deadlines	T	0.20 0.20	360.00 360.00	72.00 72.00
2/24/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review opposition to motion for entry of judgment; draft reply brief	T	2.80 2.80	360.00 360.00	1,008.00 1,008.00
2/24/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review reply in support of motion for entry of judgment and suggest revisions thereto	T	0.20 0.20	250.00 250.00	50.00 50.00
2/25/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with client regarding [REDACTED] [REDACTED]	T	0.30 0.30	360.00 360.00	108.00 108.00

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/1/2021	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Teleconferences with Attorney Carson regarding settlement; correspond with client regarding [REDACTED] prepare for hearing				
3/2/2021	FTE	03827-59 / Commercial Specialists	T	1.80	360.00	648.00
		Bour Enterprises, LLC		1.80	360.00	648.00
		Prepare for and attend hearing; correspond with opposing counsel regarding settlement; send status report to client				
3/2/2021	JML	03827-59 / Commercial Specialists	T	0.40	250.00	100.00
		Bour Enterprises, LLC		0.40	250.00	100.00
		Attend hearing on motion for judgment and consider strategy for potential bench trial				
3/3/2021	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Review minute order; correspond with client regarding [REDACTED]				
3/4/2021	FTE	03827-59 / Commercial Specialists	T	0.90	360.00	324.00
		Bour Enterprises, LLC		0.90	360.00	324.00
		Draft order granting motion for judgment				
3/5/2021	FTE	03827-59 / Commercial Specialists	T	0.80	360.00	288.00
		Bour Enterprises, LLC		0.80	360.00	288.00
		Review order and judgment; correspond with opposing counsel regarding same; review order from Ms. Black; send status report to client				
3/8/2021	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Review correspondence from opposing counsel; finalize order and judgment for submission to court				
3/9/2021	FTE	03827-59 / Commercial Specialists	T	0.30	360.00	108.00
		Bour Enterprises, LLC		0.30	360.00	108.00
		Review order granting motion and judgment; prepare notices of entry of order and judgment; send status report to client				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

		MatterID/Client Sort				
		Matter Description	Component	Units	Price	Value
Date	Prof	Narrative	Task Code	Stm Units	Stm Price	Ext Amount
3/9/2021	JML	03827-59 / Commercial Specialists	T	0.40	250.00	100.00
		Bour Enterprises, LLC		0.40	250.00	100.00
		Review [REDACTED] [REDACTED]				
3/10/2021	JML	03827-59 / Commercial Specialists	T	2.70	250.00	675.00
		Bour Enterprises, LLC		2.70	250.00	675.00
		[REDACTED] [REDACTED] in support of affidavit of judgment; draft affidavit of judgment; review documents from K. Donahoe in support of affidavit of judgment				
3/11/2021	JML	03827-59 / Commercial Specialists	T	0.80	250.00	200.00
		Bour Enterprises, LLC		0.80	250.00	200.00
		Continue searching [REDACTED] [REDACTED] [REDACTED] [REDACTED]				
3/11/2021	FTE	03827-59 / Commercial Specialists	T	0.40	360.00	144.00
		Bour Enterprises, LLC		0.40	360.00	144.00
		Consider [REDACTED] strategy [REDACTED]; revise declaration for recorded judgment				
3/12/2021	KAH	03827-59 / Commercial Specialists	T	0.50	220.00	110.00
		Bour Enterprises, LLC		0.50	220.00	110.00
		Electronically record with the Clark County Recorder's Office the Judgment Against Bour Enterprises, LLC; download recorded document to incorporate into permanant file; email same to Attorney Edwards				
3/12/2021	FTE	03827-59 / Commercial Specialists	T	0.10	360.00	36.00
		Bour Enterprises, LLC		0.10	360.00	36.00
		Send status report to client				
3/15/2021	JML	03827-59 / Commercial Specialists	T	1.90	250.00	475.00
		Bour Enterprises, LLC		1.90	250.00	475.00
		Review costs transaction listing; draft memo of costs				
3/15/2021	FTE	03827-59 / Commercial Specialists	T	0.10	360.00	36.00
		Bour Enterprises, LLC		0.10	360.00	36.00
		Correspond with client				

Transactions Listing with billed amounts

Search for: 03827-59 Search by: Matter ID Stage: (all) Type: Fees

Date	Prof	MatterID/Client Sort Matter Description Narrative	Component Task Code	Units Stm Units	Price Stm Price	Value Ext Amount
3/15/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Revise memorandum of costs	T	0.40 0.40	360.00 360.00	144.00 144.00
3/18/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Review motion to retax costs and consider response thereto; send status report to client; review amended motion to retax; correspond with co-counsel regarding same	T	0.80 0.80	360.00 360.00	288.00 288.00
3/18/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Review motion to retax costs	T	0.20 0.20	250.00 250.00	50.00 50.00
3/23/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Begin drafting motion for fees and costs	T	0.50 0.50	250.00 250.00	125.00 125.00
3/23/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Correspond with opposing counsel regarding attorney fees	T	0.20 0.20	360.00 360.00	72.00 72.00
3/24/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Consider strategy for request for fees and costs	T	0.30 0.30	360.00 360.00	108.00 108.00
3/25/2021	FTE	03827-59 / Commercial Specialists Bour Enterprises, LLC Consider strategy; send status report to client; review and revise motion for attorney fees	T	1.20 1.20	360.00 360.00	432.00 432.00
3/25/2021	JML	03827-59 / Commercial Specialists Bour Enterprises, LLC Continue drafting motion for fees and costs	T	6.30 6.30	250.00 250.00	1,575.00 1,575.00
Grand Total			Worked:	373.64		97,977.00
			Billed:	373.64		88,145.00

EXHIBIT 3





STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - NET AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only April 20, 2017, is made by and between 4520 ARVILLE, a California general partnership and MCKINLEY MANOR, an Idaho general partnership, as tenants in common ("Lessor") and BOUR ENTERPRISES LLC, a Nevada limited liability company

_____, ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 4560 South Arville Street, C-10 & 29, located in the City of Las Vegas, County of Clark, State of Nevada, with zip code 89103, as outlined on Exhibit A attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): Approximately 4,560 square feet of industrial/warehouse space located in the Project known as "Arville Industrial Park"

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, exterior walls or utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) **Parking:** Four (4) unreserved vehicle parking spaces ("Unreserved Parking Spaces"); and n/a reserved vehicle parking spaces ("Reserved Parking Spaces"). (See also Paragraph 2.6)

1.3 **Term:** Two (2) years and one (1) months ("Original Term") commencing May 1, 2017 ("Commencement Date") and ending May 31, 2019 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** Upon Lease execution ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$ 1,824.00 per month ("Base Rent"), payable on the 1st day of each month commencing on the Commencement Date. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 **Lessee's Share of Common Area Operating Expenses:** Two and 86/100 percent (2.86 %) ("Lessee's Share").

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) **Base Rent:** \$ 1,824.00 for the period 05/01/2017-05/31/2017.
- (b) **Common Area Operating Expenses:** \$ 912.00 for the period 05/01/2017-05/31/2017.
- (c) **Security Deposit:** \$ 2,736.00 ("Security Deposit"). (See also Paragraph 5)
- (d) **Other:** \$ n/a for _____.

(e) **Total Due Upon Execution of this Lease:** \$ 5,472.00.

1.8 **Agreed Use:** Administrative operations and vehicle storage for a limousine service. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 Real Estate Brokers: (also Paragraph 15)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- ☒ Commercial Specialists represents Lessor exclusively ("Lessor's Broker");
☐ n/a represents Lessee exclusively ("Lessee's Broker"); or
☐ n/a represents both Lessor and Lessee ("Dual Agency").

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of (per agreement) or ---- % of the total Base Rent for the brokerage services rendered by the Brokers).

1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by MULUGETA BOUR, an individual, and HILENA K. MENGESHA, an individual ("Guarantor"). (See also Paragraph 37)

1.12 Addenda and Exhibits. Attached hereto is an Addendum or Addenda consisting of Paragraphs 1 through 5 and Exhibits A through B, all of which constitute a part of this Lease.

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.

2.2 Condition. Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date and that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

2.3 Compliance. Lessor warrants that the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for the portion of such costs reasonably attributable to the Premises pursuant to the formula set out in Paragraph 7.1(d); provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option

to terminate this Lease upon 90 days prior _____ an notice to Lessee unless Lessee notifies Lessor _____ writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall be fully responsible for the cost thereof, and Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of Unreserved Parking Spaces and Reserved Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "**Permitted Size Vehicles.**" Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor.

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition.** The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of

driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, circulation of traffic, landscaped areas, walkways and utility raceways;

- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Start Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) **"Common Area Operating Expenses"** are defined, for purposes of this Lease, as all costs incurred by Lessor relating to the ownership and operation of the Project, including, but not limited to, the following:

- (i) The operation, repair and maintenance, in neat, clean, good order and condition of the following:
 - (aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, and roof drainage systems.
 - (bb) Exterior signs and any tenant directories.
 - (cc) Any fire detection and/or sprinkler systems.
- (ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.
- (iii) Trash disposal, pest control services, property management, security services, and the costs of any environmental inspections.
- (iv) Reserves set aside for maintenance and repair of Common Areas.
- (v) Real Property Taxes (as defined in Paragraph 10).
- (vi) The cost of the premiums for the insurance maintained by Lessor pursuant to Paragraph 8.
- (vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

- (viii) The cost of any Capital Expenditure to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such Capital Expenditure over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month.
- (ix) Any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses shall be payable by Lessee within 10 days after a reasonably detailed statement of actual expenses is presented to Lessee. At Lessor's option, however, an amount may be estimated by Lessor from time to time of Lessee's Share of annual Common Area Operating Expenses and the same shall be payable monthly or quarterly, as Lessor shall designate, during each 12 month period of the Lease term, on the same day as the Base Rent is due hereunder. Lessor shall deliver to Lessee within 60 days after the expiration of each calendar year a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Lessee's payments under this Paragraph 4.2(d) during the preceding year exceed Lessee's Share as indicated on such statement, Lessor shall credit the amount of such over-payment against Lessee's Share of Common Area Operating Expenses next becoming due. If Lessee's payments under this Paragraph 4.2(d) during the preceding year were less than Lessee's Share as indicated on such statement, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any late charges which may be due.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

- (a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product,

substance, or waste whose presence, use, manufacture, disposal, transportation, or release, etc. by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which existed as a result of Hazardous Substances on the Premises prior to the Start Date or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Start Date, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30

days following such commitment. In such case, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a contamination is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination.

7. Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, (iii) clarifiers, and (iv) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and if Lessor so elects, Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly reimburse Lessor for the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance at a rate that is commercially reasonable in the judgment of Lessor's accountants. Lessee may, however, prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

INITIALS

INITIALS

(a) **Definitions.** The term "Utility Installations" refers to all floor and wall coverings, air lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Indemnification.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment of Premiums.** The cost of the premiums for the insurance policies required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), shall be a Common Area Operating Expense. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting

Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000, an "Additional Insured-Managers or Lessors of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such

companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor from Liability.** Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Project. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor.

Lessee shall provide Lessor with said fund satisfactory assurance thereof within 30 days after ng such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project or any portion thereof or a change in the improvements thereon. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Project, and except as otherwise provided in Paragraph 10.3, any such amounts shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request.

10.4 **Joint Assessment.** If Building is not separately assessed, Real Property taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the dumpster and/or an increase in the number of times per month that the dumpster is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) A change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% 51% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$1,000 or 10% of the current monthly Base Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such

sublease, be deemed to have assumed and agreed to conform and comply with each and every covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security,

which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("**Interest**") charged shall

be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent an amount equal to the greater of one month's Base Rent or the Security Deposit, and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of Lessee's Reserved Parking Spaces, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one

month's rent has been paid in advance. Protective purchasers and encumbrances may rely upon. Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined. Notwithstanding the above, and subject to the provisions of Paragraph 20 below, the original Lessor under this Lease, and all subsequent holders of the Lessor's interest in this Lease shall remain liable and responsible with regard to the potential duties and liabilities of Lessor pertaining to Hazardous Substances as outlined in Paragraph 6.2 above.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** Subject to the provisions of Paragraph 17 above, the obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, the individual partners of Lessor or its or their individual partners, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against the individual partners of Lessor, or its or their individual partners, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or

before the time of deposit of such payment.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship. (See attached Duties Owed by a Nevada Real Estate Licensee)

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual-agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Lease shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3,

attorn to such new owner, and upon request enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of such new owner, this Lease shall automatically become a new Lease between Lessee and such new owner, upon all of the terms and conditions hereof, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations hereunder, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "**For Sale**" signs and Lessor may during the last 6 months of the term hereof place on the Premises any ordinary "**For Lease**" signs. Lessee may at any time place on the Premises any ordinary "**For Sublease**" sign.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form _____, recently published by the AIR Commercial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted an option, as defined below, then the following provisions shall apply.

