

LAW OFFICE OF MITCHELL STIPP
MITCHELL STIPP, ESQ.
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Counsel for Defendant, 5550 Painted Mirage Rd., LLC

Electronically Filed
Aug 24 2021 03:36 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DISTRICT COURT
CLARK COUNTY, NEVADA**

R&K CONCRETE CUTTING, INC., d/b/a
R&K DEVELOPMENT, a Nevada corporation

Plaintiff,

vs.

CASE NO.: A-19-803425-C

DEPT. NO.: 5

5550 PAINTED MIRAGE RD., LLC, a
Nevada limited liability company; DOES I
through X; LOE LENDERS I through X; ROE
CORPORATIONS I through X; TOE TENANTS I
through X, inclusive

Defendant.

NOTICE OF APPEAL

5550 PAINTED MIRAGE RD., LLC, a
Nevada limited liability company,

Third-Party Plaintiff,

vs.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation

Third-Party Defendant.

Defendant, 5550 PAINTED MIRAGE RD., LLC, a Nevada limited liability company, by
and through its attorney-of-record, Mitchell D. Stipp, Esq., of the Law Office of Mitchell Stipp,
hereby provides notice of appeal of the order attached hereto.

1 Dated this 20th day of August, 2021.

2 LAW OFFICE OF MITCHELL STIPP

3 /s/ Mitchell Stipp

4

MITCHELL STIPP, ESQ.

5 Nevada Bar No. 7531

6 1180 N. Town Center Drive

7 Suite 100

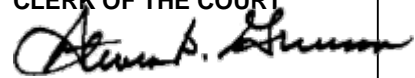
8 Las Vegas, Nevada 89144

9 Telephone: 702.602.1242

10 Facsimile: 866.220.5332

11 mstipp@stipplaw.com

12 Counsel for 5550 Painted Mirage Rd., LLC



Amy M. Samberg (NV Bar No. 10212)
amy.samberg@clydeco.us
Lee H. Gorlin (NV Bar No. 13879)
lee.gorlin@clydeco.us
CLYDE & CO LLP
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: 213-358-7600
Facsimile: 213-358-7650

*Attorneys for Third Party Defendant
Travelers Property Casualty Company
of America*

DISTRICT COURT

CLARK COUNTY, NEVADA

R&K CONCRETE CUTTING, INC., d/b/a
R & K Development, a Nevada
Corporation,

Plaintiff,

v.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company; DOES I
through X; ROE CORPORATIONS I
through X; TOE TENANTS I through X,
inclusive

Defendants.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company,

Third-Party Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation,

Third-Party
Defendant.

Case No. A-19-803425-C

Dept. No. V

NOTICE OF ENTRY OF ORDER:

**1) GRANTING TRAVELERS' MOTION
TO ENFORCE SETTLEMENT AND
MOTION TO ADJUDICATE PARTIES'
RIGHTS TO ENFORCE LIEN;**

**2) GRANTING POLI, MOON, & ZANE'S
MOTION TO ADJUDICATE
ATTORNEY'S RIGHTS AND TO
ENFORCE ATTORNEY'S LIEN;**

**3) GRANTING ALL RELATED
MOTIONS TO SEAL AND/OR REDACT
AND MOTION TO CONSOLIDATE
HEARINGS; AND**

**4) DIRECTING TRAVELERS TO
DEPOSIT SETTLEMENT FUNDS WITH
THE COURT**

1 Please take notice the Order 1) Granting Travelers' Motion To Enforce Settlement And
2 Motion To Adjudicate Parties' Rights To Enforce Lien; 2) Granting Poli, Moon, & Zane's Motion
3 To Adjudicate Attorney's Rights And To Enforce Attorney's Lien; 3) Granting All Related Motions
4 To Seal and/or Redact And Motion To Consolidate Hearings; and 4) Directing Travelers To Deposit
5 Settlement Funds With The Court was entered July 20, 2021, a copy of said Order is attached hereto.

6 Dated: July 21, 2021
7

8 CLYDE & CO LLP

9 By: /s/ Lee H. Gorlin

10 Amy M. Samberg, Esq.

11 Lee H. Gorlin, Esq.

12 3960 Howard Hughes Parkway, Suite 500

13 Las Vegas, Nevada 89169

14 *Attorneys for Third-Party Defendant*

15 *Travelers Casualty Company of America*
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1 **CERTIFICATE OF SERVICE**

2 As an employee of Clyde & Co LLP, I certify that a copy of the foregoing **NOTICE OF**
3 **ENTRY OF ORDER: 1) GRANTING TRAVELERS' MOTION TO ENFORCE**
4 **SETTLEMENT AND MOTION TO ADJUDICATE PARTIES' RIGHTS TO ENFORCE**
5 **LIEN; 2) GRANTING POLI, MOON, & ZANE'S MOTION TO ADJUDICATE**
6 **ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN; 3) GRANTING ALL**
7 **RELATED MOTIONS TO SEAL AND/OR REDACT AND MOTION TO CONSOLIDATE**
8 **HEARINGS; AND 4) DIRECTING TRAVELERS TO DEPOSIT SETTLEMENT FUNDS**
9 **WITH THE COURT** was served by the method indicated:

10 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set
11 forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed
12 transmission record is attached to the file copy of this document(s).

13 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage
14 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth
below.

15 ☒ **BY ELECTRONIC SERVICE:** submitted to the above-entitled Court for electronic service
upon the Court's Registered Service List for the above-referenced case.

16 ☒ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the
individual(s) listed below.

17 R&K Concrete Cutting, Inc.
18 c/o Cary Domina, Esq.
cdomina@peelbrimley.com

Merlin Law Group
c/o Mike Poli, Esq.
mpoli@pmz.law.com

19 Metropolitan Adjustment Bureau
20 c/o Glenn Nahmais
glenn@metroadjusters.com

21
22
23 Dated: July 21, 2021

24
25 /s/ Gina Brouse
An Employee of Clyde & Co LLP

Amy M. Samberg (NV Bar No. 10212)
amy.samberg@clydeco.us
Lee H. Gorlin (NV Bar No. 13879)
lee.gorlin@clydeco.us
CLYDE & CO LLP
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Telephone: 213-358-7600
Facsimile: 213-358-7650

*Attorneys for Third Party Defendant
Travelers Property Casualty Company
of America*

DISTRICT COURT

CLARK COUNTY, NEVADA

R&K CONCRETE CUTTING, INC., d/b/a
R & K Development, a Nevada
Corporation,

Plaintiff,

v.
5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company; DOES I
through X; ROE CORPORATIONS I
through X; TOE TENANTS I through X,
inclusive
Defendants.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company,

Third-Party Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation,

Third-Party Defendant.

Case No. A-19-803425-C

Dept. No. ,V

~~PROPOSED~~ ORDER:

**1) GRANTING TRAVELERS' MOTION
TO ENFORCE SETTLEMENT AND
MOTION TO ADJUDICATE PARTIES'
RIGHTS TO ENFORCE LIEN;**

**2) GRANTING POLI, MOON, & ZANE'S
MOTION TO ADJUDICATE
ATTORNEY'S RIGHTS AND TO
ENFORCE ATTORNEY'S LIEN;**

**3) GRANTING ALL RELATED
MOTIONS TO SEAL AND/OR REDACT
AND MOTION TO CONSOLIDATE
HEARINGS; AND**

**4) DIRECTING TRAVELERS TO
DEPOSIT SETTLEMENT FUNDS WITH
THE COURT**

HEARING DATE: June 24, 2021

HEARING TIME: 9:00 a.m.

These matters having come before the Court on June 24, 2021, with appearances by Mitchell Stipp, Esq. on behalf of Third-Party Plaintiff 5550 Painted Mirage Rd. LLC ("Painted Mirage"), Amy Samberg, Esq. and Lee Gorlin, Esq. on behalf of Third-Party Defendant Travelers Property Casualty Company of America ("Travelers"), and Michael Poli, Esq. on behalf of Poli, Moon &

1 Zane, PLLC (“PMZ”) and Merlin Law Group, P.A. (“Merlin”). The Court heard argument from the
2 moving parties and the opposing party and Orders as follows:

3 **IT IS HEREBY ORDERED** that all Motions to Seal and/or Redact are hereby **GRANTED**
4 as unopposed. Travelers’ Motion to Enforce Settlement and Motion to Adjudicate Parties’ Rights
5 to Enforce Lien shall remain sealed. PMZ’s Motion to Adjudicate Attorney’s Rights and to Enforce
6 Attorney’s Lien shall be sealed, and the clerk is ordered to remove PMZ’s Motion to Adjudicate
7 Attorney’s Rights and to Enforce Attorney’s Lien from the public docket.

8 **IT IS FURTHER ORDERED** that the Motion to Consolidate Hearings is hereby
9 **GRANTED** as unopposed.

10 **IT IS FURTHER ORDERED** that Travelers’ Motion to Enforce Settlement and Motion to
11 Adjudicate Parties’ Rights to Enforce Lien, as well as PMZ’s Motion to Adjudicate Attorney’s
12 Rights and to Enforce Attorney’s Lien are hereby **GRANTED**, as detailed below.

13 **IT IS FURTHER ORDERED** that the Settlement Term Sheet executed on April 9, 2021
14 by Mitchell Stipp on behalf of and with the full authority of Painted Mirage and by Lee Gorlin on
15 behalf of and with the full authority of Travelers is a valid and binding Settlement Agreement. The
16 third-party action between Painted Mirage and Travelers is settled.

17 **IT IS FURTHER ORDERED** that because this third-party action is settled, Travelers’
18 request to extend discovery dates is hereby **DENIED AS MOOT**.

19 **IT IS FURTHER ORDERED** that Travelers has not breached the Settlement Term Sheet.
20 The express terms of the Settlement Term Sheet provide that the “Settlement payment will be
21 delivered within 14 business days of Travelers’ counsel’s receipt of the fully executed release.”
22 Travelers’ counsel has yet to receive a fully executed release, thus its obligation to deliver payment
23 has not been triggered.

