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Electronically Filed  
Jan 27 2022 08:39 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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

**JOINT APPENDIX**

**VOLUME 7 OF 19**

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1  
2 3. This Court reviewed *Mallen v. Mallen*, 280 Ga. 43, 622 S.E.2nd 812  
3 (2005), *Alexander v. Alexander*, 279 Ga. 116, 610 S.E.2nd 48 (2005), *Kwon v. Kwon*,  
4 333 Ga. App. 130, 775 S.E.2nd 611 (2015), and *Scherer v. Scherer*, 249 Ga. 635,  
5 640(2), 292 S.E.2d 662 (1982). "As a matter of public policy, antenuptial agreements  
6 made in contemplation of divorce are not absolutely void in Georgia." *Alexander v.*  
7 *Alexander*, 279 Ga. 116, 117, 610 S.E.2nd 48, 49 (2005). Unlike Nevada (which has  
8 adopted the Uniform Premarital Agreement Act), the review of prenuptial agreements  
9 is a matter of case law in Georgia. The court in *Alexander* cited *Scherer v. Scherer*, 249  
10 Ga. 635, 640(2), 292 S.E.2d 662 (1982), that identified the three factors or criteria the  
11 Court should look at for purposes of determining enforceability. The three criteria  
12 included: (1) Whether the agreement was procured by fraud, duress or mistake, or  
13 through misrepresentation or nondisclosure of material facts; (2) whether the  
14 agreement is unconscionable; and (3) whether facts and circumstances changed since  
15 the agreement was executed, so as to make its enforcement unfair and unreasonable.  
16 *Id.* at 641(3), 292 S.E.2d 662. Whether an agreement is enforceable in light of these  
17 criteria is a decision made in the trial court's sound discretion. *See Adams v. Adams*, 278  
18 Ga. 521, 522-523(1), 603 S.E.2d 273 (2004). Under Georgia law there is no specific  
19 requirement that a specific list or inventory of assets and debts or an attached financial  
20 statement accompany a prenuptial agreement.

21  
22 4. Based on the evidence admitted at the time of trial, Defendant satisfied  
23 his burden of demonstrating that the prenuptial agreement was not procured by fraud,  
24 duress, mistake, or through misrepresentation. This Court's primary concern relates

1 to the potential non-disclosure of material facts. In this regard, the disclosure of assets  
2 was limited and the timing thereof took place on the date of execution of the  
3 agreement. Although Plaintiff had participated in the drafting of the agreement, the  
4 disclosure of assets by Defendant was made after this participation. As a matter of  
5 equity, this creates a basis under Georgia law to limit the application of the agreement  
6 to only those assets specifically disclosed. On the date of execution, there was clearly  
7 a disclosure of specific assets that included a condominium located at 2881 Peachtree  
8 Road, Unit 1101, Atlanta, Georgia, the 2005 Mercedes SL55AMG, 100% shares of  
9 Hawk Communications (dba Joy Phone), and 100% shares of stock in Hawk Voip LLC.  
10 Separate debts included \$500,000 and revolving credit of \$130,000. Although there  
11 does not appear to be a specific disclosure requirement under Georgia law (such a  
12 disclosure is "preferable"), this is an equitable factor that should limit the application  
13 of the prenuptial agreement to those specific assets that were disclosed.<sup>4</sup> With the  
14 foregoing limitations, Defendant satisfied his burden to demonstrate that there was  
15 sufficient disclosure of material facts.

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21 5. Based on this Court's findings and conclusions, the prenuptial agreement  
22 is not unconscionable – either procedurally unconscionable or substantively  
23 unconscionable. From a substantive perspective, protecting and preserving assets  
24 owned prior to a marriage and protecting future stream of income is not uncommon or  
25

---

26  
27 <sup>4</sup>Defendant argued that the limited and late disclosure should be disregarded because  
28 Plaintiff made it clear that she would have signed the agreement without any disclosure. She  
was in love with Defendant and desired to marry him and "prove" her love for him. As a  
matter of equity, this Court is not persuaded that Defendant's limited and late disclosure  
should be completely disregarded.