39.1 **Definition.** "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), (ii) Lessor gives to Lessee 3 or more notices of separate Default during any 12 month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. **Reservations.** Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay.

43. **Authority.** If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Multiple Parties.** If more than one person or entity is named herein as either Lessor or Lessee, such multiple Parties shall have joint and several responsibility to comply with the terms of this Lease.

48. **Waiver of Jury Trial.** The Parties hereby waive their respective rights to trial by jury in any action or proceeding involving the Property or arising out of this Agreement.

INITIALS


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49. **Mediation and Arbitration of Disputes.** An Addendum requiring the Mediation and/or Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Execute at: 7674 West Lake Mead Boulevard, 104

Executed at: _____

On: _____

on: _____

By LESSOR:

4520 ARVILLE
MCKINLEY MANOR

By LESSEE:

BOUR ENTERPRISES LLC,
a Nevada limited liability company

By: _____

Name Printed: Kevin J. Donahoe

Title: Owner Agent

By: _____

Name Printed: Mulugeta Bour

Title: Manager

By: _____

Name Printed: _____

Title: _____

Address: 7674 W. Lake Mead Blvd., 104
Las Vegas, NV 89128

By: _____

Name Printed: _____

Title: _____

Address: 4560 S. Arville Street, #23
Las Vegas, NV 89103

Telephone: (702) 364-0909

Facsimile: (702) 364-5885

Federal ID No. 95-4590150

Telephone: (702) 808-2047

Facsimile: ()

Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017. (213) 687-8777.

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m i b



By and Between (Lessor) 4520 ARVILLE, a California general partnership
and MCKINLEY MANOR, an Idaho general
partnership, as tenants in common

Address of Premises: 4560 South Arville Street, C-10 & 29, Las Vegas,
Nevada 89103

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ II. Market Rental Value Adjustment(s) (MRV)

a. On (Fill in MRV Adjustment Date(s): _____

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, ie. the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and

2) the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.

☒ III. Fixed Rental Adjustment(s) (FRA)

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):

May 1, 2018 and annually
thereafter

The New Base Rent shall be:

Base Rent to increase by \$.025
per square foot, or \$114.00
per month

B. NOTICE:

Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease.

NOTE: These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure

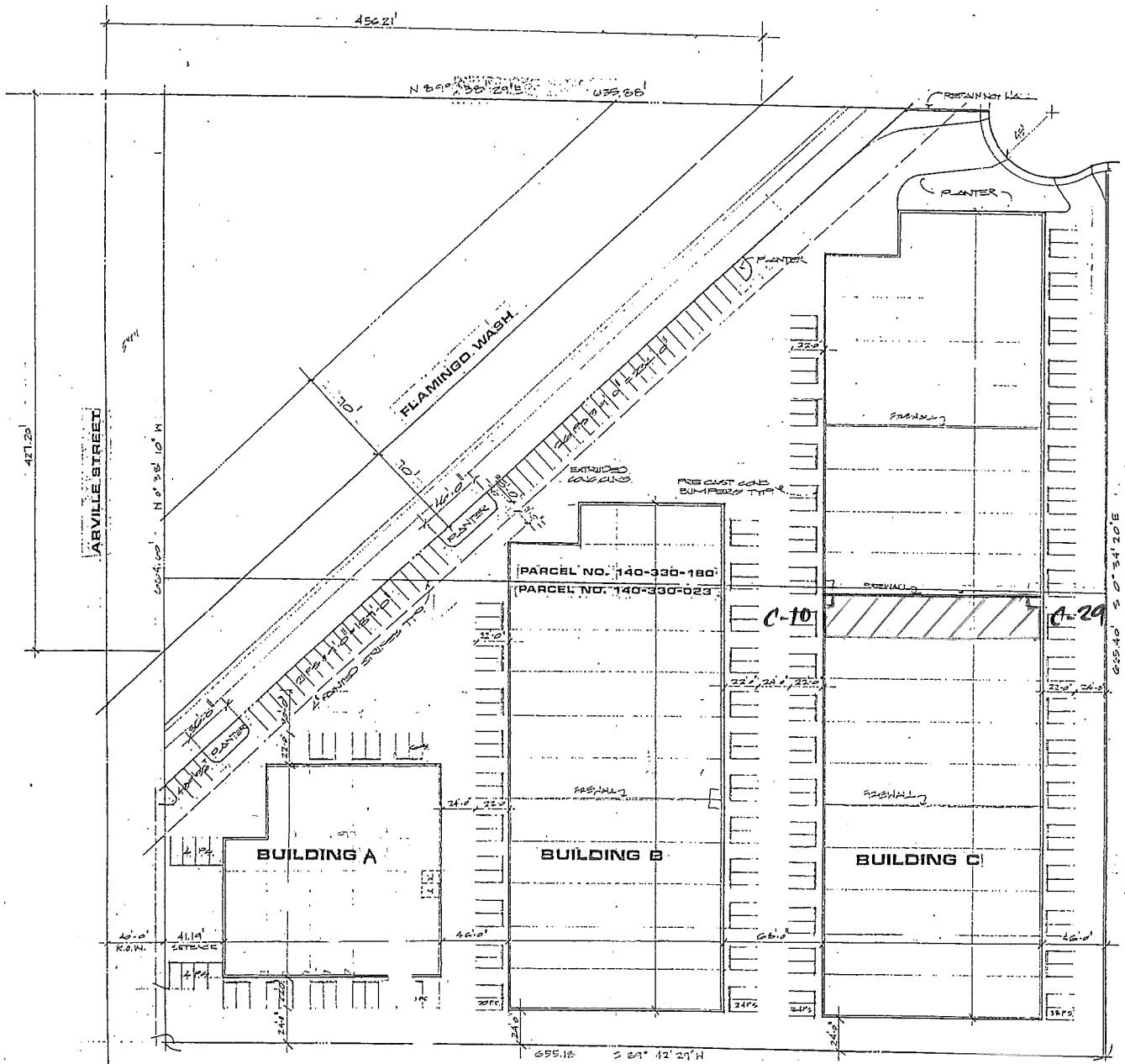
you are utilizing the most current form: AIR COMMERCIAL REAL ESTATE ASSOCIATION, 70 Flower Street, Suite 600, Los Angeles, Calif.
90017

INITIALS

PAGE 3 OF 3


INITIALS

Exhibit A



SITE PLAN

1' x 40'-0"

MB
A

Exhibit B

SIGNAGE CRITERIA

This criterion is being established to provide Lessee with signage specifications for signage conformity throughout the Project. This criterion shall be strictly enforced and any non-conforming or unapproved signage must be removed or brought into conformance within ten (10) days of Lessor's request, at the expense of the Lessee.

General Specification

1. Lessor shall determine approved signage location to Lessee upon request of Lessee.
2. Signage copy to be individual cut out letters, white in color, and affixed on the building without penetrating the surface of the building. Letters shall not to exceed three (3) feet in height.
3. Only established trade names shall be displayed.
4. Sign design, materials, copy and placement to be approved by Lessor in writing prior to installation. Lessee shall deliver to Lessor two (2) sets of plans for Lessor's approval.

General Construction Requirements

1. Lessee shall be responsible for contracting for the installation and maintenance of Lessee's signage.
2. Lessee shall be responsible for the actions of Lessee's sign contractor or vendor.
3. Lessee's sign contractor or vendor shall repair any damage to any portion of the Building structure or fascia caused by said contractor or vendor's work.
4. No signage of any type shall be directly painted on the exterior walls of the Building.
5. Sign contractor or vendor shall contact Lessor prior to commencement of any work so Lessor may inspect sign materials to insure conformance with approved drawings.
6. Lessee to pay for the cost of sign removal and building restoration at the time Lessee vacates the Premises.
7. Sign contractor or vendor shall carry Workmen's compensation and public liability insurance against all damage suffered or done to any and all persons and/or property while engaged in the installation of signage. Said insurance coverage shall be a minimum of \$1,000,000.00. A copy of the policy or certificate of insurance naming Lessor as additional insured shall be delivered to Lessor prior to signage installation.

mib
AK

LEASE ADDENDUM

This Lease Addendum is made and entered into on this 20th day of April, 2017, and is hereby attached to and becomes a part of the Lease dated April 20, 2017 by and between 4520 ARVILLE, a California general partnership, and MCKINLEY MANOR, an Idaho general partnership, as tenants in Common, hereinafter referred to as "Lessor", and BOUR ENTERPRISES LLC, a Nevada limited liability company, hereinafter referred to as "Lessee".

RECITALS:

WHEREAS, Lessee and Lessor desire to amend the Lease between the parties for the Premises known as 4560 South Arville Street, C-10 & 29, Las Vegas, Nevada 89103.

TERMS:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the Lease, and this Lease Addendum, the parties agree as follows:

1. Condition of Premises. Lessor, at Lessor's cost, shall make sure that the overhead florescent light fixtures, electrical outlets, plumbing, and doors are in proper working order at the commencement of the Lease; otherwise, Lessee hereby accepts the Premises in "as-is" condition with any additional alterations and improvements to be completed at Lessee's expense and in accordance with Section 7 of Lease.

2. Trash Disposal. In the areas where garbage dumpsters are provided within the Project, Lessee may utilize the dumpsters for waste paper and incidental trash only. Packing skids, boxes, and construction materials are not to be placed in or around dumpsters. It is the sole responsibility of Lessee to dispose of excessive trash and packaging materials away from the Project or to obtain Lessee's own dumpster at Lessee's own expense. Trash or materials stored outside of the Premises by Lessee,

A handwritten signature in black ink, appearing to be 'MB' or similar, located at the bottom right of the page.

and not disposed of properly in a dumpster is prohibited, and Lessor shall have the right to charge Lessee for the cost of properly disposing of said trash or materials in addition to any fine that the Lessor may levy against Lessee for such offense.

3. Lessee's Share. Lessee's Share of Common Area Operating Expenses to be paid by Lessee to Lessor shall be no less than \$.20 per square foot, per month, or Nine Hundred Twelve and No/00 Dollars (\$912.00), for the duration of the Term of the Lease.

4. Lessee's Vehicles. Lessee, at Lessee's cost, shall take all necessary precautions to protect the concrete slab and walls of the Premises from automotive spills of any chemicals or petroleum products which may come into contact with the floor or walls as a result of the operation of Lessee's business, and Lessee shall not leave Lessee's vehicles parked outside of the Premises in the parking areas overnight.

5. Rent Abatement. As consideration for Lessee's performance of all obligations to be performed by Lessee under the Lease, and provided Lessee is not in default of the Lease, Lessor shall credit Lessee's rental account Two Thousand Seven Hundred Thirty-six and No/00 Dollars (\$2,736.00) for Month 1 of the Lease.

Except as amended by this Lease Addendum, all the provisions, terms and conditions of the Lease shall remain in full force and effect and the same is hereby ratified and confirmed.

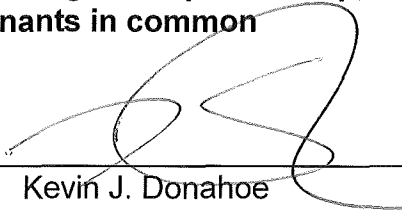
Signatures to follow

m B
OK

IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of this date.

LESSOR:

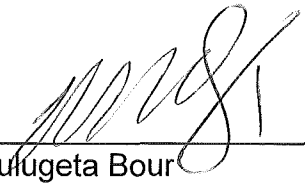
4520 ARVILLE, a California general partnership, and MCKINLEY MANOR, an Idaho general partnership, as tenants in common

By: 
Kevin J. Donahoe

Its: Owner Agent

LESSEE:

BOUR ENTERPRISES LLC, a Nevada limited liability company

By: 
Mulugeta Bour

Its: Manager



AIR COMMERCIAL REAL ESTATE ASSOCIATION GUARANTY OF LEASE

WHEREAS, 4520 ARVILLE, a California general partnership and MCKINLEY MANOR, an Idaho general partnership, as tenants in common, hereinafter "Lessor", and BOUR ENTERPRISES LLC, a Nevada limited liability company

, hereinafter "Lessee", are about to execute a document entitled "Lease" dated April 20, 2017 concerning the premises commonly known as 4560 South Arville Street, C-10 & 29, Las Vegas, Nevada 89103 wherein Lessor will lease the premises to Lessee, and

WHEREAS, MULUGETA BOUR, an individual, and HILENA MENGESHA, an individual hereinafter "Guarantors" have a financial interest in Lessee, and

WHEREAS, Lessor would not execute the Lease if Guarantors did not execute and deliver to Lessor this Guarantee of Lease.

NOW THEREFORE, in consideration of the execution of the foregoing Lease by Lessor and as a material inducement to Lessor to execute said Lease, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Lessee of all rents and all other sums payable by Lessee under said Lease and the faithful and prompt performance by Lessee of each and every one of the terms, conditions and covenants of said Lease to be kept and performed by Lessee.

It is specifically agreed that the terms of the foregoing Lease may be modified by agreement between Lessor and Lessee, or by a course of conduct, and said Lease may be assigned by Lessor or any assignee of Lessor without consent or notice to Guarantors and that this Guaranty shall guarantee the performance of said Lease as so modified.

