

ANIELA K. SZYMANSKI, ESQ.
LAW OFFICE OF ANIELA K. SZYMANSKI, LTD.
Nevada Bar No. 15822
3901 W. Charleston Boulevard
Las Vegas, NV 89102
(725) 204-1699
Attorney for Appellant

Electronically Filed
Jan 27 2022 08:37 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

YOAV EGOSI)	
Appellant,)	No.: 83454
vs.)	
PATRICIA EGOSI, N/K/A)	District Court Case No.: D-16-540174-
PATRICIA LEE WOODS,)	D
Respondent.)	

JOINT APPENDIX

VOLUME 6 OF 19

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ORD
LEAVITT LAW FIRM
DENNIS M. LEAVITT, ESQ.
 Nevada Bar No. 3757
 Dennis@LeavittLawFirm.com
FRANK A. LEAVITT, ESQ.
 Nevada Bar No. 13907
 Frank@LeavittLawFirm.com
 229 Las Vegas Blvd. So.
 Las Vegas, Nevada 89101
 (702) 384-3963
 (702) 384-6105 (Fax)
 Attorneys for YOAV EGOSI

Electronically Filed
 09/20/2017

Heather S. Lewis
 CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

PATRICIA EGOSI,

 Plaintiff,

 vs.
 YOAV EGOSI,

 Defendant.

CASE NO.: D-16-540174-D

DEPT. NO.: Q

Hearing Date: 9/8/2017

Hearing Time: 9:00 a.m.

RECEIVED
 SEP 11 2017

FAMILY COURT
DEPARTMENT Q

ORDER

THIS MATTER HAVING COME ON before the above-entitled Court for an Evidentiary Hearing; Attorney Joe Riccio and Alicia Exley, of Vegas West Attorneys present and on behalf of Plaintiff; Attorney Dennis M. Leavitt, Esq. of Leavitt Law Firm present and on behalf of Defendant; and the Court having before it all the papers and pleadings on file herein being fully advised in the premises, good cause appearing therefore;

THE COURT FINDS that a conflict of interest occurs with Plaintiff's new counsel, therefore they shall not be participating any further in the hearing.

THE COURT FURTHER FINDS that Mr. Leavitt requested Defendant's request for sole legal and sole physical custody be granted. Defendant sworn and testified. **THE**

1 **COURT FURTHER FINDS** that it is admitting Dr. Paglini's report as the Court's
2 exhibit.

3 Based on the record established through the admission:

4 **IT IS HEREBY ORDERED** that Defendant's Motion is GRANTED.

5 **IT IS FURTHER HEREBY ORDERED** that Defendant shall have SOLE LEGAL
6 CUSTODY of the minor child, Benjamin Egosi, born January 14, 2014.

7 **IT IS FURTHER HEREBY ORDERED** that Defendant shall have SOLE
8 PHYSICAL CUSTODY of the minor child.

9 **IT IS FURTHER HEREBY ORDERED** that once Plaintiff is released from
10 incarceration she shall have SUPERVISED VISITATION every Sunday, Tuesday and
11 Thursday from 4:00 PM to 8:00 PM. Plaintiff's VISITATION shall continue to be
12 SUPERVISED by Viktorin Newman.

13 **IT IS FURTHER HEREBY ORDERED** that as Defendant currently has SOLE
14 LEGAL CUSTODY, he could travel to Israel with the minor child Benjamin Egosi, born
15 January 14, 2014.

16 **IT IS FURTHER HEREBY ORDERED** that a CASE MANAGEMENT
17 CONFERENCE is set for October 31, 2017 at 11:00 AM.

18 **IT IS FURTHER HEREBY ORDERED** the Motion for Reconsideration set for
19 September 27, 2017 at 9:00 AM is hereby CONTINUED to October 31, 2017 at 11:00
20 AM.

21 DATED this SEP 14 2017 day of September, 2017.

22
23 
DISTRICT COURT JUDGE

24 Respectfully Submitted By:

25 LEAVITT LAW FIRM

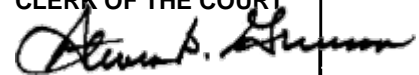
26 
DENNIS M. LEAVITT, ESQ.

27 Nevada Bar No. 3757

28 229 Las Vegas Blvd. So.

Las Vegas, Nevada 89101

Attorneys for YOAV EGOSI



ORDR

DISTRICT COURT
CLARK COUNTY, NEVADA

PATRICIA EGOSI,

Plaintiff,

v.

YOAV EGOSI,

Defendant.

CASE NO. D-16-540174-D
DEPT NO. Q

ORDER

This matter came on for a Case Management Conference on October 31, 2017. Plaintiff appeared through her attorney, Stephen Oliver, Esq., and Defendant appeared personally and by and through his attorney, Dennis M. Leavitt, Esq. As part of the case management discussion, Plaintiff raised a potential business valuation issue. Discussion ensued regarding this Court's findings and conclusions at the June 14, 2017 evidentiary hearing, as well as comments made by the Court at subsequent hearings. This Order is issued for the limited purpose of clarifying this Court's findings and conclusions regarding the validity of the Premarital Agreement. This Order *is not* intended to state all findings and conclusions related to said evidentiary proceedings.

