

1 **NOA**

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Electronically Filed
Oct 18 2021 02:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC
17 SUPPLIERS, LLC; and DOES I through X,
18 inclusive, and ROE CORPORATIONS I
19 through X, inclusive,

20 Defendants/Counter-Claimants.

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **NOTICE OF APPEAL**

22 Notice is hereby given that CLEMENT MUNNEY and CHEF EXEC SUPPLIERS,
23 LLC, Defendant(s) above named, hereby appeal to the Supreme Court of Nevada from the
24 Order, which is a final order, entered and served in this action on the 13th day of September,
25 2021.

26 DATED this 8th day of October, 2021.

27 KERN LAW

28 By: /s/ Robert Kern
Robert Kern Esq.
601 S. 6th Street
Las Vegas, NV 89101
(702) 518-4529
Attorney for Defendants

CASE SUMMARY**CASE NO. A-19-803488-B**

Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

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Location: **Department 27**
 Judicial Officer: **Allf, Nancy**
 Filed on: **10/11/2019**
 Cross-Reference Case Number: **A803488**
 Supreme Court No.: **81354**
81355
81356

CASE INFORMATION

Statistical Closures
 09/14/2021 Summary Judgment

Case Type: **NRS Chapters 78-89**

Case Status: **09/14/2021 Closed**

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

Case Number A-19-803488-B
 Court Department 27
 Date Assigned 10/11/2019
 Judicial Officer Allf, Nancy

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Arnould, Dominique	Aurbach, Phillip S. <i>Retained</i> 7029422155(W)
Defendant	Chef Exec Suppliers, LLC	Kern, Robert J. <i>Retained</i> 702-518-4529(W)
	Muney, Clement	Kern, Robert J. <i>Retained</i> 702-518-4529(W)
Counter Claimant	Chef Exec Suppliers, LLC	Kern, Robert J. <i>Retained</i> 702-518-4529(W)
	Muney, Clement	Kern, Robert J. <i>Retained</i> 702-518-4529(W)
Counter Defendant	Arnould, Dominique	Aurbach, Phillip S. <i>Retained</i> 7029422155(W)
Other	Southern Nevada Senior Law Project	

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

10/11/2019

















Complaint (Business Court)

Filed By: Counter Defendant Arnould, Dominique

[1] Complaint for Appointment of a Receiver or Dissolution of LLC; Declaratory Relief;
 Breach of Fiduciary Duty; and Damages














CASE SUMMARY

CASE NO. A-19-803488-B

10/11/2019	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Arnould, Dominique <i>[2] Initial Appearance Fee Disclosure</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>[3] Summons - Civil</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>[4] Summons - Civil</i>
10/14/2019	 Disclosure Statement Party: Counter Defendant Arnould, Dominique <i>[5] NRCP Rule 7.1 Disclosure Statement</i>
10/15/2019	 Acceptance of Service Filed By: Counter Defendant Arnould, Dominique <i>[6] Acceptance of Service</i>
11/07/2019	 Answer and Counterclaim Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[7] Answer and Counterclaims</i>
11/07/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[8] Initial Appearance Fee Disclosure</i>
12/02/2019	 Answer to Counterclaim Filed By: Counter Defendant Arnould, Dominique <i>[9] Plaintiff Dominique Arnould's Answer to Defendants' Counterclaim</i>
12/06/2019	 Mandatory Rule 16 Conference Order <i>[10] Mandatory Rule 16 Conference</i>
12/09/2019	 Motion for Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[11] Defendants' Motion for Partial Summary Judgment</i>
12/09/2019	 Affidavit Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[12] Affidavit in Support of Defendants Motion for Partial Summary Judgment</i>
12/09/2019	 Clerk's Notice of Hearing <i>[13] Notice of Hearing</i>
12/10/2019	 Motion for Appointment Filed By: Counter Defendant Arnould, Dominique <i>[14] Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
12/10/2019	 Clerk's Notice of Hearing <i>[15] Notice of Hearing</i>




CASE SUMMARY

CASE NO. A-19-803488-B

12/19/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>[16] Plaintiff Dominique Arnould's Opposition to Defendants Motion for Partial Summary Judgment</i>
12/20/2019	 Errata Filed By: Counter Defendant Arnould, Dominique <i>[17] Errata to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment</i>
12/23/2019	 Opposition to Motion Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[18] Defendants' Opposition To Motion For Appointment Of Trustee</i>
12/27/2019	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[19] Defendant's Reply in Support of Summary Judgment</i>
12/31/2019	 Supplement to Opposition Filed By: Counter Defendant Arnould, Dominique <i>[20] Supplement to Plaintiff Dominique Arnould's Opposition to Motion for Partial Summary Judgment</i>
01/03/2020	 Notice of Compliance Party: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[21] Defendants' Notice of Compliance</i>
01/03/2020	 Notice of Compliance Party: Counter Defendant Arnould, Dominique <i>[22] Notice of Compliance</i>
01/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[23] Plaintiff Dominique Arnould's Reply in Support of Motion for Appointment of Trustee</i>
01/17/2020	 Order Denying Motion Filed By: Counter Defendant Arnould, Dominique <i>[24] Order Denying Defendant's Motion for Summary Judgment</i>
01/17/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>[25] Notice of Entry of Order Denying Defendant's Motion for Summary Judgment</i>
03/09/2020	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>[26] Stipulation and Order to Continue Hearing</i>
03/13/2020	 Motion for Partial Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>[27] Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
03/13/2020	 Clerk's Notice of Hearing <i>[28] Notice of Hearing</i>









CASE SUMMARY

CASE NO. A-19-803488-B

03/20/2020	 Opposition and Countermotion Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[29] Opposition to motion for summary judgment and counter-motion for enforcement of settlement agreement</i>
03/23/2020	 Clerk's Notice of Hearing <i>[30] Clerk's Notice of Hearing</i>
04/06/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>[31] Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
04/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[32] Plaintiff Dominique Arnould's Reply in Support of Motion for Partial Summary Judgment</i>
04/13/2020	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[33] Defendants' Reply in Support of Countermotion for Enforcement Agreement, and Opposition to Motion to Strike</i>
05/13/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[34] Plaintiff Dominique Arnould's Reply In Support of Counter-Motion to Strike Documents Related to Settlement</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[35] Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Clerk's Notice of Hearing <i>[36] Notice of Hearing</i>
05/20/2020	 Amended <i>[37] Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Temporary Restraining Order Filed by: Counter Claimant Muney, Clement <i>[38] Temporary Restraining Order</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement <i>[39] Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/21/2020	 Certificate of Mailing Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[40] Certificate of Mailing</i>
05/21/2020	 Notice of Entry of Order <i>[41] Notice of Entry of Order</i>














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05/21/2020	 Mandatory Rule 16 Conference Order <i>[42] Business Court Order to Appear for Mandatory 16. Conference</i>
05/22/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>[43] Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order</i>
05/22/2020	 Clerk's Notice of Hearing <i>[44] Notice of Hearing</i>
05/22/2020	 Notice of Change of Hearing <i>[45] Notice of Change of Hearing</i>
05/29/2020	 Recorders Transcript of Hearing <i>[46] Transcript of Proceedings, Motions, Heard on May 22, 2020</i>
06/05/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>[47] Plaintiff's Motion to Select Receiver</i>
06/08/2020	 Clerk's Notice of Hearing <i>[48] Notice of Hearing</i>
06/08/2020	 Order <i>[49] Order</i>
06/08/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>[50] Notice of Entry of Order</i>
06/10/2020	 Request Filed by: Counter Defendant Arnould, Dominique <i>[51] Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access</i>
06/10/2020	 Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[52] Defendants Response to Arnould's Request for Emergency Hearing</i>
06/10/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[53] Reply Declaration of Phil Aurbach in Support of Telephone Conference and Access to Warehouse</i>
06/12/2020	 Order <i>[54] Order</i>
06/12/2020	 Order <i>[55] Order Issuing Sanction</i>
06/15/2020	 Notice of Appeal














CASE SUMMARY

CASE NO. A-19-803488-B

	<p>Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[56] Notice of Appeal</i></p>
06/15/2020	<p> Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[57] Notice of Appeal</i></p>
06/15/2020	<p> Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[58] Notice of Appeal</i></p>
07/14/2020	<p> Joint Case Conference Report Filed By: Counter Defendant Arnould, Dominique <i>[59] Joint Case Conference Report</i></p>
07/15/2020	<p> Amended Joint Case Conference Report Filed By: Counter Defendant Arnould, Dominique <i>[60] Amended Joint Case Conference Report</i></p>
07/21/2020	<p> Stipulation and Order <i>[61] Stipulation and Order to Employ Carlyon Cica</i></p>
07/28/2020	<p> Demand for Jury Trial Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[62] Demand for Jury Trial</i></p>
08/06/2020	<p> Scheduling and Trial Order <i>[63] Business Court Scheduling Order And Order Setting: (1) Civil Jury Trial; (2) Calendar Call; And Status Check</i></p>
08/11/2020	<p> Receiver Report Filed by: Receiver Bertsch, Larry <i>[64] Receiver's Preliminary Report and Recommendations</i></p>
08/14/2020	<p> Order Approving Filed By: Receiver Bertsch, Larry <i>[65] Order Approving Compensation of the Receiver and His Counsel Through July 31, 2020</i></p>
08/17/2020	<p> Notice of Entry of Order Filed By: Receiver Bertsch, Larry <i>[66] Notice of Entry of Order Approving Compensation of the Receiver and His Counsel through July 31, 2020</i></p>
08/21/2020	<p> Order Filed By: Counter Defendant Arnould, Dominique <i>[67] Order of Dissolution Payment of Fees and Other Orders</i></p>
09/04/2020	<p> Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[68] Defendants' Response to Receiver's Preliminary Report</i></p>
09/04/2020	<p> Response Filed by: Counter Defendant Arnould, Dominique <i>[69] Dominique Arnould's Response to the Receiver's Report</i></p>










CASE SUMMARY

CASE NO. A-19-803488-B

09/09/2020	 Request Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[70] Defendants' Emergency Request for Telephonic Hearing</i>
09/10/2020	 Document Filed <i>[71] Receiver's Rent Analysis</i>
09/28/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>[72] Plaintiff Dominique Arnould's Motion for Partial Summary Judgment Regarding Winding up the LLC on an Order Shortening Time</i>
09/29/2020	 Opposition to Motion For Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[73] Opposition to Motion for Partial Summary Judgment</i>
10/02/2020	 Order Filed By: Counter Defendant Arnould, Dominique <i>[74] Order RE: Arnould's Motion for Winding Up the LLC</i>
10/22/2020	 Recorders Transcript of Hearing <i>[75] Transcript of Proceedings, Pending Motions, Heard on August 12, 2020</i>
11/02/2020	 Request <i>[76] REQUEST FOR TRANSCRIPT OF PROCEEDINGS</i>
11/16/2020	 Objection <i>[77] Non-Party CMJJ's Objection to Subpoena and Subpoena Duces Tecum</i>
11/17/2020	 Objection <i>[78] Non-Party Jeremy Mune's Objection to Subpoena and Subpoena Duces Tecum</i>
11/23/2020	 Objection <i>[79] Non-Party CMJJ's Objection to Amended Subpoena and Subpoena Duces Tecum</i>
11/23/2020	 Objection <i>[80] Non-Party Jeremy Mune's Objection to Amended Subpoena and Subpoena Duces Tecum</i>
12/07/2020	 Receiver Report Filed by: Receiver Bertsch, Larry <i>[81] Receiver's Final Report and Recommendations</i>
12/23/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>[82] Plaintiff's Motion to Approve Receiver's Final Report and Discharge Receiver</i>
12/24/2020	 Clerk's Notice of Hearing <i>[83] Notice of Hearing</i>
12/30/2020	 Stipulation and Order Filed by: Receiver Bertsch, Larry <i>[84] Stipulation and Order to Close Bank Account</i>















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12/31/2020	 Notice of Entry Filed By: Receiver Bertsch, Larry <i>[85] Notice of Entry of Stipulation and Order to Close Company Bank Account</i>
01/05/2021	 Recorders Transcript of Hearing <i>[86] Transcript of Proceedings, Motions, Heard on June 12, 2020</i>
01/06/2021	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[87] Opposition to Motion to Approve Final Receivers Report</i>
01/08/2021	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>[88] Stipulation and Order to Extend Discovery and Continue Trial (First Request)</i>
01/08/2021	 Scheduling and Trial Order <i>[89] Business Court Scheduling Order and Order Resetting: (1) Civil Jury Trial; (2) Calendar Call; and (3) Status Check</i>
01/20/2021	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[90] Plaintiff's Reply in Support of its Motion to Approve Receiver's Final Report and Discharge Receiver</i>
01/28/2021	 Recorders Transcript of Hearing <i>[91] Transcript of Proceedings, Status Check: Receiver's Report, Heard on December 23, 2020</i>
01/29/2021	 Objection Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[92] Defendants' Objection to Receiver's Final Report</i>
02/06/2021	 Response Filed by: Receiver Bertsch, Larry <i>[93] Response to Defendants' Objection to Receiver's Final Report and Recommendations</i>
02/17/2021	 Order Filed By: Counter Defendant Arnould, Dominique <i>[94] Order</i>
02/18/2021	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>[95] Notice of Entry of Order</i>
02/21/2021	 Stipulation and Order to Extend Discovery Deadlines Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[96] Stipulation and Order to Extend Discovery and Continue Trial (Second Request)</i>
02/23/2021	 Scheduling and Trial Order <i>[97] Business Court Scheduling Order and Order Resetting: (1) Civil Jury Trial; (2) Calendar Call; and Status Check (Second Request)</i>
02/26/2021	 Stipulation and Order














CASE SUMMARY

CASE NO. A-19-803488-B

	<p>Filed by: Receiver Bertsch, Larry <i>[98] Stipulation and Order for Payment of Professional Fees of Receiver and For Release of Funds Held in Trust</i></p>
03/01/2021	<p> Notice of Entry of Stipulation and Order Filed By: Receiver Bertsch, Larry <i>[99] Notice of Entry Stipulation and Order for Payment of Professional Fees of Receiver and For Release of Funds Held in Trust</i></p>
05/06/2021	<p> Motion to Stay Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[100] Motion for Stay of Proceedings Pending Appeal</i></p>
05/06/2021	<p> Clerk's Notice of Nonconforming Document <i>[101] Clerk's Notice of Nonconforming Document</i></p>
05/06/2021	<p> Motion to Stay Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[102] Motion for Stay Pending Appeal</i></p>
05/06/2021	<p> Clerk's Notice of Hearing <i>[103] Notice of Hearing</i></p>
05/17/2021	<p> Affidavit of Service <i>[104] Affidavit of Service</i></p>
05/17/2021	<p> Affidavit of Service <i>[105] Affidavit of Service</i></p>
05/20/2021	<p> Opposition to Motion Filed By: Counter Defendant Arnould, Dominique <i>[106] Dominique Arnould's Opposition to Defendants' Motion for Stay Pending Appeal</i></p>
05/26/2021	<p> Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[107] Reply in Support of Motion for Stay of Proceedings Pending Appeal</i></p>
06/14/2021	<p> Motion for Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>[108] Plaintiff. Dominique Arnould's Motion for Summary Judgment</i></p>
06/14/2021	<p> Clerk's Notice of Hearing <i>[109] Notice of Hearing</i></p>
06/17/2021	<p> Order Filed By: Counter Defendant Arnould, Dominique <i>[110] Order Denying Defendants/ Counter- Claimants' Motion for Stay Pending Appeal</i></p>
06/18/2021	<p> Notice of Rescheduling of Hearing <i>[111] Notice of Rescheduling of Hearing</i></p>
06/24/2021	<p> Opposition to Motion Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[112] Opposition to Plaintiff's Motion for Summary Judgment</i></p>











CASE SUMMARY

CASE NO. A-19-803488-B

07/02/2021	 Mandatory Pretrial Disclosure Party: Counter Defendant Arnould, Dominique <i>[113] Plaintiff/ Counter-Defendant Dominique Arnould's Pretrial Disclosures Pursuant to NRCP 16.1(a)(3)</i>
07/09/2021	 Motion to Compel Filed By: Counter Claimant Muney, Clement <i>[114] Motion to Compel Discovery Responses</i>
07/09/2021	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>[115] Plaintiff, Dominique Arnould's Reply in Support of Motion for Summary Judgment</i>
07/09/2021	 Clerk's Notice of Hearing <i>[116] Notice of Hearing</i>
07/13/2021	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>[117] Stipulation and Order to Continue Hearing on Motion for Summary Judgment Hearing</i>
07/24/2021	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>[118] Plaintiff's Opposition to Defendants' Motion to Compel Responses to Discovery Requests and Counter-Motion for Sanctions</i>
07/29/2021	 Order Filed By: Counter Defendant Arnould, Dominique <i>[119] Order Re: Calendar Call on July 22, 2021</i>
09/07/2021	 Objection Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[120] Defendants' Objections to Post Judgment Subpoena Duces Tecum</i>
09/07/2021	 Motion for Protective Order Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[121] Motion for Protective Order from Post Judgment Subpoena Duces Tecum</i>
09/08/2021	 Clerk's Notice of Hearing <i>[122] Notice of Hearing</i>
09/10/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Counter Defendant Arnould, Dominique <i>[123] Findings of Fact, Conclusions of Law, and Order</i>
09/13/2021	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Counter Defendant Arnould, Dominique <i>[124] Notice of Entry of Findings of Fact, Conclusions of Law, and Order</i>
09/14/2021	 Judgment Filed By: Counter Defendant Arnould, Dominique <i>[125] \$6,303.93 Judgment in Favor of Dominique Arnould and Against Clement Muney</i>
09/21/2021	



CASE SUMMARY

CASE NO. A-19-803488-B

	 Notice of Entry of Judgment Filed By: Counter Defendant Arnould, Dominique <i>[126] Notice of Entry of \$6,303.93 Judgment in Favor of Dominique Arnould and Against Clement Mune</i> y
09/21/2021	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Arnould, Dominique <i>[127] Plaintiff's Verified Memorandum of Costs</i>
09/21/2021	 Opposition to Motion Filed By: Counter Defendant Arnould, Dominique <i>[128] Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Protective Order from Post Judgment Subpoena Duces Tecum</i>
09/24/2021	 Motion to Retax Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[129] Defendants' Motion to Retax and Settle Costs Claimed in Defendants' Memorandum of Costs</i>
09/24/2021	 Clerk's Notice of Hearing <i>[130] Notice of Hearing</i>
09/27/2021	 Reply in Support Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[131] Reply in Support of Motion for Protective Order From Post Judgment Subpoena Duces Tecum</i>
09/28/2021	 Motion for Attorney Fees Filed By: Counter Defendant Arnould, Dominique <i>[132] Plaintiff's Motion for Attorneys' Fees</i>
09/28/2021	 Clerk's Notice of Hearing <i>[133] Notice of Hearing</i>
10/01/2021	 Notice of Change of Hearing <i>[134] Notice of Change of Hearing</i>
10/08/2021	 Opposition to Motion Filed By: Counter Defendant Arnould, Dominique <i>[135] Opposition to Defendants' Motion to Retax and Settle Costs Claimed in Defendants' Memorandum of Costs</i>
10/08/2021	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[136] Defendants' Opposition to Motion for Attorneys Fees</i>
10/08/2021	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>[137] Notice of Appeal</i>
10/12/2021	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[138] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
06/12/2020	DISPOSITIONS Sanctions (Judicial Officer: Allf, Nancy)