This Guaranty shall not be released, modified or affected by the failure or delay on the part of Lessor to enforce any of the rights or remedies of the Lessor under said Lease, whether pursuant to the terms thereof or at law or in equity.

No notice of default need be given to Guarantors, it being specifically agreed that the guarantee of the undersigned is a continuing guarantee under which Lessor may proceed immediately against Lessee and/or against Guarantors following any breach or default by Lessee or for the enforcement of any rights which Lessor may have as against Lessee under the terms of the Lease or at law or in equity.

Lessor shall have the right to proceed against Guarantors hereunder following any breach or default by Lessee without first proceeding against Lessee and without previous notice to or demand upon either Lessee or Guarantors.

Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Lease, (d) any right to require the Lessor to proceed against the Lessee or any other Guarantor or any other person or entity liable to Lessor, (e) any right to require Lessor to apply to any default any security deposit or other security it may hold under the Lease, (f) any right to require Lessor to proceed under any other remedy Lessor may have before proceeding against Guarantors, (g) any right of subrogation.

Guarantors do hereby subrogate all existing or future indebtedness of Lessee to Guarantors to the obligations owed to Lessor under the Lease and this Guaranty.

If a Guarantor is married, such Guarantor expressly agrees that recourse may be had against his or her separate property for all of the obligations hereunder.

The obligations of Lessee under the Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantors hereunder to do and provide the same.

The term "Lessor" refers to and means the Lessor named in the Lease and also Lessor's successors and assigns. So long as Lessor's interest in the Lease, the leased premises or the rents, issues and profits therefrom, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantors of the Lessor's interest shall affect the continuing obligation of Guarantors under this Guaranty which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee or assignee under such mortgage, deed of trust or

assignment and their successors and assign

The term "Lessee" refers to and means the Lessee named in the Lease and also Lessee's successors and assigns.

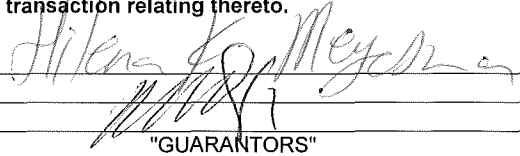
In the event any action be brought by said Lessor against Guarantors hereunder to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee which shall be fixed by the court.

If this Form has been filled in, it has been prepared for submission to your attorney for his approval. No representation or recommendation is made by the AIR Commercial Real Estate Association, the real estate broker or its agents or employees as to the legal sufficiency, legal effect, or tax consequences of this Form or the transaction relating thereto.

Executed at: _____

On: _____

Address: _____



"GUARANTORS"

EXHIBIT 4





STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - NET AIR COMMERCIAL REAL ESTATE ASSOCIATION

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only April 20, 2017, is made by and between 4520 ARVILLE, a California general partnership and MCKINLEY MANOR, an Idaho general partnership, as tenants in common ("Lessor") and BOUR ENTERPRISES LLC, a Nevada limited liability company

("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 4560 South Arville Street, C-23 & 24, located in the City of Las Vegas, County of Clark, State of Nevada, with zip code 89103, as outlined on Exhibit A attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): Approximately 4,560 square feet of industrial/warehouse space located in the Project known as "Arville Industrial Park"

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, exterior walls or utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) **Parking:** Four (4) unreserved vehicle parking spaces ("Unreserved Parking Spaces"); and n/a reserved vehicle parking spaces ("Reserved Parking Spaces"). (See also Paragraph 2.6)

1.3 **Term:** Two (2) years and one (1) months ("Original Term") commencing May 1, 2017 ("Commencement Date") and ending May 31, 2019 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** Upon Lease execution ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$ 1,824.00 per month ("Base Rent"), payable on the 1st day of each month commencing on the Commencement Date. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 **Lessee's Share of Common Area Operating Expenses:** Two and 86/100 percent (2.86 %) ("Lessee's Share").

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) **Base Rent:** \$ 1,824.00 for the period 05/01/2017-05/31/2017.
- (b) **Common Area Operating Expenses:** \$ 912.00 for the period 05/01/2017-05/31/2017.
- (c) **Security Deposit:** \$ 2,736.00 ("Security Deposit"). (See also Paragraph 5)
- (d) **Other:** \$ n/a for .

(e) **Total Due Upon Execution of this Lease:** \$ 5,472.00.

1.8 **Agreed Use:** Administrative operations and vehicle storage for a limousine service. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 Real Estate Brokers: (See Paragraph 15)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- ☒ Commercial Specialists _____ represents Lessor exclusively ("Lessor's Broker");
☐ n/a _____ represents Lessee exclusively ("Lessee's Broker"); or
☐ n/a _____ represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of (per agreement) or ---- % of the total Base Rent for the brokerage services rendered by the Brokers).

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by MULUGETA BOUR, an individual, and HILENA K. MENGESHA, an individual ("Guarantor"). (See also Paragraph 37)

1.12 **Addenda and Exhibits.** Attached hereto is an Addendum or Addenda consisting of Paragraphs 1 through 5 and Exhibits A through B, all of which constitute a part of this Lease.

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date and that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

2.3 **Compliance.** Lessor warrants that the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for the portion of such costs reasonably attributable to the Premises pursuant to the formula set out in Paragraph 7.1(d); provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option

to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall be fully responsible for the cost thereof, and Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of Unreserved Parking Spaces and Reserved Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "**Permitted Size Vehicles.**" Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor.

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition.** The term "**Common Areas**" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of

driveways, entrances, parking spaces, parking aisles, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

- (b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;
- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Start Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) **"Common Area Operating Expenses"** are defined, for purposes of this Lease, as all costs incurred by Lessor relating to the ownership and operation of the Project, including, but not limited to, the following:

- (i) The operation, repair and maintenance, in neat, clean, good order and condition of the following:
 - (aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, and roof drainage systems.
 - (bb) Exterior signs and any tenant directories.
 - (cc) Any fire detection and/or sprinkler systems.
- (ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.
- (iii) Trash disposal, pest control services, property management, security services, and the costs of any environmental inspections.
- (iv) Reserves set aside for maintenance and repair of Common Areas.
- (v) Real Property Taxes (as defined in Paragraph 10).
- (vi) The cost of the premiums for the insurance maintained by Lessor pursuant to Paragraph 8.
- (vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

- (viii) The cost of any Capital Expenditure to the Building or the Project covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such Capital Expenditure over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month.
- (ix) Any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses shall be payable by Lessee within 10 days after a reasonably detailed statement of actual expenses is presented to Lessee. At Lessor's option, however, an amount may be estimated by Lessor from time to time of Lessee's Share of annual Common Area Operating Expenses and the same shall be payable monthly or quarterly, as Lessor shall designate, during each 12 month period of the Lease term, on the same day as the Base Rent is due hereunder. Lessor shall deliver to Lessee within 60 days after the expiration of each calendar year a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Lessee's payments under this Paragraph 4.2(d) during the preceding year exceed Lessee's Share as indicated on such statement, Lessor shall credit the amount of such over-payment against Lessee's Share of Common Area Operating Expenses next becoming due. If Lessee's payments under this Paragraph 4.2(d) during the preceding year were less than Lessee's Share as indicated on such statement, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any late charges which may be due.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

- (a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product,

substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which existed as a result of Hazardous Substances on the Premises prior to the Start Date or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Start Date, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30

days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a contamination is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination.

7. Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, (iii) clarifiers, and (iv) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and if Lessor so elects, Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly reimburse Lessor for the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (ie. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance at a rate that is commercially reasonable in the judgment of Lessor's accountants. Lessee may, however, prepay its obligation at any time.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Indemnification.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment of Premiums.** The cost of the premiums for the insurance policies required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), shall be a Common Area Operating Expense. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting

Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000, an "Additional Insured-Managers or Lessors of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such

companies may have against Lessor or Lessee, in any case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor from Liability.** Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Project. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. **Damage or Destruction.**

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor.

Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project or any portion thereof or a change in the improvements thereon. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Project, and except as otherwise provided in Paragraph 10.3, any such amounts shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the dumpster and/or an increase in the number of times per month that the dumpster is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) A change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% 51% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$1,000 or 10% of the current monthly Base Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such

sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security,

which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("**Interest**") charged shall

be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent an amount equal to the greater of one month's Base Rent or the Security Deposit, and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of Lessee's Reserved Parking Spaces, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third-party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third-party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one

month's rent has been paid in advance. Prospective purchasers and encumbrances may rely upon the Responding Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined. Notwithstanding the above, and subject to the provisions of Paragraph 20 below, the original Lessor under this Lease, and all subsequent holders of the Lessor's interest in this Lease shall remain liable and responsible with regard to the potential duties and liabilities of Lessor pertaining to Hazardous Substances as outlined in Paragraph 6.2 above.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** Subject to the provisions of Paragraph 17 above, the obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, the individual partners of Lessor or its or their individual partners, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against the individual partners of Lessor, or its or their individual partners, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or

before the time of deposit of such payment.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship. (See attached Duties Owed by a Nevada Real Estate Licensee)

(a) ~~When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:~~

~~(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.~~

~~(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.~~

~~(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Lease shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.~~

~~(c) Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.~~

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3,

attorn to such new owner, and upon request, el. into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of such new owner, this Lease shall automatically become a new Lease between Lessee and such new owner, upon all of the terms and conditions hereof, for the remainder of the term hereof, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations hereunder, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "**For Sale**" signs and Lessor may during the last 6 months of the term hereof place on the Premises any ordinary "**For Lease**" signs. Lessee may at any time place on the Premises any ordinary "**For Sublease**" sign.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted an option, as defined below, then the following provisions shall apply.

39.1 **Definition.** "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), (ii) Lessor gives to Lessee 3 or more notices of separate Default during any 12 month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. **Reservations.** Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay.

43. **Authority.** If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. **Multiple Parties.** If more than one person or entity is named herein as either Lessor or Lessee, such multiple Parties shall have joint and several responsibility to comply with the terms of this Lease.

48. **Waiver of Jury Trial.** The Parties hereby waive their respective rights to trial by jury in any action or proceeding involving the Property or arising out of this Agreement.

49. **Mediation and Arbitration of Disputes.** An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Execute at: 7674 West Lake Mead Boulevard, 104 Executed at: _____
On: _____ on: _____

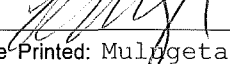
By LESSOR:

4520 ARVILLE
MCKINLEY MANOR

By: 
Name Printed: Kevin J. Donahoe
Title: Owner Agent

By LESSEE:

BOUR ENTERPRISES LLC,
a Nevada limited liability company

By: 
Name Printed: Mulygeta Bour
Title: Manager

By: _____
Name Printed: _____
Title: _____
Address: 7674 W. Lake Mead Blvd., 104
Las Vegas, NV 89128

By: _____
Name Printed: _____
Title: _____
Address: 4560 S. Arville Street, #23
Las Vegas, NV 89103

Telephone: (702) 364-0909
Facsimile: (702) 364-5885
Federal ID No. 95-4590150

Telephone: (702) 808-2047
Facsimile: ()
Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017. (213) 687-8777.

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RENT ADJUSTMENT(S) STANDARD LEASE ADDENDUM

Dated April 20, 2017

By and Between (Lessor) 4520 ARVILLE, a California general partnership
and MCKINLEY MANOR, an Idaho general
partnership, as tenants in common

(Lessee) BOUR ENTERPRISES LLC, a Nevada limited
liability company

Address of Premises: 4560 South Arville Street, C-23 & 24, Las Vegas,
Nevada 89103

Paragraph 1.5

A. RENT ADJUSTMENTS:

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below:

(Check Method(s) to be Used and Fill in Appropriately)

☐ **I. Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Dates): May 1, 2018, and annually thereafter

the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☒ CPI U (All Urban Consumers), for (Fill in Urban Area):

Los Angeles-Riverside-Orange County

, All Items

(1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the ☒ first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): . The sum so calculated shall

constitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than 110 percent (110%) of the rent payable for the month immediately preceding the rent adjustment.

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c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ II. Market Rental Value Adjustment(s) (MRV)

a. On (Fill in MRV Adjustment Date(s): _____

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, ie. the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and

2) the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.

☒ III. Fixed Rental Adjustment(s) (FRA)

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):

May 1, 2018 and annually
thereafter

The New Base Rent shall be:

Base Rent to increase by \$.025
per square foot, or \$114.00
per month

B. NOTICE:

Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease.

NOTE: These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure

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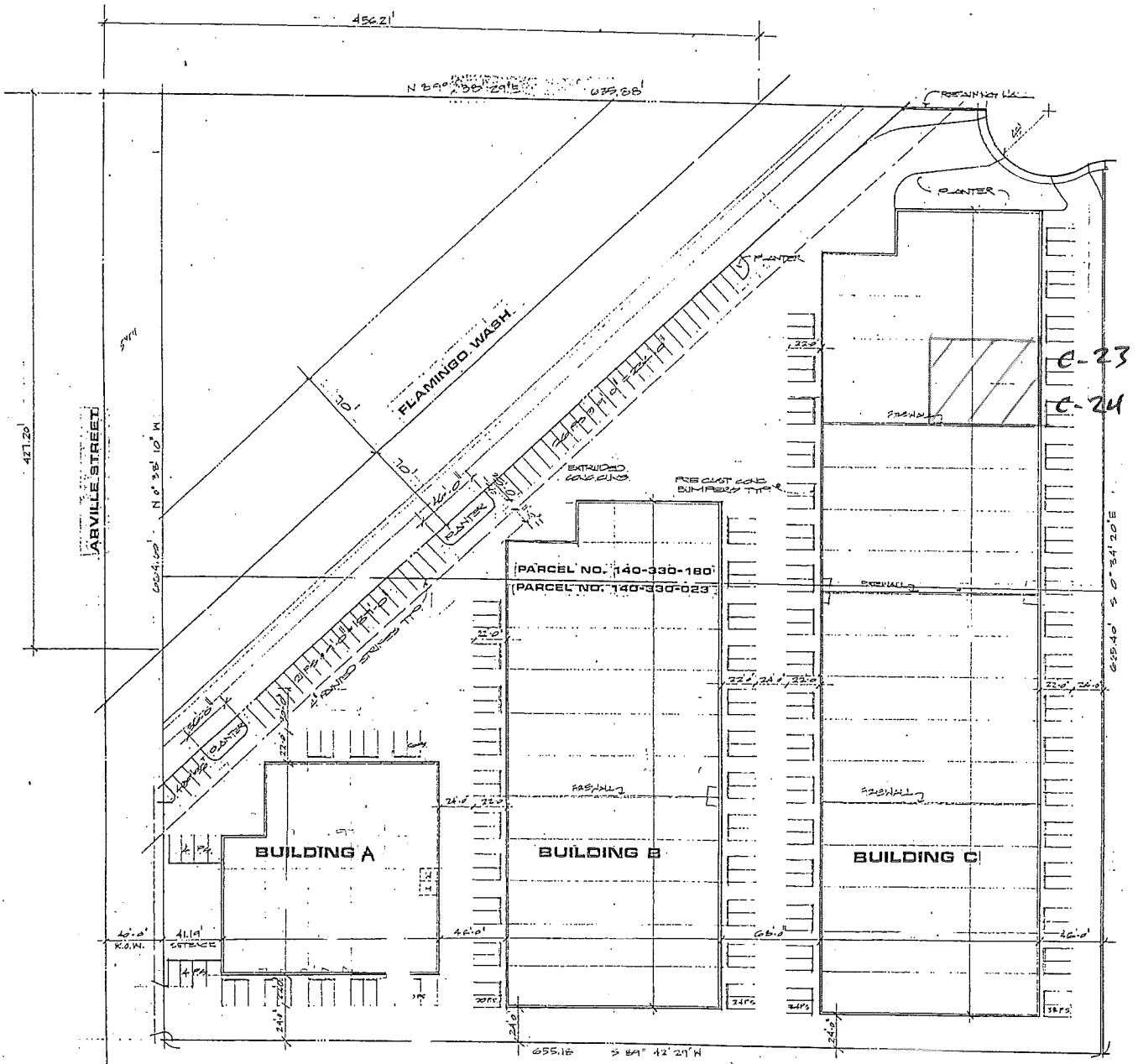
you are utilizing the most current form: AIR COMMERCIAL REAL ESTATE ASSOCIATION, 700 S. Flower Street, Suite 600, Los Angeles, Calif. 90017

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Exhibit A



SITE PLAN

1' 40' 0"

[Signature] M.B.

Exhibit B

SIGNAGE CRITERIA

This criterion is being established to provide Lessee with signage specifications for signage conformity throughout the Project. This criterion shall be strictly enforced and any non-conforming or unapproved signage must be removed or brought into conformance within ten (10) days of Lessor's request, at the expense of the Lessee.

General Specification

1. Lessor shall determine approved signage location to Lessee upon request of Lessee.
2. Signage copy to be individual cut out letters, white in color, and affixed on the building without penetrating the surface of the building. Letters shall not to exceed three (3) feet in height.
3. Only established trade names shall be displayed.
4. Sign design, materials, copy and placement to be approved by Lessor in writing prior to installation. Lessee shall deliver to Lessor two (2) sets of plans for Lessor's approval.

General Construction Requirements

1. Lessee shall be responsible for contracting for the installation and maintenance of Lessee's signage.
2. Lessee shall be responsible for the actions of Lessee's sign contractor or vendor.
3. Lessee's sign contractor or vendor shall repair any damage to any portion of the Building structure or fascia caused by said contractor or vendor's work.
4. No signage of any type shall be directly painted on the exterior walls of the Building.
5. Sign contractor or vendor shall contact Lessor prior to commencement of any work so Lessor may inspect sign materials to insure conformance with approved drawings.
6. Lessee to pay for the cost of sign removal and building restoration at the time Lessee vacates the Premises.
7. Sign contractor or vendor shall carry Workmen's compensation and public liability insurance against all damage suffered or done to any and all persons and/or property while engaged in the installation of signage. Said insurance coverage shall be a minimum of \$1,000,000.00. A copy of the policy or certificate of insurance naming Lessor as additional insured shall be delivered to Lessor prior to signage installation.

MB
AK

LEASE ADDENDUM

This Lease Addendum is made and entered into on this 20th day of April, 2017, and is hereby attached to and becomes a part of the Lease dated April 20, 2017 by and between 4520 ARVILLE, a California general partnership, and MCKINLEY MANOR, an Idaho general partnership, as tenants in Common, hereinafter referred to as "Lessor", and BOUR ENTERPRISES LLC, a Nevada limited liability company, hereinafter referred to as "Lessee".

RECITALS:

WHEREAS, Lessee and Lessor desire to amend the Lease between the parties for the Premises known as 4560 South Arville Street, C-23 & 24, Las Vegas, Nevada 89103.

TERMS:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the Lease, and this Lease Addendum, the parties agree as follows:

1. Condition of Premises. Lessee hereby accepts the Premises in "as-is" condition with any additional alterations and improvements to be completed at Lessee's expense and in accordance with Section 7 of Lease.

2. Trash Disposal. In the areas where garbage dumpsters are provided within the Project, Lessee may utilize the dumpsters for waste paper and incidental trash only. Packing skids, boxes, and construction materials are not to be placed in or around dumpsters. It is the sole responsibility of Lessee to dispose of excessive trash and packaging materials away from the Project or to obtain Lessee's own dumpster at Lessee's own expense. Trash or materials stored outside of the Premises by Lessee, and not disposed of properly in a dumpster is prohibited, and Lessor shall have the right to charge Lessee for the cost of properly disposing of said trash or materials in addition to

any fine that the Lessor may levy against Lessee for such offense.

3. Lessee's Share. Lessee's Share of Common Area Operating Expenses to be paid by Lessee to Lessor shall be no less than \$.20 per square foot, per month, or Nine Hundred Twelve and No/00 Dollars (\$912.00), for the duration of the Term of the Lease.

4. Lessee's Vehicles. Lessee, at Lessee's cost, shall take all necessary precautions to protect the concrete slab and walls of the Premises from automotive spills of any chemicals or petroleum products which may come into contact with the floor or walls as a result of the operation of Lessee's business, and Lessee shall not leave Lessee's vehicles parked outside of the Premises in the parking areas overnight.

5. Rent Abatement. As consideration for Lessee's performance of all obligations to be performed by Lessee under the Lease, and provided Lessee is not in default of the Lease, Lessor shall credit Lessee's rental account Three Hundred Fifteen and 78/00 Dollars (\$315.78) for Month 1 of the Lease.

Except as amended by this Lease Addendum, all the provisions, terms and conditions of the Lease shall remain in full force and effect and the same is hereby ratified and confirmed.

Signatures to follow

Handwritten signatures in black ink, appearing to be initials or names, located to the right of the 'Signatures to follow' text.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of this date.

LESSOR:

4520 ARVILLE, a California general partnership, and MCKINLEY MANOR, an Idaho general partnership, as tenants in common

By: _____

Kevin J. Donahoe

Its: Owner Agent

LESSEE:

BOUR ENTERPRISES LLC, a Nevada limited liability company

By: _____

Mulugeta Bour

Its: Manager



AIR COMMERCIAL REAL ESTATE ASSOCIATION GUARANTY OF LEASE

WHEREAS, 4520 ARVILLE, a California general partnership and MCKINLEY MANOR, an Idaho general partnership, as tenants in common, hereinafter "Lessor", and BOUR ENTERPRISES LLC, a Nevada limited liability company, hereinafter "Lessee", are about to execute a document entitled "Lease" dated April 20, 2017 concerning the premises commonly known as 4560 South Arville Street, C-23 & 24, Las Vegas, Nevada 89103 wherein Lessor will lease the premises to Lessee, and

WHEREAS, MULUGETA BOUR, an individual, and HILENA MENGESHA, an individual hereinafter "Guarantors" have a financial interest in Lessee, and

WHEREAS, Lessor would not execute the Lease if Guarantors did not execute and deliver to Lessor this Guarantee of Lease.

NOW THEREFORE, in consideration of the execution of the foregoing Lease by Lessor and as a material inducement to Lessor to execute said Lease, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Lessee of all rents and all other sums payable by Lessee under said Lease and the faithful and prompt performance by Lessee of each and every one of the terms, conditions and covenants of said Lease to be kept and performed by Lessee.

It is specifically agreed that the terms of the foregoing Lease may be modified by agreement between Lessor and Lessee, or by a course of conduct, and said Lease may be assigned by Lessor or any assignee of Lessor without consent or notice to Guarantors and that this Guaranty shall guarantee the performance of said Lease as so modified.

This Guaranty shall not be released, modified or affected by the failure or delay on the part of Lessor to enforce any of the rights or remedies of the Lessor under said Lease, whether pursuant to the terms thereof or at law or in equity.

No notice of default need be given to Guarantors, it being specifically agreed that the guarantee of the undersigned is a continuing guarantee under which Lessor may proceed immediately against Lessee and/or against Guarantors following any breach or default by Lessee or for the enforcement of any rights which Lessor may have as against Lessee under the terms of the Lease or at law or in equity.

Lessor shall have the right to proceed against Guarantors hereunder following any breach or default by Lessee without first proceeding against Lessee and without previous notice to or demand upon either Lessee or Guarantors.

Guarantors hereby waive (a) notice of acceptance of this Guaranty, (b) demand of payment, presentation and protest, (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Lease, (d) any right to require the Lessor to proceed against the Lessee or any other Guarantor or any other person or entity liable to Lessor, (e) any right to require Lessor to apply to any default any security deposit or other security it may hold under the Lease, (f) any right to require Lessor to proceed under any other remedy Lessor may have before proceeding against Guarantors, (g) any right of subrogation.

Guarantors do hereby subrogate all existing or future indebtedness of Lessee to Guarantors to the obligations owed to Lessor under the Lease and this Guaranty.

If a Guarantor is married, such Guarantor expressly agrees that recourse may be had against his or her separate property for all of the obligations hereunder.

The obligations of Lessee under the Lease to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantors hereunder to do and provide the same.

The term "Lessor" refers to and means the Lessor named in the Lease and also Lessor's successors and assigns. So long as Lessor's interest in the Lease, the leased premises or the rents, issues and profits therefrom, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantors of the Lessor's interest shall affect the continuing obligation of Guarantors under this Guaranty which shall nevertheless continue in full force and effect for the benefit of the mortgagee, beneficiary, trustee or assignee under such mortgage, deed of trust or

MB
JK

assignment and their successors and assigns.

The term "Lessee" refers to and means the Lessee named in the Lease and also Lessee's successors and assigns.

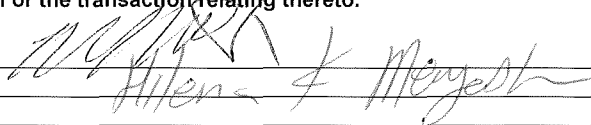
In the event any action be brought by said Lessor against Guarantors hereunder to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee which shall be fixed by the court.

If this Form has been filled in, it has been prepared for submission to your attorney for his approval. No representation or recommendation is made by the AIR Commercial Real Estate Association, the real estate broker or its agents or employees as to the legal sufficiency, legal effect, or tax consequences of this Form or the transaction relating thereto.

Executed at: _____

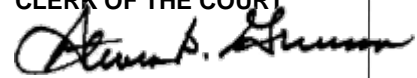
On: _____

Address: _____



"GUARANTORS"

EXHIBIT 24



RPLY

BLACK & WADHAMS

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Bour Enterprises, LLC, Mulugeta Bour and

Hilena Mengesha

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants,

Case No.: A-19-794864-C

Dept. No.: 8

**REPLY TO PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION TO
RETAX**

Hearing Date: April 20, 2021

Hearing Time: 9:00 AM

v.

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

Counter Defendants.

Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha (hereinafter collectively the “Defendants”), by and through their attorney of record, Rusty Graf, Esq. of Black & Wadhams, hereby file their REPLY TO PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ MOTION TO RETAX. This Reply is made and based on the papers and pleadings on file herein, the following Memorandum of Points and Authorities, any exhibits attached hereto, and any ~~Argument~~ at hearing on this matter.

Dated this 19th day of April 2021.

BLACK & WADHAMS

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Attorneys for Defendants

MEMORANDUM OF POINTS & AUTHORITIES

I.

**PLAINTIFFS' OPPOSITION ADMITS THEY CANNOT PROVE-UP THEIR
ASSERTED COSTS**

As the Court is already aware, the Plaintiffs' Memorandum of Costs and Disbursements was filed on March 15, 2021 and included, in pertinent part, the following asserted costs: (1) \$1,126.72 for service of process pursuant to NRS 18.005(7); and (2) \$3,665.22 for legal research pursuant to NRS 18.005(17). *See Plaintiffs' Memorandum of Costs and Disbursements at 1-2.* The Defendants' subsequently filed their Motion to Retax wherein they argued that both of these asserted costs must be retaxed. Regarding the service of process costs, the Plaintiffs' directly admit that the Defendants' Motion to Retax was correct and, in fact, "[t]he costs associated with service of process set forth in the Memo of Costs total \$563.36, not \$1,126.72" because they improperly "doubled their service of process costs when they were tallying". *See Plaintiffs' Opposition to Motion to Retax at 5.*

However, in their Opposition the Plaintiffs have maintained that the \$3,665.22 in legal research costs asserted in their Memorandum are valid and, thus, compensable under NRS 18.005(17). *Id. at 2-4.* As described in detail below, the Plaintiffs' argument lacks any valid foundation and is demonstrably incorrect in light of the direct admission by Plaintiffs that they cannot prove-up their costs as required by Nevada case law.

**A. LEGAL STANDARD FOR DOCUMENTATION SUPPORTING ASSERTED
COSTS**

Even in instances where a party is entitled to costs, the Court still retains discretion when determining the reasonableness of the individual costs to be awarded. *See U.S. Design & Const. Corp. v. International Broth. of Elec. Workers, 118 Nev. 458, 50 P.3d 170 (2002); See also*

1 *Bergmann v. Boyce*, 109 Nev. 670, 856 P.2d 560 (1993). Further, “statutes permitting recovery of
2 costs, being in derogation of the common law, must be strictly construed.” *See Bergmann v. Boyce*,
3 109 Nev. at 679. A strict construction a statute awarding costs “requires that the phrase ‘reasonable
4 costs’ be interpreted to mean actual costs that are reasonable, rather than a reasonable estimate
5 or calculation of such costs based upon administrative convenience.” (*Emphasis added*)
6 *Gibellini v. Klindt*, 110 Nev. 1201, 1206, 885 P.2d 540 (1994).

7
8 In *Matter of DISH Network Derivative Litig.*, the Nevada Supreme Court considered a
9 district court’s award of \$186,100.60 in costs for expenses authorized by NRS 18.005. *See Matter*
10 *of DISH Network Derivative Litig.*, 133 Nev. 438, 442, 401 P.3d 1081, 1087 (2017). The Court
11 held that, even when authorized by statute, “[t]o support an award of costs, justifying
12 documentation must be provided to the district court to demonstrate how such [claimed costs]
13 were necessary to and incurred in the present action.” (*Internal Quotations Omitted*) (*Emphasis*
14 *Added*) *See Matter of DISH Network Derivative Litig.*, 133 Nev. 438, 452, 401 P.3d 1081, 1093
15 (2017). Further, the Court directly stated that “[j]ustifying documentation means something more
16 than a memorandum of costs.” (*Internal Quotations Omitted*) *Id.*

17
18 Of particular relevance to the instant dispute was the Court’s decision in that case regarding
19 costs awarded by the district court for teleconferences. Ultimately, the Court vacated this award of
20 costs, despite those costs being authorized by statute and supported by “invoices for the
21 teleconferences in its memorandum of costs, which list the date, time, moderator, number of
22 participants, and cost”. *See Matter of DISH Network Derivative Litig.*, 133 Nev. 438, 452, 401
23 P.3d 1081, 1094 (2017). The basis of this decision was the lack of justifying documentation
24 provided to the district court demonstrating “how such fees were necessary to and incurred in the
25 present action” which meant “the district court had no evidence on which to judge the
26 reasonableness or necessity of each teleconference”. *Id.* Defendants would reiterate for emphasis
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1 that these teleconference costs were found to lack justifying documentation and vacated despite
2 being supported by invoices which stated the “date, time, moderator, number of participants, and
3 cost”. *Id.*

4 **B. PLAINTIFFS’ HAVE ADMITTED THEY CANNOT PROVE-UP THEIR COSTS**
5 **BY PROVIDING SUFFICIENT JUSTIFYING DOCUMENTATION**
6

7 The Plaintiffs’ Opposition begins their discussion of the asserted legal research costs by
8 stating “[f]irst, the dates of the Westlaw charges in the transactions listing attached to the
9 Memo of Costs are not the dates the research was conducted. Rather, the dates listed represent
10 the dates upon which such accumulated costs were billed by Westlaw to Holley Driggs.”
11 *(Emphasis Added) See Plaintiffs’ Opposition at 3.* The Plaintiffs proceed to argue over the
12 propriety and necessity of the asserted legal research, but it not even necessary to address those
13 arguments to determine whether these costs should be retaxed due to the above quoted admission
14 by the Plaintiffs. The Plaintiffs admit that the documentation they have included does not state the
15 dates on which the costs were actually incurred and, thus, that this documentation does not actually
16 include any indication of the specific legal research performed in connection to each transaction.
17 *See Plaintiffs’ Memorandum of Costs, Transactions Listing with Billed Amounts.*
18

19 The Plaintiffs attempt to address this fatal deficiency by including a screenshot of a handful
20 of searches they assert were conducted in connection with the instant litigation, but this is clearly
21 insufficient as: (1) this fails to meet the standard set by the Nevada Supreme Court for justifying
22 documentation required to support an award of costs; (2) this information was not included in the
23 Plaintiffs’ Memorandum of Costs; (3) the screenshot still does not include any statement of the
24 costs incurred for the searches conducted; and (4) if such flimsy and limited documentation of
25 costs were to be accepted as valid justifying documentation, it would effectively make it
26 impossible for a party filing a Motion to Retax to dispute any assertion of legal research costs as
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1 such an action would require information on the dates such legal research was conducted and the
2 specific costs associated with each part of that legal research.

3 As outlined above, in *Matter of DISH Network Derivative Litig.*, the Nevada Supreme
4 Court held that justifying documentation for teleconference costs was insufficient, despite the
5 production of invoices which stated the “date, time, moderator, number of participants, and cost”,
6 simply because no further justifying documentation was provided which supported “the
7 reasonableness or necessity of each teleconference”. See *Matter of DISH Network Derivative*
8 *Litig.*, 133 Nev. 438, 452, 401 P.3d 1081, 1094 (2017). Here, even more than in *Matter of DISH*
9 *Network Derivative Litig.*, the justifying documentation is clearly insufficient. The Plaintiffs’ have
10 directly admitted that their documentation fails to even include a date and time the cost was
11 incurred. Further, the list of transactions included in the Plaintiffs’ Memorandum of Costs also
12 fails to connect the asserted costs to any specific legal research that was conducted. This is
13 unambiguously even more deficient than the documentation produced in *Matter of DISH Network*
14 *Derivative Litig.*, as without any time, date, or explanation of the legal research costs asserted,
15 there is absolutely no basis for the Court to determine the reasonableness and necessity of those
16 costs. Additionally, public policy considerations weigh heavily against permitting such deficient
17 justifying documentation because it deprives a party seeking to dispute asserted costs of the very
18 information it needs to do so.
19
20
21

22 III.

23 CONCLUSION

24
25 As stated above, it is unambiguous that: (1) the Plaintiffs’ have admitted that they improperly
26 doubled their service of process costs from \$563.36 to \$1,126.72; and (2) the justifying
27 documentation the Plaintiffs have provided in support of their asserted legal research costs of
28

1 \$3,665.22 is legally insufficient. Therefore, the Defendants respectfully request that the Court
2 grant their Motion and retax the asserted service of process costs by \$563.36 and retax the asserted
3 legal research costs in their entirety for a total sum of Four Thousand Two Hundred and Twenty-
4 Eight Dollars and 58/100 Cents (\$4,228.58) in retaxed costs.

5 Dated this 1st day of April 2021.

6 **BLACK & WADHAMS**

7
8
9
10 Rusty Graf, Esq.
11 Nevada Bar No. 6322
12 10777 West Twain Avenue, Suite 300
13 Las Vegas, Nevada 89135
14 Ph. (702) 869-8801
15 Fax (702) 869-2669
16 rgraf@blackwadhamslaw
17 *Attorneys for Defendants*
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 1st day of April 2021, I caused the above and foregoing document entitled **DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO MOTION TO RETAX** to be served as follows:

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and

☒ by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;

☐ pursuant to EDCR 7.26, to be sent via facsimile;

☐ hand delivered to the party or their attorney(s) listed below at the address and/or facsimile number indicated below:

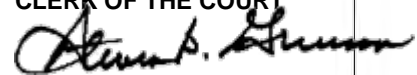
F. Thomas Edwards, Esq.
HOLLEY DRIGGS WALCH FINE
PUZEY STEIN & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

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



An Employee of Black & Wadhams

EXHIBIT 25



OPPM

BLACK & WADHAMS

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*Attorneys for Defendants/Counterclaimants
Bour Enterprises, LLC, Mulugeta Bour and
Hilena Mengesha*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants,

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

**OPPOSITION TO PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES**

v.

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

Counter Defendants.

Defendants/Counterclaimants, Bour Enterprises, LLC, Mulugeta Bour and Hilena Mengesha (hereinafter collectively the "Defendants"), by and through their attorney of record, Rusty Graf, Esq. of Black & Wadhams, hereby file their OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES. This Opposition is made and based on the papers and pleadings on file herein, the following Memorandum of Points and Authorities, any exhibits attached hereto, and any argument at hearing on this matter.

Dated this 10th day of April 2021.

BLACK & WADHAMS

Rusty Graf, Esq.
Nevada Bar No. 6322
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Las Vegas, Nevada 89135
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rgraf@blackwadhamslaw
Attorneys for Defendants

MEMORANDUM OF POINTS & AUTHORITIES

I.

INTRODUCTION

The Plaintiffs are correct that the Leases for the Subject Properties provide, in pertinent part, that the prevailing party will be "entitled to reasonable attorneys' fees." *See Plaintiffs' Motion for Attorneys' Fees at 5*. However, Plaintiffs are incorrect in asserting that the fees they seek are reasonable. In their instant Motion, the Plaintiffs request attorneys' fees in the amount of Eight Thousand One Hundred and Forty-Five Dollars and 00/100 Cents (\$88,145.00). *Id at 2*. As described in further detail below, analysis of the Brunzell factors is required for determining the amount of reasonable attorneys' fees a party may be awarded and, here, such consideration demonstrates that the attorneys' fees being sought by Plaintiffs are not reasonable and should therefore should be reduced.

II.

LEGAL ARGUMENT

The decision whether to award attorneys' fees "is within the sound discretion of the trial court." *See Bergmann v. Boyce, 109 Nev. 670, 856 P.2d 560 (1993)*. When analyzing a Motion for Attorneys' Fees, if the Court determines that the moving party is eligible to receive an award of fees, the Court then engages in a second analysis to determine what amount of fees is reasonable to award using the Brunzell Factors. *See Schouweiler v. Yancy Co., 101 Nev. 827, 712 P.2d 786 (1985) (citing Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 455 P.2d 31 (1969))*. The Brunzell Factors include: (1) the qualities of the advocate: his ability, training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, intricacy, importance, the time and skill required, the responsibility imposed and the prominence and character of the parties when they affect the importance of the litigation; (3) the work actually

performed by the lawyer; the skill, time and attention given to the work; and (4) the result: whether the attorney was successful and what benefits were derived. *Id.*

A. ANALYSIS OF THE BRUNZELL FACTORS

i. The Qualities of the Advocate

The first Brunzell factor analyzes the reasonableness of the attorneys' fees being sought in light of the qualities of the advocate, including their ability, training, education, experience, professional standing and skill. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Here, the Plaintiffs argue as follows regarding this first Brunzell Factor:

This Court had the opportunity to assess the quality of the advocacy of Holley Driggs in its written and oral advocacy that resulted in Plaintiffs successfully prosecuting this action and obtaining a significant monetary judgment in their favor. In doing so, Plaintiffs also successfully defended against Defendants' counterclaims and affirmative defenses. Moreover, Holley Driggs is "AV" rated by Martindale-Hubbell and has practiced in the Nevada courts for more than two decades.

The quality of Holley Driggs' work is evidenced by, among other things, its successful prosecution of this action. Further, the qualities of the individual attorneys working on this matter support the reasonableness of the fees. See Edwards Decl. ¶¶ 7-10. This factor weighs heavily in favor of awarding Plaintiffs the full amount of \$88,145.00 in fees.

See Plaintiffs' Motion for Attorneys' Fees at 6.

In *Brunzell v. Golden Gate Nat'l Bank*, the Nevada Supreme court made it clear that this factor analyzes the reasonableness of the attorneys' fees being sought based on the qualities of the individual attorneys who performed the work, not the reputation or rating the law firm which employs those attorneys. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Thus, the only part of the Plaintiffs' argument which is relevant to this factor is their statement that "[f]urther, the qualities of the individual attorneys working on this matter support the reasonableness of the fees. See Edwards Decl. ¶¶ 7-10." *See Plaintiffs' Motion for Attorneys' Fees at 6.*

1 In the declaration of F. Thomas Edwards, Esq., cited by the Plaintiffs, Mr. Edwards states
2 that the total amount of fees incurred by Plaintiffs is "\$88,145.00, representing 373.6 hours of
3 work at an effective hourly rate of \$235.93". See *Plaintiffs' Motion for Attorneys' Fees, Exhibit 1,*
4 *Pg. 2.* In that declaration, Mr. Edwards proceeds to describe his own ability, training, education,
5 experience, professional standing and skill and that of: (1) the Holley Driggs associate attorney
6 Sean E. Story, Esq.; (2) the Holley Driggs associate attorney Jessica M. Lujan, Esq.; and (3) the
7 Holley Driggs paralegal Kandy Halsey. *Id. at 2-3.* No other individuals are discussed. *Id.*
8 However, examination of the Transactions Listing, attached to Plaintiffs' Motion as Exhibit 2,
9 reveals substantial issues with the content of Mr. Edwards declaration. Specifically: (1) the
10 representation that Holley Driggs conducted 373.6 hours of work at an effective hourly rate of
11 \$235.93 is inaccurate because it included a large number of hours that were designated "no charge"
12 on the transactions list; and (2) the Transactions Listing includes a large number of hours billed
13 by "RVG" whose identity is unknown and who is not one of the individuals who are discussed in
14 Mr. Edwards declaration. Examination of the Transactions Listing reveals that a total of 47.34
15 hours were included in billing statements, and in the assertion that "Holley Driggs conducted 373.6
16 hours of work at an effective hourly rate of \$235.93", despite being listed as "no charge". *Id. at*
17 *Exhibit 2.*

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20 Based on the above discussion, it is clear that this Brunzell Factor weighs against the
21 reasonableness of the requested fees. This factor requires consideration of the individual qualities
22 of the advocates, and the Plaintiffs' Motion: (1) fails to actually to address such qualities for the
23 individual listed as "RVG" on the Transactions Listing; (2) overstates the amount of hours a
24 worked by included numerous "no charge" transactions; and (3) demonstrates the existence of
25 issues with the quality of the advocates in question due to the inclusion of these numerous "no
26 charge" transactions. Therefore, the Defendants respectfully assert that this Brunzell Factor weighs
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1 in favor of the Defendants and the Court should reduce any award of attorneys' fees to the Plaintiffs
2 accordingly.

3 **ii. The Character of the Work**

4 The second Brunzell factor analyzes the reasonableness of the attorneys' fees being sought
5 in light of the character of the work, specifically its difficulty, intricacy, importance, the time and
6 skill required, the responsibility imposed and the prominence and character of the parties when
7 they affect the importance of the litigation. See *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345,
8 455 P.2d 31 (1969). Plaintiffs argue that "this should have been a straightforward breach of
9 contract action" but, due to the Defendants asserting counterclaims and affirmative defenses, it
10 was necessary for additional work to be performed as "[r]efuting these baseless counterclaims,
11 required in-depth legal research (on a novel issue never before considered by the Nevada Supreme
12 Court), expert witness reports and in-person walkthroughs of the Premises, and excess motion
13 practice that would not have otherwise been necessary." See *Plaintiffs' Motion for Attorneys' Fees*
14 *at 7*.

15 Here, this second Brunzell factor should be deemed to weigh against the reasonableness of
16 the requested attorneys' fees because the Plaintiffs have directly admitted that this was essentially
17 "a straightforward breach of contract action" and was only complicated by the constructive
18 eviction counterclaim/defense. *Id.* As Plaintiffs proceed to state that the constructive eviction issue
19 was "a novel issue never before considered by the Nevada Supreme Court", it is contradictory for
20 them to subsequently state that it "required in-depth legal research". *Id.* It is self-evident that there
21 was not "required in-depth legal research" to be done regarding an issue which has not been
22 addressed by Nevada case law.

23 Further, the fact that these fees are not reasonable is also evidenced by the content of the
24 Plaintiffs' pleadings. For example, in their Reply to the Defendants' Opposition to the Motion for
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Summary Judgment Regarding the Breach of Contract Claims, Plaintiffs cited to a Nevada federal court case, *Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n*, in support of the assertion that the Court may look to persuasive authority of other jurisdictions in considering a Motion for Summary Judgment. *See Plaintiffs' Reply to Defendants' Opposition to Motion for Summary Judgment Regarding Breach of Contract Claims at 5*. Though research on the case *Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat. Tr. & Sav. Ass'n* may have been necessary, however, Plaintiffs then proceeded to cite to case law from nine (9) other jurisdictions (Louisiana, Tennessee, Mississippi, California, Pennsylvania, Oklahoma, Connecticut, the Fourth Circuit, and the Fifth Circuit) and these were all simply offered as persuasive authority for the assertion that the Court "may consider persuasive authority in the absence of controlling law at summary judgment". *Id. at 6*. Therefore, the Defendants respectfully assert that this Brunzell Factor weighs in favor of the Defendants and the Court should reduce any award of attorneys' fees to the Plaintiffs accordingly.

iii. The Work Actually Performed

The third Brunzell factor analyzes the reasonableness of the attorneys' fees being sought in light of the work actually performed by the lawyer and the skill, time and attention given to the work. *See Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 455 P.2d 31 (1969)*. Here, though Plaintiffs argue that the work performed makes the fees requested reasonable, the discussion above of both the first and second Brunzell factor demonstrates that this is inaccurate. *See Plaintiffs' Motion for Attorneys' Fees at 7-8*. As described above, the most pertinent considerations for this factor are: (1) that many hours of work which Plaintiffs performed were listed as "no charge" on the transactions list and, thus, were deemed by Plaintiffs themselves to be either unnecessary or inadequately performed; and (2) that many of the actions taken by Plaintiffs, as exemplified by the clearly unnecessary legal research discussed above, were not actually a reasonable or necessary

1 use of time and merely provided an opportunity to inflate the final bill. Therefore, the Defendants
2 respectfully assert that this Brunzell Factor weighs in favor of the Defendants and the Court should
3 reduce any award of attorneys' fees made to Plaintiffs.

4 **iv. The Result**

5 The final Brunzell factor analyzes the reasonableness of the attorneys' fees being sought
6 in light of the results obtained, meaning whether the attorney was successful and what benefits
7 were derived. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Here, the
8 Plaintiffs argue that the fact that they prevailed and received a judgment makes this factor weigh
9 in their favor. *See Plaintiffs' Motion for Attorneys' Fees at 8-9*. Though the Defendants do not
10 dispute that Plaintiffs did have a judgment entered in their favor in this matter, it is important to
11 consider the time and expense involved in obtaining that judgment despite the Plaintiffs' assertion
12 that it was a "straightforward breach of contract action" complicated only by the constructive
13 eviction counterclaim/defense. Viewed in this light, the Defendants respectfully assert that this
14 Brunzell Factor weighs against a finding of reasonableness and the Court should reduce any award
15 of attorneys' fees to the Plaintiffs accordingly.

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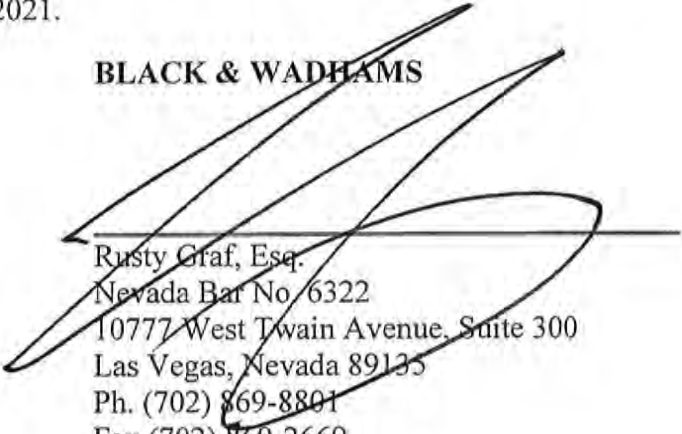
III.

CONCLUSION

Based on the foregoing, the Brunzell factors weigh against any finding that the Eight-Eight Thousand One Hundred and Forty-Five Dollars and 00/100 Cents (\$88,145.00) in attorneys' fees requested by the Plaintiffs are reasonable. As the Brunzell Factors demonstrate the fees sought are not reasonable, the Defendants respectfully assert and request that any amount of fees which are awarded to the Plaintiffs should be reduced accordingly.

Dated this 10th day of April 2021.

BLACK & WADHAMS



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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 12th day of April 2021, I caused the above and foregoing document entitled **DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES** to be served as follows:

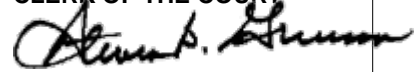
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and
- ☒ by electronic service through Wiznet, Clark County Eighth Judicial District Court's electronic filing/service system;
- ☐ pursuant to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

F. Thomas Edwards, Esq.
HOLLEY DRIGGS WALCH FINE
PUZEY STEIN & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, NV 89101

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


An Employee of Black & Wadhams

EXHIBIT 26



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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

**PLAINTIFFS' REPLY IN SUPPORT OF
MOTION FOR ATTORNEYS' FEES**

**Hearing Date: May 5, 2021
Hearing Time: In Chambers**

Plaintiffs/Counterdefendants, 4520 Arville, a California general partnership; and
McKinley Manor, an Idaho general partnership (collectively "Plaintiffs"), by and through their
attorneys of record, the law firm of Holley Driggs, hereby submit this Reply in support of their

Motion for Attorneys' Fees (the "Motion for Fees"). The attorney fees requested total \$88,145.00. This Reply is made and based upon the papers and pleadings on file herein and the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Again, Defendants have lodged meritless arguments in opposition to Plaintiffs' reasonable request for attorneys' fees (which they incurred fighting Defendants' baseless affirmative defenses and counterclaims throughout this action). Plaintiffs will briefly discuss why Defendants' arguments in opposition to the instant Motion for Fees fail to overcome Plaintiffs' reasonable request for fees actually and necessarily incurred in this action, totaling \$88,145.00 at an effective hourly rate of just \$235.93.

➤ **The effective hourly rate for Holley Driggs' work was calculated correctly.** The effective hourly rate charged by Plaintiffs' counsel is calculated by taking the total fees incurred (here, \$88,145.00) and dividing that figure by the total number of hours worked (373.64). In this case, the effective hourly rate is \$235.93.¹ Defendants assert that because some of the hours in Plaintiffs' fee transaction listing were designated as "no charge," that those hours should not be included in Plaintiffs' calculation of the "effective hourly rate" charged by their attorneys. This argument is nonsensical, because even if certain hours worked by Holley Driggs attorneys were not ultimately passed along to the client, these are still hours that Plaintiffs' counsel spent advancing their case. The effective hourly rate simply calculates the average dollar amount charged to Plaintiffs per hour of work Plaintiffs' counsel spent on their case. Moreover, because Plaintiffs are not seeking to collect on those "no charged" hours (but rather, only those hours for which fees were *actually* incurred by Plaintiffs), there is nothing inaccurate about Plaintiffs'

¹ $88,145 / 373.60 = 235.93$. Holley Driggs bills in one-tenth of an hour increments. Therefore, the 373.64 figure should actually be 373.60, with the extra .04 representing a typo in the billing. However, because the .04 of an hour was not passed along to the client (written off as a "no charge"), this typo does not affect the overall calculation. *See* Transaction Listing, Mot. Ex. 2 at 19.

calculation, which is meant only to demonstrate to the Court the overall reasonableness of Holley Driggs' fees.

➤ **Plaintiffs do not seek to recover any “no charged” hours.** A review of Plaintiffs' transaction listing confirms that they do not seek to recover fees for hours that were “no charged” (*i.e.*, where the “Value Ext Amount” is \$0.00). *See* Transaction Listing, Mot. Ex. 2 at 37 (showing the difference between hours worked and hours billed). Therefore, a discussion of those discounted hours is irrelevant to the Court's analysis of whether Plaintiffs' *actually and necessarily* incurred fees were reasonable. In other words, if an amount was not charged to the Plaintiffs and Plaintiffs are not seeking to recover those amounts in the Motion for Fees, the analysis of those “no charged” hours is irrelevant. Moreover, the fact that Plaintiffs' counsel took it upon themselves to “no charge” Plaintiffs for hours that were actually worked *confirms* that Holley Driggs was judicious about the reasonableness of the fees it extended to its clients. There is no reason to reduce Plaintiffs' award for the simple fact that their counsel elected to give them a discount on certain of their bills.

➤ **Plaintiffs were not charged for work performed by “RVG”.** Defendants take issue that work performed by “RVG” (Robin V. Gonzales, Esq.) appears on Plaintiffs' transaction listing, but Plaintiffs' Motion for Fees does not address the “qualities” of this individual under the *Brunzell* factors. The reason for this is simple: Holley Driggs did not charge Plaintiffs for any work performed by Mr. Gonzales (a mere 13.24 hours). *See* Transaction Listing, Mot. Ex. 2 at 18–19. Thus, a description of Mr. Gonzales's qualities did not appear to be necessary for the purpose of justifying Plaintiffs' *incurred* fees in this action.

Nevertheless, to assuage Defendants, Robin V. Gonzales, Esq., was an associate at Holley Driggs who provided minor assistance on this case during a one-week timeframe. He received his Juris Doctorate from UNLV's William S. Boyd School of Law in 2019 and has been practicing law ever since. His hourly rate for this matter was \$0.00.

➤ **Plaintiffs were forced to conduct legal research to counter Defendants’ baseless, unsupported positions.** At summary judgment, Defendants took the absurd position (citing *no* law in support) that this Court is not free to rely on persuasive authority in considering whether to grant summary judgment. In reply, Plaintiffs conducted the legal research that Defendants should have conducted before lodging their nonsensical argument and provided the Court with a sampling of authority demonstrating that Defendants’ position was false—this Court may rely on persuasive authority in the absence of binding case law.

However, because none of the cases identified by Plaintiffs on this point were from the Nevada Supreme Court (the only tribunal that issues decisions that bind this Court), Plaintiffs found it prudent to provide the Court with persuasive authority from various courts to substantiate their critical position. If Defendants were going to balk at the time required to conduct the legal research that was necessary to counter their outlandish positions, Defendants should have performed this research themselves and avoided lodging meritless arguments to which Plaintiffs were forced to respond.

I. CONCLUSION

For these reasons, the attorney fees incurred by Plaintiffs were reasonably and necessarily incurred. Based on the foregoing, Plaintiffs respectfully request that this Court grant the instant Motion for Fees and award Plaintiffs’ attorneys’ fees in the amount of \$88,145.00.

Dated this 28th day of April, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

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JESSICA M. LUJAN, ESQ.

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Las Vegas, Nevada 89101

Attorneys for Plaintiffs/Counterdefendants

HOLLEY DRIGGS

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 28th day of April, 2021, I did cause a true and correct copy of the foregoing **PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR ATTORNEYS' FEES** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

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Brent Carson, Esq.
WINNER & CARSON
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Las Vegas, NV 89117

/s/ Sandy Sell
An employee of HOLLEY DRIGGS

EXHIBIT 27

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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

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

Based on the Court's Order Granting in Part Plaintiffs' Motion for Fees and Defendant's
Motion to Retax Costs, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that judgment be entered in
favor of Plaintiffs/Counter-defendants 4520 Arville and McKinley Manor ("Plaintiffs") and
against Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour, and Hilena

Mengesha (“Defendants”), jointly and severally, for \$60,000.00 in actually and reasonably incurred attorneys’ fees and \$6,307.71 in actually and reasonably incurred costs, for a total of **\$66,307.71**, plus interest at 7.25% (Wall Street Journal prime rate of 3.25% published on 3/16/20 plus 4%, per Section 13.5 of the subject Leases) in the amount of \$13.17 per day until satisfied in full.

IT IS FURTHER ORDERED that the instant First Supplemental Judgment constitutes a supplement to the previous Judgment entered by this Court on March 9, 2021, which is otherwise unaffected and remains in full force and effect from its date of issuance.

IT IS SO ORDERED.

Dated this 24th day of May, 2021



56B AFD 4A7D 88BF
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards

Declined to sign

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Attorneys for Plaintiffs/Counter-defendants

Attorneys for Defendants/Counterclaimants

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/24/2021

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17 Diane Meeter

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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

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

Counterclaimants.

v.

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

Counterdefendants,

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

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR FEES AND
DEFENDANTS' MOTION TO RETAX
COSTS**

**Hearing Date: May 6, 2021
Hearing Time: In Chambers**

This matter came before the Court on May 6, 2021 in Chambers upon
Plaintiffs/Counterdefendants, 4520 Arville and McKinley Manor (collectively "Plaintiffs")
Motion for Attorneys' Fees (the "Motion for Fees") and Defendants/Counterclaimants Bour

1 Enterprises, LLC, Mulugeta Bour, and Hilena Mengesha's ("Defendants") Motion to Retax Costs,
2 the Honorable Veronica M. Barisich presiding.

3 The Court, having considered the papers and pleadings on file herein, and good cause
4 appearing therefor, hereby enters the following findings of fact and conclusions of law pursuant to
5 EDCR 2.23 and Administrative Order 21-03. To the extent any finding of fact should properly be
6 designated a conclusion of law, it shall be deemed a conclusion of law. To the extent any
7 conclusion of law should properly be designated a finding of fact, it shall be deemed a finding of
8 fact.

9 FINDINGS OF FACT

10 1. On January 28, 2021, the Court granted summary judgment in favor of Plaintiffs
11 on their breach of contract claims, concluding that there was sufficient evidence that Defendants
12 breached the subject Leases and personal Guaranties. *See* Order Granting Summary Judgment, on
13 file herein.

14 2. The Court rejected Defendant's sole argument as to constructive eviction, as the
15 implied warranty of habitability (upon which Defendant's constructive eviction defense relied) is
16 inapplicable in commercial leases. *Id.* at 8–9, ¶ 6. Even if such warranty is applicable, it was
17 specifically waived by the Defendants in the Leases. *Id.* at 9, ¶ 7.

18 3. Thereafter, on March 9, 2021, the Court granted Plaintiffs' Motion for Entry of
19 Judgment, concluding that trial was not necessary to prove Plaintiffs' damages because Defendants
20 failed to challenge the amount owed or raise any applicable affirmative defenses with regard to the
21 damages sought. *See* Order Granting Motion for Entry of Judgment at 2, on file herein. Thus, trial
22 was vacated and Judgment against Defendants was entered on March 9, 2021, in the amount of
23 \$162,756.77, which included applicable interest. *Id.* at 2–3.

24 4. The subject Leases contain identical fee-shifting provisions (the "Fee-Shifting
25 Provisions"), which state, in pertinent part:

26 Attorneys' Fees. If any Party or Broker brings an action or proceeding involving
27 the Premises whether founded in tort, contract or equity, or to declare rights
28 hereunder, the Prevailing Party (as hereafter defined) in any such proceeding,
action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees
may be awarded in the same suit or recovered in a separate suit, whether or not such

action or proceeding is pursued to decision or judgment. The term, “Prevailing Party” shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys’ fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys’ fees reasonably incurred. . .

See Leases, Motion for Summary Judgment (“MSJ”) Exs. 3 and 4 at 18 (Section 31).

5. The subject Leases further provide the rate of interest (the “Interest Rate”) that shall apply to an award of attorneys’ fees and costs awarded pursuant to the Leases:

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest (“Interest”) charged shall be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

See Leases, Motion for Summary Judgment (“MSJ”) Exs. 3 and 4 at 14–15 (Section 13.5).

6. On March 15, 2021, Plaintiffs timely filed a Memorandum of Costs and Disbursements on March 15, 2021. *See Memorandum of Costs, on file herein.*

7. On March 18, 2021, Defendants timely filed a Motion to Retax Costs. *See Motion to Retax Costs, on file herein.*

8. Thereafter, on March 29, 2021, Plaintiffs timely filed their motion for attorneys’ fees. *See Motion for Fees, on file herein.*

CONCLUSIONS OF LAW

Plaintiffs’ Motion for Fees

1. “Attorney fees are . . . available when authorized by rule, statute, or contract.” *Henry Prods. Inc. v. Tarmu*, 114 Nev. 1017, 1020, 967 P.2d 444, 446 (1998). “The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.” NRS 18.010(1). The Supreme Court of Nevada noted, with respect to the language above, “[i]t is the rule that provisions in contracts for the payment of attorney’s fees in the event it is necessary to resort to aid of counsel for enforcement or collection are valid and

enforceable.” *Bates v. Chronister*, 100 Nev. 675, 683, 691 P.2d 865, 871 (1984).

2. Because Plaintiffs obtained a judgment against Defendants in this action for their breach of the Leases, and also successfully defended the counterclaims lodged by Defendants, Plaintiffs are entitled to recover their reasonably and necessarily incurred attorneys’ fees pursuant to the Fee-Shifting Provisions in the Leases. *See* MSJ Exs. 3 and 4 at 18 (Section 31).

3. Whenever a district court awards attorney’s fees, the reasonability of the award must always be a consideration. *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). The Nevada Supreme Court has provided factors to be utilized in determining whether the fees requested are reasonable, as follows: (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived. *Id.* After analyzing the *Brunzell* factors, the Court may award up to the full amount of fees requested.

4. The attorneys’ fees sought by Plaintiffs are reasonable under the factors set forth in *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

- a. Although Defendants point out the billing entries for unknown “RVG” and various “no charge” transactions, Plaintiffs did not seek to recover on “no charge” transactions and entries by “RVG”, who was later identified as Robin V. Gonzales, Esq. Thus, the factor regarding the qualities of the advocates weighs in favor of Plaintiffs. Moreover, Holley Driggs is “AV” rated by Martindale-Hubbell and has practiced in the Nevada courts for more than two decades.
- b. The character of the work must be deemed in favor of Plaintiffs, given Plaintiffs’ success at summary judgment.
- c. As to the work actually performed, work done throughout the course of this lengthy case also militates in favor of Plaintiffs.

///

d. The result obtained was favorable to Plaintiffs, and thus this factor also weighs in Plaintiffs' favor.

5. After an overall analysis of the *Brunzell* factors, the appropriate attorney's fees appear to be \$60,000.00.

Defendants' Motion to Retax Costs

6. NRS 18.020(1) states that "[c]osts must be allowed of course to the prevailing party against any adverse party against whom judgment is rendered: (a) When the prevailing party has not recovered more than \$20,000; or (b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party."

7. However, the costs must be expressly authorized under NRS 18.005. *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 971 P.2d 383 (1998). The costs must also be substantiated by sufficient documentation and itemization. *Id.* The costs must be actual and reasonable. *Id.* Although the determination of allowable costs is within the sound discretion of the trial court, the statutes permitting recovery of costs must be strictly construed. *Gibellini v. Klindt*, 110 Nev. 1201, 885 P.2d 540 (1994).

8. NRS 18.005 defines "costs" as

1. Clerks' fees.
2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.
- ...
7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
- ...
12. Reasonable costs for photocopies.
- ...
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

9. The Court finds that out of \$8,536.29 in costs initially sought, Plaintiffs conceded that service of process costs were inaccurate and reduced their costs demand to \$7,972.93. Although Defendants argue that delivery charges are not recoverable costs, at a minimum, such

charges must be deemed other reasonable and necessary expenses incurred in connection with the action under NRS 18.005(17).

10. Defendants also questioned the legal research costs of \$3,665.22 and under *Berosini*, the costs sought cannot be deemed to have been supported by sufficient documentation and itemization. Thus, the costs sought for legal research should be reduced to \$2,000.00.

11. The final costs to be awarded to Plaintiffs shall be reduced to \$6,307.71.

Based on the foregoing, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Fees is GRANTED IN PART, and Plaintiffs are awarded \$60,000.00 in actually and reasonably incurred attorneys' fees, plus interest as provided by the subject Leases, consistent with the prior Judgment entered on March 9, 2021.¹

IT IS FURTHER ORDERED that Defendants' Motion to Retax Costs is GRANTED IN PART, and Plaintiffs are awarded \$6,307.71 in actually and reasonably incurred costs, plus interest as provided in the subject Leases, consistent with the prior Judgment entered on March 9, 2021.

IT IS FURTHER ORDERED that separate supplemental judgment for these amounts, plus interest until paid in full, shall issue.

IT IS SO ORDERED.

Dated this 27th day of May, 2021



D2A BA4 9809 CBF2
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards
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Declined to sign
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Attorneys for Defendants/Counterclaimants

¹ The Interest Rate applicable to the First Supplemental Judgment awarding fees and costs shall be updated to reflect the most recent prime interest rate published by the Wall Street Journal, plus 4%, per Section 13.5 of the Leases.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/27/2021

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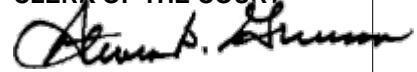
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EXHIBIT 29



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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

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

Defendants.

BOUR ENTERPRISES, LLC, a Nevada limited
liability company; MULUGETA BOUR, an
individual; HILENA MENGESHA, an
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v.

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

Counterdefendants,

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

NOTICE OF ENTRY OF ORDER

YOU, and each of you, will please take notice that an Order Granting in Part Plaintiffs'
Motion for Fees and Defendants' Motion to Retax Costs in the above-entitled matter was filed and
///

entered by the Clerk of the above-entitled Court on the 27th day of May, 2021, a copy of which is attached hereto.

Dated this 27th day of May, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

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

Attorney for Plaintiffs/Counter-defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 27th day of May, 2021, I did cause a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

Rusty Graf, Esq.
BLACK & LOBELLO
10777 W. Twain Ave., Suite 300
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Brent Carson, Esq.
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/s/ Sandy Sell

An employee of HOLLEY DRIGGS

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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

4520 ARVILLE, a California general
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BOUR ENTERPRISES, LLC, a Nevada limited
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CORPORATIONS I-X,

Counterdefendants,

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

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR FEES AND
DEFENDANTS' MOTION TO RETAX
COSTS**

**Hearing Date: May 6, 2021
Hearing Time: In Chambers**

This matter came before the Court on May 6, 2021 in Chambers upon
Plaintiffs/Counterdefendants, 4520 Arville and McKinley Manor (collectively "Plaintiffs")
Motion for Attorneys' Fees (the "Motion for Fees") and Defendants/Counterclaimants Bour

1 Enterprises, LLC, Mulugeta Bour, and Hilena Mengesha's ("Defendants") Motion to Retax Costs,
2 the Honorable Veronica M. Barisich presiding.

3 The Court, having considered the papers and pleadings on file herein, and good cause
4 appearing therefor, hereby enters the following findings of fact and conclusions of law pursuant to
5 EDCR 2.23 and Administrative Order 21-03. To the extent any finding of fact should properly be
6 designated a conclusion of law, it shall be deemed a conclusion of law. To the extent any
7 conclusion of law should properly be designated a finding of fact, it shall be deemed a finding of
8 fact.

9 FINDINGS OF FACT

10 1. On January 28, 2021, the Court granted summary judgment in favor of Plaintiffs
11 on their breach of contract claims, concluding that there was sufficient evidence that Defendants
12 breached the subject Leases and personal Guaranties. *See* Order Granting Summary Judgment, on
13 file herein.

14 2. The Court rejected Defendant's sole argument as to constructive eviction, as the
15 implied warranty of habitability (upon which Defendant's constructive eviction defense relied) is
16 inapplicable in commercial leases. *Id.* at 8–9, ¶ 6. Even if such warranty is applicable, it was
17 specifically waived by the Defendants in the Leases. *Id.* at 9, ¶ 7.

18 3. Thereafter, on March 9, 2021, the Court granted Plaintiffs' Motion for Entry of
19 Judgment, concluding that trial was not necessary to prove Plaintiffs' damages because Defendants
20 failed to challenge the amount owed or raise any applicable affirmative defenses with regard to the
21 damages sought. *See* Order Granting Motion for Entry of Judgment at 2, on file herein. Thus, trial
22 was vacated and Judgment against Defendants was entered on March 9, 2021, in the amount of
23 \$162,756.77, which included applicable interest. *Id.* at 2–3.

24 4. The subject Leases contain identical fee-shifting provisions (the "Fee-Shifting
25 Provisions"), which state, in pertinent part:

26 Attorneys' Fees. If any Party or Broker brings an action or proceeding involving
27 the Premises whether founded in tort, contract or equity, or to declare rights
28 hereunder, the Prevailing Party (as hereafter defined) in any such proceeding,
action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees
may be awarded in the same suit or recovered in a separate suit, whether or not such

action or proceeding is pursued to decision or judgment. The term, “Prevailing Party” shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys’ fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys’ fees reasonably incurred. . .

See Leases, Motion for Summary Judgment (“MSJ”) Exs. 3 and 4 at 18 (Section 31).

5. The subject Leases further provide the rate of interest (the “Interest Rate”) that shall apply to an award of attorneys’ fees and costs awarded pursuant to the Leases:

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest (“Interest”) charged shall be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

See Leases, Motion for Summary Judgment (“MSJ”) Exs. 3 and 4 at 14–15 (Section 13.5).

6. On March 15, 2021, Plaintiffs timely filed a Memorandum of Costs and Disbursements on March 15, 2021. *See Memorandum of Costs, on file herein.*

7. On March 18, 2021, Defendants timely filed a Motion to Retax Costs. *See Motion to Retax Costs, on file herein.*

8. Thereafter, on March 29, 2021, Plaintiffs timely filed their motion for attorneys’ fees. *See Motion for Fees, on file herein.*

CONCLUSIONS OF LAW

Plaintiffs’ Motion for Fees

1. “Attorney fees are . . . available when authorized by rule, statute, or contract.” *Henry Prods. Inc. v. Tarmu*, 114 Nev. 1017, 1020, 967 P.2d 444, 446 (1998). “The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.” NRS 18.010(1). The Supreme Court of Nevada noted, with respect to the language above, “[i]t is the rule that provisions in contracts for the payment of attorney’s fees in the event it is necessary to resort to aid of counsel for enforcement or collection are valid and

enforceable.” *Bates v. Chronister*, 100 Nev. 675, 683, 691 P.2d 865, 871 (1984).

2. Because Plaintiffs obtained a judgment against Defendants in this action for their breach of the Leases, and also successfully defended the counterclaims lodged by Defendants, Plaintiffs are entitled to recover their reasonably and necessarily incurred attorneys’ fees pursuant to the Fee-Shifting Provisions in the Leases. *See* MSJ Exs. 3 and 4 at 18 (Section 31).

3. Whenever a district court awards attorney’s fees, the reasonability of the award must always be a consideration. *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). The Nevada Supreme Court has provided factors to be utilized in determining whether the fees requested are reasonable, as follows: (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived. *Id.* After analyzing the *Brunzell* factors, the Court may award up to the full amount of fees requested.

4. The attorneys’ fees sought by Plaintiffs are reasonable under the factors set forth in *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

- a. Although Defendants point out the billing entries for unknown “RVG” and various “no charge” transactions, Plaintiffs did not seek to recover on “no charge” transactions and entries by “RVG”, who was later identified as Robin V. Gonzales, Esq. Thus, the factor regarding the qualities of the advocates weighs in favor of Plaintiffs. Moreover, Holley Driggs is “AV” rated by Martindale-Hubbell and has practiced in the Nevada courts for more than two decades.
- b. The character of the work must be deemed in favor of Plaintiffs, given Plaintiffs’ success at summary judgment.
- c. As to the work actually performed, work done throughout the course of this lengthy case also militates in favor of Plaintiffs.

///

d. The result obtained was favorable to Plaintiffs, and thus this factor also weighs in Plaintiffs' favor.

5. After an overall analysis of the *Brunzell* factors, the appropriate attorney's fees appear to be \$60,000.00.

Defendants' Motion to Retax Costs

6. NRS 18.020(1) states that "[c]osts must be allowed of course to the prevailing party against any adverse party against whom judgment is rendered: (a) When the prevailing party has not recovered more than \$20,000; or (b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party."

7. However, the costs must be expressly authorized under NRS 18.005. *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 971 P.2d 383 (1998). The costs must also be substantiated by sufficient documentation and itemization. *Id.* The costs must be actual and reasonable. *Id.* Although the determination of allowable costs is within the sound discretion of the trial court, the statutes permitting recovery of costs must be strictly construed. *Gibellini v. Klindt*, 110 Nev. 1201, 885 P.2d 540 (1994).

8. NRS 18.005 defines "costs" as

1. Clerks' fees.
2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.
- ...
7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
- ...
12. Reasonable costs for photocopies.
- ...
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

9. The Court finds that out of \$8,536.29 in costs initially sought, Plaintiffs conceded that service of process costs were inaccurate and reduced their costs demand to \$7,972.93. Although Defendants argue that delivery charges are not recoverable costs, at a minimum, such

charges must be deemed other reasonable and necessary expenses incurred in connection with the action under NRS 18.005(17).

10. Defendants also questioned the legal research costs of \$3,665.22 and under *Berosini*, the costs sought cannot be deemed to have been supported by sufficient documentation and itemization. Thus, the costs sought for legal research should be reduced to \$2,000.00.

11. The final costs to be awarded to Plaintiffs shall be reduced to \$6,307.71.

Based on the foregoing, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Fees is GRANTED IN PART, and Plaintiffs are awarded \$60,000.00 in actually and reasonably incurred attorneys' fees, plus interest as provided by the subject Leases, consistent with the prior Judgment entered on March 9, 2021.¹

IT IS FURTHER ORDERED that Defendants' Motion to Retax Costs is GRANTED IN PART, and Plaintiffs are awarded \$6,307.71 in actually and reasonably incurred costs, plus interest as provided in the subject Leases, consistent with the prior Judgment entered on March 9, 2021.

IT IS FURTHER ORDERED that separate supplemental judgment for these amounts, plus interest until paid in full, shall issue.

IT IS SO ORDERED.

Dated this 27th day of May, 2021



D2A BA4 9809 CBF2
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards
F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
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Las Vegas, Nevada 89101
Attorneys for Plaintiffs/Counter-defendants

Declined to sign
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10777 W. Twain Ave., Suite 300
Las Vegas, NV 89135
Attorneys for Defendants/Counterclaimants

¹ The Interest Rate applicable to the First Supplemental Judgment awarding fees and costs shall be updated to reflect the most recent prime interest rate published by the Wall Street Journal, plus 4%, per Section 13.5 of the Leases.

1 **CSERV**

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CLARK COUNTY, NEVADA

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5
6 4520 Arville, Plaintiff(s)

CASE NO: A-19-794864-C

7 vs.

DEPT. NO. Department 5

8 Bour Enterprises LLC,
9 Defendant(s)

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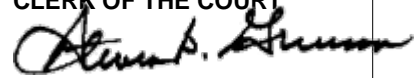
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23 Corinne Montana

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EXHIBIT 30



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Attorneys for Plaintiffs/Counterdefendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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general partnership,

Plaintiffs,

v.

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individual; HILENA MENGESHA, an
individual; DOES 1 through 100, inclusive,

Defendants.

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CORPORATIONS I-X,

Counterdefendants,

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

**NOTICE OF ENTRY OF FIRST
SUPPLEMENTAL JUDGMENT
AGAINST DEFENDANTS BOUR
ENTERPRISES, LLC, MULUGETA
BOUR AND HILENA MENGESHA**

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

///

matter was filed and entered by the Clerk of the above-entitled Court on the 24th day of May, 2021, a copy of which is attached hereto.

Dated this 27th day of May, 2021.

HOLLEY DRIGGS

/s/ F. Thomas Edwards

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Jessica M. Lujan, Esq. (NBN 14913)
400 S. Fourth Street, Third Floor
Las Vegas, NV 89101

Attorney for Plaintiffs/Counter-defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Holley Driggs and that on this 27th day of May, 2021, I did cause a true and correct copy of the foregoing **NOTICE OF ENTRY OF FIRST SUPPLEMENTAL JUDGMENT AGAINST DEFENDANTS**, to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System:

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Brent Carson, Esq.
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/s/ Sandy Sell

An employee of HOLLEY DRIGGS

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CORPORATIONS I-X,

Counterdefendants,

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

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

Based on the Court's Order Granting in Part Plaintiffs' Motion for Fees and Defendant's
Motion to Retax Costs, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that judgment be entered in
favor of Plaintiffs/Counter-defendants 4520 Arville and McKinley Manor ("Plaintiffs") and
against Defendants/Counterclaimants Bour Enterprises, LLC, Mulugeta Bour, and Hilena

Mengesha (“Defendants”), jointly and severally, for \$60,000.00 in actually and reasonably incurred attorneys’ fees and \$6,307.71 in actually and reasonably incurred costs, for a total of **\$66,307.71**, plus interest at 7.25% (Wall Street Journal prime rate of 3.25% published on 3/16/20 plus 4%, per Section 13.5 of the subject Leases) in the amount of \$13.17 per day until satisfied in full.

IT IS FURTHER ORDERED that the instant First Supplemental Judgment constitutes a supplement to the previous Judgment entered by this Court on March 9, 2021, which is otherwise unaffected and remains in full force and effect from its date of issuance.

IT IS SO ORDERED.

Dated this 24th day of May, 2021



56B AFD 4A7D 88BF
Veronica M. Barisich
District Court Judge

Respectfully submitted by:

Approved as to form and content by:

HOLLEY DRIGGS

BLACK & WADHAMS

/s/ F. Thomas Edwards

Declined to sign

F. THOMAS EDWARDS, ESQ. (NBN 9549)
JESSICA M. LUJAN, ESQ. (NBN 14913)
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RUSTY GRAF, ESQ. (NBN 6322)
10777 W. Twain Ave., Suite 300
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Attorneys for Plaintiffs/Counter-defendants

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