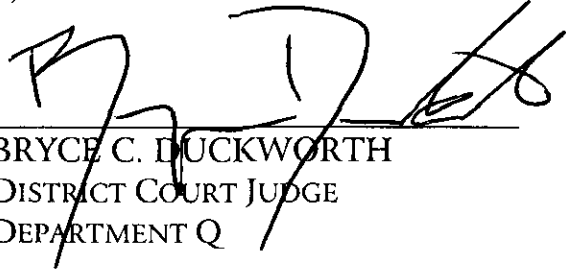
Based on this Court's review of the June 14, 2017 videotape record, with specific reference to the expert testimony offered by Mr. Edlin, this Court concluded that it is

1
2 afforded some discretion under Georgia law to uphold a premarital agreement in whole
3 or in part. In this regard, this Court specifically found that, "given the discretion that
4 I do have, there should be a limiting aspect to the enforceability of the terms of the
5 prenuptial agreement." To this end, the Court found that "the only assets that I view
6 as being protected by the Prenuptial Agreement are the four assets listed in the Exhibit
7 attached to the Prenuptial Agreement." The Court specifically noted that bank
8 accounts were not referenced as a protected asset in the Prenuptial Agreement. This
9 Court reiterated that: "It is limited to the specific assets that have been referenced and
10 no other assets are included as part of the protection offered by the Prenuptial
11 Agreement." June 14, 2017 Videotape at 17:17. This Court then noted that, *as it*
12 *relates to the specific business entities identified in the Prenuptial Agreement*, there was
13 no need for a business valuation. This finding would not apply to business entities
14 created thereafter.

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18 Based on the foregoing, and good cause appearing therefor,

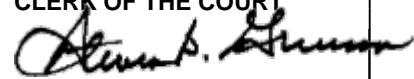
19
20 It is hereby ORDERED that discovery limitations should apply only to the
21 specific assets referenced in the Prenuptial Agreement. It is further ORDERED that
22 all bank account information (including bank account information for *any* business
23 entity) is subject to discovery.

24
25 DATED this 1st day of November, 2017.

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BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE
DEPARTMENT Q

BRYCE C. DUCKWORTH
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q
LAS VEGAS, NEVADA 89101



MOT
LEAVITT LAW FIRM
DENNIS M. LEAVITT, ESQ.
Nevada Bar No. 3757
Dennis@LeavittLawFirm.com
FRANK A. LEAVITT, ESQ.
Nevada Bar No. 13907
Frank@LeavittLawFirm.com
229 Las Vegas Boulevard South
Las Vegas, Nevada 89101
(702) 384-3963
(702) 384-6105 (Fax)
Attorney for YOAV EGOSI

DISTRICT COURT
CLARK COUNTY, NEVADA

PATRICIA EGOSI,

Plaintiff,

vs.

YOAV EGOSI,

Defendant.

CASE NO.: D-16-540174-D

DEPT. NO.: Q

Hearing Date: January 4, 2018

Hearing Time: No Appearance Required

ORAL ARGUMENT: NO

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

MOTION TO CLARIFY OR CORRECT THIS COURT'S NOVEMBER 3, 2017 ORDER

COMES NOW, Defendant YOAV EGOSI, by and through his undersigned counsel of record Dennis M. Leavitt, Esq. and Frank A. Leavitt, Esq. of LEAVITT LAW FIRM, and hereby files this Motion seeking clarification and/or correction of this Court's November 3, 2017 Order, as follows:

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///

///

This Motion is made and based on all the papers and pleadings on file herein and the points and authorities attached hereto.

DATED this 22 day of November 2017.

LEAVITT LAW FIRM

BY: 

DENNIS M. LEAVITT, ESQ.
Nevada Bar No. 3757
229 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Attorney for YOAV EGOSI

NOTICE OF MOTION

TO: PATRICIA EGOSI, Plaintiff; and
STEPHEN S. OLIVER, ESQ., Plaintiff's attorney.

YOU AND EACH OF YOU will please take notice that Defendant will bring the foregoing *Motion* on for hearing on the 4th day of January 2018, ~~2017~~ at No Appearance Required a.m./p.m. in Family Court, Department Q located at 601 North Pecos Road, Las Vegas, Nevada 89101.

DATED this 22 day of November 2017.

LEAVITT LAW FIRM

BY: 

DENNIS M. LEAVITT, ESQ.
Nevada Bar No. 3757
229 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Attorney for YOAV EGOSI

POINTS AND AUTHORITIES

This matter came on for hearing on October 31, 2017 for the Case Management Conference. Certain comments were made which led this Honorable Court to issue an Order dated November 3, 2017. Mr. Egosi seeks clarification of this Honorable Court's Order as it seems to contradict this Court's prior Finding and Order that the pre-marital agreement between the parties was valid.

Page 2, section 2 of the premarital agreement states:

The parties hereby acknowledge that with respect to any determination of ownership of property that may occur in the event of the parties separating, or upon the death of a party, all property will be treated as separate property owned solely by one party unless there is proof of shared legal ownership.

Page 2, section 3 of the premarital agreement also states:

Unless a particular piece of property is explicitly documented as being owned by both parties, the following types of property will not be deemed as shared property:

- a. any property owned by a party at the date of execution of this Agreement;*
- b. any property owned by a party after the date of execution of this Agreement;*
- c. any property acquired in exchange for present property, or from the proceeds of a sale of present property, whether direct or indirect, of a disposition of present property;*
- d. any income or proceeds derived from property owned by a party before or after the execution of this Agreement;*
- e. any property acquired by either party with income received during their marriage from property owned by a party before or after the execution of this Agreement;*
- f. any increase in value during the period of marriage of any property owned by a party before or after the execution of this Agreement;*
- g. any property acquired by a party by gift from the other party;*
- h. any property acquired by a party by gift from a third party;*
- i. any property acquired by a party through an inheritance;*
- j. any winnings from any sport, game or lottery;*
- k. any award or settlement acquired from a lawsuit;*
- l. any proceeds from an insurance policy;*
- m. any earnings, salary or wage, acquired before or after the execution of this Agreement; and*
- n. any savings acquired before or after the execution of this Agreement.*

This Court's November 3, 2017 Order beginning at line 13 on page 2 states, "this Court then noted that, as it relates to the specific business entities identified in the

1 Prenuptial Agreement, there was no need for a business valuation. This Finding would
2 not apply to business entities created thereafter.” The last sentence “This Finding would
3 not apply to business entities created thereafter,” seems inconsistent with the express
4 terms of the premarital agreement which this Honorable Court held to be valid.

5 By its express terms, the Prenuptial Agreement basically states that any property
6 purchased or owned by a party after the execution the agreement is separate property.
7 Moreover, section 2 on page 2, basically states that the parties acknowledge that all
8 property will be treated as separate property owned solely by one party unless there is
9 proof of shared legal ownership. With the contentiousness of the litigation in these
10 proceedings, Mr. Egosi is over concerned that this sentence on line 16, page 2 of this
11 Court’s November 3, 2017 Order infers a need for business valuations of business
12 entities created after the execution of the pre-marital agreement. In order for this to be
13 true, the express terms of the premarital agreement must necessarily need to have
14 been found invalid. Since this was not the case, Mr. Egosi respectfully requests that this
15 Honorable Court enter an Order clarifying it’s November 3, 2017 Order.

16 LEGAL ARGUMENT

17
18 NRCP 60 states:

19 **RELIEF FROM JUDGMENT OR ORDER**

20 *(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other*
21 *parts of the record and errors therein arising from oversight or omission may be*
22 *corrected by the court at any time of its own initiative or on the motion of any*
23 *party and after such notice, if any, as the court orders. During the pendency of an*
24 *appeal, such mistakes may be so corrected before the appeal is docketed in the*
25 *appellate court, and thereafter while the appeal is pending may be so corrected*
26 *with leave of the appellate court.*

27 *(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered*
28 *Evidence; Fraud, Etc. On motion and upon such terms as are just, the court*
may relieve a party or a party’s legal representative from a final judgment, order,
or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or
excusable neglect; (2) newly discovered evidence which by due diligence could
not have been discovered in time to move for a new trial under Rule 59(b); (3)
fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation
or other misconduct of an adverse party; (4) the judgment is void; or, (5) the
judgment has been satisfied, released, or discharged, or a prior judgment upon
which it is based has been reversed or otherwise vacated, or it is no longer

equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding was taken or the date that written notice of entry of the judgment or order was served. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

[As amended; effective January 1, 2005.]

YOAV EGOSI submits that the correct language of this Court's Order should state, "This Finding would apply to business entities created thereafter." In other words, the simple deletion of the word "not" would bring this Court's November 3, 2017 Order in line with the express terms of the Prenuptial Agreement along with this Court's Finding that such agreement was valid. This is further evidenced by this Honorable Court's ruling set forth in the Court Minutes from the hearing on August 29, 2017. Item No. 11 of the August 29, 2017 Court Minutes states, **"11 There's been no Opposition filed to the Motion for business valuation set on the Court's Chamber Calendar on 8/31/17. The Court had allowed some discovery to determine if some non-disclosed assets existed, and if there were non-disclosed assets, then those would be covered under the Pre-Nuptial Agreement. There is no modification today and there would be a need to have those valued if there is proof."** Accordingly, YOAV EGOSI respectfully requests that this Court enter an Order clarifying and/or modifying this Court's November 3, 2017 Order by simply deleting the word "not" from line 16 on page 2 of that Order as explained and set forth above.

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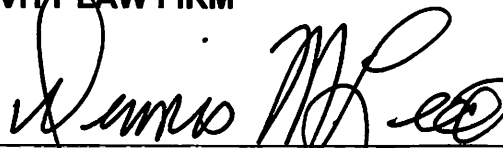
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CONCLUSION

Based on the above and foregoing, YOAV EGOSI, respectfully requests the relief as set forth above.

DATED this 22 day of November 2017.

LEAVITT LAW FIRM

BY: 

DENNIS M. LEAVITT, ESQ.
Nevada Bar No. 3757
229 Las Vegas Boulevard South
Las Vegas, Nevada 89101
Attorney for YOAV EGOSI

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

PATRICIA EGOSI
Plaintiff/Petitioner
v. YOAV EGOSI
Defendant/Respondent

Case No. D-16-540174-D
Dept. Q

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

<input type="checkbox"/> \$25	The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
-OR-	
<input checked="" type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
<input checked="" type="checkbox"/> The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.	
<input type="checkbox"/> The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.	
<input type="checkbox"/> The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.	
<input type="checkbox"/> Other Excluded Motion (must specify) _____.	

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

<input checked="" type="checkbox"/> \$0	The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
<input checked="" type="checkbox"/> The Motion/Opposition is being filed in a case that was not initiated by joint petition.	
<input type="checkbox"/> The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.	
-OR-	
<input type="checkbox"/> \$129	The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
-OR-	
<input type="checkbox"/> \$57	The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

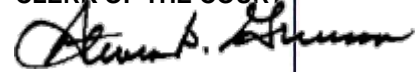
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☒ \$0 ☐ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition: YOAV EGOSI Date 11/22/2017

Signature of Party or Preparer 



1 **OPPC**

2 **STEPHEN S. OLIVER, ESQ.**

3 Nevada Bar No. 14100

4 **FORD & FRIEDMAN**

5 2200 Paseo Verde Pkwy., Ste 350

6 Henderson, Nevada 89052

7 Telephone: (702) 476-2400

8 Fax: (702) 476-2333

9 soliver@fordfriedmanlaw.com

10 *Attorney for Plaintiff*

11 **DISTRICT COURT, FAMILY DIVISION**
12 **CLARK COUNTY, NEVADA**

13 **PATRICIA ELIS EGOSI,**

14 Plaintiff,

15 vs.

16 **YOAV EGOSI,**

17 Defendant.

CASE NO.: D-16-540174-D

DEPT: Q

Hearing Date: January 4, 2018

Hearing Time: No appearance Required

Oral Argument Requested: No

18 **OPPOSITION TO PLAINTIFF'S MOTION TO CLARIFY OR CORRECT**
19 **THIS COURT'S NOVEMBER 3, 2017 ORDER AND COUNTERMOTION**
20 **FOR ATTORNEY'S FEES AND COSTS**

21 COMES NOW Plaintiff Patricia Egosi by and through her Attorney of
22 Record, Stephen S. Oliver, Esq. of the law firm Ford & Friedman, and hereby
23 moves this Honorable Court to issue the following Orders:

- 24 1. For an Order denying Defendant's request that this Court to modify
25 the November 3, 2017 Order entered by this Court;

- 1 2. For an Order awarding Plaintiff attorney's fees and costs for bringing
2 this instant Opposition and Countermotion; and,
3
4 3. For any other relief as this Court deems just and proper.

5 This Opposition and Countermotion is based upon the papers and pleadings
6
7 on file, and any oral argument this Court may wish to consider.

8 DATED this 15th day of December, 2017.

9
10 **FORD & FRIEDMAN**

11 

12 STEPHEN S. OLIVER, ESQ.

13 Nevada Bar No.: 14100

14 2200 Paseo Verde Parkway, Suite 350

15 Henderson, Nevada 89052

16 T: (702) 476-2400

17 *Attorney for Plaintiff*

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1 premarital agreement were those assets that were specifically listed on the exhibit
2 sheet attached to the premarital agreement. *Id.* at 17:16:05. The Court further
3 noted that bank statements, which were items not listed on the exhibit sheet, were
4 discoverable, and also could be subject to division should the Court determine that
5 Defendant had been concealing and accruing community funds in these bank
6 accounts. The Court further noted that it did not view the agreement as protecting
7 bank accounts, bank account information, or any other assets created during the
8 marriage.
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12 On August 1, 2017, Patricia's counsel filed a Motion for a business
13 valuation of the business entity, JoiBiz, LLC, an entity created after the marriage,
14 and not disclosed on the prenuptial agreement. Defendant did not file an
15 Opposition to the same. At the August 29, 2017 hearing, Patricia's counsel made
16 arguments regarding her request for a business valuation of JoiBiz. This Court
17 acknowledged its rulings from the evidentiary hearing, and specifically indicated
18 it did not intend to modify those previous rulings. The Court then read a portion of
19 the premarital agreement, and specifically noted that this portion of the premarital
20 agreement would only relate to the four (4) assets disclosed in the exhibit pages.
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24 At the October 31, 2017 case management conference, the undersigned
25 informed the Court that it was believed that a valuation of the parties' community
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1 business would need to be performed to receive finality in this matter, and that
2 more discovery would be required as Defendant had failed to adequately tender
3 the requisite documentation as ordered by the discovery commissioner. Defendant
4 objected and misinterpreted the Court's previous rulings to believe that the
5 portions of the premarital agreement citing to the provisions protecting the four
6 (4) listed assets instead applied to any and all of the assets earned by either of the
7 property during the marriage. The Court indicated that this issue would need to be
8 clarified and would review the video of the previous hearing and issue a clarifying
9 order regarding the same.
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14 On November 3, 2017, this Court issued the underlying Order, which
15 Defendant is seeking to either clarify or modify. Notice of Entry of the Order was
16 delivered to both attorney's folder the same day. The Court's decision came after
17 an obvious review of the previous video of the hearing, and the Court reiterated its
18 position that the premarital agreement only extended as far as those assets listed
19 on the exhibit sheet, and that community property would need to be accurately
20 inventoried and valued so that the community created during the marriage could
21 be equally divided pursuant to Nevada law.
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II.

OPPOSITION

A. DEFENDANT'S REQUEST FOR THIS COURT TO RECONSIDER OR OTHERWISE MODIFY ITS NOVEMBER 3, 2017 ORDER SHOULD BE DENIED AS THE COURT MERELY REITERATED ITS DECISION MADE AFTER A FULL TWO-DAY EVIDENTIARY HEARING.

1. The Instant Opposition is timely.

Defendant filed his Motion for Clarification on November 22, 2017. However, when filing his Motion, Defendant failed to ever attach a certificate of service. Without such a certification, no deadline was ever imposed for the instant Opposition, and therefore this Opposition should be considered timely.

2. Defendant's Motion should be denied as it was untimely.

While Defendant styles his current Motion as a Motion for Clarification or Modification, it is, in essence, a Motion for Reconsideration. EDCR 2.24(b) governs the filing of such a Motion, and requires the filing to be done within ten (10) judicial days. The instant Order, and Notice of Entry of the same was filed on November 3, 2017. As such, the instant Motion for Reconsideration would have been due on November 20, 2017.¹ Defendant's filing was on November 22, 2017,

¹ It should be noted that ten (10) judicial days prescribed would make the deadline for the Motion for Reconsideration due on November 17, 2017. However, even if the Court were to

1 two (2) days late. Therefore, Defendant's Motion for Reconsideration should be
2 denied.
3

4 3. Defendant's Motion should be denied as this Court's Order echoed its
5 previously rulings in this matter.

6 Defendant cites to NRCP 60 requesting relief from judgment.
7
8 Conspicuously absent from the Motion is any specific factual averments tied to
9 the legal standards as set forth in NRCP 60. Instead, Defendant cites to the
10 provisions of the premarital agreement, and claims that the terms of the premarital
11 agreement preclude a valuation into the community business. Unfortunately,
12 Defendant has seemingly misunderstood this Court's clear rulings on this matter.
13
14 As was noted at length in the evidentiary hearing, this Court determined that it did
15 not need to validate, or conversely invalidate, the entirety of the premarital
16 agreement, but could instead chart a middle course. Pursuant to the *Alexander*
17 case, this Court was empowered with the ability to "approve the agreement in
18 whole or in part, or refuse to approve it as a whole." 279 Ga. at 117, 610 S.E. at
19 50. This Court utilized this discretion, and set forth the following limits to the
20 enforceability of the premarital agreement to four (4) separate and distinct assets,
21 to wit: (1) the Condo located at 2881 Peachtree Rd. Unit 1101, Atlanta, GA
22
23
24
25

26
27 apply EDCR 1.14(c) and (d), it would only leave three (3) calendar days for mailing, which
28 would be added after November 17, 2017, ensuring the deadline was November 20, 2017.

1 30305, (2) a 2005 Mercedes SL55 AMG, (3) 100% Shares of Hawk
2 Communications dba JoiPhone, and (4) 100% shares of Hawk VoIP LLC. As
3 such, the language as set forth in the premarital agreement regarding the separate
4 property nature of these four (4) assets is fully and entirely enforceable, **but it**
5 **does not apply to any other assets owned by either party.**
6
7

8 This Court acknowledged time and again this outer limit as to the extent of
9 the enforcement of the premarital agreement. As such, the language cited to by
10 Defendant within the premarital agreement **does not** apply to other assets created
11 during the marriage. It has been clear that assets created after the marriage, and
12 even potential community property assets being held in bank accounts owned by
13 Defendant's separate property assets were subject to discovery, and eventual
14 division by this Court. Such an interpretation is consistent with Nevada
15 community property law. As such, Defendant's request that this Court modify its
16 November 3, 2017 Order and make the requested correction to the Order, should
17 be denied.
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III.

COUNTERMOTION

A. PATRICIA SHOULD BE AWARDED ATTORNEY'S FEES FOR HAVING TO RESPOND TO THE INSTANT MOTION

NRS 18.010(b) allows for an award of attorney's fees where:

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

Additionally, EDCR 7.60 provides that:

- b) The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:
- 1) Presents to the court a motion or an opposition to a motion, which is obviously frivolous, unnecessary or unwarranted.
 - 2) Fails to prepare for a presentation.
 - 3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.
 - 4) Fails or refuses to comply with these rules.

1 5) Fails or refuses to comply with any order of a judge of the
2 court.

3 Here, Defendant should be required to pay Patricia's attorney's fees
4
5 pursuant to NRS 18.010 and EDCR 7.60, as she has been forced to file this
6 Opposition and Countermotion and it is believed that she will be the prevailing
7 party in this matter. Defendant's Motion for Clarification was untimely, but also
8 simply a waste of this Court's time. This Court has made it clear on multiple
9 occasions the extent of the enforcement of the premarital agreement. Defendant
10 simply does not like the answer because it means he will be required to tender
11 funds to Patricia. Defendant's entire litigation strategy has solely revolved around
12 avoiding a disclosure of the true nature and extent of his assets, and this Motion
13 was simply another attempt at the same.
14
15
16

17 For these reasons an award of appropriate attorney's fees and costs to
18 Patricia is warranted. The undersigned has included a *Brunzell Affidavit*, attached
19 hereto as **Exhibit "1"**, to assist the Court in reviewing this request for fees.
20
21 Should the Court be inclined to review billing statements from Ford & Friedman,
22 the same can be made available upon request.
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III.

CONCLUSION

For the foregoing reasons, Plaintiff, Patricia Egosi, respectfully requests that this Court enter the following Orders:

1. For an Order denying Defendant's request that this Court to modify the November 3, 2017 Order entered by this Court;
2. For an Order awarding Plaintiff attorney's fees and costs for bringing this instant Opposition and Countermotion; and,
3. For any other relief as this Court deems just and proper.

DATED this 15th day of December, 2017.

FORD & FRIEDMAN



STEPHEN S. OLIVER, ESQ.

Nevada Bar No.: 14100

2200 Paseo Verde Parkway, Suite 350

Henderson, Nevada 89052

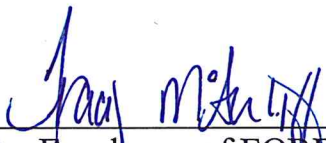
T: (702) 476-2400

Attorney for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 18th day of December, 2017, I did cause to be
3 served, a true and correct copy of the foregoing **“OPPOSITION TO**
4 **PLAINTIFF’S MOTION TO CLARIFY OR CORRECT THIS COURT’S**
5 **NOVEMBER 3, 2017 ORDER AND COUNTERMOTION FOR**
6 **ATTORNEY’S FEES AND COSTS”** to be served via the Eighth Judicial
7 District Court’s electronic filing/service system, to the below registered users as
8 follows:
9

10
11
12 Dennis Leavitt, Esq.
13 dennis@leavittlawfirm.com
14 leah@leavittlawfirm.com
15 l.danielson@leavittlawfirm.com
16 *Attorney for Defendant*

17
18
19 
20 An Employee of FORD & FRIEDMAN

21 4850-8802-7466, v. 2

“EXHIBIT 1”

“EXHIBIT 1”

1 **DECLARATION OF STEPHEN S. OLIVER, ESQ. UNDER**
2 **BRUNZELL v. GOLDEN GATE NAT'L BANK**

3 I, Stephen S. Oliver, Esq., do declare under the law of the State of Nevada that the
4 foregoing is true and correct to the best of my knowledge and that I have personal knowledge of
5 the facts contained herein, and I am competent to testify thereto.

6 Pursuant to *Brunzell v. Golden Gate Nat'l Bank*, in addition to hourly time schedules,
7 the court may consider the following factors in an award of attorney's fees.

- 8
- 9 1. The qualities of the advocate: his ability, his training, education, experience,
10 professional standing and skill;
 - 11 2. The character of the work to be done: its difficulty, its intricacy, its importance, time and
12 skill required, the responsibility imposed and the prominence and character of the parties
13 where they affect the importance of the litigation;
 - 14 3. The work actually performed by the lawyer: the skill, time and attention given to the
15 work; and,
 - 16 4. The result: whether the attorney was successful and what benefits were derived.

17 *See Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349 (1969).

18 I attended and graduated *Cum Laude* from the J. Rueben Clark Law School at Brigham
19 Young University, a top 40 law school in the country. While in law school, I worked for two (2)
20 federal judges on various complex family matters, I was a Senior Editor on the BYU Law
21 Review, and was a traveling oralist on the Moot Court team. I am licensed to practice law in
22 both Nevada and Utah. While in Utah, I worked for two (2) law firms practicing specifically in
23 law school and learning the intricacies of law. Upon moving to Nevada, I worked for a
24 prominent family law attorney for over a year prior to working with my current firm, for a
25 period lasting almost an entire year. I have practice primarily in the area of family law,
26 encompassing complex divorce, child custody, and post decree enforcement and modification.
27 Throughout this progression of events, I have gained a working knowledge of the intricacies of
28

1 the practice area and have a distinguished reputation and am respected by the members of
2 Nevada's Judiciary, as well as, fellow members of the Nevada Bar.

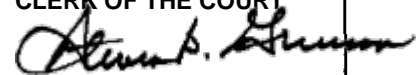
3 The character of the work done in this matter has been sophisticated, and necessitous of
4 analysis of numerous hearings and a voluminous file to determine the extent of this Court's
5 rulings regarding the parties' premarital agreement. Such work necessarily required many hours
6 of time, as previous counsel had expended in excess of \$100,000.00 litigating this matter. I
7 further analyzed multiple pages of documents regarding the nature of the parties' assets, and
8 debts at issue herein. Therefore, based upon the Defendant's actions, my client incurred
9 significant fees and costs related to the instant matter.
10

11 Each matter that crosses my desk receives extreme scrutiny and the upmost attention to
12 detail. Moreover, I am extremely knowledgeable regarding the overall status and direction of
13 each matter, and I generally handle all day to day tasks which arise. In this matter, I have been
14 counsel to Defendant for the greater part of three (3) months, and have had the opportunity to
15 extensively review the file, and this Court's rulings. As such, I am extremely well versed on the
16 facts, law and issues surrounding this case. As such, the billing on this matter is very
17 reasonable.
18

19 Although decision on this matter has not yet been rendered, it is reasonable to believe
20 that my client will prevail, and her request for attorney's fees regarding the same is grounded in
21 solid legal and factual basis.
22

23
24 DATED this 15th day of December, 2017.

25
26 /s/ Stephen S. Oliver
27 STEPHEN S. OLIVER, ESQ.
28



1
2 ORDR
3
4

5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 PATRICIA EGOSI,)

8 Plaintiff,)

9 v.)

CASE NO. D-16-540174-D

DEPT NO. Q

10 YOAV EGOSI,)

11 Defendant.)
12
13

14 ORDER

15
16 Defendant filed a Motion to Clarify or Correct this Court's November 3, 2017
17 Order (Nov. 22, 2017) (hereinafter referred to as Defendant's "Motion"). Defendant's
18 Motion is set on this Court's January 4, 2018 Chamber Calendar. Plaintiff filed an
19 Opposition to Plaintiff's Motion to Clarify or Correct This Court's November 3, 2017
20 Order and Countermotion for Attorney's Fees and Costs (Dec. 18, 2017) (hereinafter
21 referred to as Plaintiff's "Opposition"). Additionally, Defendant's former attorneys,
22 Leavitt Law Firm, filed a Motion to Withdraw as Attorney of Record (Dec. 1, 2017),
23 which is also set on this Court's January 4, 2018 Chamber Calendar.
24

25
26 This Court has reviewed and considered the papers on file and finds as follows:

27 Preliminarily, in light of the filing of the Substitution of Attorneys (Dec. 27,
28 2017), the Motion to Withdraw as Attorney of Record (Dec. 1, 2017) is rendered

1 moot. With respect to Defendant's Motion, this Court's Order (Nov. 3, 2017) was
2 intended to clarify the record with respect to the Court's findings and orders pertaining
3 to the validity of the Prenuptial Agreement. Based on the expert testimony offered
4 during the evidentiary proceedings by Mr. Edlin, this Court found that the protections
5 offered by the Prenuptial Agreement should be limited strictly to those assets
6 specifically identified as part of the Prenuptial Agreement. To the extent this Court
7 made statements regarding the Prenuptial Agreement after the June 14, 2017
8 evidentiary proceedings that appear to be inconsistent with said findings, the Order
9 (Nov. 3, 2017) confirms the limiting aspect of this Court's findings. Defendant's
10 Motion is procedurally and substantively without merit and should be denied.
11 Moreover, Plaintiff should be awarded attorney's fees for the necessity of opposing
12 Defendant's unnecessary Motion. After considering the *Brunzell* factors, this Court
13 finds that the sum and amount of \$1,500 should be awarded as and for fees and costs.

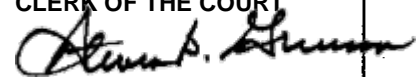
14 Based on the foregoing findings, and good cause appearing therefor,

15 It is hereby ORDERED that Defendant's Motion is DENIED. It is further
16 ORDERED that Plaintiff is awarded the sum of \$1,500 as and for attorney's fees and
17 costs against the Defendant. It is further ORDERED that said \$1,500 is reduced to
18 judgment and may be collected by any legal and lawful means.

19 DATED this 4th day of January, 2018.

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BRYCE C. DUCKWORTH
DISTRICT COURT JUDGE
DEPARTMENT Q



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ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

PATRICIA EGOSI,

Plaintiff,

v.

YOAV EGOSI,

Defendant.

CASE NO. D-16-540174-D

DEPT NO. Q

Dates of Hearing: June 13, 2017
June 14, 2017

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERS

This matter came before the above-entitled Court for evidentiary proceedings on June 13, 2017 and June 14, 2017 on Plaintiff's Notice of Motion and Motion to Invalidate the Prenuptial Agreement, for a Business Valuation, for Spousal Support Arrears, and for Attorney's Fees and Costs (Jan. 5, 2017) (hereinafter referred to as Plaintiff's "Motion to Invalidate"), and Defendant, Yoav Egosi's, Motion to Validate the Prenuptial Agreement (Jun. 9, 2017) (hereinafter referred to as Defendant's "Motion to Validate").¹ Plaintiff, Patricia Egosi (hereinafter "Plaintiff"), appeared with

¹The Court noted the unique circumstances surrounding the scheduling of these evidentiary proceedings in light of the posture of the case. Although custody should be the initial issue adjudicated by the Court, evidentiary hearing dates were moved to accommodate schedules. Moreover, this Court recognized that the issue of the validity of the Prenuptial Agreement was hindering and/or stalling discovery efforts. Both parties stipulated to the manner in which these proceedings were scheduled.

1 her attorney of record, Emily McFarling, Esq., and Defendant, Yoav Egosi, appeared
2 through his attorney of record James Jimmerson, Esq. This Court had the opportunity
3 to consider the evidence admitted at the time of the evidentiary hearing, including the
4 testimony of the witnesses and the documentary evidence offered and admitted into
5 the record.²
6
7

8 The witnesses included: Plaintiff, Defendant, Nicole Rawley, David Plotkin and
9 Shiel Edlin, Esq. This Court had the opportunity to evaluate issues of credibility and
10 demeanor of the witnesses. Based thereon, and good cause appearing, the Court
11 FINDS and CONCLUDES as follows:³
12

13 FINDINGS OF FACT
14

15 1. The Prenuptial Agreement at issue was executed in Atlanta, Georgia. The
16 validity of the Prenuptial Agreement should be adjudicated under Georgia law pursuant
17 to the terms thereof. Defendant has the burden of proof to validate the terms of the
18 Prenuptial agreement.
19

20 ²Certain witnesses were excluded from testifying as a result of “notice” deficiencies that
21 were noted during the hearing. Although the Court offered more latitude with respect to the
22 timeliness of disclosures regarding the admission of documentary proof, objections to the
admission of certain exhibits were sustained.

23 ³This Court has inherent authority to construe and issue its orders. The Court’s
24 decision on this matter (including findings and conclusions) was issued orally at the conclusion
25 of the proceedings on June 14, 2017. At that time, Defendant’s counsel was directed to
26 prepare the findings, conclusions and orders from the proceedings. Both parties have
27 undergone changes in representation throughout the pendency of this highly contested
28 litigation. Indeed, current counsel for both parties was not involved in these evidentiary
proceedings. Proposed Findings of Fact, Conclusions of Law and Final Order were submitted
to the Court on *August 7, 2018*. Upon submission, and considering the lengthy delay in
Defendant submitting the same, this Court reviewed the record, including a renewed review
of the evidentiary proceedings. Based upon this review, these Findings of Fact, Conclusions
of Law and Orders are issued.

1
2 2. At prior hearings, this Court offered observations regarding the Prenuptial
3 Agreement based on the offers of proof (on the premise that the offers of proof would
4 be proven at the time of the evidentiary hearing). Based on those offers of proof, this
5 Court issued preliminary orders regarding attorney's fees to be paid by Defendant to
6 Plaintiff in advance of the evidentiary proceedings. Ultimately, the evidence offered
7 by Plaintiff failed to credibly establish the facts set forth in the offers of proof that she
8 had provided the Court in her papers. The offers of proof made through the parties'
9 respective papers (motions, opposition, replies) are important as they relate to the
10 parties' credibility. Those offers of proof tie into some of the factors that this Court
11 is required to consider under Georgia law.
12
13

14 3. Plaintiff made the following offers of proof in her papers:
15

- 16 a. Defendant mentioned to Plaintiff that he wanted a prenuptial
17 agreement;
- 18 b. Plaintiff did not know the meaning of a prenuptial agreement;
- 19 c. Plaintiff at first refused to sign a prenuptial agreement;
- 20 d. The prenuptial agreement was a document that was drafted in its
21 entirety either by Defendant or a representative of Defendant;
- 22 e. Defendant directed Plaintiff to sign the prenuptial agreement
23 knowing that Plaintiff was not fluent in English and did not have
24 legal counsel;
- 25 f. Plaintiff was presented the prenuptial agreement on the same date
26 that she signed the prenuptial agreement;
- 27 g. Plaintiff never spoke to counsel and was not informed that she
28 should retain counsel;
- h. Indeed, at the time of signing the prenuptial agreement, Plaintiff
could neither read nor write English; and
- i. Plaintiff worked as a stripper, had limited education and worked
for the business as a basic receptionist.

4. As a result of those offers of proof, this Court provided some level of
direction to the parties (or prejudgment of the issues) at hearings held prior to the

1
2 evidentiary hearing. This direction was premised on the evidence supporting the offers
3 of proof. The evidence actually adduced during the evidentiary hearing did not support
4 those offers of proof. Rather, based on the testimony that was offered, and this Court's
5 credibility determinations, this Court finds that:
6

- 7 a. Plaintiff did understand *in general* the meaning of the prenuptial
8 agreement. Further, she understood the nature and purpose of
9 such documents in her homeland of Brazil. Plaintiff had a general
10 understanding of the prenuptial agreement prior to having been
11 presented the same.
12
13 b. There was some involvement and participation by both parties in
14 the drafting of the prenuptial agreement. The form was generated
15 from an internet site both in June and then in August. *See* Exhibits
16 ZZ and LLL. Because Defendant was more familiar with the
17 process, he was the driving force in the preparation of the
18 agreement. It was clear nevertheless that there was information
19 that Plaintiff necessarily provided for the preparation of the
20 prenuptial agreement.
21
22 c. The Court recognizes that English is not Plaintiff's native tongue.
23 She maintains a distinct accent even today. She has developed
24 some fluency in the English language. Plaintiff's fluency or
25 proficiency in English was not as great at the time of the
26 prenuptial agreement as it is today. The Court does not accept
27 Plaintiff's offer, however, that Plaintiff was completely incapable
28 of reading or writing in English. That she could read and write
the English language was demonstrated, in part, by emails written
and sent by Plaintiff to Defendant. It appeared to be "broken"
English in some respects, which is still the case today with respect
to Plaintiff's fluency. Although Plaintiff acknowledged that she
speaks three languages (Spanish, Portuguese and English)
Defendant is more proficient and fluent in the English language
than is Plaintiff.

d. Plaintiff's offer of proof that the first time she saw the prenuptial
agreement was the day she signed the agreement is untrue.
Plaintiff actually did see an agreement that was not materially
different than the one she signed prior to August 2008. The only
changes from the June 2008 draft was the removal of the "child"

1
2 section and the addition of an asset and debt statement. The
3 Court had been led to believe that the first time that Plaintiff saw
4 any prenuptial agreement was in August 2008.

5 e. Prior to executing the agreement, Plaintiff spoke to an attorney
6 licensed to practice law in Florida. That attorney advised Plaintiff
7 not to sign the agreement, despite the fact that Plaintiff alleged
8 (without any corroboration or proof) that the attorney was aligned
9 with Defendant. Although the attorney was the girlfriend of a
10 friend of the Defendant, the credible testimony established that
11 this particular attorney did not think highly of Defendant and
12 advised against signing the agreement. Moreover, Defendant was
13 not aware that the Florida attorney's advice was sought.

14 f. The Florida attorney that advised the Plaintiff about the
15 prenuptial agreement was qualified to give advice in general about
16 prenuptial agreements, and that general advice is sufficient for
17 Plaintiff to understand her rights.

18 g. Plaintiff was educated, having graduated from the equivalent of
19 high school in Brazil and completing three (3) years of college.
20 Although this Court recognizes that the educational systems may
21 be different between countries, the notion that Plaintiff was largely
22 uneducated was not credible. In addition, Plaintiff had more work
23 experience than a mere receptionist.

24 h. Plaintiff worked at the business, Hawk Communication, that was
25 disclosed in the prenuptial agreement, she had access to
26 information concerning the business's finances, was aware of the
27 lifestyle the income generated by the business afforded the parties,
28 was familiar with the home that the Defendant was able to afford
due to the income generated by the business, and therefore had
adequate knowledge of the value of the assets disclosed by the
Defendant.

i. The disclosures made by Defendant were sufficient and timely
because, whether or not full disclosure of a specific dollar amount
attached to each asset was included, it was irrelevant to the
Plaintiff because she was in love, wanted to prove her love to the
Defendant, and it was inconsequential to the Plaintiff whatever
value the Defendant attached to the assets disclosed.

1
2 5. Overall, although this Court has reservations regarding both parties'
3 credibility based on the testimony offered during the evidentiary hearing, Plaintiff's
4 testimony was less credible as to the specific issues before the Court, taking into
5 consideration the offers of proof made by both parties prior thereto.
6

7 6. That the fact that the parties had a minor child during the marriage does
8 not qualify as changed circumstances for purposes of construing the prenuptial
9 agreement.
10

11 CONCLUSIONS OF LAW

12 Based upon the foregoing Findings of Fact, the Court makes its Conclusions of
13 Law as follows:

14 1. The choice of law provision of the prenuptial agreement provides that
15 Georgia law governs the enforcement of the prenuptial agreement. Based on the
16 application of Georgia law, Plaintiff failed to demonstrate that the prenuptial
17 agreement was the result of fraud, duress, mistake, misrepresentation, or non-disclosure
18 of material facts.
19
20

21 2. Under Georgia law, the review of antenuptial or prenuptial agreements is
22 a matter of case law. In this regard, it is not a matter of statutory interpretation. To
23 assist the Court, Defendant offered the testimony of Shiel Edlin, Esq., an attorney
24 licensed in the State of Georgia, regarding the application of Georgia law. Mr. Edlin's
25 testimony provided assistance to the Court in confirming this Court's understanding
26 of Georgia law (as previously briefed by the parties).
27
28