CASE SUMMARY

CASE NO. A-19-803488-B

	<p>Debtors: Robert Kern, ESQ. (Other) Creditors: Clark County Law Foundation (Other), Legal Aid Center of Southern Nevada (Other), Clark County Library (Other), Nevada Law Foundation (Other), Southern Nevada Senior Law Project (Other) Judgment: 06/12/2020, Docketed: 06/18/2020 Total Judgment: 100.00</p>
09/14/2021	<p>Judgment (Judicial Officer: Allf, Nancy) Debtors: Clement Muney (Defendant) Creditors: Dominique Arnould (Plaintiff) Judgment: 09/14/2021, Docketed: 09/15/2021 Total Judgment: 6,303.93</p>
10/12/2021	<p>Clerk's Certificate (Judicial Officer: Allf, Nancy) Debtors: Clement Muney (Defendant), Chef Exec Suppliers, LLC (Defendant) Creditors: Dominique Arnould (Plaintiff) Judgment: 10/12/2021, Docketed: 10/12/2021 Comment: Supreme Court No. 81354 " Appeal Dismissed"</p>
	<p>HEARINGS</p>
01/09/2020	<p>Mandatory Rule 16 Conference (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Continued; case settled</p>
01/09/2020	<p>Motion for Partial Summary Judgment (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion for Partial Summary Judgment</i> Denied;</p>
01/09/2020	<p> All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval. ;</i></p>
02/07/2020	<p> Settlement Conference (9:30 AM) (Judicial Officer: Williams, Timothy C.) Matter Settled; Journal Entry Details: <i>The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims. The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and</i></p>

CASE SUMMARY

CASE NO. A-19-803488-B

	<i>closure.;</i>
02/20/2020	CANCELED Motion for Appointment (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
03/27/2020	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</i> Minute Order - No Hearing Held; Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020;</i>
03/30/2020	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20;</i>
04/01/2020	CANCELED Motion for Appointment of Receiver (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
04/01/2020	CANCELED Mandatory Rule 16 Conference (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
04/14/2020	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review Plaintiff's Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant's Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion for Partial Summary Judgment, together with Defendant's Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;</i>
04/21/2020	CANCELED Status Check: Settlement Documents (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - On in Error</i>
04/28/2020	 Status Check: Settlement Documents (3:00 AM) (Judicial Officer: Allf, Nancy) Matter Continued;

CASE SUMMARY

CASE NO. A-19-803488-B

Journal Entry Details:

COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020. COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CONTINUED TO 5/20/2020 10:30 AM CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020;

04/30/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020 Minute Order - No Hearing Held; Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020

Journal Entry Details:

COURT FINDS after review Plaintiff's Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement. THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff's Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020;

05/18/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020 Minute Order - No Hearing Held; Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020

Journal Entry Details:

COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020 ;

05/22/2020

Motion for Temporary Restraining Order (1:00 PM) (Judicial Officer: Allf, Nancy)

Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction

05/22/2020

Opposition and Countermotion (1:00 PM) (Judicial Officer: Allf, Nancy)

Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

05/22/2020



All Pending Motions (1:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order All appearances made via BlueJeans teleconferencing software. Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbuch regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited

CASE SUMMARY

CASE NO. A-19-803488-B

powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company, Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.;

06/10/2020



Hearing (1:30 PM) (Judicial Officer: Allf, Nancy)

06/10/2020, 06/12/2020

Request for Emergency hearing

Granted;

Matter Continued;

Journal Entry Details:

Court noted the time as 1:38 p.m. and that there is no one present for Defendant. Upon inquiry of Court if Mr. Calaway has heard from Defense counsel, Mr. Calaway stated only through the communication with Court's Law Clerk that Mr. Kern couldn't appear due to a Supreme Court argument. Court noted it reviewed the Supreme Court docket and there are only three matters set for half an hour hearings. Arguments by Mr. Calaway regarding Plaintiff advising Defendant he needed access to the warehouse, Plaintiff driving a truck from California to find the locks on the warehouse changed, and Plaintiff being denied access to the warehouse. Mr. Calaway requested access to the warehouse for Plaintiff and advised an order has been sent over the Court. Further arguments by Mr. Aurbach requesting an immediate receiver or letting Plaintiff in the warehouse to obtain what he needs. Court stated it cannot make a decision until it has heard both sides and then it would be prepared to act appropriately after it has. Colloquy regarding continuing matter and advancing the July 5, 2020 matter for appointment of trustee. COURT ORDERED, matter CONTINUED, Plaintiff Dominique Arnould's Motion for Appointment of Trustee set July 5, 2020 CONTINUED to June 12, 2020 at 12:30 p.m. CONTINUED TO 6/12/2020 12:30 PM ;

Granted;

Matter Continued;

06/11/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Requested for Emergency Hearing set 6/10/2020 CONTINUED to 6/12/2020

Minute Order - No Hearing Held;

Journal Entry Details:

COURT FINDS after review on June 5, 2020, Plaintiff's Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m. COURT FURTHER FINDS after review on June 10, 2020, Plaintiff's Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff's Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020;

06/12/2020

Motion (12:30 PM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion to Select Receiver

Granted;

06/12/2020



All Pending Motions (12:30 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

PLAINTIFF'S MOTION TO SELECT RECEIVER...REQUEST FOR EMERGENCY HEARING

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Upon inquiry of Court regarding why Mr. Kern did not attend the previous hearing, Mr. Kern stated he had a supreme court argument, there was no possibility to reschedule, and he also had drive time. Mr. Kern further stated he wrote an opposition in ten minutes. Arguments by Mr. Calaway, Mr. Kern, and Mr. Calaway regarding possible receiver candidates. Mr. Kern stated he was not opposed to immediate appointment of a receiver. Upon inquiry of Court regarding the locks on the warehouse being changed, Mr. Kern stated the locks were changed after Plaintiff declared the settlement over. Mr. Kern further stated his client does not have access to the Los Angeles warehouse and Plaintiff should not have access to the Las Vegas warehouse. COURT ORDERED, Plaintiff's Motion to Select a Receiver GRANTED, Mr. Birch APPOINTED as receiver, Plaintiff will have access to the Las Vegas storage warehouse and Defendant will have to pay for security when the Plaintiff goes to the warehouse, Plaintiff will be allowed to access the warehouse today with the logistics to be worked out between the parties, and the receiver is ORDERED to change the locks on both warehouses. As to Mr. Kern's failure to appear at the last hearing, COURT FURTHER ORDERED, Mr. Kern SANCTIONED in the amount of \$100.00 payable to Nevada Legal Services, Clark County Library, or the Legal Aid Center of Southern Nevada with proof of payment to be filed within ten days. Plaintiff to prepare the order. Court further stated if counsel cannot agree on order then parties should request a telephonic next week. Mr. Aurbach stated an order has already been entered regarding the limited powers of the receiver and requested Court extend the powers of the receiver to control the warehouse. Court stated it has ordered the receiver to change the locks, parties are to work on the language of the order, and if they cannot agree then set a telephonic can be set. Court further stated it would prepare the order for the \$100.00 sanction. ;

06/19/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Motions Set: June 24, 2020 at 10:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 386 251 956 Meeting URL: <https://bluejeans.com/386251956> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/19/2020 ;

06/24/2020

Motion for Partial Summary Judgment (10:30 AM) (Judicial Officer: Allf, Nancy)

Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution Denied Without Prejudice;

06/24/2020

CANCELED Opposition and Countermotion (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated - Previously Decided

Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement

06/24/2020

CANCELED Motion for Appointment (10:30 AM) (Judicial Officer: Allf, Nancy)

CASE SUMMARY

CASE NO. A-19-803488-B

Vacated - Previously Decided

Plaintiff Dominique Arnould's Motion for Appointment of Trustee

06/24/2020

CANCELED Opposition and Countermotion (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated - Previously Decided

Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement

06/24/2020

Mandatory Rule 16 Conference (10:30 AM) (Judicial Officer: Allf, Nancy)

06/24/2020, 07/22/2020

Matter Continued;

Matter Heard;

Matter Continued;

Matter Heard;

06/24/2020



All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR PARTIAL SUMMARY JUDGMENT FOR JUDICIAL DISSOLUTION...MANDATORY RULE 16 CONFERENCE All appearances made via the BlueJeans Videoconferencing Application Court stated it intends to wait until it hears from the receiver before it considers dissolution. Upon inquiry of Court if counsel have been in contact with the receiver, Mr. Calaway stated they have contacted the receiver, he has made some requests, and they have already provided the receiver access to quick books. Mr. Kern stated they have been contact with receiver and are continuing contact so they can provide him with what he needs. Colloquy regarding dissolution and the motion for summary judgment. Court stated it could either deny the motion without prejudice or defer the matter until a preliminary report has been provided from the receiver. Mr. Calaway stated he had no issue with setting the matter out for a preliminary report from the receiver. Mr. Kern stated he would prefer the motion be denied without prejudice. COURT ORDERED, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution DENIED WITHOUT PREJUDICE, status check for preliminary report SET, Court directed Mr. Kern to prepare the order, include the status report date, and serve the order to the receiver at time it is provided to Mr. Calaway for review. Upon inquiry of Court if counsel have exchanged initial disclosures, counsel stated they had. Upon inquiry of Court if parties have agreed on a close of discovery or filed a Joint Case Conference Report (JCCR), counsel stated they had not. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED for counsel to file a JCCR and set a date for close of discovery. COURT FURTHER ORDERED, discovery may begin at this time. 7/22/2020 9:30 AM MANDATORY RULE 16 CONFERENCE...STATUS CHECK: RECEIVER REPORT;

07/21/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on July 22, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a

CASE SUMMARY

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new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020. ;

07/22/2020



Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)

07/22/2020, 08/12/2020

Status Check: Receiver's Report

Matter Continued;

Matter Heard;

Journal Entry Details:

Court noted it had read the report filed by the receiver. Mr. Aurbach stated they need to make sure the business is not reasonably practicable to carry on. Mr. Kern stated that it is impracticable of running the company the way it is and a dissolution that splits the company might be applicable. Mr. Aurbach requested an order for dissolution. Statements by receiver regarding dissolution, that the date to split the company be set for August 31, 2020 and that parties then file their tax returns making distributions. Mr. Aurbach stated he and Mr. Kern could try to complete dissolution using the template Mr. Bertsch has provided and then any disagreements could be addressed before the court at an evidentiary hearing. Mr. Kern agreed. Colloquy regarding matters that need to be paid, dissolution, settlement conference set before the Supreme Court on September 17, 2020, ongoing invoices, and payment of Mr. Bertsch. COURT ORDERED, undisputed rent of July and August of \$5,700.00 needs to be paid subject to being evened up later, if there is not sufficient case in the business then parties will need to each pay one half of the amount, Mr. Bertsch's invoice system will be adopted with regard to ongoing invoices, status check SET September 23, 2020, and if there is a potential for dissolution at the end of September then that will be a stop gap. Mr. Bertsch advised the Court that his fees were to be paid one-half by each of the parties and should not come out of the Chef Exec Suppliers LLC funds. COURT SO ORDERED. Court directed Ms. O'Steen to prepare the order approving the fees in accordance with the representation of Mr. Bertsch, and Mr. Aurbach to prepare the order with regard to the invoice system, the undisputed rent, and the payment. 9/23/2020 9:30 AM STATUS CHECK: STATUS OF CASE/DISSOLUTION; Matter Continued;

Matter Heard;

07/22/2020



All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

STATUS CHECK: RECEIVER'S REPORT...MANDATORY RULE 16 CONFERENCE All appearances made via the BlueJeans Videoconferencing Application. Ms. O'Steen stated Mr. Bertsch has made progress on his findings however, he is asking for three weeks for a final report on file. Upon inquiry of Court if there was any objection, counsel had no objection. COURT ORDERED, matter CONTINUED. As to the rule 16 conference, Court noted there has been an Amended Joint Case Conference Report with a close of discovery of January 12, 2021. Upon inquiry of Court if that date was still viable, counsel stated it was. Court stated it would issue a trial order by the end of next week. Colloquy regarding status of discovery. CONTINUED TO: 8/12/2020 9:30 AM STATUS CHECK: RECEIVER'S REPORT;

08/07/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on August 12, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by

CASE SUMMARY

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entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/7/2020. ;

09/10/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held;

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 10, 2020 at 3:00 p.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/10/2020 ;

09/10/2020



Telephonic Conference (3:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Colloquy regarding payments of undisputed portion of rent and emergency request for hearing. Court stated the order directs that undisputed rent gets paid on a going forward basis and ORDERED, request for relief to Mr. Muney DENIED. Court stated if there is a order shortening time the issues can be briefed.;

09/18/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Blue Jeans Appearance

Minute Order - No Hearing Held; Minute Order: Blue Jeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 23, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL:

CASE SUMMARY

CASE NO. A-19-803488-B

<https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/18/2020. ;

09/23/2020



Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)

Status Check: Status of Case/Dissolution

Matter Heard;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Mr. Calaway stated the receiver has not furnished a final report however he understands he is getting close. Mr. Kern agreed. Mr. Bertsch updated Court as to the division of accounts receivable, inventory and other matters. Colloquy regarding time needed to provide Receiver's final report. Court directed Mr. Bertsch's counsel to request a return date for a status check when the final report is filed and give both parties sufficient time to respond. Mr. Bertsch requested the fees paid by counsel be treated as capital contributions. No objection by counsel. Court stated Mr. Bertsch could take that into account.;

09/29/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on September 30, 2020 at 10:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL:

<https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/29/2020;

CASE SUMMARY

CASE NO. A-19-803488-B

09/30/2020



Motion for Summary Judgment (10:30 AM) (Judicial Officer: Allf, Nancy)

Plaintiff Dominique Arnould's Motion for Partial Summary Judgment Re; Winding Up the LLC on Order Shortening Time

No Ruling;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing application. Mr. Aurbach noted that items have been agreed to and addressed the customer list and a portion of the accounts receivable. Ms. O'Steen stated Mr. Bertsch is close to a final report and needs two more weeks. Colloquy regarding dissolution of company and creation of individual companies, and there being a non-compete order or mailing of a letter to customers regarding dissolution of the company. Further colloquy regarding the issues. Court stated it would be unwilling to enter a non-compete order, however Court would agree to a letter being sent to the customers. Mr. Kern placed his objections to there not being a non-compete order however, he would agree to sending a letter due there not being an agreement on the non-compete order. Colloquy regarding company dissolution letter to customers. Court directed Mr. Aurbach to prepare an order including the items parties agree on and ORDERED, matter SET for status check on Receiver's Report. 10/21/2020 10:30 AM STATUS CHECK: RECEIVER'S REPORT;

10/16/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on October 21, 2020 at 10:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL:

<https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /10/16/2020.;

10/27/2020



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:


Department 27 Formal Request to Appear Telephonically Re: Matter set on November 4, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL:

<https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while

CASE SUMMARY**CASE NO. A-19-803488-B**

waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 10/27/2020 ;

12/10/2020 **CANCELED Status Check (10:00 AM)** (Judicial Officer: Allf, Nancy)
Vacated


12/22/2020  **Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on December 23, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 12/22/2020;


12/23/2020  **Status Check (9:30 AM)** (Judicial Officer: Allf, Nancy)

Status Check: Receiver's Report

Minute Order - No Hearing Held;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Court stated it read the receiver's report. Mr. Kern stated he has issues with the report and would like to file an objection. Court stated Mr. Kern would have until January 31, 2021 to file an objection. Mr. Calaway stated he will be filing a motion to approve the report. Court directed Mr. Calaway to file the motion after the January 31, 2021 deadline.;

01/26/2021  **Minute Order (9:55 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

COURT FINDS after review that on December 23, 2020 Plaintiff filed Plaintiff's Motion to Approve Receiver's Final Report and Discharge Receiver ("Motion to Approve Receiver's Final Report"). COURT FURTHER FINDS after review that on January 6, 2021, an

CASE SUMMARY

CASE NO. A-19-803488-B

Opposition to the Motion to Approve Receiver's Final Report was filed. COURT FURTHER FINDS after review that on January 20, 2021, a Reply to the Motion to Approve Receiver's Final Report was filed. COURT FURTHER FINDS after review that on December 23, 2020, Mr. Kern stated he had issues with the Receiver's report and would like to file an objection. The Court stated Mr. Kern would have until January 31, 2021 to file an objection. Mr. Calaway stated he will be filing a motion to approve the report. The Court directed Mr. Calaway to file the motion after the January 31, 2021 deadline. THEREFORE COURT ORDERS for good cause appearing and after review that the hearing set for Wednesday, January 27, 2021 is hereby CONTINUED to Wednesday, February 10, 2021 at 10:00a.m. on Motions Calendar. The scheduled hearing will be conducted remotely through BlueJeans videoconferencing. The BlueJeans link will be sent to the parties prior to the hearing. CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties of Odyssey File and Serve./ke 01/26/21;

02/09/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on February 10, 2021, at 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL:

<https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 2/9/2021 ;

02/10/2021



Motion (10:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion to Approve Receiver's Final Report and Discharge Receiver

Granted;

Journal Entry Details:

All appearances made by the BlueJeans Videoconferencing Application. Arguments by Mr. Calaway, Mr. Kern, and Ms. O'Steen regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion to Approve Receiver's Final Report and Discharge Receiver GRANTED in all respects, objections are reserved for the time of trial; receiver DISCHARGED, and any bond to be refunded back to him. Colloquy regarding issues of closing the bank account of the company and transferring the funds. COURT ORDERED, status check SET in thirty days, for Mr. Kern to give a report on the account, if the matter is resolved then the status check may be vacated. 2/24/2021 10:00 AM STATUS CHECK: BANK ACCOUNT ISSUES;

02/23/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held;

Journal Entry Details:

Department 27 Formal Request to Appear Telephonically Re: Matter set on February 24,

CASE SUMMARY

CASE NO. A-19-803488-B

2021, at 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 2/23/2021 ;

02/24/2021



Status Check (10:00 AM) (Judicial Officer: Allf, Nancy)

Status Check: Bank Account Issues

Minute Order - No Hearing Held;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Colloquy regarding the bank account, closing of said bank account, process of signing over the account. Ms. O'Steen stated they did receive the funds from the account and requested permission to apply those funds to the outstanding fees for Mr. Bertsch. Court stated it could not consider an oral motion, a stipulation could be provided or a written request could be made. Mr. Calaway stated they would be open to a stipulation as to payment and timing. Matter concluded.;

04/15/2021

CANCELED Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

04/19/2021

CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

05/13/2021

CANCELED Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

Trial Readiness

06/04/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: Continuance of matter set on June 17, 2021

Minute Order - No Hearing Held; Minute Order: Continuance of matter set on June 17, 2021

Journal Entry Details:

Due to Court's unavailability on June 17, 2021, COURT ORDERS Status Check: Trial Readiness CONTINUED to June 18, 2021 at 9:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/4/2021.;

06/08/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearances

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearances

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on June 9, 2021, 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system.