24 **IT IS FURTHER ORDERED** that Painted Mirage has breached the Settlement Term
25 Sheet. The Settlement Term Sheet required Painted Mirage to keep the amount of the settlement
26 confidential. Painted Mirage breached its obligation when it 1) commenced a new action (case No.
27 A-21-836489-C) and attached the amount of the settlement to that Complaint; and 2) when it filed
28 an Objection in this action, which included an exhibit with the confidential amount of the settlement.

1 Rather than opt to void the Settlement, Travelers has opted to have the offending portion of the
2 attachments redacted.

3 **IT IS FURTHER ORDERED** that the settlement amount included in Exhibit A-5 to
4 Painted Mirage’s “Objection to Reply to Opposition to Motion to Adjudicate Attorney’s Rights and
5 to Enforce Attorney’s Lien and Notice of Malpractice Action Against Michael Poli, Esq. (labeled
6 “Plaintiff’s Complaint Page 26 of 41 and 27 of 41) shall be redacted. The clerk is ordered to ensure
7 this redaction appears on the public filing.

8 **IT IS FURTHER ORDERED** that Painted Mirage, within 14 days of entry of this Order,
9 file the appropriate Motion (or Stipulation) in case No. A-21-863489-C to redact the same
10 confidential material in that action, (Exhibit 5 to the Complaint, labeled “Plaintiff’s Complaint Page
11 26 of 41 and 27 of 41). Said Motion (or Stipulation) shall attach this Order as an exhibit. Painted
12 Mirage shall contemporaneously file a proof of filing of said Motion (or Stipulation) in this action.

13 **IT IS FURTHER ORDERED** Travelers shall, within 14 days of entry of this Order, deposit
14 the settlement proceeds, in the form of two checks as specified in the Settlement Term Sheet, with
15 the Clark County Court Clerk for the benefit of all lienholders named in the April 9, 2021, Settlement
16 Term Sheet, which include Merlin and Metropolitan Adjustment Bureau. The deposit is also to be
17 for the benefit of PMZ.

18 **IT IS FURTHER ORDERED** that upon depositing the settlement proceeds, Travelers shall
19 be dismissed from this action, with prejudice, and entitled to all release, indemnity, hold harmless,
20 and protections as set forth in the April 9, 2021 Settlement Term Sheet. The Settlement Term Sheet
21 is the binding settlement agreement. The Settlement Term Sheet along with this Order is proof of
22 the agreement between the parties, including Painted Mirage’s obligations to release, indemnify,
23 and hold Travelers harmless from any and all claims as described in the Settlement Term Sheet.

24 **IT IS FURTHER ORDERED** that Travelers does have standing to seek adjudication of
25 PMZ’s lien pursuant to NRS 18.015(6), which provides that “any party who has been served with
26 notice of the lien” may file a motion to “adjudicate the rights of the attorney, client or other parties
27 and enforce the lien.” Travelers is a party. Travelers has been served with the notice of PMZ’s lien
28 that was filed in this Action on May 6, 2021.

1 **IT IS FURTHER ORDERED** that both Merlin and PMZ have valid liens against the
2 settlement proceeds. *See Michel v. Eighth Judicial Dist. Court*, 117 Nev. 145, 17 P.3d 1003 (2001).
3 The Court finds that PMZ did not file a substitution of attorney to take the place of Merlin. However,
4 the Court also finds that Mr. Poli represented Painted Mirage while he worked for Merlin and
5 continued to represent Painted Mirage after Mr. Poli changed firms to PMZ. Thus, while the firm
6 representing Painted Mirage changed, the attorney did not. EDCR 7.40(b)(1) provides for
7 substituting attorneys where “a new attorney is to be substituted in place of the attorney
8 withdrawing.” No attorney withdrew, and no new attorney substituted in when Mr. Poli changed
9 firms from Merlin to PMZ. Moreover, Painted Mirage undisputedly allowed Mr. Poli to continue
10 to process its third-party claim after Mr. Poli moved to PMZ. Accordingly, the Court finds that the
11 absence of a filed substitution of attorney does not jeopardize or prejudice either Merlin’s or PMZ’s
12 lien rights.

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1 **IT IS FURTHER ORDERED** that Merlin and PMZ are entitled to no more than their
2 respective shares of a single 28% contingency fee. The exact amounts that Merlin and PMZ are
3 entitled to receive from the settlement proceeds will be resolved at a later time, but in no event will
4 their combined fees exceed the single 28% contingency fee plus Merlin's and/or PMZ's expenses
5 incurred in prosecuting Painted Mirage's third-party claims.

Dated this 20th day of July, 2021

6 **IT IS SO ORDERED**



7
8 **F7A CD6 FA1B 782E**
9 **Veronica M. Barisich**
10 **District Court Judge**

11 Respectfully Submitted by:
12 CLYDE & CO LLP

13 By: /s/ Lee H. Gorlin

Amy M. Samberg, Esq.

Lee H. Gorlin, Esq.

3960 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169

16 *Attorneys for Third-Party Defendant*
17 *Travelers Casualty Company of America*

18 Approved/Disapproved as to form
19 and content by:
20 LAW OFFICE OF MITCHELL STIPP¹

Approved as to form and content by:
 POLI, MOON & ZANE

21 By: _____
22 Mitchell D. Stipp, Esq.
23 1180 N. Town Center Drive, Suite 100
 Las Vegas, Nevada 89144

 By: /s/ Michael N. Poli
 Michael N. Poli, Esq.
 2999 N. 44th Street, #325
 Phoenix, Arizona 85018

24 *Attorneys for Third-Party Plaintiff*
25 *5550 Painted Mirage Rd., LLC*

Attorneys for Non-Party Claimants Poli, Moon
 & Zane, PLLC and Merlin Law Group

26
27 _____
28 ¹ Counsel for Painted Mirage did not provide consent to e-sign to either approve or disapprove of
the form and contents of this Proposed Order. Based on the discussions between the parties, it
appears that Painted Mirage disapproves of the contents of this Order.

Gorlin, Lee

From: Mike Poli <mpoli@pmzlaw.com>
Sent: Monday, July 5, 2021 4:58 PM
To: Gorlin, Lee; Mitchell Stipp
Cc: Samberg, Amy; Linda Gundelach; Lawrence Moon; Michael Duffy
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Follow Up Flag: Follow up
Flag Status: Flagged

Yes, you have my approval as to form and content.



Michael N. Poli

Partner

P : [602-857-8160](tel:602-857-8160) | **M :** [602-320-4999](tel:602-320-4999)

F : [602-857-7333](tel:602-857-7333) | **E :** mpoli@pmzlaw.com

A : 2999 N. 44th St., Ste 325, Phoenix, AZ 85018



From: Gorlin, Lee <Lee.Gorlin@clydeco.us>
Sent: Monday, July 5, 2021 4:56 PM
To: Mike Poli <mpoli@pmzlaw.com>; Mitchell Stipp <mstipp@stipplaw.com>
Cc: Samberg, Amy <Amy.Samberg@clydeco.us>; Linda Gundelach <lgundelach@pmzlaw.com>; Lawrence Moon <lmoon@pmzlaw.com>; Michael Duffy <mduffy@merlinlawgroup.com>
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Thank you, Mike. Do I have your consent to e-sign, signifying your approval of form and content?

Mitchell, we need a final answer from you as to whether you will approve or disapprove as to the form and content of the most recently circulated draft of the proposed order. Please let me know either way and we will so signify on the proposed order before submitting it to the Court tomorrow.

Thanks everyone.

Lee Gorlin
Associate | Clyde & Co US LLP
Direct Dial: +1 213 358 7664 | **Mobile:** +1 702 300 9476

CLYDE&CO

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 R & K Concrete Cutting Inc,
Plaintiff(s)

CASE NO: A-19-803425-C

7 vs.

DEPT. NO. Department 5

8
9 5550 Painted Mirage Rd LLC,
Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 7/20/2021

16 Linda Lieber

llieber@pmzlaw.com

17 Mitchell Stipp

mstipp@stipplaw.com

18 Michael Poli

mpoli@pmzlaw.com

19 Linda Gundelach

lgundelach@pmzlaw.com

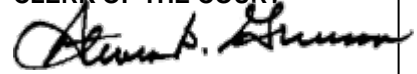
20 Lee Gorlin

lee.gorlin@clydeco.us

21 Amy Samberg

amy.samberg@clydeco.us

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LAW OFFICE OF MITCHELL STIPP
MITCHELL STIPP, ESQ.
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1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Telephone: 702.602.1242
Facsimile: 866.220.5332
mstipp@stippplaw.com
Counsel for Defendant, 5550 Painted Mirage Rd., LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

R&K CONCRETE CUTTING, INC., d/b/a
R&K DEVELOPMENT, a Nevada corporation

Plaintiff,

vs.

CASE NO.: A-19-803425-C

DEPT. NO.: 5

5550 PAINTED MIRAGE RD., LLC, a
Nevada limited liability company; DOES I
through X; LOE LENDERS I through X; ROE
CORPORATIONS I through X; TOE TENANTS I
through X, inclusive

Defendant.

CASE APPEAL STATEMENT

5550 PAINTED MIRAGE RD., LLC, a
Nevada limited liability company,

Third-Party Plaintiff,

vs.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation

Third-Party Defendant.

Defendant, 5550 PAINTED MIRAGE RD., LLC, a Nevada limited liability company, by
and through its attorney-of-record, Mitchell D. Stipp, Esq., of the Law Office of Mitchell Stipp,
hereby files its Case Appeal Statement.

1 1. Name of appellant filing this case appeal statement: 5550 Painted Mirage Rd., LLC, a
2 Nevada limited liability company.

3 2. Identify the judge issuing the decision, judgment, or order appealed from: Senior Judge
4 Jim Crockett (presiding in place of Judge Veronica Barisich), Department 5, of Eighth Judicial
5 District Court, State of Nevada.