1 unusual. Indeed, if the Court found or concluded that the terms set forth in the  
2 prenuptial agreement were substantively unconscionable, virtually every prenuptial  
3 agreement should be voided. Nevertheless, and again taking into consideration the late  
4 disclosure of an inventory or listing of assets, such a finding and conclusion is limited  
5 to the disclosures attached to the agreement. It is not procedurally unconscionable  
6 because there was a separation of time between the first time Plaintiff saw the  
7 prenuptial agreement and the time she executed it (a total of six (6) weeks).  
8 Considering everything that transpired in between and the fact that the prenuptial  
9 agreement did not become enforceable until the parties actually married, it was not  
10 procedurally unconscionable.  
11

12 6. The final prong of the analysis, *supra*, is the burden of proof to  
13 demonstrate that taking into account all relevant facts and circumstances, including  
14 changes beyond the parties' contemplation when the agreement was executed and  
15 enforcement of the antenuptial agreement would be neither unfair nor unreasonable.  
16 Pursuant to *Alexander*, *supra*, and the corroborating testimony of Mr. Edlin, this final  
17 factor allows the court some discretion. In this regard, the Court has discretion to  
18 approve the agreement in whole, in part, or refuse to approve it as a whole.<sup>5</sup> Defendant  
19 has satisfied this burden to the extent that the provisions of the agreement are limited  
20 to the preservation as separate property those assets that were specifically disclosed.  
21 Additional equitable factors include Defendant's superior financial position at the time  
22

---

23 <sup>5</sup>This Court does not find that the fact that the parties had a child (as was the case in  
24 *Alexander*) was beyond the contemplation of the parties.  
25  
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28

1 of the marriage as well as the fact that, although Plaintiff sufficiently understood the  
2  
3 agreement, Defendant had a superior grasp of the terms and language of the prenuptial  
4 agreement.

5         7. In summary, the only assets the Court views as being protected by the  
6  
7 prenuptial agreement are those assets listed in the exhibit attached to the prenuptial  
8 agreement. Moreover, the parties have waived the right to pursue spousal support  
9 pursuant to the terms of the prenuptial agreement. Nevertheless, the terms of the  
10 prenuptial agreement do not preclude the Court from preliminary or temporary  
11 support, particularly to the extent the Plaintiff could qualify for public benefits and be  
12 a public charge.  
13

14         Based on the foregoing Findings and Conclusions, and good cause appearing  
15 therefore,  
16

17         IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the prenuptial  
18 agreement is valid *in part*.

19         IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the only  
20 assets protected by the prenuptial agreement are those assets specifically listed in the  
21 exhibit attached to the prenuptial agreement.  
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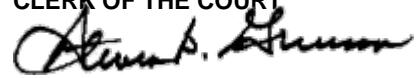
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IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that permanent alimony is not available to the parties according to the terms of the prenuptial agreement, but temporary maintenance pending trial is available.

DATED this 4<sup>th</sup> day of September, 2018.

  
BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE  
DEPARTMENT Q





**NOAS**

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Bar No. 10592

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*Attorney for Defendant*

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

PATRICIA EGOSI,  
(nka PATRICIA LEE WOODS),

Plaintiff,

vs.

YOAV EGOSI,

Defendant.

Dist. Ct. No.: D-16-540174-D

Dist. Ct. Dept. No.: Q

**NOTICE OF APPEAL**

COMES NOW the Defendant, Yoav Egosi, through his attorney of record Alex Ghibauda, Esq., and appeals to the Supreme Court of Nevada that the district court's September 7, 2018 order from an evidentiary hearing conducted on August 31, 2018. Notice of entry of order was filed and served September 7, 2018.

DATED this 10<sup>th</sup> day of September, 2018.