CASE SUMMARY

CASE NO. A-19-803488-B

Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/8/2021. ;

06/09/2021



Motion For Stay (9:30 AM) (Judicial Officer: Allf, Nancy)

Defendants' Motion for Stay Pending Appeal

Denied;

Journal Entry Details:

Tabitha Martinez, Esq. present for Plaintiff. Counsel present via BlueJeans. Following arguments by Mr. Kern and Ms. Martinez, COURT ORDERED, Defendants' Motion for Stay Pending Appeal DENIED. Court noted it does not think it is appropriate to stay the case and trial can proceed on the 2nd claim for relief. Ms. Martinez to prepare the order and run it by Mr. Kern as to form.;

06/18/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute ORder: Status Check on 6/18/2021 VACATED

Minute Order - No Hearing Held; Minute ORder: Status Check on 6/18/2021 VACATED

Journal Entry Details:

COURT FINDS after review that on February 22, 2021 a status check was entered for June 17, 2021 in the matter of trial readiness. COURT FINDS after review that on May 6, 2021 Defendants entered a motion to stay. Motion was denied and the trial could proceed on the 2nd claim for relief. COURT FURTHER FINDS after review that on June 4, 2021, due to the Court s unavailability, the status check for June 17, 2021 be CONTINUED to June 18, 2021. COURT FURTHER FINDS after review that on June 14, 2021 a Motion for Summary Judgment was filed. The Motion for Summary Judgment was made on the bases that Muney lacks standing on the first, second, third, and fourth causes of action. THEREFORE COURT ORDERS for good cause appearing and after review that because a motion is pending, the Status Check scheduled on June 17, 2021 is not necessary, and is hereby VACATED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/18/2021.;

06/18/2021

CANCELED Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

Status Check: Trial Readiness

06/24/2021

CANCELED Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

06/28/2021

CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy)

Vacated

CASE SUMMARY

CASE NO. A-19-803488-B

07/22/2021



Calendar Call (10:30 AM) (Judicial Officer: Thompson, Charles)

Matter Heard;

Journal Entry Details:

All appearances made via the BlueJeans Videoconferencing Application. Court noted Defendant not present. Mr. Calaway stated he is not sure why Defendant is not present and he was aware of the calendar call. Upon inquiry of Court if matter was ready for trial, Mr. Calaway stated they were prepared for trial on Plaintiff's side and they have a Motion set on July 29, 2021 to resolve all the claims. Upon inquiry of Court as to time needed for trial, Mr. Calaway stated trial would be about five days depending on the outcome on the motion for summary judgment. Colloquy regarding availability. Mr. Calaway requested if matter had to be reset it be on stack after September due to the unavailability of his client. COURT ORDERED, trial dates VACATED and RESET, a new scheduling order would issue. Colloquy regarding resetting of the motion to compel. COURT ORDERED, motion to compel to be reset from the Discovery Commissioner's calendar to this Court's calendar on July 29, 2021 at 10:30 a.m. 9/30/2021 10:30 AM CALENDAR CALL 10/11/2021 10:30 AM JURY TRIAL (STACK);

07/28/2021



Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)

Minute Order: BlueJeans Appearance

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance

Journal Entry Details:

Department 27 Information to Appear Telephonically Re: Matter set on July 29, 2021, 10:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/28/2021. ;

07/29/2021

Motion for Summary Judgment (10:30 AM) (Judicial Officer: Allf, Nancy)

Plaintiff. Dominique Arnould's Motion for Summary Judgment

Granted;

07/29/2021

Motion to Compel (10:30 AM) (Judicial Officer: Allf, Nancy)

Motion to Compel Discovery Responses

Denied;

07/29/2021



Opposition and Countermotion (10:30 AM) (Judicial Officer: Allf, Nancy)


Events: 07/24/2021 Opposition and Countermotion

Plaintiff's Opposition to Defendants' Motion to Compel Responses to Discovery Requests and

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-803488-B

	<p><i>Counter-Motion for Sanctions</i></p> <p>No Ruling;</p> <p>Journal Entry Details:</p> <p><i>PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR SUMMARY JUDGMENT...MOTION TO COMPEL DISCOVERY RESPONSES...PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS AND COUNTER-MOTION FOR SANCTIONS All appearances made via the BlueJeans Videoconferencing Application. Arguments by counsel regarding the merits of and opposition to the motions. Court stated its findings and ORDERED, Plaintiff Dominique Arnould's Motion for Summary Judgment GRANTED; Motion to Compel Discovery Responses DENIED. Mr. Calaway to prepare findings of facts and conclusions of law consistent with the pleadings. Mr. Kern to have the ability to review and approve the form of the order.;</i></p>
07/29/2021	<p> All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>Matter Heard;</p>
08/02/2021	<p>CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Vacated</i></p>
09/30/2021	<p>CANCELED Calendar Call (10:31 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Vacated - Case Closed</i></p>
10/11/2021	<p>CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy)</p> <p><i>Vacated - Case Closed</i></p>
11/04/2021	<p>Motion to Retax (10:00 AM) (Judicial Officer: Allf, Nancy)</p> <p>Events: 09/24/2021 Motion to Retax</p> <p><i>Defendants' Motion to Retax and Settle Costs Claimed in Defendants' Memorandum of Costs</i></p>
11/04/2021	<p>Motion for Attorney Fees (10:00 AM) (Judicial Officer: Allf, Nancy)</p> <p>Events: 09/28/2021 Motion for Attorney Fees</p> <p><i>Plaintiff's Motion for Attorneys' Fees</i></p>
11/10/2021	<p>Motion for Protective Order (9:30 AM) (Judicial Officer: Allf, Nancy)</p> <p>Events: 09/07/2021 Motion for Protective Order</p> <p><i>Defendants' Motion for Protective Order from Post Judgment Subpoena Duces Tecum</i></p>

DATE

FINANCIAL INFORMATION

Counter Claimant Muney, Clement	
Total Charges	1,809.00
Total Payments and Credits	1,809.00
Balance Due as of 10/13/2021	0.00
Counter Defendant Arnould, Dominique	
Total Charges	2,066.50
Total Payments and Credits	2,066.50
Balance Due as of 10/13/2021	0.00
Counter Claimant Chef Exec Suppliers, LLC	
Temporary Restraining Order Balance as of 10/13/2021	100.00
Counter Claimant Muney, Clement	
Appeal Bond Balance as of 10/13/2021	1,500.00

BUSINESS COURT CIVIL COVER SHEET CASE NO: A-19-803488-B
Clark County, Nevada
 Case No. _____ Department 27

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): DOMINIQUE ARNOULD Attorney (name/address/phone): Phillip S. Aurbach, Esq. (NV Bar No. 1501) Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711	Defendant(s) (name/address/phone): CLEMENT MUNEY; CHEF EXEC SUPPLIERS, LLC; and DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive Attorney (name/address/phone):
---	---

II. Nature of Controversy (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court 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 type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Torts 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 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	CLARK COUNTY BUSINESS COURT <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
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	Civil Writs <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	WASHOE COUNTY BUSINESS COURT <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
Judicial Review/Appeal/Other Civil Filing		
Judicial Review <input type="checkbox"/> Foreclosure Mediation Case Appeal Other <input type="checkbox"/> Appeal from Lower Court	Other Civil Filing <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

10/11/2019

Date

/s/ Phillip S. Aurbach

Signature of initiating party or representative

Marquis Aurbach Coffing
Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
Alexander K. Calaway, Esq.
Nevada Bar No. 15188
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paurbach@maclaw.com
acalaway@maclaw.com
Attorneys for Plaintiff/Counter-Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC
SUPPLIERS, LLC; and DOES I through X,
inclusive; and ROE CORPORATIONS I
through X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B
Dept. No.: 27

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

Plaintiffs'/Counterdefendants' Motion for Summary Judgment ("Motion for Summary Judgment") and Defendants' Motion to Compel ("Motion to Compel") came before this Court for hearing on July 29, 2021 (the "Hearing"). Alexander K. Calaway, Esq. of Marquis Aurbach Coffing, appeared on behalf of Plaintiff/Counterdefendant, Dominique Arnould ("Arnould"); Robert Kern, Esq. or Kern Law, Ltd. appeared on behalf of Defendants/Counterplaintiff Muney Arnould ("Arnould") and Chef Exec Suppliers, LLC ("CES"). The Court having considered the pleadings and papers on file herein and good cause appearing therefore, the Court hereby grants Plaintiff's Motion for Summary Judgment, denies Defendants' Motion to Compel, and enters these Findings of Fact and Conclusions of law:

1 **I. FINDINGS OF FACT**

2 **A. PARTIES AND THEIR RESPECTIVE CLAIMS**

3 1. Mr. Muney and Mr. Arnould are equal co-owners and co-managers of CES.

4 2. CES is a Nevada limited liability company, validly formed under Nevada law,
5 with no operating agreement.

6 3. CES had two branches of operations: one in Las Vegas, NV and the other in Los
7 Angeles, CA.

8 4. In managing the affairs of CES, Mr. Muney and Mr. Arnould both had access to
9 CES's QuickBooks account via cloud-based server.

10 5. Mr. Arnould brought derivative claims on behalf of CES against Mr. Muney for:
11 (1) Declaratory relief for the appointment of a receiver and judicial dissolution; and (2) an
12 accounting of CES and breach of fiduciary duty.

13 6. Mr. Muney brought direct counterclaims against Mr. Arnould for: (1) breach of
14 fiduciary duty; (2) conversion; (3) money had and received; (4) unjust enrichment; (5)
15 constructive fraud; and (6) fraudulent concealment.

16 **B. APPOINTMENT OF A RECEIVER**

17 7. On June 8, 2020, the Court found the requirements to appoint a receiver over CES
18 had been met and ordered the appointment of a receiver with limited powers to prepare a report
19 about the viability of CES.¹

20 8. On June 12, 2020, this Court appointed a receiver to take control of the Nevada
21 warehouse and inventory (hereinafter the "Receiver").²

22 9. On August 21, 2020, this Court found that:

23 _____
24
25 1 Findings of fact included in June 8, 2020 Order, on file herein and incorporated herein; *see*
26 *also* Feb. 17, 2021, Order, at ¶1, on file herein; *see also* Opposition to Motion for Summary
Judgment (hereinafter the "Opposition") (The Opposition fails to dispute this fact because it does
not cite to any declaration, affidavit, or exhibit that might dispute the fact).

27 2 Findings of fact included in June 12, 2020 Order, on file herein and incorporated herein; *see*
28 *also* Opposition (The Opposition fails to dispute this fact because it does not cite to any
declaration, affidavit, or exhibit that might dispute the fact).

Both Parties don't dispute and stipulated that it is not reasonably practicable to carry on the business of [CES] in conformance with the operating agreement since there is no operating agreement and since the owners of [CES] cannot get along and disagree about the operation of [CES]. Therefore, [CES] must be dissolved... [and] the date of dissolution should be September 30, 2020.³

C. RECEIVER'S ACCOUNTING AND FINAL REPORT

10. On December 7, 2020, the Receiver issued his Final Report and Recommendations (hereinafter the "Final Report").⁴

11. In his Final Report, the Receiver made recommendations as to the distribution of the assets and liabilities of the Company to each Partner on an equitable basis.

12. The Receiver's report includes the results of his investigation, analysis, and accounting opinions.

13. The Defendants/Counter-Plaintiffs did not retain an expert witness to rebut the receiver's findings, analysis or opinions.⁵

14. The findings, analysis and opinions set forth in the Receiver's Final Report are hereby adopted by the Court.

15. On January 29, 2021, Mr. Muney's counsel filed a written objection to the Receiver's Final Report and the Receiver responded to the objections on February 6, 2021.

16. This written objection filed by counsel for Mr. Muney objected to:

a. The Receiver's allocation of rent expense for the warehouses in Nevada and California, and that the Receiver improperly calculated and accounted for rent expenses related to these warehouses;

b. the Receiver's accounting of various expenditures, such as shipping charges and how they were expensed, CES's checks and how they were recorded in the books, classification of business expenses, and invoicing;

³ Order of Dissolution, at ¶¶1-2, on file herein.

⁴ Final Report, on file herein; *see also* Opposition (The Opposition fails to dispute this fact because it does not cite to any declaration, affidavit, or exhibit that might dispute the fact).

⁵ *See* Opposition.

1 c. the Receiver's calculations as to how CES's delivery truck costs should be
2 allocated and how the truck itself should be valued; and

3 d. the Receiver's analysis of various expenditures related to partner spending.

4 17. The written objection filed by counsel for Mr. Muney contained no expert
5 testimony in support, no declaration/affidavit in support, and no authenticated documentary
6 evidence.

7 18. The written objection filed by counsel for Mr. Muney only contained arguments
8 by counsel and unauthenticated exhibits.

9 19. On February 17, 2021, the Receiver's Final Report was approved and accepted by
10 this Court and the Receiver was discharged.

11 20. On May 14, 2021, Mr. Arnould designated the Receiver as an expert witness to be
12 called at trial and designated the Receiver's Final Report as an expert written report.

13 21. The Receiver was timely designated as an expert witness to give opinion
14 testimony to the Court, and that the Receiver's Final Report was timely designated as an expert
15 witness report.

16 22. No evidentiary challenge was made by either party as to the Receiver's
17 specialized knowledge and qualifications, skill, experience, training and education as to matters
18 within the scope of accounting.

19 23. No evidentiary challenge was made by either party as to the facts or data relied
20 upon by the Receiver in his Final Report.

21 24. The Receiver:

22 a. Has been a Certified Public Accountant for over 55 years;

23 b. Has worked as a court-appointed receiver, forensic accountant, bankruptcy
24 trustee, and the chief financial officer over several large hotel and casinos;

25 c. Has administered and closed over 8,000 Chapter 7 bankruptcies and
26 numerous Chapter 11 and Chapter 7 operating bankruptcies;

1 d. Has served as a special master, liquidating trustee, and a receiver in
2 hundreds of cases involving partnerships, limited liability companies, corporations, and divorces;
3 and

4 e. Has experience in testifying on accounting and forensic accounting
5 matters and has testified in both state and federal courts.

6 25. The Receiver is competent to testify as an expert regarding the investigation and
7 facts contained in his Final Report including CES, its books, QuickBooks, accounts, capital
8 accounts, financial documents, and issues surrounding the Complaint, Counter-Complaint, and
9 pleadings in this case.

10 26. The Receiver's opinions in his Final Report are based upon a review and analysis
11 of the relevant documents, items, and events in this matter, including CES's QuickBooks files.

12 27. The Receiver's Final Report relies upon, among other things, the QuickBooks and
13 supporting documents which were supplied to the Receiver by both Mr. Arnould and Mr. Muney
14 in this matter.

15 28. The Receiver and the opinions expressed in his Final Report are credible.

16 29. The Receiver's Final Report calculated the distribution of CES assets and the
17 amounts that Mr. Muney and Mr. Arnould owed to CES.

18 30. Pursuant to the Receiver's findings in the Final Report and stipulation of the
19 Parties, Mr. Muney and Mr. Arnould were required to each pay \$22,712.56 to the Receiver to be
20 applied to their respective obligations to CES.

21 31. According to the Receiver's Final Report, Mr. Muney had a negative capital
22 account with CES and owes \$6,303.93 to Mr. Arnould.

23 32. To date, Mr. Muney has not paid Mr. Arnould the \$6,303.93 he owed to equalize
24 the capital account in accordance with the Final Report.

25 33. On May 14, 2021, Mr. Muney designated Andrew Martin, MS, CFE, CFF,
26 CGMA, CICA, CPA ("Martin") and Gene Proctor ("Proctor") as expert witnesses.

27 34. Mr. Muney did not timely disclose a written expert report for Messrs. Martin and
28 Mr. Proctor in this matter.

1 35. Mr. Muney did not disclose any expert testimony that would dispute Receiver's
2 accounting and opinions.

3 36. On May 14, 2021, discovery closed in this matter.

4 **D. FACTS PERTAINING TO DISCOVERY AND THE MOTION TO**
5 **COMPEL**

6 37. On December 7, 2020, Mr. Arnould timely served his Responses to Defendants'
7 Requests for Production and Defendants' Interrogatories (the "Responses").

8 38. On February 24, 2021, Mr. Arnould served his Second Supplement to Initial
9 Disclosure of Witnesses and Documents Pursuant to NRCP 16.1 (the "Second Supplement").
10 The Second Supplement contained, among other things, the native QuickBooks file of CES.

11 39. On March 11, 2021, Arnould served his Third Supplement to Initial Disclosure of
12 Witnesses and Documents Pursuant to NRCP 16.1 (the "Third Supplement").

13 40. The Third Supplement contained additional documents responsive to M. Muney's
14 requests, including CES documents, payroll documents, invoices, and tax returns from 2007
15 through 2019 for the company, and other corporate documents.

16 41. On June 14, 2021, Mr. Arnould filed his Motion for Summary Judgment.

17 42. On July 9, 2021, Mr. Muney filed his Motion to Compel and requested this Court
18 compel Mr. Arnould to supplement his Responses.

19 43. On July 23, 2021, Mr. Arnould filed his opposition to the Motion to Compel.

20 44. If any of these Findings of Fact is a Conclusion of Law, it shall be deemed a
21 Conclusion of Law and if any Conclusion of Law is a Finding of Fact, it shall be deemed a
22 Finding of Fact.

23 **II. CONCLUSIONS OF LAW**

24 **A. JURISDICTION IS PROPER**

25 1. This Court may exercise jurisdiction over the Parties because all Parties have
26 appeared in these proceedings and consented to jurisdiction.
27
28

1 2. The Plaintiff's claims, including declaratory relief, accounting, appointment of a
2 receiver, and related counterclaims are not within the subject matter jurisdiction of the Justice
3 Court.

4 3. This Order and the Findings of Fact and Conclusions of Law herein resolves all
5 claims and counterclaims which were or could have been submitted in this case.

6 4. The Court finds that all issues between the Parties have been resolved or
7 abandoned except those issues listed below between the above-named Parties.

8 **B. MR. ARNOULD IS ENTITLED TO JUDGMENT IN HIS FAVOR ON ALL**
9 **CLAIMS**

10 5. In *Cuzze v. University and Community College System of Nevada*, 123 Nev. 598,
11 602, 172 P.3d 131, 134 (2007), the Nevada Supreme Court set forth the standard for summary
12 judgment in Nevada under NRCP 56(a).

13 6. Summary judgment is appropriate "when the pleadings, depositions, answers to
14 interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate
15 that no genuine issue of material fact exists, and the moving party is entitled to judgment as a
16 matter of law." *Id.* (internal citations omitted).

17 7. Nevada courts follow the federal approach outlined in *Celotex Corp. v. Catrett*
18 with respect to burdens of proof and persuasion in the summary judgment context, and as such,
19 "[t]he party moving for summary judgment bears the initial burden of production to show the
20 absence of a genuine issue of material fact," thereafter, "the party opposing summary judgment
21 assumes a burden of production to show the existence of a genuine issue of material fact. *Id.*
22 (citing 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *see also*, *Clauson v. Lloyd*, 103
23 Nev. 432, 743 P.2d 631 (1987) (explaining *Celotex's* application in Nevada); *see also* *Wood v.*
24 *Safeway, Inc.*, 121 Nev. 724, 731–32, 121 P.3d 1026, 1031 (2005) (adopting the summary
25 judgment standard set forth in *Celotex* and other Supreme Court decisions).

26 8. Pursuant to NRCP 56(c)(1), a party asserting that a fact cannot be or is genuinely
27 disputed must support the assertion by:
28

1 9. (A) citing to particular parts of materials in the record, including depositions,
2 documents, electronically stored information, affidavits or declarations, stipulations (including
3 those made for purposes of the motion only), admissions, interrogatory answers, or other
4 materials; or (B) showing that the materials cited do not establish the absence or presence of a
5 genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

6 10. Pursuant to NRCP 54(c)(2), either party may “object that the material cited to
7 support or dispute a fact cannot be presented in a form that would be admissible in evidence.”

8 11. Pursuant to NRCP 54(c)(3) the court “need consider only the cited materials, but
9 it may consider other materials in the record.”

10 12. “An affidavit or declaration used to support or oppose a motion must be made on
11 personal knowledge, set out facts that would be admissible in evidence, and show that the affiant
12 or declarant is competent to testify on the matters stated.” NRCP 54(c)(4).

13 13. Pursuant to NRCP 56(e)(3),

14 If a party fails to properly support an assertion of fact or fails to properly address
15 another party's assertion of fact as required by Rule 56(c), the court may: . . .
16 consider the fact undisputed for purposes of the motion.... [or] grant summary
judgment if the motion and supporting materials--including the facts considered
undisputed--show that the movant is entitled to it.

17 14. Mr. Muney's opposition fails to meet the requirements NRCP 56(c).⁶

18 15. The Court need only consider cited materials pursuant to NRCP 54(c)(3).

19 16. Mr. Muney failed to provide any exhibit, declaration, or affidavit that might put
20 any fact in dispute.