6 3. Identify each appellant and the name and address of counsel for each appellant: 5550
7 Painted Mirage Rd., LLC, a Nevada limited liability company. Appellant is represented by
8 Mitchell D. Stipp, Esq., of the Law Office of Mitchell Stipp, 1180 N. Town Center Drive, Suite
9 100, Las Vegas, Nevada 89144.

10 4. Identify each respondent and the name and address of appellate counsel, if known, for
11 each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much
12 and provide the name and address of that respondent's trial counsel): Third-Party Defendant,
13 Travelers Property Casualty Company of America. Respondent's appellate counsel is unknown;
14 however, Respondent was represented before the District Court by the following:

15 Amy M. Samberg (NV Bar No. 10212)
16 amy.samberg@clydeco.us
17 Lee H. Gorlin (NV Bar No. 13879)
18 lee.gorlin@clydeco.us
19 CLYDE & CO LLP
20 3960 Howard Hughes Parkway, Suite 500
21 Las Vegas, NV 89169
22 Telephone: 213-358-7600
23 Facsimile: 213-358-7650

24 5. Identify whether any attorney identified above in response to question 3 or 4 is not
25 licensed to practice law in Nevada and, if so, whether the District Court granted that attorney
26 permission to appear under SCR 42 (attach a copy of any District Court order granting such
27 permission): None.

6. Indicate whether appellant was represented by appointed or retained counsel in the District Court: Retained counsel.

7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Retained counsel.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the District Court order granting such leave: No.

9. Indicate the date the proceedings commenced in the District Court (e.g., date complaint, indictment, information, or petition was filed): Third-Party Complaint was filed on November 18, 2019.

10. Provide a brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the District Court: The third-party action concerns the failure of Respondent to pay covered losses suffered by Appellant under the terms of insurance policies. The District Court granted Respondent's request to enforce settlement, adjudicate rights to enforce an attorney's lien of former counsel for Appellant, and to seal and/or redact financial terms of settlement.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and the Supreme Court docket number of the prior proceedings: No.

12. Indicate whether this appeal involves child custody or visitation: No.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: Yes.

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1 Dated this 20th day of August, 2021.

2 LAW OFFICE OF MITCHELL STIPP

3 /s/ Mitchell Stipp

4

MITCHELL STIPP, ESQ.

5 Nevada Bar No. 7531

6 1180 N. Town Center Drive

7 Suite 100

8 Las Vegas, Nevada 89144

9 Telephone: 702.602.1242

10 Facsimile: 866.220.5332

11 mstipp@stipplaw.com

12 Counsel for 5550 Painted Mirage Rd., LLC

CASE SUMMARY**CASE NO. A-19-803425-C**

R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

§
§
§
§
§

Location: **Department 5**
 Judicial Officer: **Barisich, Veronica M.**
 Filed on: **10/10/2019**
 Case Number History:
 Cross-Reference Case Number: **A803425**

CASE INFORMATIONCase Type: **Other Title to Property**

Case
Status: **10/10/2019 Open**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-803425-C
 Court Department 5
 Date Assigned 01/04/2021
 Judicial Officer Barisich, Veronica M.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	R & K Concrete Cutting Inc	Domina, Cary <i>Retained</i> 702-990-7272(W)
Defendant	5550 Painted Mirage Rd LLC	Stipp, Mitchell D. <i>Retained</i> 702-602-1242(W)
Counter Claimant	5550 Painted Mirage Rd LLC	Stipp, Mitchell D. <i>Retained</i> 702-602-1242(W)
Counter Defendant	R & K Concrete Cutting Inc	Domina, Cary <i>Retained</i> 702-990-7272(W)
Third Party Defendant	Travelers Property Casualty Company of America Removed: 07/20/2021 Dismissed	
Third Party Plaintiff	5550 Painted Mirage Rd LLC Removed: 07/20/2021 Dismissed	Stipp, Mitchell D. <i>Retained</i> 702-602-1242(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

10/10/2019



Complaint

Filed By: Counter Defendant R & K Concrete Cutting Inc
 [1] Mechanic's Lien Foreclosure Complaint [Arbitration Exemption: Involved Title to Real Property]

10/10/2019
















Initial Appearance Fee Disclosure

Filed By: Counter Defendant R & K Concrete Cutting Inc
 [2] Initial Appearance Fee Disclosure [NRS Chapter 19]

CASE SUMMARY

CASE NO. A-19-803425-C

10/10/2019	 Disclosure Statement Party: Counter Defendant R & K Concrete Cutting Inc <i>[3] Plaintiff's Nev. R. Civ. P. 7.1 Disclosure Statement</i>
10/10/2019	 Notice of Lis Pendens Filed by: Counter Defendant R & K Concrete Cutting Inc <i>[4] Notice of Lis Pendens</i>
10/10/2019	 Notice of Foreclosure Filed By: Counter Defendant R & K Concrete Cutting Inc <i>[5] Notice of Foreclosure</i>
10/10/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant R & K Concrete Cutting Inc <i>[6] Summons - Civil</i>
10/28/2019	 Affidavit of Publication Filed By: Counter Defendant R & K Concrete Cutting Inc; Counter Claimant 5550 Painted Mirage Rd LLC <i>[7] Affidavit of Publication</i>
10/30/2019	 Affidavit of Service Filed By: Counter Defendant R & K Concrete Cutting Inc <i>[8] Affidavit of Service (5550 Painted Mirage)</i>
11/18/2019	 Answer and Counterclaim Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[9] Answer to Complaint and Counterclaims</i>
11/18/2019	 Third Party Complaint TPP: Counter Claimant 5550 Painted Mirage Rd LLC <i>[10] Defendant 5550 Painted Mirage Rd., LLC's Third Party Complaint against Third-Party Defendant Travelers Property Casualty Company of merica</i>
11/18/2019	 Initial Appearance Fee Disclosure <i>[11] Initial Appearance Fee Disclosure</i>
11/20/2019	 Summons Electronically Issued - Service Pending <i>[12] Summons - Civil</i>
12/09/2019	 Answer to Counterclaim Filed By: Counter Defendant R & K Concrete Cutting Inc <i>[13] R & K Concrete Cutting, Inc., d/b/a R & K Development's Answer to 5550 Painted Mirage Rd., LLC's Counterclaim</i>
12/26/2019	 Answer to Third Party Complaint Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[14] Third-Party Defendant Travelers Property Casualty Company of America's Answer to Defendant 5550 Painted Mirage Rd. Third Party Complaint</i>
12/26/2019	 Initial Appearance Fee Disclosure Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[15] Travelers Property Casualty Company of America's Initial Appearance Fee Disclosure</i>














CASE SUMMARY

CASE NO. A-19-803425-C

01/14/2020	 Notice of Appearance Party: Counter Claimant 5550 Painted Mirage Rd LLC <i>[16] Notice of Appearance</i>
01/15/2020	 Request for Exemption From Arbitration <i>[17] Third-Party Plaintiff's Request for Exemption from Arbitration Program</i>
01/31/2020	 Commissioners Decision on Request for Exemption - Granted <i>[18] Commissioner's Decision on Request for Exemption</i>
03/20/2020	 Joint Case Conference Report Filed By: Counter Defendant R & K Concrete Cutting Inc <i>[19] Joint Case Conference Report</i>
04/07/2020	 Order <i>[20] Order to Appear for Scheduling Conference</i>
04/20/2020	 Notice of Change of Firm Name Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[21] Notice of Change of Firm Name and Address</i>
05/11/2020	 Scheduling and Trial Order <i>[22] Scheduling and Trial Order</i>
05/13/2020	 Request Filed by: Third Party Defendant Travelers Property Casualty Company of America <i>[23] Third Party Defendant Travelers Casualty Property Company of America's Request for Advance Approval to Serve Subpoenas and Notice of Subpoenas</i>
05/21/2020	 Clerk's Notice of Hearing <i>[24] Notice of Hearing</i>
06/04/2020	 Stipulation and Order Filed by: Third Party Defendant Travelers Property Casualty Company of America <i>[25] Stipulation and Order to Allow Third Party Defendant Travelers Property Casualty Company of America to Serve Subpoenas</i>
06/11/2020	 Order Setting Civil Jury Trial <i>[26] Order Setting Civil Bench Trial</i>
06/12/2020	 Stipulation and Order to Extend Discovery Deadlines Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[27] Stipulation and Order to Extend Discovery Deadlines And Continue Trial Settings (First Request)</i>
06/12/2020	 Notice of Entry of Stipulation and Order Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[28] Notice of Entry of Order to Extend Discovery Deadlines and Continue Trial Setting</i>
06/12/2020	 Notice of Entry of Stipulation and Order Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[29] Notice of Entry of Order to Allow Third Party Defendant Travelers Property Casualty Insurance Company of America to Serve Subpoenas</i>

CASE SUMMARY

CASE NO. A-19-803425-C

01/04/2021	Case Reassigned to Department 5 <i>Judicial Reassignment to Judge Veronica M. Barisich</i>
02/05/2021	 Stipulation and Order <i>[30] Stipulation and Order to Extend Discovery and Continue Trial Setting (Second Request)</i>
02/05/2021	 Notice of Entry of Stipulation and Order Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[31] Notice of Entry of Order to Extend Discovery Deadline and Continue Trial Setting</i>
02/08/2021	 Order Setting Civil Bench Trial <i>[32] Scheduling Order and Order Setting Civil Bench Trial, Pretrial, and Calendar Call</i>
04/19/2021	 Stipulation and Order Filed by: Third Party Defendant Travelers Property Casualty Company of America <i>[33] Stipulation and Order to Extend Discovery Deadlines (Third Request)</i>
04/19/2021	 Notice of Entry of Stipulation and Order Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[34] Notice of Entry of Order to Extend Discovery Deadlines</i>
04/27/2021	 Notice of Change of Hearing <i>[35] Notice of Change of Hearing</i>
05/06/2021	 Notice Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[36] Notice of Lien for Attorneys' Fees</i>
05/06/2021	 Notice Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[37] NOTICE OF TERMINATION OF POLI, MOON & ZANE, PLLC AS CO-COUNSEL OF RECORD FOR 5550 PAINTED MIRAGE RD., LLC</i>
05/11/2021	 Release of Lis Pendens Filed By: Counter Defendant R & K Concrete Cutting Inc <i>[38] Discharge, Release and Expungement of Notice of Lis Pendens Recorded Against APN 125-34-116-004</i>
05/17/2021	 Notice of Change of Firm Name Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[39] Notice of Firm/Address Change</i>
05/17/2021	 Motion to Seal/Redact Records Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[40] Motion for Leave to File Motion Enforce Settlement Under Seal</i>
05/17/2021	 Filed Under Seal Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[41] SEALED PER ORDER 7/20/21 [41] (no pleading attached - only a cover page re: Kofaax Power PDF packages) Motion to Enforce Settlement - FILED UNDER SEAL</i>
05/17/2021	 Stipulation and Order for Dismissal With Prejudice Filed By: Counter Defendant R & K Concrete Cutting Inc

CASE SUMMARY

CASE NO. A-19-803425-C

[42] Stipulation and Order for Dismissal of Claims Between R & K Concrete Cutting, Inc. D/B/A R& K Development and 550 Painted Mirage Rd. LLC Only With Prejudice

05/18/2021



Notice of Entry of Stipulation & Order for Dismissal

[43] Notice of Entry of Stipulation and Order for Dismissal

05/18/2021



Clerk's Notice of Hearing

[44] Notice of Hearing

05/19/2021



Motion

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[45] SEALED PER ORDER 7/20/21 Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien

05/20/2021



Clerk's Notice of Hearing

[46] Notice of Hearing

05/20/2021



Motion to Seal/Redact Records

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[47] Combined Motion to (1) Redact or Seal Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien and (2) Consolidate Hearings Regarding (A) Motion to Adjudicate Attorney's Rights and (B) Motion for Leave to File Motion to Enforce Settlement Under Seal

05/21/2021



Clerk's Notice of Hearing

[48] Notice of Hearing

06/01/2021



Opposition to Motion

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[49] Opposition to Motion to Enforce Settlement and to Adjudicate Parties' Rights to Enforce Lien

06/07/2021



Opposition to Motion

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[50] Opposition to Motion to Adjudicate Lien Rights and Enforce Lien

06/10/2021



Reply in Support

Filed By: Third Party Defendant Travelers Property Casualty Company of America

[51] Reply in Support of Motion to Enforce Settlement and Motion to Adjudicate Parties' Rights to Enforce Lien

06/10/2021



Objection

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[52] Objection to Reply to Opposition to Motion to Enforce Settlement and to Adjudicate Parties Rights to Enforce Lien

06/14/2021



Reply in Support

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[53] Reply in Support of Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien

06/17/2021















Objection

Filed By: Counter Claimant 5550 Painted Mirage Rd LLC

[54] OBJECTION TO REPLY TO OPPOSITION TO MOTION TO ADJUDICATE ATTORNEY S RIGHTS AND TO ENFORCE ATTORNEY S LIEN AND NOTICE OF MALPRACTICE ACTION AGAINST MICHAEL POLI, ESQ.

CASE SUMMARY

CASE NO. A-19-803425-C

06/18/2021	 Notice of Hearing <i>[55] Instructions for BlueJeans VideoConferencing</i>
06/18/2021	 Notice Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[56] Notice of Lien for Attorneys' Fees</i>
06/22/2021	 Objection Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[57] Objection to Notice of Lien filed by Michael Poli on behalf of Merlin Law Group</i>
06/23/2021	 Notice Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[58] Notice of Supplemental Authorities</i>
07/20/2021	 Order Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[59] 1) Order Granting Motion to Enforce Settlement and Motion to Adjudicate Parties' Rights to Enforce Lien; 2) Granting Poli Moon & Zane's Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien; 3) Granting All Related Motions to Seal and or Redact and Motion to Consolidate Hearings; And 4) Directing Travelers to Deposit Settlement Funds With the Court</i>
07/21/2021	 Notice of Entry Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[60] Notice of Entry of Order Granting Motion to Enforce Settlement, et al.</i>
07/21/2021	 Notice Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[61] Notice of Amended Complaint and Summons</i>
08/02/2021	 Notice of Deposit Filed By: Third Party Defendant Travelers Property Casualty Company of America <i>[62] Notice of Deposit of Settlement Checks Pursuant to Court Order</i>
08/13/2021	 Notice of Change of Hearing <i>[63] Notice of Change of Hearing</i>
08/13/2021	 Order Scheduling Status Check <i>[64] Order Setting Status Check</i>
08/20/2021	 Notice of Appeal Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[65] Notice of Appeal</i>
08/20/2021	 Case Appeal Statement Filed By: Counter Claimant 5550 Painted Mirage Rd LLC <i>[66] Case Appeal Statement</i>

DISPOSITIONS

05/17/2021	Order of Dismissal With Prejudice (Judicial Officer: Barisich, Veronica M.) Debtors: 5550 Painted Mirage Rd LLC (Defendant) Creditors: R & K Concrete Cutting Inc (Plaintiff) Judgment: 05/17/2021, Docketed: 05/18/2021 Comment: Causes of Action
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CASE SUMMARY
CASE NO. A-19-803425-C

07/20/2021

Order of Dismissal With Prejudice (Judicial Officer: Barisich, Veronica M.)
Debtors: 5550 Painted Mirage Rd LLC (Third Party Plaintiff)
Creditors: Travelers Property Casualty Company of America (Third Party Defendant)
Judgment: 07/20/2021, Docketed: 08/16/2021

HEARINGS

05/04/2020



Minute Order (3:00 PM) (Judicial Officer: Atkin, Trevor)

BlueJeans Notice May 7, 2020 Hearing

Minute Order - No Hearing Held; BlueJeans Notice May 7, 2020 Hearing

Journal Entry Details:

Department 8 Request to Appear Telephonically: Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 430 125 928 (NOTE: The meeting number will be different for each day's court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;

05/07/2020



Mandatory Rule 16 Conference (9:00 AM) (Judicial Officer: Atkin, Trevor)

Scheduling Order Will Issue;

Journal Entry Details:

COURT FINDS, discovery CLOSES ON 11/19/20; and, case will be trial ready on or after 03/15/21. Colloquy regarding settlement posture. Trial Status Check Conference set for October 15, 2020. Deadlines will commence from the close of discovery or the Case Conference report unless otherwise designated. TRIAL ORDER WILL ISSUE. 10/15/20 9:00 a.m. Status Conference;

06/23/2020

CANCELED Hearing (9:00 AM) (Judicial Officer: Truman, Erin)

Vacated

Third Party Defendant Travelers Casualty Property Company of America's Request for Advance Approval to Serve Subpoenas and Notice of Subpoenas

10/08/2020



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

BlueJeans Notice for October 15, 2020 at 9:00 a.m. & 9:30 a.m.

Minute Order - No Hearing Held;

Journal Entry Details:

*BLUEJEANS NOTICE for DEPT. 8 - RULE 16 CONFERENCES/ STATUS CONFERENCE OCT. 15, 2020, at 9:00 a.m. LAW AND MOTION CALENDAR OCT. 15, 2020, AT 9:30 AM Department 8 Request to Appear Telephonically All participants MUST check in with the moderator at 9:00 AM ***** Any attorney who has any open pro bono case will be allowed to go first both in that case and in their other cases as long as opposing counsel is present. Please contact Dept. 8 by email at lernerl@clarkcountycourts.us prior to your hearing for a "head of the line" pass or fast pass. ***** Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants. To use BlueJeans, please call in prior to the hearing at 1-888-748-9073. To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #. Your Meeting ID: 873 051 890 (NOTE: The meeting number will be different for each day's court session.) For your hearing, PLEASE observe the following protocol: Place your telephone on mute while waiting for your matter/case to be called. Do not place the conference on hold as it may play wait/hold music to others. Identify yourself before speaking each time as a record is being made. Please be mindful of sounds of rustling of papers or coughing.;*

10/15/2020



Status Conference (9:00 AM) (Judicial Officer: Atkin, Trevor)

CASE SUMMARY

CASE NO. A-19-803425-C

	<p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Upon Court's inquiry counsel indicated case progress, and, likelihood of being prepared to enter into settlement discussions. Counsel stated they have a mediation scheduled for 11/05/20.;</i></p>
06/10/2021	<p> Minute Order (3:00 AM) (Judicial Officer: Barisich, Veronica M.)</p> <p><i>Third Party Defendant's Motion for Leave to File Motion Enforce Settlement Under Seal</i></p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The Court FINDS that Third Party Defendant Travelers Property casualty Company of America's Motion for Leave to File Motion to Enforce Settlement Under Seal is set for a hearing on June 17, 2021. However, the Court notes that other matters are set for a hearing on June 24, 2021. At the request of the Court, for judicial economy, all motions shall be CONSOLIDATED and RESCHEDULED to June 24, 2021 at 9:00 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 06/11/21 ;</i></p>
06/24/2021	<p>Motion to Seal/Redact Records (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Third Party Defendant's Motion for Leave to File Motion Enforce Settlement Under Seal</i></p> <p>Consolidated and Rescheduled</p> <p>Motion Granted;</p>
06/24/2021	<p>Motion (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien</i></p> <p>Motion Granted;</p>
06/24/2021	<p>Motion to Seal/Redact Records (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Combined Motion to (1) Redact or Seal Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien and (2) Consolidate Hearings Regarding (A) Motion to Adjudicate Attorney's Rights and (B) Motion for Leave to File Motion to Enforce Settlement Under Seal</i></p> <p>Motion Granted;</p>
06/24/2021	<p> All Pending Motions (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Michael N. Poli, Esq., Attorney for Poli, Moon & Zane, PLLC, Merlin Law Group and individually, also present MOTION TO ADJUDICATE ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN . . . COMBINED MOTION TO (1) REDACT OR SEAL MOTION TO ADJUDICATE ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN AND (2) CONSOLIDATE HEARINGS REGARDING (A) motion to ADJUDICATE ATTORNEY'S RIGHTS AND (B) MOTION FOR LEAVE TO FILE MOTION TO ENFORCE SETTLEMENT UNDER SEAL . . . THIRD PARTY DEFENDANT'S MOTION FOR LEAVE TO FILE MOTION ENFORCE SETTLEMENT UNDER SEAL Court provided an overview and stated its inclination. Argument by counsel on the merits of the Motions and applicable case law. COURT stated its FINDINGS and ORDERED, Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien is hereby GRANTED; Funds are to be deposited with the Clark County Clerk. Ms. Samberg to prepare, circulate and submit the Order. COURT stated its FINDINGS and FURTHER ORDERED, the Combined Motion to (1) Redact or Seal Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien and (2) to Consolidate Hearings Regarding (a) Motion to Adjudicate Attorney's Rights and (B) Motion for Leave to File Motion to Enforce Settlement Under Seal is hereby GRANTED. Ms. Samberg to prepare, circulate and submit the Order. COURT stated it FINDINGS and FURTHER ORDERED, Third Party Defendant's Motion for Leave to File Motion to Enforce Settlement Under Seal is hereby GRANTED. Ms. Samberg to prepare, circulate and submit the Order. Court stated the parties should mediate any potential malpractice dispute.;</i></p>
09/07/2021	<p>CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Atkin, Trevor)</p> <p><i>Vacated - per Stipulation and Order</i></p>
10/04/2021	<p>CANCELED Calendar Call (8:30 AM) (Judicial Officer: Atkin, Trevor)</p> <p><i>Vacated - per Stipulation and Order</i></p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-19-803425-C**

10/11/2021	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Atkin, Trevor) <i>Vacated - per Stipulation and Order</i>
10/19/2021	Status Check (10:00 AM) (Judicial Officer: Barisich, Veronica M.)
11/16/2021	CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Judge</i>
11/16/2021	CANCELED Pre Trial Conference (11:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i>
12/21/2021	CANCELED Calendar Call (11:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i>
01/10/2022	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Barisich, Veronica M.) <i>Vacated - per Order</i>
DATE	FINANCIAL INFORMATION

Third Party Defendant Travelers Property Casualty Company of America

Total Charges 223.00

Total Payments and Credits 223.00

Balance Due as of 8/24/2021 0.00**Counter Claimant** 5550 Painted Mirage Rd LLC

Total Charges 382.00

Total Payments and Credits 382.00

Balance Due as of 8/24/2021 0.00**Counter Defendant** R & K Concrete Cutting Inc

Total Charges 270.00

Total Payments and Credits 270.00

Balance Due as of 8/24/2021 0.00**Third Party Defendant** Travelers Property Casualty Company of AmericaInterplead Funds Balance as of 8/24/2021 **325,000.00**

DISTRICT COURT CIVIL COVER SHEET

CASE NO: A-19-803425-C Department 8

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

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

Plaintiff(s) (name/address/phone): R & K Concrete Cutting, Inc. d/b/a R & K Development	Defendant(s) (name/address/phone): 5550 Painted Mirage Rd., LLC
Attorney (name/address/phone): (702) 990-7272 Cary B. Domina, Esq (10567) / Jeremy D. Holmes, Esq. (14379) PEEL BRIMLEY LLP 3333 E. Serene Ave, Suite 200 Henderson, NV 89074	Attorney (name/address/phone): Unknown

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

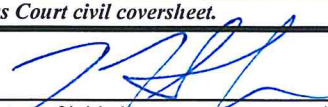
Civil Case Filing Types

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

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

Oct. 10, 2019

Date


 Signature of initiating party or representative

See other side for family-related case filings.

Amy M. Samberg (NV Bar No. 10212)
amy.samberg@clydeco.us
Lee H. Gorlin (NV Bar No. 13879)
lee.gorlin@clydeco.us
CLYDE & CO LLP
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: 213-358-7600
Facsimile: 213-358-7650

*Attorneys for Third Party Defendant
Travelers Property Casualty Company
of America*

DISTRICT COURT

CLARK COUNTY, NEVADA

R&K CONCRETE CUTTING, INC., d/b/a
R & K Development, a Nevada
Corporation,

Plaintiff,

v.
5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company; DOES I
through X; ROE CORPORATIONS I
through X; TOE TENANTS I through X,
inclusive
Defendants.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company,

Third-Party Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation,

Third-Party Defendant.

Case No. A-19-803425-C

Dept. No. ,V

~~PROPOSED~~ ORDER:

**1) GRANTING TRAVELERS' MOTION
TO ENFORCE SETTLEMENT AND
MOTION TO ADJUDICATE PARTIES'
RIGHTS TO ENFORCE LIEN;**

**2) GRANTING POLI, MOON, & ZANE'S
MOTION TO ADJUDICATE
ATTORNEY'S RIGHTS AND TO
ENFORCE ATTORNEY'S LIEN;**

**3) GRANTING ALL RELATED
MOTIONS TO SEAL AND/OR REDACT
AND MOTION TO CONSOLIDATE
HEARINGS; AND**

**4) DIRECTING TRAVELERS TO
DEPOSIT SETTLEMENT FUNDS WITH
THE COURT**

HEARING DATE: June 24, 2021

HEARING TIME: 9:00 a.m.

These matters having come before the Court on June 24, 2021, with appearances by Mitchell Stipp, Esq. on behalf of Third-Party Plaintiff 5550 Painted Mirage Rd. LLC ("Painted Mirage"), Amy Samberg, Esq. and Lee Gorlin, Esq. on behalf of Third-Party Defendant Travelers Property Casualty Company of America ("Travelers"), and Michael Poli, Esq. on behalf of Poli, Moon &

1 Zane, PLLC (“PMZ”) and Merlin Law Group, P.A. (“Merlin”). The Court heard argument from the
2 moving parties and the opposing party and Orders as follows:

3 **IT IS HEREBY ORDERED** that all Motions to Seal and/or Redact are hereby **GRANTED**
4 as unopposed. Travelers’ Motion to Enforce Settlement and Motion to Adjudicate Parties’ Rights
5 to Enforce Lien shall remain sealed. PMZ’s Motion to Adjudicate Attorney’s Rights and to Enforce
6 Attorney’s Lien shall be sealed, and the clerk is ordered to remove PMZ’s Motion to Adjudicate
7 Attorney’s Rights and to Enforce Attorney’s Lien from the public docket.

8 **IT IS FURTHER ORDERED** that the Motion to Consolidate Hearings is hereby
9 **GRANTED** as unopposed.

10 **IT IS FURTHER ORDERED** that Travelers’ Motion to Enforce Settlement and Motion to
11 Adjudicate Parties’ Rights to Enforce Lien, as well as PMZ’s Motion to Adjudicate Attorney’s
12 Rights and to Enforce Attorney’s Lien are hereby **GRANTED**, as detailed below.

13 **IT IS FURTHER ORDERED** that the Settlement Term Sheet executed on April 9, 2021
14 by Mitchell Stipp on behalf of and with the full authority of Painted Mirage and by Lee Gorlin on
15 behalf of and with the full authority of Travelers is a valid and binding Settlement Agreement. The
16 third-party action between Painted Mirage and Travelers is settled.

17 **IT IS FURTHER ORDERED** that because this third-party action is settled, Travelers’
18 request to extend discovery dates is hereby **DENIED AS MOOT**.

19 **IT IS FURTHER ORDERED** that Travelers has not breached the Settlement Term Sheet.
20 The express terms of the Settlement Term Sheet provide that the “Settlement payment will be
21 delivered within 14 business days of Travelers’ counsel’s receipt of the fully executed release.”
22 Travelers’ counsel has yet to receive a fully executed release, thus its obligation to deliver payment
23 has not been triggered.

24 **IT IS FURTHER ORDERED** that Painted Mirage has breached the Settlement Term
25 Sheet. The Settlement Term Sheet required Painted Mirage to keep the amount of the settlement
26 confidential. Painted Mirage breached its obligation when it 1) commenced a new action (case No.
27 A-21-836489-C) and attached the amount of the settlement to that Complaint; and 2) when it filed
28 an Objection in this action, which included an exhibit with the confidential amount of the settlement.

1 Rather than opt to void the Settlement, Travelers has opted to have the offending portion of the
2 attachments redacted.

3 **IT IS FURTHER ORDERED** that the settlement amount included in Exhibit A-5 to
4 Painted Mirage’s “Objection to Reply to Opposition to Motion to Adjudicate Attorney’s Rights and
5 to Enforce Attorney’s Lien and Notice of Malpractice Action Against Michael Poli, Esq. (labeled
6 “Plaintiff’s Complaint Page 26 of 41 and 27 of 41) shall be redacted. The clerk is ordered to ensure
7 this redaction appears on the public filing.

8 **IT IS FURTHER ORDERED** that Painted Mirage, within 14 days of entry of this Order,
9 file the appropriate Motion (or Stipulation) in case No. A-21-863489-C to redact the same
10 confidential material in that action, (Exhibit 5 to the Complaint, labeled “Plaintiff’s Complaint Page
11 26 of 41 and 27 of 41). Said Motion (or Stipulation) shall attach this Order as an exhibit. Painted
12 Mirage shall contemporaneously file a proof of filing of said Motion (or Stipulation) in this action.

13 **IT IS FURTHER ORDERED** Travelers shall, within 14 days of entry of this Order, deposit
14 the settlement proceeds, in the form of two checks as specified in the Settlement Term Sheet, with
15 the Clark County Court Clerk for the benefit of all lienholders named in the April 9, 2021, Settlement
16 Term Sheet, which include Merlin and Metropolitan Adjustment Bureau. The deposit is also to be
17 for the benefit of PMZ.

18 **IT IS FURTHER ORDERED** that upon depositing the settlement proceeds, Travelers shall
19 be dismissed from this action, with prejudice, and entitled to all release, indemnity, hold harmless,
20 and protections as set forth in the April 9, 2021 Settlement Term Sheet. The Settlement Term Sheet
21 is the binding settlement agreement. The Settlement Term Sheet along with this Order is proof of
22 the agreement between the parties, including Painted Mirage’s obligations to release, indemnify,
23 and hold Travelers harmless from any and all claims as described in the Settlement Term Sheet.