/s/ Alex Ghibauda

ALEX B. GHIBAUDO, Nevada Bar No. 10592

**ALEX B. GHIBAUDO, PC**

703 S. 8<sup>th</sup> Street

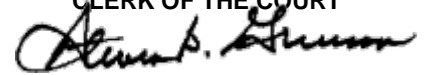
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of September, 2018, I served a true and correct copy of the foregoing **NOTICE OF APPEAL**, via the Court designated electronic service, addressed to the following:

John Blackmon  
*jblackmon@blackmonlawgroup.com*

/s/ Joslyne Simmons  
An Employee of ALEX B. GHIBAUDO, P.C.



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*Attorney for Defendant*

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

PATRICIA EGOSI,  
(nka PATRICIA LEE WOODS),

Plaintiff,

vs.

YOAV EGOSI,

Defendant.

Dist. Ct. No.: D-16-540174-D

Dist. Ct. Dept. No.: Q

**AMENDED NOTICE OF APPEAL**

COMES NOW the Defendant, Yoav Egosi, through his attorney of record Alex Ghibauda, Esq., and appeals to the Supreme Court of Nevada that the district court's September 4, 2018 order from an evidentiary hearing conducted on June 13 and June 14, 2017. Notice of entry of order was filed and served September 7, 2018.

DATED this 10<sup>th</sup> day of September, 2018.

/s/ Alex Ghibauda

ALEX B. GHIBAUDO, Nevada Bar No. 10592  
**ALEX B. GHIBAUDO, PC**  
703 S. 8<sup>th</sup> Street  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

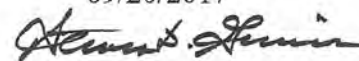
I HEREBY CERTIFY that on this 10<sup>th</sup> day of September, 2018, I served a true and correct copy of the foregoing **AMENDED NOTICE OF APPEAL**, via the Court designated electronic service, addressed to the following:

John Blackmon  
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/s/ Joslyne Simmons  
An Employee of ALEX B. GHIBAUDO, P.C.

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Attorneys for YOAV EGOSI

Electronically Filed  
09/20/2017

  
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

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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. SEP 14 2017

21 DATED this \_\_\_\_\_ 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

*Alex B. Ghibaud*  
CLERK OF THE COURT

**MOT**

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**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

PATRICIA EGOSI,  
(nka PATRICIA LEE WOODS),

Plaintiff,

vs.

YOAV EGOSI,

Defendant.

Dist. Ct. No.: D-16-540174-D

Dist. Ct. Dept. No.: Q

**MOTION TO RECONSIDER THIS  
COURT'S JUNE 14<sup>th</sup>, 2017  
DECISION, N.R.C.P. 12(b)(5)  
MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF MAY BE  
GRANTED, AND MOTION FOR  
PARTIAL SUMMARY JUDGMENT  
UNDER N.R.C.P. 56 WITH  
RESPECT TO JOIBIZ, LLC.**

**HEARING REQUESTED**

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

Comes Now Defendant, Yoav Egosi ("Joe"), through his attorney Alex Ghibaud,  
Esq. of the Law Office of Alex B. Ghibaud, PC, and moves this court as follows:

ALEX B. GHIBAUDO, PC  
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RELIEF REQUESTED

1. *That this Court reconsider its June 14<sup>th</sup>, 2017 decision that the parties' prenuptial agreement will only be enforced in part and rule instead that the whole of the prenuptial agreement be enforced;*
2. *That this Court decide as a matter of law that JoiBiz, LLC. is protected under the prenuptial agreement because it is nothing more than Hawk Communication's "alter ego";*
3. *That Plaintiff's claim for "marital waste" and "equitable" distribution of community as alleged in paragraph 15 and 16 of Plaintiff's complaint be dismissed for failure to state a claim upon which relief may be granted; and*
4. *For such other relief as this Court deems just and equitable.*

This motion is based upon the following Memorandum of Points and Authorities, including the affidavits and documents filed separately as Appendix I, the papers and pleadings on file herein, and any oral argument permitted at the time of the hearing.

DATED this 26<sup>th</sup> day of March, 2018.

/s/ Alex Ghibaud

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## Memorandum of Points and Authorities

### **I. Statement of Facts**

#### **a. Introduction**

Joe and Plaintiff are husband and wife pending a divorce before this Court. The parties married on the 28<sup>th</sup> of September, 2008 in Georgia. They have one minor child together, Benjamin Egosi, born January 14<sup>th</sup>, 2014. The matter of custody has previously been decided by this court: on September 8<sup>th</sup>, 2017, Joe was awarded sole physical and sole legal custody of the minor child. What remains is the division of any marital assets and debts.

For purposes of the instant motion, at issue is a prenuptial agreement<sup>1</sup> the parties executed in Georgia. On June 13<sup>th</sup> and June 14<sup>th</sup>, 2017, this Court held an evidentiary hearing to determine the enforceability of that agreement. At the conclusion of that hearing, this Court ruled that the prenuptial agreement between the parties is enforceable but chose to accept the agreement only in part. Joe now challenges that ruling and contends this court erred in its decision by failing to properly establish any equitable grounds for relief and fundamentally misapprehending equity jurisdiction. Joe now asks this court to reconsider its decision and accept the prenuptial agreement in whole, not just in part.

Also at issue for the purposes of the instant motion is partial summary judgment on assets acquired during the marriage, to the extent this Court refuses to reconsider its ruling and maintains that those assets are community property. Joe maintains that even if

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<sup>1</sup> See Defendant's Appendix of Exhibits ("AE") at page 1.



1 this Court affirms its prior ruling, JoiBiz, LLC. is nothing more than a wholly owned  
2 subsidiary of Hawk Communication, or nothing more than Hawk Communication's alter  
3 ego, putting it beyond the reach of this Court's authority to divide it as a marital asset as  
4 this court has previously ruled that Hawk Communication is protected under the parties'  
5 prenuptial agreement. Joe therefore requests this court enter partial summary judgment in  
6 favor of Joe regarding the character of the now marital asset known as JoiBiz, LLC. and  
7 that this court enter an order declaring that property separate property outside of  
8 Plaintiff's reach and firmly under the protection of the parties' prenuptial agreement.

10 Finally, Joe contends that Plaintiff fails to state a claim upon which relief may be  
11 granted with respect to the allegations of community waste and Plaintiff's request that the  
12 marital estate be divided equitably rather than equally. Under N.R.C.P. 12(b)(5), Plaintiff  
13 must "set forth sufficient facts to demonstrate the necessary elements of a claim for relief  
14 so that the defending party has adequate notice of the nature of the claim and relief  
15 sought."<sup>2</sup> Furthermore, "conclusory allegations are not considered as expressly pleaded  
16 facts or factual inferences."<sup>3</sup> Plaintiff's complaint is bereft of facts and rife with  
17 conclusory allegations, rendering it useless.

#### 20 b. Facts Specific to Joe's Motion to Reconsider

21 On June 13<sup>th</sup> and 14<sup>th</sup> of 2017, this Court held an evidentiary hearing concerning  
22 the prenuptial agreement the parties executed in Georgia. At the conclusion of that  
23 hearing, this Court made its findings of fact and rendered its conclusions of law, ruling  
24 that the prenuptial agreement was enforceable, but only electing to enforce it in part. In  
25 coming to that conclusion, the court found no fraud, duress, or mistake of fact, stating:

27  
28 <sup>2</sup> *Western States Const. v. Michojf*, 108 Nev. 931, 936, 840 P. 2d 1220, 1223 (1992).

<sup>3</sup> *In Re Amerco Derivative Litigation*, 127 Nev. 196, 232, 252 P.3d 681, 706 (2011).



1 So as I look at the [Shere] prongs, the -- the factors that I'm required to  
2 consider, I -- I have to determine first whether the antenuptial agreement --  
3 well, and -- and the -- the burden of proof is that the Plaintiff -- or the  
4 Defendant needs to prove that the antenuptial agreement was not the result  
5 of fraud, duress, mistake, misrepresentation, or non-disclosure or material  
6 facts.<sup>4</sup> *I don't find based on the testimony and my evaluation regarding the*  
7 *credibility of the witnesses that there was any fraud or duress, mistake, or*  
8 *misrepresentation.*<sup>5</sup> (Emphasis Added).

9 On the last point made, Plaintiff's testified that (a) she did not "speak, read, write  
10 English", (b) that the first time she saw the prenuptial agreement was on the day she  
11 signed it, (c) that she had no idea what a prenuptial agreement was at the time she was  
12 presented it, and (d) that she had no time to review it with counsel was simply not true.  
13 Indeed, Plaintiff speaks and understands English just fine, she saw the prenuptial  
14 agreement some 6 months prior to signing it, she in fact knew exactly what the prenuptial  
15 agreement was, and she did have an opportunity to discuss the terms of the prenuptial  
16 agreement with a licensed attorney, all contrary to her testimony under oath.

17 This Court took note of Plaintiff's lack of credibility in rendering its decision,  
18 making the following findings:

19 [The Court's] findings and conclusions are based on...[its] determinations  
20 regarding issues of demeanor and credibility.<sup>6</sup>

21 With respect to specific findings regarding credibility, the Court found as follows:

22 [The prenuptial agreement] was reprinted with changes that did not  
23 materially impact the underlying issues regarding the enforceability of the  
24 prenuptial agreement, that the Plaintiff had that in her possession, had the  
25 opportunity certainly to read it, to have it translated to the -- to the extent  
26 she felt it was warranted, had the opportunity to review it with an attorney,  
27 an attorney who advised against her signing the prenuptial agreement and  
28 who explained at least in general terms the meanings of the prenuptial  
29 agreement. I find that to be credible.<sup>7</sup>

<sup>4</sup> AE 385, lines 18-24

<sup>5</sup> Id. at 386, lines 1-3.

<sup>6</sup> Id. at 396, lines 23-24.

<sup>7</sup> Id. at Page 386-387, lines 15-24 (and line 1 on page 387).





1  
2  
3 The Court further found:

4 Now I also find credible based on the testimony that's been offered that the  
5 Defendant was unaware that this advice was being sought.<sup>8</sup> and so it's  
6 consistent with the fact that she viewed this somewhat objectively and said  
7 I would recommend against signing it.<sup>9</sup>

8 Thus, Plaintiff approached the signing of the prenuptial agreement independent of any  
9 influence on Joe's part, objectively, and under no duress or time pressure.

10 As to Plaintiff's intentions, the Court found that at the time, they were honorable  
11 and made out of love and affection for Joe, obviating the need to discover the true value  
12 of any of Joe's assets. In that respect, the Court made the following findings:

13 The testimony suggests to me that dollar value or not, the Plaintiff made it  
14 clear that that was irrelevant to her -- her intentions to both sign the  
15 premarital agreement and -- and get married. She was in love, wanted to  
16 prove her love to the Defendant, and that was inconsequential to her  
17 whatever value the Defendant had put on those assets, that was her  
18 testimony that she -- it was not material to her decision to sign or not sign.<sup>10</sup>

19 Though the Court found that Plaintiff did not care to know the true value of any  
20 assets belonging to Joe, it also found she had enough information to come to a reasonable  
21 conclusion concerning Joe's assets due to her close involvement with Joe and his  
22 business(es):

23 [T]he Plaintiff had been in the business enough, was familiar with what was  
24 being derived from the business because she was living the lifestyle that the  
25 business was able to generate and that she had access and the ability to  
26 obtain that information. It ultimately was disclosed on the date the  
27 prenuptial agreement was signed and it was listed as a specific asset. I don't  
28 find that the failure to include Plaintiff's assets, which I know that there's  
29 been some debate and discussion even during these proceedings that it  
30 wasn't listed in financial disclosure forms that have been filed with this

<sup>8</sup> AE 387, lines 15-17.

<sup>9</sup> Id. at lines 20-22.

<sup>10</sup> Id. at 389, lines 9-16.