21 17. Mr. Muney failed to cite to any material facts that support his defenses and
22 counterclaims in this matter.

23 18. Mr. Muney's Opposition failed to support for claims and defenses in this case.

24 19. Therefore, the Court grants summary judgment against Mr. Muney and in favor of
25 Mr. Arnould and CES derivatively.

26
27
28 ⁶ See Opposition (The Opposition fails to dispute this fact because it does not cite to any
declaration, affidavit, or exhibit that might dispute the fact).

C. **MR. ARNOULD PREVAILED DERIVATIVELY ON HIS FIRST CLAIM FOR RELIEF**

20. Mr. Arnould's first claim for relief was for declaratory relief for the appointment of a receiver and dissolution of CES.

1. **Mr. Arnould Prevailed on Declaratory Relief for Dissolution of CES**

21. The Court finds that Mr. Arnould prevailed on his first cause of action for declaratory relief that CES should be dissolved and a receiver appointed.

22. NRS 86.495 authorizes a member of a limited liability company to apply for a decree of dissolution whenever it is not reasonably practicable to carry on the business of the company in conformity with the articles of organization or operating agreement.

23. Mr. Arnould had standing to apply for a decree of dissolution of CES because Mr. Arnould was a 50% member of CES.

24. Mr. Arnould's first cause of action sought declaratory relief from the Court that it is not reasonably practicable to carry on CES and an order granting judicial dissolution pursuant to NRS 86.495 and 86.505.

25. Mr. Arnould's verified complaint stated that the disputes between he and Muney have arisen and are so deep that it is not reasonably practicable to carry on the business of the Company.

26. On August 21, 2020, this Court found that:

Both Parties don't dispute and stipulated that it is not reasonably practicable to carry on the business of the Company in conformance with the operating agreement since there is no operating agreement and since the owners of the Company cannot get along and disagree about the operation of the Company. Therefore, the Company must be dissolved.... [and] the date of dissolution should be September 30, 2020.⁷

27. On November 3, 2020, the Receiver filed articles of dissolution for CES.

28. Therefore, Mr. Arnould prevailed on his first cause of action for declaratory relief and dissolution.

⁷ See Order of Dissolution, at ¶¶1-2, on file herein.

29. Mr. Muney's Opposition failed to support his defenses to this particular claim.⁸

2. **Mr. Arnould Prevailed on Declaratory Relief and Appointment of Receiver**

30. Mr. Arnould's first cause of action also sought a declaration that the requirements for appointment of a receiver to run the Las Vegas operations of CES and potentially dissolve the company."

31. NRS 32.010(6) provides: "A receiver may be appointed by the court in which an action is pending, or by the judge thereof: ... In all other cases where receivers have heretofore been appointed by the usages of the courts of equity."

32. In general, "[a] receiver's primary purpose is to preserve the property's value for those to whom it is ultimately determined that the property belongs, so to accommodate all claims possible." *Frank Settelmeyer & Sons, Inc. v. Smith & Harmer, Ltd.*, 124 Nev. 1206, 1215, 197 P.3d 1051, 1057 (2008) (internal citations omitted); *see also Bowler v. Leonard*, 70 Nev. 370, 269 P.2d 833 (1954).

33. In appointing the Receiver over CES, this Court found:

a. That neither Party trusted the other with the assets or operations of the Company;

b. That the expenditures and dealings of the Company be accounted for and overseen by a neutral third-party without impeding the Company's ability to carry on its business;

c. That it was necessary that a neutral receiver be appointed to supervise the operations of the Company in consultation with Mr. Arnould and Mr. Muney, and to allow them to continue operations of the Company, and have the Receiver prepare a report about the viability of the Company;

d. That despite the fact that Mr. Muney and Mr. Arnould are each 50% owners of CES, Mr. Muney changed the locks to the warehouse located at 3655 West Quail Ave, Las Vegas, Nevada which stored CES inventory;

⁸ See Opposition,

e. That Mr. Muney refused to allow Arnould access to the Nevada warehouse to obtain the CES inventory; and

f. That Mr. Muney's actions required further monitoring of the Nevada warehouse so that CES could continue to fulfill the needs of its customers.

34. Therefore, Mr. Arnould prevailed on his first cause of action for declaratory relief and for appointment of a receiver.

35. Mr. Muney's Opposition failed to support his defenses to this particular claim.⁹

3. Mr. Arnould Prevailed Derivatively on his First Claim for Relief

36. The Court finds that Mr. Arnould's first cause of action was properly plead as a derivative claim and that Mr. Arnould prevailed derivatively on this claim.

37. The pleading standards for derivative claims brought on behalf of a Nevada LLC are set forth in NRCP 23.1¹⁰ and NRS 86.487.¹¹

⁹ See Opposition, on file herein.

¹⁰ NRCP 23.1 provides:

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right that may properly be asserted by it, the complaint must be verified and must allege that the plaintiff was a shareholder or member at the time of the transaction of which the plaintiff complains, or that the plaintiff's share or membership thereafter devolved on the plaintiff by operation of law. The complaint must also allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff desires from the directors or comparable authority and, if necessary, from the shareholders or members, and the reasons for the plaintiff's failure to obtain the action or for not making the effort. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association. The action may not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise must be given to shareholders or members in such manner as the court directs.

¹¹ NRS 86.487 provides:

In a derivative action, the complaint must set forth with particularity: 1. The effort of the plaintiff to secure initiation of the action by a manager or member; or 2. The reasons for the plaintiff not making the effort to secure initiation of the action by a manager or member.

1 38. The Court finds that, pursuant to NRCP 23.1 and NRS 86.487, Mr. Arnould met
2 the derivative pleading requirements for his first cause of action because:

- 3 a. Mr. Arnould's complaint was a verified complaint;
- 4 b. Mr. Arnould's complaint sufficiently alleged that Mr. Arnould had
5 standing as a member of CES;
- 6 c. Mr. Arnould particularly alleged that it would be a futile effort to make a
7 demand on Mr. Muney since Mr. Muney is not disinterested, Mr. Muney's judgment is
8 materially affected in favor of his actions and against the best interests of Chef Suppliers and
9 nothing can be accomplished when both disagree on the direction of the company; and
- 10 d. Mr. Arnould's first cause of action fairly and adequately represented the
11 interests of the members similarly situated in enforcing the rights of CES.

12 39. The Court finds that Mr. Arnould's first cause of action was derivative because
13 the appointment of a receiver and dissolution benefited CES by:

- 14 a. Reducing the effect that the dispute between CES's managers had on
15 CES's business and its articles by dissolving CES under NRS 86.495(1);
- 16 b. Securing and monitoring the CES Las Vegas warehouse and thereby
17 preventing waste by Mr. Muney;
- 18 c. Providing CES's manager, Mr. Arnould, with access to the Las Vegas
19 warehouse, so that Mr. Arnould could continue operations of CES and fulfill the needs of
20 customers without interference by Mr. Muney;
- 21 d. Providing a comprehensive accounting of CES which required both Mr.
22 Muney and Mr. Arnould each pay CES to settle their respective capital accounts which benefited
23 CES; and
- 24 e. Discharging and providing for CES's outstanding obligations and debts by
25 settling capital accounts; and
- 26 f. Filing a final tax return for CES.

27 40. Finally, NRS 86.489 provides:

28 If a derivative action is successful, in whole or in part, or if anything is received

1 by the plaintiff as a result of a judgment, compromise or settlement of an action or
2 claim, the court may award the plaintiff reasonable expenses, including
3 reasonable attorney's fees, and shall direct the plaintiff to remit to the limited-
4 liability company the remainder of those proceeds received by the plaintiff.

5 41. The Court finds that Mr. Arnould prevailed derivatively on his first cause of
6 action and is therefore entitled to seek his reasonable attorney's fees and expenses pursuant to
7 NRS 86.489.¹²

8 42. Mr. Muney's Opposition failed to support his defenses to this particular claim.¹³

9 **D. MR. ARNOULD PREVAILED ON HIS SECOND CAUSE OF ACTION**

10 43. Mr. Arnould's second claim for relief was for accounting of CES and breach of
11 fiduciary duty.

12 44. An equitable accounting "is a restitutionary remedy based upon avoiding unjust
13 enrichment." *See* D. Dobbs, Remedies § 4.3 at 415 (1973). Nevada recognizes the action of
14 equitable accounting. *Botsford v. Van Riper*, 33 Nev. 158, 110 P. 705 (1910); *Young v. Johnny*
15 *Ribiero Bldg., Inc.*, 106 Nev. 88, 787 P.2d 777 (1990); *Oracle USA, Inc. v. Rimini Street, Inc.*,
16 No. 2:10-CV-00106-LRH-PAL, 2010 WL 3257933 (D. Nev. Aug. 13, 2010); *Mobius*
17 *Connections Group, Inc. v. Techskills, LLC*, No. 2:10-CV-01678-GMN-RJJ, 2012 WL 194434
18 (D. Nev. Jan. 23, 2012).

19 45. Courts have generally defined an action for an accounting as "a proceeding in
20 equity for the purpose of obtaining a judicial settlement of the accounts of the parties in which
21 proceeding the court will adjudicate the amount due, administer full relief and render complete
22 justice." *Verdier v. Superior Court*, 88 Cal.App.2d 527, 530, 199 P.2d 325 (Cal.1948); *Teselle v.*
23 *McLoughlin*, 173 Cal. App. 4th 158, 92 Cal. Rptr. 3d 696 (Cal. App. 2009).

24 46. NRS 86.5419 provides for accounting for profits of an LLC by a receiver:

25 The receiver... shall lay before the district court a full and complete inventory of
26 all the estate, property and effects of the limited-liability company, its nature and
27 probable value, and an account of all debts due from and to it, as nearly as the
28 same can be ascertained, and make a report to the court of his or her proceedings
at least every 3 months thereafter during the continuance of the trust, and

12 *See* Order re: Dissolution, on file herein; *see also* Order appointing receiver, on file herein.

13 *See* Opposition.

1 whenever the receiver shall be so ordered.

2 47. An equitable accounting is proper where “the accounts are so complicated that an
3 ordinary legal action demanding a fixed sum is impracticable.” *See e.g. Civic Western Corp. v.*
4 *Zila Industries, Inc.*, 66 Cal.App.3d 1, 14, 135 Cal. Rptr. 915 (Cal.1977) (citation and quotes
5 omitted).

6 48. Although courts typically grant an accounting where a fiduciary relationship
7 exists between the parties, courts have extended the remedy of accounting to nonfiduciaries
8 where “dealings between the parties are so complex that an equitable master, and not a jury, is
9 required to sort out the various dealings between the parties.” *See e.g. Leonard v. Optimal*
10 *Payments Ltd. (In re Nat'l Audit Def. Network)*, 332 B.R. 896, 918–19 (Bankr. D. Nev. 2005).

11 49. The complexity of CES’s accounts make an equitable accounting necessary in this
12 case because the disagreements between the parties, the lack of communication, and necessary
13 adjustments to the books and records, the dealings between Mr. Arnould and Mr. Muney were
14 complex.

15 50. The breadth of the Receiver’s report itself illustrates the complexity involved in
16 accounting for CES.

17 51. Thus, the Court finds that the Receiver was properly appointed to account for the
18 assets of CES, which was completed on December 7, 2020.

19 52. The Receiver’s Final Report was a complete and full accounting of CES that
20 satisfies the requirements for an accounting under Nevada law and NRS Chapter 86.

21 53. Therefore, the Court finds that Mr. Arnould prevailed on his second cause of
22 action for accounting.

23 54. Mr. Muney’s Opposition failed to support his defenses in this case ¹⁴

24 55. Mr. Muney failed to provide any material disputed fact that might dispute or rebut
25 the Receiver’s accounting of CES pursuant to NRCP 56(c)-(e).¹⁵

26
27 ¹⁴ See Opposition.

28 ¹⁵ *Id.*

1 56. Mr. Muney cannot defeat Mr. Arnould's motion for summary judgment because
2 he failed to "set out facts that would be admissible in evidence." NRCP 56(c)(4).

3 57. While Mr. Muney objected to the Receiver's accounting, his objections are not
4 admissible evidence at trial.¹⁶

5 58. Each of the issues Mr. Muney raised in his written objection on the record require
6 specialized and technical knowledge in accounting, which are subjects reserved for experts
7 pursuant to NRS 50.275.

8 59. In Nevada, to present expert testimony, the proffering party must provide a
9 written disclosure of their experts and the contents of those experts' testimonies, including the
10 information each expert considered in forming an opinion, well in advance of trial. *Sanders v.*
11 *Sears-Page*, 131 Nev. 500, 517, 354 P.3d 201, 212 (Nev. App. 2015) (citing NRCP 16.1(a)(2)).

12 60. This policy underlying NRCP 16.1 "serves to place all parties on an even playing
13 field and to prevent trial by ambush or unfair surprise." *Id.*; *see also Roberts v. Libby*, 132 Nev.
14 1023 (Nev. App. 2016).

15 61. The Receiver's Final Report and his accounting therein are undisputed because
16 Mr. Muney failed to produce an expert report or any other admissible accounting of profits for
17 CES.

18 62. Because Mr. Muney failed to produce an expert report, he is barred from
19 attempting to proffer expert testimony at trial. Since Mr. Muney cannot present expert testimony
20 at trial, the Final Report and Receiver's accounting of profits are undisputed. The amounts due
21 under the Receiver's accounting were also partially stipulated to on or about February 26, 2021,
22 since Mr. Muney and Mr. Arnould each stipulated and agreed to pay \$22,712.56 to the Receiver
23 to close out the receivership estate and thereafter, accepted their respective distributions of
24 CES's assets.¹⁷

25
26
27 16 *See* Defendants' Objection to Final Report, on file herein.

28 17 February 26, 2021 Stipulation and Order, on file herein.

63. The only unsettled amounts due under the Receiver's undisputed accounting is the \$6,303.93 due from Mr. Muney to be paid to Mr. Arnould.

64. Therefore, the Court finds that judgment Mr. Arnould is entitled to judgment in his favor of and that judgment may be entered against Mr. Muney in the amount of \$6,303.93.

65. Mr. Muney's Opposition failed to support his defenses to this particular claim.¹⁸

66. The Court further finds that any diversion of funds by Mr. Muney alleged by Mr. Arnould under any breach of fiduciary duty theory was addressed in the Receiver's equitable accounting and capital account adjustment set forth above.

67. As such, the Court finds that since Mr. Arnould prevailed on his accounting claim, his breach of fiduciary duty claim is moot.

E. MR. MUNEY'S FIRST, FIFTH AND SIXTH CAUSES OF ACTION FAIL AS A MATTER OF LAW

1. Mr. Muney's First Cause of Action for Breach of Fiduciary Duty Fails

68. Mr. Muney's first cause of action states that Mr. Arnould as co-owner and co-manager of an LLC, owed a fiduciary duty to Counter-Plaintiffs CES and Mr. Muney.

69. In Nevada, a claim for breach of a fiduciary duty requires, as a threshold, the existence of a fiduciary duty. *Brown v. Kinross Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008) (listing the three elements of the claim) (citing *Giles v. Gen. Motors Acceptance Corp.*, 494 F.3d 865, 880-81 (9th Cir. 2007) (applying Nevada law)).

70. Under NRS Chapter 86, the only duties owed by a member or manager to the LLC or to any other member of the LLC are: (1) the implied contractual covenant of good faith and fair dealing; and (2) duties prescribed by the "articles of organization or the operating agreement." NRS 86.298.

71. Unlike Nevada's statutes covering corporations and partnerships, NRS Chapter 86 does not set out fiduciary duties owed by and between its members. *Cf.* NRS 78.138; NRS 87.210; *see also Ela v. Destefano*, 869 F.3d 1198, 1202 (11th Cir. 2017) (finding "persuasive the argument that '[w]here [a legislature] knows how to say something but chooses not to, its silence

¹⁸ See Opposition.

1 is controlling”) (quoting *Animal Legal Def. Fund v. U.S. Dep’t of Agriculture*, 789 F.3d 1206,
2 1217 (11th Cir. 2015)).

3 72. NRS 86.286(5) provides:

4 If, and to the extent that, a member or manager or other person has duties to a
5 limited-liability company, to another member or manager, or to another person
6 that is a party to or is otherwise bound by the operating agreement, such duties
7 may be expanded, restricted or eliminated by provisions in the operating
8 agreement, except that an operating agreement may not eliminate the implied
9 contractual covenant of good faith and fair dealing.

10 73. While members of an LLC can contract to fiduciary duties, such duties do not
11 necessarily exist otherwise, aside from the implied contractual covenant of good faith and fair
12 dealing. *See e.g. Israyelyan v. Chavez*, 466 P.3d 939 (Nev. 2020) (unpublished).¹⁹

13 74. Mr. Arnould owed no fiduciary duties to Muney and CES, because there was no
14 operating agreement between the members of CES imposing fiduciary duties.

15 75. Therefore, Mr. Muney’s first cause of action fails as a matter of law and judgment
16 is hereby entered against Mr. Muney and in favor of Mr. Arnould on this claim.

17 76. Mr. Muney’s Opposition failed to support this particular claim.²⁰

18 **2. Mr. Muney’s Fifth Cause of Action for Constructive Fraud**

19 77. Mr. Muney states in his fifth cause of action for constructive fraud that Mr.
20 Arnould owed a duty to Muney and CES to lawfully manage and disburse funds and assets
21 belonging to CES.

22 78. “Constructive fraud is the breach of some legal or equitable duty which,
23 irrespective of moral guilt, the law declares fraudulent because of its tendency to deceive others
24 or to violate confidence.” *Long v. Towne*, 98 Nev. 11, 13, 639 P.2d 528, 529–30 (1982); *See*

25 19 *See e.g. HP Tuners, LLC v. Cannata*, No. 318CV00527LRHWGC, 2019 WL 3848792, at *4
26 (D. Nev. Aug. 15, 2019) (holding that “unlike many states, Nevada does not impose any
27 statutory fiduciary duties on members of LLCs”) (internal quotations omitted); *see e.g. In re*
28 *Plyam*, 530 B.R. 456, 472 (9th Cir. B.A.P. 2015) (“Unlike California, Nevada does not have a
statute equating the fiduciary duties of a manager in a limited liability company context to those
of a partner in a partnership.”); *see e.g. JPMorgan Chase Bank, N.A. v. KB Home*, 632 F.Supp.2d
1013, 1025–26 (D. Nev. 2009) (holding that Nevada allows the members of LLCs to decide
whether to impose fiduciary duties on themselves through their operating agreement).

20 *See* Opposition, on file herein.

1 also, *Perry v. Jordan*, 111 Nev. 943, 946–47, 900 P.2d 335, 337 (1995). To legally maintain a
2 claim, a plaintiff must establish that the defendant owed a legal duty “arising out of a fiduciary or
3 confidential relationship.” *Perry*, 111 Nev. at 946–47, 900 P.2d at 337 (quoting *Long*, 98 Nev. at
4 13, 639 P.2d at 529–30) (internal quotations omitted).

5 79. “A “confidential or fiduciary relationship” exists when one reposes a special
6 confidence in another so that the latter, in equity and good conscience, is bound to act in good
7 faith and with due regard to the interests of the one reposing the confidence.” *Id.* Thus, a legal or
8 equitable duty is only imposed “where one party imposes confidence in the other because of that
9 person's position, and the other party knows of this confidence.” *Mackintosh v. Jack Matthews &*
10 *Co.*, 109 Nev. 628, 635, 855 P.2d 549, 553 (1993) (internal quotations and citations omitted).

11 80. As noted above, NRS Chapter 86 restricts the duties owed by a member and
12 manager of an LLC to only the implied contractual covenant of good faith and fair dealing. *See*
13 NRS 86.298 and 86.286(5); *see e.g. Israyelyan*, 466 P.3d at *4. The Legislature intended for
14 managers and members of an LLC to either opt-out of fiduciary duties, or to contractually agree
15 to fiduciary duties by way of an operating agreement. *Id.*

16 81. The only relationship between Mr. Muney and Mr. Arnould was their relationship
17 as equal co-owners and co-managers of CES.