24 **IT IS FURTHER ORDERED** that Travelers does have standing to seek adjudication of
25 PMZ’s lien pursuant to NRS 18.015(6), which provides that “any party who has been served with
26 notice of the lien” may file a motion to “adjudicate the rights of the attorney, client or other parties
27 and enforce the lien.” Travelers is a party. Travelers has been served with the notice of PMZ’s lien
28 that was filed in this Action on May 6, 2021.

1 **IT IS FURTHER ORDERED** that both Merlin and PMZ have valid liens against the
2 settlement proceeds. *See Michel v. Eighth Judicial Dist. Court*, 117 Nev. 145, 17 P.3d 1003 (2001).
3 The Court finds that PMZ did not file a substitution of attorney to take the place of Merlin. However,
4 the Court also finds that Mr. Poli represented Painted Mirage while he worked for Merlin and
5 continued to represent Painted Mirage after Mr. Poli changed firms to PMZ. Thus, while the firm
6 representing Painted Mirage changed, the attorney did not. EDCR 7.40(b)(1) provides for
7 substituting attorneys where “a new attorney is to be substituted in place of the attorney
8 withdrawing.” No attorney withdrew, and no new attorney substituted in when Mr. Poli changed
9 firms from Merlin to PMZ. Moreover, Painted Mirage undisputedly allowed Mr. Poli to continue
10 to process its third-party claim after Mr. Poli moved to PMZ. Accordingly, the Court finds that the
11 absence of a filed substitution of attorney does not jeopardize or prejudice either Merlin’s or PMZ’s
12 lien rights.

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IT IS FURTHER ORDERED that Merlin and PMZ are entitled to no more than their respective shares of a single 28% contingency fee. The exact amounts that Merlin and PMZ are entitled to receive from the settlement proceeds will be resolved at a later time, but in no event will their combined fees exceed the single 28% contingency fee plus Merlin's and/or PMZ's expenses incurred in prosecuting Painted Mirage's third-party claims.

Dated this 20th day of July, 2021

IT IS SO ORDERED

V. Barisich

F7A CD6 FA1B 782E
Veronica M. Barisich
District Court Judge

Respectfully Submitted by:
CLYDE & CO LLP

By: /s/ Lee H. Gorlin

Amy M. Samberg, Esq.

Lee H. Gorlin, Esq.

3960 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169

Attorneys for Third-Party Defendant

Travelers Casualty Company of America

Approved/Disapproved as to form
and content by:

LAW OFFICE OF MITCHELL STIPP¹

By:_____

Mitchell D. Stipp, Esq.

1180 N. Town Center Drive, Suite 100

Las Vegas, Nevada 89144

Attorneys for Third-Party Plaintiff

5550 Painted Mirage Rd., LLC

Approved as to form and content by:

POLI, MOON & ZANE

By: /s/ Michael N. Poli

Michael N. Poli, Esq.

2999 N. 44th Street, #325

Phoenix, Arizona 85018

*Attorneys for Non-Party Claimants Poli, Moon
& Zane, PLLC and Merlin Law Group*

¹ Counsel for Painted Mirage did not provide consent to e-sign to either approve or disapprove of the form and contents of this Proposed Order. Based on the discussions between the parties, it appears that Painted Mirage disapproves of the contents of this Order.

Gorlin, Lee

From: Mike Poli <mpoli@pmzlaw.com>
Sent: Monday, July 5, 2021 4:58 PM
To: Gorlin, Lee; Mitchell Stipp
Cc: Samberg, Amy; Linda Gundelach; Lawrence Moon; Michael Duffy
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Follow Up Flag: Follow up
Flag Status: Flagged

Yes, you have my approval as to form and content.



Michael N. Poli

Partner

P : [602-857-8160](tel:602-857-8160) | **M :** [602-320-4999](tel:602-320-4999)

F : [602-857-7333](tel:602-857-7333) | **E :** mpoli@pmzlaw.com

A : 2999 N. 44th St., Ste 325, Phoenix, AZ 85018



From: Gorlin, Lee <Lee.Gorlin@clydeco.us>
Sent: Monday, July 5, 2021 4:56 PM
To: Mike Poli <mpoli@pmzlaw.com>; Mitchell Stipp <mstipp@stipplaw.com>
Cc: Samberg, Amy <Amy.Samberg@clydeco.us>; Linda Gundelach <lgundelach@pmzlaw.com>; Lawrence Moon <lmoon@pmzlaw.com>; Michael Duffy <mduffy@merlinlawgroup.com>
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Thank you, Mike. Do I have your consent to e-sign, signifying your approval of form and content?

Mitchell, we need a final answer from you as to whether you will approve or disapprove as to the form and content of the most recently circulated draft of the proposed order. Please let me know either way and we will so signify on the proposed order before submitting it to the Court tomorrow.

Thanks everyone.

Lee Gorlin
Associate | Clyde & Co US LLP
Direct Dial: +1 213 358 7664 | **Mobile:** +1 702 300 9476

CLYDE&CO

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 R & K Concrete Cutting Inc,
7 Plaintiff(s)

CASE NO: A-19-803425-C

8 vs.

DEPT. NO. Department 5

9 5550 Painted Mirage Rd LLC,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 7/20/2021

16 Linda Lieber

llieber@pmzlaw.com

17 Mitchell Stipp

mstipp@stipplaw.com

18 Michael Poli

mpoli@pmzlaw.com

19 Linda Gundelach

lgundelach@pmzlaw.com

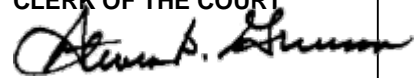
20 Lee Gorlin

lee.gorlin@clydeco.us

21 Amy Samberg

amy.samberg@clydeco.us

22
23
24
25
26
27
28



Amy M. Samberg (NV Bar No. 10212)
amy.samberg@clydeco.us
Lee H. Gorlin (NV Bar No. 13879)
lee.gorlin@clydeco.us
CLYDE & CO LLP
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: 213-358-7600
Facsimile: 213-358-7650

*Attorneys for Third Party Defendant
Travelers Property Casualty Company
of America*

DISTRICT COURT

CLARK COUNTY, NEVADA

R&K CONCRETE CUTTING, INC., d/b/a
R & K Development, a Nevada
Corporation,

Plaintiff,

v.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company; DOES I
through X; ROE CORPORATIONS I
through X; TOE TENANTS I through X,
inclusive

Defendants.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company,

Third-Party Plaintiff,

v.

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation,

Third-Party
Defendant.

Case No. A-19-803425-C

Dept. No. V

NOTICE OF ENTRY OF ORDER:

**1) GRANTING TRAVELERS' MOTION
TO ENFORCE SETTLEMENT AND
MOTION TO ADJUDICATE PARTIES'
RIGHTS TO ENFORCE LIEN;**

**2) GRANTING POLI, MOON, & ZANE'S
MOTION TO ADJUDICATE
ATTORNEY'S RIGHTS AND TO
ENFORCE ATTORNEY'S LIEN;**

**3) GRANTING ALL RELATED
MOTIONS TO SEAL AND/OR REDACT
AND MOTION TO CONSOLIDATE
HEARINGS; AND**

**4) DIRECTING TRAVELERS TO
DEPOSIT SETTLEMENT FUNDS WITH
THE COURT**

1 Please take notice the Order 1) Granting Travelers' Motion To Enforce Settlement And
2 Motion To Adjudicate Parties' Rights To Enforce Lien; 2) Granting Poli, Moon, & Zane's Motion
3 To Adjudicate Attorney's Rights And To Enforce Attorney's Lien; 3) Granting All Related Motions
4 To Seal and/or Redact And Motion To Consolidate Hearings; and 4) Directing Travelers To Deposit
5 Settlement Funds With The Court was entered July 20, 2021, a copy of said Order is attached hereto.

6 Dated: July 21, 2021
7

8 CLYDE & CO LLP

9 By: /s/ Lee H. Gorlin

10 Amy M. Samberg, Esq.

11 Lee H. Gorlin, Esq.

12 3960 Howard Hughes Parkway, Suite 500

13 Las Vegas, Nevada 89169

14 *Attorneys for Third-Party Defendant*

15 *Travelers Casualty Company of America*
16
17
18
19
20
21
22
23
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28

1 **CERTIFICATE OF SERVICE**

2 As an employee of Clyde & Co LLP, I certify that a copy of the foregoing **NOTICE OF**
3 **ENTRY OF ORDER: 1) GRANTING TRAVELERS' MOTION TO ENFORCE**
4 **SETTLEMENT AND MOTION TO ADJUDICATE PARTIES' RIGHTS TO ENFORCE**
5 **LIEN; 2) GRANTING POLI, MOON, & ZANE'S MOTION TO ADJUDICATE**
6 **ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN; 3) GRANTING ALL**
7 **RELATED MOTIONS TO SEAL AND/OR REDACT AND MOTION TO CONSOLIDATE**
8 **HEARINGS; AND 4) DIRECTING TRAVELERS TO DEPOSIT SETTLEMENT FUNDS**
9 **WITH THE COURT** was served by the method indicated:

10 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set
11 forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed
12 transmission record is attached to the file copy of this document(s).

13 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage
14 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth
below.

15 ☒ **BY ELECTRONIC SERVICE:** submitted to the above-entitled Court for electronic service
upon the Court's Registered Service List for the above-referenced case.

16 ☒ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the
individual(s) listed below.

17 R&K Concrete Cutting, Inc.
18 c/o Cary Domina, Esq.
cdomina@peelbrimley.com

Merlin Law Group
c/o Mike Poli, Esq.
mpoli@pmz.law.com

19 Metropolitan Adjustment Bureau
20 c/o Glenn Nahmais
glenn@metroadjusters.com

21
22
23 Dated: July 21, 2021

24
25 /s/ Gina Brouse
An Employee of Clyde & Co LLP
26
27
28

Amy M. Samberg (NV Bar No. 10212)
amy.samberg@clydeco.us
Lee H. Gorlin (NV Bar No. 13879)
lee.gorlin@clydeco.us
CLYDE & CO LLP
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: 213-358-7600
Facsimile: 213-358-7650

*Attorneys for Third Party Defendant
Travelers Property Casualty Company
of America*

DISTRICT COURT

CLARK COUNTY, NEVADA

R&K CONCRETE CUTTING, INC., d/b/a
R & K Development, a Nevada
Corporation,

Plaintiff,

v.
5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company; DOES I
through X; ROE CORPORATIONS I
through X; TOE TENANTS I through X,
inclusive
Defendants.

5550 PAINTED MIRAGE RD., LLC, a
limited Nevada liability company,
Third-Party Plaintiff,

v.
TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, a Minnesota
corporation,
Third-Party Defendant.

Case No. A-19-803425-C

Dept. No. ,V

~~PROPOSED~~ ORDER:

**1) GRANTING TRAVELERS' MOTION
TO ENFORCE SETTLEMENT AND
MOTION TO ADJUDICATE PARTIES'
RIGHTS TO ENFORCE LIEN;**

**2) GRANTING POLI, MOON, & ZANE'S
MOTION TO ADJUDICATE
ATTORNEY'S RIGHTS AND TO
ENFORCE ATTORNEY'S LIEN;**

**3) GRANTING ALL RELATED
MOTIONS TO SEAL AND/OR REDACT
AND MOTION TO CONSOLIDATE
HEARINGS; AND**

**4) DIRECTING TRAVELERS TO
DEPOSIT SETTLEMENT FUNDS WITH
THE COURT**

**HEARING DATE: June 24, 2021
HEARING TIME: 9:00 a.m.**

These matters having come before the Court on June 24, 2021, with appearances by Mitchell Stipp, Esq. on behalf of Third-Party Plaintiff 5550 Painted Mirage Rd. LLC ("Painted Mirage"), Amy Samberg, Esq. and Lee Gorlin, Esq. on behalf of Third-Party Defendant Travelers Property Casualty Company of America ("Travelers"), and Michael Poli, Esq. on behalf of Poli, Moon &

1 Zane, PLLC (“PMZ”) and Merlin Law Group, P.A. (“Merlin”). The Court heard argument from the
2 moving parties and the opposing party and Orders as follows:

3 **IT IS HEREBY ORDERED** that all Motions to Seal and/or Redact are hereby **GRANTED**
4 as unopposed. Travelers’ Motion to Enforce Settlement and Motion to Adjudicate Parties’ Rights
5 to Enforce Lien shall remain sealed. PMZ’s Motion to Adjudicate Attorney’s Rights and to Enforce
6 Attorney’s Lien shall be sealed, and the clerk is ordered to remove PMZ’s Motion to Adjudicate
7 Attorney’s Rights and to Enforce Attorney’s Lien from the public docket.

8 **IT IS FURTHER ORDERED** that the Motion to Consolidate Hearings is hereby
9 **GRANTED** as unopposed.

10 **IT IS FURTHER ORDERED** that Travelers’ Motion to Enforce Settlement and Motion to
11 Adjudicate Parties’ Rights to Enforce Lien, as well as PMZ’s Motion to Adjudicate Attorney’s
12 Rights and to Enforce Attorney’s Lien are hereby **GRANTED**, as detailed below.

13 **IT IS FURTHER ORDERED** that the Settlement Term Sheet executed on April 9, 2021
14 by Mitchell Stipp on behalf of and with the full authority of Painted Mirage and by Lee Gorlin on
15 behalf of and with the full authority of Travelers is a valid and binding Settlement Agreement. The
16 third-party action between Painted Mirage and Travelers is settled.

17 **IT IS FURTHER ORDERED** that because this third-party action is settled, Travelers’
18 request to extend discovery dates is hereby **DENIED AS MOOT**.

19 **IT IS FURTHER ORDERED** that Travelers has not breached the Settlement Term Sheet.
20 The express terms of the Settlement Term Sheet provide that the “Settlement payment will be
21 delivered within 14 business days of Travelers’ counsel’s receipt of the fully executed release.”
22 Travelers’ counsel has yet to receive a fully executed release, thus its obligation to deliver payment
23 has not been triggered.

24 **IT IS FURTHER ORDERED** that Painted Mirage has breached the Settlement Term
25 Sheet. The Settlement Term Sheet required Painted Mirage to keep the amount of the settlement
26 confidential. Painted Mirage breached its obligation when it 1) commenced a new action (case No.
27 A-21-836489-C) and attached the amount of the settlement to that Complaint; and 2) when it filed
28 an Objection in this action, which included an exhibit with the confidential amount of the settlement.

1 Rather than opt to void the Settlement, Travelers has opted to have the offending portion of the
2 attachments redacted.

3 **IT IS FURTHER ORDERED** that the settlement amount included in Exhibit A-5 to
4 Painted Mirage’s “Objection to Reply to Opposition to Motion to Adjudicate Attorney’s Rights and
5 to Enforce Attorney’s Lien and Notice of Malpractice Action Against Michael Poli, Esq. (labeled
6 “Plaintiff’s Complaint Page 26 of 41 and 27 of 41) shall be redacted. The clerk is ordered to ensure
7 this redaction appears on the public filing.

8 **IT IS FURTHER ORDERED** that Painted Mirage, within 14 days of entry of this Order,
9 file the appropriate Motion (or Stipulation) in case No. A-21-863489-C to redact the same
10 confidential material in that action, (Exhibit 5 to the Complaint, labeled “Plaintiff’s Complaint Page
11 26 of 41 and 27 of 41). Said Motion (or Stipulation) shall attach this Order as an exhibit. Painted
12 Mirage shall contemporaneously file a proof of filing of said Motion (or Stipulation) in this action.

13 **IT IS FURTHER ORDERED** Travelers shall, within 14 days of entry of this Order, deposit
14 the settlement proceeds, in the form of two checks as specified in the Settlement Term Sheet, with
15 the Clark County Court Clerk for the benefit of all lienholders named in the April 9, 2021, Settlement
16 Term Sheet, which include Merlin and Metropolitan Adjustment Bureau. The deposit is also to be
17 for the benefit of PMZ.

18 **IT IS FURTHER ORDERED** that upon depositing the settlement proceeds, Travelers shall
19 be dismissed from this action, with prejudice, and entitled to all release, indemnity, hold harmless,
20 and protections as set forth in the April 9, 2021 Settlement Term Sheet. The Settlement Term Sheet
21 is the binding settlement agreement. The Settlement Term Sheet along with this Order is proof of
22 the agreement between the parties, including Painted Mirage’s obligations to release, indemnify,
23 and hold Travelers harmless from any and all claims as described in the Settlement Term Sheet.

24 **IT IS FURTHER ORDERED** that Travelers does have standing to seek adjudication of
25 PMZ’s lien pursuant to NRS 18.015(6), which provides that “any party who has been served with
26 notice of the lien” may file a motion to “adjudicate the rights of the attorney, client or other parties
27 and enforce the lien.” Travelers is a party. Travelers has been served with the notice of PMZ’s lien
28 that was filed in this Action on May 6, 2021.

1 **IT IS FURTHER ORDERED** that both Merlin and PMZ have valid liens against the
2 settlement proceeds. *See Michel v. Eighth Judicial Dist. Court*, 117 Nev. 145, 17 P.3d 1003 (2001).
3 The Court finds that PMZ did not file a substitution of attorney to take the place of Merlin. However,
4 the Court also finds that Mr. Poli represented Painted Mirage while he worked for Merlin and
5 continued to represent Painted Mirage after Mr. Poli changed firms to PMZ. Thus, while the firm
6 representing Painted Mirage changed, the attorney did not. EDCR 7.40(b)(1) provides for
7 substituting attorneys where “a new attorney is to be substituted in place of the attorney
8 withdrawing.” No attorney withdrew, and no new attorney substituted in when Mr. Poli changed
9 firms from Merlin to PMZ. Moreover, Painted Mirage undisputedly allowed Mr. Poli to continue
10 to process its third-party claim after Mr. Poli moved to PMZ. Accordingly, the Court finds that the
11 absence of a filed substitution of attorney does not jeopardize or prejudice either Merlin’s or PMZ’s
12 lien rights.

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IT IS FURTHER ORDERED that Merlin and PMZ are entitled to no more than their respective shares of a single 28% contingency fee. The exact amounts that Merlin and PMZ are entitled to receive from the settlement proceeds will be resolved at a later time, but in no event will their combined fees exceed the single 28% contingency fee plus Merlin's and/or PMZ's expenses incurred in prosecuting Painted Mirage's third-party claims.

Dated this 20th day of July, 2021

IT IS SO ORDERED

V. Barisich

F7A CD6 FA1B 782E
Veronica M. Barisich
District Court Judge

Respectfully Submitted by:
CLYDE & CO LLP

By: /s/ Lee H. Gorlin

Amy M. Samberg, Esq.

Lee H. Gorlin, Esq.

3960 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169

Attorneys for Third-Party Defendant

Travelers Casualty Company of America

Approved/Disapproved as to form
and content by:

LAW OFFICE OF MITCHELL STIPP¹

Approved as to form and content by:

POLI, MOON & ZANE

By:_____

Mitchell D. Stipp, Esq.

1180 N. Town Center Drive, Suite 100

Las Vegas, Nevada 89144

By: /s/ Michael N. Poli

Michael N. Poli, Esq.

2999 N. 44th Street, #325

Phoenix, Arizona 85018

Attorneys for Third-Party Plaintiff

5550 Painted Mirage Rd., LLC

Attorneys for Non-Party Claimants Poli, Moon

& Zane, PLLC and Merlin Law Group

¹ Counsel for Painted Mirage did not provide consent to e-sign to either approve or disapprove of the form and contents of this Proposed Order. Based on the discussions between the parties, it appears that Painted Mirage disapproves of the contents of this Order.

Gorlin, Lee

From: Mike Poli <mpoli@pmzlaw.com>
Sent: Monday, July 5, 2021 4:58 PM
To: Gorlin, Lee; Mitchell Stipp
Cc: Samberg, Amy; Linda Gundelach; Lawrence Moon; Michael Duffy
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Follow Up Flag: Follow up
Flag Status: Flagged

Yes, you have my approval as to form and content.



Michael N. Poli

Partner

P : [602-857-8160](tel:602-857-8160) | **M :** [602-320-4999](tel:602-320-4999)

F : [602-857-7333](tel:602-857-7333) | **E :** mpoli@pmzlaw.com

A : 2999 N. 44th St., Ste 325, Phoenix, AZ 85018



From: Gorlin, Lee <Lee.Gorlin@clydeco.us>
Sent: Monday, July 5, 2021 4:56 PM
To: Mike Poli <mpoli@pmzlaw.com>; Mitchell Stipp <mstipp@stipplaw.com>
Cc: Samberg, Amy <Amy.Samberg@clydeco.us>; Linda Gundelach <lgundelach@pmzlaw.com>; Lawrence Moon <lmoon@pmzlaw.com>; Michael Duffy <mduffy@merlinlawgroup.com>
Subject: RE: Proposed Order Granting Motions (DUE TOMORROW) [CC-US2.FID874874]

Thank you, Mike. Do I have your consent to e-sign, signifying your approval of form and content?

Mitchell, we need a final answer from you as to whether you will approve or disapprove as to the form and content of the most recently circulated draft of the proposed order. Please let me know either way and we will so signify on the proposed order before submitting it to the Court tomorrow.

Thanks everyone.

Lee Gorlin
Associate | Clyde & Co US LLP
Direct Dial: +1 213 358 7664 | **Mobile:** +1 702 300 9476

CLYDE&CO

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 R & K Concrete Cutting Inc,
Plaintiff(s)

CASE NO: A-19-803425-C

7 vs.

DEPT. NO. Department 5

8
9 5550 Painted Mirage Rd LLC,
Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 7/20/2021

16 Linda Lieber

llieber@pmzlaw.com

17 Mitchell Stipp

mstipp@stipplaw.com

18 Michael Poli

mpoli@pmzlaw.com

19 Linda Gundelach

lgundelach@pmzlaw.com

20 Lee Gorlin

lee.gorlin@clydeco.us

21 Amy Samberg

amy.samberg@clydeco.us

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28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

May 04, 2020

A-19-803425-C R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

May 04, 2020

3:00 PM

Minute Order

**BlueJeans Notice
May 7, 2020 Hearing**

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

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

Your Meeting ID: 430 125 928 (NOTE: The meeting number will be different for each day s court session.)

For your hearing, PLEASE observe the following protocol:

Place your telephone on mute while waiting for your matter/case to be called.
Do not place the conference on hold as it may play wait/hold music to others.

Identify yourself before speaking each time as a record is being made.
Please be mindful of sounds of rustling of papers or coughing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

May 07, 2020

A-19-803425-C R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

May 07, 2020

9:00 AM

**Mandatory Rule 16
Conference**

HEARD BY: Atkin, Trevor

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

Domina, Cary
Gorlin, Lee H.
Poli, Michael N.
Stipp, Mitchell D.

Attorney
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- COURT FINDS, discovery CLOSES ON 11/19/20; and, case will be trial ready on or after 03/15/21. Colloquy regarding settlement posture. Trial Status Check Conference set for October 15, 2020. Deadlines will commence from the close of discovery or the Case Conference report unless otherwise designated. TRIAL ORDER WILL ISSUE.

10/15/20 9:00 a.m. Status Conference

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

October 08, 2020

A-19-803425-C R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

October 08, 2020 3:00 AM At Request of Court

HEARD BY: Atkin, Trevor **COURTROOM:** Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- BLUEJEANS NOTICE for DEPT. 8 - RULE 16 CONFERENCES/ STATUS CONFERENCE OCT. 15, 2020, at 9:00 a.m.

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

Department 8 Request to Appear Telephonically

All participants MUST check in with the moderator at 9:00 AM

Any attorney who has any open pro bono case will be allowed to go first both in that case and in their other cases as long as opposing counsel is present. Please contact Dept. 8 by email at lernerl@clarkcountycourts.us prior to your hearing for a "head of the line" pass or fast pass.

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

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

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

Your Meeting ID: 873 051 890 (NOTE: The meeting number will be different for each day's court session.)

For your hearing, PLEASE observe the following protocol:

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

October 15, 2020

A-19-803425-C R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

October 15, 2020 9:00 AM Status Conference

HEARD BY: Atkin, Trevor **COURTROOM:** Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Gorlin, Lee H. Attorney
 Holmes, Jeremy D. Attorney
 Poli, Michael N. Attorney
 Stipp, Mitchell D. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry counsel indicated case progress, and, likelihood of being prepared to enter into settlement discussions. Counsel stated they have a mediation scheduled for 11/05/20.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

June 10, 2021

A-19-803425-C	R & K Concrete Cutting Inc, Plaintiff(s)
	vs.
	5550 Painted Mirage Rd LLC, Defendant(s)

June 10, 2021

3:00 AM

Minute Order

HEARD BY: Barisich, Veronica M.

COURTROOM: Chambers

COURT CLERK: Carolyn Jackson

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court FINDS that Third Party Defendant Travelers Property casualty Company of America's Motion for Leave to File Motion to Enforce Settlement Under Seal is set for a hearing on June 17, 2021. However, the Court notes that other matters are set for a hearing on June 24, 2021. At the request of the Court, for judicial economy, all motions shall be CONSOLIDATED and RESCHEDULED to June 24, 2021 at 9:00 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 06/11/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

June 24, 2021

A-19-803425-C

R & K Concrete Cutting Inc, Plaintiff(s)

vs.

5550 Painted Mirage Rd LLC, Defendant(s)

June 24, 2021

9:00 AM

**Motion to Seal/Redact
Records**

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

June 24, 2021

A-19-803425-C R & K Concrete Cutting Inc, Plaintiff(s)
vs.
5550 Painted Mirage Rd LLC, Defendant(s)

June 24, 2021

9:00 AM

All Pending Motions

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Carolyn Jackson

RECORDER: Christine Erickson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Michael N. Poli, Esq., Attorney for Poli, Moon & Zane, PLLC, Merlin Law Group and individually,
also present

MOTION TO ADJUDICATE ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN . . .
COMBINED MOTION TO (1) REDACT OR SEAL MOTION TO ADJUDICATE ATTORNEY'S
RIGHTS AND TO ENFORCE ATTORNEY'S LIEN AND (2) CONSOLIDATE HEARINGS
REGARDING (A) motion to ADJUDICATE ATTORNEY'S RIGHTS AND (B) MOTION FOR LEAVE
TO FILE MOTION TO ENFORCE SETTLEMENT UNDER SEAL . . . THIRD PARTY DEFENDANT'S
MOTION FOR LEAVE TO FILE MOTION ENFORCE SETTLEMENT UNDER SEAL

Court provided an overview and stated its inclination.

Argument by counsel on the merits of the Motions and applicable case law.

COURT stated its FINDINGS and ORDERED, Motion to Adjudicate Attorney's Rights and to Enforce
Attorney's Lien is hereby GRANTED; Funds are to be deposited with the Clark County Clerk. Ms.
Samberg to prepare, circulate and submit the Order.

COURT stated its FINDINGS and FURTHER ORDERED, the Combined Motion to (1) Readact or Seal Motion to Adjudicate Attorney's Rights and to Enforce Attorney's Lien and (2) to Consolidate Hearings Regarding (a) Motion to Adjudicate Attorney's Rights and (B) Motion for Leave to File Motion to Enforce Settlement Under Seal is hereby GRANTED. Ms. Samberg to prepare, circulate and submit the Order.

COURT stated it FINDINGS and FURTHER ORDERED, Third Party Defendant's Motion for Leave to File Motion to Enforce Settlement Under Seal is hereby GRANTED. Ms. Samberg to prepare, circulate and submit the Order.

Court stated the parties should mediate any potential malpractice dispute.



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

MITCHELL STIPP, ESQ.
1180 N. TOWN CENTER DR., SUITE 100
LAS VEGAS, NV 89144

DATE: August 24, 2021
CASE: A-19-803425-C

RE CASE: R&K CONCRETE CUTTING, INC. dba R&K DEVELOPMENT vs. 5550 PAINTED MIRAGE RD., LLC

NOTICE OF APPEAL FILED: August 20, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER: 1) GRANTING TRAVELERS' MOTION TO ENFORCE SETTLEMENT AND MOTION TO ADJUDICATE PARTIES' RIGHTS TO ENFORCE LIEN, 2) GRANTING POLI, MOON, & ZANE'S MOTION TO ADJUDICATE ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN, 3) GRANTING ALL RELATED MOTIONS TO SEAL AND/OR REDACT AND MOTION TO CONSOLIDATE HEARINGS, AND 4) DIRECTING TRAVELERS TO DEPOSIT SETTLEMENT FUNDS WITH THE COURT; NOTICE OF ENTRY OF ORDER: 1) GRANTING TRAVELERS' MOTION TO ENFORCE SETTLEMENT AND MOTION TO ADJUDICATE PARTIES' RIGHTS TO ENFORCE LIEN, 2) GRANTING POLI, MOON, & ZANE'S MOTION TO ADJUDICATE ATTORNEY'S RIGHTS AND TO ENFORCE ATTORNEY'S LIEN, 3) GRANTING ALL RELATED MOTIONS TO SEAL AND/OR REDACT AND MOTION TO CONSOLIDATE HEARINGS, AND 4) DIRECTING TRAVELERS TO DEPOSIT SETTLEMENT FUNDS WITH THE COURT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

R&K CONCRETE CUTTING, INC. dba R&K
DEVELOPMENT,

Plaintiff(s),

vs.

5550 PAINTED MIRAGE RD., LLC,

Defendant(s),

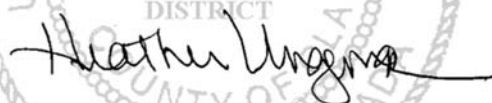
Case No: A-19-803425-C

Dept No: V

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of August 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk