

IN THE SUPREME COURT OF THE STATE OF NEVADA

\*\*\*

SUNRISE VILLAS IX HOMEOWNERS  
ASSOCIATION,

Appellant,

vs.

SIMONE RUSSO,

Respondent.

Case No. 83115 Electronically Filed  
Jun 08 2022 02:57 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX**  
**VOLUME 6**

ROBERT L. EISENBERG (SBN 950)  
SARAH M. MOLLECK (SBN 13830)  
LEMONS, GRUNDY & EISENBERG  
6005 Plumas Street, Third Floor  
Reno, NV 89519  
775-786-6868  
775-786-9716 fax  
[rle@lge.net](mailto:rle@lge.net)  
[smm@lge.net](mailto:mm@lge.net)  
*ATTORNEYS FOR APPELLANT*

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint	4/6/17	1	1-9
2.	Motion to Amend Complaint	11/29/17	1	10-16
	<u>Exhibit 1</u> : Amended Complaint [November 27, 2017]		1	17-25
3.	Supplement to Motion to Amend Complaint	12/22/17	1	26-31
	<u>Exhibit 1</u> : Amended Complaint		1	32-41
4.	Court Minutes re Plaintiff's Motion to Amend Complaint	1/16/18	1	42
5.	Amended Complaint	1/16/18	1	43-51
6.	Defendant Sunrise Villas IX Homeowners Association's Answer to Plaintiff's Amended Complaint	2/6/18	1	52-59
7.	Order on Plaintiffs' Motion to Amend Complaint	2/7/18	1	60-61
8.	Summons [Richard Duslak]	2/15/18	1	62-63
9.	Defendant Sunrise Villas IX Homeowners Association's Motion for Summary Judgment	7/10/18	1	64-75
	<u>Exhibit A</u> : Affidavit of Al Stubblefield in Support of Sunrise Villas IX Homeowners Association's Motion for Summary Judgment [July 6, 2018]		1	76-78
	<u>Exhibit B</u> : Declaration of Covenants, Conditions and Restrictions for Sunrise Villas IX		1	79-132
	<u>Exhibit C</u> : Amended Complaint [January 16, 2018]		1	133-142



<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 9)	<u>Exhibit D</u> : Amendment No. 8 to the CC&Rs of Sunrise Villas IX Homeowners Association		1	143-145
10.	Plaintiff's Opposition to Defendant Sunrise Villas IX HOA's Motion for Summary Judgment	7/27/18	1	146-159
	<u>Exhibit 1</u> : Affidavits of Simone Russo, M.D. and Barbara Russo		1	160-170
	<u>Exhibit 2</u> : Sunrise Villas IX Homeowners Association Inc. Amendments to Covenants, Conditions and Restrictions Approved April 22, 1983 by Action of the Board of Directors		1	171-185
	<u>Exhibit 3</u> : Recorded Interview of J&G Lawn Maintenance Employee, Tom Bastian 11/30/2016		1	186-191
11.	Supplement to Plaintiff's Opposition to Defendant Sunrise Villas IX HOA's Motion for Summary Judgment	7/30/18	1	192-194
	<u>Exhibit 1</u> : Affidavits of Simone Russo, M.D. and Barbara Russo [July 27, 2018]		1	195-205
12.	Defendant Sunrise Villas IX Homeowners Association's Omnibus Reply in Support of its Motion for Summary Judgment	8/10/18	1	206-216
	<u>Exhibit A</u> : Affidavit of Amanda Davis in Support of Sunrise Villas IX Homeowner's Association's Motion for Summary Judgment [August 6, 2018]		1	217-219
13.	Order Denying Defendant's Motion for Summary Judgment	9/26/18	1	220-221
14.	Notice of Entry	9/26/18	1	222-224

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 14)	<u>Exhibit 1</u> : Order Denying Defendant's Motion for Summary Judgment		1	225-227
15.	Amended Order Denying Sunrise Villas IX Homeowners Association's Motion for Summary Judgment	11/20/18	1	228-229
16.	Notice of Entry of Amended Order Denying Sunrise Villas IX Homeowners Association's Motion for Summary Judgment	11/30/18	1	230-232
	<u>Exhibit A</u> : Amended Order Denying Sunrise Villas IX Homeowners Association's Motion for Summary Judgment [November 20, 2018]		1	233-235
17.	Default [Richard Duslak]	9/4/19	1	236-237
18.	Summons [Justin Sesman]	9/5/19	1	238-239
19.	Default [Justin Sesman]	9/13/19	1	240-241
20.	Defendants / Cross-Defendants Cox Communications Las Vegas, Inc. dba Cox Communications and IES Residential, Inc.'s (1) Motion for Determination of Good Faith Settlement and (2) Motion for Summary Judgment	10/16/19	2	242-252
	<u>Exhibit 1</u> : Defendant Bushbaker's Answer and Cross-Claim Against Cox Communications [May 17, 2017]		2	253-262
	<u>Exhibit 2</u> : Defendant / Cross-Defendant J. Chris Scarcelli's Answer to Defendant / Cross-Claimant Kevin Bushbaker's Amended Cross-Claim and Cross-Claims Against Cox Communications, Sunrise Villas IX Homeowners Association, J&G Lawn Maintenance and PWJAMES Management & Consulting, LLC		2	263-273

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Defendants, IES Residential, Inc. and Cox Communications Las Vegas, Inc. dba Cox Communications' Motion for Determination of Good Faith Settlement	10/17/19	2	274-276
22.	Court Minutes re Defendants / Cross-Defendants Cox Communication Las Vegas, Inc. dba Cox Communications and IES Residential, Inc.'s (1) Motion for Determination of Good Faith Settlement and (2) Motion for Summary Judgment	10/18/19	2	277
23.	Application for Judgment by Default	10/31/19	2	278-282
24.	Notice of Hearing Re: Default	10/31/19	2	283-284
117.*	Plaintiff's Motion to Compel Settlement on Order Shortening Time	11/1/19	17	3751-3770
	<u>Exhibit 1</u> : Email from Fink (Sunrise) Re: proposed release and waiting for carrier to sign off		17	3762-3768
	<u>Exhibit 2</u> : Email from Turtzo (Cox) re: also waiting for approval of the release		17	3769-3770
25.	Order Granting Defendant / Cross-Defendants Cox Communications Las Vegas, Inc. dba Cox Communications and IES Residential, Inc.'s Motion for Determination of Good Faith Settlement	11/7/19	2	285-287

---

\* *Plaintiff's Motion to Compel Settlement on Order Shortening Time* was added to the appendix after the first 17 volumes were complete and already numbered (3,750 pages)

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
26.	Notice of Entry Order Granting Defendant / Cross-Defendant, Cox Communications Las Vegas, Inc. dba Cox Communications and IES Residential, Inc.'s Motion for Determination of Good Faith Settlement	11/8/19	2	288-290
	Order Granting Defendant / Cross-Defendants Cox Communications Las Vegas, Inc. dba Cox Communications And IES Residential, Inc.'s Motion for Determination of Good Faith Settlement [November 11, 2019]		2	291-293
27.	Court Minutes Re: Plaintiff's Application for Judgment by Default	12/17/19	2	294
28.	Default Judgment	12/17/19	2	295-296
29.	Notice of Entry	12/17/19	2	297-299
	<u>Exhibit 1</u> : Default Judgment [December 17, 2019]		2	300-302
30.	Register of Actions [Minutes Re: Motion for Default Judgment]	12/17/19	2	303-304
31.	Civil Order to Statistically Close Case	5/14/20	2	305
32.	Plaintiff's Motion for Judicial Assignment of Cause of Action	11/2/20	2	306-310
33.	QBE Insurance Corporations Motion to Intervene and Opposition to Motion to Assign Rights Against QBE	11/16/20	2	311-327
	<u>Exhibit A</u> : Complaint for Declaratory Relief [November 16, 2020]		2	328-333

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont. 33)	<u>Exhibit B</u> : Declaration of Duane Butler in Support of QBE Insurance Corporation's Motion to Intervene and Opposition to Motion to Assign Rights Against QBE [November 16, 2020]		2	334-337
34.	QBE Insurance Corporation's Amended Motion to Intervene and Opposition to Motion to Assign Rights Against QBE	11/17/20	2	338-352
	<u>Exhibit A</u> : Complaint for Declaratory Relief [November 16, 2020]		2	353-358
	<u>Exhibit B</u> : Declaration of Duane Butler in Support of QBE Insurance Corporation's Motion to Intervene and Opposition to Motion to Assign Rights Against QBE [November 16, 2020]		2	359-361
	<u>Exhibit C</u> : Settlement Agreement and Release [November 17, 2020]		2	362-386
35.	Opposition to Non-Party QBE Insurance Corporation's Motion to Intervene and Formal Withdrawal of Plaintiff's Motion for Judicial Assignment of Cause of Action	11/25/20	2	387-397
	<u>Exhibit 1</u> : Defendant Sunrise Villas IX Homeowner Association's Second Supplemental Responses to Plaintiff's First Set of Interrogatories [March 2, 2018]		2	398-406
	<u>Exhibit 2</u> : Motion to Amend Complaint [November 29, 2017]		2	407-423
	<u>Exhibit 3</u> : Amended Complaint [January 16, 2018]		2	424-433

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont. 35)	<u>Exhibit 4</u> : Letter dated September 18, 2019 notifying QBE that suit had been filed against Duslak and Sesman		2	434-435
	<u>Exhibit 5</u> : Letter dated November 4, 2020 regarding litigation against Sesman, Duslak, and PW James Management & Consulting		2	436-437
	<u>Exhibit 6</u> : Summons for Justin Sesman [January 16, 2018]		2	438-440
	<u>Exhibit 7</u> : Default for Justin Sesman [September 13, 2019]		2	441-443
36.	QBE Insurance Corporation's Withdrawal of its Amended Motion to Intervene	12/8/20	2	444-446
	<u>Exhibit A</u> : Stipulation between Sunrise Villas IX Homeowners Association and Simone Russo Related to Case A-17-753606 (Simone Russo v. Cox Communications Las Vegas, Inc.) [December 8, 2020]		2	447-449
37.	Motion to Intervene to Enforce Settlement	1/4/21	2	450-457
	<u>Exhibit 1</u> : Settlement Agreement and Release		2	458-481
	<u>Exhibit 2</u> : Simone Russo's Answer to Plaintiff's Complaint for Declaratory Relief and Counterclaim [December 22, 2020]		3	482-511
	<u>Exhibit 3</u> : Simone Russo's Answer to Plaintiff's Amended Complaint for Declaratory Relief and Amended Counterclaim [December 30, 2020]		3	512-546

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
38.	Clerk's Notice of Nonconforming Document	1/7/21	3	547-549
39.	Request for Hearing [Motion to Intervene to Enforce Settlement filed by Intervenor QBE on 1/4/21]	1/7/21	3	550-551
40.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Intervenor QBE Insurance Corporation's Motion to Intervene to Enforce Settlement	1/7/21	3	552-554
41.	Notice of Hearing Re: QBE Insurance Corporation's Motion to Intervene to Enforce Settlement	1/8/21	3	555
42.	Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to "Enforce" Settlement	1/15/21	3	556-580
	<u>Exhibit 1</u> : Defendant Sunrise Villas IX Homeowners Association's Second Supplemental Responses to Plaintiff's First Set of Interrogatories		3	581-589
	<u>Exhibit 2</u> : Letter dated September 18, 2019 notifying QBE that suit had been filed against Duslak and Sesman		3	590-597
	<u>Exhibit 3</u> : Reporter's Transcript of Motions dated October 18, 2019		3	598-634
	<u>Exhibit 4</u> : Settlement Agreement and Release		3	635-658
	<u>Exhibit 5</u> : Notice of Entry		3	659-665
	<u>Exhibit 6</u> : Compliant for Declaratory Relief [November 16, 2020]		3	666-671

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont. 42)	<u>Exhibit 7:</u> Simone Russo's Answer to Plaintiff's Complaint for Declaratory Relief and Counterclaim [December 22, 2020]		3 4	672-710 711-846
	<u>Exhibit 8:</u> Simone Russo's Answer to Plaintiff's Amended Complaint for Declaratory Relief and Amended Counterclaim [December 30, 2020]		4	847-880
	<u>Exhibit 9:</u> Answer, Counterclaim and Third-Party Complaint [January 4, 2021]		4	881-920
	<u>Exhibit 10:</u> Voluntary Dismissal of Russo's Original Counterclaim and Amended Counterclaim [January 11, 2021]		4	921-922
43.	Amended Certificate of Service [Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to Enforce Settlement]	1/19/21	4	923-924
44.	Plaintiff's Supplement to Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to "Enforce" Settlement	1/19/21	4	925-929
45.	Motion to Set Aside and/or Amend Judgment	1/21/21	4	930-941
	<u>Exhibit 1:</u> Reporter's Transcript of Hearing dated October 16, 2019		5	942-968
	<u>Exhibit 2:</u> Reporter's Transcript of Motions dated October 18, 2019		5	969-998
	<u>Exhibit 3:</u> Plaintiff's Motion to Compel Settlement on Order Shortening Time [November 1, 2019]		5	999-1019



<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont. 45)	<u>Exhibit 4</u> : Reporter's Transcript of Hearing dated November 7, 2019		5	1020-1066
	<u>Exhibit 5</u> : November 8, 2019 Email Correspondence		5	1067-1083
	<u>Exhibit 6</u> : Reporter's Transcript of Hearing dated November 8, 2019		5	1084-1116
	<u>Exhibit 7</u> : Settlement Agreement and Release		5	1117-1140
	<u>Exhibit 8</u> : Default Judgment [December 17, 2019]		5	1141-1143
	<u>Exhibit 9</u> : Court Minutes Re: Plaintiff's Application for Judgment by Default [December 17, 2019]		5	1144-1145
	<u>Exhibit 10</u> : Answer, Counterclaim and Third-Party Complaint [January 4, 2021]		5	1146-1185
46.	Joinder to Motion to Set Aside and/or Amend Judgment	1/22/21	5	1186-1189
	<u>Exhibit A</u> : First Amended Complaint for Declaratory Relief [December 23, 2020]		6	1190-1197
	<u>Exhibit B</u> : Simone Russo's Amended Answer to Plaintiff's Amended Complaint for Declaratory Relief		6	1198-1213
47.	Motion to Enforce Settlement	1/22/21	6	1214-1222
	<u>Exhibit 1</u> : Defendant Sunrise Villas IX Homeowners Association's Second Supplemental Responses to Plaintiff's First Set of Interrogatories [March 2, 2018]		6	1223-1231

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 47)	<u>Exhibit 2</u> : Letter dated September 18, 2019 notifying QBE that suit had been filed against Duslak and Sesman		6	1232-1233
	<u>Exhibit 3</u> : Reporter's Transcript of Motions dated October 18, 2019		6	1234-1270
48.	Notice of Hearing Re: Plaintiff's Motion to Enforce Settlement	1/25/21	6	1271
49.	Notice of Hearing Re: Defendant's Motion to Set Aside and/or Amend Judgment	1/25/21	6	1272
50.	Request for Judicial Notice	1/26/21	6	1273-1274
	<u>Exhibit 1</u> : Motion to Dismiss [January 25, 2021]		6	1275-1281
51.	Association of Counsel for Defendant Sunrise Villas IX Homeowners Association	2/1/21	6	1282-1284
52.	Amended Association of Counsel for Defendant Sunrise Villas IX Homeowners Association	2/1/21	6	1285-1287
53.	Plaintiff's Second Supplement to Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to "Enforce" Settlement	2/1/21	6	1288-1293
	<u>Exhibit 1</u> : Reporter's Transcript of Hearing dated November 7, 2019		6	1294-1340
54.	Opposition to Motion to Set Aside and/or Amend Judgment	2/1/21	6	1341-1363
	<u>Exhibit 1</u> : Reporter's Transcript of Motions dated October 18, 2019		6	1364-1400
	<u>Exhibit 2</u> : Reporter's Transcript of Motions dated November 7, 2019		7	1401-1447

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 54)	<u>Exhibit 3</u> : Settlement Agreement and Release		7	1448-1471
	<u>Exhibit 4</u> : Default Judgment [December 17, 2019]		7	1472-1474
55.	Consolidated Brief Re: QBE's Motion to Intervene to Enforce Settlement and Plaintiff's Motion to Enforce Settlement	2/4/21	7	1475-1485
	<u>Exhibit C</u> : January 27, 2021 Email Correspondence		7	1486-1488
	<u>Exhibit D</u> : January 29, 2021 Email Correspondence		7	1489-1494
56.	Defendant Sunrise HOA Villas IX Homeowners Association's Consolidated Opposition to Plaintiff's Motions to Enforce Settlement and Reply to QBE's Motion to Enforce	2/4/21	7	1495-1512
	Motion to Set Aside and/or Amend Judgment [January 21, 2021]		7	1513-1524
	Plaintiff's Second Supplement To Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to "Enforce" Settlement [February 1, 2021]		7	1525-1577
	Defendant Sunrise Villas IX Homeowners Association's Second Supplemental Response to Plaintiff's First Set of Interrogatories [March 2, 2018]		7	1578-1585
57.	Errata to Defendant Sunrise HOA Villas IX Homeowners Association's Consolidated Opposition to Plaintiff's Motion to Enforce Settlement and Reply to QBE's Motion to Enforce as to Exhibits Cover Sheets Only	2/4/21	7	1586-1588

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 57)	<u>Exhibit 11</u> : Motion to Set Aside and/or Amend Judgment [January 21, 2021]		7	1589-1601
	<u>Exhibit 12</u> : Plaintiff's Second Supplement to Opposition to Non-Party QBE Insurance Corporation's Second Motion to Intervene and Motion to "Enforce" Settlement [February 1, 2021]		8	1602-1655
	<u>Exhibit 13</u> : Defendant Sunrise Villas IX Homeowners Association's Second Supplemental Responses to Plaintiff's First Set of Interrogatories [March 2, 2018]		8	1656-1664
58.	Suggestion of Death upon the Record of Defendant J. Chris Scarcelli Pursuant to NRCp 25(A)	2/4/21	8	1665-1668
59.	Minute Order Re: Hearing on 2/11/21 at 9:05 a.m.	2/4/21	8	1669-1670
60.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Intervene QBE Insurance Corporation's Consolidated Brief Re: QBE's Motion to Intervene to Enforce Settlement and Plaintiff's Motion to Enforce Settlement	2/5/21	8	1671-1673
61.	Request for Judicial Notice in Support of Consolidated Brief Re: QBE's Motion to Intervene to Enforce Settlement and Plaintiff's Motion to Enforce Settlement	2/9/17	8	1674-1676
	<u>Exhibit 14</u> : Response to Plaintiff's / Counter-Defendant's Motion to Dismiss [February 8, 2021]		8	1677-1821

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
62.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Intervenor QBE Insurance Corporation's Request for Judicial Notice in Support of Consolidated Brief Re: QBE's Motion to Intervene to Enforce Settlement and Plaintiff's Motion to Enforce Settlement	2/9/21	8	1822-1824
63.	First Supplement to Opposition to Motion to Set Aside and/or Amend Judgment	2/10/21	8	1825-1827
64.	Request for Judicial Notice in Support of Opposition to Plaintiff's Motion to Enforce Settlement	2/12/21	8	1828
	<u>Exhibit 15</u> : Reply in Response to Motion to Dismiss [February 12, 2021]		8	1829-1833
65.	Reply to Opposition to Motion to Enforce Settlement	2/17/21	8	1834-1844
66.	Errata to Reply to Opposition to Motion to Enforce Settlement	2/18/21	8	1845-1847
67.	Second Supplement to Opposition to Motion to Set Aside and/or Amend Judgment	2/22/21	9	1848-1853
	<u>Exhibit 1</u> : Declaration of Richard Duslak [February 8, 2021]		9	1854-1855
	<u>Exhibit 2</u> : PW James Management & Consulting, LLC Payroll Check Journal Report		9	1856-1877
	<u>Exhibit 3</u> : Affidavit of Amanda Davis in Support of Sunrise Villas IX Homeowner's Association's Motion for Summary Judgment [August 6, 2018]		9	1878-1880
68.	Minute Order Re: Hearing on 3/3/21 at 1:30 p.m.	2/25/21	9	1881-1882

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
69.	Defendant Sunrise HOA Villas IX Homeowners Association's Reply to Plaintiff's Opposition to Motion to Set Aside and/or Amend Judgment	2/25/21	9	1883-1892
	<u>Exhibit A</u> : Settlement Agreement and Release		9	1893-1916
	<u>Exhibit B</u> : March 28, 2007 article by Julie Sloan for CNN Money regarding AdvanstaffHR		9	1917-1919
	<u>Exhibit C</u> : Webpage for AdvanstaffHR		9	1920-1923
70.	Third Supplement to Opposition to Motion to Set Aside and/or Amend Judgment	2/25/21	9	1924-1927
	<u>Exhibit 1</u> : February 25, 2021 Email Correspondence		9	1928-1930
71.	Fourth Supplement to Opposition to Motion to Set Aside and/or Amend Judgment	2/25/21	9	1931-1934
	<u>Exhibit 1</u> : Opinion, <i>Jane Doe v. La Fuente, Inc.</i> , 137 Nev.Adv.Op 3 (2021)		9	1935-1962
72.	Defendant Sunrise HOA Villas IX Homeowners Association's Reply to Plaintiff's Third and Fourth Supplements to His Opposition to Motion to Set Aside and/or Amend Judgment	3/2/21	9	1963-1968
	<u>Exhibit A</u> : March 1, 2021 Email Correspondence		9	1969-1971
73.	Motion for Substitution of Party	3/4/21	9	1972-1977
74.	Post Hearing Brief on Opposition to Motion to Set Aside and/or Amend Judgment	3/5/21	9	1978-1983

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
75.	Response to Plaintiff's Post Hearing Brief Re: Defendant's Motion to Set Aside the Judgment	3/9/21	9	1984-1988
76.	Opposition to Plaintiff's Motion to Substitute Undersigned Counsel as Representative for Defendant J. Chris Scarcelli	3/11/21	9	1989-1993
77.	Reply to Response to Post Hearing Brief on Opposition to Motion to Set Aside and/or Amend Judgment	3/11/21	9	1994-1999
78.	Reply to Opposition to Motion for Substitution of Party	3/15/21	9	2000-2005
79.	Request for Judicial Notice	3/20/21	9	2006-2007
	<u>Exhibit 20</u> : Emergency Motion to Stay and/or Extend Pretrial Deadlines [March 4, 2021]		9	2008-2024
	<u>Exhibit 21</u> : Third-Party Defendant Sunrise Villas IX Homeowners' Association's Joinder to Plaintiff/Counter-Defendant QBE Insurance Corporation's Emergency Motion to Stay and/or Extend Pretrial Deadlines [March 5, 2021]		9	2025-2029
	<u>Exhibit 22</u> : Opposition to Emergency Motion to Stay and/or Extend Pretrial Deadlines [March 10, 2021]		9	2030-2035
	<u>Exhibit 23</u> : Response to Plaintiff's/Counter-Defendant's Emergency Motion to Stay and/or Extend Pretrial Deadlines [March 10, 2021]		9	2036-2051
	<u>Exhibit 24</u> : Reply to Response to Emergency Motion to Stay and/or Extend Pretrial Deadlines		9	2052-2057
	<u>Exhibit 25</u> : March 18, 2021 email from counsel for Duslak and Sesman		9	2058-2059

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 79)	<u>Exhibit 26</u> : Counterclaimants' Motion to Amend Answer, Counterclaim and Third-Party Complaint		10	2060-2114
80.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Intervenor QBE Insurance Corporation's Request for Judicial Notice	3/22/21	10	2115-2117
81.	Defendant Sunrise Villas IX Homeowners Association's Addendum to its Joinder to Intervenor QBE Insurance Corporation's Request for Judicial Notice in Support of the Pending Motions Re: Setting Aside the Default and Settlement Agreement	3/29/21	10	2118-2122
82.	Reply to Sunrise's Addendum to QBE's Request for Judicial Notice	3/29/21	10	2123-2131
83.	Supplement to Reply to Sunrise's Addendum to QBE's Request for Judicial Notice	3/30/21	10	2132-2136
	<u>Exhibit 1</u> : Errata to Motion to Compel Discovery Responses (Document No. 55)		10	2137-2140
84.	Minute Order Re: Order Denying Intervention	3/31/21	10	2141-2142
85.	Defendant Sunrise Villas IX Homeowners Association's Request for Judicial Notice in Support of the Pending Motions Re Setting Aside the Default and Settlement Agreement	4/13/21	10	2143-2146
	<u>Exhibit A</u> : Third-Party Plaintiff Richard Duslak's Answers to Third-Party Defendant Sunrise Villas IX Homeowners' Association's First Set of Interrogatories [April 2, 2021]		10	2147-2162



<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 85)	<u>Exhibit B</u> : Third-Party Plaintiff Justin Sesman's Answers to Third-Party Defendant Sunrise Villas IX Homeowners' Association's First Set of Interrogatories [April 2, 2021]		10	2163-2178
	<u>Exhibit C</u> : Response to Plaintiff's/Counter-Defendant's Motion to Dismiss [February 8, 2021]		10 11	2179-2290 2291-2323
86.	Reply to Sunrise's Latest Request for Judicial Notice	4/15/21	11	2324-2329
	<u>Exhibit 1</u> : Response to Plaintiff's/Counter-Defendant's Motion to Dismiss [February 8, 2021]		11	2330-2474
	<u>Exhibit 2</u> : Reporter's Transcript of Motions dated March 3, 2021		12	2475-2618
87.	Order on Motion to Intervene to Enforce Settlement	4/22/21	12	2619-2630
88.	Order on Motion to Substitute	4/22/21	12	2631-2635
89.	Notice of Entry	4/22/21	12	2636-2638
	<u>Exhibit 1</u> : Order on Motion to Intervene to Enforce Settlement [April 22, 2021]		12	2639-2651
90.	Notice of Entry	4/22/21	12	2652-2654
	<u>Exhibit 1</u> : Order on Motion to Substitute		12	2655-2660
91.	Minute Order: Pending Motions	5/3/21	12	2661-2662
92.	Motion to Amend and/or Modify Order	5/7/21	12	2663-2668
	<u>Exhibit A</u> : Minute Order for March 31, 2021		12	2669-2671
	<u>Exhibit B</u> : April 1, 2021 Email Correspondence		12	2672-2675

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 92)	<u>Exhibit C</u> : April 5, 2021 Email Correspondence		12	2676-2678
	<u>Exhibit D</u> : April 5, 2021 Email Correspondence with a redline version of the Order		12	2679-2687
	<u>Exhibit E</u> : April 22, 2021 Email Correspondence		12	2688-2698
	<u>Exhibit F</u> : Order on Motion to Intervene to Enforce Settlement [April 22, 2021]		12	2699-2711
	<u>Exhibit G</u> : Proposed Order Re: Motion to Intervene to Enforce Settlement, clean version of the redlined Order (Ex. D)		12	2712-2717
93.	Defendant Sunrise Villas IX Homeowners Association's Joinder to Intervenor QBE Insurance Corporation's Motion to Amend and/or Modify Order	5/10/21	12	2718-2720
94.	Opposition to Motion to Amend and/or Modify Order	5/13/21	13	2721-2731
	<u>Exhibit 1</u> : Minute Order for March 31, 2021		13	2732-2734
	<u>Exhibit 2</u> : April 1, 2021 Email Correspondence from Russo's Counsel re proposed Order		13	2735-2736
	<u>Exhibit 3</u> : Order on Motion to Intervene to Enforce Settlement		13	2737-2742
	<u>Exhibit 4</u> : April 1, 2021 Email Correspondence from QBE's Counsel re Order in Word format		13	2743-2746
	<u>Exhibit 5</u> : April 1, 2021 Email Correspondence from Sunrise's Counsel re Order		13	2747-2749
	<u>Exhibit 6</u> : April 5, 2021 Email Correspondence from Russo's Counsel circulating proposed Order		13	2450-2751

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
(Cont. 94)	<u>Exhibit 7</u> : Order on Motion to Intervene to Enforce Settlement		13	2752-2760
	<u>Exhibit 8</u> : April 5, 2021 Email Correspondence from QBE's Counsel re suggested changes to Order		13	2761-2763
	<u>Exhibit 9</u> : April 22, 2021 Email Correspondence from Sunrise's Counsel re "extraneous" facts included in the Order		13	2764-2780
95.	Supplement to Opposition to Motion to Amend and/or Modify Order	5/18/21	13	2781-2784
96.	Defendant Sunrise Villas IX Homeowners Association's Notice of Submission of Competing Order on Defendant's Motion to Set Aside and/or Amend Judgment and Order on Plaintiff's Motion to Enforce Settlement	5/25/21	13	2785-2787
	<u>Exhibit 1</u> : Proposed competing order for Order on Defendant's Motion to Set Aside and/or Amend Judgment and Order on Plaintiff's Motion to Enforce Settlement submitted to the Court for consideration		13	2788-2802
	<u>Exhibit 2</u> : Order on Defendants Motion to Set Aside and/or Amend Judgment and Order on Plaintiff's Motion to Enforce Settlement		13	2803-2816
97.	Order on Defendant's Motion to Set Aside and/or Amend Judgment and Order on Plaintiff's Motion to Enforce Settlement [Denying]	5/26/21	13	2817-2835
98.	Notice of Entry	5/26/21	13	2836-2838

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont. 98)	Order Defendant's Motion to Set Aside and/or Amend Judgment and Order on Plaintiff's Motion to Enforce Settlement [Denying] [May 26, 2021]		13	2839-2857
99.	Defendant Sunrise Villas IX Homeowners Association's Motion to Release Exhibits from Evidence Vault on Order Shortening Time	6/1/21	13	2858-2864
	<u>Exhibit 1</u> : Court Minutes re Plaintiff's Application for Judgment by Default on December 17, 2019		13	2865-2866
	<u>Exhibit 2</u> : May 17, 2021 Email Correspondence from Shannon Splaine, Esq. to Peggy Ipsom, court reporter		13	2867-2871
100.	Reply to Opposition to Motion to Amend and/or Modify Order	6/1/21	13	2872-2874
101.	Opposition to Sunrise's Motion to Release Exhibits from Evidence Vault on Order Shortening Time	6/2/21	13	2875-2880
	<u>Exhibit 1</u> : Minute Order: Pending Motions on May 3, 2021		13	2881-2883
	<u>Exhibit 2</u> : Notice of Entry for Order on Defendant's Motion to Set Aside and/or Amend Judgment, and Order on Plaintiff's Motion to Enforce Settlement [May 26, 2021]		13	2884-2906
	<u>Exhibit 3</u> : November 7, 2019 Email Correspondence from Sunrise's Counsel re Suslak (sic) And Desman (sic)		13	2907-2908

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
102.	Court Minutes Re: Hearing on Defendant Sunrise Villas IX Homeowners Association's Motion to Release Exhibits from Evidence Vault on Order Shortening Time	6/3/21	13	2909
103.	Order Granting Defendant Sunrise Villas IX Homeowners Association's Motion to Release Exhibits from Evidence Vault on Order Shortening Time	6/7/21	13	2910-2917
104.	Opposition to Motion to Hold Counsel in Contempt and Counter-Motion to Strike the Motion per NRS 41.660	6/7/21	13	2918-2924
	<u>Exhibit A:</u> Minute Order: Pending Motions on May 3, 2021		13	2925-2927
	<u>Exhibit B:</u> Order on Defendant's Motion to Set Aside and/or Amend Judgment, and Order on Plaintiff's Motion to Enforce Settlement [May 26, 2021]		13	2928-2947
	<u>Exhibit C:</u> Stipulation between Sunrise Villas IX Homeowners Association and Simone Russo related to case A-17-753606 (Simone Russo v. Cox Communications Las Vegas, Inc.) [November 12, 2019]		13	2948-2950
105.	Notice of Entry of Order Granting Defendant Sunrise Villas IX Homeowners Association's Motion to Release Exhibits from Evidence Vault on Order Shortening Time	6/8/21	13	2951-2952
	Order Granting Defendant Sunrise Villas IX Homeowners Association's Motion to Release Exhibits from Evidence Vault of Order Shortening Time [June 7, 2021]		13	2953-2960

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
106.	Defendant Sunrise Villas IX Homeowners Association's Notice of Filing Exhibits from the Evidence Vault	6/21/21	13	2961-2963
	Exhibit List		13	2964
	<u>Exhibit 1: Medical Treatment Timeline</u>		13	2965-2968
	<u>Exhibit 2: Medical Summary of Plaintiff Simone Russo</u>		13	2969-2970
	<u>Exhibit 3: Medical Records and Billing Records from Center for Disease &amp; Surgery of the Spine</u>		14	2971-3059
	<u>Exhibit 4: Medical Records and Billing Records Kozmary Center for Pain Management</u>		14 15	3060-3210 3211-3235
	<u>Exhibit 5: Medical Records and Billing Records from Pueblo Medical Imaging</u>		15	3236-3246
	<u>Exhibit 6: Medical Records and Billing Records from Desert Radiology</u>		15	3247-3259
	<u>Exhibit 7: Medical Records and Billing Records from SimonMed Imaging</u>		15	3260-3263
	<u>Exhibit 8: Medical Records and Billing Records from Fyzical Therapy and Balance Centers</u>		15	3264-3285
	<u>Exhibit 9: Surgical Recommendation from Dr. Thalgott</u>		15	3286-2387
107.	Notice of Appeal	6/23/21	15	3288-3290
	<u>Exhibit A: Order on Defendant's Motion to Set Aside and/or Amend Judgment, and Order on Plaintiff's Motion to Enforce Settlement [May 26, 2021]</u>		15	3291-3310

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
<u>TRANSCRIPTS</u>				
110.	Reporter's Transcript of Hearing Re: Settlement	10/16/19	15	3311-3342
111.	Reporter's Transcript of Hearing Re: Settlement	10/18/19	15	3343-3378
112.	Reporter's Transcript of Hearing Re: Motion to Compel Settlement	11/7/19	15	3379-3434
113.	Reporter's Transcript of Hearing (Telephonic Conference) Re: Settlement	11/8/19	16	3435-3474
114.	Reporter's Transcript of Hearing [E-filed November 7, 2019 Hearing Transcript]	1/25/21	16	3475-3520
115.	Reporter's Transcript of Hearing [Telephonic Hearing on February 11, 2019]	2/11/21	16	3521-3607
116.	Reporter's Transcript of Hearing Re: Motions	3/3/21	17	3608-3750
<u>ADDITIONAL DOCUMENTS</u>				
117.	Plaintiff's Motion to Compel Settlement on Order Shortening Time	11/1/19	17	3751-3770
	<u>Exhibit 1</u> : Email from Fink (Sunrise) Re: proposed release and waiting for carrier to sign off		17	3762-3768
	<u>Exhibit 2</u> : Email from Turtzo (Cox) re: also waiting for approval of the release		17	3769-3770

# Exhibit A



RAMIRO MORALES [Bar No.: 7101]  
 Email: [rmorales@mfrlegal.com](mailto:rmorales@mfrlegal.com)  
 WILLIAM C. REEVES [Bar No.8235]  
 Email: [wreeves@mfrlegal.com](mailto:wreeves@mfrlegal.com)  
 MARC J. DEREWETZKY [Bar No. 6619]  
 Email: [mderewetzkymfrlegal.com](mailto:mderewetzkymfrlegal.com)  
 MORALES, FIERRO & REEVES  
 600 South Tonopah Drive, Suite 300  
 Las Vegas, Nevada 89106  
 Telephone: (702) 699-7822  
 Facsimile: (702) 699-9455

Attorneys for Plaintiffs  
 QBE INSURANCE CORPORATION

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

QBE INSURANCE CORPORATION,

Plaintiff,

vs.

SIMONE RUSSO, RICHARD DUSLAK and  
 JUSTIN SESMAN

Defendants.

CASE NO.: 2:20-CV-02104-RFB-EJY

**FIRST AMENDED COMPLAINT FOR  
 DECLARATORY RELIEF**

Plaintiff QBE INSURANCE CORPORATION (“QBE” or “Plaintiff”) alleges as follows:

**PARTIES**

1. At all relevant times herein, Plaintiff QBE was a corporation existing under the laws of the State of Pennsylvania with its principle place of business in Wisconsin. Plaintiff QBE is, and at all relevant times was, an insurance company eligible to do business as an insurer in the State of Nevada.

2. Plaintiff is informed and believes and thereon alleges that, at all times relevant, defendant Simone Russo (“RUSSO”) was and is an individual residing in Clark County, Nevada.

3. Plaintiff is informed and believes and thereon alleges that, at all times relevant, defendant Richard Duslak (“DUSLAK”) was and is an individual residing in Clark County, Nevada.

4. Plaintiff is informed and believes and thereon alleges that, at all times relevant,

defendant Justin Sesman (“SESMAN”) was and is an individual residing in Clark County, Nevada.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction under 28 U.S.C. Section 1332 in that this matter is a civil dispute between citizens of different States in which the amount in controversy, exclusive of costs and interest, exceeds seventy-five thousand dollars (\$75,000).

6. Venue is proper in the United States District Court for Nevada in that all of the defendants are subject to personal jurisdiction in this district at the time this action is commenced and there is no district in which the action may be otherwise brought. All Defendants are, and were at all relevant times, doing business in or residents of the State of Nevada. Next, the subject matter of this action arose in this district, specifically, this dispute arises from an underlying action *Simone Russo v. Cox Communications Las Vegas Inc., et al.* Clark County District Court Case No.: A-17-753606-C (hereinafter, “UNDERLYING MATTER”). Further, the acts and/or omissions at issue in this litigation took place in this judicial district within the State of Nevada. Venue, therefore, lies with this Court, as a substantial part of the events which are the subject of the claims asserted herein are located and/or took place in this judicial district.

### **GENERAL ALLEGATIONS**

7. This insurance coverage related declaratory relief action arises from a dispute regarding RUSSO’s contention that defendants DUSLAK and SESMAN are covered under an insurance policy issued by Plaintiff regarding the UNDERLYING MATTER.

8. In the original complaint in the UNDERLYING MATTER, filed on April 6, 2017, (a copy of which is attached hereto as Exhibit 1), Defendant RUSSO alleged damages from a trip and fall accident that occurred on August 27, 2016, outside a home he was renting in Las Vegas, Nevada. RUSSO alleged that he tripped and fell over a cable or wire that was exposed as it ran up from one side of the front yard, across the driveway of the home he was renting and back under the other side of the yard. The defendants in that action included Sunrise Villas IX Homeowners Association (“SUNRISE VILLAS HOA”) – the HOA for the home RUSSO rented. Defendants DUSLAK and SESMAN are not named in this initial complaint. Instead, RUSSO names a third-party landscaper, J&G Lawn Maintenance, with no alleged connection to SUNRISE VILLAS HOA.

1           9.       On November 29, 2017, RUSSO moved to amend his complaint in the  
2 UNDERLYING MATTER. In a supplement to the motion to amend the complaint, filed on  
3 December 22, 2017, RUSSO requested to add a “Doe Landscaper” because the original J&G  
4 Landscape defendant did not contract with SUNRISE VILLAS HOA. (RUSSO’S motion to amend  
5 complaint and supplement to motion to amend complaint are attached at Exhibit 2.)

6           10.       When RUSSO filed his amended complaint on January 16, 2018, he named  
7 DUSLAK and SESMAN as the landscape contractors alleging that DUSLAK and SESMAN  
8 “maintained and controlled [the subject] premises....” (RUSSO’s amended complaint is attached  
9 hereto as Exhibit 3.)

10          11.       Plaintiff QBE issued condominium association policy no. CAU234378-1, effective  
11 February 1, 2016, through February 1, 2017, to SUNRISE VILLAS HOA as the named insured.  
12 Community Association Underwriters managed this policy as an agent for QBE (the “SUNRISE  
13 VILLAS HOA POLICY”). Under this policy Plaintiff QBE provided SUNRISE VILLAS HOA  
14 with defense an indemnification in the UNDERLYING MATTER. Plaintiff settled the  
15 UNDERLYING MATTER on behalf of its insured SUNRISE VILLAS HOA paying \$140,000 for a  
16 full and complete release.

17          12.       At no time did DUSLAK and/or SESMAN seek defense and/or indemnification from  
18 Plaintiff QBE for the UNDERLYING MATTER.

19          13.       DUSLAK and/or SESMAN have never claimed to be insured by QBE.

20          14.       The UNDERLYING MATTER settled globally with respect to all defendants who  
21 appeared in the action with a payment to RUSSO of a total of \$355,000. The settlement agreement  
22 signed by the parties to the UNDERLYING MATTER, included a release which referenced a  
23 “Stipulation, Attached as Exhibit ‘A,’” which spoke to the parties’ understanding regarding  
24 DUSLAK and SESMAN. The “Stipulation,” signed by RUSSO, reflected the understanding by all  
25 parties to the UNDERLYING MATTER that DUSLAK and SESMAN were independent  
26 contractors. That stipulation states:

27               STIPULATION BETWEEN SUNRISE VILLAS IX HOMEOWNERS

28               ASSOCIATION AND SIMONE RUSSO RELATED TO CASE A-17-753606

(SIMONE RUSSO V COX COMMUNICATIONS LAS VEGAS, INC.).

IT IS HEREBY STIPULATED THAT FOR THE PURPOSES OF THIS LITIGATION AND FOR ANY AND ALL ISSUES RELATED TO SIMONE RUSSO’S CLAIMS AND SETTLEMENT, THAT IN AUGUST 2016 BOTH DEFENDANT RICHARD DUSLAK AND DEFENDANT JUSTIN SESMAN WERE NATURAL PERSONS WHO WERE IN THE SERVICE OF SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION AS INDEPENDENT CONTRACTORS, WHOM SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION COMPENSATED AND WHOM SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION HAD THE NON-EXCLUSIVE RIGHT TO DIRECT AND CONTROL BY ASSIGNING PROJECTS WHILE DUSLAK AND SESMAN PERFORMED SERVICES FOR SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION.

A copy of the executed settlement agreement and “Stipulation” signed by RUSSO is attached hereto as Exhibit 4.

15. In the UNDERLYING MATTER, RUSSO obtained a default judgment against DUSLAK and/or SESMAN in the amount of at least \$25,000.000.

16. On November 2, 2020, RUSSO filed a motion for judicial assignment of all rights of action held by DUSLAK and SESMAN against any and all insurance carriers, including QBE. For the first time, RUSSO claimed that DUSLAK and SESMAN were insured by QBE. When QBE sought to oppose RUSSO’s motion seeking an assignment of rights and advising the court in the UNDERLYING MATTER of this action, RUSSO withdrew it. By letter dated November 4, 2020, RUSSO demanded that QBE satisfy the default judgment RUSSO had taken against DUSLAK and SESMAN.

17. In an email dated November 6, 2020, QBE requested that RUSSO explain the basis for demanding payment of the judgment against DUSLAK and SESMAN and requested that RUSSO provide a copy of any tender from DUSLAK or SESMAN to QBE. (A copy of the email is attached hereto as Exhibit 5).

1           18. By email dated November 17, 2020, RUSSO asserted that the basis for his assertion  
2 that DUSLAK and SESMAN were insureds under the SUNRISE VILLAS HOA POLICY was that  
3 “the policy defines ‘Covered Employee’ as any natural person while in the service of Sunrise and  
4 whom Sunrise compensates and whom Sunrise has the right to control.” RUSSO contended that  
5 given that definition, mimicked, in the “Stipulation” signed by RUSSO as part of the settlement of  
6 the UNDERLYING MATTER, DUSLAK and SESMAN qualified as insureds under the SUNRISE  
7 VILLAS HOA POLICY issued by QBE. (A copy of the email is attached hereto as Exhibit 6).

8           19. To date, RUSSO has provided no evidence of a tender by DUSLAK and/or  
9 SESMAN to QBE.

10           20. RUSSO’s assertion that DUSLAK and SESMAN relied upon a policy definition of  
11 “Covered Employee” that is applicable only to the “Property” (first party) and “Directors and  
12 Officers” policy parts; the term is not used and does not apply to the general “Liability” portion of  
13 the policy.

14           21. Informed that his argument regarding coverage for DUSLAK and SESMAN relied  
15 upon an inapplicable policy term, RUSSO altered his argument. In a letter dated December 9, 2020,  
16 RUSSO asserted that if the signed Stipulation, agreeing that DUSLAK and SESMAN were  
17 independent contractors, meant that DUSLAK and SESMAN were not insureds under the QBE  
18 policy, than the Stipulation was unenforceable. Despite having entered into a settlement with  
19 Sunrise that included affirmation that DUSLAK and SESMAN were independent contractors, in his  
20 December 9, 2020, letter, for the first time, RUSSO contended that DUSLAK and SESMAN were  
21 not independent contractors, but instead, were employees of SUNRISE VILLAS HOA. (The letter  
22 dated December 9, 2020, is attached hereto as Exhibit 7).

23           22. Plaintiff QBE disputes and denies that DUSLAK and/or SESMAN ever claimed an  
24 entitlement to defense and/or indemnification under the QBE policy. Plaintiff QBE then further  
25 disputes and denies that it owes DUSLAK and/or SESMAN a duty of defense and/or  
26 indemnification, fiduciary duties, or a duty of good faith and fair dealing in connection with the  
27 UNDERLYING MATTER. As such, Plaintiff QBE also disputes and denies that it has breached  
28 any such duties to DUSLAK and/or SESMAN.

23. RUSSO now seeks, by virtue of his default judgment against DUSLAK and/or SESMAN to recover damages from QBE under the policies issued to SUNRISE VILLAS HOA.

24. Plaintiff QBE denies that RUSSO has any basis or grounds to recover damages from QBE under the policies issued to SUNRISE VILLAS HOA.

### **CAUSE OF ACTION - Declaratory Relief**

#### **As Against All Defendants**

25. Plaintiff incorporates by reference as though fully set forth herein the allegations in all of the preceding paragraphs.

26. Plaintiff is informed and believes and on that basis alleges that RUSSO claims that DUSLAK and/or SESMAN have claims against Plaintiff. Plaintiff is informed and believes and on that basis alleges that RUSSO claims to be entitled to recover funds from Plaintiff QBE to satisfy the judgment against DUSLAK and/or SESMAN in the UNDERLYING MATTER. Plaintiff denies all of these claims.

27. Plaintiff contends, pursuant to the terms of any insurance policies issued to SUNRISE VILLAS HOA that it does not owe DUSLAK, SESMAN a duty to defend or indemnify, any fiduciary duty, or any duty of good faith and fair dealing in connection with the UNDERLYING MATTER. Plaintiff further contends RUSSO is not entitled to recover funds from Plaintiff QBE to satisfy the judgment against DUSLAK and/or SESMAN in the UNDERLYING MATTER.

28. By reason of the foregoing, an actual controversy exists between the parties, requiring a declaratory judgment of this Court.

29. A judicial determination of this controversy is necessary and appropriate in order for the parties to ascertain their rights, duties and obligations under the insurance policies.

Wherefore, Plaintiff pray for judgment against Defendants as hereinafter set forth.

#### **Prayer**

AS TO THE FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF:

1. For a declaration and determination that DUSLAK and/or SESMAN are not insured by Plaintiff, and in fact never even tendered the UNDERLYING MATTER to Plaintiff, that

1 Plaintiff did not owe DUSLAK, and/ or SESMAN a defense, indemnification, any fiduciary duty, or  
2 any duty of good faith and fair dealing for claims arising out of the UNDERLYING MATTER. For  
3 a declaration and determination that RUSSO is not entitled to recover funds from Plaintiff QBE to  
4 satisfy the judgment against DUSLAK and/or SESMAN in the UNDERLYING MATTER.

5 2. For attorneys' fees;

6 3. For costs of suit;

7 4. For interest;

8 5. For all other relief the Court deems just and proper.

9 DATED: December 23, 2020

MORALES, FIERRO & REEVES

11 By: /s/ Ramiro Morales  
12 Ramiro Morales, #7101  
13 William C. Reeves, #8235  
14 Marc J. Derewetzky, #6619  
15 600 South Tonopah Dr., Suite 300  
16 Las Vegas, NV 89106  
17 Tel: (702) 699-7822

18 Attorneys for Plaintiff QBE INSURANCE  
19 CORPORATION  
20  
21  
22  
23  
24  
25  
26  
27  
28

# Exhibit B



1 DAVID F. SAMPSON, ESQ.  
Nevada Bar No. 6811  
2 THE LAW OFFICE OF DAVID SAMPSON, LLC.  
630 South 3<sup>rd</sup> Street  
3 Las Vegas, NV 89101  
4 Tel: (702) 605-1099  
5 Fax: (888) 209-4199  
6 [david@davidsampsonlaw.com](mailto:david@davidsampsonlaw.com)  
Attorneys for Defendant SIMONE RUSSO

7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 QBE INSURANCE CORPORATION

Case No. 2:20-cv-02104-RFB-EJY

10 Plaintiff,

11 vs.

**SIMONE RUSSO'S AMENDED  
ANSWER TO PLAINTIFF'S  
AMENDED COMPLAINT FOR  
DECLARATORY RELIEF**

12  
13 SIMONE RUSSO, RICHARD DUSLAK and JUSTIN  
SESMAN

14 Defendants.  
15

16 **AMENDED ANSWER**

17  
18 Defendant SIMONE RUSSO ("RUSSO") by and through his counsel of record DAVID  
19 SAMPSON, ESQ., of THE LAW OFFICE OF DAVID SAMPSON, LLC., hereby answers  
20 Plaintiff's Complaint for Declaratory Relief (ECF 1) as follows:

21 **PARTIES**

- 22  
23 1. Answering paragraph 1 of the complaint, RUSSO does not have sufficient knowledge or  
24 information upon which to base a belief as to the truth of the allegations that QBE  
25 existed under the laws of Pennsylvania and, on that basis, denies the said allegation  
26 contained therein. RUSSO admits that QBE was an insurance company eligible to do  
27  
28

1 business as an insurer in the State of Nevada. RUSSO admits the remaining allegations  
2 in paragraph 1.

3 2. Answering paragraph 2 of the complaint, RUSSO admits the allegations contained  
4 therein.

5 3. Answering paragraph 3 of the complaint, RUSSO does not have sufficient knowledge or  
6 information upon which to base a belief as to the truth of the allegations that DUSLAK  
7 was and is a resident of Clark County Nevada and, on that basis, denies the said  
8 allegation contained therein. RUSSO denies any remaining allegations in paragraph 3.

9 4. Answering paragraph 4 of the complaint, RUSSO does not have sufficient knowledge or  
10 information upon which to base a belief as to the truth of the allegations that SESMAN  
11 was and is a resident of Clark County Nevada and, on that basis, denies the said  
12 allegation contained therein. RUSSO denies any remaining allegations in paragraph 4.

13  
14  
15 **JURISDICTION AND VENUE**

16 5. Answering paragraph 5 of the complaint, RUSSO admits the allegations contained  
17 therein.

18 6. Answering paragraph 6 of the complaint, RUSSO denies that he, DUSLAK, and or  
19 SESMAN were “doing business in Nevada”. RUSSO also states he does not have  
20 sufficient information to admit or deny that DUSLAK and/or SESMAN were at all  
21 relevant times residents of Nevada, and therefore denies the same. RUSSO admits the  
22 remaining allegations contained in paragraph 6.

23  
24  
25 **GENERAL ALLEGATIONS**

26 7. Answering paragraph 7 of the complaint, RUSSO admits that it is his understanding and  
27 contention that the language in the subject QBE insurance policy covering SUNRISE  
28

1 VILLAS IV HOA ("SUNRISE"), and the law regarding insurance policies, includes  
2 DUSLAK and SESMAN as covered insureds under the said QBE policy. RUSSO is  
3 without sufficient information to admit or deny the remaining allegations in paragraph 7  
4 and therefore denies the same.

5  
6 8. Answering paragraph 8 of the complaint, RUSSO admits that he filed a complaint  
7 against SUNRISE and others alleging that a cable wire that was part of the SUNRISE  
8 common area, and was the duty of SUNRISE and its employees, among others, to  
9 maintain, was negligently maintained and caused RUSSO injuries. RUSSO admits that  
10 DUSLAK and SESMAN were not named in the original complaint as SUNRISE initially  
11 advised RUSSO that J&G Lawn Maintenance was handling lawn care and maintenance  
12 for SUNRISE at the time RUSSO was hurt. RUSSO denies Plaintiff's claim that the  
13 initial complaint included "no alleged connection" between J&G Lawn Maintenance and  
14 SUNRISE. RUSSO denies any remaining allegations contained in paragraph 8.

15  
16 9. Answering paragraph 9 of the complaint, RUSSO admits that some time prior to  
17 November 29, 2017 SUNRISE advised RUSSO that J&G Lawn Maintenance was  
18 actually not providing lawn and maintenance care for SUNRISE in August 2016, and  
19 that J&G Lawn Maintenance did not start providing such services until September 2016.  
20 RUSSO denies that any imputed motives to RUSSO contained in this paragraph, and  
21 specifically denies that he requested to amend the complaint "because the original J&G  
22 Landscape defendant did not contract with SUNRISE VILLAS HOA" as RUSSO admits  
23 that RUSSO has been informed by SUNRISE that the alleged contract between J&G and  
24 SUNRISE did not begin until September 2016. RUSSO further admits that at some  
25 point in late 2017 or early 2018 SUNRISE advised RUSSO that DUSLAK and  
26  
27  
28

1 SESMAN were the individuals who were actually performing lawn care and  
2 maintenance services in the SUNRISE HOA in August 2016. RUSSO admits he moved  
3 to amend his complaint to replace “Doe Landscaper” defendants because SUNRISE had  
4 advised RUSSO that J&G Lawn Maintenance was not SUNRISE’s landscaper at the  
5 time RUSSO was injured, but that DUSLAK and SESMAN were SUNRISE’s  
6 landscapers in August 2016. RUSSO denies any remaining allegations contained in  
7 paragraph 9.  
8

9 10. Answering paragraph 10 of the complaint, RUSSO admits that the underlying Complaint  
10 (Plaintiff’s Exhibit “3”) speaks for itself. RUSSO further admits that in late 2017 or  
11 early 2018 SUNRISE advised RUSSO that DUSLAK and SESMAN were the  
12 individuals who were actually performing lawn care and maintenance services in the  
13 SUNRISE HOA in August 2016 and that because of SUNRISE’s admission that  
14 DUSLAK and SESMAN were performing the said duties at SUNRISE, Russo amended  
15 the complaint to add DUSLAK and SESMAN as Defendants. RUSSO admits that his  
16 complaint alleged DUSLAK and SESMAN “maintained and controlled” and performed  
17 lawn and maintenance duties at and for SUNRISE. RUSSO denies ever naming  
18 DUSLAK and/or SESMAN as “landscaping contractors” in any complaint. *See*, Exhibit  
19 3 to QBE’s Complaint in this matter. RUSSO further admits that on March 2, 2018  
20 SUNRISE answered an interrogatory in the underlying action in which SUNRISE stated,  
21 “SUNRISE VILLAS believes it employed Richard Duslak and Justin Sesman for lawn  
22 maintenance repair and/or cleaning prior to September 2016 . . .”. *See* Exhibit “A” at P.  
23 7 L. 8-9. Russo denies any remaining allegations contained in paragraph 10.  
24  
25  
26  
27  
28

1 11. Answering paragraph 11 of the complaint, RUSSO admits QBE issued a policy of  
2 insurance to SUNRISE and that QBE provided SUNRISE with a defense in the  
3 underlying action. RUSSO is without sufficient information to admit or deny any  
4 allegations regarding CAU's relationship with QBE and therefore denies the same.  
5 Russo denies the remainder of the allegations in paragraph 11 and further specifically  
6 denies that RUSSO settled with SUNRISE "for a full and complete release" as the  
7 release specifically excluded DUSLAK and SESMAN or anyone associated or affiliated  
8 with them including any actual or potential insurer. *See*, Exhibit "B".  
9

10 12. Answering paragraph 12 of the complaint, RUSSO denies the allegations contained  
11 therein. It is RUSSO's understanding and belief that DUSLAK and SESMAN contacted  
12 SUNRISE about the underlying action when DUSLAK and SESMAN were served with  
13 the same, and that SUNRISE advised it had given the matter to SUNRISE's insurance  
14 carrier, and that the carrier was "taking care of it".  
15

16 13. Answering paragraph 13 of the complaint, RUSSO denies the allegations contained  
17 therein. It is RUSSO's understanding and belief that DUSLAK and SESMAN have  
18 always claimed to be employees of SUNRISE and thus covered by any policy(ies) of  
19 insurance SUNRISE had that covered itself and/or its employees, which is consistent  
20 with what SUNRISE stated in its interrogatory answer in the underlying matter when  
21 SUNRISE said it "employed" DUSLAK and SESMAN. *See*, Exhibit "A".  
22

23 14. Answering paragraph 14 of the complaint, RUSSO admits that the document contained  
24 in Exhibit "4" to the Amended Complaint speaks for itself. RUSSO further admits that  
25 the agreement between the parties specifically excluded DUSLAK and SESMAN and  
26 made it more than clear that DUSLAK and SESMAN were not a part of any settlement  
27  
28

1 agreement, that RUSSO had every right to continue his action and seek a Judgment  
2 against DUSLAK and SESMAN, and that any language in the settlement agreement that  
3 could be read to impact DUSLAK and SESMAN's rights to coverage under any  
4 applicable insurance (including insurance procured through SUNRISE) was deemed null  
5 and void. *See*, Exhibit "4" to the amended complaint. RUSSO denies any and all  
6 remaining allegations in paragraph 14 and specifically denies Plaintiff's attempts to  
7 know and/or understand what RUSSO's understanding was regarding any issue.  
8

9 15. Answering paragraph 15 of the complaint RUSSO admits the allegations contained  
10 therein. RUSSO further admits that, as QBE did not defend DUSLAK or SESMAN, the  
11 court heard evidence in the underlying action and the judge determined that based on  
12 that evidence a judgment should be entered in that matter against DUSLAK and  
13 SESMAN in the amount of \$25,000,000.00.  
14

15 16. Answering paragraph 16 of the complaint, RUSSO admits he filed, and later withdrew, a  
16 motion for judicial assignment. RUSSO denies the remaining allegations contained in  
17 paragraph 15, and specifically denies that November 2, 2020 was "the first time"  
18 RUSSO claimed DUSLAK and SESMAN were insured by QBE. RUSSO also  
19 specifically denies that he withdrew the motion for assignment because QBE sought to  
20 oppose the same. RUSSO admits that the November 4, 2020 letter referenced in  
21 paragraph 16 speaks for itself.  
22

23 17. Answering paragraph 17 of the complaint RUSSO admits that the November 6, 2020  
24 email referenced in paragraph 17 speaks for itself. RUSSO admits that the email from  
25 counsel for QBE stated:  
26

27 Dear Mr. Sampson:  
28

1 I represent the Sunrise Villa's insurance carrier, QBE. The insurer has no  
2 record of policies issued to Justin Sesman or Richard Duslak? What is the  
3 reason for your demand letter to the insurer? Do you have a copy of a  
4 tender from Justin Sesman and/or Richard Duslak? Do you now represent  
5 Justin Sesman and/or Richard Duslak?

6 The insurer reserves all rights and waives none.

7 Thank you.

8 RUSSO admits the email did not ask RUSSO to "explain the basis for demanding  
9 payment of the judgment". RUSSO further denies the remaining allegations in  
10 paragraph 17.

11 18. Answering paragraph 18 of the complaint, RUSSO admits that there were no less than  
12 eight (8) emails sent between counsel for RUSSO and counsel for QBE on November  
13 17, 2020, and that the said emails speak for themselves. RUSSO further admits that  
14 when counsel for QBE sent one of the November 17, 2020 emails, wherein counsel for  
15 QBE asked, "Why are they insured?", RUSSO's counsel (who did not understand QBE's  
16 counsel's question as seeking an exhaustive explanation of any and all basis for any  
17 assertion that DUSLAK and/or SESMAN were insureds) responded as follows:

18 The policy defines "Covered Employee" as any natural person while in the  
19 service of Sunrise and whom Sunrise compensates and whom Sunrise has  
20 the right to control.

21 Both Duslak and Sesman are natural people who in August 2016 where in  
22 the service of Sunrise (Board meeting minutes from Sunrise state that  
23 Duslak and Sesman were hired in November 2015 and were not terminated  
24 until September 2016), where compensated by Sunrise, and whom Sunrise  
25 had the right to control (Board meeting minutes from Sunrise state that the  
26 Secretary of the Sunrise "Morales" will oversee the work performed by  
27 Duslak and Sesman).

28 Why would they not qualify as covered employees under the contract?

Thank you

1 RUSSO also admits that it appears QBE and SUNRISE did not provide RUSSO with a  
2 full copy of the QBE policy before asking RUSSO's counsel "Why are they insured?"  
3 RUSSO denies any and all remaining allegations in paragraph 18.  
4

5 19. Answering paragraph 19 of the complaint RUSSO denies the allegations contained  
6 therein.

7 20. Answering paragraph 20 of the complaint RUSSO denies the allegations contained  
8 therein.  
9

10 21. Answering paragraph 21 of the complaint RUSSO admits that his December 9, 2020  
11 letter speaks for itself. RUSSO denies that he "altered" his argument. RUSSO admits  
12 that the settlement agreement specifically excluded DUSLAK and SESMAN and made it  
13 more than clear that DUSLAK and SESMAN were not a part of any settlement  
14 agreement, that RUSSO had every right to continue his action and seek a Judgment  
15 against DUSLAK and SESMAN, and that any language in the settlement agreement that  
16 could be read to impact the rights of DUSLAK and/or SESMAN rights to coverage  
17 under any applicable insurance (including insurance procured through SUNRISE) was  
18 deemed null and void. RUSSO denies that "the Stipulation was unenforceable" if any  
19 language contained therein could impact the rights of DUSLAK and/or SESMAN to  
20 coverage as the agreement states that in the event such language exists that the said  
21 language is deemed null and void, not that the stipulation or settlement agreement would  
22 be unenforceable. RUSSO also admits that the settlement agreement specifically states  
23 that if language therein is deemed invalid the said language is deemed severed and  
24 deleted from the agreement and the agreement as a whole shall not be affected. RUSSO  
25 also denies that December 9, 2020 was the first time he contended DUSLAK and  
26  
27  
28



1 SESMAN were employees of SUNRISE. RUSSO denies the any remaining allegations  
2 contained in paragraph 21.

3 22. Answering paragraph 22 of the complaint, RUSSO does not have sufficient knowledge  
4 or information upon which to base a belief as to the truth of the allegations contained in  
5 this paragraph, particularly any claims about what QBE believes and, on that basis,  
6 denies the allegations contained therein.  
7

8 23. Answering paragraph 23 of the complaint RUSSO admits that he has alleged and  
9 continues to allege that QBE owed DUSLAK and SESMAN a duty of defense and  
10 indemnification, fiduciary duties, and a duty of good faith and fair dealing in connection  
11 with the underlying action. RUSSO also admits that he understands and believes that  
12 QBE breached those duties and that DUSLAK and SESMAN have actionable claims  
13 against QBE. RUSSO denies any remaining allegations contained in paragraph 23 as  
14 RUSSO does not possess any claims owned by DUSLAK and/or SESMAN as no  
15 assignment has occurred.  
16  
17

18 24. Answering paragraph 24 of the complaint RUSSO does not have sufficient knowledge as  
19 to what QBE believes and therefore denies the allegations contained in paragraph 24.  
20 RUSSO understands and believes that, as he is not a party or intended beneficiary to the  
21 QBE insurance contract, he has no basis or grounds himself to recover directly against  
22 QBE under the contract.  
23

24 25. Paragraph 25 of the complaint incorporates the preceding paragraphs in the complaint  
25 which does not require any admissions or denials by RUSSO. To the extent this  
26 paragraph could be construed as calling for a response RUSSO denies all allegations  
27 contained therein.  
28

1 26. Answering paragraph 26 of the complaint, RUSSO admits he believes and alleges that  
2 DUSLAK and SESMAN have claims against Plaintiff, that Plaintiff owed DUSLAK and  
3 SESMAN a duty to defend and indemnify DUSLAK and SESMAN in connection with  
4 the underlying action, that Plaintiff owed additional duties to DUSLAK and SESMAN,  
5 and that DUSLAK and SESMAN are entitled to any and all damages arising as a  
6 consequence of QBE's breaches of any of those duties, which damages would include,  
7 but are not limited to, monies necessary to satisfy the judgment entered in favor of  
8 RUSSO against DUSLAK and SESMAN. *See, Century Surety v. Andrew*, 134  
9 Nev.Adv.Op. 100, 432 P.3d 180 (2018). RUSSO further admits that he is entitled to  
10 recover funds from DUSLAK and SESMAN to satisfy the judgment in the underlying  
11 matter, and that DUSLAK and SESMAN are entitled to recover said funds from  
12 Plaintiff. RUSSO denies the remainder of the allegations in paragraph 26.  
13  
14

15 27. Answering paragraph 22 of the complaint, RUSSO denies the allegations contained  
16 therein. RUSSO does admit it is his understanding and belief that, as he is not a party or  
17 intended beneficiary to the QBE insurance contract, he has no basis or grounds himself  
18 to recover directly against QBE, and that DUSLAK and SESMAN would have the right  
19 to any and all damages arising as a consequence of QBE's breaches, including monies  
20 necessary to satisfy the Judgment entered in favor of RUSSO against DUSLAK and  
21 SESMAN. *See, Century Surety v. Andrew*, 134 Nev.Adv.Op. 100, 432 P.3d 180 (2018).  
22 RUSSO denies the remainder of the allegations in paragraph 27.  
23  
24

25 28. Answering paragraph 25 of the complaint, RUSSO does not have sufficient knowledge  
26 or information upon which to base a belief as to the truth of the allegations contain in  
27 this paragraph and, on that basis, denies the allegations contained therein. RUSSO  
28

1 admits it is his understanding and belief that a controversy exists between QBE and  
2 Defendants DUSLAK, and SESMAN. RUSSO understands that under Nevada law he is  
3 not a party or an intended beneficiary of the subject insurance policy. RUSSO denies the  
4 remainder of the allegations in paragraph 28.

5  
6 29. Answering paragraph 29 of the complaint, RUSSO does not have sufficient knowledge  
7 or information upon which to base a belief as to the truth of the allegations contained in  
8 this paragraph and, on that basis, denies the allegations contained therein. RUSSO  
9 admits it is his understanding and belief that a controversy exists between QBE and  
10 Defendants DUSLAK and SESMAN. RUSSO understands that under Nevada law he is  
11 not a party or an intended beneficiary of the subject insurance policy. RUSSO denies  
12 the remainder of the allegations in paragraph 29.

13  
14 30. Plaintiff's prayer for relief immediately following paragraph 30 of the complaint does  
15 not contain any factual allegations that would require a response from RUSSO. To the  
16 extent the prayer for relief could be construed as calling for a response, RUSSO denies  
17 that Plaintiff is entitled to the relief requested therein.

18  
19 **AFFIRMATIVE AND OTHER DEFENSES**

20 RUSSO asserts the following affirmative defenses to plaintiff's complaint.

21 **FIRST DEFENSE**

22 The complaint, and each and every cause of action thereof, fails to state a claim upon  
23 which relief can be granted.

24  
25 **SECOND DEFENSE**

26 Plaintiff failed to take reasonable steps to avoid the damages, if any, alleged in the  
27 complaint, and each and every cause of action contained therein.

**THIRD DEFENSE**

Any damages sustained by plaintiff by reason of the events alleged in the complaint were proximately caused or contributed to by plaintiff's own breach of the subject insurance contract.

**FOURTH DEFENSE**

Plaintiff has engaged in acts, omissions and conduct that constitute a breach of Plaintiff's obligations under the subject policy.

**FIFTH DEFENSE**

Plaintiff has unclean hands in failing and refusing to defend DUSLAK and SESMAN and attempting to undermine the rights DUSLAK and SESMAN have to coverage.

**SIXTH DEFENSE**

QBE's handling of Plaintiff's claim was not correct, was not proper and was not reasonable under the terms of the subject policy.

**SEVENTH DEFENSE**

At all times and places relevant hereto, QBE failed to act in good faith, and acted without with justification or probable cause and with malice toward its insureds.

**EIGHTH DEFENSE**

QBE's actions at all times failed to comply with NRS 686A.310.

**NINTH DEFENSE**

QBE's conduct was malicious, oppressive and/or fraudulent pursuant to NRS 42.010.

**TENTH DEFENSE**

Plaintiff's cause of action is barred by the doctrine of waiver.

**ELEVENTH DEFENSE**

1 Plaintiff's action is barred by the doctrine of estoppel.

2 **TWELFTH DEFENSE**

3 Plaintiff's conduct waived the relief prayed for in the complaint.

4 **THIRTEENTH DEFENSE**

5 Plaintiff failed to properly and fully mitigate, minimize or avoid damages to itself and its  
6 insureds.

7 **FOURTEENTH DEFENSE**

8 Plaintiff is not entitled to attorney's fees pursuant to any of the claims alleged in the  
9 complaint.

10 **EIGHTEENTH DEFENSE**

11 That the Plaintiff subjected Defendants to duress in forcing Defendant to take certain  
12 actions.

13 **NINETENTH DEFENSE**

14 That defense of the underlying matter was constructively tendered to QBE.

15 **TWENTIEH DEFENSE**

16 Pursuant to FRCP 11, as amended, all possible affirmative and other defenses may not  
17 have been alleged herein insofar as sufficient facts were not available after reasonable inquiry  
18 upon the filing of this answer, and therefore, Acuity reserves the right to amend this answer to  
19 allege additional affirmative defenses if subsequent investigation so warrants.

20 WHEREFORE, and for the reasons set forth in the counterclaim below, RUSSO prays for  
21 judgment as follows:

- 22 1. For a declaration and determination that DUSLAK and SESMAN are insureds under the  
23 policy between Plaintiff and SUNRISE, and that the defense of the claims against  
24  
25  
26  
27  
28

1 DUSLAK and SESMAN were duly tendered and/or constructively tendered to Plaintiff,  
2 that Plaintiff did owe DUSLAK and/or SESMAN a defense, indemnification, fiduciary  
3 duties, and good faith and fair dealing for claims arising out of the underlying action. For  
4 a declaration that DUSLAK and/or SESMAN are entitled to recover funds from Plaintiff  
5 QBE, including all funds necessary to satisfy the judgment against DUSLAK and/or  
6 SESMAN in the underlying action, including all interest;  
7

- 8 2. For attorney's fees;  
9  
10 3. For costs of suit;  
11  
12 4. For interest;  
13  
14 5. For all other relief the Court deems just and proper.

15 DATED THIS 11<sup>th</sup> day of January, 2021.

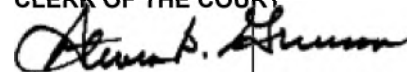
16 THE LAW OFFICE OF DAVID SAMPSON, LLC.

17 By: /s/ David Sampson

18 David Sampson, Esq.  
19 Nevada Bar No. 6811  
20 630 South 3<sup>rd</sup> Street  
21 Las Vegas, NV 89101  
22 Tel: (702) 605-1099  
23 Email: [David@davidsampsonlaw.com](mailto:David@davidsampsonlaw.com)  
24 Attorney for RUSSO  
25  
26  
27  
28



Electronically Filed  
1/22/2021 8:41 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 MTN

2 DAVID F. SAMPSON, ESQ.

3 Nevada Bar No. 6811

4 LAW OFFICE OF DAVID SAMPSON, LLC.

5 630 S. 3rd Street

6 Las Vegas, NV 89101

7 Tel: 702-605-1099

8 Fax: 888-209-4199

9 Email: david@davidsampsonlaw.com

10 *Attorney for Plaintiff*

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SIMONE RUSSO, )

Plaintiff, )

vs. )

CASE NO: A-17-753606-C

DEPT. NO: XVI

COX COMMUNICATIONS LAS VEGAS, )

INC., D/B/A COX COMMUNICATIONS, )

IES RESIDENTIAL, INC., SUNRISE )

VILLAS IX HOMEOWNERS )

ASSOCIATION, J & G LAWN )

MAINTENANCE, KEVIN BUSHBAKER, )

PWJAMES MANAGEMENT & )

CONSULTING, LLC., J. CHRIS )

SCARCELLI, DOE LANDSCAPER, )

RICHARD DUSLAK, JUSTIN SESMAN, )

AND DOES I-V, and ROE )

CORPORATIONS I-V, inclusive, )

Defendants. )

ORAL ARGUMENT REQUESTED  
HEARING REQUESTED

**MOTION TO ENFORCE SETTLEMENT**

COMES NOW, Plaintiff, SIMONE RUSSO, by and through his attorney of record, and moves this Court to enforce the settlement in this matter that was placed on the record October 18, 2019. This motion is made and based upon the pleadings and papers filed herein, the attached Points and Authorities, and upon oral argument at the time of hearing.



## STATEMENT OF FACTS

The court is well aware of the underlying facts of this case. Dr. SIMONE RUSSO, M.D., was horrifically injured on August 27, 2016 when he fell because of an exposed cable wire located at 4617 Madreperla in the SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION. SIMONE brought a lawsuit against: COX, the SUNRISE HOA, the landscapers responsible for maintenance in the area where SIMONE fell, the landlord, the property manager for SUNRISE, and the property manager for the landlord. This action proceeded to trial twice in the fall of 2019<sup>1</sup>.

Before litigation commenced SUNRISE told SIMONE that “J&G LAWN MAINTENANCE” was responsible for performing lawn maintenance for SUNRISE at the time SIMONE fell. Subsequently SUNRISE told SIMONE that it employed Richard Duslak and Justin Sesman to perform landscaping and maintenance at SUNRISE, and that DUSLAK and SESMAN were responsible for landscaping and maintenance in SUNRISE at the time SIMONE fell. Indeed, SUNRISE responded in an Interrogatory saying, “SUNRISE VILLAS believes it employed Richard Duslak and Justin Sesman for lawn maintenance repair and/or cleaning prior to September 2016 and terminated this contract before retaining J&G LAWN MAINTENANCE on or about September 8, 2016.” *See* Exhibit “1” at P. 7 L. 8-10.

After SUNRISE admitted that DUSLAK and SESMAN were handling maintenance for SUNRISE when SIMONE fell, SIMONE amended his Complaint to dismiss J&G LAWN MAINTENANCE and include DUSLAK and SESMAN as the subject landscapers. SIMONE served DUSLAK and SESMAN with the lawsuit and advised SUNRISE and its carrier that

<sup>1</sup> The first trial ended in a mistrial as a result of comments made by a potential juror impugning retained expert witnesses.

1 defaults were entered against DUSLAK and SESMAN when no answer was filed on their  
2 behalf. *See*, Exhibit “2”<sup>2</sup>.

3 After SIMONE completed his voir dire of the jury in the second trial, the active parties  
4 to the lawsuit at the time agreed to settle this matter as to the said active parties only. On  
5 October 18, 2019 the active parties placed the settlement on the record. *See*, Exhibit “3”. In  
6 placing the settlement on the record, attorney Leonard Fink, Esq., who was counsel for  
7 SUNRISE and was in a tripartite relationship with QBE at the time stated, “Your Honor, we  
8 have – as of last night about 4:30, 4:45, we have a global settlement *involving the parties that*  
9 *are involved.*” *Id* at P. 5 P. 24-25 (emphasis added). Mr. Fink continued “We still need to have  
10 the Court determine the settlement is in good faith - - *because of the further actions Mr.*  
11 *Sampson is going to take against the defaulted parties* [DUSLAK and SESMAN].” *Id*, at P. 6  
12 L. 4-9 (emphasis added).

13 Mr. Sampson (counsel for SIMONE) then stated, “I wanted to make sure it was on the  
14 record that, yes, *it’s against all parties that answered and are currently involved.*” *Id* at P. 6 L.  
15 12-14 (emphasis added). The Court then stated, “In this case.”, and Mr. Sampson responded  
16 “Well, there are two other parties [DUSLAK and SESMAN] who have been defaulted that  
17 we’re still – *this settlement does not affect them*”. *Id* at P. 6 L. 15-19 (emphasis added).  
18 Counsel for SUNRISE then agreed the settlement would not include or affect the defaulted  
19 parties other than “PW James” which was the property management company for SUNRISE. *Id*  
20 at P. 6 L. 20.

21 The following colloquy then took place:

---

22 <sup>2</sup> The letter was addressed to Community Association Underwriters Agency, which is a  
23 subsidiary of QBE.  
24  
25  
26  
27  
28

1 THE COURT: So as far as the motion of good-faith settlement and reflecting the  
2 global settlement *of the parties to this case that have actively litigated*, I'm  
3 granting that motion.

4 MR. FINK: That would also be including PW JAMES?

5 THE COURT: Yes, sir.

6 MR. FINK: Thank you, Your Honor.

7 MR. SAMPSON: *Ones that are actively litigated and PW James.*

8 THE COURT: Yes.

9 *Id* at P. 7 L. 19 – P. 8 L. 4 (emphasis added).

10  
11 Counsel for COX then placed the specific terms of the settlement on the record,  
12 confirming the following:

13 so the settlement payment to the plaintiff is not -- has not changed. That's still the  
14 amount that was put on the record \$355 thousand. It's being funded by insurance  
15 carriers on behalf of Cox and IES Residential and Sunrise Villas IX. And then  
16 additionally *parties receiving a release from the plaintiff include IES*  
17 *Residential, Cox Communications, the Sunrise HOA, PW James, and now*  
18 *defendant Chris Scarcelli and defendant Kevin Bushbaker* will also be released  
19 as part of that settlement. The plaintiff is releasing his claims *against them*.

20 In addition, *all of the parties that I just named* are releasing any current or future  
21 cross-claims for equitable indemnity, contribution, or otherwise. All currently  
22 alleged or potential cross-claims *amongst those parties only* are being released as  
23 part of the global settlement.

24 *Id* at P. 8 L. 19 – P. 9 L. 11 (emphasis added).

25 After confirming that the subject settlement only released and impacted IES Residential,  
26 Cox Communications, the Sunrise HOA, PW James, Chris Scarcelli and Kevin Bushbaker, the  
27 Court asked “Everyone agree?”, whereupon counsel for all active parties, including Mr. Fink as  
28 counsel for SUNRISE, placed their agreement on the record. *Id* at P. 9 L. 12-19. Indeed, the  
Court specifically commended counsel for COX for accurately conveying that the settlement

1 only involved SIMONE's claims against IES Residential, Cox Communications, the Sunrise  
2 HOA, PW James, Chris Scarcelli and defendant Kevin Bushbaker. *Id* at P. 9 L. 20.

3 Counsel for the various parties then discussed reducing the settlement to writing,  
4 whereupon Mr. Sampson confirmed that in drafting any release or the like related to the  
5 settlement:  
6

7 the terms of whatever documents we sign or that my client has asked to sign  
8 comport with what was discussed Wednesday, and what's being discussed today,  
9 and *no new terms*, and those types of things. And, I guess, *most of all that*  
10 *nothing in any of these releases or any of the settlement affects any rights Dr.*  
11 *Russo may have against any person or entity related to the claims of the two*  
12 *individuals who have been defaulted*, and any claims that they may have against  
13 anybody would not be affected by this settlement. *So as long as we're clear on all*  
14 *of that.*

15 *Id* at P. 10 L. 24 – P. 11 L. 12 (emphasis added).

16 After Mr. Sampson asked to make it clear that no releases or any other settlement  
17 documents would affect any rights SIMONE may have against the defaulted parties (DUSLAK  
18 and SESMAN), *Mr. Fink agreed that no releases or settlement documents would affect any*  
19 *rights SIMONE may have against DUSLAK and/or SESMAN.* *Id* at P. 11 L. 21.

20 After the release (which the parties agreed on October 18, 2019 would not include any  
21 new terms and would not affect any rights SIMONE may have against DUSLAK and/or  
22 SESMAN) was signed by all involved parties, and given the release specifically recognized that  
23 SIMONE retained "all rights" to pursue "any and all claims against DUSLAK and SESMAN",  
24 SIMONE sought and procured a default Judgment against DUSLAK and SESMAN on  
25 December 12, 2019. In January 2019 (over 15 months after the October 18, 2019 settlement  
26 was confirmed on the record and over a year after Judgment was entered in this matter)  
27 SUNRISE and its insurance carrier QBE have asked this Court to change the agreement entered  
28 on the record on October 19, 2019. SUNRISE and QBE have specifically asked that the Court

1 enforce a new term and find that the settlement did affect SIMONE's rights against DUSLAK  
2 and/or SESMAN. As set forth below, the Court should not permit such to occur.

### 3 POINTS AND AUTHORITIES

4  
5 In the October 19, 2019 hearing on this matter all of the parties to the settlement  
6 confirmed that the settlement did not affect any of SIMONE's rights against DUSLAK or  
7 SESMAN, with Mr. Sampson making it clear, and all parties agreeing, that "this settlement does  
8 not affect them". Exhibit "3" at P. 6 L. 15-19. The Court itself confirmed that the settlement  
9 only applies to "the parties to this case that have actively litigated" and "PW JAMES". *Id* at P.  
10 7 L. 19 – P. 8 L. 4. Counsel for COX confirmed, and all represented parties present agreed, that  
11 the only parties released to any degree would be "IES Residential, Cox Communications, the  
12 Sunrise HOA, PW James, and now defendant Chris Scarcelli and defendant Kevin Bushbaker".  
13 *Id* at P. 8 L. 19 – P. 9 L. 19. Counsel for Russo, in discussing any settlement documentation  
14 that would be subsequently signed, insisted that there be "no new terms" and "most of all that  
15 nothing in any of these releases or any of the settlement affects any rights Dr. Russo may have  
16 against any person or entity related to the claims of the two individuals who have been  
17 defaulted" and made sure "we're clear on all of that", to which *all parties present agreed*. *Id* at  
18 P. 10 L. 24 – P. 11 L. 21.

19  
20  
21 Under EDCR 7.50 the agreement that was placed on the record on October 18, 2021, in  
22 which SUNRISE specifically agreed that SIMONE's rights against DUSLAK and/or SESMAN  
23 are not affected by the settlement, and that the settlement did not include DUSLAK and/or  
24 SESMAN, is enforceable. SIMONE has the right to enforce the terms of the settlement that  
25 SIMONE would retain and pursue "*all rights* to pursue *any claims* against RICHARD  
26 DUSLAK and/or JUSTIN SESMAN". *Id* at P. 4 (emphasis added). SIMONE has the right to  
27  
28

1 enforce the terms that were agreed upon on the record by all parties that, when it comes to  
2 DUSLAK and/or SESMAN whom all parties involved knew had been defaulted, “this  
3 settlement does not affect them”. *Id* at P. 6 L. 15-19.  
4

5 On October 18, 2019 SUNRISE agreed that “nothing in any of these releases or any of  
6 the settlement affects any rights Dr. Russo may have against any person or entity related to the  
7 claims of the two individuals who have been defaulted”. Counsel for SUNRISE agreed that  
8 such would be the case. *Id* at P. 10 L. 24 – P. 11 L. 21. Recent motions brought by SUNRISE  
9 and QBE 15 months after the agreement was confirmed on the record seek to have this Court  
10 find that the releases and settlement documents did in fact affect SIMONE’s rights against  
11 DUSLAK and/or SESMAN. This cannot be permitted when SUNRISE agreed October 18,  
12 2019 that nothing in any of the releases or any of the settlement affect SIMONE’s rights against  
13 the said individuals. The Court should enforce the agreement at placed on the record October  
14 18, 2019.  
15  
16

17 ///

18 ///

19 ///

LAW OFFICE OF DAVID SAMPSON, LLC.

DATED this 22<sup>nd</sup> day of January, 2021.

DAVID SAMPSON, ESQ.  
Nevada Bar No.6811  
LAW OFFICE OF DAVID SAMPSON, LLC.  
630 S. 3<sup>rd</sup> St.  
Las Vegas NV 89101  
Fax No: 888-209-4199  
Attorney for Plaintiff

## Page 9 of 9

An Employee of The LAW OFFICE OF DAVID SAMPSON, LLC.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT “1”**



1 **RSPN**

2 LEONARD T. FINK, ESQ.

3 Nevada Bar No. 6296

4 JONATHAN C. PATTILLO, ESQ.

5 Nevada Bar No. 13929

6 **SPRINGEL & FINK LLP**

7 10655 Park Run Drive, Suite 275

8 Las Vegas, Nevada 89144

9 Telephone: (702) 804-0706

10 Facsimile: (702) 804-0798

11 E-Mail: *lfink@springelfink.com*

12 *jpattillo@springelfink.com*

13 Attorneys for Defendant,

14 SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION

15 **DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 \*\*\*

18 SIMONE RUSSO,

) Case No.: A-17-753606-C

) Dept. No.: XVI

19 Plaintiffs,

20 v.

) **DEFENDANT SUNRISE VILLAS IX**  
) **HOMEOWNERS ASSOCIATION'S SECOND**  
) **SUPPLEMENTAL RESPONSES TO**  
) **PLAINTIFF'S FIRST SET OF**  
) **INTERROGATORIES**

21 COX COMMUNICATIONS LAS VEGAS, INC.)  
22 D/B/A COX COMMUNICATIONS; IES)  
23 RESIDENTIAL, INC.; SUNRISE VILLAS IX)  
24 HOMEOWNERS ASSOCIATION; J&G LAWN)  
25 MAINTENANCE; KEVIN BUSHBAKER; PW)  
26 JAMES MANAGEMENT & CONSULTING,)  
27 LLC; AND DOES 1-V, AND ROE)  
28 CORPORATIONS I-V, inclusive )

Defendants )

29 **DEFENDANT SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION'S SECOND**  
30 **SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

31 COMES NOW, Defendant SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION  
32 ("SUNRISE VILLAS"), by and through its counsel of record, the law firm of Springel & Fink LLP, and  
33 hereby submits its Second Supplemental responses to Plaintiff SIMONE RUSSO'S First Set of  
34 Interrogatories pursuant to NRCP 33:

**PRELIMINARY STATEMENT**

SUNRISE VILLAS objects to each and every one of these Interrogatories as to form in nature, boilerplate and “shotgun.”

It should be noted that SUNRISE VILLAS has not fully completed its investigation of the facts relating to this case, has not fully completed discovery in this action, and has not completed preparation for trial. All of the responses contained herein are based only upon such information and documents which are presently available to and specifically known to SUNRISE VILLAS, and disclose only those contentions which presently occur to it. As discovery proceeds, witnesses, facts, and evidence may be discovered which are not set forth herein, but which may have been responsive to an Interrogatory.

Facts and evidence now known may be imperfectly understood, or the relevance or consequence of such facts and evidence may be imperfectly understood and, accordingly, such facts and evidence may, in good faith, not be included in the following responses.

It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts, add meaning to the known facts, as well as establishing entire new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the contentions herein set forth. The following responses are given without prejudice to SUNRISE VILLAS’ right to produce evidence of any subsequently discovered facts or witnesses which it may later recall. SUNRISE VILLAS accordingly reserves the right to change any and all answers herein as additional facts are ascertained, analyses are made, legal research is completed, and contentions are made. The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, but should in no way be to the prejudice of SUNRISE VILLAS in relation to further discovery, research or analysis.

SUNRISE VILLAS assumes no obligation to voluntarily supplement or amend these responses to reflect witnesses, facts, and evidence following the filing of these responses other than required under NRCP 26(e) and 16.1. In addition, because some of these responses may have been ascertained by its attorneys and investigators, SUNRISE VILLAS may not have personal knowledge of the information from which these responses are derived.

///

**RESPONSES TO INTERROGATORIES****REQUEST NO. 1:**

Please describe in full detail the location of the cable/wire, in the area of the walkway in question prior to the incident that is the subject of this lawsuit, and if in need of repair state the date it became in need of repair and/or removal, why it was in need of repair and/or removal, and the plans of Defendant, SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION to make repairs and/or removal.

**RESPONSE TO REQUEST NO. 1:**

Objection. SUNRISE VILLAS objects to this Interrogatory on the grounds that it is vague and overbroad. SUNRISE VILLAS' objection notwithstanding, SUNRISE VILLAS does not have any information responsive to this Interrogatory. It is SUNRISE VILLAS' understanding that the cable/wire where the wire was located is at the base of the driveway near the expansion joint between the driveway and the curb. SUNRISE VILLAS never received notice of the wire, and never received notice for any need for its repair. SUNRISE VILLAS employs a new management company, has a completely new Board, and is unaware of such information.

Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

**SUPPLEMENTAL RESPONSES TO REQUEST NO. 1:**

SUNRISE VILLAS withdraws its objection. SUNRISE VILLAS' response remains unchanged.

**SECOND SUPPLEMENTAL RESPONSES TO REQUEST NO. 1**

SUNRISE VILLAS consulted with its current management company and the current Board of Directors, including Board President Al Stubblefield, regarding the identity of any employees or Board officers who may have information pertinent to this Interrogatory. After failing to locate any employee or officer with knowledge of the location of the wire or its need of repair, SUNRISE VILLAS determined that it was without knowledge to respond to this Interrogatory.

**REQUEST NO. 2:**

Please identify each and every employee of Defendant, SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION who participated in the installation, repair and/or removal of the cable/wire that was positioned across the lawn and/or walkway at 4617 Madreperla Street, Las Vegas, NV 89121 in the area where Plaintiff fell.

**RESPONSE TO REQUEST NO. 2:**

Objection. SUNRISE VILLAS objects to this Interrogatory on the grounds that it is vague and overbroad as to the meaning of the word “employee.” SUNRISE VILLAS’ objection notwithstanding, SUNRISE VILLAS does not have any information responsive to this Interrogatory. SUNRISE VILLAS employs a new management company, has a completely new Board, and is unaware of such information.

Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

**SUPPLEMENTAL RESPONSES TO REQUEST NO. 2:**

SUNRISE VILLAS withdraws its objection. SUNRISE VILLAS’ response remains unchanged, in that it does not have any information responsive to this request. No employees of SUNRISE VILLAS installed, repaired, or removed the cable wire.

**SECOND SUPPLEMENTAL RESPONSE TO REQUEST NO. 2:**

SUNRISE VILLAS’ answer remains the same. SUNRISE VILLAS consulted with its current management company and the current Board of Directors, including Board President Al Stubblefield, and could not identify any prior officers or Board members who knew of whether SUNRISE VILLAS installed, repaired or removed the cable wire. SUNRISE VILLAS believe that no such employee exists. SUNRISE VILLAS spoke with some former Board members, but they did not have the information requested.

**REQUEST NO. 4:**

Please identify all outside contractors who Defendant, SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION, retained to care for the residences in the neighborhood, including but not limited to 4617 Madreperla Street, Las Vegas, NV 89121. Please provide information sufficient for the service of a subpoena.

**RESPONSE TO REQUEST NO. 4:**

Objection. SUNRISE VILLAS objects to this Interrogatory on the grounds that it is vague, overbroad, overly burdensome and likely to lead to inadmissible evidence. SUNRISE VILLAS’ objection notwithstanding, SUNRISE VILLAS does not maintain any of the residences on the Property. Regardless, SUNRISE VILLAS employs a new management company, has a completely new Board, and is unaware of such information.

Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

**SUPPLEMENTAL RESPONSES TO REQUEST NO. 4:**

SUNRISE VILLAS withdraws its objection. Please see the previously produced Association Meeting Minutes, Bates Numbers SVHA000557 – SVHA000562 concurrently produced with SUNRISE VILLAS’ Fourth Supplemental Disclosure of Witnesses and Documents, specifically, reference to the firms “Fascia Painting,” “Noble Tree (5967 Harrison Dr., Las Vegas, NV 89120),” and “Pacific View.” This is all the information SUNRISE VILLAS has on these entities at this time.

Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

**SECOND SUPPLEMENTAL RESPONSES TO REQUEST NO. 4:**

SUNRISE VILLAS consulted with its current management company and the current Board of Directors, including Board President Al Stubblefield, and inquired into any prior employees and Board members with this information. After consulting with current board President Al Stubblefield, SUNRISE VILLAS could only identify these contractors.

**REQUEST NO. 6:**

If anybody reported to Defendant SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION, an incident relating to a cable/wire in the Sunrise Villas IX neighborhood, prior to the incident that is the subject of this lawsuit, please identify each such individual and the facts and circumstances of each incident reported.

**RESPONSE TO REQUEST NO. 6:**

Objection. SUNRISE VILLAS objects to this Interrogatory on the grounds that it is vague and overbroad as to the meaning of the word “reported.” SUNRISE VILLAS’ objection notwithstanding, SUNRISE VILLAS does not have any information responsive to this request. SUNRISE VILLAS employs a new management company, has a completely new Board, and is unaware of such information.

Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

**SUPPLEMENTAL RESPONSES TO REQUEST NO. 6:**

SUNRISE VILLAS withdraws its objection. SUNRISE VILLAS’ response remains unchanged.

**SECOND SUPPLEMENTAL RESPONSE TO REQUEST NO. 6:**

SUNRISE VILLAS consulted with its current management company and the current Board of

1 Directors, including Board President Al Stubblefield, and SUNRISE VILLAS was unable to locate any  
2 person or document indicating a warning about the wire before the incident. Thus, SUNRISE VILLAS  
3 does not have any information responsive to this request.

4 **REQUEST NO. 8:**

5 Please identify all manuals, policies, procedures, guides or handbooks used by Defendant,  
6 SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION, or any other written documents that address  
7 customer/resident safety.

8 **RESPONSE TO REQUEST NO. 8:**

9 Objection. SUNRISE VILLAS objects to this Interrogatory on the grounds that it is vague,  
10 overbroad, and likely to lead to the discovery of inadmissible evidence. SUNRISE VILLAS also objects  
11 to this Interrogatory, as it is vague and does not define the meaning of the term “resident safety.”  
12 SUNRISE VILLAS’ objection notwithstanding, SUNRISE VILLAS does not have any information  
13 responsive to this request. SUNRISE VILLAS employs a new management company, has a completely  
14 new Board, and is unaware of such information.

15 Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

16 **SUPPLEMENTAL RESPONSES TO REQUEST NO. 8:**

17 SUNRISE VILLAS withdraws its objection. SUNRISE VILLAS’ response remains unchanged.

18 **SECOND SUPPLEMENTAL RESPONSES TO REQUEST NO. 8**

19 SUNRISE VILLAS consulted with its current management company and the current Board of  
20 Directors, including Board President Al Stubblefield, SUNRISE VILLAS was unable to locate any  
21 manuals, policies, procedures, guides or handbooks pertaining to resident safety in its possession. Thus,  
22 SUNRISE VILLAS could not identify any information responsive to this request.

23 **REQUEST NO. 11:**

24 Please identify each and every person and/or entity that performed and/or was responsible for  
25 lawn maintenance, repair, and/or cleaning for 4617 Madreperla Street, Las Vegas, NV 89121 and the  
26 surrounding homes from January 1, 2016 through September 15, 2016.

27 **RESPONSE TO REQUEST NO. 11:**

28 SUNRISE VILLAS objects to this Interrogatory on the grounds that it is overly broad and overly

1 burdensome. It also calls for the admission of inadmissible evidence. SUNRISE VILLAS' objection  
2 notwithstanding, under the CC&Rs, SUNRISE VILLAS is not responsible for the cleaning of 4617  
3 Madreperla Street. SUNRISE VILLAS employs a new management company, has a completely new  
4 Board, and is unaware of such information. SUNRISE VILLAS has the understanding that it retained  
5 J&G LAWN MAINTENANCE on or about August 2016.

6 Discovery is ongoing, and SUNRISE VILLAS reserves the right to supplement its response.

7 **SUPPLEMENTAL RESPONSES TO REQUEST NO. 11:**

8 SUNRISE VILLAS withdraws its objection. SUNRISE VILLAS believes it employed Richard  
9 Duslak and Justin Sesman for lawn maintenance repair and/or cleaning prior to September 2016 and  
10 terminated this contract before retaining J&G LAWN MAINTENANCE on or about September 8, 2016.

11 **SECOND SUPPLEMENTAL RESPONSES TO REQUEST NO. 12:**

12 SUNRISE VILLAS consulted with its current management company and the current Board of  
13 Directors, including Board President Al Stubblefield, SUNRISE VILLAS discovered HOA Board  
14 Meeting Minutes from 2016. These documents identified Mr. Sesman and Mr. Duslak who did lawn  
15 maintenance prior to the date of September 15, 2016. It is unclear what time they began doing this work  
16 for SUNRISE VILLAS, but it was during the time frame specified by PLAINTIFF. The Board  
17 terminated Mr. Duslak on or about September 8, 2016. SUNRISE VILLAS reserves the right to  
18 supplement its response if it locates any other additional people or entities.

19  
20 DATED this 2<sup>nd</sup> day of March, 2018.

21  
22 SPRINGEL & FINK LLP

23 By: /s/ Jonathan C. Pattillo  
24 LEONARD T. FINK, ESQ.  
25 Nevada Bar No. 6296  
26 JONATHAN C. PATTILLO, ESQ.  
27 Nevada Bar No. 13929  
28 10655 Park Run Drive, Suite 275  
Las Vegas, Nevada 89144

Attorneys for Defendant,  
SUNRISE VILLAS IX HOMEOWNERS  
ASSOCIATION



**CERTIFICATE OF SERVICE**  
**Simone Russo v. Cox Communications Las Vegas, Inc., et al.**  
**District Court Case No. A-17-753606-C**

STATE OF NEVADA            )  
   ) ss.  
 COUNTY OF CLARK            )

I, Phaedra L. Calaway, declare:

I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen years and not a party to the within action. My business address is 10655 Park Run Drive, Suite 275, Las Vegas, Nevada, 89144.

On March 2, 2018, I served the document described as **DEFENDANT SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION'S SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** on the following parties:

***SERVED VIA DISTRICT COURT'S E-FILING VENDOR SYSTEM***

\_\_\_\_ VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. postal service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business

\_\_\_\_ VIA FACSIMILE: by transmitting to a facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number at last given by that person on any document which he/she has filed in the cause and served on the party making the service. The copy of the document served by facsimile transmission bears a notation of the date and place of transmission and the facsimile telephone number to which transmitted. A confirmation of the transmission containing the facsimile telephone numbers to which the document(s) was/were transmitted will be maintained with the document(s) served.

  X   VIA ELECTRONIC SERVICE: by submitting the foregoing to the Court's E-filing System for Electronic Service upon the Court's Service List pursuant to EDCR 8. The copy of the document electronically served bears a notation of the date and time of service. The original document will be maintained with the document(s) served and be made available, upon reasonable notice, for inspection by counsel or the Court.

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

Executed this 2<sup>nd</sup> day of March, 2018 at Las Vegas, Nevada.

By:       /s/ Phaedra L. Calaway        
 Phaedra L. Calaway

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT “2”**





September 18, 2019

VIA FACSIMILE AND EMAIL

Community Association Underwriters Agency  
2 Caufield Place  
Newtown, PA 18940  
Fax: 267-757-7434  
Attn: Harry Stavrakis  
Email: hstavrakis@cauinsure.com

Re: Our Client: Simone Russo  
Date of Incident: 08/27/2016  
Location: 4617 Madre Perla Street, Las Vegas, NV  
Claim No.: 95126

Dear Harry:

As you aware, some time ago our office initiated litigation against Justin Sesman, Richard Duslak, as well as PW James Management & Consulting related to the above-noted incident. We write at this time to advise Community Association Underwriters Agency that the Court has entered default against Justin Sesman, Richard Duslak, and PW James Management & Consulting in this matter. We have attached a copy of the defaults for your convenience.

Please contact our office with any questions.

Very truly yours,  
LAW OFFICES OF DAVID SAMPSON

*David Sampson*

David Sampson, Esq.  
DS:an

Attachments

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT “3”**



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 1

1 CASE NO. A-17-753606-C

2 DOCKET U

3 DEPT. XVI

4

5

6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

\* \* \* \* \*

9 SIMONE RUSSO, )

10 Plaintiff, )

11 vs. )

12 COX COMMUNICATIONS LAS VEGAS, )

13 Defendant. )

14

REPORTER'S TRANSCRIPT  
OF  
MOTIONS

15

16

17 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

18

DISTRICT COURT JUDGE

19

20 DATED FRIDAY, OCTOBER 18, 2019

21

22

23

24

25 REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

Peggy Isom, CCR 541, RMR

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 2

1 APPEARANCES:

2 FOR THE PLAINTIFF RUSSO:

3

DAVID SAMPSON, LLC

4

BY: DAVID F. SAMPSON, ESQ.

5

200 W. CHARLESTON BOULEVARD

6

LAS VEGAS, NV 89106

7

(702) 605-1099

8

(702) 888-209-4199

9

DAVIDS@INJURYHELPNOW.COM

10

11

12 FOR THE DEFENDANT IES RESIDENTIAL:

13

14

MORRIS SULLIVAN LEMKUL & PITEGOFF

15

BY: CHRISTOPHER A. TURTZO, ESQ.

16

3770 HOWARD HUGHES PARKWAY

17

SUITE 170

18

LAS VEGAS, NV 89169

19

(702) 405-8100

20

TURTZO@MORRISSULLIVANLAW.COM

21

22

23

24

25

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 3

1 APPEARANCES CONTINUED:

2 FOR THE DEFENDANT CHRIS SCARCELLI:

3 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

4 BY: DAVID CLARK, ESQ.

5 BY: JULIE FUNAI, ESQ.

6 9900 COVINGTON CROSS DRIVE

7 SUITE 120

8 LAS VEGAS, NV 89144

9 (702) 382-1500

10 DCLARK@LIPSONNEILSON.COM

11

12

13

14 FOR THE DEFENDANT SUNRISE VILLAS IX HOA:

15 SPRINGEL & FINK, LLP

16 BY: LEONARD FINK, ESQ.

17 10655 PARK RUN DRIVE

18 SUITE 275

19 LAS VEGAS, NEVADA 89144

20 (702) 804-0706

21 (702) 804-0798 Fax

22 LFINK@SPRINGELFINK.COM

23

24

25

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 4

1 APPEARANCES CONTINUED:

2 FOR KEVIN BUSHBAKER:

3

4 SGRO & ROGER

5 BY: JOSPEH MELORO, ESQ.

6 720 SOUTH SEVENTH STREET

7 SUITE #300

8 LAS VEGAS, NV 89101

9 (702) 384-9800

10 (702) 665-4120 Fax

11 JMELORO@SGROANDROGER.COM

12

13

14 \* \* \* \* \*

15

16

17

18

19

20

21

22

23

24

25

Peggy Isom, CCR 541, RMR



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 5

1 LAS VEGAS, NEVADA; FRIDAY, OCTOBER 18, 2019

2 9:09 A.M.

3 P R O C E E D I N G S

4 \* \* \* \* \*

5

6 THE COURT: All right. Good morning. Let's

7 go ahead and place our appearances for the record.

8 MS. SAMPSON: David Sampson for Dr. Russo.

9 MR. FINK: Good morning, your Honor. Leonard

09:09:55 10 Fink for Sunrise Villas IX HOA.

11 MR. TURTZO: Good morning, your Honor.

12 Christopher Turtzo for IES Residential and Cox

13 Communications Las Vegas.

14 MR. MELORIO: Good morning, your Honor.

09:10:04 15 Joseph Meloro for Kevin Bushbaker.

16 MS. FUNAI: Good morning, your Honor. Julie

17 Funai on behalf of the defendant Chris Scarcelli.

18 MR. CLARK: And good morning, your Honor.

19 David Clark on behalf of the defendant Chris Scarcelli.

09:10:16 20 THE COURT: All right. Once again good

21 morning. I see there's one matter on calendar this

22 morning. But did we come to some sort of resolution

23 that would make the issue moot; do we know?

24 MR. FINK: Your Honor, we have -- as of last

09:10:26 25 night about 4:30 4:45, we have a global settlement

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 6

09:10:30 1 involving all the parties that are involved.

2 THE COURT: All right. That makes it moot;  
3 right?

4 MR. FINK: Well, we still need to have the  
09:10:35 5 Court determine the settlement is in good-faith --

6 THE COURT: I understand.

7 MR. FINK: -- because of the further actions  
8 Mr. Sampson is going to take against the defaulted  
9 parties.

09:10:42 10 THE COURT: I know you agree.

11 MS. SAMPSON: I do. And I think Mr. Fink said  
12 it correctly, but I wanted to make sure it was on the  
13 record that, yes, it's against all parties that  
14 answered and are currently involved.

09:10:49 15 THE COURT: In this case.

16 MS. SAMPSON: Well, there are two other  
17 parties in this case who have been defaulted that we're  
18 still -- this settlement does not affect them, which is  
19 the purpose of the good faith.

09:10:56 20 MR. FINK: And it will also include PW James.

21 MS. SAMPSON: Correct. That is correct.

22 MR. CLARK: I guess --

23 THE COURT: Mr. Clark, sir.

24 MR. CLARK: I guess for the record, your

09:11:06 25 Honor, we would join in the global settlement. I would

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 7

09:11:09 1 make an oral motion as a joinder to the motion for  
2 good-faith settlement.

3 THE COURT: Okay. Mr. Meloro.

4 MR. MELORIO: We join as well for the  
09:11:17 5 good-faith settlement.

6 THE COURT: Okay. And I just want to make  
7 sure the record is very clear in this regard. I've had  
8 an opportunity to review the motion for good-faith  
9 settlement. And notwithstanding the fact there's no  
09:11:31 10 opposition, based upon the current status of Nevada  
11 law, and NRS 17.245, all the case law specifically  
12 interpreting the statute including Velsicol, MGM  
13 factors, and the like, it clearly meets that.

14 I also included -- I also considered the  
09:11:58 15 liability permutations. I think that's in Velsicol and  
16 so on. And especially under the facts of this case,  
17 there's no question this is good faith. I can say that  
18 with no doubt.

19 So as far as the motion of good-faith  
09:12:12 20 settlement and reflecting the global settlement of the  
21 parties to this case that have actively litigated, I'm  
22 granting that motion.

23 MR. FINK: That would also be including PW  
24 James?

09:12:23 25 THE COURT: Yes, sir.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 8

09:12:24 1 MR. FINK: Thank you, your Honor.

2 MS. SAMPSON: Ones that are actively litigated

3 and PW James.

4 THE COURT: Yes.

09:12:30 5 MR. TURTZO: Maybe out of the abundance of

6 caution given how long --

7 THE COURT: Mr. Turtzo, go ahead.

8 MR. TURTZO: -- it's taken to get to this

9 point, I think we ought to make sure we have a clear

09:12:40 10 record of we put material terms of the partial

11 settlement on the record on Wednesday. Now we've got

12 some two additional parties joining in. I think unless

13 anybody disagrees, it would be good to just

14 re-kind-of-confirm exactly what the additional

09:12:57 15 settlement terms are.

16 MR. FINK: Agreed.

17 MR. TURTZO: Okay.

18 MS. SAMPSON: No objection.

19 MR. TURTZO: As far as I understand it, so the

09:13:04 20 settlement payment to the plaintiff is not -- has not

21 changed. That's still the amount that was put on the

22 record \$355 thousand. It's being funded by insurance

23 carriers on behalf of Cox and IES Residential and

24 Sunrise Villas IX.

09:13:21 25 And then additionally parties receiving a

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 9

09:13:24 1 release from the plaintiff include IES Residential, Cox  
2 Communications, the Sunrise HOA, PW James, and now  
3 defendant Chris Scarcelli and defendant Kevin Bushbaker  
4 will also be released as part of that settlement. The  
09:13:42 5 plaintiff is releasing his claims against them.

6 In addition, all of the parties that I just  
7 named are releasing any current or future cross-claims  
8 for equitable indemnity, contribution, or otherwise.  
9 All currently alleged or potential cross-claims amongst  
09:14:03 10 those parties only are being released as part of the  
11 global settlement.

12 MR. FINK: Including any current claims for  
13 fees and costs by anyone that's currently involved in  
14 the case.

09:14:14 15 MR. CLARK: That's the part I was going to  
16 say.

17 THE COURT: Everyone agree.

18 MR. CLARK: Agreed.

19 MR. MELORIO: Yes, your Honor.

09:14:22 20 THE COURT: Great job, Mr. Turtzo.

21 MR. TURTZO: And as before, the settlement  
22 will be reduced to a settlement agreement and release.  
23 One thing that we didn't state on Wednesday is the  
24 plaintiff will be responsible for satisfaction of any  
09:14:32 25 liens as typical in settlement of any personal injury

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 10

09:14:35 1 action.

2 THE COURT: I understand.

3 Is that correct, Mr. Sampson?

4 MS. SAMPSON: That's correct. And that's the  
09:14:38 5 only other thing I would ask is again that the  
6 agreement, any document that's generated: One, I'd  
7 like to have that document generated as soon as  
8 possible. I recommended perhaps next Tuesday since  
9 everyone seemed to have their schedule booked out today  
09:14:55 10 and Monday for trial, we ought to have plenty of time  
11 to draft a release. But whatever documents they want  
12 drafted, if I could have that the sooner the better. I  
13 don't want to wait two, three weeks for it. Because  
14 one of the -- one of the things I was able to utilize  
09:15:10 15 to -- for and my client relied upon to agree to the  
16 settlement was that he would get his money in  
17 relatively short order. I think we talked about two  
18 weeks from when he signs the documentation.

19 I certainly wouldn't hold it as a material  
09:15:24 20 term if it took three weeks, but I don't want to wait  
21 three weeks for the release and then three more weeks  
22 for the check. That kind of thing. So I just want to  
23 get it done in short order.

24 And then that the terms of whatever documents  
09:15:35 25 we sign or that my client has asked to sign comport

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 11

09:15:39 1 with what was discussed Wednesday, and what's being  
2 discussed today, and no new terms, and those types of  
3 things. And, I guess, most of all that nothing in any  
4 of these releases or any of the settlement effects -- I  
09:15:52 5 apologize.

6 THE MARSHAL: That's all right.

7 MS. SAMPSON: Affects any rights Dr. Russo may  
8 have against any person or entity related to the claims  
9 of the two individuals who have been defaulted, and any  
09:16:04 10 claims that they may have against anybody would not be  
11 affected by this settlement. So as long as we're clear  
12 on all of that.

13 MR. FINK: I'm sorry. The last clause, that  
14 they would have...

09:16:13 15 MS. SAMPSON: That they would have against --

16 MR. FINK: Not against --

17 MS. SAMPSON: Obviously, not for contribution  
18 against a party.

19 THE COURT: And/or equitable indemnity.

09:16:19 20 MR. CLARK: Right.

21 MR. FINK: Right.

22 MR. TURTZO: Right.

23 MR. FINK: Between Mr. Turtzo and I, we'll  
24 work out getting the settlement agreement done.

09:16:26 25 MR. TURTZO: Yes.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 12

09:16:26 1 THE COURT: And I think they understand,  
2 Mr. Sampson, time is of the essence. In fact, it's  
3 okay if you turn your phones on again.

4 Anyway, is there anything else I can help you  
09:16:37 5 with?

6 MR. FINK: No, Judge. I know that we were  
7 waiting, obviously, to have a jury come in, and so we  
8 could dismiss the jury. My only question is we had one  
9 juror who wasn't going to be here until I think 10:30  
09:16:48 10 or 11:00 o'clock because of, I think, a dental --

11 MR. CLARK: Doctor's appointment.

12 THE COURT: Doctor's appointment.

13 MR. FINK: Doctor's appointment.

14 THE COURT: And we'll deal with him. You  
09:16:53 15 don't have to wait for him.

16 MR. FINK: We don't have to wait for them.

17 THE COURT: No, no, no. You don't have to  
18 wait for them.

19 And just as important too, if you want to  
09:16:59 20 wait, you probably should because we're going to bring  
21 the panel in. I'm going to explain to them the impact  
22 of service, and it doesn't always result in a verdict;  
23 right? For example, if they didn't come down here  
24 today, this case would not be resolved, and served;  
09:17:13 25 right?



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 13

09:17:13 1 MR. FINK: Right.

2 THE COURT: I mean, really. That's just kind  
3 of how it is. It is all part of the process. And I  
4 want to explain to them because I don't want them to  
09:17:21 5 walk away with a bad taste saying they wasted their  
6 time coming down to the courthouse. They didn't. And  
7 the days they've spent, what was it five days? Is it  
8 five days? Four days?

9 MR. FINK: It's been a week.

09:17:32 10 THE COURT: Yeah. I mean, that's as important  
11 as sitting through October 31 because ultimately it  
12 resulted in a resolution. And I'll explain all that to  
13 them.

14 MR. FINK: And in these circumstances I  
09:17:44 15 usually like to be around to offer any answer to any  
16 questions about the process we're doing. So that's  
17 something I think that's important for us.

18 THE COURT: You can stay here. If they want  
19 to talk, some of them will talk. I'm going to tell you  
09:17:53 20 this, I anticipate they'll be very pleased.

21 MR. FINK: I think.

22 MS. SAMPSON: Ms. Erickson will be very  
23 pleased.

24 THE COURT: Yes. They'll be very pleased.

09:18:00 25 But, yeah, that's what we'll do. And so we

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 14

09:18:02 1 won't tell them anything.

2 And at 9:30, line them up, Mr. Marshal.

3 THE MARSHAL: Yes, your Honor.

4 THE COURT: We'll bring them in. And I'll  
09:18:10 5 talk to them for a little bit and explain to them what  
6 happened. And I'll explain how that's part of the  
7 process. And let them know. And there's no question  
8 about this, if they wouldn't have served, I mean,  
9 people aren't willing to serve, we can't have trials.

09:18:26 10 We can't have resolution. And this is actually a  
11 better resolution because there's no appeals. It's  
12 final; right?

13 MS. SAMPSON: That's right.

14 THE COURT: So anyway...

09:18:35 15 MR. TURTZO: We will submit -- I guess, we're  
16 still on the record; correct?

17 THE COURT: Yes.

18 MR. TURTZO: To be clear on the motion for  
19 good-faith settlement, Mr. Scarcelli and Mr. Bushbaker  
09:18:44 20 orally join in the motion; correct?

21 MR. CLARK: Correct.

22 MR. TURTZO: And so when we submit the order  
23 to the Court what we will do is we will reflect the  
24 relief -- if it's acceptable to the Court we will --  
09:18:55 25 the order will not include the summary judgment request

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 15

09:18:59 1 or dismissal of cross-claims. It will instead indicate  
2 the parties have agreed to release all such claims, and  
3 it will simply be a standard good-faith settlement  
4 determination including Mr. Scarcelli and Mr. Bushbaker  
09:19:13 5 as well if that's acceptable.

6 THE COURT: There's acceptable. Because, I  
7 mean, those are the facts.

8 MR. TURTZO: And we will circulate that order  
9 to everybody, obviously, to get input.

09:19:24 10 MR. CLARK: Yes.

11 MR. TURTZO: We will have it ready. And we'll  
12 submit. But I just want to make sure in terms of the  
13 good-faith settlement it will include those parties as  
14 well, and we'll amend the proposed relief accordingly.

09:19:33 15 THE COURT: And, Mr. Turtzo, I appreciate the  
16 details because details do matter as you know.

17 And last, but not least, as far as that's  
18 concerned I'm going to be here all next week. So just  
19 like the order shortening time, you're not --

09:19:46 20 MS. SAMPSON: I'd like to know. We'd like to  
21 do a request to get our default prove-up set against  
22 with the defaulted parties as quickly as we can. So  
23 that's one thing I was thinking.

24 THE COURT: Here's the thing, you have to  
09:19:57 25 understand this, I can't circumvent due process.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 16

09:20:00 1 MS. SAMPSON: No.

2 THE COURT: So you have to do the application  
3 and prove up. And there is a reason for that. Because  
4 at the end of the day what it does, it saves people a  
09:20:06 5 lot of time. It does. Because one of -- I mean, I  
6 don't mind differences of opinions in this regard where  
7 I might decide an issue on the merits, and the Supreme  
8 Court might disagree with the merits of whatever  
9 decision I make.

09:20:23 10 However, I'm not going to get reversed based  
11 upon due process issue and notice issue. It's not  
12 going to happen. It just isn't. Because that's so  
13 obvious. You can take care of that before it occurs.

14 Because you have to go through the steps, you  
09:20:42 15 know. And that's part of the process. And I have a  
16 lot of faith in the process. I really and truly do.

17 THE COURT CLERK: Your Honor.

18 THE COURT: All I'm saying is this, if you get  
19 that to me Monday, I'll be here. You get it to me  
09:20:55 20 Tuesday, I'll be here. I'm here all next week. And  
21 just like I was here last night waiting for the order  
22 shortening time to come through.

23 MR. TURTZO: Yes, I want to say on the record  
24 we really appreciate that to the Court and all the --

09:21:07 25 THE COURT: Right.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 17

09:21:07 1 MR. TURTZO: -- all the members of the  
2 department who assisted us with that. Very much  
3 appreciated.

4 THE COURT: Still consider myself a lawyer at  
09:21:16 5 heart, I mean.

6 So what we'll do, we'll break. And as soon as  
7 they're ready, we will bring them in. And we will talk  
8 to them for a little bit. And you can talk to them.  
9 But I'll let them know specifically what happened. I  
09:21:26 10 mean, I won't tell them the details and all that, but  
11 I'll let them know there's a resolution, you know. And  
12 I'll let them know how that happens. And I'll just be  
13 candid with them and say that's some of the things the  
14 lawyers were talking about yesterday.

09:21:38 15 And it's much better to be done on October 18  
16 versus October 31.

17 MR. TURTZO: That's right.

18 THE COURT: That's right.

19 MR. FINK: Really.

09:21:45 20 MS. SAMPSON: For all of us.

21 MR. FINK: For all of us.

22 THE COURT: For everybody. All right.

23 IN UNISON: Thank you, Judge.

24 THE COURT: Once again, congratulations.

09:43:10 25 (brief pause in proceedings.)

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 18

09:43:10 1 (The prospective jurors enter the  
2 courtroom.)

3 THE COURT: All right. Do the parties  
4 stipulate to the presence of the jury?

09:45:17 5 IN UNISON: Yes, your Honor.

6 THE COURT: Okay. Ladies and gentlemen of the  
7 panel, good morning. How you doing today?

8 IN UNISON: Good morning.

9 THE COURT: We got started a little closer on  
09:45:26 10 time. I just want to thank all of you for coming down.  
11 I do have some news for you. The case is settled. I  
12 just want to let you know that. It has.

13 THE MARSHAL: It was like Christmas.

14 THE COURT: And here's the thing, and I think  
09:45:39 15 it's important for you to truly understand how the  
16 process works.

17 And there's no question a lot of things as you  
18 can now see get done outside of your presence; right?  
19 So there were a lot of legal issues that had to be  
09:45:55 20 resolved. And they were resolved. And so the parties  
21 got closer and closer.

22 And so we took yesterday off in order to give  
23 them an opportunity to potentially finalize the  
24 resolution of the case. So I can't tell you what's  
09:46:10 25 going on, right, but -- and we kind of, we've talked

Peggy Isom, CCR 541, RMR

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 19

09:46:12 1 about this, and, really and truly, it's about having  
2 faith in the process, right?

3 Because understand this, and I want everyone  
4 to know this, and this is of paramount importance for  
09:46:25 5 me, the fact that this case resolved, resolved because  
6 of your willingness to come down and serve.

7 You have to understand that. Because I think  
8 some of the panel members talked about serving and the  
9 case settled during trial, and that sometimes happens.  
09:46:44 10 It doesn't happen all the time, but the only way a case  
11 can ultimately resolve is when you have the potential  
12 for finality, right?

13 And that's done by having a trial date. And  
14 that's done by having the lawyers willing to come to  
09:47:01 15 trial, the parties willing to have their cases  
16 litigated. But more importantly, We the People willing  
17 to serve. Right?

18 And so the fact that you didn't hear all the  
19 evidence and arrive at a verdict, is not really what's  
09:47:19 20 most important. The fact that you came down willing to  
21 do that is what matters. And it really does matter.  
22 Because I -- we've talked about this. And I really do  
23 feel that when you look at the Preamble to the  
24 Constitution of the United States of America, and if  
09:47:37 25 the first concern raised by the founders of this nation

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 20

09:47:43 1 was justice. Because they wanted a justice system  
2 where a judge didn't decide the outcome. And I know  
3 many times people -- you know, we forget that I don't  
4 decide the case, right? And lawyers don't decide the  
09:48:00 5 cases. The governor doesn't decide it. The presidents  
6 don't decide it. Senators they don't decide it, you  
7 know.

8 Just the average person that's truly the most  
9 important cog in this whole democracy comes down and  
09:48:19 10 decides it, right? And, I mean, really.

11 And just as important too, you can look at it  
12 through this lens and think about this for a second.  
13 Because from time to time, and we hope this never  
14 happens, but we get -- if you get involved in civil  
09:48:34 15 litigation of some sort that has to be heard and  
16 decided, wouldn't you want We the People to decide  
17 versus some political appointee, right? You know.  
18 Think -- and so that's what really -- and that's the  
19 great unknown. And you look at the -- in the  
09:48:58 20 Constitution, and this is often overlooked, but, and no  
21 one talks about the Seventh Amendment too much, right?  
22 It's right there. You got a right to a jury trial in a  
23 civil case.

24 You know. And from a historical perspective,  
09:49:12 25 think about it from this, from this standpoint. If you



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 21

09:49:15 1 go back to the middle ages, and they used to have some  
2 concept called trial by ordeal. Anybody ever hear  
3 about that? You know, where they tried to decide  
4 whether the person is telling the truth or not. They  
09:49:32 5 do -- and you see it in some movies but this is how  
6 that concept works. There was many ways to determine  
7 what the ordeal was, but one was this, they'd have a  
8 vat of boiling oil, and have a rock or pebble in it.  
9 And if you can reach down and pull it out without  
09:49:47 10 screaming, you were telling the truth, you know. Think  
11 about it, you know. And then because we've come a long  
12 way. We have.

13 And there was a time in this country where  
14 sometimes disputes were decided by dueling, right? You  
09:50:03 15 remember that and reading about it.

16 And so, you know, whether we agree or disagree  
17 politically on a lot of different issues, but I think  
18 our justice system -- and I think you really appreciate  
19 it if you serve, right? You come down, and you see it.  
09:50:18 20 And it's a great system.

21 And I realize, I feel very strongly about this  
22 too. Because I say -- I try to frame points for  
23 different reasons. But no doubt it's been  
24 inconvenient. I get that. It has. But when you think  
09:50:32 25 about it, what's convenient about a democracy, right?

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 22

09:50:35 1 And this is -- this is one of the most important  
2 aspects of the democracy we just don't talk about.  
3 And, for example, I'm on the Eighth Judicial  
4 District Court Jury Commission. And right now we're  
09:50:52 5 looking at ways we can make service easier. But it's  
6 tough. It is. We're just trying to figure out -- we'd  
7 love to make it -- if it was up to me, they would pay  
8 more money for jury service, you know. I would. I  
9 mean, I think if you're going to come down and serve,  
09:51:07 10 at a minimum when you're here, they should pay you \$20,  
11 \$25 an hour; something like that; right? But I'm not  
12 in charge.

13 But and I get it. But the bottom line is  
14 this, and I think the lawyers want to talk to you just  
09:51:20 15 very briefly afterwards. Everyone that came down here,  
16 I just want to thank you for your service, you know. I  
17 do.

18 I would have, of course, loved to have had  
19 this case resolved in a way where you participate in  
09:51:35 20 deliberations, but, you know what, and here's what's  
21 great about case resolution by the parties, there's no  
22 appeals. It's final. They've agreed.

23 Because even after jury trial, you have to  
24 understand, sometimes there is appeals; right? And  
09:51:49 25 it's not -- it doesn't happen often, but sometimes

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 23

09:51:52 1 cases have to be re-tried, you know.

2 And so, anyway, on behalf of the parties, you  
3 know, to this litigation, counsel, my staff, hopefully  
4 they've been -- they've helped, been helpful, I just  
09:52:07 5 want to thank each and every one of you for coming down  
6 and participating in our civil and criminal justice  
7 system as a member of Clark County and the battle born  
8 great state of Nevada. I just want to thank each and  
9 every one of you.

09:52:28 10 So with that in mind, Mr. Marshal, it's my  
11 understanding we have -- their checks are ready to go.

12 THE MARSHAL: Yes, sir. It's pay day.

13 THE COURT: It's pay day. And fortunately,  
14 it's not 10:00 o'clock, right? You can be done. It's  
09:52:40 15 Friday. And you're done. Don't have to bother about  
16 next week. I did promise we'd get done by October 31.  
17 You didn't think it would be this early, right? And so  
18 and that's how it goes sometimes.

19 And, I guess, when you look back on it and you  
09:52:56 20 reflect, and I know it's like -- remember the combat  
21 war vet. He said I'm used to hurry up and wait. I  
22 think that's so true when it comes to jury service. It  
23 just is. But now you can kind of see. And I know  
24 you're probably frustrated. But at the end of the day  
09:53:12 25 maybe the wait was worth it because we've -- now you're

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 24

09:53:15 1 going to be gone today. You don't have to worry about  
2 being here to the 31st potentially. And its over. And  
3 you don't have to worry about getting a summons in the  
4 mail for quite a while. How about that? Because  
09:53:27 5 you've served.

6           Once again, I just want to thank everyone.

7           Mr. Marshal.

8           THE MARSHAL: Yes, your Honor. All rise.

9           THE COURT: If you -- if the lawyers, they  
09:53:35 10 might have questions for you. And, you know, they  
11 probably just want to thank you for coming down and  
12 serving.

13           So they're in you're control, sir.

14           THE MARSHAL: Thank you, your Honor.

09:53:44 15 Everybody if you could wait for me outside, I will  
16 disburse your checks and I'll have some words for you.  
17 And starting with you, sir.

18           THE COURT: And everyone, enjoy your weekend.

19           IN UNISON: Thank you.

12:08:03 20                   (The prospective jury exits the  
21                   courtroom.)

22           THE COURT: All right, counsel. Okay. It's  
23 been a pleasure.

24           IN UNISON: Thank you, your Honor.

09:54:55 25           THE COURT: Enjoy your weekend. Oh, trial

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 25

09:54:59 1 exhibits, seven boxes; what do you want us to do with  
2 them?

3 MR. TURTZO: We'll --

4 MR. FINK: Can we handle it, hang on until  
09:55:08 5 Monday?

6 THE COURT: Yeah. That's fine. They can come  
7 get them Monday.

8 MR. TURTZO: We'll send over -- Allison from  
9 my office will coordinate.

09:55:13 10 THE COURT CLERK: Absolutely.

11 MR. TURTZO: And we'll have somebody come pick  
12 them up along with everything else that we brought  
13 over.

14 MS. SAMPSON: I think I have some in your ante  
09:55:20 15 room. If I left my dolly, I'll bring them right now if  
16 I can get let in.

17 THE COURT: Okay. We'll --

18 MS. SAMPSON: Otherwise, I'll come back.

19 THE COURT: Mr. Sampson, we'll do that for  
09:55:29 20 you.

21 MS. SAMPSON: Thank you very much.

22 THE COURT: And, you know, I was thinking  
23 about this case. And what I -- I feel very -- I feel  
24 this is an very important issue. And this is one of  
09:55:37 25 the things I try to do is get out of the way, you know.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 26

09:55:40 1 And I was talking to my law clerk, Chris, and I was  
2 talking to CJ. And it could have been handled many  
3 different ways. Some judges would have said, no, you  
4 be ready to go to trial tomorrow and continue on and  
09:55:53 5 on, but I actually have faith in the process. I do.  
6 And I know when lawyers are talking, I get out of the  
7 way. Good things, typically, happen. Not always, but  
8 they do. Right?

9 MR. FINK: Appreciate that. I think that --  
09:56:04 10 we were talking about I think most judges would have  
11 had us continue on with the jury selection.

12 THE COURT: No, no, no.

13 MR. FINK: Most judges would have.

14 THE COURT: Yeah. I know everyone here.  
09:56:11 15 You've appeared in front of me many times. And I just  
16 I had confidence in you saying, Look, Judge, maybe...  
17 I'm going to listen. And I'm going to do what I think  
18 is best. If we lost a day, so be it. But I thought  
19 there was an -- it was more likely true than not.

09:56:28 20 MR. FINK: That's the theme.

21 THE COURT: A greater probability, right? And  
22 so I went with that. Because I feel it's very  
23 important in this regard. I consider, we talk about  
24 trials and trial days. I think trials are actually  
09:56:41 25 the -- they're very, very important. But it's much

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 27

09:56:46 1 better to have the case resolved by settlement. It  
2 really and truly is. So I don't -- I'm not -- I used  
3 to be concerned about my trial days. I'm not concerned  
4 anymore. I'm more concerned about closing. You know,  
09:56:56 5 because I think it's better to be a closer as a trial  
6 judge versus having cases settled. It's like Glengarry  
7 and Glen Ross. You ever see that movie? I love that  
8 movie, you know. Coffee's for closers, right?

9 That's a great movie. It just is. The  
09:57:12 10 staff -- I mean, the actors are just unbelievable in  
11 that movie.

12 MR. TURTZO: First prize is a Cadillac.  
13 Second prize is a set of steak knives. Third prize is  
14 you're fired.

09:57:23 15 THE COURT: You're fired. I love that. And  
16 Baldwin is amazing in that movie, right?

17 MR. TURTZO: Yes.

18 THE COURT: Jack Lemon. That's one of his  
19 last movies. I mean, it's a great staff. Al Pacino --  
09:57:33 20 I mean, a great cast of actors. Oh my God, it's a  
21 great movie.

22 MR. TURTZO: Yes, it is.

23 THE COURT: Yes.

24 MR. TURTZO: Thank you, your Honor.

09:57:45 25 MR. FINK: Thank you, Judge.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 28

09:57:47 1

MS. FUNAI: Thank you, your Honor.

2

3

(Proceedings were concluded.)

4

5

\* \* \* \* \*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Peggy Isom, CCR 541, RMR



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 29

## REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO  
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE  
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE  
TIME AND PLACE INDICATED, AND THAT THEREAFTER SAID  
STENOGRAPHY NOTES WERE TRANSCRIBED INTO TYPEWRITING AT  
AND UNDER MY DIRECTION AND SUPERVISION AND THE  
FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE AND  
ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE  
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED  
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF  
NEVADA.

\_\_\_\_\_  
PEGGY ISOM, RMR, CCR 541

Peggy Isom, CCR 541, RMR

<b>IN UNISON: [5]</b> 17/23 18/5 18/8 24/19 24/24 <b>MR. CLARK: [9]</b> 5/18 6/22 6/24 9/15 9/18 11/20 12/11 14/21 15/10 <b>MR. FINK: [27]</b> 5/9 5/24 6/4 6/7 6/20 7/23 8/1 8/16 9/12 11/13 11/16 11/21 11/23 12/6 12/13 12/16 13/1 13/9 13/14 13/21 17/19 17/21 25/4 26/9 26/13 26/20 27/25 <b>MR. MELORIO: [3]</b> 5/14 7/4 9/19 <b>MR. TURTZO: [23]</b> 5/11 8/5 8/8 8/17 8/19 9/21 11/22 11/25 14/15 14/18 14/22 15/8 15/11 16/23 17/1 17/17 25/3 25/8 25/11 27/12 27/17 27/22 27/24 <b>MS. FUNAI: [2]</b> 5/16 28/1 <b>MS. SAMPSON:</b> <b>[18]</b> 5/8 6/11 6/16 6/21 8/2 8/18 10/4 11/7 11/15 11/17 13/22 14/13 15/20 16/1 17/20 25/14 25/18 25/21 <b>THE COURT</b> <b>CLERK: [2]</b> 16/17 25/10 <b>THE COURT: [56]</b> <b>THE MARSHAL:</b> <b>[6]</b> 11/6 14/3 18/13 23/12 24/8 24/14 <b>\$</b> <b>\$20 [1]</b> 22/10 <b>\$25 [1]</b> 22/11 <b>\$355 [1]</b> 8/22 <b>0</b> <b>0706 [1]</b> 3/20 <b>0798 [1]</b> 3/21 <b>1</b> <b>10655 [1]</b> 3/17	<b>1099 [1]</b> 2/7 <b>10:00 [1]</b> 23/14 <b>10:30 [1]</b> 12/9 <b>11:00 [1]</b> 12/10 <b>120 [1]</b> 3/7 <b>1500 [1]</b> 3/9 <b>17.245 [1]</b> 7/11 <b>170 [1]</b> 2/17 <b>18 [3]</b> 1/20 5/1 17/15 <b>2</b> <b>200 [1]</b> 2/5 <b>2019 [2]</b> 1/20 5/1 <b>275 [1]</b> 3/18 <b>3</b> <b>300 [1]</b> 4/7 <b>31 [3]</b> 13/11 17/16 23/16 <b>31st [1]</b> 24/2 <b>3770 [1]</b> 2/16 <b>382-1500 [1]</b> 3/9 <b>384-9800 [1]</b> 4/9 <b>4</b> <b>405-8100 [1]</b> 2/19 <b>4120 [1]</b> 4/10 <b>4199 [1]</b> 2/8 <b>4:30 [1]</b> 5/25 <b>4:45 [1]</b> 5/25 <b>5</b> <b>541 [2]</b> 1/25 29/17 <b>6</b> <b>605-1099 [1]</b> 2/7 <b>665-4120 [1]</b> 4/10 <b>7</b> <b>702 [8]</b> 2/7 2/8 2/19 3/9 3/20 3/21 4/9 4/10 <b>720 [1]</b> 4/6 <b>8</b> <b>804-0706 [1]</b> 3/20 <b>804-0798 [1]</b> 3/21 <b>8100 [1]</b> 2/19 <b>888-209-4199 [1]</b> 2/8 <b>89101 [1]</b> 4/8 <b>89106 [1]</b> 2/6 <b>89144 [2]</b> 3/8 3/19 <b>89169 [1]</b> 2/18 <b>9</b> <b>9800 [1]</b> 4/9 <b>9900 [1]</b> 3/6	<b>9:09 [1]</b> 5/2 <b>9:30 [1]</b> 14/2 <b>:</b> <b>:SS [1]</b> 29/2 <b>A</b> <b>A.M [1]</b> 5/2 <b>ABILITY [1]</b> 29/11 <b>able [1]</b> 10/14 <b>about [29]</b> 5/25 10/17 13/16 14/8 17/14 19/1 19/1 19/8 19/22 20/12 20/21 20/25 21/3 21/11 21/15 21/21 21/25 21/25 22/2 22/21 23/15 24/1 24/3 24/4 25/23 26/10 26/23 27/3 27/4 <b>Absolutely [1]</b> 25/10 <b>abundance [1]</b> 8/5 <b>acceptable [3]</b> 14/24 15/5 15/6 <b>accordingly [1]</b> 15/14 <b>ACCURATE [1]</b> 29/11 <b>action [1]</b> 10/1 <b>actions [1]</b> 6/7 <b>actively [2]</b> 7/21 8/2 <b>actors [2]</b> 27/10 27/20 <b>actually [3]</b> 14/10 26/5 26/24 <b>addition [1]</b> 9/6 <b>additional [2]</b> 8/12 8/14 <b>additionally [1]</b> 8/25 <b>affect [1]</b> 6/18 <b>affected [1]</b> 11/11 <b>Affects [1]</b> 11/7 <b>after [1]</b> 22/23 <b>afterwards [1]</b> 22/15 <b>again [5]</b> 5/20 10/5 12/3 17/24 24/6 <b>against [9]</b> 6/8 6/13 9/5 11/8 11/10 11/15 11/16 11/18 15/21 <b>ages [1]</b> 21/1 <b>agree [4]</b> 6/10 9/17 10/15 21/16 <b>agreed [4]</b> 8/16	9/18 15/2 22/22 <b>agreement [3]</b> 9/22 10/6 11/24 <b>ahead [2]</b> 5/7 8/7 <b>AI [1]</b> 27/19 <b>all [30]</b> <b>alleged [1]</b> 9/9 <b>Allison [1]</b> 25/8 <b>along [1]</b> 25/12 <b>also [5]</b> 6/20 7/14 7/14 7/23 9/4 <b>always [2]</b> 12/22 26/7 <b>amazing [1]</b> 27/16 <b>amend [1]</b> 15/14 <b>Amendment [1]</b> 20/21 <b>America [1]</b> 19/24 <b>amongst [1]</b> 9/9 <b>amount [1]</b> 8/21 <b>answer [1]</b> 13/15 <b>answered [1]</b> 6/14 <b>ante [1]</b> 25/14 <b>anticipate [1]</b> 13/20 <b>any [12]</b> 9/7 9/12 9/24 9/25 10/6 11/3 11/4 11/7 11/8 11/9 13/15 13/15 <b>anybody [3]</b> 8/13 11/10 21/2 <b>anymore [1]</b> 27/4 <b>anyone [1]</b> 9/13 <b>anything [2]</b> 12/4 14/1 <b>anyway [3]</b> 12/4 14/14 23/2 <b>apologize [1]</b> 11/5 <b>appeals [3]</b> 14/11 22/22 22/24 <b>appearances [4]</b> 2/1 2/20 3/23 5/7 <b>appeared [1]</b> 26/15 <b>application [1]</b> 16/2 <b>appointee [1]</b> 20/17 <b>appointment [3]</b> 12/11 12/12 12/13 <b>appreciate [4]</b> 15/15 16/24 21/18 26/9 <b>appreciated [1]</b> 17/3 <b>are [12]</b> 6/1 6/14 6/16 8/2 8/15 9/7 9/10 15/7 23/11	26/6 26/24 27/10 <b>aren't [1]</b> 14/9 <b>around [1]</b> 13/15 <b>arrive [1]</b> 19/19 <b>as [32]</b> <b>ask [1]</b> 10/5 <b>asked [1]</b> 10/25 <b>aspects [1]</b> 22/2 <b>assisted [1]</b> 17/2 <b>at [12]</b> 14/2 16/4 17/4 19/19 19/23 20/11 20/19 22/5 22/10 23/24 29/6 29/8 <b>average [1]</b> 20/8 <b>away [1]</b> 13/5 <b>B</b> <b>back [3]</b> 21/1 23/19 25/18 <b>bad [1]</b> 13/5 <b>Baldwin [1]</b> 27/16 <b>based [2]</b> 7/10 16/10 <b>battle [1]</b> 23/7 <b>be [29]</b> 7/23 8/13 9/4 9/22 9/24 11/10 12/9 12/24 13/15 13/20 13/22 13/24 14/18 15/3 15/18 16/19 16/20 17/12 17/15 18/19 20/15 23/1 23/14 23/17 24/1 26/4 26/18 27/3 27/5 <b>because [26]</b> 6/7 10/13 12/10 12/20 13/4 13/11 14/11 15/6 15/16 16/3 16/5 16/12 16/14 19/3 19/5 19/7 19/22 20/1 20/13 21/11 21/22 22/23 23/25 24/4 26/22 27/5 <b>been [8]</b> 6/17 11/9 13/9 21/23 23/4 23/4 24/23 26/2 <b>before [4]</b> 1/17 9/21 16/13 29/6 <b>BEFORE-ENTITLED</b> <b>[1]</b> 29/6 <b>behalf [4]</b> 5/17 5/19 8/23 23/2 <b>being [4]</b> 8/22 9/10 11/1 24/2 <b>best [2]</b> 26/18 29/11 <b>better [5]</b> 10/12
--	---	--	---	--

Peggy Isom, CCR 541, RMR

(1) IN UNISON: - better

<b>B</b> <b>better...</b> [4] 14/11 17/15 27/1 27/5 <b>Between</b> [1] 11/23 <b>bit</b> [2] 14/5 17/8 <b>boiling</b> [1] 21/8 <b>booked</b> [1] 10/9 <b>born</b> [1] 23/7 <b>bother</b> [1] 23/15 <b>bottom</b> [1] 22/13 <b>BOULEVARD</b> [1] 2/5 <b>boxes</b> [1] 25/1 <b>break</b> [1] 17/6 <b>brief</b> [1] 17/25 <b>briefly</b> [1] 22/15 <b>bring</b> [4] 12/20 14/4 17/7 25/15 <b>brought</b> [1] 25/12 <b>BUSHBAKER</b> [5] 4/2 5/15 9/3 14/19 15/4 <b>but</b> [31]	<b>CERTIFY</b> [1] 29/5 <b>changed</b> [1] 8/21 <b>charge</b> [1] 22/12 <b>CHARLESTON</b> [1] 2/5 <b>check</b> [1] 10/22 <b>checks</b> [2] 23/11 24/16 <b>CHRIS</b> [5] 3/2 5/17 5/19 9/3 26/1 <b>Christmas</b> [1] 18/13 <b>CHRISTOPHER</b> [2] 2/15 5/12 <b>circulate</b> [1] 15/8 <b>circumstances</b> [1] 13/14 <b>circumvent</b> [1] 15/25 <b>civil</b> [3] 20/14 20/23 23/6 <b>CJ</b> [1] 26/2 <b>claims</b> [8] 9/5 9/7 9/9 9/12 11/8 11/10 15/1 15/2 <b>CLARK</b> [7] 1/7 3/4 5/19 6/23 23/7 29/3 29/14 <b>clause</b> [1] 11/13 <b>clear</b> [4] 7/7 8/9 11/11 14/18 <b>clearly</b> [1] 7/13 <b>clerk</b> [1] 26/1 <b>client</b> [2] 10/15 10/25 <b>closer</b> [4] 18/9 18/21 18/21 27/5 <b>closers</b> [1] 27/8 <b>closing</b> [1] 27/4 <b>Coffee's</b> [1] 27/8 <b>cog</b> [1] 20/9 <b>COLE</b> [1] 3/3 <b>combat</b> [1] 23/20 <b>come</b> [12] 5/22 12/7 12/23 16/22 19/6 19/14 21/11 21/19 22/9 25/6 25/11 25/18 <b>comes</b> [2] 20/9 23/22 <b>coming</b> [4] 13/6 18/10 23/5 24/11 <b>Commission</b> [1] 22/4 <b>COMMUNICATION</b> <b>S</b> [3] 1/12 5/13 9/2 <b>comport</b> [1] 10/25 <b>concept</b> [2] 21/2	21/6 <b>concern</b> [1] 19/25 <b>concerned</b> [4] 15/18 27/3 27/3 27/4 <b>concluded</b> [1] 28/3 <b>confidence</b> [1] 26/16 <b>confirm</b> [1] 8/14 <b>congratulations</b> [1] 17/24 <b>consider</b> [2] 17/4 26/23 <b>considered</b> [1] 7/14 <b>CONSTITUTES</b> [1] 29/10 <b>Constitution</b> [2] 19/24 20/20 <b>continue</b> [2] 26/4 26/11 <b>CONTINUED</b> [2] 3/1 4/1 <b>contribution</b> [2] 9/8 11/17 <b>control</b> [1] 24/13 <b>convenient</b> [1] 21/25 <b>coordinate</b> [1] 25/9 <b>correct</b> [7] 6/21 6/21 10/3 10/4 14/16 14/20 14/21 <b>correctly</b> [1] 6/12 <b>costs</b> [1] 9/13 <b>could</b> [4] 10/12 12/8 24/15 26/2 <b>counsel</b> [2] 23/3 24/22 <b>country</b> [1] 21/13 <b>COUNTY</b> [4] 1/7 23/7 29/3 29/14 <b>course</b> [1] 22/18 <b>COURT</b> [8] 1/6 1/18 6/5 14/23 14/24 16/8 16/24 22/4 <b>courthouse</b> [1] 13/6 <b>courtroom</b> [2] 18/2 24/21 <b>COVINGTON</b> [1] 3/6 <b>COX</b> [4] 1/12 5/12 8/23 9/1 <b>criminal</b> [1] 23/6 <b>cross</b> [4] 3/6 9/7 9/9 15/1	<b>cross-claims</b> [3] 9/7 9/9 15/1 <b>current</b> [3] 7/10 9/7 9/12 <b>currently</b> [3] 6/14 9/9 9/13 <b>D</b> <b>date</b> [1] 19/13 <b>DATED</b> [1] 1/20 <b>DAVID</b> [5] 2/3 2/4 3/4 5/8 5/19 <b>DAVIDS</b> [1] 2/9 <b>day</b> [5] 16/4 23/12 23/13 23/24 26/18 <b>days</b> [6] 13/7 13/7 13/8 13/8 26/24 27/3 <b>DCLARK</b> [1] 3/10 <b>deal</b> [1] 12/14 <b>decide</b> [9] 16/7 20/2 20/4 20/4 20/5 20/6 20/6 20/16 21/3 <b>decided</b> [2] 20/16 21/14 <b>decides</b> [1] 20/10 <b>decision</b> [1] 16/9 <b>default</b> [1] 15/21 <b>defaulted</b> [4] 6/8 6/17 11/9 15/22 <b>defendant</b> [8] 1/13 2/12 3/2 3/14 5/17 5/19 9/3 9/3 <b>deliberations</b> [1] 22/20 <b>democracy</b> [3] 20/9 21/25 22/2 <b>dental</b> [1] 12/10 <b>department</b> [1] 17/2 <b>DEPT</b> [1] 1/3 <b>details</b> [3] 15/16 15/16 17/10 <b>determination</b> [1] 15/4 <b>determine</b> [2] 6/5 21/6 <b>did</b> [2] 5/22 23/16 <b>didn't</b> [6] 9/23 12/23 13/6 19/18 20/2 23/17 <b>differences</b> [1] 16/6 <b>different</b> [3] 21/17 21/23 26/3 <b>DIRECTION</b> [1] 29/9 <b>disagree</b> [2] 16/8	21/16 <b>disagrees</b> [1] 8/13 <b>disburse</b> [1] 24/16 <b>discussed</b> [2] 11/1 11/2 <b>dismiss</b> [1] 12/8 <b>dismissal</b> [1] 15/1 <b>disputes</b> [1] 21/14 <b>DISTRICT</b> [3] 1/6 1/18 22/4 <b>do</b> [23] 5/23 6/11 13/25 14/23 15/16 15/21 16/2 16/16 17/6 18/3 18/11 19/21 19/22 21/5 22/17 25/1 25/1 25/19 25/25 26/5 26/8 26/17 29/4 <b>DOCKET</b> [1] 1/2 <b>Doctor's</b> [3] 12/11 12/12 12/13 <b>document</b> [2] 10/6 10/7 <b>documentation</b> [1] 10/18 <b>documents</b> [2] 10/11 10/24 <b>does</b> [4] 6/18 16/4 16/5 19/21 <b>doesn't</b> [4] 12/22 19/10 20/5 22/25 <b>doing</b> [2] 13/16 18/7 <b>dolly</b> [1] 25/15 <b>don't</b> [16] 10/13 10/20 12/15 12/16 12/17 13/4 16/6 20/3 20/4 20/6 20/6 22/2 23/15 24/1 24/3 27/2 <b>done</b> [9] 10/23 11/24 17/15 18/18 19/13 19/14 23/14 23/15 23/16 <b>doubt</b> [2] 7/18 21/23 <b>down</b> [13] 12/23 13/6 18/10 19/6 19/20 20/9 21/9 21/19 22/9 22/15 23/5 24/11 29/5 <b>Dr.</b> [2] 5/8 11/7 <b>Dr. Russo</b> [2] 5/8 11/7 <b>draft</b> [1] 10/11 <b>drafted</b> [1] 10/12 <b>DRIVE</b> [2] 3/6 3/17 <b>due</b> [2] 15/25
---	--	--	---	--

<b>D</b>	<b>feel [5]</b> 19/23 21/21 25/23 25/23 26/22 <b>fees [1]</b> 9/13 <b>figure [1]</b> 22/6 <b>final [2]</b> 14/12 22/22 <b>finality [1]</b> 19/12 <b>finalize [1]</b> 18/23 <b>fine [1]</b> 25/6 <b>FINK [4]</b> 3/15 3/16 5/10 6/11 <b>fired [2]</b> 27/14 27/15 <b>first [2]</b> 19/25 27/12 <b>five [2]</b> 13/7 13/8 <b>FOREGOING [1]</b> 29/10 <b>forget [1]</b> 20/3 <b>fortunately [1]</b> 23/13 <b>founders [1]</b> 19/25 <b>Four [1]</b> 13/8 <b>frame [1]</b> 21/22 <b>FRIDAY [3]</b> 1/20 5/1 23/15 <b>front [1]</b> 26/15 <b>frustrated [1]</b> 23/24 <b>FULL [1]</b> 29/10 <b>FUNAI [2]</b> 3/5 5/17 <b>funded [1]</b> 8/22 <b>further [1]</b> 6/7 <b>future [1]</b> 9/7	26/4 <b>God [1]</b> 27/20 <b>goes [1]</b> 23/18 <b>going [14]</b> 6/8 9/15 12/9 12/20 12/21 13/19 15/18 16/10 16/12 18/25 22/9 24/1 26/17 26/17 <b>gone [1]</b> 24/1 <b>good [21]</b> 5/6 5/9 5/11 5/14 5/16 5/18 5/20 6/5 6/19 7/2 7/5 7/8 7/17 7/19 8/13 14/19 15/3 15/13 18/7 18/8 26/7 <b>good-faith [8]</b> 6/5 7/2 7/5 7/8 7/19 14/19 15/3 15/13 <b>got [4]</b> 8/11 18/9 18/21 20/22 <b>governor [1]</b> 20/5 <b>granting [1]</b> 7/22 <b>great [9]</b> 9/20 20/19 21/20 22/21 23/8 27/9 27/19 27/20 27/21 <b>greater [1]</b> 26/21 <b>guess [5]</b> 6/22 6/24 11/3 14/15 23/19	<b>helpful [1]</b> 23/4 <b>here [12]</b> 12/9 12/23 13/18 15/18 16/19 16/20 16/20 16/21 22/10 22/15 24/2 26/14 <b>here's [3]</b> 15/24 18/14 22/20 <b>HEREBY [1]</b> 29/5 <b>HEREUNTO [1]</b> 29/13 <b>him [2]</b> 12/14 12/15 <b>his [3]</b> 9/5 10/16 27/18 <b>historical [1]</b> 20/24 <b>HOA [3]</b> 3/14 5/10 9/2 <b>hold [1]</b> 10/19 <b>Honor [17]</b> 5/9 5/11 5/14 5/16 5/18 5/24 6/25 8/1 9/19 14/3 16/17 18/5 24/8 24/14 24/24 27/24 28/1 <b>HONORABLE [1]</b> 1/17 <b>hope [1]</b> 20/13 <b>hopefully [1]</b> 23/3 <b>hour [1]</b> 22/11 <b>how [9]</b> 8/6 13/3 14/6 17/12 18/7 18/15 21/5 23/18 24/4 <b>HOWARD [1]</b> 2/16 <b>However [1]</b> 16/10 <b>HUGHES [1]</b> 2/16 <b>hurry [1]</b> 23/21	15/5 16/18 19/24 20/14 20/25 21/9 21/19 22/7 22/9 24/9 24/9 24/15 25/15 25/15 26/18 <b>impact [1]</b> 12/21 <b>importance [1]</b> 19/4 <b>important [11]</b> 12/19 13/10 13/17 18/15 19/20 20/9 20/11 22/1 25/24 26/23 26/25 <b>importantly [1]</b> 19/16 <b>in [55]</b> <b>include [4]</b> 6/20 9/1 14/25 15/13 <b>included [1]</b> 7/14 <b>including [4]</b> 7/12 7/23 9/12 15/4 <b>inconvenient [1]</b> 21/24 <b>indemnity [2]</b> 9/8 11/19 <b>indicate [1]</b> 15/1 <b>INDICATED [1]</b> 29/7 <b>individuals [1]</b> 11/9 <b>injury [1]</b> 9/25 <b>INJURYHELPNOW.COM [1]</b> 2/9 <b>input [1]</b> 15/9 <b>instead [1]</b> 15/1 <b>insurance [1]</b> 8/22 <b>interpreting [1]</b> 7/12 <b>INTO [1]</b> 29/8 <b>involved [4]</b> 6/1 6/14 9/13 20/14 <b>involving [1]</b> 6/1 <b>is [46]</b> <b>isn't [1]</b> 16/12 <b>ISOM [3]</b> 1/25 29/4 29/17 <b>issue [5]</b> 5/23 16/7 16/11 16/11 25/24 <b>issues [2]</b> 18/19 21/17 <b>it [64]</b> <b>it's [30]</b> <b>its [1]</b> 24/2 <b>IX [3]</b> 3/14 5/10 8/24
<b>E</b>	<b>each [2]</b> 23/5 23/8 <b>early [1]</b> 23/17 <b>easier [1]</b> 22/5 <b>effects [1]</b> 11/4 <b>Eighth [1]</b> 22/3 <b>else [2]</b> 12/4 25/12 <b>end [2]</b> 16/4 23/24 <b>enjoy [2]</b> 24/18 24/25 <b>enter [1]</b> 18/1 <b>ENTITLED [1]</b> 29/6 <b>entity [1]</b> 11/8 <b>equitable [2]</b> 9/8 11/19 <b>Erickson [1]</b> 13/22 <b>especially [1]</b> 7/16 <b>ESQ [6]</b> 2/4 2/15 3/4 3/5 3/16 4/5 <b>essence [1]</b> 12/2 <b>even [1]</b> 22/23 <b>ever [2]</b> 21/2 27/7 <b>every [2]</b> 23/5 23/9 <b>everybody [3]</b> 15/9 17/22 24/15 <b>everyone [7]</b> 9/17 10/9 19/3 22/15 24/6 24/18 26/14 <b>everything [1]</b> 25/12 <b>evidence [1]</b> 19/19 <b>exactly [1]</b> 8/14 <b>example [2]</b> 12/23 22/3 <b>exhibits [1]</b> 25/1 <b>exits [1]</b> 24/20 <b>explain [5]</b> 12/21 13/4 13/12 14/5 14/6	<b>had [8]</b> 7/7 12/8 18/19 22/18 26/11 26/16 29/6 29/12 <b>handle [1]</b> 25/4 <b>handled [1]</b> 26/2 <b>hang [1]</b> 25/4 <b>happen [4]</b> 16/12 19/10 22/25 26/7 <b>happened [2]</b> 14/6 17/9 <b>happens [3]</b> 17/12 19/9 20/14 <b>has [5]</b> 8/20 10/25 18/12 20/15 21/24 <b>have [55]</b> <b>having [4]</b> 19/1 19/13 19/14 27/6 <b>he [3]</b> 10/16 10/18 23/21 <b>hear [2]</b> 19/18 21/2 <b>heard [1]</b> 20/15 <b>heart [1]</b> 17/5 <b>help [1]</b> 12/4 <b>helped [1]</b> 23/4	<b>I</b> <b>I'd [2]</b> 10/6 15/20 <b>I'll [12]</b> 13/12 14/4 14/6 16/19 16/20 17/9 17/11 17/12 17/12 24/16 25/15 25/18 <b>I'm [16]</b> 7/21 11/13 12/21 13/19 15/18 16/10 16/18 16/20 22/3 22/11 23/21 26/17 26/17 27/2 27/3 27/4 <b>I've [1]</b> 7/7 <b>IES [4]</b> 2/12 5/12 8/23 9/1 <b>if [23]</b> 10/12 10/20 12/3 12/19 12/23 13/18 14/8 14/24	<b>J</b> <b>Jack [1]</b> 27/18 <b>James [4]</b> 6/20
<b>F</b>	<b>fact [5]</b> 7/9 12/2 19/5 19/18 19/20 <b>factors [1]</b> 7/13 <b>facts [2]</b> 7/16 15/7 <b>faith [13]</b> 6/5 6/19 7/2 7/5 7/8 7/17 7/19 14/19 15/3 15/13 16/16 19/2 26/5 <b>far [3]</b> 7/19 8/19 15/17 <b>Fax [2]</b> 3/21 4/10			

<b>J</b>	<b>lawyer [1]</b> 17/4 <b>lawyers [6]</b> 17/14 19/14 20/4 22/14 24/9 26/6 <b>least [1]</b> 15/17 <b>left [1]</b> 25/15 <b>legal [1]</b> 18/19 <b>LEMKUL [1]</b> 2/14 <b>Lemon [1]</b> 27/18 <b>lens [1]</b> 20/12 <b>LEONARD [2]</b> 3/16 5/9 <b>let [6]</b> 14/7 17/9 17/11 17/12 18/12 25/16 <b>Let's [1]</b> 5/6 <b>LFINK [1]</b> 3/22 <b>liability [1]</b> 7/15 <b>liens [1]</b> 9/25 <b>like [11]</b> 7/13 10/7 13/15 15/19 15/20 15/20 16/21 18/13 22/11 23/20 27/6 <b>likely [1]</b> 26/19 <b>line [2]</b> 14/2 22/13 <b>LIPSON [1]</b> 3/3 <b>LIPSONNEILSON.C</b> <b>OM [1]</b> 3/10 <b>listen [1]</b> 26/17 <b>litigated [3]</b> 7/21 8/2 19/16 <b>litigation [2]</b> 20/15 23/3 <b>little [3]</b> 14/5 17/8 18/9 <b>LLC [1]</b> 2/3 <b>LLP [1]</b> 3/15 <b>long [3]</b> 8/6 11/11 21/11 <b>look [5]</b> 19/23 20/11 20/19 23/19 26/16 <b>looking [1]</b> 22/5 <b>lost [1]</b> 26/18 <b>lot [5]</b> 16/5 16/16 18/17 18/19 21/17 <b>love [3]</b> 22/7 27/7 27/15 <b>loved [1]</b> 22/18	23/10 24/7 <b>material [2]</b> 8/10 10/19 <b>matter [4]</b> 5/21 15/16 19/21 29/6 <b>matters [1]</b> 19/21 <b>may [2]</b> 11/7 11/10 <b>maybe [3]</b> 8/5 23/25 26/16 <b>me [6]</b> 16/19 16/19 19/5 22/7 24/15 26/15 <b>mean [12]</b> 13/2 13/10 14/8 15/7 16/5 17/5 17/10 20/10 22/9 27/10 27/19 27/20 <b>meets [1]</b> 7/13 <b>MELORO [3]</b> 4/5 5/15 7/3 <b>member [1]</b> 23/7 <b>members [2]</b> 17/1 19/8 <b>merits [2]</b> 16/7 16/8 <b>MGM [1]</b> 7/12 <b>middle [1]</b> 21/1 <b>might [3]</b> 16/7 16/8 24/10 <b>mind [2]</b> 16/6 23/10 <b>minimum [1]</b> 22/10 <b>Monday [4]</b> 10/10 16/19 25/5 25/7 <b>money [2]</b> 10/16 22/8 <b>moot [2]</b> 5/23 6/2 <b>more [5]</b> 10/21 19/16 22/8 26/19 27/4 <b>morning [10]</b> 5/6 5/9 5/11 5/14 5/16 5/18 5/21 5/22 18/7 18/8 <b>MORRIS [1]</b> 2/14 <b>MORRISSULLIVAN</b> <b>LAW.COM [1]</b> 2/20 <b>most [6]</b> 11/3 19/20 20/8 22/1 26/10 26/13 <b>motion [7]</b> 7/1 7/1 7/8 7/19 7/22 14/18 14/20 <b>MOTIONS [1]</b> 1/15 <b>movie [6]</b> 27/7 27/8 27/9 27/11 27/16 27/21	<b>movies [2]</b> 21/5 27/19 <b>Mr [2]</b> 6/11 10/3 <b>Mr. [16]</b> 6/8 6/23 7/3 8/7 9/20 11/23 12/2 14/2 14/19 14/19 15/4 15/4 15/15 23/10 24/7 25/19 <b>Mr. Bushbaker [2]</b> 14/19 15/4 <b>Mr. Clark [1]</b> 6/23 <b>Mr. Marshal [3]</b> 14/2 23/10 24/7 <b>Mr. Meloro [1]</b> 7/3 <b>Mr. Sampson [3]</b> 6/8 12/2 25/19 <b>Mr. Scarcelli [2]</b> 14/19 15/4 <b>Mr. Turtzo [4]</b> 8/7 9/20 11/23 15/15 <b>Ms. [1]</b> 13/22 <b>Ms. Erickson [1]</b> 13/22 <b>much [5]</b> 17/2 17/15 20/21 25/21 26/25 <b>my [14]</b> 10/15 10/25 12/8 23/3 23/10 25/9 25/15 26/1 27/3 27/20 29/9 29/11 29/14 29/14 <b>myself [1]</b> 17/4	8/20 11/10 11/16 11/17 12/24 14/25 15/17 15/19 16/10 16/11 19/19 21/4 22/11 22/25 23/14 26/7 26/19 27/2 27/3 <b>NOTES [1]</b> 29/8 <b>nothing [1]</b> 11/3 <b>notice [1]</b> 16/11 <b>notwithstanding</b> <b>[1]</b> 7/9 <b>now [7]</b> 8/11 9/2 18/18 22/4 23/23 23/25 25/15 <b>NRS [1]</b> 7/11 <b>NRS 17.245 [1]</b> 7/11 <b>NV [5]</b> 1/25 2/6 2/18 3/8 4/8
<b>K</b>	<b>KEVIN [3]</b> 4/2 5/15 9/3 <b>kind [5]</b> 8/14 10/22 13/2 18/25 23/23 <b>knives [1]</b> 27/13 <b>know [36]</b>			<b>O</b>
<b>L</b>	<b>Ladies [1]</b> 18/6 <b>LAS [8]</b> 1/12 2/6 2/18 3/8 3/19 4/8 4/15 5/13 <b>Las Vegas [1]</b> 5/13 <b>last [5]</b> 5/24 11/13 15/17 16/21 27/19 <b>law [3]</b> 7/11 7/11 26/1			<b>o'clock [2]</b> 12/10 23/14 <b>objection [1]</b> 8/18 <b>obvious [1]</b> 16/13 <b>obviously [3]</b> 11/17 12/7 15/9 <b>occurs [1]</b> 16/13 <b>OCTOBER [6]</b> 1/20 5/1 13/11 17/15 17/16 23/16 <b>October 18 [1]</b> 17/15 <b>October 31 [3]</b> 13/11 17/16 23/16 <b>off [1]</b> 18/22 <b>offer [1]</b> 13/15 <b>office [2]</b> 25/9 29/14 <b>often [2]</b> 20/20 22/25 <b>Oh [2]</b> 24/25 27/20 <b>oil [1]</b> 21/8 <b>okay [7]</b> 7/3 7/6 8/17 12/3 18/6 24/22 25/17 <b>on [27]</b> 5/17 5/19 5/21 6/12 7/16 8/11 8/11 8/21 8/23 9/23 11/12 12/3 14/16 14/18 16/7 16/23 17/15 18/9 18/25 21/17 22/3 23/2 23/19 25/4 26/4 26/5 26/11 <b>Once [3]</b> 5/20 17/24 24/6 <b>one [15]</b> 5/21 9/23
	<b>M</b>			<b>N</b>
	<b>mail [1]</b> 24/4 <b>make [9]</b> 5/23 6/12 7/1 7/6 8/9 15/12 16/9 22/5 22/7 <b>makes [1]</b> 6/2 <b>many [4]</b> 20/3 21/6 26/2 26/15 <b>Marshal [3]</b> 14/2			<b>NAME [1]</b> 29/14 <b>named [1]</b> 9/7 <b>nation [1]</b> 19/25 <b>need [1]</b> 6/4 <b>NEILSON [1]</b> 3/3 <b>NEVADA [7]</b> 1/7 3/19 5/1 7/10 23/8 29/2 29/15 <b>never [1]</b> 20/13 <b>new [1]</b> 11/2 <b>news [1]</b> 18/11 <b>next [4]</b> 10/8 15/18 16/20 23/16 <b>night [2]</b> 5/25 16/21 <b>no [21]</b> 1/1 7/9 7/17 7/18 8/18 11/2 12/6 12/17 12/17 12/17 14/7 14/11 16/1 18/17 20/20 21/23 22/21 26/3 26/12 26/12 26/12 <b>not [21]</b> 6/18 8/20

<b>O</b> <b>one...</b> [13] 10/6 10/14 10/14 12/8 15/23 16/5 20/21 21/7 22/1 23/5 23/9 25/24 27/18 <b>Ones</b> [1] 8/2 <b>only</b> [4] 9/10 10/5 12/8 19/10 <b>opinions</b> [1] 16/6 <b>opportunity</b> [2] 7/8 18/23 <b>opposition</b> [1] 7/10 <b>or</b> [12] 9/7 9/8 9/9 10/25 11/4 11/8 11/19 12/10 15/1 21/4 21/8 21/16 <b>oral</b> [1] 7/1 <b>orally</b> [1] 14/20 <b>ordeal</b> [2] 21/2 21/7 <b>order</b> [8] 10/17 10/23 14/22 14/25 15/8 15/19 16/21 18/22 <b>other</b> [2] 6/16 10/5 <b>otherwise</b> [2] 9/8 25/18 <b>ought</b> [2] 8/9 10/10 <b>our</b> [4] 5/7 15/21 21/18 23/6 <b>out</b> [7] 8/5 10/9 11/24 21/9 22/6 25/25 26/6 <b>outcome</b> [1] 20/2 <b>outside</b> [2] 18/18 24/15 <b>over</b> [3] 24/2 25/8 25/13 <b>overlooked</b> [1] 20/20	22/19 <b>participating</b> [1] 23/6 <b>parties</b> [17] 6/1 6/9 6/13 6/17 7/21 8/12 8/25 9/6 9/10 15/2 15/13 15/22 18/3 18/20 19/15 22/21 23/2 <b>party</b> [1] 11/18 <b>pause</b> [1] 17/25 <b>pay</b> [4] 22/7 22/10 23/12 23/13 <b>payment</b> [1] 8/20 <b>pebble</b> [1] 21/8 <b>PEGGY</b> [3] 1/25 29/4 29/17 <b>people</b> [5] 14/9 16/4 19/16 20/3 20/16 <b>perhaps</b> [1] 10/8 <b>permutations</b> [1] 7/15 <b>person</b> [3] 11/8 20/8 21/4 <b>personal</b> [1] 9/25 <b>perspective</b> [1] 20/24 <b>phones</b> [1] 12/3 <b>pick</b> [1] 25/11 <b>PITEGOFF</b> [1] 2/14 <b>place</b> [2] 5/7 29/7 <b>plaintiff</b> [6] 1/10 2/2 8/20 9/1 9/5 9/24 <b>pleased</b> [3] 13/20 13/23 13/24 <b>pleasure</b> [1] 24/23 <b>plenty</b> [1] 10/10 <b>point</b> [1] 8/9 <b>points</b> [1] 21/22 <b>political</b> [1] 20/17 <b>politically</b> [1] 21/17 <b>possible</b> [1] 10/8 <b>potential</b> [2] 9/9 19/11 <b>potentially</b> [2] 18/23 24/2 <b>Preamble</b> [1] 19/23 <b>presence</b> [2] 18/4 18/18 <b>presidents</b> [1] 20/5 <b>price</b> [1] 27/13 <b>prize</b> [2] 27/12 27/13	<b>probability</b> [1] 26/21 <b>probably</b> [3] 12/20 23/24 24/11 <b>proceedings</b> [4] 17/25 28/3 29/6 29/12 <b>process</b> [10] 13/3 13/16 14/7 15/25 16/11 16/15 16/16 18/16 19/2 26/5 <b>promise</b> [1] 23/16 <b>proposed</b> [1] 15/14 <b>prospective</b> [2] 18/1 24/20 <b>prove</b> [2] 15/21 16/3 <b>prove-up</b> [1] 15/21 <b>pull</b> [1] 21/9 <b>purpose</b> [1] 6/19 <b>put</b> [2] 8/10 8/21 <b>PW</b> [4] 6/20 7/23 8/3 9/2	<b>reflecting</b> [1] 7/20 <b>regard</b> [3] 7/7 16/6 26/23 <b>related</b> [1] 11/8 <b>relatively</b> [1] 10/17 <b>release</b> [5] 9/1 9/22 10/11 10/21 15/2 <b>released</b> [2] 9/4 9/10 <b>releases</b> [1] 11/4 <b>releasing</b> [2] 9/5 9/7 <b>relied</b> [1] 10/15 <b>relief</b> [2] 14/24 15/14 <b>remember</b> [2] 21/15 23/20 <b>REPORTED</b> [1] 1/25 <b>REPORTER</b> [1] 29/4 <b>REPORTER'S</b> [2] 1/14 28/6 <b>request</b> [2] 14/25 15/21 <b>RESIDENTIAL</b> [4] 2/12 5/12 8/23 9/1 <b>resolution</b> [7] 5/22 13/12 14/10 14/11 17/11 18/24 22/21 <b>resolve</b> [1] 19/11 <b>resolved</b> [7] 12/24 18/20 18/20 19/5 19/5 22/19 27/1 <b>responsible</b> [1] 9/24 <b>result</b> [1] 12/22 <b>resulted</b> [1] 13/12 <b>reversed</b> [1] 16/10 <b>review</b> [1] 7/8 <b>right</b> [43] <b>rights</b> [1] 11/7 <b>rise</b> [1] 24/8 <b>RMR</b> [2] 1/25 29/17 <b>rock</b> [1] 21/8 <b>ROGER</b> [1] 4/4 <b>room</b> [1] 25/15 <b>Ross</b> [1] 27/7 <b>RUN</b> [1] 3/17 <b>RUSSO</b> [4] 1/9 2/2 5/8 11/7	2/4 5/8 6/8 10/3 12/2 25/19 <b>satisfaction</b> [1] 9/24 <b>saves</b> [1] 16/4 <b>say</b> [5] 7/17 9/16 16/23 17/13 21/22 <b>saying</b> [3] 13/5 16/18 26/16 <b>SCARCELLI</b> [6] 3/2 5/17 5/19 9/3 14/19 15/4 <b>schedule</b> [1] 10/9 <b>screaming</b> [1] 21/10 <b>second</b> [2] 20/12 27/13 <b>see</b> [6] 5/21 18/18 21/5 21/19 23/23 27/7 <b>seemed</b> [1] 10/9 <b>selection</b> [1] 26/11 <b>SELTZER</b> [1] 3/3 <b>Senators</b> [1] 20/6 <b>send</b> [1] 25/8 <b>serve</b> [5] 14/9 19/6 19/17 21/19 22/9 <b>served</b> [3] 12/24 14/8 24/5 <b>service</b> [5] 12/22 22/5 22/8 22/16 23/22 <b>serving</b> [2] 19/8 24/12 <b>set</b> [2] 15/21 27/13 <b>settled</b> [3] 18/11 19/9 27/6 <b>settlement</b> [25] 5/25 6/5 6/18 6/25 7/2 7/5 7/9 7/20 7/20 8/11 8/15 8/20 9/4 9/11 9/21 9/22 9/25 10/16 11/4 11/11 11/24 14/19 15/3 15/13 27/1 <b>seven</b> [1] 25/1 <b>SEVENTH</b> [2] 4/6 20/21 <b>SGRO</b> [1] 4/4 <b>SGROANDROGER.</b> <b>COM</b> [1] 4/11 <b>short</b> [2] 10/17 10/23 <b>shortening</b> [2] 15/19 16/22 <b>SHORTHAND</b> [1] 29/4 <b>should</b> [2] 12/20
<b>P</b> <b>P.C</b> [1] 3/3 <b>Pacino</b> [1] 27/19 <b>panel</b> [3] 12/21 18/7 19/8 <b>paramount</b> [1] 19/4 <b>PARK</b> [1] 3/17 <b>PARKWAY</b> [1] 2/16 <b>part</b> [6] 9/4 9/10 9/15 13/3 14/6 16/15 <b>partial</b> [1] 8/10 <b>participate</b> [1]		<b>Q</b> <b>question</b> [4] 7/17 12/8 14/7 18/17 <b>questions</b> [2] 13/16 24/10 <b>quickly</b> [1] 15/22 <b>quite</b> [1] 24/4	<b>R</b> <b>raised</b> [1] 19/25 <b>re</b> [2] 8/14 23/1 <b>re-trying</b> [1] 23/1 <b>reach</b> [1] 21/9 <b>reading</b> [1] 21/15 <b>ready</b> [4] 15/11 17/7 23/11 26/4 <b>realize</b> [1] 21/21 <b>really</b> [12] 13/2 16/16 16/24 17/19 19/1 19/19 19/21 19/22 20/10 20/18 21/18 27/2 <b>reason</b> [1] 16/3 <b>reasons</b> [1] 21/23 <b>receiving</b> [1] 8/25 <b>recommended</b> [1] 10/8 <b>record</b> [10] 5/7 6/13 6/24 7/7 8/10 8/11 8/22 14/16 16/23 29/11 <b>reduced</b> [1] 9/22 <b>reflect</b> [2] 14/23 23/20	
			<b>S</b> <b>said</b> [4] 6/11 23/21 26/3 29/7 <b>SAMPSON</b> [7] 2/3	

<b>S</b>	<b>submit [3]</b> 14/15 14/22 15/12 <b>SUBSCRIBED [1]</b> 29/13 <b>such [1]</b> 15/2 <b>SUITE [4]</b> 2/17 3/7 3/18 4/7 <b>SULLIVAN [1]</b> 2/14 <b>summary [1]</b> 14/25 <b>summons [1]</b> 24/3 <b>SUNRISE [4]</b> 3/14 5/10 8/24 9/2 <b>SUPERVISION [1]</b> 29/9 <b>Supreme [1]</b> 16/7 <b>sure [4]</b> 6/12 7/7 8/9 15/12 <b>system [4]</b> 20/1 21/18 21/20 23/7	17/7 17/8 17/8 17/9 17/10 17/11 17/12 17/13 18/23 25/2 25/7 25/12 25/15 <b>theme [1]</b> 26/20 <b>then [4]</b> 8/25 10/21 10/24 21/11 <b>there [9]</b> 6/16 12/4 16/3 18/19 20/22 21/6 21/13 22/24 26/19 <b>there's [9]</b> 5/21 7/9 7/17 14/7 14/11 15/6 17/11 18/17 22/21 <b>THEREAFTER [1]</b> 29/7 <b>these [2]</b> 11/4 13/14 <b>they [22]</b> 10/11 11/10 11/14 11/15 12/1 12/23 13/5 13/6 13/18 14/8 18/20 20/1 20/6 21/1 21/3 21/4 22/7 22/10 24/9 24/10 25/6 26/8 <b>they'd [1]</b> 21/7 <b>they'll [2]</b> 13/20 13/24 <b>they're [3]</b> 17/7 24/13 26/25 <b>they've [4]</b> 13/7 22/22 23/4 23/4 <b>thing [6]</b> 9/23 10/5 10/22 15/23 15/24 18/14 <b>things [6]</b> 10/14 11/3 17/13 18/17 25/25 26/7 <b>think [29]</b> 6/11 7/15 8/9 8/12 10/17 12/1 12/9 12/10 13/17 13/21 18/14 19/7 20/12 20/18 20/25 21/10 21/17 21/18 21/24 22/9 22/14 23/17 23/22 25/14 26/9 26/10 26/17 26/24 27/5 <b>thinking [2]</b> 15/23 25/22 <b>Third [1]</b> 27/13 <b>this [45]</b> <b>those [4]</b> 9/10 11/2 15/7 15/13 <b>thought [1]</b> 26/18 <b>thousand [1]</b> 8/22	<b>three [4]</b> 10/13 10/20 10/21 10/21 <b>through [4]</b> 13/11 16/14 16/22 20/12 <b>time [12]</b> 10/10 12/2 13/6 15/19 16/5 16/22 18/10 19/10 20/13 20/13 21/13 29/7 <b>times [2]</b> 20/3 26/15 <b>TIMOTHY [1]</b> 1/17 <b>today [5]</b> 10/9 11/2 12/24 18/7 24/1 <b>tomorrow [1]</b> 26/4 <b>too [4]</b> 12/19 20/11 20/21 21/22 <b>took [3]</b> 10/20 18/22 29/5 <b>tough [1]</b> 22/6 <b>TRANSCRIBED [1]</b> 29/8 <b>TRANSCRIPT [2]</b> 1/14 29/10 <b>trial [12]</b> 10/10 19/9 19/13 19/15 20/22 21/2 22/23 24/25 26/4 26/24 27/3 27/5 <b>trials [3]</b> 14/9 26/24 26/24 <b>tried [2]</b> 21/3 23/1 <b>true [3]</b> 23/22 26/19 29/10 <b>truly [5]</b> 16/16 18/15 19/1 20/8 27/2 <b>truth [2]</b> 21/4 21/10 <b>try [2]</b> 21/22 25/25 <b>trying [1]</b> 22/6 <b>Tuesday [2]</b> 10/8 16/20 <b>turn [1]</b> 12/3 <b>TURTZO [7]</b> 2/15 2/20 5/12 8/7 9/20 11/23 15/15 <b>two [5]</b> 6/16 8/12 10/13 10/17 11/9 <b>types [1]</b> 11/2 <b>TYPEWRITING [1]</b> 29/8 <b>typical [1]</b> 9/25 <b>typically [1]</b> 26/7	<b>unbelievable [1]</b> 27/10 <b>under [2]</b> 7/16 29/9 <b>understand [9]</b> 6/6 8/19 10/2 12/1 15/25 18/15 19/3 19/7 22/24 <b>understanding [1]</b> 23/11 <b>United [1]</b> 19/24 <b>unknown [1]</b> 20/19 <b>unless [1]</b> 8/12 <b>until [2]</b> 12/9 25/4 <b>up [6]</b> 14/2 15/21 16/3 22/7 23/21 25/12 <b>upon [3]</b> 7/10 10/15 16/11 <b>us [6]</b> 13/17 17/2 17/20 17/21 25/1 26/11 <b>used [3]</b> 21/1 23/21 27/2 <b>usually [1]</b> 13/15 <b>utilize [1]</b> 10/14
<b>should... [1]</b> 22/10 <b>sign [2]</b> 10/25 10/25 <b>signs [1]</b> 10/18 <b>SIMONE [1]</b> 1/9 <b>simply [1]</b> 15/3 <b>since [1]</b> 10/8 <b>sir [5]</b> 6/23 7/25 23/12 24/13 24/17 <b>sitting [1]</b> 13/11 <b>so [30]</b> <b>some [13]</b> 5/22 8/12 13/19 17/13 18/11 19/8 20/15 20/17 21/1 21/5 24/16 25/14 26/3 <b>somebody [1]</b> 25/11 <b>something [2]</b> 13/17 22/11 <b>sometimes [5]</b> 19/9 21/14 22/24 22/25 23/18 <b>soon [2]</b> 10/7 17/6 <b>sooner [1]</b> 10/12 <b>sorry [1]</b> 11/13 <b>sort [2]</b> 5/22 20/15 <b>SOUTH [1]</b> 4/6 <b>specifically [2]</b> 7/11 17/9 <b>spent [1]</b> 13/7 <b>SPRINGEL [1]</b> 3/15 <b>SPRINGELFINK.CO</b> <b>M [1]</b> 3/22 <b>staff [3]</b> 23/3 27/10 27/19 <b>standard [1]</b> 15/3 <b>standpoint [1]</b> 20/25 <b>started [1]</b> 18/9 <b>starting [1]</b> 24/17 <b>state [4]</b> 9/23 23/8 29/2 29/14 <b>States [1]</b> 19/24 <b>status [1]</b> 7/10 <b>statute [1]</b> 7/12 <b>stay [1]</b> 13/18 <b>steak [1]</b> 27/13 <b>STENOTYPE [2]</b> 29/5 29/8 <b>steps [1]</b> 16/14 <b>still [5]</b> 6/4 6/18 8/21 14/16 17/4 <b>stipulate [1]</b> 18/4 <b>STREET [1]</b> 4/6 <b>strongly [1]</b> 21/21	<b>T</b> <b>take [2]</b> 6/8 16/13 <b>taken [1]</b> 8/8 <b>talk [8]</b> 13/19 13/19 14/5 17/7 17/8 22/2 22/14 26/23 <b>talked [4]</b> 10/17 18/25 19/8 19/22 <b>talking [5]</b> 17/14 26/1 26/2 26/6 26/10 <b>talks [1]</b> 20/21 <b>taste [1]</b> 13/5 <b>tell [4]</b> 13/19 14/1 17/10 18/24 <b>telling [2]</b> 21/4 21/10 <b>term [1]</b> 10/20 <b>terms [5]</b> 8/10 8/15 10/24 11/2 15/12 <b>than [1]</b> 26/19 <b>thank [15]</b> 8/1 17/23 18/10 22/16 23/5 23/8 24/6 24/11 24/14 24/19 24/24 25/21 27/24 27/25 28/1 <b>that [71]</b> <b>that's [34]</b> <b>their [4]</b> 10/9 13/5 19/15 23/11 <b>them [28]</b> 6/18 9/5 12/16 12/18 12/21 13/4 13/4 13/13 13/19 14/1 14/2 14/4 14/5 14/5 14/7	<b>U</b> <b>ultimately [2]</b> 13/11 19/11	<b>V</b> <b>vat [1]</b> 21/8 <b>VEGAS [8]</b> 1/12 2/6 2/18 3/8 3/19 4/8 5/1 5/13 <b>Velsicol [2]</b> 7/12 7/15 <b>verdict [2]</b> 12/22 19/19 <b>versus [3]</b> 17/16 20/17 27/6 <b>very [13]</b> 7/7 13/20 13/22 13/24 17/2 21/21 22/15 25/21 25/23 25/24 26/22 26/25 26/25 <b>vet [1]</b> 23/21 <b>VILLAS [3]</b> 3/14 5/10 8/24	
			<b>W</b> <b>wait [9]</b> 10/13 10/20 12/15 12/16 12/18 12/20 23/21 23/25 24/15 <b>waiting [2]</b> 12/7 16/21 <b>walk [1]</b> 13/5 <b>want [22]</b> 7/6 10/11 10/13 10/20 10/22 12/19 13/4	

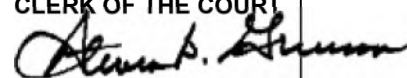
<b>W</b>	17/6 17/9 19/21 20/18 21/7 22/20 25/1 25/23 26/17 <b>what's [5]</b> 11/1 18/24 19/19 21/25 22/20 <b>whatever [3]</b> 10/11 10/24 16/8 <b>when [9]</b> 10/18 14/22 19/11 19/23 21/24 22/10 23/19 23/22 26/6 <b>where [5]</b> 16/6 20/2 21/3 21/13 22/19 <b>WHEREOF [1]</b> 29/13 <b>whether [2]</b> 21/4 21/16 <b>which [1]</b> 6/18 <b>while [1]</b> 24/4 <b>who [4]</b> 6/17 11/9 12/9 17/2 <b>whole [1]</b> 20/9 <b>will [20]</b> 6/20 9/4 9/22 9/24 13/19 13/22 14/15 14/23 14/23 14/24 14/25 15/1 15/3 15/8 15/11 15/13 17/7 17/7 24/15 25/9 <b>WILLIAMS [1]</b> 1/17 <b>willing [5]</b> 14/9 19/14 19/15 19/16 19/20 <b>willingness [1]</b> 19/6 <b>without [1]</b> 21/9 <b>WITNESS [1]</b> 29/13 <b>won't [2]</b> 14/1 17/10 <b>words [1]</b> 24/16 <b>work [1]</b> 11/24 <b>works [2]</b> 18/16 21/6 <b>worry [2]</b> 24/1 24/3 <b>worth [1]</b> 23/25 <b>would [18]</b> 5/23 6/25 6/25 7/23 8/13 10/5 10/16 11/10 11/14 11/15 12/24 22/7 22/8 22/18 23/17 26/3 26/10 26/13 <b>wouldn't [3]</b> 10/19	14/8 20/16 <b>X</b> <b>XVI [1]</b> 1/3 <b>Y</b> <b>yeah [4]</b> 13/10 13/25 25/6 26/14 <b>yes [16]</b> 6/13 7/25 8/4 9/19 11/25 13/24 14/3 14/17 15/10 16/23 18/5 23/12 24/8 27/17 27/22 27/23 <b>yesterday [2]</b> 17/14 18/22 <b>you [98]</b> <b>you're [9]</b> 15/19 22/9 22/10 23/15 23/24 23/25 24/13 27/14 27/15 <b>you've [2]</b> 24/5 26/15 <b>your [25]</b> 5/9 5/11 5/14 5/16 5/18 5/24 6/24 8/1 9/19 12/3 14/3 16/17 18/5 18/18 19/6 22/16 24/8 24/14 24/16 24/18 24/24 24/25 25/14 27/24 28/1		
----------	---	---	--	--

Peggy Isom, CCR 541, RMR

(7) want... - your



Electronically Filed  
1/25/2021 8:57 AM  
Steven D. Grierson  
CLERK OF THE COURT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*

Simone Russo, Plaintiff(s)

Case No.: A-17-753606-C

vs.

Cox Communications Las Vegas, Inc.,

Department 16

Defendant(s)

**NOTICE OF HEARING**

Please be advised that the Plaintiff's Motion to Enforce Settlement in the above-entitled matter is set for hearing as follows:

**Date:** February 25, 2021

**Time:** 9:05 AM

**Location:** RJC Courtroom 03H  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

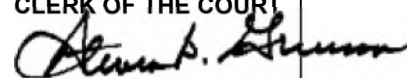
By: /s/ Imelda Murrieta  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta  
Deputy Clerk of the Court

Electronically Filed  
1/25/2021 7:56 AM  
Steven D. Grierson  
CLERK OF THE COURT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*

Simone Russo, Plaintiff(s)

vs.

Cox Communications Las Vegas, Inc.,

Defendant(s)

Case No.: A-17-753606-C

Department 16

**NOTICE OF HEARING**

Please be advised that the Defendant's Motion to Set Aside and/or Amend Judgment in the above-entitled matter is set for hearing as follows:

**Date:** February 23, 2021

**Time:** 9:30 AM

**Location:** RJC Courtroom 03H  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

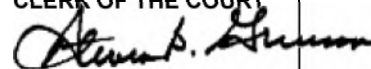
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy  
Deputy Clerk of the Court



RFJN  
Ramiro Morales  
State Bar No.: 7101  
William C. Reeves  
State Bar No.: 8235  
MORALES, FIERRO & REEVES  
600 S. Tonopah Drive, Suite 300  
Las Vegas, NV 89106  
Telephone: 702/699-7822  
Facsimile: 702/699-9455

Attorneys for Intervenor  
QBE Insurance Corporation

DISTRICT COURT  
CLARK COUNTY, NEVADA

SIMONE RUSSO,	)	Case No.: A753606
	)	Dept: XVI
Plaintiff,	)	
	)	REQUEST FOR JUDICIAL NOTICE
vs.	)	
	)	
COX COMMUNICATIONS LAS VEGAS,	)	
INC., et al.	)	
	)	
Defendants.	)	

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD :

Pending before this Court are the following three (3) separate motions:

- QBE's Motion To Intervene To Enforce Settlement
- Sunrise HOA's Motion To Set Aside Or Amend Judgment
- Plaintiff's Motion to Enforce Settlement

Hearing dates have been set for each of these motions for February 11, February 23 and February 25.<sup>1</sup>

Pursuant to NRS 47.150, request is made that this Court take judicial notice of a Motion to Dismiss ("Motion") that QBE filed in the parallel Federal matter, a copy of which is attached hereto as Exhibit 1.

<sup>1</sup> Despite best efforts, counsel for Plaintiff Russo has refused to join in a request that this Court consolidate the hearings despite initially agreeing to do so.

1 Request is likewise made that this Court take judicial notice that the judgment debtors  
2 (Richard Duslak, Justin Sesman), while now represented by counsel, have inexplicably not joined in  
3 any of the motions seeking to set aside the judgment entered against each of them despite repeated  
4 inquiries.

5 Dated: January 26, 2021

6 MORALES FIERRO & REEVES

7  
8 By /s/ William C. Reeves  
9 Ramiro Morales  
10 William C. Reeves  
11 600 S. Tonopah Dr., Suite 300  
12 Las Vegas, NV 89106  
13 Attorneys for QBE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# Exhibit 1

Ramiro Morales  
 State Bar No.: 7101  
 William C. Reeves  
 State Bar No.8235  
 MORALES, FIERRO & REEVES  
 600 S. Tonopah Drive, Suite 300  
 Las Vegas, NV 89106  
 Telephone: 702/699-7822  
 Facsimile: 702/699-9455

Attorneys for Plaintiff/Counter-Defendant  
 QBE Insurance Corporation

UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

QBE INSURANCE CORPORATION,	)	Case No.: 2:20-cv-02104-RFB-EJY
Plaintiff,	)	MOTION TO DISMISS
vs.	)	<u>Accompanying Document:</u> Declaration of
SIMONE RUSSO, et al.	)	William Reeves (Exs. A-B)
Defendants.	)	<b>ORAL ARGUMENT REQUESTED</b>
_____	)	
and related cross-claims	)	
_____	)	

NOTICE

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Plaintiff and Counter-Defendant QBE Insurance Corp. ("QBE") hereby moves to dismiss the Counterclaim [Dkt No. 13] filed by Defendants and Counterclaimants Richard Duslak ("Duslak") and Justin Sesman ("Sesman") for failure to state a claim pursuant to FRCP 12(b)(6).

As discussed herein, the claims Duslak and Sesman have asserted against QBE in this case are premised on liability both contend they face in connection with a default judgment entered against them. See Dkt. No. 13, Ex. 11. In asserting these claims, Duslak and Sesman make the following core contentions:

- The judgment entered against them is based on liability both face in their capacity as former employees of Sunrise Villas IX Homeowners Association ("Sunrise HOA"); and
- Former employees of Sunrise HOA qualify as insureds under the policy QBE issued



1 QBE issued an insurance policy affording liability coverage to Sunrise HOA. Dkt. No. 8, ¶  
 2 11. In response to a tender, QBE agreed to provide a defense to Sunrise HOA in connection with  
 3 the Underlying Matter. Id.

4 Per an amended pleading filed in the Underlying Matter, Russo added Duslak and Sesman as  
 5 defendants by contending each was liable for his injuries. Dkt. No. 8-1, Ex. 3, 3:19-22. Devoid  
 6 from the pleading is any explanation as to the conduct of each, if any, that contributed to cause  
 7 Russo's injuries.

8 Despite conceding that they were properly served, it is undisputed that no appearance was  
 9 made on behalf of Duslak and/or Sesman in the Underlying Matter. Dkt. No. 13, ¶ 72.<sup>1</sup> As a result  
 10 of failing to appear in the case, a default judgment was entered against each of them. Dkt. No. 13,  
 11 exhibit 11 thereto.

12 In connection with this suit, Duslak and Sesman contend that the insurance policy QBE  
 13 issued affords coverage for the default judgment as both were former HOA employees so as to  
 14 qualify as insureds under the policy. See Dkt. No. 13, ¶¶ 28, 33-35, 43, 48, 51-53, 80, 113-115.  
 15 Setting aside the fact that the counterclaim itself is devoid of any allegations as to why or how the  
 16 insurance policy affords coverage for the judgment, the claims asserted by each ignore the terms of  
 17 the settlement reached between Russo and the HOA before the judgment was entered pursuant to  
 18 which the liability of both, if any, as alleged HOA employees is explicitly released. Dkt. No. 8, ¶  
 19 14, exhibit 4 thereto; see also Dkt. No. 22, ¶ 14, Ex. B.<sup>2</sup>

20 Specifically, per the terms of the stipulation incorporated into the release agreement  
 21 executed before the default judgment was entered, counsel for Russo agreed as follows:

22 IT IS HEREBY STIPULATED THAT FOR THE PURPOSES OF  
 23 THIS LITIGATION AND FOR ANY AND ALL ISSUES  
 24 RELATED TO SIMONE RUSSO'S CLAIMS AND SETTLEMENT,  
 25 THAT IN AUGUST 2016 BOTH DEFENDANT RICHARD  
 DUSLAK AND DEFENDANT JUSTIN SESMAN WERE  
 NATURAL PERSONS WHO WERE IN THE SERVICE OF

26 <sup>1</sup> Dkt. No. 13 inexplicably includes overlapping numbering. The paragraphs referenced herein are taken from  
 27 allegations made in connection with the counterclaim commencing on page 9.

28 <sup>2</sup> While no evidence exists that either were actual HOA employees, the release of any claims based on this theory was  
 negotiated out of an abundance of caution so as to protect both the HOA and QBE



SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION AS  
INDEPENDENT CONTRACTORS . . .

Dkt. No. 8-1, p. 80; Dkt. No. 22, ¶ 14, Ex. B, p 24.

Based on this stipulation, it is legally impossible for the default to be based on liability Duslak and/or Sesman face as former employees of Sunrise HOA as this liability was expressly released before the default judgment was entered.

As counsel for Russo has now attempted to disavow himself of this stipulation, QBE has filed a motion in the Underlying Matter to enforce the settlement while Sunrise HOA has filed a motion to either set aside and/or amend the judgment. See Declaration of William Reeves, Exhibits A and B attached hereto.<sup>3</sup>

Hearings have been set on these motion for February 11, 2021 and February 23, 2021. While the outcome of the motion filed in the Underlying Matter will be assistive, it remains the case that Russo agreed to release Duslak and Sesman for any liability arising from conduct as alleged former employees of Sunrise HOA such that the counterclaim fails as a matter of law.<sup>4</sup>

Discussion

Review under Rule 12(b)(6) is essentially a ruling on a question of law. *Chappel v. Lab. Corp. of America*, 232 F.3d 719, 723 (9th Cir. 2000). Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff must provide more than mere labels and conclusions. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

In this case, Defendants' claims against QBE are entirely premised on the contention that the insurance policy QBE issued affords coverage to employees of Sunrise HOA and that each were former employees of HOA. See Dkt. No. 13, ¶¶ 28, 33-35, 43, 48, 51-53, 80, 113-115. In so doing, Defendants deny that they were ever independent contractors for which no coverage

<sup>3</sup> QBE's motion was filed at a point in time when Russo himself had asserted that Duslak and Sesman faced liability as HOA employees. Dkt. Nos. 6, 11. Russo withdrew these pleadings when confronted with FRCP 11. Dkt. No. 21.

<sup>4</sup> Candidly, the court in the Underlying Matter may issue a ruling that completely undercuts all claims asserted in this case such that this case will be disposed of in its entirety (despite the fact that Duslak and Sesman have inexplicably not joined in the efforts to set aside the judgment entered against them) such that this matter is properly styled pending the outcome of the motions. Unfortunately, efforts by QBE to obtain an extension from counsel for Duslak and Sesman to respond to their counterclaim until after the hearing date were unsuccessful.

1 obligation would otherwise apply under the policy QBE issued. Dkt. No. 13, ¶ 14

2 Per above, however, Russo released Duslak and Sesman for any liability arising from their  
3 alleged conduct as HOA employees, a core term that counsel for Russo memorialized in executing a  
4 stipulation that provides as follows:

5 IT IS HEREBY STIPULATED THAT FOR THE PURPOSES OF  
6 THIS LITIGATION AND FOR ANY AND ALL ISSUES  
7 RELATED TO SIMONE RUSSO'S CLAIMS AND SETTLEMENT,  
8 THAT IN AUGUST 2016 BOTH DEFENDANT RICHARD  
9 DUSLAK AND DEFENDANT JUSTIN SESMAN WERE  
10 NATURAL PERSONS WHO WERE IN THE SERVICE OF  
11 SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION AS  
12 INDEPENDENT CONTRACTORS . . .

13 Dkt. No. 8-1, p. 80; Dkt. No. 22, ¶ 14, Ex. B, p 24.

14 By virtue of this stipulation, the core premise of Defendants' claims against QBE, namely  
15 that they face liability based on conduct as HOA employees, is belied by the release Russo agreed  
16 to and executed.<sup>5</sup> Accordingly, Defendants' claims fail as a matter of law.

#### 17 Conclusion

18 Accordingly, it is respectfully submitted that the claims Duslak and Sesman have asserted  
19 against QBE fail as a matter of law such that the counterclaim is properly dismissed in its entirety  
20 pursuant to FRCP12(b)(6)

21 Dated: January 25, 2021

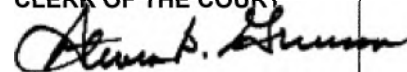
22 MORALES FIERRO & REEVES

23 By /s/ William C. Reeves  
24 William C. Reeves  
25 600 S. Tonopah Dr., Suite 300  
26 Las Vegas, NV 89106  
27 Tel: 702/699-7822  
28 Attorneys for QBE Ins. Corp.

<sup>5</sup> This Court may properly consider the release via the doctrine of incorporation by reference as it is central to the parties' dispute. See *Schmid v. Safeco Insurance Company of Illinois*, 2019 WL 3046093 (D. Nev. 2019).



Electronically Filed  
2/1/2021 10:45 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 **ASSC**  
2 **SHANNON G. SPLAINE, ESQ.**  
3 Nevada Bar No. 8241  
4 **LINCOLN, GUSTAFSON & CERCOS, LLP**  
5 **ATTORNEYS AT LAW**  
6 3960 Howard Hughes Parkway, Suite 200  
7 Las Vegas, Nevada 89169  
8 Telephone: (702) 257-1997  
9 Facsimile: (702) 257-2203  
10 [ssplaine@lgclawoffice.com](mailto:ssplaine@lgclawoffice.com)

11 Attorneys for Defendant,  
12 **SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION**

13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 **SIMONE RUSSO,**

16 Plaintiff,

17 v.

18 **COX COMMUNICATIONS LAS VEGAS, INC.**  
19 **D/B/A COX COMMUNICATIONS; IES**  
20 **RESIDENTIAL, INC.; SUNRISE VILLAS IX**  
21 **HOMEOWNERS ASSOCIATION; J&G LAWN**  
22 **MAINTENANCE; KEVIN BUSHBAKER; PW**  
23 **JAMES MANAGEMENT & CONSULTING,**  
24 **LLC; AND DOES I-V, AND ROE**  
25 **CORPORATIONS I-V, inclusive,**

26 Defendants.

CASE NO.: A-17-753606-C  
DEPT. No. 16

**ASSOCIATION OF COUNSEL FOR**  
**DEFENDANT SUNRISE VILLAS IX**  
**HOMEOWNERS ASSOCIATION**

27 **TO: ALL PARTIES and THEIR COUNSEL OF RECORD.**

28 **PLEASE TAKE NOTICE** that the law firm of LINCOLN, GUSTAFSON & CERCOS, LLP,  
3960 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169-5968, hereby associates itself  
with LEONARD T. FINK, ESQ., DAVID S. SCHOPICK, ESQ., and JONATHAN C. PATILLO,

///

///

///

1 ESQ. of the law firm of SPRINGEL & FINK, LLP, 10655 Park Run Drive, Suite 275, Las Vegas,  
2 Nevada 89144, as counsel for Defendant, SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION.

3 DATED this 1<sup>st</sup> day of February, 2021.

4 **LINCOLN, GUSTAFSON & CERCOS, LLP**

5 */s/ Shannon G. Splaine*

6 **SHANNON G. SPLAINE, ESQ.**

7 Nevada Bar No. 8241

8 3960 Howard Hughes Parkway, Suite 200

9 Las Vegas, Nevada 89169

Attorneys for Defendant, SUNRISE VILLAS IX  
HOMEOWNERS ASSOCIATION

10 v:\p-t\qbe\_sunrise\atty notes\drafts\pldgs\20210201\_asse\_bjp.docx

1 Simone Russo v. Cox Communications Las Vegas, Inc., et al.  
2 Clark County Case No. A-17-753606-C

3 **CERTIFICATE OF SERVICE**

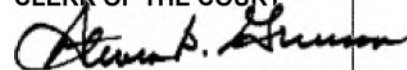
4 I HEREBY CERTIFY that on the 1<sup>st</sup> day of February, 2021, I served a copy of the attached  
5 **ASSOCIATION OF COUNSEL FOR DEFENDANT, SUNRISE VILLAS IX**  
6 **HOMEOWNERS ASSOCIATION** via electronic service to all parties on the Odyssey E-Service  
7 Master List.

8  
9  
10 

11 Barbara J. Pederson, an employee  
12 of the law offices of  
13 Lincoln, Gustafson & Cercos, LLP

14 V:\P-T\QBE\_Sunrise\POS\20210201\_ASSC\_bjp.doc  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Electronically Filed  
2/1/2021 11:21 AM  
Steven D. Grierson  
CLERK OF THE COURT



1 **ASSC**  
2 **SHANNON G. SPLAINE, ESQ.**  
3 Nevada Bar No. 8241  
4 **LINCOLN, GUSTAFSON & CERCOS, LLP**  
5 **ATTORNEYS AT LAW**  
6 3960 Howard Hughes Parkway, Suite 200  
7 Las Vegas, Nevada 89169  
8 Telephone: (702) 257-1997  
9 Facsimile: (702) 257-2203  
10 [ssplaine@lgclawoffice.com](mailto:ssplaine@lgclawoffice.com)

11 Attorneys for Defendant,  
12 **SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION**

13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 **SIMONE RUSSO,**  
16 **Plaintiff,**

CASE NO.: A-17-753606-C  
DEPT. No. 16

17 v.

**AMENDED ASSOCIATION OF COUNSEL  
FOR DEFENDANT SUNRISE VILLAS IX  
HOMEOWNERS ASSOCIATION**

18 **COX COMMUNICATIONS LAS VEGAS, INC.**  
19 **D/B/A COX COMMUNICATIONS; IES**  
20 **RESIDENTIAL, INC.; SUNRISE VILLAS IX**  
21 **HOMEOWNERS ASSOCIATION; J&G LAWN**  
22 **MAINTENANCE; KEVIN BUSHBAKER; PW**  
23 **JAMES MANAGEMENT & CONSULTING,**  
24 **LLC; AND DOES I-V, AND ROE**  
25 **CORPORATIONS I-V, inclusive,**

26 **Defendants.**

27 **TO: ALL PARTIES and THEIR COUNSEL OF RECORD.**

28 **PLEASE TAKE NOTICE** that the law firm of LINCOLN, GUSTAFSON & CERCOS, LLP,  
3960 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169-5968, hereby associates itself  
with LEONARD T. FINK, ESQ. and DAVID S. SCHOPICK, ESQ. of the law firm of SPRINGEL &

///

///

///

1 FINK, LLP, 9075 West Diablo Drive, Suite 302, Las Vegas, Nevada 89148, as counsel for Defendant,  
2 SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION.

3 DATED this 1<sup>st</sup> day of February, 2021.

4 **LINCOLN, GUSTAFSON & CERCOS, LLP**

5 */s/ Shannon G. Splaine*

6 **SHANNON G. SPLAINE, ESQ.**

7 Nevada Bar No. 8241

8 3960 Howard Hughes Parkway, Suite 200

9 Las Vegas, Nevada 89169

10 Attorneys for Defendant, SUNRISE VILLAS IX  
11 HOMEOWNERS ASSOCIATION

12 v:\p-t\qbe\_sunrise\atty notes\drafts\pldgs\20210201\_asse\_amended\_bjp.docx



1 Simone Russo v. Cox Communications Las Vegas, Inc., et al.  
2 Clark County Case No. A-17-753606-C

3 **CERTIFICATE OF SERVICE**

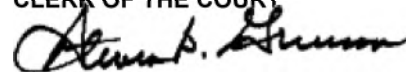
4 I HEREBY CERTIFY that on the 1<sup>st</sup> day of February, 2021, I served a copy of the attached  
5 **AMENDED ASSOCIATION OF COUNSEL FOR DEFENDANT, SUNRISE VILLAS IX**  
6 **HOMEOWNERS ASSOCIATION** via electronic service to all parties on the Odyssey E-Service  
7 Master List.

8  
9  
10 

11 Barbara J. Pederson, an employee  
12 of the law offices of  
13 Lincoln, Gustafson & Cercos, LLP

14 V:\P-T\QBE\_Sunrise\POS\20210201\_ASSC\_Amended\_bjp.doc  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Electronically Filed  
2/1/2021 10:31 AM  
Steven D. Grierson  
CLERK OF THE COURT


**SUPP**

DAVID F. SAMPSON, ESQ.  
Nevada Bar No. 6811  
LAW OFFICE OF DAVID SAMPSON, LLC.  
630 S. 3rd Street  
Las Vegas, NV 89101  
Tel: 702-605-1099  
Fax: 888-209-4199  
Email: david@davidsampsonlaw.com  
*Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SIMONE RUSSO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO: A-17-753606-C
	)	DEPT. NO: XVI
COX COMMUNICATIONS LAS VEGAS,	)	
INC., D/B/A COX COMMUNICATIONS,	)	
IES RESIDENTIAL, INC., SUNRISE	)	
VILLAS IX HOMEOWNERS	)	
ASSOCIATION, J & G LAWN	)	
MAINTENANCE, KEVIN BUSHBAKER,	)	
PWJAMES MANAGEMENT &	)	
CONSULTING, LLC., J. CHRIS	)	
SCARCELLI, DOE LANDSCAPER,	)	
RICHARD DUSLAK, JUSTIN SESMAN,	)	
AND DOES I-V, and ROE	)	
CORPORATIONS I-V, inclusive,	)	
	)	
Defendants.	)	

**PLAINTIFF'S SECOND SUPPLEMENT TO OPPOSITION TO NON-PARTY QBE  
INSURANCE CORPORATION'S SECOND MOTION TO INTERVENE AND MOTION  
TO "ENFORCE" SETTLEMENT**

COMES NOW, Plaintiff, SIMONE RUSSO, by and through his attorney of record, and again supplements his opposition to the motions filed by non-party QBE Insurance Corporation ("QBE"), to intervene in this matter and "enforce settlement", which were joined by SUNRISE.

This supplement, and the underlying opposition are made and based upon the pleadings and papers filed herein, the attached Points and Authorities, and upon oral argument at the time of hearing.

### **POINTS AND AUTHORITIES**

QBE's motion asserts that "Plaintiff agreed in connection with a settlement reached in this case that he would limit his claims against Richard Duslak and Justin Sesman to liability solely arising from their (sic) as independent contractors". See QBE's motion at P. 1 L. 24-27. In addition to the evidence and arguments set forth in the opposition and initial supplement, SIMONE also directs this Court to the transcript from the November 7, 2019 hearing in this matter wherein it is made clear that 1) it was QBE's insured SUNRISE, through its tripartite counsel, that represented to SIMONE and the Court that DUSLAK and SESMAN were not employees, 2) SIMONE agreed to so stipulate that DUSLAK and SESMAN were independent contractors based on SUNRISE's representations, and 3) SIMONE again specifically reserved all rights to pursue DUSLAK and SESMAN as individuals no matter whether they were employees of contractors.

Attached hereto as Exhibit "1" is the transcript from the November 7, 2019 hearing in this matter. On October 18, 2019 the parties to the settlement had previously placed on the record that the settlement would not affect any of SIMONE's rights against DUSLAK and/or SESMAN. See Exhibit "3" to SIMONE's Opposition to the instant motion. At a subsequent hearing on November 7, 2019 David Sampson, Esq., counsel for SIMONE, reminded the Court of the agreement that had been previously put on the record. Mr. Sampson stated that in confirming the settlement in this matter, "we put on the record -- *we're not waiving, releasing, or otherwise affecting anything against Sesman or Duslak*. I don't think anyone would dispute

that . . . it was a pretty significant point that day.” *See* Exhibit “1” attached hereto at P. 25 L. 6-16 (emphasis added). The Court then asked SUNRISE’s counsel, “Mr. Fink, are we disputing that?” *Id* at P. 25 L. 21-22. Mr. Fink answered, “My best recollection is that *when Mr. Sampson said he was specifically retaining his rights to go against Mr. Sesman and Mr. Doslak, we all agreed to that.*” *Id* at P. 26 L. 2-5 (emphasis added).

It was QBE and SUNRISE, via their tripartite counsel Mr. Fink, who represented to SIMONE and to the Court that DUSLAK and SESMAN were not employees of SUNRISE. In the November 7, 2019 hearing Mr. Fink stated, “There’s never been one bit of evidence in this case that they were employees. It was always that they were independent contractors.” *Id* at P. 16 L. 20-22. Mr. Sampson responded, “I don’t think they are employees either as I sit here right now. But I’ve not had a chance to find any of that stuff out. I have not – I have no confirmation as to any of that.” *Id* at P. 21 L. 23 – P. 22 L. 1.

Mr. Sampson then discussed the very circumstance QBE and SUNRISE currently face, that being that evidence may one day come to light that DUSLAK and SESMAN were in fact SUNRISE employees and that SUNRISE’s representations to SIMONE and to the Court were incorrect. Mr. Sampson discussed the possibility that SUNRISE was incorrect and how under that circumstance DUSLAK and SESMAN would still be liable under the Judgment if “Something goes on and all of a sudden that all -- that they come up W-2s that were not provided before and Mr. Fink's not aware of, and then we've somehow been mislead.” *Id* at P. 29 L. 12-14. Mr. Sampson was adamant that under that circumstance SIMONE would still retain all rights to any judgment the Court may enter against DUSLAK and/or SESMAN. *Id* at P. 40 L. 16-22.

Mr. Sampson ultimately offered, given SUNRISE's representations that DUSLAK and SESMAN were not SUNRISE, employees, to simply stipulate that judgment would be taken against them individuals as SUNRISE asserted they were independent contractors. Mr. Sampson stated, "Could we perhaps enter a stipulation on the record here and now that for purposes of this litigation they're not employees?" *Id* at P. 37 L. 13-15. Mr. Fink then stated he would "like to think about" that suggestion and said, "That may take care of all of this." *Id* at P. 40 L. 4-8.

After suggesting the parties stipulate that DUSLAK and SESMAN were not employees, and Mr. Fink saying he would "like think about" that, Mr. Sampson stated, "I would ask -- I would ask just -- Mr. Fink has made a couple of comments today, and I think the Court also echoed them, along the lines of Sesman and Duslak, *all rights against them*, anybody who insures them, you know, *all of those are preserved. They're not affected. I would like to make sure that is crystal clear in whatever iteration we end up with.*" *Id* at P. 40 L. 16-22 (emphasis added).

As noted in SIMONE's Opposition to the instant motion, the agreement that SUNRISE did make it "crystal clear" that SIMONE was preserving all rights to proceed against DUSLAK and SESMAN, and that neither DUSLAK and/or SESMAN were being released even in the event they were subsequently deemed employees. *Indeed, the settlement agreement specifically excluded SUNRISE employees entirely.* See Supplement to Opposition. On page 4 of the release, the description of the released parties includes all of Defendants' "employees *EXCLUDING RICHARD DUSLAK AND/OR JUSTIN SESMAN . . .*". See Exhibit "4" to SIMONE's opposition to the instant motion at P. 4 (emphasis in original). When referencing the employees of any of the Defendants it was made more than clear that the term "employees"

did not include DUSLAK or SESMAN, and that DUSLAK nor SESMAN were being released, even if they were deemed employees of SUNRISE.

If evidence has now come to light that SUNRISE's representations to SIMONE and to the Court were incorrect, SUNRISE and/or its insured(s) will have to face the consequence for the same. At no time was it ever agreed that SIMONE would lose any rights against DUSLAK and/or SESMAN if it turned out SUNRISE's representations to the Court were incorrect.

### **CONCLUSION**

For the foregoing reasons SIMONE respectfully requests this Court deny QBE's motion to intervene and deny the motion to "enforce" the settlement as well. The Court should further hold that the 2019 settlement of this matter did not affect any rights SIMONE may have against DUSLAK and/or SESMAN as agreed on the record by all active parties on October 18, 2019, and again confirmed on November 7, 2019, and further find that SIMONE retains all rights to pursue any claims against DUSLAK and/or SESMAN as specifically set forth on the record and in the subsequent settlement documents.

DATED this 1<sup>st</sup> day of February, 2021.

LAW OFFICE OF DAVID SAMPSON, LLC.

BY: /s/ David Sampson

DAVID SAMPSON, ESQ.

Nevada Bar No.6811

LAW OFFICE OF DAVID SAMPSON, LLC.

630 S. 3<sup>rd</sup> St.

Las Vegas NV 89101

Fax No: 888-209-4199

Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICE OF DAVID SAMPSON, LLC., and that on this 1<sup>st</sup> day of February, 2021, I served a copy of the foregoing **SECOND SUPPLEMENT** on all the remaining parties in this matter via the court's electronic online filing system and as follows:

RAMIRO MORALES, ESQ.  
600 S. Tonopah Dr. Suite 300  
Las Vegas NV 89106  
Attorneys for Non-Party QBE  
Insurance Corporation

LEONARD FINK, ESQ.  
9075 W. Diablo Dr. Suite 302  
Las Vegas NV 89148  
Counsel for SUNRISE

And

**Via U.S. Mail:**  
JUSTIN SESMAN  
4775 Topaz Street, Apt. 235  
Las Vegas, NV 89121

**Via U.S. Mail:**  
RICHARD DUSLAK  
4012 Abrams Ave.  
Las Vegas, NV 89110

/s/ *Amanda Nalder*  
An Employee of The LAW OFFICE OF DAVID SAMPSON, LLC.

**EXHIBIT “1”**



NOVEMBER 7, 2019

RUSSO V. COX COMMUNICATIONS

1

1 CASE NO. A-17-753606-C

2 DOCKET U

3 DEPT. XVI

4

5

6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

\* \* \* \* \*

9 SIMONE RUSSO,

10 Plaintiff,

11 vs.

12 COX COMMUNICATIONS LAS VEGAS,

13 Defendant.

14

REPORTER'S TRANSCRIPT  
OF  
HEARING

15

16

17

BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

18

DISTRICT COURT JUDGE

19

20

DATED THURSDAY, NOVEMBER 7, 2019

21

22

23

REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

24

25

NOVEMBER 7, 2019

RUSSO V. COX COMMUNICATIONS

2

1 APPEARANCES:

2 FOR THE PLAINTIFF RUSSO:

3

DAVID SAMPSON, LLC

4

BY: DAVID F. SAMPSON, ESQ.

5

200 W. CHARLESTON BOULEVARD

6

LAS VEGAS, NV 89106

7

(702) 605-1099

8

(702) 888-209-4199

9

DAVIDS@INJURYHELPNOW.COM

10

11

12 FOR THE DEFENDANT IES RESIDENTIAL:

13

14

MORRIS SULLIVAN LEMKUL & PITEGOFF

15

BY: WILLIAM LEMKUL, ESQ.

16

BY: CHRISTOPHER A. TURTZO, ESQ.

17

3770 HOWARD HUGHES PARKWAY

18

SUITE 170

19

LAS VEGAS, NV 89169

20

(702) 405-8100

21

TURTZO@MORRISSULLIVANLAW.COM

22

23

24

25

Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

NOVEMBER 7, 2019

RUSSO V. COX COMMUNICATIONS

3

1 APPEARANCES CONTINUED:

2 FOR THE DEFENDANT CHRIS SCARCELLI:

3 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

4 BY: DAVID CLARK, ESQ.

5 BY: JULIE FUNAI, ESQ.

6 9900 COVINGTON CROSS DRIVE

7 SUITE 120

8 LAS VEGAS, NV 89144

9 (702) 382-1500

10 DCLARK@LIPSONNEILSON.COM

11

12

13

14 FOR THE DEFENDANT SUNRISE VILLAS IX HOA:

15 SPRINGEL & FINK, LLP

16 BY: LEONARD FINK, ESQ.

17 10655 PARK RUN DRIVE

18 SUITE 275

19 LAS VEGAS, NEVADA 89144

20 (702) 804-0706

21 (702) 804-0798 Fax

22 LFINK@SPRINGELFINK.COM

23

24

25

Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

NOVEMBER 7, 2019

RUSSO V. COX COMMUNICATIONS

4

1 APPEARANCES CONTINUED:

2 FOR KEVIN BUSHBAKER:

3

4 SGRO & ROGER

5 BY: JOSPEH MELORO, ESQ.

6 720 SOUTH SEVENTH STREET

7 SUITE #300

8 LAS VEGAS, NV 89101

9 (702) 384-9800

10 (702) 665-4120 Fax

11 JMELORO@SGROANDROGER.COM

12

13

14 \* \* \* \* \*

15

16

17

18

19

20

21

22

23

24

25

Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

1 LAS VEGAS, NEVADA; THURSDAY NOVEMBER 7, 2019

2 12:01 P.M.

3 P R O C E E D I N G S

4 \* \* \* \* \*

5  
6 MR. SAMPSON: This is David Sampson.

7 THE COURT: All right. Mr. Sampson, good  
8 morning.

9 MR. SAMPSON: Good morning.

10 THE COURT: And...

11 MR. LEMKUL: Good morning, your Honor. Judge,  
12 Will Lemkul here.

13 THE COURT: All right. Good morning. And I  
14 see we have plaintiff's motion to compel settlement on  
15 an order shortening time.

16 MR. SAMPSON: Yes, Judge, thank you. So we  
17 were -- the Court is, I'm sure -- well remembers this  
18 case. We were in front of your Honor three weeks ago  
19 now on Wednesday initially. And we put the settlement  
20 on the record and the terms of the settlement on the  
21 record. We came back on Friday, found out that the two  
22 other -- two other defendants who on Wednesday said  
23 they hadn't gotten any confirmation from their client  
24 yet because it had just kind of happened and that whole  
25 thing. They wanted to check with their clients, call

Peggy Isom, CCR 541, RMR

(702)671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

12:01:56 1 back on Friday, and confirmed their client did agree to  
2 do the settlement. And so under those terms -- a  
3 couple of the terms, one was that --

4 (Reporter clarification)

12:02:06 5 MR. SAMPSON: Two of the defendants who were  
6 named in the case who have never filed answers, who  
7 have been defaulted were not affected by the  
8 settlement, with the money that was being paid.

9 THE COURT: And...

12:02:17 10 MR. SAMPSON: And my clients rights --

11 THE COURT: And Mr. Sampson, I don't want to  
12 cut you off. But please identify the two defaulted  
13 defendants again for the record.

14 MR. SAMPSON: Duslak and Sesman are the last  
15 names.

16 THE COURT: Thank you, sir. You may continue.

17 MR. SAMPSON: So then Dr. Russo's rights  
18 against those two defaulted individuals would not be  
19 affected at all. Everyone agreed. And then the  
12:02:41 20 comment was made that the provisions of the settlement  
21 would be reduced to a writing and released. Then we  
22 would sign off on. And the money would be paid to my  
23 client within two weeks of the release being signed.

24 So I raised two issues when the release was  
12:02:58 25 brought up. I said, number one, we agreed there is

12:03:01 1 going to be nothing in the release that's not agreed to  
2 on the record today. There's not going to be any new  
3 terms or new anything going on. And it's going to  
4 comport with -- the release will comport with what  
12:03:11 5 we've agreed to on the record today. Everyone agreed  
6 that was the case. No problem. Not an issue.

7           The next thing I say is this idea that the  
8 money will be paid within two weeks of release being  
9 signed. I then said, well, I don't want the release to  
12:03:27 10 take, you know, two weeks to get to me and then two  
11 more weeks before you sign it. And so a month out and  
12 we still don't have our money.

13           And the comments from the defense were, of  
14 course, we'd never do that. Mr. Sampson, don't be  
12:03:40 15 ridiculous. Why you got to always assume the worse,  
16 that whole thing.

17           Yet here we sit three weeks later now. We're  
18 three weeks and a day from Wednesday, and tomorrow is  
19 two weeks from the Friday, and I don't have a release  
12:03:53 20 that I can have my client sign to get the money. I did  
21 get -- which we resolved it on Friday, I want to say  
22 the 18th, on Monday, Mr. Fink sent an email over, and  
23 he said here is the release that he had typed up. He  
24 made no bones about it. Sunrise does not agree and has  
12:04:11 25 not authorized this to be a release we can use in the

12:04:14 1 case.

2 And if we stand here today, we still don't  
3 have anything from Sunrise that agrees we can use to  
4 resolve the case.

12:04:21 5 I sent out some changes to what Mr. Fink  
6 provided and asked for comment. I did get word from  
7 Mr. Bushbaker's counsel, Mr. Meloro, to have some  
8 rather insignificant changes we needed to make that  
9 didn't affect any substance. I incorporated those  
12:04:38 10 changes. And asked Cox, IES, Sunrise, anybody for  
11 Mr. Scarcelli, anybody else have comments. I heard  
12 nothing until the following Monday.

13 So on the following Monday I said, all right,  
14 it's been a week that Mr. Fink provided this. And I  
12:04:54 15 sent back my changes. I've heard nothing from anybody.  
16 So I assume what I sent back was going to work and have  
17 my client sign it. He expected his money in two weeks.

18 And then all of a sudden within like 15  
19 minutes, I heard from Mr. Fink, oh, no, Sunrise hasn't  
12:05:09 20 agreed yet. We told you we don't agree. We don't --  
21 I'll pass it by to take a look at. Cox sent back word  
22 very quickly from Mr. Turtzo, Oh, no, Cox hasn't  
23 agreed. And I essentially wrote back and said, Well,  
24 then get your clients to agree. I mean, what's he --  
12:05:23 25 let me know what changes you have because it's -- I've



12:05:25 1 waited a week very patiently. I don't want this to  
2 stall out. Because my client's losing patience. We  
3 don't have anything for him to authorize.

4 We need to get this taken care of. I  
12:05:36 5 ultimately did get comments from Cox, and we've  
6 incorporated the changes they want. My understanding,  
7 although Mr. Meloro would have to address this, my  
8 understanding from the communications I received from  
9 Mr. Meloro because he sent something a week ago Tuesday  
12:05:52 10 saying, is this that Mr. Sampson sent out something we  
11 can have my client sign and conclude. So I don't think  
12 there is any additional issues.

13 I've not heard from Scarcelli's counsel other  
14 than it was a side question about renters insurance,  
12:06:05 15 and there isn't any. So I think, but I've not heard  
16 conclusively, that Mr. Scarcelli is on board with what  
17 I sent over.

18 But Sunrise now, between a week ago Tuesday  
19 and Thursday, Mr. Fink and I were sending things back  
12:06:23 20 and forth. What we're looking at is, again, we want to  
21 preserve all rights against the defaulted defendants,  
22 just like we said on the record. And the release that  
23 was provided defines Sunrise as all employees,  
24 independent contractors. It lays out other things that  
12:06:40 25 could potentially include Duslak and Sesman.

12:06:44 1           So I included in there that we are not going  
2 to include them specifically or anyone affiliated with  
3 them. And I think, as I understand it, Sunrise no  
4 longer agrees. So as of last Thursday, Halloween, was  
12:06:57 5 my last conversation with Mr. Fink until yesterday.

6 And I've been calling every day since then trying to  
7 work all this out. I got no response at all.

8           And so I did, when I didn't get it worked out  
9 on Halloween, filed this motion. Let's get it in front  
12:07:12 10 of the judge. It's been -- it's been silence since  
11 then until yesterday. And even yesterday Mr. Fink on  
12 the phone as we were talking sounded like maybe we  
13 could work something out, but he sent over some  
14 proposed language even this morning that, again, says  
12:07:27 15 Seslak and Dusman [sic] are to be dismissed if it turns  
16 out they're employees, for example, of Sunrise. Which  
17 we -- so I sent something over yesterday. And I'll  
18 just read it to the Court.

19           My email says: "It appears what I sent  
12:07:44 20 earlier --" Well, I sent something over. I'm sorry.  
21 I sent something over where I proposed since we haven't  
22 got an agreement yet -- the problem was the first one I  
23 sent over was red lined. So I said, it was so  
24 ridiculously red lined that it looks like the actual  
12:07:58 25 language I proposed didn't go through. But here is

12:08:01 1 what I propose our release should say.

2 Settlement release agreement. And it  
3 identifies each party by name. Dr. Russo, Sunrise,  
4 IES, Cox, PWJames, Kevin Bushbaker, Chris Scarcelli  
12:08:16 5 hereby agree to settle the disputes between them and  
6 release each other pursuant to the terms set forth on  
7 the record on October 16 and October 18, 2019, in case  
8 number, and I laid the case number out, pending in the  
9 Eighth Judicial District, Clark County, Nevada, which  
12:08:34 10 terms are incorporated herein by this reference.

11 And everybody signed it. And says it seems to  
12 me to be the best way if, as we agreed, the release  
13 isn't -- isn't any different than what was confirmed on  
14 the record, all rights are going to be given in the  
12:08:49 15 release nor taken away from the release than what was  
16 confirmed on the record. This is really the only way  
17 to do it.

18 And I have gotten a response I think from Cox  
19 that they're not agreeable. I assume given I was given  
12:09:02 20 the proposed changes from Mr. Fink perhaps they're not  
21 agreeable either. But, you know, we really don't need  
22 a release because, as your Honor pointed out a couple  
23 times in voir dire, this case is pending a long time.  
24 Happened back in October of 2016. And there is no  
12:09:20 25 statute of limitations long run at this point in time.

12:09:22 1           So there really is no reason for a release. I  
2 have no problem putting one -- or signing off on one as  
3 long as it does two things:

4           One, doesn't delay my client getting his money  
12:09:34 5 which now, it has;

6           And two, strictly comports with what was  
7 placed on the record which the release I've now just  
8 read into the record absolutely would do.

9           And if that are not agreeable, then I don't  
12:09:46 10 know. I would ask the Court either enforce the  
11 settlement and say, you know, since there was radio  
12 silence regarding the release, I'm not going to require  
13 one anymore. Or I will require one, but it's just  
14 going to say what Mr. Sampson pointed out that you're  
12:10:00 15 settling the case pursuant to the terms that were  
16 placed on the record.

17           I've also given -- suggested a third option  
18 that I'll now suggest to the Court that perhaps we just  
19 print up the record, both days, and all the parties  
12:10:13 20 sign it. And go, so agreed. And we're all released  
21 pursuant to what this document says.

22           But what I don't want to do is keep spinning  
23 my wheels with the parties with the defendants that's,  
24 number one, going to delay my client getting his money.  
12:10:27 25 And number two, potentially would add or takeaway from

12:10:31 1 the rights and claims that the parties agreed with not  
2 be released or otherwise affected when we put this all  
3 on the record.

4 So I'm just reaching out to the Court. I do  
12:10:43 5 understand that the check from Sunrise is now in  
6 Las Vegas. I understand the Cox one is either here or  
7 should be here shortly. So I want to get my client his  
8 money as we agreed to three weeks ago. I want to put  
9 this thing to bed without waiving any rights other than  
12:10:59 10 those that were specifically put on the record. So I  
11 would ask for instruction or direction from the Court  
12 on how we can best do that, please.

13 THE COURT: Okay. Thank you, sir.

14 MR. CLARK: If it please the Court, David  
12:11:13 15 Clark for Chris Scarcelli. Mr. Sampson is right. We  
16 did have a side issue on the additional insured  
17 provision of the lease agreement.

18 Last week we got communications from  
19 Mr. Sampson on that issue. And I can now say that my  
12:11:29 20 client is going to go forward and just sign off on a  
21 complete release and settlement.

22 THE COURT: Okay.

23 MR. CLARK: And if that's -- so I'm not really  
24 involved in the other issues. I don't think my client  
12:11:39 25 is going to pay me for this appearance now. But if it

12:11:42 1 please the Court, I have another appearance I need to  
2 make. So if I'm not needed, and I don't know if  
3 Mr. Sampson still needs me, but Mr. Scarcelli says  
4 he'll just sign it when it's in final form.

12:11:56 5 THE COURT: I understand. And we don't need  
6 you, sir, I don't think.

7 MR. CLARK: Okay. I'll take my leave now.  
8 Thank you all.

9 MR. FINK: Your Honor, Leonard Fink for  
12:12:03 10 Sunrise.

11 Mr. Sampson's recitation of what happened  
12 since the Friday when we put the settlement on the  
13 record is mostly correct. I want to throw in a few  
14 things that I think are important here.

12:12:18 15 Number one is that I got everybody the  
16 release, the proposed. And we said although we were  
17 putting this on the record it was very clear that we  
18 were going to be putting together an actual settlement  
19 agreement.

12:12:32 20 I don't remember if that part was on the  
21 record. I think it was. Mr. Lemkul might remember  
22 that differently, but I do.

23 However, I did that Sunday night. And if  
24 anybody knows me, the fact that I actually did it that  
12:12:43 25 quickly shows that I was trying to be a person of my

12:12:46 1 word and get this done for Mr. Sampson. Especially  
2 because I knew that his client -- that he was having  
3 issues with that.

4           So I got that done. I sent it out either  
12:12:55 5 Sunday night or early Monday morning. I did in the  
6 email say my client had not yet agreed to the terms.  
7 The reason is that I had a case with then Judge Bayliss  
8 where a plaintiff went in to enforce the settlement  
9 that was based upon terms that were negotiated between  
12:13:09 10 counsel. And the reason the court enforced the  
11 settlement, even though my client had not agreed to it,  
12 was because counsel had agreed to it and he thought  
13 that that was good enough.

14           So since that time, I made sure that unless my  
12:13:21 15 client has absolutely signed off on it, every email  
16 that goes out when we're talking about settlement  
17 agreements, make sure it's clear. My client has not  
18 yet agreed to these terms. I didn't think it would be  
19 a problem, but I wanted to make sure everybody  
12:13:33 20 understood that.

21           So I sent that out again either Sunday night  
22 or early Monday morning waiting to hear back from  
23 people as to what changes they were going to want, so  
24 that we can get a final agreement, so then we can get  
12:13:43 25 our respective clients to sign off on it.

12:13:46 1 And I don't recall, and I think Mr. Sampson is  
2 probably correct. I think the next thing we probably  
3 heard was maybe that next Friday. And then there was  
4 some back and forth up until Thursday which was the  
12:13:56 5 October 31, which is Halloween.

6 I got sick on Thursday, Friday. Then I had a  
7 deposition on Monday which is why I never responded to  
8 Mr. Sampson's phone calls. Again, I explained that to  
9 him when I talked to him. So I wasn't shining him on  
12:14:09 10 or anything like that. I just literally got sick and  
11 wasn't do anything.

12 So we resumed trying to get this done. The  
13 hold up, and Mr. Sampson I think said it but I'll say  
14 it again, I think the real hold up right now is whether  
12:14:24 15 or not the release that we negotiated was intended to  
16 cover Mr. Sesman and Duslak, D-U-S-L-A-K, I think.  
17 Actually, I've got it in front of me. Okay. Duslak,  
18 D-U-S-L-A-K, and Sesman, S-E-S-M-A-N, if they were  
19 considered employees of Sunrise.

12:14:43 20 There's never been one bit of evidence in this  
21 case that they were employees. It was always that they  
22 were independent contractors. But as I'm sure the  
23 Court has dealt with thousands of settlements, when you  
24 settle with an entity, you are settling with the  
12:14:57 25 employees too.



12:14:58 1           There's nothing in Mr. Sampson's amended  
2 complaint that even suggests or asserts that either one  
3 of these gentlemen is an employee. There is nothing in  
4 any one of his disclosures that asserts they're  
12:15:09 5 employees.

6           So the idea here is that not only is Sunrise  
7 getting itself out of the case, but it's also getting  
8 out its employees, which also includes board members.  
9 Although, we didn't specifically say that on the record  
12:15:22 10 either, but also Cox, IES, they're also getting their  
11 employees out.

12           In fact, the gentleman Curtis, I think  
13 was always the name that came up. But, again, that  
14 wasn't specifically on the record. So I think it's an  
12:15:34 15 understood term. When you're getting an entity out  
16 that includes their employees. If somebody is saying  
17 that somebody acted within the course and scope of  
18 their employment, unless you're saying they weren't  
19 acting within the course and scope of employment,  
12:15:45 20 which, again, wasn't an issue in the case because it  
21 was never made an issue in the case.

22           So to the extent this is what we were trying  
23 to do with the settlement agreement, and Mr. Sampson is  
24 right, I did throw in independent contractors in the --  
12:15:55 25 in one of the versions of the draft. But as of this

12:15:59 1 morning, I sent out something that I intended to send  
2 out before the hearing and realized when I was talking  
3 to Mr. Clark when I got here that I didn't press send  
4 on my computer. So I think I sent it out maybe 9:15,  
12:16:10 5 maybe 9:30 this morning.

6 So I think that the only hang up is whether or  
7 not this settlement includes Mr. Duslak and Mr. Sesman  
8 if they are found to be employees of Sunrise. And I  
9 think that's it.

12:16:23 10 If they're not and they're independent  
11 contractors, then the settlement agreement absolutely  
12 does not cover them. Would allow Mr. Sampson to do  
13 what he needs to do. And even try to go after my  
14 client's insurance carriers to see if there is coverage  
12:16:38 15 for them as independent contractors. We all agree  
16 that -- that was one of the things that was important  
17 to him. We aren't seeking to release that.

18 But to the extent they're employees, this  
19 should cover it. And I think, I think that's really  
12:16:48 20 where we are, Judge. And, of course, I'd certainly  
21 leave it up to Mr. Bushbaker's counsel -- I think I  
22 always stumble on your name -- sorry, Joe -- and  
23 Mr. Lemkul for anything else.

24 THE COURT: Okay. Anything you want to add?

12:17:01 25 MR. MELORO: Joseph Meloro on behalf of Kevin

12:17:04 1 Bushbaker. Your Honor, Mr. Fink did prepare a release  
2 agreement that Sunday evening. During that week I made  
3 some minor requests for some changes. I've been trying  
4 to cooperate through this whole matter.

12:17:19 5 You know, the issues that's going on between  
6 Mr. Sampson and Mr. Fink really have nothing to do with  
7 my client. I just want to make sure that we're not  
8 releasing anyone who wasn't a party to this action that  
9 we might have some claims against in the future.

12:17:36 10 But I don't see that in the agreement that was  
11 presented, if that's the case at this point. But we're  
12 trying to get this along just as much as everyone else,  
13 your Honor.

14 THE COURT: I understand.

12:17:48 15 Mr. Lemkul.

16 MR. LEMKUL: Yeah, your Honor, how are you?

17 THE COURT: Good.

18 MR. LEMKUL: Good, good. So the position of  
19 Cox and IES, your Honor, is basically we sent back  
12:17:59 20 changes to Mr. Sampson that were incorporated into the  
21 release that he sent out.

22 I don't have any issue with Monday's changes.  
23 I do agree that part and parcel to the Cox and IES  
24 release would come, officers, agents, the typical  
12:18:18 25 language that we all see in these releases. And that's

12:18:20 1 what we sent out.

2 So I really have nothing else to offer other  
3 than to answer questions should the Court have them for  
4 me or my clients.

12:18:29 5 THE COURT: Okay. I have no questions, sir,  
6 at this point.

7 Okay. Mr. Sampson, have you had a chance to  
8 see the revised proposed settlement agreement that's  
9 been sent by Mr. Fink in this matter at approximately  
12:18:43 10 9:30 this morning?

11 MR. SAMPSON: I didn't see a proposed  
12 settlement agreement. I saw, like, a list of here's  
13 some items. And the one that I take issue with is the  
14 one that seeks to stop my client from being able to  
12:18:56 15 proceed against Sesman and Duslak.

16 And yes, I do know and I understand if you  
17 release a party, you typically would be releasing their  
18 employees, and board of directors, and those types of  
19 things unless you clearly indicate otherwise when you  
12:19:10 20 put the settlement agreement together.

21 So when we put this on the record, that's why  
22 I made it a point to say, none of this settlement  
23 involves Sesman or Duslak at all in any of their  
24 capacities. And if there was an idea of, well, hold  
12:19:25 25 on, Sunrise wants all its employees, and there might be

12:19:29 1 a claim that they're employees, so that should have  
2 been brought up when we put the terms on the record.  
3 It shouldn't have been dropped on me just like they  
4 couldn't come up later and say, we want it  
12:19:39 5 confidential. Or, and there is language about  
6 indemnification and what not, which we'll agree to even  
7 though it wasn't specifically put on the record. But  
8 if you wanted those -- when I say -- make it a point to  
9 mention, and I'm sure had I said, for example, you  
12:19:50 10 know, here's so and so, it's the CEO of Cox, we're not  
11 releasing any claims against that person, I'm sure  
12 Mr. Lemkul would have piped up and said, oh, no, hold  
13 on. We don't agree to that. We were stippling on the  
14 record putting the terms together.

12:20:05 15 So I think it's improper for Sunrise to stand  
16 there while we're putting the settlement on the record,  
17 and I say Sesman and Duslak are not released in any  
18 way, shape, or form. They remain parties. We still  
19 have all rights to proceed against them, and that's all  
12:20:19 20 fine and dandy while we're on the record, and then to  
21 come back later in the release and say, except they're  
22 not. Because if they're employees they're out.

23 I don't think they're employees either as I  
24 sit here right now. But I've not had a chance to find  
12:20:32 25 any of that stuff out. I have not -- I have no

12:20:34 1 confirmation as to any of that. So but the bottom line  
2 is, you know, what I proposed now is, again, the  
3 settlement that says here's all the people. We agree  
4 to release each other pursuant to the terms reached on  
12:20:48 5 the record on those two days we were there. And then  
6 we all sign it.

7 I don't see why anyone would have a problem  
8 having that serve as the release given that it does  
9 exactly what we agreed to do. The only thing I can  
12:21:00 10 envision as to why that would be a problem for someone  
11 is: One, they want to continue to delay things, which  
12 is an inappropriate reason and shouldn't be permitted;  
13 or two, they're looking to change the deal that was  
14 reached on the record.

12:21:14 15 Because what I proposed says specifically  
16 releasing each other as agreed on the record. No more,  
17 no less. I don't think anybody should require that my  
18 client do any more or any less for any of that.

19 So given, again, EDCR allows a settlement to  
12:21:31 20 be enforceable if it's placed on the record, so we've  
21 done that. Mr. Fink kept talking about we're looking  
22 at getting people out. Well, they are out. Anybody  
23 pursuant to the terms that were set forth on the  
24 record, they're out. The agreement is enforceable on  
12:21:49 25 the record. Beside the fact that the statute of

12:21:50 1 limitations ran over a year ago at this point.

2           So it's not a question about that. I don't  
3 know what else is going on. And my clients should not  
4 be -- my client should not be required to waive any  
12:22:02 5 right at all that he -- that he specifically --  
6 especially when he specifically preserved them on the  
7 record when we -- when we resolved this thing and put  
8 the settlement on the record.

9           So, again, I appreciate your Honor asking if  
12:22:14 10 I've had a chance to review what they sent me. Again,  
11 I didn't get an actual release. I just got an email  
12 from Mr. Fink that had some terms. And the term that I  
13 had an issue with is this idea that if they're  
14 employees, then Sesman and Duslak are out. That was  
12:22:27 15 not agreed to.

16           But I think what you should perhaps ask is, to  
17 the defendants, you know, what about what Mr. Sampson  
18 sent you guys Wednesday and Tuesday? Say, we hereby  
19 release each other as agreed on the record, and it's  
12:22:40 20 incorporated by this reference. And we're done. Why  
21 wouldn't that work?

22           And if they're going to balk and somehow say  
23 that won't work, then, clearly, they must be either  
24 looking to just drag this thing out or trying to get  
12:22:52 25 something in the release that wasn't on the record,

12:22:54 1 which I don't think the Court should permit.

2 THE COURT: Do we have a copy of that portion  
3 of the record? Have we ordered one or no?

4 MR. SAMPSON: I've not ordered one. I mean,  
12:23:06 5 again, that's another proposal is I will order a copy  
6 of Wednesday and Friday's transcripts and just have  
7 everyone just sign the transcripts so agreed, so  
8 released.

9 THE COURT: All right. Anything else?

12:23:22 10 MR. SAMPSON: But whatever is on -- yeah.  
11 Whatever is on the transcript from Wednesday and Friday  
12 would be incorporated by reference with exactly what I  
13 proposed. And it just says release each other as per  
14 what was put on the record. And then we all sign off  
12:23:36 15 and get my client his money. And then we're done.

16 THE COURT: Well, I don't know if it's -- I  
17 wish it was just that simple.

18 The reason why I asked that question regarding  
19 a copy of the transcript, I wish I could say with  
12:23:51 20 computer-like recollection I can remember every  
21 utterance in court regarding the general terms of the  
22 settlement and the like, but I can't.

23 And so all I'm saying is this: As to whether  
24 anyone is correct as to specifically what was placed on  
12:24:06 25 the record, I'd need a copy of the transcript to make



12:24:08 1 that determination. That's what I'm saying.

2 MR. SAMPSON: I don't know that anyone is  
3 disputing what I'm talking about. In fact, I think  
4 Mr. Fink indicated that my discussion with what was  
12:24:19 5 placed on the record was accurate.

6 I mean, my position is -- I'm telling you, we  
7 put on the record -- we're not waiving, releasing, or  
8 otherwise affecting anything against Sesman or Duslak.  
9 I don't think anyone would dispute that.

12:24:34 10 And if they don't dispute it, I mean, we can  
11 keep a transcript -- we can get a transcript if we need  
12 to, but I don't think it's disputed what I'm telling  
13 you as to what we agreed to.

14 THE COURT: Is it --

12:24:44 15 MR. SAMPSON: It was a pretty significant  
16 point that day.

17 THE COURT: Is it disputed? Anyone?

18 MR. SAMPSON: Not -- I'm not disputing. I'm  
19 not disputing my version of what happened. I tell you  
12:24:58 20 that. This is Dave Sampson.

21 THE COURT: Okay. Mr. Fink, are we disputing  
22 that?

23 MR. FINK: Well, first I did send this out at  
24 9:35 this morning which included, like, I think, six  
12:25:10 25 bullet points, five bullet points of things that were

12:25:13 1 kind of core to the agreement.

2 My best recollection is that when Mr. Sampson  
3 said he was specifically retaining his rights to go  
4 against Mr. Sesman and Mr. Duslak, we all agreed to  
12:25:27 5 that. There was no specific discussion as to whether  
6 or not they were independent contractors or employees.  
7 So I didn't -- I didn't jump and say, well, to the  
8 extent they're employees. This wouldn't cover them.  
9 So that part is right.

12:25:41 10 But then I didn't know that I had to do that  
11 because when you're releasing Sunrise, you're releasing  
12 their employees, their board members, all of that. So  
13 I don't know that I was thinking that that's something  
14 I needed to specifically do.

12:25:53 15 I completely understood that to the extent  
16 that Sesman and Duslak were his independent  
17 contractors, which we all think they are, that the HOA  
18 hired to do the lawn maintenance that it --  
19 shouldn't -- it didn't and shouldn't affect  
12:26:07 20 Mr. Sampson's rights to go after them. That was the  
21 point.

22 But certainly not if it turns out that they  
23 were my client's employees, which, again -- and I  
24 appreciate Mr. Sampson recognizing that in most cases  
12:26:20 25 that's what's included, but that's exactly what I was

12:26:22 1 thinking was excluded here. If they're employees,  
2 they're covered.

3 THE COURT: So the impact of the -- what would  
4 be considered the material terms of the settlement is  
12:26:34 5 an issue.

6 MR. FINK: If -- if the -- I think the only  
7 issue, if I'm not mistaken, is whether or not the  
8 settlement covers those two gentlemen if it turns out  
9 they're employees. That's it.

12:26:46 10 If they're not employees, there's no question  
11 the settlement doesn't cover them. And allows  
12 Mr. Sampson whatever avenue or avenues he needs to try  
13 to recover money from them, including going after  
14 Sunrise's insurance carrier if for some reason that  
12:27:01 15 that carrier should have defended or indemnified those  
16 two gentlemen as independent contractors. And that's  
17 language that my carrier agreed to that's in that  
18 agreement. Which is fine. And that absolutely was not  
19 part of a negotiation to get them out.

12:27:16 20 But the issue really is, is whether or not if  
21 it turns out that these two were employees and getting  
22 W-2s, which there's been no evidence and no allegation  
23 that there they were, that it's our belief that the  
24 settlement covers them under that one circumstance.

12:27:34 25 THE COURT: Okay. Mr. Sampson.

12:27:35 1 MR. SAMPSON: Your Honor.

2 THE COURT: Go ahead.

3 MR. SAMPSON: Sure. All I would ask, again,  
4 is the Court to consider, well, you know, that should  
12:27:42 5 have been brought up on the record. Because I made  
6 clear -- and there is no dispute it sounds like. I  
7 made it clear we want to preserve all rights against  
8 Sesman and Duslak. They've been defaulted. We want to  
9 move forward against them. And this release and this  
12:27:56 10 money doesn't go to affecting any of my client's rights  
11 against them, period.

12 And the response while we were on the record  
13 from Mr. Fink and everybody else was that is correct.  
14 And we are in agreement.

12:28:08 15 And if they were going to raise some kind of,  
16 well, hold on. Is this, then okay. But if not, then  
17 that was the time to do it, and they did not do it.  
18 And they did it -- they had a chance on Wednesday and  
19 again on Friday. So we can't even blame it on, like,  
12:28:23 20 spur of the moment. I didn't have time to consider it.  
21 It just got tossed out there. It was brought up  
22 specifically, and they agreed. And they can't now turn  
23 around and unagree, or try to undo it when we said --  
24 again, all I want to do is enforce the terms that were  
12:28:39 25 placed on the record. And I don't think my client

12:28:41 1 should be forced to agree to terms that weren't placed  
2 on the record, which Mr. Fink is now asking to do. I  
3 think -- I hope Mr. Fink is correct when he says  
4 they're not employees.

12:28:51 5 I'm a little concerned if he is so convinced  
6 they're not employees why this is a sticking point.  
7 Because it shouldn't be. If he's convinced they're not  
8 employees, I don't know how it would turn out, as he  
9 used the phrase, if they somehow would magically become  
12:29:06 10 employees other than perhaps if the carrier goes to  
11 Sunrise, and says, you know, I don't know. Something  
12 goes on and all of a sudden that all -- that they come  
13 up W-2s that were not provided before and Mr. Fink's  
14 not aware of, and then we've somehow been mislead.

12:29:20 15 But the terms of the agreement were reached on  
16 the record, and we're just asking no more, no less than  
17 what was placed on the record be enforced. And since  
18 it's been three weeks now and they can't seem to come  
19 up with an agreement, that Sunrise would be on board  
12:29:37 20 with that comports with what was on the record, then I  
21 think the Court either just find that that's waived at  
22 this point, or that they sign what I proposed. Which  
23 is we just release each other pursuant to what was  
24 placed on the record.

12:29:51 25 THE COURT: Anything else? There is no way

12:29:52 1 this can be worked out.

2 MR. FINK: Never say no way. But your Honor,  
3 again --

4 THE COURT: And the reason why I do that, I  
12:30:01 5 think everybody understands this, it's always easier.

6 MR. FINK: Right. I mean, it's -- it's  
7 problematic. I mean, look, there's nothing in the  
8 complaint. So when Mr. Sampson says, Well, then we  
9 should have said something. The problem here is that  
12:30:12 10 if we are looking at the record, we're looking at the  
11 entire record.

12 And the entire record is the amended complaint  
13 which makes no allegation, even an allegation, that  
14 either one of those two gentlemen were employees of  
12:30:23 15 Sunrise, or were working within the course and scope of  
16 being employees of Sunrise.

17 So if that's what he has alleged, then that's  
18 why I have no problem releasing them as to how he's  
19 alleged it. Had he alleged in his amended complaint  
12:30:36 20 that they were employees of Sunrise, that would have  
21 been a different discussion on the record.

22 Should that have been made more clear from  
23 both sides? Probably, which we wouldn't be here. But  
24 the fact is it's -- again, it's in the operative  
12:30:51 25 complaint. There is no allegations that they are

12:30:53 1 employees, which is why I didn't feel the need that I  
2 had to clarify that.

3 And again, nothing in any 16.1 disclosure, up  
4 until and including trial, that alleged that either one  
12:31:02 5 of them were employees. And I also think and I didn't  
6 check this before the hearing, but even when we did the  
7 motion for summary judgment, and even the renewed  
8 motion for summary judgment -- or I think it was a  
9 motion for reconsideration, I don't believe, and I'll  
12:31:15 10 apologize if I'm wrong here, I don't believe that even  
11 then Mr. Sampson -- Mr. Sampson said they were  
12 employees.

13 And then there was a motion in limine related  
14 to keeping the gardener's statements out of evidence.  
12:31:29 15 And, again, he didn't say they were employees. He said  
16 that we argued about whether or not agent in principal  
17 whether or not that would --

18 So there has never been an allegation by  
19 Mr. Sampson in this case that they're employees. And I  
12:31:39 20 think that's true which is what I said all along. I  
21 don't think they were. I thought they were independent  
22 contractors, two guys on a mower.

23 However, I'm sure the Court can appreciate  
24 that even though I'm really, really comfortable with  
12:31:53 25 that, I'm also not that comfortable with just leaving

12:31:57 1 it to wind.

2           So, I mean, maybe the best thing to do is to  
3 get a copy of the transcripts from those two hearings  
4 and try to hash it out. I mean, the good thing is we  
12:32:06 5 do have the money, so we're not waiting on that. So if  
6 there is no delay here, no one is trying to delay  
7 anything. We're just trying to get it right and trying  
8 to save our own --

9           THE COURT: Well, here's the issue. I mean,  
12:32:18 10 I've been listening patiently. And it appears to be no  
11 dispute that hypothetically they're independent  
12 contractors and potentially additional insureds under  
13 the insurance policy, there would be coverage.

14           MR. FINK: Well, well, no, no. Not a coverage  
12:32:33 15 issue, but would allow them to go after my insurance  
16 carrier.

17           THE COURT: Right.

18           MR. FINK: Absolutely.

19           THE COURT: I understand. It's not a  
12:32:38 20 stipulation.

21           MR. FINK: Right.

22           THE COURT: It's not a stipulation of  
23 coverage.

24           MR. FINK: Right.

12:32:41 25           THE COURT: But there's not a -- I get the



12:32:43 1 significance.

2 MR. FINK: Right.

3 MR. MELORO: And your Honor.

4 THE COURT: Yes.

12:32:48 5 MR. MELORO: Joseph Meloro on behalf of  
6 Mr. Bushbaker.

7 Mr. Fink did send an email earlier today. And  
8 there were some bullet points. One of the bullet  
9 points that I want to make clear was that Mr. Bushbaker  
12:32:59 10 is not waiving any claims against any insurance  
11 carriers.

12 Also I'd like the record to reflect that  
13 Mr. Sampson in his motion did state that Mr. Bushbaker  
14 is not doing anything to delay this settlement and that  
12:33:14 15 we've been cooperative.

16 And so I just want to make that clear that  
17 we're not doing anything. This is a dispute. I think  
18 it's pretty narrow on whether these are independent  
19 contractors or employees. Doesn't really regard my  
12:33:29 20 client. But we're trying to help facilitate a  
21 settlement here.

22 MR. FINK: We'd like nothing more than to give  
23 Mr. Sampson the money.

24 MR. SAMPSON: Your Honor.

12:33:38 25 THE COURT: Yes. Yes, Mr. Sampson.

12:33:39 1 MR. SAMPSON: Well, so given that's the case,  
2 I think then why don't we do this. Why doesn't the  
3 Court order the money be paid to Dr. Russo, you know,  
4 forthwith, or however you want to do it. Within, I  
12:33:51 5 don't know, by middle of the next week or something.  
6 If it's here in town, it could even be by the end of  
7 this week. But order that the funds be paid. And that  
8 we set maybe a status check or something. Or where we  
9 can look at --

12:34:03 10 I don't know what Mr. Fink -- I've never known  
11 him to say something that's not accurate, but I don't  
12 know that my complaint doesn't make those allegations.  
13 I know I typically have a paragraph in every complaint  
14 I've done that involves respondeat superior potentially  
12:34:18 15 that says the parties -- that the defendants were all  
16 agents, principals, employees, employers, managers and  
17 service with one another. Perhaps it's not in there.  
18 I don't know. I don't know what was said. Sounds like  
19 neither does Mr. Fink with much surety about what was  
12:34:33 20 said in relation to motions that were filed.

21 But I think you say, Look, the Court is going  
22 to enforce the terms that were reached on the record.  
23 So go ahead and pay the money. We'll figure out a way  
24 to draft it and get it written up. But we're going to  
12:34:45 25 enforce it pursuant to what was placed on the record.

12:34:47 1 And the other issue I've got is if, you know,  
2 Mr. Fink is saying, Well, we never had any allegation  
3 that he thought they were employees. We never -- it  
4 was never anything that would have ever even entered my  
12:34:57 5 mind, well then why now? Because I didn't bring it up.

6 Why now when all of a sudden it's the sticking  
7 point. Something has gone on, and it sure -- I mean,  
8 again, I only see two reasons why we would do anything  
9 other than sign something that says the terms reached  
12:35:12 10 on the record are incorporated herein and we agree to  
11 them. Unless they're trying to delay things or put  
12 something in there that wasn't reached on the record.

13 And the Court shouldn't permit either one of  
14 those to take place. So, you know, I haven't heard any  
12:35:24 15 objection to what I proposed a day or two ago saying  
16 let's just sign something saying that we agree to the  
17 terms as proposed on the record, or as placed on the  
18 record and incorporated by this reference and then pay  
19 the money, then we're done.

12:35:38 20 So, again, I would just ask we either do that  
21 or the Courts say, look, as Mr. Fink said and I'm sure  
22 Mr. Lemkul probably agrees, they'd love nothing more  
23 than to give Dr. Russo his money. So go ahead and give  
24 it to him. And then we can sit down at some point if  
12:35:52 25 we need to have an evidentiary hearing or some other

12:35:54 1 kind of status check where we go over complaints or the  
2 transcript from when we put it on the record. Because  
3 at some point we'll have a release in place that  
4 Dr. Russo will sign that comports to what was placed on  
12:36:05 5 the record. No more, no, less.

6 THE COURT: I don't think I can do that, as  
7 far as ordering payments of monies without an execution  
8 of some sort of closing documents, or release, or  
9 something like that.

12:36:22 10 MR. SAMPSON: So then what about the one I  
11 proposed that now no one has as of this point had an  
12 objection to?

13 THE COURT: Well, here's --

14 MR. SAMPSON: That I've heard.

12:36:31 15 THE COURT: This is the -- I think it's always  
16 better for parties to come to some sort of resolution.  
17 Because I can anticipate -- and I don't mind saying  
18 this, and then I want to go to lunch. I think we all  
19 do. But and I don't know this, but I can anticipate  
12:36:57 20 potentially without having it all tied up, there could  
21 be litigation as to the impact of the release under one  
22 remote scenario. Right?

23 And that's the concern I have. And, I mean,  
24 it doesn't matter, I mean, from a personal level. But  
12:37:16 25 from a judicial perspective, that's why I always want

12:37:20 1 you to try to come to some sort of accord before I make  
2 decisions because realistically it could be litigation.  
3 I mean, the chances are remote. I get that.

4 Because when you look at it from this  
12:37:36 5 perspective if there was truly evidence -- I mean, this  
6 makes perfect sense. If there was evidence that they  
7 were employees, there would not have been a default  
8 judgment entered against them. There would have been  
9 motions to set aside, answers, and the like. And  
12:37:50 10 that's pretty much the status of the case because I  
11 can't -- I can't foresee either Mr. Lemkul or Mr. Fink  
12 permitting an employee to be defaulted; right?

13 MR. SAMPSON: Could we perhaps enter a  
14 stipulation on the record here and now that for  
12:38:06 15 purposes of this litigation they're not employees?

16 THE COURT: Well, I think -- here's the thing,  
17 and I don't -- I mean, as far as -- and, I mean, you  
18 know, when you look at it, this is so layered. I'd  
19 hate to go down this rabbit hole. But there could be  
12:38:22 20 arguments made based upon the law of the case; or facts  
21 of the case; or how the case has developed; as it has  
22 an impact, what does the release cover? And so those  
23 are issues. I think -- I don't mind saying this. I  
24 think it's almost -- it rises to a level of a  
12:38:47 25 significant presumption they're not employees because

12:38:50 1 there would have been an answer filed, you know. But I  
2 just want everyone to come to some sort of accord on  
3 this.

4 MR. SAMPSON: Well, the problem is it's been  
12:38:59 5 three weeks, and we haven't. And I've spent two weeks,  
6 Monday the 21st until the following week before I heard  
7 anything and Thursday until yesterday where I go with  
8 no communication from the -- from Sunrise. Or -- and  
9 one of those weeks was including Cox, and then three  
12:39:19 10 weeks with Scarcelli. I'm glad to hear he's on board.  
11 But I don't want any further -- I mean, I don't want to  
12 tell my client, well you don't get your money and you  
13 don't get your verdict either. So...

14 THE COURT: I understand.

12:39:30 15 MR. SAMPSON: I mean, I need at this point for  
16 the Court to please take action to tell these  
17 defendants, do what -- enter into a release that  
18 comports no more no less than what was placed on the  
19 record and give the doctor his money.

12:39:44 20 MR. MELORO: Your Honor, I take exception to  
21 being grouped as defendants by Mr. Sampson. There are  
22 separate entities here. I communicated with  
23 Mr. Sampson and the other parties in this action, not  
24 only that first week after we made this agreement but  
12:40:01 25 the following week I did a follow up saying have we

12:40:05 1 come to any agreements. So I just want it clear when  
2 Mr. Sampson says "defendants", which defendants he's  
3 speaking of, please. Thank you.

4 MR. FINK: Your Honor --

12:40:15 5 MR. SAMPSON: And I thought -- I don't know  
6 what comes through on the phone, but I thought I said  
7 some of the defendants, specifically Sunrise. I  
8 went -- I got the release either Sunday night, Monday  
9 morning. Didn't hear anything for a week. And then we  
12:40:29 10 talked from Monday to Thursday. I didn't hear anything  
11 for another week until yesterday. Cox I didn't hear  
12 for the first week, but we did deal with them the  
13 following week. We got it all worked out.

14 Scarcelli I hadn't heard from hardly at all,  
10:27:58 15 but it sounds today like they're on board.

16 (Reporter clarification)

17 So that's where we are at. And again, I  
18 just -- I don't want -- please don't make me go back  
19 and tell Dr. Russo you don't get your money; you don't  
12:40:49 20 get your trial either. There is some kind of limbo.

21 I'd like to think there is some way the Court  
22 can take action under the settlement to say here's what  
23 you need to do, and it includes -- and it should  
24 include signing the release that comports and provides  
12:41:05 25 no more no less than what was placed on the record, and

12:41:08 1 tender the funds pretty quickly. We've already been  
2 three weeks into this.

3 THE COURT: Mr. Fink.

4 MR. FINK: Good, your Honor. Mr. Sampson made  
12:41:16 5 an interesting suggestion that I'd like to think about  
6 and that may work. That if we say for the purposes of  
7 this litigation they weren't employees. That may take  
8 care of all of this. I would just need to run that by  
9 my people. But that may take care of all of our  
12:41:31 10 concerns at that point, and then we can -- we can be  
11 done.

12 THE COURT: How's that, Mr. Sampson?

13 MR. SAMPSON: It was my suggestion, so I still  
14 totally agree with it.

12:41:40 15 THE COURT: Well, you know what --

16 MR. SAMPSON: I would ask -- I would ask  
17 just -- Mr. Fink has made a couple of comments today,  
18 and I think the Court also echoed them, along the lines  
19 of Sesman and Duslak, all rights against them, anybody  
12:41:53 20 who insures them, you know, all of those are preserved.  
21 They're not affected. I would like to make sure that  
22 is crystal clear in whatever iteration we end up with.  
23 I put some language in there that Mr. Fink has asked to  
24 modify. And I think he and I hopefully can work that  
12:42:08 25 out, and say, you know, that sentiment that, I believe,



12:42:11 1 was expressed much more clearly today than in the  
2 agreement be set out very, very clearly.

3 THE COURT: And I think he has no problem with  
4 that because that was his idea, you know, so regarding  
12:42:24 5 the fact that if they're independent contractors,  
6 there's no waiver of the right to seek coverage for  
7 this case. I mean, I get that based upon the insurance  
8 policy. And no big deal there.

9 But, okay. How about this? Because I know  
12:42:41 10 your client wants their money. And I've been in that  
11 situation before.

12 How long do you think it would take you,  
13 Mr. Fink, to run that passed your clients?

14 MR. FINK: Well, I can try to do that now.  
12:42:55 15 They're on the east coast, Philly. So I can try to do  
16 that now. But I would say for sure -- and they're,  
17 obviously, they're hot on this issue. I would say if I  
18 can't get that by them today for whatever reason,  
19 tomorrow morning. You know, I get up early. I'm  
12:43:09 20 usually up east coast time anyway. So I think I can  
21 get an answer from them, again, either this afternoon  
22 or before everybody generally wakes up in the morning.  
23 But I think it's -- I think it's a workable solution  
24 from where I'm sitting.

12:43:25 25 And yeah, Mr. Sampson and I, other than this

12:43:28 1 one thing, we're in complete agreement. I don't think  
2 we have any issues on that.

3 THE COURT: So how about this then.

4 (Off-the-record scheduling discussion  
01:24:06 5 between the court clerk and the Court.)

6 THE COURT: How about a status check,  
7 telephonic status check at 9:30?

8 MR. FINK: That would be fine for Sunrise,  
9 Judge.

12:43:52 10 THE COURT: Is that fine, Mr. Sampson?

11 MR. SAMPSON: That's fine.

12 THE COURT: Okay.

13 MR. SAMPSON: In the meantime, Mr. Fink can  
14 just re-forward to me whatever the final version is  
12:44:04 15 he's claiming. Or perhaps what we're talking the  
16 stipulation he'd be okay with, the last one I provided.  
17 And then I get a chance to look that over, and we can  
18 talk it out tomorrow and find out where we're at, but  
19 what if anything else we would do from there.

12:44:16 20 THE COURT: Well, I think this -- I think it's  
21 actually much simpler than that in this regard.

22 Hypothetically, Mr. Fink hears back from the  
23 east coast sometime today. He gives you a phone call  
24 or email, says, Look, my client has no problems with  
12:44:32 25 the stipulation. You guys move from -- with that, with

12:44:36 1 the stipulation and whatever release language you feel  
2 would be appropriate. And everything is covered. I  
3 make my phone call tomorrow at 9:30. Say, Look, Judge,  
4 we've resolved this issue.

12:44:50 5 MR. SAMPSON: That would be nice too.

6 THE COURT: I mean, I can foresee that  
7 happening. And the reason -- and what that does is  
8 this, and remember this is important too, that gives  
9 finality.

12:45:02 10 MR. SAMPSON: Yeah.

11 THE COURT: That's a big -- and I'm -- and,  
12 Mr. Sampson, I understand your plight, and I respect  
13 it. And I'm not just kicking the can down the road.  
14 I'd rather give you finality now than maybe appeals,  
12:45:17 15 those types of things. And we don't need that. We  
16 need to just put this case to bed. Because 24 hours  
17 could save you a year and a half, right?

18 MR. FINK: Mr. Sampson, did you get a copy of  
19 the email I just sent over to you?

12:45:31 20 MR. SAMPSON: I don't know.

21 MR. FINK: Okay.

22 MR. SAMPSON: I'm not in a position to check  
23 my emails right now.

24 MR. FINK: All right. Let me know if you  
12:45:37 25 didn't get it. I just sent it over again, so I can

12:45:40 1 do --

2 MR. SAMPSON: All right. I'll take a look.

3 THE COURT: So what we'll do, we'll set a

4 9:00 o'clock conference call, and we'll use Court Call.

12:45:46 5 9:30, I'm sorry.

6 MR. FINK: 9:30.

7 THE COURT: 9:30. We'll use Court Call. And

8 we'll -- how do we do that?

9 THE COURT CLERK: Do you all have

12:45:56 10 instructions?

11 MR. LEMKUL: No.

12 MR. FINK: I'm sure my office does somewhere.

13 THE COURT CLERK: No worries.

14 MR. FINK: Those are all beyond my

12:46:03 15 capabilities.

16 THE COURT: And it's just a continuation of

17 today's hearing, Mr. Sampson and Mr. Lemkul. That's

18 all it is.

19 MR. LEMKUL: Sounds good, your Honor.

12:46:14 20 MR. SAMPSON: Sounds good.

21 THE COURT: All right. Everyone enjoy your

22 day.

23 MR. FINK: Thank you.

24 THE COURT: All right.

12:46:16 25 MR. SAMPSON: All right.

12:46:21 1

MR. MELORO: Have a good lunch, your Honor.

2

3

(Proceedings were concluded.)

4

5

\* \* \* \* \*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO  
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE  
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE  
TIME AND PLACE INDICATED, AND THAT THEREAFTER SAID  
STENOGRAPHY NOTES WERE TRANSCRIBED INTO TYPEWRITING AT  
AND UNDER MY DIRECTION AND SUPERVISION AND THE  
FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE AND  
ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE  
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED  
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF  
NEVADA.

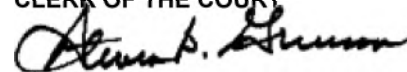
\_\_\_\_\_  
PEGGY ISOM, RMR, CCR 541

Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

Electronically Filed  
2/1/2021 12:27 PM  
Steven D. Grierson  
CLERK OF THE COURT


**OPP**

DAVID F. SAMPSON, ESQ.  
Nevada Bar No. 6811  
LAW OFFICE OF DAVID SAMPSON, LLC.  
630 S. 3rd Street  
Las Vegas, NV 89101  
Tel: 702-605-1099  
Fax: 888-209-4199  
Email: david@davidsampsonlaw.com  
*Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

SIMONE RUSSO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO: A-17-753606-C
	)	DEPT. NO: XVI
COX COMMUNICATIONS LAS VEGAS,	)	
INC., D/B/A COX COMMUNICATIONS,	)	
IES RESIDENTIAL, INC., SUNRISE	)	
VILLAS IX HOMEOWNERS	)	
ASSOCIATION, J & G LAWN	)	
MAINTENANCE, KEVIN BUSHBAKER,	)	
PWJAMES MANAGEMENT &	)	
CONSULTING, LLC., J. CHRIS	)	
SCARCELLI, DOE LANDSCAPER,	)	
RICHARD DUSLAK, JUSTIN SESMAN,	)	
AND DOES I-V, and ROE	)	
CORPORATIONS I-V, inclusive,	)	
	)	
Defendants.	)	
	)	

**OPPOSITION TO MOTION TO SET ASIDE AND/OR AMEND JUDGMENT**

COMES NOW, Plaintiff, SIMONE RUSSO, by and through his attorney of record, and opposes SUNRISE's motion and QBE's joinder<sup>1</sup> to the motion to set aside and/or amend the

<sup>1</sup> As of the filing of this opposition QBE is not a party to this action. QBE filed a motion to intervene over a year after judgment was entered in this matter, which motion has not yet been heard and should be denied as a party is not permitted to intervene after judgment is entered as

judgment that was duly entered in this matter on December 17, 2019, and for which Notice of Entry of the said Judgment was served December 17, 2019.

This opposition is made and based upon the pleadings and papers filed herein, the attached Points and Authorities, and upon oral argument at the time of hearing.

### **STATEMENT OF FACTS**

In April 2017 Doctor SIMONE RUSSO filed a lawsuit against multiple Defendants in connection with him falling because of a COX cable wire that was stretched across the driveway and road in the SUNRISE HOA. The Defendants who filed answers in this matter included COX, IES, SUNRISE, CHRIS SCARCELLI, and KEVIN BUSHBAKER. In an Amended Complaint SIMONE also sued RICHARD DUSLAK and JUSTIN SESMAN as SUNRISE indicated DUSLAK and SESMAN were the landscapers who tended the grounds at the SUNRISE HOA. DUSLAK and SESMAN were duly served with the lawsuit in this matter in February of 2018, but never filed an answer or other responsive pleading at any point.

When this matter proceeded to trial, at the close of SIMONE's voir dire of the venire panel, the active parties to the litigation agreed upon a settlement. On October 18, 2019 the active parties in the litigation placed the terms of the settlement on the record. *See Exhibit "1"*.

***It was made abundantly clear on the record that the settlement only between the active parties to the lawsuit did not include DUSLAK or SESMAN as they had been defaulted in this action.*** Indeed Mr. Fink, counsel for SUNRISE, asked the Court to make a finding of good faith "because of the further actions Mr. Sampson is going to take against the defaulted parties [DUSLAK and SESMAN]." *Id.*, at P. 6 L. 4-9.

required in *Nalder v. Eighth Judicial Dist. Ct.*, 136 Nev.Adv.Op. 24 (2020). The joinder, as well as any other documents filed by QBE in this matter, are improper and represent rogue pleadings which the Court should disregard.



Counsel for SIMONE (David Sampson, Esq.) further confirmed that the settlement did not release DUSLAK or SESMAN and did not include them. Mr. Sampson made it more than clear, “there are two other parties [DUSLAK and SESMAN] who have been defaulted that we’re still – ***this settlement does not affect them***”. *Id* at P. 6 L. 15-19 (emphasis added).

When counsel for the various parties then discussed reducing the settlement to writing, Mr. Sampson confirmed that in drafting any release or the like related to the settlement:

the terms of whatever documents we sign or that my client has asked to sign comport with what was discussed Wednesday, and what's being discussed today, and ***no new terms***, and those types of things. And, I guess, ***most of all that nothing in any of these releases or any of the settlement affects any rights Dr. Russo may have against any person or entity related to the claims of the two individuals who have been defaulted***, and any claims that they may have against anybody would not be affected by this settlement. ***So as long as we're clear on all of that.***

*Id* at P. 10 L. 24 – P. 11 L. 12 (emphasis added).

After Mr. Sampson asked to make it clear that no releases or any other settlement documents would affect any rights SIMONE may have against the defaulted parties (DUSLAK and SESMAN), ***Mr. Fink agreed that no releases or settlement documents would affect any rights SIMONE may have against DUSLAK and/or SESMAN.*** *Id* at P. 11 L. 21.

At a subsequent hearing on November 7, 2019 the parties further discussed the resolution of this matter. *See*, Exhibit “2”. Mr. Sampson began by confirming the agreement that had been placed on the record on October 18, 2019, in the following discussion:

We were in front of your Honor three weeks ago now on Wednesday initially. And we put the settlement on the record and the terms of the settlement on the record. We came back on Friday, found out that the two other -- two other defendants who on Wednesday said they hadn't gotten any confirmation from their client yet because it had just kind of happened and that whole thing. They wanted to check with their clients, call back on Friday, and confirmed their client did agree to do the settlement. ***And so under those terms – a couple of the terms, one was that – Two of the defendants who were named in the case who have***

*never filed answers, who have been defaulted were not affected by the settlement, with the money that was being paid.*

THE COURT: And...

MR. SAMPSON: And my clients rights --

THE COURT: And Mr. Sampson, I don't want to cut you off. But please identify the two defaulted defendants again for the record.

MR. SAMPSON: *Duslak and Sesman are the last names.*

THE COURT: Thank you, sir. You may continue.

MR. SAMPSON: So then *Dr. Russo's rights against those two defaulted individuals would not be affected at all. Everyone agreed.*

*Id*, at P. 5 L. 18- P. 6 L. 19 (emphasis added).

Mr. Sampson then noted that the release SUNRISE proposed sought to alter the original agreement that the settlement would not affect SIMONE's rights against DUSLAK and/or SESMAN. Mr. Sampson stated "the release that was provided defines SUNRISE as all employees, independent contractors. It lays out other things that could potentially include DUSLAK and SESMAN." *Id* at P. 9 L. 22-25. Mr. Sampson then stated, "we are not going to include them [DUSLAK and SESMAN] or anyone affiliated with them." *Id* at P. 10 L. 1-3.

Mr. Fink subsequently stated:

I think the real hold up right now is whether or not the release that we negotiated was intended to cover Mr. Sesman and Duslak, D-U-S-L-A-K, I think. Actually, I've got it in front of me. Okay. Duslak, D-U-S-L-A-K, and Sesman, S-E-S-M-A-N, if they were considered employees of Sunrise.

*Id* at P. 16 L. 14-19.

Mr. Fink continued by saying "There's never been one bit of evidence in this case that they were employees. It was always that they were independent contractors." *Id* at P. 16 L. 20-22. Mr. Fink then argued that DUSLAK and SESMAN should be included in the release in the

event they were SUNRISE employees by arguing “when you settle with an entity, you are settling with the employees too.” *Id* at P. 16 L. 23-25. Mr. Fink then stated “the only hang up is whether or not this settlement included Mr. Duslak and Mr. Sesman if they are found to be employees of Sunrise. And I think that’s it.” *Id* at P. 18 L. 6-9.

Mr. Sampson then made it very clear that the settlement did not include DUSLAK or SESMAN, even if they were found to be employees of SUNRISE. In discussing Mr. Fink’s proposed release, Mr. Sampson stated “And the one that I take issue with is the one that seeks to stop my client from being able to proceed against SESMAN and DUSLAK.” *Id* at P. 20 L. 13-

15. Mr. Sampson continued:

And yes, I do know and I understand if you release a party, you typically would be releasing their employees, and board of directors, and those types of things ***unless you clearly indicate otherwise when you put the settlement agreement together. So when we put this on the record, that's why I made it a point to say, none of this settlement involves Sesman or Duslak at all in any of their capacities.*** And if there was an idea of, well, hold on, Sunrise wants all its employees, and there might be a claim that they're employees, so that should have been brought up when we put the terms on the record. It shouldn't have been dropped on me just like they couldn't come up later and say, we want it confidential. Or, and there is language about indemnification and what not, which we'll agree to even though it wasn't specifically put on the record. But if you wanted those -- when I say -- make it a point to mention, and I'm sure had I said, for example, you know, here's so and so, it's the CEO of Cox, we're not releasing any claims against that person, I'm sure Mr. Lemkul would have piped up and said, oh, no, hold on. We don't agree to that. ***We were stippling on the record putting the terms together. So I think it's improper for Sunrise to stand there while we're putting the settlement on the record, and I say Sesman and Duslak are not released in any way, shape, or form. They remain parties. We still have all rights to proceed against them, and that's all fine and dandy while we're on the record, and then to come back later in the release and say, except they're not. Because if they're employees they're out.*** I don't think they're employees either as I sit here right now. But I've not had a chance to find any of that stuff out. I have not -- I have no confirmation as to any of that.

*Id* at P. 20 L. 16 - P. 22 L. 1 (emphasis added).

Mr. Sampson then said, “what I proposed says specifically releasing each other as agreed on the record. No more, no less. I don't think anybody should require that my client do any more or any less for any of that . . . And my clients should not be -- my client should not be required to waive any right at all that he -- that he specifically -- especially when he specifically preserved them on the record when we -- when we resolved this thing and put the settlement on the record. *Id* at P. 22 L. 15-18; P. 23 L. 3-8.

Mr. Sampson then made it abundantly clear that Duslak and Sesman were not released, even as SUNRISE employees, by saying, “And the term that I had an issue with is this idea that if they're employees, then Sesman and Duslak are out. ***That was not agreed to.***” *Id* P. 23 L. 12-15. Mr. Sampson continued by noting that on October 18, 2019 “we put on the record -- ***we're not waiving, releasing, or otherwise affecting anything against Sesman or Duslak.*** I don't think anyone would dispute that . . . it was a pretty significant point that day.” *Id* at P. 25 L. 6-16 (emphasis added).

The Court then asked SUNRISE’s counsel, “Mr. Fink, are we disputing that?” *Id* at P. 25 L. 21-22. Mr. Fink answered, “My best recollection is that ***when Mr. Sampson said he was specifically retaining his rights to go against Mr. Sesman and Mr. Duslak, we all agreed to that.***” *Id* at P. 26 L. 2-5 (emphasis added). Mr. Fink further confirmed “So I didn’t – I didn’t jump and say, well, to the extent they’re employees. This wouldn’t cover them. ***So that part is right.***” *Id* at P. 26 L. 7-9 (emphasis added). Mr. Fink then asked that the settlement nevertheless cover DUSLAK and SESMAN if there was evidence that they were employees.

Mr. Sampson responded:

All I would ask, again, is the Court to consider, well, you know, ***that should have been brought up on the record. Because I made clear*** -- and there is no dispute it sounds like. I made it clear ***we want to preserve all rights against Sesman and Duslak.*** They've been defaulted. We want to move forward against them. And this

release and ***this money doesn't go to affecting any of my client's rights against them, period.*** And the response while we were on the record from Mr. Fink and everybody else was that is correct. ***And we are in agreement.***

And if they were going to raise some kind of, well, hold on. If this, then okay. But if not, then that was the time to do it, and they did not do it. And they did it -- they had a chance on Wednesday and again on Friday. So we can't even blame it on, like, spur of the moment. I didn't have time to consider it. It just got tossed out there. ***It was brought up specifically, and they agreed. And they can't now turn around and unagree, or try to undo it when we said -- again, all I want to do is enforce the terms that were placed on the record.*** And I don't think my client should be forced to agree to terms that weren't placed on the record, which Mr. Fink is now asking to do.

*Id* at P. 28 L. 3 – P. 29 L. 2 (emphasis added).

Mr. Sampson then stated:

I'm a little concerned if he is so convinced they're not employees why this is a sticking point. Because it shouldn't be. If he's convinced they're not employees, I don't know how it would turn out, as he used the phrase, if they somehow would magically become employees other than perhaps if the carrier goes to Sunrise, and says, you know, I don't know. ***Something goes on and all of a sudden that all -- that they come up W-2s that were not provided before and Mr. Fink's not aware of, and then we've somehow been mislead.***

*Id* at P. 29 L. 5-14.

Mr. Sampson then reiterated “the terms of the agreement were reached on the record, and we're just asking no more, no less than what was placed on the record be enforced.” *Id* at P. 29 L. 15-17.

The Court then asked if there was some way the matter could be worked out. The Court reiterated “I think it’s always better for parties to come to some sort of resolution.” *Id* at P. 36 L. 15-16. In attempting to reach a resolution Mr. Sampson suggested “Could we perhaps enter a stipulation on the record here and now that for purposes of this litigation they’re not employees?” *Id* at P. 37 L. 13-15. Mr. Fink then stated he would “like to think about” Mr. Sampson’s suggestion and said, “That may take care of all of this.” *Id* at P. 40 L. 4-8.

After suggesting the parties stipulate that DUSLAK and SESMAN were not employees, and Mr. Fink saying he would “like think about” that, Mr. Sampson stated, “I would ask -- I would ask just -- Mr. Fink has made a couple of comments today, and I think the Court also echoed them, along the lines of Sesman and Duslak, *all rights against them*, anybody who insures them, you know, *all of those are preserved. They're not affected. I would like to make sure that is crystal clear in whatever iteration we end up with.*” *Id* at P. 40 L. 16-22 (emphasis added).

In concluding the settlement, the agreement SUNRISE signed did make it “crystal clear” that SIMONE was preserving all rights to proceed against DUSLAK and SESMAN, and that neither DUSLAK and/or SESMAN were being released even in the event they were subsequently deemed employees. In reducing the agreed upon settlement to writing, the release to which SUNRISE and QBE agreed, stated that “PLAINTIFF”, “Dr. SIMONE RUSSO” was releasing SUNRISE and QBE “**EXCLUDING RICHARD DUSLAK AND/OR JUSTIN SESMAN**”. *See*, Exhibit “3” at P. 1 (emphasis in original).

Indeed, the settlement agreement specifically excluded SUNRISE employees entirely. Each of the Defendants included in the agreement were identified as including the Defendants’ respective employees, *with the clear exception of SUNRISE*. On page one of the agreement the parties are identified. *See*, Exhibit “3”. Defendant IES RESIDENTIAL, INC., is identified as:

IES RESIDENTIAL, INC. (hereinafter “IES”) and its affiliated companies, and each of their respective past, present and future officers, directors, members, managers, agents, representatives, shareholders, partners, associates, *employees*, attorneys, subsidiaries, predecessors, beneficiaries, grantors, grantees, vendees, transferees, successors, assigns, heirs, divisions, contractors, joint ventures, special purpose entities, legal and equitable owners and insurers;

*Id* (emphasis added).

Defendant COX is identified as:

COX COMMUNICATIONS LAS VEGAS, INC. D/B/A COX COMMUNICATIONS (hereinafter "COX") and its affiliated companies, and each of their respective past, present and future officers, directors, members, managers, agents, representatives, shareholders, partners, associates, *employees*, attorneys, subsidiaries, predecessors, beneficiaries, grantors, grantees, vendees, transferees, successors, assigns, heirs, divisions, contractors, joint ventures, special purpose entities, legal and equitable owners and insurers;

*Id* (emphasis added).

Defendant PW JAMES is identified as:

PW JAMES MANAGEMENT & CONSULTING, LLC (hereinafter "PW JAMES") and its affiliated companies, and each of their respective past, present and future officers, directors, members, managers, agents, representatives, shareholders, partners, associates, *employees*, attorneys, subsidiaries, predecessors, beneficiaries, grantors, grantees, vendees, transferees, successors assigns, heirs, divisions, contractors, joint ventures, special purpose entities, legal and equitable owners and insurers (potentially Community Association Underwriters, Inc., QBE Insurance Corporation, Alliant Insurance Services, Inc., DSCM, Inc. and Armour Risk Management, Inc.);

*Id* (emphasis added).

***Defendant SUNRISE however is identified as:***

SUNRISE VILLAS IX HOMEOWNERS ASSOCIATION (hereinafter "SUNRISE") and its affiliated companies, and each of their respective past, present and future officers, directors, members, managers, agents, representatives, shareholders, partners, associates, insurers (Community Association Underwriters, Inc., QBE Insurance Corporation, Alliant Insurance Services, Inc., DSCM, Inc. and Armour Risk Management, Inc. - but only as it relates to SUNRISE), **EXCLUDING RICHARD DUSLAK AND/OR JUSTIN SESMAN OR ANYONE ASSOCIATED OR AFFILIATED WITH THEM, INCLUDING ANY ACTUAL OR POTENTIAL INSURER (per the stipulation attached in exhibit "A")**, attorneys, subsidiaries, predecessors, beneficiaries, grantors, grantees, vendees transferees, successors, assigns, heirs, divisions, contractors, joint ventures, special purpose entities, legal and equitable owners;

*Id* (emphasis in original).

*The word “employees” is specifically NOT used in the description of SUNRISE as a Defendant/Releasee*, thus clearly indicating that SIMONE, who retained all rights to any claims against DUSLAK and SESMAN, was not releasing any claims involving employees of SUNRISE. Additionally, on page 4 of the release, the description of the released parties includes all of Defendants’ “employees **EXCLUDING RICHARD DUSLAK AND/OR JUSTIN SESMAN . . .**”. *Id* at P. 4 (emphasis in original). When referencing the employees of any of the Defendants it was made more than clear that the term “employees” did not include DUSLAK or SESMAN, and that DUSLAK and SESMAN were not being released, even if they were in fact employees of SUNRISE.

To further confirm that the release and any accompanying documentation did not affect any rights Dr. RUSSO may have against DUSLAK and/or SESMAN in any manner, the release to which SUNRISE and QBE agreed further stated, “PLAINTIFF [RUSSO] shall retain **all rights** to pursue **any claims** against RICHARD DUSLAK and/or JUSTIN SESMAN”. *See* Exhibit “3” at P. 4 (emphasis added). The release further confirmed, “ANY LANGUAGE IN THIS RELEASE THAT IS CONTRARY TO THE LANGUAGE OF THIS SPECIFIC PARAGRAPH, AND/OR ANY LANGUAGE THAT WOULD BE READ TO IN ANY WAY IMPACT PLAINTIFF’S RIGHTS AGAINST RICHARD DUSLAK and/or JUSTIN SESMAN . . . SHALL BE DEEMED NULL AND VOID.” *Id* (emphasis in original).

While SIMONE did stipulate based on SUNRISE’s representations that DUSLAK and SESMAN were not employees for the purposes of this lawsuit, SIMONE never agreed that the release would cover DUSLAK or SESMAN if it turned out that SUNRISE was incorrect in its representations that DUSLAK and SESMAN were independent contractors. Judgment was therefore entered against DUSLAK and SESMAN in this matter on December 17, 2019, with



notice of entry of the Judgment being sent to all parties that same day. *See*, Exhibit “4”. The Judgment was entered against DUSLAK and SESMAN individuals because SUNRISE represented to SIMONE and the Court that DUSLAK and SESMAN were not employees.

A year after the settlement was concluded, and almost a year after Judgment was entered in this matter, QBE sued DUSLAK and SESMAN in a federal declaratory relief action. DUSLAK and SESMAN have retained counsel and have alleged that evidence in fact does exist that DUSLAK and SESMAN were SUNRISE employees. SUNRISE subsequently its motion to set aside or amend the Judgment in this matter on January 21, 2021, over 13 months after notice of entry of the December 17, 2019 Judgment had been sent out. In its motion SUNRISE, as well as its joinder to QBE’s motion to “enforce” the settlement, SUNRISE and QBE seek to undo the settlement and strip SIMONE’s rights against DUSLAK and SESMAN which the settlement specifically preserved.

### **POINTS AND AUTHORITIES**

From the outset it must be noted that SUNRISE does not have standing to move to set aside the Judgment against DUSLAK and SESMAN. As SUNRISE is not a party to the Judgment it cannot now move to set the same aside. Likewise QBE is not a party to the Judgment either and has no standing to move to set the same aside. Additionally as QBE has not been granted leave to intervene in this matter QBE has no right to file a joinder to SUNRISE’s motion. To the extent the Court finds that SUNRISE and/or QBE have standing to move to set the Judgment aside, SIMONE opposes the said motion and joinder below.

SUNRISE’s motion asserts that “Plaintiff agreed to release Duslak and Sesman from any and all liability arising from their conduct as HOA employees.” *See* SUNRISE’s motion at P. 1 L. 25-26. SUNRISE and QBE however fail to direct this Court to any evidence indicating

SIMONE ever agreed to release DUSLAK and/or SESMAN at any time or in any manner. Not only is there no evidence that SIMONE ever agreed to release DUSLAK and/or SESMAN at any time or in any manner, the record makes it abundantly clear ***SIMONE preserved and retained all rights to pursue his claims against DUSLAK and/or SESMAN***, and that neither DUSLAK or SESMAN were ever included as releasees at any point.

As noted above, during the hearings on this matter SIMONE's counsel reiterated many times that the settlement did not include DUSLAK or SESMAN to any degree. From saying "this settlement does not affect them"<sup>2</sup> on October 18, 2019, a settlement term to which SUNRISE agreed at that hearing; to confirming "nothing in any of these releases or any of the settlement affects any rights Dr. Russo may have against any person or entity related to the claims of the two individuals [DUSLAK and SESMAN] who have been defaulted"<sup>3</sup>, an additional settlement term to which SUNRISE agreed at that hearing; to stating in the November 7, 2019 hearing that the idea that DUSLAK and/or SESMAN would be released from liability arising from their conduct as HOA employees "was not agreed to"<sup>4</sup>; to even stating after the idea of a stipulation that DUSLAK and SESMAN were not employees, "along the lines of Sesman and Doslak, ***all rights against them***, anybody who insures them, you know, ***all of those are preserved. They're not affected***"<sup>5</sup>; to making sure the release applied to SUNRISE "EXCLUDING RICHARD DUSLAK AND/OR JUSTIN SESMAN"<sup>6</sup>; to making sure the release excluded SUNRISE employees and stated that any reference to Defendants'

<sup>2</sup> See, Exhibit "1" at P. 6 L. 15-19.

<sup>3</sup> See Exhibit "1" at P. 10 L. 24 – P. 11 L. 12.

<sup>4</sup> See Exhibit "2".

<sup>5</sup> See Exhibit "2".

employees excluded DUSLAK and/or SESMAN<sup>7</sup>; to making sure the release noted that SIMONE “shall retain all rights to pursue any claims against RICHARD DUSLAK and/or JUSTIN SESMAN”<sup>8</sup>, SIMONE made it abundantly clear, and SUNRISE agreed, that the settlement did not release DUSLAK and/or SESMAN in any manner, and preserved SIMONE’s claims against DUSLAK and SESMAN in the event that SUNRISE was incorrect in its representations that DUSLAK and/or SESMAN were not SUNRISE employees.

Any mistake or other error regarding whether DUSLAK and/or SESMAN were employees falls upon SUNRISE. SIMONE’s counsel stated at the November 7, 2019 hearing “I don’t think they’re employees either as I sit here right now. But I’ve not had a chance to find any of that stuff out. I have not -- I have no confirmation as to any of that.” Exhibit “2” at P. 21 L. 23 – P. 22 L. 1. SIMONE’s counsel even discussed the possibility that SUNRISE may be incorrect and how if SUNRISE was incorrect DUSLAK and SESMAN would still be liable under the Judgment if “something goes on and all of a sudden that all -- that they come up W-2s that were not provided before and Mr. Fink’s not aware of, and then we’ve somehow been mislead.” *Id* at P. 29 L. 12-14. It was never agreed that SIMONE would lose rights against DUSLAK and/or SESMAN if SUNRISE was incorrect, or worse misleading<sup>9</sup>, in its assertions that DUSLAK and SESMAN were not SUNRISE employees. Instead the parties agreed

<sup>6</sup> See Exhibit “3” at P. 1.

<sup>7</sup> See Exhibit “3” at P. 4.

<sup>8</sup> See Exhibit “3” at P. 4.

<sup>9</sup> Neither SIMONE nor his counsel allege that SUNRISE’s counsel (Mr. Fink) was in any way misleading as they are certain that any assertions SUNRISE’s counsel made to the Court were in accordance with what SUNRISE advised its counsel.

SIMONE retained “all rights to pursue any claims against RICHARD DUSLAK and/or JUSTIN SESMAN”<sup>10</sup> whether SUNRISE’s representations were correct or not.

The fact that Judgment was entered against DUSLAK and SESMAN based on SUNRISE’s representations that DUSLAK and SESMAN were not employees, does not mean DUSLAK and SESMAN are released from the Judgment if it is later determined that SUNRISE’s representations were wrong. Certainly if SUNRISE was wrong in its representations to SIMONE and the Court, SUNRISE will have to answer for that and incur any resulting consequences, not SIMONE.

QBE’s joinder claims “counsel for Russo seeks to disavow himself from the stipulation by badly contending that the judgment entered in this matter is based on liability Duslak and Sesman face as former employees of the HOA.” *See*, QBE’s joinder at P. 2 L. 16-28. QBE’s statement is wholly incorrect. Neither SIMONE nor his counsel have ever claimed the subject Judgment was entered against DUSLAK and/or SESMAN “as former employees.” The exhibits produced by QBE do not provide any examples of SIMONE or his counsel ever claiming that the subject Judgment was entered against DUSLAK and/or SESMAN as employees. SIMONE and his counsel have always maintained, and the Judgment is very clear, that Judgment was entered against DUSLAK and SESMAN as individuals. *See*, Exhibit “4”. While SIMONE and his counsel have acknowledged there does appear to now be evidence that DUSLAK and SESMAN were employees, SIMONE has never claimed that the subject Judgment was entered against them as employees.

As there is no evidence that SIMONE ever released DUSLAK and/or SESMAN at any point or to any degree, and as there is no evidence that the Judgment was entered against anyone

<sup>10</sup> *See*, Exhibit “3” at P. 4.

“as a SUNRISE employee” there is no cause to set aside or amend the duly entered December 17, 2019 Judgment against DUSLAK and SESMAN individually.

**No Grounds Exist Under NRCP 60 To Amend or Set Aside  
The Duly Entered Judgment**

**I. There are no grounds to amend or set aside the Judgment under NRCP 60(a).**

NRCP 60(a), titled, “Corrections Based on Clerical Mistakes; Oversights and Omissions”, states, “The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court’s leave.”

SUNRISE’s motion and QBE’s joinder to the same should be denied as they do not identify any clerical mistakes, oversights, or omissions in the duly entered December 17, 2019 Judgment in this matter. SUNRISE instead asks that the Court modify the Judgment “to reflect that it is premised solely on the conduct of Duslak and Sesman as independent contractors.” *See*, Defendant’s motion at P. 9 L. 23-26. The record however is clear that the Judgment was entered against DUSLAK and SESMAN based on SUNRISE’s repeated representations to the Court that they were not employees, and that the Judgment is entered against DUSLAK and SESMAN individually, and not as SUNRISE employees. As the settlement agreement clearly notes that SIMONE “shall retain all rights to pursue any claims against RICHARD DUSLAK and/or JUSTIN SESMAN”<sup>11</sup>, the Judgment was properly entered against RICHARD DUSLAK and JUSTIN SESMAN as individuals and does not need to be corrected.

<sup>11</sup> *See* Exhibit “3” at P. 4.

There is no authority supporting SUNRISE's request that the Court modify the Judgment "to reflect that it is premised solely on the conduct of Duslak and Sesman as independent contractors." Indeed there is no mechanism to enter Judgment against an individual "as an independent contractor" and neither SUNRISE's motion nor QBE's joinder thereto set forth any such authority. The Judgment was properly entered against DUSLAK and SESMAN individually and should stand as entered.

## **II. There are no grounds to amend or set aside the Judgment under NRCP 60(b).**

NRCP 60(b), titled "Grounds for Relief From a Final Judgment, Order or Proceeding, states:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

**(a) Relief under NRCP 60(b)(1)-(3) cannot be given as there are no grounds for the same and the Notice of Entry of Judgment was entered 13 months before SUNRISE's motion for relief.**

While SUNRISE and QBE categorize their request for relief under NRCP 60(b)(4), it is rather clear *SUNRISE and QBE are actually seeking relief from the Judgment based on SUNRISE's apparent mistake about DUSLAK and/or SESMAN not being employees.* SUNRISE appears to assert its mistake, inadvertence, and surprise, as well as apparent newly discovered evidence that DUSLAK and/or SESMAN were in fact employees, and asks that

Judgment be set aside as a result of the same<sup>12</sup>. Indeed SUNRISE's request to set aside the Judgment as "void by virtue of the release" strongly indicates SUNRISE and QBE now understand there is evidence that DUSLAK and SESMAN were employees after all.

As SUNRISE's motion notes, SUNRISE's carrier, QBE, filed a declaratory relief action in Federal Court. In response to that action DUSLAK and SESMAN have appeared and have indicated were in fact employees of SUNRISE, and that they were not independent contractors. SUNRISE's instant motion for relief is clearly based on this newly discovered evidence and SUNRISE's apparent prior mistaken belief that DUSLAK and SESMAN were independent contractors.

SUNRISE cannot proceed with a motion to set aside the subject Judgment pursuant its own mistake, inadvertence, excusable neglect, surprise, or as a result of apparent newly discovered evidence as NRCP 60(c)(1) states that any motion based on those factors must be made no more than 6 months after notice of entry of judgment is served<sup>13</sup>. As Notice of Entry of the Subject Judgment was served December 17, 2019, and as SUNRISE's January 21, 2021 motion was filed over 13 months after Judgment was entered, SUNRISE's pleas for relief based on mistake, inadvertence, excusable neglect, surprise, or as a result of apparent newly discovered regarding whether DUSLAK and/or SESMAN were in fact employees cannot be permitted, even if SUNRISE tries to mask the request under other provisions of NRCP 60(b)(4).

<sup>12</sup> While SUNRISE's motion seeks relief under NRCP 60(d)(3) for fraud on the court, as noted in subsection III below, SUNRISE fails to identify any alleged fraud. Assuming SUNRISE is claiming fraud on the part of SIMONE, any such motion would have had to have been brought within 6 months of the Notice of Entry being served as set forth in NRCP 60(b)(3) and NRCP 60(c)(1).

<sup>13</sup> The Chief Judge's Administrative Order 20-17 regarding extension of certain deadlines as a result of the COVIC pandemic states that its extension of deadlines "does not apply to time

The Court should see SUNRISE's motion for what it is, an attempt to set aside the Judgment based on SUNRISE's apparent mistake, inadvertence, neglect, surprise, or as a result of newly discovered evidence concerning DUSLAK and/or SESMAN being HOA employees, and deny the motion as untimely as required under NRCP 60(c)(1).

**(b) Relief Under NRCP 60(b)(4)-(6) is likewise not warranted.**

SUNRISE asks the Court to set aside the Judgment as “void by virtue of the release”. *See*, SUNRISE's motion at P. 2 L. 7-8. The request appears to combine NRC 60(b)(4), which permits a judgment to be set aside if the judgment is void” and NRCP 60(b)(5), which permits a judgment to be set aside if it has been released. SIMONE will therefore address each provision in turn.

**(i) The Judgment is not void.**

The Judgment in this matter is clearly not void. The provision of NRCP 60(b) concerning void judgments “is normally invoked in a case where the court entering the challenged judgment did not have jurisdiction over the parties.” *Misty Management v. District Court*, 83 Nev. 180, 182, 426 P.2d 728, 729 (1967) (citing *LaPotin v. Lapotin* 75 Nev. 264, 339, P.2d 123 (1959); *Foster v. Lewis*, 78 Nev. 330, 372, P.2d 679 (1962)). In order for a Judgment to be deemed “void” it must be a case where the court entering the challenged judgment was itself disqualified from acting, e.g., *Osman v. Cobb*, 77 Nev. 133, 360 P.2d 258 (1961), or did not have jurisdiction over the parties, e.g., *LaPotin v. LaPotin*, 75 Nev. 264, 339 P.2d 123 (1959); *Foster v. Lewis*, 78 Nev. 330, 372 P.2d 679 (1962), or of the subject matter of the litigation. *Misty Management v. District Court*, 83 Nev. 180, 426 P.2d 728 (1967).

deadlines that must not be extended under NRCP 6(2) (motions under NRCP 50(b), 52(b), 59, and 60 and motions made after NRCP 54(d)(2) time has expired).”



DUSLAK and SESMAN were residents of Clark County Nevada when the underlying incident occurred. They both duly were served with this suit in Clark County Nevada. The Court certainly had and has jurisdiction over DUSLAK and SESMAN, as well as the subject matter of this negligence action. As SUNRISE's motion does not assert that there were any jurisdictional issues over the parties or the subject matter, and as there is no evidence of any jurisdictional issues, the Court should not find that the duly entered Judgment is void.

SUNRISE's motion appears to ask the Court to void the Judgment in this matter as SUNRISE asserts the Court may have taken an improper view of the proof in this matter (specifically SUNRISE's representations that DUSLAK and/or SESMAN were not its employees). The Nevada Supreme Court has spoken on this very issue, holding "A judgment which is erroneously entered by reason of the trial court's improper view of the proof is not a void judgment within the meaning of Rule 60(b)". *Misty Management v. District CT*, 83 Nev. 180, 182-83 (Nev. 1967). As noted previously, such a motion would have had to have been brought within 6 months of the December 17, 2019 Notice of Entry of Judgment in this matter. As SUNRISE seeks to alter the Judgment based on some alleged incorrect view of the evidence, SUNRISE request to deem the Judgment void should be denied.

SUNRISE was provided with Notice of Entry of the Subject Judgment on December 17, 2019. If SUNRISE believed the Judgment was somehow improper SUNRISE should have sought timely relief from this Court and/or appealed the same to the Nevada Supreme Court. As the Nevada Supreme Court noted in *Misty Management*, Courts should not relieve a party from judgment when a party "slept on [its] rights in perfecting [an] appeal, and now asks the lower court to resolve a contention, which, had orderly procedure been followed, would have been resolved by [the Supreme Court]". *Id* at 183. The issues raised by SUNRISE are time

barred and should not be considered 13 months after SUNRISE received Notice of Entry of the duly entered Judgment.

**(ii) DUSLAK and SESMAN have not been released.**

NRCP 60(b)(5) allows a court to grant relief from a judgment if the judgment has been satisfied, released, or discharged. As noted above, the duly entered Judgment against DUSLAK and SESMAN as individuals has not been satisfied, released, or discharged. Neither SUNRISE's motion nor QBE's joinder thereto point the Court to anything that would indicate SIMONE agreed the release would apply to DUSLAK and/or SESMAN under any circumstances. Instead the record is replete with SIMONE's counsel confirming over and over again that the settlement does not affect SIMONE's rights against DUSLAK or SESMAN in any way, and that the settlement agreement specifically excluded DUSLAK and SESMAN as releasees. The record further confirms that in reaching the agreement SUNRISE agreed SIMONE "shall retain all rights to pursue any claims against RICHARD DUSLAK and/or JUSTIN SESMAN"<sup>14</sup>. As the Judgment clearly was not released SUNRISE motion pursuant to NRCP 60(b)(5) should be denied.

As neither SUNRISE nor QBE identify any grounds under NRCP 60(b)(6) that would justify any relief from the duly entered Judgment, SUNRISE motion should be denied pursuant to NRCP 60(b)(6) as well.

**III. There are no grounds to amend or set aside the Judgment under NRCP 60(d)(3).**

SUNRISE's motion asks the Court to set the Judgment aside based on NRCP 60(d)(3). NRCP 60(d)(3) permits a judgment to be set aside for "fraud on the court". *The motion however does not include any alleged conduct that would constitute fraud on the court.*

<sup>14</sup> See Exhibit "3" at P. 4.

An allegation of fraud on the court is a rather significant assertion. As the Nevada Supreme Court held in *NC-DSH Inc. v. Garner*, 218 P.3d 853, 858, 125 Nev. 647, 654 (2009):

The problem lies in defining what constitutes "fraud upon the court." Obviously, *it cannot mean any conduct of a party or lawyer of which the court disapproves; among other evils, such a formulation "would render meaningless the [time] limitation on motions under [Rule] 60(b)(3)."* *Kupferman v. Consolidated Research Mfg. Corp.*, 459 F.2d 1072, 1078 (2d Cir. 1972) (Friendly, J.), cited with approval in *Occhiuto*, 97 Nev. at 146 n. 2, 625 P.2d at 570 n. 2, and *Murphy*, 103 Nev. at 186, 734 P.2d at 739.

*Id* at 858, 654 (emphasis added).

The Court went on to state:

The most widely accepted definition, which we adopt, holds that the concept embrace[s] only that species of fraud which does, or attempts to, subvert the integrity of the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases . . . and *relief should be denied in the absence of such conduct.*

*Id* (emphasis added).

For a judgment to be set aside for fraud on the court, "the moving party must show clear and convincing evidence establishing fraud. *U.S. v. Estate of Stonehill*, 660 F.3d 415, 443 (9<sup>th</sup> Cir. 2011) (as cited in *Hsu v. Ubs Fin. Servs.* 2014 U.S. Dist. LEXIS 29792 (2014)).

The *Stonehill* Court went on to note:

Fraud on the court should, we believe, embrace only that species of fraud which does, or attempts to, defile the court itself. . . . [Movant] must demonstrate, by clear and convincing evidence, an effort . . . to prevent the judicial process from functioning in the usual manner. They must show more than perjury or nondisclosure of evidence, unless that perjury or nondisclosure was so fundamental that it undermined the workings of the adversary process itself.

*Id* at 444-445.

Neither SUNRISE's motion nor QBE's joinder set forth *any* proof, or even allegations, of wrongdoing by SIMONE, his counsel, or the Court, and certainly do not provide clear and

convincing evidence of any fraud that would subvert the integrity of the Court itself.<sup>15</sup> It is unclear why SUNRISE or QBE would even make such a heinous allegation against SIMONE, his counsel, and/or the Court without so much as even suggesting any factual support for the same. The motion to set aside the Judgment under NRCP 60(d)(3) should be denied and counsel for SUNRISE and QBE cautioned for even raising such an assertion without any factual support.

### CONCLUSION

For the foregoing reasons SIMONE respectfully requests this Court deny SUNRISE's motion to set aside an/or amend the judgment.

DATED this 1<sup>st</sup> day of February, 2021.

LAW OFFICE OF DAVID SAMPSON, LLC.

BY: /s/ David Sampson

DAVID SAMPSON, ESQ.

Nevada Bar No.6811

LAW OFFICE OF DAVID SAMPSON, LLC.

630 S. 3<sup>rd</sup> St.

Las Vegas NV 89101

Fax No: 888-209-4199

Attorney for Plaintiff

<sup>15</sup> As SUNRISE's motion, and the improper joinder by QBE fail to assert any facts that would support setting the Judgment aside for fraud on the court, any attempt by SUNRISE and/or QBE to assert any such allegations for the first time in any reply that may be filed must be disregarded.

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICE OF DAVID SAMPSON, LLC., and that on this 1<sup>st</sup> day of February, 2021, I served a copy of the foregoing **OPPOSITION** on all the remaining parties in this matter via the court's electronic online filing system and as follows:

RAMIRO MORALES, ESQ.  
600 S. Tonopah Dr. Suite 300  
Las Vegas NV 89106  
Attorneys for Non-Party QBE  
Insurance Corporation

LEONARD FINK, ESQ.  
9075 W. Diablo Dr. Suite 302  
Las Vegas NV 89148  
Counsel for SUNRISE

And

**Via U.S. Mail:**  
JUSTIN SESMAN  
4775 Topaz Street, Apt. 235  
Las Vegas, NV 89121

**Via U.S. Mail:**  
RICHARD DUSLAK  
4012 Abrams Ave.  
Las Vegas, NV 89110

\_\_\_\_\_  
*/s/ Amanda Nalder*  
An Employee of The LAW OFFICE OF DAVID SAMPSON, LLC.

**EXHIBIT “1”**

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 1

1 CASE NO. A-17-753606-C

2 DOCKET U

3 DEPT. XVI

4

5

6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

\* \* \* \* \*

9 SIMONE RUSSO, )

10 Plaintiff, )

11 vs. )

12 COX COMMUNICATIONS LAS VEGAS, )

13 Defendant. )

14 ----- )

15 REPORTER'S TRANSCRIPT  
16 OF  
17 MOTIONS

18 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

19 DISTRICT COURT JUDGE

20 DATED FRIDAY, OCTOBER 18, 2019

21

22

23

24

25 REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

Peggy Isom, CCR 541, RMR

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 2

1 APPEARANCES:

2 FOR THE PLAINTIFF RUSSO:

3

DAVID SAMPSON, LLC

4

BY: DAVID F. SAMPSON, ESQ.

5

200 W. CHARLESTON BOULEVARD

6

LAS VEGAS, NV 89106

7

(702) 605-1099

8

(702) 888-209-4199

9

DAVIDS@INJURYHELPNOW.COM

10

11

12 FOR THE DEFENDANT IES RESIDENTIAL:

13

14

MORRIS SULLIVAN LEMKUL & PITEGOFF

15

BY: CHRISTOPHER A. TURTZO, ESQ.

16

3770 HOWARD HUGHES PARKWAY

17

SUITE 170

18

LAS VEGAS, NV 89169

19

(702) 405-8100

20

TURTZO@MORRISULLIVANLAW.COM

21

22

23

24

25



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 3

1 APPEARANCES CONTINUED:

2 FOR THE DEFENDANT CHRIS SCARCELLI:

3 LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

4 BY: DAVID CLARK, ESQ.

5 BY: JULIE FUNAI, ESQ.

6 9900 COVINGTON CROSS DRIVE

7 SUITE 120

8 LAS VEGAS, NV 89144

9 (702) 382-1500

10 DCLARK@LIPSONNEILSON.COM

11

12

13

14 FOR THE DEFENDANT SUNRISE VILLAS IX HOA:

15 SPRINGEL & FINK, LLP

16 BY: LEONARD FINK, ESQ.

17 10655 PARK RUN DRIVE

18 SUITE 275

19 LAS VEGAS, NEVADA 89144

20 (702) 804-0706

21 (702) 804-0798 Fax

22 LFINK@SPRINGELFINK.COM

23

24

25

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 4

1 APPEARANCES CONTINUED:

2 FOR KEVIN BUSHBAKER:

3

4 SGRO & ROGER

5 BY: JOSPEH MELORO, ESQ.

6 720 SOUTH SEVENTH STREET

7 SUITE #300

8 LAS VEGAS, NV 89101

9 (702) 384-9800

10 (702) 665-4120 Fax

11 JMELORO@SGROANDROGER.COM

12

13

14 \* \* \* \* \*

15

16

17

18

19

20

21

22

23

24

25

Peggy Isom, CCR 541, RMR

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 5

1 LAS VEGAS, NEVADA; FRIDAY, OCTOBER 18, 2019

2 9:09 A.M.

3 P R O C E E D I N G S

4 \* \* \* \* \*

5

6 THE COURT: All right. Good morning. Let's

7 go ahead and place our appearances for the record.

8 MS. SAMPSON: David Sampson for Dr. Russo.

9 MR. FINK: Good morning, your Honor. Leonard

09:09:55 10 Fink for Sunrise Villas IX HOA.

11 MR. TURTZO: Good morning, your Honor.

12 Christopher Turtzo for IES Residential and Cox

13 Communications Las Vegas.

14 MR. MELORIO: Good morning, your Honor.

09:10:04 15 Joseph Meloro for Kevin Bushbaker.

16 MS. FUNAI: Good morning, your Honor. Julie

17 Funai on behalf of the defendant Chris Scarcelli.

18 MR. CLARK: And good morning, your Honor.

19 David Clark on behalf of the defendant Chris Scarcelli.

09:10:16 20 THE COURT: All right. Once again good

21 morning. I see there's one matter on calendar this

22 morning. But did we come to some sort of resolution

23 that would make the issue moot; do we know?

24 MR. FINK: Your Honor, we have -- as of last

09:10:26 25 night about 4:30 4:45, we have a global settlement

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 6

09:10:30 1 involving all the parties that are involved.

2 THE COURT: All right. That makes it moot,  
3 right?

4 MR. FINK: Well, we still need to have the  
09:10:35 5 Court determine the settlement is in good-faith --

6 THE COURT: I understand.

7 MR. FINK: -- because of the further actions  
8 Mr. Sampson is going to take against the defaulted  
9 parties.

09:10:42 10 THE COURT: I know you agree.

11 MS. SAMPSON: I do. And I think Mr. Fink said  
12 it correctly, but I wanted to make sure it was on the  
13 record that, yes, it's against all parties that  
14 answered and are currently involved.

09:10:49 15 THE COURT: In this case.

16 MS. SAMPSON: Well, there are two other  
17 parties in this case who have been defaulted that we're  
18 still -- **this settlement does not affect them**, which is  
19 the purpose of the good faith.

09:10:56 20 MR. FINK: And it will also include PW James.

21 MS. SAMPSON: Correct. That is correct.

22 MR. CLARK: I guess --

23 THE COURT: Mr. Clark, sir.

24 MR. CLARK: I guess for the record, your

09:11:06 25 Honor, we would join in the global settlement. I would

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 7

09:11:09 1 make an oral motion as a joinder to the motion for  
2 good-faith settlement.

3 THE COURT: Okay. Mr. Meloro.

4 MR. MELORIO: We join as well for the  
09:11:17 5 good-faith settlement.

6 THE COURT: Okay. And I just want to make  
7 sure the record is very clear in this regard. I've had  
8 an opportunity to review the motion for good-faith  
9 settlement. And notwithstanding the fact there's no  
09:11:31 10 opposition, based upon the current status of Nevada  
11 law, and NRS 17.245, all the case law specifically  
12 interpreting the statute including Velsicol, MGM  
13 factors, and the like, it clearly meets that.

14 I also included -- I also considered the  
09:11:58 15 liability permutations. I think that's in Velsicol and  
16 so on. And especially under the facts of this case,  
17 there's no question this is good faith. I can say that  
18 with no doubt.

19 So as far as the motion of good-faith  
09:12:12 20 settlement and reflecting the global settlement of the  
21 parties to this case that have actively litigated, I'm  
22 granting that motion.

23 MR. FINK: That would also be including PW  
24 James?

09:12:23 25 THE COURT: Yes, sir.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 8

09:12:24 1 MR. FINK: Thank you, your Honor.

2 MS. SAMPSON: Ones that are actively litigated  
3 and PW James.

4 THE COURT: Yes.

09:12:30 5 MR. TURTZO: Maybe out of the abundance of  
6 caution given how long --

7 THE COURT: Mr. Turtzo, go ahead.

8 MR. TURTZO: -- it's taken to get to this  
9 point, I think we ought to make sure we have a clear  
09:12:40 10 record of we put material terms of the partial  
11 settlement on the record on Wednesday. Now we've got  
12 some two additional parties joining in. I think unless  
13 anybody disagrees, it would be good to just  
14 re-kind-of-confirm exactly what the additional  
09:12:57 15 settlement terms are.

16 MR. FINK: Agreed.

17 MR. TURTZO: Okay.

18 MS. SAMPSON: No objection.

19 MR. TURTZO: As far as I understand it, so the  
09:13:04 20 settlement payment to the plaintiff is not -- has not  
21 changed. That's still the amount that was put on the  
22 record \$355 thousand. It's being funded by insurance  
23 carriers on behalf of Cox and IES Residential and  
24 Sunrise Villas IX.

09:13:21 25 And then additionally parties receiving a

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 9

09:13:24 1 release from the plaintiff include IES Residential, Cox  
2 Communications, the Sunrise HOA, PW James, and now  
3 defendant Chris Scarcelli and defendant Kevin Bushbaker  
4 will also be released as part of that settlement. The  
09:13:42 5 plaintiff is releasing his claims against them.

6 In addition, all of the parties that I just  
7 named are releasing any current or future cross-claims  
8 for equitable indemnity, contribution, or otherwise.  
9 All currently alleged or potential cross-claims amongst  
09:14:03 10 those parties only are being released as part of the  
11 global settlement.

12 MR. FINK: Including any current claims for  
13 fees and costs by anyone that's currently involved in  
14 the case.

09:14:14 15 MR. CLARK: That's the part I was going to  
16 say.

17 THE COURT: Everyone agree.

18 MR. CLARK: Agreed.

19 MR. MELORIO: Yes, your Honor.

09:14:22 20 THE COURT: Great job, Mr. Turtzo.

21 MR. TURTZO: And as before, the settlement  
22 will be reduced to a settlement agreement and release.  
23 One thing that we didn't state on Wednesday is the  
24 plaintiff will be responsible for satisfaction of any  
09:14:32 25 liens as typical in settlement of any personal injury

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 10

09:14:35 1 action.

2 THE COURT: I understand.

3 Is that correct, Mr. Sampson?

4 MS. SAMPSON: That's correct. And that's the  
09:14:38 5 only other thing I would ask is again that the  
6 agreement, any document that's generated: One, I'd  
7 like to have that document generated as soon as  
8 possible. I recommended perhaps next Tuesday since  
9 everyone seemed to have their schedule booked out today  
09:14:55 10 and Monday for trial, we ought to have plenty of time  
11 to draft a release. But whatever documents they want  
12 drafted, if I could have that the sooner the better. I  
13 don't want to wait two, three weeks for it. Because  
14 one of the -- one of the things I was able to utilize  
09:15:10 15 to -- for and my client relied upon to agree to the  
16 settlement was that he would get his money in  
17 relatively short order. I think we talked about two  
18 weeks from when he signs the documentation.

19 I certainly wouldn't hold it as a material  
09:15:24 20 term if it took three weeks, but I don't want to wait  
21 three weeks for the release and then three more weeks  
22 for the check. That kind of thing. So I just want to  
23 get it done in short order.

24 And then that the terms of whatever documents  
09:15:35 25 we sign or that my client has asked to sign comport

Peggy Isom, CCR 541, RMR



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 11

09:15:39 1 with what was discussed Wednesday, and what's being  
2 discussed today, and no new terms, and those types of  
3 things. And, I guess, most of all that nothing in any  
4 of these releases or any of the settlement effects -- I  
09:15:52 5 apologize.

6 THE MARSHAL: That's all right.

7 MS. SAMPSON: Affects any rights Dr. Russo may  
8 have against any person or entity related to the claims  
9 of the two individuals who have been defaulted, and any  
09:16:04 10 claims that they may have against anybody would not be  
11 affected by this settlement. So as long as we're clear  
12 on all of that.

13 MR. FINK: I'm sorry. The last clause, that  
14 they would have...

09:16:13 15 MS. SAMPSON: That they would have against --

16 MR. FINK: Not against --

17 MS. SAMPSON: Obviously, not for contribution  
18 against a party.

19 THE COURT: And/or equitable indemnity.

09:16:19 20 MR. CLARK: Right.

21 MR. FINK: Right.

22 MR. TURTZO: Right.

23 MR. FINK: Between Mr. Turtzo and I, we'll  
24 work out getting the settlement agreement done.

09:16:26 25 MR. TURTZO: Yes.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 12

09:16:26 1 THE COURT: And I think they understand,  
2 Mr. Sampson, time is of the essence. In fact, it's  
3 okay if you turn your phones on again.

4 Anyway, is there anything else I can help you  
09:16:37 5 with?

6 MR. FINK: No, Judge. I know that we were  
7 waiting, obviously, to have a jury come in, and so we  
8 could dismiss the jury. My only question is we had one  
9 juror who wasn't going to be here until I think 10:30  
09:16:48 10 or 11:00 o'clock because of, I think, a dental --

11 MR. CLARK: Doctor's appointment.

12 THE COURT: Doctor's appointment.

13 MR. FINK: Doctor's appointment.

14 THE COURT: And we'll deal with him. You  
09:16:53 15 don't have to wait for him.

16 MR. FINK: We don't have to wait for them.

17 THE COURT: No, no, no. You don't have to  
18 wait for them.

19 And just as important too, if you want to  
09:16:59 20 wait, you probably should because we're going to bring  
21 the panel in. I'm going to explain to them the impact  
22 of service, and it doesn't always result in a verdict;  
23 right? For example, if they didn't come down here  
24 today, this case would not be resolved, and served;  
09:17:13 25 right?

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 13

09:17:13 1 MR. FINK: Right.

2 THE COURT: I mean, really. That's just kind  
3 of how it is. It is all part of the process. And I  
4 want to explain to them because I don't want them to  
09:17:21 5 walk away with a bad taste saying they wasted their  
6 time coming down to the courthouse. They didn't. And  
7 the days they've spent, what was it five days? Is it  
8 five days? Four days?

9 MR. FINK: It's been a week.

09:17:32 10 THE COURT: Yeah. I mean, that's as important  
11 as sitting through October 31 because ultimately it  
12 resulted in a resolution. And I'll explain all that to  
13 them.

14 MR. FINK: And in these circumstances I  
09:17:44 15 usually like to be around to offer any answer to any  
16 questions about the process we're doing. So that's  
17 something I think that's important for us.

18 THE COURT: You can stay here. If they want  
19 to talk, some of them will talk. I'm going to tell you  
09:17:53 20 this, I anticipate they'll be very pleased.

21 MR. FINK: I think.

22 MS. SAMPSON: Ms. Erickson will be very  
23 pleased.

24 THE COURT: Yes. They'll be very pleased.

09:18:00 25 But, yeah, that's what we'll do. And so we

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 14

09:18:02 1 won't tell them anything.

2 And at 9:30, line them up, Mr. Marshal.

3 THE MARSHAL: Yes, your Honor.

4 THE COURT: We'll bring them in. And I'll  
09:18:10 5 talk to them for a little bit and explain to them what  
6 happened. And I'll explain how that's part of the  
7 process. And let them know. And there's no question  
8 about this, if they wouldn't have served, I mean,  
9 people aren't willing to serve, we can't have trials.

09:18:26 10 We can't have resolution. And this is actually a  
11 better resolution because there's no appeals. It's  
12 final; right?

13 MS. SAMPSON: That's right.

14 THE COURT: So anyway...

09:18:35 15 MR. TURTZO: We will submit -- I guess, we're  
16 still on the record; correct?

17 THE COURT: Yes.

18 MR. TURTZO: To be clear on the motion for  
19 good-faith settlement, Mr. Scarcelli and Mr. Bushbaker  
09:18:44 20 orally join in the motion; correct?

21 MR. CLARK: Correct.

22 MR. TURTZO: And so when we submit the order  
23 to the Court what we will do is we will reflect the  
24 relief -- if it's acceptable to the Court we will --  
09:18:55 25 the order will not include the summary judgment request

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 15

09:18:59 1 or dismissal of cross-claims. It will instead indicate  
2 the parties have agreed to release all such claims, and  
3 it will simply be a standard good-faith settlement  
4 determination including Mr. Scarcelli and Mr. Bushbaker  
09:19:13 5 as well if that's acceptable.

6 THE COURT: There's acceptable. Because, I  
7 mean, those are the facts.

8 MR. TURTZO: And we will circulate that order  
9 to everybody, obviously, to get input.

09:19:24 10 MR. CLARK: Yes.

11 MR. TURTZO: We will have it ready. And we'll  
12 submit. But I just want to make sure in terms of the  
13 good-faith settlement it will include those parties as  
14 well, and we'll amend the proposed relief accordingly.

09:19:33 15 THE COURT: And, Mr. Turtzo, I appreciate the  
16 details because details do matter as you know.

17 And last, but not least, as far as that's  
18 concerned I'm going to be here all next week. So just  
19 like the order shortening time, you're not --

09:19:46 20 MS. SAMPSON: I'd like to know. We'd like to  
21 do a request to get our default prove-up set against  
22 with the defaulted parties as quickly as we can. So  
23 that's one thing I was thinking.

24 THE COURT: Here's the thing, you have to  
09:19:57 25 understand this, I can't circumvent due process.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 16

09:20:00 1 MS. SAMPSON: No.

2 THE COURT: So you have to do the application  
3 and prove up. And there is a reason for that. Because  
4 at the end of the day what it does, it saves people a  
09:20:06 5 lot of time. It does. Because one of -- I mean, I  
6 don't mind differences of opinions in this regard where  
7 I might decide an issue on the merits, and the Supreme  
8 Court might disagree with the merits of whatever  
9 decision I make.

09:20:23 10 However, I'm not going to get reversed based  
11 upon due process issue and notice issue. It's not  
12 going to happen. It just isn't. Because that's so  
13 obvious. You can take care of that before it occurs.

14 Because you have to go through the steps, you  
09:20:42 15 know. And that's part of the process. And I have a  
16 lot of faith in the process. I really and truly do.

17 THE COURT CLERK: Your Honor.

18 THE COURT: All I'm saying is this, if you get  
19 that to me Monday, I'll be here. You get it to me  
09:20:55 20 Tuesday, I'll be here. I'm here all next week. And  
21 just like I was here last night waiting for the order  
22 shortening time to come through.

23 MR. TURTZO: Yes, I want to say on the record  
24 we really appreciate that to the Court and all the --

09:21:07 25 THE COURT: Right.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 17

09:21:07 1 MR. TURTZO: -- all the members of the  
2 department who assisted us with that. Very much  
3 appreciated.

4 THE COURT: Still consider myself a lawyer at  
09:21:16 5 heart, I mean.

6 So what we'll do, we'll break. And as soon as  
7 they're ready, we will bring them in. And we will talk  
8 to them for a little bit. And you can talk to them.  
9 But I'll let them know specifically what happened. I  
09:21:26 10 mean, I won't tell them the details and all that, but  
11 I'll let them know there's a resolution, you know. And  
12 I'll let them know how that happens. And I'll just be  
13 candid with them and say that's some of the things the  
14 lawyers were talking about yesterday.

09:21:38 15 And it's much better to be done on October 18  
16 versus October 31.

17 MR. TURTZO: That's right.

18 THE COURT: That's right.

19 MR. FINK: Really.

09:21:45 20 MS. SAMPSON: For all of us.

21 MR. FINK: For all of us.

22 THE COURT: For everybody. All right.

23 IN UNISON: Thank you, Judge.

24 THE COURT: Once again, congratulations.

09:43:10 25 (brief pause in proceedings.)

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 18

09:43:10 1 (The prospective jurors enter the  
2 courtroom.)

3 THE COURT: All right. Do the parties  
4 stipulate to the presence of the jury?

09:45:17 5 IN UNISON: Yes, your Honor.

6 THE COURT: Okay. Ladies and gentlemen of the  
7 panel, good morning. How you doing today?

8 IN UNISON: Good morning.

9 THE COURT: We got started a little closer on  
09:45:26 10 time. I just want to thank all of you for coming down.  
11 I do have some news for you. The case is settled. I  
12 just want to let you know that. It has.

13 THE MARSHAL: It was like Christmas.

14 THE COURT: And here's the thing, and I think  
09:45:39 15 it's important for you to truly understand how the  
16 process works.

17 And there's no question a lot of things as you  
18 can now see get done outside of your presence; right?  
19 So there were a lot of legal issues that had to be  
09:45:55 20 resolved. And they were resolved. And so the parties  
21 got closer and closer.

22 And so we took yesterday off in order to give  
23 them an opportunity to potentially finalize the  
24 resolution of the case. So I can't tell you what's  
09:46:10 25 going on, right, but -- and we kind of, we've talked

Peggy Isom, CCR 541, RMR



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 19

09:46:12 1 about this, and, really and truly, it's about having  
2 faith in the process, right?

3 Because understand this, and I want everyone  
4 to know this, and this is of paramount importance for  
09:46:25 5 me, the fact that this case resolved, resolved because  
6 of your willingness to come down and serve.

7 You have to understand that. Because I think  
8 some of the panel members talked about serving and the  
9 case settled during trial, and that sometimes happens.  
09:46:44 10 It doesn't happen all the time, but the only way a case  
11 can ultimately resolve is when you have the potential  
12 for finality, right?

13 And that's done by having a trial date. And  
14 that's done by having the lawyers willing to come to  
09:47:01 15 trial, the parties willing to have their cases  
16 litigated. But more importantly, We the People willing  
17 to serve. Right?

18 And so the fact that you didn't hear all the  
19 evidence and arrive at a verdict, is not really what's  
09:47:19 20 most important. The fact that you came down willing to  
21 do that is what matters. And it really does matter.  
22 Because I -- we've talked about this. And I really do  
23 feel that when you look at the Preamble to the  
24 Constitution of the United States of America, and if  
09:47:37 25 the first concern raised by the founders of this nation

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 20

09:47:43 1 was justice. Because they wanted a justice system  
2 where a judge didn't decide the outcome. And I know  
3 many times people -- you know, we forget that I don't  
4 decide the case, right? And lawyers don't decide the  
09:48:00 5 cases. The governor doesn't decide it. The presidents  
6 don't decide it. Senators they don't decide it, you  
7 know.

8 Just the average person that's truly the most  
9 important cog in this whole democracy comes down and  
09:48:19 10 decides it, right? And, I mean, really.

11 And just as important too, you can look at it  
12 through this lens and think about this for a second.  
13 Because from time to time, and we hope this never  
14 happens, but we get -- if you get involved in civil  
09:48:34 15 litigation of some sort that has to be heard and  
16 decided, wouldn't you want We the People to decide  
17 versus some political appointee, right? You know.  
18 Think -- and so that's what really -- and that's the  
19 great unknown. And you look at the -- in the  
09:48:58 20 Constitution, and this is often overlooked, but, and no  
21 one talks about the Seventh Amendment too much, right?  
22 It's right there. You got a right to a jury trial in a  
23 civil case.

24 You know. And from a historical perspective,  
09:49:12 25 think about it from this, from this standpoint. If you

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 21

09:49:15 1 go back to the middle ages, and they used to have some  
2 concept called trial by ordeal. Anybody ever hear  
3 about that? You know, where they tried to decide  
4 whether the person is telling the truth or not. They  
09:49:32 5 do -- and you see it in some movies but this is how  
6 that concept works. There was many ways to determine  
7 what the ordeal was, but one was this, they'd have a  
8 vat of boiling oil, and have a rock or pebble in it.  
9 And if you can reach down and pull it out without  
09:49:47 10 screaming, you were telling the truth, you know. Think  
11 about it, you know. And then because we've come a long  
12 way. We have.

13 And there was a time in this country where  
14 sometimes disputes were decided by dueling; right? You  
09:50:03 15 remember that and reading about it.

16 And so, you know, whether we agree or disagree  
17 politically on a lot of different issues, but I think  
18 our justice system -- and I think you really appreciate  
19 it if you serve; right? You come down, and you see it.  
09:50:18 20 And it's a great system.

21 And I realize, I feel very strongly about this  
22 too. Because I say -- I try to frame points for  
23 different reasons. But no doubt it's been  
24 inconvenient. I get that. It has. But when you think  
09:50:32 25 about it, what's convenient about a democracy; right?

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 22

09:50:35 1 And this is -- this is one of the most important  
2 aspects of the democracy we just don't talk about.  
3 And, for example, I'm on the Eighth Judicial  
4 District Court Jury Commission. And right now we're  
09:50:52 5 looking at ways we can make service easier. But it's  
6 tough. It is. We're just trying to figure out -- we'd  
7 love to make it -- if it was up to me, they would pay  
8 more money for jury service, you know. I would. I  
9 mean, I think if you're going to come down and serve,  
09:51:07 10 at a minimum when you're here, they should pay you \$20,  
11 \$25 an hour; something like that; right? But I'm not  
12 in charge.

13 But and I get it. But the bottom line is  
14 this, and I think the lawyers want to talk to you just  
09:51:20 15 very briefly afterwards. Everyone that came down here,  
16 I just want to thank you for your service, you know. I  
17 do.

18 I would have, of course, loved to have had  
19 this case resolved in a way where you participate in  
09:51:35 20 deliberations, but, you know what, and here's what's  
21 great about case resolution by the parties, there's no  
22 appeals. It's final. They've agreed.

23 Because even after jury trial, you have to  
24 understand, sometimes there is appeals; right? And  
09:51:49 25 it's not -- it doesn't happen often, but sometimes

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 23

09:51:52 1 cases have to be re-tried, you know.

2           And so, anyway, on behalf of the parties, you  
3 know, to this litigation, counsel, my staff, hopefully  
4 they've been -- they've helped, been helpful, I just  
09:52:07 5 want to thank each and every one of you for coming down  
6 and participating in our civil and criminal justice  
7 system as a member of Clark County and the battle born  
8 great state of Nevada. I just want to thank each and  
9 every one of you.

09:52:28 10           So with that in mind, Mr. Marshal, it's my  
11 understanding we have -- their checks are ready to go.

12           THE MARSHAL: Yes, sir. It's pay day.

13           THE COURT: It's pay day. And fortunately,  
14 it's not 10:00 o'clock, right? You can be done. It's  
09:52:40 15 Friday. And you're done. Don't have to bother about  
16 next week. I did promise we'd get done by October 31.  
17 You didn't think it would be this early, right? And so  
18 and that's how it goes sometimes.

19           And, I guess, when you look back on it and you  
09:52:56 20 reflect, and I know it's like -- remember the combat  
21 war vet. He said I'm used to hurry up and wait. I  
22 think that's so true when it comes to jury service. It  
23 just is. But now you can kind of see. And I know  
24 you're probably frustrated. But at the end of the day  
09:53:12 25 maybe the wait was worth it because we've -- now you're

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 24

09:53:15 1 going to be gone today. You don't have to worry about  
2 being here to the 31st potentially. And its over. And  
3 you don't have to worry about getting a summons in the  
4 mail for quite a while. How about that? Because  
09:53:27 5 you've served.

6 Once again, I just want to thank everyone.

7 Mr. Marshal.

8 THE MARSHAL: Yes, your Honor. All rise.

9 THE COURT: If you -- if the lawyers, they  
09:53:35 10 might have questions for you. And, you know, they  
11 probably just want to thank you for coming down and  
12 serving.

13 So they're in you're control, sir.

14 THE MARSHAL: Thank you, your Honor.

09:53:44 15 Everybody if you could wait for me outside, I will  
16 disburse your checks and I'll have some words for you.  
17 And starting with you, sir.

18 THE COURT: And everyone, enjoy your weekend.

19 IN UNISON: Thank you.

12:08:03 20 (The prospective jury exits the  
21 courtroom.)

22 THE COURT: All right, counsel. Okay. It's  
23 been a pleasure.

24 IN UNISON: Thank you, your Honor.

09:54:55 25 THE COURT: Enjoy your weekend. Oh, trial

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 25

09:54:59 1 exhibits, seven boxes; what do you want us to do with  
2 them?

3 MR. TURTZO: We'll --

4 MR. FINK: Can we handle it, hang on until  
09:55:08 5 Monday?

6 THE COURT: Yeah. That's fine. They can come  
7 get them Monday.

8 MR. TURTZO: We'll send over -- Allison from  
9 my office will coordinate.

09:55:13 10 THE COURT CLERK: Absolutely.

11 MR. TURTZO: And we'll have somebody come pick  
12 them up along with everything else that we brought  
13 over.

14 MS. SAMPSON: I think I have some in your ante  
09:55:20 15 room. If I left my dolly, I'll bring them right now if  
16 I can get let in.

17 THE COURT: Okay. We'll --

18 MS. SAMPSON: Otherwise, I'll come back.

19 THE COURT: Mr. Sampson, we'll do that for  
09:55:29 20 you.

21 MS. SAMPSON: Thank you very much.

22 THE COURT: And, you know, I was thinking  
23 about this case. And what I -- I feel very -- I feel  
24 this is an very important issue. And this is one of  
09:55:37 25 the things I try to do is get out of the way, you know.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 26

09:55:40 1 And I was talking to my law clerk, Chris, and I was  
2 talking to CJ. And it could have been handled many  
3 different ways. Some judges would have said, no, you  
4 be ready to go to trial tomorrow and continue on and  
09:55:53 5 on, but I actually have faith in the process. I do.  
6 And I know when lawyers are talking, I get out of the  
7 way. Good things, typically, happen. Not always, but  
8 they do. Right?

9 MR. FINK: Appreciate that. I think that --  
09:56:04 10 we were talking about I think most judges would have  
11 had us continue on with the jury selection.

12 THE COURT: No, no, no.

13 MR. FINK: Most judges would have.

14 THE COURT: Yeah. I know everyone here.  
09:56:11 15 You've appeared in front of me many times. And I just  
16 I had confidence in you saying, Look, Judge, maybe...  
17 I'm going to listen. And I'm going to do what I think  
18 is best. If we lost a day, so be it. But I thought  
19 there was an -- it was more likely true than not.

09:56:28 20 MR. FINK: That's the theme.

21 THE COURT: A greater probability, right? And  
22 so I went with that. Because I feel it's very  
23 important in this regard. I consider, we talk about  
24 trials and trial days. I think trials are actually  
09:56:41 25 the -- they're very, very important. But it's much



OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 27

09:56:46 1 better to have the case resolved by settlement. It  
2 really and truly is. So I don't -- I'm not -- I used  
3 to be concerned about my trial days. I'm not concerned  
4 anymore. I'm more concerned about closing. You know,  
09:56:56 5 because I think it's better to be a closer as a trial  
6 judge versus having cases settled. It's like Glengarry  
7 and Glen Ross. You ever see that movie? I love that  
8 movie, you know. Coffee's for closers, right?

9 That's a great movie. It just is. The  
09:57:12 10 staff -- I mean, the actors are just unbelievable in  
11 that movie.

12 MR. TURTZO: First prize is a Cadillac.  
13 Second prize is a set of steak knives. Third prize is  
14 you're fired.

09:57:23 15 THE COURT: You're fired. I love that. And  
16 Baldwin is amazing in that movie, right?

17 MR. TURTZO: Yes.

18 THE COURT: Jack Lemon. That's one of his  
19 last movies. I mean, it's a great staff. Al Pacino --  
09:57:33 20 I mean, a great cast of actors. Oh my God, it's a  
21 great movie.

22 MR. TURTZO: Yes, it is.

23 THE COURT: Yes.

24 MR. TURTZO: Thank you, your Honor.

09:57:45 25 MR. FINK: Thank you, Judge.

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 28

09:57:47

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. FUNAI: Thank you, your Honor.

(Proceedings were concluded.)

\* \* \* \* \*

OCTOBER 18, 2019

RUSSO V. COX COMMUNICATIONS 29

## REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO  
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE  
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE  
TIME AND PLACE INDICATED, AND THAT THEREAFTER SAID  
STENOGRAPHY NOTES WERE TRANSCRIBED INTO TYPEWRITING AT  
AND UNDER MY DIRECTION AND SUPERVISION AND THE  
FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE AND  
ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE  
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED  
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF  
NEVADA.

\_\_\_\_\_  
PEGGY ISOM, RMR, CCR 541

Peggy Isom, CCR 541, RMR

<b>IN UNISON: [5]</b> 17/23 18/5 18/8 24/19 24/24 <b>MR. CLARK: [9]</b> 5/18 6/22 6/24 9/15 9/18 11/20 12/11 14/21 15/10 <b>MR. FINK: [27]</b> 5/9 5/24 6/4 6/7 6/20 7/23 8/1 8/16 9/12 11/13 11/16 11/21 11/23 12/6 12/13 12/16 13/1 13/9 13/14 13/21 17/19 17/21 25/4 26/9 26/13 26/20 27/25 <b>MR. MELORIO: [3]</b> 5/14 7/4 9/19 <b>MR. TURTZO: [23]</b> 5/11 8/5 8/8 8/17 8/19 9/21 11/22 11/25 14/15 14/18 14/22 15/8 15/11 16/23 17/1 17/17 25/3 25/8 25/11 27/12 27/17 27/22 27/24 <b>MS. FUNAI: [2]</b> 5/16 28/1 <b>MS. SAMPSON:</b> <b>[18]</b> 5/8 6/11 6/16 6/21 8/2 8/18 10/4 11/7 11/15 11/17 13/22 14/13 15/20 16/1 17/20 25/14 25/18 25/21 <b>THE COURT</b> <b>CLERK: [2]</b> 16/17 25/10 <b>THE COURT: [56]</b> <b>THE MARSHAL:</b> <b>[6]</b> 11/6 14/3 18/13 23/12 24/8 24/14 <b>\$</b> <b>\$20 [1]</b> 22/10 <b>\$25 [1]</b> 22/11 <b>\$355 [1]</b> 8/22 <b>0</b> <b>0706 [1]</b> 3/20 <b>0798 [1]</b> 3/21 <b>1</b> <b>10655 [1]</b> 3/17	<b>1099 [1]</b> 2/7 <b>10:00 [1]</b> 23/14 <b>10:30 [1]</b> 12/9 <b>11:00 [1]</b> 12/10 <b>120 [1]</b> 3/7 <b>1500 [1]</b> 3/9 <b>17.245 [1]</b> 7/11 <b>170 [1]</b> 2/17 <b>18 [3]</b> 1/20 5/1 17/15 <b>2</b> <b>200 [1]</b> 2/5 <b>2019 [2]</b> 1/20 5/1 <b>275 [1]</b> 3/18 <b>3</b> <b>300 [1]</b> 4/7 <b>31 [3]</b> 13/11 17/16 23/16 <b>31st [1]</b> 24/2 <b>3770 [1]</b> 2/16 <b>382-1500 [1]</b> 3/9 <b>384-9800 [1]</b> 4/9 <b>4</b> <b>405-8100 [1]</b> 2/19 <b>4120 [1]</b> 4/10 <b>4199 [1]</b> 2/8 <b>4:30 [1]</b> 5/25 <b>4:45 [1]</b> 5/25 <b>5</b> <b>541 [2]</b> 1/25 29/17 <b>6</b> <b>605-1099 [1]</b> 2/7 <b>665-4120 [1]</b> 4/10 <b>7</b> <b>702 [8]</b> 2/7 2/8 2/19 3/9 3/20 3/21 4/9 4/10 <b>720 [1]</b> 4/6 <b>8</b> <b>804-0706 [1]</b> 3/20 <b>804-0798 [1]</b> 3/21 <b>8100 [1]</b> 2/19 <b>888-209-4199 [1]</b> 2/8 <b>89101 [1]</b> 4/8 <b>89106 [1]</b> 2/6 <b>89144 [2]</b> 3/8 3/19 <b>89169 [1]</b> 2/18 <b>9</b> <b>9800 [1]</b> 4/9 <b>9900 [1]</b> 3/6	<b>9:09 [1]</b> 5/2 <b>9:30 [1]</b> 14/2 <b>:</b> <b>:SS [1]</b> 29/2 <b>A</b> <b>A.M [1]</b> 5/2 <b>ABILITY [1]</b> 29/11 <b>able [1]</b> 10/14 <b>about [29]</b> 5/25 10/17 13/16 14/8 17/14 19/1 19/1 19/8 19/22 20/12 20/21 20/25 21/3 21/11 21/15 21/21 21/25 21/25 22/2 22/21 23/15 24/1 24/3 24/4 25/23 26/10 26/23 27/3 27/4 <b>Absolutely [1]</b> 25/10 <b>abundance [1]</b> 8/5 <b>acceptable [3]</b> 14/24 15/5 15/6 <b>accordingly [1]</b> 15/14 <b>ACCURATE [1]</b> 29/11 <b>action [1]</b> 10/1 <b>actions [1]</b> 6/7 <b>actively [2]</b> 7/21 8/2 <b>actors [2]</b> 27/10 27/20 <b>actually [3]</b> 14/10 26/5 26/24 <b>addition [1]</b> 9/6 <b>additional [2]</b> 8/12 8/14 <b>additionally [1]</b> 8/25 <b>affect [1]</b> 6/18 <b>affected [1]</b> 11/11 <b>Affects [1]</b> 11/7 <b>after [1]</b> 22/23 <b>afterwards [1]</b> 22/15 <b>again [5]</b> 5/20 10/5 12/3 17/24 24/6 <b>against [9]</b> 6/8 6/13 9/5 11/8 11/10 11/15 11/16 11/18 15/21 <b>ages [1]</b> 21/1 <b>agree [4]</b> 6/10 9/17 10/15 21/16 <b>agreed [4]</b> 8/16	9/18 15/2 22/22 <b>agreement [3]</b> 9/22 10/6 11/24 <b>ahead [2]</b> 5/7 8/7 <b>AI [1]</b> 27/19 <b>all [30]</b> <b>alleged [1]</b> 9/9 <b>Allison [1]</b> 25/8 <b>along [1]</b> 25/12 <b>also [5]</b> 6/20 7/14 7/14 7/23 9/4 <b>always [2]</b> 12/22 26/7 <b>amazing [1]</b> 27/16 <b>amend [1]</b> 15/14 <b>Amendment [1]</b> 20/21 <b>America [1]</b> 19/24 <b>amongst [1]</b> 9/9 <b>amount [1]</b> 8/21 <b>answer [1]</b> 13/15 <b>answered [1]</b> 6/14 <b>ante [1]</b> 25/14 <b>anticipate [1]</b> 13/20 <b>any [12]</b> 9/7 9/12 9/24 9/25 10/6 11/3 11/4 11/7 11/8 11/9 13/15 13/15 <b>anybody [3]</b> 8/13 11/10 21/2 <b>anymore [1]</b> 27/4 <b>anyone [1]</b> 9/13 <b>anything [2]</b> 12/4 14/1 <b>anyway [3]</b> 12/4 14/14 23/2 <b>apologize [1]</b> 11/5 <b>appeals [3]</b> 14/11 22/22 22/24 <b>appearances [4]</b> 2/1 2/20 3/23 5/7 <b>appeared [1]</b> 26/15 <b>application [1]</b> 16/2 <b>appointee [1]</b> 20/17 <b>appointment [3]</b> 12/11 12/12 12/13 <b>appreciate [4]</b> 15/15 16/24 21/18 26/9 <b>appreciated [1]</b> 17/3 <b>are [12]</b> 6/1 6/14 6/16 8/2 8/15 9/7 9/10 15/7 23/11	26/6 26/24 27/10 <b>aren't [1]</b> 14/9 <b>around [1]</b> 13/15 <b>arrive [1]</b> 19/19 <b>as [32]</b> <b>ask [1]</b> 10/5 <b>asked [1]</b> 10/25 <b>aspects [1]</b> 22/2 <b>assisted [1]</b> 17/2 <b>at [12]</b> 14/2 16/4 17/4 19/19 19/23 20/11 20/19 22/5 22/10 23/24 29/6 29/8 <b>average [1]</b> 20/8 <b>away [1]</b> 13/5 <b>B</b> <b>back [3]</b> 21/1 23/19 25/18 <b>bad [1]</b> 13/5 <b>Baldwin [1]</b> 27/16 <b>based [2]</b> 7/10 16/10 <b>battle [1]</b> 23/7 <b>be [29]</b> 7/23 8/13 9/4 9/22 9/24 11/10 12/9 12/24 13/15 13/20 13/22 13/24 14/18 15/3 15/18 16/19 16/20 17/12 17/15 18/19 20/15 23/1 23/14 23/17 24/1 26/4 26/18 27/3 27/5 <b>because [26]</b> 6/7 10/13 12/10 12/20 13/4 13/11 14/11 15/6 15/16 16/3 16/5 16/12 16/14 19/3 19/5 19/7 19/22 20/1 20/13 21/11 21/22 22/23 23/25 24/4 26/22 27/5 <b>been [8]</b> 6/17 11/9 13/9 21/23 23/4 23/4 24/23 26/2 <b>before [4]</b> 1/17 9/21 16/13 29/6 <b>BEFORE-ENTITLED</b> <b>[1]</b> 29/6 <b>behalf [4]</b> 5/17 5/19 8/23 23/2 <b>being [4]</b> 8/22 9/10 11/1 24/2 <b>best [2]</b> 26/18 29/11 <b>better [5]</b> 10/12
--	---	--	---	--

Peggy Isom, CCR 541, RMR

(1) IN UNISON: - better

<b>B</b> <b>better...</b> [4] 14/11 17/15 27/1 27/5 <b>Between</b> [1] 11/23 <b>bit</b> [2] 14/5 17/8 <b>boiling</b> [1] 21/8 <b>booked</b> [1] 10/9 <b>born</b> [1] 23/7 <b>bother</b> [1] 23/15 <b>bottom</b> [1] 22/13 <b>BOULEVARD</b> [1] 2/5 <b>boxes</b> [1] 25/1 <b>break</b> [1] 17/6 <b>brief</b> [1] 17/25 <b>briefly</b> [1] 22/15 <b>bring</b> [4] 12/20 14/4 17/7 25/15 <b>brought</b> [1] 25/12 <b>BUSHBAKER</b> [5] 4/2 5/15 9/3 14/19 15/4 <b>but</b> [31]	<b>CERTIFY</b> [1] 29/5 <b>changed</b> [1] 8/21 <b>charge</b> [1] 22/12 <b>CHARLESTON</b> [1] 2/5 <b>check</b> [1] 10/22 <b>checks</b> [2] 23/11 24/16 <b>CHRIS</b> [5] 3/2 5/17 5/19 9/3 26/1 <b>Christmas</b> [1] 18/13 <b>CHRISTOPHER</b> [2] 2/15 5/12 <b>circulate</b> [1] 15/8 <b>circumstances</b> [1] 13/14 <b>circumvent</b> [1] 15/25 <b>civil</b> [3] 20/14 20/23 23/6 <b>CJ</b> [1] 26/2 <b>claims</b> [8] 9/5 9/7 9/9 9/12 11/8 11/10 15/1 15/2 <b>CLARK</b> [7] 1/7 3/4 5/19 6/23 23/7 29/3 29/14 <b>clause</b> [1] 11/13 <b>clear</b> [4] 7/7 8/9 11/11 14/18 <b>clearly</b> [1] 7/13 <b>clerk</b> [1] 26/1 <b>client</b> [2] 10/15 10/25 <b>closer</b> [4] 18/9 18/21 18/21 27/5 <b>closers</b> [1] 27/8 <b>closing</b> [1] 27/4 <b>Coffee's</b> [1] 27/8 <b>cog</b> [1] 20/9 <b>COLE</b> [1] 3/3 <b>combat</b> [1] 23/20 <b>come</b> [12] 5/22 12/7 12/23 16/22 19/6 19/14 21/11 21/19 22/9 25/6 25/11 25/18 <b>comes</b> [2] 20/9 23/22 <b>coming</b> [4] 13/6 18/10 23/5 24/11 <b>Commission</b> [1] 22/4 <b>COMMUNICATION</b> <b>S</b> [3] 1/12 5/13 9/2 <b>comport</b> [1] 10/25 <b>concept</b> [2] 21/2	21/6 <b>concern</b> [1] 19/25 <b>concerned</b> [4] 15/18 27/3 27/3 27/4 <b>concluded</b> [1] 28/3 <b>confidence</b> [1] 26/16 <b>confirm</b> [1] 8/14 <b>congratulations</b> [1] 17/24 <b>consider</b> [2] 17/4 26/23 <b>considered</b> [1] 7/14 <b>CONSTITUTES</b> [1] 29/10 <b>Constitution</b> [2] 19/24 20/20 <b>continue</b> [2] 26/4 26/11 <b>CONTINUED</b> [2] 3/1 4/1 <b>contribution</b> [2] 9/8 11/17 <b>control</b> [1] 24/13 <b>convenient</b> [1] 21/25 <b>coordinate</b> [1] 25/9 <b>correct</b> [7] 6/21 6/21 10/3 10/4 14/16 14/20 14/21 <b>correctly</b> [1] 6/12 <b>costs</b> [1] 9/13 <b>could</b> [4] 10/12 12/8 24/15 26/2 <b>counsel</b> [2] 23/3 24/22 <b>country</b> [1] 21/13 <b>COUNTY</b> [4] 1/7 23/7 29/3 29/14 <b>course</b> [1] 22/18 <b>COURT</b> [8] 1/6 1/18 6/5 14/23 14/24 16/8 16/24 22/4 <b>courthouse</b> [1] 13/6 <b>courtroom</b> [2] 18/2 24/21 <b>COVINGTON</b> [1] 3/6 <b>COX</b> [4] 1/12 5/12 8/23 9/1 <b>criminal</b> [1] 23/6 <b>cross</b> [4] 3/6 9/7 9/9 15/1	<b>cross-claims</b> [3] 9/7 9/9 15/1 <b>current</b> [3] 7/10 9/7 9/12 <b>currently</b> [3] 6/14 9/9 9/13 <b>D</b> <b>date</b> [1] 19/13 <b>DATED</b> [1] 1/20 <b>DAVID</b> [5] 2/3 2/4 3/4 5/8 5/19 <b>DAVIDS</b> [1] 2/9 <b>day</b> [5] 16/4 23/12 23/13 23/24 26/18 <b>days</b> [6] 13/7 13/7 13/8 13/8 26/24 27/3 <b>DCLARK</b> [1] 3/10 <b>deal</b> [1] 12/14 <b>decide</b> [9] 16/7 20/2 20/4 20/4 20/5 20/6 20/6 20/16 21/3 <b>decided</b> [2] 20/16 21/14 <b>decides</b> [1] 20/10 <b>decision</b> [1] 16/9 <b>default</b> [1] 15/21 <b>defaulted</b> [4] 6/8 6/17 11/9 15/22 <b>defendant</b> [8] 1/13 2/12 3/2 3/14 5/17 5/19 9/3 9/3 <b>deliberations</b> [1] 22/20 <b>democracy</b> [3] 20/9 21/25 22/2 <b>dental</b> [1] 12/10 <b>department</b> [1] 17/2 <b>DEPT</b> [1] 1/3 <b>details</b> [3] 15/16 15/16 17/10 <b>determination</b> [1] 15/4 <b>determine</b> [2] 6/5 21/6 <b>did</b> [2] 5/22 23/16 <b>didn't</b> [6] 9/23 12/23 13/6 19/18 20/2 23/17 <b>differences</b> [1] 16/6 <b>different</b> [3] 21/17 21/23 26/3 <b>DIRECTION</b> [1] 29/9 <b>disagree</b> [2] 16/8	21/16 <b>disagrees</b> [1] 8/13 <b>disburse</b> [1] 24/16 <b>discussed</b> [2] 11/1 11/2 <b>dismiss</b> [1] 12/8 <b>dismissal</b> [1] 15/1 <b>disputes</b> [1] 21/14 <b>DISTRICT</b> [3] 1/6 1/18 22/4 <b>do</b> [23] 5/23 6/11 13/25 14/23 15/16 15/21 16/2 16/16 17/6 18/3 18/11 19/21 19/22 21/5 22/17 25/1 25/1 25/19 25/25 26/5 26/8 26/17 29/4 <b>DOCKET</b> [1] 1/2 <b>Doctor's</b> [3] 12/11 12/12 12/13 <b>document</b> [2] 10/6 10/7 <b>documentation</b> [1] 10/18 <b>documents</b> [2] 10/11 10/24 <b>does</b> [4] 6/18 16/4 16/5 19/21 <b>doesn't</b> [4] 12/22 19/10 20/5 22/25 <b>doing</b> [2] 13/16 18/7 <b>dolly</b> [1] 25/15 <b>don't</b> [16] 10/13 10/20 12/15 12/16 12/17 13/4 16/6 20/3 20/4 20/6 20/6 22/2 23/15 24/1 24/3 27/2 <b>done</b> [9] 10/23 11/24 17/15 18/18 19/13 19/14 23/14 23/15 23/16 <b>doubt</b> [2] 7/18 21/23 <b>down</b> [13] 12/23 13/6 18/10 19/6 19/20 20/9 21/9 21/19 22/9 22/15 23/5 24/11 29/5 <b>Dr.</b> [2] 5/8 11/7 <b>Dr. Russo</b> [2] 5/8 11/7 <b>draft</b> [1] 10/11 <b>drafted</b> [1] 10/12 <b>DRIVE</b> [2] 3/6 3/17 <b>due</b> [2] 15/25
---	--	--	---	--

<b>D</b>	<b>feel [5]</b> 19/23 21/21 25/23 25/23 26/22 <b>fees [1]</b> 9/13 <b>figure [1]</b> 22/6 <b>final [2]</b> 14/12 22/22 <b>finality [1]</b> 19/12 <b>finalize [1]</b> 18/23 <b>fine [1]</b> 25/6 <b>FINK [4]</b> 3/15 3/16 5/10 6/11 <b>fired [2]</b> 27/14 27/15 <b>first [2]</b> 19/25 27/12 <b>five [2]</b> 13/7 13/8 <b>FOREGOING [1]</b> 29/10 <b>forget [1]</b> 20/3 <b>fortunately [1]</b> 23/13 <b>founders [1]</b> 19/25 <b>Four [1]</b> 13/8 <b>frame [1]</b> 21/22 <b>FRIDAY [3]</b> 1/20 5/1 23/15 <b>front [1]</b> 26/15 <b>frustrated [1]</b> 23/24 <b>FULL [1]</b> 29/10 <b>FUNAI [2]</b> 3/5 5/17 <b>funded [1]</b> 8/22 <b>further [1]</b> 6/7 <b>future [1]</b> 9/7	26/4 <b>God [1]</b> 27/20 <b>goes [1]</b> 23/18 <b>going [14]</b> 6/8 9/15 12/9 12/20 12/21 13/19 15/18 16/10 16/12 18/25 22/9 24/1 26/17 26/17 <b>gone [1]</b> 24/1 <b>good [21]</b> 5/6 5/9 5/11 5/14 5/16 5/18 5/20 6/5 6/19 7/2 7/5 7/8 7/17 7/19 8/13 14/19 15/3 15/13 18/7 18/8 26/7 <b>good-faith [8]</b> 6/5 7/2 7/5 7/8 7/19 14/19 15/3 15/13 <b>got [4]</b> 8/11 18/9 18/21 20/22 <b>governor [1]</b> 20/5 <b>granting [1]</b> 7/22 <b>great [9]</b> 9/20 20/19 21/20 22/21 23/8 27/9 27/19 27/20 27/21 <b>greater [1]</b> 26/21 <b>guess [5]</b> 6/22 6/24 11/3 14/15 23/19	<b>helpful [1]</b> 23/4 <b>here [12]</b> 12/9 12/23 13/18 15/18 16/19 16/20 16/20 16/21 22/10 22/15 24/2 26/14 <b>here's [3]</b> 15/24 18/14 22/20 <b>HEREBY [1]</b> 29/5 <b>HEREUNTO [1]</b> 29/13 <b>him [2]</b> 12/14 12/15 <b>his [3]</b> 9/5 10/16 27/18 <b>historical [1]</b> 20/24 <b>HOA [3]</b> 3/14 5/10 9/2 <b>hold [1]</b> 10/19 <b>Honor [17]</b> 5/9 5/11 5/14 5/16 5/18 5/24 6/25 8/1 9/19 14/3 16/17 18/5 24/8 24/14 24/24 27/24 28/1 <b>HONORABLE [1]</b> 1/17 <b>hope [1]</b> 20/13 <b>hopefully [1]</b> 23/3 <b>hour [1]</b> 22/11 <b>how [9]</b> 8/6 13/3 14/6 17/12 18/7 18/15 21/5 23/18 24/4 <b>HOWARD [1]</b> 2/16 <b>However [1]</b> 16/10 <b>HUGHES [1]</b> 2/16 <b>hurry [1]</b> 23/21	15/5 16/18 19/24 20/14 20/25 21/9 21/19 22/7 22/9 24/9 24/9 24/15 25/15 25/15 26/18 <b>impact [1]</b> 12/21 <b>importance [1]</b> 19/4 <b>important [11]</b> 12/19 13/10 13/17 18/15 19/20 20/9 20/11 22/1 25/24 26/23 26/25 <b>importantly [1]</b> 19/16 <b>in [55]</b> <b>include [4]</b> 6/20 9/1 14/25 15/13 <b>included [1]</b> 7/14 <b>including [4]</b> 7/12 7/23 9/12 15/4 <b>inconvenient [1]</b> 21/24 <b>indemnity [2]</b> 9/8 11/19 <b>indicate [1]</b> 15/1 <b>INDICATED [1]</b> 29/7 <b>individuals [1]</b> 11/9 <b>injury [1]</b> 9/25 <b>INJURYHELPNOW.COM [1]</b> 2/9 <b>input [1]</b> 15/9 <b>instead [1]</b> 15/1 <b>insurance [1]</b> 8/22 <b>interpreting [1]</b> 7/12 <b>INTO [1]</b> 29/8 <b>involved [4]</b> 6/1 6/14 9/13 20/14 <b>involving [1]</b> 6/1 <b>is [46]</b> <b>isn't [1]</b> 16/12 <b>ISOM [3]</b> 1/25 29/4 29/17 <b>issue [5]</b> 5/23 16/7 16/11 16/11 25/24 <b>issues [2]</b> 18/19 21/17 <b>it [64]</b> <b>it's [30]</b> <b>its [1]</b> 24/2 <b>IX [3]</b> 3/14 5/10 8/24
<b>E</b>	<b>each [2]</b> 23/5 23/8 <b>early [1]</b> 23/17 <b>easier [1]</b> 22/5 <b>effects [1]</b> 11/4 <b>Eighth [1]</b> 22/3 <b>else [2]</b> 12/4 25/12 <b>end [2]</b> 16/4 23/24 <b>enjoy [2]</b> 24/18 24/25 <b>enter [1]</b> 18/1 <b>ENTITLED [1]</b> 29/6 <b>entity [1]</b> 11/8 <b>equitable [2]</b> 9/8 11/19 <b>Erickson [1]</b> 13/22 <b>especially [1]</b> 7/16 <b>ESQ [6]</b> 2/4 2/15 3/4 3/5 3/16 4/5 <b>essence [1]</b> 12/2 <b>even [1]</b> 22/23 <b>ever [2]</b> 21/2 27/7 <b>every [2]</b> 23/5 23/9 <b>everybody [3]</b> 15/9 17/22 24/15 <b>everyone [7]</b> 9/17 10/9 19/3 22/15 24/6 24/18 26/14 <b>everything [1]</b> 25/12 <b>evidence [1]</b> 19/19 <b>exactly [1]</b> 8/14 <b>example [2]</b> 12/23 22/3 <b>exhibits [1]</b> 25/1 <b>exits [1]</b> 24/20 <b>explain [5]</b> 12/21 13/4 13/12 14/5 14/6	<b>had [8]</b> 7/7 12/8 18/19 22/18 26/11 26/16 29/6 29/12 <b>handle [1]</b> 25/4 <b>handled [1]</b> 26/2 <b>hang [1]</b> 25/4 <b>happen [4]</b> 16/12 19/10 22/25 26/7 <b>happened [2]</b> 14/6 17/9 <b>happens [3]</b> 17/12 19/9 20/14 <b>has [5]</b> 8/20 10/25 18/12 20/15 21/24 <b>have [55]</b> <b>having [4]</b> 19/1 19/13 19/14 27/6 <b>he [3]</b> 10/16 10/18 23/21 <b>hear [2]</b> 19/18 21/2 <b>heard [1]</b> 20/15 <b>heart [1]</b> 17/5 <b>help [1]</b> 12/4 <b>helped [1]</b> 23/4	<b>I</b> <b>I'd [2]</b> 10/6 15/20 <b>I'll [12]</b> 13/12 14/4 14/6 16/19 16/20 17/9 17/11 17/12 17/12 24/16 25/15 25/18 <b>I'm [16]</b> 7/21 11/13 12/21 13/19 15/18 16/10 16/18 16/20 22/3 22/11 23/21 26/17 26/17 27/2 27/3 27/4 <b>I've [1]</b> 7/7 <b>IES [4]</b> 2/12 5/12 8/23 9/1 <b>if [23]</b> 10/12 10/20 12/3 12/19 12/23 13/18 14/8 14/24	<b>J</b> <b>Jack [1]</b> 27/18 <b>James [4]</b> 6/20
<b>F</b>	<b>fact [5]</b> 7/9 12/2 19/5 19/18 19/20 <b>factors [1]</b> 7/13 <b>facts [2]</b> 7/16 15/7 <b>faith [13]</b> 6/5 6/19 7/2 7/5 7/8 7/17 7/19 14/19 15/3 15/13 16/16 19/2 26/5 <b>far [3]</b> 7/19 8/19 15/17 <b>Fax [2]</b> 3/21 4/10			

<b>J</b>	<b>lawyer [1]</b> 17/4 <b>lawyers [6]</b> 17/14 19/14 20/4 22/14 24/9 26/6 <b>least [1]</b> 15/17 <b>left [1]</b> 25/15 <b>legal [1]</b> 18/19 <b>LEMKUL [1]</b> 2/14 <b>Lemon [1]</b> 27/18 <b>lens [1]</b> 20/12 <b>LEONARD [2]</b> 3/16 5/9 <b>let [6]</b> 14/7 17/9 17/11 17/12 18/12 25/16 <b>Let's [1]</b> 5/6 <b>LFINK [1]</b> 3/22 <b>liability [1]</b> 7/15 <b>liens [1]</b> 9/25 <b>like [11]</b> 7/13 10/7 13/15 15/19 15/20 15/20 16/21 18/13 22/11 23/20 27/6 <b>likely [1]</b> 26/19 <b>line [2]</b> 14/2 22/13 <b>LIPSON [1]</b> 3/3 <b>LIPSONNEILSON.C</b> <b>OM [1]</b> 3/10 <b>listen [1]</b> 26/17 <b>litigated [3]</b> 7/21 8/2 19/16 <b>litigation [2]</b> 20/15 23/3 <b>little [3]</b> 14/5 17/8 18/9 <b>LLC [1]</b> 2/3 <b>LLP [1]</b> 3/15 <b>long [3]</b> 8/6 11/11 21/11 <b>look [5]</b> 19/23 20/11 20/19 23/19 26/16 <b>looking [1]</b> 22/5 <b>lost [1]</b> 26/18 <b>lot [5]</b> 16/5 16/16 18/17 18/19 21/17 <b>love [3]</b> 22/7 27/7 27/15 <b>loved [1]</b> 22/18	23/10 24/7 <b>material [2]</b> 8/10 10/19 <b>matter [4]</b> 5/21 15/16 19/21 29/6 <b>matters [1]</b> 19/21 <b>may [2]</b> 11/7 11/10 <b>maybe [3]</b> 8/5 23/25 26/16 <b>me [6]</b> 16/19 16/19 19/5 22/7 24/15 26/15 <b>mean [12]</b> 13/2 13/10 14/8 15/7 16/5 17/5 17/10 20/10 22/9 27/10 27/19 27/20 <b>meets [1]</b> 7/13 <b>MELORO [3]</b> 4/5 5/15 7/3 <b>member [1]</b> 23/7 <b>members [2]</b> 17/1 19/8 <b>merits [2]</b> 16/7 16/8 <b>MGM [1]</b> 7/12 <b>middle [1]</b> 21/1 <b>might [3]</b> 16/7 16/8 24/10 <b>mind [2]</b> 16/6 23/10 <b>minimum [1]</b> 22/10 <b>Monday [4]</b> 10/10 16/19 25/5 25/7 <b>money [2]</b> 10/16 22/8 <b>moot [2]</b> 5/23 6/2 <b>more [5]</b> 10/21 19/16 22/8 26/19 27/4 <b>morning [10]</b> 5/6 5/9 5/11 5/14 5/16 5/18 5/21 5/22 18/7 18/8 <b>MORRIS [1]</b> 2/14 <b>MORRISSULLIVAN</b> <b>LAW.COM [1]</b> 2/20 <b>most [6]</b> 11/3 19/20 20/8 22/1 26/10 26/13 <b>motion [7]</b> 7/1 7/1 7/8 7/19 7/22 14/18 14/20 <b>MOTIONS [1]</b> 1/15 <b>movie [6]</b> 27/7 27/8 27/9 27/11 27/16 27/21	<b>movies [2]</b> 21/5 27/19 <b>Mr [2]</b> 6/11 10/3 <b>Mr. [16]</b> 6/8 6/23 7/3 8/7 9/20 11/23 12/2 14/2 14/19 14/19 15/4 15/4 15/15 23/10 24/7 25/19 <b>Mr. Bushbaker [2]</b> 14/19 15/4 <b>Mr. Clark [1]</b> 6/23 <b>Mr. Marshal [3]</b> 14/2 23/10 24/7 <b>Mr. Meloro [1]</b> 7/3 <b>Mr. Sampson [3]</b> 6/8 12/2 25/19 <b>Mr. Scarcelli [2]</b> 14/19 15/4 <b>Mr. Turtzo [4]</b> 8/7 9/20 11/23 15/15 <b>Ms. [1]</b> 13/22 <b>Ms. Erickson [1]</b> 13/22 <b>much [5]</b> 17/2 17/15 20/21 25/21 26/25 <b>my [14]</b> 10/15 10/25 12/8 23/3 23/10 25/9 25/15 26/1 27/3 27/20 29/9 29/11 29/14 29/14 <b>myself [1]</b> 17/4	8/20 11/10 11/16 11/17 12/24 14/25 15/17 15/19 16/10 16/11 19/19 21/4 22/11 22/25 23/14 26/7 26/19 27/2 27/3 <b>NOTES [1]</b> 29/8 <b>nothing [1]</b> 11/3 <b>notice [1]</b> 16/11 <b>notwithstanding</b> <b>[1]</b> 7/9 <b>now [7]</b> 8/11 9/2 18/18 22/4 23/23 23/25 25/15 <b>NRS [1]</b> 7/11 <b>NRS 17.245 [1]</b> 7/11 <b>NV [5]</b> 1/25 2/6 2/18 3/8 4/8
<b>K</b>	<b>KEVIN [3]</b> 4/2 5/15 9/3 <b>kind [5]</b> 8/14 10/22 13/2 18/25 23/23 <b>knives [1]</b> 27/13 <b>know [36]</b>			<b>O</b>
<b>L</b>	<b>Ladies [1]</b> 18/6 <b>LAS [8]</b> 1/12 2/6 2/18 3/8 3/19 4/8 4/15 5/13 <b>Las Vegas [1]</b> 5/13 <b>last [5]</b> 5/24 11/13 15/17 16/21 27/19 <b>law [3]</b> 7/11 7/11 26/1			<b>o'clock [2]</b> 12/10 23/14 <b>objection [1]</b> 8/18 <b>obvious [1]</b> 16/13 <b>obviously [3]</b> 11/17 12/7 15/9 <b>occurs [1]</b> 16/13 <b>OCTOBER [6]</b> 1/20 5/1 13/11 17/15 17/16 23/16 <b>October 18 [1]</b> 17/15 <b>October 31 [3]</b> 13/11 17/16 23/16 <b>off [1]</b> 18/22 <b>offer [1]</b> 13/15 <b>office [2]</b> 25/9 29/14 <b>often [2]</b> 20/20 22/25 <b>Oh [2]</b> 24/25 27/20 <b>oil [1]</b> 21/8 <b>okay [7]</b> 7/3 7/6 8/17 12/3 18/6 24/22 25/17 <b>on [27]</b> 5/17 5/19 5/21 6/12 7/16 8/11 8/11 8/21 8/23 9/23 11/12 12/3 14/16 14/18 16/7 16/23 17/15 18/9 18/25 21/17 22/3 23/2 23/19 25/4 26/4 26/5 26/11 <b>Once [3]</b> 5/20 17/24 24/6 <b>one [15]</b> 5/21 9/23
	<b>M</b>			<b>N</b>
	<b>mail [1]</b> 24/4 <b>make [9]</b> 5/23 6/12 7/1 7/6 8/9 15/12 16/9 22/5 22/7 <b>makes [1]</b> 6/2 <b>many [4]</b> 20/3 21/6 26/2 26/15 <b>Marshal [3]</b> 14/2			<b>NAME [1]</b> 29/14 <b>named [1]</b> 9/7 <b>nation [1]</b> 19/25 <b>need [1]</b> 6/4 <b>NEILSON [1]</b> 3/3 <b>NEVADA [7]</b> 1/7 3/19 5/1 7/10 23/8 29/2 29/15 <b>never [1]</b> 20/13 <b>new [1]</b> 11/2 <b>news [1]</b> 18/11 <b>next [4]</b> 10/8 15/18 16/20 23/16 <b>night [2]</b> 5/25 16/21 <b>no [21]</b> 1/1 7/9 7/17 7/18 8/18 11/2 12/6 12/17 12/17 12/17 14/7 14/11 16/1 18/17 20/20 21/23 22/21 26/3 26/12 26/12 26/12 <b>not [21]</b> 6/18 8/20

<b>O</b> <b>one...</b> [13] 10/6 10/14 10/14 12/8 15/23 16/5 20/21 21/7 22/1 23/5 23/9 25/24 27/18 <b>Ones</b> [1] 8/2 <b>only</b> [4] 9/10 10/5 12/8 19/10 <b>opinions</b> [1] 16/6 <b>opportunity</b> [2] 7/8 18/23 <b>opposition</b> [1] 7/10 <b>or</b> [12] 9/7 9/8 9/9 10/25 11/4 11/8 11/19 12/10 15/1 21/4 21/8 21/16 <b>oral</b> [1] 7/1 <b>orally</b> [1] 14/20 <b>ordeal</b> [2] 21/2 21/7 <b>order</b> [8] 10/17 10/23 14/22 14/25 15/8 15/19 16/21 18/22 <b>other</b> [2] 6/16 10/5 <b>otherwise</b> [2] 9/8 25/18 <b>ought</b> [2] 8/9 10/10 <b>our</b> [4] 5/7 15/21 21/18 23/6 <b>out</b> [7] 8/5 10/9 11/24 21/9 22/6 25/25 26/6 <b>outcome</b> [1] 20/2 <b>outside</b> [2] 18/18 24/15 <b>over</b> [3] 24/2 25/8 25/13 <b>overlooked</b> [1] 20/20	22/19 <b>participating</b> [1] 23/6 <b>parties</b> [17] 6/1 6/9 6/13 6/17 7/21 8/12 8/25 9/6 9/10 15/2 15/13 15/22 18/3 18/20 19/15 22/21 23/2 <b>party</b> [1] 11/18 <b>pause</b> [1] 17/25 <b>pay</b> [4] 22/7 22/10 23/12 23/13 <b>payment</b> [1] 8/20 <b>pebble</b> [1] 21/8 <b>PEGGY</b> [3] 1/25 29/4 29/17 <b>people</b> [5] 14/9 16/4 19/16 20/3 20/16 <b>perhaps</b> [1] 10/8 <b>permutations</b> [1] 7/15 <b>person</b> [3] 11/8 20/8 21/4 <b>personal</b> [1] 9/25 <b>perspective</b> [1] 20/24 <b>phones</b> [1] 12/3 <b>pick</b> [1] 25/11 <b>PITEGOFF</b> [1] 2/14 <b>place</b> [2] 5/7 29/7 <b>plaintiff</b> [6] 1/10 2/2 8/20 9/1 9/5 9/24 <b>pleased</b> [3] 13/20 13/23 13/24 <b>pleasure</b> [1] 24/23 <b>plenty</b> [1] 10/10 <b>point</b> [1] 8/9 <b>points</b> [1] 21/22 <b>political</b> [1] 20/17 <b>politically</b> [1] 21/17 <b>possible</b> [1] 10/8 <b>potential</b> [2] 9/9 19/11 <b>potentially</b> [2] 18/23 24/2 <b>Preamble</b> [1] 19/23 <b>presence</b> [2] 18/4 18/18 <b>presidents</b> [1] 20/5 <b>price</b> [1] 27/13 <b>prize</b> [2] 27/12 27/13	<b>probability</b> [1] 26/21 <b>probably</b> [3] 12/20 23/24 24/11 <b>proceedings</b> [4] 17/25 28/3 29/6 29/12 <b>process</b> [10] 13/3 13/16 14/7 15/25 16/11 16/15 16/16 18/16 19/2 26/5 <b>promise</b> [1] 23/16 <b>proposed</b> [1] 15/14 <b>prospective</b> [2] 18/1 24/20 <b>prove</b> [2] 15/21 16/3 <b>prove-up</b> [1] 15/21 <b>pull</b> [1] 21/9 <b>purpose</b> [1] 6/19 <b>put</b> [2] 8/10 8/21 <b>PW</b> [4] 6/20 7/23 8/3 9/2	<b>reflecting</b> [1] 7/20 <b>regard</b> [3] 7/7 16/6 26/23 <b>related</b> [1] 11/8 <b>relatively</b> [1] 10/17 <b>release</b> [5] 9/1 9/22 10/11 10/21 15/2 <b>released</b> [2] 9/4 9/10 <b>releases</b> [1] 11/4 <b>releasing</b> [2] 9/5 9/7 <b>relied</b> [1] 10/15 <b>relief</b> [2] 14/24 15/14 <b>remember</b> [2] 21/15 23/20 <b>REPORTED</b> [1] 1/25 <b>REPORTER</b> [1] 29/4 <b>REPORTER'S</b> [2] 1/14 28/6 <b>request</b> [2] 14/25 15/21 <b>RESIDENTIAL</b> [4] 2/12 5/12 8/23 9/1 <b>resolution</b> [7] 5/22 13/12 14/10 14/11 17/11 18/24 22/21 <b>resolve</b> [1] 19/11 <b>resolved</b> [7] 12/24 18/20 18/20 19/5 19/5 22/19 27/1 <b>responsible</b> [1] 9/24 <b>result</b> [1] 12/22 <b>resulted</b> [1] 13/12 <b>reversed</b> [1] 16/10 <b>review</b> [1] 7/8 <b>right</b> [43] <b>rights</b> [1] 11/7 <b>rise</b> [1] 24/8 <b>RMR</b> [2] 1/25 29/17 <b>rock</b> [1] 21/8 <b>ROGER</b> [1] 4/4 <b>room</b> [1] 25/15 <b>Ross</b> [1] 27/7 <b>RUN</b> [1] 3/17 <b>RUSSO</b> [4] 1/9 2/2 5/8 11/7	2/4 5/8 6/8 10/3 12/2 25/19 <b>satisfaction</b> [1] 9/24 <b>saves</b> [1] 16/4 <b>say</b> [5] 7/17 9/16 16/23 17/13 21/22 <b>saying</b> [3] 13/5 16/18 26/16 <b>SCARCELLI</b> [6] 3/2 5/17 5/19 9/3 14/19 15/4 <b>schedule</b> [1] 10/9 <b>screaming</b> [1] 21/10 <b>second</b> [2] 20/12 27/13 <b>see</b> [6] 5/21 18/18 21/5 21/19 23/23 27/7 <b>seemed</b> [1] 10/9 <b>selection</b> [1] 26/11 <b>SELTZER</b> [1] 3/3 <b>Senators</b> [1] 20/6 <b>send</b> [1] 25/8 <b>serve</b> [5] 14/9 19/6 19/17 21/19 22/9 <b>served</b> [3] 12/24 14/8 24/5 <b>service</b> [5] 12/22 22/5 22/8 22/16 23/22 <b>serving</b> [2] 19/8 24/12 <b>set</b> [2] 15/21 27/13 <b>settled</b> [3] 18/11 19/9 27/6 <b>settlement</b> [25] 5/25 6/5 6/18 6/25 7/2 7/5 7/9 7/20 7/20 8/11 8/15 8/20 9/4 9/11 9/21 9/22 9/25 10/16 11/4 11/11 11/24 14/19 15/3 15/13 27/1 <b>seven</b> [1] 25/1 <b>SEVENTH</b> [2] 4/6 20/21 <b>SGRO</b> [1] 4/4 <b>SGROANDROGER.</b> <b>COM</b> [1] 4/11 <b>short</b> [2] 10/17 10/23 <b>shortening</b> [2] 15/19 16/22 <b>SHORTHAND</b> [1] 29/4 <b>should</b> [2] 12/20
<b>P</b> <b>P.C</b> [1] 3/3 <b>Pacino</b> [1] 27/19 <b>panel</b> [3] 12/21 18/7 19/8 <b>paramount</b> [1] 19/4 <b>PARK</b> [1] 3/17 <b>PARKWAY</b> [1] 2/16 <b>part</b> [6] 9/4 9/10 9/15 13/3 14/6 16/15 <b>partial</b> [1] 8/10 <b>participate</b> [1]		<b>Q</b> <b>question</b> [4] 7/17 12/8 14/7 18/17 <b>questions</b> [2] 13/16 24/10 <b>quickly</b> [1] 15/22 <b>quite</b> [1] 24/4	<b>R</b> <b>raised</b> [1] 19/25 <b>re</b> [2] 8/14 23/1 <b>re-trying</b> [1] 23/1 <b>reach</b> [1] 21/9 <b>reading</b> [1] 21/15 <b>ready</b> [4] 15/11 17/7 23/11 26/4 <b>realize</b> [1] 21/21 <b>really</b> [12] 13/2 16/16 16/24 17/19 19/1 19/19 19/21 19/22 20/10 20/18 21/18 27/2 <b>reason</b> [1] 16/3 <b>reasons</b> [1] 21/23 <b>receiving</b> [1] 8/25 <b>recommended</b> [1] 10/8 <b>record</b> [10] 5/7 6/13 6/24 7/7 8/10 8/11 8/22 14/16 16/23 29/11 <b>reduced</b> [1] 9/22 <b>reflect</b> [2] 14/23 23/20	<b>S</b> <b>said</b> [4] 6/11 23/21 26/3 29/7 <b>SAMPSON</b> [7] 2/3



<b>S</b>	<b>submit [3]</b> 14/15 14/22 15/12 <b>SUBSCRIBED [1]</b> 29/13 <b>such [1]</b> 15/2 <b>SUITE [4]</b> 2/17 3/7 3/18 4/7 <b>SULLIVAN [1]</b> 2/14 <b>summary [1]</b> 14/25 <b>summons [1]</b> 24/3 <b>SUNRISE [4]</b> 3/14 5/10 8/24 9/2 <b>SUPERVISION [1]</b> 29/9 <b>Supreme [1]</b> 16/7 <b>sure [4]</b> 6/12 7/7 8/9 15/12 <b>system [4]</b> 20/1 21/18 21/20 23/7	17/7 17/8 17/8 17/9 17/10 17/11 17/12 17/13 18/23 25/2 25/7 25/12 25/15 <b>theme [1]</b> 26/20 <b>then [4]</b> 8/25 10/21 10/24 21/11 <b>there [9]</b> 6/16 12/4 16/3 18/19 20/22 21/6 21/13 22/24 26/19 <b>there's [9]</b> 5/21 7/9 7/17 14/7 14/11 15/6 17/11 18/17 22/21 <b>THEREAFTER [1]</b> 29/7 <b>these [2]</b> 11/4 13/14 <b>they [22]</b> 10/11 11/10 11/14 11/15 12/1 12/23 13/5 13/6 13/18 14/8 18/20 20/1 20/6 21/1 21/3 21/4 22/7 22/10 24/9 24/10 25/6 26/8 <b>they'd [1]</b> 21/7 <b>they'll [2]</b> 13/20 13/24 <b>they're [3]</b> 17/7 24/13 26/25 <b>they've [4]</b> 13/7 22/22 23/4 23/4 <b>thing [6]</b> 9/23 10/5 10/22 15/23 15/24 18/14 <b>things [6]</b> 10/14 11/3 17/13 18/17 25/25 26/7 <b>think [29]</b> 6/11 7/15 8/9 8/12 10/17 12/1 12/9 12/10 13/17 13/21 18/14 19/7 20/12 20/18 20/25 21/10 21/17 21/18 21/24 22/9 22/14 23/17 23/22 25/14 26/9 26/10 26/17 26/24 27/5 <b>thinking [2]</b> 15/23 25/22 <b>Third [1]</b> 27/13 <b>this [45]</b> <b>those [4]</b> 9/10 11/2 15/7 15/13 <b>thought [1]</b> 26/18 <b>thousand [1]</b> 8/22	<b>three [4]</b> 10/13 10/20 10/21 10/21 <b>through [4]</b> 13/11 16/14 16/22 20/12 <b>time [12]</b> 10/10 12/2 13/6 15/19 16/5 16/22 18/10 19/10 20/13 20/13 21/13 29/7 <b>times [2]</b> 20/3 26/15 <b>TIMOTHY [1]</b> 1/17 <b>today [5]</b> 10/9 11/2 12/24 18/7 24/1 <b>tomorrow [1]</b> 26/4 <b>too [4]</b> 12/19 20/11 20/21 21/22 <b>took [3]</b> 10/20 18/22 29/5 <b>tough [1]</b> 22/6 <b>TRANSCRIBED [1]</b> 29/8 <b>TRANSCRIPT [2]</b> 1/14 29/10 <b>trial [12]</b> 10/10 19/9 19/13 19/15 20/22 21/2 22/23 24/25 26/4 26/24 27/3 27/5 <b>trials [3]</b> 14/9 26/24 26/24 <b>tried [2]</b> 21/3 23/1 <b>true [3]</b> 23/22 26/19 29/10 <b>truly [5]</b> 16/16 18/15 19/1 20/8 27/2 <b>truth [2]</b> 21/4 21/10 <b>try [2]</b> 21/22 25/25 <b>trying [1]</b> 22/6 <b>Tuesday [2]</b> 10/8 16/20 <b>turn [1]</b> 12/3 <b>TURTZO [7]</b> 2/15 2/20 5/12 8/7 9/20 11/23 15/15 <b>two [5]</b> 6/16 8/12 10/13 10/17 11/9 <b>types [1]</b> 11/2 <b>TYPEWRITING [1]</b> 29/8 <b>typical [1]</b> 9/25 <b>typically [1]</b> 26/7	<b>unbelievable [1]</b> 27/10 <b>under [2]</b> 7/16 29/9 <b>understand [9]</b> 6/6 8/19 10/2 12/1 15/25 18/15 19/3 19/7 22/24 <b>understanding [1]</b> 23/11 <b>United [1]</b> 19/24 <b>unknown [1]</b> 20/19 <b>unless [1]</b> 8/12 <b>until [2]</b> 12/9 25/4 <b>up [6]</b> 14/2 15/21 16/3 22/7 23/21 25/12 <b>upon [3]</b> 7/10 10/15 16/11 <b>us [6]</b> 13/17 17/2 17/20 17/21 25/1 26/11 <b>used [3]</b> 21/1 23/21 27/2 <b>usually [1]</b> 13/15 <b>utilize [1]</b> 10/14
<b>should... [1]</b> 22/10 <b>sign [2]</b> 10/25 10/25 <b>signs [1]</b> 10/18 <b>SIMONE [1]</b> 1/9 <b>simply [1]</b> 15/3 <b>since [1]</b> 10/8 <b>sir [5]</b> 6/23 7/25 23/12 24/13 24/17 <b>sitting [1]</b> 13/11 <b>so [30]</b> <b>some [13]</b> 5/22 8/12 13/19 17/13 18/11 19/8 20/15 20/17 21/1 21/5 24/16 25/14 26/3 <b>somebody [1]</b> 25/11 <b>something [2]</b> 13/17 22/11 <b>sometimes [5]</b> 19/9 21/14 22/24 22/25 23/18 <b>soon [2]</b> 10/7 17/6 <b>sooner [1]</b> 10/12 <b>sorry [1]</b> 11/13 <b>sort [2]</b> 5/22 20/15 <b>SOUTH [1]</b> 4/6 <b>specifically [2]</b> 7/11 17/9 <b>spent [1]</b> 13/7 <b>SPRINGEL [1]</b> 3/15 <b>SPRINGELFINK.CO</b> <b>M [1]</b> 3/22 <b>staff [3]</b> 23/3 27/10 27/19 <b>standard [1]</b> 15/3 <b>standpoint [1]</b> 20/25 <b>started [1]</b> 18/9 <b>starting [1]</b> 24/17 <b>state [4]</b> 9/23 23/8 29/2 29/14 <b>States [1]</b> 19/24 <b>status [1]</b> 7/10 <b>statute [1]</b> 7/12 <b>stay [1]</b> 13/18 <b>steak [1]</b> 27/13 <b>STENOTYPE [2]</b> 29/5 29/8 <b>steps [1]</b> 16/14 <b>still [5]</b> 6/4 6/18 8/21 14/16 17/4 <b>stipulate [1]</b> 18/4 <b>STREET [1]</b> 4/6 <b>strongly [1]</b> 21/21	<b>T</b> <b>take [2]</b> 6/8 16/13 <b>taken [1]</b> 8/8 <b>talk [8]</b> 13/19 13/19 14/5 17/7 17/8 22/2 22/14 26/23 <b>talked [4]</b> 10/17 18/25 19/8 19/22 <b>talking [5]</b> 17/14 26/1 26/2 26/6 26/10 <b>talks [1]</b> 20/21 <b>taste [1]</b> 13/5 <b>tell [4]</b> 13/19 14/1 17/10 18/24 <b>telling [2]</b> 21/4 21/10 <b>term [1]</b> 10/20 <b>terms [5]</b> 8/10 8/15 10/24 11/2 15/12 <b>than [1]</b> 26/19 <b>thank [15]</b> 8/1 17/23 18/10 22/16 23/5 23/8 24/6 24/11 24/14 24/19 24/24 25/21 27/24 27/25 28/1 <b>that [71]</b> <b>that's [34]</b> <b>their [4]</b> 10/9 13/5 19/15 23/11 <b>them [28]</b> 6/18 9/5 12/16 12/18 12/21 13/4 13/4 13/13 13/19 14/1 14/2 14/4 14/5 14/5 14/7	<b>U</b> <b>ultimately [2]</b> 13/11 19/11	<b>V</b> <b>vat [1]</b> 21/8 <b>VEGAS [8]</b> 1/12 2/6 2/18 3/8 3/19 4/8 5/1 5/13 <b>Velsicol [2]</b> 7/12 7/15 <b>verdict [2]</b> 12/22 19/19 <b>versus [3]</b> 17/16 20/17 27/6 <b>very [13]</b> 7/7 13/20 13/22 13/24 17/2 21/21 22/15 25/21 25/23 25/24 26/22 26/25 26/25 <b>vet [1]</b> 23/21 <b>VILLAS [3]</b> 3/14 5/10 8/24	
			<b>W</b> <b>wait [9]</b> 10/13 10/20 12/15 12/16 12/18 12/20 23/21 23/25 24/15 <b>waiting [2]</b> 12/7 16/21 <b>walk [1]</b> 13/5 <b>want [22]</b> 7/6 10/11 10/13 10/20 10/22 12/19 13/4	

<b>W</b>	17/6 17/9 19/21 20/18 21/7 22/20 25/1 25/23 26/17 <b>what's [5]</b> 11/1 18/24 19/19 21/25 22/20 <b>whatever [3]</b> 10/11 10/24 16/8 <b>when [9]</b> 10/18 14/22 19/11 19/23 21/24 22/10 23/19 23/22 26/6 <b>where [5]</b> 16/6 20/2 21/3 21/13 22/19 <b>WHEREOF [1]</b> 29/13 <b>whether [2]</b> 21/4 21/16 <b>which [1]</b> 6/18 <b>while [1]</b> 24/4 <b>who [4]</b> 6/17 11/9 12/9 17/2 <b>whole [1]</b> 20/9 <b>will [20]</b> 6/20 9/4 9/22 9/24 13/19 13/22 14/15 14/23 14/23 14/24 14/25 15/1 15/3 15/8 15/11 15/13 17/7 17/7 24/15 25/9 <b>WILLIAMS [1]</b> 1/17 <b>willing [5]</b> 14/9 19/14 19/15 19/16 19/20 <b>willingness [1]</b> 19/6 <b>without [1]</b> 21/9 <b>WITNESS [1]</b> 29/13 <b>won't [2]</b> 14/1 17/10 <b>words [1]</b> 24/16 <b>work [1]</b> 11/24 <b>works [2]</b> 18/16 21/6 <b>worry [2]</b> 24/1 24/3 <b>worth [1]</b> 23/25 <b>would [18]</b> 5/23 6/25 6/25 7/23 8/13 10/5 10/16 11/10 11/14 11/15 12/24 22/7 22/8 22/18 23/17 26/3 26/10 26/13 <b>wouldn't [3]</b> 10/19	14/8 20/16 <b>X</b> <b>XVI [1]</b> 1/3 <b>Y</b> <b>yeah [4]</b> 13/10 13/25 25/6 26/14 <b>yes [16]</b> 6/13 7/25 8/4 9/19 11/25 13/24 14/3 14/17 15/10 16/23 18/5 23/12 24/8 27/17 27/22 27/23 <b>yesterday [2]</b> 17/14 18/22 <b>you [98]</b> <b>you're [9]</b> 15/19 22/9 22/10 23/15 23/24 23/25 24/13 27/14 27/15 <b>you've [2]</b> 24/5 26/15 <b>your [25]</b> 5/9 5/11 5/14 5/16 5/18 5/24 6/24 8/1 9/19 12/3 14/3 16/17 18/5 18/18 19/6 22/16 24/8 24/14 24/16 24/18 24/24 24/25 25/14 27/24 28/1		
----------	---	---	--	--

Peggy Isom, CCR 541, RMR

(7) want... - your