18 82. Mr. Muney’s Counter-Complaint states that Mr. Arnould allegedly breached his
19 duty as a business partner of Mr. Muney in his constructive fraud claim.

20 83. The only duties as to Mr. Arnould in Mr. Muney’s Counter-Complaint are the
21 duties arising out of Mr. Arnould’s status as a member and co-manager CES.

22 84. But as noted above, Mr. Muney and Mr. Arnould owed no fiduciary duties to one
23 another pursuant to NRS Chapter 86.

24 85. Therefore, Mr. Muney fifth cause of action fails as a matter of law and judgment
25 is hereby entered against Mr. Muney and in favor of Mr. Arnould on this claim.

26 86. Mr. Muney’s Opposition failed to support this particular claim.²¹

27
28 21 *See* Opposition, on file herein.

1 **3. Mr. Muney's Sixth Cause Of Action For Fraudulent Concealment.**

2 87. Mr. Muney's sixth cause of action is fraudulent concealment, and Mr. Muney
3 alleged that Mr. Arnould had a duty to disclose all dealings to his partner, but instead
4 intentionally concealed his acts.

5 88. One of the essential elements in a fraudulent concealment case is that the
6 defendant actually owed a duty to disclose a fact to the plaintiff. *Dow Chemical Co. v. Mahlum*,
7 114 Nev. 1468, 1485 (1998), overruled in part on other grounds in *GES, Inc. v. Corbitt*, 117 Nev.
8 265 (2001) (using the conjunction "and" in listing each element in listing all five elements of
9 fraudulent concealment); *see also Couturier v. Am. Invsco Corp.*, 10 F.Supp.3d 1143, 1157 (D.
10 Nev. 2014) (same); *Aliya Medicare Fin., LLC v. Nickell*, No. CV 14-07806 MMM (EX), 2015
11 WL 11072180, at *9 (C.D. Cal. Sept. 25, 2015) (same) (applying Nevada law).

12 89. Mr. Muney and Mr. Arnould were the only members of CES, and CES and had no
13 operating agreement that imposed duties on Mr. Muney.

14 90. As explained above, NRS Chapter 86 restricts the duties owed by a member and
15 manager of an LLC to only the implied contractual covenant of good faith and fair dealing. *See*
16 NRS 86.298 and 86.286(5); *see e.g. Israyelyan*, 466 P.3d at *4.

17 91. Thus, Mr. Muney and Mr. Arnould owed no fiduciary duties to one another
18 pursuant to NRS Chapter 86.

19 92. Therefore, the Court finds that Mr. Arnould prevails against Mr. Muney on Mr.
20 Muney's sixth cause of action.

21 93. Mr. Muney's Opposition failed to support this particular claim.²²

22 **F. MR. MUNEY LACKS STANDING TO BRING HIS FIRST, SECOND,**
23 **THIRD AND FOURTH CAUSES OF ACTION ON BEHALF OF CES**

24 94. The substantive allegation undergirding Muney's first, second, third, and fourth
25 causes of action is that Mr. Arnould made payments to himself that Muney deems improper, and
26 that, accordingly, Mr. Arnould should return all of the funds to CES.

27 _____
28 22 *Id.*

1 95. There are no allegations by Mr. Muney that funds should be returned to Mr.
2 Muney personally, but rather, Mr. Muney asks the Court for an order that Mr. Arnould repay
3 CES.

4 96. In general, standing “consists of both a case or controversy requirement stemming
5 from Article III, Section 2 of the Constitution, and a subconstitutional prudential element.” *In re*
6 *AMERCO Derivative Litig.*, 127 Nev. 196, 213, 252 P.3d 681, 694 (2011) (internal quotations
7 omitted).

8 97. While “state courts do not have constitutional Article III standing, Nevada has a
9 long history of requiring an actual justiciable controversy as a predicate to judicial relief.” *Id.*
10 (internal quotation omitted). Thus, to pursue a legal claim, an “injury in fact” must exist. *Bennett*
11 *v. Spear*, 520 U.S. 154, 167 (1997).

12 98. The “injury-in-fact” analysis requires the claimant to show that the action caused
13 or threatened to cause the claimant's injury-in-fact, and that the relief sought will remedy the
14 injury. *See generally Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 38-39 (1976). A person
15 acting in their individual capacity is legally distinct from the same person acting in their
16 representative capacity. *See Mona v. Eighth Judicial Dist. Court*, 132 Nev. 719, 728, 380 P.3d
17 836, 842 (2016).

18 99. Mr. Muney’s Counter-Complaint requests that Mr. Arnould repay to CES all of
19 the funds which Mr. Muney alleges were stolen, embezzled or in any other way wrongfully taken
20 by Mr. Arnould. But all of the funds Mr. Muney refers to in each of his causes of action are CES
21 funds.

22 100. The Court finds that Mr. Muney lacks standing to recover CES’s funds requested
23 by Mr. Muney in his second, third, and fourth claims and each are summarily dismissed as a
24 matter of law.

25 101. The Final Report by the Receiver also accounted for any funds that may have
26 been owed to CES by Mr. Muney.

27 102. Therefore, the Court finds that Mr. Arnould prevails against Mr. Muney on Mr.
28 Muney’s second, third, and fourth Counter-Claims.

1 103. Mr. Muney's Opposition failed to support these particular claims.²³

2 **G. MR. MUNEY LACKS STANDING TO BRING HIS CAUSES OF ACTION**
3 **DERIVATIVELY ON BEHALF CES**

4 104. For each of Mr. Muney's counterclaims, he also included CES as a counter-
5 plaintiff and purportedly brought those claims on behalf of CES.

6 105. Mr. Muney's counterclaims cannot be construed as a type of derivative suit on
7 behalf of CES, because his Counter-Complaint fails to meet any of the requirements of a
8 derivative suit under NRCP 23.1.

9 106. For cases concerning LLCs, a member or manager is only authorized to bring an
10 action to enforce the rights of a limited-liability company "if the managers or members with
11 authority to do so have refused to bring the action [i.e. demand] or if an effort to cause those
12 managers or members to bring the action is not likely to succeed [i.e. futility]." NRS 86.483; *see*
13 *also* NRS 86.587 (requiring this to plead with particularity).

14 107. In addition, the complaint must be verified and must allege that the plaintiff was a
15 member at the time of the transaction of which the plaintiff complains or that the plaintiff's share
16 or membership thereafter devolved on the plaintiff by operation of law. *See* NRCP 23.1. Unless
17 the plaintiff fairly and adequately represents the interests of company, "[t]he derivative action
18 may not be maintained..." *Id.* (emphasis added).

19 108. Mr. Muney's Counter-Complaint provides no allegations that would support a
20 derivative claim.

21 109. Mr. Muney failed to verify his Counter-Complaint, failed to allege a demand or
22 futility, and failed to allege how Mr. Muney fairly and adequately represents the interests of the
23 company.

24 110. Accordingly, Mr. Muney lacks standing to derivatively bring his first, second,
25 third, fourth, fifth, and sixth causes of action on behalf CES.

26 111. The Final Report by the Receiver also accounted for any funds that may have
27 been owed to CES by Mr. Muney.

28 ²³ *See* Opposition.

112. Therefore, Mr. Arnould prevails against Mr. Muney on all of his Counter-Claims allegedly brought by Mr. Muney on behalf of CES.

113. Mr. Muney's Opposition failed to support these particular claims.²⁴

H. MR. MUNEY'S MOTION TO COMPEL IS UNTIMELY

114. A motion to compel, absent unusual circumstances, should be filed before the scheduled date for dispositive motions. *See e.g. Gault v. Nabisco Biscuit Co.*, 184 F.R.D. 620, 622 (D. Nev. 1999); *see e.g. Thurston v. City of North Las Vegas*, 2011 U.S. Dist. LEXIS 96619, 2011 WL 3841110 (D. Nev. 2011); *see e.g. Hall v. Schumacher*, 2011 U.S. Dist. LEXIS 108896, 2011 WL 4458845 (D. Nev. 2011); *see e.g. Rios v. Dollar General*, No. 2:15-cv-2056, 2017 U.S. Dist. LEXIS 3385 (D. Nev. Jan. 10, 2017).

115. "Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." *Executive Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (quotation and citation omitted).

116. The Court finds that Mr. Muney's Motion to Compel was brought well after the close of discovery and after dispositive motions.

117. Therefore, the Court finds that Mr. Muney's Motion to Compel was untimely and is therefore denied.

Dated this 10th day of September, 2021

September 10, 2021

By: Nancy L. Alf

DISTRICT COURT JUDGE

TW

459 1D1 404D FAD8

Nancy Alf
Approved as to form:
District Court Judge
KERN LAW LTD.

Respectfully Submitted by:
MARQUIS AURBACH COFFING

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
Alexander K. Calaway, Esq.
Nevada Bar. No. 15188
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Las Vegas, Nevada, 89145
Attorneys for Plaintiffs/Counter-Defendants

By: /s/ Robert Kern

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601 S. 6th St.
Las Vegas, Nevada 89101
Attorneys for Defendants/Counter-Plaintiffs

²⁴ See Opposition.

Cally Hatfield

From: Robert Kern <robert@kernlawoffices.com>
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Cc: Alexander K. Calaway
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Robert Kern, Esq.
Attorney
Kern Law, Ltd.
601 S. 6th Street
Las Vegas, NV 89101
(702) 518-4529 - phone
(702) 825-5872 - fax
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Robert Kern, Esq.
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Good afternoon Mr. Kern,

Please review the attached Findings of Fact and Conclusions of Law and let us know if we may use your e-signature.

Thank you,



Cally Hatfield | Legal Assistant
to Alexander K. Calaway, Esq.

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA
4

5
6 Dominique Arnould, Plaintiff(s) | CASE NO: A-19-803488-B
7 vs. | DEPT. NO. Department 27
8 Clement Muney, Defendant(s)
9

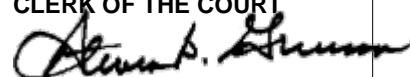
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff/ Counter-Defendant,

vs.

CLEMENT MUNY; CHEF EXEC
SUPPLIERS, LLC; and DOES I through X,
inclusive; and ROE CORPORATIONS I through
X, inclusive,

Defendants/Counterclaimant.

Case No.: A-19-803488-B
Dept. No.: 27

NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW,
AND ORDER

Please take notice that Findings of Fact, Conclusions of Law, and Order was entered in the above-captioned matter on the 10th day of September, 2021, a true and correct copy of which is attached hereto.

Dated this 13th day of September, 2021.

MARQUIS AURBACH COFFING

By /s/ Alexander K. Calaway
Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
Alexander K. Calaway, Esq.
Nevada Bar No. 15188
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

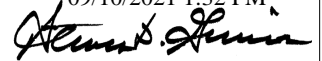
I hereby certify that the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 13th day of September, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Robert Kern
Melissa Milroy

Robert@Kernlawoffices.com
Admin@KernLawOffices.com

/s/ Cally Hatfield
an employee of Marquis Aurbach Coffing

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC
SUPPLIERS, LLC; and DOES I through X,
inclusive; and ROE CORPORATIONS I
through X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B
Dept. No.: 27

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

Plaintiffs'/Counterdefendants' Motion for Summary Judgment ("Motion for Summary Judgment") and Defendants' Motion to Compel ("Motion to Compel") came before this Court for hearing on July 29, 2021 (the "Hearing"). Alexander K. Calaway, Esq. of Marquis Aurbach Coffing, appeared on behalf of Plaintiff/Counterdefendant, Dominique Arnould ("Arnould"); Robert Kern, Esq. or Kern Law, Ltd. appeared on behalf of Defendants/Counterplaintiff Muney Arnould ("Arnould") and Chef Exec Suppliers, LLC ("CES"). The Court having considered the pleadings and papers on file herein and good cause appearing therefore, the Court hereby grants Plaintiff's Motion for Summary Judgment, denies Defendants' Motion to Compel, and enters these Findings of Fact and Conclusions of law:

1 **I. FINDINGS OF FACT**

2 **A. PARTIES AND THEIR RESPECTIVE CLAIMS**

3 1. Mr. Muney and Mr. Arnould are equal co-owners and co-managers of CES.

4 2. CES is a Nevada limited liability company, validly formed under Nevada law,
5 with no operating agreement.

6 3. CES had two branches of operations: one in Las Vegas, NV and the other in Los
7 Angeles, CA.

8 4. In managing the affairs of CES, Mr. Muney and Mr. Arnould both had access to
9 CES's QuickBooks account via cloud-based server.

10 5. Mr. Arnould brought derivative claims on behalf of CES against Mr. Muney for:
11 (1) Declaratory relief for the appointment of a receiver and judicial dissolution; and (2) an
12 accounting of CES and breach of fiduciary duty.

13 6. Mr. Muney brought direct counterclaims against Mr. Arnould for: (1) breach of
14 fiduciary duty; (2) conversion; (3) money had and received; (4) unjust enrichment; (5)
15 constructive fraud; and (6) fraudulent concealment.

16 **B. APPOINTMENT OF A RECEIVER**

17 7. On June 8, 2020, the Court found the requirements to appoint a receiver over CES
18 had been met and ordered the appointment of a receiver with limited powers to prepare a report
19 about the viability of CES.¹

20 8. On June 12, 2020, this Court appointed a receiver to take control of the Nevada
21 warehouse and inventory (hereinafter the "Receiver").²

22 9. On August 21, 2020, this Court found that:

23 _____
24
25 1 Findings of fact included in June 8, 2020 Order, on file herein and incorporated herein; *see*
26 *also* Feb. 17, 2021, Order, at ¶1, on file herein; *see also* Opposition to Motion for Summary
Judgment (hereinafter the "Opposition") (The Opposition fails to dispute this fact because it does
not cite to any declaration, affidavit, or exhibit that might dispute the fact).

27 2 Findings of fact included in June 12, 2020 Order, on file herein and incorporated herein; *see*
28 *also* Opposition (The Opposition fails to dispute this fact because it does not cite to any
declaration, affidavit, or exhibit that might dispute the fact).

Both Parties don't dispute and stipulated that it is not reasonably practicable to carry on the business of [CES] in conformance with the operating agreement since there is no operating agreement and since the owners of [CES] cannot get along and disagree about the operation of [CES]. Therefore, [CES] must be dissolved... [and] the date of dissolution should be September 30, 2020.³

C. RECEIVER'S ACCOUNTING AND FINAL REPORT

10. On December 7, 2020, the Receiver issued his Final Report and Recommendations (hereinafter the "Final Report").⁴

11. In his Final Report, the Receiver made recommendations as to the distribution of the assets and liabilities of the Company to each Partner on an equitable basis.

12. The Receiver's report includes the results of his investigation, analysis, and accounting opinions.

13. The Defendants/Counter-Plaintiffs did not retain an expert witness to rebut the receiver's findings, analysis or opinions.⁵

14. The findings, analysis and opinions set forth in the Receiver's Final Report are hereby adopted by the Court.

15. On January 29, 2021, Mr. Muney's counsel filed a written objection to the Receiver's Final Report and the Receiver responded to the objections on February 6, 2021.

16. This written objection filed by counsel for Mr. Muney objected to:

a. The Receiver's allocation of rent expense for the warehouses in Nevada and California, and that the Receiver improperly calculated and accounted for rent expenses related to these warehouses;

b. the Receiver's accounting of various expenditures, such as shipping charges and how they were expensed, CES's checks and how they were recorded in the books, classification of business expenses, and invoicing;

³ Order of Dissolution, at ¶¶1-2, on file herein.

⁴ Final Report, on file herein; *see also* Opposition (The Opposition fails to dispute this fact because it does not cite to any declaration, affidavit, or exhibit that might dispute the fact).

⁵ *See* Opposition.

1 c. the Receiver's calculations as to how CES's delivery truck costs should be
2 allocated and how the truck itself should be valued; and

3 d. the Receiver's analysis of various expenditures related to partner spending.

4 17. The written objection filed by counsel for Mr. Muney contained no expert
5 testimony in support, no declaration/affidavit in support, and no authenticated documentary
6 evidence.

7 18. The written objection filed by counsel for Mr. Muney only contained arguments
8 by counsel and unauthenticated exhibits.

9 19. On February 17, 2021, the Receiver's Final Report was approved and accepted by
10 this Court and the Receiver was discharged.

11 20. On May 14, 2021, Mr. Arnould designated the Receiver as an expert witness to be
12 called at trial and designated the Receiver's Final Report as an expert written report.

13 21. The Receiver was timely designated as an expert witness to give opinion
14 testimony to the Court, and that the Receiver's Final Report was timely designated as an expert
15 witness report.

16 22. No evidentiary challenge was made by either party as to the Receiver's
17 specialized knowledge and qualifications, skill, experience, training and education as to matters
18 within the scope of accounting.

19 23. No evidentiary challenge was made by either party as to the facts or data relied
20 upon by the Receiver in his Final Report.

21 24. The Receiver:

22 a. Has been a Certified Public Accountant for over 55 years;

23 b. Has worked as a court-appointed receiver, forensic accountant, bankruptcy
24 trustee, and the chief financial officer over several large hotel and casinos;

25 c. Has administered and closed over 8,000 Chapter 7 bankruptcies and
26 numerous Chapter 11 and Chapter 7 operating bankruptcies;

1 d. Has served as a special master, liquidating trustee, and a receiver in
2 hundreds of cases involving partnerships, limited liability companies, corporations, and divorces;
3 and

4 e. Has experience in testifying on accounting and forensic accounting
5 matters and has testified in both state and federal courts.

6 25. The Receiver is competent to testify as an expert regarding the investigation and
7 facts contained in his Final Report including CES, its books, QuickBooks, accounts, capital
8 accounts, financial documents, and issues surrounding the Complaint, Counter-Complaint, and
9 pleadings in this case.

10 26. The Receiver's opinions in his Final Report are based upon a review and analysis
11 of the relevant documents, items, and events in this matter, including CES's QuickBooks files.

12 27. The Receiver's Final Report relies upon, among other things, the QuickBooks and
13 supporting documents which were supplied to the Receiver by both Mr. Arnould and Mr. Muney
14 in this matter.

15 28. The Receiver and the opinions expressed in his Final Report are credible.

16 29. The Receiver's Final Report calculated the distribution of CES assets and the
17 amounts that Mr. Muney and Mr. Arnould owed to CES.

18 30. Pursuant to the Receiver's findings in the Final Report and stipulation of the
19 Parties, Mr. Muney and Mr. Arnould were required to each pay \$22,712.56 to the Receiver to be
20 applied to their respective obligations to CES.

21 31. According to the Receiver's Final Report, Mr. Muney had a negative capital
22 account with CES and owes \$6,303.93 to Mr. Arnould.

23 32. To date, Mr. Muney has not paid Mr. Arnould the \$6,303.93 he owed to equalize
24 the capital account in accordance with the Final Report.

25 33. On May 14, 2021, Mr. Muney designated Andrew Martin, MS, CFE, CFF,
26 CGMA, CICA, CPA ("Martin") and Gene Proctor ("Proctor") as expert witnesses.

27 34. Mr. Muney did not timely disclose a written expert report for Messrs. Martin and
28 Mr. Proctor in this matter.

1 35. Mr. Muney did not disclose any expert testimony that would dispute Receiver's
2 accounting and opinions.

3 36. On May 14, 2021, discovery closed in this matter.

4 **D. FACTS PERTAINING TO DISCOVERY AND THE MOTION TO**
5 **COMPEL**

6 37. On December 7, 2020, Mr. Arnould timely served his Responses to Defendants'
7 Requests for Production and Defendants' Interrogatories (the "Responses").

8 38. On February 24, 2021, Mr. Arnould served his Second Supplement to Initial
9 Disclosure of Witnesses and Documents Pursuant to NRCP 16.1 (the "Second Supplement").
10 The Second Supplement contained, among other things, the native QuickBooks file of CES.

11 39. On March 11, 2021, Arnould served his Third Supplement to Initial Disclosure of
12 Witnesses and Documents Pursuant to NRCP 16.1 (the "Third Supplement").

13 40. The Third Supplement contained additional documents responsive to M. Muney's
14 requests, including CES documents, payroll documents, invoices, and tax returns from 2007
15 through 2019 for the company, and other corporate documents.

16 41. On June 14, 2021, Mr. Arnould filed his Motion for Summary Judgment.

17 42. On July 9, 2021, Mr. Muney filed his Motion to Compel and requested this Court
18 compel Mr. Arnould to supplement his Responses.

19 43. On July 23, 2021, Mr. Arnould filed his opposition to the Motion to Compel.

20 44. If any of these Findings of Fact is a Conclusion of Law, it shall be deemed a
21 Conclusion of Law and if any Conclusion of Law is a Finding of Fact, it shall be deemed a
22 Finding of Fact.

23 **II. CONCLUSIONS OF LAW**

24 **A. JURISDICTION IS PROPER**

25 1. This Court may exercise jurisdiction over the Parties because all Parties have
26 appeared in these proceedings and consented to jurisdiction.

1 2. The Plaintiff's claims, including declaratory relief, accounting, appointment of a
2 receiver, and related counterclaims are not within the subject matter jurisdiction of the Justice
3 Court.

4 3. This Order and the Findings of Fact and Conclusions of Law herein resolves all
5 claims and counterclaims which were or could have been submitted in this case.

6 4. The Court finds that all issues between the Parties have been resolved or
7 abandoned except those issues listed below between the above-named Parties.

8 **B. MR. ARNOULD IS ENTITLED TO JUDGMENT IN HIS FAVOR ON ALL**
9 **CLAIMS**

10 5. In *Cuzze v. University and Community College System of Nevada*, 123 Nev. 598,
11 602, 172 P.3d 131, 134 (2007), the Nevada Supreme Court set forth the standard for summary
12 judgment in Nevada under NRCP 56(a).

13 6. Summary judgment is appropriate "when the pleadings, depositions, answers to
14 interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate
15 that no genuine issue of material fact exists, and the moving party is entitled to judgment as a
16 matter of law." *Id.* (internal citations omitted).

17 7. Nevada courts follow the federal approach outlined in *Celotex Corp. v. Catrett*
18 with respect to burdens of proof and persuasion in the summary judgment context, and as such,
19 "[t]he party moving for summary judgment bears the initial burden of production to show the
20 absence of a genuine issue of material fact," thereafter, "the party opposing summary judgment
21 assumes a burden of production to show the existence of a genuine issue of material fact. *Id.*
22 (citing 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *see also*, *Clauson v. Lloyd*, 103
23 Nev. 432, 743 P.2d 631 (1987) (explaining *Celotex's* application in Nevada); *see also* *Wood v.*
24 *Safeway, Inc.*, 121 Nev. 724, 731–32, 121 P.3d 1026, 1031 (2005) (adopting the summary
25 judgment standard set forth in *Celotex* and other Supreme Court decisions).

26 8. Pursuant to NRCP 56(c)(1), a party asserting that a fact cannot be or is genuinely
27 disputed must support the assertion by:
28

1 9. (A) citing to particular parts of materials in the record, including depositions,
2 documents, electronically stored information, affidavits or declarations, stipulations (including
3 those made for purposes of the motion only), admissions, interrogatory answers, or other
4 materials; or (B) showing that the materials cited do not establish the absence or presence of a
5 genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

6 10. Pursuant to NRCP 54(c)(2), either party may “object that the material cited to
7 support or dispute a fact cannot be presented in a form that would be admissible in evidence.”

8 11. Pursuant to NRCP 54(c)(3) the court “need consider only the cited materials, but
9 it may consider other materials in the record.”

10 12. “An affidavit or declaration used to support or oppose a motion must be made on
11 personal knowledge, set out facts that would be admissible in evidence, and show that the affiant
12 or declarant is competent to testify on the matters stated.” NRCP 54(c)(4).

13 13. Pursuant to NRCP 56(e)(3),

14 If a party fails to properly support an assertion of fact or fails to properly address
15 another party's assertion of fact as required by Rule 56(c), the court may: . . .
16 consider the fact undisputed for purposes of the motion.... [or] grant summary
judgment if the motion and supporting materials--including the facts considered
undisputed--show that the movant is entitled to it.

17 14. Mr. Muney's opposition fails to meet the requirements NRCP 56(c).⁶

18 15. The Court need only consider cited materials pursuant to NRCP 54(c)(3).

19 16. Mr. Muney failed to provide any exhibit, declaration, or affidavit that might put
20 any fact in dispute.

21 17. Mr. Muney failed to cite to any material facts that support his defenses and
22 counterclaims in this matter.

23 18. Mr. Muney's Opposition failed to support for claims and defenses in this case.

24 19. Therefore, the Court grants summary judgment against Mr. Muney and in favor of
25 Mr. Arnould and CES derivatively.

26
27
28 ⁶ See Opposition (The Opposition fails to dispute this fact because it does not cite to any
declaration, affidavit, or exhibit that might dispute the fact).

1 **C. MR. ARNOULD PREVAILED DERIVATIVELY ON HIS FIRST CLAIM**
2 **FOR RELIEF**

3 20. Mr. Arnould's first claim for relief was for declaratory relief for the appointment
4 of a receiver and dissolution of CES.

5 **1. Mr. Arnould Prevailed on Declaratory Relief for Dissolution of CES**

6 21. The Court finds that Mr. Arnould prevailed on his first cause of action for
7 declaratory relief that CES should be dissolved and a receiver appointed.

8 22. NRS 86.495 authorizes a member of a limited liability company to apply for a
9 decree of dissolution whenever it is not reasonably practicable to carry on the business of the
10 company in conformity with the articles of organization or operating agreement.

11 23. Mr. Arnould had standing to apply for a decree of dissolution of CES because Mr.
12 Arnould was a 50% member of CES.

13 24. Mr. Arnould's first cause of action sought declaratory relief from the Court that it
14 is not reasonably practicable to carry on CES and an order granting judicial dissolution pursuant
15 to NRS 86.495 and 86.505.

16 25. Mr. Arnould's verified complaint stated that the disputes between he and Muney
17 have arisen and are so deep that it is not reasonably practicable to carry on the business of the
18 Company.

19 26. On August 21, 2020, this Court found that:

20 Both Parties don't dispute and stipulated that it is not reasonably practicable to
21 carry on the business of the Company in conformance with the operating
22 agreement since there is no operating agreement and since the owners of the
23 Company cannot get along and disagree about the operation of the Company.
24 Therefore, the Company must be dissolved.... [and] the date of dissolution should
25 be September 30, 2020.⁷

26 27. On November 3, 2020, the Receiver filed articles of dissolution for CES.

27 28. Therefore, Mr. Arnould prevailed on his first cause of action for declaratory relief
28 and dissolution.

⁷ See Order of Dissolution, at ¶¶1-2, on file herein.

29. Mr. Muney's Opposition failed to support his defenses to this particular claim.⁸

2. **Mr. Arnould Prevailed on Declaratory Relief and Appointment of Receiver**

30. Mr. Arnould's first cause of action also sought a declaration that the requirements for appointment of a receiver to run the Las Vegas operations of CES and potentially dissolve the company."

31. NRS 32.010(6) provides: "A receiver may be appointed by the court in which an action is pending, or by the judge thereof: ... In all other cases where receivers have heretofore been appointed by the usages of the courts of equity."

32. In general, "[a] receiver's primary purpose is to preserve the property's value for those to whom it is ultimately determined that the property belongs, so to accommodate all claims possible." *Frank Settelmeyer & Sons, Inc. v. Smith & Harmer, Ltd.*, 124 Nev. 1206, 1215, 197 P.3d 1051, 1057 (2008) (internal citations omitted); *see also Bowler v. Leonard*, 70 Nev. 370, 269 P.2d 833 (1954).

33. In appointing the Receiver over CES, this Court found:

a. That neither Party trusted the other with the assets or operations of the Company;

b. That the expenditures and dealings of the Company be accounted for and overseen by a neutral third-party without impeding the Company's ability to carry on its business;

c. That it was necessary that a neutral receiver be appointed to supervise the operations of the Company in consultation with Mr. Arnould and Mr. Muney, and to allow them to continue operations of the Company, and have the Receiver prepare a report about the viability of the Company;

d. That despite the fact that Mr. Muney and Mr. Arnould are each 50% owners of CES, Mr. Muney changed the locks to the warehouse located at 3655 West Quail Ave, Las Vegas, Nevada which stored CES inventory;

⁸ See Opposition,

1 e. That Mr. Muney refused to allow Arnould access to the Nevada
2 warehouse to obtain the CES inventory; and

3 f. That Mr. Muney's actions required further monitoring of the Nevada
4 warehouse so that CES could continue to fulfill the needs of its customers.

5 34. Therefore, Mr. Arnould prevailed on his first cause of action for declaratory relief
6 and for appointment of a receiver.

7 35. Mr. Muney's Opposition failed to support his defenses to this particular claim.⁹

8 **3. Mr. Arnould Prevailed Derivatively on his First Claim for Relief**

9 36. The Court finds that Mr. Arnould's first cause of action was properly plead as a
10 derivative claim and that Mr. Arnould prevailed derivatively on this claim.

11 37. The pleading standards for derivative claims brought on behalf of a Nevada LLC
12 are set forth in NRCP 23.1¹⁰ and NRS 86.487.¹¹

13
14 ⁹ See Opposition, on file herein.

15 ¹⁰ NRCP 23.1 provides:

16 In a derivative action brought by one or more shareholders or members to enforce
17 a right of a corporation or of an unincorporated association, the corporation or
18 association having failed to enforce a right that may properly be asserted by it, the
19 complaint must be verified and must allege that the plaintiff was a shareholder or
20 member at the time of the transaction of which the plaintiff complains, or that the
21 plaintiff's share or membership thereafter devolved on the plaintiff by operation
22 of law. The complaint must also allege with particularity the efforts, if any, made
23 by the plaintiff to obtain the action the plaintiff desires from the directors or
24 comparable authority and, if necessary, from the shareholders or members, and
25 the reasons for the plaintiff's failure to obtain the action or for not making the
26 effort. The derivative action may not be maintained if it appears that the plaintiff
27 does not fairly and adequately represent the interests of the shareholders or
28 members similarly situated in enforcing the right of the corporation or association.
The action may not be dismissed or compromised without the approval of the
court, and notice of the proposed dismissal or compromise must be given to
shareholders or members in such manner as the court directs.

11 NRS 86.487 provides:

In a derivative action, the complaint must set forth with particularity: 1. The effort
of the plaintiff to secure initiation of the action by a manager or member; or 2.
The reasons for the plaintiff not making the effort to secure initiation of the action
by a manager or member.

1 38. The Court finds that, pursuant to NRCP 23.1 and NRS 86.487, Mr. Arnould met
2 the derivative pleading requirements for his first cause of action because:

- 3 a. Mr. Arnould's complaint was a verified complaint;
- 4 b. Mr. Arnould's complaint sufficiently alleged that Mr. Arnould had
5 standing as a member of CES;
- 6 c. Mr. Arnould particularly alleged that it would be a futile effort to make a
7 demand on Mr. Muney since Mr. Muney is not disinterested, Mr. Muney's judgment is
8 materially affected in favor of his actions and against the best interests of Chef Suppliers and
9 nothing can be accomplished when both disagree on the direction of the company; and
- 10 d. Mr. Arnould's first cause of action fairly and adequately represented the
11 interests of the members similarly situated in enforcing the rights of CES.

12 39. The Court finds that Mr. Arnould's first cause of action was derivative because
13 the appointment of a receiver and dissolution benefited CES by:

- 14 a. Reducing the effect that the dispute between CES's managers had on
15 CES's business and its articles by dissolving CES under NRS 86.495(1);
- 16 b. Securing and monitoring the CES Las Vegas warehouse and thereby
17 preventing waste by Mr. Muney;
- 18 c. Providing CES's manager, Mr. Arnould, with access to the Las Vegas
19 warehouse, so that Mr. Arnould could continue operations of CES and fulfill the needs of
20 customers without interference by Mr. Muney;
- 21 d. Providing a comprehensive accounting of CES which required both Mr.
22 Muney and Mr. Arnould each pay CES to settle their respective capital accounts which benefited
23 CES; and
- 24 e. Discharging and providing for CES's outstanding obligations and debts by
25 settling capital accounts; and
- 26 f. Filing a final tax return for CES.

27 40. Finally, NRS 86.489 provides:

28 If a derivative action is successful, in whole or in part, or if anything is received

1 by the plaintiff as a result of a judgment, compromise or settlement of an action or
2 claim, the court may award the plaintiff reasonable expenses, including
3 reasonable attorney's fees, and shall direct the plaintiff to remit to the limited-
4 liability company the remainder of those proceeds received by the plaintiff.

5 41. The Court finds that Mr. Arnould prevailed derivatively on his first cause of
6 action and is therefore entitled to seek his reasonable attorney's fees and expenses pursuant to
7 NRS 86.489.¹²

8 42. Mr. Muney's Opposition failed to support his defenses to this particular claim.¹³

9 **D. MR. ARNOULD PREVAILED ON HIS SECOND CAUSE OF ACTION**

10 43. Mr. Arnould's second claim for relief was for accounting of CES and breach of
11 fiduciary duty.

12 44. An equitable accounting "is a restitutionary remedy based upon avoiding unjust
13 enrichment." *See* D. Dobbs, Remedies § 4.3 at 415 (1973). Nevada recognizes the action of
14 equitable accounting. *Botsford v. Van Riper*, 33 Nev. 158, 110 P. 705 (1910); *Young v. Johnny*
15 *Ribiero Bldg., Inc.*, 106 Nev. 88, 787 P.2d 777 (1990); *Oracle USA, Inc. v. Rimini Street, Inc.*,
16 No. 2:10-CV-00106-LRH-PAL, 2010 WL 3257933 (D. Nov. Aug. 13, 2010); *Mobius*
17 *Connections Group, Inc. v. Techskills, LLC*, No. 2:10-CV-01678-GMN-RJJ, 2012 WL 194434
18 (D. Nev. Jan. 23, 2012).

19 45. Courts have generally defined an action for an accounting as "a proceeding in
20 equity for the purpose of obtaining a judicial settlement of the accounts of the parties in which
21 proceeding the court will adjudicate the amount due, administer full relief and render complete
22 justice." *Verdier v. Superior Court*, 88 Cal.App.2d 527, 530, 199 P.2d 325 (Cal.1948); *Teselle v.*
23 *McLoughlin*, 173 Cal. App. 4th 158, 92 Cal. Rptr. 3d 696 (Cal. App. 2009).

24 46. NRS 86.5419 provides for accounting for profits of an LLC by a receiver:

25 The receiver... shall lay before the district court a full and complete inventory of
26 all the estate, property and effects of the limited-liability company, its nature and
probable value, and an account of all debts due from and to it, as nearly as the
same can be ascertained, and make a report to the court of his or her proceedings
at least every 3 months thereafter during the continuance of the trust, and

27 ¹² *See* Order re: Dissolution, on file herein; *see also* Order appointing receiver, on file herein.

28 ¹³ *See* Opposition.

1 whenever the receiver shall be so ordered.

2 47. An equitable accounting is proper where “the accounts are so complicated that an
3 ordinary legal action demanding a fixed sum is impracticable.” *See e.g. Civic Western Corp. v.*
4 *Zila Industries, Inc.*, 66 Cal.App.3d 1, 14, 135 Cal. Rptr. 915 (Cal.1977) (citation and quotes
5 omitted).

6 48. Although courts typically grant an accounting where a fiduciary relationship
7 exists between the parties, courts have extended the remedy of accounting to nonfiduciaries
8 where “dealings between the parties are so complex that an equitable master, and not a jury, is
9 required to sort out the various dealings between the parties.” *See e.g. Leonard v. Optimal*
10 *Payments Ltd. (In re Nat'l Audit Def. Network)*, 332 B.R. 896, 918–19 (Bankr. D. Nev. 2005).

11 49. The complexity of CES’s accounts make an equitable accounting necessary in this
12 case because the disagreements between the parties, the lack of communication, and necessary
13 adjustments to the books and records, the dealings between Mr. Arnould and Mr. Muney were
14 complex.

15 50. The breadth of the Receiver’s report itself illustrates the complexity involved in
16 accounting for CES.

17 51. Thus, the Court finds that the Receiver was properly appointed to account for the
18 assets of CES, which was completed on December 7, 2020.

19 52. The Receiver’s Final Report was a complete and full accounting of CES that
20 satisfies the requirements for an accounting under Nevada law and NRS Chapter 86.

21 53. Therefore, the Court finds that Mr. Arnould prevailed on his second cause of
22 action for accounting.

23 54. Mr. Muney’s Opposition failed to support his defenses in this case ¹⁴

24 55. Mr. Muney failed to provide any material disputed fact that might dispute or rebut
25 the Receiver’s accounting of CES pursuant to NRCP 56(c)-(e).¹⁵

26
27 ¹⁴ *See* Opposition.

28 ¹⁵ *Id.*

1 56. Mr. Muney cannot defeat Mr. Arnould's motion for summary judgment because
2 he failed to "set out facts that would be admissible in evidence." NRCP 56(c)(4).

3 57. While Mr. Muney objected to the Receiver's accounting, his objections are not
4 admissible evidence at trial.¹⁶

5 58. Each of the issues Mr. Muney raised in his written objection on the record require
6 specialized and technical knowledge in accounting, which are subjects reserved for experts
7 pursuant to NRS 50.275.

8 59. In Nevada, to present expert testimony, the proffering party must provide a
9 written disclosure of their experts and the contents of those experts' testimonies, including the
10 information each expert considered in forming an opinion, well in advance of trial. *Sanders v.*
11 *Sears-Page*, 131 Nev. 500, 517, 354 P.3d 201, 212 (Nev. App. 2015) (citing NRCP 16.1(a)(2)).

12 60. This policy underlying NRCP 16.1 "serves to place all parties on an even playing
13 field and to prevent trial by ambush or unfair surprise." *Id.*; *see also Roberts v. Libby*, 132 Nev.
14 1023 (Nev. App. 2016).

15 61. The Receiver's Final Report and his accounting therein are undisputed because
16 Mr. Muney failed to produce an expert report or any other admissible accounting of profits for
17 CES.

18 62. Because Mr. Muney failed to produce an expert report, he is barred from
19 attempting to proffer expert testimony at trial. Since Mr. Muney cannot present expert testimony
20 at trial, the Final Report and Receiver's accounting of profits are undisputed. The amounts due
21 under the Receiver's accounting were also partially stipulated to on or about February 26, 2021,
22 since Mr. Muney and Mr. Arnould each stipulated and agreed to pay \$22,712.56 to the Receiver
23 to close out the receivership estate and thereafter, accepted their respective distributions of
24 CES's assets.¹⁷

25
26
27 16 *See* Defendants' Objection to Final Report, on file herein.

28 17 February 26, 2021 Stipulation and Order, on file herein.

63. The only unsettled amounts due under the Receiver's undisputed accounting is the \$6,303.93 due from Mr. Muney to be paid to Mr. Arnould.

64. Therefore, the Court finds that judgment Mr. Arnould is entitled to judgment in his favor of and that judgment may be entered against Mr. Muney in the amount of \$6,303.93.

65. Mr. Muney's Opposition failed to support his defenses to this particular claim.¹⁸

66. The Court further finds that any diversion of funds by Mr. Muney alleged by Mr. Arnould under any breach of fiduciary duty theory was addressed in the Receiver's equitable accounting and capital account adjustment set forth above.

67. As such, the Court finds that since Mr. Arnould prevailed on his accounting claim, his breach of fiduciary duty claim is moot.

E. MR. MUNey'S FIRST, FIFTH AND SIXTH CAUSES OF ACTION FAIL AS A MATTER OF LAW

1. Mr. Muney's First Cause of Action for Breach of Fiduciary Duty Fails

68. Mr. Muney's first cause of action states that Mr. Arnould as co-owner and co-manager of an LLC, owed a fiduciary duty to Counter-Plaintiffs CES and Mr. Muney.

69. In Nevada, a claim for breach of a fiduciary duty requires, as a threshold, the existence of a fiduciary duty. *Brown v. Kinross Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008) (listing the three elements of the claim) (citing *Giles v. Gen. Motors Acceptance Corp.*, 494 F.3d 865, 880-81 (9th Cir. 2007) (applying Nevada law)).

70. Under NRS Chapter 86, the only duties owed by a member or manager to the LLC or to any other member of the LLC are: (1) the implied contractual covenant of good faith and fair dealing; and (2) duties prescribed by the "articles of organization or the operating agreement." NRS 86.298.

71. Unlike Nevada's statutes covering corporations and partnerships, NRS Chapter 86 does not set out fiduciary duties owed by and between its members. *Cf.* NRS 78.138; NRS 87.210; *see also Ela v. Destefano*, 869 F.3d 1198, 1202 (11th Cir. 2017) (finding "persuasive the argument that '[w]here [a legislature] knows how to say something but chooses not to, its silence

¹⁸ See Opposition.

1 is controlling”) (quoting *Animal Legal Def. Fund v. U.S. Dep’t of Agriculture*, 789 F.3d 1206,
2 1217 (11th Cir. 2015)).

3 72. NRS 86.286(5) provides:

4 If, and to the extent that, a member or manager or other person has duties to a
5 limited-liability company, to another member or manager, or to another person
6 that is a party to or is otherwise bound by the operating agreement, such duties
7 may be expanded, restricted or eliminated by provisions in the operating
8 agreement, except that an operating agreement may not eliminate the implied
9 contractual covenant of good faith and fair dealing.

10 73. While members of an LLC can contract to fiduciary duties, such duties do not
11 necessarily exist otherwise, aside from the implied contractual covenant of good faith and fair
12 dealing. *See e.g. Israyelyan v. Chavez*, 466 P.3d 939 (Nev. 2020) (unpublished).¹⁹

13 74. Mr. Arnould owed no fiduciary duties to Muney and CES, because there was no
14 operating agreement between the members of CES imposing fiduciary duties.

15 75. Therefore, Mr. Muney’s first cause of action fails as a matter of law and judgment
16 is hereby entered against Mr. Muney and in favor of Mr. Arnould on this claim.

17 76. Mr. Muney’s Opposition failed to support this particular claim.²⁰

18 **2. Mr. Muney’s Fifth Cause of Action for Constructive Fraud**

19 77. Mr. Muney states in his fifth cause of action for constructive fraud that Mr.
20 Arnould owed a duty to Muney and CES to lawfully manage and disburse funds and assets
21 belonging to CES.

22 78. “Constructive fraud is the breach of some legal or equitable duty which,
23 irrespective of moral guilt, the law declares fraudulent because of its tendency to deceive others
24 or to violate confidence.” *Long v. Towne*, 98 Nev. 11, 13, 639 P.2d 528, 529–30 (1982); *See*

25 19 *See e.g. HP Tuners, LLC v. Cannata*, No. 318CV00527LRHWGC, 2019 WL 3848792, at *4
26 (D. Nev. Aug. 15, 2019) (holding that “unlike many states, Nevada does not impose any
27 statutory fiduciary duties on members of LLCs”) (internal quotations omitted); *see e.g. In re*
28 *Plyam*, 530 B.R. 456, 472 (9th Cir. B.A.P. 2015) (“Unlike California, Nevada does not have a
statute equating the fiduciary duties of a manager in a limited liability company context to those
of a partner in a partnership.”); *see e.g. JPMorgan Chase Bank, N.A. v. KB Home*, 632 F.Supp.2d
1013, 1025–26 (D. Nev. 2009) (holding that Nevada allows the members of LLCs to decide
whether to impose fiduciary duties on themselves through their operating agreement).

20 *See* Opposition, on file herein.

1 *also, Perry v. Jordan*, 111 Nev. 943, 946–47, 900 P.2d 335, 337 (1995). To legally maintain a
2 claim, a plaintiff must establish that the defendant owed a legal duty “arising out of a fiduciary or
3 confidential relationship.” *Perry*, 111 Nev. at 946–47, 900 P.2d at 337 (quoting *Long*, 98 Nev. at
4 13, 639 P.2d at 529–30) (internal quotations omitted).

5 79. “A “confidential or fiduciary relationship” exists when one reposes a special
6 confidence in another so that the latter, in equity and good conscience, is bound to act in good
7 faith and with due regard to the interests of the one reposing the confidence.” *Id.* Thus, a legal or
8 equitable duty is only imposed “where one party imposes confidence in the other because of that
9 person's position, and the other party knows of this confidence.” *Mackintosh v. Jack Matthews &*
10 *Co.*, 109 Nev. 628, 635, 855 P.2d 549, 553 (1993) (internal quotations and citations omitted).

11 80. As noted above, NRS Chapter 86 restricts the duties owed by a member and
12 manager of an LLC to only the implied contractual covenant of good faith and fair dealing. *See*
13 NRS 86.298 and 86.286(5); *see e.g. Israyelyan*, 466 P.3d at *4. The Legislature intended for
14 managers and members of an LLC to either opt-out of fiduciary duties, or to contractually agree
15 to fiduciary duties by way of an operating agreement. *Id.*

16 81. The only relationship between Mr. Muney and Mr. Arnould was their relationship
17 as equal co-owners and co-managers of CES.

18 82. Mr. Muney’s Counter-Complaint states that Mr. Arnould allegedly breached his
19 duty as a business partner of Mr. Muney in his constructive fraud claim.

20 83. The only duties as to Mr. Arnould in Mr. Muney’s Counter-Complaint are the
21 duties arising out of Mr. Arnould’s status as a member and co-manager CES.

22 84. But as noted above, Mr. Muney and Mr. Arnould owed no fiduciary duties to one
23 another pursuant to NRS Chapter 86.

24 85. Therefore, Mr. Muney fifth cause of action fails as a matter of law and judgment
25 is hereby entered against Mr. Muney and in favor of Mr. Arnould on this claim.

26 86. Mr. Muney’s Opposition failed to support this particular claim.²¹

27
28 21 *See* Opposition, on file herein.

1 **3. Mr. Muney's Sixth Cause Of Action For Fraudulent Concealment.**

2 87. Mr. Muney's sixth cause of action is fraudulent concealment, and Mr. Muney
3 alleged that Mr. Arnould had a duty to disclose all dealings to his partner, but instead
4 intentionally concealed his acts.

5 88. One of the essential elements in a fraudulent concealment case is that the
6 defendant actually owed a duty to disclose a fact to the plaintiff. *Dow Chemical Co. v. Mahlum*,
7 114 Nev. 1468, 1485 (1998), overruled in part on other grounds in *GES, Inc. v. Corbitt*, 117 Nev.
8 265 (2001) (using the conjunction "and" in listing each element in listing all five elements of
9 fraudulent concealment); *see also Couturier v. Am. Invsco Corp.*, 10 F.Supp.3d 1143, 1157 (D.
10 Nev. 2014) (same); *Aliya Medicare Fin., LLC v. Nickell*, No. CV 14-07806 MMM (EX), 2015
11 WL 11072180, at *9 (C.D. Cal. Sept. 25, 2015) (same) (applying Nevada law).

12 89. Mr. Muney and Mr. Arnould were the only members of CES, and CES and had no
13 operating agreement that imposed duties on Mr. Muney.

14 90. As explained above, NRS Chapter 86 restricts the duties owed by a member and
15 manager of an LLC to only the implied contractual covenant of good faith and fair dealing. *See*
16 NRS 86.298 and 86.286(5); *see e.g. Israyelyan*, 466 P.3d at *4.

17 91. Thus, Mr. Muney and Mr. Arnould owed no fiduciary duties to one another
18 pursuant to NRS Chapter 86.

19 92. Therefore, the Court finds that Mr. Arnould prevails against Mr. Muney on Mr.
20 Muney's sixth cause of action.

21 93. Mr. Muney's Opposition failed to support this particular claim.²²

22 **F. MR. MUNEY LACKS STANDING TO BRING HIS FIRST, SECOND,**
23 **THIRD AND FOURTH CAUSES OF ACTION ON BEHALF OF CES**

24 94. The substantive allegation undergirding Muney's first, second, third, and fourth
25 causes of action is that Mr. Arnould made payments to himself that Muney deems improper, and
26 that, accordingly, Mr. Arnould should return all of the funds to CES.

27 _____
28 22 *Id.*

1 95. There are no allegations by Mr. Muney that funds should be returned to Mr.
2 Muney personally, but rather, Mr. Muney asks the Court for an order that Mr. Arnould repay
3 CES.

4 96. In general, standing “consists of both a case or controversy requirement stemming
5 from Article III, Section 2 of the Constitution, and a subconstitutional prudential element.” *In re*
6 *AMERCO Derivative Litig.*, 127 Nev. 196, 213, 252 P.3d 681, 694 (2011) (internal quotations
7 omitted).

8 97. While “state courts do not have constitutional Article III standing, Nevada has a
9 long history of requiring an actual justiciable controversy as a predicate to judicial relief.” *Id.*
10 (internal quotation omitted). Thus, to pursue a legal claim, an “injury in fact” must exist. *Bennett*
11 *v. Spear*, 520 U.S. 154, 167 (1997).

12 98. The “injury-in-fact” analysis requires the claimant to show that the action caused
13 or threatened to cause the claimant's injury-in-fact, and that the relief sought will remedy the
14 injury. *See generally Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 38-39 (1976). A person
15 acting in their individual capacity is legally distinct from the same person acting in their
16 representative capacity. *See Mona v. Eighth Judicial Dist. Court*, 132 Nev. 719, 728, 380 P.3d
17 836, 842 (2016).

18 99. Mr. Muney’s Counter-Complaint requests that Mr. Arnould repay to CES all of
19 the funds which Mr. Muney alleges were stolen, embezzled or in any other way wrongfully taken
20 by Mr. Arnould. But all of the funds Mr. Muney refers to in each of his causes of action are CES
21 funds.

22 100. The Court finds that Mr. Muney lacks standing to recover CES’s funds requested
23 by Mr. Muney in his second, third, and fourth claims and each are summarily dismissed as a
24 matter of law.

25 101. The Final Report by the Receiver also accounted for any funds that may have
26 been owed to CES by Mr. Muney.

27 102. Therefore, the Court finds that Mr. Arnould prevails against Mr. Muney on Mr.
28 Muney’s second, third, and fourth Counter-Claims.

1 103. Mr. Muney's Opposition failed to support these particular claims.²³

2 **G. MR. MUNEY LACKS STANDING TO BRING HIS CAUSES OF ACTION**
3 **DERIVATIVELY ON BEHALF CES**

4 104. For each of Mr. Muney's counterclaims, he also included CES as a counter-
5 plaintiff and purportedly brought those claims on behalf of CES.

6 105. Mr. Muney's counterclaims cannot be construed as a type of derivative suit on
7 behalf of CES, because his Counter-Complaint fails to meet any of the requirements of a
8 derivative suit under NRCP 23.1.

9 106. For cases concerning LLCs, a member or manager is only authorized to bring an
10 action to enforce the rights of a limited-liability company "if the managers or members with
11 authority to do so have refused to bring the action [i.e. demand] or if an effort to cause those
12 managers or members to bring the action is not likely to succeed [i.e. futility]." NRS 86.483; *see*
13 *also* NRS 86.587 (requiring this to plead with particularity).

14 107. In addition, the complaint must be verified and must allege that the plaintiff was a
15 member at the time of the transaction of which the plaintiff complains or that the plaintiff's share
16 or membership thereafter devolved on the plaintiff by operation of law. *See* NRCP 23.1. Unless
17 the plaintiff fairly and adequately represents the interests of company, "[t]he derivative action
18 may not be maintained..." *Id.* (emphasis added).

19 108. Mr. Muney's Counter-Complaint provides no allegations that would support a
20 derivative claim.

21 109. Mr. Muney failed to verify his Counter-Complaint, failed to allege a demand or
22 futility, and failed to allege how Mr. Muney fairly and adequately represents the interests of the
23 company.

24 110. Accordingly, Mr. Muney lacks standing to derivatively bring his first, second,
25 third, fourth, fifth, and sixth causes of action on behalf CES.

26 111. The Final Report by the Receiver also accounted for any funds that may have
27 been owed to CES by Mr. Muney.

28 ²³ *See* Opposition.

112. Therefore, Mr. Arnould prevails against Mr. Muney on all of his Counter-Claims allegedly brought by Mr. Muney on behalf of CES.

113. Mr. Muney's Opposition failed to support these particular claims.²⁴

H. MR. MUNEY'S MOTION TO COMPEL IS UNTIMELY

114. A motion to compel, absent unusual circumstances, should be filed before the scheduled date for dispositive motions. *See e.g. Gault v. Nabisco Biscuit Co.*, 184 F.R.D. 620, 622 (D. Nev. 1999); *see e.g. Thurston v. City of North Las Vegas*, 2011 U.S. Dist. LEXIS 96619, 2011 WL 3841110 (D. Nev. 2011); *see e.g. Hall v. Schumacher*, 2011 U.S. Dist. LEXIS 108896, 2011 WL 4458845 (D. Nev. 2011); *see e.g. Rios v. Dollar General*, No. 2:15-cv-2056, 2017 U.S. Dist. LEXIS 3385 (D. Nev. Jan. 10, 2017).

115. "Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." *Executive Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (quotation and citation omitted).

116. The Court finds that Mr. Muney's Motion to Compel was brought well after the close of discovery and after dispositive motions.

117. Therefore, the Court finds that Mr. Muney's Motion to Compel was untimely and is therefore denied.

Dated this 10th day of September, 2021

September 10, 2021

By: Nancy L. Alf

DISTRICT COURT JUDGE

TW

459 1D1 404D FAD8

Nancy Alf
Approved as to form:
District Court Judge
KERN LAW LTD.

Respectfully Submitted by:
MARQUIS AURBACH COFFING

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.
Nevada Bar No. 1501
Alexander K. Calaway, Esq.
Nevada Bar. No. 15188
10001 Park Run Drive
Las Vegas, Nevada, 89145
Attorneys for Plaintiffs/Counter-Defendants

By: /s/ Robert Kern

Robert Kern, Esq.
Nevada Bar No. 10104
601 S. 6th St.
Las Vegas, Nevada 89101
Attorneys for Defendants/Counter-Plaintiffs

²⁴ See Opposition.

Cally Hatfield

From: Robert Kern <robert@kernlawoffices.com>
Sent: Friday, September 10, 2021 12:06 PM
To: Cally Hatfield
Cc: Alexander K. Calaway
Subject: RE: [External] Arnould v. Munev - Findings of Fact and Conclusions of Law v.9.DOCX [IWOV-iManage.FID1085969]

It is acceptable, you may add my signature

Robert Kern, Esq.
Attorney
Kern Law, Ltd.
601 S. 6th Street
Las Vegas, NV 89101
(702) 518-4529 - phone
(702) 825-5872 - fax
www.kernlawoffices.com



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Sent: Friday, September 10, 2021 10:37 AM
To: [Robert Kern](#)
Cc: [Alexander K. Calaway](#)
Subject: RE: [External] Arnould v. Munev - Findings of Fact and Conclusions of Law v.9.DOCX [IWOV-iManage.FID1085969]

Good morning Mr. Kern,

I have made the change. Please review the attached and let me know if I may attach your e-signature.

Thank you,



Cally Hatfield | Legal Assistant
to Alexander K. Calaway, Esq.
10001 Park Run Drive
Las Vegas, NV 89145

t | 702.202.1171
f | 702.382.5816



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From: Robert Kern <robert@kernlawoffices.com>
Sent: Friday, September 10, 2021 9:56 AM
To: Cally Hatfield <chatfield@maclaw.com>
Cc: Alexander K. Calaway <acalaway@maclaw.com>
Subject: RE: [External] Arnould v. Munev - Findings of Fact and Conclusions of Law v.9.DOCX [IWOV-iManage.FID1085969]

The only issue is that my signature should indicate approval as to form only, not form and content.

Robert Kern, Esq.
Attorney
Kern Law, Ltd.
601 S. 6th Street
Las Vegas, NV 89101
(702) 518-4529 - phone
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Cc: [Alexander K. Calaway](#)
Subject: Arnould v. Munev - Findings of Fact and Conclusions of Law v.9.DOCX [IWOV-iManage.FID1085969]

Good afternoon Mr. Kern,

Please review the attached Findings of Fact and Conclusions of Law and let us know if we may use your e-signature.

Thank you,



Cally Hatfield | Legal Assistant
to Alexander K. Calaway, Esq.

10001 Park Run Drive
Las Vegas, NV 89145
t | 702.202.1171
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Dominique Arnould, Plaintiff(s) | CASE NO: A-19-803488-B
7 vs. | DEPT. NO. Department 27
8 Clement Muney, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/10/2021

15 Cally Hatfield	chatfield@maclaw.com
16 Robert Kern	Robert@Kernlawoffices.com
17 Melissa Milroy	Admin@KernLawOffices.com
18 Candace Carlyon	ccarlyon@carlyoncica.com
19 Tracy O'Steen	tosteen@carlyoncica.com
20 Nancy Rodriguez	nrodriguez@carlyoncica.com
21 Cristina Robertson	crobertson@carlyoncica.com
22 Phillip Aurbach	PSA@maclaw.com
23 Javie-Anne Bauer	jbauer@maclaw.com
24 Alexander Calaway	acalaway@maclaw.com

25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 09, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
---------------	---

January 09, 2020 10:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Aurbach, Phillip S. Kern, Robert J.	Attorney Attorney
-----------------	--	----------------------

JOURNAL ENTRIES

- MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 07, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

February 07, 2020	9:30 AM	Settlement Conference
-------------------	---------	-----------------------

HEARD BY: Williams, Timothy C.	COURTROOM: RJC Courtroom 03H
--------------------------------	------------------------------

COURT CLERK: Christopher Darling

RECORDER:

REPORTER: Peggy Isom

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 27, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

March 27, 2020	3:00 AM	Minute Order	Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED
-----------------------	----------------	---------------------	---

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 30, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

March 30, 2020	3:00 AM	Minute Order
-----------------------	----------------	---------------------

HEARD BY: Alf, Nancy	COURTROOM: Chambers
-----------------------------	----------------------------

COURT CLERK: Louisa Garcia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 14, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

April 14, 2020	3:00 AM	Minute Order
-----------------------	----------------	---------------------

HEARD BY: Allf, Nancy	COURTROOM: No Location
------------------------------	-------------------------------

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review Plaintiff s Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant s Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion for Partial Summary Judgment, together with Defendant s Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 28, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

**April 28, 2020 3:00 AM Status Check: Settlement
Documents**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020.

COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CONTINUED TO 5/20/2020 10:30 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 30, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

April 30, 2020

3:00 AM

Minute Order

**Minute Order:
Plaintiff's MOtion for
Appointment of
Trustee RESET to
5/20/2020**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review Plaintiff s Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement.

THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff s Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 18, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

May 18, 2020

3:00 AM

Minute Order

Minute Order:
Matters set 5/20/2020
CONTINUED to
6/24/2020

HEARD BY: Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 22, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

May 22, 2020

1:00 PM

All Pending Motions

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Aurbach, Phillip S.	Attorney
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney

JOURNAL ENTRIES

- Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

All appearances made via BlueJeans teleconferencing software.

Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company,

Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 10, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

June 10, 2020 1:30 PM Hearing

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Trisha Garcia

REPORTER:

PARTIES

PRESENT: Aurbach, Phillip S. Attorney
Calaway, Alexander Kip Attorney

JOURNAL ENTRIES

- Court noted the time as 1:38 p.m. and that there is no one present for Defendant. Upon inquiry of Court if Mr. Calaway has heard from Defense counsel, Mr. Calaway stated only through the communication with Court's Law Clerk that Mr. Kern couldn't appear due to a Supreme Court argument. Court noted it reviewed the Supreme Court docket and there are only three matters set for half an hour hearings. Arguments by Mr. Calaway regarding Plaintiff advising Defendant he needed access to the warehouse, Plaintiff driving a truck from California to find the locks on the warehouse changed, and Plaintiff being denied access to the warehouse. Mr. Calaway requested access to the warehouse for Plaintiff and advised an order has been sent over the Court. Further arguments by Mr. Aurbach requesting an immediate receiver or letting Plaintiff in the warehouse to obtain what he needs. Court stated it cannot make a decision until it has heard both sides and then it would be prepared to act appropriately after it has. Colloquy regarding continuing matter and advancing the July 5, 2020 matter for appointment of trustee. COURT ORDERED, matter CONTINUED, Plaintiff Dominique Arnould's Motion for Appointment of Trustee set July 5, 2020 CONTINUED to June 12, 2020 at 12:30 p.m.

CONTINUED TO 6/12/2020 12:30 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 11, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

June 11, 2020	3:00 AM	Minute Order
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HEARD BY: Allf, Nancy	COURTROOM: No Location
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COURT CLERK: Carolyn Jackson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review on June 5, 2020, Plaintiff s Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m.

COURT FURTHER FINDS after review on June 10, 2020, Plaintiff s Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff s Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 12, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

June 12, 2020 12:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Aurbach, Phillip S. Attorney
Calaway, Alexander Kip Attorney
Kern, Robert J. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO SELECT RECEIVER...REQUEST FOR EMERGENCY HEARING

Upon inquiry of Court regarding why Mr. Kern did not attend the previous hearing, Mr. Kern stated he had a supreme court argument, there was no possibility to reschedule, and he also had drive time. Mr. Kern further stated he wrote an opposition in ten minutes. Arguments by Mr. Calaway, Mr. Kern, and Mr. Calaway regarding possible receiver candidates. Mr. Kern stated he was not opposed to immediate appointment of a receiver. Upon inquiry of Court regarding the locks on the warehouse being changed, Mr. Kern stated the locks were changed after Plaintiff declared the settlement over. Mr. Kern further stated his client does not have access to the Los Angeles warehouse and Plaintiff should not have access to the Las Vegas warehouse. COURT ORDERED, Plaintiff's Motion to Select a Receiver GRANTED, Mr. Birch APPOINTED as receiver, Plaintiff will have access to the Las Vegas storage warehouse and Defendant will have to pay for security when the Plaintiff goes to the warehouse, Plaintiff will be allowed to access the warehouse today with the logistics to be worked out between the parties, and the receiver is ORDERED to change the locks on both warehouses. As to Mr. Kern's failure to appear at the last hearing, COURT FURTHER ORDERED, Mr. Kern SANCTIONED in the amount of \$100.00 payable to Nevada Legal Services, Clark County Library, or

the Legal Aid Center of Southern Nevada with proof of payment to be filed within ten days. Plaintiff to prepare the order. Court further stated if counsel cannot agree on order then parties should request a telephonic next week. Mr. Aurbach stated an order has already been entered regarding the limited powers of the receiver and requested Court extend the powers of the receiver to control the warehouse. Court stated it has ordered the receiver to change the locks, parties are to work on the language of the order, and if they cannot agree then set a telephonic can be set. Court further stated it would prepare the order for the \$100.00 sanction.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 19, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

June 19, 2020

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Motions

Set: June 24, 2020 at 10:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 386 251 956

Meeting URL: <https://bluejeans.com/386251956>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/19/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 24, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

June 24, 2020 10:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Calaway, Alexander Kip Attorney
 Kern, Robert J. Attorney

JOURNAL ENTRIES

- PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR PARTIAL SUMMARY JUDGMENT FOR JUDICIAL DISSOLUTION...MANDATORY RULE 16 CONFERENCE

All appearances made via the BlueJeans Videoconferencing Application

Court stated it intends to wait until it hears from the receiver before it considers dissolution. Upon inquiry of Court if counsel have been in contact with the receiver, Mr. Calaway stated they have contacted the receiver, he has made some requests, and they have already provided the receiver access to quick books. Mr. Kern stated they have been contact with receiver and are continuing contact so they can provide him with what he needs. Colloquy regarding dissolution and the motion for summary judgment. Court stated it could either deny the motion without prejudice or defer the matter until a preliminary report has been provided from the receiver. Mr. Calaway stated he had no issue with setting the matter out for a preliminary report from the receiver. Mr. Kern stated he would prefer the motion be denied without prejudice. COURT ORDERED, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution DENIED WITHOUT PREJUDICE, status check for preliminary report SET, Court directed Mr. Kern to prepare the order, include the status report date, and serve the order to the receiver at time it is provided to Mr. Calaway for

review. Upon inquiry of Court if counsel have exchanged initial disclosures, counsel stated they had. Upon inquiry of Court if parties have agreed on a close of discovery or filed a Joint Case Conference Report (JCCR), counsel stated they had not. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED for counsel to file a JCCR and set a date for close of discovery. COURT FURTHER ORDERED, discovery may begin at this time.

7/22/2020 9:30 AM MANDATORY RULE 16 CONFERENCE...STATUS CHECK: RECEIVER REPORT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 21, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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July 21, 2020	3:00 AM	Minute Order	Minute Order: BlueJeans Appearance
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on July 22, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 22, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

July 22, 2020 9:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney
	O'Steen, Tracy M.	Attorney

JOURNAL ENTRIES

- STATUS CHECK: RECEIVER'S REPORT...MANDATORY RULE 16 CONFERENCE

All appearances made via the BlueJeans Videoconferencing Application.

Ms. O'Steen stated Mr. Bertsch has made progress on his findings however, he is asking for three weeks for a final report on file. Upon inquiry of Court if there was any objection, counsel had no objection. COURT ORDERED, matter CONTINUED. As to the rule 16 conference, Court noted there has been an Amended Joint Case Conference Report with a close of discovery of January 12, 2021. Upon inquiry of Court if that date was still viable, counsel stated it was. Court stated it would issue a trial order by the end of next week. Colloquy regarding status of discovery.

CONTINUED TO: 8/12/2020 9:30 AM STATUS CHECK: RECEIVER'S REPORT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

August 07, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

**August 07, 2020 3:00 AM Minute Order Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on August 12, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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Please be mindful of where your camera is pointing.

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Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 8/7/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

August 12, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

August 12, 2020 9:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Aurbach, Phillip S.	Attorney
	Bertsch, Larry	Receiver
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney
	O'Steen, Tracy M.	Attorney

JOURNAL ENTRIES

- Court noted it had read the report filed by the receiver. Mr. Aurbach stated they need to make sure the business is not reasonably practicable to carry on. Mr. Kern stated that it is impracticable of running the company the way it is and a dissolution that splits the company might be applicable. Mr. Aurbach requested an order for dissolution. Statements by receiver regarding dissolution, that the date to split the company be set for August 31, 2020 and that parties then file their tax returns making distributions. Mr. Aurbach stated he and Mr. Kern could try to complete dissolution using the template Mr. Bertsch has provided and then any disagreements could be addressed before the court at an evidentiary hearing. Mr. Kern agreed. Colloquy regarding matters that need to be paid, dissolution, settlement conference set before the Supreme Court on September 17, 2020, ongoing invoices, and payment of Mr. Bertsch. COURT ORDERED, undisputed rent of July and August of \$5,700.00 needs to be paid subject to being evened up later, if there is not sufficient case in the business then parties will need to each pay one half of the amount, Mr. Bertsch's invoice system will be adopted with regard to ongoing invoices, status check SET September 23, 2020, and if there is a potential for dissolution at the end of September then that will be a stop gap. Mr. Bertsch advised the

Court that his fees were to be paid one-half by each of the parties and should not come out of the Chef Exec Suppliers LLC funds. COURT SO ORDERED. Court directed Ms. O'Steen to prepare the order approving the fees in accordance with the representation of Mr. Bertsch, and Mr. Aurbach to prepare the order with regard to the invoice system, the undisputed rent, and the payment.

9/23/2020 9:30 AM STATUS CHECK: STATUS OF CASE/DISSOLUTION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 10, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

September 10, 2020 3:00 AM Minute Order

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 10, 2020 at 3:00 p.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/10/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 10, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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September 10, 2020 3:00 PM Telephonic Conference

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 10E

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Aurbach, Phillip S. Bertsch, Larry Calaway, Alexander Kip O'Steen, Tracy M.	Attorney Receiver Attorney Attorney
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JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Colloquy regarding payments of undisputed portion of rent and emergency request for hearing. Court stated the order directs that undisputed rent gets paid on a going forward basis and ORDERED, request for relief to Mr. Muney DENIED. Court stated if there is a order shortening time the issues can be briefed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 18, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

September 18, 2020 3:00 AM Minute Order Minute Order: Blue Jeans Appearance

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 23, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

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Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/18/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 29, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

**September 29, 2020 3:00 AM Minute Order Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy **COURTROOM:** Chambers

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 30, 2020 at 10:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/29/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 30, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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September 30, 2020	10:30 AM	Motion for Summary Judgment
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HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Aurbach, Phillip S. Bertsch, Larry Calaway, Alexander Kip Kern, Robert J. O'Steen, Tracy M.	Attorney Receiver Attorney Attorney Attorney
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JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing application.

Mr. Aurbach noted that items have been agreed to and addressed the customer list and a portion of the accounts receivable. Ms. O'Steen stated Mr. Bertsch is close to a final report and needs two more weeks. Colloquy regarding dissolution of company and creation of individual companies, and there being a non-compete order or mailing of a letter to customers regarding dissolution of the company. Further colloquy regarding the issues. Court stated it would be unwilling to enter a non-compete order, however Court would agree to a letter being sent to the customers. Mr. Kern placed his objections to there not being a non-compete order however, he would agree to sending a letter due there not being an agreement on the non-compete order. Colloquy regarding company dissolution letter to customers. Court directed Mr. Aurbach to prepare an order including the items parties agree on and ORDERED, matter SET for status check on Receiver's Report.

10/21/2020 10:30 AM STATUS CHECK: RECEIVER'S REPORT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

October 16, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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October 16, 2020	3:00 AM	Minute Order	Minute Order: BlueJeans Appearance
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on October 21, 2020 at 10:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /10/16/2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

October 27, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

October 27, 2020

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on November 4, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 10/27/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

December 22, 2020

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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December 22, 2020	3:00 AM	Minute Order	Minute Order: BlueJeans Appearance
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on December 23, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

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Meeting ID: 897 138 369

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 12/22/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

December 23, 2020

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

December 23, 2020 9:30 AM Status Check

HEARD BY: Alf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Court stated it read the receiver's report. Mr. Kern stated he has issues with the report and would like to file an objection. Court stated Mr. Kern would have until January 31, 2021 to file an objection. Mr. Calaway stated he will be filing a motion to approve the report. Court directed Mr. Calaway to file the motion after the January 31, 2021 deadline.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 26, 2021

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

January 26, 2021 9:55 AM Minute Order

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT FINDS after review that on December 23, 2020 Plaintiff filed Plaintiff s Motion to Approve Receiver's Final Report and Discharge Receiver ("Motion to Approve Receiver s Final Report").

COURT FURTHER FINDS after review that on January 6, 2021, an Opposition to the Motion to Approve Receiver's Final Report was filed.

COURT FURTHER FINDS after review that on January 20, 2021, a Reply to the Motion to Approve Receiver's Final Report was filed.

COURT FURTHER FINDS after review that on December 23, 2020, Mr. Kern stated he had issues with the Receiver's report and would like to file an objection. The Court stated Mr. Kern would have until January 31, 2021 to file an objection. Mr. Calaway stated he will be filing a motion to approve the report. The Court directed Mr. Calaway to file the motion after the January 31, 2021 deadline.

THEREFORE COURT ORDERS for good cause appearing and after review that the hearing set for Wednesday, January 27, 2021 is hereby CONTINUED to Wednesday, February 10, 2021 at 10:00a.m. on Motions Calendar. The scheduled hearing will be conducted remotely through BlueJeans videoconferencing. The BlueJeans link will be sent to the parties prior to the hearing.

CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties of Odyssey File and Serve.//ke 01/26/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 09, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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February 09, 2021	3:00 AM	Minute Order	Minute Order: BlueJeans Appearance
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HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on February 10, 2021, at 10:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 2/9/2021

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 10, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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February 10, 2021 10:00 AM Motion

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Arnould, Dominique	Plaintiff
		Counter Defendant
	Bertsch, Larry	Receiver
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney
	O'Steen, Tracy M.	Attorney

JOURNAL ENTRIES

- All appearances made by the BlueJeans Videoconferencing Application.

Arguments by Mr. Calaway, Mr. Kern, and Ms. O'Steen regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Plaintiff's Motion to Approve Reciever's Final Report and Discharge Receiver GRANTED in all respects, objections are reserved for the time of trial; receiver DISCHARGED, and any bond to be refunded back to him. Colloquy regarding issues of closing the bank account of the company and tranfering the funds. COURT ORDERED, status check SET in thirty days, for Mr. Kern to give a report on the account, if the matter is resolved then the status check may be vacated.

2/24/2021 10:00 AM STATUS CHECK: BANK ACCOUNT ISSUES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 23, 2021

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

February 23, 2021 3:00 AM Minute Order

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on February 24, 2021, at 10:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

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Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 2/23/2021

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 24, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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February 24, 2021 10:00 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT:	Bertsch, Larry Calaway, Alexander Kip Kern, Robert J. O'Steen, Tracy M.	Attorney Attorney Attorney
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JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Colloquy regarding the bank account, closing of said bank account, process of signing over the account. Ms. O'Steen stated they did receive the funds from the account and requested permission to apply those funds to the outstanding fees for Mr. Bertsch. Court stated it could not consider an oral motion, a stipulation could be provided or a written request could be made. Mr. Calaway stated they would be open to a stipulation as to payment and timing. Matter concluded.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 04, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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June 04, 2021

3:00 AM

Minute Order

**Minute Order:
Continuance of
matter set on June 17,
2021**

HEARD BY: Alf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Due to Court's unavailability on June 17, 2021, COURT ORDERS Status Check: Trial Readiness
CONTINUED to June 18, 2021 at 9:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt,
to all registered parties for Odyssey File & Serve. /nm 6/4/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 08, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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June 08, 2021

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearances**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on June 9, 2021, 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

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CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/8/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 09, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

June 09, 2021 9:30 AM Motion For Stay

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Madalyn Kearney

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Kern, Robert J. Attorney

JOURNAL ENTRIES

- Tabitha Martinez, Esq. present for Plaintiff. Counsel present via BlueJeans.

Following arguments by Mr. Kern and Ms. Martinez, COURT ORDERED, Defendants' Motion for Stay Pending Appeal DENIED. Court noted it does not think it is appropriate to stay the case and trial can proceed on the 2nd claim for relief. Ms. Martinez to prepare the order and run it by Mr. Kern as to form.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 18, 2021

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

June 18, 2021	3:00 AM	Minute Order	Minute ORder: Status Check on 6/18/2021 VACATED
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HEARD BY: Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that on February 22, 2021 a status check was entered for June 17, 2021 in the matter of trial readiness.

COURT FINDS after review that on May 6, 2021 Defendants entered a motion to stay. Motion was denied and the trial could proceed on the 2nd claim for relief.

COURT FURTHER FINDS after review that on June 4, 2021, due to the Court s unavailability, the status check for June 17, 2021 be CONTINUED to June 18, 2021.

COURT FURTHER FINDS after review that on June 14, 2021 a Motion for Summary Judgment was filed. The Motion for Summary Judgment was made on the bases that Muney lacks standing on the first, second, third, and fourth causes of action.

THEREFORE COURT ORDERS for good cause appearing and after review that because a motion is pending, the Status Check scheduled on June 17, 2021 is not necessary, and is hereby VACATED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/18/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 22, 2021

A-19-803488-B Dominique Arnould, Plaintiff(s)
vs.
Clement Muney, Defendant(s)

July 22, 2021 10:30 AM Calendar Call

HEARD BY: Thompson, Charles

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

PARTIES

PRESENT: Calaway, Alexander Kip Attorney

JOURNAL ENTRIES

- All appearances made via the BlueJeans Videoconferencing Application.

Court noted Defendant not present. Mr. Calaway stated he is not sure why Defendant is not present and he was aware of the calendar call. Upon inquiry of Court if matter was ready for trial, Mr. Calaway stated they were prepared for trial on Plaintiff's side and they have a Motion set on July 29, 2021 to resolve all the claims. Upon inquiry of Court as to time needed for trial, Mr. Calaway stated trial would be about five days depending on the outcome on the motion for summary judgment. Colloquy regarding availability. Mr. Calaway requested if matter had to be reset it be on stack after September due to the unavailability of his client. COURT ORDERED, trial dates VACATED and RESET, a new scheduling order would issue. Colloquy regarding resetting of the motion to compel. COURT ORDERED, motion to compel to be reset from the Discovery Commissioner's calendar to this Court's calendar on July 29, 2021 at 10:30 a.m.

9/30/2021 10:30 AM CALENDAR CALL

10/11/2021 10:30 AM JURY TRIAL (STACK)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 28, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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July 28, 2021

3:00 AM

Minute Order

**Minute Order:
BlueJeans
Appearance**

HEARD BY: Allf, Nancy

COURTROOM: No Location

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 27 Information to Appear Telephonically

Re: Matter set on July 29, 2021, 10:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. Counsel have the choice to appear either by phone or computer/video, however, if appearing remotely via BlueJeans, please appear by audio AND video. Also, in person hearings are now being held in Department 27, at the option of counsel. Mask wearing protocols will be strictly enforced. As of May 1, 2021, the Governor has relaxed the capacity to 80%, so that the courtroom can now accommodate up to 32 people.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/28/2021.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 29, 2021

A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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July 29, 2021	10:30 AM	Opposition and Countermotion
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HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR SUMMARY JUDGMENT...MOTION TO COMPEL DISCOVERY RESPONSES...PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS AND COUNTER-MOTION FOR SANCTIONS

All appearances made via the BlueJeans Videoconferencing Application.

Arguments by counsel regarding the merits of and opposition to the motions. Court stated its findings and ORDERED, Plaintiff Dominique Arnould's Motion for Summary Judgment GRANTED; Motion to Compel Discovery Responses DENIED. Mr. Calaway to prepare findings of facts and conclusions of law consistent with the pleadings. Mr. Kern to have the ability to review and approve the form of the order.



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

ROBERT KERN, ESQ.
6001 S. 6TH ST.
LAS VEGAS, NV 89101

DATE: October 13, 2021
CASE: A-19-803488-B

RE CASE: DOMINIQUE ARNOULD vs. CLEMENT MUNNEY; CHEF EXEC SUPPLIERS, LLC

NOTICE OF APPEAL FILED: October 8, 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; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNNEY; CHEF EXEC
SUPPLIERS, LLC,

Defendant(s),


Case No: A-19-803488-B

Dept No: XXVII

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 13 day of October 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk